



City of Pensacola

City Council

Agenda - Final

Thursday, October 28, 2021, 5:30 PM

Council Chambers, 1st Floor

Members of the public may attend the meeting in person. City Council encourages those not fully vaccinated to wear face coverings that cover their nose and mouth.

The meeting can be watched via live stream at cityofpensacola.com/video. Citizens may submit an online form at <https://www.cityofpensacola.com/ccinput> BEGINNING AT 3:00 P.M.

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

Council Member Delarian Wiggins

FIRST LEROY BOYD FORUM

AWARDS

APPROVAL OF MINUTES

1. [21-00960](#) APPROVAL OF MINUTES: REGULAR MEETING DATED OCTOBER 14, 2021

Attachments: [Draft: Regular Meeting Dated 10/14/21](#)

APPROVAL OF AGENDA

CONSENT AGENDA

2. [21-00823](#) AIRPORT - APPROVAL OF LEASE BETWEEN THE CITY OF PENSACOLA AND THE UNITED SERVICES ORGANIZATION
- Recommendation:** That City Council authorize the Mayor to execute a Lease Agreement with the United Services Organization (USO) at Pensacola International Airport. Further, that City Council authorize the Mayor to take all actions necessary relating to the execution of the Lease Agreement.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [USO 2022 Lease Agreement](#)
3. [21-00827](#) AIRPORT - APPROVAL OF LEASE BETWEEN THE CITY OF PENSACOLA AND SITA INFORMATION NETWORKING COMPUTING USA INC.
- Recommendation:** That City Council authorize the Mayor to execute a Lease Agreement with SITA Information Networking Computing USA Inc. at the Pensacola International Airport. Further, that City Council authorize the Mayor to take all actions necessary relating to the execution of the Lease Agreement.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [SITA Information Network Computing USA Inc Lease Agreement](#)
4. [21-00829](#) AWARD OF CONTRACT - BID #21-040 PORT OF PENSACOLA WAREHOUSE REPAIRS
- Recommendation:** That City Council award a contract for ITB #21-040 Port of Pensacola Warehouse Repairs to Emerald Coast Constructors, Inc. of Pensacola, Florida, the lowest and most responsible bidder, with a base bid of \$412,336 plus a 10% contingency of \$41,233.60 for a total of \$453,569.60. Further, that City Council authorize the Mayor to execute the contract and take all actions necessary to complete the project.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Final Bid Tabulation No. 21-040](#)
[Vender Reference List Bid No. 21-040](#)
5. [21-00897](#) INTERLOCAL AGREEMENT FOR THE ACCEPTANCE AND PROCESSING OF SOURCE SEPARATED RECYCLABLES
- Recommendation:** That City Council approve an Interlocal Agreement for the Acceptance and processing of Source Separated Recyclables with Emerald Coast Utilities Authority. Further, that City Council authorize the Mayor to take all action necessary to execute an agreement.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Interlocal Agreement with ECUA](#)

6. [21-00917](#) INTERLOCAL AGREEMENT - PENSACOLA-ESCAMBIA COUNTY PROMOTION AND DEVELOPMENT COMMISSION
- Recommendation:** That City Council approve and authorize the Mayor to take all actions necessary to execute the Interlocal Agreement between the Escambia County Board of County Commissioners and the City of Pensacola relating to the funding of the Pensacola-Escambia County Promotion and Development Commission (PEDC) for FY 2022.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Interlocal Agreement between the Escambia County Board of Count](#)

REGULAR AGENDA

7. [21-00896](#) CITY COUNCIL CONSENT TO THE MAYOR'S APPOINTMENT OF AMY TOOTLE AS PUBLIC WORKS & FACILITIES DIRECTOR FOR THE CITY OF PENSACOLA
- Recommendation:** That City Council consent to the Mayor's appointment of Amy Tootle as Public Works & Facilities Director of the City of Pensacola in accordance with the City Charter Section 4.01(a)(7).
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Amy Tootle Resume](#)
8. [21-00895](#) PRELIMINARY FEASIBILITY STUDY ELECTRIC UTILITY
- Recommendation:** That the City hire a consultant to conduct a preliminary feasibility study of the City regarding the acquisition and startup costs of an electric utility (i.e. poles and wires). Further that this preliminary feasibility study be completed prior to the signing of a Franchise Agreement with Florida Power and Light Co., whose parent company is NextEra Energy.
- Sponsors:** Jennifer Brahier
- Attachments:** [Ord. No. 61-79](#)
[Ord. No. 62-79](#)

9. [46-21](#) PROPOSED ORDINANCE NO. 46-21 - NAMING CITY PROPERTY - CREATING A PROCESS FOR THE NAMING OF STRUCTURES, STREETS AND OTHER PUBLIC PLACES WITHIN THE CITY
- Recommendation:** That City Council approve Proposed Ordinance No. 46-21 on first reading:
- AN ORDINANCE AMENDING SECTION 2-3-2 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, NAMING CITY PROPERTY; PROVIDING FOR A PROCESS IN THE NAMING OF STRUCTURES, STREETS OR OTHER PUBLIC PLACES WITHIN THE CITY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
- Sponsors:** Jared Moore
- Attachments:** [Proposed Ord. 46-21 -- Naming City Property \(CAO reviewed\) \(corre](#)
10. [47-21](#) PROPOSED ORDINANCE NO. 47-21 VACATING PORTIONS OF A UTILITY EASEMENT ALONG A VACATED PORTION OF BAYOU TEXAR BOULEVARD
- Recommendation:** That City Council approve Proposed Ordinance No. 47-21 on first reading:
- AN ORDINANCE VACATING PORTIONS OF A UTILITY EASEMENT ALONG A VACATED PORTION OF BAYOU TEXAR BOULEVARD IN PENSACOLA, ESCAMBIA COUNTY, STATE OF FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Proposed Ordinance No. 47-21](#)
[Ordinance No. 56-59 Bayou Texar Blvd. ROW Vacation](#)
[Survey Dated 9/24/21 Bayou Texar Blvd. ROW Vacation](#)

11. [40-21](#) PROPOSED ORDINANCE NO. 40-21 - AMENDMENT TO THE LAND DEVELOPMENT CODE - REPEAL OF SECTION 12-3-65 - PARKING FOR CERTAIN USES PROHIBITED
- Recommendation:* That City Council adopt Proposed Ordinance No. 40-21 on second reading.
- AN ORDINANCE REPEALING SECTION 12-3-65 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA: PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
- Sponsors:* Grover C. Robinson, IV
- Attachments:* [Proposed Ordinance No. 40-21](#)
[Planning Board Minutes September 14 2021 - DRAFT](#)
[PROOF OF PUBLICATION](#)
12. [41-21](#) PROPOSED ORDINANCE NO. 41-21 - AMENDMENT TO THE LAND DEVELOPMENT CODE - TABLE 12-3.9 - REGULATIONS FOR THE NORTH HILL PRESERVATION DISTRICTS - PR-2 MINIMUM LOT SIZE REQUIREMENTS
- Recommendation:* That City Council adopt Proposed Ordinance No. 41-21 on second reading:
- AN ORDINANCE AMENDING TABLE 12-3.9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
- Sponsors:* Grover C. Robinson, IV
- Attachments:* [Proposed Ordinance No. 41-21](#)
[Planning Board Minutes September 14 2021 - DRAFT](#)
[PROOF OF PUBLICATION](#)

COUNCIL EXECUTIVE'S REPORT

MAYOR'S COMMUNICATION

COUNCIL COMMUNICATIONS

CIVIC ANNOUNCEMENTS

SECOND LEROY BOYD FORUM**ADJOURNMENT**

Any opening invocation that is offered before the official start of the Council meeting shall be the voluntary offering of a private person, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious or non-religious beliefs or views of such speaker. Persons in attendance at the City Council meeting are invited to stand during the invocation and to stand and recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to participate in the Pledge of Allegiance. You may remain seated within the City Council Chambers or exit the City Council Chambers and return upon completion of the opening invocation and/or Pledge of Allegiance if you do not wish to participate in or witness the opening invocation and/or the recitation of the Pledge of Allegiance.

If any person decides to appeal any decision made with respect to any matter considered at such meeting, he will need a record of the proceedings, and that for such purpose he may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to City services, programs and activities. Please call 435-1606 (or TDD 435-1666) for further information. Request must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00960

City Council

10/28/2021

SUBJECT:

APPROVAL OF MINUTES: REGULAR MEETING DATED OCTOBER 14, 2021



City of Pensacola

CITY COUNCIL

Regular Meeting Minutes

October 14, 2021

5:30 P.M.

Council Chambers

Council President Moore called the meeting to order at 5:31 P.M.

ROLL CALL

Council Members Present: Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins

Council Members Absent: None

Also Present: Mayor Grover C. Robinson, IV

Members of the public may attend the meeting in person. City Council encourages those not fully vaccinated to wear face coverings that cover their nose and mouth.

The meeting can also be watched live stream at: [cityofpensacola.com/428/Live-Meeting-Video](https://www.cityofpensacola.com/428/Live-Meeting-Video).

To provide input:

- Leroy Boyd Forum, for items not on the agenda: citizens may submit an online form here <https://www.cityofpensacola.com/ccinput> **beginning at 3:00 P.M. until 5:30 P.M. only** to indicate they wish to speak during LeRoy Boyd Forum **and include a phone number. Staff will call the person** at the appropriate time so the citizen can directly address the City Council using a telephone held up to a microphone.
- Agenda Items, for specific items on the agenda: citizens may submit an online form here <https://www.cityofpensacola.com/ccinput> **beginning at 3:00 P.M. until that agenda item has been voted upon** to indicate they wish to speak to a specific item on the agenda **and include a phone number. Staff will call the person** at the appropriate time so the citizen can directly address the City Council using a telephone held up to a microphone. **Any form received after an agenda item has been voted upon will not be considered.**

INVOCATION

Moment of Silence

PLEDGE OF ALLEGIANCE

Council Member Sherri Myers

FIRST LEROY BOYD FORUM

The following individuals addressed Council encouraging the City to conduct a feasibility study on electric utility service:

Warran Rhea

Christian Wagley

Daniel Lindemann: Addressed Council regarding an incident involving a wounded homeless man on Palafox Street near his business, as well as the encampment under the I-110 overpass (within Hollice T. Williams Greenway). He urged Council to address issues of homelessness and affordable housing at each Council meeting.

AWARDS

Mayor Robinson presented two (2) proclamations as follows: 1) Recognizing Baptist Healthcare (Baptist Hospital) Organization's 70 years of bring healthcare to the Pensacola community; and 2) Recognizing Bayou Hills Run race winners of the 5K and 10K Championships which benefits Creative Learning Academy and Pensacola Sports Association and is one of the oldest running events beginning in 1978.

APPROVAL OF MINUTES

1. [21-00902](#) APPROVAL OF MINUTES: REGULAR MEETING DATED SEPTEMBER 23, 2021

A motion to approve was made by Council Member Jones and seconded by Council Member Brahier.

The motion carried by the following vote:

| | |
|--------|---|
| Yes: 7 | Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins |
| No: 0 | None |

APPROVAL OF AGENDA

Council President Moore indicated Item 16, 21-0021-00834 has been pulled by Mayor Robinson (sponsor) and will be placed on the 10/28 Council meeting agenda; and Council President Moore requested Item 21, 21-00891 be moved to the top of the regular agenda.

A motion to approve as amended was made by Council Member Jones and seconded by Council Member Wiggins.

The motion carried by the following vote:

Yes: 7 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins
No: 0 None

CONSENT AGENDA

2. [21-00687](#) 2020 HOME INVESTMENT PARTNERSHIPS PROGRAM INTERLOCAL AGREEMENT

Recommendation: That City Council approve the 2020 HOME Investment Partnerships Program (HOME) interlocal agreement with Escambia County providing for the City of Pensacola's participation in the HOME program. Further, that City Council authorize the Mayor to take all actions necessary to execute all documents relating to the program's administration.

3. [21-00819](#) 2021 HOME INVESTMENT PARTNERSHIPS PROGRAM INTERLOCAL AGREEMENT

Recommendation: That City Council approve the 2021 HOME Investment Partnerships Program (HOME) interlocal agreement with Escambia County providing for the City of Pensacola's participation in the HOME program. Further, that City Council authorize the Mayor to take all actions necessary to execute all documents relating to the program's administration.

CONSENT AGENDA (CONT'D.)

4. [21-00751](#) AWARD OF BID #21-037 CROSS STREET, DR MARTIN LUTHER KING JR DRIVE TO 9TH AVENUE DRAINAGE IMPROVEMENTS PROJECT

Recommendation: That City Council award Bid #21-037 Cross Street, Martin Luther King Jr Drive to 9th Avenue Drainage Improvements Project to Site and Utility LLC, of Pensacola Florida, the lowest and most responsible bidder with a base bid of \$143,470.00 plus additive alternate #1, in the amount of \$52,135.00 plus additive alternate #2, in the amount of \$0.00 plus a 10% contingency in the amount of \$19,560.50 for a total amount of \$215,165.50. Further, that City Council authorize the Mayor to execute the contract and take all action necessary to complete the project.

5. [21-00841](#) APPOINTMENT - PENSACOLA-ESCAMBIA DEVELOPMENT COMMISSION

Recommendation: That City Council appoint Dr. Lusharon Wiley to the Pensacola-Escambia Development Commission to fill an unexpired term ending June 30, 2023.

6. [21-00845](#) APPOINTMENT - PARKS AND RECREATION BOARD

Recommendation: That City Council appoint Mike O'Donovan to fill an unexpired term ending March 31, 2022.

A motion to approve consent agenda items 2, 3, 4, 5, and 6 was made by Council Member Wiggins and seconded by Council Member Jones.

The motion carried by the following vote:

| | |
|--------|---|
| Yes: 7 | Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins |
| No: 0 | None |

REGULAR AGENDA21. [21-00891](#) LETTER OF SUPPORT FOR FLORIDA WEST ECONOMIC DEVELOPMENT ALLIANCE IN SUPPORT OF BUILD BACK BETTER PHASE 1 PROPOSAL

Recommendation: That City Council authorize the Council President to prepare and sign a letter of support on behalf of the City Council, supporting Florida West's Build Back Better Phase 1 proposal.

A motion to approve was made by Council Member Jones and seconded by Council Member Hill.

Council Member Myers asked for a summary of the proposal with Scott Luth, Chief Executive Director of FloridaWest Economic Development Alliance responded accordingly.

Upon conclusion of discussion, the vote was called.

The motion carried by the following vote:

Yes: 7 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins
No: 0 None

7. [21-00844](#) APPOINTMENT - ARCHITECTURAL REVIEW BOARD

Recommendation: That City Council appoint a property or business owner within the Palafox Historic Business District to a two year term, expiring September 30, 2023.

Council President provided an opportunity for incumbent/nominee to address Council:

Brian Spencer

John McCorvey

Council Members Broughton, Wiggins, and Hill made comments in support of Mr. McCorvey.

Council President Moore **called for a ballot vote**. While balloting and tallying took place he moved on to the next item.

Following Item 8 (21-00809), **Council President announced ballot results that City Council appointed John McCorvey, a property or business owner within the Palafox Historic Business District for a two-year term, expiring September 30, 2023.**

REGULAR AGENDA (CONT'D.)

8. [21-00809](#) PUBLIC HEARING: PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - REPEAL OF SECTION 12-3-65 - PARKING FOR CERTAIN USES PROHIBITED

Recommendation: That City Council conduct a public hearing on October 14, 2021 to consider the repeal of Section 12-3-65 of the Land Development Code - Parking for Certain Uses Prohibited.

Planning Services Director Morris explained the proposed amendment before Council as outlined in the memorandum dated 10/14/21.

A motion to approve was made by Council Member Myers and seconded by Council Member Jones.

The motion carried by the following vote:

Yes: 7 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins
No: 0 None

9. [40-21](#) PROPOSED ORDINANCE NO. 40-21 - AMENDMENT TO THE LAND DEVELOPMENT CODE - REPEAL OF SECTION 12-3-65 - PARKING FOR CERTAIN USES PROHIBITED

Recommendation: That City Council approve Proposed Ordinance No. 40-21 on first reading.

AN ORDINANCE REPEALING SECTION 12-3-65 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA: PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

A motion to approve on first reading was made by Council Member Jones and seconded by Council Hill.

The motion carried by the following vote:

Yes: 7 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins
No: 0 None

REGULAR AGENDA (CONT'D.)

10. [21-00811](#) PUBLIC HEARING: PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - TABLE 12-3.9 - REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICT

Recommendation: That City Council conduct a public hearing on October 14, 2021 to consider a proposed amendment to Table 12-3.9 of the Land Development Code, pertaining to North Hill Preservation multiple-family zoning district - PR-2.

Planning Services Director Morris explained the proposed amendment before Council as outlined in the memorandum dated 10/14/21 and provided overhead slides.

Public input was heard from Jo MacDonald.

Mayor Robinson made follow-up remarks.

A motion to approve was made by Council Member Jones and seconded by Council Member Wiggins.

The motion carried by the following vote:

Yes: 7 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins
 No: 0 None

11. [41-21](#) PROPOSED ORDINANCE NO. 41-21 - AMENDMENT TO THE LAND DEVELOPMENT CODE - TABLE 12-3.9 - REGULATIONS FOR THE NORTH HILL PRESERVATION DISTRICTS - PR-2 MINIMUM LOT SIZE REQUIREMENTS

Recommendation: That City Council approve Proposed Ordinance No. 41-21 on first reading:

AN ORDINANCE AMENDING TABLE 12-3.9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

A motion to approve on first reading was made by Council Member Brahier and seconded by Council Member Hill.

The motion carried by the following vote:

Yes: 7 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins
 No: 0 None

REGULAR AGENDA (CONT'D.)**12. [21-00813](#) PUBLIC HEARING: REQUEST FOR FUTURE LAND USE MAP AND ZONING MAP AMENDMENT - 1717 NORTH PALAFOX STREET**

Recommendation: That City Council conduct a Public Hearing on October 14, 2020, to consider the request to amend the Future Land Use Map and Zoning Map for property located at 1717 North Palafox Street. (Future Land Use from LDR - Low Density Residential to MDR - Medium Density Residential; and from R-1AAA, Single-Family Residential Zoning District to R-1A, One and Two Family Residential Zoning District.)

Planning Services Director Morris explained the proposed amendments before Council as outlined in the memorandum dated 10/14/21 and provided overhead slides.

Public input was heard from the following individuals:

Nancy Wolfe (via phone held up to a mic)
Leigh Jewdevine

Buddy Page, Professional Growth Management Services, LLC representing Olde City Developers, LLC (applicant) was provided an opportunity to address Council. He presented enlarged photos (on easels) of the subject property and surrounding area. He responded accordingly to questions from Council Members. Mayor Robinson (sponsor) and Planning Services Director Morris also fielded comments and questions.

Public input continued:

Jo MacDonald
Tori Rutland

Cindy Redeker

Following public input, discussion ensued among Council with Planning Services Director Morris responding accordingly to questions.

A motion to approve was made by Council Member Jones and seconded by Council Member Wiggins.

The motion failed by the following vote:

Yes: 1 Jared Moore
No: 6 Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins

REGULAR AGENDA (CONT'D.)

*****THE FOLLOWING TWO (2) PROPOSED ORDINANCES WERE PULLED DUE TO PUBLIC HEARING ITEM 12, 21-00813 FAILING*****

13. 43-21 PROPOSED ORDINANCE NO. 43-21 - REQUEST FOR FUTURE LAND USE MAP AMENDMENT - 1717 NORTH PALAFOX STREET

Recommendation: That City Council approve Proposed Ordinance No. 43-21 on first reading:

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN AND FUTURE LAND USE MAP OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE. (Future Land Use from LDR - Low Density Residential to MDR - Medium Density Residential.)

14. 42-21 PROPOSED ORDINANCE NO. 42-21 - REQUEST FOR ZONING MAP AMENDMENT - 1717 NORTH PALAFOX STREET

Recommendation: That City Council approve Proposed Ordinance No. 42-21 on first reading:

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE ZONING MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE. (R-1AAA, Single-Family Residential Zoning District to R-1A, One and Two Family Residential Zoning District)

15. 21-00837 MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF PENSACOLA AND CARSON LOVELL COMPANY REGARDING THE PERFORMANCE OF DUE DILIGENCE ON LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK

Recommendation: Staff recommends that City Council reject this Memorandum of Understanding, due to the fact that the City will not receive any income based on what is proposed and the City is potentially at risk to reimburse Carson Lovell their due diligence cost.

A motion to approve was made by Council Member Jones and seconded by Council Member Wiggins.

Mayor Robinson (sponsor) made comments. Finance Director Lovoy addressed Council explaining the financial risk for the City based on the proposed MOU by Carson Lovell. She responded accordingly to questions from Council Member Myers.

REGULAR AGENDA (CONT'D.)

Greg Darden, Director of Business Development with Structured Parking Solutions representing Carson Lovell was in attendance and provided an opportunity to address Council (regarding Item 15, 21-00837). He presented and provided a handout on *Qualifying Notes* (on file with background materials). Discussion ensued among Council with Mr. Darden and Finance Director Lovoy responding accordingly to questions. Mayor Robinson also responded to questions and comments.

Public input was heard from the following individuals:

| | |
|---|---------------|
| Terry Horne | Tony McCray |
| Sarah Randolph (via phone held up to a mic) | Chris Schwier |
| Renee Borden | |

Discussion continued. City Consultant Andrew Rothfeder was in attendance and provided an opportunity to address Council. He responded accordingly to questions, as well as City Attorney Peppler. Mayor Robinson also responded to comments and questions.

Upon conclusion of discussion, Council Executive Kraher clarified the motion on the floor. The vote was called.

The motion carried by the following vote:

| | |
|--------|--|
| Yes: 4 | Jared Moore, Teniade Broughton, Casey Jones, Delarian Wiggins, |
| No: 3 | Ann Hill, Jennifer Brahier, Sherri Myers |

*****THE FOLLOWING ITEM WAS WITHDRAWN BY THE SPONSOR*****

16. 21-00834 LEASE OF REAL PROPERTY FOR REDEVELOPMENT - UPLAND AND SUBMERGED LAND IN BAYLEN SLIP SOUTH OF HARBOURVIEW ON THE BAY BUILDING

Recommendation: That City Council authorize the Mayor to negotiate and execute a lease with Gulf Marine Construction Inc. for the redevelopment of upland and submerged real property (portion of Parcel Ref. No. 000S009100001034) located in the Baylen Slip inland waterway directly south of the Harbourview on the Bay building at 25 West Cedar Street.

Withdrawn.

REGULAR AGENDA (CONT'D.)

17. [2021-88](#) RESOLUTION NO. 2021-88 FOR GRANT APPLICATION TO THE STATE OF FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS RELIEF (CDBG-CV) PROGRAM

Recommendation: That City Council adopt Resolution No. 2021-88.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA; SUPPORTING APPLICATION TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY FOR FLORIDA ENTITLEMENT COMMUNITY DEVELOPMENT BLOCK GRANT CORONAVIRUS RELIEF FUNDING (CDBG-CV); AUTHORIZING THE MAYOR OF THE CITY OF PENSACOLA TO TAKE ALL ACTIONS NECESSARY TO EXECUTE ALL DOCUMENTS RELATING TO THE GRANT APPLICATION; PROVIDING FOR AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Hill and seconded by Council Member Jones.

The motion carried by the following vote:

Yes: 7 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins
No: 0 None

18. [2021-85](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 2021-85 - REALLOCATION OF LOST IV PROJECTS

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2020-85.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Jones and seconded by Council Member Brahier.

Some discussion took place among Council.

The motion carried by the following vote:

Yes: 6 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Delarian Wiggins
No: 1 Sherri Myers

REGULAR AGENDA (CONT'D.)

19. [2021-86 SUPPLEMENTAL BUDGET RESOLUTION NO. 2021-86 - AMENDING THE FISCAL YEAR 2021 BUDGET](#)

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2021-86.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Brahier and seconded by Council Member Wiggins.

The motion carried by the following vote:

Yes: 6 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Delarian Wiggins
No: 1 Sherri Myers

20. [2021-87 SUPPLEMENTAL BUDGET RESOLUTION NO. 2021-87 - APPROPRIATION OF FUNDING FOR THE PURCHASE OF KUBOTA U35-4 MINI-EXCAVATOR AND DUMP TRAILER](#)

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2021-87

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Jones and seconded by Council Member Brahier.

Finance Director Lovoy responded accordingly to questions from Council Member Myers.

The motion carried by the following vote:

Yes: 7 Jared Moore, Ann Hill, Jennifer Brahier, Teniade Broughton, Casey Jones, Sherri Myers, Delarian Wiggins
No: 0 None

COUNCIL EXECUTIVE'S REPORT

None

MAYOR'S COMMUNICATION

None

COUNCIL COMMUNICATIONS

Council Member Myers commended Public Works staff for work on the improvement project for Burgess Road and improved lighting on John Carroll Drive.

Council Member Wiggins provided a brief update from the Transportation Planning Organization (TPO) meeting yesterday.

Council Member Brahier commended Public Works staff for their quick response last Saturday filling in a sink hole.

CIVIC ANNOUNCEMENTS

None

SECOND LEROY BOYD FORUM

Gloria Horning: Addressed Council expressing her frustration with the following issues: 1) on-going flooding and sewage breaks on South DeVilliers Street; 2) dust from demolition at Coyle and Garden Streets; and 3) noise and fumes from 18 wheelers parked and running idle on the former ECUA wastewater treatment facility site.

Follow-up discussion took place with Dr. Horning responding to questions. Mayor Robinson also provided input.

ADJOURNMENT

WHEREUPON the meeting was adjourned at 9:01 P.M.

Adopted: _____

Approved: _____
Jared Moore, President of City Council

Attest:

Ericka L. Burnett, City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00823

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

AIRPORT - APPROVAL OF LEASE BETWEEN THE CITY OF PENSACOLA AND THE UNITED SERVICES ORGANIZATION

RECOMMENDATION:

That City Council authorize the Mayor to execute a Lease Agreement with the United Services Organization (USO) at Pensacola International Airport. Further, that City Council authorize the Mayor to take all actions necessary relating to the execution of the Lease Agreement.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The United Services Organization (USO) is a congressionally chartered, nongovernmental, nonprofit organization whose mission is to enhance the quality of life for military personnel, single or married, and their families by helping them adjust to the special rigors of a transient military life style and by fostering a viable partnership between the military and the civilian communities. To accomplish that mission, the USO outfits and staffs both a military airport center and an information booth (for general customer assistance) in the Pensacola International Airport's passenger terminal building.

In consideration of the activity, the Airport and USO desire to enter into a lease agreement for the space utilized and the services provided. The term of the lease shall be for a three (3) year period with two (2) additional one (1) year renewal options at the City's discretion.

PRIOR ACTION:

January 12, 2017 - City Council approved a Lease Agreement with USO.

FUNDING:

N/A

FINANCIAL IMPACT:

The USO is assessed a rental rate identical to that charged the signatory airlines serving the Airport.

However, as the USO is providing services that would otherwise be provided by the Airport, the USO is given a rent credit for the number of hours expended annually in both the military airport center and information booth calculated at the then current minimum wage rate in the State of Florida. In contract year 2020, the USO provided approximately 1,092 combined hours of staffing, which resulted in a rent credit of \$70,761.60. This offset the rental amount for the same period of \$61,069.89.

It is projected that the annual rent credit will continue to equal or exceed the annual rental amount due.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

9/22/2021

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator - Administration & Enterprise
Matthew F. Coughlin, Airport Director

ATTACHMENTS:

- 1) USO 2022 Lease Agreement

PRESENTATION: No

**LEASE AGREEMENT BETWEEN THE CITY OF PENSACOLA AND UNITED
SERVICES ORGANIZATION
PENSACOLA INTERNATIONAL AIRPORT**

THIS LEASE AGREEMENT (“Lease”) dated this ___ day of _____, 20____, by and between the City of Pensacola (“City”), a municipal corporation of the State of Florida and the United Services Organization (“USO” or “Lessee”), a Congressionally chartered, nongovernmental, nonprofit organization with the business address of 1168 Gator Boulevard, Building 3370, Virginia Beach, Virginia 23455, each at times hereinafter referred to as a “party” or collectively as “parties” is made and entered into in support of USO operations at the Pensacola International Airport..

WITNESSETH:

WHEREAS, the City owns, operates, and maintains Pensacola International Airport (“Airport”); and

WHEREAS, the Airport serves in excess of 2 million passengers each year, approximately 19% of which are travelling for military purposes; and

WHEREAS, the USO is a Congressionally chartered, nongovernmental, nonprofit organization whose mission is to enhance the quality of life for military personnel, single or married, and their families by helping them adjust to the special rigors of a transient military life style and by fostering a viable partnership between the military and the civilian communities; and

WHEREAS, the USO desires to provide at the Airport such services as further described below in the terms and conditions of this Lease; and

WHEREAS, the Airport desires the USO provide such services; and

WHEREAS the services, if not provided by the USO, would need to be provided by the Pensacola International Airport.

NOW, THEREFORE, for and in consideration of the premises, and of the mutual covenants and agreements and the payment of money herein contained, the City and Lessee do hereby mutually undertake, promise and agree, each for itself and its successors and assigns, as follows:

I. Recitals:

The recitals contained above are declared by the Parties to be true and correct and are incorporated into this Lease.

II. Use and Services:

Lessee shall provide the following services:

- A. Military Airport Center: Lessee shall outfit and staff an airport center in the Passenger Terminal Building, the location and any potential relocation of such center to be determined in the sole discretion of the Airport Director, and provide comfort and convenience services to U.S. military personnel, Active Duty, Reserve, and Guard, as well as their family members, who may be transiting the facility. Said center shall be equipped and operated by Lessee in compliance with the USO's national policies and federal, state, and local laws and Airport rules, policies, and regulations.
- B. Information Booth: Lessee shall provide and staff a booth in the Passenger Terminal Building, the location and any potential relocation of such booth to be determined in the sole discretion of the Airport Director, for general customer assistance purposes, providing services to the total general public to assist with wayfinding within the Airport, and distributing visitor guides and other community information as determined in the sole discretion of the Airport Director. Lessee shall provide in a courteous manner to the general public information regarding the locations of concessions, restrooms, elevators, airlines, gates, and other facilities within the Passenger Terminal. Lessee shall maintain accurate knowledge of telephone numbers and other information for the benefit of the general public as other means through which such individuals can respond to requests for information.
- C. Special Services: Lessee shall cooperate and coordinate, in the sole discretion of the Airport Director, with Airport staff to host special events involving military personnel arriving or departing the Pensacola International Airport. Special services may include:
 - Families of the Fallen: Lessee shall coordinate with Airport Administration for the dignified transfer of fallen service members arriving or departing the Pensacola International Airport, and for the care of family members who come to the facility for the transfer.
 - Large scale military arrival/departure: Lessee shall coordinate with the local military commands and Airport Administration to assist with the periodic mass arrival or departure of military personnel. Arrival assistance may include coordinating transportation to the correct local military installation. Departure assistance may include coordinating for the temporary outfitting and staffing of additional areas in the Passenger Terminal when the number of anticipated departing personnel exceed the capability of the Military Airport Center.

III. Hours of Operation:

Lessee shall staff areas as follows:

- A. Military Airport Center: 8:00 a.m. – 8:00 p.m.; All days of the week;
- B. Information Booth: 8:00 a.m. – 8:00 p.m.; All days of the week;
- C. Special Services: As needed and upon mutual agreement

IV. Leased Premises:

In consideration of the provisions of services pursuant to Section II and Section III above, City hereby leases to Lessee, solely for the use and purposes described in Section II above, the following space “Leased Premises” within the Passenger Terminal Building (“Terminal Building”) at the Pensacola International Airport:

- A. Military Airport Center: 1,104 square feet of space located on the second level of the Terminal Building as more accurately shown on Exhibit A attached hereto and incorporated by this reference.
- B. Information Booth: 100 square feet of space located on the second level of the Passenger Terminal Building as more accurately shown on Exhibit A.

V. Term and Renewal:

Subject to earlier termination as may be provided here, the term of this Lease shall commence on January 1, 2022 and shall continue for a period of three (3) years terminating at midnight on December 31, 2024.

City reserves the right to renew this Lease, at the sole discretion of the City and under terms and conditions to be determined by the City, for two (2) additional one (1) year terms. If the City chooses to exercise its right to renew this Lease, the USO shall be notified in writing of the terms and conditions to which the City shall exercise this right one hundred fifty (150) days before the expiration of the Lease. The USO shall have the choice as to whether to accept the City’s proposal or allow the Lease to expire and shall so notify the City in writing within thirty (30) days of receipt of City’s proposal. Nothing in this paragraph shall be construed as to require the City to exercise such option to renew or as to require the USO to accept such proposal from the City.

Should USO continue to provide the services upon the expiration of the term, or any extension thereof, without notice of cessation or termination by City, said continuation shall be deemed a month-to-month renewal of this Lease terminable by City, without cause, upon thirty (30) days written notice to USO.

Notwithstanding any other provision of this Lease, the City shall have the absolute right to terminate this Lease upon ninety (90) days of issuance of written notice to the Lessee for convenience in the sole discretion of the City. Upon ninety (90) days of issuance of written notice to the Lessee, Lessee shall cease all services and vacate the Airport.

VI. Payment:

Lessee acknowledges and agrees that the City must assess fees to all entities using space at the Airport. Terminal Building rental rates are determined each year using a rate making methodology as outlined in Pensacola City Code and in the agreements with the airlines utilizing the facility. In consideration of the services provided by Lessee, the parties agree Lessee shall pay such rate according to the methodology, provided however, the number of hours expended annually by Lessee in both the Military Airport Center and Information Booth, shall be multiplied by the then-current minimum wage rate in place in the State of Florida, and will be applied against the annual rental rate otherwise due for any given year in the form of a rent credit.

VII. Utilities, Maintenance, and Custodial Services:

Utilities:

During the term of this Lease, City shall provide, at its expense, existing power, air conditioning, and heating to the Leased Premises. The City shall not be obligated to provide for any extension, customization, modification or enhancement of these utilities, or to provide for the installation of any other utilities. The Lessee, at the Lessee's sole cost and expense, shall arrange for the extension of these utilities as needed. Throughout the term of this Agreement, the Lessee shall not disturb or render any utility lines inaccessible, and shall be liable for any consequences of disturbing City provided utilities.

The City shall not invoice the Lessee for power, air conditioning and heating. Lessee shall pay, at Lessee's expense, and remain solely liable for, any telephone services or other permitted utilities in the sole discretion of the Airport Director, within the Leased Premises. Lessee shall obtain and maintain separate accounts for Lessee's utilities as described in this paragraph in Lessee's name only, and is prohibited from obligating in any way the City on such accounts. Any violation of this provision by Lessee shall be a material breach of this Lease.

The City reserves the right to install, maintain, repair, replace, or remove and replace any utility lines for or about the Leased Premises, along with the right to enter the Leased Premises in order to accomplish the foregoing, provided, however, that City shall take reasonable precautions to avoid the disruption of the Lessee's services under this Lease.

Maintenance:

During the term of this Lease, the City shall provide, at its expense:

1. Structural repairs to the roof, floor, exterior walls and windows of the Terminal building.
2. General maintenance and upkeep of the Terminal building's interior common use area and external area. The City agrees to keep and maintain in reasonable condition all trunk water and sewer mains, supply mains and electrical power to the Leased Premises.

City shall have reasonable opportunity to commence repairs. Lessee is obligated to mitigate damage to Lessee's property until the City has had time to repair. City shall not be liable to Lessee for damage until City has had a reasonable time to perform repairs.

Lessee, at Lessee's sole expense, shall perform all preventive maintenance and ordinary upkeep and nonstructural repair of the Leased Premises and equipment, including but not limited to fixtures, doors, floor coverings, and walls (painting and wall covering). Lessee shall be required to keep all such areas in good operating condition and repair at all times.

Custodial:

During the term of this Lease, the City shall provide, at its expense, custodial services for the non-leased public areas of the Terminal Building and pest control services for Leased Premises and the adjacent areas, provided however, any lapse in such services provided outside of the Leased Premises shall not be considered a breach of this Lease.

Lessee shall keep all of Leased Premises in the Terminal Building used in the course of its normal daily operations, in a neat, clean, safe, sanitary and orderly condition at all times; that it will keep such areas free at all times of all paper, rubbish and debris. Lessee shall deposit all trash and debris resulting from its operations in its space in containers approved by the City.

Lessee shall provide, at its own expense, to the satisfaction of the Airport Director janitorial and cleaning services and supplies for the maintenance of the Leased Premises. Lessee shall keep and maintain the space in a clean, neat, and sanitary condition and attractive appearance.

General:

Should Lessee fail to maintain the space in conformance with the terms and conditions of this article within a period of seven (7) calendar days following written notice of such failure (or for those items that cannot be reasonably cured within seven (7) days, USO fails to undertake action to cure and diligently pursue such cure), the City expressly may take any action to cure said failure and Lessee shall reimburse City's cost for such actions plus a ten percent (10%) administrative charge.

VIII. Right of Entry:

- A. Right of Entry and Inspection: The City and its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right to enter upon the Leased Premises at all times:
- i. To inspect the areas to determine whether Lessee has complied with and is complying with the terms and conditions of this Lease; and
 - ii. To perform maintenance and make repairs in any case where Lessee is obligated but has failed to do so; and
 - iii. To perform any and all things which the Lessee is obligated to and has failed after reasonable notice so to do; and
 - iv. In the exercise of Lessee's police powers; and
 - v. As necessary for Airport business and operations or pursuant to any term or condition of this Lease in the sole discretion of the Airport Director.
- B. Right to Install Items: The City shall have the right to construct or install over, in, under or through Airport new lines, pipes, mains, wires, conduits and equipment as the City may deem necessary.

IX. Insurance and Indemnification:

General:

The USO shall procure and maintain insurance of the types and to the limits specified.

The term City as used in this section of the Lease is defined to mean the City of Pensacola itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents.

The USO and the City understand and agree that the minimum limits and types of insurance herein required may become inadequate during the term of the Lease. The USO agrees that it will increase or change such coverage as required by the City within ninety (90) days upon receipt of written notice from the Airport Director.

Insurance Requirements:

Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to the City, for the City's protection only. Unless otherwise agreed, the amounts, form and type of insurance shall conform to the following minimum requirements:

A. Worker's Compensation:

The USO shall purchase and maintain Worker's Compensation Insurance Coverage for all Workers' Compensation obligations as legally required. Additionally, the policy, or separately obtained policy, must include Employers Liability Coverage of at least \$100,000 each person-accident, \$100,000 each person disease, \$500,000 aggregate-disease.

B. Commercial General, Automobile, and Umbrella Liability Coverages:

The USO shall purchase coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies filed by the Insurance Services Office. The City shall be an Additional Insured and such coverage shall be at least as broad as that provided to the Named Insured under the policy for the terms and conditions of this agreement. The City shall not be considered liable for premium payment, entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of \$1,000,000 per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required.

1. Commercial General Liability coverage must be provided, including bodily injury and property damage liability for premises, operations, contractual, products and completed operations, and independent contractors. Broad Form Commercial General Liability coverage, or its equivalent, shall provide at least broad form contractual liability applicable to this specific contract, as well as personal injury liability and broad form property damage liability. The coverage shall be written on an occurrence-type basis.

2. Business Auto Policy coverage must be provided, including bodily injury and property damage arising out of operation, maintenance or use of owned, non-owned and hired automobiles and employee non-ownership use. Minimum limits of \$1,000,000 combined single limits must be provided.

3. Umbrella Liability Insurance coverage shall not be more restrictive than the underlying insurance policy coverages. The coverage shall be written on an occurrence-type basis.

Certificates of Insurance:

Required insurance shall be documented in the Certificates of Insurance that provide that the City of Pensacola shall be notified at least thirty (30) days in advance of cancellation, non-renewal or adverse change or restriction in coverage. The City of Pensacola shall be named on each Certificate as an Additional Insured and this contract shall be listed. If required by the City, the USO shall furnish copies of the USO's insurance policies, forms, endorsements, Jackets and other items forming a part of, or relating to such policies. The USO may black-out any proprietary or salary information included in any policy required under this agreement that is requested by the City. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by the City an ACORD 25. Any wording in a Certificate which would make notification of cancellation, adverse change or restriction in coverage to the City an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent or employee. The USO shall replace any canceled, adversely changed, restricted or non-renewed policies with new policies acceptable to the City and shall file with the City Certificates of Insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the City, the USO shall, upon instructions of the City, cease all operations under the Lease until directed by the City, in writing, to resume operations. The "Certificate Holder" address should read: City of Pensacola, Department of Risk Management, Post Office Box 12910, Pensacola, FL 32521. An additional copy should be sent to the Pensacola International Airport, Attn: Airport Administration and Contracts Manager, 2430 Airport Blvd., Suite 225, Pensacola, FL 32504.

Insurance of the Contractor Primary:

The USO's required coverage shall be considered primary, and all other insurance shall be considered as excess, over and above the USO's coverage. The USO's policies of coverage will be considered primary as relates to all provisions of the agreement.

Loss Control and Safety:

The USO shall retain control over its employees, agents, servants and subcontractors, as well as control over its invitees, and its activities on and about the subject premises and the manner in which such activities shall be undertaken and to that end, the USO shall not be deemed to be an agent

of the City. Precaution shall be exercised at all times by the USO for the protection of all persons, including employees, and property. The USO shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

Hold Harmless:

The USO shall indemnify and hold harmless the City of Pensacola, its officers and employees, from any and all liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the USO and persons employed or utilized by the USO in the performance of this agreement. The USO's obligation shall not be limited by, or in any way to, insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

X. Compliance with Rules and Regulations:

Lessee shall conform to all Federal, State, or local laws and regulations, as well as all City of Pensacola Codes and Ordinances, and City and Airport rules, regulations and policies all of which may apply to the services to be performed.

Lessee shall obtain and maintain in force all licenses, permits, and other certificates required by Federal, State, County, or municipal or Airport authorities for operation under the terms of this Lease.

Lessee observe all security requirements of Transportation Security Administration 49 CFR Part 1542, and the Airport Security Program, as may be applicable, and as the same may, from time to time, be amended, and to take such steps as may be necessary or directed by the City to ensure that employees, invitees, agents, and guests observe these requirements.

Should City incur any costs, fees, fines or penalties imposed by as a result of the acts or omissions of Lessee under this Section X, Lessee shall pay or reimburse the City upon demand by the Airport Director in accordance with such demand notice for all such monies.

Lessee acknowledges the Airport is a secure and significant facility and as such Lessee shall not through any act or omission cause even the risk of fire, slippage or other hazard whatsoever, or cause any hazard to persons, or property, or obstruct or interfere with the rights of any other Airport tenants, or in any way injure or annoy Airport tenants, or any act or omission which violates or causes violation of any applicable health, fire, environmental, or other regulation of any level of government. Any breach of this paragraph shall be a material breach of the Lease and City expressly may immediately take any action in the sole

discretion of the Airport Director to secure correction of such risk exposure, and thereafter Lessee shall pay or reimburse the City upon demand by the Airport Director in accordance with such demand notice for all costs to the City.

XI. Supervision of Employees and Volunteers, Parking:

Lessee shall ensure that its employees and volunteers conduct themselves in a professional and courteous manner at all times. Lessee's employees shall be appropriately dressed at all times, and maintain a clean, neat, well-groomed appearance. Lessee will be obligated to control the actions of its employees and cooperate with the City in controlling any employee whose conduct the Airport Director feels is detrimental to the best interest of the Airport and public.

USO shall have the right to the use of reasonably adequate vehicular parking facilities for its employees and volunteers at the Airport. Such facilities shall be located in an area designated by the Airport Director. The City reserves the right to assess a reasonable charge for such employee parking facilities. Such charge for Lessee parking use shall not exceed that which is charged to other commercial tenants in the Terminal Building.

XII. Signs:

Lessee shall not permit signs, logos, or advertising displays placed or erected in any manner upon the Leased Premises, or in or on any improvements or additions on the Leased Premises, without the prior written approval of the Airport Director. Signs identifying USO shall conform to reasonable standards established by the City, with respect to type, size, design, condition and location.

XIII. Assignment:

Any assignment or sublet of this Lease is prohibited and shall be null and void and of no effect.

XIV. No Waiver by City:

A failure by City to take any action with respect to any default or violation by Lessee of any of the terms, covenants, or conditions of this Lease shall not in any respect limit, prejudice, diminish or constitute a waiver of any rights or remedies of City to act with respect to any prior, contemporaneous, or subsequent violation or default or with respect to any continuation or repetition of the original violation or default. The acceptance by City of payment for any period or periods after a default or violation of any of the terms, conditions, and covenants of this Lease shall not constitute a waiver or diminution of, nor create any limitation upon any right of City pursuant to this Lease to terminate this Lease for subsequent violation or default, or for continuation or repetition of the original violation or default.

XV. Surrender Upon Termination:

Upon the expiration or termination of this Lease, for any reason whatsoever, Lessee shall peaceably surrender to the City possession of the Leased Premises. Lessee warrants to City that any and all improvements, alterations, or fixtures previously constructed by Lessee shall remain free and clear of any claims or interests of Lessee, Lessee's contractors or subcontractors, creditors, invitees, or any other third party. Should Lessee violate this provision, without waiver of other action by City for City's own benefit, Lessee shall pay to remove any encumbrance, lien or debt associated with Lessee's occupation of the Leased Premises and hereby warrants that Lessee shall hold the City harmless therefrom.

XVI. Removal of Lessee's Property Upon Termination:

The personal property of Lessee placed or installed at or on the Airport by Lessee, including, but not limited to, trade fixtures and trade equipment, shall remain the property of Lessee and must be removed on or before the expiration of the term or the expiration of any extension or renewal of this Agreement at Lessee's sole risk and expense. Any damage to the assigned areas, the Airport or any portion thereof resulting from such removal shall be paid for by Lessee. In the event of termination of this Agreement, Lessee shall have thirty (30) days after such termination during which to remove such property.

If Lessee's property is not removed as herein provided, City may, at its option, after written notice to Lessee and at Lessee's sole risk and expense, remove such property to a public warehouse for deposit, or retain the same in City's possession and after the expiration of thirty (30) days take ownership of such property without payment by the City to Lessee of any compensation whatsoever, and said property shall thereafter be owned by City free and clear of any claim or interest by Lessee.

XVII. Subordination:

This Lease shall be subordinate to existing and future Airport Bond Resolutions. This Lease shall also be subject to and subordinate to agreements between the City and State and Federal agencies for grants-in-aid and to the provisions of any agreements heretofore made between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights of property to the City for Airport purposes, or to the expenditure of federal funds for the extension, expansion, or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Airport Act of 1958, as it has been amended from time to time. Any agreement hereafter made

between the City and the United States will not be inconsistent with rights granted to Lessee herein.

XVIII. Mandatory Use of E-Verify System:

In compliance with the provisions of F.S. 448.095, the parties to this contract and any subcontractors engaged in the performance of this contract hereby certify that they have registered with and shall use the E-Verify system of the United States Department of Homeland Security to verify the work authorization status of all newly hired employees, within the meaning of the statute.

XIX. Force Majeure:

Neither the City nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of the obligations hereunder by any reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, weather conditions, or for any other circumstance for which it is not responsible or which is not within its control.

XX. Relationship of Parties:

Lessee represents and warrants Lessee is not in any way or for any purpose a partner or joint venturer with or agent of the City. Lessee shall act as an independent contractor in the performance of its duties pursuant to this Lease.

XXI. Notices:

All notices by either party to the other shall be made either by utilizing the registered or certified mail of the United States of America, postage prepaid, or by utilizing any other method of delivery requiring signature for receipt, and such notice shall be deemed to have been delivered and received on the date of such utilization. All notices to the City shall be mailed to:

Airport Director
Pensacola International Airport
2430 Airport Blvd., Suite 225
Pensacola, Florida 32504

With an additional copy to:

City Administrator
City of Pensacola
222 West Main Street
Pensacola, Florida 32502

All notices to USO shall be mailed to:

The parties from time to time may designate in writing changes in the address stated.

XXII. Entire Lease:

This writing, together with all the attached exhibits, constitutes the entire agreement of the parties. This Lease supersedes all prior agreements, if any, between the City and Lessee, and no representations, warranties, inducements, or oral agreements that may have been previously made between the parties shall continue in effect unless stated herein. This Lease shall not be modified except in writing, signed by the City and Lessee.

XXIII. Partial Invalidity:

If any term or condition of this Lease or the application thereof to any person or event shall to any extent be deemed invalid and unenforceable, the remainder of this Lease and the application of such term, covenant, or condition to persons or events other than those to which it is held unenforceable shall not be affected, and each term, covenant and condition of this Lease shall be valid and enforced to the fullest extent permitted by law.

XXIV. Successor:

The provisions, covenants and conditions of this Lease shall bind and inure to the benefit of the legal representatives, successors and assigns of each of the parties.

XXV. Consents and Approvals:

Where this Lease requires approval from the City, prior written approval from the Airport Director shall be considered to fulfill such requirements.

XXVI. Governing Law.

This Lease is governed and construed in accordance with the laws of the State of Florida. The law of the State of Florida shall be the law applied in the resolution of any claim, actions or proceedings arising out of this Lease.

XXVII. Venue.

Venue for any claim, actions or proceedings arising out of this Lease shall be Escambia County, Florida.

XXVIII. Headings:

The headings contained in this Lease are inserted only as matter of convenience and for reference and do not define or limit the scope or intent of any provision of this Lease and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction of said terms and provisions.

XXIX. Public Records Act.

The parties acknowledge and agree to fulfill all obligations respecting required contract provisions in any contract entered into or amended after July 1, 2016, in full compliance pursuant to Section 119.0701, *Florida Statutes*, and obligations respecting termination of a contract for failure to provide public access to public records. The parties expressly agree specifically that the contracting parties hereto shall comply with the requirements within Attachment "A" attached hereto and incorporated by reference.

IN WITNESS WHEREOF, the parties hereto have signed this instrument the day and year first above written.

Attest:

City of Pensacola,
a Florida municipal corporation

Ericka Burnett, City Clerk

By _____
Grover C. Robinson, IV, Mayor

United Services Organization

Attest:

By: _____
Printed Name _____
Title _____

Corporate Secretary

Legal in form and execution:

Approved as to Substance:

By _____
City Attorney

By _____
Airport Director

Attachment "A"

PUBLIC RECORDS: Lessee shall comply with Chapter 119, Florida Statutes. Specifically, Lessee shall:

- A. Keep and maintain public records required by the City to perform the service.
- B. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Lease term and following the completion of the Lease if Lessee does not transfer the records to the City.
- D. Upon completion of the Lease, transfer, at no cost, to the City, all public records in possession of Lessee or keep and maintain public records required by the City to perform the service. If Lessee transfers all public records to the City upon completion of the Lease, Lessee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Lessee keeps and maintains public records upon completion of the Lease, Lessee shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request of the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

Failure by Lessee to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Lease by the City.

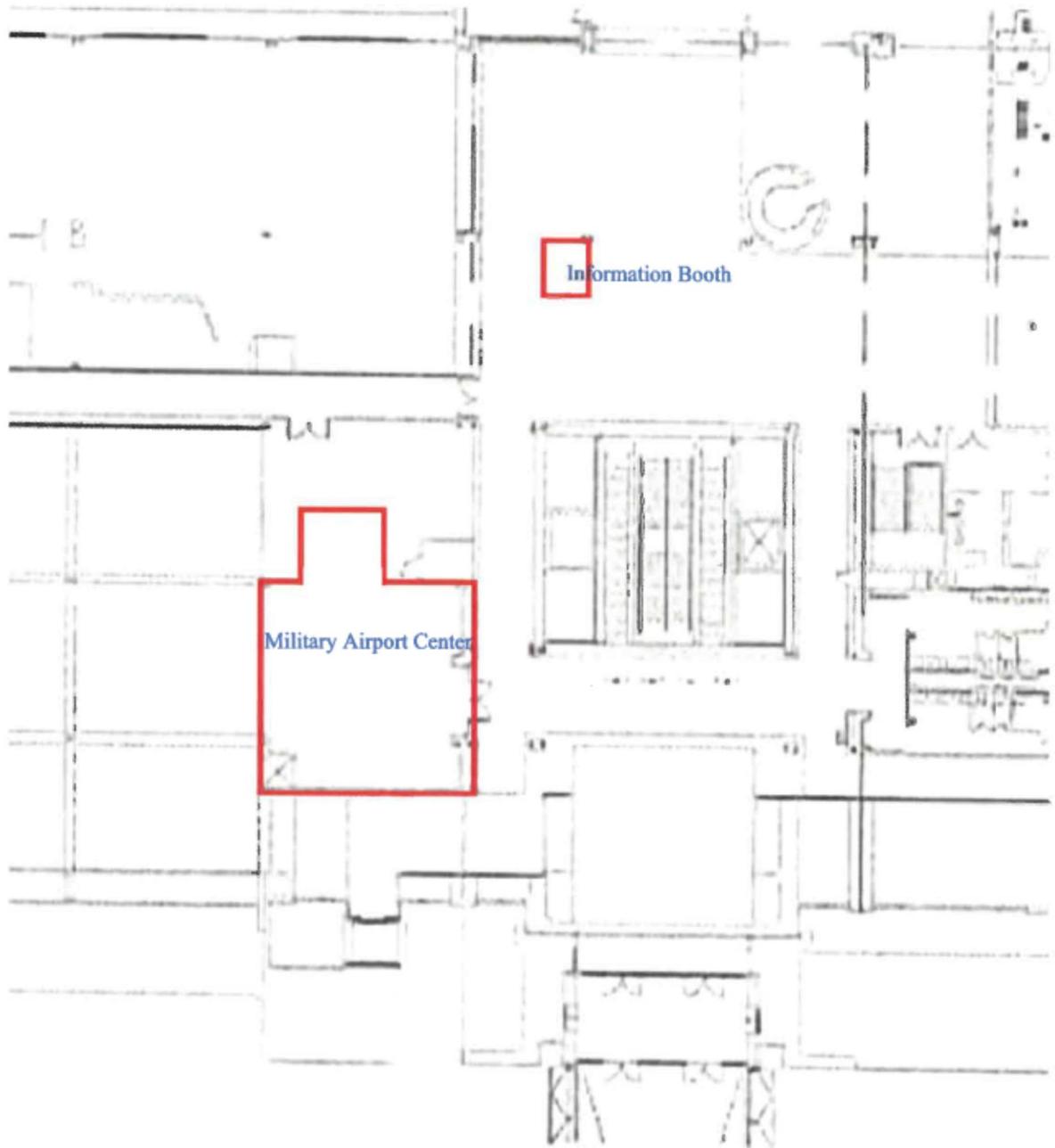
IF LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, CONTACT THE PUBLIC RECORDS COORDINATOR AT:

THE OFFICE OF THE CITY CLERK, (850) 435-1715

PUBLICRECORDS@CITYOFPENSACOLA.COM

222 WEST MAIN STREET, PENSACOLA, FL 32502

EXHIBIT A
LEASED PREMISES





City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00827

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

AIRPORT - APPROVAL OF LEASE BETWEEN THE CITY OF PENSACOLA AND SITA INFORMATION NETWORKING COMPUTING USA INC.

RECOMMENDATION:

That City Council authorize the Mayor to execute a Lease Agreement with SITA Information Networking Computing USA Inc. at the Pensacola International Airport. Further, that City Council authorize the Mayor to take all actions necessary relating to the execution of the Lease Agreement.

HEARING REQUIRED: No Hearing Required

SUMMARY:

SITA Information Networking Computing USA Inc. (SITA NV/BV) provides air to ground communication support services between air carrier aircraft and their respective airport stations. SITA NV/BV's equipment allows airline's ground stations to talk directly with their company's inbound and outbound aircraft. While firms such as SITA NV/BV work directly with their respective customer airlines, it leases space from the Airport for the installation of the necessary communications equipment. SITA NV/BV has requested continued use of approximately ten (10) square feet in the Airport Terminal Building.

PRIOR ACTION:

January 24, 2005 - City Council approved a Lease Agreement with Societe International De Telecommunications Aeronautiques (SITA).

September 24, 2009 - City Council approved a Lease Agreement with Societe International De Telecommunications Aeronautiques (SITA).

FUNDING:

N/A

FINANCIAL IMPACT:

SITA NV/BV will pay a monthly rental rate of \$500.00 for the use of the space.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

9/23/2021

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator - Administration & Enterprise
Matthew F. Coughlin, Airport Director

ATTACHMENTS:

- 1) SITA Information Network Computing USA Inc Lease Agreement

PRESENTATION: No

**LEASE AGREEMENT BETWEEN THE CITY OF PENSACOLA AND SITA
INFORMATION NETWORK COMPUTING USA INC.
PENSACOLA INTERNATIONAL AIRPORT**

THIS LEASE AGREEMENT (“Lease” or “Agreement”) dated this ___ day of _____, 20 ____, by and between the City of Pensacola (“City”), a municipal corporation of the State of Florida , whose mailing address is 222 West Main Street, Pensacola, Florida 32502 (“City”) and SITA Information Networking Computing USA Inc. (“SITA NV/BV” or “Lessee”), a Foreign Profit Corporation, whose mailing address is 3100 Cumberland Boulevard, Suite 900, Atlanta Georgia 30339, (each at times hereinafter referred to as a “Party” or collectively as “Parties”).

WITNESSETH:

WHEREAS, the City owns, operates, and maintains Pensacola International Airport (“Airport”); and

WHEREAS, the Airport provides Commercial Air Service to the traveling public through various commercial airlines serving the region; and

WHEREAS, SITA NV/BV provides the radio equipment used by the airlines to allow air-ground-air communication services to the aircraft; and

WHEREAS, SITA NV/BV, as Lessee, desires to lease from the Airport, and the Airport desires to lease to the Lessee space within the Terminal Building to house such radio equipment; and

WHEREAS, it is in the best interest of the City to enter into this Lease.

NOW, THEREFORE, for and in consideration of the premises, and of the mutual covenants and agreements and the payment of money herein contained, the City and Lessee do hereby mutually undertake, promise and agree, each for itself and its successors and assigns, as follows:

Section 1. Recitals.

The recitals contained above are declared by the Parties to be true and correct and are incorporated into this Lease.

Section 2. Leased Premises.

The City hereby leases to Lessee and Lessee hereby leases from City approximately ten (10) square feet of floor area in the Pensacola International Airport terminal building’s first level police area (hereinafter referred to as “Leased Premises”) as more accurately shown on Exhibit A attached hereto and incorporated by this reference.

Section 3. Grant of Use.

The City hereby grants the Lessee the right to use the Leased Premises for the installation and operation of radio equipment used to provide air-ground-air communication services to the airlines serving the Airport. Lessee shall not use, nor permit others to use, the Leased Premises for any purpose other than the services and activities authorized by the Lease unless the City authorized Lessee in writing to use the Lease Premises for said additional purposes.

Section 4. Term and Renewal.

Subject to earlier termination as may be provided here, the term of this Lease shall commence on _____, 20____ (“Commencement Date”) and shall continue for a period of five (5) years terminating at midnight on _____, 20_____.

City reserves the right to renew this Lease, at the sole discretion of the City and under terms and conditions to be determined by the City, for five (5) additional one (1) year terms. If the City chooses to exercise its right to renew this Lease, the Lessee shall be notified in writing of the terms and conditions to which the City shall exercise this right ninety (90) days before the expiration of the Lease. The Lessee shall have the choice as to whether to accept the City’s proposal or allow the Lease to expire and shall so notify the City in writing within thirty (30) days of receipt of City’s proposal. Nothing in this paragraph shall be construed as to require the City to exercise such option to renew or as to require the Lessee to accept such proposal from the City.

Should Lessee continue to provide the services upon the expiration of the term, or any extension thereof, without notice of cessation or termination by City, said continuation shall be deemed a month-to-month renewal of this Lease terminable by City, without cause, upon thirty (30) days written notice to Lessee.

Notwithstanding any other provision of this Lease, the City shall have the absolute right during the initial term and any renewal terms thereafter to terminate this Lease upon ninety (90) days of issuance of written notice to the Lessee for convenience in the sole discretion of the City. Upon ninety (90) days of issuance of written notice to the Lessee, Lessee shall cease all services and vacate the Airport.

Section 5. Rentals, Fees & Charges.

Lessee acknowledges and agrees that the City must assess fees to all entities using space at the Airport. The Lessee shall pay to the City, for the right to install and operate the radio equipment in accordance with the terms and conditions of this Lease, a monthly rental of Five Hundred Dollars (\$500.00) payable in advance on or before the first day of each month for which they are due without invoicing notice, demand, deduction or set-off. Payments required under this Agreement which are not received when due shall accrue interest at the rate of one and one-half percent (1.5%) per month from the due date until receipt of payment. Any partial payments received on said indebtedness shall be applied first to accrued interest and then to principal.

The lease shall provide at a minimum the following information:

- The frequency of the invoices shall match the frequency of the rental payments, i.e. monthly payments shall generate monthly invoices, annual payments shall generate annual invoices, all to include charges for the entire period and so on.
- The document from the City shall clearly state that it is an “Invoice” and not a “statement” or other descriptor.
- Each invoice shall have a unique invoice number.
- The invoice shall be addressed to the Lessee entity and address as defined below for all notices.
- The stated payment amounts due shall be clearly indicated.
- A description of the payment type or reason for the charge shall be included in close proximity to each payment amount listed on the invoice to allow a reader to review and understand each charge listed on the invoice.
- The document the City provides shall be in either electronic PDF format, or physical hardcopy, as mutually agreed between the parties.

TIMELY BILLING: Lessee shall have no payment obligation for invoices submitted more than 24 months after the rent period in question.

Section 6. CPI-U Adjustment to Rent.

The monthly rental amount shall be adjusted with the first renewal, if the City chooses to exercise its right to renew the Lease, in direct proportion to the percentage increase, if any, in the National Consumer Price Index for Urban Consumers (CPI-U) for the previous five years using _____ and _____ as the beginning and ending dates.

Section 7. Improvements:

During the term of this Lease, Lessee shall have the right to construct, at its own expense, improvements, alterations, or additions to the Leased Premises to facilitate and further the authorized usage of the Lease Premises, provided that:

- a. The proposed improvements and alterations are submitted to the City for its prior review;
- b. The City determines, in its sole discretion (which discretion shall be reasonable applies), that the proposed improvements and alterations will be consistent with the Airport’s Master Plan, land use plan and architectural design and quality of construction in effect at the time of construction; and
- c. The improvements, alterations, and additions are to be constructed by State of Florida qualified and licensed contractors and subcontractors.

The City has the right to review proposed improvement plans and veto such plans if the plans are inconsistent with the airport development plans or construction quality and design control pursuant to the standards set forth above. If the City does veto said improvement plans and the Lessee thereafter constructs the improvements, the improvements shall be commissioned and constructed at Lessee’s sole initiative and behest, and nothing herein shall be construed as an authorization by City to Lessee to construct the improvements, or as an agreement by City to be responsible for paying for

such improvements. Neither the Leased Premises nor the City's interest in said Leased Premises or any improvements constructed hereon, shall be subjected to a mechanic's lien pursuant to Florida law for any improvements constructed by Lessee hereunder.

Where the cost of improvements exceeds One Hundred Thousand Dollars (\$100,000.00), the City may require Lessee to post a bond or other security acceptable to the City guaranteeing payment for construction of the improvements, as a condition precedent to the commencement of construction of the improvements.

Lessee shall be responsible for assuring that all of the improvements, alteration and additions to the Leased Premises are constructed in accordance with applicable local, state and federal law. Lessee shall reimburse the City for all costs and expenses that the City incurs:

- a. As a result of the fact that the improvements, additions, or alterations do not comply with local, state, and federal law;
- b. In defending against, settling, or satisfying any claims that the City is responsible for paying for improvements commissioned by Lessee hereunder; or
- c. In defending against, settling, or satisfying any mechanic's lien claims, asserted as a result to unpaid-for improvements commissioned by Lessee hereunder.

Should Lessee construct improvements, alterations, or additions without fulfilling its obligations hereunder, Lessee shall remove said improvements, alteration, or additions if so directed by the City, and shall do so at its own expense and within the time limits specified.

Section 8. Maintenance, Repairs, Utilities and Cleanliness:

Utilities:

During the term of this Lease, City shall provide, at its expense, existing power, air conditioning, and heating to the Leased Premises. The City shall not be obligated to provide for any extension, customization, modification or enhancement of these utilities, or to provide for the installation of any other utilities. The Lessee, at the Lessee's sole cost and expense, shall arrange for the extension of these utilities as needed. Throughout the term of this Agreement, the Lessee shall not disturb or render any utility lines inaccessible, and shall be liable for any consequences of disturbing City provided utilities.

The City shall not invoice the Lessee for power, air conditioning and heating. Lessee shall pay, at Lessee's expense, and remain solely liable for, any telephone services or other permitted utilities in the sole discretion of the Airport Director, within the Leased Premises. Lessee shall obtain and maintain separate accounts for Lessee's utilities as described in this paragraph in Lessee's name only, and is prohibited from obligating in any way

the City on such accounts. Any violation of this provision by Lessee shall be a material breach of this Lease.

The City reserves the right to install, maintain, repair, replace, or remove and replace any utility lines for or about the Leased Premises, along with the right to enter the Leased Premises in order to accomplish the foregoing, provided, however, that City shall take reasonable precautions to avoid the disruption of the Lessee's services under this Lease.

Maintenance:

During the term of this Lease, the City shall provide, at its expense:

1. Structural repairs to the roof, floor, exterior walls and windows of the Terminal building.
2. General maintenance and upkeep of the Terminal building's interior common use area and external area. The City agrees to keep and maintain in reasonable condition all trunk water and sewer mains, supply mains and electrical power to the Leased Premises.

City shall have reasonable opportunity to commence repairs. Lessee is obligated to mitigate damage to Lessee's property until the City has had time to repair. City shall not be liable to Lessee for damage until City has had a reasonable time to perform repairs.

Lessee, at Lessee's sole expense, shall perform all preventive maintenance and ordinary upkeep and nonstructural repair of the Leased Premises and equipment, including but not limited to fixtures, doors, floor coverings, and walls (painting and wall covering). Lessee shall be required to keep all such areas in good operating condition and repair at all times.

Custodial:

During the term of this Lease, the City shall provide, at its expense, custodial services for the non-leased public areas of the Terminal Building and pest control services for Leased Premises and the adjacent areas, provided however, any lapse in such services provided outside of the Leased Premises shall not be considered a breach of this Lease.

Lessee shall keep all of Leased Premises in the Terminal Building used in the course of its normal daily operations, in a neat, clean, safe, sanitary and orderly condition at all times; that it will keep such areas free at all times of all paper, rubbish and debris. Lessee shall deposit all trash and debris resulting from its operations in its space in containers approved by the City.

Lessee shall provide, at its own expense, to the satisfaction of the Airport Director janitorial and cleaning services and supplies for the maintenance of the Leased Premises. Lessee shall keep and maintain the space in a clean, neat, and sanitary condition and attractive appearance.

General:

Should Lessee fail to maintain the space in conformance with the terms and conditions of this article within a period of thirty (30) calendar days following written notice of such failure (or for those items that cannot be reasonably cured within thirty (30) days, Lessee fails to undertake action to cure and diligently pursue such cure), the City expressly may take any action to cure said failure and Lessee shall reimburse City's cost for such actions plus a ten percent (10%) administrative charge.

Section 9. Signs:

Lessee shall not permit signs, logos, or advertising displays placed or erected in any manner upon the Leased Premises, or in or on any improvements or additions on the Leased Premises, without the prior written approval of the Airport Director. Signs identifying Lessee shall conform to reasonable standards established by the City, with respect to type, size, design, condition and location.

Section 10. Damage to the Airport:

Lessee shall be liable for any damage to the Airport, including any improvements and additions thereon, caused by Lessee, its Board members, officers, agents, employees, contractors, subcontractors, assigns, subtenants or anyone acting under its direction and control, ordinary wear and tear excepted. All repairs for which Lessee is liable shall be made by Lessee unless the City reasonable determines that it is more appropriate for the City to make the repairs; in such case the City shall make the repairs at Lessee's expense. All repairs for which Lessee is liable and which are not undertaken after the City has given Lessee notice to do so shall be performed by the City, in which event Lessee shall reimburse the City for the cost thereof, plus a ten percent (10%) administrative charge, and said amount shall be due by the 10th day of the following month.

The City shall not be liable to Lessee, the Lessee's employees, patrons, or vendors for any damage to their merchandise, trade fixture, or personal property caused by wind, water (including leakage from the roof, water lines, sprinkler, and heating and air conditioning equipment), steam, sewage, snow, ice, gas, bursting or leaking of pipes or plumbing or electrical causes, unless the damage is proved to be the result of gross negligence of the City.

Section 11. Taxes and Assessments:

Lessee shall pay all property taxes; personal property taxes; all sales and other taxes measured by or related to the lease payment hereunder; all license fees; and any and all other taxes, charges, imposts, or levies of any nature, whether general or special, which may, at any time, be in any way imposed by local, state, or federal authorities, or that become a lien upon Lessee, the City, or the Leased Premises, by reason of this Lease or Lessee's activities in, or improvements upon, the Leased Premises pursuant to this Lease.

The City warrants and represents that it shall not impose any taxes, assessments, or charges upon Lessee during the term of this Lease and any extensions thereof except those imposed on all other businesses operating in the City of Pensacola. Lessee shall have the right, by giving written notice to City of its intention to do so, to resort to any available legal or administrative proceeding to contest or obtain the review of any such tax, charge, or assessment at any time before such tax, charge or assessment becomes delinquent. At Lessee's request, the City may join in such proceedings. The expenses of such proceeding, including all of the City's costs and fees incurred in protecting its own interests in such proceeding and in assisting Lessee in such proceeding, shall be paid by Lessee irrespective of whether the City participates in such proceeding.

Section 12. Insurance and Indemnification:

General:

The Lessee shall procure and maintain insurance of the types and to the limits specified.

The term City as used in this section of the Lease is defined to mean the City of Pensacola itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents.

The Lessee and the City understand and agree that the minimum limits and types of insurance herein required may become inadequate during the term of the Lease. The Lessee agrees that it will increase or change such coverage as required by the City within ninety (90) days upon receipt of written notice from the Airport Director.

Insurance Requirements:

Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to the City, for the City's protection only. Unless otherwise agreed, the amounts, form and type of insurance shall conform to the following minimum requirements:

A. Worker's Compensation:

The Lessee shall purchase and maintain Worker's Compensation Insurance Coverage for all Workers' Compensation obligations as legally required. Additionally, the policy, or separately obtained policy, must include Employers Liability Coverage of at least \$100,000 each person-accident, \$100,000 each person disease, \$500,000 aggregate-disease.

B. Commercial General, Automobile, and Umbrella Liability Coverages:

The Lessee shall purchase coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies filed by the Insurance Services Office. The City shall be an Additional Insured and such coverage shall be at least as broad as that provided to the Named Insured under the policy for the terms and conditions of this agreement. The City shall not be considered liable for premium payment, entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of \$1,000,000 per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required.

1. Commercial General Liability coverage must be provided, including bodily injury and property damage liability for premises, operations, contractual, products and completed operations, and independent contractors. Broad Form Commercial General Liability coverage, or its equivalent, shall provide at least broad form contractual liability applicable to this specific contract, as well as personal injury liability and broad form property damage liability. The coverage shall be written on an occurrence-type basis.

2. Business Auto Policy coverage must be provided, including bodily injury and property damage arising out of operation, maintenance or use of owned, non-owned and hired automobiles and employee non-ownership use.

3. Umbrella Liability Insurance coverage shall not be more restrictive than the underlying insurance policy coverages. The coverage shall be written on an occurrence-type basis.

Certificates of Insurance:

Required insurance shall be documented in the Certificates of Insurance that provide that the City of Pensacola shall be notified at least thirty (30) days in advance of cancellation, non-renewal or adverse change or restriction in coverage. The City of Pensacola shall be named on each Certificate as an Additional Insured and this contract shall be listed. If

required by the City, the Lessee shall furnish copies of the Lessee's insurance policies, forms, endorsements, Jackets and other items forming a part of, or relating to such policies. The Lessee may black-out any proprietary or salary information included in any policy required under this agreement that is requested by the City. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by the City an ACORD 25. Any wording in a Certificate which would make notification of cancellation, adverse change or restriction in coverage to the City an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent or employee. The Lessee shall replace any canceled, adversely changed, restricted or non-renewed policies with new policies acceptable to the City and shall file with the City Certificates of Insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the City, the Lessee shall, upon instructions of the City, cease all operations under the Lease until directed by the City, in writing, to resume operations. The "Certificate Holder" address should read: City of Pensacola, Department of Risk Management, Post Office Box 12910, Pensacola, FL 32521. An additional copy should be sent to the Pensacola International Airport, Attn: Airport Administration and Contracts Manager, 2430 Airport Blvd., Suite 225, Pensacola, FL 32504.

Insurance of the Contractor Primary:

The Lessee's required coverage shall be considered primary, and all other insurance shall be considered as excess, over and above the Lessee's coverage. The Lessee's policies of coverage will be considered primary as relates to all provisions of the agreement.

Loss Control and Safety:

The Lessee shall retain control over its employees, agents, servants and subcontractors, as well as control over its invitees, and its activities on and about the subject premises and the manner in which such activities shall be undertaken and to that end, the Lessee shall not be deemed to be an agent of the City. Precaution shall be exercised at all times by the Lessee for the protection of all persons, including employees, and property. The Lessee shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

Hold Harmless:

The Lessee shall indemnify and hold harmless the City of Pensacola, its officers and employees, from any and all liabilities, damages, losses, and

costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Lessee and persons employed or utilized by the Lessee in the performance of this agreement. The Lessee's obligation shall not be limited by, or in any way to, insurance coverage or by any provision in or exclusion or omission from any policy of insurance

Pay on Behalf of the City:

The Lessee agrees to pay on behalf of the City, as well as provide a legal defense for the City, both of which will be done only if and when requested by the City, for all claims as described in the Hold Harmless paragraph. Such payment on the behalf of the City shall be in addition to any and all other legal remedies available to the City and shall not be considered to be the City's exclusive remedy.

Section 13. Default and Remedies:

- A. The following shall constitute defaults by the Lessee:
 1. The failure to pay rent or any other monies owed hereunder when due or within thirty (30) days after written notice;
 2. Any other failure in the performance of any covenant or obligation required by this Lease;
 3. The acquisition of Lessee's interest in this Lease by execution or other process of law when said process of law is not discharged within fifteen (15) days thereafter;
 4. The adjudication of Lessee as bankrupt; Lessee's general assignment for the benefit of creditors; the utilization of the benefits of any insolvency act; or the appointment of a permanent receiver or trustee in bankruptcy for Lessee's property if the appointment is not vacated within ninety (90) days;
 5. Abandonment of Lessee's operations, which shall be defined as Lessee's failure to conduct regular or continuing operations on the Lease Premises as defined in accordance with the requirements of this Lease for one (1) month.

- B. If Lessee defaults, the City may utilize any one or more of the following remedies against Lessee. These remedies shall be considered cumulative and not in the alternative:
 1. The City may sue for all damages incurred by City excluding indirect, incidental damages, Consequential damages and reasonable fees;
 2. The City may terminate this Lease and, at the option of the City, any other agreement in effect between the City and Lessee. The termination of these agreements, however, shall only be effective upon written notice of same provided by City to Lessee. In no event shall this Lease be construed to be terminated unless and until such notice is provided. The termination may be effective thirty (30) days from provision of said

notice, or at any other time thereafter specified in the notice. If this Lease is terminated, Lessee shall continue to be liable for the performance of all terms and conditions and the payment of rents when due hereunder prior to the effective date of said termination in addition to all damages, including reasonable fees and other expenses of collection incurred as a result of any default.

3. The City may utilize any other remedy provided by law or equity as a result of Lessee's default.
4. In the event of a bankruptcy filing by or on behalf of Lessee as debtor, the parties hereto agree that this Lease shall be construed to be a nonresidential lease of real property subject to treatment in accordance with 11 U.S.C., Section 365(d).

Section 14. Compliance with Rules and Regulations:

Lessee shall conform to all Federal, State, or local laws and regulations, as well as all City of Pensacola Codes and Ordinances, and City and Airport rules, regulations and policies all of which may apply to the services to be performed.

Lessee shall obtain and maintain in force all licenses, permits, and other certificates required by Federal, State, County, or municipal or Airport authorities for operation under the terms of this Lease.

Lessee shall observe all security requirements of Transportation Security Administration 49 CFR 1542, and the Airport Security Program, as may be applicable, and as the same may, from time to time, be amended, and to take such steps as may be necessary or directed by the City to ensure that employees, invitees, agents, and guests observe these requirements.

Should City incurs any costs, fees, fines or penalties imposed by as a result of the acts or omissions of Lessee under this Section 14, Lessee shall pay or reimburse the City upon demand by the Airport Director in accordance with such demand notice for all such monies.

Lessee acknowledges the Airport is a secure and significant facility and as such Lessee shall not through any act or omission cause even the risk of fire, slippage or other hazard whatsoever, or cause any hazard to persons, or property, or obstruct or interfere with the rights of any other Airport tenants, or in any way injure or annoy Airport tenants, or any act or omission which violates or causes violation of any applicable health, fire, environmental, or other regulation of any level of government. Any breach of this paragraph shall be a material breach of the Lease and City expressly may immediately take any action in the sole discretion of the Airport Director to secure correction of such risk exposure, and thereafter Lessee shall pay or reimburse the City upon demand by the Airport Director in accordance with such demand notice for all costs to the City.

Section 15. Inspection:

The City and its authorized officers, employees, agents, contractors, subcontractors, and other representative shall have the right to enter upon the Lease Premises and any improvements and alterations thereon for the following purposes:

1. To inspect such premises to determine whether Lessee has complied and is complying with the terms and conditions of this Lease Agreement.
2. To perform maintenance and make repairs in any case where Lessee is obligated by has failed to do so.
3. In the exercise of City's police powers.

Section 16. Quiet Enjoyment:

The City represents that upon payment of rents when due and upon performance of all other conditions herein, Lessee shall peaceable have, possess and enjoy the Leased Premises without hindrance or disturbance from the City.

Section 17. Non-Discrimination:

Lessee, for itself, its personal representative, successors in interest, assigns and subtenants, as part of the consideration hereof, does hereby covenant and agree that (1) no person on the grounds of race, color, religion, sex, national origin, or disability shall be excluded from participation in, denied the benefits of, or otherwise be subjected to discrimination in the use of the Lease Premises and any improvements thereon; (2) no person on the grounds of race, color, religion, sex, national origin, or disability shall be subjected to discrimination in the construction of any improvements on, over, or under the Leased Premises and the furnishing of services therein; and (3) Lessee shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, Code of Federal Regulations Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-Discrimination in Federally Assisted Programs of the Department of Transportation, effectuation of Title VI of the Civil Rights Act of 1964, and as said regulations may be amended.

Lessee shall furnish its accommodations and/or services on a fair, equal, and non-discriminatory basis to all users thereof and it shall charge fair, reasonable, and non-discriminatory prices for each unit or service, provided that Lessee may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.

Lessee shall make its accommodations and/or services available to the public on fair and reasonable terms without discrimination on the basis of race, creed, color, sex, age, national origin, or disability.

Non-compliance with the above paragraphs, after written findings, shall constitute a material breach thereof and in the event of such non-compliance, the City shall have the right to terminate this Lease Agreement and the estate hereby created without liability, therefore, or at the election of the City of the United States, either or both said governments shall have the right to judicially enforce above paragraphs.

Section 18. Authorization:

The City represents that it has the authority to enter into this Lease and grant the rights contained herein to Lessee.

If Lessee is a limited or general partnership, the undersigned warrants and represents that (1) he/she is a general partner of said partnership; (2) his/her execution of this Lease is in the usual course of the partnership's business; and (3) by his/her execution of this Lease the partnership shall be deemed a signatory to this Lease in the same fashion as if all of the general partners of the partnership had executed this Lease.

If Lessee is a corporation, the undersigned warrants and represents that (1) he/she is an agent or officer of the corporation; (2) he/she is authorized to execute this Lease on the corporation's behalf; and (3) the corporation shall be bound as a signatory to this Lease by his/her execution of this Lease.

Section 19. No Waiver By City:

A failure by City to take any action with respect to any default or violation by Lessee of any of the terms, covenants, or conditions of this Lease shall not in any respect limit, prejudice, diminish or constitute a waiver of any rights or remedies of City to act with respect to any prior, contemporaneous, or subsequent violation or default or with respect to any continuation or repetition of the original violation or default. The acceptance by City of payment for any period or periods after a default or violation of any of the terms, conditions, and covenants of this Lease shall not constitute a waiver or diminution of, nor create any limitation upon any right of City pursuant to this Lease to terminate this Lease for subsequent violation or default, or for continuation or repetition of the original violation or default.

Section 20. Notices:

All notices by either party to the other shall be made either by utilizing the registered or certified mail of the United States of America, postage prepaid, or by utilizing any other method of delivery requiring signature for receipt, and such notice shall be deemed to have been delivered and received on the date of such utilization. All notices to the City shall be mailed to:

Airport Director
Pensacola International Airport
2430 Airport Blvd., Suite 225
Pensacola, Florida 32504

With an additional copy to:

City Administrator
City of Pensacola
222 West Main Street
Pensacola, Florida 32502

All notices to Lessee shall be mailed to:

The parties from time to time may designate in writing changes in the address stated.

Section 21. Relationship of Parties:

It is understood that the City is not in any way or for any purpose partner or joint venture with, or agent of, Lessee in the use of the Leased Premises for any purpose.

Section 22. Partial Invalidity:

If any term or condition of this Lease or the application thereof to any person or event shall to any extent be deemed invalid and unenforceable, the remainder of this Lease and the application of such term, covenant, or condition to persons or events other than those to which it is held unenforceable shall not be affected, and each term, covenant and condition of this Lease shall be valid and enforced to the fullest extent permitted by law.

Section 23. Successors:

The provisions, covenants and conditions of this Lease shall bind and inure to the benefit of the legal representatives, successors and assigns of each of the parties.

Section 24. Assignment:

Lessee shall not assign its interest herein without the written consent of the City. The City's consent shall not be unreasonably withheld. Notwithstanding the foregoing, the City acknowledges and agrees as follows:

- (i) Lessee has multiple existing commercial entities, either new or existing, that may ultimately hold responsibility for all performance under this Agreement; and
- (ii) the City agrees that Lessee may assign this Agreement to any such existing or new commercial entity upon its formation, provided, however, that the existing or new commercial entity assumes all of the rights and responsibilities of Lessee without exception, upon any such assignment.

Section 25. Sublease:

Lessee may not sublease all or any portions of the Leased Premises, all or any portion of any improvements thereon, without first obtaining the written approval of the City for the sublease. Any sublease must be in writing and be made subject to the terms and conditions of this Lease. In addition, before any sublease becomes effective, the subtenant must execute an Agreement with the City, in a form and for a rental amount acceptable to the City, by which the subtenant is authorized to do business on the Airport.

Section 26. Surrender Upon Termination:

Upon the expiration or sooner termination of this Lease, for any reason whatsoever, Lessee shall peaceably surrender to the City possession of the Leased Premises. Lessee warrants to City that any and all improvements, alterations, or fixtures previously constructed by Lessee shall remain free and clear of any claims or interests of Lessee,

Lessee's contractors or subcontractors, creditors, invitees, or any other third party. Should Lessee violate this provision, without waiver of other action by City for City's own benefit, Lessee shall pay to remove any encumbrance, lien or debt associated with Lessee's occupation of the Leased Premises and hereby warrants that Lessee shall hold the City harmless therefrom.

Lessee shall have fifteen (15) days from date of expiration or sooner termination of this Lease to remove from the Leased Premises all fixtures, improvements and personal property belonging to Lessee. The City shall be entitled to a reasonable rental from Lessee for the use of the Leased Premises for Lessee's personal property, fixtures and improvements until such time as Lessee removes said personal property, fixtures and improvements from the Leased Premises. Furthermore, the City may remove Lessee's fixtures or personal property and place them into storage on Lessee's behalf and at Lessee's cost and expense, until such time as Lessee notifies the City in writing that it does not desire said fixtures and personal property, or upon the running of fifteen (15) days from the expiration or sooner termination of the Lease, whichever event first occurs.

Title to all personal property not removed by Lessee from the Leased Premises or claimed from storage within thirty (30) days of the expiration or sooner termination of this Lease shall be subject to the City taking ownership of such personal property, without payment by the City to the Lessee of any compensation whatsoever, and said personal property shall thereafter be owned by the City free and clear of any claim or interest by Lessee or of any mortgagee or any third party whose position was derived from or through Lessee.

Section 27. Lawful and Reasonable Use:

Lessee may not do anything in or upon the Leased Premises, nor bring or keep anything therein, which shall unreasonably increase or tend to increase the risk of fire, or cause a safety hazard to persons, or obstruct or interfere with the rights of any other tenant(s) or in any way injure or annoy them, or which violates or causes violation of any applicable health, fire, environmental, or other regulation of any level of government. The Airport Director may inform Lessee of such violation and set a date for abatement.

Section 28. Substitution of Premises:

Subject to subparagraph below, Lessee understands and agrees that the City has the right to take all or any portion of the Leased Premises, and any additions, alterations, or improvements thereon, should the City, in its sole discretion, determine that said portion of the Leased Premises, and improvements thereon, are required for other Airport purposes. If such action is taken, the City may substitute comparable areas within the Terminal Building, or any additions or extensions thereof, brought to the same level of improvement to the area taken. The City shall bear all expenses of bringing the substituted area to the same level of improvements as the area taken, and of moving Lessee's improvements, equipment, furniture and fixtures to the substituted area. If any of Lessee's improvements, equipment, furniture, or fixtures cannot be relocated, the City shall replace, at its own expense, such non-relocatable improvements and other property with comparable property in the substituted area, and the City shall be deemed the owner of the non-

relocated improvements and other property, free and clear of all claims of any interest or title therein by Lessee, or any mortgagee or other third party. It is the specific intent of this paragraph that Lessee be placed, to the extent possible, in the same position it would have been had the City not substituted new premises for the Leased Premises, provided, however, that the City shall not be obligated to reimburse Lessee for lost profits or revenues due to such substitution.

Nothing in the paragraph above shall be construed to adversely affect the City's rights to condemn Lessee's leasehold rights and interests in the Leased Premises, and improvements thereon, should City, in its sole discretion, determine that it requires all or any portion of the leased Premises, and improvements thereon, for other Airport purposes. The City may exercise the leasehold condemnation rights in lieu of the City's substitution rights set forth in the paragraph above. In the event the City proceeds by way of condemnation, the paragraph above shall not apply, and Lessee shall be entitled to compensation for its leasehold interests in that portion of the Leased Premises, and improvements thereon, so taken, in accordance with applicable Florida condemnation law.

Section 29. Subordination:

This Lease shall be subordinate to existing and future Airport Bond Resolutions. This Lease shall also be subject to and subordinate to agreements between the City and State and Federal agencies for grants-in-aid and to the provisions of any agreements heretofore made between the City and the United States, relative to the operation or maintenance of the Airport, the execution of which has been required as a condition precedent to the transfer of federal rights of property to the City for Airport purposes, or to the expenditure of federal funds for the extension, expansion, or development of the Airport, including the expenditure of federal funds for the development of the Airport in accordance with the provisions of the Federal Airport Act of 1958, as it has been amended from time to time. Any agreement hereafter made between the City and the United States will not be inconsistent with rights granted to Lessee herein.

Section 30. Force Majeure:

Neither the City nor Lessee shall be deemed in violation of this Lease if it is prevented from performing any of the obligations hereunder by any reason of strikes, boycotts, labor disputes, embargoes, shortage of material, acts of God, weather conditions, or for any other circumstance for which it is not responsible or which is not within its control.

Section 31. Relationship of Parties:

Lessee represents and warrants Lessee is not in any way or for any purpose a partner or joint venturer with or agent of the City. Lessee shall act as an independent contractor in the performance of its duties pursuant to this Lease.

Section 32. Governing Law:

This Lease is governed and construed in accordance with the laws of the State of Florida. The law of the State of Florida shall be the law applied in the resolution of any claim, actions or proceedings arising out of this Lease.

Section 33. Venue.

Venue for any claim, actions or proceedings arising out of this Lease shall be Escambia County, Florida.

Section 34. Holding Over:

If Lessee remains in possession of the Leased Premises after the expiration of the Agreement without any written renewal thereof, such holding over shall not be deemed as a renewal or extension of the Lease but shall create only a tenancy from month-to-month which may be terminated at any time by the City upon thirty (30) days written notice. Such holding over shall otherwise be upon the same terms and conditions as set forth in this Lease.

Section 35. Headings:

The headings contained in this Lease are inserted only as matter of convenience and for reference and do not define or limit the scope or intent of any provision of this Lease and shall not be construed to affect in any manner the terms and provisions hereof or the interpretation or construction of said terms and provisions.

Section 36. Entire Agreement:

This writing, together with all the attached exhibits, constitutes the entire agreement of the parties. This Lease supersedes all prior agreements, if any, between the City and Lessee, and no representations, warranties, inducements, or oral agreements that may have been previously made between the parties shall continue in effect unless stated herein. This Lease shall not be modified except in writing, signed by the City and Lessee.

Section 37. Consents and Approvals:

Where this Lease requires approval from the City, prior written approval from the Airport Director shall be considered to fulfill such requirements.

Section 38. Time Is Of The Essence:

Time is of the essence with this Agreement.

Section 39. Public Records Act.

The parties acknowledge and agree to fulfill all obligations respecting required contract provisions in any contract entered into or amended after July 1, 2016, in full compliance pursuant to Section 119.0701, *Florida Statutes*, and obligations respecting termination of a contract for failure to provide public access to public records. The parties expressly agree specifically that the contracting parties hereto shall comply with the requirements within Attachment "A" attached hereto and incorporated by reference.

Section 40. Mandatory Use of E-Verify System.

In compliance with the provisions of F.S. 448.095, the parties to this contract and any subcontractors engaged in the performance of this contract hereby certify that they have registered with and shall use the E-Verify system of the United States Department of Homeland Security to verify the work authorization status of all newly hired employees, within the meaning of the statute.

Section 41. Counterparts.

This Lease may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

(END OF TEXT; SIGNATURE PAGES TO FOLLOW)

IN WITNESS WHEREOF, the parties hereto have signed this instrument the day and year first above written.

Attest:

City of Pensacola,
a Florida municipal corporation

Ericka Burnett, City Clerk

By _____
Grover C. Robinson, IV, Mayor

Inc.

SITA Information Networking Computing USA

Attest:

By: _____
Printed Name _____
Title _____

Corporate Secretary

Legal in form and execution:

Approved as to Substance:

By _____
City Attorney

By _____
Airport Director

Witness:

Printed Name: _____

Witness:

Printed Name: _____

Attachment "A"

PUBLIC RECORDS: Lessee shall comply with Chapter 119, Florida Statutes. Specifically, Lessee shall:

- A. Keep and maintain public records required by the City to perform the service.
- B. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Lease term and following the completion of the Lease if Lessee does not transfer the records to the City.
- D. Upon completion of the Lease, transfer, at no cost, to the City, all public records in possession of Lessee or keep and maintain public records required by the City to perform the service. If Lessee transfers all public records to the City upon completion of the Lease, Lessee shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Lessee keeps and maintains public records upon completion of the Lease, Lessee shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request of the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

Failure by Lessee to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Lease by the City.

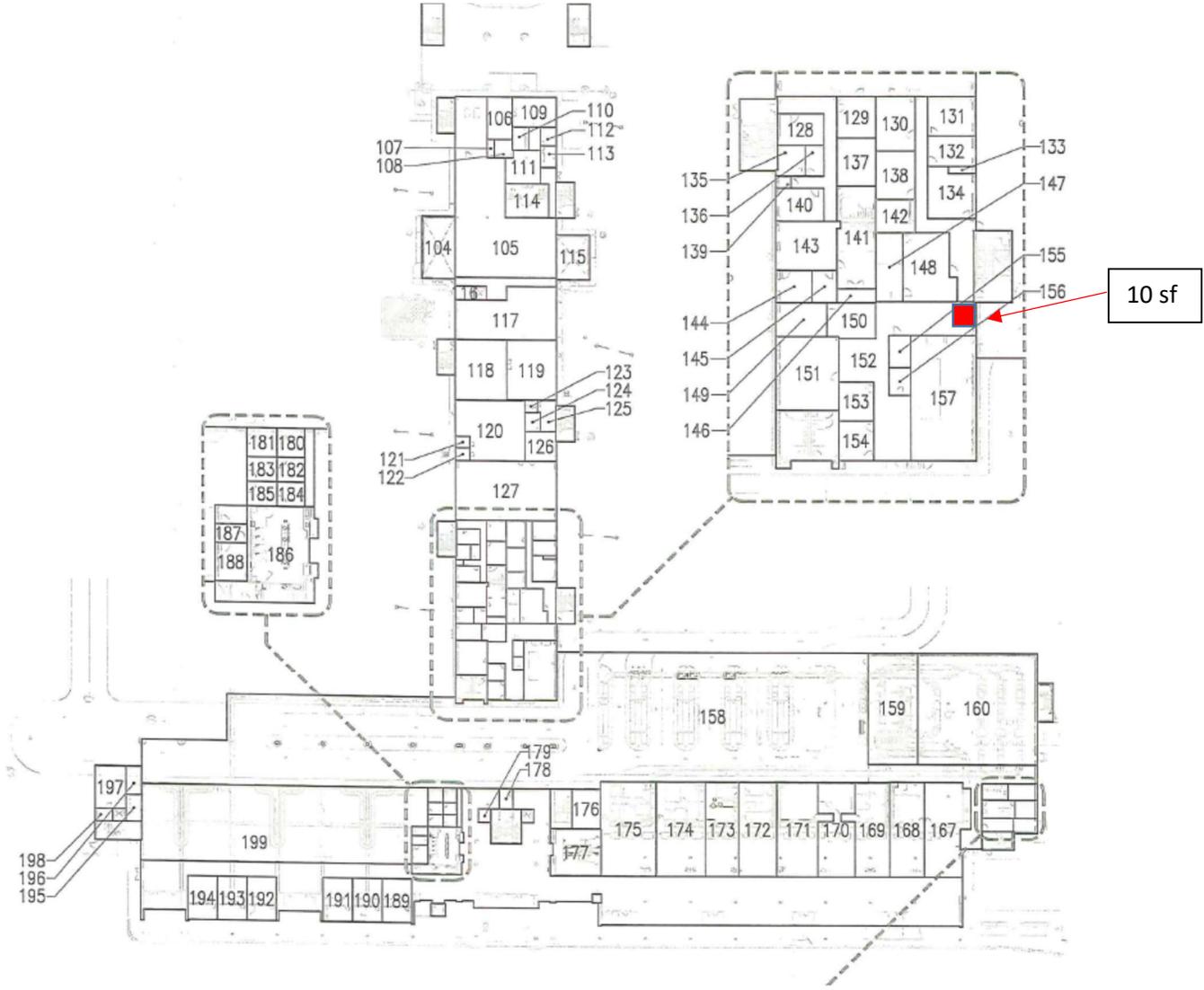
IF LESSEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LESSEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS LEASE, CONTACT THE PUBLIC RECORDS COORDINATOR AT:

THE OFFICE OF THE CITY CLERK, (850) 435-1715

PUBLICRECORDS@CITYOFPENSACOLA.COM

222 WEST MAIN STREET, PENSACOLA, FL 32502

EXHIBIT A LEASED PREMISES





Memorandum

File #: 21-00829

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

AWARD OF CONTRACT - BID #21-040 PORT OF PENSACOLA WAREHOUSE REPAIRS

RECOMMENDATION:

That City Council award a contract for ITB #21-040 Port of Pensacola Warehouse Repairs to Emerald Coast Constructors, Inc. of Pensacola, Florida, the lowest and most responsible bidder, with a base bid of \$412,336 plus a 10% contingency of \$41,233.60 for a total of \$453,569.60. Further, that City Council authorize the Mayor to execute the contract and take all actions necessary to complete the project.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On September 16-17, 2020 Hurricane Sally significantly damaged multiple warehouses and associated electrical items on port. Affected warehouses are 1,4,5,6,8, and the rail canopy structure between warehouses 6 and 8. This contract will complete those repairs.

As this is classified as a large Federal Emergency Management Agency (FEMA) project, project actuals will determine final FEMA and Florida Division of Emergency Management (FDEM) contribution to overall project cost and will be captured at the end of the project.

PRIOR ACTION:

None

FUNDING:

Budget: \$214,747.85 Federal FEMA 75% - Natural Disaster Fund
\$ 65,569.47 Additional FEMA 75% Funding To Be Requested
35,791.31 State FDEM 12.5% Funding - Natural Disaster Fund
10,928.25 Additional State of Florida 12.5% Funding - To Be Requested
35,791.31 City of Pensacola 12.5% Funding - Port Fund
10,928.25 Additional City of Pensacola Funding 12.5% - Port Fund
128,021.16 City of Pensacola Non-Allowed Insurance Proceeds

\$501,777.60

Actual: \$412,336.00 Base Bid
41,233.60 10% Contingency
48,208.00 Engineering Services
\$501,777.60

FINANCIAL IMPACT:

FEMA has obligated a Project Worksheet (PW) in the amount of \$286,330.47 for construction and engineering with 75% provided by FEMA, 12.5% provided by FDEM and the remaining 12.5% from the City of Pensacola.

Note that while this is a large project and upon closeout the City will request additional funds from FEMA and FDEM based on actual project costs, FEMA reduced funding for insured assets based on Federal assistance received in prior disaster events. The City received Federal assistance during Hurricane Ivan in the amount of \$128,021.16 and therefore the amount available from FEMA and FDEM will be \$128,021.16 less than what is spent on the project. The City of Pensacola's portion of 12.5% as well as the additional Port funding will be funded by the Port. Once final project costs are determined, a supplemental budget resolution may be brought to City Council to appropriate any additional costs necessary.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

[Click here to enter a date.](#)

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator - Administration & Enterprise
M. Clark Merritt, Port Director

ATTACHMENTS:

- 1) Final Bid Tabulation No. 21-040
- 2) Vender Reference List Bid No. 21-040

PRESENTATION: No

TABULATION OF BIDS

BID NO: 21-040

TITLE: PORT OF PENSACOLA WAREHOUSE REPAIRS

| | | |
|--|---|---|
| SUBMITTALS DUE: September 22, 2021, 2:30 P.M. DEPARTMENT: Port of Pensacola | EMERALD COAST CONSTRUCTORS, INC. Pensacola, FL | WHITESELL-GREEN, INC. Pensacola, FL |
| Base Bid | \$412,336.00 | \$425,000.00 |

Submittal Due Date: 09/22/21

Bid No.: 21-040

**FINAL VENDOR REFERENCE LIST
PORT OF PENSACOLA WAREHOUSE REPAIRS
PORT OF PENSACOLA**

| Vendor | Name | Address | City | St | Zip Code | SMWBE |
|--------|--|-------------------------------|-------------|----|----------|-------|
| 004632 | A E NEW JR INC | 460 VAN PELT LANE | PENSACOLA | FL | 32505 | |
| 068495 | ANDALA ENTERPRISES INC | 641 BAYOU BOULEVARD | PENSACOLA | FL | 32503 | |
| 036997 | BELLVIEW SITE CONTRACTORS INC | 3300 GODWIN LANE | PENSACOLA | FL | 32526 | Y |
| 053457 | BIRKSHIRE JOHNSTONE LLC | 507 E FAIRFIELD DR | PENSACOLA | FL | 32503 | Y |
| 067318 | BLUE WATER CONSTRUCTION & LANDSCAPING INC | 2314 S HWY 97 | CANTONMENT | FL | 32533 | Y |
| 022856 | BROWN CONSTRUCTN OF NW FL INC | 10200 COVE AVE | PENSACOLA | FL | 32534 | Y |
| 042045 | CHAVERS CONSTRUCTION INC | 801 VIRECENT ROAD | CANTONMENT | FL | 32533 | Y |
| 049653 | CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC | 6550 BUD JOHNSON ROAD | PENSACOLA | FL | 32505 | Y |
| 024722 | COASTAL REEF BUILDERS INC | 40 AUDUSSON AVENUE | PENSACOLA | FL | 32507 | Y |
| 070475 | CRUZ, SHAWN C DBA COASTAL PROPERTY PREPARATION LLC | 5700 ALMAX COURT | PENSACOLA | FL | 32506 | |
| 033554 | D K E MARINE SERVICES | P O BOX 2395 | PENSACOLA | FL | 32513 | Y |
| 007055 | DAVIS MARINE CONSTRUCTION INC | 8160 ASHLAND AVENUE | PENSACOLA | FL | 32534 | Y |
| 070801 | DESHAZO CRANE CO | 5635 IRON WORKS RD | THEODORE | AL | 36582 | |
| 062631 | DOMINGUEZ DESIGN BUILD INC | 4340 DEVEREUX DRIVE | PENSACOLA | FL | 32504 | Y |
| 049947 | EMERALD COAST CONSTRUCTORS INC | 9425 WANDA DR | PENSACOLA | FL | 32514 | |
| 074355 | GANNETT MHC MEDIA INC DBA PENSACOLA NEWS JOURNAL | 2 NORTH PALAFOX ST | PENSACOLA | FL | 32502 | |
| 050495 | GB GREEN CONSTRUCTION MGMT & CONSULTING INC | 303 MAN'O'WAR CIRCLE | CANTONMENT | FL | 32533 | Y |
| 053862 | GFD CONSTRUCTION INC | 8771 ASHLAND AVE | PENSACOLA | FL | 32514 | |
| 000591 | GULF ATLANTIC CONSTRUCTORS INC | 650 WEST OAKFIELD RD | PENSACOLA | FL | 32503 | Y |
| 044100 | GULF BEACH CONSTRUCTION | 1308 UPLAND CREST COURT | GULF BREEZE | FL | 32563 | Y |
| 018636 | GULF COAST BUILDING CONTRACTORS INC | 1010 N 12TH AVE STE 201 | | | 32501 | Y |
| 074827 | GULF COAST MINORITY CHAMBER OF COMMERCE INC | 321 N DEVILLERS ST STE 104 | PENSACOLA | FL | 32501 | |
| 036662 | H H H CONSTRUCTION OF NWF INC | 8190 BELLE PINES LANE | PENSACOLA | FL | 32526 | |
| 070385 | HANTO & CLARKE GENERAL CONTRACTORS LLC | 1401 EAST BELMONT STREET | PENSACOLA | FL | 32501 | |
| 052866 | HEWES & COMPANY LLC | 251 AMBER STREET | PENSACOLA | FL | 32503 | Y |
| 022978 | INGRAM SIGNALIZATION INC | 4522 N DAVIS HWY | PENSACOLA | FL | 32503 | Y |
| 002026 | JACK MOORE & CO INC | P O BOX 37010 | PENSACOLA | FL | 32526 | |
| 032824 | KENNETH HORNE & ASSOCIATES | 7201 NORTH 9TH AVENUE SUITE 6 | PENSACOLA | FL | 32504 | Y |
| 010677 | LARRY HALL CONSTRUCTION INC | 4740 WOODBINE ROAD | PACE | FL | 32571 | Y |
| 068161 | LEA, DOUGLAS C DBA L&L CONSTRUCTION SERVICES LLC | 9655 SOUTH TRACE ROAD | MILTON | FL | 32583 | Y |
| 039164 | LOFTIS MARINE DIVISION INC | 7150 CLEARWOOD ROAD | PENSACOLA | FL | 32526 | Y |

Submittal Due Date: 09/22/21

Bid No.: 21-040

FINAL VENDOR REFERENCE LIST
PORT OF PENSACOLA WAREHOUSE REPAIRS
PORT OF PENSACOLA

| Vendor | Name | Address | City | St | Zip Code | SMWBE |
|--------|--|-------------------------------|---------------|----|----------|-------|
| 070799 | MEJIA INTERNATIONAL GROUP CORP | 5752 NW 119TH DRIVE | CORAL SPRINGS | FL | 33075 | |
| 016210 | NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC | 4238 GULF BREEZE PKWY | GULF BREEZE | FL | 32563 | Y |
| 059552 | NOVA ENGINEERING AND ENVIRONMENTAL LLC | 3900 KENNESAW 75 PKWY STE 100 | KENNESAW | GA | 30144 | |
| 049113 | O'DANIEL MARINE CONSTRUCTION INC | 1165 SUNSET LANE | GULF BREEZE | FL | 32563 | |
| 060344 | PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER | 117 W GARDEN ST | PENSACOLA | FL | 32502 | |
| 067916 | PENSACOLA MARINE CONSTRUCTION INC | 2207 LIBERTY LOOP ROAD | CANTONMENT | FL | 32533 | Y |
| 018305 | R D WARD CONSTRUCTION CO INC | 15 EAST HERMAN STREET | PENSACOLA | FL | 32505 | |
| 049671 | RADFORD & NIX CONSTRUCTION LLC | 7014 PINE FOREST ROAD | PENSACOLA | FL | 32526 | Y |
| 001681 | RANDALL, HENRY DBA RANDALL CONSTRUCTION | 1045 S FAIRFIELD DRIVE | PENSACOLA | FL | 32506 | |
| 058753 | SAILWIND CONSTRUCTION INC | 7 GILMORE DRIVE | GULF BREEZE | FL | 32561 | Y |
| 044550 | SEA COAST & COMPANY | P O BOX 1422 | GULF BREEZE | FL | 32562 | |
| 065450 | SITE AND UTILITY LLC | PO BOX 30136 | PENSACOLA | FL | 32503 | Y |
| 059753 | SITE WORX OF NORTHWEST FL LLC | 1450 EVERS HAVEN | CANTONMENT | FL | 32533 | |
| 024992 | SNELLGROVE CONSTRUCTION INC | P O BOX 34340 | PENSACOLA | FL | 32507 | |
| 011457 | SOUTHERN UTILITY CO INC | P O BOX 2055 | PENSACOLA | FL | 32513 | Y |
| 028060 | THE GREEN SIMMONS COMPANY INC | 3407 NORTH W STREET | PENSACOLA | FL | 32505 | Y |
| 033913 | UNITY ENTERPRISES INC | 506 W BELMONT STREET | PENSACOLA | FL | 32501 | |
| 002482 | UTILITY SERVICE COMPANY INC | 4326 GULF BREEZE PARKWAY | GULF BREEZE | FL | 32563 | |
| 027461 | VISION CONSTRUCTION ENT INC | P O BOX 9604 | PENSACOLA | FL | 32513 | Y |
| 030317 | W P R INC | 4175 BRIARGLEN RD | MILTON | FL | 32583 | Y |
| 030448 | WARRINGTON UTILITY & EXCAVATING INC | 8401 UNTREINER AVE | PENSACOLA | FL | 32534 | Y |
| 021725 | WHITESSELL-GREEN INC | P O BOX 2849 | PENSACOLA | FL | 32513 | |

Vendors: 53



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00897

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

INTERLOCAL AGREEMENT FOR THE ACCEPTANCE AND PROCESSING OF SOURCE SEPARATED RECYCLABLES

RECOMMENDATION:

That City Council approve an Interlocal Agreement for the Acceptance and processing of Source Separated Recyclables with Emerald Coast Utilities Authority. Further, that City Council authorize the Mayor to take all action necessary to execute an agreement.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City's Sanitation Services Department began a city-wide recycling program in fiscal year 2009. By converting twice a week garbage collection to once-per-week garbage collection and once-per-week recyclable material collection, customers receive the same level of service at no additional cost.

In order for the City to continue to offer a recyclable collection service, it must have an agreement for recyclable processing service. At present, Emerald Coast Utilities Authority (ECUA) operates the only Municipal Recycling Facility (MRF) in our region that is capable of processing the recyclable material collected by Sanitation Services. The proposed Interlocal Agreement clarifies the terms and conditions under which the City may deliver its collected recyclables to the ECUA MRF.

The market for recyclable materials fluctuates greatly. Costs associated with processing the recyclable materials collected by Sanitation Services will be based on the Average Market Value (AMV) per ton of recyclables.

PRIOR ACTION:

June 14, 2018 and September 12, 2019 - City Council approved Interlocal Agreement(s) with ECUA for the Acceptance and Processing of Source Separated Recyclables

FUNDING:

N/A

FINANCIAL IMPACT:

Costs associated with processing the recyclable materials collected by Sanitation Services will be based on the AMV.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

10/15/2021

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator, Administration & Enterprise
John Pittman, Director, Sanitation Services & Fleet Management

ATTACHMENTS:

- 1) Interlocal Agreement with ECUA

PRESENTATION: No

**INTERLOCAL AGREEMENT FOR THE ACCEPTANCE AND PROCESSING
OF SOURCE SEPARATED RECYCLABLES**

This Interlocal Agreement for the Acceptance and Processing of Source Separated Recyclables (hereinafter “Agreement”) is made and entered into as of this ____ day of _____, 2021, by and between the Emerald Coast Utilities Authority, a local governmental body, corporate and politic, which was formed by the Florida Legislature as an independent special district (hereinafter “ECUA”) with administrative offices located at 9255 Sturdevant Street, Pensacola, Florida 32514, and the City of Pensacola, Florida, a municipal corporation of the State of Florida (hereinafter “City”), with administrative offices located at 222 West Main Street, Pensacola, Florida 32502 (each at times also being referred to as a “Party” or collectively as “Parties”).

W I T N E S S E T H:

WHEREAS the City Council of the City of Pensacola and ECUA are authorized by Section 163.01, Florida Statutes, to enter into Interlocal Agreements and thereby cooperatively utilize their powers and resources in the most efficient manner possible;

WHEREAS Source Separated Recyclables are collected in the City of Pensacola through a curbside recycling collection program operated by the City;

WHEREAS the Source Separated Recyclables collected in the City of Pensacola must be processed and sorted into separate commodities so as to facilitate their resale so that the Recyclable Materials may be recycled and put to beneficial use;

WHEREAS ECUA has a Municipal Recycling Facility (MRF) which is capable of processing Source Separated Recyclables;

WHEREAS the City would like to deliver all of the Source Separated Recyclables collected by the City in its curbside recycling program, with the exception of recyclables received at City of Pensacola commercial drop off sites, to the ECUA MRF so that the Source Separated Recyclables may be processed, segregated into recyclable commodities, and put to beneficial use;

WHEREAS the Parties desire to clarify the terms and conditions under which the City may deliver and the ECUA MRF may accept Source Separated Recyclables collected by the City.

NOW THEREFORE in consideration of the mutual promises and covenants contained in this Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. Recitals. The recitals contained in the preamble to this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.

2. Definitions. As used in this Agreement the following terms shall have the following meanings:

2.1 *Applicable Law* -- shall mean all applicable federal, state and local statutes, codes, ordinances and standards and all applicable rules, regulations, licenses, permits, registrations, approvals, decisions, authorizations, judgments, orders, writs, decrees, directives or other action adopted, issued or taken by a governmental authority.

2.2 *Commercial Drop-off Center Sites* – shall mean sites designated by the City of Pensacola as drop off facilities for use by the general public to dispose of recyclables and recyclable materials.

2.3 *Construction and Demolition Waste or C&D Waste* -- shall mean waste building materials, packaging and rubble resulting from construction, remodeling, repair, or demolition operations on houses, commercial buildings, and other structures, or as otherwise defined from time to time. Such wastes include, but are not limited to, concrete and paving debris, masonry materials, sheet rock, roofing waste, insulation (not including asbestos or asbestos containing materials), scrap metal, wood products, and other similar materials (not including asbestos or asbestos containing materials).

2.4 *ECUA MRF* -- shall refer to the Municipal Recycling Facility designed and constructed by ECUA which is located at the Perdido Landfill at 13009 Beulah Road, Cantonment, Florida 32533.

2.5 *Effective Date* -- shall mean _____, 2021, and the first day on or after that date on which the City collects Source Separated Recyclables and the ECUA MRF is operating shall be the date the ECUA MRF begins accepting Source Separated Recyclables delivered to it from the City.

2.6 *Garbage* -- shall mean any putrescible animal and/or vegetative waste resulting from the handling, preparation, cooking and consumption of food, including, but not limited to, waste from markets, storage facilities, handling and sale of produce and other food products and further includes the packaging materials and containers, but excepting such materials that may be serviced by garbage grinders and handled as household sewage.

2.7 *Hazardous Waste* -- shall mean (a) any waste which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture, or asbestos under Applicable Law, as may be amended from time to time, including: (i) the Resource Conservation and Recovery Act of 1976 ("RCRA") and the regulations contained in 40 CFR Parts 260-281, (ii) the Toxic Substances Control Act (15 U.S.C. Sections 2601 *et seq.*) and the regulations contained in 40 CFR Parts 761-766, and (iii) future additional or substitute federal, state or local laws pertaining to the identification, treatment, storage, or disposal of toxic substances, or hazardous wastes; (b) radioactive materials, which are source, special nuclear, or by-product materials, as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 *et seq.*) and the regulations contained in 10 CFR Part 40; (c) a chemical listed by the United States Environmental Protection Agency in accordance with Section 302(a) or Section 313(c) of the Emergency Planning and Community Right-to-Know Act of 1986, 42 U.S.C.A. § § 11002(a), 110239(c) (Supp. 1993), in each case as the same may be amended, replaced, or superseded; (d) a material or substance which may endanger health or safety, including any material or substance or combination of materials or substances which are explosive, volatile, radioactive, toxic, corrosive, flammable, reactive, an irritant or a strong sensitizer, or which generate pressure through decomposition, heat or other means if such materials or substances may cause injury, illness or harm to humans, domestic animals, livestock or wildlife; (e) a material falling within the definition of Fla. Stat. § 403.703(13); or (f) a material or substance that is treated as a hazardous or toxic waste, substance, or material by any Applicable Law or is otherwise prohibited from being deposited in a municipal solid waste processing facility under Applicable Law. Household Hazardous

Waste contained in SSR shall not be considered Hazardous Waste for purposes of this Agreement and shall be accepted at the Facility if such acceptance is in compliance with the requirements of RCRA and the requirements of the MRF. With regard to materials or substances which are not Hazardous Waste as of the Effective Date, if any Applicable Law is subsequently enacted or amended or any governmental authority thereafter determines that such material or substance is a hazardous or toxic waste, substance or material, then such material or substance shall be considered Hazardous Waste for the purposes of this Agreement from and after the effective date of such enactment or amendment of Applicable Law or governmental authority determination.

2.8 *Municipal Solid Waste or MSW* -- shall mean Garbage, household waste, and commercial solid waste; provided that for the purposes of this Agreement, Municipal Solid Waste shall not include Source Separated Recyclables, C&D Waste, Hazardous Waste, Special Handling Waste, Unacceptable Waste, or scrap tires.

2.9 *Perdido Landfill* -- shall mean the landfill currently operated by Escambia County, Florida which is located at 13009 Beulah Road, Cantonment, Florida 32533.

2.10 *Prohibited Materials* -- shall mean Municipal Solid Waste, C&D Waste, Hazardous Waste, Special Handling Waste, Unacceptable Waste, Yard Waste, scrap tires and any other solid waste or material of any kind that the ECUA MRF is prohibited from accepting pursuant to agreement, Applicable Law, or operational constraints.

2.11 *Recyclables or Recyclable Materials* -- shall mean various recyclable products and packaging designated by ECUA to be accepted at the MRF for processing, including various types of paper (including but not limited to newspaper, junk mail, magazines, office paper, cardboard and paperboard packaging), containers (including but not limited to glass bottles and jars, aluminum and steel cans, and #1 - #7 plastics), and mixed ferrous and non-ferrous metals. The terms Recyclables and Recyclable Materials shall not include Municipal Solid Waste, Construction and Demolition Waste, Hazardous Waste, Special Handling Waste, Unacceptable Waste, styrofoam, or scrap tires. The list of Recyclables may be expanded or contracted from time to time as determined by ECUA

and the operator of the ECUA MRF, if any.

2.12 *Rejects* -- shall refer to materials collected along with the Recyclable Materials that are not designated by ECUA to be accepted at the MRF for processing.

2.13 *Residue* -- shall refer to Rejects and Recyclable Materials that are accepted by the operator of the ECUA MRF, processed at the MRF, and not converted to Recovered Materials due to breakage and/or transportation or processing limitations or inefficiencies.

2.14 *Shutdown* -- shall refer to those times in which the operator of the ECUA MRF is unable to receive Source Separated Recyclables for any reason except Force Majeure. Notice shall be provided to the City in accordance with paragraph 13 of this Agreement.

2.15 *Source Separated Recyclables or SSR* -- shall refer to Recyclables which (a) have been diverted or removed from the Municipal Solid Waste prior to collection, (b) are not C&D Waste, Hazardous Waste, Special Handling Waste, Yard Waste, Unacceptable Waste or scrap tires, (c) are not Municipal Solid Waste, and (d) the ECUA MRF is not prohibited from accepting and/or Processing under Applicable Law. The Parties acknowledge, however, that incidental amounts of Rejects may be collected and delivered with Source Separated Recyclables as a normal part of a recycling collection program.

2.16 *Special Handling Waste* -- shall mean any waste or other material that requires the delivery and disposal to be supervised by a government authority, including confiscated drugs and records of a police department or similar governmental authority.

2.17 This paragraph is intentionally left blank.

2.18 *Unacceptable Waste* -- shall mean (a) Hazardous Waste, explosives and ordinance materials, pathological wastes, radioactive materials, lead acid batteries, sewage sludge, highly flammable substances, cesspool or other human wastes, human and animal remains, motor vehicles, farm or other large machinery, construction materials and demolition debris and hazardous refuse addressed by regulations adopted by the

United States Environmental Protection Agency (“EPA”) pursuant to the Resource Conservation and Recovery Act of 1976, as amended, or other federal or state statutes, such as, but not limited to, cleaning fluids, hazardous paints, acids, caustics, poisons, radioactive materials, fine powdery earth used to filter cleaning fluid; (b) unless consented to by ECUA, any item of waste exceeding six feet in any one of its dimensions or being in whole or in part a solid mass, the solid mass portion of which has dimensions such that a sphere with a diameter of eight inches could be contained within such solid mass portion; (c) all large household appliances, commonly referred to as “white goods” including refrigerators, stoves, washing machines, drying machines and water heaters; (d) any controlled substances regulated under the Controlled Substances Act, 21 USA 801 *et seq.*, or any equivalent state law; (e) small appliances containing chlorofluorocarbons (CFCs) including air conditioners, water coolers, and dehumidifiers; (f) cathode ray tubes; and (g) all other items of waste which pose a substantial threat to health or safety or the acceptance and disposal of which will cause substantial damage to, or adversely affect the continuous operation of the MRF or be in violation of any Applicable Law. Any substance or material which is determined by the EPA or any other Governmental authority subsequent to the Effective Date hereof to be hazardous, toxic, dangerous, harmful, or otherwise designated as a “waste ban,” shall, at the time of such determination, be considered Unacceptable Waste.

2.19 *Yard Waste* -- shall refer to vegetative matter resulting from landscaping maintenance and land clearing operations and includes associated rocks and soils.

3. Term. The initial term of this Agreement shall begin on the Effective Date, as defined in paragraph 2.4, above, and end on September 30, 2022. Provided, however, that the Parties may extend the term of this Agreement upon mutual written agreement.

4. Delivery and Acceptance of Source Separated Recyclables.

a. *Delivery of Source Separated Recyclables to ECUA.* Beginning on the Effective Date and throughout the term of this Agreement, the City will deliver, to the

ECUA MRF, all SSR collected within the City of Pensacola¹, with the exception of recyclables received at City of Pensacola commercial drop off sites.

b. *Right to Reject Loads Containing Excess Rejects.* In the event that SSR delivered to the ECUA MRF contains Rejects in excess of twenty-five percent (25%) by weight, the entire load may be rejected by the operator of the ECUA MRF. In the event that such a rejection occurs, the City shall be liable for a processing fee of \$250 per load plus the disposal costs attributable to that entire rejected load at the Perdido Landfill, at the rates established by Escambia County which are then in effect.² Moreover, in the event that the City's SSR has excess Reject contamination on three separate loads within a thirty (30) day calendar period, the ECUA Executive Director or his designee, in his sole discretion, may terminate this Agreement and disqualify the City from further deliveries. In an effort to avoid such a termination, however, ECUA shall comply with an escalating reporting requirement for the rejection of loads because of excess contamination, as follows: (1) for the first such rejection within a thirty (30) day period, ECUA shall both e-mail and telephone the City Director of Sanitation Services the day the rejection recurs; (2) for the second such rejection within a thirty (30) day period, ECUA shall both e-mail and telephone the City Administrator the day the rejection occurred; and (3) for the third such rejection within a thirty (30) day period, ECUA shall both e-mail and telephone the Mayor.

c. *Charges to City.* The City shall be charged monthly for each ton of SSR processed at the ECUA MRF, in accordance with paragraph 6 of this Agreement, below.

5. Disposal of Residue. The Parties acknowledge and understand that each load of SSR may contain Garbage, Unacceptable Waste, or other Rejects which cannot be

¹The ECUA MRF shall only be obligated to receive SSR at those times and on those days in which the ECUA MRF is operating, receiving SSR, and not Shutdown.

²In the event some or all of the load cannot be lawfully disposed of at the Perdido Landfill, City shall be liable for all disposal costs associated with the disposal selected by the operator of the ECUA MRF.

recycled and put to beneficial use (collectively hereafter referred to as Residue). Because the SSR received from the City of Pensacola will likely be commingled with SSR generated from other jurisdictions, the Parties acknowledge and understand that it is impossible to therefore segregate the Residue by each entity. Accordingly, all such Residue shall be disposed of at the Perdido Landfill at no charge to the City.

6. Charges for Delivered Recyclables. The Parties agree that the City shall be charged for the SSR processed at the ECUA MRF, at a flat rate of \$35 per ton based upon weights measured at the scale house operated by Escambia County at the Perdido Landfill.

7. Billing. ECUA shall send a bill to the City within fifteen (15) days of the end of each month of the calendar year which reflects all charges to the City pursuant to paragraph 6, above. All charges shall be paid by the City within forty-five (45) days of the end of each month of the calendar year.

8. Compliance with Law and Procedures. ECUA and the City shall perform their respective obligations under this Agreement in compliance with all Applicable Law. The City shall transport and handle SSR in its control in a safe and workmanlike manner and in full compliance with Applicable Law. ECUA shall maintain throughout the term of this Agreement, all permits, licenses, certificates, and approvals required by Applicable Law for the operation of the ECUA MRF.

9. Staffing at the ECUA MRF. The Parties understand that the ECUA MRF may be operated by either a third party selected by ECUA or by ECUA staff, in ECUA's sole discretion.

10. Title to Source Separated Recyclables. Upon acceptance of a load of SSR (as opposed to a rejection in accordance with paragraph 4.b, above), title to the SSR shall vest with the operator of the ECUA MRF.

11. City's Obligation to Require the Source Separation of Recyclables; Delivery of said SSR; and Tonnage Limit.

a. *Collection and Delivery Requirements.* The City presently provides for the collection of residential solid waste within its jurisdiction and offers

curbside collection of Source Separated Recyclables. The City agrees to keep the curbside collection of Source Separated Recyclables in place throughout the term of this Agreement and any extensions thereof. Additionally, the City will haul all SSR, with the exception of recyclables received at City of Pensacola commercial drop off sites, that is collected to the ECUA MRF. It is thus the Parties' intent that all SSR with the exception of recyclables received at City of Pensacola commercial drop off sites, controlled and collected by the City will be delivered to the ECUA MRF. However, if prior to delivery to the ECUA MRF the City reasonably identifies one or more loads of SSR to contain excess contamination, as defined in paragraph 4.b, above, the City shall not be in breach of this Agreement by delivering such contaminated load/s directly to the Perdido Landfill for disposal. Should the City exercise this option, it shall endeavor to educate the public and take such actions it deems necessary or appropriate to improve the quality of its SSR.

b. *Tonnage Limit.* The Parties anticipate approximately 2,500 tons of SSR are generated and collected within the jurisdiction of the City per year. Despite the requirements in paragraphs 4.a and 11.a above that all SSR be delivered to ECUA, with the exception of recyclables received at City of Pensacola commercial drop off sites, the City is limited to delivering 3,000 tons of SSR per year, absent subsequent written agreement between the Parties pursuant to the notice provisions set forth in paragraph 13, below.

12. Events of Default. A Party shall be in default of this Agreement only upon the expiration of thirty (30) days (ten (10) days in the event of failure to pay money) from receipt of written notice of default from the other Party specifying the particulars in which such Party has failed to perform its obligations under this Agreement unless such Party, prior to the expiration of said thirty (30) days (ten (10) days in the event of failure to pay money), has rectified the particulars specified in said notice of default; provided, however, that such Party shall not be deemed to be in default if such failure (except a failure to pay money) cannot be rectified within said thirty (30) day period and such Party is using good faith and commercially reasonable and diligent efforts to rectify the particulars specified in the notice of default.

13. Notices. All notices called for under this Agreement, other than those called for under paragraph 4.b, above, shall be made in writing and delivered by hand, certified mail with return receipt, or overnight courier, as follows:

To City:

City Administrator
City of Pensacola
222 West Main Street
Pensacola, FL 32502
E-mail: kfiddler@cityofpensacola.com
Telephone: (850) 435-1631

With a copy to:

Sanitation Services/Fleet Management Director
City of Pensacola
100 West Leonard Street
Pensacola, Florida 32501
E-mail: jpittman@cityofpensacola.com
Telephone: (850) 435-1894

To ECUA:

Randy Rudd
Deputy Executive Director of Shared Services
Emerald Coast Utilities Authority
9255 Sturdevant Street
Pensacola, Florida 32514

14. Force Majeure. In the event that performance by the Parties of any of its obligations under this Agreement shall be interrupted, delayed, or prevented by any occurrence not occasioned by the conduct of such Party, whether such occurrence be an act of God or any other occurrence whatsoever beyond the reasonable control of such Party, including a change in environmental law or regulation rendering performance impractical or impossible, then such Party shall be excused from such performance for such period of time as is reasonably necessary after the occurrence to remedy the effects thereof, or until such performance is no longer impractical or impossible.

15. ECUA's Right to Refuse to Accept SSR and Parties Right to Cancel for Convenience. Notwithstanding the provisions of paragraph 4, above, in the event that

the operator of the ECUA MRF declares a Shutdown, ECUA and the ECUA MRF shall be under no obligation to accept any SSR from the City through the duration of that Shutdown. Additionally, in the event of a Shutdown, the City may dispose of its SSR as it deems fit for the duration of that Shutdown, and the City is not obligated to reimburse ECUA and/or the operator of the ECUA MRF, if any, for lost revenue associated therewith. Moreover, in the absence of a Shutdown, ECUA, acting through its Executive Director, may cancel this Agreement for convenience on one week's written notice notwithstanding the provisions of paragraph 3 above.

16. Records. The Parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event a Party fails to abide by the provisions of Chapter 119, Florida Statutes, the other Party shall give written notice of the alleged violation of Chapter 119 and seven (7) calendar days to cure the alleged violation. If the alleged violation has not been cured at the end of that time period, then the party giving such notice may terminate this Agreement for cause. ECUA further agrees to:

a. Keep and maintain public records required by the City to perform services under this Agreement.

b. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

c. Ensure that public records that are exempt or confidential from public records disclosure requirements are not disclosed except as authorized by law during the term of this Agreement and following completion of the Agreement if ECUA does not transfer the records to the City.

d. Upon completion of the Agreement, transfer, at no cost, to the City all public records in possession of ECUA or keep and maintain public records required by the City to perform the services under this Agreement. If ECUA transfers all public records to the City upon completion of the Agreement, ECUA shall destroy any duplicate

public records that are exempt or confidential and exempt from public records disclosure requirements. If ECUA keeps and maintains public records upon completion of the Agreement, ECUA shall meet all applicable requirements for retaining the public records. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

IF ECUA HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, AS TO ECUA'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: City Clerk's Office, Records Custodian, 222 WEST MAIN STREET, PENSACOLA, FLORIDA 32502, PHONE: (850) 435-1606, publicrecordscityofpensacola.com.

17. Assignment. This Agreement or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by any Party, without the prior written consent of all other Parties.

18. Headings. Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

19. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the Parties stipulate that venue for any matter which is the subject of this Agreement shall lie in Escambia County, Florida.

20. Dispute Resolution. The Parties agree that in the event of any dispute or claim relating to, arising out of, or interpreting this Agreement arises, all such disputes or claims shall be fully, finally, and exclusively decided by a State court of competent jurisdiction sitting in Escambia County, Florida.

21. Interpretation. For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known

technical or industry meanings are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

a. If any Party discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the Party shall immediately notify all other Parties and request clarification of this Agreement.

b. This Agreement shall not be more strictly construed against any party hereto by reason of the fact that one Party may have drafted or prepared any or all of the terms and provisions hereof.

22. Severability. The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if it did not contain such invalid or unenforceable portion or provision.

23. Further Documents. The parties shall execute and deliver all documents and perform further actions that may reasonably be necessary to effectuate the provisions of this Agreement.

24. No Waiver. The failure of a Party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either Party's right to thereafter enforce the same in accordance with this Agreement.

25. All Prior Agreements Superseded. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements whether oral or written. It is further agreed that no modification,

amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

26. Recording. This Agreement shall be filed in the office of the Clerk of the Circuit Court of Escambia County, Florida. The City shall be responsible for such filing.

IN WITNESS WHEREOF, the Parties have executed this Agreement, by and through their duly undersigned and authorized representatives, as of the date and year first written above.

City of Pensacola, Florida, a political subdivision of the State of Florida acting by and through its duly authorized City Council.

By: _____
Grover C. Robinson, IV, Mayor

ATTEST:

By: _____
Ericka Burnett, City Clerk

Approved as to Content:

Approved as to Form and Execution:

Kerrith Fiddler, City Administrator

Charlie Pepler, City Attorney

EMERALD COAST UTILITIES AUTHORITY, a local governmental body, corporate and politic, acting by and through its duly authorized Board.

By: _____
Lois Benson, Chairman

ATTEST:

By: _____
Secretary



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00917

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

INTERLOCAL AGREEMENT - PENSACOLA-ESCAMBIA COUNTY PROMOTION AND DEVELOPMENT COMMISSION

RECOMMENDATION:

That City Council approve and authorize the Mayor to take all actions necessary to execute the Interlocal Agreement between the Escambia County Board of County Commissioners and the City of Pensacola relating to the funding of the Pensacola-Escambia County Promotion and Development Commission (PEDC) for FY 2022.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The PEDC was created by Chapter 67-1365, Florida Laws to promote and develop tourism and industry in Escambia County and the City of Pensacola. PEDC is governed by a nine-member board consisting of representatives from the Escambia County Board of County Commissioners, the Pensacola City Council, the Century Town Council, and the Greater Pensacola Chamber.

In 1989, House Bill 984 amended Chapter 67-1365, Florida Laws to require that the City and Escambia County jointly fund the PEDC through an annual Interlocal Agreement. For FY 2022, Escambia County has budgeted \$600,000, and the City has budgeted \$175,000.

PRIOR ACTION:

September 15, 2021 - City Council formally adopted the FY 2022 Budget that included an appropriation of \$175,000 for the PEDC.

FUNDING:

Budget: \$ 175,000

Actual: \$ 175,000

FINANCIAL IMPACT:

Funds have been appropriated in the FY 2022 Budget.

CITY ATTORNEY REVIEW: Yes

10/19/2021

STAFF CONTACT:

Kerrith Fiddler, City Administrator

Amy Lovoy, Finance Director

ATTACHMENTS:

- 1) Interlocal Agreement between the Escambia County Board of County Commissioners and the City of Pensacola - FY 2022

PRESENTATION: No

**STATE OF FLORIDA
COUNTY OF ESCAMBIA**

**INTERLOCAL AGREEMENT BETWEEN THE ESCAMBIA COUNTY BOARD OF
COUNTY COMMISSIONERS AND THE CITY OF PENSACOLA RELATING TO
FY 2021-2022 FUNDING OF PENSACOLA-ESCAMBIA COUNTY
PROMOTION AND DEVELOPMENT COMMISSION**

THIS AGREEMENT is made by and between Escambia County, Florida, a political subdivision of the State of Florida (hereinafter referred to as the "County"), with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502, and the City of Pensacola, a municipal corporation created and existing under the laws of the State of Florida (hereinafter referred to as the "City"), with administrative offices at 222 West Main Street, Pensacola, Florida 32502 (each being at times referred to as a "party" or "parties").

WITNESSETH:

WHEREAS, the County and the City have legal authority to perform general governmental services within their respective jurisdictions; and

WHEREAS, the Board of County Commissioners of Escambia County and the Pensacola City Council are authorized by §163.01, Florida Statutes, to enter into interlocal agreements and thereby cooperatively utilize their powers and resources in the most efficient manner possible; and

WHEREAS, as the governing bodies of the County and the City, they recognize the leadership roles they play in assisting and guiding the development of the County's local economy and improving its economic base; and

WHEREAS, Chapter 89-481, Laws of Florida, restructured funding responsibilities of local governments to the Pensacola-Escambia County Promotion and Development Commission (hereinafter referred to as "PEDC"); and

WHEREAS, the County and the City are recognized in Chapter 89-481 as the leading governmental bodies supporting economic development in Escambia County, along with the Town of Century and the private sector, through their PEDC membership; and

WHEREAS, PEDC economic development activities are broadly recognized to include business and industry recruitment and retention, tourism promotion and development, and armed services support, which all serve critical public purposes; and

WHEREAS, as a result, Escambia County and the City of Pensacola now jointly find it advantageous and appropriate to contribute their fiscal resources to the PEDC programs and activities.

NOW, THEREFORE, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, the receipt of sufficiency of which is hereby acknowledged, the County and the City agree as follows:

Article 1
Purpose

1.1 The recitals contained in the preamble of this Agreement are declared to be true and

correct and are hereby incorporated into this Agreement.

- 1.2 Pursuant to the requirements of Chapter 89-481, Laws of Florida, the County, in cooperation with the City, hereby establishes a financial framework for shared funding responsibilities of the Pensacola-Escambia County Promotion and Development Commission for FY 2021-2022.

Article 2 **Responsibilities of Parties**

- 2.1 As set out in Chapter 89-481, Laws of Florida, the fiscal contribution of the City and the fiscal contribution of the County are to be established yearly by Interlocal Agreement. Therefore, the City and the County agree for FY 2021-2022 that the County shall contribute to the PEDC the amount of Six Hundred Thousand Dollars (\$600,000.00) and the City shall contribute to the PEDC the amount of and One Hundred Seventy-Five Thousand Dollars (\$175,000.00). The parties shall reflect such contributions in their respective budgets.
- 2.2 This Agreement shall bind the parties beginning October 1, 2021 with respect to their PEDC FY 2021-2022 budgetary contributions. However, contributions for the FY 2021-2022 PEDC budget and any subsequent budget years thereafter shall be in an amount agreed upon between the parties in separate and subsequent interlocal agreements as provided under Chapter 89-481, Laws of Florida.
- 2.3 The PEDC is intended to be a private-public partnership and united effort for economic development in Escambia County. To accomplish this goal, the parties also agree to encourage voluntary contributions to the PEDC from private sector sources.
- 2.4 This Agreement shall become effective when filed in the office of the Clerk of the Circuit Court of Escambia County, Florida. The County shall be responsible for such filing.

Article 3 **General Provision**

- 3.1 **Termination:** This Agreement may be terminated by either party for cause, or for convenience, upon thirty (30) days written notice by the non-terminating party.
- 3.2 **Records:** The parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event a party fails to abide by the provisions of Chapter 119, Florida Statutes, the other party may, without prejudice to any right or remedy and after giving that party, seven (7) days written notice, during which period the party fails to allow access to such documents, terminate this Agreement.
- 3.3 **Assignment:** This Agreement or any interest herein shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties, without the prior written consent of the other party.
- 3.4 **All Prior Agreements Superseded:**
 - (a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained

herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements whether oral or written.

(b) It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

3.5 Headings: Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

3.6 Survival: All other provisions, which by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

3.7 Governing Law: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue, for any matter, which is the subject of this Agreement shall be in the County of Escambia.

3.8 Interpretation: For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of governmental persons, persons succeeding to their respective functions and capacities.

(a) If the City discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the City shall immediately notify the County and request clarification of the County's interpretation of this Agreement.

(b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

3.9 Severability: The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed to be enforced as if this Agreement did not contain such invalid or unenforceable portion of provision.

3.10 Further Documents: The parties shall execute and deliver all documents and perform further actions that may be reasonably necessary to effectuate the provisions of this Agreement.

3.11 No Waiver: The failure of a party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

3.12 Notices: All notices required or made pursuant to this Agreement by either party to the other shall be in writing and delivered by hand or by United States Postal Service, first class mail, postage prepaid, return receipt requested, addressed to the following:

TO THE COUNTY

Wesley J. Moreno
Interim County Administrator
221 Palafox Place
Post Office Box 1591
Pensacola, FL 32597

TO THE CITY

Kerrith Fiddler
City Administrator
Post Office Box 12910
Pensacola, FL 32521

Either party may change its above noted address by giving written notice to the other party in accordance with the requirements of this section.

3.13 Liability: The parties hereto, their respective elected officials, officers and employees shall not be deemed to assume any liability for the acts, omissions or negligence of the other party. The County and City, as local government bodies of the State of Florida, agree to be fully responsible their individual negligent acts or omissions or tortious acts which result in claims or suits against their respective jurisdictions and agree to be fully liable for any damages proximately caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the City or County and nothing herein shall be construed as consent by the City or County to be sued by third parties in any matter arising out of this Agreement.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature:

COUNTY:
ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida

By: _____
Robert Bender, Chairman

ATTEST: Pam Childers
Clerk of the Circuit Court

Deputy Clerk

BCC APPROVED: _____

Date: _____

Approved as to form and legal sufficiency.

By/Title: *Kristin D. Hual, DCA*

Date: 10-18-2021

CITY:
THE CITY OF PENSACOLA, a Florida Municipal Corporation

By: _____
Grover C. Robinson, IV, Mayor

ATTEST: Ericka Burnett
Clerk of the City of Pensacola

Clerk

Date: _____



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00896

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

CITY COUNCIL CONSENT TO THE MAYOR'S APPOINTMENT OF AMY TOOTLE AS PUBLIC WORKS & FACILITIES DIRECTOR FOR THE CITY OF PENSACOLA

RECOMMENDATION:

That City Council consent to the Mayor's appointment of Amy Tootle as Public Works & Facilities Director of the City of Pensacola in accordance with the City Charter Section 4.01(a)(7).

HEARING REQUIRED: No Hearing Required

SUMMARY:

City Charter Section 4.01 (a) (7) - Powers and Duties of the Mayor states:

(7) To appoint the head of each department, with the consent of the City Council by an affirmative vote of a majority of City Council Members.

With the recent retirement of Derrik Owens (previous Public Works & Facilities Department Director), and then recent promotion of Interim Public Works & Facilities Department Director, David Forte, to Deputy City Administrator - Community Development, the Mayor and City Administration has selected Ms. Amy Tootle to serve as the new director.

Amy has an impressive background in public works, construction, and civil engineering and the City of Pensacola will be very fortunate to have her services leading the Public Works & Facilities Department. Amy Tootle's experience includes being the Public Works Director for Santa Rosa County, FL, and upon Council's consent of her hiring, her anticipated start date with the City of Pensacola will be Monday, November 15, 2021.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

Funding for this position is appropriated in the Public Works & Facilities budget.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

10/11/2021

STAFF CONTACT:

Kerrith Fiddler, City Administrator

David Forte, Deputy City Administrator - Community Development

ATTACHMENTS:

- 1) Amy Tootle Resume

PRESENTATION: No

Amy Tootle, PE, CPM

Civil Engineer

Licensed Civil Engineer with over 20 years experience in both the private and public sector, skilled in both design and construction management. Proven senior level leader who has developed and managed highly effective teams, by improving work processes, in order to maximize efficiencies, not only in my work unit but the organization as a whole.

Work History

2020-11 -
Current

Public Works Director

*Santa Rosa County Board Of County Commissioners,
Milton, FL*

- Provides daily oversight of the Public Works Department, spanning engineering, surveying, inspections, operation & maintenance, and fleet management which includes 120+ full time employees, 4 Department of Corrections officers, 30+ inmates and 3+ temporary employees
- Executes the departments \$17M budget, controlling expenditures and requisition approvals
- Prepares agenda items for Board of County Commissioner meetings
- Develops and delivers presentations to the Board of County Commissioners
- Monitors designs, surveys, development plans, cost estimates, construction, and inspections for all capital projects; interfaced with federal, state, and local agencies
- Responsible for the assignment of duties, setting work standards, and evaluating employees
- Establishes organizational and infrastructure long-range goals.
- Teams with various departments to establish procedures to maintain, repair, and manage the County's infrastructure
- Communicates regularly with executive and senior

Contact

Address

Phone

E-mail

LinkedIn

Skills

Public Speaking

●●●●●
Excellent

Leadership

●●●●●
Excellent

Innovation

●●●●●
Excellent

Team Building

●●●●●
Excellent

Communication

●●●●●
Excellent

Project Management

●●●●●
Excellent

management, government agencies (FDEP, FDOT, Sheriff), and the public

- Interviews job applicants, asking appropriate questions regarding background, experience and education
- Handles problematic customers and clients to assist lower-level employees and maintain customer service
- Develops scope of services for various material, contractual and professional services contracts

2020-06 -
2020-11

Project Engineer

*Santa Rosa County Board Of County Commissioners,
Milton, FL*

- Project Manager on Capital Improvement Projects
- Reviewer of Subdivision, Site and Capital Improvement Construction Plans per the County's Land Development Code
- Participated in pre-construction meetings
- Researched and responded to citizen concerns
- Attended new development pre-application meetings

2019-08 -
2020-06

Corridor Program Manager

Florida Department Of Transportation, Tallahassee, FL

- Primary point of contact for the Multi-use Corridors of Regional Economic Significance (M-CORES) program
- Responsible for delivering presentations to educate stakeholders about the M-CORES program
- Attended every Task Force meeting and delivered presentations for each of the three corridors
- Contract Manager for the \$2.5 Million Statewide Workforce Development program
- Chair for the Alternative Contracting Task Team steering committee between FDOT, contractors and consultants

2015-07 -
2019-08

State Construction Engineer

*Florida Department Of Transportation, Tallahassee,
Florida*

- Managed and led a staff of eleven engineers and

specialists

- Developed and maintained statewide construction policy and procedures, including Standard Specifications and the Construction Project Administration Manual
- Developed and maintained the State Construction Office's Continuity of Operation Plan (COOP)
- Member and Vice Chair of the American Association of State Highway and Transportation Officials (AASHTO) Committee on Construction
- Managed the construction specialty Quality Assurance Review Program and participated in audits
- Chaired various task teams between FDOT, contractors and consultants
- Implemented e-Construction statewide, amounting to \$20 million per year in savings
- Delivered numerous presentations and participated in Federal Highway Administration (FHWA) peer exchanges nationwide on the FDOT's e-Construction program

**2013-07 -
2015-07**

Construction Final Estimates Engineer

Florida Department Of Transportation, Tallahassee, FL

- Managed and led a staff of three final estimates engineers and specialists
- Developed and maintained statewide construction final estimates policy and procedures, including Standard Specifications and the Final Estimates Review and Administration Manual
- Managed the statewide Final Estimates Quality Assurance Review Program and participated in onsite audits
- Managed the Statewide Final Estimates Training Program
- Chair of the Final Estimates Technical Review Team

**2010-11 -
2013-07**

Drainage Design Engineer

Florida Department Of Transportation, Tallahassee, FL

- Conducted Hydraulics Quality Assurance Reviews (QAR) for the State Roadway Design Office
- Project Manager for various drainage research

projects and drainage handbooks

- Lead evaluator for new drainage products
- Drainage Task Team lead for the update of the Statewide Standard Scope of Services and Staff Hour Estimates Guidelines
- Originator of developmental and Standard Specifications
- Technical panel member for multiple National Cooperative Highway Research Program (NCHRP) and FDOT research projects

**2010-03 -
2010-11**

Project Engineer

R.J. Griffin Company & Inc., Savannah, GA

- Review of subcontractor submittal's (construction plans, shop drawings, product data & certifications) for specification compliance
- Participation in subcontractor Scope Meetings
- Invoicing of project materials and subcontractor pay applications
- Attendance of pre-bid meetings
- Maintenance of subcontractor daily reports, weekly safety reports and Request for Information (RFI's)
- Contributing to bi-weekly Owner Architect Contractor (OAC) meetings as well as subcontractor pre-construction meetings

**2006-04 -
2009-09**

Project Engineer

Horizon Engineering Group, Inc., Maitland, FL

- Designed primary stormwater system with adICPR
- Designed secondary stormwater system
- Drainage Engineer of Record on various permit and drainage plans
- Produced Stormwater Management Report and Environmental Resource Permit package
- Client facing firm Representative with Orlando Orange County Expressway Authority (OOCEA), the General Engineering Consultant (GEC) as well as joint consultants
- Firm coordinator with various Water Management Districts (WMD) and the Florida Department of Environmental Protection (FDEP), to obtain an Environmental Resource Permit (ERP)

- Managed and instructed junior/entry level engineers to meet drainage deadlines

2003-11 -
2006-04

Engineering Intern

Carter Burgess, Inc., Orlando, FL

- Designed primary stormwater systems with adICPR
- Designed secondary stormwater system with ASAD
- Client facing firm representative with Orlando Orange County Expressway Authority, the Florida Department of Transportation (FDOT) and the General Engineering Consultants (GEC's)
- Assistant firm coordinator with multiple Water Management Districts to obtain an Environmental Resource Permit (ERP)
- Developed erosion control and stormwater pollution prevention plans
- Wrote Pond Siting, Stormwater Management and Abbreviated Bridge Hydraulics reports
- Instructed entry level engineers

Education

1996-08 -
1999-08

Bachelor of Science: Environmental Engineering

University of Florida - Gainesville, FL

Leadership

- American Association of State Highway and Transportation Officials (AASHTO) Committee on Construction, Former Vice Chair
- Transportation Research Board (TRB), AFH10 Committee on Construction Management, Former Member

Licenses/Certifications

- Florida Professional Engineer (PE) - #66414
- Certified Public Manager (CPM) - 07/24/14
- Florida Certified Contract Manager (FCCM) - 11/20/19



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00895

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Jennifer Brahier

SUBJECT:

PRELIMINARY FEASIBILITY STUDY ELECTRIC UTILITY

RECOMMENDATION:

That the City hire a consultant to conduct a preliminary feasibility study of the City regarding the acquisition and startup costs of an electric utility (i.e. poles and wires). Further that this preliminary feasibility study be completed prior to the signing of a Franchise Agreement with Florida Power and Light Co., whose parent company is NextEra Energy.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Currently the City is in negotiations with Florida Power and Light Co., (FPL) regarding entering into a 30-year Franchise Agreement. Prior to the City encumbering itself and its citizens for 30 years, this item seeks to conduct a preliminary feasibility study to ascertain the acquisition and startup costs of the City purchasing the electric utility (i.e. poles and wires).

The first step in this process is to conduct a preliminary feasibility study to assess the advantages, disadvantages and feasibility of taking the next step. After a thorough review, the citizens, City and City Council together can discuss and consider whether it is in the people's interest to move forward.

One of the primary purposes of this enterprise would be to increase the resiliency within the City of electricity, especially during hurricane events, by having the ability for the City to begin an underground wiring system. The City of Pensacola is currently not within the 10-year plan to begin the process of underground wiring with FPL, and it appears that if this were to begin, the cost would be fully borne by the City.

The energy industry is rapidly changing and diversifying, entering into a long-term agreement could serve to preempt Pensacola from taking advantage of opportunities to improve electric service. A public owned utility could offer a number of advantages, including local control that is fully accountable to City residents, improved tree trimming practices, more undergrounding of electric lines, and more use of renewable energy under local control. It could also eliminate the need to provide profits to corporate shareholders, which could ultimately help keep rates affordable and

revenues to remain in Pensacola for local improvements and/or a return to customers.

There are over 30 municipal owned power companies within Florida, some 18 rural electric cooperatives and 4 investor-owned electric utilities, including FPL.

The first step in the process is for Council to approve the conducting of a preliminary feasibility study.

PRIOR ACTION:

None

FUNDING:

Budget: \$ 0

Actual: \$ 20,000

FINANCIAL IMPACT:

The cost of the preliminary feasibility study is estimated to be near \$20,000.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Ord. No. 61-79
- 2) Ord. No. 62-79

PRESENTATION: No

PROPOSED
ORDINANCE NO. 61-79

ORDINANCE NO. 61-79

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE GRANTING TO GULF POWER COMPANY, A CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE RIGHT AND FRANCHISE TO MAINTAIN AND OPERATE AN ELECTRIC PLANT AND AN ELECTRIC TRANSMISSION AND DISTRIBUTION SYSTEM IN THE CITY OF PENSACOLA AND TO CONSTRUCT, MAINTAIN, OPERATE AND EXTEND ELECTRIC TRANSMISSION AND DISTRIBUTION LINES IN THE STREETS AND PUBLIC PLACES OF SAID CITY; AND PROVIDING THE TERMS AND CONDITIONS OF SUCH GRANT, SEVERABILITY CLAUSE, REPEALING CLAUSE AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Grant of Franchise Privilege. In consideration of the benefits that will accrue to the City of Pensacola and the inhabitants thereof, Gulf Power Company, a corporation under the laws of the State of Maine, its successors and assigns, hereinafter sometimes referred to as the Grantee, is hereby given, granted and vested with the right, authority, easement, privilege and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct in said City of Pensacola a plant or plants and system for the generation, transmission and distribution of electric energy for all purposes whatsoever.

SECTION 2. Rights to Operate. The said Grantee, its successors and assigns, is hereby further given, granted and vested with the exclusive right, authority, easement, privilege and franchise to construct, erect, suspend, install, extend, renew, repair, maintain, operate and conduct in said City of Pensacola a system of poles, towers, conduits, cables, conductors, transforming stations, fittings, appliances and appurtenances necessary or desirable to the transmission, distribution or sale of electric energy for all purposes whatsoever in, over, under, along, upon and across all streets, avenues, alleys, ways, bridges, and public places in said City of Pensacola, as they now exist or as they may hereafter be laid out or extended within the present and future limits of said City, together with the further right, privilege and franchise to construct, erect, suspend, install, extend, renew, repair and maintain and operate a system of poles, towers, conduits, cables, wires, conductors, transforming stations, generating stations, fittings and all appliances and appurtenances necessary or desirable to the generation and transmission within, unto, through, over and beyond said City of Pensacola and to the furnishing, supplying and distributing to said City and the inhabitants and corporations both within and beyond the limits thereof, of electric energy for lighting, heating, power and all other purposes for which electric energy may be used now or hereafter, and for the purpose of extending its lines and furnishing electric energy beyond the limits of said City. Grantor retains the right to purchase or generate electric power for its own use but not for sale. The electric system, facilities and associated equipment and vehicles shall be located or re-located, erected or operated so as to interfere as little as possible with vehicular and pedestrian traffic over, along and across said public rights-of-way, streets, alleys, bridges, and public places and with reasonable egress and ingress to abutting and adjoining property.

MICROFILMED

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SECTION 3. Franchise Fee. As a further consideration for the granting of the rights, privileges and franchises hereby granted, the Grantee, its successors and assigns, shall pay to the City within thirty (30) days after the first day of each month a franchise fee determined from time to time by ordinance of the City based upon a percentage of Grantee's revenue from the furnishing of electric service to customers served under all of its rate schedules within the corporate limits of the City collected during the preceding month. The percentage of such revenue to be collected by Grantee and paid to the City as a franchise fee may be changed by the City from time to time by ordinance at intervals of no less than three (3) years, provided that the percentage shall in no event exceed that permitted by law. The City may grant such exemptions from payment of the fee as it may provide by ordinance from time to time, at intervals of no less than three (3) years, within the limits allowed by law.

SECTION 4. Proper Operation. The poles, towers, conduits, cables, conductors, transforming stations, generating stations, fittings, appliances and appurtenances shall be constructed in accordance with good engineering practices and so as not to unreasonably interfere with the proper use and appearance of the streets, avenues, alleys, ways, bridges, and public places in the City and shall be maintained in reasonably good condition and repair. The Grantee and the Grantor mutually agree to participate for the term of this franchise in the regular and called activities of the Escambia-Santa Rosa Utilities Coordinating Committee or its successors to facilitate to their mutual benefit the location and relocation of equipment used in the provision of electric service within the Grantor's limits.

SECTION 5. Excavation Maintenance and Restoration. Whenever the Grantee shall cause any opening or alteration to be made in any of the streets, avenues, alleys, ways, bridges or public places of the City for the purpose of installing, maintaining, operating or repairing any poles, towers, conduits, cables or other appliances, the work shall be completed at Grantee's expense within a reasonable time and the Grantee shall upon the completion of such work restore such portion of the streets, avenues, alleys, ways or other public places to as good condition as it was before the opening or alteration was so made and will promptly remove any debris.

SECTION 6. Hold Harmless. The Grantor shall in no way be liable or responsible for any accident or damage which may occur due to the construction, location, re-location, operation or maintenance by the Grantee of said poles, towers, conduits, wires, cables and other appliances, equipment and vehicles subject to the terms and conditions of this franchise. The Grantee hereby agrees to indemnify the Grantor and to hold it harmless against any all liability, loss, cost, damage or any expense connected therewith including a reasonable attorney's fee incurred in the defense of any type of court action related hereto, which may accrue to the Grantor by reason of negligence, default or other misconduct of the Grantee in its construction, location, re-location, operation or maintenance of the facilities, vehicles, or equipment of the electric system subject to this franchise.

SECTION 7. Rates, Rules and Regulations.

(a) All rates for electrical service and the rules and regulations governing the receipt of said service within the Grantor's limits, established by the Grantee from time to time, shall be reasonable and shall at all times be subject to such public regulation as may be provided by law. The Grantee recognizes its obligations to provide electric energy and power service within the City on reasonable terms and conditions at just, reasonable and nondiscriminatory rates to all who request said service during the term of this franchise and thereafter, as required by law or by duly constituted public regulatory body.

(b) The Grantee agrees by its acceptance of this franchise to file with the City Clerk or City Manager or his successor by the first anniversary date of this franchise, a complete set of rules and regulations and a complete set of tariffs or rate schedules under which electric service is provided within the City and to file in writing annually any revisions of rules, regulations and rates that have been adopted since the previous annual filing. Grantee shall also furnish the City Manager a copy of each of its annual reports to its stockholders.

(c) Grantor may, at its option and at its expense, and upon reasonable notice to Grantee, at any time within ninety (90) days after each anniversary date of this franchise examine the records of operations and accounting files, books and records as such records relate to the calculation of the franchise fee payments to the Grantor, as provided herein. The examination of such books, accounts, records or other materials necessary for determination of compliance with the terms, provisions and requirements of this franchise shall be during regular hours of business of the Grantee and at the corporate offices of the Grantee.

SECTION 8. Interruption of Service. In the event the supply of electric energy should be interrupted or fail by reason of accident or any cause beyond the control of the Grantee, the Grantee shall, at its own expense, restore the service within a reasonable time and such interruption shall not constitute a breach of this franchise nor shall the Grantee be liable for any loss or damages by reason of such interruption or failure.

SECTION 9. Metering of Service. The Grantee shall install and maintain, free of charge, meters for measuring current, and shall have free access to the premises of the consumer, from time to time, for the purpose of reading, repairing, testing and maintaining the meters and appurtenances. Such meters shall remain the property of the Grantee.

SECTION 10. Term of Franchise - Right to Purchase. The franchise granted by this ordinance shall exist and continue for a period of thirty years only, and as a condition precedent to the taking effect of this grant, the City of Pensacola does hereby reserve and the Grantee gives and grants to the said municipality, the right, at the expiration of fifteen (15) years and at the expiration of thirty (30) years, to purchase the electric plant and other property within the corporate limits of the City of Pensacola necessarily used under or in connection with the franchise hereby granted or such part of such property as the municipality may desire to purchase at a valuation to be fixed in accordance with the provisions of Section 180.16, Florida Statutes (1977). Grantee is hereby given the right to demand that the City purchase the electric plant and other property within the corporate limits of the City necessarily used under or in connection with the franchise hereby granted at the expiration of fifteen (15) years or at the expiration of thirty (30) years at a valuation to be fixed in accordance with the provisions of Section 180.16, Florida Statutes (1977). The option to purchase or to demand purchase shall be exercised by giving notice in writing to the other party not less than sixty (60) days prior to the expiration of fifteen (15) years or thirty (30) years from the effective date of this ordinance. The franchise granted by this ordinance is also subject to the terms and conditions of all applicable provisions of the Code of the City of Pensacola.

SECTION 11. Forfeiture of This Franchise. Failure by the Grantee to comply in any substantial respect with any of the provisions, terms, or requirements of this Ordinance,

shall be grounds for forfeiture of this franchise, but no such forfeiture shall take effect if the reasonableness and propriety thereof is timely protested and satisfactorily addressed or until a court of competent jurisdiction shall have found that the Grantee has failed to comply in a substantial respect with any of the provisions, terms or requirements of this Ordinance. Both the Grantor and Grantee reserve the right of appeal of such court findings. The Grantee shall have six (6) months after the final determination of the question to make restitution or make good the default or failure before forfeiture shall result. The Grantor, at its discretion, may grant additional time to the Grantee for restitution and compliance as the necessities of the case may require.

SECTION 12. Review and Revision of Franchise Provisions. With the exception of the provisions of Section 10 concerning the term of this franchise and options to purchase or require purchase at specified intervals during the term, and of Section 3 concerning periodic revision of the franchise fee, the City and Grantee may from time to time at the request of either party review any or all of the other provisions of this Ordinance and by mutual agreement revise any such provision, or add any additional provisions that may be appropriate. During the 120 days immediately preceding each fifth anniversary date of this ordinance during the term that this franchise is in effect, representatives of the City and Grantee shall meet to decide whether any such revisions or additions are necessary.

SECTION 13. Other Franchises. Grantee shall furnish City a copy of all other municipal franchises that it is granted from time to time during the life of this franchise.

SECTION 14. Exclusivity of Ordinance Sections. Should any section or provision of this Ordinance or any portion hereof be declared by a court of competent jurisdiction to be invalid, such decision shall not affect the validity of the remainder, as a whole or any part hereof, other than the part declared to be invalid.

SECTION 15. Successors and Assigns. Whenever in this Ordinance either the City of Pensacola or the Grantee is named or referred to, it shall be deemed to include the respective successor, successors or assigns of either, and all rights, privileges and obligations herein conferred shall bind and inure to the benefit of such successor, successors or assigns of said Grantor or of the Grantee.

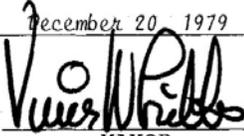
SECTION 16. Repealing Clause. All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed to the extent of such conflict.

SECTION 17. Surrender of Rights. As a further consideration for the granting of the rights, privileges and franchises granted hereby, the Grantee surrenders all rights, privileges and franchises heretofore granted by the City of Pensacola or the State of Florida for any of the purposes stated in Section 1 and 2 of this Ordinance and now enjoyed by Grantee in the City of Pensacola; provided, however, that such surrender shall not be effective unless and until this Ordinance shall be finally adopted and in effect and the rights, privileges and franchises granted hereby shall be validly in force and effect.

SECTION 18. Written Acceptance by Grantee. The Grantee, its successors or assigns, shall, within thirty (30) days after this Ordinance shall take effect, file a written acceptance of the Ordinance with the City Clerk of the City.

SECTION 19. Effective Date. This Ordinance shall take effect December 26, 1979 and shall be published as required by law.

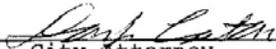
Passed: December 20, 1979

Approved: 
MAYOR

Attest:


City Clerk

Legal in form and valid if enacted:


City Attorney

PROPOSED
ORDINANCE NO. 62-79

ORDINANCE NO. 62-79

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE SETTING FORTH THE FRANCHISE FEE TO BE PAID BY GULF POWER COMPANY AND THE EXEMPTION THEREFROM FOR CERTAIN USERS OF ELECTRIC FACILITIES, AS PROVIDED FOR IN THE FRANCHISE GRANTED TO GULF POWER COMPANY; REPEALING CLAUSE AND EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola adopted Ordinance No. 61-79 on Thursday, December 20, 1979, which ordinance granted an electric franchise to Gulf Power Company under terms and conditions set forth therein; and

WHEREAS, Section 3 of said ordinance provided that the City Council of the City of Pensacola would set the franchise fee by separate ordinance and further provided that the City may grant certain exemptions from payment of the fee by separate ordinance; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

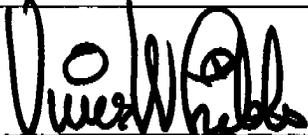
SECTION 1. The Grantee (Gulf Power Company) shall pay to the City of Pensacola a franchise fee of five percent (5%) under the terms and conditions set forth in the franchise ordinance referred to above.

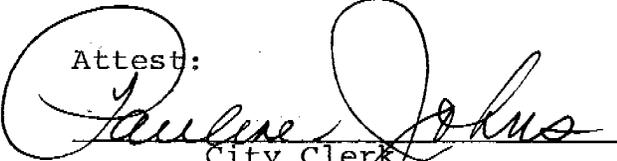
SECTION 2. The amount of \$16.50 per month for each City customer of Gulf Power Company shall be exempt from the payment of the five percent (5%) franchise fee imposed herein.

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

SECTION 4. This ordinance shall take effect December 26, 1979 and shall be published as required by law.

Passed: December 20, 1979

Approved: 
MAYOR

Attest: 
City Clerk

Legal in form and valid if enacted:

City Attorney

MICROFILMED
Roll 210 Frame 62



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 46-21

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Jared Moore

SUBJECT:

PROPOSED ORDINANCE NO. 46-21 - NAMING CITY PROPERTY - CREATING A PROCESS FOR THE NAMING OF STRUCTURES, STREETS AND OTHER PUBLIC PLACES WITHIN THE CITY

RECOMMENDATION:

That City Council approve Proposed Ordinance No. 46-21 on first reading:

AN ORDINANCE AMENDING SECTION 2-3-2 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, NAMING CITY PROPERTY; PROVIDING FOR A PROCESS IN THE NAMING OF STRUCTURES, STREETS OR OTHER PUBLIC PLACES WITHIN THE CITY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In September of 2014, City Council passed Ordinance No. 34-14, Naming City Property, which was codified as Section 2-3-3 of the City Code. With the recodification, this section is now identified as 2-3-2.

Recently a request was received to rename a portion of a certain street within the City of Pensacola. While staff was researching this possibility, it was realized that there currently was not a process in place to facilitate this.

Working with staff, the proposed amendment to Section 2-3-2 was prepared for Council's consideration.

PRIOR ACTION:

September 11, 2014 - City Council adopted City Ordinance No. 34-14 creating Section 2-3-3 [now 2-3-2] Naming City Property.

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive
David Forte, Deputy City Administrator

ATTACHMENTS:

- 1) Proposed Ordinance No. 46-21 - Naming City Property (CAO reviewed)(corrected)

PRESENTATION: No

PROPOSED
ORDINANCE NO. 46-21

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 2-3-2 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, NAMING CITY PROPERTY; PROVIDING FOR A PROCESS IN THE NAMING OF STRUCTURES, STREETS OR OTHER PUBLIC PLACES WITHIN THE CITY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Pensacola adopted Ordinance No. 34-14 in September of 2014 creating Section 2-3-3 (codified now as Section 2-3-2) entitled, Naming City Property; and

WHEREAS, for the benefits of the citizens of Pensacola, a process for the naming of streets, structures, and other public places within the city has been developed; and

WHEREAS, this process allows for a systematic approach to the naming of city property.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 2-3-2 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 2-3-2. Naming city property.

- (a) *Intent of criteria.* The criteria provided herein are intended to provide an identifiable process which citizens may utilize to propose the recognition of individuals who have made a significant contribution to the city, region or nation and whose memory may be honored by the designation of their name and achievements associated with a structure, street, park or other public place in the city. Such individuals may be city residents, historic figures, former elected officials or former city employees whose work, actions or life has made a significant contribution to the community or society. Consideration of such recognition will be made by the city council without reference to such immutable characteristics as race, religion, ethnicity, gender, age or disability. These criteria are intended to be flexible so that there will be an opportunity for recognition of any individual deserving of such, who may not meet all of the objective criteria contained herein. In addition, the city council recognizes that

many of the facilities of the city have established interest groups such as neighborhood associations or other affinity groups, and it is the intent of the council to solicit input from all such interest groups when appropriate.

(b) *Criteria.*

- (1) Parks may be named after streets, geographical locations, historical figures, events, concepts or as otherwise determined by the city council.
- (2) Parks, structures, streets or other public places within the city may be named for individuals or groups that have made exceptional contributions to the Pensacola community.
- (3) Parks, structures, streets, or other public places within the city may be named for a historical figure or an individual or family or organization that has made a significant land, monetary or service contribution to the acquisition of the property, park system or the community in general. These may include the names of early residents or citizens and/or events of significance to the area's history or development which have directly impacted the park's, structures, streets or other public places within the city development.
- (4) Current elected officials and currently employed city staff shall not be eligible for consideration until they are no longer in office or have been retired from city service for at least four years.
- (5) In order to accommodate the interest in recognizing or honoring individuals deserving such recognition or honor, the city council may elect to honor individuals by the erection of informational signage or plaques at a particular facility, structure or portion thereof, without naming the entire park, structure, street or facility after one individual or preempting the opportunity to recognize more than one person's achievements or contributions. However, the renaming of a park, structure, street or facility from one name to another will be discouraged and accepted only for exceptional reasons.

(c) *Procedure.*

- (1) Members of council or other individuals or groups that propose to name or rename a park, structure, street, facility or portion thereof must submit a letter to the city clerk with sufficient information or evidence to support a naming or name change. The clerk shall forward a copy of the letter to the offices of the mayor, the council executive and the city council president. If a renaming is being proposed, the letter must document why the existing name no longer holds any historical significance, or otherwise why the existing name is no longer appropriate.

- (2) If the property or facility under review is within the purview of the parks and recreation board, that board will review such request and discuss the request at a meeting of the board. Following board consideration, the board will make its recommendations to the city council. If the property or facility under review is within the purview of another organization or board, that organization or board will be given the opportunity to consider the request for naming or renaming and make its recommendation to the city council.
- (3) If the request is to name or rename a city street or portion thereof, the council executive will notify the Public Works and Facilities Director or designee who will ensure the following criteria and procedure are met:
- a. Confirm the naming or renaming of the street or portion thereof does not conflict with other existing street names or create a confusing situation with the flipping of names along the corridor.
 - b. Request that GIS create a property owner list of all adjoining property owners upon the street or segment thereof to be provided to the Public Works Director or designee.
 - c. Send a certified mailing informing identified property owners of the renaming request and ask each to respond with a Yes or No to the request no later than two (2) weeks from the date of the notification. If no reply is received, the city will consider the lack of response by the property owner to constitute a Yes response.
 - d. The request must receive a 90% approval response rate in order to move forward. If the 90% approval rate is received, the request will be sent to PPD, EMS, FIRE and any other appropriate agency/department to review and provide comments, if any.
 - e. Once the above has been completed, the Public Works Director or designee will notify the council executive, in writing, of staff's recommendation. Once received, the council executive will engage the council president or other council member for sponsorship of the item to be brought before city council for their consideration.
 - f. If approved by city council, the Public Works Director or designee along with technology resources will make the appropriate changes regarding street signs, city GIS, MSAG, and any other notifications to include but not be limited to; the Post Office, Escambia County, Emergency Operations Center, County and City Dispatch Centers, Pensacola Energy, the Property Appraisers Office, Executive Office of the Governor, ECUA, Florida Department of Revenue Property Tax Administration, Escambia County Tax Collector, Regional Land base

Administration Center, Secretary of State, Cox Communications, Florida Power and Light Co., as needed or required to facilitate the name change.

~~(3)~~(4) The city council will make the final decision on all naming or renaming requests.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 47-21

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 47-21 VACATING PORTIONS OF A UTILITY EASEMENT ALONG A VACATED PORTION OF BAYOU TEXAR BOULEVARD

RECOMMENDATION:

That City Council approve Proposed Ordinance No. 47-21 on first reading:

AN ORDINANCE VACATING PORTIONS OF A UTILITY EASEMENT ALONG A VACATED PORTION OF BAYOU TEXAR BOULEVARD IN PENSACOLA, ESCAMBIA COUNTY, STATE OF FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On October 22, 1959 City Council approved Ordinance No. 56-59 vacating and abandoning portions of Bayou Texar Boulevard and Osceola Boulevard.

Ms. Lerissa Rowe property owner located at 1720 East Belmont Street is requesting a reduction in the easement reserved within Ordinance No. 56-59. This easement reduction will facilitate the process necessary to obtain a building permit from the City of Pensacola.

PRIOR ACTION:

October 22, 1959 - City Council passed Ordinance No. 56-59

FUNDING:

N/A

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

10/14/2021

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Duty City Administrator-Community Development
Don Kraher, Council Executive

ATTACHMENTS:

- 1) Proposed Ordinance No. 47-21
- 2) Ordinance No. 56-59 Bayou Texar Blvd. ROW Vacation
- 3) Survey Dated 9/24/21 Bayou Texar Blvd. ROW Vacation

PRESENTATION: No

PROPOSED
ORDINANCE NO. 47-21

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE VACATING PORTIONS OF A UTILITY EASEMENT ALONG A VACATED PORTION OF BAYOU TEXAR BOULEVARD IN PENSACOLA, ESCAMBIA COUNTY, STATE OF FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Ordinance No. 56-59 was adopted on October 22, 1959, closing, abandoning, and vacating portions of Bayou Texar Boulevard; and

WHEREAS, within Ordinance No. 56-59, the city maintained a full-width utility easement for the entire portion of the Bayou Texar Boulevard right-of-way for the purpose of locating and maintaining public utilities; and

WHEREAS, on October 26, 2021, the Emerald Coast Utilities Authority, f/k/a Escambia County Utilities Authority, voted for a reduction of easement to twenty (20) feet wide, centered on the existing sewer line; and

WHEREAS, the city desires to abandon a portion of said easement; and

WHEREAS, the vacating of a portion of said utility easement will contribute to the general welfare of the city in that said utility easement is no longer needed;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the following described portion of the utility easement in Pensacola, Escambia County, Florida, is hereby closed, discontinued, vacated and forever abandoned by the city as a utility easement and the rights to use the area as a utility easement are hereby terminated, extinguished, and cancelled:

A PORTION OF BAYOU TEXAR BOULEVARD AS OFFICIALLY VACATED, ACCORDING TO CITY ORDINANCE NO. 56-59, LYING ADJACENT TO LOTS 14 AND 15, BLOCK 68, NEW CITY TRACT, ACCORDING TO THE "MAP OF PENSACOLA" COPYRIGHTED BY THOS. C. WATSON IN 1884, BEING MORE

PARTICULARLY DESCRIBED AS FOLLOWS: COMMENCE AT THE SOUTHWEST CORNER OF THE SAID BLOCK 68; THENCE SOUTH 89°58'59" EAST ALONG THE SOUTH LINE OF THE SAID BLOCK 68 FOR A DISTANCE OF 120.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 15 FOR THE POINT OF BEGINNING. THENCE NORTH 70°09'42" EAST FOR A DISTANCE OF 85.06 FEET TO THE SOUTHEAST CORNER OF SAID LOT 14; THENCE SOUTH 49°59'02" EAST FOR A DISTANCE OF 153.22 FEET TO A POINT ON THE NORTH LINE OF THE PROPERTY DESCRIBED IN O.R. BOOK 1933 AT PAGE 335 OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA, AS SURVEYED BY E. WAYNE PARKER OF BASKERVILLE-DONOVAN ENGINEERS, INC., SIGNED 8/11/83, THEIR PROJECT NO. 20-9120-081, HAVING THE LAST REVISED DATE OF 6/11/84; THENCE NORTH 90°00'00" WEST ALONG THE SAID NORTH LINE FOR A DISTANCE OF 80.62 FEET; THENCE NORTH 59°10'30" WEST FOR A DISTANCE OF 135.93 FEET TO THE POINT OF BEGINNING.

LESS AND EXCEPT THE FOLLOWING DESCRIBED:

COMMENCING AT THE SOUTHWEST CORNER OF BLOCK 68, NEW CITY TRACT, CITY OF PENSACOLA, FLORIDA, AS FOUND ON THE MAP OF SAID CITY COPYRIGHTED BY THOS. C. WATSON IN 1906. THENCE S89°58'59"E ALONG THE SOUTH LINE OF THE SAID BLOCK 68 FOR A DISTANCE OF 120.00 FEET TO THE SOUTHWEST CORNER OF LOT 15; THENCE S59°10'30"E FOR A DISTANCE OF 84.76 FEET TO THE POINT OF BEGINNING; THENCE N61°11'41"E FOR A DISTANCE OF 63.94 FEET; THENCE S49°59'02"E FOR A DISTANCE OF 21.39 FEET; THENCE S61°11'41"W FOR A DISTANCE OF 59.84 FEET; THENCE N59°10'30"W FOR A DISTANCE OF 23.17 FEET TO THE POINT OF BEGINNING.

SECTION 2. That the city does hereby abandon all claim of right in that above-described utility easement, and it shall remain and be the property of the abutting property owner, less and except that certain portion described above.

SECTION 3. That all remaining portions of the utility easement referenced in Ordinance No. 56-59 remain reserved for the city and utility providers, and their successors and assigns, as described in Ordinance No. 56-59.

SECTION 4. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. This ordinance shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

PROPOSED
ORDINANCE NO. 59-59

ORDINANCE NO. 56-59

1st, 2nd, 3rd
reading: 10/22/59

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE VACATING AND ABANDONING
PORTIONS OF BAYOU TEXAR BOULEVARD
AND OSCEOLA BOULEVARD.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That all of Bayou Texar Boulevard, as delineated upon the map of Thomas C. Watson copyrighted in the year 1906, and extending from the intersection of 17th Avenue with Bayou Texar Boulevard, northward to the south border and property line of Bayview Park, be, and the same is hereby vacated, abandoned and discontinued as a public thoroughfare in the City of Pensacola. Provided, however, that the City of Pensacola does not hereby vacate the intersecting streets which enter into Bayou Texar Boulevard and extending to the shoreline of Bayou Texar which streets shall remain open as public thoroughfares of the City of Pensacola and open to the general public; and provided further that the City of Pensacola does hereby retain an easement in Bayou Texar Boulevard, as above delineated, throughout its entire length for the purpose of installing and maintaining public utility service, including, but not limited to sanitary sewerage, storm sewerage, water and gas lines.

SECTION 2. That all of Osceola Boulevard, extending from a point sixty feet north of the south line of Lot 1, Block 52, Lakeview, as delineated upon the map of Oliver J. Semmes, Jr., copyrighted in the year 1947, and extending northward its entire length to its intersection with 18th Avenue, be, and the same is hereby vacated, abandoned and discontinued as a public thoroughfare, except that portion of Osceola Boulevard now opened and paved and extending from the south line of Lot 16, to the north line of Lot 13, Block 37, Lakeview, as delineated upon the map of Oliver J. Semmes, Jr., copyrighted in the year 1947, and except that portion of said street extending from the intersection of Escambia Avenue, northward to north line of Lot 10, Block 19, Lakeview, as delineated upon the map of Oliver J. Semmes, Jr., copyrighted in the year 1947. Provided, however, that the City of Pensacola does not hereby vacate the intersecting streets which enter into Osceola Boulevard and extending to the shoreline of Osceola Boulevard which streets shall remain open as public thoroughfares of the City of Pensacola and open to the general public; and provided further that the City of Pensacola does hereby retain an easement in Osceola Boulevard, as above delineated, throughout its entire length for the purpose of installing and maintaining public utility service, including, but not limited to sanitary sewerage, storm sewerage, water and gas lines.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4. This ordinance shall take effect thirty (30) days after its final passage by the City Council, and shall be published as required by law.

Passed: October 22, 1959

Approved:

Attest:
[Signature]
CITY CLERK-COMPTROLLER.

[Signature]
MAYOR

[Signature]
CITY ATTORNEY.

MICROFILMED

Roll 230 Frame 5607

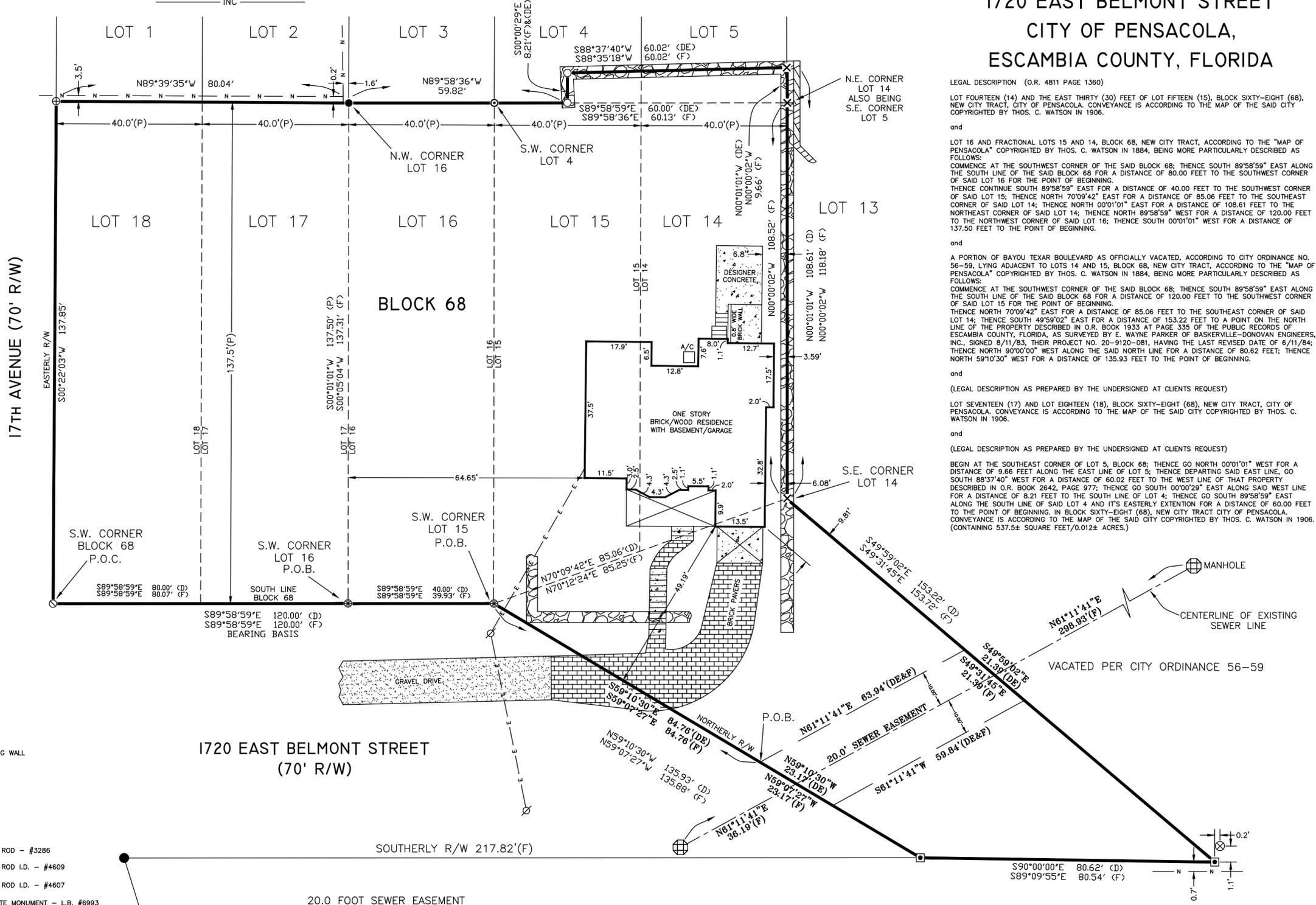
EMPIRE LAND SURVEYING INC.

BOUNDARY SURVEY

1720 EAST BELMONT STREET CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA



0 5 10 20 40
SCALE: 1" = 20'



LEGAL DESCRIPTION (O.R. 4811 PAGE 1360)
 LOT FOURTEEN (14) AND THE EAST THIRTY (30) FEET OF LOT FIFTEEN (15), BLOCK SIXTY-EIGHT (68), NEW CITY TRACT, CITY OF PENSACOLA, CONVEYANCE IS ACCORDING TO THE MAP OF THE SAID CITY COPYRIGHTED BY THOS. C. WATSON IN 1906.
 and
 LOT 16 AND FRACTIONAL LOTS 15 AND 14, BLOCK 68, NEW CITY TRACT, ACCORDING TO THE "MAP OF PENSACOLA" COPYRIGHTED BY THOS. C. WATSON IN 1884, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCE AT THE SOUTHWEST CORNER OF THE SAID BLOCK 68; THENCE SOUTH 89°58'59" EAST ALONG THE SOUTH LINE OF THE SAID BLOCK 68 FOR A DISTANCE OF 80.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 16 FOR THE POINT OF BEGINNING.
 THENCE CONTINUE SOUTH 89°58'59" EAST FOR A DISTANCE OF 40.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 15; THENCE NORTH 70°09'42" EAST FOR A DISTANCE OF 85.06 FEET TO THE SOUTHEAST CORNER OF SAID LOT 14; THENCE NORTH 00°01'01" EAST FOR A DISTANCE OF 108.61 FEET TO THE NORTHEAST CORNER OF SAID LOT 14; THENCE NORTH 89°58'59" WEST FOR A DISTANCE OF 120.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 16; THENCE SOUTH 00°01'01" WEST FOR A DISTANCE OF 137.50 FEET TO THE POINT OF BEGINNING.
 and
 A PORTION OF BAYOU TEXAR BOULEVARD AS OFFICIALLY VACATED, ACCORDING TO CITY ORDINANCE NO. 56-59, LYING ADJACENT TO LOTS 14 AND 15, BLOCK 68, NEW CITY TRACT, ACCORDING TO THE "MAP OF PENSACOLA" COPYRIGHTED BY THOS. C. WATSON IN 1884, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:
 COMMENCE AT THE SOUTHWEST CORNER OF THE SAID BLOCK 68; THENCE SOUTH 89°58'59" EAST ALONG THE SOUTH LINE OF THE SAID BLOCK 68 FOR A DISTANCE OF 120.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 15 FOR THE POINT OF BEGINNING.
 THENCE NORTH 70°09'42" EAST FOR A DISTANCE OF 85.06 FEET TO THE SOUTHEAST CORNER OF SAID LOT 14; THENCE SOUTH 49°59'02" EAST FOR A DISTANCE OF 153.22 FEET TO A POINT ON THE NORTH LINE OF THE PROPERTY DESCRIBED IN O.R. BOOK 1933 AT PAGE 335 OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA, AS SURVEYED BY E. WAYNE PARKER OF BASKERVILLE-DONOVAN ENGINEERS, INC., SIGNED 8/11/83, THEIR PROJECT NO. 20-9120-081, HAVING THE LAST REVISED DATE OF 6/11/84; THENCE NORTH 90°00'00" WEST ALONG THE SAID NORTH LINE FOR A DISTANCE OF 80.62 FEET; THENCE NORTH 59°10'30" WEST FOR A DISTANCE OF 135.93 FEET TO THE POINT OF BEGINNING.
 and
 (LEGAL DESCRIPTION AS PREPARED BY THE UNDERSIGNED AT CLIENTS REQUEST)
 LOT SEVENTEEN (17) AND LOT EIGHTEEN (18), BLOCK SIXTY-EIGHT (68), NEW CITY TRACT, CITY OF PENSACOLA, CONVEYANCE IS ACCORDING TO THE MAP OF THE SAID CITY COPYRIGHTED BY THOS. C. WATSON IN 1906.
 and
 (LEGAL DESCRIPTION AS PREPARED BY THE UNDERSIGNED AT CLIENTS REQUEST)
 BEGIN AT THE SOUTHEAST CORNER OF LOT 5, BLOCK 68; THENCE GO NORTH 00°01'01" WEST FOR A DISTANCE OF 9.66 FEET ALONG THE EAST LINE OF LOT 5; THENCE DEPARTING SAID EAST LINE, GO SOUTH 88°37'40" WEST FOR A DISTANCE OF 60.02 FEET TO THE WEST LINE OF THAT PROPERTY DESCRIBED IN O.R. BOOK 2642, PAGE 977; THENCE GO SOUTH 00°00'29" EAST ALONG SAID WEST LINE FOR A DISTANCE OF 8.21 FEET TO THE SOUTH LINE OF LOT 4; THENCE GO SOUTH 89°58'59" EAST ALONG THE SOUTH LINE OF SAID LOT 4 AND ITS EASTERLY EXTENSION FOR A DISTANCE OF 60.00 FEET TO THE POINT OF BEGINNING, IN BLOCK SIXTY-EIGHT (68), NEW CITY TRACT CITY OF PENSACOLA, CONVEYANCE IS ACCORDING TO THE MAP OF THE SAID CITY COPYRIGHTED BY THOS. C. WATSON IN 1906. (CONTAINING 537.5± SQUARE FEET/0.012± ACRES.)

LEGEND

- DE DESCRIPTION
- A/C AIR CONDITIONER
- O.R. OFFICIAL RECORD BOOK
- R/W RIGHT OF WAY
- A.P.O. A PORTION OF....
- P.O.C. POINT OF COMMENCEMENT
- P.O.B. POINT OF BEGINNING
- N 4' CHAIN LINK FENCE
- E AERIAL UTILITY WIRES
- 1.5' X 1.5' STONE RETAINING WALL
- 0.6' WOOD RETAINING WALL
- GRAVEL DRIVE
- CONCRETE
- BRICK PAVERS
- FOUND 1/2" IRON ROD
- ⊕ FOUND 1/2" CAPPED IRON ROD - #3286
- FOUND 1/2" CAPPED IRON ROD I.D. - #4609
- ⊕ FOUND 1/2" CAPPED IRON ROD I.D. - #4607
- ⊠ FOUND 4" SQUARE CONCRETE MONUMENT - L.B. #6993
- ⊙ FOUND 1/2" CAPPED IRON ROD - L.B. #6993
- ✕ FOUND "X" IN STONE WALL
- SET 1/2" CAPPED IRON ROD - ELSI L.B. #6993
- ⊙ FOUND 5/8" IRON ROD
- ⊕ POWER POLE
- CORNER NOT FOUND
- ⊕ EXISTING SEWER MANHOLE

1720 EAST BELMONT STREET (70' R/W)

20.0 FOOT SEWER EASEMENT

LEGAL DESCRIPTION (AS WRITTEN BY THE UNDERSIGNED AT CLIENTS REQUEST)

COMMENCING AT THE SOUTHWEST CORNER OF BLOCK 68, NEW CITY TRACT, CITY OF PENSACOLA, FLORIDA, AS FOUND ON THE MAP OF SAID CITY COPYRIGHTED BY THOS. C. WATSON IN 1906. THENCE S89°58'59"E ALONG THE SOUTH LINE OF THE SAID BLOCK 68 FOR A DISTANCE OF 120.00 FEET TO THE SOUTHWEST CORNER OF LOT 15; THENCE S59°10'30"E FOR A DISTANCE OF 84.76 FEET TO THE POINT OF BEGINNING; THENCE N61°11'41"E FOR A DISTANCE OF 63.94 FEET; THENCE S49°59'02"E FOR A DISTANCE OF 21.39 FEET; THENCE S61°11'41"W FOR A DISTANCE OF 59.84 FEET; THENCE N59°10'30"W FOR A DISTANCE OF 23.17 FEET TO THE POINT OF BEGINNING.

THE UNDERSIGNED CLIENT(S) ACKNOWLEDGE RECEIPT AND ACCEPTANCE OF THIS SURVEY:

 LERISSA S. ROWE
 THE PURPOSE OF THIS SURVEY IS FOR SEWER EASEMENT DESCRIPTION.
 THIS MAP IS CERTIFIED AS MEETING THE FLORIDA MINIMUM TECHNICAL STANDARDS TO THE FOLLOWING AND IS FOR THE BENEFIT OF ONLY THE FOLLOWING LISTED CLIENT(S), AGENT(S) AND COMPANIES:

 LERISSA S. ROWE

CLIENT: ROWE
 BEARING BASIS: NORTHERLY R/W 1720 EAST BELMONT STREET S69°58'59" (D)
 TYPE OF SURVEY: BOUNDARY WITH IMPROVEMENTS

SOURCE OF INFORMATION:
 FIELD BOOK NO. 100
 CITY ATLAS #42, VARIOUS SURVEYS FROM
 FITZPATRICK & ASSOC. AND ROBERT HENSON
 FROM SURVEYS/PLANNING

GENERAL NOTES:
 1. Fence locations as drawn are not to scale.
 2. Jurisdiction (Wetlands) boundary lines not located unless otherwise noted.
 3. Footings, foundations, or any other subsurface structures were not located unless otherwise noted.
 4. All bearings and/or angles and distances are Deed and Actual unless otherwise noted: Deed = (D); Actual Field Measurement = (F); Plat = (P)
 5. All measurements were made in accordance with United States standards. The accuracy shown meet the standards required in the appropriate land area.
 6. No Title Search of the Public Records has been performed by this firm and lands shown hereon were not abstracted by this firm for ownership, easements, or right-of-ways. The parcel shown hereon may be subject to setbacks, easements, zoning, and restrictions that may be found in the Public Records of said County.

EMPIRE LAND SURVEYING, INC.
 PROFESSIONAL LAND SURVEYING • SERVING NORTHWEST FLORIDA
 8720 N. PALAFOX STREET, PENSACOLA, FLORIDA 32534
 PHONE: 850-477-3745 -- FAX: 850-477-3705
 LICENSED BUSINESS #6993, STATE OF FLORIDA

| REVISIONS | FIELD BOOK | DATE |
|-------------------------|--------------------------|----------|
| 6.) SEWER LINE EASEMENT | S/S DWG | 09/23/21 |
| ENCROACHMENTS: | STONE WALL, BRICK PAVERS | |

SURVEYORS CERTIFICATE
 I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN FLORIDA ADMINISTRATION CODE CHAPTER 5J-17.050, 5J-17.051 AND 5J-17.052, PURSUANT TO SECTION 472.027 FLORIDA STATUTES.
 SEPTEMBER 24, 2021 LELAND M. EMPIE, P.S.M.
 PROFESSIONAL SURVEYOR AND MAPPER, NO. 5766, STATE OF FLORIDA DATE

SCALE: 1" = 20'
 FIELD DATE: 02/22/05
 ORDER NO: 066-05-6
 FIELD BOOK: 66/28-29



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 40-21

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 40-21 - AMENDMENT TO THE LAND DEVELOPMENT CODE - REPEAL OF SECTION 12-3-65 - PARKING FOR CERTAIN USES PROHIBITED

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 40-21 on second reading.

AN ORDINANCE REPEALING SECTION 12-3-65 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA: PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On September 9, 2021 City Council referred to the Planning Board a proposed repeal of Section 12-3-65 - Parking for certain uses prohibited - of the Land Development Code. Currently within City code, there are two (2) duplicative sections; 11-2-24 and 12-3-65 - Parking for certain uses prohibited.

At the same meeting, City Council approved an ordinance on first reading that, upon adoption, will amend Section 11-2-24 of the City Code to add clarity to the language regulating "parking for certain uses". As the temporary parking of vehicles, and associated mobile activities is not related to zoning and is not the actual development of land, Chapter 11 "Traffic and Vehicles" is the more appropriate location for these requirements. In order to remove the duplicative language, and avoid creating conflict between the two Code sections, it is necessary to repeal Section 12-3-65.

On September 14, 2021 the Planning Board recommended approval of the amendment to the Land Development Code allowing for the repeal of Section 12-3-65 - Parking for certain uses prohibited - of the Land Development code at 6:0 vote.

PRIOR ACTION:

On October 14, 2021, City Council conducted a public hearing and voted to approve Proposed Ordinance No. 40-21 on first reading.

On September 9, 2021 - City Council referred to the Planning Board a proposed repeal of Section 12-3-65 - Parking for certain uses prohibited, for review and recommendation.

FUNDING:

N/A

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

9/14/2021

STAFF CONTACT:

Kerrith Fiddler, City Administrator

David Forte, Deputy City Administrator - Community Development

Sherry Morris, AICP, Planning Services Director

ATTACHMENTS:

- 1) Proposed Ordinance No. 40-21
- 2) Planning Board Minutes September 14, 2021 - DRAFT

PRESENTATION: No

PROPOSED
ORDINANCE NO. 40-21

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE REPEALING SECTION 12-3-65 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA: PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-3-65 of the Code of the City of Pensacola, Florida, is hereby repealed.

~~Sec. 12-3-65. Parking for certain uses prohibited.~~

~~No person shall park a vehicle upon any street, right-of-way, vacant lot or parking lot for the principal purpose of:~~

- ~~(1) — Displaying such vehicle for sale;~~
- ~~(2) — Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency;~~
- ~~(3) — Displaying advertising;~~
- ~~(4) — Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under the ordinances of this municipality; or~~
- ~~(5) — Storage for more than 24 hours.~~

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



MINUTES OF THE PLANNING BOARD

September 14, 2021

MEMBERS PRESENT: Chairperson Paul Ritz, Vice Chairperson Larson, Board Member Grundhoefer, Board Member Sampson, Board Member Van Hoose, Board Member Villegas

MEMBERS ABSENT: Board Member Powell

STAFF PRESENT: Assistant Planning Director Cannon, Historic Preservation Planner Harding, City Clerk Burnett, Assistant City Attorney Lindsay, Senior Planner Statler, Capital Improvements Forte, Assistant City Attorney Moore, Engineering Specialist Mauldin, Building Construction & Facilities McGuire, Code Enforcement Richards, Help Desk Technician Russo

STAFF VIRTUAL: Planning Director Morris

OTHERS PRESENT: Buddy Page, Mary Pierce, Jo MacDonald, Carol Ann Marshall, Quint Higdon, Nancy Wolfe, Tori Rutland

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from August 10, 2021.
- **New Business:**
- Repeal of Section 12-3-65 – Parking for Certain Uses Prohibited – of the Code of the City of Pensacola
- Request for Future Land Use and Zoning Map Amendment for 1717 N. Palafox Street
- Request for Non-Residential Parking in a Residential Zone - 518 Wynnehurst Street
- Request for Aesthetic Review - 900 S. Palafox St. – Plaza de Luna Repairs
- Amendment to the Land Development Code (LDC) – Table 12-3.9 - Regulations for the North Hill Preservation Zoning Districts - PR-2 Minimum Lot Size Requirements
- Discussion
- Adjournment

Call to Order / Quorum Present

Chairperson Ritz called the meeting to order at 2:05 pm with a quorum present. Board Member Sampson was sworn in by City Clerk Burnett. Chairperson Ritz then explained the procedures of the Board meeting including requirements for audience participation.

Approval of Meeting Minutes - Board Member Larson made a motion to approve the August 10, 2021 minutes, seconded by Board Member Villegas, and it carried 6 to 0.

New Business -

2. Repeal of Section 12-3-65 – Parking for Certain Uses Prohibited – of the Code of the City of Pensacola

Assistant Planning Director Cannon advised on September 9, 2021 City Council referred to the Planning Board the proposed repeal of Section 12-3-65 – Parking for Certain Uses Prohibited - of the Land Development Code (LDC). Currently, there are two duplicative sections in the Code, 11-2-24 and 12-3-65. At the same meeting, Council approved an ordinance on first reading which on adoption will amend Section 11-2-24 of the Code to add clarity to the language, regulating parking for certain uses. As the temporary parking of vehicles and associated mobile activities is not related to zoning and is not the actual development of land, Chapter 11 “Traffic and Vehicles” is the more appropriate location for these requirements. In order to remove the duplicative language, and avoid creating conflict between the two Code sections, it is necessary to repeal Section 12-3-65.

Chairperson Ritz confirmed this was strictly a removal of language with no text replacing it; Section 11 was intended to address the parking versus Section 12. He also clarified that the Board did not control Section 11, only Section 12, and Council would review the Board’s decision on removal of the language in Section 12. Assistant City Attorney Lindsay indicated it was determined by Council to keep the language in Section 11 and to ask Planning Board to remove the language from Section 12; the purpose of clarifying Section 11 was to interpret how it would be enforced. The State Legislature had determined the City was limited on how to enforce laws concerning food trucks, meaning that it could not say that no food truck could have any scope of operation whatsoever in the city. But we could have restrictions on where they could operate. However, before Section 11 could be modified, there would be two readings, and the second reading would not be on Council’s agenda until they received the recommendation from the Planning Board. Board Member Larson wanted to know the language of Section 11 before it was removed; the revised language was provided to the Board. Planning Director Morris explained Council was making sure there were not two Code sections which were duplicate and in conflict with each other. The new language would be in compliance with State Statutes and specify the area where food trucks would not be allowed to operate within the city.

Chairperson Ritz explained the Board could approve, modify, or deny as it deliberates. Planning Director Morris advised they were trying to be expedient in not impacting small businesses as they tried to continue to operate and navigate the Code requirements. She understood the Board was concerned with the modified language, but this Board did not have the authority to approve that language since it was outside of Section 12. (While the Board awaited the document with the modified language, it moved to the next item.)

The Board was provided additional materials which had been reviewed by Council. Board Member Villegas wanted to clarify that any amendment would specify usage of space for food trucks. Assistant City Attorney Moore stated they were trying to determine exclusion zones (a map was provided to indicate the exclusion zones). Board Member Grundhoefer asked if food trucks were allowed on every other street. Ms. Moore advised the language did not take away 11-2-24 (1) but it was similar to an ice cream truck. Board Member Larson asked about licensing for the ice cream truck versus food trucks, and Ms. Moore advised DBPR had the licensure, but she was not up to date on the ice cream truck designation. Last year, there was a change to the Florida State Statute where they pre-

empted to the State certain requirements regarding food trucks; they pre-empted to the State everything regarding permits, licensing, and any type of fee that any local government would charge for a food truck to operate within their jurisdiction; the City cannot require any additional permit license or fee, but the local government cannot completely prohibit food trucks from operating within our municipality. Restricting hours of operation or location was left up to the local government. Regarding unlicensed food truck operators, it is a second-degree misdemeanor to operate something where food is cooked, served, and sold. Board Member Larson wanted to make sure there was an enforceable action to someone selling burritos out of the trunk of their car. Ms. Moore then read the State Statute 509.102 for the definition of a mobile food truck which did not cover someone selling from their car; additional requirements and the second-degree misdemeanor was located in 509.251 (license fees) and 509.241 (licenses required and exceptions). Staff advised what prompted this amendment was a code enforcement issue brought to us for equipment as it stands now. Board Member Grundhoefer asked who determined where food trucks could operate. Ms. Moore advised the ordinances as they exist make it difficult to enforce and also make it difficult for any business to interpret what they can or cannot do or can or cannot be. There was no definition to determine a “duly established marketplace” and there was nothing in the original language to indicate “when so authorized” and “licensed under the ordinances of this municipality” was pre-empted by the laws passed last year. This criteria was drafted at the request of Council.

Assistant City Attorney Lindsay stated the Board was being asked to recommend an action, so if the Board voted yes this should be repealed, it would not be repealed on that action and would still be on the books; it would not create a vacuum because it would not be repealed except in the context of Chapter 11 being modified. The Board could suggest it had reservations about repealing 12-3-65 because of certain concerns and could ask Council to consider those concerns. Board Member Grundhoefer proposed eliminating 12-3-65 since it was a duplicate, but the Board should make a recommendation that food trucks not be allowed in residential districts but allowed in other districts and see what happens over the next 3 to 5 years.

Board Member Grundhoefer made a motion to delete Section 12-3-65 and accept the language proposed in 11-2-24 but to also include some language that would restrict food trucks in residential areas. Board Member Villegas stated she would say restriction in residential areas outside of certain operating hours since there are a lot of neighborhoods that welcome food trucks. She asked if the language was concerning merchandise or specifically addressing food trucks. Ms. Moore stated the amendment was written to address selling merchandise which included food and beverage. Chairperson Ritz agreed with removing the duplicate language. **The motion was seconded by Board Member Larson.** Board Member Villegas asked for clarification in inviting food trucks to set up at a neighborhood event in a city park, and staff advised those requests go through a special event process with Parks and Recreation. Planning Director Morris advised there was an entirely separate section of the Code which grants to the director of that department authority over city parks so anyone invited would be allowed to operate. Board Member Van Hoose agreed that food trucks should not be prohibited if some of the residents wanted them. **The motion then carried 6 to 0.**

(Proposed Ordinance 38-21 – Amending Section 11-2-24 attached to last page.)

3. Request for Future Land Use and Zoning Map Amendment for 1717 N. Palafox Street

Olde City Developers, LLC is requesting a Zoning Map and Future Land Use Map Amendment for the westerly portion of the property located at 1717 N. Palafox Street. The property is currently zoned R-1AAA Low-Density Residential Zoning District. The applicant is proposing to amend the zoning district to R-1A Medium-Density Residential Zoning District. Chairperson Ritz explained if approved, the item would proceed to Council. The Board was to evaluate if this change was an appropriate use for this property.

Mr. Page presented to the Board and stated the project currently contained eight lots but began as seven lots. Staff indicated that if the eighth lot was left in the current zoning, it would not be a transition since it would move from commercial to residential of a certain density and then residential further to the west with greater density. The owner purchased the additional lot to be an acceptable transition from R1-A and across the street to the west would be R-1AAA. The buyer indicated the style would be 1930-1940 Craftsman homes. Chairperson Ritz clarified the applicant was proposing this change, acting as a transitional zone from the commercial to lower density residential.

Ms. MacDonald, President of the North Hill Preservation Association, explained even though this address was not in the historical portion, it was still in North Hill and a matter of concern to the residents. They were concerned with the vacant lot at Baylen and Mallory zoned R-1AAA being rezoned as R-1A; doing so would mean a reduction in the minimum lot width at building setback from 75' to only 30' and the survey indicated five 30' lots fronting Baylen. Across the street on Baylen, there were only two homes in the same portion of the block; there were only four houses on the western side, and three on the eastern side. With the addition of the five homes, it would total eight in a single block. The 30' width encouraged the development of row houses and an increase to on-street parking. Having parking on both sides of the street would virtually block thru traffic on Baylen, and North Hill asked that the request be denied.

Ms. Pierce advised she walked dogs there twice daily and asked the Board to not allow that many houses in this area.

Ms. Wolfe asked that the Board consider if this type of development really belonged on that block. There were parking considerations, space problems, and North Hill was not downtown.

Ms. Rutland stated children and dogs were outside a lot and agreed that the number of houses being proposed would present a parking problem since parking was already tight along that block. She also hated to see row houses developed in that neighborhood.

Mr. Page explained each unit would have a garage with parking in front to accommodate two vehicles. He also stated the homes would be the Aragon style, and the transition from higher to lower density would fit in very well.

Chairperson Ritz explained the Board was not approving building style or even the number of houses but whether to approve the zoning change and if that was an appropriate designation. Board Member Van Hoose asked if there was a requirement to transition. Mr. Page pointed out that transitional zoning was considered good planning practices; transitional zoning steps down from commercial. Assistant Planning Director Cannon explained transitional zoning was not a requirement, but it was required to go before the Board to consider the overall reasoning. Board Member Villegas suggested the surrounding area didn't mirror the request. She agreed it was everyone's prerogative to park on the street, but it was congested which was a concern for the surrounding area. She thought it would be a good infill move if it was located on Palafox, but this did not allow for the surrounding area to be reflected in the development; it might be excessive

on the Baylen side, and density wise, low density residential made more sense. Board Member Grundhoefer thought transitional zoning was appropriate since there was medium density further south. Chairperson Ritz pointed out smaller lots on Cervantes and Palafox, but Board Member Villegas advised that was commercial and south of Cervantes was PR-2.

Board Member Grundhoefer made a motion to approve, seconded by Chairperson Ritz. With no further discussion, the motion failed 4 to 2 with Board Members Larson, Sampson, Van Hoose and Villegas dissenting.

4. Request for Non-Residential Parking in a Residential Zone - 518 Wynnehurst Street

C.R. Quint Higdon is requesting the use of non-residential parking in a residential zone for the property located at 518 Wynnehurst Street which is zoned R-1AAA. If the request is approved, the subject parcel would serve as an accessory use to the future medical office building at 4304 Davis Hwy which is zoned C-3. Staff presented the six criteria that accompany this particular section of the Code. It was noted that when you have different uses between zoning districts, a 10' buffer is required by the City Land Development Code between those two uses, so you would be required to have that buffer on the backside of that parking lot.

Mr. Higdon presented to the Board and asked for the parking for a new office. Board Member Grundhoefer questioned Mr. Fitzpatrick on the opportunity for a 10' vegetative buffer, and Mr. Fitzpatrick advised there would be no problem with the buffer. Board Member Grundhoefer asked about a deed restriction to always have a retention pond and not a parking lot, and staff advised that would be something the applicant would volunteer to do; the Board was determining the use as a parking lot in the residential zone. If the building was vacant for 180 days, the permission would go away. It was determined the applicants needed one parking spot for 200 sq. ft. which totaled 52 parking spaces. Chairperson Ritz explained this item would not proceed to Council.

Board Member Larson made a motion to approve, seconded by Board Member Sampson. Board Member Villegas asked for clarification if those spaces included one per employee. Staff advised the Code did not distinguish between employees and clientele but gave a perspective per square feet for use. **The motion carried 6 to 0. Board Member Grundhoefer wanted to add the 10' buffer to the motion. The Board voted again to approve 6 to 0.**

5. Request for Aesthetic Review - 900 S. Palafox St. – Plaza de Luna Repairs

Plaza de Luna is located at 900 S. Palafox Street within the Waterfront Redevelopment District - WRD. This site experienced major damage from Hurricane Sally in September 2020. The damage to the park features included sidewalks, handrails, lighting, splash pad equipment and other minor features. The proposed improvements will replace the damaged features with the same or similar material. The City proposes to relocate the underground splash pad equipment to a new pump house building located adjacent to the DeLuna Café for better protection from future storms. The pump building will be approximately 11' X 17' and shall have similar brick as the adjacent café.

Chairperson Ritz pointed out the drawing did not portray the brick matching the DeLuna Café; it was a blank brick wall when the café had more brick detail and patterning, and he did not feel this was appropriate. He also pointed out this was taxpayer funded. Staff clarified this item would not proceed to Council.

Mr. McGuire, in charge of FEMA projects for the city, stated this was a pump building but understood what the Board was saying, but he asked that the Board indicate what they preferred, and they would build it. Chairperson Ritz explained it could return for an abbreviated review for expediency purposes. Board Member Grundhoefer explained there was a louver on the façade of the snack bar with a precast lintel which could be repeated on the west and south sides which were the most prominent; the herringbone pattern could be placed below and would tie it to the snack bar. Also, the snack bar roof sloped to the east, and this building could also slope to the east. He pointed out you do not see the roof form on the prominent side. The downspouts could be placed on either side of the door, and matching the height of the snack bar would tie it in better. Also, placing the building so that the fronts line up would make it look like part of the snack bar. Mr. McGuire pointed out it cost \$100,000 to repair the pumps each time it floods, so bringing the equipment out of the ground would save in expenses. Board Member Van Hoose asked if the building could be attached, and Mr. McGuire stated nice sod and a picnic table would go between the buildings. Board Member Grundhoefer suggested they pull it as close as possible to the other building. Mr. Morgan of Mott McDonald advised there was a shower on the snack bar wall which was part of the splash pad requirements, and they needed room for the walk-thru to other facilities. Board Member Grundhoefer asked that they make it look like one building. Chairperson Ritz explained Board Member Grundhoefer could perform the abbreviated review, return it to staff, and staff would forward it to Chairperson Ritz for review and then send it to the applicant.

Board Member Grundhoefer made a motion for approval with architectural modifications to the pump house which allow it to blend in with the snack shop, designating himself as the first line review for the abbreviated review process. Staff advised that Board Member Grundhoefer as a reviewer could have direct contact with the applicant. **Board Member Villegas seconded the motion.** For FEMA approval, Mr. McGuire advised the other elements would go back in the same footprint. **The motion then carried 6 to 0.**

6. Amendment to the Land Development Code (LDC) – Table 12-3.9 – Regulations for the North Hill Preservation Zoning Districts – PR-2 Minimum Lot Size Requirements

On June 8, 2021 and August 12, 2021 the Planning Board and City Council respectively suggested that City staff amend the PR-2, North Hill Preservation multiple-family zoning district, to better align with criteria designed for transitional zoning districts. Subsequently, the Mayor directed staff to initiate the process for approval of the requested amendment. Currently the PR-1AAA, single-family district, and PR-2, multiple-family district, contain similar building standards and the same minimum lot size requirements. At present the main differences between these zoning districts are the types of uses that are allowed by right and the minimum building setbacks for the front and side yards. In order to allow for the PR-2 district to function as a transitional zoning district between the North Hill single-family and commercial districts, the proposed amendment will allow for a smaller minimum lot width and lot area. Table 12-3.9 *Regulations for The North Hill Preservation Zoning Districts* (attached) contains the current applicable lot and building standards.

The proposed amendment would be limited to Table 12-3.9 and does not include any changes to the types of allowed uses or to the required setbacks in the PR-2 zoning district. The following changes are proposed:

- Minimum Lot Area for Residential Uses: Currently - 9,000 SF

Proposed - 5,000 SF

- Minimum Lot Width at Building Setback Line: Currently - 75 feet
Proposed - 50 feet

Staff explained this was just for the North Hill Preservation District which has three zoning categories – PR-1AAA, PR-2, and PC-1. This action would decrease non-conformities with the lots. Historic Preservation Planner Harding stated the PR-2 (formerly R-2) was established when North Hill was established, possibly mid-70s.

Ms. MacDonald advised over a series of meetings with Mr. Beck and the neighborhood, they discussed alternatives and proposed a compromised solution to rezone the property to an amended version of PR-2 that would reduce the minimum lot area for residential uses from 9,000 sq. ft. to 5,000 sq. ft. and the lot width setback from 75' to 50'. They then polled the neighborhood to see if they could support the pursuit of this proposed change; the 104 respondents voted overwhelmingly in support of PR-2 with these proposed changes - 87% voting for with 12.5% voting against. She voiced this support at the Council meeting and repeated that support today. Although there might be residents against this proposed zoning amendment, she stated the majority of residents who cared enough to vote, voted for it.

Chairperson Ritz appreciated the numbers and percentages and that level of input from the citizens which helped the Board with its decision.

Ms. Marshall advised her home faced the P.K. Yonge property. She explained the neighbors felt any changes made to PR-2 should be decided on the value of the entire North Hill community. The consequences and impact should be evaluated and related to the existing PR-2 zones in the North Hill District. They offered 1) keeping PR-2 as it is since some of the neighbors object to the change relating to their property, and 2) designing special waivers with input from the immediate neighbors while achieving the owners' value of their interest when they sell their property. She pointed out their neighbor, Mr. Mead, had suggested there might be an interesting zone change for block 168. They felt the best suggestion was for an entirely special zone for block 168 which would include the needs of her new neighbor and people of North Hill.

Chairperson Ritz explained this item was at the request of Council, and this request whether accepted, rejected, or modified dealt with all of PR-2 and not one particular piece of property nor a specific development. This request would then proceed to Council.

Mr. Beck appreciated the staff, residents, and the North Hill Preservation Association. The discussion was generated through the consideration of a specific piece of property, and he was in full support of the transition zoning from the very loose PC-1 relating to single-family lots to PR-1AAA; he felt it was a nice compromise and allowed for a 50' lot as opposed to the very narrow 30' lots which would occur under PC-1.

Board Member Larson made a motion to approve the suggested change and felt Council did a good service for bringing it back to the Board after the Board wrestled with the decision after listening to North Hill; we needed a transition between some of the old to the new and this was a good option; it was seconded by Board Member Grundhoefer. Board Member Villegas wanted to understand why there could not be some sort of variation on the PR-2 to address this particular property considering almost half of the North Hill District is PR-2 - possibly a PR-2A. Chairperson Ritz advised this would be creating a zoning district which equates to half a block of property. Assistant City Attorney Lindsay explained contract zoning or spot zoning was not legal, so the decision should not be made on whether to do this based on use but made on zoning considerations broadly. Board Member Grundhoefer pointed out 87% support for this

was unusual, but if the North Hill Preservation Board supported it, it would be a good thing. **The motion then carried 6 to 0.**

Open Forum – None.

Discussion – None.

Adjournment – With no further business, the Board adjourned at 3:58 p.m.

Respectfully Submitted,

Cynthia Cannon, AICP
Assistant Planning Director
Secretary to the Board



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 38-21

City Council

9/9/2021

ADD-ON LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Casey Jones

SUBJECT:

PROPOSED ORDINANCE NO. 38-21 - AMENDING SECTION 11-2-24 - PARKING FOR CERTAIN USES PROHIBITED OF THE CODE OF THE CITY OF PENSACOLA

RECOMMENDATION:

That City Council approve Proposed Ordinance No. 38-21 on first reading:

AN ORDINANCE AMENDING SECTION 11-2-24 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE

HEARING REQUIRED: No Hearing Required

SUMMARY:

Within the City Code, two sections exist; Section 11-2-24 - Parking for certain uses prohibited and Section 12-3-65 - Parking for certain uses prohibited. These two sections are duplicative.

An amendment to Section 11-2-24 would provide guidance related to the current food truck issue by setting boundaries for their prohibited placement in certain areas.

The proposed amendment to Section 11-2-24 would do the following:

1. Adding the language pertaining to public or private as it pertains to vacant lot or parking lot
2. Removes the selling of merchandise language
3. Establishes boundaries for the parking of vehicles for the principal purpose of selling merchandise from such vehicle

PRIOR ACTION:

April 13, 2006 - City Council amended Section 11-2-24 of the City Code via Ordinance No. 11-06

February 9, 2006 - City Council amended Section 12-3-65 (at that time listed as Section 12-2-42) of the City Code via Ordinance No. 04-06

FUNDING:

File #: 38-21

City Council

9/9/2021

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) City Attorney's Office Opinion 20-01
- 2) Proposed Ordinance No. 38-21 - Amendment to Section 11-2-24
- 3) Map of proposed amendment to Section 11-2-24

PRESENTATION: No

PROPOSED
ORDINANCE NO. 38-21

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 11-2-24 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 11-2-24 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 11-2-24. Parking for certain uses prohibited.

(1) No person shall park a vehicle upon any street, right-of-way, public vacant lot or public parking lot for the principal purpose of:

1(a) Displaying such vehicle for sale;

2)(b) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency;

3(c) Displaying advertising;

~~(4) Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under the ordinances of this municipality; or~~

5(d) Storage for more than 24 hours.

(2.) No person shall park a vehicle upon any street, right-of-way, public vacant lot, or in any public parking space that is located in the area between the eastern right-of-way line of Tarragona Street and western right-of-way line of Baylen Street and between the southern right -of- way line of Garden Street and the southern right -of -way line of Main Street for the principal purpose of selling merchandise, including food and beverage, from such vehicle with the exception of during the hours of Gallery Night and other special events or specified times as approved by the Mayor or Mayor's designee.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

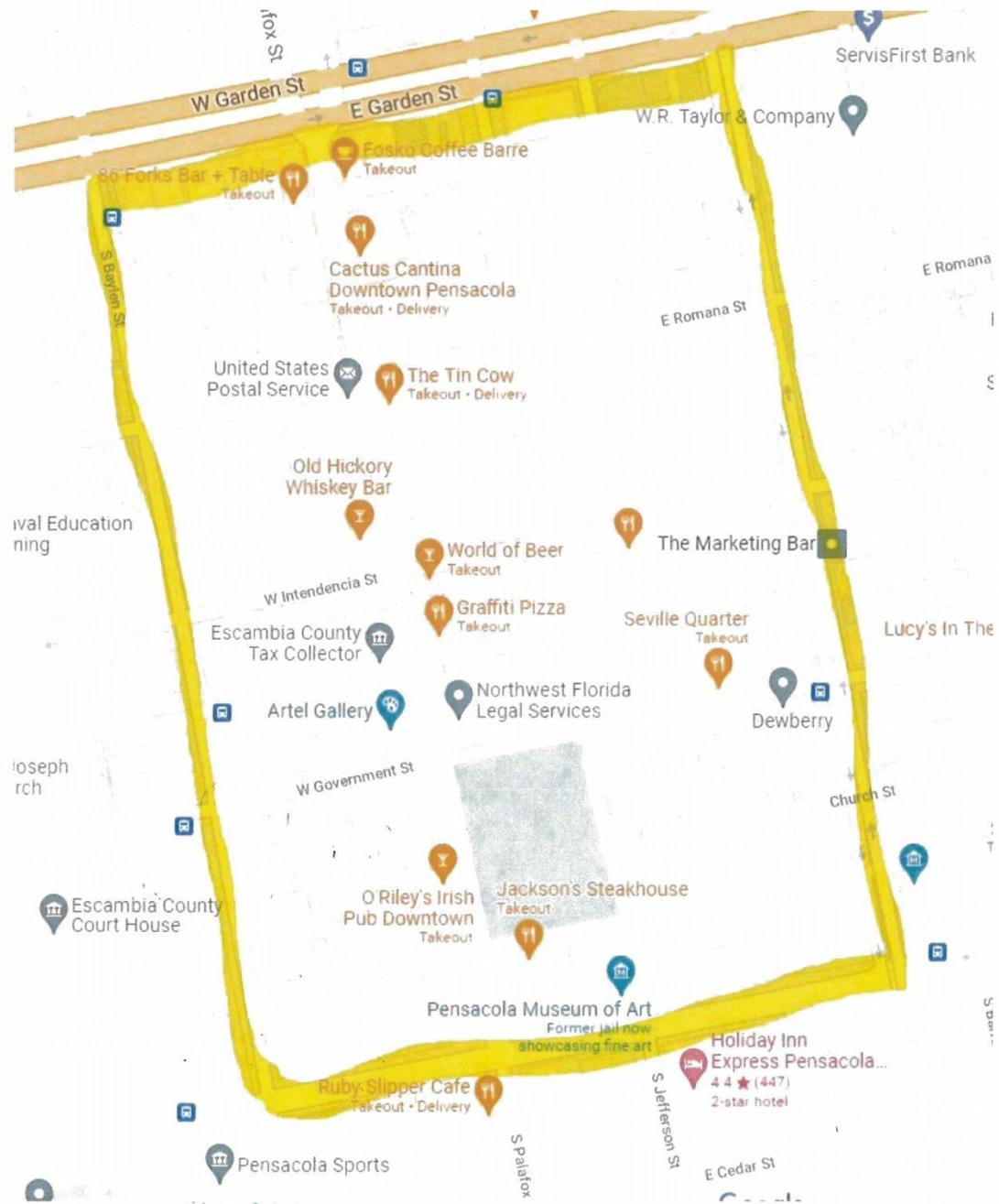
SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



CITY CLERKS OFFICE - LEGAL ADS
 222 W MAIN ST

PENSACOLA, FL 32502

Published Daily-Pensacola, Escambia County, FL

PROOF OF PUBLICATION

State of Florida
 County of Escambia:

Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Advertising Representative of the Pensacola News Journal, a daily newspaper published in Escambia County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

NOTICE OF PROPOSED ORDINA

as published in said newspaper in the issue(s) dated:

10/18/21

Affiant further says that the said Pensacola News Journal is a newspaper in said Escambia County, Florida and that the said newspaper has heretofore been continuously published in said Escambia County, Florida, and has been entered as second class matter at the Post Office in said Escambia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 18th of October 2021, by legal clerk who is personally known to me

[Signature]
 Affiant

[Signature]
 Notary Public State of Wisconsin, County of Brown

5.15.23

My commission expires

of Affidavits 1

Publication Cost: \$288.90

Ad No: 0004954120

Customer No: PNJ-25615500

This is not an invoice

NANCY HEYRMAN
 Notary Public
 State of Wisconsin

NOTICE OF PROPOSED ORDINANCES

Please be advised that Proposed Ordinance Nos. 40-21 and 41-21 were presented to the City Council of the City of Pensacola for first reading on Thursday, October 14, 2021 and will be presented for final reading and adoption on Thursday, October 28, 2021 at 5:30 p.m., in Council Chambers on the first floor of City Hall, 222 West Main Street, Pensacola, Florida.

Members of the public may attend the meeting in person. City Council encourages those not fully vaccinated to wear face coverings that cover their nose and mouth.

Members of the public may also attend and participate or via live stream and/or phone as follows: To watch the meeting live visit: cityofpensacola.com/428/Live-Meeting-Video.

To provide input:

*For Leroy Boyd Forum, for items not on the agenda: citizens may submit an online form here <https://www.cityofpensacola.com/cinput> beginning at 3:00 P.M. until 5:30 P.M. only to indicate they wish to speak during Leroy Boyd Forum and include a phone number. Staff will call the person at the appropriate time so the citizen can directly address the City Council using a telephone held up to a microphone.

*For agenda items, proposed ordinance items: citizens may submit an online form here <https://www.cityofpensacola.com/cinput> beginning at 3:00 P.M. until that agenda item has been voted upon to indicate they wish to speak to a specific item on the agenda and include a phone number. Staff will call the person at the appropriate time so the citizen can directly address the City Council using a telephone held up to a microphone. Any form received after an agenda item has been voted upon will not be considered.

The title(s) of the proposed ordinance(s) are as follows:

P.O. #40-21:
 AN ORDINANCE REPEALING SECTION 12-3-65 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

P.O. #41-21:
 AN ORDINANCE AMENDING TABLE 12-3.9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

A copy of proposed ordinances may be inspected by the public by calling the City Clerk's office to request a copy, or on-line with the agenda package on the City's website: <https://pensacola.legistar.com/Calendar.aspx>. Interested parties may be physically present at the meeting to participate (as indicated above) or may attend and participate via live stream and/or phone as (as indicated above) and be heard with respect to the proposed ordinances.

If any person decides to appeal any decision made with respect to any matter considered at this meeting or public hearing, such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and any evidence upon which the appeal is to be based.

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to city services, programs, and activities. Please call 435-1605 (or TDD 435-1665) for further information. Requests must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.

CITY OF PENSACOLA, FLORIDA
 By: Ericka L. Burnett, City Clerk

Visit www.cityofpensacola.com to learn more about City activities. Council agendas posted on-line before meetings.

Legal No. 4354120 11 October 18, 2021



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 41-21

City Council

10/28/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 41-21 - AMENDMENT TO THE LAND DEVELOPMENT CODE - TABLE 12-3.9 - REGULATIONS FOR THE NORTH HILL PRESERVATION DISTRICTS - PR-2 MINIMUM LOT SIZE REQUIREMENTS

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 41-21 on second reading:

AN ORDINANCE AMENDING TABLE 12-3.9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On June 8, 2021 and August 12, 2021 the Planning Board and City Council respectively discussed the possibility of amending the PR-2, North Hill Preservation multiple-family zoning district to better align with criteria designed for transitional zoning districts. Subsequently the Mayor directed staff to initiate the process for approval of the amendment.

Currently the PR-1AAA, single family district, and PR-2, multiple-family district contain similar building standards, and the same minimum lot size requirements. At present the main differences between these zoning districts are the types of uses that are allowed by right and the minimum building setbacks for the front and side yards. In order to allow for the PR-2 district to function as a transitional zoning district between the North Hill single family and commercial districts, the proposed amendment will allow for a smaller minimum lot width and lot area. Table 12-3.9 *Regulations For The North Hill Preservation Zoning Districts* (attached) contains the current applicable lot and building standards.

The proposed amendment would be limited to Table 12-3.9 and do not include any changes to the types of allowed uses or to the required setbacks in the PR-2 zoning district.

PROPOSED
ORDINANCE NO. 41-21

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING TABLE 12-3.9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Table 12-3.9 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

TABLE 12-3.9. REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICTS

| Standards | PR-1AAA | PR-2 | PC-1 |
|--|-------------------------------|--|---|
| Minimum Yard Requirement (Minimum Building Setbacks) Front Yard Side Yard Rear Yard> | *30 feet 9 feet 25 feet | *15 feet 7.5 feet 25 feet | None 5 feet (for dwellings or wood frame structures only) 15 feet |
| Minimum Lot Area for Residential Uses | 9,000 s.f. | <u>5,000</u> 9,000 s.f. for single-family and 10,000 s.f. for multifamily | None |
| Minimum Lot Width at Street Row Line | 50 feet | 50 feet | None |
| Minimum Lot Width at Building Setback Line | 75 feet | <u>50</u> 75 feet | None |
| Maximum Building Height (Except as Provided in Section 12-3-62) | 35 feet | 35 feet | 45 feet |
| Minimum Floor Area | N/A | 600 s.f. per dwelling unit for multifamily | None |
| *Front yard depths in the North Hill Preservation zoning district shall not be less than the average depths of the front yards located on the block, up to the minimum yard requirement; in case there are no other dwellings, the front yard depths shall be no less than the footages noted. | | | |

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



MINUTES OF THE PLANNING BOARD

September 14, 2021

MEMBERS PRESENT: Chairperson Paul Ritz, Vice Chairperson Larson, Board Member Grundhoefer, Board Member Sampson, Board Member Van Hoose, Board Member Villegas

MEMBERS ABSENT: Board Member Powell

STAFF PRESENT: Assistant Planning Director Cannon, Historic Preservation Planner Harding, City Clerk Burnett, Assistant City Attorney Lindsay, Senior Planner Statler, Capital Improvements Forte, Assistant City Attorney Moore, Engineering Specialist Mauldin, Building Construction & Facilities McGuire, Code Enforcement Richards, Help Desk Technician Russo

STAFF VIRTUAL: Planning Director Morris

OTHERS PRESENT: Buddy Page, Mary Pierce, Jo MacDonald, Carol Ann Marshall, Quint Higdon, Nancy Wolfe, Tori Rutland

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from August 10, 2021.
- **New Business:**
- Repeal of Section 12-3-65 – Parking for Certain Uses Prohibited – of the Code of the City of Pensacola
- Request for Future Land Use and Zoning Map Amendment for 1717 N. Palafox Street
- Request for Non-Residential Parking in a Residential Zone - 518 Wynnehurst Street
- Request for Aesthetic Review - 900 S. Palafox St. – Plaza de Luna Repairs
- Amendment to the Land Development Code (LDC) – Table 12-3.9 - Regulations for the North Hill Preservation Zoning Districts - PR-2 Minimum Lot Size Requirements
- Discussion
- Adjournment

Call to Order / Quorum Present

Chairperson Ritz called the meeting to order at 2:05 pm with a quorum present. Board Member Sampson was sworn in by City Clerk Burnett. Chairperson Ritz then explained the procedures of the Board meeting including requirements for audience participation.

Approval of Meeting Minutes - Board Member Larson made a motion to approve the August 10, 2021 minutes, seconded by Board Member Villegas, and it carried 6 to 0.

New Business -

2. Repeal of Section 12-3-65 – Parking for Certain Uses Prohibited – of the Code of the City of Pensacola

Assistant Planning Director Cannon advised on September 9, 2021 City Council referred to the Planning Board the proposed repeal of Section 12-3-65 – Parking for Certain Uses Prohibited - of the Land Development Code (LDC). Currently, there are two duplicative sections in the Code, 11-2-24 and 12-3-65. At the same meeting, Council approved an ordinance on first reading which on adoption will amend Section 11-2-24 of the Code to add clarity to the language, regulating parking for certain uses. As the temporary parking of vehicles and associated mobile activities is not related to zoning and is not the actual development of land, Chapter 11 “Traffic and Vehicles” is the more appropriate location for these requirements. In order to remove the duplicative language, and avoid creating conflict between the two Code sections, it is necessary to repeal Section 12-3-65.

Chairperson Ritz confirmed this was strictly a removal of language with no text replacing it; Section 11 was intended to address the parking versus Section 12. He also clarified that the Board did not control Section 11, only Section 12, and Council would review the Board’s decision on removal of the language in Section 12. Assistant City Attorney Lindsay indicated it was determined by Council to keep the language in Section 11 and to ask Planning Board to remove the language from Section 12; the purpose of clarifying Section 11 was to interpret how it would be enforced. The State Legislature had determined the City was limited on how to enforce laws concerning food trucks, meaning that it could not say that no food truck could have any scope of operation whatsoever in the city. But we could have restrictions on where they could operate. However, before Section 11 could be modified, there would be two readings, and the second reading would not be on Council’s agenda until they received the recommendation from the Planning Board. Board Member Larson wanted to know the language of Section 11 before it was removed; the revised language was provided to the Board. Planning Director Morris explained Council was making sure there were not two Code sections which were duplicate and in conflict with each other. The new language would be in compliance with State Statutes and specify the area where food trucks would not be allowed to operate within the city.

Chairperson Ritz explained the Board could approve, modify, or deny as it deliberates. Planning Director Morris advised they were trying to be expedient in not impacting small businesses as they tried to continue to operate and navigate the Code requirements. She understood the Board was concerned with the modified language, but this Board did not have the authority to approve that language since it was outside of Section 12. (While the Board awaited the document with the modified language, it moved to the next item.)

The Board was provided additional materials which had been reviewed by Council. Board Member Villegas wanted to clarify that any amendment would specify usage of space for food trucks. Assistant City Attorney Moore stated they were trying to determine exclusion zones (a map was provided to indicate the exclusion zones). Board Member Grundhoefer asked if food trucks were allowed on every other street. Ms. Moore advised the language did not take away 11-2-24 (1) but it was similar to an ice cream truck. Board Member Larson asked about licensing for the ice cream truck versus food trucks, and Ms. Moore advised DBPR had the licensure, but she was not up to date on the ice cream truck designation. Last year, there was a change to the Florida State Statute where they pre-

empted to the State certain requirements regarding food trucks; they pre-empted to the State everything regarding permits, licensing, and any type of fee that any local government would charge for a food truck to operate within their jurisdiction; the City cannot require any additional permit license or fee, but the local government cannot completely prohibit food trucks from operating within our municipality. Restricting hours of operation or location was left up to the local government. Regarding unlicensed food truck operators, it is a second-degree misdemeanor to operate something where food is cooked, served, and sold. Board Member Larson wanted to make sure there was an enforceable action to someone selling burritos out of the trunk of their car. Ms. Moore then read the State Statute 509.102 for the definition of a mobile food truck which did not cover someone selling from their car; additional requirements and the second-degree misdemeanor was located in 509.251 (license fees) and 509.241 (licenses required and exceptions). Staff advised what prompted this amendment was a code enforcement issue brought to us for equipment as it stands now. Board Member Grundhoefer asked who determined where food trucks could operate. Ms. Moore advised the ordinances as they exist make it difficult to enforce and also make it difficult for any business to interpret what they can or cannot do or can or cannot be. There was no definition to determine a “duly established marketplace” and there was nothing in the original language to indicate “when so authorized” and “licensed under the ordinances of this municipality” was pre-empted by the laws passed last year. This criteria was drafted at the request of Council.

Assistant City Attorney Lindsay stated the Board was being asked to recommend an action, so if the Board voted yes this should be repealed, it would not be repealed on that action and would still be on the books; it would not create a vacuum because it would not be repealed except in the context of Chapter 11 being modified. The Board could suggest it had reservations about repealing 12-3-65 because of certain concerns and could ask Council to consider those concerns. Board Member Grundhoefer proposed eliminating 12-3-65 since it was a duplicate, but the Board should make a recommendation that food trucks not be allowed in residential districts but allowed in other districts and see what happens over the next 3 to 5 years.

Board Member Grundhoefer made a motion to delete Section 12-3-65 and accept the language proposed in 11-2-24 but to also include some language that would restrict food trucks in residential areas. Board Member Villegas stated she would say restriction in residential areas outside of certain operating hours since there are a lot of neighborhoods that welcome food trucks. She asked if the language was concerning merchandise or specifically addressing food trucks. Ms. Moore stated the amendment was written to address selling merchandise which included food and beverage. Chairperson Ritz agreed with removing the duplicate language. **The motion was seconded by Board Member Larson.** Board Member Villegas asked for clarification in inviting food trucks to set up at a neighborhood event in a city park, and staff advised those requests go through a special event process with Parks and Recreation. Planning Director Morris advised there was an entirely separate section of the Code which grants to the director of that department authority over city parks so anyone invited would be allowed to operate. Board Member Van Hoose agreed that food trucks should not be prohibited if some of the residents wanted them. **The motion then carried 6 to 0.**

(Proposed Ordinance 38-21 – Amending Section 11-2-24 attached to last page.)

3. Request for Future Land Use and Zoning Map Amendment for 1717 N. Palafox Street

Olde City Developers, LLC is requesting a Zoning Map and Future Land Use Map Amendment for the westerly portion of the property located at 1717 N. Palafox Street. The property is currently zoned R-1AAA Low-Density Residential Zoning District. The applicant is proposing to amend the zoning district to R-1A Medium-Density Residential Zoning District. Chairperson Ritz explained if approved, the item would proceed to Council. The Board was to evaluate if this change was an appropriate use for this property.

Mr. Page presented to the Board and stated the project currently contained eight lots but began as seven lots. Staff indicated that if the eighth lot was left in the current zoning, it would not be a transition since it would move from commercial to residential of a certain density and then residential further to the west with greater density. The owner purchased the additional lot to be an acceptable transition from R1-A and across the street to the west would be R-1AAA. The buyer indicated the style would be 1930-1940 Craftsman homes. Chairperson Ritz clarified the applicant was proposing this change, acting as a transitional zone from the commercial to lower density residential.

Ms. MacDonald, President of the North Hill Preservation Association, explained even though this address was not in the historical portion, it was still in North Hill and a matter of concern to the residents. They were concerned with the vacant lot at Baylen and Mallory zoned R-1AAA being rezoned as R-1A; doing so would mean a reduction in the minimum lot width at building setback from 75' to only 30' and the survey indicated five 30' lots fronting Baylen. Across the street on Baylen, there were only two homes in the same portion of the block; there were only four houses on the western side, and three on the eastern side. With the addition of the five homes, it would total eight in a single block. The 30' width encouraged the development of row houses and an increase to on-street parking. Having parking on both sides of the street would virtually block thru traffic on Baylen, and North Hill asked that the request be denied.

Ms. Pierce advised she walked dogs there twice daily and asked the Board to not allow that many houses in this area.

Ms. Wolfe asked that the Board consider if this type of development really belonged on that block. There were parking considerations, space problems, and North Hill was not downtown.

Ms. Rutland stated children and dogs were outside a lot and agreed that the number of houses being proposed would present a parking problem since parking was already tight along that block. She also hated to see row houses developed in that neighborhood.

Mr. Page explained each unit would have a garage with parking in front to accommodate two vehicles. He also stated the homes would be the Aragon style, and the transition from higher to lower density would fit in very well.

Chairperson Ritz explained the Board was not approving building style or even the number of houses but whether to approve the zoning change and if that was an appropriate designation. Board Member Van Hoose asked if there was a requirement to transition. Mr. Page pointed out that transitional zoning was considered good planning practices; transitional zoning steps down from commercial. Assistant Planning Director Cannon explained transitional zoning was not a requirement, but it was required to go before the Board to consider the overall reasoning. Board Member Villegas suggested the surrounding area didn't mirror the request. She agreed it was everyone's prerogative to park on the street, but it was congested which was a concern for the surrounding area. She thought it would be a good infill move if it was located on Palafox, but this did not allow for the surrounding area to be reflected in the development; it might be excessive

on the Baylen side, and density wise, low density residential made more sense. Board Member Grundhoefer thought transitional zoning was appropriate since there was medium density further south. Chairperson Ritz pointed out smaller lots on Cervantes and Palafox, but Board Member Villegas advised that was commercial and south of Cervantes was PR-2.

Board Member Grundhoefer made a motion to approve, seconded by Chairperson Ritz. With no further discussion, the motion failed 4 to 2 with Board Members Larson, Sampson, Van Hoose and Villegas dissenting.

4. Request for Non-Residential Parking in a Residential Zone - 518 Wynnehurst Street

C.R. Quint Higdon is requesting the use of non-residential parking in a residential zone for the property located at 518 Wynnehurst Street which is zoned R-1AAA. If the request is approved, the subject parcel would serve as an accessory use to the future medical office building at 4304 Davis Hwy which is zoned C-3. Staff presented the six criteria that accompany this particular section of the Code. It was noted that when you have different uses between zoning districts, a 10' buffer is required by the City Land Development Code between those two uses, so you would be required to have that buffer on the backside of that parking lot.

Mr. Higdon presented to the Board and asked for the parking for a new office. Board Member Grundhoefer questioned Mr. Fitzpatrick on the opportunity for a 10' vegetative buffer, and Mr. Fitzpatrick advised there would be no problem with the buffer. Board Member Grundhoefer asked about a deed restriction to always have a retention pond and not a parking lot, and staff advised that would be something the applicant would volunteer to do; the Board was determining the use as a parking lot in the residential zone. If the building was vacant for 180 days, the permission would go away. It was determined the applicants needed one parking spot for 200 sq. ft. which totaled 52 parking spaces. Chairperson Ritz explained this item would not proceed to Council.

Board Member Larson made a motion to approve, seconded by Board Member Sampson. Board Member Villegas asked for clarification if those spaces included one per employee. Staff advised the Code did not distinguish between employees and clientele but gave a perspective per square feet for use. **The motion carried 6 to 0. Board Member Grundhoefer wanted to add the 10' buffer to the motion. The Board voted again to approve 6 to 0.**

5. Request for Aesthetic Review - 900 S. Palafox St. – Plaza de Luna Repairs

Plaza de Luna is located at 900 S. Palafox Street within the Waterfront Redevelopment District - WRD. This site experienced major damage from Hurricane Sally in September 2020. The damage to the park features included sidewalks, handrails, lighting, splash pad equipment and other minor features. The proposed improvements will replace the damaged features with the same or similar material. The City proposes to relocate the underground splash pad equipment to a new pump house building located adjacent to the DeLuna Café for better protection from future storms. The pump building will be approximately 11' X 17' and shall have similar brick as the adjacent café.

Chairperson Ritz pointed out the drawing did not portray the brick matching the DeLuna Café; it was a blank brick wall when the café had more brick detail and patterning, and he did not feel this was appropriate. He also pointed out this was taxpayer funded. Staff clarified this item would not proceed to Council.

Mr. McGuire, in charge of FEMA projects for the city, stated this was a pump building but understood what the Board was saying, but he asked that the Board indicate what they preferred, and they would build it. Chairperson Ritz explained it could return for an abbreviated review for expediency purposes. Board Member Grundhoefer explained there was a louver on the façade of the snack bar with a precast lintel which could be repeated on the west and south sides which were the most prominent; the herringbone pattern could be placed below and would tie it to the snack bar. Also, the snack bar roof sloped to the east, and this building could also slope to the east. He pointed out you do not see the roof form on the prominent side. The downspouts could be placed on either side of the door, and matching the height of the snack bar would tie it in better. Also, placing the building so that the fronts line up would make it look like part of the snack bar. Mr. McGuire pointed out it cost \$100,000 to repair the pumps each time it floods, so bringing the equipment out of the ground would save in expenses. Board Member Van Hoose asked if the building could be attached, and Mr. McGuire stated nice sod and a picnic table would go between the buildings. Board Member Grundhoefer suggested they pull it as close as possible to the other building. Mr. Morgan of Mott McDonald advised there was a shower on the snack bar wall which was part of the splash pad requirements, and they needed room for the walk-thru to other facilities. Board Member Grundhoefer asked that they make it look like one building. Chairperson Ritz explained Board Member Grundhoefer could perform the abbreviated review, return it to staff, and staff would forward it to Chairperson Ritz for review and then send it to the applicant.

Board Member Grundhoefer made a motion for approval with architectural modifications to the pump house which allow it to blend in with the snack shop, designating himself as the first line review for the abbreviated review process. Staff advised that Board Member Grundhoefer as a reviewer could have direct contact with the applicant. **Board Member Villegas seconded the motion.** For FEMA approval, Mr. McGuire advised the other elements would go back in the same footprint. **The motion then carried 6 to 0.**

6. Amendment to the Land Development Code (LDC) – Table 12-3.9 – Regulations for the North Hill Preservation Zoning Districts – PR-2 Minimum Lot Size Requirements

On June 8, 2021 and August 12, 2021 the Planning Board and City Council respectively suggested that City staff amend the PR-2, North Hill Preservation multiple-family zoning district, to better align with criteria designed for transitional zoning districts. Subsequently, the Mayor directed staff to initiate the process for approval of the requested amendment. Currently the PR-1AAA, single-family district, and PR-2, multiple-family district, contain similar building standards and the same minimum lot size requirements. At present the main differences between these zoning districts are the types of uses that are allowed by right and the minimum building setbacks for the front and side yards. In order to allow for the PR-2 district to function as a transitional zoning district between the North Hill single-family and commercial districts, the proposed amendment will allow for a smaller minimum lot width and lot area. Table 12-3.9 *Regulations for The North Hill Preservation Zoning Districts* (attached) contains the current applicable lot and building standards.

The proposed amendment would be limited to Table 12-3.9 and does not include any changes to the types of allowed uses or to the required setbacks in the PR-2 zoning district. The following changes are proposed:

- Minimum Lot Area for Residential Uses: Currently - 9,000 SF

Proposed - 5,000 SF

- Minimum Lot Width at Building Setback Line: Currently - 75 feet
Proposed - 50 feet

Staff explained this was just for the North Hill Preservation District which has three zoning categories – PR-1AAA, PR-2, and PC-1. This action would decrease non-conformities with the lots. Historic Preservation Planner Harding stated the PR-2 (formerly R-2) was established when North Hill was established, possibly mid-70s.

Ms. MacDonald advised over a series of meetings with Mr. Beck and the neighborhood, they discussed alternatives and proposed a compromised solution to rezone the property to an amended version of PR-2 that would reduce the minimum lot area for residential uses from 9,000 sq. ft. to 5,000 sq. ft. and the lot width setback from 75' to 50'. They then polled the neighborhood to see if they could support the pursuit of this proposed change; the 104 respondents voted overwhelmingly in support of PR-2 with these proposed changes - 87% voting for with 12.5% voting against. She voiced this support at the Council meeting and repeated that support today. Although there might be residents against this proposed zoning amendment, she stated the majority of residents who cared enough to vote, voted for it.

Chairperson Ritz appreciated the numbers and percentages and that level of input from the citizens which helped the Board with its decision.

Ms. Marshall advised her home faced the P.K. Yonge property. She explained the neighbors felt any changes made to PR-2 should be decided on the value of the entire North Hill community. The consequences and impact should be evaluated and related to the existing PR-2 zones in the North Hill District. They offered 1) keeping PR-2 as it is since some of the neighbors object to the change relating to their property, and 2) designing special waivers with input from the immediate neighbors while achieving the owners' value of their interest when they sell their property. She pointed out their neighbor, Mr. Mead, had suggested there might be an interesting zone change for block 168. They felt the best suggestion was for an entirely special zone for block 168 which would include the needs of her new neighbor and people of North Hill.

Chairperson Ritz explained this item was at the request of Council, and this request whether accepted, rejected, or modified dealt with all of PR-2 and not one particular piece of property nor a specific development. This request would then proceed to Council.

Mr. Beck appreciated the staff, residents, and the North Hill Preservation Association. The discussion was generated through the consideration of a specific piece of property, and he was in full support of the transition zoning from the very loose PC-1 relating to single-family lots to PR-1AAA; he felt it was a nice compromise and allowed for a 50' lot as opposed to the very narrow 30' lots which would occur under PC-1.

Board Member Larson made a motion to approve the suggested change and felt Council did a good service for bringing it back to the Board after the Board wrestled with the decision after listening to North Hill; we needed a transition between some of the old to the new and this was a good option; it was seconded by Board Member Grundhoefer. Board Member Villegas wanted to understand why there could not be some sort of variation on the PR-2 to address this particular property considering almost half of the North Hill District is PR-2 - possibly a PR-2A. Chairperson Ritz advised this would be creating a zoning district which equates to half a block of property. Assistant City Attorney Lindsay explained contract zoning or spot zoning was not legal, so the decision should not be made on whether to do this based on use but made on zoning considerations broadly. Board Member Grundhoefer pointed out 87% support for this

was unusual, but if the North Hill Preservation Board supported it, it would be a good thing. **The motion then carried 6 to 0.**

Open Forum – None.

Discussion – None.

Adjournment – With no further business, the Board adjourned at 3:58 p.m.

Respectfully Submitted,

Cynthia Cannon, AICP
Assistant Planning Director
Secretary to the Board



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 38-21

City Council

9/9/2021

ADD-ON LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Casey Jones

SUBJECT:

PROPOSED ORDINANCE NO. 38-21 - AMENDING SECTION 11-2-24 - PARKING FOR CERTAIN USES PROHIBITED OF THE CODE OF THE CITY OF PENSACOLA

RECOMMENDATION:

That City Council approve Proposed Ordinance No. 38-21 on first reading:

AN ORDINANCE AMENDING SECTION 11-2-24 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE

HEARING REQUIRED: No Hearing Required

SUMMARY:

Within the City Code, two sections exist; Section 11-2-24 - Parking for certain uses prohibited and Section 12-3-65 - Parking for certain uses prohibited. These two sections are duplicative.

An amendment to Section 11-2-24 would provide guidance related to the current food truck issue by setting boundaries for their prohibited placement in certain areas.

The proposed amendment to Section 11-2-24 would do the following:

1. Adding the language pertaining to public or private as it pertains to vacant lot or parking lot
2. Removes the selling of merchandise language
3. Establishes boundaries for the parking of vehicles for the principal purpose of selling merchandise from such vehicle

PRIOR ACTION:

April 13, 2006 - City Council amended Section 11-2-24 of the City Code via Ordinance No. 11-06

February 9, 2006 - City Council amended Section 12-3-65 (at that time listed as Section 12-2-42) of the City Code via Ordinance No. 04-06

FUNDING:

File #: 38-21

City Council

9/9/2021

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) City Attorney's Office Opinion 20-01
- 2) Proposed Ordinance No. 38-21 - Amendment to Section 11-2-24
- 3) Map of proposed amendment to Section 11-2-24

PRESENTATION: No

PROPOSED
ORDINANCE NO. 38-21

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 11-2-24 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 11-2-24 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 11-2-24. Parking for certain uses prohibited.

(1) No person shall park a vehicle upon any street, right-of-way, public vacant lot or public parking lot for the principal purpose of:

1(a) Displaying such vehicle for sale;

2)(b) Washing, greasing or repairing such vehicle, except repairs necessitated by an emergency;

3(c) Displaying advertising;

~~(4) Selling merchandise from such vehicle except in a duly established marketplace or when so authorized or licensed under the ordinances of this municipality; or~~

5(d) Storage for more than 24 hours.

(2.) No person shall park a vehicle upon any street, right-of-way, public vacant lot, or in any public parking space that is located in the area between the eastern right-of-way line of Tarragona Street and western right-of-way line of Baylen Street and between the southern right -of- way line of Garden Street and the southern right -of -way line of Main Street for the principal purpose of selling merchandise, including food and beverage, from such vehicle with the exception of during the hours of Gallery Night and other special events or specified times as approved by the Mayor or Mayor's designee.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

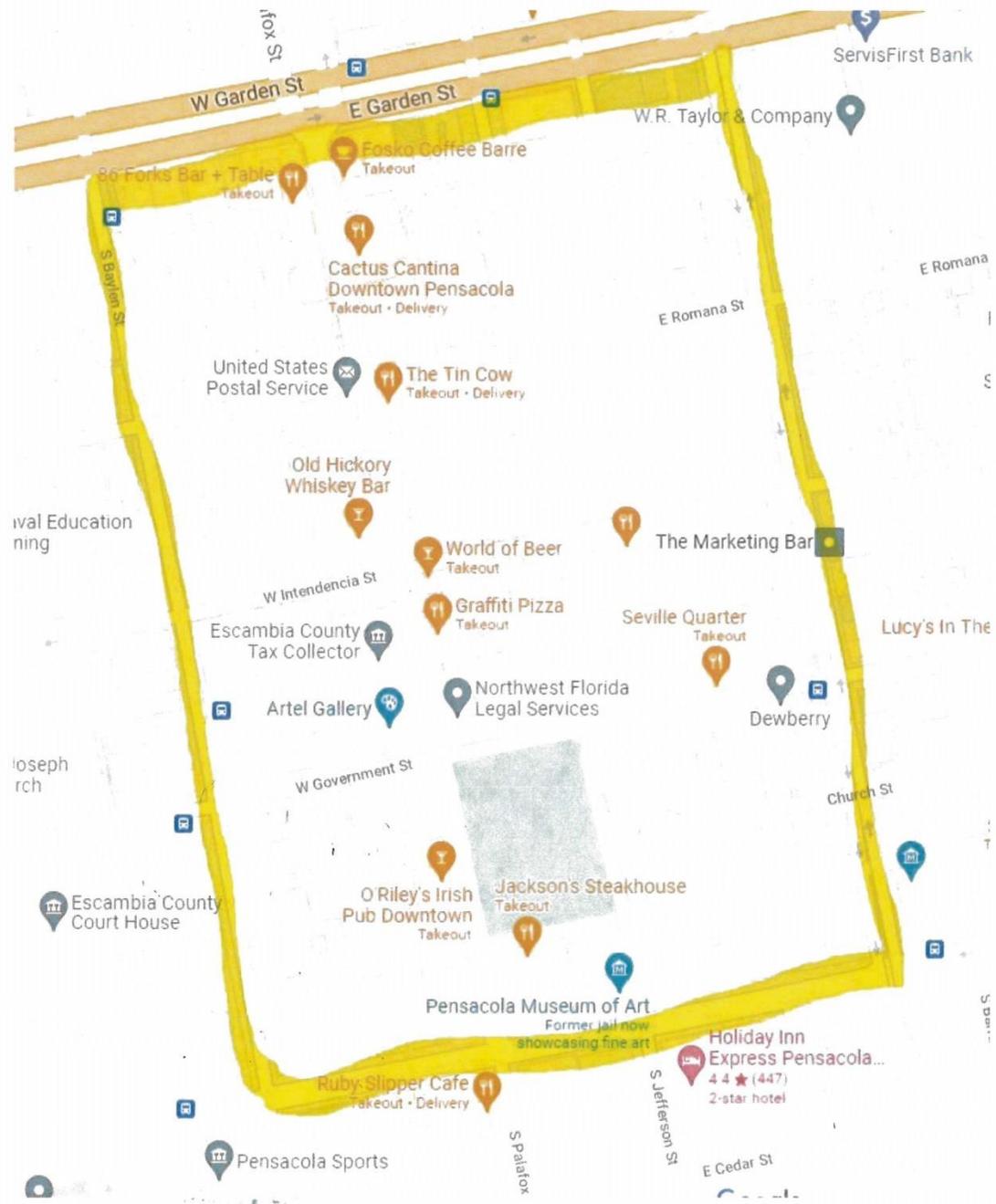
SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



CITY CLERKS OFFICE - LEGAL ADS
 222 W MAIN ST

PENSACOLA, FL 32502

Published Daily-Pensacola, Escambia County, FL

PROOF OF PUBLICATION

State of Florida
 County of Escambia:

Before the undersigned authority personally appeared said legal clerk, who on oath says that he or she is a Legal Advertising Representative of the Pensacola News Journal, a daily newspaper published in Escambia County, Florida that the attached copy of advertisement, being a Legal Ad in the matter of

NOTICE OF PROPOSED ORDINA

as published in said newspaper in the issue(s) dated:

10/18/21

Affiant further says that the said Pensacola News Journal is a newspaper in said Escambia County, Florida and that the said newspaper has heretofore been continuously published in said Escambia County, Florida, and has been entered as second class matter at the Post Office in said Escambia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or coporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and Subscribed before me this 18th of October 2021, by legal clerk who is personally known to me

[Signature]
 Affiant

[Signature]
 Notary Public State of Wisconsin, County of Brown

5.15.23

My commission expires

of Affidavits 1

Publication Cost: \$288.90

Ad No: 0004954120

Customer No: PNJ-25615500

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NANCY HEYRMAN
 Notary Public
 State of Wisconsin

NOTICE OF PROPOSED ORDINANCES

Please be advised that Proposed Ordinance Nos. 40-21 and 41-21 were presented to the City Council of the City of Pensacola for first reading on Thursday, October 14, 2021 and will be presented for final reading and adoption on Thursday, October 28, 2021 at 5:30 p.m., in Council Chambers on the first floor of City Hall, 222 West Main Street, Pensacola, Florida.

Members of the public may attend the meeting in person. City Council encourages those not fully vaccinated to wear face coverings that cover their nose and mouth.

Members of the public may also attend and participate or via live stream and/or phone as follows: To watch the meeting live visit: cityofpensacola.com/428/Live-Meeting-Video.

To provide input:

*For Leroy Boyd Forum, for items not on the agenda: citizens may submit an online form here <https://www.cityofpensacola.com/cinput> beginning at 3:00 P.M. until 5:30 P.M. only to indicate they wish to speak during Leroy Boyd Forum and include a phone number. Staff will call the person at the appropriate time so the citizen can directly address the City Council using a telephone held up to a microphone.

*For agenda items, proposed ordinance items: citizens may submit an online form here <https://www.cityofpensacola.com/cinput> beginning at 3:00 P.M. until that agenda item has been voted upon to indicate they wish to speak to a specific item on the agenda and include a phone number. Staff will call the person at the appropriate time so the citizen can directly address the City Council using a telephone held up to a microphone. Any form received after an agenda item has been voted upon will not be considered.

The title(s) of the proposed ordinance(s) are as follows:

P.O. #40-21:
 AN ORDINANCE REPEALING SECTION 12-3-65 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PARKING FOR CERTAIN USES PROHIBITED; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

P.O. #41-21:
 AN ORDINANCE AMENDING TABLE 12-3.9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

A copy of proposed ordinances may be inspected by the public by calling the City Clerk's office to request a copy, or on-line with the agenda package on the City's website: <https://pensacola.legistar.com/Calendar.aspx>. Interested parties may be physically present at the meeting to participate (as indicated above) or may attend and participate via live stream and/or phone as (as indicated above) and be heard with respect to the proposed ordinances.

If any person decides to appeal any decision made with respect to any matter considered at this meeting or public hearing, such person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and any evidence upon which the appeal is to be based.

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to city services, programs, and activities. Please call 435-1605 (or TDD 435-1665) for further information. Requests must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.

CITY OF PENSACOLA, FLORIDA
 By: Ericka L. Burnett, City Clerk

Visit www.cityofpensacola.com to learn more about City activities. Council agendas posted on-line before meetings.

Legal No. 4354120 11 October 18, 2021