



City of Pensacola

City Council

Agenda - Final

Thursday, February 9, 2017, 5:30 PM

Council Chambers, 1st Floor

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

FIRST LEROY BOYD FORUM

(Public comment upon any subject not on the agenda unless waived by a majority of the existing membership of Council.)

REGULAR AGENDA

1. [16-00329](#) APPOINTMENT - PLANNING BOARD

Recommendation: That City Council appoint an individual who is a resident of the city or owner of property in the city, to the Planning Board to fill the unexpired term of Taylor “Chips” Kirschenfeld, expiring July 14, 2017.

Sponsors: Brian Spencer

Attachments: [Member List Planning Board.pdf](#)
[Nomination Form Jared Moore.pdf](#)
[Application of Interest Jared Moore.pdf](#)
[Nomination Form Melanie Nichols.pdf](#)
[Application of Interest Melanie Nichols.pdf](#)
[Ballot Planning Board.docx](#)
[TABULATION OF BALLOTS](#)

AWARDS

PRESENTATION

2. [16-00336](#) PRESENTATION BY QUINT STUDER REGARDING PRE-K LEARNING
- Recommendation:** That City Council allow a presentation by Quint Studer discussing Pre-K Learning and that this presentation be scheduled for the Regular City Council Meeting on February 9, 2017.
- Sponsors:** Brian Spencer
- Attachments:** [INFORMATIONAL HAND-OUT FROM MR. STUDER](#)

APPROVAL OF MINUTES

3. [17-00116](#) REGULAR MINUTES DATED JANUARY 12, 2017
- Attachments:** [Draft Minutes: 1/12/17](#)

APPROVAL OF AGENDA

CONSENT AGENDA

4. [16-00300](#) AWARD OF CONTRACT - RFQ NO. 16-039 - FERRY LANDING CONSTRUCTION ENGINEERING INSPECTION (CEI) SERVICES
- Recommendation:** That City Council award a contract for RFQ No. 16-039 Ferry Landing Construction Engineering Inspection (CEI) Services for the Pensacola Bay Ferry Project to Mott Macdonald Engineering. Further, that Council authorize the Mayor to execute all contracts and related documents and take all related actions necessary to complete the CEI requirements of the ferry project.
- Sponsors:** Ashton J. Hayward, III
- Attachments:** [Fee Proposal](#)
[Tabulation Sheet](#)
[Oral Presentations Ranking Matrix](#)
[Final Vendor Reference](#)
5. [17-00023](#) UNDERGROUND UTILITY EASEMENT FOR THE BILL GREGORY PARK REGIONAL STORMWATER TREATMENT FACILITY PROJECT
- Recommendation:** That City Council approve granting a permanent underground utility easement to the Emerald Coast Utility Authority (ECUA) on the Bill Gregory Park property located at 120 North W Street.
- Sponsors:** Ashton J. Hayward, III
- Attachments:** [Utility Easement Agreement](#)

6. [17-00052](#) PENSACOLA ENERGY - AWARD OF BID #17-011, NATURAL GAS PIPELINE CONSTRUCTION WEST PENSACOLA LOW PRESSURE AREA UPGRADES

Recommendation: That City Council award Bid #17-011 Natural Gas Pipeline Construction to R.A.W. Construction, LLC., the lowest and most responsible bidder in the amount of \$1,986,875 for seven (7) natural gas infrastructure replacement projects, \$169,200 for the miscellaneous work option as outlined in the bid specifications plus a 10% contingency of \$215,608 for a total amount of \$2,371,683 for a period of one year. Further, that Council authorize the Mayor to execute a contract and take all actions necessary to complete the project.

Sponsors: Ashton J. Hayward, III

Attachments: [Bid Tabulation - Bid No. 17-011](#)
[Final Vendor Reference List - Bid No. 17-011](#)

REGULAR AGENDA

7. [17-00059](#) QUASI-JUDICIAL HEARING: REVIEW OF ARCHITECTURAL REVIEW BOARD DECISION - 165 E. INTENDENCIA STREET, PALAFOX HISTORIC BUSINESS DISTRICT, C-2, SIGNAGE.

Recommendation: That City Council conduct a Quasi-Judicial hearing to review Architectural Review Board decisions of November 17, 2016 regarding 165 E. Intendencia Street (YMCA), Palafox Historic Business District, C-2, Signage.

Sponsors: Brian Spencer

Attachments: [ARB Minutes 11.17.16 -- YMCA Appeal](#)
[Sec. 12 13 3. Architectural review board.](#)
[Sec. 12 2 21. Palafox historic business district.](#)
[BRIEFING FROM CITY ATTORNEY.pdf](#)
[PROOF OF PUBLICATION QUASI-JUDICIAL HRG.pdf](#)
[Applicant's Exhibit 1: Kramer Litvak's Memorandum of Law](#)
[Applicant's Exhibit 2: Presentation of Slides - Kramer Litvak on behalf of ap](#)
[Applicant's Exhibit 3: 11/17/16 Planning Board Minutes](#)

8. [16-00362](#) PUBLIC HEARING -- AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT, (A)(4) PROCEDURE FOR REVIEW

Recommendation: That City Council conduct the second of two Public Hearings on February 9, 2017, proposing an amendment to the Land Development Code, Section 12-2-10 - Historic & Preservation Land Use District, (A)(4) Procedure for Review, by adding subsection (f) allowing for Conceptual review and approval.

Sponsors: Brian Spencer

Attachments: [9-15-16 ARB Minutes](#)
[Proposed Language to 12-2-10\(A\)\(4\)\(f\)](#)
[PROOF OF PUBLICATION](#)
[PROOF OF PUBLICATION_PUBLIC HRGS.pdf](#)

9. [05-17](#) PROPOSED ORDINANCE NO. 05-17 - AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT, (A)(4) PROCEDURE FOR REVIEW

Recommendation: That City Council approve proposed Ordinance No. 05-17 on second reading.

AN ORDINANCE AMENDING SECTION 12-2-10 (A) (4) (f) OF THE CODE OF THE CITY OF PENSACOLA; AMENDING THE LAND DEVELOPMENT CODE, HISTORIC & PRESERVATION LAND USE DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Sponsors: Brian Spencer

Attachments: [Proposed Ordinance No. 05-17](#)

10. [16-00315](#) PUBLIC HEARING: PROPOSED AMENDMENT TO SECTION 12-2-8 (B) (1) OF THE LAND DEVELOPMENT CODE - ADDITION OF MEDICAL MARIJUANA DISPENSARY

Recommendation: That City Council conduct the second of two public hearings on February 9, 2017 to consider an amendment to the Land Development Code, Section 12-2-8 (B)(1), Commercial land use district, to add “Medical Marijuana Dispensary” under the uses permitted section.

Sponsors: Andy Terhaar

Attachments: [Sec 12 2 8 Medical Marijuana Commercial land use district \(002\)rev 10-11-16 - Planning Board Minutes - Medical Marijuana PROOF OF PUBLICATION PROOF OF PUBLICATION_PUBLIC HRGS.pdf](#)

11. [06-17](#) PROPOSED ORDINANCE NO. 06-17 - PROPOSED AMENDMENT TO SECTION 12-2-8 (B) (1) OF THE LAND DEVELOPMENT CODE - ADDITION OF MEDICAL MARIJUANA DISPENSARY

Recommendation: That City Council approve Proposed Ordinance No. 06-17 on second reading.

AN ORDINANCE AMENDING SECTION 12-2-8 (B) (1) OF THE CODE OF THE CITY OF PENSACOLA; AMENDING THE LAND DEVELOPMENT CODE, ADDITION OF MEDICAL MARIJUANA DISPENSARY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE

Sponsors: Andy Terhaar

Attachments: [Proposed Ordinance No. 06-17](#)

12. [16-00357](#) PUBLIC HEARING - PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE- SECTION 12-14-1 DEFINITIONS- BUILDING HEIGHT.

Recommendation: That City Council conduct a public hearing on February 9, 2017 to consider a proposed amendment to Section 12-14-1 of the City’s Land Development Code pertaining to the definition of “Building Height”.

Sponsors: Ashton J. Hayward, III

Attachments: [Proposed Ordinance December 13, 2016 Planning Board Minutes PROOF OF PUBLICATION_PUBLIC HRG.pdf](#)

13. [07-17](#) PROPOSED ORDINANCE NO. 07-17 - PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-14-1 DEFINITIONS - BUILDING HEIGHT

Recommendation: That City Council adopt Proposed Ordinance No. 07-17 on second reading.

AN ORDINANCE AMENDING SECTION 12-14-1 DEFINITIONS OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

Sponsors: Ashton J. Hayward, III

Attachments: [Proposed Ordinance No. 07-17](#)

14. [17-00095](#) RESOLUTION OF COUNCIL'S EXPRESSION OF CONFIDENCE IN POLICE CHIEF DAVID ALEXANDER, III

Recommendation: That City Council adopt a resolution expressing the Council's confidence in Police Chief David Alexander, III.

Sponsors: Sherri Myers

Attachments: [RESOLUTION - Council's expression of confidence in Chief David Alexander, III](#)

15. [17-11](#) RESOLUTION 17-11 - CITY COUNCIL'S EXPRESSION OF CONFIDENCE IN POLICE CHIEF DAVID ALEXANDER, III

Recommendation: That City Council Adopt Resolution No. 17-11.

Sponsors: Sherri Myers

Attachments: [RESOLUTION - Council's expression of confidence in Chief David Alexander, III](#)

16. [17-00086](#) TREE REPLACEMENT AND REFORESTATION ALONG THE 12TH AVE TREE CANOPY

Recommendation: That City Council authorize the use of \$10,000 from the Tree Trust Fund for the replacement and reforestation of trees along the 12th Ave Tree Canopy with specific planting locations to be determined by the Environmental Advisory Board in conjunction with the Parks and Recreation Department as well as the arborist used by the city and authorize the Mayor to take the necessary action(s) to facilitate this authorization.

Sponsors: Sherri Myers

17. [17-12](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 17-12 - TREE REPLACEMENT AND REFORESTATION ALONG THE 12TH AVENUE TREE CANOPY

Recommendation: That City Council adopt Supplemental Budget Resolution No. 17-12.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Sherri Myers

Attachments: [Supplemental Budget Resolution No. 17-12](#)
[Supplemental Budget Resolution No. 17-12 Explanation](#)

18. [17-00019](#) AMENDMENT TO CITY POLICY FOR DISPOSITION OF CITY OWNED REAL PROPERTY

Recommendation: That City Council amend the policy for the Disposition of City Owned Real Property to include disbursement directly to the City Housing Division for use in the Lot Purchase Program and to adopt Lot Purchase Program guidelines.

Sponsors: Gerald Wingate

Attachments: [Property Disposition Policy](#)
[Lot Purchase program Guidelines FINAL](#)
[Revised Policy for Disposition of City Owned Real Property](#)

19. [17-13](#) RESOLUTION NO. 17-13 AMENDING CITY POLICY FOR THE DISPOSITION OF CITY OWNED REAL PROPERTY

Recommendation: That City Council adopt Resolution No. 17-13.

Sponsors: Gerald Wingate

Attachments: [Resolution 17-13 - Policy- Dispositon of City Owned Real Property](#)

20. [17-09](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 17-09 - EMERGENCY WATERSHED PROTECTION PROGRAM MEASURES - TA

Recommendation: That City Council adopt Supplemental Budget Resolution No. 17-09.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Ashton J. Hayward, III

Attachments: [Supplemental Budget Resolution No. 17-09](#)
[Supplemental Budget Explanation](#)
[Council Memo NRCS Grant 4-14-16](#)

21. [17-00099](#) INVOCATION POLICY

Recommendation: That City Council adopt a resolution establishing an Invocation Policy.

Sponsors: Brian Spencer

Attachments: [Invocation Resolution 2.9.17](#)

22. [17-14](#) RESOLUTION NO. 17-14 - INVOCATION POLICY

Recommendation: That City Council adopt Resolution No. 17-14.

Sponsors: Brian Spencer

Attachments: [Invocation Resolution No. 17-14](#)

23. [17-00018](#) AWARD OF CONTRACT - BID #17-010 EMERGENCY WATERSHED PROTECTION PROGRAM BAYWOODS GULLY WEST - PHASE II PROJECT

Recommendation: That City Council award a contract for construction of Emergency Watershed Protection Program Baywoods Gully West Phase II Project to BKW, Inc., of Pensacola, Florida, the lowest and most responsible bidder with a base bid of \$967,125.89, plus additive alternate #1 of \$13,464.50, plus a 10% contingency of \$98,059.04 for a total amount of \$1,078,649.43.

Sponsors: Ashton J. Hayward, III

Attachments: [Bid Tabulation, Bid No. 17-010](#)
[Final Vendor Reference List, Bid No. 17-010](#)
[EWP Baywoods Gully West Phase II Project Map](#)
[Report of City Council Action Items NRCS Grant 4-14-16](#)

24. [03-17](#) PROPOSED ORDINANCE NO. 03-17 - AMENDMENT TO SECTION 3-1-13, COUNCIL RESERVE (GENERAL FUND) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA

Recommendation: That City Council approve Proposed Ordinance No. 03-17 on second reading.

AN ORDINANCE AMENDING SECTION 3-1-13 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE COUNCIL RESERVE POLICY (GENERAL FUND); SEVERABILITY CLAUSE; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Ashton J. Hayward, III

Attachments: [Proposed Ordinance No. 03-17](#)

25. [17-00105](#) REQUEST FOR LEGAL OPINION - RECONSTRUCTION OF NONCONFORMING STRUCTURES AT 1812 AND 1814 E. LAKEVIEW

Recommendation: That City Council request a legal opinion from the City Attorney, regarding reconstruction of nonconforming structures at 1812 and 1814 E. Lakeview Avenue.

Sponsors: Brian Spencer

Attachments: [1812-1814 E. Lakeview](#)
[1812 E Lakeview July 26,2007](#)
[1812 E Lakeview E3AD7](#)
[F-2 NON-CONFORMING #1 - 1812 & 1814 E. Lakeview LAKEVIEW FLOOR PLANS \(1\)](#)
[LAKEVIEW FRONT ELEVATIONS](#)
[LAKEVIEW SIDE ELEVATIONS](#)
[EMAIL FROM CITY ATTORNEY LAKEVIEW AVENUE.pdf](#)

26. [17-00049](#) FY 2017 STREET REHABILITATION - INTERLOCAL AGREEMENT WITH ESCAMBIA COUNTY

Recommendation: That City Council authorize the Mayor to take all necessary action to execute an Interlocal Agreement with Escambia County to facilitate the re-paving of certain streets on the border of the City/County Limits.

Sponsors: Ashton J. Hayward, III

Attachments: [Interlocation agreement between Escambia County Board of County Commi](#)

27. [17-00056](#) INTERLOCAL AGREEMENT - PENSACOLA-ESCAMBIA COUNTY PROMOTION AND DEVELOPMENT COMMISSION

Recommendation: That City Council approve and authorize the Mayor to execute the Interlocal Agreement between the City and Escambia County related to the funding of the Pensacola-Escambia County Promotion and Development Commission (PEDC) for FY 2017.

Sponsors: Ashton J. Hayward, III

Attachments: [Draft Interlocal Agreement](#)

28. [17-10](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 17-10 - REPLACEMENT OF DAMAGED VEHICLES - SANITATION SERVICES

Recommendation: That City Council adopt Supplemental Budget Resolution No. 17-10.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Ashton J. Hayward, III

Attachments: [Supplemental Budget Resolution No. 17-10](#)

[Supplemental Budget Explanation](#)

29. [01-17](#) PROPOSED ORDINANCE NO. 01-17 - AMENDMENT TO SECTION 3 OF ORDINANCE NO. 23-15, GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION (EDATE) TO REAL PROPERTY AT 101 E. ROMANA STREET AND TANGIBLE PROPERTY FOR DAILY CONVO, LLC.

Recommendation: That City Council adopt Proposed Ordinance No. 01-17 on second reading.

AN ORDINANCE AMENDING ORDINANCE NO. 23-15, GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION FOR CERTAIN IMPROVEMENTS TO REAL PROPERTY LOCATED AT 101 EAST ROMANA STREET AND TANGIBLE PROPERTY FOR DAILY CONVO, LLC; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

Sponsors: P.C. Wu

Attachments: [Daily Convo – Proposed Ordinance No. 01-17](#)

[Ordinance 23-15](#)

[PROOF OF PUBLICATION P.O. 01-17.pdf](#)

30. [17-15](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 17-15 - LOST IV FIRE APPARATUS PURCHASE

Recommendation: That City Council adopt Supplemental Budget Resolution No. 17-15.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Ashton J. Hayward, III

Attachments: [Supplemental Budget Resolution No. 17-15](#)
[Supplemental Budget Explanation](#)

31. [17-00112](#) RESOLUTION IN SUPPORT OF ESCAMBIA COUNTY'S EFFORTS TO ENSURE TRIUMPH GULF COAST FUNDS COME TO THE EIGHT DISPROPORTIONATELY AFFECTED COUNTIES IN NORTHWEST FLORIDA

Recommendation: That City Council adopt a resolution supporting Escambia County's efforts to ensure Triumph Gulf Coast funds come to the eight disproportionately affected counties in Northwest Florida.

Sponsors: Sherri Myers

Attachments: [RESOLUTION -Support of Escambia County's efforts regarding Triumph G](#)

32. [17-16](#) RESOLUTION NO. 17-16 - IN SUPPORT OF ESCAMBIA COUNTY'S EFFORTS TO ENSURE TRIUMPH GULF COAST FUNDS COME TO THE EIGHT DISPROPORTIONATELY AFFECTED COUNTIES IN NORTHWEST FLORIDA

Recommendation: That City Council adopt Resolution No. 17-16.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, IN SUPPORT OF ESCAMBIA COUNTY FLORIDA'S EFFORTS TO ENSURE TRIUMPH GULF COAST FUNDS COME TO THE EIGHT DISPROPORTIONATELY AFFECTED COUNTIES IN NORTHWEST FLORIDA

Attachments: [RESOLUTION -Support of Escambia County's efforts regarding Triumph G](#)

DISCUSSION

COUNCIL EXECUTIVE'S REPORT

MAYOR'S COMMUNICATION

COUNCIL COMMUNICATIONS

CIVIC ANNOUNCEMENTS

SECOND LEROY BOYD FORUM

(Public comment upon any subject not on the agenda unless waived by a majority of the existing membership of Council.)

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.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 16-00329

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Brian Spencer

SUBJECT:

Appointment - Planning Board

RECOMMENDATION:

That City Council appoint an individual who is a resident of the city or owner of property in the city, to the Planning Board to fill the unexpired term of Taylor "Chips" Kirschenfeld, expiring July 14, 2017.

AGENDA: Regular

HEARING REQUIRED: No Hearing Required

SUMMARY:

This Board advises the City Council concerning the preparation, adoption, and amendment of the Comprehensive Plan; reviews and recommends to Council ordinances designed to promote orderly development as set forth in the Comprehensive Plan; hears applications and submits recommendations to Council on the following land use matters: proposed zoning changes, proposed amendments to zoning ordinance, proposed subdivision plats, proposed street/alley vacations. The Board initiates studies on the location, condition, and adequacy of specific facilities of the area, i.e., housing, parks, and public buildings. The Board schedules and conducts public meetings and hearings pertaining to land development.

The following individuals have been nominated:

Nominee

Jared Moore
Melanie Nichols

Nominated By

Johnson
Myers

PRIOR ACTION:

City Council appoints members to the Planning Board on a biennial basis.

FUNDING:

Budget: \$ N/A

Actual: \$ N/A

FINANCIAL IMPACT:

None.

STAFF CONTACT:

Ericka L. Burnett, City Clerk

ATTACHMENTS:

- 1) Member List
- 2) Nomination Forms and Applications of Interest
- 3) Ballot

PRESENTATION: No

Planning Board

Name	Profession	Appointed By	No. of Terms	Year	Exp Date	First Appointed	Term Length	Comments
Campbell, Nina H.		Council	2	2016	07/14/2017	06/23/2011	2	Planning Board Rep. appt to ARB
Grundhoefer, Danny	Architect	Council	2	2016	07/14/2017	05/12/2016	2	appointed as Licensed Architect Member filling unexp. Term of Scott Sallis
Kirschenfeld, Taylor ("Chips")	Environmental	Council	3	2016	07/14/2017	06/25/2009	2	
Larson, Kurt	Fire prevention	Council	2	2016	07/14/2017	06/23/2011	2	
Monk, Nathan	Clergy	Council	0	2016	07/14/2017	05/14/2015	2	filled unexpired term of Bradley "Beej" Davis
Owens, Kyle	Lighting Design	Council	1	2016	07/14/2017	08/28/2014	2	filled unexpired term of David Collins
Ritz, Paul	Architect	Council	6	2016	07/14/2017	06/23/2005	2	2011 appointed as regular member not Architect

Term Length: TWO YEAR TERMS

COMPOSED OF SEVEN (7) MEMBERS APPOINTED BY CITY COUNCIL . ONE APPOINTEE SHALL BE A LICENSED FLORIDA ARCHITECT. ALL MEMBERS SHALL BE RESIDENTS OR PROPERTY OWNERS OF THE CITY.

CITY OF PENSACOLA, FLORIDA

NOMINATION FORM

I, Larry B. Johnson, do nominate Jared Moore
(Nominee)

2120 Fleance Dr (03) _____
(Home Address) (Phone)

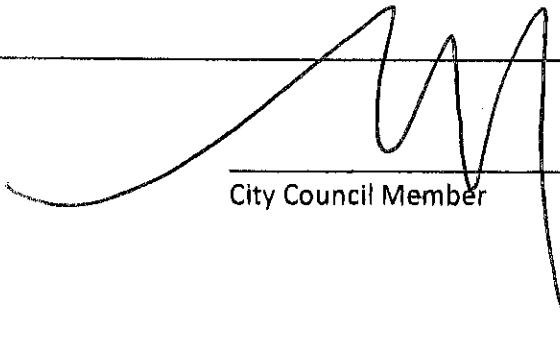
1945 E. Roberts Rd (34) _____
(Business Address) (Phone) 850-293-7454

jared@jandmvalve.com _____ City Resident: YES NO
(Email Address) Property Owner within the City: YES NO

for appointment by the City Council for the position of:


**MEMBER
PLANNING BOARD
(Term expiring 07/14/2017)**

Provide a brief description of nominee's qualifications:



City Council Member

I hereby certify that the above nomination was submitted to my office within the time limitations prescribed by the Rules and Procedures of Council.


Ericka L. Burnett, City Clerk

Ericka Burnett

From: noreply@civicplus.com
Sent: Wednesday, March 16, 2016 3:15 PM
To: Ericka Burnett; Robyn Tice
Subject: Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

Application for Boards, Authorities, and Commissions - City Council Appointment

This application will be utilized in considering you for appointment to a City Council board, authority, or commission. Pursuant to Florida Statutes, Chapter 119, all information provided on or with this form becomes a public record and is subject to disclosure, unless otherwise exempted by law.

Completed applications will be kept on file for a period of one (1) year from the date received in the Office of the City Clerk.

It is necessary to contact a member of Council to obtain a nomination in order to be placed on the ballot for consideration. Please go to cityofpensacola.com/council for Council Member contact information. If you have any questions, contact the City Clerk's Office.

Personal Information

Name	Jared Moore
Home Address	4485 McClellan Rd
Business Address	<i>Field not completed.</i>
To which address do you prefer we send correspondence regarding this application?	Home
Preferred Contact Phone Number(s)	293-7454
Email Address	jared@jandmvalve.com
Upload Resume (optional)	<i>Field not completed.</i>

Details

Are you a City resident?	Yes
If yes, which district?	4
If yes, how long have you been a City resident?	6 years
Do you own property within the City limits?	Yes
Are you a registered voter in the city?	Yes
Board(s) of interest:	Planning Board
Please list the reasons for your interest in this position:	Life-long Pensacolian with desire to participate in exciting progress
Do you currently serve on a board?	Yes
If yes, which board(s)?	Zoning Board
Do you currently hold a public office?	No
If so, what office?	<i>Field not completed.</i>
Would you be willing to resign your current office for the appointment you now seek?	Yes

Diversity

In order to encourage diversity in selections of members of government committees, the following information is required by Florida Statute 760.80 for some committees.

Gender	Male
Race	Caucasian
Physically Disabled	No

CITY OF PENSACOLA, FLORIDA

NOMINATION FORM

I, Sherri Myers, do nominate Melanie Nichols
(Nominee)

(Home Address) (Phone)

(Business Address) (Phone)

(Email Address) City Resident: YES NO
Property Owner within the City: YES NO

for appointment by the City Council for the position of:

**MEMBER
PLANNING BOARD
(Term expiring 07/14/2017)**

Provide a brief description of nominee's qualifications:

Ms. Nichols has served in many capacities as a representative of her community and is very familiar with the city's Land Development Code: Comprehensive Plan. She is a local volunteer.

Sherri Myers
City Council Member

I hereby certify that the above nomination was submitted to my office within the time limitations prescribed by the Rules and Procedures of Council.

Ericka L. Burnett
Ericka L. Burnett, City Clerk

Ericka Burnett

From: noreply@civicplus.com
Sent: Wednesday, October 26, 2016 6:56 PM
To: Ericka Burnett; Robyn Tice
Subject: Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

Application for Boards, Authorities, and Commissions - City Council Appointment

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Personal Information

Name	Melanie Nichols
Home Address	14 East Gonzalez Street Pensacola, FL 32501
Business Address	<i>Field not completed.</i>
To which address do you prefer we send correspondence regarding this application?	Home
Preferred Contact Phone Number(s)	850-221-1586
Email Address	nicholsmelanie2@gmail.com
Upload Resume (optional)	<i>Field not completed.</i>

Details

Are you a City resident? Yes

If yes, which district? 6

If yes, how long have you been a City resident? 20 years

Do you own property within the City limits? Yes

Are you a registered voter in the city? Yes

Board(s) of interest: Planning Board

Please list the reasons for your interest in this position: Thank you for considering me for the Planning Board. I am very interested in serving our City as decisions are being made that continue to improve the whole community. My experience as a former member of the City's Zoning Board of Adjustment and the Area Housing Commission, where I served as the Chairman of the Land Structures and Development Committee, as well as my work advising the Architectural Review Board for matters pertaining to the North Hill Historic District, and serving on the Executive Committee of the Council of Neighborhood Presidents of Pensacola working with all our City's neighborhoods, will greatly help me to be an asset to the Planning Board, as well as my experience working with the City's Municipal Ordinances and the Comprehensive Plan. I am employed by the United States Government, Department of Defense, as an Industrial Property Management Specialist and as such, much of my work involves land use planning, infrastructure projects, and future land and structures design standards. Thank you again for your consideration.

Do you currently serve on a board? No

If yes, which board(s)? *Field not completed.*

Do you currently hold a public office? No

If so, what office? *Field not completed.*

Would you be willing to resign your current office for the appointment you now seek? N/A

Appointment - Planning Board
January 12, 2017

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

_____ Jared Moore

_____ Melanie Nichols

Vote for One

Signed: _____
Council Member

Appointment - Planning Board
January 12, 2017

TALLY

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

5 Jared Moore
2 Melanie Nichols

Vote for One

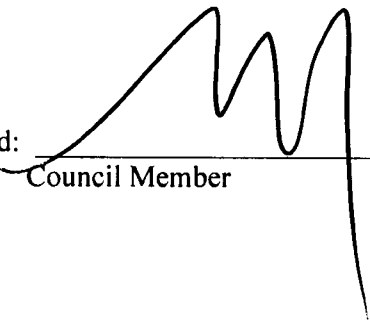
Signed: _____
Council Member

Appointment - Planning Board
January 12, 2017

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

Jared Moore
 Melanie Nichols

Vote for One

Signed: 
Council Member

Appointment - Planning Board
January 12, 2017

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

Jared Moore
 Melanie Nichols

Vote for One

Signed: P.C. W
Council Member

Appointment - Planning Board
January 12, 2017

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

Jared Moore
 Melanie Nichols

Vote for One

Signed: 

Council Member

Appointment - Planning Board
January 12, 2017

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

Jared Moore
 Melanie Nichols

Vote for One

Signed: *Anna La-Wynn*
Council Member

Appointment - Planning Board
January 12, 2017

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

Jared Moore
 Melanie Nichols

Vote for One

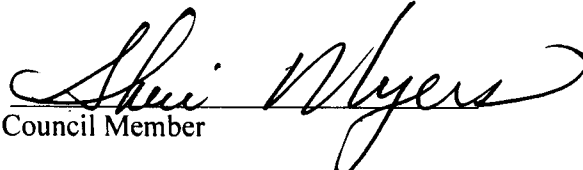
Signed: Merald C. Wujtka
Council Member

Appointment - Planning Board
January 12, 2017

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

_____ Jared Moore
 _____ Melanie Nichols

Vote for One

Signed: 
Council Member

Appointment - Planning Board
January 12, 2017

Ballot
(Unexpired term of Taylor "Chips" Kirschenfeld, ending July 14, 2017)

<input type="checkbox"/>	Jared Moore
<input checked="" type="checkbox"/>	Melanie Nichols
<input type="checkbox"/>	_____

Vote for One

Signed: 
Council Member



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 16-00336

City Council

2/9/2017

PRESENTATION ITEM

FROM: City Council President Brian Spencer

SUBJECT:

Presentation by Quint Studer Regarding Pre-K Learning

REQUEST:

That City Council allow a presentation by Quint Studer discussing Pre-K Learning and that this presentation be scheduled for the Regular City Council Meeting on February 9, 2017.

SUMMARY:

Quint Studer will provide a presentation regarding the value of Pre-K Learning.

PRIOR ACTION:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) None

PRESENTATION: Yes

The Road to America's First Early Learning City

“ My passion now is to use science and data in the 0 to 5 age range to figure out what works and why, and then roll that out nationwide. That’s why the **Pensacola Project** is so exciting to me. ”

“Pensacola can be the first community wide test of going into a city and changing it. Once we learn what works in Pensacola, we then take that to a nationwide experiment. We will choose communities in an experimental way and roll out in these communities what we did in Pensacola that worked and then see if it can work nationwide. And I believe it will.”

- **John A. List, Ph.D.**
Chairman, Department of Economics, University of Chicago.



Welcome to Pensacola



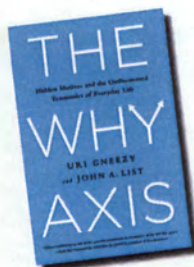
John & Dana

We are fortunate to have Dana Suskind, M.D. and John A. List, Ph.D., in Pensacola as we move one step closer to creating America's First Early Learning City.

ABOUT John A. List, Ph.D.

- Chairman, Department of Economics, University of Chicago.
- Chief Economist, Uber – The world's largest online transportation network company.
- One of the world's leading experts on experimental economics.
- Has served as senior economist on the President's Council of Economic Advisers for Environmental and Resource Economics.
- He is a research associate at the National Bureau of Economic Research, a research fellow at the Institute for the Study of Labor, and in 2015 received an honorary doctorate from Tilburg University in the Netherlands.

His work focuses on microeconomic issues, and includes more than 150 academic publications.



In early 2016, research by the Studer Community Institute (SCI) pointed to the fact that Pensacola suffered economically because only 66 percent of the children are ready for kindergarten. To confirm how important kindergarten readiness is, SCI did a national search on the importance of early learning in the success of a child. This search led them to Dr. Dana Suskind of the University of Chicago and the founder and director of the Thirty Million Words Initiative. This initiative is based on research that shows the critical importance of early language exposure on a developing child. In March 2016, Dana Suskind came to Pensacola to spend the day with community members. In the summer, representatives of the Studer Community Institute visited the University of Chicago and spent time with Suskind and John A. List, the chairman of the University of Chicago Department of Economics.

The discussion led to this: Could Pensacola be the first project site for the University of Chicago

to bring its programming to a community? This investment by the University of Chicago would make Escambia County a research site focused on how to help communities make sure their children are kindergarten ready. The first step is to make sure that every new mother in a hospital in Escambia County leaves the hospital fully understanding the importance of early learning and how best to develop her child's brain. This project has the potential to change Escambia County's economic condition by leading to more children being ready for kindergarten. That means more high school graduates, leading to less crime, and a reduction in teenage pregnancies and poverty. The TMW Newborn Initiative will make Escambia County better, but ultimately, it has the potential to change the nation. We are pleased that John A. List and Dana Suskind will spend the week here in Pensacola as more steps are taken to make Pensacola America's First Early Learning City.

ABOUT Dana Suskind, M.D.

- Professor of Surgery and Pediatrics, University of Chicago
- Director, Pediatric Cochlear Implantation Program
- Founder and Director, Thirty Million Words Initiative

PRACTICE LOCATIONS

- University of Chicago Medicine – Comer Children's Hospital, Chicago
- Duchossois Center for Advanced Medicine, Chicago

YEAR STARTED PRACTICE: 1992

BOARD CERTIFICATION:

Otolaryngology

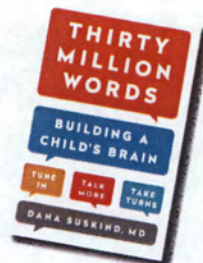
MEDICAL SCHOOL: University of Missouri School of Medicine

Comer Children's Hospital, Chicago
University of Pennsylvania, Philadelphia

FELLOWSHIP: Washington University Children's Hospital, St. Louis

MEMBERSHIPS: American Academy of Otolaryngology/Head and Neck Surgery

AMERICAN MEDICAL ASSOCIATION: American Society of Pediatric Otolaryngology



THE UNIVERSITY OF CHICAGO

By the numbers



92

Number of Nobel Prize Laureate have been affiliated with University of Chicago, the fourth most of any institution in the world.

#3

U.S. News and World Report 2017 Ranking of U.S. Colleges:
1. Princeton University
2. Harvard University
3. University of Chicago (tie) Yale University

\$390 million

Dollars spent by the University of Chicago on scientific research in 2014.

49

Number of Rhodes Scholars in University of Chicago's history.

1

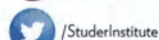
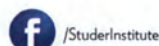
Pensacola is the first city in the world, outside of Chicago, to partner with the University of Chicago and its Thirty Million Words Initiative.

BOARD OF DIRECTORS

- Blaise Adams
- Cindi Bear Bonner
- Becca Boles
- Patrick Elebash
- Randy Hammer
- Chad Henderson
- Gail Husbands
- Stacy Keller Williams
- Jerry Maygarden
- Jean Pierre N'dione
- Lisa Nellesen-Lara
- Mort O'Sullivan III
- Janet Pilcher
- Scott Remington
- Martha Saunders
- Julie Sheppard
- Josh Sitton



Learn more by visiting STUDERi.ORG



EMAIL Quint@QuintStuder.com



STUDER
COMMUNITY INSTITUTE



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 17-00116

City Council

2/9/2017

SUBJECT:

REGULAR MINUTES DATED JANUARY 12, 2017



City of Pensacola

CITY COUNCIL

Meeting Minutes

January 12, 2017

5:33 P.M.

Council Chambers

ROLL CALL

Members Present: Brian Spencer, Gerald Wingate, Sherri Myers, Larry B. Johnson
(arrived at 5:44; left 7:37), Andy Terhaar, P.C. Wu,
Members Absent: Jewel Cannada-Wynn,

Council President Spencer recognized the passing of Jerry Wynn, Council Member Cannada-Wynn's husband.

INVOCATION

Council President Spencer indicated he will provide an opportunity for a Council Member to offer the invocation at each meeting or, alternatively a Council Member may choose someone from the community to offer the invocation. No Member of Council raised any objection.

Council President Spencer gave the invocation.

PLEDGE OF ALLEGIANCE

Council Member Myers lead the Pledge of Allegiance.

FIRST LEROY BOYD FORUM

Goreatha Simmons: Addressed Council regarding an upcoming fundraising event to benefit the General Daniel "Chappie" James Museum. She provided printed information for all Council Members.

Chuck and Barbee Major: Identified themselves as the owners of Pensacola Victorian Bed and Breakfast and addressed the issue of the lack of regulations for AirBnB which they believe is negatively impacting their business. They urged for a level playing field.

FIRST LEROY BOYD FORUM (CONT'D.)

The following individuals addressed Council regarding Chief of Police David Alexander, III's employment contract and expressed concern that due to current ordinances, he would not be able to continue as Chief of Police after May 2017 when his Deferred Retirement Option Plan expires:

John Powell
Cindy Martin
Charles Sapp

Priscilla Sapp
Geraldine Sapp
Doreen Swartz

Gloria Horning: Addressed Council calling for leadership and honest communication with the community, as she relayed the negative impacts of the construction of the Corinne Jones Stormwater Pond which have affected the surrounding neighborhood.

David Suhor: Indicated he was disgusted with Council President Spencer and that his unilateral decision to have Council Members offer the invocation is blatant disregard for the U.S. Constitution.

Council President Spencer cautioned Mr. Suhor in his manner of address.

Mr. Suhor continued indicating Council needs to develop a written policy. Further, the City will be hearing from an attorney regarding this issue.

Gary Sansing: Addressed Council regarding various local issues.

AWARDS

Presentation of Certificate of Achievement for Excellence in Financial Reporting awarded by the Government Finance Officers Association of the United States and Canada (GFOA) to the City of Pensacola Financial Services staff for its Comprehensive Annual Financial Report (CAFR).

APPROVAL OF MINUTES**1. [17-00017 REGULAR MINUTES DATED DECEMBER 8, 2016](#)**

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

The motion carried by the following vote:

Yes: 6	Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu, Sherri Myers
No: 0	None

APPROVAL OF AGENDA

Council President Spencer indicated he is **pulling Item 11, *Public Hearing: Proposed Amendment to Section 12-12-5 (Building Permits) of the Land Development Code - Historic Building Demolition Review***. He indicated he will entertain a motion to approve the agenda.

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

The motion carried by the following vote:

Yes: 6 Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu,
 Sherri Myers
No: 0 None

CONSENT AGENDA

Council President Spencer presented the following Consent Agenda Items by title only:

2. [16-00348](#) AIRPORT COMMERCE PARK - PROPERTY ACQUISITION E2410 - COLLEGE HEIGHTS

Recommendation: That City Council authorize the purchase of E2410 (Parcel ID# 141S292100230001) from Tanya Hatfield for \$75,000 along with relocation assistance of \$74,900, closing costs of \$1,900, 5% contingency in the amount of \$7,590, and moving costs of \$5,000 for a total amount of \$164,390.

3. [16-00324](#) AIRPORT COMMERCE PARK - PROPERTY ACQUISITION E2413 - COLLEGE HEIGHTS

Recommendation: That City Council authorize the purchase of E2413 (Parcel ID# 141S292100007002) from James W. Stegall for \$78,000 along with relocation assistance of \$71,900, closing costs of \$1,900, 5% contingency in the amount of \$7,590, and moving costs of \$5,000 for a total amount of \$164,390.

4. [16-00325](#) AIRPORT - APPROVAL OF LEASE AGREEMENT WITH THE UNITED SERVICES ORGANIZATION

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

CONSENT AGENDA (CONT'D.)

5. [16-00323](#) AIRPORT - AWARD OF CONTRACT, RFP NO. 16-042 BAGGAGE HANDLING SYSTEM AND PASSENGER LOADING BRIDGE OPERATION AND MAINTENANCE SERVICES

Recommendation: That City Council award a contract for RFP No. 16-042 Baggage Handling System and Passenger Loading Bridge Operation and Maintenance Services to Elite Line Services, Inc. for the maintenance and operation of the baggage handling system and passenger loading bridges at the Pensacola International Airport. Further, that Council authorize the Mayor to execute all contract and related documents and take all related actions necessary to complete the project.

6. [16-00330](#) ACQUISITION OF THE FORMER AMERICAN CREOSOTE WORKS PROPERTY (ACW) AT TAX SALE AUCTION

Recommendation: That the City Council authorize the Mayor to enter into the County Tax Sale Auction, if necessary, for the potential acquisition of the former American Creosote Works property, reference number 00-0S-00-9080-001-164 located at 700 BLK South I Street.

A motion to approve consent Items 2 through 6 was made by Council Member Johnson and seconded by Council Member Terhaar.

The motion carried by the following vote:

Yes: 6	Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu, Sherri Myers
No: 0	None

REGULAR AGENDA

7. [16-00268](#) AWARD OF CONTRACT - BID# 17-001 BILL GREGORY PARK REGIONAL STORMWATER TREATMENT FACILITY PROJECT

Recommendation: That City Council award a contract for construction of the Bill Gregory Park Regional Stormwater Treatment Facility Project to Gulf Coast Utility Contractors of Panama City, Florida, the lowest and most responsible bidder with a base bid of \$1,519,080.50 plus Bid Alternate #1 of \$9,500.00, plus Bid Alternate #2 of \$25,000.00, plus Bid Alternate #3 of \$25,000.00, plus Bid Alternate #4 of \$144,985.00, plus a 10% contingency of \$172,356.55 for a total amount of \$1,895,922.05.

A motion to approve was made by Council Member Terhaar and seconded by Council Member Johnson.

Discussion took place among Council with Public Works & Facilities Director Owens responding accordingly to questions.

REGULAR AGENDA (CONT'D.)

Public input (regarding Item 7) was heard from Gloria Horning.

Council Member Myers made follow-up remarks.

Upon conclusion of discussion the vote was called (on Item 7).

The motion carried by the following vote:

Yes: 6 Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu,
 Sherri Myers

No: 0 None

8. [16-00326 AWARD OF CONTRACT TO CALDWELL ASSOCIATES ARCHITECTS, INC. FOR RFQ #16-024 FOR ARCHITECTURAL AND ENGINEERING SERVICES FOR THE CONSTRUCTION OF BAYVIEW COMMUNITY RESOURCE CENTER.](#)

Recommendation: That City Council award contract to Caldwell Associates Architects, Inc. of Pensacola for RFQ # 16-024 for Architectural and Engineering Services for the Construction of a Community Resource Center at Bayview Park, for an agreed upon fee of 7.00% of construction costs, estimated at \$315,828, plus eligible reimbursable expenses and additional services estimated at \$404,500, for a total estimated cost of \$720,328. Further, that Council authorize the Mayor to execute all contracts and related documents and take all related actions necessary to complete the project.

A motion to approve was made by Council Member Terhaar and seconded by Council Member Johnson.

Discussion ensued among Council with City Administrator Olson and Chief Financial Officer Barker responding accordingly to questions. City Attorney Bowling also provided input.

Upon conclusion of discussion the vote was called.

The motion carried by the following vote:

Yes: 6 Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu,
 Sherri Myers

No: 0 None

REGULAR AGENDA (CONT'D.)9. [16-00327](#) APPOINTMENTS - BOARD OF TRUSTEES - POLICE OFFICERS' RETIREMENT FUND

Recommendation: That City Council appoint two residents of the City to the Board of Trustees, Police Officers' Retirement Fund for a term of two years, expiring December 31, 2018.

Council Members were provided an opportunity to make comments on behalf of the incumbent/nominees.

The following incumbents/nominee were provided an opportunity to address Council:

Bryan Ball (not present)
Richard Peterson (not present)
Stephanie Taylor (not present)

Upon conclusion of discussion a ballot vote was called (while moving forward with the agenda).

Following Item 10, Council President Spencer announced Council has appointed Bryan Ball and reappointed Stephanie Taylor to the Board of Trustees - Police Officers' Retirement Fund for a term of two (2) years expiring December 31, 2018.

10. [16-00328](#) APPOINTMENT - BOARD OF TRUSTEES, FIREMEN'S RELIEF AND PENSION FUND

Recommendation: That City Council appoint a resident of the City to the Board of Trustees, Firemen's Relief and Pension Fund for a term of two years, expiring December 31, 2018.

A motion was made by Council Member Johnson and seconded by Council Member Spencer that City Council reappoint Veronica Dias to the Board of Trustees, Firemen's Relief and Pension Fund for a term of two years, expiring December 31, 2018.

The motion carried by the following vote:

Yes: 6	Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu, Sherri Myers
No: 0	None

REGULAR AGENDA (CONT'D.)

*****THE FOLLOWING ITEM WAS PULLED BY THE SPONSOR*****

11. [16-00318 PUBLIC HEARING: PROPOSED AMENDMENT TO SECTION 12-12-5 \(BUILDING PERMITS\) OF THE LAND DEVELOPMENT CODE - HISTORIC BUILDING DEMOLITION REVIEW](#)

Recommendation: That City Council conduct the first of two public hearings on January 12, 2017 to consider an amendment to the Land Development Code, Section 12-12-5 (Building Permits), by including Historic Building Demolition Review.

12. [16-00362 PUBLIC HEARING -- AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT, \(A\)\(4\) PROCEDURE FOR REVIEW](#)

Recommendation: That City Council conduct the first of two Public Hearings on January 12, 2017, proposing an amendment to the Land Development Code, Section 12-2-10 - Historic & Preservation Land Use District, (A)(4) Procedure for review, by adding subsection (f) allowing for Conceptual review and approval.

Council President Spencer indicated this is the first hearing on this issue (second hearing scheduled for February 9th).

Council Member Terhaar made follow-up remarks indicating he is in favor of the proposed amendment.

There was no public input.

13. [16-00360 SUPPORT OF REPEAL OF, OR IN THE ALTERNATIVE, AN AMENDMENT TO SECTION 403.7033, FLORIDA STATUTES, ALLOWING FOR LOCAL REGULATION OF NON-DEGRADABLE BAGS AND CONTAINERS](#)

Recommendation: That City Council adopt a Resolution in support of the repeal of, or in the alternative, an amendment to Section 403.7033, Florida Statutes, allowing local regulation of non-degradable bags and containers.

Council Myers as sponsor explained the intent of adopting the proposed resolution.

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

Discussion took place among Council.

REGULAR AGENDA (CONT'D.)

Public input (regarding Item 13) was heard from the following individuals:

Ellen Roston	Laurie Murphy
Carolyn Kolb	Doreen Swartz
Patricia Edmisten	

There being no further discussion, the vote was called (on Item 13).

The motion carried by the following vote:

Yes: 6	Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu, Sherri Myers
No: 0	None

32. [17-02 RESOLUTION NO. 17-02](#)

Recommendation: That City Council Adopt Resolution No. 17-02.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA SUPPORTING LEGISLATIVE EFFORTS TO REPEAL, OR IN THE ALTERNATIVE, AMEND SECTION 403.7033, FLORIDA STATUTES, SO THAT LOCAL GOVERNMENTS ARE NO LONGER PREEMPTED FROM ENACTING LEGISLATION REGULATING NON-DEGRADABLE CONTAINERS.

A motion to approve was made by Council Member Wingate and seconded by Council Member Johnson.

The motion carried by the following vote:

Yes: 6	Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu, Sherri Myers
No: 0	None

14. [16-00315 PUBLIC HEARING: PROPOSED AMENDMENT TO SECTION 12-2-8 \(B\) \(1\) OF THE LAND DEVELOPMENT CODE - ADDITION OF MEDICAL MARIJUANA DISPENSARY](#)

Recommendation: That City Council conduct the first of two public hearings on January 12, 2017 to consider an amendment to the Land Development Code, Section 12-2-8 (B)(1), Commercial land use district, to add "Medical Marijuana Dispensary" under the uses permitted section.

REGULAR AGENDA (CONT'D.)

Council Member Terhaar as sponsor (of Item 14) explained the intent of the proposed amendment. **(Second hearing scheduled for February 9th.)**

15. [16-00261](#) DISPOSITION OF CITY OWNED PROPERTY AT 113 NORTH "C" STREET (FORMER BLOUNT SCHOOL)

Recommendation: That the City Council declare as surplus the property located at 113 North "C" Street (Parcel ID number 00-0S-00-9080-001-018), and authorize the Mayor to dispose of the property through a Request for Proposals.

A motion to approve was made by Council Member Terhaar and seconded by Council Member Johnson.

City Administrator Olson responded according to questions from Council Member Wingate.

There being no further discussion, the vote was called.

The motion carried by the following vote:

Yes: 6 Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu,
 Sherri Myers

No: 0 None

16. [16-00354](#) DECLARATION AND DISPOSAL OF SURPLUS CITY PROPERTY - 400 BLOCK WEST BELMONT

Recommendation: That City Council declare the City-owned unimproved real property located at 400 Block West Belmont Street, Parcel Identification Number 000S009060030022, Account Number 150263000, as surplus and authorize the Mayor to engage the services of a real estate professional from the City's list of qualified real estate professionals to market and sell the parcel.

A motion to approve was made by Council Member Johnson and seconded by Council Member Terhaar.

The motion carried by the following vote:

Yes: 6 Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu,
 Sherri Myers

No: 0 None

REGULAR AGENDA (CONT'D.)

17. [16-00355](#) DECLARATION AND DISPOSAL OF SURPLUS CITY PROPERTY - WEST INTENDENCIA STREET

Recommendation: That City Council declare the City-owned unimproved real property located at West Intendencia Street, Parcel Identification Number 000S009080014094, Account Number 153145000, as surplus and authorize the Mayor to engage the services of a real estate professional from the City's list of qualified real estate professionals to market and sell the parcel.

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

The motion carried by the following vote:

Yes: 6 Brian Spencer, Gerald Wingate, Andy Terhaar, Larry Johnson, P.C. Wu,
 Sherri Myers
No: 0 None

18. [16-00356](#) DECLARATION AND DISPOSAL OF SURPLUS CITY PROPERTY - 1000 BLOCK NORTH "E" STREET

Recommendation: That City Council declare the City-owned improved real property located at 1000 Block North "E" Street, Parcel Identification Number 000S009060015048, Account Number 150596000, as surplus and authorize the Mayor to engage the services of a real estate professional from the City's list of qualified real estate professionals to market and sell the parcel.

A motion was made by Council Member Terhaar and seconded by Council Member Wingate.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

REGULAR AGENDA (CONT'D.)

19. [16-00374 AMENDMENT TO SECTION 3 OF ORDINANCE NO. 23-15, GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION \(EDATE\) TO REAL PROPERTY AT 101 E. ROMANA STREET AND TANGIBLE PROPERTY FOR DAILY CONVO, LLC](#)

Recommendation: That City Council adopt an ordinance amending Section 3 of Ordinance No. 23-15, granting an Economic Development Ad Valorem Tax Exemption (EDATE) for certain improvements to real property located at 101 East Romana Street and tangible property for Daily Convo, LLC, to read: The period of time for which the exemption will remain in effect is ten (10) years, beginning with the first year that the improvements for which the exemption is being granted are placed on the ad valorem tax rolls.

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

Robert Emmanuel and Andrew Rothfeder, representatives for Daily Convo, LLC, were in attendance and indicated they are available to answer any questions.

Council Member Myers made comments.

There being no further discussion, the vote was called.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5	Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0	None

20. [01-17 PROPOSED ORDINANCE NO. 01-17](#)

Recommendation: That City Council approve Proposed Ordinance No. 01-17 on first reading.

AN ORDINANCE AMENDING ORDINANCE NO. 23-15, GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION FOR CERTAIN IMPROVEMENTS TO REAL PROPERTY LOCATED AT 101 EAST ROMANA STREET AND TANGIBLE PROPERTY FOR DAILY CONVO, LLC; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

A motion to approve on first reading was made by Council Member Terhaar and seconded by Council Member Myers.

REGULAR AGENDA (CONT'D.)

The motion (on P.O. No. 01-17) carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

21. [16-00364](#) AMENDMENT TO CITY COUNCIL RULES AND PROCEDURES--SECTION(S) 2.05 AND 2.09

Recommendation: That City Council amend Council Rules and Procedures, Section(s) 2.05 and 2.09 to clear up currently existing ambiguity and conflict.

A motion to approve was made by Council President Spencer and seconded by Council Member Terhaar.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

22. [16-00339](#) AMENDMENT TO CITY COUNCIL RULES AND PROCEDURES--SECTION 3.04

Recommendation: That City Council amend Section 3.04 of the City Council Rules and Procedures, Council Established Boards, by mandating yearly Ethics and Sunshine Law training, establish April 1st of each year as the date by which the training must be completed, require training within 30-days of appointment and create a reporting mechanism to ensure compliance.

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

Council Member Myers as sponsor explained the intent.

City Attorney Bowling responded to questions of Council Member Terhaar.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

REGULAR AGENDA (CONT'D.)

23. [16-00345](#) AMENDMENT TO POLICIES OF THE CITY COUNCIL - FUND BALANCE POLICY SECTION (D)(3)(c)

Recommendation: That City Council amend the Fund Balance Policy of the City Council, Section (D)(3)(c) changing the minimum reserve from 15 percent to 20 percent.

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

The motion (on Item 23) carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

*****THE FOLLOWING ITEM AND PROPOSED ORDINANCE WAS WITHDRAWN BY THE SPONSOR DURING DISCUSSION*****

24. [16-00375](#) AMENDMENT TO SECTION 3-3-2 OF THE CODE OF THE CITY OF PENSACOLA - CONTRACTS FOR PUBLIC WORK AND PURCHASES OF OTHER COMMODITIES AND SERVICES; LOWEST AND BEST RESPONSIBLE BIDDER; REJECTION OF BIDS; APPROVAL OF COUNCIL AND MAYOR; EMERGENCY PURCHASES

Recommendation: That City Council adopt an ordinance amending Section 3-3-2 of the Code of the City of Pensacola - Contracts for public work and purchases of other commodities and services; lowest and best responsible bidder; rejection of bids; approval of Council and Mayor; emergency purchases - by including Purchasing of Lobbying and/or Lobbyist services.

Council Member Myers as sponsor explained her intent for the proposed amendment and responded to questions of Council Member Terhaar. City Attorney Bowling also provided input.

Based on City Attorney Bowling's comments, **Council Member Myers withdrew this item for consideration at this time.**

25. [02-17](#) PROPOSED ORDINANCE NO. 02-17

Recommendation: That City Council adopt proposed ordinance 02-17 on first reading.

AN ORDINANCE AMENDING SECTION 3-3-2 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, CONTRACTS FOR PUBLIC WORK AND PURCHASES OF OTHER COMMODITIES AND SERVICES; LOWEST AND BEST RESPONSIBLE BIDDER; REJECTION OF BIDS; APPROVAL OF COUNCIL AND MAYOR; EMERGENCY PURCHASES; CREATING A NEW SECTION (C) TO PROVIDE FOR THE PURCHASING OF LOBBYING AND/OR LOBBYIST SERVICES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

REGULAR AGENDA (CONT'D.)26. [16-00350 EAST HILL NEIGHBORHOOD ASSOCIATION REQUEST FOR AN OVERLAY DISTRICT](#)

Recommendation: That City Council refer to the Planning Board for its review and recommendation, a request from the East Hill Neighborhood Association for an overlay district. Further, that the Planning Board work with the neighborhood groups in gathering input for this overlay district.

A motion to approve was made by Council President Spencer and seconded by Council Member Terhaar.

Council Member Terhaar expressed his concerns related to the matter of referring issues to the Planning Board, with Council President Spencer fielding comments and questions explaining the intent.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

27. [16-00334 SETTING MEETING DATES FOR THE CLIMATE ADAPTATION AND MITIGATION TASK FORCE AND THE PORT ECONOMIC FEASIBILITY STUDY COMMITTEE](#)

Recommendation: That City Council set the date of the first Climate adaptation and Mitigation Task Force meeting to take place no later than February 15, 2017 and the first meeting of the Port Economic Feasibility Study Committee to take place no later than March 15, 2017.

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

Council President Spencer inquired if members of the Port committee have been contacted with Council Executive Kraher responding regarding his correspondence.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

REGULAR AGENDA (CONT'D.)28. [16-00340](#) **BOARDS, COMMISSIONS AND AUTHORITIES ANNUAL REPORT AND RECOGNITION RECEPTION**

Recommendation: That City Council schedule a special meeting whereby each Council created Board, Commission or Authority will present their annual report and that after this special meeting, a reception be held in recognition of the board members.

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

Council Member Myers as sponsor explained the intent is to give staff some guidance.

Council Executive Kraher provided input (regarding Item 28) as to boards needing time to prepare for such presentations to Council - - suggesting April/May timeframes; and further indicated based on the functions and duties, there would be no purpose for some boards to prepare an annual report such as the three (3) pension boards.

A motion to amend was made by Council Member Myers and seconded by Council President Spencer that City Council schedule a special meeting whereby Council created Boards, Commissions or Authorities, the selection of which will be at the Council Executive's discretion, will be provided an opportunity present their annual report and that after this special meeting, a reception be held in recognition of all the members of the various Council created Boards, Commissions, and Authorities.

The motion to amend carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5	Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0	None

The main motion as amended carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5	Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0	None

29. [16-00349](#) **SCHEDULE A CITY COUNCIL GOALS & OBJECTIVES WORKSHOP**

Recommendation: That City Council schedule a workshop to discuss the City Council's Goals & Objectives for the upcoming two (2) years.

Council Executive Kraher on behalf of Council Member Cannada-Wynn (in her absence) explained the intent of the proposed workshop.

REGULAR AGENDA (CONT'D.)

A motion to approve (Item 29) was made by Council Member Terhaar and seconded by Council President Spencer.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

30. [16-00358 LAW ENFORCEMENT TRUST FUND \(LETF\) PURCHASES FOR THE PENSACOLA POLICE DEPARTMENT](#)

Recommendation: That the City Council approve a request to expend \$107,900 from the Law Enforcement Trust Funds to purchase various items for the Pensacola Police Department and its personnel. Further, that City Council approve the supplemental budget resolution to provide funding for these items.

A motion to approve was made by Council Member Terhaar and seconded by Council President Spencer.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

31. [17-01 SUPPLEMENTAL BUDGET RESOLUTION NO. 17-01 - LAW ENFORCEMENT TRUST FUND \(LETF\) PURCHASES FOR THE PENSACOLA POLICE DEPARTMENT](#)

Recommendation: That the City Council adopt Supplemental Budget Resolution No. 17-01.

[A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.](#)

A motion to adopt was made by Council Member Wingate and seconded by Council Member Terhaar.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

REGULAR AGENDA (CONT'D.)33. [16-00371](#) FY 2017 STREET REHABILITATION - GROUP 7

Recommendation: That City Council award a contract for Fiscal Year 2017 Street Rehabilitation Project Group 7 to Roads Inc., the lowest and most responsible bidder with a base bid amount of \$2,693,298.02 plus a 5% contingency of \$134,664.90 and \$10,000.00 for miscellaneous construction items for a total amount of \$2,837,962.92. Further, that City Council approve the supplemental budget resolution appropriating the funds for this project.

A motion to approve was made by Council Member Terhaar and seconded by Council Member Wingate.

Some discussion took place with questions from Council Member Myers regarding funding for the north end of the City, with City Administrator Olson responding accordingly; and questions from Council Member Wingate regarding the proposals considered for this award of contract, with Public Works & Facilities Director Owens responding accordingly.

The motion (on Item 33) carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

34. [17-03](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 17-03 - FY 2017 STREET REHABILITATION - GROUP 7

Recommendation: That City Council adopt Supplemental Budget Resolution No. 17-03.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Terhaar and seconded by Council Member Wingate.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

REGULAR AGENDA (CONT'D.)35. [16-00351](#) FY 2017 STREET REHABILITATION - GROUP 8

Recommendation: That City Council award a contract for Fiscal Year 2017 Street Rehabilitation Project Group 8 to MidSouth Paving Inc. the lowest and most responsible bidder with a base bid amount of \$1,896,310.00 plus a 5% contingency of \$94,815.50 and \$6,000.00 for miscellaneous construction items for a total amount of \$1,997,125.50. Further, that City Council approve the supplemental budget resolution appropriating the funds for this project.

A motion was to approve made by Council Member Terhaar and seconded by Council Member Wingate.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

36. [17-04](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 17-04 - FY 2017 STREET REHABILITATION - GROUP 8

Recommendation: That City Council adopt Supplemental Budget Resolution No. 17-04.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Terhaar and seconded by Council Member Wingate.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

37. [16-00352](#) FY 2017 STREET REHABILITATION - GROUP 9

Recommendation: That City Council award a contract for Fiscal Year 2017 Street Rehabilitation Project Group 9 to MidSouth Paving Inc. the lowest and most responsible bidder with a base bid amount of \$1,744,394.00 plus a 5% contingency of \$87,219.70 and \$6,000.00 for miscellaneous construction items for a total amount of \$1,837,613.70. Further, that City Council approve the supplemental budget resolution appropriating the funds for this project.

REGULAR AGENDA (CONT'D.)

A motion to approve (Item 37) was made by Council Member Terhaar and seconded by Council President Spencer.

Council Member Myers asked about job creation related to the award of (public works) contracts such as this, with City Administrator responding that he is unsure as that would depend on the workload of individual contractors.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

38. [17-05 SUPPLEMENTAL BUDGET RESOLUTION NO. 17-05 - FY 2017 STREET REHABILITATION - GROUP 9](#)

Recommendation: That City Council adopt Supplemental Budget Resolution No. 17-05.

[A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.](#)

A motion to adopt was made by Council Member Terhaar and seconded by Council Member Spencer.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

39. [16-00344 GENERAL DANIEL "CHAPPIE" JAMES JR. MUSEUM AND FLIGHT ACADEMY FUNDING](#)

Recommendation: That City Council authorize the Mayor to transfer \$440,000 from the City's General Fund to the Community Redevelopment Agency's (CRA's) Eastside Tax Increment Financing District specifically for the General Daniel "Chappie" James Jr. Museum & Flight Academy Project.

Also, that the City Council approve a supplemental budget resolution.

Council Member Wingate as sponsor explained the intent as outlined in the background information.

REGULAR AGENDA (CONT'D.)

A motion to approve (Item 39) was made by Council Member Wingate and seconded by Council Member Terhaar.

Council Member Myers asked questions of City Administrator Olson in light of Item 41 (following) which also recommends using the \$440,000 in proceeds from the sale of 16 South Palafox, how not awarding those additional funds will impact Housing programs. City Administrator Olson responded accordingly that it would just lead to fewer dollars for such (existing) programming.

Public input was heard from Dianne Robinson and Jeannie Rhoden.

Council Member Wu made follow-up comments regarding General Chappie James being buried in Arlington and tours there reflect on his significance.

City Administrator Olson reminded that if Council approves (Item 39) then the issue also will have to go to the CRA Board to direct the funding.

The motion (on Item 39) carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

40. [17-06 SUPPLEMENTAL BUDGET RESOLUTION NO. 17-06 - GENERAL DANIEL "CHAPPIE" JAMES JR. MUSEUM AND FLIGHT ACADEMY](#)

Recommendation: That City Council adopt supplemental budget resolution No. 17-06.

[A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE](#)

A motion to adopt was made by Council Member Wingate and seconded by Council Member Terhaar.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

REGULAR AGENDA (CONT'D.)41. [16-00338 ESTABLISHMENT OF A HOUSING INITIATIVES FUND](#)

Recommendation: That Council approve the establishment of an assigned Fund Balance which would be restricted for the Housing Initiatives Fund, dedicated to receiving specified funds to supplement existing and future adopted Housing Program Initiatives. Further that City Council allocate the General Fund portion of the proceeds from the sale of 16 South Palafox into the Housing Initiatives Fund. Finally that City Council allocate 50% of the proceeds from the sales of 1015 N "E" Street, 300 Block of W. Intendencia Street and 50% of all future proceeds from the sale of affordable housing designated surplus properties into the Housing Initiatives Fund.

A motion to approve was made by Council Member Terhaar and seconded by Council Member Wingate.

A motion to amend was made by Council Member Terhaar and seconded by Council Member Myers that Council approve the establishment of an assigned Fund Balance which would be restricted for the Housing Initiatives Fund, dedicated to receiving specified funds to supplement existing and future adopted Housing Program Initiatives. ~~Further that City Council allocate the General Fund portion of the proceeds from the sale of 16 South Palafox into the Housing Initiatives Fund. Further~~ Finally that City Council allocate ~~50%~~ 100% of the proceeds from the sales of 1015 N "E" Street and 300 Block of W. Intendencia Street and 50% of all future proceeds from the sale of affordable housing designated surplus properties into the Housing Initiatives Fund.

The motion to amend carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5	Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0	None

The main motion as amended carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5	Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0	None

42. [16-00365 SELECTION OF TOPICS FOR CITY COUNCIL - BOARD OF COUNTY COMMISSIONERS JOINT MEETING](#)

Recommendation: That City Council select the topics they wish to include on the agenda for the Joint Meeting between the City Council and the Escambia County Board of County Commissioners.

City Council discussed the topics they wish to include on the agenda for the upcoming joint meeting (to be held on January 30th).

REGULAR AGENDA (CONT'D.)

A motion was made by Council Member Myers and seconded by Council Member Wingate that City Council designate Council President Spencer to be its representative in meeting with Council Executive Kraher and City Administrator Olson to further develop, refine, and finalize the topics to include on the agenda for the Joint Meeting between the City Council and the Escambia County Board of County Commissioners (on January 30th), based on discussion.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

43. [47-16 PROPOSED ORDINANCE NO. 47-16 - AMENDMENT TO SECTION 12-2-24 OF THE LAND DEVELOPMENT CODE--NORTH 9TH AVENUE CORRIDOR MANAGEMENT OVERLAY DISTRICT](#)

Recommendation: That City Council approve Proposed Ordinance No. 47-16 on second reading.

[AN ORDINANCE AMENDING SECTION 12-2-24 OF THE CODE OF THE CITY OF PENSACOLA; AMENDING THE LAND DEVELOPMENT CODE, NORTH 9TH AVENUE CORRIDOR MANAGEMENT OVERLAY DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE. \(Ordinance No. 01-17\)](#)

A motion to adopt was made by Council Member Myers and seconded by Council Member Wingate.

Council Member Terhaar made comments indicating that he is not comfortable with the language requiring "conformity" of properties by (year) 2024 without other improvements being sought by the property owner. He will support this amendment at this time, but likely unwilling to support if proposed for other districts in the future. Some follow-up discussion took place among Council.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

REGULAR AGENDA (CONT'D.)

44. [48-16](#) PROPOSED ORDINANCE NO. 48-16 - AMENDMENT TO GROUP INSURANCE AMENDING SECTION 9-7-2

Recommendation: That City Council adopt Proposed Ordinance 48-16 on second reading.

AN ORDINANCE AMENDING THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR CONTINUED INSURANCE COVERAGE AFTER EMPLOYMENT; AMENDING SECTION 9-7-2; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE. (Ordinance No. 02-17)

A motion to adopt was made by Council Member Terhaar and seconded by Council Member Spencer.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

45. [17-00013](#) RESOLUTION REGARDING A JOINT SESSION OF THE PENSACOLA CITY COUNCIL AND THE ESCAMBIA COUNTY BOARD OF COUNTY COMMISSIONERS

Recommendation: That City Council adopt a resolution regarding the joint session of the Pensacola City Council and the Escambia County Board of County Commissioners

A motion to approve was made by Council Member Terhaar and seconded by Council Member Wingate.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5 Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0 None

REGULAR AGENDA (CONT'D.)

46. [17-08 RESOLUTION NO. 17-08 - RESOLUTION REGARDING A JOINT SESSION OF THE PENSACOLA CITY COUNCIL AND THE ESCAMBIA COUNTY BOARD OF COUNTY COMMISSIONERS](#)

Recommendation: That City Council adopt Resolution No. 17-08

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, PRESCRIBING THE DATE, TIME AND LOCATION TO CONDUCT A JOINT SESSION OF THE PENSACOLA CITY COUNCIL AND THE ESCAMBIA COUNTY BOARD OF COUNTY COMMISSIONERS

A motion to adopt was made by Council Member Terhaar and seconded by Council Member Wingate.

The motion carried by the following vote (with Council Member Johnson no longer in attendance):

Yes: 5	Brian Spencer, Gerald Wingate, Andy Terhaar, P.C. Wu, Sherri Myers
No: 0	None

DISCUSSION

47. [16-00386 UPDATE\(S\) ON THE GOVERNMENT ST. STORM WATER PROJECT](#)

Recommendation: That City Council have a discussion about and seek the answers to the following questions:

1. Update on complaints lodged by the Tanyard Neighborhood residents
2. Update on the status of the Government St. Storm Water Project
3. Cost updates on the project
4. Is / will the playground be handicapped accessible

Discussion began with City Administrator Olson providing an update on neighborhood complaints and the overall status of the project, as well as costs associated with the project. He indicated he will have Parks and Recreation Director Cooper contact Council Member Myers regarding the accessibility of the playground equipment to be installed. He then responded accordingly to questions.

Public input was heard from the following individuals:

Laurie Murphy	Gloria Horning
Jellie Whitehurst	Hazel Johnson

Following public input, Council discussion continued.

COUNCIL EXECUTIVE'S REPORT

Council Executive Kraher provided an update on the following issues:

- Local Option Sales Tax (LOST) IV Workshop to be held on January 23rd at 3:30 PM.
- In budgeting process now for Council Office and will be setting up budget workshops.
- Thanks for patience with Granicus platform (new agenda management and legislative system) tonight - - will work through issues.

MAYOR'S COMMUNICATION

City Administrator Olson advised that on February 9th the Escambia County Board of County Commissioners will discuss top ten (10) RESTORE Projects.

COUNCIL COMMUNICATIONS

Council Member Myers made comments expressing thanks for Staff's work on new Granicus system - loves it. Only issue is it's confusing to access online and working with Council Executive Kraher to address her concerns.

CIVIC ANNOUNCEMENTS

Council Member Myers indicated Emerald Coast Keepers will be scheduling additional clean-ups for Carpenter's Creek.

Laurie Murphy who was still in attendance indicated the next clean-up is scheduled for January 28th 8:00 A.M. to 3:00 P.M. behind Carmike Theater.

SECOND LEROY BOYD FORUM

Council President Spencer thanked all in attendance for working together.

ADJOURNMENT

There being no additional speakers, the meeting was adjourned.

WHEREUPON the meeting was adjourned at 10:00 P.M.

Adopted: _____

Approved: _____
Brian K. Spencer, President of City Council

Attest:

Ericka L. Burnett, City Clerk



Memorandum

File #: 16-00300

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Award of Contract - RFQ No. 16-039 - Ferry Landing Construction Engineering Inspection (CEI) Services

RECOMMENDATION:

That City Council award a contract for RFQ No. 16-039 Ferry Landing Construction Engineering Inspection (CEI) Services for the Pensacola Bay Ferry Project to Mott Macdonald Engineering. Further, that Council authorize the Mayor to execute all contracts and related documents and take all related actions necessary to complete the CEI requirements of the ferry project.

Public Hearing Required: No Hearing Required

SUMMARY:

The City of Pensacola ferry dock and land-side improvements at Commendancia Slip are a critical link for the National Park Service's Pensacola Bay ferry service. The ferry landing project is split into two projects: Waterside (floating dock(s) and gangway(s)) and Landside (ferry ticketing, operations, and restroom facilities). As Federal Highway's grant funding is assisting with the project and FDOT is administering the funds, FDOT Local Agency Program (LAP) requirements mandate that CEI services be delivered by a contractor selected through a competitive selection process. CEI services include oversight, reporting requirements, and other related functions as it relates to the contractors performing the waterside and landside ferry landing projects.

Written proposals were due December 21, 2016 in response to RFQ 16-039. Three responses were received and all firms were invited to oral presentations conducted on January 5, 2017. The selection committee recommended Mott Macdonald Engineering as the best and most qualified firm. Additionally, FDOT reviewed the RFQ and selection process and authorized the City to enter into contract negotiations with Mott Macdonald.

PRIOR ACTION:

April, 10, 2014 - Council Presentation on status of Pensacola Ferry System

May 8, 2014 - City of Pensacola Resolution of Support for Pensacola Ferry System

October 23, 2014 - Council action approving FLAP grant acceptance, three party MOA, Resolution of Support, and a budget resolution

November 12, 2015 - Ferry Landing Architectural and Engineering (A&E) contract awarded to Atkins N.A.

March 17, 2016 - Council action approving 2nd FLAP grant acceptance, three party MOA, Resolution of

Support, and a budget resolution

December, 8 2016 - Council action approving FSTED grant acceptance, resolution of support, and a budget resolution

FUNDING:

Budget:	\$1,326,000	EFLHD FLAP Grant Award (First Award)
	(28,000)	EFLHD Project Management Fee
	751,145	EFLHD FLAP Grant Award (2nd Award)
	(15,000)	ELFHD Project Management Fee
	<u>688,652</u>	FSTED Grant Award
Total	<u>\$2,722,797</u>	
Actual:	\$2,114,888	Construction (Estimate)
	211,488	Construction Contingency (10% of Construction)
	237,000	A&E Contract (Estimate)
	<u>159,421</u>	Construction Engineering Inspection (Estimate)
Total	<u>\$2,722,797</u>	

FINANCIAL IMPACT:

The first FLAP grant award of \$1,326,000 was appropriated on October 23, 2014; the second FLAP grant award of \$751,145 was appropriated on March 17, 2016. Included in these two awards is a total of \$43,000 of project management fees which leaves a net grant amount for the City of \$2,037,145 for the first two awards. On December 8, 2016, Council action appropriated \$688,652 of FSTED grant funding to the Ferry Project for a total budget of \$2,722,797. The CEI budget is estimated to not exceed \$159,421.

CITY ATTORNEY REVIEW: Yes

1/27/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
Amy Miller, Port Director
Clark Merritt, Port Business Manager

ATTACHMENTS:

- 1) Fee Proposal
- 2) Tabulation Sheet
- 3) Oral Presentations Ranking Matrix
- 4) Final Vendor Reference

PRESENTATION: No

PRELIMINARY ESTIMATE OF WORK EFFORT
MOTT MACDONALD FLORIDA, LLC
220 West Garden Street, Suite 700
Pensacola, Florida 32502

DESCRIPTION:

CEI Services Ferry Landing Project - Phase II Landside Work

FINANCIAL PROJECT NO.:

RFQ No. 16-039

CONTRACT NUMBER:

F.A.P. NO.:

N/A

Owner:

City of Pensacola

Construction Contract(s), Consultant Services, Project No(s), and/or Personnel Classifications	2017												Totals in Hours	Totals in Months				
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sept	Oct	Nov	Dec						
Project Principal (Senior Proj. Eng.)		0	0	0	0	0	0.1	0.1	0.1	0.1							66	0.40
Project Engineer		0	0	0	0	0	0.3	0.3	0.3	0.3							198	1.20
Contract Support Specialist		0	0	0	0	0	0.2	0.2	0.2	0.2							132	0.80
Structural Inspector (threshold inspection)		0	0	0	0	0	0.1	0.2	0.2	0.1							99	0.60
Roadway Inspector		0	0	0	0	0	0.5	0.75	0.75	0.5							413	2.50
Technical Advisor		0	0	0	0	0	0	0	0	0							0	0.00
Secretary/RCS/Scanning		0	0	0	0	0	0.2	0.2	0.2	0.2							132	0.80
Totals in Man Months	0	0	0	0	0	0	1.4	1.75	1.75	1.4	0	0	0	0	0	0	1040	6.30

Loaded Rate	Total by Position
225.00	\$14,850.00
120.00	\$23,760.00
90.00	\$11,880.00
120.00	\$11,880.00
65.00	\$26,845.00
190.00	\$0.00
60.00	\$7,920.00

February none

*July Project start up: project set up in LAPIT, MAC, Shop Drawings, Mobilization, Laydown yard, etc...

*August Expect Pile Driving w/ road work (once pile driving is complete Sr Insp hours reduce)

*September Expect Pile Driving w/ road work (once pile driving is complete Sr Insp hours reduce)

*October none

Total

\$97,135.00

*assuming 120 day contract with landside work only

TABULATION OF QUALIFICATIONS

RFQ NO.: 16-039

TITLE: CONSTRUCTION ENGINEERING & INSPECTION SERVICES FOR FERRY LANDING PROJECT

OPENING DATE: December 22, 2016

OPENING TIME: 10:00 A.M.

DEPARTMENT: Port

DRMP, Inc.
Erica T. Jernigan, PE, CEI Area Manager
700 South Palafox Street, Suite 160
Pensacola, FL 32502
(850) 469-9077
Fax: (850) 469-9073
ejernigan@drmp.com

Mott MacDonald Florida, LLC
David D. Skipper, PE, Vice President
220 West Garden Street, Suite 700
Pensacola, FL 32502
(850) 484-6011
Fax: (850) 484-8199
david.skipper@mottmac.com

Volkert, Inc.
Fred Brown, PE, Vice President
6601 North Davis Highway, Suite 53
Pensacola, FL 32504
(850) 477-7485
Fax: (850) 477-7517
fred.brown@volkert.com

RFQ NO. 16-039

**CONSTRUCTION ENGINEERING & INSPECTION SERVICES
FOR FERRY LANDING PROJECT**

Selection Committee Meeting (01/05/17)

Oral Presentations Evaluation

FIRMS	<i>Raw Score</i>	Clark Merritt	Robbie McGuire	Diane Moore	TOTAL SCORE	RANK
DRMP		2	2	2	6	2
Mott MacDonald		1	1	1	3	1
Volkert		3	3	3	9	3

Motion: Robbie McGuire

Second: Clark Merritt

Vote: Unanimous

**FINAL VENDOR REFERENCE LIST
CONSTRUCTION ENGINEERING & INSPECTION SERVICES FOR FERRY LANDING PROJECT
PORT OF PENSACOLA**

Vendor	Name	Address	City	St	Zip Code	SBE
051011	360 SURVEYING SERVICES INC	1801 CREIGHTON ROAD	PENSACOLA	FL	32504	Y
047874	ATC GROUP SERVICES INC DBA ATC ASSOCIATES INC	130 S GERONIMO ST STE 6	MIRAMAR BEACH	FL	32550	N
026973	ATKINS NORTH AMERICA INC	P O BOX 409357	ATLANTA	GA	30384	N
065922	BAGWELL MCCARTHY TESTING & ENGINEERING INC	216 EAST GOVERNMENT ST	PENSACOLA	FL	32502	Y
000377	BASKERVILLE DONOVAN	449 WEST MAIN ST	PENSACOLA	FL	32502	N
000058	BULLOCK-TICE ASSOCIATES	909 EAST CERVANTES ST STE B	PENSACOLA	FL	32501	N
003039	CALDWELL ASSOCIATES ARCHTCTS INC	116 NORTH TARRAGONA ST	PENSACOLA	FL	32502	Y
034093	CAMERON-COLE LLC	5777 CENTRAL AVE STE #200	BOULDER	CO	80301	N
022362	CH2M HILL INC	P. O. BOX 241329	DENVER	CO	80224	N
053116	CONSTELLATION ENERGY PROJECTS & SERVICES GROUP	2360 DORIAN DRIVE	PENSACOLA	FL	32503	N
065729	DELL CONSULTING	129 EAST GOVERNMENT ST	PENSACOLA	FL	32502	Y
068056	DEWBERRY ENGINEERS INC	8401 ARLINGTON BOULEVARD	FAIRFAX	VA	22031	N
031027	DRMP INC	700 SOUTH PALAFOX ST, STE 160	PENSACOLA	FL	32502	N
045609	ENGINEERING & PLANNING RESOURCES PC	309 WEST GREGORY ST	PENSACOLA	FL	32502	Y
024204	FABRE ENGINEERING INC DBA FABRE ENGINEERING & SURVEYING	119 GREGORY SQUARE	PENSACOLA	FL	32502	Y
040956	FITZPATRICK, DAVID W PE, PA	10250 N PALAFOX ST	PENSACOLA	FL	32534	N
063463	GEOSYNTEC CONSULTANTS INC	316 SOUTH BAYLEN ST STE 201	PENSACOLA	FL	32502	N
060768	GULF CIVIL ENGINEERING LLC	2940 BAYVIEW WAY	PENSACOLA	FL	32503	Y
034504	GULF COAST AFRICAN AMERICAN CHAMBER OF COMMERCE	PO BOX 17844	PENSACOLA	FL	32522	N
028628	GULF COAST ENVIRONMENTAL & ENGINEERING INC	P O BOX 12623	PENSACOLA	FL	32574	N
039764	HAMLIN CONSULTING INC	4517 WATERWHEEL TURN	PENSACOLA	FL	32514	N
049076	HAMMOND ENGINEERING INC	3802 NORTH "S" ST.	PENSACOLA	FL	32505	N
027373	HERNANDEZ & SWIFT ASSOCIATES INC	1630 BALIHAI COURT	GULF BREEZE	FL	32563	N
045631	HERNANDEZ CALHOUN DESIGN INTL	1120 EAST CERVANTES ST	PENSACOLA	FL	32501	Y
032932	HSA CONSULTING GROUP INC	1315 COUNTRY CLUB ROAD	GULF BREEZE	FL	32563	N
067511	INFRASTRUCTURE ENGINEERS INC	3182 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	N
042677	IRBY ENGINEERING & CONSTRUCTION INC	94 E GARDEN ST	PENSACOLA	FL	32502	Y
053163	J2 ENGINEERING INC	2101 WEST GARDEN ST	PENSACOLA	FL	32502	N
037237	JEHLE HALSTEAD INC	5414 HIGHWAY 90	MILTON	FL	32571	Y
067283	JOE DEREUIL ASSOCIATES LLC	301 WEST CERVANTES ST	PENSACOLA	FL	32501	Y
032824	KENNETH HORNE & ASSOCIATES	7201 NORTH 9TH AVENUE STE 6	PENSACOLA	FL	32504	Y
001029	KLOCKE MCLAUGHLIN & ASSOCIATES	49 EAST CHASE ST	PENSACOLA	FL	32502	N
041283	LAND DESIGN INNOVATIONS INC	140 N ORLANDO AVE STE 295	WINTER PARK	FL	32789	N
000436	LARRY M JACOBS & ASSOCIATES INC	328 E GADSDEN ST	PENSACOLA	FL	32501	Y
054370	MANAGING MILESTONES INC	953 MARTIN LUTHER KING JR DR	ATLANTA	GA	30314	N
045220	MEP ENGINEERING SOLUTIONS INC	217 EAST INTENDENCIA ST	PENSACOLA	FL	32501	N
036709	MOTT MACDONALD FLORIDA	220 WEST GARDEN ST, STE 700	PENSACOLA	FL	32502	N
041868	MRD ASSOCIATES INC	1221 AIRPORT RD STE 210	DESTIN	FL	32541	N
059552	NOVA ENGINEERING & ENVIRONMENTAL LLC	3640 KENNESAW N INDSTR L PKWY E	KENNESAW	GA	30144	N
065732	PARADIGM ENGINEERS & CONSTRUCTORS	14180 RIVER ROAD #8	PENSACOLA	FL	32507	N
049009	PARRIS CONSTRUCTION CO LLC	10 EAST FAIRFIELD DRIVE STE C	PENSACOLA	FL	32503	Y
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	N
000225	PENSACOLA NEWS JOURNAL	P O BOX 13712	PENSACOLA	FL	32574	N
023075	PETERSON ENGINEERING INC	75 SOUTH 'F' ST	PENSACOLA	FL	32501	Y

Opening Date: 12/22/16

Bid No.: 16-039

**FINAL VENDOR REFERENCE LIST
CONSTRUCTION ENGINEERING & INSPECTION SERVICES FOR FERRY LANDING PROJECT
PORT OF PENSACOLA**

Vendor	Name	Address	City	St	Zip Code	SBE
055283	PLANENG INC	501 FITZGERALD ST	PENSACOLA	FL	32505	N
067398	PREBLE-RISH INC	218 EAST GOVERNMENT ST	PENSACOLA	FL	32502	N
036084	PREMIER ENGINEERING GROUP LLC	410 WEST NINE MILE ROAD	PENSACOLA	FL	32534	Y
065824	PRIME AE GROUP INC	2510 WEST CERVANTES ST	PENSACOLA	FL	32505	N
051061	REBOL-BATTLE & ASSOCIATES LLC	2301 NORTH 9TH AVENUE STE 3	PENSACOLA	FL	32503	Y
052760	REED, HEATHER DBA ECOLOGICAL CONSULTING SERVICES INC	38 S BLUE ANGEL PKWY #346	PENSACOLA	FL	32506	N
069116	RJH & ASSOCIATES INC	215 GRAND BLVD STE 102	MIRAMAR BCH	FL	32550	N
042209	SCHMIDT DELL ASSOCIATES INC	40 S PALAFOX PLACE STE 300	PENSACOLA	FL	32502	Y
053117	SIEMENS	1101 WEST GARDEN ST	PENSACOLA	FL	32502	N
059180	SIGMA CONSULTING GROUP INC	3298 SUMMIT BOULEVARD STE 32	PENSACOLA	FL	32503	N
037798	STOA INT'L/FLORIDA INC DBA STOA ARCHITECTS	121 EAST GOVERNMENT ST	PENSACOLA	FL	32502	N
020070	STROBEL & HUNTER INC	715 EAST GADSDEN ST	PENSACOLA	FL	32501	Y
037833	THE PENSACOLA VOICE	213 E YONGE ST	PENSACOLA	FL	32503	Y
042009	THOMPSON ENGINEERING	6706-C PLANTATION BLVD	PENSACOLA	FL	32504	N
067875	TIERRA	1300 WEST MAIN ST	PENSACOLA	FL	32501	N
027442	TODD, EDDIE S JR ARCHITECT	P O BOX 17623	PENSACOLA	FL	32522	N
039962	VDB VISION CONSULTANTS	140 REDBREAST LANE	PENSACOLA	FL	32503	N
038546	VOLKERT INC	6601 NORTH DAVIS HIGHWAY, STE 53	PENSACOLA	FL	32504	N
066549	WELLS, JAMES E III & SAMANTHA M W3 ENGINEERING INC	557 NORTHCREEK CIRCLE	PENSACOLA	FL	32514	N
026280	WETLAND SCIENCES INC	1829 BAINBRIDGE AVENUE	PENSACOLA	FL	32507	Y
044374	WILLIAM SEALY ARCHITECTS	BOX 10606	PENSACOLA	FL	32524	N

Vendors: 65



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 17-00023

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Underground Utility Easement for the Bill Gregory Park Regional Stormwater Treatment Facility Project

RECOMMENDATION:

That City Council approve granting a permanent underground utility easement to the Emerald Coast Utility Authority (ECUA) on the Bill Gregory Park property located at 120 North W Street.

Public Hearing Required: No Hearing Required

SUMMARY:

Construction of the new Bill Gregory Park Regional Stormwater Treatment Facility Project was approved by City Council on January 12, 2017 and is scheduled to begin construction in February 2017. Based on the facility design documents, it is necessary that ECUA be granted a permanent utility easement in order to properly relocate and maintain underground sanitary sewer utilities that currently exist in the park. The location of this utility easement is described in the attached documents and will not pose a conflict with current park infrastructure. Further, the granting of this easement will not impair or prevent planned uses for the park facility and will be strictly maintained by ECUA.

PRIOR ACTION:

January 12, 2017 - City Council award a contract for construction of the Bill Gregory Park Regional Stormwater Facility.

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

1/25/2017

STAFF CONTACT:

Eric W. Olson, City Administrator

L. Derrick Owens, Director of Public Works and Facilities/City Engineer

ATTACHMENTS:

- 1) Utility Easement Agreement

PRESENTATION: No

This document prepared by:
Larry Goodwin, Right-of-Way Agent
Emerald Coast Utilities Authority
9255 Sturdevant Street
Pensacola, Florida 32514-0311

A Portion of County Appraiser's ID No.: 00-0S-00-9090-001-147

UTILITY EASEMENT

STATE OF FLORIDA)
COUNTY OF ESCAMBIA)

KNOW ALL MEN BY THESE PRESENTS: That in consideration of ONE DOLLAR (\$1.00) and other good and valuable consideration paid to the City of Pensacola, a municipal corporation of the State of Florida, whose address is 222 West Main Street, Pensacola Florida 32502 (Grantor), by Emerald Coast Utilities Authority, a local governmental body, corporate and politic, of the State of Florida, whose address is 9255 Sturdevant Street, Pensacola, Florida 32514 (Grantee), the receipt of which is hereby acknowledged, Grantor hereby grants, bargains, sells, transfers, and conveys unto Grantee, it successors and assigns, a perpetual utility easement with the right to enter upon, occupy and use the following described real property for the purpose of utility lines and facilities and equipment necessary or convenient in connection therewith, together with the right to lay, bury, construct, operate, maintain, dig up and repair such lines, facilities and equipment from time to time, together with all rights and privileges necessary or convenient for full enjoyment and use thereof for the aforesaid purposes, including the right of ingress and egress. Said parcel of land for the Utility Easement being described in Exhibit "A" which is attached hereto and made a part hereof.

The Grantor and the Grantee intend that the Grantor convey to the Grantee an easement and all the above-mentioned rights and privileges pertaining thereto with respect to a certain utility line or lines and to certain necessary related facilities which have been accepted or which, it is anticipated, will be accepted by the Grantee and that the actual and necessary location shall control so that the property subject to this easement shall coincide with the utility line or lines and to certain related facilities.

In executing this easement, the Grantor and the Grantee hereby covenant and agree that the Grantee shall not use the above-described property for purposes inconsistent with the location, construction, operation and maintenance of utility lines and related facilities. Grantor shall also have the right to cut down, trim, or otherwise maintain any foliage, undergrowth, or trees throughout the easement and extending to five (5) feet on each side of the above-referenced easement area which may interfere with Grantee's use of the easement area.

The Grantor for itself, its successors and assigns, hereby covenants and agrees that the Grantor shall not erect any building or other permanent structure over or upon the easement area. Easily removable improvements, such as paving with asphalt, may be constructed with prior consent of the Grantee.

Subject to any claim of sovereign immunity, Grantee shall be fully liable for the actions and omissions of its respective employees and agents for any loss or injury occurring on the easement area to the extent permitted by law. (2015 CA 002065)

IN WITNESS WHEREOF, the Grantor has executed this instrument this the _____ day of _____, 2017.

Witnesses:

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

Witness Signature

Print or Type Witness Name

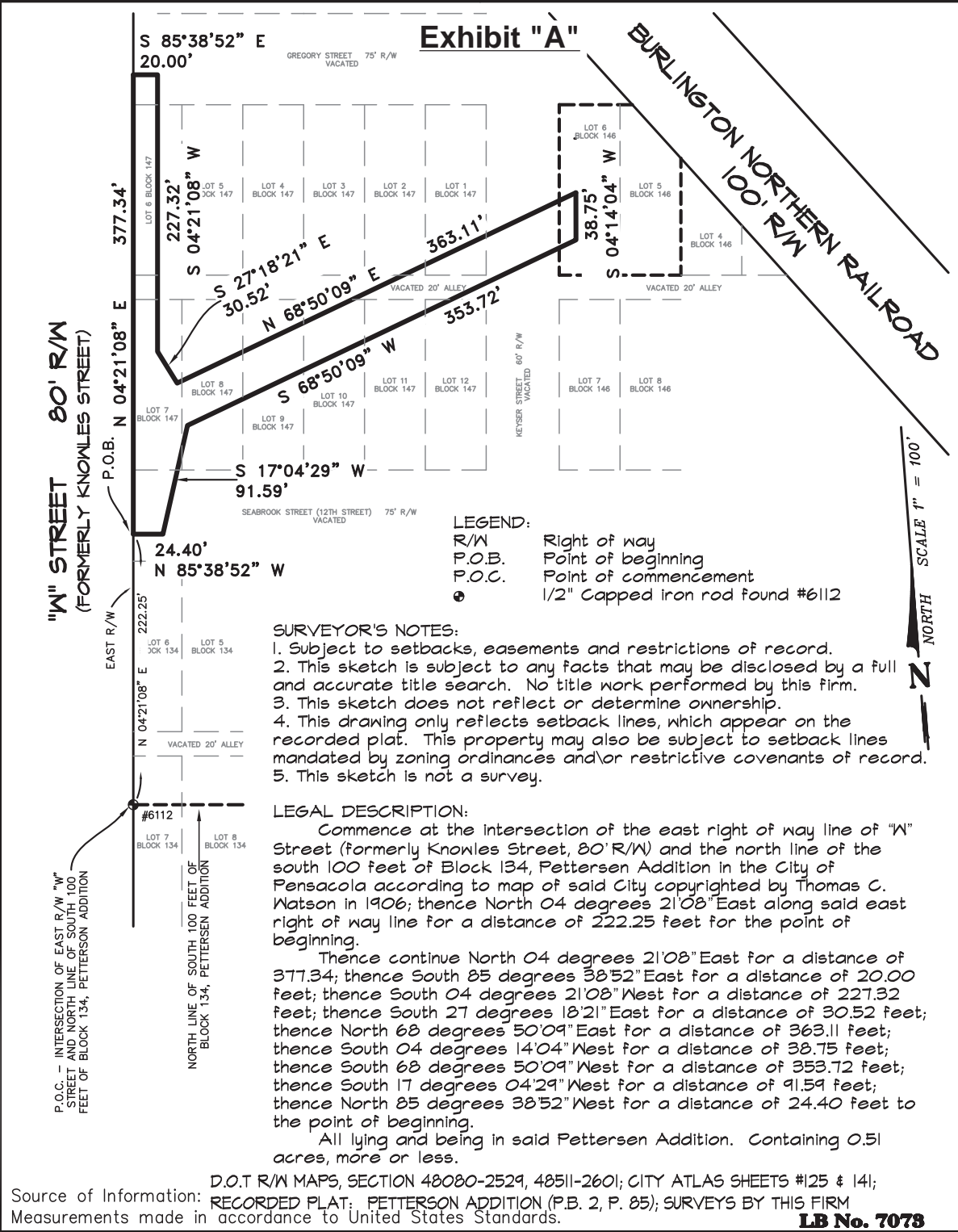
Ashton J. Hayward, III, Mayor

Witness Signature

Print or Type Witness Name

ATTEST: Ericka L. Burnett
 City Clerk

By: _____



I hereby certify that this survey was made under my responsible charge and meets the Standards of Practice as set forth by the Florida Board of Professional Surveyors & Mappers in Chapter 5J-17.050, 5J-17.051 and 5J-17.052, pursuant to Section 472.027 Florida Statutes.

David D. Glaze
 PSM #5605

Walter J. Glaze
 PSM #6190

File No. A-14880 Scale 1" = 100'
 Job No. 36677-16
 FB _____ PG _____
 FB _____ PG _____
 Ordered By MR. KEVIN MORGAN
 Bearing Reference NORTH BASED ON THE STATE PLANE COORDINATE SYSTEM (GRID NORTH)
 Encroachments _____
 Date of Survey _____ Elevation Reference _____
 Date of Plat 10-9-2016 Drawn By PMJ
 Date of Revision _____ Checked By WJG

NOT VALID UNLESS IMPRINTED WITH EMBOSSED SEAL AND SIGNED BY SURVEYOR



Memorandum

File #: 17-00052

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Pensacola Energy - Award of Bid #17-011, Natural Gas Pipeline Construction West Pensacola Low Pressure Area Upgrades

RECOMMENDATION:

That City Council award Bid #17-011 Natural Gas Pipeline Construction to R.A.W. Construction, LLC., the lowest and most responsible bidder in the amount of \$1,986,875 for seven (7) natural gas infrastructure replacement projects, \$169,200 for the miscellaneous work option as outlined in the bid specifications plus a 10% contingency of \$215,608 for a total amount of \$2,371,683 for a period of one year. Further, that Council authorize the Mayor to execute a contract and take all actions necessary to complete the project.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Sealed bids were received January 19, 2017 for a contract to replace aging natural gas pipelines (infrastructure replacement). Two (2) vendors responded to the City's invitation to bid. R. A.W. Construction, LLC was the lowest and most responsible bidder. Pricing for seven (7) projects was included in the bid packages to be awarded over the one year period. The second bidder, Big Sky Underground's bid was declared non-responsive for failing to provide a bid price for Projects #4 & #5, as required by the bid documents. It is critical that this work move forward so that the pipe replacement is completed before the new road repaving projects have begun.

The contract also provides for miscellaneous outside work in addition to the specified work orders. Miscellaneous outside work is based on hourly rates for out of scope work or change order work. Miscellaneous projects may arise, for example, in a case of emergency such as unusual weather conditions or to assist with system expansion.

Project #1-North Highland Phase I	Replace 18,000 LF	\$378,655
Project #2-North Highland Phase II	Replace 14,500 LF	\$318,855
Project #3-North Highland Phase III	Replace 9,000 LF	\$203,850
Project #4-North Highland Phase IV	Replace 9,000 LF	\$183,770

Project #5-South Palafox	Replace 4,000 LF	\$137,000
Project #6-Downtown West	Replace 18,500 LF	\$379,250
Project #1-Devilliers Replacement	Replace 16,200 LF	\$385,495
Total Award	\$ 1,986,875	

PRIOR ACTION:

November 29, 2016 - City Council approved a resolution authorizing a \$15 million financing for the acquisition and construction of certain capital improvements to the gas system over a three year period and authorized the Mayor to execute the transaction.

FUNDING:

Budget:	\$2,371,700
Actual:	\$1,986,875 Construction Contract
	169,200 Miscellaneous Work Option
	<u>215,608</u> 10% Contingency
Total:	<u>\$2,371,683</u>

FINANCIAL IMPACT:

Funding is available in the Gas Utility Fund from the Florida Gas System Revenue Note, Series 2016.

CITY ATTORNEY REVIEW: Yes

1/27/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
Richard Barker, Jr., Chief Financial Officer
Don J. Suarez, Pensacola Energy Director

ATTACHMENTS:

- 1) Bid Tabulation - Bid No. 17-011
- 2) Final Vendor Reference List - Bid No. 17-011

PRESENTATION: No

TABULATION OF BIDS

BID NO: 17-011

TITLE: ONE (1) YEAR CONTRACT FOR NATURAL GAS PIPELINE CONSTRUCTION
 – WEST PENSACOLA LOW PRESSURE AREA UPGRADES

OPENING DATE: January 19, 2017
 OPENING TIME: 2:30 P.M.
 DEPARTMENT: Pensacola Energy

BIG SKY
 UNDERGROUND, LLC
 Pensacola, FL

R. A. W.
 CONSTRUCTION, LLC
 Tallahassee, FL

Project 1-North Highland Phase I	\$386,350.00	\$378,655.00
Project 2-North Highland Phase II	\$316,500.00	\$318,855.00
Project 3-North Highland Phase III	\$217,750.00	\$203,850.00
Project 4-North Highland Phase IV	No Bid	\$183,770.00
Project 5-South Palafox	No Bid	\$137,000.00
Project 6-Downtown West	\$332,350.00	\$379,250.00
Project 7-Devilliers Replacement	\$298,570.00	\$385,495.00
Total Bid	Non-Responsive	\$1,986,875.00
M/WBE Goal: 3%		
M/WBE Participation	1.6%	7.9%
Attended Prebid	Yes	Yes

FINAL VENDOR REFERENCE LIST
ONE (1) YEAR CONTRACT FOR NATURAL GAS PIPELINE CONSTRUCTION
WEST PENSACOLA LOW PRESSURE AREA UPGRADES
PENSACOLA ENERGY

Vendor	Name	Address	City	St	Zip Code	M/WBE
44957	ALL SEASONS CONSTRUCTION LLC	6161 BLUE ANGEL PARKWAY	PENSACOLA	FL	32526	N
000377	BASKERVILLE DONOVAN	449 WEST MAIN ST	PENSACOLA	FL	32502	N
036997	BELLVIEW SITE CONTRACTORS INC	3300 GODWIN LANE	PENSACOLA	FL	32526	N
070400	BIG SKY UNDERGROUND LLC	2172 W NINE MILE ROAD	PENSACOLA	FL	32534	N
053457	BIRKSHIRE JOHNSTONE LLC	11 CLARINDA LANE	PENSACOLA	FL	32505	N
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	N
022856	BROWN CONSTRUCTION OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	N
041503	BROWN, AMOS P JR DBA P BROWN BUILDERS LLC	4231 CHERRY LAUREL DRIVE	PENSACOLA	FL	32504	N
070401	CHAMPION CLEANING SPECIALISTS INC	8391 BLUE ASH RD	CINCINNATI	OH	45236	N
027092	CHAMPION CONTRACTORS INC	505 NORTH FERDON BLVD	CRESTVIEW	FL	32536	N
042045	CHAVERS CONSTRUCTION INC	1795 WEST DETROIT BLVD	PENSACOLA	FL	32534	N
032038	EVANS CONTRACTING INC	289 NOWAK RD	CANTONMENT	FL	32533	N
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	8777 ASHLAND AVE	PENSACOLA	FL	32514	N
000591	GULF ATLANTIC CONSTRUCTORS INC	650 WEST OAKFIELD RD	PENSACOLA	FL	32503	N
034504	GULF COAST AFRICAN AMERICAN CHAMBER OF COMMERCE	PO BOX 17844	PENSACOLA	FL	32522	N
018636	GULF COAST BUILDING CONTRACTORS INC	1010 N 12TH AVE	PENSACOLA	FL	32501	N
036662	H H H CONSTRUCTION OF NWF INC	8190 BELLE PINES LANE	PENSACOLA	FL	32526	N
001597	HEATON BROTHERS CONSTRUCTION CO INC	5805 SAUFLEY FIELD ROAD	PENSACOLA	FL	32526	N
044713	HENRY HAIRE BUILDING & DEVELOPMENT INC	6341 HIGHWAY 90 STE B	MILTON	FL	32570	N
049240	J MILLER CONSTRUCTION INC	201 SOUTH "F" STREET	PENSACOLA	FL	32501	N
043857	KBI CONSTRUCTION CO INC	9214 WARING RD	PENSACOLA	FL	32534	N
055564	L & L BACKFLOW INC DBA L & L UTILITIES INC	115 MCLAUGHLIN ROAD	MILTON	FL	32570	N
058332	LEIDNER BUILDERS INC	409 N PACE BLVD	PENSACOLA	FL	32505	N
058801	M & H CONSTRUCTION SERVICES INC	4782 MALLARD CREEK ROAD	PENSACOLA	FL	32526	N
060514	MASTEC NORTH AMERICA INC	209 ART BRYAN DRIVE	ASHEBORO	NC	27203	N
058839	MILLER PIPELINE LLC	1853 RELIABLE PARKWAY	CHICAGO	IL	60686	N
022368	MOTES, MIKE DBA MIKE MOTES CONSTRUCTION INC	4164 HUCKLEBERRY FINN ROAD	MILTON	FL	32583	N
016210	NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	N
064219	P3 CONSTRUCTION & ENERGY SOLUTIONS LLC	1560 KYLE DRIVE	PENSACOLA	FL	32505	N
002720	PANHANDLE GRADING & PAVING INC	2665 SOLO DOS FAMILIAF	PENSACOLA	FL	32534	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	N
050307	QCFS MANAGEMENT GROUP INC	3326 NORTH W STREET	PENSACOLA	FL	32505	N
049117	R A W CONSTRUCTION LLC	710 LEWIS BLVD SOUTH	TALLAHASSEE	FL	32305	N
018305	R D WARD CONSTRUCTION CO INC	15 EAST HERMAN STREET	PENSACOLA	FL	32505	N
062120	R ROESE CONTRACTING CO INC	2674 SOUTH HURON ROAD	KAWKAWLIN	MI	48631	N
049671	RADFORD & NIX CONSTRUCTION LLC	7014 PINE FOREST ROAD	PENSACOLA	FL	32526	N
021834	RANDALL CHAVERS SEPTIC TANK INC DBA R & L PRODUCTS	9492 PENSACOLA BLVD	PENSACOLA	FL	32534	N
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	N

Opening Date: 01/19/17

Bid No.: 17-011

FINAL VENDOR REFERENCE LIST
ONE (1) YEAR CONTRACT FOR NATURAL GAS PIPELINE CONSTRUCTION
WEST PENSACOLA LOW PRESSURE AREA UPGRADES
PENSACOLA ENERGY

Vendor	Name	Address	City	St	Zip Code	M/WBE
055499	ROCKWELL CORPORATION	3309 LINGER COURT	PENSACOLA	FL	32526	N
042044	SALTER/3C'S CONSTRUCTION CO	4512 TRICE RD	MILTON	FL	32571	N
052761	SEASIDE GOLF DEVELOPMENT INC	312 N DAVIS HWY	PENSACOLA	FL	32501	N
054319	SMITH INDUSTRIAL SERVICE INC	2001 WEST I-65 SVC RD N	MOBILE	AL	36618	N
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	N
062121	T B LANDMARK CONSTRUCTION INC	11220 NEW BERLIN ROAD	JACKSONVILLE	FL	32226	N
045247	TEAM POWER SOLUTIONS	4033 WILLIS WAY	MILTON	FL	32583	N
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	N
037833	THE PENSACOLA VOICE INC	213 EAST YONGE STREET	PENSACOLA	FL	32503	N
053924	THOMPSON CONTRACTOR RESOURCES INC	196 E NINE MILE RD SUITE C	PENSACOLA	FL	32534	N
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	N
022290	VICTOR A WALKE DBA V A WALKE GENERAL CONTRACTOR	10235 LILLIAN HIGHWAY	PENSACOLA	FL	32506	N
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	N
004751	W R JOHNSON INC	PO BOX 2250	PENSACOLA	FL	32513	N
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	N

Vendors: 61



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 17-00059

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Brian Spencer

SUBJECT:

Quasi-Judicial Hearing: Review of Architectural Review Board Decision - 165 E. Intendencia Street, Palafox Historic Business District, C-2, Signage.

RECOMMENDATION:

That City Council conduct a Quasi-Judicial hearing to review Architectural Review Board decisions of November 17, 2016 regarding 165 E. Intendencia Street (YMCA), Palafox Historic Business District, C-2, Signage.

HEARING REQUIRED: Quasi-Judicial

SUMMARY:

On November 17, 2016 the Architectural Review Board (ARB) made decisions involving signage for the YMCA. Pursuant to Section 12-13-3(M) (*Procedure for Review* of the City Code, a timely filed Notice of Appeal was submitted on behalf of the YMCA.

This Quasi-Judicial hearing serves as a review of the ARB decisions.

PRIOR ACTION:

November 17, 2016 - ARB decision regarding signage on YMCA building
November 30, 2016 - Notice of Appeal of the Architectural Review Board Decision to the City Council filed.

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) ARB Minutes 11-17-16 - YMCA Appeal
- 2) Sec.12-13-3- Architectural Review Board
- 3) Sec.12-2-21- Palafox historic business district

PRESENTATION: No



PLANNING SERVICES

THE UPSIDE of FLORIDA

Architectural Review Board

MINUTES OF THE ARCHITECTURAL REVIEW BOARD

November 17, 2016

MEMBERS PRESENT: Chairman Ben Townes, Susan Campbell Hatler, Carter Quina, George Mead, Ray Jones, Nina Campbell

MEMBERS ABSENT: Michael Crawford

STAFF PRESENT: Brandi Deese, Leslie Statler, Ross Pristera, Advisor

OTHERS PRESENT: David W. Jacobi, Brittany Sherwood, J.J. Zielinski, Steve Jernigan, Bo Carter, Brian Lumbatis, Tom Renshaw, Ed Carson, Michelle MacNeil, Rex McKinney, Carl & Annette Valletto, John Ellis, Diane Davis

CALL TO ORDER / QUORUM PRESENT

Chairman Ben Townes called the Architectural Review Board (ARB) meeting to order at 2:01 p.m. with a quorum present. He then instructed the audience on the functions of the Board, and that all decisions made by the Board are subject to review by the City Council.

APPROVAL OF MINUTES

Mr. Jones made a motion to approve the October 20, 2016 minutes with a revision to Item 4 indicating 1 dissention. Ms. Deese indicated the correction had been made. Mr. Mead seconded the motion, and it carried unanimously.

NEW BUSINESS

Item 1

321 S. Palafox St.

Palafox Historic Business District
C-2A

Contributing Structure

Action taken: **Approved**

Mr. JJ Zielinski was requesting approval to extend the street front canopy of a contributing structure. The proposed canopy would extend along the front of the building to the north and south of the existing canopy. It would also match the existing canopy in design and color. Mr. Zielinski addressed the Board, and Mr. Jones asked if it would match exactly. Mr. Zielinski provided materials and stated they intended to match all details exactly. Mr. Mead asked if the canopy would cover the tables under an existing License to Use, and Mr. Zielinski said it would. Ms. Deese agreed there were no further approvals needed. **Ms. Hatler made a motion to approve, seconded by Mr. Mead.** Mr. Quina wanted to make sure they poured new footing for the columns, and Mr. Zielinski stated the concrete was being replaced, and it would not appear patched. **The motion then carried unanimously.**

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

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Item 2
Non-Contributing Structure
Action taken: Approved

221 S. Baylen St.

**Palafox Historic Business District
C-2A**

Mr. David Jacobi was requesting approval for the demolition of a non-contributing structure. Per the Escambia County Property Appraiser, the structure proposed for demolition was constructed in 1957. The demolition of the existing building would allow for the redevelopment of the property as presented in Item 3 of this agenda. Because of the age of the property, Mr. Pristera stated he checked the records, but the structure did not appear to be significant, but he did not like removing it for a parking lot. Mr. Jacobi stated the intention was to remove all the brick and replace it with asphalt. Mr. Pristera asked about the drainage, and Mr. Jacobi stated his engineer indicated all those concerns would be addressed. Regarding a retention pond, Ms. Deese stated the City Engineering Department would have to approve per the Code before granting a permit. Mr. Jones inquired about retaining the brick, but Mr. Jacobi stated grass growing between the bricks made it difficult to maintain. Ms. Campbell wanted to see more landscaping on the Government Street portion, and Ms. Hatler agreed. Mr. Jacobi pointed out that landscaping would cost parking places.

Mr. Quina asked if a new survey was performed, it would have to be reevaluated regarding age, architectural style, etc. Mr. Pristera stated the district has a particular narrative that buildings are to fit in, but this structure was not conducive to it. He pointed out the site placement was odd to the area, and no significant events or persons were tied to it. He did check with the archaeological institute who stated there probably were ruins which had already been disturbed when the building was constructed.

Chairman Townes questioned the intentions for the white areas along the perimeter. Mr. Jacobi stated he had no specific plan at this point, but they might be landscaping. He did state the intention was not to enter on Government Street, but entering only on Baylen and then looping through the parking lot. For now, the parking would not be gated, and they would use vehicle identification stickers.

Ms. Campbell wanted to see some changes, and Mr. Jacobi advised he was open to suggestions for a design professional. He indicated the parking was specifically for employees. Ms. Hatler asked if it would help if the employees were shuttled in from another parking lot. Mr. Jacobi pointed out the Levin Law Firm currently leases 45 spaces at the Judicial Center, and there could be another space problem in the future. He also indicated they were the owners of the property, and the parking was more valuable to them than the existing structure. Mr. Quina suggested keeping some of the brick for a brick wall along the street to hide the parking spaces on the Government and Baylen Street sides. Mr. Jacobi stated they had an easement along the north side to provide access to the Lundy Building.

Chairman Townes stated the building itself eventually will be torn down, and if it could serve as a parking lot for Mr. Jacobi, he had no objection, since downtown is growing and this is a vibrant corner for future buildings. He suggested that Mr. Jacobi bring landscaping forward along with suggestions from the Board. He stated the Board would ask that he have a plan before applying. Mr. Jones asked about current parking spaces, and Mr. Jacobi stated there were 31 spaces, and they wanted a total of 46. Mr. Quina pointed out brick pavers were what others want to emulate. Mr. Mead asked if the Board approved the demolition, would the landscaping return. Ms. Deese advised the landscaping was tied to Item 3. **Mr. Mead then made a motion to approve, seconded by Ms. Hatler. Mr. Quina stated the basis of approval for the demolition was that the building was considered a non-contributing, poorly sited, under-utilized structure on a midblock location. Mr. Mead added the proposed reuse will not prevent future appropriate development. Mr. Mead and Ms. Hatler accepted the language amendment, and it carried unanimously.**

Item 3
New Construction

221 S. Baylen St.

**Palafox Historic Business District
C-2A**

Action taken: Denied without prejudice.

Mr. David Jacobi was requesting approval for the expansion of a parking lot. Mr. Jacobi wanted suggestions for landscaping companies the Board would recommend in order to return with a proposal in the future. Mr. Quina suggested the curb cut at the street did not need to be 26' wide, and he suggested using curbs. He explained the Code required site lighting and irrigated landscaping, and he wanted Mr. Jacobi to consider the use of brick on the perimeter to create a separation from the public sidewalk and the parking lot. It was clarified that Item 2 covered the demolition

only, but the brick could not be removed before submitting a landscape plan. Mr. Jones suggested taking another look at using other materials for the parking lot. Chairman Townes offered to provide names of landscape professionals after the meeting.

Mr. Mead reminded the Board that tabling was not possible, but the applicant could withdraw in writing; Mr. Jacobi agreed with denial. **Mr. Mead then made a motion to deny without prejudice, seconded by Ms. Hatler, and it carried unanimously.**

**Item 4
Signage**

165 E. Intendencia St.

**Palafox Historic Business District
C-2**

Action taken: Approved with comments.

Mr. Tom Renshaw, Complete Signs, was requesting approval for attached wall signage on the YMCA building. This application is for the "YMCA" signage currently on the building as well as the proposed additional "Baptist" signage. Initially, the signage for the YMCA was presented as an abbreviated review. After being denied for internal illumination, the signage was modified to non-illuminated letters. However, the signage which was installed does not comply with the approval and is internally illuminated. The proposed "Baptist" signage was also presented as an abbreviated review; however, the reviewer determined full Board approval was warranted and should include the previous submittal. Also, Caldwell and Associates was requesting approval for a minor exhibit area to be located within the entry plaza of the YMCA on the northwest corner of the site. **This exhibit focuses on the "First Early Learning City" concept and promotes the use of visual aids within the community to teach children. However, at this time, Caldwell and Associates wanted to withdraw this request.**

Brian Lumbatis with Complete Signs stated the client (YMCA) did prefer internally luminated signage, and they were instructed to build them as such, but the client would not turn them on. He stated they submitted the same drawings with non-illuminated language until they could get approval for internal illumination. The signage was approved, built and installed. He stated the materials and construction were according to the approved drawings. Ms. Deese informed that Mr. Quina had approved the proposal in an abbreviated review. However, Mr. Quina explained the package he approved did not allow for internally luminated signage. He approved the "Y" and the "Bear-Levin-Studer Family YMCA." When the additional abbreviated review package for "Baptist Health Care" was submitted, he sent it to the full Board to make sure of the full intention, not knowing they were already internally illuminated. The new proposal is to place "Baptist Health Care" below the "Y". Mr. Lumbatis advised this signage would be backlit for a halo effect. Mr. Mead clarified that you cannot substitute an operational restriction for an architectural requirement. Mr. Lumbatis stated it was the client's intent to seek approval for the illuminated signage.

For further clarification, Mr. Ed Carson stated there was some miscommunication. The external signage was pulled out and left to the executive director of the YMCA and staff to work out; there wasn't a lot of communication between the construction team and staff. It was his recollection that they had depicted the signs the way they are with illumination. Mr. Jones recalled that conversation came up, and the illumination was not allowed. Mr. Carson advised they showed illumination from the beginning. Mr. Mead explained that backlit is allowed. Ms. Campbell lives in the area, and had several comments from the historic village about the bright lights. Mr. Mead pointed out in the original application signage was indicated, and if there was conduit in the plans, it did not show the manner of illumination.

Mr. Carson wanted a solution to the problem and asked for the language in the Code. Chairman Townes stated Section 12-13-3 charges the Board with maintaining the historic integrity of the Pensacola historic districts, and the Board makes its rulings based upon what they have done for precedence in the past. The Board has determined that it is architecturally acceptable to backlight signs in the historic districts, and they have never in the ten plus years he has been on the Board allowed internally illuminated signs. Ms. Deese indicated in Section 12-2-10 the language spelled out signs which are prohibited which includes internally illuminated signage. She advised the illuminated signage had been denied two times.

Mr. Quina then suggested the bulbs be removed from the signage. Mr. Mead was concerned with stacking up signage on the building because everyone wants to be associated with the YMCA. Mr. Carson stated they had taken time to consider the square footage allowed for building signage and tried to stay within that limit. The Board discussed having the Baptist signage below the "Y" in both locations, and Mr. Pristera agreed there should be consistency on the location. Mr. Mead suggested if the client is within the area limits, there is only so much the Board could do, and if

Baptist Health Care is a legitimate tenant, it would be appropriate. Ms. Campbell suggested the "Baptist Health Care" signage be located under the "Y" on the east side, same as the north side; the Baptist signage was indicated as backlit. Chairman Townes had no problem with multiple-tenant buildings with multiple signage for advertising purposes. Ms. Hatler asked about the square footage, and Ms. Deese explained the clients were under their 200 sq. ft. limitation, with possibly 2 or 3 sq. ft. left.

Mr. Quina made a motion to approve the Baptist sign as submitted to the north elevation, with the east elevation in the same proximity as the "Y" on the north elevation; regarding the two signs presently lit, the internal illumination needed to be removed in some manner immediately. Mr. Mead seconded the motion and encouraged illumination, but it would have to be brought into compliance with the Code; it was not appropriate to be internally illuminated. Ms. Campbell stated it was regrettable that the sign was built with components which were not allowed in this section of Pensacola. The applicant would have to provide some type of hardship for the requested lighting, and more importantly, the Board would be setting a precedent for what is allowed. Ms. Hatler pointed out as a leading architectural piece in downtown, the applicant needed to consider what they have presently is not up to Code. She inquired about the "First Early Learning City" signage which was withdrawn, and Ms. Deese explained this signage was considered an exhibit and not a tenant, and the permitted 200 square footage would not come into play. **The motion then carried unanimously.**

**Item 5
New Construction**

200 Blk Garden St

**Palafox Historic Business District
Pensacola Historic District**

Action taken: Approved with comments.

Mr. Steve Jernigan, Bay Design Architecture, was requesting final approval for a 5-story bank and office building with a drive-thru extension. This project was presented to the Board on June 16, 2016, as a 4-story bank and office building with a drive-thru beneath the first floor; the Board approved the conceptual design with comments. The applicant has taken the Board's comments under advisement and has provided a submittal with the building anchoring the corner and the parking lot to the rear of the site as directed. Additionally, the aesthetic of the building has been modified.

Mr. Jernigan advised the building had been reoriented to address the corner and they worked out the accessibility issues to the building. He furnished brick samples and stated the building would be all brick floors 1 through 4 (matching the brick on the Beck Building), with a buff brick at the 5th floor. He advised the signage would not be internally illuminated.

Mr. Jones asked about the dumpster enclosure, and Mr. Jernigan stated it would probably be brick to match the building. He also indicated there would be an ATM in the drive-thru.

Mr. Quina suggested having brick with more consistency. He asked if the horizontal band at the 2nd floor could be removed. He also appreciated moving the building to the corner and asked about landscaping. Mr. Jernigan stated he could bring the dumpster enclosure and landscaping back to the Board.

Chairman Townes asked about signage. Mr. Jernigan stated there was one prime tenant in the building with a building mounted sign, and they were considering a small ground-mounted monument sign near the corner for any additional tenants. He explained they wanted to begin construction in January. Mr. Mead asked how consciously they were mimicking the proportions of the Blount Building; Mr. Jernigan stated it was not intentional. He advised the site lighting would be brought to the Board at a later date.

Mr. Quina made a motion for approval based on the Board's conversation about the entrance, brick selections, landscape plan, site lighting and signage for final approval, seconded by Ms. Campbell. Ms. Deese asked if landscaping, site lighting and dumpster enclosures would be an abbreviated review or full Board; it was determined to be the full Board. Mr. Jernigan stated they would probably present again at the Board's January meeting. **The motion then carried unanimously.**

**Item 6
Contributing Structure**

418 E. Intendencia St.

**Pensacola Historic District
HR-1 / Wood Cottages**

Action taken: Approved

Mr. Marcus Gross was requesting approval for the removal of the roof on the side porch on the principle (contributing) structure and the demolition of a non-contributing accessory structure. Mr. Gross provided pictures to the Board

illustrating the conditions. He planned to keep the base and have no covering on the side porch; the decking would remain.

Mr. Quina made a motion to approve demolition of the rear structure and the roof on the side porch, seconded by Ms. Campbell, and the motion carried unanimously.

Item 7

100 Blk S. 9th Ave.

Pensacola Historic District

New Construction

HC-1 / Brick Structures

Action taken: Approved with comments.

Mr. Paul Ritz, Bullock Tice Associates, was requesting approval for a new 2-story mixed-use development. This item was previously reviewed and denied by the Board at their September 15, 2016, and October 20, 2016, meetings. The applicant has taken the Board's findings under advisement and has provided a submittal with more details and modifications as directed. Mr. Ritz stated a major change was to lower the building by 2 feet on the first floor only – from 1st floor to 2nd floor is now 16 feet. The podium material was changed to split-face block. The vents now occur every fourth concrete block with a painted cast iron look. On the 9th Avenue elevation the railings were simplified. The more flamboyant railings are on the 2nd floor over the wine bar area. (This selection could come back to the ARB for final selection approval.)

On the Romana Street elevation, they constructed a parapet style roof for the bump out portion. The railings match the 9th Avenue railings. The landscaping between the podium and sidewalk would be ornamental grass similar to that at the park across the street. Colors of the stucco and metal remained the same. Chairman Townes noted the increase in porch columns. Mr. Ritz advised the maximum span is 16 feet. On the west wall off the parking lot, they added brackets to the standing seam roof. The mechanical room has arch relief. All of the mechanical fans for intake and exhaust for the kitchen are on the roof; 8" of the equipment might be visible above the parapet wall. The wall height of the bridge was reduced almost 2 feet. There is additional signage on the north elevation after the creation of the parapet wall.

Mr. Quina questioned the letter size for Aragon Lot versus Privateers Alley, and Mr. Ritz stated Aragon Loft is not a complex but a permanent condominium. Mr. Ritz also provided details on the dumpster enclosure for the restaurant, with the wall mimicking the wall along the western edge of the site as well as the wall which is between this building and property to the south along 9th Avenue. The electrical transformer is in the general neighborhood of the back stair ramp area with shrubbery and ornamental grasses. He stated the Bevolo lights are now on the 2nd floor balconies and 1st floor walls with all the fixtures being electrically illuminated. There is a 4" recess for the windows and doors providing some shadow. The signage for the soffit on the 1st floor will be brought back to the Board based on the tenants' desire.

Mr. Jones asked about the parking area materials, and Mr. Ritz indicated they would be asphalt. Mr. Mead asked about the setback from the adjoining property on the south elevation. Mr. Ritz stated it was continuous with the property line, similar to that north of Romana Street. Mr. Mead asked about the north and west elevations façade wall elements. Mr. Ritz stated they could consider some louvered element. Mr. Mead advised the parapet element was thin and could they give it more dimension. Mr. Ritz stated they went with the minimum height to accomplish the task. Mr. Mead also asked about the metal standing seam on the western element rather than continuing the parapet on the shed roof – the projection of the parapet is very different with the gable element. Mr. Ritz stated at the conceptual approval, it was shown as a standing seam metal roof. Mr. Quina addressed the muntin patterns. He pointed out no mullions on the 1st and 2nd floor doors. He noted they had eliminated any arched transoms at this point, and Mr. Ritz agreed. He advised they could return to a transom over the doorways.

Mr. Jones made a motion to approve, seconded by Mr. Quina.

Ms. MacNeil pointed out the newels didn't align and recommended they be centered between the two columns on each side (sheet 1 and sheet 6). On sheet 8, the reflective ceiling plan also shows the newel not centered. Looking across at the Craft Bar, the column is not shown spaced between the two columns. She also observed the door and window mullions were not consistent, and the arch transom on the major corner should be put back. She addressed the Privateers Alley signage and preferred the previous detailing on the connecting bridge.

Chairman Townes advised a motion had been made and seconded for final approval, but the comments could be kept in mind but were not included in the motion. Mr. Ritz stated the bulk of the comments could be addressed. He clarified

the light between the alleyway was intended to mimic the light at Romana Street. Chairman Townes addressed the 2nd floor lettering might need to be reconsidered. **Mr. Quina clarified the Board had discussed the transoms over the entrance doors, the alignment of the newels, the column on the west elevation and mullions. Mr. Jones agreed to the accept amendments to the motion, and Mr. Quina agreed. The motion carried unanimously.**

Item 8 **125 S. Alcaniz St.** **Pensacola Historic District**
New Construction **HC-1 / Wood Cottages**

Action taken: Approved as submitted-abbreviated review on landscaping, fencing and signage.

Mr. Dean Dalrymple, Dalrymple Sallis Architecture, was requesting approval for a 3-story mixed-use building with a pool. This project was presented to the Board at their October 20, 2016, meeting; it was withdrawn by the applicant during the discussion. The applicant has taken the Board's comments into consideration and has provided a submittal with open stairwells on the west side of the building and visual interest on the elevator shaft. The proposed resident storage facilities have been combined into one building on the north side of the pool amenity. Mr. Sallis addressed the Board and stated they were happy to provide the adjustments, but it was quite expensive. Mr. Quina pointed out it was a good balance of a fairly large project on this corner and is more delicate in nature and also appreciated the use of the brick to pull from the Warfield Grocery.

Ms. Campbell made a motion to approve the project as submitted, seconded by Ms. Hatler. Mr. Jones asked about the parking spaces, and Mr. Sallis stated they would be asphalt, and that landscaping was in the original package. He advised the fencing on the street side would be brick and a powder coated fence at the property line. Chairman Townes asked about the underside of the balconies on the east side facing Alcaniz. Mr. Sallis stated they were hoping for a tongue and groove nearly clear stained pine wood soffit. He advised they had removed the can lights and were using wall sconces for the balconies at Alcaniz. He also stated they would return to the Board for signage. **Ms. Campbell amended her motion for an abbreviated review for landscaping, fencing and signage accepted by Ms. Hatler.** Mr. Mead addressed the lighting configuration being the same. Chairman Townes asked about the ground floor doors and windows, and Mr. Sallis explained they would be aluminum clad wood, but would appreciate some flexibility possibly in the abbreviated review. **The motion then carried unanimously.**

Item 9 **600 S. Barracks St.** **Pensacola Historic District**
Non-Contributing Structure **SSD**

Action taken: Approved

Mr. Dean Dalrymple, Dalrymple Sallis Architecture, was requesting approval for an elevator addition. This request was previously reviewed and denied by the Board at their October 20, 2016, meeting. The applicant took the Board's findings under advisement and modified the façade and roof to create interest. Mr. Sallis presented to the Board and explained Mr. Quina had suggested the elevator tower could be better; they accepted the Board's input and modifications were incorporated for a better product. Ms. Deese advised that the signage would be evaluated through an abbreviated review. Mr. Sallis explained that this signage would possibly address the services and not the business. **Mr. Quina made a motion to approve, seconded by Ms. Campbell, and it carried 5 to 1 with Mr. Mead recusing.**

Item 10 **1109 N. Reus St.** **North Hill Preservation District**
Contributing Structure **PR-1AAA**

Action taken: Approved

Mr. Carter Quina, Quina Grundhoefer Architects, was requesting approval for exterior repairs due to a fire as well as a new 354 sq. ft. master bathroom addition on a contributing structure. The repairs include the removal of the brick chimney on the rear of the dwelling. The proposed addition is an expansion of a previous addition and will incorporate the existing wood windows. The Board was provided positive comments from North Hill. Mr. Valetto and Mr. Quina addressed the Board and advised that the house probably should be demolished, but they were restoring it, adding a master bathroom and closet on the south side of the structure. Mr. Quina advised the initial inspections revealed they could restore the back side of the roof, and they would be working with the Inspections Department to make sure the new construction would meet the codes.

Mr. Jones asked about the chimney and if it could be saved since it would change the character of the house. Mr. Quina

stated the rear chimney would have to be removed and reconstructed because of the extensive fire and water damage. The front main chimney was in good shape and would remain a defining point. Mr. Valletto explained they would remove the aluminum siding and replace it with Hardi Board; the side addition materials would also be Hardi Board. Mr. Jones suggested using the Sherwin Williams SF-1 product to conceal fire damage odors.

Ms. Campbell made a motion to approve, seconded by Mr. Jones, and it carried 5 to 1 with Mr. Quina recusing.

Item 11

16 W. Main St.

Palafox Historic Business District

New Construction

C-2A

Action taken: Approved

Mr. Phillip Partington, SMP Architects, was requesting approval for the addition of a parking lot and a children's play area. ** This item was referred to the full ARB during the Abbreviated Review process. ** Ms. Deese explained that abbreviated reviews could be considered as long as there was adequate time for the Board to review the materials before the meeting.

Mr. Partington explained the project added 20 spaces for a total of 35 parking spaces. Mr. Caldwell explained he and Mr. Studer teamed up together to build the first Early American Learning Center. They researched several countries as well as other states to see how this would operate, since children learn by engaging all their senses. He also advised the play area would be constructed from recycled materials from the site.

Mr. Pristera asked about the poured in place colors, and Mr. Caldwell advised they had not decided on the colors. Mr. Quina asked about the tree cookie, and Mr. Caldwell explained in this learning element they took the trees and cut them into 1 inch thick plates for building and writing on; there are also alphabet letters on some of the trees at different heights to engage the children. Mr. Mead asked about the fencing, and it was determined the fence was originally at the PNJ parking lot and would be reused. The Board was provided with handouts. Mr. Mead suggested a more visual enclosure from the drive-thru, looking at it from the children's perspective, and Mr. Caldwell agreed that was a fair point. Ms. Hatler suggested fencing might help with safety. Mr. Partington explained the fencing was along the drive-thru and on Main Street to the first sidewalk connecting to the plaza.

Mr. Quina asked about lighting, and Mr. Partington provided a handout. Ms. Hatler asked the location of the entrance to the playground, and Mr. Campbell it was from the outdoor seating area south of the entrance. Mr. Quina and Ms. Hatler agreed the project was a much needed element downtown. **Ms. Campbell made a motion to approve as presented.** Mr. Mead asked about the associated parking. Ms. Deese explained the clients submitted them together but they could be separated out. Mr. Partington explained they were adding much needed parking spaces for customers and visitors.

Mr. Mead pointed out the fencing along Main Street provides the street edge and was it possible to provide that at Baylen to integrate the corner. It was also clarified that the parking lot was for the coffee shop patrons and employees of other businesses, and there was an existing crosswalk. Chairman Townes advised they do not ask children to cross active lanes of traffic; Mr. Mead was concerned people would be parking in the parking lot and coming across the drive lane, and they might want to rethink about more control. Chairman Townes explained drivers might be distracted going through those lanes. Mr. Mead asked if the menu board could be moved closer to the crosswalk to stop the vehicles. It was explained the placement of signage had to do with order time. The Board then discussed safety issues and possibly using a speedbump with the crosswalk.

Mr. Jones asked about the luminaries before he seconded the motion, and they were determined to be Acorn. Chairman Townes suggested the safety concerns be brought back to the Studers, but Ms. Deese advised the safety issues were out of the purview if this Board. Mr. Mead pointed out a traffic concern is part of approving the parking, and there needed to be some control, however, he felt the speed bump addressed his concern. Ms. Hatler's concern was walking west on Main Street and entering the drive-thru. **The motion then carried 5 to 1 with Chairman Townes dissenting.**

ELECTION OF NEW CHAIR (effective December 2016)

Mr. Jones nominated Ms. Campbell for Chairman, and she declined. Ms. Hatler asked for clarification regarding the Chair, and Mr. Mead stated that the Chair cannot rule on motions made but can discuss and vote. Chairman Townes

declined to be nominated and nominated Mr. Quina. Ms. Hatler nominated Mr. Crawford. The Board voted 5 to 1 for Mr. Quina as Chairman. Ms. Hatler then nominated Mr. Crawford for Vice Chairman, and it carried unanimously.

ADJOURNMENT – With no further business, the meeting adjourned at 5:17 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Brandi C. Deese', written in a cursive style.

Brandi C. Deese
Secretary to the Board

Sec. 12-13-3. - Architectural review board.

The architectural review board is hereby established.

- (A) *Membership.* The architectural review board shall be composed of the following members appointed by city council:
- Two (2) members nominated by West Florida Historic Preservation, Inc, each of whom shall be a resident of the city.
 - One (1) member who is either from the city planning board, or is a resident property owner of the Pensacola Historic District, North Hill Preservation District or Old East Hill Preservation District.
 - Two (2) registered architects, each of whom shall be a resident of the city.
 - One (1) member who is a resident property owner of the Pensacola Historic District, North Hill Preservation District or Old East Hill Preservation District.
 - One (1) member who is a property or business owner in the Palafox Historic Business District or the Governmental Center District.
- (B) *Terms of office; vacancies; removal from office.* Members of the architectural review board shall serve for terms of two (2) years or thereafter until their successors are appointed. Any member of the board may be removed from office for just cause by the city council upon written charges, and after public hearing. Any vacancy occurring during the unexpired term of office of any member shall be filled by the city council for the remainder of the term. Such vacancy shall be filled within thirty (30) days after the vacancy occurs.
- (C) *Officers; and technical assistance.* The board shall elect from among its members a chairman and such other officers as it may determine. The terms of officers shall be one (1) year, with eligibility for reelection, and officers shall serve until their successors are selected and qualified. The city planner or his representative shall serve as secretary to the board. The building official shall serve as an advisor to the board. The board may call upon any branch of the city government at any time for information and advice which in the opinion of the board will ensure efficiency of its work.
- (D) *Rules of procedure, meetings, and records.* The board shall adopt rules of procedure for the transaction of its business, and shall keep a record of its resolutions, transactions, findings and determinations. The board shall hold regular meetings once a month, and special meetings at such times as the board may determine or at the call of the chairman or the city planner. All regular and special meetings of the board shall be open to the public. A written record of the proceedings of the board shall be kept showing its actions on each question considered, and filed in the office of the secretary of the board.
- (E) *Duties.* The board shall have as its purpose the preservation and protection of buildings of historic and architectural value and the maintenance and enhancement of the following district:
- a. Pensacola Historic District. Refer to subsection 12-2-10(A).
 - b. North Hill Preservation District. Refer to subsection 12-2-10(B).
 - c. Old East Hill Preservation District. Refer to subsection 12-2-10(C).
 - d. Palafox Historic Business District. Refer to section 12-2-21.
 - e. Governmental Center District. Refer to section 12-2-22.

It shall be the duty of the board to approve or disapprove plans for buildings to be erected, renovated or razed which are located, or are to be located, within the historical district or districts and to preserve the historical integrity and ancient appearance within any and all historical districts established by the governing body of the city, including the authority to grant variances,

under the conditions and safeguards provided in subsection 12-12-2(A)(2), from the zoning ordinances of the city applicable in the Pensacola Historic District, the North Hill Preservation District, the Old East Hill Preservation District, and the Palafox Historic Business District.

- (1) *Conditions for granting a zoning variance.* In order to authorize any zoning variance from the terms of this title, the board must find in addition to the conditions specified in subsection 12-12-2(A)(2):
 - (a) That the variance granted will not detract from the architectural integrity and/or historical accuracy of the development and of its surroundings;
 - (b) That the grant of the variance will be in harmony with general intent and purpose of this title and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- (2) *Hearing of variance applications.*
 - (1) *Application procedure.*
 - (a) An application for variance must be submitted to the community development department at least twenty-one (21) days prior to the regularly scheduled meeting of the architectural review board.
 - (b) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.
 - (c) Any party may appear in person, by agent, or by attorney.
 - (d) Any application may be withdrawn prior to action of the architectural review board at the discretion of the applicant initiating the request upon written notice to the board secretary.
 - (2) *Application submission requirements.* No application shall be considered complete until all of the following have been submitted:
 - (a) The application shall be submitted on a form provided by the board secretary.
 - (b) The application shall be accompanied by an accurate site plan drawn to scale and such other information as may be reasonably requested to support the application.
 - (c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.
 - (3) *Public notice for variance.*
 - (a) A sign shall be prominently posted on the property to which the application pertains at least ten (10) days prior to the scheduled board meeting.
 - (b) Notice of the request(s) for variances shall be published by public notice advertised in a newspaper of general daily circulation published in the county at least ten (10) days prior to the scheduled board meeting at the expense of the applicant.
 - (c) The community development department shall notify addresses within a three hundred-foot radius, as identified by the current Escambia County tax roll maps, of the property proposed for a variance with a public notice by post card, and appropriate homeowners association, at least ten (10) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting.

The agenda will be mailed to the board members and applicants and other interested parties. The applicant or their authorized agent shall appear at the meeting in order for the request to be considered by the board.

- (F) *Procedure of submission of plans.*
- (1) An application to erect, construct, renovate, demolish and/or alter an exterior of a building located or to be located in a district within the review authority of the architectural review board must be submitted to the community development department at least twenty-one (21) days prior to the regularly scheduled meeting of the board.
 - (2) The application shall be scheduled for hearing only upon determination that the application complies with all applicable submission requirements.
 - (3) No application shall be considered complete until all of the following have been submitted:
 - (a) The application shall be submitted on a form provided by the board secretary.
 - (b) Each application shall be accompanied by accurate site plans, floor plans, exterior building elevations and similar information drawn to scale in sufficient detail to meet the plan submission requirements specified within the historic and preservation districts.
 - (c) The applicant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.
 - (d) Any party may appear in person, by agent, or by attorney.
 - (e) Any application may be withdrawn prior to action of the architectural review board at the discretion of the applicant initiating the request upon written notice to the board secretary.
 - (4) Public notice requirements.
 - (a) The planning department shall provide a copy of the monthly architectural review board meeting agenda to the appropriate neighborhood, homeowner, or property owner association at least seven (7) days prior to the board meeting.
- (G) *Review and decision.* The board shall promptly review such plans and shall render its decision on or before thirty-one (31) days from the date that plans are submitted, to the board for review.
- (H) *Notification; building permit.* Upon receiving the order of the board, the secretary of the board shall thereupon notify the applicant of the decision of the board. If the board approves the plans and if all other requirements of the city have been met, the building official may issue a permit for the proposed building. If the board disapproves the plans, the building official may not issue such permit. In a case where the board has disapproved the plans, the secretary of the board shall furnish the applicant with a copy of the board's written order, together with a copy of any recommendations for changes necessary to be made before the board will reconsider the plans.
- (I) *Failure to review plans.* If no action upon plans submitted to the board has been taken at the expiration of thirty-one (31) days from the date of submission of the plans to the board for review, such plans shall be deemed to have been approved, and if all other requirements of the city have been met, the building official may issue a permit for the proposed building.
- (J) *General considerations.*
- (a) Each respective district referred to in subsection (E) includes specific rules governing ARB decisions.
 - (b) The Secretary of the Interior's Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings has been adopted by the ARB for the general review guidelines.
- (K) *Reconsideration.* The board shall adopt written rules and procedures for abbreviated review for deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however such abbreviated review process shall require review by the staff of West Florida Historic Preservation, Inc. If agreement cannot be reached as

it pertains to such request for abbreviated review by the board designee and West Florida Historic Preservation, Inc. staff, then the matter will be referred to the entire board for a decision.

- (L) *Voting.* No meeting shall be held without at least four (4) of the board members present. All decisions may be rendered by a simple majority of the board members present and voting.
- (M) *Procedure for review.* Any person or entity whose property interests are substantially affected by a decision of the board may within fifteen (15) days thereafter, apply to the city council for review of the board's decision. A written notice shall be filed with the city clerk requesting the council to review said decision. If the applicant obtains a building permit within the fifteen-day time period specified for review of a board decision, said permit may be subject to revocation and any work undertaken in accordance with said permit may be required to be removed. The appellant shall be required to pay an application fee according to the current schedule of fees established by the city council for the particular category of application. This fee shall be nonrefundable irrespective of the final disposition of the application.

(Ord. No. 15-94, § 2, 6-9-94; Ord. No. 44-94, § 8, 10-13-94; Ord. No. 37-95, § 1, 9-28-95; Ord. No. 44-99, § 6, 11-18-99; Ord. No. 15-00, § 11, 3-23-00; Ord. No. 23-01, § 1, 10-11-01; Ord. No. 12-09, § 4, 4-9-09; Ord. No. 16-10, § 228, 9-9-10)

Editor's note— Section 2 of Ord. No. 23-01, adopted Oct. 11, 2001, states that upon the effective date of § 12-13-3 [Oct. 11, 2001], the existing members of the board shall continue to serve for the remainder of their appointed term of office. Upon expiration of the existing terms of office, members shall be appointed in accordance with the requirements of section 12-13-3(A). The initial members appointed from the West Florida Historic Preservation, Inc. shall serve for the balance of the term of the members previously appointed by the Historic Preservation Board of Trustees.

Sec. 12-2-21. - Palafox historic business district.

- (A) *Purpose.* The Palafox historic business district is established to preserve the existing development pattern and distinctive architectural character of the historic downtown commercial district. The regulations are intended to preserve, through the restoration of existing buildings and construction of compatible new buildings, the scale of the existing structures and the diversity of original architectural styles, and to encourage a compact, convenient arrangement of buildings.
- (B) *Character of the district.* The Palafox historic business district is characterized by sites and facilities of historical value to the city. These buildings and historic sites and their period architecture (i.e., Sullivanesque, Classical Revival, Renaissance Revival, and Commercial Masonry) blend with an overall pattern of harmony, make the district unique and represent the diversity of business activity and commercial architecture over a long period of Pensacola history. The district is an established business area, tourist attraction, containing historic sites, and a variety of specialty retail shops, restaurants, private and governmental offices, and entertainment centers.
- (C) *Historic theme area.* That portion of Palafox Place between Garden Street and Main Street is hereby designated a historical theme area, with a theme based on materials, signs, canopies, facades or other features as they existed in 1925 or earlier.
- (D) *Boundaries of the district.* The boundaries of the Palafox historic business district shall be the same as the Pensacola downtown improvement district as adopted pursuant to section 3-1-10 of the code, plus the west 14.25 feet of lot 214 and all of lots 215 and 216, old city tract.
- (E) *Procedure for review and submission of development plan.*
 - (1) *Submission of plans.* Every application for a building permit to erect, construct, renovate and/or alter an exterior of a building, or sign, located or to be located in the district shall be accompanied by plans for the proposed work. As used herein, "plans" shall mean drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building or sign, (both before and after the proposed work is done in the cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plat plan or site layout, including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas, signs, lights, awnings, canopies and other appurtenances. Such plans shall be promptly forwarded by the building official to the architectural review board. The building official or his designee shall serve as secretary to the board.
 - (2) *General conditions, procedures and standards.* Prior to submitting a formal application for approval of a proposed exterior alteration, the owner(s) shall confer with the staff of the architectural review board, who will seek the advice of the downtown improvement board staff, the Historic Pensacola Preservation Board staff and appropriate city staff if necessary to review:
 - (a) The relationship between the proposed exterior alteration or proposed exterior to buildings in the immediate surroundings and to the district in which it is located or to be located.
 - (b) At the time of the predevelopment conference, the applicant shall provide a sketch plan indicating the location of the proposed exterior alteration and its relationship to surrounding properties. The advisory meeting should provide insight to both the developer, the city, the downtown improvement board, and the Historic Pensacola Preservation Board staff regarding potential development problems which might otherwise result in costly plan revisions or unnecessary delay in development.
 - (3) *Review and approval by the architectural review board.* All such plans shall be subject to review and approval by the architectural review board as established in section 12-13-3 and in accordance with the provisions of section 12-2-10(A)(4)(a) through (c), applicable to the historic zoning districts. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs, emergency repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however

such abbreviated review process shall require review by the director of the downtown improvement board and the staff of the Historic Pensacola Preservation Board. If agreement cannot be reached as it pertains to an abbreviated review by the board designee, director of the downtown improvement board, Historic Pensacola Preservation Board staff and secretary to the architectural review board then the matter will be referred to the full board for a decision.

(F) *Architectural review of proposed exterior development.*

- (1) *General considerations.* The board shall consider plans for existing buildings based on their classification as significant, supportive, compatible or nonconforming as defined and documented in files located at the office of the downtown improvement board. In reviewing the plans, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof, materials, textures and colors; plot plan or site layout, including features such as walls, walks, terraces, plantings, accessory buildings, signs, lights, awnings, canopies, and other appurtenances; and conformity to plans and themes promulgated, approved and/or amended from time to time by the city council; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and is not restricted to those exteriors visible from a public street or place. The board shall not consider interior design or plan. The board shall not exercise any control over land use, which is governed by particular provisions of this title, or over construction, which is governed by Chapter 14-1.
- (2) *Decision guidelines.* Every decision of the board, in their review of plans for buildings or signs located or to be located in the district, shall be in the form of a written order stating the findings of the board, its decision and the reasons therefor, and shall be filed with and posted with the building permit on site. Before approving the plans for any proposed building, or signs located or to be located in the district, the board shall find:
 - (a) In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building or if due to a new use for the building the impairment is minor considering visual compatibility standards such as height, proportion, shape, and scale.
 - (b) In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value or character of buildings on adjacent sites or in the immediate vicinity.
 - (c) In the case of a proposed new building, that such building will not be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, and scale.
 - (d) In the case of the proposed razing or demolition of an existing building, that the regulations established in section 12-2-10(A)(9) to (11) shall apply.
 - (e) In the case of a proposed addition to an existing building or the base of a proposed new building, or building relocation, that such addition, new building or relocation will not adversely affect downtown redevelopment plans or programs or the Comprehensive Plan of the city.
- (3) *Recommendation for changes.* The board shall not disapprove any plans without giving its recommendations for changes necessary to be made before the plans will be reconsidered. Such recommendations may be general in scope, and compliance with them shall qualify the plans for reconsideration by the board.
- (4) *Board review standards.* The architectural review board shall use the Secretary of Interior's Standards for Rehabilitation and Guidelines for Rehabilitation of Historic Buildings as the general governing standards for existing structures. New construction shall maintain scale and quality of design. All new construction shall be reviewed in terms of massing, rhythm, materials and details, building elements and site. Generally, all structures should be compatible in these categories to surrounding structures. In addition the following standards shall apply:

- (a) Signs. In the case of any proposed new or altered sign, that the sign will not impair the architectural or historical value of any building to which it is attached, nor any adjacent building, and that such sign is consistent with the theme and spirit of the block where it is to be located, and that such sign is consistent with the following provisions:
1. Within the Palafox historic business district, signs protruding into or overhanging the public right-of-way are permitted subject to prior approval by the board, and are subject to removal on thirty (30) days notice if the city actually requires the space for any public purpose. Such signs must be of a character and size consistent with maintenance of the theme and character of the district. Existing overhanging signs are hereby approved and will not require further board approval unless altered.
 2. Businesses located within the Palafox Historic Business District may place one portable (two-sided A-frame) sign on the sidewalk adjacent to the business location subject to the following conditions:
 - a. The maximum size of the sign shall not exceed two (2) feet wide by three (3) feet high;
 - b. The sidewalk width shall be a minimum of eight (8) feet;
 - c. A one time fee of forty dollars (\$40.00) shall be paid to the City of Pensacola for a license to use the sidewalk for placement of a sign;
 - d. A license to use agreement, with proof of insurance, shall be required to use an identified area of the sidewalk for locating a sign;
 - e. The sign shall be removed from the sidewalk at the close of business hours daily;
 - f. Signs shall require approval by the Downtown Improvement Board and Architectural Review Board.
 3. Rooftop signs are prohibited, provided the business for which the sign is erected remains continuously in business, existing signs violating this provision may continue in use. Upon application to and approval by the board, such existing signs may be permitted to remain in place for a longer period if the board finds that the sign is consistent with the theme and character of the district.
 4. Whirling and flashing signs attached to a building are prohibited, unless such signs replicate an original sign used at that location in the historical theme area. Balloon-type, portable or nonaccessory signs are prohibited.
- (b) Building fronts, rears, and sides abutting streets and public areas. All structural and decorative elements of building fronts, rears, and sides abutting streets or public improvement areas shall be repaired or replaced to match as closely as possible the original materials and construction of that building.
- (c) Windows.
1. Window openings in upper floors of the front of the building shall not be covered from the outside.
 2. Window panes shall not be painted.
 3. The number of window panes and use of shutters should reflect the style and period of the structure.
 4. Windows not in front of buildings shall be kept properly repaired or, with fire department approval, may be closed, in which case sills, lintels and frame must be retained and the new enclosure recessed from the exterior face of the wall.
- (d) Show windows and storefronts:

1. A show window shall include the building face, porches, and entrance area leading to the door, sidelights, transoms, display platforms, and devices including lighting and signage designated to be viewed from the public right-of-way.
 2. Show windows, entrances, signs, lighting, sun protection, porches, security grilles, etc., shall be compatible with the original scale and character of the structure and the surrounding structures.
 3. Show windows shall not be painted for advertising purposes but may be painted for authorized identification of the place of business as authorized by the architectural review board.
 4. Show windows with aluminum trim, mullions, or muntins shall be placed or painted consistent with and compatible to the overall facade design as authorized by the Board.
 5. Solid or permanently closed or covered storefronts shall not be permitted, unless treated as an integral part of the building facade using wall materials and window detailing compatible with the upper floors, or other building surfaces.
- (e) Exterior walls:
1. All exterior front or side walls which have not been wholly or partially resurfaced or built over shall be repaired or replaced in a manner approved by the Board. Existing painted masonry walls shall have loose material removed and painted a single color except for trim which may be another color. Patched walls shall match the existing adjacent surfaces as to materials, color, bond and joining.
 2. Historic painted advertising on walls should be preserved at the discretion of the board.
 3. Rear and side walls, where visible from any of the streets or alleys, shall be finished so as to harmonize with the front of the building.
- (f) Roofs:
1. Chimneys, elevator penthouses or other auxiliary structures on the roofs shall be repaired or replaced to match as closely as possible the original.
 2. Any mechanical equipment placed on a roof shall be so located as to be hidden from view or to be as inconspicuous from view as possible. Equipment shall be screened with suitable elements of a permanent nature or finished in such a manner as to be compatible with the character of the building or to minimize its visibility.
- (g) Walls and fences. The size, design and placement of these features within the Palafox historic business district shall be consistent with the architectural character within the immediate area of their location.
- (h) Landscaping and screening. Landscaping and screening requirements in the Palafox historic business district shall be based on applicable requirements of Chapter 12-6. All service areas (i.e. trash collection containers, compactors, loading docks) shall be fully screened from street and adjacent buildings by one of the following techniques: Fence or wall, six (6) feet high; Vegetation six (6) feet high (within three (3) years); A combination of the above.
- (5) *Review.* Any person aggrieved by a decision of the board may, within fifteen (15) days thereafter, apply to the city council for review of the board's decision. He shall file with the city clerk a written notice requesting the council to review said decision.
- (G) *District rehabilitation, repair and maintenance guidelines.* The following rehabilitation, repair and maintenance standards shall be applied to all existing structures and land parcels respectively, whether occupied or vacant within the Palafox Historic Theme Area. These standards shall be considered as guidelines by the board when reviewing development plans in other areas of the Pensacola historic business district. In cases where an owner owns property comprising a total city block, the board shall consider the burden on the owner and may approve an incremental adherence to the standards or guidelines.

- (1) *Building fronts, rears, and sides abutting streets and public areas.* Rotten or weakened portions shall be removed, repaired and replaced to match as closely as possible the original.
- (2) *Windows.*
 - (a) All windows must be tight-fitting and have sashes of proper size and design. Sashes with rotten wood, broken joints or loose mullions or muntins shall be replaced. All broken and missing windows shall be replaced with new glass.
 - (b) Window openings in upper floors of the front of the building shall not be filled or boarded-up. Window panes shall not be painted.
- (3) *Show windows and storefronts.* All damaged, sagging or otherwise deteriorated storefronts, show windows or entrances shall be repaired or replaced.
- (4) *Exterior walls.*
 - (a) Existing miscellaneous elements on the building walls, such as empty electrical conduit, unused signs and/or sign brackets, etc., shall be removed.
 - (b) Sheet metal gutters, downspouts and copings shall be repaired or replaced as necessary.
 - (c) Rear and side walls shall be repaired and finished as necessary to cover evenly all miscellaneous patched and filled areas to present an even and uniform surface.
- (5) *Roofs.* Roofs shall be cleaned and kept free of trash, debris or any other element which is not a permanent part of the building.
- (6) *Auxiliary structures.* Structures, at the rear of buildings, attached or unattached to the principal structure, which are structurally deficient shall be properly repaired or demolished as authorized by the architectural review board.
- (7) *Front, rear, and side yards, parking areas and vacant parcels.* When a front, rear or side yard, parking area or vacant parcel exists or is created through demolition, the owner may utilize the space in accordance with the provisions of the zoning district in which the space is located, provided, however, that the site shall be properly maintained free of weeds, litter, and garbage in accordance with applicable provisions of the code.
- (8) *Walls, fences, signs.* Walls, fences, signs and other accessory structures shall be properly maintained.

(H) *Survey, classification and technical assistance.*


- (1) *Survey and classification.* A survey of the district to determine in which areas historical themes are appropriate, and to classify buildings, by architectural design, and materials as historically significant, supportive, neutral, and nonconforming shall be available at the offices of the downtown improvement board and the Community Redevelopment Agency of Pensacola.
- (2) *Technical assistance.* Within the limits of staff capability and availability of funds, the board may provide sketches or renderings to property owners and/or merchants, showing suitable designs and themes for facade improvement.

(Ord. No. 28-94, § 2, 9-18-94; Ord. No. 45-96, § 4, 9-12-96; Ord. No. 8-99, § 2, 2-11-99; Ord. No. 16-10, § 205, 9-9-10)

OFFICE OF THE CITY ATTORNEY

TO: City Council President Brian Spencer and Members of the City Council

FROM: Lysia H. Bowling, City Attorney

DATE: February 6, 2017 

SUBJECT: City Council's Consideration of Item No. 6, February 9, 2017 City Council Agenda, captioned as Quasi-Judicial Hearing: Review of Architectural Review Board Decision - 165 E. Intendencia Street, Palafox Historic Business District, G-2, Signage

As guidance to City Council in its review of the decision of the Architectural Review Board in connection with the above-referenced agenda item, and in light of the unique facts which are specific to this application, I am providing you with the following analysis of pertinent sections of the Land Development Code ("LDC") and case law applicable to this review.

Background

This item before City Council is an appeal of the decision of the Architectural Review Board ("ARB") denying the YMCA's application for approval of internally illuminated signage on the exterior of a structure located within the Palafox Historic Business District at 165 E. Intendencia Street. Section 12-2-21 of the LDC pertains to applications for projects within the Palafox Historic Business District and requires applications for projects within the Palafox Historic Business District to be submitted to the ARB for review and approval.

A hearing was held on November 17, 2016 before the ARB for the review of the application of Complete Signs, LLC ("Applicant") on behalf of the YMCA, and it was denied. More specifically, the ARB approved the installation of the signage, but declined to approve ("denial") the Applicant's proposed internal illumination and location of such signage.

Incorrect Criteria Applied by ARB

LDC Section 12-2-21 regulates development standards in the Palafox Historic Business District and governs decision guidelines for review and approval by the ARB for review of applications for projects within the Palafox Historic Business District. LDC Section 12-2-21(F)(2) provides in relevant part that every decision of the ARB shall be in the form of a written order stating the findings of the board, its decision and the reason therefore. The ARB did not provide such a written order as required by law for the decision it rendered on November 17, 2016 denying the subject application. In the absence of such required written statement of findings and reasons underlying the ARB decision, the minutes are the only record available to evidence the basis of the ARB's decision.

As the minutes of the November 17, 2016 hearing reflect, this denial appears to have been based on the ARB's reliance and interpretation of LDC Section 12-2-10(A)(5)(d)2. Undoubtedly, LDC Section 12-2-10(A)(5)(d)2. provides a list of prohibited signs, including "internally illuminated signs." However, reliance upon such LDC section is erroneous. This LDC section does not apply to the Palafox Historic Business District. Rather, LDC Section 12-2-10 explicitly and exclusively applies to the Pensacola Historic District, the North Hill Preservation District and the Old East Hill Preservation District.

As described in more detail below, the applicable, and thus correct, LDC section upon which the ARB was required to rely is LDC Section 12-2-21, which pertains uniquely to the Palafox Historic Business District. Under LDC Section 12-2-21, the criteria for all signs located within the Palafox Historic Business District are enumerated in LDC Section 12-2-21(F)(4)(a). LDC Section 12-2-21(F)(4)(a) does not prohibit internally illuminated signage in the Palafox Historic Business District. The portion of LDC Section 12-2-21 applying to signage in the Palafox Historic Business District provides as follows:

(a) Signs. In the case of any proposed new or altered sign, that the sign will not impair the architectural or historical value of any building to which it is attached, nor any adjacent building, and that such sign is consistent with the theme and spirit of the block where it is to be located, and that such sign is consistent with the following provisions:

1.

Within the Palafox Historic Business District, signs protruding into or overhanging the public right-of-way are permitted subject to prior approval by the board, and are subject to removal on thirty (30) days' notice if the city actually requires the space for any public purpose. Such signs must be of a character and size consistent with maintenance of the

theme and character of the district. Existing overhanging signs are hereby approved and will not require further board approval unless altered.

2.

Businesses located within the Palafox Historic Business District may place one portable (two-sided A-frame) sign on the sidewalk adjacent to the business location subject to the following conditions:

a.

The maximum size of the sign shall not exceed two (2) feet wide by three (3) feet high;

b.

The sidewalk width shall be a minimum of eight (8) feet;

c.

A one-time fee of forty dollars (\$40.00) shall be paid to the City of Pensacola for a license to use the sidewalk for placement of a sign;

d.

A license to use agreement, with proof of insurance, shall be required to use an identified area of the sidewalk for locating a sign;

e.

The sign shall be removed from the sidewalk at the close of business hours daily;

f.

Signs shall require approval by the Downtown Improvement Board and Architectural Review Board.

3.

Rooftop signs are prohibited, provided the business for which the sign is erected remains continuously in business, existing signs violating this provision may continue in use. Upon application to and approval by the board, such existing signs may be permitted to remain in place for a longer period if the board finds that the sign is consistent with the theme and character of the district.

4.

Whirling and flashing signs attached to a building are prohibited, unless such signs replicate an original sign used at that location in the historical theme area. Balloon-type, portable or non-accessory signs are prohibited. (Emphasis added.)

Notably, none of the above-reference prohibitions apply to the type of internally-illuminated signage proposed by the Applicant. Furthermore, nothing in the ARB minutes indicates any evidence that such signage would be inconsistent “with the theme and spirit of the block where it is to be located” or that it would “impair the architectural or historical value of any building to which it is attached, nor any adjacent building”.

Florida Case Law on Burden of Proof for Denial

In a quasi-judicial municipal proceeding, the applicant bears the initial burden of proving that their application meets the requirements of the applicable ordinance. However, once the applicant meets their burden, the burden of proof then shifts to those who are seeking City Council’s denial of the application. *Irvine v. Duval County Planning Com’n*, 495 So.2d 167 (Fla. 1986). Once an applicant demonstrates that it meets the published requirements for its proposed land use, City Council may deny the request only where the party opposing the application shows by competent substantial evidence that the proposed use does not meet the requirements of the ordinance. See, *City of Hialeah Gardens v. Miami-Dade Charter Foundation, Inc.*, 857 So. 2d 202 (Dist. Ct. App. 2003) (emphasis added). The Florida Supreme Court has held that competent substantial evidence “has been described as such evidence as will establish a substantial basis of fact from which the fact at issue can be reasonably inferred” and “such relevant evidence as a reasonable mind would accept as adequate to support a conclusion.” *Id.* (emphasis added.) The Florida Supreme Court has further instructed that “the evidence relied upon to sustain the ultimate finding should be sufficiently relevant and material that a reasonable mind would accept it as adequate to support the conclusion reached. To this extent the ‘substantial’ evidence should also be ‘competent.’” *Id.* This competent substantial evidence standard, to be adhered to by City Council at this hearing, has also been explained by Florida courts as follows: “under this standard, generalized statements in opposition to a land use proposal, even those from an expert, should be disregarded. ... [However,] relevant fact-based statements, whether expert or not, are to be considered. *Id.* at 204 (emphasis added).

Conclusion

An instructive case, the facts of which are analogous to the present matter, is *Naples v. Central Plaza of Naples, Inc.* In such case, the City of Naples’ denial of an application for a special exception was reversed due to the applicant’s satisfaction of all objective criteria provided for in the City’s zoning code in conjunction with the absence of any evidence in the record that the placement of a multi-residential complex would be incompatible with surrounding uses. *Naples v. Central Plaza of Naples, Inc.*, 303 So. 2d 423 (Fla. Dist. Ct. App. 2d Dist. 1974).

Here, the Applicant asserts that it has met all objective criteria provided for in the ordinance as it is not proposing to install any type of signage prohibited under LDC Section 12-2-21. Moreover, the ARB minutes (and, likewise, the lack of a written order) do not appear to provide any evidence that an internally illuminated sign would be inconsistent with the “theme and spirit of the block where it is to be located” or that it would “impair the architectural or historical value” of any adjacent structures.

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

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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.

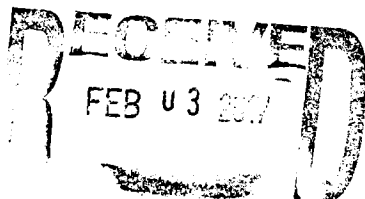
Sworn to and Subscribed before me this 31th of February 2017, by Krista Kent who is personally known to me

Krista Kent
Affiant

Mark Dee Kent
Notary Public for the State of Florida

My Commission expires October 27, 2019

Publication Cost: \$145.06
Ad No: 0001890237
Customer No: PNJ-25615500



NOTICE OF QUASI-JUDICIAL HEARING
On Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, the Pensacola City Council will conduct a quasi-judicial hearing for the purpose of considering:
REVIEW OF ARCHITECTURAL REVIEW BOARD DECISION - 165 EAST INTENDENCIA STREET, PALAFOX HISTORIC BUSINESS DISTRICT, C-2, SIGNAGE
You are not required to respond or take any action regarding this notice; but if you wish to speak before City Council on this subject, you are invited to be present at the scheduled hearing.
If any person decides to appeal any decision made with respect to any matter considered at this meeting, such person will need a record of the proceedings, and that for such purpose, he/she 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. 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.
For additional information regarding this public hearing, please call the Office of the City Council at 435-1609.
City of Pensacola, Florida
Ericka L. Burnett, City Clerk
Legal No. 1890237 1T January 30, 2017

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MARK DEE KENT
Notary Public - State of Florida
Comm. Expires October 27, 2019
Comm. No. FF 931266



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*BOARD CERTIFIED TAX ATTORNEY
§BOARD CERTIFIED REAL ESTATE
ATTORNEY

TO: City Council President Brian Spencer and Members of the City Council
FROM: Kramer A. Litvak, Attorney for Young Men's Christian Association of Pensacola, Inc. ("YMCA")
DATE: February 7, 2017
RE: Quasi-Judicial Appeal of Architectural Review Board's decision denying us of internally illuminated signs and requiring specific location of "Baptist Hospital" sign; Item No. 6, February 9, 2017 City Council Agenda

Issue: Was the Architectural Review Board's ("ARB") decision to deny YMCA's requested placement of the Baptist Hospital sign and to deny use of internal illumination within their authority?

Short Answer: No, the current zoning ordinance does allow the board to dictate placement of signs upon the business owner's building nor does it prohibit the use of internally illuminated signage. A zoning ordinance must prescribe definite standards, and the respective board may not have the discretionary right to grant a building permit at variance with, or in exception to, zoning ordinance, unless there has been established a definite standard to guide them in exercise of such powers. Otherwise, boards can act upon whim, caprice or in response to pressures which do not permit of ascertainment or correction. The ARB's decision to dictate where YMCA places its signage was completely arbitrary as there are no standards prescribed in the ordinance. Further, there is no provision in the Palafox Historic Business District ordinance granting the ARB the authority to deny a request for internally illuminated signs. The ruling of the ARB was an exercise of unfettered discretion strictly prohibited by Florida case law and should be reversed. The YMCA should be allowed to internally illuminate its signage and to place its tenant's sign in the location indicated on its application.



Arguments and Authority:

The YMCA's new building is located within the Palafox Historic Business District at 165 E. Intendencia Street. On November 17, 2016, the ARB denied the YMCA's request to utilize internal illumination stating that such signs were prohibited by the applicable ordinance. Further, the ARB ordered the YMCA to relocate the requested placement of the "Baptist Hospital" sign (Baptist Hospital is a tenant of the YMCA) to another location on the building. This appeal ensued. Contrary to the ARB's understanding, and although neighboring districts are subject to said restrictions, there is nothing in the ordinance applicable to the Palafox Historic Business District which prohibits the use of internally illuminated signs. Further, the ARB's decision regarding where the business should place its signage was an exercise of unlimited and discriminatory authority, strictly prohibited by Florida law. Thus, the ruling of the ARB was arbitrary and should be reversed on appeal.

A. **Location of Baptist Hospital Sign.** In *City of Homestead*, the 3rd District Court of Appeals set out the applicable standard of review for administrative board decisions, such as the ruling of the ARB in the case-at-hand:

[T]he law of Florida is committed to the doctrine of the requirement that zoning ordinances and their exceptions must be predicated upon legislative standards which can be applied to all cases, rather than to the theory of granting an administrative board or even a legislative body the power to arbitrarily decide each case entirely within the discretion of the members of the administrative board or legislative body, or to shift a particular parcel of property arbitrarily from one zoning classification to another, whether by "variance", "exception" or "special use". Additionally, the applicant "has a right to know what the requirements are that he must comply with in order to implement the permitted use; these requirements must be of uniform application, and once the requirements are met, the governing body may not refuse the application." *Effie, Inc. v. City of Ocala*, 438 So.2d 506, 509 (Fla. 5th DCA 1983). Otherwise, "councilmen can act upon whim, caprice or in response to pressures which do not permit of ascertainment or correction." *Id.*

City of Homestead v. Schild, 227 So.2d 540 (Fla. 3rd DCA 1969). The Florida Supreme Court in *North Bay Village v. Blackwell* stated that a zoning ordinance must prescribe definite standards. Objective criteria are necessary so that: persons are able to determine their rights and duties; the decisions recognizing such rights will not be left to arbitrary administrative determination; all applicants will be treated equally; and meaningful judicial review is available. *Friends of Great S., Inc. v. City of Hollywood ex rel. City Com'n*, 964 So. 2d 827, 830 (Fla. 4th DCA 2007). The Supreme Court held that an ordinance whereby the city council delegates to itself the arbitrary and unfettered authority to decide where and how a particular structure shall be built without at

the same time setting up reasonable standards which would be applicable alike to all property owners similarly conditioned, cannot be permitted to stand as a valid municipal enactment. *North Bay Village v. Blackwell*, 88 So2d 524 (1956). Nor is it necessary that the record reveal that the governing body or its members have in fact acted capriciously or arbitrarily. It is the opportunity, not the fact itself, which will render an ordinance vulnerable. *ABC Liquors, Inc. v. City of Ocala*, 366 So2d 146 (Fla. 1st DCA 1979).

In the case-at-hand, the ARB's ruling was exactly the type of arbitrary decision making which the courts in *Schild* and *Blackwell* seek to prevent. Nothing in the applicable ordinance provides standards for the ARB to determine where a particular sign should be placed. Without such standards, the ARB acted on its on whim. It had no authority and no standards upon which to dictate where the Baptist sign should be located. To withstand a challenge for vagueness, an ordinance must provide adequate notice to persons of common understanding concerning the behavior prohibited and the specific intent required: it must provide "citizens, police officers and courts alike with sufficient guidelines to prevent arbitrary enforcement." *Easy Way of Lee County, Inc. v. Lee County*, 674 So. 2d 863, 865-66 (Fla. 2d DCA 1996). The current ordinance provides no restriction on the requested placement of the "Baptist" signage nor does it provide sufficient guidelines for YMCA or other business owners to be aware that said placement is prohibited.

The present ordinance has become an instrument of discrimination by a majority of the ARB board members, giving what each might think 'due consideration' to historic preservation issues means. The result is denying a permit in one instance while granting a permit in another, though acting conscientiously in both. This result is possible because no uniform rules or regulations are defined to remove the sphere of action from the influences of whim or caprice. *See ABC Liquors, Inc. v. City of Ocala*, 366 So. 2d 146, 151 (Fla. 1st DCA 1979). Under the current ordinance, the YMCA had no ability to determine its rights regarding the placement of signage as there are no clearly defined criteria within the ordinance. The decision by the ARB was thus arbitrarily determined on a case-by-case basis. All applicants have not been treated equally. Based on the foregoing, the ruling of the ARB should be reversed, and the YMCA should be permitted to place its tenant's signage where requested in its application.

B. Internally Illuminated Signage. The ARB's decision to deny internally illuminated signage was based on the incorrect ordinance. It is clear from the Minutes of the November 17, 2016 ARB meeting that the ARB believed the applicable ordinance to be Section 12-2-10. This Section does not apply to the Palafox Historic Business District. Although Section 12-2-10 specifically prohibits internally illuminated signs, Section 12-2-21, which controls the Palafox Historic Business District, does not prohibit such signs. If the City Council had wished internally illuminated signs to be prohibited in the Palafox Historic Business District, it would

have included such a provision in the applicable ordinance, Section 12-2-21.

Should it be determined that the ARB denied internally illuminated signage under some broad discretion granted under the City Code, then the ARB's decision would violate Florida law. As discussed above, ordinances and their exceptions must be predicated upon legislative standards which can be applied to all cases, rather than to the theory of granting an administrative board or even a legislative body the power to arbitrarily decide each case entirely within the discretion of the members of the administrative board or legislative body. *City of Homestead v. Schild*, 227 So.2d 540 (Fla. 3rd DCA 1969). In a case very similar to the case-at-hand, the Second District Court of Appeals held that a municipal ordinance prohibiting signs of size of plaintiff's signs while allowing larger signs and grouping of signs which were larger was unreasonable and discriminatory and that ordinance failed to create aesthetic pattern calculated to protect and preserve city's beauty. *City of Sarasota v. Sunad, Inc.*, 181 So. 2d 11 (Fla. 2d DCA 1965). In fact, the ARB previously approved internally illuminated signage for at least one other establishment within the Palafox Historic Business District, the PenAir sign located on the Thiesen Building (located at 40 S. Palafox Street). The ARB's decision denying internal illumination is therefore, inconsistent and arbitrary. Any argument regarding aesthetics or historic integrity must by necessity fail.

The ruling of the ARB must be reversed as unreasonable and discriminatory.

cc: Lysia Bowling, City Attorney



Exterior Perspective | Southeast



Downtown Pensacola YMCA





See to the working and installation.

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REVIEW OF ARB DENIAL OF
INTERNALLY ILLUMINATED SIGNS



at using other materials for the parking lot. Chairman Townes offered to provide names of landscape professionals after the meeting.

Mr. Mead reminded the Board that tabling was not possible, but the applicant could withdraw in writing; Mr. Jacoby agreed with denial. **Mr. Mead then made a motion to deny without prejudice, seconded by Ms. Campbell-Hatler, and it carried unanimously.**

**Item 4
Signage**

165 E. Intendencia St.

**Palafox Historic Business District
C-2**

Action taken: Approved with comments.

Mr. Tom Renshaw, Complete Signs, was requesting approval for attached wall signage on the YMCA building. This application is for the "YMCA" signage currently on the building as well as the proposed additional "Baptist" signage. Initially, the signage for the YMCA was presented as an abbreviated review. After being denied for internal illumination, the signage was modified to non-illuminated letters. However, the signage which was installed does not comply with the approval and is internally illuminated. The proposed "Baptist" signage was also presented as an abbreviated review; however, the reviewer determined full Board approval was warranted and should include the previous submittal. Also, Caldwell and Associates was requesting approval for a minor exhibit area to be located within the entry plaza of the YMCA on the northwest corner of the site. **This exhibit focuses on the "First Early Learning City" concept and promotes the use of visual aids within the community to teach children. However, at this time, Caldwell and Associates wanted to withdraw this request.**

Brian Lumbatis with Complete Signs stated the client (YMCA) did prefer internally luminated signage, and they were instructed to build them as such, but the client would not turn them on. He stated they submitted the same drawings with non-illuminated language until they could get approval for internal illumination. The signage was approved, built and installed. He stated the materials and construction were according to the approved drawings. Ms. Deese informed that Mr. Quina had approved the proposal in an abbreviated review. However, Mr. Quina explained the package he approved did not allow for internally luminated signage. He approved the "Y" and the "Bear-Levin-Studer Family YMCA." When the additional abbreviated review package for "Baptist Health Care" was submitted, he sent it to the full Board to make sure of the full intention, not knowing they were already internally illuminated. The new proposal is to place "Baptist Health Care" below the "Y". Mr. Lumbatis advised this signage would be backlit for a halo effect. Mr. Mead clarified that you cannot substitute an operational restriction for an architectural requirement. Mr. Lumbatis stated it was the client's intent to seek approval for the illuminated signage.

For further clarification, Mr. Ed Carson stated there was some miscommunication. The external signage was pulled out and left to the executive director of the YMCA and staff to work out; there wasn't a lot of communication between the construction team and staff. It was his recollection that they had depicted the signs the way they are with illumination. Mr. Jones recalled that conversation came up, and the illumination was not allowed. Mr. Carson advised they showed illumination from the beginning. Mr. Mead explained that backlit is allowed. Ms. Campbell lives in the area, and had several comments from the historic village about the bright lights. Mr. Mead pointed out in the original application signage was indicated, and if there was conduit in the plans, it did not show the manner of illumination.

Mr. Carson wanted a solution to the problem and asked for the language in the Code. Chairman Townes stated Section 12-13-3 charges the Board with maintaining the historic integrity of the Pensacola historic districts, and the Board makes its rulings based upon what they have done for precedence in the past. The Board has determined that it is architecturally acceptable to backlight signs in the historic districts, and they have never in the ten plus years he has been on the Board allowed internally illuminated signs. **Ms. Deese indicated in Section 12-2-10 the language spelled out signs which are prohibited which includes internally illuminated signage. She advised the illuminated signage had been denied two times.**

Mr. Quina then suggested the bulbs be removed from the signage. Mr. Mead was concerned with stacking up signage on the building because everyone wants to be associated with the YMCA. Mr. Carson stated they had taken time to consider the square footage allowed for building signage and tried to stay within that limit. The Board discussed having the Baptist signage below the "Y" in both locations, and Mr. Pristera agreed there should be consistency on the location. Mr. Mead suggested if the client is within the area limits, there is only so much the Board could do, and if

Excerpt from Minutes of ARB Meeting on November 17, 2016

- Ms. Deese indicated in Section 12-2-10 the language spelled out signs which are prohibited which includes internally illuminated signage.

Excerpts from Minutes of ARB Meeting on November 17, 2016

- Mr. Quina made a motion . . . regarding the two signs presently lit, the internal illumination needed to be removed in some manner immediately. Mr. Mead seconded the motion and encouraged illumination, but it would have to be brought into compliance with the Code; it was not appropriate to be internally illuminated. Ms. Campbell stated it was regrettable that the sign was built with components which were not allowed in this section of Pensacola.
- Ms. Campbell-Hatler pointed out as a leading architectural piece in downtown, the applicant needed to consider what they have presently is not up to Code.

- (E) *Duties*. The [Architectural Review Board] shall have as its purpose the preservation and protection of buildings of historic and architectural value and the maintenance and enhancement of the following district:
 - a. Pensacola Historic District. Refer to subsection 12-2-10(A).
 - b. North Hill Preservation District. Refer to subsection 12-2-10(B).
 - c. Old East Hill Preservation District. Refer to subsection 12-2-10(C).
 - d. Palafox Historic Business District. Refer to section 12-2-21.
 - e. Governmental Center District. Refer to section 12-2-22.

- Sec. 12-2-10. - Historic and preservation land use district.
- The regulations in this section shall be applicable to the Pensacola Historic District, the North Hill Preservation District and the Old East Hill Preservation District: HR-1, HR-2, HC-1, HC-2, PR-1AAA, PR-2, PC-1, OEHR-2, OEHC-1, OEHC-2 and OEHC-3.

Pensacola Historic District; North Hill Preservation District, and Old East Hill Preservation District
Section 12-2-10(A)(5)(d)2 provides:

- 2. Prohibited signs.
 - a. Any sign using plastic materials for lettering or background.
 - b. Internally illuminated signs.
 - c. Portable signs.
 - d. Nonaccessory signs.

Sec. 12-2-21. – Palafox historic business district.

Sec. 12-2-21(F)(a) provides:

- Signs. In the case of any proposed new or altered sign, that the sign will not impair the architectural or historical value of any building to which it is attached, nor any adjacent building, and that such sign is consistent with the theme and spirit of the block where it is to be located, and that such sign is consistent with the following provisions:

Sec. 12-2-21. – Palafox historic business district.

Sec. 12-2-21(F)(a) provides:

- 3. Rooftop signs are prohibited, provided the business for which the sign is erected remains continuously in business, existing signs violating this provision may continue in use. Upon application to and approval by the board, such existing signs may be permitted to remain in place for a longer period if the board finds that the sign is consistent with the theme and character of the district.
- 4. Whirling and flashing signs attached to a building are prohibited, unless such signs replicate an original sign used at that location in the historical theme area. Balloon-type, portable or nonaccessory signs are prohibited.

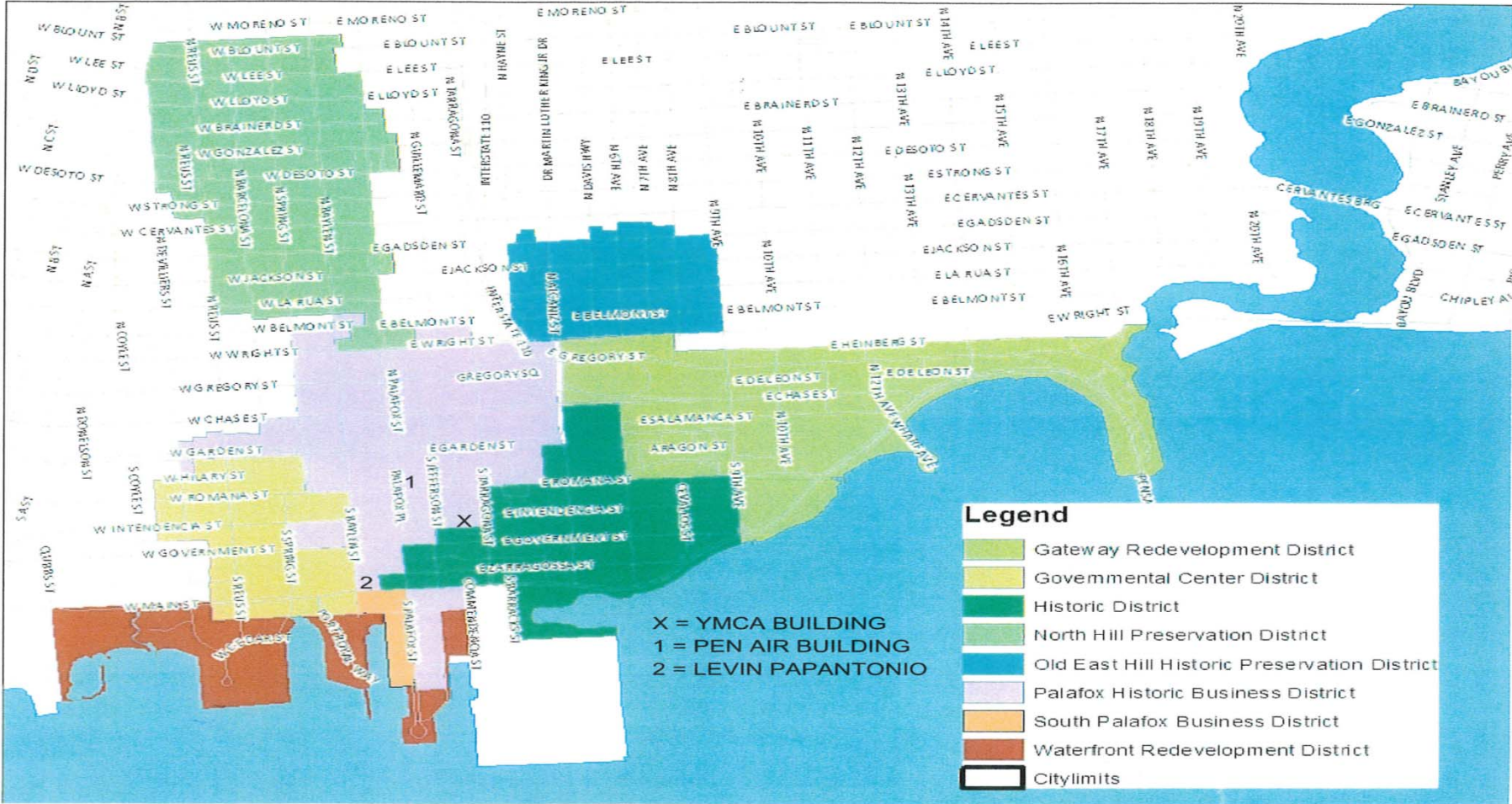








MAP OF DISTRICTS









REVIEW OF ARB DECISION CONCERNING
PLACEMENT OF “BAPTIST HEALTH CARE” SIGN

Exterior Perspective | Southeast



Downtown Pensacola YMCA





Refer to Specifications and Installation.

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- The Florida Supreme Court has held that a zoning ordinance must prescribe definite standards. *North Bay Village v. Blackwell*, 88 So2d 524 (1956).
- Objective criteria are necessary so that: persons are able to determine their rights and duties; the decisions recognizing such rights will not be left to arbitrary administrative determination; all applicants will be treated equally. *Friends of Great S., Inc. v. City of Hollywood ex rel. City Com'n*, 964 So. 2d 827, 830 (Fla. 4th DCA 2007).

- Likewise, the 4th District Court of Appeals has held that objective criteria are necessary so that: persons are able to determine their rights and duties; the decisions recognizing such rights will not be left to arbitrary administrative determination; all applicants will be treated equally; and meaningful judicial review is available. *Friends of Great S., Inc. v. City of Hollywood ex rel. City Com'n*, 964 So. 2d 827, 830 (Fla. 4th DCA 2007).

at using other materials for the parking lot. Chairman Townes offered to provide names of landscape professionals after the meeting.

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C-2**

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Mr. Carson wanted a solution to the problem and asked for the language in the Code. Chairman Townes stated Section 12-13-3 charges the Board with maintaining the historic integrity of the Pensacola historic districts, and the Board makes its rulings based upon what they have done for precedence in the past. The Board has determined that it is architecturally acceptable to backlight signs in the historic districts, and they have never in the ten plus years he has been on the Board allowed internally illuminated signs. Ms. Deese indicated in Section 12-2-10 the language spelled out signs which are prohibited which includes internally illuminated signage. She advised the illuminated signage had been denied two times.

Mr. Quina then suggested the bulbs be removed from the signage. Mr. Mead was concerned with stacking up signage on the building because everyone wants to be associated with the YMCA. Mr. Carson stated they had taken time to consider the square footage allowed for building signage and tried to stay within that limit. The Board discussed having the Baptist signage below the "Y" in both locations, and Mr. Lumbatis agreed there should be consistency on the location. Mr. Mead suggested if the client is within the area limits, there is only so much the Board could do, and if

Baptist Health Care is a legitimate tenant, if would be appropriate." Ms. Campbell suggested the "Baptist Health Care" signage be located under the "Y" on the east side, same as the north side, the Baptist signage was indicated as backlit.

Chairman Townes had no problem with multiple-tenant buildings with multiple signage for advertising purposes. Ms. Campbell-Hatler asked about the square footage, and Ms. Deese explained the clients were under their 200 sq. ft. limitation, with possibly 2 or 3 sq. ft. left.

Mr. Mead made a motion to approve the Baptist sign as submitted to the north elevation, with the east elevation in the same proximity as the "Y" on the north elevation; regarding the two signs presently lit, the internal illumination needed to be removed in some manner immediately. Mr. Mead seconded the motion and encouraged illumination, but it would have to be brought into compliance with the Code; it was not appropriate to be internally illuminated. Ms. Campbell stated it was regrettable that the sign was built with components which were not allowed in this section of Pensacola. The applicant would have to provide some type of hardship for the requested lighting, and more importantly, the Board would be setting a precedent for what is allowed. Ms. Campbell-Hatler pointed out as a leading architectural piece in downtown, the applicant needed to consider what they have presently is not up to Code. She inquired about the "First Early Learning City" signage which was withdrawn, and Ms. Deese explained this signage was considered an exhibit and not a tenant, and the permitted 200 square footage would not come into play. **The motion then carried unanimously.**

Item 5 **200 Blk Garden St** **Palafox Historic Business District**
New Construction **Pensacola Historic District**

Action taken: Approved with comments.

Mr. Steve Jernigan, Bay Design Architecture, was requesting final approval for a 5-story bank and office building with a drive-thru extension. This project was presented to the Board on June 16, 2016, as a 4-story bank and office building with a drive-thru beneath the first floor; the Board approved the conceptual design with comments. The applicant has taken the Board's comments under advisement and has provided a submittal with the building anchoring the corner and the parking lot to the rear of the site as directed. Additionally, the aesthetic of the building has been modified.

Mr. Jernigan advised the building had been reoriented to address the corner and they worked out the accessibility issues to the building. He furnished brick samples and stated the building would be all brick floors 1 through 4 (matching the brick on the Beck Building), with a buff brick at the 5th floor. He advised the signage would not be internally illuminated.

Mr. Jones asked about the dumpster enclosure, and Mr. Jernigan stated it would probably be brick to match the building. He also indicated there would be an ATM in the drive-thru.

Mr. Quina suggested having brick with more consistency. He asked if the horizontal band at the 2nd floor could be removed. He also appreciated moving the building to the corner and asked about landscaping. Mr. Jernigan stated he could bring the dumpster enclosure and landscaping back to the Board.

Chairman Townes asked about signage. Mr. Jernigan stated there was one prime tenant in the building with a building mounted sign, and they were considering a small ground-mounted monument sign near the corner for any additional tenants. He explained they wanted to begin construction in January. Mr. Mead asked how consciously they were mimicking the proportions of the Blount Building; Mr. Jernigan stated it was not intentional. He advised the site lighting would be brought to the Board at a later date.

Mr. Quina made a motion for approval based on the Board's conversation about the entrance, brick selections, landscape plan, site lighting and signage for final approval, seconded by Ms. Campbell. Ms. Deese asked if landscaping, site lighting and dumpster enclosures would be an abbreviated review or full Board; it was determined to be the full Board. Mr. Jernigan stated they would probably present again at the Board's January meeting. **The motion then carried unanimously.**

Item 6 **418 E. Intendencia St.** **Pensacola Historic District**
Contributing Structure **HR-1 / Wood Cottages**

Action taken: Approved

Mr. Marcus Gross was requesting approval for the removal of the roof on the side porch on the principle (contributing) structure and the demolition of a non-contributing accessory structure. Mr. Gross provided pictures to the Board

Excerpt from Minutes of ARB Meeting on November 17, 2016

The Board discussed having the Baptist signage below the “Y” in both locations, and Mr. Pristera agreed there should be consistency on the location. Mr. Mead suggested if the client is within the area limits, there is only so much the Board could do, and if Baptist Health Care is a legitimate tenant, it would be appropriate. Ms. Campbell suggested the “Baptist Health Care” signage be located under the “Y” on the east side, same as the north side. . .

Mr. Quina made a motion to approve the Baptist sign as submitted to the north elevation, with the east elevation in the same proximity as the “Y” on the north elevation. . .

The motion then carried unanimously.

- In the present situation, the ARB merely determined that the Baptist Health Care sign on the east elevation should be in the same proximity as the “Y” on the north elevation.
- The ARB had no standards under the City Code on which to base such a determination.
- The ARB exceeded its authority and arbitrarily decided where the property owner needed to place its signs.
- This decision violates Florida law and should be overturned.
- The plans as presented to the ARB should be approved.





Architectural Review Board

MINUTES OF THE ARCHITECTURAL REVIEW BOARD

November 17, 2016

MEMBERS PRESENT: Chairman Ben Townes, Susan Campbell-Hatler, Carter Quina, George Mead, Ray Jones, Nina Campbell

MEMBERS ABSENT: Michael Crawford

STAFF PRESENT: Brandi Deese, Leslie Statler, Ross Pristera, Advisor

OTHERS PRESENT: David W. Jacobi, Brittany Sherwood, J.J. Zielinski, Steve Jernigan, Bo Carter, Brian Lumbatis, Tom Renshaw, Ed Carson, Michelle MacNeil, Rex McKinney, Carl & Annette Valletto, John Ellis, Diane Davis

CALL TO ORDER / QUORUM PRESENT

Chairman Ben Townes called the Architectural Review Board (ARB) meeting to order at 2:01 p.m. with a quorum present. He then instructed the audience on the functions of the Board, and that all decisions made by the Board are subject to review by the City Council.

APPROVAL OF MINUTES

Mr. Jones made a motion to approve the October 20, 2016 minutes with a revision to Item 4 indicating 1 dissention. Ms. Deese indicated the correction had been made. Mr. Mead seconded the motion, and it carried unanimously.

NEW BUSINESS

Item 1 Contributing Structure Action taken: Approved	321 S. Palafox St.	Palafox Historic Business District C-2A
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Mr. JJ Zielinski was requesting approval to extend the street front canopy of a contributing structure. The proposed canopy would extend along the front of the building to the north and south of the existing canopy. It would also match the existing canopy in design and color. Mr. Zielinski addressed the Board, and Mr. Jones asked if it would match exactly. Mr. Zielinski provided materials and stated they intended to match all details exactly. Mr. Mead asked if the canopy would cover the tables under an existing License to Use, and Mr. Zielinski said it would. Ms. Deese agreed there were no further approvals needed. **Ms. Campbell-Hatler made a motion to approve, seconded by Mr. Mead.** Mr. Quina wanted to make sure they poured new footing for the columns, and Mr. Zielinski stated the concrete was being replaced, and it would not appear patched. **The motion then carried unanimously.**

Item 2
Non-Contributing Structure
Action taken: Approved

221 S. Baylen St.

Palafox Historic Business District
C-2A

Mr. David Jacobi was requesting approval for the demolition of a non-contributing structure. Per the Escambia County Property Appraiser, the structure proposed for demolition was constructed in 1957. The demolition of the existing building would allow for the redevelopment of the property as presented in Item 3 of this agenda. Because of the age of the property, Mr. Pristera stated he checked the records, but the structure did not appear to be significant, but he did not like removing it for a parking lot. Mr. Jacobi stated the intention was to remove all the brick and replace it with asphalt. Mr. Pristera asked about the drainage, and Mr. Jacobi stated his engineer indicated all those concerns would be addressed. Regarding a retention pond, Ms. Deese stated the City Engineering Department would have to approve per the Code before granting a permit. Mr. Jones inquired about retaining the brick, but Mr. Jacobi stated grass growing between the bricks made it difficult to maintain. Ms. Campbell wanted to see more landscaping on the Government Street portion, and Ms. Campbell-Hatler agreed. Mr. Jacobi pointed out that landscaping would cost parking places.

Mr. Quina asked if a new survey was performed, it would have to be reevaluated regarding age, architectural style, etc. Mr. Pristera stated the district has a particular narrative that buildings are to fit in, but this structure was not conducive to it. He pointed out the site placement was odd to the area, and no significant events or persons were tied to it. He did check with the archaeological institute who stated there probably were ruins which had already been disturbed when the building was constructed.

Chairman Townes questioned the intentions for the white areas along the perimeter. Mr. Jacobi stated he had no specific plan at this point, but they might be landscaping. He did state the intention was not to enter on Government Street, but entering only on Baylen and then looping through the parking lot. For now, the parking would not be gated, and they would use vehicle identification stickers.

Ms. Campbell wanted to see some changes, and Mr. Jacobi advised he was open to suggestions for a design professional. He indicated the parking was specifically for employees. Ms. Campbell-Hatler asked if it would help if the employees were shuttled in from another parking lot. Mr. Jacobi pointed out the Levin Law Firm currently leases 45 spaces at the Judicial Center, and there could be another space problem in the future. He also indicated they were the owners of the property, and the parking was more valuable to them than the existing structure. Mr. Quina suggested keeping some of the brick for a brick wall along the street to hide the parking spaces on the Government and Baylen Street sides. Mr. Jacobi stated they had an easement along the north side to provide access to the Lundy Building.

Chairman Townes stated the building itself eventually will be torn down, and if it could serve as a parking lot for Mr. Jacobi, he had no objection, since downtown is growing and this is a vibrant corner for future buildings. He suggested that Mr. Jacobi bring landscaping forward along with suggestions from the Board. He stated the Board would ask that he have a plan before applying. Mr. Jones asked about current parking spaces, and Mr. Jacobi stated there were 31 spaces, and they wanted a total of 46. Mr. Quina pointed out brick pavers were what others want to emulate. Mr. Mead asked if the Board approved the demolition, would the landscaping return. Ms. Deese advised the landscaping was tied to Item 3. **Mr. Mead then made a motion to approve, seconded by Ms. Campbell-Hatler. Mr. Quina stated the basis of approval for the demolition was that the building was considered a non-contributing, poorly sited, under-utilized structure on a midblock location. Mr. Mead added the proposed reuse will not prevent future appropriate development. Mr. Mead and Ms. Campbell-Hatler accepted the language amendment, and it carried unanimously.**

Item 3
New Construction

221 S. Baylen St.

Palafox Historic Business District
C-2A

Action taken: Denied without prejudice.

Mr. David Jacobi was requesting approval for the expansion of a parking lot. Mr. Jacobi wanted suggestions for landscaping companies the Board would recommend in order to return with a proposal in the future. Mr. Quina suggested the curb cut at the street did not need to be 26' wide, and he suggested using curbs. He explained the Code required site lighting and irrigated landscaping, and he wanted Mr. Jacobi to consider the use of brick on the perimeter to create a separation from the public sidewalk and the parking lot. It was clarified that Item 2 covered the demolition only, but the brick could not be removed before submitting a landscape plan. Mr. Jones suggested taking another look

at using other materials for the parking lot. Chairman Townes offered to provide names of landscape professionals after the meeting.

Mr. Mead reminded the Board that tabling was not possible, but the applicant could withdraw in writing; Mr. Jacobi agreed with denial. **Mr. Mead then made a motion to deny without prejudice, seconded by Ms. Campbell-Hatler, and it carried unanimously.**

**Item 4
Signage**

165 E. Intendencia St.

**Palafox Historic Business District
C-2**

Action taken: Approved with comments.

Mr. Tom Renshaw, Complete Signs, was requesting approval for attached wall signage on the YMCA building. This application is for the "YMCA" signage currently on the building as well as the proposed additional "Baptist" signage. Initially, the signage for the YMCA was presented as an abbreviated review. After being denied for internal illumination, the signage was modified to non-illuminated letters. However, the signage which was installed does not comply with the approval and is internally illuminated. The proposed "Baptist" signage was also presented as an abbreviated review; however, the reviewer determined full Board approval was warranted and should include the previous submittal. Also, Caldwell and Associates was requesting approval for a minor exhibit area to be located within the entry plaza of the YMCA on the northwest corner of the site. **This exhibit focuses on the "First Early Learning City" concept and promotes the use of visual aids within the community to teach children. However, at this time, Caldwell and Associates wanted to withdraw this request.**

Brian Lumbatis with Complete Signs stated the client (YMCA) did prefer internally luminated signage, and they were instructed to build them as such, but the client would not turn them on. He stated they submitted the same drawings with non-illuminated language until they could get approval for internal illumination. The signage was approved, built and installed. He stated the materials and construction were according to the approved drawings. Ms. Deese informed that Mr. Quina had approved the proposal in an abbreviated review. However, Mr. Quina explained the package he approved did not allow for internally luminated signage. He approved the "Y" and the "Bear-Levin-Studer Family YMCA." When the additional abbreviated review package for "Baptist Health Care" was submitted, he sent it to the full Board to make sure of the full intention, not knowing they were already internally illuminated. The new proposal is to place "Baptist Health Care" below the "Y". Mr. Lumbatis advised this signage would be backlit for a halo effect. Mr. Mead clarified that you cannot substitute an operational restriction for an architectural requirement. Mr. Lumbatis stated it was the client's intent to seek approval for the illuminated signage.

For further clarification, Mr. Ed Carson stated there was some miscommunication. The external signage was pulled out and left to the executive director of the YMCA and staff to work out; there wasn't a lot of communication between the construction team and staff. It was his recollection that they had depicted the signs the way they are with illumination. Mr. Jones recalled that conversation came up, and the illumination was not allowed. Mr. Carson advised they showed illumination from the beginning. Mr. Mead explained that backlit is allowed. Ms. Campbell lives in the area, and had several comments from the historic village about the bright lights. Mr. Mead pointed out in the original application signage was indicated, and if there was conduit in the plans, it did not show the manner of illumination.

Mr. Carson wanted a solution to the problem and asked for the language in the Code. Chairman Townes stated Section 12-13-3 charges the Board with maintaining the historic integrity of the Pensacola historic districts, and the Board makes its rulings based upon what they have done for precedence in the past. The Board has determined that it is architecturally acceptable to backlight signs in the historic districts, and they have never in the ten plus years he has been on the Board allowed internally illuminated signs. **Ms. Deese indicated in Section 12-2-10 the language spelled out signs which are prohibited which includes internally illuminated signage.** She advised the illuminated signage had been denied two times.

Mr. Quina then suggested the bulbs be removed from the signage. Mr. Mead was concerned with stacking up signage on the building because everyone wants to be associated with the YMCA. Mr. Carson stated they had taken time to consider the square footage allowed for building signage and tried to stay within that limit. The Board discussed having the Baptist signage below the "Y" in both locations, and Mr. Pristera agreed there should be consistency on the location. Mr. Mead suggested if the client is within the area limits, there is only so much the Board could do, and if

Baptist Health Care is a legitimate tenant, it would be appropriate. Ms. Campbell suggested the "Baptist Health Care" signage be located under the "Y" on the east side, same as the north side; the Baptist signage was indicated as backlit. Chairman Townes had no problem with multiple-tenant buildings with multiple signage for advertising purposes. Ms. Campbell-Hatler asked about the square footage, and Ms. Deese explained the clients were under their 200 sq. ft. limitation, with possibly 2 or 3 sq. ft. left.

Mr. Quina made a motion to approve the Baptist sign as submitted to the north elevation, with the east elevation in the same proximity as the "Y" on the north elevation; regarding the two signs presently lit, the internal illumination needed to be removed in some manner immediately. Mr. Mead seconded the motion and encouraged illumination, but it would have to be brought into compliance with the Code; it was not appropriate to be internally illuminated. Ms. Campbell stated it was regrettable that the sign was built with components which were not allowed in this section of Pensacola. The applicant would have to provide some type of hardship for the requested lighting, and more importantly, the Board would be setting a precedent for what is allowed. Ms. Campbell-Hatler pointed out as a leading architectural piece in downtown, the applicant needed to consider what they have presently is not up to Code. She inquired about the "First Early Learning City" signage which was withdrawn, and Ms. Deese explained this signage was considered an exhibit and not a tenant, and the permitted 200 square footage would not come into play. **The motion then carried unanimously.**

Item 5

200 Blk Garden St

Palafox Historic Business District

New Construction

Pensacola Historic District

Action taken: Approved with comments.

Mr. Steve Jernigan, Bay Design Architecture, was requesting final approval for a 5-story bank and office building with a drive-thru extension. This project was presented to the Board on June 16, 2016, as a 4-story bank and office building with a drive-thru beneath the first floor; the Board approved the conceptual design with comments. The applicant has taken the Board's comments under advisement and has provided a submittal with the building anchoring the corner and the parking lot to the rear of the site as directed. Additionally, the aesthetic of the building has been modified.

Mr. Jernigan advised the building had been reoriented to address the corner and they worked out the accessibility issues to the building. He furnished brick samples and stated the building would be all brick floors 1 through 4 (matching the brick on the Beck Building), with a buff brick at the 5th floor. He advised the signage would not be internally illuminated.

Mr. Jones asked about the dumpster enclosure, and Mr. Jernigan stated it would probably be brick to match the building. He also indicated there would be an ATM in the drive-thru.

Mr. Quina suggested having brick with more consistency. He asked if the horizontal band at the 2nd floor could be removed. He also appreciated moving the building to the corner and asked about landscaping. Mr. Jernigan stated he could bring the dumpster enclosure and landscaping back to the Board.

Chairman Townes asked about signage. Mr. Jernigan stated there was one prime tenant in the building with a building mounted sign, and they were considering a small ground-mounted monument sign near the corner for any additional tenants. He explained they wanted to begin construction in January. Mr. Mead asked how consciously they were mimicking the proportions of the Blount Building; Mr. Jernigan stated it was not intentional. He advised the site lighting would be brought to the Board at a later date.

Mr. Quina made a motion for approval based on the Board's conversation about the entrance, brick selections, landscape plan, site lighting and signage for final approval, seconded by Ms. Campbell. Ms. Deese asked if landscaping, site lighting and dumpster enclosures would be an abbreviated review or full Board; it was determined to be the full Board. Mr. Jernigan stated they would probably present again at the Board's January meeting. **The motion then carried unanimously.**

Item 6

418 E. Intendencia St.

Pensacola Historic District

Contributing Structure

HR-1 / Wood Cottages

Action taken: Approved

Mr. Marcus Gross was requesting approval for the removal of the roof on the side porch on the principle (contributing) structure and the demolition of a non-contributing accessory structure. Mr. Gross provided pictures to the Board



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 16-00362

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Brian Spencer

SUBJECT:

PUBLIC HEARING -- AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT, (A)(4) PROCEDURE FOR REVIEW

RECOMMENDATION:

That City Council conduct the second of two Public Hearings on February 9, 2017, proposing an amendment to the Land Development Code, Section 12-2-10 - Historic & Preservation Land Use District, (A)(4) Procedure for Review, by adding subsection (f) allowing for Conceptual review and approval.

HEARING REQUIRED: Public

SUMMARY:

The Architectural Review Board (ARB), at its September 15, 2016, meeting approved for submission to the City Council an amendment to Section 12-2-10, Historic & Preservation Land Use District. (A)(4) Procedure for review by adding subsection (f) allowing for Conceptual review and approval.

The conceptual review step in the review process provides an opportunity for the ARB to review and comment on a project's concept or theme when it is still in the early stages of development before the applicant has committed to and invested in a design. At conceptual review, the ARB considers only broad issues such as site planning, general architectural style, the project's relationship to its site and the surrounding neighborhood, along with storm water site plan capacity compliance. This allows the applicant and the ARB the opportunity to informally discuss a project that will be subsequently submitted. Applicants are encouraged to bring sketches and/or conceptual drawings, including schematic sections and three-dimensional renderings, as well as completed site studies that address various aspects of site design (e.g. general massing of buildings, grading, access, landscaping concepts).

The ARB has approved for submission the following language:

(f) Conceptual approval is permitted by the Board only when the applicant specifies on their application that is the approval they are seeking. Conceptual approval applications shall be complete with the exception of final details such as material and color selections. Conceptual approval by the Board does not permit the issuance of a building permit.

PRIOR ACTION:

ARB Meeting September 15, 2016

January 12, 2017 - City Council conducted the first of two public hearings.

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) 9-15-16 ARB Minutes (003)
- 2) Proposed Language to 12-2-10(A)(4)(f)

PRESENTATION: No

PLANNING SERVICES

Architectural Review Board

MINUTES OF THE ARCHITECTURAL REVIEW BOARD

September 15, 2016

MEMBERS PRESENT: Chairman Ben Townes, Michael Crawford, Susan Campbell Hatler, Carter Quina, George Mead, Ray Jones

MEMBERS ABSENT: Nina Campbell

STAFF PRESENT: Brandi Deese, Leslie Statler, Karen Lefebvre, Ross Pristera, Advisor

OTHERS PRESENT: Phillip Turner, Julie Sheppard, Matt Lopez, Stanley McGill, Nora Bailey, Melissa Reid, David Ebbert, Michelle MacNeil, Nick Ortiz, Dean Dalrymple, Bill Holman, Tom Bailey

CALL TO ORDER / QUORUM PRESENT

Chairman Ben Townes called the Architectural Review Board meeting to order at 2:03 p.m. with a quorum present. He instructed the audience on the functions of the Board, and that all decisions made by the Board are subject to review by the City Council.

There were no add-on items.

APPROVAL OF MINUTES

Mr. Jones made a motion to approve the August 18, 2016 minutes, seconded by Mr. Crawford, and the motion carried unanimously.

NEW BUSINESS

Item 1

420 E. Romana St.

Pensacola Historic District
HC-1/Brick District

Non-Contributing Structure

Action Taken: Approved.

Ms. Julie Sheppard, on behalf of IHMC, is requesting a variance of 90 square feet of additional sign area for the new facility recently constructed on Romana Street. The Pensacola Historic District limits the square footage for signage to 12 square feet, which is somewhat of a hindrance for a building of this scale. This signage was recently approved through an abbreviated review for aesthetics, but does require the approval of this Board for the additional square footage requested.

Julie Sheppard stated they were successful in working with the county to obtain a grant for a new building, with a million dollar gift to continue the project. She advised all personnel would be consolidated on this property. She stated at completion, the building would be 33,000 sq. ft., and the view of the sign would be the Garden and Alcaniz Street corridor. She advised the signage would only total three percent of the face of the building. Ms. Deese stated the sign had already received aesthetic approval. Tom Paux with Brix Design indicated the sign would have polyurethane high density letters, painted with exterior latex enamel; he offered that polyurethane materials were stronger and lasted longer. Ms. Sheppard stated they spoke to neighbors with the most impacted view to make sure there were no objections. Mr. Quina pointed out the most impacted view would be from within the campus. Ms. Deese clarified that

the sign materials had been approved through an abbreviated review.

Ms. Hatler made a motion to approve, seconded by Mr. Mead, and it carried unanimously with Mr. Quina abstaining.

To accommodate the client and with no objections, 571 E. Romana Street was moved forward.

Old Business, Item 1

571 E. Romana St.

Pensacola Historic District

New Construction

HR-2/Aragon

Action Taken: Approved as submitted.

Mr. Carter Quina is requesting the Board consider an amendment to the recently approved project at 571 E. Romana Street to include a change of materials for the windows. This project received approval during the August meeting with the exception of the windows. This amendment was submitted as an abbreviated review on August 31, 2016 and was referred to the full Board for review. The applicant is requesting Jeld-Wen Premium Atlantic Vinyl Windows on non-primary facades and in the Guest House. The front facing façade on Romana Street is proposed to be Jeld-Wen Clad Wood Windows.

Bill Holman represented Tom and Nora Bailey. Mr. Crawford pointed out that vinyl windows were not permitted in this part of Aragon, with the southern portion following the historic guidelines. This application presented the opportunity for the Board to consider using vinyl windows in some limited way in HR-2, approving the solid vinyl windows on the sides and rear of the structure. Chairman Townes asked if a motion could be made that this approval only applies to houses in Aragon. Ms. Deese clarified that the Code does not specify you cannot have vinyl windows but leaves the decision to interpretation; the Board must consider if the new construction is historic design, then consider materials. Ms. Hatler suggested the Craftsman style allowed for more affordability. Mr. Holman indicated there was a \$20,000 difference between the wood and vinyl material costs. Ms. Bailey advised that wood windows were a serious upkeep with time and expense.

Mr. Mead made a motion to find a hardship for variance approval to be found based upon the potential impact of the excess cost of the wood window alternative, and approve vinyl on the sides and back with the conforming wood clad on the front. Specifically, that the hardship has to do with the impact of that cost in regard to the finance terms and your personal contribution to those finances in terms of the down payment. Ms. Hatler seconded the motion. Mr. Mead amended his motion stating that it meets the requirement given the current state of design, maintaining the ancient appearance since the sides and backs will not be prominent, and they are consistent with the overall profile of historic windows. Ms. Deese clarified that this was not a variance request but a variation in the Code. Chairman Townes pointed out at the last ARB meeting that the AARB would weigh in on this decision. Mr. Crawford indicated he had discussed this with Ms. MacNeil, and it was not that Aragon's rules were more strict, but only that the historic district wanted to have the ruling for wood windows in this portion of Aragon. Ms. Hatler withdrew her second and the motion failed. Mr. Crawford made a motion to approve as submitted with solid vinyl windows on the sides and rear and vinyl or other clad on the front. Ms. Hatler seconded the motion, and it carried unanimously with Mr. Quina abstaining.

Item 2

100 Blk S. 9th Ave.

Pensacola Historic District

New Construction

HC-1/Brick District

Action Taken: Denied.

Mr. Paul Ritz, Bullock Tice Associates, is requesting approval for the development of a two-story complex in Privateer's Alley that will include retail use, restaurant and condominium units. This development will wrap the corner of East Romana and South 9th Avenue with a primary façade that includes a synthetic stucco system. The proposed windows and doors are Jeld-Wen Custom Clad Wood and the roofing system is proposed as standing seam metal. This development includes a breezeway with a translucent roof system, overhead door at the craft bar, decorative railing and woodland concrete pavers with defined wood grain finish. Ms. Deese furnished information regarding the conceptual approval granted in August 2015.

Mr. Ritz stated the structure would be 6' above the sidewalk, with first floor retail and likely an alcohol sale establishment on the north side. South of this would be Craft Beer Bar, with the southern portion being the wine bar. Condominium units would comprise the second floor. The units would have covered parking in the rear, with storage

lockers. He indicated they were trying to keep to the intent of the original architects. He stated the major aesthetic change from the conceptual approval was the roof over the alleyway between the two building components which created the most optimum conditions for outdoor customers.

Mr. Quina questioned the 6' rise needing a ramp. Mr. Ritz stated the ramp would be located on Romana Street which was in the original design. Mr. Quina also asked about the horizontal windows not being store front style. Mr. Ritz stated the tenant for that location wanted store shelving along the wall, so the windows were located higher. Mr. Crawford addressed brackets on the second floor; Mr. Ritz stated they were column caps, and the columns were not illustrated in the drawings. He explained the utilities would be under the building.

Chairman Townes asked if the Board was considering conceptual or final approval, and Mr. Ritz stated it was final approval. Chairman Townes explained on new construction, the Board needed to see door and window details, wall sections, and surface materials on the underside of balconies. He suggested the package was incomplete for final approval. Mrs. Hatler wanted to see stucco and roof samples and colors. Mr. Jones questioned the signage, and Mr. Ritz explained the tenants would return to the Board at a later date with a signage request.

Mr. Quina asked about dumpsters, and it was explained their location would be under the building.

After further discussion on parking lights, light pollution, windows and roof elevation details, **Mr. Mead made a motion to table for a presentation with more details.** It was determined the timeframe would support tabling, but if there was no quorum, the project would be approved. It was explained if the proposal was denied, the applicant would submit a new application with no additional fees. Mr. Crawford felt the project was too big to table, and **Mr. Mead withdrew his motion.** He stated with concurrence of the City Attorney, whatever the applicant applies for is what the Board considers; he pointed out the applicant applied for final approval. **Mr. Crawford then made a motion to deny the application, seconded by Mr. Mead.**

Mrs. Michelle MacNeil appeared before the Board and explained this was the first building in Aragon which has not gone through the ARB. Her firm furnished the genetic design but was not part of the project at the present time. She agreed the project needed more details on the columns, the façade, the ramp, placement of horizontal windows and colors. In the original concept, the three buildings would have different types and styles of guardrails and columns. Having heard the comments, Mr. Ritz indicated they had a checklist for specific items to be addressed and looked forward to revising the presentation to the Board. With no other speakers, **the motion then carried unanimously.**

Item 3

823 E. Jackson St.

**Old East Hill Preservation District
OEHC-1**

Non-contributing Structure

Action Taken: Denied. Paint and one for one wood repair approved.

Mr. Nick Ortiz is requesting approval to construct a modular accessible handicap ramp, add porch railing and paint at his Law Office at 823 E. Jackson Street. The 58 foot ramp will be constructed of wood with railing to match the proposed porch railing and will have a 5 x 5 platform. The ramp and porch railings will be painted white. The existing trim on the structure is a reddish color, and the applicant would like to repaint the trim with Sherwin Williams "Jay Blue."

Mr. Pristera pointed out the structure was built in 1903 and should be contributing. Mr. Quina stated the package did not have a site plan, and the more recent ramps which were approved used more resistant materials which are stronger and disappear within the landscaping. He pointed out the Code did not require this house to have railing, and it could remain without the rails.

Mr. Mead asked if they had looked into a lift which might be more convenient. Mr. Ortiz stated the clients would park in the rear and access the ramp up to the stoop. Chairman Townes asked about a Code compliant handicap parking space, and it was determined there was none since they have no designated parking. He offered the Board was there to help and recommended that he get a design professional to make sure he is in compliance with the Building Code.

Mr. Crawford made a motion to deny, seconded by Mr. Mead. Chairman Townes emphasized the Board needed a site plan with details. **The motion then carried unanimously.** Mr. Ortiz asked about the paint, and **Mr. Quina made a motion to approve the "Jay Blue" paint for sashes and door frames, with one for one board repair, seconded by Mr. Mead, and it carried unanimously.**

Item 4 **150 W. DeSoto St.** **North Hill Preservation District**
Non-Contributing Structure **PR-1AAA**
Action Taken: Approved.

Mr. Stanley McGill is requesting approval to replace existing windows on the residence and construct an 8 x 14 accessory structure in the rear yard at 150 W. DeSoto Street. The proposed accessory structure is in compliance with the Land Development Code in regard to setbacks, height and square footage requirements. The applicant is proposing to replace the existing windows with custom aluminum clad windows to match the existing openings.

Mr. McGill advised there was no problem with his neighbors, and the shed would be constructed on site by the American Shed Company. He indicated the siding would be hardie board concrete siding and would not be visible from any direction. He provided a sample window which was double-hung aluminum, clad with vinyl, and outside screening. The mullion pattern would remain two over two. It was determined that North Hill had no issues with the selected vinyl window.

Mr. Quina made a motion to approve as submitted, seconded by Mr. Mead, and it carried unanimously.

Item 5 **800 Blk E. Belmont St.** **Old East Hill Preservation District**
New Construction **OEHC-1**
Action Taken: Approved.

Dalrymple Sallis Architecture is requesting approval for a new slab on grade single-story wood-framed residence with lap pool. This proposed residence is functionally a guest home and pool that joins the neighboring property at 816 E. Belmont. However, due to regulations in the Land Development Code, staff is treating this as a stand-alone structure. Window selection for the structure is proposed to be Anderson E Series Double Hung Clad Window. The structure will also include painted composite panels as the primary façade and a standing seam metal roof.

Mr. Dalrymple stated the exterior composite panels have battens applied to them which are of the same material as the adjacent structure. He indicated the window selection matched the existing structure.

Mr. Quina made a motion to approve as submitted, seconded by Ms. Hatler. Mr. Mead asked if the stand-alone met the codes and setbacks, and Ms. Deese stated it did. It was also noted that Old East Hill supported the project. **The motion then carried unanimously.**

Item 6 **300 S. Palafox St.** **Palafox Historic Business District**
Contributing Structure **Pensacola Historic District/HC-2**
Action Taken: Approved.

Mr. Pristera, on behalf of the UWF Historic Trust, is requesting approval to update and reinterpret the Colonial Archaeological Trail stop in Plaza Ferdinand VII. Currently, there is a platform with a wood railing which is rotting; they want to replace it with a railing system which would match the Commanding Officer's Compound Exhibit. The British brick wall in the grass will have a border to highlight that feature with signage telling the story of that element. He clarified that the railing would only be along the sidewalk, and the site would be regraded. He pointed out the railing was the standard 4" spacing.

Mr. Jones made a motion to approve, seconded by Ms. Hatler, and it carried unanimously.

Item 7 **330 S. Jefferson St.** **Palafox Historic Business District**
Contributing Structure **Pensacola Historic District/HC-2**
Action Taken: Approved.

Mr. Pristera, on behalf of the UWF Historic Trust, is requesting approval for upgrades to the lighting at the T.T. Wentworth Museum. The new LED fixtures will have the ability to change colors and will be placed in locations that highlight key architectural features. New reproduction globe lamps will be placed on either side of the front stairs and new reproduction pendant fixtures will be installed in the alcoves. Ms. Deese provided an email from Mr. Kyle Owens for the Board's consideration.

Melissa Reid with Premier Engineering Group advised they could accommodate the time delays through their programming. They also have plans for the north and south elevations. They will replace the custom pedestals on the outside to match the original. Acrylic globe fixture samples were provided to the Board. David Ebbert explained the

event programming aspects which can be controlled by the owner. After further discussion, **Ms. Hatler made a motion to approve, seconded by Mr. Jones.** Mr. Jones mentioned other businesses using this same concept, and Ms. Deese stated that if the project was within the historic district, the Board would review it as it is an exterior modification. **The motion then carried unanimously with Mr. Quina abstaining.**

DISCUSSION:

LDC Section 12-13-3/12-2-10/12-2-22 –

During the August 18, 2016 meeting, staff presented draft language for potential amendments to the Land Development Code as directed by the Board. The Board at that time decided to spend the next month reviewing the draft language options. Staff added this item to the agenda for discussion with the possibility of a recommendation to City Council.

Sec. 12-13-3. – Architectural review board.

The Board approved **Option 1 (Timeframe for Decision) – (G) Review and decision.** The Board shall promptly review such plans and shall render its decision ~~on or before thirty-one (31) days from the date that plans are submitted, to the board for review~~ **in a reasonable time. Any agenda item may be continued at the discretion of the Board.**

Under **Conceptual Approval (Code Language)** the Board approved **Sec. 12-13-3. Architectural Review Board, E. Duties., e. Governmental Center District. Refer to section 12-2-22.**

It shall be the duty of the board to approve or disapprove plans for buildings to be erected, renovated or razed which are located, or are to be located, within the historical district or districts and to preserve the historical integrity and ancient appearance within any and all historical districts established by the governing body of the city, including the authority to grant variances, under the conditions and safeguards provided in subsection 12-12-2(A)(2), from the zoning ordinances of the city applicable in the Pensacola Historic District, the North Hill Preservation District, the Old East Hill Preservation District, the Palafox Historic Business District, **and the Governmental Center District. The Board must approve or disapprove plans based on the applicant's request listed on their application, be it conceptual approval or final approval.**

Under **12-2-10 – Historic & Preservation Land Use District. (A),(4) Procedure for review,** the Board approved the addition of

(f) Conceptual approval is permitted by the Board only when the applicant specifies on their application that is the approval they are seeking. Conceptual approval applications shall be complete with the exception of final details such as material and color selections. Conceptual approval by the Board does not permit the issuance of a building permit.

After discussion regarding proper notification, staff's ability to review materials before the Board meeting, and the purpose of add-on items, the Board decided not to permit add on agenda items.

Under **Governmental Center District** the Board approved **Option 1** with the most stringent requirements.
Sec. 12-2-22. - Governmental center district.

(B) Procedure for review of plans.

- (1) Submission of plans. Every application for a building permit to erect, **raze**, construct, renovate and/or alter an exterior of a building, or sign, located or to be located in the district shall be accompanied by plans for the proposed work. As used herein, "plans" shall mean drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building or sign, (both before and after the proposed work is done in the cases of altering, renovating, demolishing or razing a building or structure) including proposed materials, textures and colors, and the plat plan or site layout, including all site improvements or features such as walls, fences, walks, terraces, plantings, accessory buildings, paved areas,

signs, lights, awnings, canopies, screening and other appurtenances. Such plans shall be promptly forwarded by the building official to the Architectural Review Board. The building official or his designee shall serve as secretary to the board.

- (2) Review and approval by the architectural review board. All such plans shall be subject to review and approval by the Architectural Review Board as established in section 12-13-3 and in accordance with the provisions of section 12-2-10(A)(4)(a) through (c), applicable to the historic zoning districts. **In addition, to section 12-2-10 (A) (9) demolition of contributing structures applies when the request involves a contributing structure.** The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs, emergency repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however such abbreviated review process shall require review by the director of the downtown improvement board and the staff of the Historic Pensacola Preservation Board. If agreement cannot be reached as it pertains to an abbreviated review by the board designee, director of the downtown improvement board, Historic Pensacola Preservation Board staff and secretary to the architectural review board then the matter will be referred to the full board for a decision.

It was explained that demolition for a non-contributing structure would come to the ARB without the application of the standards in Section (9); the structure would be demolished yes or no, but staff would clarify "contributing structures." Ms. Deese advised the Board's decisions would be moved forward to the Council Executive for consideration.

ADJOURNMENT – With no further business, the meeting adjourned at 5:07 pm.

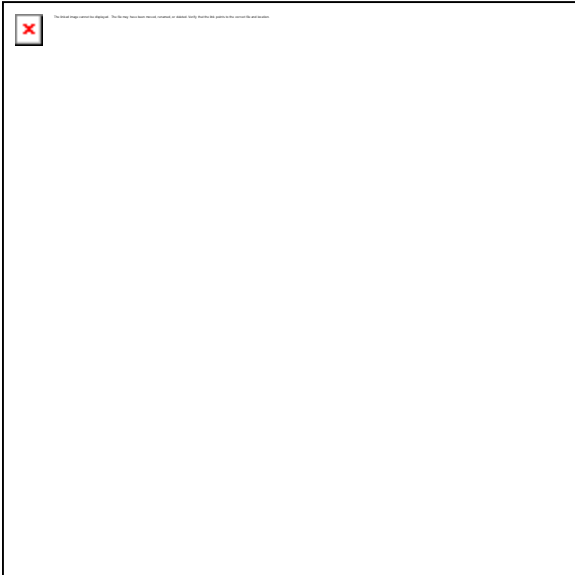
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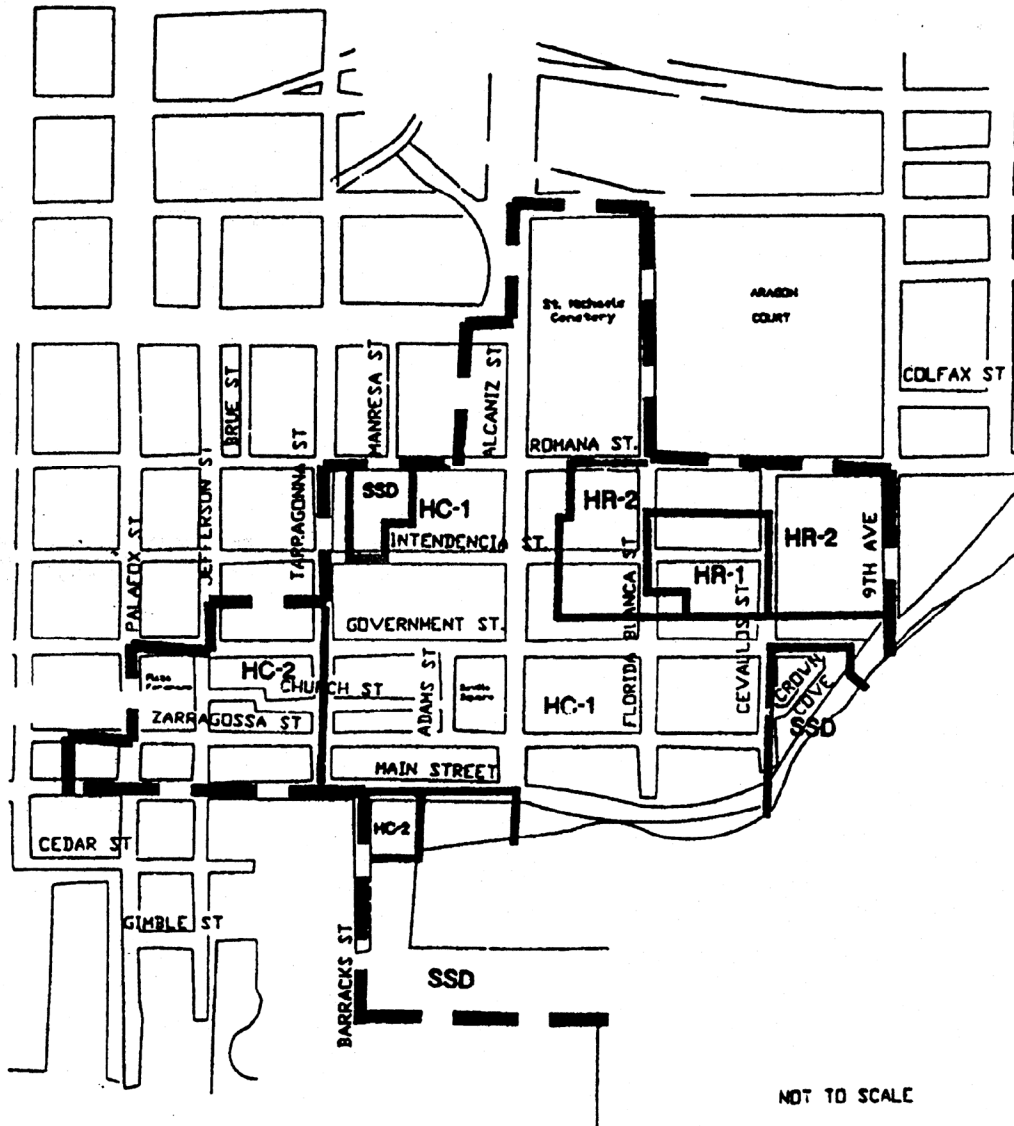


Brandi C. Deese
Secretary to the Board

Sec. 12-2-10. - Historic and preservation land use district.

The regulations in this section shall be applicable to the Pensacola Historic District, the North Hill Preservation District and the Old East Hill Preservation District: HR-1, HR-2, HC-1, HC-2, PR-1AAA, PR-2, PC-1, OEHR-2, OEHC-1, OEHC-2 and OEHC-3.





(A) *Historic zoning districts: HR-1, HR-2, HC-1 and HC-2.*

- (1) *Purpose.* The historic zoning districts are established to preserve the development pattern and distinctive architectural character of the district through the restoration of existing buildings and construction of compatible new buildings. The official listing of the Pensacola Historic District (which includes all areas designated as historic zoning districts) on the National Register of Historic Places and the authority of the architectural review board reinforce this special character. Zoning regulations are intended to ensure that future development is compatible with and enhances the pedestrian scale of the existing structures and period architectural character of the districts.
- (2) *Character of the district.* The Historic District is characterized by lots with narrow street frontage (based on the original British city plan, c. 1765), and the concentration of Frame Vernacular, Folk

Victorian and Creole homes which date from the early 19th Century and form a consistent architectural edge along the street grid. These buildings and historic sites and their period architecture make the district unique and worthy of continuing preservation efforts. The district is an established business area, residential neighborhood and tourist attraction, containing historic sites and museums, a variety of specialty retail shops, restaurants, small offices, and residences.

(3) *Uses permitted.*

(a) HR-1, one- and two-family.

1. Single-family and two-family (duplex) dwellings.
2. Libraries, community centers and buildings used exclusively by the federal, state, county or city government for public purposes.
3. Churches, Sunday school buildings and parish houses.
4. Home occupations allowing: Not more than sixty (60) percent of the floor area of the total buildings on the lot to be used for a home occupation; Retail sales shall be allowed, limited to uses listed as conditional uses in subsection (b)6., below; Two (2) nonfamily members shall be allowed as employees in the home occupation; and a sign for the business not to exceed three (3) square feet shall be allowed.
5. Publicly owned or operated parks and playgrounds.
6. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home. If it is proposed to be within one thousand (1,000) feet of another such home, measured from property line to property line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.
7. Bed and breakfast subject to regulations in section 12-2-55.
8. Conditional uses permitted:
 - a. Single-family attached dwellings (townhouses).
 - b. Multiple-family dwellings.
9. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot and not involving the conduct of business.
10. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(b) HR-2, multiple family and office.

1. Any use permitted in the HR-1 district, including conditional uses.
2. Boarding and lodging houses.
3. Offices under five thousand (5,000) square feet.
4. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multifamily district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200) feet of another such home in a multifamily district, measured from property line to property line, and/or within five hundred (500) feet of a single-family zoning district, measured from property line to district line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.

5. Childcare facilities subject to regulations in section 12-2-58.
 6. Conditional use permitted:
The following uses limited to a maximum area of 3,000 square feet:
 - a. Antique shops.
 - b. Bakeries whose products are sold at retail and only on the premises.
 - c. Grocery stores.
 - d. Barbershops and beauty parlors.
 - e. Laundromats, including dry-cleaning pick-up stations.
 - f. Clothing and fabric shops.
 - g. Studios.
 - h. Vending machines when an accessory to a business establishment and located in the same building as the business.
 - i. Small appliance repair shops.
 - j. Floral gardens and shops.
 - k. Hand craft shops for custom work or making custom items not involving noise, odor, or chemical waste.
 - l. Secondhand stores.
 - m. Specialty shops.
 7. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.
- (c) HC-1, historical commercial district:
1. Any use permitted in the HR-2 district, including the conditional uses, with no size limitations.
 2. Small appliance repair shops.
 3. Marinas.
 4. Restaurants (except drive-ins).
 5. Motels.
 6. Commercial parking lots.
 7. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.
- (d) HC-2, historical commercial district:
1. Any use permitted in the HR-1 district.
 2. Private clubs and lodges except those operated as commercial enterprises.
 3. Health clubs, spas and exercise centers.
 4. Tavern, lounges, nightclubs, cocktail bars.
 5. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.

6. Adult entertainment establishments subject to the requirements of Chapter 7-3 of this Code when located within the dense business area as defined in Chapter 12-14, Definitions.
- (4) *Procedure for review.*
- (a) Review and approval by the architectural review board: All activities regulated by this subsection shall be subject to review and approval by the architectural review board as established in section 12-13-3. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however, such abbreviated review process shall require review by the staff of West Florida Historic Preservation, Inc. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and West Florida Historic Preservation, Inc. staff, then the matter will be referred to the entire board for a decision.
 - (b) Decisions.
 1. General consideration. The board shall consider plans for existing buildings based on their classification as contributing, non-contributing or modern infill as depicted on the map entitled "Pensacola Historic District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In their review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials, textures and colors; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, including painting, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods, paint colors or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any control over land use or construction standards such as are controlled by this chapter and Chapter 7-13.
 2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:
 - a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.
 - b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style, materials and colors.
 3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by the Historic Pensacola Preservation Board) in its original style, dimensions or position on its original structural foundation.
 - (c) Plan submission: Every activity which requires plans in order to erect, construct, demolish, renovate or alter an exterior of a building, sign or exterior site work, located or to be located in the historic zoning districts shall be accompanied with drawings or sketches. All drawings

must be drawn to scale and be legible. The minimum size scale for site plans is 1" = 30'0"; the minimum scale for floor plans is 1/8" = 1'0"; and the minimum scale for exterior elevations is 1/8" = 1'0". The scale for other items, such as signs and details, shall be as large as necessary to fully define the detail of those items. Major projects with very large buildings may vary from the scale referenced above for ease of presentation.

1. Site plan:

- a. Indicate overall property dimensions and building size and location on the property.
- b. Indicate relationship of adjacent buildings, if any.
- c. Indicate layout of all driveways and parking on the site.
- d. Indicate all fences, and signs with dimensions as required to show exact locations.
- e. Indicate existing trees and existing and new landscaping.

2. Floor plan:

- a. Indicate locations and sizes of all exterior doors and windows.
- b. Indicate all porches, steps, ramps and handrails.
- c. For renovations or additions to existing buildings, indicate all existing conditions and features as well as the revised conditions and features and the relationship of both.

3. Exterior elevations:

- a. Indicate all four (4) elevations of the exterior of the building.
- b. Indicate the relationship of this project to adjacent structures, if any.
- c. Indicate exposed foundation walls, including the type of material, screening, dimensions, and architectural elements.
- d. Indicate exterior wall materials, including type of materials, dimensions, architectural elements and color.
- e. Indicate exterior windows and doors, including type, style, dimensions, materials, architectural elements, trim, and colors.
- f. Indicate all porches, steps, and ramps, including type of materials, dimensions, architectural elements and color.
- g. Indicate all porch, stair, and ramp railings, including type of material, dimensions, architectural elements, trim, and color.
- h. Indicate roofs, including type of material, dimensions, architectural elements, associated trims and flashing, and color.
- i. Indicate all signs, whether they are built mounted or freestanding, including material, style, architectural elements, size and type of letters, and color. The signs must be drawn to scale in accurate relationship to the building and the site.

4. Miscellaneous:

- a. Show enlarged details of any special features of either the building or the site that cannot be clearly depicted in any of the above-referenced drawings.

(d) Submission of photographs.

1. Renovations/additions to existing buildings:

- a. Provide at least four (4) overall photographs per building so that all sides are clearly shown. In addition, photographs depicting the "streetscape" — that is, the immediate vicinity and all adjacent buildings — should be supplied.
 - b. If doors and/or windows are to be modified, provide a photograph of each door to be changed and at least one representative photograph of the type of window to be altered and replaced.
 - c. Provide any additional photographs as required to show specific details of any site or building conditions that will be altered or modified in any way by the proposed construction.
2. New construction:
- a. Provide photographs of the site for the proposed new construction in sufficient quantity to indicate all existing site features, such as trees, fences, sidewalks, driveways, and topography.
 - b. Provide photographs of the adjoining "streetscape," including adjacent buildings to indicate the relationship of the new construction to these adjacent properties.
- (e) Submission of descriptive product literature/brochures:
- 1. Provide samples, photographs, or detailed, legible product literature on all windows, doors and shutters proposed for use in the project. The information must be sufficiently detailed to show style, dimensions, detailing, material type, and color.
 - 2. Provide descriptive literature, samples, or photographs showing specific detailed information about signs and letters, if necessary to augment or clarify information shown on the drawings. The information must be sufficiently detailed to show style, dimensions, detailing, material type, and color.
 - 3. Provide samples or descriptive literature on roofing material and trip to augment the information on the drawings. The information must indicate dimensions, details, material, color and style.
 - 4. Provide samples or literature on any exterior light fixtures or other exterior ornamental features, such as wrought iron, railings, columns, posts, balusters, and newels. Indicate size, style, material, detailing and color.
- (f) Conceptual approval is permitted by the Board only when the applicant specifies on their application that is the approval they are seeking. Conceptual approval applications shall be complete with the exception of final details such as material and color selections. Conceptual approval by the Board does not permit the issuance of a building permit.
- (5) *Regulations and guidelines for any development within the historic zoning districts.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the Historic District which requires review and approval by the architectural review board. Regulations and guidelines which relate specifically to new construction and/or structural rehabilitation and repair to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below. Illustrations, photographs and descriptive examples of many of the design elements described in this subsection can be found in the document prepared by the Florida Northwest Chapter of the American Institute of Architects entitled "Seville Historic District Guideline Study."
- (a) Building height limit. No building shall exceed the following height limit established by zone: HR-1 (one- and two-family), HR-2 (multiple-family), HC-1 (historic commercial), HC-2 (historic commercial)—thirty-five (35) feet.

1. Bayfront Parkway setback/height requirement. The following height/setback requirement shall be observed along Bayfront Parkway between Tarragona Street and 9th Avenue (Setback distance measured from northern right-of-way line) to create a scenic open space image along the parkway.

Building height	Building setback
20 feet	20 feet
25 feet	25 feet
30 feet	30 feet
35 feet (Maximum height)	35 feet

(b) Protection of trees. It is the intent of this section to recognize the contribution of shade trees and certain flowering trees to the overall character of the historic zoning districts and to ensure the preservation of such trees as described below:

1. Any of the following "specimen tree" species having a minimum trunk diameter of eight (8) inches (twenty-five and one-tenths (25.1) inches in circumference) at a height of one (1) foot above grade: Live Oak, Water Oak, Pecan, and Magnolia having a minimum trunk diameter of six (6) inches (eighteen and eight-tenths (18.8) inches in circumference) at a height of one (1) foot above grade, and;
2. Any of the following flowering trees with a minimum trunk diameter of four (4) inches (twelve and fifty-five one hundredths (12.55) inches in circumference) at a height of one (1) foot above grade: Redbud, Dogwood, and Crape Myrtle.

No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any specimen or flowering tree, whether it be on private property or right-of-way within the district, without first having obtained a permit from the department of leisure services to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

(c) Fences. The majority of original fences in the Historic District were constructed of wood with a paint finish in many varying ornamental designs. To a lesser extent, fences may have been constructed of brick or wrought iron. The style of the fence and the materials used typically related directly to the style and type of materials used for the building on the property.

All developments in the historic zoning districts shall comply with fence regulations as established in section 12-2-40(A) through (D), applicable to maximum heights permitted. In addition, the following provisions apply:

1. Chain-link, concrete block and barbed-wire are prohibited fence materials in the Historic District. Approved materials will include but not necessarily be limited to wood, brick, stone and wrought iron.
2. All wood or wrought iron fences shall be painted if the principal building is painted. Wood fences shall be constructed utilizing one of a variety of "picket" designs, especially a

design which will reflect details similar to those on the building. It is recommended that the use of wrought iron or brick fences be constructed in conjunction with buildings which use masonry materials in their construction.

- (d) Signs. Those few signs that may have originally been used in the Historic District, including those which were used in the commercial areas, were typically smaller in scale than many signs in current use. Ordinarily, their style was complementary to the style of the building on the property. The support structure and trim work on a sign was typically ornamental, as well as functional.

Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. In addition to the prohibited signs listed below, all signs listed in section 12-4-7 are prohibited within the Historic District. The design, color scheme and materials of all signs shall be subject to approval by the architectural review board. All official signs within the District will be authorized, created, erected and maintained by the city of Pensacola or the Historic Pensacola Preservation Board using as their guide the document entitled "A Uniform System for Official Signs in the Seville Square Historical District." This document also includes recommendations for and descriptive drawings of commercial signs appropriate to the district.

1. Permitted signs.

a. Temporary accessory signs.

- One (1) non-illuminated sign advertising the sale, lease, or rental of the lot or building, said sign not exceeding six (6) square feet in area.
- One (1) non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work and displayed only during such time as the actual construction work is in progress.

b. Permanent accessory signs.

- One (1) sign per lot per street frontage for churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including retail and office buildings) or historic sites serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area and having a maximum height of eight (8) feet, provided, however that signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches above the public property and shall not exceed a height of twelve (12) feet six (6) inches. The sign may be mounted to the face of a wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. Attached or wall signs may be placed on the front or one (1) side of the building. The sign may be illuminated provided the source of light is not visible beyond the property line of the lot on which the sign is located.
- One (1) non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than three (3) square feet and shall be attached flat against the wall of the building.
- Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the mayor and board.

2. Prohibited signs.

- a. Any sign using plastic materials for lettering or background.
- b. Internally illuminated signs.
- c. Portable signs.

- d. Nonaccessory signs.
- (e) Screening. The following uses must be screened from adjoining property and from public view with fencing and/or landscaping or a combination of the two (2) approved by the board:
 - 1. Parking lots.
 - 2. Dumpsters or trash handling areas.
 - 3. Service entrances or utility facilities.
 - 4. Loading docks or spaces.
- (f) Landscaping. Within the original Historic District development, the majority of each site not covered by a building was typically planted in trees, shrubbery or ground cover. No formal landscape style has been found to predominate in the district. The following regulations apply for landscaping:
 - 1. Within the front yard setback the use of grass, ground cover or shrubs is required and trees are encouraged in all areas not covered by a drive or walkway.
 - 2. The use of brick or concrete pavers set on sand may be allowed in the front yard in addition to drives or walkways, with board approval based on the need and suitability of such pavement.
- (g) Driveways, sidewalks and off-street parking. Original driveways in the Historic District were probably unimproved or sidewalks were typically constructed of brick, cobblestones or small concrete pavers using two different colors laid at diagonals in an alternating fashion. Parking lots were not a common facility in the Historic District. The following regulations and guidelines apply to driveways, sidewalks and parking lots in the Historic District:
 - 1. Driveways. Unless otherwise approved by the board, each building site shall be allowed one driveway, standard concrete ribbons, or access drive to a parking lot. No new driveways or access drives to parking lots may be permitted directly from Bayfront Parkway to any development where alternative access from the inland street grid is available.
 - a. Where asphalt or concrete is used as a driveway material, the use of an appropriate coloring agent is required.
 - b. From the street pavement edge to the building setback the only materials allowed shall be shell, brick, concrete pavers, colored asphalt and approved stamped concrete or #57 granite or marble chips.
 - 2. Sidewalks. Construction, repair and maintenance of sidewalks are all required on public rights-of-way within the district. Sidewalks shall be constructed of the following materials or combination of materials and approved by the board:
 - a. Brick pavers;
 - b. Concrete pavers;
 - c. Poured concrete stamped with an ornamental pattern and colored with a coloring agent;
 - d. A combination of concrete with brick or concrete paver bands along the edges of the sidewalk. This combination may also include transverse brick or concrete paver bands spaced at regular intervals.

Walkways shall be provided from the street side sidewalk to the front entrance as approved by the board.

3. Off-street parking. Off-street parking is not required in the HC-1 and HC-2 zoning districts. Because parking lots have not been a common land use in the district, their location is encouraged behind the structures which they serve.
 - a. Parking lots shall be screened from view of adjacent property and the street by fencing, landscaping or a combination of the two approved by the board.
 - b. Materials for parking lots shall be concrete, concrete or brick pavers, asphalt, oyster shells, clam shells or #57 granite or marble chips. Where asphalt or concrete are used, the use of a coloring agent is required. The use of acceptable stamped patterns on poured concrete is also encouraged.
 - (h) Paint colors. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the Historic District. Samples of these palettes can be reviewed at the Historic Pensacola Preservation Board and at the office of the building inspector.
 - (i) Residential accessory structures. Residential accessory structures shall comply with regulations set forth in section 12-2-31 except that the following shall apply: Accessory structures shall not exceed one story in height for a maximum in height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.
 - (j) Additional regulations. In addition to the regulations established above in subsections 12-2-10(A)(5)(a) through (i), any permitted use within the Historic District where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.
- (6) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the Historic District.* The document entitled "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," published by the United States Department of Interior in 1983, shall form the basis for rehabilitation of existing contributing structures. The following regulations and guidelines for specific building elements are intended to further refine some of the general recommendations found in the Department of Interior's document to reflect local conditions in the rehabilitation of structures. In the case of a conflict between the Department of Interior's publication and the regulations set forth herein, the more restrictive shall apply. The "Seville Historic District Guideline Study" describes the building styles that are typical in the Historic District. This definition of styles should be consulted to insure that the proper elements are used in combination in lieu of combining elements that, although they may be typical to the district, are not appropriate for use together on the same building.

For all of the following elements, the documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances. The following regulations and guidelines shall apply to renovations, repairs and alterations to contributing structures which may or may not have documentary proof of the original elements and to alterations or additions to a contributing structure which seek to reflect the original elements.

- (a) Exterior lighting. Exterior lighting in the district in its original development typically consisted of post mounted street lights and building mounted lights adjacent to entryways. Occasionally, post lights were used adjacent to the entry sidewalks to buildings. Lamps were typically ornamental in design with glass lenses and were mounted on ornamental cast iron or wooden posts.
 1. Exterior lighting fixtures shall be in a design typical to the district in a pre-1925 Era. They shall be constructed of brass, copper, or painted steel and have clear lenses.

2. If exterior lighting is detached from the building, the fixtures shall be post mounted and used adjacent to sidewalk or driveway entrances or around parking lots. If post mounted lights are used, they shall not exceed twelve (12) feet in height.
 3. The light element itself shall be a true gas lamp or shall be electrically operated using incandescent or high pressure sodium lamps. Fluorescent and mercury vapor lamps are prohibited.
 4. The use of pole mounted high pressure sodium utility/security lights is discouraged. If absolutely necessary, they will be considered, but only in the rear portions of the property.
- (b) Exterior walls. The two (2) building materials basic to the Historic District are clapboard style wood siding and brick masonry, the former being most prevalent. In general, the wood siding is associated with the residential-type buildings and the brick masonry is associated with more commercially-oriented buildings. Brick is used in predominantly wooden structures only for foundation piers and for fireplaces and chimneys.
1. Vinyl or metal siding is prohibited.
 2. Wood siding and trim shall be finished with paint, utilizing colors approved by the board. If documentary evidence is submitted showing that the original structure was unpainted, the board may not require a paint finish unless the condition of the wood warrants its use.
 3. Foundation piers shall be exposed brick masonry or sand textured plaster over masonry. If infill between piers was original then it must be duplicated. It is encouraged that infill of wood lattice panels is utilized.
- (c) Roofs. The gable roof is the most typical in the Historic District. On shotgun house types or buildings placed on narrow deep lots the gable-end is usually oriented toward the street. On the creole type houses or buildings having larger street frontages the gable-end is typically oriented towards the side yard. Some hip roofs are found in newer, typically larger than average buildings. Dormers are found typically in association with the creole type houses. The roof slope is at least six (6) on twelve (12), but can be found to slope as much as twelve (12) on twelve (12). Roofing materials typically consisted of wood shingles, tin and corrugated metal panels.
1. The combination of varying roof styles or shapes on a single building is prohibited. The only exception to this is when a three-sided hip roof is used over a porch on the front of a gable roofed building.
 2. In order to protect the architectural integrity of the district and structure, roof materials original to each structure should be used. Alternatives to the materials may be considered on a case-by-case basis, but shall match the scale, texture, and coloration of the historic roofing material. Unless original to the structure, the following materials shall be prohibited: less than thirty (30) year fiberglass or asphalt dimensional shingles, rolled roofing, and metal shingles. Thirty (30) year or forty (40) year dimensional shingles may be permitted. Provided, however, existing flat-roofed commercial structures may retain the same style roof and continue to use built-up or single-ply roofing.
 3. Eave metal and flashing shall be naturally weathered copper or galvanized steel, or may be painted.
 4. Gutters and downspouts are discouraged within the district except on brick commercial buildings.
- (d) Porches. The porch, consisting of raised floor platform, sheltering roof, supporting columns, handrails and balustrade, and connecting steps is typical to wood structures in the district.

1. Porches are required in any renovation or alteration of a contributing structure which originally had a porch, and are encouraged as additions when the style of the building will allow it.
2. The original materials, method of construction and style of building elements shall be duplicated when making repairs, alterations or additions to existing porches.
3. The size and design of all porch elements, i.e., the flooring, the columns, the handrails, the pickets, the roof beam, the floor support piers, and any other ornamentation shall be consistent with any one single style that is typical to the district. The elements shall maintain proper historical scale, dimensions and detailing.

- (e) Doors. Entrance doors made up of a solid wood frame, with an infill of raised wood panels below and glazed panels above, are historically correct for the district. Single doorways with a glazed transom above allowed for both light and ventilation to enter the entrance way or entrance foyer of the building. Double doors were usually associated with a larger home or building layout.

The placement of the doorway was not necessarily in the center of the front wall; in fact it was usually off to one side in most cases, specifically in the shotgun house types. The larger creole cottage, and french creole house type, normally had the front door centered, leading to a center hallway or stair hall.

1. Doors are to be fabricated of solid wood, with three (3) horizontal rails and two (2) vertical stiles. The lower infill panels shall be constructed of wood and shall be located below the locking device with glazed panels located above the locking device. The top of the upper glazed panels can be semi-circular/half rounded. Beveled glass is encouraged.
2. Panel infill may vary slightly from that noted in Item a. above, but usually shall not exceed six (6) panels. Variations must be approved by the architectural review board.
3. Trim or casing shall be used on all doors and sidelights and shall typically range in width between 5" and 8".

- (f) Windows. Traditionally the windows employed in the Seville Historic District were constructed of wood and were the double hung or triple hung type. The windows opening toward the front porch of the building usually were triple hung with the sill close to or almost flush with the adjacent floors. This allowed for optimum flow of air, and for passage to and from the exterior space. The other windows of the building had the normal placement of the window sill at approximately thirty (30) inches above finished floor. Typical windows ranged in width from thirty-two (32) to thirty-six (36) inches and ranged in height from six (6) to seven (7) feet exclusive of trim dimensions. The taller windows, when double hung, frequently had the lower section greater in vertical dimension than the upper section, giving freer movement through to the adjacent porch or veranda.

1. Windows are to be fabricated of wood and must, in the judgement of the architectural review board, closely approximate the scale and configuration of the original window designs.
2. The window proportions/dimensions will be decidedly vertical, following the historic appearance and character of those encountered throughout the district.
3. Window sections shall typically be divided into two (2) to six (6) panes, and in the usual double hung window, the layout of window panes will be six (6) over six (6). All windows shall have true divided lites. Any variation to this division of the window opening shall be approved by the architectural review board.
4. The window frame will be given a paint finish appropriate to the color scheme of the exterior of the building.

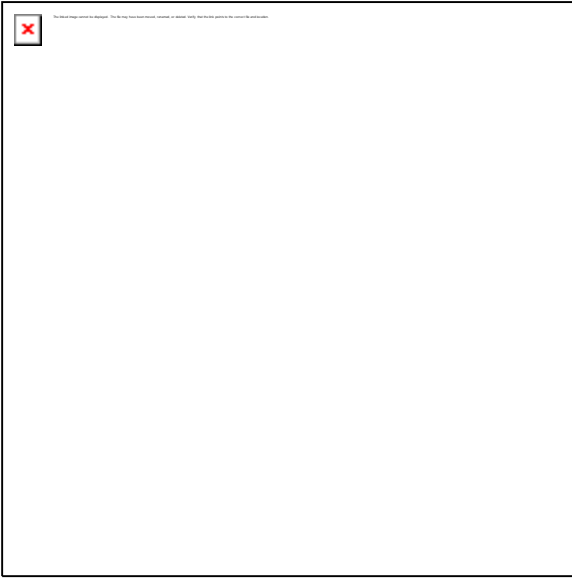
5. Window trim or casing is to be a nominal five (5) inch member at the two (2) sides and the head.
 6. Other than the full height windows at the front porch and smaller windows at kitchens and bathrooms, all remaining windows shall be proportioned with the height between two (2) and two and one-half (2½) times the width. The sill height for standard windows shall be approximately thirty (30) inches above finished floor.
 7. Glass for use in windows shall typically be clear, but a light tinted glass will be given consideration by the architectural review board.
- (g) Shutters. Shutters are an exterior ornamental and functional architectural feature that have traditionally been used on windows, and occasionally, on doors within the Historic District. On renovation projects to existing contributing structures, it is recommended that shutters not be installed unless they were original to the structure.
1. If shutters are to be used on a project, they must be dimensioned to the proper size so that they would completely cover the window both in width and height if they were closed.
 2. The shutters must be installed in a manner that will appear identical to an original operable installation. Shutters installed currently are not required to be operational, but rather can be fixed in place; however, they must be installed with some space between the back of the shutter and the exterior wall surface material and must overlap the door or window trim in a fashion identical to an original operable installation.
 3. The style of the shutters must be louvered, flat vertical boards or panelled boards, with final determination being based on compatibility with the overall building design.
- (h) Chimneys. Chimneys constructed of brick masonry, exposed or cement plastered, are typical to original construction in the district.
- The chimney in the Historic District is that necessary element usually serving back-to-back fireplaces, and as such, would not be located on the exterior wall of the building. Consequently, the appropriate location for chimneys would be projecting through some portion of the roof of the building, in lieu of being placed on an exterior wall.
1. The chimney or chimneys are to be located within the slope of the roof, rather than being placed on an exterior wall, and shall extend above the roof ridge line.
 2. The chimney or chimneys are to be constructed of masonry with the exposed surface to be brick or sand textured plaster. Rough texture stucco is prohibited.
 3. The finished exposed surface of chimneys are to be left natural without any paint finish.
 4. Flashing shall consist of galvanized steel, copper sheet metal or painted aluminum.
 5. The extent of simplicity or ornamentation shall be commensurate with the overall style and size of the building on which the chimney is constructed.
 6. The use in contributing structures of prefabricated fireplaces with steel chimneys is prohibited.
- (i) Trim and miscellaneous ornament. Most trim, except for window and door casings/trim, was used more for decorative than functional purposes. Trim and ornament was almost always constructed of wood, and was painted to match other elements (doors, windows, porches, et cetera) of the building. Ornament on masonry buildings was typically limited to corbelling or other decorative use of brick at window openings, door openings, columns, parapet walls and on major facades above the windows and doors.
1. In renovation work, only that decorative trim or ornament historically significant to the specific building will be permitted.

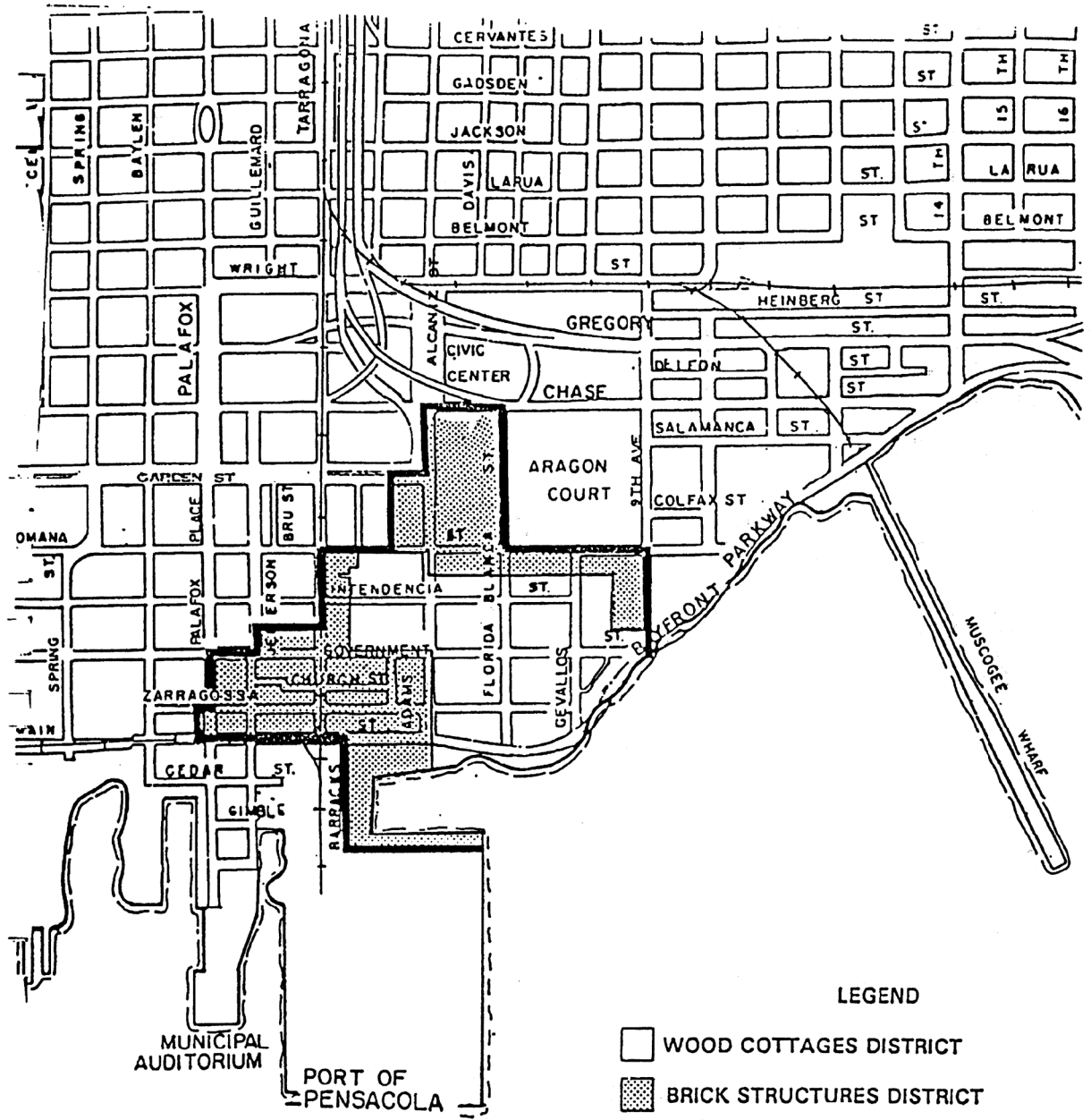
2. The scale and profile/shape of existing ornament used within the district will dictate approval for all new proposals.
 3. Trim and ornament, where used, is to be fabricated of wood.
 4. Trim and ornament will be painted to match, or be coordinated with, door and window casings, porch railings, porch columns, and basic projecting elements of the building.
- (j) Miscellaneous mechanical equipment.
1. Air conditioning condensing units shall not be mounted on any roof where they are visible from any street.
 2. Air conditioning condensing units that are mounted on the ground shall be in either side yards or rear yards. No equipment shall be installed in a front yard.
 3. Visual screening consisting of ornamental fencing or landscaping shall be installed around all air conditioning condensing units to conceal them from view from any adjacent street or property owner.
 4. Exhaust fans or other building penetrations as may be required by other authorities shall be allowed to penetrate the wall or the roof but only in locations where they can be concealed from view from any street. No penetrations shall be allowed on the front of the building. They may be allowed on side walls if they are properly screened. It is desirable that any penetrations occur on rear walls or the rear side of roofs.
- (k) Accessibility ramps and outdoor stairs.
1. Whenever possible, accessibility ramps and outdoor stairways shall be located to the side or the rear of the property.
 2. The design of accessibility ramps and outdoor stairs shall be consistent with the architectural style of the building.
 3. Building elements, materials and construction methods shall be consistent with the existing structure.
- (7) *Renovation, alterations and additions to noncontributing and modern infill structures within the Historic District.* Many of the existing structures within the district do not meet the criteria established for contributing structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations and guidelines established in paragraph (5), relating to streetscape elements, and paint colors described in paragraph (6)(c) shall apply to noncontributing and modern infill structures. In review of these structures the board may make recommendations as to the use of particular building elements which will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.
- (8) *New construction in the Historic District.* This subsection does not intend to mandate construction of new buildings of historical design. New construction shall complement original historic buildings or shall be built in a manner which is complementary to the overall character of the district in scale, building materials, and colors.

For purposes of describing the scale and character required in new construction within the Historic District, the district is herein subdivided into two (2) general building style districts as shown on Map 12-2.1: the "residential" wood cottages district and the "commercial" brick structures district. Within the wood cottages district all new construction shall conform to the building types I and II, described herein, in scale, building materials and colors. Within the brick structures district all new construction shall conform to the building types I, II, or III (described herein) in scale, building materials and colors. The regulations for the two (2) building style districts will establish building heights and setbacks and will illustrate relationships between the streetscape, the building and exterior architectural elements of the building. The streetscape

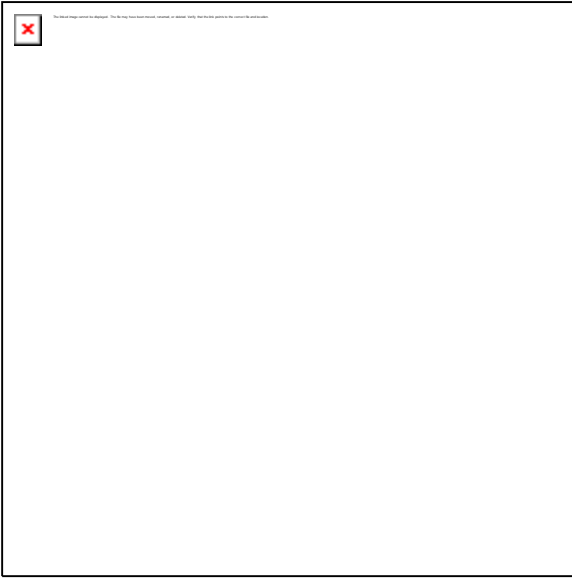
element regulations established in paragraph (5), above, are applicable to all new construction in the Historic District, no matter what style building. If new construction is intended to match historical designs, then the building elements described in paragraphs (6)(a) to (l). should be utilized as guidelines. If it is to be a replica of a historic building, the building must be of a historic style characteristic of the Pensacola Historic District.

- (a) Figure 12-2.1 illustrates the scale and characteristics of building types I and II for the wood cottages district.
- (b) Figure 12-2.2 illustrates the scale and characteristics of building type III for the brick structures district.
- (c) Aragon subdivision Block "L" & "N" and lots within Privateer's Alley shall conform to Section 12-2-12(B)(5)(j), GRD-1 Architectural Review Standards, with the exception of section 12-2-12(B)(5)(j)5., Doors. Exterior doors shall comply with 12-2-10(A)(6)(e) of this section.





MAP 12-2.1—HISTORIC BUILDING STYLE DISTRICTS



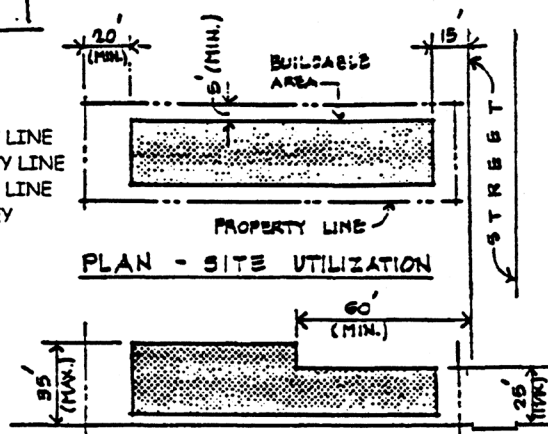
STREET SCAPE - TYPE 1

SETBACKS - FRONT - 15' FROM STREET EDGE
 SIDE - 5' MIN. FROM PROPERTY LINE
 REAR - 20' MIN. FROM PROPERTY LINE
 5' MIN. FROM PROPERTY LINE
 ADJACENT TO AN ALLEY

HEIGHT - 1 1/2 STORY (25' MAX.)
 2 1/2 STORY (35' MAX.)



ELEVATION - SITE UTILIZATION



PLAN - SITE UTILIZATION

SECTION - SITE UTILIZATION

ITEM	DIMENSION	MATERIAL	REMARKS
A - WALK	6'-0"	12" SQ. CONC.	PAVER UNITS
B - YARD	9'-0"	GRASS	LANDSCAPING
C - PORCH	8'-0"	1x WOOD	TONGUE & GROOVE
D - FOUNDATION	2'-8"	BRICK PIERS	WOOD LATTICE IN-FILL
E - RAIL	2'-8"	WOOD	
F - COLUMNS	9'-0"	WOOD	
G - ROOF RIDGE	10'-8"	WOOD	
H - ROOF RIDGE	10'-0"	WOOD	
			* SEE CHAPTER 3 & 4 FOR BUILDING ELEMENTS DESCRIPTION.

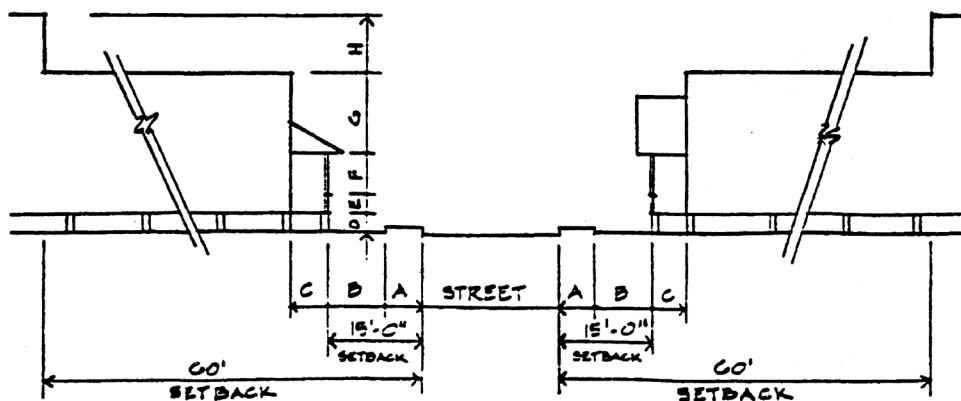
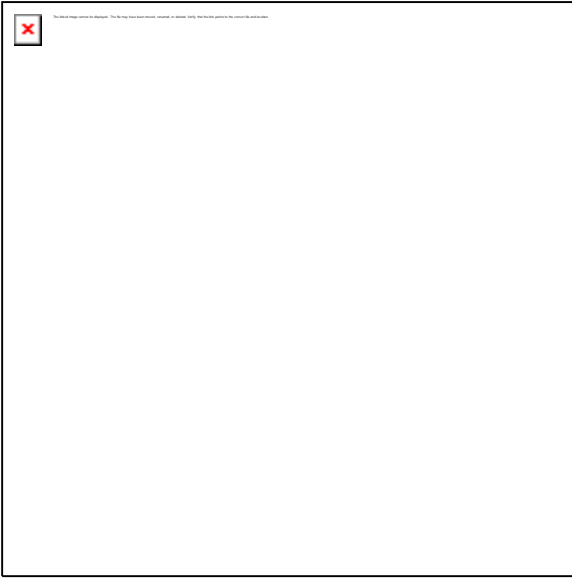
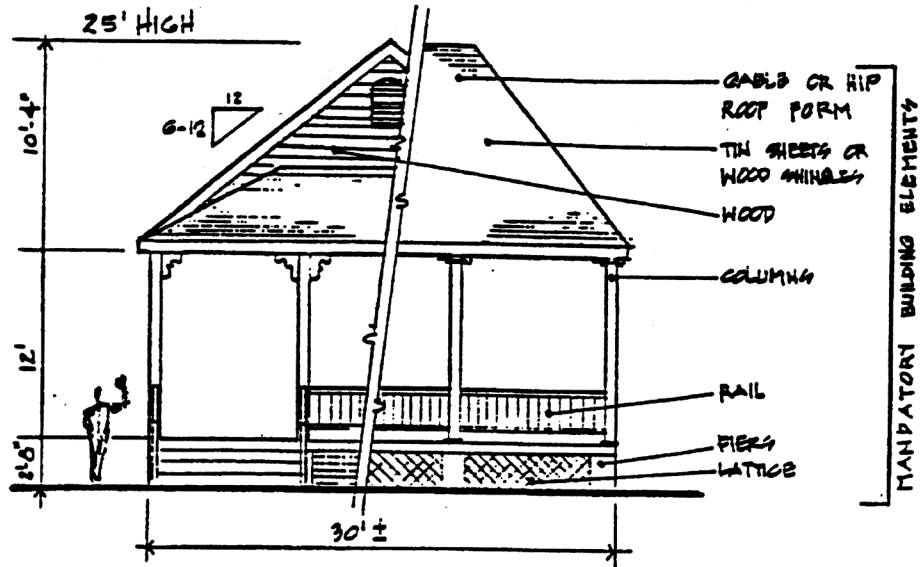


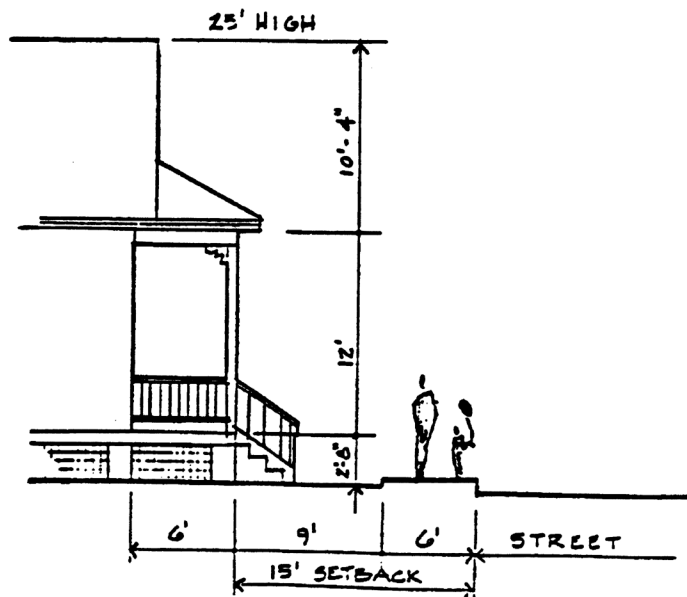
FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 1



STREETSCAPE - TYPE 1

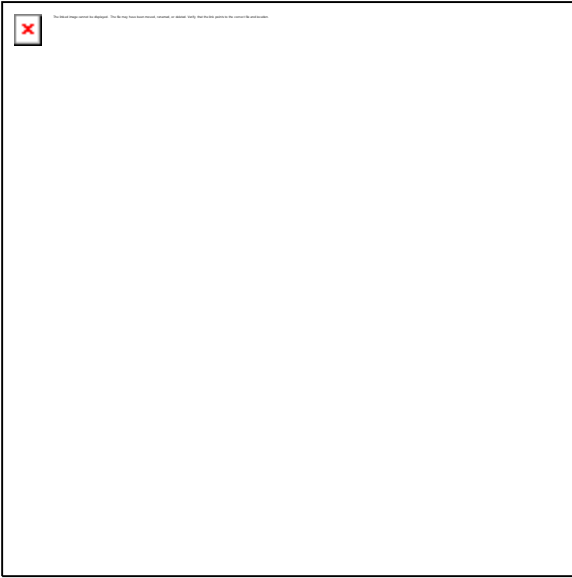


FRONT ELEVATION
NO SCALE



PARTIAL SIDE ELEVATION
NO SCALE

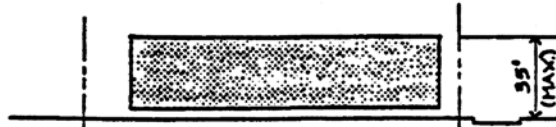
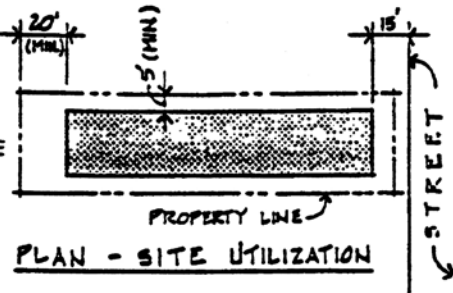
FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 1



STREETSCAPE - TYPE 2

SETBACKS - FRONT - 15' FROM STREET EDGE
 SIDE - 5' MIN. FROM PROPERTY LINE
 REAR - 20' MIN. FROM PROPERTY LINE
 5' MIN. FROM PROPERTY LINE
 ADJACENT TO AN ALLEY

HEIGHT - 2 1/2 STORY (35' MAX.)



ELEVATION - SITE UTILIZATION

SECTION - SITE UTILIZATION

ITEM #	DIMENSION	MATERIAL	REMARKS
A - WALK	4'-0"	12" SQ. CONC.	PAVER UNITS
B - YARD	11'-0"	GRASS	LANDSCAPING
C - PORCH	8'-0"	1x WOOD	TONGUE & GROOVE
D - FOUNDATION	1'-4"	BRICK PIERS	
E - RAIL	2'-6"	WOOD	
F - COLUMNS	8'-0"	WOOD	
G - PORCH	1'-0"	WOOD	
H - RAIL	2'-6"	WOOD	
I - COLUMNS	6'-0"	WOOD	
J - ROOF RIDGE	10'-0"	WOOD	
			* SEE CHAPTER 3 & 4 FOR HISTORICAL BUILDING ELEMENT DESCRIPTIONS.

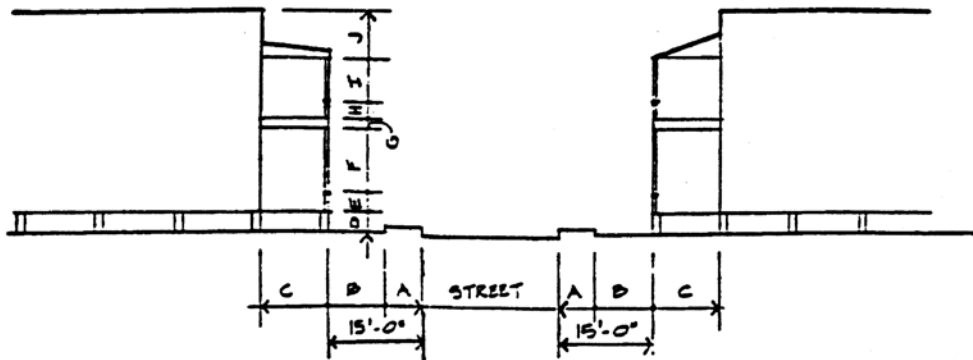
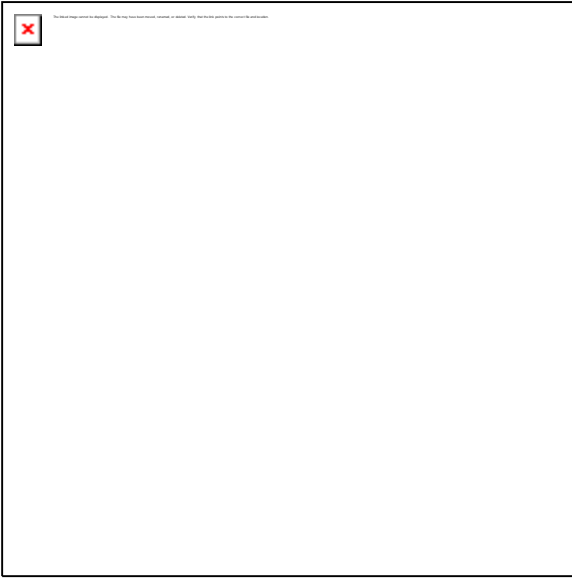


FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 2



STREETSCAPE - TYPE 2

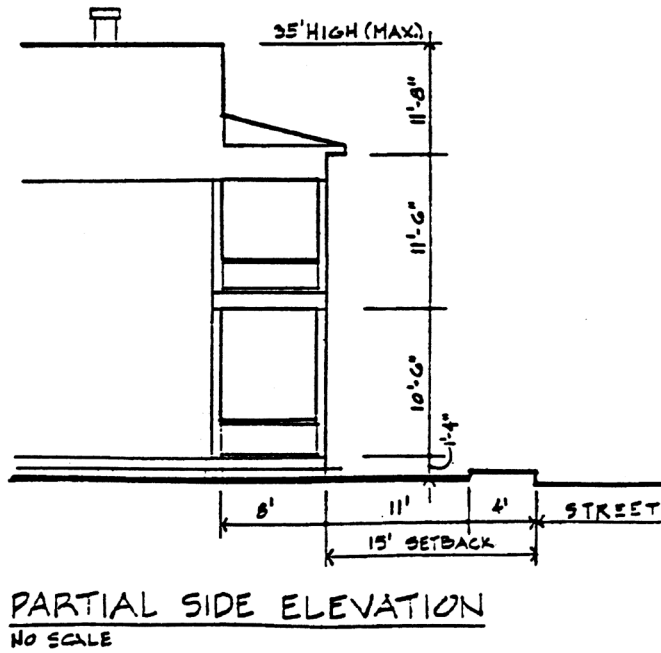
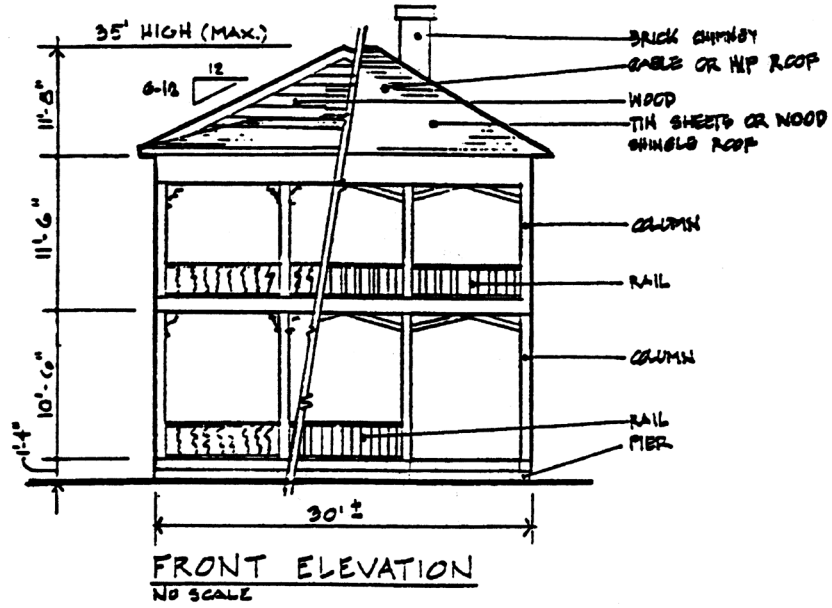
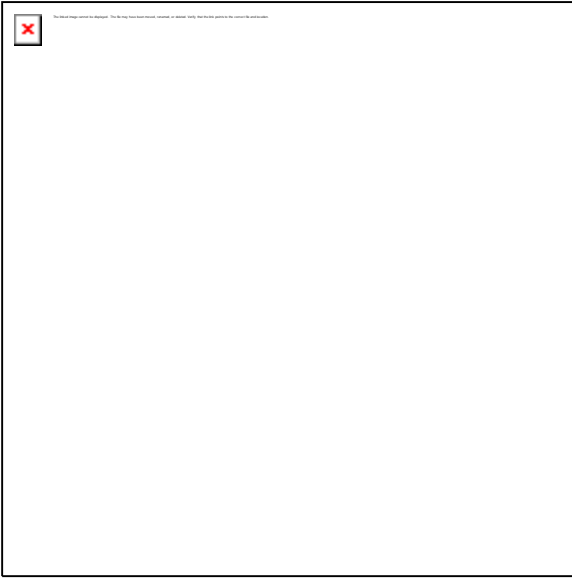
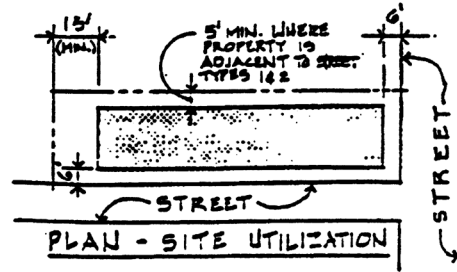


FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 2



STREETSCAPE - TYPE 3

- SETBACKS - FRONT - 6' FROM STREET EDGE
 SIDE - 5' MIN. FROM PROPERTY LINE
 0' MIN. FROM PROPERTY LINE
 FOR LOTS WITHIN ARAGON
 S/D PRIVATEER'S ALLEY
 REAR - 15' MIN. FROM PROPERTY LINE
 5' MIN. FROM PROPERTY LINE
 ADJACENT TO AN ALLEY OR
 WITHIN ARAGON S/D PRIVATEER'S
 ALLEY



*HEIGHT - BUILDING HEIGHT SHALL BE LIMITED TO THE ADJACENT LOT'S STREETSCAPE TYPE.



ELEVATION - SITE UTILIZATION

SECTION - SITE UTILIZATION

ITEM	DIMENSION	MATERIAL	REMARKS
A - WALK B - ROOF RIDGE OR PARAPET	6'-0" •	12" SQ. CONC. BRICK	PAVER UNITS SEE HEIGHT LIMIT, ABOVE ARAGON S/D BLK. "L" & "N" AND LOTS WITHIN PRIVATEER'S ALLEY SHALL CONFORM TO SECTION 12-2-12(B)(5)(j), GRD-1 ARCHITECTURAL REVIEW STANDARDS WITH THE EXCEPTION OF SEC. 12-2- 12(B)(5)(j)5., DOORS. EXTERIOR DOORS SHALL COMPLY WITH 12-2-10(A)(6)(e) OF THIS SECTION.

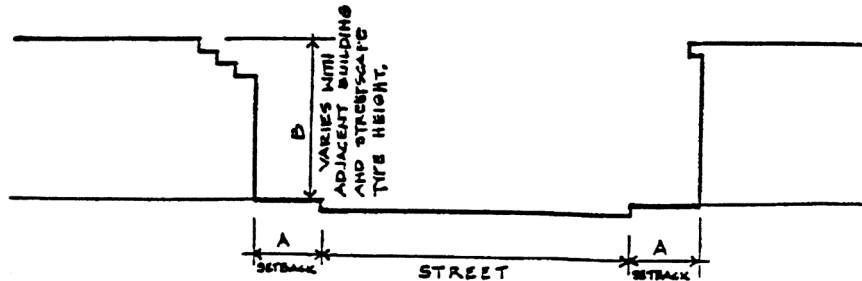
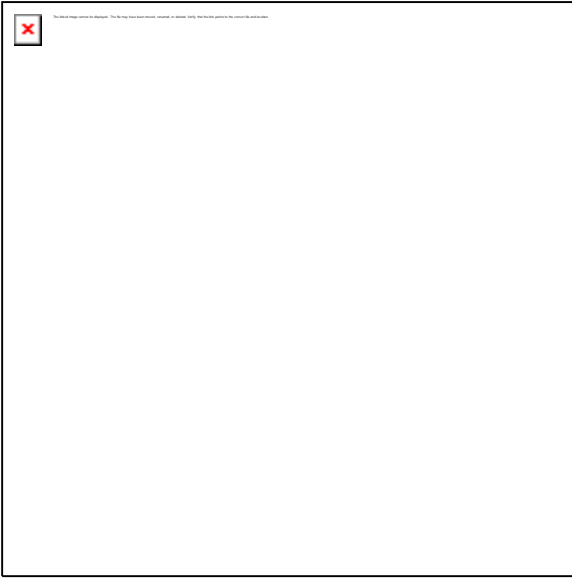
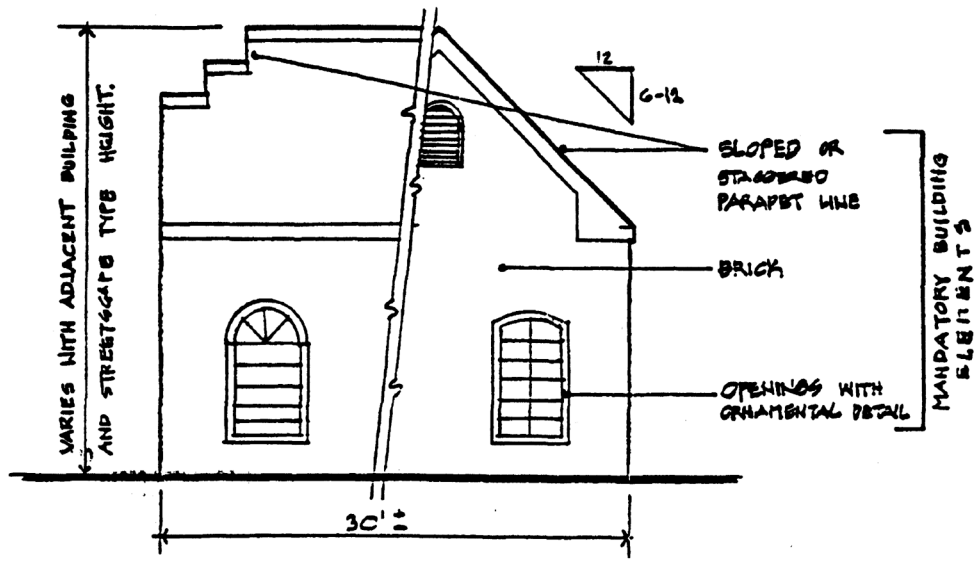


FIGURE 12-2.2—BRICK STRUCTURES DISTRICT—Streetscape, Type 3

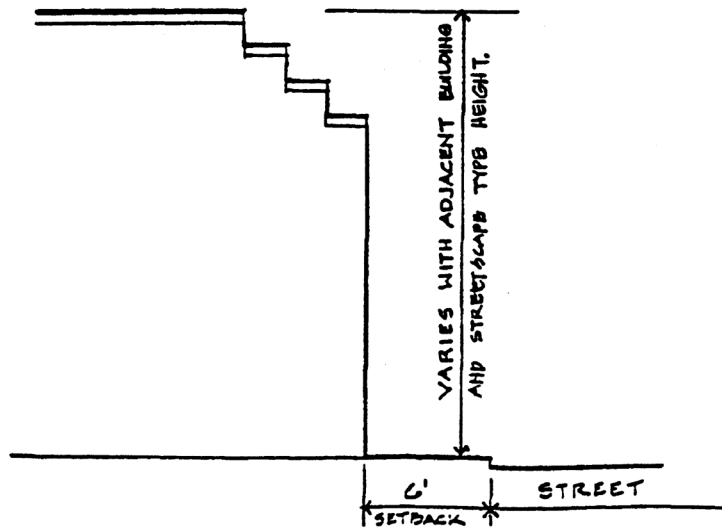


STREETSCAPE - TYPE 3



FRONT ELEVATION

NO SCALE



PARTIAL SIDE ELEVATION

NO SCALE

FIGURE 12-2.2—BRICK STRUCTURES DISTRICT—Streetscape, Type 3

- (9) *Demolition of contributing structures.* Demolition of a contributing structure constitutes an irreplaceable loss to the quality and character of the Historic District and is strongly discouraged. Therefore, no permit shall be issued for demolition of a contributing structure unless the owner demonstrates to the board clear and convincing evidence of unreasonable hardship. Provided,

however, nothing herein shall prohibit the demolition of a contributing structure if the building official determines that there is no reasonable alternative to demolition in order to bring the structure in compliance with the unsafe building code. When the owner fails to prove unreasonable economic hardship the applicant may provide to the board additional information which may show unusual and compelling circumstances in order to receive board recommendation for demolition of the contributing structure.

The board shall be guided in its decision by balancing the historic, architectural, cultural and/or archaeological value of the particular structure against the special merit of the proposed replacement project.

(a) Unreasonable economic hardship. When a claim of unreasonable economic hardship is made, the public benefits obtained from retaining the historic resource must be analyzed and duly considered by the board. The owner shall submit to the board for its recommendation the following information:

1. For all property:
 - a. The assessed value of the land and improvements thereon according to the two (2) most recent assessments;
 - b. Real estate taxes for the previous two (2) years;
 - c. The date of purchase of the property or other means of acquisition of title, such as by gift or inheritance, and the party from whom purchased or otherwise acquired;
 - d. Annual debt service, if any, for the previous two (2) years;
 - e. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his purchase, financing or ownership of the property;
 - f. Any listing of the property for sale or rent, price asked and offers received, if any;
 - g. Any consideration by the owner as to profitable adaptive uses for the property;
 - h. Replacement construction plans for the contributing structure in question;
 - i. Financial proof of the ability to complete the replacement project which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and
 - j. The current fair market value of the property, as determined by at least two (2) independent appraisals made by appraisers with competent credentials.
2. For income-producing property:
 - a. Annual gross income from the property for the previous two (2) years;
 - b. Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed;
 - c. Annual cash flow, if any, for the previous two (2) years; and
 - d. Proof that efforts have been made by the owner to obtain a reasonable return on his investment based on previous service.

The applicant shall submit all necessary materials to the board at least fifteen (15) days prior to the board hearing in order that staff may review and comment and/or consult on the case. Staff and/or professional comments shall be forwarded to the board for consideration and review and made available to the applicant for consideration prior to the hearing.

The board may require that an applicant furnish such additional information that is relevant to its determination of unreasonable economic hardship and may require that such additional information be furnished under seal. The board or its agent may also furnish

additional information as the board believes is relevant. The board shall also state which form of financial proof it deems relevant and necessary to a particular case.

In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained.

- (b) Unusual and compelling circumstances and demolition of a contributing structure. When an applicant fails to prove economic hardship in the case of a contributing structure, the applicant may provide to the board additional information which may show unusual and compelling circumstances in order to receive board recommendation for demolition of the contributing structure. The board, using criteria set forth in this subsection, shall determine whether unusual and compelling circumstances exist and shall be guided in its recommendation in such instances by the following additional considerations:
1. The historic or architectural significance of the structure;
 2. The importance of the structure to the integrity of the Historic District;
 3. The difficulty or the impossibility of reproducing such a structure because of its design, texture, material, detail, or unique location;
 4. Whether the structure is one of the last remaining examples of its kind in the Historic District;
 5. Whether there are definite plans for reuse of the property if the proposed demolition is carried out and what effect such plans will have on the architectural, cultural, historical, archaeological, social, aesthetic, or environmental character of the surrounding area, as well as the economic impact of the new development; and
 6. Whether reasonable measures can be taken to save the structure from further deterioration, collapse, arson, vandalism or neglect.
- (c) Recommendation of demolition. Should the applicant for demolition of a contributing structure satisfy the board that he will suffer an economic hardship if a demolition permit is not recommended, or, if in failing to demonstrate economic hardship, the applicant demonstrates unusual and compelling circumstances which dictate demolition of the contributing structure, either a recommendation for demolition or a recommendation for a six-month moratorium on the demolition shall be made.

In the event that the board recommends a six-month moratorium on the demolition, within the moratorium period, the board shall consult with the Historic Pensacola Preservation Board, the city of Pensacola and any other applicable public or private agencies to ascertain whether any of these agencies or corporations can preserve or cause to be preserved such architectural or historically valuable buildings. If no agencies or organizations are prepared to preserve the building(s) or cause their preservation, then the board shall recommend approval of the demolition.

Following recommendation for approval of demolition, the applicant must seek approval of replacement plans prior to receiving a demolition permit and other building permits. Replacement plans for this purpose shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and adequate working drawings for at least the foundation plan which will enable the applicant to receive a permit for foundation construction. The board may waive the requirements for replacement plans under extreme, unusual and compelling circumstances or public safety purposes.

Applicants that have received a recommendation for demolition shall be permitted to receive such demolition permit without additional board action on demolition, following the board's recommendation of a permit for new construction.

- (d) Prevention of demolition by neglect.

1. All contributing structures within the Historic District shall be preserved against decay and deterioration and kept free from certain structural defects by the owner thereof or such other person or persons who may have legal custody and control thereof. The owner or other person having such legal custody and control shall repair such building, object, site, or structure if it is found to have any of the following defects:
 - a. Deteriorated or inadequate foundation. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety;
 - b. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;
 - c. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective materials or deterioration. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety;
 - d. Fireplaces or chimneys which list, bulge or settle due to defective materials or deterioration. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety;
 - e. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors. Defective protection or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering. Any fault or defect in the building which renders same structurally unsafe or not properly watertight.

In addition, the owner or other person having legal custody and control of an historic landmark or a building, object, site, or structure located in an historic district shall keep all property, including vacant property, clear of all weeds, fallen trees or limbs, debris, abandoned vehicles, and all other refuse.

2. The board, on its own initiative, may file a petition with the building official requesting that he proceed to require correction of defects or repairs to any structure covered by a. above so that such structure shall be preserved and protected in accordance with the purposes of this ordinance and the public safety and housing ordinance.

(10) *Other demolition permits.* All applications for permits to demolish structures other than contributing structures shall be referred to the board for the purpose of determining whether or not the structure may have historical, cultural, architectural, or archaeological significance. Such determination shall be made in accordance with the criteria found in paragraph (9)(b)1. to 6., above.

The board shall make such determination within thirty (30) days after receipt of the completed application and shall notify the building official in writing. If the structure is determined to have no cultural, historical, architectural, or archaeological significance, a demolition permit may be issued immediately, provided such application otherwise complies with the provisions of all city code requirements.

If said structure is determined by the board to have historical significance, the board shall make such information available to the Preservation Board for review and recommendation as to significance. If the board concurs in the significance, using criteria set forth in paragraph (9)(b)1. to 6., above, the board shall recommend to the city council that the structure be designated a contributing structure.

Upon such a recommendation by the board, issuance of any permit shall be governed by paragraph (9)(c), above.

(11) *Treatment of site following demolition.* Following the demolition or removal of any buildings, objects or structures located in the Historic District, the owner or other person having legal custody and control thereof shall (1) remove all traces of previous construction, including foundation, (2) grade, level, sod and/or seed the lot to prevent erosion and improve drainage, and (3) repair at his own expense any damage to public rights-of-way, including sidewalks, curb and streets, that may have occurred in the course of removing the building, object, or structure and its appurtenances.

(B) *North Hill preservation zoning districts. PR-1AAA, PR-2, PC-1.*

(1) *Purpose.* The North Hill preservation zoning districts are established to preserve the unique architecture and landscape character of the North Hill area, and to promote orderly redevelopment which complements and enhances the architecture of this area of the city.

(2) *Character of the district.* The North Hill Preservation District is characterized by mostly residential structures built between 1870 and the 1930's. Queen Anne, Neoclassical, Tudor Revival, Craftsman Bungalow, Art Moderne and Mediterranean Revival are among the architectural styles found in North Hill. North Hill is listed on the National Register of Historic Places.

(3) *Uses permitted.*

(a) PR-1AAA, single-family district.

1. Single-family dwellings at a maximum density of 4.8 units per acre.
2. Home occupations, as regulated in section 12-2-33.
3. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home. If it is proposed to be within one thousand (1,000) feet of another such home, measured from property line to property line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.
4. Municipally owned or operated parks or playgrounds.
5. Public schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges.
6. Libraries, community centers and buildings used exclusively by the federal, state, regional, county and city government for public purposes.
7. Churches, Sunday school buildings and parish houses.
8. Conditional uses permitted: Two-family dwellings (duplex) at a maximum density of 9.6 units per acre.
9. Accessory buildings and uses customarily incidental to the above uses not involving the conduct of a business.
10. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(b) PR-2, multiple-family district.

1. Any use permitted in the PR-1AAA district.
2. Single-family, two-family and multifamily residential attached or detached units with a maximum density of thirty-five (35) dwelling units per acre.
3. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multifamily district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200)

feet of another such home in a multifamily district and/or within five hundred (500) feet of a single-family zoning district it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.

4. Bed and breakfast subject to regulations in section 12-2-55.
 5. Conditional uses permitted:
 - a. Private clubs and lodges except those operated primarily as commercial enterprises.
 - b. Office buildings (under five thousand (5,000) square feet).
 - c. Antique shops—No outside displays.
 - d. Art galleries—No outside displays.
 - e. Social services homes/centers.
 - f. Boarding and lodging houses.
 - g. Childcare facilities subject to regulations in section 12-2-58.
 6. Accessory buildings. Buildings and uses customarily incidental to any of the above uses, including storage garages when located on the same lot not involving the conduct of a business.
- (c) PC-1, preservation commercial district.
1. Any use permitted in the PR-2 district, including conditional uses.
 2. Hand craft shops for custom work or making custom items not involving unreasonable noise, odor or chemical waste.
 3. Office buildings (under seven thousand (7,000) square feet).
 4. Barbershops and beauty parlors.
 5. Florists.
 6. Studios.
 7. Vending machines when an accessory to a business establishment and located inside the same building as the business.
 8. Conditional uses permitted:
 - a. Gas stations.
 - b. Other retail shops.
 - c. Office buildings (over seven thousand (7,000) square feet).
 - d. Restaurants, with the exception of drive-in restaurants.
 9. Accessory buildings and uses customarily incidental to the above uses.
- (4) *Procedure for review.*
- (a) Review and approval. All activities regulated by this subsection shall be subject to review and approval by the architectural review board as established in section 12-13-3. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however such abbreviated review process shall require review by the staff of the Historic Pensacola Preservation Board. If agreement cannot be reached as it pertains to such request for abbreviated review by the board

designee and Historic Pensacola Preservation Board staff, then the matter will be referred to the entire board for a decision.

(b) Decisions.

1. General consideration. The board shall consider plans for existing buildings based on their classification as contributing, non-contributing or modern infill as depicted on the map entitled "North Hill Preservation District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In their review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials, textures and colors; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods, paint colors or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any control over land use or construction standards such as are controlled by this chapter and Chapter 12-5.
2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:
 - a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.
 - b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style, materials and colors.
3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by the Historic Pensacola Preservation Board) in its original style, dimensions or position on its original structural foundation.

(c) Plan submission. Every application for a building permit to erect, construct, demolish, renovate or alter an exterior of a building, sign or exterior site work (i.e., paving and landscaping), located or to be located in the North Hill Preservation District, shall be accompanied with plans for the proposed work pursuant to subsections 12-2-10(A)(4)(c) to (e), applicable to the Historic District.

(5) *Regulations and guidelines for any development within the preservation district.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the North Hill preservation district which requires review and approval by the architectural review board. Regulations and guidelines which relate specifically to new construction and/or structural rehabilitation and repair to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below.

(a) Off-street parking. All development within the North Hill preservation district shall comply with the regulations established in Chapter 12-3. Parking lots shall comply with the requirements of Chapter 12-6. Design of and paving materials for parking lots, spaces and

driveways shall be subject to approval of the architectural review board. For all parking lots, a solid wall, fence or compact hedge not less than four (4) feet high shall be erected along the lot line(s) when autos or lots are visible from the street or from an adjacent residential lot.

- (b) Signs. Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. The location, design and materials of all accessory signs, historical markers and other signs of general public interest shall be subject to the review and approval of the architectural review board. Only the following signs shall be permitted in the North Hill preservation district:

1. Temporary accessory signs.

- a. One (1) non-illuminated sign advertising the sale, lease or rental of the lot or building, said sign not exceeding six (6) square feet of area.
- b. One (1) non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work, and displayed only during such time as the actual construction work is in progress.

2. Permanent accessory signs.

- a. One (1) sign per street frontage for churches, schools, boarding and lodging houses, libraries, and community centers, multiple-family dwellings and historic sites serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area. The signs shall be placed flat against the wall of the building, perpendicular or may be freestanding. Such signs may be illuminated provided that the source of light shall not be visible beyond the property line of the lot on which the sign is located.
- b. Commercial establishments may have one (1) attached or one (1) freestanding sign per street frontage not to exceed twelve (12) square feet provided that the freestanding sign be no closer to any property line than five (5) feet. The attached or wall signs may be placed on the front or one side of the building. As used herein, "commercial establishments" shall mean an establishment wherein products are available for purchase. Such signs may be illuminated provided the source of light shall not be visible beyond the property line of the lot on which the sign is located. Office complexes may have one freestanding sign per street frontage not to exceed twelve (12) square feet.
- c. One (1) non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than one hundred (100) square inches and may be attached to the dwelling. This section shall be applicable to occupants and home occupations.
- d. Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the mayor and board.
- e. The maximum height for freestanding signs shall be eight (8) feet. No attached sign shall extend above the eave line of a building to which it is attached.

- (c) Protection of trees. The purpose of this subsection is to establish protective regulations for specified trees within the North Hill preservation zoning districts. It is the intent of this subsection to recognize the contribution of shade trees and certain flowering trees to the overall character of the preservation district and to ensure the preservation of such trees as described below.

1. Any of the following species having a minimum trunk diameter of eight (8) inches (twenty-five and one-tenth (25.1) inches in circumference) at a height of one (1) foot above grade: Live Oak and Water Oak; Magnolia having a minimum trunk diameter of six (6) inches (eighteen and eight-tenths (18.8) inches in circumference) at a height of

one (1) foot above grade; and any of the following flowering trees with a minimum trunk diameter of four (4) inches (twelve and fifty-five one hundredths (12.55) inches in circumference) at a height of one (1) foot above grade: Redbud, Dogwood, and Crape myrtle.

2. Tree removal: No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, remove, or effectively destroy through damaging, any specimen tree, whether it be on private property or right-of-way within the defined limits of the preservation district of the city, without first having obtained a permit from the department of leisure services to do so. Refer to section 12-6-7 for application procedures and guidelines for a tree removal permit.
 3. In addition to the specific tree preservation provisions outlined in this subsection, the provisions of Chapter 12-6 shall be applicable in this district.
- (d) Fences. All developments in the North Hill preservation zoning districts shall comply with fence regulations as established in section 12-2-40. Fences are subject to approval by the architectural review board. Approved materials will include but not necessarily be limited to wood, brick, stone or wrought iron. No concrete block or barbed-wire will be permitted. Chain-link fences shall be permitted in side and rear yard only with board approval.
 - (e) Paint colors. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the Preservation District. Samples of these palettes can be reviewed at the Historic Pensacola Preservation Board and at the office of the building inspector.
 - (f) Residential accessory structures. Residential accessory structures shall comply with regulations set forth in section 12-2-31 except that the following shall apply: Accessory structures shall not exceed one story in height for a maximum in height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.
 - (g) Additional regulations. In addition to the regulations established above in subsections 12-2-10(B)(5)(a) through (f), any permitted use within the North Hill preservation district where alcoholic beverages are ordinarily sold is subject to the requirements of chapter 7-4 of this Code.
- (6) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the North Hill preservation district.* The document entitled "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," published by the United States Department of Interior in 1983, shall form the basis for rehabilitation of existing contributing buildings. The proper building elements should be used in combinations which are appropriate for use together on the same building.

Documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances.

Regulations established in Table 12-2.9 shall apply to alterations and additions to contributing structures. The regulations and guidelines established in paragraph (5), relating to streetscape elements, shall apply to contributing structures.

- (7) *Renovation, alterations and additions to noncontributing and modern infill structures within the North Hill preservation district.* Many of the existing structures within the district do not meet the criteria established for "contributing" structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations and guidelines established in paragraph (5), relating to streetscape elements, shall

apply to noncontributing and modern infill structures. Regulations established in Table 12-2.9 below, shall apply to alterations and additions to existing noncontributing structures. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the district. Only paint colors approved by the board shall be permitted.

In review of these structures the board may make recommendations as to the use of particular building elements which will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.

- (8) *Regulations for new construction and additions to existing structures in the North Hill preservation district.* New construction is encouraged to be built in a manner which is complementary to the overall character of the district in scale, building materials and colors. The regulations established in paragraph (5), relating to streetscape elements, shall apply to new construction. Table 12-2.9 describes height, area and yard requirements for new construction and, where applicable, for additions to existing structures in the North Hill preservation district.

**TABLE 12-2.9
REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICTS**

Standards	PR-1AAA	PR-2	PC-1
Minimum Yard Requirement (Minimum Building Setbacks) Front Yard Side Yard Rear Yard	*30 feet 9 feet 30 feet	*15 feet 7.5 feet 25 feet	None 5' (for dwellings or wood frame structures only) 15'
Minimum Lot Area for Residential Uses	9,000 s.f.	9,000 s.f. for single-family and 10,000 s.f. for multi-family	None
Minimum Lot Width at Street Row Line	50 feet	50 feet	None
Minimum Lot Width at Building Setback Line	75 feet	75 feet	None
Maximum Building Height (Except as Provided in Section 12-2-39)	35 feet	35 feet	45 feet

Minimum Floor Area	N/A	600 s.f. per dwelling unit for multi-family	None
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* Front yard depths in the North Hill Preservation zoning district shall not be less than the average depths of the front yards located on the block, up to the minimum yard requirement; in case there are no other dwellings, the front yard depths shall be no less than the footages noted.

- (9) *Demolition of structures within the North Hill Preservation District.* The demolition provisions established in subsection 12-2-10(A)(9) to (11), applicable to contributing and noncontributing structures within the historic district, shall apply in the preservation district.
- (C) *Old East Hill preservation zoning districts. OEHR-2, OEHC-1, OEHC-2 and OEHC-3.*
- (1) *Purpose.* The Old East Hill preservation zoning districts are established to preserve the existing residential and commercial development pattern and distinctive architectural character of the structures within the district. The regulations are intended to preserve, through the restoration of existing buildings and construction of compatible new buildings, the scale of the existing structures and the diversity of original architectural styles.
- (2) *Character of the district.* The Old East Hill neighborhood was developed over a fifty-year period, from 1870 to the 1920's. The architecture of the district is primarily vernacular, but there are also a few properties which display influences of the major architectural styles of the time, such as Craftsman, Mission and Queen Anne styles.
- (3) *Boundaries and zoning classifications.* The boundaries of the Old East Hill preservation district shall be identified as per a map and legal description, and the zoning classifications of properties within the district shall be identified as per a map, filed in the office of the city clerk.
- (4) *Uses permitted.*
- (a) *OEHR-2, residential/office district.*
1. Single-family detached dwellings.
 2. Single-family attached (townhouse or quadraplex type construction) and detached zero-lot-line dwellings. Development must comply with the minimum standards established for the R-ZL zoning district in section 12-2-5(A)(5).
 3. Two-family attached dwellings (duplex).
 4. Multiple-family attached dwellings (three or more dwelling units).
 5. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multi-family district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200) feet of another such home in a multi-family district and/or within five hundred (500) feet of a single family zoning district it shall be permitted with city council approval after public notification of property owners in a five hundred-foot radius
 6. Home occupations subject to regulations in section 12-2-10(A)(3)(a)4.
 7. Bed and breakfast subject to regulations in section 12-2-55.

8. Boarding and lodging houses.
 9. Office buildings.
 10. Studios.
 11. Municipally owned or operated parks or playgrounds.
 12. Public schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges subject to regulations in section 12-2-65.
 13. Libraries, community centers and buildings used exclusively by the federal, state, regional, county and city government for public purposes subject to regulations in section 12-2-61.
 14. Churches, Sunday school buildings and parish houses subject to regulations in section 12-2-57.
 15. Minor structures for the following utilities: unoccupied gas, water and sewer substations or pumpstations, electrical substations and telephone substations subject to regulations in section 12-2-59.
 16. Accessory structures, buildings and uses customarily incidental to the above uses subject to regulations in section 12-2-31, except that the following shall apply:
 - a. Accessory structures shall not exceed one-story in height for a maximum height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.
 - b. The wall of an accessory structure shall not be located any closer than six (6) feet to the wall of the main residential structure.
 17. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.
- (b) *OEHC-1, neighborhood commercial district.*
1. Any use permitted in the OEHR-2 district.
 2. Child care facilities subject to regulations in section 12-2-58.
 3. Nursing homes, rest homes, convalescent homes.
 4. Parking lots.
 5. The following uses, retail only, with no outside storage or work permitted, except as provided herein:
 - a. Food and drugstore.
 - b. Personal service shops.
 - c. Clothing and fabric stores.
 - d. Home furnishing, hardware and appliance stores.
 - e. Craft and specialty shops.
 - f. Banks.
 - g. Bakeries.
 - h. Secondhand stores.
 - i. Floral shops.
 - j. Martial arts studios.

- k. Outdoor sales of trees, shrubs, plants and related landscaping materials as an accessory to indoor retail sales uses permitted by this paragraph, provided that the area is enclosed within a fence attached to the rear or side of the main building, and provided that the outdoor area does not exceed twenty (20) percent of the total area of the main building.
 - l. Restaurants.
 - m. Mortuary and funeral parlors.
 - n. Pet shops with all uses inside the principal building.
 - o. Printing firms.
 - p. Business schools.
 - q. Upholstery shops.
 - 6. Conditional uses permitted. Animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas.
- (c) *OEHC-2, retail commercial district.*
 - 1. Any use permitted in the OEHC-1 district.
 - 2. Open air sales of trees, plants and shrubs. The business shall include a permanent sales or office building (including restrooms) on the site.
 - 3. Hospitals, clinics.
 - 4. Private clubs and lodges, except those operated as commercial enterprises.
 - 5. Electric motor repair and rebuilding.
 - 6. Appliance repair shop.
 - 7. Garages for the repair and overhauling of automobiles.
 - 8. Sign shop.
 - 9. Photo shop.
 - 10. Plumbing and electrical shop.
 - 11. Pest extermination services.
- (d) *OEHC-3, commercial district.*
 - 1. Any use permitted in the OEHC-2 district.
 - 2. Dive shop.
 - 3. Fitness center.
 - 4. Theater, except for drive-in.
 - 5. Taverns, lounges, nightclubs, cocktail bars.
- (5) *Procedure for review of plans.*
 - (a) *Plan submission.* Every application for a building permit to erect, construct, demolish, renovate or alter an exterior of a building or sign, located or to be located in the Old East Hill Preservation District, shall be accompanied with plans as necessary to describe the scope of the proposed work pursuant to paragraph 12-2-10(A)(4)(c) to (e).
 - (b) *Review and approval.* All such plans shall be subject to review and approval by the architectural review board established in section 12-13-3. The board shall adopt written rules and procedures for abbreviated review for minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of

its members to undertake such abbreviated review by the entire board, provided, however, such abbreviated review process shall require review by the staff of West Florida Historic Preservation, Inc. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and West Florida Historic Preservation, Inc. staff, then the matter will be referred to the entire board for a decision.

(c) *Decisions.*

1. General consideration. The board shall consider plans for existing buildings based on their classification as contributing, non-contributing or modern infill as depicted on the map entitled "Old East Hill Preservation District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In their review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials and textures; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any control over land use or construction standards such as are controlled by this chapter and chapter 7-13.
 2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:
 - a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.
 - b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style and materials.
 3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by West Florida Historic Preservation, Inc.) in its original style, dimensions or position on its original structural foundation.
 4. No provision of this section shall be interpreted to require a property owner to make modifications, repairs or improvements to property when the owner does not otherwise intend to make any modifications, repairs or improvements to the property, unless required by chapter 7-13.
- (6) *Regulations and guidelines for any development within the Old East Hill preservation district.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the Old East Hill preservation district which requires review and approval by the architectural review board. Regulations and guidelines which relate specifically to new construction and/or structural rehabilitation and repair to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below.

- (a) *Off-street parking.* Design of, and paving materials for, parking lots, spaces and driveways shall be subject to approval of the architectural review board. For all parking lots, a solid wall, fence or compact hedge not less than three (3) feet high shall be erected along the lot line(s) when automobiles or parking lots are visible from the street or from an adjacent residential lot.
 - 1. OEHR-2 district. All non-residential development shall comply with off-street parking requirements established in chapter 12-3.
 - 2. OEHC-1, OEHC-2 and OEHC-3 districts. All non-residential development shall comply with off-street parking requirements established in chapter 12-3. The required parking may be provided off-site by the owner/developer as specified in section 12-3-1(D).
- (b) *Landscaping.* Landscape area requirements and landscape requirements for parking lots within the OEHR-2, OEHC-1 and OEHC-2 districts shall comply with regulations established in section 12-6-3 for the R-2, C-1 and C-2 zoning districts.
- (c) *Signs.* Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. The location, design and materials of all accessory signs, historical markers and other signs of general public interest shall be subject to the review and approval of the architectural review board. Only the following signs shall be permitted in the Old East Hill preservation district:
 - 1. Temporary accessory signs.
 - a. One non-illuminated sign advertising the sale, lease or rental of the lot or building, said sign not exceeding six (6) square feet of area.
 - b. One non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work, and displayed only during such time as the actual construction work is in progress.
 - 2. Permanent accessory signs.
 - a. North 9th Avenue, Wright Street, Alcaniz Street and Davis Street. For churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including office and retail buildings) or historic sites serving as identification and/or bulletin boards, one freestanding or projecting sign and one attached wall sign or combination of wall signs placed on the front or one side of the building not to exceed fifty (50) square feet in area. The signs may be painted on the building, mounted to the face of the wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. Signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet, six (6) inches above the public property and shall not exceed a height of twelve (12) feet. Freestanding signs shall not exceed a height of twelve (12) feet.
 - b. All other streets in the district. One sign per lot per street frontage for churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including office and retail buildings) or historic sites serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area and eight (8) feet in height, provided, however that signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches above the public property and shall not exceed a height of twelve (12) feet six (6) inches. The sign may be mounted to the face of the wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. The sign may be illuminated provided that the source of light is not visible beyond the property line of the lot on which the sign is located.

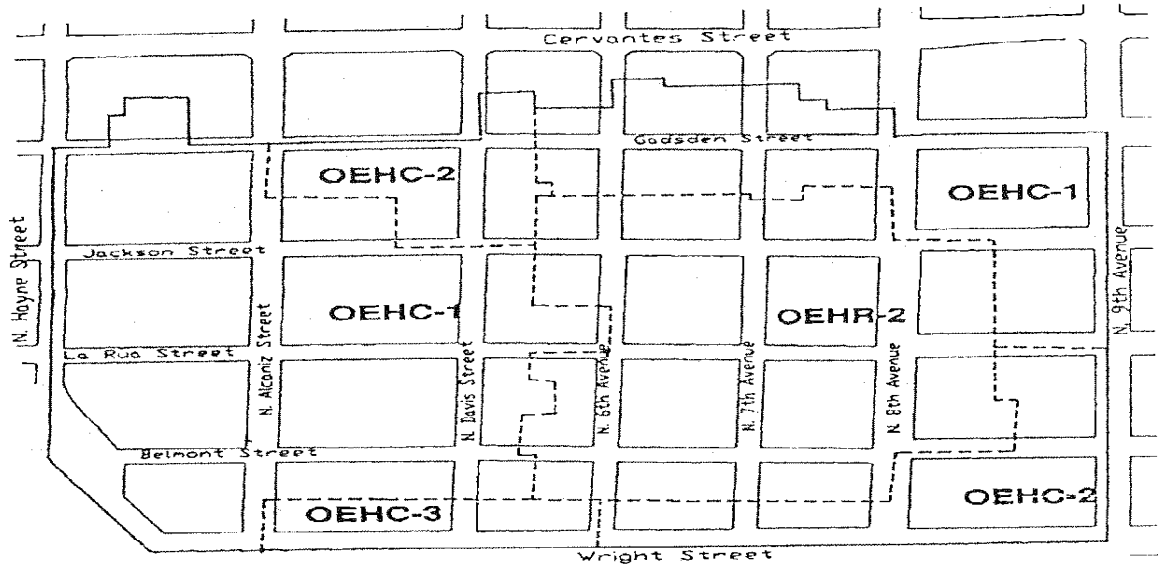
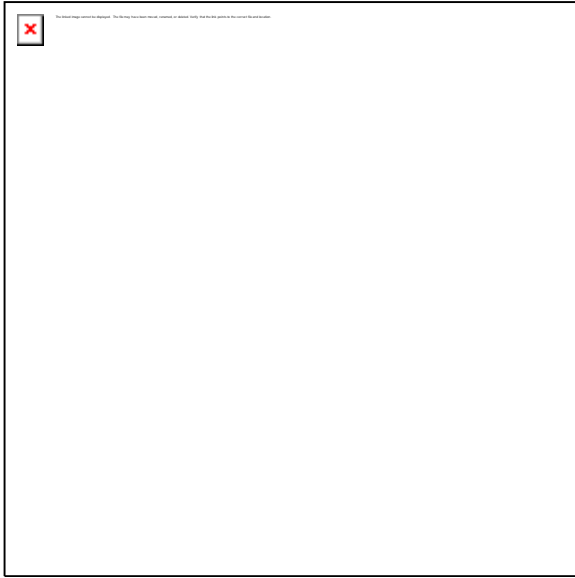
- c. One non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than three (3) square feet and shall be attached to the dwelling. This section shall be applicable to occupants and home occupations.
 - d. Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the board.
- (d) *Fences.* All developments in the Old East Hill preservation zoning districts shall comply with fence regulations as established in section 12-2-40. Fences are subject to approval by the architectural review board. Approved materials will include but not necessarily be limited to wood, brick, stone or wrought iron. No concrete block or barbed-wire fences will be permitted. Chain-link fences shall be permitted in side and rear yard only.
 - (e) *Additional regulations.* In addition to the regulations established above in subsections 12-2-10(C)(6)(a) through (d), any permitted use within the Old East Hill preservation district where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.
- (7) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the Old East Hill preservation district.* The document entitled "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," published by the United States Department of Interior in 1983, shall form the basis for rehabilitation of existing contributing buildings. The proper building elements should be used in combinations which are appropriate for use together on the same building. Documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances.
- The regulations established in paragraph (6), relating to streetscape elements, shall apply to contributing structures. Regulations established in Table 12-2.10 shall apply to alterations and additions to contributing structures.
- (8) *Renovation, alterations and additions to non-contributing and modern infill structures within the Old East Hill preservation district.* Many of the existing structures within the district do not meet the criteria established for contributing structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations established in paragraph (6), relating to streetscape elements, shall apply to non-contributing and modern infill structures. Regulations established in Table 12-2.10 shall apply to alterations and additions to existing non-contributing structures.
- In review of these structures the board may make recommendations as to the use of particular building elements which will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.
- (9) *Regulations for new construction in the Old East Hill preservation district.* New construction shall be built in a manner which is complementary to the overall character of the district in height, proportion, shape, scale, style and building materials. The regulations established in paragraph (6), relating to streetscape elements, shall apply to new construction. Table 12-2.10 describes height, area and yard requirements for new construction in the Old East Hill preservation district.
- (10) *Demolition of structures within the Old East Hill preservation district.* The demolition provisions established in section 12-2-10(A)(9) to (11), applicable to contributing and non-contributing structures within the Historic District, shall apply in the preservation district.

TABLE 12-2.10
REGULATIONS FOR OLD EAST HILL PRESERVATION ZONING DISTRICTS

Standards	OEHR-2	OEHC-1	OEHC-2	OEHC-3
Minimum Yard Requirement (Minimum Building Setbacks)				
Front Yard Side Yard Rear Yard	*15 feet 5 feet 15 feet	There shall be a 5' side yard setback, but no front or rear yard setbacks, unless this chapter requires a larger yard or buffer yard.		None
Minimum Lot Area For Residential Uses				
Single-family Detached Residential Duplex Residential Multi-family Residential	3,500 s.f. 5,000 s.f. 9,000 s.f.	None		
Minimum Lot Width at Street Row Line	30 feet	None		
Minimum Lot Width at Building Setback Line	30 feet	None		
Maximum Lot Coverage	N/A	The maximum combined area of all principal and accessory buildings shall not exceed 50% of the square footage of the lot.		None
Maximum Building Height	Residential buildings shall not exceed two (2) stories in height, with a usable attic. No building shall exceed thirty-five (35) feet in height, except that three (3) feet			

(except as provided in section 12-2-39)	may be added to the height of the building for each foot the building is set back from the building setback or property lines to a maximum height of 45' with approval of the architectural review board.
Minimum Floor Area For Multi-Family Developments	600 square feet per dwelling unit
* Front yard depths in the Old East Hill preservation zoning district shall not be less than the average depths of all of the front yards facing the street on the block, up to the minimum yard requirement; in case there are no other dwellings, the front yard depth shall be no less than the footage noted.	

(Ord. No. 6-93, §§ 7, 8, 3-25-93; Ord. No. 17-93, § 1, 6-10-93; Ord. No. 29-93, §§ 7—12, 11-18-93; Ord. No. 32-93, §§ 1, 2, 12-16-93; Ord. No. 3-94, §§ 5, 6, 1-13-94; Ord. No. 11-94, § 2, 4-14-94; Ord. No. 9-96, §§ 5—8, 1-25-96; Ord. No. 35-97, §§ 1—3, 10-23-97; Ord. No. 40-99, §§ 6—9, 10-14-99; Ord. No. 44-99, § 1, 11-18-99; Ord. No. 13-00, § 1, 3-9-00; Ord. No. 50-00, §§ 1, 2, 10-26-00; Ord. No. 2-01, §§ 1—3, 1-11-01; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 22-02, § 1, 9-26-02; Ord. No. 13-06, §§ 5—9, 4-27-06; Ord. No. 03-09, § 1, 1-8-09; Ord. No. 16-10, §§ 198, 199, 9-9-10)



Old East Hill Preservation District

: CITY CLERK'S OFFICE
CITY CLERK'S OFFICE/LEGAL ADS
CITY CLERK'S OFFICE
CITY OF PENSACOLA
PENSACOLA FL 32502

Published Daily-Pensacola, Escambia County, FL
PROOF OF PUBLICATION

State of Florida
County of Escambia:

Before the undersigned authority personally appeared **Krista Kent**, 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 PUBLIC HEARINGS

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

01/02/17

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 3th of January 2017, by Krista Kent who is personally known to me

Krista Kent
Affiant

Mark Dee Kent
Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

Publication Cost: \$223.94
Ad No: 0001816426
Customer No: PNJ-25615500

NOTICE OF PUBLIC HEARINGS

On Thursday, January 12, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, the Pensacola City Council will conduct the first of two (2) required public hearings to receive the benefit of citizen input for the purpose of considering the following three (3) issues:

PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-8 (B) - COMMERCIAL LAND USE DISTRICT - ADD "MEDICAL MARIJUANA DISPENSARY" UNDER USES PERMITTED.

PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-12-5 (BUILDING PERMITS) INCLUDING HISTORIC BUILDING DEMOLITION REVIEW.

PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT (A)(4) PROCEDURE FOR REVIEW.

The second public hearings for each issue will be held by the Pensacola City Council on Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, to receive the benefit of additional citizen input.

You are not required to respond or take any action regarding this notice; but if you wish to speak before City Council on this subject, you are invited to be present at the scheduled public hearing.

If any person decides to appeal any decision made with respect to any matter considered at this meeting, such person will need a record of the proceedings, and that for such purpose, he/she 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.

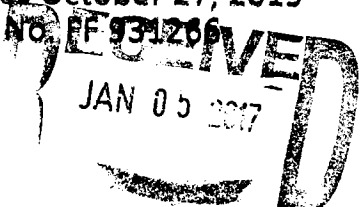
Requests must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.

For additional information regarding this public hearing, please call the Office of the City Council at 435-1609.

City of Pensacola, Florida
Ericka L. Burnett, City Clerk

Visit www.cityofpensacola.com to learn more about City activities. Council agendas posted on-line before meetings.
Legal No.1816426 1T January 2, 2017

MARK DEE KENT
Notary Public - State of Florida
Comm. Expires October 27, 2019
Comm. No. **EF 931266**



: CITY CLERK'S OFFICE
CITY CLERK'S OFFICE/LEGAL ADS
CITY CLERK'S OFFICE
CITY OF PENSACOLA
PENSACOLA FL 32502

MARK DEE KENT
Notary Public - State of Florida
Comm. Expires October 27, 2019
Comm. No. FF 931266

Published Daily-Pensacola, Escambia County, FL
PROOF OF PUBLICATION

State of Florida
County of Escambia:

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NOTICE OF PUBLIC HEARINGS

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

01/30/17

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 31th of February 2017, by Krista Kent who is personally known to me

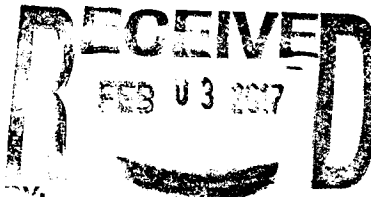
Krista Kent
Affiant

Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

Publication Cost: \$163.62
Ad No: 0001889438
Customer No: PNJ-25615500

NOTICE OF PUBLIC HEARINGS
On Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, the Pensacola City Council will conduct the second of two (2) required public hearings to receive the benefit of citizen input for the purpose of considering the following two (2) issues:
PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-8 (B) - COMMERCIAL LAND USE DISTRICT - ADD "MEDICAL MARIJUANA DISPENSARY" UNDER USES PERMITTED.
PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT (A)(4) PROCEDURE FOR REVIEW.
You are not required to respond or take any action regarding this notice; but if you wish to speak before City Council on this subject, you are invited to be present at the scheduled public hearing.
If any person decides to appeal any decision made with respect to any matter considered at this meeting, such person will need a record of the proceedings, and that for such purpose, he/she 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. 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.
For additional information regarding this public hearing, please call the Office of the City Council at 435-1609.
City of Pensacola, Florida
Ericka L. Burnett, City Clerk
Legal No 1889438 1T January 30, 2017

NOTICE OF PUBLIC HEARINGS
On Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, the Pensacola City Council will conduct the second of two (2) required public hearings to receive the benefit of citizen input for the purpose of considering the following two (2) issues:
PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-8 (B) - COMMERCIAL LAND USE DISTRICT - ADD "MEDICAL MARIJUANA DISPENSARY" UNDER USES PERMITTED.
PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT (A)(4) PROCEDURE FOR REVIEW.
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City of Pensacola, Florida
Ericka L. Burnett, City Clerk
Legal No 1889438 1T January 30, 2017





City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 05-17

City Council

3/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Brian Spencer

SUBJECT:

PROPOSED ORDINANCE NO. 05-17 - AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT, (A)(4) PROCEDURE FOR REVIEW

RECOMMENDATION:

That City Council approve proposed Ordinance No. 05-17 on second reading.

AN ORDINANCE AMENDING SECTION 12-2-10 (A) (4) (f) OF THE CODE OF THE CITY OF PENSACOLA; AMENDING THE LAND DEVELOPMENT CODE, HISTORIC & PRESERVATION LAND USE DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Architectural Review Board (ARB), at its September 15, 2016, meeting approved for submission to the City Council an amendment to Section 12-2-10, Historic & Preservation Land Use District. (A)(4) Procedure for review by adding subsection (f) allowing for Conceptual review and approval.

The conceptual review step in the review process provides an opportunity for the ARB to review and comment on a project's concept or theme when it is still in the early stages of development before the applicant has committed to and invested in a design. At conceptual review, the ARB considers only broad issues such as site planning, general architectural style, the project's relationship to its site and the surrounding neighborhood, along with storm water site plan capacity compliance. This allows the applicant and the ARB the opportunity to informally discuss a project that will be subsequently submitted. Applicants are encouraged to bring sketches and/or conceptual drawings, including schematic sections and three-dimensional renderings, as well as completed site studies that address various aspects of site design (e.g. general massing of buildings, grading, access, landscaping concepts).

The ARB has approved for submission the following language:

(f) Conceptual approval is permitted by the Board only when the applicant specifies on their application that is the approval they are seeking. Conceptual approval applications shall be complete with the exception of final details such as material and color selections. Conceptual approval by the Board does not permit the issuance of a building permit.

PRIOR ACTION:

February 9, 2017 - City Council conducted the second of two public hearings.

January 12, 2017 - City Council conducted the first of two public hearings.

ARB Meeting September 15, 2016

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Proposed No. 05-17

PRESENTATION: No

PROPOSED
ORDINANCE NO. 05-17

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

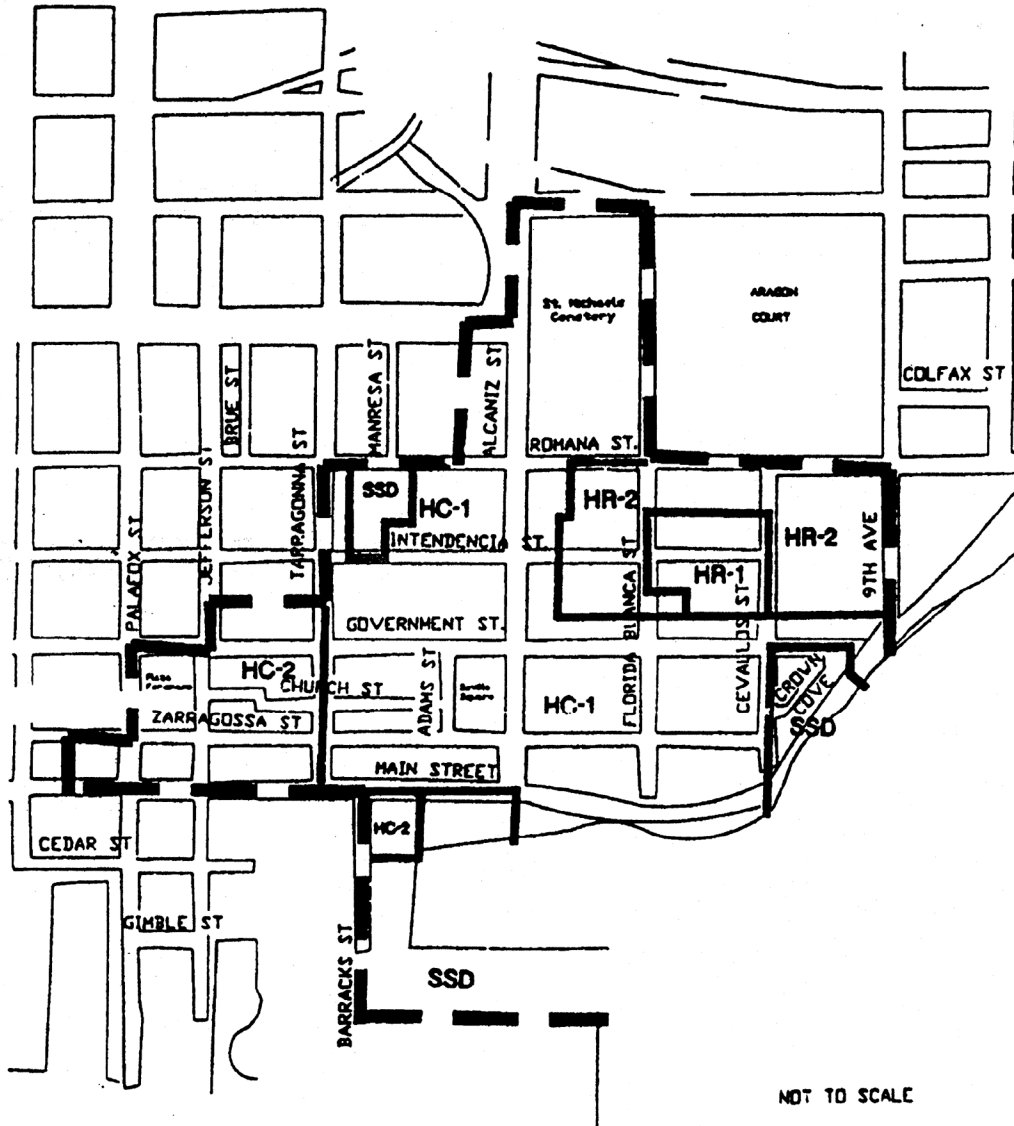
AN ORDINANCE AMENDING SECTION 12-2-10 (A) (4) (f) OF THE CODE OF THE CITY OF PENSACOLA; AMENDING THE LAND DEVELOPMENT CODE, HISTORIC & PRESERVATION LAND USE DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-2-10 (A) (4) (f) of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 12-2-10 (A) (4) (f). - Historic and preservation land use district.

The regulations in this section shall be applicable to the Pensacola Historic District, the North Hill Preservation District and the Old East Hill Preservation District: HR-1, HR-2, HC-1, HC-2, PR-1AAA, PR-2, PC-1, OEHR-2, OEHC-1, OEHC-2 and OEHC-3.



(A) *Historic zoning districts: HR-1, HR-2, HC-1 and HC-2.*

- (1) *Purpose.* The historic zoning districts are established to preserve the development pattern and distinctive architectural character of the district through the restoration of existing buildings and construction of compatible new buildings. The official listing of the Pensacola Historic District (which includes all areas designated as historic zoning districts) on the National Register of Historic Places and the authority of the architectural review board reinforce this special character.

Zoning regulations are intended to ensure that future development is compatible with and enhances the pedestrian scale of the existing structures and period architectural character of the districts.

- (2) *Character of the district.* The Historic District is characterized by lots with narrow street frontage (based on the original British city plan, c. 1765), and the concentration of Frame Vernacular, Folk Victorian and Creole homes which date from the early 19th Century and form a consistent architectural edge along the street grid. These buildings and historic sites and their period architecture make the district unique and worthy of continuing preservation efforts. The district is an established business area, residential neighborhood and tourist attraction, containing historic sites and museums, a variety of specialty retail shops, restaurants, small offices, and residences.
- (3) *Uses permitted.*
 - (a) HR-1, one- and two-family.
 1. Single-family and two-family (duplex) dwellings.
 2. Libraries, community centers and buildings used exclusively by the federal, state, county or city government for public purposes.
 3. Churches, Sunday school buildings and parish houses.
 4. Home occupations allowing: Not more than sixty (60) percent of the floor area of the total buildings on the lot to be used for a home occupation; Retail sales shall be allowed, limited to uses listed as conditional uses in subsection (b)6., below; Two (2) nonfamily members shall be allowed as employees in the home occupation; and a sign for the business not to exceed three (3) square feet shall be allowed.
 5. Publicly owned or operated parks and playgrounds.
 6. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home. If it is proposed to be within one thousand (1,000) feet of another such home, measured from property line to property line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.
 7. Bed and breakfast subject to regulations in section 12-2-55.
 8. Conditional uses permitted:
 - a. Single-family attached dwellings (townhouses).
 - b. Multiple-family dwellings.
 9. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot and not involving the conduct of business.

10. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.
- (b) HR-2, multiple family and office.
1. Any use permitted in the HR-1 district, including conditional uses.
 2. Boarding and lodging houses.
 3. Offices under five thousand (5,000) square feet.
 4. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multifamily district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200) feet of another such home in a multifamily district, measured from property line to property line, and/or within five hundred (500) feet of a single-family zoning district, measured from property line to district line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.
 5. Childcare facilities subject to regulations in section 12-2-58.
 6. Conditional use permitted:

The following uses limited to a maximum area of 3,000 square feet:

 - a. Antique shops.
 - b. Bakeries whose products are sold at retail and only on the premises.
 - c. Grocery stores.
 - d. Barbershops and beauty parlors.
 - e. Laundromats, including dry-cleaning pick-up stations.
 - f. Clothing and fabric shops.
 - g. Studios.
 - h. Vending machines when an accessory to a business establishment and located in the same building as the business.
 - i. Small appliance repair shops.
 - j. Floral gardens and shops.
 - k. Hand craft shops for custom work or making custom items not involving noise, odor, or chemical waste.
 - l. Secondhand stores.
 - m. Specialty shops.
 7. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.

(c) HC-1, historical commercial district:

1. Any use permitted in the HR-2 district, including the conditional uses, with no size limitations.
2. Small appliance repair shops.
3. Marinas.
4. Restaurants (except drive-ins).
5. Motels.
6. Commercial parking lots.
7. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.

(d) HC-2, historical commercial district:

1. Any use permitted in the HR-1 district.
2. Private clubs and lodges except those operated as commercial enterprises.
3. Health clubs, spas and exercise centers.
4. Tavern, lounges, nightclubs, cocktail bars.
5. Accessory buildings and uses customarily incidental to any of the above uses, including storage garages, when located on the same lot.
6. Adult entertainment establishments subject to the requirements of Chapter 7-3 of this Code when located within the dense business area as defined in Chapter 12-14, Definitions.

(4) *Procedure for review.*

- (a) Review and approval by the architectural review board: All activities regulated by this subsection shall be subject to review and approval by the architectural review board as established in section 12-13-3. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however, such abbreviated review process shall require review by the staff of West Florida Historic Preservation, Inc. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and West Florida Historic Preservation, Inc. staff, then the matter will be referred to the entire board for a decision.

(b) Decisions.

1. General consideration. The board shall consider plans for existing buildings based on their classification as contributing, non-contributing or modern infill as depicted on the map entitled "Pensacola Historic District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In their review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the

building, including the front, sides, rear and roof; materials, textures and colors; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, including painting, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods, paint colors or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any control over land use or construction standards such as are controlled by this chapter and Chapter 7-13.

2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:
 - a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.
 - b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style, materials and colors.
 3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by the Historic Pensacola Preservation Board) in its original style, dimensions or position on its original structural foundation.
- (c) Plan submission: Every activity which requires plans in order to erect, construct, demolish, renovate or alter an exterior of a building, sign or exterior site work, located or to be located in the historic zoning districts shall be accompanied with drawings or sketches. All drawings must be drawn to scale and be legible. The minimum size scale for site plans is 1" = 30'0"; the minimum scale for floor plans is 1/8" = 1'0"; and the minimum scale for exterior elevations is 1/8" = 1'0". The scale for other items, such as signs and details, shall be as large as necessary to fully define the detail of those items. Major projects with very large buildings may vary from the scale referenced above for ease of presentation.
1. Site plan:
 - a. Indicate overall property dimensions and building size and location on the property.

- b. Indicate relationship of adjacent buildings, if any.
 - c. Indicate layout of all driveways and parking on the site.
 - d. Indicate all fences, and signs with dimensions as required to show exact locations.
 - e. Indicate existing trees and existing and new landscaping.
2. Floor plan:
- a. Indicate locations and sizes of all exterior doors and windows.
 - b. Indicate all porches, steps, ramps and handrails.
 - c. For renovations or additions to existing buildings, indicate all existing conditions and features as well as the revised conditions and features and the relationship of both.
3. Exterior elevations:
- a. Indicate all four (4) elevations of the exterior of the building.
 - b. Indicate the relationship of this project to adjacent structures, if any.
 - c. Indicate exposed foundation walls, including the type of material, screening, dimensions, and architectural elements.
 - d. Indicate exterior wall materials, including type of materials, dimensions, architectural elements and color.
 - e. Indicate exterior windows and doors, including type, style, dimensions, materials, architectural elements, trim, and colors.
 - f. Indicate all porches, steps, and ramps, including type of materials, dimensions, architectural elements and color.
 - g. Indicate all porch, stair, and ramp railings, including type of material, dimensions, architectural elements, trim, and color.
 - h. Indicate roofs, including type of material, dimensions, architectural elements, associated trims and flashing, and color.
 - i. Indicate all signs, whether they are built mounted or freestanding, including material, style, architectural elements, size and type of letters, and color. The signs must be drawn to scale in accurate relationship to the building and the site.
4. Miscellaneous:
- a. Show enlarged details of any special features of either the building or the site that cannot be clearly depicted in any of the above-referenced drawings.
- (d) Submission of photographs.
1. Renovations/additions to existing buildings:
- a. Provide at least four (4) overall photographs per building so that all sides are clearly shown. In addition, photographs depicting the "streetscape" —

that is, the immediate vicinity and all adjacent buildings — should be supplied.

- b. If doors and/or windows are to be modified, provide a photograph of each door to be changed and at least one representative photograph of the type of window to be altered and replaced.
- c. Provide any additional photographs as required to show specific details of any site or building conditions that will be altered or modified in any way by the proposed construction.

2. New construction:

- a. Provide photographs of the site for the proposed new construction in sufficient quantity to indicate all existing site features, such as trees, fences, sidewalks, driveways, and topography.
- b. Provide photographs of the adjoining "streetscape," including adjacent buildings to indicate the relationship of the new construction to these adjacent properties.

(e) Submission of descriptive product literature/brochures:

- 1. Provide samples, photographs, or detailed, legible product literature on all windows, doors and shutters proposed for use in the project. The information must be sufficiently detailed to show style, dimensions, detailing, material type, and color.
- 2. Provide descriptive literature, samples, or photographs showing specific detailed information about signs and letters, if necessary to augment or clarify information shown on the drawings. The information must be sufficiently detailed to show style, dimensions, detailing, material type, and color.
- 3. Provide samples or descriptive literature on roofing material and trip to augment the information on the drawings. The information must indicate dimensions, details, material, color and style.
- 4. Provide samples or literature on any exterior light fixtures or other exterior ornamental features, such as wrought iron, railings, columns, posts, balusters, and newels. Indicate size, style, material, detailing and color.

(f) Conceptual approval is permitted by the Board only when the applicant specifies on their application that is the approval they are seeking. Conceptual approval applications shall be complete with the exception of final details such as material and color selections. Conceptual approval by the Board does not permit the issuance of a building permit.

- (5) *Regulations and guidelines for any development within the historic zoning districts.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the Historic District which requires review and approval by the architectural review board. Regulations and guidelines which relate specifically to new construction and/or structural rehabilitation and repair to existing

buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below. Illustrations, photographs and descriptive examples of many of the design elements described in this subsection can be found in the document prepared by the Florida Northwest Chapter of the American Institute of Architects entitled "Seville Historic District Guideline Study."

- (a) Building height limit. No building shall exceed the following height limit established by zone: HR-1 (one- and two-family), HR-2 (multiple-family), HC-1 (historic commercial), HC-2 (historic commercial)—thirty-five (35) feet.
 - 1. Bayfront Parkway setback/height requirement. The following height/setback requirement shall be observed along Bayfront Parkway between Tarragona Street and 9th Avenue (Setback distance measured from northern right-of-way line) to create a scenic open space image along the parkway.

Building height	Building setback
20 feet	20 feet
25 feet	25 feet
30 feet	30 feet
35 feet (Maximum height)	35 feet

- (b) Protection of trees. It is the intent of this section to recognize the contribution of shade trees and certain flowering trees to the overall character of the historic zoning districts and to ensure the preservation of such trees as described below:
 - 1. Any of the following "specimen tree" species having a minimum trunk diameter of eight (8) inches (twenty-five and one-tenths (25.1) inches in circumference) at a height of one (1) foot above grade: Live Oak, Water Oak, Pecan, and Magnolia having a minimum trunk diameter of six (6) inches (eighteen and eight-tenths (18.8) inches in circumference) at a height of one (1) foot above grade, and;
 - 2. Any of the following flowering trees with a minimum trunk diameter of four (4) inches (twelve and fifty-five one hundredths (12.55) inches in circumference) at a height of one (1) foot above grade: Redbud, Dogwood, and Crape Myrtle.

No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any specimen or flowering tree, whether it be on private property or right-of-way within the district, without first having obtained a permit from the department of leisure services to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

- (c) Fences. The majority of original fences in the Historic District were constructed of wood with a paint finish in many varying ornamental designs. To a lesser extent,

fences may have been constructed of brick or wrought iron. The style of the fence and the materials used typically related directly to the style and type of materials used for the building on the property.

All developments in the historic zoning districts shall comply with fence regulations as established in section 12-2-40(A) through (D), applicable to maximum heights permitted. In addition, the following provisions apply:

1. Chain-link, concrete block and barbed-wire are prohibited fence materials in the Historic District. Approved materials will include but not necessarily be limited to wood, brick, stone and wrought iron.
 2. All wood or wrought iron fences shall be painted if the principal building is painted. Wood fences shall be constructed utilizing one of a variety of "picket" designs, especially a design which will reflect details similar to those on the building. It is recommended that the use of wrought iron or brick fences be constructed in conjunction with buildings which use masonry materials in their construction.
- (d) Signs. Those few signs that may have originally been used in the Historic District, including those which were used in the commercial areas, were typically smaller in scale than many signs in current use. Ordinarily, their style was complementary to the style of the building on the property. The support structure and trim work on a sign was typically ornamental, as well as functional.

Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. In addition to the prohibited signs listed below, all signs listed in section 12-4-7 are prohibited within the Historic District. The design, color scheme and materials of all signs shall be subject to approval by the architectural review board. All official signs within the District will be authorized, created, erected and maintained by the city of Pensacola or the Historic Pensacola Preservation Board using as their guide the document entitled "A Uniform System for Official Signs in the Seville Square Historical District." This document also includes recommendations for and descriptive drawings of commercial signs appropriate to the district.

1. Permitted signs.
 - a. Temporary accessory signs.
 - One (1) non-illuminated sign advertising the sale, lease, or rental of the lot or building, said sign not exceeding six (6) square feet in area.
 - One (1) non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work and displayed only during such time as the actual construction work is in progress.
 - b. Permanent accessory signs.
 - One (1) sign per lot per street frontage for churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including retail and office buildings) or historic sites

serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area and having a maximum height of eight (8) feet, provided, however that signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches above the public property and shall not exceed a height of twelve (12) feet six (6) inches. The sign may be mounted to the face of a wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. Attached or wall signs may be placed on the front or one (1) side of the building. The sign may be illuminated provided the source of light is not visible beyond the property line of the lot on which the sign is located.

- One (1) non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than three (3) square feet and shall be attached flat against the wall of the building.

- Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the mayor and board.

2. Prohibited signs.

a. Any sign using plastic materials for lettering or background.

b. Internally illuminated signs.

c. Portable signs.

d. Nonaccessory signs.

(e) Screening. The following uses must be screened from adjoining property and from public view with fencing and/or landscaping or a combination of the two (2) approved by the board:

1. Parking lots.

2. Dumpsters or trash handling areas.

3. Service entrances or utility facilities.

4. Loading docks or spaces.

(f) Landscaping. Within the original Historic District development, the majority of each site not covered by a building was typically planted in trees, shrubbery or ground cover. No formal landscape style has been found to predominate in the district. The following regulations apply for landscaping:

1. Within the front yard setback the use of grass, ground cover or shrubs is required and trees are encouraged in all areas not covered by a drive or walkway.

2. The use of brick or concrete pavers set on sand may be allowed in the front yard in addition to drives or walkways, with board approval based on the need and suitability of such pavement.
- (g) Driveways, sidewalks and off-street parking. Original driveways in the Historic District were probably unimproved or sidewalks were typically constructed of brick, cobblestones or small concrete pavers using two different colors laid at diagonals in an alternating fashion. Parking lots were not a common facility in the Historic District. The following regulations and guidelines apply to driveways, sidewalks and parking lots in the Historic District:
1. Driveways. Unless otherwise approved by the board, each building site shall be allowed one driveway, standard concrete ribbons, or access drive to a parking lot. No new driveways or access drives to parking lots may be permitted directly from Bayfront Parkway to any development where alternative access from the inland street grid is available.
 - a. Where asphalt or concrete is used as a driveway material, the use of an appropriate coloring agent is required.
 - b. From the street pavement edge to the building setback the only materials allowed shall be shell, brick, concrete pavers, colored asphalt and approved stamped concrete or #57 granite or marble chips.
 2. Sidewalks. Construction, repair and maintenance of sidewalks are all required on public rights-of-way within the district. Sidewalks shall be constructed of the following materials or combination of materials and approved by the board:
 - a. Brick pavers;
 - b. Concrete pavers;
 - c. Poured concrete stamped with an ornamental pattern and colored with a coloring agent;
 - d. A combination of concrete with brick or concrete paver bands along the edges of the sidewalk. This combination may also include transverse brick or concrete paver bands spaced at regular intervals.

Walkways shall be provided from the street side sidewalk to the front entrance as approved by the board.
 3. Off-street parking. Off-street parking is not required in the HC-1 and HC-2 zoning districts. Because parking lots have not been a common land use in the district, their location is encouraged behind the structures which they serve.
 - a. Parking lots shall be screened from view of adjacent property and the street by fencing, landscaping or a combination of the two approved by the board.
 - b. Materials for parking lots shall be concrete, concrete or brick pavers, asphalt, oyster shells, clam shells or #57 granite or marble chips. Where asphalt or concrete are used, the use of a coloring agent is required. The use of acceptable stamped patterns on poured concrete is also encouraged.

- (h) Paint colors. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the Historic District. Samples of these palettes can be reviewed at the Historic Pensacola Preservation Board and at the office of the building inspector.
 - (i) Residential accessory structures. Residential accessory structures shall comply with regulations set forth in section 12-2-31 except that the following shall apply: Accessory structures shall not exceed one story in height for a maximum in height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.
 - (j) Additional regulations. In addition to the regulations established above in subsections 12-2-10(A)(5)(a) through (i), any permitted use within the Historic District where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.
- (6) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the Historic District.* The document entitled "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," published by the United States Department of Interior in 1983, shall form the basis for rehabilitation of existing contributing structures. The following regulations and guidelines for specific building elements are intended to further refine some of the general recommendations found in the Department of Interior's document to reflect local conditions in the rehabilitation of structures. In the case of a conflict between the Department of Interior's publication and the regulations set forth herein, the more restrictive shall apply. The "Seville Historic District Guideline Study" describes the building styles that are typical in the Historic District. This definition of styles should be consulted to insure that the proper elements are used in combination in lieu of combining elements that, although they may be typical to the district, are not appropriate for use together on the same building.

For all of the following elements, the documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances. The following regulations and guidelines shall apply to renovations, repairs and alterations to contributing structures which may or may not have documentary proof of the original elements and to alterations or additions to a contributing structure which seek to reflect the original elements.

- (a) Exterior lighting. Exterior lighting in the district in its original development typically consisted of post mounted street lights and building mounted lights adjacent to entryways. Occasionally, post lights were used adjacent to the entry sidewalks to buildings. Lamps were typically ornamental in design with glass lenses and were mounted on ornamental cast iron or wooden posts.
 - 1. Exterior lighting fixtures shall be in a design typical to the district in a pre-1925 Era. They shall be constructed of brass, copper, or painted steel and have clear lenses.

2. If exterior lighting is detached from the building, the fixtures shall be post mounted and used adjacent to sidewalk or driveway entrances or around parking lots. If post mounted lights are used, they shall not exceed twelve (12) feet in height.
 3. The light element itself shall be a true gas lamp or shall be electrically operated using incandescent or high pressure sodium lamps. Fluorescent and mercury vapor lamps are prohibited.
 4. The use of pole mounted high pressure sodium utility/security lights is discouraged. If absolutely necessary, they will be considered, but only in the rear portions of the property.
- (b) Exterior walls. The two (2) building materials basic to the Historic District are clapboard style wood siding and brick masonry, the former being most prevalent. In general, the wood siding is associated with the residential-type buildings and the brick masonry is associated with more commercially-oriented buildings. Brick is used in predominantly wooden structures only for foundation piers and for fireplaces and chimneys.
1. Vinyl or metal siding is prohibited.
 2. Wood siding and trim shall be finished with paint, utilizing colors approved by the board. If documentary evidence is submitted showing that the original structure was unpainted, the board may not require a paint finish unless the condition of the wood warrants its use.
 3. Foundation piers shall be exposed brick masonry or sand textured plaster over masonry. If infill between piers was original then it must be duplicated. It is encouraged that infill of wood lattice panels is utilized.
- (c) Roofs. The gable roof is the most typical in the Historic District. On shotgun house types or buildings placed on narrow deep lots the gable-end is usually oriented toward the street. On the creole type houses or buildings having larger street frontages the gable-end is typically oriented towards the side yard. Some hip roofs are found in newer, typically larger than average buildings. Dormers are found typically in association with the creole type houses. The roof slope is at least six (6) on twelve (12), but can be found to slope as much as twelve (12) on twelve (12). Roofing materials typically consisted of wood shingles, tin and corrugated metal panels.
1. The combination of varying roof styles or shapes on a single building is prohibited. The only exception to this is when a three-sided hip roof is used over a porch on the front of a gable roofed building.
 2. In order to protect the architectural integrity of the district and structure, roof materials original to each structure should be used. Alternatives to the materials may be considered on a case-by-case basis, but shall match the scale, texture, and coloration of the historic roofing material. Unless original to the structure, the following materials shall be prohibited: less than thirty (30) year fiberglass or asphalt dimensional shingles, rolled roofing, and metal shingles. Thirty (30) year or forty (40) year dimensional shingles may be permitted. Provided,

however, existing flat-roofed commercial structures may retain the same style roof and continue to use built-up or single-ply roofing.

3. Eave metal and flashing shall be naturally weathered copper or galvanized steel, or may be painted.
 4. Gutters and downspouts are discouraged within the district except on brick commercial buildings.
- (d) Porches. The porch, consisting of raised floor platform, sheltering roof, supporting columns, handrails and balustrade, and connecting steps is typical to wood structures in the district.
1. Porches are required in any renovation or alteration of a contributing structure which originally had a porch, and are encouraged as additions when the style of the building will allow it.
 2. The original materials, method of construction and style of building elements shall be duplicated when making repairs, alterations or additions to existing porches.
 3. The size and design of all porch elements, i.e., the flooring, the columns, the handrails, the pickets, the roof beam, the floor support piers, and any other ornamentation shall be consistent with any one single style that is typical to the district. The elements shall maintain proper historical scale, dimensions and detailing.
- (e) Doors. Entrance doors made up of a solid wood frame, with an infill of raised wood panels below and glazed panels above, are historically correct for the district. Single doorways with a glazed transom above allowed for both light and ventilation to enter the entrance way or entrance foyer of the building. Double doors were usually associated with a larger home or building layout.

The placement of the doorway was not necessarily in the center of the front wall; in fact it was usually off to one side in most cases, specifically in the shotgun house types. The larger creole cottage, and french creole house type, normally had the front door centered, leading to a center hallway or stair hall.

1. Doors are to be fabricated of solid wood, with three (3) horizontal rails and two (2) vertical stiles. The lower infill panels shall be constructed of wood and shall be located below the locking device with glazed panels located above the locking device. The top of the upper glazed panels can be semi-circular/half rounded. Beveled glass is encouraged.
 2. Panel infill may vary slightly from that noted in Item a. above, but usually shall not exceed six (6) panels. Variations must be approved by the architectural review board.
 3. Trim or casing shall be used on all doors and sidelights and shall typically range in width between 5" and 8".
- (f) Windows. Traditionally the windows employed in the Seville Historic District were constructed of wood and were the double hung or triple hung type. The windows

opening toward the front porch of the building usually were triple hung with the sill close to or almost flush with the adjacent floors. This allowed for optimum flow of air, and for passage to and from the exterior space. The other windows of the building had the normal placement of the window sill at approximately thirty (30) inches above finished floor. Typical windows ranged in width from thirty-two (32) to thirty-six (36) inches and ranged in height from six (6) to seven (7) feet exclusive of trim dimensions. The taller windows, when double hung, frequently had the lower section greater in vertical dimension than the upper section, giving freer movement through to the adjacent porch or veranda.

1. Windows are to be fabricated of wood and must, in the judgement of the architectural review board, closely approximate the scale and configuration of the original window designs.
 2. The window proportions/dimensions will be decidedly vertical, following the historic appearance and character of those encountered throughout the district.
 3. Window sections shall typically be divided into two (2) to six (6) panes, and in the usual double hung window, the layout of window panes will be six (6) over six (6). All windows shall have true divided lites. Any variation to this division of the window opening shall be approved by the architectural review board.
 4. The window frame will be given a paint finish appropriate to the color scheme of the exterior of the building.
 5. Window trim or casing is to be a nominal five (5) inch member at the two (2) sides and the head.
 6. Other than the full height windows at the front porch and smaller windows at kitchens and bathrooms, all remaining windows shall be proportioned with the height between two (2) and two and one-half (2½) times the width. The sill height for standard windows shall be approximately thirty (30) inches above finished floor.
 7. Glass for use in windows shall typically be clear, but a light tinted glass will be given consideration by the architectural review board.
- (g) Shutters. Shutters are an exterior ornamental and functional architectural feature that have traditionally been used on windows, and occasionally, on doors within the Historic District. On renovation projects to existing contributing structures, it is recommended that shutters not be installed unless they were original to the structure.
1. If shutters are to be used on a project, they must be dimensioned to the proper size so that they would completely cover the window both in width and height if they were closed.
 2. The shutters must be installed in a manner that will appear identical to an original operable installation. Shutters installed currently are not required to be operational, but rather can be fixed in place; however, they must be installed with some space between the back of the shutter and the exterior wall surface material and must overlap the door or window trim in a fashion identical to an original operable installation.

3. The style of the shutters must be louvered, flat vertical boards or panelled boards, with final determination being based on compatibility with the overall building design.

- (h) Chimneys. Chimneys constructed of brick masonry, exposed or cement plastered, are typical to original construction in the district.

The chimney in the Historic District is that necessary element usually serving back-to-back fireplaces, and as such, would not be located on the exterior wall of the building. Consequently, the appropriate location for chimneys would be projecting through some portion of the roof of the building, in lieu of being placed on an exterior wall.

1. The chimney or chimneys are to be located within the slope of the roof, rather than being placed on an exterior wall, and shall extend above the roof ridge line.
2. The chimney or chimneys are to be constructed of masonry with the exposed surface to be brick or sand textured plaster. Rough texture stucco is prohibited.
3. The finished exposed surface of chimneys are to be left natural without any paint finish.
4. Flashing shall consist of galvanized steel, copper sheet metal or painted aluminum.
5. The extent of simplicity or ornamentation shall be commensurate with the overall style and size of the building on which the chimney is constructed.
6. The use in contributing structures of prefabricated fireplaces with steel chimneys is prohibited.

- (i) Trim and miscellaneous ornament. Most trim, except for window and door casings/trim, was used more for decorative than functional purposes. Trim and ornament was almost always constructed of wood, and was painted to match other elements (doors, windows, porches, et cetera) of the building. Ornament on masonry buildings was typically limited to corbelling or other decorative use of brick at window openings, door openings, columns, parapet walls and on major facades above the windows and doors.

1. In renovation work, only that decorative trim or ornament historically significant to the specific building will be permitted.
2. The scale and profile/shape of existing ornament used within the district will dictate approval for all new proposals.
3. Trim and ornament, where used, is to be fabricated of wood.
4. Trim and ornament will be painted to match, or be coordinated with, door and window casings, porch railings, porch columns, and basic projecting elements of the building.

- (j) Miscellaneous mechanical equipment.

1. Air conditioning condensing units shall not be mounted on any roof where they are visible from any street.

2. Air conditioning condensing units that are mounted on the ground shall be in either side yards or rear yards. No equipment shall be installed in a front yard.
3. Visual screening consisting of ornamental fencing or landscaping shall be installed around all air conditioning condensing units to conceal them from view from any adjacent street or property owner.
4. Exhaust fans or other building penetrations as may be required by other authorities shall be allowed to penetrate the wall or the roof but only in locations where they can be concealed from view from any street. No penetrations shall be allowed on the front of the building. They may be allowed on side walls if they are properly screened. It is desirable that any penetrations occur on rear walls or the rear side of roofs.

(k) Accessibility ramps and outdoor stairs.

1. Whenever possible, accessibility ramps and outdoor stairways shall be located to the side or the rear of the property.
2. The design of accessibility ramps and outdoor stairs shall be consistent with the architectural style of the building.
3. Building elements, materials and construction methods shall be consistent with the existing structure.

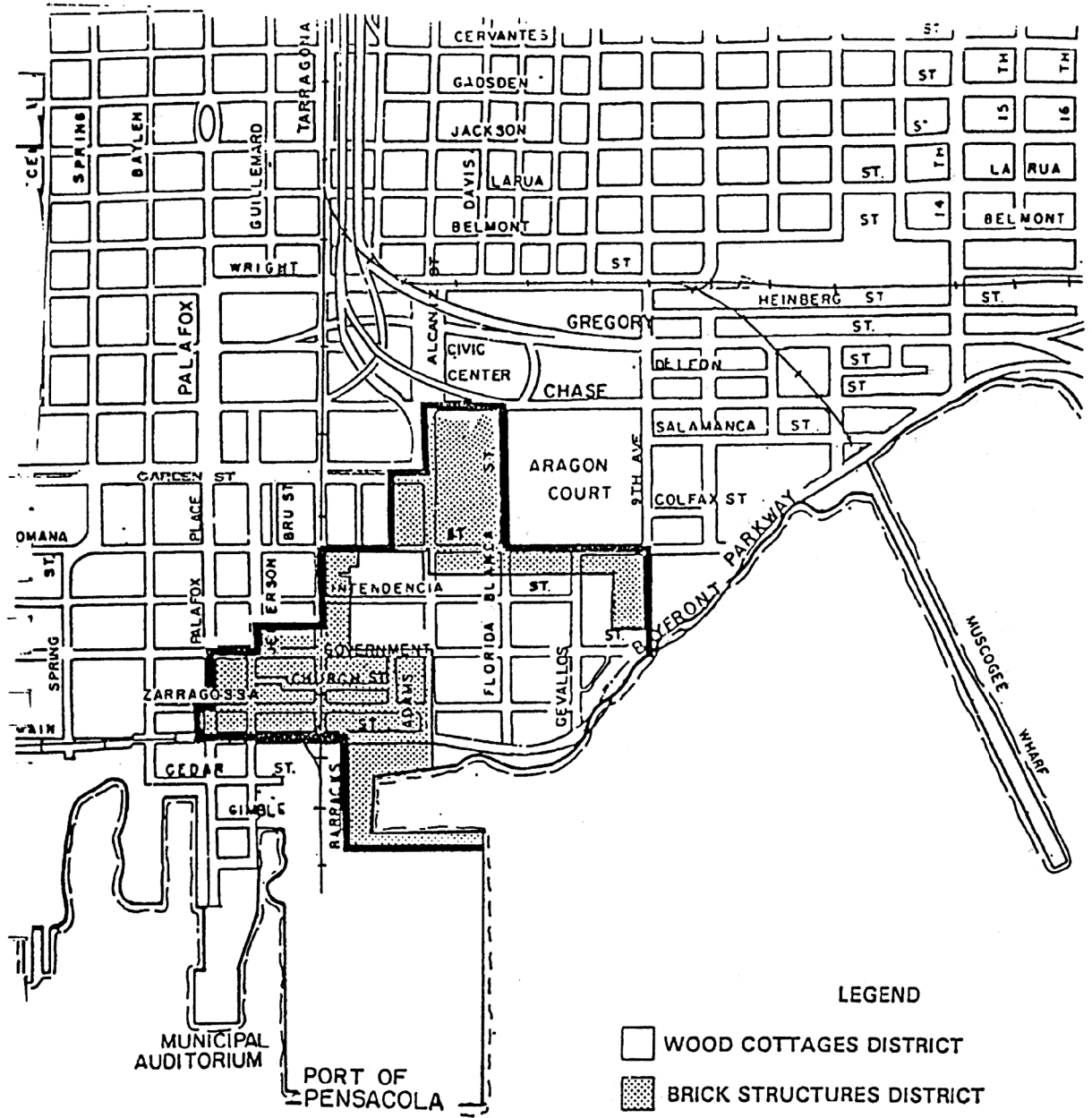
(7) *Renovation, alterations and additions to noncontributing and modern infill structures within the Historic District.* Many of the existing structures within the district do not meet the criteria established for contributing structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations and guidelines established in paragraph (5), relating to streetscape elements, and paint colors described in paragraph (6)(c) shall apply to noncontributing and modern infill structures. In review of these structures the board may make recommendations as to the use of particular building elements which will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.

(8) *New construction in the Historic District.* This subsection does not intend to mandate construction of new buildings of historical design. New construction shall complement original historic buildings or shall be built in a manner which is complementary to the overall character of the district in scale, building materials, and colors.

For purposes of describing the scale and character required in new construction within the Historic District, the district is herein subdivided into two (2) general building style districts as shown on Map 12-2.1: the "residential" wood cottages district and the "commercial" brick structures district. Within the wood cottages district all new construction shall conform to the building types I and II, described herein, in scale, building materials and colors. Within the brick structures district all new construction shall conform to the building types I, II, or III (described herein) in scale, building materials and colors. The regulations for the two (2) building style districts will establish building heights and setbacks and will illustrate relationships between the streetscape, the building and exterior architectural elements of the building. The streetscape element

regulations established in paragraph (5), above, are applicable to all new construction in the Historic District, no matter what style building. If new construction is intended to match historical designs, then the building elements described in paragraphs (6)(a) to (l) should be utilized as guidelines. If it is to be a replica of a historic building, the building must be of a historic style characteristic of the Pensacola Historic District.

- (a) Figure 12-2.1 illustrates the scale and characteristics of building types I and II for the wood cottages district.
- (b) Figure 12-2.2 illustrates the scale and characteristics of building type III for the brick structures district.
- (c) Aragon subdivision Block "L" & "N" and lots within Privateer's Alley shall conform to Section 12-2-12(B)(5)(j), GRD-1 Architectural Review Standards, with the exception of section 12-2-12(B)(5)(j)5., Doors. Exterior doors shall comply with 12-2-10(A)(6)(e) of this section.

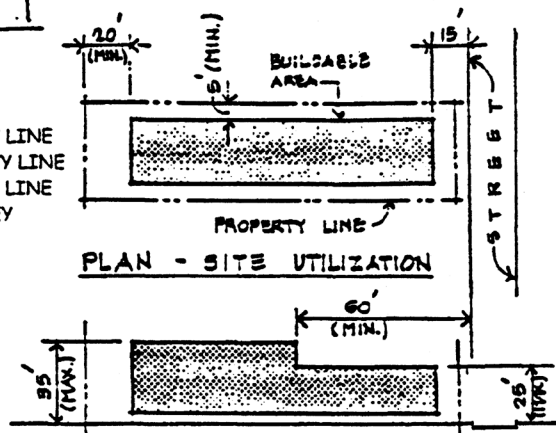


MAP 12-2.1—HISTORIC BUILDING STYLE DISTRICTS

STREET SCAPE - TYPE 1

SETBACKS - FRONT - 15' FROM STREET EDGE
 SIDE - 5' MIN. FROM PROPERTY LINE
 REAR - 20' MIN. FROM PROPERTY LINE
 5' MIN. FROM PROPERTY LINE
 ADJACENT TO AN ALLEY

HEIGHT - 1 1/2 STORY (25' MAX.)
 2 1/2 STORY (35' MAX.)



ELEVATION - SITE UTILIZATION

SECTION - SITE UTILIZATION

*ITEM	DIMENSION	MATERIAL	REMARKS
A - WALK	6'-0"	12" SQ. CONC.	PAVER UNITS
B - YARD	9'-0"	GRASS	LANDSCAPING
C - PORCH	6'-0"	1x WOOD	TONGUE & GROOVE
D - FOUNDATION	2'-8"	BRICK PIERS	WOOD LATTICE IN-FILL
E - RAIL	2'-8"	WOOD	
F - COLUMNS	9'-0"	WOOD	
G - ROOF RIDGE	10'-8"	WOOD	
H - ROOF RIDGE	10'-0"	WOOD	

*SEE CHAPTER 3 & 4 FOR BUILDING ELEMENTS DESCRIPTION.

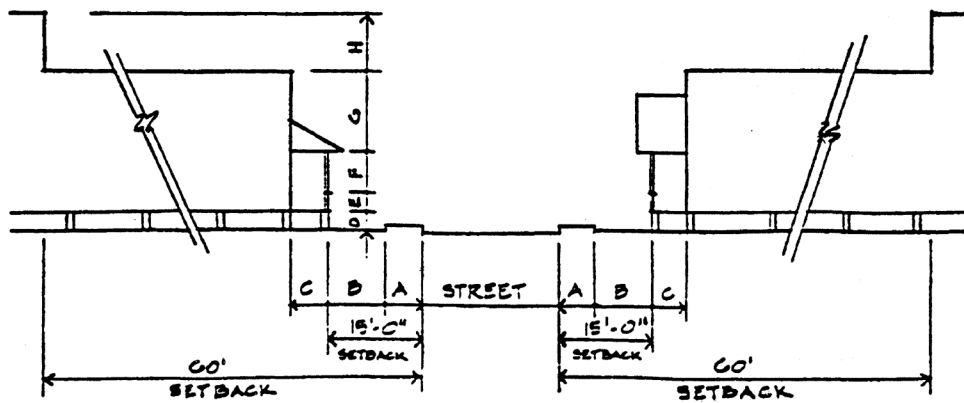


FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 1

STREETSCAPE - TYPE 1

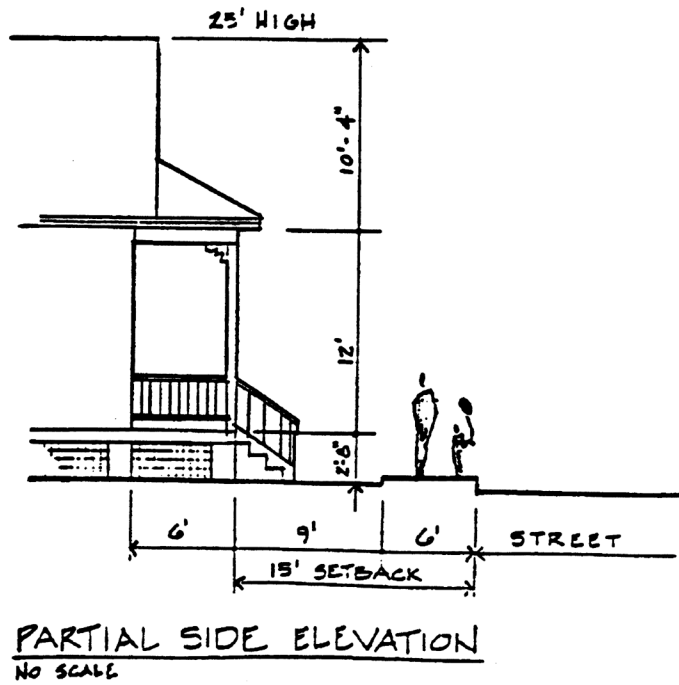
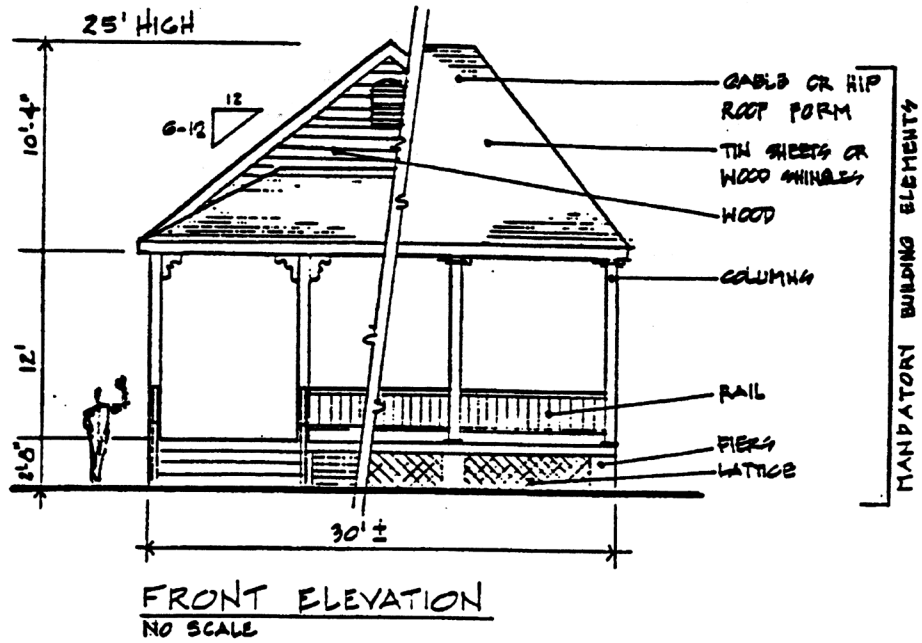
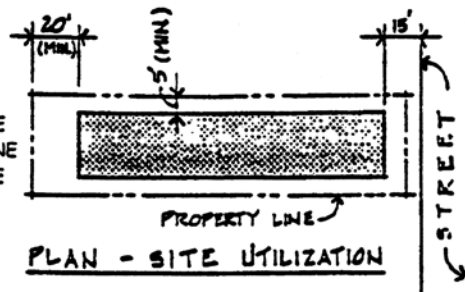


FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 1

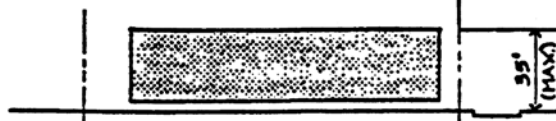
STREETSCAPE - TYPE 2

SETBACKS - FRONT - 15' FROM STREET EDGE
 SIDE - 5' MIN. FROM PROPERTY LINE
 REAR - 20' MIN. FROM PROPERTY LINE
 5' MIN. FROM PROPERTY LINE
 ADJACENT TO AN ALLEY

HEIGHT - 2 1/2 STORY (35' MAX.)



ELEVATION - SITE UTILIZATION



SECTION - SITE UTILIZATION

ITEM #	DIMENSION	MATERIAL	REMARKS
A - WALK	4'-0"	12" SQ. CONC.	PAVER UNITS
B - YARD	11'-0"	GRASS	LANDSCAPING
C - PORCH	8'-0"	1 x WOOD	TONGUE & GROOVE
D - FOUNDATION	1'-4"	BRICK PIERS	
E - RAIL	2'-6"	WOOD	
F - COLUMNS	8'-0"	WOOD	
G - PORCH	1'-0"	WOOD	
H - RAIL	2'-6"	WOOD	
I - COLUMNS	6'-0"	WOOD	
J - ROOF RIDGE	10'-0"	WOOD	
			# SEE CHAPTER 3 & 4 FOR HISTORICAL BUILDING ELEMENT DESCRIPTIONS.

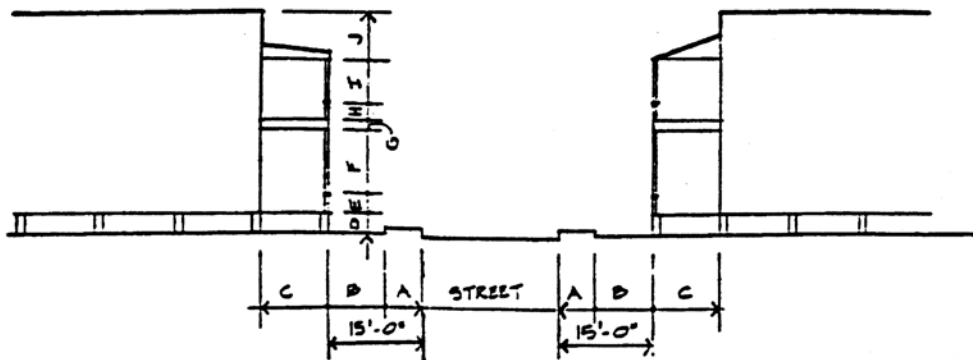


FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 2

STREETSCAPE - TYPE 2

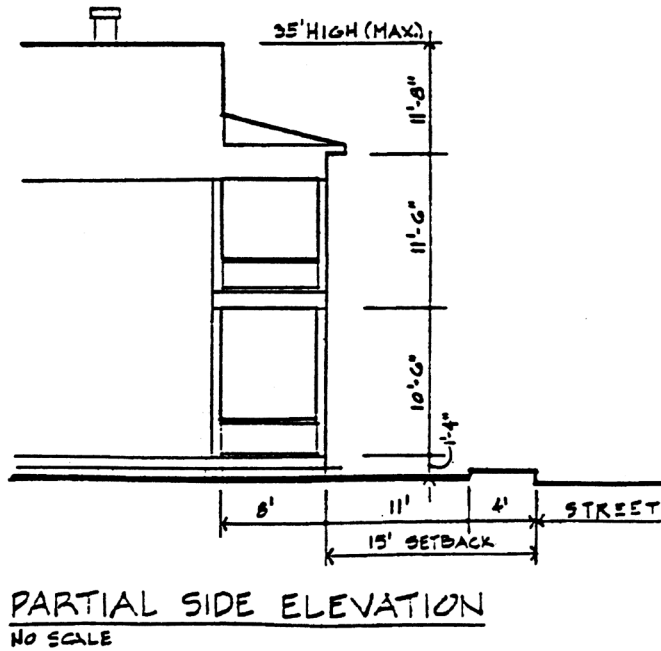
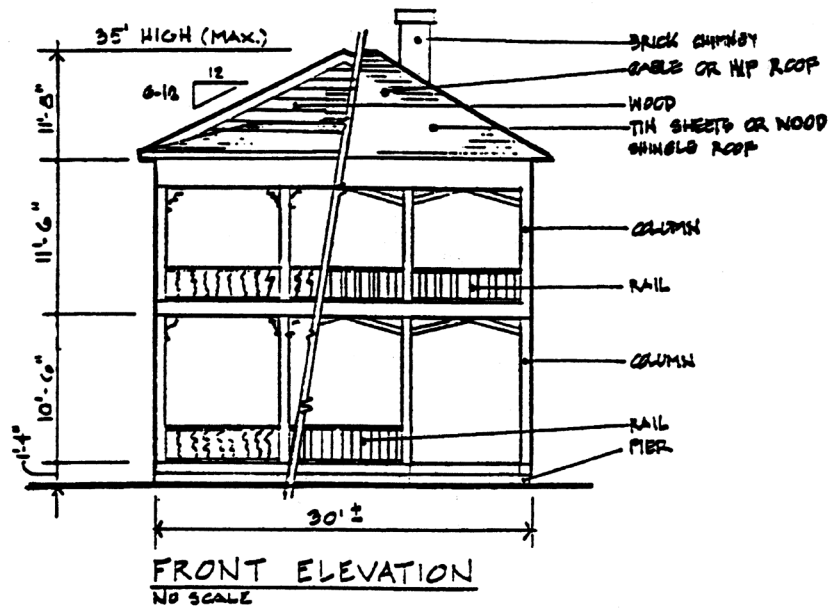
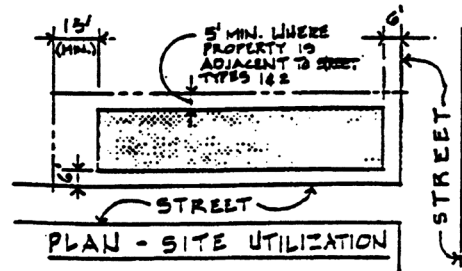


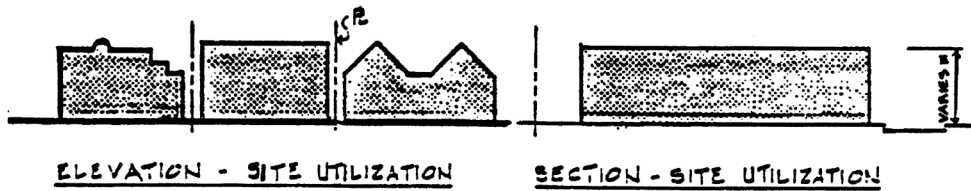
FIGURE 12-2.1—WOOD COTTAGES DISTRICT—Streetscape, Type 2

STREETSCAPE - TYPE 3

- SETBACKS - FRONT - 6' FROM STREET EDGE
 SIDE - 5' MIN. FROM PROPERTY LINE
 0' MIN. FROM PROPERTY LINE
 FOR LOTS WITHIN ARAGON
 S/D PRIVATEER'S ALLEY
 REAR - 15' MIN. FROM PROPERTY LINE
 5' MIN. FROM PROPERTY LINE
 ADJACENT TO AN ALLEY OR
 WITHIN ARAGON S/D PRIVATEER'S
 ALLEY



*HEIGHT - BUILDING HEIGHT SHALL BE LIMITED TO THE ADJACENT LOT'S STREETSCAPE TYPE.



ITEM	DIMENSION	MATERIAL	REMARKS
A - WALK B - ROOF RIDGE OR PARAPET	6'-0" •	12" SQ. CONC. BRICK	PAVER UNITS SEE HEIGHT LIMIT, ABOVE ARAGON S/D BLK "L" & "N" AND LOTS WITHIN PRIVATEER'S ALLEY SHALL CONFORM TO SECTION 12-2-12(B)(5)(j), GRD-1 ARCHITECTURAL REVIEW STANDARDS WITH THE EXCEPTION OF SEC. 12-2- 12(B)(5)(j)5., DOORS. EXTERIOR DOORS SHALL COMPLY WITH 12-2-10(A)(6)(e) OF THIS SECTION.

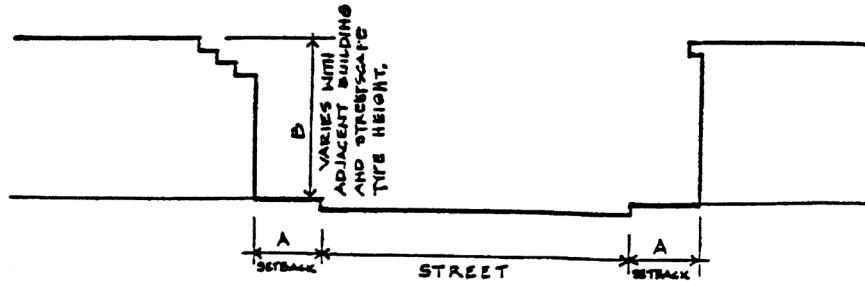
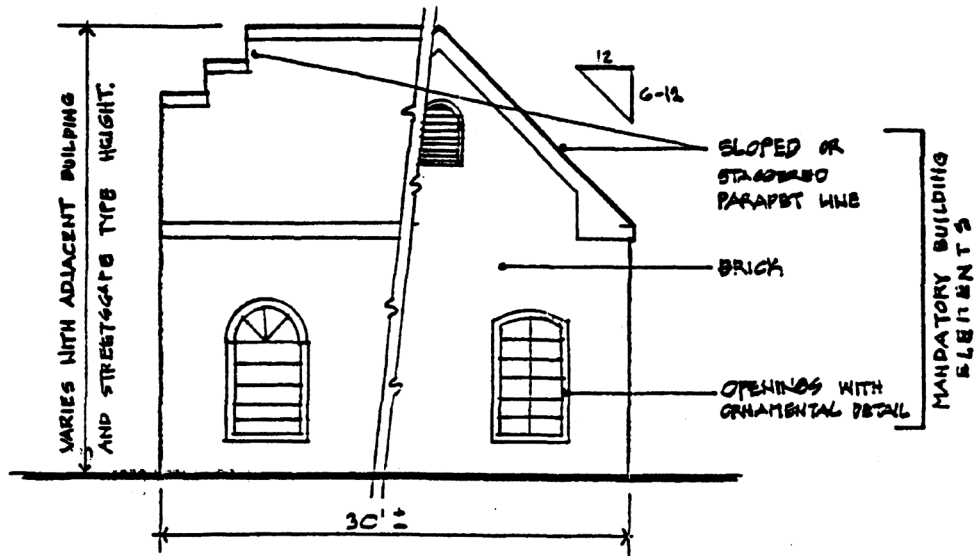


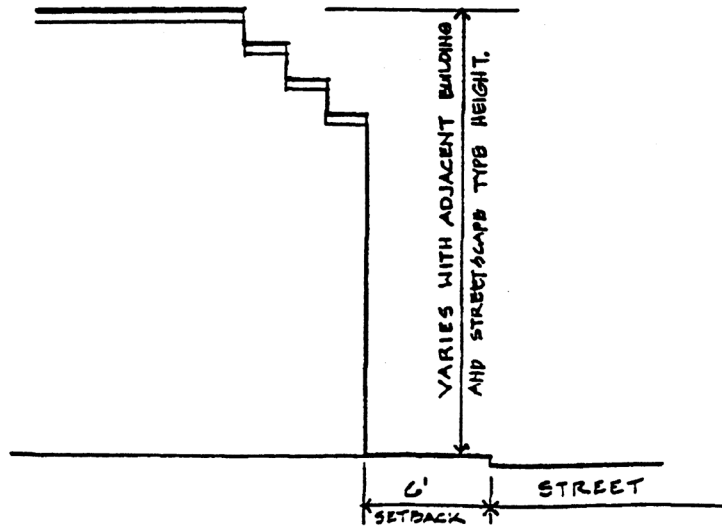
FIGURE 12-2.2—BRICK STRUCTURES DISTRICT—Streetscape, Type 3

STREETSCAPE - TYPE 3



FRONT ELEVATION

NO SCALE



PARTIAL SIDE ELEVATION

NO SCALE

FIGURE 12-2.2—BRICK STRUCTURES DISTRICT—Streetscape, Type 3

- (9) *Demolition of contributing structures.* Demolition of a contributing structure constitutes an irreplaceable loss to the quality and character of the Historic District and is strongly discouraged. Therefore, no permit shall be issued for demolition of a contributing structure unless the owner demonstrates to the board clear and convincing evidence of

unreasonable hardship. Provided, however, nothing herein shall prohibit the demolition of a contributing structure if the building official determines that there is no reasonable alternative to demolition in order to bring the structure in compliance with the unsafe building code. When the owner fails to prove unreasonable economic hardship the applicant may provide to the board additional information which may show unusual and compelling circumstances in order to receive board recommendation for demolition of the contributing structure.

The board shall be guided in its decision by balancing the historic, architectural, cultural and/or archaeological value of the particular structure against the special merit of the proposed replacement project.

(a) Unreasonable economic hardship. When a claim of unreasonable economic hardship is made, the public benefits obtained from retaining the historic resource must be analyzed and duly considered by the board. The owner shall submit to the board for its recommendation the following information:

1. For all property:

- a. The assessed value of the land and improvements thereon according to the two (2) most recent assessments;
- b. Real estate taxes for the previous two (2) years;
- c. The date of purchase of the property or other means of acquisition of title, such as by gift or inheritance, and the party from whom purchased or otherwise acquired;
- d. Annual debt service, if any, for the previous two (2) years;
- e. All appraisals obtained within the previous two (2) years by the owner or applicant in connection with his purchase, financing or ownership of the property;
- f. Any listing of the property for sale or rent, price asked and offers received, if any;
- g. Any consideration by the owner as to profitable adaptive uses for the property;
- h. Replacement construction plans for the contributing structure in question;
- i. Financial proof of the ability to complete the replacement project which may include but not be limited to a performance bond, a letter of credit, a trust for completion of improvements, or a letter of commitment from a financial institution; and
- j. The current fair market value of the property, as determined by at least two (2) independent appraisals made by appraisers with competent credentials.

2. For income-producing property:

- a. Annual gross income from the property for the previous two (2) years;

- b. Itemized operating and maintenance expenses for the previous two (2) years, including proof that adequate and competent management procedures were followed;
- c. Annual cash flow, if any, for the previous two (2) years; and
- d. Proof that efforts have been made by the owner to obtain a reasonable return on his investment based on previous service.

The applicant shall submit all necessary materials to the board at least fifteen (15) days prior to the board hearing in order that staff may review and comment and/or consult on the case. Staff and/or professional comments shall be forwarded to the board for consideration and review and made available to the applicant for consideration prior to the hearing.

The board may require that an applicant furnish such additional information that is relevant to its determination of unreasonable economic hardship and may require that such additional information be furnished under seal. The board or its agent may also furnish additional information as the board believes is relevant. The board shall also state which form of financial proof it deems relevant and necessary to a particular case.

In the event that any of the required information is not reasonably available to the applicant and cannot be obtained by the applicant, the applicant shall file with his affidavit a statement of the information which cannot be obtained and shall describe the reasons why such information cannot be obtained.

- (b) Unusual and compelling circumstances and demolition of a contributing structure. When an applicant fails to prove economic hardship in the case of a contributing structure, the applicant may provide to the board additional information which may show unusual and compelling circumstances in order to receive board recommendation for demolition of the contributing structure. The board, using criteria set forth in this subsection, shall determine whether unusual and compelling circumstances exist and shall be guided in its recommendation in such instances by the following additional considerations:
 1. The historic or architectural significance of the structure;
 2. The importance of the structure to the integrity of the Historic District;
 3. The difficulty or the impossibility of reproducing such a structure because of its design, texture, material, detail, or unique location;
 4. Whether the structure is one of the last remaining examples of its kind in the Historic District;
 5. Whether there are definite plans for reuse of the property if the proposed demolition is carried out and what effect such plans will have on the architectural, cultural, historical, archaeological, social, aesthetic, or environmental character of the surrounding area, as well as the economic impact of the new development; and

6. Whether reasonable measures can be taken to save the structure from further deterioration, collapse, arson, vandalism or neglect.
- (c) Recommendation of demolition. Should the applicant for demolition of a contributing structure satisfy the board that he will suffer an economic hardship if a demolition permit is not recommended, or, if in failing to demonstrate economic hardship, the applicant demonstrates unusual and compelling circumstances which dictate demolition of the contributing structure, either a recommendation for demolition or a recommendation for a six-month moratorium on the demolition shall be made.

In the event that the board recommends a six-month moratorium on the demolition, within the moratorium period, the board shall consult with the Historic Pensacola Preservation Board, the city of Pensacola and any other applicable public or private agencies to ascertain whether any of these agencies or corporations can preserve or cause to be preserved such architectural or historically valuable buildings. If no agencies or organizations are prepared to preserve the building(s) or cause their preservation, then the board shall recommend approval of the demolition.

Following recommendation for approval of demolition, the applicant must seek approval of replacement plans prior to receiving a demolition permit and other building permits. Replacement plans for this purpose shall include, but shall not be restricted to, project concept, preliminary elevations and site plans, and adequate working drawings for at least the foundation plan which will enable the applicant to receive a permit for foundation construction. The board may waive the requirements for replacement plans under extreme, unusual and compelling circumstances or public safety purposes.

Applicants that have received a recommendation for demolition shall be permitted to receive such demolition permit without additional board action on demolition, following the board's recommendation of a permit for new construction.

- (d) Prevention of demolition by neglect.
1. All contributing structures within the Historic District shall be preserved against decay and deterioration and kept free from certain structural defects by the owner thereof or such other person or persons who may have legal custody and control thereof. The owner or other person having such legal custody and control shall repair such building, object, site, or structure if it is found to have any of the following defects:
 - a. Deteriorated or inadequate foundation. Defective or deteriorated flooring or floor supports or flooring or floor supports of insufficient size to carry imposed loads with safety;
 - b. Members of walls, partitions or other vertical supports that split, lean, list or buckle due to defective material or deterioration. Members of walls, partitions or other vertical supports that are of insufficient size to carry imposed loads with safety;
 - c. Members of ceilings, roofs, ceiling and roof supports or other horizontal members which sag, split, or buckle due to defective materials or

deterioration. Members of ceilings, roofs, ceiling and roof supports or other horizontal members that are of insufficient size to carry imposed loads with safety;

- d. Fireplaces or chimneys which list, bulge or settle due to defective materials or deterioration. Fireplaces or chimneys which are of insufficient size or strength to carry imposed loads with safety;
- e. Deteriorated or ineffective waterproofing of exterior walls, roofs, foundations or floors, including broken windows or doors. Defective protection or lack of weather protection for exterior wall coverings, including lack of paint, or weathering due to lack of paint or other protective covering. Any fault or defect in the building which renders same structurally unsafe or not properly watertight.

In addition, the owner or other person having legal custody and control of an historic landmark or a building, object, site, or structure located in an historic district shall keep all property, including vacant property, clear of all weeds, fallen trees or limbs, debris, abandoned vehicles, and all other refuse.

- 2. The board, on its own initiative, may file a petition with the building official requesting that he proceed to require correction of defects or repairs to any structure covered by a. above so that such structure shall be preserved and protected in accordance with the purposes of this ordinance and the public safety and housing ordinance.

(10) *Other demolition permits.* All applications for permits to demolish structures other than contributing structures shall be referred to the board for the purpose of determining whether or not the structure may have historical, cultural, architectural, or archaeological significance. Such determination shall be made in accordance with the criteria found in paragraph (9)(b)1. to 6., above.

The board shall make such determination within thirty (30) days after receipt of the completed application and shall notify the building official in writing. If the structure is determined to have no cultural, historical, architectural, or archaeological significance, a demolition permit may be issued immediately, provided such application otherwise complies with the provisions of all city code requirements.

If said structure is determined by the board to have historical significance, the board shall make such information available to the Preservation Board for review and recommendation as to significance. If the board concurs in the significance, using criteria set forth in paragraph (9)(b)1. to 6., above, the board shall recommend to the city council that the structure be designated a contributing structure.

Upon such a recommendation by the board, issuance of any permit shall be governed by paragraph (9)(c), above.

(11) *Treatment of site following demolition.* Following the demolition or removal of any buildings, objects or structures located in the Historic District, the owner or other person having legal custody and control thereof shall (1) remove all traces of previous construction, including foundation, (2) grade, level, sod and/or seed the lot to prevent erosion and improve drainage, and (3) repair at his own expense any damage to public

rights-of-way, including sidewalks, curb and streets, that may have occurred in the course of removing the building, object, or structure and its appurtenances.

(B) *North Hill preservation zoning districts. PR-1AAA, PR-2, PC-1.*

- (1) *Purpose.* The North Hill preservation zoning districts are established to preserve the unique architecture and landscape character of the North Hill area, and to promote orderly redevelopment which complements and enhances the architecture of this area of the city.
- (2) *Character of the district.* The North Hill Preservation District is characterized by mostly residential structures built between 1870 and the 1930's. Queen Anne, Neoclassical, Tudor Revival, Craftsman Bungalow, Art Moderne and Mediterranean Revival are among the architectural styles found in North Hill. North Hill is listed on the National Register of Historic Places.

(3) *Uses permitted.*

(a) PR-1AAA, single-family district.

1. Single-family dwellings at a maximum density of 4.8 units per acre.
2. Home occupations, as regulated in section 12-2-33.
3. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with six (6) or fewer residents providing that it is not to be located within one thousand (1,000) feet of another such home. If it is proposed to be within one thousand (1,000) feet of another such home, measured from property line to property line, it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.
4. Municipally owned or operated parks or playgrounds.
5. Public schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges.
6. Libraries, community centers and buildings used exclusively by the federal, state, regional, county and city government for public purposes.
7. Churches, Sunday school buildings and parish houses.
8. Conditional uses permitted: Two-family dwellings (duplex) at a maximum density of 9.6 units per acre.
9. Accessory buildings and uses customarily incidental to the above uses not involving the conduct of a business.
10. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.

(b) PR-2, multiple-family district.

1. Any use permitted in the PR-1AAA district.
2. Single-family, two-family and multifamily residential attached or detached units with a maximum density of thirty-five (35) dwelling units per acre.

3. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multifamily district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200) feet of another such home in a multifamily district and/or within five hundred (500) feet of a single-family zoning district it shall be permitted with city council approval after public notification of property owners in a five-hundred-foot radius.
 4. Bed and breakfast subject to regulations in section 12-2-55.
 5. Conditional uses permitted:
 - a. Private clubs and lodges except those operated primarily as commercial enterprises.
 - b. Office buildings (under five thousand (5,000) square feet).
 - c. Antique shops—No outside displays.
 - d. Art galleries—No outside displays.
 - e. Social services homes/centers.
 - f. Boarding and lodging houses.
 - g. Childcare facilities subject to regulations in section 12-2-58.
 6. Accessory buildings. Buildings and uses customarily incidental to any of the above uses, including storage garages when located on the same lot not involving the conduct of a business.
- (c) PC-1, preservation commercial district.
1. Any use permitted in the PR-2 district, including conditional uses.
 2. Hand craft shops for custom work or making custom items not involving unreasonable noise, odor or chemical waste.
 3. Office buildings (under seven thousand (7,000) square feet).
 4. Barbershops and beauty parlors.
 5. Florists.
 6. Studios.
 7. Vending machines when an accessory to a business establishment and located inside the same building as the business.
 8. Conditional uses permitted:
 - a. Gas stations.
 - b. Other retail shops.
 - c. Office buildings (over seven thousand (7,000) square feet).

d. Restaurants, with the exception of drive-in restaurants.

9. Accessory buildings and uses customarily incidental to the above uses.

(4) *Procedure for review.*

(a) Review and approval. All activities regulated by this subsection shall be subject to review and approval by the architectural review board as established in section 12-13-3. The board shall adopt written rules and procedures for abbreviated review for paint colors, minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review without the necessity for review by the entire board, provided, however such abbreviated review process shall require review by the staff of the Historic Pensacola Preservation Board. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and Historic Pensacola Preservation Board staff, then the matter will be referred to the entire board for a decision.

(b) Decisions.

1. General consideration. The board shall consider plans for existing buildings based on their classification as contributing, non-contributing or modern infill as depicted on the map entitled "North Hill Preservation District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In their review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials, textures and colors; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods, paint colors or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any control over land use or construction standards such as are controlled by this chapter and Chapter 12-5.

2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:

a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.

b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic

value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style, materials and colors.

3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by the Historic Pensacola Preservation Board) in its original style, dimensions or position on its original structural foundation.
- (c) Plan submission. Every application for a building permit to erect, construct, demolish, renovate or alter an exterior of a building, sign or exterior site work (i.e., paving and landscaping), located or to be located in the North Hill Preservation District, shall be accompanied with plans for the proposed work pursuant to subsections 12-2-10(A)(4)(c) to (e), applicable to the Historic District.
- (5) *Regulations and guidelines for any development within the preservation district.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the North Hill preservation district which requires review and approval by the architectural review board. Regulations and guidelines which relate specifically to new construction and/or structural rehabilitation and repair to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below.
- (a) Off-street parking. All development within the North Hill preservation district shall comply with the regulations established in Chapter 12-3. Parking lots shall comply with the requirements of Chapter 12-6. Design of and paving materials for parking lots, spaces and driveways shall be subject to approval of the architectural review board. For all parking lots, a solid wall, fence or compact hedge not less than four (4) feet high shall be erected along the lot line(s) when autos or lots are visible from the street or from an adjacent residential lot.
 - (b) Signs. Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. The location, design and materials of all accessory signs, historical markers and other signs of general public interest shall be subject to the review and approval of the architectural review board. Only the following signs shall be permitted in the North Hill preservation district:
 1. Temporary accessory signs.
 - a. One (1) non-illuminated sign advertising the sale, lease or rental of the lot or building, said sign not exceeding six (6) square feet of area.
 - b. One (1) non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work, and displayed only during such time as the actual construction work is in progress.
 2. Permanent accessory signs.
 - a. One (1) sign per street frontage for churches, schools, boarding and lodging houses, libraries, and community centers, multiple-family dwellings and

historic sites serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area. The signs shall be placed flat against the wall of the building, perpendicular or may be freestanding. Such signs may be illuminated provided that the source of light shall not be visible beyond the property line of the lot on which the sign is located.

- b. Commercial establishments may have one (1) attached or one (1) freestanding sign per street frontage not to exceed twelve (12) square feet provided that the freestanding sign be no closer to any property line than five (5) feet. The attached or wall signs may be placed on the front or one side of the building. As used herein, "commercial establishments" shall mean an establishment wherein products are available for purchase. Such signs may be illuminated provided the source of light shall not be visible beyond the property line of the lot on which the sign is located. Office complexes may have one freestanding sign per street frontage not to exceed twelve (12) square feet.
 - c. One (1) non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than one hundred (100) square inches and may be attached to the dwelling. This section shall be applicable to occupants and home occupations.
 - d. Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the mayor and board.
 - e. The maximum height for freestanding signs shall be eight (8) feet. No attached sign shall extend above the eave line of a building to which it is attached.
- (c) Protection of trees. The purpose of this subsection is to establish protective regulations for specified trees within the North Hill preservation zoning districts. It is the intent of this subsection to recognize the contribution of shade trees and certain flowering trees to the overall character of the preservation district and to ensure the preservation of such trees as described below.
1. Any of the following species having a minimum trunk diameter of eight (8) inches (twenty-five and one-tenth (25.1) inches in circumference) at a height of one (1) foot above grade: Live Oak and Water Oak; Magnolia having a minimum trunk diameter of six (6) inches (eighteen and eight-tenths (18.8) inches in circumference) at a height of one (1) foot above grade; and any of the following flowering trees with a minimum trunk diameter of four (4) inches (twelve and fifty-five one hundredths (12.55) inches in circumference) at a height of one (1) foot above grade: Redbud, Dogwood, and Crape myrtle.
 2. Tree removal: No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, remove, or effectively destroy through damaging, any specimen tree, whether it be on private property or right-of-way within the defined limits of the preservation district of the city, without first having obtained a permit from the

department of leisure services to do so. Refer to section 12-6-7 for application procedures and guidelines for a tree removal permit.

3. In addition to the specific tree preservation provisions outlined in this subsection, the provisions of Chapter 12-6 shall be applicable in this district.
 - (d) Fences. All developments in the North Hill preservation zoning districts shall comply with fence regulations as established in section 12-2-40. Fences are subject to approval by the architectural review board. Approved materials will include but not necessarily be limited to wood, brick, stone or wrought iron. No concrete block or barbed-wire will be permitted. Chain-link fences shall be permitted in side and rear yard only with board approval.
 - (e) Paint colors. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the Preservation District. Samples of these palettes can be reviewed at the Historic Pensacola Preservation Board and at the office of the building inspector.
 - (f) Residential accessory structures. Residential accessory structures shall comply with regulations set forth in section 12-2-31 except that the following shall apply: Accessory structures shall not exceed one story in height for a maximum in height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.
 - (g) Additional regulations. In addition to the regulations established above in subsections 12-2-10(B)(5)(a) through (f), any permitted use within the North Hill preservation district where alcoholic beverages are ordinarily sold is subject to the requirements of chapter 7-4 of this Code.
- (6) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the North Hill preservation district.* The document entitled "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," published by the United States Department of Interior in 1983, shall form the basis for rehabilitation of existing contributing buildings. The proper building elements should be used in combinations which are appropriate for use together on the same building.

Documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances.

Regulations established in Table 12-2.9 shall apply to alterations and additions to contributing structures. The regulations and guidelines established in paragraph (5), relating to streetscape elements, shall apply to contributing structures.

- (7) *Renovation, alterations and additions to noncontributing and modern infill structures within the North Hill preservation district.* Many of the existing structures within the district do not meet the criteria established for "contributing" structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations and guidelines established in paragraph (5), relating to streetscape elements, shall apply to noncontributing and modern infill

structures. Regulations established in Table 12-2.9 below, shall apply to alterations and additions to existing noncontributing structures. The architectural review board has adopted palettes of historic colors from several paint manufacturers that represent acceptable historic colors for use in the district. Only paint colors approved by the board shall be permitted.

In review of these structures the board may make recommendations as to the use of particular building elements which will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.

- (8) *Regulations for new construction and additions to existing structures in the North Hill preservation district.* New construction is encouraged to be built in a manner which is complementary to the overall character of the district in scale, building materials and colors. The regulations established in paragraph (5), relating to streetscape elements, shall apply to new construction. Table 12-2.9 describes height, area and yard requirements for new construction and, where applicable, for additions to existing structures in the North Hill preservation district.

TABLE 12-2.9
REGULATIONS FOR THE NORTH HILL PRESERVATION ZONING DISTRICTS

Standards	PR-1AAA	PR-2	PC-1
Minimum Yard Requirement (Minimum Building Setbacks)			
Front Yard	*30 feet	*15 feet	None 5' (for dwellings or wood frame structures only) 15'
Side Yard	9 feet	7.5 feet	
Rear Yard	30 feet	25 feet	
Minimum Lot Area for Residential Uses	9,000 s.f.	9,000 s.f. for single- family and 10,000 s.f. for multi- family	None
Minimum Lot Width at Street Row Line	50 feet	50 feet	None
Minimum Lot Width at Building Setback Line	75 feet	75 feet	None
Maximum Building Height (Except as Provided in Section 12-2-39)	35 feet	35 feet	45 feet
Minimum Floor Area	N/A	600 s.f. per dwelling unit for multi- family	None

* Front yard depths in the North Hill Preservation zoning district shall not be less than the average depths of the front yards located on the block, up to the minimum yard requirement; in case there are no other dwellings, the front yard depths shall be no less than the footages noted.

- (9) *Demolition of structures within the North Hill Preservation District.* The demolition provisions established in subsection 12-2-10(A)(9) to (11), applicable to contributing and noncontributing structures within the historic district, shall apply in the preservation district.

(C) *Old East Hill preservation zoning districts. OEHR-2, OEHC-1, OEHC-2 and OEHC-3.*

- (1) *Purpose.* The Old East Hill preservation zoning districts are established to preserve the existing residential and commercial development pattern and distinctive architectural character of the structures within the district. The regulations are intended to preserve, through the restoration of existing buildings and construction of compatible new buildings, the scale of the existing structures and the diversity of original architectural styles.

- (2) *Character of the district.* The Old East Hill neighborhood was developed over a fifty-year period, from 1870 to the 1920's. The architecture of the district is primarily vernacular, but there are also a few properties which display influences of the major architectural styles of the time, such as Craftsman, Mission and Queen Anne styles.

- (3) *Boundaries and zoning classifications.* The boundaries of the Old East Hill preservation district shall be identified as per a map and legal description, and the zoning classifications of properties within the district shall be identified as per a map, filed in the office of the city clerk.

- (4) *Uses permitted.*

(a) *OEHR-2, residential/office district.*

1. Single-family detached dwellings.
2. Single-family attached (townhouse or quadraplex type construction) and detached zero-lot-line dwellings. Development must comply with the minimum standards established for the R-ZL zoning district in section 12-2-5(A)(5).
3. Two-family attached dwellings (duplex).
4. Multiple-family attached dwellings (three or more dwelling units).
5. Community residential homes licensed by the Florida Department of Health and Rehabilitative Services with seven (7) to fourteen (14) residents providing that it is not to be located within one thousand two hundred (1,200) feet of another such home in a multi-family district, and that the home is not within five hundred (500) feet of a single-family zoning district. If it is proposed to be within one thousand two hundred (1,200) feet of another such home in a multi-family district and/or within five hundred (500) feet of a single family zoning district it shall be permitted with city council approval after public notification of property owners in a five hundred-foot radius

6. Home occupations subject to regulations in section 12-2-10(A)(3)(a)4.
 7. Bed and breakfast subject to regulations in section 12-2-55.
 8. Boarding and lodging houses.
 9. Office buildings.
 10. Studios.
 11. Municipally owned or operated parks or playgrounds.
 12. Public schools and educational institutions having a curriculum the same as ordinarily given in public schools and colleges subject to regulations in section 12-2-65.
 13. Libraries, community centers and buildings used exclusively by the federal, state, regional, county and city government for public purposes subject to regulations in section 12-2-61.
 14. Churches, Sunday school buildings and parish houses subject to regulations in section 12-2-57.
 15. Minor structures for the following utilities: unoccupied gas, water and sewer substations or pumpstations, electrical substations and telephone substations subject to regulations in section 12-2-59.
 16. Accessory structures, buildings and uses customarily incidental to the above uses subject to regulations in section 12-2-31, except that the following shall apply:
 - a. Accessory structures shall not exceed one-story in height for a maximum height of twenty-five (25) feet in order for the accessory structure to match the style, roof pitch, or other design features of the main residential structure.
 - b. The wall of an accessory structure shall not be located any closer than six (6) feet to the wall of the main residential structure.
 17. Family day care homes licensed by the Florida Department of Children and Family Services as defined in the Florida Statutes.
- (b) *OEHC-1, neighborhood commercial district.*
1. Any use permitted in the OEHR-2 district.
 2. Child care facilities subject to regulations in section 12-2-58.
 3. Nursing homes, rest homes, convalescent homes.
 4. Parking lots.
 5. The following uses, retail only, with no outside storage or work permitted, except as provided herein:
 - a. Food and drugstore.
 - b. Personal service shops.

- c. Clothing and fabric stores.
 - d. Home furnishing, hardware and appliance stores.
 - e. Craft and specialty shops.
 - f. Banks.
 - g. Bakeries.
 - h. Secondhand stores.
 - i. Floral shops.
 - j. Martial arts studios.
 - k. Outdoor sales of trees, shrubs, plants and related landscaping materials as an accessory to indoor retail sales uses permitted by this paragraph, provided that the area is enclosed within a fence attached to the rear or side of the main building, and provided that the outdoor area does not exceed twenty (20) percent of the total area of the main building.
 - l. Restaurants.
 - m. Mortuary and funeral parlors.
 - n. Pet shops with all uses inside the principal building.
 - o. Printing firms.
 - p. Business schools.
 - q. Upholstery shops.
6. Conditional uses permitted. Animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas.

(c) *OEHC-2, retail commercial district.*

- 1. Any use permitted in the OEHC-1 district.
- 2. Open air sales of trees, plants and shrubs. The business shall include a permanent sales or office building (including restrooms) on the site.
- 3. Hospitals, clinics.
- 4. Private clubs and lodges, except those operated as commercial enterprises.
- 5. Electric motor repair and rebuilding.
- 6. Appliance repair shop.
- 7. Garages for the repair and overhauling of automobiles.
- 8. Sign shop.
- 9. Photo shop.
- 10. Plumbing and electrical shop.
- 11. Pest extermination services.

(d) *OEHC-3, commercial district.*

1. Any use permitted in the OEHC-2 district.
2. Dive shop.
3. Fitness center.
4. Theater, except for drive-in.
5. Taverns, lounges, nightclubs, cocktail bars.

(5) *Procedure for review of plans.*

(a) *Plan submission.* Every application for a building permit to erect, construct, demolish, renovate or alter an exterior of a building or sign, located or to be located in the Old East Hill Preservation District, shall be accompanied with plans as necessary to describe the scope of the proposed work pursuant to paragraph 12-2-10(A)(4)(c) to (e).

(b) *Review and approval.* All such plans shall be subject to review and approval by the architectural review board established in section 12-13-3. The board shall adopt written rules and procedures for abbreviated review for minor repairs and minor deviations in projects already approved by the board. This process may authorize the board to designate one of its members to undertake such abbreviated review by the entire board, provided, however, such abbreviated review process shall require review by the staff of West Florida Historic Preservation, Inc. If agreement cannot be reached as it pertains to such request for abbreviated review by the board designee and West Florida Historic Preservation, Inc. staff, then the matter will be referred to the entire board for a decision.

(c) *Decisions.*

1. *General consideration.* The board shall consider plans for existing buildings based on their classification as contributing, non-contributing or modern infill as depicted on the map entitled "Old East Hill Preservation District" adopted herein, and shall review these plans based on regulations described herein for each of these building classifications. In their review of plans for both existing buildings and new construction, the board shall consider exterior design and appearance of the building, including the front, sides, rear and roof; materials and textures; plot plans or site layout, including features such as walls, walks, terraces, off-street paved areas, plantings, accessory buildings, signs and other appurtenances; and relation of the building to immediate surroundings and to the district in which it is located or to be located. The term "exterior" shall be deemed to include all of the outer surfaces of the building and exterior site work, and is not restricted to those exteriors visible from a public street or place. The board shall consider requests for design materials, alterations or additions, construction methods or any other elements regulated herein, which do not meet the regulations as established in this subsection, when documentary proof in the form of photographs, property surveys, indication of structural foundations, drawings, descriptive essays and similar evidence can be provided. The board shall not consider interior design or plan. The board shall not exercise any

control over land use or construction standards such as are controlled by this chapter and chapter 7-13.

2. Rules governing decisions. Before approving the plans for any proposed building located or to be located in a district, the board shall find:
 - a. In the case of a proposed alteration or addition to an existing building, that such alteration or addition will not impair the architectural or historic value of the building.
 - b. In the case of a proposed new building, that such building will not, in itself or by reason of its location on the site, impair the architectural or historic value of buildings on adjacent sites or in the immediate vicinity. No plans for new building will be approved if that building will be injurious to the general visual character of the district in which it is to be located considering visual compatibility standards such as height, proportion, shape, scale, style and materials.
 3. No provision of this section shall be interpreted to prevent the restoration or reconstruction of any historic building or feature (as listed by West Florida Historic Preservation, Inc.) in its original style, dimensions or position on its original structural foundation.
 4. No provision of this section shall be interpreted to require a property owner to make modifications, repairs or improvements to property when the owner does not otherwise intend to make any modifications, repairs or improvements to the property, unless required by chapter 7-13.
- (6) *Regulations and guidelines for any development within the Old East Hill preservation district.* These regulations and guidelines are intended to address the design and construction of elements common to any development within the Old East Hill preservation district which requires review and approval by the architectural review board. Regulations and guidelines which relate specifically to new construction and/or structural rehabilitation and repair to existing buildings, applicable to building heights, setbacks, architectural elements and construction types, are established in paragraphs (6) through (8) below.
- (a) *Off-street parking.* Design of, and paving materials for, parking lots, spaces and driveways shall be subject to approval of the architectural review board. For all parking lots, a solid wall, fence or compact hedge not less than three (3) feet high shall be erected along the lot line(s) when automobiles or parking lots are visible from the street or from an adjacent residential lot.
 1. OEHR-2 district. All non-residential development shall comply with off-street parking requirements established in chapter 12-3.
 2. OEHC-1, OEHC-2 and OEHC-3 districts. All non-residential development shall comply with off-street parking requirements established in chapter 12-3. The required parking may be provided off-site by the owner/developer as specified in section 12-3-1(D).

- (b) *Landscaping*. Landscape area requirements and landscape requirements for parking lots within the OEHR-2, OEHC-1 and OEHC-2 districts shall comply with regulations established in section 12-6-3 for the R-2, C-1 and C-2 zoning districts.
- (c) *Signs*. Refer to sections 12-4-2 and 12-4-3 for general sign standards and criteria and for a description of sign area calculations. The location, design and materials of all accessory signs, historical markers and other signs of general public interest shall be subject to the review and approval of the architectural review board. Only the following signs shall be permitted in the Old East Hill preservation district:
 - 1. Temporary accessory signs.
 - a. One non-illuminated sign advertising the sale, lease or rental of the lot or building, said sign not exceeding six (6) square feet of area.
 - b. One non-illuminated sign not more than fifty (50) square feet in area in connection with new construction work, and displayed only during such time as the actual construction work is in progress.
 - 2. Permanent accessory signs.
 - a. North 9th Avenue, Wright Street, Alcaniz Street and Davis Street. For churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including office and retail buildings) or historic sites serving as identification and/or bulletin boards, one freestanding or projecting sign and one attached wall sign or combination of wall signs placed on the front or one side of the building not to exceed fifty (50) square feet in area. The signs may be painted on the building, mounted to the face of the wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. Signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet, six (6) inches above the public property and shall not exceed a height of twelve (12) feet. Freestanding signs shall not exceed a height of twelve (12) feet.
 - b. All other streets in the district. One sign per lot per street frontage for churches, schools, apartment buildings, boarding or lodging houses, libraries, community centers, commercial buildings (including office and retail buildings) or historic sites serving as identification and/or bulletin boards not to exceed twelve (12) square feet in area and eight (8) feet in height, provided, however that signs projecting from a building or extending over public property shall maintain a clear height of nine (9) feet six (6) inches above the public property and shall not exceed a height of twelve (12) feet six (6) inches. The sign may be mounted to the face of the wall of the building, hung from a bracket that is mounted to a wall of a building, hung from other ornamental elements on the building, or may be freestanding. The sign may be illuminated provided that the source of light is not visible beyond the property line of the lot on which the sign is located.

- c. One non-illuminated nameplate designating the name of the occupant of the property; the nameplate shall not be larger than three (3) square feet and shall be attached to the dwelling. This section shall be applicable to occupants and home occupations.
 - d. Municipal or state installed directional signs, historical markers and other signs of a general public interest when approved by the board.
- (d) *Fences.* All developments in the Old East Hill preservation zoning districts shall comply with fence regulations as established in section 12-2-40. Fences are subject to approval by the architectural review board. Approved materials will include but not necessarily be limited to wood, brick, stone or wrought iron. No concrete block or barbed-wire fences will be permitted. Chain-link fences shall be permitted in side and rear yard only.
- (e) *Additional regulations.* In addition to the regulations established above in subsections 12-2-10(C)(6)(a) through (d), any permitted use within the Old East Hill preservation district where alcoholic beverages are ordinarily sold is subject to the requirements of Chapter 7-4 of this Code.
- (7) *Restoration, rehabilitation, alterations or additions to existing contributing structures in the Old East Hill preservation district.* The document entitled "Standards for Rehabilitation and Guidelines for Rehabilitating Historic Buildings," published by the United States Department of Interior in 1983, shall form the basis for rehabilitation of existing contributing buildings. The proper building elements should be used in combinations which are appropriate for use together on the same building. Documented building materials, types, styles and construction methods shall be duplicated when making repairs, alterations and/or additions to contributing structures. Any variance from the original materials, styles, etc. shall be approved only if circumstances unique to each project are found to warrant such variances.

The regulations established in paragraph (6), relating to streetscape elements, shall apply to contributing structures. Regulations established in Table 12-2.10 shall apply to alterations and additions to contributing structures.

- (8) *Renovation, alterations and additions to non-contributing and modern infill structures within the Old East Hill preservation district.* Many of the existing structures within the district do not meet the criteria established for contributing structures, even though they may be similar in style to the historic structures, and some structures are modern in style with no relation to the historic structures. All of these buildings shall be recognized as products of their own time. The regulations established in paragraph (6), relating to streetscape elements, shall apply to non-contributing and modern infill structures. Regulations established in Table 12-2.10 shall apply to alterations and additions to existing non-contributing structures.

In review of these structures the board may make recommendations as to the use of particular building elements which will improve both the appearance of the individual structure, its relationship with surrounding structures and the overall district character.

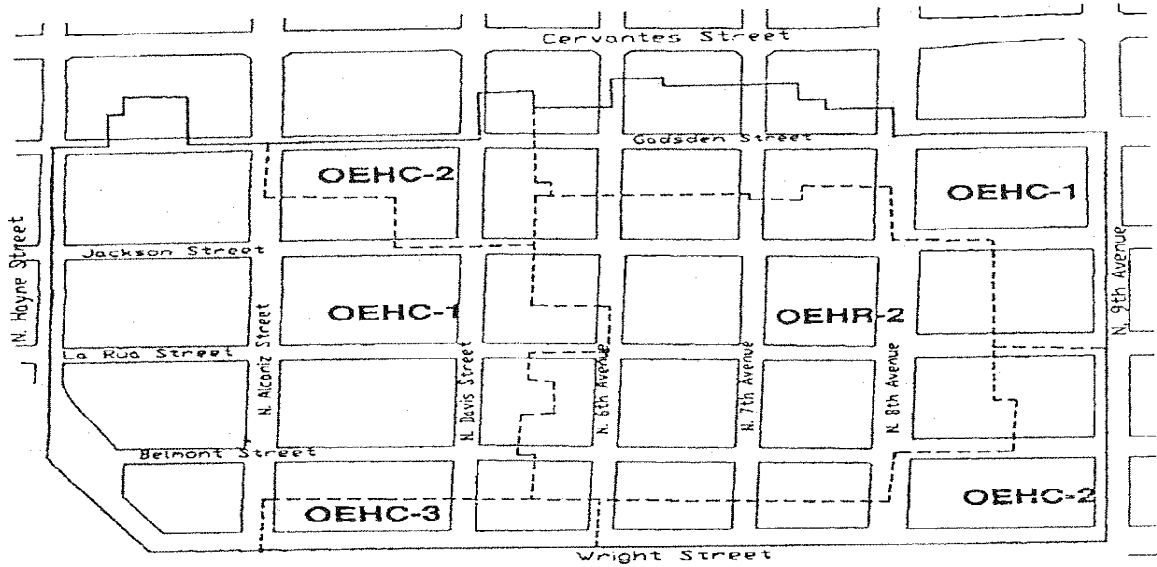
- (9) *Regulations for new construction in the Old East Hill preservation district.* New construction shall be built in a manner which is complementary to the overall character of the district in height, proportion, shape, scale, style and building materials. The regulations established in paragraph (6), relating to streetscape elements, shall apply to new construction. Table 12-2.10 describes height, area and yard requirements for new construction in the Old East Hill preservation district.
- (10) *Demolition of structures within the Old East Hill preservation district.* The demolition provisions established in section 12-2-10(A)(9) to (11), applicable to contributing and non-contributing structures within the Historic District, shall apply in the preservation district.

TABLE 12-2.10
REGULATIONS FOR OLD EAST HILL PRESERVATION ZONING DISTRICTS

Standards	OEHR-2	OEHC-1	OEHC-2	OEHC-3
Minimum Yard Requirement (Minimum Building Setbacks)				
Front Yard Side Yard Rear Yard	*15 feet 5 feet 15 feet	There shall be a 5' side yard setback, but no front or rear yard setbacks, unless this chapter requires a larger yard or buffer yard.		None
Minimum Lot Area For Residential Uses				
Single-family Detached Residential Duplex Residential Multi-family Residential	3,500 s.f. 5,000 s.f. 9,000 s.f.	None		
Minimum Lot Width at Street Row Line	30 feet	None		
Minimum Lot Width at Building Setback Line	30 feet	None		

Maximum Lot Coverage	N/A	The maximum combined area of all principal and accessory buildings shall not exceed 50% of the square footage of the lot.	None
Maximum Building Height (except as provided in section 12-2-39)	Residential buildings shall not exceed two (2) stories in height, with a usable attic. No building shall exceed thirty-five (35) feet in height, except that three (3) feet may be added to the height of the building for each foot the building is set back from the building setback or property lines to a maximum height of 45' with approval of the architectural review board.		
Minimum Floor Area For Multi-Family Developments	600 square feet per dwelling unit		
* Front yard depths in the Old East Hill preservation zoning district shall not be less than the average depths of all of the front yards facing the street on the block, up to the minimum yard requirement; in case there are no other dwellings, the front yard depth shall be no less than the footage noted.			

(Ord. No. 6-93, §§ 7, 8, 3-25-93; Ord. No. 17-93, § 1, 6-10-93; Ord. No. 29-93, §§ 7—12, 11-18-93; Ord. No. 32-93, §§ 1, 2, 12-16-93; Ord. No. 3-94, §§ 5, 6, 1-13-94; Ord. No. 11-94, § 2, 4-14-94; Ord. No. 9-96, §§ 5—8, 1-25-96; Ord. No. 35-97, §§ 1—3, 10-23-97; Ord. No. 40-99, §§ 6—9, 10-14-99; Ord. No. 44-99, § 1, 11-18-99; Ord. No. 13-00, § 1, 3-9-00; Ord. No. 50-00, §§ 1, 2, 10-26-00; Ord. No. 2-01, §§ 1—3, 1-11-01; Ord. No. 6-02, § 2, 1-24-02; Ord. No. 22-02, § 1, 9-26-02; Ord. No. 13-06, §§ 5—9, 4-27-06; Ord. No. 03-09, § 1, 1-8-09; Ord. No. 16-10, §§ 198, 199, 9-9-10)



Old East Hill Preservation District

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

SECTION 3. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 16-00315

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Andy Terhaar

SUBJECT:

PUBLIC HEARING: PROPOSED AMENDMENT TO SECTION 12-2-8 (B) (1) OF THE LAND DEVELOPMENT CODE - ADDITION OF MEDICAL MARIJUANA DISPENSARY

RECOMMENDATION:

That City Council conduct the second of two public hearings on February 9, 2017 to consider an amendment to the Land Development Code, Section 12-2-8 (B)(1), Commercial land use district, to add “Medical Marijuana Dispensary” under the uses permitted section.

HEARING REQUIRED: Public

SUMMARY:

The Land Development Code (LDC) is the principal means of planning and regulating the development and redevelopment of land in the City. The LDC was adopted by City Council in its present form in 1991 pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act. From time to time, it is necessary to amend the LDC to provide consistency with the Comprehensive Plan and to respond to community concerns, legal considerations, changes in development patterns and planning techniques as well as addressing Legislative considerations.

In 2014, the Florida Legislature passed, and Gov. Rick Scott signed, a bill that attempted to exempt a limited class of individuals with certain medical disorders and their legal representatives from criminal penalties for using and possessing low-THC cannabis that was ordered for the patients by their physicians. Then, in 2016, the legislature passed a bill intended to improve the law, which would also allow terminally ill patients to access all forms of medical cannabis, all of which has been codified under Section 381.986 Florida Statutes.

As part of this legislation, parameters were placed on the dispensing of Medical Marijuana with the onus being placed on the Department of Health. The Department of Health has issued authorizations to the five organizations permitted under current law to cultivate and dispense medical cannabis for and to qualified patients. The five organizations were required to be geographically dispersed, with one each in northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida.

In September of 2016, the City Council voted to refer this item to the Planning Board for review and

recommendation. The Planning Board discussed this item at their October Planning Board meeting and recommended approval of this amendment to the Land Development Code.

PRIOR ACTION:

September 15, 2016 - City Council referred item to the Planning Board
October 11, 2016 - Planning Board recommends amendment to the Land Development Code
January 12, 2017 - City Council conducted the first public hearing.

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Sec_12_2_8 Medical Marijuana Commercial_Land_Use_Dist (002) rev
- 2) 10-11-16 - Planning Board Minutes - Medical Marijuana
- 3) PROOF OF PUBLICATION

PRESENTATION: No

Sec. 12-2-8. - Commercial land use district.

The regulations in this section shall be applicable to the retail and downtown commercial and wholesale and light industry zoning districts: C-1, C-2A, C-2, R-C and C-3.

- (A) *Purpose of district.* The commercial land use district is established for the purpose of providing areas of commercial development ranging from compact shopping areas to limited industrial/high intensity commercial uses. Conventional residential use is allowed as well as residential uses on upper floors above ground floor commercial or office uses and in other types of mixed use development. New development and redevelopment projects are strongly encouraged to follow the city's design standards and guidelines contained in section 12-2-82.

The C-1 zoning district's regulations are intended to provide for conveniently supplying the immediate needs of the community where the types of services rendered and the commodities sold are those which are needed frequently. The C-1 zoning district is intended to provide a transitional buffer between mixed-use neighborhood commercial areas and more intense commercial zoning. The downtown and retail commercial (C-2A and C-2) zoning districts' regulations are intended to provide for major commercial areas intended primarily for retail sales and service establishments oriented to a general community and/or regional market. The C-3 wholesale and light industry zoning district's regulations are intended to provide for general commercial services, wholesale distribution, storage and light fabrication.

The downtown retail commercial (C-2A) zoning district's regulations are intended to provide a mix of restaurants, retail sales, entertainment, and service establishments with an emphasis on pedestrian-oriented ground floor shops and market spaces.

The commercial retail (C-2) zoning district's regulations are intended to provide for major commercial areas intended primarily for retail sales and service establishments oriented to a general community and/or regional market.

The C-3 wholesale and light industry zoning district's regulations are intended to provide for general commercial services, wholesale distribution, storage and light fabrication.

- (B) *Uses permitted.*

- (1) *C-1, retail commercial zoning district.* Any use permitted in the R-NC district and the following uses, with no outside storage or repair work permitted:
- (a) Retail sales and services.
 - (b) Motels/hotels.
 - (c) Vending machine when as accessory to a business establishment and located on the same parcel of land as the business.
 - (d) Car washes.
 - (e) Movie theaters, except drive-in theaters.
 - (f) Open air sales of trees, plants and shrubs. The business shall include a permanent sales or office building (including restrooms) on the site.
 - (g) Pet shops with all uses inside the principal building.
 - (h) Parking lots and parking garages.
 - (i) Pest extermination services.
 - (j) Animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas.
 - (k) Business schools.
 - (l) Trade schools.
 - (m) Medical Marijuana Dispensary

- (n) Accessory buildings and uses customarily incidental to the above uses.
- (2) *C-2A, downtown retail commercial district.* Any use permitted in the C-1 district with the exception of manufactured home parks, and Conditional Uses. The following uses with no outside storage or repair work permitted:
 - (a) Bars.
 - (b) Pool halls.
 - (c) Newspaper offices and printing firms.
 - (d) Marinas.
 - (e) Major public utility buildings and structures including radio and television broadcasting station.
 - (f) Amusement machine complex.
 - (g) Accessory buildings and uses customarily incidental to the above uses.
- (3) *C-2, commercial district (retail).* Any use permitted in the C-2A district and the following uses with no outside storage or repair work permitted:
 - (a) Cabinet shops and upholstery shops.
 - (b) Electric motor repair and rebuilding.
 - (c) Garages for the repair and overhauling of automobiles.
 - (d) Bowling alleys.
 - (e) Skating rinks.
 - (f) Other recreation or amusement places operated for profit.
 - (g) Sign shop.
 - (h) Accessory buildings and uses customarily incidental to the above uses.
- (4) *C-3, commercial zoning district (wholesale and limited industry).*
 - (a) Any use permitted in the C-2 district. Outside storage and work shall be permitted for those uses and the following uses, but shall be screened by an opaque fence or wall at least eight (8) feet high at installation. Vegetation shall also be used as a screen and shall provide seventy-five (75) percent opacity. The vegetative screen shall be located on the exterior of the required fence.
 - (b) Outside kennels, runs or exercise areas for animals subject to regulations in section 12-2-54.
 - (c) Growing and wholesale or retail sales of trees, shrubs and plants.
 - (d) Bakeries, wholesale.
 - (e) Ice cream factories and dairies.
 - (f) Quick-freeze plants and frozen food lockers.
 - (g) Boat sales and repair.
 - (h) Outdoor theaters.
 - (i) Industrial Research laboratories and pharmaceutical companies
 - (j) Truck sales and repair.
 - (k) Light metal fabrication and assembly.
 - (l) Contractors shops.

- (m) Adult entertainment establishments subject to the requirements of chapter 7-3 of this Code.
 - (n) Industrial laundries and dry cleaners using combustible or flammable liquids or solvents with a flash point of one hundred ninety (190) degrees Fahrenheit or less which provide industrial type cleaning, including linen supply, rug and carpet cleaning, and diaper service.
 - (o) Retail lumber and building materials.
 - (p) Warehouses.
 - (q) Plumbing and electrical shops.
 - (r) New car and used car lots, including trucks which do not exceed five thousand (5,000) pounds.
 - (s) Car rental agencies and storage, including trucks which do not exceed five thousand (5,000) pounds.
 - (t) Pawnshops and secondhand stores.
 - (u) Mini-storage warehouses.
 - (v) Advanced manufacturing and/or processing operations provided that such use does not constitute a nuisance due to emission of dust, odor, gas, smoke, fumes, or noise.
 - (w) Accessory buildings and uses customarily incidental to the above uses.
- (C) *Regulations.* All developments are required to comply with design standards and are strongly encouraged to follow design guidelines as established in section 12-2-82.

TABLE 12-2.7
REGULATIONS FOR THE COMMERCIAL ZONING DISTRICTS

Standards	C-1	C-2A	R-C, C-2 and C-3
Minimum Yard Requirements (Minimum Building Setbacks)	There shall be no yard requirements, except that where any nonresidential use is contiguous to a residential zoning district there shall be a twenty-foot (20') yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width. Inside the C-2A District and Dense Business Area: There shall be a maximum allowed front yard setback of 10'.		
Maximum Building Height	No building shall exceed forty-five (45) feet in height at the property or setback lines. (See Note 1)	No building shall exceed one hundred (100) feet in height at the property or setback lines. (See Note 1)	
Lot Coverage Requirements (The maximum	Shall not exceed seventy-five (75) percent of the	Shall not exceed one hundred (100) percent of	Inside the dense business area: shall not exceed one

<p>combined area occupied by all principal and accessory buildings)</p>	<p>total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) feet in height, lot coverage shall not exceed sixty-five (65) percent.</p>	<p>the total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) in height, lot coverage shall not exceed ninety (90) percent.</p>	<p>hundred (100) percent of the total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) feet in height, lot coverage shall not exceed ninety (90) percent (with the exception of the C-2A zoning district).</p> <p>Outside the dense business area: shall not exceed seventy-five (75) percent of the total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) feet in height, lot coverage shall not exceed sixty-five (65) percent.</p>
<p>Maximum Density Multiple Family Dwellings</p>	<p>.35 dwelling units per acre.</p>	<p>135 dwelling units per acre.</p>	<p>Inside the dense business area: One hundred thirty-five (135) dwelling units per acre.</p> <p>Outside the dense business area: Thirty-five (35) dwelling units per acre.</p>

Note 1: Three (3) feet may be added to the height of the building for each foot the building elevation is stair-stepped or recessed back from the property or setback lines beginning at the height permitted up to a maximum height of one hundred fifty (150) feet.

(D) Reserved.

(E) *Additional regulations.* In addition to the regulations established above in section 12-2-8(C), all developments within the commercial zoning districts will be subject to, and must comply with, the following regulations:

- Supplementary district regulations subject to regulations in sections 12-2-31 to 12-2-50.
- Off-street parking subject to regulations in Chapter 12-3.
- Signs subject to regulations in Chapter 12-4.
- Tree/landscape regulations subject to regulations in Chapter 12-6.
- Stormwater management and control of erosion, sedimentation and runoff subject to regulations in Chapter 12-9.
- Alcoholic beverages regulations subject to Chapter 7-4 of this Code.

(Ord. No. 25-92, § 1, 7-23-92; Ord. No. 6-93, § 6, 3-25-93; Ord. No. 29-93, § 6, 11-18-93; Ord. No. 3-94, § 4, 1-13-94; Ord. No. 44-94, § 1, 10-13-94; Ord. No. 33-95, § 2 (Exhibit 1), 8-10-95; Ord. No. 40-99, §§ 2, 3, 10-14-99; Ord. No. 17-06, § 1, 7-27-06; Ord. No. 11-09, § 1, 4-9-09; Ord. No. 13-12, § 1, 6-14-12; Ord. No. 12-13, § 1, 5-9-13; Ord. No. 40-13, § 1, 11-14-13; Ord. No. 01-16, § 1, 1-14-16)

PLANNING SERVICES

MINUTES OF THE PLANNING BOARD

October 11, 2016

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

MEMBERS ABSENT: Nathan Monk

STAFF PRESENT: Brandi Deese, Leslie Statler

OTHERS PRESENT: Ross Pristera, Dave Hemphill, Pearce Barrett, Drew Holmer, Juan C. Lemos, Ann Hill, Elizabeth Benchley, Della Scott-Ireton, William Lees, Christian Wagley, Ramie Gougeon, Dottie Dubuisson

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from September 13, 2016
- Review of Development Plan for 453 W. Main Street – Fish Hatchery
- LDC Amendment – Section 12-2-8 (Medical Marijuana Dispensary)
- Review of Historic Structures Prior to Issuance of Demolition Permit
- Draft Ordinance for Historic Structures
- Open Forum
- Adjournment

Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:08 pm with a quorum present. He gave instructions to the audience on the rules and procedures of the Board.

Approval of Meeting Minutes

Mr. Grundhoefer made a motion to approve the September 13, 2016 minutes, seconded by Ms. Campbell, and it carried unanimously.

Review of Development Plan for 453 W. Main Street – Fish Hatchery

The Florida Department of Environmental Protection has submitted a request for Site Plan approval for the Florida Fish and Wildlife Conservation Commission "Gulf Coast Marine Fisheries Hatchery & Enhancement Center." This project is located on the southeast corner of the intersection of Clubbs and W. Main Streets and lies within the WRD, Waterfront Redevelopment District. Ms. Deese informed the Board the proposal was for preliminary and final site plan approval as well as aesthetic approval.

Chairman Ritz advised this Board has aesthetic jurisdiction for this district; the Board reviewed the project while Chairman Ritz described the project specifications and aesthetics. Ms. Deese clarified that the applicant wanted the Board to consider preliminary and final approval which was allowed by the Code.

Ms. Campbell asked if the Board typically reviews brick samples and final colors; Ms. Deese stated normally the boards other than ARB are not as specific in the material requirements but they could be required if the Board provided rationale for it.

Dave Hemphill, Project Manager, introduced Mike Marshall, Project Architect, Pearce Barrett, Project Representative for DEP, and Ross Pristera with the UWF Historic Trust.

Mr. Grundhoefer asked about the metal panels, and Mr. Marshall stated they were located above the roof except around the glass area where they are metal-panel fish scale pattern shingles, diamond-shaped in a scale pattern with greenish color. Mr. Grundhoefer suggested the fish scaling did not fit in the industrial/warehouse area of the city and asked if brick would be more appropriate. Mr. Marshall stated the entryway had originally been metal panels displaying an industrial aesthetic. Ms. Campbell appreciated the details, but had concerns with the north elevation. Mr. Marshall advised it was a two-story space with an elevator and designed for school groups and for those using the space for an educational opportunity. He explained the fish hatchery portion was not open to the public because of bio-security; however the second level allows them to view operations. He also stated there was a second floor science lab.

Mr. Grundhoefer questioned if the purpose of the clear story windows was to bring in natural light, and Mr. Marshall stated those windows were a part of the second floor observation platform which brings visitors down to the center of the building. Mr. Grundhoefer suggested using larger windows and spacing them differently. Understanding the hatchery was a large building, he suggested breaking up the expanse of the brick on the north elevation on Main Street.

Chairman Ritz questioned the windows looking in to the fish hatchery portion displaying a wave pattern, and Mr. Marshall stated it was designed to be appealing from the street and to grab attention. Chairman Ritz pointed out the industrial aesthetics within this area is transitional between the tanks and the stadium. Regarding the site plan, he did understand the bus access allowing for large turns.

Mr. Hemphill advised the finished floor would be 15 feet, with flood elevation at 7 plus 3, with the site as far as earthwork being very close to balance. On the east side is Washer Woman Creek, and their intent is not to touch that area except to cross with a pedestrian bridge which connects to Maritime Park. He advised the stormwater system was very shallow with a blue-green system, and they would save as many trees as possible. However, Clubb Street would have to be reworked to add a turnaround to accommodate the large trailers for fish transport.

Chairman Ritz asked about the hedge for screening around public parking spaces, and Mr. Hemphill stated due to the elevation, it might have to be relocated to the interior to allow parking to be seen.

He also stated the color of the brick on the building would match the color on the signage – light tan. The roof would be a galvalume, almost tin in color. Ms. Campbell appreciated the work going into the project, but was not sure of the fish scales and wave feature in the windows. It was determined the colors would be green, blue, and silver tiles with matte finish.

Ms. Deese advised there was a Code requirement to screen the parking spaces. Chairman Ritz addressed the second story classroom. Mr. Grundhoefer suggested there would be more continuity if the fish scales were wrapped around the west elevation.

Ms. Deese clarified that the site plan and aesthetic approval should be taken separately, and the Board should be specific in its suggestions or requirements.

After discussion, Mr. Larson made a motion to approve the site plan as presented for preliminary and final approval. Ms. Campbell seconded the motion.

Mr. Wagley addressed the Board. He offered that buildings provide a sense of enclosure and speak to the street; this building was more suburban and set back from the street, which is less desirable for the pedestrian. He felt the building should be brought forward and hide the parking. He also mentioned the Green Building Ordinance of 2012 requiring city-sponsored projects to follow the LEED or Florida Green Building Coalition standards. He stated that he has yet to see a city-sponsored project follow those guidelines. He also advised that the Pensacola Environmental Advisory Board reported there is little to no evidence of enhancement of fisheries from fish hatcheries.

Mr. Hemphill stated they did not want to place the parking on the water side of the building, and were giving the water side to the public; everything south of the building was meant to be public and viewed in

total from the Fish Hatchery to Maritime Park as one unit. Ms. Deese explained that the Code required the building to be set back 60 feet from the street.

Mr. Marshall stated they did not pursue LEED guidelines but used Energy Star Standards as the Green Building Standard which is acceptable in the state of Florida.

Ms. Campbell expressed the reason for not moving the primary structure closer to the street and moving the parking to the west was because of a grade issue. Mr. Barrett explained this project was a National Resource Development Project and was funded by funds received from British Petroleum; the building will belong to FWC with FDEP will handle the construction. The tank based hatchery portion of the building is stipulated to produce fingerling-size fish and would be the only hatchery of its type in the state. The left side is the administration portion, with the center portion open to the public. The aesthetic design has been reviewed by a citizen advisory committee with architects, city and county personnel, and stakeholders from the community; their meetings were open to the public as well.

Mr. Grundhoefer suggested the building be moved to the north, possibly 60 to 100 feet from the property line, and to bring a plan to the Board. **Ms. Campbell rescinded her motion, and it died for lack of a second.**

Ms. Campbell asked about the timeframe, and Mr. Hemphill stated plans were to be complete by the end of the year with permits in hand and ready for bids the first of the year.

Chairman Ritz was not offended by the location of the structure due to other buildings begin set far off Main Street, and as a pedestrian, there are areas where he walks which have a good distance between sidewalks and buildings.

Ms. Dubuisson felt the project was a wonderful plan and encouraged the Board unless they had a major issue, to allow the site plan as is. She believed they had very intricate pieces which had to be worked into this, including typography and the mitigation field; she approved the fact they had preserved the waterfront side for the public and asked the Board to move the project forward.

Mr. Grundhoefer then made a motion to not approve the site plan and have the developers bring the plan back to the Board pushing the building significantly closer to Main Street. The motion died for lack of a second. Ms. Campbell made a motion to accept the site plan and recommend comments taken accordingly: review building closer to Main Street, move parking to the west. Mr. Hemphill suggested making it more pedestrian/bike friendly by making a loop from Main Street into Maritime Park, out Whibbs Drive across the bridge, and coming around their building, making a two-mile loop. After discussion about stormwater, the comments were revised to pedestrian loop around the building, investigate the opportunity to move the building closer to Main Street but not required. It was asked if the Board considered increase in construction costs, and Chairman Ritz stated the Board was sensitive to that. Ms. Campbell restated her motion to approve preliminary and final development plan review for the Gulf Coast Marine Fisheries Hatchery & Enhancement Center with a provision that they investigate the building coming closer to Main Street, also they agree to expand the pedestrian and bike friendly loop around the building. It was seconded by Mr. Owens.

Chairman Ritz suggested an abbreviated review follow-up for final approval; **Ms. Campbell amended the motion to include an abbreviated review follow-up for final approval; the amendment was accepted and the motion carried 4 to 1 with Mr. Grundhoefer dissenting.**

Mr. Grundhoefer made a motion to approve the preliminary design with abbreviated review. Ms. Deese advised the Board that they could approve, approve with follow-up abbreviated review or deny the aesthetic approval but approving preliminary aesthetic review was not an option. Mr. Grundhoefer amended his motion to include aesthetic approval with an abbreviated review follow-up required for three items: (1) break up of scale on the long north front face, (2) vertical panels be brick or other material compatible with the industrial site and not a metal panel, (3) windows on the clear story get larger and repeat the rhythm established on the structure. Ms. Campbell seconded the motion.

Ms. Dubuisson commented she loved the building and the concept of the fish scales and waves and felt it was great that they separated the three uses. She felt whatever was placed out there would be successful. She pointed out that while the drive by does not look like old Pensacola, this is a whole new side of Pensacola. Ms. Deese restated the motion, and with no other discussion, **the motion carried unanimously.**

LDC Amendment – Section 12-2-8 (Medical Marijuana Dispensary)

During the September 15, 2016 City Council meeting, City Council approved a motion to refer to this Board for consideration a Land Development Code Amendment for Section 12-2-8 Commercial Land Use District. This proposed ordinance will add Medical Marijuana Dispensary to the list of permitted uses for the Commercial Land Use District.

Chairman Ritz explained this would be in a C-1 zone and asked if this would be affected by cumulative zoning. Ms. Deese clarified that this would open it up to C-2, C-3 and the industrial districts; staff has issued zoning verifications previously for two locations that are commercially zoned but considered them as pharmacies. However, there is concern that the November election could open it up to broader uses medically. Ms. Deese stated that staff has not received any calls from citizens on this issue. **Larson made a motion to approve the medical marijuana dispensary in C-1, and Mr. Grundhoefer seconded. With no input from the audience, the motion carried unanimously.**

Review of Historic Structures Prior to Issuance of Demolition Permit

During the September 13, 2016 Planning Board meeting, Planning Board discussed the current demolition process and lack of review and implementation of preservation standards and requirements. After reviewing several sample ordinances, gaining public input, and discussing the matter in detail, the Board directed staff to seek clarification from the original sponsor of this item (Councilmember Brian Spencer) in order to assist the Board with their deliberations. After speaking with Councilman Spencer, Ms. Deese stated his intent was not to create a new board; there was discussion that possibly the ARB could take the responsibility, but it did not seem like a good option because of the volume of work they receive. Councilman Spencer was comfortable with Planning Board taking on the responsibility. He requested Ms. Deese speak with Mr. Pristera to see how long and what it would cost to perform a citywide survey. An agenda item was added for consideration of the draft ordinance presented at a prior meeting as requested by the Board.

Chairman Ritz asked that the Board move to the Draft Ordinance agenda item and discuss that item first. The Board was in agreement.

Draft Ordinance for Historic Structures

Mr. Grundhoefer stated the draft document was a good document but was set up on the premise of establishing a Preservation Board; now that Councilman Spencer had indicated he did not intend to do that, it was not appropriate for the charge the Board was given.

Ms. Campbell asked when the Board has a topic having to do with historic demolition, that they have a format where Mr. Pristera would be available for that particular meeting to express his opinion. Chairman Ritz asked for a definition of a historic structure and asked for citizen input.

Elizabeth Benchley with UWF advised she keeps an eye out for archaeological resources when ordinances are being proposed and noted the end of the draft ordinance did address archaeology with no archaeologist to sit on the board. She offered archaeological sites evidence in downtown Pensacola lying under the city streets and buildings. She stated if the Board was to move forward with better historic preservation planning downtown, that they should incorporate archaeological resources as well. She encouraged the Board to include those involved in archaeology and history in its workshop discussion.

Mr. Grundhoefer clarified that since the Board was not developing a Preservation Board, some of the information that was developed by previous staff for the Board to review could be used to establish an

ordinance, however, the Board was not supporting this particular document and would be starting over with the help of UWF and the Historic Trust. Chairman Ritz offered the draft ordinance as it is written was inappropriate for Pensacola at this time.

Ms. Deese stated she would take a consensus that this was not the ordinance to consider. Chairman Ritz stated this ordinance was not what the Board wanted to see as a draft ordinance; consensus of the Board was unanimous.

Review of Historic Structures Prior to Issuance of Demolition Permit (continued)

Chairman Ritz explained he did not have a clear picture of what a historic structure was, and it was a topic the City of Pensacola needed to address. Mr. Grundhoefer pointed out in Councilman Spencer's request, the Board needed to develop an ordinance that addresses demolition permits and felt a workshop should be scheduled first to allow input from UWF and the Historic Trust; that language would be placed into the ordinance so that it is comprehensive, with the Board using their invaluable resources.

Chairman Ritz explained whoever comes before the City to request a demolition permit, if the Board should write an ordinance committing other resources, we need to make sure those resources are verified. He pointed out the consensus of the Board was to create an informational workshop, possibly followed by an additional workshop where more concrete language is placed in an ordinance, leading into an agenda item for demolition permits and historic structures. Ms. Campbell suggested that the Board encourage Councilman Spencer to participate in the second workshop.

Ms. Deese reminded the Board there was a workshop held in August on this topic and staff had requested input, and Mr. Larson was the only Board member to provide information. Mr. Grundhoefer offered to draft an ordinance with some of the language which the Board could address and revise. Ms. Deese advised that once there is an ordinance, you still need an inventory. Mr. Grundhoefer suggested that information could be provided by Mr. Pristera.

Mr. Pristera with the Historic Trust stated Councilman Spencer asked him to present a proposal in May for the current historic districts. He indicated there were roughly 1800 properties, and the request was not to perform an extensive survey but re-photograph, document what has been torn down, what was new, and any significant changes to buildings. He performed a survey on Intendencia Street from Tarragona three blocks going east which encompassed 70 properties and it took approximately one hour in the field and six hours in the office for processing and comparing to current records using the existing information. He suggested when going into a citywide survey, a consultant might be necessary, and the Historic Trust could manage the records afterwards.

Mr. Larson said after the process has begun, they could prioritize the properties for demolition versus the age of the structures. Mr. Pristera suggested the workshop would establish what makes a property historic – determining age, historical events and cultural relevance. Mr. Grundhoefer pointed out the age could place it into a category for review with Building Inspections.

Ms. Hill questioned the need for a citywide survey since the historic districts were already under the purview of the ARB and felt the real need was to review the areas outside those districts.

Ms. Benchley pointed out the State of Florida has a wonderful preservation program and a grants program for surveying. She suggested having the Historic Trust partner with the City to have the work performed. She indicated there was lots of money at the state level for historic preservation planning.

Ms. Dubuisson felt the Board needed to start from scratch on what is worth preserving in Pensacola - what does it look like, what process do we come to as a consensus of it being of value to the community, whether it be architectural, historical, site significant, individual related, etc. She suggested maybe a task force could come up with the criteria using standards from other communities. The sooner the criteria was identified, the sooner there could be consensus.

Chairman Ritz indicated the consensus of this meeting was the scheduling of two workshops, one informational and one directional, with Mr. Grundhoefer creating a draft ordinance. Ms. Deese offered to

gain input from the Board on a specific date for the first workshop which would include Ms. Benchley and Mr. Pristera. She indicated a 72-notice would be required for attendance and room availability. The Board preferred a date in October.

Open Forum – None.

Adjournment – With no further business, Chairman Ritz adjourned the meeting at 3:55 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read "B. Deese", with a long horizontal line extending to the right.

Brandi C. Deese
City Planner
Secretary to the Board

: CITY CLERK'S OFFICE
CITY CLERK'S OFFICE/LEGAL ADS
CITY CLERK'S OFFICE
CITY OF PENSACOLA
PENSACOLA FL 32502

Published Daily-Pensacola, Escambia County, FL
PROOF OF PUBLICATION

State of Florida
County of Escambia:

Before the undersigned authority personally appeared Krista Kent, 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 PUBLIC HEARINGS

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

01/02/17

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 3th of January 2017, by Krista Kent who is personally known to me

Krista Kent
Affiant

Mark Dee Kent
Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

Publication Cost: \$223.94
Ad No: 0001816426
Customer No: PNJ-25615500

NOTICE OF PUBLIC HEARINGS

On Thursday, January 12, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, the Pensacola City Council will conduct the first of two (2) required public hearings to receive the benefit of citizen input for the purpose of considering the following three (3) issues:

PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-8 (B) - COMMERCIAL LAND USE DISTRICT - ADD "MEDICAL MARIJUANA DISPENSARY" UNDER USES PERMITTED.

PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-12-5 (BUILDING PERMITS) INCLUDING HISTORIC BUILDING DEMOLITION REVIEW.

PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT (A)(4) PROCEDURE FOR REVIEW.

The second public hearings for each issue will be held by the Pensacola City Council on Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, to receive the benefit of additional citizen input.

You are not required to respond or take any action regarding this notice; but if you wish to speak before City Council on this subject, you are invited to be present at the scheduled public hearing.

If any person decides to appeal any decision made with respect to any matter considered at this meeting, such person will need a record of the proceedings, and that for such purpose, he/she 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.

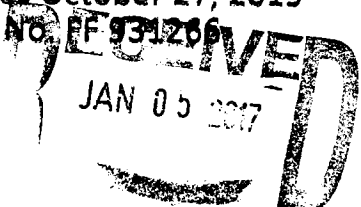
Requests must be made at least 48 hours in advance of the event in order to allow the City time to provide the requested services.

For additional information regarding this public hearing, please call the Office of the City Council at 435-1609.

City of Pensacola, Florida
Ericka L. Burnett, City Clerk

Visit www.cityofpensacola.com to learn more about City activities. Council agendas posted on-line before meetings.
Legal No.1816426 1T January 2, 2017

MARK DEE KENT
Notary Public - State of Florida
Comm. Expires October 27, 2019
Comm. No. EF 931266



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CITY CLERK'S OFFICE
CITY OF PENSACOLA
PENSACOLA FL 32502

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Notary Public - State of Florida
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NOTICE OF PUBLIC HEARINGS

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

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Sworn to and Subscribed before me this 31th of February 2017, by Krista Kent who is personally known to me

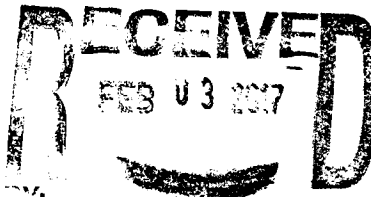
Krista Kent
Affiant

Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

Publication Cost: \$163.62
Ad No: 0001889438
Customer No: PNJ-25615500

NOTICE OF PUBLIC HEARINGS
On Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, the Pensacola City Council will conduct the second of two (2) required public hearings to receive the benefit of citizen input for the purpose of considering the following two (2) issues:
PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-8 (B) - COMMERCIAL LAND USE DISTRICT - ADD "MEDICAL MARIJUANA DISPENSARY" UNDER USES PERMITTED.
PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT (A)(4) PROCEDURE FOR REVIEW.
You are not required to respond or take any action regarding this notice; but if you wish to speak before City Council on this subject, you are invited to be present at the scheduled public hearing.
If any person decides to appeal any decision made with respect to any matter considered at this meeting, such person will need a record of the proceedings, and that for such purpose, he/she 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. 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.
For additional information regarding this public hearing, please call the Office of the City Council at 435-1609.
City of Pensacola, Florida
Ericka L. Burnett, City Clerk
Legal No 1889438 1T January 30, 2017

NOTICE OF PUBLIC HEARINGS
On Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers, 1st Floor of City Hall, 222 West Main Street, Pensacola, FL, the Pensacola City Council will conduct the second of two (2) required public hearings to receive the benefit of citizen input for the purpose of considering the following two (2) issues:
PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-8 (B) - COMMERCIAL LAND USE DISTRICT - ADD "MEDICAL MARIJUANA DISPENSARY" UNDER USES PERMITTED.
PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-2-10 - HISTORIC & PRESERVATION LAND USE DISTRICT (A)(4) PROCEDURE FOR REVIEW.
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City of Pensacola, Florida
Ericka L. Burnett, City Clerk
Legal No 1889438 1T January 30, 2017





Memorandum

File #: 06-17

City Council

3/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Andy Terhaar

SUBJECT:

PROPOSED ORDINANCE NO. 06-17 - PROPOSED AMENDMENT TO SECTION 12-2-8 (B) (1) OF THE LAND DEVELOPMENT CODE - ADDITION OF MEDICAL MARIJUANA DISPENSARY

RECOMMENDATION:

That City Council approve Proposed Ordinance No. 06-17 on second reading.

AN ORDINANCE AMENDING SECTION 12-2-8 (B) (1) OF THE CODE OF THE CITY OF PENSACOLA; AMENDING THE LAND DEVELOPMENT CODE, ADDITION OF MEDICAL MARIJUANA DISPENSARY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Land Development Code (LDC) is the principal means of planning and regulating the development and redevelopment of land in the City. The LDC was adopted by City Council in its present form in 1991 pursuant to the Local Government Comprehensive Planning and Land Development Regulation Act. From time to time, it is necessary to amend the LDC to provide consistency with the Comprehensive Plan and to respond to community concerns, legal considerations, changes in development patterns and planning techniques as well as addressing Legislative considerations.

In 2014, the Florida Legislature passed, and Gov. Rick Scott signed, a bill that attempted to exempt a limited class of individuals with certain medical disorders and their legal representatives from criminal penalties for using and possessing low-THC cannabis that was ordered for the patients by their physicians. Then, in 2016, the legislature passed a bill intended to improve the law, which would also allow terminally ill patients to access all forms of medical cannabis, all of which has been codified under Section 381.986 Florida Statutes.

As part of this legislation, parameters were placed on the dispensing of Medical Marijuana with the onus being placed on the Department of Health. The Department of Health has issued authorizations to the five organizations permitted under current law to cultivate and dispense medical cannabis for and to qualified

patients. The five organizations were required to be geographically dispersed, with one each in northwest Florida, northeast Florida, central Florida, southeast Florida, and southwest Florida.

In September of 2016, the City Council voted to refer this item to the Planning Board for review and recommendation. The Planning Board discussed this item at their October Planning Board meeting and recommended approval of this amendment to the Land Development Code.

PRIOR ACTION:

September 15, 2016 - City Council referred item to the Planning Board

October 11, 2016 - Planning Board recommends amendment to the Land Development Code

January 12, 2017- City Council held first public hearing

February 9, 2017- City Council held second public hearing and adopted Proposed Ordinance No. 06-17 on first reading

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Proposed Ordinance No. 06-17

PRESENTATION: No

PROPOSED
ORDINANCE NO. 06-17

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-2-8 (B) (1) OF THE CODE OF THE CITY OF PENSACOLA; AMENDING THE LAND DEVELOPMENT CODE, ADDITION OF MEDICAL MARIJUANA DISPENSARY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-2-8 (B) (1) of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 12-2-8. – Commercial land use district.

Sec. 12-2-8. - Commercial land use district.

The regulations in this section shall be applicable to the retail and downtown commercial and wholesale and light industry zoning districts: C-1, C-2A, C-2, R-C and C-3.

(A) *Purpose of district.* The commercial land use district is established for the purpose of providing areas of commercial development ranging from compact shopping areas to limited industrial/high intensity commercial uses. Conventional residential use is allowed as well as residential uses on upper floors above ground floor commercial or office uses and in other types of mixed use development. New development and redevelopment projects are strongly encouraged to follow the city's design standards and guidelines contained in section 12-2-82.

The C-1 zoning district's regulations are intended to provide for conveniently supplying the immediate needs of the community where the types of services rendered and the commodities sold are those which are needed frequently. The C-1 zoning district is intended to provide a transitional buffer between mixed-use neighborhood commercial areas and more intense commercial zoning. The downtown and retail commercial (C-2A and C-2) zoning districts' regulations are intended to provide for major commercial areas intended primarily for retail sales and service establishments oriented to a general community and/or regional market. The C-3 wholesale and light industry zoning district's regulations are intended to provide for general commercial services, wholesale distribution, storage and light fabrication.

The downtown retail commercial (C-2A) zoning district's regulations are intended to provide a mix of restaurants, retail sales, entertainment, and service establishments with an emphasis on pedestrian-oriented ground floor shops and market spaces.

The commercial retail (C-2) zoning district's regulations are intended to provide for major commercial areas intended primarily for retail sales and service establishments oriented to a general community and/or regional market.

The C-3 wholesale and light industry zoning district's regulations are intended to provide for general commercial services, wholesale distribution, storage and light fabrication.

(B) *Uses permitted.*

- (1) *C-1, retail commercial zoning district.* Any use permitted in the R-NC district and the following uses, with no outside storage or repair work permitted:
 - (a) Retail sales and services.
 - (b) Motels/hotels.
 - (c) Vending machine when as accessory to a business establishment and located on the same parcel of land as the business.
 - (d) Car washes.
 - (e) Movie theaters, except drive-in theaters.
 - (f) Open air sales of trees, plants and shrubs. The business shall include a permanent sales or office building (including restrooms) on the site.
 - (g) Pet shops with all uses inside the principal building.
 - (h) Parking lots and parking garages.
 - (i) Pest extermination services.
 - (j) Animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas.
 - (k) Business schools.
 - (l) Trade schools.
 - (m) Medical Marijuana Dispensary
 - (n) Accessory buildings and uses customarily incidental to the above uses.
- (2) *C-2A, downtown retail commercial district.* Any use permitted in the C-1 district with the exception of manufactured home parks, and Conditional Uses. The following uses with no outside storage or repair work permitted:
 - (a) Bars.
 - (b) Pool halls.
 - (c) Newspaper offices and printing firms.
 - (d) Marinas.
 - (e) Major public utility buildings and structures including radio and television broadcasting station.
 - (f) Amusement machine complex.
 - (g) Accessory buildings and uses customarily incidental to the above uses.
- (3) *C-2, commercial district (retail).* Any use permitted in the C-2A district and the following uses with no outside storage or repair work permitted:

- (a) Cabinet shops and upholstery shops.
 - (b) Electric motor repair and rebuilding.
 - (c) Garages for the repair and overhauling of automobiles.
 - (d) Bowling alleys.
 - (e) Skating rinks.
 - (f) Other recreation or amusement places operated for profit.
 - (g) Sign shop.
 - (h) Accessory buildings and uses customarily incidental to the above uses.
- (4) *C-3, commercial zoning district (wholesale and limited industry).*
- (a) Any use permitted in the C-2 district. Outside storage and work shall be permitted for those uses and the following uses, but shall be screened by an opaque fence or wall at least eight (8) feet high at installation. Vegetation shall also be used as a screen and shall provide seventy-five (75) percent opacity. The vegetative screen shall be located on the exterior of the required fence.
 - (b) Outside kennels, runs or exercise areas for animals subject to regulations in section 12-2-54.
 - (c) Growing and wholesale of retail sales of trees, shrubs and plants.
 - (d) Bakeries, wholesale.
 - (e) Ice cream factories and dairies.
 - (f) Quick-freeze plants and frozen food lockers.
 - (g) Boat sales and repair.
 - (h) Outdoor theaters.
 - (i) Industrial Research laboratories and pharmaceutical companies
 - (j) Truck sales and repair.
 - (k) Light metal fabrication and assembly.
 - (l) Contractors shops.
 - (m) Adult entertainment establishments subject to the requirements of chapter 7-3 of this Code.
 - (n) Industrial laundries and dry cleaners using combustible or flammable liquids or solvents with a flash point of one hundred ninety (190) degrees Fahrenheit or less which provide industrial type cleaning, including linen supply, rug and carpet cleaning, and diaper service.
 - (o) Retail lumber and building materials.
 - (p) Warehouses.
 - (q) Plumbing and electrical shops.

- (r) New car and used car lots, including trucks which do not exceed five thousand (5,000) pounds.
- (s) Car rental agencies and storage, including trucks which do not exceed five thousand (5,000) pounds.
- (t) Pawnshops and secondhand stores.
- (u) Mini-storage warehouses.
- (v) Advanced manufacturing and/or processing operations provided that such use does not constitute a nuisance due to emission of dust, odor, gas, smoke, fumes, or noise.
- (w) Accessory buildings and uses customarily incidental to the above uses.

(C) *Regulations.* All developments are required to comply with design standards and are strongly encouraged to follow design guidelines as established in section 12-2-82.

TABLE 12-2.7
REGULATIONS FOR THE COMMERCIAL ZONING DISTRICTS

Standards	C-1	C-2A	R-C, C-2 and C-3
Minimum Yard Requirements (Minimum Building Setbacks)	<p>There shall be no yard requirements, except that where any nonresidential use is contiguous to a residential zoning district there shall be a twenty-foot (20') yard unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.</p> <p>Inside the C-2A District and Dense Business Area: There shall be a maximum allowed front yard setback of 10'.</p>		
Maximum Building Height	No building shall exceed forty-five (45) feet in height at the property or setback lines. (See Note 1)	No building shall exceed one hundred (100) feet in height at the property or setback lines. (See Note 1)	
Lot Coverage Requirements (The maximum combined area occupied by all principal and accessory buildings)	Shall not exceed seventy-five (75) percent of the total site area for buildings up to one hundred (100) feet in height. For	Shall not exceed one hundred (100) percent of the total site area for buildings up to one hundred (100) feet in height. For	Inside the dense business area: shall not exceed one hundred (100) percent of the total site area for buildings up to one hundred (100) feet in height. For

	buildings over one hundred (100) feet in height, lot coverage shall not exceed sixty-five (65) percent.	buildings over one hundred (100) in height, lot coverage shall not exceed ninety (90) percent.	buildings over one hundred (100) feet in height, lot coverage shall not exceed ninety (90) percent (with the exception of the C-2A zoning district). Outside the dense business area: shall not exceed seventy-five (75) percent of the total site area for buildings up to one hundred (100) feet in height. For buildings over one hundred (100) feet in height, lot coverage shall not exceed sixty-five (65) percent.
Maximum Density Multiple Family Dwellings	.35 dwelling units per acre.	135 dwelling units per acre.	Inside the dense business area: One hundred thirty-five (135) dwelling units per acre. Outside the dense business area: Thirty-five (35) dwelling units per acre.

Note 1: Three (3) feet may be added to the height of the building for each foot the building elevation is stair-stepped or recessed back from the property or setback lines beginning at the height permitted up to a maximum height of one hundred fifty (150) feet.

(D) Reserved.

(E) *Additional regulations.* In addition to the regulations established above in section 12-2-8(C), all developments within the commercial zoning districts will be subject to, and must comply with, the following regulations:

- Supplementary district regulations subject to regulations in sections 12-2-31 to 12-2-50.
- Off-street parking subject to regulations in Chapter 12-3.
- Signs subject to regulations in Chapter 12-4.
- Tree/landscape regulations subject to regulations in Chapter 12-6.
- Stormwater management and control of erosion, sedimentation and runoff subject to regulations in Chapter 12-9.
- Alcoholic beverages regulations subject to Chapter 7-4 of this Code.

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

SECTION 3. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

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

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 16-00357

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Public Hearing - Proposed Amendment to the Land Development Code- Section 12-14-1 Definitions- Building Height.

RECOMMENDATION:

That City Council conduct a public hearing on February 9, 2017 to consider a proposed amendment to Section 12-14-1 of the City's Land Development Code pertaining to the definition of "Building Height".

Public Hearing Required: Public

SUMMARY:

In an ongoing effort to improve our ability to provide flexible development options within the City of Pensacola, amendments to the Land Development Code are needed. For years, there have been concerns expressed regarding the aesthetic and environmental impacts of the proliferation of surface parking. The "Pensacola Parking Syndrome" is a term that has been used to describe cities that construct parking lots in an effort to lure more people downtown, to the detriment of the aesthetic and historic value of the area. When dealing with private development, in recent years the City has approved amendments to the Land Development Code that reduced parking requirements and implemented parking "maximums". Another step that may be taken to incentivize the reduction of surface parking lots in future development, would be to revise the definition of "building height" in Section 12-14-1 of the City's Land Development Code, to allow for building height to be measured from the lowest habitable floor elevation instead of the current definition which measures it from the average elevation of the finished grade of the site.

On December 13, 2016, the City's Planning Board unanimously recommended approval of the proposed amendment, but wished to exclude the City's residential districts and the R-NC District from the amendment.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

12/30/2016

STAFF CONTACT:

Eric W. Olson, City Administrator

Sherry H. Morris, AICP, Planning Services Administrator

ATTACHMENTS:

- 1) Proposed Ordinance
- 2) December 13, 2016 Planning Board Minutes

PRESENTATION: Yes

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-14-1 DEFINITIONS OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a proper public hearing was held on February 9, 2017 concerning the following proposed amendment to the Land Development Code; and

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Chapter 12-14-1 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-14-1. - Definitions

As used in this title and unless the context clearly indicates otherwise:

Abandonment means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abut means having property or district lines in common.

Access management means a method whereby non-residential property owners limit the number of driveways or connections from individual parcels of property to the major thoroughfare.

Accessory residential unit means an accessory structure built or a portion of a single-family dwelling unit which is converted into a separate housing unit subject to regulations in section 12-2-52 and which may be rented.

Accessory office unit means an accessory structure built or a portion of a single-family dwelling unit which is converted into a separate office unit subject to regulations in section 12-2-51 and which may be rented.

Accessory use means a use or structure which:

- (a) Is clearly incidental to, customarily found in association with, and serves a principal use;
- (b) Is subordinate in purpose, area, or extent to the principal use served; and
- (c) Is located on the same lot as the principal use or on an adjoining lot in the same ownership as that of the principal use.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

Adjacent means any property that is immediately adjacent to, touching, or separated from such common border by the width of a right-of-way, alley, or easement.

Adult entertainment establishment means an adult motion picture theater, a leisure spa establishment, an adult bookstore, or an adult dancing establishment.

Airport means Pensacola Regional Airport.

Airspace height means the height limits in all zones set forth in chapter 12-11, which shall be measured as mean sea level elevation (ASML), unless otherwise specified.

Alleys are roadways which afford only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration means any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders or interior partitions, as well as any change in doors or windows, or any enlargement to or diminution of a building or structure, whether horizontally or vertically.

Amusement machine complex means a group of three (3) or more amusement games or other amusement machines, in the same place, location or premises.

Anchoring system means an approved system of straps, cables, turnbuckles, chains, ties or other approved materials used to secure a manufactured home.

Animal clinic, veterinary clinic means an establishment where small animals are admitted for examination and treatment by one

or more persons practicing veterinary medicine. Animals may be boarded or lodged overnight provided such activity is totally confined within the building. No outside pens or runs shall be allowed. See: Kennel.

NOTE: Small animals shall be deemed to be ordinary household pets excluding horses, monkeys, or other such animals not readily housed or cared for entirely within the confines of a residence.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Antenna array means one (1) or more personal wireless antennas used by a single service provider and designed and installed at the same site in such a way as to operate as a unit.

Antenna support structure means a guyed or lattice-work tower that is designed and constructed for the sole purpose of supporting one (1) or more personal wireless antennas.

Apartment house. See: Dwelling, multiple.

Automobile repair. See: Garage, mechanical.

Appeal means a request for a review of the building official's interpretation of any provision of this title or a request for a variance.

Bar means a structure or part of a structure in which the principal business is the sale or dispensing of alcoholic beverages for consumption on the premises. This term includes lounges, taverns, pubs, bottle clubs, etc.

Bed and breakfast facility means an accessory use in which no more than four (4) rooms or lodging units and breakfast service only is provided to guest clients, for lengths of stay ranging from one night to seasonal, by the owner of the principal structure living on-site.

Block means a parcel of land entirely surrounded by public streets, watercourse, railway, right-of-way, parks, etc., or a combination thereof.

Boardinghouse, lodging house means a dwelling other than an apartment, commercial hotel or motel where, for compensation and by prearrangement for definitive periods, lodging, or lodging and meals are provided for five (5) or more persons; and which

is subject to licensing by the Division of Hotels and Restaurants of the Florida Department of Business Regulations as a rooming or boarding house.

Boats and boat trailers means a vessel or craft for use on the water which is customarily mounted upon a highway vehicle designed to be hauled by an automobile vehicle.

Boat sales and service shop means an establishment primarily engaged in the sale or repair of boats, marine engines, marine equipment, and any similar services.

Buffer yard means a ten-foot strip of yard along the property line(s) used to visibly separate incompatible land uses and/or zoning districts as regulated through provisions established in section 12-2-32.

Buildable area means area inside building setback lines.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Building coverage means the area of a site covered by all principal and accessory buildings.

Building height means the vertical distance of a building measured from the ~~average elevation of the finished grade~~ lowest habitable floor elevation to the highest point of the roof, except in a special flood hazard area where the height of a building is measured from an elevation established three (3) feet above the required base flood elevation. For all residential zoning districts as defined in this section and the Residential/neighborhood commercial land use district (R-NC), the building height means the vertical distance of a building measured from the average elevation of the finished grade to the highest point of the roof, except in a special flood hazard area where the height of a building is measured from an elevation established three (3) feet above the required base flood elevation.

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

MINUTES OF THE PLANNING BOARD

December 13, 2016

MEMBERS PRESENT: Paul Ritz-Chairman, Nina Campbell, Danny Grundhoefer, Kurt Larson, Nathan Monk

MEMBERS ABSENT: Kyle Owens

STAFF PRESENT: Brandi Deese, Leslie Statler

OTHERS PRESENT: Diane Mack, Don Kraher

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from November 8, 2016
- LDC Amendment – Section 12-14-1 (Definition of Building Height)
- Open Forum
- Adjournment

Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:06 pm with a quorum present. He gave instructions to the audience on the rules and procedures of the Board.

Approval of Meeting Minutes

Mr. Larson made a motion to approve the November 8, 2016 minutes. Ms. Campbell seconded the motion, and it carried unanimously.

LDC Amendment – Section 12-14-1 (Definition of Building Height)

Ms. Deese introduced the item which proposed to address concerns relative to surface parking lots and building height and explained the reason for adjusting the height. It has been mentioned several times in the recent past, by citizens and developers alike, that the City should discourage the use of surface parking lots or encourage development that hides the parking area, especially in prime locations within the City. In an effort to address those comments, the attached draft ordinance amends the definition for building height. The proposed amendment changes the definition for building height to be measured from the lowest habitable floor elevation instead of the current definition which measures it from the average elevation of the finished grade. This amendment would encourage parking below the first habitable floor elevation in prime locations where multi-story structures are most likely to be erected. This amendment creates an incentive to contain the parking underneath the building so that portion of the structure is not calculated into the building height, and at the same time it creates a more buildable footprint. Chairman Ritz discussed this issue with fellow architects and colleagues, and their concern was the lack of engagement when storefronts are elevated.

Mr. Larson gave examples in Tampa and Denver which have floors 1 through 3 for parking and 4 through 6 residential. Mr. Grundhoefer pointed out some zones are not suitable for multi-story which could then be constructed.

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

Mr. Monk explained if we isolate more areas to be historically preserved, up is the only way to build. Ms. Deese stated in development review meetings over the past year or two, it was shown that developers would benefit from this amendment.

Mr. Larson asked if it was possible to have a 35 foot parking structure and a 35 foot building, and Ms. Deese confirmed it was possible but not likely. Mr. Grundhoefer explained parking structures in New Orleans using car elevators to stack cars on parking decks, and this would not be acceptable in a residential neighborhood. Ms. Deese reiterated that it is not financially feasible in a medium to low density residential zoning district to construct a parking garage and she could not see that occurring. Ms. Deese also explained for transparency that this agenda item was drafted prior to last Wednesday's development review meeting where a developer proposed a project that would benefit from this amendment. She continued by stating that staff was unaware of this specific project at the time the Planning Board Agenda was created.

The Board then discussed flood and grade elevation. Mr. Grundhoefer suggested language "limited to one level of non-habitable space" to discourage parking garages with the first habitable space being 30-40-50 feet above grade in a zone allowing a 35 foot height limitation. They discussed a scenario of 90 feet of parking with one level of building and Ms. Deese again stated that was extremely unlikely that it would occur. Chairman Ritz did not think one level was enough.

Ms. Deese explained that in C-2A and C-3 you can build up to 100 feet, and even higher up to 150 feet however, it begins to dictate the percentage of lot coverage. Mr. Grundhoefer was concerned with residential zones; Ms. Deese stated the downtown area was the primary target.

The Board then discussed zones; consensus of the Board was exclude residential zones. Chairman Ritz asked for a motion. Ms. Deese read the revisions to the draft: **Building height means the vertical distance of a building measured from the average elevation of the finished grade to the highest point of the roof, except in a special flood hazard area where the height of a building is measured from an elevation established three (3) feet above the required base flood elevation. In C-1, C-2, C-2A, C-3, M1 and M2 zones, the measurements are from the lowest habitable floor elevation to the highest point of the roof.** Mr. Larson made a motion to adopt the amendment, seconded by Mr. Monk, and it carried unanimously.

Open Forum – Ms. Diane Mack thanked the Board for the support of the 9th Avenue Corridor Management Ordinance which was passed by the City Council. Chairman Ritz thanked Ms. Mack for her ground work on the ordinance. As a result, Mr. Monk explained he was more cognitive of the corridor being more of a thoroughfare through a neighborhood rather than a highway.

Mr. Grundhoefer asked for an update on the historic preservation ordinance.

Mr. Kraher stated the item is in the legal department for review. They are ironing out concerns with the city attorney and council chair, with the hope to present it to Council in January 2017. Mr. Grundhoefer was concerned with legal changing the intent. With the moratorium expiring in March, it was important to get the ordinance to Council for two readings. Mr. Kraher preferred the attorney speak to the three issues being considered, one of which was the Board's authority to impose fines, the definition of a historic structure, and a concern with the ordinance which was presented being stricter than what is currently in place in the historic district (state act). He explained this Board was considered a recommending board. Ms. Deese pointed out the Board had quasi-judicial proceedings but it was only limited to variance requests. Mr. Kraher indicated fines would be enforced by Code Enforcement and the Magistrate. Mr. Kraher advised the goal for the historic preservation ordinance was to get the recommendation through City Council in two meetings before the expiration of the moratorium in March. The first reading would be February 2017 and second reading March 2017 prior to the moratorium expiration.

Mr. Larson thanked the Board for its discussions and Chairman Ritz for his leadership.

Adjournment – With no further business, Chairman Ritz adjourned the meeting at 2:49 pm.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Brandi C. Deese', with a long horizontal flourish extending to the right.

Brandi C. Deese
City Planner
Secretary to the Board

PLANNING/CITY OF PEN/LEGAL AD
180 W GOVERNMENT ST

PENSACOLA FL 32502

Published Daily-Pensacola, Escambia County, FL
PROOF OF PUBLICATION

State of Florida
County of Escambia:

Before the undersigned authority personally appeared Krista Kent, 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 PUBLIC HEARING

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

01/30/17

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 31th of February 2017, by Krista Kent who is personally known to me

Krista Kent
Affiant

Mark Dee Kent

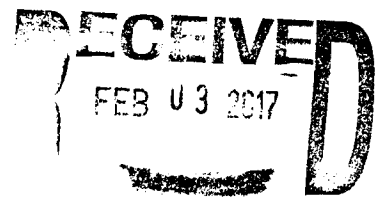
Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

Publication Cost: \$135.78
Ad No: 0001874394
Customer No: PNJ-24384500

MARK DEE KENT
Notary Public - State of Florida
Comm. Expires October 27, 2019
Comm. No. FF 931266

NOTICE OF PUBLIC HEARING
On Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers of City Hall, 222 West Main Street, the Pensacola City Council will a conduct public hearing to consider the following:
•Proposed Amendment to the Land Development Code - Section 12-14 Definitions- Building Height
You are not required to respond or take any action regarding this notice; but if you wish to speak before the City Council on this subject, you are invited to be present at the scheduled hearing.
If any person decides to appeal any decision made with respect to any matter considered at this meeting, such person will need a record of the proceedings, and that for such purpose, he/she 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.
For additional information on this matter, please call Planning Services at (850) 435-1670.
By direction of the City Council,
Ericka L. Burnett
City Clerk
Legal No. 1874394 1T Jan. 30, 2017

NOTICE OF PUBLIC HEARING
On Thursday, February 9, 2017 at 5:30 p.m. in the Council Chambers of City Hall, 222 West Main Street, the Pensacola City Council will a conduct public hearing to consider the following:
•Proposed Amendment to the Land Development Code - Section 12-14 Definitions- Building Height
You are not required to respond or take any action regarding this notice; but if you wish to speak before the City Council on this subject, you are invited to be present at the scheduled hearing.
If any person decides to appeal any decision made with respect to any matter considered at this meeting, such person will need a record of the proceedings, and that for such purpose, he/she 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.
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By direction of the City Council,
Ericka L. Burnett
City Clerk
Legal No. 1874394 1T Jan. 30, 2017





City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 07-17

City Council

3/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 07-17 - PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - SECTION 12-14-1 DEFINITIONS - BUILDING HEIGHT

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 07-17 on second reading.

AN ORDINANCE AMENDING SECTION 12-14-1 DEFINITIONS OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

Public Hearing Required: No Hearing Required

SUMMARY:

In an ongoing effort to improve our ability to provide flexible development options within the City of Pensacola, amendments to the Land Development Code are needed. For years, there have been concerns expressed regarding the aesthetic and environmental impacts of the proliferation of surface parking. The "Pensacola Parking Syndrome" is a term that has been used to describe cities that construct parking lots in an effort to lure more people downtown, to the detriment of the aesthetic and historic value of the area. When dealing with private development, in recent years the City has approved amendments to the Land Development Code that reduced parking requirements and implemented parking "maximums". Another step that may be taken to incentivize the reduction of surface parking lots in future development, would be to revise the definition of "building height" in Section 12-14-1 of the City's Land Development Code, to allow for building height to be measured from the lowest habitable floor elevation instead of the current definition which measures it from the average elevation of the finished grade of the site.

On December 13, 2016, the City's Planning Board unanimously recommended approval of the proposed amendment, but wished to exclude the City's residential districts and the R-NC District from the amendment.

PRIOR ACTION:

February 9, 2017 - City Council adopt Proposed Ordinance No. 07-17 on first reading

January 12, 2017 - City Council held first public hearing.

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

12/30/2016

STAFF CONTACT:

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

ATTACHMENTS:

- 1) Proposed Ordinance No. 07-17

PRESENTATION: Yes

PROPOSED
ORDINANCE NO. 07-17

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-14-1 DEFINITIONS OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a proper public hearing was held on February 9, 2017 concerning the following proposed amendment to the Land Development Code; and

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Chapter 12-14-1 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-14-1. - Definitions

As used in this title and unless the context clearly indicates otherwise:

Abandonment means to cease or discontinue a use or activity without intent to resume, but excluding temporary or short-term interruptions to a use or activity during periods of remodeling, maintaining, or otherwise improving or rearranging a facility, or during normal periods of vacation or seasonal closure.

Abut means having property or district lines in common.

Access management means a method whereby non-residential property owners limit the number of driveways or connections from individual parcels of property to the major thoroughfare.

Accessory residential unit means an accessory structure built or a portion of a single-family dwelling unit which is converted into a separate housing unit subject to regulations in section 12-2-52 and which may be rented.

Accessory office unit means an accessory structure built or a portion of a single-family dwelling unit which is converted into a separate office unit subject to regulations in section 12-2-51 and which may be rented.

Accessory use means a use or structure which:

- (a) Is clearly incidental to, customarily found in association with, and serves a principal use;
- (b) Is subordinate in purpose, area, or extent to the principal use served; and
- (c) Is located on the same lot as the principal use or on an adjoining lot in the same ownership as that of the principal use.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a fire wall. Any walled and roofed addition which is connected by a fire wall or is separated by independent perimeter load-bearing walls is new construction.

Adjacent means any property that is immediately adjacent to, touching, or separated from such common border by the width of a right-of-way, alley, or easement.

Adult entertainment establishment means an adult motion picture theater, a leisure spa establishment, an adult bookstore, or an adult dancing establishment.

Airport means Pensacola Regional Airport.

Airspace height means the height limits in all zones set forth in chapter 12-11, which shall be measured as mean sea level elevation (ASML), unless otherwise specified.

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Anchoring system means an approved system of straps, cables, turnbuckles, chains, ties or other approved materials used to secure a manufactured home.

Animal clinic, veterinary clinic means an establishment where small animals are admitted for examination and treatment by one

or more persons practicing veterinary medicine. Animals may be boarded or lodged overnight provided such activity is totally confined within the building. No outside pens or runs shall be allowed. See: Kennel.

NOTE: Small animals shall be deemed to be ordinary household pets excluding horses, monkeys, or other such animals not readily housed or cared for entirely within the confines of a residence.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communication signals.

Antenna array means one (1) or more personal wireless antennas used by a single service provider and designed and installed at the same site in such a way as to operate as a unit.

Antenna support structure means a guyed or lattice-work tower that is designed and constructed for the sole purpose of supporting one (1) or more personal wireless antennas.

Apartment house. See: Dwelling, multiple.

Automobile repair. See: Garage, mechanical.

Appeal means a request for a review of the building official's interpretation of any provision of this title or a request for a variance.

Bar means a structure or part of a structure in which the principal business is the sale or dispensing of alcoholic beverages for consumption on the premises. This term includes lounges, taverns, pubs, bottle clubs, etc.

Bed and breakfast facility means an accessory use in which no more than four (4) rooms or lodging units and breakfast service only is provided to guest clients, for lengths of stay ranging from one night to seasonal, by the owner of the principal structure living on-site.

Block means a parcel of land entirely surrounded by public streets, watercourse, railway, right-of-way, parks, etc., or a combination thereof.

Boardinghouse, lodging house means a dwelling other than an apartment, commercial hotel or motel where, for compensation and by prearrangement for definitive periods, lodging, or lodging and meals are provided for five (5) or more persons; and which

is subject to licensing by the Division of Hotels and Restaurants of the Florida Department of Business Regulations as a rooming or boarding house.

Boats and boat trailers means a vessel or craft for use on the water which is customarily mounted upon a highway vehicle designed to be hauled by an automobile vehicle.

Boat sales and service shop means an establishment primarily engaged in the sale or repair of boats, marine engines, marine equipment, and any similar services.

Buffer yard means a ten-foot strip of yard along the property line(s) used to visibly separate incompatible land uses and/or zoning districts as regulated through provisions established in section 12-2-32.

Buildable area means area inside building setback lines.

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Building coverage means the area of a site covered by all principal and accessory buildings.

Building height means the vertical distance of a building measured from the average elevation of the finished grade lowest habitable floor elevation to the highest point of the roof, except in a special flood hazard area where the height of a building is measured from an elevation established three (3) feet above the required base flood elevation. For all residential zoning districts as defined in this section and the Residential/neighborhood commercial land use district (R-NC), the building height means the vertical distance of a building measured from the average elevation of the finished grade to the highest point of the roof, except in a special flood hazard area where the height of a building is measured from an elevation established three (3) feet above the required base flood elevation.

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

File #: 17-00095

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Sherri F. Myers

SUBJECT:

Resolution of Council's Expression of Confidence in Police Chief David Alexander, III

RECOMMENDATION:

That City Council adopt a resolution expressing the Council's confidence in Police Chief David Alexander, III.

HEARING REQUIRED: No Hearing Required

SUMMARY:

David Alexander III became the first African-American Chief of Police of the Pensacola Police Department (PPD), his appointment being approved on July 16, 2015.

Chief Alexander was hired by the Pensacola Police Department as a cadet in 1983, promoted to police officer where he served from 1984 - 1989 when he briefly left the department. He was rehired by the department as a police officer in 1991.

During his tenure with PPD, Chief Alexander has been assigned to Uniform Patrol, as a Field Training Officer and Supervisor in Uniform Patrol, in Administrative Technical Services, Neighborhood Services and Criminal Investigations Divisions.

Chief Alexander rose through the ranks within PPD, being promoted to the rank of Sergeant in 1992, to Lieutenant in 1998, Captain in 2002, Assistant Chief of Police in 2014 and Chief in 2015.

Chief Alexander holds a Bachelor's of Science degree in Criminal Justice, a Master's degree in Human Resource Management and is a graduate of the FBI National Academy.

Chief Alexander is involved in the community with the Pensacola Weed and Seed Partnership, the Florida Governor's Front Porch Initiative, Leadership Development Focus Group, Little Free Libraries, Florida Youth Challenge Academy and Big Brothers-Big Sisters of Northwest Florida. He serves as a mentor for youths, is involved in community outreach and is involved in his church. Within PPD, Chief Alexander espouses a Community Oriented Policing philosophy.

PRIOR ACTION:

July 16, 2015 - City Council approved the appointment of David Alexander, III as Chief of Police.

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Resolution - Council's Expression of Confidence in Chief David Alexander, III

PRESENTATION: No

RESOLUTION
NO. 17-11

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PENSACOLA, FLORIDA EXPRESSING THE COUNCIL'S
CONTINUED CONFIDENCE IN POLICE CHIEF DAVID
ALEXANDER III

WHEREAS, David Alexander III has served the citizens of the City of Pensacola as a Police Officer in the Pensacola Police Department since 1984, with a brief break in service from 1989-1991 and serving continuously in that capacity since 1991; and

WHEREAS, during his tenure with the Pensacola Police Department David Alexander has held many positions within the department including Uniform Patrol, Field Training Officer, Supervisor in Uniform Patrol, Administrative Technical Services, Neighborhood Service and Criminal Investigations divisions ; and

WHEREAS, David Alexander III rose through the ranks within the Police Department earning the rank of Sergeant in 1992, Lieutenant in 1998, Captain in 2002 and Assistant Chief of Police in 2014; and

WHEREAS, on July 16, 2015 David Alexander III became the first African-American Chief of Police since the department was formed in 1821; and

WHEREAS, Chief David Alexander has increased his value to the city through the attaining of a Bachelor's Degree in Criminal Justice, a Master's Degree in Human Resource Management and is a Graduate of the FBI National Academy; and

WHEREAS, the citizens of Pensacola have witnessed Chief Alexander's community involvement through his participation in the Pensacola Weed and Seed Partnership, the Florida Governor's Front Porch Initiative, the Leadership Development Focus Group, Little Free Libraries, Florida Youth Challenge Academy, Big Brothers-Big Sisters of Northwest Florida, mentoring youth and involvement in community outreach; and

WHEREAS, as Chief of Police, Chief Alexander espouses a Community Oriented Policing philosophy.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA,
FLORIDA:

SECTION 1. That the Pensacola City Council expresses their continued confidence in Police Chief David Alexander III and in his ability to continue as the leader of the Pensacola Police Department.

SECTION 2. That a copy of this Resolution be forwarded to the Mayor.

SECTION 3. 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

File #: 17-11

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Sherri F. Myers

SUBJECT:

Resolution 17-11 - City Council's Expression of Confidence in Police Chief David Alexander, III

RECOMMENDATION:

That City Council Adopt Resolution No. 17-11.

HEARING REQUIRED: No Hearing Required

SUMMARY:

David Alexander, III became the first African-American Chief of Police of the Pensacola Police Department (PPD), his appointment being approved on July 16, 2015.

Chief Alexander was hired by the Pensacola Police Department as a cadet in 1983, promoted to police officer where he served from 1984 - 1989 when he briefly left the department. He was rehired by the department as a police officer in 1991.

During his tenure with PPD, Chief Alexander has been assigned to Uniform Patrol, as a Field Training Officer and Supervisor in Uniform Patrol, in Administrative Technical Services, Neighborhood Services and Criminal Investigations Divisions.

Chief Alexander rose through the ranks within PPD, being promoted to the rank of Sergeant in 1992, to Lieutenant in 1998, Captain in 2002, Assistant Chief of Police in 2014 and Chief in 2015.

Chief Alexander holds a Bachelor's of Science degree in Criminal Justice, a Master's degree in Human Resource Management and is a graduate of the FBI National Academy.

Chief Alexander is involved in the community with the Pensacola Weed and Seed Partnership, the Florida Governor's Front Porch Initiative, Leadership Development Focus Group, Little Free Libraries, Florida Youth Challenge Academy and Big Brothers-Big Sisters of Northwest Florida. He serves as a mentor for youths, is involved in community outreach and is involved in his church. Within PPD, Chief Alexander espouses a Community Oriented Policing philosophy.

PRIOR ACTION:

July 16, 2015 - City Council approved the appointment of David Alexander, III as Chief of Police

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Resolution - Council's expression of confidence in Chief David Alexander, III

PRESENTATION: No

RESOLUTION
NO. 17-11

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PENSACOLA, FLORIDA EXPRESSING THE COUNCIL'S
CONTINUED CONFIDENCE IN POLICE CHIEF DAVID
ALEXANDER III

WHEREAS, David Alexander, III has served the citizens of the City of Pensacola as a Police Officer in the Pensacola Police Department since 1984, with a brief break in service from 1989-1991 and serving continuously in that capacity since 1991; and

WHEREAS, during his tenure with the Pensacola Police Department David Alexander has held many positions within the department including Uniform Patrol, Field Training Officer, Supervisor in Uniform Patrol, Administrative Technical Services, Neighborhood Service and Criminal Investigations divisions ; and

WHEREAS, David Alexander III rose through the ranks within the Police Department earning the rank of Sergeant in 1992, Lieutenant in 1998, Captain in 2002 and Assistant Chief of Police in 2014; and

WHEREAS, on July 16, 2015 David Alexander III became the first African-American Chief of Police since the department was formed in 1821; and

WHEREAS, Chief David Alexander has increased his value to the city through the attaining of a Bachelor's Degree in Criminal Justice, a Master's Degree in Human Resource Management and is a Graduate of the FBI National Academy; and

WHEREAS, the citizens of Pensacola have witnessed Chief Alexander's community involvement through his participation in the Pensacola Weed and Seed Partnership, the Florida Governor's Front Porch Initiative, the Leadership Development Focus Group, Little Free Libraries, Florida Youth Challenge Academy, Big Brothers-Big Sisters of Northwest Florida, mentoring youth and involvement in community outreach; and

WHEREAS, as Chief of Police, Chief Alexander espouses a Community Oriented Policing philosophy.

NOW, THEREFORE,

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA,
FLORIDA:

SECTION 1. That the Pensacola City Council expresses their continued confidence in Police Chief David Alexander, III and in his ability to continue as the leader of the Pensacola Police Department.

SECTION 2. That a copy of this Resolution be forwarded to the Mayor.

SECTION 3. 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

File #: 17-00086

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Sherri F. Myers

SUBJECT:

Tree Replacement and Reforestation along the 12th Ave Tree Canopy

RECOMMENDATION:

That City Council authorize the use of \$10,000 from the Tree Trust Fund for the replacement and reforestation of trees along the 12th Ave Tree Canopy with specific planting locations to be determined by the Environmental Advisory Board in conjunction with the Parks and Recreation Department as well as the arborist used by the city and authorize the Mayor to take the necessary action(s) to facilitate this authorization.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Over time and due to a variety of circumstances, the 12th Ave Tree Canopy has lost trees in various locations. The Environmental Advisory Board, in recognizing the benefit of tree replacement and reforestation in this area has requested that action be taken to remedy the situation.

The need to maintain the 12th Ave Tree Canopy serves as a benefit to the City both environmentally and aesthetically.

PRIOR ACTION:

None

FUNDING:

Budget: \$ 0

Actual: \$ 10,000

FINANCIAL IMPACT:

Use of \$10,000 from the Tree Trust Fund

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Supplemental Budget Resolution
- 2) Supplemental Budget Resolution Explanation

PRESENTATION: No



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 17-12

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Sherri F. Myers

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 17-12 - TREE REPLACEMENT AND REFORESTATION ALONG THE 12TH AVENUE TREE CANOPY

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 17-12.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Over time and due to a variety of circumstances, the 12th Avenue Tree Canopy has lost trees in various locations. The Environmental Advisory Board, in recognizing the benefit of tree replacement and reforestation in this area has requested that action be taken to remedy the situation.

The need to maintain the 12th Avenue Tree Canopy serves as a benefit to the City both environmentally and aesthetically.

PRIOR ACTION:

None

FUNDING:

Budget: \$ 0

Actual: \$10,000

FINANCIAL IMPACT:

Use of \$10,000 from the Tree Trust Fund

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Supplemental Budget Resolution No. 17-12
- 2) Supplemental Budget Resolution No. 17-12 Explanation

PRESENTATION: No

**RESOLUTION
NO. -**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. TREE PLANTING TRUST FUND

Fund Balance		10,000
As Reads:	Operating Expenses	240,286
Amended		
To Read:	Operating Expenses	250,286

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

SECTION 3. 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

THE CITY OF PENSACOLA

FEBRUARY 2017 - SUPPLEMENTAL BUDGET RESOLUTION - 12TH AVENUE TREE TUNNEL

FUND	AMOUNT	DESCRIPTION
TREE PLANTING TRUST FUND		
Fund Balance	<u>10,000</u>	Increase appropriated fund balance
Appropriations		
Operating Expenses	<u>10,000</u>	Increase appropriation for Operating Expenses
Total Appropriations	<u>10,000</u>	



Memorandum

File #: 17-00019

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Vice President Gerald Wingate

SUBJECT:

Amendment to City Policy for Disposition of City Owned Real Property

RECOMMENDATION:

That City Council amend the policy for the Disposition of City Owned Real Property to include disbursement directly to the City Housing Division for use in the Lot Purchase Program and to adopt Lot Purchase Program guidelines.

Public Hearing Required: No Hearing Required

SUMMARY:

The City Council and Mayor have expressed the desire to expand delivery of housing programs through enhanced housing resources and availability. The City currently has several methods to dispose of surplus properties but each require bids, proposals or economic development criteria not appropriate for income eligible housing programs. The current recommendation is to adopt a qualified affordable home buyer incentive through providing selected City owned residential parcels and to provide for deferred payment for the City owned parcel. The program will offer a qualified buyer a residential lot providing them the opportunity to construct a single family house sized for zoning conformity and neighborhood compatibility. The qualified buyer will select a house plan from the catalog of plans the Housing Division has designed to complement the various neighborhoods served throughout the City and built since 2002 under the HOME Housing Reconstruction Program. Income guidelines will follow the HUD and SHIP program adjusted for family size to implement the program as follows:

<u>Family Size</u>	<u>Low Income (80% AMI)</u>	<u>Moderate Income (120% AMI)</u>
1	\$33,400	\$50,160
2	\$38,200	\$57,240
3	\$42,950	\$64,440
4	\$47,700	\$71,520
5	\$51,550	\$77,280
6	\$55,350	\$83,040
7	\$59,150	\$88,800
8	\$63,000	\$94,440

The program income criteria will be updated annually in accordance with the income guidelines published by the U. S. Department of Housing and Urban Development.

The residential lot will be offered to the qualified homeowner via a deferred payment loan at 0% interest secured by mortgage and note. The lot value will be based upon the appraised value of the land and will be forgiven in annual increments over five years assuming compliance with all program requirements. The sale, rental, or transfer of ownership during the mortgage term shall be a default whereupon the City investment shall be repaid (repayment in full will be required for defaults within one year of purchase, and repayment of the undepreciated portions will be required for default after the initial year). The value of the land and selling price of the home will be established by a licensed fee appraiser.

Additionally, as a condition of the sale, the purchaser will grant the City of Pensacola a right of first refusal to purchase the property prior to their acceptance of any offer to sell or otherwise convey the property during the term of the loan.

The purchase price when offered to the City under the right of refusal will not exceed the original selling price, thus maintaining continued affordability.

Residential lots suitable for the program will be identified through the City's property disposition process and other property acquisition methods presented to the City.

PRIOR ACTION:

January 13, 2000	Proposed Policy for Disposition of City Owned Real Property
November 21, 2002	Disposal of City Owned Property
September 13, 2007	Amendment to City Policy for Disposition of Surplus Property
August 19, 2010	Resolution 21-10 Strong Mayor Policy Amendments

FUNDING:

Budget: N/A

Actual: N/A

FINANCIAL IMPACT:

N/A

CITY ATTORNEY REVIEW: No

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

STAFF CONTACT:

Eric W. Olson, City Administrator
Keith Wilkins, Assistant City Administrator

ATTACHMENTS:

- 1) Policy for Disposition of City Owned Real Property
- 2) Residential Lot Purchase Program Guidelines
- 3) Revised Policy for Disposition of City Owned Real Property (if adopted)

PRESENTATION: No

CITY OF PENSACOLA POLICIES OF THE CITY COUNCIL

POLICY FOR DISPOSITION OF CITY OWNED REAL PROPERTY -

Adopted by Council Action January 13, 2000. Revised November 21, 2002 & September 13, 2007;
Amended by Resolution August 21, 2010 effective Noon, January 10, 2011

The following guidelines apply to the disposition (by sale or lease) of City-owned property other than at the airport or port.

Types of Disposal by Sale or Lease

- A. Open Bid
- B. Request for Proposal (RFP)
- C. Direct Negotiation
- D. Economic Development Option

Process

1. The Mayor identifies City property as surplus or otherwise available for disposal, utilization or development and recommends to City Council through the appropriate committee a method of transaction (open bid, RFP, direct negotiation or economic development direct negotiation).
2. City Council confirms property availability and determines the transaction method as outlined below.
3. Open Bid Option:
 - Obtain appraisal.
 - Notify property owners within 300 foot radius
 - Prepare bid specifications.
 - Accept public sealed bids.
 - Council accepts or rejects bid.
4. RFP Option:
 - Obtain appraisal.
 - Notify property owners within 300 foot radius.
 - Identify development or utilization criteria based on comprehensive plan, master plans, economic or market conditions, impact on adjacent neighborhoods, neighborhood input, and physical characteristics of property.
 - Prepare RFP requirements and specifications.
 - Accept public sealed proposal(s).
 - Council accepts or rejects proposal(s).
5. Direct Negotiation Option:
 - Obtain appraisal (unless property is of little or no value).
 - Notify property owners within 300 foot radius.
 - Administration negotiates agreement.
 - Council accepts or rejects bid.

6. Economic Development Option:

- Obtain appraisal (unless property is of little or no value).
- Notify property owners within 300 foot radius.
- Minimum Qualifying Criteria:
 - Will result in the creation of new jobs in the City, and
 - ⊙ Will substantially enhance the economic health of the City by creating jobs with an average salary of at least 130% of average annual Pensacola MSA Wages according to the Florida Agency for Workforce Innovation, and
 - The new jobs created are in a Qualified Targeted Industry (QTI) approved by the Florida Office of Trade, Tourism and Economic Development as prescribed in F.S. 288.106, and
 - The company that will benefit from the sale or lease of publicly-owned land must demonstrate that over 50 percent of its annual sales revenue is generated from outside of the Pensacola MSA.
 - Administration negotiates agreement.
 - Council accepts or rejects agreement/offer.

**CITY OF PENSACOLA
RESIDENTIAL LOT PURCHASE PROGRAM GUIDELINES**

BACKGROUND:

Nationwide, and within the local community, there is increased interest in the development of affordable housing. Affordable housing is defined as housing that costs no more than 30% of a household's gross income. To address the need for the development of affordable housing and return city owned property back into productive use, the Housing Division proposes to implement the Residential Lot Purchase Program. The program will provide home ownership opportunities within the urban core by assisting qualified lower income homebuyers to construct affordable neighborhood friendly single family homes on City owned residential parcels. The houses will be starter homes, affordable, and meet all the broad goals and objectives of the City's neighborhood and infill plans. The program will target low to moderate income households. In the Pensacola metropolitan area, current data sets this range from \$47,700 to \$71,520 for a family of four. The proposed program was presented to the Escambia-Pensacola Affordable Housing Advisory Committee and received unanimous support. Similar strategies have been successfully offered by the City. Since 1990, 49 homes have been built from East Hill to Brownsville under the City's CRA Housing Projects, the Urban Infill Housing Program, the Urban Homestead Program, and the Neighborhood Stabilization Program.

PROGRAM:

The program will offer a qualified buyer a residential lot providing them the opportunity to construct a single family house sized for zoning conformity and neighborhood compatibility. The qualified buyer will select a house plan from the catalog of plans the Housing Division has designed to complement the various neighborhoods served throughout the City and built since 2002 under the HOME Housing Reconstruction Program. The following table provides income guidelines, adjusted for family size, which will be used to implement the program.

<u>Family Size</u>	<u>Low Income (80% AMI)</u>	<u>Moderate Income (120% AMI)</u>
1	\$33,400	\$50,160
2	\$38,200	\$57,240
3	\$42,950	\$64,440
4	\$47,700	\$71,520
5	\$51,550	\$77,280
6	\$55,350	\$83,040
7	\$59,150	\$88,800
8	\$63,000	\$94,440

The program income criteria will be updated annually in accordance with the income guidelines published by the U. S. Department of Housing and Urban Development.

The residential lot will be offered to the qualified homeowner via a deferred payment loan at 0% interest secured by mortgage and note. The lot value will be based upon the appraised value of the land and will be forgiven in annual increments over five years assuming compliance with all program requirements. The sale, rental, or transfer of ownership during the mortgage term shall be a default whereupon the City's investment shall be repaid (repayment in full will be required for defaults within one year of purchase, and repayment of the undepreciated portions will be required for default after the initial year). The value of the land and selling price of the home will be established by a licensed fee appraiser.

Additionally, as a condition of the sale, the purchaser will grant the City of Pensacola a right of first refusal to purchase the property prior to their acceptance of any offer to sell or otherwise convey the property during the term of the loan.

CITY OF PENSACOLA
RESIDENTIAL LOT PURCHASE PROGRAM
Page 2

The purchase price when offered to the City under the right of refusal will not exceed the original selling price, thus maintaining continued affordability.

Residential lots suitable for the program will be identified through the City's property disposition process and other property acquisition methods presented to the City.

PROGRAM IMPLEMENTATION:

The Housing Division will perform all marketing, intake and screening for income eligibility and credit-worthiness and perform administrative activities including offering the possibility of financial assistance for those able to qualify for down payment and closing cost assistance through programs administered by the Housing Division. Marketing of these lots will, first, be neighborhood-centered with on-site signage clearly illustrating the vision, price, and opportunity to buy. Additional outreach opportunities include churches, neighborhood groups as well as conventional media.

The conveyance of these properties will be via a lottery consisting of a pool of interested, pre-qualified prospective homeowners. All persons, having visited the site, and declaring their interest in buying and building there will be directed to secure a firm letter of commitment of their financial ability from a qualified lender within 60 calendar days from the start of the campaign. On a specified date and time a drawing will be held from that pool and the winner announced. 2nd and 3rd choice winners will also be identified should the first place winner prove unable to secure first mortgage financing.

The buyer will secure financing for the value of the improvements only. Whether structured as a conventional construction-perm loan from a private lender or utilizing other approved construction financing methods, the City will deed the land to the buyer at closing, taking back a subordinate mortgage for the land value.

The lots will be developed and houses built through a competitive bid process entered into by appropriately licensed and insured contractors able to secure permits from the City's Inspections Services Division with the Housing Division providing project management and oversight. The Housing Division will process, at a minimum, 25% of the properties made available for the program within a 12 month period. Program production will be dependent on the availability of property and qualified purchasers.

PARTICIPATION REQUIREMENTS:

- Participation in the program is voluntary and requires that all the program requirements have been met and continue to be met for the duration of the mortgage period.
- Applicant must be income eligible.
- Applicant must have sufficient income and credit to obtain financing from a lender to support the first mortgage payment.
- Applicant must participate in a HUD certified homebuyer education class.
- Applicant must contribute a minimum of \$1,000 toward the purchase of the home (this amount can include documented expenses paid outside of closing).
- Buyer must attend a free foreclosure prevention class post-purchase offered by the Housing Division.

POLICY FOR DISPOSITION OF CITY OWNED REAL PROPERTY -

Adopted by Council Action January 13, 2000. Revised November 21, 2002 & September 13, 2007;
Amended by Resolution August 21, 2010 effective Noon, January 10, 2011

The following guidelines apply to the disposition (by sale or lease) of City-owned property other than at the airport or port.

Types of Disposal by Sale or Lease

- A. Open Bid
- B. Request for Proposal (R-FP)
- C. Direct Negotiation
- D. Economic Development Option
- E. Residential Lot Purchase Program

Process

1. The Mayor identifies City property as surplus or otherwise available for disposal, utilization or development and recommends to City Council through the appropriate committee a method of transaction (open bid, RFP, direct negotiation or economic development direct negotiation).
2. City Council confirms property availability and determines the transaction method as outlined below.
3. Open Bid Option:
 - Obtain appraisal.
 - Notify property owners within 300 foot radius
 - Prepare bid specifications.
 - Accept public sealed bids.
 - Council accepts or rejects bid.
4. RFP Option:
 - Obtain appraisal.
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 - Prepare RFP requirements and specifications.
 - Accept public sealed proposal(s).
 - Council accepts or rejects proposal(s).
5. Direct Negotiation Option:
 - Obtain appraisal (unless property is of little or no value).
 - Notify property owners within 300 foot radius.
 - Administration negotiates agreement.
 - Council accepts or rejects bid.

6. Economic Development Option:

- Obtain appraisal (unless property is of little or no value).
- Notify property owners within 300 foot radius.
- Minimum Qualifying Criteria:
 - Will result in the creation of new jobs in the City, and
 - Will substantially enhance the economic health of the City by creating jobs with an average salary of at least 130% of average annual Pensacola MSA Wages according to the Florida Agency for Workforce Innovation, and
 - The new jobs created are in a Qualified Targeted Industry (QTI) approved by the Florida Office of Trade, Tourism and Economic Development as prescribed in F.S. 288.106, and
 - The company that will benefit from the sale or lease of publicly-owned land must demonstrate that over 50 percent of its annual sales revenue is generated from outside of the Pensacola MSA.
 - Administration negotiates agreement.
 - Council accepts or rejects agreement/offer.

7. Residential Lot Purchase Program:

- Residential lot will be offered to a qualified homeowner through the City Housing Division.
- Lot value will be based upon the appraised value of the land.
- Conveyance will be via a lottery consisting of interested, pre-qualified prospective homeowners.
- Properties will be marketed through neighborhood centered, on site signage, churches, neighborhood groups and conventional media.
- Persons having interest in buying and building will be directed to secure a firm letter of commitment of their financial ability from a qualified lender within 60 days from start of the campaign.
- On the specified date and time a drawing will be held from the pool of qualified buyers and the winner announced.
- The buyer will secure financing for the value of the improvements only.
- City will deed the land to the buyer at closing, taking back a subordinate mortgage for the land value.
- Other implementation guidelines will be determined by the City Housing Division.



Memorandum

File #: 17-13

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Vice President Gerald Wingate

SUBJECT:

RESOLUTION NO. 17-13 AMENDING CITY POLICY FOR THE DISPOSITION OF CITY OWNED REAL PROPERTY

RECOMMENDATION:

That City Council adopt Resolution No. 17-13.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City Council and Mayor have expressed the desire to expand delivery of housing programs through enhanced housing resources and availability. The City currently has several methods to dispose of surplus properties but each require bids, proposals or economic development criteria not appropriate for income eligible housing programs. The current recommendation is to adopt a qualified affordable home buyer incentive through providing selected City owned residential parcels and to provide for deferred payment for the City owned parcel. The program will offer a qualified buyer a residential lot providing them the opportunity to construct a single family house sized for zoning conformity and neighborhood compatibility. The qualified buyer will select a house plan from the catalog of plans the Housing Division has designed to complement the various neighborhoods served throughout the City and built since 2002 under the HOME Housing Reconstruction Program. Income guidelines will follow the HUD and SHIP program adjusted for family size to implement the program as follows:

Family Size	Low Income (80% AMI)	Moderate Income (120% AMI)
1	\$33,400	\$50,160
2	\$38,200	\$57,240
3	\$42,950	\$64,440
4	\$47,700	\$71,520
5	\$51,550	\$77,280
6	\$55,350	\$83,040
7	\$59,150	\$88,800
8	\$63,000	\$94,440

The program income criteria will be updated annually in accordance with the income guidelines published by the U. S. Department of Housing and Urban Development.

The residential lot will be offered to the qualified homeowner via a deferred payment loan at 0% interest secured by mortgage and note. The lot value will be based upon the appraised value of the land and will be forgiven in annual increments over five years assuming compliance with all program requirements. The sale, rental, or transfer of ownership during the mortgage term shall be a default whereupon the City investment shall be repaid (repayment in full will be required for defaults within one year of purchase, and repayment of the undepreciated portions will be required for default after the initial year). The value of the land and selling price of the home will be established by a licensed fee appraiser.

Additionally, as a condition of the sale, the purchaser will grant the City of Pensacola a right of first refusal to purchase the property prior to their acceptance of any offer to sell or otherwise convey the property during the term of the loan.

The purchase price when offered to the City under the right of refusal will not exceed the original selling price, thus maintaining continued affordability.

Residential lots suitable for the program will be identified through the City's property disposition process and other property acquisition methods presented to the City.

PRIOR ACTION:

January 13, 2000	Proposed Policy for Disposition of City Owned Real Property
November 21, 2002	Disposal of City Owned Property
September 13, 2007	Amendment to City Policy for Disposition of Surplus Property
August 19, 2010	Resolution 21-10 Strong Mayor Policy Amendments

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Eric W. Olson, City Administrator
Keith Wilkins, Assistant City Administrator

ATTACHMENTS:

- 1) Resolution No. 17-13 - Policy - Disposition of City Owned Real Property

PRESENTATION: No

RESOLUTION
NO. 17-13

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA AMENDING CITY COUNCIL POLICY 4.29 – DISPOSITION OF CITY OWNED REAL PROPERTY TO INCLUDE DISBURSEMENT DIRECTLY TO THE CITY HOUSING DIVISION FOR USE IN THE LOT PURCHASE PROGRAM AND TO ADOPT LOT PURCHASE PROGRAM GUIDELINES.

WHEREAS, the City Council has adopted City Council Policy 4.29, a Policy for Disposition of City Owned Real Property; and

WHEREAS, within Policy 4.29 there are four (4) transaction methods for the disposal, utilization and development of City owned property; and

WHEREAS, those transaction methods are open bid, RFP, direct negotiation or economic development direct negotiation; and

WHEREAS, the City Council and Mayor have expressed the desire to expand delivery of housing programs through enhanced housing resources and availability; and

WHEREAS, in order to achieve the City Council and Mayor's desire, adding an additional transaction method is beneficial to the City and its citizens in meeting housing needs;

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

SECTION 1. That the Pensacola City Council amends City Council Policy 4.29 – a Policy for Disposition of City Owned Real Property by including the following transaction method:

E. Residential Lot Purchase Program

SECTION 2. That the City Council adopt Lot Purchase Program guidelines.

SECTION 3. 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

File #: 17-09

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Supplemental Budget Resolution No. 17-09 - Emergency Watershed Protection Program Measures - TA

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 17-09.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On April 14, 2016, City Council approved a legislative action item that authorized the Mayor to accept and execute the Project Agreement-Emergency Watershed Protection Program Measures with the Natural Resources Conservation Service (NRCS) related to the removal of debris and abatement of erosion problems resulting from the April 2014 flood event. Additionally, City Council adopted a supplemental budget resolution appropriating the grant funds. This agreement provided for federal grant dollars in the amount of \$1,500,000 in funding with the City being responsible for an additional 25% match (\$500,000) for the total estimated construction cost of \$2,000,000 to address issues within Baywoods Gully. However, the project agreement provides for additional federal grant dollars entitled Technical Assistance Funds ("TA") in the amount of \$200,000 that was accidentally omitted from the legislative action item and supplemental budget resolution.

PRIOR ACTION:

April 14, 2016 - City Council approved the Project Agreement with the US Department of Agriculture Natural Resources Conservation Service (NRCS).

FUNDING:

Budget: \$ 1,500,000.00 (FA-NRCS Grant Award)
 200,000.00 (TA-NRCS Grant Award)
 500,000.00 (Stormwater Capital Projects Fund)

\$2,200,000.00 Total

Actual: \$ 623,945.00 Construction (Phase I)
 1,078,649.43 Construction (Phase II)
 180,183.09 Engineering Design/Permitting (Phase I & II)
 71,000.00 Project Administration/Inspection (Estimate Phase I & II)
 17,000.00 Construction Testing and Misc. (Estimate Phase I & II)
 \$ 1,970,777.52 Total

FINANCIAL IMPACT:

Approval of the supplemental budget resolution will appropriate the Technical Assistance Funds from the grant.

CITY ATTORNEY REVIEW: Yes

1/27/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
L. Derrik Owens, P.E., Director of Public Works and Facilities/City Engineer

ATTACHMENTS:

- 1) Supplemental Budget Resolution No. 17-09
- 2) Supplemental Budget Explanation
- 3) Council Memo NRCS Grant 4-14-16

PRESENTATION: No

**RESOLUTION
NO. 17-09**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads:	Federal Grants	2,807,778
Amended		
To Read:	Federal Grants	3,007,778
As Reads:	Capital Outlay	7,321,717
Amended		
To Read:	Capital Outlay	7,521,717

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

SECTION 3. 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

THE CITY OF PENSACOLA

FEBRUARY 2017 - SUPPLEMENTAL BUDGET RESOLUTION #17-09 - EMERG WATERSHED GRANT - BAYWOODS GULLY

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
Federal Grants	200,000	Increase estimated revenue from Federal Grants
Total Revenues	200,000	
Appropriations		
Capital Outlay	200,000	Increase appropriation for Capital Outlay
Total Appropriations	200,000	

Report of City Council Action Items

April 14, 2016

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Members Present: Council President Charles Bare, Council Vice President Brian Spencer, Jewel Cannada-Wynn, Larry B. Johnson Sherri Myers, Andy Terhaar, and P. C. Wu

Absent: Gerald Wingate

REGULAR AGENDA ITEMS (continued)

15. PROJECT AGREEMENT – EMERGENCY WATERSHED PROTECTION PROGRAM MEASURES

That City Council authorize the Mayor to accept and execute the Project Agreement with the US Department of Agriculture Natural Resources Conservation Service (NRCS) related to the removal of debris and abatement of erosion problems resulting from the April 2014 flood event. Also, that City Council authorize the Mayor to take all actions necessary to execute the agreement. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

The motion passed unanimously.

SUPPLEMENTAL BUDGET RESOLUTION NO. 17-16 -- **MOTION TO APPROVE**

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2016; PROVIDING FOR AN EFFECTIVE DATE

The motion passed unanimously.

16. AWARD OF PROPOSAL – RFP #16-019 – DRIVING RANGE

That City Council award the proposal and authorize the Mayor to execute the Lease and Operating Agreement for driving range operator services with Summit Golf, Inc. at the Pensacola International Airport.

The motion passed unanimously.

17. AWARD OF CONTRACT – BID #16-022 – “L” STREET AND ZARAGOSSA STREET STORMWATER TREATMENT ENHANCEMENT PROJECT

That City Council award a contract for construction of "L" Street and Zaragossa Street Stormwater Treatment Enhancement Project to Brown Construction of Northwest FL., Inc., of Pensacola, Florida, the lowest and most responsible bidder with a base bid of \$714,347.93 plus bid alternate #1 of \$41,775.82, plus a 10% contingency of \$75,612.38 for a total amount of \$831,736.13.

The motion passed unanimously.

18. BROADSPECTRUM CONTRACT – FLORIDA DEPARTMENT OF TRANSPORTATION – STREET SWEEPING

That City Council authorize the Mayor to execute the Contract with Broadspectrum for the sweeping of the Florida Department of Transportation roadways within the City of Pensacola City limits.

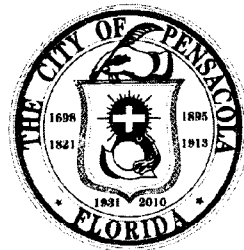
The motion passed unanimously.

19. OFFICE OF CITY COUNCIL STAFF – BUDGET ANALYST

PROPOSED ORDINANCE NO. 05-16 -- **2ND READING** -- **MOTION TO APPROVE**

AN ORDINANCE AMENDING SECTION 2-4 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; CREATING SECTION 2-4-52 TO PROVIDE FOR THE CREATION OF THE POSITION OF BUDGET ANALYST TO THE CITY COUNCIL; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

The motion passed unanimously.



COUNCIL MEMORANDUM

Council Meeting Date: April 14, 2016

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor ^{EWO} _{For}

SUBJECT: Project Agreement - Emergency Watershed Protection Program Measures

RECOMMENDATION:

That City Council authorize the Mayor to accept and execute the Project Agreement with the US Department of Agriculture Natural Resources Conservation Service (NRCS) related to the removal of debris and abatement of erosion problems resulting from the April 2014 flood event. Also, that City Council authorize the Mayor to take all actions necessary to execute the agreement. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

After the flood event of April 2014, various areas of the City experienced significant erosion problems and slope failures which created accumulations of sediment and debris downstream of the erosion locations. The City's Public Works and Facilities staff, working in conjunction with local USDA staff, identified Baywoods Gully for potential grant funding as significant erosion sites which need to be permanently repaired in a timely manner to prevent further degradation problems.

This agreement provides for federal grant dollars in the amount of \$1,500,000 in funding with the City being responsible for an additional 25% match (\$500,000) for the total estimated construction cost of \$2,000,000. Funding will be used towards addressing the erosion issues within Baywoods Gully.

Short term benefits will include:

- Reduction/minimization of a hazardous condition to property owners.
- Repair and restoration of erosion issues.

Long term benefits will include:

Stabilization of erosion issues will reduce/minimize sediment transport to local waterway which will provide long term improvement to water quality and shoreline habitat.

PRIOR ACTION:

None

Council Memorandum

Subject: Project Agreement - Emergency Watershed Protection Program Measures

Council Meeting Date: April 14, 2016

Page 2

FUNDING:

<u>Budget:</u>	\$ 1,500,000 (NRCS Grant Award)
	\$ <u>500,000</u> (Stormwater Capital Projects Fund)
Total:	<u>\$ 2,000,000</u>

Construction	\$ 1,600,000 (Estimate)
Engineering Design/Permitting	\$ 260,000 (Estimate)
Project Administration	\$ 88,000 (Estimate)
Other/Misc.	\$ <u>52,000</u> (Estimate)
Total:	<u>\$ 2,000,000</u>

FINANCIAL IMPACT:

Funding in the amount of \$500,000 is currently available for the required City "match" within the Stormwater Capital Projects Fund for this project. Approval of the attached supplemental budget resolution will appropriate the grant funds.

STAFF CONTACT:

Eric W. Olson, City Administrator
L. Derrik Owens, P. E., Director of Public Works and Facilities/City Engineer

ATTACHMENTS:

- 1) NCRS Project Agreement
- 2) Supplemental Budget Resolution
- 3) Supplemental Budget Resolution Explanation

PRESENTATION: Yes No

NOTICE OF GRANT AND AGREEMENT AWARD

1. Award Identifying Number 68-4209-16-201	2. Amendment No.	3. Award/Project Period April 18, 2016 to November 3, 2016	4. Type of Award Instrument Cooperative Agreement
--	-------------------------	--	---

5. Agency: Natural Resources Conservation Service (NRCS) (Name and Address) USDA-NRCS 2614 NW 43rd Street Gainesville, Florida 32606	6. Recipient Organization: (Name and Address) City of Pensacola 2757 North Palafox Street Pensacola, FL 32501
---	---

DUNS: 073131559	EIN: 59-6000406
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7. NRCS Program Contact: Jason Strenth jason.strenth@fl.usda.gov 352-338-9559	8. NRCS Administrative Contact: Lori Baker lori.baker@wdc.usda.gov 859-224-7360	9. Recipient Program Contact: Brad Hinote bradhinote@cityofpensacola.com 850-435-1646	10. Recipient Administrative Contact: L. Derrick Owens dowens@cityofpensacola.com 850-435-1645
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11. CFDA Number 10.923	12. Authority CFR, Title 7: Agriculture, Part 624-EWP, paragraph 624.8(c) authorizes NRCS to enter into agreement.	13. Type of Action New agreement	14. Project Director
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15. Project Title/Description:
April 2014 Panhandle Floods - Emergency Watershed Protection Program

16. Entity Type: Profit Nonprofit Higher Education Federal State/Local Indian/Native American
 Other

17. Select Funding Type:	<input checked="" type="checkbox"/> Federal	<input checked="" type="checkbox"/> Non-Federal	18. Accounting and Appropriation Data			
Original Funds Total:	\$1,700,000.00	\$500,000.00	Financial Code	Amount	Fiscal Year	Treasury Symbol
Additional Funds Total:			FA 75%	\$1,500,000.00	2016	
Grand Total:	\$1,700,000.00	\$500,000.00	TA 10%	\$200,000	2016	

19. APPROVED BUDGET

Personnel	\$	Fringe Benefits	\$
Travel	\$	Equipment	\$
Supplies	\$	Contractual	\$
Construction	\$ 2,000,000.00	Other	\$ 200,000.00
Total Direct Cost\	\$	Total Indirect Cost	\$
		Total Non-Federal Funds	\$ 500,000.00
		Total Federal Funds Awarded	\$ 1,700,000.00
		Total Approved Budget	\$ 2,200,000.00

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

(Continuation)

NOTICE OF GRANT AND AGREEMENT AWARD			
Award Identifying Number	Amendment No.	Award/Project Period	Type of Award Instrument
68-4209-16-201		April 18, 2016 to November 3, 2016	Cooperative Agreement

Name and Title of Authorized Government Representative	Signature	Date
RUSSELL MORGAN State Conservationist		
Name and Title of Authorized Recipient Representative	Signature	Date

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

STATEMENT OF WORK
BETWEEN THE
U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE
AND THE
CITY OF PENSACOLA

PROJECT: Florida, Emergency Watershed Protection (“EWP”) FY 2016, April 2014 Panhandle Storm, Project #5066 – Locally Led with Technical and Financial Assistance.

This agreement is entered into by and between the U. S. Department of Agriculture, Natural Resources Conservation Service, hereinafter referred to as the “NRCS”, and City of Pensacola hereinafter referred to as the “Sponsor”.

I. PURPOSE

The purpose of this agreement is to provide financial and/or technical assistance to implement recovery measures that, if left undone, pose a risk to life and/or property.

II. AUTHORITY

Under the provisions of Section 216 of Public Law 81-516, Emergency Watershed Protection Program, and Title IV of the Agricultural Credit Act of 1978, Public Law 95-334, NRCS is authorized to assist the Sponsor in relieving hazards created by natural disasters that cause a sudden impairment of a watershed.

III. OBJECTIVES

The objective of this agreement is to remove watershed impairments caused by the April 2014 Panhandle Storm event that are creating a serious threat to life and property through a locally awarded and administered construction contract. The design and installation of EWP measures are detailed in the individual damage survey report (DSRs) and listed below:

Damage Survey Report (DSR) No.	Description	Estimated Construction Cost
COP-APR14-002	Install measures to stabilize gully to protect properties and prevent the threat to life.	\$2,000,000.00
Total Estimated Eligible Construction Cost		\$2,000,000.00

- A. The individual Damage Survey Report(s) (“DSR”) is established through discussions between the Sponsor and NRCS. It defines the site(s), work to be completed, and estimated eligible construction costs for this project.
- B. It is agreed that the total estimated eligible construction costs are: \$2,000,000.00. Based on this estimate:
1. NRCS will contribute Financial Assistance Funds (“FA”) in the amount of 75% (not to exceed \$1,500,00.00) of the actual eligible total construction costs, as reimbursement to the Sponsor for approved on-the-ground construction costs. Construction costs are associated with the installation of the project measures including labor, equipment, and materials.

NRCS will contribute Technical Assistance Funds (“TA”) in the amount of 10% (not to exceed \$200,000.00) of the actual eligible total construction costs, as reimbursement for technical and administrative costs directly charged to the project. Technical and administrative costs are associated with project design and development of construction drawings and specifications; soliciting, evaluating, awarding a administering a contract, including verifying invoices and recording keeping; development of operations and maintenance plans; development and implementation of quality assurance and inspection plans. While NRCS can reimburse 100% of these costs (no Sponsor required cost share) up to 10% of the total construction costs, it is possible that technical and administrative costs will exceed this amount, requiring the Sponsor to contribute resources to complete technical and administrative work.

2. The Sponsor will contribute 25% (estimated to be \$500,000.00) of the total eligible construction costs in either direct cash expenditures, the value of non-cash materials or services, or in-kind contributions. The value of any in-kind contribution shall be agreed to in writing prior to implementation.

IV. RESPONSIBILITIES OF THE PARTIES

A. THE SPONSOR WILL:

1. Accomplish construction of the EWP project measures by contracting, in-kind construction services, or a combination of both.
2. Provide the following individuals as contacts:

	Technical	Administrative
Name:	Brad Hinote	L. Derrik Owens
Address:	222 W. Main Street Pensacola, FL 32502	222 W. Main Street Pensacola, FL 32502
Telephone No.	850-435-1646	850-435-1645
Email Address:	bradhinote@cityofpensacola.com	DOwens@cityofpensacola.com

3. Sponsor contacts will work closely with the NRCS in carrying out the terms and conditions of the agreement. They will complete proper documents to ensure payment of funds by NRCS as requested to complete the objectives of the agreement and will be the representative for the Sponsor in all matters concerning this agreement.
4. Comply with the applicable requirements in Attachment B, "General Terms and Conditions," of this agreement.
5. Comply with all laws, regulations, Executive Orders, and other applicable terms and conditions referenced and incorporated as attachments to this agreement.
6. Acquire and provide certification to NRCS that real property rights (land and water), permits and licenses in accordance with local, state, and Federal laws necessary for the installation of EWP project measures have been obtained at no cost to NRCS prior to soliciting for construction. This includes any rights associated with required environmental mitigation. Sponsors shall provide such certification on Form NRCS-ADS-78, Assurances Relating to Real Property Acquisition. Sponsors shall also provide an attorney's opinion supporting this certification. Costs related to land rights and permits are the Sponsor's responsibility and ineligible for reimbursement.
7. Accept all financial and other responsibility for excess costs resulting from their failure to obtain, or their delay in obtaining, adequate land and water rights, permits and licenses needed for the Project.
7. Provide 25% of the actual, eligible and approved construction cost, 100% of all ineligible construction costs, and 100% of all costs above the estimated eligible construction costs, and 100% of any unapproved upgrade to increase level of protection over and above that described as outlined in Section III.B. These costs may be in the form of cash, in-kind construction services, or a combination of both.

Eligible construction costs are described in the approved DSR listed in Section III. Final construction items that are eligible construction costs will be agreed upon during the pre-design conference. These costs consist of costs from contracts awarded to contractors, and eligible Sponsor in-kind construction costs for materials, labor, and equipment. The Sponsor shall provide NRCS documentation to support all eligible construction costs.

Construction costs incurred prior to the Sponsor and NRCS signing this agreement are ineligible and will not be reimbursed.

8. Be responsible for 100% of all ineligible construction costs, and 100 % of any unapproved upgrade to increase the level of protection over and above that described in the DSR.
9. Construction costs for work over, under, and through roadways are not eligible for reimbursement.

10. Account for and report FA and TA expenditures separately in order for expenses to be eligible for reimbursement. NRCS funding for this project is provided to the Sponsor in two separate NRCS funding accounts, one for TA and one for FA, requiring this separation.
11. For contracts, provide NRCS a copy of solicitation notice, bid abstract, and notice of contract award, or other basis of cost and accomplishment.
12. For in-kind construction services (materials, labor, and equipment supplied by the Sponsor), develop a Plan of Operations describing the construction services to be performed including estimated quantities and values. The Plan of Operations shall be concurred in by NRCS at the pre-design conference. In-kind construction services for equipment shall not exceed published FEMA equipment rates unless otherwise documented and concurred in advance by NRCS.

Competent personnel will be used to carry out the work.

All equipment used in constructing the EWP projects must be maintained in good condition without cost to NRCS. Equipment must be operated safely at all times.

The following documentation is required to support the Sponsor's request for reimbursement of in-kind construction services:

- a. Invoices covering actual costs of materials used in constructing the eligible EWP project measures and disposition of excess materials.
 - b. Records documenting the type, quality, and quantities of materials actually used in constructing the eligible EWP project measures.
 - c. Daily time records for each employee showing name, classification, wage rate, hours, and dates actually employed for constructing the eligible EWP project measures.
 - d. Equipment operating records showing the type and size of equipment, hourly rate, actual hours of operation and dates used to install the eligible EWP project measures. Equipment idle time is not eligible in-kind construction services, even if on the job site, and should not be included in the equipment operating records.
13. Provide all technical and administrative services necessary for contract solicitation, award, and administration; engineering design services; construction management and inspections, and other services. Reimbursement amount for eligible Sponsor technical and administrative services will be as described in Section III.B.2. The Sponsors will retain records to support costs incurred.
 - a. Prepare all contractual documents and contract for the project measures in accordance with 2 CFR § 200.317-326 (Attachment E) and clauses referenced in Appendix II, Part 200, (Attachment C), applicable state requirements, and the Sponsors' procurement regulations.

- b. Prepare design and construction specifications, and drawings in accordance with standard engineering principles and in compliance with NRCS programmatic requirements. The construction plans shall be reviewed and approved by the Sponsors before submittal to NRCS. The construction plans shall be reviewed and approved by a Professional Engineer (PE) registered in the State of Florida before submittal to NRCS.
- c. The contracts for design services and construction described in this Agreement shall not be awarded to the Sponsors or to any firm in which any Sponsors' official or any member of such official's immediate family has direct or indirect interest in the pecuniary profits or contracts of such firms. Reference 2 CFR § 200.318 regarding standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts.

Costs for technical and administrative services incurred prior to the Sponsor and NRCS signing this agreement are ineligible and will not be reimbursed.

13. Within thirty (30) calendar days of signing the project agreement, hold a pre-design conference with the Sponsor, Sponsor's design engineer, and NRCS. The design conference shall set forth design parameters concurred by both the Sponsor and NRCS. During the pre-design conference, NRCS will determine the eligible construction costs.
14. Within fourteen (14) calendar days of the pre-design conference submit to NRCS a schedule with time lines of major items to be completed. Milestones shall include, but not limited to, obtaining land rights, obtaining permits, completing any necessary surveys, completing draft engineering plans and specifications for NRCS review, completing final engineering plans and specifications, completing quality assurance plan, solicit bids, award contract, issue notice to proceed, and complete construction.
15. Prior to commencement of work and/or solicitation of bids, submit for NRCS review, the preliminary design, construction specifications, and engineering drawings prepared in accordance with standard engineering principles and design parameters set forth in the pre-design conference.
16. Upon receiving comments from NRCS, prepare the final design, construction specifications, and engineering drawings in accordance with standard engineering principles, design parameters set forth in the pre-design conference. One set of the final plans and specifications shall be submitted to NRCS for final review and concurrence prior to solicitation of bids and/or commencement of work. The final construction plans and specifications shall be signed and sealed by a licensed Professional Engineer registered in the State of Florida. A copy of the signed and sealed plans and specifications shall be provided to NRCS.
17. Prior to commencement of work and/or solicitation of bids, submit for NRCS review and concurrence a Quality Assurance Plan (QAP). The QAP shall outline technical and administrative expertise required to ensure the EWP project measures are

installed in accordance with the plans and specifications, identify individuals with the expertise, describe items to be inspected, list equipment required for inspection, outline the frequency and timing of inspection (continuous or periodic), outline inspection procedures, and record keeping requirements. A copy of the final QAP shall be provided to NRCS prior to commencement of construction.

18. Provide construction inspection in accordance with the QAP.
19. For structural works of improvement, prepare and submit for NRCS concurrence an Operation and Maintenance (O&M) Plan, if applicable, prior to commencement of work. The O&M Plan shall describe the activities the Sponsor will do to ensure the project performs as designed. Upon completion of the project measures, the Sponsor shall assume responsibility for O&M.
20. Provide copies of site maps to appropriate Federal and State agencies for environmental review. Sponsor will notify NRCS of environmental clearance, modification of construction plans, or any unresolved concerns as well as copies of all permits, licenses, and other documents required by Federal, state, and local statutes and ordinances prior to solicitation for installation of the EWP project measures. All modifications to the plans and specifications shall be reviewed and concurred on by NRCS.
21. Ensure that any special requirements for compliance with environmental and/or cultural resource laws are incorporated into the project.
22. Will arrange and pay for any necessary location, removal, or relocation of utilities. EWP program regulations prohibit NRCS from reimbursing the Sponsor or otherwise paying for any such costs; nor do the costs qualify as a Sponsor cost-share contribution.
23. Ensure that technical and engineering standards and specifications of NRCS are adhered to during construction of the Project, as interpreted by NRCS Technical Contact.
24. Provide NRCS Technical Contact progress reports every two weeks after the execution of the cooperative agreement. Progress reports should include technical on-site inspections of work accomplished for the period, work planned, results of material tests, deficient work products and/or tests with corrective actions taken, modifications anticipated, technical problems encountered, contractual issues and other relevant information.
25. Ensure that all contractors on NRCS assisted projects are performing their work in accordance with OSHA regulations, NRCS Supplement to OSHA Parts 1910 and 1926, and the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5) (see Attachment). The Sponsor is responsible for periodically checking the contractor's compliance with safety requirements.

26. Complete and submit the Federal Financial Report (SF-425) accrual information to the NRCS Technical Contact no later than 15 days prior to the end of the quarter (submit by March 15, June 15, September 15, and December 15). NRCS requires quarterly accrual information on the value of the work that has been performed or will be performed in cooperation with NRCS, but for which an SF 270 has not yet been submitted. The U.S. Congress relies on audits of financial statements, including accrual information, to determine future funding amounts for NRCS on-going and new projects and programs.
27. Arrange for and conduct final inspection of completed project with NRCS to determine whether all work has been performed in accordance with contractual requirements. Provide a PE certification that the Project was installed in accordance with approved plans and specifications.
28. Provide PE-certified as-built drawings and quantities for the project. A copy of the as-built drawings will be submitted to the NRCS Technical Contact.
29. Pay the contractor(s) as provided in the contract(s).
30. Submit copies of billings for reimbursement to NRCS on Form SF-270, "Request for Advance or Reimbursement", on a monthly, but not less than quarterly (March, June, September, and December) basis to the NRCS Technical Contact. Final payment request shall be submitted within thirty (30) calendar days of completion of the EWP project measures. All requests for reimbursement shall include all appropriate and complete documentation to support the reimbursement request. Payments will be withheld until all required documentation is submitted and complete.

The required supporting documentation for reimbursement of construction costs include invoices and proof of payment to the contractor showing the items and quantities installed and certified by the engineer of record along with any supporting documentation such as quantity calculations, rock weight tickets, etc.

The required supporting documentation for reimbursement of in-kind construction expenses will include employee time sheets, employee hourly rate, equipment operating logs, equipment hourly rate, and material quantities and invoices.

The required documentation for reimbursement of technical and administrative services will be invoices and proof of payment to consultants and/or employee time sheets along with the employee's hourly rate, hours worked, and date work was performed.

31. Be responsible for ensuring their System for Award Management (SAM) registration is active throughout the life of the agreement so that reimbursements are not delayed. NRCS cannot process a reimbursement to a Sponsor unless the sponsor is registered in SAM.

32. Take reasonable and necessary actions to dispose of all contractual and administrative issues arising out of the construction contract awarded under this Agreement. This includes, but is not limited to disputes, claims, protests of award, source evaluation, and litigation that may result from the Project. Such actions will be at the expense of the Sponsor, including any legal expenses.
33. Receive payment under this Agreement using electronic funds transfer (EFT) procedures in accordance with 31 C.F.R. § 208.
34. Be responsible, without recourse to NRCS or USDA, for the settlement and satisfaction of all contractual and legal issues arising out of arrangements entered into between the Sponsors and third parties to carry out the approved Project. Matters concerning violation of law should be referred to the Federal, State, or local authority having proper jurisdiction.
35. Hold and save NRCS free from any and all claims or causes of action whatsoever resulting from the obligations undertaken by the Sponsor under this agreement or resulting from the work provided for in this agreement.
36. Retain all records dealing with the award and administration of contract(s) for three (3) years from the date of the sponsor's submission of the final Request for Reimbursement or until final audit findings have been resolved, whichever is longer. If any litigation is started before the expiration of the three (3) year period, the records are to be retained until the litigation is resolved or the end of the three (3) year period, whichever is longer. Make such records available to the Comptroller General of the United States or his or her duly authorized representative and accredited representatives of the U.S. Department of Agriculture or cognizant audit agency for the purpose of making audit, examination, excerpts, and transcripts.
37. Be responsible for all administrative expenses (including but shall not be limited to facilities, clerical expenses), and legal counsel necessary including the fees of such attorney or attorneys deemed necessary by NRCS to resolve any legal matters.
38. Submit requests for a time extension to the agreement, (if necessary), in writing no less than forty five (45) days prior to the expiration date of the agreement, specified in Section VI. A request for a time extension must be supported by:
 - a. justification for the need of an extension and why it would be in the best interest of the government;
 - b. a statement documenting why the project was not completed on schedule;
 - c. a plan detailing how the project will be successfully completed if extended;
 - d. a revised schedule (inclusive of dates) by work tasks through project completion.Submit the written, signed request to the NRCS Technical Contact.
39. By signing this Agreement, the Sponsor assures the Department of Agriculture that the program or activities provided for under this Agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

B. THE NRCS WILL:

1. Provide the following individuals as contacts:

	Technical Contact	Administrative
Name:	Jason Strenth	Lori Baker
Address:	2614 NW 43 rd Street Gainesville, FL 344	771 Corporate Dr; Ste 350 Lexington, KY 40503-5479
Telephone No.	352-338-9559	859-224-7360
Email Address:	Jason.strenth@fl.usda.gov	Lori.baker@wdc.usda.gov

2. Reimburse the Sponsor 75% (not to exceed \$1,500,000.00) of the actual eligible cost of construction as Financial Assistance and up to 10% (not to exceed \$200,000.00) of the actual eligible cost of construction as Technical Assistance. Funds will be expended as explained in Section III.B.1.
3. Assist Sponsor and Sponsor's engineer in establishing design parameters; determine eligible construction costs during the pre-design conference.
4. Review, comment and concur in preliminary and final plans, specifications, Operation & Maintenance (O&M) Plan, Plan of Operations (if required) and Quality Assurance Plan (QAP).
5. Not be substantially involved with the technical or contractual administration of this agreement, but will provide advice and counsel as needed.
6. Make periodic site visits during the installation of the EWP project measures to review construction progress, document conformance to engineering plans and specifications, and provide any necessary clarification on the Sponsor's responsibilities as set forth in Section IV.A.
7. Upon notification of the completion of the EWP project measures, NRCS shall promptly review the performance of the Sponsor to determine if the requirements of this agreement and fund expenditures as agreed have been met.
8. Make payment to the Sponsor covering NRCS' share of the cost upon receipt and approval of Form SF-270 and supporting documentation. In the event there are

questions regarding the SF 270 and supporting documentation, NRCS will contact the Sponsor in a timely manner to resolve concerns.

C. IT IS MUTUALLY AGREED:

1. This agreement may become null and void 180 calendar days after the date NRCS has signed and executed this agreement if a solicitation for bids has not been publicly advertised or a contract has not been awarded.
2. The furnishing of financial, administrative and/or technical assistance above the original funding amount by NRCS is contingent on there being sufficient unobligated and/or uncommitted funding in the EWP Program that is available for obligation in the year in which the assistance will be provided. NRCS cannot make commitments in excess of funds authorized by law or made administratively available. Congress may impose obligational limits on program funding that constrains NRCS' ability to provide such assistance.
3. The furnishing of the administrative and technical services by NRCS is contingent upon the continuing availability of appropriations by the Congress from which payment may be made and shall not obligate NRCS if the Congress fails to so appropriate.
4. In the event of default of a construction contract awarded pursuant to this Agreement, any additional funds properly allocable as construction costs required to ensure completion of the job are to be provided in the same ratio as construction funds are contributed by the parties under the terms of this Agreement. Any excess costs including interest resulting from a judgment collected from the defaulting contractor, or his or her surety, will be prorated between the Sponsor and NRCS in the same ratio as construction funds are contributed under the terms of the Agreement.
5. Additional funds, including interest properly allocable as construction costs as determined by NRCS, required as a result of decision of the CO or a court judgment in favor of a claimant will be provided in the same ratio as construction funds are contributed under the terms of this Agreement. NRCS will not be obligated to contribute funds under any Agreement or commitment made by the Sponsor without prior concurrence of NRCS.
6. The State Conservationist may make adjustments in the estimated cost to NRCS set forth in Section III.B for constructing the EWP project measures. Such adjustments may increase or decrease the amount of estimated funds that are related to differences between such estimated cost and the amount of the awarded contract or to changes, differing site conditions, quantity variations, or other actions taken under the provisions of the contract. No adjustment will be made to

change the cost sharing assistance provided by NRCS nor reduce funds below the amount required to carry out NRCS' share of the contract.

7. That once the project is completed and all requests for reimbursement submitted, any excess funding remaining in the agreement (over and above the NRCS commitment of up to 75% of actual eligible construction costs and within the not-to-exceed amount) will be de-obligated from the agreement.
8. NRCS, at its sole discretion, may refuse to cost share should the Sponsor, in administering the contract, elect to proceed without complying with their responsibilities as set out in Section IV.A of this agreement.

V. EXPECTED ACCOMPLISHMENTS AND DELIVERABLES

The following accomplishments and deliverable will be provided to NRCS.

1. One copy of the final engineering plans, specifications signed and sealed by a licensed professional engineer, including approved Plan of Operations (if applicable).
2. Signed NRCS-ADS-78 supported by an attorney's opinion.
3. One copy of the quality assurance plan.
4. One copy of the operation and maintenance plan.
5. One copy of the construction bid package with engineer's cost estimate, notice of solicitation, bid abstract, and notice of award.
6. Certification that the project was installed in accordance with the plans and specifications.
7. As-built drawings of final construction signed by a Florida licensed professional engineer within 30 calendar days of completion of construction.
8. Quantities of the units of work applied for each site within 30 calendar days of completion of construction.

VI. PERIOD OF PERFORMANCE

This agreement is effective as of the date of final signature by USDA/NRCS on NRCS-ADS-093 form, Notice of Grant and Agreement Award, and continues in full force and effect through the project period as shown in Box 3 of the NRCS-ADS-093 form. The agreement may be amended to extend the date. Requests from the Sponsor to the NRCS State Conservationist to extend the term of the agreement must be submitted in writing 45 calendar days prior to the expiration date of the agreement and include a detailed

description of circumstances that created the need for the extension. The Sponsor must be vigilant in tracking the expiration date(s) of the agreement and subsequent amendments.

VII. RESOURCES REQUIRED

A. Sponsor:

- Technical personnel to develop technically sound and feasible solutions to restore the sites and develop engineering plans and specifications and equipment and personnel to provide construction inspection.
- Administrative personnel to provided contracting services and/or procurement of items/services needed to implement the agreement, obtain land rights, and other administrative requirements identified in the agreement.
- Office space and associated office equipment to prepare reports, prepare payments requests, etc.
- Equipment and personnel if identified in a Plan of Operations for force accounts.

B. NRCS

- Technical and administrative personnel to provided assistance to support the implementation of the agreement.

VIII. MILESTONES

Milestones shall include, but not limited to, the following items:

1. Pre-design conference within 30 calendar days of signing agreement.
2. Submit to NRCS a project schedule within 14 calendar days of the pre-design conference.
3. Acquire needed real property rights and permits (signed NRCS-ADS-78 supported by an attorney's opinion) prior to start of construction.
4. Obtaining permits, as required.
5. Completing any necessary surveys.
6. Completing draft engineering plans and specifications for NRCS review.
7. Completing final engineering plans and specifications.
8. Completing plan of operations for any Sponsor in-kind construction.
9. Completing quality assurance plan.
10. Solicit bids.
11. Award contract.
12. Issue notice to proceed.
13. Complete construction, develop an operation and maintenance plan for structural practices, and submit as-built drawings/quantities by the date specified in Section VI.

IX. ATTACHMENTS TO AGREEMENT

The following attachments are incorporated into the agreement:

Attachment B: General Terms and Conditions for Grants and Cooperative Agreements

Attachment C: Appendix II to 2 CFR Part 200— Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Attachment D: Procurement Standards – 2 CFR § 200.317 through §200.326

Attachment E: NRCS Supplement to OSHA Parts 1910 and 1926

**NATURAL RESOURCES CONSERVATION SERVICE
U.S. DEPARTMENT OF AGRICULTURE
GENERAL TERMS AND CONDITIONS
GRANTS AND COOPERATIVE AGREEMENTS**

I. APPLICABLE REGULATIONS

- a. The recipient, and recipients of any subawards under this award, agree to comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>.
- (1) 2 CFR Part 25, "Universal Identifier and System of Award Management"
 - (2) 2 CFR Part 170, "Reporting Subaward and Executive Compensation Information"
 - (3) 2 CFR Part 180, "OMB Guidelines To Agencies On Governmentwide Debarment And Suspension (Nonprocurement)"
 - (4) 2 CFR Part 182, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)"
 - (5) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards"
- b. The recipient, and recipients of any subawards under this award, assure and certify that they have and/or will comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>.
- (1) 2 CFR Part 175, "Award Term for Trafficking in Persons"
 - (2) 2 CFR Part 417, "Nonprocurement Debarment and Suspension"
 - (3) 2 CFR Part 418, "New Restrictions on Lobbying"
 - (4) 2 CFR Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)"
- c. Allowable project costs will be determined in accordance with the authorizing statute, the purpose of the award, and to the extent applicable to the type of organizations receiving the award, regardless of tier. The following portions of the Code of Federal Regulations are hereby incorporated by reference (the full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>).
- (1) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles And Audit Requirements For Federal Awards"
 - (2) 48 CFR Part 31, "Contract Cost Principles and Procedures"

II. UNALLOWABLE COSTS

The following costs are not allowed:

- a. Costs above the amount authorized for the project
- b. Costs incurred after the expiration of the award including any no-cost extensions of time
- c. Costs that lie outside the scope of the approved project and any amendments thereto
- d. Compensation for injuries to persons or damage to property arising from project activities

This list is not exhaustive. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, "Subpart E - Cost Principles", or direct specific inquiries to the NRCS administrative contact identified in the award.

III. CONFIDENTIALITY

- a. Activities performed under this award may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS.
- b. The recipient's personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The recipient's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).
- c. The recipient agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act of 2008 (PL 110-246), 7 U.S.C. 8791.

IV. PRIOR APPROVAL REQUIREMENTS

The following are the most common situations requiring prior approval. However, the recipient is also bound by any other prior approval requirements of the applicable administrative provisions and Federal cost principles.

- a. Purpose or Deliverables.—When it is necessary for the recipient to modify the purpose or deliverables, the recipient must submit a written request and justification for the change along with the revised purpose or deliverables of the award to the NRCS administrative contact. The request should contain the following:
 1. Grant or agreement number

2. Narrative explaining the requested modification to the project purpose or deliverables
3. A description of the revised purpose or deliverables
4. Signatures of the authorized representative, project director, or both

Subcontractual Arrangement.—The recipient must submit a justification for the proposed subcontractual arrangements, a statement of work to be performed, and a detailed budget for the subcontract to the NRCS administrative contact. Subcontractual arrangements disclosed in the application do not require additional postaward approval.

- b. **Absence or Change in Project Leadership.**—When a project director or the person responsible for the direction or management of the project—
 1. Relinquishes active direction of the project for more than 3 consecutive months or has a 25 percent or more reduction in time devoted to the project, the grantee must notify the NRCS administrative contact in writing, identifying who will be in charge during the project director's absence. The notification must include the qualifications and the signature of the replacement, signifying his or her willingness to serve on the project.
 2. Severs his or her affiliation with the grantee, the grantee's options include—
 - i. Replacing the project director. The grantee must request written approval of the replacement from the NRCS administrative contact and must include the qualifications and the signature of the replacement signifying his or her willingness to serve on the project.
 - ii. Subcontracting to the former project director's new organization. The grantee must request approval from the administrative contact to replace the project manager and retain the award, and to subcontract to the former project director's new organization certain portions of the project to be completed by the former project director.
 - iii. Relinquishing the award. The grantee must submit to the NRCS administrative contact a signed letter by the grantee and the project director that indicates that the grantee is relinquishing the award. The letter must include the date the project director is leaving and a summary of progress to date. A final Standard Form (SF) 425 reflecting the total amount of funds spent by the recipient must be attached to the letter.
 3. Transfers the award to his or her new organization, the authorized organization's representative at the new organization must submit the following to the NRCS administrative contact as soon as the transfer date is firm and the amount of funds to be transferred is known:
 - i. The forms and certifications included in the application package
 - ii. A project summary and work statement covering the work to be completed under the project (deliverables and objectives must be the same as those outlined in the approved proposal)

- iii. An updated qualifications statement for the project director showing his or her new organizational affiliation
- iv. Any cost-sharing requirements under the original award transfer to the new institution; therefore, cost-sharing information must be included in the proposal from the new organization

Note: The transfer of an award from one organization to another can take up to 90 days to accomplish, which may result in a delay in the project director resuming the project at the new organization.

- c. **Budget Revisions.**—Budget revisions will be in accordance with 2 CFR Part 200.308.
- d. **No-Cost Extensions of Time.**—When a no-cost extension of time is required, the recipient must submit a written request to the NRCS administrative contact no later than 30 days before the expiration date of the award. The request must contain the following:
 - The length of additional time required to complete the project and a justification for the extension
 - A summary of progress to date
 - An estimate of funds expected to remain unobligated on the scheduled expiration date
 - A projected timetable to complete the portions of the project for which the extension is being requested
 - Signature of the grantee and the project director
 - A status of cost sharing to date (if applicable)

Note: An extension will not exceed 12 months. Only in exceptional cases will more than one extension be granted. Requests for no-cost extensions received after the expiration of the award will not be granted.

V. PAYMENTS

- a. Payment by NRCS to the entity will be made monthly or quarterly (whichever is mutually agreed upon by both parties) on a reimbursable or advanced basis upon completion of work outlined herein. Payment will be executed upon the submission of a properly executed form SF-270. The SF-270 must cite the agreement number, remittance address, and billing period. The SF-270 must be sent to the NRCS administrative contact at the address identified in block 8 of the Notice of Grant/Agreement Award.
- b. Unless otherwise specified in the award, the recipient must receive payments through electronic funds transfers.

- c. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant to procedures contained in the Federal administrative provisions and **31 CFR Part 205**.
- d. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the grantee makes advance payments to contractors, the grantee must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Payment requests from the grantee's contractors will not be sent to NRCS for review or approval.
- e. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subcontract award documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient.

VI. FINANCIAL REPORTING

- a. Recipients must submit a Federal Financial Report (FFR), SF 425 and 425A, in accordance with the following schedule (recipients may download the applicable form at <http://www.forms.gov>):

<u>Quarterly Schedule</u>	<u>Report Due Date</u>
October 1 to December 31	January 31
January 1 to March 31	April 30
April 1 to June 30	July 30
July 1 to September 30	October 30

Reports must be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award.

- b. A final Report must be submitted no later than 90 days after the completion of the award. For final FFRs, reporting end date must be the end date of the project or agreement period. The reports should be submitted to the NRCS administrative contact identified in award notifications.

VII. PERFORMANCE MONITORING AND REPORTING

- a. The recipient is responsible for monitoring day-to-day performance and for reporting to NRCS. If the project involves subcontractual arrangements, the recipient is also

responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.

- b. Every 6 months the recipient must submit a written progress report. Each report must cover—
 - 1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.
 - 2. The reasons why goals and objectives were not met, if appropriate.
 - 3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit cost.
- c. The recipient must submit a final performance report within 90 days after completion of project.

VIII. SPECIAL PROVISIONS

- a. The recipient assures and certifies that it will comply with the minimum-wage and maximum-hour provisions of the Federal Fair Labor Standards Act.
- b. Employees of NRCS will participate in efforts under this agreement solely as representatives of the United States. To this end, they may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, NRCS employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in efforts regarding such parties until approved by the agency.
- c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement.

IX. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

- a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 2 CFR Part 200.315. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.
- b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:

Acquisitions Division
Grants and Agreements Team

1400 Independence Avenue, SW.
Room 6823 South Building
Washington, DC 20250

- c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.
- d. The following acknowledgment of NRCS support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:
 - “This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number [recipient should enter the applicable award number here].”

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

- “Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture.”

The recipient is responsible for ensuring that an acknowledgment of NRCS is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this award.

X. COST-SHARING REQUIREMENTS

- a. If the award has specific cost-sharing requirements, the cost-sharing participation in other projects may not be counted toward meeting the specific cost-share requirement of this award, and must come from non-Federal sources unless otherwise stated in the applicable program announcement.
- b. Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must—
 1. Immediately notify the NRCS administrative contact of the situation.
 2. Specify the steps it plans to take to secure replacement cost sharing.
 3. Indicate the plans to either continue or phase out the project in the absence of cost sharing.
- c. If NRCS agrees to the organization’s proposed plans, the recipient will be notified accordingly. If the organization’s plans are not acceptable to NRCS, the award may be subject to termination. NRCS modifications to proposed cost sharing revisions are made on a case-by-case basis.

- d. Failure by the recipient to notify NRCS in accordance with paragraph (b) above may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by NRCS of some of the NRCS funds provided under the award, and possible termination of the award, and may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.
- e. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well records of costs to be paid by NRCS. If the recipient's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

XI. PROGRAM INCOME

Income derived from patents, inventions, or copyrights will be disposed of in accordance with the recipient's own policies. General program income earned under this award during the period of NRCS support must be added to total project funds and used to further the purpose and scope of this award or the legislation under which this award is made.

XII. NONEXPENDABLE EQUIPMENT

Recipients purchasing equipment or products with funds provided under this award are encouraged to use such funds to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by NRCS of required final reports. When equipment is no longer needed by the recipient and the per-unit fair market value is less than \$5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to NRCS. However, if the per-unit fair market value is \$5,000 or more, the recipient must submit a written request to the NRCS administrative contact for disposition instructions.

XIII. LIMIT OF FEDERAL LIABILITY

The maximum financial obligation of NRCS to the recipient is the amount of funds indicated in the award as obligated by NRCS. However, in the event that an erroneous amount is stated on the approved budget, or any supporting document relating to the award, NRCS will have the unilateral right to make the correction and to make an appropriate adjustment in the NRCS share of the award to align with the Federal amount authorized.

XIV. MODIFICATIONS AND TERMINATIONS

NRCS may amend or modify the award through an exchange of correspondence between authorized officials of the recipient and NRCS. The award is subject to termination if NRCS determines that the recipient has failed to comply with the terms and conditions of the award. In the event that the award is terminated, the financial obligations of the parties will be those set forth in 2 CFR Part 200.339.

XV. AWARD CLOSEOUT

Award closeout is the process by which NRCS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed.

AMERICAN OVERSIGHT

Appendix II to Part 200

Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all

suspected or reported violations to the Federal awarding agency. ***(Not required for EWP program)***

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(K) See § 200.322 Procurement of recovered materials.

Procurement Standards – 2 CFR § 200.317 through §200.326

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with § 200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section § 200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow § 200.318 General procurement standards through § 200.326 Contract provisions.

§ 200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c) (1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j) (1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal

concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§ 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to

define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

- (i) A complete, adequate, and realistic specification or purchase description is available;
- (ii) Two or more responsible bidders are willing and able to compete effectively for the business; and
- (iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

- (i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;

- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - (iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - (v) Any or all bids may be rejected if there is a sound documented reason.
- (d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - (2) Proposals must be solicited from an adequate number of qualified sources;
 - (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (e) [Reserved]
- (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
- (1) The item is available only from a single source;

- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

**NATURAL RESOURCES CONSERVATION SERVICE
SUPPLEMENT TO OSHA PARTS 1910 AND 1926
CONSTRUCTION INDUSTRY STANDARDS AND INTERPRETATIONS**

The Contractor shall comply with OSHA (Occupational Safety and Health Administration) Parts 1910 and 1926, Construction Industry Standards and Interpretations, and with this supplement.

Requests for variances or waiver from this supplement are to be made to the Contracting Officer in writing supported by evidence that every reasonable effort has been made to comply with the contractual requirements. A written request for a waiver or a variance shall include--

- (1) Specific reference to the provision or standard in question;
- (2) An explanation as to why the waiver is considered justified; and
- (3) The Contractor's proposed alternative, including technical drawings, materials, or equipment specifications needed to enable the Contracting Officer to render a decision.

No waiver or variance will be approved if it endangers any person. The Contractor shall not proceed under any requested revision of provision until the Contracting Officer has given written approval. The Contractor is to hold and save harmless the Natural Resources Conservation Service free from any claims or causes of action whatsoever resulting from the Contractor or subcontractors proceeding under a waiver or approved variance.

Copies of OSHA Parts 1910 and 1926, Construction Industry Standards and Interpretations, may be obtained from:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

1.0 GENERAL CONTRACTOR REQUIREMENTS:

1.1 SAFETY PROGRAM. Each Contractor is to demonstrate that he or she has facilities for conducting a safety program commensurate with the work under contract. The Contractor is to submit in writing a proposed comprehensive safety program to the Contracting Officer for approval before the start of construction operations. The program is to specifically state what provisions the Contractor proposes to take for the health and safety of all employees, including subcontractors and rental equipment operators. The program shall be site specific and provide details relevant to the work to be done, the hazards associated with the work, and the actions that will be necessary to minimize the identified hazards.

1.2 PRECONSTRUCTION SAFETY MEETING. Representatives for the Contractor are to meet with the Contracting Officer (CO) or the CO's representative before the start of construction to discuss the safety program and the implementation of all health and safety standards pertinent to the work under this contract.

1.3 JOINT SAFETY POLICY COMMITTEE. The Contractor or designated on-site representative is to participate in monthly meetings of a joint Safety Policy Committee, composed of the Natural Resources Conservation Service (Contracting Local Organization in locally awarded contracts) and Contractor supervisory personnel. At these meetings the Contractor's project manager and the Contracting Officer will review the effectiveness of the

Contractor's safety effort, resolve current health and safety problems, and coordinate safety activities for upcoming work.

1.4 SAFETY PERSONNEL. Each Contractor is to designate a competent supervisory employee satisfactory to the Contracting Officer to administer the safety program.

1.5 SAFETY MEETINGS. A minimum of one "on-the-job" or "toolbox" safety meeting is to be conducted each week by all field supervisors or foremen and attended by mechanics and all construction personnel at the jobsite. The Contractor is to also conduct regularly scheduled supervisory safety meetings at least monthly for all levels of job supervision.

1.6 SAFETY INSPECTION. The Contractor shall perform frequent and regular safety inspections of the jobsite, materials, and equipment, and shall correct deficiencies.

1.7 FIRST AID TRAINING. Every Contractor foreman's work crew must include an employee who has a current first aid certificate from the Mine Safety and Health Administration, American Red Cross, or other state-approved organization.

1.8 REPORTS. Each Contractor is to maintain an accurate record of all job-related deaths, diseases, or disabling injuries. The records shall be maintained in a manner approved by the Contracting Officer. A copy of all reports is to be provided to the Contracting Officer. All fatal or serious injuries are to be reported immediately to the Contracting Officer, and every assistance is to be given in the investigation of the incident, including submission of a comprehensive narrative report to the Contracting Officer. Other occurrences with serious accident potential, such as equipment failures, slides, and cave-ins, must also be reported immediately. The Contractor is to assist and cooperate fully with the Contracting Officer in conducting accident investigations. The Contracting Officer is to be furnished all information and data pertinent to investigation of an accident.

1.9 CERTIFICATION OF INSURANCE. Contractors are to provide the Contracting Officer or his or her authorized representative with certificates of insurance before the start of operations indicating full compliance with State Worker's Compensation statutes, as well as other certificates of insurance required under the contract.

2.0 FIRST AID AND MEDICAL FACILITIES:

2.1 FIRST AID KITS. A 16-unit first aid kit approved by the American Red Cross is to be provided at accessible, well-identified, locations at the ratio of at least 1 kit for each 25 employees. The first aid kits are to be moisture proof and dust tight, and the contents of the kits are to be replenished as used or as they become ineffective or outdated.

2.2 EMERGENCY FIRST AID. At least one employee certified to administer emergency first aid must be available on each shift and duly designated by the Contractor to care for injured employees. The names of the certified employees shall be posted at the jobsite.

2.3 COMMUNICATION AND TRANSPORTATION. Prior to the start of work, the Contractor is to make necessary arrangements for prompt and dependable communications, transportation, and medical care for injured employees. At least one stretcher and two blankets shall be readily available for transporting injured employees.

2.4 FIRST AID AND MEDICAL REPORTS. The Contractor is to maintain a record system for first aid and medical treatment on the jobsite. Such records are to be readily available to the Contracting Officer and are to include--

- (a) A daily treatment log listing chronologically all persons treated for occupational injuries and illnesses;
- (b) Cumulative record of injury for each individual;
- (c) Monthly statistical records of occupational injuries, classified by type and nature of injury; and
- (d) Required records for worker's compensation.

2.5 SIGNS AND DIRECTIONAL MARKINGS. Adequate identification and directional markers are to be provided to readily denote the location of all first aid stations.

2.6 EMERGENCY LISTING. A listing of telephone numbers and addresses of doctor, rescue squad, hospital, police, and fire departments is to be provided at all first aid locations.

3.0 PHYSICAL QUALIFICATIONS OF EMPLOYEES:

3.1 GENERAL REQUIREMENTS. Persons employed throughout the contract are to be physically qualified to perform their assigned duties. Employees must not knowingly be permitted or required to work while their ability or alertness is impaired by fatigue, illness, or any other reason that may jeopardize themselves or others.

3.2 HOIST OPERATORS. Operators of cranes, cableways, and other hoisting equipment shall be examined annually by a physician and provided with a certification stating that they are physically qualified to safely operate hoisting equipment. The Contractor is to submit a copy of each certification to the Contracting Officer.

3.3 HEAVY EQUIPMENT OPERATORS. It is recommended that operators of trucks and heavy construction equipment be given physical examinations to determine if they are physically qualified to perform their assigned work without endangering themselves or others.

3.4 MOTOR VEHICLE OPERATORS. Operators of motor vehicles engaged primarily in the transportation of personnel are to be 18 years of age or older and have a valid state operator's permit or license for the equipment being operated. The operators must have passed a physical examination administered by a licensed physician within the past year showing that they are physically qualified to operate vehicles safely.

4.0 PERSONAL PROTECTIVE EQUIPMENT:

4.1 HARDHAT AREAS. The entire jobsite, with the exception of offices, shall be considered a hardhat area. All persons entering the area are, without exception, required to wear hardhats. The Contractor shall provide hardhats for visitors entering hardhat areas.

4.1.1 LABELS. Hardhats shall bear a manufacturer's label indicating design compliance with the appropriate ANSI (American National Standards Institute) standard.

4.2 POSTING. Signs at least 3 by 4 feet worded as follows with red letters (minimum 6 inches high) and white background shall be erected at access points to designated hardhat areas:

CONSTRUCTION AREA - HARDHATS REQUIRED BEYOND THIS POINT

These signs are to be furnished and installed by the Contractor at entries to shops, construction yards, and job access points.

4.3 SAFETY GOGGLES (DRILLERS)

4.3.1 DRILLERS AND HELPERS. Drillers and helpers operating pneumatic rock drills must wear protective safety goggles.

5.0 MACHINERY AND MECHANIZED EQUIPMENT:

5.1 SAFE CONDITION. Before any machinery or mechanized equipment is initially used on the job, it must be inspected and tested by qualified personnel and determined to be in safe operating condition and appropriate for the intended use. Operators shall inspect their equipment prior to the beginning of each shift. Any deficiencies or defects shall be corrected prior to using the equipment. Safety equipment, such as seatbelts, installed on machinery is to be used by equipment operators.

5.2 TAGGING AND LOCKING. The controls of power-driven equipment under repair are to be locked. An effective lockout and tagging procedure is to be established, prescribing specific responsibilities and safety procedures to be followed by the person or persons performing repair work. Mixer barrels are to be securely locked out before permitting employees to enter them for cleaning or repair.

5.3 HAUL ROADS FOR EQUIPMENT

5.3.1 ROAD MAINTENANCE. The Contractor shall maintain all roadways, including haul roads and access roads, in a safe condition so as to eliminate or control dust and ice hazards. Wherever dust is a hazard, adequate dust-laying equipment shall be available at the jobsite and utilized to control the dust.

5.3.2 SINGLE-LANE HAUL ROADS. Single-lane haul roads with two-way traffic shall have adequate turnouts. Where turnouts are not practical, a traffic control system shall be provided to prevent accidents.

5.3.3 TWO-WAY HAUL ROADS. On two-way haul roads, arrangements are to be such that vehicles travel on the right side wherever possible. Signs and traffic control devices are to be employed to indicate clearly any variations from a right-hand traffic pattern. The road shall be wide enough to permit safe passage of opposing traffic, considering the type of hauling equipment used.

5.3.4 DESIGN AND CONSTRUCTION OF HAUL ROADS. Haul road design criteria and drawings, if requested by the Contracting Officer, are to be submitted for approval prior to road construction. Sustained grades shall not exceed 12 percent and all curves shall have open-sight line with as great a radius as practical. All roads shall be posted with curve signs and maximum speed limits that will permit the equipment to be stopped within one-half the minimum sight distance.

5.3.5 OPERATORS. Machinery and mechanized equipment shall be operated only by authorized qualified persons.

5.3.6 RIDING ON EQUIPMENT. Riding on equipment by unauthorized personnel is prohibited. Seating and safety belts shall be provided for the operator and all passengers.

5.3.7 GETTING ON OR OFF EQUIPMENT. Getting on or off equipment while the equipment is in motion is prohibited.

5.3.8 HOURS OF OPERATION. Except in emergencies, an equipment operator shall not operate any mobile or hoisting equipment for more than 12 hours without an 8-hour rest interval away from the job.

5.4 POWER CRANES AND HOISTS (TRUCK CRANES, CRAWLER CRANES, TOWER CRANES, GANTRY CRANES, HAMMERHEAD CRANES, DERRICKS, CABLEWAYS, AND HOISTS)

5.4.1 PERFORMANCE TEST. Before initial onsite operation, at 12-month intervals, and after major repairs or modification, power cranes, derricks, cableways, and hoists must satisfactorily complete a performance test to demonstrate the equipment's ability to safely handle and maneuver the rated loads. The tests shall be conducted in the presence of a representative of the Contracting Officer. Test data shall be recorded and a copy furnished the Contracting Officer.

5.4.2 PERFORMANCE TEST—POWER CRANES (Crawler mounted, truck mounted and wheel mounted). The performance test is to be carried out as per ANSI requirements. The test is to consist of raising, lowering, and braking the load and rotating the test load through 360° degrees at the specified boom angle or radius. Cranes equipped with jibs or boom-tip extensions are to be tested using both the main boom and the jib, with an appropriate test load in each case.

5.4.3 PERFORMANCE TEST—DERRICKS, GANTRY CRANES, TOWER CRANES, CABLEWAYS, AND HOISTS, INCLUDING OVERHEAD CRANES. This equipment is to be performance tested as per ANSI requirements.

5.4.4 BOOM ANGLE INDICATOR. Power cranes (includes draglines) with booms capable of moving in the vertical plane shall be provided with a boom angle indicator in good working order.

5.4.5 CRANE TEST CERTIFICATION. The performance test required by 5.4.2 and 5.4.3 is fulfilled if the Contractor provides the Contracting Officer a copy of a certificate of inspection made within the past 12 months by a qualified person or by a government or private agency satisfactory to the Contracting Officer.

5.4.6 POSTING FOR HIGH VOLTAGE LINES. A notice of the 10-foot (or greater) clearance required by OSHA 1926.550, Subpart N, shall be posted in the operator's cab of cranes, shovels, boom-type concrete pumps, backhoes, and related equipment.

5.4.7 BOOM STOPS. Cranes or derricks with cable-supported booms, except draglines, shall have a device attached between the gantry of the A-frame and the boom chords to limit the elevation of the boom. The device shall control the vertical motions of the boom with increasing resistance from 83° or less, until completely stopping the boom at not over 87° above horizontal.

5.4.8 SAFETY HOOKS. Hooks used in hoisting personnel or hoisting loads over construction personnel or in the immediate vicinity of construction personnel shall be forged steel equipped with safety keepers. When shackles are used under these conditions, they shall be of the locking type or have the pin secured to prohibit turning.

5.5 ROLLOVER PROTECTIVE STRUCTURES (ROPS)

5.5.1 ROLLOVER PROTECTIVE STRUCTURES. OSHA 1926, Subpart W, Overhead Protection, Sections 1001 and 1002 are applicable regardless of the year in which the equipment was manufactured and regardless of the struck capacity of the equipment.

5.5.2 EQUIPMENT REQUIRING ROPS. The requirement for ROPS meeting 5.5.1 above applies to crawler and rubber-tired tractors such as dozers, push-and-pull tractors, winch tractors, tractors with backhoes, and mowers; off-highway, self-propelled, pneumatic-tired earthmovers, including scrapers, motor graders and loaders; and rollers, compactors, water tankers (excluding trucks with cabs). These requirements shall also apply to agricultural and industrial tractors and similar equipment.

5.5.3 EQUIPMENT REQUIRING SEATBELTS. The requirements for seatbelts as specified in OSHA Subpart O, Motor Vehicles, Mechanized Equipment, and Marine Operations, Section 1926.602 shall also apply to self-propelled compactors and rollers, and rubber-tired skid-steer equipment.

6.0 LADDERS AND SCAFFOLDING:

6.1 LADDERS. OSHA 1926, Subpart L - Section 450. Ladders shall be used as work platforms only when use of small hand tools or handling of light material is involved. No work requiring lifting of heavy materials or substantial exertion shall be done from ladders.

6.2 SCAFFOLDING. OSHA 1926, Subpart L - Section 451. Scaffolds, platforms or temporary floors shall be provided for all work except that which can be done safely from the ground or similar footing.

6.3 SAFETY BELTS, LIFELINE, AND LANYARDS. OSHA 1926, Subpart E, Section 104. Lifelines, safety belts and lanyards independently attached or attended, shall be used when performing such work as the following when the requirements of 6.1 or 6.2 above cannot be met.

- (a) Work on stored material in hoppers, bins, silos, tanks, or other confined spaces.
- (b) Work on hazardous slopes, structural steel, or poles; erection or dismantling of safety nets, tying reinforcing bars; and work from Boatswain's chairs, swinging scaffolds, or other unguarded locations at elevations greater than 6 feet.
- (c) Work on skips and platforms used in shafts by crews when the skip or cage does not block the opening to within 1 foot of the sides of the shaft, unless cages are provided.

**RESOLUTION
NO.**

**A RESOLUTION
TO BE ENTITLED:**

**A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2016; PROVIDING FOR AN EFFECTIVE DATE.**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads:	Federal Grants	4,811,332
Amended		
To Read:	Federal Grants	6,311,332
As Reads:	Capital Outlay	10,207,226
Amended		
To Read:	Capital Outlay	11,707,226

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

SECTION 3. 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

THE CITY OF PENSACOLA
 APRIL 2016 - SUPPLEMENTAL BUDGET RESOLUTION - EMERG WATERSHED GRANT - BAYWOODS GULLY

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
Federal Grants	<u>1,500,000</u>	Increase estimated revenue from Federal Grants
Total Revenues	<u>1,500,000</u>	
Appropriations		
Capital Outlay	<u>1,500,000</u>	Increase appropriation for Capital Outlay
Total Appropriations	<u>1,500,000</u>	



Memorandum

File #: 17-00099

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Brian Spencer

SUBJECT:

INVOCATION POLICY

RECOMMENDATION:

That City Council adopt a resolution establishing an Invocation Policy.

HEARING REQUIRED: No Hearing Required

SUMMARY:

There is a long standing tradition of solemnizing City Council proceedings by allowing and inviting an opening invocation and the recitation of the Pledge of Allegiance before each regular meeting of the City Council for the benefit of the City Council.

It is recognize that our City and Nation is comprised of individuals with a diversity of viewpoints, including but not limited to, faiths, religions, beliefs, and non-beliefs. Accordingly, reasonable efforts will be made to invite, locate, and welcome individuals with a diversity of viewpoints to offer the opening invocation for the benefit of the City Council, and the policies shall not be intended, implemented, or construed in any manner to affiliate the City Council or the City with, or express any preference for or against, any faith, non-faith, belief, non-belief or religious denomination.

In recognition of the diversity of faiths, ideas, viewpoints, and various beliefs, an invocation may be allowed that is solemn and respectful in tone that invites the City Council members to reflect upon shared ideals and common ends before embarking on the business of governing.

In further recognition of the diversity of ideas, viewpoints, and various beliefs and non-beliefs held within this Country, the opening invocation and recitation of the Pledge of Allegiance will be voluntary and allow participation from all that wish to participate, but otherwise allow non-participation and an opportunity to exit the City Council Chambers during the opening invocation and/or recitation of the Pledge of Allegiance to any who do not wish to witness or participate in same.

It is the intent of this policy that these procedures do not proselytize or advance any faith, or show any purposeful preference of one religious or non-religious view to the exclusion of others.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Invocation Resolution

PRESENTATION: No

RESOLUTION
NO. _____

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, REGARDING A CEREMONIAL, OPENING INVOCATION AND RECITATION OF THE PLEDGE OF ALLEGIANCE AT COUNCIL MEETINGS PRIOR TO OFFICIAL POLICYMAKING AND LEGISLATIVE FUNCTIONS; ADOPTING A POLICY OF NON-EXCLUSION AND SELECTION OF VOLUNTEER INVOCATION SPEAKERS AND A DIVERISTY OF VIEWPOINTS AND NON-EXCLUSION OF THOSE IN ATTENDANCE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Pensacola (the “City”) desires to preserve and maintain the tradition of solemnizing its City Council proceedings by allowing and inviting an opening invocation and the recitation of the Pledge of Allegiance before each regular meeting of the City Council for the benefit of the City Council; and

WHEREAS, the City recognizes that our history is replete with official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers and contemporary leaders as set forth in the holding of *Lynch v. Donnelly*, 465 U.S. 668, 675 (1984); and

WHEREAS, the United States Supreme Court and Eleventh District have consistently upheld the practice of delivering religious invocations before deliberative public bodies occurring prior to policymaking. *See Town of Greece v. Galloway*, 572 U.S.____, slip op., 134 S. Ct. 1811 (2014); *Marsh v. Chambers*, 463 U.S. 783 (1983); *Atheists of Florida, Inc. v. City of Lakeland*, 713 F.3d 577 (11th Cir. 2013); and

WHEREAS, the City recognizes that our City and Nation is comprised of individuals with a diversity of viewpoints, including but not limited to, faiths, religions, beliefs, and non-beliefs. Accordingly, the City will make reasonable efforts to invite, locate, and welcome individuals with a diversity of viewpoints to offer the opening invocation for the benefit of the City Council, and the City’s policies shall not be intended, implemented, or construed in any manner to affiliate the City Council or the City with, or express any preference for or against, any faith, non-faith, belief, non- belief or religious denomination;

WHEREAS, in recognition of the diversity of faiths, ideas, viewpoints, and various beliefs as referenced herein, it is the policy of the City that sectarian prayer may be allowed that is solemn and respectful in tone that invites the City Council members to reflect upon shared ideals and common ends before embarking on the business of governing. However, invocation speakers are hereby requested to refrain from exploiting the invocation period with proselytizing or advancing any one belief, view, or religion; disparaging any other faith or belief; denigrating nonbelievers or religious minorities; threatening damnation; or preaching conversion;

WHEREAS, in further recognition of the diversity of ideas, viewpoints, and various beliefs and non-beliefs held within this Country, it is the policy of the City that the opening invocation and recitation of the Pledge of Allegiance be voluntary and allow participation from all that wish to participate, but otherwise allow non-participation and an opportunity to exit the City Council Chambers during the opening invocation and/or recitation of the Pledge of Allegiance to any who do not wish to witness or participate in same; and

WHEREAS, the City Council intends that this policy and these procedures do not proselytize or advance any faith, or show any purposeful preference of one religious or non-religious view to the exclusion of others.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, AS FOLLOWS:

SECTION 1. INVOCATION PROCEDURE AND POLICIES.

Intent. It is the intent of the City Council to formulate a policy that is consistent with the Supreme Court's ruling in *Town of Greece v. Galloway*, *Marsh v. Chambers* and the Eleventh Circuits ruling in *Atheists of Florida, Inc. v. City of Lakeland*. Further it is the policy of the City Council that the procedures set forth in this Resolution concerning opening invocation shall occur at all regular meetings of the City Council. This policy and these procedures are not intended, shall not be implemented, and shall not be construed in any way, to affiliate the City Council or the City with, nor express a preference for or against any faith, belief, non-belief, opinion, religion, non-religion, or denomination. Rather, this policy and these procedures are intended to acknowledge and express the City Council's respect for the diversity of religious and non-religious denominations and faiths represented and practiced among the citizens of the City and to express the City Council's respect for its proceedings and the importance of government and local legislative functions. In no event shall these procedures be intended, implemented, or construed in any way to compel participation in the opening invocation or recitation of the Pledge of Allegiance. Neither the City Council nor the City staff shall require the public to participate in the opening invocation or recitation of the Pledge of Allegiance; single out dissidents for opprobrium; or indicate or allow in any manner the City Council's decisions to be influenced by a person's participation or lack of participation in the opening invocation or recitation of the Pledge of Allegiance.

Timing. After the Call to Order of all regular meetings of the City Council, an opening invocation as described herein shall occur followed directly by the recitation of the Pledge of Allegiance. The opening invocation and recitation of the Pledge of Allegiance will occur and be completed during the opening, ceremonial portion of the City Council meeting and shall in no event occur, or be construed to occur, during the policymaking or legislative portions of the City Council meeting.

Speaker Selection. The City Council hereby invites and welcomes the religious leaders and other representatives of any and all local religions, denominations, faiths, creeds, and beliefs, including but not limited to, ministers, priests, chaplains, rabbis, deacons, and the like, to participate in providing opening invocations for the City Council. The opening invocation will be performed by a local volunteer selected in accordance with these rules.

The local volunteer selected for leading the opening invocation shall be selected from a wide pool of local clergy and organization or group leaders as specified below, and he/she shall in no event receive compensation from the City for his/her participation or services. To ensure that such person is selected from among a wide pool of local clergy and organization or group leaders, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

1. The City Clerk or his/her designee shall compile and maintain a database of the religious congregations, and other groups and organizations, with an established presence within the jurisdictional limits of the City of Pensacola. This list shall be established within 60 days of the passage of this resolution.

2. The database shall be compiled examining a broad and diverse pool of religious leaders and other representatives of any and all local religions, denominations, faiths, creeds, and beliefs, including but not limited to, ministers, priests, chaplains, rabbis, deacons, clerics, and the like. The database may be compiled through referencing the listings for “churches,” “congregations,” other religious and non-religious groups and organizations located, or with an established presence, within the jurisdictional limits of the City in the annual Yellow Pages telephone book(s) or comparable data sources, research from the Internet, consultation with local chambers of commerce or comparable organizations, and any other effective method in the discretion of the City Clerk or his/her designee. Any such church, congregation, entity, organization or group within the jurisdictional limits of the City not identified within the database for participation may request inclusion within the database by written communication directed to the City Clerk that references the opening invocation. If a resident of the City is a member of a church, congregation, other religious or non-religious group or organization which is located outside of the City, such shall be included in the database upon the residents’ written request to the City. This policy is intended to be and shall be applied in a way that is inclusive of diverse religious and non-religious congregations, groups and organizations. The database is compiled and used for purposes of logistics, efficiency, and equal opportunity for all religious and non-religious leaders within the jurisdictional limits of the City to choose whether to respond to the City Council’s invitation.

3. The database shall be updated by reasonable efforts of the City Clerk or his/her designee bi-annually.

4. Potential invocation speakers shall be selected from the database and be invited by the City Council on a rotating basis; provided, however, reasonable efforts shall be made to ensure that a variety of invocation speakers are scheduled for City Council meetings. Notwithstanding the preceding, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the Council, or at more than two (2) City Council meetings in any twelve (12) month period.

5. Neither the City nor the City Council shall engage in any prior inquiry, review, or involvement in, the content of any invocation to be offered by an invocation speaker. However, consistent with U.S. Supreme Court precedent, invocation speakers are hereby advised that the invocation should not denigrate nonbelievers or religious minorities; threaten damnation; or preach conversion.

Statements reflecting ideals relating to peace and security for the nation; safety of our armed forces, police, firefighters and emergency service personnel; wisdom for the lawmakers; and justice for the people are encouraged.

6. The City Clerk may add the name and affiliated organization of the selected invocation speaker for a particular meeting to the Council Agenda next to the "Invocation" item. Notwithstanding the preceding, such entry or information shall not be considered or construed as an official agenda item for the public meeting or considered part of the public business to be transacted by the City Council.

7. In recognition of the transitional process relating to the policies set forth herein, including but not limited to the completion of the database, the City Clerk or his/her designee may invite religious or non-religious leaders, chaplains, ministers, rabbis or leaders of other groups or organizations with an established presence within the jurisdictional limits of the City to conduct the opening invocation until such time as the database is compiled, to offer a moment of silence, or to forego the opening invocation.

8. In the event an upcoming meeting of the City Council does not have a volunteer opening invocation speaker for that meeting, the City Council reserves the right to invite religious or non-religious leaders, chaplains, ministers, rabbis or leaders of other groups or organizations to conduct the opening invocation for that meeting, and in the event no such speaker is available, the City Council President may choose any speaker; offer a moment of silence; or forego the opening invocation.

Conduct of Proceedings. No member of the City Council, City employee or staff, or any other person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to rise and/or recite the Pledge of Allegiance. An opportunity to exit the City Council chambers and return upon completion of the opening invocation shall be afforded to those who do not wish to participate or witness same.

Persons in attendance at the City Council meeting are invited to stand during the opening invocation and are invited to stand and/or recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. Such invitation constitutes a general invitation that a person in attendance may stand and/or participate if he/she wishes to do so for such observances. An opportunity to exit the City Council Chambers and return upon completion of the Pledge of Allegiance shall be afforded to those who do not wish to participate or witness same

Agenda Disclaimer. The following statement shall be placed at the bottom of City Council meeting agendas:

Any opening invocation that is offered before the official start of the Council meeting shall be the voluntary offering of a private person, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious or non-religious beliefs or views of such speaker. Persons in attendance at the City Council meeting are invited to stand during the

invocation and to stand and recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to participate in the Pledge of Allegiance. You may remain seated within the City Council Chambers or exit the City Council Chambers and return upon completion of the opening invocation and/or Pledge of Allegiance if you do not wish to participate in or witness the opening invocation and/or the recitation of the Pledge of Allegiance.

SECTION 2: CONFLICTS/SUPERSEDE. This Resolution shall supersede any previous rules, policies, procedures, or resolutions to the extent of any conflict with this Resolution.

SECTION 3: SEVERABILITY. If any portion of this Resolution is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable, or void, the balance of the Resolution shall continue in full force and effect.

SECTION 4: EFFECTIVE DATE. 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



Memorandum

File #: 17-14

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Brian Spencer

SUBJECT:

Resolution No. 17-14 - Invocation Policy

RECOMMENDATION:

That City Council adopt Resolution No. 17-14.

HEARING REQUIRED: No Hearing Required

SUMMARY:

There is a long standing tradition of solemnizing City Council proceedings by allowing and inviting an opening invocation and the recitation of the Pledge of Allegiance before each regular meeting of the City Council for the benefit of the City Council.

It is recognize that our City and Nation is comprised of individuals with a diversity of viewpoints, including but not limited to, faiths, religions, beliefs, and non-beliefs. Accordingly, reasonable efforts will be made to invite, locate, and welcome individuals with a diversity of viewpoints to offer the opening invocation for the benefit of the City Council, and the policies shall not be intended, implemented, or construed in any manner to affiliate the City Council or the City with, or express any preference for or against, any faith, non-faith, belief, non-belief or religious denomination.

In recognition of the diversity of faiths, ideas, viewpoints, and various beliefs, an invocation may be allowed that is solemn and respectful in tone that invites the City Council members to reflect upon shared ideals and common ends before embarking on the business of governing.

In further recognition of the diversity of ideas, viewpoints, and various beliefs and non-beliefs held within this Country, the opening invocation and recitation of the Pledge of Allegiance will be voluntary and allow participation from all that wish to participate, but otherwise allow non-participation and an opportunity to exit the City Council Chambers during the opening invocation and/or recitation of the Pledge of Allegiance to any who do not wish to witness or participate in same.

It is the intent of this policy that these procedures do not proselytize or advance any faith, or show any purposeful preference of one religious or non-religious view to the exclusion of others.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Resolution No. 17-14

PRESENTATION: No

RESOLUTION
NO. 17-14

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, REGARDING A CEREMONIAL, OPENING INVOCATION AND RECITATION OF THE PLEDGE OF ALLEGIANCE AT COUNCIL MEETINGS PRIOR TO OFFICIAL POLICYMAKING AND LEGISLATIVE FUNCTIONS; ADOPTING A POLICY OF NON-EXCLUSION AND SELECTION OF VOLUNTEER INVOCATION SPEAKERS AND A DIVERSITY OF VIEWPOINTS AND NON-EXCLUSION OF THOSE IN ATTENDANCE; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the City of Pensacola (the “City”) desires to preserve and maintain the tradition of solemnizing its City Council proceedings by allowing and inviting an opening invocation and the recitation of the Pledge of Allegiance before each regular meeting of the City Council for the benefit of the City Council; and

WHEREAS, the City recognizes that our history is replete with official references to the value and invocation of Divine guidance in deliberations and pronouncements of the Founding Fathers and contemporary leaders as set forth in the holding of *Lynch v. Donnelly*, 465 U.S. 668, 675 (1984); and

WHEREAS, the United States Supreme Court and Eleventh District have consistently upheld the practice of delivering religious invocations before deliberative public bodies occurring prior to policymaking. *See Town of Greece v. Galloway*, 572 U.S.____, slip op., 134 S. Ct. 1811 (2014); *Marsh v. Chambers*, 463 U.S. 783 (1983); *Atheists of Florida, Inc. v. City of Lakeland*, 713 F.3d 577 (11th Cir. 2013); and

WHEREAS, the City recognizes that our City and Nation is comprised of individuals with a diversity of viewpoints, including but not limited to, faiths, religions, beliefs, and non-beliefs. Accordingly, the City will make reasonable efforts to invite, locate, and welcome individuals with a diversity of viewpoints to offer the opening invocation for the benefit of the City Council, and the City’s policies shall not be intended, implemented, or construed in any manner to affiliate the City Council or the City with, or express any preference for or against, any faith, non-faith, belief, non- belief or religious denomination;

WHEREAS, in recognition of the diversity of faiths, ideas, viewpoints, and various beliefs as referenced herein, it is the policy of the City that sectarian prayer may be allowed that is solemn and respectful in tone that invites the City Council members to reflect upon shared ideals and common ends before embarking on the business of governing. However, invocation speakers are hereby requested to refrain from exploiting the invocation period with proselytizing or advancing any one belief, view, or religion; disparaging any other faith or belief; denigrating nonbelievers or religious minorities; threatening damnation; or preaching conversion;

WHEREAS, in further recognition of the diversity of ideas, viewpoints, and various beliefs and non-beliefs held within this Country, it is the policy of the City that the opening invocation and recitation of the Pledge of Allegiance be voluntary and allow participation from all that wish to participate, but otherwise allow non-participation and an opportunity to exit the City Council Chambers during the opening invocation and/or recitation of the Pledge of Allegiance to any who do not wish to witness or participate in same; and

WHEREAS, the City Council intends that this policy and these procedures do not proselytize or advance any faith, or show any purposeful preference of one religious or non-religious view to the exclusion of others.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, AS FOLLOWS:

SECTION 1. INVOCATION PROCEDURE AND POLICIES.

Intent. It is the intent of the City Council to formulate a policy that is consistent with the Supreme Court's ruling in *Town of Greece v. Galloway*, *Marsh v. Chambers* and the Eleventh Circuits ruling in *Atheists of Florida, Inc. v. City of Lakeland*. Further it is the policy of the City Council that the procedures set forth in this Resolution concerning opening invocation shall occur at all regular meetings of the City Council. This policy and these procedures are not intended, shall not be implemented, and shall not be construed in any way, to affiliate the City Council or the City with, nor express a preference for or against any faith, belief, non-belief, opinion, religion, non-religion, or denomination. Rather, this policy and these procedures are intended to acknowledge and express the City Council's respect for the diversity of religious and non-religious denominations and faiths represented and practiced among the citizens of the City and to express the City Council's respect for its proceedings and the importance of government and local legislative functions. In no event shall these procedures be intended, implemented, or construed in any way to compel participation in the opening invocation or recitation of the Pledge of Allegiance. Neither the City Council nor the City staff shall require the public to participate in the opening invocation or recitation of the Pledge of Allegiance; single out dissidents for opprobrium; or indicate or allow in any manner the City Council's decisions to be influenced by a person's participation or lack of participation in the opening invocation or recitation of the Pledge of Allegiance.

Timing. After the Call to Order of all regular meetings of the City Council, an opening invocation as described herein shall occur followed directly by the recitation of the Pledge of Allegiance. The opening invocation and recitation of the Pledge of Allegiance will occur and be completed during the opening, ceremonial portion of the City Council meeting and shall in no event occur, or be construed to occur, during the policymaking or legislative portions of the City Council meeting.

Speaker Selection. The City Council hereby invites and welcomes the religious leaders and other representatives of any and all local religions, denominations, faiths, creeds, and beliefs, including but not limited to, ministers, priests, chaplains, rabbis, deacons, and the like, to participate in providing opening invocations for the City Council. The opening invocation will be performed by a local volunteer selected in accordance with these rules.

The local volunteer selected for leading the opening invocation shall be selected from a wide pool of local clergy and organization or group leaders as specified below, and he/she shall in no event receive compensation from the City for his/her participation or services. To ensure that such person is selected from among a wide pool of local clergy and organization or group leaders, on a rotating basis, the invocation speaker shall be selected according to the following procedure:

1. The City Clerk or his/her designee shall compile and maintain a database of the religious congregations, and other groups and organizations, with an established presence within the jurisdictional limits of the City of Pensacola. This list shall be established within 60 days of the passage of this resolution.

2. The database shall be compiled examining a broad and diverse pool of religious leaders and other representatives of any and all local religions, denominations, faiths, creeds, and beliefs, including but not limited to, ministers, priests, chaplains, rabbis, deacons, clerics, and the like. The database may be compiled through referencing the listings for “churches,” “congregations,” other religious and non-religious groups and organizations located, or with an established presence, within the jurisdictional limits of the City in the annual Yellow Pages telephone book(s) or comparable data sources, research from the Internet, consultation with local chambers of commerce or comparable organizations, and any other effective method in the discretion of the City Clerk or his/her designee. Any such church, congregation, entity, organization or group within the jurisdictional limits of the City not identified within the database for participation may request inclusion within the database by written communication directed to the City Clerk that references the opening invocation. If a resident of the City is a member of a church, congregation, other religious or non-religious group or organization which is located outside of the City, such shall be included in the database upon the residents’ written request to the City. This policy is intended to be and shall be applied in a way that is inclusive of diverse religious and non-religious congregations, groups and organizations. The database is compiled and used for purposes of logistics, efficiency, and equal opportunity for all religious and non-religious leaders within the jurisdictional limits of the City to choose whether to respond to the City Council’s invitation.

3. The database shall be updated by reasonable efforts of the City Clerk or his/her designee bi-annually.

4. Potential invocation speakers shall be selected from the database and be invited by the City Council on a rotating basis; provided, however, reasonable efforts shall be made to ensure that a variety of invocation speakers are scheduled for City Council meetings. Notwithstanding the preceding, no invocation speaker shall be scheduled to offer an invocation at consecutive meetings of the Council, or at more than two (2) City Council meetings in any twelve (12) month period.

5. Neither the City nor the City Council shall engage in any prior inquiry, review, or involvement in, the content of any invocation to be offered by an invocation speaker. However, consistent with U.S. Supreme Court precedent, invocation speakers are hereby advised that the invocation should not denigrate nonbelievers or religious minorities; threaten damnation; or preach conversion.

Statements reflecting ideals relating to peace and security for the nation; safety of our armed forces, police, firefighters and emergency service personnel; wisdom for the lawmakers; and justice for the people are encouraged.

6. The City Clerk may add the name and affiliated organization of the selected invocation speaker for a particular meeting to the Council Agenda next to the "Invocation" item. Notwithstanding the preceding, such entry or information shall not be considered or construed as an official agenda item for the public meeting or considered part of the public business to be transacted by the City Council.

7. In recognition of the transitional process relating to the policies set forth herein, including but not limited to the completion of the database, the City Clerk or his/her designee may invite religious or non-religious leaders, chaplains, ministers, rabbis or leaders of other groups or organizations with an established presence within the jurisdictional limits of the City to conduct the opening invocation until such time as the database is compiled, to offer a moment of silence, or to forego the opening invocation.

8. In the event an upcoming meeting of the City Council does not have a volunteer opening invocation speaker for that meeting, the City Council reserves the right to invite religious or non-religious leaders, chaplains, ministers, rabbis or leaders of other groups or organizations to conduct the opening invocation for that meeting, and in the event no such speaker is available, the City Council President may choose any speaker; offer a moment of silence; or forego the opening invocation.

Conduct of Proceedings. No member of the City Council, City employee or staff, or any other person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to rise and/or recite the Pledge of Allegiance. An opportunity to exit the City Council chambers and return upon completion of the opening invocation shall be afforded to those who do not wish to participate or witness same.

Persons in attendance at the City Council meeting are invited to stand during the opening invocation and are invited to stand and/or recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. Such invitation constitutes a general invitation that a person in attendance may stand and/or participate if he/she wishes to do so for such observances. An opportunity to exit the City Council Chambers and return upon completion of the Pledge of Allegiance shall be afforded to those who do not wish to participate or witness same

Agenda Disclaimer. The following statement shall be placed at the bottom of City Council meeting agendas:

Any opening invocation that is offered before the official start of the Council meeting shall be the voluntary offering of a private person, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious or non-religious beliefs or views of such speaker. Persons in attendance at the City Council meeting are invited to stand during the

invocation and to stand and recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to participate in the Pledge of Allegiance. You may remain seated within the City Council Chambers or exit the City Council Chambers and return upon completion of the opening invocation and/or Pledge of Allegiance if you do not wish to participate in or witness the opening invocation and/or the recitation of the Pledge of Allegiance.

SECTION 2: CONFLICTS/SUPERSEDE. This Resolution shall supersede any previous rules, policies, procedures, or resolutions to the extent of any conflict with this Resolution.

SECTION 3: SEVERABILITY. If any portion of this Resolution is finally determined by a court of competent jurisdiction to be invalid, unconstitutional, unenforceable, or void, the balance of the Resolution shall continue in full force and effect.

SECTION 4: EFFECTIVE DATE. 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

File #: 17-00018

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Award of Contract - Bid #17-010 Emergency Watershed Protection Program Baywoods Gully West - Phase II Project

RECOMMENDATION:

That City Council award a contract for construction of Emergency Watershed Protection Program Baywoods Gully West Phase II Project to BKW, Inc., of Pensacola, Florida, the lowest and most responsible bidder with a base bid of \$967,125.89, plus additive alternate #1 of \$13,464.50, plus a 10% contingency of \$98,059.04 for a total amount of \$1,078,649.43.

Public Hearing Required: No Hearing Required

SUMMARY:

In April 2014, multiple locations along Baywoods Gully were damaged by severe flooding due to the declared natural disaster rainfall event. The City of Pensacola initially secured a matching grant as the sponsor through the Natural Resources Conservation Service (NRCS) Emergency Watershed Protection (EWP) Program to repair damage on privately owned property along Carpenter's Creek and two sites along Baywoods Gully. Since that time, the NRCS has awarded the City additional funding to address two more significant erosion sites in the west end of Baywoods Gully. This award of contract pertains to the second (Phase II) of the final two sites along Baywoods Gully and involves installing new stormwater conveyance infrastructure, restoring the eroded gully banks and providing advanced stabilization measures along the slopes to help protect from future erosion that poses a threat to private property.

PRIOR ACTION:

April 14, 2016 - City Council approved the Project Agreement with the US Department of Agriculture Natural Resources Conservation Service (NRCS).

November 17, 2016 - Award of Contract - Bid #16-044 Emergency Watershed Protection Program Baywoods Gully West Phase I Project

FUNDING:

Budget: \$ 1,500,000.00 (FA-NRCS Grant Award)
 200,000.00 (TA-NRCS Grant Award)
 500,000.00 City 25% Match - Stormwater Capital Projects Fund
 \$ 2,200,000.00 Total

Actual: \$ 567,223.00 Construction Contract (Phase I)
 56,722.00 10% Contingency (Phase I)
 967,125.89 Construction Contract (Phase II)
 13,464.50 Additive Alternative #1 (Phase II)
 98,059.04 10% Contingency (Phase II)
 180,183.09 Engineering Design/Permitting - Consultant (Phase I & II)
 71,000.00 Project Administration/Inspection (Estimate Phase I & II)
 17,000.00 Construction Testing and Misc. (Estimate Phase I & II)
 \$ 1,970,777.52 Total

FINANCIAL IMPACT:

Grant funding in the amount of \$1,700,000 is currently available in the Special Grants Fund. Additionally, funding in the amount of \$500,000 is available for the required “match” within the Stormwater Capital Projects Fund for this project for a total of \$2,200,000. To date, \$751,559.72 has been expended or encumbered for completed items related to Phase I construction cost and Phase II Engineering Design and Miscellaneous Preconstruction Cost, leaving a remaining current balance of \$1,448,440.28. The remaining budget balance is sufficient to cover the remaining items that have yet to be completed/expended.

CITY ATTORNEY REVIEW: Yes

1/27/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
L. Derrick Owens, Director of Public Works and Facilities/City Engineer

ATTACHMENTS:

- 1) Bid Tabulation, Bid No. 17-010
- 2) Final Vendor Reference List, Bid No. 17-010
- 3) EWP Baywoods Gully West Phase II Project Map
- 4) Report of City Council Action Items NRCS Grant 4-14-16

PRESENTATION: No

TABULATION OF BIDS

BID NO: 17-010

TITLE: EMERGENCY WATERSHED PROTECTION PROGRAM BAYWOODS GULLY WEST PHASE II

OPENING DATE: January 10, 2017 OPENING TIME: 2:30 P.M. DEPARTMENT: Engineering	BKW, INC. Pensacola, FL	J. MILLER CONSTRUCTION, INC. Pensacola, FL	GULF COAST UTILITY CONTRACTORS Panama City, FL
Base Bid	\$967,125.89	\$1,148,223.00	\$1,898,785.00
Additive Alternate 1:	\$13,464.50	\$8,360.00	\$23,765.00
M/WBE Participation Goal 5%	100%	5.5%	3.9%
Attended Prebid	Yes	Yes	Yes

Opening Date: 01/10/17

Bid No.: 17-010

**FINAL VENDOR REFERENCE LIST
EMERGENCY WATERSHED PROTECTION PROGRAM BAYWOODS GULLY WEST PHASE II
ENGINEERING**

Vendor	Name	Address	City	St	Zip Code	M/WBE
044957	ALL SEASONS CONSTRUCTION LLC	6161 BLUE ANGEL PARKWAY	PENSACOLA	FL	32526	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	N
053457	BIRKSHIRE JOHNSTONE LLC	11 CLARINDA LANE	PENSACOLA	FL	32505	N
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	N
022856	BROWN CONSTRUCTION OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	N
041503	BROWN, AMOS P JR DBA P BROWN BUILDERS LLC	4231 CHERRY LAUREL DRIVE	PENSACOLA	FL	32504	Y
042045	CHIVERS CONSTRUCTION INC	1795 WEST DETROIT BLVD	PENSACOLA	FL	32534	N
049653	CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC	6550 BUD JOHNSON ROAD	PENSACOLA	FL	32505	N
057454	COASTAL PILE DRIVING INC	2201 VALLEY ESCONDIDO DRIVE	PENSACOLA	FL	32526	N
045454	COASTLINE STRIPING INC	8840 FOWLER AVENUE	PENSACOLA	FL	32534	N
058302	CONTECH	182 MONTGOMERY STREET	SANTA ROSA BCH	FL	32455	N
060876	CREATIVE PUBLIC AMENITIES	1317 JOHN CARROLL DRIVE	PENSACOLA	FL	32504	N
036146	CRONIN CONSTRUCTION INC	913 GULF BREEZE PKWY STE 12	GULF BREEZE	FL	32561	Y
033554	D K E MARINE SERVICES	P O BOX 2395	PENSACOLA	FL	32513	N
032038	EVANS CONTRACTING INC	289 NOWAK RD	CANTONMENT	FL	32533	N
058842	EVERS COMMERCIAL SERVICES OF NORTHWEST FL LLC	1450 EVERS HAVEN	CANTONMENT	FL	32533	N
033421	FLOYD BROTHERS CONSTRUCTION	101 EAST 9 1/2 MILE ROAD	PENSACOLA	FL	32534	N
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	8777 ASHLAND AVE	PENSACOLA	FL	32514	N
000591	GULF ATLANTIC CONSTRUCTORS INC	650 WEST OAKFIELD RD	PENSACOLA	FL	32503	N
044100	GULF BEACH CONSTRUCTION	1308 UPLAND CREST COURT	GULF BREEZE	FL	32563	N
034504	GULF COAST AFRICAN AMERICAN CHAMBER OF COMMERCE	PO BOX 17844	PENSACOLA	FL	32522	N
018636	GULF COAST BUILDING CONTRACTORS INC	1010 N 12TH AVE	PENSACOLA	FL	32501	N
017352	GULF COAST TRAFFIC ENGINEERS	8203 KIPLING STREET	PENSACOLA	FL	32514	N
055520	GULF COAST UTILITY CONTRACTORS	13938 HIGHWAY 77	PANAMA CITY	FL	32409	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	N
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	N
049240	J MILLER CONSTRUCTION INC	201 SOUTH "F" STREET	PENSACOLA	FL	32501	N
043857	KBI CONSTRUCTION CO INC	9214 WARING RD	PENSACOLA	FL	32534	N
069857	L D SIMPSON CONSTRUCTION LLC	3764 SUMMER AVE	MEMPHIS	TN	38122	N
058332	LEIDNER BUILDERS INC	409 N PACE BLVD	PENSACOLA	FL	32505	N
058801	M & H CONSTRUCTION SVCS INC	4782 MALLARD CREEK ROAD	PENSACOLA	FL	32526	Y

Opening Date: 01/10/17

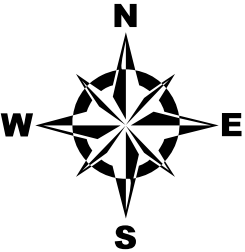
Bid No.: 17-010

FINAL VENDOR REFERENCE LIST
EMERGENCY WATERSHED PROTECTION PROGRAM BAYWOODS GULLY WEST PHASE II
ENGINEERING

Vendor	Name	Address	City	St	Zip Code	M/WBE
052456	MEI LING DAVIS LLC	PO BOX 18155	PENSACOLA	FL	32523	N
053467	MIDSOUTH PAVING INC	4375 MCCOY DRIVE	PENSACOLA	FL	32503	N
016210	NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	N
049208	NWF PAVING AND BLACK TOP INC	3709 WEST BRAINERD STREET	PENSACOLA	FL	32505	N
051747	PAEDAE PROPERTIES INC	5104 NORTH W STREET	PENSACOLA	FL	32505	N
002720	PANHANDLE GRADING & PAVING INC	2665 SOLO DOS FAMILIAF	PENSACOLA	FL	32534	N
030951	PAV'R CONSTRUCTION INC	501 EAST GREGORY ST STE 3	PENSACOLA	FL	32502	N
060334	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	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	N
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	N
021834	RANDALL CHAVERS SEPTIC TANK INC DBA R & L PRODUCTS	9492 PENSACOLA BLVD	PENSACOLA	FL	32534	N
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	N
067564	ROBERSON UNDERGROUND UTILITY LLC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	N
055499	ROCKWELL CORPORATION	3309 LINGER COURT	PENSACOLA	FL	32526	N
052761	SEASIDE GOLF DEVELOPMENT INC	312 N DAVIS HWY	PENSACOLA	FL	32501	N
065450	SITE AND UTILITY LLC	PO BOX 30136	PENSACOLA	FL	32503	N
059753	SITE WORX OF NORTHWEST FL LLC	1450 EVERS HAVEN	CANTONMENT	FL	32533	N
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	N
057995	T&W BREAKING GROUND LLC	5748 PRINCETON DRIVE	PENSACOLA	FL	32526	N
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	N
037833	THE PENSACOLA VOICE INC	213 EAST YONGE STREET	PENSACOLA	FL	32503	N
053924	THOMPSON CONTRACTOR RESOURCES INC	196 E NINE MILE RD SUITE C	PENSACOLA	FL	32534	N
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	N
030096	W D ROGERS MECHANICAL CONTRACTORS INC	3018 NORTH DAVIS HWY	PENSACOLA	FL	32503	N
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	N
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	N
045140	WIT CONSTRUCTION SVCS LLC	1161 WEST DETROIT BLVD	PENSACOLA	FL	32534	N
044856	WOLFE CONSTRUCTION	40 W NINE MILE RD #2 STE 212	PENSACOLA	FL	32534	N

Vendors: 76

EWP BAYWOODS GULLY WEST



THE UPSIDE of FLORIDA

**DEPARTMENT OF PUBLIC WORKS AND FACILITIES
ENGINEERING AND CONSTRUCTION SERVICES DIVISION**

Report of City Council Action Items

April 14, 2016

Page 5

Members Present: Council President Charles Bare, Council Vice President Brian Spencer, Jewel Cannada-Wynn, Larry B. Johnson Sherri Myers, Andy Terhaar, and P. C. Wu

Absent: Gerald Wingate

REGULAR AGENDA ITEMS (continued)

15. PROJECT AGREEMENT – EMERGENCY WATERSHED PROTECTION PROGRAM MEASURES

That City Council authorize the Mayor to accept and execute the Project Agreement with the US Department of Agriculture Natural Resources Conservation Service (NRCS) related to the removal of debris and abatement of erosion problems resulting from the April 2014 flood event. Also, that City Council authorize the Mayor to take all actions necessary to execute the agreement. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

The motion passed unanimously.

SUPPLEMENTAL BUDGET RESOLUTION NO. 17-16 -- **MOTION TO APPROVE**

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2016; PROVIDING FOR AN EFFECTIVE DATE

The motion passed unanimously.

16. AWARD OF PROPOSAL – RFP #16-019 – DRIVING RANGE

That City Council award the proposal and authorize the Mayor to execute the Lease and Operating Agreement for driving range operator services with Summit Golf, Inc. at the Pensacola International Airport.

The motion passed unanimously.

17. AWARD OF CONTRACT – BID #16-022 – “L” STREET AND ZARAGOSSA STREET STORMWATER TREATMENT ENHANCEMENT PROJECT

That City Council award a contract for construction of "L" Street and Zaragossa Street Stormwater Treatment Enhancement Project to Brown Construction of Northwest FL., Inc., of Pensacola, Florida, the lowest and most responsible bidder with a base bid of \$714,347.93 plus bid alternate #1 of \$41,775.82, plus a 10% contingency of \$75,612.38 for a total amount of \$831,736.13.

The motion passed unanimously.

18. BROADSPECTRUM CONTRACT – FLORIDA DEPARTMENT OF TRANSPORTATION – STREET SWEEPING

That City Council authorize the Mayor to execute the Contract with Broadspectrum for the sweeping of the Florida Department of Transportation roadways within the City of Pensacola City limits.

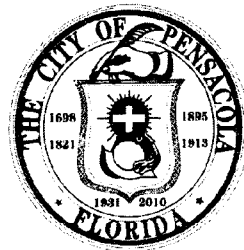
The motion passed unanimously.

19. OFFICE OF CITY COUNCIL STAFF – BUDGET ANALYST

PROPOSED ORDINANCE NO. 05-16 -- **2ND READING** -- **MOTION TO APPROVE**

AN ORDINANCE AMENDING SECTION 2-4 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; CREATING SECTION 2-4-52 TO PROVIDE FOR THE CREATION OF THE POSITION OF BUDGET ANALYST TO THE CITY COUNCIL; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

The motion passed unanimously.



COUNCIL MEMORANDUM

Council Meeting Date: April 14, 2016

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor ^{EWO} _{For}

SUBJECT: Project Agreement - Emergency Watershed Protection Program Measures

RECOMMENDATION:

That City Council authorize the Mayor to accept and execute the Project Agreement with the US Department of Agriculture Natural Resources Conservation Service (NRCS) related to the removal of debris and abatement of erosion problems resulting from the April 2014 flood event. Also, that City Council authorize the Mayor to take all actions necessary to execute the agreement. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

AGENDA: Regular Consent

Hearing Required: Public Quasi-Judicial No Hearing Required

SUMMARY:

After the flood event of April 2014, various areas of the City experienced significant erosion problems and slope failures which created accumulations of sediment and debris downstream of the erosion locations. The City's Public Works and Facilities staff, working in conjunction with local USDA staff, identified Baywoods Gully for potential grant funding as significant erosion sites which need to be permanently repaired in a timely manner to prevent further degradation problems.

This agreement provides for federal grant dollars in the amount of \$1,500,000 in funding with the City being responsible for an additional 25% match (\$500,000) for the total estimated construction cost of \$2,000,000. Funding will be used towards addressing the erosion issues within Baywoods Gully.

Short term benefits will include:

- Reduction/minimization of a hazardous condition to property owners.
- Repair and restoration of erosion issues.

Long term benefits will include:

Stabilization of erosion issues will reduce/minimize sediment transport to local waterway which will provide long term improvement to water quality and shoreline habitat.

PRIOR ACTION:

None

Council Memorandum

Subject: Project Agreement - Emergency Watershed Protection Program Measures

Council Meeting Date: April 14, 2016

Page 2

FUNDING:

<u>Budget:</u>	\$ 1,500,000 (NRCS Grant Award)
	\$ <u>500,000</u> (Stormwater Capital Projects Fund)
Total:	<u>\$ 2,000,000</u>

Construction	\$ 1,600,000 (Estimate)
Engineering Design/Permitting	\$ 260,000 (Estimate)
Project Administration	\$ 88,000 (Estimate)
Other/Misc.	\$ <u>52,000</u> (Estimate)
Total:	<u>\$ 2,000,000</u>

FINANCIAL IMPACT:

Funding in the amount of \$500,000 is currently available for the required City "match" within the Stormwater Capital Projects Fund for this project. Approval of the attached supplemental budget resolution will appropriate the grant funds.

STAFF CONTACT:

Eric W. Olson, City Administrator
L. Derrik Owens, P. E., Director of Public Works and Facilities/City Engineer

ATTACHMENTS:

- 1) NCRS Project Agreement
- 2) Supplemental Budget Resolution
- 3) Supplemental Budget Resolution Explanation

PRESENTATION: Yes No

NOTICE OF GRANT AND AGREEMENT AWARD

1. Award Identifying Number 68-4209-16-201	2. Amendment No.	3. Award/Project Period April 18, 2016 to November 3, 2016	4. Type of Award Instrument Cooperative Agreement
--	-------------------------	--	---

5. Agency: Natural Resources Conservation Service (NRCS) (Name and Address) USDA-NRCS 2614 NW 43rd Street Gainesville, Florida 32606	6. Recipient Organization: (Name and Address) City of Pensacola 2757 North Palafox Street Pensacola, FL 32501
DUNS: 073131559	EIN: 59-6000406

7. NRCS Program Contact: Jason Strenth jason.strenth@fl.usda.gov 352-338-9559	8. NRCS Administrative Contact: Lori Baker lori.baker@wdc.usda.gov 859-224-7360	9. Recipient Program Contact: Brad Hinote bradhinote@cityofpensacola.com 850-435-1646	10. Recipient Administrative Contact: L. Derrick Owens dowens@cityofpensacola.com 850-435-1645
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11. CFDA Number 10.923	12. Authority CFR, Title 7: Agriculture, Part 624-EWP, paragraph 624.8(c) authorizes NRCS to enter into agreement.	13. Type of Action New agreement	14. Project Director
----------------------------------	--	--	-----------------------------

15. Project Title/Description:
April 2014 Panhandle Floods - Emergency Watershed Protection Program

16. Entity Type: Profit Nonprofit Higher Education Federal State/Local Indian/Native American
Other

17. Select Funding Type:	<input checked="" type="checkbox"/> Federal	<input checked="" type="checkbox"/> Non-Federal	18. Accounting and Appropriation Data			
Original Funds Total:	\$1,700,000.00	\$500,000.00	Financial Code	Amount	Fiscal Year	Treasury Symbol
Additional Funds Total:			FA 75%	\$1,500,000.00	2016	
Grand Total:	\$1,700,000.00	\$500,000.00	TA 10%	\$200,000	2016	

19. APPROVED BUDGET

Personnel	\$	Fringe Benefits	\$
Travel	\$	Equipment	\$
Supplies	\$	Contractual	\$
Construction	\$ 2,000,000.00	Other	\$ 200,000.00
Total Direct Cost\	\$	Total Indirect Cost	\$
		Total Non-Federal Funds	\$ 500,000.00
		Total Federal Funds Awarded	\$ 1,700,000.00
		Total Approved Budget	\$ 2,200,000.00

This agreement is subject to applicable USDA NRCS statutory provisions and Financial Assistance Regulations. In accepting this award or amendment and any payments made pursuant thereto, the undersigned represents that he or she is duly authorized to act on behalf of the awardee organization, agrees that the award is subject to the applicable provisions of this agreement (and all attachments), and agrees that acceptance of any payments constitutes an agreement by the payee that the amounts, if any found by NRCS to have been overpaid, will be refunded or credited in full to NRCS.

(Continuation)

NOTICE OF GRANT AND AGREEMENT AWARD			
Award Identifying Number	Amendment No.	Award/Project Period	Type of Award Instrument
68-4209-16-201		April 18, 2016 to November 3, 2016	Cooperative Agreement

Name and Title of Authorized Government Representative	Signature	Date
RUSSELL MORGAN State Conservationist		
Name and Title of Authorized Recipient Representative	Signature	Date

NONDISCRIMINATION STATEMENT

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or a part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, SW., Washington, DC 20250-9410 or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

PRIVACY ACT STATEMENT

The above statements are made in accordance with the Privacy Act of 1974 (5 U.S.C. Section 522a).

STATEMENT OF WORK
BETWEEN THE
U.S. DEPARTMENT OF AGRICULTURE
NATURAL RESOURCES CONSERVATION SERVICE
AND THE
CITY OF PENSACOLA

PROJECT: Florida, Emergency Watershed Protection (“EWP”) FY 2016, April 2014 Panhandle Storm, Project #5066 – Locally Led with Technical and Financial Assistance.

This agreement is entered into by and between the U. S. Department of Agriculture, Natural Resources Conservation Service, hereinafter referred to as the “NRCS”, and City of Pensacola hereinafter referred to as the “Sponsor”.

I. PURPOSE

The purpose of this agreement is to provide financial and/or technical assistance to implement recovery measures that, if left undone, pose a risk to life and/or property.

II. AUTHORITY

Under the provisions of Section 216 of Public Law 81-516, Emergency Watershed Protection Program, and Title IV of the Agricultural Credit Act of 1978, Public Law 95-334, NRCS is authorized to assist the Sponsor in relieving hazards created by natural disasters that cause a sudden impairment of a watershed.

III. OBJECTIVES

The objective of this agreement is to remove watershed impairments caused by the April 2014 Panhandle Storm event that are creating a serious threat to life and property through a locally awarded and administered construction contract. The design and installation of EWP measures are detailed in the individual damage survey report (DSRs) and listed below:

Damage Survey Report (DSR) No.	Description	Estimated Construction Cost
COP-APR14-002	Install measures to stabilize gully to protect properties and prevent the threat to life.	\$2,000,000.00
Total Estimated Eligible Construction Cost		\$2,000,000.00

- A. The individual Damage Survey Report(s) (“DSR”) is established through discussions between the Sponsor and NRCS. It defines the site(s), work to be completed, and estimated eligible construction costs for this project.
- B. It is agreed that the total estimated eligible construction costs are: \$2,000,000.00. Based on this estimate:
1. NRCS will contribute Financial Assistance Funds (“FA”) in the amount of 75% (not to exceed \$1,500,00.00) of the actual eligible total construction costs, as reimbursement to the Sponsor for approved on-the-ground construction costs. Construction costs are associated with the installation of the project measures including labor, equipment, and materials.

NRCS will contribute Technical Assistance Funds (“TA”) in the amount of 10% (not to exceed \$200,000.00) of the actual eligible total construction costs, as reimbursement for technical and administrative costs directly charged to the project. Technical and administrative costs are associated with project design and development of construction drawings and specifications; soliciting, evaluating, awarding a administering a contract, including verifying invoices and recording keeping; development of operations and maintenance plans; development and implementation of quality assurance and inspection plans. While NRCS can reimburse 100% of these costs (no Sponsor required cost share) up to 10% of the total construction costs, it is possible that technical and administrative costs will exceed this amount, requiring the Sponsor to contribute resources to complete technical and administrative work.

2. The Sponsor will contribute 25% (estimated to be \$500,000.00) of the total eligible construction costs in either direct cash expenditures, the value of non-cash materials or services, or in-kind contributions. The value of any in-kind contribution shall be agreed to in writing prior to implementation.

IV. RESPONSIBILITIES OF THE PARTIES

A. THE SPONSOR WILL:

1. Accomplish construction of the EWP project measures by contracting, in-kind construction services, or a combination of both.
2. Provide the following individuals as contacts:

	Technical	Administrative
Name:	Brad Hinote	L. Derrik Owens
Address:	222 W. Main Street Pensacola, FL 32502	222 W. Main Street Pensacola, FL 32502
Telephone No.	850-435-1646	850-435-1645
Email Address:	bradhinote@cityofpensacola.com	DOwens@cityofpensacola.com

3. Sponsor contacts will work closely with the NRCS in carrying out the terms and conditions of the agreement. They will complete proper documents to ensure payment of funds by NRCS as requested to complete the objectives of the agreement and will be the representative for the Sponsor in all matters concerning this agreement.
4. Comply with the applicable requirements in Attachment B, "General Terms and Conditions," of this agreement.
5. Comply with all laws, regulations, Executive Orders, and other applicable terms and conditions referenced and incorporated as attachments to this agreement.
6. Acquire and provide certification to NRCS that real property rights (land and water), permits and licenses in accordance with local, state, and Federal laws necessary for the installation of EWP project measures have been obtained at no cost to NRCS prior to soliciting for construction. This includes any rights associated with required environmental mitigation. Sponsors shall provide such certification on Form NRCS-ADS-78, Assurances Relating to Real Property Acquisition. Sponsors shall also provide an attorney's opinion supporting this certification. Costs related to land rights and permits are the Sponsor's responsibility and ineligible for reimbursement.
7. Accept all financial and other responsibility for excess costs resulting from their failure to obtain, or their delay in obtaining, adequate land and water rights, permits and licenses needed for the Project.
7. Provide 25% of the actual, eligible and approved construction cost, 100% of all ineligible construction costs, and 100% of all costs above the estimated eligible construction costs, and 100% of any unapproved upgrade to increase level of protection over and above that described as outlined in Section III.B. These costs may be in the form of cash, in-kind construction services, or a combination of both.

Eligible construction costs are described in the approved DSR listed in Section III. Final construction items that are eligible construction costs will be agreed upon during the pre-design conference. These costs consist of costs from contracts awarded to contractors, and eligible Sponsor in-kind construction costs for materials, labor, and equipment. The Sponsor shall provide NRCS documentation to support all eligible construction costs.

Construction costs incurred prior to the Sponsor and NRCS signing this agreement are ineligible and will not be reimbursed.

8. Be responsible for 100% of all ineligible construction costs, and 100 % of any unapproved upgrade to increase the level of protection over and above that described in the DSR.
9. Construction costs for work over, under, and through roadways are not eligible for reimbursement.

10. Account for and report FA and TA expenditures separately in order for expenses to be eligible for reimbursement. NRCS funding for this project is provided to the Sponsor in two separate NRCS funding accounts, one for TA and one for FA, requiring this separation.
11. For contracts, provide NRCS a copy of solicitation notice, bid abstract, and notice of contract award, or other basis of cost and accomplishment.
12. For in-kind construction services (materials, labor, and equipment supplied by the Sponsor), develop a Plan of Operations describing the construction services to be performed including estimated quantities and values. The Plan of Operations shall be concurred in by NRCS at the pre-design conference. In-kind construction services for equipment shall not exceed published FEMA equipment rates unless otherwise documented and concurred in advance by NRCS.

Competent personnel will be used to carry out the work.

All equipment used in constructing the EWP projects must be maintained in good condition without cost to NRCS. Equipment must be operated safely at all times.

The following documentation is required to support the Sponsor's request for reimbursement of in-kind construction services:

- a. Invoices covering actual costs of materials used in constructing the eligible EWP project measures and disposition of excess materials.
 - b. Records documenting the type, quality, and quantities of materials actually used in constructing the eligible EWP project measures.
 - c. Daily time records for each employee showing name, classification, wage rate, hours, and dates actually employed for constructing the eligible EWP project measures.
 - d. Equipment operating records showing the type and size of equipment, hourly rate, actual hours of operation and dates used to install the eligible EWP project measures. Equipment idle time is not eligible in-kind construction services, even if on the job site, and should not be included in the equipment operating records.
13. Provide all technical and administrative services necessary for contract solicitation, award, and administration; engineering design services; construction management and inspections, and other services. Reimbursement amount for eligible Sponsor technical and administrative services will be as described in Section III.B.2. The Sponsors will retain records to support costs incurred.
 - a. Prepare all contractual documents and contract for the project measures in accordance with 2 CFR § 200.317-326 (Attachment E) and clauses referenced in Appendix II, Part 200, (Attachment C), applicable state requirements, and the Sponsors' procurement regulations.

- b. Prepare design and construction specifications, and drawings in accordance with standard engineering principles and in compliance with NRCS programmatic requirements. The construction plans shall be reviewed and approved by the Sponsors before submittal to NRCS. The construction plans shall be reviewed and approved by a Professional Engineer (PE) registered in the State of Florida before submittal to NRCS.
- c. The contracts for design services and construction described in this Agreement shall not be awarded to the Sponsors or to any firm in which any Sponsors' official or any member of such official's immediate family has direct or indirect interest in the pecuniary profits or contracts of such firms. Reference 2 CFR § 200.318 regarding standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award, and administration of contracts.

Costs for technical and administrative services incurred prior to the Sponsor and NRCS signing this agreement are ineligible and will not be reimbursed.

13. Within thirty (30) calendar days of signing the project agreement, hold a pre-design conference with the Sponsor, Sponsor's design engineer, and NRCS. The design conference shall set forth design parameters concurred by both the Sponsor and NRCS. During the pre-design conference, NRCS will determine the eligible construction costs.
14. Within fourteen (14) calendar days of the pre-design conference submit to NRCS a schedule with time lines of major items to be completed. Milestones shall include, but not limited to, obtaining land rights, obtaining permits, completing any necessary surveys, completing draft engineering plans and specifications for NRCS review, completing final engineering plans and specifications, completing quality assurance plan, solicit bids, award contract, issue notice to proceed, and complete construction.
15. Prior to commencement of work and/or solicitation of bids, submit for NRCS review, the preliminary design, construction specifications, and engineering drawings prepared in accordance with standard engineering principles and design parameters set forth in the pre-design conference.
16. Upon receiving comments from NRCS, prepare the final design, construction specifications, and engineering drawings in accordance with standard engineering principles, design parameters set forth in the pre-design conference. One set of the final plans and specifications shall be submitted to NRCS for final review and concurrence prior to solicitation of bids and/or commencement of work. The final construction plans and specifications shall be signed and sealed by a licensed Professional Engineer registered in the State of Florida. A copy of the signed and sealed plans and specifications shall be provided to NRCS.
17. Prior to commencement of work and/or solicitation of bids, submit for NRCS review and concurrence a Quality Assurance Plan (QAP). The QAP shall outline technical and administrative expertise required to ensure the EWP project measures are

installed in accordance with the plans and specifications, identify individuals with the expertise, describe items to be inspected, list equipment required for inspection, outline the frequency and timing of inspection (continuous or periodic), outline inspection procedures, and record keeping requirements. A copy of the final QAP shall be provided to NRCS prior to commencement of construction.

18. Provide construction inspection in accordance with the QAP.
19. For structural works of improvement, prepare and submit for NRCS concurrence an Operation and Maintenance (O&M) Plan, if applicable, prior to commencement of work. The O&M Plan shall describe the activities the Sponsor will do to ensure the project performs as designed. Upon completion of the project measures, the Sponsor shall assume responsibility for O&M.
20. Provide copies of site maps to appropriate Federal and State agencies for environmental review. Sponsor will notify NRCS of environmental clearance, modification of construction plans, or any unresolved concerns as well as copies of all permits, licenses, and other documents required by Federal, state, and local statutes and ordinances prior to solicitation for installation of the EWP project measures. All modifications to the plans and specifications shall be reviewed and concurred on by NRCS.
21. Ensure that any special requirements for compliance with environmental and/or cultural resource laws are incorporated into the project.
22. Will arrange and pay for any necessary location, removal, or relocation of utilities. EWP program regulations prohibit NRCS from reimbursing the Sponsor or otherwise paying for any such costs; nor do the costs qualify as a Sponsor cost-share contribution.
23. Ensure that technical and engineering standards and specifications of NRCS are adhered to during construction of the Project, as interpreted by NRCS Technical Contact.
24. Provide NRCS Technical Contact progress reports every two weeks after the execution of the cooperative agreement. Progress reports should include technical on-site inspections of work accomplished for the period, work planned, results of material tests, deficient work products and/or tests with corrective actions taken, modifications anticipated, technical problems encountered, contractual issues and other relevant information.
25. Ensure that all contractors on NRCS assisted projects are performing their work in accordance with OSHA regulations, NRCS Supplement to OSHA Parts 1910 and 1926, and the Contract Work Hours and Safety Standards Act (40 USC 327-330) as supplemented by Department of Labor regulations (29 CFR Part 5) (see Attachment). The Sponsor is responsible for periodically checking the contractor's compliance with safety requirements.

26. Complete and submit the Federal Financial Report (SF-425) accrual information to the NRCS Technical Contact no later than 15 days prior to the end of the quarter (submit by March 15, June 15, September 15, and December 15). NRCS requires quarterly accrual information on the value of the work that has been performed or will be performed in cooperation with NRCS, but for which an SF 270 has not yet been submitted. The U.S. Congress relies on audits of financial statements, including accrual information, to determine future funding amounts for NRCS on-going and new projects and programs.
27. Arrange for and conduct final inspection of completed project with NRCS to determine whether all work has been performed in accordance with contractual requirements. Provide a PE certification that the Project was installed in accordance with approved plans and specifications.
28. Provide PE-certified as-built drawings and quantities for the project. A copy of the as-built drawings will be submitted to the NRCS Technical Contact.
29. Pay the contractor(s) as provided in the contract(s).
30. Submit copies of billings for reimbursement to NRCS on Form SF-270, "Request for Advance or Reimbursement", on a monthly, but not less than quarterly (March, June, September, and December) basis to the NRCS Technical Contact. Final payment request shall be submitted within thirty (30) calendar days of completion of the EWP project measures. All requests for reimbursement shall include all appropriate and complete documentation to support the reimbursement request. Payments will be withheld until all required documentation is submitted and complete.

The required supporting documentation for reimbursement of construction costs include invoices and proof of payment to the contractor showing the items and quantities installed and certified by the engineer of record along with any supporting documentation such as quantity calculations, rock weight tickets, etc.

The required supporting documentation for reimbursement of in-kind construction expenses will include employee time sheets, employee hourly rate, equipment operating logs, equipment hourly rate, and material quantities and invoices.

The required documentation for reimbursement of technical and administrative services will be invoices and proof of payment to consultants and/or employee time sheets along with the employee's hourly rate, hours worked, and date work was performed.

31. Be responsible for ensuring their System for Award Management (SAM) registration is active throughout the life of the agreement so that reimbursements are not delayed. NRCS cannot process a reimbursement to a Sponsor unless the sponsor is registered in SAM.

32. Take reasonable and necessary actions to dispose of all contractual and administrative issues arising out of the construction contract awarded under this Agreement. This includes, but is not limited to disputes, claims, protests of award, source evaluation, and litigation that may result from the Project. Such actions will be at the expense of the Sponsor, including any legal expenses.
33. Receive payment under this Agreement using electronic funds transfer (EFT) procedures in accordance with 31 C.F.R. § 208.
34. Be responsible, without recourse to NRCS or USDA, for the settlement and satisfaction of all contractual and legal issues arising out of arrangements entered into between the Sponsors and third parties to carry out the approved Project. Matters concerning violation of law should be referred to the Federal, State, or local authority having proper jurisdiction.
35. Hold and save NRCS free from any and all claims or causes of action whatsoever resulting from the obligations undertaken by the Sponsor under this agreement or resulting from the work provided for in this agreement.
36. Retain all records dealing with the award and administration of contract(s) for three (3) years from the date of the sponsor's submission of the final Request for Reimbursement or until final audit findings have been resolved, whichever is longer. If any litigation is started before the expiration of the three (3) year period, the records are to be retained until the litigation is resolved or the end of the three (3) year period, whichever is longer. Make such records available to the Comptroller General of the United States or his or her duly authorized representative and accredited representatives of the U.S. Department of Agriculture or cognizant audit agency for the purpose of making audit, examination, excerpts, and transcripts.
37. Be responsible for all administrative expenses (including but shall not be limited to facilities, clerical expenses), and legal counsel necessary including the fees of such attorney or attorneys deemed necessary by NRCS to resolve any legal matters.
38. Submit requests for a time extension to the agreement, (if necessary), in writing no less than forty five (45) days prior to the expiration date of the agreement, specified in Section VI. A request for a time extension must be supported by:
 - a. justification for the need of an extension and why it would be in the best interest of the government;
 - b. a statement documenting why the project was not completed on schedule;
 - c. a plan detailing how the project will be successfully completed if extended;
 - d. a revised schedule (inclusive of dates) by work tasks through project completion.Submit the written, signed request to the NRCS Technical Contact.
39. By signing this Agreement, the Sponsor assures the Department of Agriculture that the program or activities provided for under this Agreement will be conducted in compliance with all applicable Federal civil rights laws, rules, regulations, and policies.

B. THE NRCS WILL:

1. Provide the following individuals as contacts:

	Technical Contact	Administrative
Name:	Jason Strenth	Lori Baker
Address:	2614 NW 43 rd Street Gainesville, FL 344	771 Corporate Dr; Ste 350 Lexington, KY 40503-5479
Telephone No.	352-338-9559	859-224-7360
Email Address:	Jason.strenth@fl.usda.gov	Lori.baker@wdc.usda.gov

2. Reimburse the Sponsor 75% (not to exceed \$1,500,000.00) of the actual eligible cost of construction as Financial Assistance and up to 10% (not to exceed \$200,000.00) of the actual eligible cost of construction as Technical Assistance. Funds will be expended as explained in Section III.B.1.
3. Assist Sponsor and Sponsor's engineer in establishing design parameters; determine eligible construction costs during the pre-design conference.
4. Review, comment and concur in preliminary and final plans, specifications, Operation & Maintenance (O&M) Plan, Plan of Operations (if required) and Quality Assurance Plan (QAP).
5. Not be substantially involved with the technical or contractual administration of this agreement, but will provide advice and counsel as needed.
6. Make periodic site visits during the installation of the EWP project measures to review construction progress, document conformance to engineering plans and specifications, and provide any necessary clarification on the Sponsor's responsibilities as set forth in Section IV.A.
7. Upon notification of the completion of the EWP project measures, NRCS shall promptly review the performance of the Sponsor to determine if the requirements of this agreement and fund expenditures as agreed have been met.
8. Make payment to the Sponsor covering NRCS' share of the cost upon receipt and approval of Form SF-270 and supporting documentation. In the event there are

questions regarding the SF 270 and supporting documentation, NRCS will contact the Sponsor in a timely manner to resolve concerns.

C. IT IS MUTUALLY AGREED:

1. This agreement may become null and void 180 calendar days after the date NRCS has signed and executed this agreement if a solicitation for bids has not been publicly advertised or a contract has not been awarded.
2. The furnishing of financial, administrative and/or technical assistance above the original funding amount by NRCS is contingent on there being sufficient unobligated and/or uncommitted funding in the EWP Program that is available for obligation in the year in which the assistance will be provided. NRCS cannot make commitments in excess of funds authorized by law or made administratively available. Congress may impose obligational limits on program funding that constrains NRCS' ability to provide such assistance.
3. The furnishing of the administrative and technical services by NRCS is contingent upon the continuing availability of appropriations by the Congress from which payment may be made and shall not obligate NRCS if the Congress fails to so appropriate.
4. In the event of default of a construction contract awarded pursuant to this Agreement, any additional funds properly allocable as construction costs required to ensure completion of the job are to be provided in the same ratio as construction funds are contributed by the parties under the terms of this Agreement. Any excess costs including interest resulting from a judgment collected from the defaulting contractor, or his or her surety, will be prorated between the Sponsor and NRCS in the same ratio as construction funds are contributed under the terms of the Agreement.
5. Additional funds, including interest properly allocable as construction costs as determined by NRCS, required as a result of decision of the CO or a court judgment in favor of a claimant will be provided in the same ratio as construction funds are contributed under the terms of this Agreement. NRCS will not be obligated to contribute funds under any Agreement or commitment made by the Sponsor without prior concurrence of NRCS.
6. The State Conservationist may make adjustments in the estimated cost to NRCS set forth in Section III.B for constructing the EWP project measures. Such adjustments may increase or decrease the amount of estimated funds that are related to differences between such estimated cost and the amount of the awarded contract or to changes, differing site conditions, quantity variations, or other actions taken under the provisions of the contract. No adjustment will be made to

change the cost sharing assistance provided by NRCS nor reduce funds below the amount required to carry out NRCS' share of the contract.

7. That once the project is completed and all requests for reimbursement submitted, any excess funding remaining in the agreement (over and above the NRCS commitment of up to 75% of actual eligible construction costs and within the not-to-exceed amount) will be de-obligated from the agreement.
8. NRCS, at its sole discretion, may refuse to cost share should the Sponsor, in administering the contract, elect to proceed without complying with their responsibilities as set out in Section IV.A of this agreement.

V. EXPECTED ACCOMPLISHMENTS AND DELIVERABLES

The following accomplishments and deliverable will be provided to NRCS.

1. One copy of the final engineering plans, specifications signed and sealed by a licensed professional engineer, including approved Plan of Operations (if applicable).
2. Signed NRCS-ADS-78 supported by an attorney's opinion.
3. One copy of the quality assurance plan.
4. One copy of the operation and maintenance plan.
5. One copy of the construction bid package with engineer's cost estimate, notice of solicitation, bid abstract, and notice of award.
6. Certification that the project was installed in accordance with the plans and specifications.
7. As-built drawings of final construction signed by a Florida licensed professional engineer within 30 calendar days of completion of construction.
8. Quantities of the units of work applied for each site within 30 calendar days of completion of construction.

VI. PERIOD OF PERFORMANCE

This agreement is effective as of the date of final signature by USDA/NRCS on NRCS-ADS-093 form, Notice of Grant and Agreement Award, and continues in full force and effect through the project period as shown in Box 3 of the NRCS-ADS-093 form. The agreement may be amended to extend the date. Requests from the Sponsor to the NRCS State Conservationist to extend the term of the agreement must be submitted in writing 45 calendar days prior to the expiration date of the agreement and include a detailed

description of circumstances that created the need for the extension. The Sponsor must be vigilant in tracking the expiration date(s) of the agreement and subsequent amendments.

VII. RESOURCES REQUIRED

A. Sponsor:

- Technical personnel to develop technically sound and feasible solutions to restore the sites and develop engineering plans and specifications and equipment and personnel to provide construction inspection.
- Administrative personnel to provided contracting services and/or procurement of items/services needed to implement the agreement, obtain land rights, and other administrative requirements identified in the agreement.
- Office space and associated office equipment to prepare reports, prepare payments requests, etc.
- Equipment and personnel if identified in a Plan of Operations for force accounts.

B. NRCS

- Technical and administrative personnel to provided assistance to support the implementation of the agreement.

VIII. MILESTONES

Milestones shall include, but not limited to, the following items:

1. Pre-design conference within 30 calendar days of signing agreement.
2. Submit to NRCS a project schedule within 14 calendar days of the pre-design conference.
3. Acquire needed real property rights and permits (signed NRCS-ADS-78 supported by an attorney's opinion) prior to start of construction.
4. Obtaining permits, as required.
5. Completing any necessary surveys.
6. Completing draft engineering plans and specifications for NRCS review.
7. Completing final engineering plans and specifications.
8. Completing plan of operations for any Sponsor in-kind construction.
9. Completing quality assurance plan.
10. Solicit bids.
11. Award contract.
12. Issue notice to proceed.
13. Complete construction, develop an operation and maintenance plan for structural practices, and submit as-built drawings/quantities by the date specified in Section VI.

IX. ATTACHMENTS TO AGREEMENT

The following attachments are incorporated into the agreement:

Attachment B: General Terms and Conditions for Grants and Cooperative Agreements

Attachment C: Appendix II to 2 CFR Part 200— Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Attachment D: Procurement Standards – 2 CFR § 200.317 through §200.326

Attachment E: NRCS Supplement to OSHA Parts 1910 and 1926

**NATURAL RESOURCES CONSERVATION SERVICE
U.S. DEPARTMENT OF AGRICULTURE
GENERAL TERMS AND CONDITIONS
GRANTS AND COOPERATIVE AGREEMENTS**

I. APPLICABLE REGULATIONS

- a. The recipient, and recipients of any subawards under this award, agree to comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>.
- (1) 2 CFR Part 25, "Universal Identifier and System of Award Management"
 - (2) 2 CFR Part 170, "Reporting Subaward and Executive Compensation Information"
 - (3) 2 CFR Part 180, "OMB Guidelines To Agencies On Governmentwide Debarment And Suspension (Nonprocurement)"
 - (4) 2 CFR Part 182, "Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)"
 - (5) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles, And Audit Requirements for Federal Awards"
- b. The recipient, and recipients of any subawards under this award, assure and certify that they have and/or will comply with the following regulations, as applicable. The full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>.
- (1) 2 CFR Part 175, "Award Term for Trafficking in Persons"
 - (2) 2 CFR Part 417, "Nonprocurement Debarment and Suspension"
 - (3) 2 CFR Part 418, "New Restrictions on Lobbying"
 - (4) 2 CFR Part 421, "Requirements for Drug-Free Workplace (Financial Assistance)"
- c. Allowable project costs will be determined in accordance with the authorizing statute, the purpose of the award, and to the extent applicable to the type of organizations receiving the award, regardless of tier. The following portions of the Code of Federal Regulations are hereby incorporated by reference (the full text of Code of Federal Regulations references may be found at <http://www.access.gpo.gov/nara/cfr/cfr-table-search.html#page1> and <http://www.ecfr.gov/>).
- (1) 2 CFR Part 200, "Uniform Administrative Requirements, Cost Principles And Audit Requirements For Federal Awards"
 - (2) 48 CFR Part 31, "Contract Cost Principles and Procedures"

II. UNALLOWABLE COSTS

The following costs are not allowed:

- a. Costs above the amount authorized for the project
- b. Costs incurred after the expiration of the award including any no-cost extensions of time
- c. Costs that lie outside the scope of the approved project and any amendments thereto
- d. Compensation for injuries to persons or damage to property arising from project activities

This list is not exhaustive. For general information about the allowability of particular items of costs, please see 2 CFR Part 200, "Subpart E - Cost Principles", or direct specific inquiries to the NRCS administrative contact identified in the award.

III. CONFIDENTIALITY

- a. Activities performed under this award may involve access to confidential and potentially sensitive information about governmental and landowner issues. The term "confidential information" means proprietary information or data of a personal nature about an individual, or information or data submitted by or pertaining to an organization. This information must not be disclosed without the prior written consent of NRCS.
- b. The recipient's personnel will follow the rules and procedures of disclosure set forth in the Privacy Act of 1974, 5 U.S.C. Section 552a, and implementing regulations and policies with respect to systems of records determined to be subject to the Privacy Act. The recipient's personnel must also comply with privacy of personal information relating to natural resources conservation programs in accordance with section 1244 of Title II of the Farm Security and Rural Investment Act of 2002 (Public Law 107-171).
- c. The recipient agrees to comply with NRCS guidelines and requirements regarding the disclosure of information protected under Section 1619 of the Food, Conservation, and Energy Act of 2008 (PL 110-246), 7 U.S.C. 8791.

IV. PRIOR APPROVAL REQUIREMENTS

The following are the most common situations requiring prior approval. However, the recipient is also bound by any other prior approval requirements of the applicable administrative provisions and Federal cost principles.

- a. Purpose or Deliverables.—When it is necessary for the recipient to modify the purpose or deliverables, the recipient must submit a written request and justification for the change along with the revised purpose or deliverables of the award to the NRCS administrative contact. The request should contain the following:
 1. Grant or agreement number

2. Narrative explaining the requested modification to the project purpose or deliverables
3. A description of the revised purpose or deliverables
4. Signatures of the authorized representative, project director, or both

Subcontractual Arrangement.—The recipient must submit a justification for the proposed subcontractual arrangements, a statement of work to be performed, and a detailed budget for the subcontract to the NRCS administrative contact. Subcontractual arrangements disclosed in the application do not require additional postaward approval.

- b. **Absence or Change in Project Leadership.**—When a project director or the person responsible for the direction or management of the project—
 1. Relinquishes active direction of the project for more than 3 consecutive months or has a 25 percent or more reduction in time devoted to the project, the grantee must notify the NRCS administrative contact in writing, identifying who will be in charge during the project director's absence. The notification must include the qualifications and the signature of the replacement, signifying his or her willingness to serve on the project.
 2. Severs his or her affiliation with the grantee, the grantee's options include—
 - i. Replacing the project director. The grantee must request written approval of the replacement from the NRCS administrative contact and must include the qualifications and the signature of the replacement signifying his or her willingness to serve on the project.
 - ii. Subcontracting to the former project director's new organization. The grantee must request approval from the administrative contact to replace the project manager and retain the award, and to subcontract to the former project director's new organization certain portions of the project to be completed by the former project director.
 - iii. Relinquishing the award. The grantee must submit to the NRCS administrative contact a signed letter by the grantee and the project director that indicates that the grantee is relinquishing the award. The letter must include the date the project director is leaving and a summary of progress to date. A final Standard Form (SF) 425 reflecting the total amount of funds spent by the recipient must be attached to the letter.
 3. Transfers the award to his or her new organization, the authorized organization's representative at the new organization must submit the following to the NRCS administrative contact as soon as the transfer date is firm and the amount of funds to be transferred is known:
 - i. The forms and certifications included in the application package
 - ii. A project summary and work statement covering the work to be completed under the project (deliverables and objectives must be the same as those outlined in the approved proposal)

- iii. An updated qualifications statement for the project director showing his or her new organizational affiliation
- iv. Any cost-sharing requirements under the original award transfer to the new institution; therefore, cost-sharing information must be included in the proposal from the new organization

Note: The transfer of an award from one organization to another can take up to 90 days to accomplish, which may result in a delay in the project director resuming the project at the new organization.

- c. **Budget Revisions.**—Budget revisions will be in accordance with 2 CFR Part 200.308.
- d. **No-Cost Extensions of Time.**—When a no-cost extension of time is required, the recipient must submit a written request to the NRCS administrative contact no later than 30 days before the expiration date of the award. The request must contain the following:
 - The length of additional time required to complete the project and a justification for the extension
 - A summary of progress to date
 - An estimate of funds expected to remain unobligated on the scheduled expiration date
 - A projected timetable to complete the portions of the project for which the extension is being requested
 - Signature of the grantee and the project director
 - A status of cost sharing to date (if applicable)

Note: An extension will not exceed 12 months. Only in exceptional cases will more than one extension be granted. Requests for no-cost extensions received after the expiration of the award will not be granted.

V. PAYMENTS

- a. Payment by NRCS to the entity will be made monthly or quarterly (whichever is mutually agreed upon by both parties) on a reimbursable or advanced basis upon completion of work outlined herein. Payment will be executed upon the submission of a properly executed form SF-270. The SF-270 must cite the agreement number, remittance address, and billing period. The SF-270 must be sent to the NRCS administrative contact at the address identified in block 8 of the Notice of Grant/Agreement Award.
- b. Unless otherwise specified in the award, the recipient must receive payments through electronic funds transfers.

- c. Recipients requesting advances should request payments in amounts necessary to meet their current needs pursuant to procedures contained in the Federal administrative provisions and **31 CFR Part 205**.
- d. The method of payment between the recipient and its contractors will be in accordance with the policies and procedures established by the recipient except that the contractors may not use the USDA Office of Financial Management/National Finance Center method to request payments. If the grantee makes advance payments to contractors, the grantee must ensure that the timing of such payments is designed to minimize elapsed time between the advance payment and the disbursement of funds. Payment requests from the grantee's contractors will not be sent to NRCS for review or approval.
- e. Accounting records for all costs incurred under this award must be supported by source documentation. Such documentation includes, but is not limited to, canceled checks, paid bills, payroll records, and subcontract award documents. Labor cost charges to this award must be based upon salaries actually earned and the time actually worked on this award. All project costs must be incurred within the approved project period of this award, including any approved no-cost extension of time. Costs that cannot be supported by source documentation or that are incurred outside of the approved project period and budget may be disallowed and may result in award funds being returned to the Federal Government by the recipient.

VI. FINANCIAL REPORTING

- a. Recipients must submit a Federal Financial Report (FFR), SF 425 and 425A, in accordance with the following schedule (recipients may download the applicable form at <http://www.forms.gov>):

<u>Quarterly Schedule</u>	<u>Report Due Date</u>
October 1 to December 31	January 31
January 1 to March 31	April 30
April 1 to June 30	July 30
July 1 to September 30	October 30

Reports must be submitted on an accrual accounting basis. Failure to submit reports in accordance with the above schedule may result in suspension or termination of award.

- b. A final Report must be submitted no later than 90 days after the completion of the award. For final FFRs, reporting end date must be the end date of the project or agreement period. The reports should be submitted to the NRCS administrative contact identified in award notifications.

VII. PERFORMANCE MONITORING AND REPORTING

- a. The recipient is responsible for monitoring day-to-day performance and for reporting to NRCS. If the project involves subcontractual arrangements, the recipient is also

responsible for monitoring the performance of project activities under those arrangements to ensure that approved goals and schedules are met.

- b. Every 6 months the recipient must submit a written progress report. Each report must cover—
 - 1. A comparison of actual accomplishments with the goals and objectives established for the reporting period and, where project output can be quantified, a computation of the costs per unit of output.
 - 2. The reasons why goals and objectives were not met, if appropriate.
 - 3. Additional pertinent information including, where appropriate, analysis and explanation of cost overruns or high unit cost.
- c. The recipient must submit a final performance report within 90 days after completion of project.

VIII. SPECIAL PROVISIONS

- a. The recipient assures and certifies that it will comply with the minimum-wage and maximum-hour provisions of the Federal Fair Labor Standards Act.
- b. Employees of NRCS will participate in efforts under this agreement solely as representatives of the United States. To this end, they may not participate as directors, officers, employees, or otherwise serve or hold themselves out as representatives of the recipient. They also may not assist the recipient with efforts to lobby Congress or to raise money through fundraising efforts. Further, NRCS employees must report to their immediate supervisor any negotiations with the recipient concerning future employment and must refrain from participation in efforts regarding such parties until approved by the agency.
- c. Employees of the recipient will not be considered Federal employees or agents of the United States for any purposes under this agreement.

IX. PATENTS, INVENTIONS, COPYRIGHTS, AND ACKNOWLEDGMENT OF SUPPORT AND DISCLAIMER

- a. Allocation of rights of patents, inventions, and copyrights must be in accordance with 2 CFR Part 200.315. This regulation provides that small businesses normally may retain the principal worldwide patent rights to any invention developed with USDA support.
- b. In accordance with 37 CFR Section 401.14, each subject invention must be disclosed to the Federal agency within 2 months after the inventor discloses it in writing to contractor personnel responsible for patent matters. Invention disclosure statements pursuant to 37 CFR Section 401.14(c) must be made in writing to:

Acquisitions Division
Grants and Agreements Team

1400 Independence Avenue, SW.
Room 6823 South Building
Washington, DC 20250

- c. USDA receives a royalty-free license for Federal Government use, reserves the right to require the patentee to license others in certain circumstances, and requires that anyone exclusively licensed to sell the invention in the United States must manufacture it domestically.
- d. The following acknowledgment of NRCS support must appear in the publication of any material, whether copyrighted or not, and any products in electronic formats (World Wide Web pages, computer programs, etc.) that is substantially based upon or developed under this award:
 - “This material is based upon work supported by the Natural Resources Conservation Service, U.S. Department of Agriculture, under number [recipient should enter the applicable award number here].”

In addition, all publications and other materials, except scientific articles or papers published in scientific journals, must include the following statement:

- “Any opinions, findings, conclusions, or recommendations expressed in this publication are those of the author(s) and do not necessarily reflect the views of the U.S. Department of Agriculture.”

The recipient is responsible for ensuring that an acknowledgment of NRCS is made during news media interviews, including popular media such as radio, television, and news magazines, that discuss in a substantial way work funded by this award.

X. COST-SHARING REQUIREMENTS

- a. If the award has specific cost-sharing requirements, the cost-sharing participation in other projects may not be counted toward meeting the specific cost-share requirement of this award, and must come from non-Federal sources unless otherwise stated in the applicable program announcement.
- b. Should the recipient become aware that it may be unable to provide the cost-sharing amount identified in this award, it must—
 1. Immediately notify the NRCS administrative contact of the situation.
 2. Specify the steps it plans to take to secure replacement cost sharing.
 3. Indicate the plans to either continue or phase out the project in the absence of cost sharing.
- c. If NRCS agrees to the organization’s proposed plans, the recipient will be notified accordingly. If the organization’s plans are not acceptable to NRCS, the award may be subject to termination. NRCS modifications to proposed cost sharing revisions are made on a case-by-case basis.

- d. Failure by the recipient to notify NRCS in accordance with paragraph (b) above may result in the disallowance of some or all the costs charged to the award, the subsequent recovery by NRCS of some of the NRCS funds provided under the award, and possible termination of the award, and may constitute a violation of the terms and conditions of the award so serious as to provide grounds for subsequent suspension or debarment.
- e. The recipient must maintain records of all project costs that are claimed by the recipient as cost sharing as well records of costs to be paid by NRCS. If the recipient's cost participation includes in-kind contributions, the basis for determining the valuation for volunteer services and donated property must be documented.

XI. PROGRAM INCOME

Income derived from patents, inventions, or copyrights will be disposed of in accordance with the recipient's own policies. General program income earned under this award during the period of NRCS support must be added to total project funds and used to further the purpose and scope of this award or the legislation under which this award is made.

XII. NONEXPENDABLE EQUIPMENT

Recipients purchasing equipment or products with funds provided under this award are encouraged to use such funds to purchase only American-made equipment and products. Title to nonexpendable equipment purchased with award funds will vest in the recipient upon completion of the award project and acceptance by NRCS of required final reports. When equipment is no longer needed by the recipient and the per-unit fair market value is less than \$5,000, the recipient may retain, sell, or dispose of the equipment with no further obligation to NRCS. However, if the per-unit fair market value is \$5,000 or more, the recipient must submit a written request to the NRCS administrative contact for disposition instructions.

XIII. LIMIT OF FEDERAL LIABILITY

The maximum financial obligation of NRCS to the recipient is the amount of funds indicated in the award as obligated by NRCS. However, in the event that an erroneous amount is stated on the approved budget, or any supporting document relating to the award, NRCS will have the unilateral right to make the correction and to make an appropriate adjustment in the NRCS share of the award to align with the Federal amount authorized.

XIV. MODIFICATIONS AND TERMINATIONS

NRCS may amend or modify the award through an exchange of correspondence between authorized officials of the recipient and NRCS. The award is subject to termination if NRCS determines that the recipient has failed to comply with the terms and conditions of the award. In the event that the award is terminated, the financial obligations of the parties will be those set forth in 2 CFR Part 200.339.

XV. AWARD CLOSEOUT

Award closeout is the process by which NRCS determines that all required project activities have been performed satisfactorily and all necessary administrative actions have been completed.

AMERICAN OVERSIGHT

Appendix II to Part 200

Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all

suspected or reported violations to the Federal awarding agency. ***(Not required for EWP program)***

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. 6201).

(I) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide Excluded Parties List System in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR Part 1986 Comp., p. 189) and 12689 (3 CFR Part 1989 Comp., p. 235), “Debarment and Suspension.” The Excluded Parties List System in SAM contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(J) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award of \$100,000 or more must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(K) See § 200.322 Procurement of recovered materials.

Procurement Standards – 2 CFR § 200.317 through §200.326

§ 200.317 Procurements by states.

When procuring property and services under a Federal award, a state must follow the same policies and procedures it uses for procurements from its non-Federal funds. The state will comply with § 200.322 Procurement of recovered materials and ensure that every purchase order or other contract includes any clauses required by section § 200.326 Contract provisions. All other non-Federal entities, including subrecipients of a state, will follow § 200.318 General procurement standards through § 200.326 Contract provisions.

§ 200.318 General procurement standards.

(a) The non-Federal entity must use its own documented procurement procedures which reflect applicable State and local laws and regulations, provided that the procurements conform to applicable Federal law and the standards identified in this section.

(b) Non-Federal entities must maintain oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders.

(c) (1) The non-Federal entity must maintain written standards of conduct covering conflicts of interest and governing the performance of its employees engaged in the selection, award and administration of contracts. No employee, officer, or agent must participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract. The officers, employees, and agents of the non-Federal entity must neither solicit nor accept gratuities, favors, or anything of monetary value from contractors or parties to subcontracts. However, non-Federal entities may set standards for situations in which the financial interest is not substantial or the gift is an unsolicited item of nominal value. The standards of conduct must provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity.

(2) If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, the non-Federal entity must also maintain written standards of conduct covering organizational conflicts of interest. Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the non-Federal entity is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

(d) The non-Federal entity's procedures must avoid acquisition of unnecessary or duplicative items. Consideration should be given to consolidating or breaking out procurements to obtain a more economical purchase. Where appropriate, an analysis will be made of lease versus purchase alternatives, and any other appropriate analysis to determine the most economical approach.

(e) To foster greater economy and efficiency, and in accordance with efforts to promote cost-effective use of shared services across the Federal government, the non-Federal entity is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services.

(f) The non-Federal entity is encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs.

(g) The non-Federal entity is encouraged to use value engineering clauses in contracts for construction projects of sufficient size to offer reasonable opportunities for cost reductions. Value engineering is a systematic and creative analysis of each contract item or task to ensure that its essential function is provided at the overall lower cost.

(h) The non-Federal entity must award contracts only to responsible contractors possessing the ability to perform successfully under the terms and conditions of a proposed procurement. Consideration will be given to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources.

(i) The non-Federal entity must maintain records sufficient to detail the history of procurement. These records will include, but are not necessarily limited to the following: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price.

(j) (1) The non-Federal entity may use time and material type contracts only after a determination that no other contract is suitable and if the contract includes a ceiling price that the contractor exceeds at its own risk. Time and material type contract means a contract whose cost to a non-Federal entity is the sum of:

(i) The actual cost of materials; and

(ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit.

(2) Since this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, each contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls.

(k) The non-Federal entity alone must be responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements. These issues include, but are not limited to, source evaluation, protests, disputes, and claims. These standards do not relieve the non-Federal entity of any contractual responsibilities under its contracts. The Federal awarding agency will not substitute its judgment for that of the non-Federal entity unless the matter is primarily a Federal

concern. Violations of law will be referred to the local, state, or Federal authority having proper jurisdiction.

§ 200.319 Competition.

(a) All procurement transactions must be conducted in a manner providing full and open competition consistent with the standards of this section. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, and invitations for bids or requests for proposals must be excluded from competing for such procurements. Some of the situations considered to be restrictive of competition include but are not limited to:

- (1) Placing unreasonable requirements on firms in order for them to qualify to do business;
- (2) Requiring unnecessary experience and excessive bonding;
- (3) Noncompetitive pricing practices between firms or between affiliated companies;
- (4) Noncompetitive contracts to consultants that are on retainer contracts;
- (5) Organizational conflicts of interest;
- (6) Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement; and
- (7) Any arbitrary action in the procurement process.

(b) The non-Federal entity must conduct procurements in a manner that prohibits the use of statutorily or administratively imposed state or local geographical preferences in the evaluation of bids or proposals, except in those cases where applicable Federal statutes expressly mandate or encourage geographic preference. Nothing in this section preempts state licensing laws. When contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

(c) The non-Federal entity must have written procedures for procurement transactions. These procedures must ensure that all solicitations:

- (1) Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured. Such description must not, in competitive procurements, contain features which unduly restrict competition. The description may include a statement of the qualitative nature of the material, product or service to be procured and, when necessary, must set forth those minimum essential characteristics and standards to which it must conform if it is to satisfy its intended use. Detailed product specifications should be avoided if at all possible. When it is impractical or uneconomical to make a clear and accurate description of the technical requirements, a “brand name or equivalent” description may be used as a means to

define the performance or other salient requirements of procurement. The specific features of the named brand which must be met by offers must be clearly stated; and

(2) Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals.

(d) The non-Federal entity must ensure that all prequalified lists of persons, firms, or products which are used in acquiring goods and services are current and include enough qualified sources to ensure maximum open and free competition. Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

§ 200.320 Methods of procurement to be followed.

The non-Federal entity must use one of the following methods of procurement.

(a) Procurement by micro-purchases. Procurement by micro-purchase is the acquisition of supplies or services, the aggregate dollar amount of which does not exceed \$3,000 (or \$2,000 in the case of acquisitions for construction subject to the Davis-Bacon Act). To the extent practicable, the non-Federal entity must distribute micro-purchases equitably among qualified suppliers. Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.

(b) Procurement by small purchase procedures. Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the Simplified Acquisition Threshold. If small purchase procedures are used, price or rate quotations must be obtained from an adequate number of qualified sources.

(c) Procurement by sealed bids (formal advertising). Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. The sealed bid method is the preferred method for procuring construction, if the conditions in paragraph (c)(1) of this section apply.

(1) In order for sealed bidding to be feasible, the following conditions should be present:

(i) A complete, adequate, and realistic specification or purchase description is available;

(ii) Two or more responsible bidders are willing and able to compete effectively for the business; and

(iii) The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price.

(2) If sealed bids are used, the following requirements apply:

(i) The invitation for bids will be publicly advertised and bids must be solicited from an adequate number of known suppliers, providing them sufficient response time prior to the date set for opening the bids;

- (ii) The invitation for bids, which will include any specifications and pertinent attachments, must define the items or services in order for the bidder to properly respond;
 - (iii) All bids will be publicly opened at the time and place prescribed in the invitation for bids;
 - (iv) A firm fixed price contract award will be made in writing to the lowest responsive and responsible bidder. Where specified in bidding documents, factors such as discounts, transportation cost, and life cycle costs must be considered in determining which bid is lowest. Payment discounts will only be used to determine the low bid when prior experience indicates that such discounts are usually taken advantage of; and
 - (v) Any or all bids may be rejected if there is a sound documented reason.
- (d) Procurement by competitive proposals. The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids. If this method is used, the following requirements apply:
- (1) Requests for proposals must be publicized and identify all evaluation factors and their relative importance. Any response to publicized requests for proposals must be considered to the maximum extent practical;
 - (2) Proposals must be solicited from an adequate number of qualified sources;
 - (3) The non-Federal entity must have a written method for conducting technical evaluations of the proposals received and for selecting recipients;
 - (4) Contracts must be awarded to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered; and
 - (5) The non-Federal entity may use competitive proposal procedures for qualifications-based procurement of architectural/engineering (A/E) professional services whereby competitors' qualifications are evaluated and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms are a potential source to perform the proposed effort.
- (e) [Reserved]
- (f) Procurement by noncompetitive proposals. Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one source and may be used only when one or more of the following circumstances apply:
- (1) The item is available only from a single source;

- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is determined inadequate.

§ 200.321 Contracting with small and minority businesses, women's business enterprises, and labor surplus area firms.

(a) The non-Federal entity must take all necessary affirmative steps to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible.

(b) Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women's business enterprises;
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce; and
- (6) Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed in paragraphs (1) through (5) of this section.

§ 200.322 Procurement of recovered materials.

A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

§ 200.323 Contract cost and price.

(a) The non-Federal entity must perform a cost or price analysis in connection with every procurement action in excess of the Simplified Acquisition Threshold including contract modifications. The method and degree of analysis is dependent on the facts surrounding the particular procurement situation, but as a starting point, the non-Federal entity must make independent estimates before receiving bids or proposals.

(b) The non-Federal entity must negotiate profit as a separate element of the price for each contract in which there is no price competition and in all cases where cost analysis is performed. To establish a fair and reasonable profit, consideration must be given to the complexity of the work to be performed, the risk borne by the contractor, the contractor's investment, the amount of subcontracting, the quality of its record of past performance, and industry profit rates in the surrounding geographical area for similar work.

(c) Costs or prices based on estimated costs for contracts under the Federal award are allowable only to the extent that costs incurred or cost estimates included in negotiated prices would be allowable for the non-Federal entity under Subpart E—Cost Principles of this part. The non-Federal entity may reference its own cost principles that comply with the Federal cost principles.

(d) The cost plus a percentage of cost and percentage of construction cost methods of contracting must not be used.

§ 200.324 Federal awarding agency or pass-through entity review.

(a) The non-Federal entity must make available, upon request of the Federal awarding agency or pass-through entity, technical specifications on proposed procurements where the Federal awarding agency or pass-through entity believes such review is needed to ensure that the item or service specified is the one being proposed for acquisition. This review generally will take place prior to the time the specification is incorporated into a solicitation document. However, if the non-Federal entity desires to have the review accomplished after a solicitation has been developed, the Federal awarding agency or pass-through entity may still review the specifications, with such review usually limited to the technical aspects of the proposed purchase.

(b) The non-Federal entity must make available upon request, for the Federal awarding agency or pass-through entity pre-procurement review, procurement documents, such as requests for proposals or invitations for bids, or independent cost estimates, when:

(1) The non-Federal entity's procurement procedures or operation fails to comply with the procurement standards in this part;

(2) The procurement is expected to exceed the Simplified Acquisition Threshold and is to be awarded without competition or only one bid or offer is received in response to a solicitation;

(3) The procurement, which is expected to exceed the Simplified Acquisition Threshold, specifies a "brand name" product;

(4) The proposed contract is more than the Simplified Acquisition Threshold and is to be awarded to other than the apparent low bidder under a sealed bid procurement; or

(5) A proposed contract modification changes the scope of a contract or increases the contract amount by more than the Simplified Acquisition Threshold.

(c) The non-Federal entity is exempt from the pre-procurement review in paragraph (b) of this section if the Federal awarding agency or pass-through entity determines that its procurement systems comply with the standards of this part.

(1) The non-Federal entity may request that its procurement system be reviewed by the Federal awarding agency or pass-through entity to determine whether its system meets these standards in order for its system to be certified. Generally, these reviews must occur where there is continuous high-dollar funding, and third party contracts are awarded on a regular basis;

(2) The non-Federal entity may self-certify its procurement system. Such self-certification must not limit the Federal awarding agency's right to survey the system. Under a self-certification procedure, the Federal awarding agency may rely on written assurances from the non-Federal entity that it is complying with these standards. The non-Federal entity must cite specific policies, procedures, regulations, or standards as being in compliance with these requirements and have its system available for review.

§ 200.325 Bonding requirements.

For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold, the Federal awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected. If such a determination has not been made, the minimum requirements must be as follows:

(a) A bid guarantee from each bidder equivalent to five percent of the bid price. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.

(b) A performance bond on the part of the contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.

(c) A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

§ 200.326 Contract provisions.

The non-Federal entity's contracts must contain the applicable provisions described in Appendix II to Part 200—Contract Provisions for non-Federal Entity Contracts Under Federal Awards.

**NATURAL RESOURCES CONSERVATION SERVICE
SUPPLEMENT TO OSHA PARTS 1910 AND 1926
CONSTRUCTION INDUSTRY STANDARDS AND INTERPRETATIONS**

The Contractor shall comply with OSHA (Occupational Safety and Health Administration) Parts 1910 and 1926, Construction Industry Standards and Interpretations, and with this supplement.

Requests for variances or waiver from this supplement are to be made to the Contracting Officer in writing supported by evidence that every reasonable effort has been made to comply with the contractual requirements. A written request for a waiver or a variance shall include--

- (1) Specific reference to the provision or standard in question;
- (2) An explanation as to why the waiver is considered justified; and
- (3) The Contractor's proposed alternative, including technical drawings, materials, or equipment specifications needed to enable the Contracting Officer to render a decision.

No waiver or variance will be approved if it endangers any person. The Contractor shall not proceed under any requested revision of provision until the Contracting Officer has given written approval. The Contractor is to hold and save harmless the Natural Resources Conservation Service free from any claims or causes of action whatsoever resulting from the Contractor or subcontractors proceeding under a waiver or approved variance.

Copies of OSHA Parts 1910 and 1926, Construction Industry Standards and Interpretations, may be obtained from:

Superintendent of Documents
U.S. Government Printing Office
Washington, D.C. 20402

1.0 GENERAL CONTRACTOR REQUIREMENTS:

1.1 SAFETY PROGRAM. Each Contractor is to demonstrate that he or she has facilities for conducting a safety program commensurate with the work under contract. The Contractor is to submit in writing a proposed comprehensive safety program to the Contracting Officer for approval before the start of construction operations. The program is to specifically state what provisions the Contractor proposes to take for the health and safety of all employees, including subcontractors and rental equipment operators. The program shall be site specific and provide details relevant to the work to be done, the hazards associated with the work, and the actions that will be necessary to minimize the identified hazards.

1.2 PRECONSTRUCTION SAFETY MEETING. Representatives for the Contractor are to meet with the Contracting Officer (CO) or the CO's representative before the start of construction to discuss the safety program and the implementation of all health and safety standards pertinent to the work under this contract.

1.3 JOINT SAFETY POLICY COMMITTEE. The Contractor or designated on-site representative is to participate in monthly meetings of a joint Safety Policy Committee, composed of the Natural Resources Conservation Service (Contracting Local Organization in locally awarded contracts) and Contractor supervisory personnel. At these meetings the Contractor's project manager and the Contracting Officer will review the effectiveness of the

Contractor's safety effort, resolve current health and safety problems, and coordinate safety activities for upcoming work.

1.4 SAFETY PERSONNEL. Each Contractor is to designate a competent supervisory employee satisfactory to the Contracting Officer to administer the safety program.

1.5 SAFETY MEETINGS. A minimum of one "on-the-job" or "toolbox" safety meeting is to be conducted each week by all field supervisors or foremen and attended by mechanics and all construction personnel at the jobsite. The Contractor is to also conduct regularly scheduled supervisory safety meetings at least monthly for all levels of job supervision.

1.6 SAFETY INSPECTION. The Contractor shall perform frequent and regular safety inspections of the jobsite, materials, and equipment, and shall correct deficiencies.

1.7 FIRST AID TRAINING. Every Contractor foreman's work crew must include an employee who has a current first aid certificate from the Mine Safety and Health Administration, American Red Cross, or other state-approved organization.

1.8 REPORTS. Each Contractor is to maintain an accurate record of all job-related deaths, diseases, or disabling injuries. The records shall be maintained in a manner approved by the Contracting Officer. A copy of all reports is to be provided to the Contracting Officer. All fatal or serious injuries are to be reported immediately to the Contracting Officer, and every assistance is to be given in the investigation of the incident, including submission of a comprehensive narrative report to the Contracting Officer. Other occurrences with serious accident potential, such as equipment failures, slides, and cave-ins, must also be reported immediately. The Contractor is to assist and cooperate fully with the Contracting Officer in conducting accident investigations. The Contracting Officer is to be furnished all information and data pertinent to investigation of an accident.

1.9 CERTIFICATION OF INSURANCE. Contractors are to provide the Contracting Officer or his or her authorized representative with certificates of insurance before the start of operations indicating full compliance with State Worker's Compensation statutes, as well as other certificates of insurance required under the contract.

2.0 FIRST AID AND MEDICAL FACILITIES:

2.1 FIRST AID KITS. A 16-unit first aid kit approved by the American Red Cross is to be provided at accessible, well-identified, locations at the ratio of at least 1 kit for each 25 employees. The first aid kits are to be moisture proof and dust tight, and the contents of the kits are to be replenished as used or as they become ineffective or outdated.

2.2 EMERGENCY FIRST AID. At least one employee certified to administer emergency first aid must be available on each shift and duly designated by the Contractor to care for injured employees. The names of the certified employees shall be posted at the jobsite.

2.3 COMMUNICATION AND TRANSPORTATION. Prior to the start of work, the Contractor is to make necessary arrangements for prompt and dependable communications, transportation, and medical care for injured employees. At least one stretcher and two blankets shall be readily available for transporting injured employees.

2.4 FIRST AID AND MEDICAL REPORTS. The Contractor is to maintain a record system for first aid and medical treatment on the jobsite. Such records are to be readily available to the Contracting Officer and are to include--

- (a) A daily treatment log listing chronologically all persons treated for occupational injuries and illnesses;
- (b) Cumulative record of injury for each individual;
- (c) Monthly statistical records of occupational injuries, classified by type and nature of injury; and
- (d) Required records for worker's compensation.

2.5 SIGNS AND DIRECTIONAL MARKINGS. Adequate identification and directional markers are to be provided to readily denote the location of all first aid stations.

2.6 EMERGENCY LISTING. A listing of telephone numbers and addresses of doctor, rescue squad, hospital, police, and fire departments is to be provided at all first aid locations.

3.0 PHYSICAL QUALIFICATIONS OF EMPLOYEES:

3.1 GENERAL REQUIREMENTS. Persons employed throughout the contract are to be physically qualified to perform their assigned duties. Employees must not knowingly be permitted or required to work while their ability or alertness is impaired by fatigue, illness, or any other reason that may jeopardize themselves or others.

3.2 HOIST OPERATORS. Operators of cranes, cableways, and other hoisting equipment shall be examined annually by a physician and provided with a certification stating that they are physically qualified to safely operate hoisting equipment. The Contractor is to submit a copy of each certification to the Contracting Officer.

3.3 HEAVY EQUIPMENT OPERATORS. It is recommended that operators of trucks and heavy construction equipment be given physical examinations to determine if they are physically qualified to perform their assigned work without endangering themselves or others.

3.4 MOTOR VEHICLE OPERATORS. Operators of motor vehicles engaged primarily in the transportation of personnel are to be 18 years of age or older and have a valid state operator's permit or license for the equipment being operated. The operators must have passed a physical examination administered by a licensed physician within the past year showing that they are physically qualified to operate vehicles safely.

4.0 PERSONAL PROTECTIVE EQUIPMENT:

4.1 HARDHAT AREAS. The entire jobsite, with the exception of offices, shall be considered a hardhat area. All persons entering the area are, without exception, required to wear hardhats. The Contractor shall provide hardhats for visitors entering hardhat areas.

4.1.1 LABELS. Hardhats shall bear a manufacturer's label indicating design compliance with the appropriate ANSI (American National Standards Institute) standard.

4.2 POSTING. Signs at least 3 by 4 feet worded as follows with red letters (minimum 6 inches high) and white background shall be erected at access points to designated hardhat areas:

CONSTRUCTION AREA - HARDHATS REQUIRED BEYOND THIS POINT

These signs are to be furnished and installed by the Contractor at entries to shops, construction yards, and job access points.

4.3 SAFETY GOGGLES (DRILLERS)

4.3.1 DRILLERS AND HELPERS. Drillers and helpers operating pneumatic rock drills must wear protective safety goggles.

5.0 MACHINERY AND MECHANIZED EQUIPMENT:

5.1 SAFE CONDITION. Before any machinery or mechanized equipment is initially used on the job, it must be inspected and tested by qualified personnel and determined to be in safe operating condition and appropriate for the intended use. Operators shall inspect their equipment prior to the beginning of each shift. Any deficiencies or defects shall be corrected prior to using the equipment. Safety equipment, such as seatbelts, installed on machinery is to be used by equipment operators.

5.2 TAGGING AND LOCKING. The controls of power-driven equipment under repair are to be locked. An effective lockout and tagging procedure is to be established, prescribing specific responsibilities and safety procedures to be followed by the person or persons performing repair work. Mixer barrels are to be securely locked out before permitting employees to enter them for cleaning or repair.

5.3 HAUL ROADS FOR EQUIPMENT

5.3.1 ROAD MAINTENANCE. The Contractor shall maintain all roadways, including haul roads and access roads, in a safe condition so as to eliminate or control dust and ice hazards. Wherever dust is a hazard, adequate dust-laying equipment shall be available at the jobsite and utilized to control the dust.

5.3.2 SINGLE-LANE HAUL ROADS. Single-lane haul roads with two-way traffic shall have adequate turnouts. Where turnouts are not practical, a traffic control system shall be provided to prevent accidents.

5.3.3 TWO-WAY HAUL ROADS. On two-way haul roads, arrangements are to be such that vehicles travel on the right side wherever possible. Signs and traffic control devices are to be employed to indicate clearly any variations from a right-hand traffic pattern. The road shall be wide enough to permit safe passage of opposing traffic, considering the type of hauling equipment used.

5.3.4 DESIGN AND CONSTRUCTION OF HAUL ROADS. Haul road design criteria and drawings, if requested by the Contracting Officer, are to be submitted for approval prior to road construction. Sustained grades shall not exceed 12 percent and all curves shall have open-sight line with as great a radius as practical. All roads shall be posted with curve signs and maximum speed limits that will permit the equipment to be stopped within one-half the minimum sight distance.

5.3.5 OPERATORS. Machinery and mechanized equipment shall be operated only by authorized qualified persons.

5.3.6 RIDING ON EQUIPMENT. Riding on equipment by unauthorized personnel is prohibited. Seating and safety belts shall be provided for the operator and all passengers.

5.3.7 GETTING ON OR OFF EQUIPMENT. Getting on or off equipment while the equipment is in motion is prohibited.

5.3.8 HOURS OF OPERATION. Except in emergencies, an equipment operator shall not operate any mobile or hoisting equipment for more than 12 hours without an 8-hour rest interval away from the job.

5.4 POWER CRANES AND HOISTS (TRUCK CRANES, CRAWLER CRANES, TOWER CRANES, GANTRY CRANES, HAMMERHEAD CRANES, DERRICKS, CABLEWAYS, AND HOISTS)

5.4.1 PERFORMANCE TEST. Before initial onsite operation, at 12-month intervals, and after major repairs or modification, power cranes, derricks, cableways, and hoists must satisfactorily complete a performance test to demonstrate the equipment's ability to safely handle and maneuver the rated loads. The tests shall be conducted in the presence of a representative of the Contracting Officer. Test data shall be recorded and a copy furnished the Contracting Officer.

5.4.2 PERFORMANCE TEST—POWER CRANES (Crawler mounted, truck mounted and wheel mounted). The performance test is to be carried out as per ANSI requirements. The test is to consist of raising, lowering, and braking the load and rotating the test load through 360° degrees at the specified boom angle or radius. Cranes equipped with jibs or boom-tip extensions are to be tested using both the main boom and the jib, with an appropriate test load in each case.

5.4.3 PERFORMANCE TEST—DERRICKS, GANTRY CRANES, TOWER CRANES, CABLEWAYS, AND HOISTS, INCLUDING OVERHEAD CRANES. This equipment is to be performance tested as per ANSI requirements.

5.4.4 BOOM ANGLE INDICATOR. Power cranes (includes draglines) with booms capable of moving in the vertical plane shall be provided with a boom angle indicator in good working order.

5.4.5 CRANE TEST CERTIFICATION. The performance test required by 5.4.2 and 5.4.3 is fulfilled if the Contractor provides the Contracting Officer a copy of a certificate of inspection made within the past 12 months by a qualified person or by a government or private agency satisfactory to the Contracting Officer.

5.4.6 POSTING FOR HIGH VOLTAGE LINES. A notice of the 10-foot (or greater) clearance required by OSHA 1926.550, Subpart N, shall be posted in the operator's cab of cranes, shovels, boom-type concrete pumps, backhoes, and related equipment.

5.4.7 BOOM STOPS. Cranes or derricks with cable-supported booms, except draglines, shall have a device attached between the gantry of the A-frame and the boom chords to limit the elevation of the boom. The device shall control the vertical motions of the boom with increasing resistance from 83° or less, until completely stopping the boom at not over 87° above horizontal.

5.4.8 SAFETY HOOKS. Hooks used in hoisting personnel or hoisting loads over construction personnel or in the immediate vicinity of construction personnel shall be forged steel equipped with safety keepers. When shackles are used under these conditions, they shall be of the locking type or have the pin secured to prohibit turning.

5.5 ROLLOVER PROTECTIVE STRUCTURES (ROPS)

5.5.1 ROLLOVER PROTECTIVE STRUCTURES. OSHA 1926, Subpart W, Overhead Protection, Sections 1001 and 1002 are applicable regardless of the year in which the equipment was manufactured and regardless of the struck capacity of the equipment.

5.5.2 EQUIPMENT REQUIRING ROPS. The requirement for ROPS meeting 5.5.1 above applies to crawler and rubber-tired tractors such as dozers, push-and-pull tractors, winch tractors, tractors with backhoes, and mowers; off-highway, self-propelled, pneumatic-tired earthmovers, including scrapers, motor graders and loaders; and rollers, compactors, water tankers (excluding trucks with cabs). These requirements shall also apply to agricultural and industrial tractors and similar equipment.

5.5.3 EQUIPMENT REQUIRING SEATBELTS. The requirements for seatbelts as specified in OSHA Subpart O, Motor Vehicles, Mechanized Equipment, and Marine Operations, Section 1926.602 shall also apply to self-propelled compactors and rollers, and rubber-tired skid-steer equipment.

6.0 LADDERS AND SCAFFOLDING:

6.1 LADDERS. OSHA 1926, Subpart L - Section 450. Ladders shall be used as work platforms only when use of small hand tools or handling of light material is involved. No work requiring lifting of heavy materials or substantial exertion shall be done from ladders.

6.2 SCAFFOLDING. OSHA 1926, Subpart L - Section 451. Scaffolds, platforms or temporary floors shall be provided for all work except that which can be done safely from the ground or similar footing.

6.3 SAFETY BELTS, LIFELINE, AND LANYARDS. OSHA 1926, Subpart E, Section 104. Lifelines, safety belts and lanyards independently attached or attended, shall be used when performing such work as the following when the requirements of 6.1 or 6.2 above cannot be met.

- (a) Work on stored material in hoppers, bins, silos, tanks, or other confined spaces.
- (b) Work on hazardous slopes, structural steel, or poles; erection or dismantling of safety nets, tying reinforcing bars; and work from Boatswain's chairs, swinging scaffolds, or other unguarded locations at elevations greater than 6 feet.
- (c) Work on skips and platforms used in shafts by crews when the skip or cage does not block the opening to within 1 foot of the sides of the shaft, unless cages are provided.

**RESOLUTION
NO.**

**A RESOLUTION
TO BE ENTITLED:**

**A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2016; PROVIDING FOR AN EFFECTIVE DATE.**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads:	Federal Grants	4,811,332
Amended		
To Read:	Federal Grants	6,311,332
As Reads:	Capital Outlay	10,207,226
Amended		
To Read:	Capital Outlay	11,707,226

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

SECTION 3. 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

THE CITY OF PENSACOLA
 APRIL 2016 - SUPPLEMENTAL BUDGET RESOLUTION - EMERG WATERSHED GRANT - BAYWOODS GULLY

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
Federal Grants	<u>1,500,000</u>	Increase estimated revenue from Federal Grants
Total Revenues	<u>1,500,000</u>	
Appropriations		
Capital Outlay	<u>1,500,000</u>	Increase appropriation for Capital Outlay
Total Appropriations	<u>1,500,000</u>	



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 03-17

City Council

3/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 03-17 - AMENDMENT TO SECTION 3-1-13, COUNCIL RESERVE (GENERAL FUND) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA

RECOMMENDATION:

That City Council approve Proposed Ordinance No. 03-17 on second reading.

AN ORDINANCE AMENDING SECTION 3-1-13 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE COUNCIL RESERVE POLICY (GENERAL FUND); SEVERABILITY CLAUSE; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On January 12, 2017, City Council approved an amendment to the Fund Balance Policy Section (D)(3)(c) to increase the minimum Council Reserve from 15 percent to 20 percent in order to maintain and increase a healthy fund balance. In order to fully implement this policy change, Section 3-1-13, Council Reserve (General Fund) of the Code of the City of Pensacola, Florida will also need to be amended.

On October 9, 2014, City Council adopted Ordinance No. 39-14 which created Section 3-1-13 of the Code of the City of Pensacola, Florida in order to commit the Council Reserve fund balance in the General Fund. The ordinance set a minimum reserve of 15 percent of the General Fund beginning adopted appropriations. Proposed Ordinance 03-17 changes the minimum reserve to 20 percent in order to comply with City Council's Fund Balance Policy.

PRIOR ACTION:

February 9, 2017 - City Council approved Proposed Ordinance No. 03-17 on first reading.

September 9, 2010 - City Council adopted Resolution No. 31-10 which committed the Council reserves fund balance in the general fund.

October 9, 2014 - City Council adopted Ordinance No. 39-14 which committed the Council reserves fund balance in the general fund.

January 12, 2017 - City Council approved amending the Council reserves fund balance in the general fund to increase Council Reserves from 15 percent to 20 percent.

FUNDING:

N/A

FINANCIAL IMPACT:

An increase in the percentage of reserves to be gained and maintained.

CITY ATTORNEY REVIEW: Yes

1/20/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
Richard Barker, Jr., Chief Financial Officer

ATTACHMENTS:

- 1) Proposed Ordinance No. 03-17

PRESENTATION: No

PROPOSED
ORDINANCE NO. 03-17

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING CHAPTER 3-1-13 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE COUNCIL RESERVE POLICY (GENERAL FUND); SEVERABILITY CLAUSE; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 3-1-13 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 3-1-13. - Council reserve (general fund).

Effective January 12, 2017, a minimum reserve of twenty (20) 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 (2/3) vote of city council. Use of funds may only be initiated when current fiscal year revenues decrease by five (5) percent or more of the total adopted beginning estimated revenues, including transfers. A maximum of fifty (50) percent of the shortfall or fifty (50) 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 seven and one-half (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 (2) consecutive years.
- (2) *Replenishment of council reserve.* If the reserves are drawn down below the minimum required level of twenty (20) percent, then a budgetary plan shall be implemented to return the reserve to a minimum twenty (20) percent level in no more than a five-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, specifically approved by city council for such purpose, and any other funds identified in the annual budget (and any amendments thereto) will be

used to increase the reserve. Interest earnings will be applied on the reserve balance each fiscal year.

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

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

SECTION 4. This ordinance shall 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

File #: 17-00105

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Brian Spencer

SUBJECT:

Request for Legal Opinion - Reconstruction of Nonconforming Structures at 1812 and 1814 E. Lakeview

RECOMMENDATION:

That City Council request a legal opinion from the City Attorney, regarding reconstruction of nonconforming structures at 1812 and 1814 E. Lakeview Avenue.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Properties at 1812 and 1814 East Lakeview Avenue, four multi-family residential structures, were heavily damaged during Hurricane Ivan.

In accordance with the Land Development Code, reconstruction of nonconforming structures that have been destroyed to the extent of more than seventy-five (75) percent of their value by fire, explosion, or other casualty, or act of God or the public enemy, may take place with approval of City Council.

The buildings were considered nonconforming land use because the R-1AAA zoning district in which the property is located is a single-family zoning district which does not allow multi-family development.

In July 2007, a Public Hearing was held to consider the owner's request to reconstruct four new buildings within the same footprint that will contain eight (8) condominium units. This request was approved by City Council.

Currently there is a request to build single family residential, another nonconforming use.

The question being presented to the City Attorney, is what flexibility does the current City Council have, given the actions of the previous City Council, in considering another nonconforming use request.

PRIOR ACTION:

June 28, 2007 - City Council Action

July 26, 2007 - Public Hearing

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) 1812-1814 E. Lakeview
- 2) 1812 E Lakeview July 26, 2007
- 3) 1812 E Lakeview_E3AD7
- 4) F-2 NON-CONFORMING #1 - 1812 & 1814 E. Lakeview

PRESENTATION: No

F-2 ZONING
NON-CONFORMING

COMMITTEE MEMORANDUM

ITEM #6

INFORMATION ONLY

COMMITTEE: Economic and Community Development

FROM: Thomas J. Bonfield, City Manager *TJB*

DATE: July 23, 2007

SUBJECT: Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue

RECOMMENDATION: That City Council conduct a public hearing on July 26, 2007 to consider the request to reconstruct the nonconforming structures located at 1812 and 1814 East Lakeview Avenue.

SUMMARY: On June 28, 2007, City Council continued the scheduled public hearing on this request to July 26, 2007 to allow the applicant, adjacent property owners, and neighborhood residents to further discuss the details of the proposed project. At the time of this report, that discussion has not occurred, however, the applicant has indicated that they intend to meet with neighbors to discuss the project prior to the public hearing on July 26, 2007. Section 12-1-6(F) of the Land Development Code provides for the reconstruction of nonconforming structures that have been destroyed to the extent of more than seventy-five (75) percent of their value by fire, explosion, or other casualty, or act of God or the public enemy, with approval by City Council. The four existing multi-family residential structures located at 1812 and 1814 East Lakeview Avenue were heavily damaged by Hurricane Ivan. The buildings are considered to be a nonconforming land use because the R-1AAA zoning district in which the property is located is a single-family zoning district which does not allow multi-family development. According to the applicant, the intent is to demolish the damaged structures, and reconstruct a two story multi-family

City of Pensacola



residence containing eight residential units. Public notice was provided to property owners within 500 feet of the subject property. No comments were received from nearby property owners at the time of this report. Any comments received prior to the public hearing will be provided to City Council.

PRIOR ACTION:

On June 28, 2007, City Council continued the scheduled public hearing to July 26, 2007 to allow the applicant, adjacent property owners, and neighborhood residents to further discuss the details of the proposed project.

CURRENT ACTION:

FUNDING:

None required.

ATTACHMENTS:

- (1) Staff Report
- (2) Location Maps
- (3) Applicants Request

STAFF CONTACT:

Kevin A. Cowper, Community Development Director;
Sherry H. Morris, Planning Services Administrator.

PRESENTATION:

No.

MEMORANDUM

TO: Thomas J. Bonfield, City Manager

FROM: *KAC* Kevin A. Cowper, Community Development Department Director

DATE: July 23, 2007

SUBJECT: Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue.

RECOMMENDATION:

That City Council conduct a public hearing on July 26, 2007 to consider the request to reconstruct the nonconforming structures located at 1812 and 1814 East Lakeview Avenue.

BACKGROUND:

On June 28, 2007, City Council continued the scheduled public hearing on this request to July 26, 2007 to allow the applicant, adjacent property owners, and neighborhood residents to further discuss the details of the proposed project. At the time of this report, that discussion has not occurred, however, the applicant has indicated that they intend to meet with neighbors to discuss the project prior to the public hearing on July 26, 2007. Section 12-1-6(F) of the Land Development Code (LDC) provides for the reconstruction of nonconforming structures that have been destroyed to the extent of more than seventy-five (75) percent of their value by fire, explosion, or other casualty, or act of God or the public enemy, with approval by City Council. The four existing multi-family residential structures located at 1812 and 1814 East Lakeview Avenue were heavily damaged by Hurricane Ivan and are currently unoccupied. The buildings are considered to be a nonconforming land use because the R-1AAA zoning district in which the property is located is a single-family zoning district which does not allow multi-family development. Additionally, the property is nonconforming in that the off-street parking, maximum density, and minimum required setbacks requirements are not currently in compliance. While the zoning and land uses in this area are primarily one and two-family residential, there are additional nonconforming multi-family structures located to the west and south of this property on Lakeview Avenue.

The R-1AAA district allows single-family residential development at a maximum density of 4.8 units per acre, with setback requirements of a 30' front and rear yard, and 7.5' side yards. The maximum number of residential units allowed on the 0.42 acre parcel would be two (2) single-family dwellings under the R-1AAA regulations. The buildings currently house fifteen (15) one-bedroom apartment units. As shown on the attached

Thomas J. Bonfield, City Manager
Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue
June 28, 2007
Page 2

survey, the existing buildings do not meet the minimum setback requirements for the R-1AAA district. No improved off-street parking is currently provided.

The applicant is proposing to demolish the damaged structures and reconstruct a two (2) story multi-family residence containing eight (8) residential units. The proposed building will comply with the maximum allowed building height of 35' for the R-1AAA District as well as the side and rear setback requirements, but the proposed 15' front yard setback is less than the required 30 feet. The applicant will be responsible for providing stormwater management for any new impervious area that is created on the site subject to review and approval by the City Engineer. The applicant submitted a site plan which demonstrates that twelve (12) off-street parking spaces will be provided behind the buildings where none currently exists. The Land Development Code requires two off-street parking spaces per multi-family residential unit. The applicant is proposing eight (8) units, which would have a requirement of sixteen (16) off-street parking spaces; however, it is unlikely that the parking requirement could be met on site. A parking area containing twelve (12) spaces as proposed must be paved; therefore, stormwater management will need to be addressed for additional impervious area being created on the property. The developer is proposing that the parking area and driveway be paved with decorative pavers and concrete. Stormwater swales on the east and west property lines are proposed to capture stormwater runoff.

The R-1AAA District does not have a minimum landscaping requirement, however a buffer yard is required in residential zoning districts between a multi-family and single-family land use which can be administratively approved at 5' in width. Buffer yard areas may be credited towards the recreation/open space requirement for multi-family uses contained in Section 12-2-82(C)(4) of the Land Development Code, which states that 5% of the total lot area on a multi-family residential site should be reserved for recreation and open space facilities. A six (6) foot wooden fence is proposed around the perimeter of the property. A minimum five (5) foot landscape buffer is recommended around the perimeter of the property. The proposed parking area can be reduced in size to accommodate additional open space and landscaping.

The applicant has provided information documenting the current appraised value of the property as being \$1,120 (based on the records of the Escambia County Property Appraiser), as well as the cost of repairing or reconstructing the buildings. According to the Escambia County Property Appraiser's Office, the previous appraised value of the improvements on the property prior to the damage inflicted by Hurricane Ivan was \$206,830.

Thomas J. Bonfield, City Manager
Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue
June 28, 2007
Page 3

The procedure for reconstruction of a non-conforming structure as provided by the LDC is as follows:

12-1-6(F) Restoration. Nonconforming fences may be repaired or replaced after obtaining the proper permit without the necessity of following the requirements listed in this subsection. Nothing in this title shall be taken to prevent the restoration of any other non-conforming structure or a building housing a non-conforming use destroyed to the extent of not more than seventy-five (75%) percent of its value by fire, explosion, or other casualty, or act of God, or the public enemy. A non-conforming structure or a building housing an existing nonconforming use destroyed to the extent of more than seventy-five (75%) percent may be reconstructed and the nonconforming use continued provided the following requirements are complied with:

- (1) **Public hearing.** A public hearing is held after notification of same being mailed to each owner of property within five hundred (500) feet of the property in question subject to regulations in section 12-12-3(F)(1)(g) and (i).
- (2) **City council approval.** Eight (8) members of the city council must vote in favor of a permit to allow the reconstruction of a nonconforming structure and/or the continuance of a nonconforming use in order for same to be effective.
- (3) **Building restrictions.** The structure, as reconstructed, shall not exceed the its former dimensions, either in ground floor area, total floor space, or number of stories unless it complies with all the lot line and setback restrictions of the particular zoning district in which the property in question is located.
- (4) **Appeals.** Once such a petition has been denied, it shall not again be entertained for one year after the date of denial.

According the Escambia County Property Appraiser's records, the buildings were constructed in 1928 prior to the enactment of the LDC. The property owner is requesting to rebuild a building with fewer units, while increasing the number of off-street parking spaces, and increasing the side and rear setbacks, hence reducing the overall level of nonconformity in those areas. The provision in the Land Development Code, however,

Thomas J. Bonfield, City Manager

Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue

June 28, 2007

Page 4

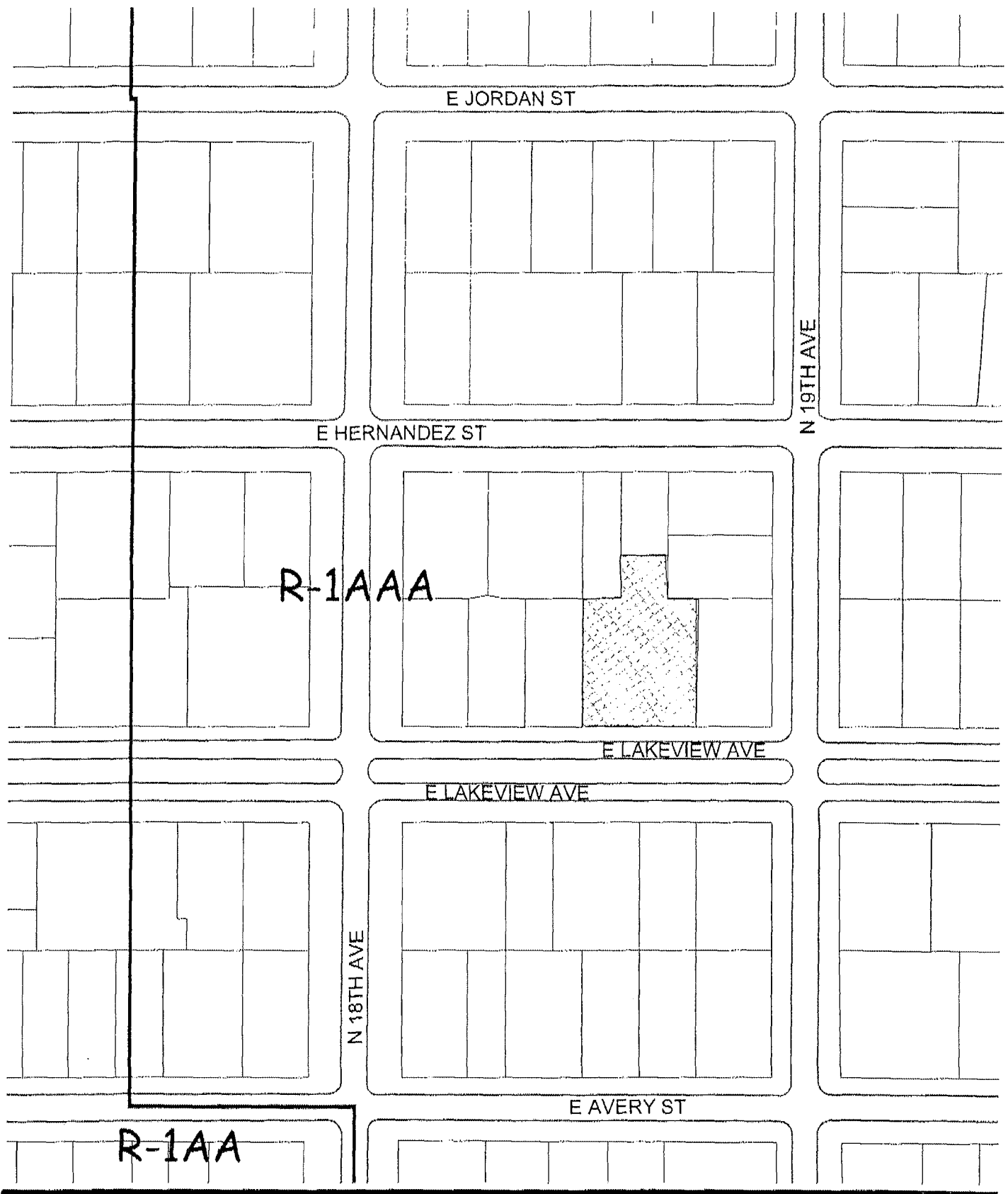
that a reconstructed nonconforming structure shall not exceed the its former dimensions, either in ground floor area, total floor space, or number of stories unless it complies with all the lot line and setback restrictions of the particular zoning district in which the property in question is located, is not being met as shown on the proposed site plan. The overall square footage on the site is increasing by 480 square feet, although 665 square feet of the project as shown on the site plan consists of wood deck as opposed to actual building footprint. As shown on the site plan, the side and rear setbacks are consistent with the requirements of the R-1AAA district, however, the front setback of 15' does not meet the minimum requirement of 30' as required by the Land Development Code. The existing and proposed lot coverage and setbacks are as follows:

Lakeview Lofts	Building Footprint	Porch/Deck	Additional Building Area	Total
Existing (square feet)	4809	1058	443 (sheds)	6310
Proposed (square feet)	5600	665	525 (2 nd floor living area above drive-through tunnel)	6790

Public notice was provided to property owners within 500 feet of the subject property in accordance with the LDC. No comments were received from nearby property owners at the time of this report. Any comments received prior to the public hearing will be provided to City Council. On June 28, 2007, Council continued the scheduled public hearing until the July 26, 2007 meeting to allow the applicant, adjacent property owners, and neighborhood residents to further discuss the details of the proposed project.

FINANCIAL IMPACT:

None.



R-1AAA

R-1AA

NON-CONFORMING USE REQUEST

REQUESTED BY MR DRYSDALE & ASHCRAFT

JULY 2007



1 inch equals 138 feet



REQUEST TO RECONSTRUCT A NON-CONFORMING USE



7929 Atlas St. • Pensacola, FL 32506
Phone # (850) 380-5105 Fax # (877) 666-1552

Date: June 6, 2007

Subject: 1812/1814 E. Lakeview

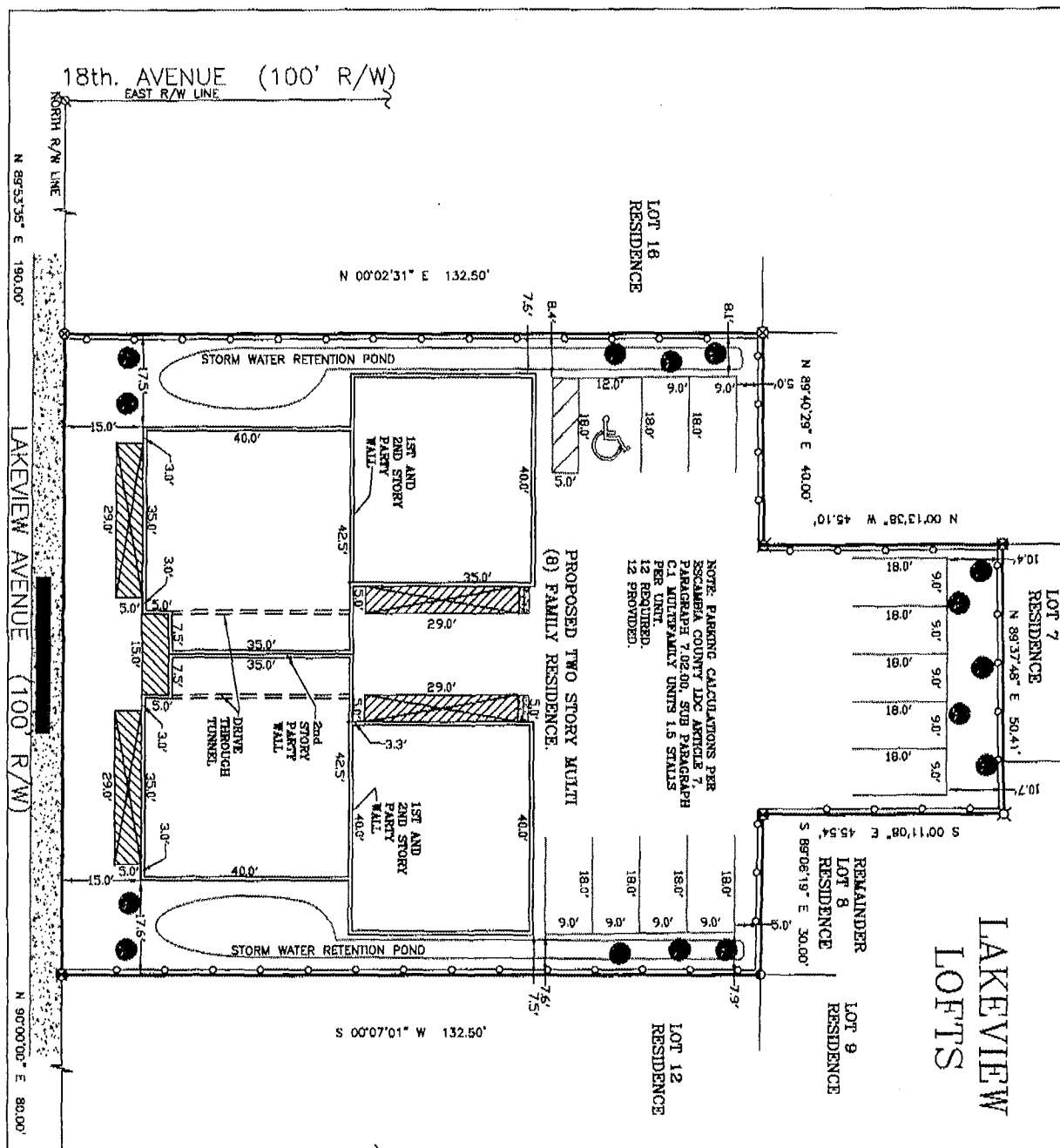
Randy Ashcraft

This is an estimate to represent the costs associated to renovating the structures as well as the costs to completely rebuild from the ground up.

If you choose to re-construct the existing building using the foundation, walls, floor system and roof system the cost will be \$115 per square foot with a total sqft. of 15,000sqft. This would result in a total reconstruction cost of \$1,725,000.

If you choose to build from the ground up using the same footprint as the existing structures the cost would be \$66 per sqft. plus demolition fees which would result in a grand total to rebuild being \$1,040,000. If you have any questions please feel free to contact me. Thanks.

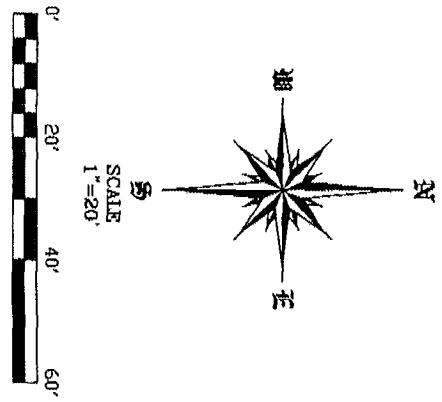
Sincerely
John Drysdale
CGC# 1512862



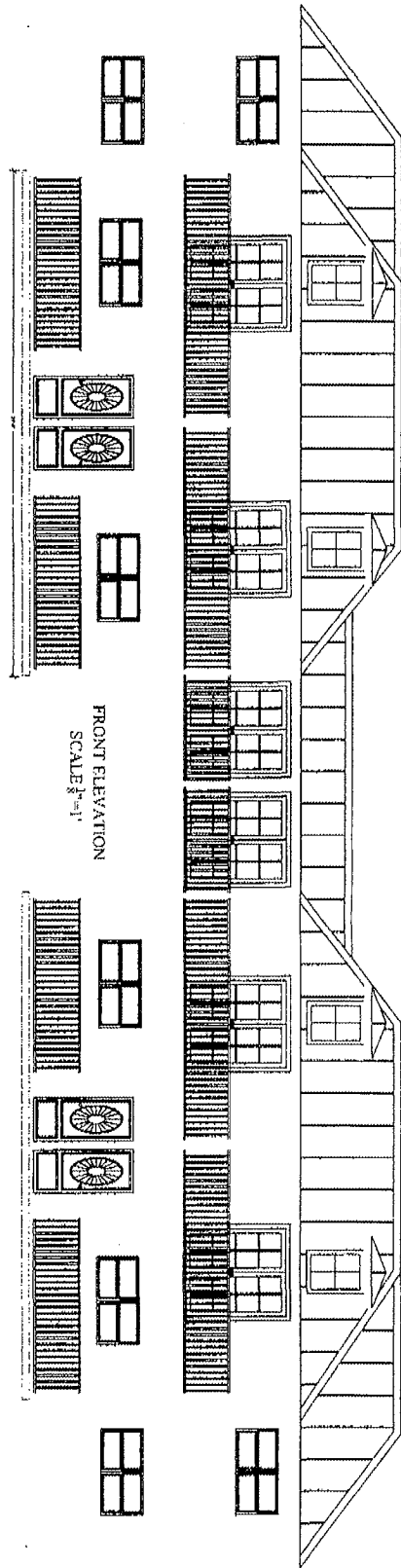
LAKEVIEW LOFTS

LEGEND	
	FOUND 1/2" CAPPED IRON ROD #2892
	FOUND 1/2" CAPPED IRON ROD #6499
	FOUND 1/2" IRON ROD #3027
	FOUND 1/2" CAPPED IRON ROD #3027
	FOUND 1/2" IRON ROD #6164
	FOUND 1" IRON ROD
	FOUND 3/4" METAL PIPE
	RIGHT-OF-WAY
	WOOD DECK
	5' WOODEN PRIVACY FENCE
	NEW TREE ON 9' HIGH


NOTE: ALL PARKING AND DRIVE AREAS TO BE CONSTRUCTED WITH DECORATIVE PAVERS AND CONCRETE.

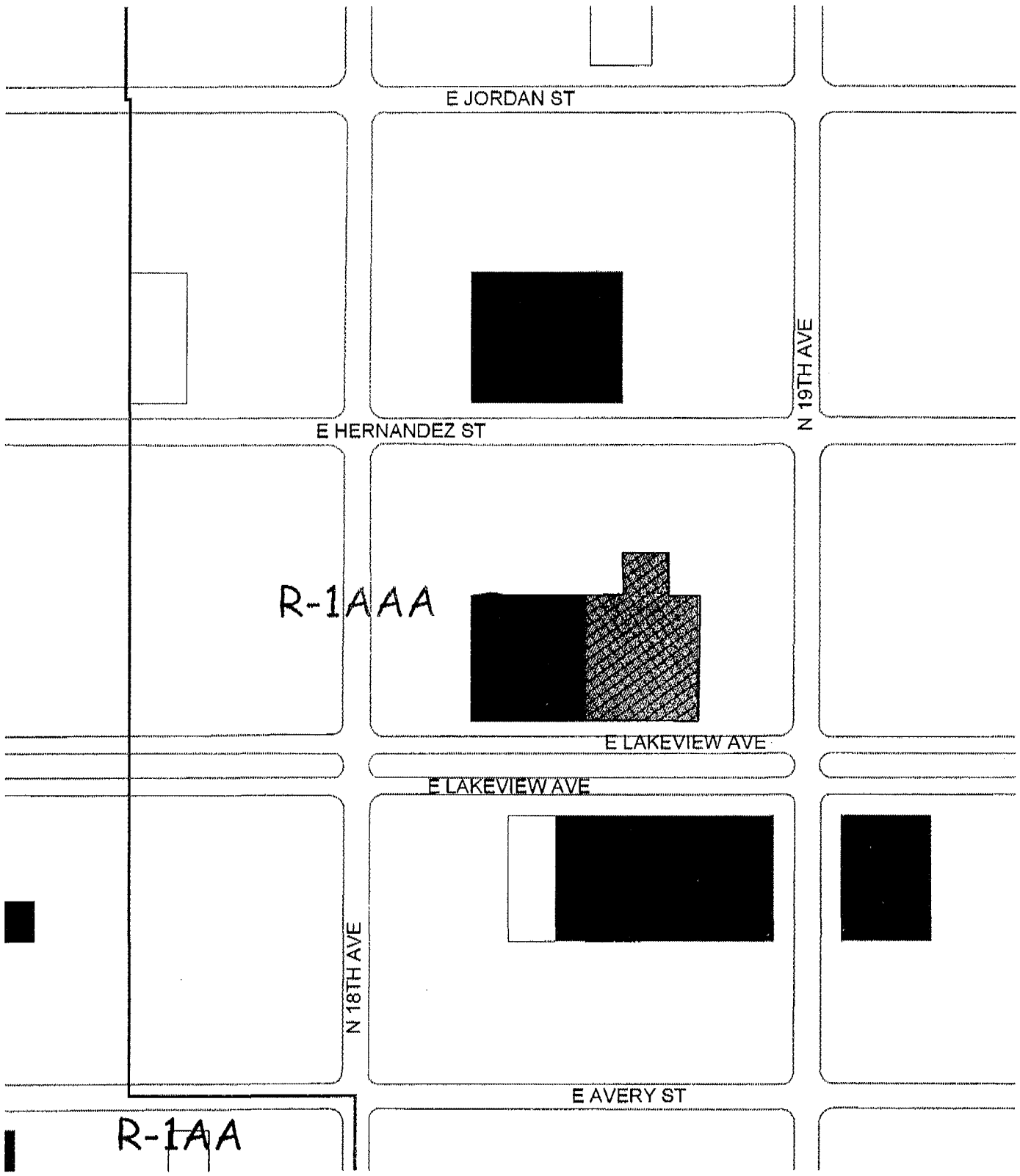


PROPOSED SITE PLAN (NEW CONSTRUCTION)	DATE		7929 ATLAS STREET PENSACOLA, FLORIDA PHONE (850) 380-5105 FAX (877) 666-1552 FL. CGC #1512862 SCALE 1" = 20'	DRAWN BY: R.E.M.	PROJECT NAME AND SITE ADDRESS LAKEVIEW LOFTS 1812 EAST LAKEVIEW AVENUE PENSACOLA, FLORIDA
			REVISIONS	APPROVED BY: J.D.	



FRONT ELEVATION
SCALE 3/8"=1'

SHEET	PROPOSED FRONT ELEVATIONS	DATE		7029 ATLAS STREET PENSACOLA, FLORIDA PHONE (850) 380-3105 FAX (877) 666-1552 FL.CGC #1512862 SCALE 1/8" = 1'	DRAWN BY: R.E.M.	PROJECT NAME AND SITE ADDRESS LAKEVIEW LOFTS 1812 EAST LAKEVIEW AVENUE PENSACOLA, FLORIDA
	REVISIONS			APPROVED BY: J.D.	DATE 06-11-2007	

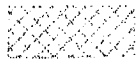


NON-CONFORMING USE REQUEST

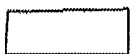
REQUESTED BY MR DRYSDALE & ASHCRAFT

JULY 2007

1 inch equals 138 feet



REQUEST TO RECONSTRUCT A NON-CONFORMING USE



SINGLE FAMILY



MULTI FAMILY

PUBLIC HEARINGS cont'd:

MAYOR FOGG: Called on City Clerk Burnett for the subject of Item 5-E.

CITY CLERK BURNETT: Item 5-E is a public hearing to consider:

*REQUEST TO VACATE RIGHT OF WAY AND ALLEY –
105 NORTH "R" STREET*

COUNCIL MEMBER NOBLES: Moved the approval.

COUNCIL MEMBER WIGGINS: Seconded.

COUNCIL MEMBER TOWNSEND: Asked for clarification regarding the reservation of full width easements?

COMMUNITY DEVELOPMENT DIRECTOR COWPER: Clarified the issue regarding easements.

MAYOR FOGG: There being no further discussion, called for the vote.

(Electronic voting takes place indicating the motion passed unanimously.)

MAYOR FOGG: Called on City Clerk Burnett for the subject of Item 5-F.

CITY CLERK BURNETT: Item 5-F is a public hearing to consider:

*RECONSTRUCTION OF NONCONFORMING STRUCTURES
– 1812 AND 1814 EAST LAKEVIEW AVENUE*

COUNCIL MEMBER WIGGINS: Moved the approval.

COUNCIL MEMBER NOBLES: Seconded.

MAYOR FOGG: Indicated several members from the audience wanted to address the Council regarding this issue. He called on the following speakers: Nix Daniel, Lisa Parris, Russ Parris, Beverly Bogan, Keith Godwin and Wendy Perry.

Much discussion ensued among Council Members, asking questions of speakers and City staff.

PUBLIC HEARINGS cont'd:

MAYOR FOGG: Following discussion, called for the vote.

(Electronic voting takes place indicating the motion passed unanimously.)

That concluded public hearings.

QUASI-JUDICIAL HEARINGS:

MAYOR FOGG: Explained the process to be followed according to State law.

CITY MANAGER BONFIELD: Called on Community Development Director Cowper to describe the issue and enter evidence on behalf of the City.

COMMUNITY DEVELOPMENT DIRECTOR COWPER: Described the issue as follows:

*APPEAL OF CONDITIONAL APPROVAL OF CERTIFICATE
OF COMPLIANCE FOR PROBOKNOWS RESTAURANT
(400 WEST GREGORY STREET)*

He then entered evidence on behalf of the City into the record, with the City Manager and City Attorney following up with comments and questions for clarification of the issue from the City's standpoint.

MAYOR FOGG: Called on the applicant's representative.

MR. JESSE RIGBY: Indicated he was legal counsel for the applicant Mr. Sam Pearson. He described the issue from the applicant's standpoint and entered evidence into the record.

MAYOR FOGG: Indicated the next step in the process would allow for questioning by Council Members of City staff and the applicant's representative.

Following questioning, opportunity was allowed for staff and the applicant's representative to have rebuttal. Neither side indicated they had any.

The opportunity was given for citizen input, with the following speakers addressing the Council: Rose Mary Kirkland and Patricia Washington.

F-2 Zoning
Non-Conforming

COMMITTEE MEMORANDUM

ITEM #5

INFORMATION ONLY

COMMITTEE: Economic and Community Development

FROM: Thomas J. Bonfield, City Manager *TJB*

DATE: June 28, 2007

SUBJECT: Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue.

RECOMMENDATION: That City Council conduct a public hearing to consider the request to reconstruct the nonconforming structures located at 1812 and 1814 East Lakeview Avenue.

SUMMARY: Section 12-1-6(F) of the Land Development Code provides for the reconstruction of nonconforming structures that have been destroyed to the extent of more than seventy-five (75) percent of their value by fire, explosion, or other casualty, or act of God or the public enemy, with approval by City Council. The four existing multi-family residential structures located at 1812 and 1814 East Lakeview Avenue were heavily damaged by Hurricane Ivan. The buildings are considered to be a nonconforming land use because the R-1AAA zoning district in which the property is located is a single-family zoning district which does not allow multi-family development. According to the applicant, the intent is to demolish the damaged structures, and reconstruct four new buildings within the same footprints. Public notice was provided to property owners within 500 feet of the subject property. No comments were received from nearby property owners at the time of this report. Any comments received prior to the public hearing will be provided to City Council.

City of
Pensacola



Economic and Community Development Committee
Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue
June 28, 2007
Page 2

PRIOR ACTION: None.

CURRENT ACTION:

FUNDING: None required.

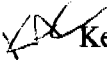
ATTACHMENTS:
(1) Staff Report
(2) Location Maps
(3) Applicants Request

STAFF CONTACT: Kevin A. Cowper, Community Development Director; Sherry
H. Morris, Planning Services Administrator.

PRESENTATION: No.

MEMORANDUM

TO: Thomas J. Bonfield, City Manager

FROM:  Kevin A. Cowper, Community Development Department Director

DATE: June 28, 2007

SUBJECT: Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue.

RECOMMENDATION:

That City Council conduct a public hearing on June 28, 2007 to consider the request to reconstruct the nonconforming structures located at 1812 and 1814 East Lakeview Avenue.

BACKGROUND:

Section 12-1-6(F) of the Land Development Code (LDC) provides for the reconstruction of nonconforming structures that have been destroyed to the extent of more than seventy-five (75) percent of their value by fire, explosion, or other casualty, or act of God or the public enemy, with approval by City Council. The four existing multi-family residential structures located at 1812 and 1814 East Lakeview Avenue were heavily damaged by Hurricane Ivan. The buildings are considered to be a nonconforming land use because the R-1AAA zoning district in which the property is located is a single-family zoning district which does not allow multi-family development. Additionally, the property is nonconforming in that the off-street parking and minimum required setbacks requirements are not currently in compliance. The R-1AAA district allows single-family residential development at a maximum density of 4.8 units per acre, with setback requirements of a 30' front and rear yard, and 7.5' side yards. The maximum number of residential units allowed on the 0.42 acre parcel would be two single-family dwellings under the R-1AAA regulations. The buildings currently house 15 one-bedroom apartment units. As shown on the survey, the buildings do not meet the minimum setback requirements for the R-1AAA district. According to the applicant, the intent is to demolish the damaged structures, and reconstruct four new buildings within the same footprint, that will contain 8 condominium units. Each building will house two two-story units, which will comply with the maximum allowed building height of 35' for the R-1AAA District. The applicant would be responsible for providing stormwater management for any new impervious area that is created on the site. While they have indicated that if the request is approved, the four new buildings will be constructed in the same footprints that currently exist; the applicant has also stated that off-street parking will be provided behind the buildings where none currently exists. The Land Development Code requires two off-

Thomas J. Bonfield, City Manager

Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue

June 28, 2007

Page 2

street parking spaces per multi-family residential unit. The applicant is proposing eight units, which would have a requirement of sixteen off-street parking spaces if the property were brought into conformity; however, it is unlikely that the parking requirement could be met on site. If that parking area is paved, stormwater management will need to be addressed for that portion of additional impervious area being created on the property. The R-1AAA District does not have a minimum landscaping requirement, however a buffer yard is required in residential zoning districts between a multi-family and single-family land use. This buffer yard can be administratively approved at 5' in width. The applicant has sufficient room to provide a 5' buffer yard between their property and the adjacent single-family residences located to the east and north of the site. This buffer yard area may be credited towards the recreation/open space requirement for multi-family uses contained in Section 12-2-82(C)(4) of the Land Development Code, which states that 5% of the total lot area on a multi-family residential site should be reserved for recreation and open space facilities.

The applicant has provided information documenting the current appraised value of the property as being \$1,120 (based on the records of the Escambia County Property Appraiser), as well as the cost of repairing or reconstructing the buildings. According to the Escambia County Property Appraiser's Office, the previous appraised value of the improvements on the property prior to the damage inflicted by Hurricane Ivan was \$206,830.

The procedure for reconstruction of a non-conforming structure as provided by the LDC is as follows:

12-1-6(F) Restoration. Nonconforming fences may be repaired or replaced after obtaining the proper permit without the necessity of following the requirements listed in this subsection. Nothing in this title shall be taken to prevent the restoration of any other non-conforming structure or a building housing a non-conforming use destroyed to the extent of not more than seventy-five (75%) percent of its value by fire, explosion, or other casualty, or act of God, or the public enemy. A non-conforming structure or a building housing an existing nonconforming use destroyed to the extent of more than seventy-five (75%) percent may be reconstructed and the nonconforming use continued provided the following requirements are complied with:

(1) **Public hearing.** A public hearing is held after notification of same being mailed to each owner of property within five

hundred (500) feet of the property in question subject to regulations in section 12-12-3(F)(1)(g) and (i).

(2) City council approval. Eight (8) members of the city council must vote in favor of a permit to allow the reconstruction of a nonconforming structure and/or the continuance of a nonconforming use in order for same to be effective.

(3) Building restrictions. The structure, as reconstructed, shall not exceed the its former dimensions, either in ground floor area, total floor space, or number of stories unless it complies with all the lot line and setback restrictions of the particular zoning district in which the property in question is located.

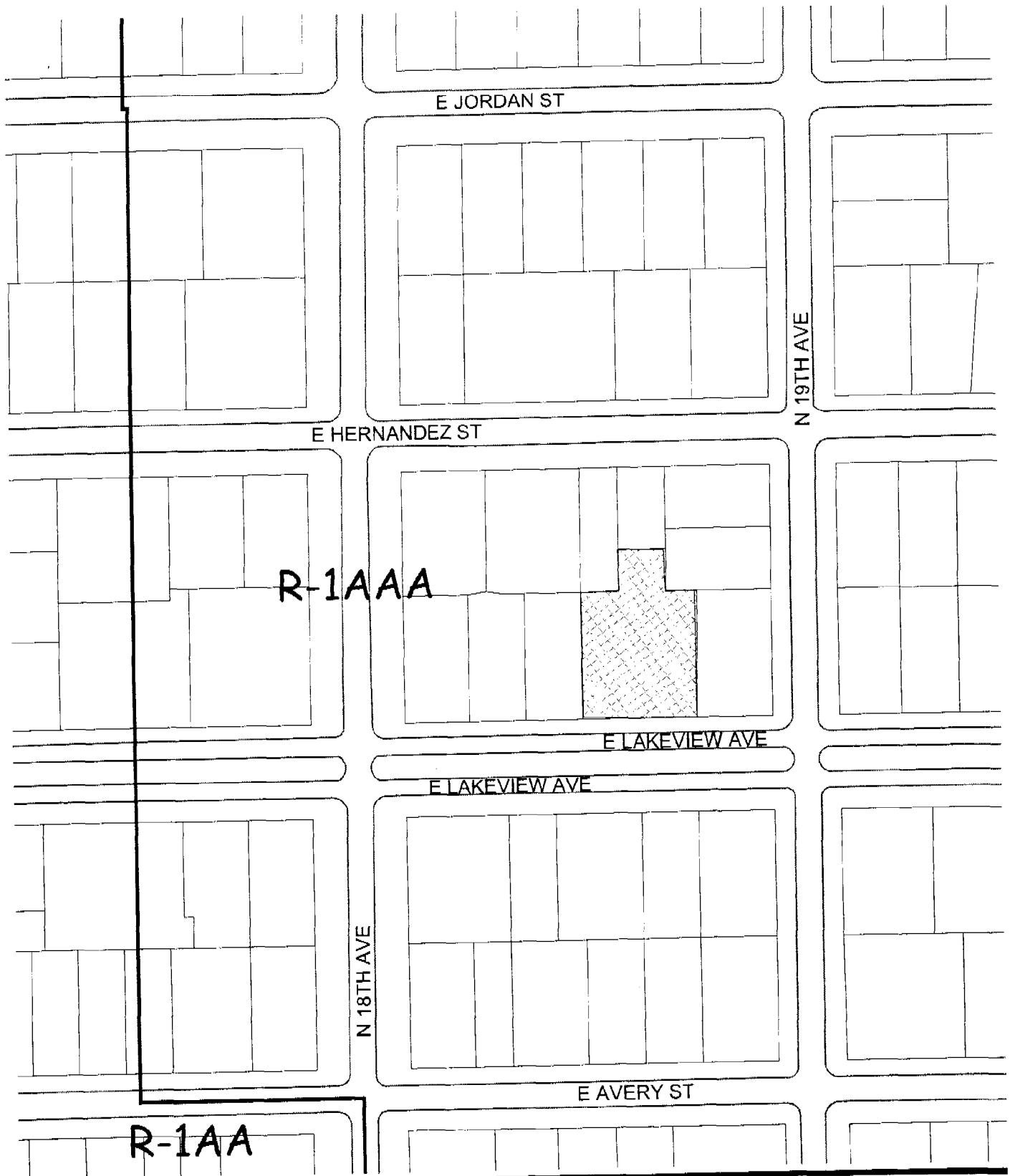
(4) Appeals. Once such a petition has been denied, it shall not again be entertained for one year after the date of denial.

According the Escambia County Property Appraiser's records, the buildings were constructed in 1928 prior to the enactment of the LDC. The property owner is requesting to rebuild the same size buildings in a manner that will not increase the nonconformity, and will actually be reducing the number of units on the property, hence reducing the level of nonconformity. While the zoning and land uses in this area are primarily one and two-family residential, there are additional nonconforming multi-family structures located to the west and south of this property on Lakeview Avenue.

Public notice was provided to property owners within 500 feet of the subject property in accordance with the LDC. No comments were received from nearby property owners at the time of this report. Any comments received prior to the public hearing will be provided to City Council

FINANCIAL IMPACT:

None.



R-1AAA

R-1AA

NON-CONFORMING USE REQUEST

REQUESTED BY MR DRYSDALE & ASHCRAFT

JULY 2007



1 inch equals 138 feet



REQUEST TO RECONSTRUCT A NON-CONFORMING USE



7929 Atlas St. • Pensacola, FL 32506
Phone # (850) 380-5105 Fax # (877) 666-1552

Date: June 6, 2007

Subject: 1812 / 1814 E. Lakeview

To Whom It May Concern:

This letter is to request permission to rebuild the said property above to the exact same foot print that exists currently. The property falls under the "non conforming" guidelines. Randy Ashcraft & Nixon Daniels are the current owners of the said property at 1812 and 1814 E. Lakeview and have received verbal approval from the city to renovate the existing buildings.

We would be taking the existing buildings which currently have a density of 15, one bedroom apartments and converting them into 8 upscale condos. We intend to minimize parking on the street by providing the majority of the parking for the 8 units within the property in the rear of the buildings. We feel that moving the parking is a major improvement to the current impact that is now on the street.

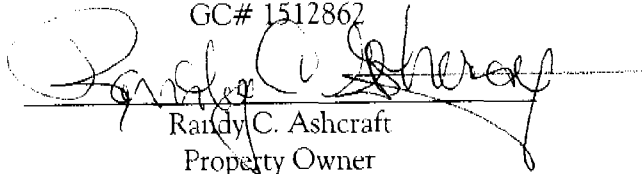
This request is such that we would intend to demolish the buildings and replace them with buildings of time period character in the exact same footprint of what exists. We would be making the buildings stronger and more appealing to the other adjacent property owners. Each condo unit to be sold would also raise the tax revenue substantially from what it is now thus benefiting the city. We do not intend to make the buildings any larger in footprint but we do intend to improve upon the strength, architectural appeal and usability of the buildings.

If you have any questions please feel free to contact me.
Thank you,

Sincerely,



John Drysdale Owner
GC# 1512862



Randy C. Ashcraft
Property Owner



7929 Atlas St. • Pensacola, FL 32506
Phone # (850) 380-5105 Fax # (877) 666-1552

Date: June 6, 2007

Subject: 1812/1814 E. Lakeview

Randy Ashcraft

This is an estimate to represent the costs associated to renovating the structures as well as the costs to completely rebuild from the ground up.

If you choose to re-construct the existing building using the foundation, walls, floor system and roof system the cost will be \$115 per square foot with a total sqft. of 15,000sqft. This would result in a total reconstruction cost of \$1,725,000.

If you choose to build from the ground up using the same footprint as the existing structures the cost would be \$66 per sqft. plus demolition fees which would result in a grand total to rebuild being \$1,040,000. If you have any questions please feel free to contact me. Thanks.

Sincerely
John Drysdale
CGC# 1512862



Chris Jones Escambia County Property Appraiser

We Have Relocated To 221 Palafox Place (3rd Floor)

CHRIS JONES LOPA RECORD SEARCH MAPS GENERAL INFORMATION GOVERNMENT AGENCIES TANGIELL PROPERTY CAREERS
CONTACT US

RECORD SEARCH

Previous Next

General Information	
Name:	DANIEL J NIXON III 1/2 INT ASHCRAFT RANDY C 1/2 INT PO BOX 12950 PENSACOLA FL 32591-2950
Account:	141978000
Reference:	000S009025008236
Section Map:	C-038
Use Code:	03 - Multi-family >=10 Legend Window
Tax Inquiry:	Open Tax Inquiry Window
<i>Tax Inquiries and courses of action made by Escambia County Tax Collector</i>	

Assessment	
Improvements:	\$1,120.00
Land:	\$155,000.00
Total:	\$156,120.00
Save Our Homes:	\$0.00

Legal Description
S 45 1/10 FT OF LT 7 AND OF W 10 FT OF LT 8 AND ALL LTS 13 14 15 BLK 236 NEW CITY TRACT OR 6076 P 1386 CA 38

Sales Data						
Mo/Yr	Book	Page	Value	Type	Deed Search (new window)	
01/2007	6076	1386	\$550,000.00	WD	Click Here	
06/2002	4928	171	\$495,000.00	WD	Click Here	
07/1990	2882	919	\$180,000.00	WD	Click Here	
08/1988	2599	511	\$166,000.00	WD	Click Here	
<i>Deed Search courtesy of Eric Lee Magaha - Escambia County Clerk of the Court</i>						

Card 1 Data

Location Address
1812 E Lakeview St

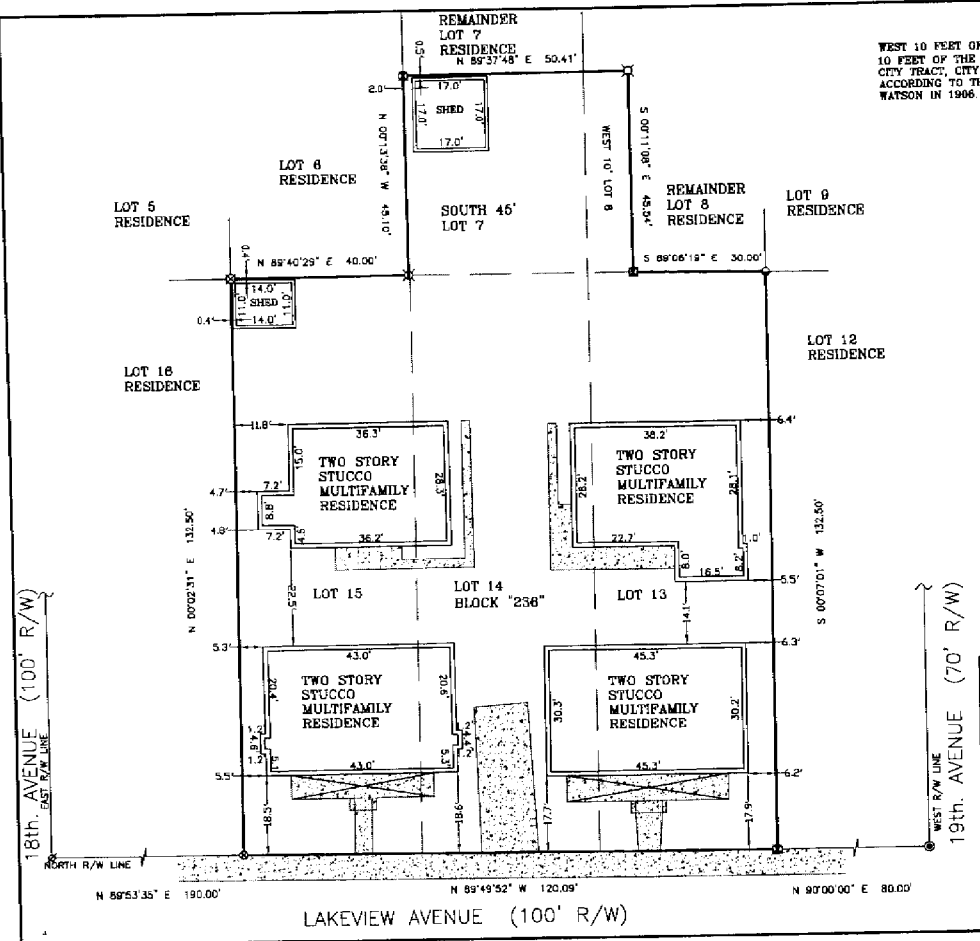
Exemptions
No Exemptions
Taxable: Open Tax Inquiry Window

Structural Elements
Wood/Sub Fir Stucco Ov Block Wood Frame/Trus Blt Up On Wood Drywall-Plaster Hardwood/Parquet Wall/Floor Furn Plumbing Fixtures: 012

WEST 10 FEET OF LOT 8, ALL OF LOTS 13, 14, AND 15, LESS THE WEST 10 FEET OF THE NORTH 87.4 FEET OF LOT 8, BLOCK "236", THE NEW CITY TRACT, CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA, ACCORDING TO THE MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1966.

SURVEYORS NOTES:
THIS SURVEY WAS PERFORMED FOR THE CLIENT SHOWN AND IS NOT TO BE USED FOR ANY OTHER PURPOSES WITHOUT PRIOR CONSENT FROM THIS SURVEYOR.

ALL MEASUREMENTS WERE MADE ACCORDING TO UNITED STATES FOOT. NO TITLE RESEARCH WAS PERFORMED BY THIS SURVEYOR, NOR WERE WE FURNISHED WITH SUCH.
 NO INSTRUMENT OF RECORD REFLECTING EASEMENTS, RIGHT OF WAY, AND/OR OWNERSHIP, WERE FURNISHED TO THIS SURVEYOR EXCEPT AS SHOWN.
 NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE BEEN LOCATED EXCEPT AS SHOWN.
 ALL BEARINGS AND DISTANCES ARE RECORD UNLESS OTHERWISE NOTED.
 ERROR OF CLOSURE MEETS MINIMUM TECHNICAL STANDARDS.
 IMPROVEMENT LOCATIONS SHOWN HEREON MAY BE EXAGGERATED AND NOT TO SCALE FOR CLARITY PURPOSES.
 THERE MAY BE ADDITIONAL RESTRICTIONS AFFECTING THIS PROPERTY THAT MAY BE FOUND RECORDED IN THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA THAT DO NOT APPEAR ON THE FACE OF THIS PLAN.
 BASIS OF BEARING: N 89°02'31" E FOR THE NORTH
 SOUTH OF EAST LINE OF LAKEVIEW AVENUE PER PLAN.
 REFERENCE SOURCE: FIELD WORK AND EXISTING FIELD MONUMENTATION.
 COPY OF DE BOOK 2885 PAGE 177.



ADDRESS: LAKEVIEW AVENUE	
REQUESTED BY:	
TYPE: IMPROVEMENT WITH IMPROVEMENTS	
CITY OF PENSACOLA	COUNTY: ESCAMBIA
SCALE: 1"=30'	DRAWN BY: REN
DATE:	FIELD DATE:
CREW:	FIELD BOOK:
REVISION DATE:	PAGE:
SURVEYORS CERTIFICATE	
I HEREBY CERTIFY THAT THIS SURVEY WAS MADE UNDER MY RESPONSIBLE CHARGE AND MEETS THE MINIMUM TECHNICAL STANDARDS AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 61G10-6, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 492.027, FLORIDA STATUTES.	
NOT VALID WITHOUT THE DRAWING NUMBER AND THE ORIGINAL PROFESSIONAL SEAL OF A LICENSED SURVEYOR AND MAPPER	
DRAWING NUMBER:	

**REPORT OF CITY COUNCIL ACTION
OFFICE OF THE CITY CLERK**

Classification ZONING
 Subject NON CONFORMING
 Location FD
 Date 07/26/2007

Agenda Item: 5-F

SUBJECT: RECONSTRUCTION OF NONCONFORMING STRUCTURE – 1812 & 1814 EAST LAKEVIEW AVENUE

ORDINANCE #: _____

ACTION TAKEN: APPROVED BY COUNCIL MOTION FAILED FIRST READING SECOND READING
 REFERRED TO: STAFF OTHER
 COMMITTEE

COUNCIL MEMBER	ACTION				COMMITTEE			
	MOT	SEC	YES	NO		Enterprise	Neighborhood	Economic & Community
					Finance	Oper	Services	Development
JEWEL CANNADA-WYNN			✓		*			*
MIKE DESORBO			✓			VC	VC	
MARTY DONOVAN			<i>Absent</i>			*		VC
JOHN FOGG			✓		VC			
SAM HALL			✓				*	*
JOHN JERRALDS			<i>Absent</i>		C		*	
JOHN NOBLES		✓	✓		*	C		*
RONALD P. TOWNSEND			✓		*		C	
MICHAEL WIGGINS	✓		✓		*	*		C
P. C. WU			✓			*	*	


C = CHAIRMAN
COPIES:

VC = VICE CHAIRMAN
COUNCIL FILE

* = MEMBER
MUNICIPAL CODE

CITY COUNCIL MEMORANDUM

TO: Mayor and City Council

FROM: Thomas J. Bonfield, City Manager 

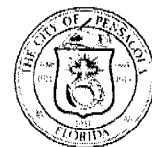
DATE: July 26, 2007

SUBJECT: Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue.

RECOMMENDATION: That City Council conduct a public hearing to consider the request to reconstruct the nonconforming structures located at 1812 and 1814 East Lakeview Avenue.

SUMMARY: On June 28, 2007, City Council continued the scheduled public hearing on this request to July 26, 2007 to allow the applicant, adjacent property owners, and neighborhood residents to further discuss the details of the proposed project. At the time of this report, that discussion has not occurred, however, the applicant has indicated that they intend to meet with neighbors to discuss the project prior to the public hearing on July 26, 2007. Section 12-1-6(F) of the Land Development Code provides for the reconstruction of nonconforming structures that have been destroyed to the extent of more than seventy-five (75) percent of their value by fire, explosion, or other casualty, or act of God or the public enemy, with approval by City Council. The four existing multi-family residential structures located at 1812 and 1814 East Lakeview Avenue were heavily damaged by Hurricane Ivan. The buildings are considered to be a nonconforming land use because the R-1AAA zoning district in which the property is located is a single-family zoning district which does not allow multi-family development. According to the applicant, the intent is to demolish the damaged structures, and reconstruct a two story multi-family residence containing eight residential units. Public notice was provided to property owners within 500 feet of the subject property. No comments were received from nearby property owners at the time of this report. Any comments received prior to the public hearing will be provided to City Council.

City of
Pensacola



Mayor and City Council

Reconstruction of Nonconforming Structure-1812 and 1814 East Lakeview Avenue.

July 26, 2007

Page 2

PRIOR ACTION: On June 28, 2007, City Council continued the scheduled public hearing to July 26, 2007 to allow the applicant, adjacent property owners, and neighborhood residents to further discuss the details of the proposed project.

CURRENT ACTION:

FUNDING: None required.

ATTACHMENTS: **PREVIOUSLY PROVIDED AND ON FILE IN THE CITY CLERK'S OFFICE**

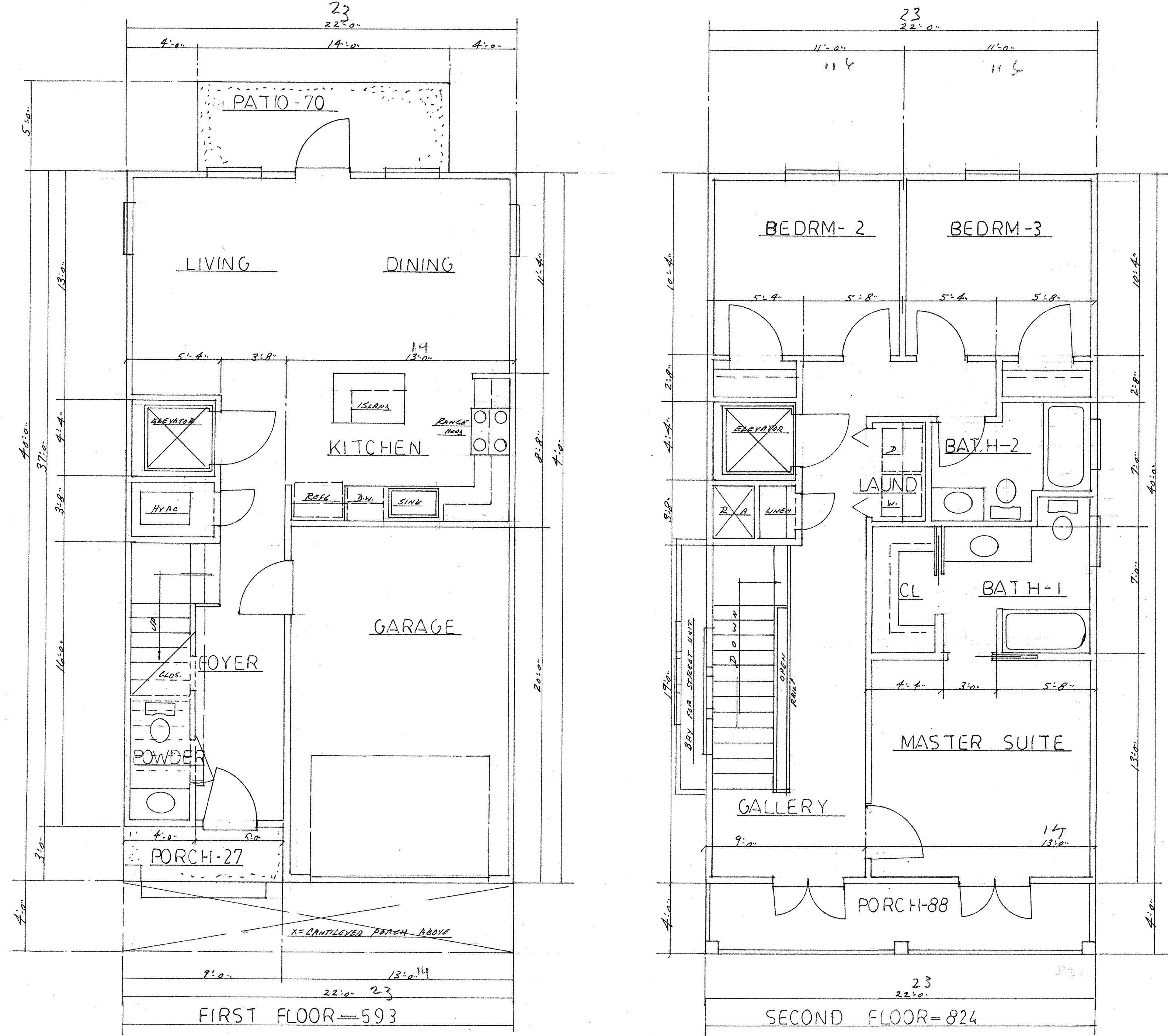
STAFF CONTACT: Kevin A. Cowper, Community Development Director; Sherry H. Morris, Planning Services Administrator.

PRESENTATION: Yes.

DESCRIPTION:
 © COPYRIGHT 2016. RIGHTS RESERVED. DO NOT REPRODUCE WITHOUT WRITTEN PERMISSION OF JAMES C. BOZEMAN, OR TODAY'S HOMES OF NORTHWEST FLORIDA, INC. VERIFY DIMENSIONS BEFORE CONSTRUCTION. DESIGNER IS NOT RESPONSIBLE FOR ANY CHANGES TO ORIGINAL DESIGNS.

DRAWN BY:	DATE:
SCALE:	SHEET NUMBER:
DRAWING NO.:	

Today's Homes of Northwest Florida, Inc.
 DESIGNER: JAMES C. BOZEMAN
 101 S. ALCANTAZA ST., PENSACOLA, FL 32502
 (850)-432-3510 FAX: 434-2375



0.00
 2.07



Today's Homes of Northwest Florida, Inc.
 DESIGNER: JAMES C. BOZEMAN
 101 S. ALCANIZ ST., PENSACOLA, FL 32502
 (850) 432-3510 FAX: 434-2375

DRAWING NO.:

DRAWN BY:
 SCALE:

DATE:
 SHEET NUMBER:

DESCRIPTION:
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TODAYS
48th HOMES
 [1968] JIM BOZEMAN [2016]



1812 EAST LAKEVIEW STREET

TODAY'S HOMES
49th
 1968 JIM BOZEMAN 2017

DESCRIPTION:
 © COPYRIGHT 2017. RIGHTS RESERVED. DO NOT REPRODUCE WITHOUT WRITTEN PERMISSION OF JAMES C. BOZEMAN OR TODAY'S HOMES OF NORTHWEST FLORIDA, INC. VERIFY DIMENSIONS BEFORE CONSTRUCTION. DESIGNER IS NOT RESPONSIBLE FOR ANY CHANGES TO ORIGINAL DESIGNS.

DATE:	SHEET NUMBER:
DRAWN BY:	SCALE:
DRAWING NO.:	

Today's Homes of Northwest Florida, Inc.
 DESIGNER: JAMES C. BOZEMAN
 101 S. ALCANTAZ ST. PENSACOLA, FL 32502
 (850)-432-3510 FAX: 434-2375

For your information, please see the below email sent on 2-8-17 to Council President Spencer from City Attorney Lysia H. Bowling.

Thank you.

Janet Matteson
Legal Assistant
City Attorney's Office
E-mail jmatteson@cityofpensacola.com
(850) 435-1618



For Non-Emergency Citizen Requests, Dial 311 or visit Pensacola311.com

Notice Florida has a very broad public records law. As a result, any written communication created or received by City of Pensacola officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this office; instead, contact our office by phone or in writing

From: Lysia Bowling
Sent: Wednesday, February 08, 2017 8:23 PM
To: Brian Spencer <bspencer@cityofpensacola.com>; Don Kraher <DKraher@cityofpensacola.com>
Subject: Potential Applicability of F.S. 286.0115 and City Code Sec. 2-1-3 to Reconstruction of Nonconforming Structures at 1812 and 1814 E. Lakeview Avenue 2/9/2017 Agenda Item

Dear Council President Spencer:

I am aware of discussions among you and members of the public relating to the above-referenced item on the February 9, 2017 City Council Meeting agenda, to the extent that I have kindly been copied on certain email communications over recent days.

As you know, the aforementioned item is for City Council to request a legal opinion from me regarding the matter of the reconstruction of nonconforming structures at 1812 and 1814 Lakeview Avenue.

Indeed, I have not yet conducted sufficient research to support or render an opinion on the matter. However, the potential or possibility exists that City Council may be called upon to act in a quasi-judicial capacity regarding this land use matter. As such, we are reminded that maintenance of the proper standards on the part of City Council in the performance of their quasi-judicial functions is of the highest importance and requires adherence to the legal requirements for disclosure of ex parte communications with local governmental officials which relate to quasi-judicial action pending before the official under F.S. 286.0115 and City Code Sec. 2-1-3, as may become applicable.

Thank you,

Lysia H. Bowling
City Attorney
222 W. Main Street
Pensacola, Florida 32502
E-mail lbowling@cityofpensacola.com
(850) 435-1615



For Non-Emergency Citizen Requests, Dial 311 or visit Pensacola311.com

Notice Florida has a very broad public records law. As a result, any written communication created or received by City of Pensacola officials and employees will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, email addresses are public records. If you do not want your email address released in response to a public records request, do not send electronic mail to this office; instead, contact our office by phone or in writing



Memorandum

File #: 17-00049

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

FY 2017 Street Rehabilitation - Interlocal Agreement with Escambia County

RECOMMENDATION:

That City Council authorize the Mayor to take all necessary action to execute an Interlocal Agreement with Escambia County to facilitate the re-paving of certain streets on the border of the City/County Limits.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On January 12, 2017, City Council approved an action item entitled FY 2017 Street Rehabilitation Group 8 and FY 2017 Street Rehabilitation Group 9. FY 2017 Street Rehabilitation Group 8 contains 204 blocks and Group 9 contains 202 out of a total of 618 blocks that is being performed in the FY 2017 Street Rehabilitation project groups. Some of these streets are on the border of the City/County jurisdictional limits creating situations where only a portion of a block would be paved within the City limits in order to avoid paving in the County.

Public Works & Facilities staff contacted Escambia County with regard to funding assistance as it relates to the paving of the identified blocks that rest at the City/County limits. Escambia County expressed a desire to have those roadways resurfaced during the City projects. Currently, the estimate for the County portion that would be added to the re-paving project is approximately \$100,000.00 and will be paid for by Escambia County, per the terms of the Interlocal Agreement.

PRIOR ACTION:

January 12, 2017 - City Council approved an action items entitled "FY 2017 Street Rehabilitation Group 8" and FY2017 Street Rehabilitation Group 9"

November 17, 2016 - City Council approved an action item entitled "FY 2017 Street Rehabilitation Project List"

July 14, 2016 - City Council approved an action item entitled "Six-Cent Local Option Fuel (Gasoline) Tax" to authorize financing not to exceed \$15 million for street rehabilitation, street reconstruction and

intersection/traffic improvements.

FUNDING:

Budget: \$ 100,000.00 Escambia County Interlocal Agreement

Actual: \$ 100,000.00 Estimated cost

FINANCIAL IMPACT:

Escambia County will provide the agreed upon amount of reimbursement to the City as specified in the Interlocal Agreement between both parties.

CITY ATTORNEY REVIEW: Yes

1/25/2017

STAFF CONTACT:

Eric W. Olson, City Administrator

L. Derrick Owens, P.E., Director of Public Works and Facilities/City Engineer

ATTACHMENTS:

- 1) Interlocal Agreement Between Escambia County Board of County Commissioners and the City of Pensacola Relating to Road Resurfacing

PRESENTATION: No

INTERLOCAL AGREEMENT BETWEEN ESCAMBIA COUNTY BOARD OF COUNTY COMMISSIONERS AND THE CITY OF PENSACOLA RELATING TO ROADWAY RESURFACING

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

WITNESSETH:

WHEREAS, the City has undertaken certain road reconstruction and resurfacing work within its jurisdiction that is necessary to ensure the continued health, safety, and welfare of the citizens of Escambia County; and

WHEREAS, the County owns and maintains a portion of said roadways and is willing to contribute funds for the cost of resurfacing said portions that lie within the County's jurisdictional boundaries.

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

ARTICLE 1

Purpose

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

1.2 The purpose of this Agreement is to set forth the responsibilities of the Parties with respect to the resurfacing of roadways that lie within the County's jurisdictional boundaries as provided herein.

ARTICLE 2

Responsibilities of Parties

2.1 In consideration of the faithful performance by the City of the work described in **Exhibit "A"**, which is attached hereto and incorporated by reference herein, the County agrees to contribute funds in accordance with the terms of this Agreement for the cost of resurfacing all roadways that lie within the jurisdictional boundaries of the County in the amount hereinafter set forth in Section 4.1.

2.2 The City agrees to contract with a third party to fully perform and complete in a good workmanlike manner the work described in **Exhibit "A"**.

2.3 The City agrees to convey such road improvements to the County. This work by the City shall be carried out in a prompt and diligent manner.

2.4 This Agreement, after being properly executed by all parties named herein, shall

become effective upon filing with the Clerk of the Circuit Court of Escambia County. Escambia County shall be responsible for such filing.

ARTICLE 3
Contract Time

3.1 It is anticipated by the parties that the time for completion of the work described in **Exhibit "A"** shall be within one (1) year from commencement of construction.

ARTICLE 4
Compensation and Method of Payment

4.1 County agrees to reimburse City for project costs related to the work described in **Exhibit "A"** in an amount not to exceed **One Hundred Thousand Dollars (\$100,000.00)**.

4.2 Upon request, the City shall provide to the County copies of any payment documentation and such other financial documents as the County may reasonably require to verify any and all project costs related to the work described in **Exhibit "A"**.

4.3 Invoices and other requests will be sent to:

Escambia County
Cooper Saunders
3363 West Park Place
Pensacola, Florida 32505

4.4 Payments and other requests will be sent to:

Ryan Novota
2757 North Palafox Street
Pensacola, Florida 32501

ARTICLE 5
Ownership of Improvements

5.1 Title to the improvements specified in **Exhibit "A"** shall pass to the County subsequent to payment by the County to the City as provided herein and acceptance of the work. The County shall, upon reasonable notice, have the right to inspect all such work prior to the City accepting it.

ARTICLE 6
Warranty

6.1 The City shall obtain and shall assign to the County all express warranties given to the City regarding the subject road work paid for by the County.

6.2 If within one (1) year, any work is found to be defective or not in conformance with applicable contract documents, the City shall reasonably cooperate with the County regarding the enforcement of any warranty referenced in paragraph 6.1, above. These warranties are in addition to those implied warranties, if any, to which the County may be entitled as a matter of law.

ARTICLE 7
Easements

7.1 The County shall cooperate with the City in obtaining such other easements and rights of way as may be required for successful completion of this work.

ARTICLE 8
Force Majeure

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

ARTICLE 9
General Provisions

9.1 Ownership of Documents: Drawings, specifications, design, models, photographs, reports, surveys, and other data produced by the County in connection with this Agreement are and shall remain the property of the County whether the work for which they were made is completed or not. Moreover, drawings, specifications, design, models, photographs, reports, surveys, and other data produced by the City in connection with this Agreement are and shall remain the property of the City whether the work for which they were made is completed or not.

9.2 Termination: This Agreement may be terminated by either party for cause, or for convenience, upon thirty (30) days written notice by the terminating party to the other party of such termination, in which event the City shall be paid compensation for all work performed by both it and its contractor(s) prior to the termination date, including all reimbursable expenses then due or incurred prior to the date of termination.

9.3 Public 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) calendar days written notice, during which period the party fails to allow access to such documents, terminate this Agreement.

9.4 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. However, the Agreement shall run with the Escambia County Board of County Commissioners and its successors and the City of Pensacola and its successors.

9.5 All Prior Agreements Superseded: This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or

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

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

9.6 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.

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

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

- (a) If 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 the Agreement, said party shall immediately notify the other party and request clarification of the interpretation of this Agreement.
- (b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

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

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

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

[SIGNATURE PAGE TO FOLLOW]

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

COUNTY:
ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: _____
D. B. Underhill, Chairman

Date: _____

BCC APPROVED: _____

ATTEST: Pam Childers
Clerk of the Circuit Court

By: _____
Deputy Clerk

(SEAL)

CITY OF PENSACOLA, a Florida Municipal Corporation acting by and through its duly authorized City Council

By: _____

Date: _____

ATTEST:

By: _____
City Clerk

This document approved as to form and legal sufficiency

City Attorney

This document approved as to content

Department

Exhibit "A"
Scope of Work

The scope of work shall include the following:

Milling, resurfacing, and the raising of manholes and valves as necessary.

The subject roadway(s) are the following:

Boland Place from W Jackson Street to City Limits;
North "U" Street from West Gadsen Street to the City Limits;
North "V" Street from West Gadsen Street to the City Limits;
West Strong Street from North "W" Street to the City Limits;
North "V" Street from West DeSoto Street to the City Limits;
North "U" Street from West DeSoto Street to the City Limits;
North "S" Street from West DeSoto Street to the City Limits;
North "R" Street from West DeSoto Street to the City Limits;
North "Q" Street from West Strong Street to the City Limits;
West Strong Street from North "Q" Street to the City Limits;
North "P" Street from West Strong Street to the City Limits;
West Strong Street from North Pace Boulevard to the City Limits;
West DeSoto Street from North Pace Boulevard to the City Limits;
West Gonzalez Street from North Pace Boulevard to the City Limits;
West Lloyd Street from North Pace Boulevard to the City Limits;
West Lee Street from North Pace Boulevard to the City Limits;
North "J" Street from West Hernandez Street to the City Limits;
West Jordan Street from North "B" Street to the City Limits;
North Spring Street from West Bobe Street to the City Limits;
West Bobe Street from North Spring Street to the City Limits; and
North Baylen Street from West Yonge Street to the City Limits.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 17-00056

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Interlocal Agreement - Pensacola-Escambia County Promotion and Development Commission

RECOMMENDATION:

That City Council approve and authorize the Mayor to execute the Interlocal Agreement between the City and Escambia County related to the funding of the Pensacola-Escambia County Promotion and Development Commission (PEDC) for FY 2017.

HEARING REQUIRED: No Hearing Required

SUMMARY:

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

In 1989, House Bill 984 amended Chapter 67-1365, Laws of Florida to require that the City and Escambia County jointly fund the PEDC through an annual Interlocal Agreement. For FY 2017 Escambia County has budgeted \$550,000 and the City has budgeted \$150,000 for PEDC.

The Escambia County Board of County Commissioners originally approved an Interlocal Agreement on October 6, 2016 which reflected the City's full budgeted amount of \$150,000 but only reflected the County's first quarterly draw amount of \$137,500. The remainder of the County's budgeted amount was not included in the original Interlocal Agreement pending the submission of certain economic development metrics by PEDC to the County. On January 19, 2017, the Escambia County Board of County Commissioners approved the full budgeted amount for PEDC. It is anticipated that the Escambia County Board of County Commissioners will approve the attached Interlocal Agreement at their meeting on February 16, 2017. Upon approval, the Interlocal Agreement will be executed by the City and County.

PRIOR ACTION:

September 14, 2016 - City Council adopted the FY 2017 Budget.

FUNDING:

Budget: \$150,000

Actual: \$150,000

FINANCIAL IMPACT:

Funds have been appropriated in the FY 2017 Budget.

CITY ATTORNEY REVIEW: Yes

1/27/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
Richard Barker, Jr., Chief Financial Officer

ATTACHMENTS:

- 1) Draft Interlocal Agreement

PRESENTATION: No

**STATE OF FLORIDA
COUNTY OF ESCAMBIA**

**INTERLOCAL AGREEMENT BETWEEN THE ESCAMBIA COUNTY
BOARD OF COUNTY COMMISSIONERS AND THE CITY OF
PENSACOLA RELATING TO THE FY 2016-2017 FUNDING OF
PENSACOLA-ESCAMBIA COUNTY PROMOTION AND
DEVELOPMENT COMMISSION.**

THIS AGREEMENT is made by and between Escambia County, Florida, a political subdivision of the State of Florida (hereinafter referred to as the "County"), with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502 and the City of Pensacola, a municipal corporation created and existing under the laws of the State of Florida, (hereinafter referred to as the "City") with administrative offices at 180 Governmental Center, Pensacola, Florida 32502 (each being at times referred to as a "party").

WITNESSETH:

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

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

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

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

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

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

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

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

Article 1
Purpose

- 1.1 The recitals contained in the preamble of this Agreement are declared to be true and correct and are hereby incorporated into this Agreement.
- 1.2 Pursuant to the requirements of Chapter 89-481, Laws of Florida, the County, in cooperation with the City, hereby establishes a financial framework for shared funding responsibilities of the Pensacola-Escambia County Promotion and Development Commission for FY 2016-2017.

Article 2
Responsibilities of Parties

- 2.1 As set out in Chapter 89-481, Laws of Florida, the fiscal contribution of the City and the fiscal contribution of the County are to be established yearly by Interlocal Agreement. Therefore, the City and the County agree for FY 2016-2017 that the County shall contribute to the PEDC the amount of Five Hundred Fifty Thousand Dollars (\$550,000.00) and the City shall contribute to the PEDC the amount of One Hundred Fifty Thousand Dollars (\$150,000.00). Each shall reflect such contributions in their respective budgets.
- 2.2 This Agreement shall bind the parties beginning October 1, 2016, with respect to their PEDC FY 2016-2017 budgetary contributions. However, contributions for the FY 2016-2017 PEDC budget and any subsequent budget years thereafter shall be in an amount agreed upon between the parties in separate and subsequent interlocal agreements as provided under Chapter 89-481, Laws of Florida.
- 2.3 The PEDC is intended to be a private-public partnership and united effort for economic development in Escambia County. To accomplish this goal, the parties also agree to encourage voluntary contributions to the PEDC from the private sector sources.
- 2.4 This Agreement shall become effective when filed in the office of the Clerk of the Circuit Court of Escambia County, Florida. The County shall be responsible for such filing.

Article 3
General Provision

- 3.1 **Termination:** This Agreement may be terminated by either party for cause, or for convenience, upon thirty (30) days written notice by the terminating party to the other party of such termination.

- 3.2 Records:** The parties acknowledge that this Agreement and any related financial records, audits, reports, plans, correspondence, and other documents may be subject to disclosure to members of the public pursuant to Chapter 119, Florida Statutes, as amended. In the event a party fails to abide by the provisions of Chapter 119, Florida Statutes, the other party may, without prejudice to any right or remedy and after giving that party, seven (7) days written notice, during which period the party fails to allow access to such documents, terminate this Agreement.
- 3.3 Assignment:** This Agreement or any interest herein shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by the parties, without the prior written consent of the other party.
- 3.4 All Prior Agreements Superseded:**
- (a) This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements whether oral or written.
 - (b) It is further agreed that no modification, amendment, or alteration in the terms and conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.
- 3.5 Headings:** Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.
- 3.6 Survival:** All other provisions, which by their inherent character, sense, and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.
- 3.7 Governing Law:** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue, for any matter, which is the subject of this Agreement shall be in the County of Escambia.
- 3.8 Interpretation:** For the purpose of this Agreement, the singular includes the plural and the plural shall include the singular. References to statutes or regulations shall include all statutory or regulatory provisions consolidating, amending, or replacing the statute or regulation referred to. Words not otherwise defined that have well-known technical or industry meanings, are used in accordance with such recognized meanings. References to persons include their respective permitted successors and assigns and, in the case of

governmental persons, persons succeeding to their respective functions and capacities.

- (a) If the City discovers any material discrepancy, deficiency, ambiguity, error, or omission in this Agreement, or is otherwise in doubt as to the meaning of any provision of the Agreement, the City shall immediately notify the County and request clarification of the County's interpretation of this Agreement.
- (b) This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

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

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

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

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

TO THE COUNTY

Jack R. Brown
County Administrator
221 Palafox Place
Post Office Box 1591
Pensacola, FL 32597

TO THE CITY

Eric Olson
City Administrator
City of Pensacola
Post Office Box 12910
Pensacola, FL 32521

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

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates, under each signature: Escambia County through its Board of County Commissioners, signing by and through its Chairman, authorized to execute same by Board action on the _____ day of _____, 2017, and the City of Pensacola, by and through its Mayor, duly authorized to execute same by the City of Pensacola City Council on the _____ day of _____, 2017.

COUNTY:

ESCAMBIA COUNTY, FLORIDA, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners

By: _____
D.B. Underhill, Chairman

ATTEST: Pam Childers
Clerk of the Circuit Court

Date: _____

Deputy Clerk

BCC APPROVED: _____

CITY:

The City of Pensacola, a Florida Municipal Corporation

By: _____
Ashton J. Hayward, III, Mayor

ATTEST: Ericka Burnett
Clerk of the City
of Pensacola

Date: _____

By: _____
Clerk

By: _____
City Attorney

This document approved as to form and legal sufficiency.

By:  _____

Title: ACM _____

Date: 1/26/17 _____



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 17-10

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Supplemental Budget Resolution No. 17-10 - Replacement of Damaged Vehicles - Sanitation Services

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 17-10.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On January 19, 2017 the City of Pensacola Sanitation Services experienced a loss of one garbage truck and two recycling trucks due to a fire incident. These trucks will be replaced, however, while staff pursues purchase of these three vehicles and settling insurance, two trucks will need to be rented for a period of approximately 9 months.

The estimated costs to rent the trucks is approximately \$150,000 with anticipated insurance reimbursement up to \$100,000 of that cost. Additionally the purchase of the three vehicles will cost approximately \$300,000 each for a total amount of \$900,000. At this time, the amount of insurance proceeds is undetermined. Upon reimbursement from the insurance company the Sanitation Fund Balance will be reimbursed by the amount received from the insurance company.

The attached supplemental budget resolution will appropriate the cost to purchase the trucks as well as the City's portion of the rental costs.

PRIOR ACTION:

None

FUNDING:

Budget: \$ -0-

Actual: \$950,000

FINANCIAL IMPACT:

Approval of the Supplemental Budget Resolution will appropriate the funds necessary to purchase the replacement trucks as well as the costs associated with the rental of trucks. Funding will come from the Sanitation Fund Balance and will be reimbursed by the amount of insurance proceeds received.

CITY ATTORNEY REVIEW: Yes

1/27/2017

STAFF CONTACT:

Eric W. Olson, City Administrator
Richard Barker, Jr., Chief Financial Officer
Jerry Moore, Sanitation Services and Fleet Management Director

ATTACHMENTS:

- 1) Supplemental Budget Resolution No. 17-10
- 2) Supplemental Budget Explanation

PRESENTATION: No

**RESOLUTION
NO. 17-10**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SANITATION FUND

To:	Fund Balance	950,000
As Reads: Amended To Read:	Operating Expenses	3,459,850
	Operating Expenses	3,509,850
As Reads: Amended To Read:	Capital Outlay	55,000
	Capital Outlay	955,000

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

SECTION 3. 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

THE CITY OF PENSACOLA

FEBRUARY 2017 - SUPPLEMENTAL BUDGET RESOLUTION #17-10 - REPLACEMENT OF DAMAGED VEHICLES - SANITATION SERVICES

<u>FUND</u>	<u>AMOUNT</u>	<u>DESCRIPTION</u>
SANITATION FUND		
Fund Balance	<u>950,000</u>	Increase appropriated fund balance
Appropriations		
Operating Expenses	50,000	
Capital Outlay	<u>900,000</u>	Increase appropriation for Capital Outlay
Total Appropriations	<u>950,000</u>	



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 01-17

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member P.C. Wu

SUBJECT:

Proposed Ordinance No. 01-17 - Amendment to Section 3 of Ordinance No. 23-15, Granting an Economic Development Ad Valorem Tax Exemption (EDATE) to Real Property at 101 E. Romana Street and Tangible Property for Daily Convo, LLC.

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 01-17 on second reading.

AN ORDINANCE AMENDING ORDINANCE NO. 23-15, GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION FOR CERTAIN IMPROVEMENTS TO REAL PROPERTY LOCATED AT 101 EAST ROMANA STREET AND TANGIBLE PROPERTY FOR DAILY CONVO, LLC; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

AGENDA: Regular

HEARING REQUIRED: No Hearing Required

SUMMARY:

In December of 2015 City Council adopted Ordinance 23-15 which granted an EDATE to Daily Convo, LLC for property located at 101 East Romana St. At the time of adoption, Section 3 of the Ordinance read: The period of time for which the exemption will remain in effect is ten (10) years and the expiration date of the exemption is December 31, 2015.

The amendment to Section 3 proposes that the running of the EDATE begin the first year that the improvements for which the exemption is granted are placed on the ad valorem tax rolls and continuing for ten (10) years from that date.

PRIOR ACTION:

December 9, 2015 - City Council Adopted Ordinance 23-15

Florida Legislature enacting Chapter 2016-220 containing certain amendments to the statutory provisions relating to qualified EDATES

January 12, 2017 - City Council approved Proposed Ordinance No. 01-17 on first reading.

FUNDING:

N/A

FINANCIAL IMPACT:

To be determined.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Daily Convo - Proposed Ordinance No. 01-17
- 2) Ordinance No. 23-15

PRESENTATION: No

PROPOSED
ORDINANCE NO. 01-17

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING ORDINANCE NO. 23-15, GRANTING AN ECONOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION FOR CERTAIN IMPROVEMENTS TO REAL PROPERTY LOCATED AT 101 EAST ROMANA STREET AND TANGIBLE PROPERTY FOR DAILY CONVO, LLC; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola adopted Ordinance No. 23-15 on December 9, 2015; and

WHEREAS, since the adoption of said Ordinance the Florida Legislature enacted Chapter 2016-220, Florida Statutes, containing certain amendments to the statutory provisions relating to qualified economic ad valorem tax exemptions; and

WHEREAS, as a result of the adoption of such statutory amendments, an ambiguity exists as to whether the original intent of a 10 year EDATE has been preserved or diminished; and

WHEREAS, in light of the above developments, the City Council desires to amend Ordinance No. 23-15, in order to clarify and confirm the original intent of its initial ordinance to grant the full 10 year EDATE upon which Daily Convo relied in its investment decision;

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 3 of Ordinance No. 23-15 is amended to read as follows:

~~Section 3. The period of time for which the exemption will remain in effect is ten (10) years, and the expiration date of the exemption is December 31, 2025.~~

Section 3. The period of time for which the exemption will remain in effect is ten (10) years, beginning with the first year that the improvements for which the exemption is being granted are placed on the ad valorem tax rolls.

SECTION 2. Except as amended herein, Ordinance No. 23-15 shall remain in full force and effect.

SECTION 3. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

PROPOSED
ORDINANCE NO. 22-15

ORDINANCE NO. 23-15

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE GRANTING AN ECONOMIC DEVELOPMENT
AD VALOREM TAX EXEMPTION FOR CERTAIN
IMPROVEMENTS TO REAL PROPERTY LOCATED AT 101
EAST ROMANA STREET AND TANGIBLE PROPERTY FOR
DAILY CONVO, LLC; REPEALING CLAUSE; PROVIDING
AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola has passed Resolution 01-15 expressing its support of Daily Convo, LLC as a qualified economic development ad valorem tax exemption (EDATE) applicant subject to the requirements of Section 196.1995, Florida Statutes; and

WHEREAS, Daily Convo, LLC has represented to the City that Daily Convo, LLC will provide partial public use of the multi-story car parking deck to be constructed as part of the project; and

WHEREAS, Daily Convo, LLC has made application to the City and requested an ordinance granting an exemption pursuant to Chapter 3-4, Article III, Division 3, Section 3-4-131 through Section 3-4-142 of the Code of the City of Pensacola, and Florida Statutes Chapter 196; and

WHEREAS, Daily Convo, LLC is applying for the EDATE as a new business located in the City of Pensacola Enterprise Zone 1702; and

WHEREAS, by legislative act, the City of Pensacola Enterprise Zone 1702 expires December 31, 2015 with the other Florida enterprise zones; and

WHEREAS, City Council desires to provide to Daily Convo, LLC an economic development ad valorem tax exemption prior to the expiration of Enterprise Zone 1702;

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. An economic development ad valorem tax exemption pursuant to Florida Statutes Chapter 196, and Chapter 3-4, Article III, Division 3, Section 3-4-131 through Section 3-4-142 of the Code of the City of Pensacola, is hereby granted to Daily Convo, LLC, 41 North Jefferson Street, Suite 107, Pensacola, Florida 32502, based on a maximum of \$50,000,000.00 per year assessed value above the 2014 taxable value of \$2,965,553.00 on all improvements resulting from the new construction and addition of tangible property.

SECTION 2. The total amount of revenue available to the City from ad valorem tax sources for the current fiscal year is \$13,670,568. The total amount of revenue lost to the City for the current fiscal year by virtue of economic development ad valorem tax exemptions currently in effect is \$37,590. The estimated revenue loss to the City for the current fiscal year attributable to the exemption of Daily Convo, LLC is \$214,475.

SECTION 3. The period of time for which the exemption will remain in effect is ten (10) years, and the expiration date of the exemption is December 31, 2025.

SECTION 4. The City finds that Daily Convo, LLC meets the requirements of a new business pursuant to Florida Statutes Chapter 196.

SECTION 5. The Daily Convo, LLC project shall be designed and constructed to utilize City Natural Gas.

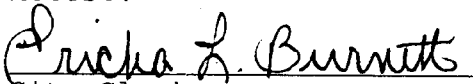
SECTION 6. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 7. This ordinance shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: **December 9, 2015**

Approved: 
President of the City Council

Attest:


City Clerk

: CITY CLERK'S OFFICE
CITY CLERK'S OFFICE/LEGAL ADS
CITY CLERK'S OFFICE
CITY OF PENSACOLA
PENSACOLA FL 32502

MARK DEE KENT
Notary Public - State of Florida
Comm. Expires October 27, 2019
Comm. No. FF 931266

Published Daily-Pensacola, Escambia County, FL
PROOF OF PUBLICATION

State of Florida
County of Escambia:

Before the undersigned authority personally appeared
Krista Kent, 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:

01/30/17

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 31th of
February 2017, by Krista Kent who is personally known
to me

Krista Kent

Affiant

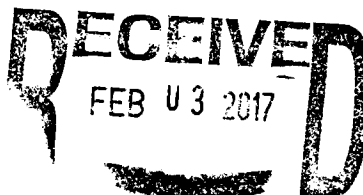
[Signature of Mark Dee Kent]

Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

Publication Cost: \$163.62
Ad No: 0001889379
Customer No: PNJ-25615500

NOTICE OF PROPOSED ORDINANCE
Please be advised that Proposed Ordinance No. 01-17 was presented to the
City Council of the City of Pensacola for first reading on Thursday, January 12,
2017 and will be presented for final reading and adoption on Thursday, Febru-
ary 9, 2017 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. #01-17:
AN ORDINANCE AMENDING ORDINANCE NO. 23-15, GRANTING AN ECO-
NOMIC DEVELOPMENT AD VALOREM TAX EXEMPTION FOR CERTAIN
IMPROVEMENTS TO REAL PROPERTY LOCATED AT 101 EAST ROMANA
STREET AND TANGIBLE PROPERTY FOR DAILY CONVO, LLC; REPEALING
CLAUSE; 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, Pensa-
cola, Florida, or on-line on the City's website: https://pensacola.legistar.com/Cal-
endar.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 ac-
tivities. Please call 435-1606 (or TDD 435-1666) for further information. Re-
quests must be made at least 48 hours in advance of the event in order to al-
low the City time to provide the requested services.
CITY OF PENSACOLA, FLORIDA
By: Ericka L. Burnett, City Clerk
Legal No. 1889379 1T January 30, 2017

NOTICE OF PROPOSED ORDINANCE
Please be advised that Proposed Ordinance No. 01-17 was presented to the
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low the City time to provide the requested services.
CITY OF PENSACOLA, FLORIDA
By: Ericka L. Burnett, City Clerk
Legal No. 1889379 1T January 30, 2017





City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 17-15

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

Supplemental Budget Resolution No. 17-15 - LOST IV Fire Apparatus Purchase

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 17-15.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The current Local Option Sales Tax IV (LOST IV) schedule includes the replacement of two Fire Pumper Trucks scheduled to be replaced in Fiscal Year 2018. The existing trucks are greater than 20 years old and have excessive and costly maintenance issues. Staff has been researching replacement trucks, and has determined that Pierce engines will provide the best option for the replacement of these trucks. During the research for the replacement of these trucks an option for a multi-truck purchase was discovered that provides a significant purchase discount if the order is placed prior to March 1, 2017. The vehicles can be purchased under the Florida Sheriff's Association Contract.

In order to take advantage of the purchase discount and save money on increasing vehicle maintenance costs, the supplemental budget resolution appropriating the LOST IV funds being moved forward from Fiscal Year 2018 to Fiscal Year 2017. However, the actual payment for the purchase is anticipated to occur in Fiscal Year 2018.

PRIOR ACTION:

None

FUNDING:

Budget: \$ 0

Actual: \$935,000

FINANCIAL IMPACT:

Approval of the Supplemental Budget Resolution will appropriate the LOST IV funds necessary for the purchase of these trucks as well as move the funding forward from Fiscal Year 2018 to Fiscal Year 2017. However, the actual payment for the purchase is anticipated to occur in Fiscal Year 2018.

CITY ATTORNEY REVIEW: Choose an item.

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

STAFF CONTACT:

Eric W. Olson, City Administrator
David E. Allen, Fire Chief
Richard Barker, Jr., Chief Financial Officer

ATTACHMENTS:

- 1) Supplemental Budget Resolution No. 17-15
- 2) Supplemental Budget Explanation

PRESENTATION: No

**RESOLUTION
NO. 17-15**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2017; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. LOCAL OPTION SALES TAX FUND

	Fund Balance	935,000
As Reads:	Capital Outlay	12,546,802
Amended		
To Read:	Capital Outlay	13,481,802

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

SECTION 3. 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

THE CITY OF PENSACOLA

FEBRUARY 2017 SUPPLEMENTAL BUDGET RESOLUTION - LOST IV - FIRE APPARATUS

FUND	AMOUNT	DESCRIPTION
A. LOCAL OPTION SALES TAX FUND		
Fund Balance	<u>935,000</u>	Increase appropriated fund balance
Appropriations		
Capital Outlay	<u>935,000</u>	Increase appropriation for Capital Outlay
Total Appropriations	<u>935,000</u>	



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 17-00112

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Sherri F. Myers

SUBJECT:

Resolution in support of Escambia County's efforts to ensure Triumph Gulf Coast funds come to the eight disproportionately affected counties in Northwest Florida

RECOMMENDATION:

That City Council adopt a resolution supporting Escambia County's efforts to ensure Triumph Gulf Coast funds come to the eight disproportionately affected counties in Northwest Florida.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In 2010 British Petroleum (BP) experienced a massive oil spill in the Gulf of Mexico referred to as the Deepwater Horizon oil spill. As a result of that event, BP has agreed to pay over \$20 Billion dollars in penalties.

The Florida Legislature has passed two pieces of legislation, Florida Statute 377.43 (Disbursement of funds received for damages caused by the Deepwater Horizon oil spill), which sets forth the disbursement of funds received to be disbursed to the eight disproportionately affected Counties, which include Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County and Wakulla County and Florida Statute 288.8013 (Triumph Gulf Coast, Inc.; Recovery Fund; creation; investment), which created Triumph Gulf Coast, Inc. to receive, hold, invest and administer the Recovery fund and further, guiding that the principal of the fund shall derive from 75% of all funds recovered by the Attorney General for economic damage to the state resulting from Deepwater Horizon.

The Escambia County Board of County Commissioners is making efforts to ensure the 75% of the funds come to Northwest Florida, ensure that Northwest Floridians are making the decisions at the committee level or through Triumph Gulf Coast, and are asking that funds be allowed to be used for economic development, infrastructure and workforce development projects.

This resolution supports those efforts.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Resolution - Support of Escambia County's efforts regarding Triumph Gulf Coast Funds

PRESENTATION: No

RESOLUTION
NO. _____

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, IN SUPPORT OF ESCAMBIA COUNTY FLORIDA'S EFFORTS TO ENSURE TRIUMPH GULF COAST FUNDS COME TO THE EIGHT DISPROPORTIONATELY AFFECTED COUNTIES IN NORTHWEST FLORIDA.

WHEREAS, in 2010 British Petroleum (BP) experienced a massive oil spill in the Gulf of Mexico referred to as the Deepwater Horizon oil spill ; and

WHEREAS, BP has agreed to pay over \$20 Billion dollars in penalties as a result of that oil spill; and

WHEREAS, the Florida Legislature under Florida Statute 288.8013 has created Triumph Gulf Coast, Inc. to receive, hold, invest and administer the Recovery Fund; and

WHEREAS, the principal of the fund shall derive from 75 percent of all funds recovered by the Attorney General for economic damage to the state resulting from the Deepwater Horizon oil spill; and

WHEREAS, the Florida Legislature under Florida Statute 377.43 set forth the disbursement of funds received for damages caused by the Deepwater Horizon oil spill; and

WHEREAS, certain funds are to be disbursed to the eight disproportionately affected Counties; which are Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County and Wakulla County ; and

WHEREAS, the Board of County Commissioners of Escambia County is making efforts to ensure that 75 percent of the funds come to Northwest Florida.

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

SECTION 1. That the Pensacola City Council supports Escambia County's efforts to maintain the existing law that 75 percent of the funds come to Northwest Florida and to ensure that Northwest Floridians make the decisions at the committee level or through Triumph Gulf Coast, and ask that funds are allowed to be used for economic development, infrastructure and workforce development projects.

SECTION 2. That a copy of this Resolution be sent to the Senate President, the Speaker of the House and members of the local Legislative Delegation.

SECTION 3. 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



Memorandum

File #: 17-16

City Council

2/9/2017

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Sherri F. Myers

SUBJECT:

RESOLUTION NO. 17-16 - IN SUPPORT OF ESCAMBIA COUNTY'S EFFORTS TO ENSURE TRIUMPH GULF COAST FUNDS COME TO THE EIGHT DISPROPORTIONATELY AFFECTED COUNTIES IN NORTHWEST FLORIDA

RECOMMENDATION:

That City Council adopt Resolution No. 17-16.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, IN SUPPORT OF ESCAMBIA COUNTY FLORIDA'S EFFORTS TO ENSURE TRIUMPH GULF COAST FUNDS COME TO THE EIGHT DISPROPORTIONATELY AFFECTED COUNTIES IN NORTHWEST FLORIDA

HEARING REQUIRED: No Hearing Required

SUMMARY:

In 2010 British Petroleum (BP) experienced a massive oil spill in the Gulf of Mexico referred to as the Deepwater Horizon oil spill. As a result of that event, BP has agreed to pay over \$20 Billion dollars in penalties.

The Florida Legislature has passed two pieces of legislation, Florida Statute 377.43 (Disbursement of funds received for damages caused by the Deepwater Horizon oil spill), which sets forth the disbursement of funds received to be disbursed to the eight disproportionately affected Counties, which include Bay County, Escambia County, Franklin County, Gulf County, Okaloosa County, Santa Rosa County, Walton County and Wakulla County and Florida Statute 288.8013 (Triumph Gulf Coast, Inc.; Recovery Fund; creation; investment), which created Triumph Gulf Coast, Inc. to receive, hold, invest and administer the Recovery fund and further, guiding that the principal of the fund shall derive from 75% of all funds recovered by the Attorney General for economic damage to the state resulting from Deepwater Horizon.

The Escambia County Board of County Commissioners is making efforts to ensure the 75% of the funds come to Northwest Florida, ensure that Northwest Floridians are making the decisions at the committee level or through Triumph Gulf Coast, and are asking that funds be allowed to be used for economic development,

infrastructure and workforce development projects.

This resolution supports those efforts.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Resolution No. 17-16 - Support of Escambia County's efforts regarding Triumph Gulf Coast Funds

PRESENTATION: No

RESOLUTION
NO. 17-16

A RESOLUTION
TO BE ENTITLED:

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WHEREAS, BP has agreed to pay over \$20 Billion dollars in penalties as a result of that oil spill; and

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WHEREAS, the Board of County Commissioners of Escambia County is making efforts to ensure that 75 percent of the funds come to Northwest Florida.

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Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk