

M E M O R A N D U M

TO: Tom Harmer, Town Manager
FROM: Isaac Brownman, Public Works Director
DATE: April 3, 2019
SUBJECT: Town of Longboat Key Arts, Culture and Education Center
Pre-Construction Agreement Between the Town of Longboat Key
and Ringling College of Art & Design

Recommended Action

Approval of the Pre-Construction Agreement between the Town of Longboat Key and Ringling College of Art & Design.

Background

On April 1, 2019 the Town Commission discussed a draft Pre-Construction Agreement with Ringling College for the Longboat Key Arts, Culture, and Education Center project. The Commission requested that the agreement be updated to more specifically address the phased concept approved by the Commission on March 4, 2019. Town staff and the Town Attorney have updated the Agreement, consulted with Ringling on the changes, and the document is attached for Town Commission consideration.

As background information, the original MOU, the prior Pre-Construction Agreement and amendment, and the minutes from the March 4, 2019 meeting where the updated program concept were approved are attached as supporting information for the April 8, 2019 Special Meeting.

Staff Recommendation

Approve the Pre-Construction Agreement between the Town of Longboat Key and Ringling College of Art & Design.

Attachments

Proposed Pre-Construction Agreement
Exhibit 1 – Revised Program
Memorandum of Understanding
Pre-Construction Agreement executed February 21, 2017
Pre-Construction Agreement Amendment
Draft Minutes from the March 4, 2019 Regular Meeting

**PRE-CONSTRUCTION AGREEMENT BETWEEN THE TOWN OF LONGBOAT KEY
AND RINGLING COLLEGE OF ART AND DESIGN**

This Pre-Construction Agreement between the Town of Longboat Key and Ringling College of Art and Design (hereinafter referred to as the “Agreement”) is made on the 8th day of April, 2019, by and between the Town of Longboat Key, Florida, a municipal corporation of the State of Florida located at 501 Bay Isles Road, Longboat Key, FL 34228 (hereinafter referred to as the “Town”), and Ringling College of Art and Design, a private, not-for-profit college, located at 2700 N. Tamiami Trail, Sarasota, FL 34234 (hereinafter referred to as “Ringling”).

WHEREAS, the Town and Ringling are mutually interested in achieving various aims and objectives relating to the establishment and maintenance of a Longboat Key Arts, Culture, and Educational Center (hereinafter referred to as the “Center”) located within the area of the anticipated Town Center located within the Town; and

WHEREAS, on January 29, 2016, the Town and Ringling entered into a Memorandum of Understanding (“MOU”) that memorialized the collaborative relationship and approach the Town and Ringling would take to create, establish and maintain the Center on Longboat Key; and

WHEREAS, in entering into the MOU the Town and Ringling anticipated that additional negotiated agreements that more definitely memorialize and define the parties respective responsibilities in the development of the concept designs, fundraising, programing and operation and maintenance of the Center would be entered into by the parties as funding sources and plans were further developed by the parties; and

WHEREAS, the Town and Ringling have entered into a Preconstruction Agreement dated February 21, 2017, which was subsequently amended March 5, 2018, that established certain activities to be conducted by Ringling and the Town, including the development and approval of a Preliminary Design and Programming Plan, which name was changed to Conceptual Design and Programming Plan; and

WHEREAS, as a result of the prior MOU and agreements, Ringling presented an initial Conceptual Design and Programming Plan to the Town Commission for approval at a public meeting held on March 5, 2018; and

WHEREAS, on January 22, 2019, Ringling conveyed to the Town Commission that the design and programing identified in the initial Conceptual Design and Programming Plan was not presently feasible through anticipated fundraising efforts due to the preliminary estimates of project cost, and Ringling suggested alternative, revised programming ; and

WHEREAS, on March 4, 2019, the Town Commission discussed and approved a revised program for the Center and an associated preliminary estimate of cost presented by Ringling (“Revised Program”), a copy of the Revised Program is attached hereto as Exhibit 1; and

WHEREAS, the Revised Program forms the basis for Ringling to actively pursue philanthropic fundraising efforts in coordination with the Longboat Key Foundation and the Community Foundation of Sarasota County; and

WHEREAS, the Town and Ringling are desirous to enter into this Agreement to memorialize their mutual agreement to the Revised Program and set forth the next responsibilities of the respective parties to move towards the construction and development of the Center.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, it is agreed as follows:

Section 1 – Recitals

The above recitals and exhibits are true and correct and are hereby incorporated fully by referenced.

Section 2 – Effective Date

This Agreement shall become effective upon the date of execution by the last party hereto (hereinafter referred to as the “Effective Date”).

Section 3 – Purpose

The purpose of this Agreement is to set forth certain obligations between the Town and Ringling regarding the potential future development of the Center.

Section 4 – Obligations of Town and Ringling

The obligations under this Agreement, respectively or jointly as specified, for Ringling and the Town, for the potential development of the Center shall include but not be limited to the following:

1. Activities to be conducted by Ringling include the following:
 - a. Coordinate with the Longboat Key Foundation and Community Foundation of Sarasota County to implement the philanthropic fundraising strategy to support the funding for the design and construction of the Center as outlined in the Revised Program.
 - b. Oversee the selection and services of design and construction professionals to complete architectural plans and construction of the Center as outlined in the Revised Program and associated infrastructure within an established and funded budget; and
 - c. Following the completion of construction and the mutual acceptance of the construction by the Town and Ringling, Ringling will convey the building structures, infrastructure and fixtures associated with the Center to the Town.

2. Activities to be conducted by the Town include the following:
 - a. The Town will complete site design and construction of an outdoor venue on the real property which shall serve as the future location of the proposed Center to begin activating the site for community events.
 - b. The Town will timely pursue necessary land use approvals related to the design and construction of the Center as outlined in the Revised Program.
 - c. Throughout the construction and future operation of the Center, the Town will continue to own the real property (land) underlying the proposed Center. The Town will further own any constructed infrastructure and facilities built on the subject real property that are associated with the Center. .

3. Activities to be conducted jointly by the Town and Ringling include:
 - a. Maintain mutual agreement as to the programming content and estimated costs of the Center. The Revised Program currently includes the following : four classrooms, one 20-seat computer lab, two teaching studios, office spaces, one 15-person conference room, and multipurpose presentation, performance, and gallery space. The planning level cost estimate to accomplish the Revised Program is approximately \$11.3 million.
 - b. The Town and Ringling shall mutually and timely review and approve architectural design(s) for the Center and infrastructure related to the site.

Prior to construction, the parties will negotiate and execute relevant agreements to accommodate the transfer of the constructed Center facilities and infrastructure on the Town's real property; outline Ringling's primary role as the operator of the Center; provide for Ringling's maintenance of the Center; and include provisions that allow for agreed upon public uses at the Center. Section 5 – Understanding

It is mutually agreed upon and understood by and amongst the parties of this agreement that:

1. In no way does this Agreement restrict the parties from participating in similar agreements with other public or private agencies, organizations, or individuals to accomplish goals outside of the goals of the Center.
2. This Agreement is not intended to and does not create any right, benefit, or trust responsibility.

3. Either party may terminate this Agreement by providing ninety (90) days written notice to the other party.

Section 6 – Communication Strategy

The parties acknowledge and agree that public statements regarding the vision for the Center project should be consistent with the aims of the project and only undertaken with the full agreement of both parties. Coordinated communications should be made with external organizations to elicit their support and further the aims of the Center project.

Section 7 – Liability

No liability will arise or be assumed between the Town and Ringling as a result of this Agreement.

Section 8 – Dispute Resolution

In the event of a dispute between the Town and Ringling regarding any activities or obligations provided for under this Agreement, any such dispute will be resolved by the President of Ringling and the Town Manager.

Section 9 – Term

The term of this Agreement shall remain in place until superseded by a subsequent agreement(s) or unless terminated in accordance with Section 5.

Section 10 – Notice

Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing. When designating such notice or communication, if to the Town, notice should be directed to the Town Manager; if to Ringling, notice should be directed to the President of Ringling.

Section 11 – Governing Law

This Agreement shall be construed in accordance with the laws of the State of Florida.

Section 12 – Assignment

Neither party may assign or transfer the responsibilities, obligations, or agreements made herein without the prior written consent of both parties.

Section 13 – Entire Agreement

This Agreement represents the entire understanding of the respective parties hereto and there is no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

Section 14 – Amendment

This Agreement may be amended or supplemented in writing if approved by both parties.

Section 15 – Severability

If any provision of this Agreement may be found to be invalid or unenforceable for any reason, such invalidity shall not affect the other remaining provisions which can be given effect without the invalid provision(s).

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement between the Town of Longboat Key and Ringling College of Art and Design on the dates indicated below.

TOWN OF LONGBOAT KEY, FLORIDA

By: _____

Tom Harmer, Town Manager

Date: _____

ATTEST:

Trish Shinkle, Town Clerk

Approved as to form and correctness:

Town Attorney

RINGLING COLLEGE OF ART AND DESIGN

By: _____

Larry R. Thompson, President

Date: _____

Witness:

(Signature)

(Printed Name)

(Date)

EXHIBIT 1
“REVISED PROGRAM”

Longboat Key Arts, Culture, and Education Center
Pre-Construction Agreement

Facility Concept

A partnership with the Town of Longboat Key and Ringling College of Art and Design. The Center will sit on a 4.8 acre site at the heart of approximately 40 acre Longboat Key Town Center. It will serve as a hub of resident connectivity through lifelong learning, community engagement, and cultural activity. The Center will be comprised of four types of spaces- instructional, office, exhibition and assembly space- that span both indoors and outdoors. The current plan includes:

Four classrooms accommodate up to 40 students each with an emphasis on lecture and seminar-based learning. Furnishings, instructional technologies, and finishes should emphasize flexibility and adaptability in order to support different course types across the day.

One 20-seat computer lab supports digital learning and when not in use for curricular activities could be made accessible for community use. Finishes should be similar to classroom spaces but with adequate data and electrical connections and HVAC systems to support computer use.

Two teaching studios support hands on instruction in visual arts production to accommodate a wide range of techniques across the visual arts including drawing painting ceramics and jewelry making.

Office Spaces to support a small permanent operations staff as well as temporary offices for faculty and instructors.

A 15 person conference room not only services the staff and mission of the Center but also supports the adjacent Longboat Key Town Hall whose meeting facilities are occasionally over capacity.

Approximately 3,000 square feet of multipurpose space to feature art exhibition, support large lecture needs, smaller scale performance events, and larger Longboat key Town meetings.

Ringling has estimated the current concept cost to be \$11,320,000. All costs have been calculated to 2022 costs to account for the anticipated project timeline.

Budget

Building Costs	\$6,800,000
Site Improvements	\$1,075,000
Design Costs	\$660,000
Other Costs	\$310,000
Furniture	\$845,000
Escalation	\$1,630,000
Total	\$11,320,000

**MEMORANDUM OF UNDERSTANDING BETWEEN THE TOWN OF
LONGBOAT KEY AND RINGLING COLLEGE OF ART AND DESIGN**

This Memorandum of Understanding Between the Town of Longboat Key and Ringling College of Art and Design (hereinafter referred to as "MOU") is made on this 29th day of January, 2016 by and between the Town of Longboat Key, a municipal corporation of the State of Florida located at 501 Bay Isles Road, Longboat Key, FL 34228, (hereinafter referred to as "Town") and Ringling College of Art and Design, a private, not for profit college, located at 2700 N. Tamiami Trail, Sarasota, FL 34234, (hereinafter referred to as "Ringling"):

WHEREAS, the Town and Ringling are mutually interested in collaborating on a partnership for the purposes of achieving various aims and objectives relating to the establishment and maintenance of a Longboat Key Art and Cultural Center (hereinafter referred to as the "Cultural Center") located within the area of the anticipated Town Center located within the Town; and

WHEREAS, the Town and Ringling desire to enter into this MOU which will memorialize the collaborative approach between the Town and Ringling to work together to develop and operate the Cultural Center; and

WHEREAS, the Town and Ringling are desirous to enter into this MOU between them, setting out the working arrangements that each of the partners agree are necessary to complete the Cultural Center.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, it is agreed as follows:

Section 1 - Recitals

The above recitals are true and correct and are hereby incorporated fully by referenced.

Section 2 - Purpose

The purpose of this MOU is to provide the framework for a future negotiated contract between the Town and Ringling regarding the Cultural Center.

Section 3 - Obligations of Town and Ringling

The Town and Ringling acknowledge that no contractual relationship is created between them by this MOU. Notwithstanding the foregoing, the parties desire to work together in partnership to ensure that there is a united, visible and responsive leadership of the development of the Cultural Center and to demonstrate financial, administrative, and managerial commitment to said project by means of the following individual and combined activities. The parties acknowledge that each individual party has separate and unique resources that enables each party to contribute to the planning of the Cultural Center in a distinctive manner. Accordingly, the parties seek to identify those preliminary activities that will be initially assumed by each party. However, nothing identified in this agreement is intended to designate any sort of exclusivity of roles and responsibilities amongst the parties.

Section 4 - Cooperative Activities

The cooperative activities for the Cultural Center shall include but not be limited to the following:

a. Activities to be provided by the Town include:

- Work with Ringling on development of the Cultural Center;
- Focus on site plans and development such as access, site preparation, etc.; and
- Work toward developing site development funding plan

b. Activities to be provided by Ringling include:

- Work toward developing a building plan focused on determining building size, placement, design, and function, including consideration of Town uses for the building.
- Work toward developing funding plan for the building
- Work toward developing an operating and maintenance plan for the Cultural Center

- c. Activities to be provided jointly by the Town and Ringling include:
- Work toward developing appropriate operating and use agreements when appropriate; and
 - Work cooperatively to integrate site plans, building design, funding plans and other elements of facility planning to develop an overall plan for the Cultural Center.

Section 5 - Understanding

It is mutually agreed upon and understood by and amongst the parties of this MOU that:

- a. The parties will work together in a coordinated fashion to develop the Cultural Center;
- b. In no way does this MOU restrict the parties from participating in similar agreements with other public or private agencies, organizations, or individuals;
- c. To the extent possible, the Town and Ringling will participate in the development of the Cultural Center;
- d. Nothing in this MOU shall obligate any party to expend any specific funds in the pursuit of the Cultural Center;
- e. This MOU is not intended to and does not create any right, benefit, or trust responsibility;
- f. This MOU will be effective upon the signature of both parties; and
- g. Either party may terminate its participation as outlined within this MOU by providing written notice to the other party.

Section 6 - Communications Strategy

The parties acknowledge and agree that public statements of the vision for the project should be consistent with the aims of the project and only

undertaken with agreement of both parties. Coordinated communications should be made with external organizations to elicit their support and further the aims of the project.

Section 7 - Liability

No liability will arise or be assumed between the Town and Ringling as a result of this MOU.

Section 8 - Dispute Resolution

In the event of a dispute between the Town and Ringling regarding any activities anticipated by this MOU, any such disputes will be resolved by the President of Ringling and the Town Manager.

Section 9 - Term

The term of this MOU shall remain in place from the time of signing by the last party until May 30, 2016. The term can be extended by mutual agreement in writing by both parties.

Section 10 - Notice

Any notice or communication required or permitted under this MOU shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing. When designating such notice or communication, if to the Town, notice should be directed to the Town Manager; if to Ringling, notice should be directed to the President of Ringling.

Section 11 - Governing Law

This MOU shall be construed in accordance with the laws of the State of Florida.

Section 12 - Assignment

Neither party may assign or transfer the responsibilities or agreement made herein without the prior written consent of both parties.

Section 13 - Entire Agreement

This MOU represents the entire understanding of the respective parties hereto and there is no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

Section 14 - Amendment

This MOU may be amended or supplemented in writing if approved by both parties.

Section 15 - Severability

If any provision of this MOU may be found to be invalid or unenforceable for any reason, such invalidity shall not affect the other remaining provisions of this MOU which can be given effect without the invalid provisions.

Section 16 - Effective Date

This MOU shall become effective upon the execution by the last party hereto.

IN WITNESS WHEREOF, the Parties hereto have executed this Memorandum of Understanding Between the Town of Longboat Key and Ringling College of Art and Design on the dates indicated below.



TOWN OF LONGBOAT KEY, FLORIDA

By: *Dave Bullock*
Dave Bullock, Town Manager

Date: 1-29-16

ATTEST:

Approved as to form and correctness:

Trish Granger
Trish Granger
City Clerk

Maggie D. Mowen-Batal
Town Attorney

RINGLING COLLEGE OF ART AND DESIGN

By:


Larry R. Thompson, President

Date: 1/29/16

Witness:



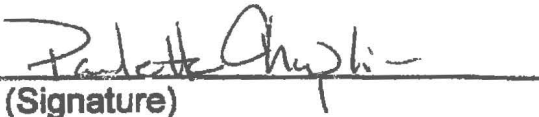
(Signature)

Cathy Gagliardi

(Printed Name)

1/29/16

(Date)



(Signature)

Paulette Chaplin

(Printed Name)

1/29/16

(Date)

**PRE-CONSTRUCTION AGREEMENT BETWEEN THE TOWN OF LONGBOAT KEY
AND RINGLING COLLEGE OF ART AND DESIGN**

This Pre-Construction Agreement between the Town of Longboat Key and Ringling College of Art and Design (hereinafter referred to as the "Agreement") is made on this 21 day of February, 2017, by and between the Town of Longboat Key, Florida, a municipal corporation of the State of Florida located at 501 Bay Isles Road, Longboat Key, FL 34228 (hereinafter referred to as the "Town"), and Ringling College of Art and Design, a private, not-for-profit college, located at 2700 N. Tamiami Trail, Sarasota, FL 34234 (hereinafter referred to as "Ringling").

WHEREAS, the Town and Ringling are mutually interested in achieving various aims and objectives relating to the establishment and maintenance of a Longboat Key Arts, Cultural, and Educational Center (hereinafter referred to as the "Cultural Center") located within the area of the anticipated Town Center located within the Town; and

WHEREAS, the Town and Ringling desire to enter into this Agreement in which will memorialize an approach and timeline to further the potential development of the Cultural Center; and

WHEREAS, the Town and Ringling are desirous to enter into this Agreement to set out the working arrangements that the parties agree are necessary to develop the Cultural Center.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, it is agreed as follows:

Section 1 – Recitals

The above recitals are true and correct and are hereby incorporated fully by referenced.

Section 2 – Effective Date

This Agreement shall become effective upon the date of execution by the last party hereto (hereinafter referred to as the "Effective Date").

Section 3 – Purpose

The purpose of this Agreement is to set forth certain obligations between the Town and Ringling regarding the potential future development of the Cultural Center.

Section 4 – Obligations of Town and Ringling

The obligations under this Agreement, respectively or jointly as specified, for Ringling and the Town, for the potential development of the Cultural Center shall include but not be limited to the following:

1. Activities to be conducted by Ringling include the following:

- a. Within ninety (90) days of the Effective Date, Ringling will retain all necessary consultants to provide appropriate professional services to develop a Preliminary Design and Programming Plan for the Cultural Center. Ringling shall provide timely written notice to the Town detailing the retained consultants and their respective roles regarding the development of the Preliminary Design and Programming Plan.
- b. Ringling shall provide proof of insurance to the Town for any consultant retained by Ringling related to the Cultural Center project. Any contract between Ringling and said consultant(s) shall include a provision that the Town is named as an additional insured on all insurance policies.
- c. The Preliminary Design and Programming Plan shall describe the proposed Cultural Center in sufficient detail and, at a minimum, propose the building dimensions for the Cultural Center, propose placement(s) of the building on the site(s) of the anticipated Town Center, propose design alternatives for the building, and describe functionality for the building, including, but not limited to, potential use by the Town for specific public purposes.
- d. The Preliminary Design and Programming Plan will also provide estimated costs for the design and construction activities related to the Cultural Center.
- e. Ringling shall submit the completed Preliminary Design and Programming Plan to the Town within one hundred fifty (150) days of retaining its consultant(s) as provided for herein.

2. Activities to be conducted by the Town include the following:

- a. Upon receipt of the complete Preliminary Design and Programming Plan from Ringling, the Town will conduct a timely review of said proposal and publish any required notices regarding receipt of same, as provided for under Florida law.
- b. If acceptable, the Preliminary Design and Programming Plan will be timely presented to the Town Commission for approval.
- c. Within ten (10) days of approval of the Preliminary Design and Programming Plan by the Town Commission, the Town will identify a representative who will work closely with Ringling and its consultants to review all pertinent documents and plans, and to assure progress and compliance with agreed upon schedules related to the timely design and construction of the Cultural Center.
- d. Within one hundred fifty (150) days of approval of the Preliminary Design and Programming Plan by the Town Commission, the Town will complete Preliminary Site Design to accommodate the building for the Cultural Center in accordance with the Preliminary Design and Programming Plan.

- e. The Town will timely pursue all necessary land use approvals related to the site development, design, and construction of the Cultural Center.
 - f. The Town will continue to assume responsibility for site development;
 - g. The Town will continue to own the property (or properties) in the area of the proposed Town Center where the Cultural Center will be located. The Town will further be the owner of any building to be constructed on the subject property/properties that is/are associated with the Cultural Center.
3. Activities to be conducted jointly by the Town and Ringling include:
- a. Within one hundred eighty (180) days of the Effective Date, the parties will prepare a proposed operations plan for the Cultural Center setting forth Ringling's primary role as operator of the facility while allowing for certain agreed upon public uses at the Cultural Center.
 - b. A funding plan for the development and construction of the Cultural Center will be prepared by the parties within one hundred (180) days of the Effective Date.

Section 5 – Understanding

It is mutually agreed upon and understood by and amongst the parties of this agreement that:

1. In no way does this Agreement restrict the parties from participating in similar agreements with other public or private agencies, organizations, or individuals.
2. This Agreement is not intended to and does not create any right, benefit, or trust responsibility.
3. Either party may terminate this Agreement by providing ninety (90) days written notice to the other party.
4. If notice of termination of this Agreement is initiated by Town prior to delivery of the Preliminary Design and Programming Plan, Ringling shall have no obligation to deliver such Plan.
5. If notice of termination of this Agreement is initiated by Town subsequent to Town accepting the Preliminary Design and Programming Plan, Parties will negotiate in good faith appropriate compensation for delivery of such Plan if Town intends to proceed with the development of the Cultural Center.

Section 6 – Communication Strategy

The parties acknowledge and agree that public statements regarding the vision for the Cultural Center project should be consistent with the aims of the project and only undertaken with the full agreement of both parties. Coordinated communications should

be made with external organizations to elicit their support and further the aims of the Cultural Center project.

Section 7 – Liability

No liability will arise or be assumed between the Town and Ringling as a result of this Agreement.

Section 8 – Dispute Resolution

In the event of a dispute between the Town and Ringling regarding any activities or obligations provided for under this Agreement, any such dispute will be resolved by the President of Ringling and the Town Manager.

Section 9 – Term

The term of this Agreement shall remain in place from the Effective Date until December 31, 2018. The term can be extended by mutual agreement in writing by both parties.

Section 10 – Notice

Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing. When designating such notice or communication, if to the Town, notice should be directed to the Town Manager; if to Ringling, notice should be directed to the President of Ringling.

Section 11 – Governing Law

This Agreement shall be construed in accordance with the laws of the State of Florida.

Section 12 – Assignment

Neither party may assign or transfer the responsibilities, obligations, or agreements made herein without the prior written consent of both parties.

Section 13 – Force Majeure

Neither party shall be deemed to be in breach of this Agreement if unable to timely perform due to labor dispute, act of God, or any event beyond the control of the parties. Upon occurrence of any such event, written notice shall be timely given regarding the affected party's inability to perform and the parties shall discuss in good faith revisions to the schedules provided for herein.

Section 14 – Entire Agreement

This Agreement represents the entire understanding of the respective parties hereto and there is no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

Section 15 – Amendment

This Agreement may be amended or supplemented in writing if approved by both parties.

Section 16 – Severability

If any provision of this Agreement may be found to be invalid or unenforceable for any reason, such invalidity shall not affect the other remaining provisions which can be given effect without the invalid provision(s).

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement between the Town of Longboat Key and Ringling College of Art and Design on the dates indicated below.



TOWN OF LONGBOAT KEY, FLORIDA

By: *Dave Bullock*
Dave Bullock, Town Manager

Date: 2.21.17

ATTEST:

Trish Granger *Jo Ann Nixon*
City Clerk Deputy Town Clerk

Approved as to form and correctness:

Maggie Rooney-Patalo
Town Attorney

RINGLING COLLEGE OF ART AND DESIGN

By: *Larry R. Thompson*
Larry R. Thompson, President

Date: 2/21/17

Witness:

Cheryl Loeffler
(Signature)

CHERYL LOEFFLER
(Printed Name)

02/21/17
(Date)

**PRE-CONSTRUCTION AGREEMENT BETWEEN THE TOWN OF LONGBOAT KEY
AND RINGLING COLLEGE OF ART AND DESIGN**

This Pre-Construction Agreement between the Town of Longboat Key and Ringling College of Art and Design (hereinafter referred to as the “Agreement”) is made on the 21st day of February, 2017, as amended on this 5 day of March, 2018, by and between the Town of Longboat Key, Florida, a municipal corporation of the State of Florida located at 501 Bay Isles Road, Longboat Key, FL 34228 (hereinafter referred to as the “Town”), and Ringling College of Art and Design, a private, not-for-profit college, located at 2700 N. Tamiami Trail, Sarasota, FL 34234 (hereinafter referred to as “Ringling”).

WHEREAS, the Town and Ringling are mutually interested in achieving various aims and objectives relating to the establishment and maintenance of a Longboat Key Arts, Cultural, and Educational Center (hereinafter referred to as the “Cultural Center”) located within the area of the anticipated Town Center located within the Town; and

WHEREAS, the Town and Ringling desire to enter into this Agreement in which will memorialize an approach and timeline to further the potential development of the Cultural Center; and

WHEREAS, the Town and Ringling are desirous to enter into this Agreement to set out the working arrangements that the parties agree are necessary to develop the Cultural Center.

NOW THEREFORE, in consideration of the mutual covenants and obligations contained herein, it is agreed as follows:

Section 1 – Recitals

The above recitals are true and correct and are hereby incorporated fully by referenced.

Section 2 – Effective Date

This Agreement shall become effective upon the date of execution by the last party hereto (hereinafter referred to as the “Effective Date”).

Section 3 – Purpose

The purpose of this Agreement is to set forth certain obligations between the Town and Ringling regarding the potential future development of the Cultural Center.

Section 4 – Obligations of Town and Ringling

The obligations under this Agreement, respectively or jointly as specified, for Ringling and the Town, for the potential development of the Cultural Center shall include but not be limited to the following:

1. Activities to be conducted by Ringling include the following:

- a. Within ninety (90) days of the Effective Date, Ringling will retain all necessary consultants to provide appropriate professional services to develop a Conceptual Design and Programming Plan for the Cultural Center. Ringling shall provide timely written notice to the Town detailing the retained consultants and their respective roles regarding the development of the Conceptual Design and Programming Plan.
 - b. Ringling shall provide proof of insurance to the Town for any consultant retained by Ringling related to the Cultural Center project. Any contract between Ringling and said consultant(s) shall include a provision that the Town is named as an additional insured on all insurance policies.
 - c. The Conceptual Design and Programming Plan shall describe the proposed Cultural Center in sufficient detail and, at a minimum, propose the building dimensions for the Cultural Center, propose placement(s) of the building on the site(s) of the anticipated Town Center, propose design alternatives for the building, and describe functionality for the building, including, but not limited to, potential use by the Town for specific public purposes.
 - d. The Conceptual Design and Programming Plan will also provide estimated costs for the design and construction activities related to the Cultural Center.
 - e. Ringling shall submit the completed Conceptual Design and Programming Plan to the Town by January 31, 2018
2. Activities to be conducted by the Town include the following:
- a. Upon receipt of the complete Conceptual Design and Programming Plan from Ringling, the Town will conduct a timely review of said proposal and publish any required notices regarding receipt of same, as provided for under Florida law.
 - b. If acceptable, the Conceptual Design and Programming Plan will be timely presented to the Town Commission for approval.
 - c. Within ten (10) days of approval of the Conceptual Design and Programming Plan by the Town Commission, the Town will identify a representative who will work closely with Ringling and its consultants to review all pertinent documents and plans, and to assure progress and compliance with agreed upon schedules related to the timely design and construction of the Cultural Center.
 - d. Within one hundred fifty (150) days of approval of the Conceptual Design and Programming Plan by the Town Commission, the Town will complete Conceptual Site Design to accommodate the building for the Cultural Center in accordance with the Conceptual Design and Programming Plan.
 - e. The Town will timely pursue all necessary land use approvals related to the site development, design, and construction of the Cultural Center.
 - f. The Town will continue to assume responsibility for site development;

Section 7 – Liability

No liability will arise or be assumed between the Town and Ringling as a result of this Agreement.

Section 8 – Dispute Resolution

In the event of a dispute between the Town and Ringling regarding any activities or obligations provided for under this Agreement, any such dispute will be resolved by the President of Ringling and the Town Manager.

Section 9 – Term

The term of this Agreement shall remain in place from the Effective Date until December 31, 2018. The term can be extended by mutual agreement in writing by both parties.

Section 10 – Notice

Any notice or communication required or permitted under this Agreement shall be sufficiently given if delivered in person or by certified mail, return receipt requested, to the address set forth in the opening paragraph or to such other address as one party may have furnished to the other in writing. When designating such notice or communication, if to the Town, notice should be directed to the Town Manager; if to Ringling, notice should be directed to the President of Ringling.

Section 11 – Governing Law

This Agreement shall be construed in accordance with the laws of the State of Florida.

Section 12 – Assignment

Neither party may assign or transfer the responsibilities, obligations, or agreements made herein without the prior written consent of both parties.

Section 13 – Force Majeure

Neither party shall be deemed to be in breach of this Agreement if unable to timely perform due to labor dispute, act of God, or any event beyond the control of the parties. Upon occurrence of any such event, written notice shall be timely given regarding the affected party's inability to perform and the parties shall discuss in good faith revisions to the schedules provided for herein.

Section 14 – Entire Agreement

This Agreement represents the entire understanding of the respective parties hereto and there is no further or other agreements or understandings, written or oral, in effect between the parties relating to the subject matter hereof.

Section 15 – Amendment

This Agreement may be amended or supplemented in writing if approved by both parties.

Section 16 – Severability

If any provision of this Agreement may be found to be invalid or unenforceable for any reason, such invalidity shall not affect the other remaining provisions which can be given effect without the invalid provision(s).

IN WITNESS WHEREOF, the parties hereto have executed this Agreement between the Town of Longboat Key and Ringling College of Art and Design on the dates indicated below.

TOWN OF LONGBOAT KEY, FLORIDA

By: _____
Tom Harmer, Town Manager

Date: _____

ATTEST:

Trish Shinkle
Town Clerk

Approved as to form and correctness:

Town Attorney

RINGLING COLLEGE OF ART AND DESIGN

By: _____
Larry R. Thompson, President

Date: _____

Witness:

(Signature)

(Printed Name)

(Date)

EXCERPT FROM MARCH 4, 2019, TOWN COMMISSION REGULAR MEETING

CONSENT AGENDA

8. Resolution 2019-02, Adopting the Revised Sarasota County Floodplain Management Plan and the Multi-Jurisdictional Program for Public Information – Continued opportunities, staff hopes to sustain our CRS Class 5 rating. Resolution 2019-02, adopts the revised Sarasota County Floodplain Management Plan and affirms our participation in the Multi-Jurisdictional Program for Public Information. These are key elements in maintaining our classification. Recommended Action: Pass Resolution 2019-02.

Commr. Pastor moved to approve Consent Agenda Item 8 confirming Staff's recommended action. The motion, seconded by Commr. Brown, carried by a 7-0 roll call vote, as follows: Pastor, aye; Brown, aye; Spoll, aye; Zunz, aye; Clair, aye; Schneier, aye; Daly, aye.

DISCUSSION ITEMS FOR CONSIDERATION OF THE TOWN COMMISSION

9. Appointment to a Vacant Seat on the Town of Longboat Key Planning & Zoning Board
An appointment for the open seat on the Planning & Zoning Board will be considered at the March 4, 2019 Regular Meeting. The appointment will fill a vacancy created by Mike Haycock's election to the Town Commission and subsequent resignation from the P&Z Board, and will be effective on May 18, 2019. Recommended Action: Appoint member to the Planning & Zoning Board.

Following comments by Mayor Spoll and a roll call vote by Town Clerk Trish Shinkle, Ms. Penny Gold was appointed to fill the vacant seat on the Planning and Zoning Board effective on May 18, 2019.

10. Discussion Regarding Town of Longboat Key Arts, Culture & Education (ACE) Center Project

At the January 22, 2019 Regular Workshop Meeting, Dr. Larry Thompson, President, Ringling College of Art & Design, discussed refocusing development of the original design concept of the ACE Center Project to a phased approach to fundraising and construction of the Project. Phase 1 would focus on the ACE Center fundraising and construction, with Phase 2, consisting of the Black Box construction to be completed at a later date, if the required funds could be raised. The Commission expressed a desire to seek public input on the support for the phased project approach. This item has been placed on the agenda to discuss next steps associated with the project. Recommended Action: Pending discussion, provide direction to Manager.

Following comments by Town Manager Tom Harmer, Commr. Brown commented on his efforts relating to the ACE Center Project, the proposal relating to the "black box" theater, and the need for a community/cultural area and recommended scaling back of the professional theater and to provide a multi-purpose community space for use. Discussion ensued on the following topics/issues:

- size of black box theater
- Urban Land Institute (ULI) recommendations

- options to build for future expansion
- proposed uses of the facility
- fund raising efforts
- next steps/agreements needed
- options to provide for expansion of the facility (two/three story building)
- various building designs.

Commr. Brown moved to scale back the size of the professional theater (black box) by providing a multi-purpose community space room, and to proceed with fund raising efforts. The motion was seconded by Commr. Schneier.

Following inquiry, Commr. Brown noted the Town is working on the development of a draft design.

The motion carried by a 7-0 roll call vote, as follows: Brown, aye; Schneier, aye; Clair, aye; Pastor, aye; Daly, aye; Zunz, aye; Spoll, aye.

RECESS: 2:23 p.m. - 2:35 p.m.

ORDINANCES - FIRST READING AND PUBLIC HEARING

11. Ordinance 2018-24, Amending and Replacing Chapter 158, Zoning Code

At their January 15, 2019, Regular Meeting the Planning & Zoning (P&Z) Board held a public hearing on Ordinance 2018-24 and forwarded to the Town Commission's January 22, 2019, Regular Workshop Meeting following their unanimous vote to approve. The Ordinance is the result of staff, and consultants review, analysis and re-write of the Town's Zoning Code. Following discussion at the January 22, 2019, Regular Workshop Meeting the Town Commission forwarded Ordinance 2018-24 to the February 19, 2019, Regular Workshop Meeting for additional discussion and consideration, then forwarded to the March 4, 2019, Regular Meeting for first reading and public hearing. Recommended Action: Forward Ordinance 2018-24 to the April 1, 2019, Regular Meeting for second reading and public hearing.

Town Clerk Trish Shinkle placed Ordinance 2018-24 on record for first reading and public hearing by title only.

Commr. Brown moved to pass Ordinance 2018-24 on first reading and public hearing and to forward to the April 1, 2019, Regular Meeting for second reading and public hearing. The motion was seconded by Commr. Pastor.

Mayor Spoll opened the public hearing.

Following comments by Town Manager Tom Harmer, Commr. Brown requested consideration to have the Zoning Maps redone with new technology available.

End of Agenda Item