



# City of Pensacola

## Agenda Conference

### Agenda - Final

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Monday, February 5, 2018, 3:30 PM

Hagler-Mason Conference Room,  
2nd Floor

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#### ROLL CALL

#### PRESENTATION ITEMS

#### REVIEW OF CONSENT AGENDA ITEMS

1. [18-00008](#) NON-SIGNATORY AIRLINE OPERATING AND TERMINAL BUILDING USE PERMIT

**Recommendation:** That City Council adopt the Airline Operating and Terminal Building Use Permit for non-signatory airlines setting forth the rights, privileges, and obligations for operating at the Pensacola International Airport. Further, that City Council authorize the Mayor to execute the Non-Signatory Airline Operating and Terminal Building Use Permit for all non-signatory airlines and to take all actions necessary relating to the finalization of the agreement.

**Attachments:** [Non-Signatory Airline Operating and Terminal Building Use Permit](#)

2. [18-00037](#) UNDERGROUND ELECTRICAL DISTRIBUTION EASEMENT WITH GULF POWER FOR THE FERRY LANDING PROJECT

**Recommendation:** That City Council authorize the Mayor to execute the Underground Distribution Easement agreement with Gulf Power Company to support the Ferry Landing project. Further, that City Council authorize the Mayor to take all actions necessary to execute the agreement.

**Sponsors:** Ashton J. Hayward, III

**Attachments:** [Underground Distribution Easement - Gulf Power](#)

3. [18-00075](#) SCHEDULING SPECIAL WORKSHOP FOR REVIEW OF DRAFT COMMUNITY REDEVELOPMENT AREA OVERLAYS

**Recommendation:** That City Council schedule a special workshop to be held on Monday, March 19, 2018 at 5:30 p.m., following a combined special workshop of the Community Redevelopment Agency of the City of Pensacola and the City of Pensacola Planning Board, for review of draft community redevelopment area overlays.

**Sponsors:** Gerald Wingate

4. [18-00081](#) SCHEDULE WORKSHOP TO REVIEW COUNCIL FINANCIAL POLICIES AND BUDGET PROCESS OVERVIEW
- Recommendation:** That City Council schedule a workshop to review the City Council Financial Policies and Budget Process Overview. Further, that Council authorize the Council President to schedule the workshop.
- Sponsors:** Gerald Wingate
- Attachments:** [City Council Finance Policies](#)  
[FY 2019 Budget Schedule](#)

#### REVIEW OF REGULAR AGENDA ITEMS (Sponsor)

5. [18-00040](#) PUBLIC HEARING: REQUEST FOR FUTURE LAND USE AND ZONING MAP AMENDMENT - 2120 W. JACKSON STREET
- Recommendation:** That City Council conduct a public hearing on February 8, 2018 to consider the request to amend the City's Future Land Use Map and Zoning Map for property located at 2120 W. Jackson Street.
- Sponsors:** Ashton J. Hayward, III
- Attachments:** [Rezoning Application, 2120 W. Jackson Street, dated November 9, 2017](#)  
[Zoning Map, dated December 2017](#)  
[December 12, 2017 Planning Board Minutes](#)  
[Proposed FLUM Ordinance, 2120 W. Jackson Street](#)  
[Proposed Zoning Ordinance, 2120 W. Jackson Street](#)
6. [02-18](#) PROPOSED ORDINANCE - NO. 02-18 - REQUEST FOR FUTURE LAND USE MAP AMENDMENT - 2120 W. JACKSON STREET
- Recommendation:** That City Council approve Proposed Ordinance No. 02-18 on first reading.
- AN ORDINANCE AMENDING THE FUTURE LAND USE CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA; AMENDING THE FUTURE LAND USE MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE.
- Sponsors:** Ashton J. Hayward, III
- Attachments:** [Proposed Ordinance No. 02-18](#)  
[Rezoning Application, 2120 W. Jackson Street, dated November 9, 2017](#)  
[Zoning Map, dated December 2017](#)  
[December 12, 2017 Planning Board Minutes](#)

7. [03-18](#) PROPOSED ORDINANCE NO. 03-18 - REQUEST FOR ZONING MAP AMENDMENT - 2120 W. JACKSON STREET

**Recommendation:** That City Council approve Proposed Ordinance No. 03-18 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; AMENDING THE ZONING MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE.

**Sponsors:** Ashton J. Hayward, III

**Attachments:** [Proposed Ordinance No. 03-18](#)  
[Rezoning Application, 2120 W. Jackson Street, dated November 9, 2017](#)  
[Zoning Map, dated December 2017](#)  
[December 12, 2017 Planning Board Minutes](#)

8. [18-00053](#) PUBLIC HEARING REGARDING A PROPOSED AMENDMENT TO THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN

**Recommendation:** That City Council conduct a Public Hearing on February 8, 2018 regarding a Proposed Amendment to the Urban Core Community Redevelopment Plan.

**Sponsors:** Gerald Wingate

**Attachments:** [Resolution Urban Core Redevelopment Plan Amendment.doc](#)  
[PROOF OF PUBLICATION PUBLIC HEARING RE: URBAN CORE COM](#)

9. [18-06](#) RESOLUTION NO. 18-06 - AMENDMENT TO THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN

**Recommendation:** That City Council adopt Resolution No. 18-06.

A RESOLUTION AMENDING THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING THAT ALL COMMUNITY REDEVELOPMENT ACTIVITIES FINANCED BY TAX INCREMENT REVENUES IN THE URBAN CORE COMMUNITY REDEVELOPMENT AREA SHALL BE COMPLETED BY DECEMBER 31, 2043; ADOPTING ADDITIONAL PRIORITY ELEMENTS OF THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING FOR ADDITIONAL SPECIFICITY OF AFFORDABLE HOUSING ELEMENTS; PROVIDING FOR PLANNING AND DESIGN SERVICES RELATED TO AFFORDABLE HOUSING SOLUTIONS; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

**Sponsors:** P.C. Wu

**Attachments:** [Resolution No. 18-06 Urban Core Redevelopment Plan.doc](#)

10. [18-00046](#) QUASI-JUDICIAL HEARING - FINAL SUBDIVISION PLAT - 4020 N. 9TH AVENUE

**Recommendation:** That City Council conduct a quasi-judicial hearing on February 8, 2018 to consider approval of the final subdivision plat - 4020 N. 9th Avenue.

**Sponsors:** Ashton J. Hayward, III

**Attachments:** [Subdivision Plat Application, 4020 N. 9th Avenue, dated December 4, 2017](#)  
[Final Subdivision Plat, 4020 N. 9th Avenue, dated December 2017](#)  
[Plat Boundary Survey, 4020 N. 9th Avenue, dated October 12, 2017](#)  
[January 9, 2018 Planning Board Minutes](#)

11. [18-00077](#) PLACEMENT OF FISH HATCHERY AT BRUCE BEACH ON AUGUST 2018 PRIMARY BALLOT

**Recommendation:** That City Council place an item on the August 2018 Primary Ballot bringing the Fish Hatchery at Bruce Beach to a referendum vote.

12. [17-00613](#) FISH HATCHERY LEASE

**Recommendation:** That City Council declare the Lease with the Florida Fish and Wildlife Commission void in accordance with Paragraph 20 of the Lease; based on the Commission's failure to commence construction of the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center at Bruce Beach within the three (3) years of execution of the Lease on May 12, 2014 and urge the Florida Fish and Wildlife Commission to work with the City to find a more appropriate location.

**Sponsors:** Sherri Myers

**Attachments:** [Fish Hatchery Lease](#)  
[Property Appraiser Sheet.pdf](#)  
[Joint Press Release](#)  
[Gil McRae email reply re Hatchery Lease - Myers](#)  
[Public Records Request re Hatchery - Myers](#)  
[Public Records Request II - No Response - Myers](#)  
[CITY ATTORNEY NOTICE OF LAWSUIT & LEGAL ADVICE MEMO 11.6](#)  
[INSURANCE POLICY FOR PUBLIC OFFICIALS & EMPLOYMENT PRAC](#)

13. [18-05](#) RESOLUTION 18-05 - DIRECT FILE

**Recommendation:** That City Council adopt Resolution 18-05.

A RESOLUTION OF THE CITY COUNCIL  
OF THE CITY OF PENSACOLA, FLORIDA  
STATING THE PREFERENCE AND WILL  
OF THE CITY OF PENSACOLA TO HAVE  
THE CHILDREN OF THIS COMMUNITY  
TREATED AS CHILDREN WHEN THEY  
BREAK FLORIDA LAW

**Sponsors:** Gerald Wingate

**Attachments:** [Resolution 18-05 -- Direct File](#)

14. [18-07](#) RESOLUTION ESTABLISHING YOUTH IN GOVERNMENT DAY

**Recommendation:** That City Council adopt resolution No. 18-07:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PENSACOLA, FLORIDA ESTABLISHING A YOUTH IN GOVERNMENT  
DAY TO BE HELD APRIL 30, 2018 WITHIN THE CITY OF PENSACOLA;  
PROVIDING AN EFFECTIVE DATE

**Sponsors:** Jewel Cannada-Wynn

**Attachments:** [RESOLUTION 18-07 -- Youth in Government Day 2018](#)

15. [18-00045](#) AIRPORT - VT MOBILE AEROSPACE ENGINEERING, INC. PROJECT AT PENSACOLA INTERNATIONAL AIRPORT - AMENDMENT NO. 2 AND AMENDMENT NO. 3 TO ARCHITECTURAL AND ENGINEERING DESIGN SERVICES

**Recommendation:** That City Council authorize the Mayor to execute Amendment No. 2 to the contract with Atkins North America in the amount of \$67,409.00 and Amendment No. 3 in the amount of \$14,166.13 for additional architectural and engineering services for the VT Mobile Aerospace Engineering project at the Pensacola International Airport. Further that City Council authorize Mayor to take all actions necessary related to the execution of the amendments.

**Attachments:** [Amendment No. 2](#)

[Amendment No. 3](#)

16. [18-00036](#) AWARD OF MASTER AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR AIRPORT IMPROVEMENTS AT PENSACOLA INTERNATIONAL AIRPORT
- Recommendation:** That City Council award contracts to Atkins North America, Inc., Mott MacDonald Florida, LLC, and RS&H, Inc. for professional engineering and architectural services related to airport improvements at the Pensacola International Airport. Further, that City Council authorize the Mayor to take all actions necessary to execute the contracts.
- Attachments:** [Tabulation of Respondents for RFO No. 17-022](#)  
[Master Agreement for Architectural and Engineering Services for Airport In](#)
17. [18-00044](#) INTERLOCAL AGREEMENT FOR FY 2018 WESTSIDE COMMUNITY POLICING INNOVATIONS BETWEEN THE CITY OF PENSACOLA AND THE COMMUNITY REDEVELOPMENT AGENCY
- Recommendation:** That City Council approve an Interlocal Agreement with the Community Redevelopment Agency for the purpose of providing Community Policing Innovations within the Westside Community Redevelopment Area of the CRA for Fiscal Year 2018 in an amount not to exceed \$15,000.
- Sponsors:** Ashton J. Hayward, III, P.C. Wu
- Attachments:** [FY18 Westside Community Policing Interlocal Agreement](#)  
[Map of Westside Community Policing Area](#)
18. [18-00050](#) FY 2017 STREET REHABILITATION GROUP 4
- Recommendation:** That City Council award a contract for Bid #18-004 Fiscal Year 2017 Street Rehabilitation Project Group 4 to MidSouth Paving Inc. the lowest and most responsible bidder with a base bid amount of \$1,566,268.05 plus a 5% contingency of \$78,313.40 plus \$6,000.00 for miscellaneous construction items for a grand total of \$1,650,581.45.
- Sponsors:** Ashton J. Hayward, III
- Attachments:** [FY 2017 Street Rehabilitation Group 4 Project Tab](#)  
[FY 2017 Street Rehabilitation Group 4 Project -Vender List](#)  
[FY 2017 Street Rehabilitation Phase 2 Map](#)  
[FY 2017 \(Phase II\) Street Rehabilitation List Group 4](#)

**19.**    [18-00048](#)    FY 2017 STREET REHABILITATION GROUP 5

**Recommendation:** That City Council award a contract for Bid #18-005 Fiscal Year 2017 Street Rehabilitation Project Group 5 to Roads Inc of Northwest Florida the lowest and most responsible bidder with a base bid amount of \$1,724,000.00 plus a 5% contingency of \$86,200.00 plus \$6,000.00 for miscellaneous construction items for a grand total of \$1,816,200.00.

**Sponsors:** Ashton J. Hayward, III

**Attachments:**    [FY 2017 Street Rehabilitation Group 5 Project Tab](#)  
                          [FY 2017 Street Rehabilitation Group 5 Project -Vender List](#)  
                          [FY 2017 Street Rehabilitation Phase 2 Map](#)  
                          [FY 2017 \(Phase II\) Street Rehabilitation List Group 5](#)

**20.**    [18-00049](#)    FY 2017 STREET REHABILITATION GROUP 6

**Recommendation:** That City Council award a contract for Bid #18-006 Fiscal Year 2017 Street Rehabilitation Project Group 6 to Roads Inc. of Northwest Florida the lowest and most responsible bidder with a base bid amount of \$1,395,000.00 plus a 5% contingency of \$69,750.00 plus \$6,000.00 for miscellaneous construction items for a grand total of \$1,470,750.00.

**Sponsors:** Ashton J. Hayward, III

**Attachments:**    [FY 2017 Street Rehabilitation Group 6 Project Tab](#)  
                          [FY 2017 Street Rehabilitation Group 6 Project -Vender List](#)  
                          [FY 2017 Street Rehabilitation Phase 2 Map](#)  
                          [FY 2017 \(Phase II\) Street Rehabilitation List Group 6](#)

- 21. [01-18](#) PROPOSED ORDINANCE NO. 01-18 REGULATING THE USE OF PUBLIC RIGHT-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES AND INFRASTRUCTURE BY SERVICE PROVIDERS

*Recommendation:* That City Council adopt Proposed Ordinance No. 01-18 on second reading.

AN ORDINANCE CREATING ARTICLE VII, SECTION 11-4-182 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; REGULATING THE USE OF THE PUBLIC RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES AND INFRASTRUCTURE BY SERVICE PROVIDERS; AUTHORIZING THE ADMINISTRATIVE PROMULGATION OF IMPLEMENTING RULES AND REGULATIONS CONFORMING TO THE PROVISIONS OF THE ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT OF 2017; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

*Sponsors:* Ashton J. Hayward, III

*Attachments:* [Proposed Ordinance No. 01-18](#)  
[Ordinance No. 29-17](#)  
[Sec. 337401\(7\), Florida Statutes, Advanced Wireless Infrastructure Deployn](#)  
[PROOF OF PUBLICATION - ORDINANCE ON 2ND READING](#)

**FOR DISCUSSION**

**INFORMATIONAL ITEMS**

**CONSIDERATION OF ANY ADD-ON ITEMS**

**READING OF ITEMS FOR COUNCIL AGENDA**

**COMMUNICATIONS**

**City Administrator's Communication**

- 22. [18-00066](#) CITY ADMINISTRATOR COMMUNICATION

*Sponsors:* Ashton J. Hayward, III

*Attachments:* [Port Council Update 2-2018](#)

**City Attorney's Communication**

**Monthly Crime Report-Chief Tommi Lyter****23. [18-00020](#) MONTHLY CRIME REPORT**

**Sponsors:** Ashton J. Hayward, III

**Attachments:** [January 2018 Crime Report](#)

**Monthly Financial Report - Chief Financial Officer Richard Barker, Jr.****24. [18-00025](#) MONTHLY FINANCIAL REPORT - CHIEF FINANCIAL OFFICER RICHARD BARKER, JR.**

**Sponsors:** Ashton J. Hayward, III

**Attachments:** [2018 - Jan Financial Report](#)

**City Council Communication****ADJOURNMENT**

*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.*



Memorandum

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**File #:** 18-00008

City Council

2/8/2018

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**LEGISLATIVE ACTION ITEM**

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

NON-SIGNATORY AIRLINE OPERATING AND TERMINAL BUILDING USE PERMIT

**RECOMMENDATION:**

That City Council adopt the Airline Operating and Terminal Building Use Permit for non-signatory airlines setting forth the rights, privileges, and obligations for operating at the Pensacola International Airport. Further, that City Council authorize the Mayor to execute the Non-Signatory Airline Operating and Terminal Building Use Permit for all non-signatory airlines and to take all actions necessary relating to the finalization of the agreement.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

In 1990, the City of Pensacola approved a Scheduled Airline Operating Permit and a Scheduled Airline Passenger Terminal Building Use Permit for those airlines that wished to operate under a month-to-month arrangement rather than under the longer term signatory agreement. Like the signatory agreement, these permits outlined the rights, privileges, and obligations of the non-signatory airlines with respect to providing service at the Pensacola International Airport. Together with the signatory agreement, the permit has ensured the Airport's ability to cover all of its maintenance and operating costs and its ability to fund a Capital Improvement Account that provides the local matching dollars for Federal and State grants, covering capital projects or purchases. Overall, the airline agreements have allowed the Airport to maintain full financial self-sufficiency with no reliance on the City's General Fund for support.

Given the age of the non-signatory permits, they were reviewed during the recent process to renegotiate the signatory airline agreements. Based on the modifications to the signatory agreement, the non-signatory permits have been revised and combined into a single document. The modified document continues to follow the same industry-standard structure ensuring the Airport's ability to cover its costs. For the ability to operate on a month-to-month basis rather than entering into a longer term commitment, non-signatory airlines will be subject to rates and fees thirty percent (30%) above those charged to the signatory carriers.

Once approved, this agreement will be used for any non-signatory airline. Currently, only Frontier has expressed an interest in being non-signatory.

**PRIOR ACTION:**

September 27, 1990 - City Council adopted the Scheduled Airline Operating Permit for non-signatory airlines.  
May 9, 1991 - City Council approved the Scheduled Airline Passenger Terminal Building Use Permit for non-signatory airlines.

December 18, 2003 - City Council approved a revision to the Scheduled Airline Operating Permit for non-signatory airlines.

November 9, 2017 - City Council adopted the Airline Operating Agreement and Terminal Building Lease for signatory airlines.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

The Permit establishes the rate making methodology for non-signatory airlines at the Pensacola International Airport.

**CITY ATTORNEY REVIEW:** Yes

12/28/2017

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Daniel E. Flynn, Airport Director

**ATTACHMENTS:**

- 1) Non-Signatory Airline Operating and Terminal Building Use Permit

**PRESENTATION:** No

**NON-SIGNATORY AIRLINE OPERATING  
AND  
TERMINAL BUILDING USE PERMIT**

by and between

THE CITY OF PENSACOLA, FLORIDA

and

FRONTIER AIRLINES, INC.

DATE OF EXECUTION:

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EFFECTIVE DATE:

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**NON-SIGNATORY AIRLINE OPERATING  
AND TERMINAL BUILDING USE PERMIT**

This Non-Signatory Airline Operating and Terminal Building Use Permit (“Permit”), made and entered into this \_\_\_\_ day of \_\_\_\_\_, 201\_\_, by and between the City of Pensacola, a municipal corporation of the State of Florida (hereinafter referred to as “City”), and Frontier Airlines, Inc., a corporation organized and existing under the laws of the State of Colorado and authorized to do business in the State of Florida (hereinafter referred to as “Permittee”):

WITNESSETH:

WHEREAS, City is the owner of Pensacola International Airport (hereinafter defined and referred to as "Airport" and more completely identified on Exhibit A attached hereto and made a part hereof), which is located in the City of Pensacola, Escambia County, Florida; and

WHEREAS, Permittee is engaged in the business of commercial air transportation of persons, property, cargo, and mail as a scheduled air carrier and is authorized by the United States Government to engage in such business; and

WHEREAS, Permittee desires to use the Airport and its facilities in the conduct of Permittee’s business as a scheduled air carrier; and

WHEREAS, City and Permittee have not entered into an agreement governing Permittee’s operations at or use of the Airport; and

WHEREAS, under the circumstances, Chapter 10-2 of the Code of Ordinances of the city of Pensacola governs Permittee's operations at and use of the Airport, and this Permit is issued pursuant to and in accordance with such Ordinance and is subject and subordinate to such Ordinance as it is as of the date of this Permit and as it may be amended and changed from time to time; and

WHEREAS, City is willing to grant Permittee such rights, privileges, and services upon the terms and conditions and for the consideration hereinafter stated; and

WHEREAS, City and Permittee deem it desirable to issue this Permit setting forth the respective rights, privileges, obligations, and duties of the parties hereto and defining the rights, services, and privileges granted and the terms, conditions, and consideration on which they are granted;

NOW, THEREFORE, for and in consideration of the Assigned Premises and the mutual covenants herein contained and the rents, fees, and charges to be paid by Permittee, it is agreed and understood by and between City and Permittee as follows:

## ARTICLE 1. DEFINITIONS

### Section 1.01 DEFINITIONS

The capitalized terms used in the Permit shall have the meanings indicated in this Article 1 unless the context clearly indicates otherwise. Words used in this Permit in the present tense include the future as well as the present. Words used in the masculine gender include the feminine and neuter. The singular number includes the plural, and the plural includes the singular. The word "person" means a corporation, limited liability company, partnership or other legal entity, as well as a natural person. Additional words and phrases used in this Permit shall have the meanings set forth in the Bond Resolution (as defined below) or, if not so set forth, shall have their usual and customary meanings.

**"Aircraft Arrivals"** shall mean any aircraft arrivals at the Airport (including, without limitation, scheduled, charter, sightseeing, training, test, ferry, courtesy, and inspection flights, or any other flights) operated by an Air Transportation company. Aircraft Arrivals shall not include any flight by aircraft owned or operated by the U.S. Government or flights that immediately return to the Airport because of mechanical, meteorological, or other precautionary reasons.

**"Aircraft Parking Positions"** shall mean the positions in the Airport's Apron Area designated on Exhibit E where aircraft are required to park in order to receive and discharge passengers.

**"Air Transportation"** shall mean the carriage of persons, property, cargo, or mail by aircraft to and from the Airport.

**"Airport"** shall mean Pensacola International Airport as it now exists or as it shall be or may be modified in the future, currently as shown on Exhibit A.

**"Airport Budget"** shall mean the Airport capital and operating budgets and allocated administrative costs prepared and periodically revised and updated by the Director and duly

adopted by the Pensacola City Council prior to commencement of the Fiscal Year in which it is to apply.

**“Airport Cost Centers”** shall mean the following cost centers, to be used in accounting for Airport revenues and expenses and for calculating and adjusting certain rentals and fees described herein:

1. **“Terminal Building”** shall mean the terminal building serving the airlines as it now exists or as it may hereafter be reconstructed, modified, changed, or developed in accordance with the terms hereof, currently as shown on Exhibits A, B, C, and E.
2. **“Baggage Handling System”** shall mean the Baggage Handling System located in the Terminal Building that serves the airlines as it now exists or as it may hereafter be reconstructed, modified, changed, or developed in accordance with the terms hereof, currently as shown on Exhibit D.
3. **“Terminal Area”** shall mean the landside access roads and parking areas surrounding the Terminal Building, as such areas now exist or as they may hereafter be modified, changed, or developed in accordance with the terms hereof, currently as shown on Exhibit A.
4. **“Airfield Area”** shall mean those areas of the Airport, as such areas now exist or as they may hereafter be modified, changed, or developed in accordance with the terms hereof, that provide for landing and takeoff, taxiing, parking, or other operations or aircraft but excluding the Apron Area, Cargo Apron Area, and Remote Parking Area, currently as shown on Exhibit A.
5. **“Apron Area”** shall mean the areas, as such areas now exist or as they may hereafter be modified, changed, or developed in accordance with the terms hereof, dedicated to parking, servicing, and ground handling of passenger aircraft at the Terminal

Building, currently as shown on Exhibits A and E.

6. **“Cargo Apron Area”** shall mean the areas, as such areas now exist or as they may hereafter be modified, changed, or developed in accordance with the terms hereof, dedicated to parking, servicing, and ground handling of cargo aircraft or other aircraft currently as shown on Exhibit F.
7. **“Loading Bridges”** shall mean the passenger loading bridges owned and maintained by City serving aircraft parked at the Gates as they now exist or as they may be modified, changed, or relocated from time to time, currently as shown on Exhibit E.
8. **“Rental Car Service Facilities”** shall mean the areas, as such areas now exist or as they may hereafter be modified, changed, or developed, dedicated to rental car service facilities, currently as shown on Exhibit G.
9. **“Other Buildings and Areas”** shall mean those portions of the Airport not included in the preceding Airport Cost Centers, including the facilities, installations, and improvements thereon as they now exist or as they may hereafter be modified, changed, or developed in accordance with the terms hereof.

**“Airport Layout Plan”** shall mean the plan, as it may be amended from time to time, required to be submitted by the Airport to the Federal Aviation Administration for review and acceptance showing the layout of the Airport and the current uses of the facilities at the Airport. The current version of the Airport Layout Plan is shown on Exhibit A.

**“Airport Purposes”** shall mean actions or undertakings by City reasonably relating to the development, operation, maintenance and preservation of the Airport for air commerce.

**“Airport Revenue”** shall mean all income, receipts, earnings, and revenues received by or accrued to City from the ownership or operation of the Airport, excluding, except to the extent deposited in the Airport Revenue Fund: (a) gifts, grants, and other funds that are restricted by

their terms to purposes inconsistent with the payment of Maintenance and Operating Expenses or payment of Obligations; (b) net insurance proceeds, to the extent that the use of such net insurance proceeds is restricted to a use inconsistent with the payment of Maintenance and Operating Expenses or the payment of Obligations; (c) any transfer from the Capital Fund to the Revenue Fund, except for transfers from the Prepaid Revenue Account; (d) revenues derived from or with respect to any Special Purpose Facility; (e) any gain from the sale, exchange, or other disposition of capital assets of the Airport; (g) any unrealized gains on securities held for investment by or on behalf of City; (h) any gains resulting from changes in valuation of any financial “SWAP” instruments; (i) any unrealized gains from the write-down, reappraisal, or revaluation of assets; (j) the proceeds of Obligations; (k) facilities construction credits; (l) Passenger Facility Charges unless specifically pledged by City; (m) Customer Facility Charges (except to the extent they are used to reimburse the Airport for rental car facility operating and maintenance expenses); (n) investment income derived from any moneys or securities that may be placed in escrow or trust to defease obligations; (o) any arbitrage earnings required to be paid to the United States of America pursuant to Section 148 of the United States Code; and (p) interest earnings or other investment earnings on any account in the Construction Fund established by any Bond Resolution unless otherwise provided in such Bond Resolution.

**“Assigned Premises”** shall mean the Exclusive Use Space, Per Term Gates, Baggage Handling Space, Per Turn Cargo Apron Areas, Per Turn Remote Parking Apron, and Loading Bridges assigned by City to Permittee for its use.

**“Baggage Claim Area”** shall mean the areas, as they now exist or as they may hereafter be modified, changed or developed in accordance with the terms hereof, used by passengers for baggage claim and pick-up. The current Baggage Claim Area is shown on Exhibits C and D.

**“Baggage Handling Areas”** shall mean the areas supporting the Baggage Handling System as shown on Exhibit D as they now exist or as they may hereafter be modified, changed, or developed in accordance with the terms hereof. The Baggage Handling Areas include the areas occupied by baggage conveyor systems, baggage screening areas, baggage makeup, tug lanes for

transporting baggage, baggage breakdown areas, and the Baggage Claim Area as shown on Exhibits C and D.

**“Baggage Handling System”** shall mean the baggage handling system shown on Exhibit D as it now exists or as it may hereafter be modified, changed or redeveloped in accordance with the terms hereof.

**“Bond Funds”** shall mean those funds and accounts established by and funded in accordance with the Bond Resolution and described herein:

1. **“Airport Revenue Fund.”** All Airport Revenue derived from operation of the Airport is deposited as received into the Airport Revenue Fund. All moneys shall be used and applied in the priority indicated below.
2. **“Rebate Fund.”** Amounts in the Rebate Fund shall be used to make payments to the United States Treasury in the amounts and at the times required by Section 148 of the Internal Revenue Code of 1986, as amended from time to time.
3. **“Maintenance and Operating Fund.”** Amounts shall be used to make payments out of the Maintenance and Operating Fund by City from time to time for the necessary expenses for the maintenance, operation, repair, and ordinary replacement of the Airport.
4. **“Bond Fund.”** Amounts shall be paid out of the Bond Fund from time to time as necessary for the payment of required interest and principal due on any Bonds outstanding and payable from Airport Revenue.
5. **“Debt Service Reserve Fund.”** Amounts shall be paid out of the Debt Service Reserve Fund from time to time as necessary for the payment of interest and principal due on any Bonds outstanding and payable from Airport Revenue to the extent that other moneys are not available within the Bond Fund.

6. **“Maintenance and Operating Reserve Fund.”** Amounts shall (1) be paid out of the Maintenance and Operating Reserve Fund for the necessary expenses for the maintenance, operation, repair, and ordinary replacement of the Airport to the extent that other moneys are not available in the Maintenance and Operating Fund for such purposes and (2) also be used to cure deficiencies in the Rebate Fund or the Bond Fund in accordance with the Bond Resolution.
7. **“Renewal and Replacement Fund.”** Amounts shall (1) be paid out of the Renewal and Replacement Fund from time to time for the costs of unanticipated or emergency repairs, renewals, and replacements to the Airport and (2) also be applied to deficiencies in the Rebate Fund, Maintenance and Operating Fund, and the Bond Fund in accordance with the Bond Resolution.
8. **“Subordinate Securities Fund.”** Amounts shall be paid out of the Subordinate Securities Fund from time to time as necessary for the payment of any obligations or indebtedness of the Airport payable from Airport Net Revenues junior and subordinate to the Bonds.
9. **“Capital Fund.”** Amounts in the Capital Fund shall be available for any lawful Airport purpose as permitted by the Bond Resolution and shall be applied during the term of this Permit in the following priority:
  - a. **“PFC Capital Account.”** Amounts shall be paid out for PFC approved Pay/Go projects and debt service on bonds, loans, or notes the proceeds of which were used to pay the cost of PFC approved projects.
  - b. **“Customer Facility Charge Capital Account.”** Amounts shall be paid out from time to time for rental car “Pay/Go” capital projects, maintenance and operation expenses allocable to rental car facilities, and debt service on bonds, loans, or notes

the proceeds of which were used to pay the costs of rental car facilities.

- c. **“Capital Improvement Account.”** Amounts shall be paid out of the Capital Improvement Account from time to time for Capital Improvements at the Airport.

**“Bonds”** shall mean Airport Revenue bonds as authorized by the Bond Resolution, both serial and term, heretofore and hereafter issued by City or any other similar or substitute debt financing instrument (including but not limited to notes, certificates, and commercial paper) which may or may not be junior or subordinate to Airport Revenue Bonds that might be issued and secured by Airport Revenue.

**“Bond Resolution”** shall mean Resolution No. 59-88, adopted September 8, 1988, as it has been or may be amended or supplemented from time to time, and any other Resolution of City regulating or authorizing the issuance of Bonds, as amended or supplemented from time to time, other than Special Purpose Facility Bonds, payable from Airport Revenue.

**“Business Privilege Fee”** shall mean a nondiscriminatory fee levied on any person or company for the privilege of conducting business. The Business Privilege Fee shall be based on a percentage of gross revenues derived by third party contractors or Permittee. Permittee’s Air Transportation business at the Airport shall not be subject to the Business Privilege Fee. As the term is used in this Permit, Permittee’s Air Transportation business does not include the sale of ground handling and other services.

**“Capital Improvement”** shall mean any single item having a cost of at least One Hundred Fifty Thousand Dollars (\$150,000) and a useful life in excess of five (5) years, acquired, purchased, or constructed to improve, maintain, or develop the Airport as well as any extraordinary or substantial expenditure whose object is to preserve, enhance, or protect the Airport.

**“Capital Outlay”** shall mean equipment and capital outlays for individual items costing less than one hundred fifty thousand dollars (\$150,000) and with a useful life of five (5) years or less.

**“Customer Facility Charges” or “CFCs”** shall mean charges collected or to be collected by the rental car companies and remitted to City pursuant to the Airport Rental Car Concession Agreement and the Rental Car Policy in the City Code. CFCs are not Airport Revenue and are dedicated for paying the capital and operating costs of rental car facilities. This term includes interest earnings on Customer Facility Charge proceeds.

**“Debt Service”** shall with respect to any outstanding or contemplated Obligations, the amount of principal and interest on such Obligations due and expected to be due during the Fiscal Year, excluding interest payable from capitalized interest.

**“Director”** shall mean the Airport Director, being the person currently authorized by the Mayor to exercise functions with respect to the rights and obligations of City under this Permit or such other person or persons authorized by the Mayor from time to time to exercise functions with respect to the rights and obligations of City under this Permit. The term also includes any person expressly designated from time to time by the Director or the Mayor to exercise functions with respect to the rights and obligations of the Director under this Permit.

**“Enplaned Passengers”** shall mean the total number of passengers boarding aircraft at the Airport.

**“Environmental Laws”** shall mean, collectively, all federal, state, water management district, and local environmental, land use, occupational safety, and health laws, rules, regulations, and ordinances, and common law, applicable to City, the Airport, the Assigned Premises, or Permittee , including, but not limited to, the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.); the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601 et seq.); the Hazardous Materials Transportation Act (49 U.S.C. § 5101 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); the Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 et seq.); the Clean Air Act (42 U.S.C. § 7401 et seq.) (“CAA”); the Safe Drinking Water Act (42 U.S.C. §§ 300f-300j), the Federal Water Pollution Control Act (commonly known as the Clean Water Act) (33 U.S.C. §§ 1251-1387), and

Sections 253, 373, 376 and 403, Florida Statutes, as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, code, permit or permit condition, order, notice of violation, decree, consent agreement, or directive addressing any environmental, safety, or health issue of or by the federal government, or of or by any state or other political subdivision thereof, or any agency, court, or body of the federal government or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory, or administrative functions.

**“Exclusive Use Space”** shall mean the space leased under this Permit by City to Permittee for Permittee’s exclusive use, currently as shown on Exhibits B and C.

**“FAA” or “Federal Aviation Administration”** shall mean the Federal Aviation Administration created by the federal government under the Federal Aviation Agency Act of 1958 or such similar federal agency as may from time to time have similar jurisdiction over Permittee or its business.

**“Fiscal Year”** shall mean the twelve (12) month period beginning October 1 of any year and ending September 30 of the following year or any other period adopted by City as its fiscal year for its financial affairs.

**“Gate”** shall mean each portion of the Terminal Building consisting of a Passenger Holdroom and the associated Apron Area and Loading Bridge.

**“Ground Handling Services”** shall mean cabin services, aircraft catering, ramp services, refueling, passenger services, and field operations services.

**“Hazardous Substances”** shall mean any hazardous, toxic, or harmful substances, wastes, materials, pollutants, or contaminants (including, without limitation, asbestos, polychlorinated biphenyls, petroleum products, flammable explosives, radioactive materials, paint containing more than 0.5% lead by dry weight (“Lead Based Paint”), infectious substances, or raw materials

which include hazardous constituents), or any other substances or materials that are regulated by Environmental Laws.

**“Landed Weight”** shall mean the maximum gross certificated landed weight, in thousand (1,000) pound units, that Aircraft Arrivals operated by Permittee is authorized by the FAA to land at Airport, as recited in each Permittee’s flight manual governing that aircraft type. For all Landed Weight computations, said sum shall be rounded up to the nearest thousand (1,000) pound unit.

**“Maintenance and Operating Expenses”** shall, as further described in the Bond Resolution, mean City’s annual expenses of maintaining, operating, repairing, and administering the Airport, including City overhead reasonably allocable to the Airport; taxes, and assessments, if any; and expenses for defending, settling, or satisfying litigation, as set forth in the Airport Budget determined in accordance with generally accepted accounting principles. The categories of overhead expense allocable by City to the Airport shall also be determined in accordance with generally accepted accounting principles.

**“Mayor”** shall mean the elected officer serving as the Chief Executive of the City of Pensacola, Florida, pursuant to its charter.

**“Obligations”** shall mean any debt or obligation of City with respect to the Airport, including any Bonds issued pursuant to the Bond Resolution or other issuing instrument, as applicable.

**“Passenger Facility Charges” or “PFCs”** shall mean those charges due and payable to City pursuant to the authority granted by 49 U.S.C. Section 40117 and 14 Code of Federal Regulations (CFR) Part 158, as amended from time to time, in respect of any component of the Airport and interest earnings thereon, net of amounts that collecting air carriers are entitled to retain for collecting, handling, and remitting such PFC revenues.

**“Passenger Holdrooms”** shall mean the passenger waiting rooms located inside the Terminal Building adjacent to the associated Apron Area Aircraft Parking Position.

**“Permit”** shall mean this Airline Operating and Terminal Building Use Permit between City and Permittee, as the same may be amended, modified or altered from time to time pursuant to the terms hereof.

**“Permittee”** shall mean the entity that has executed this Permit and is identified in the first paragraph of this Permit.

**“Personal Property”** shall mean the equipment, inventory, furniture, trade fixtures, and supplies owned or leased by Permittee, and installed or used at the Airport in accordance with this Permit in the conduct of Permittee’s Air Transportation business, which is removable without material permanent injury or damage to the Assigned Premises or any other portion of City-owned property.

**“Reasonable Wear and Tear”** shall mean the deterioration resulting from normal use and that could not be prevented by routine maintenance.

**“Remote Parking Area”** shall mean those Aircraft Parking Positions designated for the parking of aircraft that cannot be accommodated at the Terminal Building, Apron Area or the Cargo Apron Area as set forth on Exhibit A. From a financial management standpoint, the Remote Parking Area is in the Other Buildings and Areas Cost Center.

**“Rules and Regulations”** mean those lawful and reasonable rules and regulations promulgated by City or the Director for the orderly use of the Airport or its facilities by both the airlines and other Airport tenants and users utilizing same pursuant to an agreement with City, as same may be amended, modified, or supplemented from time to time.

**“Special Purpose Facility”** shall mean capital improvements or facilities located on any property owned or leased by City and located at Airport that are financed by the issuance of Special Facilities Revenue Bonds, bank loans, note, or other debt instruments or financing mechanisms.

**“Special Facilities Revenue Bonds”** shall mean bonds, bank loans, notes, other debt instruments or financing mechanisms and other debt of City which is secured by and payable solely from rentals or other charges derived by City under a lease, sale or other agreement (or any document securing the same) between City and the person, firm or corporation utilizing the Special Purpose Facilities financed thereby.

**“SWAP”** shall mean a derivative agreement that includes, without limitation, (i) any contract known as or referred to or which performs the function of an interest rate swap or exchange agreement, currency swap agreement, forward payment conversion agreement or futures contract; (ii) any contract providing for payments based on levels of, or changes or differences in, interest rates, currency exchange rates, or stock or other indices; (iii) any contract to exchange cash flows or payments or series of payments; (iv) any type of contract called, or designed to perform the function of, interest rate floors or caps, options, puts or calls, to hedge or minimize any type of financial risk, including, without limitation, payment, currency, rate or other financial risk; and (v) any other type of contract or arrangement that City entering into such contract or arrangement determines is to be used, or is intended to be used, to manage or reduce the cost of Obligations incurred or anticipated to be incurred, to convert any element of Obligations incurred or anticipated to be incurred from one form to another, to maximize or increase investment return, to minimize investment return risk or to protect against any type of financial risk or uncertainty and, in each case, which is designated by City as a Swap for purposes of this Agreement.

**“TSA”** shall mean the Transportation Security Administration of the Department of Homeland Security, or its authorized successor.

**“Term”** shall mean the period defined in Article 2.

**“Total Landed Weight”** shall mean the sum of the aggregate Landed Weights for all Aircraft Arrivals over a stated period of time. Said sum shall be rounded up to the nearest thousand (1,000) pound unit for all landing fee computations.

**“Total Space”** shall mean the total square feet in the Terminal Building.

**“Turn”** shall mean an aircraft arrival at the Airport and the departure of that same aircraft from the Airport.

**Section 1.02 CROSS-REFERENCES**

All references to articles, sections, and exhibits in this Permit relate to material in this Permit, unless specifically noted otherwise.

All defined terms used and not otherwise defined herein shall have the meanings ascribed to such terms in the Bond Resolution.

END OF ARTICLE

## **ARTICLE 2. TERM**

### **Section 2.01 TERM**

This Permit shall become effective at 12:01 a.m. on \_\_\_\_\_, and continue thereafter on a year-to-year basis (Term) until terminated at any time by either party on not less than thirty (30) days' advance written notice.

### **Section 2.02 PRIOR PERMITS AND LEASES**

All permits, agreements and leases between Permittee and City, written or verbal, other than this Permit, shall be deemed terminated as of midnight of the day before the Effective Date.

### **Section 2.03 PERMITTEE'S RIGHTS UPON TERMINATION OF PERMIT**

Upon termination of this Permit, all Permittee's rights, authority, and privileges to use the Assigned Premises, services, and facilities of the Airport as herein granted shall cease.

### **Section 2.04 SURRENDER OF ASSIGNED PREMISES**

Upon termination of this Permit, Permittee shall surrender the Assigned Premises to City in substantially the same condition as such Assigned Premises were in on the Effective Date of this Permit, excepting, however, (a) Reasonable Wear and Tear, (b) damage by fire or other casualty not required by this Permit to be repaired by Permittee, its agents or employees, or by condemnation, (c) conditions existing prior to Permittee's occupancy of Assigned Premises, and (d) acts of God or the public enemy.

Except as otherwise provided in this Article, Permittee's Personal Property shall remain the property of Permittee unless otherwise provided in subsequent agreements between Permittee and City and Permittee shall have the right at any time during the Term of this Permit and prior to its expiration or early termination to remove all Personal Property from the Assigned Premises or Airport. Permittee agrees to repair or pay for all damages and repairs, if any, resulting from or necessitated by such removal. All City property damaged by or as a result of the removal of

Permittee's property shall be restored by Permittee at Permittee's expense to the same condition as, or better condition than, it was prior to such damage, Reasonable Wear and Tear excepted.

All Personal Property not removed by Permittee within thirty (30) days after the expiration or early termination of this Permit shall be conclusively deemed to be abandoned property (provided that Permittee and City do not enter into subsequent agreement for Permittee to continue operating at the Airport). Permittee hereby authorizes the Director to remove and dispose of its abandoned Personal Property. Permittee agrees to reimburse City, promptly upon demand, for the cost of removing and disposing of its abandoned property.

Permittee's obligations under this Section 2.04 shall survive the expiration or early termination of this Permit.

END OF ARTICLE

## **ARTICLE 3. ASSIGNED PREMISES**

The Assigned Premises consist of the Exclusive Use Space as more particularly described in Exhibits B, C, D and E attached hereto and made a part hereof for all purposes. Permittee hereby accepts Assigned Premise from City, and City hereby assigns to Permittee, the Assigned Premises for the uses and purposes set forth below and for no other use or purpose without the Director's prior written consent. Exhibits B, C, D and E can be changed from time-to-time based on changes to the Assigned Premises of Permittee that are approved by Permittee and the Director or otherwise permitted hereunder.

### **Section 3.01 PERMITTEE ASSIGNED PREMISES**

The Permittee Assigned Premises consist of the following categories of space:

#### **Section 3.01 (a) Exclusive Use Space**

The following are the categories of Exclusive Use Space and the permitted uses of the space:

1. Ticketing
  - a. For reserving space and selling, transferring, issuing, changing, and providing other services related to tickets for Air Transportation of passengers and the processing of small package delivery by Permittee.
  - b. For furnishing information to such passengers and the general public.
  - c. For checking baggage of Permittee's Enplaned Passengers.
  - d. For handling lost and found articles.
2. Ticket Offices
  - a. For administrative, customer service, and other office purposes in connection with Permittee's Air Transportation business.
  - b. For passenger and customer relations.
  - c. For handling lost and found articles.
3. Operations
  - a. For Permittee operations office.
  - b. For a baggage hold area.
  - c. For storage of equipment and catering supplies.
  - d. For crew space and weather, dispatch, and communications functions.
  - e. For handling lost and found articles.

4. Baggage Services Offices
  - a. For storage of, and processing claims for, mishandled, damaged, or misplaced baggage.
  - b. Unclaimed baggage must be stored in designated areas in the baggage service offices.
  - c. For other services related to baggage.

### **Section 3.01 (b) Per Turn Use Space and Equipment**

For each flight by Permittee to or from the Airport, City will assign to Permittee for its use the following categories of space and equipment. Pursuant to Article 5, Permittee will pay City Per Turn use fees for the use of such space and equipment by Permittee.

1. Passenger Holdrooms
  - a. For selling, issuing, changing, and collecting passenger tickets and for issuing seat assignments.
  - b. For a waiting area for passengers boarding an aircraft.
  - c. For check-in passengers and Gate check-in of baggage.
  - d. For furnishing information to passengers and the general public.
  - e. For installing and displaying Permittee corporate identification on the check-in podium and background screen.
2. Loading Bridges
  - a. For aircraft passenger boarding and deboarding.
  - b. For aircraft boarding of Permittee personnel, contractors, and furnishers of services.
  - c. For providing Permittee's aircraft with air-conditioning and 400 Hz and 28 volts ground power.
3. Apron Area
  - a. For the proper parking of one aircraft per Gate in a manner that will not impede the movement of aircraft and ground equipment of other airlines.
  - b. For loading and unloading of passengers, cargo, and mail.
  - c. For servicing of aircraft with ground equipment.
4. Remote Parking Area
  1. For the parking of aircraft in assigned areas in a manner that will not impede the movement of aircraft and ground equipment of other airlines.
  2. For servicing of aircraft.
  3. Not for loading and unloading of passengers.
5. Cargo Apron Area:

- a. For the parking of aircraft in assigned areas in a manner that will not impede the movement of aircraft and ground equipment of other airlines.
- b. For loading and unloading of cargo and mail.
- c. For servicing of aircraft.

**Section 3.01 (c) Baggage Handling Space and Equipment**

The Baggage Handling Space and Equipment consists of the Baggage Handling Areas and Equipment in the Terminal Building all as more particularly shown on Exhibit B.

**Section 3.02 SELF-TICKET MACHINES**

Permittee self-ticket machines shall only be installed, operated, or maintained with the prior written approval of the Director, and will be installed within Permittee's Assigned Premises in specific locations as approved by the Director.

**Section 3.03 EMPLOYEE PARKING**

Permittee and its Airport employees shall have the right to use the vehicular parking facilities at the Airport, in common with employees of other airlines, tenants, and Airport-related services. Use of the employee parking facilities is subject to the payment of such employee parking fees as may be established from time to time by the Director after review and discussion with the airlines. Such facilities shall be located in an area designated by the Director.

Permittee shall, on request of the Director, provide verification that it is only providing parking for its own employees employed at the Airport.

END OF ARTICLE

## **ARTICLE 4. USES OF THE AIRPORT**

### **Section 4.01 PERMISSIBLE USES**

Subject to the terms and provisions of this Permit and lawful ordinances of City, and the Rules and Regulations, Permittee, by paying all rents, fees, and charges due and otherwise complying with all terms of this Permit, shall be entitled to the use the Airport, in common with other duly authorized users of the Airport, for the sole purpose of providing Air Transportation. Such use may include the following purposes:

1. The operation of an Air Transportation business by Permittee for the carriage by aircraft of persons, property, cargo, and mail, including all activities reasonably necessary to such operation.
2. The landing, taking off, flying over, taxiing, pushing, towing, loading, unloading, delivering fuel to aircraft, repairing, maintaining, conditioning, servicing, parking, storing, and testing of aircraft or other equipment of or operated by Permittee or others, including the right to provide or handle all or part of the operations or services of such others. Nothing herein shall restrict the Director from levying a Business Privilege Fee for operations handled by Permittee on behalf of others or service provided to others. Permittee shall pay City a Business Privilege Fee as established by the Director pursuant to Section 17.07 below based on the gross revenues derived by Permittee from such others. Services provided to Permittee by third-party contractors will be subject to the Business Privilege Fee.
3. The sale of tickets, documentations of shipments, handling of reservations, and the loading and unloading of persons, property, cargo, and mail at the Airport by such motor vehicles or other means of conveyance as Permittee may desire to use in the operation of its Air Transportation business. Any ground commercial carrier (including Permittee, except for such ground transportation as Permittee may provide solely for the benefit of its employees and passengers without charge) regularly transporting persons or their baggage to and from the Airport shall first secure and thereafter hold a valid permit, lease, license, or other agreement with City for the right to carry persons or their baggage to and from the Airport and shall pay City such rentals, fees, and percentages of the fares of such ground transportation commercial carrier for such right, as City or the Director may set by agreements, ordinances, or Rules and Regulations.

4. The training of personnel in the employment of or to be employed by Permittee and the testing of aircraft and other equipment utilized at the Airport in the operation of Permittee's Air Transportation business; provided, however, that said training and testing shall be incidental to the use of the Airport in the operation by Permittee of its Air Transportation business and shall not unreasonably hamper or interfere with the use of the Airport and its facilities by others entitled to use of same. The Director may restrict or prohibit such training and testing operations if, in in the Director's reasonable discretion, the Director deems them to interfere with the use of the Airport. Flight training and testing of aircraft and other equipment shall be undertaken by Permittee only with the prior written approval of the Director, and to the extent permitted by, and subject to, the Rules and Regulations.
5. The purchase of Permittee's requirements of Personal Property or services, including fuel, lubricants, food, beverage, and other passenger supplies, and any other materials and supplies used by Permittee from any person or company of Permittee's choice, and the making of agreements with any person or company of Permittee's choice for services to be performed for Permittee that are incidental to the operation of Permittee's Air Transportation business. Storage of fuel at the Airport is not permitted by this Permit, but Permittee and the Director, on behalf of the City, may negotiate a separate agreement regarding the storage of fuel at the Airport. Nothing herein shall restrict the Director from levying a Business Privilege Fee on any person or company for conducting business at the Airport. Permittee, related organizations and subsidiaries' (e.g., Delta Global Services) engaged in sale of ground service, other services, and goods to other airlines and organizations shall be subject to the Business Privilege Fee. Permittee and City agree that the proceeds from the Business Privilege Fee constitute Airport Revenue and may only be used for Airport purposes. The sale, disposal, and exchange of Permittee's aircraft, engines, accessories and other equipment, and materials or supplies, provided that such right shall not be construed as authorizing the conduct of a separate regular business by Permittee, but as permitting Permittee to perform only such functions as are incidental to the operation of its Air Transportation business at the Airport.
6. The servicing by Permittee, or by its suppliers of materials or furnishers of services, of aircraft and other equipment operated by Permittee, including the provision of line

maintenance or other materials or supplies, on Exclusive Use Space or at assigned Gates or other locations designated by the Director.

7. The installation and operation of identifying signs, posters, and graphics on Permittee's Exclusive Use, subject to the prior written approval of the Director. Such signs shall be substantially uniform in size, type, and location with those of other airlines, consistent with the Airport's graphic standards, the Rules and Regulations, and in compliance with all applicable laws and ordinances.
8. The installation, maintenance, and operation of such radio, meteorological, and aerial navigation equipment and facilities at suitable locations on the Airport as may be necessary or convenient in the opinion of Permittee for its operations; provided that: (i) the location of such equipment and facilities shall be subject to the prior written approval of the Director; (ii) the use and location of such equipment and facilities shall not conflict with other equipment and facilities at the Airport; and (iii) the use and location of such equipment and facilities on the Airport shall be subject to the payment of standard rental rates established for such use.
9. The installation, maintenance, and operation of computer data lines, non-revenue generating Wi-Fi networks, telephone communications equipment, associated cables, associated conduits, and telephone communications switchgear and support computers at suitable locations on the Airport as may be necessary or convenient in the opinion of Permittee for its operations; provided that: (i) the location of such equipment shall be subject to the prior written approval of the Director; (ii) the use and location of such equipment shall not interfere with the use of other equipment on the Airport; (iii) the use and location of such equipment, except for cables, on the Airport shall be only in Exclusive Use Space for which rents, fees and charges are being timely paid by Permittee pursuant to this Permit; (iv) all cables are installed in conduits, and when such cables are no longer needed, they are promptly removed by Permittee without damage to the space and the conduits are also promptly removed by Permittee if so required by the Director; and (v) all installation and/or removal is performed in accordance with the Airport's telecommunications infrastructure and security requirements.
10. The installation, maintenance, and operation of passenger clubs, lounges, or VIP rooms in Permittee's Exclusive Use Space, subject to the approval of the Director and provided that

such right shall not be construed as authorizing the conduct of a separate regular business by Permittee, but as permitting Permittee to perform only such functions as are incidental to the conduct or operation of its Air Transportation business.

11. Permittee will require its contractors to obtain required permits from the Director and pay Business Privilege Fees promptly.
12. The storage and parking of equipment, baggage and cargo equipment, and vehicles, but only at such locations as specifically designated by the Director.
13. The maintenance and repair of equipment and vehicles, but only at such locations as specifically designated by the Director.

#### **Section 4.02 RESTRICTIONS**

In connection with the exercise of Permittee's rights under this Permit, Permittee or any of its agents, employees, directors, officers, contractors, invitees, licensees, or representatives shall not do any of the following, notwithstanding any contrary provision in this Permit:

1. Do or permit its agents, employees, directors, or officers to do anything at or about the Airport that may interfere with the effectiveness or accessibility of the drainage and sewage system, electrical system, air conditioning system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, installed or located on or within the premises of the Airport.
2. Do anything that may invalidate or conflict with any fire or other casualty insurance policies covering the Airport or any part thereof.
3. Keep or store, at any time, flammable or combustible liquids except in accordance with federal, State, and City laws, including the Uniform Fire Code and the Uniform Building Code. For purposes of this Permit, flammable or combustible liquids shall have the same definitions as set forth in the Uniform Fire Code, as that Code may be amended from time to time.

4. Do anything that may be in conflict with 14 CFR Part 139 Airport Certification as that regulation may be amended from time to time, or jeopardize the operating certificate of the Airport.
5. Do anything that may be in conflict with 49 CFR Part 1542 Airport Security or the TSA-approved security plan for the Airport.
6. Permit any amusement machine, vending machine, public pay telephone, facsimile machine, copy machine, or other machine operated by coins, tokens, or credit cards to be installed or maintained in any publicly accessible area without the express written determination of the Director in his discretion. Permittee or its nominee may, however, install, maintain, and operate vending machines in Permittee's Exclusive Use Space not accessible to the public for the purpose of providing and making available foods, beverages and sundry food items to Permittee's employees only.
7. Provide commercial ground transportation services to any person upon payment of any fee or charge. However, Permittee is expressly excluded from the requirements of any Rules and Regulations promulgated, so long as this ground transportation is provided free of any fee or charge to any passenger (as a result of irregular operations) or employee.
8. Dispose of or permit its agents, employees, directors or officers to dispose of any waste material taken from or products used (whether liquid or solid) with respect to its aircraft into the sanitary or storm sewers at the Airport unless such waste material or products first be properly treated by equipment installed with the approval of the Director for that purpose. Such disposal shall take place only after receipt by Permittee of written permission from the Director.
9. Perform aircraft engine run-ups except at locations and during time periods approved in writing in advance by the Director.

10. Enter into activities that compete with City in City's development of any non-airline revenue from Airport passengers, tenants, and other users. Should the Director allow Permittee to engage in non-airline business activities not specifically permitted in this Permit, the Director may levy a Business Privilege Fee.

#### **Section 4.03     INGRESS AND EGRESS**

Subject to the other provisions hereof and to the Rules and Regulations, and laws and regulations of federal authorities such as the TSA or the Department of Homeland Security, the following privileges of ingress and egress with respect to the Airport are hereby granted:

1. For Permittee, its agents, employees, contractors, and subcontractors access to the Exclusive Use Space, Baggage Handling Areas, and Baggage Handling System areas and to space used by Permittee in common with other airlines. This right shall extend to Permittee's aircraft, vehicles, machinery, and equipment used in its Air Transportation business.
2. For Permittee's passengers, guests, and invitees, access to the public facing Exclusive Use Space and to other Airport areas provided for the use of Permittee's passengers, guests, and invitees in common with those of other airlines, and to public facilities.
3. For Permittee's suppliers of materials and furnishers of service, access to the Exclusive Use Space and Baggage Handling Areas.

The ingress and egress provided for above shall not be used, enjoyed, or extended to any person, airline, or vehicle engaging in any activity or performing any act or furnishing any service for or on behalf of Permittee that Permittee is not authorized to engage in or perform under the provisions hereof unless expressly authorized by the Director.

#### **Section 4.04     CONCESSION SERVICES RIGHTS RESERVED BY CITY**

Except as otherwise expressly provided herein, City reserves the exclusive right to itself, its agents, and its franchisees to operate all concession services (including, but not limited to,

food/beverage and news/gift concessions, specialty retail shops and carts, vending machines, pay telephones, facsimile machines, and other voice and data telecommunications systems, advertising displays, baggage lockers, and baggage carts) in the Terminal Building, including the Assigned Premises, such as Passenger Holdrooms and Loading Bridge interiors and exterior areas, and to retain the revenue therefrom; provided, however, that City agrees that no concession services shall be located or operated by City or its nominees in any Exclusive Use Space without prior notice to Permittee.

City shall operate all concessions and provide such other services (with reasonable consideration to requests made by Permittee) for scheduled airline passenger operations at the Airport, as it deems necessary or appropriate.

The distribution, serving or sale of food and/or beverages (including alcoholic beverages) meant to be consumed aboard Permittee's aircraft by Permittee or its in-flight catering provider shall be limited to Permittee's passengers who are in the passenger Loading Bridge or entrance to the passenger Loading Bridge and in the process of boarding Permittee's aircraft, unless in Permittee's clubroom, otherwise agreed in writing by the Director, or in the event of irregular operations as described above and below. The provisions of this Section notwithstanding, all distribution of alcoholic beverages shall comply with applicable laws.

Permittee may provide food and beverages, at no cost, to Permittee's customers and passengers in the assigned Passenger Holdrooms during irregular operations. For purposes of this section irregular operations are defined as situations in which actual flight operations vary materially from schedule flight operations. The provision of food and refreshments during irregular operations are not subject to the Business Privilege Fee discussed above so long as food and beverages are disseminated by Permittee to Permittee's ticketed passengers at no charge.

Except as expressly allowed in this Section or approved in writing by the Director, all other serving, distribution or sale of food or beverages by Permittee at the Airport is prohibited.

**Section 4.05 GROUND HANDLING SERVICES BY PERMITTEE OR OTHERS**

Permittee may contract with or receive from other airlines serving the Airport or other companies Ground Handling Services (both above and below the wing services) for Permittee's aircraft, provided that Permittee provides advance written notice to the Director (or his designated representative) of such arrangements and uses reasonable efforts to ensure that such other airline or other company shall have entered into an operating permit or agreement or other similar contract with City prior to commencing Ground Handling Services with Permittee.

If the Permittee receives Ground Handling Services from a Ground Handling Services provider, it will require provider to pay the City monthly an amount equal to ten (10.0%) of the gross amount invoice by the provider to Permittee for Ground Handling Services. If the provider does not pay the Business Privilege Fee to the City when due, the amount due will become an Additional Rent obligation of Permittee under this Permit. Nothing herein shall restrict City from requiring the service provider to have a Permit with City, and City levying a Business Privilege Fee for Ground Handling Services on any person or company (including Permittee when Permittee is providing these services at the Airport.).

Subject to the Permittee's payment of the Business Privilege Fee, Permittee may provide Ground Handling Services to aircraft of other airlines operating at the Airport provided that Permittee provides advance written notice to the Director (or his designated representative) of such arrangements and uses commercially reasonable efforts to ensure that such other airline has entered into an operating permit or agreement or similar contract with City prior to conducting its operations at the Airport. Permittee's insurance, as required in this Permit, shall provide insurance coverage for such Ground Handling Services.

**Section 4.06 REMOVAL OF DISABLED AIRCRAFT**

Upon release of Permittee's disabled aircraft by the proper authorities, Permittee shall promptly remove any such disabled aircraft from any part of the Airport (including, without limitation, runways, taxiways, aprons, and Gate positions) and place any such disabled aircraft in such storage area as may be designated by the Director.

Permittee may store such disabled aircraft only for such length of time and on such terms and conditions as may be established by the Director. If Permittee fails to remove any of its disabled aircraft promptly in accordance with this Section, the Director may, but shall not be obligated to, cause the removal of such disabled aircraft. However, City's election to remove or store such disabled aircraft shall not be inconsistent with federal laws and regulations. Permittee agrees to reimburse City for all costs of such removal.

Alternatively, at the discretion of Permittee, the disabled aircraft can be stored at an Off-Airport location.

#### **SECTION 4.07 PERMITTEE PRECAUTIONS**

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

END OF ARTICLE

## **ARTICLE 5. RENTS AND FEES**

### **Section 5.01 CONSIDERATION**

In consideration for use of the Assigned Premises, facilities, rights, and privileges granted hereunder and for the undertakings of City, Permittee agrees to pay City during the Term of this Permit, without deduction or set-off, those certain rents, fees, and other charges as set forth in this Article and as recalculated from time to time according to the procedures of Article 6 hereof.

### **Section 5.02 PERMITTEE TERMINAL BUILDING RENTS**

Permittee shall pay City for its Exclusive Use Space in the Terminal Building monthly rent based on the annual rental rates for areas calculated each Fiscal Year in accordance with Article 6 hereof.

### **Section 5.03 PERMITTEE PER TURN GATE USE FEE**

Permittee shall pay City a Permittee Per Turn Gate Use Fee for its use of the Passenger Holdrooms, Loading Bridges, and Aircraft Apron parking positions. The Permittee Per Turn Use Gate Fee will be based on the annual rental requirements for Passenger Holdrooms, Loading Bridges, and Apron Areas divided by the projected number of annual aircraft Turns for each Gate as calculated pursuant to Article 6 hereof; provided that Permittee will be charged an amount equal to two Permittee Per Turn Gate Use Fees for overnight aircraft parking at a Terminal Building Gate. The Permittee Per Turn Gate Use Fees, for City controlled Gates, will be recalculated each Fiscal Year in accordance with Article 6 hereof.

### **Section 5.04 PERMITTEE BAGGAGE HANDLING SYSTEM USE FEE**

Permittee shall pay City for its use of the Baggage Handling System and baggage processing areas in the Terminal Building a monthly Permittee Baggage Handling System Use Fee based on the annual Permittee Baggage Handling System Use Fee rate recalculated each Fiscal Year in accordance with Article 6 hereof.

The Permittee Baggage Handling System Use Fee is compensation for (1) Terminal Building space used for handling and processing baggage including, but not limited to baggage conveyer

areas, baggage screening system and the areas it occupies, baggage, makeup areas, tug-ways, baggage breakdown areas, baggage claim areas, and (2) the direct and indirect cost of operation and maintenance of all baggage handling, screening, conveying, and processing equipment.

**Section 5.05 PERMITTEE CARGO APRON AREA USE FEES**

Permittee shall pay City a Permittee Per Turn Cargo Apron Area Use Fee for its use of City controlled aircraft parking positions located in the Cargo Apron Area. The City Permittee Per Turn Cargo Apron Area Use Fee will be based on the annual requirement for each City controlled aircraft parking position located in the Cargo Apron Area divided by the projected number of annual aircraft Turns for each City controlled aircraft parking position in the Cargo Apron Area. The annual Permittee rental requirements for each City controlled aircraft parking position in the Cargo Apron Area will be recalculated each Fiscal Year in accordance with Article 6 hereof.

**Section 5.06 PERMITTEE REMOTE PARKING APRON AREA USE FEES**

Permittee shall pay City a Permittee Per Turn Remote Parking Area Use Fee for its use of City controlled aircraft parking positions in the Remote Parking Area. The City Permittee Per Turn Remote Parking Apron Area Use Fees will be based on the annual rental requirement for each City controlled aircraft parking position in Remote Parking Apron Area divided by the projected number of annual aircraft Turns for each City controlled aircraft parking position in the Remote Parking Apron Area. Permittee will be charged an amount equal to two Permittee Per Turn Remote Parking Apron Area Use Fees for overnight aircraft parking at the Remote Parking Apron Area. The annual Permittee rental requirements for each City controlled aircraft parking position in the Remote Parking Apron Area will be recalculated each Fiscal Year in accordance with Article 6 hereof.

**Section 5.07 PERMITTEE LANDING FEES**

Permittee shall pay City for its use of the Airfield Area monthly Landing Fees based on the annual Permittee Landing Fee rate calculated each Fiscal Year in accordance with Article 6 hereof; provided that at no time during the term of this Permit shall the landing fee rate per 1,000

pounds of Permittee's aircraft landed weight be less than forty six cents (\$0.46) per one thousand pounds of Permittee's aircraft landing weight.

#### **Section 5.08 OTHER CHARGES**

City reserves the right to assess, and Permittee agrees to pay other reasonable charges that include but would not be limited to the following:

1. Rents, fees, and charges for land, facilities, and equipment – the use of which has not been conveyed above. This category of charges would include, but is not limited to, the use of Airport-controlled Remote Aircraft Parking Area, Airport's Triturator, Airport aircraft de-icing equipment, and potable water cabinets.
2. Interest and penalties on Permittee's delinquent rents, fees, and charges.
3. Fines levied by the Director for Permittee's violations of the Rules and Regulations, lost badges, etc. per the schedule of fines set forth in the Rules and Regulations.
4. Fines levied by government authorities against the Airport for Permittee's acts or failure to act.
5. Telecommunications trunk equipment charges.
6. Charges for employee parking facilities
7. Charges for security processing and the issuance of security identification badges for Permittee's employees.

#### **Section 5.09 TIME OF PAYMENT**

The following sets forth the time of Permittee payments of rents, fees, and charges to City.

1. Permittee Exclusive Use Space rents shall be paid on or before the first day of each month in advance. The Airport's invoice for monthly Permittee Exclusive Use Space rent will be transmitted to Permittee by the fifteenth (15<sup>th</sup>) day of each month and is payable on or before the first day of the following month.
2. The Permittee Per Turn Gate Use Fee for the use of City Gates shall be due and payable without deduction or setoff within fifteen (15) days after the last day of the month after

such month of operations and shall be transmitted to the Director together with Permittee's monthly statistical report.

3. The Permittee Baggage Handling System Use Fee shall be paid on or before the first day of each month in advance based on an Airport invoice that will calculate the amount due based on the most recent month's enplanement statistics available. The Airport's invoice for monthly Permittee Baggage Handling System Use Fee will be transmitted to Permittee by the fifteenth (15<sup>th</sup>) day of each month and is payable on or before the first day of the following month.
4. The Permittee Per Turn Use Cargo Apron Area Use Fees shall be due and payable without deduction or setoff within fifteen (15) days after the last day of the month after such month of operations and shall be transmitted to the Director together with Permittee's monthly statistical report.
5. Permittee Landing Fees shall be due and payable without deduction or setoff within fifteen (15) days after the last day of the month after such month of operations and shall be transmitted to the Director together with Permittee's monthly statistical report.

Rents, fees, and charges not described in paragraphs (1) through (5) above shall be due and payable within thirty (30) days after transmittal of an invoice therefor by the Director.

The acceptance of any payment made by Permittee shall not preclude City from verifying the accuracy of Permittee's report and computations or from recovering any additional payment actually due from Permittee or preclude Permittee from later demonstrating that Permittee's report was inaccurate and that a lesser amount was properly owed (and to recover any such overpayment).

#### **Section 5.10 PFC COLLECTION AND HANDLING**

Permittee shall faithfully collect and promptly remit to City, not less than monthly (without notice or demand by City and in accordance with 14 CFR 158 Passenger Facility Charges as this

regulation may be amended from time to time) the proceeds of City's PFCs and shall punctually file quarterly reports in accordance with 49 U.S.C. 40177 and the requirements of 14 CFR 158, so long as City has an approved PFC in effect. Permittee shall keep and maintain all of City's PFCs in a separate account used solely for such purpose and shall not commingle the proceeds of City's PFCs with any other monies or funds of Permittee or any other person or entity. The PFCs shall at all times be the sole and separate property of City, and all PFCs collected by Permittee shall be held in trust by Permittee for the sole use and benefit of City until remitted to City. In no event shall the PFCs constitute property of the estate of the Permittee under 11 U.S.C. Section 541 in the event of the filing of a petition in bankruptcy by or against Permittee or any other person or entity.

#### **Section 5.11 PLACE OF PAYMENT**

Rents, fees, and charges shall be paid in United States Dollars by wire, electronic funds transfer, or check payable to City of Pensacola, Florida, which shall be delivered or mailed, postage prepaid, to City of Pensacola, Pensacola International Airport, 2430 Airport Blvd., Ste. 225, Pensacola, FL 32504 or which may be paid by wire transfers to accounts of the Airport designated in writing by the Director. To arrange payment by wire or electronic funds transfer, Permittee shall contact the Director at (850) 436-5000 for further information.

#### **Section 5.12 ADDITIONAL RENT**

City, after written notice to Permittee, may, but is not obligated to, cure any default on Permittee's part in fulfilling Permittee's covenants and obligations under this Permit. Actual amounts paid or costs incurred by City to cure any such default, together with an administration fee equal to fifteen percent (15%) of such actual amounts paid or costs incurred, are hereby agreed on and declared to be additional rent. Unless otherwise provided herein, all additional rent shall be due and payable on the later of either fifteen (15) days after receipt by Permittee of an invoice therefor or with the next succeeding installment of monthly rent due under this Permit. This Section will not apply in the case of a default where Permittee is diligently acting to cure the default; provided that Permittee is proceeding in good faith with reasonable dispatch to cure same.

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**Section 5.13 LIQUIDATED DAMAGE ON OVERDUE PAYMENTS**

Without waiving any other right available to City in the event of a default in Permittee's payment of any rents, fees, and charges under this Permit, including Passenger Facility Charge proceeds, which continues for a period of thirty (30) calendar days or more from the date when such payment is due to City, Permittee shall pay City late fees thereon, from the date such rents, fees, or charges become payable to the date of payment at the rate of one and one-half percent (1.5%) per month; provided, however, that if the maximum rate then provided by law is less than 1.5% per month, then the rate shall be such maximum legal rate. City may, but is not obligated to provide Permittee with a written reminder when invoiced rents, fees, or charges have not been received within thirty (30) calendar days of transmittal of the invoice therefor.

**Section 5.14 PERFORMANCE GUARANTEE – PERMITTEE RENTS AND FEES**

To guarantee and secure Permittee's faithful performance of all terms and conditions contained herein, including but not limited to the timely payment of all rents, fees, and charges, Permittee shall deliver to City upon the execution of this Permit, and shall thereafter continuously maintain in effect until the expiration or termination of this Permit, a "Performance Guarantee" in the aggregate amount of:

- a. Estimated Permittee rents for Exclusive Use Space for two (2) months;
- b. Estimated Permittee Per Turn Gate Use Fees for two (2) months;
- c. Estimated Permittee Baggage Handling System Use Fee for two (2) months;
- d. Estimated Permittee Per Turn Cargo Apron Use Fees for two (2) months;
- e. Estimated Permittee Per Turn Remote Parking Apron Use Fees for two (2) months;
- f. Estimated Permittee Landing Fees for two (2) average months (determined by multiplying Permittee's estimated landed weight each year by sixteen and two thirds (16.667%) percent and then multiplying such product by the actual Landing Fee rate effective for the Fiscal Year).

The amount of the Performance Guarantee may be adjusted by the Director annually, or more frequently to maintain an average two (2) months rents and fees Performance Guarantee based on current rent and fee levels. Such Performance Guarantee shall be in the form of a Letter of Credit, quick pay bond (i.e., payable within ten (10) days of demand), or other instrument reasonably satisfactory in all respects to the Director, in a form reasonably acceptable to the Director. The Performance Guarantee must provide that it shall automatically renew and remain in full force and effect for a period extending two (2) months following the expiration or early termination of this Permit.

In the event City is required to draw down or collect against Permittee's Performance Guarantee for any reason, Permittee shall, within ten (10) business days after City's written demand, take such action as may be necessary to replenish the existing Performance Guarantee to its original value or to provide a replacement Performance Guarantee from another source so that the aggregate of Performance Guarantee (s) is equal to the total amount required above.

In the event that any such Performance Guarantee shall be for a period less than the full period required above or if the Performance Guarantee will be cancelled, then not less than fifteen (15) days prior to the termination or cancellation of the Performance Guarantee, Permittee shall provide a renewal or replacement Performance Guarantee for the remaining required period so that there is no interruption in coverage.

Permittee and City agree that this Permit constitutes an 'unexpired lease' for the purposes of Section 365 of the United States Bankruptcy Code (Title 11 U.S.C.) subject to assumption or rejection, and subject to the terms and conditions of assumption or rejection, as provided in said Section 365. Upon Permittee's election to assume this Permit under the United States Bankruptcy Code (Title 11 U.S.C.) or any successor statute, as such may be amended, supplemented, or replaced, City, by written notice to Permittee given at any time within ninety (90) days of the date that such election becomes known to City, may impose or re-impose the Performance Guarantee requirements on Permittee. In such event, Permittee shall provide City with the required Performance Guarantee within ten (10) days from its receipt of such written notice and shall thereafter maintain such Performance Guaranty in effect until the expiration or termination

of this Permit. Furthermore, Permittee and City agree that if Permittee provides a Performance Guarantee in the form of a bond or irrevocable letter of credit, whether before or after the commencement of any bankruptcy or insolvency proceeding by or against Permittee, such Performance Guarantee provided by Permittee is not 'property of the estate' for purposes of Section 541 of the United States Bankruptcy Code (Title 11 U.S.C.), it being understood that any Performance Guarantee is the property of the third (3rd) party providing it (subject to City's ability to draw against the Performance Guarantee) and that all PFCs, less the allowable collection fees, collected by Permittee with respect to Enplaned Passengers at the Airport are the property of City.

END OF ARTICLE

## **ARTICLE 6. CALCULATION OF PERMITTEE RENTS, FEES, AND OTHER CHARGES**

### **Section 6.01 ANNUAL CALCULATIONS**

Each Fiscal Year, beginning with Fiscal Year 2018, the following will be calculated by the Director as provided in this Article 6:

1. Terminal Building Rental Rate
2. Per Turn Gate Use Fee consisting of:
  - a. Passenger Holdroom Use Fee
  - b. Apron Area Use Fee
  - c. Loading Bridge Use Fee
3. Baggage Handling System Use Fee
4. Per Turn Cargo Apron Area Use Fee
5. Per Turn Remote Parking Apron Area Use Fee
6. Landing Fee rate

Any such calculation of rents, fees, and other charges will be effective on the first day of the applicable Fiscal Year or the first day of the month during the Fiscal Year following a midyear rate adjustment.

By July 15th of each year, or as soon as practical thereafter, the Director will provide each permittee then currently engaged in Air Transportation at the Airport with a complete copy of the proposed Airport Budget and exhibits showing proposed rents, fees, and charges, calculated in accordance with Article 6 of this Permit, for the succeeding Fiscal Year. The Director will consult with such permittees concerning the proposed Airport Budget and the proposed rents, fees, and charges.

By September 1st of each year, or as soon as practical thereafter, the Director will make any revisions to the proposed rents, fees, and charges as the Director determines, in its reasonable discretion, to be warranted as a result of consultation with the airlines or otherwise, and will provide written notice to each permittee then currently engaged in Air Transportation at the

Airport of new rents, fees, and charges to be effective as of October 1st of that year, contingent upon the Pensacola City Council's adoption of the Budget.

**Section 6.02      CALCULATION OF PERMITTEE TERMINAL BUILDING RENTAL RATE**

- a. Each year, the Director will calculate the Terminal Building Requirement for the applicable Fiscal Year by totaling the following estimated amounts:
  1. The total of direct and indirect estimated Maintenance and Operating Expenses allocable to the Terminal Building.
  2. The total of Capital Outlays allocable to the Terminal Building
  3. An amount equal to 1.25 times the Annual Debt Service Requirement on all Bonds and other obligations and indebtedness allocable to the Terminal Building or such other amount as may be required by a Bond Resolution or loan document, less amounts paid by other sources (e.g. PFC revenues).
  4. The amount of any deposit to the Maintenance and Operating Reserve Fund allocable to the Terminal Building
  5. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by City relating directly to the Airport, or its operation, allocable to the Terminal Building.
  6. The amount required to replenish any Bond Fund allocable to the Terminal Building.
  7. Any other expenses allocable to the Terminal Building not included above.
- b. The Permittee Rental Rate Per Square Foot will then be calculated by dividing the total Terminal Building Requirement by the Total Space. If the Permittee's rental rate per square foot is less than one hundred thirty (130.0%) percent of the projected rental rate requirement of the Signatory Airlines calculated pursuant to the Signatory Airline Operating Agreement and Terminal Building Lease, then Permittee's rental rate for the Fiscal Year will be one hundred thirty (130.0%) percent of Signatory Airlines Terminal

Building rental rate calculated pursuant to the Signatory Airline Operating Agreement and Terminal Building Lease.

- c. Permittee's rents for Permittee's Exclusive Use Space in the Terminal Building will be computed as the product of the Permittee's Rental Rate Per Square Foot and the total amount of square footage of Permittee's Exclusive Use Space in the Terminal Building.

### **Section 6.03 PERMITTEE PER TURN GATE USE FEES**

The Permittee Per Turn Gate Use Fee requirement for each City controlled Gate is the sum of the annual Apron Area Requirement, Loading Bridge Requirement, and Passenger Holdroom Requirement associated with each Gate, as calculated in accordance with this Section 6.03. The Per Turn Gate Use Fee is determined by dividing each of the Gate's use fee requirements by City's projection of the number of annual Turns at each Gate pursuant to this Section 6.03. Each City controlled Gate will have a unique fee based on the size of each Gate's Passenger Holdroom and Apron Area.

The components of the Permittee Per Turn Gate Use Fees are calculated as follows:

#### **Section 6.03 (a) Calculation of Holdroom Use Fee**

The Holdroom Requirement for each City controlled Passenger Holdroom in the Terminal Building will be computed as the product of the Permittee Rental Rate Per Square Foot (calculated in accordance with Section 6.02) and the total amount of square footage in such City controlled Passenger Holdroom. The Holdroom Requirement for each Passenger Holdroom will be divided by the Director's projection of the number of annual Turns for such Passenger Holdroom to determine such Passenger Holdroom's Per Turn Holdroom Use Fee. This calculation will result in each Passenger Holdroom having a unique fee based on the size of each Passenger Holdroom.

#### **Section 6.03 (b) Calculation Permittee Apron Area Use Fee**

- a. Each year, the Director will calculate the Permittee Apron Area Requirement for the applicable Fiscal Year by totaling the following estimated amounts and multiplying the result by one hundred thirty (130.0%) percent:

1. The total of direct and indirect estimated Maintenance and Operating Expenses allocable to the Apron Area.
  2. The total of Capital Outlays allocable to the Apron Area
  3. An amount equal to 1.25 times the Annual Debt Service Requirement on all Bonds and other obligations and indebtedness allocable to the Apron Area or such other amount as may be required by a Bond Resolution or loan document, less amounts paid by other sources (e.g. PFC revenues).
  4. The amount of any deposit to the Maintenance and Operating Reserve Fund allocable to the Apron Area required by a Bond Resolution.
  5. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by City relating directly to the Airport or its operation allocable to the Apron Area.
  6. The amount required to replenish any Bond Fund allocable to the Apron Area.
  7. Any other expenses allocable to the Apron Area not included above.
- b. The sum of items 1 through 7 above multiplied by one hundred thirty (130.0%) percent is the Permittee Apron Area Requirement. The Permittee Apron Area Requirement per linear foot will then be calculated by dividing the Permittee Apron Area Requirement by the total linear feet in the Apron Area measured 100 feet from the Terminal Building.
- c. The Permittee Apron Area Requirement for each City controlled Gate will be computed as the product of the Permittee Apron Area Requirement per linear foot and the linear feet of Apron Area assigned to such City controlled Gate.
- d. The Permittee Apron Area Requirement for each Gate will be divided by City's projection of the number of annual Turns for each Gate to determine such Gate's Per Turn Permittee Apron Area Use Fee.

**Section 6.03 (c) Calculation of Permittee Loading Bridge Use Fee**

a. Each year, the Director will calculate the Permittee Loading Bridge Requirement for the applicable Fiscal Year by totaling the following amounts and multiplying the result by one hundred thirty (130.0%) percent:

1. The total of direct and indirect estimated Maintenance and Operating Expenses allocable to the Loading Bridges.
2. The total of Capital Outlays allocable to the Loading Bridges.
3. An amount equal to 1.25 times the Annual Debt Service Requirement on all Bonds and other obligations and indebtedness allocable to the Loading Bridges or such other amount as may be required by a Bond Resolution or loan document, less amounts paid by other sources (e.g. PFC revenues).
4. The amount of any deposit to the Maintenance and Operating Reserve Fund allocable to the Loading Bridges required by a Bond Resolution.
5. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by City relating directly to the Airport or its operation allocable to the Loading Bridges.
6. The amount required to replenish any Bond Fund allocable to the Loading Bridges.
7. Any other expenses allocable to the Loading Bridges not included above.

b. The sum of items 1 through 7 above multiplied by one hundred thirty (130.0%) percent is the Permittee Loading Bridge Requirement.

c. The Permittee Loading Bridge Requirement per Loading Bridge will then be calculated by dividing the Permittee Loading Bridge Requirement by the total number of Loading Bridges at the Terminal Building.

d. The Per Turn Permittee Loading Bridge Use Fee for each Loading Bridge will be divided by City's projection of the number of annual Turns for each Loading Bridge to determine such Loading Bridge's Per Turn Loading Bridge Use Fee.

**Section 6.04      CALCULATION OF PERMITTEE BAGGAGE HANDLING SYSTEM USE FEE**

- a. Each year, the Director will calculate the Permittee Baggage Handling System Requirement for the applicable Fiscal Year by totaling the following estimated amounts.
  1. An amount equal to 1.30 times the total of direct and indirect estimated Maintenance and Operating Expenses allocable to the Baggage Handling System.
  2. An amount equal to 1.30 times the total of Capital Outlays allocable to the Baggage Handling System.
  3. An amount equal to 1.30 times the amount equal to 1.25 times the Annual Debt Service Requirement on all Bonds and other obligations and indebtedness allocable to the Baggage Handling System or such other amount as may be required by a Bond Resolution or loan document, less amounts paid by other sources (e.g. PFC revenues).
  4. An amount equal to 1.30 times any deposit to the Maintenance and Operating Reserve Fund allocable to the Baggage Handling System required by a Bond Resolution.
  5. An amount equal to 1.30 times the estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by City relating directly to the Airport or its operation allocable to the Baggage Handling System.
  6. An amount equal to 1.30 times the amount required to replenish any Bond Fund allocable to the Baggage Handling System.
  7. An amount equal to 1.30 times any other expenses allocable to the Baggage Handling System.
  8. An amount equal to 52,482 square feet of baggage handling areas of the Terminal Building (baggage conveyer areas, baggage, makeup, tug ways, baggage breakdown areas, baggage claim areas) or such other amount of square footage for this function that may result from modifications and changes in the Terminal Building from time to time multiplied by Permittee Terminal Building Rental Rate calculated in accordance with Section 6.02 of this Permit

- b. The sum of items 1 through 8 above is the Permittee Baggage Handling System Requirement. The Permittee Baggage Handling System Use Fee rate will be calculated by dividing the Permittee Baggage Handling System Requirement by the total estimated number of Enplaned Passengers for the applicable Fiscal Year
  
- c. Permittee Baggage Handling System Use Fee will be calculated by multiplying Permittee's Enplaned Passengers for each month of the applicable Fiscal Year by the Permittee Baggage Handling System Use Fee rate then in effect.

**Section 6.05      CALCULATION OF PERMITTEE CARGO APRON AREA USE FEES**

- a. Each year, the Director will calculate the Permittee Cargo Apron Area Requirement for the applicable Fiscal Year by totaling the following estimated amounts and multiplying the result by one hundred thirty (130.0%) percent:
  - 1. The total of direct and indirect estimated Maintenance and Operating Expenses allocable to the Cargo Apron Area.
  - 2. The total of Capital Outlays allocable to the Cargo Apron Area
  - 3. An amount equal to 1.25 times the Annual Debt Service Requirement on all Bonds and other obligations and indebtedness allocable to the Cargo Apron Area or such other amount as may be required by a Bond Resolution or loan document, less amounts paid by other sources (e.g. PFC revenues).
  - 4. The amount of any deposit to the Maintenance and Operating Reserve Fund allocable to the Cargo Apron Area required by a Bond Resolution.
  - 5. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by City relating directly to the Airport or its operation allocable to the Cargo Apron Area.
  - 6. The amount required to replenish any Bond Fund allocable to the Cargo Apron Area.
  - 7. Any other expenses allocable to the Cargo Apron Area not included above.

- b. The sum of items 1 through 7 above multiplied by one hundred thirty (130.0%) percent is the Permittee Cargo Apron Area Requirement. The Permittee Cargo Apron Area Requirement per linear foot will then be calculated by dividing the Permittee Cargo Apron Area Requirement by the total linear feet in the Cargo Apron Area.
- c. The Permittee Cargo Apron Area Requirement for each City controlled Cargo Apron Area aircraft parking position will be computed as the product of the Permittee Cargo Apron Area Requirement per linear foot and the linear feet of Cargo Apron Area assigned to such City controlled aircraft parking position.
- d. The Permittee Cargo Apron Area Requirement for each City controlled aircraft parking position will be divided by City's projection of the number of annual Turns for such City controlled aircraft parking position to determine each City controlled aircraft parking position's Per Turn Permittee Cargo Apron Area Use Fee.

**Section 6.06 CALCULATION OF PERMITTEE REMOTE PARKING AREA FEES**

- a. Each year, the Director will calculate the Permittee Remote Parking Area Requirement for the applicable Fiscal Year by totaling the following estimated amounts and multiplying the result by one hundred thirty (130.0%):
  - 1. The total of direct and indirect estimated Maintenance and Operating Expenses allocable to the Remote Parking Area.
  - 2. The total of Capital Outlays allocable to the Remote Parking Area
  - 3. An amount equal to 1.25 times the Annual Debt Service Requirement on all Bonds and other obligations and indebtedness allocable to the Remote Parking Area or such other amount as may be required by a Bond Resolution or loan document, less amounts paid by other sources (e.g. PFC revenues).
  - 4. The amount of any deposit to the Maintenance and Operating Reserve Fund allocable to the Remote Parking Area required by a Bond Resolution.

5. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by City relating directly to the Airport or its operation allocable to the Remote Parking Area.
  6. The amount required to replenish any Bond Fund allocable to the Remote Parking Area.
  7. Any other expenses allocable to the Remote Parking Area not included above.
- b. The sum of items 1 through 7 above multiplied by one hundred thirty (130.0%) percent is the Permittee Remote Parking Area Requirement. The Permittee Remote Parking Area Requirement per linear foot will then be calculated by dividing the Permittee Remote Parking Area Requirement by the total linear feet in the Remote Parking Area.
  - c. The Permittee Remote Parking Area Requirement for each City controlled Remote Parking Area aircraft parking position will be computed as the product of the Permittee Remote Parking Area Requirement per linear foot and the linear feet of Remote Parking Area assigned to such City controlled aircraft parking position.
  - d. The Permittee Remote Parking Apron Area Requirement for each City controlled Remote Parking Area aircraft parking position will be divided by City's projection of the number of annual Turns for such City controlled Remote Parking Area aircraft parking position to determine such City controlled Remote Parking Area aircraft parking position's Per Turn Permittee Remote Parking Area Use Fee.

**Section 6.07      CALCULATION OF PERMITTEE LANDING FEE RATE**

- a. Each year, the Director will calculate the Permittee Landing Fee Requirement for the applicable Fiscal Year by totaling the following amounts:
  1. The total of direct and indirect estimated Maintenance and Operating Expenses of the Airfield Area.
  2. The total of Airport Capital Outlays allocable to the Airfield Area.
  3. An amount equal to 1.25 times the Annual Debt Service Requirement on all Bonds and other obligations and indebtedness allocable to the Airfield Area or such other amount as

may be required by a Bond Resolution or loan document, less amounts paid by other sources (e.g. PFC revenues)

4. The amount of any deposit, allocable to the Airfield Area, to the Airport Maintenance and Operating Reserve Fund required by a Bond Resolution.
5. The estimated amount of any assessment, judgment, or charge (net of insurance proceeds) to become payable by City relating directly to the Airport, or its operation allocable to the Airfield Area.
6. The amount required to replenish any Airport Bond Fund allocable to the Airfield Area.
7. Any other Airport expenses allocable to the Airfield Area.
8. An amount equal to seventeen and one-half percent (17.5%) of non-airline revenues derived by City during the Fiscal Year that is allocable to the Airfield Area.
9. The portion allocable to the Airfield Area for any overpayment or underpayment for the operation of the Airport during the then-current Fiscal Year or any adjustment carried over from preceding Fiscal Years.

The sum of items 1 through 9 multiplied by 130% is the Permittee Landing Fee Requirement.

The Permittee Landing Fee Rate per one thousand (1,000) pound units of Landed Weight will then be calculated by dividing the Permittee Landing Fee Requirement by the Total Landed Weight. If the Permittee Landing Fee Rate per one thousand (1,000) pound units of Landed Weight is greater than one hundred thirty (130.0%) percent of the projected Landing Fee rate per one thousand (1,000) pound units of Landed Weight of the Signatory Airlines calculated pursuant to the Signatory Airline Operating Agreement and Terminal Building Lease, then the Permittee Landing Fee Rate per one thousand (1,000) pound units of Landed Weight for the Fiscal Year will be one hundred thirty (130.0%) percent of Signatory Airlines Landing Fee rate calculated pursuant to the Signatory Airline Operating Agreement and Terminal Building Lease.

The foregoing notwithstanding, in no event will the Permittee Landing Fee Rate be less than one hundred thirty (130.0%) percent of Signatory Airlines Landing Fee rate calculated pursuant to the Signatory Airline Operating Agreement and Terminal Building Lease.

Permittee Landing Fee will be calculated by multiplying Permittee's Landed Weight for the month by the Permittee Landing Fee Rate then in effect.

**Section 6.08 RENTS, FEES, AND CHARGES ADJUSTMENTS**

Notwithstanding any other provisions hereof, City may, with thirty (30) days' advance written notice to and in consultation with Permittee, implement recalculated rents, fees, and charges in accordance with this Article 6.

END OF ARTICLE

## **ARTICLE 7. MONTHLY ACTIVITY REPORTS**

### **Section 7.01 REQUIRED MONTHLY ACTIVITY REPORTS**

Permittee shall furnish to the Director, on or before the tenth (10th) day of each month, an accurate verified report detailing its operations for the previous month on forms prescribed by the Director. Said report shall include, but shall not be limited to:

- a. Permittee's total number of Aircraft Arrivals by type of aircraft and Maximum Gross Landing Weight of each type of aircraft.
- b. The total number of Enplaned Passengers and deplaned passengers of Permittee.
- c. The total weight of freight, mail, and other cargo, enplaned and deplaned for such month.
- d. Total amounts paid to third-party contractors for services provided to Permittee at the Airport during the previous month. Permittee will itemize this information for each of its third-party contractors.

The Monthly Activity Reports can be submitted electronically at [RC@cityofpensacola.com](mailto:RC@cityofpensacola.com) or such other email address as the Director may designate from time to time.

City reserves the right to periodically audit these reports to verify the accuracy of the information.

### **Section 7.02 FAILURE TO FURNISH REPORT**

If Permittee fails to furnish the Director with the report described above, Permittee's Landing Fee shall be determined by assuming that the Total Landed Weight for Permittee during the preceding month was one hundred percent (100.0%) of the Total Landed Weight for the most recent month for which such figure is available or other available data. Any necessary adjustment in such Landing Fee shall be calculated after an accurate report is delivered to the Director by Permittee for the month in question, and resulting surpluses or deficits shall be applied to Permittee's Landing Fee for the next succeeding month. An accounting fee of fifteen percent (15%) of the amount due as shown on such statement, or such lesser accounting fee as

may be determined by the Director to be sufficient to reimburse City, shall be payable by Permittee for the additional services required by City pursuant to this paragraph.

END OF ARTICLE

## **ARTICLE 8. CAPITAL IMPROVEMENTS**

The parties hereto recognize that Capital Improvements to preserve, protect, enhance, expand, or otherwise improve the Airport, or any part thereof, will be required during the Term of this Permit. Any such Capital Improvement shall be subject to the provisions of this Article.

### **Section 8.01 CAPITAL IMPROVEMENT COORDINATION WITH PERMITTEE**

On or about July 1, or approximately ninety (90) days prior to the end of the then-current Fiscal Year, the Director shall notify Permittee in writing of the Airport's proposed Capital Improvement program for the subsequent Fiscal Year, as contained in the Airport's proposed Capital Improvement budget for the Fiscal Year. Also, the Director may notify Permittee in writing at any other time of proposed Capital Improvements.

The Director will provide Permittee a written description of such Capital Improvements, such description to include the purpose, method of financing, and any reasonably anticipated effect on Permittee rents, fees, and charges hereunder and, to meet with Permittee and other airlines within thirty (30) days after notification to Permittee of said Capital Improvement to further discuss the proposed Capital Improvement.

The Director will give due consideration to the comments and recommendation of Permittee with respect to the proposed Capital Improvements.

END OF ARTICLE

**ARTICLE 9. BOND RESOLUTION SUBORDINATION AND APPLICATION OF REVENUES**

**Section 9.01 SUBORDINATION TO BOND RESOLUTION**

This Permit and the terms hereof, and all rights of Permittee hereunder are expressly subordinated and subject to the lien and provisions of any pledge, transfer, hypothecation, or assignment made (at any time) by City to secure Airport Bonds or other types of financing. This Permit is subject and subordinate to the terms, covenants, and conditions of the Bond Resolution, other types of financing documents authorizing the issuance of Airport Bonds and other forms of debt by City. City may amend or modify the Bond Resolution or other financing documents or make any change thereto that does not materially or adversely affect Permittee rights under this Permit. Conflicts between this Permit and the Bond Resolution or other financing documents shall be resolved in favor of the Bond Resolution or other financing documents.

The City represents and warrants that to the best of its knowledge the provisions hereof relating to the Airport Bonds are consistent with the Bond Resolutions and financing documents and that there are no conflicts between the terms hereof and the Bond Resolutions or any such financing documents.

All definitional terms that are not specifically defined herein are to have the meanings set forth in the Bond Resolution.

**Section 9.02 DISPOSITION OF AIRPORT REVENUE, PASSENGER FACILITY CHARGE, AND CUSTOMER FACILITY CHARGE PROCEEDS**

All Airport Revenue shall be deposited, applied, and allocated to the funds and accounts in the manner and according to the priority provided for in the applicable Bond Resolution(s) or other financing documents.

All Passenger Facility Charge proceeds shall be deposited, applied, and allocated in a manner consistent with applicable federal laws and regulations. If Passenger Facility Charge proceeds are pledged to repay Bonds, then those proceeds shall be deposited, applied, and allocated in the

funds and accounts in the manner and according to the priority provided for in the applicable Bond Resolution(s).

All Customer Facility Charge proceeds are not Airport Revenue and are restricted to pay the costs of rental car and related facilities. They shall be deposited, applied, and allocated in a manner consistent with applicable agreements, financing documents, laws and regulations.

**Section 9.03 REVENUES AND EXPENSE RECORDS**

City will maintain an Airport accounting system and will maintain accounting records that document the following items: (a) Annual Airport Revenue, (b) Maintenance and Operating Expenses, (c) Capital Outlays, (d) Annual Debt Service, (e) Amortization, and (f) Capital Improvements and income received from City in connection with the operation of the Airport and other expenses incurred by City for the improvement, renovation, or enhancement of the Airport as they may be charged directly or allocated to each Airport Cost Center.

END OF ARTICLE

## **ARTICLE 10. MAINTENANCE, REPAIR, AND OPERATION OF THE AIRPORT**

### **Section 10.01 CITY'S RESPONSIBILITIES**

The following are City's responsibilities.

#### **Section 10.01 (a) Airport Facilities - General**

Except as otherwise provided in this Permit, and subject to applicable laws governing City's right to budget, appropriate and spend money, City agrees to maintain, operate, and keep in good repair the areas and facilities required by this Permit to be maintained, operated and repaired by City in accordance with the practices of a reasonably prudent airport operator operating an airport comparable and similarly situated to the Airport. City agrees to use commercially reasonable efforts to keep the Airport free from obstructions and to provide for the safe, convenient, and proper use of the Airport by those who are authorized to use same.

#### **Section 10.01 (b) Airfield Area Maintenance**

Subject to Permittee's obligations in Section 10.02, City will maintain, operate, and keep in good repair the areas and facilities in the Airfield Area provided by City for use by the airlines in accordance with the practices of a reasonably prudent airport operator operating an airport comparable and similar situated to the Airport.

#### **Section 10.01 (c) Apron Area**

Subject to Permittee's obligations in Section 10.02, City will provide maintenance for the Apron Area (as shown on Exhibit E), drainage maintenance, and Apron Area lighting. City will provide electricity for Apron Area lighting and will include the cost of electricity in City's fees for use of the Apron Area.

#### **Section 10.01 (d) Baggage Handling System**

City shall be responsible for maintenance and operation of the Baggage Handling System (as shown in Exhibit D) including, without limitation, the maintenance of all equipment, systems

and fixtures. City will provide electricity to the Baggage Handling System. The cost of electricity shall be included in City's fees for use of the Baggage Handling System.

**Section 10.01 (e) Cargo Apron Area**

Subject to Permittee's obligations in Section 10.02, City will provide maintenance for the Cargo Apron Area (as shown on Exhibit F) and drainage maintenance. City will provide electricity for Cargo Apron Area lighting and will include the cost of electricity in City's fees for use of the Cargo Apron Area. Cargo Apron Area lighting will be provided by the airline requiring such lighting.

**Section 10.01 (f) Loading Bridges**

City will provide maintenance, janitorial, and electricity to the Loading Bridges. The cost of maintenance, janitorial, and electricity shall be included in City's fees for use of the Loading Bridges.

**Section 10.01 (g) Terminal Building - General**

Except as otherwise provided in this Permit, and subject to applicable laws governing City's right to budget, appropriate and spend money, City will: (a) furnish structural maintenance (including maintenance of the roof) of City-owned facilities including the Terminal Building; (b) provide maintenance and operation of City-installed equipment and systems; (c) install and furnish electrical power for interior area lighting throughout the Terminal Building, Apron Area, Loading Bridges and Baggage Handling System; (d) provide heating and air conditioning in enclosed interior areas of the Terminal Building, Loading Bridges and Baggage Handling System; (e) provide lighting fixture repair in Public View Areas and the unrented areas of the Terminal Building; (f) provide maintenance of City installed plumbing lines (but excluding plumbing fixtures); and (g) provide drinking water in the Terminal Building.

**Section 10.01 (h) Terminal Building Public View Areas**

The City will keep in good repair and provide janitorial services in the areas of the Terminal Building in public view (the "Public View Areas") in both Exclusive Use, as shown on Exhibits B and C and all additions, improvements, and facilities now or hereafter provided by City at or in

connection with the Terminal Building for use by all airlines and the public, excepting any improvements or facilities constructed or installed by Permittee, either individually or jointly with others, and those that Permittee has agreed under the provisions hereof to operate and maintain. City shall be responsible for interior and exterior window cleaning in Public View Areas of the Terminal Building.

**Section 10.01 (i) Terminal Building Baggage Handling Space**

In the Baggage Handling Space, in addition to any other obligations set forth herein, City will furnish janitorial services, repair, maintenance, electricity, and area lighting. In enclosed areas, where appropriate, City will provide heating and air conditioning. The Maintenance and Operating Expenses of the Baggage Handling Space shall be included in City's rent for the use of the Baggage Handling Space.

If it is determined by City that the negligent acts or omissions of Permittee have caused the need for maintenance as described in this Section 10.1 or repairs to facilities or systems, Permittee agrees to pay the cost of maintenance or repair plus fifteen (15%) percent for administration provided Permittee has not elected to make the repair itself in a manner approved by the Director.

**Section 10.02 PERMITTEE'S RESPONSIBILITIES**

The following are responsibilities of Permittee and may be performed by Permittee or Permittee's third party service provider, but it is understood that performance by Permittee's third party service provider shall not relieve Permittee of its responsibilities under this Section.

**Section 10.02 (a) Exclusive Use Space**

Permittee, at Permittee's sole cost and expense, shall provide all maintenance and janitorial services to the non-Public View Areas of its Exclusive Use Space. Permittee shall furnish all janitorial services and all maintenance and operation of Permittee -installed improvements and systems in the non-Public View Areas of its Exclusive Use Space. Permittee shall provide electrical relamping in the non-Public View Areas of its Exclusive Use Space and all decorating

and redecorating when required in its Exclusive Use Space. Permittee shall maintain the non-Public View Areas of its Exclusive Use Space in a neat, clean, sanitary, and operable condition.

**Section 10.02 (b) Passenger Loading Bridges**

Permittee shall not modify or attach Personal Property or signage to City-owned passenger Loading Bridges without the advanced written approval of the Director (which approval may be withheld at Director's sole discretion).

**Section 10.02 (c) Permittee Constructed Improvements**

Permittee shall cause all improvements and facilities, and additions thereto, constructed or installed by Permittee, either alone or in conjunction with others, and all vehicles and equipment operated by Permittee on the Airport to be kept and maintained in a safe condition and in good repair in accordance with uniform standards applicable to all similarly situated Airport tenants as established from time to time by the Director. Subject to City's obligations in Section 10.01, Permittee shall keep its Exclusive Use Space and improvements thereon in a sanitary and neat condition.

**Section 10.02 (d) Maintenance Responsibilities**

Subject to City's obligations in Section 10.01, Permittee shall perform commercially reasonable routine and preventive maintenance of all equipment and facilities located in its Exclusive Use Space and shall maintain such facilities in good condition and appearance and make all needed nonstructural repairs. Permittee shall be responsible for interior window cleaning for its nonpublic view Exclusive Use Space.

**Section 10.02 (e) Performance by City Upon Failure of Permittee to Maintain**

In the event Permittee fails within thirty (30) days after receipt of written notice from City to perform any obligation required hereunder, City may enter the Assigned Premises involved, without such entering causing or constituting a termination of this Permit or an interference with the possession of said Assigned Premises by Permittee, and do all things reasonably necessary to perform such obligation. Director may charge Permittee the reasonable cost and expense of performing such obligation plus a fifteen percent (15%) administration charge as additional rent,

and Permittee agrees to pay to City upon demand such charge in addition to any other amounts payable by Permittee hereunder; provided, however, that if Permittee's failure to perform any such obligation endangers the safety of the public, the employees or property of City, or other tenants of the Airport and the Director so states in its written notice to Permittee, City may perform such obligation of Permittee at any time after the giving of such notice and charge to Permittee the reasonable cost and expense of such performance plus a fifteen percent (15%) administration charge as additional rent, and Permittee agrees to pay to City upon demand such charge in addition to any other amounts payable by Permittee hereunder.

**Section 10.03 ALTERATIONS AND IMPROVEMENTS**

Permittee shall make no alterations, additions, improvements, or installations to, in or on any portion of the Assigned Premises or to, in or on any other space assigned or allocated to it by the Director without prior written approval from the Director and without obtaining all permits required under applicable law.

**Section 10.04 REPAIR DAMAGE**

Permittee shall promptly repair any damage in any space at the Airport caused by Permittee, its servants, agents, employees, licensees, guests or invitees for which City does not receive reimbursement or payment from City's insurance carrier.

**Section 10.05 CITY NON-LIABILITY**

Permittee expressly agrees that City shall not be liable to Permittee, its employees, passengers, business visitors, guests or invitees for bodily injury, or death, or for any loss or damage to real or Personal Property occasioned by flood, fire, earthquake, lightning, windstorm, hail, explosion, riot, strike, civil commotion, smoke, vandalism, malicious mischief, roof leaks, sprinkler system breakage, or acts of civil authority and other events not caused by the negligence or willful acts or omissions of City. In no event whatsoever, however, shall City be liable for special, consequential, exemplary or punitive damages, including without limitation any loss of business, revenues or profits by Permittee or any damage to or loss of Permittee's reputation.

**Section 10.06 CITY'S RIGHT TO INSPECT AND MAKE REPAIRS**

City, by its authorized officers, employees, agents, contractors, subcontractors, and other representatives, shall have the right (upon reasonable prior notice and at such times as may be reasonable under the circumstances and with as little interruption of Permittee's operations as is reasonably practicable) to enter Permittee's Exclusive Use Space when accompanied by an Permittee employee except in case of emergency for the following purposes:

1. To inspect such space to determine whether Permittee has complied and is complying with the terms and conditions of this Permit.
2. To accomplish repairs or replacements by City or in any case where Permittee is obligated to make repairs or replacements and has failed to do so, after notice, make such repairs or replacements on Permittee's behalf.
3. In the exercise of City's governmental functions and police powers.

No such entry by or on behalf of City upon any of the Assigned Premises shall cause or constitute a termination of the letting thereof or be deemed to constitute an interference with possession thereof by Permittee.

END OF ARTICLE

## **ARTICLE 11. DAMAGE OR DESTRUCTION OF ASSIGNED PREMISES**

### **Section 11.01 ASSIGNED PREMISES INHABITABLE**

Subject to Section 11.02 below, if any of the Assigned Premises shall be partially damaged by fire or other casualty, but the remainder of the Assigned Premises remains inhabitable for the purposes allowed by this Permit, the Assigned Premises shall be repaired with due diligence by City to substantially the same condition existing just prior to such casualty, but City's responsibility in this regard shall be limited to the extent of the net insurance proceeds actually received by City with respect to such casualty and to the extent of the funds, if any, that are appropriated for such repair by City's governing body in its sole discretion. Rent allocable to the particular space, rooms, or other portions of the Assigned Premises rendered untenable shall be abated for the period from the occurrence of the damage to the substantial completion of repairs. City will make good faith efforts to provide to Permittee temporary substitute space for any uninhabitable portion of Permittee's space, if available, during such period of repair, at a rental rate for comparable space based on the rents, fees, and charges principles set forth in this Permit.

### **Section 11.02 ASSIGNED PREMISES UNINHABITABLE**

If any of the Assigned Premises shall be completely destroyed or partially damaged by fire or other casualty rendering all or a substantial portion of the Assigned Premises uninhabitable for the purposes allowed by this Permit and it is reasonably estimated by City that it will take more than one hundred eighty (180) days to repair, the Director will notify Permittee in writing within ninety (90) days of such casualty whether and to what extent, if any, the damaged or destroyed Assigned Premises will be repaired. If City, in its sole discretion, elects to repair all or any portion of the damage to the Assigned Premises, such repairs shall be made with due diligence by City, and the rent allocable to the particular space, rooms, or other portions of the Assigned Premises rendered untenable will be abated for the period from the occurrence of the damage to the substantial completion of the repairs. If City elects to repair, City will make good faith efforts to re-locate Permittee to temporary substitute space, if available, during such period of repair, at a rental rate for comparable space based on the rents, fees, and charges principles set forth in this Permit. If Permittee's Assigned Premises have been reduced due to City's election not to repair damaged premises:

1. Permittee shall be entitled to request and Director shall consider further proportionate reductions in the Assigned Premises and the leased or assigned premises of other airlines so that Permittee has use of an operative remainder.
2. Permittee hereby agrees that in the event that an airline's leased or assigned premises are reduced due to City's election not to repair damage to such leased or assigned premises, the Director may realign the leased and assigned premises of all airlines to permit all airlines to operate at respective levels of service as similar as reasonably practicable to their respective levels of service immediately prior to such damage.
3. The City will issue new exhibits to the Permittee showing any realigned Assigned Premises.

### **Section 11.03 AUTOMATIC DELETION OF UNREPAIRED DAMAGED PREMISES**

If the Director shall fail to notify Permittee of the City's decision as set forth in Section 11.02 (or gives written notice of its intent not to repair), City will be deemed to have elected to not repair the damaged premises, and the damaged premises shall be automatically deleted from the Assigned Premises as of the date of the damage or destruction, with no further liability therefor by either City or Permittee except those liabilities that accrued, including rent, prior to such damage or destruction.

### **Section 11.04 PERMITTEE IMPROVEMENTS AND TRADE FIXTURES REPLACEMENT**

If and to the extent that City is obligated or elects to do so, City shall repair City installed improvements in Permittee's Assigned Premises to substantially the same condition existing just prior to fire or other casualty, but City's responsibility in this regard shall be limited to the extent of the net insurance proceeds.

Permittee is responsible for replacing its trade fixtures. For Permittee installed tenant improvements, at its discretion, Permittee may replace or reconstruct all its tenant improvements in the damaged or destroyed Assigned Premises necessary for the conduct of Permittee's business operations in the manner existing just prior to the casualty.

END OF ARTICLE

## **ARTICLE 12. INSURANCE**

### **Section 12.01 CITY INSURANCE**

The Terminal Building, exclusive of Permittee's property, shall be insured by City under a policy of fire, flood and extended coverage insurance to the extent of not less than eighty percent (80%) of the insurable value of such property if such percentage of coverage is available. Insurance moneys and funds received on account of the damage to or destruction of such property shall be applied by City to the repair, construction, or replacement of such damaged or destroyed property unless City, in its sole discretion, elects not to repair the damaged premises. Premiums paid by City for insurance provided in compliance herewith shall be included by City as a part of the Maintenance and Operating Expenses. Nothing herein shall be deemed to prohibit City from having a self-insurance program designed to provide for property, casualty, and other losses in lieu of commercial insurance. Permittee will be advised in writing if City utilizes self-insurance for the Terminal Building property insurance.

### **Section 12.02 PERMITTEE INSURANCE**

By use and occupancy of Airport premises, Permittee understands and agrees that at all times during the Term, Permittee shall, at its sole expense and in a manner acceptable to City, purchase and maintain or caused to be maintained in force the following insurance coverages:

1. Aircraft Permittee Liability insurance including Aircraft Liability and broad form Commercial General Liability insurance, including, but not limited to, coverage for death, bodily injury, personal injury, property damage, products/completed operations liability, independent contractors, premises liability, premises operations, damage to Assigned Premises, loss of use and contractual liability, with a liability limit of not less than One Hundred Fifty Million Dollars (\$150,000,000.00) combined single limit per occurrence and in the aggregate, on an occurrence form policy. Said limit shall be reduced to One Hundred Million Dollars (\$100,000,000.00) where Permittee's maximum seating capacity on the largest aircraft operated at the Airport by Permittee is between 99 and 60. Said limit shall be reduced to Fifty Million Dollars (\$50,000,000.00) where Permittee's maximum seating capacity on the largest aircraft operated at the Airport by

Permittee is 59 or less. With respect to coverage for products/completed operations and personal injury, except with respect to passengers, a sublimit of not less than Twenty-Five Million Dollars (\$25,000,000.00) per occurrence and in the annual aggregate, shall be permitted with the approval of the Director. Said aircraft liability shall be applicable to owned, non-owned, and hired aircraft. Fire Legal Liability shall be endorsed on the policy with a minimum limit of \$100,000.00 per occurrence.

2. Automobile liability insurance (any automobile) with combined single limit for bodily injury and property damage of not less than Five Million Dollars (\$5,000,000.00) per occurrence for all owned, non-owned, and hired vehicles operated by or on behalf of Permittee at the Airport, including any additional or replacement vehicles.
3. Liquor liability insurance in an amount not less than Ten Million Dollars (\$10,000,000.00) per occurrence.
4. Employer's liability insurance in an amount not less than One Million Dollars (\$1,000,000.00) each common cause. Permittee shall likewise maintain workers' compensation insurance or evidence of self-insurance, in accordance with the laws of the State of Florida, covering all of its employees who may from time to time be at the Airport in such capacity. Permittee shall require each of its agents, licensees, contractors, subcontractors, and suppliers to maintain such workers' compensation insurance covering their employees coming on Airport premises in connection with Permittee's operations. The workers' compensation policy(s) required hereunder shall be endorsed to state that the workers' compensation carrier waives its right of subrogation against City, its officers, agents, elected and appointed officials, representatives, volunteers, and employees. Upon request by the Director, Permittee shall furnish the Director with evidence of such workers' compensation insurance in a form acceptable to City.
5. Pollution legal liability for transporting or handling hazardous materials or regulated substances and environmental impairment liability coverage of \$2,000,000.00 per occurrence, with an annual aggregate of not less than \$4,000,000.00. This coverage may be self-insured by Permittee upon reasonably satisfactory evidence of Permittee's financial ability to self-insure, if requested by City.

6. Liability coverage for acts of war, civil war, terrorism and insurrection of \$100,000,000.00 per occurrence, with an annual aggregate of not less than \$100,000,000.00.

All liability insurance policies, except employer's liability shall provide coverage that includes, or has the same substantive effect as, the following wording:

1. "City of Pensacola and each of its departments, divisions, enterprises, officers, representatives, agents, elected and appointed representatives, volunteers, and employees, in their respective capacities as such, shall be additional insureds hereunder with respect to the products, premises, and operations of the named insured to the full limits of liability required by this Permit."
2. "Permittee's insurance shall be primary insurance and non-contributory with respect to all other available sources."
3. "This insurance shall not be materially changed, altered, canceled, or non-renewed until after thirty (30) days advance written notice has been given to City of Pensacola except that only seven (7) days' notice of cancellation of war risk coverage and only ten (10) days' notice of cancellation due to non-payment of premium or non-renewal shall be required."

Required insurance shall be evidenced by Certificates of Insurance. Each such Certificate of Insurance shall be on the appropriate ACORD form or its substantial equivalent. The "Certificate Holder" address shall read: City of Pensacola, Department of Risk Management, Post Office Box 12910, Pensacola, FL 32521. An additional copy of the Certificate shall be sent to Pensacola International Airport, Attn: Airport Director, 2430 Airport Boulevard, Suite 225, Pensacola, FL 32504.

At least ten (10) calendar days prior to the Effective Date of this Permit, Permittee shall furnish the Director with Certificates of Insurance for all insurance policies required hereunder and copies of all insurance endorsements. Thereafter, current Certificates of Insurance and copies of endorsements shall be provided promptly upon the Director's request from time to time, but in no event less than annually. Further, at least three (3) business days prior to the expiration of any then-current policy of insurance, Permittee shall deliver to , the Director a current Certificate

of Insurance showing that such insurance coverage has been renewed, and at least three (3) business days prior to the date of cancellation or reduction of coverage, as received in a written notice from the insurer, Permittee shall deliver to the Director a current Certificate of Insurance showing reinstatement or other provision for the required insurance. In addition, upon any change in any insurance policy coverage or endorsement which adversely affects the requirements of this Permit, Permittee shall promptly deliver to , the Director revised Certificates of Insurance and a copy of each such changed endorsement.

In addition to the foregoing, at least ten (10) calendar days prior to the Effective Date of this Permit and annually thereafter upon each anniversary of such Effective Date, Permittee shall furnish to , the Director the written, signed opinion of Permittee's independent insurance broker confirming that such broker has reviewed (i) Permittee's insurance policies and endorsements and (ii) Permittee's insurance obligations under this Permit and that Permittee is in compliance with its insurance obligations under this Permit.

Further, upon , the Director's written requests from time to time, Permittee shall allow City's representatives to inspect, in the presence of Permittee's representatives, the complete originals of all insurance policies, including but not limited to declaration pages and endorsements, pertaining to the coverages required to be maintained by Permittee pursuant to this Permit. Permittee shall allow City's representatives to inspect such insurance documents at Permittee's corporate office located closest to Pensacola, Florida, within ten (10) business days after , the Director's written request for such inspection.

During the Term, the insurance coverages and/or the minimum limits of the insurance herein required may become inadequate, as reasonably determined by City. Accordingly, City hereby reserves the right to review all coverages and limits and to require adjustments, changes and additions to commercially reasonable and commercially available levels to be effective on the next policy renewal date after City provides at least ninety (90) days prior written notice to Permittee to make such adjustments, changes or additions.

If, at any time, Permittee fails to obtain or maintain in force the insurance required by this Section, , the Director may immediately suspend Permittee's use of the Assigned Premises and Permittee's operations and activities in regard to the Airport until the required insurance is provided.

END OF ARTICLE

## **ARTICLE 13. INDEMNIFICATION**

### **Section 13.01 COMPREHENSIVE INDEMNIFICATION**

Permittee shall INDEMNIFY, DEFEND and HOLD HARMLESS, City and its divisions, departments, enterprises, subsidiaries, affiliates, elected and appointed officials, officers, employees, volunteers, agents and representatives, individually and collectively, from and against any and all costs (including, but not limited to, costs of investigation, reasonable attorneys' fees, court costs, and expert fees), claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of actions, liability and suits of any kind and nature, including but not limited to personal or bodily injury, death and property damage, including loss of use thereof, directly or indirectly arising out of, resulting from or related to Permittee's use of the Airport, or Permittee's activities in, on or about the Airport or the Assigned Premises, or any operation or activity of Permittee upon the Airport, or in connection with its use of the Assigned Premises, including but not limited to any acts or omissions of Permittee, any agent, officer, director, representative, employee, consultant or subcontractor of Permittee, or their respective officers, agents, employees, directors or representatives, all without City waiving any governmental immunity available to City under Florida law and without waiving any defenses of the parties under Florida law.

The provisions of this INDEMNITY are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity. Permittee shall promptly advise City in writing of any claim or demand against City or Permittee known to Permittee related to or arising out of Permittee's activities under this Permit and shall see to the investigation and defense of such claim or demand at Permittee's cost. City shall have the right, at its option and at its own expense, to participate in such defense without relieving Permittee of any of its obligations under this Section 13.01.

It is the express intent of the parties to this Permit, that the indemnity provided for in this Article, shall extend to and include the Permittee's obligation to indemnify, protect, defend and hold harmless City from the consequences of City's own negligence; provided however, that the indemnity provided for in this Article with respect to City's own negligence shall apply only when the negligent act of City is a contributory cause of the resultant injury, death, or damage,

and shall have no application when the negligent act of City is the sole cause of the resultant injury, death or damage. Notwithstanding anything in this Article to the contrary, the indemnity liability of Permittee for City's own negligence, inclusive of all defense costs expended solely for City's defense by reason of City's own negligence, under this Article and shall not exceed \$1,000,000 per occurrence. Nothing herein shall require Permittee to indemnify City from the gross negligence or willful misconduct of City or any of its employees, officers, agents, or subcontractors.

Permittee further agrees, upon City's request, to defend, at Permittee's own expense and on behalf of City and in the name of City, and by and through legal counsel reasonably acceptable to City, any claim, proceeding or litigation, at each and all of administrative, trial and appellate levels, brought against City and/or any other person or party indemnified under this Article in connection with any claim, cause of action, liability, injury, death, damage or other matter that is subject to Permittee's indemnity obligation under this Article.

### **Section 13.02 49 CFR PART 1542 AIRPORT SECURITY INDEMNIFICATION**

In furtherance of the provisions of Section 13.01 above and not in limitation thereof, Permittee understands and agrees that it shall fully indemnify, defend, and hold harmless City, its divisions, departments, enterprises, subsidiaries, affiliates, elected and appointed officials, representatives, officers, agents, volunteers, and employees from and against all penalties, fines, and demands of any kind (including, but not limited to, costs of investigation, reasonable attorney fees, court costs, and expert fees) arising out of Permittee's acts or omissions resulting in alleged violations of 49 CFR Part 1542 Airport Security or any successor regulations related to airport security.

### **Section 13.03 SOVEREIGN IMMUNITY.**

Nothing in this Article or elsewhere in this Permit shall in any way constitute or be construed as a waiver, in whole or in part, of City's sovereign immunity under the Constitution, statutes and case law of the State of Florida.

Further, nothing in this Article or elsewhere in this Permit shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim or legal liability against City.

END OF ARTICLE

## **ARTICLE 14. FEDERAL, STATE, AND LOCAL REGULATIONS**

### **Section 14.01 RULES AND REGULATIONS**

City, in its governmental capacity, and/or the Director have adopted, and may from time to time modify, amend and adopt, and will enforce Rules and Regulations with respect to the occupancy and use of the Airport, its services, and facilities by persons, vehicles, aircraft, and equipment that in the opinion of City or the Director will reasonably ensure the safe, efficient, and economically practicable operation of the Airport and provide for the safety and convenience of those using the Airport.

The Director may promulgate, adopt, modify, amend and enforce the Rules and Regulations from time to time in furtherance of said purposes and/or that the Director deems are necessary to implement the intent and terms of this Permit. All such Rules and Regulations, promulgated through the Director's authority but without governmental action or mandate, shall be reasonable and not unjustly discriminatory, and shall not be inconsistent with any legally authorized rule or regulation of the FAA, or any other federal or State agency, which is binding in law on Permittee or City, as the same now are or may from time to time be amended or supplemented nor inconsistent with the reasonable exercise by Permittee of any right or privilege granted under this Permit. City shall provide Permittee with reasonable notice prior to adoption of any new or amended Rules or Regulations in order to provide Permittee with the opportunity to comment on same prior to adoption. Permittee, upon written request to the Director, shall be furnished (at the notice address provided herein and to Permittee's on-Airport manager) a current copy of the Rules and Regulations and any amendments thereto.

Permittee agrees to observe and obey all Rules and Regulations as are currently in place and as may be reasonably established from time to time, and to require its officers, agents, employees, contractors, and suppliers to observe and obey the same. It shall be a violation of this Permit for Permittee, or any of its officers, representatives, agents, employees, guests, contractors, subcontractors, licensees, subtenants, invitees, or suppliers to violate, or to cause another person

to violate, any Rule or Regulation. Permittee shall make reasonable efforts to cause its passengers, guests, and invitees to comply with the Rules and Regulations.

City reserves the right to deny access to the Airport or its facilities to any person, firm, corporation or entity that fails or refuses to obey and comply with the Rules and Regulations.

#### **Section 14.02 NO ILLEGAL PURPOSE**

Permittee shall not use the Airport or any part thereof, or knowingly permit the same to be used by any of its employees, officers, agents, subtenants, contractors, invitees, or licensees, for any illegal purposes.

#### **Section 14.03 COMPLIANCE WITH STATUTES, ORDINANCES, AND REGULATIONS**

At all times during the Term of this Permit, Permittee shall, in connection with its activities and operations at the Airport:

1. Comply with and conform to all applicable present and future statutes and ordinances, codes and regulations promulgated thereunder, of all federal, State, and other government bodies of competent jurisdiction that apply to or affect, either directly or indirectly, Permittee or Permittee's operations and activities under this Permit. Permittee shall comply with all applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101), as may be amended from time to time, and federal regulations promulgated there under that may be made applicable as a result of construction activities conducted by Permittee.
2. Make, at its own expense, all non-structural improvements, repairs, and alterations to its Exclusive Use Space, equipment, and Personal Property that are required to comply with or conform to any of such statutes, ordinances, codes or regulations. Permittee shall secure the written approval of the Director before proceeding to make any improvements, repairs or alterations under this paragraph.

#### **Section 14.04 COMPLIANCE WITH ENVIRONMENTAL LAWS**

Permittee shall at all times abide by all Environmental Laws applicable to Permittee's occupancy or use, of the Assigned Premises. At the beginning of any lease term, Permittee shall identify in writing to the Director and the Airport Fire Department all Hazardous Substances (with the exception of any small quantities of household chemicals Permittee uses for general office purposes) that are used or stored or that Permittee expects to use or store in or on the Assigned Premises. This list shall be updated by Permittee in March of each year and shall include the quantities used or stored in or on the Assigned Premises. City shall have the right to inspect the Assigned Premises at any reasonable time, upon prior written notice to Permittee, to ensure compliance with Environmental Laws and the provisions of this Article.

Permittee shall not allow the disposal or discharge, whether accidental or intentional, of Hazardous Substances on the Assigned Premises or other Airport property.

Permittee shall comply with the Airport's Spill Prevention, Control, and Countermeasure Plan ("SPCC") and all future amendments thereto and the Airport's Storm Water Pollution Prevention Plan ("SWPPP") and all future amendments thereto.

City represents and warrants to Permittee, and Permittee represents to City, that, on the Effective Date of this Permit, the Assigned Premises are not subject to any existing, pending, or threatened investigation or inquiry by any governmental authority for any response costs or remedial obligations under any Environmental Laws, no release of Hazardous Substances is known to have occurred in or around the Assigned Premises, and that this representation and warranty would continue to be true and correct following disclosure to the applicable governmental authorities of all relevant facts, conditions, and circumstances, if any, known to City or Permittee which are pertaining to the Assigned Premises.

The Triturator Facility is an airport facility built specifically to grind aircraft lavatory waste prior to entry of such waste into the sanitary sewer system. Permittee is authorized to dispose of aircraft lavatory waste that has been processed in the Triturator Facility to the sanitary sewer system. Prior to any other waste disposal including waste disposal in contravention of this

section or which could have a corrosive or degrading effect on the Triturator Facility, Permittee is required to obtain prior written approval of the Director and a waste water pre-treatment permit if such is necessary or required by any environmental regulatory authority or any Environmental Law. The written approval of the Director shall not relieve Permittee of full responsibility and liability for the disposal of any waste materials or products. The Director may withhold approval for any reason under this provision.

In the event City identifies the presence of Hazardous Substances on the Assigned Premises in violation of applicable Environmental Law that (a) did not exist prior to Permittee's occupation of the Assigned Premises, (b) is the result of Permittee's use of the Assigned Premises, and (c) requires assessment or remediation, City shall perform such assessment or remediation at the Permittee's sole cost and expense, provided that City has given Permittee at least thirty (30) days' prior written notice and opportunity to object or perform the requested work itself. If City performs the assessment and/or remediation, Permittee shall pay or reimburse to City the reasonable cost of such assessment or remediation, plus an administrative fee of fifteen percent (15%) of such cost, promptly upon demand. Notwithstanding the foregoing, the provisions of this paragraph shall not be construed or operate to alter in any way Permittee's obligations under Environmental Laws, including but not limited to Permittee's reporting obligations under Airport's SPCC and SWPPP, or under any other provision of this Permit, including without limitation Section 14.05 below.

#### **Section 14.05 ENVIRONMENTAL REPORTS**

Within fifteen (15) days of receipt by Permittee or within fifteen (15) days prior to any response that is due from City, whichever is shorter, Permittee shall provide to the Director complete copies of all environmental permits and reports related to the Assigned Premises and all notices, orders, decrees, citations, and inspection reports issued to Permittee by any environmental regulatory authority related to the Assigned Premises. Within fifteen (15) days of receipt by City or within fifteen (15) days prior to any response that is due from Permittee, whichever is shorter, the Director shall provide to Permittee, on an ongoing basis and as updates are required, copies of all City environmental permits and reports related to the Assigned Premises and all notices,

orders, decrees, citations, and inspection reports issued to City by environmental regulatory authorities related to the Assigned Premises.

**Section 14.06 SURVIVAL OF OBLIGATIONS**

The obligations of this Article shall survive the expiration, termination, sublease, or assignment of this Permit.

**Section 14.07 NONDISCRIMINATION**

As a condition of the use of Airport services and facilities, Permittee shall be subject to the following:

1. In the event facilities are constructed, maintained, or otherwise operated on the space assigned to Permittee for a purpose for which a U.S. Department of Transportation (USDOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, Permittee shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, Code of Federal Regulations, USDOT, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," and as such regulations may be amended from time to time.
2. No person shall be excluded by Permittee from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of the facilities assigned to Permittee on the grounds of race, creed, color, national origin, sex, handicap, or religion.
3. No person shall be excluded by Permittee from participation in, denied the benefits of, or otherwise be subject to discrimination in the construction of any improvements on, over, or under the space assigned to Permittee, or the furnishing of services thereon, on the grounds of race, creed, color, national origin, sex, handicap or religion.

4. Permittee shall use the premises assigned to it 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, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," and as such regulations may be amended.

Permittee shall insert the substance of the provisions of these paragraphs on nondiscrimination in any lease, agreement, or contract by which Permittee grants a right or privilege to any person, firm, or corporation to render accommodations or services to the public on the space assigned to it at the Airport.

#### **Section 14.08 BREACH OF NONDISCRIMINATION**

In the event of a breach of any of the nondiscrimination covenants set forth above, City shall have the right to terminate Permittee's right to use Airport services and facilities and to re-enter and repossess the space and the facilities thereon that had been assigned to Permittee, and hold the same as if such assignment had never been made. This provision regarding the termination of Permittee's rights to use Airport services and facilities shall not become effective until the procedures of Title 49, Code of Federal Regulations, Part 21, are followed and completed, including the expiration of appeal rights, by either Permittee or City.

#### **Section 14.09 FAIR AND EQUAL FURNISHING OF SERVICES**

As a condition of the use of Airport services and facilities, Permittee shall furnish its accommodations or services on a fair, equal, and not unjustly discriminatory basis to all users thereof, and it shall charge fair, reasonable, and not unjustly discriminatory prices for each unit or service. In the event of noncompliance with this paragraph, City may terminate Permittee's right to use Airport services and facilities.

**Section 14.10 AFFIRMATIVE ACTION PROGRAM**

As a condition of the use of Airport services and facilities, Permittee shall undertake an affirmative action program as required by FAA regulations, Title 14, Code of Federal Regulations, Part 152, Subpart E, entitled “Nondiscrimination in Airport Aid Program,” or as otherwise approved by the FAA, to ensure that no person shall on the grounds of race, creed, color, national origin, sex, or handicap be excluded from participation in any employment activities covered in such Subpart E. Permittee shall not exclude any person on such grounds from participating in or receiving the services or benefits of any program or activity covered by such Subpart E. Permittee shall require that its covered suborganizations provide assurances to Permittee that they similarly will undertake affirmative action programs and that they will require assurances from their suborganizations, as required by Title 14, Code of Federal Regulations, Part 152, Subpart E, to the same effect.

**Section 14.11 MINORITY BUSINESS ENTERPRISE**

As a condition of its use of Airport services and facilities, Permittee shall comply with the requirements of Title 49 of the Code of Federal Regulations, Part 23, and entitled “Participation by Minority Business Enterprise in Department of Transportation Programs” as this Part may be amended from time to time.

**Section 14.12 RIGHTS OF FEDERAL GOVERNMENT**

Any use of Airport services and facilities by Permittee shall be subject to whatever right the U.S. government now has or in the future may have or acquire affecting the control, operation, regulation, and taking over of the Airport or the exclusive or nonexclusive use of the Airport by the United States during the time of war or national emergency.

**Section 14.13 SUBORDINATION OF PERMIT**

The use of Airport services and facilities by Permittee, pursuant to this Permit, is subordinated to City’s existing and future obligations and agreements with or to the federal government including, but not limited to, federal grant assurances.

**Section 14.14 NON-WAIVER**

Nothing contained in this Permit is intended, nor shall be construed, as a waiver by either party of any right to assert any claim or defense, or raise any issue in any context or forum including, but not limited to, a court or administrative forum, regarding the preemption by federal law, including but not limited to Permittee Deregulation Act (49 U.S.C. § 41713), of any state or local law or ordinance, or the Rules and Regulations.

**Section 14.15 SURVIVAL OF OBLIGATIONS**

The obligations of this Article 14 shall survive the expiration, termination, or assignment of this Permit.

END OF ARTICLE

## **ARTICLE 15. DEFAULT AND REMEDIES**

### **Section 15.01 DEFAULT BY AIRLINE AND REMEDIES OF CITY**

The occurrence of any one or more of the following events (each a “Permittee Event of Default”) shall constitute a material default and breach of this Permit by Permittee:

1. The filing by Permittee of a voluntary petition in bankruptcy or any assignment for benefit of creditors of all or any part of Permittee's assets; or
2. Any institution of proceedings in bankruptcy against Permittee, and such proceedings are not dismissed within sixty (60) days after commencement; or
3. The taking of jurisdiction by a court of competent jurisdiction of Permittee or its assets pursuant to proceedings brought under the provisions of any state or federal insolvency or reorganization act and such proceedings are not dismissed within sixty (60) days after commencement; or
4. The appointment of a receiver or trustee of Permittee's assets by a court of competent jurisdiction or by a voluntary agreement with Permittee's creditors; or
5. The abandonment by Permittee of its conduct of its Air Transportation business at the Airport and in this context, suspension of operations for a period of ninety (90) consecutive days will be deemed abandonment in the absence of an explanation satisfactory to and accepted in writing by the Director; or
6. The failure of Permittee to pay any sum of money due to City under this Permit, as and when due, and such failure continues uncured for fifteen (15) days after written notice thereof from City; or
7. The failure of Permittee to maintain any of the insurance coverages required by this Permit; or
8. The failure of Permittee to provide copies of certificates of insurance and copies of endorsements and such failure continues uncured for fifteen (15) days after written notice thereof from City; or
9. Except as provided in the preceding paragraphs of this Section, the failure by Permittee to perform any other covenant, obligation, or condition herein required to be performed by

Permittee and such failure continues uncured for thirty (30) days after written notice thereof from the Director; provided, however, that if such failure cannot reasonably be cured within such 30-day period, such failure shall not constitute a Permittee Event of Default if within such 30-day period Permittee substantially commences to cure such failure and thereafter continuously and diligently prosecutes such cure to completion within a reasonable time.

Upon the occurrence of any Permittee Event of Default, City shall be entitled to terminate this Permit, without prejudice to and without thereby waiving any other rights or remedies arising by reason of such Permittee Event of Default, and shall be entitled to exercise all other rights and remedies available to City under this Permit, at law, in equity and otherwise. Without limiting the generality of the foregoing, in the event that City terminates this Permit upon the occurrence of an Permittee Event of Default, City shall be entitled to recover from Permittee all direct damages incurred by City by reason of Permittee's default, including but not limited to the cost of recovering possession of the Assigned Premises; reasonable expenses of re-letting, including necessary repairs, renovation and/or alteration of the Assigned Premises; reasonable attorney's fees and any real estate commission actually paid; the amount of unpaid rent, charges, fees and other amounts which were due and payable by Permittee under the terms of this Permit at the time of termination; and the worth at the time of award by a court having jurisdiction thereof of the amount of rent, charges, fees and other amounts which would have become due and payable by Permittee under the terms of this Permit after the time of termination during the balance of the Term of this Permit. For purposes of the preceding sentence, the annual amount of rent, charges, fees and other amounts for each year or portion thereof during the balance of the Term of this Permit shall be deemed to be the same annual amount that was due and payable by Permittee for the Fiscal Year immediately preceding the time of termination of this Permit.

Alternatively, City may, without terminating this Permit, enter and repossess the Assigned Premises, remove Permittee's property and signs therefrom, and re-let the same for such rent, charges, fees and other amounts and upon such terms as shall be satisfactory to City without such re-entry and repossession working a forfeiture of the rent, charges, fees and other amounts to be paid and the covenants to be performed by Permittee during the remaining Term of this Permit.

For the purpose of such re-letting, City shall be entitled to make any repairs, changes, alterations or additions in or to the Assigned Premises that may be necessary or convenient, and City shall be entitled to recover from Permittee the cost of such repairs, changes, alterations and additions; the expenses of such re-letting; the amount of unpaid rent, charges, fees and other amounts which were due and payable by Permittee under the terms of this Permit at the time of re-letting; and the difference in value between the rent, charges, fees and other amounts payable by Permittee hereunder for the remainder of the Term of this Permit and the rent, charges, fees and other amounts actually realized from such re-letting. For purposes of the preceding sentence, the annual amount of the rent, charges, fees and other amounts payable by Permittee hereunder for the remainder of the Term of this Permit shall be deemed to be the same annual amount that was due and payable by Permittee for the fiscal year of the Airport immediately preceding such re-letting.

Further, if rents, fees, and charges are not paid when due by Permittee, subject to the notice and cure provisions of this Section 15.01 or elsewhere in this Permit, the Director is authorized to seek any necessary legal and administrative remedy to collect unpaid rents, fees, and charges and to assure timely payment of future rents, fees, and charges. These remedies shall be in addition to remedies provided elsewhere in this Article and may include any of the following:

1. Seeking a review of Permittee's credit rating from one or more nationally recognized credit rating agencies.
2. Seeking administrative relief through appropriate federal agencies, including the FAA.
3. Such other legal and administrative remedies as permitted by law.

Failure by City to take any authorized action upon the occurrence of any default or Permittee Event of Default by Permittee with respect to any of the terms, covenants, or conditions required to be performed, kept, and observed by Permittee shall not be construed to be or act as a waiver of said default or Permittee Event of Default or of any subsequent default or Permittee Event of Default with respect to the same or any of the other terms, covenants, and conditions herein contained to be performed, kept, and observed by Permittee . The acceptance by City of rents or any other performance of this Permit from or by Permittee for any period or periods after the

occurrence of a default or Permittee Event of Default (whether or not City has notice or knowledge thereof) by Permittee with respect to any of the terms, covenants, and conditions herein required to be performed, kept, and observed by Permittee shall not be deemed a waiver of or estoppel to enforce such default or Permittee Event of Default or any right or remedy arising by reason thereof, nor any waiver of or estoppel to enforce any other default by Permittee, Permittee Event of Default, right or remedy.

In addition to the foregoing, and not in limitation thereof, City shall be entitled to terminate this Permit, without prejudice to and without thereby waiving any other rights or remedies available to City under this Permit, at law, in equity and otherwise, if Permittee shall be prevented, for a period of ninety (90) consecutive days, by any action of any governmental authority, board, agency, or officer having jurisdiction thereof, from conducting its Air Transportation business at the Airport, or it is so prevented from conducting its Air Transportation business, either by (i) reason of the United States or any agency thereof, acting directly or indirectly, taking possession of, in whole or substantial part, the Assigned Premises or premises required for the actual operation of Permittee's aircraft to and from the Airport; or (ii) if all or a substantial part of the Assigned Premises shall be acquired through the process of eminent domain.

#### **Section 15.02    DEFAULT BY CITY AND TERMINATION BY PERMITTEE**

The occurrence of the following (a "City Event of Default") shall constitute a material default and breach of this Permit by City: The failure by City to perform any covenant or condition under this Permit within the control of City and herein required to be performed by City and failure of City to use commercially reasonable efforts to remedy such default within thirty (30) days after receipt from Permittee of written notice to remedy the same; provided, however, that if such failure cannot reasonably be remedied within such 30-day period, such failure shall not constitute a City Event of Default if within such 30-day period City substantially commences to cure such failure and thereafter continuously and diligently prosecutes such cure to completion within a reasonable time.

Upon the occurrence of a material City Event of Default and if Permittee is not in default in payment to City of any amounts due City under this Permit or otherwise, Permittee shall be

entitled to exercise all rights and remedies available to Permittee under this Permit, at law, in equity and otherwise; provided, however, that Permittee shall be entitled to terminate this Permit if and only if such City Event of Default results in a constructive eviction of Permittee under Florida law, in which event such termination shall be without prejudice to and without Permittee thereby waiving any other rights or remedies arising by reason of such City Event of Default. Failure by Permittee to take any authorized action upon the occurrence of any default or City Event of Default by Permittee with respect to any of the terms, covenants, or conditions required to be performed, kept, and observed by City shall not be construed to be or act as a waiver of said default or City Event of Default or of any subsequent default or City Event of Default with respect to the same or any of the other terms, covenants, and conditions herein contained to be performed, kept, and observed by City.

The performance by Permittee of all or any part of this Permit for or during any period or periods after the occurrence of a default or City Event of Default (whether or not Permittee has notice or knowledge thereof) by City with respect to any of the terms, covenants, and conditions herein required to be performed, kept, and observed by City shall not be deemed a waiver of or estoppel to enforce such default or City Event of Default or any right or remedy arising by reason thereof, nor any waiver of or estoppel to enforce any other default by City, City Event of Default, right or remedy.

In addition to the foregoing, and not in limitation thereof, so long as Permittee is not in default in payment to City of any amounts due City under this Permit or otherwise, Permittee shall be entitled to terminate this Permit, without prejudice to and without thereby waiving any other rights or remedies available to Permittee under this Permit, at law, in equity and otherwise, upon the occurrence of any of the following events:

1. Termination, suspension, revocation or cancellation, by any federal agency (including foreign government agency) with competent jurisdiction of Permittee's right or authority to operate as a scheduled air carrier serving the Airport, if but only if such termination, suspension, revocation or cancellation is not necessitated by or the result of an act or omission of Permittee; or

2. Issuance by a court of competent jurisdiction of an injunction that in any way substantially prevents or restrains the use of the Airport or any part thereof necessary for Permittee's scheduled flight operations and which injunction remains in force for a period of at least thirty (30) days after City has exhausted or abandoned all appeals, if but only if such injunction is not necessitated by or the result of an act or omission of Permittee; or
3. If, at any time during the Term of this Permit, because of City's failure to provide within a reasonable time safe aircraft operating facilities, the Federal Aviation Administration or its successor fails or refuses to certify the Airport as adequate to accommodate aircraft that Permittee is licensed to operate and is operating into and from all other airports of like size and character and with similar facilities and which aircraft are in general use on Permittee's scheduled transportation route system and which Permittee may reasonably desire to operate into or from the Airport, if but only if such refusal or failure is not necessitated by or the result of an act or omission of Permittee ; or
4. The inability of Permittee for a continuing period in excess of ninety (90) days to use the Airport or to exercise any rights or privileges granted to Permittee hereunder and necessary to its scheduled flight operations because of any law or ordinance by any governmental authority having jurisdiction over the operations of the Airport or Permittee, or because of any order, rule, regulation, or other action or any non-action of the Federal Aviation Administration, its successor, or any other authorized governmental agency prohibiting such use, if but only if Permittee's inability is not necessitated by or the result of any act or omission of Permittee; or
5. The assumption by the United States government or any authorized agency thereof of the operation, control, or use of the Airport and facilities, or any substantial part thereof, in such a manner as to substantially restrict Permittee, for a continuous period of at least ninety (90) days, from operating its Air Transportation business; or

6. Termination, suspension, or discontinuation of Permittee's services at the Airport by a governmental agency authorized to do so because of a war or national emergency declared by the government.

In any event where the use of the Airport by Permittee is materially affected as provided herein through no fault of Permittee and whether or not Permittee is entitled to cancel this Permit as herein provided, while such event is continuing, an equitable adjustment to the rents herein required to be paid by Permittee shall be made by the Director.

**Section 15.03    TERMINATION UNDER SECTION 2.01.**

Nothing in this Article 15 shall operate or be construed to limit or impair the parties' respective rights to terminate this Permit upon the giving of not less than thirty (30) days' prior written notice pursuant to Section 2.01 above.

END OF ARTICLE

**ARTICLE 16. ASSIGNMENT AND SUBLETTING**

Permittee shall not at any time assign or sublet this Permit in whole or in part; provided, however, that the foregoing shall not prevent the assignment of this Permit to any corporation with which Permittee may merge or consolidate or which may succeed to the business of Permittee. Any purported assignment or subletting of this Permit in violation of this paragraph shall be null and void.

All of the terms, provisions, covenants, stipulations, conditions, and consideration in this Permit shall extend to and bind the legal representatives, successors, and assigns of the respective parties hereto.

City hereby retains the right to assign and transfer this Permit to another public body of the State of Florida pursuant to any applicable laws of the State. In such event, this Permit shall be binding upon such successor, and City shall have no further obligation or liability under this Permit arising after the date of such assignment.

END OF ARTICLE

## **ARTICLE 17. MISCELLANEOUS**

### **Section 17.01 ACKNOWLEDGMENT**

The parties hereto acknowledge that they have thoroughly read this Permit, including any exhibits or attachments hereto, and have sought and received whatever competent advice and counsel was necessary for them to form a full and complete understanding of all rights and obligations hereunder. The parties further acknowledge that this Permit is the result of extensive negotiations between the parties and shall not be construed against City by reason of the preparation of this Permit by City.

### **Section 17.02 AIRPORT ACCESS LICENSE/PERMIT**

City reserves the right to establish a licensing or permit procedure for vehicles requiring access to the Airport operational areas and to levy directly against Permittee or its suppliers a reasonable regulatory or administrative charge for issuance of such Airport access license or permit. The Director shall give reasonable notice to, and shall consult with, Permittee prior to making any material change to such license or permit charges.

### **Section 17.03 AMENDMENTS**

This Permit may be amended in whole or in part without further consideration upon mutual written consent of both parties.

### **Section 17.04 ATTORNEYS' FEES**

In the event of a dispute arising under this Permit, whether or not a lawsuit or other proceeding is filed, the prevailing party shall be entitled to recover its reasonable attorneys' fees and costs, whether incurred without a lawsuit having been filed or incurred before suit, during suit or at the appellate level. The prevailing party shall also be entitled to recover any attorneys' fees and costs incurred in litigating the entitlement to attorneys' fees and costs, as well as in determining or quantifying the amount of attorneys' fees and costs due it. The reasonable costs to which a prevailing party is entitled shall include costs that are taxable under any applicable statute, rule, or guideline, as well as non-taxable costs reasonably incurred by the prevailing party.

**Section 17.05 AUTHORITY OF DIRECTOR**

The Charter of the City of Pensacola provides that the Mayor shall serve as the City's Chief Executive Officer. The Mayor is authorized and obligated to perform, discharge and enforce all the obligations, rights and responsibilities of the City which are created by, referenced or expressly or implicitly contained in this Permit. The Mayor may, in his discretion, enforce and perform the rights and obligations of the City through such designees as he may select and identify to the signatories herein, and until such notice to the contrary has been provided, the Mayor hereby designates the Airport Director as his designee, unless provided otherwise or required by law.

**Section 17.06 BUSINESS PRIVILEGE FEES**

The City has reserved the right to levy Business Privilege Fees on any person or company (including Permittee as provided elsewhere in this Permit) for conducting business at the Airport. During the Term of this Permit, the Business Privilege Fee will be an amount equal to ten (10.0%) of Gross Revenue billed for services or commodities delivered at the Airport.

**Section 17.07 CAPACITY TO EXECUTE**

Each of the parties hereto warrants and represents that the execution and delivery of this Permit by the undersigned representatives has been duly authorized by all necessary corporate or municipal action, as applicable.

**Section 17.08 CITY NOT LIABLE**

Except as specifically provided for in this Permit, City shall not be under any duty or obligation to the Permittee to repair or maintain the Assigned Premises, or any portion thereof, or any facilities or equipment constructed thereon; provided that City shall repair damages to the Assigned Premises caused solely by the negligence or willful misconduct of City, its employees, agents or contractors. The City shall not be responsible or liable to the Permittee for any claims for compensation for any losses, damages, or injury, including lost profits, sustained by the

Permittee resulting from failure of any water supply, heat, air conditioning, electrical power, or sewage or drainage facility, or caused by the natural physical conditions on the Airports, whether on the surface or underground, including stability, moving, shifting, settlement of ground, or displacement of materials by fire, water, windstorm, tornado, act of God, or state of war, civilian commotion or riot, or any other cause or peril beyond the control of City.

**Section 17.09 COMPLIANCE BY OTHER TENANTS.**

The City shall, whenever possible, make reasonable efforts to obtain uniform compliance with the Rules and Regulations; however, City shall not be liable to the Permittee for any violation or non-observance of the Rules and Regulations by any user, tenant, concessionaire, other Air Transportation Company, invitee, licensee, or trespasser at the Airport nor shall such violation or non-observance by a user, tenant, concessionaire, other Air Transportation Company, invitee, licensee, or trespasser at the Airport, constitute a waiver of the Permittee's obligation to comply with the Rules and Regulations.

**Section 17.10 COMPLIANCE WITH FAR PART 77**

Permittee agrees to comply with the notification and review requirements covered in Part 77 of the Federal Aviation Regulations in the event any future structure or building is planned for the Assigned Premises, or in the event of any planned modification or alteration of any present or future building or structure on the Assigned Premises.

**Section 17.11 DELIVERY OF NOTICES**

Any notice required or permitted by this Permit shall be in writing and served personally or sent by registered or certified mail (return receipt requested), postage prepaid, or by a nationally recognized courier service such as FedEx, or UPS. Any notice sent pursuant to this paragraph shall be deemed to have been received by the addressee on the earlier of (an) actual receipt or (5) five (5) business days after deposit of it in the U. S. mail or such courier service, as the case may be.

Notices to City shall be addressed to:

CITY OF PENSACOLA  
Airport Director  
Pensacola International Airport  
2430 Airport Blvd., Ste. 225  
Pensacola FL 32504

with copy to:

CITY OF PENSACOLA  
City Administrator  
222 W. Main Street  
Pensacola, Florida 32502

Notices to Permittee shall be addressed to:

FRONTIER AIRLINES, INC.  
7001 Tower Road  
Denver, Colorado 80249

**Section 17.12 DISTRIBUTION OF FUNDS UPON TERMINATION.**

Upon termination of this Permit, all amounts remaining in any fund or account, including any debt service reserve, established under any Bond Resolution or other financing documents entered into by City shall be distributed or applied in accordance with the provisions of the Bond Resolution or other financing document under which such fund or account was established. All amounts in any other fund or account established in connection with this Permit shall be distributed to City, which may use such amounts for any lawful Airport Purposes.

**Section 17.13 EMPLOYEES OF PERMITTEE**

Permittee shall require all of its employees and subcontractors and independent contractors hired by Permittee working in view of the public and about the Terminal Building to wear clean and neat attire (as appropriate to the job duties performed) and to display appropriate identification. Permittee employees shall obtain identification badges from the Director. Permittee, or its employees, shall be responsible for paying the cost of Transportation Security Administration required employee background checks and badging.

**Section 17.14 ENERGY CONSERVATION**

Permittee shall comply with the Rules and Regulations pertaining to energy conservation and management to the extent that such Rules and Regulations do not unreasonably infringe on the rights and privileges granted herein or place an undue financial or administrative burden on Permittee.

**Section 17.15 ENTIRE PERMIT**

This Permit constitutes the entire agreement of the parties on the subject matter hereof and may not be changed, modified, discharged, or extended except by written instrument duly executed by City and Permittee. This Permit supersedes all prior permits, agreements and understandings, written and oral, expressed or implied, between City and Permittee related hereto. Permittee agrees that no representations or grant of rights or privileges shall be binding upon City unless expressed in writing in this Permit.

**Section 17.16 EXCLUSIVENESS OF PERMITTEE'S RIGHTS**

Nothing herein contained shall be deemed to grant to Permittee any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, Permittee shall have the right to exclusive possession of the Exclusive Use Space leased to Permittee under the provisions of this Permit.

**Section 17.17 FORCE MAJEURE**

Neither City nor Permittee shall be deemed in violation of this Permit if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, terrorism, weather conditions, tides, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not in its control; provided, however, that these provisions shall not excuse Permittee from paying rents, fees, and charges; however, in the event of a Force Majeure that prevents Permittee from paying rents, fees and charges as and when due under this Permit, Permittee may delay making such payments until

such Force Majeure no longer exists but in no event for more than thirty (30) days after the first occurrence of such Force Majeure.

**Section 17.18 GENERAL INTERPRETATION**

Insofar as this Permit grants, permits, or contemplates the use of space or facilities or the doing of any other act or thing at the Airport by Permittee, such use or the doing of such act or thing by Permittee is to be in connection with the operation of its Air Transportation on scheduled or nonscheduled flights, whether as a common carrier, a contract carrier, a private carrier, or otherwise. Each of the parties, however, has entered into this Permit solely for its own benefit, and (without limiting the right of either party to maintain suits, actions, or other proceedings because of breaches of this Permit) this Permit does not grant to any third person (excepting a successor party to City or Permittee) a right to claim damages or bring any suit, action, or other proceeding against either City or Permittee because of any breach hereof.

**Section 17.19 GOVERNING LAW**

The laws of the State of Florida shall govern this Permit and all disputes arising hereunder, with venue in a federal or state court in Escambia County, Florida.

**Section 17.20 HOLDING OVER**

If Permittee remains in possession of the Assigned Premises after the expiration of this Permit without any written renewal thereof, such holding over shall not be deemed as a renewal or extension of this Permit, but shall create only a tenancy at sufferance that may be terminated at any time by City. Such holding over shall otherwise be under the same terms and conditions as set forth in this Permit.

**Section 17.21 HEADINGS**

The headings of the Articles and paragraphs of this Permit are inserted only as a matter of convenience and for reference and do not define or limit the scope or intent of any provisions of this Permit and shall not be construed to affect in any manner the terms and provisions of this Permit or of its interpretation.

**Section 17.22 INCORPORATION OF EXHIBITS**

All exhibits referred to in this Permit are intended to be and hereby are specifically incorporated and made a part of this Permit.

**Section 17.23 INCORPORATION OF REQUIRED PROVISIONS**

The parties incorporate herein by this reference all applicable provisions lawfully required to be contained herein by any governmental body or agency.

**Section 17.24 INDEPENDENT CONTRACTOR**

As respects City, Permittee shall be and remain an independent contractor for all intents and purposes.

**Section 17.25 NO AGENCY**

Nothing in this Permit shall be construed as making the Permittee an agent or representative of City for any purpose whatsoever.

**Section 17.26 INVALID PROVISIONS**

In the event any covenant, condition, or provision herein contained is held to be invalid by a court of competent jurisdiction, the invalidity of any such covenant, condition, or provision shall in no way affect any other covenant, condition, or provision herein contained, provided the invalidity of any such covenant, condition, or provision does not materially prejudice either City or Permittee in its respective rights and obligations contained in the valid covenants, conditions, and provisions of this Permit.

**Section 17.27 LICENSES, FEES, AND PERMITS**

Permittee shall obtain and pay for all licenses, permits, fees, or other authorization or charges as required under federal, State, or local laws and regulations insofar as they are necessary to comply with the requirements of this Permit and the privileges extended hereunder.

### **Section 17.28 LIENS**

No person or entity performing or providing labor, work, services or materials to or upon the Assigned Premises by, through or at the request of Permittee shall be entitled to claim or assert any lien, statutory or otherwise, against City's fee simple estate and interest in the Assigned Premises or any portion thereof. Permittee shall not suffer or permit any construction, mechanics' or other lien to be filed against the fee of the Assigned Premises or against Permittee's leasehold interest in the Assigned Premises by reason of any work, labor, services or materials supplied or claimed to have been supplied to Permittee or to anyone holding the Assigned Premises, or any part thereof, through or under Permittee.

If any such construction lien shall be recorded against City's fee simple estate and interest in the Assigned Premises or against Permittee's leasehold interest in the Assigned Premises, Permittee shall promptly cause the same to be removed or bonded against in accordance with applicable law and in any event within thirty (30) days after Permittee receives notice of such filing.

In the event any person or corporation shall attempt to assert a construction lien or other lien against the Assigned Premises for improvements made by Permittee, Permittee shall hold City harmless from such claim, including the cost of defense.

### **Section 17.29 NATIONAL EMERGENCY**

This Permit and all the provisions hereof shall be subject to whatever right the U.S. Government now has, or in the future may have or acquire, affecting the control, operation, regulation, and taking over of the Airport or the exclusive or non-exclusive use of the Airport by the United States during the time of war or national emergency.

### **Section 17.30 NONLIABILITY OF INDIVIDUALS**

No director, officer, agent, elected official, or employee of either party shall be charged personally or held contractually liable by or to the other party under any term or provision of this Permit or because of any breach thereof or because of its or their execution or attempted execution.

**Section 17.31 NONINTERFERENCE WITH AIRPORT OPERATIONS**

Permittee, by accepting this Permit, expressly agrees for itself, its successors, and assigns that it will not make use of its Assigned Premises in any manner that might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard. In the event the aforesaid covenant is breached, on reasonable notice to Permittee and opportunity to cure, City reserves the right, among others, to enter Permittee Assigned Premises and cause the abatement of such interference at the expense of Permittee.

**Section 17.32 NOTICE OR CONSENT**

Any notice, consent or approval required herein to be obtained from or given by City (or the Director) may be given by the Director unless otherwise provided. Consent or approval of City or Permittee when required herein shall not be unreasonably withheld, delayed, or conditioned.

**Section 17.33 OBTAINING FEDERAL AND STATE FUNDS**

City shall use its best efforts to maximize grants from State or federal agencies or other sources, when consistent with prudent management of the Airport.

**Section 17.34 OPERATION OF AIRPORT**

City agrees to maintain and operate the Airport in substantial compliance with all applicable standards, rules, and regulations of the Federal Aviation Administration or its successor. City shall exercise its rights hereunder and otherwise operate the Airport with due regard for the operational requirements and long-term interests of Permittee and the interests of the traveling public, in a manner that is consistent with applicable laws, federal aviation regulations, federal grant assurances, and City Bond Ordinances.

**Section 17.35 OTHER LAND AND BUILDINGS EXCLUDED**

It is agreed and understood that it is not intended by this Permit or any exhibit hereto to lease any building, space, or area or to set any rental rates for any building, space, or area other than what is specifically described herein.

**Section 17.36 OWNERSHIP OF IMPROVEMENTS**

Upon completion of or installation of any fixture, addition, or improvement, excluding Personal Property as defined in Article 1, on the Assigned Premises, such addition, fixture, or improvement shall immediately become the property of City, as owner, subject only to the right of Permittee to use same during the term of this Permit and shall remain the property of City thereafter with the sole right, title, and interest thereto.

**Section 17.37 PAYMENT OF TAXES**

Permittee shall pay all taxes and assessments that may be levied upon, assessed, or charged Permittee or its property located on the Airport by the State of Florida or any of its political subdivisions or municipal corporations, and shall obtain and pay for all licenses and permits required by law. However, Permittee shall have the right to contest, in good faith, the validity or application of any such tax, assessment, license, or permit and shall not be considered in default hereunder so long as such contest is in progress. Further, Permittee agrees to diligently prosecute such contest.

**Section 17.38 PUBLIC ADDRESS SYSTEM**

Permittee agrees that the use of the Airport's public address system will be in accordance with the Airport's written public address system policy. Permittee shall not install, cause to be installed, or use any other public address system at the Terminal Building without the prior written approval of the Director.

**Section 17.39 PUBLIC RECORDS LAWS**

The Florida Public Records Law, as contained in Chapter 119, Florida Statutes, is very broad. As a result, any written communication created or received by City will be made available to the

public and media, upon request, unless a statutory exemption from such disclosure exists. Permittee shall comply with the Florida Public Records Law in effect from time to time if and to the extent that the Florida Public Records Law is applicable to Permittee. Notwithstanding any contrary provision in this Permit, any failure by Permittee to comply with the Florida Public Records Law, if and to the extent that it is applicable to Permittee, that continues for seven (7) days after written notice from City may, in City's sole discretion, result in immediate termination of this Permit.

**IF PERMITTEE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO PERMITTEE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PERMIT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: THE OFFICE OF THE CITY ATTORNEY, 222 WEST MAIN STREET, PENSACOLA, FLORIDA 32502; [PUBLICRECORDS@CITYOFPENSACOLA.COM](mailto:PUBLICRECORDS@CITYOFPENSACOLA.COM); (850) 435-1715.**

**Section 17.40 PRUDENT OPERATOR**

City agrees to operate the Airport in a prudent manner to maximize nonairline revenues consistent with its obligations as a public airport sponsor.

**Section 17.41 RECITALS INCORPORATED BY REFERENCE**

The recitals set forth on pages 10 and 11 of this Permit are true and correct, constitute binding covenants by and between the Parties, and are hereby incorporated herein by reference.

**Section 17.42 REMEDIES TO BE NONEXCLUSIVE**

All remedies provided in this Permit shall be deemed cumulative and additional and not in lieu of or exclusive of each other or of any other remedy available to City or Permittee at law or in equity (to the extent not inconsistent with the express provisions hereof) and the exercise of any remedy or the existence herein of other remedies or indemnities shall not prevent the exercise of any other remedy.

#### **Section 17.43 RIGHT TO AUDIT BOOKS AND RECORDS**

Permittee agrees to keep books and records on its operations at the Airport for a period of five (5) years, and the Director or any other authorized City representative, upon reasonable advance written notice to Permittee, shall have the right to inspect and audit such books and records to ensure compliance with the prevailing municipal bond disclosure requirements and to determine that City has received from Permittee all moneys due City under the terms hereof, including, but not limited to, rents, fees, and charges and PFCs (if applicable) payable to City by Permittee. Likewise, Permittee shall have the right to inspect the books and records of City relating to the provisions hereof.

#### **Section 17.44 RIGHT TO LEASE TO UNITED STATES GOVERNMENT**

During time of war or national emergency, City shall have the right to lease the Airport landing area or any part thereof to the United States government for use by the Armed Forces and, if any such lease is executed, the provisions of this Permit insofar as they are inconsistent with the provisions of the lease to the Government shall be suspended; however, such suspension shall not extend the Term of this Permit. If, as a result of any such lease, the rights or duties of Permittee hereunder are materially affected, then Permittee shall receive an equitable rental adjustment or the right to terminate as described herein.

#### **Section 17.45 RIGHTS RESERVED TO CITY**

Nothing contained herein shall unlawfully impair the right of City to exercise its governmental or legislative functions. This Permit is made subject to the Constitution and laws of the State of Florida and to the Ordinances and Charter of City of Pensacola, Florida, as amended from time to time, and to the provisions of the Airport Improvement Program Grant Permits now or hereafter applicable to the Airport and its operation, and the provisions of such agreements, insofar as they are applicable to the terms and provisions of this Permit, shall be considered a part hereof to the same extent as though copied herein at length to the extent, but only to the extent, that the provisions of any such agreements are required generally by the United States at other civil airports receiving federal funds. To the best of City's knowledge, nothing contained in such laws or agreements conflicts with the express provisions of this Permit.

**Section 17.46 SEC RULE 15C2-12.**

Permittee, upon request by City, shall provide City with such information as City may reasonably request in writing to comply with City's continuing disclosure requirements under SEC Rule 15c2-12 as it may be amended from time to time, provided, however, that Permittee may in lieu of providing the requested information direct City to an Permittee or SEC website where the requested information is then currently available.

**Section 17.47 SUBORDINATION TO PERMITS WITH THE U.S. GOVERNMENT**

This Permit is subject and subordinate to the provisions of any agreements heretofore or hereafter made between City and the United States relative to the operation or maintenance of the Airport, the execution of which agreement has been required as a condition precedent to the transfer of federal rights or property to City for Airport Purposes, or to the expenditure of federal funds for the improvement 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 Aviation Act of 1958, the Federal Aid to Airports Act, the Airport and Airway Development Act of 1970, and the Airport and Airway Improvement Act of 1982, as such acts have been amended from time to time. City covenants that it has no existing agreements with the United States in conflict with the express provisions hereof.

In the event that the FAA requires, as a condition precedent to the granting of funds for the improvement of the Airport, modifications or changes to this Permit, Permittee agrees to consent to such reasonable amendments, modifications, revisions, supplements, or deletions of any of the terms, conditions, or requirements of this Permit as may be reasonably required to enable City to obtain such grant of funds, provided that in no event shall such changes materially impair the rights of Permittee hereunder.

**Section 17.48 SUCCESSORS AND ASSIGNS**

The provisions of this Permit shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto; provided, however, this provision shall in no way whatsoever alter the restriction herein regarding assignment and subletting by Permittee.

**Section 17.49 TRIAL BY JURY**

The parties to this Permit desire to avoid the additional time and expense related to a jury trial of any disputes arising hereunder. Therefore, it is mutually agreed by and between the parties hereto, and for their successors, heirs and permitted assigns, that they shall and hereby do waive trial by jury of any claim, counterclaim, or third-party claim, including any and all claims of injury or damages, brought by either party against the other arising out of or in any way connected with this Permit and/or the relationship which arises hereunder. The parties acknowledge and agree that this waiver is knowingly, freely, and voluntarily given, is desired by all parties, and is in the best interest of all parties.

**Section 17.50 THIRD PARTIES**

Nothing in this Permit, express or implied, is intended to or shall confer upon any other person any right, benefit or remedy of any nature whatsoever under or by reason of this Permit.

**Section 17.51 TIME IS OF THE ESSENCE**

Time is of the essence in this Permit.

END OF ARTICLE

\* \* \* \* \*

IN WITNESS WHEREOF, the undersigned have duly executed this Permit as of the dates set forth below.

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**CITY OF PENSACOLA**

By: \_\_\_\_\_  
Daniel E. Flynn, Airport Director

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**FRONTIER AIRLINES, INC.**

By: \_\_\_\_\_  
Print Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00037

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

UNDERGROUND ELECTRICAL DISTRIBUTION EASEMENT WITH GULF POWER FOR THE FERRY LANDING PROJECT

**RECOMMENDATION:**

That City Council authorize the Mayor to execute the Underground Distribution Easement agreement with Gulf Power Company to support the Ferry Landing project. Further, that City Council authorize the Mayor to take all actions necessary to execute the agreement.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Construction of the new Ferry Landing was approved by City Council on November 9, 2017 and construction is underway with completion estimated for the summer of 2018. Based on the facility design documents, it is necessary that Gulf Power be granted a permanent utility easement in order to install and maintain the utility lines and associated equipment. The location of this utility easement is described in the attached documents and will not pose a conflict with current city infrastructure. Further, the granting of this easement will not impair or prevent planned uses for the ferry landing or other parcels in the area.

**PRIOR ACTION:**

November 9, 2017 - City Council awarded a contract to Green-Simmons for the Ferry Landing Landside Project

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

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**CITY ATTORNEY REVIEW:** Yes

1/9/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Amy Miller, Port Director  
M. Clark Merritt, Port Staff

**ATTACHMENTS:**

- 1) Underground Distribution Easement - Gulf Power

**PRESENTATION:** No



This Legal Document  
Prepared by William Maudlin  
Gulf Power Company  
One Energy Place  
Pensacola, Florida 32520-0093

**UNDERGROUND DISTRIBUTION EASEMENT**

WO# 38A4DY  
TAX ID# 00-0S-00-9100-001-011  
EN# 103681

STATE OF FLORIDA  
COUNTY OF ESCAMBIA

KNOW ALL MEN BY THESE PRESENTS that THE CITY OF PENSACOLA, a municipal corporation of the State of Florida (Grantor), whose address is P. O. Box 12910, Pensacola, FL 32521 for and in consideration of One and 00/100 Dollars (\$1.00) and other good and valuable considerations in hand paid by Gulf Power Company, a Florida corporation (Grantee), whose address is One Energy Place, Pensacola, Florida 32520-0093, the receipt whereof is hereby acknowledged, does hereby grant and convey to Grantee, its successors and assigns, the perpetual right to lay, bury, construct, operate, maintain, dig up and repair an underground electrical distribution system and necessary related above ground and overhead facilities, with all necessary conductors, ducts, conduit, transformers, connection boxes, facilities and equipment, necessary or convenient in connection therewith from time to time, together with all rights and privileges necessary or convenient for the full enjoyment or use thereof for the aforesaid purposes, including the right of ingress and egress thereto and therefrom, along, under and across the following described property in Escambia County, Florida, to-wit:

A TEN FOOT (10') STRIP OF LAND LYING FIVE FEET (5') ON EACH SIDE OF THE CENTERLINE OF THE ELECTRICAL DISTRIBUTION SYSTEM AND FACILITIES AS INSTALLED AND/OR TO BE INSTALLED ON THE PROPERTY DESCRIBED IN THE ATTACHED EXHIBIT "A".

HOWEVER, NOTWITHSTANDING THE FOREGOING, IN THOSE LOCATIONS WITHIN THE ELECTRICAL DISTRIBUTION SYSTEM WHERE TRANSFORMER BOXES, SPLICE BOXES, AND TERMINATION POINTS, ARE LOCATED GULF POWER IS HEREBY GRANTED AN EASEMENT AREA WITHIN A FIFTEEN FOOT (15') RADIUS FROM THE CENTER LINE OF THE PRIMARY VOLTAGE CONDUCTORS.

for the transmission, distribution, supply and sale to the public for power, heat and light; and also the perpetual right to lay, bury, construct, operate, maintain, dig up and repair such an underground electrical system on Grantor's adjoining property to serve present and future customers of Grantee, its successors and assigns with electric energy.

TO HAVE AND TO HOLD the same to the said Gulf Power Company, its successors and assigns, forever.

IN WITNESS WHEREOF, the Grantor has executed this instrument this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

THE CITY OF PENSACOLA

\_\_\_\_\_  
Witness  
-----  
(Print or type full name)

By: \_\_\_\_\_  
-----  
(Print or type full name)

Title: \_\_\_\_\_

\_\_\_\_\_  
Witness  
-----  
(Print or type full name)

Attest By: \_\_\_\_\_  
-----  
(Print or type full name)

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_ as \_\_\_\_\_ and \_\_\_\_\_ as \_\_\_\_\_ on behalf of THE CITY OF PENSACOLA, a municipal corporation of the State of Florida who is/are personally known to me or who has/have produced \_\_\_\_\_ as identification, and who did/did not take an oath.

NOTARY PUBLIC

STAMP:

\_\_\_\_\_



## EXHIBIT A

All of Blocks 11 and 14, Waterfront or Pintado Grant, Pensacola, Escambia County, Florida, as recorded in Official Record Book 3177 at Page 127, and that portion of the Gimble Street right-of-way located between the east right-of-way line of Jefferson Street and the west right-of-way line of Commendencia Street, as vacated by City of Pensacola, Ordinance No. 19-96;

Less, beginning at the intersection of the south line of Cedar Street with the east line of Jefferson Street; thence in an easterly direction along the south line of Cedar Street a distance of one hundred eighteen (118) feet, more or less, to a point, said point being ten (10) feet westerly, as measured at right angles from the center line of track No. 190; thence in a southerly direction and running ten (10) feet westerly from and parallel with said track No. 190, a distance of two hundred fifty four (254) feet, more or less, to a point in the north line of Magnolia Street; thence in a westerly direction, along said north line of Magnolia Street, a distance of eighty (80) feet, more or less, to the east line of Jefferson Street; thence in a northerly direction, along said east line of Jefferson Street, a distance of two hundred fifty (250) feet, more or less, to the point of beginning; containing five tenths (0.5) acre, more or less, as shown on the Louisville & Nashville Railroad Company drawing P-14110, as recorded in Deed Book 534 at Page 93;

And also less, beginning at the intersection of the north line of Hickory Street with the east line of Jefferson Street; thence in a northerly direction, along the east line of Jefferson Street, a distance of three hundred seventy three (373) feet, more or less, to a point, said point being ten (10) feet, as measured easterly at right angles, from the center line of track No. 192; thence in a northerly direction and running ten (10) feet easterly from and parallel to the said track No. 192, a distance of six hundred eighty (680) feet, more or less, to a point in the west line of Commendencia Street; thence in a southerly direction and along said west line of Commendencia Street, a distance of one thousand (1,000) feet, more or less, to a point in the north line of Hickory Street; thence in a westerly direction and running with the north line of Hickory Street a distance of two hundred forty three (243) feet, more or less, to the point of beginning, containing four and two tenths (4.2) acres, more or less, as shown on the Louisville & Nashville Railroad Company drawing P-14110 and recorded in Deed Book 534 at Page 93.

And also less the west 30.0 feet of Lot 1, Block 11, and the north 5.0 feet of the west 30.0 feet of Lot 2, Block 11, as recorded in Official Record Book 2654 at Page 611.

All according to the Official Map of Waterfront drawn by William Galt Chipley and copyrighted in 1889.



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00075

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council President Gerald Wingate

**SUBJECT:**

SCHEDULING SPECIAL WORKSHOP FOR REVIEW OF DRAFT COMMUNITY REDEVELOPMENT AREA OVERLAYS

**RECOMMENDATION:**

That City Council schedule a special workshop to be held on Monday, March 19, 2018 at 5:30 p.m., following a combined special workshop of the Community Redevelopment Agency of the City of Pensacola and the City of Pensacola Planning Board, for review of draft community redevelopment area overlays.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The establishment of urban design standards has been identified as a key priority redevelopment project within each of the City of Pensacola's adopted community redevelopment plans, including the Urban Core Redevelopment Plan (2010), the Westside Redevelopment Plan, and the Eastside Neighborhood Plan, as incorporated into the Urban Infill and Redevelopment Area Plan. The Community Redevelopment Agency of the City of Pensacola (CRA) approved the Fiscal Year 2017/2018 CRA Work Plan which authorized the development, adoption and codification of design standards for each of the City's three community redevelopment areas.

In accordance with the City's adopted redevelopment plans and the Fiscal Year 2017/2018 CRA Work Plan, the CRA submitted an application and received notice of award for a Florida Department of Economic Opportunity (DEO) Community Planning Technical Assistance grant in the amount of \$40,000 to supplement the full cost of engaging a highly qualified urban design consulting team. Acceptance of the grant and authorization to enter into a grant agreement was approved by the CRA and City Council on September 11, 2017 and November 9, 2017, respectively.

Pursuant to the grant terms, four full days of intensive community input sessions (a charrette) have been scheduled for February 12-15, 2018 to be held at the Sanders Beach Resource Center. The charrette will offer an efficient and collaborative approach to community information sharing and community input on the development of the draft overlays. This opportunity will feature focused meetings, public presentations, and working studio sessions that are open to the public. The process will include considerable time for citizens and

City officials to engage in questions and answers with the CRA's consultant, DPZ CoDESIGN.

Pursuant to the grant terms, the draft community redevelopment area overlays of design standards must be presented to the CRA, Planning Board, City Council and the community at a public workshop. City Council is asked to schedule a special public workshop to be held on Monday, March 19, 2018 at 5:30 p.m., following a combined public workshop of the Community Redevelopment Agency of the City of Pensacola and the City of Pensacola Planning Board, for review of the draft overlay recommendations.

**PRIOR ACTION:**

October 26, 2000 - City Council adopted the Urban Infill and Redevelopment Plan.

February 9, 2004 - City Council approved the Eastside Neighborhood Plan.

October 17, 2005 - City Council amended and readopted the Urban Infill and Redevelopment Plan, incorporating therein the Eastside Neighborhood Plan.

May 27, 2007 - City Council adopted the Westside Community Redevelopment Plan.

January 14, 2010 - City Council adopted the Urban Core Community Redevelopment Plan (2010).

April 10, 2017 - The CRA approved the CRA Work Plan for Fiscal Year 2018 and the balance of Fiscal Year 2017 which included the development of design standards for the Urban Core, Westside and Eastside community redevelopment areas.

September 11, 2017 - The CRA approved acceptance of the DEO Technical Assistance Community Planning Technical Assistance grant for the establishment of community redevelopment area overlays of design standards.

September 11, 2017 - The CRA approved Supplemental Budget Resolution No. 2017-13 CRA appropriating the DEO Technical Assistance Community Planning Technical Assistance grant funds in the amount of \$40,000.

September 14, 2017 - City Council approved Supplemental Budget Resolution No. 17-60 appropriating the DEO Technical Assistance Community Planning Technical Assistance grant funds in the amount of \$40,000.

October 9, 2017 - The CRA approved an award of contract with DPZ CoDESIGN under Request for Qualifications (RFQ) No. 17-043 for Urban Design and Code Amendment Services for the community redevelopment area overlays of design standards.

November 9, 2017 - City Council approved acceptance of the DEO Technical Assistance Community Planning Technical Assistance grant for the establishment of community redevelopment area overlays of design standards.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Assistant CRA Administrator

**ATTACHMENTS:**

1) None

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00081

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council President Gerald Wingate

**SUBJECT:**

SCHEDULE WORKSHOP TO REVIEW COUNCIL FINANCIAL POLICIES AND BUDGET PROCESS OVERVIEW

**RECOMMENDATION:**

That City Council schedule a workshop to review the City Council Financial Policies and Budget Process Overview. Further, that Council authorize the Council President to schedule the workshop.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The City Council has certain policies that have been adopted by Resolution and amended over the years. Section III of those policies deals with Finance. As the preparation for the 2019 fiscal budget is underway, it is a good time to review the policies and ensure they are in line with Council and City priorities.

This is also a time to review the Budget process to ensure Council participation in the process.

**PRIOR ACTION:**

January 10, 2011-Council Policies become effective via Resolution 21-10, with the change to the new form of government.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive  
Butch Hansen, Strategic Budget Planner

**ATTACHMENTS:**

- 1) City Council Finance Policies
- 2) FY 2019 Budget Schedule

**PRESENTATION:** No

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### III. FINANCE

**ASSESSMENT OF STORMWATER UTILITY FEE ON RIGHT-OF-WAY SUBJECT TO LICENSE TO USE AGREEMENT** – Adopted by Council Action February 28, 2002; Amended by

Resolution August 21, 2010 effective Noon, January 10, 2011

1. The stormwater utility fee will apply only to an increase in impervious surface area created by the property owner within the right-of-way that is the subject of the license to use agreement.
2. The stormwater utility fee assessed will be based on the current formula used to calculate the stormwater utility fee including any applicable exemptions.
3. Construction of awnings over existing sidewalks and construction of new sidewalks for public use within the area of the license to use agreement will be exempt from the stormwater utility portion of the license to use fee.
4. The stormwater utility fee will be added to the annual license to use fee of \$250. The fees collected will be deposited into the stormwater utility fund. Fee waivers will not be considered for the stormwater utility portion of the license to use fee.
5. The stormwater utility fee will be assessed on any new license to use agreements and to any renewal of existing license to use agreements. The stormwater utility fee is not retroactive to existing license to use agreements.

**DEBT INCURRENCE AND ADMINISTRATION POLICY** – Adopted by Council Action  
February 22, 1996; Amended August 11, 2005; Amended by Resolution August 21, 2010 effective Noon,  
January 10, 2011

The following policy of the City Council covers the incurrence and administration of debt (both short and long term) by the City. It is intended to apply to all situations, except for those normal transactions with vendors, suppliers and service providers (essentially transactions covered by the City's Purchasing Policies) that result in the City incurring debt. It serves as a guide under which new debt may be incurred and existing debt refinanced or repaid. As a part of this policy statement the City Council reserves the right to provide exceptions and waivers when unexpected circumstances justify such exception or waiver.

In approving this policy statement, the City Council acknowledges the importance of debt as a tool in financing needed capital. Judicious use of debt provides an equitable financing method. Projects with long lives (parks, roads, etc.) provide benefits each year to the same citizens who are responsible for providing the funds to meet the debt service requirement on the bonds that financed the original construction/acquisition. Debt is the one financing method that provides that matching of benefit with payment.

- Long-term debt should be used to meet capital needs when such needs cannot be financed from current revenues. Further, it should only be used when adequate funds are likely to be available to meet future debt service requirements.
- The City will not use long-term debt to finance current operations.
- On all debt issuances the City Council will be informed of the nature of the financing and the proposed structure of the financing team. In the instance of a negotiated sale or private placement, City Council will also be informed of the underwriter(s) to be selected and the reasons for the selection.
- Repayment of long-term debt should occur within a time period that does not exceed the estimated useful live (lives) of the project(s) financed. (For multiple acquisition long-term debt, acquisition lives should be measured against principal retirements during the early years.)
- The average life of any long-term debt issuance will not initially exceed 20 years.
- The ratio of general government debt service expenditures to general government total expenditures should not exceed 15 percent (as measured by either the most recent comprehensive annual financial report or the adopted current year budget) except when a proposed borrowing is necessitated to finance reconstruction following emergencies (such as a hurricane or other natural disaster).

- Except for Pensacola Regional Airport whose coverage requirements are established by contracts with the airlines, long-term debt of City enterprises should be maintained at minimum coverages of 130 percent.
- The City will meet full disclosure requirements/needs on all debt issuances. In order to meet our commitment to full disclosure the following will be implemented:
  - The City will annually produce and distribute to interested parties, a "Report to Bondholders", updating information on the City's finances and debt.
  - The Mayor will establish procedures dealing with requests for information about the City's finances and/or debt. The policy should designate a single source for response. Further, information provided as a result of a request, also when appropriate, be provided to the market. Finally, the procedures should provide that whenever a material event occurs, timely notification to the market will be provided.
- The City will maintain good communications with rating agencies and bond insurance companies.
- The City will take advantage of the technical expertise and professionalism of its financing team (financial advisor, bond counsel and disclosure counsel) on all debt issuances.
- Prior to issuing long-term debt, the City shall consider the alternatives of competitive bids, negotiated sales or private placements giving consideration to the following criteria:
  - Is the issue viewed by the market as carrying complex or innovative features and/or requiring explanation as to the bonds' soundness?
  - Are interest rates stable, is market demand strong, and/or is the market able to absorb a reasonable amount of buying or selling without substantial price changes?
  - Does the issue have a non-enhanced credit rating of an A or greater or can a credit enhancement be obtained prior to the sale?
  - Is the debt structure backed by the City's full faith and credit or a strong, known or historically performing revenue stream?

- The following requirements must be met by any applicant for conduit financing:
  - The applicant should submit audited financial statements for its three most recent years.
  - The applicant must pay a fee of not less than \$1,000 to cover the administrative cost of processing the application. In addition, the applicant must pay for a financial review by the City's financial advisor. Applicant must also pay reasonable fees for legal reviews by or for the City.
  - The applicant must agree to include in the bond resolution, provisions that insure adequate disclosure relating to the issuance and all post issuance disclosures (see disclosure requirements outlined above).
- Refunding or advance refunding of outstanding debt can be a valuable tool in reducing annual borrowing costs. Such refundings can be undertaken within the following parameters:
  - The final maturity is not later than that of the refunded issue.
  - The refunding results in present value savings of at least 3 percent. (Present value savings may be used to reduce debt service or fund capital projects.)
  - The refunding itself does not result in net new debt service. (However, a refunding may be combined with issuance of new debt for capital projects.)

The following definitions apply to this policy:

**Advance Refunding** - When the issue to be refunded cannot presently be retired. Refunding bond proceeds are placed in escrow and the proceeds plus earnings are used to meet debt service on the refunded issue until it can be retired.

**Average Life** - The point when half of the original principal has been retired as opposed to the final maturity which is the point at which the total original principal has been retired.

**Capital** - Includes projects, improvements or equipment (individually or related) with a cost in excess of \$50,000 and an estimated useful life of at least 5 years.

**Coverage** - Net profit plus interest and non-cash charges against net profit divided by average annual debt service  
**Conduit Financings** - Financings issued in the name of the City for which a third party accepts responsibility for payment (for example: industrial revenue bonds, hospital authority bonds).

**Current Operations** - Includes regular, recurring expenditures for "personal services" and "operating expenses".

**Debt** - Includes any form of borrowing monies. Bonds, contracts, letters, notes, or lines of credit, etc. are forms of debt. For purposes of this policy, debt does not include normal day-to-day transactions with vendors, suppliers or service providers that result in accounts payable. Debt has two time frames: short-term which is payable in full within one year of incurrence and long-term which has a final maturity beyond one year.

**Debt Service** - The annual principal and interest payments and service charges required to repay debt.

**Market** - Includes the Municipal Securities Rulemaking Board and the Nationally Recognized Municipal Securities Information Repositories, as appropriate.

**Material Event** - An occurrence that when material requires notice to investors. The Securities and Exchange Commission has determined that the following, among others, are such events.

- a. Principal and interest payment delinquencies
- b. Nonpayment related defaults
- c. Unscheduled draws on reserves
- d. Unscheduled draws on credit enhancements
- e. Substitution of credit or liquidity providers, or their failure to perform
- f. Adverse tax opinions or events affecting the tax exempt status of the security
- g. Modifications to rights of security holders
- h. Bond Calls
- i. Defeasances
- j. Matters affecting collateral
- k. Rating changes

**FINANCIAL PLANNING AND ADMINISTRATION POLICY** – Adopted by Council Action November 18, 1999; Amended 9/13/01; Amended 9/27/01; Amended 9/30/04; Amended 11/6/2006 by Council Action and Resolution; Amended by Resolution August 21, 2010 effective Noon, January 10, 2011; Amended by Resolution September 9, 2010 effective Noon, January 10, 2011; Amended November 18, 2010 by Resolution, effective Noon, January 10, 2011; Amended September 8, 2011 by Resolution.

This policy of the City Council covers the broad topics of financial planning and administration. It serves as a policy guide for the conduct of all financial operations of the City except for those operations covered by other specific policies (example: Debt Incurrence and Administration, Investment or Purchasing). As part of this policy statement, the City Council reserves the right to provide exceptions and waivers when unexpected circumstances justify such exception or waiver.

#### Accounts Receivable

- The Mayor shall have the authority to write-off uncollected accounts receivable (except for gas and sanitation utility accounts receivable and accounts receivables in which liens have been filed) in individual accounts not greater than \$1,000. Write-off of such accounts in amounts in excess of \$1,000 must be approved by the City Council. Gas and Sanitation uncollectible accounts receivable and uncollectible accounts receivable in which liens have been filed may be written off by the Mayor with the concurrence of the City's external auditor. Adopted 11/18/99; Amended 11/18/10
- The City will not back-bill ESP and Sanitation customers for any period greater than twelve (12) months for any undercharge in billing which is the result of the City's mistake. The Mayor shall establish a program to create and enforce liens on property within the City. The City shall allow the customer to pay the unbilled service over the same time period as the time period during which the under-billing occurred or some other mutually agreeable time period. The Mayor has the final authority on the disposition of billing and collection remedies. Adopted 9/30/04; Amended 9/9/10
- The Mayor shall create a policy for lease agreements to ensure all are reviewed before execution for recording on the City's official records, billing and collections of accounts. Adopted 9/9/10

#### Budget Policies

- The Mayor annually should prepare and present to City Council, within a time frame that meets TRIM requirements, a budget covering all required funds of the City. Following review, desired modification and the State prescribed public hearings, City Council will approve a final budget. All such budgets shall be balanced with projected opening fund balances, revenues and transfers equaling proposed expenditures, transfers, contingencies and ending fund balances.

### Budget Policies (continued)

- Revenue estimates included in the proposed and final budget will be those prepared or concurred with by the Mayor.
- As required by State statute, the City's millage rate shall be established each fiscal year as part of the budget process. As part of the budget process the Mayor shall, in the proposed budget, recommend a millage rate that establishes a balanced budget each fiscal year.
- General Fund's maximum amount of appropriated Beginning fund Balance each fiscal year should be no more than 3 percent of budgeted revenues. *Adopted 11/6/06*
- Recurring expenditures should be financed only with recurring revenues. Nonrecurring/one time revenues (a source that won't be repeated or one that is higher than normal because of weather or other issues beyond the City's control) should be used only to finance non-recurring expenditures and/or maintain or increase reserves.
- The City's annual budget shall conform to the Government Finance Officers Association's (GFOA) Distinguished Budget Presentation program requirements and shall be submitted for consideration for the award.
- The budget format should include information necessary to establish an adequate base for budgetary control including control over expenditures and positions.
- The budget should be prepared by department or programmatic activity. Within each department or programmatic activity it should be further divided by expenditure categories, personnel services, operating expenses, capital, grants in aid, debt service and non-operating.
- The Mayor shall have the authority to transfer appropriations between expenditure categories and between departments or programmatic activities except that amounts appropriated for capital outlay cannot be transferred to any other expenditure category provided no transfer shall be made from the appropriations that are contrary to Florida law. *Amended 9/9/10*
- It is understood that the citizens of Pensacola are entitled to a return on their investment for the purchase of the natural gas utility from Gulf Power in 1948. However, with the competitive nature of the energy industry the amount of transfer from ESP to the General Fund should be adjusted each year to assure ESP's competitive edge. Long-term, the budgeted transfer should not be more than 15 percent of budgeted ESP revenues. The amount of the transfer will be reported in each fiscal year budget. *Amended 11/6/06*

### Capital Assets

- The threshold for assets that will be capitalized, depreciated and reported in the City's annual financial statements will have a value of \$5,000 and a useful life of more than one year. Adopted 9/27/01

### Capital Improvement Plan

- Annually, the Mayor shall prepare and present to City Council for approval a comprehensive Capital Improvement Plan (CIP) covering at least 3 years for meeting infrastructure needs. The plan should include all potential funding sources that are available to finance the identified needs. Amended 9/9/10
- The CIP and the more narrowly focused Capital Improvement element of the comprehensive plan should be coordinated to ensure that all capital needs are met.
- Additional operating costs associated with any capital project should be identified and funding of the additional costs provided for in the City's annual budget.

### Fund Balance Policy (Enterprise Funds)

- The Mayor will develop and present to City Council a reserve implementation plan for each of the City's enterprises. Each plan will provide for no less than a 15 percent operating reserve. A capital reserve will also be established to ensure that ongoing capital and infrastructure needs are adequately met. This policy does not apply to the Airport whose reserve requirements are established by contracts with the airlines. Amended 9/30/04

### General Financial Policies

- The City should undertake an annual cost allocation study no less than bi-annually to ensure that all indirect costs are equitably allocated to the various enterprise and other appropriate operations. Amended 9/9/10
- The Mayor shall provide quarterly financial reports explaining and comparing budgeted and actual revenues and expenditures presented to the City Council following the end of each quarter. (Presentation of the comprehensive annual financial report will suffice for the year-end).

### General Financial Policies (continued)

- The City's Comprehensive Annual Financial Report (CAFR) will conform to the GFOA's Certificate of Achievement for Excellence in Financial Reporting program requirements and will be submitted for consideration for the award.
- Annually, the city will prepare a revenue manual.
- The Mayor will maintain an effective system of internal administrative and accounting controls. Adopted 9/30/04
- Any request for financial related information, however communicated, shall be promptly forwarded to the Mayor for approval prior to distribution. Adopted 9/9/10
- All executed contracts or issued purchase orders for purchases, including capital and construction purchases, exceeding \$25,000, and all executed contracts for services, excluding employment contracts, exceeding \$25,000, shall be reported to City Council following execution of the contract or issuance of the purchase order. Adopted 9/8/11

### Outside Agency Funding

- Grants that equal \$25,000 or more in total expenditures (i.e. grant expenditures plus match expenditures) or involve hiring additional staff will have City Council approval prior to grant acceptance. Acceptance of grants that equal less than \$25,000 in total expenditures will be approved by the Mayor. Adopted 9/30/04; Amended 11/6/06
- Funding to outside agencies, including non-profit organizations and sponsorships, shall be awarded in accordance with City Council's Outside Agency Funding Request Policy and shall require appropriation by the City Council prior to expenditure. Adopted 9/9/10

### Revenues and Fees

- The Mayor shall recommend to City Council for approval of the stormwater utility fee each fiscal year as part of the budget process. At the beginning of each fiscal year, an amount equal to budgeted stormwater utility fee revenue will be appropriated in the Stormwater Capital Project Fund for stormwater related capital projects, including stormwater basin master plans, as presented by the Mayor and approved by City Council. At the end of each fiscal year the budget will be adjusted to reflect actual revenue received. Adopted 9/13/01, Amended 9/9/10

### Revenues and Fees (continued)

- When the provision of service is predicated on payment of a fee (for example: building inspections), the Mayor should periodically review the relationship between revenues and expenses for services provided and fee should be set a levels sufficient to recover all costs. Fees for other programs (for example: adult or youth softball) should be set at levels that do not discourage participation in the program. The Mayor should present recommendations to City Council for approval. Amended 9/9/10

### Services and Contracts

- The City shall utilize the Request for Proposal (RFP) procedure for major banking services. The Banking Services Agreement shall be presented to City Council for approval. Adopted 9/9/10
- The City shall utilize the Request for Qualifications (RFQ) procedure for external audit services. An audit selection committee (appointed by City Council) shall present a recommendation to City Council for approval. Adopted 9/9/10
- Contracts for the City's financial advisor, bond counsel and disclosure counsel shall be presented to City Council for approval. Adopted 9/9/10

**FUND BALANCE POLICY** - Adopted by Resolution September 9, 2010 effective Noon, January 10, 2011

**A. Fund Balance Policy**

The City hereby establishes and will maintain reservations of Fund Balance, as defined herein, in accordance with Governmental Accounting and Financial Standards Board Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*. This Policy shall only apply to the City's governmental funds. Fund Balance shall be composed of restricted, committed, assigned, non-spendable and unassigned amounts.

Fund Balance information is used to identify the available resources to repay long-term debt, reduce property taxes, add new governmental programs, expand existing ones, or enhance the financial position of the City, in accordance with policies established by the City Council.

**B. Definitions**

**Fund Balance** – refers to the difference between assets and fund liabilities in the governmental funds balance sheet and is referred to as fund equity.

**Non-Spendable Fund Balance** – Amounts that are not in a spendable form (such as inventory) or are required to be maintained intact (principal of an endowment fund, for example).

**Restricted Fund Balance** – Amounts that can be spent only for the specific purposes stipulated by external resource providers (such as grantors), or enabling legislation. Restrictions may be changed or lifted only with the consent of the resource providers.

**Committed Fund Balance** – Amounts that can be used only for the specific purposes determined by a formal action of the City's highest level of decision making authority. Commitments may be changed or lifted only by the City Council taking the same formal action that imposed the constraint originally.

**Assigned Fund Balance** – Amounts the City intends to use for a specific purpose.

**Unassigned Fund Balance** – The residual classification for the general fund and includes amounts that are not contained in the other classifications. Unassigned amounts are the portion of fund balance which is not obligated or specifically designated and is available for any purpose.

**C. Classification of Fund Balance**

1. When expenditures are incurred for purposes for which both restricted and unrestricted fund balance is available, restricted fund balance is considered to have been spent first.
2. When expenditures are incurred for purposes for which amounts in any of unrestricted fund balance classifications can be used, committed amounts should be reduced first, followed by assigned amounts and then unassigned amounts.

**D. Reservations of Fund Balance**

The fund balances of the City's governmental funds include but are not limited to:

1. Non-spendable Fund Balance

*a. Inventory Reserve*

The inventory fund balance reserve is established to indicate those amounts relating to inventories that are not in spendable form.

*b. Prepaid and Deposits Reserve*

The prepaid and deposits fund balance reserve is established to indicate those amounts relating to prepaids and deposits that are not in spendable form.

2. Restricted Fund Balance

*a. Encumbrances*

The City encumbers funds associated with a purchase order which is evidence of a contract by third party restriction.

3. Committed Fund Balance

The City Council hereby establishes the following committed fund balance reserves:

*a. Tree Planting Trust Fund Reserve*

Ordinance 31-09 establishes and provides for funding of the Tree Planting Trust Fund. Expenditures are also authorized by ordinance and may be made with appropriate approval.

*b. Park Purchases Reserve*

Ordinance 9-96 establishes and provides for funding of an escrow account for park, recreation or open space needs in lieu of dedication of land for residential subdivisions. The funds are to be used for acquiring parks and developing playgrounds with appropriate approval.

c. *Council Reserve (General Fund)*

A minimum reserve of 15 percent of the General Fund beginning adopted appropriations (expenditure budget) should be incrementally established and maintained for use in meeting unanticipated needs and/or emergencies.

1. *Use of Council Reserve.* Council reserves shall be used only after all efforts have been exhausted to fund unanticipated needs and/or emergencies, such as implementing a modified hiring freeze and expenditure reductions. Once the Mayor has determined that it is necessary to draw down Council reserves, written communication should be provided by the Mayor to City Council, explaining the nature of the unanticipated need and/or emergency and requires approval by a two-thirds vote of City Council. Use of funds may only be initiated when current fiscal year revenues decrease by 5 percent or more of the total adopted beginning estimated revenues, including transfers. A maximum of fifty percent of the shortfall or fifty percent of the prior fiscal year ending Council reserve balance may be drawn, whichever is less. At no time may the reserve be less than 7.5 percent of adopted annual appropriations or half of the prior fiscal year ending Council reserve balance, whichever is greater. The Council reserve may not be used for more than two consecutive years.
2. *Replenishment of Council Reserve.* If the reserves are drawn down below the minimum required level of 15 percent, then a budgetary plan shall be implemented to return the reserve to a minimum 15 percent level in no more than a 5 year period. The progress of replenishment should be reported in the annual budget.
3. *Funding of Council Reserves.* Proceeds from the sale of City (general government) owned surplus real property and any other funds identified in the budget will be used to increase the reserve. Interest earnings will be applied on the reserve balance each fiscal year.

4. *Assigned Fund Balance*

a. *Carry Forward*

The carryforward fund balance reserve is identified by the Mayor at the close of each fiscal year, subject to approval of City Council, and is comprised of the designated and departmental carry forwards.

1. *Designated Carry Forward* – funds identified in the annual budget (and any amendments thereto) to provide for differences, if any, between budgeted revenues and expenditures.

2. Departmental carry forward – funds for which appropriations have been made in previous fiscal years that have been approved by the Mayor to be carried forward to subsequent fiscal years, subject to City Council approval.

*b. Special Assessments*

The special assessment fund balance reserve is established to indicate those funds derived from and available for the special assessment program.

**E. Authority to Assign**

The Mayor shall have authority to assign amounts of fund balance to a specific purpose; however, before expenditure, amounts must be appropriated by City Council.

**F. Minimum Level of Unassigned Fund Balance**

The City does not currently have a formal minimum fund balance policy.

**G. Annual Review and Determination of Fund Balance Reserve Amounts**

Compliance with the provisions of this policy shall be reviewed, presented and discussed as part of the annual Comprehensive Annual Financial Report (CAFR) process and presentation to City Council, and the amounts of restricted, committed, assigned, non-spendable and unassigned fund balance shall be reported. In addition, the amount of the Council reserve will be reviewed as part of the annual budget.

**H. Additional Information, Requirements and Responsibilities**

It will be the responsibility of the City to keep this policy current.

**INVESTMENT POLICY** - Adopted by Council Action and Resolution September 26, 2002; Amended by Resolution August 21, 2010 effective Noon, January 10, 2011

- Resolution 35-02, adopted under the authority of Sections 166.261 and 218.415, Florida Statutes, sets forth the policy of the City of Pensacola with regard to the investment of funds in excess of those required to meet short-term expenditures. The Mayor shall be responsible for implementing this policy, subject to the provisions of Section 1-1-1 (c) of the Code of the City of Pensacola. No person may engage in any investment transaction with City funds or funds held in a trust relationship by or for the City, except as authorized by the Director of Finance or authorized designee. Provided, however, this policy shall not apply to pension funds, trust funds, or funds related to the issuance of debt.

#### **Authority**

The responsibility for administering the investment program of the City resides with the Director of Finance. The Director of Finance has the responsibility to insure the proper management, internal controls, safekeeping and recording of all investment assets held or controlled by the City. No person may engage in any investment transaction with City funds or funds held in a trust relationship by or for the City, except as authorized by the Director of Finance or authorized designee.

#### **Scope**

This policy sets forth guidelines with regard to the investment of funds in excess of those required to meet short-term obligations and does not apply to pension funds, trust funds or funds related to the issuance of debt. All financial assets held or controlled by the City, not otherwise classified as restricted assets requiring separate investing, shall be identified as "general operating funds" of the City for the purpose of this policy, and shall be invested using the guidelines as herein set forth. This Policy is promulgated pursuant to and consistent with the provisions of Section 218.415, Florida Statutes, and City Ordinance No. 48-98.

Although restricted assets such as pension funds, certain bond-related funds and trust funds are not required to be covered by this Policy, such funds may be invested under this Policy, when deemed to be in the City's best interest to do so, and when permitted by governing policies or documents.

### **Objectives**

Safety of capital is regarded as the foremost objective of the investment program. Investments of the City shall be undertaken in a manner that seeks to ensure the preservation of capital in the overall portfolio. Each investment transaction shall be entered into with every effort to prevent capital losses, whether they are from securities defaults, theft, or the impact of adverse market conditions. The City's investment strategy will provide sufficient liquidity to meet operating, payroll and capital requirements. Investments shall be made to maximize income on surplus funds but only after the objectives of security and liquidity have been met.

### **Ethical Standards**

The standard of prudence to be used by the City of Pensacola is that of the Prudent Person Rule, which states that: "Investments should be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived from the investment." The Director of Finance and authorized designee, acting in accordance with established policies and procedures and exercising due diligence, shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely fashion and appropriate action is taken to minimize adverse developments. The Prudent Person Rule shall be applied in the context of managing all assets invested under this Policy.

Employees of the City who are involved in the investment process shall refrain from personal business activity that could conflict with State Statutes, City Ordinances, proper management of the City's investment program, or which could impair their ability to make impartial investment decisions.

### **Continuing Education**

The Director of Finance and appropriate staff shall annually complete eight (8) hours of continuing education in subjects or courses of study related to investment practices and products.

### **Performance Measurement**

The City of Pensacola seeks to optimize return on investments within the constraints of safety and liquidity. The investment portfolio shall be designed with the annual objective of exceeding by 50 basis points the weighted average return earned on investments held by the State Board of Administration Investment Pool. The State Board of Administration Investment Pool is the most appropriate benchmark given the imposed limits in maturities. (See "Portfolio Composition" for maturity limits).

### **Authorized Investments**

The following is a list of authorized investments as provided by Section 218.415(16), Florida Statutes:

- (a) The Local Government Surplus Funds Trust Fund or any intergovernmental investment pool authorized pursuant to the Florida Interlocal Cooperation Act as provided in Section 163.01, Florida Statutes.
- (b) Securities and Exchange Commission registered money market funds with the highest credit quality rating from a nationally recognized rating agency.
- (c) Interest-bearing time deposits or savings accounts in qualified public depositories as defined in Section 280.02, Florida Statutes.
- (d) Direct obligations of the United States Treasury.
- (e) Federal agencies and instrumentalities.
- (f) Securities of, or other interests in, any open-end or closed-end management-type investment company or investment trust registered under the Investment Company Act of 1940, 15 U.S.C. ss. 80a-1 et seq., as amended from time to time, provided that the portfolio of such investment company or investment trust is limited to obligations of the United States Government or any agency of instrumentality thereof and to repurchase agreements fully collateralized by such United States Government obligations, and provided that such investment company or investment trust takes delivery of such collateral either directly or through an authorized custodian.
- (g) Other investments authorized by law or by ordinance for a county or a municipality.

Additional investments types permitted by the City of Pensacola are granted authority through a separate ordinance approved by the Pensacola City Council. Investments not listed in this Policy or that have not been given separate approval by City Council are prohibited.

### **Bid Requirements**

The City of Pensacola will attempt to make investments with local banks that have been approved by the State Treasurer to act as qualified public depositories (QPDs) as governed by Chapter 280, Florida Statutes, and Rule 4C-2, Florida Administrative Code. In the case where interest rates of the local banks are not competitive, investment-banking firms with national repute can be selected at the Director's discretion.

The City of Pensacola will engage in a competitive bid selection with a minimum of three bids solicited. The bid deemed to best meet the investment objectives will be selected. These bids will be recorded and retained in the Financial Services Department.

### **Portfolio Composition**

There are no limits set by this Policy as to the maximum amount that any particular institution can hold. The institution will set its own limits by virtue of its ability to collateralize the investments.

Certificates of deposit purchased under the authority of this Policy will be purchased only from Qualified Public Depositories of the State of Florida as identified by the State Treasurer, in accordance with Chapter 280, Florida Statutes.

Repurchase agreements shall only be entered into with the City's primary depository, First Union National Bank, which is also identified as a qualified public depository.

Dollar limits for types of investments such as, Treasury's, Agencies or Certificates of Deposit, will be based on market conditions at the time of the investment or will be governed by the Director of Finance's discretion.

Average maturity of all surplus investments is not to exceed two years with the maximum maturity of any investment not to exceed five years.

### **Safekeeping And Custody.**

All securities purchased by the City's Director of Finance under this Policy, except certificates of deposits, shall be properly designated as assets of the City of Pensacola and shall be protected through a third-party agreement. The City shall enter into a formal agreement with an institution of such size and expertise as is necessary to provide the services needed to protect and secure the investment assets of the City. Certificates of deposit may be held in safekeeping at the issuing financial institution or may be held in physical custody by the City's Financial Services Department.

The City's Director of Finance shall establish appropriate safekeeping procedures so that, whenever possible, all investments are custodied in accordance with Governmental Accounting Standards Board Statement Number 3, Category (1), which specifies that all securities are insured or registered, or held by the City or its agent, in the City's name. Repurchase Agreements are disclosed as Category (2) as uninsured and unregistered investments for which the securities are held by the counter party, or by its trust department or agent in the City's name.

### **Collateral**

Collateral for public deposits is regulated by the State of Florida through, Chapter 280, Florida Statutes. The City shall not be under any obligation to secure additional collateral beyond the provisions set forth in Chapter 280, except in the case of Repurchase Agreements. Collateral requirements for Repurchase Agreements are contained in the Master Repurchase Agreement.

### **Master Repurchase Agreement**

The City has entered into only one Master Repurchase Agreement. First Union National Bank, the City's primary depository, holds the contract.

Overnight ("sweep") Repurchase Agreements are collateralized by full faith or general faith and credit obligations of the United States Government or United States Government Agency securities.

- (a) Purchased only from the City's contracted banking service provider.
- (b) Securities used as collateralization for the overnight (sweep) Repurchase Agreement will be held for the benefit of the City with a third party, the Federal Reserve Bank or the contracted bank's correspondent bank in an amount not less than 100% of the overnight amount of the Repurchase Agreement.

- (c) The City's primary depository must have on file an executed copy of the City's Master Repurchase Agreement for overnight repos and an executed Sweep Investment Service Agreement.
- (d) Repurchase Agreements for the City of Pensacola will exist only for the purposes of an overnight "sweep".

At this time the Sweep agreement is dormant. On August 1, 2001, the Financial Service Department changed its venue for daily investment of surplus funds. Surplus funds are being invested in a First Union product entitled "Public Funds Now". This is an interest bearing account that mirrors the Sweep agreement. It calculates interest daily according to the agreed upon interest rate, adheres to collateralization rules, but posts an aggregate interest earnings amount at the end of the month instead of daily recording. The change was instituted to simplify the recording of interest on surplus funds that remain in the General Clearance Account.

### **Internal Controls**

The Director of Finance has established internal controls to prevent loss of funds by fraud, employee error, misrepresentation by third parties, or imprudent actions by employees of the City. The internal controls are as follows:

- (a) Investment transactions authority is limited to specific persons within the Financial Services Department.
- (b) All investment transactions require approval of the Director of Finance.
- (c) Staff in the Financial Services Department reconciles the City's general depository account on a monthly basis by comparing the City's general ledger with the applicable bank account statements. The reconciliation of the general depository account would reveal any difference in investment transaction recording and the actual movement of funds.
- (d) Each month the designated staff person authorized to transact investments shall prepare an Investment Schedule. The schedule is then reviewed and reconciled to the general ledger by a person independent of the investment functions.
- (e) Authority for wire transfers is restricted to specific individuals with specific dollar limits within the Financial Services Department. All non-repeat type wire transfers require verification authorization by a second individual specified in wire authority documents executed with the City's primary depository.
- (f) Transfer of all funds through a central account only.

- (g) Each year the City's external auditors review existing internal controls as well as investment transactions by examining data on a random basis.

The internal controls are designed to prevent losses of funds which might arise from fraud, employee error, and misrepresentation by third parties, or imprudent actions by employees. As required by Section 218.415(13), Florida Statutes the internal controls shall be reviewed, at least annually, by the City's external auditors, as part of the required financial audit.

#### **Accounting Method**

For all investments with a remaining maturity of 1 year or less, the City of Pensacola has elected to use amortized cost method. All investments with a remaining maturity of 1 year or more are restated to fair value. All investment income, including changes in fair value of investments, shall be reported as revenue in the operating statement. The City shall comply with Statement No. 31 of the Government Accounting Standards Board.

#### **Reporting**

The Director of Finance shall generate monthly investment reports for internal management purposes. Quarterly investment reports shall be prepared and reviewed by the City's financial advisors to evaluate overall performance and to assess the security of the investment types. It is incumbent on the financial advisor to notify the Director of Finance of any unsafe or unsecured investments. A plan of action will be obtained from the financial advisor when adverse circumstances occur.

## **OUTSIDE AGENCY FUNDING REQUEST POLICY**

Adopted by Council Action July 22, 1999; Amended by Resolution August 21, 2010 effective Noon, January 10, 2011

### **Policy Objective**

The City Council of the City of Pensacola sets forth the following policy regarding requests for funding from agencies or groups outside the organizational structure of the city of Pensacola. The intent of the policy is to ensure that City funds are provided only to organizations that are not for profit, provide a service to the citizens of Pensacola, provide for effective accounting of funds received and provide a report on impact of funds awarded by the City. This policy does not affect contract for services or interlocal agreements with outside agencies or organizations.

### **Eligible Requests**

The City Council has the final authority on what is eligible for funding from the City. In general, the type of activities or projects that are eligible for City funding are those that provide a human or social service, promote economic development, promote or preserve Pensacola's historical legacy, promote or enhance cultural activities and the arts, or assist the City with achieving its mission or sated goals. The eligible programs or services must be provided by an agency that is not for profit. Agencies or programs that receive money from the Law Enforcement Trust fund are not eligible to receive funds from the City General Fund within the same budget year.

### **Public Benefit**

The program or projects submitted for City funding must provide benefit to citizens of the City of Pensacola. Program or performance measures of the public benefit are strongly encouraged.

### **Human Service Funding Request**

Agencies and organizations providing services that enhance the health and personal well being of citizens must be submitted for review through the Human Services Appropriations Committee. Under a contractual agreement, the committee is provided staff support by the United Way of Escambia County. United Way staff receives and forwards information on submitted funding requests to the Human Services Appropriations committee. The committee provides the Council with funding recommendations for the next fiscal year. The city Council retains final authority for approval of funding amounts.

### **Interlocal Agreements/Contracts for Services**

Outside agencies and organizations that provide services at the request of the City will continue to have funding requests forwarded through the appropriate department for approval by the City Council.

### **Other Funding Requests**

Agencies and organizations requesting funds for programs and activities not related to human services nor governed by a formal agreement must submit their request on the approved application and provide all requested information. If the program or project publicly

acknowledges contributions or sponsors, the City's financial support must be recognized in the appropriate publications, notices, and event merchandise. The request and application must be submitted to the city by the deadline established by the City's budget calendar. Requests for funds during the same fiscal year will only be considered in cases of emergency and when it is demonstrated that the need for the funding did not arise until after the fiscal year began. Funds for these requests will be derived from a contingency line item within the Outside Agency Funding section of the City budget. Requests for recurring or annual funding will not be considered in the same fiscal year.

**PORT RESERVE POLICY** Council Discussion Item December 9, 1999; Amended by Resolution August 21, 2010 effective Noon, January 10, 2011

Operating Reserve (1<sup>st</sup> priority)

The Operating Reserve will be set at 50% of the Port's Operating Budget (i.e., Personal Services, Operating Expenses, & Overhead).

Ongoing Capital Projects Reserve (2<sup>nd</sup> priority)

The Capital Projects Reserve would be set at the amount required to match anticipated Florida Seaport Transportation and Economic Development (FSTED)/State/Federal grants over the next 5 year period.

Emergency Capital Projects Reserve (3<sup>rd</sup> priority)

The Emergency Capital Projects Reserve will be used to fund unexpected/unplanned major capital-intensive projects that are not funded by the Federal Emergency Management Agency (FEMA). This reserve will be set at \$1,000,000.

Finally, any remaining surplus funds will be used to fund the Operating Reserve to 100% of the Port's Operating Budget.

**PROCEDURES FOR DISSEMINATION OF FINANCE RELATED INFORMATION**

Council Memo November 4, 1997; Amended by Resolution August 21, 2010 effective Noon, January 10, 2011

**PROCEDURE:** The following procedure for dealing with requests for finance related information must be followed by all employees of the City of Pensacola:

- Any request for finance related information, when such request appears to involve an investment decision or an evaluation of the credit or financial status of the City for financial market purposes, whether the request is by phone, in writing, by e-mail or fax, should be forwarded to the Mayor. Handling of such requests must be done tactfully, particularly if the request is a verbal one.
- If there is uncertainty about whether a request is for finance related information for use by a citizen/taxpayer or is for one of the above-mentioned purposes, error on the side of safety and forward the request to the Mayor.

**UTILITY COLLECTION POLICY** - Adopted by Council Action September 26, 2002; Amended by Resolution April 8, 2010; Amended by Resolution August 21, 2010 effective Noon, January 10, 2011; Amended November 18, 2010; effective Noon, January 10, 2011.

- A. The current bill will be considered delinquent if payment is not received by the due date.
- B. If the bill is not paid, the previous balance will appear on the next bill rendered. If the previous balance exceeds twenty-five dollars (\$25.00), the bill will provide a collections message indicating that the account is subject to disconnection.
- C. If a minimum payment of at least the previous balance is not received, a delinquent notice will be mailed. The system generates this notice twenty one (21) days from the due date of the initial bill. This notice provides the date by which the payment must be received and the scheduled disconnect date, which is thirty-seven (37) days from the due date of the initial bill.
- D. If the bill remains unpaid or arrangements have not been made by the disconnect date, an ESP field representative will be scheduled to turn off, lock and seal the meter at the premise.
- E. The service may be reconnected the next business day after the total bill and the reconnection fee have been paid.
- F. If the bill is not paid and service has not been reconnected within seven (7) days of the scheduled disconnect date, one of the following actions will occur:
  - 1. If gas service is the only City service billed the account will be terminated and final billed.
  - 2. If gas was terminated but City sanitation services continue, gas services will be deactivated and accrue interest while sanitation services and billing continue.
  - 3. If gas and City sanitation services were provided, and both services were discontinued for non payment, both services are terminated and final billed.
- G. Accounts disconnected for non-payment will require proper identification and verification of residence before new service is connected for a different customer.
- H. Collection procedures for hardship cases will be considered on an individual basis and include consideration of past payment history, arrangement history and eligibility for agency assistance. Arrangements made on balances exceeding sixty (60) days in arrears must be approved by a supervisor.
- I. The procedure for disputing a utility bill will be printed on customer billing statements.

- J. The Mayor is authorized to develop and implement a program for asserting, recording and foreclosing liens upon all lands or premises served by the ESP gas system when accounts become delinquent in accordance with Section 159.17, Florida Statutes. The guidelines and operating procedures shall be on file with the City Clerk and made available to customers of ESP. Adopted April 8, 2010

#### IV. GENERAL

# BUDGET SCHEDULE

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## FY 2019 BUDGET SCHEDULE (Tentative)

Monday, January 8	Send Outside Agency Applications to Current Recipients
Monday, January 8	Financial Services Staff distributes Budget Manual and Opens Eden System for Entering
Monday, January 8	Mayor Requests Priorities from City Council
Monday, February 12	Budget submittals to Financial Services and all departments/divisions complete budget requests complete and submit required forms (Tier I) Clerk, Council, Financial Services, Legal, Mayor, Planning, Human Resources
Monday, February 12	Council Priorities Due to Mayor's Office
Tuesday, February 20	Budget submittals to Financial Services and all departments/divisions complete budget requests complete and submit required forms (Tier II) CRA, Fire, Housing, Inspection, Parks & Recreation, Public Works
Monday, February 26	Budget submittals to Financial Services and all departments/divisions complete budget requests complete and submit required forms (Tier III) Airport, Pensacola Energy, Police, Port, Sanitation
Monday, March 5	Outside Agency Applications Due to Budget Office
Monday, March 12	Budget Workbooks delivered to Mayor and City Administrator Staff and Forward appropriate section of Budget Books to Departments/Divisions
Monday, March 19 thru Friday, March 23	Mayor, City Administrator Staff and Financial Services Staff meet with each Department/Division to review their Budget
Tuesday, March 27	Public Input Meeting (5:30 p.m. at Sanders Beach/Corrine Jones)
Thursday, March 29	Public Input Meeting (9:00 a.m. at Vickery Center)
Monday, April 2 thru Tuesday, April 3	Budget Review by Mayor, City Administrator Staff and Financial Services Staff
Friday, April 20	Final Decisions By Mayor
Friday, June 1	Property Appraiser Provides Property Valuation Estimates
Monday, July 2	Final Document Sign Off by Mayor
Monday, July 2	Property Appraiser Certifies DR-420 - 1st Day of TRIM
Monday, July 9	Proposed Budget Books Distributed To City Council & Available for Public & Media
Thursday, July 19	TRIM Notice approval by City Council
Monday, July 23 thru Friday, July 27	Individual Council Budget Briefings
Friday, August 3	Certification of Valuation to Property Appraiser, Tax Collector, & State (TRIM)
Wednesday, September 12	First Public Hearing on the Budget. 5:30 p.m. (tentative)
Saturday, September 15	Millage Advertisement runs in Newspaper
Wednesday, September 19	Final Public Hearing on the Budget. 5:30 p.m. (tentative)



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00040

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

PUBLIC HEARING: REQUEST FOR FUTURE LAND USE AND ZONING MAP AMENDMENT - 2120 W. JACKSON STREET

**RECOMMENDATION:**

That City Council conduct a public hearing on February 8, 2018 to consider the request to amend the City's Future Land Use Map and Zoning Map for property located at 2120 W. Jackson Street.

**HEARING REQUIRED:** Public

**SUMMARY:**

The City has received a request from Mr. Darold Montgomery to amend the City's Zoning Map from Residential/Office (R-2) to Commercial (C-1) and the City's Future Land Use Map from High Density Residential (HDR) to Commercial (C).

On December 12, 2017, the Planning Board unanimously recommended approval of the proposed Future Land Use Map and Zoning Map amendment.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

1/22/2018

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**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Sherry H. Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Rezoning Application, 2120 W. Jackson Street, dated November 9, 2017
- 2) Zoning Map, dated December 2017
- 3) December 12, 2017 Planning Board Minutes
- 4) Proposed FLUM Ordinance, 2120 W. Jackson Street
- 5) Proposed Zoning Ordinance, 2120 W. Jackson Street

**PRESENTATION:** Yes



**REZONING**

Please check application type:

Conventional Rezoning

Application Fee: \$2,500.00

Rehearing/Rescheduling (Planning Board): \$250.00

Rehearing/Rescheduling (City Council): \$750.00

**Comprehensive Plan / FLUM Amendment**

(< 10 acres)

\$3,500.00

\$250.00

\$750.00

(≥ 10 acres)

\$3,500.00

\$250.00

\$1,000.00

Applicant Information:

Name: Darold Montgomery

Date: 11/09/2017

Address: 1308 Plata Canada Dr, Cantonment, FL 32533

Phone: 850-384-6842

Fax: \_\_\_\_\_

Email: daroldmontgomery@gmail.com

Property Information:

Owner Name: Life Changing Experience Worship Center

Phone: 850-696-2122

Location/Address: 2120 W. Jackson St, Pensacola

Parcel ID: 00-05-00-9060-001-148 Acres/Square Feet: 53

Zoning Classification: Existing R-2

Proposed C-3

Future Land Use Classification: Existing HDR

Proposed C

Reason Rezoning Requested: Sale of property to adjacent business (Blues Angels) to provide for their expansion

Required Attachments:

(A) Full legal description of property (from deed or survey)

(B) General location map with property to be rezoned indicated thereon

The above information, together with all other answers and information provided by me (us) as petitioner (s)/applicant (s) in the subject application, and all other attachments thereto, is accurate and complete to the best of my (our) knowledge and belief as of this 9 day of November, 2017.

[Signature]  
Applicant Signature

[Signature]  
Owner Signature

DAROLD MONTGOMERY  
Applicant Name (Print)

DAROLD MONTGOMERY  
Owner Name (Print)

Sworn to and subscribed to before me this 9th day of November, 2017

Name: [Signature]

NOTARY PUBLIC  
LESLIE A. STATLER  
Commission # FF 186482  
Expires February 27, 2019  
Bonded thru Troy Fain Insurance 800-365-7019  
Commission Expires: 2/27/2019

**FOR OFFICE USE ONLY**

Council District: # 7 Date Received: 11/9/2017 Case Number: n/a

Date Postcards mailed: 12/4/2017 Planning Board Date: 12/12/2017 Recommendation: Approval

Committee Date: n/a Council Date: 2/8/2018 Council Action: \_\_\_\_\_

Second Reading: \_\_\_\_\_ Ordinance Number: \_\_\_\_\_

Recorded in Public Records 07/24/2006 at 12:58 PM OR Book 5955 Page 1069,  
Instrument #2006074233, Ernie Lee Magaha Clerk of the Circuit Court Escambia  
County, FL Recording \$27.00 Deed Stamps \$560.00

27-  
560-

Prepared by/Return to:  
Tracy Ratzin  
LandAmerica Lawyers Title  
14118 Perdido Key Drive, Ste. 3  
Pensacola, FL 32507

Folio/Parcel ID#: 00-05-00-9060-001-148

File/Case No: 10060006722

(Space Above This Line for Recording Data)

**CORPORATE WARRANTY DEED**

This Warranty Deed made on 19th day of July, 2006,

Between The Pensacola Revival Center, Inc., a Florida corporation

whose mailing address is: c/o Mary Garnham  
10671 Willow Lake Drive, Pensacola, FL 32506,

hereinafter called the Grantor, and

*DM*

Life Changing Experience Worship Center, Inc., a Florida corporation

whose mailing address is: 2514 W. Cervantes Street, Pensacola, FL 32505, hereinafter called the  
Grantee,

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and  
other good and valuable consideration the receipt of which is hereby acknowledged does grant,  
bargain, sell alien, remise, release convey and confirm unto the Grantee, and Grantee's successors,  
and assigns forever, all that certain parcel of land in the County of Escambia, State of Florida to  
wit:

LOTS 1, 2, 3, 4, 5 AND LOT 24, BLOCK 148, WEST KING TRACT, CITY OF PENSACOLA, ESCAMBIA  
COUNTY, FLORIDA, ACCORDING TO MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN  
1906.

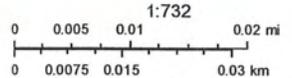
SUBJECT TO easements, restrictions and reservations of record, and real property taxes and  
assessments for the year of 2006 and subsequent years, which are not yet due and payable.

property lines

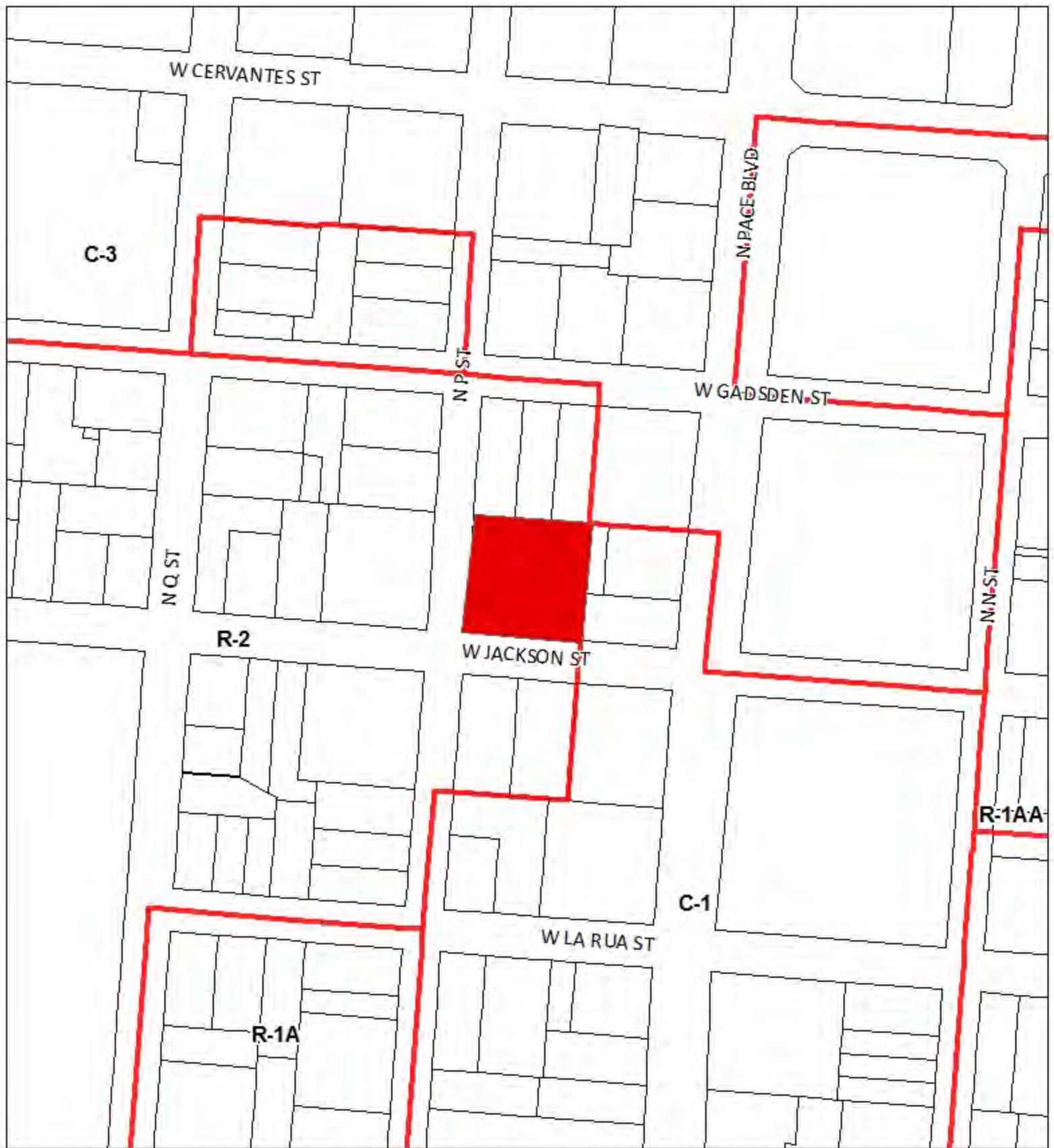


October 15, 2017

- |                     |                     |                    |            |                |
|---------------------|---------------------|--------------------|------------|----------------|
| <b>polygonLayer</b> | <b>polygonLayer</b> | <b>Streets</b>     | COLLECTOR  | County Outline |
| Override 1          | Override 1          | PRINCIPAL ARTERIAL | LOCAL ROAD |                |
|                     |                     | MINOR ARTERIAL     | Parcels    |                |



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community



REZONING EXISTING R-2 TO C-3

December 2017

2120 W Jackson



This map was prepared by the GIS section of the City of Pensacola and is provided for information purposes only and is not to be used for development of construction plans or any type of engineering services based on information depicted herein. It is maintained for the function of this office only. It is not intended for conveyance nor is it a survey. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.



PLANNING SERVICES

THE UPSIDE *o*f FLORIDA

**MINUTES OF THE PLANNING BOARD**

**December 12, 2017**

**MEMBERS PRESENT:** Chairman Paul Ritz, Danny Grundhoefer, Nina Campbell, Kurt Larson, Kyle Owens

**MEMBERS ABSENT:** Jared Moore, Nathan Monk

**STAFF PRESENT:** Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner Ericka Burnett, City Clerk, Ross Pristera, Advisor

**OTHERS PRESENT:** Mary Hudgins Woods, Patricia Hudgins Travis, Tonia M. Hudgins Blacklock, Johnny Little, Keyla Little, Anna Thornhill, Hazel Johnson, Henry L. Phipps, Patricia Phipps, Marilynn Wiggins, Gloria Horning, Nan DeStafney, James L. Gulley

**AGENDA:**

- Quorum/Call to Order
- Swearing In of Members
- Approval of Meeting Minutes from November 14, 2017
- New Business:
  1. Request for Future Land Use Map Amendment & Zoning Map Amendment – 2120 W. Jackson St.
  2. Consider LDC Amendment – Section 12-2-22 Governmental Center District
- Open Forum
- Adjournment

**Call to Order / Quorum Present**

Chairman Ritz called the meeting to order at 2:01 pm with a quorum present.

**Swearing in of members** – City Clerk Ericka Burnett swore in Board Member Kyle Owens.

**Approval of Meeting Minutes**

Mr. Larson made a motion to approve the November 14, 2017 minutes, seconded by Ms. Campbell, and it carried unanimously.

**New Business:**

**Request for Rezoning – 2120 W. Jackson St.**

Mr. Darold Montgomery is requesting for a Future Land Use Map Amendment and Zoning Map Amendment for the property located at 2120 W. Jackson Street. The property currently has a future land use designation of High Density Residential (HDR) and zoning designation of Residential/Office (R-2). This request is proposing to amend the Future Land Use Designation to Commercial and the zoning designation to Commercial (C-3).

EVERYTHING THAT'S GREAT ABOUT FLORIDA IS BETTER IN PENSACOLA.

222 West Main Street Pensacola, FL 32502 / T: 850.435.1670 / F: 850.595.1143/[www.cityofpensacola.com](http://www.cityofpensacola.com)

These changes will allow for the sale of the property to the adjacent business (Blues Angel Music) to provide for expansion of the business. The existing business located at 657 Pace Boulevard is adjacent and has a zoning designation of Commercial (C-3). The properties in this area with frontage on Pace Boulevard all have a Commercial (C-3) zoning designation. This request has been routed through the various City departments and utility providers with comments provided. The proper notice was provided with no objections received.

Chairman Ritz noted there were no negative comments and reminded the Board if approved, anything in C-3 could be placed on the property. His opinion was that C-3 was an intense commercial district. Ms. Deese read the listing of uses for C-3 in the Ordinance. She agreed that going from R-2 to C-3 was dramatic, but stated we did want to remain consistent with the surrounding properties. She pointed out the Board did have the option to go with C-2 or C-1. Mr. Grundhoefer advised this property was contiguous with C-1. Ms. Deese provided the GIS location which indicated a portion of the Blues Angel Music was C-3, but C-1 would be appropriate as well. This designation would also allow for the land use being proposed. Chairman Ritz supported the C-1 designation.

Mr. Darrell Montgomery, property owner, stated the goal was to sell the property, and Ms. DeStafney wanted to expand the Blues Angels business. He stated the church is relocating. Ms. DeStafney explained that the church had outgrown the existing facilities. It was her desire to expand and use the church's existing buildings, which would continue the commercial development to the west. She explained they had a warehouse and repair center, and Ms. Deese advised those were accessories to the primary business and appropriate for the C-1 designation.

**Mr. Larson made a motion to approve as C-1, seconded by Mr. Owens.** For clarification, Mr. Grundhoefer explained the Board's recommendation would be forwarded to the City Council for final approval. **The motion then carried unanimously.**

#### **Consider LDC Amendment – Section 12-2-22 Governmental Center District**

City Council, at their November 9, 2017 meeting, referred to this Board for consideration a Land Development Code Amendment for Section 12-2-22 Governmental Center District. Recently, concerns have been raised over the lack of clear, enforceable regulations in the Governmental Center District. The attached proposed code language would replace the Governmental Center District with a new redevelopment district that is very similar to the Maritime Redevelopment Land Use District that went before this Board and City Council back in 2013. This proposed district would provide for a review process that contains clear guidelines that allows for transparency to property owners as well as potential developers. If this amendment moves forward, additional sections of the Land Development Code where Governmental Center District is referred to will need to be amended as well. Ms. Deese reminded the Board that around a year ago Planning Board forwarded a proposal to the City Council addressing this change.

Chairman Ritz explained this legislation would put something in place, and Ms. Deese advised the ARB would oversee the aesthetic review of this district. She advised with the westward movement, this would bring more items to the ARB. As an ARB member, Ms. Campbell stated she would rather be tasked with more work than not see these proposals addressed. She pointed out in the 1970s, many historic buildings were demolished for development. Mr. Pristera explained large portions of the neighborhoods were torn down, but the Historic Trust saved some properties, and they found survey pictures before those demolitions. With the development of a recent project, the Historic Trust was notified that brick piers were found. In reviewing the district, he did not believe this area needed to be a historic district, but it did need some protection of the residential properties. He also advised the neighborhoods needed the chance to weigh in to provide a sense of community. He explained the Governmental Center District did not have guidelines, but Maritime had some.

Ms. Deese pointed out the proposed ordinance contains regulations for the proposed Maritime Redevelopment District and would replace the existing Governmental Center District. She explained that Councilwoman Jewel Cannada-Wynn sponsored the revision, but her intent was not to include the Tanyard since it would be a part of an overlay district proposed by the CRA; residential would also be excluded. There was a substantial amount of opposition from the neighborhood concerning regulations on residential which were included in the original document of 2013 that failed on second reading by City Council.

Mr. Pristera clarified the study provided by interns included residential. Chairman Ritz clarified that the boundaries were just the Governmental Center District, but Ms. Deese advised the Board's recommendation could be different.

Ms. Wiggins, President of the Tanyard Neighborhood Association, was concerned with what type of ordinance would be put into place and hoped the neighborhood would still belong to the residents. Chairman Ritz explained residences were not included in the proposed district. Unless there was a zoning change, zoning regulations would limit commercial businesses from coming in. He added that a home could be built on a commercial property if it was zoned commercial. Mr. Grundhoefer explained that this would help a McDonald's fit into the neighborhood and look like it belongs in the district. Ms. Deese indicated in reading the proposed ordinance, it appeared that residential was included, but it was not the intent of the sponsor as far as staff was aware. Also, when Planning Board recommended this to Council about a year ago, they discussed the desire to extend the boundaries to A Street.

Ms. Campbell asked Ms. Wiggins how the residents felt about being under the ARB review. Ms. Wiggins explained the residents felt whatever was going on in this area did not include them, and they were afraid of being pushed out of their homes. Ms. Campbell explained she felt the ARB would protect their investment. Mr. Grundhoefer agreed that the ARB would provide protection assuring that what was built around them would be compatible with the neighborhood. Ms. Deese clarified in looking at Old East Hill, some of their residents were in a similar situation where even the application fee to come before the ARB was too great of a burden. The ARB could require certain materials that current residents could not afford.

Dr. Gloria Horning stated gentrification was exactly what was occurring here. She explained the Tanyard was rich in African American history. She pointed to Aragon Court which had a high-end developer say the residents could have the opportunity to purchase, however, they could only afford the land itself. She explained houses are currently being built in Tanyard and priced at \$136,000 which made them unaffordable. Businesses without suitable parking were also presenting a problem. Chairman Ritz explained the ordinance did not discuss commercial versus residential. He explained that without legislation, the residents would continue to have problems, but the legislation would actually help. Ms. Campbell pointed out with the legislation, they could preserve the residential homes since demolition is taken very seriously by the ARB.

Mr. Gulley, Chairman of the Westside CRA, gave a history and background of the Tanyard and addressed demolitions in locations west of A Street. As a point of order, Chairman Ritz advised west of A Street could not be addressed in this proposal. Mr. Gulley stated the current proposal would cover to A Street, and it should not be approved until it is clarified by the sponsoring Council member. As a point of reference, Chairman Ritz clarified that the legislation did not go to A Street but only renamed the Governmental Center District, and the map was yet to be determined. Mr. Gulley cited demolitions and subdivisions recently approved in the Westside CRA and stated the decisions of this Board had a great impact. He pointed out Ms. Gibson of the CRA would be placing an overlay district for all of the CRAs (possibly June of next year).

Ms. Thornhill advised they were in gentrification and had about ten percent of the original residents in Tanyard today.

She provided examples of parking problems as well as the special events of the Maritime Park where the public uses their neighborhood parking spaces. Chairman Ritz noted the interest from the neighborhood. He pointed out the ARB had provided workshops and other meetings with a more informal approach to any developing legislation being put forth. One of the key components was input from the residents. The proposed legislation before the Board has holes in the framework that were intended to be worked out during this meeting. However, without having Council Member Cannada-Wynn present for questions, the Board was going by "hearsay" and didn't feel comfortable moving forward without more insight.

Ms. Phipps lives outside of the district and hoped the Board was still considering the flooding issue, and stated whatever was built, it would result in flooding since they were taking away more land. Chairman Ritz pointed out the Board was not involved in stormwater management. She also discussed the bus terminal across the street and the noise generated.

At this point, Chairman Ritz stated the Board was not at a point to move forward and needed input from Councilwoman Cannada-Wynn. He explained this Board had a limited scope and has no authority on storm-water planning. He continued by stating that this Board considers zoning and legislation concerning the Land Development Code, and the Board valued input from the neighborhoods when considering movement forward for the City. He explained neighborhoods were developed differently today considering new technologies, family styles and transportation. With all that was said, he stated the Board needed to study the issue more and obtain additional input. Mr. Larson asked if the Board could ask for more input from Council on the Tanyard and the CRA district they wanted exempted so the Board would not be overstepping what they were trying to do initially. Chairman Ritz asked staff for additional information from Council. He asked Ms. Wiggins how she would like to have input, and suggested she write out suggestions and deliver them to staff. He clarified with no decision made by the Board, this issue would come back as an agenda item. He asked if Dr. Horning could reference specific items. Dr. Horning stated they appreciated the opportunity since they had never been asked for input before. Chairman Ritz explained their written comments would become part of the record which would also be a part of the information forwarded to Council.

**Mr. Larson made a motion to postpone until the Board could obtain additional guidance. Ms. Campbell seconded the motion, and it carried unanimously.**

**Open Forum** – Mr. Larson thanked Mr. Grundhoefer for the report in the minutes regarding Council's decision on internally illuminated signage.

**Adjournment** – With no further business, Chairman Ritz adjourned the meeting at 3:17 pm.

Respectfully Submitted,



Brandi C. Deese  
Secretary to the Board

PROPOSED  
ORDINANCE NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING THE FUTURE LAND USE CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA; AMENDING THE FUTURE LAND USE MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE.

WHEREAS, the City of Pensacola adopted a Comprehensive Plan on October 4, 1990, pursuant to applicable law; and

WHEREAS, a proposed amended future land use classification has been referred to the local planning agency pursuant to §163.3174, Fla. Stat., and a proper public hearing was held on February 8, 2018 concerning the following proposed future land use classification affecting the property described therein; and

WHEREAS, after due deliberation, the City Council has determined that the amended future land use classification set forth herein will affirmatively contribute to the health, safety, and general welfare of the citizens of the City of Pensacola; and

WHEREAS, said amended future land use classification is consistent with all applicable elements of the Comprehensive Plan as amended, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the Future Land Use Map of the City of Pensacola and all notations, references and information shown thereon is hereby amended so that the following described real property located in the City of Pensacola, Florida, to-wit:

LOTS 1, 2, 3, 4, 5 AND LOT 24, BLOCK 148, WEST KING TRACT, CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA, ACCORDING TO MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906.

is hereby changed from High Density Residential Land Use (HDR) to Commercial (C) Future Land Use District.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. 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.

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_  
President of City Council

Attest:

\_\_\_\_\_  
City Clerk

PROPOSED  
ORDINANCE NO. \_\_\_\_\_

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA; AMENDING THE ZONING MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE.

WHEREAS, the City of Pensacola adopted a Comprehensive Plan on October 4, 1990, pursuant to applicable law; and

WHEREAS, a proposed amended zoning classification has been referred to the local planning agency pursuant to §163.3174, Fla. Stat., and a proper public hearing was held on February 8, 2018 concerning the following proposed zoning classification affecting the property described therein; and

WHEREAS, after due deliberation, the City Council has determined that the amended zoning classification set forth herein will affirmatively contribute to the health, safety, and general welfare of the citizens of the City of Pensacola; and

WHEREAS, said amended zoning classification is consistent with all applicable elements of the Comprehensive Plan as amended,  
NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the Zoning Map of the City of Pensacola and all notations, references and information shown thereon is hereby amended so that the following described real property located in the City of Pensacola, Florida, to-wit:

LOTS 1, 2, 3, 4, 5 AND LOT 24, BLOCK 148, WEST KING TRACT, CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA, ACCORDING TO MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906.

is hereby changed from the R-2 (Residential Office) District to the C-1 (Commercial) District.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. 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.

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_  
President of City Council

Attest:

\_\_\_\_\_  
City Clerk



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 02-18

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

PROPOSED ORDINANCE - NO. 02-18 - REQUEST FOR FUTURE LAND USE MAP AMENDMENT - 2120 W. JACKSON STREET

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 02-18 on first reading.

AN ORDINANCE AMENDING THE FUTURE LAND USE CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA; AMENDING THE FUTURE LAND USE MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The City has received a request from Mr. Darold Montgomery to amend the City's Zoning Map from Residential/Office (R-2) to Commercial (C-1) and the City's Future Land Use Map from High Density Residential (HDR) to Commercial (C).

On December 12, 2017, the Planning Board unanimously recommended approval of the proposed Future Land Use Map and Zoning Map amendment.

**PRIOR ACTION:**

None

**FUNDING:**

N./A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

1/22/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator

Sherry H. Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 02-18
- 2) Rezoning Application, 2120 W. Jackson Street, dated November 9, 2017
- 3) Zoning Map, dated December 2017
- 4) December 12, 2017 Planning Board Minutes

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 02-18  
ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING THE FUTURE LAND USE CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA; AMENDING THE FUTURE LAND USE MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE.

WHEREAS, the City of Pensacola adopted a Comprehensive Plan on October 4, 1990, pursuant to applicable law; and

WHEREAS, a proposed amended future land use classification has been referred to the local planning agency pursuant to §163.3174, Fla. Stat., and a proper public hearing was held on February 8, 2018 concerning the following proposed future land use classification affecting the property described therein; and

WHEREAS, after due deliberation, the City Council has determined that the amended future land use classification set forth herein will affirmatively contribute to the health, safety, and general welfare of the citizens of the City of Pensacola; and

WHEREAS, said amended future land use classification is consistent with all applicable elements of the Comprehensive Plan as amended, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the Future Land Use Map of the City of Pensacola and all notations, references and information shown thereon is hereby amended so that the following described real property located in the City of Pensacola, Florida, to-wit:

LOTS 1, 2, 3, 4, 5 AND LOT 24, BLOCK 148, WEST KING TRACT, CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA, ACCORDING TO MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906.

is hereby changed from High Density Residential Land Use (HDR) to Commercial (C) Future Land Use District.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. 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.

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_  
President of City Council

Attest:

\_\_\_\_\_  
City Clerk



**REZONING**

Please check application type:

Conventional Rezoning

Application Fee: \$2,500.00

Rehearing/Rescheduling (Planning Board): \$250.00

Rehearing/Rescheduling (City Council): \$750.00

**Comprehensive Plan / FLUM Amendment**

(< 10 acres)

\$3,500.00

\$250.00

\$750.00

(≥ 10 acres)

\$3,500.00

\$250.00

\$1,000.00

Applicant Information:

Name: Darold Montgomery

Date: 11/09/2017

Address: 1308 Plata Canada Dr, Cantonment, FL 32533

Phone: 850-384-6842

Fax: \_\_\_\_\_

Email: daroldmontgomery@gmail.com

Property Information:

Owner Name: Life Changing Experience Worship Center

Phone: 850-696-2122

Location/Address: 2120 W. Jackson St, Pensacola

Parcel ID: 00-05-00-9060-001-148 Acres/Square Feet: 53

Zoning Classification: Existing R-2

Proposed C-3

Future Land Use Classification: Existing HDR

Proposed C

Reason Rezoning Requested: Sale of property to adjacent business (Blues Angels) to provide for their expansion

- Required Attachments: (A) Full legal description of property (from deed or survey)  
 (B) General location map with property to be rezoned indicated thereon

The above information, together with all other answers and information provided by me (us) as petitioner (s)/applicant (s) in the subject application, and all other attachments thereto, is accurate and complete to the best of my (our) knowledge and belief as of this 9 day of November, 2017.

Applicant Signature

Owner Signature

DAROLD MONTGOMERY  
Applicant Name (Print)

DAROLD MONTGOMERY  
Owner Name (Print)

Sworn to and subscribed to before me this 9th day of November, 2017

Name: [Signature]

Commission Expires: 2/27/2019



**FOR OFFICE USE ONLY**

Council District: # 7 Date Received: 11/9/2017 Case Number: n/a

Date Postcards mailed: 12/4/2017 Planning Board Date: 12/12/2017 Recommendation: Approval

Committee Date: n/a Council Date: 2/8/2018 Council Action: \_\_\_\_\_

Second Reading: \_\_\_\_\_ Ordinance Number: \_\_\_\_\_

Recorded in Public Records 07/24/2006 at 12:58 PM OR Book 5955 Page 1069,  
Instrument #2006074233, Ernie Lee Magaha Clerk of the Circuit Court Escambia  
County, FL Recording \$27.00 Deed Stamps \$560.00

27-  
560-

Prepared by/Return to:  
Tracy Ratzin  
LandAmerica Lawyers Title  
14118 Perdido Key Drive, Ste. 3  
Pensacola, FL 32507

Folio/Parcel ID#: 00-05-00-9060-001-148

File/Case No: 10060006722

(Space Above This Line for Recording Data)

**CORPORATE WARRANTY DEED**

This Warranty Deed made on 19th day of July, 2006,

Between The Pensacola Revival Center, Inc., a Florida corporation

whose mailing address is: c/o Mary Garnham  
10671 Willow Lake Drive, Pensacola, FL 32506,

hereinafter called the Grantor, and

*DM*

Life Changing Experience Worship Center, Inc., a Florida corporation

whose mailing address is: 2514 W. Cervantes Street, Pensacola, FL 32505, hereinafter called the  
Grantee,

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and  
other good and valuable consideration the receipt of which is hereby acknowledged does grant,  
bargain, sell alien, remise, release convey and confirm unto the Grantee, and Grantee's successors,  
and assigns forever, all that certain parcel of land in the County of Escambia, State of Florida to  
wit:

LOTS 1, 2, 3, 4, 5 AND LOT 24, BLOCK 148, WEST KING TRACT, CITY OF PENSACOLA, ESCAMBIA  
COUNTY, FLORIDA, ACCORDING TO MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN  
1906.

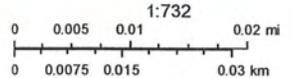
SUBJECT TO easements, restrictions and reservations of record, and real property taxes and  
assessments for the year of 2006 and subsequent years, which are not yet due and payable.

property lines



October 15, 2017

<b>polygonLayer</b>	<b>polygonLayer</b>	<b>Streets</b>	COLLECTOR	County Outline
Override 1	Override 1	PRINCIPAL ARTERIAL	LOCAL ROAD	
		MINOR ARTERIAL	Parcels	



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community



REZONING EXISTING R-2 TO C-3

December 2017

2120 W Jackson



This map was prepared by the GIS section of the City of Pensacola and is provided for information purposes only and is not to be used for development of construction plans or any type of engineering services based on information depicted herein. It is maintained for the function of this office only. It is not intended for conveyance nor is it a survey. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.



PLANNING SERVICES

THE UPSIDE *o*f FLORIDA

**MINUTES OF THE PLANNING BOARD**

**December 12, 2017**

**MEMBERS PRESENT:** Chairman Paul Ritz, Danny Grundhoefer, Nina Campbell, Kurt Larson, Kyle Owens

**MEMBERS ABSENT:** Jared Moore, Nathan Monk

**STAFF PRESENT:** Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner Ericka Burnett, City Clerk, Ross Pristera, Advisor

**OTHERS PRESENT:** Mary Hudgins Woods, Patricia Hudgins Travis, Tonia M. Hudgins Blacklock, Johnny Little, Keyla Little, Anna Thornhill, Hazel Johnson, Henry L. Phipps, Patricia Phipps, Marilyn Wiggins, Gloria Horning, Nan DeStafney, James L. Gulley

**AGENDA:**

- Quorum/Call to Order
- Swearing In of Members
- Approval of Meeting Minutes from November 14, 2017
- New Business:
  1. Request for Future Land Use Map Amendment & Zoning Map Amendment – 2120 W. Jackson St.
  2. Consider LDC Amendment – Section 12-2-22 Governmental Center District
- Open Forum
- Adjournment

**Call to Order / Quorum Present**

Chairman Ritz called the meeting to order at 2:01 pm with a quorum present.

**Swearing in of members** – City Clerk Ericka Burnett swore in Board Member Kyle Owens.

**Approval of Meeting Minutes**

Mr. Larson made a motion to approve the November 14, 2017 minutes, seconded by Ms. Campbell, and it carried unanimously.

**New Business:**

**Request for Rezoning – 2120 W. Jackson St.**

Mr. Darold Montgomery is requesting for a Future Land Use Map Amendment and Zoning Map Amendment for the property located at 2120 W. Jackson Street. The property currently has a future land use designation of High Density Residential (HDR) and zoning designation of Residential/Office (R-2). This request is proposing to amend the Future Land Use Designation to Commercial and the zoning designation to Commercial (C-3).

EVERYTHING THAT'S GREAT ABOUT FLORIDA IS BETTER IN PENSACOLA.

222 West Main Street Pensacola, FL 32502 / T: 850.435.1670 / F: 850.595.1143/[www.cityofpensacola.com](http://www.cityofpensacola.com)

These changes will allow for the sale of the property to the adjacent business (Blues Angel Music) to provide for expansion of the business. The existing business located at 657 Pace Boulevard is adjacent and has a zoning designation of Commercial (C-3). The properties in this area with frontage on Pace Boulevard all have a Commercial (C-3) zoning designation. This request has been routed through the various City departments and utility providers with comments provided. The proper notice was provided with no objections received.

Chairman Ritz noted there were no negative comments and reminded the Board if approved, anything in C-3 could be placed on the property. His opinion was that C-3 was an intense commercial district. Ms. Deese read the listing of uses for C-3 in the Ordinance. She agreed that going from R-2 to C-3 was dramatic, but stated we did want to remain consistent with the surrounding properties. She pointed out the Board did have the option to go with C-2 or C-1. Mr. Grundhoefer advised this property was contiguous with C-1. Ms. Deese provided the GIS location which indicated a portion of the Blues Angel Music was C-3, but C-1 would be appropriate as well. This designation would also allow for the land use being proposed. Chairman Ritz supported the C-1 designation.

Mr. Darrell Montgomery, property owner, stated the goal was to sell the property, and Ms. DeStafney wanted to expand the Blues Angels business. He stated the church is relocating. Ms. DeStafney explained that the church had outgrown the existing facilities. It was her desire to expand and use the church's existing buildings, which would continue the commercial development to the west. She explained they had a warehouse and repair center, and Ms. Deese advised those were accessories to the primary business and appropriate for the C-1 designation.

**Mr. Larson made a motion to approve as C-1, seconded by Mr. Owens.** For clarification, Mr. Grundhoefer explained the Board's recommendation would be forwarded to the City Council for final approval. **The motion then carried unanimously.**

#### **Consider LDC Amendment – Section 12-2-22 Governmental Center District**

City Council, at their November 9, 2017 meeting, referred to this Board for consideration a Land Development Code Amendment for Section 12-2-22 Governmental Center District. Recently, concerns have been raised over the lack of clear, enforceable regulations in the Governmental Center District. The attached proposed code language would replace the Governmental Center District with a new redevelopment district that is very similar to the Maritime Redevelopment Land Use District that went before this Board and City Council back in 2013. This proposed district would provide for a review process that contains clear guidelines that allows for transparency to property owners as well as potential developers. If this amendment moves forward, additional sections of the Land Development Code where Governmental Center District is referred to will need to be amended as well. Ms. Deese reminded the Board that around a year ago Planning Board forwarded a proposal to the City Council addressing this change.

Chairman Ritz explained this legislation would put something in place, and Ms. Deese advised the ARB would oversee the aesthetic review of this district. She advised with the westward movement, this would bring more items to the ARB. As an ARB member, Ms. Campbell stated she would rather be tasked with more work than not see these proposals addressed. She pointed out in the 1970s, many historic buildings were demolished for development. Mr. Pristera explained large portions of the neighborhoods were torn down, but the Historic Trust saved some properties, and they found survey pictures before those demolitions. With the development of a recent project, the Historic Trust was notified that brick piers were found. In reviewing the district, he did not believe this area needed to be a historic district, but it did need some protection of the residential properties. He also advised the neighborhoods needed the chance to weigh in to provide a sense of community. He explained the Governmental Center District did not have guidelines, but Maritime had some.

Ms. Deese pointed out the proposed ordinance contains regulations for the proposed Maritime Redevelopment District and would replace the existing Governmental Center District. She explained that Councilwoman Jewel Cannada-Wynn sponsored the revision, but her intent was not to include the Tanyard since it would be a part of an overlay district proposed by the CRA; residential would also be excluded. There was a substantial amount of opposition from the neighborhood concerning regulations on residential which were included in the original document of 2013 that failed on second reading by City Council.

Mr. Pristera clarified the study provided by interns included residential. Chairman Ritz clarified that the boundaries were just the Governmental Center District, but Ms. Deese advised the Board's recommendation could be different.

Ms. Wiggins, President of the Tanyard Neighborhood Association, was concerned with what type of ordinance would be put into place and hoped the neighborhood would still belong to the residents. Chairman Ritz explained residences were not included in the proposed district. Unless there was a zoning change, zoning regulations would limit commercial businesses from coming in. He added that a home could be built on a commercial property if it was zoned commercial. Mr. Grundhoefer explained that this would help a McDonald's fit into the neighborhood and look like it belongs in the district. Ms. Deese indicated in reading the proposed ordinance, it appeared that residential was included, but it was not the intent of the sponsor as far as staff was aware. Also, when Planning Board recommended this to Council about a year ago, they discussed the desire to extend the boundaries to A Street.

Ms. Campbell asked Ms. Wiggins how the residents felt about being under the ARB review. Ms. Wiggins explained the residents felt whatever was going on in this area did not include them, and they were afraid of being pushed out of their homes. Ms. Campbell explained she felt the ARB would protect their investment. Mr. Grundhoefer agreed that the ARB would provide protection assuring that what was built around them would be compatible with the neighborhood. Ms. Deese clarified in looking at Old East Hill, some of their residents were in a similar situation where even the application fee to come before the ARB was too great of a burden. The ARB could require certain materials that current residents could not afford.

Dr. Gloria Horning stated gentrification was exactly what was occurring here. She explained the Tanyard was rich in African American history. She pointed to Aragon Court which had a high-end developer say the residents could have the opportunity to purchase, however, they could only afford the land itself. She explained houses are currently being built in Tanyard and priced at \$136,000 which made them unaffordable. Businesses without suitable parking were also presenting a problem. Chairman Ritz explained the ordinance did not discuss commercial versus residential. He explained that without legislation, the residents would continue to have problems, but the legislation would actually help. Ms. Campbell pointed out with the legislation, they could preserve the residential homes since demolition is taken very seriously by the ARB.

Mr. Gulley, Chairman of the Westside CRA, gave a history and background of the Tanyard and addressed demolitions in locations west of A Street. As a point of order, Chairman Ritz advised west of A Street could not be addressed in this proposal. Mr. Gulley stated the current proposal would cover to A Street, and it should not be approved until it is clarified by the sponsoring Council member. As a point of reference, Chairman Ritz clarified that the legislation did not go to A Street but only renamed the Governmental Center District, and the map was yet to be determined. Mr. Gulley cited demolitions and subdivisions recently approved in the Westside CRA and stated the decisions of this Board had a great impact. He pointed out Ms. Gibson of the CRA would be placing an overlay district for all of the CRAs (possibly June of next year).

Ms. Thornhill advised they were in gentrification and had about ten percent of the original residents in Tanyard today.

She provided examples of parking problems as well as the special events of the Maritime Park where the public uses their neighborhood parking spaces. Chairman Ritz noted the interest from the neighborhood. He pointed out the ARB had provided workshops and other meetings with a more informal approach to any developing legislation being put forth. One of the key components was input from the residents. The proposed legislation before the Board has holes in the framework that were intended to be worked out during this meeting. However, without having Council Member Cannada-Wynn present for questions, the Board was going by "hearsay" and didn't feel comfortable moving forward without more insight.

Ms. Phipps lives outside of the district and hoped the Board was still considering the flooding issue, and stated whatever was built, it would result in flooding since they were taking away more land. Chairman Ritz pointed out the Board was not involved in stormwater management. She also discussed the bus terminal across the street and the noise generated.

At this point, Chairman Ritz stated the Board was not at a point to move forward and needed input from Councilwoman Cannada-Wynn. He explained this Board had a limited scope and has no authority on storm-water planning. He continued by stating that this Board considers zoning and legislation concerning the Land Development Code, and the Board valued input from the neighborhoods when considering movement forward for the City. He explained neighborhoods were developed differently today considering new technologies, family styles and transportation. With all that was said, he stated the Board needed to study the issue more and obtain additional input. Mr. Larson asked if the Board could ask for more input from Council on the Tanyard and the CRA district they wanted exempted so the Board would not be overstepping what they were trying to do initially. Chairman Ritz asked staff for additional information from Council. He asked Ms. Wiggins how she would like to have input, and suggested she write out suggestions and deliver them to staff. He clarified with no decision made by the Board, this issue would come back as an agenda item. He asked if Dr. Horning could reference specific items. Dr. Horning stated they appreciated the opportunity since they had never been asked for input before. Chairman Ritz explained their written comments would become part of the record which would also be a part of the information forwarded to Council.

**Mr. Larson made a motion to postpone until the Board could obtain additional guidance. Ms. Campbell seconded the motion, and it carried unanimously.**

**Open Forum** – Mr. Larson thanked Mr. Grundhoefer for the report in the minutes regarding Council's decision on internally illuminated signage.

**Adjournment** – With no further business, Chairman Ritz adjourned the meeting at 3:17 pm.

Respectfully Submitted,



Brandi C. Deese  
Secretary to the Board



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 03-18

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

PROPOSED ORDINANCE NO. 03-18 - REQUEST FOR ZONING MAP AMENDMENT - 2120 W. JACKSON STREET

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 03-18 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; AMENDING THE ZONING MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The City has received a request from Mr. Darold Montgomery to amend the City's Zoning Map from Residential/Office (R-2) to Commercial (C-1) and the City's Future Land Use Map from High Density Residential (HDR) to Commercial (C).

On December 12, 2017, the Planning Board unanimously recommended approval of the proposed Future Land Use Map and Zoning Map amendment.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

1/22/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Sherry H. Morris, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 03-18
- 2) Rezoning Application, 2120 W. Jackson Street, dated November 9, 2017
- 3) Zoning Map, dated December 2017
- 4) December 12, 2017 Planning Board Minutes

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 03-18

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA; AMENDING THE ZONING MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE AND EFFECTIVE DATE.

WHEREAS, the City of Pensacola adopted a Comprehensive Plan on October 4, 1990, pursuant to applicable law; and

WHEREAS, a proposed amended zoning classification has been referred to the local planning agency pursuant to §163.3174, Fla. Stat., and a proper public hearing was held on February 8, 2018 concerning the following proposed zoning classification affecting the property described therein; and

WHEREAS, after due deliberation, the City Council has determined that the amended zoning classification set forth herein will affirmatively contribute to the health, safety, and general welfare of the citizens of the City of Pensacola; and

WHEREAS, said amended zoning classification is consistent with all applicable elements of the Comprehensive Plan as amended, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the Zoning Map of the City of Pensacola and all notations, references and information shown thereon is hereby amended so that the following described real property located in the City of Pensacola, Florida, to-wit:

LOTS 1, 2, 3, 4, 5 AND LOT 24, BLOCK 148, WEST KING TRACT, CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA, ACCORDING TO MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906.

is hereby changed from the R-2 (Residential Office) District to the C-1 (Commercial) District.

SECTION 2. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. 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.

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_  
President of City Council

Attest:

\_\_\_\_\_  
City Clerk



**REZONING**

Please check application type:

Conventional Rezoning

Application Fee: \$2,500.00

Rehearing/Rescheduling (Planning Board): \$250.00

Rehearing/Rescheduling (City Council): \$750.00

**Comprehensive Plan / FLUM Amendment**

(< 10 acres)

\$3,500.00

\$250.00

\$750.00

(≥ 10 acres)

\$3,500.00

\$250.00

\$1,000.00

Applicant Information:

Name: Darold Montgomery

Date: 11/09/2017

Address: 1308 Plata Canada Dr, Cantonment, FL 32533

Phone: 850-384-6842

Fax: \_\_\_\_\_

Email: daroldmontgomery@gmail.com

Property Information:

Owner Name: Life Changing Experience Worship Center

Phone: 850-696-2122

Location/Address: 2120 W. Jackson St, Pensacola

Parcel ID: 00-05-00-9060-001-148 Acres/Square Feet: .53

Zoning Classification: Existing R-2

Proposed C-3

Future Land Use Classification: Existing HDR

Proposed C

Reason Rezoning Requested: Sale of property to adjacent business (Blues Angels) to provide for their expansion

- Required Attachments: (A) Full legal description of property (from deed or survey)  
 (B) General location map with property to be rezoned indicated thereon

The above information, together with all other answers and information provided by me (us) as petitioner (s)/applicant (s) in the subject application, and all other attachments thereto, is accurate and complete to the best of my (our) knowledge and belief as of this 9 day of November, 2017.

Applicant Signature

Owner Signature

DAROLD MONTGOMERY  
Applicant Name (Print)

DAROLD MONTGOMERY  
Owner Name (Print)

Sworn to and subscribed to before me this 9th day of November, 2017

Name: Leslie A. Statler

Commission Expires: 2/27/2019



**FOR OFFICE USE ONLY**

Council District: # 7 Date Received: 11/9/2017 Case Number: n/a

Date Postcards mailed: 12/4/2017 Planning Board Date: 12/12/2017 Recommendation: Approval

Committee Date: n/a Council Date: 2/8/2018 Council Action: \_\_\_\_\_

Second Reading: \_\_\_\_\_ Ordinance Number: \_\_\_\_\_

Recorded in Public Records 07/24/2006 at 12:58 PM OR Book 5955 Page 1069,  
Instrument #2006074233, Ernie Lee Magaha Clerk of the Circuit Court Escambia  
County, FL Recording \$27.00 Deed Stamps \$560.00

27-  
560-

Prepared by/Return to:  
Tracy Ratzin  
LandAmerica Lawyers Title  
14118 Perdido Key Drive, Ste. 3  
Pensacola, FL 32507

Folio/Parcel ID#: 00-05-00-9060-001-148

File/Case No: 10060006722

(Space Above This Line for Recording Data)

**CORPORATE WARRANTY DEED**

This Warranty Deed made on 19th day of July, 2006,

Between The Pensacola Revival Center, Inc., a Florida corporation

whose mailing address is: c/o Mary Garnham  
10671 Willow Lake Drive, Pensacola, FL 32506,

hereinafter called the Grantor, and

*DM*

Life Changing Experience Worship Center, Inc., a Florida corporation

whose mailing address is: 2514 W. Cervantes Street, Pensacola, FL 32505, hereinafter called the  
Grantee,

WITNESSETH, that the Grantor, for and in consideration of the sum of Ten Dollars (\$10.00) and  
other good and valuable consideration the receipt of which is hereby acknowledged does grant,  
bargain, sell alien, remise, release convey and confirm unto the Grantee, and Grantee's successors,  
and assigns forever, all that certain parcel of land in the County of Escambia, State of Florida to  
wit:

LOTS 1, 2, 3, 4, 5 AND LOT 24, BLOCK 148, WEST KING TRACT, CITY OF PENSACOLA, ESCAMBIA  
COUNTY, FLORIDA, ACCORDING TO MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN  
1906.

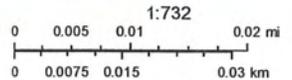
SUBJECT TO easements, restrictions and reservations of record, and real property taxes and  
assessments for the year of 2006 and subsequent years, which are not yet due and payable.

property lines



October 15, 2017

- |                     |                     |                    |            |                |
|---------------------|---------------------|--------------------|------------|----------------|
| <b>polygonLayer</b> | <b>polygonLayer</b> | <b>Streets</b>     | COLLECTOR  | County Outline |
| Override 1          | Override 1          | PRINCIPAL ARTERIAL | LOCAL ROAD |                |
|                     |                     | MINOR ARTERIAL     | Parcels    |                |



Sources: Esri, HERE, DeLorme, USGS, Intermap, INCREMENT P, NRCan, Esri Japan, METI, Esri China (Hong Kong), Esri Korea, Esri (Thailand), MapmyIndia, NGCC, © OpenStreetMap contributors, and the GIS User Community



REZONING EXISTING R-2 TO C-3

December 2017

2120 W Jackson



This map was prepared by the GIS section of the City of Pensacola and is provided for information purposes only and is not to be used for development of construction plans or any type of engineering services based on information depicted herein. It is maintained for the function of this office only. It is not intended for conveyance nor is it a survey. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.



PLANNING SERVICES

THE UPSIDE *o*f FLORIDA

**MINUTES OF THE PLANNING BOARD**

**December 12, 2017**

**MEMBERS PRESENT:** Chairman Paul Ritz, Danny Grundhoefer, Nina Campbell, Kurt Larson, Kyle Owens

**MEMBERS ABSENT:** Jared Moore, Nathan Monk

**STAFF PRESENT:** Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner Ericka Burnett, City Clerk, Ross Pristera, Advisor

**OTHERS PRESENT:** Mary Hudgins Woods, Patricia Hudgins Travis, Tonia M. Hudgins Blacklock, Johnny Little, Keyla Little, Anna Thornhill, Hazel Johnson, Henry L. Phipps, Patricia Phipps, Marilyn Wiggins, Gloria Horning, Nan DeStafney, James L. Gulley

**AGENDA:**

- Quorum/Call to Order
- Swearing In of Members
- Approval of Meeting Minutes from November 14, 2017
- New Business:
  1. Request for Future Land Use Map Amendment & Zoning Map Amendment – 2120 W. Jackson St.
  2. Consider LDC Amendment – Section 12-2-22 Governmental Center District
- Open Forum
- Adjournment

**Call to Order / Quorum Present**

Chairman Ritz called the meeting to order at 2:01 pm with a quorum present.

**Swearing in of members** – City Clerk Ericka Burnett swore in Board Member Kyle Owens.

**Approval of Meeting Minutes**

Mr. Larson made a motion to approve the November 14, 2017 minutes, seconded by Ms. Campbell, and it carried unanimously.

**New Business:**

**Request for Rezoning – 2120 W. Jackson St.**

Mr. Darold Montgomery is requesting for a Future Land Use Map Amendment and Zoning Map Amendment for the property located at 2120 W. Jackson Street. The property currently has a future land use designation of High Density Residential (HDR) and zoning designation of Residential/Office (R-2). This request is proposing to amend the Future Land Use Designation to Commercial and the zoning designation to Commercial (C-3).

EVERYTHING THAT'S GREAT ABOUT FLORIDA IS BETTER IN PENSACOLA.

These changes will allow for the sale of the property to the adjacent business (Blues Angel Music) to provide for expansion of the business. The existing business located at 657 Pace Boulevard is adjacent and has a zoning designation of Commercial (C-3). The properties in this area with frontage on Pace Boulevard all have a Commercial (C-3) zoning designation. This request has been routed through the various City departments and utility providers with comments provided. The proper notice was provided with no objections received.

Chairman Ritz noted there were no negative comments and reminded the Board if approved, anything in C-3 could be placed on the property. His opinion was that C-3 was an intense commercial district. Ms. Deese read the listing of uses for C-3 in the Ordinance. She agreed that going from R-2 to C-3 was dramatic, but stated we did want to remain consistent with the surrounding properties. She pointed out the Board did have the option to go with C-2 or C-1. Mr. Grundhoefer advised this property was contiguous with C-1. Ms. Deese provided the GIS location which indicated a portion of the Blues Angel Music was C-3, but C-1 would be appropriate as well. This designation would also allow for the land use being proposed. Chairman Ritz supported the C-1 designation.

Mr. Darrell Montgomery, property owner, stated the goal was to sell the property, and Ms. DeStafney wanted to expand the Blues Angels business. He stated the church is relocating. Ms. DeStafney explained that the church had outgrown the existing facilities. It was her desire to expand and use the church's existing buildings, which would continue the commercial development to the west. She explained they had a warehouse and repair center, and Ms. Deese advised those were accessories to the primary business and appropriate for the C-1 designation.

**Mr. Larson made a motion to approve as C-1, seconded by Mr. Owens.** For clarification, Mr. Grundhoefer explained the Board's recommendation would be forwarded to the City Council for final approval. **The motion then carried unanimously.**

#### **Consider LDC Amendment – Section 12-2-22 Governmental Center District**

City Council, at their November 9, 2017 meeting, referred to this Board for consideration a Land Development Code Amendment for Section 12-2-22 Governmental Center District. Recently, concerns have been raised over the lack of clear, enforceable regulations in the Governmental Center District. The attached proposed code language would replace the Governmental Center District with a new redevelopment district that is very similar to the Maritime Redevelopment Land Use District that went before this Board and City Council back in 2013. This proposed district would provide for a review process that contains clear guidelines that allows for transparency to property owners as well as potential developers. If this amendment moves forward, additional sections of the Land Development Code where Governmental Center District is referred to will need to be amended as well. Ms. Deese reminded the Board that around a year ago Planning Board forwarded a proposal to the City Council addressing this change.

Chairman Ritz explained this legislation would put something in place, and Ms. Deese advised the ARB would oversee the aesthetic review of this district. She advised with the westward movement, this would bring more items to the ARB. As an ARB member, Ms. Campbell stated she would rather be tasked with more work than not see these proposals addressed. She pointed out in the 1970s, many historic buildings were demolished for development. Mr. Pristera explained large portions of the neighborhoods were torn down, but the Historic Trust saved some properties, and they found survey pictures before those demolitions. With the development of a recent project, the Historic Trust was notified that brick piers were found. In reviewing the district, he did not believe this area needed to be a historic district, but it did need some protection of the residential properties. He also advised the neighborhoods needed the chance to weigh in to provide a sense of community. He explained the Governmental Center District did not have guidelines, but Maritime had some.

Ms. Deese pointed out the proposed ordinance contains regulations for the proposed Maritime Redevelopment District and would replace the existing Governmental Center District. She explained that Councilwoman Jewel Cannada-Wynn sponsored the revision, but her intent was not to include the Tanyard since it would be a part of an overlay district proposed by the CRA; residential would also be excluded. There was a substantial amount of opposition from the neighborhood concerning regulations on residential which were included in the original document of 2013 that failed on second reading by City Council.

Mr. Pristera clarified the study provided by interns included residential. Chairman Ritz clarified that the boundaries were just the Governmental Center District, but Ms. Deese advised the Board's recommendation could be different.

Ms. Wiggins, President of the Tanyard Neighborhood Association, was concerned with what type of ordinance would be put into place and hoped the neighborhood would still belong to the residents. Chairman Ritz explained residences were not included in the proposed district. Unless there was a zoning change, zoning regulations would limit commercial businesses from coming in. He added that a home could be built on a commercial property if it was zoned commercial. Mr. Grundhoefer explained that this would help a McDonald's fit into the neighborhood and look like it belongs in the district. Ms. Deese indicated in reading the proposed ordinance, it appeared that residential was included, but it was not the intent of the sponsor as far as staff was aware. Also, when Planning Board recommended this to Council about a year ago, they discussed the desire to extend the boundaries to A Street.

Ms. Campbell asked Ms. Wiggins how the residents felt about being under the ARB review. Ms. Wiggins explained the residents felt whatever was going on in this area did not include them, and they were afraid of being pushed out of their homes. Ms. Campbell explained she felt the ARB would protect their investment. Mr. Grundhoefer agreed that the ARB would provide protection assuring that what was built around them would be compatible with the neighborhood. Ms. Deese clarified in looking at Old East Hill, some of their residents were in a similar situation where even the application fee to come before the ARB was too great of a burden. The ARB could require certain materials that current residents could not afford.

Dr. Gloria Horning stated gentrification was exactly what was occurring here. She explained the Tanyard was rich in African American history. She pointed to Aragon Court which had a high-end developer say the residents could have the opportunity to purchase, however, they could only afford the land itself. She explained houses are currently being built in Tanyard and priced at \$136,000 which made them unaffordable. Businesses without suitable parking were also presenting a problem. Chairman Ritz explained the ordinance did not discuss commercial versus residential. He explained that without legislation, the residents would continue to have problems, but the legislation would actually help. Ms. Campbell pointed out with the legislation, they could preserve the residential homes since demolition is taken very seriously by the ARB.

Mr. Gulley, Chairman of the Westside CRA, gave a history and background of the Tanyard and addressed demolitions in locations west of A Street. As a point of order, Chairman Ritz advised west of A Street could not be addressed in this proposal. Mr. Gulley stated the current proposal would cover to A Street, and it should not be approved until it is clarified by the sponsoring Council member. As a point of reference, Chairman Ritz clarified that the legislation did not go to A Street but only renamed the Governmental Center District, and the map was yet to be determined. Mr. Gulley cited demolitions and subdivisions recently approved in the Westside CRA and stated the decisions of this Board had a great impact. He pointed out Ms. Gibson of the CRA would be placing an overlay district for all of the CRAs (possibly June of next year).

Ms. Thornhill advised they were in gentrification and had about ten percent of the original residents in Tanyard today.

She provided examples of parking problems as well as the special events of the Maritime Park where the public uses their neighborhood parking spaces. Chairman Ritz noted the interest from the neighborhood. He pointed out the ARB had provided workshops and other meetings with a more informal approach to any developing legislation being put forth. One of the key components was input from the residents. The proposed legislation before the Board has holes in the framework that were intended to be worked out during this meeting. However, without having Council Member Cannada-Wynn present for questions, the Board was going by "hearsay" and didn't feel comfortable moving forward without more insight.

Ms. Phipps lives outside of the district and hoped the Board was still considering the flooding issue, and stated whatever was built, it would result in flooding since they were taking away more land. Chairman Ritz pointed out the Board was not involved in stormwater management. She also discussed the bus terminal across the street and the noise generated.

At this point, Chairman Ritz stated the Board was not at a point to move forward and needed input from Councilwoman Cannada-Wynn. He explained this Board had a limited scope and has no authority on storm-water planning. He continued by stating that this Board considers zoning and legislation concerning the Land Development Code, and the Board valued input from the neighborhoods when considering movement forward for the City. He explained neighborhoods were developed differently today considering new technologies, family styles and transportation. With all that was said, he stated the Board needed to study the issue more and obtain additional input. Mr. Larson asked if the Board could ask for more input from Council on the Tanyard and the CRA district they wanted exempted so the Board would not be overstepping what they were trying to do initially. Chairman Ritz asked staff for additional information from Council. He asked Ms. Wiggins how she would like to have input, and suggested she write out suggestions and deliver them to staff. He clarified with no decision made by the Board, this issue would come back as an agenda item. He asked if Dr. Horning could reference specific items. Dr. Horning stated they appreciated the opportunity since they had never been asked for input before. Chairman Ritz explained their written comments would become part of the record which would also be a part of the information forwarded to Council.

**Mr. Larson made a motion to postpone until the Board could obtain additional guidance. Ms. Campbell seconded the motion, and it carried unanimously.**

**Open Forum** – Mr. Larson thanked Mr. Grundhoefer for the report in the minutes regarding Council's decision on internally illuminated signage.

**Adjournment** – With no further business, Chairman Ritz adjourned the meeting at 3:17 pm.

Respectfully Submitted,



Brandi C. Deese  
Secretary to the Board



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00053

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council President Gerald Wingate

**SUBJECT:**

PUBLIC HEARING REGARDING A PROPOSED AMENDMENT TO THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN

**RECOMMENDATION:**

That City Council conduct a Public Hearing on February 8, 2018 regarding a Proposed Amendment to the Urban Core Community Redevelopment Plan.

**HEARING REQUIRED:** Public

**SUMMARY:**

On March 8, 1984, City Council adopted Ordinance No. 13-84 which established the Urban Core Redevelopment Trust Fund and provided funding “for the duration of any community redevelopment project undertaken in the Urban Core Community Redevelopment Area”. City Council adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core, which plan was revised on April 6, 1989 to identify the redevelopment activities to be undertaken. The revised community redevelopment plan, dated 1989, as amended was repealed on January 14, 2010 and the Urban Core Community Redevelopment Plan, dated 2010, was adopted.

Pursuant to Chapter 163, Part III, Florida Statutes (F.S.):

“Every community redevelopment plan shall....Provide a time certain for completing all redevelopment financed by (tax) increment revenues. “If the community redevelopment plan is amended or modified pursuant to F.S. 163.361(1), each such taxing authority shall make the annual appropriation (of tax increment revenues) for a period not to exceed 30 years after the date the governing body amends the plan but no later than 60 years after the fiscal year in which the plan was initially approved or adopted.”

The Urban Core Community Redevelopment Plan, dated 2010, provides that all projects financed by tax increment revenues must be completed by fiscal year 2040. The maximum number of years currently allowed under Chapter 163, Part II, Florida Statutes for funding of the Urban Core Redevelopment Trust Fund is sixty (60) years from initial plan adoption. The proposed amendment extends the completion date of community redevelopment activities financed by tax increment revenues in the Urban Core Community Redevelopment

Area to December 31, 2043.

Additionally, the development of key affordable housing programs and projects during 2017 through 2018 provide for additional specificity of affordable housing elements for incorporation into the Urban Core Community Redevelopment Plan, 2010. The proposed amendment specifies the Residential Rehabilitation, Infill and New Housing Element and Administration and Professional Consulting Services elements.

**PRIOR ACTION:**

September 25, 1980 - City Council adopted Resolution No. 54-80 which designated the boundaries of the Urban Core Community Redevelopment Area and found and determined such area to be a blighted area in need of redevelopment.

October 22, 1981 - City Council adopted Resolution No. 65-81 which reaffirmed its finding and determination of blight within the Urban Core Community Redevelopment Area.

March 8, 1984 - City Council adopted Ordinance No. 13-84 which established the Urban Core Redevelopment Trust Fund and provided funding in accordance with Chapter 163, Part III, Florida Statutes.

March 27, 1984 - City Council adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core Community Redevelopment Area.

April 6, 1989 - City Council adopted Resolution No. 19-89 which approved a revised community redevelopment plan for the Urban Core Community Redevelopment Area and identified the redevelopment activities to be undertaken.

January 14, 2010 - City Council adopted Resolution No. 02-10 which repealed the community redevelopment plan dating from 1989, as amended, and adopted the Urban Core Community Redevelopment Plan dated 2010.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Tax incremental revenues will continue to support community redevelopment activities until December 31, 2043.

**STAFF CONTACT:**

Don Kraher, Council Executive  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Assistant CRA Administrator

**ATTACHMENTS:**

- 1) Resolution Urban Core Redevelopment Plan Amendment

**PRESENTATION:** No

RESOLUTION  
NO. \_\_\_\_\_

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AMENDING THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING THAT ALL COMMUNITY REDEVELOPMENT ACTIVITIES FINANCED BY TAX INCREMENT REVENUES IN THE URBAN CORE COMMUNITY REDEVELOPMENT AREA SHALL BE COMPLETED BY DECEMBER 31, 2043; ADOPTING ADDITIONAL PRIORITY ELEMENTS OF THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING FOR ADDITIONAL SPECIFICITY OF AFFORDABLE HOUSING ELEMENTS; PROVIDING FOR PLANNING AND DESIGN SERVICES RELATED TO AFFORDABLE HOUSING SOLUTIONS; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola (the "City Council") is authorized by Chapter 163, Part III, Florida Statutes (the "Redevelopment Act") to exercise the community redevelopment powers set forth therein to eliminate, remedy and prevent conditions of slum and blight; and

WHEREAS, in accordance with the Redevelopment Act, the City Council adopted Resolution No. 55-80 which created the Pensacola Community Redevelopment Agency (the "Agency"); and,

WHEREAS, on September 25, 1980, the City Council adopted Resolution No. 54-80, which designated the boundaries of the Urban Core Community Redevelopment Area (the "Urban Core") and found and determined such area to be a blighted area in need of redevelopment, which finding and determination was reaffirmed in Resolution No. 65-81, adopted by the City Council on October 22, 1981; and.

WHEREAS, on March 27, 1984, the City Council adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core; and.

WHEREAS, on April 6, 1989, the City Council adopted Resolution No. 19-89, which approved a revised community redevelopment plan for the Urban Core and identified the

redevelopment activities to be undertaken therein, which plan has been subsequently amended; and

WHEREAS, on January 14, 2010, the City Council adopted Resolution No. 02-10, which repealed the community redevelopment plan dating from 1989, as amended, and adopted the Urban Core Community Redevelopment Plan dated 2010; and

WHEREAS, on March 8, 1984, the City Council adopted Ordinance No. 13-84 (the "Trust Fund Ordinance") which established the Urban Core Redevelopment Trust Fund and provided for the funding thereof in accordance with the authority of section 163.387 of the Redevelopment Act; and.

WHEREAS, the Trust Fund Ordinance provided for annual funding of the Urban Core Redevelopment Trust Fund for the duration of any community redevelopment project undertaken pursuant to the Redevelopment Act; and

WHEREAS, in accordance with Section 163.387(2)(a) of the Redevelopment Act, annual funding of the Urban Core Redevelopment Trust Fund shall be appropriated for up to 60 years after the fiscal year in which the plan was initially approved or adopted; and

WHEREAS, the Agency has recommended amending the Urban Core Community Redevelopment Plan to provide that all redevelopment activity financed by tax increment revenues in the Redevelopment Area be completed by December 31, 2043, which is 60 years after the fiscal year in which the community redevelopment plan was initially adopted, and to adopt additional priority elements to provide for additional specificity of affordable housing elements and planning and design services related to affordable housing solutions; and

WHEREAS, the City and Agency have given published notice of a public hearing to consider such amendment of the Urban Core Community Redevelopment Plan 2010 as required by section 163.361(2) of the Redevelopment Act. The City and Agency have also provided mailed notice and a written report of the proposed amendments to affected taxing authorities, in the manner required by sections 163.346 and 163.361(3)(a) of the Redevelopment Act; and

WHEREAS, a public hearing has been duly held for the purpose of receiving comments from interested parties and such comments, if any, have been heard and considered; and

WHEREAS, the Pensacola Planning Board has determined that the amendment to the Redevelopment Plan contemplated herein conforms to the comprehensive plan for the development of the City as a whole.

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

SECTION 1. The Redevelopment Plan, a copy of which is attached hereto as Appendix A and incorporated herein, is hereby amended to provide the time certain for completion of all redevelopment activities financed by "increment revenues" in the Urban Core (as such term is defined in section 163.340(22) of the Redevelopment Act) and to adopt additional priority elements attached hereto as Appendix B and incorporated herein.

SECTION 2. Except as amended hereunder, all prior ordinances, resolutions and actions by the City Council regarding the establishment and creation of the Agency, the Urban Core Community Redevelopment Plan, and the Urban Core Redevelopment Trust Fund, including but not limited to findings of blight and necessity associated therewith, are hereby ratified and confirmed.

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

SECTION 4. This resolution shall become effective on the fifth business day after the 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

APPENDIX A

URBAN CORE COMMUNITY REDEVELOPMENT PLAN (2010)

(On file in the Office of the Community Redevelopment Agency)

## APPENDIX B

### REDEVELOPMENT PLAN AMENDMENTS

## CAPITAL PROJECTS

The Urban Core Redevelopment Area Plan, 2010 identifies capital projects which may be financed by tax increment revenues throughout the CRA area through ~~the next thirty years~~ December 31, 2043. While timing and execution will depend on funding availability, The Plan sets priorities to be initiated in the first five years. This section discusses capital projects by category. See the next section for recommended priorities and cost estimates.

Urban Core Redevelopment Plan (2010), Volume 2, Page 13

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## CAPITAL PLAN & PRIORITIES

The CRA Redevelopment Plan is anticipated to be completed in 30 years by December 31, 2043 and should be flexible to respond to market conditions, funding sources and community priorities. However, the Plan recommends the following projects as priorities that could help stimulate redevelopment and accelerate growth in the short term.:

- Community Maritime Park
- ECUA Facility Relocation
- Pensacola Baywalk
- Government Street Affordable/Workforce Housing including Donelson Street Extension and Corrine Jones Park
- ECUA Redevelopment including ECUA/CRA partnership agreement, rezoning/design guidelines and master plan
- Tanyard Neighborhood Zoning Study
- Main Street/Bayfront Parkway Intervention
- S. Spring Street Road Diet
- Two-way Conversion N. Spring Street and N. Baylen Street
- Bay Ferry
- I-110 Retrofit Phase I

The CRA Redevelopment Plan identifies the following capital projects as priorities that should begin within the first five years following adoption of the Plan.

Urban Core Redevelopment Plan (2010), Volume 2, Page 28

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## CRA PROGRAMS AND ACTIVITIES

In addition to specific capital projects identified in The Plan the CRA will be empowered to provide and may fund services and programs to further carry out the themes and principles of the Plan. Close coordination, cooperation and communication with other public and semi-public agencies is critical for the CRA to be most efficient with its redevelopment efforts. The CRA will seek the aid and cooperation of other agencies and will attempt to coordinate the Plan with activities of each agency in order to achieve the purpose of the redevelopment in the highest public interests. These programs are intended to encourage and promote private enterprise within the CRA, and may be financed by tax increment revenues throughout the Urban Core Redevelopment Area through December 31, 2043.

Urban Core Redevelopment Plan (2010), Volume 2, Page 34

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Residential Rehabilitation- The appearance and integrity of residential neighborhoods within the redevelopment area is critical to its success. Accordingly, the CRA may provide grants or loan interest subsidies, or a combination thereof, to residential property owners, condominium owners, and condominium associations for the rehabilitation of their properties. These funds can be used for a broad range of permanent (fixed) improvements including, but not limited to, roof repair, landscaping, painting, parking and driveway upgrades, and sewer hook-ups.

Urban Core Redevelopment Plan (2010), Volume 2, Page 37

Additional Priority Element: Additional Specificity of Affordable Housing Elements

The CRA will employ a Residential Property Improvement Program to address residential rehabilitation within the Urban Core Redevelopment Area. The program will be administered within targeted districts of the Urban Core Redevelopment Area to encourage and support blight removal, affordable housing and neighborhood revitalization. The program will predominately fund exterior improvements with additional structural and interior repairs subject to fund availability. Eligible properties will receive a zero percent (0%) deferred payment loan secured by a lien or mortgage. Funding amounts and program guidelines will be subject to approval by the CRA.

Due to the substantial need for residential rehabilitation to provide for affordable housing, this program will be administered from time to time over the course of the term of the CRA as funding is available.

---

Infill & New Housing - Land assemblage ~~is one of the most important~~ a key means to provide assistance ~~provided to private developers, particularly those that are planning larger scale~~ in the development of affordable housing. The CRA ~~should~~ shall identify vacant lots within the redevelopment area for the development of new housing. The Agency shall recruit developers and builders to fulfill this goal. The CRA will be empowered to give grants to low and moderate income homebuyers, such or developers and builders to reduce the costs of developing the new housing structures. The CRA will prepare and adopt guidelines for determining eligibility and the amount of the incentive payment or discount.

Additional Priority Element: Additional Specificity of Affordable Housing Elements

The CRA will employ an Affordable Housing Infill Program to address infill and new housing within the Urban Core Redevelopment Area. The program will be administered within targeted districts of the Urban Core Redevelopment Area to encourage and support blight removal, affordable housing and neighborhood revitalization. The program will provide site acquisition, clearance and infrastructure preparation to incentivize the redevelopment of affordable residential properties. Acquired and improved sites will be made available to home buyers or developers/builders and will serve as a write-down for new infill construction. The program will target low to moderate income homebuyers, and will be offered in combination with available down payment and closing cost assistance programs, as available.

Due to the substantial need for residential infill to provide for affordable housing and support land assemblage, this program will be administered from time to time over the course of the term of the Urban Core Redevelopment Area as funding is available.

---

Administration and Professional Consulting Services

The CRA is empowered to fund all operational, management and administrative activities of the Agency including, but not limited to employees' salaries and benefits, equipment, supplies, software and vehicles. The CRA is empowered to hire private consultants for expert and temporary services to carry out the Plan.

Additional Priority Element: Planning and Design Services Related to Affordable Housing Solutions

To ensure that redevelopment projects and activities, and other related initiatives support the availability of affordable housing within the Urban Core Redevelopment Area, the periodic assessment of housing and economic conditions, City and CRA plans, land development regulations, and housing-related policies and programs is warranted to inform the implementation of affordable housing solutions. Identified solutions may address land development planning, housing design, CRA and/or City plans and policies, projects and programming, or similar areas impacting the sustainability and availability of affordable housing within the Urban Core Redevelopment Area. The CRA is empowered to secure planning and design services related to the identification of strategic affordable housing solutions.

Due to changing market and community conditions over time, this activity will be employed from time to time over the course of the term of the CRA, as needs arise and funding is available.

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Appendix – Statutory Requirements and Action

Element	Reference
(10) Provide a time certain for completing all redevelopment financed by increment revenues. Such time certain shall occur no later than 30 years	FY 2040 <u>December 31, 2043</u>

after the fiscal year in which the plan is approved, adopted or amended pursuant to s. 163.361(1).	
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Urban Core Redevelopment Plan (2010), Volume 1 Appendix, Page v

CITY PENSACOLA REDEVLP AGCY  
222 W MAIN ST FL 3

PENSACOLA FL 32502

Published Daily-Pensacola, Escambia County, FL

**PROOF OF PUBLICATION**

State of Florida  
County of Escambia:

Before the undersigned authority personally appeared **Brittni Lynne Pennington**, 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

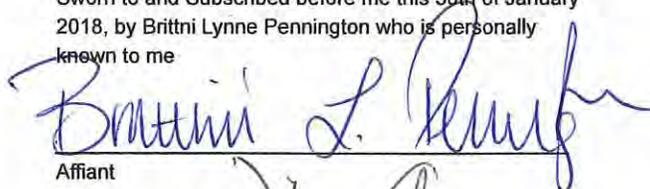
CITY OF PENSACOLA, FLORIDA

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

01/29/18

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 30th of January 2018, by Brittni Lynne Pennington who is personally known to me

  
Affiant

  
Mark Dee Kent  
Notary Public for the State of Florida  
My Commission expires October 27, 2019

Publication Cost: \$247.14  
Ad No: 0002690789  
Customer No: PNJ-24960310

**CITY OF PENSACOLA, FLORIDA  
NOTICE OF PUBLIC HEARING**

The City Council of the City of Pensacola, Florida, (the "City Council") will conduct a public hearing at its regular meeting to be held on February 8, 2018, at 5:30 pm or as shortly thereafter as may be heard, in Council Chambers located on the first floor of City Hall at 222 W. Main Street, Pensacola, Florida 32502, to receive comment on the adoption of a resolution entitled:

**A RESOLUTION AMENDING THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING THAT ALL COMMUNITY REDEVELOPMENT ACTIVITIES FINANCED BY TAX INCREMENT REVENUES IN THE URBAN CORE COMMUNITY REDEVELOPMENT AREA SHALL BE COMPLETED BY DECEMBER 31, 2043; ADOPTING ADDITIONAL PRIORITY ELEMENTS OF THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING FOR ADDITIONAL SPECIFICITY OF AFFORDABLE HOUSING ELEMENTS PROVIDING FOR PLANNING AND DESIGN SERVICES RELATED TO AFFORDABLE HOUSING SOLUTIONS; REPEALING A CLAUSE PROVIDING AN EFFECTIVE DATE.**

At the conclusion of the public hearing, the City Council will consider adoption of the resolution which will amend the Urban Core Community Redevelopment Plan, dated 2010 (the "Redevelopment Plan") approved by City Resolution No. 02-10 to establish that all redevelopment financed by tax increment in the Urban Core Community Redevelopment Area, the boundaries of which are described in City Ordinance No. 13-84 (the "Redevelopment Area"), will be completed by December 31, 2043 and to adopt additional priority elements providing for additional specificity of affordable housing elements and planning and design services related to affordable housing solutions. No other changes to the Redevelopment Plan are proposed at this time.

Interested parties may appear at the public hearing and be heard with respect to the proposed resolution, copies of which are available for inspection by the public at the Office of the City Clerk, 222 W. Main Street, Pensacola, Florida 32502. Section 163.346, Florida Statutes, requires the City Council to provide notice of the contemplated public hearing to the public and to all taxing authorities which levy ad valorem taxes in the geographic boundaries of the Redevelopment Area.

If an individual decides to appeal any decision made by the City Council with respect to any matter considered at this meeting, a record of the proceedings will be required and the individual will need to ensure that a verbatim transcript of the proceedings is made, which record includes the testimony and evidence upon which the appeal is based (Section 286.0105, Florida Statutes). Such person must provide a method for recording the proceedings verbatim.

In accordance with the Americans with Disabilities Act, persons needing special accommodations or an interpreter to participate in this proceeding should contact the City Clerk at (850) 435-1606 no later than 48 hours prior to the proceedings.

Legal No. 2690789 1T January 29, 2018

MARK DEE KENT  
Notary Public - State of Florida  
Comm. Expires October 27, 2019  
Comm. No. 1T 931200



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-06

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council Member P.C. Wu

**SUBJECT:**

RESOLUTION NO. 18-06 - AMENDMENT TO THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN

**RECOMMENDATION:**

That City Council adopt Resolution No. 18-06.

A RESOLUTION AMENDING THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING THAT ALL COMMUNITY REDEVELOPMENT ACTIVITIES FINANCED BY TAX INCREMENT REVENUES IN THE URBAN CORE COMMUNITY REDEVELOPMENT AREA SHALL BE COMPLETED BY DECEMBER 31, 2043; ADOPTING ADDITIONAL PRIORITY ELEMENTS OF THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING FOR ADDITIONAL SPECIFICITY OF AFFORDABLE HOUSING ELEMENTS; PROVIDING FOR PLANNING AND DESIGN SERVICES RELATED TO AFFORDABLE HOUSING SOLUTIONS; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On March 8, 1984, City Council adopted Ordinance No. 13-84 which established the Urban Core Redevelopment Trust Fund and provided funding “for the duration of any community redevelopment project undertaken in the Urban Core Community Redevelopment Area”. City Council adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core, which plan was revised on April 6, 1989 to identify the redevelopment activities to be undertaken. The revised community redevelopment plan, dated 1989, as amended was repealed on January 14, 2010 and the Urban Core Community Redevelopment Plan, dated 2010, was adopted.

Pursuant to Chapter 163, Part III, Florida Statutes (F.S.):

“Every community redevelopment plan shall....Provide a time certain for completing all redevelopment financed by (tax) increment revenues. “If the community redevelopment plan is amended or modified pursuant to F.S. 163.361(1), each such taxing authority shall make the annual appropriation (of tax increment revenues)

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for a period not to exceed 30 years after the date the governing body amends the plan but no later than 60 years after the fiscal year in which the plan was initially approved or adopted.”

The Urban Core Community Redevelopment Plan, dated 2010, provides that all projects financed by tax increment revenues must be completed by fiscal year 2040. The maximum number of years currently allowed under Chapter 163, Part II, Florida Statutes for funding of the Urban Core Redevelopment Trust Fund is sixty (60) years from initial plan adoption. The proposed amendment extends the completion date of community redevelopment activities financed by tax increment revenues in the Urban Core Community Redevelopment Area to December 31, 2043.

Additionally, the development of key affordable housing programs and projects during 2017 through 2018 provide for additional specificity of affordable housing elements for incorporation into the Urban Core Community Redevelopment Plan, 2010. The proposed amendment specifies the Residential Rehabilitation, Infill and New Housing Element and Administration and Professional Consulting Services elements.

**PRIOR ACTION:**

September 25, 1980 - City Council adopted Resolution No. 54-80 which designated the boundaries of the Urban Core Community Redevelopment Area and found and determined such area to be a blighted area in need of redevelopment.

October 22, 1981 - City Council adopted Resolution No. 65-81 which reaffirmed its finding and determination of blight within the Urban Core Community Redevelopment Area.

March 8, 1984 - City Council adopted Ordinance No. 13-84 which established the Urban Core Redevelopment Trust Fund and provided funding in accordance with Chapter 163, Part III, Florida Statutes.

March 27, 1984 - City Council adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core Community Redevelopment Area.

April 6, 1989 - City Council adopted Resolution No. 19-89 which approved a revised community redevelopment plan for the Urban Core Community Redevelopment Area and identified the redevelopment activities to be undertaken.

January 14, 2010 - City Council adopted Resolution No. 02-10 which repealed the community redevelopment plan dating from 1989, as amended, and adopted the Urban Core Community Redevelopment Plan dated 2010.

**FUNDING:**

None

**FINANCIAL IMPACT:**

Tax incremental revenues will continue to support community redevelopment activities until December 31,

2043.

**STAFF CONTACT:**

Don Kraher, Council Executive  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Assistant CRA Administrator

**ATTACHMENTS:**

- 1) Resolution No. 18-06- Proposed Urban Core Redevelopment Plan Amendment

**PRESENTATION:** No

RESOLUTION  
NO. 18-06

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AMENDING THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING THAT ALL COMMUNITY REDEVELOPMENT ACTIVITIES FINANCED BY TAX INCREMENT REVENUES IN THE URBAN CORE COMMUNITY REDEVELOPMENT AREA SHALL BE COMPLETED BY DECEMBER 31, 2043; ADOPTING ADDITIONAL PRIORITY ELEMENTS OF THE URBAN CORE COMMUNITY REDEVELOPMENT PLAN; PROVIDING FOR ADDITIONAL SPECIFICITY OF AFFORDABLE HOUSING ELEMENTS; PROVIDING FOR PLANNING AND DESIGN SERVICES RELATED TO AFFORDABLE HOUSING SOLUTIONS; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola (the "City Council") is authorized by Chapter 163, Part III, Florida Statutes (the "Redevelopment Act") to exercise the community redevelopment powers set forth therein to eliminate, remedy and prevent conditions of slum and blight; and

WHEREAS, in accordance with the Redevelopment Act, the City Council adopted Resolution No. 55-80 which created the Pensacola Community Redevelopment Agency (the "Agency"); and,

WHEREAS, on September 25, 1980, the City Council adopted Resolution No. 54-80, which designated the boundaries of the Urban Core Community Redevelopment Area (the "Urban Core") and found and determined such area to be a blighted area in need of redevelopment, which finding and determination was reaffirmed in Resolution No. 65-81, adopted by the City Council on October 22, 1981; and.

WHEREAS, on March 27, 1984, the City Council adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core; and.

WHEREAS, on April 6, 1989, the City Council adopted Resolution No. 19-89, which approved a revised community redevelopment plan for the Urban Core and identified the

redevelopment activities to be undertaken therein, which plan has been subsequently amended; and

WHEREAS, on January 14, 2010, the City Council adopted Resolution No. 02-10, which repealed the community redevelopment plan dating from 1989, as amended, and adopted the Urban Core Community Redevelopment Plan dated 2010; and

WHEREAS, on March 8, 1984, the City Council adopted Ordinance No. 13-84 (the "Trust Fund Ordinance") which established the Urban Core Redevelopment Trust Fund and provided for the funding thereof in accordance with the authority of section 163.387 of the Redevelopment Act; and.

WHEREAS, the Trust Fund Ordinance provided for annual funding of the Urban Core Redevelopment Trust Fund for the duration of any community redevelopment project undertaken pursuant to the Redevelopment Act; and

WHEREAS, in accordance with Section 163.387(2)(a) of the Redevelopment Act, annual funding of the Urban Core Redevelopment Trust Fund shall be appropriated for up to 60 years after the fiscal year in which the plan was initially approved or adopted; and

WHEREAS, the Agency has recommended amending the Urban Core Community Redevelopment Plan to provide that all redevelopment activity financed by tax increment revenues in the Redevelopment Area be completed by December 31, 2043, which is 60 years after the fiscal year in which the community redevelopment plan was initially adopted, and to adopt additional priority elements to provide for additional specificity of affordable housing elements and planning and design services related to affordable housing solutions; and

WHEREAS, the City and Agency have given published notice of a public hearing to consider such amendment of the Urban Core Community Redevelopment Plan 2010 as required by section 163.361(2) of the Redevelopment Act. The City and Agency have also provided mailed notice and a written report of the proposed amendments to affected taxing authorities, in the manner required by sections 163.346 and 163.361(3)(a) of the Redevelopment Act; and

WHEREAS, a public hearing has been duly held for the purpose of receiving comments from interested parties and such comments, if any, have been heard and considered; and

WHEREAS, the Pensacola Planning Board has determined that the amendment to the Redevelopment Plan contemplated herein conforms to the comprehensive plan for the development of the City as a whole.

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

SECTION 1. The Redevelopment Plan, a copy of which is attached hereto as Appendix A and incorporated herein, is hereby amended to provide the time certain for completion of all redevelopment activities financed by "increment revenues" in the Urban Core (as such term is defined in section 163.340(22) of the Redevelopment Act) and to adopt additional priority elements attached hereto as Appendix B and incorporated herein.

SECTION 2. Except as amended hereunder, all prior ordinances, resolutions and actions by the City Council regarding the establishment and creation of the Agency, the Urban Core Community Redevelopment Plan, and the Urban Core Redevelopment Trust Fund, including but not limited to findings of blight and necessity associated therewith, are hereby ratified and confirmed.

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

SECTION 4. This resolution shall become effective on the fifth business day after the 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

APPENDIX A

URBAN CORE COMMUNITY REDEVELOPMENT PLAN (2010)

(On file in the Office of the Community Redevelopment Agency)

## APPENDIX B

### REDEVELOPMENT PLAN AMENDMENTS

## CAPITAL PROJECTS

The Urban Core Redevelopment Area Plan, 2010 identifies capital projects which may be financed by tax increment revenues throughout the CRA area through ~~the next thirty years~~ December 31, 2043. While timing and execution will depend on funding availability, The Plan sets priorities to be initiated in the first five years. This section discusses capital projects by category. See the next section for recommended priorities and cost estimates.

Urban Core Redevelopment Plan (2010), Volume 2, Page 13

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## CAPITAL PLAN & PRIORITIES

The CRA Redevelopment Plan is anticipated to be completed in 30 years by December 31, 2043 and should be flexible to respond to market conditions, funding sources and community priorities. However, the Plan recommends the following projects as priorities that could help stimulate redevelopment and accelerate growth in the short term.:

- Community Maritime Park
- ECUA Facility Relocation
- Pensacola Baywalk
- Government Street Affordable/Workforce Housing including Donelson Street Extension and Corrine Jones Park
- ECUA Redevelopment including ECUA/CRA partnership agreement, rezoning/design guidelines and master plan
- Tanyard Neighborhood Zoning Study
- Main Street/Bayfront Parkway Intervention
- S. Spring Street Road Diet
- Two-way Conversion N. Spring Street and N. Baylen Street
- Bay Ferry
- I-110 Retrofit Phase I

The CRA Redevelopment Plan identifies the following capital projects as priorities that should begin within the first five years following adoption of the Plan.

Urban Core Redevelopment Plan (2010), Volume 2, Page 28

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## CRA PROGRAMS AND ACTIVITIES

In addition to specific capital projects identified in The Plan the CRA will be empowered to provide and may fund services and programs to further carry out the themes and principles of the Plan. Close coordination, cooperation and communication with other public and semi-public agencies is critical for the CRA to be most efficient with its redevelopment efforts. The CRA will seek the aid and cooperation of other agencies and will attempt to coordinate the Plan with activities of each agency in order to achieve the purpose of the redevelopment in the highest public interests. These programs are intended to encourage and promote private enterprise within the CRA, and may be financed by tax increment revenues throughout the Urban Core Redevelopment Area through December 31, 2043.

Urban Core Redevelopment Plan (2010), Volume 2, Page 34

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Residential Rehabilitation- The appearance and integrity of residential neighborhoods within the redevelopment area is critical to its success. Accordingly, the CRA may provide grants or loan interest subsidies, or a combination thereof, to residential property owners, condominium owners, and condominium associations for the rehabilitation of their properties. These funds can be used for a broad range of permanent (fixed) improvements including, but not limited to, roof repair, landscaping, painting, parking and driveway upgrades, and sewer hook-ups.

Urban Core Redevelopment Plan (2010), Volume 2, Page 37

Additional Priority Element: Additional Specificity of Affordable Housing Elements

The CRA will employ a Residential Property Improvement Program to address residential rehabilitation within the Urban Core Redevelopment Area. The program will be administered within targeted districts of the Urban Core Redevelopment Area to encourage and support blight removal, affordable housing and neighborhood revitalization. The program will predominately fund exterior improvements with additional structural and interior repairs subject to fund availability. Eligible properties will receive a zero percent (0%) deferred payment loan secured by a lien or mortgage. Funding amounts and program guidelines will be subject to approval by the CRA.

Due to the substantial need for residential rehabilitation to provide for affordable housing, this program will be administered from time to time over the course of the term of the CRA as funding is available.

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Infill & New Housing - Land assemblage ~~is one of the most important~~ a key means to provide assistance ~~provided to private developers, particularly those that are planning larger scale~~ in the development of affordable housing. The CRA ~~should~~ shall identify vacant lots within the redevelopment area for the development of new housing. The Agency shall recruit developers and builders to fulfill this goal. The CRA will be empowered to give grants to low and moderate income homebuyers, such or developers and builders to reduce the costs of developing the new housing structures. The CRA will prepare and adopt guidelines for determining eligibility and the amount of the incentive payment or discount.

Additional Priority Element: Additional Specificity of Affordable Housing Elements

The CRA will employ an Affordable Housing Infill Program to address infill and new housing within the Urban Core Redevelopment Area. The program will be administered within targeted districts of the Urban Core Redevelopment Area to encourage and support blight removal, affordable housing and neighborhood revitalization. The program will provide site acquisition, clearance and infrastructure preparation to incentivize the redevelopment of affordable residential properties. Acquired and improved sites will be made available to home buyers or developers/builders and will serve as a write-down for new infill construction. The program will target low to moderate income homebuyers, and will be offered in combination with available down payment and closing cost assistance programs, as available.

Due to the substantial need for residential infill to provide for affordable housing and support land assemblage, this program will be administered from time to time over the course of the term of the Urban Core Redevelopment Area as funding is available.

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Administration and Professional Consulting Services

The CRA is empowered to fund all operational, management and administrative activities of the Agency including, but not limited to employees' salaries and benefits, equipment, supplies, software and vehicles. The CRA is empowered to hire private consultants for expert and temporary services to carry out the Plan.

Additional Priority Element: Planning and Design Services Related to Affordable Housing Solutions

To ensure that redevelopment projects and activities, and other related initiatives support the availability of affordable housing within the Urban Core Redevelopment Area, the periodic assessment of housing and economic conditions, City and CRA plans, land development regulations, and housing-related policies and programs is warranted to inform the implementation of affordable housing solutions. Identified solutions may address land development planning, housing design, CRA and/or City plans and policies, projects and programming, or similar areas impacting the sustainability and availability of affordable housing within the Urban Core Redevelopment Area. The CRA is empowered to secure planning and design services related to the identification of strategic affordable housing solutions.

Due to changing market and community conditions over time, this activity will be employed from time to time over the course of the term of the CRA, as needs arise and funding is available.

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Appendix – Statutory Requirements and Action

Element	Reference
(10) Provide a time certain for completing all redevelopment financed by increment revenues. Such time certain shall occur no later than 30 years	FY 2040 <u>December 31, 2043</u>

after the fiscal year in which the plan is approved, adopted or amended pursuant to s. 163.361(1).	
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Urban Core Redevelopment Plan (2010), Volume 1 Appendix, Page v



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00046

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

QUASI-JUDICIAL HEARING - FINAL SUBDIVISION PLAT - 4020 N. 9TH AVENUE

**RECOMMENDATION:**

That City Council conduct a quasi-judicial hearing on February 8, 2018 to consider approval of the final subdivision plat - 4020 N. 9<sup>th</sup> Avenue.

**HEARING REQUIRED:** Quasi-Judicial

**SUMMARY:**

The City has received a request from Northwest Florida Community Housing Development Corporation for Final Plat approval for the property located at 4020 N. 9<sup>th</sup> Avenue. The proposed subdivision is located in the R-1AA (One and Two Family Zoning District) and will create 4 lots of varying widths from the 0.055 acre site at the southeast corner of North 9<sup>th</sup> Avenue and Mango Street. There is an existing dwelling to be removed prior to the recording of this plat, if approved. The Final Plat has been reviewed by the applicable City Staff and utility providers for compliance with the City's subdivision requirements.

On January 9, 2018, the City's Planning Board unanimously recommended approval of the Final Plat.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

1/22/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Subdivision Plat Application, 4020 N. 9<sup>th</sup> Avenue, dated December 4, 2017
- 2) Final Subdivision Plat, 4020 N. 9<sup>th</sup> Avenue, dated December 2017
- 3) Plat Boundary Survey, 4020 N. 9<sup>th</sup> Avenue, dated October 12, 2017
- 4) January 9, 2018 Planning Board Minutes

**PRESENTATION:** Yes



# SUBDIVISION PLAT

Please Check Application Type:

Minor Subdivision (<4 lots)

Subdivision (> 4 lots)

Preliminary & Final Plat Submission

Preliminary Plat Submission

Final Plat Submission

Fee: \$2,000.00

Fee: \$1,000.00 + \$25/lot

Fee: \$1,500.00 + \$25/lot

[Resubmittal: 1/2 the initial fee; Rescheduling to Planning Board / City Council: \$250.00]

### Applicant Information

Name: Northwest Florida Community Housing Development Corporation

Address: 300 Leonard Street, Pensacola, FL 32501

Phone: 850-434-5456

Fax: \_\_\_\_\_

Email: tim.evans@nwflhousing.org

### Owner Information (if different from applicant)

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Phone: \_\_\_\_\_

Fax: \_\_\_\_\_

Email: \_\_\_\_\_

### Property Information

Location/Address: 4020 N. 9<sup>th</sup> Avenue

Subdivision Name: N/A

# of Parcels to be Subdivided: 1 Parcel ID #(s): 05-2S-30-7003-000-000

# of Existing Lots: 1 #of Proposed Lots: 4 Total Acreage: 1.10

Legal Description: Please attach a full legal description from deed or survey

Type of Subdivision:  Residential\*  Non-Residential

[\*If residential, see reverse for open space requirement]

Will a Variance from the Subdivision Regulations be requested for the project (Sec. 12-8-7)?  YES  NO

If yes, specify exact variance requested: \_\_\_\_\_

I, the undersigned applicant, understand that payment of these fees does not entitle me to approval of this plat and that no refund of these fees will be made. Also, I understand that any resubmissions based on non-compliance with City subdivision and/or development requirements will result in one-half (1/2) the initial application fee. I have reviewed a copy of the applicable zoning and subdivision requirements and understand that I must be present on the date of the Planning Board meeting.

Timothy Evans  
Signature of Applicant

12/4/17  
Date

(Owner of Property or Official Representative of Owner)

### FOR OFFICE USE ONLY

Zone: R-1AA District: # 2

Date Received: 12/08/2017 Case Number: n/a

Application Fee: \$2,000 Receipt #: 235859

Open Space Requirement (acres or \$): \$3,750 Receipt #: \_\_\_\_\_

Planning Board Date: 1/9/2017 Recommendation: \_\_\_\_\_

Council Date: \_\_\_\_\_ Action: \_\_\_\_\_

Recording Date: \_\_\_\_\_ Map Bk/Pg: \_\_\_\_\_

**\*Sec. 12-8-6. SITES FOR PUBLIC USE.**

**(B) Sites for park and recreation or open space.** Each subdivision plat shall be reviewed by the planning and leisure services departments in order to assess the following: park and recreational or open space needs for the recreation service area within which the subdivision is located and for the city as a whole; and characteristics of the land to be subdivided for its capability to fulfill park, recreation or open space needs. Based on this review the city staff shall recommend one of the following options:

(1) *Dedication of land for park, recreation or open space needs.* The subdivider(s) or owner(s) shall dedicate to the city for park and recreation or open space purposes

at least five (5) percent of the gross area of the residential subdivision. In no case shall the aggregate acreage donated be less than one-quarter (1/4) acre.

(2) *Payment of money to an escrow account for park, recreation or open space needs in lieu of dedication of land.* The subdivider(s) or owner(s) shall pay unto the city such sum of money equal in value to five (5) percent of the gross area of the subdivision thereof, which sum shall be held in escrow and used by the city for the purpose of acquiring parks and developing playgrounds and shall be used for these purposes and no others. The aforementioned value shall be the value of the land subdivided without improvements and shall be determined jointly by the city manager and the subdivider. If the city manager and subdivider cannot agree on a land value, then the land value shall be established by arbitration. The city manager shall appoint a professional land appraiser, the subdivider shall appoint a professional land appraiser, and these two (2) shall appoint a third.

**\*Open Space Requirement (only applicable to residential subdivision)**

Sec. 12-8-6 requires (a) the dedication of 5% of the gross area for open space purposes, or (b) a fee in lieu of land dedication. Please calculate and check preferred method of meeting requirement:

(a) Total Land Area: 1.10 acres

5% for land dedication\*: 0.055 acres

[\*may not equal less than 1/4 acre]

(b) Value of land (Esc. Co. Tax Assessor) \$ 75,000

Fee in lieu of land dedication (5% of value) \$ 3,750

[Payable to the City of Pensacola; Due after plat approval, prior to receiving signatures]

**Sec. 12-8-3. Procedure for subdivision approval.**

**(A) Procedure for subdivision requiring a plat.**

(1) *Approval of preliminary plat by the planning board.*

(a) Any person desiring to divide land into three (3) or more lots shall first file with the planning board a preliminary plat of the subdivision prepared in accordance with the requirements of section 12-8-8.

(b) Accompanying the preliminary plat shall be a general location sketch map showing the relationship of the proposed subdivision to existing community facilities which serve or influence it. On such sketch map, the main traffic arteries, shopping centers, schools, parks, and playgrounds, principal places of employment and other principal features should be noted.

(c) Where the preliminary plat submitted covers only a part of the total contiguous property under the subdivider's ownership, a sketch of the prospective future street system of the unsubdivided part shall be required if not shown on a previously approved conceptual plan or plans for the entire property. The street system of the unplatted portion shall be planned to coordinate and connect with the street system of the platted portion.

(d) A master drainage plan at a scale not smaller than one inch equals two hundred (200) feet, shall be prepared. The master drainage plan shall be for the entire property and shall be reviewed by the city engineer in relation to the entire drainage basin. It is the specific intent of this requirement that rights-of-way and easements of all drainage improvements including but not limited to, retention ponds, ditches, culverts, channels, and the like required for the drainage of the site for both on-site and off-site improvements, shall be provided for the master drainage plan. Instruments shall be submitted fully executed in sufficient form for recording for all off-site drainage rights-of-way and easements not included on the final plat. These instruments shall be submitted with the final plat for recordation.

(e) Eleven (11) copies of the preliminary plat shall be submitted to The Community Development Department at least thirty (30) calendar days prior to the meeting at which it is to be considered.

(f) Prior to the examination of the preliminary plat, the planning board shall be furnished with reports from the city engineer, traffic engineer, energy services, Escambia County Utilities Authority, fire department, and the secretary to the planning board to the effect that said plat does or does not conform to the comprehensive plan, the provisions of this chapter, and with sound principles and practices of planning and engineering and with such other items that may affect the health, safety and welfare of the people.

(g) When, after examination, the planning board finds as fact that the aforementioned requirements have been met, the preliminary plat may be approved; however, such approval shall not constitute an approval of the final plat. If the preliminary plat is rejected, the planning board shall provide the applicant in writing a detailed list of reasons for rejection.

(2) *Approval of final plat by the planning board and city council.*

(a) The final plat shall conform substantially to the preliminary plat. The applicant shall submit only that portion of the approved preliminary plat which he proposes to record and develop. Such portion shall conform to all requirements of this chapter. Such final plat shall be submitted within one year (three hundred sixty-five (365) days) of the date of the approval of the preliminary plat. If more than one year has elapsed since the approval of the preliminary plat, the preliminary plat must be resubmitted to the planning board for their review and approval prior to submission of the final plat.

**CIVIL ENGINEER**

PATRICK JEHL, JR.  
PROFESSIONAL ENGINEER,  
LICENSE NO. 71528

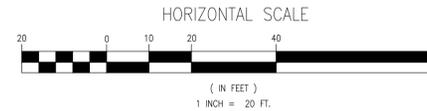
**SURVEYOR**

STEPHEN GARY RUTAN  
PROFESSIONAL SURVEYOR AND  
MAPPER,  
LICENSE NO. 4208

**OWNER & DEVELOPER**

NORTHWEST FLORIDA COMMUNITY  
HOUSING DEVELOPMENT CORPORATION  
300 LEONARD STREET  
PENSACOLA, FL 32501

FINAL PLAT OF  
**GLADES SUBDIVISION**  
A SUBDIVISION OF A PORTION OF  
SECTION 5, TOWNSHIP 2 SOUTH, RANGE 30 WEST  
CITY OF PENSACOLA  
ESCAMBIA COUNTY, FLORIDA  
DECEMBER 2017



**VICINITY MAP**  
1" = 2000'

**DEDICATION:**

KNOW ALL MEN BY THESE PRESENTS THAT NORTHWEST FLORIDA COMMUNITY HOUSING DEVELOPMENT CORPORATION, OWNER OF THE LAND HEREIN DESCRIBED AND PLATTED HEREIN KNOWN AS GLADES SUBDIVISION, HEREBY AUTHORIZES AND REQUESTS THE FILING OF THIS PLAT IN THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA.

**RESERVATION:**

RESERVING UNTO NORTHWEST FLORIDA COMMUNITY HOUSING DEVELOPMENT CORPORATION, ITS SUCCESSORS AND ASSIGNS, THE 74 FOOT WIDE INGRESS, EGRESS AND PARKING EASEMENT, THE STORM WATER SYSTEM, CONSISTING OF STRUCTURES AND PIPES AND LOT 4, FOR THE PURPOSES OF OPERATION AND MAINTENANCE.

IN WITNESS WHEREOF, NORTHWEST FLORIDA COMMUNITY HOUSING DEVELOPMENT CORPORATION, QUALIFIED TO DO BUSINESS IN THE STATE OF FLORIDA HAS CAUSED THESE PRESENTS TO BE MADE IN ITS NAME BY ITS AUTHORIZED AGENT.

**WITNESSES**

SIGNATURE \_\_\_\_\_  
PRINT \_\_\_\_\_  
SIGNATURE \_\_\_\_\_  
PRINT \_\_\_\_\_

**OWNER**

TIMOTHY H. EVANS CHAIRMAN OF THE BOARD OF DIRECTORS  
NORTHWEST FLORIDA COMMUNITY HOUSING DEVELOPMENT CORPORATION

SEAL

**STATE OF FLORIDA, COUNTY OF ESCAMBIA:**

BEFORE THE SUBSCRIBER PERSONALLY APPEARED \_\_\_\_\_, KNOWN TO ME TO BE THE INDIVIDUALS DESCRIBED HEREIN AND WHO EXECUTED THE FOREGOING INSTRUMENT AND ACKNOWLEDGED THAT THEY EXECUTED THE SAME FOR THE USES AND PURPOSES HEREIN SET FORTH, THEY ARE PERSONALLY KNOWN TO ME AND THEY DID NOT TAKE AN OATH.

NOTARY PUBLIC, STATE OF FLORIDA  
MY COMMISSION EXPIRES: \_\_\_\_\_  
MY COMMISSION NUMBER: \_\_\_\_\_

SEAL

**CERTIFICATE OF COUNTY CLERK:**

I, PAM CHILDERS, CLERK OF COURTS OF ESCAMBIA COUNTY, FLORIDA HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH ALL THE REQUIREMENTS OF THE PLAT ACT CHAPTER 177 FLORIDA STATUTES AND THE SAME WAS RECORDED ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018 IN PLAT BOOK \_\_\_\_\_ AT PAGE \_\_\_\_\_ OF THE PUBLIC RECORDS OF SAID COUNTY.

PAM CHILDERS, CLERK OF COURTS  
ESCAMBIA COUNTY, FLORIDA

SEAL

**CITY COUNCIL CERTIFICATE:**

I, ERICKA L. BURNETT, CITY CLERK OF THE CITY OF PENSACOLA, FLORIDA, HEREBY CERTIFY THAT THIS PLAT WAS PRESENTED TO THE CITY COUNCIL OF SAID CITY AT ITS MEETING HELD ON THE \_\_\_\_\_ DAY OF \_\_\_\_\_ 2018 AND WAS APPROVED BY SAID COUNCIL.

ERICKA L. BURNETT, CITY CLERK OF THE CITY OF PENSACOLA, FLORIDA

SEAL

**CITY OF PENSACOLA SURVEYOR'S CERTIFICATE:**

THIS PLAT HAS BEEN REVIEWED FOR CONFORMITY TO CHAPTER 177, FLORIDA STATUTES, BY THE UNDERSIGNED PROFESSIONAL SURVEYOR AND MAPPER FOR THE CITY OF PENSACOLA.

DAVID D. GLAZE, PROFESSIONAL SURVEYOR AND MAPPER  
LICENSE NO. 5605

SEAL

**SURVEYOR'S CERTIFICATE**

THE UNDERSIGNED HEREBY CERTIFIES THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE LAND DESCRIBED HEREIN, THAT SAID LAND HAS BEEN SUBDIVIDED AS INDICATED, THAT PERMANENT REFERENCE MONUMENTS (P.R.M.) HAVE BEEN PLACED AS INDICATED, THAT THE SURVEY WAS MADE UNDER MY RESPONSIBLE DIRECTION AND SUPERVISION AND THAT THE SURVEY DATA COMPLIES WITH ALL THE REQUIREMENTS OF THE PLAT ACT CHAPTER 177.011-177.151 FLORIDA STATUTES, AND THE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61617-6 FLORIDA ADMINISTRATIVE CODE.

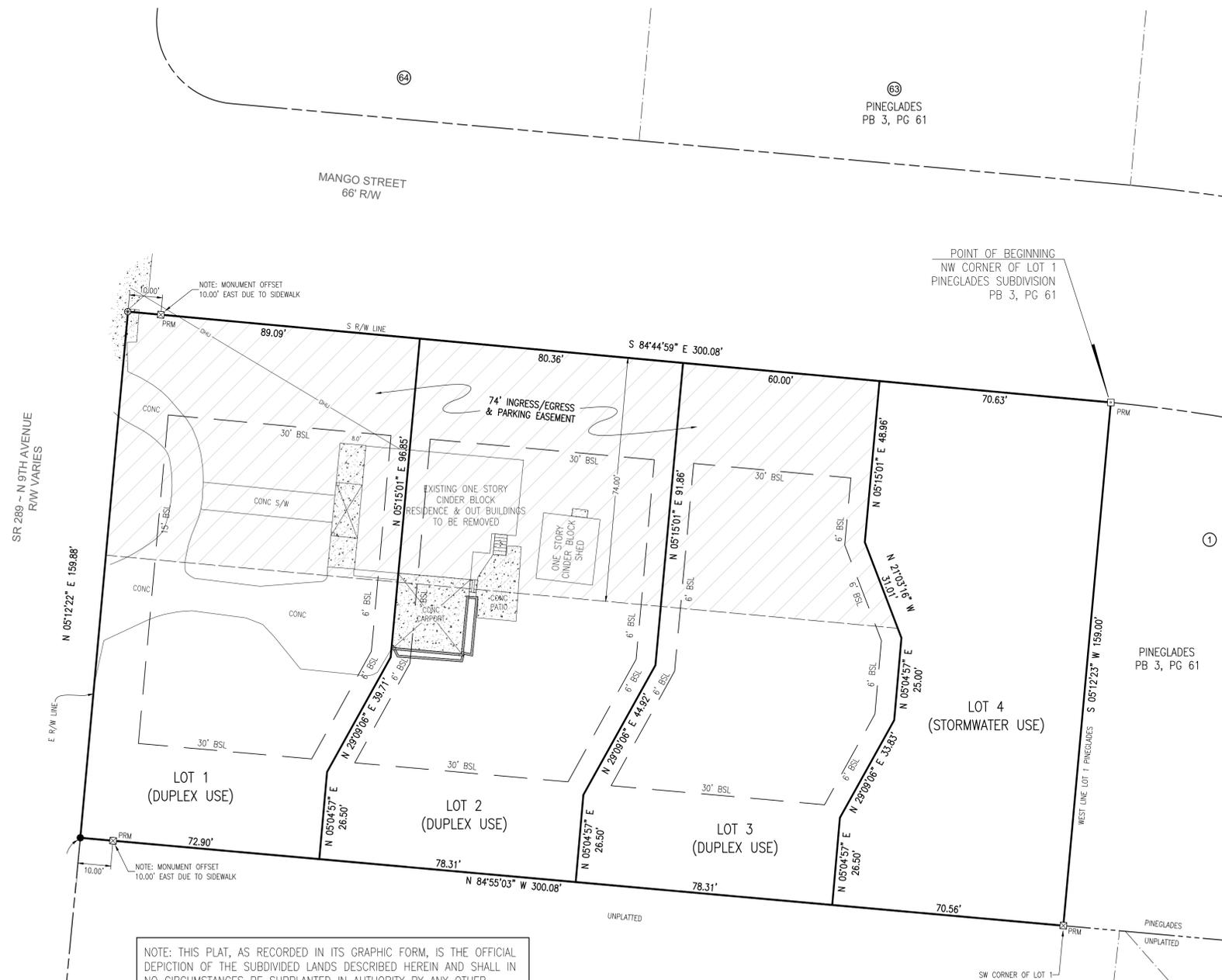
STEPHEN GARY RUTAN  
PROFESSIONAL SURVEYOR AND MAPPER, LICENSE NO. 4208  
JEHLE-HALSTEAD, INC.  
5414 HIGHWAY 90  
MILTON, FLORIDA 32570

DATE

SEAL

RESTRICTIVE COVENANTS FILED IN OFFICIAL RECORDS BOOK \_\_\_\_\_, PAGE \_\_\_\_\_.

PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_.



NOTE: THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF THE SUBDIVIDED LANDS DESCRIBED HEREIN AND SHALL IN NO CIRCUMSTANCES BE SUPPLANTED IN AUTHORITY BY ANY OTHER GRAPHIC OR DIGITAL FORM OF THE PLAT. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA.

**DESCRIPTION:** (AS PREPARED BY JEHL-HALSTEAD, INC.)

THAT PORTION OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS:

BEGINNING AT AN EXISTING PERMANENT REFERENCE MARKER (4" x 4" UNNUMBERED CONCRETE MONUMENT) MARKING THE NORTHWEST CORNER OF LOT 1, PINEGLADES, A SUBDIVISION IN THE PABLO PALMES GRANT, AS RECORDED IN PLAT BOOK 3, AT PAGE 61, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; THENCE PROCEED SOUTH 05 DEGREES 12 MINUTES 23 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 1 FOR A DISTANCE OF 158.00 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1; THENCE DEPARTING SAID WEST LINE PROCEED NORTH 84 DEGREES 55 MINUTES 03 SECONDS WEST FOR A DISTANCE OF 300.08 FEET TO THE EAST RIGHT-OF-WAY (R/W) LINE OF STATE ROAD 289 (S.R. 289), ALSO KNOWN AS NORTH 9TH AVENUE (R/W WIDTH VARIES); THENCE PROCEED NORTH 05 DEGREES 12 MINUTES 22 SECONDS EAST ALONG SAID R/W LINE FOR A DISTANCE OF 159.88 FEET TO THE INTERSECTION OF SAID R/W OF S.R. 289 AND THE SOUTH R/W LINE OF MANGO STREET (66' R/W); THENCE DEPARTING SAID R/W OF S.R. 289 PROCEED SOUTH 84 DEGREES 44 MINUTES 59 SECONDS EAST ALONG SAID SOUTH R/W LINE OF MANGO STREET FOR A DISTANCE OF 300.08 FEET TO THE POINT OF BEGINNING.

SAID PARCEL LYING IN AND BEING A PORTION OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 30 WEST, CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA AND CONTAINING 1.10 ACRES, MORE OR LESS.

**SURVEYOR'S NOTES:**

- NORTH AND THE SURVEY DATUM SHOWN HEREON IS REFERENCED TO THE GRID BEARING OF N 05°12'22" E ALONG THE EAST R/W LINE OF STATE ROAD 289 (9TH AVENUE - R/W WIDTH VARIES) AS SHOWN ON A COPY OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) RIGHT OF WAY (R/W) MAP OF STATE ROAD 289 SECTION NUMBER 48003, SHEET 11 OF 14, DATED 12/02/1994; COPY OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) RIGHT OF WAY (R/W) MAP OF STATE ROAD 289 SECTION NUMBER 48003-2524, SHEET 2 OF 4, DATED 2/07/1996; COPY OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) RIGHT OF WAY (R/W) MAP OF STATE ROAD 289 SECTION NUMBER 48003-2518, SHEET 2 OF 5, DATED 4/12/1993; A COPY OF PINEGLADES, AS RECORDED IN PLAT BOOK 3, AT PAGE 61, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; DEEDS OF RECORD, AND EXISTING FIELD MONUMENTATION.
- PERMANENT REFERENCE MONUMENTS HAVE BEEN PLACED AND ALL LOT CORNERS WILL BE PLACED IN ACCORDANCE WITH THE PROVISIONS OF THE FLORIDA PLAT ACT, CHAPTER 177, SECTIONS 177.011-177.151 FLORIDA STATUTES.
- NO TITLE SEARCH WAS PERFORMED BY NOR PROVIDED TO THIS FIRM FOR THE SUBJECT PROPERTY. THERE MAY BE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, RIGHTS-OF-WAY, BUILDING SETBACKS, RESTRICTIVE COVENANTS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OR USE OF THE SUBJECT PROPERTY.
- THE SURVEYING BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER FOR JEHL-HALSTEAD, INC. IS LB7483.
- THIS SURVEY DOES NOT REPRESENT NOR GUARANTEE OWNERSHIP.
- THE FIELD SURVEY WAS COMPLETED ON DECEMBER 4, 2017 AND RECORDED IN FIELD BOOK RG7, AT PAGES 53-54 AND FIELD BOOK RG8, AT PAGES 70-72.
- PERMANENT REFERENCE MARKERS ARE INDICATED THUSLY (⊗) WITH CORPORATION NUMBER 7483 STAMPED THEREON.
- FLOOD ZONE INFORMATION: THE PARCEL SHOWN IS LOCATED WITHIN THE FOLLOWING FLOOD ZONE(S) AS DETAILED BY FEMA FIRM (FLOOD INSURANCE RATE MAP) INFORMATION DESCRIBED BELOW:

FLOOD ZONE	NFP COMMUNITY NUMBER*	MAP NUMBER*	PANEL NUMBER(S)	MAP SUFFIX*	MAP REVISION DATE*
X	120080	12033C	0380	G	SEPTEMBER 29, 2006

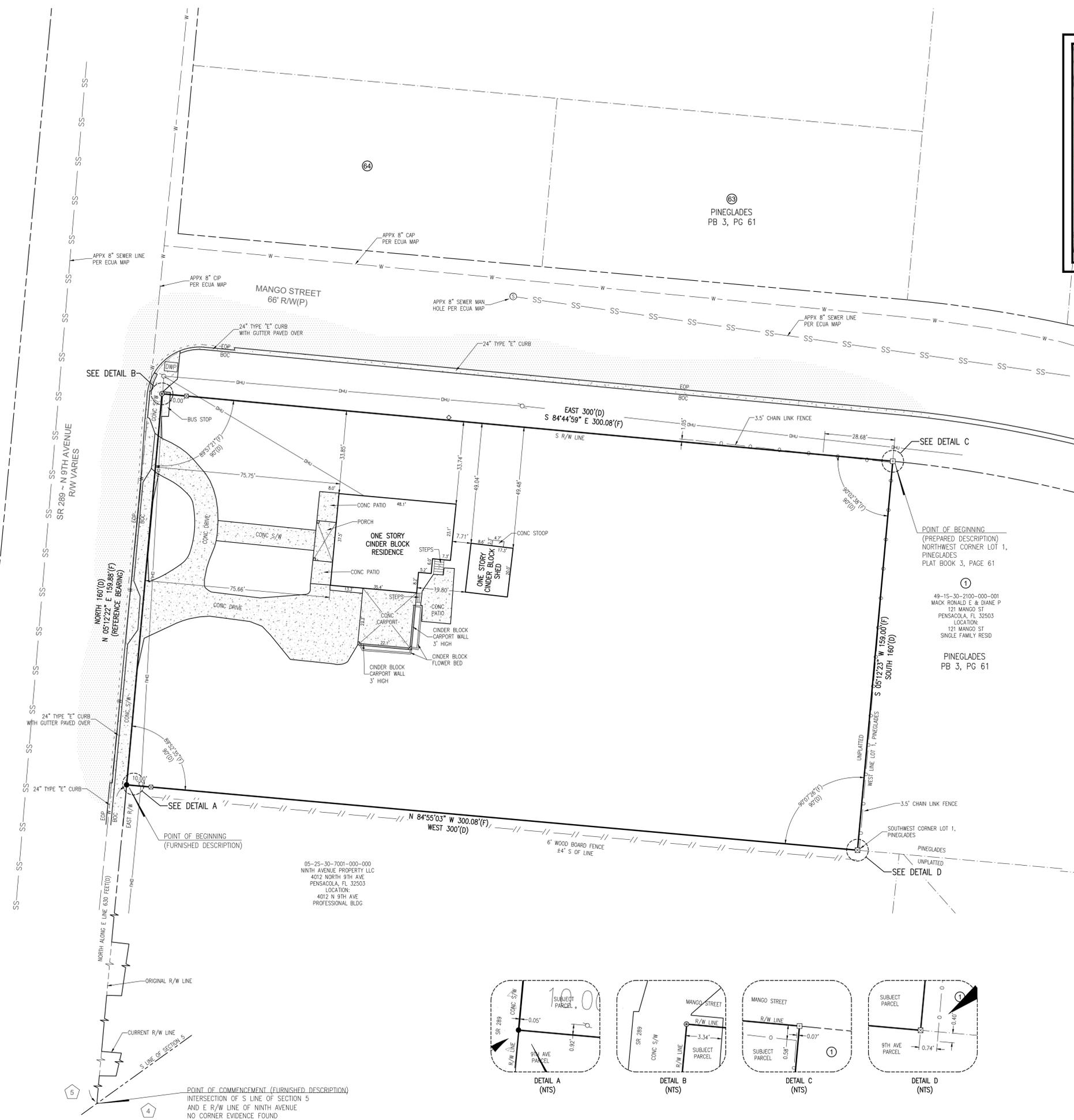
**SITE DATA SUMMARY**

PROP. REF. NO.	05-25-30-7003-000-000
PARCEL AREA PER BOUND. SVY.	1.10± ACRE
STREET ADDRESS	4020 N. 9TH AVE PENSACOLA, FLORIDA 32548
CURRENT USE	SINGLE FAMILY
ZONING	R-1AA
FLU	MDR
SETBACKS	
BUILDING	
FRONT	30'
REAR	30'
SIDE	6'
PROPOSED BUILDING USE	MULTI-FAMILY DUPLEX
PROPOSED LOT AREAS	
LOT 1	13,505.5 SF (0.31 AC)
LOT 2	12,679.9 SF (0.29 AC)
LOT 3	11,166.9 SF (0.26 AC)
LOT 4	10,491.4 SF (0.24 AC)
TOTAL AREA	47,843.7 SF (1.10 AC)

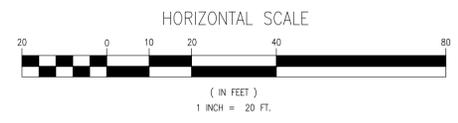
NOTE: INGRESS/EGRESS TO LOT 1 WILL BE VIA MANGO STREET.

**LEGEND:**

- ⊗ SET 4"x4" CONCRETE MONUMENT (No. 7483)
- ⊕ FOUND 4"x4" CONCRETE MONUMENT (UNNUMBERED)
- ⊙ SET 1/2" DIA CAPPED IRON ROD (No. 7483)
- ⊚ FOUND 1/2" DIA IRON ROD (UNNUMBERED)
- ⊛ FOUND RED PAINT DOT ON CONCRETE SIDEWALK
- ① LOT NUMBER
- BSL BUILDING SETBACK LINE
- DIA DIAMETER
- No. NUMBER
- PB PLAT BOOK
- PG PAGE
- PRM PERMANENT REFERENCE MONUMENT
- R/W RIGHT OF WAY
- SR STATE ROAD



VICINITY MAP  
NTS



**DESCRIPTION:** (OFFICIAL RECORDS BOOK 7408, PAGE 882)

THAT PORTION OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA, DESCRIBED AS FOLLOWS: BEGINNING AT A POINT WHERE THE SOUTH LINE OF SECTION 5, TOWNSHIP 2 SOUTH, RANGE 30 WEST INTERSECTS THE EAST LINE OF SKINNER ROAD OR NINTH AVENUE, THENCE NORTH ALONG THE EAST LINE OF SAID NINTH AVENUE, 630 FEET FOR POINT OF BEGINNING; THENCE CONTINUE IN A STRAIGHT LINE ALONG THE EAST LINE OF NINTH AVENUE, 160 FEET; THENCE AT RIGHT ANGLES AND EASTERLY 300 FEET; THENCE SOUTHERLY AND AT A RIGHT ANGLE, 160 FEET; THENCE WESTERLY AND AT RIGHT ANGLES, 300 FEET TO THE POINT OF BEGINNING.

**DESCRIPTION:** (AS PREPARED BY JEHLÉ-HALSTEAD, INC.)

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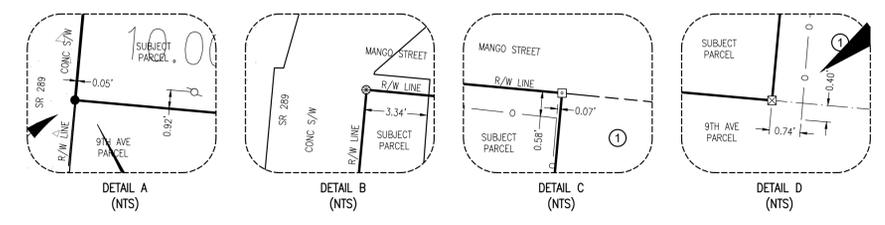
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**GENERAL NOTES:**

- NORTH AND THE SURVEY DATUM SHOWN HEREON IS REFERENCED TO THE GRID BEARING OF N 05°12'22" E ALONG THE EAST R/W LINE OF STATE ROAD 289 (9TH AVENUE ~ R/W WIDTH VARIES) AS SHOWN ON A COPY OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) RIGHT OF WAY (R/W) MAP OF STATE ROAD 289 SECTION NUMBER 48003, SHEET 11 OF 14, DATED 12/02/1994; COPY OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) RIGHT OF WAY (R/W) MAP OF STATE ROAD 289 SECTION NUMBER 48003-2524, SHEET 2 OF 4, DATED 2/07/1996; COPY OF FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) RIGHT OF WAY (R/W) MAP OF STATE ROAD 289 SECTION NUMBER 48003-2518, SHEET 2 OF 5, DATED 4/12/1993; A COPY OF PINEGLADES, AS RECORDED IN PLAT BOOK 3, AT PAGE 61, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; DEEDS OF RECORD, AND EXISTING FIELD MONUMENTATION.
- MEASUREMENTS AS SHOWN HEREON WERE MADE TO UNITED STATES STANDARDS AND ARE EXPRESSED IN DECIMAL OF FEET.
- VISIBLE UTILITIES WITHIN THE SURVEY LIMITS ARE AS SHOWN HEREON.
- THE STRUCTURE DIMENSIONS DO NOT INCLUDE THE EAVE OVERHANG OR FOUNDATION FOOTINGS.
- VISIBLE IMPROVEMENTS ARE AS SHOWN HEREON.
- IT IS THE OPINION OF THE UNDERSIGNED SURVEYOR & MAPPER THAT THE PARCEL OF LAND SHOWN HEREON IS IN ZONE "O", AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, BASED ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR ESCAMBIA COUNTY, FLORIDA, COMMUNITY PANEL NUMBER 12033003800, EFFECTIVE DATE OF SEPTEMBER 29, 2006.
- GRAPHIC SYMBOLISM FOR FEATURES SUCH AS MONUMENTATION, FENCES, TREES, TREE LINES, UTILITIES ETCETERA MAY BE EXAGGERATED IN SIZE FOR CLARITY PURPOSES. DIMENSIONS TO EXAGGERATED FEATURES WILL SUPERSEDE SCALED MEASUREMENTS.
- NO TITLE SEARCH WAS PERFORMED BY NOR PROVIDED TO THIS FIRM FOR THE SUBJECT PROPERTY. THERE MAY BE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, RIGHTS-OF-WAY, BUILDING SETBACKS, RESTRICTIVE COVENANTS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OR USE OF THE SUBJECT PROPERTY.
- THE SURVEYING BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER FOR JEHLÉ-HALSTEAD, INC. IS LB. 7483.
- THIS SURVEY DOES NOT REPRESENT NOR GUARANTEE OWNERSHIP.

**LEGEND:**

□	SET 4" SQUARE CONCRETE MONUMENT #7483	APPX	APPROXIMATE LOCATION OF
■	FOUND 4"x4" CONCRETE MONUMENT (UNNUMBERED)	BOC	BACK OF CURB
●	FOUND 1/2" DIA CAPPED IRON ROD (NO. 4860)	CAP	CONCRETE ASBESTOS PIPE
●	FOUND 1/2" DIA CAPPED IRON ROD (UNNUMBERED)	CIP	CAST IRON PIPE
●	FOUND RED PAINT DOT	CONC	CONCRETE
—	LINE NOT TO SCALE	(D)	DEED INFORMATION
—	CHAIN LINK FENCE	DIA	DIAMETER
DHU	OVERHEAD UTILITIES	ECUA	EMERALD COAST UTILITIES AUTHORITY
—	BURIED WATER LINE	EOP	EDGE OF PAVEMENT
SS	SEWER LINE	(F)	FIELD INFORMATION
○	WATER METER	No.	NUMBER
⊙	SEWER MANHOLE	NTS	NOT TO SCALE
⊙	WOOD UTILITY POLE	(P)	PLAT INFORMATION
■	DETECTABLE WARNING PAD	PB	PLAT BOOK
①	LOT NUMBER	PG	PAGE
⊙	SECTION NUMBER	R/W	RIGHT-OF-WAY
		SR	STATE ROAD
		S/W	SIDEWALK



NOTE: UNLESS STATED OTHERWISE, NO TITLE SEARCH HAS BEEN FURNISHED NOR PERFORMED BY THE UNDERSIGNED TO DETERMINE ANY DEFECTS AND/OR AMBIGUITIES IN TITLE. THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP, UNDERGROUND FOOTINGS OF BUILDINGS AND THE EAVE OVERHANGS THEREOF, UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

**jhi jehle-halstead, inc.**  
Civil Engineering and Surveying  
9414 Highway 90 - Milton, Florida 32570  
(850) 994-9503 - Fax (850) 994-9504  
www.jhle-halstead.com  
Certified Surveying License # 131463

**BOUNDARY SURVEY**  
**HABITAT FOR HUMANITY**  
4020 N 9TH AVE  
PENSACOLA, FLORIDA  
SECTION 5 TOWNSHIP 2S  
RANGE 30W  
ESCAMBIA COUNTY, FLORIDA

**SURVEYORS CERTIFICATE**  
I, THE UNDERSIGNED SURVEYOR, HEREBY CERTIFY THAT THIS SURVEY WAS MADE IN ACCORDANCE WITH THE MINIMUM TECHNICAL STANDARDS FOR SURVEYING PER CHAPTER SJ-17.050, SJ-17.051 AND SJ-17.052, F.L.A.C.S. 17.050-17.052, AND THE PROFESSIONAL SURVEYING AND MAPPING ACT, SECTION 472.027, FLORIDA STATUTES.  
STEPHEN GARY RUTAN  
PROFESSIONAL LAND SURVEYOR, LICENSE NO. 4208

Revisions	
Date	Description
12/8/17	DESCRIPTION

Designed By: -  
Drawn By: JDC  
Checked By: SGR  
Job No.: 170041  
Date: 10/12/2017  
Scale: 1" = 20'  
FIELD DATE: 10/11/17  
CREW: R6/CJ  
FB R61 P6 53-54  
FB P6



PLANNING SERVICES

THE UPSIDE *of* FLORIDA

## MINUTES OF THE PLANNING BOARD

January 9, 2018

**MEMBERS PRESENT:** Chairman Paul Ritz, Danny Grundhoefer, Nina Campbell, Jared Moore

**MEMBERS ABSENT:** Nathan Monk, Kurt Larson, Kyle Owens

**STAFF PRESENT:** Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner Helen Gibson, CRA Administrator, Don Kraher, Council Executive

**OTHERS PRESENT:** Patrick Jehle, Jason Rebol, Tim Evans, Diane Mack, Rand Hicks

### AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from December 12, 2017
- New Business:
  1. Request for Preliminary & Final Plat Approval for 4020 N. 9<sup>th</sup> Avenue Subdivision
  2. Request for Preliminary Plat Approval for Covington Place Subdivision
  3. Consider Amendment to the Urban Core Community Redevelopment Plan
- Open Forum
- Adjournment

### Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:03 pm with a quorum present.

### Approval of Meeting Minutes

Ms. Campbell made a motion to approve the December 12, 2017 minutes, seconded by Mr. Grundhoefer, and it carried unanimously.

### New Business:

#### Request for Preliminary & Final Plat Approval for 4020 N. 9th Avenue Subdivision

Northwest Florida Community Housing Development Corporation has submitted a request for Preliminary and Final Plat approval for the parcel located at 4020 N. 9<sup>th</sup> Avenue. The applicant is proposing a duplex development for the 0.055 acre site at the southeast corner of North 9<sup>th</sup> Avenue and Mango Street. There is an existing dwelling to be removed prior to the recording of this plat, if approved.

The proposed Preliminary & Final Plat consists of 4 lots which all meet or exceed the lot width and square footage required by the R-1AA zoning district. The proposed development meets the setback requirements for the zoning district as well. The minimum parking requirement for duplex developments with frontage on a public street is 1 parking space per unit as cited in LDC Section 12-3-1(B) and this requirement has been met. The Final Plat has been routed through the various City departments and utility providers with comments provided. Mr. Jehle addressed the Board on behalf of the Northwest Florida Community Housing Development Corporation, advising he had met with staff to see the best way to accomplish the proposed use as a duplex development.

EVERYTHING THAT'S GREAT ABOUT FLORIDA IS BETTER IN PENSACOLA.

He indicated no variances were required. He stated Mr. Evans had been in touch with the homeowners association and felt the project was compatible with the neighborhood and accomplished the goals of the development. He pointed out the existing house was not occupied, and a demolition permit had not been issued. Chairman Ritz explained with the development coming for preliminary and final approval, the Board would not see the project again if approved. Mr. Grundhoefer asked about stormwater retention. Mr. Jehle stated Mr. Hinote wanted to make sure they were accounting for offsite contribution and wanted to ensure construction plans were complete. Regarding discharge from the pond, the master plan indicated pipes discharging into the Mango Street gutter line, with a concrete overflow/emergency discharge directed to the street. He explained there was a blanket stormwater easement across all four lots.

Mr. Hicks, who is the president of the neighborhood association, advised Ms. Mack had brought Tim Evans to the neighborhood association meeting to present the complete plan, bringing compassion and illumination to their neighborhood. Mr. Hicks explained the architecture would marry well with the neighborhood needs, with special care taken for the environment, the aesthetic appeal, and retaining one driveway for the entire project.

Ms. Mack stated she and her husband were delighted they would no longer battle over what might be developed on this site. The use of the property would allow clients from the ARC Gateway. They would be stable, long-term tenants, and the neighborhood could provide family support for the residents. She advised they looked forward to involving them in the neighborhood association. She emphasized that Mr. Evans was being a partner and a good neighbor, and they looked forward to working with him.

Chairman Ritz appreciated the owner and community involvement. Mr. Grundhoefer asked if the Board would get aesthetic review on the final design, and Ms. Deese advised residential was exempt.

Mr. Evans, the Board Chairman for Northwest Florida Community Housing Development Corporation as well as the Executive Director and CEO for Pensacola Habitat for Humanity, addressed the Board. He stated this particular development would be for adults with developmental and intellectual disabilities who are capable of "near" independence but need some supportive living assistance. This particular parcel was within walking distance to all essential needs. Regarding the demolition, he stated they were on a hold pattern with funding from the state of Florida until the plat approval was completed; after the final approval of City Council, a significant preliminary award would be released.

**Mr. Grundhoefer made a motion to approve, seconded by Ms. Campbell, and it carried unanimously.**

#### **Request for Preliminary Plat Approval for Covington Place Subdivision**

Rebol-Battle & Associates has submitted a request for Preliminary Plat approval for Covington Place Subdivision located at 15 W. Strong Street. The applicant is proposing a townhouse development for the 1.47 acre site bounded by Strong Street on the North and Cervantes on the South. A demolition permit was issued in November for the existing structure to be removed which has taken place.

The proposed Preliminary Plat consists of 24 lots of varying widths which meet the requirements of the PC-1 zoning district. The proposed development meets the setback requirements for the zoning district with the exception of the rear yard setback for the lots along Baylen Street. However, on September 21, 2017, the Architectural Review Board granted a variance of 15 feet to reduce the minimum required rear yard from 15 feet to 0.0 feet to accommodate the internalized access for these lots. The minimum parking requirement for townhouse developments is 1 parking space per unit as cited in LDC Section 12-3-1(B) and this requirement has been met. The Preliminary Plat has been routed through the various City departments and utility providers with comments provided.

Mr. Rebol addressed the Board and corrected the information to show there were 25 lots, and on the original plat there were two lot no. 8's listed. He advised they addressed Mr. Hinote's comments, and they had received Architectural Review Board (ARB) approval.

There are no stormwater ponds on the site since it is totally impervious and exempt from City, State and FDOT regulations. Garages are located in the rear. He indicated the project would be a

townhome development with four units per building and fee-simple lots with green spaces. Mr. Grundhoefer asked about access, and Mr. Rebol advised residents would access from Strong Street. Their intent was to have an "exit only" on Cervantes which was agreeable with FDOT. He explained the easement granted by the ARB was for the far west lots (2-9) with a 15' setback. He also pointed out that North Hill supported this development.

**Mr. Grundhoefer made a motion to approve, seconded by Ms. Campbell, and it carried unanimously.**

**Consider Amendment to the Urban Core Community Redevelopment Plan**

Staff has received a request from Mrs. Helen Gibson, CRA Administrator, for this Board to recommend to City Council the adoption of an amendment to the Urban Core Community Redevelopment Plan. This amendment includes the adoption of additional priority elements to provide for additional specificity of affordable housing elements and planning and design services related to affordable housing solutions. Mrs. Gibson has asked that the Board find that the proposed Plan amendment conforms to the Comprehensive Plan for the City of Pensacola.

Ms. Gibson presented to the Board and advised that the CRA approved the amendment and recommended Council approve it and schedule a public hearing at their February 2018 meeting. She explained with the 2010 plan, which was an update from the original 1989 document, the Board found that it conformed to the Comprehensive Plan. She pointed out they were adding specificity to determine the exact year the 60-year limit was. They were recommending an infill program which was being performed by a number of entities within the city, and the other program dealt with rehab for residential properties, which had not been accomplished by the CRA in the Urban Core.

Chairman Ritz stated with the Urban Core being revitalized, he appreciated the affordable housing types. Ms. Gibson stated there were goals presented in the statute, one being blight removal and the other being affordable housing which had not been the focus in the past. Chairman Ritz supported legislation to back up funding, and stated the public forum allowed full understanding. Ms. Gibson explained in the next 3 to 5 years, the goal was to target a number of older homes in the Tanyard and Belmont-DeVilliers neighborhoods specifically addressing blight. She explained they were beginning with the rehab of existing structures. In the past, the CRA had purchased lots, provided the infrastructure and worked with private developers to construct homes; they also underwrote the purchase price for affordability. **Mr. Moore made a motion to approve the language, seconded by Mr. Grundhoefer. It was clarified that the motion was to recommend to Council that the amendment conformed to the Comprehensive Plan. The motion then carried unanimously.**

**Open Forum** – Mr. Grundhoefer asked about the status of the amendment for the Governmental Center District. Mr. Kraher advised he was working with Councilwoman Cannada-Wynn. Chairman Ritz explained groundwork still needed to be done prior to addressing the Board. Mr. Grundhoefer requested that Tanyard be included in new Maritime Redevelopment District, and the Board agreed.

**Adjournment** – With no further business, Chairman Ritz adjourned the meeting at 2:49 pm.

Respectfully Submitted,



Brandi C. Deese  
Secretary to the Board



Memorandum

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File #: 18-00077

City Council

2/8/2018

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LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council Vice President Sherri F. Myers

**SUBJECT:**

PLACEMENT OF FISH HATCHERY AT BRUCE BEACH ON AUGUST 2018 PRIMARY BALLOT

**RECOMMENDATION:**

That City Council place an item on the August 2018 Primary Ballot bringing the Fish Hatchery at Bruce Beach to a referendum vote.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

As a result of the Deepwater Horizon Oil Spill and related response actions, the public's access to, and enjoyment of, natural resources along Florida's panhandle was denied or severely restricted. In April 2011, the Natural Resource Trustees (Trustees) and BP Exploration and Production, Inc. (BP) entered into the Framework Agreement for Early Restoration Addressing Injuries Resulting from the Deepwater Horizon Oil Spill (Framework Agreement). Pursuant to the process articulated in the Framework Agreement, the Florida Fish and Wildlife Conservation Commission (FWC) requested to lease a parcel of land at the Port of Pensacola or a parcel of land most commonly known as "Bruce Beach", to be used as a fisheries, habitats, and education, research and restoration facility. The project would enhance and/or increase the public's use and enjoyment of natural resources, helping to offset adverse impacts to such uses caused by the Spill and related response activities.

At the June 20, 2011 special meeting of the City Council held to discuss the FWC request, the Council voted unanimously to authorize the Mayor to enter into lease negotiations with FWC for the Bruce Beach location for the Gulf Coast Marine Fisheries Hatchery and Enhancement Center (Center). Based on that decision, the Trustees approved the project for negotiation with BP. Those negotiations resulted in the Center being included among the 44 projects included in the Draft Programmatic and Phase III Early Restoration Plan that was published in December 2013.

On May 8, 2014, City Council authorized the Mayor to execute a lease agreement with FWC for the Bruce Beach property for the purpose of developing the Center. The approval of the lease was preceded by an open, deliberative and democratic process that included multiple opportunities for public input at the federal, state and local level. In reliance on that lease, five states, six federal agencies and BP approved the project for

inclusion in Phase III of the Deepwater Horizon Oil Spill Early Restoration process and filed project stipulations in court. The Trustees allocated \$18,793,500 from the Early Restoration Fund to FWC to be used for the rehabilitation of Bruce Beach and the design and construction of the Center. The money also provides five years of operation and maintenance costs. After five years, operation and maintenance costs will be the responsibility of FWC for an additional twenty-five years.

After the lease was approved, eight public meetings were held to provide input on such things as site design, building aesthetics, the cultural significance of the site, and complementary conservation and educational programming. Those meetings culminated on December 8, 2016 with the unanimous approval by City Council of the site plan for the Center.

Questions have been raised as to the best use of the Bruce Beach property as it relates to the continued desire to house a Fish Hatchery at this location. With Council's approval, this matter will be brought to the voters for a determination.

**PRIOR ACTION:**

June 20, 2011 - City Council authorized the Mayor to enter into lease negotiations with the Florida Fish and Wildlife Conservation Commission for the Bruce Beach location for the Florida Gulf Coast Marine Fisheries Hatchery and Enhancement Center.

May 8, 2014 - City Council authorized the Mayor to execute a lease agreement with the Florida Fish and Wildlife Conservation Commission for the property commonly known as "Bruce Beach" for the purpose of developing the Gulf Coast Marine Fisheries Hatchery and Enhancement Center.

December 8, 2016 - City Council conducted a quasi-judicial hearing and approved the Waterfront Redevelopment District Site Plan for the Florida Fish and Wildlife Conservation Commission Gulf Coast Marine Fisheries Hatchery and Enhancement Center to be located at 453 West Main Street.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

None

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 17-00613

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council Member Sherri F. Myers

**SUBJECT:**

FISH HATCHERY LEASE

**RECOMMENDATION:**

That City Council declare the Lease with the Florida Fish and Wildlife Commission void in accordance with Paragraph 20 of the Lease; based on the Commission's failure to commence construction of the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center at Bruce Beach within the three (3) years of execution of the Lease on May 12, 2014 and urge the Florida Fish and Wildlife Commission to work with the City to find a more appropriate location.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On May 12, 2014, the Florida Fish and Wildlife Conservation Commission entered into a lease with the City of Pensacola for the lease of 44.45 acres of prime commercial real estate, valued by the Escambia County Property Appraiser for tax purpose to be \$6,959,474 million dollars, located on waterfront property known as Bruce Beach.

By the terms of the agreement, Section 20 Performance Schedule, the Commission is required to "commence construction" of the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center within three years of the signing of the lease. The Commission has failed to provide any documents that evidence it has begun commencement of construction within the meaning of the law, or establish standards within the construction industry. The sponsor of this recommendation has written a number of e-mails to Eric Olson, the City Administrator and Gil McRae asking for all documents that evidence the event that gives rise to their assertion that the Commission has "commenced construction" as that term is used in the construction industry. Those facts have not been forthcoming. The Commission expressly agreed in Section 20 of the lease, that should it fail to "commence construction" within the first 3 years of signing the lease, that "the Commission hereby expressly agrees to immediately forfeit all property interests and any rights under this Lease and occupation of the Premises, and the Lease shall be void." (Emphasis added).

**PRIOR ACTION:**

May 12, 2014 - Execution of Lease between the City of Pensacola and Florida Fish and Wildlife Commission

May 8, 2014 - City Council authorized the Mayor to negotiate with and enter into a Lease agreement with the Florida Fish and Wildlife Commission for the building of a Hatchery at Bruce Beach

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

To be determined

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) Fish Hatchery Lease
- 2) Property Appraiser Sheet
- 3) Joint Press Release
- 4) Gil McRae email reply re Hatchery Lease - Myers
- 5) Public Records Request re Hatchery - Myers
- 6) Public Records Request II - No Response- Myers

**PRESENTATION:** No

## LEASE AGREEMENT

THIS LEASE AGREEMENT ("Lease") is made on May 12, 2014, by and between THE CITY OF PENSACOLA, FLORIDA ("City"), with a mailing address of 222 West Main Street, Pensacola, Florida 32502 and FISH AND WILDLIFE CONSERVATION COMMISSION ("Commission"), with a mailing address of 620 South Meridian Street, Tallahassee, Florida 32399.

WHEREAS, City agrees to lease to Commission the property detailed in Attachment A ("Premises") for the purposes of building and maintaining the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center ("Center"), as further described in Section 12.19 and Section 12.20 of the Deepwater Horizon Oil Spill Natural Resource Damage Assessment Draft Programmatic and Phase III Early Restoration Plan and Draft Early Restoration Programmatic Environmental Impact Statement dated December, 2013 ("Draft Phase III ERP/PEIS") attached hereto as Attachment B and incorporated herein by this reference, for the propagation of marine organisms, public education and outreach respecting natural marine resources, and a marine research component to include the Commission partnering in research with governmental, university or non-profit entities for the purpose of maintaining the project as an on-going concern.

NOW THEREFORE, for and in consideration of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the parties, and the mutual covenants and obligations set forth in this Lease, City and Commission do hereby agree as follows:

Section 1. Recitals. The recitals above are true and correct, are material inducements to entering into this Lease Agreement, and are hereby made a part of this Lease.

Section 2. Leased Premises. City leases to Commission, and Commission leases from City, the Premises consisting of approximately 44.45 acres, legally described as LTS 14 TO 22 DONL NO BLK 44 DONELSON AND 19 ARPENT AND ALL BLKS 61 TO 69 86 87 108 109 127 131 248 WATERFRONT OR 829 P 382 CONSERVATION EASEMENT OR 6417 P 1666 SEC 43/44 T 2S R 30 CA 98, Escambia County Property Appraiser Parcel Identification Number 000S009070014044, as aerially depicted on Attachment A hereto.

Section 3. Development of the Leased Premises. In deciding to enter the Lease, the City has materially relied on the proposed Center and the public waterfront access and public recreation facilities as described in the Draft Phase III ERP/PEIS attached hereto as Attachment B. The Commission shall use the Premises for the sole purpose of creation and operation of the Center and the creation and operation of the public waterfront access, public education and outreach respecting marine resources, marine research component, and public recreation facilities as contemplated in the Draft Phase III ERP/PEIS. Any improvements on the Premises shall be subject to the development plan review and approval procedures specified for the Waterfront Redevelopment District in the City's land development code. Title to the improvements shall vest with the City upon termination or expiration of the lease. Prior to commencing construction

of any improvements on the Premises, the Commission shall submit to the City for the City's review and prior approval the design of the Center, and the public waterfront access, public education and outreach respecting marine resources, marine research component, and public recreation facilities. The Commission shall not construct any additional improvements or alterations or alter or add to any exterior improvements without prior written consent of City.

Section 4. "As-Is" Condition. The Premises are being leased by City to Commission "as is" and City is not obligated whatsoever with regard to development of the Premises, nor development, construction, operation, maintenance or other activities associated with the Center, the public waterfront access, public education and outreach respecting marine resources, marine research component, or the public recreation facilities. Commission shall make any changes and improvements on the Premises, with prior City review pursuant to this Lease, as is necessary for the creation and operation of the Center, and the additional public waterfront access, public education and outreach respecting marine resources, marine research component, and public recreation facilities on the Premises, including but not limited to removal of debris, contouring of the site to facilitate construction of buildings, ponds, and man-made wetlands, and delineation of protected plant communities on site to ensure their protection during construction. Neither the City, nor the City's officers, employees or agents have made any representations or promises whatsoever with respect to the Premises or services to be provided by the City in connection with their use.

Section 5. Term. The term of this Lease ("Term") shall begin on the full execution of this Lease and shall expire thirty (30) years later, unless terminated sooner pursuant to the provisions of this Lease.

Section 6. Rent. During the Term, Commission shall pay to City annual rent in the amount of Fifty Dollars (\$50.00) per year (the "Rent"). The Commission is solely responsible for full and prompt payment of the Rent.

Section 7. Project Costs and Operating Expenses. The Commission shall be responsible for all expenses relating to the development, construction, operation, maintenance, insurance, repair, replacement, and upkeep of the Premises, including any improvements on the Premises, and including, but not limited to such unexpected expenses as cost overruns or remediation, for the full term of Lease.

Section 8. Quiet Enjoyment and Right of Use. Commission shall have the right of ingress and egress to, from and upon the Premises for all purposes necessary to the full quiet enjoyment by Commission of the rights conveyed herein. It is the intent of the Commission to create opportunities for public use of and access to the Premises in partnership with the City, and in furtherance of such the City reserves the right to enter into separate agreements with the Commission to provide waterfront recreational facilities, public education and outreach respecting marine resources, the marine research component, and public access compatible with the Center and permitted use of this Agreement. Parking and traffic management activities will be coordinated with the City, upon mutual agreement of the parties, to ensure appropriate access while minimizing potential negative impacts on the community.

Section 9. Memorandum of Understanding. Additional details regarding the operation of the Center will be addressed in a subsequent memorandum of understanding between the Commission and the City, to be completed prior to operations commencing on the Premises ("Memorandum of Understanding").

Section 10. Unauthorized Use. Commission shall, through its agents and employees, prevent the unauthorized use of the Premises or any use thereof not in conformance with this Lease. Authorized use includes activities related to the creation and operation of the Center, the public waterfront access and public recreation facilities, and associated ponds and wetlands, for the propagation of marine organisms, public education and outreach respecting natural marine resources, and a marine research component to include the Commission partnering in research with governmental, university or non-profit entities for the purpose of maintaining the project as an on-going concern.

Section 11. Right of Inspection. City or its duly authorized agents shall have the right, upon reasonable notice, to inspect the Premises and the works and operations thereon of Commission in any matter pertaining to this Lease.

Section 12. Surrender of Premises. Upon termination or expiration of this Lease, Commission shall surrender the Premises to City. In the event no further use of the Premises or any part thereof is needed by the Commission, the Commission shall notify the City in writing of the Commission's request to release all or any part of the Premises. Such written request shall be made to the City of Pensacola, City Administrator, P.O. Box 12910, Pensacola, Florida 32521, at least six (6) months prior to the release of all or any part of the Premises. Release shall only be valid through execution of a release of lease instrument in the same formality as this Lease. Execution of the release shall be in the mutual discretion of the parties. Upon release of all or any part of the Premises or upon termination or expiration of this Lease, all fixed improvements, including both physical structures and modifications of the Premises, shall become the property of City, unless the City, in the City's sole discretion, determines that best use for the Premises would include removal of the fixed improvements and in such case the Commission shall remove the fixed improvements at the Commission's sole cost and expense within six (6) months. Unless otherwise agreed to by the Commission and the City, removable equipment and removable improvements placed on Premises by Commission, which do not become a permanent part of the Premises will remain the property of Commission to be removed by Commission at the Commission's sole expense upon termination of this Lease, unless the City, in the City's sole discretion, determines that the best use for the Premises would include continuing similar operations that necessitate use of the removable equipment and removable improvements and in such case the Commission shall forfeit the removable equipment and removable improvements to the City at no cost and such shall be deemed as owned by the City.

Section 13. No Assignment. Commission shall not assign or otherwise transfer any of the rights or obligations under this Lease, assign or otherwise transfer any interest in or to the Premises or any improvement located thereon, without prior written consent of the City.

Section 14. Subletting. Commission shall not sublease any interest in or to the Premises or any improvement located thereon to any third party without the prior written consent of the City, which consent shall not be unreasonably withheld. No sublease will release the Commission

from any of Commission's obligations or responsibilities under this Lease.

Section 15. Net Lease. Notwithstanding anything contained herein to the contrary, the parties agree that this Lease shall be construed as a "net lease" whereby the Commission shall be solely responsible for any expense or cost relating to the Premises, this Lease, or the Commission's use of the Premises during the Term of this Lease, including, without limitation: insurance; utilities; repairs, replacement and maintenance; and security requirements.

Section 16. Utilities. The Commission shall be responsible for procuring all utility services including, but not limited to, water service, sewer service, electrical service, gas service, janitorial service, trash removal service, data communication service and telephone service. The Commission shall be responsible for procuring all utility services necessary for Commission's operation on the Premises and shall be responsible for promptly paying those persons or entities furnishing or providing the services. Construction, installation and maintenance of any improvements to utility infrastructure required to support the Commission's operations shall be at the sole cost and expense of the Commission.

Section 17. Environmental Laws. Commission shall comply with all federal, state, municipal and county laws, statutes, ordinances, codes, administrative orders, rules and regulations and permits relating to environmental matters, storm water, and other pollution control applicable to the construction, occupancy, use and operation of the Premises ("Environmental Laws").

Section 18. Events of Default. Any of the following events shall constitute an "Event of Default" of this Lease by the Commission:

- (i) If the Commission fails to observe, keep or perform any of the other terms, covenants, agreements or conditions of this Lease for a period of ten (10) business days after receipt of written notice from City; or
- (ii) If any act occurs which deprives the Commission permanently of the rights, powers and privileges necessary for the proper conduct and operation of the Center, the public waterfront access, public education and outreach respecting marine resources, marine research component, or public recreation; or
- (iii) If at any time the Commission abandons and ceases to use the Premises for a period of ninety (90) consecutive days, except when such abandonment and cessation is due to *force majeure*; or
- (iv) If at any time the Commission uses or permits the Premises to be used for any purpose which has not been authorized by this Lease; or
- (v) If the Commission uses or permits the use of the Premises in violation of any law, rule or regulation; or
- (vi) If the Commission's interest under this Lease is being modified or altered by any assignment or unauthorized subletting or by operation of law; or
- (vii) Commission's failure to take occupancy of the Premises when same is tendered by City to Commission.

Section 19. Remedies Upon Default. Upon the happening and/or during the continuance of any Event of Default specified above, the City will provide written notice to the Commission identifying the specific Event of Default ("Notice of Default Event"). The Commission shall

have thirty (30) days following receipt of such written notice to correct the Event of Default. If said Default remains and/or is not corrected within this time period, the City may then, at its sole and absolute discretion, avail itself of any remedy provided by law and/or equity, including without limitation, any one or more of the following remedies:

(i) Without initially terminating this Lease, City may reenter and take possession of the Premises, and the Commission shall continue to timely make such payments as required under this Lease. The City may thereafter enter into a sale or new lease of the Premises with any party, or operate the same on its own behalf. Immediately prior to commencement of the City's operation of the Premises or the effective date of the new lease, as applicable, the City shall notify the Commission of such event;

(ii) The City may immediately terminate this Lease and enter the Premises and exclude the Commission from possession of the Premises, declare all rents, fees, taxes and other charges and amounts which are then due and payable and costs of the City to prepare the Premises for reletting or sale to be immediately due and payable; and

(iii) The City may take whatever other action at law or in equity that City considers to be necessary or desirable in order to enforce performance and observance of any obligation, agreement or covenant of the Commission under this Lease, or may exercise all rights and remedies that are available under Florida and federal law. No method of entry authorized herein and made by the City shall cause or constitute a default of this Lease or be deemed to constitute an interference with the possession or use of the Premises by the Tenant if made in accordance with the terms of this Lease and applicable law.

Section 20. Performance Schedule. Time is of the essence of this Lease, and in case the Commission shall fail to perform the covenants on its part to be performed at the time fixed for the performance of such respective covenants by the provisions of this Lease, City may declare Tenant to be in default of such Lease and immediately terminate the Lease. Barring any unforeseen delays due to site conditions or Force Majeure as defined in Section 36 below, Commission shall commence construction of the Center, the public waterfront access and public recreation facilities no later than three (3) years following the execution date of this Lease. Should Commission fail to commence construction, or become reasonably aware of the inability to commence construction, on or before three (3) years of the execution date of this Lease, the Commission hereby expressly agrees to immediately forfeit all property interests and any rights under this Lease and occupation of the Premises, and the Lease shall be void. Commission shall complete construction of the Center, the public waterfront access and public recreation facilities no later than three (3) years of the date of commencement of construction. Should Commission fail to complete construction, or become reasonably aware of the inability to complete construction, on or before three (3) years of the date of commencement of construction, the Commission hereby expressly agrees to immediately forfeit all property interests and any rights under this Lease and occupation of the Premises, and the Lease shall be void.

Section 21. Notices. Notices by City and Commission shall be given to each other at the following addresses:

City:

City Administrator  
P.O. Box 12910  
Pensacola, Florida 32521

Commission:

Fish And Wildlife Conservation Commission  
100 Eighth Avenue SE  
St. Petersburg, Florida 33701-5020  
Attn: Gil McRae, Director, Florida Fish and Wildlife Research Institute

Section 22. Compliance with Laws. Commission agrees that this Lease is contingent upon and subject to Commission obtaining all applicable permits and complying with all applicable local, State or Federal permits, regulations, ordinances, rules and laws.

Section 23. Governing Law. This Lease shall be governed by an interpreted according to the laws of the State of Florida.

Section 24. No Waiver of Breach. The failure of either party to insist in any one or more instances upon strict performance of anyone or more of the covenants, terms and conditions of this Lease shall not be construed as a waiver of such covenants, terms, and conditions, but the same shall continue in full force and effect, and no waiver of either party of any one of the provisions hereof shall in any event be deemed to have been made unless the waiver is set forth in writing, signed by the waiving party.

Section 25. Authority. Each person executing this Lease on behalf of City and Commission, respectively, warrants and represents that the entity for whom he or she is acting has duly authorized the transactions contemplated herein and the executing this Lease by him or her, and that upon its execution, this Lease shall constitute a valid and binding obligation of the party on whose behalf it is so executed.

Section 26. Insurance. The State of Florida is self-insured for general liability and property insurance.

**HOLD HARMLESS.** 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 City of Pensacola, as a local governmental body of the State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortious acts which result in claims or suits against the Commission and agrees to be fully liable for any damages proximately caused by said acts or omissions. The Commission, as a subdivision of the State of Florida as defined in §768.28, Florida Statutes, agrees to be fully responsible for its negligent acts or omissions or tortious acts which result in claims or suits against the City and agrees to be fully liable for any damages caused by said acts or omissions. Nothing herein is intended to serve as a waiver of sovereign immunity by the City or the Commission and nothing herein shall be construed as consent by the City or the Commission to be sued by third parties in any matter arising out of this Lease.

Section 27. Damages. In the event the Premises are damaged or destroyed due to fire, flood, hurricane, force majeure event or other disaster, casualty or cause whether or not due to the fault of Commission, its officers, employees, contractors, agents, or invitees, Commission shall be responsible for all necessary repairs or reconstruction and shall undertake all such repairs or reconstruction as expediently as practical.

Repair, reconstruction or replacement of any and all improvements installed, constructed or placed by or for the benefit of Commission shall be the responsibility of the Commission. Additionally, the City shall have no liability or responsibility for any damage to or loss of any gear, equipment, supplies, materials or other product owned by Commission or being stored at any facility assigned for the use and benefit of the Commission on behalf of a customer, client or invitee of the Commission.

In the event that the Premises should be totally destroyed by fire, hurricane or other casualty, or in the event the Premises should be so damaged that rebuilding or repairs cannot be completed within one hundred eighty (180) days after the date of such damage, either City or Commission may, at its option, by written notice to the other given not more than thirty (30) days after the date of such fire or other casualty, terminate this Lease.

Section 28. No Partnership. The parties hereto agree that the Commission not subject to the direction or control of the City. This Lease shall not be construed so as to establish a joint venture or partnership between the parties hereto.

Section 29. No Individual Liability. No City official, officer, agent, director, employee or representative shall be held contractually or personally liable under this Lease because of any breach of the Lease or operation of the Lease.

Section 30. Permits and Licenses. The Commission shall be responsible for obtaining all local, state and federal permits, approvals, and/or licenses as may be necessary for it to operate the Premises according to the terms of this Lease. The Commission shall maintain, in accordance with applicable law, permits, approvals and licenses it has obtained throughout the Term and shall submit copies to the City if requested to do so at no cost to the City.

Section 31. Compliance with Government. The Commission shall comply with and shall cause its officers, employees, agents, invitees, guests, contractors and any other persons over whom it has control (including, but not limited to all persons invited or welcomed by the Commission for any purpose) to comply with all applicable municipal, state and federal laws, ordinances, and rules and regulations.

Section 32. No Third Party Beneficiaries. Nothing in this Lease, express or implied, is intended to confer upon any other person any rights or remedies of any nature whatsoever under or by reason of this Lease.

Section 33. Entire Agreement. The parties hereto understand and agree that this Lease contains the entire agreement and understanding between the parties for the use of the Premises by the Commission. The parties understand and agree that neither party nor its agents have made any representations or promises with respect to this Lease except as expressly set forth herein;

and that no claim or liability shall arise for any representations or promises not expressly stated in this Lease. Any other written or oral agreement regarding the Premises is expressly nullified upon the execution of this Lease unless otherwise specifically provided herein.

Section 34. Amendments. This Lease may not be altered, changed or amended, except by written instrument signed by both parties hereto in the same formality as the execution of this Lease. No provision of this Lease shall be deemed to have been waived by City, unless such waiver be in writing signed by City and addressed to Commission, nor shall any custom or practice which may grow up between the parties in the administration of the provisions hereof be construed to waive or lessen the right of City to insist upon the performance by Commission in strict accordance with the terms hereof. The terms, provisions, covenants, and conditions contained in this Lease shall apply to, inure to the benefit of, and be binding upon the parties hereto, and upon their respective successors in interest and legal representatives, except as otherwise expressly provided herein.

Section 35. Counterparts. This Lease may be signed in any number of counterparts, each of which shall be deemed an original so long as it bears the signature of the authorized representatives of each party.

Section 36. Force Majeure. Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control, or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available.

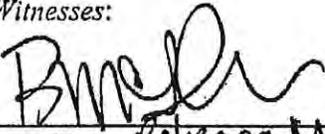
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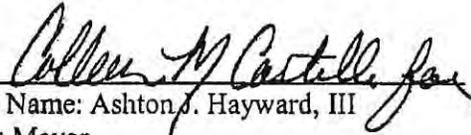
IN WITNESS WHEREOF, the parties hereto have hereunto set their hands and seals, the day and year first above written.

CITY:

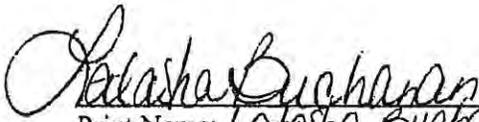
THE CITY OF PENSACOLA

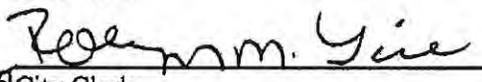
Witnesses:

  
Print Name: Rebecca Madigan

By:   
Print Name: Ashton J. Hayward, III  
Title: Mayor

ATTEST:

  
Print Name: Latasha Buchanan

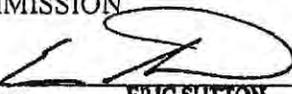
  
City Clerk

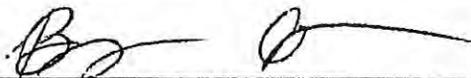
COMMISSION:

FISH AND WILDLIFE CONSERVATION  
COMMISSION

Witnesses:

  
Print Name: Holly Kinsler

By:   
Print Name: ERIC SUTTON  
Title: ASSISTANT EXECUTIVE DIRECTOR

  
Print Name: Becky Owens

ATTEST:





APPROVED AS TO FORM  
AND LEGAL SUFFICIENCY  
  
Commission Attorney

ATTACHMENT A

PREMISES

ATTACHMENT B

Draft Phase III ERP/PEIS



Chris Jones  
Escambia County Property Appraiser

- Real Estate Search
- Tangible Property Search
- Sale List
- Amendment 1/Portability Calculations

[Back](#)

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  Account 
  Reference 
 Printer Friendly Version

<p><b>General Information</b></p> <p><b>Reference:</b> 000S009070014044  <b>Account:</b> 152190000  <b>Owners:</b> PENSACOLA CITY OF  <b>Mail:</b> PO BOX 12910                  PENSACOLA, FL 32521</p> <p><b>Situs:</b></p> <p><b>Use Code:</b> VACANT COMMERCIAL </p> <p><b>Taxing Authority:</b> PENSACOLA CITY LIMITS</p> <p><b>Tax Inquiry:</b> <a href="#">Open Tax Inquiry Window</a>                  Tax Inquiry link courtesy of Janet Holley                  Escambia County Tax Collector</p>	<p><b>2013 Certified Roll Assessment</b></p> <table style="width: 100%; border-collapse: collapse;"> <tr> <td><b>Improvements:</b></td> <td style="text-align: right;">\$0</td> </tr> <tr> <td><b>Land:</b></td> <td style="text-align: right;">\$6,959,474</td> </tr> <tr> <td><b>Total:</b></td> <td style="text-align: right;">\$6,959,474</td> </tr> <tr> <td><b>Save Our Homes:</b></td> <td style="text-align: right;">\$0</td> </tr> </table> <p style="text-align: center;"><a href="#">Disclaimer</a></p> <hr/> <p style="text-align: center;"><a href="#">Amendment 1/Portability Calculations</a></p>	<b>Improvements:</b>	\$0	<b>Land:</b>	\$6,959,474	<b>Total:</b>	\$6,959,474	<b>Save Our Homes:</b>	\$0
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<b>Total:</b>	\$6,959,474								
<b>Save Our Homes:</b>	\$0								

<p><b>Sales Data</b></p> <table style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th>Sale Date</th> <th>Book</th> <th>Page</th> <th>Value</th> <th>Type</th> <th>Official Records (New Window)</th> </tr> </thead> <tbody> <tr> <td>12/15/2008</td> <td>6417</td> <td>1666</td> <td>\$100</td> <td>QC</td> <td><a href="#">View Instr</a></td> </tr> <tr> <td>01/1974</td> <td>829</td> <td>382</td> <td>\$15,000</td> <td>WD</td> <td><a href="#">View Instr</a></td> </tr> </tbody> </table> <p>Official Records Inquiry courtesy of Pam Childers                  Escambia County Clerk of the Circuit Court and Comptroller</p>	Sale Date	Book	Page	Value	Type	Official Records (New Window)	12/15/2008	6417	1666	\$100	QC	<a href="#">View Instr</a>	01/1974	829	382	\$15,000	WD	<a href="#">View Instr</a>	<p><b>2013 Certified Roll Exemptions</b></p> <p>MUNICIPAL OWNED</p> <p><b>Legal Description</b> </p> <p>LTS 14 TO 22 DONL NO BLK 44 DONELSON AND 19 ARPERT AND ALL BLKS 61 TO 69 86 87 108 109 127 131 248 WATERFRONT...</p> <p><b>Extra Features</b></p> <p>None</p>
Sale Date	Book	Page	Value	Type	Official Records (New Window)														
12/15/2008	6417	1666	\$100	QC	<a href="#">View Instr</a>														
01/1974	829	382	\$15,000	WD	<a href="#">View Instr</a>														

**Parcel Information**

**Section Map Id:** CA098

**Approx. Acreage:** 44.5500

**Zoned:**   
M-1  
WRD

**Evacuation & Flood Information**  
[Open Report](#)

[Launch Interactive Map](#)

**Buildings**

Images  
None

The primary use of the assessment data is for the preparation of the current year tax roll. No responsibility or liability is assumed for inaccuracies or errors.



**- Joint Statement -**

[WWW.CITYOFPENSACOLA.COM](http://WWW.CITYOFPENSACOLA.COM)

PUBLIC INFORMATION OFFICE

[@cityofpensacola](https://twitter.com/cityofpensacola)

**FOR IMMEDIATE RELEASE**

October 18, 2017

**MEDIA CONTACT:**

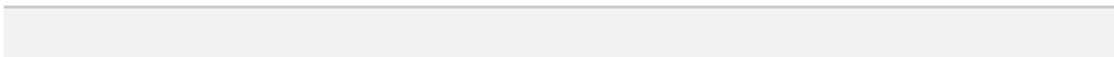
Vernon Stewart  
Public Information Officer  
City of Pensacola  
850 435 1623

Susan Smith  
Community Relations Director  
Florida Fish and Wildlife Conservation Commission  
850-528-1755

**Joint Statement from FWC and Office of the Mayor  
regarding Hatchery Project**

“The City of Pensacola and the Florida Fish and Wildlife Conservation Commission (FWC) agree that construction commenced as contemplated, that no violations of the lease have occurred and that the project is moving forward as planned. At the time the project was discussed, the parties were aware that the project required public meetings and other agency involvement. Thus the lease, as approved, balanced the risk of undue delay or stagnation with a negotiated provision for commencement of construction as agreed to by the parties to trigger a completion of construction deadline. The City has been apprised of FWC’s progress throughout, and the parties are in agreement that the completion of construction deadline is February 14, 2020. To not honor the lease would be a violation of the contract.”

**-City of Pensacola Mayor Ashton Hayward and FWC Executive Director Nick Wiley**





## Don Kraher

---

**From:** Sherri Myers  
**Sent:** Saturday, October 21, 2017 7:15 AM  
**To:** Joseph Baucum  
**Subject:** Fwd: Fish Hatchery lease

See below.

Sent from my iPhone

Begin forwarded message:

**From:** "McRae, Gil" <Gil.McRae@MyFWC.com>  
**Date:** October 21, 2017 at 6:49:47 AM CDT  
**To:** Sherri Myers <smyers@cityofpensacola.com>  
**Subject: Re: Fish Hatchery lease**

Ms. Myers, the joint statement recently released by the City of Pensacola and FWC identify the deadline for completion of construction as Feb. 14, 2020. Per the lease terms, this would coincide with a commencement of construction date of Feb. 14, 2017. DEP is managing the design/build of the facility and they are the custodians of the records associated with those activities. Mr. Pearce Barrett is the appropriate contact person for DEP.

---

**From:** Sherri Myers <smyers@cityofpensacola.com>  
**Sent:** Friday, October 20, 2017 6:50:55 PM  
**To:** McRae, Gil  
**Subject:** Fish Hatchery lease

Dear Mr. McRae, per paragraph 20 of the lease that was entered into between the City of Pensacola and the Florida Fish and Wildlife on May 12, 2014 for the establishment of a fish hatchery on Bruce Beach on Pensacola, Florida, the WFC has 3 years from the date of commencement of construction to complete the project. Please provide me with the "date of commencement of construction", and the documents that evidence the event establishing that date. You may consider this an open record request. Thank you in advance, Sherri Myers, Pensacola City Council, District 2.

**Don Kraher**

---

**From:** Sherri Myers <sfmada@aol.com>  
**Sent:** Tuesday, October 24, 2017 12:45 PM  
**To:** Don Kraher  
**Subject:** Fwd: Public Records Request :: W068774-101817

Sent from AOL Mobile Mail

-----Original Message-----

From: Florida Fish and Wildlife Conservation Commission <fwc@mycusthelp.net>  
To: sfmada <sfmada@aol.com>  
CC: Kelly.richmond <Kelly.richmond@myfwc.com>; hollie.weathersbee <hollie.weathersbee@myfwc.com>  
Sent: Tue, Oct 24, 2017 08:14 AM  
Subject: Public Records Request :: W068774-101817

--- Please respond above this line ---



10/24/2017

Ms. Sherri Myers  
526 Parker Dr.  
Pensacola FL 32504

**Agency Tracker# W068774-101817**

Good morning, Ms. Myers:

Your request of 10/18/2017 has been received in this office. In accordance with Chapter 119.07(1), Florida Statutes and Section 1.7, Internal Management Policies and Procedures of the Florida Fish and Wildlife Conservation Commission, we have reviewed your request.

The Florida Department of Environmental Protection is managing the design and construction of the hatchery. Please contact them for any responsive records.

If I can provide additional information or assistance, please let me know.

Sincerely,

Hollie Weathersbee  
Public Records Manager

cc: Kelly Richmond, Fish and Wildlife Research Institute

---

Visit [Ask FWC](#) to find answers fast, contact us and view your previous requests.

## Don Kraher

---

**From:** Sherri Myers <sfmada@aol.com>  
**Sent:** Monday, October 30, 2017 1:37 PM  
**To:** Don Kraher  
**Subject:** Open Record - please print off and attach to agenda item. There has been no response.

Request Type:Public Records Request Contact E-Mail:sfmada@aol.com Reference No:W002066-101917

Describe the record(s) you are requesting:1. All records of any kind, including all permits, site plans, surveys, or any other documents pertaining to the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center at Bruce Beach.  
2. All records that evidence the date of commencement of construction as required by paragraph 20 of the Lease Agreement between the City of Pensacola and Florida Fish and Wildlife Commission for the construction of the above project in paragraph 2. Type of Records Requested:Other*For better results, be specific. Include dates, names, email addresses, phone numbers, or other search terms for locating records. Rather than asking for all records over several years, consider starting with a limited request and then make follow-up requests. Examples: "I am requesting all phone records, documents, written correspondence and emails to/from [City Official] and [ABC, Inc.] for the period September 1, 2013 to December 31, 2013 regarding [subject]." "I would like to request copies of invoices paid to [XYZ Corporation] for the past 6 months". "I am requesting copies of any code violations for January 1, 2000 through June 30, 2000 for [xxxx address]."*

Certified Copies:

No \$1 surcharge for certified copies

Preferred Method to Receive Records:Pick-up CopiesPlease note not all public documents are available in electronic format. If the document(s) requested are not available electronically, we will make them available for inspection or by paper copy in accordance with the Public Records Law.

---



To: Mayor Ashton J. Hayward, III  
Council President Spencer and Members of City Council

From: Lysia H. Bowling, City Attorney *LHB*

Date: November 6, 2017

Re: Notice of Lawsuit Filed and Legal Advice Relating to November 6, 2017 Legislative Action Item nos. (17-00595, 17-00613, 17-00614, 17-00615 and 17-00616)

The City of Pensacola has been served today, November 6, 2017, at 11:57 a.m. with the attached lawsuit which was filed in Circuit Court on November 3, 2017, styled *Daniel D. Lindemann and Gerald W. Holzworth v. The City of Pensacola, the City of Pensacola Community Redevelopment Agency and the Florida Fish and Wildlife Conservation Commission*.

In light of this lawsuit, I recommend that November 6, 2017 Legislative Action Item nos. 17-00595, 17-00613, 17-00614, 17-00615 and 17-00616 be pulled from the agenda and no discussion take place regarding these items.

Please be reminded of provisions in the City's Public Officials Insurance Policy that are applicable to this lawsuit:

The City's Public Officials Insurance Policy identifies the "Insured" as (1) the City of Pensacola; (2) all past, present or future duly elected, appointed or employed officials; (3) employees and (4) all persons providing services to the insured under a mutual aid or similar agreement with specific qualifiers. Should a claim arise, the provisions of the policy relating to the defense and settlement of claims provides, among other things, that the Insured does not admit liability for a claim without the Insurer's written consent. Additionally, the policy provides that the **Insured will do nothing that may prejudice the Insurer's position** or potential or actual rights of recovery.

Should a breach of the aforementioned provisions occur, this could result in the Insurer declining coverage, which would put the City of Pensacola taxpayers at risk for any claims that may arise. Therefore, knowledge of the provisions of the policy should be taken into consideration before any assertions or statements are made by the Insured as it relates to the lawsuit.

It would be best to maintain the past practice of not publicly discussing matters of litigation.

Should you have any questions concerning this matter, please feel free to contact me.

cc: Eric W. Olson, City Administrator  
Don Kraher, Council Executive

Attachment: Lawsuit filed November 3, 2017

See 586  
11/6/17 11:57 +

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

DANIEL D LINDEMANN ,et al.

PLAINTIFF,

Vs.

CASE NO: 2017 CA 001704

DIVISION: K

THE CITY OF PENSACOLA ,et al.

DEFENDANT,

SUMMONS

THE STATE OF FLORIDA:

To Each Sheriff of the State:

**YOU ARE COMMANDED** to serve this summons and a copy of the complaint in the above styled cause upon the defendant **THE CITY OF PENSACOLA 222 W MAIN STREET PENSACOLA, FL 32502**

Each defendant is hereby required to serve written defenses to said complaint on plaintiff's attorney(s), whose address is

**ROBERT A EMMANUEL  
EMMANUEL SHEPPARD & CONDON  
30 S SPRING ST  
PENSACOLA, FL 32501**

within **20 days** after service of this summons upon you, exclusive of the day of service, and to file the original of said written defenses with the Clerk of said Court either before service on said attorney or immediately thereafter. If you fail to do so, a default will be entered against you for the relief demanded in the complaint.

Witness, my hand and the seal of this Court on this **6th day of November, 2017**

PAM CHILDERS

CLERK OF THE CIRCUIT COURT

By: *Bob Sheps*

Deputy Clerk



\* Except when suit is brought pursuant to Section 768.28, Florida Statutes, if the State of Florida, one of its agencies, or one of its officials or employees sued in his or her official capacity is a defendant, the time to be inserted as to it is 40 days. When suit is brought pursuant to Section 768.28, Florida Statutes, the time to be inserted is 30 days.

**IN THE CIRCUIT COURT FOR THE FIRST JUDICIAL CIRCUIT IN AND FOR  
ESCAMBIA COUNTY, FLORIDA**

DANIEL D. LINDEMANN and  
GERALD W. HOLZWORTH

Plaintiffs,

v.

Case No. 2017 CA 001704  
Division: K

THE CITY OF PENSACOLA,  
THE CITY OF PENSACOLA COMMUNITY  
REDEVELOPMENT AGENCY, and  
THE FLORIDA FISH AND WILDLIFE  
CONSERVATION COMMISSION

Defendants.

\_\_\_\_\_ /

**COMPLAINT FOR DECLARATORY RELIEF**

COMES NOW, Plaintiffs, DANIEL D. LINDEMANN ("Lindemann") and  
GERALD W. HOLZWORTH ("Holzworth", and collectively with Lindemann  
"Plaintiffs") and in support of this Complaint for Declaratory Relief state as follows:

**Background Facts**

1. Plaintiffs seek declaratory relief that is within the jurisdiction of the Court pursuant to Chapter 86, Florida Statutes, or pursuant to other law.
2. Lindemann is a resident of Escambia County, Florida.
3. Lindemann is an owner of certain real property in Escambia County, Florida commonly known as 24 N. Palafox Street, Pensacola, Florida ("Lindemann Property").
4. Holzworth is a resident of Escambia County, Florida.

5. Holzworth is an owner of certain real property in Escambia County, Florida commonly known as 729 W. Zarragossa Street, Pensacola, Florida ("Holzworth Property").

6. Defendant, The City of Pensacola ("City") is a Florida municipal corporation within Escambia County, Florida.

7. Defendant, The City of Pensacola Community Redevelopment Agency, is a Florida body corporate and politic within Escambia County, Florida.

8. Defendant, The Florida Fish and Wildlife Conservation Commission ("Commission") is an agency of the State of Florida with its principal office in Leon County, Florida.

9. Venue is proper in Escambia County, Florida.

10. The City acquired title to certain real estate located in Pensacola, Florida, consisting of approximately 44 acres immediately south of Main Street and east of Clubbs Street, by virtue of those certain conveyances recorded on January 17, 1945 in Deed Book 195, Page 595 and on August 21, 1974 in Book 829, Page 382, respectively, of the Official Records of Escambia County, Florida. Such real estate is commonly known and hereinafter referred to as "Bruce Beach."

11. In or about 1980, the City designated certain areas of downtown Pensacola as a "blighted area" under Chapter 163, Part III Florida Statutes, and simultaneously identified such areas as the Pensacola Inner City Community Redevelopment Area (as such area has been amended from time to time, the "Redevelopment Area").

12. Bruce Beach is located within the Redevelopment Area.

13. The Lindemann Property is located within the Redevelopment Area.

14. The Holzworth Property is located within the Redevelopment Area.

15. In or about 1980, the City created and declared the Pensacola City Council to be the City of Pensacola Community Redevelopment Agency (hereinafter, the "CRA"), subject to all rights, powers, duties, privileges immunities, responsibilities and liabilities vested in and imposed upon a community redevelopment agency under Chapter 163, Part III Florida Statutes.

16. Despite its common membership, the CRA exists as a separate, distinct and independent legal entity from the Pensacola City Council.

17. The City dedicated and assigned Bruce Beach to the CRA in or about 1980 by virtue of Pensacola City Council Resolutions 36-80 and 55-80, for the purpose of promoting, planning, packaging and accomplishing Bruce Beach's redevelopment. Such dedication and assignment has not since been rescinded or modified and remains in full force and effect.

18. The City, as landlord, and the Commission, as tenant, purported to enter into that certain Lease Agreement for Bruce Beach dated May 12, 2014 (the "Lease"), whereby the Commission agreed to construct and maintain the Florida Gulf Coast Marine Fisheries Hatchery/Enhancement Center ("Hatchery"). A true and accurate copy of the purported Lease is attached hereto as Exhibit A and incorporated herein by reference.

19. The Pensacola City Council approved the purported Lease on behalf of the City at or about the May 8, 2014 Pensacola City Council meeting.

20. The purported Lease was not signed by the mayor of the City as called for by its terms, but rather by the City Administrator, Colleen Castell, whose authority to sign on behalf of the mayor and bind the City is uncertain.

21. The CRA neither approved nor signed the purported Lease.
22. On information and belief, the public notice and invitation for proposals required by Section 163.380(3) Florida Statute were not provided prior to the City's attempted execution of the purported Lease.
23. The purported Lease is for a 30 year term with an annual rent payment due to the City of \$50.
24. As of the date of the purported Lease, the assessed value of Bruce Beach in Escambia County was \$6,959,217.
25. On information and belief, no public hearing was conducted regarding the disparity between the value of Bruce Beach relative to the rental payment called for under the purported Lease, as required under Section 163.380(2) Florida Statutes.
26. Section 20 of the purported Lease relevantly provides as follows:

. . . Commission shall commence construction on the [Hatchery], the public waterfront access and public recreation facilities no later than three (3) years following the execution date of this Lease. **Should Commission fail to commence construction, or become reasonably aware of the inability to commence construction, on or before three (3) years of the execution date of this Lease, the Commission hereby expressly agrees to immediately forfeit all property interests and any rights under this Lease and occupation of the Premises and the Lease shall be void (emphasis added).**
27. May 12, 2017 was the Commission's construction commencement deadline under the terms of the purported Lease.
28. Construction at Bruce Beach has not commenced.
29. To the contrary, bids for work construction work on the Hatchery are not due until on or about December 12, 2017.

**Count I – Declaration that the purported Lease is void *ab initio***

30. Paragraphs 1-29 are hereby realleged and incorporated herein by reference.

31. The CRA is a necessary party to effectively dispose of all or any portion of Bruce Beach.

32. The CRA neither approved nor signed the purported Lease.

33. The City, by the purported Lease, attempted to dispose of Bruce Beach for less than its fair value; however, no duly noticed public hearing regarding the forgoing was held prior to the City's attempted execution of the purported Lease, as required by Section 163.380(2) Florida Statutes.

34. The public notice and invitation for proposals required by Section 163.380(3) Florida Statute were not given prior to the City's attempted execution of the purported Lease.

35. Because of the forgoing critical deficiencies, the purported Lease was void from its inception.

WHEREFORE, Plaintiffs respectfully request the Court enter its judgment declaring the purported Lease to be void, *ab initio*, and granting Plaintiffs all further relief just and proper in the premises.

**Count II – Declaration that the Lease is void by its terms**

36. Paragraphs 1-29 are hereby realleged and incorporated herein by reference.

37. The Commission failed to commence construction as required under the terms of the Lease.

38. As a result of such failure, under the express terms of Section 20 of the Lease, referenced above, the Lease became void as of May 12, 2017.

WHEREFORE, Plaintiffs respectfully request the Court enter its judgment declaring the Lease to be void by its terms, ordering the Commission to immediately forfeit all property interests and any rights under the Lease and occupation of Bruce Beach, and granting Plaintiffs all further relief just and proper in the premises.

Respectfully submitted,

/s/ Robert A. Emmanuel  
Robert A. Emmanuel  
Fla. Bar. No. 283797  
Adam C. Cobb  
Florida Bar No. 0124642  
Emmanuel, Sheppard and Condon  
30 South Spring Street  
Pensacola, FL 32502  
Phone: 850-433-6581  
Fax: 850-434-7163  
rae@esclaw.com, acobb@esclaw.com  
*Attorneys for Plaintiffs*



**ALLIED WORLD SURPLUS LINES INSURANCE COMPANY**  
(A member company of Allied World Assurance Company Holdings Ltd.)  
1690 New Britain Avenue, Farmington, CT 06032 • Tel. (860) 284-1300 • Fax (860) 284-1301

**PUBLIC OFFICIALS LIABILITY AND  
EMPLOYMENT PRACTICES LIABILITY INSURANCE POLICY**

POLICY NUMBER: 0202-4073

RENEWAL OF: 0202-4073

**NOTICES**

SUBJECT TO ITS TERMS, THIS POLICY PROVIDES COVERAGE FOR CLAIMS FIRST MADE DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD. DEFENSE EXPENSES ARE PAID IN ADDITION TO THE LIMITS OF LIABILITY; EXCEPT THAT FOR SPECIFIC CLAIMS UNDER INSURING AGREEMENT IA(2), THE APPLICABLE LIMITS OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES.

*PLEASE READ THE ENTIRE POLICY CAREFULLY AND DISCUSS THE COVERAGE HEREUNDER WITH YOUR INSURANCE BROKER.*

**DECLARATIONS**

**ITEM 1. NAMED INSURED:**  
City of Pensacola

**ADDRESS:**  
P.O. Box 12810  
Pensacola, FL 32521

**ITEM 2. POLICY PERIOD:** Inception Date: 12/15/2016 Expiration Date: 12/15/2017  
(12:01 a.m. Standard Time at the address stated in Item 1)

**ITEM 3. LIMITS OF LIABILITY**

- (A) **PUBLIC OFFICIALS LIABILITY**  
\$2,000,000 Insurer's maximum Limit of Liability for all Loss from each Claim under INSURING AGREEMENT IA(1);
- (B) **NON-MONETARY COVERAGE – DEFENSE ONLY**
  - (1) \$50,000 Insurer's maximum Limit of Liability for all Defense Expenses from each Claim under INSURING AGREEMENT IA(2);
  - (2) \$100,000 Insurer's maximum Limit of Liability for all Defense Expenses from all Claims under INSURING AGREEMENT IA(2);

- (C) **EMPLOYMENT PRACTICES LIABILITY AND THIRD PARTY LIABILITY**  
 \$2,000,000 Insurer's maximum Limit of Liability for all Loss from each Claim under INSURING AGREEMENT I.B.
- (D) **POLICY AGGREGATE LIMIT OF LIABILITY**  
 \$2,000,000 Insurer's aggregate Limit of Liability for all Loss from all Claims under INSURING AGREEMENTS I.A.(1) and INSURING AGREEMENT I.B. and for all Defense Expenses from all Claims under INSURING AGREEMENT I.A.(2).
- (E) **PUBLIC OFFICIALS CRISIS MANAGEMENT LIMIT OF INSURANCE**  
 \$25,000 Insurer's maximum Limit of Insurance for all Crisis Management Expenses from all Public Crisis Events under Section I.C.(2)

**ITEM 4. RETENTIONS:**

- (a) \$50,000 each and every Claim under INSURING AGREEMENT I.A.(1)  
 (b) \$50,000 each and every Claim under INSURING AGREEMENT I.A.(2)  
 (c) \$50,000 each and every Claim under INSURING AGREEMENT I.B.  
 (d) \$5,000 each and every Public Crisis Event under Section I.C.(2)

**ITEM 5. NOTICES REQUIRED TO BE GIVEN TO THE INSURER MUST BE ADDRESSED TO:**

Notice of Claims and Circumstances: [NoticeofLoss@AWAC.com](mailto:NoticeofLoss@AWAC.com) or  
 ATTN Claims Department  
 1690 New Britain Avenue  
 Farmington, CT 06032

All Other Notices: 1690 New Britain Avenue  
 Farmington, CT 06032

**ITEM 6. POLICY PREMIUM:** \$76,775.00

Total Policy Premium: \$76,775.00

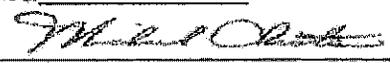
**ITEM 7. RETROACTIVE DATE:** None - Full Prior Acts

**ITEM 8. ENDORSEMENTS ATTACHED AT ISSUANCE:**  
 See Schedule of Forms and Endorsements

THESE DECLARATIONS, THE POLICY FORM, ANY ENDORSEMENTS AND THE APPLICATION CONSTITUTE THE ENTIRE AGREEMENT BETWEEN THE INSURER AND THE INSURED RELATING TO THIS INSURANCE.

In Witness Whereof, the Insurer has caused this Policy to be executed by its authorized officers.

This insurance is issued pursuant to the Florida Surplus Lines Law. Persons insured by surplus lines carriers do not have the protection of the Florida Insurance Guaranty Act to the extent of any right of recovery for the obligation of an insolvent unlicensed insurer.

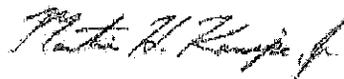
Surplus Lines Agent's Name:	Michael Orren Christian	
Surplus Lines Agent's Address:	3630 Peachtree Road NE St. 1700 Atlanta, GA 30326	
Surplus Lines Agent's License #:	A046973	
Producing Agent's Name:		
Producing Agent's Address:		
This insurance is issued pursuant to the Florida Surplus Lines Law. Persons insured by surplus lines carriers do not have the protection of the Florida Insurance Guaranty Act to the extent of any right of recovery for the obligation of an insolvent unlicensed insurer.		
Premium: \$76,775	Tax: Exempt	Service Fee:
EMPA Surcharge:	Broker Fee:	
Inspection Fee:	Policy Fee:	
Surplus Lines Agent's Countersignature:		



President



Secretary



Authorized Representative

## SCHEDULE OF POLICY FORMS AND ENDORSEMENTS

Form(s) and Endorsement(s) made a part of this policy at time of issue.

<u>Form Number</u>	<u>Edition Date</u>	<u>Description</u>
PN 9062	2009-08-01	Florida Policyholder Notice
DRWN POL 1005	2014-06-01	Public Officials Liability and Employment Practices Liability Insurance Policy Declarations
SAA-100	1998-08-01	Schedule of Policy Forms and Endt's.
DRWN POL 1000	2012-01-01	Public Officials and Employment Practices Liability Insurance Policy
PGU 1033	2012-01-01	Additional Insureds - Boards, Commissions or Units
SI006 DSI	2009-04-01	Service of Suit
PGU 1014	2012-01-01	Amend Defense and Settlement of Claims- Change Percentage
PGU 1064	2012-01-01	Amend Notice of Claim - Notice to Specific Individuals
PGU 1040	2012-01-01	Medical Services Exclusion
PGU 1123	2015-05-01	Pre-Approved Counsel with Rates

SAA-100 (8-98)

**FLORIDA POLICYHOLDER NOTICE**

**THIS INSURANCE IS ISSUED PURSUANT TO THE FLORIDA SURPLUS LINES LAW. PERSONS INSURED BY SURPLUS LINES CARRIERS DO NOT HAVE THE PROTECTION OF THE FLORIDA INSURANCE GUARANTY ACT TO THE EXTENT OF ANY RIGHT OF RECOVERY FOR THE OBLIGATION OF AN INSOLVENT UNLICENSED INSURER.**

**SURPLUS LINES INSURERS' POLICY RATES AND FORMS ARE NOT APPROVED BY ANY FLORIDA REGULATORY AGENCY.**



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**PUBLIC OFFICIALS LIABILITY AND EMPLOYMENT PRACTICES LIABILITY  
INSURANCE POLICY**

---

**SUBJECT TO ITS TERMS, THIS POLICY PROVIDES COVERAGE FOR CLAIMS FIRST MADE DURING THE POLICY PERIOD OR EXTENDED REPORTING PERIOD. DEFENSE EXPENSES ARE PAID IN ADDITION TO THE LIMITS OF LIABILITY; EXCEPT THAT FOR SPECIFIC CLAIMS UNDER INSURING AGREEMENT IA(2), THE APPLICABLE LIMITS OF LIABILITY AVAILABLE TO PAY DAMAGES OR SETTLEMENTS WILL BE REDUCED AND MAY BE EXHAUSTED BY THE PAYMENT OF DEFENSE EXPENSES. PLEASE READ AND REVIEW THE POLICY CAREFULLY.**

---

In consideration of the payment of the premium and in reliance upon all statements made and information furnished to the **Insurer**, including the statements made in the **Application**, the **Insurer** and the **Insureds**, subject to all of the terms, conditions and limitations of this Policy and any endorsements thereto, agree as follows:

**I. INSURING AGREEMENTS; ADDITIONAL COVERAGES**

**A. Public Officials Liability**

**(1) Public Officials Wrongful Acts Coverage**

The **Insurer** will pay on behalf of any **Insured**, excess of the Retention and subject to the Limits of Liability set forth in the Declarations, **Loss** which the **Insured** is legally obligated to pay as a result of a **Claim** first made against an **Insured** during the **Policy Period** or any applicable Extended Reporting Period, for a **Public Officials Wrongful Act** which occurs on or after the **Retroactive Date** and before the end of the **Policy Period**.

The **Insurer** will have the right and duty to defend a **Claim** against an **Insured** for a **Public Officials Wrongful Act** which is covered under this INSURING AGREEMENT A(1), even if the allegations of such **Claim** are groundless, false or fraudulent.

**(2) Claims Seeking Non-Monetary Relief, Defense Only Coverage**

The **Insurer** will reimburse the **Insured**, excess of the Retention and subject to the Limits of Liability set forth in the Declarations, **Defense Expenses** incurred in connection with a **Claim** exclusively seeking, and at all times remaining a **Claim** exclusively seeking, **Non-Monetary Relief**, which is first made against any **Insured** during the **Policy Period** or any applicable Extended Reporting Period, and arising out of **Public Officials Wrongful Acts** which occurs on or after the **Retroactive Date** and before the end of the **Policy Period**.

It shall be the duty of the **Insured**, and not the **Insurer**, to investigate and defend any **Claim** under this INSURING AGREEMENT A(2).

B. **Employment Practices Liability and Third Party Liability Coverage**

The **Insurer** will pay on behalf of any **Insured**, in excess of the Retention and subject to the Limits of Liability set forth in the Declarations, **Loss** which the **Insured** is legally obligated to pay as a result of a **Claim** first made against an **Insured** during the **Policy Period** or any applicable Extended Reporting Period, for an **Employment Practices Wrongful Act** or **Third Party Wrongful Act** which occurs on or after the **Retroactive Date** and before the end of the **Policy Period**.

The **Insurer** will have the right and duty to defend a **Claim** first made against an **Insured** for **Employment Practices Wrongful Act** or **Third Party Wrongful Act** which is covered under this INSURING AGREEMENT B., even if the allegations of such **Claim** are groundless, false or fraudulent.

C. **ADDITIONAL COVERAGES**

(1) **Loss of Earnings Coverage**

The **Insurer** will pay on behalf of any **Insured**, in addition to the Limits of Liability set forth in the Declarations, all reasonable expenses incurred by the **Insured** at the **Insurer's** request to assist the **Insurer** in the investigation or defense of any **Claim**, including actual loss of earnings of any **Insured**, because of time off from work; provided that the most the **Insurer** shall pay shall be up to \$500 per day, per **Insured**. Such "expenses," as used herein, shall not include salaries paid to employees of the **Named Insured** in the normal course of business.

(2) **Public Officials Crisis Management Coverage**

The **Insurer** will pay on behalf of the **Named Insured**, in excess of the Retention and subject to the Limit of Liability set forth in the Declarations, those **Crisis Management Expenses** incurred in response to any **Public Crisis Event** first taking place during the **Policy Period** and reported to the **Insurer** in accordance with Section IV.G. of this Policy.

II. **DEFINITIONS**

- A. **"Application"** means all applications, including any attachments and other materials provided therewith or incorporated therein, submitted in connection with the underwriting of this Policy or for any other policy of which this Policy is a renewal, replacement or which it succeeds in time.
- B. **"Bodily Injury"** means physical injury, sickness or disability of a person, including mental incapacity or death resulting from any of these at any time.
- C. **"Business Invitee"** means a natural person, solely in their capacity as one who is invited to enter into and remain on any **Premises** for a purpose directly or

indirectly connected with the business or commercial dealings of the **Named Insured** therein. A **"Business Invitee"** shall not, under any circumstances, include a trespasser or any other person who enters any **Premises** without the **Named Insured's** knowledge or permission, or any **Employee**, or any student or minor.

D. **"Claim"** means:

- (1) any written demand for monetary damages or **Non-Monetary Relief**;
- (2) any written request to toll or waive any statute of limitations, or to waive any contractual time bar, relating to a potential suit against an **Insured** for a **Wrongful Act**;
- (3) any civil proceeding in a court of law or equity, including any appeal therefrom, which is commenced by the filing of a complaint, motion for judgment, or similar proceeding;
- (4) any criminal proceeding which is commenced by the return of an indictment or similar document;
- (5) any administrative or regulatory proceeding or investigation, including a proceeding brought by or before the Equal Employment Opportunity Commission or similar state or local agency, commenced by the filing of a notice of charges, formal order of investigation or similar document; or
- (6) any arbitration proceeding, or any other alternative dispute resolution proceeding, to which the **Insured** must submit or does submit with the **Insurer's** consent.

**Claim** shall not include any labor grievance, arbitration or other proceeding brought pursuant to a collective bargaining agreement.

A **Claim** will be deemed to have been first made when an **Insured** receives notice of the **Claim**.

E. **"Crisis Management Expenses"** means **Public Relations Expenses, Travel/Printing Expenses, Family Travel Expenses** and **Post-Crisis Expenses**; provided however, that **Crisis Management Expenses** shall not include:

- (1) the **Named Insured's** overhead expenses or any salaries, wages, fees or benefits of **Employees**;
- (2) the cost of medical, psychiatric or counseling services, even if provided by a **Crisis Management Firm**; or
- (3) any fees or expenses, legal or otherwise, related to civil, administrative or criminal investigations, proceedings or litigation.

F. **"Crisis Management Firm"** means any public relations firm, crisis management firm or law firm hired or appointed by the **Named Insured** to perform **Crisis Management Services** in connection with **Public Crisis Events**. It shall be the duty of the **Insured** to select and retain the **Crisis Management Firm**.

G. **"Defense Expenses"** means:

- (1) reasonable and necessary fees, costs, charges or expenses resulting from the investigation, defense or appeal of a **Claim**;
- (2) premium for an appeal, attachment or similar bond, but without any obligation to apply for and obtain such bond, in connection with a **Claim**;
- (3) any fees, costs, charges or expenses incurred by the **Insured** at the specific written request of the **Insurer** to assist the **Insurer** in the investigation, defense or appeal of a **Claim**.

**"Defense Expenses"** does not include: (a) amounts incurred by the **Insured** prior to the date a **Claim** is first made and reported to the **Insurer**; or (b) compensation or benefits of any **Insured Person** or any overhead expenses of the **Insured**.

II. **"Emergency Response Plan"** means:

- (1) a formal written and adopted public safety and crisis response manual that details the **Named Insured's** policies and procedures in the event of an **Public Crisis Event**; or
- (2) in the absence of such formal written manual, any applicable federal, state or local law, ordinance or statute that authorizes the **Named Insured** to take emergency action or specifically describes the obligations of the **Named Insured** in the event of a public emergency.

I. **"Employee"** means the following natural persons, but only for **Wrongful Acts** committed while acting within the scope of employment for the **Named Insured**:

- (1) full-time, part-time, seasonal and temporary employees; and
- (2) all persons who perform services on a volunteer basis for the **Named Insured**, and under the direction and control of the **Named Insured**.

**Employee** shall not include persons providing services to the **Named Insured** under a mutual aid agreement or any similar agreement.

J. **"Employment Practices Wrongful Act"** means any of the following, when alleged by any past or present **Employee** of the **Named Insured** or any applicant for employment with the **Named Insured**, in connection with that person's actual or proposed employment relationship with the **Named Insured**:

- (1) wrongful dismissal, discharge or termination of employment, whether actual or constructive;
- (2) harassment (including sexual harassment whether "quid pro quo," hostile work environment or otherwise);
- (3) discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability or any basis prohibited by federal, state or local laws;
- (4) breach of any manual of employment policies or procedures issued to the **Insureds** by the **Named Insured**;

- (5) retaliatory action in response to that **Employee's**:
  - (a) disclosure or threat of disclosure of any act by an **Insured** alleged to be a violation of any federal, state, local or foreign law, common or statutory, or any rule or regulation promulgated thereunder;
  - (b) actual or attempted exercise of any right that **Employee** has under law;
  - (c) filing of any **Claim** under the Federal False Claims Act or any other federal, state, local or foreign "whistleblower" law;
- (6) misrepresentation, libel, slander, humiliation, defamation, invasion of privacy, infliction of emotional distress or mental anguish;
- (7) wrongful failure to employ or promote, wrongful deprivation of career opportunity, including tenure, wrongful demotion or evaluation or wrongful discipline; or
- (8) breach of a contract to commence or to continue employment with the **Named Insured**.

An **Employment Practices Wrongful Act** shall not include a **Public Officials Wrongful Act**.

K. "Family Travel Expenses" means the reasonable and necessary expenses incurred by any natural or adoptive parent, legal guardian, spouse, or child of a **Victim** within thirty (30) days after such **Public Crisis Event** took place to travel to the location where the **Public Crisis Event** took place, so long as the **Public Crisis Event** took place on an official trip sponsored by the **Named Insured**. For the purpose of this definition, coach air transportation and/or ground transportation and standard class hotel accommodations shall be deemed reasonable expenses.

L. "Insured" means:

- (1) the **Named Insured**;
- (2) all past, present or future duly elected, appointed or employed officials, directors, or members of commissions, boards or other units operated by the **Named Insured** and under its jurisdiction, within the apportionment of the **Named Insured's** operating budget in the **Application**;

provided that "Insured" shall not include the following boards, commissions or units, or any officials, directors, members or employees thereof: schools, airports, transit authorities, hospitals, nursing homes, housing authorities, port authorities or any type of utility companies, unless otherwise provided in an Endorsement attached hereto;

- (3) **Employees**; and
- (4) all persons providing services to the **Named Insured** under a mutual aid or any similar agreement which is disclosed on the **Application**, but solely while acting in this capacity; however, such persons are not **Insureds** with respect to **Claims for Employment Practices Wrongful Acts** or **Third Party Wrongful Acts**.

"Insured" shall also include a lawful spouse or domestic partner of any individual identified the paragraphs above, but only with respect to liability arising out of **Wrongful Acts** committed by such individual, and provided that such spouse or domestic partner is represented by the same counsel as such individual with respect to any **Claim**.

In the event of the death, incapacity or bankruptcy of an **Insured** individual, any **Claim** against the estate, heirs, legal representatives or assigns of such **Insured** individual for a **Wrongful Act** will be deemed a **Claim** against such **Insured** individual.

M. "Insurer" means the Company identified in the Declarations.

N. "Loss" means damages, pre-judgment interest, post-judgment interest, front pay and back pay, judgments, settlements, punitive or exemplary damages where insurable under applicable law, or other amounts that an **Insured** is legally obligated to pay as a result of a **Claim**.

Loss will not include:

- (1) **Defense Expenses;**
- (2) **Non-Monetary Relief;**
- (3) any amount representing the value of diminished or lost retirement, health care or other benefits;
- (4) fines, taxes, penalties;
- (5) the cost of disaster response activities conducted by the **Insured** as required by the Federal Emergency Management Agency (FEMA);
- (6) amounts due under any contract to commence, continue or separate from employment with the **Named Insured**, including but not limited to the value of any compensation or employment benefits lost, or the cost of specific performance in connection with any such contract; or
- (7) the multiplied portion of a multiple damages award; provided that **Loss** will include any multiplied damages awarded pursuant to the Age Discrimination in Employment Act or the Equal Pay Act ("Specified Multiplied Damages") that an **Insured** is obligated to pay as a result of a **Claim**, but only if such Specified Multiplied Damages are insurable under applicable law.

For the purpose of determining the insurability of punitive damages, exemplary damages or Specified Multiplied Damages under this Policy, the laws of the jurisdiction most favorable to the insurability of such damages shall control, provided that such jurisdiction:

- (a) is the location of the court which awarded or imposed such punitive or exemplary damages or Specified Multiplied Damages;
- (b) is where the **Named Insured** is incorporated or otherwise organized or has a place of business; or
- (c) is where the **Insurer** is incorporated or has its principal place of business.

- O. **"Named Insured"** means the public entity set forth in ITEM 1. of the Declarations.
- P. **"Non-Monetary Relief"** means relief or redress in any form other than compensatory or monetary damages, including: the costs of complying with any injunctive, declaratory or equitable relief, remedy or order; the costs of compliance with the Americans with Disabilities Act or any similar provisions of federal, state or local statutory or common law; and any award of claimant's or plaintiff's attorneys fees or costs, whether or not provided for by statute, but only with respect to Claims seeking such non-monetary relief. **Non-Monetary Relief** shall not include the cost of disaster response activities conducted by the **Insured** as required by the Federal Emergency Management Agency (FEMA).
- Q. **"Personal Injury"** means the following, when alleged against an **Insured** by an entity or a person who is not a past or present **Insured**, or applicant for employment with the **Insured**: libel, slander, or other defamation; invasion of privacy, false arrest, erroneous service of process, wrongful detention or imprisonment, malicious prosecution, wrongful entry or eviction, subject to Exclusion C(11), infringement of copyright or trademark, or other unauthorized use of title, or plagiarism or misappropriation of ideas.
- R. **"Policy Period"** means the period from the Inception Date of this Policy set forth in ITEM 2 of the Declarations, to the Expiration Date of this Policy set forth in ITEM 2 of the Declarations, or to any earlier cancellation date of this Policy.
- S. **"Pollutant"** means any of the following:
- (1) smoke, vapors, soot, fumes, acids, alkalis, toxic chemicals, liquids or gases, waste materials (including medical or pharmaceutical supplies and materials which are intended to be or have been recycled, reconditioned or reclaimed) or other irritants, pollutants or contaminants;
  - (2) mold(s), mildew(s), fungi and/or spore(s); or any materials, goods or products containing, harboring or nurturing any such mold(s), mildew(s), fungi and/or spore(s);
  - (3) lead, silica or asbestos, whether or not airborne as a particle, contained in or formed as part of a product, structure or other real or personal property, ingested or inhaled or transmitted in any fashion, or found in any form whatsoever; or
  - (4) nuclear reaction, radioactive contamination or any radiation of any kind, including but not limited to nuclear radiation and electromagnetic radiation.
- T. **"Post-Crisis Expenses"** means the reasonable costs incurred by the **Named Insured** within sixty (60) days after the **Public Crisis Event** took place to purchase equipment or make property improvements that are not covered by other insurance and that relate directly to the security of the **Named Insured's Premises** and may assist in prevention or mitigation of future **Public Crisis Events**.

U. **"Premises"** means the following, if located in the continental United States:

- (1) any building, facility or other real property including adjoining ways, which the **Named Insured** owns, rents or leases and is used by the **Named Insured** to conduct its business, including administration, maintenance and recreational facilities;
- (2) any other building, facility, or other real property, but solely if being visited by the **Named Insured's** elected or appointed or employed officials, directors, members of commissions, boards or other units operated by the **Named Insured** and under its jurisdiction, or **Employees**, on an official business trip on behalf of by the **Named Insured**;
- (3) any vehicle that the **Named Insured** owns or leases pursuant to a written contract, but solely if being used in the transportation of the **Named Insured's** elected or appointed or employed officials, directors, members of commissions, boards or other units operated by the **Named Insured** and under its jurisdiction, or **Employees**;

**"Premises"** does not include: (i) any building, facility, or other real property owned, rented or leased by, or under the management and direction of any individual or entity other than the **Named Insured**, other than as described in paragraph (2) above; (ii) any location for an event independently organized by **Employees** or others without the knowledge or approval of the **Named Insured**; or (iii) any vehicle, other than as describe in paragraph (3) above.

V. **"Public Crisis Event"** means:

- (1) any violent act of a criminal nature taking place on the **Named Insured's** **Premises** which causes **Bodily Injury** to a **Victim**; or
- (2) a credible threat communicated to the **Named Insured** of a violent act of a criminal nature taking place on the **Named Insured's** **Premises** which the **Named Insured** reasonably believes may imminently cause **Bodily Injury** to a **Victim**;

in response to which the **Named Insured**:

- (i) implements its **Emergency Response Plan**;
- (ii) contacts federal, state or local police authorities for assistance; and
- (iii) invokes an emergency succession plan due to **Bodily Injury** to a **Victim**, or the credible threat thereof.

**Public Crisis Events** involving a sequence or series of related violent acts or threats will be deemed to have taken place at the time the first violent act began or threat occurred. Continuous or repeated exposure to substantially the same acts or threats, regardless of how many **Victims** by the same perpetrator, or two or more perpetrators acting in concert, shall be considered one **Public Crisis Event**.

W. **"Public Officials Wrongful Act"** means:

- (1) any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty, including any **Personal Injury**, by any **Insured**;

- (2) any actual or alleged violation of civil rights protected under 42 USC 1981 et seq., or any similar federal, state or local law, by any **Insured**;
- (3) any matter claimed against an **Insured** solely by reason of his or her status as an **Insured** during the **Policy Period**;

if committed in the performance of his or her duties for the **Named Insured**; or

- (4) any actual or alleged act, error, omission, misstatement, misleading statement or breach of duty by a natural person **Insured** while serving, at the direction or request of the **Named Insured**, in his or her capacity as a board member or committee member of a not-for-profit organization, other than the **Named Insured**, which is exempt from taxation under Section 501(c)(3) of the Internal Revenue Code, as the same may be amended from time to time, at the direction or request of the **Named Insured**. The coverage provided by this Subsection W(4) is excess of, and shall not contribute with, any other insurance plan or program of self-insurance carried by such not-for-profit corporation, and any contribution or indemnification to which a natural person **Insured** is entitled to from such not-for-profit organization.

A **Public Officials Wrongful Act** shall not include an **Employment Practices Wrongful Act** or a **Third Party Wrongful Act**.

- X. **"Public Relations Expenses"** means the reasonable and necessary fees and expenses incurred by the **Named Insured** in response to a **Public Crisis Event**, within 120 days after such **Public Crisis Event** took place, for services performed by a **Crisis Management Firm** to minimize potential harm to the name or reputation of the **Named Insured** arising from such **Public Crisis Event**, including but not limited to maintaining and restoring public confidence in the **Named Insured** and providing advice to the **Insureds**.
- Y. **"Related Claims"** means all **Claims** for **Wrongful Acts** based upon, arising out of, resulting from, or in any way involving the same or related facts, circumstances, situations, transactions or events or the same or related series of facts, circumstances situations, transactions or events, whether related logically, causally or in any other way.
- Z. **"Retroactive Date"** means the applicable date set forth in ITEM 7. of the **Declarations**.
- AA. **"Sexual Abuse and Molestation"** means any actual or alleged conduct, physical act, gesture or spoken or written word of a sexual nature directed by an **Insured**, or by any person for whom an **Insured** is legally responsible, toward any person under the care, custody or control of any **Insured**, including without limitation any actual, alleged or threatened sexual intimacy (even if allegedly consensual), sexual molestation, sexual assault or battery, exploitation or any other sexual act.
- BB. **"Terrorism"** means **"Certified Acts"** as defined by the **Terrorism Risk Insurance Act of 2002 (TRIA)** and as amended by the **Terrorism Risk Insurance Program Reauthorization Act of 2007**. Pursuant to such Acts as currently written, a

“Certified Act” is any act that is certified by the Secretary of the Treasury of the United States of America; to be an act of terrorism; to be a violent act or an act that is dangerous to human life, property, or infrastructure; to have resulted in damage within the U.S. (or outside of the U.S. in the case of certain air carriers, vessels, and U.S. missions); and to have been committed by an individual or individuals acting as part of an effort to coerce the civilian population of the U.S. or to influence the policy or affect the conduct of the U. S. Government by coercion.

CC. “**Third Party Wrongful Act**” means any of the following, when alleged against an **Insured** by either a **Business Invitee** of the **Named Insured** or by a third party individual (other than another **Insured**, or a student or minor) with whom an **Insured** interacts outside of the **Premises** for the purpose of conducting official business on behalf of the **Named Insured**:

- (1) harassment (including sexual harassment);
- (2) discrimination based upon age, gender, race, color, national origin, religion, sexual orientation or preference, pregnancy or disability or any basis prohibited by federal, state or local laws; or
- (3) invasion of privacy.

A **Third Party Wrongful Act** shall not include a **Public Officials Wrongful Act**.

DD. “**Travel/Printing Expenses**” means the reasonable and necessary expenses incurred by the **Named Insured** in response to a **Public Crisis Event** within 120 days after such **Public Crisis Event** took place for printing, advertising, mailing materials, or travel by any **Insured** or the **Crisis Management Firm** in connection with such **Public Crisis Event**.

EE. “**Victim**” means:

- (1) any elected or appointed or employed officials, directors, members of commissions, boards or other units operated by the **Named Insured** and under its jurisdiction;
- (2) any **Business Invitee**; or
- (3) any **Employee**;

who sustain(s) a **Bodily Injury**.

Provided however, **Victim** shall not include any independent contractors or subcontracted personnel working on the **Premises** or any person who has or is alleged to have made any attempt at, or knowingly participated in, or encouraged any **Public Crisis Event**.

FF. “**Wrongful Act**” means any **Public Officials Wrongful Act**, **Employment Practices Wrongful Act** or **Third Party Wrongful Act**.

### III. EXCLUSIONS

A. The **Insurer** shall not pay **Loss**, but shall only pay **Defense Expenses**, from any **Claim** brought about or contributed to in fact by:

- (1) any deliberate misconduct or deliberate dishonest, fraudulent, criminal or malicious act, error or omission by any **Insured**;
- (2) any willful violation by any **Insured** of any law, statute, ordinance, rule or regulation; or
- (3) any **Insured** gaining any profit, remuneration or advantage to which such **Insured** is not legally entitled.

The applicability of EXCLUSIONS A(1), A(2) and A(3) to any specific **Insured** may be determined by an admission of such **Insured**, a finding, or a final adjudication in the proceeding constituting the **Claim** or in a proceeding separate from or collateral to the **Claim**. If any specific **Insured** in fact engaged in the conduct specified in EXCLUSIONS A(1), A(2) or A(3), such **Insured** shall reimburse the **Insurer** for any **Defense Expenses** advanced to or on behalf of such **Insured**.

B. The **Insurer** shall not pay any **Loss** or **Defense Expenses** from any **Claim**:

- (1) under INSURING AGREEMENTS I.A.(1) or I.B., if otherwise covered under INSURING AGREEMENT I.A.(2);
- (2) by, on behalf of or in the name or right of:
  - (a) the **Named Insured**; or
  - (b) any duly elected, appointed or employed director or official of the **Named Insured**, or any member of a commission, board or other unit operated by the **Named Insured** and under its jurisdiction, and within the apportionment of the **Named Insured's** operating budget in the **Application**, unless: (i) in the form of a cross-claim or third-party complaint arising from a **Claim** made against such director, official or member, that is otherwise covered under this Policy; or (ii) for an **Employment Practices Wrongful Act**.
- (3) for actual or alleged violation of the Fair Labor Standards Act, the National Labor Relations Act, the Consolidated Omnibus Budget Reconciliation Act of 1985, the Occupational Safety and Health Act, any workers' compensation, unemployment insurance, social security, or disability benefits law, other similar provisions of any federal, state or local statutory or common law or any rules or regulations promulgated under any of the foregoing, including, but not limited to, any actual or alleged improper payroll practices, wage and hour policies, and payment of overtime or vacation pay;

provided however, that this EXCLUSION B(3) shall not apply to the that portion of a **Claim** for an **Employment Practices Wrongful Act** which alleges retaliatory action by the **Insured** in response to an **Employee's** exercise of rights under such statute or law.

C. The **Insurer** shall not pay any **Loss or Defense Expenses** from any **Claim** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

- (1) any actual or alleged damage to, destruction of or loss of use of, any tangible property;
- (2) any actual or alleged bodily injury, corporal punishment, sickness, disease or death;
- (3) any actual or alleged emotional distress, mental anguish or humiliation; provided however, that this EXCLUSION C(3) shall not apply to any emotional distress, mental anguish or humiliation alleged in any otherwise covered **Claim** for an **Employment Practices Wrongful Act** or **Third Party Wrongful Act**;
- (4) any **Sexual Abuse or Molestation**, including without limitation any actual or alleged liability for committing **Sexual Abuse or Molestation** or permitting or failing to prevent, stop, detect or reveal **Sexual Abuse or Molestation**, whether such liability is alleged as a violation of civil rights protected under 42 USC 1981 et seq. or any similar federal, state or local law, or as a tort or other breach of duty;
- (5) any actual, alleged or threatened exposure to, or generation, storage, transportation, discharge, emission, release, dispersal, seepage, migration, release, growth, infestation, spread, escape, treatment, removal or disposal of, any **Pollutant**, or any regulation, order, direction or request to test for, monitor, clean up, remove, contain, treat, detoxify or neutralize any **Pollutant**, or any action taken in contemplation or anticipation of any such regulation, order, direction or request;
- (6) any of the responsibilities, obligations or duties imposed upon fiduciaries by the Employee Retirement Income Security Act of 1974, or amendments thereto or any similar provisions of state statutory law or common law;
- (7) any actual or alleged liability of the **Named Insured** under any express contract or agreement, including an agreement to indemnify and hold harmless a third party, unless such liability would have attached to the **Named Insured** in the absence of such express contract or agreement;

provided however, that this EXCLUSION C(7) shall not be deemed to apply to a **Claim** for an **Employment Practices Wrongful Act** in the form of an actual or alleged breach of a contract to commence or to continue employment with the **Named Insured**; provided however, that only **Defense Expenses** shall be covered in connection with such **Claims**;

For the purposes of this EXCLUSION C(7), an "express contract or agreement" is an actual agreement among the contracting parties, the terms of which are openly stated in distinct or explicit language, either orally or in writing, at the time of its making, but does not include any manual of employment policies or procedures issued to the **Insureds** by the **Named Insured**;

- (8) any actual or alleged failure to obtain, implement, effect, comply with, provide notice under or maintain any form, policy, plan or program of insurance, stop loss or provider excess coverage, reinsurance, self-insurance, suretyship or bond;
- (9) any fact, circumstance, situation, transaction, event or **Wrongful Act** or series of facts, circumstances, situations, transactions, events or **Wrongful Acts**:
  - (a) underlying or alleged in any grievance, mediation, arbitration, litigation or administrative or regulatory action brought prior to and/or pending as of the Inception Date set forth in ITEM 2 of the Declarations:
    - (i) to which any **Insured** is or was a party; or
    - (ii) with respect to which any **Insured**, as of the Inception Date, knew or should reasonably have known that an **Insured** would be made a party thereto;
  - (b) which was the subject of any notice given prior to the Inception Date under any other policy of insurance or plan or program of self-insurance; or
  - (c) which was the subject of any **Claim** made prior to the Inception Date;

if, however, this Policy is a renewal of one or more policies previously issued by the **Insurer** or an affiliate thereof to the **Named Insured**, and the coverage provided by the **Insurer** or an affiliate thereof to the **Named Insured** was in effect, without interruption, for the entire time between the inception date of the first such other policy and the Inception Date of this Policy, the reference in this EXCLUSION C(9) to the Inception Date will be deemed to refer instead to the Inception Date of the first policy under which the **Insurer** or an affiliate thereof began to provide the **Named Insured** with the continuous and uninterrupted coverage of which this Policy is a renewal;

- (10) any lockout, strike, picket line, hiring of replacement workers, riot or civil commotion, or other similar actions in connection with labor disputes or labor negotiations;
- (11) the activities of any **Insured** as a law enforcement officer, police officer, police department or other law enforcement unit or agency; the operation of any jail cell, holding cell, detention or lock-up facility of any kind; or

the activities of any **Insured** charged with the power to arrest, detain or interrogate another person, or to seize or confiscate the property of any individual or entity;

provided however, that this Exclusion shall not apply to **Claims** arising out of the administrative functions or activities of any **Insured** in the enforcement of the municipal code, laws or regulations of the **Named Insured**, including but not limited to, the issuance of citations, fines, warnings, notices of violation, the issuance or denial of licenses or permits, or the inspection of property or buildings, by persons authorized to conduct such functions or activities on behalf of the **Named Insured**;

provided further, that this Exclusion shall not apply to any **Claim** by or against a law enforcement officer or police officer in their capacity as an **Employee** under this Policy, for an **Employment Practices Wrongful Act**.

- (12) eminent domain, adverse possession, dedication by adverse use, inverse condemnation or condemnation proceedings; the use or encroachment upon property by a governmental entity, or other taking of private property by or on behalf of a governmental entity whether by statute, common-law or otherwise;
- (13) any actual or alleged violation of: (1) the Securities Act of 1933, the Securities Exchange Act of 1934, any state "blue sky" law, or any other federal, state or local securities law, or any rule or regulation promulgated under any of the foregoing; or (2) any provision of the common law imposing liability in connection with the offer, sale or purchase of securities;
- (14) the sale or offering of securities by the **Named Insured**, whether or not such securities are exempt from registration by the SEC; or the **Named Insured's** actual or proposed filing for an Initial Public Offering; or a debt offering or debt financing, including but not limited to bonds, notes, debentures and guarantees of debt;
- (15) tax credits or tax incentives or the application thereof; the formulation of tax rates; the assessment, appraisal or valuation of property; the assessment of taxes or other fees; the collection of taxes, fees or other amounts; and the disbursement of tax refunds;
- (16) war, whether or not declared, or any act or condition incidental to war, including civil war, insurrection, rebellion or revolution; or **Terrorism**;
- (17) any construction, architectural, engineering, procurement, security or other professional services, including any contract or agreement pertaining to such services; or any legal services including those services performed by any individual as a lawyer, arbitrator, mediator, title agent, notary public, administrator, conservator, receiver, executor, guardian, trustee or in any other fiduciary capacity.

D. The **Insurer** shall not pay any **Crisis Management Expenses** from any **Public Crisis Event** based on, arising out of, directly or indirectly resulting from, in consequence of, or in any way involving:

- (1) any war, whether or not declared, or any act or condition incidental to war, including civil war, **Terrorism**, insurrection, rebellion or revolution;
- (2) any actual or attempted suicide;
- (3) any actual or attempted kidnapping or extortion;
- (4) acts, whether intentional or not, by members of the **Victim's** immediate family members or members of the **Victim's** household; or
- (5) the activities of any person as a law enforcement officer, police officer, correctional officer, member of a police department or other law enforcement unit or agency; or the activities of any person charged with the powers to arrest, detain or interrogate another person, seize or confiscate the property of any individual or entity.

#### IV. CONDITIONS

##### A. Limits of Liability; Retentions:

Regardless of the number of **Claims** brought under this Policy, the number of persons or entities included within the definition of **Insured**, or the number of claimants, the **Insurer's** liability is limited as follows:

(1) Public Officials Liability

Subject to the Policy Aggregate Limit of Liability, the amount set forth in ITEM 3(A) of the Declarations shall be the maximum Limit of Liability of the **Insurer** for all Loss in excess of the applicable Retention set forth in ITEM 4. of the Declarations, resulting from each **Claim** under INSURING AGREEMENT 1.A(1), for which this Policy provides coverage.

(2) Claims Seeking Non-Monetary Relief

Subject to the Policy Aggregate Limit of Liability, the amounts set forth in ITEM 3(B)(1) and 3(B)(2) of the Declarations shall be the maximum Limits of Liability of the **Insurer** for all **Defense Expenses** in excess of the applicable Retention set forth in ITEM 4. of the Declarations, resulting from each **Claim**, and in the aggregate for all **Claims**, under INSURING AGREEMENT 1.A(2), for which this Policy provides coverage.

(3) Employment Practices Liability and Third Party Liability

Subject to the Policy Aggregate Limit of Liability, the amount set forth in ITEM 3(C) of the Declarations shall be the maximum Limit of

Liability of the **Insurer** for all **Loss** in excess of the applicable Retention set forth in ITEM 4. of the Declarations, resulting from each **Claim** under INSURING AGREEMENT I.B, for which this Policy provides coverage.

(4) **Policy Aggregate Limit of Liability**

The amount set forth in ITEM 3(D) of the Declarations shall be the maximum aggregate Limit of Liability of the **Insurer** for all **Loss** resulting from all **Claims** under INSURING AGREEMENT I.A(1) and INSURING AGREEMENT I.B, and all **Defense Expenses** from all **Claims** under INSURING AGREEMENT I.A(2).

(5) **Crisis Management Coverage**

In addition to the Policy Aggregate Limit of Liability, the amount set forth in ITEM 3(E) of the Declarations shall be the maximum Limit of Insurance for all **Crisis Management Expenses** in excess of the applicable Retention set forth in ITEM 4. of the Declarations, resulting from all **Public Crisis Events** under Section I.C(2), for which this Policy provides coverage.

(6) **Defense Expenses** payable under INSURING AGREEMENTS I.A(1) and I.B are paid in addition to the applicable Limits of Liability set forth in ITEM 3. of the Declarations, and payment of **Defense Expenses** by the **Insurer** will not reduce such Limits of Liability.

(7) **Defense Expenses** payable under INSURING AGREEMENT I.A(2) are part of and not in addition to the applicable Limits of Liability set forth in ITEM 3. of the Declarations, and payment of such **Defense Expenses** by the **Insurer** will reduce such Limits of Liability.

(8) In the event that any **Claim** for which coverage is provided under INSURING AGREEMENT I.A(2) subsequently becomes a **Claim** for both monetary and **Non-Monetary Relief** for which coverage is provided under INSURING AGREEMENT I.A(1) or I.B, such **Claim** shall become subject to the increased Retention and the Limit of Liability applicable under INSURING AGREEMENT I.A(1) or I.B. **Defense Expenses** incurred in connection with such **Claim** shall be applied against the applicable Retention, and shall reduce the applicable Limit of Liability, under either INSURING AGREEMENT I.A(1) or I.B.

(9) The obligation of the **Insurer** to pay **Loss** or **Defense Expenses** under all INSURING AGREEMENTS and ADDITIONAL COVERAGES will only be in excess of the applicable Retention set forth in ITEM 4. of the Declarations. The **Insurer** will have no obligation whatsoever, either to the **Insureds** or to any other person or entity, to pay all or any portion of any Retention amount on behalf of any **Insured**, although the **Insurer** will, at its sole discretion, have the right and option to advance such amount, in which event the **Insureds** agree to promptly repay the **Insurer** any amounts so advanced upon written request.

- (10) **Related Claims** will be deemed a single **Claim**, and only one "each **Claim**" Limit of Liability, and only one Retention, will apply.

**B. Defense and Settlement of Claims:**

- (1) No **Insured** may incur any **Defense Expenses** or admit liability for, or settle, or offer to settle, any **Claim** without the **Insurer's** written consent.
- (2) The **Insurer** will have the right to make investigations and conduct negotiations and enter into the settlement of any **Claim** as the **Insurer** deems appropriate, with the consent of the **Insured**. If the **Insured** refuses to consent to a settlement acceptable to the claimant in accordance with the **Insurer's** recommendation, then, subject to the applicable Limit of Liability set forth in ITEM 3. of the Declarations, the **Insurer's** liability for such **Claim** will not exceed:
- (a) the amount for which such **Claim** could have been settled by the **Insurer** plus **Defense Expenses** up to the date the **Insured** refused to settle such **Claim**; plus
- (b) sixty percent (60%) of any **Loss** and/or **Defense Expenses** in excess of the amount in clause (a) above, incurred in connection with such **Claim**.

The remaining **Loss** and/or **Defense Expenses** will be carried by the **Insured** at its own risk and will be uninsured.

- (3) It shall be the duty of the **Insured**, and not the **Insurer**, to defend any **Claims** under INSURING AGREEMENT I.A(2). The **Insured** shall have the right to select defense counsel for the investigation and defense of any such **Claim**, subject to the consent and approval of the **Insurer**, which shall not be unreasonably withheld.
- (4) The **Insurer** will have no obligation to pay **Loss** or **Defense Expenses**, or to defend or continue to defend any **Claim**, or to reimburse **Defense Expenses** or **Crisis Management Expenses** under this Policy after the applicable Limit of Liability as set forth in ITEM 3. of the Declarations, has been exhausted by the payment of **Loss**, **Defense Expenses** or **Crisis Management Expenses**. If the Policy Aggregate Limit of Liability, as set forth ITEM 3(D) of the Declarations, is exhausted by the payment of **Loss** or **Defense Expenses**, the entire premium will be deemed fully earned and the **Insurer** shall no longer be obligated to make any further payments under this Policy.

**C. Other Insurance:**

- (1) All **Loss** payable under this Policy will be specifically excess of and will not contribute with other valid and collectible insurance, including but not limited to any other insurance under which there is a duty to defend, unless such other insurance is specifically stated to be in excess of this Policy. This Policy will not be subject to the terms of any other

insurance. Other insurance includes, but is not limited to, coverage or benefits provided by self-insurance arrangements, pools, self-insurance trusts, captive insurance companies, retention groups, reciprocal exchanges or any other plan or agreement of risk transfer or assumption.

- (2) Notwithstanding CONDITION C(1) above, with respect to any **Claim** under this Policy for which coverage is available under any insurance policy which applies to claims for bodily injury, personal injury or property damage, the **Insurer** will have no duty to defend such **Claim**, or to pay **Defense Expenses** incurred by or on behalf of any **Insured** in connection with such **Claim** or to contribute to any defense provided to any **Insured** under such other insurance policy, or to reimburse any other insurer, in whole or in part, for **Defense Expenses** incurred in connection with such **Claim**.

**D. Cooperation; Subrogation:**

In the event of a **Claim**, the **Insured** will provide the **Insurer** with all information, assistance and cooperation that the **Insurer** reasonably requests, and will do nothing that may prejudice the **Insurer's** position or potential or actual rights of recovery. At the **Insurer's** request, the **Insured** will assist in any actions, suits, or proceedings, including but not limited to attending hearings, trials and depositions, securing and giving evidence, and obtaining the attendance of witnesses, and will also assist in making settlements. In the event of payment, the **Insurer** will be subrogated to the extent of any payment to all of the rights of recovery of the **Insured**. The **Insured** will execute all papers and do everything necessary to secure such rights, including the execution of any documents necessary to enable the **Insurer** effectively to bring suit in their name. The obligations of the **Insured** under this CONDITION D. will survive the expiration or cancellation of the Policy.

**E. Extended Reporting Period:**

- (1) If either the **Insurer** or the **Named Insured** cancels, refuses or declines to renew this Policy for any reason other than nonpayment of premium, the **Named Insured** will have the right to:
- (a) a seventy-five (75) day Automatic Extended Reporting Period, beginning on the effective date of cancellation or non-renewal, for no additional premium charge; and
  - (b) to purchase an Additional Extended Reporting Period, beginning on the effective date of cancellation or non-renewal, for an additional premium; provided that the **Insured** elects to purchase the Additional Extended Reporting Period in writing and provides to the **Insurer** any addition premium due within thirty (30) days of the effective date of cancellation or non-renewal, subject to the available options as set forth below in paragraph (3) of this Section.

- (2) The coverage otherwise afforded by this Policy will be extended to apply to **Loss or Defense Expenses** from **Claims** first made during an Extended Reporting Period, but only if such **Claims** are for **Wrongful Acts** committed before the end of the **Policy Period** or the date of any cancellation of coverage under **CONDITION H**, whichever is earlier. An Extended Reporting Period does not increase or reinstate any Limit of Liability and may only be effective if all premiums and retentions due under the Policy have been paid. The Automatic Extended Reporting Period shall not become effective if the **Insured** procures replacement coverage. Once purchased, the Additional Extended Reporting Period may not be canceled and the premium shall be deemed fully earned.
- (3) Additional Extended Reporting Period Options:
  - (a) a one (1) year extended reporting period for an additional premium of seventy percent (70%) of the Premium set forth in ITEM 6. of the Declarations;
  - (b) a two (2) year extended reporting period for an additional premium of one hundred percent (100%) of the Premium set forth in ITEM 6. of the Declarations; or
  - (c) a three (3) year extended reporting period for an additional premium of one hundred and fifty percent (150%) of the Premium set forth in ITEM 6. of the Declarations.

**F. Notice; Timing; and Interrelationship of Claims:**

- (1) As a condition precedent to any right to payment in respect of any **Claim** first made during the **Policy Period**, the **Insured** must give the **Insurer** written notice of such **Claim**, with full details, as soon as practicable after a public official or administrator of the **Named Insured** becomes aware of such **Claim**, and in the event that that a **Claim** is first made within thirty (30) days prior to the expiration of the **Policy Period**, no later than seventy-five (75) days after the expiration of the **Policy Period**.
- (2) If, during the **Policy Period**, the **Insured** first becomes aware of any **Wrongful Act** which may subsequently give rise to a **Claim** and, as soon as practicable thereafter but before the expiration or cancellation of this Policy:
  - (a) gives the **Insurer** written notice of such **Wrongful Act**, including a description of the **Wrongful Act** in question, the identities of the potential claimants, the consequences which have resulted or may result from such **Wrongful Act**, the damages which may result from such **Wrongful Act** and the circumstances by which the **Insured** first became aware of such **Wrongful Act**; and
  - (b) requests coverage under this Policy for any subsequently resulting **Claim** for such **Wrongful Act**;

then the **Insurer** will treat any such subsequently resulting **Claim** as if it had been first made during the **Policy Period**.

- (3) All notices under CONDITIONS F(1) and F(2) must be sent in writing by certified or priority mail with delivery confirmation, or electronically, to the **Insurer** at the physical or email address set forth in ITEM 5. of the Declarations.
- (4) All **Related Claims** will be treated as a single **Claim** made when the earliest of such **Related Claims** was first made, or when the earliest of such **Related Claims** is treated as having been made in accordance with CONDITION F(2), whichever is earlier.

G. **Notice of Crisis Management Expenses; Inspection of Property**

- (1) As a condition precedent to coverage under ADDITIONAL COVERAGE I.C(2) of this Policy, the **Named Insured** must notify the **Insurer** in writing as soon as practicable during the **Policy Period** but in no event more than ten (10) days after the **Public Crisis Event** first took place. The written notice to the **Insurer** must be as complete as possible, stating how, when, and where the **Public Crisis Event** took place and the **Bodily Injury** or damage arising therefrom, and providing a summary of the **Crisis Management Expenses** incurred or expected to be incurred.
- (2) To be eligible for coverage, **Crisis Management Expenses** must be submitted to the **Insurer** no later than ninety (90) days after such **Crisis Management Expenses** are incurred.
- (3) The **Insurer** will be permitted, but not obligated, to inspect the **Named Insured's** property and operations and to review the **Emergency Response Plan** at any time, upon reasonable notice. Neither the **Insurer's** right to make such inspection or review nor the making of any such inspection or review shall constitute an undertaking, on behalf of or for the benefit of the **Insured** or others, to determine or warrant that such property and operations are safe or that the **Emergency Response Plan** is adequate, effective or legal.

H. **Cancellation; No Obligation to Renew:**

- (1) The **Insurer** may not cancel this Policy except for failure to pay a premium when due. The **Insurer** will deliver or mail by first class, registered or certified mail to the **Named Insured** at its last known address, written notice of cancellation at least twenty (20) days before the effective date of cancellation. Such notice shall state the reason for cancellation. A copy of such notice shall be sent to the agent of record.
- (2) The **Named Insured** may cancel this Policy by mailing to the **Insurer** written notice stating when, not later than the Expiration Date set forth in ITEM 2. of the Declarations, such cancellation will be effective. In such event, return premium will be computed as 0.90 times the pro rata unearned premium shown in ITEM 6. of the Declarations and rounded to the nearest whole dollar. Premium adjustment may be made either at the

time that cancellation by the **Named Insured** is effective or as soon as practicable thereafter.

- (3) The **Insurer** will not be required to renew this Policy upon its expiration. If the **Insurer** elects not to renew this Policy, the **Insurer** will deliver or mail by first class, registered or certified mail to the **Named Insured** at its last known address, written notice to that effect at least sixty (60) days before the Expiration Date set forth in ITEM 2. of the Declarations. Such notice shall state the specific reason(s) for non-renewal. A copy of such notice shall be sent to the agent of record.

I. **Representations:**

The **Insured** represents that the particulars and statements contained in the **Application** are true, accurate and complete, and agrees that this Policy is issued in reliance upon the truth of that representation, and that such particulars and statements, which are deemed to be incorporated into and to constitute a part of this Policy, are the basis of this Policy.

J. **Separation of Insureds; Protection of Innocent Insureds:**

- (1) In the event of any material untruth, misrepresentation or omission in connection with any of the particulars or statements in the **Application**, this Policy will be void:
- (a) with respect to any natural person **Insured** who knew of such untruth, misrepresentation or omission; and
  - (b) with respect to the **Named Insured**, if, and only if, an elected or appointed official, or the highest ranking member of any board, commission or unit, of the **Named Insured**, or any other person in a functionally equivalent position within the **Named Insured**, knew of such untruth, misrepresentation or omission.
- (2) No act, error or omission of any **Insured** will be imputed to any other **Insured** to determine the application of any Exclusion set forth in Section III. of this Policy. If it is determined that an Exclusion applies to an **Insured** in connection with a **Claim**, no coverage shall be available under this Policy for such **Insured**, however, coverage shall continue in effect under this Policy for any other **Insured**, subject to all other terms, conditions, and Exclusions herein.

K. **No Action Against Insurer:**

- (1) No action may be taken against the **Insurer** unless, as conditions precedent thereto, there has been full compliance with all of the terms of this Policy and the amount of the **Insured's** obligation to pay has been finally determined either by judgment against the **Insured** after adjudicatory proceedings, or by written agreement of the **Insured**, the claimant and the **Insurer**.

- (2) No person or entity will have any right under this Policy to join the Insurer as a party to any Claim to determine the liability of any Insured; nor may the Insurer be impleaded by an Insured or his, her or its legal representative in any such Claim.

**L. Insolvency of Insured:**

The Insurer will not be relieved of any of its obligations under this Policy by the bankruptcy or insolvency of any Insured.

**M. Non-Pyramiding of Limits:**

If a Claim is made for which coverage is afforded, under this Policy and any other policy or policies issued by the Insurer or any affiliate thereof, to the Named Insured, or to any public entity or political subdivision:

- (1) which shares an operational budget with the Named Insured; or
- (2) which receives its funding or budget from the same tax base as the Named Insured; or
- (3) operates or has jurisdiction over the Named Insured or which is operated by or under the jurisdiction of the Named Insured;

then the maximum amount payable in the aggregate under this Policy, and all such other policies, shall not exceed the single highest Limit of Liability available under all such policies. Only one retention or deductible shall apply, which shall be retention or deductible corresponding to the Limit of Liability applied to the Claim.

**N. Territory:**

This Policy applies to Wrongful Acts committed by any Insured, or to any Claim brought against any Insured anywhere in the world.

**O. Authorization and Notices:**

The Insureds agree that the Named Insured will act on their behalf with respect to receiving any notices and return premiums from the Insurer.

**P. Changes:**

Notice to or knowledge possessed by any agent or other person acting on behalf of the Insurer will not affect a waiver or change in any part of this Policy or estop the Insurer from asserting any right under the terms, conditions and limitations of this Policy. The terms, conditions and limitations of this Policy can be waived or changed only by written endorsement.

**Q. Assignment:**

No assignment of interest under this Policy will bind the Insurer without its consent.

R. **Entire Agreement:**

The **Insured** agrees that this Policy, including the **Application** and any endorsements, constitutes the entire agreement between them and the **Insurer** or any of its agents relating to this insurance.

S. **Headings:**

The descriptions in the headings and sub-headings of this Policy are solely for convenience, and form no part of the terms and conditions of coverage.

**In witness whereof, the Insurer has caused this Policy to be executed on the Declarations Page.**

**ENDORSEMENT NO.**

**ADDITIONAL INSUREDS  
BOARDS, COMMISSIONS OR UNITS**

This Endorsement, effective at 12:01 a.m. on 12/15/2016 , forms part of

Policy No. 0202-4073  
Issued to City of Pensacola  
Issued by Allied World Surplus Lines Insurance Company

In consideration of the premium charged, it is understood and agreed that the term "Insured" as defined in Section II. DEFINITIONS, Subsection L., of the Policy is amended to include the following boards, commissions or units of the **Named Insured**, and past, present or future duly elected, appointed or employed officials, directors, or members thereof, but ONLY if selected below:

- schools;
- airports;
- transit authorities;
- hospitals;
- nursing homes;
- housing authorities;
- port authorities;
- utility companies.

Provided, however, that if any such board, commission or unit is not specifically selected above, then it, and any officials, directors, members or employees thereof, will be excluded from coverage under this Policy.

All other terms, conditions and limitations of this Policy shall remain unchanged.

  
Authorized Representative

**ENDORSEMENT NO.**

**SERVICE OF SUIT**

This Endorsement, effective at 12:01AM on 12/15/2018, forms parts of

Policy No. 0202-4073

Issued to City of Pensacola

Issued by Allied World Surplus Lines Insurance Company

Pursuant to any statute of any state, territory or district of the United States which makes provision therefore, the Company hereby designates the Superintendent, Commissioner or Director of Insurance or other officer specified for that purpose in the Statute, or his successors in office, as our true and lawful attorney upon whom may be served any lawful process in any action, suit or proceeding instituted by or on behalf of the insured(s) or any beneficiary hereunder arising out of this contract of insurance, and hereby designate the below named as the person whom the said officer is authorized to mail process or a true copy thereof.

It is further agreed that service of process in such suit may be made upon Mark I. Rosen, Secretary, or his nominee, at 9 Farm Springs Road, Farmington, CT 06032 and that in any suit instituted against any one of them upon this policy, the Company will abide by the final decision of such Court or any Appellate Court in the event of an appeal.

NOTHING HEREIN SHALL VARY, ALTER, WAIVE, OR EXTEND ANY OF THE TERMS, PROVISIONS, REPRESENTATIONS, CONDITIONS OR AGREEMENTS OF THE POLICY OTHER THAN AS STATED ABOVE.

  
Authorized Representative

**ENDORSEMENT NO.**

**AMEND DEFENSE AND SETTLEMENT OF CLAIMS  
CHANGE PERCENTAGE**

This Endorsement, effective at 12:01 a.m. on 12/15/2016, forms part of

Policy No. 0202-4073  
Issued to City of Pensacola  
Issued by Allied World Surplus Lines Insurance Company

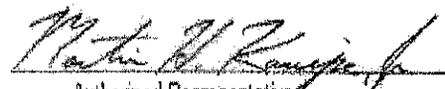
In consideration of the premium charged, it is hereby agreed that Section IV. CONDITIONS, Subsection B(2) is amended to read as follows:

"(2) The **Insurer** will have the right to make investigations and, solely with respect to INSURING AGREEMENTS I.A and I.B, conduct negotiations and enter into the settlement of any **Claim** as the **Insurer** deems appropriate, with the consent of the **Insured**. If the **Insured** refuses to consent to a settlement acceptable to the claimant in accordance with the **Insurer's** recommendation, then, subject to the applicable Limit of Liability set forth in ITEM 3. of the Declarations, the **Insurer's** liability for such **Claim** will not exceed:

- (a) the amount for which such **Claim** could have been settled by the **Insurer** plus **Defense Expenses** up to the date the **Insured** refused to settle such **Claim**; plus
- (b) Seventy percent (70%) of any **Loss** and/or **Defense Expenses** in excess of the amount in clause (a) above, incurred in connection with such **Claim**.

The remaining **Loss** and/or **Defense Expenses** will be carried by the **Insured** at its own risk and will be uninsured."

All other terms, conditions and limitations of this Policy shall remain unchanged.

  
Authorized Representative

ENDORSEMENT NO.

AMEND NOTICE OF CLAIM  
NOTICE TO SPECIFIC INDIVIDUALS

This Endorsement, effective at 12:01 a.m. on 12/15/2016, forms part of

Policy No. 0202-4073  
Issued to City of Pensacola  
Issued by Allied World Surplus Lines Insurance Company

In consideration of the premium charged, it is understood and agreed that Section IV. CONDITIONS, Subsection F. Notice, Timing, and Interrelationship of Claims, paragraph (1) is amended to read as follows:

- (1) As a condition precedent to any right to payment in respect of any **Claim** first made during the **Policy Period**, the **Insured** must give the **Insurer** written notice of such **Claim**, with full details, as soon as practicable after the CEO, CFO, and RM of the **Named Insured** becomes aware of such **Claim**, and in the event that that a **Claim** is first made within thirty (30) days prior to the expiration of the **Policy Period**, no later than seventy-five (75) days after the expiration of the **Policy Period**.

All other terms, conditions and limitations of this Policy shall remain unchanged.

  
Authorized Representative

**ENDORSEMENT NO.**

**MEDICAL SERVICES EXCLUSION**

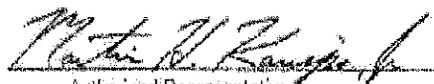
This Endorsement, effective at 12:01 a.m. on 12/15/2016 , forms part of

Policy No. 0202-4073  
Issued to City of Pensacola  
Issued by Allied World Surplus Lines Insurance Company

In consideration of the premium charged, it is hereby agreed that:

1. The **Insurer** shall not pay any **Loss or Defense Expenses** from any **Claim** based upon, arising out of, resulting from, or in any way involving any actual or alleged "Medical Services," as defined below.
2. "Medical Services" means services performed in the treatment or care of any person, including: medical, dental, nursing, psychiatric, osteopathic, chiropractic, dental or other professional care or services; the furnishing or dispensing of medications, drugs, blood, blood products, or medical, dental or surgical supplies, equipment or appliances in connection with such treatment or care; the furnishing of food or beverages in connection with such treatment or care; the providing of counseling or social services in connection with such treatment or care; and the handling of or performance of post-mortem examinations on human bodies, including autopsies, organ donations and other procedures.  
  
"Medical Services" shall also include any **Insured's** activities as a member of an accreditation, standards review, professional review or similar board or committee;
3. The **Insurer** shall not pay any **Loss or Defense Expenses** from any **Claim** based upon, arising out of, resulting from, or in any way involving any actual or alleged:
  - (a) bodily injury, including, but not limited to, any physical injury, sickness or disease, including mental anguish, emotional distress or death resulting there from, sustained by;
  - or,
  - (b) neglect or abuse of;any person who is a patient or resident of any facility owned, operated by, or managed by the **Named Insured**.

All other terms, conditions and limitations of this Policy shall remain unchanged.

  
Authorized Representative

- Public Officials Liability Coverage
- Police Professional Liability Coverage
- Educators Errors and Omissions Liability Coverage
- Employment Practices Liability Coverage

**ENDORSEMENT NO.**

**PRE-APPROVED COUNSEL  
WITH RATES**

This Endorsement, effective at 12:01 a.m. on 12/15/2016, forms part of

Policy No. 0202-4073  
 Issued to City of Pensacola  
 Issued by Allied World Surplus Lines Insurance Company

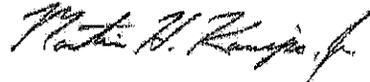
In consideration of the premium charged, solely in connection with the coverage(s) selected above, it is understood and agreed that:

1. The **Insured** will be permitted to use the firm of:  
 Allen Norton & Blue, P.A. located in Tallahassee, FL  
 to represent them with respect to any **Claim** that is made under the Coverage Section(s) selected above, other than **Claims** which:
  - a. allege a mass tort; or
  - b. are brought by multiple claimants or plaintiffs; or
  - c. are brought by an association group in their name or on behalf of one or more persons or entities, or brought by one or more persons representing the common interests of an association or group,
  - d. are brought in the form of a Class Action or for which the claimants are seeking certification as a class (whether or not such class is actually certified); or
  - e. any other form of multi-party litigation.
  
2. The foregoing permission, and the **Insurer's** obligation to reimburse **Defense Expenses** paid to such counsel, is expressly conditioned on the following:
  - a. The **Insurer** shall be reasonably satisfied that such counsel is able and competent to handle any such **Claim** for which such counsel is engaged to provide legal services;
  - b. The **Insurer** shall pay such counsel at an hourly rate no more than the hourly rates indicated in the table below, and hourly fees of such counsel in excess of the hourly rates indicated below shall be uninsured;

Partners and Of-Counsel	no more than \$170.00/Hour
Associates	no more than \$140.00/Hour
Legal Assistants/Paralegals	no more than \$85.00/Hour

- c. Such counsel shall maintain an office located in the jurisdiction where the litigation is filed, or proximate thereto;
  - d. Such counsel shall, in all respects, adhere to any Litigation Management Guidelines or Billing and Reporting Guidelines issued by the **Insurer** and updated from time to time.
3. Nothing herein shall be interpreted to waive the **Insurer's** right to associate in the defense or settlement of any **Claim**.
  4. Neither the Firm listed above nor any legal counsel of the Firm are approved to provide a defense for any **Claim** arising out of any matter which the Firm or legal counsel provided legal services or advice to any other party on, prior to the commencement of such **Claim** against the **Insured**.
  5. The **Insurer** may revoke the **Insured's** right to use the Firm listed above in the defense of any **Claim**, if the **Insurer** deems appropriate based on the facts and circumstances.
  6. Neither the Firm listed above nor any legal counsel of the Firm are **Insureds** under this Policy.

All other terms, conditions and limitations of this Policy shall remain unchanged.



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Authorized Representative



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-05

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council President Gerald Wingate

**SUBJECT:**

RESOLUTION 18-05 - DIRECT FILE

**RECOMMENDATION:**

That City Council adopt Resolution 18-05.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA STATING THE PREFERENCE AND WILL OF THE CITY OF PENSACOLA TO HAVE THE CHILDREN OF THIS COMMUNITY TREATED AS CHILDREN WHEN THEY BREAK FLORIDA LAW

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Currently, the decision to turn a juvenile offender over to the adult criminal justice system lies solely with the Office of the State Attorney, with no judicial or other oversight in a system referred to as Direct File. As a result of this system, Florida incarcerates more children in adult prisons than any other state, with the First Judicial Circuit leading the state in such incarcerations.

This resolution, to be sent to our legislators, is an attempt to show the Legislature the community support for a change in the way juveniles are treated within the criminal justice system and to request that an alternative charging mechanism be established for placing juveniles within the adult system.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

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**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) Resolution 18-05 - Direct File

**PRESENTATION:** No

RESOLUTION  
NO. 18-05

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
PENSACOLA, FLORIDA STATING THE PREFERENCE  
AND WILL OF THE CITY OF PENSACOLA TO HAVE THE  
CHILDREN OF THIS COMMUNITY TREATED AS  
CHILDREN WHEN THEY BREAK FLORIDA LAW

WHEREAS, children are developmentally different from adults and these differences are documented by research on the adolescent brain and acknowledged by the U.S. and state supreme courts, as well as state and federal laws that prohibit youth under age 18 from taking on major adult responsibilities such as contracting, voting, jury duty and military service; and

WHEREAS, the juvenile justice system is designed for, and more effective at, rehabilitating children who fall into the delinquency system than the adult corrections system, which focuses on punishment rather than rehabilitation; and

WHEREAS, children who are placed under the commitment of the juvenile court system are required to receive age-appropriate services and education, and remain closer to their families, all of which reduces the likelihood of future offending; and

WHEREAS, prosecuting children in adult court has been proven not to deter crime, and in fact, a child prosecuted in the adult criminal justice system is 34% more likely to be rearrested for a felony than a child who remains in the juvenile justice system; and

WHEREAS, it is harmful to both public safety and children's well-being to confine youth in adult jails, where they are significantly more likely to be physically and sexually assaulted or to commit suicide; and

WHEREAS, adult jails are not designed to house children separately from adults, as required by law, and thus often hold children in solitary confinement and deprive them of adequate educational services, which in turn, make them less likely to get back on track when released; and

WHEREAS, most of the children tried as adults in Florida are charged with non-violent offenses; and

WHEREAS, Florida's reliance on prosecutorial discretion leads to disparate sentencing under similar circumstances creating a system of "justice by geography" which disproportionately harms children of color and children with disabilities and mental health issues; and

WHEREAS, children prosecuted as adults receive an adult criminal record when convicted that can diminish their future education and employment opportunities and strip them of the right to vote, enlist in the military, or receive financial aid for college before these youth even turn 18; and

WHEREAS, since 2009, more than 14,000 children have been prosecuted as adults in Florida – ninety-eight percent of whom are “direct filed” in adult court by prosecutors with no hearing, due process, oversight, or input from a judge; and

WHEREAS, Florida is one of only 13 states that allows its children to be prosecuted as adults for criminal offenses and one of only three states that do not allow a juvenile court judge to participate in the decision to prosecute a child as an adult; and

WHEREAS, Florida prosecutes more children as adults for criminal offenses than any other state and the First Judicial Circuit transferred 120 children to adult court in Fiscal Year 2016-2017, more than any other circuit in the state; and

WHEREAS, even if prosecutors did not have sole discretion to transfer children to the adult system through “direct file,” children could still be transferred to the adult system through the “judicial waiver” process – a process in which a judge is involved in the decision to prosecute a child as an adult – which, according to a 2016 public opinion poll, 62% of Floridians believe this the better way for the state to decide whether to prosecute children as adults.; and

WHEREAS, seventy percent of Floridians believe children should be held in a system separate from adult offenders; and

WHEREAS, the oversight, training, and expertise of juvenile court judges uniquely qualifies them to advise on the suitability of the adult court for a child.

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

SECTION 1. That the City Council affirms its support of treating children as children through the juvenile justice system where services are provided to the child and his/her family.

SECTION 2. That the City Council urges our Legislative Delegation and the entire Florida Legislature to adopt comprehensive reform legislation that would require a fitness hearing before a juvenile court judge for any and all prosecution of children under the age of 18 and require that children prosecuted as adults be held in juvenile facilities only.

SECTION 3. That this Resolution be transmitted to the Speaker of the House, the Senate President, and all members of our Legislative Delegation upon its passage.

SECTION 4. This Resolution 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:

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City Clerk



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-07

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** City Council Member Jewel Cannada-Wynn

**SUBJECT:**

RESOLUTION ESTABLISHING YOUTH IN GOVERNMENT DAY

**RECOMMENDATION:**

That City Council adopt resolution No. 18-07:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA ESTABLISHING A YOUTH IN GOVERNMENT DAY TO BE HELD APRIL 30, 2018 WITHIN THE CITY OF PENSACOLA; PROVIDING AN EFFECTIVE DATE

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The City of Pensacola views the youth of the community to be the future of the City and it is the desire of the City to provide the youth with the opportunity to see the inner workings of government; it is deemed in the best interest of the City, the youth and the furthering of transparency to urge and promote a closer relationship between our youth and their local government.

**PRIOR ACTION:**

September 16, 2016 - Youth in Government Day held  
April 13, 2010 - Student Government Day held

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) Resolution No. 18-07 - Youth in Government Day

**PRESENTATION:** No

RESOLUTION NO. 18-07

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA ESTABLISHING A YOUTH IN GOVERNMENT DAY TO BE HELD APRIL 30, 2018 WITHIN THE CITY OF PENSACOLA; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Pensacola views the youth of the community to be the future of the City; and

WHEREAS, the youth of our community are increasingly more politically and civically engaged within the community; and

WHEREAS, issues arise of which the youth in our community have developed unique perspectives; and

WHEREAS, it is the desire of the City to provide the youth of our community with the opportunity to see the inner workings of government; and

WHEREAS, it is deemed in the best interest of the City, the youth and the furthering of transparency to urge and promote a closer relationship between our youth and their local government; and

WHEREAS, the City Council has set aside a certain date to be devoted to such an endeavor.

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

Section 1. That the City Council of the City of Pensacola establishes Monday April 30, 2018 as “Youth in Government Day – 2018” within the City of Pensacola, Florida.

Section 2. This Resolution 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



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00045

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

AIRPORT - VT MOBILE AEROSPACE ENGINEERING, INC. PROJECT AT PENSACOLA INTERNATIONAL AIRPORT - AMENDMENT NO. 2 AND AMENDMENT NO. 3 TO ARCHITECTURAL AND ENGINEERING DESIGN SERVICES

**RECOMMENDATION:**

That City Council authorize the Mayor to execute Amendment No. 2 to the contract with Atkins North America in the amount of \$67,409.00 and Amendment No. 3 in the amount of \$14,166.13 for additional architectural and engineering services for the VT Mobile Aerospace Engineering project at the Pensacola International Airport. Further that City Council authorize Mayor to take all actions necessary related to the execution of the amendments.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Atkins North America was selected as the firm to provide the architectural and engineering design services for the development of the hangar facility to be utilized by VT MAE. The initial cost negotiated with Atkins for the work was based on a general schematic design developed while formulating the lease agreement with VT MAE. After commencement of the formal design activity, certain additional services were required. Additional inspection services were needed to ensure that the concrete for the apron area was being placed in accordance with the required plans and specifications, and additional design services were required to re-design a portion of the second level mezzanine area to include a break area and bathrooms. As the re-design for the mezzanine was done at the request of VT, they will reimburse the City for the cost.

These items have required Atkins North America to expend additional hours not anticipated in their original fee. The additional fees have been reviewed by Mott MacDonald as the Program Administrator and deemed to be fair and reasonable.

**PRIOR ACTION:**

December 17, 2013 - Mayor Ashton Hayward executed a nonbinding Memorandum of Understanding with ST Aerospace which allowed the City to begin contract negotiations.

June 13, 2013 - City Council adopted a resolution to support the acceptance of a grant offered by the Florida Department of Transportation as a Joint Participation Agreement # 43360229401 in the amount of \$11,090,000 for air commerce park phases I and IA - Infrastructure Development.

February 13, 2014 - City Council Discussion Item and Presentation on the ST Aerospace Economic Development Project at the Pensacola International Airport.

February 27, 2014 - City Council approved the Interlocal Agreement with Escambia County and the City of Pensacola for Funding of Economic Development Project - ST Aerospace of Mobile, Inc.

September 9, 2014 - City Council approved the lease with VT Mobile Aerospace Engineering

July 16, 2015 - City Council approved the selection of Greenhut Construction and authorized the Mayor to execute the contract.

September 17, 2015 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571729401 in the amount of \$1,531,546 for construction funding to expand the cargo apron and construct a taxiway connector at the Pensacola International Airport of which \$1,121,242 will be used towards taxiway connecting future VT MAE facility to runway 17-35.

March 17, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreements # 42030029401, # 42960929401, and # 42960939401 in the amount of \$2,975,305 for construction of a taxiway connector at the Pensacola International Airport.

April 14, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571769401 in the amount of \$8,599,600 for construction of a hangar at the Pensacola International Airport.

September 22, 2016 - City Council authorized the Mayor to execute Amendment No. 1 to the contract with Atkins North America.

**FUNDING:**

Budget:	\$23,786,147	FDOT Grant Entitlements
	7,000,000	Industry Recruitment, Retention, and Expansion Funds
	8,000,000	Interlocal Agreement between City and Escambia County
	<u>7,244,300</u>	VT Mobile Aerospace Engineering, Inc.
	<u>\$46,030,447</u>	
Actual:	\$ 2,690,189	Architectural/Engineering Fees - Design and Construction
	1,279,298	Program Management Fees - Design and Construction
	219,707	Environmental Assessment
	581,002	Federal Aviation Administration Equipment Modification
	461,513	Professional Services
	152,901	Geotech/Survey/Airport Layout Plan

150,000	Construction Manager at Risk Fees - Design
304,689	Miscellaneous
750,000	Bridge Financing
37,576,696	Construction Manager at Risk - GMP
<u>1,864,452</u>	Project Contingency
<u>\$46,030,447</u>	

**FINANCIAL IMPACT:**

The project is expected to create a minimum of 400 full-time, high skilled jobs with an average salary of \$41,000. The total project cost of \$46,030,447 is being funded by a combination of VT MAE investment, state grants, and local funds. The fees for this amendment will come from a combination of those funds.

**CITY ATTORNEY REVIEW:** Yes

1/16/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Daniel Flynn, Airport Director

**ATTACHMENTS:**

- 1) Amendment No. 2
- 2) Amendment No. 3

**PRESENTATION:** No

**AMENDMENT NO. 2**  
**AGREEMENT FOR ENGINEERING SERVICES**  
**(VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport)**

THIS AMENDMENT NO. 2 TO AGREEMENT FOR ENGINEERING SERVICES (this "Amendment") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between ATKINS NORTH AMERICA, INC., INC., a Florida corporation (the "Engineer") and the CITY OF PENSACOLA, a Florida municipal corporation (the "City"), in its capacity as owner and operator of Pensacola International Airport (the "Airport").

**RECITALS**

WHEREAS, the City and the Engineer have entered into a certain Agreement for Engineering Services for the VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport with an effective date of September 1, 2015 ("Agreement");

WHEREAS, the Project scope has been modified subsequent to the negotiation of the Agreement;

WHEREAS, the modifications to the Project scope have increased the architectural, engineering, and other design services required for the Project;

WHEREAS, the parties desire to amend the Agreement in certain respects and to provide for the modification of the Project Cost Breakdown;

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, the Engineer and the City hereby agree as follows:

1. Recitals: Definitions. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Capitalized terms in this Amendment shall have the respective meanings assigned to them in the Agreement unless another meaning is clearly intended by the terms of this Amendment.

2. Additional Tasks. The following new Section 3.2 is hereby added to the Agreement and made an integral and material part thereof:

Section 3.2 Special Services: At the request of the Owner, the following Special Services will be furnished by the Engineer:

Task SS.1 The Engineer will provide an on-site construction management representative during airfield concrete pavement operations to assist the Construction Administrator with observation of Work. The on-site representative, through on-site observations of the work in progress, field checks of materials and equipment, and maintenance of job site records on conditions and activities, shall assist Engineer in determining that the project is proceeding in accordance with the contract documents. The furnishings of such representation shall not make Engineer responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or for contractor's failure to perform the construction work in accordance with the construction documents. For purposes of scope definition, the Engineer assumes the representative will be on-site for an average of 40 hours per week for a period of 12

weeks. Should additional time be required, the Engineer shall be eligible for additional compensation at the approved contract rate.

3. Engineer Fee. Via acceptance of this amendment, the Engineer Fee shall be adjusted by an increase of \$67,409.00. Therefore, first sentence of Section 4.1 of the Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

“The City shall pay to the Engineer, for satisfactory performance of the work and services required by this Agreement, the fixed amount of **\$2,698,321.86** (the “Engineer Fee”), which Engineer Fee shall be deemed earned and shall be payable based on work completed according to the Engineer Fee breakdown shown on **Exhibit “B”** attached hereto and incorporated herein by reference.”

4. Supplement to Exhibit “B”. Exhibit “B” is hereby supplemented by adding thereto Exhibit “B-2” attached hereto and incorporated herein by reference. Accordingly, as used in Section 4.1 of the Agreement and elsewhere in the Agreement, Exhibit “B” shall mean and refer to, collectively, Exhibit “B” to the original Agreement and Exhibit “B-2” attached hereto.

5. Ratification of Agreement as Amended. The Agreement as hereby amended is hereby ratified, affirmed and confirmed in all respects.

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.*

*SIGNATURES ON FOLLOWING PAGE.*

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment as of the date set forth below.

**CITY:**

**CITY OF PENSACOLA**  
a Florida municipal corporation

By: \_\_\_\_\_  
Ashton J. Hayward, III, Mayor

Attest and Witnessed By:

\_\_\_\_\_  
Ericka L. Burnett, City Clerk

Witnessed By:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Approved As To Content:

By: \_\_\_\_\_  
Daniel E. Flynn, Airport Director

Legal in Form and Valid As Drawn

By: \_\_\_\_\_  
Lysia H. Bowling, City Attorney

**ENGINEER:**

**ATKINS NORTH AMERICA,  
INC.,**  
A Florida corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_

Witnessed By:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Witnessed By:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**AMENDMENT NO. 2 TO THE AGREEMENT FOR ENGINEERING SERVICES**  
 (VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport)  
**EXHIBIT "B-2" – PROJECT COST BREAKDOWN**

**PART A: BASIC SERVICES**

Not Applicable

\$ -

**CONSTRUCTION PHASE BASIC SERVICES TOTAL FEE**

\$ -

**PART B: SPECIAL SERVICES**

Task	Task Description	Project Director	Sr. Eng IV (Aviation)	Const. Mgmt Rep.	Const. Mgmt Rep.	Const. Mgmt Rep.	Admin	Total Man-Hours
Task SS.1	Resident Project Representative (12 weeks)	24	16	24	480	0	12	556
	TOTAL MAN-HOURS	24	16	24	480	0	12	556
	LABOR RATES - HOURLY	\$70.50	\$67.00	\$40.00	\$36.00	\$0.00	\$23.50	
	SUB-TOTAL DIRECT LABOR	\$1,692	\$1,072	\$960	\$17,280	\$0	\$282	\$21,286

OVERHEAD @ 170%  
 PROFIT @ 12%

\$ 36,186  
 \$ 6,897

**SPECIAL SERVICES TOTAL BURDENED LABOR**

\$ 64,369

**SPECIAL SERVICES DIRECT NON SALARY COSTS**

Vehicle for RPR (\$750 per month)

\$ 2,250

**SPECIAL SERVICES SPECIALTY SUBCONSULTANTS**

Not Applicable

\$ -

**SPECIAL SERVICES TRAVEL SUMMARY**

\$ 790

Purpose of Travel	Est. # People	Est. # Days	Est. Airfare	Est. Car	Est. Lodging	Per Diem	Total
(1) Pavement Engineer Site Visit	1	2	\$ 350	\$ 170	\$ 150	\$ 120	\$ 790

**CONSTRUCTION PHASE SPECIAL SERVICES TOTAL FEE**

\$ 67,409

**CONSTRUCTION PHASE TOTAL FEE = BASIC SERVICES + SPECIAL SERVICES**

\$ 67,409

**AMENDMENT NO. 3  
AGREEMENT FOR ENGINEERING SERVICES  
(VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport)**

THIS AMENDMENT NO. 3 TO AGREEMENT FOR ENGINEERING SERVICES (this "Amendment") is made and entered into this \_\_\_\_ day of \_\_\_\_\_, 2018 by and between ATKINS NORTH AMERICA, INC., INC., a Florida corporation (the "Engineer") and the CITY OF PENSACOLA, a Florida municipal corporation (the "City"), in its capacity as owner and operator of Pensacola International Airport (the "Airport").

**RECITALS**

WHEREAS, the City and the Engineer have entered into a certain Agreement for Engineering Services for the VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport with an effective date of September 1, 2015 ("Agreement");

WHEREAS, the Project scope has been modified subsequent to the negotiation of the Agreement;

WHEREAS, the modifications to the Project scope have increased the architectural, engineering, and other design services required for the Project;

WHEREAS, the parties desire to amend the Agreement in certain respects and to provide for the modification of the Project Cost Breakdown;

NOW, THEREFORE, for and in consideration of the premises, the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, the Engineer and the City hereby agree as follows:

1. Recitals: Definitions. The foregoing recitals are true and correct and are hereby incorporated herein by reference. Capitalized terms in this Amendment shall have the respective meanings assigned to them in the Agreement unless another meaning is clearly intended by the terms of this Amendment.

2. Additional Tasks. The following new Section 2.6 is hereby added to the Agreement and made an integral and material part thereof:

Section 2.6 Engineer shall perform and provide additional basic design services at the request of the Tenant and the Owner related to the re-design of mezzanine offices to include a small men's restroom, small women's restroom, and a breakroom with cabinets and sink. Design services will include architecture, electrical, plumbing, and civil trades. Engineer will attend a coordination kick-off meeting and prepare a preliminary set of drawings for review, comment, and pricing. Engineer will create issued for construction drawings based on comments received. No additional permitting is included in this scope of work.

3. Engineer Fee. Via acceptance of this amendment, the Engineer Fee shall be adjusted by an increase of **\$14,166.13**. Therefore, first sentence of Section 4.1 of the Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

"The City shall pay to the Engineer, for satisfactory performance of the work and services required by this Agreement, the fixed amount of **\$2,740,901.13** (the "Engineer Fee"), which Engineer Fee

shall be deemed earned and shall be payable based on work completed according to the Engineer Fee breakdown shown on **Exhibit "B"** attached hereto and incorporated herein by reference."

4. Supplement to Exhibit "B". Exhibit "B" is hereby supplemented by adding thereto Exhibit "B-4" attached hereto and incorporated herein by reference. Accordingly, as used in Section 4.1 of the Agreement and elsewhere in the Agreement, Exhibit "B" shall mean and refer to, collectively, Exhibit "B" to the original Agreement and Exhibit "B-4" attached hereto.

5. Ratification of Agreement as Amended. The Agreement as hereby amended is hereby ratified, affirmed and confirmed in all respects.

*REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.*

*SIGNATURES ON FOLLOWING PAGE.*

IN WITNESS WHEREOF, the undersigned have duly executed this Amendment as of the date set forth below.

**CITY:**

**CITY OF PENSACOLA**  
a Florida municipal corporation

By: \_\_\_\_\_  
Ashton J. Hayward, III, Mayor

Attest and Witnessed By:

\_\_\_\_\_  
Ericka L. Burnett, City Clerk

Witnessed By:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Approved As To Content:

By: \_\_\_\_\_  
Daniel E. Flynn, Airport Director

Legal in Form and Valid As Drawn

By: \_\_\_\_\_  
Lysia H. Bowling, City Attorney

**ENGINEER:**

**ATKINS NORTH AMERICA,  
INC.,**  
A Florida corporation

By: \_\_\_\_\_

Date: \_\_\_\_\_

Witnessed By:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Witnessed By:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

**AMENDMENT NO. 3 TO THE AGREEMENT FOR ENGINEERING SERVICES**  
 (VT Aerospace Engineering, Inc. MRO Facility at Pensacola International Airport)  
**EXHIBIT "B-4" – PROJECT COST BREAKDOWN**

**PART A: BASIC SERVICES**

Task	Task Description	Project Director	Sr. Eng III (Aviation)	Sr. Eng II (Storm/Road)	Eng II			Admin	Total Man-Hours
Task 2.6	Mezzanine Restrooms	8	0	4	8			2	22
	TOTAL MAN-HOURS	8	0	4	8	0	0	2	22
	LABOR RATES - HOURLY	\$70.50	\$53.50	\$48.00	\$30.50	\$0.00	\$0.00	\$23.50	
	SUB-TOTAL DIRECT LABOR	\$564	\$0	\$192	\$244	\$0	\$0	\$47	\$1,047
	OVERHEAD @	170%							1,780
	PROFIT @	12%							339

**BASIC SERVICES TOTAL BURDENED LABOR**

\$ 3,166

**BASIC SERVICES DIRECT NON SALARY COSTS**

Not Applicable

\$ -

**BASIC SERVICES SPECIALTY SUBCONSULTANTS**

Arch, MEP, Structural (BTA)  
 Civil Utilities (Rebol Battle)

\$ 11,000

**CONSTRUCTION PHASE BASIC SERVICES TOTAL FEE**

\$ 14,166.13



## Memorandum

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File #: 18-00036

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

AWARD OF MASTER AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR AIRPORT IMPROVEMENTS AT PENSACOLA INTERNATIONAL AIRPORT

**RECOMMENDATION:**

That City Council award contracts to Atkins North America, Inc., Mott MacDonald Florida, LLC, and RS&H, Inc. for professional engineering and architectural services related to airport improvements at the Pensacola International Airport. Further, that City Council authorize the Mayor to take all actions necessary to execute the contracts.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The ongoing maintenance and operation of the Pensacola International Airport requires the services of professional architectural and engineering firms to provide general design, construction administration, and inspection services for various Airport projects planned over the next five years. Rather than soliciting for an engineering firm for each individual project, the Airport contracts with several firms to provide the necessary services over a five-year period. This approach is more efficient, has less impact on the Airport, and is endorsed by both the Federal Aviation Administration and the Florida Department of Transportation.

Due to the number and diversity of anticipated projects over the next five years, Airport Staff proposes to employ three firms which have developed teams to provide architectural and engineering services for the development of construction plans and specifications, construction contract documents, cost estimates, periodic resident project representative services, and construction administration. Additionally, the firms will be able to advise Staff on minor repair and maintenance items, permitting concerns, and other administrative issues that may arise during the term of the contract. The services for each individual project will come to the City for approval in the form of Work Orders.

In April 2017, Staff issued Request for Qualifications No. 17-022 for the services. Four responses were received and opened on May 26, 2017. A review panel comprised of Mr. Derek Owens, City Public Works Director, Mr. Stephen Furman, Santa Rosa County Public Works Director, and Mr. Dave Penzone reviewed the qualification packages submitted and requested that the top three firms and their respective teams make oral

presentations. After hearing oral presentations on August 22, 2017 and evaluating the firms, the panel ranked the firms as follows:

1. Atkins North America, Inc.
2. Mott MacDonald Florida, LLC
3. RS&H, Inc.

All three are all nationally recognized firms providing a full spectrum of services, including necessary airport/aviation specific experience. Additionally, two of the firms, Atkins and Mott MacDonald, have branch offices in Pensacola.

The attached contract is substantially similar to the contract issued for services in 2012. The initial 2012 document was developed with the assistance of City and outside legal counsel, and was reviewed by outside legal counsel again in 2017. The contract details the process by which the City will obtain proposed work orders detailing scope, fees and terms for individual projects. The contract has been reviewed and accepted by all three engineering firms.

**PRIOR ACTION:**

September 2003 - City Council approved a five-year engineering services contract with Reynolds, Smith & Hills, Inc. for engineering services at Pensacola Airport.

July 19, 2012 - City Council approved similar contracts with Atkins North America, Inc. and Hatch Mott MacDonald, LLC for a five-year engineering services for Pensacola Airport.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Award of contracts to Atkins North America, Inc., Mott MacDonald Florida, LLC, and RS&H, Inc. does not have a financial impact. Once the contracts are executed, staff will obtain appropriate authorization of the individual work orders with provide detailed cost information for the subject project.

**CITY ATTORNEY REVIEW:** Yes

1/9/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Daniel Flynn, Airport Director

**ATTACHMENTS:**

- 1) Tabulation of Respondents to RFQ No. 17-022

- 2) Master Agreement for Architectural and Engineering Services for Airport Improvements at Pensacola International Airport

**PRESENTATION:** No

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TABULATION OF QUALIFICATIONS

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RFQ NO.: 17-022

TITLE: MASTER CONTRACT FOR ARCHITECTURAL AND ENGINEERING SERVICES  
FOR IMPROVEMENTS AT PENSACOLA INTERNATIONAL AIRPORT

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OPENING DATE: May 26, 2017

OPENING TIME: 2:30 P.M.

DEPARTMENT: Airport

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Atkins North America, Inc.  
Jeff C. Helms, PE, Vice President  
2114 Airport Boulevard, Suite 1450  
Pensacola, FL 32504  
(850) 478-9844  
Fax: (850) 478-0620  
[jeffrey.helms@atkinsglobal.com](mailto:jeffrey.helms@atkinsglobal.com)

Elements, LLC  
Bret R. Azzarelli, Vice President  
600 South Magnolia Avenue, Suite 150  
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**MASTER AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES  
FOR AIRPORT IMPROVEMENTS  
AT PENSACOLA INTERNATIONAL AIRPORT**

**THIS MASTER AGREEMENT FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR AIRPORT IMPROVEMENTS AT PENSACOLA INTERNATIONAL AIRPORT** (hereinafter referred to as this "Master Agreement") is made and entered into as of the \_\_\_\_\_ day of \_\_\_\_\_, 2017 (hereinafter referred to as the "Effective Date") by and between the **CITY OF PENSACOLA, FLORIDA**, a municipal corporation created and existing under the laws of the State of Florida, with the business address of 222 West Main Street, Pensacola, Florida 32502 (hereinafter referred to as the "City") and \_\_\_\_\_ ("Engineer") a Florida \_\_\_\_\_, with a business address of \_\_\_\_\_.

**WITNESSETH:**

**WHEREAS**, the City of Pensacola owns and operates the Pensacola International Airport (hereinafter referred to as the "Airport") in Pensacola, Florida; and

**WHEREAS**, the Airport periodically engages in review, evaluation and analysis of its current and future design and infrastructure development needs and improvements and periodically requires engineering, architectural and surveying services for a variety of Airport improvement tasks and projects, including services relating to general design, construction administration and project inspection; and

**WHEREAS**, the Engineer is an established and highly respected engineering and design firm that possesses in-depth knowledge and expertise with respect to airport construction and development; and

**WHEREAS**, after negotiation, the parties have reached an understanding regarding certain professional services which may be performed by the Engineer with respect to the Airport; and

**WHEREAS**, as a result, the City has determined that it is in the best interests of the citizens of the City for the City to enter into this Master Agreement with the Engineer;

**NOW, THEREFORE, FOR AND IN CONSIDERATION OF** the mutual covenants and conditions set forth in this Master Agreement, and for other good and valuable consideration, the City and the Engineer hereby agree as follows:

**Article 1 - General**

Section 1.1     The foregoing recitals are true and correct and are hereby incorporated herein by reference.

Section 1.2     The City anticipates that during the term of this Master Agreement, the City, as owner of Pensacola International Airport, will from time to time engage qualified firms and individuals to provide general design, construction administration, project inspection and other engineering, architectural and surveying services for a variety of Airport improvement tasks and projects, including those described in that certain City of Pensacola RFQ No. 17-022 entitled "Request for Qualifications,

Master Contract for Architectural and Engineering Services for Airport Improvements at Pensacola International Airport” (the “RFQ”) This Master Agreement, together with specific Work Orders entered into by the parties from time to time pursuant to this Master Agreement, shall govern the parties’ relationship and respective rights and obligations with respect to all services within the scope of this Master Agreement provided by the Engineer for Airport improvement projects during the term of this Master Agreement. The Engineer shall provide professional and consultation services to the City in accordance with the terms of this Master Agreement and the Work Orders entered into by the parties from time to time pursuant to this Master Agreement. All such services shall comport with applicable City of Pensacola codes and ordinances, including ordinances for the design, construction and retrofitting of projects, and with other applicable local, state and federal laws and regulations.

Section 1.3 Each specific task and project must be authorized by a written Work Order executed by both the City and the Engineer prior to commencement of any work or services by the Engineer on such task or project, and no work or services shall be performed under any Work Order until the City has first issued a written notice to proceed to the Engineer. Thereafter, prior to granting approval for the Engineer to proceed to a subsequent phase of a Work Order, the City its sole discretion may require the Engineer to submit such documents and drawings as may be reasonably necessary for review and approval. The City shall provide to the Engineer the scope of work for a particular task or project, and the Engineer shall prepare a proposed Work Order using the form of Work Order attached hereto as Exhibit “A” and shall provide the proposed Work Order to the City for review, action and approval. Each Work Order shall include, without limitation, the scope of work, schedule of work, specific description of services, compensation to the Engineer, and changes to any of the provisions of this Master Agreement that are to apply to such Work Order. Upon delivery of the proposed Work Order to the City, the City and the Engineer shall negotiate in good faith to reach agreement on the provisions of such Work Order. If the parties are unable to agree on all of the provisions of the Work Order, then upon the request of the City, the Engineer shall provide to the City its best and final offer with respect to such Work Order, and thereupon the City shall, in its sole and absolute discretion, either accept such offer in writing or deliver to the Engineer a written notice of termination of negotiations with respect to such Work Order. If the City elects to terminate negotiations, the City in its sole discretion may enter into an agreement with another architect, engineer or surveyor to perform all or any of the work contemplated by the proposed Work Order.

Section 1.4 This Agreement shall commence on and as of the Effective Date and shall terminate at 5:00 p.m. CST on the fifth (5<sup>th</sup>) anniversary of the Effective Date (the “Termination Date”) unless sooner terminated pursuant to other provisions of this Master Agreement or by mutual written consent of the parties; provided, however, that notwithstanding the foregoing, this Master Agreement and all uncompleted Work Orders shall continue in full force and effect until such Work Orders have been fully completed and performed by the Engineer in accordance with the terms and provisions of this Master Agreement and such Work Orders.

Section 1.5 Except as otherwise expressly stated in a Work Order, compensation to the Engineer for all work and services under a Work Order shall be determined in accordance with the compensation schedule attached hereto as Exhibit “B” and incorporated herein by reference (the “Compensation Schedule”). During August of each contract year, either party may request changes in the Compensation Schedule. Both the Engineer and the City agree to enter into good faith negotiations concerning such changes upon receipt of a written request from the other party detailing the proposed changes to the Compensation Schedule and specifying the reasons for such changes. If the parties agree to any change to the Compensation Schedule, the parties shall enter into an appropriate amendment to this Master Agreement, and such change shall apply to all Work Orders entered into on or after October 1

of such contract year but shall not apply to any existing Work Orders. In the event that the parties fail to reach agreement on the proposed changes to the Compensation Schedule within thirty (30) days after the commencement of such negotiations, this Master Agreement shall terminate October 1 of that year; provided, however, that notwithstanding such termination of this Master Agreement, this Master Agreement and all uncompleted Work Orders shall continue in full force and effect until such Work Orders have been fully completed and performed by the Engineer in accordance with the terms and provisions of this Master Agreement and such Work Orders. The Engineer warrants, represents and agrees that at no time during the Term of this Agreement shall the rates charged to the City be in excess of any other published or unpublished rates paid by any other client of the Engineer for work and services comparable to those contemplated by this Master Agreement.

Section 1.6 The Engineer is one of several firms selected by the City to perform professional services on the same or similar terms as in this Agreement. The City expressly reserves the exclusive right to assign specific Work Orders to the firm it deems best suited, in its sole and absolute discretion, for the type of work to be accomplished. Accordingly, this Agreement does not guarantee any amount or type of Work Orders to be assigned to the Engineer. Further, notwithstanding any contrary provision in this Master Agreement, the City expressly reserves the right, at any time and from time to time, and in its sole and absolute discretion, to enter into master agreements, task-specific agreements and Work Orders, and project-specific agreements and work orders with firms and individuals other than the Engineer for engineering, architectural, surveying and other professional services for any one or more Airport improvement tasks or projects. Without limiting the generality of the foregoing and notwithstanding any other provision of this Master Agreement, the City has not made and does not hereby make any representation, warranty or guaranty, written or verbal, express or implied, as to the type, quantity, quality, profitability or desirability of any tasks, work, services or Work Orders, if any, that the City may request of the Engineer pursuant to this Master Agreement.

Section 1.7 Except to the extent, if any, that any of the provisions of this Master Agreement are expressly modified by the provisions of a particular Work Order or are manifestly inapplicable to a particular Work Order, all provisions of this Master Agreement shall be deemed to be included in and constitute an integral and material part of each Work Order entered into by the parties pursuant to this Master Agreement, whether or not such provisions are referred to in or expressly incorporated by reference into such Work Order. In the event of any irreconcilable conflict between a provision of this Master Agreement and a provision of a Work Order, the provision of the Work Order shall control.

Section 1.8 The Charter of the City of Pensacola provides that the Mayor shall serve as the City's Chief Executive Officer. Upon approval by the City Council of this Master Agreement, the Mayor shall be authorized and obligated to perform, discharge and enforce all of the obligations, rights and responsibilities of the City which are created by, referenced or expressly or implicitly contained in this Agreement. The Mayor may, in his discretion, enforce and perform the rights and obligations of the City through such designees as he may select and identify to the signatories herein, and until such notice to the contrary has been provided, the Mayor hereby designates the Airport Director as his designee, unless provided otherwise or required by law. The Airport Director and such person or persons as the Mayor or the Airport Director may designate in writing from time to time shall be the City's authorized representatives for all purposes under this Master Agreement and related Work Orders. The Airport Director and all such designated persons are referred to in this Master Agreement as the "Airport Representative". Without limiting the generality of the foregoing, the Airport Representative shall have authority to execute all Work Orders and to issue on behalf of the City all notices required or permitted under this Master Agreement.

Section 1.9 This Master Agreement was awarded and entered into under and pursuant to the RFQ identified in Section 1.2 above. All terms, provisions and conditions of the RFQ are hereby attached hereto as Exhibit C and incorporated by reference into this Master Agreement. In the event of a conflict between the terms of the RFQ and the terms of this Master Agreement, the terms of this Master Agreement shall prevail.

Section 1.10 The Engineer holds itself out as possessing, and hereby represents to the City that Engineer possesses, special professional experience and expertise with regard to engineering, architectural and surveying services for airport facilities and projects, and the City has expressly relied upon such representation as an inducement to enter into this Master Agreement. Accordingly, the work and services provided by the Engineer under this Master Agreement and the Work Orders issued pursuant to this Master Agreement shall be performed by skilled, qualified and competent personnel and in accordance with the standard of care used under similar circumstances by design professionals with similar experience and expertise as that hereby represented by the Engineer. Without limiting the generality of the foregoing, the Engineer and the Engineer's work product shall comply with applicable construction, building and health codes and other applicable federal, state and local rules, regulations and laws, including environmental, pollution control and ecology, state building code, electric code, state fire prevention regulations, NFPA, ASTM, ANSI, NEMA, O.S.H.A. restrictions, utility company rules and regulations, Americans with Disabilities Act requirements, AASHTO standards, Florida Department of Transportation Standards for highways and bridges, Airport signage standards, Federal Aviation Regulation (FAR), FAA Advisory Circulars, and the rules, regulations and requirements of all other entities having jurisdiction with respect to the work performed under this Master Agreement and related Work Orders, as the same now exist or may thereafter become effective through the completion of the work. The Engineer shall be responsible for the professional quality, technical accuracy, and the coordination of all designs, drawings, specifications and other services furnished pursuant to this Agreement or any Work Order and shall correct or shall revise, without additional compensation, any errors or deficiencies in its work product (including the work product of its subcontractors) and shall make such other revisions as are necessary as the result of the failure of the Engineer or its subcontractors to provide an accurate and properly constructible product in its designs, drawings, specifications and other services. Further, the Engineer acknowledges and agrees that the City possesses no engineering expertise or knowledge comparable to that of Engineer and that the City is under no obligation to consult, and does not intend to consult, any engineer or design professional employed by or under contract with the City with respect to any work performed by the Engineer under this Master Agreement or any Work Order. Rather, the City shall be entitled to rely, and shall rely, solely upon the expertise, knowledge, advice and judgment of the Engineer and its subcontractors with respect to all services of the Engineer under this Master Agreement and each Work Order and that the City's approval of or consent to any advice or work product of the Engineer or its subcontractors shall not relieve the Engineer of any of its duties and obligations to the City nor constitute any assumption of risk or liability by the City.

Section 1.11 All CADD files required by this Master Agreement or a Work Order shall be delivered in the AutoCad Version format required by the City. The CADD layer guidelines recommended by the American Institute of Architects, the American Consulting Engineers Council and the American Society of Civil Engineers and approved by the City shall be utilized.

Section 1.12 With respect to any requirements in this Master Agreement or a Work Order for the Engineer to prepare and present detailed estimates of the cost of construction during various design phases, the detailed estimate of the cost of construction to be provided shall include, at a minimum, detailed quantity takeoffs, measurements of units, unit prices for labor and materials, and an allowance

for contractor's overhead, profit and bond, and shall reflect the impact of variables associated with the project such as its nature, location and duration. If the Engineer's detailed estimate of the cost of construction for any design phase exceeds the then-current construction cost limit for that project as agreed upon by the Engineer and the City, the Engineer shall revise the drawings and specifications for that project, as approved by the City, until the Engineer's detailed estimate is no greater than such construction cost limit. All revisions required by this Section shall be performed by the Engineer at no additional cost to the City.

Section 1.13 The Engineer's services for each project that is authorized by a Work Order shall include without limitation, to the extent pertinent to such project, the architectural, civil, structural, traffic, electrical engineering, building controls, fire alarms and detection system, public address system, security, life safety, mechanical, plumbing, HVAC, fire protection, graphics, signage, marking, landscaping, environmental, geotechnical, surveying and other services required to design the project.

## **Article 2 – Professional Services in General**

Section 2.1 Most professional services provided by the Engineer under a Work Order will be divided into two categories of services: Basic Services and Special Services, in accordance with industry standards. Basic Services (i.e., Basic Design Services and Basic Construction Administration Services) are defined in Articles 5 and 6 below and are deemed included within each Work Order unless the Work Order explicitly provides otherwise. Special Services are separated from Basic Services because their need or exact scope cannot be fully established until the project is under way. If feasible, the Work Order shall identify the need for and anticipated scope of Special Services for the subject project and shall provide for a lump sum fee for such anticipated Special Services. Special Services shall be performed as and when specifically approved by the City in writing and as and when funds are available.

Section 2.2 In general, the services required to be provided by the Engineer pursuant to this Master Agreement and applicable Work Orders may include any or all of the following services and disciplines:

1. Civil Engineering
2. Structural Engineering
3. Mechanical Engineering
4. Electrical Engineering
5. Transportation Engineering
6. Architectural Design
7. Architectural Interior Design Services
8. Value Engineering
9. Geotechnical Investigation
10. Surveying
11. Environmental Engineering
12. Environmental Assessments

13. Inspection Services
14. Independent Cost Estimating
15. Building Controls
16. Construction Administration
17. Security
18. Life Safety
19. Fire Protection
20. Landscaping
21. Graphics, Signage and Marking
22. Data and Communications Systems
23. Public Address Systems
24. Other design services as requested by the City and agreed to by the Engineer.

Section 2.3 Articles 3 through 6 below describe the professional services that are or may be required from the Engineer pursuant to this Master Agreement and applicable Work Orders.

#### **Article 3 – Staff Extension Services**

Section 3.1 Staff Extension Services shall consist of small projects, day-to-day professional services, and miscellaneous services that are needed immediately in a manner that formulation and approval of a new Work Order is not deemed to be necessary by the City.

Section 3.2 Promptly after the execution of this Master Agreement, the Engineer shall prepare a proposed Work Order for Staff Extension Services for the City's review, action and approval in accordance with Section 1.3 above. The proposed Work Order shall establish a maximum fee amount for Staff Extension Services and the procedures by which the Engineer shall draw down on this fee as and when approved Staff Extension Services are performed. If and when such maximum fee amount has been exhausted, then another Work Order must be formulated and executed by both parties in order for Staff Extension Services to continue.

Section 3.3 The Engineer shall be entitled to receive payment only for the performance of such Staff Extension Services that prior to commencement of such services have been authorized in writing by the Airport Representative (which may include e-mail authorization).

#### **Article 4 – Planning and Programming Services**

Section 4.1 Planning and programming studies are unique to each project and must be authorized by and described in detail in a Work Order. In general, the Engineer will prepare interim reports as the planning and programming studies progress for the Airport Representative's review and comment. The Engineer and the Airport Representative will coordinate all of the work and services required.

Section 4.2 Potential planning and programming services may include, without limitation:

1. Environmental assessments
2. Environmental impact statements
3. FAR Part 150 Noise Studies
4. Financial studies
5. Economic development impact studies
6. Terminal area planning
7. Site planning
8. Feasibility studies
9. Aviation business development
10. Review and analysis of proposed improvements
11. Financial consultation
12. Assistance with DBE Program
13. Annual airport facility inspection and reporting
14. Airport pavement analysis
15. Annual update of Airport's Capital Improvement Program
16. Annual update and negotiation of FAA and state grant programs
17. Preparation of FAA AIP grant pre-application and application Forms
18. Preparation of state grant applications
19. Participation in FAA Joint Planning Conferences
20. Participation in system planning or similar planning activities
21. Environmental audits
22. Environmental compliance actions
23. Regulatory review
24. Environmental monitoring
25. Technical reviews
26. Value engineering
27. Property procurement assistance
28. Administrative assistance
29. Provide FAA-required third-party review of professional service contracts
30. Prepare scope of work packages including preliminary designs (35 percent complete) for preparation of final designs by others

31. Develop, implement and maintain Facilities Management Information Systems
32. Monitor and update lease exhibits as required
33. Participate in public information programs and/or public hearings relating to Airport planning/development.
34. Assist in preparation of PFC applications
35. Monitor and maintain ground and aerial Surveys
36. Prepare videotape presentations
37. Other duties as requested by the City and agreed to by the Engineer

### **Article 5 – Design Services**

Section 5.1 The Engineer's design services are divided into two categories: Basic Design Services and Special Design Services. Each Work Order for a particular Airport project shall be deemed to include all Basic Design Services (as more particularly described in Section 5.2) unless the Work Order explicitly provides otherwise. Special Design Services must be explicitly described in and authorized by a Work Order.

Section 5.2 Basic Design Services are divided into five (5) distinct phases: Phase I – Preliminary Design; Phase II – 60% Design; Phase III – 90% Design; Phase IV – 100% Design; and Phase V – Bid/Award Services and consist of the following:

#### Phase I--Preliminary Design

Task 1.1 The Engineer shall coordinate and attend one (1) pre-design meeting with the Airport Representative, Florida DOT, and any appropriate FAA representatives at the Airport to establish the preliminary design goals and methods and provide written minutes of the meeting and distribute to all attendees within three (3) working days of the meeting.

Task 1.2 The Engineer shall collect, review, compile, and summarize available data related to the project. The Engineer will review the Airport's files and records to determine relevant information for the Airport to provide, such as the airport master plan, airport layout plan, pavement evaluation reports, aerial photogrammetry, survey data, previous design plans as-builts, specifications, and geotechnical investigation reports. The Engineer shall provide the written summary and assessment of this available relevant data to the Airport Representative.

Task 1.3 The Engineer shall review available geotechnical data and develop a written geotechnical scope of services with fees for the Airport Representative's review and approval prior to assigning any such services. This scope of services shall include identification and layout of test locations and the required lab testing. The Engineer shall coordinate and manage all geotechnical services. If a Florida licensed geotechnical engineer is not employed by the Engineer, the Engineer shall engage a Florida licensed geotechnical engineer, as necessary, as a subcontractor of the Engineer, and the Engineer shall be responsible and liable to the City for the work and work product of such geotechnical engineer, whether the geotechnical engineer is an employee of the Engineer or is an independent subcontractor. All geotechnical test borings will be coordinated with the Airport Representative and the Airport Operations prior to boring. At the conclusion of the geotechnical

testing, the Engineer shall provide to the Airport Representative a written geotechnical report, which report shall include the Engineer's conclusions and recommendations.

Task 1.4 The Engineer shall review available land survey data and develop a written land survey scope of services with fees for the Airport Representative's review and approval prior to assigning any such services. The Engineer shall coordinate and manage all land surveying services. If a Florida licensed land surveyor is not employed by the Engineer, the Engineer shall engage a Florida licensed land surveyor, as necessary, as a subcontractor of the Engineer, and the Engineer shall be responsible and liable to the City for the work and work product of such surveyor, whether the surveyor is an employee of the Engineer or is an independent subcontractor. All surveying activities will be coordinated with the Airport Representative and the Airport FAA Operations prior to surveying. The Engineer shall coordinate and review with the surveyor specific geometric criteria required for topography, profile and cross-sectional survey of existing drainage areas, above and below ground utilities, existing site improvements, and definition of any obvious topographic depressions. All survey data shall be provided to the Airport Representative, as required, in acceptable electronic format.

Task 1.5 The Engineer shall attend a meeting with the appropriate environmental and/or stormwater drainage agencies, if appropriate, to ascertain drainage design and permitting requirements. The Engineer shall record the meeting minutes. Following this meeting, the Engineer shall develop all exhibits, calculations, reports, applications, etc. necessary to provide the information required to approve and issue a permit for all improvements defined in the Work Order(s). The City shall be responsible for providing all environmental and/or stormwater drainage permit application fees.

Task 1.6 The Engineer shall prepare 30-percent schematic drawings, plans, outline specifications, construction cost estimate, and Preliminary Engineer's Report (if applicable). The preliminary design shall evaluate and identify specific elements of the project for a technically and economically sound project. The development of the preliminary design will be in coordination with the Airport Representative and other Airport personnel for their input.

Task 1.7 The Engineer will provide to the Airport Representative a quality control plan for each Work Order within two weeks after the notice to proceed is issued by the City. The Engineer shall conduct in-house quality control review of the preliminary design plans, specifications, cost estimate, and Preliminary Engineer's Report (if applicable) prior to submittal to the Airport Representative and will certify to the City that such in-house quality control review has been done under the direct supervision of the Engineer's project manager. At the request of the Airport Representative, the Engineer shall provide the Airport Representative access to all quality control review files and documents (electronic and otherwise) for assurance of a thorough review.

Task 1.8 The Engineer shall submit and distribute three (3) sets of the preliminary plans, specifications, cost estimate, and Preliminary Engineer's Report (if applicable) to the Airport Representative for review, comment and approval to proceed to the 60% Design phase.

Task 1.9 The Engineer shall coordinate and attend one (1) meeting at the Airport with the Airport Representative and other appropriate persons to review the Preliminary Design submittal. The Engineer will provide written minutes of the meeting and distribute to all attendees within five (5) working days of the meeting. The Airport Representative shall provide any additional written comments to the Engineer within two weeks of the design review meeting.

## Phase II - 60% Design

Task 2.1 The Engineer shall review all comments received from the Airport Representative from the Preliminary Design submittal review and incorporate applicable comments into plans, specifications, cost estimate, and Engineer's Report (if applicable). The Engineer shall provide a written report on each comment on how it will be incorporated into the documents or why it was not applicable.

Task 2.2 The Engineer shall prepare 60% plans, specifications, cost estimate, and Engineer's Report. The development of the 60% design documents will be in coordination with the Airport Representative and other Airport personnel for their input.

Task 2.3 The Engineer shall conduct an in-house quality control review of the 60% design plans, specifications, cost estimate, and Engineer's Report (if applicable) prior to submittal to the Airport Representative, and will certify to the City that such in-house quality control review has been done under the direct supervision of the Engineer's project manager. At the request of the Airport Representative, the Engineer shall provide the Airport Representative access to all quality control review files and documents (electronic and otherwise) for assurance of a thorough review.

Task 2.4 The Engineer shall submit and distribute three (3) sets of the 60% plans, specifications, cost estimate, and Engineer's Report (if applicable) for review, comment, and approval to proceed to the 90% Design phase by the Airport Representative and other appropriate persons.

Task 2.5 The Engineer shall coordinate and attend one (1) meeting at the Airport with the Airport Representative and other appropriate persons to review the 60% Design submittal. The Engineer will provide written minutes of the meeting and distribute to all attendees within five (5) working days of the meeting. The Airport Representative shall provide any additional written comments to the Engineer within two weeks of the design review meeting.

## Phase III - 90% Design

Task 3.1 The Engineer shall review all comments received from the Airport Representative from the 60% Design submittal review and incorporate applicable comments into plans, specifications, cost estimate, and Engineer's Report (if applicable). The Engineer shall provide a written report on each comment on how it will be incorporated into the documents or why it was not applicable.

Task 3.2 The Engineer shall prepare 90% plans, specifications, cost estimate, and Engineer's Report (if applicable). The development of the 90% design documents will be in coordination with the Airport's authorized representative(s) for their input.

Task 3.3 The Engineer shall conduct an in-house quality control review of the 90% design plans, specifications, cost estimate, and Engineer's Report (if applicable) prior to submittal to the Airport Representative, and will certify to the City that such in-house quality control review has been done under the direct supervision of the Engineer's project manager. At the request of the Airport Representative, the Engineer shall provide the Airport Representative access to all quality control review files and documents (electronic and otherwise) for assurance of a thorough review.

Task 3.4 The Engineer shall submit and distribute three (3) sets of the 90% plans, specifications, cost estimate, and Engineer's Report (if applicable) for review, comment, and approval to proceed to 90% design by the Airport Representative and other appropriate persons.

Task 3.5 The Engineer shall coordinate and attend one (1) meeting at the Airport to review the 90% Design submittal. The Engineer will provide written minutes of the meeting and distribute to all attendees within five (5) working days of the meeting. The Airport Representative shall provide any additional written comments to the Engineer within two weeks of the design review meeting.

#### Phase IV - 100% (Bid Set) Design

Task 4.1 The Engineer shall review all comments received from the Airport Representative from the 90% Design submittal review and incorporate applicable comments into plans, specifications, cost estimate, and Engineer's Report (if applicable) and provide a written report on each comment on how it will be incorporated into the documents or why it was not applicable.

Task 4.2 The Engineer shall prepare Bid Set plans and technical specifications in accordance with FAA standards. The Engineer shall prepare the FAA analysis for construction DBE effort and coordinate with the Airport Representative for submittal to FAA. Specifications shall be based on a unit price total cost construction contract or lump sum total cost construction contract as appropriate. Front-end specification requirements and format shall be provided by the City including, but not limited to, the advertisement to bid, legal requirements, proposal, contract, bond forms, general provisions, labor rates, minority participation requirements, special conditions, insurance requirements, and any other pertinent and or required information.

Task 4.3 The Engineer shall prepare Bid Set Engineer's Report (if applicable), estimate of probable construction costs, and FAA Sponsor certification.

Task 4.4 The Engineer shall conduct an in-house quality control review of the Bid Set design plans, specifications, cost estimate, Engineer's Report (if applicable), and related documentation prior to submittal to the Airport Representative, and will certify to the City that such in-house quality control review has been done under the direct supervision of the Engineer's project manager. At the request of the Airport Representative, the Engineer shall provide the Airport Representative access to all quality control review files and documents (electronic and otherwise) for assurance of a thorough review.

Task 4.5 The Engineer shall submit and distribute six (6) sets of Bid Set design plans and specifications for final review and approval by the Airport Representative, Florida DOT, FAA and other appropriate persons (three sets to Airport Representative, one set to Florida DOT, one set to FAA, and remaining set to other appropriate persons). The Engineer will coordinate and assist the City in securing all applicable governmental agency comments, approvals, and local, state and federal permits.

Task 4.6 The Engineer shall coordinate and attend one (1) meeting at the Airport to review the Bid Set design plans, specifications, cost estimate, and final Engineer's Report (if applicable) with the Airport Representative, Florida DOT, FAA staff and other appropriate persons and agencies. The Engineer will provide written minutes of the meeting and distribute to all attendees within five (5) working days of the meeting. The Airport Representative shall provide any additional written comments to the Engineer within two weeks of the design review meeting.

Task 4.7 The Engineer shall incorporate applicable comments received from the Airport Representative, Florida DOT, FAA staff and other appropriate persons and agencies resulting from the review of the Bid Set design documents and provide a written report on each comment on how it will be incorporated into the documents or why it was not applicable.

Task 4.8 After approval of the Bid Set design documents by the Airport Representative, Florida DOT, FAA staff and other appropriate persons and agencies, the Engineer shall provide and distribute to the Airport Representative four (4) sets of blueline plans; one (1) set of reproducible drawings; one (1) set of electronic drawings on diskette (AutoCad v2002 or as defined by the City); one (1) set of electronic specifications, Engineer's Report (if applicable), and cost estimate on CD (Word and Excel); four (4) sets of specifications; four (4) Engineer's Reports (if applicable); and one (1) set of reproducible specifications, all for the City's bidding purposes. Changes to the final plans, specifications, or Engineer's Report (if applicable) after this submittal to the Airport Representative will be performed under a duly executed change order for additional time and cost, except changes due to an error or omission by the Engineer.

#### Phase V - Bid/Award Services

Task 5.1 The Engineer shall attend pre-bid conference at the Airport, receive comments, record the minutes of the conference and distribute the minutes to the Airport Representative, prospective contractors and other attendees.

Task 5.2 The Engineer shall issue all required addenda to revise plans, specifications and other contract documents prepared by the Engineer in order to (1) provide clarifications, (2) correct discrepancies or (3) correct errors and/or omissions.

Task 5.3 The Engineer shall tabulate all bids received in a written or electronic format acceptable to the Airport Representative, review and evaluate bids for correctness, qualifications of low bidder, DBE participation goals and other pertinent factors, and make recommendations of award. The Engineer cannot and does not guarantee that bids will not vary from Engineer's estimate of probable construction costs.

Section 5.3 Special Design Services that may be furnished by the Engineer if explicitly authorized by a Work Order executed by both parties, may include without limitation:

5.3.1. Performance of, or retention of a subcontractor to perform, subsurface investigations, including performance of test borings, soil samples, and other foundation investigations, laboratory analyses of the samples, and engineering analyses. The Engineer or the subcontractor shall prepare a detailed report of all findings, and the Engineer shall deliver to the Airport Representative two copies of the report.

5.3.2. Performance of, or retention of a subcontractor to perform, field surveys and investigations in order to establish or verify boundaries and monuments, topographic surveys, route surveys, prepare property or easement descriptions, perform associated office work under the direction of a Registered Professional Surveyor, and deliver to the Airport Representative a mylar of all final plats, with field notes in bound standard-size field books, or in such other form as approved by the Airport Representative.

5.3.3. Performance, or retention of a specialized subcontractor to perform, aerial photography and computer mapping.

5.3.4. Travel to points outside the Pensacola, Florida, area if such travel is reasonably necessary to accomplish a task.

5.3.5. Preparation of special studies and reports, including but not limited to environmental documents (including representation and testimony at hearings and community meetings) and grant applications.

5.3.6 In the event of termination or suspension of the project, provision of such services as are reasonable and necessary for preserving partially finished work products or for the recording of work products in a particular manner (including without limitation the making of record prints of drawings).

5.3.78. Assistance to the City in securing any special licenses or permits which may be required for the completion of the Project, it being understood by the parties that the fees for such special licenses and permits shall be paid by the City.

5.3.8 Reproduction of plans, specifications, reports, and other materials other than those reproductions required of the Engineer elsewhere in this Master Agreement or in a Work Order and other than reproductions for the office use of the Engineer and the Engineer's subcontractors.

5.3.9. Provision of renderings or scale models of the project.

5.3.10. Provision of any other additional services related to the project not otherwise included in the Basic Design Services or required by this Master Agreement or a Work Order and not customarily furnished in accordance with generally accepted architectural and engineering practice.

## **Article 6 – Construction Services**

Section 6.1 The Engineer's Construction Services are divided into two categories: Basic Construction Administration Services and Special Construction Services. Each Work Order for a particular Airport project shall be deemed to include all Basic Construction Administration Services (as more particularly described in this Article 6) unless the Work Order explicitly provides otherwise. Special Construction Services must be explicitly described in and authorized by a Work Order. Construction Services and Design Services for a project will generally be authorized in a single Work Order, although for particular projects, Construction Services may be authorized in a separate Work Order.

Section 6.2 Basic Construction Administration Services consist of the following:

Task 6.2.1 The Engineer shall participate in a preconstruction conference at the Airport.

Task 6.2.2 Appropriate personnel of the Engineer shall make periodic visits to the construction site to inspect, observe and familiarize themselves generally with the progress and quality of the work and to determine if the work is generally proceeding in accordance with the contract documents, including the contractor's construction schedule, and the respective subcontractors'

construction schedules. Promptly after each such visit, the Engineer shall deliver to the Airport Representative a written report to advise of any known or suspected deviation from the construction documents, the contractor's construction schedule, or any of the subcontractors' construction schedules. The Engineer shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures; for the safety precautions and programs in connection with the project construction; for the acts or omissions of the contractor, subcontractors, suppliers, any of their agents or employees, or any other person performing any of the work under the contract documents; or for the failure of any such persons to carry out the work in accordance with the contract documents.

Task 6.2.3 The Engineer shall review and approve or take other appropriate action upon the shop drawings, samples, and other submittals furnished by the contractor and subcontractors and submitted to the Engineer. The Engineer shall maintain a log of all contractor and subcontractor submittals which shall include the submittal date, the action taken, and the date returned.

Task 6.2.4 The Engineer shall prepare routine change orders as required; act as interpreter of the terms and conditions of the contract documents and judge of the performance thereunder by the parties thereto and make decisions on claims of the City and the contractor relating to the execution and progress of the work and other matters and questions related thereto.

Task 6.2.5 The Engineer shall provide design clarification and recommendations to assist the City in resolving field problems relating to the construction. The Engineer shall evaluate contractor change and cost proposals and substitutions and recommend to the City to either approve or disapprove the contractor's proposal or substitution.

Task 6.2.6 The Engineer shall review contractor applications for payment and supporting data, review the amount owed to the contractor, and recommend and approve in writing all payments to the contractor in accordance with the contract documents.

Task 6.2.7 The Engineer shall perform, together with the Airport Representative and his designees, a final inspection to determine if the project has been completed in accordance with the contract documents and if the contractor has fulfilled all of its obligations thereunder. Based on such final inspection, the Engineer shall recommend in writing approval or disapproval, in whole or in part, of final payment to the contractor.

Task 6.2.8 The Engineer shall assist the City in receiving and forwarding to the Airport Representative written warranties and related documents assembled by the contractor.

Task 6.2.9 The Engineer shall provide one set of reproducible drawings and CADD files "record drawings", which shall become the property of the City, corrected to show all material changes made in the work during the construction of the project. Such corrections shall be based upon "as-built" prints, drawings, field sketches, and other data furnished to the Engineer by the Airport or the contractor, upon change orders and items of change or clarification issued during construction, and upon approved submittals logged by the Engineer.

Section 6.3 Special Construction Services that may be furnished by the Engineer if explicitly authorized by a Work Order executed by both parties, may include without limitation:

6.3.1 The furnishing of a Resident Project Representative and assistants who shall act as

directed by Engineer in order to provide more extensive owner representation at the project site during the construction phase. The Resident Project Representative, through more extensive on-site observations of the work in progress, field checks of materials and equipment, and maintenance of job site records on conditions and activities, shall assist Engineer in determining that the project is proceeding in accordance with the contract documents, but the furnishings of such resident project representation shall not make Engineer responsible for construction means, methods, techniques, sequences or procedures or for safety precautions or programs, or for contractor's failure to perform the construction work in accordance with the construction documents.

6.3.2 Consultation with the Airport concerning replacement of any construction work made necessary by (1) work damaged by fire or any other causes or (2) a material amount of defective or neglected work; and shall furnish professional services as may be required in connection with the replacement of such work.

6.3.3 Consultation and other services after completion of the construction phase, such as frequent inspections during any warranty period and reporting observed discrepancies under warranty called for in any construction contract.

6.3.4 Assistance to the City in making arrangements for the work to proceed in the event that the contractor is declared in default by City for any reason or otherwise ceases work on the project.

6.3.5 Assistance to the City as expert witnesses and/or fact witnesses in any legal proceedings or litigation arising from the development, permitting or construction of the project. The witnesses shall be designated by and at the sole discretion of the attorneys representing the City in such proceedings or litigation.

6.3.6 Travel to points outside the Pensacola, Florida area if such travel is reasonably necessary to accomplish a task.

6.3.7 Preparation of special studies and reports, including without limitation environmental documents (including representation and testimony at hearings and community meetings) and grant applications.

6.3.8 Reproduction of plans, specifications, reports, and other materials other than those reproductions required of the Engineer elsewhere in this Master Agreement or in a Work Order and other than reproductions for the office use of the Engineer and the Engineer's subcontractors.

6.3.9 In the event of termination or suspension of the project, provision of such services as are reasonable and necessary for preserving partially finished work products or for the recording of work products in a particular manner (including without limitation the making of record prints of drawings).

6.3.10 Provision of any other services related to the project not otherwise included in the Basic Services or other Special Services and not customarily furnished in accordance with generally accepted architectural and engineering practice.

Section 6.4 During construction, the Engineer shall be a representative of the City and shall

advise and consult with the City during the provision of Construction Services. The Engineer shall have authority to act on behalf of the City only to the extent expressly authorized in this Master Agreement, a Work Order, a duly executed amendment to this Master Agreement or a Work Order, or a written document duly executed by the Airport Director. Accordingly, the Engineer shall not imply or represent to third parties (whether by words, silence, actions or inaction) that the Engineer has authority to act on behalf of the City except as so expressly authorized by the City.

Section 6.5 In addition to the authority granted the Engineer elsewhere in this Agreement, the Engineer shall have the following authority to act on behalf of the City:

6.5.1 If deemed appropriate by the Engineer, the Engineer shall on the City's behalf prepare, reproduce and distribute supplemental drawings and specifications in response to requests for information by the contractor.

6.5.2 The Engineer shall have authority to reject work that does not conform to the applicable contract documents. Whenever the Engineer considers it necessary or advisable, the Engineer shall have authority to require inspection or testing of the work in accordance with the provisions of the applicable contract documents, whether or not such work is fabricated, installed or completed.

#### **Article 7 – Payments to Engineer**

Section 7.1 The City shall pay to the Engineer, for satisfactory performance of work and services, an amount not to exceed the amount defined and approved by the City in each separate Work Order, which shall include all direct charges, indirect charges and reimbursable expenses, if any. The Engineer shall bill the City on a monthly basis, unless otherwise provided in a Work Order, and at the amounts and upon the terms set forth in the Work Order, for services rendered toward the completion of the scope of work established in the Work Order which meet standards of quality established under this Master Agreement. The payment shall be accompanied by any supporting data required by the City. Where the monthly amount includes work done by a subcontractor, the Engineer shall attach copies of that subcontractor's invoice for such work. Invoices and supporting data shall be delivered to the City in accordance with Section 30.1 below.

Section 7.2 Invoices received from the Engineer pursuant to each Work Order will be reviewed and approved by the City; provided, however, that notwithstanding any contrary provision in this Master Agreement or any Work Order, the City's approval or payment of an invoice shall not constitute the City's acceptance of defective work or services nor any waiver by the City of any of its rights or remedies under the Work Order or this Master Agreement, nor any waiver by the City of any breach or default (whether or not known to the City) by the Engineer under the Work Order or this Master Agreement. Payment of invoices approved by the City shall be made within thirty (30) days following receipt of invoices. All invoices are payable by the City under the terms of Local Government Prompt Payment Act, Sections 218.70 *et seq.*, Florida Statutes. Invoices must reference the current purchase order number (if any).

Section 7.3 The Engineer agrees to pay each of its subcontractors for satisfactory performance of work for which the City has paid the Engineer, no later than ten (10) days from the Engineer's receipt of each payment from the City. The Engineer agrees further to return retainage payments to each subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the foregoing time frames shall be permitted

only for good cause and with the prior written approval of the City. This section applies to both DBE and non-DBE subcontractors.

Section 7.4 The Engineer shall deliver to the City for approval and acceptance, and before eligible for final payment under any Work Order, all documents and materials prepared by and for the City pursuant to such Work Order.

### **Article 8 - Truth-In-Negotiation Certificate**

Section 8.1 The Engineer's execution of this Master Agreement and any Work Order shall constitute the Engineer's certification that the wage rates, factual unit costs and other costs used to determine the compensation provided for in such Work Order are accurate, complete and current as of the date of such Work Order and comply with Section 1.5 and the Compensation Schedule then in effect as of the date of such Work Order. Accordingly, this Master Agreement and each Work Order executed by the Engineer shall also constitute a truth-in-negotiation certificate under Section 287.55(5)(a) certifying the foregoing. In the event that the City determines that any such rates or costs are based on inaccurate, incomplete or non-current wage rates or on inaccurate representations of fees paid to outside engineers, or otherwise fails to comply with Section 1.5 or the Compensation Schedule in effect as of the date of such Work Order, the Engineer shall reimburse the City promptly upon demand for any excess compensation received as a result thereof. Accordingly, the original contract price and any additions thereto shall be adjusted to exclude any sums that the City determines the contract price was increased due to such inaccurate, incomplete or non-current wage rates or other factual unit costs or due to the Engineer's failure to comply with Section 1.5 or the Compensation Schedule. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

### **Article 9 – Default, Damages, Delays and Termination**

Section 9.1 In the event of a substantial failure by the City to perform its obligations under this Master Agreement or a Work Order through no fault of the Engineer, the Engineer shall give the City written notice specifying such failure in reasonable detail. In the event that the City fails to cure such failure within thirty (30) days after receipt of such notice, or, if such failure cannot be reasonably cured within thirty (30) days, the City fails to commence to cure such failure within thirty (30) days and to continuously and diligently prosecute such cure to completion, the City shall be in default under this Master Agreement and such Work Order, and the Engineer may terminate this Master Agreement or such Work Order, as the case may be, by giving the City not less than fifteen (15) days prior written notice of termination and may pursue such other remedies against the City as may be available under this Master Agreement, at law or in equity; provided, however, that in no event shall the City be liable to the Engineer for consequential, special, exemplary or punitive damages.

Section 9.2 The City may terminate this Master Agreement and any Work Order, in whole or in part, at any time with or without cause immediately upon delivery to the Engineer of written notice of termination. If the termination is without cause, then as the Engineer's sole and exclusive remedy, the Engineer shall be paid for services actually rendered to the City's satisfaction through the date of termination, but in no event shall any amount be allowed or paid for anticipated profit or overhead on unperformed services. If the termination is for cause, which cause may include without limitation the Engineer's misuse of funds, fraud, lack of compliance with applicable rules, laws, regulations, and ordinances, failure to perform its obligations in a timely manner in accordance with this Master

Agreement or any Work Order, and any other breach or violation by the Engineer of any representation, warranty or obligation under this Master Agreement or any Work Order, the City may exercise any and all rights and remedies available at law, in equity or under this Agreement and, without waiving any other rights or remedies, take over the work and prosecute the work under any Work Order to completion by contract with third parties or otherwise, and, in addition to any other damages suffered or incurred by the City, the Engineer shall be liable to the City for all additional costs, direct and indirect, incurred by the City to terminate the Engineer, complete such work and to correct any deficiencies caused by the Engineer. If, after notice of termination for cause, it is determined that cause for termination does not exist, then the termination shall be deemed to have been effected without cause, and in such event, the Engineer shall be paid for the services actually rendered to the City's satisfaction to the date of termination as Engineer's sole and exclusive remedy. In no event shall the Engineer be entitled to recover any amount or payment for anticipated profit or overhead on unperformed services.

Section 9.3 After receipt of a Termination Notice and except as otherwise directed by the City in writing, the Engineer shall:

- a. stop work on the date and to the extent specified;
- b. terminate and settle all orders and subcontracts relating to the performance of the terminated work;
- c. transfer all work in process, completed work, and other material related to the terminated work to the City;
- d. continue and complete in accordance with this Master Agreement and applicable Work Orders all parts of the work that have not been terminated.

Section 9.4 The rights and remedies of the City and Engineer provided in this Article are in addition to any other rights and remedies provided by law or in equity or elsewhere in this Master Agreement or an applicable Work Order.

Section 9.5 All revisions and corrections to any work performed by Engineer under this Agreement or any Work Order that is the result of the Engineer's mistake or error or Engineer's failure to comply with any provision of this Master Agreement or applicable Work Order shall be performed by the Engineer at no additional cost to the City. Neither the City's review, approval or acceptance of, nor payment for, any services performed by the Engineer shall be construed to operate as a waiver of any rights, remedies, claims or causes of action arising out of the performance of this Master Agreement or any Work Order. Additionally, the Engineer shall be and remain liable to the City in accordance with applicable law for all damages to the City caused by the Engineer's negligent performance of any of the services furnished under this Agreement. The rights and remedies of the City provided for under this section are in addition to any other rights and remedies otherwise provided by law.

Section 9.6 The City, in writing, may order the Engineer to suspend, delay, or interrupt all or any part of the work under a Work Order for the period of time that the City determines to be appropriate for the convenience of the City. The Engineer expressly acknowledges and agrees that it shall receive no damages by reason of any such suspension, delay or interruption, nor by reason of any other delay caused by the City, in whole or in part, unless the delay is the result of fraud, bad faith or active interference by the City. The Engineer's sole and exclusive remedy against the City for any such suspension, delay or interruption ordered or caused by the City, in whole or in part, shall be the right to seek and obtain an equitable extension of the time provided for in the Work Order for the completion of the work thereunder.

## **Article 10 – Personnel**

Section 10.1 The Engineer represents and covenants that it has or will secure, at its own expense, all necessary personnel required to perform the services contemplated by this Master Agreement and authorized by each Work Order. Such personnel shall not be employees of or have any contractual relationship with the City.

Section 10.2 All of the services required under this Master Agreement and each Work Order shall be performed by the Engineer or under its supervision, and Engineer shall be fully and completely responsible therefore. All personnel engaged in performing the services shall be fully qualified and, to the extent required, authorized, licensed or permitted under federal, state and local law to perform such services.

Section 10.3 The Engineer shall promptly notify the City in writing of any changes, deletions, additions or substitutions of the Engineer's key personnel. As of the date hereof, the Engineer's key personnel and their respective positions are: \_\_\_\_\_; \_\_\_\_\_; \_\_\_\_\_; and \_\_\_\_\_.

## **Article 11 – Subcontracting**

Section 11.1 All work or services required by a Work Order that cannot reasonably, competently and satisfactorily be performed by qualified employees of the Engineer shall be performed by competent and qualified subcontractors selected, retained and paid by the Engineer. The Engineer shall be fully responsible and liable to the City for the work of each subcontractor.

Section 11.2 Upon the City's request at any time, whether before or after the execution of a Work Order, the Engineer shall give the City written notice of the specific items of work under the Work Order that the Engineer intends to subcontract to others, together with the names of potential subcontractors. The City reserves the right to reject the use of subcontractors for any or all work to be performed under a proposed Work Order and to reject the use of a particular subcontractor for work under a proposed Work Order. The City further reserves the right to inspect all facilities of any potential subcontractor in order to determine, in the City's sole and absolute discretion, the capability of a subcontractor to perform properly under the Work Order.

Section 11.3 The Engineer is encouraged to seek minority and women business enterprises for participation in subcontracting opportunities.

Section 11.4 If a subcontractor fails to perform satisfactorily or to make satisfactory and timely progress in the performance of any work under a Work Order, and the Engineer determines that it is necessary or desirable to replace such subcontractor to ensure completion of the work in a timely fashion, the Engineer will promptly do so, subject to the City's rights under Section 11.1 above with respect to the new subcontractor.

Section 11.5 The Engineer agrees that no markup for overhead and profit on subcontractor's invoices shall be allowed on any Work Order.

Section 11.6 Nothing contained in this Article or elsewhere in this Master Agreement shall be

construed to limit the Engineer's right or obligation to properly supervise and direct its subcontractors.

### **Article 12 - Federal and State Tax**

Section 12.1 The City is exempt from federal tax and state tax for tangible personal Property. The City will sign an exemption certificate submitted by the Engineer. The Engineer shall not be exempted from paying sales tax to its suppliers for materials to fulfill contractual obligations with the City, nor shall the Engineer be authorized to use the City's tax exemption number in securing such materials.

Section 12.2 The Engineer shall be solely responsible for payment of all FICA, Social Security and other required benefits, taxes and withholdings for its employees.

### **Article 13 - Availability of Funds**

Section 13.1 Pursuant to the laws of Florida, the obligations of the City under this Master Agreement and Work Orders issued hereunder are subject to the availability of funds lawfully appropriated for the required purpose by the City. Nothing contained in this Master Agreement or any Work Order shall be construed to obligate the City to appropriate funds for any work or services contemplated or required by this Master Agreement or any Work Order.

### **Article 14 - Insurance and Indemnification**

Section 14.1 Before starting and until termination of work for or on behalf of the City, the Engineer shall procure and maintain insurance of the types and to the limits specified in this Article.

Section 14.2 The term City as used in this Article is defined to mean the City of Pensacola itself, and its subsidiaries, affiliates, elected and appointed officials, employees, volunteers, representatives and agents. Notwithstanding the foregoing, however, the term City as used in Section 14.7 shall mean the City of Pensacola and its officers and employees.

Section 14.3 Insurance shall be issued by an insurer whose business reputation; financial stability and claims payment reputation is satisfactory to the City in its sole and absolute discretion, for the City's protection only. Unless otherwise agreed by a fully executed amendment to this Master Agreement, the amounts, form and type of insurance shall conform to the following minimum requirements:

14.3.1 Workers' Compensation. The Engineer shall purchase and maintain workers compensation insurance coverage for all of its workers compensation obligations under Florida law. Additionally, such policy, or a separate policy, must include Employers Liability Coverage of at least \$100,000 each person -accident, \$100,000 each person - disease, and \$500,000 aggregate - disease.

14.3.2 Commercial General, Automobile, Professional, Environmental Impairment and Umbrella Liability Coverages. The Engineer shall purchase and maintain coverage for commercial general liability and automobile loss and liability on forms no more restrictive than

the latest editions of the Commercial General Liability and Business Auto policies filed and approved by the Insurance Services Office. Excluding Professional Liability, Workers Compensation, and if applicable, Environmental Impairment policies, the City shall be named an additional insured on all other such policies, and such coverage shall be at least as broad as that provided to the named insured under such policies. The City shall not be liable for premium payment nor entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of \$1,000,000.00 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. If the required limits of liability afforded become impaired or reduced by reason of any claim, then the Engineer agrees to cause such limits of \$1,000,000.00 per occurrence to be reinstated under the policy.

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

14.3.2.2 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.

14.3.2.3 Professional Liability insurance coverage must be provided to afford protection for errors and omissions arising out of services provided under or associated with this Master Agreement and Work Orders issued pursuant hereto in the minimum amount of \$1,000,000.00.

14.3.2.4 Environmental Impairment insurance must be provided with minimum limits of \$1,000,000.00 per occurrence and in the aggregate.

14.3.2.5 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.

14.4 Certificates of Insurance. Required insurance shall be documented by Certificates of Insurance that provide that the City shall be notified at least thirty (30) days in advance of cancellation, non-renewal or adverse change or restriction in coverage. Except as described in Section 14.3.2 above, the City of Pensacola shall be named on each Certificate as an Additional Insured and this Master Agreement shall be listed. If required by the City, the Engineer shall furnish copies of the Engineer's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies; provided, however, that the Engineer may first redact any trade secret, confidential or proprietary information contained therein which is not material to the Engineer's obligations under this Master Agreement or a Work Order. 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, non-renewal or 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. The Engineer 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 Engineer shall, upon instructions of the City, cease all operations under this Master Agreement and all Work Orders until directed by the City, in writing, to resume operations. The Certificate Holder address shall read: City of Pensacola, Department of Risk Management, Post Office Box 12910, Pensacola, FL 32521.

14.5 Insurance of the Engineer Primary. The Engineer required coverage shall be considered primary, and all other insurance shall be considered as excess, over and above the Engineer's coverage. The Engineer's policies of coverage will be considered primary as relates to all provisions of this Master Agreement and each Work Order.

14.6 Loss Control and Safety. Notwithstanding any other provision of this Master Agreement or any Work Order, the Engineer 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 Engineer shall not be deemed to be an agent of the City. Precaution shall be exercised at all times by the Engineer for the protection of all persons, including employees and property. The Engineer shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

14.7 Hold Harmless. The Engineer shall indemnify and hold harmless the City, its officers and employees, from 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 conduct of the Engineer or persons employed or utilized by the Engineer in the performance of this Master Agreement and any Work Order.

14.8 Indemnity Obligations Not Limited by Insurance. It is understood and agreed that the Engineer's obligations under Section 14.7 are not and shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

14.9 No Waiver of Sovereign Immunity. Nothing in this Article 14 shall be deemed a change or modification in any manner whatsoever of the method or conditions of preserving, asserting, or enforcing any claim or legal liability against the City. This Article 14 shall in no way be construed as a waiver, in whole or in part, of the City's sovereign immunity under the constitution, statutes and case law of the State of Florida.

## **Article 15 – Compliance with Laws and Regulations**

Section 15.1 The Engineer shall conform to all federal, state and local laws and regulations, including all City of Pensacola codes and ordinances, which are applicable to the work and services provided by the Engineer under this Master Agreement or any Work Order.

Section 15.2 The Engineer shall obtain and maintain in force at all times, and ensure that all subcontractors obtain and maintain in force at all times, all licenses, permits and other certificates required by federal, state, county, or municipal authorities for operations under the terms of this Master Agreement and each Work Order, and shall provide the City with copies of

all required licenses, permits, and other certificates prior to commencing work under any this Master Agreement or any Work Order.

Section 15.3 The Engineer agrees to observe all security requirements of the 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.

Section 15.4 The Engineer shall not take any action, or fail to take any action that it is obligated to take, that would constitute or result in a violation by the Engineer or the City of any federal, state or local government law, statute, ordinance, rule or regulation.

#### **Article 16 - Successors and Assigns**

Section 16.1 The City and the Engineer each binds itself and its partners, successors, executors, administrators and assigns to the other party of this Master Agreement and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Master Agreement and each Work Order. Neither the City nor the Engineer shall assign, sublet, convey or transfer its interest in this Master Agreement or any Work Order without the written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of the Airport Representative or any officer or agent of the City which may be a party or signatory to this Master Agreement or any Work Order, nor shall it be construed as giving any rights or benefits hereunder to anyone other than the City and the Engineer.

#### **Article 17 – Governing Law, Jurisdiction, Venue, Remedies and Attorneys’ Fees**

Section 17.1 This Master Agreement and each Work Order shall be governed by and construed in accordance with the laws of the State of Florida as well as applicable local and federal law.

Section 17.2 Engineer hereby submits to the personal jurisdiction of the courts of the State of Florida over the Engineer with respect to any legal action to interpret, construe or enforce this Master Agreement or any Work Order and agrees that Escambia County, Florida is a convenient forum for any such legal action and shall be the exclusive venue for any such legal action. Unless explicitly stated otherwise in this Master Agreement or a Work Order, no remedy conferred upon any party by this Master Agreement or any Work Order shall be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

Section 17.3 In any legal action or proceeding brought by either party for the interpretation, construction or enforcement of this Master Agreement or any Work Order, the prevailing party in such action or proceeding shall be entitled to attorneys’ fees and costs from the losing party.

#### **Article 18 - Conflict of Interest**

Section 18.1 The Engineer represents that it presently has no interest and shall acquire no

interest, either direct or indirect, which would conflict in any manner with the performance of services required under this Master Agreement or under any Work Order executed by Engineer pursuant to this Master Agreement, as provided for in Florida Statutes Section 112.311. The Engineer further represents that no person having any interest shall be employed for the performance of any such services.

Section 18.2 The Engineer shall promptly notify the City in writing by certified mail of all potential conflicts of interest for any prospective business association, interest or other circumstance which may influence or appear to influence the Engineer's judgment or quality of services provided or to be provided under this Master Agreement or any Work Order. Such written notification shall identify the prospective business association, interest or circumstance and the nature of work that the Engineer may undertake, and shall request an opinion of the City as to whether the association, interest or circumstance would, in the opinion of the City, constitute a conflict of interest if entered into by the Engineer. The City agrees to notify the Engineer of its opinion by certified mail within thirty (30) days of receipt of notification by the Engineer. If, in the opinion of the City, the prospective business association, interest or circumstance would not constitute a conflict of interest by the Engineer, the City shall so state in its notification to the Engineer and such notification shall constitute the City's waiver of any right to assert a conflict of interest by reason of such association, interest or circumstance with respect to the particular work identified in the Engineer's notification to the City. The City's notification to the Engineer is not and shall not be construed to be legal advice to the Engineer and may not be relied upon by the Engineer to determine whether Engineer's action or contemplated action is or will be in compliance with any applicable law, rule or regulation or any applicable ethical rule or regulation.

Section 18.3 Neither the Engineer nor any of its employees, agents, and representatives shall offer or give to an officer, official or employee of the City gifts, entertainment, payments, loans, or other gratuities. The Engineer acknowledges knowledge of the City of Pensacola ordinances and the State of Florida's ethics statutes, and to the extent applicable to the Engineer, the Engineer agrees to comply with such statutes.

#### **Article 19 – Force Majeure Delays**

Section 19.1 Neither party shall be in default under this Master Agreement or a Work Order by reason of any delay caused by *force majeure* which may include, but are not limited to, acts of God, natural or public health emergencies, labor disputes, freight embargoes, acts of war or terrorism, fuel shortages, seizure of all or any part of the Airport by governmental authorities, and severe and unforeseeable weather conditions. Notwithstanding the foregoing or any other provision of this Master Agreement, in the event of any *force majeure* delay, the Engineer shall be entitled only to additional time in which to complete the work required by the Work Order, and in no event shall any *force majeure* delay be grounds for any money damages, pay adjustment or increase in compensation of any type or kind.

#### **Article 20 – Engineer's Authority, Indebtedness**

Section 20.1 The Engineer has not authority to, and shall not, pledge the City's credit or make the City a guarantor of payment or surety for any contract, debt, obligation, judgment, lien, or any form of indebtedness of any kind whatsoever. Without limiting the generality of the foregoing, the Engineer does not have the power or authority to bind the City in any promise, agreement or representation not explicitly authorized by this Master Agreement, a Work Order or a written document executed by the Airport Representative.

Section 20.2 The Engineer warrants and represents that it has no obligation or indebtedness that would impair its ability to fulfill the terms of this Master Agreement or any Work Order executed by the Engineer.

### **Article 21 – Confidentiality, Ownership of Documents and Public Records**

Section 21.1 All written and oral information not in the public domain or not previously known, and all information and data obtained, developed or supplied by the City or at its expense shall be kept confidential by the Engineer and shall not be disclosed to any other party, directly or indirectly, without the City's prior written consent unless required by Chapter 119, Florida Statutes or a lawful court order.

Section 21.2 All drawings, maps, sketches, models, surveys, renderings, plans and other data and documents (whether complete or incomplete) developed, created or purchased under this Master Agreement or a Work Order or at the City's expense shall be and remain the sole and exclusive property of the City and may be reproduced and reused by the Engineer only with the prior written permission of the City in its sole and absolute discretion.

Section 21.3 The Engineer acknowledges that this Master Agreement and any related financial records, audits, reports, plans, correspondence, emails and other documents and communications, in whatever form or format, may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended from time to time (the "Public Records Laws"). The Engineer shall at all times comply with the Public Records Laws. In the event the Engineer fails to comply with the Public Records Laws, the City may, without prejudice to any other right or remedy and after giving the Engineer and its surety, if any, seven (7) days' written notice, during which period the Engineer still fails to allow access to such documents, terminate this Master Agreement for cause.

Without limiting the generality of the foregoing, the Engineer shall:

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

21.3.2 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.

21.3.3 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 term of this Agreement and following the completion of the Agreement if the Engineer does not transfer the records to the City.

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

public records that are exempt or confidential and exempt from public records disclosure requirements. If the Engineer keeps and maintains public records upon completion of the Agreement, the Engineer 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.

**IF THE ENGINEER HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE ENGINEER'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT: THE OFFICE OF THE CITY ATTORNEY, (850) 435-1715, [PUBLICRECORDS@CITYOFPENSACOLA.COM](mailto:PUBLICRECORDS@CITYOFPENSACOLA.COM), 222 WEST MAIN STREET, PENSACOLA, FL 32502.**

Section 21.4 When any drawings, maps, sketches, models, surveys, renderings, plans or other data and documents belonging to the City as hereinabove provided are provided to other parties with the City's consent, the Engineer shall ensure return of the City's property by collecting a deposit equal to the cost of reproduction or replacement thereof by the Engineer. Such deposit shall be returned if the City's property is timely returned in a useable condition. Otherwise, such deposit shall be retained by the Engineer, and Engineer shall promptly reproduce or replace such property for the City.

#### **Article 22 - Independent Contractor Relationship**

Section 22.1 The Engineer is, and shall be, in the performance of all work services and activities under this Master Agreement and each Work Order, an independent contractor and not an employee, agent or servant of the City. All persons engaged in any of the work or services required to be performed by the Engineer pursuant to this Master Agreement or any Work Order shall at all times and in all places be subject to the Engineer's sole direction, supervision, and control. The Engineer shall exercise control over the means, methods and manner in which it and its employees and subcontractors perform the work, and in all respects the Engineer's relationship and the relationship of its employees to the City shall be that of an independent contractor and not as employees, agents or servants of the City.

#### **Article 23 - Contingent Fees**

Section 23.1 The Engineer warrants that it has not employed or retained any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Engineer, to solicit or secure this Master Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Engineer, any fee, commission, percentage, gift, or any other consideration contingent upon or resulting from the award or making of this Master Agreement. For the breach or violation of this provision, the City shall have the right to terminate this Master Agreement without liability and, at its discretion, to deduct from any

amounts due and owing to the Engineer, or otherwise recover from the Engineer, the full amount of such fee, commission, percentage, gift or consideration.

#### **Article 24 - Nondiscrimination**

Section 24.1 The Engineer warrants and represents that all of its employees are treated equally during employment without regard to race, color, religion, sex, age, national origin, or disability.

Section 24.1 During the performance of this Master Agreement, the Engineer, for itself, its assignees, and successors in interest (hereinafter referred to as the “Engineer”) agrees to comply with the following non-discrimination statutes and authorities; including but not limited to:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), (prohibits discrimination on the basis of race, color, national origin);
- 49 CFR part 21 (Non-discrimination In Federally-Assisted Programs of The Department of Transportation—Effectuation of Title VI of The Civil Rights Act of 1964);
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CFR part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), (prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 USC § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section 504 of the Rehabilitation Act of 1973, by expanding the definition of the terms “programs or activities” to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);
- Titles II and III of the Americans with Disabilities Act of 1990, which prohibit discrimination on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations at 49 CFR parts 37 and 38;
- The Federal Aviation Administration’s Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures non-discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes

discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

#### **Article 25 – Survival; Affirmation of Warranties**

Section 25.1 All covenants, agreements, representations and warranties made herein, or otherwise made in writing by any party pursuant hereto, including but not limited to any representations made herein relating to disclosure or ownership of documents, shall survive the execution and delivery of this Master Agreement and each Work Order and the consummation of the transactions contemplated hereby and thereby.

Section 25.2 All representations and warranties by the Engineer set forth in this Agreement shall be deemed to be ratified and affirmed on and as of the date of each Work Order executed by the Engineer.

#### **Article 26 - Miscellaneous**

Section 26.1 This Master Agreement sets forth the entire agreement between the parties with respect to the subject matter hereof and that there are no agreements, covenants, conditions, promises or understandings related to the subject matter of this Master Agreement other than those stated herein. All prior negotiations, understandings and agreements between the parties related to the subject matter hereof are hereby superseded.

Section 26.2 None of the provisions, terms and conditions contained in this Master Agreement may be added to, modified, superseded, waived or otherwise altered, except by a written instrument of equal dignity executed by the parties hereto.

Section 26.3 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 article or section

Section 26.4 If any term or provision of this Master Agreement, or the application thereof to any person or circumstances shall, to any extent, be held invalid or unenforceable, the remainder of this Master Agreement, or the application of such terms or provision, to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected, and every other term and provision of this Master Agreement shall be deemed valid and enforceable to the extent permitted by law.

Section 26.4 All provisions of this Master Agreement which, by their inherent character, sense and context, are intended to survive termination of this Master Agreement, shall survive the termination of this Master Agreement.

Section 26.5 For the purpose of this Master Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory and

regulatory provisions implementing, 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.

Section 26.6 If the Engineer discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Master Agreement or any Work Order, or is otherwise in doubt as to the meaning of any provision of this Master Agreement or any Work Order, the Engineer shall immediately notify the City and request clarification of the City's interpretation of this Master Agreement or Work Order, as the case may be.

Section 26.7 This Master 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.

Section 26.8 The failure of the Engineer or the City to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of either party's right to thereafter enforce the same in strict accordance with this Agreement or as a waiver or relinquishment of any other provision, right or remedy.

Section 26.9 At the City's request, the Engineer shall allow itself to be joined as a party in any legal proceeding that involves the City regarding the design, construction, or installation of any matter which is the subject of this Agreement. This provision is for the benefit of the City and not for the benefit of any other party. **PURSUANT TO FLORIDA STATUTES, SECTION 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT OF ENGINEER MAY NOT BE HELD INDIVIDUALLY LIABLE FOR NEGLIGENCE.**

#### **Article 27 - Authority to Practice**

Section 27.1 The Engineer hereby represents and warrants that it has, and will continue to maintain in good standing during the term of this Master Agreement, all licenses, permits and approvals required by the State of Florida and any other governmental authority in order for the Engineer to conduct its business and to perform its services and obligations as contemplated by this Master Agreement, and that it will at all times during the term of this Master Agreement conduct its business activities in a professional and reputable manner.

Section 27.2 The Engineer shall keep fully informed regarding and shall fully and timely comply with all current laws and future laws that may affect those engaged or employed in the performance of this Master Agreement. Without limiting the generality of the foregoing, the Engineer shall observe all rules and regulations of federal, state, and local officials relating to the subject matter of this Master Agreement.

## **Article 28 - Changes to Work Orders**

Section 28.1 The City reserves the right to make changes in the scope of work of any Work Order, including alterations, reductions herein or additions thereto. Upon receipt by the Engineer of the City's notifications of a contemplated change, the Engineer shall (1) if requested by the City provide an estimate for the increase or decrease in cost due to the contemplated change, (2) notify the City of any estimated change in the completion date, and (3) advise the City in writing if the contemplated change shall affect the Engineer's ability to meet the completion dates or schedules of the Work Order.

Section 28.2 If the City so instructs in writing, the Engineer shall suspend work on that portion of the Work affected by a contemplated change, pending the City's decision to proceed with the change.

Section 28.3 If the City elects to make the change, the City shall issue a Work Order amendment or change order and the Engineer shall not commence work on any such change until such written amendment or change order has been issued and executed by each of the parties.

## **Article 29 –Engineer's Inspection of City Records and Airport Property; Unforeseeable Conditions**

Section 29.1 The City shall make available to the Engineer, for the Engineer's inspection, review and reproduction at the Engineer's expense, all Airport-related information, data, reports, files, records, maps, plans and specifications in the City's possession (hereinafter referred to collectively as the "Airport Records"). The Airport Records shall be made available during the City's normal business hours as and where maintained, and in the form maintained, by the City in the ordinary course of business.

Section 29.2 By its execution of each Work Order, the Engineer shall be deemed to have actual knowledge of all matters that a diligent inspection of the Airport Records prior to execution of such Work Order would have disclosed. Accordingly, the Engineer's failure to perform a diligent inspection of the Airport Records shall not relieve the Engineer from any of its responsibilities under this Master Agreement or the applicable Work Order, nor shall it be considered the basis for any claim for additional time or compensation.

Section 29.3 By its execution of each Work Order, the Engineer shall be deemed to have actual knowledge of all matters, including general and local conditions, that a diligent on-site inspection of any pertinent portion of Airport property prior to execution of such Work Order would have disclosed. Accordingly, the Engineer's failure to perform such diligent inspection shall not relieve the Engineer from any of its responsibilities under this Master Agreement or the applicable Work Order, nor shall it be considered the basis for any claim for additional time or compensation.

Section 29.4 The City expressly disclaims any warranty, express or implied, including but not limited to any implied warranty of constructability, that the information, data, reports, files, record, maps, plans, specifications and other Airport Records in the City's possession are or were accurate, complete, practical, consistent or constructible or that any Airports improvements were actually constructed in accordance therewith.

Section 29.5 An adjustment in the compensation due the Engineer under a Work Order or in the scope of work of a Work Order shall be made on account of unforeseeable conditions only (1) if such conditions were not known by or disclosed to the Engineer prior to its execution of the Work Order, (2)

were not contemplated by this Master Agreement or the Work Order; and (3) could not have been ascertained or discovered by a diligent inspection of the City's records under Section 29.2 above or of the site under Section 29.3 above. If additional funding of a Work Order is required due to such unforeseeable conditions, then either (i) the City and the Engineer shall modify the project and scope of work so as to eliminate the need for additional funding or (ii) the City will commit additional funding and the parties shall execute an appropriate amendment to the Work Order.

**Article 30 - Notices**

Section 30.1 All notices by either party to the other that are required or permitted by this Master Agreement or any Work Order shall be made by depositing such notice either in the registered or certified mail of the United States of America, postage prepaid, or with another reputable overnight delivery service requiring signature for receipt, and such notice shall be deemed to have been delivered and received on the date of such depositing correctly addressed notice. All notices to the City shall be addressed to:

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

and all notices to the Engineer shall be addressed to:

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## Article 31 – Access to Records and Reports

Section 31.1 The Engineer shall maintain an acceptable cost accounting system. The Engineer shall provide the City, the Federal Aviation Administration, the Comptroller General of the United States, and the Florida Department of Transportation or any of their duly authorized representatives access to any books, documents, paper, and records of the Engineer which are directly pertinent to this Master Agreement or any Work Order for the purposes of making an audit, examination, excerpts, reproductions and transcriptions. The Engineer shall maintain all books, records and reports required under this Master Agreement for a period of not less than three years after the later of (i) the termination of this Master Agreement, or (ii) the date the City makes final payment under the final Work Order issued under this Master Agreement, or (iii) the date that all other pending matters related to this Master Agreement or a Work Order are concluded.

## Article 32 – Civil Rights Act of 1964, Title VI

Section 32.1 During the performance of this Master Agreement, the Engineer, for itself, its assignees and successors in interest (hereinafter referred to as Engineer) agrees as follows:

32.1.1 Compliance with Regulations. The Engineer shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation (hereinafter "DOT") Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as Regulations), which are herein incorporated by reference and made a part of this Master Agreement.

32.1.2 Nondiscrimination. The Engineer, with regard to the work performed by it during the Master Agreement, shall not discriminate on the grounds of race, color or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Engineer shall not participate either directly or indirectly in the discrimination prohibited by section 21.5 of the Regulations, including employment practices when the Master Agreement covers a program set forth in Appendix B of the Regulations.

32.1.3 Solicitations for Subcontract, Including Procurements of Materials and Equipment. In all solicitations, either by competitive bidding or negotiation, made by the Engineer for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Engineer of the Engineer's obligations under this Master Agreement and the Nondiscrimination Acts And Authorities on the grounds of race, color, or national origin.

32.1.4 Information and Reports. The Engineer shall provide all information and reports required by the regulations or directives issued pursuant thereto and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the City or the Federal Aviation Administration (FAA) to be pertinent to ascertain compliance with such Nondiscrimination Acts and Authorities and instruction. Where any information required of the Engineer is in the exclusive possession of another who fails or refuses to furnish this information, the Engineer shall so certify to the City or the FAA, as appropriate, and shall set forth what efforts it has made to obtain the information.

32.1.5 Sanctions for Noncompliance. In the event of the Engineer's noncompliance with the nondiscrimination provisions of this Master Agreement, the City shall impose such contract sanctions as it or the FAA may determine to be appropriate, including but not limited to:

- a. withholding of payments to the Engineer under the Master Agreement and applicable Work Order until the Engineer complies, and/or
- b. cancellation, termination, or suspension of the Master Agreement and/or one or more Work Orders, in whole or in part.

32.1.6 Incorporation of Provisions. The Engineer shall include the provisions of paragraph 1 through 5 in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Acts, the Regulations and directives issued pursuant hereto. The Engineer shall take such action with respect to any subcontract or procurement as the City of the FAA may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event a Engineer becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Engineer may request the City to enter into such litigation to protect the interests of the City and, in addition, the Engineer may request the United States to enter into such litigation to protect the interests of the United States.

### **Article 33- Disadvantaged Business Enterprise (DBE)**

Section 33.1 DBE Participation. The City has submitted a Disadvantaged Business Enterprise program for the Airport in accordance with 49 CFR Part 26. An aspirational DBE goal will be established by the City on an annual basis in accordance with the methodology set forth in the program. The Engineer will be advised of the annual aspirational goals and shall be required to make good faith efforts to subcontract the set percentage of the dollar value of the work to small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). Individuals who are rebuttably presumed to be socially and economically disadvantaged include women, Blacks, Hispanics, Native Americans, Asian-Pacific Americans, and Asian-Indian Americans. The Engineer shall submit information concerning the DBEs that will participate. The information will include the name and address of each DBE and a description of the work to be performed by each named firm. If the Engineer fails to achieve each year's aspirational goal, it will be required to provide documentation demonstrating that it made good faith efforts in attempting to do so. Failure to meet these requirements will be considered a material breach of this Master Agreement. All DBEs must be certified as such by the City.

Section 33.2 DOT Policy. It is the policy of the Department of Transportation (DOT) that disadvantaged business enterprises, as defined in 49 CFR Part 23, shall have the maximum opportunity to participate in the performance of contracts financed in whole or in part with Federal funds under this Agreement. Consequently, the DBE requirements of 49 CFR Part 23 apply to this Agreement.

Section 33.3 DBE Obligations. The Engineer agrees to ensure that disadvantaged business enterprises, as defined in 49 CFR Part 23 have the maximum opportunity to participate in the performance of Master Agreement and related Work Orders and subcontracts financed in whole or in part with Federal funds provided under this agreement. In this regard, all contractors shall take all necessary and reasonable steps in accordance with 49 CFR Part 23 to ensure that disadvantaged business enterprises have the maximum opportunity to compete for and perform Master Agreements. Engineer

shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of DOT-assisted Master Agreements.

Section 33.4 Contract Assurance. The Engineer or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Master Agreement. The Engineer shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the Engineer to carry out these requirements is a material breach of this Master Agreement, which may result in the termination of this Master Agreement or such other remedy as the City deems appropriate.

Section 33.5 Prompt Payment (§26.29) - The Engineer agrees to pay each subcontractor under this Master Agreement for satisfactory performance of its contract in the time established by the Florida Prompt Payment Act from the receipt of each payment the Engineer receives from City. The Engineer agrees further to return retainage payments to each subcontractor in accordance with Florida Statute after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

#### **Article 34- General Civil Rights Provisions**

Section 34.1 The Engineer agrees to comply with pertinent statutes, Executive Orders and such rules as are promulgated to ensure that no person shall, on the grounds of race, creed, color, national origin, sex, age, or disability be excluded from participating in any activity conducted with or benefiting from Federal assistance.

Section 34.2 This provision binds the Engineer and sub-tier contractors through the completion of the Master Agreement. This provision is in addition to that required of Title VI of the Civil Rights Act of 1964.

#### **Article 35 - Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

Section 35.1 Engineer certifies by acceptance of this Master Agreement, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency. It further agrees that by signing this Master Agreement that it will include this clause without modification in all lower tier transactions, solicitations, proposals, contracts, and subcontracts. Where the bidder/offerer/contractor or any lower tier participant is unable to certify to this statement, it shall attach an explanation to the applicable solicitation or proposal.

Section 35.2 The Engineer, by administering each lower tier subcontract that exceeds \$25,000 as a "covered transaction", must verify each lower tier participant of a "covered transaction" under a Work Order is not presently debarred or otherwise disqualified from participation in a federally assisted project. The Engineer will accomplish this by:

- a. Checking the System for Award Management at website: <http://www.sam.gov>

- b. Collecting a certification statement similar to the Certificate Regarding Debarment and Suspension (Bidder or Offeror), above.
- c. Inserting a clause or condition in the covered transaction with the lower tier contract

Section 35.3 If the FAA later determines that a lower tier participant failed to disclose to a higher tier participant that it was excluded or disqualified at the time it entered the covered transaction, the FAA may pursue any available remedies, including suspension and debarment of the non-compliant participant.

### **Article 36 - Certification Regarding Foreign Trade Restrictions**

Section 36.1 The Engineer and each subcontractor for work under a Work Order, by execution of this Master Agreement, a contract or a subcontract, certifies that it:

- a. is not owned or controlled by one or more citizens of a foreign country included in the list of countries that discriminate against U.S. firms as published by the Office of the United States Trade Representative (U.S.T.R.);
- b. has not knowingly entered into any contract or subcontract for this project with a person that is a citizen or national of a foreign country included on the list of countries that discriminate against U.S. firms as published by the U.S.T.R.; and
- c. has not entered into any subcontract for any product to be used on the Federal on the project that is produced in a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R.

Section 36.2 This certification concerns a matter within the jurisdiction of an agency of the United States of America and the making of a false, fictitious, or fraudulent certification may render the maker subject to prosecution under Title 18, United States Code, Section 1001.

Section 36.3 The Engineer must provide immediate written notice to the City if the Engineer learns that its certification or that of a subcontractor was erroneous when submitted or has become erroneous by reason of changed circumstances. The Engineer must require subcontractors provide immediate written notice to the Engineer if at any time it learns that its certification was erroneous by reason of changed circumstances.

Section 36.4 Unless the restrictions of this clause are waived by the Secretary of Transportation in accordance with 49 CFR 30.17, no contract or Work Order shall be awarded to an contractor or subcontractor:

- a. who is owned or controlled by one or more citizens or nationals of a foreign country included on the list of countries that discriminate against U.S. firms published by the U.S.T.R. or
- b. whose subcontractors are owned or controlled by one or more citizens or nationals of a foreign country on such U.S.T.R. list or
- c. who incorporates in the public works project any product of a foreign country on such U.S.T.R. list;

Section 36.5 Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by this provision. The

knowledge and information of a contractor is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

Section 36.6 The Engineer agrees that, if awarded a Work Order resulting from this Master Agreement, it will incorporate this provision for certification without modification in all lower tier subcontracts. The Engineer may rely on the certification of a prospective subcontractor that it is not a firm from a foreign country included on the list of countries that discriminate against U.S. firms as published by U.S.T.R, unless it has knowledge that the certification is erroneous.

Section 36.7 This certification is a material representation of fact upon which reliance was placed when making an award of this Master Agreement and each Work Order hereunder. If it is later determined that the Engineer or subcontractor knowingly rendered an erroneous certification, the Federal Aviation Administration may direct through the City cancellation of the Master Agreement, any Work Order or subcontract for default at no cost to the City or the FAA.

### **Article 37 - Veterans Preference**

Section 37.1 In the employment of labor (excluding executive, administrative, and supervisory positions), the contractor and all sub-tier contractors must give preference to covered veterans as defined within Title 49 United States Code Section 47112. Covered veterans include Vietnam-era veterans, Persian Gulf veterans, Afghanistan-Iraq war veterans, disabled veterans, and small business concerns (as defined by 15 U.S.C. 632) owned and controlled by disabled veterans. This preference only applies when there are covered veterans readily available and qualified to perform the work to which the employment relates.

### **Article 38 - Rights to Inventions**

Section 38.1 All rights to inventions and materials generated under this Master Agreement and Work Orders hereunder are subject to regulation issued by the FAA and the City as the sponsor of the Federal grant under which this Master Agreement and such Work Orders are or may be executed. Information regarding these rights is available from the FAA.

### **Article 39 - Lobbying and Influencing Federal Employees**

Section 39.1 The Engineer certifies by signing this Master Agreement or Work Orders, to the best of his or her knowledge and belief, that:

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the Engineer, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this

Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

Section 39.2 The Engineer shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

#### **Article 40 – Energy Conservation Requirements**

Section 40.1 Engineer and its subcontractors agree to comply with mandatory standards and policies relating to energy efficiency as contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201et seq).

#### **Article 41 – Fair Labor Standards Act**

Section 41.1 All contracts and subcontracts entered into by Engineer under this Master Agreement must incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

Section 41.2 The Engineer has full responsibility to monitor compliance to the referenced statute or regulation. The Engineer must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

#### **Article 42 – Occupational Safety and Health Act of 1970**

Section 42.1 All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

#### **Article 43 – Distracted Driving**

Section 43.1 In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

Section 43.2 In support of this initiative, the City encourages the Engineer to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers,

including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Engineer must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

#### **Article 44 – Breach of Agreement Terms**

Section 44.1 Any violation or breach of terms of this Master Agreement or any Work Order on the part of the Engineer or its subcontractors may result in the suspension or termination of this Master Agreement or Work Order or such other action that may be necessary to enforce the rights of the parties of this agreement.

Section 44.2 City will provide Engineer written notice that describes the nature of the breach and corrective actions the Engineer must undertake in order to avoid termination of the Master Agreement or Work Order. City reserves the right to withhold payments to Engineer until such time the Engineer corrects the breach or the City elects to terminate the Master Agreement or Work Order. The City's notice will identify a specific date by which the Engineer must correct the breach. City may proceed with termination of the Master Agreement or Work Order if the Engineer fails to correct the breach by deadline indicated in the City's notice.

Section 44.3 The duties and obligations imposed by the Master Agreement and the rights and remedies available thereunder are in addition to, and not a limitation of, any duties, obligations, rights and remedies otherwise imposed or available by law.

#### **Article 45 – Clean Air and Water Pollution Control**

Section 45.1 Engineer agrees to comply with all applicable standards, orders, and regulations issued pursuant to the Clean Air Act (42 U.S.C. § 740-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251-1387). The Engineer agrees to report any violation to the City immediately upon discovery. The City assumes responsibility for notifying the Environmental Protection Agency (EPA) and the Federal Aviation Administration.

Section 45.2 Engineer must include this requirement in all subcontracts that exceeds \$150,000.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.  
SIGNATURES ON FOLLOWING PAGE.]

IN WITNESS WHEREOF, the parties hereto have caused this Master Agreement to be executed in duplicate and sealed as of the day and year first above written.

**CITY OF PENSACOLA**  
a Florida municipal corporation

By: \_\_\_\_\_  
Ashton J. Hayward, Mayor

(AFFIX CITY SEAL)

Attest:

\_\_\_\_\_  
Ericka L. Burnett, City Clerk

Legal in form and valid as drawn:

Approved as to content:

\_\_\_\_\_  
Lysia H. Bowling, City Attorney

\_\_\_\_\_  
Daniel E. Flynn, Airport Director

**ENGINEER:**

SEAL

Attest:  
\_\_\_\_\_  
Corporate Secretary

Printed Name: \_\_\_\_\_  
Title: President

**EXHIBIT "A"**

**SAMPLE WORK ORDER**

Work Order No. \_\_\_\_\_

**WORK ORDER FOR ARCHITECTURAL AND/OR ENGINEERING SERVICES FOR  
AIRPORT IMPROVEMENTS AT  
PENSACOLA INTERNATIONAL AIRPORT**

**WORK ORDER NO. \_\_\_\_\_ for [NAME OF PROJECT]**

In accordance with this Work Order No. \_\_\_, made and entered into this \_\_\_ day of \_\_\_\_\_, 20\_\_\_, the undersigned Engineer agrees to perform and complete the following services, in accordance with the terms and conditions of this Work Order and with the terms and conditions of that certain **Master Agreement for Architectural and Engineering Services for Airport Improvements at Pensacola International Airport** dated \_\_\_\_\_, 2017, all of which terms and conditions are hereby incorporated herein by reference:

**Project Location:** Pensacola International Airport

**Project Description:** *Brief Project Description*

**Scope of Basic Services:** *Brief Project Scope Description* as more particularly described in Attachment A – Scope of Work (Basic Services) attached hereto and incorporated herein by reference. [Note: Include in Attachment A the Basic Services provided in the Master Agreement that are **not** to be included in this Work Order.]

**Scope of Special Services:** *Brief Special Services Description* as more particularly described in Attachment B – Special Services attached hereto and incorporated herein by reference.

**Airport Project Coordinator:** *Name and contact info for Airport’s Project Coordinator*

**Engineer Project Manager:** *Name and contact info for Engineer’s Project Manager*

**Basic Services Compensation:** \$ \_\_\_\_\_ as more particularly described in Attachment C – Basic Services Compensation attached hereto and incorporated herein by reference.

**Special Services Compensation:** \$ \_\_\_\_\_ as more particularly described in Attachment C – Special Services Compensation attached hereto and incorporated herein by reference.

**Total Compensation and Method of Payment:** Specify Lump Sum or Not-to-Exceed \$ \_\_\_\_\_ as more particularly described in Attachment C – Project Costs attached hereto and incorporated herein by reference.

**Schedule and Deliverables:** *Brief Description of Schedule and Deliverables* as more particularly described in Attachment D – Schedule and Deliverables attached hereto and incorporated herein by reference.

**Meetings:** *Number of Scoped Meetings* as more particularly described in Attachment E – Meeting attached hereto and incorporated by reference.

**Modification of Terms of Master Agreement Applicable to this Work Order:** See Attachment F attached hereto and incorporated herein by reference.

**Special Terms and Conditions:** See Attachment G attached hereto and incorporated herein by reference.

Dated and effective as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Attest:

**City of Pensacola,**  
a Florida municipal corporation

\_\_\_\_\_  
Ericka Burnett, City Clerk

By: \_\_\_\_\_  
Ashton J. Hayward, III, Mayor

Engineer:

SEAL

Attest:  
\_\_\_\_\_  
Corporate Secretary

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: President

**Legal In Form and Valid As Drawn:**

\_\_\_\_\_  
City Attorney

**Approved As To Content:**

\_\_\_\_\_  
Airport Director

SAMPLE ATTACHMENT C to Work Order – PROJECT COST BREAKDOWN

Scope/Task	Project Manager	Project Director	Project Eng.	Junior Eng.	Senior Tech.	Junior Tech.	Admin. Asst.	Total
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NAME OF PHASE

Task 1.1 (hrs/wk) Individual element (as needed)	___	___	___	___	___	___	___	___
Task 1.2 Individual element (as needed) Etc...	___	___	___	___	___	___	___	___
Total Hours	___	___	___	___	___	___	___	___

Total Direct Labor \$ \_\_\_\_\_  
 Overhead @ \_\_\_\_\_%  
 Profit @ \_\_\_\_\_%

Total Burdened Labor \$ \_\_\_\_\_

OTHER DIRECT NON-SALARY COSTS

Reproduction	\$ _____
Postage/Delivery	\$ _____
Telephone	\$ _____

Specialty Subcontractors  
 Name of Subcontractor \$ \_\_\_\_\_  
 Direct Cost

Total Subcontractor Cost \$ \_\_\_\_\_

Travel	Est. # People	Est. Days	Est. Airfare	Est. Car	Est. Lodging	Per Diem	Total
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Purpose of Travel \_\_\_\_\_ \$ \_\_\_\_\_

Total Other Direct Non-Salary Costs

TOTAL FEE \$ \_\_\_\_\_

**EXHIBIT "B"**  
**COMPENSATION SCHEDULE**

**GENERAL**

The project costs detailed in each Work Order shall be based on the compensation schedule as follows:

1. For work performed by Engineer's employees, Engineer shall be compensated for the hours worked by each employee at the rates shown herein.
2. For work performed by Engineer's subcontractors, Engineer shall be compensated at the rate of the subcontractor's invoice without any mark-up or multiplier. The City shall not compensate Engineer for any subcontractor work not approved in advance and in writing by the City.
3. For direct expenses incurred by Engineer in the performance of the Work Order, it shall be compensated at the rate of the actual costs of the direct expenses without any mark-up or multiplier. Direct expenses may include, as applicable:
  - a. Field office if required, including telephone, furniture, equipment and supplies. All furniture, equipment, and supplies purchased for the Work Order and not consumed in the performance of the Work Order shall be turned over to the City at the conclusion of the Work Order.
  - b. Project related telephone calls and telegrams.
  - c. Third party handling, shipping, mailing and reproduction of contract related materials (excluding large-scale printing of contract documents for bidding or contractor use after award).
  - d. Local area transportation expenses when traveling in conjunction with the Agreement.

The City shall not compensate Engineer for any direct expenses not approved in advance and in writing.

The City shall not be liable for any cost exceeding or different from those costs identified above.

**SCHEDULE OF RATES (Month) 20 – (Month) 20**

The following schedule of rates indicates the range of compensation by category.

Not-to-Exceed Work Orders: The actual individual direct labor charges times overhead and profit multipliers shall be used to compute the actual compensation for each not-to-exceed Work Orders prepared under the Master Agreement.

Lump Sum Work Orders: The average rate by category from the billing rates table provided below will be used to calculate the estimated cost of services to arrive at an agreed to lump sum fee.

1. Direct Salary Costs

Classification	Direct Salary Costs Range	Direct Salary Costs Average	Overhead Costs @ ____%	Fixed Payment @ ____%	Total Average Hourly Rates
Project Principal	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Project Manager	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Project Director	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Project Engineer	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Junior Engineer	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Senior Technician	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Junior Technician	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____
Admin Asst.	\$ ___-\$ ___	\$ ___	\$ _____	\$ _____	\$ _____

2. LABOR AND GENERAL AND ADMINISTRATIVE OVERHEAD

Percent of Direct Salary \_\_\_\_\_%

3. FIXED PAYMENT FOR PROFIT

Percent of Direct Salary and Overhead  
Costs of the Consultant \_\_\_\_\_%

**EXHIBIT "C"**

On File with City Purchasing Department



## Memorandum

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File #: 18-00044

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

INTERLOCAL AGREEMENT FOR FY 2018 WESTSIDE COMMUNITY POLICING INNOVATIONS BETWEEN THE CITY OF PENSACOLA AND THE COMMUNITY REDEVELOPMENT AGENCY

**RECOMMENDATION:**

That City Council approve an Interlocal Agreement with the Community Redevelopment Agency for the purpose of providing Community Policing Innovations within the Westside Community Redevelopment Area of the CRA for Fiscal Year 2018 in an amount not to exceed \$15,000.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

One of the primary obstacles to urban revitalization is the perception of a lack of safety in areas that have seen decline over time and have become stigmatized in the public mind. This perception is typically related to criminal activity, may be real or perceived, and may involve both personal safety as well as the safety of property. In some cases, unless the safety issues are addressed first, other elements of the redevelopment plan are difficult to accomplish. Some of the methods used to address safety in the past have included improved street lighting and code enforcement actions in the case of derelict buildings.

In May 2007, the City Council approved the Westside Neighborhoods Community Redevelopment Plan which provides for community policing of neighborhoods in the Westside Community Redevelopment Area. The community policing innovations are one approach that can be initiated to target criminal activity within a community redevelopment area. The Community Redevelopment Act describes “community policing innovations” as a policing technique or strategy designed to reduce crime by reducing opportunities for the perceived risks of engaging in criminal activity through the visible presence of police in the community.

Many areas within the Westside Community Redevelopment Area are experiencing safety concerns of varying degrees. In some areas, the characteristics and history of ongoing criminal activities are an obstacle to revitalization.

The community policing activities to be provided through the attached Interlocal Agreement will focus on the entirety of the Westside Community Redevelopment Area.

**PRIOR ACTION:**

May 24, 2007 - City Council adopted Resolution No. 13-07, approving the Westside Neighborhoods Community Redevelopment Plan which provided for community policing innovations.

**FUNDING:**

Budget: \$15,000

Actual: \$15,000

**FINANCIAL IMPACT:**

Funding in the amount of \$15,000 has been appropriated in the Westside TIF Fund for FY 2018 for the Interlocal Agreement.

**CITY ATTORNEY REVIEW:** Yes

1/16/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Assistant CRA Administrator

**ATTACHMENTS:**

- 1) FY18 Westside Community Policing Interlocal Agreement
- 2) Map of Westside Community Policing Area

**PRESENTATION:** No

INTERLOCAL AGREEMENT  
FOR WESTSIDE COMMUNITY POLICING INNOVATIONS  
FY 2018

between

THE COMMUNITY REDEVELOPMENT AGENCY OF  
THE CITY OF PENSACOLA, FLORIDA

and

THE CITY OF PENSACOLA, FLORIDA

This **INTERLOCAL AGREEMENT** (the " Agreement"), is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2018 and between the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PENSACOLA, FLORIDA**, a public body corporate and politic of the State of Florida (the "Agency"), and the **CITY OF PENSACOLA, FLORIDA**, a Florida municipal corporation created under the laws of the State of Florida (the "City").

**W I T N E S S E T H:**

**WHEREAS**, the City Council of the City of Pensacola, Florida (the "City Council"), adopted Resolution No. 54-80 on September 25, 1980, which finding and determining the area described therein known as the "Pensacola Inner City Community Redevelopment Area," to be a "blighted area" (as defined in Section 163.340, Florida Statutes) and to be in need of redevelopment, rehabilitation and improvement, which finding and determination was reaffirmed in Resolution No. 65-81, adopted by the City Council on October 22, 1981; and

**WHEREAS**, on September 25, 1980, the City Council adopted Resolution No. 55-80, which, created the Community Redevelopment Agency, and declared the City Council to be the Agency as provided in Section 163.356, Florida Statutes; and

**WHEREAS**, on January 25, 2007, the City Council adopted Resolution No. 04-07, which found and determined the area described therein known as the "Westside Community Redevelopment Area", a part of the Pensacola Inner City Community Redevelopment Area, to be a "blighted area" (as defined in Section 163.340, Florida Statutes) in need of redevelopment, rehabilitation and improvement, reaffirmed the creation of the Community Redevelopment Agency and designated the Westside Community Redevelopment Area; and

**WHEREAS**, on May 24, 2007, the City Council of Pensacola, Florida, adopted Resolution No. 13-07 which approved a community redevelopment plan for the Westside Community Redevelopment Area; and

**WHEREAS**, on January 17, 2008, the City Council adopted Ordinance No. 01-08, which created and established the Community Redevelopment Trust Fund for the Westside Community Redevelopment Area; and

**WHEREAS**, on August 19, 2010, the City Council adopted Resolution 22-10, which amended Resolution No. 55-80 and provided for the continuation of the Pensacola Community Redevelopment Agency in conformity with the provisions of the 2010 Charter; and

**WHEREAS**, the Agency is responsible for the implementation of the redevelopment plan for the redevelopment, rehabilitation and improvement of the Westside Community Redevelopment Area in the City; and

**WHEREAS**, one of the primary obstacles to the redevelopment, rehabilitation and improvement of the Westside Community Redevelopment Area is the perception of a lack of safety in areas that have seen decline over time and that are now stigmatized in the public mind; and

**WHEREAS**, the Redevelopment Act (hereinafter defined) authorizes municipalities and community redevelopment agencies to develop and implement Community Policing Innovations which in the singular is statutorily defined as “a policing technique or strategy designed to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the community, including, but not limited to, community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, neighborhood storefront police stations, field interrogation, or intensified motorized patrol”; and

**WHEREAS**, the Agency does not have nor exercise police powers nor employ police officers as needed to undertake Community Policing Innovations; and

**WHEREAS**, the City employs sworn law enforcement officers who have the police power and the ability to assist the Agency by focusing resources upon Community Policing Innovations in an effort to reduce crime within the Westside Community Redevelopment Area; and

**WHEREAS**, but for the cooperation of the parties and the assistance to be provided by the Agency to the City pursuant to this Agreement, the Agency would be without resources to undertake the Community Policing Innovations authorized by the Westside Community Redevelopment Plan; and

**WHEREAS**, the City and the Agency are willing to cooperate and provide assistance to each other and, to the extent permitted by law, all in such means and manner as will promote the rehabilitation and redevelopment of the urban core community redevelopment area, benefit the local economy, and be of substantial benefit to the Agency and the City by jointly undertaking community policing innovations within the Westside Community Redevelopment Area;

**WHEREAS**, the Agency proposes to exercise its powers available under Part III, Chapter 163, Florida Statutes, as amended (the "Redevelopment Act") to aid, assist, and cause the rehabilitation and the redevelopment of the Westside Community Redevelopment Area to be accomplished by, among other things, using some of its "increment revenues" deposited in the Redevelopment Trust Fund (as hereinafter defined) together with funds provided by the City of

Pensacola General Fund to pay for certain Community Policing Innovations (hereinafter defined and referred to hereinafter as the “Project”) to be provided hereinafter by the City; and

**WHEREAS**, the City and the Agency desire to enter into an interlocal agreement setting forth the terms, conditions and responsibilities of a coordinated and collective effort to redevelop the Westside Community Redevelopment Area and continue to maintain the Project undertaken by the Agency; and

**WHEREAS**, the City and the Agency have determined that such an agreement to accomplish the purposes as set forth herein involves appropriate public expenditures to accomplish important public purposes.

**NOW, THEREFORE**, in consideration of the mutual covenants of and benefits derived from this Agreement, the City and the Agency agree as follows:

## ARTICLE 1: AUTHORITY

### 1.1. Authority.

This Agreement is entered into pursuant to and under the authority of Section 163.01, Florida Statutes; Part III, Chapter 163, Florida Statutes; Chapter 166, Florida Statutes; Resolution No. 54-80, adopted by the City Council on September 25, 1980, Resolution No. 65-81, adopted by the City Council on October 22, 1981, Resolution No. 04-07, adopted by the City Council on January 25, 2007, Ordinance No. 01-08, enacted by the City Council on January 17, 2008, Resolution No. 22-10 adopted by the City Council on August 19, 2010; and other applicable law, all as amended and supplemented.

## ARTICLE 2: DEFINITIONS

### 2.1. Definitions.

As used in this Agreement, the following capitalized terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) “Act” means all or each of the following: Section 163.01, Florida Statutes; Part III, Chapter 163, Florida Statutes; Chapter 166, Florida Statutes, Resolution No. 54-80, adopted by the City Council on September 25, 1980, Resolution No. 65-81, adopted by the City Council on October 22, 1981; Resolution No. 04-07, adopted by the City Council on January 25, 2007, Ordinance No. 01-08, enacted by the City Council on January 17, 2008, Resolution No. 22-10 adopted by the City Council on August 19, 2010; and other applicable law, all as amended and supplemented.

(2) “Agency” means the Community Redevelopment Agency of the City of Pensacola, Florida, and any successors or assigns.

(3) “Agency Payments” means, the periodic payments made by the Agency to the City from the Westside Community Policing Innovations Account pursuant to Section 4.3 hereof.

(4) “Agency's Other Obligations” means the payment to be made by the Agency from Increment Revenues deposited in its Redevelopment Trust Fund in the manner, to the extent and so long as such payments are required, respectively, pursuant to resolutions or agreements adopted or entered into prior to or after the Effective Date and which are provided to be superior to the obligation of the Agency under this Agreement.

(5) “Agreement” means this Interlocal Agreement, including any amendments, revisions and exhibits thereto.

(6) “Available Increment Revenues” means Increment Revenues remaining from time to time in the Agency's Redevelopment Trust Fund after all payments and deposits required to be made therefrom for the Agency's Other Obligations have been made and paid by the Agency during that Fiscal Year.

(7) “City” means the City of Pensacola, Florida, a Florida municipal corporation, and any successors or assigns.

(8) “City Council” means the City Council, or such other body constituting the elected governing or legislative body of the City.

(9) “Community Policing Innovations” means law enforcement services provided by the City within the entirety of the Westside Community Redevelopment Area, in cooperation and in consultation with the Agency, to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the district and community areas historically and currently prone to blight and less receptive to traditional law enforcement strategies, including, but not limited to, increased face to face contact with citizens, bike patrols, foot patrols, community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, attendance at community functions that foster relationships based on trust where there has been a traditional divide or contentious relationship between the community and law enforcement, neighborhood storefront police stations, field interrogation, or intensified motorized patrol.

(10) “Westside Community Policing Innovations Account” means the account created and established by Section 5.2 hereof and in which are deposited the Available Increment Revenues and from which the Agency Payments are made to fund the Community Policing Innovations described herein.

(11) “Community Redevelopment Area” or “Westside Community Redevelopment Area” means the area found to be a slum or blighted and described in Resolution No. 04-07, adopted by the City Council on January 25, 2007.

(12) “Effective Date” means the date on which this Agreement becomes effective as provided in Section 8.12 hereof.

(13) “Expiration Date” means the date on which this Agreement expires by its own terms and is no longer of any force and effect as provided in Section 8.7 hereof.

(14) “Fiscal Year” means the respective fiscal years of the City and the Agency commencing on October 1 of each year and ending on the succeeding September 30, or such other consecutive twelve (12) month period as may be hereafter designated pursuant to general law as the fiscal year of the Agency or the City, respectively.

(15) “Increment Revenues” means the funds received by the Agency and deposited in the Redevelopment Trust Fund in an amount equal to the incremental increase in ad valorem tax revenues calculated pursuant to Section 163.387, Florida Statutes, within the Community Redevelopment Area.

(16) “Plan” means the community redevelopment plan for the Westside Community Redevelopment Area, adopted by the City Council on May 24, 2007, by the adoption of Resolution No. 13-07.

(17) “Redevelopment Trust Fund” means the trust fund of the Agency created and established by Ordinance No. 01-08, enacted by the City Council on January 17, 2008, into which Increment Revenues are deposited as provided by that ordinance (and any amendments or successors thereto) and the Redevelopment Act.

(18) “Termination Date” means September 30, 2018, or the date on which this Agreement is terminated and is no longer of any force and effect as provided in Section 7.5, whichever, occurs earlier.

## 2.2. Use of Words and Phrases.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural as well as the singular number, and the word “person” shall include corporations and associations, including public bodies, as well as natural persons. “Herein”, “hereby”, “hereunder”, “hereof”, “hereinbefore”, “hereinafter”, and other equivalent words refer to this Agreement and not solely to the particular portion thereof in which any such word is used.

## 2.3. Florida Statutes.

Any and all references herein to the “Florida Statutes” are to the current statute and future amendments as they may be adopted.

# ARTICLE 3: PURPOSE

## 3.1. Purpose.

The purpose of this Agreement is to induce, encourage and assist the redevelopment of the Community Redevelopment Area through assistance and cooperation in undertaking community policing innovations within the area. It is also the purpose of this agreement to avoid expending the Agency’s Increment Revenues (as defined in the Act) on general government operating expenses unrelated to the planning and carrying out of the Plan. It is also the purpose of this Agreement to define and delineate the responsibilities and obligations of the parties to this

Agreement, and to express the desire of the parties to cooperate together to accomplish the purposes and expectations of this Agreement.

#### ARTICLE 4: THE PROJECT

##### 4.1. Description.

The Project consists of the City providing Community Policing Innovation services within the Westside Community Redevelopment Area, , in its entirety, such boundaries defined by Ordinance No. 01-08, adopted by the City Council on January 17, 2008, and in consideration of such services, the Agency Payments to the City.

##### 4.2. Project Administration.

The City, in consultation and cooperation with the Agency, shall be responsible for and shall oversee the administration of the Project, and shall account to the Agency for all costs of the Project.

##### 4.3. Agency Payments.

Within 45 days of receipt of periodic invoices from the City, accompanied by an accounting for the costs of the Project, the Agency shall pay from the Westside Community Policing Innovations Account reimbursing Agency Payments to the City equal to the Actual costs of the Project. Provided, however, the sum of the Agency Payments shall not exceed \$15,000. Upon receipt of the Agency's written approval of any such invoice and accounting, the City's Chief Financial Officer may withdraw the Agency Payment directly from the Westside Community Policing Innovations Account. Although this Sec. 4-3 contemplates and references the production of invoices, accountings and written approvals of invoices and accountings, these documents are accumulated and retained for subsequent auditing purposes and the periodic initiation and transfer of agency payments shall be accomplished through appropriate automated data processing means.

#### ARTICLE 5: FINANCING

##### 5.1. General.

The parties mutually acknowledge and agree that the aggregate cost of undertaking Community Policing Innovations within the Community Redevelopment Area is not anticipated to exceed \$15,000 for Fiscal Year 2018. The Agency covenants and agrees with the City to transfer Available Increment Revenues from the Redevelopment Trust Fund to the Westside Community Policing Innovations Account at the times and in the amounts necessary to pay invoices submitted to the Agency by the City pursuant to Section 4.3 hereof. All other costs will be paid from other funds available to the City and set aside and committed for the purpose of paying such costs.

##### 5.2. Westside Community Policing Innovations Account.

(1) The Agency covenants and agrees to establish an account separate and distinct from the Redevelopment Trust Fund to be known as the Westside Community Policing Innovations

Account in which the Available Increment Revenues shall be deposited and disbursements made as provided herein. This account is intended to be and shall constitute an escrow account for the purpose of funding the Project.

(2) The Agency's Available Increment Revenues deposited in the Westside Community Policing Innovations Account shall constitute trust funds to secure the payments required to be made by the Agency and until such transfer and deposit, the Agency shall act as trustee of its moneys for the purposes thereof and such moneys shall be accounted for separate and distinct from all other funds of the Agency and shall be used only as provided herein.

(3) The Westside Community Policing Innovations Account shall be deposited and maintained in one or more banks, trust companies, national banking associations, savings and loan associations, savings banks or other banking associations which are under Florida law qualified to be a depository of public funds, as may be determined by the entity maintaining possession and control of such funds and accounts.

### 5.3 Available Increment Revenues.

(1) During the Fiscal Year commencing upon the effective date of this agreement through Termination Date, the Agency covenants and agrees with the City to transfer Available Increment Revenues from the Redevelopment Trust Fund to the Westside Community Policing Innovations Account at the times and in the amounts necessary to pay invoices submitted to the Agency by the City pursuant to Section 4.3 hereof.

(2) The Agency hereby encumbers, commits and pledges the Available Increment Revenues for the purposes of the transfers required by this Section 5.3.

(3) The Agency covenants and agrees with the City and does hereby grant a lien in favor of the City on the funds on deposit in the Westside Community Policing Innovations Account for the purposes set forth in this Agreement. Funds on deposit in this Westside Community Policing Innovations Account may only be used to pay the Costs of the Project. Any funds remaining after all costs of the Project have been paid shall be used only in the manner authorized by Section 163.387(7), Florida Statutes.

### 5.4. Enforcement of Increment Revenues Collections.

The Agency is currently receiving Increment Revenues, having taken all action required by law to entitle it to receive the same, and the Agency will diligently enforce its rights to receive the Increment Revenues and will not take any action which will impair or adversely affect its right to receive such funds or impair or adversely affect in any manner the Agency's covenant to budget and appropriate Available Increment Revenues for deposit to the Westside Community Policing Innovations Account. The Agency and the City covenant and agree, so long as the Agency is required to make the Agency Payments, to take all lawful action necessary or required to continue the entitlement of the Agency to receive the Increment Revenues as now provided by law or may later be authorized, and to make the transfers required by this Agreement. The City does hereby covenant and agree that, so long as the Agency is required to make the Agency Payments, to timely budget, appropriate and pay into the Redevelopment Trust Fund in each fiscal Year the amount required of it to be so paid by the Redevelopment Act.

Notwithstanding any other provision herein to the contrary, the failure of the enforcement of collection of Increment Revenues by the Agency will not relieve the City of its obligations hereunder to pay the City Payment.

5.5. No General Obligation.

Nothing contained in this Agreement shall be deemed to create a debt, liability, or other obligation of the Agency or the City or any other political subdivision of the State of Florida within the meaning of any constitutional, statutory, charter or other provision or limitation, and nothing contained herein shall be deemed to authorize or compel, directly or indirectly, the exercise of the ad valorem taxing power of the City or any other political subdivision of the State of Florida or taxation in any form on any real or personal property for the payment of any amounts contemplated by or as provided in this Agreement, including the payment of any principal or, premium, if any, and interest on any indebtedness relating to the Project.

ARTICLE 6: REPRESENTATIONS AND WARRANTIES

6.1. Representations and Warranties of the Agency.

The Agency represents and warrants to the City that each of the following statements is presently true and accurate and can be relied upon by the City:

(1) The Agency is the duly designated community redevelopment agency of the City, a validly existing body politic and corporate of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a party.

(2) This Agreement and each document contemplated hereby to which the Agency is or will be a party has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by, the Agency and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof: (a) requires the approval and consent of any other party, except such as have been or will be duly obtained, (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Agency or (c) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance upon any party or the Agency, under any indenture, mortgage, deed of trust, bank loan or credit agreement, the Agency's special acts, applicable ordinances, resolutions or any other agreement or instrument to which the Agency is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the Agency outstanding on the Effective Date.

(3) This Agreement and each document contemplated hereby to which the Agency is or will be a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of the Agency enforceable against it in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(4) There are no pending or, to the knowledge of the Agency, threatened actions or proceedings before any court or administrative agency against the Agency, which question the existence of the Agency, the determination of slum and blight in the Community Redevelopment Area, the adoption or implementation of the Plan, the validity of this Agreement or any instrument or document contemplated hereunder, or which are likely in any case or in the aggregate to materially adversely affect the successful redevelopment of the Community Redevelopment Area, the consummation of the transactions contemplated hereunder or the financial condition of the Agency.

(5) This Agreement does not violate any laws, ordinances, rules, regulations, orders, contracts, or agreements that are or will be applicable to the Agency.

#### 6.2. Representations and Warranties of the City.

The City represents and warrants to the Agency that each of the following statements is presently true and accurate and can be relied upon by the Agency:

(1) The City is a municipal corporation created under the laws of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a party.

(2) This Agreement and each document to which it is or will be a party has been duly authorized by all necessary action on the part thereof, and has been or will be duly executed and delivered by, it and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof: (a) requires the approval and consent of any other party, except such as been duly obtained, (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on it, or (c) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance upon it, under any indenture, mortgage, deed or trust, bank loan or credit agreement, charter, applicable ordinances, resolutions or any other agreement or instrument, specifically including any covenants of any bonds, notes, or other forms of indebtedness outstanding on the Effective Date.

(3) This Agreement and each document contemplated hereby constitutes, or when entered in will constitute, a legal, valid and binding obligation enforceable against the City in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(4) There are no pending or, to the knowledge of the City, threatened actions or proceedings before any court or administrative agency against it, which question its existence, the validity of this Agreement or any instrument or document contemplated hereunder, or which are likely in any case or in the aggregate to materially adversely affect the consummation of the transactions contemplated hereunder.

(5) This Agreement does not violate any laws, ordinance, rules, regulations, orders, contract, or agreements that are or will be applicable to the City.

## ARTICLE 7: DEFAULT; TERMINATION

### 7.1. Default by the Agency.

(1) Provided the City is not in default under this Agreement as set forth in Section 7.2 hereof, there shall be an “event of default” by the Agency under this Agreement upon the occurrence of any one or more of the following:

(a) The Agency fails to perform or comply with any material provision of this Agreement and such nonperformance shall have continued, after written notice thereof by the City to the Agency; or

(b) The Agency shall have failed or refused to make any of the Agency Payments when due and payable; or

(c) The Agency shall make a general assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation or shall file an answer admitting, or shall fail reasonably to contest, the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Agency of any material part of its properties; or

(d) Within sixty (60) days after the commencement of any proceeding by or against the Agency seeking any reorganization, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment without the consent or acquiescence of the Agency or any trustee, receiver or liquidator of the Agency or of any material part of its properties, such appointment shall not have been vacated.

(2) If any “event of default” described in Subsection 7.1(1) hereof shall have occurred, the City may, after giving thirty (30) days written notice of such event of default to the Agency, and upon expiration of such thirty (30) day notice period, if such event of default has not been cured, terminate this Agreement or institute an action seeking such remedies as are available to the City, or both.

### 7.2. Default by the City.

(1) Provided the Agency is not then in default under this Agreement, there shall be an “event of default” by the City to this Agreement under this Agreement upon the occurrence of any the following:

(a) The City does not perform as required hereunder and such nonperformance shall have continued, after written notice thereof by the Agency to the City; or

(b) The City shall have failed or refused to proceed with or cause the timely completion of the Project.

(2) If an "event of default" described in Subsection 7.2(1) hereof shall have occurred, the Agency, after giving thirty (30) days written notice of such event of default to the City and upon the expiration of such thirty (30) day period if such event of default has not been cured, may terminate this Agreement or institute an action seeking such remedies as are available to the Agency hereunder.

7.3. Obligations, Rights and Remedies Not Exclusive.

The rights and remedies specified herein to which either the Agency or the City are entitled are not exclusive and are not intended to be to the exclusion of any other remedies or means or redress to which any party hereto may otherwise lawfully be entitled.

7.4. Non-Action or Failure to Observe Provisions of this Agreement.

The failure of any party hereto to promptly insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any exhibit hereto or any other agreement contemplated hereby shall not be deemed a waiver of any available right or remedy, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

7.5. Effect of Termination.

(1) Upon the occurrence of an event described in Section 7.1 or 7.2 hereof and receipt by any party of an election to terminate this Agreement pursuant to Sections 7.1 or 7.2 hereof, then this Agreement shall terminate and all obligations of any parties hereto shall then cease and be released and no longer be of any force and effect.

(2) In the event of a termination of this Agreement pursuant to this Section 7.5, no party hereto shall be obligated or liable to any other in any way, financial or otherwise, for any claim or matter arising from or as a result of this Agreement or any actions taken by any party hereto, hereunder or contemplated hereby.

ARTICLE 8: MISCELLANEOUS

8.1. Amendments.

This Agreement may be amended by the mutual written agreement of all parties at any time and from time to time, which amendments shall become effective upon filing thereof in the public records of Escambia County, Florida, pursuant to Section 163.01(11), Florida Statutes.

8.2. This Agreement Constitutes a Contract.

All parties hereto acknowledge that they will rely on the pledges, covenants and obligations created herein for the benefit of the parties hereto, and this Agreement shall be deemed to be and constitute a contract amongst said parties as of it becoming effective as provided in Section 8.12.

8.3. Assignment.

No party to this Agreement may, directly or indirectly, assign or transfer any or all of their duties, rights, responsibilities, or obligations under this Agreement to any other party or person not a party to this Agreement, without the express prior approval of the other party to this Agreement.

8.4. Severability.

The provisions of this Agreement are severable, and it is the intention of the parties hereto to confer the whole or any part of the powers herein provided for and if any of the provisions of this Agreement or any other powers granted by this Agreement shall be held unconstitutional, invalid or void by any court of competent jurisdiction, the decision of said court shall not affect or impair any of the remaining provisions of this Agreement. It is hereby declared to be the intent of the parties hereto that this Agreement would have been adopted, agreed to, and executed had such unconstitutional, invalid or void provision or power not been included therein.

8.5. Controlling Law; Venue.

Any and all provisions of this Agreement and any proceeding seeking to enforce and challenge any provision of this Agreement shall be governed by the laws of the State of Florida. Venue for any proceeding pertaining to this Agreement shall be Escambia County, Florida.

8.6. Members Not Liable.

(1) All covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the City and the Agency, respectively, to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida.

(2) No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future individual member of a governing body or agent or employee of the Agency or the City in its, his or their individual capacity, and neither the members of the governing body of the Agency or the City or any official executing this Agreement shall individually be liable personally or shall be subject to any accountability by reason of the execution by the City or the Agency of this Agreement or any act pertaining hereto or contemplated hereby.

8.7. Expiration of Agreement.

(1) Unless sooner terminated as provided in Article 7, this Agreement shall expire and terminate on the Termination Date.

(2) The parties hereto covenant and agree that upon this Agreement expiring and terminating all rights, privileges, obligations and responsibilities of any party hereunder shall expire and be of no force and effect, except to the extent any provision hereof expressly survives expiration as provided herein and survives termination as provided in Section 7.5.

(3) Any funds remaining in the Westside Community Policing Innovations Account upon the expiration of this Agreement, which are not encumbered or obligated for any payment shall be used only in the manner authorized by Section 163.387, Florida Statutes.

8.8. Third Party Beneficiaries.

Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy, or claim, legal or equitable, under or by reason of this Agreement or any provision hereof.

8.9. Notices.

(1) Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given or filed with a party hereto shall be deemed sufficiently given or filed for all purposes of this Agreement if and when sent by registered mail, return receipt requested, transmitted by a facsimile machine with confirmation of delivery, or by personal hand delivery:

To the Agency:                      Community Redevelopment Agency of  
The City of Pensacola, Florida  
Post Office Box 12910  
Pensacola, Florida 32521-0001  
Attention: Administrator

To the City:                              City of Pensacola  
Post Office Box 12910  
Pensacola, Florida 32521-0001  
Attention: City Administrator

(2) The addresses to which any notice, demand, direction or other instrument authorized to be given or filed may be changed from time to time by a written notice to that effect delivered to all the parties, which change shall be effective immediately or such other time as provided in the notice.

Until notice of a change of address is received, a party may rely upon the last address received. Notice shall be deemed given, if notice is by mail on the date mailed to the address set forth above or as changed pursuant to this Section 8.9.

8.10. Execution of Agreement.

This Agreement shall be executed in the manner normally used by the parties hereto. If any officer whose signature appears on this Agreement ceases to hold office before all officers shall have executed this Agreement or prior to the filing and recording of this Agreement as provided in Section 8.11 hereof, his or her signature shall nevertheless be valid and sufficient for all purposes. This Agreement shall bear the signature of, or may be signed by, such individuals as at the actual time of execution of this Agreement thereby shall be the proper and duly empowered officer to sign this Agreement and this Agreement shall be deemed to have been duly and properly executed even though on the Effective Date any such individual may not hold such office.

8.11. Filing with County Clerk of the Court.

The City Clerk is hereby authorized and directed after approval of this Agreement by the Agency and the City Council and the execution hereof by the duly qualified and authorized officers of each of the parties hereto as provided in Section 8.10 hereof, to submit this Agreement to the Clerk of the Court of Escambia County, Florida, for filing in the public records of Escambia County Florida, as provided by Section 163.01(11), Florida Statutes.

8.12. Effective Date.

This Agreement shall become effective immediately upon filing with the Clerk of the Court of Escambia County, Florida, as provided in Section 163.01(11), Florida Statutes.

8.13. City and Agency Not Liable.

Nothing contained in this Agreement shall be construed or deemed, nor is intended, or impose any obligation upon the City or the Agency except to the extent expressly assumed by the City or the Agency, respectively.

**IN WITNESS WHEREOF**, the parties hereto, by and through the undersigned, have entered into this Interlocal Agreement as of the day and year first above written.

COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF PENSACOLA, FLORIDA

CITY OF PENSACOLA, FLORIDA

\_\_\_\_\_  
P.C. Wu, CRA Chairperson

\_\_\_\_\_  
Ashton J. Hayward, III, Mayor

Attest:

Attest:

\_\_\_\_\_  
Ericka L. Burnett, City Clerk

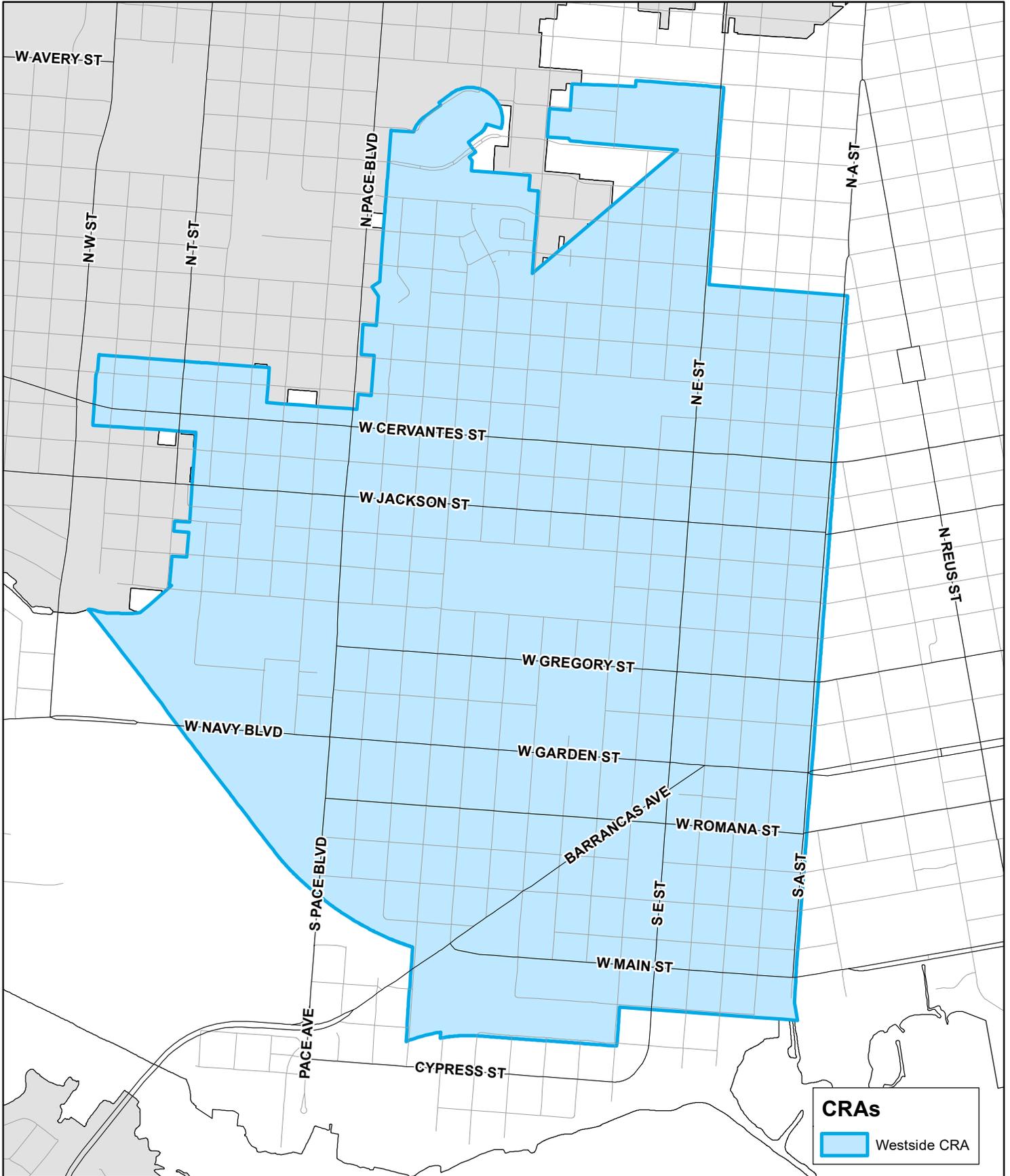
\_\_\_\_\_  
Ericka L. Burnett, City Clerk

Approved as to Content:

Approved as to Form and Execution:

\_\_\_\_\_  
M. Helen Gibson,  
CRA Administrator

\_\_\_\_\_  
Lysia Bowling, City Attorney



**CRAs**

Westside CRA

**PENSACOLA**

0 0.125 0.25 0.5 Miles

# Westside CRA Map



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00050

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

FY 2017 STREET REHABILITATION GROUP 4

**RECOMMENDATION:**

That City Council award a contract for Bid #18-004 Fiscal Year 2017 Street Rehabilitation Project Group 4 to MidSouth Paving Inc. the lowest and most responsible bidder with a base bid amount of \$1,566,268.05 plus a 5% contingency of \$78,313.40 plus \$6,000.00 for miscellaneous construction items for a grand total of \$1,650,581.45.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On December 14, 2017, City Council approved an action item entitled FY2017 Street Rehabilitation Project List Phase II. The list included three groups containing approximately 603 blocks out of the estimated 1856 total blocks city-wide. Group 4 contains 186 out of the 603 blocks. The Fiscal Year 2017 Street Rehabilitation Group 4 listing was developed based upon those streets in greatest need of rehabilitation that have not been paved over the past 10 years. The list was put out for public bid on December 15, 2017 and three (3) proposals were received on January 16, 2018.

Public Works & Facilities staff contacted the Emerald Coast Utilities Authority (ECUA) with regard to funding assistance as it relates to the adjustment of ECUA's sanitary sewer manholes within the roadways being reconditioned. ECUA has agreed to fund the adjustment of approximately 176 of their manholes with funding in the amount of \$64,240.00 and approximately 38 of their water valves with funding in the amount of \$10,830.00 for a total of \$75,070.00

**PRIOR ACTION:**

December 14, 2017 - City Council approved the FY 2017 Street Rehabilitation Project List Phase II

**FUNDING:**

Budget: \$1,575,512.00 LOST Series 2017 Project Fund

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<u>75,070.00</u>	ECUA Manhole Reimbursement
<u>\$1,650,582.00</u>	Total

Actual: \$1,566,268.05	Base Bid
78,313.40	5% Contingency
<u>6,000.00</u>	Miscellaneous Construction Items
<u>\$1,650,581.45</u>	Total

**FINANCIAL IMPACT:**

Funding has been appropriated in the LOST Series 2017 Project Fund. Additionally, ECUA will provide reimbursement in the amount of \$75,070.00 which will offset the cost of the adjustment to their manholes and water valves.

**CITY ATTORNEY REVIEW:** Yes

1/26/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
L. Derrick Owens, P.E., Director of Public Works and Facilities/City Engineer

**ATTACHMENTS:**

- 1) FY 2017 Street Rehabilitation Group 4 Project Tab
- 2) FY 2017 Street Rehabilitation Group 4 Project -Vendor List
- 3) FY 2017 Street Rehabilitation Phase 2 Map
- 4) FY 2017 (Phase II) Street Rehabilitation List Group 4

**PRESENTATION:** No

**TABULATION OF BIDS**

BID NO: 18-004

TITLE: FY 2017 STREET REHABILITATION PROJECT GROUP 4

OPENING DATE: January 16, 2017

OPENING TIME: 2:30 P.M.

MIDSOUTH  
PAVING,  
INC.

ROADS, INC.  
OF NWF

PANHANDLE  
GRADING &  
PAVING, INC.

DEPARTMENT: Public Works & Facilities

Pensacola, FL

Cantonment, FL

Pensacola, FL

BRIEF DESCRIPTION

Base Bid

\$1,566,268.05

\$1,610,000.00

\$1,658,698.05

Attended Prebid

Yes

Yes

Yes

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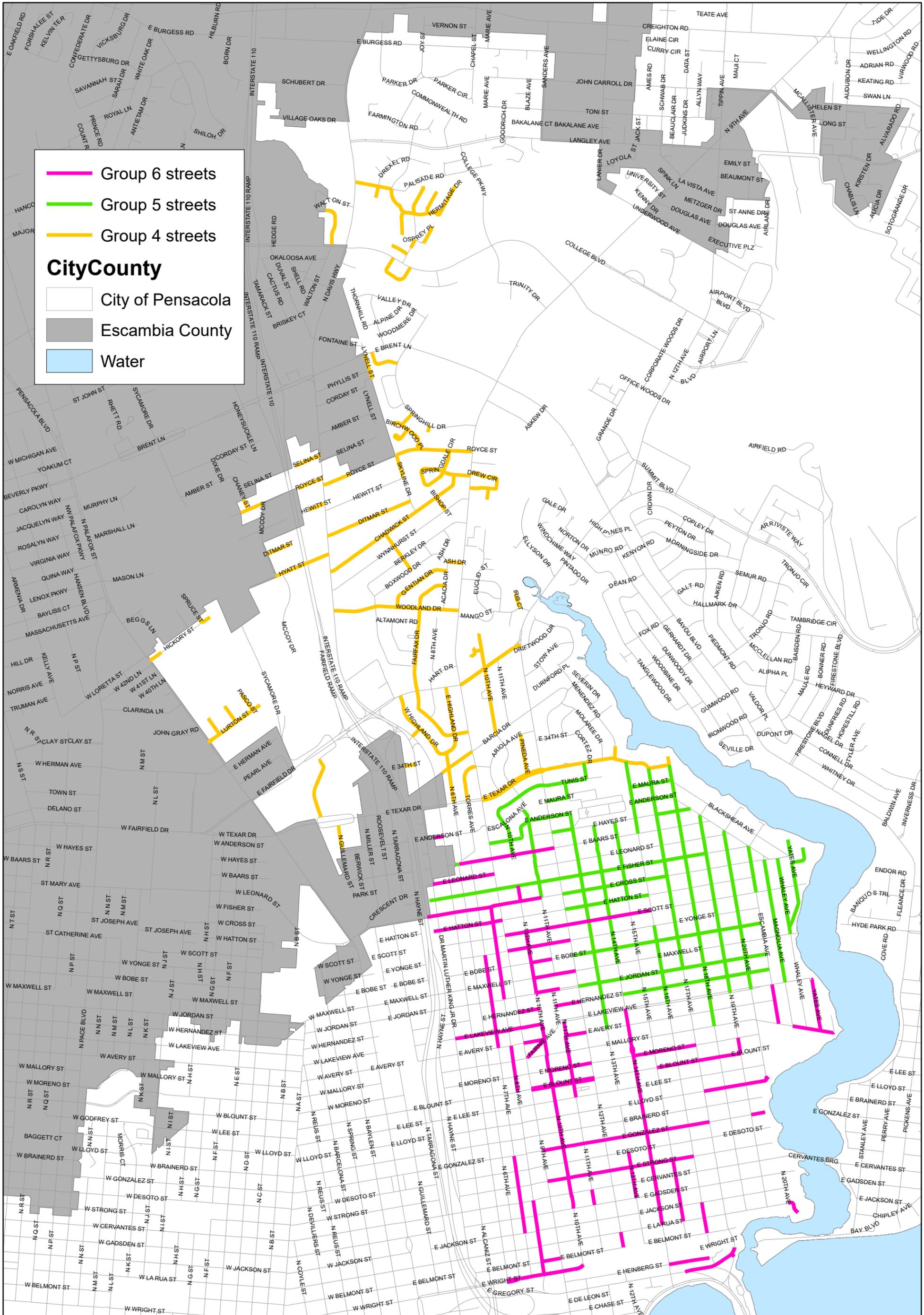
**FINAL VENDOR REFERENCE LIST  
FY 2017 STREET REHABILITATION GROUP 1  
PUBLIC WORKS & FACILITIES**

Vendor	Name	Address	City	St	Zip Code	S/M/WBE
044957	ALL SEASONS CONSTRUCTION LLC	6161 BLUE ANGEL PARKWAY	PENSACOLA	FL	32526	N
068495	ANDALA ENTERPRISES INC	641 BAYOU BOULEVARD	PENSACOLA	FL	32503	N
068571	B&W UTILITIES INC	1610 SUCCESS DRIVE	CANTONMENT	FL	32533	N
000377	BASKERVILLE DONOVAN	449 WEST MAIN ST	PENSACOLA	FL	32502	N
036997	BELLVIEW SITE CONTRACTORS INC	3300 GODWIN LANE	PENSACOLA	FL	32526	Y
053457	BIRKSHIRE JOHNSTONE LLC	11 CLARINDA LANE	PENSACOLA	FL	32505	Y
065013	BKW INC	5615 DUVAL STREET	PENSACOLA	FL	32503	Y
029184	BLARICOM, KIRK VAN DBA KIRK CONSTRUCTION COMPANY	619 GREEN HILLS ROAD	CANTONMENT	FL	32533	Y
067318	BLUE WATER CONSTRUCTION & LANDSCAPING INC	8863 N EIGHT MILE CREEK ROAD	PENSACOLA	FL	32534	Y
022856	BROWN CONSTRUCTION OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	Y
041503	BROWN, AMOS P JR DBA P BROWN BUILDERS LLC	4231 CHERRY LAUREL DRIVE	PENSACOLA	FL	32504	Y
027092	CHAMPION CONTRACTORS INC	505 NORTH FERDON BLVD	CRESTVIEW	FL	32536	N
042045	CHAVERS CONSTRUCTION INC	1795 WEST DETROIT BLVD	PENSACOLA	FL	32534	Y
049653	CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC	6550 BUD JOHNSON ROAD	PENSACOLA	FL	32505	Y
057454	COASTAL PILE DRIVING INC	2201 VALLEY ESCONDIDO DRIVE	PENSACOLA	FL	32526	N
045454	COASTLINE STRIPING INC	8840 FOWLER AVENUE	PENSACOLA	FL	32534	N
060876	CREATIVE PUBLIC AMENITIES	1317 JOHN CARROLL DRIVE	PENSACOLA	FL	32504	Y
036146	CRONIN CONSTRUCTION INC	99 S ALCANIZ ST SUITE A	PENSACOLA	FL	32502	Y
033554	D K E MARINE SERVICES	P O BOX 2395	PENSACOLA	FL	32513	Y
032038	EVANS CONTRACTING INC	400 NEAL ROAD	CANTONMENT	FL	32533	N
058842	EVERS COMMERCIAL SERVICES OF NORTHWEST FL LLC	1450 EVERS HAVEN	CANTONMENT	FL	32533	Y
049116	FEASIBLE CONCEPTS INC	5852 PARSONS ROAD	MILTON	FL	32570	N
033421	FLOYD BROTHERS CONSTRUCTION	101 EAST 9 1/2 MILE ROAD	PENSACOLA	FL	32534	Y
032792	GATOR BORING & TRENCHING INC	1800 BLACKBIRD LANE	PENSACOLA	FL	32534	Y
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	N
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
034504	GULF COAST AFRICAN AMERICAN CHAMBER OF COMMERCE	PO BOX 18432	PENSACOLA	FL	32523	N
018636	GULF COAST BUILDING CONTRACTORS INC	1010 N 12TH AVE	PENSACOLA	FL	32501	Y
017352	GULF COAST TRAFFIC ENGINEERS	8203 KIPLING STREET	PENSACOLA	FL	32514	N
036662	H H H CONSTRUCTION OF NWF INC	8190 BELLE PINES LANE	PENSACOLA	FL	32526	N
050489	HAILE, MICHAEL JACKSON DBA THE HAILE COMPANY OF NW FL INC	PO BOX 13425	PENSACOLA	FL	32591	N
001597	HEATON BROTHERS CONSTRUCTION CO INC	5805 SAUFLEY FIELD ROAD	PENSACOLA	FL	32526	N
052866	HEWES & COMPANY LLC	390 SELINA ST	PENSACOLA	FL	32503	Y
056716	HOWELL, KENNETH C, JR DBA KEN JR CONSTRUCTION LLC	1102 WEBSTER DRIVE	PENSACOLA	FL	32505	N
022978	INGRAM SIGNALIZATION INC	4522 N DAVIS HWY	PENSACOLA	FL	32503	Y
053163	J2 ENGINEERING INC	2101 WEST GARDEN STREET	PENSACOLA	FL	32502	N
043857	KBI CONSTRUCTION CO INC	9214 WARING RD	PENSACOLA	FL	32534	N
068161	LEA, DOUGLAS C DBA L&L CONSTRUCTION SERVICES LLC	9655 SOUTH TRACE ROAD	MILTON	FL	32583	Y
058332	LEIDNER BUILDERS INC	409 N PACE BLVD	PENSACOLA	FL	32505	Y
058801	M & H CONSTRUCTION SERVICES INC	1161 W 9 1/2 MILE RD	PENSACOLA	FL	32534	Y
052456	MEI LING DAVIS LLC	PO BOX 18155	PENSACOLA	FL	32523	N
027028	MERLIN CAL CALLAHAN ASSOCIATES INC	P O BOX 1202	DESTIN	FL	32540	N
053467	MIDSOUTH PAVING INC	PO BOX 385025	BIRMINGHAM	AL	35283	N
016210	NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	Y
001823	NWF CONTRACTORS INC	P O BOX 1718	FORT WALTON BEACH	FL	32549	N
049208	NWF PAVING AND BLACK TOP INC	3709 WEST BRAINERD STREET	PENSACOLA	FL	32505	N

**FINAL VENDOR REFERENCE LIST  
FY 2017 STREET REHABILITATION GROUP 1  
PUBLIC WORKS & FACILITIES**

Vendor	Name	Address	City	St	Zip Code	S/M/WBE
051747	PAEDAE PROPERTIES INC	5104 NORTH W STREET	PENSACOLA	FL	32505	N
002720	PANHANDLE GRADING & PAVING INC	P O BOX 3717	PENSACOLA	FL	32516	N
030951	PAV'R CONSTRUCTION INC	P O BOX1293	GULF BREEZE	FL	32562	N
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	N
003956	PENSACOLA CONCRETE CONSTRUCTION CO INC	P O BOX 2787	PENSACOLA	FL	32513	N
000225	PENSACOLA NEWS JOURNAL	P O BOX 12710	PENSACOLA	FL	32591	N
055028	PERDIDO GRADING & PAVING	PO BOX 3333	PENSACOLA	FL	32516	Y
064219	POE, JAMIN DBA P3 CONSTRUCTION & ENERGY SOLUTIONS LLC	321 N DEVILLIERS ST STE 208	PENSACOLA	FL	32501	N
066152	PRINCIPLE PROPERTIES INC	4371 MARILYN COURT	GULF BREEZE	FL	32563	Y
051133	PUGH, KEVIN D DBA KEVIN D PUGH SITE & DOZER WORKS LLC	5731 STEWART ROAD	WALNUT HILL	FL	32568	Y
050307	QCFS MANAGEMENT GROUP INC	3326 NORTH W STREET	PENSACOLA	FL	32505	N
018305	R D WARD CONSTRUCTION CO INC	15 EAST HERMAN STREET	PENSACOLA	FL	32505	N
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	N
031881	ROADS INC OF NWF	106 STONE BLVD	CANTONMENT	FL	32533	N
017634	ROBERSON EXCAVATION INC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	Y
067564	ROBERSON UNDERGROUND UTILITY LLC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	Y
055499	ROCKWELL CORPORATION	3309 LINGER COURT	PENSACOLA	FL	32526	Y
052761	SEASIDE GOLF DEVELOPMENT INC	312 N DAVIS HWY	PENSACOLA	FL	32501	N
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	Y
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	Y
057076	SUNRISE CONTRACTING SERVICES INC	1509 JOHN CARROLL DRIVE	PENSACOLA	FL	32504	Y
057995	T&W BREAKING GROUND LLC	5748 PRINCETON DRIVE	PENSACOLA	FL	32526	Y
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	Y
037833	THE PENSACOLA VOICE INC	213 EAST YONGE STREET	PENSACOLA	FL	32503	Y
053924	THOMPSON CONTRACTOR RESOURCES INC	196 E NINE MILE RD SUITE C	PENSACOLA	FL	32534	N
062939	THREE TRADE CONSULTANTS	5690 JEFF ATES RD	MILTON	FL	32583	N
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	N
030096	W D ROGERS MECHANICAL CONTRACTOR	PO BOX 9607	PENSACOLA	FL	32513	N
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	Y
032732	WALLER, DONALD DBA NORTHCOAST CONTAINER INC	2325 MID PINE CIRCLE	PENSACOLA	FL	32514	N
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	Y
045140	WIT CONSTRUCTION SERVICES LLC	1161 WEST DETROIT BLVD	PENSACOLA	FL	32534	N
044856	WOLFE CONSTRUCTION	40 W NINE MILE ROAD #2 SUITE 212	PENSACOLA	FL	32534	Y

Vendors: 83
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█ Group 6 streets  
█ Group 5 streets  
█ Group 4 streets  
**CityCounty**  
 City of Pensacola  
 Escambia County  
 Water



0 1,450 2,900 5,800 Feet

# Groups 4, 5, and 6 Resurfacing



Date: 11/27/2017

This map was prepared by the GIS section of the City of Pensacola and is provided for information purposes only and is not to be used for development of construction plans or any type of engineering services based on information depicted herein. It is maintained for the function of this office only. It is not intended for conveyance nor is it a survey. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

## Group 4

District	STREET NAME	From	To
5	Texar Drive	N 17th Ave	N 18th Ave
5	Texar Drive	N 17th Ave	N 9th Ave
5	Pineda Ave	E Texar Drive	Ariola Ave
5	Torres Ave	Texar Drive	N 9th Ave
5	N 6th Ave	Texar Drive	E Highland Drive
5	Barcia Road	185' west of N 6th Ave	N 9th Ave
5	W Highland Drive	E Fairfield Drive	N 6th Ave
5	E Highland Drive	N 6th Ave	E Fairfield Drive
5	Fairfax Drive	N 9th Ave	Acacia Drive
5	E Fairfield Drive	N 9th Ave	N 12th Ave
5	N 10th Ave	E Fairfield Drive	Barcia Drive
5	Woodland Drive	N Davis Hwy	N 9th Ave
5	Gentian Drive	Woodland Drive	Acacia Drive
5	Ash Drive	N 9th Ave	Acacia Drive
5	Kenneth Street	Boxwood Drive	Chadwick Street
5	Chadwick Street	N Davis Hwy	Springdale Circle
5	Bishop Street	Chadwick Street	Wynnehurst Street
5	Springdale Circle	N 9th Ave	Royce Street
5	Ditmar Street	N Davis Hwy	Skyline Drive
5	Skyline Drive	Chadwick Street	Royce Street South R/W
5	Royce Street	N Davis Hwy	650' East of N Davis Hwy
5	Royce Street	Skyline Drive	N 9th Ave
5	Birchwood Place	Royce Street	End (North)
5	Birchwood Court	Birchwood Place	End
5	Hillsdale Drive	Birchwood Place	Springhill Drive
5	Dalewood Road	Springhill Drive	End
5	Linden Road	Brent Lane	Springhill Drive
5	Lynell Street	Brent Lane	Corday Street
6	Selina Street	N Davis Hwy	End (West)
6	Royce Street	N Davis Hwy	End (West)
6	Royce Street	170' West of Chaney Street	350' East of Chaney Street
6	Chaney Street	250' North of Royce Street	Royce Street
6	Ditmar Street	McCoy Drive	End (East)
6	Hyatt Street	N Davis Hwy	McCoy Drive
6	Hewitt St	N Davis Hwy	End (West)
6	Hickory Street	N Palafox Street	Jacotte Ave
6	Hickory Street	Spruce Street	End (East)
6	Lurton Street	N Palafox Street	End (East)
6	Liggett Street	Lurton Street	End
6	Hopkins Street	Lurton Street	End
6	Pasco Street	Lurton Street	End
6	Marcus Drive	E Fairfield Drive	E Texar Drive
6	N Guillemard Street	E Texar Drive	Anderson Street
6	Hart Drive	MLK Blvd	W Highland Drive
6	E 34th Street	MLK Blvd	250' West of MLK Blvd
6	Barcia Drive	N 6th Ave	200' West of N 6th Ave
2	Drew Circle	N 9th Ave (North)	N 9th Ave (South)

2	Northmoor Court	Drew Circle	End
2	Iris Court	Euclid Street	End
2	N 10th Ave	E Fairfield Drive	End (North)
2	Ruffin Street	N 10th Ave	Ruffin Street
2	Ruffin Circle	End	End
2	Menendez Drive	Texar Drive	250' North of Texar Drive
2	N 18th Ave	Texar Drive	End (North)
2	Creek Station Drive	Airport Blvd (West Enterance)	Airport Blvd (East Enterance)
2	Walton Street	Airport Blvd	925' North of Airport Blvd
2	Garden Gate Circle	Otter Point Road	End
2	Otter Point Road	Osprey Place	145' South of Osprey Place
2	Otter Point Road	Hermitage Drive	End (North)
2	Osprey Place	225' East of Otter Point Road	End
2	Palisades Road	N Davis Hwy	Hermitage Drive
2	Hermitage Drive	Palisades Road	End (East)
2	Chapman Circle	Hermitage Drive	End
2	Creek Side Circle	Hermitage Drive	End
2	Drexel	Palisades Road	End (south)



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00048

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

FY 2017 STREET REHABILITATION GROUP 5

**RECOMMENDATION:**

That City Council award a contract for Bid #18-005 Fiscal Year 2017 Street Rehabilitation Project Group 5 to Roads Inc of Northwest Florida the lowest and most responsible bidder with a base bid amount of \$1,724,000.00 plus a 5% contingency of \$86,200.00 plus \$6,000.00 for miscellaneous construction items for a grand total of \$1,816,200.00.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On December 14, 2017, City Council approved an action item entitled FY2017 Street Rehabilitation Project List Phase II. The list included three groups containing approximately 603 blocks out of the estimated 1856 total blocks city-wide. Group 5 contains 222 out of the 603 blocks. The Fiscal Year 2017 Street Rehabilitation Group 5 listing was developed based upon those streets in greatest need of rehabilitation that have not been paved over the past 10 years. The list was put out for public bid on December 15, 2017 and three (3) proposals were received on January 17, 2018.

Public Works & Facilities staff contacted the Emerald Coast Utilities Authority (ECUA) with regard to funding assistance as it relates to the adjustment of ECUA's sanitary sewer manholes within the roadways being reconditioned. ECUA has agreed to fund the adjustment of approximately 108 of their manholes with funding in the amount of \$54,000.00 and approximately 54 of their water valves with funding in the amount of \$5,400.00 for a total of \$59,400.00

**PRIOR ACTION:**

December 14, 2017 - City Council approved the FY 2017 Street Rehabilitation Project List Phase II

**FUNDING:**

Budget: \$1,756,800.00      LOST Series 2017 Project Fund

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<u>59,400.00</u>	ECUA Manhole Reimbursement
<u>\$1,816,200.00</u>	Total

Actual: \$1,724,000.00	Base Bid
86,200.00	5% Contingency
<u>6,000.00</u>	Miscellaneous Construction Items
<u>\$1,816,200.00</u>	Total

**FINANCIAL IMPACT:**

Funding has been appropriated in the LOST Series 2017 Project Fund. Additionally, ECUA will provide reimbursement in the amount of \$59,400.00 which will offset the cost of the adjustment to their manholes and water valves.

**CITY ATTORNEY REVIEW:** Yes

1/26/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
L. Derrick Owens, P.E., Director of Public Works and Facilities/City Engineer

**ATTACHMENTS:**

- 1) FY 2017 Street Rehabilitation Group 5 Project Tab
- 2) FY 2017 Street Rehabilitation Group 5 Project -Vendor List
- 3) FY 2017 Street Rehabilitation Phase 2 Map
- 4) FY 2017 (Phase II) Street Rehabilitation List Group 5

**PRESENTATION:** No

**TABULATION OF BIDS**

BID NO: 18-005

TITLE: FY 2017 STREET REHABILITATION PROJECT GROUP 5

OPENING DATE: January 23, 2017

ROADS, INC.

MIDSOUTH

PANHANDLE

OPENING TIME: 2:30 P.M.

OF NWF

PAVING,  
INC.

GRADING &  
PAVING, INC.

DEPARTMENT: Public Works & Facilities

Cantonment, FL

Pensacola, FL

Pensacola, FL

BRIEF DESCRIPTION

Base Bid

\$1,724,000.00

\$1,825,029.51

\$2,004,519.29

Attended Prebid

Yes

Yes

Yes

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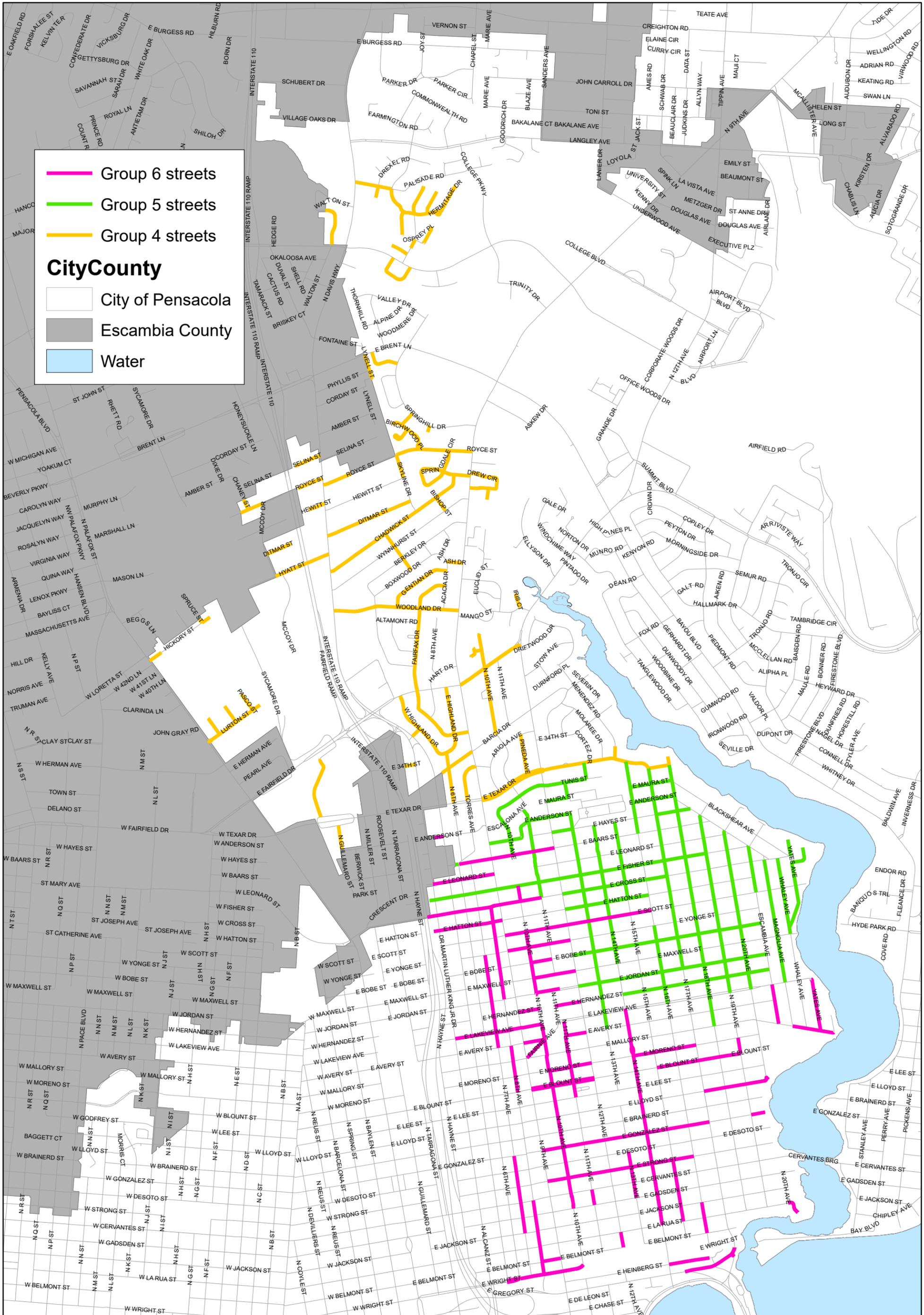
**FINAL VENDOR REFERENCE LIST  
FY 2017 STREET REHABILITATION GROUP 1  
PUBLIC WORKS & FACILITIES**

Vendor Name	Address	City	St	Zip Code	S/M/WBE
044957 ALL SEASONS CONSTRUCTION LLC	6161 BLUE ANGEL PARKWAY	PENSACOLA	FL	32526	N
068495 ANDALA ENTERPRISES INC	641 BAYOU BOULEVARD	PENSACOLA	FL	32503	N
068571 B&W UTILITIES INC	1610 SUCCESS DRIVE	CANTONMENT	FL	32533	N
000377 BASKERVILLE DONOVAN	449 WEST MAIN ST	PENSACOLA	FL	32502	N
036997 BELLVIEW SITE CONTRACTORS INC	3300 GODWIN LANE	PENSACOLA	FL	32526	Y
053457 BIRKSHIRE JOHNSTONE LLC	11 CLARINDA LANE	PENSACOLA	FL	32505	Y
065013 BKW INC	5615 DUVAL STREET	PENSACOLA	FL	32503	Y
029184 BLARICOM, KIRK VAN DBA KIRK CONSTRUCTION COMPANY	619 GREEN HILLS ROAD	CANTONMENT	FL	32533	Y
067318 BLUE WATER CONSTRUCTION & LANDSCAPING INC	8863 N EIGHT MILE CREEK ROAD	PENSACOLA	FL	32534	Y
022856 BROWN CONSTRUCTION OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	Y
041503 BROWN, AMOS P JR DBA P BROWN BUILDERS LLC	4231 CHERRY LAUREL DRIVE	PENSACOLA	FL	32504	Y
027092 CHAMPION CONTRACTORS INC	505 NORTH FERDON BLVD	CRESTVIEW	FL	32536	N
042045 CHAVERS CONSTRUCTION INC	1795 WEST DETROIT BLVD	PENSACOLA	FL	32534	Y
049653 CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC	6550 BUD JOHNSON ROAD	PENSACOLA	FL	32505	Y
057454 COASTAL PILE DRIVING INC	2201 VALLEY ESCONDIDO DRIVE	PENSACOLA	FL	32526	N
045454 COASTLINE STRIPING INC	8840 FOWLER AVENUE	PENSACOLA	FL	32534	N
060876 CREATIVE PUBLIC AMENITIES	1317 JOHN CARROLL DRIVE	PENSACOLA	FL	32504	Y
036146 CRONIN CONSTRUCTION INC	99 S ALCANIZ ST SUITE A	PENSACOLA	FL	32502	Y
033554 D K E MARINE SERVICES	P O BOX 2395	PENSACOLA	FL	32513	Y
032038 EVANS CONTRACTING INC	400 NEAL ROAD	CANTONMENT	FL	32533	N
058842 EVERS COMMERCIAL SERVICES OF NORTHWEST FL LLC	1450 EVERS HAVEN	CANTONMENT	FL	32533	Y
049116 FEASIBLE CONCEPTS INC	5852 PARSONS ROAD	MILTON	FL	32570	N
033421 FLOYD BROTHERS CONSTRUCTION	101 EAST 9 1/2 MILE ROAD	PENSACOLA	FL	32534	Y
032792 GATOR BORING & TRENCHING INC	1800 BLACKBIRD LANE	PENSACOLA	FL	32534	Y
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	N
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
034504 GULF COAST AFRICAN AMERICAN CHAMBER OF COMMERCE	PO BOX 18432	PENSACOLA	FL	32523	N
018636 GULF COAST BUILDING CONTRACTORS INC	1010 N 12TH AVE	PENSACOLA	FL	32501	Y
017352 GULF COAST TRAFFIC ENGINEERS	8203 KIPLING STREET	PENSACOLA	FL	32514	N
036662 H H H CONSTRUCTION OF NWF INC	8190 BELLE PINES LANE	PENSACOLA	FL	32526	N
050489 HAILE, MICHAEL JACKSON DBA THE HAILE COMPANY OF NW FL INC	PO BOX 13425	PENSACOLA	FL	32591	N
001597 HEATON BROTHERS CONSTRUCTION CO INC	5805 SAUFLEY FIELD ROAD	PENSACOLA	FL	32526	N
052866 HEWES & COMPANY LLC	390 SELINA ST	PENSACOLA	FL	32503	Y
056716 HOWELL, KENNETH C, JR DBA KEN JR CONSTRUCTION LLC	1102 WEBSTER DRIVE	PENSACOLA	FL	32505	N
022978 INGRAM SIGNALIZATION INC	4522 N DAVIS HWY	PENSACOLA	FL	32503	Y
053163 J2 ENGINEERING INC	2101 WEST GARDEN STREET	PENSACOLA	FL	32502	N
043857 KBI CONSTRUCTION CO INC	9214 WARING RD	PENSACOLA	FL	32534	N
068161 LEA, DOUGLAS C DBA L&L CONSTRUCTION SERVICES LLC	9655 SOUTH TRACE ROAD	MILTON	FL	32583	Y
058332 LEIDNER BUILDERS INC	409 N PACE BLVD	PENSACOLA	FL	32505	Y
058801 M & H CONSTRUCTION SERVICES INC	1161 W 9 1/2 MILE RD	PENSACOLA	FL	32534	Y
052456 MEI LING DAVIS LLC	PO BOX 18155	PENSACOLA	FL	32523	N
027028 MERLIN CAL CALLAHAN ASSOCIATES INC	P O BOX 1202	DESTIN	FL	32540	N
053467 MIDSOUTH PAVING INC	PO BOX 385025	BIRMINGHAM	AL	35283	N
016210 NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	Y
001823 NWF CONTRACTORS INC	P O BOX 1718	FORT WALTON BEACH	FL	32549	N
049208 NWF PAVING AND BLACK TOP INC	3709 WEST BRAINERD STREET	PENSACOLA	FL	32505	N

**FINAL VENDOR REFERENCE LIST  
FY 2017 STREET REHABILITATION GROUP 1  
PUBLIC WORKS & FACILITIES**

Vendor	Name	Address	City	St	Zip Code	S/M/WBE
051747	PAEDAE PROPERTIES INC	5104 NORTH W STREET	PENSACOLA	FL	32505	N
002720	PANHANDLE GRADING & PAVING INC	P O BOX 3717	PENSACOLA	FL	32516	N
030951	PAV'R CONSTRUCTION INC	P O BOX1293	GULF BREEZE	FL	32562	N
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	N
003956	PENSACOLA CONCRETE CONSTRUCTION CO INC	P O BOX 2787	PENSACOLA	FL	32513	N
000225	PENSACOLA NEWS JOURNAL	P O BOX 12710	PENSACOLA	FL	32591	N
055028	PERDIDO GRADING & PAVING	PO BOX 3333	PENSACOLA	FL	32516	Y
064219	POE, JAMIN DBA P3 CONSTRUCTION & ENERGY SOLUTIONS LLC	321 N DEVILLIERS ST STE 208	PENSACOLA	FL	32501	N
066152	PRINCIPLE PROPERTIES INC	4371 MARILYN COURT	GULF BREEZE	FL	32563	Y
051133	PUGH, KEVIN D DBA KEVIN D PUGH SITE & DOZER WORKS LLC	5731 STEWART ROAD	WALNUT HILL	FL	32568	Y
050307	QCFS MANAGEMENT GROUP INC	3326 NORTH W STREET	PENSACOLA	FL	32505	N
018305	R D WARD CONSTRUCTION CO INC	15 EAST HERMAN STREET	PENSACOLA	FL	32505	N
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	N
031881	ROADS INC OF NWF	106 STONE BLVD	CANTONMENT	FL	32533	N
017634	ROBERSON EXCAVATION INC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	Y
067564	ROBERSON UNDERGROUND UTILITY LLC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	Y
055499	ROCKWELL CORPORATION	3309 LINGER COURT	PENSACOLA	FL	32526	Y
052761	SEASIDE GOLF DEVELOPMENT INC	312 N DAVIS HWY	PENSACOLA	FL	32501	N
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	Y
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	Y
057076	SUNRISE CONTRACTING SERVICES INC	1509 JOHN CARROLL DRIVE	PENSACOLA	FL	32504	Y
057995	T&W BREAKING GROUND LLC	5748 PRINCETON DRIVE	PENSACOLA	FL	32526	Y
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	Y
037833	THE PENSACOLA VOICE INC	213 EAST YONGE STREET	PENSACOLA	FL	32503	Y
053924	THOMPSON CONTRACTOR RESOURCES INC	196 E NINE MILE RD SUITE C	PENSACOLA	FL	32534	N
062939	THREE TRADE CONSULTANTS	5690 JEFF ATES RD	MILTON	FL	32583	N
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	N
030096	W D ROGERS MECHANICAL CONTRACTOR	PO BOX 9607	PENSACOLA	FL	32513	N
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	Y
032732	WALLER, DONALD DBA NORTHCOAST CONTAINER INC	2325 MID PINE CIRCLE	PENSACOLA	FL	32514	N
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	Y
045140	WIT CONSTRUCTION SERVICES LLC	1161 WEST DETROIT BLVD	PENSACOLA	FL	32534	N
044856	WOLFE CONSTRUCTION	40 W NINE MILE ROAD #2 SUITE 212	PENSACOLA	FL	32534	Y

Vendors: 83
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# Groups 4, 5, and 6 Resurfacing

Date: 11/27/2017

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## Group 5

District	STREET NAME	From	To
4	E Hernandez Street	N 19th Ave	Escambia Ave
5	E Hernandez Street	N 14th Ave	N 19th Ave
4	E Jordan Street	N 19th Ave	Escambia Ave
4	N 20 th Ave	E Lakeveiw Ave	E Young Street
5	E Jordan Street	N 12th Ave	N 19th Ave
5	E Fisher Street	N 6th Ave	N 18th Ave
6	E Fisher Street	MLK Blvd	N 6th Ave
5	E Hayes Street	N 9th Ave	N 11th Ave
5	E Anderson Street	N 11th Ave	N 13th Ave
5	E Hayes Street	N 12th Ave	N 13th Ave
5	E Maura Street	N 12th Ave	N 13th Ave
5	N 13th Ave	E Maura Street	Tunis Street
5	N 10th Ave	E Baars Street	Tunis Street
5	Tunis Street	N 10th Ave	N 14th Ave
5	N 11th Ave	E Cross Street	Escalona Ave
5	N 16th Ave	E Lakeview Ave	E Younge Street
6	E Baars Street	N 6th Ave	90' West of N 6th Ave
5	E Bobe Street	N 12th Ave	N 19th Ave
5	E Hatton Street	N 12th Ave	N 16th Ave
5	E Cross Street	N 12th Ave	N 17th Ave
5	N 13th Ave	E Avery Street	E Anderson Street
5	N 14th Ave	E Maxwell Street	E Hayes Street
5	N 15th Ave	E Hatton Street	E Hayes Street
5	N 16th Ave	E Baars Street	Texar Drive
5	N 18th Ave	E Mallory Street	End (North)
5	N 17th Ave	E Jordan Street	Texar Drive
5	N 19th Ave	E Lakeview Ave	E Baars Street
5	N 20th Ave	E Young Street	Magnolia Ave
5	E Hayes Street	N 17th Ave	N 18th Ave
5	E Anderson Street	N 16th Ave	N 18th Ave
5	E Maura Street	N 16th Ave	N18th
4	Magnolia Ave	E Lakeveiw Ave	E Cross Street
4	Escambia Ave	E Scott Street	E Fisher Street
4	Whaley Ave	E Maxwell Street	E Cross Street
4	Osceola Blvd	Whaley Ave	Paradise Point Drive
4	Yates Ave	E Cross Street	End (North)
4	Paradise Point Drive	Yates Ave	End (East)
4	E Hayes Street	N 18th Ave	Magnolia Ave
4	N 19th Ave	E Baars Street	Magnolia Ave
4	E Bobe Street	N 19th Ave	Escambia Ave



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00049

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

FY 2017 STREET REHABILITATION GROUP 6

**RECOMMENDATION:**

That City Council award a contract for Bid #18-006 Fiscal Year 2017 Street Rehabilitation Project Group 6 to Roads Inc. of Northwest Florida the lowest and most responsible bidder with a base bid amount of \$1,395,000.00 plus a 5% contingency of \$69,750.00 plus \$6,000.00 for miscellaneous construction items for a grand total of \$1,470,750.00.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On December 14, 2017, City Council approved an action item entitled FY2017 Street Rehabilitation Project List Phase II. The list included three groups containing approximately 603 blocks out of the estimated 1856 total blocks city-wide. Group 6 contains 196 out of the 603 blocks. The Fiscal Year 2017 Street Rehabilitation Group 6 listing was developed based upon those streets in greatest need of rehabilitation that have not been paved over the past 10 years. The list was put out for public bid on December 15, 2017 and three (3) proposals were received on January 18, 2018.

Public Works & Facilities staff contacted the Emerald Coast Utilities Authority (ECUA) with regard to funding assistance as it relates to the adjustment of ECUA's sanitary sewer manholes within the roadways being reconditioned. ECUA has agreed to fund the adjustment of approximately 123 of their manholes with funding in the amount of \$24,600.00 and approximately 105 of their water valves with funding in the amount of \$15,750.00 for a total of \$40,350.00

**PRIOR ACTION:**

December 14, 2017 - City Council approved the FY 2017 Street Rehabilitation Project List Phase II.

**FUNDING:**

Budget: \$1,430,400.00      LOST Series 2017 Project Fund

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<u>40,350.00</u>	ECUA Manhole Reimbursement
<u>\$1,470,750.00</u>	Total

Actual: \$1,395,000.00	Base Bid
69,7500.00	5% Contingency
<u>6,000.00</u>	Miscellaneous Construction Items
<u>\$1,470,750.00</u>	Total

**FINANCIAL IMPACT:**

Funding has been appropriated in the LOST Series 2017 Project Fund. Additionally, ECUA will provide reimbursement in the amount of \$40,350.00 which will offset the cost of the adjustment to their manholes and water valves.

**CITY ATTORNEY REVIEW:** Yes

1/29/2018

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
L. Derrik Owens, P.E., Director of Public Works and Facilities/City Engineer

**ATTACHMENTS:**

- 1) FY 2017 Street Rehabilitation Group 6 Project Tab
- 2) FY 2017 Street Rehabilitation Group 6 Project -Vendor List
- 3) FY 2017 Street Rehabilitation Phase 2 Map
- 4) FY 2017 (Phase II) Street Rehabilitation List Group 6

**PRESENTATION:** No

**TABULATION OF BIDS**

BID NO: 18-006

TITLE: FY 2017 STREET REHABILITATION PROJECT GROUP 6

OPENING DATE: January 18, 2017

ROADS, INC.

MIDSOUTH

PANHANDLE

OPENING TIME: 2:30 P.M.

OF NWF

PAVING,  
INC.

GRADING &  
PAVING, INC.

DEPARTMENT: Public Works & Facilities

Cantonment, FL

Pensacola, FL

Pensacola, FL

BRIEF DESCRIPTION

Base Bid

\$1,395,000.00

\$1,528,527.90

\$1,620,182.32

Attended Prebid

Yes

Yes

Yes

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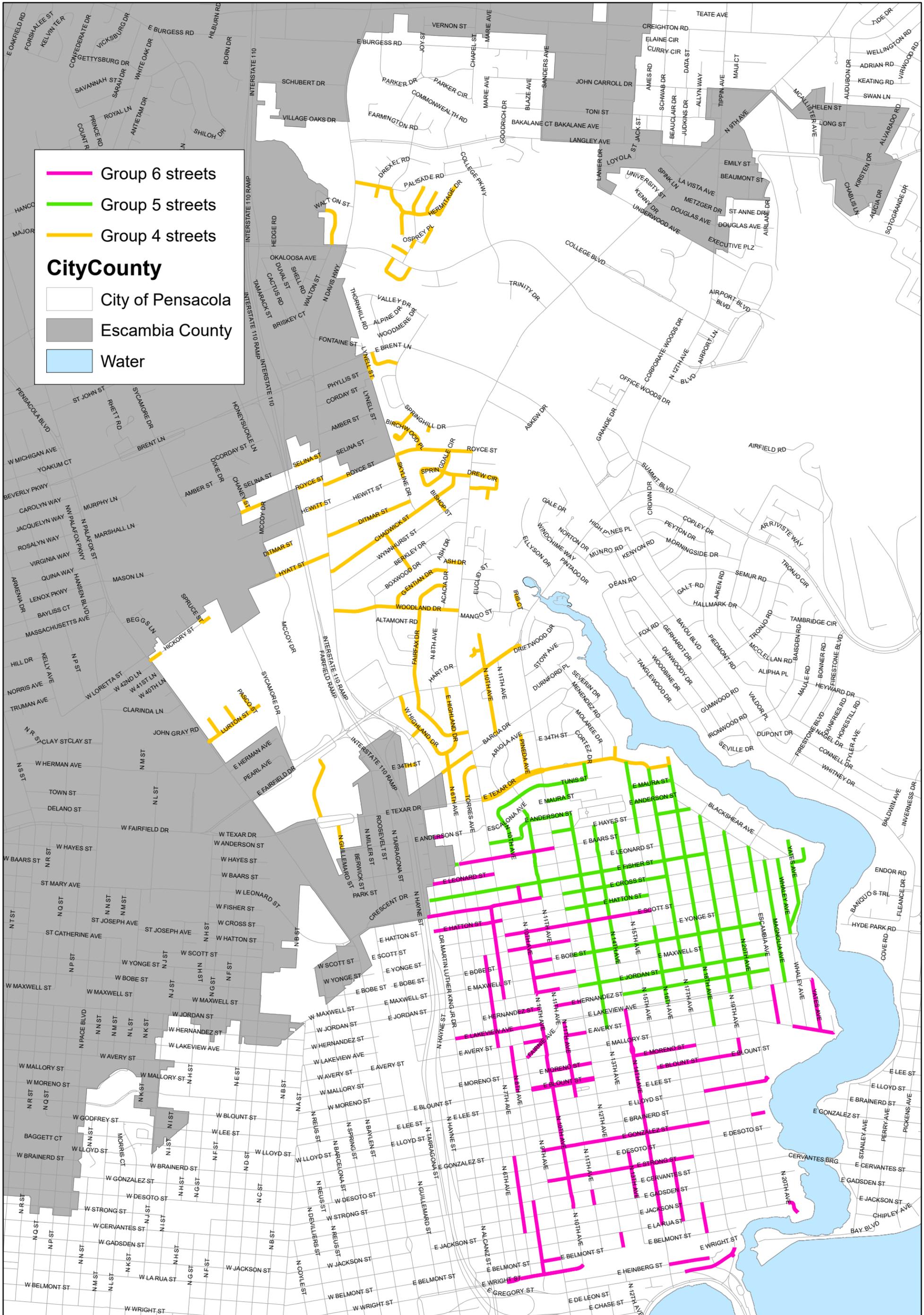
**FINAL VENDOR REFERENCE LIST  
FY 2017 STREET REHABILITATION GROUP 1  
PUBLIC WORKS & FACILITIES**

Vendor Name	Address	City	St	Zip Code	S/M/WBE
044957 ALL SEASONS CONSTRUCTION LLC	6161 BLUE ANGEL PARKWAY	PENSACOLA	FL	32526	N
068495 ANDALA ENTERPRISES INC	641 BAYOU BOULEVARD	PENSACOLA	FL	32503	N
068571 B&W UTILITIES INC	1610 SUCCESS DRIVE	CANTONMENT	FL	32533	N
000377 BASKERVILLE DONOVAN	449 WEST MAIN ST	PENSACOLA	FL	32502	N
036997 BELLVIEW SITE CONTRACTORS INC	3300 GODWIN LANE	PENSACOLA	FL	32526	Y
053457 BIRKSHIRE JOHNSTONE LLC	11 CLARINDA LANE	PENSACOLA	FL	32505	Y
065013 BKW INC	5615 DUVAL STREET	PENSACOLA	FL	32503	Y
029184 BLARICOM, KIRK VAN DBA KIRK CONSTRUCTION COMPANY	619 GREEN HILLS ROAD	CANTONMENT	FL	32533	Y
067318 BLUE WATER CONSTRUCTION & LANDSCAPING INC	8863 N EIGHT MILE CREEK ROAD	PENSACOLA	FL	32534	Y
022856 BROWN CONSTRUCTION OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	Y
041503 BROWN, AMOS P JR DBA P BROWN BUILDERS LLC	4231 CHERRY LAUREL DRIVE	PENSACOLA	FL	32504	Y
027092 CHAMPION CONTRACTORS INC	505 NORTH FERDON BLVD	CRESTVIEW	FL	32536	N
042045 CHAVERS CONSTRUCTION INC	1795 WEST DETROIT BLVD	PENSACOLA	FL	32534	Y
049653 CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC	6550 BUD JOHNSON ROAD	PENSACOLA	FL	32505	Y
057454 COASTAL PILE DRIVING INC	2201 VALLEY ESCONDIDO DRIVE	PENSACOLA	FL	32526	N
045454 COASTLINE STRIPING INC	8840 FOWLER AVENUE	PENSACOLA	FL	32534	N
060876 CREATIVE PUBLIC AMENITIES	1317 JOHN CARROLL DRIVE	PENSACOLA	FL	32504	Y
036146 CRONIN CONSTRUCTION INC	99 S ALCANIZ ST SUITE A	PENSACOLA	FL	32502	Y
033554 D K E MARINE SERVICES	P O BOX 2395	PENSACOLA	FL	32513	Y
032038 EVANS CONTRACTING INC	400 NEAL ROAD	CANTONMENT	FL	32533	N
058842 EVERS COMMERCIAL SERVICES OF NORTHWEST FL LLC	1450 EVERS HAVEN	CANTONMENT	FL	32533	Y
049116 FEASIBLE CONCEPTS INC	5852 PARSONS ROAD	MILTON	FL	32570	N
033421 FLOYD BROTHERS CONSTRUCTION	101 EAST 9 1/2 MILE ROAD	PENSACOLA	FL	32534	Y
032792 GATOR BORING & TRENCHING INC	1800 BLACKBIRD LANE	PENSACOLA	FL	32534	Y
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	N
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
034504 GULF COAST AFRICAN AMERICAN CHAMBER OF COMMERCE	PO BOX 18432	PENSACOLA	FL	32523	N
018636 GULF COAST BUILDING CONTRACTORS INC	1010 N 12TH AVE	PENSACOLA	FL	32501	Y
017352 GULF COAST TRAFFIC ENGINEERS	8203 KIPLING STREET	PENSACOLA	FL	32514	N
036662 H H H CONSTRUCTION OF NWF INC	8190 BELLE PINES LANE	PENSACOLA	FL	32526	N
050489 HAILE, MICHAEL JACKSON DBA THE HAILE COMPANY OF NW FL INC	PO BOX 13425	PENSACOLA	FL	32591	N
001597 HEATON BROTHERS CONSTRUCTION CO INC	5805 SAUFLEY FIELD ROAD	PENSACOLA	FL	32526	N
052866 HEWES & COMPANY LLC	390 SELINA ST	PENSACOLA	FL	32503	Y
056716 HOWELL, KENNETH C, JR DBA KEN JR CONSTRUCTION LLC	1102 WEBSTER DRIVE	PENSACOLA	FL	32505	N
022978 INGRAM SIGNALIZATION INC	4522 N DAVIS HWY	PENSACOLA	FL	32503	Y
053163 J2 ENGINEERING INC	2101 WEST GARDEN STREET	PENSACOLA	FL	32502	N
043857 KBI CONSTRUCTION CO INC	9214 WARING RD	PENSACOLA	FL	32534	N
068161 LEA, DOUGLAS C DBA L&L CONSTRUCTION SERVICES LLC	9655 SOUTH TRACE ROAD	MILTON	FL	32583	Y
058332 LEIDNER BUILDERS INC	409 N PACE BLVD	PENSACOLA	FL	32505	Y
058801 M & H CONSTRUCTION SERVICES INC	1161 W 9 1/2 MILE RD	PENSACOLA	FL	32534	Y
052456 MEI LING DAVIS LLC	PO BOX 18155	PENSACOLA	FL	32523	N
027028 MERLIN CAL CALLAHAN ASSOCIATES INC	P O BOX 1202	DESTIN	FL	32540	N
053467 MIDSOUTH PAVING INC	PO BOX 385025	BIRMINGHAM	AL	35283	N
016210 NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	Y
001823 NWF CONTRACTORS INC	P O BOX 1718	FORT WALTON BEACH	FL	32549	N
049208 NWF PAVING AND BLACK TOP INC	3709 WEST BRAINERD STREET	PENSACOLA	FL	32505	N

**FINAL VENDOR REFERENCE LIST  
FY 2017 STREET REHABILITATION GROUP 1  
PUBLIC WORKS & FACILITIES**

Vendor	Name	Address	City	St	Zip Code	S/M/WBE
051747	PAEDAE PROPERTIES INC	5104 NORTH W STREET	PENSACOLA	FL	32505	N
002720	PANHANDLE GRADING & PAVING INC	P O BOX 3717	PENSACOLA	FL	32516	N
030951	PAV'R CONSTRUCTION INC	P O BOX1293	GULF BREEZE	FL	32562	N
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	N
003956	PENSACOLA CONCRETE CONSTRUCTION CO INC	P O BOX 2787	PENSACOLA	FL	32513	N
000225	PENSACOLA NEWS JOURNAL	P O BOX 12710	PENSACOLA	FL	32591	N
055028	PERDIDO GRADING & PAVING	PO BOX 3333	PENSACOLA	FL	32516	Y
064219	POE, JAMIN DBA P3 CONSTRUCTION & ENERGY SOLUTIONS LLC	321 N DEVILLIERS ST STE 208	PENSACOLA	FL	32501	N
066152	PRINCIPLE PROPERTIES INC	4371 MARILYN COURT	GULF BREEZE	FL	32563	Y
051133	PUGH, KEVIN D DBA KEVIN D PUGH SITE & DOZER WORKS LLC	5731 STEWART ROAD	WALNUT HILL	FL	32568	Y
050307	QCFS MANAGEMENT GROUP INC	3326 NORTH W STREET	PENSACOLA	FL	32505	N
018305	R D WARD CONSTRUCTION CO INC	15 EAST HERMAN STREET	PENSACOLA	FL	32505	N
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	N
031881	ROADS INC OF NWF	106 STONE BLVD	CANTONMENT	FL	32533	N
017634	ROBERSON EXCAVATION INC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	Y
067564	ROBERSON UNDERGROUND UTILITY LLC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	Y
055499	ROCKWELL CORPORATION	3309 LINGER COURT	PENSACOLA	FL	32526	Y
052761	SEASIDE GOLF DEVELOPMENT INC	312 N DAVIS HWY	PENSACOLA	FL	32501	N
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	Y
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	Y
057076	SUNRISE CONTRACTING SERVICES INC	1509 JOHN CARROLL DRIVE	PENSACOLA	FL	32504	Y
057995	T&W BREAKING GROUND LLC	5748 PRINCETON DRIVE	PENSACOLA	FL	32526	Y
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	Y
037833	THE PENSACOLA VOICE INC	213 EAST YONGE STREET	PENSACOLA	FL	32503	Y
053924	THOMPSON CONTRACTOR RESOURCES INC	196 E NINE MILE RD SUITE C	PENSACOLA	FL	32534	N
062939	THREE TRADE CONSULTANTS	5690 JEFF ATES RD	MILTON	FL	32583	N
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	N
030096	W D ROGERS MECHANICAL CONTRACTOR	PO BOX 9607	PENSACOLA	FL	32513	N
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	Y
032732	WALLER, DONALD DBA NORTHCOAST CONTAINER INC	2325 MID PINE CIRCLE	PENSACOLA	FL	32514	N
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	Y
045140	WIT CONSTRUCTION SERVICES LLC	1161 WEST DETROIT BLVD	PENSACOLA	FL	32534	N
044856	WOLFE CONSTRUCTION	40 W NINE MILE ROAD #2 SUITE 212	PENSACOLA	FL	32534	Y

Vendors: 83
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— Group 6 streets  
— Group 5 streets  
— Group 4 streets  
**CityCounty**  
 City of Pensacola  
 Escambia County  
 Water



0 1,450 2,900 5,800 Feet

# Groups 4, 5, and 6 Resurfacing



Date: 11/27/2017

This map was prepared by the GIS section of the City of Pensacola and is provided for information purposes only and is not to be used for development of construction plans or any type of engineering services based on information depicted herein. It is maintained for the function of this office only. It is not intended for conveyance nor is it a survey. The data is not guaranteed accurate or suitable for any use other than that for which it was gathered.

## Group 6

District	STREET NAME	From	To
4	N 16th Ave	E Belmont Street	E Jackson Street
4	E Heinberg Street	N 14th Ave	End (East)
4	E Gregory Street	N 17th Ave	E Gregory Street
4	N 15th Ave	E La Rua Street	E Strong Street
4	E De Soto Street	N 19th Ave	End (East)
4	E Brainerd Street	N 19th Ave	End (East)
4	E Gonzalez Street	N 19th Ave	End (East)
4	E Lloyd Street	N 17th Ave	End (east)
4	Escambia Ave	E Mallory Street	E Lakeview Ave
4	Yates Ave	E Mallory Street	E Lakeview Ave
4	E Mallory Street	Magnolia Ave	Osceloa Blvd
5	E Strong Street	N 14th Ave	N 16th Ave
5	E Gonzalez Street	N 14th Ave	N 17th Ave
5	E Blount Street	N 15th Ave	N 19th Ave
5	E Moreno Street	N 14th Ave	N 17th Ave
5	E Cross Street	N 6th Ave	N 11th Ave
5	E Hatton Street	N 6th Ave	N 9th Ave
5	E Leonard Street	N 6th Ave	N 9th Ave
5	E Baars Street	N 6th Ave	N 12th Ave
5	N 10th Ave	E Cross Street	E Fisher Street
5	N 8th Ave	E Scott Street	E Cross Street
5	N 14th Ave	E Lakeview Ave	E Cervantes Street
6	E Anderson Street	N Davis Hwy	210' West of N Davis Hwy
6	E Leonard Street	MLK Blvd	N 6th Ave
6	E Cross Street	Interstate	N 6th Ave
6	E Hatton Street	MLK Blvd	N 6th Ave
6	E Scott Street	N 9th Ave	N 12th Ave
6	E Young Street	N 9th Ave	N 12th Ave
6	E Bobe Street	N 10th Ave	N 11th Ave
6	E Maxwell Street	N 10th Ave	N 12th Ave
6	E Jordan Street	N 10th Ave	N 11th Ave
6	E Hernandez Street	N 9th Ave	N 10th Ave
6	E Hernandez Street	N 11th Ave	N 12th Ave
6	E Lakeview Ave	MLK Blvd	N 10th Ave
6	E Avery Street	N 9th Ave	N 10th Ave
6	E Avery Street	N 11th Ave	N 12th Ave
6	E Morenos Street	N 10th Ave	N 12th Ave
6	E Blount Street	N 9th Ave	N 12th Ave
6	E Gonzalez Street	N 9th Ave	N 14th Ave
6	E Strong Street	N 9th Ave	N 14th Ave
6	E Belmont Street	N 8th Ave	N 9th Ave
6	E Wright Street	N Davis Hwy	N 10th Ave
6	N 8th Ave	E Wright Street	E Cervantes Street
6	N 7th Ave	E Jackson Street	E Gonzalez Street

6	N 12th Ave	E Belmont Street	E La Rua Street
6	N 14th Ave	E La Rua Street	E Cervantes Street
6	N 13th Ave	E Gadsden Street	E De Soto Street
6	N 11th Ave	E Gadsden Street	E Cervantes Street
6	N 10th Ave	E Gadsden Street	E Lakeview Ave
6	N 8th Ave	E Blount Street	E Avery Street
6	N 7th Ave	E Mallory Street	E Young Street
6	N 8th Ave	E Scott Street	E Jordan Street
6	N 10th Ave	E Scott Street	E Jordan Street
6	N 11th Ave	E Lee Street	E Lakeview Ave
4	La Rua Landing	N 20th Ave	End (East)
4	N 19th Ave	E Blount Street	E Moreno St
6	Fairnie Ave	N 9th Ave	N 10th Ave
5	E Scott Street	N 12th Ave	N 16th Ave



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 01-18

City Council

2/8/2018

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### LEGISLATIVE ACTION ITEM

**SPONSOR:** Ashton J. Hayward, III, Mayor

**SUBJECT:**

PROPOSED ORDINANCE NO. 01-18 REGULATING THE USE OF PUBLIC RIGHT-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES AND INFRASTRUCTURE BY SERVICE PROVIDERS

**RECOMMENDATION:**

That City Council adopt Proposed Ordinance No. 01-18 on second reading.

AN ORDINANCE CREATING ARTICLE VII, SECTION 11-4-182 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; REGULATING THE USE OF THE PUBLIC RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES AND INFRASTRUCTURE BY SERVICE PROVIDERS; AUTHORIZING THE ADMINISTRATIVE PROMULGATION OF IMPLEMENTING RULES AND REGULATIONS CONFORMING TO THE PROVISIONS OF THE ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT OF 2017; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The technological evolution of the wireless communications industry continues to impact local governments by placing greater demands upon the use of public rights-of-way. In response, the 2017 Florida Legislature adopted the Advanced Wireless Infrastructure Deployment Act, establishing a process for local governments to follow when a service provider requests use of the public right-of-way, and allowing the adoption of local rules and regulations for the placement of facilities which conform to the provisions of the new law. The Proposed Ordinance, if adopted, will allow the City of Pensacola to implement rules and regulations to achieve the degree of regulation that the new law permits for local governments.

**PRIOR ACTION:**

January 11, 2018 - City Council voted to approve Proposed Ordinance No. 01-18 on first reading.

October 12, 2017 - City Council approved Ordinance No. 29-17, providing for a 120 day moratorium on the permitting of collocation of small wireless or micro wireless facilities.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/29/2017

**STAFF CONTACT:**

Eric W. Olson, City Administrator  
Derrick Owens, Public Works Director

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 01-18
- 2) Ordinance No. 29-17
- 3) Sec. 337.401 (7), Florida Statutes, Advanced Wireless Infrastructure Deployment Act

**PRESENTATION:** No

PROPOSED ORDINANCE NO. 01-18

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE CREATING ARTICLE VII OF TITLE XI, SECTION 11-4-182 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; REGULATING THE USE OF THE PUBLIC RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES AND INFRASTRUCTURE BY SERVICE PROVIDERS; AUTHORIZING THE ADMINISTRATIVE PROMULGATION OF IMPLEMENTING RULES AND REGULATIONS CONFORMING TO THE PROVISIONS OF THE ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT OF 2017; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature has adopted the Advanced Wireless Infrastructure Deployment Act, sec. 337.401 (7), Florida Statutes, allowing local governments to adopt objective design standards for the placement of certain wireless facilities in the public rights-of-way; and

WHEREAS, state legislation allows local governments to promulgate rules and regulations governing the placement of utility poles in the public rights-of-way consistent with the provisions of the legislation; and

WHEREAS, it is the intent of the City of Pensacola, Florida, to develop applicable rules and regulations pertaining to the placement of wireless facilities and infrastructure and to implement the regulatory procedures provided by state law; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Article VII of Title XI, Section 11-4-182 of the Code of the City of Pensacola, Florida, is hereby created to read:

TITLE XI. TRAFFIC AND VEHICLES.

ARTICLE VII. RIGHTS-OF-WAY.

Sec. 11-4-182. Use of Rights-of-Way by Wireless Communications Facilities.

(a) Definitions.

The definitions of all applicable terms shall be as provided in Chapter 12-14 of the Code of the City of Pensacola, Florida, with the exception that the following terms shall be defined as provided in sec. 337.401 (7) (b), Florida Statutes:

1. Antenna
2. Applicable Codes
3. Applicant
4. Application
5. Authority
6. Authority utility pole
7. Collocate or collocation
8. FCC
9. Micro wireless facility
10. Small wireless facility
11. Utility pole
12. Wireless facility
13. Wireless infrastructure provider
14. Wireless provider
15. Wireless services
16. Wireless service provider
17. Wireless support structure

(b) Generally.

The placement of telecommunication towers and antennae anywhere in the corporate limits of the City of Pensacola shall in all cases be subject to the City's zoning and land use regulations, including those set forth in Title XII, the Land Development Code. Where placement of a wireless antenna in the public right-of-way has been approved by the City and to the extent not inconsistent with any City zoning and land use regulations, a wireless antenna attached to a permitted and legally maintained vertical structure in the public right-of-way, such as a utility pole, shall, unless otherwise agreed to by the City in writing:

1. not extend more than 10 feet above the highest point of the vertical structure;
2. not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;

3. comply with any applicable Federal Communications Commission Emissions Standards;
4. comply with any applicable local building codes in terms of design, construction and installation; and
5. not contain any commercial advertising thereon.

(c) Rules and Regulations.

The Mayor is authorized to administratively promulgate such rules and regulations as may be necessary and appropriate to regulate the placement of wireless facilities and infrastructure in the public right-of-way in conformity with applicable provisions of state law, and to designate such staff as necessary to receive, process and make determinations with respect to applications for the placement of wireless facilities and infrastructure. Such rules and regulations shall be subject to the following criteria:

1. The registration fee required of applicants for the placement of wireless facilities and infrastructure shall be reasonably calculated to equal the City's cost of receiving, assessing, determining, awarding and maintain records with respect to each application, whether for an individual facility or for multiple facilities covered by a single application, but such fee shall not exceed \$100 per placement of each wireless facility.
2. The permit fee for the placement of wireless facilities on poles or other structures owned by the City of Pensacola shall be \$150 per facility per year.
3. All fees imposed shall be reasonable and nondiscriminatory and not based upon any services provided by the applicant.
4. All provisions of federal and state statutes, rules and regulations, and the provisions of the Code of the City of Pensacola, Florida, pertaining to historic preservation and the historic districts regulated by the City, which have not been preempted or superseded by sec. 337.401 (7), Florida Statutes, shall continue to be

enforced and shall not be repealed, abated or waived by this ordinance.

5. All applications by small and micro wireless facilities providers and installers to place utility poles and other supporting structures in the public rights-of-way shall be processed in accordance with sec. 337.401 (6), and shall be subject to the codes, policies, practices, and rules and regulations of the City with respect to the placement of such poles and other supporting structures in the public rights-of-way.

(d) Prohibited Collocations, Attachments, Installations and Services.

The provisions of this sec. 11-4-182 of the Code of the City of Pensacola, Florida, does not authorize, and the City hereby prohibits, the following:

1. This section does not authorize a person or entity to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.
2. The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this section does not authorize the provision of any voice, data, or video services or the installation, placement, maintenance, or operation of any communication facilities other than small wireless facilities in the public right-of-way.
3. This section does not affect any provisions relating to pass-through providers contained in this Code of Ordinances and contained in Section 337.401 (6), Florida Statutes.
4. This section does not authorize a person or entity to collocate small wireless facilities or micro wireless facilities on a City utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association. This paragraph does

not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities.

SECTION 2. Severability. If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, word, or portion of this Ordinance not otherwise determined to be invalid, unlawful, or unconstitutional.

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

SECTION 4. Effective Date. 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, Florida.

Passed: \_\_\_\_\_

Approved: \_\_\_\_\_  
President of City Council

Attest:

\_\_\_\_\_  
City Clerk

PROPOSED  
ORDINANCE NO. 40-17

ORDINANCE NO. 29-17

AN ORDINANCE DECLARING, ESTABLISHING AND IMPOSING A TEMPORARY MORATORIUM WITHIN THE CITY OF PENSACOLA, FLORIDA ON THE ACCEPTANCE AND PROCESSING OF APPLICATIONS, AND ISSUANCE OF ANY PERMITS PERTAINING TO COLLOCATION ON EXISTING OR THE INSTALLATION OF NEW UTILITY POLES AND OTHER WIRELESS SUPPORT STRUCTURES IN THE RIGHT-OF-WAY TO SUPPORT SMALL WIRELESS FACILITIES OR MICRO WIRELESS FACILITIES FOR A PERIOD OF 120 DAYS, IN ORDER TO ALLOW AN OPPORTUNITY FOR THE CITY TO DEVELOP REGULATIONS CONSISTENT WITH CHAPTER 2017-136, LAWS OF FLORIDA, WHICH BECAME EFFECTIVE JULY 1, 2017; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, this Ordinance is enacted pursuant to the home rule powers of the City of Pensacola as set forth at Article VIII, Section 2 of the Constitution of the State of Florida, Chapter 166, Florida Statutes and other applicable controlling law; and

WHEREAS, during the 2017 Legislative Session, the state legislature passed House Bill 687 amending Florida Statutes Section 337.401, creating what is known as the "Advanced Wireless Infrastructure Deployment Act"; and

WHEREAS, such legislation was approved by the Governor on June 23, 2017, and became effective on July 1, 2017 under Chapter 2017-136, Laws of Florida (referred to herein as the "Law"); and

WHEREAS, the Law establishes a process by which wireless providers may place certain "small wireless facilities" and "micro wireless facilities" (as such terms are defined in the Law) on, under, within, or adjacent to certain utility poles or wireless support structures within public rights-of-way that are under the jurisdiction and control of an "authority" (i.e., a county or municipality having jurisdiction and control of the rights-of-way of any public road); and

WHEREAS, the law further provides that local government entities are authorized to prescribe and enforce reasonable rules or regulations with reference to placing and maintaining across, on, or within the right-of-way limits of any road under their respective jurisdictions any wireless facilities; and

WHEREAS, the City currently has regulations pertaining to wireless facilities within its Code of Ordinances, specifically codified within Chapter 12 of the City's Land Development Code which need to be evaluated in light of the Law; and

WHEREAS, City staff has not had adequate time to evaluate the impacts or address local issues that are presented by the Law and take action accordingly; and

WHEREAS, City staff has been directed to analyze the effects of the Law and existing zoning regulations to analyze criteria for issuance of permits for small wireless facilities and micro wireless facilities in the public rights-of-way in compliance with the new legislation and to make recommendations that will better promote the health, safety, morals and general welfare of the City; and

WHEREAS, the City has determined that it is in the best interest of the residents of the City to protect the general public health, safety, and welfare by studying and planning for this new technology, including how to best support this new technology as provided in the Law and address potential impacts on the quality of life and the surrounding community within the parameters of authority granted in the new Law; and

WHEREAS, the City Council finds and declares a need to temporarily suspend the further acceptance and processing of applications, and issuance of any permits or approvals pertaining to collocation on existing or the installation of new utility poles and other wireless support structures in the public rights-of-way to support small wireless facilities or micro wireless facilities for a period of 120 days, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1: Findings of Fact: The City Council finds and declares that:

(1) All of the statements set forth in the foregoing recitals to this Ordinance are true and correct and are hereby ratified, affirmed and made a part of this Ordinance.

(2) For the purposes set forth herein, it is in the best interest of the general public and there exists a need to declare a moratorium on the issuance of permits or approvals for small wireless facilities or micro wireless facilities in the public rights-of-way in order for City staff to study controlling law regarding Chapter 2017-136, Laws of Florida and make recommendations to the City Council as to the modifications of City regulations that should be considered by it.

(3) The City of Pensacola has complied with all requirements and procedures of Florida law in processing and advertising this Ordinance.

SECTION 2. That a temporary moratorium is hereby imposed on the submission and processing of applications and any issuance of permits pertaining to collocation on existing or the installation of new utility poles or other wireless support structures in the right-of-way to support small wireless facilities or micro wireless facilities (as referenced in Section 337.401, Florida Statutes) within the corporate limits of the City of Pensacola. While the temporary moratorium is in effect, the City shall temporarily suspend all activities relating to accepting, processing or approving any application relating to the establishment or operation of a small wireless facility or micro wireless facility (as referenced in Section 337.401, Florida Statutes) in order for the City to have the time and opportunity necessary to implement a framework of authorized regulation and fee structure as provided in the newly enacted portions of Section 337.401, Florida Statutes.

SECTION 3. Duration of moratorium/extension.

a) The temporary moratorium set forth in this Ordinance shall take effect immediately upon the effective date of this Ordinance and shall be terminated one hundred twenty (120) days after said effective date.

b) No applications for approvals subject to the moratorium will be accepted by the City until the moratorium has expired, unless this Ordinance is superseded by a subsequent duly enacted Ordinance of the City of Pensacola governing the same subject matter herein.

c) The City Council may extend the temporary moratorium established in this Ordinance by enactment of an ordinance upon a finding by the City Council set forth in the ordinance that the

problems giving rise to the need for the temporary moratorium established herein continue to exist.

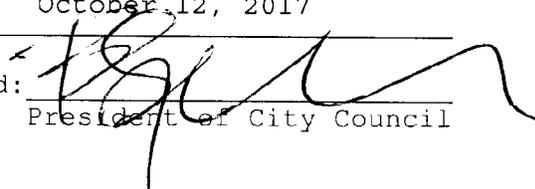
SECTION 4. Boundaries. This Ordinance shall be applicable to all properties within the boundaries of the City of Pensacola.

SECTION 5. Severability. If any section, sentence, phrase, word, or portion of this Ordinance is determined to be invalid, unlawful or unconstitutional, said determination shall not be held to invalidate or impair the validity, force or effect of any other section, sentence, phrase, word, or portion of this Ordinance not otherwise to be invalid, unlawful, or unconstitutional.

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.

Passed: October 12, 2017

Approved:   
President of City Council

Attest:

  
Cricka L. Burnett  
City Clerk

"Advanced Wireless Infrastructure Deployment Act"

(7)(a) This subsection may be cited as the "Advanced Wireless Infrastructure Deployment Act."

(b) As used in this subsection, the term:

1. "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in providing wireless services.

2. "Applicable codes" means uniform building, fire, electrical, plumbing, or mechanical codes adopted by a recognized national code organization or local amendments to those codes enacted solely to address threats of destruction of property or injury to persons, or local codes or ordinances adopted to implement this subsection. The term includes objective design standards adopted by ordinance that may require a new utility pole that replaces an existing utility pole to be of substantially similar design, material, and color or that may require reasonable spacing requirements concerning the location of ground-mounted equipment. The term includes objective design standards adopted by ordinance that may require a small wireless facility to meet reasonable location context, color, stealth, and concealment requirements; however, such design standards may be waived by the authority upon a showing that the design standards are not reasonably compatible for the particular location of a small wireless facility or that the design standards impose an excessive expense. The waiver shall be granted or denied within 45 days after the date of the request.

3. "Applicant" means a person who submits an application and is a wireless provider.

4. "Application" means a request submitted by an applicant to an authority for a permit to collocate small wireless facilities.

5. "Authority" means a county or municipality having jurisdiction and control of the rights-of-way of any public road. The term does not include the Department of Transportation. Rights-of-way under the jurisdiction and control of the department are excluded from this subsection.

6. "Authority utility pole" means a utility pole owned by an authority in the right-of-way. The term does not include a utility pole owned by a municipal electric utility, a utility pole used to support municipally owned or operated electric distribution facilities, or a utility pole located in the right-of-way within:

a. A retirement community that:

(I) Is deed restricted as housing for older persons as defined in s. 760.29(4)(b);

(II) Has more than 5,000 residents; and

(III) Has underground utilities for electric transmission or distribution.

b. A municipality that:

(I) Is located on a coastal barrier island as defined in s. 161.053(1)(b)3.;

(II) Has a land area of less than 5 square miles;

(III) Has less than 10,000 residents; and

(IV) Has, before July 1, 2017, received referendum approval to issue debt to finance municipal-wide undergrounding of its utilities for electric transmission or distribution.

7. "Collocate" or "collocation" means to install, mount, maintain, modify, operate, or replace one or more wireless facilities on, under, within, or adjacent to a wireless support structure or utility pole. The term does not include the installation of a new utility pole or wireless support structure in the public rights-of-way.

8. "FCC" means the Federal Communications Commission.

9. "Micro wireless facility" means a small wireless facility having dimensions no larger than 24 inches in length, 15 inches in width, and 12 inches in height and an exterior antenna, if any, no longer than 11 inches.

10. "Small wireless facility" means a wireless facility that meets the following qualifications:

a. Each antenna associated with the facility is located inside an enclosure of no more than 6 cubic feet in volume or, in the case of antennas that have exposed elements, each antenna and all of its exposed elements could fit within an enclosure of no more than 6 cubic feet in volume; and

b. All other wireless equipment associated with the facility is cumulatively no more than 28 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, ground-based enclosures, grounding equipment, power transfer switches, cutoff switches, vertical cable runs for the connection of power and other services, and utility poles or other support structures.

11. "Utility pole" means a pole or similar structure that is used in whole or in part to provide communications services or for electric distribution, lighting, traffic control, signage, or a similar function. The term includes

the vertical support structure for traffic lights but does not include a horizontal structure to which signal lights or other traffic control devices are attached and does not include a pole or similar structure 15 feet in height or less unless an authority grants a waiver for such pole.

12. "Wireless facility" means equipment at a fixed location which enables wireless communications between user equipment and a communications network, including radio transceivers, antennas, wires, coaxial or fiber-optic cable or other cables, regular and backup power supplies, and comparable equipment, regardless of technological configuration, and equipment associated with wireless communications. The term includes small wireless facilities. The term does not include:

a. The structure or improvements on, under, within, or adjacent to the structure on which the equipment is collocated;

b. Wireline backhaul facilities; or

c. Coaxial or fiber-optic cable that is between wireless structures or utility poles or that is otherwise not immediately adjacent to or directly associated with a particular antenna.

13. "Wireless infrastructure provider" means a person who has been certificated to provide telecommunications service in the state and who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures but is not a wireless services provider.

14. "Wireless provider" means a wireless infrastructure provider or a wireless services provider.

15. "Wireless services" means any services provided using licensed or unlicensed spectrum, whether at a fixed location or mobile, using wireless facilities.

16. "Wireless services provider" means a person who provides wireless services.

17. "Wireless support structure" means a freestanding structure, such as a monopole, a guyed or self-supporting tower, or another existing or proposed structure designed to support or capable of supporting wireless facilities. The term does not include a utility pole.

(c) Except as provided in this subsection, an authority may not prohibit, regulate, or charge for the collocation of small wireless facilities in the public rights-of-way.

(d) An authority may require a registration process and permit fees in accordance with subsection (3). An authority shall accept applications for permits and shall process and issue permits subject to the following requirements:

1. An authority may not directly or indirectly require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the authority, including reserving fiber, conduit, or pole space for the authority.

2. An applicant may not be required to provide more information to obtain a permit than is necessary to demonstrate the applicant's compliance with applicable codes for the placement of small wireless facilities in the locations identified in the application.

3. An authority may not require the placement of small wireless facilities on any specific utility pole or category of poles or require multiple antenna systems on a single utility pole.

4. An authority may not limit the placement of small wireless facilities by minimum separation distances. However, within 14 days after the date of filing the application, an authority may request that the proposed location of a small wireless facility be moved to another location in the right-of-way and placed on an alternative authority utility pole or support structure or may place a new utility pole. The authority and the applicant may negotiate the alternative location, including any objective design standards and reasonable spacing requirements for ground-based equipment, for 30 days after the date of the request. At the conclusion of the negotiation period, if the alternative location is accepted by the applicant, the applicant must notify the authority of such acceptance and the application shall be deemed granted for any new location for which there is agreement and all other locations in the application. If an agreement is not reached, the applicant must notify the authority of such nonagreement and the authority must grant or deny the original application within 90 days after the date the application was filed. A request for an alternative location, an acceptance of an alternative location, or a rejection of an alternative location must be in writing and provided by electronic mail.

5. An authority shall limit the height of a small wireless facility to 10 feet above the utility pole or structure upon which the small wireless facility is to be collocated. Unless waived by an authority, the height for a new utility

pole is limited to the tallest existing utility pole as of July 1, 2017, located in the same right-of-way, other than a utility pole for which a waiver has previously been granted, measured from grade in place within 500 feet of the proposed location of the small wireless facility. If there is no utility pole within 500 feet, the authority shall limit the height of the utility pole to 50 feet.

6. Except as provided in subparagraphs 4. and 5., the installation of a utility pole in the public rights-of-way designed to support a small wireless facility shall be subject to authority rules or regulations governing the placement of utility poles in the public rights-of-way and shall be subject to the application review timeframes in this subsection.

7. Within 14 days after receiving an application, an authority must determine and notify the applicant by electronic mail as to whether the application is complete. If an application is deemed incomplete, the authority must specifically identify the missing information. An application is deemed complete if the authority fails to provide notification to the applicant within 14 days.

8. An application must be processed on a nondiscriminatory basis. A complete application is deemed approved if an authority fails to approve or deny the application within 60 days after receipt of the application. If an authority does not use the 30-day negotiation period provided in subparagraph 4., the parties may mutually agree to extend the 60-day application review period. The authority shall grant or deny the application at the end of the extended period. A permit issued pursuant to an approved application shall remain effective for 1 year unless extended by the authority.

9. An authority must notify the applicant of approval or denial by electronic mail. An authority shall approve a complete application unless it does not meet the authority's applicable codes. If the application is denied, the authority must specify in writing the basis for denial, including the specific code provisions on which the denial was based, and send the documentation to the applicant by electronic mail on the day the authority denies the application. The applicant may cure the deficiencies identified by the authority and resubmit the application within 30 days after notice of the denial is sent to the applicant. The authority shall approve or deny the revised application within 30 days after receipt or the application is deemed approved. Any subsequent review shall be limited to the deficiencies cited in the denial.

10. An applicant seeking to collocate small wireless facilities within the jurisdiction of a single authority may, at the applicant's discretion, file a consolidated application and receive a single permit for the collocation of up to 30 small wireless facilities. If the application includes multiple small wireless facilities, an authority may separately address small wireless facility collocations for which incomplete information has been received or which are denied.

11. An authority may deny a proposed collocation of a small wireless facility in the public rights-of-way if the proposed collocation:

- a. Materially interferes with the safe operation of traffic control equipment.
- b. Materially interferes with sight lines or clear zones for transportation, pedestrians, or public safety purposes.
- c. Materially interferes with compliance with the Americans with Disabilities Act or similar federal or state standards regarding pedestrian access or movement.
- d. Materially fails to comply with the 2010 edition of the Florida Department of Transportation Utility Accommodation Manual.
- e. Fails to comply with applicable codes.

12. An authority may adopt by ordinance provisions for insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. Such provisions must be reasonable and nondiscriminatory.

13. Collocation of a small wireless facility on an authority utility pole does not provide the basis for the imposition of an ad valorem tax on the authority utility pole.

14. An authority may reserve space on authority utility poles for future public safety uses. However, a reservation of space may not preclude collocation of a small wireless facility. If replacement of the authority utility pole is necessary to accommodate the collocation of the small wireless facility and the future public safety use, the pole replacement is subject to make-ready provisions and the replaced pole shall accommodate the future public safety use.

15. A structure granted a permit and installed pursuant to this subsection shall comply with chapter 333 and federal regulations pertaining to airport airspace protections.

(e) An authority may not require approval or require fees or other charges for:

1. Routine maintenance;
2. Replacement of existing wireless facilities with wireless facilities that are substantially similar or of the same or smaller size; or
3. Installation, placement, maintenance, or replacement of micro wireless facilities that are suspended on cables strung between existing utility poles in compliance with applicable codes by or for a communications services provider authorized to occupy the rights-of-way and who is remitting taxes under chapter 202.

Notwithstanding this paragraph, an authority may require a right-of-way permit for work that involves excavation, closure of a sidewalk, or closure of a vehicular lane.

(f) Collocation of small wireless facilities on authority utility poles is subject to the following requirements:

1. An authority may not enter into an exclusive arrangement with any person for the right to attach equipment to authority utility poles.
2. The rates and fees for collocations on authority utility poles must be nondiscriminatory, regardless of the services provided by the collocating person.
3. The rate to collocate small wireless facilities on an authority utility pole may not exceed \$150 per pole annually.
4. Agreements between authorities and wireless providers that are in effect on July 1, 2017, and that relate to the collocation of small wireless facilities in the right-of-way, including the collocation of small wireless facilities on authority utility poles, remain in effect, subject to applicable termination provisions. The wireless provider may accept the rates, fees, and terms established under this subsection for small wireless facilities and utility poles that are the subject of an application submitted after the rates, fees, and terms become effective.
5. A person owning or controlling an authority utility pole shall offer rates, fees, and other terms that comply with this subsection. By the later of January 1, 2018, or 3 months after receiving a request to collocate its first small wireless facility on a utility pole owned or controlled by an authority, the person owning or controlling the authority utility pole shall make available,

through ordinance or otherwise, rates, fees, and terms for the collocation of small wireless facilities on the authority utility pole which comply with this subsection.

a. The rates, fees, and terms must be nondiscriminatory and competitively neutral and must comply with this subsection.

b. For an authority utility pole that supports an aerial facility used to provide communications services or electric service, the parties shall comply with the process for make-ready work under 47 U.S.C. s. 224 and implementing regulations. The good faith estimate of the person owning or controlling the pole for any make-ready work necessary to enable the pole to support the requested collocation must include pole replacement if necessary.

c. For an authority utility pole that does not support an aerial facility used to provide communications services or electric service, the authority shall provide a good faith estimate for any make-ready work necessary to enable the pole to support the requested collocation, including necessary pole replacement, within 60 days after receipt of a complete application. Make-ready work, including any pole replacement, must be completed within 60 days after written acceptance of the good faith estimate by the applicant. Alternatively, an authority may require the applicant seeking to collocate a small wireless facility to provide a make-ready estimate at the applicant's expense for the work necessary to support the small wireless facility, including pole replacement, and perform the make-ready work. If pole replacement is required, the scope of the make-ready estimate is limited to the design, fabrication, and installation of a utility pole that is substantially similar in color and composition. The authority may not condition or restrict the manner in which the applicant obtains, develops, or provides the estimate or conducts the make-ready work subject to usual construction restoration standards for work in the right-of-way. The replaced or altered utility pole shall remain the property of the authority.

d. An authority may not require more make-ready work than is required to meet applicable codes or industry standards. Fees for make-ready work may not include costs related to preexisting damage or prior noncompliance. Fees for make-ready work, including any pole replacement, may not exceed actual costs or the amount charged to communications services providers other than wireless services providers for similar work and may not include any consultant fee or expense.

(g) For any applications filed before the effective date of ordinances implementing this subsection, an authority may apply current ordinances relating to placement of communications facilities in the right-of-way related to registration, permitting, insurance coverage, indemnification, performance bonds, security funds, force majeure, abandonment, authority liability, or authority warranties. Permit application requirements and small wireless facility placement requirements, including utility pole height limits, that conflict with this subsection shall be waived by the authority.

(h) Except as provided in this section or specifically required by state law, an authority may not adopt or enforce any regulation on the placement or operation of communications facilities in the rights-of-way by a provider authorized by state law to operate in the rights-of-way and may not regulate any communications services or impose or collect any tax, fee, or charge not specifically authorized under state law. This paragraph does not alter any law regarding an authority's ability to regulate the relocation of facilities.

(i) A wireless provider shall, in relation to a small wireless facility, utility pole, or wireless support structure in the public rights-of-way, comply with nondiscriminatory undergrounding requirements of an authority that prohibit above-ground structures in public rights-of-way. Any such requirements may be waived by the authority.

(j) A wireless infrastructure provider may apply to an authority to place utility poles in the public rights-of-way to support the collocation of small wireless facilities. The application must include an attestation that small wireless facilities will be collocated on the utility pole or structure and will be used by a wireless services provider to provide service within 9 months after the date the application is approved. The authority shall accept and process the application in accordance with subparagraph (d)6. and any applicable codes and other local codes governing the placement of utility poles in the public rights-of-way.

(k) This subsection does not limit a local government's authority to enforce historic preservation zoning regulations consistent with the preservation of local zoning authority under 47 U.S.C. s. 332(c)(7), the requirements for facility modifications under 47 U.S.C. s. 1455(a), or the National Historic Preservation Act of 1966, as amended, and the regulations adopted to implement such laws. An authority may enforce local codes, administrative rules, or regulations adopted by ordinance in effect on April 1, 2017, which are

applicable to a historic area designated by the state or authority. An authority may enforce pending local ordinances, administrative rules, or regulations applicable to a historic area designated by the state if the intent to adopt such changes has been publicly declared on or before April 1, 2017. An authority may waive any ordinances or other requirements that are subject to this paragraph.

(l) This subsection does not authorize a person to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a utility pole owned by an electric cooperative or a municipal electric utility, a privately owned wireless support structure, or other private property without the consent of the property owner.

(m) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this subsection does not authorize the provision of any voice, data, or video communications services or the installation, placement, maintenance, or operation of any communications facilities other than small wireless facilities in the right-of-way.

(n) This subsection does not affect provisions relating to pass-through providers in subsection (6).

(o) This subsection does not authorize a person to collocate or attach small wireless facilities or micro wireless facilities on a utility pole, unless otherwise permitted by federal law, or erect a wireless support structure in the right-of-way located within a retirement community that:

1. Is deed restricted as housing for older persons as defined in s. 760.29(4)(b);
2. Has more than 5,000 residents; and
3. Has underground utilities for electric transmission or distribution.

This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities, provided that once aerial facilities are converted to underground facilities, any such collocation or construction shall be only as provided by the municipality's underground utilities ordinance.

(p) This subsection does not authorize a person to collocate or attach small wireless facilities or micro wireless facilities on a utility pole, unless

otherwise permitted by federal law, or erect a wireless support structure in the right-of-way located within a municipality that:

1. Is located on a coastal barrier island as defined in s. 161.053(1)(b)3.;
2. Has a land area of less than 5 square miles;
3. Has fewer than 10,000 residents; and
4. Has, before July 1, 2017, received referendum approval to issue debt to finance municipal-wide undergrounding of its utilities for electric transmission or distribution.

This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities, provided that once aerial facilities are converted to underground facilities, any such collocation or construction shall be only as provided by the municipality's underground utilities ordinance.

(q) This subsection does not authorize a person to collocate small wireless facilities or micro wireless facilities on an authority utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association. This paragraph does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities.

CITY CLERK'S OFFICE/LEGAL ADS  
3RD FLOOR, 222 WEST MAIN STREET  
222 W MAIN ST

32502

Published Daily-Pensacola, Escambia County, FL

**PROOF OF PUBLICATION**

State of Florida

County of Escambia:

Before the undersigned authority personally appeared **Brittini Lynne Pennington**, 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

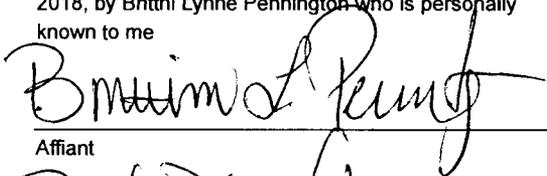
NOTICE OF PROPOSED ORDINA

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

**01/29/18**

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 30th of January 2018, by Brittini Lynne Pennington who is personally known to me

  
\_\_\_\_\_  
Affiant

  
\_\_\_\_\_  
Mark Dee Kent  
Notary Public for the State of Florida  
My Commission expires October 27, 2019

Publication Cost: \$196.10  
Ad No: 0002690737  
Customer No: PNJ-25615500

**NOTICE OF PROPOSED ORDINANCE**

Please be advised that Proposed Ordinance No. 01-18 was presented to the City Council of the City of Pensacola for first reading on Thursday, January 11, 2018 and will be presented for final reading and adoption on Thursday, February 8, 2018 at 5:30 p.m., in Council Chambers on the First Floor of City Hall, 222 West Main Street, Pensacola, Florida.

The title of the proposed ordinance is as follows:

P.O. #01-18:

**AN ORDINANCE CREATING ARTICLE VII, SECTION 11-4-182 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; REGULATING THE USE OF THE PUBLIC RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES AND INFRASTRUCTURE BY SERVICE PROVIDERS; AUTHORIZING THE ADMINISTRATIVE PROMULGATION OF IMPLEMENTING RULES AND REGULATIONS CONFORMING TO THE PROVISIONS OF THE ADVANCED WIRELESS INFRASTRUCTURE DEPLOYMENT ACT OF 2017; PROVIDING FOR SEVERABILITY; REPEALING A CLAUSE; AND PROVIDING AN EFFECTIVE DATE.**

A copy of proposed ordinances may be inspected by the public in the City Clerk's office, located on the 3rd Floor of City Hall, 222 West Main Street, Pensacola, Florida, or on-line on the City's website: <https://pensacola.legistar.com/Calendar.aspx>. Interested parties may appear at the Council meeting 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 insure 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 435-1606 (or TDD 435-1666) 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](http://www.cityofpensacola.com) to learn more about City activities. Council agendas posted on-line before meetings.  
Legal No. 2690737 1T January 29, 2019



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00066

City Council

2/8/2018

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### **SUBJECT:**

CITY ADMINISTRATOR COMMUNICATION

City Administrator, Eric W. Olson



THE PORT OF  
**PENSACOLA**

Update Report  
to Pensacola City Council  
February 5, 2018



**Refresh...**

# Port Operating Agreement Types



- Long-Term Leases
  - Council approval process
- Short-Term Operating Agreements
  - Mayor approval process
- Transient Cargo Operations
  - Published tariff based

# Revenue Sources

- Port of Pensacola, like most public seaports, collects fees in 3 primary categories:
  - Rent or Facility Use Charges
    - Charged as lump sum or per square foot of utilization per terms of lease or short-term operating agreement –based on Commercial Lease Practices
  - Cargo Fees (per tariff or contract)
    - Wharfage – fee charged to cargo type moved through the port facility
    - Cargo Security – a percentage of wharfage charged against all cargo
    - Storage – short- and long-term rates for inside or outside cargo storage
  - Vessel Fees (per tariff or contract)
    - Dockage – per foot of vessel length, per port day
    - Harbor fee – per voyage based on vessel length
    - Vessel security – percentage of dockage



**Review...**

# What Transpired, 2014-2017

- 2014 - 2015
  - GE regularly exporting
  - IP export business building
  - DeepFlex plant coming
  - Vessel dockage days up 500%
- 2016 - 2017
  - Crude value plummets
    - Gulf exploration halts
    - Production slows
    - Support vessel fleets go into layup & OI vessel calls slow dramatically
    - Deepflex goes bankrupt
  - GE has no new export contracts
  - Paper shipments stop
    - IP Cantonment Plant explosion
    - Turkish anti-dumping duties



# Result...

- Port activity
  - Tonnage...down
  - Vessel calls...down
  - 3 of 6 primary business lines...down
- Revenue
  - Storage...down
  - Dockage...down
  - Rent...down
- Reaction
  - Expenses cut to bare bones
  - Redoubled marketing efforts
  - Pursued all possible revenue sources (no matter how unusual)





**Recovery?...**

# What's Happening Now

- Business Recoveries:
  - International Paper to Haifa, Israel
  - Steel exports to South America
- New Business:
  - World Direct Shipping Mexico container service
- Key Prospects:
  - 1 manufacturing / processing with import/export activity
  - 2 forest products import/export activity
  - 1 tourism-related
- Leasing/Real Estate Marketing Strategy
  - NAI Halford





**Reassess...**

# Plan of Action

*Project Lead  
David Penzone*

- Opportunities Research:
  - Cargo sector
  - Non-cargo marine business
  - Business line diversification opportunities for
    - Activation of “outside the gate” holdings
    - Maximization of “inside the gate” holdings
- Vetting:
  - Outcomes will inform Action Plan
  - Result = consensus Action Plan
- Outcome:
  - New port strategic plan per F.S. 311.14





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00020

City Council

2/8/2018

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### **SUBJECT:**

MONTHLY CRIME REPORT

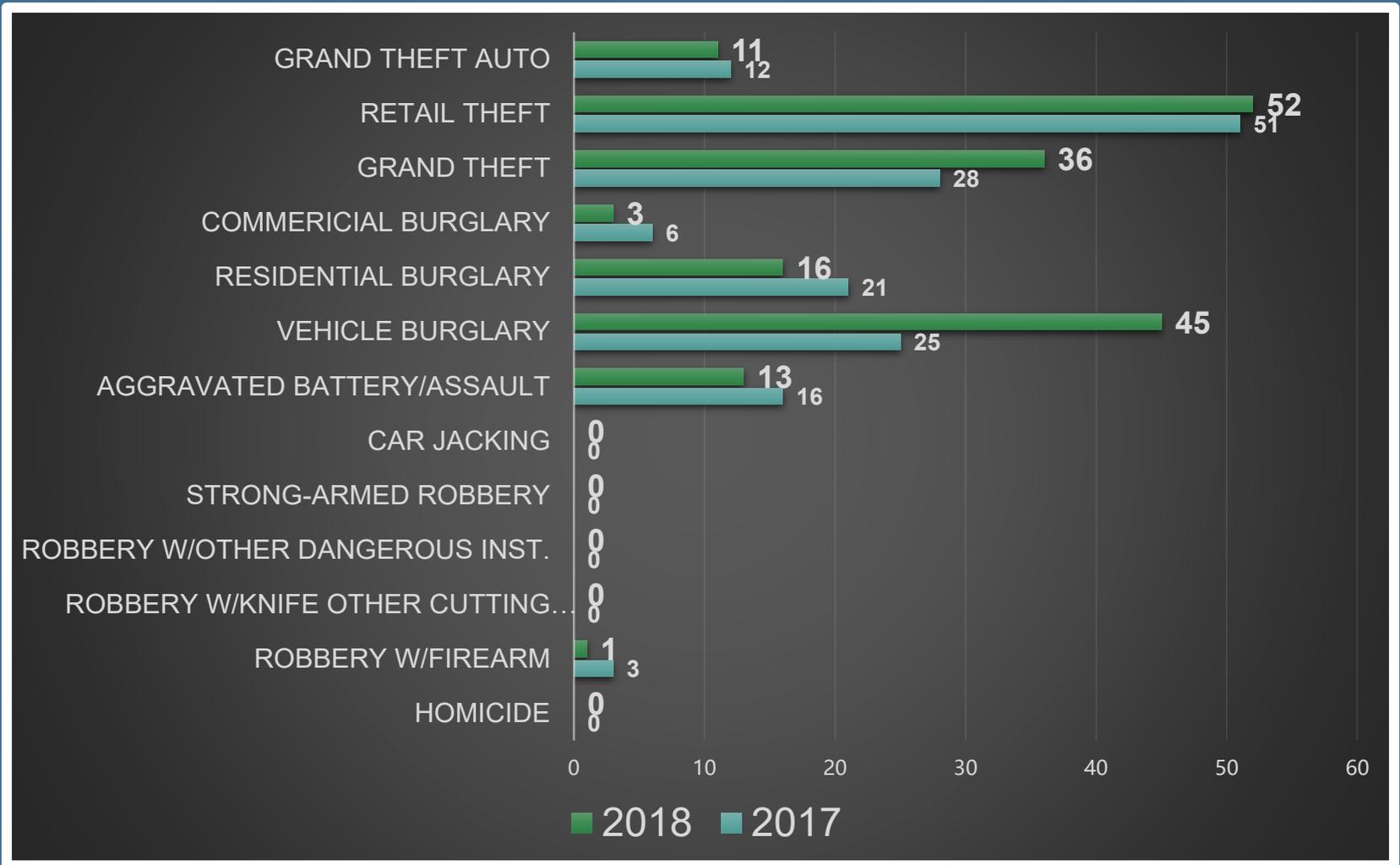
Police Chief, Tommi Lyter



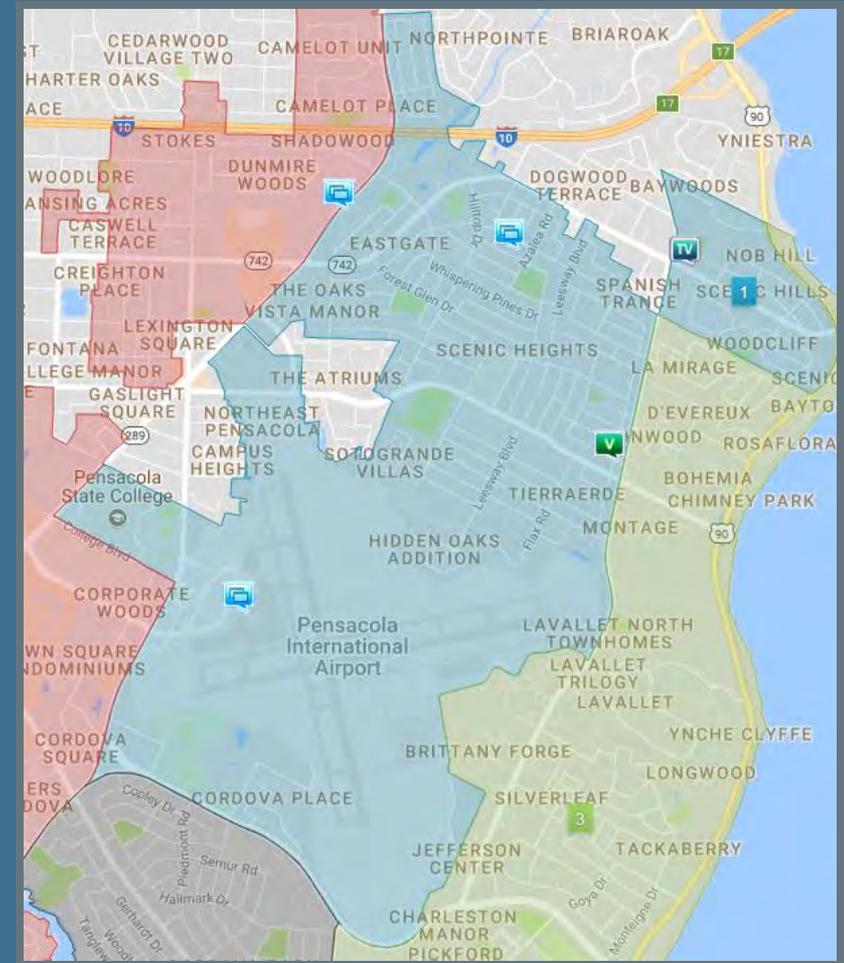
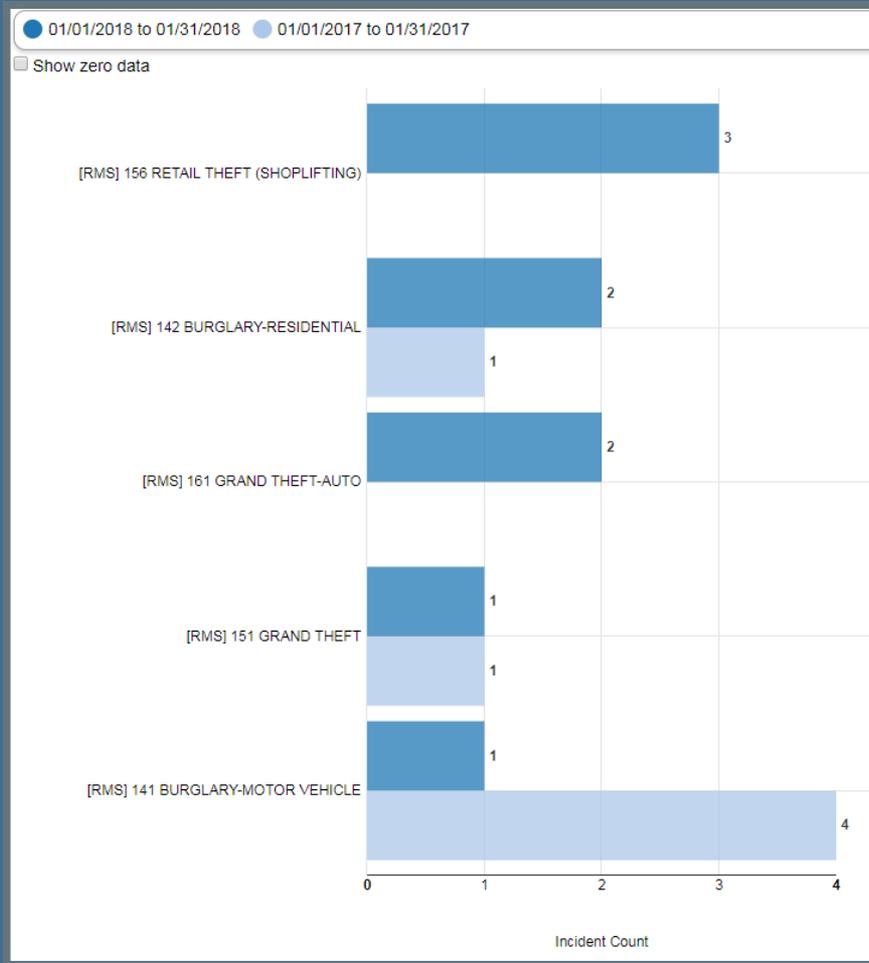
# PENSACOLA POLICE DEPARTMENT

Crime Report  
**January 2018**

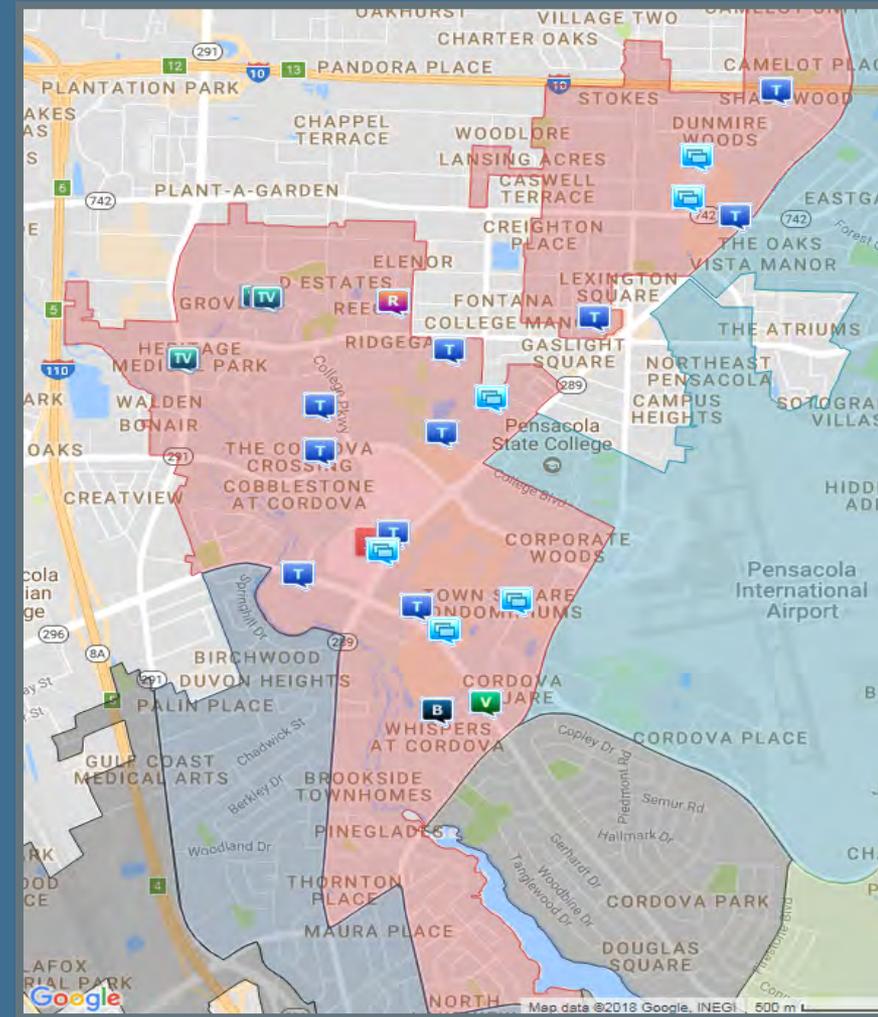
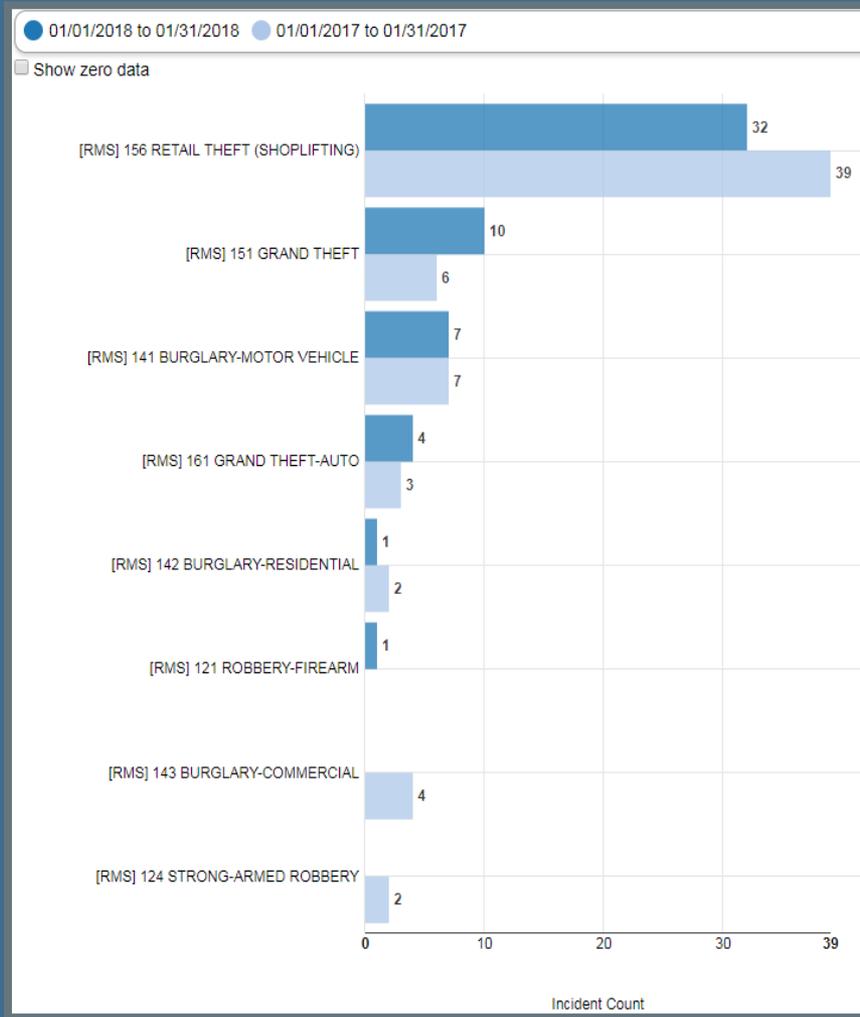
# January 2017-2018 Comparison- City Limits



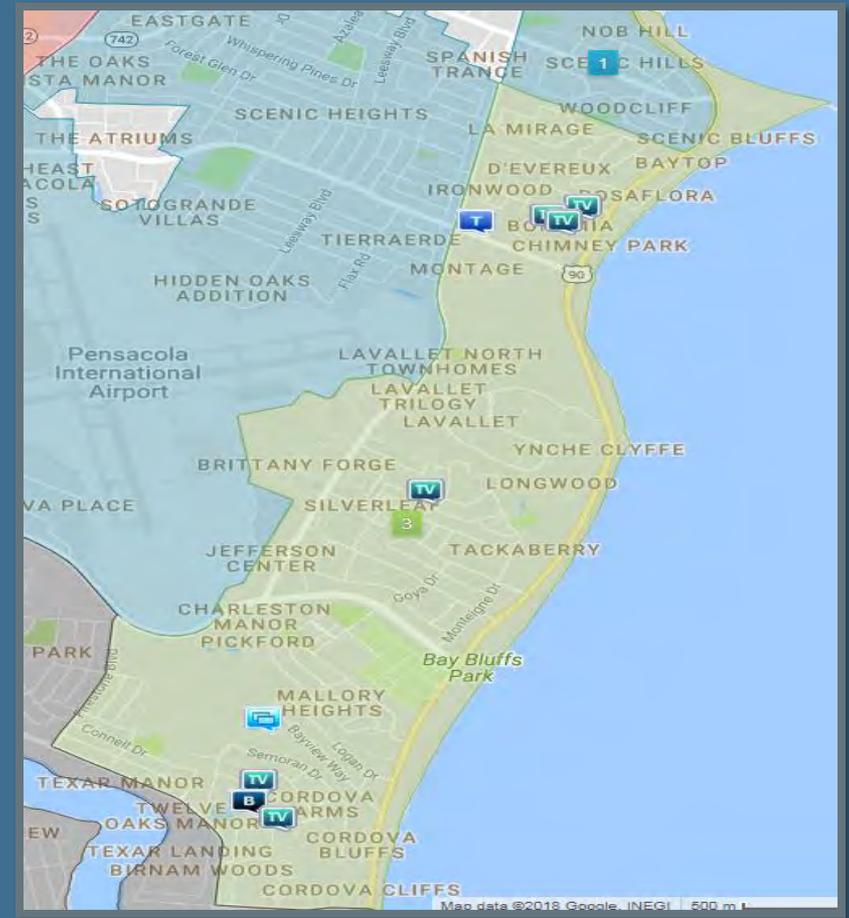
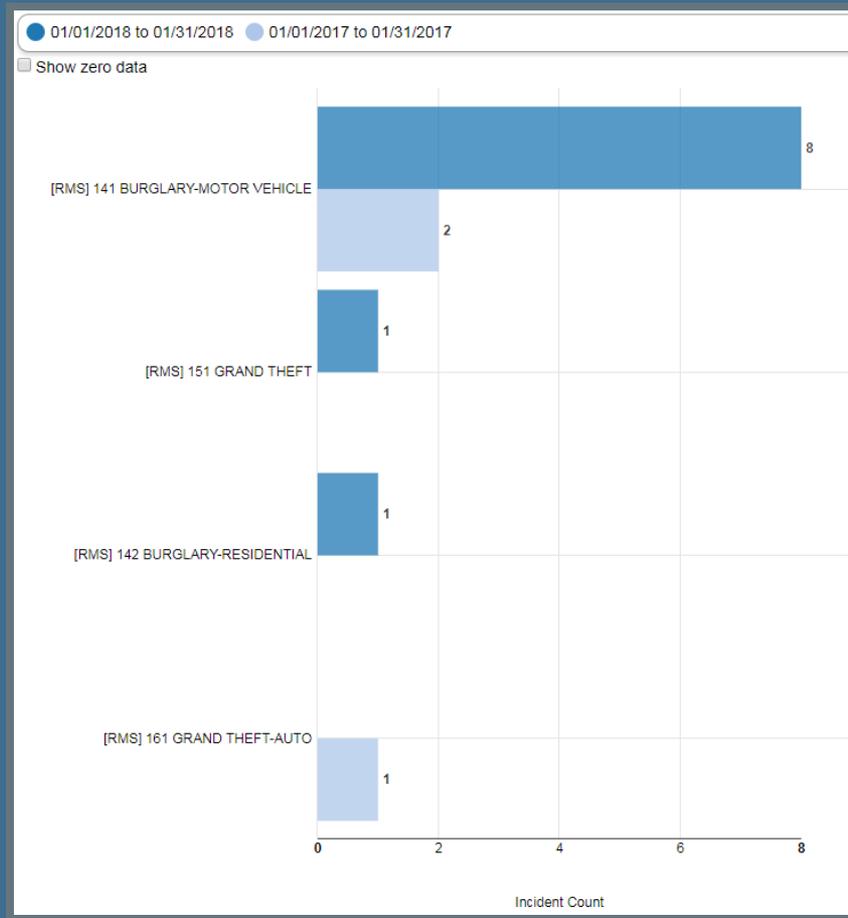
# District 1 January 2017-2018 Comparison



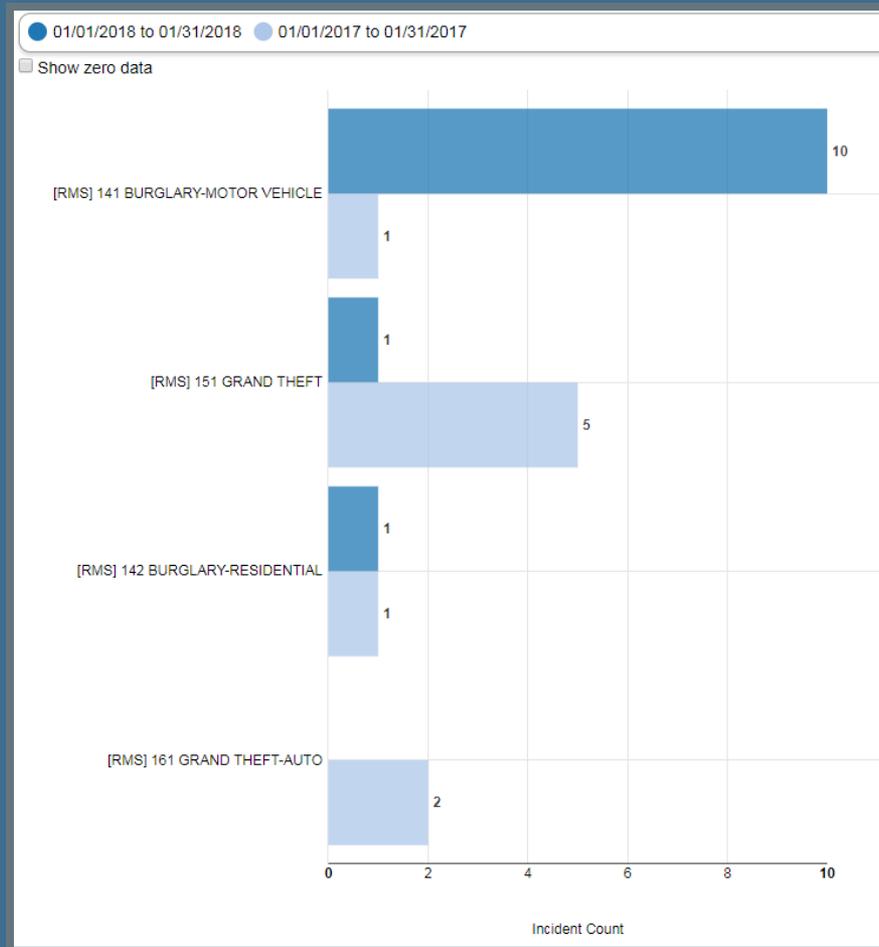
# District 2 January 2017-2018 Comparison



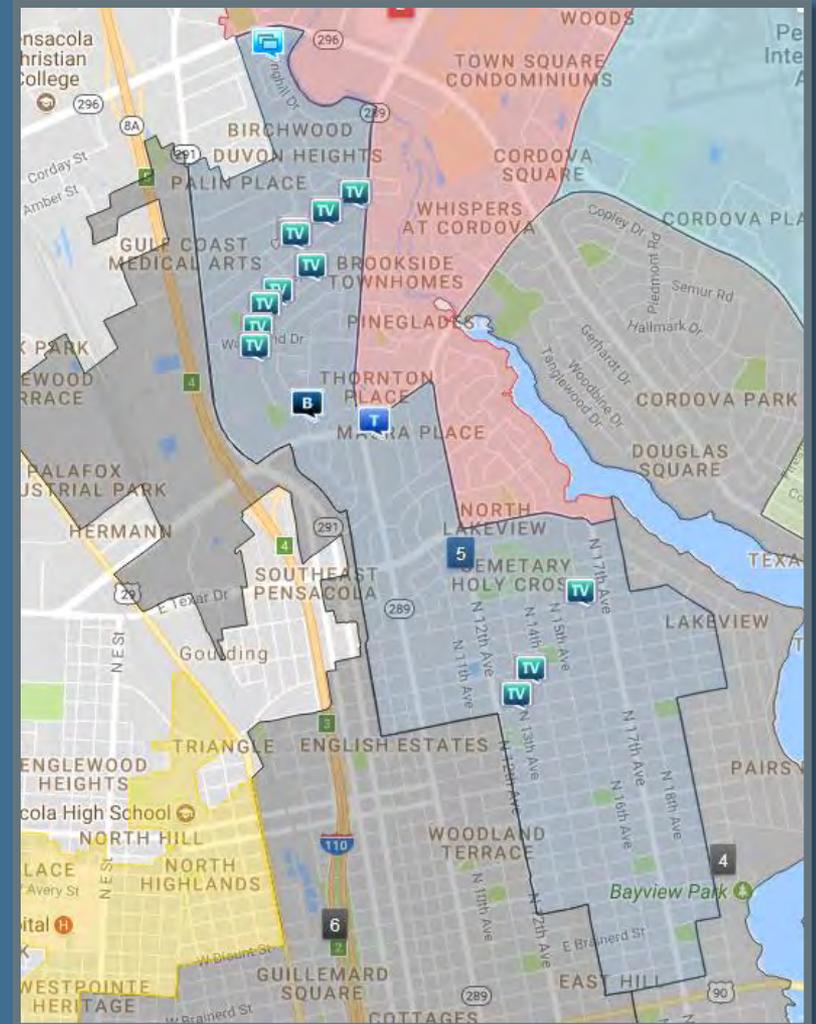
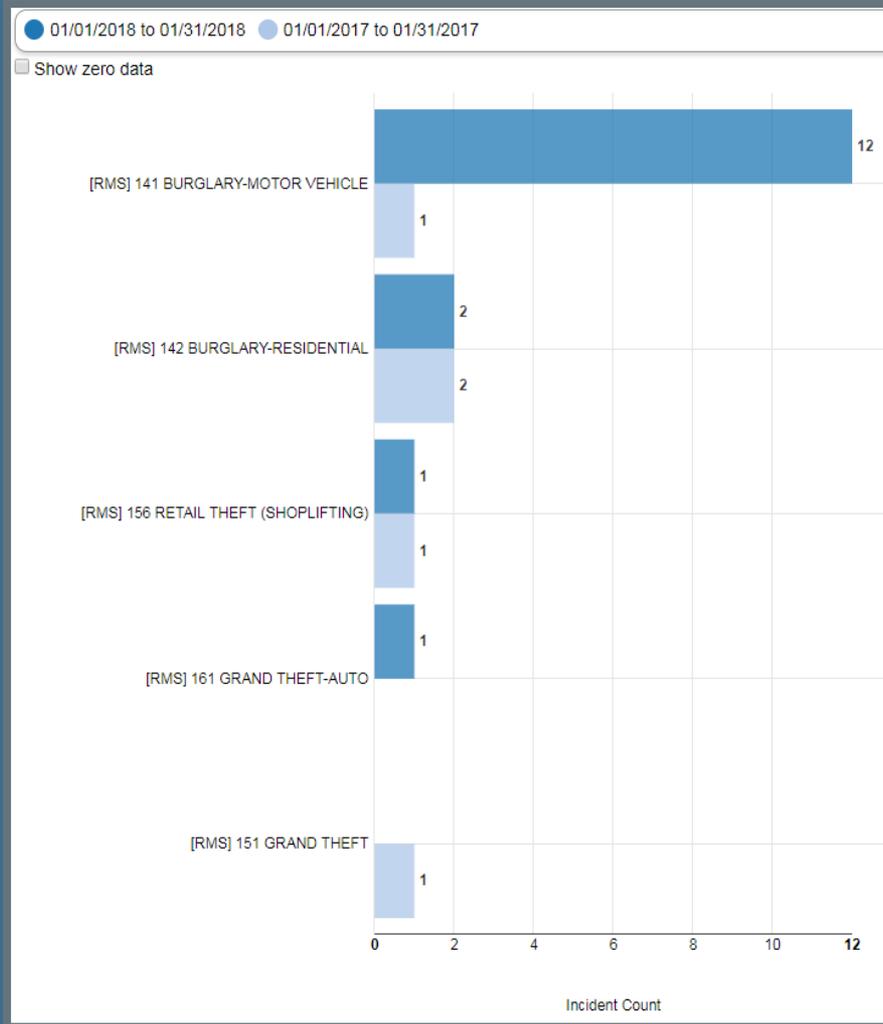
# District 3 January 2017-2018 Comparison



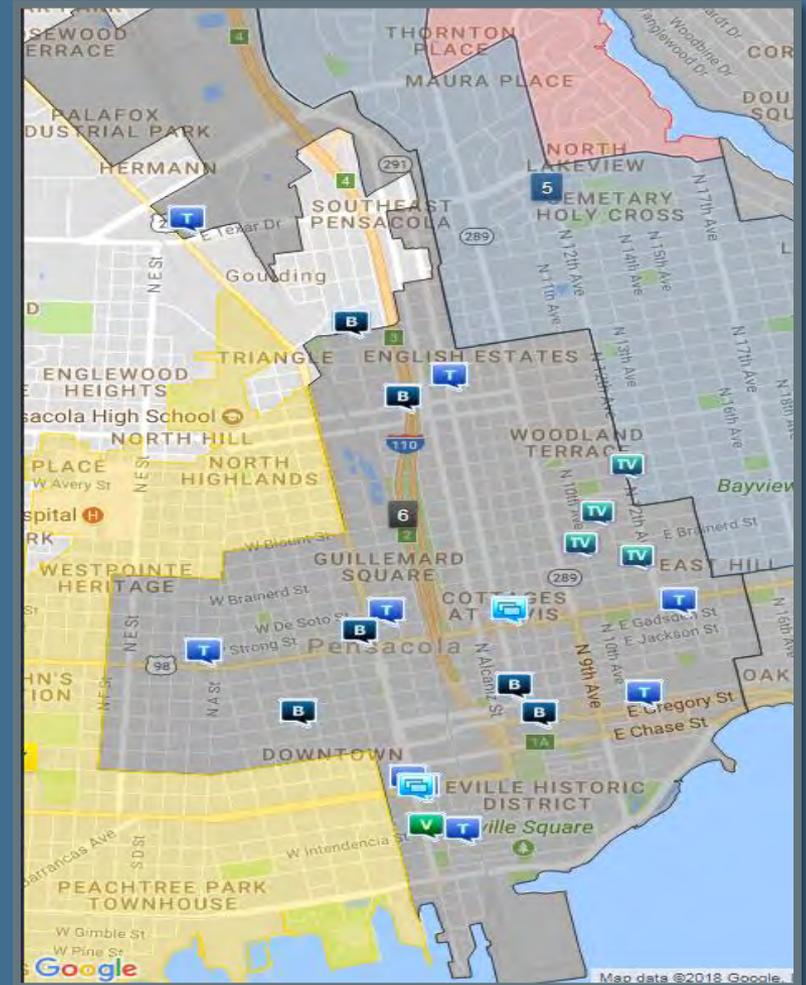
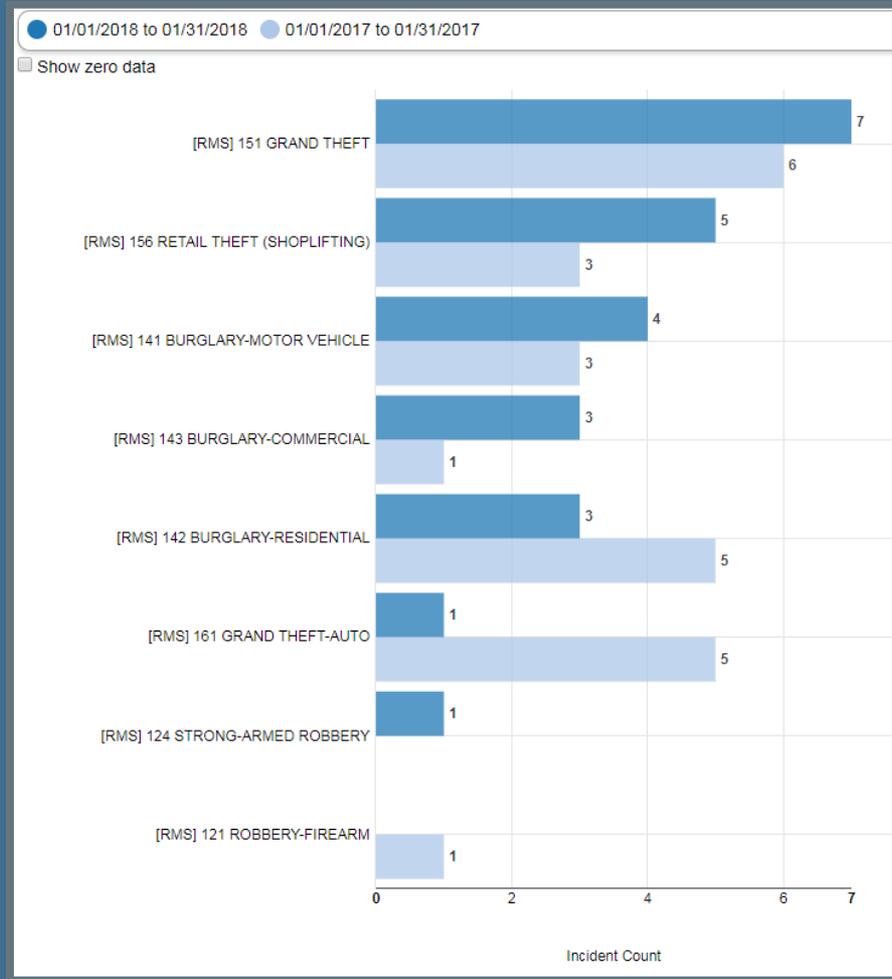
# District 4 January 2017-2018 Comparison



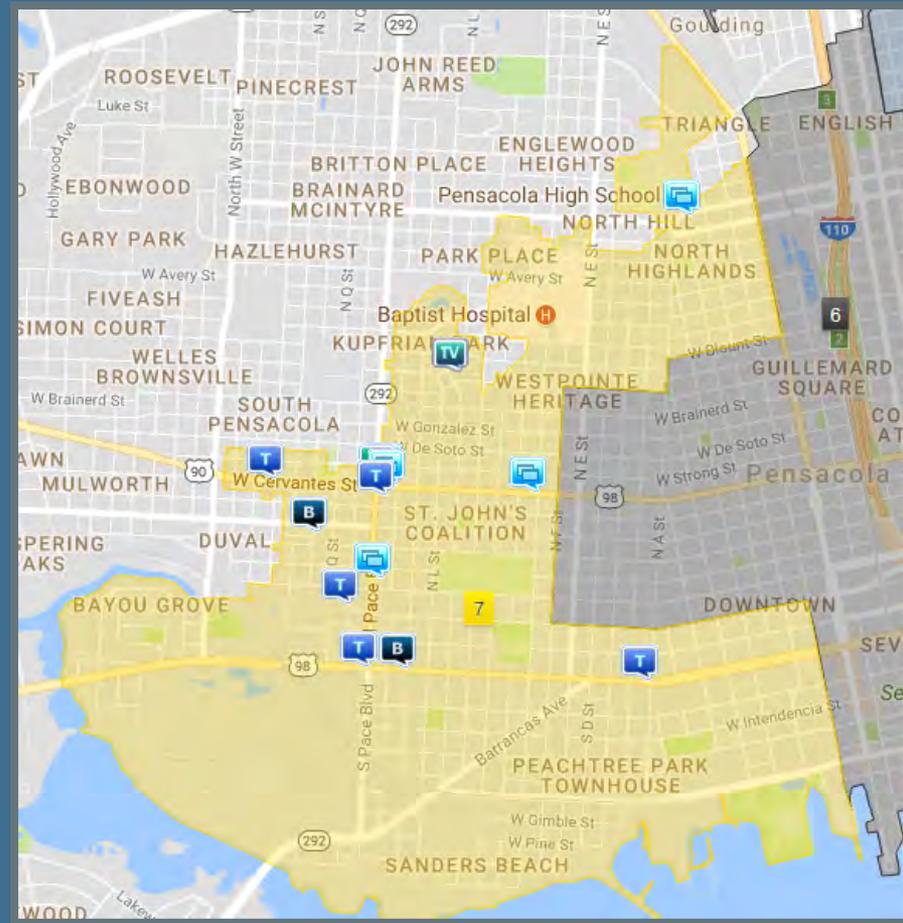
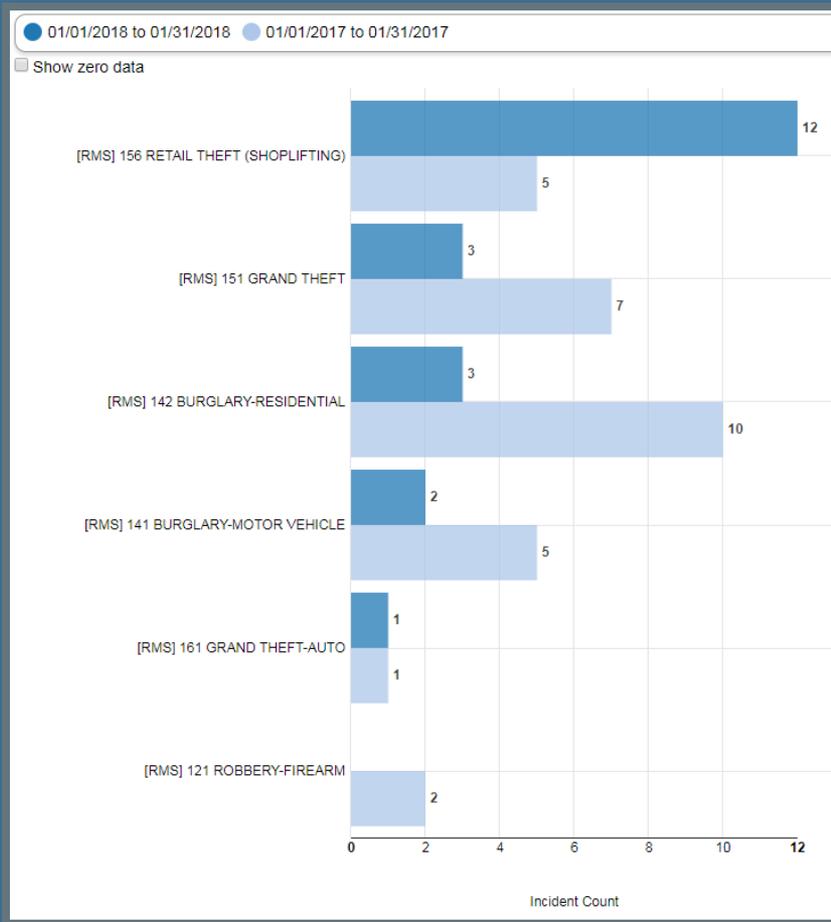
# District 5 January 2017-2018 Comparison

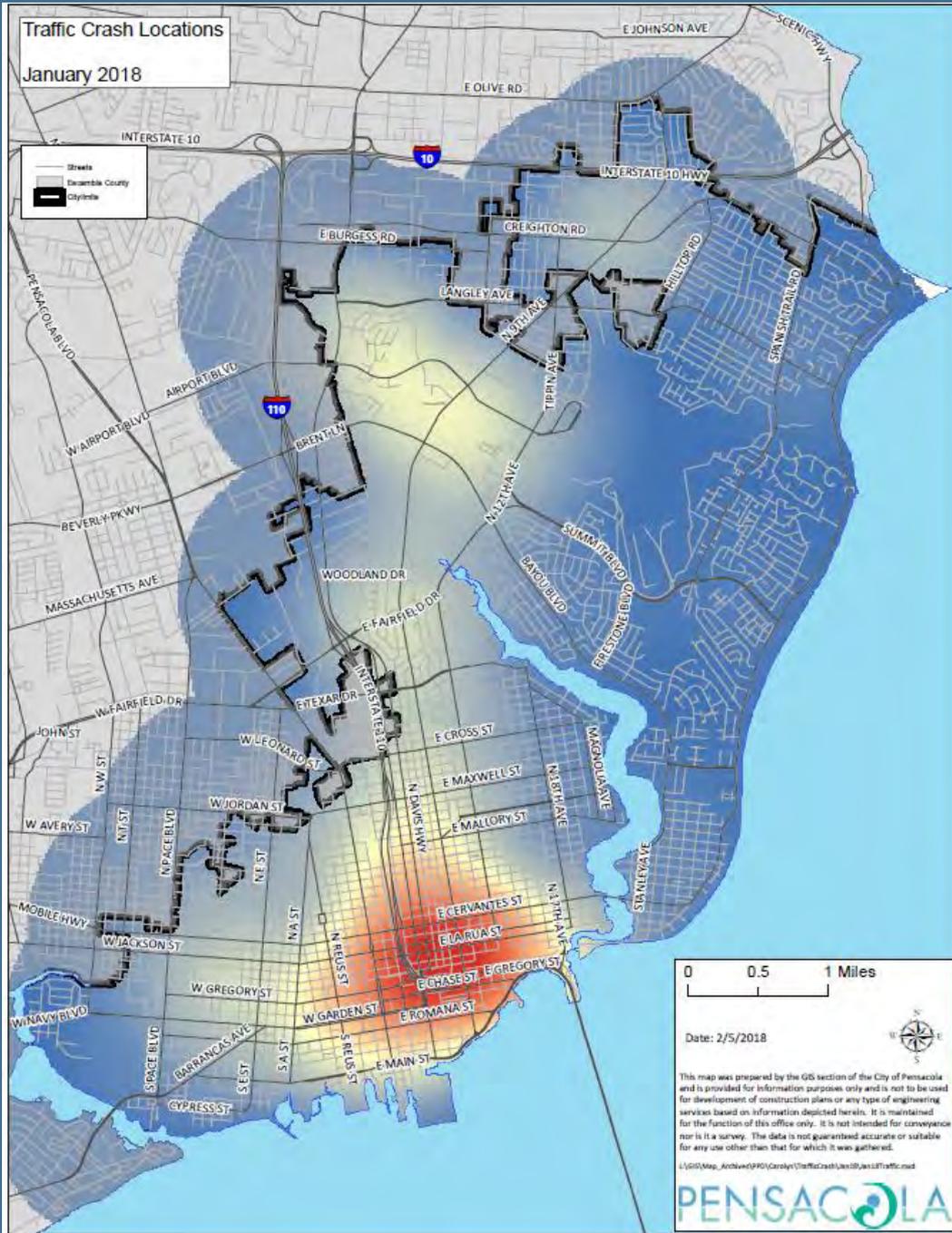


# District 6 January 2017-2018 Comparison



# District 7 January 2017-2018 Comparison





## January 2018 Traffic Crash Heat Map

	Jan. '17	Jan. '18
<b>Crashes</b>	136	168
<b>Citations</b>	138	157
<b>Warnings</b>	267	405



# Top 5 Intersections

<b>Intersection</b>	<b>Num.</b>
9 <sup>th</sup> Ave/Creighton Rd.	4
12 <sup>th</sup> Ave/ Airport Blvd	3
Bay Bridge/Gregory St.	2
17 <sup>th</sup> Ave./ Bay Front Pkwy	2
Pace Blvd/Cervantes St.	2





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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File #: 18-00025

City Council

2/8/2018

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**SUBJECT:**

MONTHLY FINANCIAL REPORT - CHIEF FINANCIAL OFFICER RICHARD BARKER, JR.

# Monthly Financial Review



**January, 2018**





# Revenues

## January, 2018

- General Fund

- Three Months Collected

- Franchise Fee & Public Service Tax + 3.90%
    - Half-Cent Sales Tax + 9.33%
    - Communication Services Tax + 4.47%

- Four Months Collected

- Municipal Revenue Sharing + 2.05%





# Other Funds

## January, 2018

- Local Option Sales Tax + 9.71%
- Local Option Gas Tax - 0.42%
- Tree Planting Trust Fund \$387,002
- Housing Initiatives Fund
  - City \$124,785
  - CRA \$440,000





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## • Formal Bids/RFQs

### • **Olameter DPG, LLC**

- Natural Gas Distribution System Leak Survey – Pensacola Energy
- SBE – No
- Purchase Method – Year 1 of 3 year (RFP 18-001)
- \$154,198
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## •Contract Renewals/Extensions

### •**Elite Line Services, Inc.**

- Maintenance & Operation of Baggage Handling System and Passenger Loading Bridges – Pensacola International Airport
- SBE – No
- Purchase Method – Year 2 of 3 year contract (RFP 16-042)
- \$583,447
- Budgeted – Yes

### •**Formmaker Software, Inc.**

- Utility Billing Services – Pensacola Energy
- SBE – No
- Purchase Method – Year 3 of 3 year contract (ITB #15-037)
- \$360,000
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## **•Quotations & Direct Negotiations**

### **•Sensit Technologies, LLC**

- Leak Detection Equipment – Pensacola Energy
- SBE – No
- Purchase Method – Sole Source
- \$57,144
- Budgeted – Yes

### **•Federal Eastern International**

- Active Shooter Response Kit – Pensacola Police Department
- SBE – No
- Purchase Method – Sole Source
- \$63,454
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## •Quotations & Direct Negotiations

### •Elster American Meter

- Commercial Gas Meters – Elster American AL-800 – Pensacola Energy
- SBE – No
- Purchase Method – Sole Source
- \$48,654
- Budgeted – Yes

### •Elster American Meter

- Commercial Gas Meters – Elster American AL-1000 – Pensacola Energy
- SBE – No
- Purchase Method – Sole Source
- \$52,796
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## **•Quotations & Direct Negotiations**

### **•Devtech Sales, Inc.**

- Prefabricated Meter Sets – Pensacola Energy
- SBE – No
- Purchase Method – Sole Source
- \$42,501
- Budgeted – Yes

### **•Devtech Sales, Inc.**

- Rotary Meters: Honeywell/RABO 5.5M – Pensacola Energy
- SBE – No
- Purchase Method – Sole Source
- \$32,220
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## **•Quotations & Direct Negotiations**

### **•Devtech Sales, Inc.**

- Rotary Meters: Honeywell/RABO 3.5M – Pensacola Energy
- SBE – No
- Purchase Method – Sole Source
- \$35,125
- Budgeted – Yes

### **•Alabama Contract Sales, Inc.**

- Montreal Seats & Cupholders for Maritime Stadium – Public Works
- SBE – No
- Purchase Method – Sole Source
- \$41,223
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## **•Quotations & Direct Negotiations**

### **•Dana Safety Supply, Inc.**

- Police Riot Gear – Pensacola Police Department
- SBE – No
- Purchase Method – Quote
- \$57,533
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## **•State, Federal or Other Buying Contracts**

### **•PC Specialists, Inc. dba TIG**

- Poweredge R640 ESX Host Servers – Technology Resources
- SBE – No
- Purchase Method – State Contract #43211500-WSCA-15-ACS
- \$41,570
- Budgeted – Yes

### **•CDW Government**

- Microsoft Licenses – Technology Resources
- SBE – No
- Purchase Method – State Contract # 43230000-NASPO-16-ACS-SVAR
- \$229,807
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## **•State, Federal or Other Buying Contracts**

### **•Dana Safety Supply, Inc.**

- 2018 Vehicle Outfit – Pensacola Police Department
- SBE – No
- Purchase Method – Tampa Contract #2017-975
- \$352,678
- Budgeted – Yes

### **•Action Truck Center, Inc.**

- Dump Truck - Garage
- SBE – No
- Purchase Method – NJPA(National Cooperative Contract)
- \$121,607
- Budgeted – Yes





# Contracts/Expenditures Over \$25,000 Approved By Mayor 01/01/18 – 01/31/18

## •State, Federal or Other Buying Contracts

### •**Wesco Distribution, Inc.**

- New LED Light Fixtures for 4<sup>th</sup> Floor – Pensacola International Airport Parking Garage
- SBE – No
- Purchase Method – NPP Contract #274647
- \$35,100
- Budgeted – Yes



# Monthly Financial Review



**January, 2018**

