

**INTERLOCAL AGREEMENT  
BETWEEN THE CITY OF PENSACOLA, FLORIDA,  
AND THE PENSACOLA DOWNTOWN IMPROVEMENT BOARD  
FOR THE CREATION OF A COMPREHENSIVE DOWNTOWN  
PARKING STRATEGY FOR CENTRALIZED AND EFFICIENT  
MANAGEMENT OF DOWNTOWN PARKING FACILITIES**

This Interlocal Agreement (hereinafter referred to as "Agreement") is made and entered into the 29 day of November, 2007, by and between the City of Pensacola, Florida, a municipal corporation of the State of Florida, with administrative offices at 180 Governmental Center, Pensacola, Florida, 32502 (hereinafter referred to as "City"), and the Pensacola Downtown Improvement Board of Pensacola, Florida, a public body corporate and politic, (hereinafter referred to as "DIB"), with an administrative address of 41 North Jefferson Street, Suite 401, Pensacola, Florida, 32502. (Each at times referred to as "Party" or collectively as "Parties.")

**WITNESSETH**

**WHEREAS**, the Parties, as governmental units of the State of Florida, have legal authority to perform within their respective jurisdictions certain public works, including the efficient management and enhancement of public Parking Facilities in Downtown Pensacola, Florida; and

**WHEREAS**, the City and the DIB, as provided by Section 163.01, Florida Statutes, et seq., the Florida Interlocal Cooperation Act of 1969, may enter into interlocal agreements and thereby cooperatively utilize their powers and financial resources in the most efficient manner possible and on the basis of mutual advantage to both Parties to carry out such projects; and

**WHEREAS**, the DIB was created through an act of the Legislature of the State of Florida for the purpose of correcting blight, preserving and enhancing property values, encouraging and facilitating economic development, attracting and retaining commercial and residential investment, beautifying Downtown Pensacola, and marketing and promoting Downtown Pensacola to attract more customers, clients, residents, and other users of Downtown Pensacola; and

**WHEREAS**, the existing inefficient disorganized parking situation in Downtown Pensacola is an obstacle to the successful accomplishment of the statutorily mandated goals of the DIB and

to the City's development of the economic vitality, beauty, and use of the Downtown's business center; and

**WHEREAS**, to remedy this obstacle, the DIB has undertaken a study of Parking Facilities, including demand, availability, enforcement, revenue, and costs for the Downtown area of the City of Pensacola, Florida; and

**WHEREAS**, the results of said study demonstrate that parking in the Downtown area can be significantly improved through a centralized management structure; and

**WHEREAS**, given that fact, the Parties desire to establish the terms under which the DIB shall assume managerial responsibility and authority for all aspects of City Parking Facilities located in the Downtown area as provided herein.

**NOW, THEREFORE**, in consideration of the foregoing, and in consideration of their mutual covenants, terms, and conditions hereinafter expressed, the Parties hereto agree as follows:

1. **RECITATIONS TRUE:** The Parties acknowledge and agree that the aforesaid recitations are true and correct and accurately represent the context in which this Agreement is made.

2. **PARKING MANAGEMENT DISTRICT:** As provided herein, there shall be created a Parking Management District in Downtown Pensacola, Florida, encompassing the area set out in Exhibit "A", which is attached hereto and incorporated by reference herein and which shall be hereinafter referred to as the "Parking Management District". All Parking Facilities located within said Parking Management District shall be hereinafter referred to as the "Parking Facilities".

3. **SUBJECT PARKING FACILITIES:**

A. The Parking Facilities subject to the terms of this Agreement shall be all parking lots and garages, and all Parking Facilities, but only to the extent available for use by the general public, owned or managed by the City, including those developed jointly with the Community Redevelopment Agency (hereinafter referred to as "CRA") or the County or other public or private third Parties, and on-street public parking in the Parking Management District, existing as of the date hereof, or hereafter created and located in an area bounded on the west by the

westernmost side of DeVillers Street, on the north by the northernmost side of Wright Street and the CSX railroad tracks, on the east by the easternmost side of Ninth Avenue, and on the south by the southernmost shoreline of Pensacola Bay. The following Parking Facilities shall not be subject to the terms of this Agreement:

1. William Bartram Memorial Park Parking Lot.
2. Plaza DeLuna Parking Lot.
3. Old City Fire Station #1 Parking Lot.
4. Pensacola Public Library Parking Lot.
5. City of Pensacola Housing Department Parking Lot.
6. City Hall Non-Metered Parking Lot.
7. Port of Pensacola City Employee Parking Lot.
8. Pensacola Sports Association Parking Lot.

B. The Parties from time to time upon their mutual consent may increase or decrease by amendment the Parking Facilities which are subject to this Agreement. The City shall have the absolute right, upon thirty (30) days written notice to the DIB, to remove the following Parking Facilities from the terms of this Agreement for the purpose of re-developing the property occupied by such facilities:

- (1) All areas south of Pine Street.
- (2) Commendencia Street Public and Leased Lot.
- (3) Port of Pensacola Parking Lot.
- (4) North Palafox Street Parking Lot.

4. **TRANSFER OF MANAGEMENT:** Beginning on the date hereof, the Parties shall work cooperatively with one another to smoothly transfer the authority and responsibility for management of the City Parking Facilities from the City to the DIB, and the DIB shall fully assume such authority and responsibility.

5. **TRANSITION COMPLETION DATE:** It is intended that said transition to DIB management shall be substantially accomplished on or about December 31, 2007.

6. **DIB RESPONSIBILITIES:** Commencing on or about January 1, 2008 (the "Transition Date"), the DIB shall manage City Parking Facilities subject to the following terms and conditions of this Agreement:

A. *Equipment.* The DIB shall have authority and responsibility for selecting, changing, financing, installing, maintaining, and operating parking control and security equipment and enforcement technologies for Parking Facilities within the Parking Management District.

B. *Planning / Rates / Procedures.* The DIB shall have authority and responsibility for all parking planning, modification, and implementation within the Parking Management District, including parking and loading configurations, parking times and schedules, parking rates, time-restricted free parking, security, maintenance, location of future public Parking Facilities, use of off-street public Parking Facilities for special events, special event parking rates, and parking marketing to encourage use of the Parking Facilities and Downtown Pensacola.

- (1) Upon approval of this Agreement, the DIB Parking and Traffic Committee shall be immediately expanded to include at least one voting member representing the City and the CRA, such member to be designated by the City Manager.
- (2) Before the enactment of any parking rate increase or charge of any type or kind, other than increases related to special event rates, the DIB Parking and Traffic Committee shall consider and recommend the rate change to the DIB. DIB shall then conduct a public hearing, and after such hearing said increase shall be subject to the approval of the DIB by majority vote plus one additional vote.
- (3) Any changes undertaken to curbside parking, loading zones, parking reconfiguration, taxi stands, handicapped parking placement, or other physical modifications of Parking Facilities within the Parking Management District shall be in compliance with all applicable governmental regulations, including City regulations and the Federal Accessibility Board Guidelines relating

to Americans with Disabilities Act (ADA) compliance.

- (4) The DIB yearly shall forward recommended revisions of the City's fine and penalties amount schedule for parking related violations from its Parking and Traffic Committee to the City Council for proposed action.

*C. Signage.* The DIB shall have the authority and responsibility to select, site, and install parking, directional, parking informational, parking branding, parking promotional, and way-finding signage within the Parking Management District, so long as such signage conforms with all applicable governmental regulations, including City ordinances and regulations.

*D. Personnel.* The DIB shall have the authority and responsibility to employ personnel and or contract with third Parties to perform management activities under this Agreement in the Parking Management District. All personnel and contractors shall comply with applicable City ordinances and state laws and regulations. The DIB shall also employ a full-time parking manager and such other personnel as it deems appropriate to oversee the Parking Management District. All overhead or operating expenses related to such employees, personnel, and ~~for~~ contractors shall be charges against the parking enterprise fund described below.

*E. Parking Enforcement.* As permitted under state law, the DIB will be authorized by the City to employ third Party contractors to provide personnel that meet all state statutory and City ordinance requirements for the carrying out of parking enforcement duties, including for loading zone, taxi zone, and handicapped parking violations. All costs associated with the selection, employment, and supervision of said third Party contractors may, within the DIB's sole discretion, be an authorized expense paid from the Fund.

*F. Cleaning and Maintenance.* The DIB will be responsible for providing litter control, cleaning, and day-to-day maintenance services in the off-street Parking Facilities covered under this Agreement. Such activities may, within the DIB's sole discretion, be an authorized expense paid from the Fund.

G. *Security.* The DIB will be responsible for the development and implementation of a Parking Management District security plan for the off-street Parking Facilities covered under this Agreement. Such activities may, within the DIB's sole discretion, be an authorized expense paid from the Fund.

H. *ADA Compliance.* The Parties recognize and agree that certain special events such as festivals, concerts, and other public functions must provide accessible Parking Facilities for disabled citizens. Subject to Section 5.B.(3), the DIB shall be responsible for such Parking Facilities on behalf of the City and CRA as required by the Americans with Disabilities Act (ADA) and Chapter 11 of the Florida Building Code. The DIB shall regularly consult with and receive approval of the City ADA Coordinator to ensure compliance with all applicable regulations and city policies governing accessible Parking Facilities. Such activities may, within the DIB's sole discretion, be an authorized expense paid from the Fund.

I. Each year the DIB shall prepare a written and thorough annual report to the City including the following:

- a) A status report on the state of the Parking Facilities;
- b) a statement of significant changes in the Parking Facilities since the prior annual report;
- c) a report on the detectable trends in use of the Parking Facilities since the prior annual report;
- d) a statement of projected changes in the Parking Facilities for the upcoming year;
- e) a statement of all new costs or expenditures incurred by the DIB hereunder since the prior annual report; and
- f) such other information as the City may reasonably request in writing to be included in subsequent annual reports.

7. **PARKING ENTERPRISE FUND CREATION:** The City shall cause to be created a parking enterprise fund to carry out the

purposes of this Agreement (hereinafter referred to as the "Fund").

8. **FUND OPERATION:** The Fund, including those activities as further described as responsibilities of the DIB, shall be managed by the DIB subject to the terms and conditions of this Agreement.

A. The Fund shall be separately maintained by the DIB, and not commingled with any other accounts of the City, the CRA, or of the DIB. All revenues derived by the CRA, City, or the DIB from the Parking Facilities within the Parking Management District shall be promptly deposited to and reported as revenue of the Fund, including but not limited to parking rental payments, parking fines collected, funds from parking citations, parking meter collections, penalty enforcement revenue, penalties and interest for late payments, interest earned from the Fund itself, pay and display receipts, pay-station receipts, hourly charges for the use of parking garages or surface lots, special event parking receipts, franchise fees, promotional fees, monthly lease payments, validation receipts, advertising revenue, insurance recoveries, public or private grant funds received for the Parking Facilities, bond revenue, or other financing proceeds for Parking Facilities, proceeds from any sale, lease, liquidation, or other conversion of Parking Facilities, and all other revenue or income derived from or attributable to the Parking Facilities in the Parking Management District. The City itself or on behalf of the CRA may inspect the books of the Fund at any time during normal business hours in the offices of the DIB with reasonable notice given in advance to the DIB.

B. All direct expenses incurred by the DIB or by the City in connection with performance of this Agreement shall be paid solely from the Fund.

C. The Fund and all of its net revenue shall be totally earmarked, expended, and restricted for use in performance of the Parties' obligations hereunder.

D. Each fiscal year the DIB shall prepare and submit to the City Council, along with its annual DIB budget, a budget for the Parking Management District and Parking Facilities. In addition, the DIB shall include in its regular annual audit, an audit of the Fund reflecting

such details as the City and DIB auditor may mutually determine to be reasonable.

9. **FUND MANAGEMENT:** The DIB shall manage the Fund and begin depositing all related revenues into it on the Transition Date.

A. The DIB and City will work cooperatively with each other to collect all payments, inclusive of fines, interest, and penalties from parking fines and citations in the same manner as currently collected by the CRA or City and shall daily deposit such funds into the Fund. Within five (5) business days of the end of each calendar month, each party shall provide an accounting to the other party, including such information as the other party reasonably requests, including a detailed listing of outstanding citations, citations paid, the amounts paid, and the dates paid.

B. No offsets, forgiveness, reductions, abatements, or withdrawal of fines assessed, or parking citations issued will occur except by rulings of the courts having such authority and jurisdiction over such matters or by the DIB Traffic & Parking Committee or other committee formed by the DIB and charged with administering fines or citations.

C. The Fund and revenues related thereto may be pledged by the DIB to procure financing for capital expenditures or other projects related to City Parking Facilities within the Parking Management District provided capital expenditure or project must be exclusively for the performance of the parties' obligations hereunder; and (iii) the capital expenditure or project must be approved by both the City and the DIB. All costs or expenses related to procuring such financing shall be paid from the Fund.

10. **JEFFERSON STREET PARKING GARAGE:** The Jefferson Street Parking Garage is owned by the City but managed by the CRA. Prior to November 30, 2007, the DIB may engage an engineering firm acceptable to the DIB and the City, having significant experience in designing, altering, or retrofitting public parking garages to evaluate the structural condition of the Jefferson Street parking garage and to suggest corrective actions for any structural or other deficiencies found. The City or the City's Community Redevelopment Agency ("CRA") shall advance the costs of such study and such advance shall be repaid

to the City or CRA from the Fund in accordance with the annual budget for the Fund.

A. During such time as such engineering studies are being conducted, the DIB shall have responsibility for maintenance, security, management, and operation of the Jefferson Street parking garage and shall deposit all receipts and revenues generated from such operation to the Fund as provided in Section 8 above. Upon completion of the engineering studies, the DIB and the CRA on behalf of the City shall jointly determine if, when, and how the Jefferson Street parking garage will be restored. Any and all costs incurred in the restoration shall be paid by the City or CRA, which shall be repaid from the Fund in accordance with the annual budget for the Fund. Failure by the Parties to reach agreement on restoration within one hundred and eighty (180) days after completion of such engineering studies shall result in the garage being excluded from this Agreement as a Parking Facility.

B. In overseeing this facility, the DIB shall exclusively provide for the operation, maintenance, and security of the garage's elevators. In addition, the two (2) waste dumpster enclosures at the garage shall be maintained by the DIB and a protocol for their use by adjacent businesses shall be established by the DIB in its reasonable discretion.

C. In the event that the CRA elects to redevelop the Jefferson Street parking garage property during the term of this Agreement, investments from the Fund made in the existing garage facility by the Fund shall be reasonably compensated by the CRA from CRA monies.

11. **EQUIPMENT AND SUPPLY INVENTORY:** On or before October 1, 2007, the City will provide to the DIB a complete detailed inventory of all City parking control or revenue equipment, parking meters, parking signage, parking directions or instructions signage, signage hardware, parking maintenance, surface sealing, painting, and striping equipment, tools, and supplies, which are in its possession, together with an itemization of the type, amount, working condition, and inventory control numbers, if any, of each item or part located in the City's warehouses or storage.

A. For a period of three (3) years from the date of this Agreement, or until such time as the DIB is able to provide

secure storage, whichever occurs first, the DIB may house and store at the DIB's sole risk such inventory on City or CRA property at no additional cost or charge to the DIB or the Fund.

B. The DIB shall have exclusive use of the storage space located under the first floor ramp of the Jefferson Street parking garage throughout the duration of this Agreement.

C. Provided, however, that the DIB assumes the full risk of and liability for such items stored in the Jefferson Street Parking Garage or at any other City or CRA warehouse or storage area and hereby acknowledges that neither the City nor the CRA bears any responsibility for an item lost, broken, stolen, destroyed, or otherwise damaged or misplaced as the result of the DIB using such storage spaces. In addition, the DIB accepts this storage space "as is" and shall be responsible for any improvements made to any storage area. The DIB shall be responsible for obtaining contents insurance coverages for its equipment and supply inventory.

12. **ASSIGNMENT AND ASSUMPTION OF PARKING CONTRACTS:** On or before November 1, 2007, the CRA and the City shall provide to the DIB a detailed list of all contracts between themselves and third Parties for the operation, management, leasing, rental, meter collection, security and/or maintenance of Parking Facilities (hereinafter referred to as "Contracts"), together with such other applicable information as may be reasonably requested by the DIB, including but not limited to termination dates, charges or fees imposed or collected, operating expenses, renewal options, deposits held or paid, and any other information as may be reasonably required to enable the DIB to assume responsibility for such Contracts. Upon request, the City and the CRA shall also provide the DIB with copies of any such Contracts.

On or before December 31, 2007, the City or the CRA shall assign to the DIB, and the DIB shall assume and accept responsibility for all Contracts.

13. **FISCAL MATTERS:** On or before November 1, 2007, the City and the CRA shall provide to the DIB a detailed statement of account and other financial information reasonably requested, reflecting the income and expenses experienced by them in the management of their Parking Facilities for the most recent

fiscal year and through the most recent date such information is available.

14. **INSURANCE:** The City shall continue to maintain casualty insurance with respect to the Parking Facilities at its expense, which shall not be a charge against the Fund, in such amounts and with such carriers as the City may from time to time determine. Any and all casualty insurance coverages shall be paid to the Fund. The following insurance coverages shall be required for this Agreement:

A. Before starting and until termination of this Agreement, the DIB shall procure and maintain insurance of the types and to the limits specified.

The term "City" as used in this section of the Agreement is defined to mean the City of Pensacola itself, any subsidiaries or affiliates, including the Community Redevelopment Agency, their elected and appointed officials, employees, volunteers, representatives and agents.

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

B. DIB and the City understand and agree that the minimum limits and type of insurance herein required may become inadequate, and DIB agrees that it will increase such coverage or Limits of Liability to commercially reasonable levels within ninety (90) days upon receipt of notice in writing from the City.

1. WORKER'S COMPENSATION

The DIB shall purchase and maintain Worker's Compensation Insurance Coverage for all Workers' Compensation obligations whether legally required or not. Additionally, the policy, or separately obtained policy, must include Employers Liability Coverage of at least \$100,000 each person - accident, \$100,000 each person - disease, \$500,000 aggregate - disease.

2. COMMERCIAL GENERAL, AUTOMOBILE, GARAGE KEEPERS LIABILITY AND UMBRELLA LIABILITY COVERAGES

The DIB shall purchase coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies filed by the Insurance Services Office. The City shall not be considered liable for premium payment, entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of \$1,000,000 per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required. The minimum limits for Garagekeeper's Legal Liability Insurance Coverage shall be \$500,000 each occurrence, \$1,000,000 aggregate. The City and the CRA must be listed as an additional insured.

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. The coverage shall be written on occurrence-type basis. Fire Legal Liability coverage with minimum limits of \$100,000 per occurrence must be endorsed on to this coverage.

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.

Garagekeeper's Legal Liability Insurance coverage must be provided on a comprehensive basis for property damage to any auto.

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.

### 3. CERTIFICATES OF INSURANCE

Required insurance shall be documented in Certificates of Insurance that provide that each party shall be notified at least thirty (30) days in advance of cancellation, nonrenewal or adverse change or restriction in coverage. The City of Pensacola and

the CRA shall be named on each Certificate as an Additional Insured and this Agreement shall be listed. If required either party shall furnish copies of such party's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by the City an ACORD 25. Any wording in a Certificate which would make notification of cancellation, adverse change or restriction in coverage to the City an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent or employee. Each party shall replace any cancelled, adversely changed, restricted or non-renewed policies with new policies acceptable to the other party 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 DIB shall, upon instructions of the City, cease all operations under the Agreement until directed by the City, in writing, to resume operations. The "Certificate Holder" address should read: City of Pensacola, Department of Risk Management, and Post Office Box 12910, Pensacola, FL 32521.

#### 4. INSURANCE OF THE DIB PRIMARY

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

#### C. LOSS CONTROL AND SAFETY

The DIB 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 DIB shall not be deemed to be an agent of the City. Precaution shall be exercised at all times by the DIB for the protection of all persons, including employees, and property. The DIB shall make special effort to detect hazards and shall take prompt

action where loss control/safety measures should reasonably be expected.

15. **TERM/TERMINATION:**

- A. This Agreement shall remain in place until terminated.
- B. Notwithstanding paragraph (A) above, after the fifth annual anniversary of the initial term, the City may upon the affirmative vote of City Council, terminate this Agreement without cause upon one hundred and twenty (120) days prior written notice to the DIB.
- C. This Agreement may be terminated at any time by mutual agreement of the parties.
- D. In addition, either party may terminate this Agreement upon ninety (90) days advance written notice to the other, if such noticed party has committed a material breach of the terms hereof provided such noticed party has not within such ninety (90) days undertaken reasonable measures (within the reasonable discretion of the notifying party) to cure such breach, provided such noticed party thereafter diligently pursues completion of such measures.
- E. Upon any expiration or termination of this Agreement, (i) except in the case of termination by the City under Paragraph D above based on DIB's default, the City shall reimburse to DIB any and all documented expenditures incurred by DIB hereunder which have not been previously reimbursed to DIB from the Fund, together with interest thereon, from the dates incurred until paid, at the Federal Funds Rate (currently 4.71%) as promulgated by the U.S. Government, as of the dates incurred until paid; (ii) the City shall assume, pay, and discharge in full all obligations of the DIB under then existing contracts, leases, financing facilities, employment agreements, service agreements,

maintenance agreements, professional service agreements, employee benefits arrangements, and any and all other obligations or commitments made, entered into, or agreed to or binding upon DIB, or for which it has become liable in connection with its performance hereunder, and shall to the extent permitted by law, and only after written notice to the City, indemnify, defend, and hold DIB, and its board members, officers, employees, and agents harmless from and against the same; and (iii) the Fund, the Parking Facilities, and all revenues and expenses incident thereto, and the control and obligations thereof shall revert to the City.

16. **MISCELLANEOUS**: This Agreement shall also be governed by the following provisions:

A. *Choice of Law.* This Agreement shall be construed under and in accordance with the laws of Florida and the Parties stipulate that venue shall be in Pensacola, Florida for any matter which is the subject of this Agreement.

B. *Effective Date.* This Agreement shall become effective when filed in the office of Clerk of the Circuit Court of Escambia County, Florida, and the City shall be responsible for such filing.

C. *Waiver.* No waiver of any provision or default hereof shall affect the right on any Party thereafter to later enforce such provision or to exercise any right or remedy available to it in the event of a later default.

D. *Liability.* The Parties hereto, their respective elected officials, officers, and employees shall not be deemed to assume any liability for the acts, omissions, or negligence of the other Party. The City, the CRA, and the DIB as local governmental bodies of the State of Florida as defined in Section 768.28, Florida Statutes, agree to be fully responsible for their individual negligent acts or omissions which result in claims or suits against their jurisdictions and agree to be fully liable for any damages proximately caused by said acts or omissions. No Party shall at any time be responsible for negligent acts of the other Party. Nothing herein is intended to serve as a waiver of sovereign immunity by any Party and nothing

herein shall be construed as consent by the Parties to be sued by third Parties in any matter arising out of this Agreement. This Agreement shall not be amended except by written agreement of the Parties hereto.

*E. No third Party beneficiaries.* There are no intended third Party beneficiaries to this Agreement and only the Parties hereto may enforce its terms.

*F. Records.* The Parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event a Party fails to abide by the provisions of Chapter 119, Florida Statutes, the other Party may, without prejudice to any right or remedy and after giving that Party seven (7) days written notice, during which period the Party fails to allow access to such documents, terminate this Agreement.

*G. Assignment.* This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by the Parties, without the prior written consent of the other Party, except that the DIB may contract with such persons or subcontractors as DIB deems appropriate in its sole discretion to perform DIB's obligations hereunder.

*H. All Prior Agreements Superseded.*

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

2. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained

in a written document executed with the same formality and of equal dignity herewith.

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

*J. Survival.* All other provisions which, by their inherent character, sense, and context, are intended to survive termination of this Agreement shall survive it.

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

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

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

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

*M. Further Documents.* The Parties shall execute and deliver all documents and perform further actions that may

be reasonably necessary to effectuate the provisions of this Agreement.

N. Notices. All notices required by the Agreement to be given by one Party to the other shall be effective only when sent in writing, either hand delivered or mailed by registered or certified mail, return receipt requested, addressed as follows:

**To Downtown Improvement Board:**

Franklin D. Kimbrough  
Executive Director  
41 N. Jefferson St.  
Suite 401  
Pensacola, FL 32502

**To City of Pensacola:**

Thomas J. Bonfield  
City Manager  
P.O. Box 12910  
Pensacola, Florida 32521

IN WITNESS WHEREOF, the Parties hereto have executed this Interlocal Agreement effective the first date written above.

**CITY OF PENSACOLA**, a municipal corporation of the State of Florida

By: *Thomas J. Bonfield*  
Thomas J. Bonfield  
City Manager

ATTEST:

By: *Ericka L. Burnett*  
Ericka L. Burnett, City Clerk

**PENSACOLA DOWNTOWN IMPROVEMENT BOARD**, a public body, corporate and politic of the State of Florida

By: *Franklin D. Kimbrough*  
Franklin D. Kimbrough  
Executive Director

Witnesses:

*Daniel R. Lozier*  
Signature

Daniel R. Lozier  
Print

*Ashley Hamlin*  
Signature

Ashley Hamlin  
Print

Approved as to Form and Execution:

*M.C. Godwin, A.C.A.*  
City Attorney