



City of Pensacola

City Council

Agenda - Final

Thursday, May 10, 2018, 5:30 PM

Council Chambers, 1st Floor

ROLL CALL

INVOCATION

Pastor Jeff Pollard of Mount Zion Bible Church

PLEDGE OF ALLEGIANCE

Council Member Larry B. Johnson

FIRST LEROY BOYD FORUM

PRESENTATION

1. [18-00190](#) BLAKE DOYLE SKATE PARK UPDATE

Recommendation: That City Council receive a presentation and update from Jon Shell on the Blake Doyle Skate Park at Hollice T. Williams Park. This presentation will be given at the Thursday May 10, 2018 regular City Council meeting.

Sponsors: Brian Spencer

AWARDS

APPROVAL OF MINUTES

2. [18-00203](#) APPROVAL OF REGULAR MEETING MINUTES DATED 4/12/18

Attachments: [Draft: Regular Meeting Minutes - 4/12/18](#)

APPROVAL OF AGENDA

CONSENT AGENDA

3. [18-00200](#) ACCEPTANCE OF GIFT OF ART (TURTLE) MADE FROM 1000 RECYCLED PLASTIC BAGS
- Recommendation:** That City Council accept this gift of art (Turtle) for display in City Hall as an educational tool regarding recycling and storm water efforts currently underway within the City.
- Sponsors:** Sherri Myers
- Attachments:** [Recycled Plastic Bag Art -- Turtle](#)
4. [18-00184](#) REQUEST FOR LICENSE TO USE RIGHT-OF-WAY - SOUTHTOWNE
- Recommendation:** That City Council approve the License To Use agreement requested by Daily Convo, LLC for the improvements in connection with the Southtowne Development.
- Sponsors:** Ashton J. Hayward, III
- Attachments:** [Application, License to Use City Right-of-Way - Southtowne](#)
[Site Construction Plans for Intendencia Street Right-of-Way Improvements](#)
[Site Construction Plans for Southtowne - Perimeter Right of Way](#)
[April 10, 2018 Planning Board Minutes](#)
[License To Use Agreement -- Daily Convo, LLC](#)
5. [18-00195](#) AWARD OF FIVE YEAR CONTRACT TO WARREN AVERETT, LLC FOR REQUEST FOR PROPOSALS (RFP) 18-010 PROFESSIONAL AUDITING SERVICES
- Recommendation:** That City Council, in accordance with Section 218.391 of the Florida Statute, select Warren Averett, LLC for award of a five (5) year contract for RFP 18-010 Professional Auditing Services. Further, that City Council authorize the Council President to take all actions necessary to negotiate and execute the contract, as well as approve and execute the annual letters of engagement.
- Sponsors:** Gerald Wingate
- Attachments:** [Final Ranking Matrix](#)

REGULAR AGENDA

6. [18-00182](#) PUBLIC HEARING: PROPOSED AMENDMENT TO LAND DEVELOPMENT CODE SECTION 12-2-10 (C)(4)(B) HISTORIC AND PRESERVATION LAND USE DISTRICT ; OLD EAST HILL PRESERVATION ZONING DISTRICT; USES PERMITTED; OEHC-1 NEIGHBORHOOD COMMERCIAL DISTRICT.

Recommendation: That City Council conduct the first of two required public hearings on May 10, 2018 to consider the proposed amendment to the Land Development Code Section 12-2-10 (C)(4)(b) Historic and Preservation Land Use District; Old East Hill Preservation Zoning District; Uses Permitted; OEHC-1, Neighborhood Commercial District.

Sponsors: Ashton J. Hayward, III

Attachments: [Applicant's Request, LDC Amendment 12-2-10, Dr. Laura Hall](#)
[GIS Map of Impacted Commercial Districts in Old East Hill](#)
[Coorespondence from Citizens, LDC Amendment 12-2-10, Dr. Laura Hall](#)
[Ruling from Code Enforcement Authority, 805 E. Gadsden, Dr. Laura Hall](#)
[April 10, 2018 Planning Board Minutes](#)
[Proposed Ordinance](#)
[EMAILING CORRESPONDENCE AND INFO PACKET - OEH NEIGHBORHOOD COMMERCIAL DISTRICT](#)
[EMAIL CORRESPONDENCE FROM SUSAN AND DANNY AGNEW](#)
[PROOF OF PUBLICATION FOR PUBLIC HEARING](#)

7. [18-00191](#) LETTER OF SUPPORT FOR THE US29 CONNECTOR AND BEULAH INTERCHANGE JOINT PROJECT APPLICATION FOR CONSIDERATION OF THE TRIUMPH GULF COAST BOARD

Recommendation: That City Council authorize the Council President to send a letter of support for the US29 Connector and Beulah Interchange Joint Project Application to Triumph Gulf Coast Board.

Sponsors: Gerald Wingate

Attachments: [Draft Letter of Support](#)

8. [18-00119](#) APPROVAL OF DOWNTOWN IMPROVEMENT BOARD (DIB) BY-LAW AMENDMENT AND RATIFICATION OF 2009 AMENDMENTS
- Recommendation:** That City Council approve the submitted amendment to the DIB By-Laws as required by said By-Laws as well as the State Enabling Act, Chapter 72-655, Laws of Florida. Further, that City Council ratify previous amendments made in 2009.
- Sponsors:** Brian Spencer
- Attachments:** [DIB Bylaws COMPLETE EXACT Feb 2018](#)
[DIB By-laws Ratification](#)
[DIB By-laws Amendment](#)
[DIB By-Law Amendments June 2016](#)
9. [18-00185](#) APPROVAL OF INTERLOCAL AGREEMENT WITH ESCAMBIA COUNTY AND LETTER OF REQUEST TO FDOT FOR WEST CERVANTES CORRIDOR TRAFFIC FEASIBILITY STUDY
- Recommendation:** That City Council authorize the Mayor to take all necessary action to execute an Interlocal Agreement (ILA) with Escambia County relating to cost sharing for the West Cervantes Corridor Traffic Feasibility Study and approve a letter requesting the Florida Department of Transportation (FDOT) to program the locally-funded Traffic Feasibility Study.
- Sponsors:** Ashton J. Hayward, III
- Attachments:** [Interlocal Agreement with Escambia County - West Cervantes Street Corridor](#)
[FDOT Traffic Feasibility Study Letter of Request - West Cervantes Street](#)
10. [18-00192](#) SHADE MEETING REGARDING POLICE COLLECTIVE BARGAINING
- Recommendation:** That City Council schedule a Shade meeting in accordance with Fla Stat 447.605 pertaining to Collective Bargaining.
- Sponsors:** Sherri Myers
- Attachments:** [Fla Stat 447.605](#)
[AGO 98-06](#)
11. [18-00193](#) AMENDING CITY COUNCIL RULES AND PROCEDURES; ARTICLE IV. CODE OF ETHICS, BY ADDING SECTION 4.04 - INQUIRIES AND INVESTIGATIONS
- Recommendation:** That City Council amend Council Rules and Procedures by adding section 4.04, a process for conducting inquiries and investigations as promulgated within Section 4.02(a)(3) of the City Charter.
- Sponsors:** Jewel Cannada-Wynn
- Attachments:** [Inquiries and Investigations - Final \(3-26-18\)](#)

12. [18-00194](#) PENSACOLA ENERGY - APPROVAL OF NATURAL GAS SUPPLY CONTRACT WITH PUBLIC ENERGY AUTHORITY OF KENTUCKY

Recommendation: That City Council approve a thirty year contract for the purchase of natural gas through a pre-paid agreement with the Public Energy Authority of Kentucky (PEAK). Further, that City Council authorize the Mayor to take all actions necessary to execute the gas supply contract by May 15, 2018.

Sponsors: Ashton J. Hayward, III

Attachments: [Gas Supply Contract](#)

13. [18-16](#) RESOLUTION NO. 18-16 - NATURAL GAS SUPPLY CONTRACT WITH PUBLIC ENERGY AUTHORITY OF KENTUCKY

Recommendation: That the City Council adopt Resolution 18-16:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, (i) AUTHORIZING THE EXECUTION OF A GAS SUPPLY CONTRACT WITH THE PUBLIC ENERGY AUTHORITY OF KENTUCKY (“PEAK”) FOR THE PURCHASE OF NATURAL GAS FROM PEAK; (ii) ACKNOWLEDGING THAT PEAK WILL ISSUE ITS GAS SUPPLY REVENUE BONDS TO FUND THE PURCHASE OF A SUPPLY OF NATURAL GAS FROM BP ENERGY COMPANY (“BPEC”), WHICH GAS WILL BE USED TO MAKE DELIVERIES UNDER THE CONTRACT; AND (iii) FOR OTHER PURPOSES.

Sponsors: Ashton J. Hayward, III

Attachments: [Resolution No. 18-16](#)
[Exhibit A](#)

14. [18-18](#) RESOLUTION NO. 18-18 - RECOGNIZING AND HONORING ASHTON J. HAYWARD, III

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

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, RECOGNIZING AND HONORING MAYOR ASHTON J. HAYWARD, III, FOR HIS EFFORTS IN BRINGING THE VT MOBILE AREOSPACE ENGINEERING, INC. PROJECT TO THE PENSACOLA INTERNATIONAL AIRPORT.

Sponsors: Sherri Myers

Attachments: [RESOLUTION NO.18-18](#)

15. [18-19](#) RESOLUTION NO. 18-19 - A RESOLUTION AMENDING CITY COUNCIL FINANCIAL PLANNING AND ADMINISTRATION POLICY

Recommendation: That City Council adopt Resolution No. 18-19.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA,
FLORIDA AMENDING THE FINANCIAL PLANNING AND ADMINISTRATION POLICY OF THE CITY COUNCIL

Sponsors: Jewel Cannada-Wynn

Attachments: [RESOLUTION NO. 18-19 \(Revised\)](#)
[RESOLUTION NO. 18-19](#)

16. [04-18](#) PROPOSED ORDINANCE NO. 04-18 UPDATING FIRE CODE - CHAPTER 2 OF TITLE XIV

Recommendation: That City Council adopt Proposed Ordinance No. 04-18 on second reading as amended, updating the City Code references to the Florida Fire Prevention Code and related regulations.

AN ORDINANCE AMENDING CHAPTER 2 OF TITLE XIV OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING THE CITY OF PENSACOLA FIRE CODE; AMENDING AND UPDATING REFERENCES TO APPLICABLE FIRE PREVENTION CODE; REGULATING FIREWORKS; REPEALING LIFE SAFETY CODE AND BUREAU OF FIRE PREVENTION PROVISIONS; CREATING PROVISIONS PROHIBITING OUTDOOR FIRES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Ashton J. Hayward, III

Attachments: [Amended - Revised Proposed Ordinance No. 04-18 \(001\)](#)
[Amended Proposed Ordinance No. 04-18](#)
[Proposed Ordinance No. 04-18](#)
[PROOF OF PUBLICATION ORDINANCES ON 2ND READING](#)

17. [09-18](#) PROPOSED ORDINANCE NO. 09-18 - AMENDING LAND DEVELOPMENT CODE SECTION 12-2-9 INDUSTRIAL LAND USE DISTRICT

Recommendation: That City Council adopt Proposed Ordinance No. 09-18 on second reading, as amended.

AN ORDINANCE AMENDING SECTION 12-2-9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE INDUSTRIAL LAND USE DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

Sponsors: Ashton J. Hayward, III

Attachments: [Amended Proposed Ordinance No. 09-18](#)
[Proposed Ordinance No. 09-18](#)
[March 13, 2018 Planning Board Minutes](#)
[PROOF OF PUBLICATION ORDINANCES ON 2ND READING](#)

DISCUSSION

18. [18-00189](#) CITY OF PENSACOLA RECYCLING

Sponsors: Sherri Myers

Attachments: [180502 MEMO from City Administrator RE: Council Discussion Item Recy](#)

COUNCIL EXECUTIVE’S REPORT

MAYOR’S COMMUNICATION

COUNCIL COMMUNICATIONS

CIVIC ANNOUNCEMENTS

SECOND LEROY BOYD FORUM

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 #: 18-00190

City Council

5/10/2018

PRESENTATION ITEM

FROM: City Council Member Brian Spencer

SUBJECT:

BLAKE DOYLE SKATE PARK UPDATE

REQUEST:

That City Council receive a presentation and update from Jon Shell on the Blake Doyle Skate Park at Hollice T. Williams Park. This presentation will be given at the Thursday May 10, 2018 regular City Council meeting.

SUMMARY:

In October of 2016, City Council was presented with a presentation from Jon Shell, of Upward Intuition outlining a project to construct a skate park (Blake Doyle Skate Park) to be located at the Hollice T. Williams Park, adjacent to the Community Garden at Hayne and Jackson Streets.

Mr. Shell stated that Upward Intuition would conduct fund raising for the project and will be responsible for project construction. After construction, City Parks and Recreation will assume the maintenance of the Skate Park with an estimated cost of \$40,000 - \$50,000 annually. At that time the City Council unanimously voted to support the efforts of Upward Intuition to construct the Blake Doyle Skate Park.

PRIOR ACTION:

October 13, 2016 - Council support of the Blake Doyle Skate Park project

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) None

PRESENTATION: Yes



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00203

City Council

5/10/2018

SUBJECT:

APPROVAL OF REGULAR MEETING MINUTES DATED 4/12/18



City of Pensacola

CITY COUNCIL

Meeting Minutes

April 12, 2018

5:30 P.M.

Council Chambers

Council President Wingate called the meeting to order at 5:35 P.M.

ROLL CALL

Council Members Present: Gerald Wingate, Sherri Myers, Jewel Cannada-Wynn, Larry Johnson (arrived 5:54; left 7:33), Brian Spencer (left 7:20), Andy Terhaar, P.C. Wu

Council Members Absent: None

INVOCATION

Council President Wingate

PLEDGE OF ALLEGIANCE

Council Member Jewel Cannada-Wynn

FIRST LEROY BOYD FORUM

Gloria Horning: Indicating she represents the Tanyard Neighborhood Association and made comments related to the recent ruling dismissing the lawsuit related to the development of a fish hatchery on City-owned property within the CRA known as Bruce Beach, stating that the development doesn't meet current zoning. She then addressed Council regarding infrastructure issues in her neighborhood related to on-going flooding.

Laurie Murphy: Addressed Council regarding plastic pollution, citing statistics, and urged the City to come up with an incentive plan which would encourage citizens to voluntarily seek alternatives to plastic.

Karen Kilpatrick: First thanked Council for establishing the Domestic Partnership Registry. She then made follow-up remarks concurring with Dr. Horning's (above) comments related to the fish hatchery.

FIRST LEROY BOYD FORUM (CONT'D.)

Kyle Kopytchak: Addressed Council regarding his concerns related to attrition issues at the Pensacola Police Department, which he believes is related to the closing of the police pension and assigning new hires to the Florida Retirement System. He cited other issues such as starting-pay below state average and other collective bargaining matters. (He provided copies of a hand-out to Council Members).

Lila Davidson: Addressed Council regarding local waterways and opportunities to be involved in activities to help clean-up and prevent pollution. She referred to the efforts of the Emerald Coast Keepers in her remarks.

That concluded the first segment of LeRoy Boyd Forum.

PRESENTATION1. [18-00125 THE USE OF PLASTIC BAGS](#)

Recommendation: That City Council be provided a presentation from the League of Women Voters regarding the use of plastic bags in retail establishments.

Carolyn Cobb with the League of Women Voters was introduced by Council Member Myers and provided an overhead presentation (on file with background materials).

AWARDS

None.

APPROVAL OF MINUTES2. [18-00177 APPROVAL OF MINUTES: REGULAR MEETING DATED 3/8/18](#)

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

The motion carried by the following vote:

Yes: 7	Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel Cannada-Wynn, Larry Johnson, P.C. Wu
No: 0	None

APPROVAL OF AGENDA

A motion to approve the agenda was made by Council Member Terhaar and seconded by Council Member Cannada-Wynn.

Council Member Myers requested Item 5, *Patron's Dog Permit – Brew HaHa* which is on the consent agenda, be moved to the regular agenda.

There being no discussion, the vote was called.

The motion carried by the following vote:

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel
 Cannada-Wynn, Larry Johnson, P.C. Wu
No: 0 None

CONSENT AGENDA

3. [18-00150 AIRPORT - APPROVAL OF TERMINAL BUILDING LEASE AGREEMENT WITH VT MOBILE AEROSPACE ENGINEERING, INC.](#)

Recommendation: That City Council authorize the Mayor to execute a Terminal Building Lease Agreement with VT Mobile Aerospace Engineering, Inc. at Pensacola International Airport. Further, that City Council authorize the Mayor to take all necessary actions to execute the Lease Agreement.

4. [18-00142 AMENDMENT TO CITY OF PENSACOLA COMMUNITY DEVELOPMENT BLOCK GRANT FY 2015-2019 FIVE YEAR CONSOLIDATED PLAN AND FY 2017-2018 ANNUAL ACTION PLAN](#)

Recommendation: That City Council approve the amendment to the City of Pensacola's Community Development Block Grant FY 2015-2019 Five Year Consolidated Plan and FY 2017-2018 Annual Action Plan and reallocate funds to a new activity, Neighborhood Improvement Projects. Further, that City Council authorize the Mayor to execute all documents relating to the program's administration.

6. [18-00165 APPOINTMENT - EASTSIDE REDEVELOPMENT BOARD](#)

Recommendation: That City Council appoint Fred D. Young, III, a business owner within the Eastside Redevelopment Neighborhood TIF District area to fill an unexpired term ending April 30, 2019.

CONSENT AGENDA (CONT'D.)

7. 18-00168 APPOINTMENTS - WESTSIDE COMMUNITY REDEVELOPMENT BOARD

Recommendation: That City Council reappoint Douglas Baldwin, C. Marcel Davis, James Gulley, Dianne Robinson, and Anny Shepard; and appoint Tederria Puryear, all who are either redevelopment area residents, members of area neighborhood associations or owners or operators of a business located in the redevelopment area, to serve on the Westside Community Redevelopment Board for a term of three years, expiring January 31, 2021.

8. 18-00169 APPOINTMENT - PLANNING BOARD

Recommendation: That City Council appoint Victor L. Jordan, who is a resident of the city and owner of property in the city, to the Planning Board to fill the unexpired term of Kyle Owens, expiring July 14, 2019.

A motion to approve consent agenda items 3, 4, 6, 7, and 8 was made by Council Member Johnson and seconded by Council Member Cannada-Wynn.

The motion carried by the following vote:

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel
 Cannada-Wynn, Larry Johnson, P.C. Wu
No: 0 None

REGULAR AGENDA

5. 18-00154 PATRONS' DOG PERMIT -- BREW HAHA

Recommendation: That City Council approve the permit request for Brew HaHa, 2435 N. 12th Ave, to allow patrons' dogs at permitted food service establishments in accordance with Section 12-12-8 of the City Code.

A motion to approve was made by Council Member Johnson and seconded by Council Member Cannada-Wynn.

Council Member Myers questioned section 6 of the permit application which requires proof of barrier and asked Council Executive Kraher to follow-up on that provision because believes Council previously repealed such provision.

There being no further discussion, the vote was called.

REGULAR AGENDA (CONT'D.)**The motion to approve (Item 5) carried by the following vote:**

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel
 Cannada-Wynn, Larry Johnson, P.C. Wu
No: 0 None

9. [18-00145](#) APPOINTMENT OF FIRE CHIEF

Recommendation: That City Council consent to the appointment of Ginny Cranor as Chief of the Pensacola Fire Department.

A motion to approve was made by Council Member Terhaar and seconded by Council Member Cannada-Wynn.

City Administrator Olson made comments; and Council Member Wu made follow-up remarks offering support of the appointment of Ginny Cranor as Fire Chief and commending retiring Fire Chief David Allen.

Input was also heard from Nathan Edler, president of Pensacola Professional Firefighters, IAFF Local 707 in support of Ginny Cranor's appointment as Fire Chief.

The motion carried by the following vote:

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel
 Cannada-Wynn, Larry Johnson, P.C. Wu
No: 0 None

10. [18-00166](#) APPOINTMENT - PENSACOLA ESCAMBIA DEVELOPMENT COMMISSION (PEDC)

Recommendation: That City Council appoint one of its members to the Pensacola Escambia Development Commission (PEDC) to fill an unexpired term ending November 27, 2018.

Council Member Myers withdrew her name from the ballot.

Council Member Terhaar made a motion by acclamation and seconded by Council Member Johnson that City Council appoint Council Member P. C. Wu to the Pensacola-Escambia Development Commission (PEDC) to fill an unexpired term ending November 27, 2018.

REGULAR AGENDA (CONT'D.)**The motion on (Item 10) carried by the following vote:**

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel Cannada-Wynn, Larry Johnson, P.C. Wu
 No: 0 None

11. [18-00167](#) APPOINTMENTS - ENVIRONMENTAL ADVISORY BOARD (EAB)

Recommendation: That City Council appoint two (2) individuals as at-large members and one (1) individual as a member who is employed or retired environmental professional or member of local environmental organizations or businesses, to serve on the Environmental Advisory Board for a term of two (2) years expiring March 1, 2020.

Council President Wingate referred Council Members to the ballot(s).

Council Member Myers referenced the attendance records (provided at Council's places) of the two (2) incumbents for the at-large positions and questioned their availability for attending meetings. (Neither of the incumbents were present to address concerns.)

A motion was made by Council Member Myers and seconded by Council Member Cannada-Wynn that the at-large positions be removed from consideration at this time and Council request additional nominations to be considered for (future) appointment.

Brief discussion took place, prior to the vote being called.

The motion carried by the following vote:

Yes: 6 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel Cannada-Wynn, Larry Johnson
 No: 1 P.C. Wu

Council President Wingate referred to the ballot to appoint one (1) individual as a member who is an employed or retired environmental professional or member of a local environmental organization or business. He then provided an opportunity for Council Members to speak on behalf of the nominees. Each nominee was also provided an opportunity to address Council.

Robert R. Bennett

William "Blase" Butts

A motion was made by Council Member Johnson and seconded by Council Member Cannada-Wynn that City Council appoint both Robert R. Bennett and William "Blase" Butts to the Environmental Advisory Board, as an at-large member and as a member who is an employed or retired environmental professional or member of a local environmental organization or business (respectively), for a term of two years expiring March 1, 2010. (Leaving the opportunity for one at-large position to be appointed following the receipt of additional nominations).

REGULAR AGENDA (CONT'D.)**The motion (related to Item 11) carried by the following vote:**

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel
 Cannada-Wynn, Larry Johnson, P.C. Wu
No: 0 None

12. [18-00129](#) QUASI-JUDICIAL HEARING - FINAL SUBDIVISION PLAT - 'A' VILLAGE

Recommendation: That City Council conduct a quasi-judicial hearing on April 12, 2018 to consider approval of the final subdivision plat - 'A' Village.

Council President Wingate read into the record describing how a quasi-judicial proceeding differs from legislative action. He then called on City staff as to whether or not this issue is contested. **Planning Services Administrator Morris indicated she is not aware of any formal contest in opposition.** Council President Wingate indicated they may dispense of formalities and called for evidence to be entered into the record by City staff.

Planning Services Administrator Morris presented evidence into the record on behalf of the City describing the issue and referencing all background materials provided in the agenda package dated 4/12/18, as well as overhead slides of the subject plat.

There was no additional evidence presented on behalf of the applicant.

A motion to approve was made by Council Member Johnson and seconded by Council Member Cannada-Wynn.

There being no discussion, the vote was called.

The motion carried by the following vote:

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel
 Cannada-Wynn, Larry Johnson, P.C. Wu
No: 0 None

REGULAR AGENDA (CONT'D.)

13. [18-00147](#) PUBLIC HEARING: PROPOSED AMENDMENT TO LAND DEVELOPMENT CODE SECTION 12-2-9 INDUSTRIAL LAND USE DISTRICT

Recommendation: That City Council conduct a public hearing on April 12, 2018 to consider the proposed amendment to Land Development Code Section 12-2-9 Industrial Land Use District.

Planning Services Administrator Morris summarized the proposed amendments of the Land Development Code before Council as outlined in the memorandum dated 4/12/18. She responded accordingly to questions of Council Members regarding the intent of the changes.

Based on discussion, additional language will be added to Section 12-2-9 (B)(1)(b) Outside Storage and Work to make the regulation subject to Chapter 12-6 Tree and Landscape Regulations (for consideration on second reading on May 10th).

A motion to approve was made by Council Member Spencer and seconded by Council Member Cannada-Wynn.

The motion carried by the following vote:

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel Cannada-Wynn, Larry Johnson, P.C. Wu
 No: 0 None

14. [09-18](#) PROPOSED ORDINANCE NO. 09-18 - AMENDING LAND DEVELOPMENT CODE SECTION 12-2-9 INDUSTRIAL LAND USE DISTRICT

Recommendation: That City Council approve Proposed Ordinance No. 09-18 on first reading.

AN ORDINANCE AMENDING SECTION 12-2-9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE INDUSTRIAL LAND USE DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

A motion to approve on first reading was made by Council Member Cannada-Wynn and seconded by Gerald Wingate.

The motion carried by the following vote:

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel Cannada-Wynn, Larry Johnson, P.C. Wu
 No: 0 None

REGULAR AGENDA (CONT'D.)

15. [18-00157 REFERRAL TO PLANNING BOARD - LAND DEVELOPMENT CODE AMENDMENT TO SECTION 12-2-6 - RESIDENTIAL / NEIGHBORHOOD COMMERCIAL LAND USE DISTRICT AND SECTION 12-2-8 - COMMERCIAL LAND USE DISTRICT C-2A.](#)

Recommendation: That City Council refer to the Planning Board, for review and recommendation an Amendment to Section 12-2-6 of the Land Development Code stating; "Permitted uses requesting a drive through component shall be subject to Code Section 12-2-78 - Conditional Use Permits. This is a cumulative requirement. Also amending Section 12-2-8 C-2A, striking the language, "and Conditional Uses".

A motion to approve was made by Council Member Cannada-Wynn and seconded by Council Member Johnson.

Discussion took place among Council. Then the vote was called.

The motion carried by the following vote:

Yes: 7 Gerald Wingate, Sherri Myers, Andy Terhaar, Brian Spencer, Jewel Cannada-Wynn, Larry Johnson, P.C. Wu
 No: 0 None

16. 04-18 PROPOSED ORDINANCE NO. 04-18 UPDATING FIRE CODE - CHAPTER 2 OF TITLE XIV

Recommendation: That City Council approve Proposed Ordinance No. 04-18 on first reading, updating the City Code references to the Florida Fire Prevention Code and related regulations.

AN ORDINANCE AMENDING CHAPTER 2 OF TITLE XIV OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING THE CITY OF PENSACOLA FIRE CODE; AMENDING AND UPDATING REFERENCES TO APPLICABLE FIRE PREVENTION CODE; REGULATING FIREWORKS; REPEALING LIFE SAFETY CODE AND BUREAU OF FIRE PREVENTION PROVISIONS; CREATING PROVISIONS PROHIBITING OUTDOOR FIRES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

Council Member Cannada-Wynn referred to her comments at (Monday's) agenda conference expressing her concerns that the language in the ordinance doesn't address issues such as enforcement.

Public input was heard from Karen Kilpatrick.

REGULAR AGENDA (CONT'D.)

Discussion continued among Council (regarding P.O. No. 04-18) with some Council Members agreeing with Council Member Cannada-Wynn's concerns that the language needs to be more specific.

Council Member Myers indicated she would like to bring forth amended language on 2nd reading at the May (10th) meeting.

Upon conclusion of discussion, the vote was called.

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

Yes: 6 Gerald Wingate, Sherri Myers, Andy Terhaar, Jewel Cannada-Wynn, Larry Johnson, P.C. Wu
No: 0 None

17. [06-18 PROPOSED ORDINANCE NO. 06-18 - AMENDING LAND DEVELOPMENT CODE SECTION 12-2-82 DESIGN STANDARDS AND GUIDELINES AND SECTION 12-14-1 DEFINITIONS](#)

Recommendation: That City Council adopt Proposed Ordinance No. 06-18 on second reading.

[AN ORDINANCE AMENDING SECTIONS 12-2-82\(C\)\(8\) AND 12-14-1 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE CHAPTER RELATED TO DESIGN STANDARDS AND GUIDELINES; AMENDING THE CHAPTER RELATED TO DEFINITIONS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE. \(Ordinance No. 06-18\)](#)

A motion to adopt was made by Council Member Cannada-Wynn and seconded by Council Member Terhaar.

Council Member Terhaar made comments.

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

Yes: 5 Gerald Wingate, Sherri Myers, Andy Terhaar, Jewel Cannada-Wynn, P.C. Wu
No: 0 None

REGULAR AGENDA (CONT'D.)

18. [07-18 PROPOSED ORDINANCE NO. 07-18 - VACATION OF RIGHT-OF-WAY 1000 BLOCK OF EAST LARUA STREET](#)

Recommendation: That City Council adopt Proposed Ordinance No. 07-18 on second reading.

AN ORDINANCE CLOSING, ABANDONING AND VACATING A PORTION OF THE NORTH 11TH AVENUE RIGHT OF WAY; IN PENSACOLA, ESCAMBIA COUNTY, STATE OF FLORIDA; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE. (Ordinance No. 07-18)

A motion to adopt was made by Council Member Cannada-Wynn and seconded by Council Member Wingate.

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

Yes: 5 Gerald Wingate, Sherri Myers, Andy Terhaar, Jewel Cannada-Wynn, P.C.
 Wu
No: 0 None

19. [18-14 RESOLUTION NO. 18-14 - ESTABLISHING A SISTER CITY RELATIONSHIP BETWEEN THE CITY BOROBIA, SPAIN AND THE CITY OF PENSACOLA.](#)

Recommendation: That City Council adopt Resolution No. 18-14:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA STATING ITS DESIRE AND INTENTION TO ESTABLISH A SISTER CITY RELATIONSHIP BETWEEN THE CITY OF BOROBIA, SPAIN AND THE CITY OF PENSACOLA, FLORIDA.

A motion to adopt was made by Council Member Terhaar and seconded by Council Member Cannada-Wynn.

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

Yes: 5 Gerald Wingate, Sherri Myers, Andy Terhaar, Jewel Cannada-Wynn, P.C.
 Wu
No: 0 None

DISCUSSION**20. [18-00123 RENTAL PROPERTY RESIDENTIAL INSPECTION PROGRAM](#)**

Discussion ensued with Council Member Cannada-Wynn (sponsor) explaining it is her intent to bring forward more information for Council to consider regarding the creation of such a program which there are many examples throughout cities across the country.

Council Member Myers referenced Escambia County's ordinance providing for regulation of housing and indicated it is quite detailed (she provided copies at Council's places - - on file with background materials). City Attorney Bowling made follow-up remarks indicating she will review the language.

Council Member Myers offered a motion that Council direct the City Attorney to look at Escambia County's standards and enforcement mechanisms for improving housing.

Council Member Cannada-Wynn stated she has been working with City Attorney Bowling and plans to bring an action item for consideration at the May (10th) meeting, but wanted to gather some input from Council Members at this time.

Council Member Myers withdrew her motion.

Council Member Myers made follow-up remarks. Council Member Cannada-Wynn referenced a copy of a letter from Dianne Robinson provided to Council regarding this initiative.

Public input was heard from Clifford Stokes.

21. [18-00155 SECURITY AT ALL MEETINGS AND UPDATE ON ACTIVE SHOOTER TRAINING](#)

Council Member Myers (sponsor) began the discussion asking for an update as to how/when security training for Council Members will take place. Council Executive Kraher explained they are working through the legal issues to schedule such training in order to be in compliance with Sunshine Laws.

City Attorney Bowling advised they cannot schedule a "shade" meeting for active shooter type training, as at this time state law only provides for building security plans to be exempted. Therefore, individual training will need to be scheduled with each Council Member.

City Administrator Olson advised the Police Department is prepared to provide training (individually) to Council Members.

Council Member Wu made follow-up remarks.

DISCUSSION (CONT'D.)**22. [18-00156 SANDERS BEACH / HITZMAN PARK MAINTENANCE ISSUE UPDATE](#)**

Council Member Myers (sponsor) began the discussion expressing concerns that the area is not being well maintained and asked the City Administrator for an update.

City Administrator Olson responded accordingly indicating that while the area may look somewhat unsightly, it is not unsafe. He indicated this is a broader issue in that how much recreational equipment is supposed to be available in all of the City's over ninety (90) parks, all of which has to be maintained and has limited life cycle, therefore is a budgetary issue.

Some Council Members made follow-up remarks.

23. [18-00158 LOST IV PROJECT UPDATE](#)

Council Member Myers (sponsor) indicated she will pull this item at this time to discuss in more detail during (upcoming) budget workshops.

Council President Wingate inquired of the proposed West Cervantes Street Corridor project for \$1.5 million. City Administrator Olson indicated he hadn't received a request on any specific project (since the agenda conference), so he does not have specific information. He indicated that at this time staff is in discussions with Florida Department of Transportation regarding the funding of a feasibility study **and will forward more information on this project to Council.**

24. [18-00159 PARK OFFICER\(S\)](#)

Discussion began with Council Member Cannada-Wynn (sponsor) indicating she hears from citizens regarding various activities which take place in our parks and the possibility of having park rangers to monitor such activities. **She is in the process of researching examples throughout cities across the country and how they have established community policing within parks to bring forward for (future) consideration.**

25. [18-00163 REMOVAL OF 10 TREES AT THE CORNER OF GARDEN & PALAFOX FOR THE FEDERAL COURTHOUSE RENOVATION](#)

Council Member Myers (sponsor) made comments regarding the removal of crepe myrtles and encouraged they be replaced with the same or drake elms, rather than live oaks which drop acorns.

COUNCIL EXECUTIVE'S REPORT

None.

MAYOR'S COMMUNICATION

City Administrator Olson encouraged Council Members to call Airport Director Flynn for a tour of the new MRO Hanger Facility. He also explained Technology Resources was unable to address the problems experienced during tonight’s meeting with the legislative management system (Granicus) during the live meeting, but will be working with the vendor tomorrow to address the issues.

COUNCIL COMMUNICATIONS

Council Member Cannada-Wynn advised she has been working with City Attorney Bowling to bring forth an amendment to Council’s Rule and Procedures in order for Council to exercise their authority under the City Charter to conduct inquiries and investigations. **She provided copies at Council’s place of draft language and asked Council Members to review and provide comments and input to Council Executive Kraher.**

Council Member Cannada-Wynn also made several announcements of upcoming meetings and/or happenings within the community.

Council Member Myers reported she observes obstruction of sidewalks throughout the City and would like to address enforcement of such issues.

CIVIC ANNOUNCEMENTS

Council Member Myers announced an upcoming town hall meeting she will be hosting.

Council President Wingate reminded Council the upcoming meeting of the Auditor Selection Review Committee is scheduled for Monday, April 23rd (time to be determined) and materials from each vendor have been distributed for review and ranking.

SECOND LEROY BOYD FORUM

Ellen Roston (no longer in attendance).

ADJOURNMENT

WHEREUPON the meeting was adjourned at 8:38 P.M.

Adopted: _____

Attest:

Ericka L. Burnett, City Clerk

Approved: _____
Gerald C. Wingate, President of City Council



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00200

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Vice President Sherri F. Myers

SUBJECT:

ACCEPTANCE OF GIFT OF ART (TURTLE) MADE FROM 1000 RECYCLED PLASTIC BAGS

RECOMMENDATION:

That City Council accept this gift of art (Turtle) for display in City Hall as an educational tool regarding recycling and storm water efforts currently underway within the City.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The use of plastic bags has and is creating an environmental concern. According to one study, if changes in consumer habits are not made, by the year 2050 there will be more plastics in the ocean than fish.

The average family takes home 15 plastic bags from a typical shopping trip. These bags are used an average of 12 minutes and the bags can take 20-1000 years to degrade.

Locally the use and discarding of plastics, including plastic bags, has created environmental issues for local water ways like Carpenter's Creek as well as clogging up the City's storm water system.

This turtle will serve as an educational piece of art. It will be placed within a prominent area of City Hall and will provide information regarding recycling, facts regarding the use of plastics and the detrimental effects being seen environmentally as well as within City facilities.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Recycled Plastic Bag Art -- Turtle

PRESENTATION: No



**HONORABLE
MENTION**

Wool Yarn
The Artist
of the Year
2012
© 2012 [unreadable] [unreadable]



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00184

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

REQUEST FOR LICENSE TO USE RIGHT-OF-WAY - SOUTHTOWNE

RECOMMENDATION:

That City Council approve the License To Use agreement requested by Daily Convo, LLC for the improvements in connection with the Southtowne Development.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Daily Convo, LLC is requesting approval for a License To Use (LTU) Intendencia Street right-of-way in order to make sidewalk, tree well and other hardscape improvements in connection with its Southtowne Development project. This request is unique in that the project will provide a large amount of improvements within the right-of-way of Intendencia Street and the perimeter of the development. The property owner will bear 100 percent of the construction and future maintenance costs for the improvements. The terms of the agreement are described in the form of a modified LTU agreement between Daily Convo, LLC and the City (Attachment 5).

On April 10, 2018, the Planning Board unanimously recommended approval of this request.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

4/24/2018

STAFF CONTACT:

Eric W. Olson, City Administrator

Sherry H. Morris, Planning Services Administrator

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

ATTACHMENTS:

- 1) Application, License To Use City Right-of-Way, Southtowne
- 2) Site Construction Plans for Intendencia Street Right-of-Way Improvements
- 3) Site Construction Plans for Southtowne - Perimeter Right-of-Way
- 4) April 10, 2018 Planning Board Minutes
- 5) License To Use Agreement -- Daily Convo, LLC

PRESENTATION: Yes

License To Use City Right-Of-Way

Residential License To Use

Application Fee: \$500.00
 Rehearing/Rescheduling Fee: \$100.00
 Annual Fee: N/A
 Insurance Coverage: \$300,000.00

Commercial License To Use

Application Fee: (Minor) \$500.00
 (Major) \$1,000.00
 Rehearing/Rescheduling Fee: \$100.00
 Annual Fee: (Minor) \$500.00
 (Major) \$1,000.00
 Insurance Coverage: \$1,000,000.00

Pensacola Neighborhood Challenge Grant

Application Fee: N/A

Applicant: DAILY CONVO, LLC
 Applicant's Address: 321 N. DE VILLIERS ST. SUITE 103 PENS, FL 32501
 Email: johnmystak@thedawsoncompany.com Phone: 850-356-0907

I, the undersigned applicant, understand that submittal of this application does not entitle me to approval of this License to use. I have received a copy of the applicable regulations and understand that I must be present on the date of the Planning Board and City Council meetings. In the case of the Pensacola Neighborhood Challenge Grant applications, I understand that this application will be considered during the execution of the contract and does not require further review from the Planning Board or City Council. If applicable, I understand a City Right-of-Way permit must be acquired from the City Engineering Department prior to any work commencing within the right-of-way.

Applicant's Signature: [Signature] Date: 2-15-18
 ** If License Agreement is for business use or a Pensacola Neighborhood Challenge Grant application, please see the reverse side for additional information **

Property Information

Property Owner: DAILY CONVO, LLC Phone: _____
 Location Address: 101 E. ROMANA ST.
 Parcel ID #: 00-05-00-9001-001-169

Purpose of Use of City Right-Of-Way: SIDEWALK, TREE WELLS AND OTHER HARDSCAPE ELEMENTS PURSUANT TO

ENCROACHMENT AGREEMENT EXECUTED BETWEEN DAILY CONVO, LLC AND THE CITY OF PENSACOLA.
 Please attach a map indicating the actual dimensions of the requested license.

For Office Use Only		
District: <u>#6</u>	Case Number: <u>N/A</u>	Zoning: <u>C-2/C-2A</u>
Date Received: <u>2/20/2018</u>	Recommendation: _____	Annual Fee: _____
Planning Board date: <u>3/13/2018</u>	Council Action: _____	Amount of Insurance Coverage: _____
City Council date: _____		

License To Use City Right-Of-Way

Sec. 12-12-7. License to use right-of-way.

- (A) Application.
- (1) An application for license to use right-of-way must be submitted to the Planning Department at least twenty-one (21) days prior to the regularly scheduled meeting of the Planning 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 has been submitted:
 - (a) The application shall be submitted on a form provided by the Board Secretary.
 - (b) Each application shall be accompanied by the following information and such other information as may be reasonably requested to support the application:
 1. Accurate site plan drawn to scale;
 2. Reason for license to use request.
 - (4) 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.
 - (5) Any party may appear in person, by agent, or by attorney.
 - (6) Any application may be withdrawn prior to action of the Planning Board or City Council at the discretion of the applicant initiating the request upon written notice to the Board secretary.
- (B) Planning Board review and recommendation. The community development department will distribute copies of the request for a license to use right-of-way to the appropriate city departments and public agencies for review and comment. Said departments shall submit written recommendations of approval, disapproval or suggested revisions, and reasons therefore, to the community development department. The Planning Board shall review the license to use right-of-way request and make a recommendation to the City Council.
- (1) Public Notice for license to use right-of-way.
 - (a) 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 right-of-way proposed to be licensed with a public notice by post card at least five (5) days prior to the Board meeting. The public notice shall state the date, time, and place of the Board meeting.
- (C) City Council review and action. The Planning Board recommendation shall be forwarded to the City Council for review and action.
- (1) Notice and hearing. The community development department shall notify addresses within a three hundred-foot radius, as identified on the Escambia County tax roll maps, of the right-of-way proposed to be licensed with a public notice by post card at least five (5) days prior to the Council meeting. The public notice shall state the date, time, and place of the Council meeting.
 - (2) Action. The City Council shall approve, approve with modifications, or deny the license to use right-of-way request. If the request is approved by City Council, a license to use agreement will be drawn, at which time the license becomes effective upon execution by the applicant and the City and payment by the applicant of any required fee.

Additional Information Required for Corporations and LLCs: If approved, this information will be used as part of the legal agreement. Must be licensed to do business within the State of Florida.

Corporation:
Full legal name of the Corporation: _____
Official Corporate Address: _____
President or Vice-President:
Name & Title – _____
Corporate Secretary: Name – _____

Limited Liability Company (LLC):
Full legal name of company: Daily Convo, LLC
Official Address: 321 N. De Villiers Street Suite 103 Pensacola, FL 32501
Managing Member or member:
Name & Title – Mary P. Studer ; Quinton D. Studer

Planning Services
Title manager
222 W. Main Street * Pensacola, Florida 32502
(850) 435-1670

Mail to: P.O. Box 12910 * Pensacola, Florida 32521

SITE CONSTRUCTION PLANS FOR INTENDENCIA STREET RIGHT-OF-WAY IMPROVEMENT

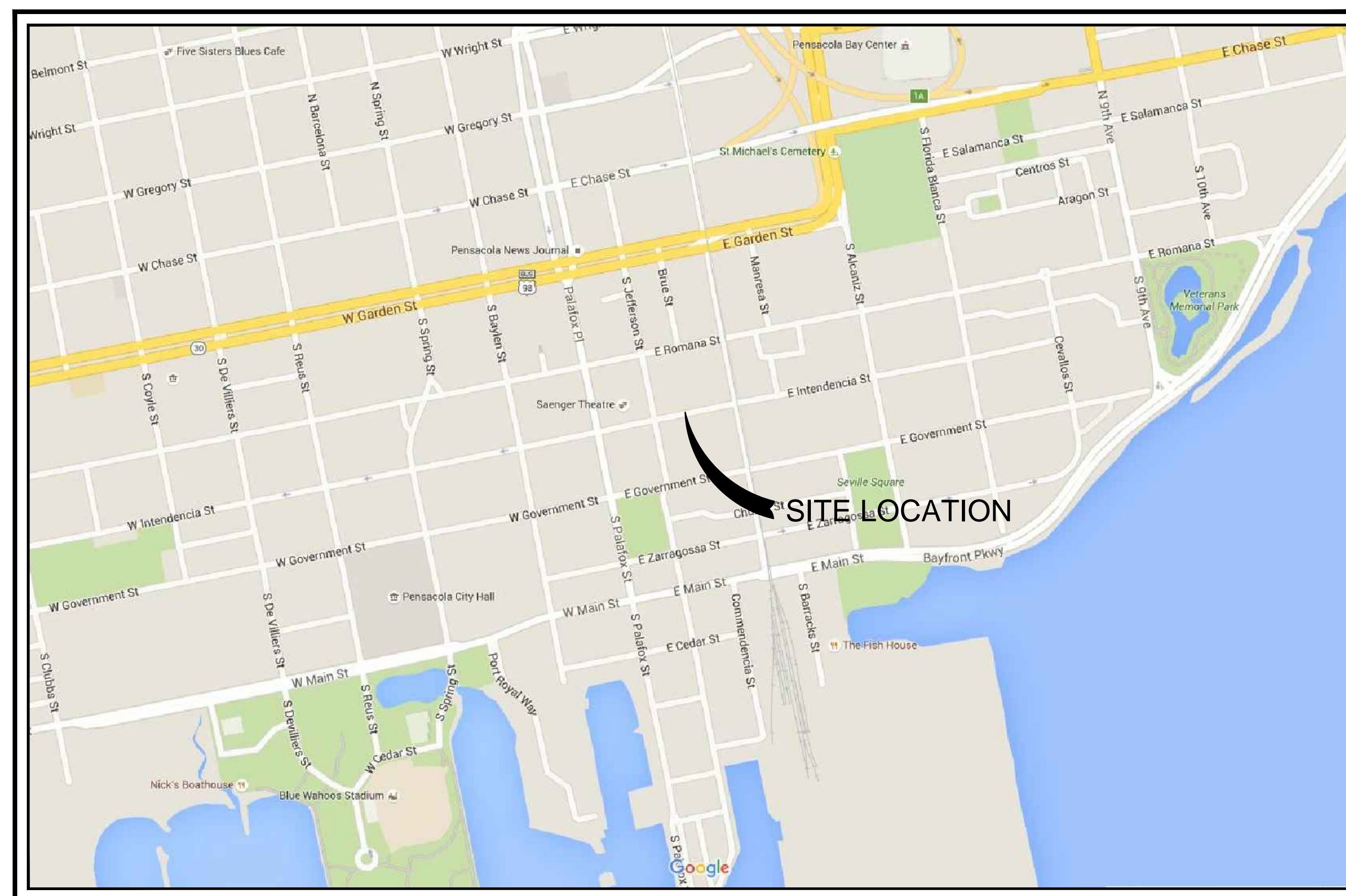
March 1, 2018

RBA PROJECT NO.: 2016.122

SITE INFORMATION	
PROJECT LOCATION:	INTENDENCIA STREET BETWEEN JEFFERSON & TARRAGONA STREET

FEMA FLOOD INSURANCE RATE MAP INFORMATION					
THE PARCEL SHOWN FOR DEVELOPMENT IS LOCATED WITHIN THE FOLLOWING FLOOD ZONE(S) AS DETAILED BY FEMA FIRM (FLOOD INSURANCE RATE MAP) INFORMATION DESCRIBED BELOW:					
FLOOD ZONE(S)	COMMUNITY No.	MAP No.	PANEL No.	SUFFIX	MAP REVISION DATE
X	120082	12033C	390	G	SEPT 29, 2006

CONTACTS	
CITY OF PENSACOLA ENGINEER MR. L. DERRIK OWENS 180 GOVERNMENTAL CENTER PENSACOLA, FL. 32502 PH: (850) 435-1645	
SANITARY SEWER/WATER – EMERALD COAST UTILITY AUTHORITY MR. MIKE HAMLIN P.O. BOX 15311 PENSACOLA, FL. 32514 PH: (850) 969-6501	
NATURAL GAS – ENERGY SERVICES OF PENSACOLA MRS. DIANE MOORE 1625 ATWOOD DRIVE PENSACOLA, FL. 32514 PH: (850) 474-5310	
TELEPHONE – AT&T MR. STEVE KENNINGTON 6689 MAGNOLIA ST MILTON, FL. 32570 PH: (850) 623-3811	
ELECTRIC – GULF POWER MR. CHAD SWAILS 5120 DOGWOOD DRIVE MILTON, FL. 32570 PH: (850) 429-2446	
CABLE – COX CABLE MR. TROY YOUNG 2421 EXECUTIVE PLAZA PENSACOLA, FL. 32504 PH: (850) 857-4551	
SUNSHINE STATE ONE-CALL 7200 LAKE ELLENOR DRIVE, SUITE 200 ORLANDO, FL. 32809 PH: (800) 432-4770	



VICINITY MAP
SCALE: 1" = 500'



REBOL-BATTLE & ASSOCIATES
Civil Engineers and Surveyors

2301 N. Ninth Avenue, Suite 300
Pensacola, Florida 32503
Telephone 850.438.0400
Fax 850.438.0448
EB 00009657 LB 7916

ECUA REQUIRED PLAN NOTES

(NOTES SHALL BE INSERTED IN THE UPPER RIGHT CORNER OF TITLE SHEET)

A. ECUA ENGINEERING MANUAL INCORPORATED BY REFERENCE

THE ECUA ENGINEERING MANUAL, DATED DECEMBER 18, 2014, ALONG WITH ANY LISTED UPDATES (HEREINAFTER "MANUAL"), LOCATED AT WWW.ECUA.FL.GOV, IS HEREBY INCORPORATED BY REFERENCE INTO THIS PROJECT'S OFFICIAL CONTRACT DOCUMENTS AS IF FULLY SET FORTH THEREIN. IT IS THE CONTRACTOR'S RESPONSIBILITY TO BE KNOWLEDGEABLE OF THE MANUAL'S CONTENTS AND TO CONSTRUCT THE PROJECT IN ACCORDANCE WITH THE MANUAL. THE CONTRACTOR SHALL PROVIDE ITS EMPLOYEES ACCESS TO THE MANUAL AT ALL TIMES, VIA PROJECT SITE OR OFFICE, VIA DIGITAL OR PAPER FORMAT. IN THE EVENT OF A CONFLICT BETWEEN THE MANUAL AND THE PLANS, CONTRACTOR SHALL CONSULT ENGINEER OF RECORD ON THE APPROPRIATE RESOLUTION.

B. ADDITIONAL DOCUMENTS (TO BE COMPLETED BY THE ENGINEER OF RECORD)

DOES THIS PROJECT HAVE ADDITIONAL TECHNICAL SPECIFICATIONS OR CONSTRUCTION DETAILS THAT SUPERSEDE THE MANUAL LISTED ABOVE?

YES

NO

IF YES, CONTRACTOR SHALL CONSTRUCT PROJECT IN ACCORDANCE WITH SAID DOCUMENTS AS LISTED AND LOCATED BELOW:

DOCUMENT NAME	DOCUMENT TYPE		LOCATION	
	SPECIFICATION	DETAIL	PLANS	PROJECT MANUAL*

*PROJECT MANUALS USED ONLY WITH ECUA CIP PROJECTS

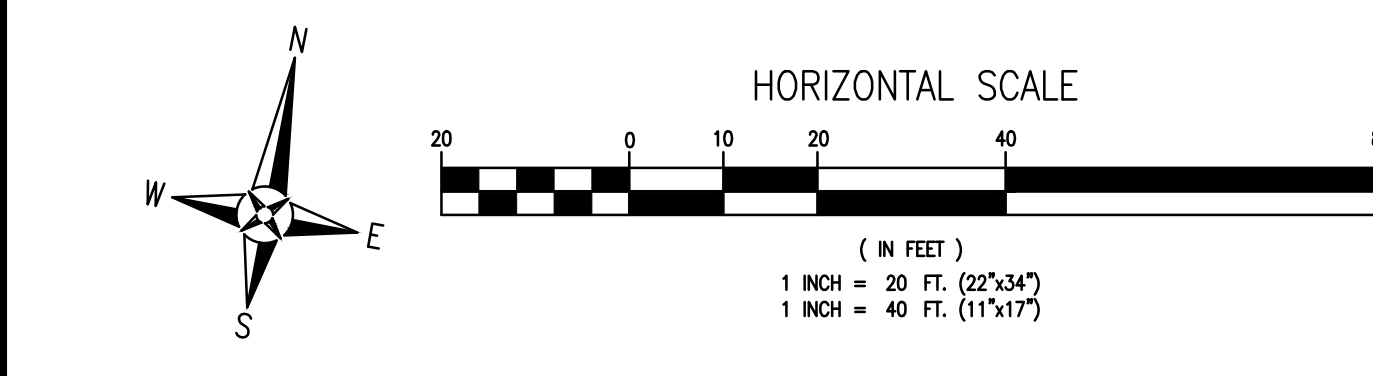
C. ENGINEER OF RECORD RESPONSIBILITIES

THE ENGINEERS OF RECORD (EORS) THAT HAVE AFFIXED THEIR SEALS AND SIGNATURES ON THESE PLANS WARRANT THEIR PORTION OF THE PLANS HAVE BEEN DESIGNED IN ACCORDANCE WITH THE MANUAL (UNLESS OTHERWISE DIRECTED BY THE ECUA PROJECT ENGINEER). THE EORS SHALL BE KNOWLEDGEABLE OF THE MANUAL'S CONTENTS AND SHALL ASSUME RESPONSIBILITY FOR ITS USE ON THIS PROJECT.

INDEX OF DRAWINGS

- C1.0 INTENDENCIA PROJECT LIMITS / PHASING PLAN & EXISTING SITE, DEMOLITION AND EROSION CONTROL PLAN
- C1.1 EROSION CONTROL DETAILS
- C2.0 SITE LAYOUT AND DIMENSION PLAN
- C3.0 PLAN/PROFILE - GRADING AND DRAINAGE PLAN
- C4.0 INTENDENCIA STREET SECTION VIEWS
- C5.0 STRIPING / PAVEMENT MARKING PLAN & DETAILS
- LS 101 LAYOUT PLAN & HARDSCAPE PLAN
- LS 201 HARDSCAPE DETAILS
- LS 301 LIGHT PLAN & LANDSCAPE PLAN
- LS 401 LANDSCAPE DETAILS
- IR 101 IRRIGATION PLAN & IRRIGATION DETAILS

THE CONTRACTOR IS RESPONSIBLE FOR OBTAINING "RELEASED FOR CONSTRUCTION" DRAWINGS FROM REBOL-BATTLE & ASSOCIATES BEFORE BEGINNING CONSTRUCTION. REBOL-BATTLE & ASSOCIATES WILL NOT BE RESPONSIBLE FOR ANY CONSTRUCTION BASED ON PLANS THAT HAVE NOT BEEN RELEASED FOR CONSTRUCTION.



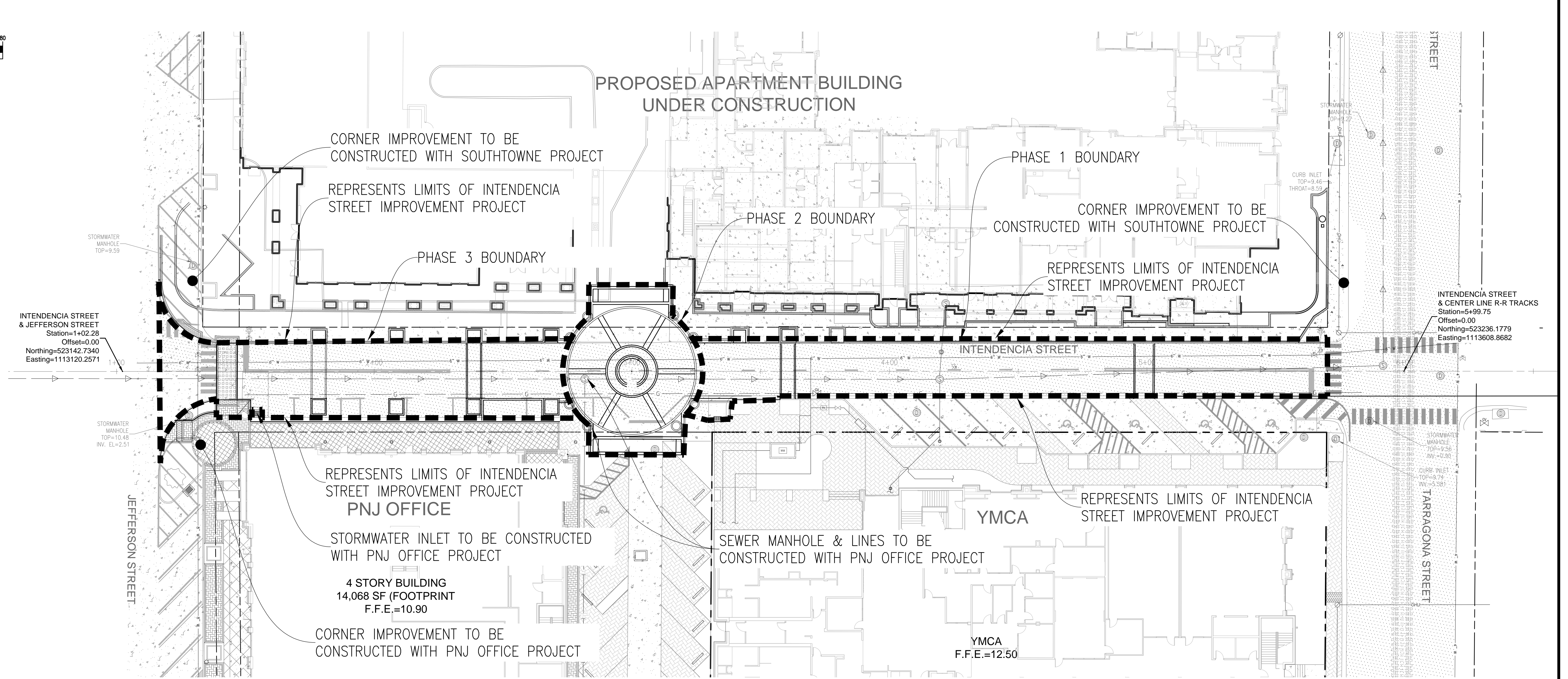
LEGEND	
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[Symbol]	LOT LINE
[Symbol]	RIGHT-OF-WAY LINE
[Symbol]	WATER LINE
[Symbol]	SEWER LINE (GRAVITY)
[Symbol]	FORCE MAIN
[Symbol]	OVERHEAD UTILITIES
[Symbol]	BURIED TELEPHONE LINE
[Symbol]	GAS LINE
[Symbol]	BURIED ELECTRIC LINE
[Symbol]	BURIED FIBER OPTIC CABLE
[Symbol]	BURIED TV LINE
[Symbol]	EXISTING CONTOUR
[Symbol]	STRAW BALE
[Symbol]	SILT FENCE
[Symbol]	REPRESENTS LIMITS OF INTENDENCIA STREET IMPROVEMENT PROJECT
[Symbol]	BENCHMARK
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[Symbol]	WATER VALVE
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[Symbol]	STORMWATER MANHOLE
[Symbol]	GUY ANCHOR
[Symbol]	UTILITY POLE
[Symbol]	LIGHT POLE
[Symbol]	TELEPHONE BOX
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[Symbol]	MAILBOX
[Symbol]	POST
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[Symbol]	SIGN

PROJECT NOTES:

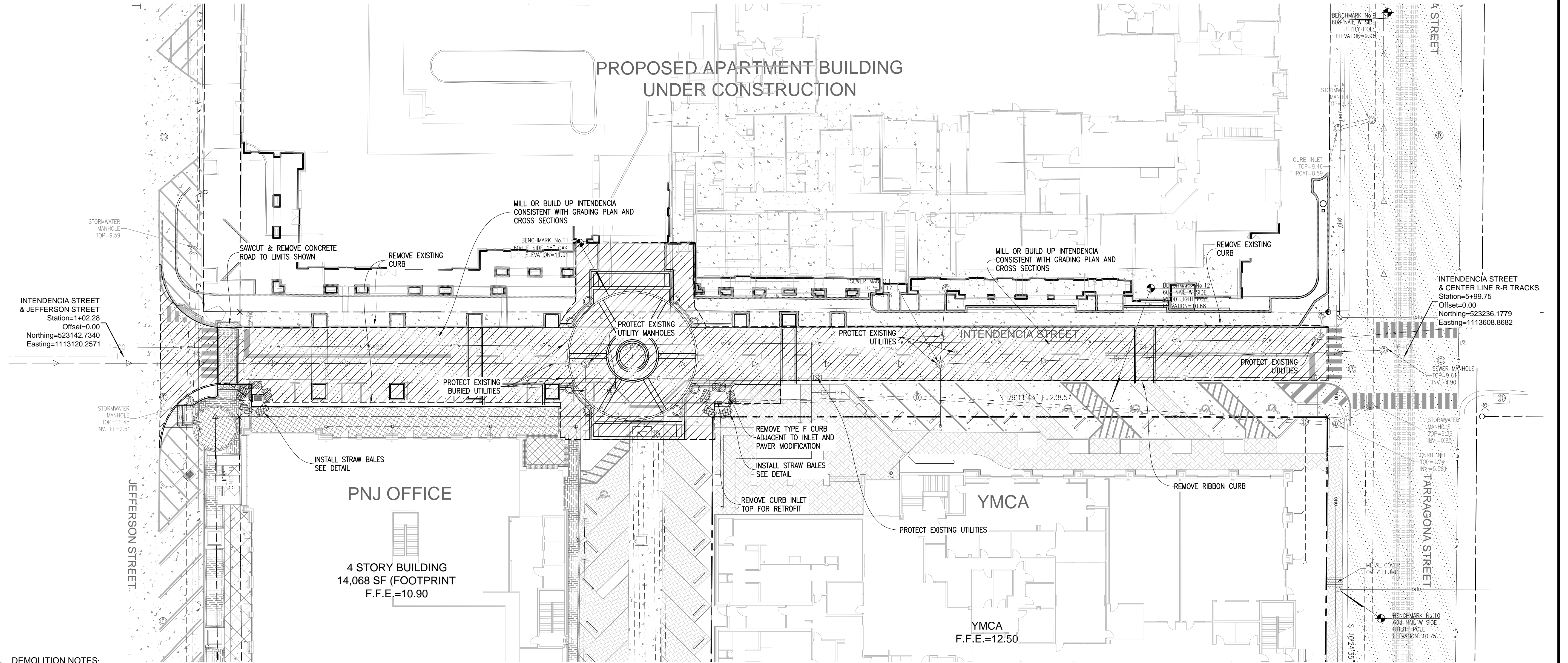
- ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS AND THE REQUIREMENTS AND STANDARDS OF ALL GOVERNING AUTHORITIES.
- PRIOR TO STARTING CONSTRUCTION, THE CONTRACTOR SHALL BE RESPONSIBLE FOR CONFIRMING THAT ALL REQUIRED PERMITS AND APPROVALS HAVE BEEN OBTAINED. NO CONSTRUCTION OR FABRICATION SHALL BEGIN UNTIL THE CONTRACTOR HAS RECEIVED AND THOROUGHLY REVIEWED ALL PLANS AND OTHER DOCUMENTS APPROVED BY ALL OF THE PERMITTING AGENCIES.
- THE LOCATION OF UNDERGROUND FACILITIES SHOWN ON THESE PLANS ARE BASED ON INFORMATION PROVIDED BY THE UTILITIES AND SHALL BE CONSIDERED APPROXIMATE. IT SHALL BE THE CONTRACTOR'S FULL RESPONSIBILITY TO CONTACT THE VARIOUS UTILITY COMPANIES TO LOCATE THEIR FACILITIES PRIOR TO STARTING CONSTRUCTION. NO ADDITIONAL COMPENSATION SHALL BE PAID TO THE CONTRACTOR FOR DAMAGE AND REPAIR TO THESE FACILITIES CAUSED BY HIS WORK FORCE.
- THE CONTRACTOR SHALL NOTIFY THE SUPERINTENDENTS OF THE WATER, SANITARY SEWER GAS, TELEPHONE, CABLE TELEVISION, AND POWER COMPANIES 10 DAYS IN ADVANCE THAT HE INTENDS TO START WORK IN A SPECIFIED AREA. THE OWNER DISCLAIMS ANY RESPONSIBILITY FOR THE SUPPORT AND PROTECTION OF SEWERS, DRAINS, WATER PIPES, GAS PIPES, CONDUITS OR ANY KIND, UTILITIES OR OTHER STRUCTURES OWNED BY THE CITY, COUNTY, STATE OR BY PRIVATE OR PUBLIC UTILITIES LEGALLY OCCUPYING ANY STREET, ALLEY, PUBLIC PLACE OR RIGHT-OF-WAY.
- ALL SITE CLEARING SHALL INCLUDE THE LOCATION AND REMOVAL OF ALL UNDERGROUND STRUCTURES, WHICH ARE NOT IN SERVICE AS NECESSARY FOR THE INSTALLATION OF PROPOSED IMPROVEMENTS. THESE INCLUDE PIPES, VALVES, DRAINAGE STRUCTURES, ETC., AS INDICATED ON THE CONTRACT PLANS. CONTRACTOR SHALL NOTIFY THE PROJECT OWNER AND ENGINEER OF ALL DISCOVERED UNDERGROUND STRUCTURES WHICH ARE IN CONFLICT WITH THE INSTALLATION OF THE PROPOSED IMPROVEMENTS AND ARE NOT INDICATED ON THE CONTRACT PLANS OR LOCATED IN THE FIELD BY UTILITIES IN ACCORDANCE WITH GENERAL NOTES.
- RELOCATION OF OBSTRUCTIONS OWNED BY PRIVATE PROPERTY OWNERS, SUCH AS MAIL BOXES, SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR WHO MUST COORDINATE WITH THE PROPERTY OWNER.
- THE CONTRACTOR SHALL MAINTAIN TRAFFIC CONTROL IN ACCORDANCE WITH FDOT STANDARD INDEX 600 (LATEST EDITION), FDOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION (LATEST EDITION) AND IN ACCORDANCE WITH ALL PERMIT REQUIREMENTS.
- THE CONTRACTOR SHALL PLACE AND MAINTAIN ADEQUATE BARRICADES, CONSTRUCTION SIGNS, FLASHING LIGHTS, TORCHES, RED LANTERNS AND GUARDS DURING PROGRESS OF CONSTRUCTION WORK, IN ACCORDANCE WITH APPLICABLE MUTCD INDEX.
- ALL AREAS, NOT PAVED, DISTURBED DURING CONSTRUCTION SHALL BE STABILIZED BY SEEDING AND MULCHING OR SOODING AS INDICATED ON THE PLANS. SEED AND MULCH OR SOD SHALL BE PLACED, WATERED, FERTILIZED W/APPROPRIATE SOIL AMENDMENTS IN ACCORDANCE WITH THE FDOT STANDARD SPECIFICATIONS AND THESE CONSTRUCTION DOCUMENTS.
- ALL EXCESS MATERIAL SHALL BE HAULED AWAY AND DISPOSED OF APPROPRIATELY AT THE CONTRACTOR'S EXPENSE.
- CONSTRUCTION AROUND TREES SHALL BE DONE IN A MANNER TO MINIMIZE DAMAGE TO THE TREE AND ITS ROOT SYSTEM.
- THE CONTRACTOR SHALL VISIT THE SITE TO FAMILIARIZE HIMSELF WITH EXISTING CONDITIONS AND THE EXTENT OF CLEARING AND GRUBBING REQUIRED.
- ALL DIMENSIONS AND GRADES SHOWN ON THE PLANS SHALL BE FIELD VERIFIED BY THE CONTRACTOR PRIOR TO CONSTRUCTION. THE CONTRACTOR SHALL NOTIFY THE ENGINEER IF ANY DISCREPANCIES EXIST PRIOR TO PROCEEDING WITH CONSTRUCTION FOR NECESSARY PLAN OR GRADE CHANGES. NO EXTRA COMPENSATION SHALL BE PAID TO THE CONTRACTOR FOR WORK HAVING TO BE REDONE DUE TO DIMENSIONS OR GRADES SHOWN INCORRECTLY ON THESE PLANS IF SUCH NOTIFICATION HAS NOT BEEN GIVEN.
- THE CONTRACTOR IS TO COORDINATE WITH THE RESPONSIBLE UTILITY PROVIDER FOR PROTECTION/HOLDING OF UTILITY POLES, GUY WIRES, AND GUY ANCHORS IN AREAS OF CONSTRUCTION. THE CONTRACTOR SHALL INCLUDE THE COST OF PROTECTING UTILITY POLES IN THEIR OVERALL PRICE TO THE OWNER.
- UPON SUBSTANTIAL COMPLETION, THE OWNER/CONTRACTOR SHALL NOTIFY THE ENGINEER OF RECORD. THE ENGINEER OF RECORD IS RESPONSIBLE FOR INSPECTION OF THE PERMITTED FACILITY FOR COMPLIANCE WITH THE APPROVED PERMIT.
- THE OPERATION AND MAINTENANCE OF THE FACILITY WILL BE THE RESPONSIBILITY OF THE OWNER, AS IN ACCORDANCE WITH THE APPROVED PERMIT.
- THE CONTRACTOR SHALL NOTIFY FDOT 48 HOURS IN ADVANCE PRIOR TO INITIATING ANY WORK IN THE STATE RIGHTS-OF-WAY.
- SHOULD OFFSITE TRACKING OF DIRT & SEDIMENT OCCUR, A ROCK CONSTRUCTION ENTRANCE WILL BE REQUIRED.
- CONTRACTOR SHALL SUBMIT AN MOT PLAN FOR APPROVAL TO THE CITY PRIOR TO COMMENCING WORK IN THE RIGHT OF WAY. MOT PLAN SHALL CONSIST OF A SKETCH/DRAWING OF THE PROPOSED MOT APPURTENANCES AS WELL AS SCHEDULED START AND FINISH DATE TO BOTH BRAD HINOTE bradhinote@cityofpensacola.com AND RYAN NOVOTA RNovota@cityofpensacola.com WITH THE CITY OF PENSACOLA.

EROSION CONTROL NOTES:

- NO SITE WORK ACTIVITIES SHALL TAKE PLACE WITHOUT CITY SITE REVIEW/APPROVAL OF PROPOSED EROSION CONTROL MEASURES AND ADVANCED NOTIFICATION OF THE REQUESTED INSPECTION IS REQUIRED.
- THE CONTRACTOR SHALL ESTABLISH EROSION CONTROL PRIOR TO COMMENCING ANY CONSTRUCTION OR DEMOLITION ON THE PROJECT. THE EROSION CONTROL BARRIER PLACEMENT AS INDICATED IS A SUGGESTION ONLY AND DOES NOT RELIEVE THE CONTRACTOR FROM CONTROLLING EROSION AND SEDIMENT WITHIN THE PROJECT SITE. EROSION CONTROL MEASURES ARE TO REMAIN IN PLACE AND BE MAINTAINED DURING THE ENTIRE TIME OF CONSTRUCTION AND DEMOLITION ON THE PROJECT.
- AN EROSION CONTROL BARRIER IS TO BE PLACED ALONG THE BOUNDARIES OF THE PROJECT AREA AS SHOWN BEFORE CONSTRUCTION BEGINS AND IS TO REMAIN IN PLACE UNTIL CONSTRUCTION IS FINISHED AND ACCEPTED AND FINAL STABILIZATION IS COMPLETE.
- THE CONTRACTOR SHALL INSPECT AND REESTABLISH EROSION CONTROL BARRIERS WEEKLY AND AFTER EVERY SIGNIFICANT STORM EVENT.



INTENDENCIA PROJECT LIMITS AND PHASING PLAN



EXISTING SITE, DEMOLITION & EROSION CONTROL PLAN

- DEMOLITION NOTES:**
- ALL DEBRIS RESULTING FROM PROPOSED DEMOLITION WILL BE DISPOSED OF IN A LEGAL MANNER AND WILL CONFORM TO ANY AND ALL STATE AND LOCAL REGULATIONS AND/OR ORDINANCES WHICH GOVERN SUCH ACTIVITIES.
 - THE CONTRACTOR IS TO FIELD VERIFY THE LOCATION OF EXISTING UTILITIES AND COORDINATE REMOVAL WITH THE APPROPRIATE UTILITY OWNER AS NECESSARY. ANY AND ALL UTILITIES ENCOUNTERED DURING DEMOLITION WILL BE PROTECTED AND/OR RELOCATED AT THE DISCRETION OF THEIR PROSPECTIVE OWNERS.
 - NO DEMOLITION DEBRIS WILL BE STOCKPILED OR GATHERED ON THE PROJECT SITE OR ADJACENT PROPERTIES, WITHOUT PRIOR AUTHORIZATION OF THE OWNER.

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INTENDENCIA PROJECT LIMITS PLAN &
 EXISTING SITE, DEMOLITION & EROSION CONTROL
 PLAN

Intendencia Street Right-of-way
 Improvements
 PENSACOLA, FLORIDA

NO.	DATE	DESCRIPTION
1	12-13-17	COP COMMENTS
2	2-15-18	TREE WELL REMOVAL
3	3-1-18	EQIA COMMENTS

SEAL
 PERMITTING SET
 JEREMY R. KING P.E.
 No. 78144

Dr. By: GTP
 Ck By: JRK
 Job No.: 2016.122
 Date: 2-13-2018

DRAWING No.
C1.0

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GENERAL NOTES FOR SOIL EROSION AND SEDIMENT CONTROL:

1. ALL EROSION AND SEDIMENT CONTROL PRACTICES TO BE INSTALLED PRIOR TO ANY MAJOR SOIL DISTURBANCE, OR IN THEIR PROPER SEQUENCE, AND MAINTAINED UNTIL PERMANENT PROTECTION IS ESTABLISHED.
2. ANY DISTURBED AREAS THAT WILL BE LEFT EXPOSED MORE THAN 30 DAYS, AND NOT SUBJECT TO CONSTRUCTION TRAFFIC, WILL IMMEDIATELY RECEIVE A TEMPORARY SEEDING. IF THE SEASON PREVENTS THE ESTABLISHMENT OF A TEMPORARY COVER, THE DISTURBED AREAS WILL BE MULCHED WITH STRAW OR EQUIVALENT MATERIAL, AT A RATE OF TWO (2) TONS PER ACRE, ACCORDING TO STATE STANDARDS.
3. PERMANENT VEGETATION TO BE SEED OR SODDED ON ALL EXPOSED AREAS WITHIN TEN (10) DAYS AFTER GRADING. MULCH TO BE USED AS NECESSARY FOR PROTECTION UNTIL SEEDING IS ESTABLISHED.
4. ALL WORK AND MATERIALS TO BE IN ACCORDANCE WITH THE FDOT "STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION", LATEST EDITION, SECTIONS 104, 570, 575 AND 980 TO 986.
5. A BITUMINOUS CONCRETE BASE COURSE WILL BE APPLIED IMMEDIATELY FOLLOWING ROUGH GRADING AND INSTALLATION OF IMPROVEMENTS IN ORDER TO STABILIZE STREETS, ROADS, DRIVEWAYS AND PARKING AREAS. IN AREAS WHERE NO UTILITIES ARE PRESENT, THE BITUMINOUS CONCRETE BASE SHALL BE INSTALLED WITHIN 15 DAYS OF THE PRELIMINARY GRADING.
6. IMMEDIATELY FOLLOWING INITIAL DISTURBANCE OR ROUGH GRADING, ALL CRITICAL AREAS SUBJECT TO EROSION (I.E. STEEP SLOPES AND ROADWAY EMBANKMENTS) WILL RECEIVE A TEMPORARY SEEDING IN COMBINATION WITH STRAW MULCH OR A SUITABLE EQUIVALENT, AT A THICKNESS OF TWO (2) TO FOUR (4) INCHES MIXED WITH THE TOP TWO (2) INCHES OF SOIL, ACCORDING TO STATE STANDARDS.
7. ANY STEEP SLOPES RECEIVING PIPELINE INSTALLATION WILL BE BACKFILLED AND STABILIZED DAILY, AS THE INSTALLATION PROCEEDS (I.E. SLOPES GREATER THAN 3:1).
8. A CRUSHED LIMESTONE, VEHICLE WHEEL-CLEANING BLANKET SHALL BE INSTALLED AT THE CONTRACTOR'S STAGING YARD AND/OR STOCKPILE AREAS TO PREVENT OFF-SITE TRACKING OF SEDIMENT BY CONSTRUCTION VEHICLES ONTO PUBLIC ROADS. BLANKET SHALL BE 15FT. X 50FT. X 6IN. (MINIMUM), CRUSHED LIMESTONE 2 1/2 INCHES IN DIAMETER, SAID BLANKET SHALL BE UNDERLAIN WITH A FOOT CLASS 3 SYNTHETIC FILTER FABRIC AND MAINTAINED IN GOOD ORDER.
9. AT THE TIME WHEN THE SITE PREPARATION FOR PERMANENT VEGETATIVE STABILIZATION IS GOING TO BE ACCOMPLISHED, ANY SOIL THAT WILL NOT PROVIDE A SUITABLE ENVIRONMENT TO SUPPORT ADEQUATE VEGETATIVE GROUND COVER SHALL BE REMOVED OR TREATED IN SUCH A WAY THAT WILL PERMANENTLY ADJUST THE SOIL CONDITIONS AND RENDER IT SUITABLE FOR VEGETATIVE GROUND COVER. IF THE REMOVAL OR TREATMENT OF THE SOIL WILL NOT PROVIDE SUITABLE CONDITIONS, NON-VEGETATIVE MEANS OF PERMANENT GROUND STABILIZATION WILL HAVE TO BE EMPLOYED.
10. CONDUIT OUTLET PROTECTION MUST BE INSTALLED AT ALL REQUIRED OUTFALLS PRIOR TO THE DRAINAGE SYSTEM BECOMING OPERATIONAL.
11. UNFILTERED Dewatering IS NOT PERMITTED. THE CONTRACTOR SHALL TAKE ALL NECESSARY PRECAUTIONS DURING ALL Dewatering OPERATIONS TO MINIMIZE SEDIMENT TRANSFER.
12. SHOULD THE CONTROL OF DUST AT THE SITE BE NECESSARY, THE SITE WILL BE SPRINKLED UNTIL THE SURFACE IS WET. TEMPORARY VEGETATION COVER SHALL BE ESTABLISHED OR MULCH SHALL BE APPLIED IN ACCORDANCE WITH STATE STANDARDS FOR EROSION CONTROL.
13. ALL SOIL WASHED, DROPPED, SPILLED OR TRACKED OUTSIDE THE LIMIT OF DISTURBANCE OR ONTO PUBLIC RIGHTS-OF-WAY WILL BE REMOVED IMMEDIATELY.
14. THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY EROSION OR SEDIMENTATION THAT MAY OCCUR BELOW STORMWATER OUTFALLS OR OFFSITE AS A RESULT OF CONSTRUCTION OF THE PROJECT.
15. ALL SOIL STOCKPILES ARE TO BE TEMPORARILY STABILIZED IN ACCORDANCE WITH SOIL EROSION AND SEDIMENT CONTROL NOTE NUMBER 2 (ABOVE).
16. THE SITE SHALL AT ALL TIMES BE GRADED AND MAINTAINED SUCH THAT ALL STORM WATER RUNOFF IS DIVERTED TO SOIL EROSION AND SEDIMENT CONTROL FACILITIES.
17. ALL SEDIMENTATION STRUCTURES SHALL BE INSPECTED AND MAINTAINED REGULARLY.
18. ALL CATCH BASIN INLETS SHALL BE PROTECTED WITH HAY BALES AS SHOWN ON DETAIL.
19. THE CONTRACTOR SHALL PREPARE A PLAN FOR THE PROPER Dewatering AND DOWNSTREAM SITUATION PROTECTION OF EACH STREAM CROSSING PRIOR TO EXCAVATING THE STREAM BED. PLAN SHALL BE FORWARDED TO THE ENGINEER FOR APPROVAL. THE ENGINEER SHALL BE NOTIFIED FOR INSPECTION PRIOR TO EACH STREAM CROSSING CONSTRUCTION.
20. ANY AREAS USED FOR THE CONTRACTOR'S STAGING, INCLUDING BUT NOT LIMITED TO, TEMPORARY STORAGE OF STOCKPILED MATERIALS (E.G. CRUSHED STONE, QUARRY PROCESS STONE, SELECT FILL, EXCAVATED MATERIALS, ETC.), SHALL BE ENTIRELY PROTECTED BY A SILT FENCE ALONG THE LOW ELEVATION SIDE TO CONTROL SEDIMENT RUNOFF.

* WHERE APPLICABLE

TEMPORARY SEEDING DETAILS:

SEED BED PREPARATION:
SOIL TO BE THOROUGHLY PULVERIZED BY DISK-HARROWING AND BE LOOSE AND REASONABLY SMOOTH. APPLY FERTILIZER AT A RATE OF 260 LBS/ACRE OF 16-16-16 OR EQUIVALENT, APPLY DOLOMITIC LIMESTONE AT A RATE OF 800 TO 1000 LBS/ACRE TO PROVIDE A SOIL pH OF 5.5 TO 6.5. LIME & FERTILIZER TO BE WORKED INTO THE TOPSOIL TO A DEPTH OF 4". ADD SANDY LOAM TOPSOIL TO A MINIMUM OF TWO (2) INCHES WHERE REQUIRED.

SEED MIXTURE
CONSISTING OF ANNUAL RYE (LOLIUM MULTIFLORUM) AT A RATE OF 174 LBS/ACRE.

PERMANENT SEEDING DETAILS:

SEED BED PREPARATION:
SOIL TO BE THOROUGHLY PULVERIZED BY DISK-HARROWING AND BE LOOSE AND REASONABLY SMOOTH. APPLY FERTILIZER AT A RATE OF 260 LBS/ACRE OF 16-16-16 OR EQUIVALENT, APPLY DOLOMITIC LIMESTONE AT A RATE OF 800 TO 1000 LBS/ACRE TO PROVIDE A SOIL pH OF 5.5 TO 6.5. LIME & FERTILIZER TO BE WORKED INTO THE TOPSOIL TO A DEPTH OF 4". ADD SANDY LOAM TOPSOIL TO A MINIMUM OF TWO (2) INCHES WHERE REQUIRED.

SEED MIXTURE CONSISTING OF	RATE	PURITY	GERMINATION
ARGENTINE BAHIA	260 LBS/AC.	95%	80%
PENSACOLA BAHIA	260 LBS/AC.	95%	40%(MIN.)-80%(TOTAL)

SODDING:
SOD SHALL BE WELL ROOT MATED CENTIPEDE OR BAHIA GRASS COMMERCIALY CUT TO A MINIMUM DIMENSION OF 12" X 24" A MAXIMUM OF 72 HOURS PRIOR TO PLACEMENT. SOD SHALL BE LIVE, FRESH AND UNINJURED, REASONABLY FREE OF WEEDS AND OTHER GRASSES, WITH A HEAVY SOIL MAT ADHERING TO THE ROOT SYSTEM. SOD SHALL BE GROWN, CUT, AND SUPPLIED BY A STATE CERTIFIED GROWER.

TRAFFIC CONTROL STANDARDS:

1. CONSTRUCTION TRAFFIC SHALL BE RESTRICTED TO ONSITE ACCESS BY MEANS SO DESIGNATED BY THE ENGINEER, POLICE/SHERIFF DEPARTMENT, ESCAMBIA COUNTY HIGHWAY DEPARTMENT, AND/OR THE FLORIDA DEPARTMENT OF TRANSPORTATION.
2. TRAFFIC DURING WET WEATHER SHALL BE MINIMIZED AND APPROPRIATE ROADWAY AND SITE CLEAN-UP SHALL BE PROVIDED BY THE CONTRACTOR AS SOON AS WEATHER CONDITIONS PERMIT.

TREE PROTECTION:

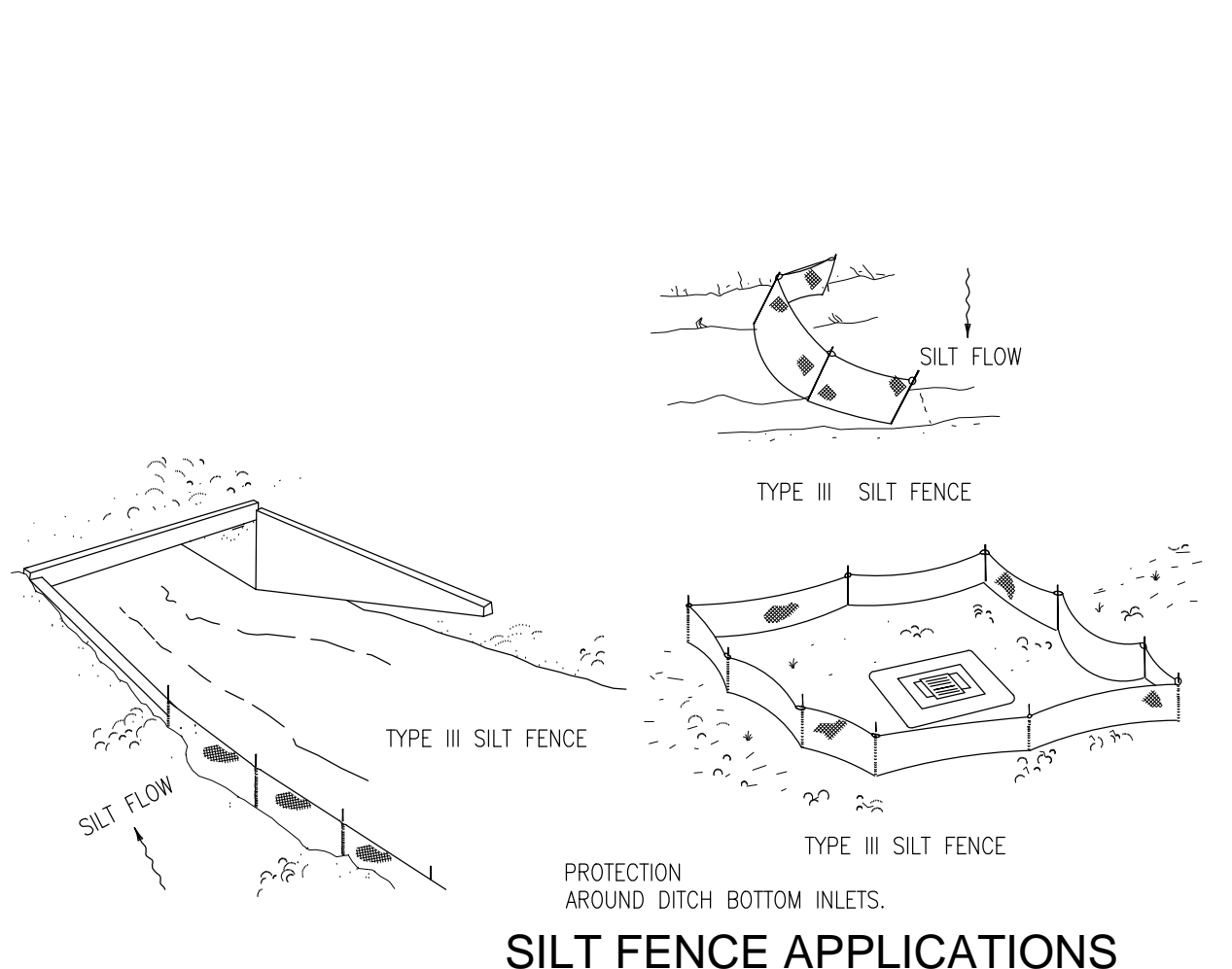
1. DAMAGED TRUNKS OR EXPOSED ROOTS WILL BE PAINTED IMMEDIATELY WITH A GOOD GRADE OF "TREE PAINT".
2. TREE LIMB REMOVAL, WHERE NECESSARY, WILL BE DONE FLUSH TO TRUNK OR MAIN BRANCH AND THAT AREA PAINTED IMMEDIATELY WITH A GOOD GRADE OF TREE PAINT.

DUST CONTROL:

1. ALL AREAS OF CLEARING AND EMBANKMENT AS WELL AS CONSTRUCTION HAUL ROADS SHALL BE TREATED AND MAINTAINED IN SUCH A MANNER AS TO MINIMIZE ANY DUST GENERATION.
2. DISTURBED AREAS SHALL BE MAINTAINED IN A ROUGH GRADED CONDITION AND TEMPORARILY SEEDED AND/OR MULCHED UNTIL PROPER WEATHER CONDITIONS EXIST FOR THE ESTABLISHMENT OF PERMANENT VEGETATION COVER.
3. IN EVENT OF EMERGENCY CONDITIONS, TILLAGE WILL BE SATISFACTORY FREE BEFORE SOIL BLOWING STARTS.
4. CALCIUM CHLORIDE MAY BE APPLIED TO UNPAVED ROADWAY AREAS, ONLY, SUBJECT TO THE ENGINEER'S APPROVAL AND CONFORMANCE WITH FDOT STANDARD SPECIFICATIONS, SECTION 102-5, LATEST EDITION.

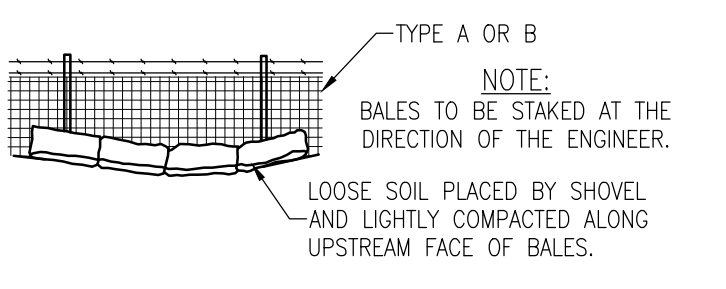
PROPOSED SEQUENCE OF CONSTRUCTION:

1. THE INSTALLATION OF ALL SEDIMENT AND EROSION CONTROL DEVICES THAT CAN BE PLACED PRIOR TO ANY MAJOR SOIL DISTURBANCES.
2. CLEAR AND REMOVE ALL EXISTING VEGETATION IN THOSE AREAS WHERE NECESSARY. ALL REMAINING VEGETATION IS TO BE PROPERLY PROTECTED AND IS TO REMAIN IN ITS NATURAL STATE. TOPSOIL IN AREAS TO BE DISTURBED IS TO BE STRIPPED TO A MINIMUM DEPTH OF SIX (6) INCHES AND STOCKPILED SEPARATELY FROM OTHER EXCAVATED SOIL(S).
3. THE IMMEDIATE INSTALLATION OF ALL REMAINING SEDIMENT AND EROSION CONTROL DEVICES.
4. PERFORM ALL DEMOLITION WORK.
5. CONSTRUCT ALL UNDERGROUND UTILITIES AND STORM DRAIN SYSTEMS.
6. CONSTRUCT ROADS (SUBGRADE, CURB & GUTTER, BASE, PAVEMENT, SIDEWALKS AND LANDSCAPING).
7. COMPLETE STORMWATER PONDS.
8. UPON THE COMPLETION OF THE CONSTRUCTION ACTIVITIES, PROVIDE RESTORATION, FINE GRADE REMAINDER OF SITE, RESPREAD STOCKPILED TOPSOIL AND STABILIZE WITH PERMANENT VEGETATIVE COVER AND LANDSCAPING.
9. THE REMOVAL OF APPROPRIATE TEMPORARY SEDIMENT AND EROSION CONTROL DEVICES.

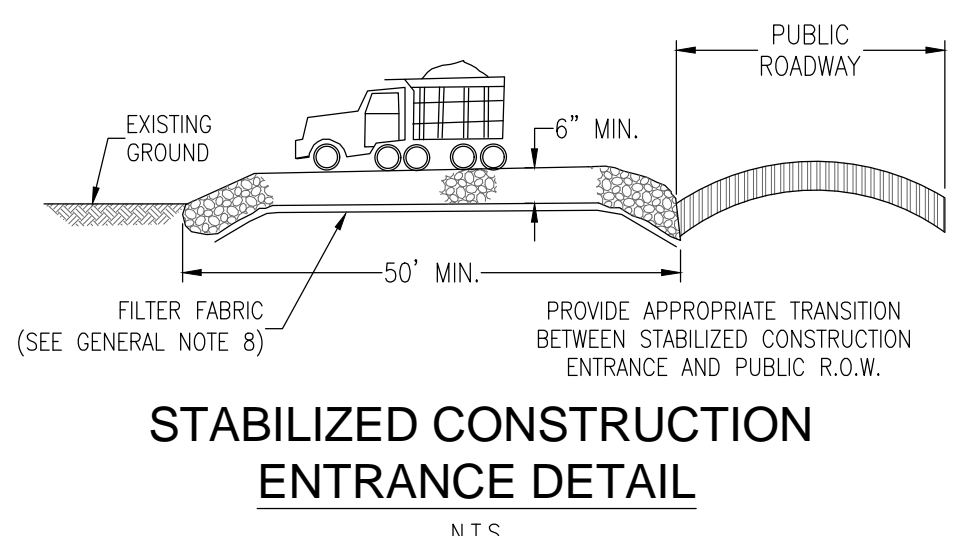


SILT FENCE APPLICATIONS
N.T.S.

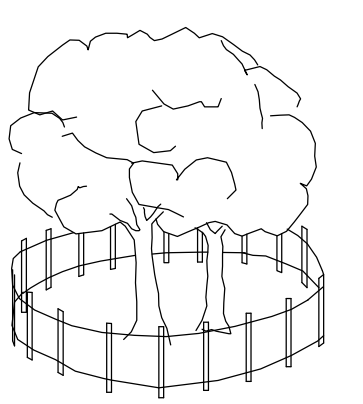
DO NOT DEPLOY IN A MANNER THAT SILT FENCES WILL ACT AS A DAM ACROSS PERMANENT FLOWING WATERCOURSES. SILT FENCES ARE TO BE USED AT UPLAND LOCATIONS AND TURBIDITY BARRIERS USED AT PERMANENT BODIES OF WATER.



STRAW BALES BACKED BY FENCE
N.T.S.



STABILIZED CONSTRUCTION ENTRANCE DETAIL
N.T.S.



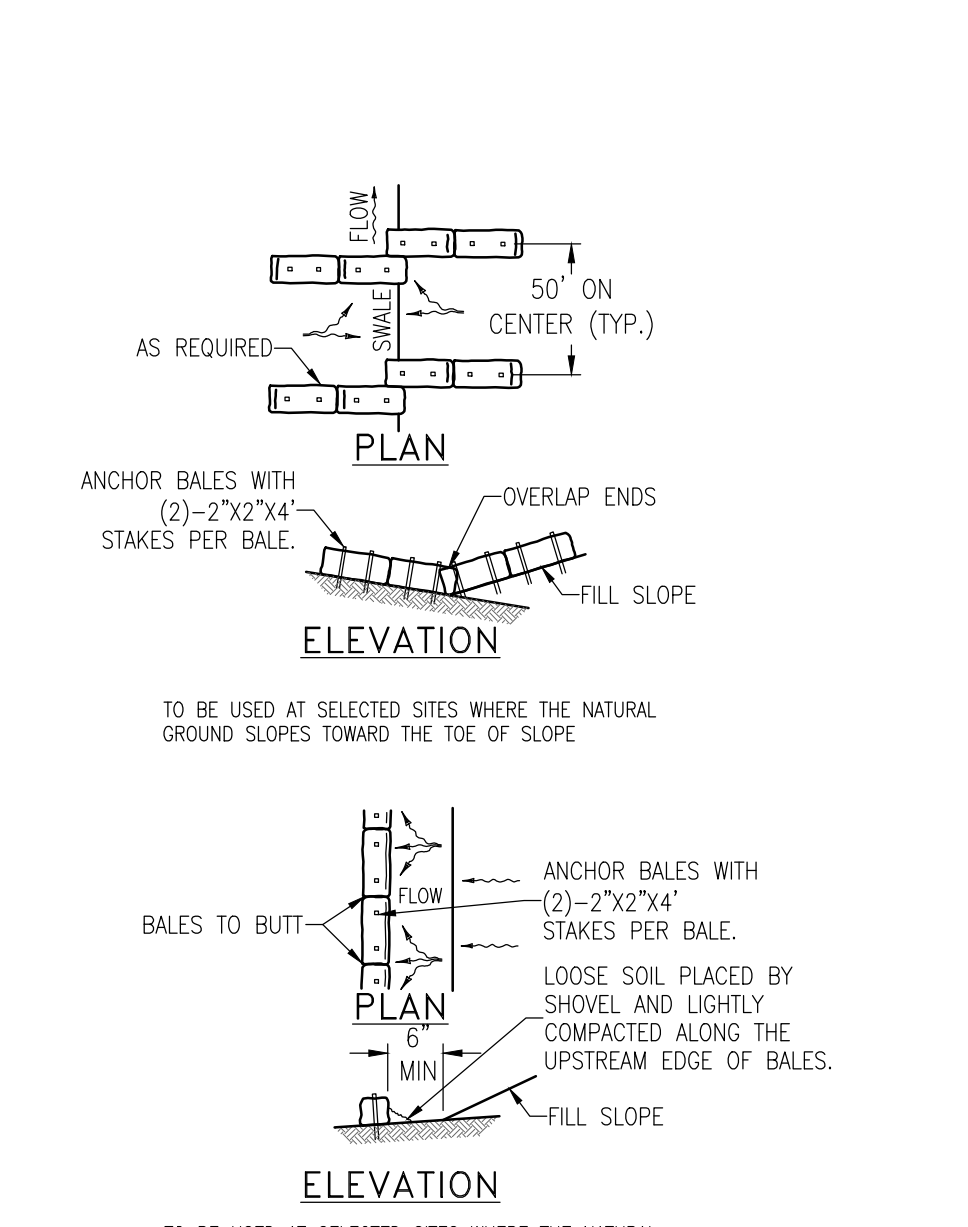
TREE BARRICADE DETAIL
N.T.S.

DESCRIPTION:
FILTER BAGS WILL BE USED AS AN EFFECTIVE FILTER MEDIUM TO CONTAIN SAND, SILT AND FINES WHEN TRENCH Dewatering. THE WELAND FILTER BAG CONTAINS THESE MATERIALS WHILE ALLOWING THE WATER TO FLOW THROUGH THE FABRIC.

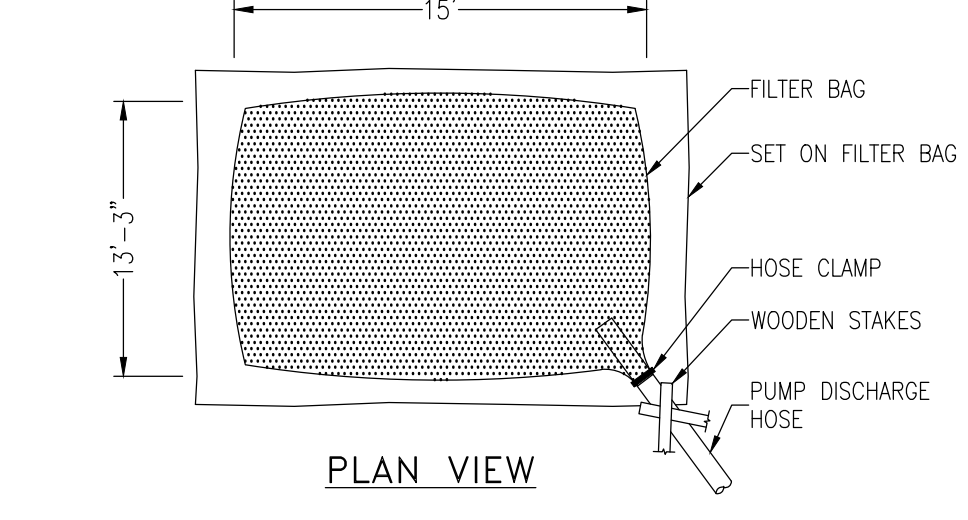
INSTALLATION:
WELAND FILTER BAGS MAY REPLACE HAY BALE CORALS DURING TRENCH Dewatering, AT THE DISCRETION OF THE ENGINEER INSPECTOR. TO INSURE PROPER INSTALLATION, FILTER BAGS WILL BE PLACED ON RELATIVELY FLAT TERRAIN FREE OF BRUSH AND STUMPS TO AVOID RUPTURES AND PUNCTURES. PROPER INSTALLATION REQUIRES CUTTING A SMALL HOLE IN THE CORNER OF THE BAG, INSERTING THE PUMP DISCHARGE HOSE, AND THEN SECURING THE DISCHARGE HOSE TO THE BAG WITH A HOSE CLAMP. FILTER BAGS WILL BE PLACED AS FAR AWAY FROM FLOWING STREAMS AND WETLANDS AS POSSIBLE.

MAINTENANCE:
PRIOR TO REMOVING A BAG FROM THE HOSE, THE BAG WILL BE TIED OFF BELOW THE END OF THE HOSE ALLOWING THE BAG TO DRAIN. DRAINAGE WILL NOT BE ALLOWED THROUGH THE INLET HOLE TO AVOID RUPTURE. THE BAGS WILL BE ATTENDED AND PUMPING RATES MONITORED. ONCE THE BAG IS INFLATED TO A HEIGHT OF 4 FEET, PUMPING WILL STOP TO AVOID RUPTURE. FILTER BAGS USED DURING CONSTRUCTION WILL BE BUNDLED AND REMOVED FOR PROPER DISPOSAL.

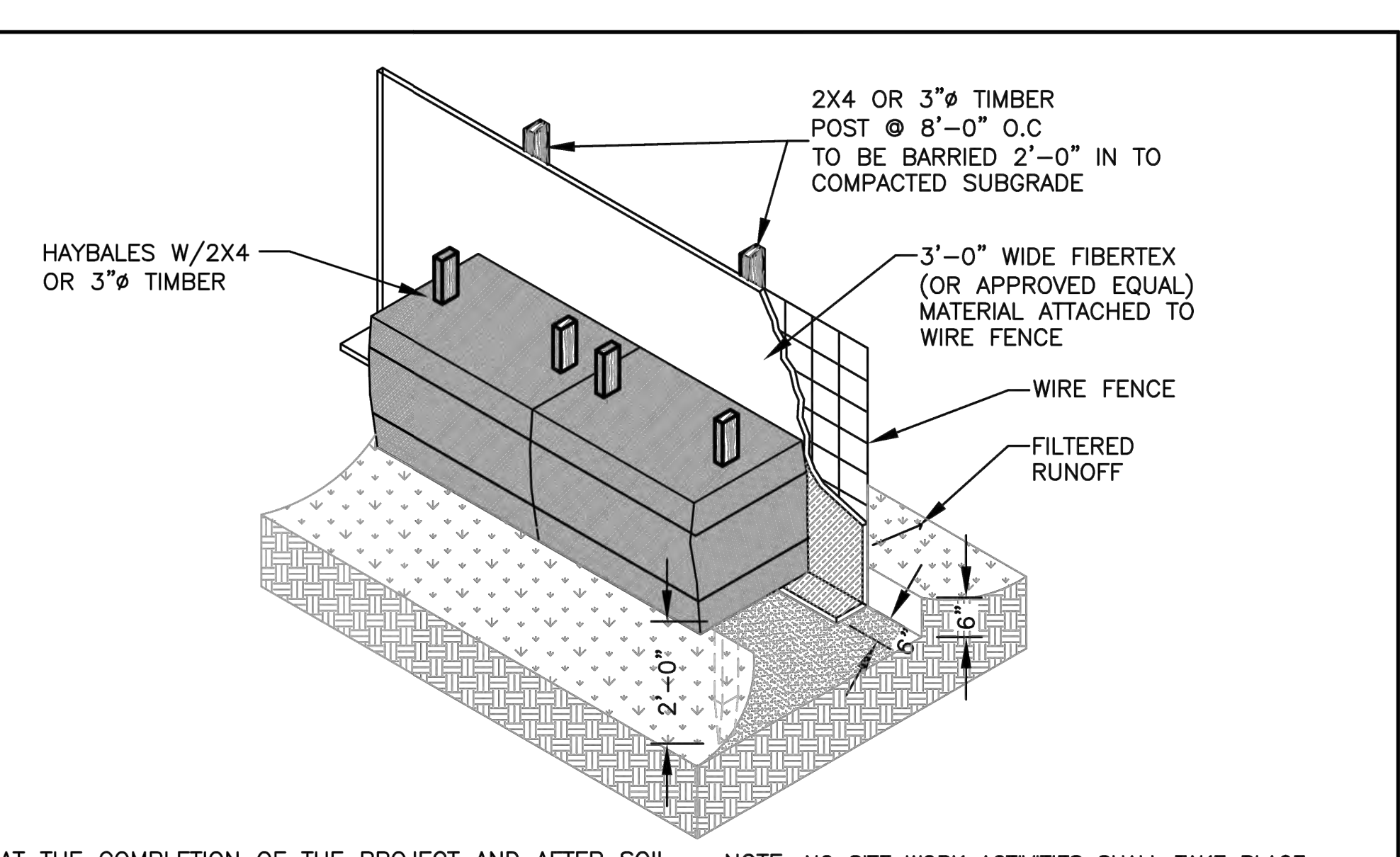
SPECIFICATION:
FILTER BAGS ARE CONSTRUCTED OF NON-WOVEN GEOTEXTILE FABRIC. A MAXIMUM OF ONE SIX INCH DISCHARGE HOSE WILL BE ALLOWED PER FILTER BAG. BAG CAPACITY WILL BE EXCEEDED BEYOND 2,000 GALLONS PER MINUTE. TYPICAL BAG DIMENSIONS ARE 15 FEET BY 13.25 FEET. TO HELP PREVENT PUNCTURES, GEOTEXTILE FABRIC WILL BE PLACED BENEATH THE FILTER BAG WHEN USED IN WOODED LOCATIONS. UNATTENDED FILTER BAGS WILL BE ENGULFED WITH A HAY BALE OR SILT FENCE CORRAL. HOSE CLAMPS WILL BE USED TO SECURE THE DISCHARGE HOSE. WIRE OR STRING WILL NOT BE USED.



BARRIERS FOR FILL SLOPES
N.T.S.



FILTER BAG DETAIL FOR TRENCH Dewatering OPERATIONS
N.T.S.

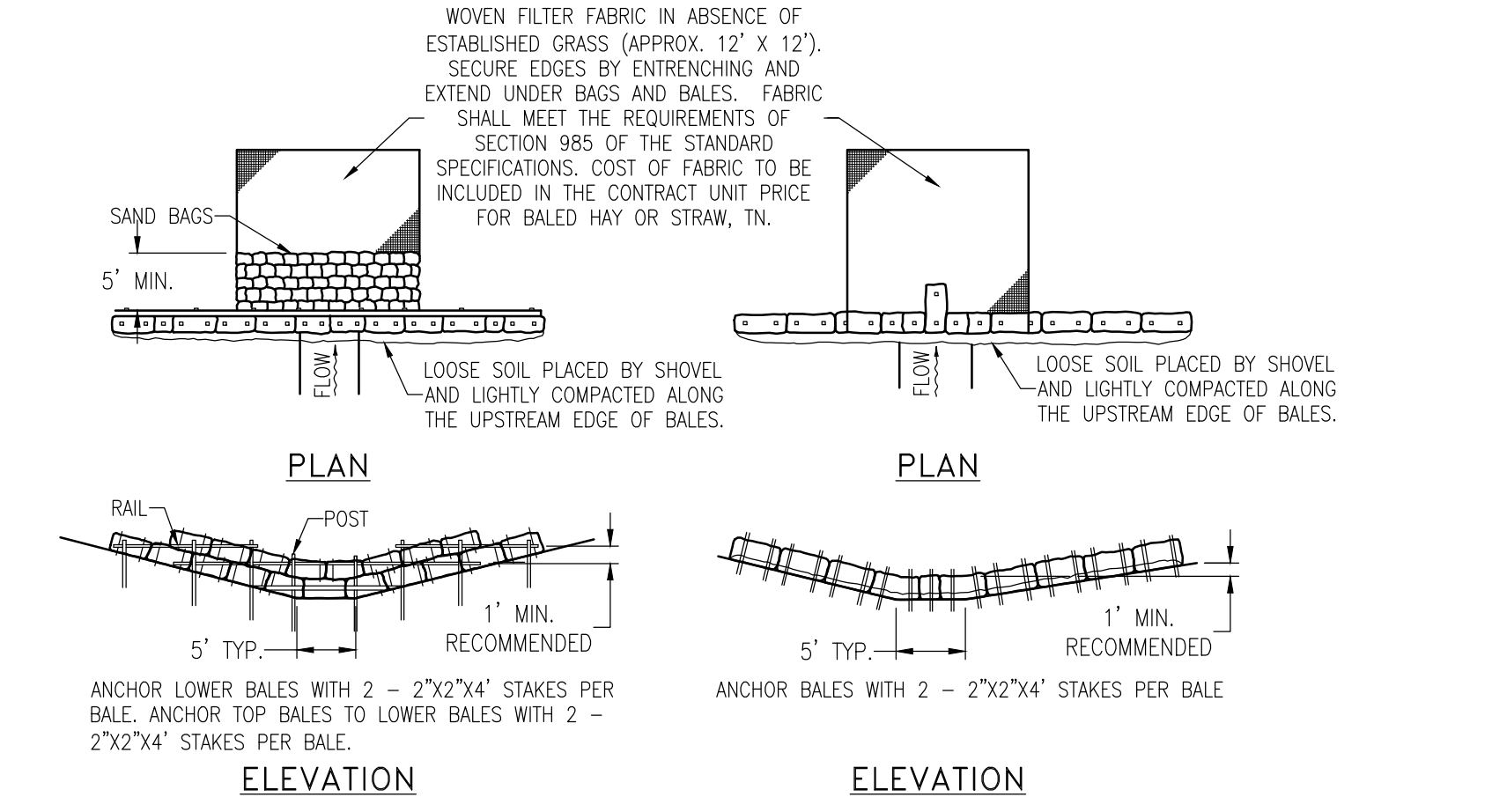


NOTE: AT THE COMPLETION OF THE PROJECT AND AFTER SOIL STABILIZATION AND VEGETATIVE GROWTH HAVE BEEN ASSURED, THE SILT FENCE MUST BE COMPLETELY REMOVED AND THE EMBEDMENT TRENCH RESTORED TO A NATURAL CONDITION.

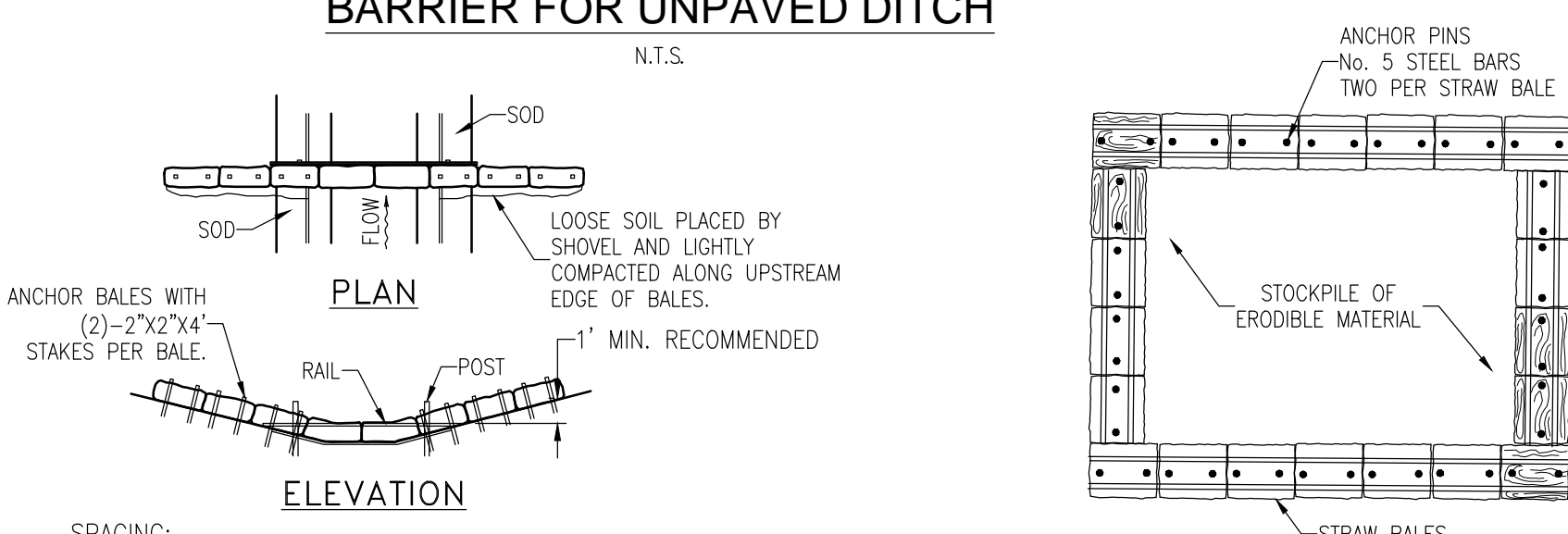
NOTE: NO SITE WORK ACTIVITIES SHALL TAKE PLACE WITHOUT CITY SITE REVIEW/APPROVAL OF PROPOSED EROSION CONTROL MEASURES AND ADVANCED NOTIFICATION OF THE REQUESTED INSPECTION IS REQUIRED.

PENSACOLA
CITY OF PENSACOLA, FLORIDA
DEPARTMENT OF PUBLIC WORKS AND FACILITIES
ENGINEERING AND CONSTRUCTION SERVICES DIVISION

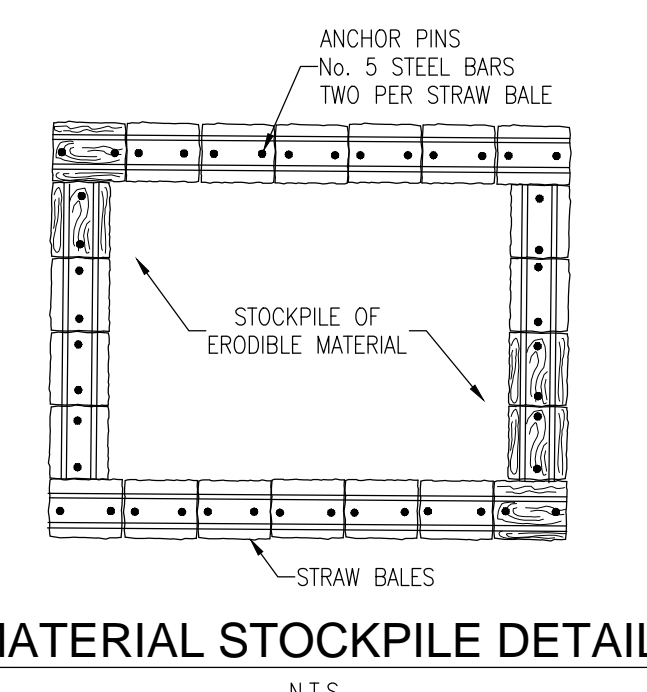
CITY STANDARD SILT FENCE/EROSION CONTROL DETAIL
Scale: N.T.S.
DRAWN BY: CBJ
DATE: 5/05/2015



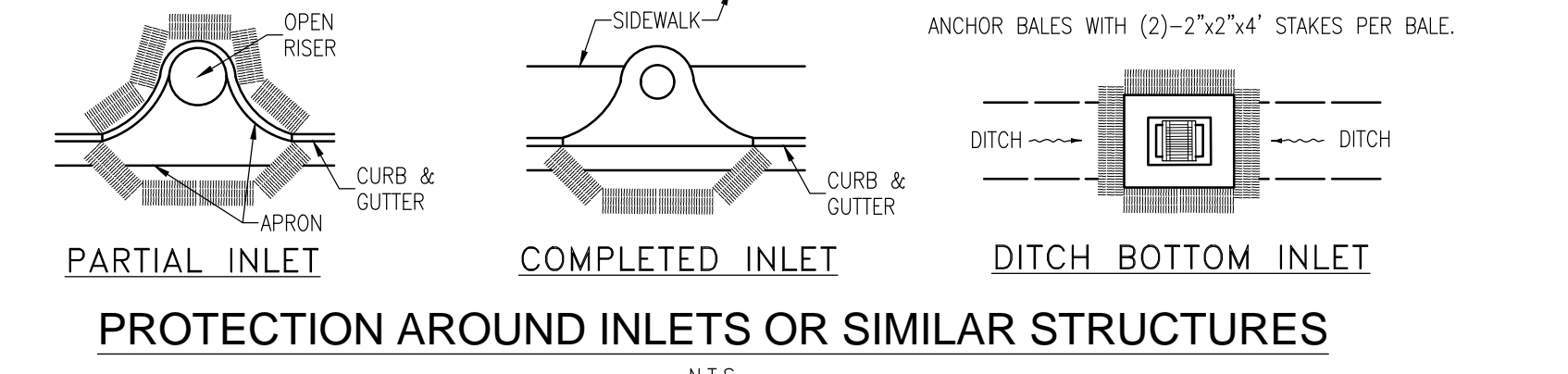
BARRIER FOR UNPAVED DITCH
N.T.S.



BARRIER FOR PAVED DITCH
N.T.S.



MATERIAL STOCKPILE DETAIL
N.T.S.



PROTECTION AROUND INLETS OR SIMILAR STRUCTURES
N.T.S.

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Pensacola, Florida 32503
Telephone: 850.439.1000
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EROSION CONTROL DETAILS

Intendencia Street Right-of-way Improvements
PENSACOLA, FLORIDA

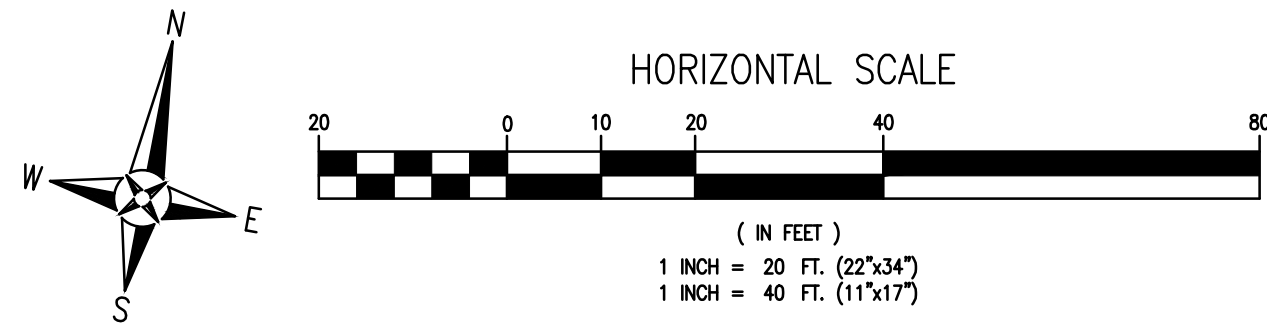
NO.	DATE	REVISION
1	12-13-17	COP COMMENTS
2	2-13-18	TREE WELL REMOVAL
3	3-1-18	ECUA COMMENTS

SEAL
PERMITTING SET
JEREMY R. KING P.E.
No. 78144

Dr. By: GTP
Ck By: JRK
Job No.: 2016.122
Date: 2-13-2018

DRAWING No.
C1.1

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LEGEND

[Pattern]	EXISTING ASPHALT
[Pattern]	EXISTING CONCRETE
[Pattern]	EXISTING GRAVEL
[Pattern]	PROPOSED ASPHALT
[Pattern]	PROPOSED CONCRETE
[Pattern]	BRICK PAVERS
[Pattern]	BOUNDARY LINE
[Pattern]	EASEMENT LINE
[Pattern]	LOT LINE
[Pattern]	RIGHT-OF-WAY LINE

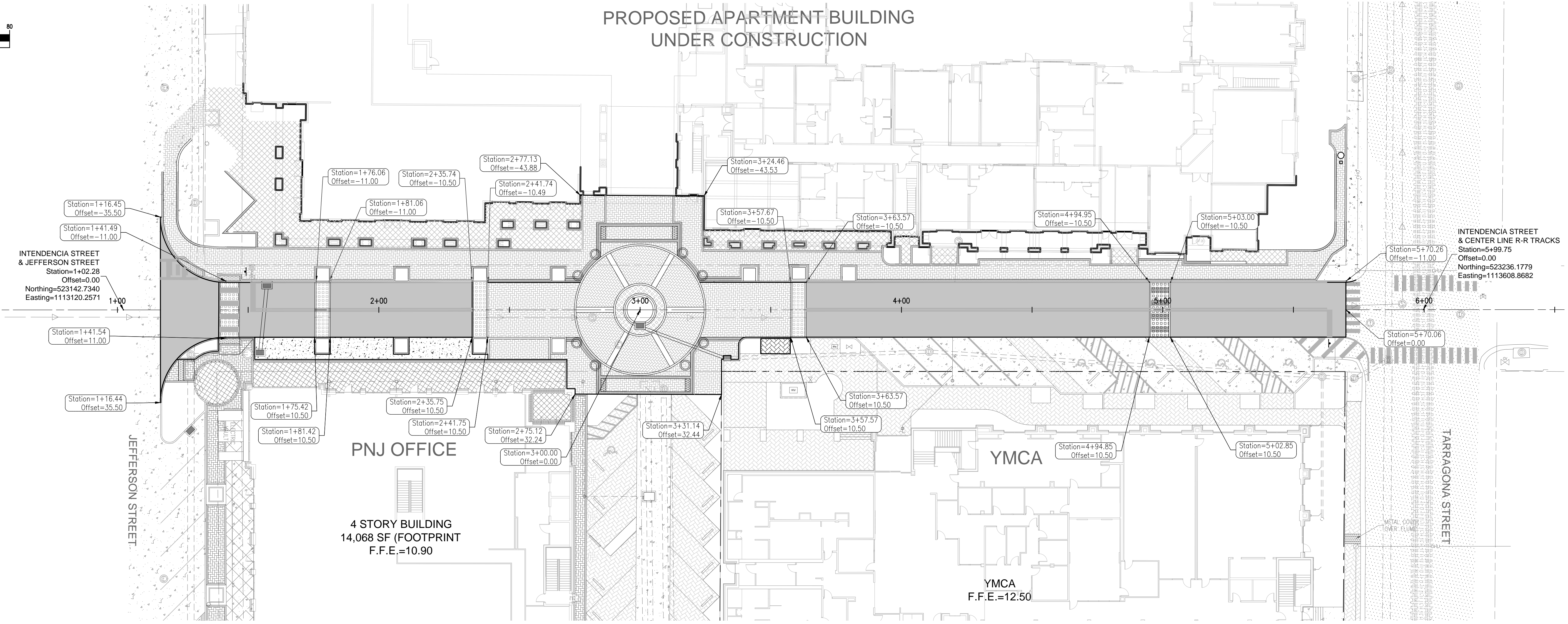
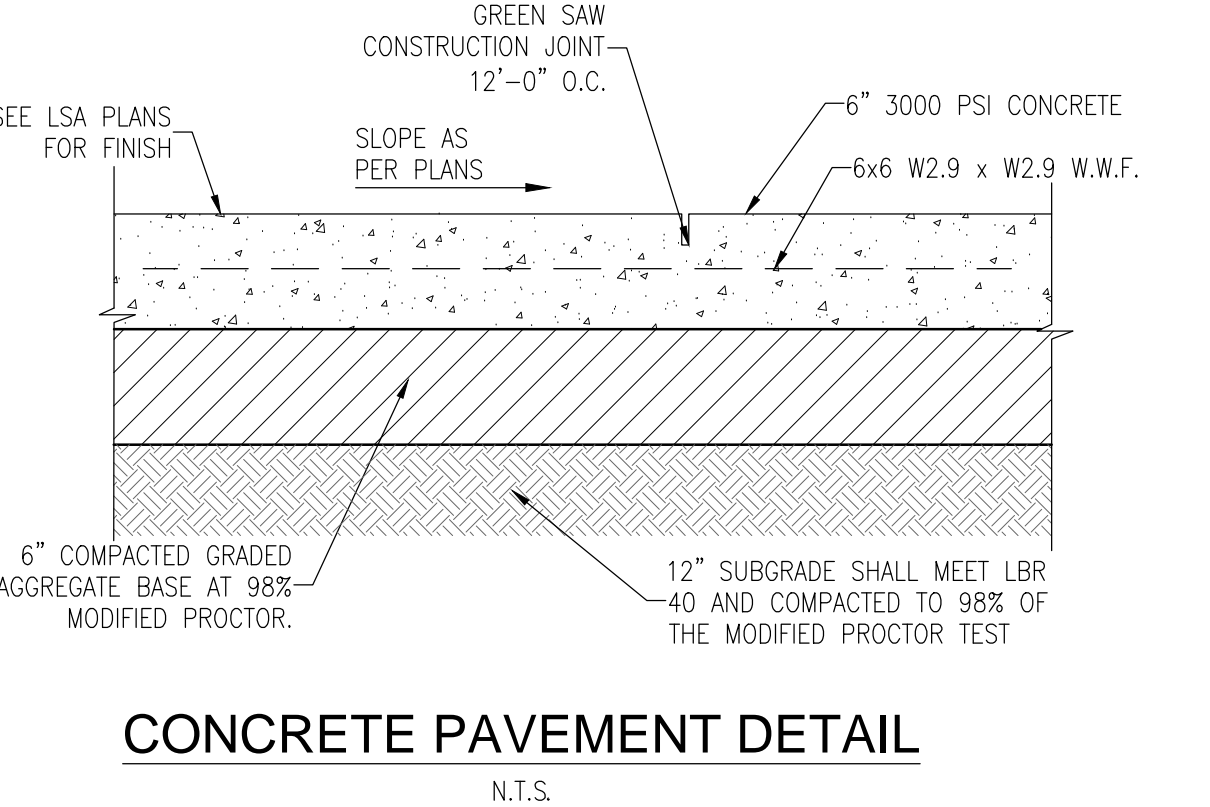
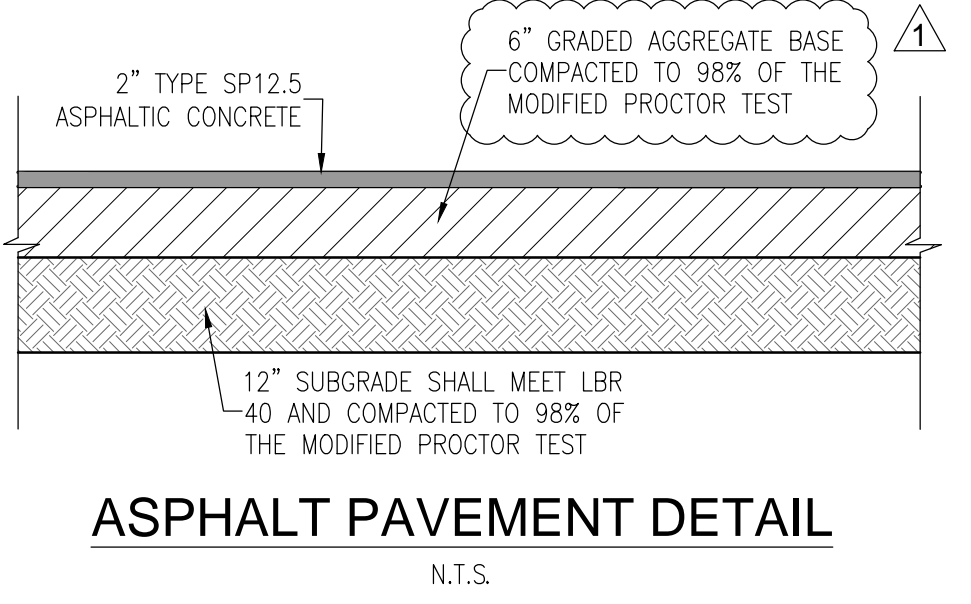
NOTE:
REFER TO LANDSCAPE ARCHITECTURAL PLANS FOR ALL CONCRETE FINISHES, PAVEMENT SELECTIONS, PATTERNS AND INSTALLATION DETAILS.

CITY RIGHT OF WAY CONCRETE NOTE:

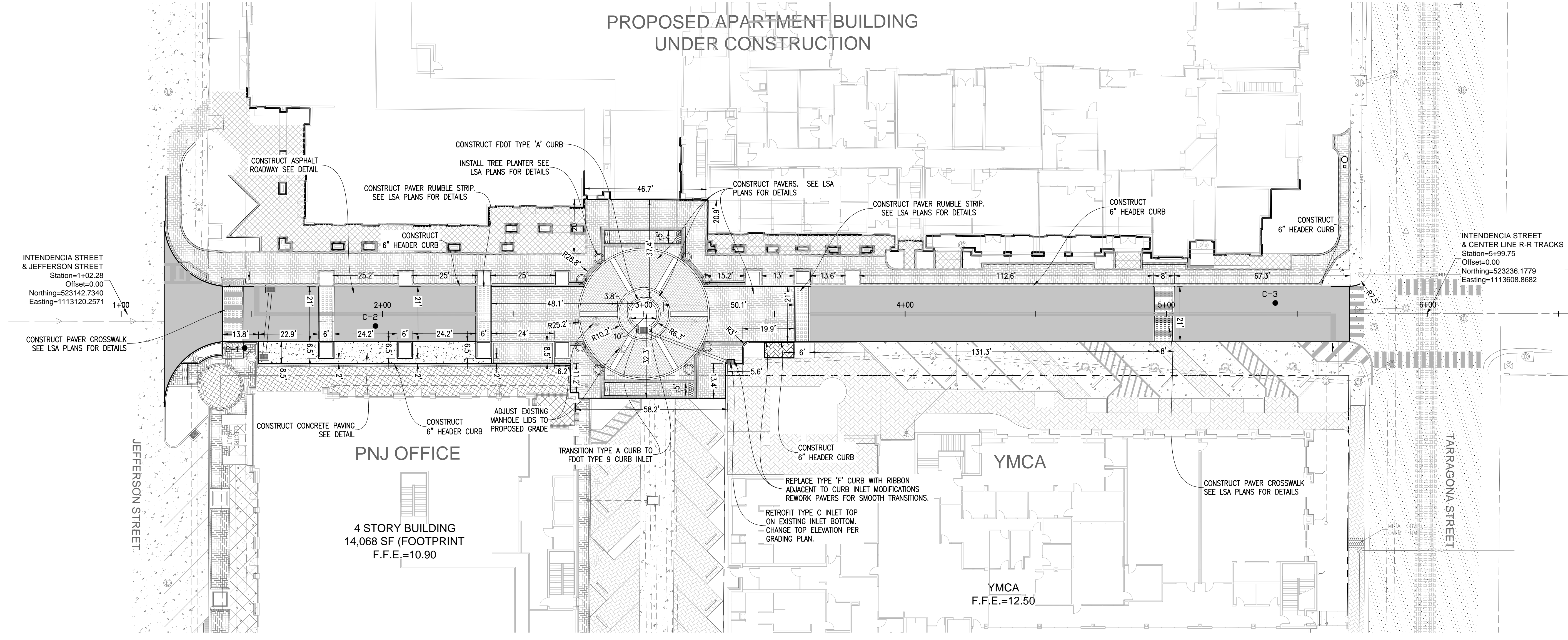
1. ALL CURB & GUTTER, SIDEWALKS & HANDICAP RAMPS SHALL BE A MINIMUM OF 3000 PSI CONCRETE AT 28 DAYS WITH FIBERMESH.

Table 1: Summary of Roadway Coring

	C-1	C-2	C-3
0 To 7-in	CONCRETE (no reinforcement)	ASPHALT (Surface course)	ASPHALT (surface course, block crack full depth)
7-in To 2-ft	Gray fine-grained SAND (SP) with Shell Fragments	ASPHALT (Soft Base Course) 5-in REFUSAL (CONCRETE)	ASPHALT (Soft Base Course) CONCRETE
		10-in To 13-in	Gray fine-grained SAND (SP)



SITE LAYOUT PLAN



SITE LAYOUT & DIMENSION PLAN

NO.	DATE	REVISION
1	12-13-17	COP COMMENTS
2	2-15-18	TREE WELL REMOVAL
3	3-1-18	ECUA COMMENTS

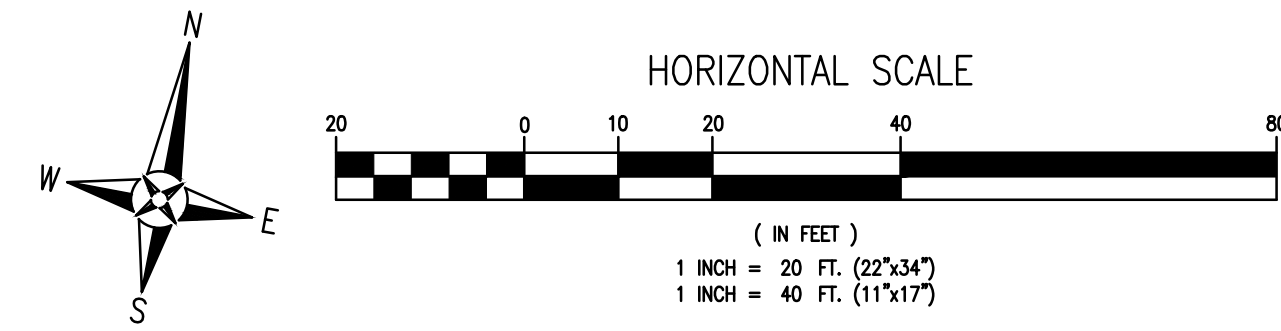
SEAL
 PERMITTING SET

JEREMY R. KING P.E.
 No. 76144

Dr. By: GTP
 Ck By: JRK
 Job No.: 2016.122
 Date: 2-13-2018

DRAWING No.
C2.0

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LEGEND	
[Pattern]	EXISTING ASPHALT
[Pattern]	EXISTING CONCRETE
[Pattern]	EXISTING GRAVEL
[Pattern]	PROPOSED ASPHALT
[Pattern]	PROPOSED CONCRETE
[Pattern]	BRICK PAVERS
[Line]	BOUNDARY LINE
[Line]	EASEMENT LINE
[Line]	LOT LINE
[Line]	RIGHT-OF-WAY LINE
[Line]	EXISTING CONTOUR
[Line]	PROPOSED CONTOUR
[Symbol]	BENCHMARK
[Arrow]	FLOW ARROW
[Symbol]	100.00 (BACK OF CURB)
[Symbol]	99.50 (EDGE OF PAVEMENT)
[Symbol]	100.00
[Symbol]	PROPOSED SPOT ELEVATION

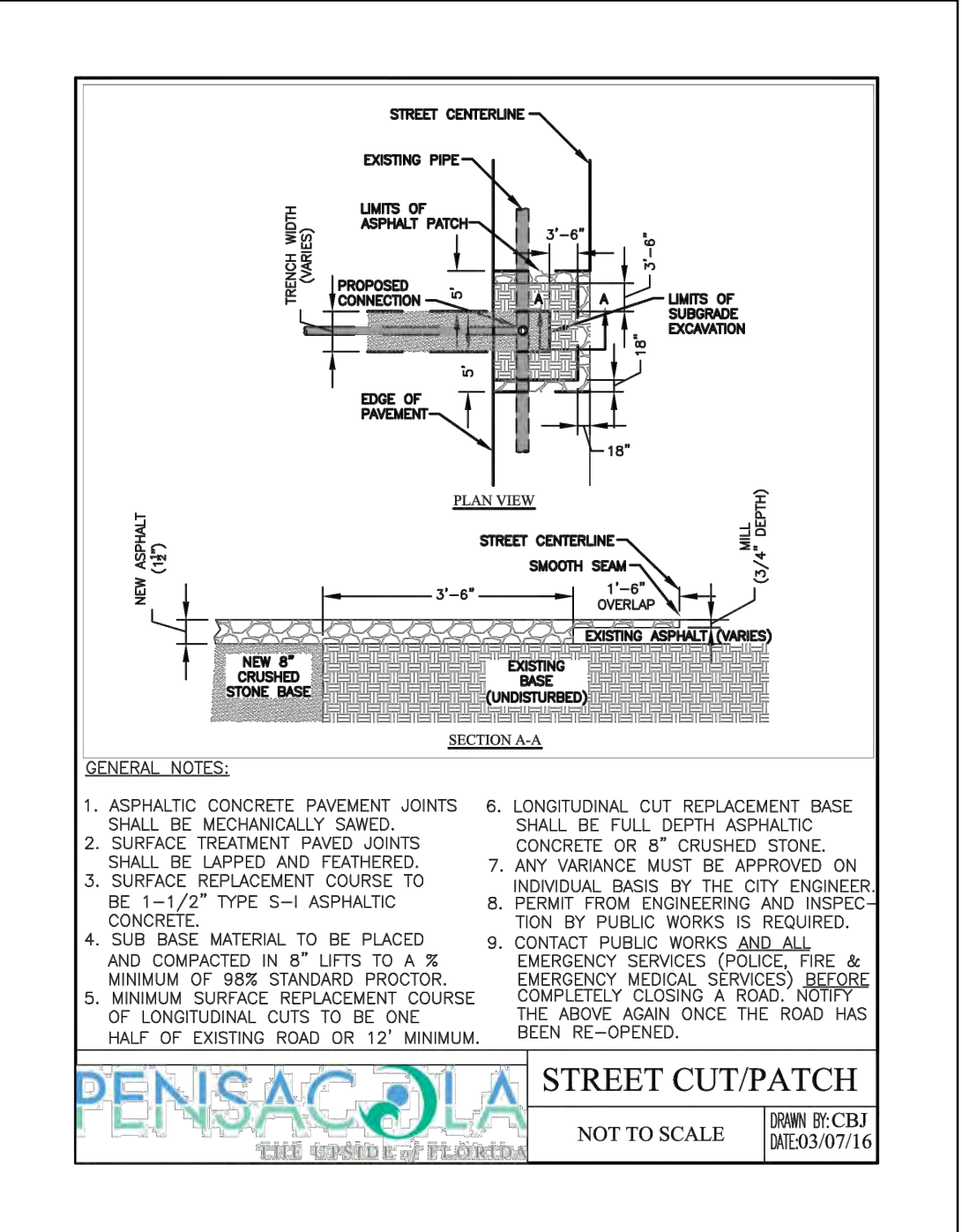
- GENERAL NOTES:**
1. THE CONTRACTOR SHALL CONTROL STORMWATER DURING ALL PHASES OF CONSTRUCTION.
 2. THE CONTRACTOR SHALL MAINTAIN RECORD DRAWINGS DURING CONSTRUCTION WHICH SHOW "AS-BUILT" CONDITIONS OF ALL WORK INCLUDING PIPING, DRAINAGE STRUCTURES, OUTLET STRUCTURES, DIMENSIONS, ELEVATIONS, GRADING, ETC. THE RECORD DRAWINGS SHALL BE PROVIDED TO THE ENGINEER OF RECORD PRIOR TO REQUESTING A FINAL INSPECTION.
 3. ALL ASPECTS OF THE STORMWATER/DRAINAGE COMPONENTS AND/OR TRANSPORTATION COMPONENTS SHALL BE COMPLETED PRIOR TO ISSUANCE OF A FINAL CERTIFICATE OF OCCUPANCY.
 4. ALL DISTURBED AREAS NOT SHOWN TO BE SODED OR PAVED SHALL BE SEEDED, MULCHED AND FERTILIZED.
 5. NO DEVIATIONS OR REVISIONS FROM THESE PLANS BY THE CONTRACTOR SHALL BE ALLOWED WITHOUT PRIOR APPROVAL FROM BOTH THE DESIGN ENGINEER AND THE CITY OF PENSACOLA. ANY DEVIATIONS MAY RESULT IN DELAYS IN OBTAINING A CERTIFICATE OF OCCUPANCY.
 6. THE CONTRACTOR SHALL NOTIFY FOOT 48 HOURS IN ADVANCE PRIOR TO INITIATING ANY WORK IN THE STATE RIGHT-OF-WAY.
 7. THE CONTRACTOR SHALL INSTALL, PRIOR TO THE START OF CONSTRUCTION AND MAINTAIN DURING CONSTRUCTION, ALL SEDIMENT CONTROL MEASURES AS REQUIRED TO RETAIN ALL SEDIMENTS TO PREVENT THE EXCAVATED POND FROM BINDING DUE TO SEDIMENTS.
 8. ALL RETENTION/DEFENTION AREAS SHALL BE SUBSTANTIALLY COMPLETE PRIOR TO ANY CONSTRUCTION ACTIVITIES THAT MAY INCREASE STORMWATER RUNOFF RATES. THE CONTRACTOR SHALL CONTROL STORMWATER DURING ALL PHASES OF CONSTRUCTION AND TAKE ADEQUATE MEASURES TO PREVENT THE EXCAVATED POND FROM BINDING DUE TO SEDIMENTS.
 9. NOTIFY SUNSHINE UTILITIES 48 HOURS IN ADVANCE PRIOR TO DIGGING WITHIN RIGHT-OF-WAY. (1-800-432-4770)
 10. THE OWNER/CONTRACTOR SHALL COORDINATE ANY ANTICIPATED COMMENCEMENT OF CONSTRUCTION WITH THE ENGINEER OF RECORD, AT LEAST 48 HOURS PRIOR TO CONSTRUCTION. THE OWNER IS RESPONSIBLE FOR SUBMITTING THE "CONSTRUCTION COMMENCEMENT NOTICE FORM" 62-346.900(3).
 11. UPON SUBSTANTIAL COMPLETION, THE OWNER/CONTRACTOR SHALL NOTIFY THE ENGINEER OF RECORD. THE ENGINEER OF RECORD IS RESPONSIBLE FOR INSPECTION OF THE PERMITTED FACILITY FOR COMPLIANCE WITH THE APPROVED PERMIT.

NOTE:
1. THE DEPARTMENT OF PUBLIC WORKS MUST BE NOTIFIED WITHIN 72 HOURS OF ANY PROPOSED STORMWATER CONNECTION ON THE EXISTING STORMWATER SYSTEM.

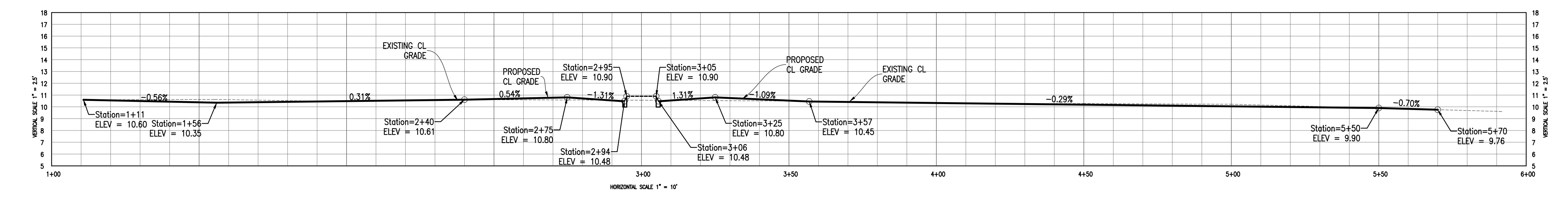
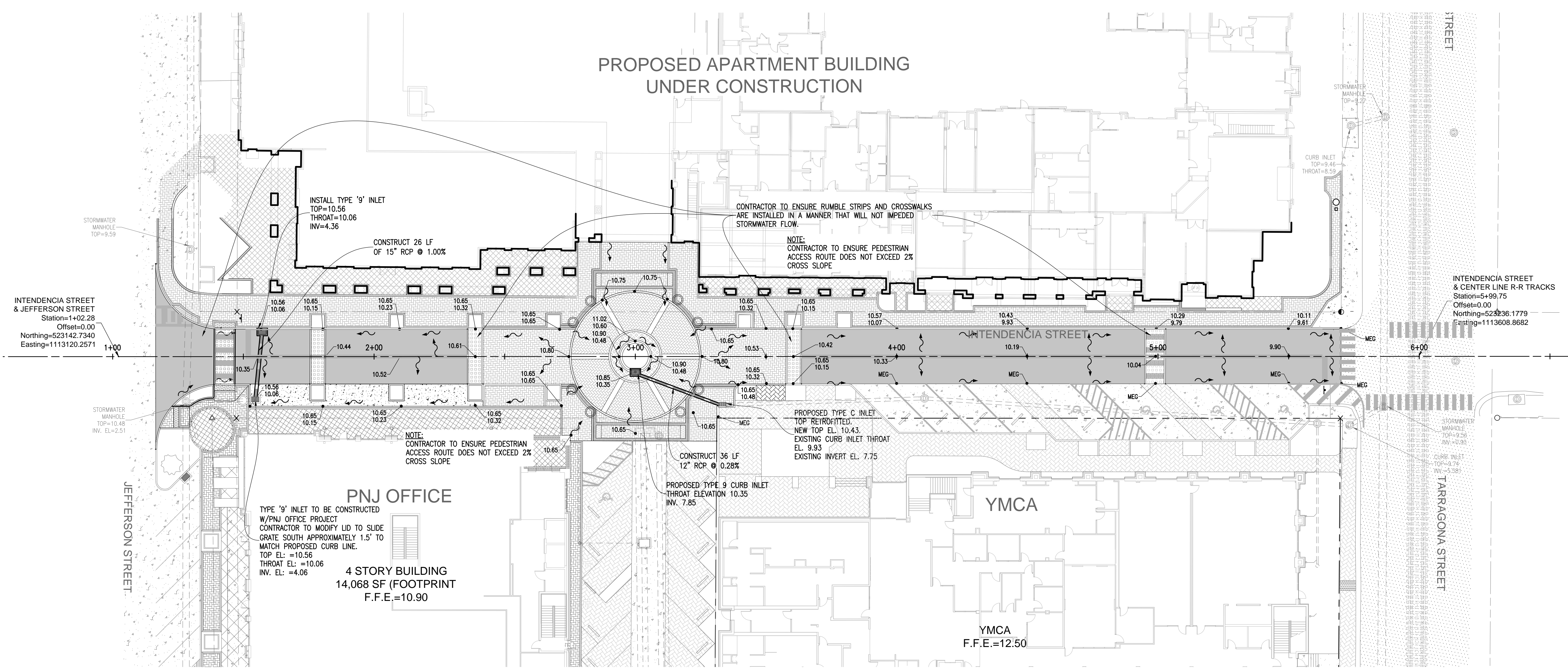
INSPECTION
CUT AND PATCH OF CITY STREETS

PRELIMINARY INSPECTION
Compaction of limerock patch and milled perimeter is to be inspected by the Department of Public Works, (24 hours before paving operations). If compaction, milling, or any other portion of the cut and patch section does not meet attached standards then backfill material must be removed and replaced to meet City Standards.

FINAL INSPECTION
Final inspection is conducted after the asphalt paving or other work has been completed. Please call 436-5669 between 7:30 A.M. - 4:30 P.M. to schedule the preliminary and final inspections.



- GENERAL NOTES:**
1. ASPHALTIC CONCRETE PAVEMENT JOINTS SHALL BE MECHANICALLY SAIED.
 2. SURFACE TREATMENT PAVED JOINTS SHALL BE LAPPED AND FINISHED.
 3. SURFACE REPLACEMENT COURSE TO BE 1-1/2" TYPE S-4 ASPHALTIC CONCRETE.
 4. SUB BASE MATERIAL TO BE PLACED AND COMPACTED IN 8" LIFTS TO A MINIMUM OF 8% STANDARD PROCTOR.
 5. MINIMUM SURFACE REPLACEMENT COURSE OF LONGITUDINAL CUTS TO BE ONE HALF OF EXISTING ROAD OR 12" MINIMUM.
 6. LONGITUDINAL CUT REPLACEMENT BASE SHALL BE FULL DEPTH ASPHALTIC CONCRETE OR 8" CRUSHED STONE.
 7. ANY VARIANCE MUST BE APPROVED ON INDIVIDUAL BASIS BY THE CITY ENGINEER.
 8. PERMIT FROM ENGINEERING AND INSPECTION BY PUBLIC WORKS IS REQUIRED.
 9. CONTACT PUBLIC WORKS AND ALL EMERGENCY SERVICES (POLICE, FIRE & EMERGENCY MEDICAL SERVICES) BEFORE COMPLETELY CLOSING A ROAD. NOTIFY THE WORK AGAIN ONCE THE ROAD HAS BEEN RE-OPENED.
- PENSACOLA**
THE GEM OF FLORIDA
- NOT TO SCALE (DRAWN BY: CBJ) (DATE: 07/16)



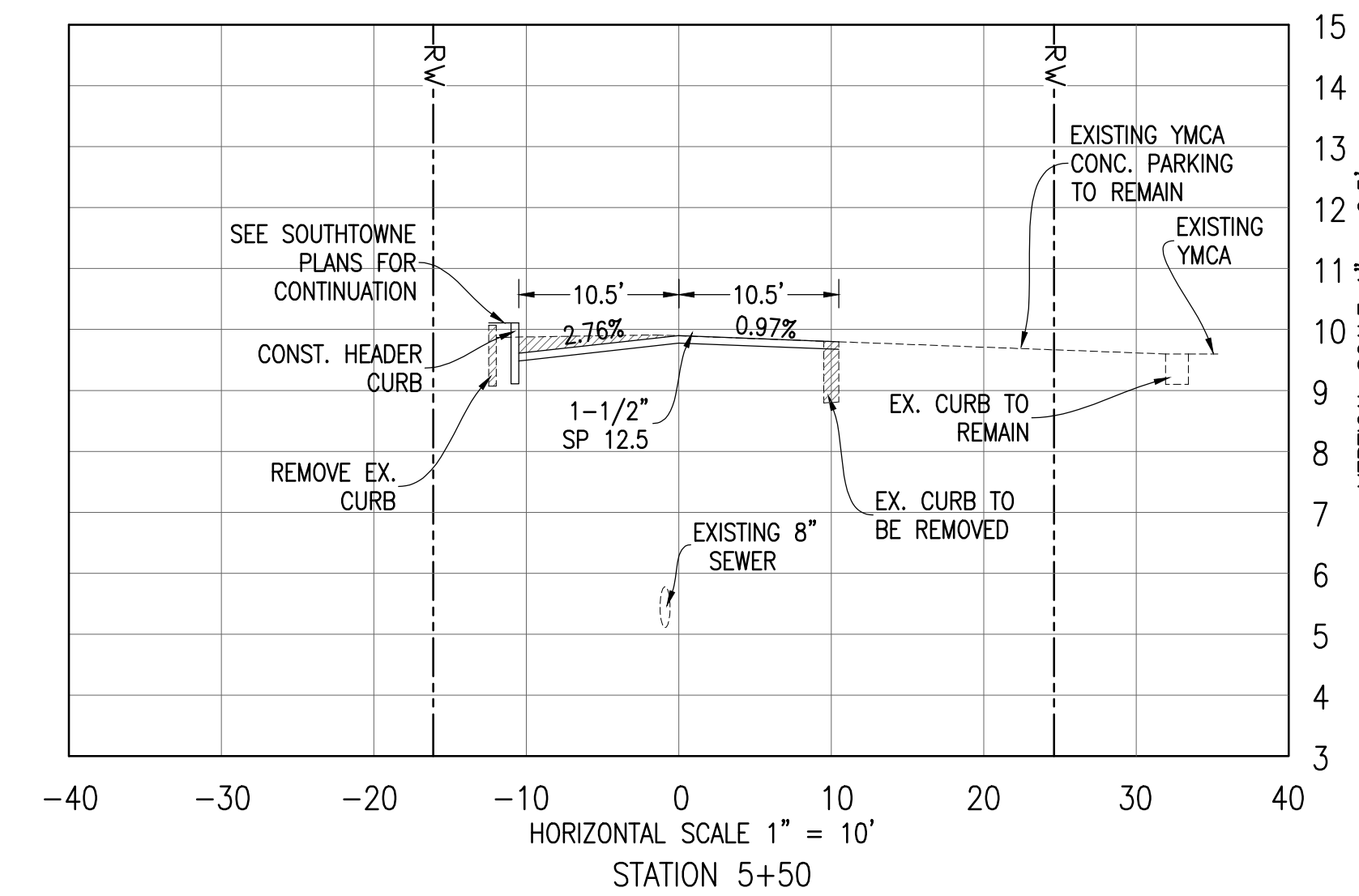
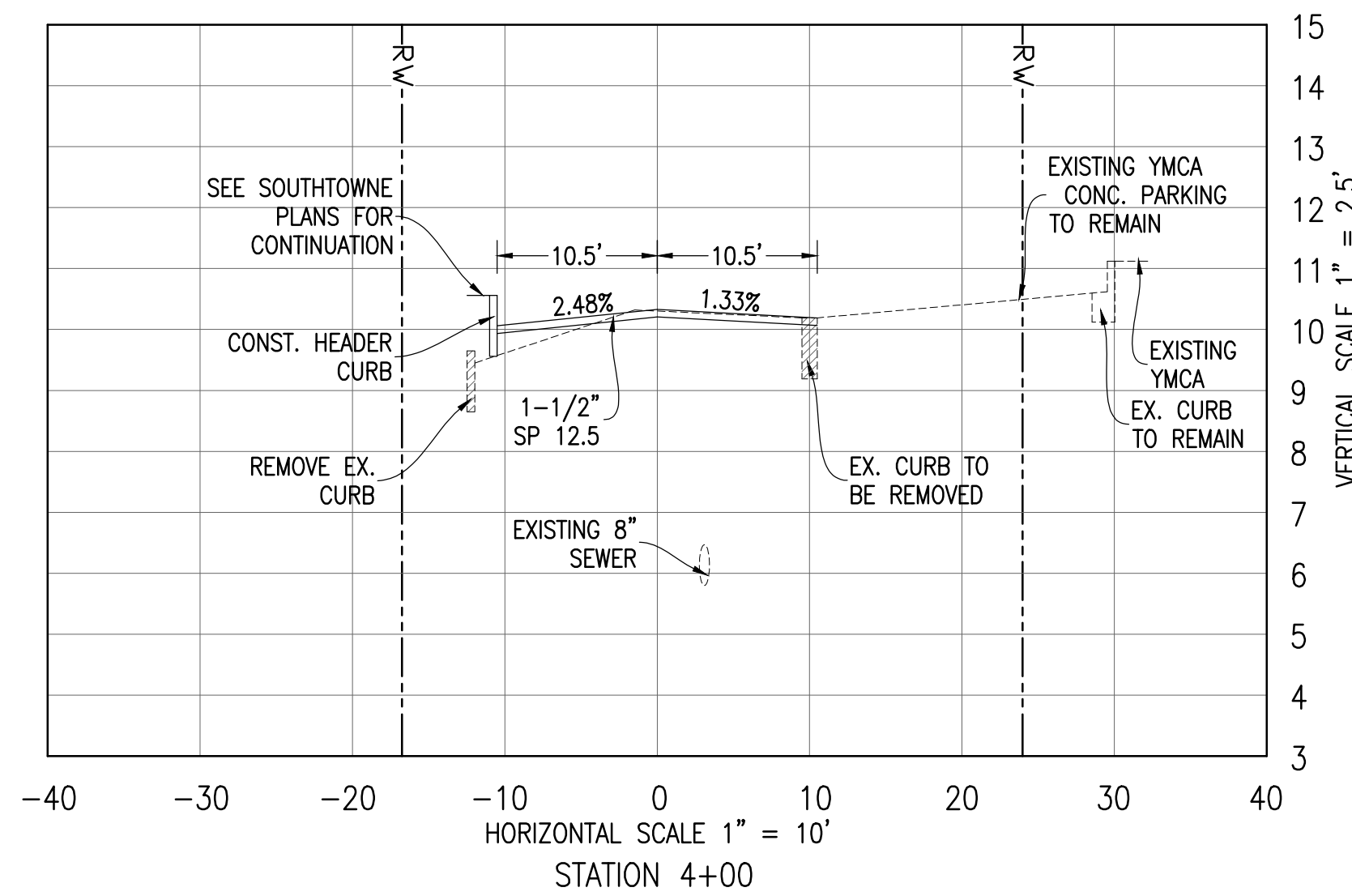
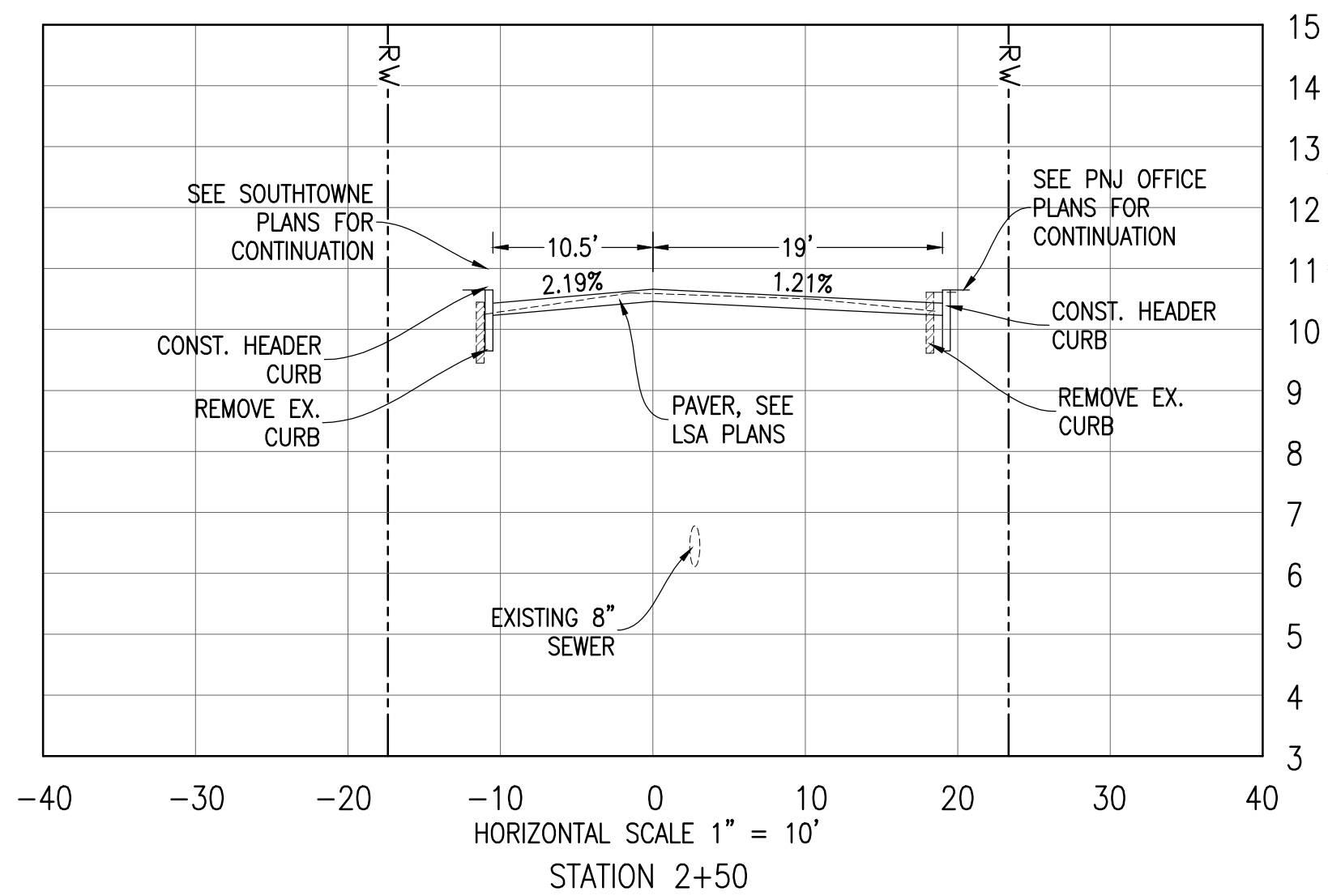
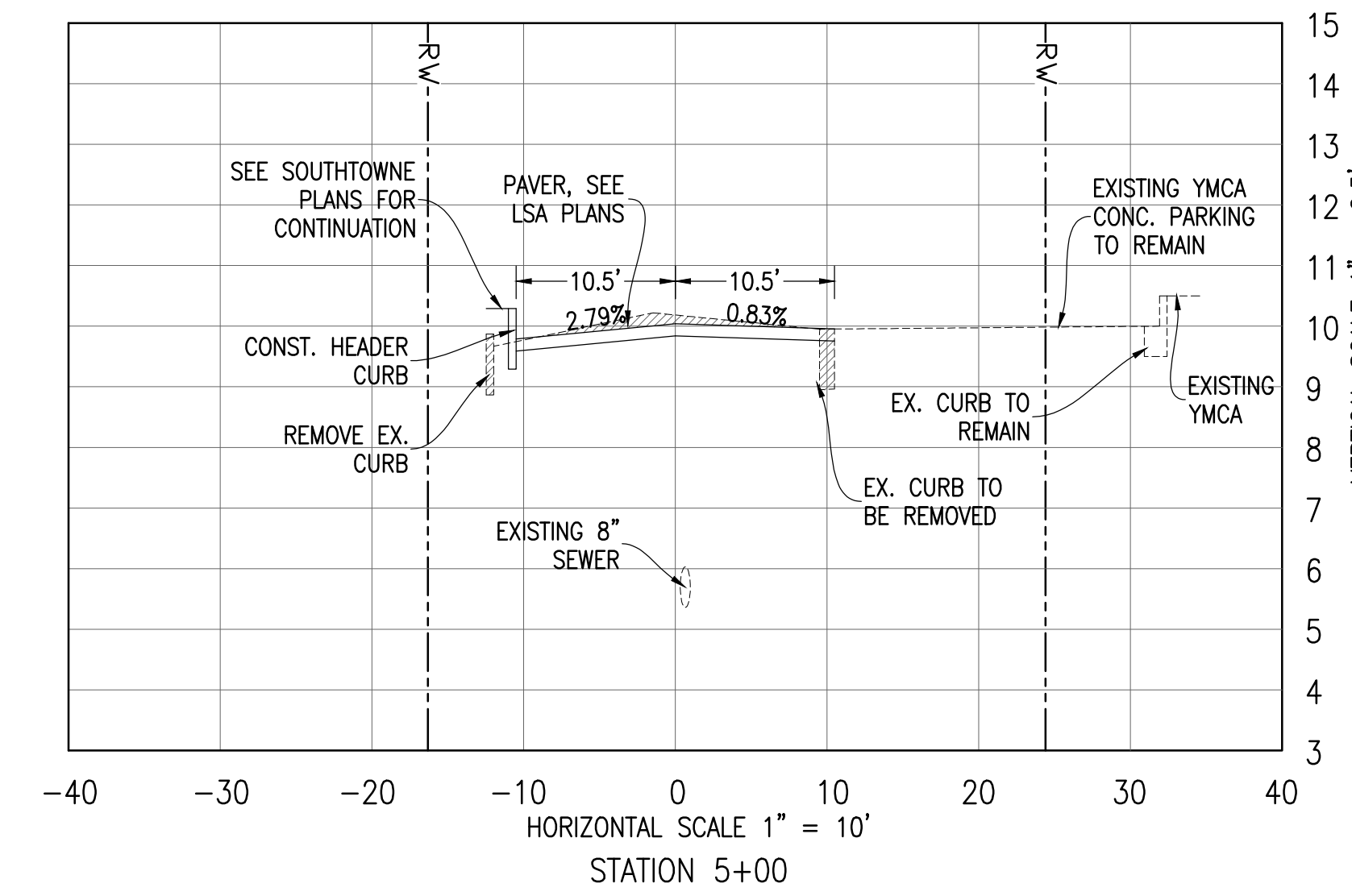
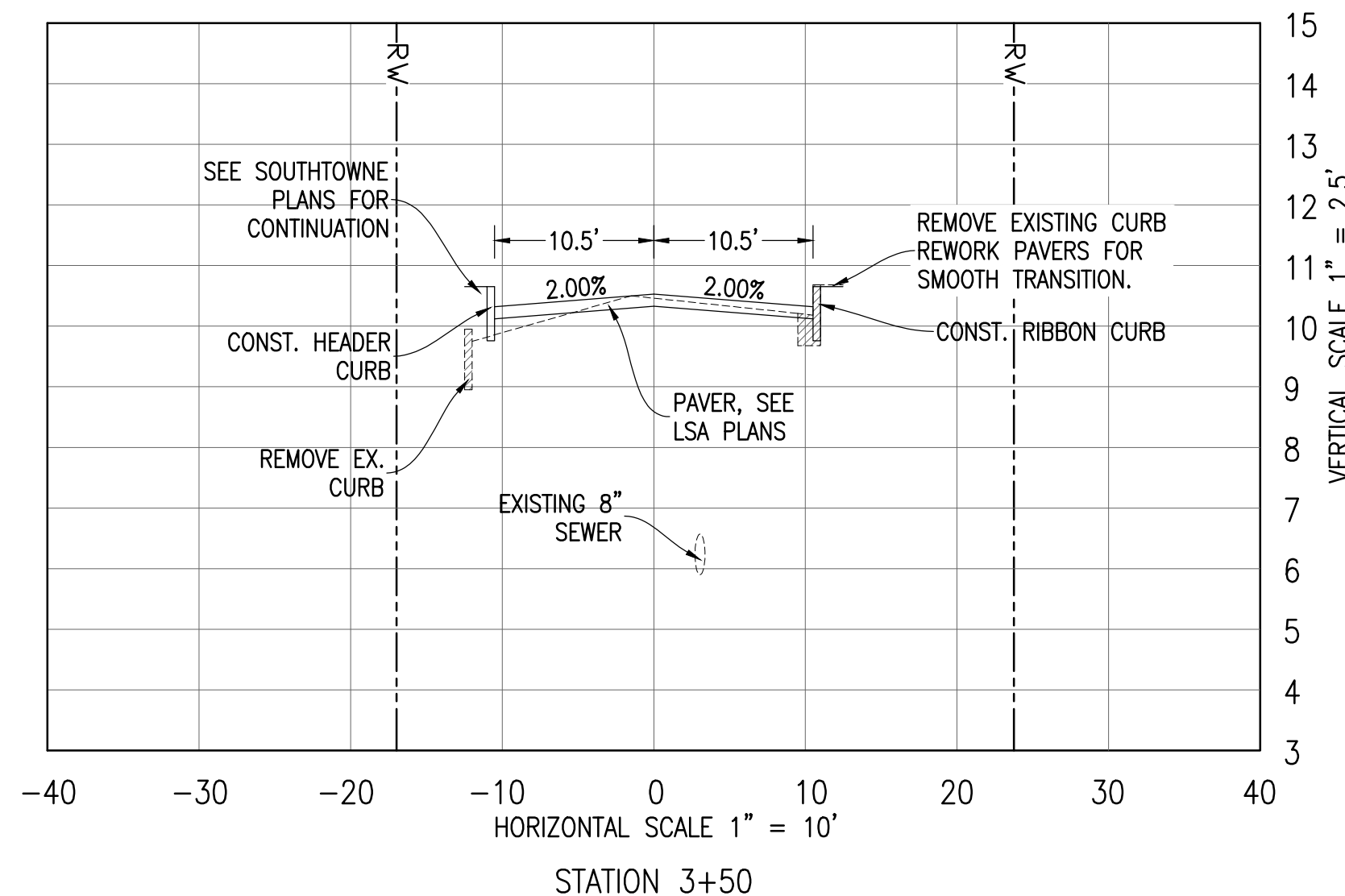
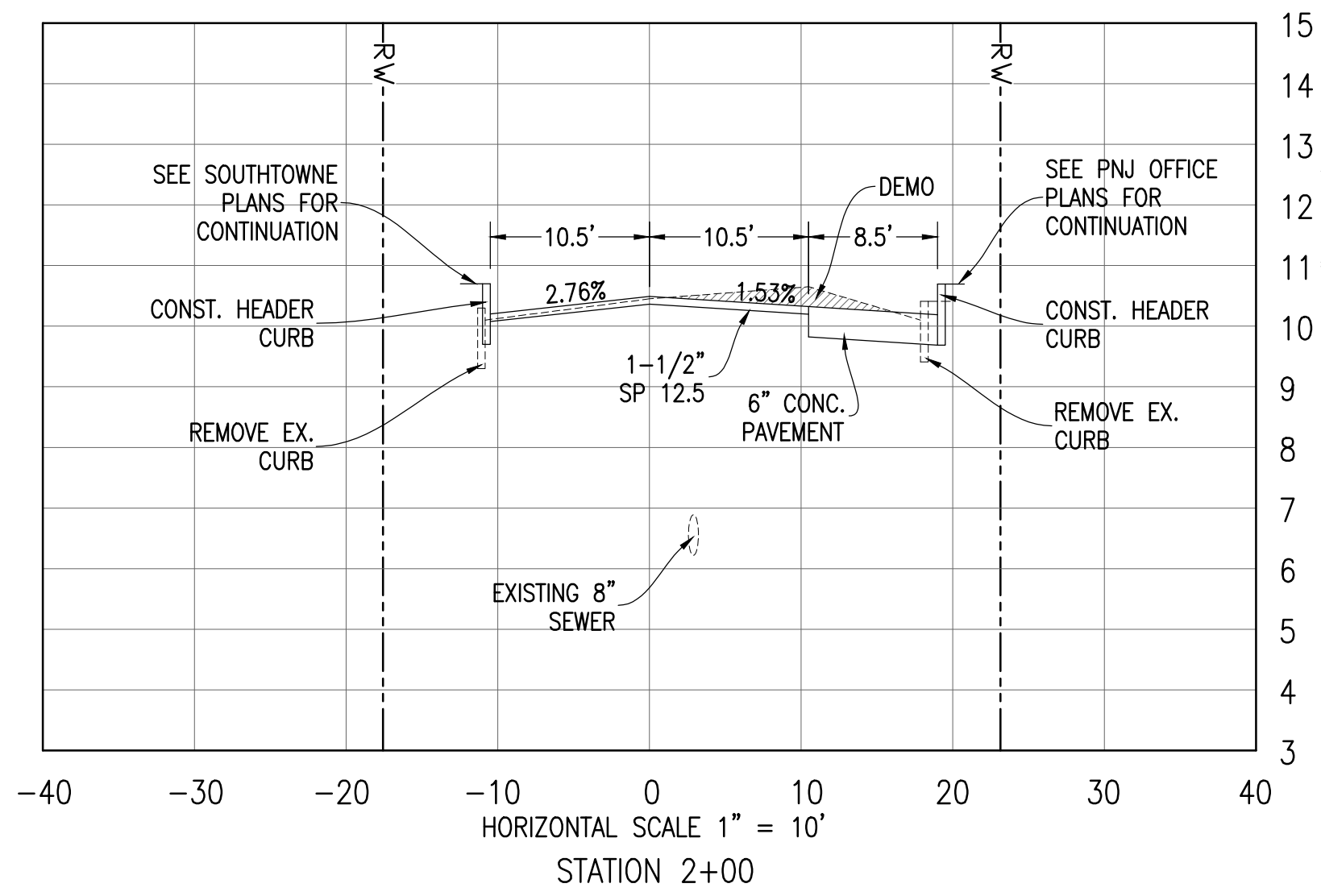
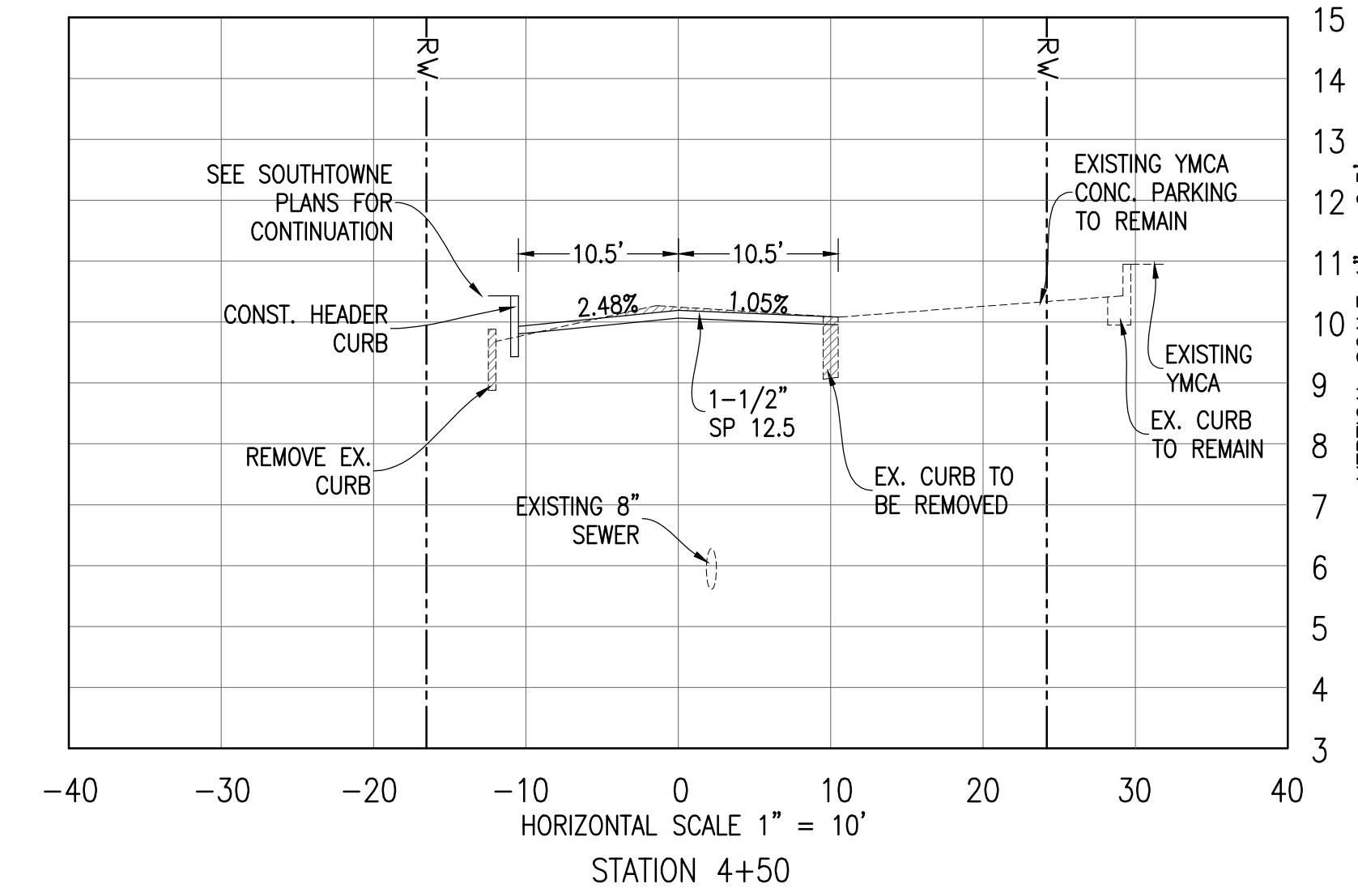
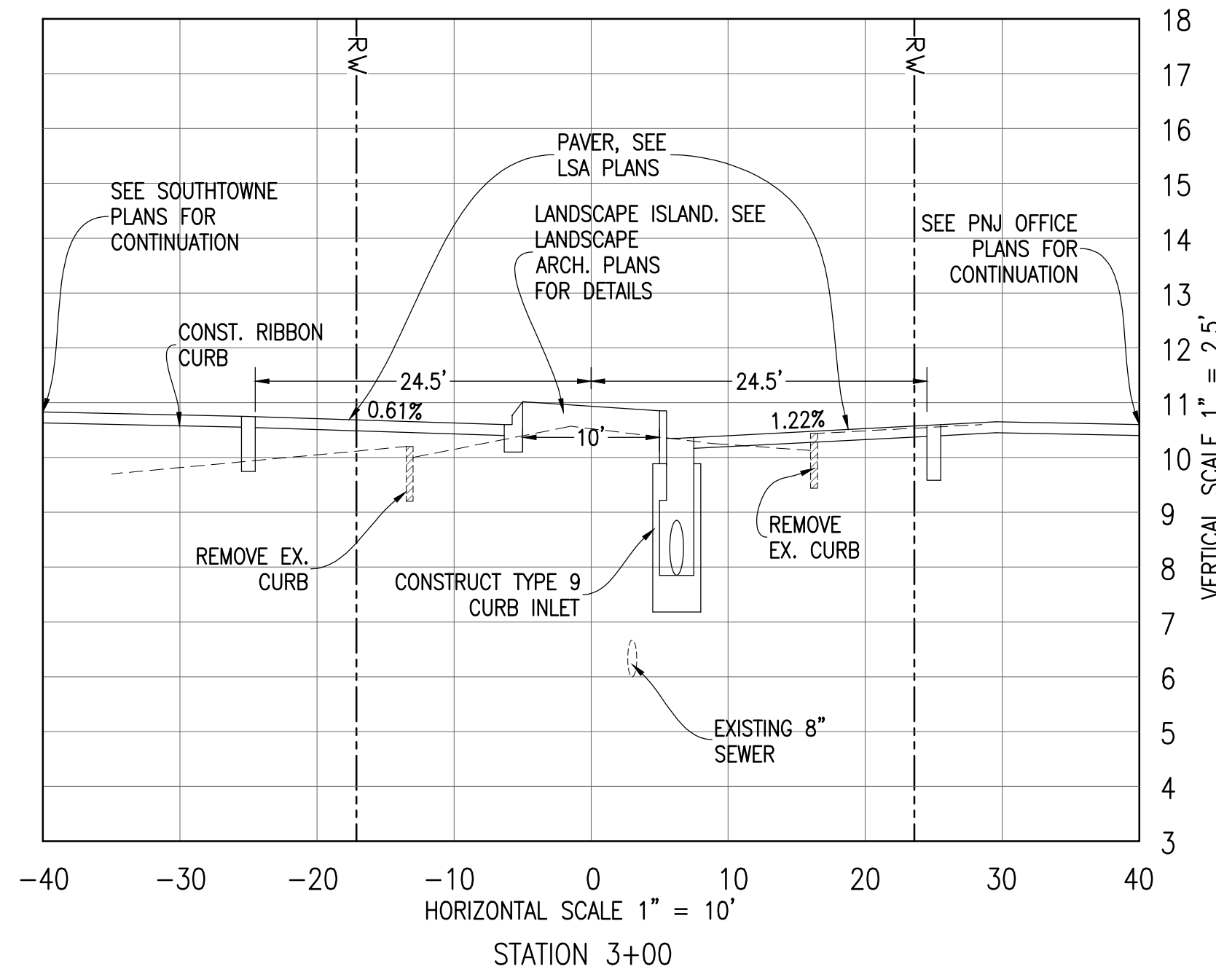
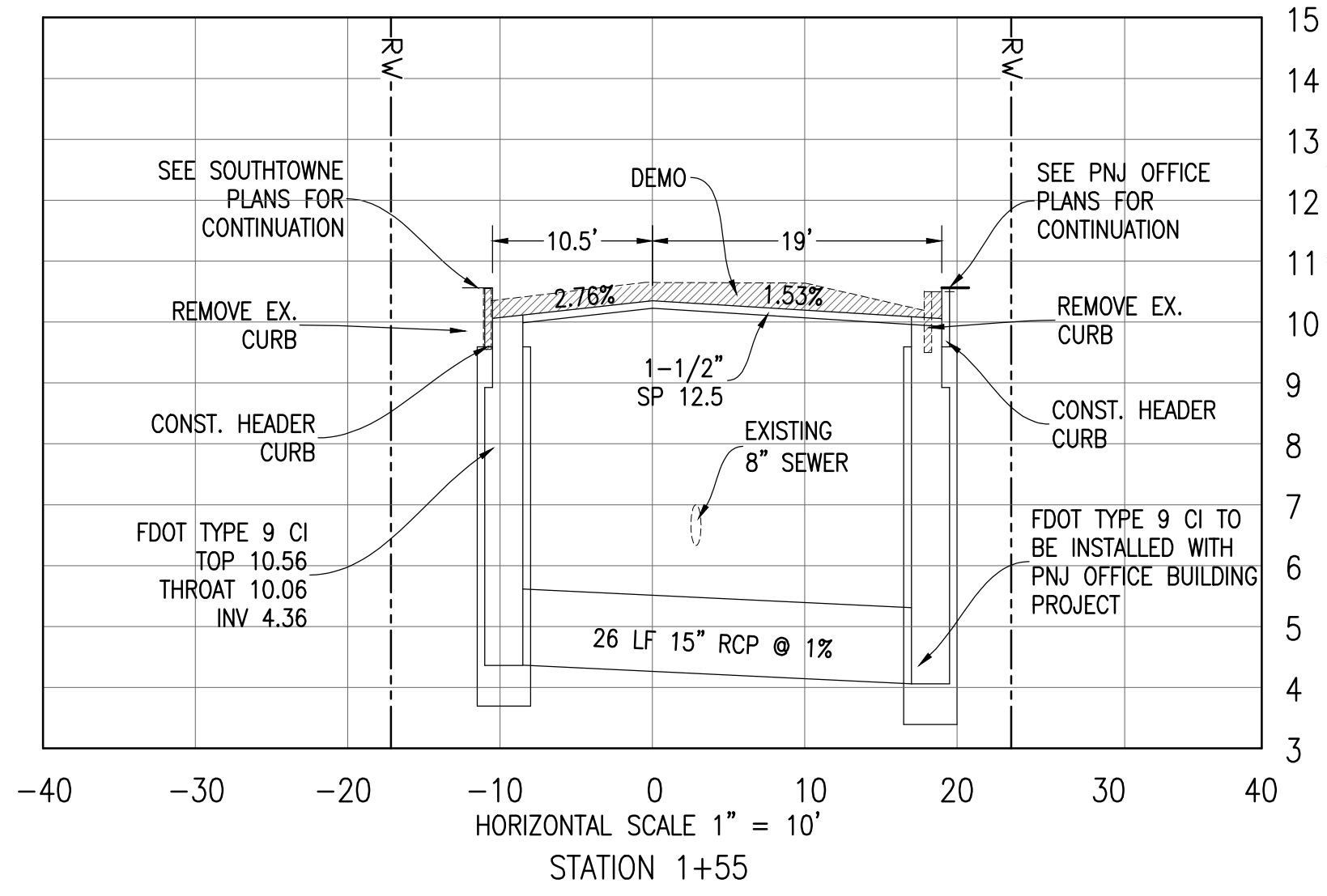
NO.	DATE	REVISION
1	12-13-17	COP COMMENTS
2	2-15-18	TREE WELL REMOVAL
3	3-1-18	EQUA COMMENTS

SEAL	
PERMITTING SET	
JEREMY R. KING P.E. No. 76144	
Dr. By:	GTP
Ck. By:	JRK
Job No.:	2016.122
Date:	2-13-2018
DRAWING No.	
C3.0	

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CONTRACTOR NOTES:

- IF MILLING EXTENDS THROUGH ASPHALT SECTION, CONTRACTOR SHALL REMOVE AN ADDITIONAL 6" TO ALLOW INSTALLATION OF 6" GRADED AGGREGATE BASE BENEATH 1-1/2" SP-12.5 ASPHALT.
- CONTRACTOR SHALL REMOVE EXISTING CONCRETE PAVEMENT AT JEFFERSON COMPLETELY PRIOR TO ROADWAY CONSTRUCTION.
- THE CONTRACTOR SHALL USE SP-12.5 ASPHALT FOR OVERBUILD. THE VARIABLE THICKNESS ALLOWED SHALL RANGE FROM 0" TO 3". ALL OVERBUILD SHALL BE OVERLAIN WITH A MINIMUM 1-1/2" SP-12.5 ASPHALT. THE ALLOWABLE THICKNESS OF SP-12.5 RANGES FROM 1-1/2" TO 2-1/2" PER LAYER.
- ON SECTIONS WITH PAVERS, CONTRACTOR SHALL REMOVE TO A MINIMUM DEPTH TO ALLOW PAVEMENT AND BASE INSTALLATION IN ACCORDANCE WITH LANDSCAPE ARCHITECT PLANS.
- ON SECTIONS WITH PROPOSED CONCRETE, CONTRACTOR SHALL REMOVE TO A MINIMUM DEPTH TO ALLOW CONCRETE AND BASE INSTALLATION IN ACCORDANCE WITH THE DETAIL.



CROSS SECTIONS

Intendencia Street Right-of-way Improvements
 PENSACOLA, FLORIDA

No.	DATE	REVISION
1	12-13-17	COP COMMENTS
2	2-15-18	TREE WELL REMOVAL
3	3-1-18	EGUA COMMENTS

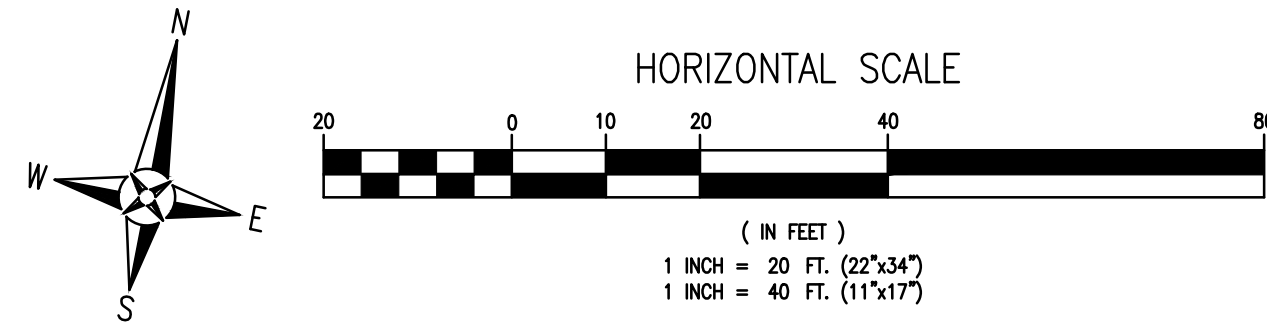
SEAL
 PERMITTING SET

 JEREMY R. KING P.E.
 No. 76144

Dr. By: GTP
 Ck By: JRK
 Job No.: 2016.122
 Date: 2-13-2018

DRAWING No.
C4.0

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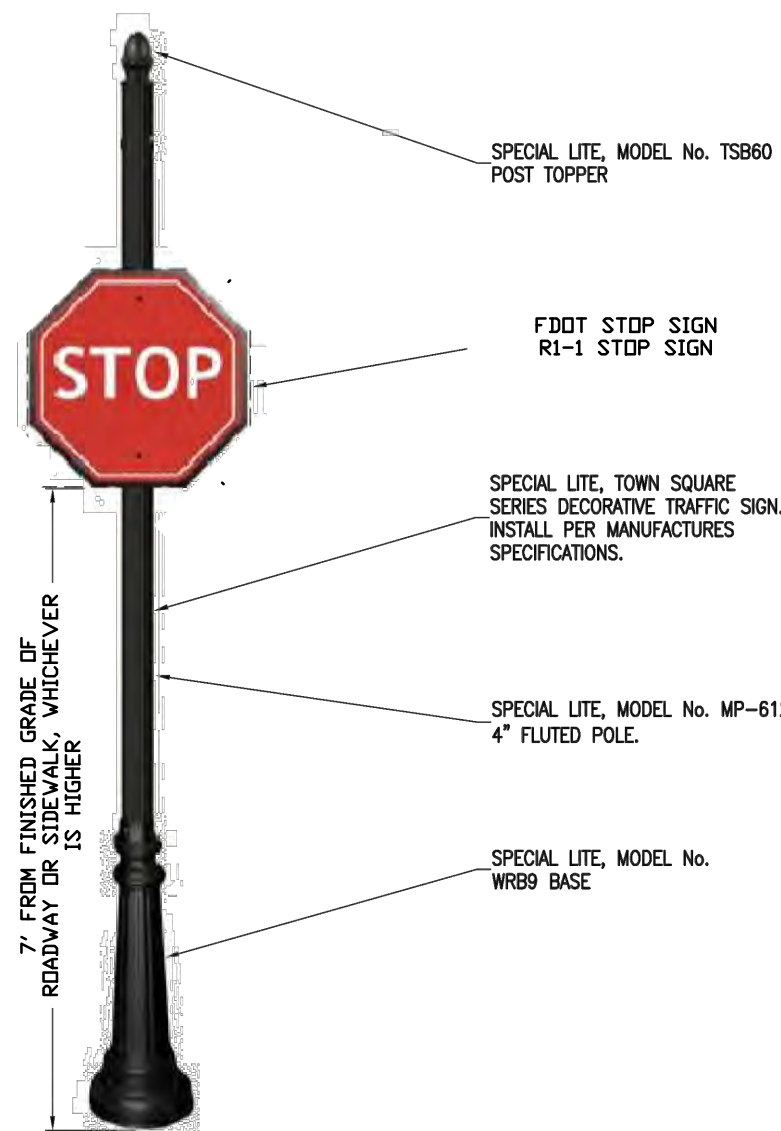


LEGEND	
[Pattern]	EXISTING ASPHALT
[Pattern]	EXISTING CONCRETE
[Pattern]	EXISTING GRAVEL
[Pattern]	PROPOSED ASPHALT
[Pattern]	PROPOSED CONCRETE
[Pattern]	BRICK PAVERS
[Line]	BOUNDARY LINE
[Line]	EASEMENT LINE
[Line]	LOT LINE
[Line]	RIGHT-OF-WAY LINE

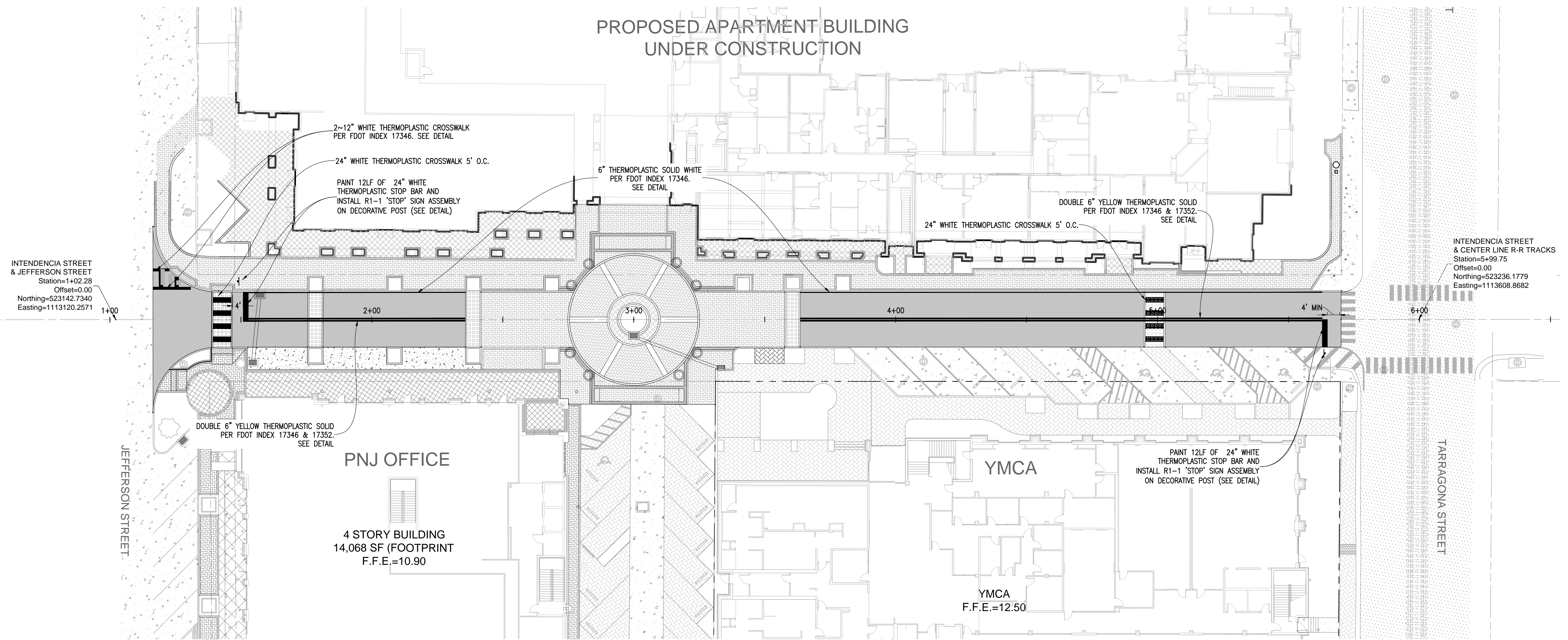
STRIPPING & SIGN NOTES:

1. ALL PAVEMENT MARKINGS AND STRIPING SHALL BE THERMOPLASTIC AND INSTALLED ACCORDING TO FDOT STANDARD INDEX 17346.
2. ALL NEEDED STRIPING DESTROYED DURING CONSTRUCTION SHALL BE RE-STRIPED ACCORDING TO FDOT STANDARD INDEX 17346.
3. ALL LANES MUST BE OPEN FOR TRAFFIC DURING AN EVACUATION NOTICE OF A HURRICANE OR OTHER CATASTROPHIC EVENT AND SHALL REMAIN OPEN FOR THE DURATION OF THE EVACUATION OR EVENT AS DIRECTED BY THE LOCAL MAINTENANCE ENGINEER OR HIS DESIGNEE.
4. ALL SIGNS SHALL BE INSTALLED PER FDOT STANDARD INDEX 11865, WIND ZONE No.1.

NOTE:
REFER TO LANDSCAPE ARCHITECTURAL PLANS FOR ALL CONCRETE FINISHES, PAVER SELECTIONS, PATTERNS AND INSTALLATION DETAILS.



DECORATIVE TRAFFIC SIGN
N.T.S.



No.	DATE	REVISION
1	12-13-17	COP COMMENTS
2	2-15-18	TREE WELL REMOVAL
3	3-1-18	ECUA COMMENTS

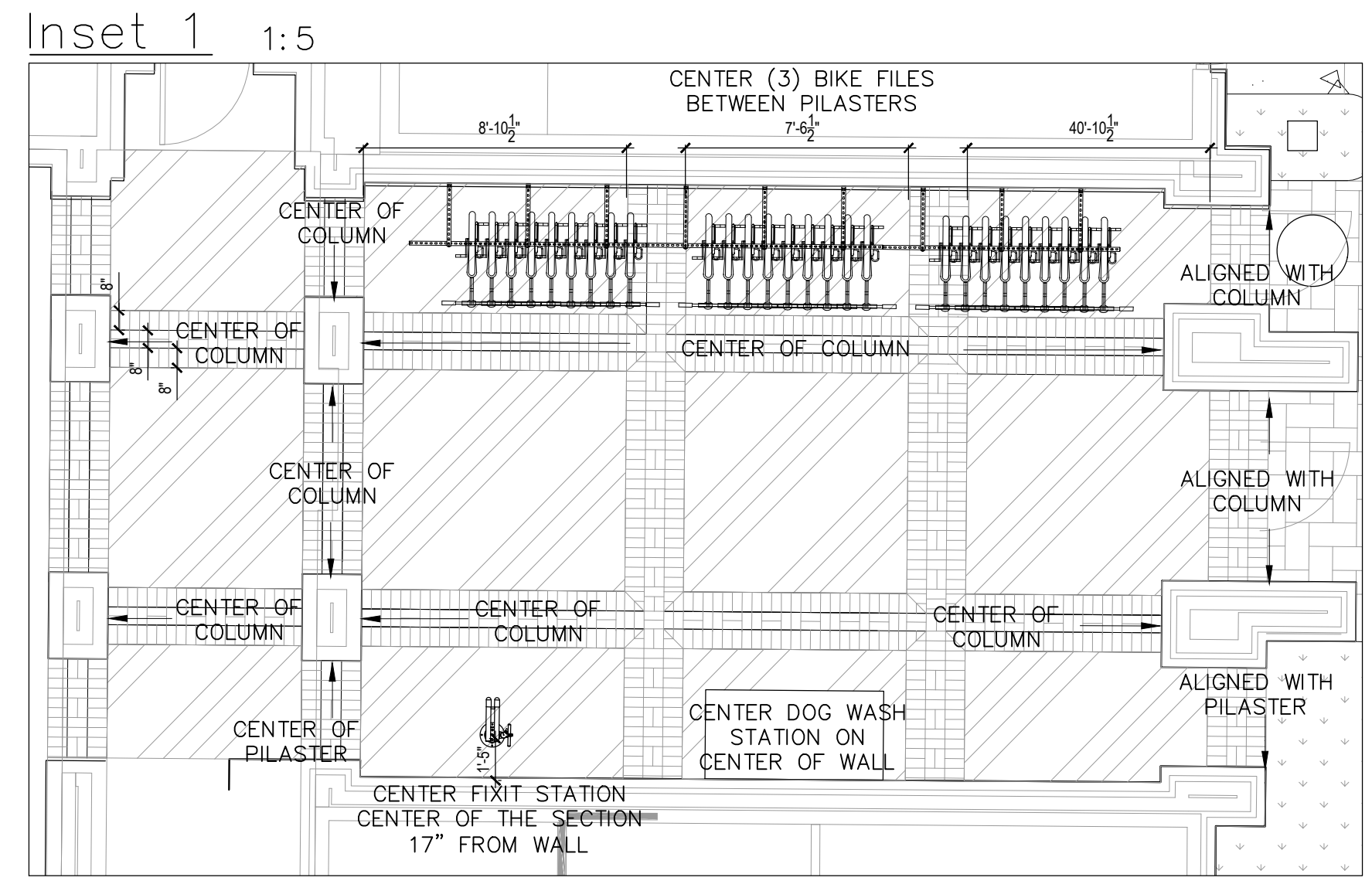
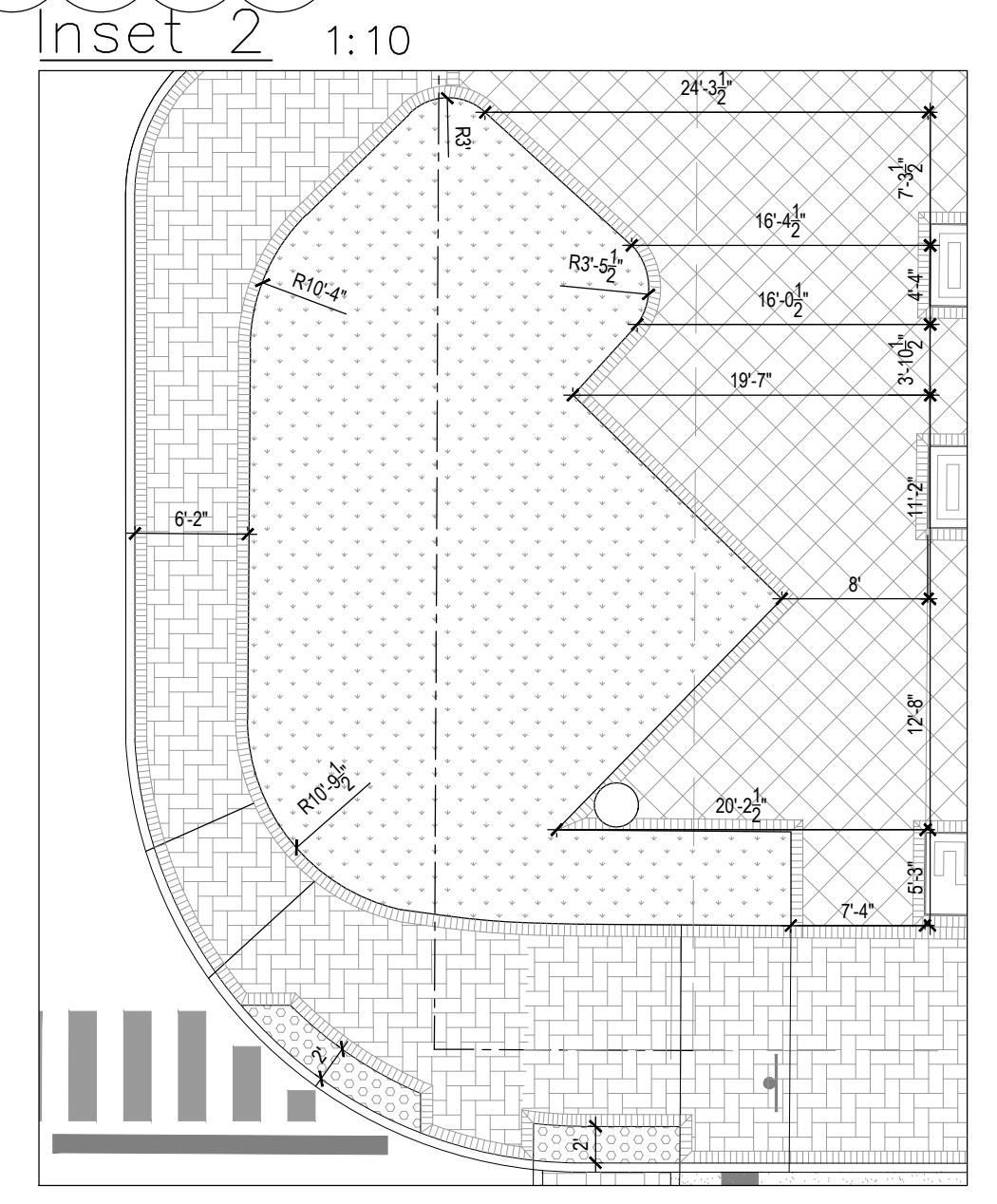
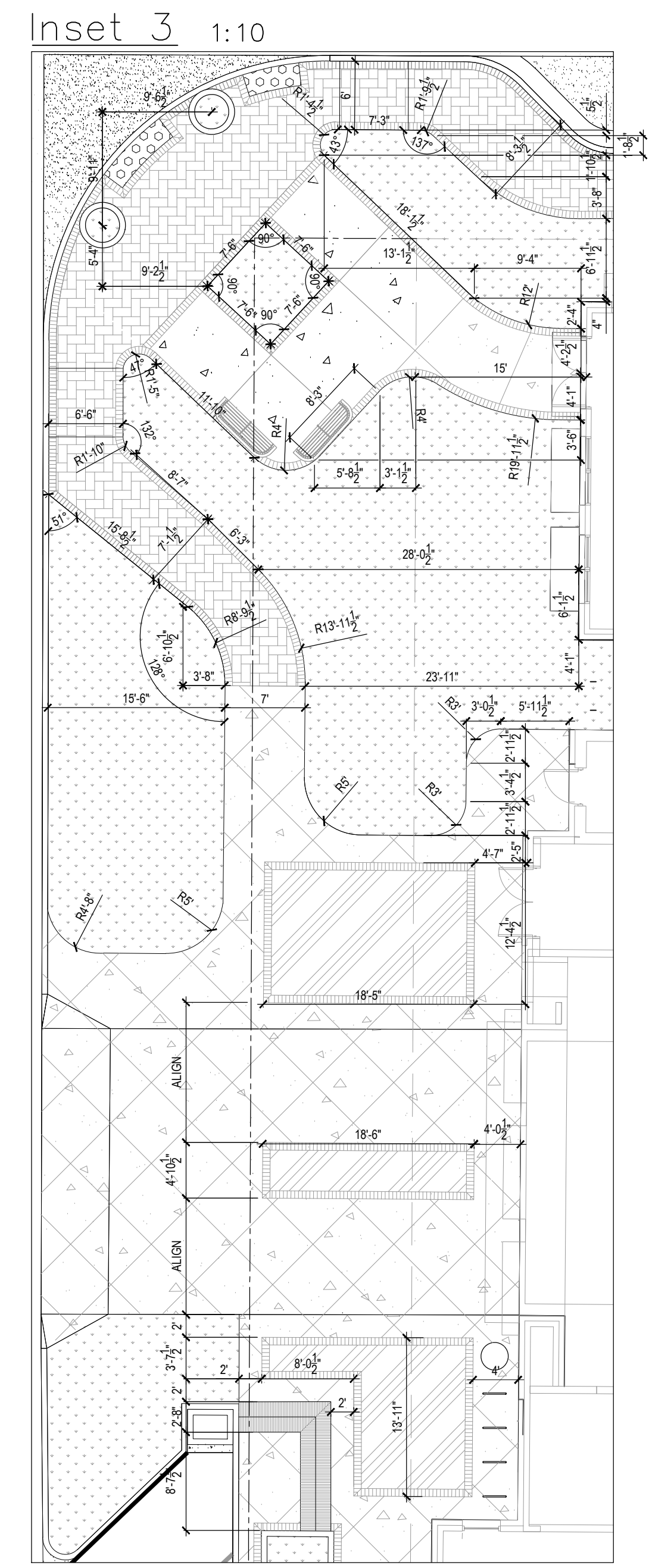
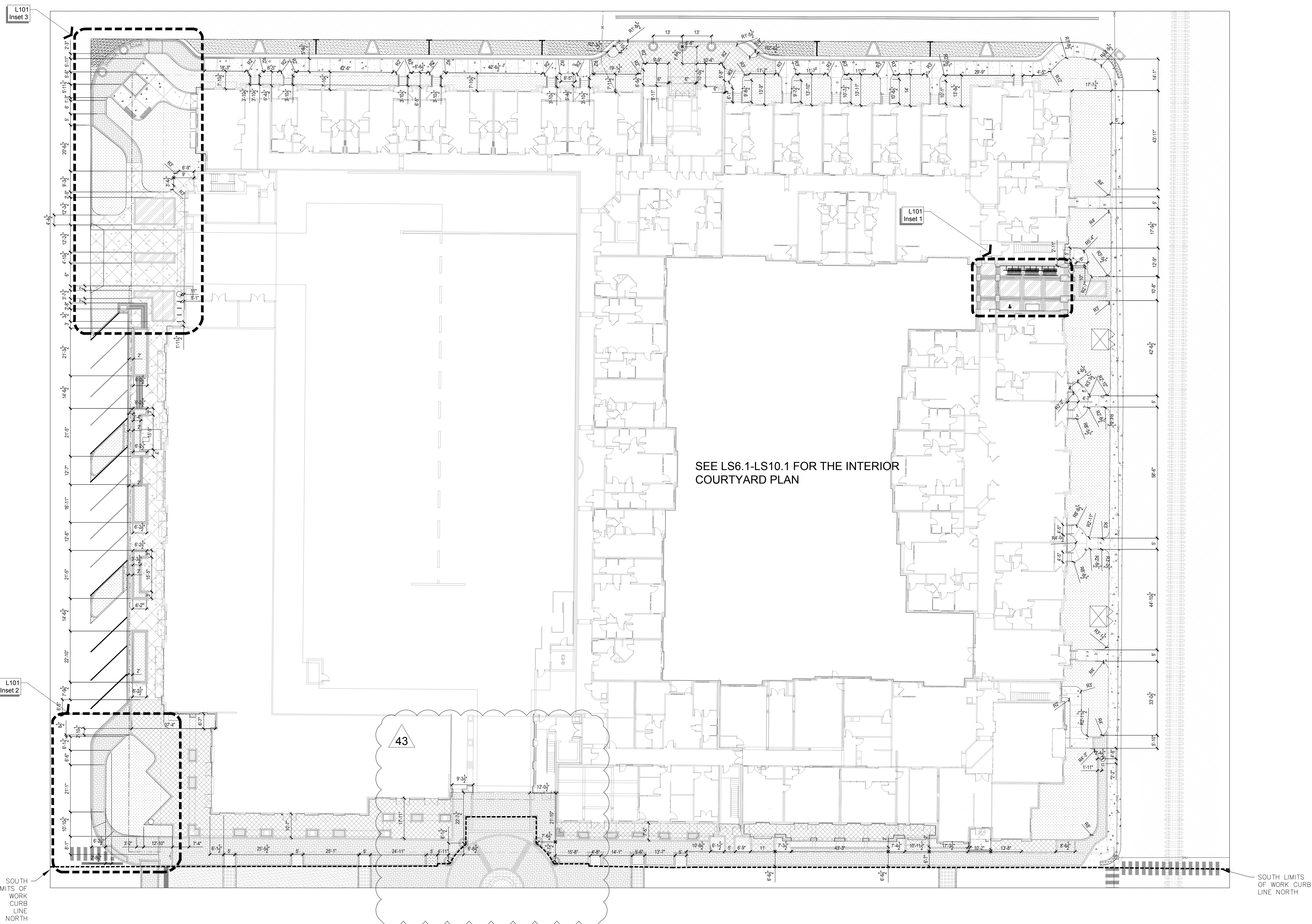
SEAL
PERMITTING SET

JEREMY R. KING P.E.
No. 76144

Dr. By: GTP
Ck By: JRK
Job No.: 2016.122
Date: 2-13-2018

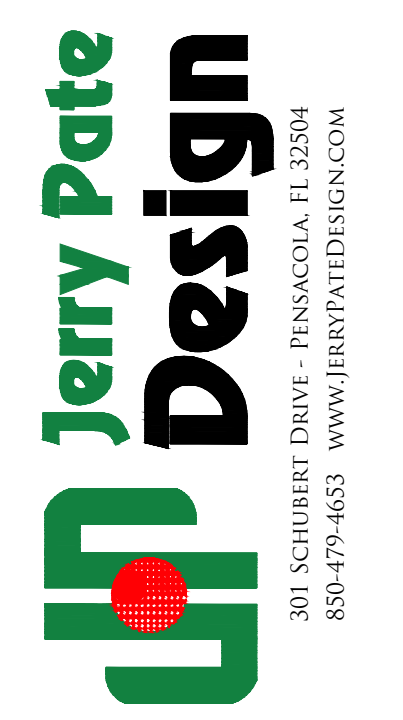
DRAWING No.
C5.0

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SEE LS6.1-LS10.1 FOR THE INTERIOR COURTYARD PLAN

PROJECT #:
 DRAWN BY: EZ
 CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.
06/19/2017	ASI17-R26
07/11/2017	ASI20-R29
10/06/2017	ASI29-R38
01/12/2018	ASI33-R42
02/14/2018	ASI35-R43

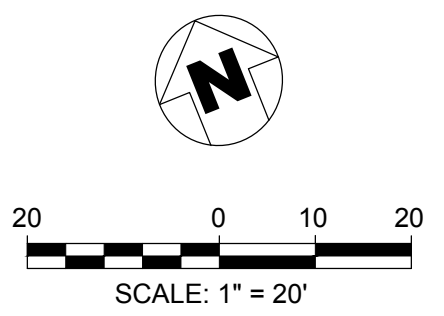
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MIXED-USE DEVELOPMENT
JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

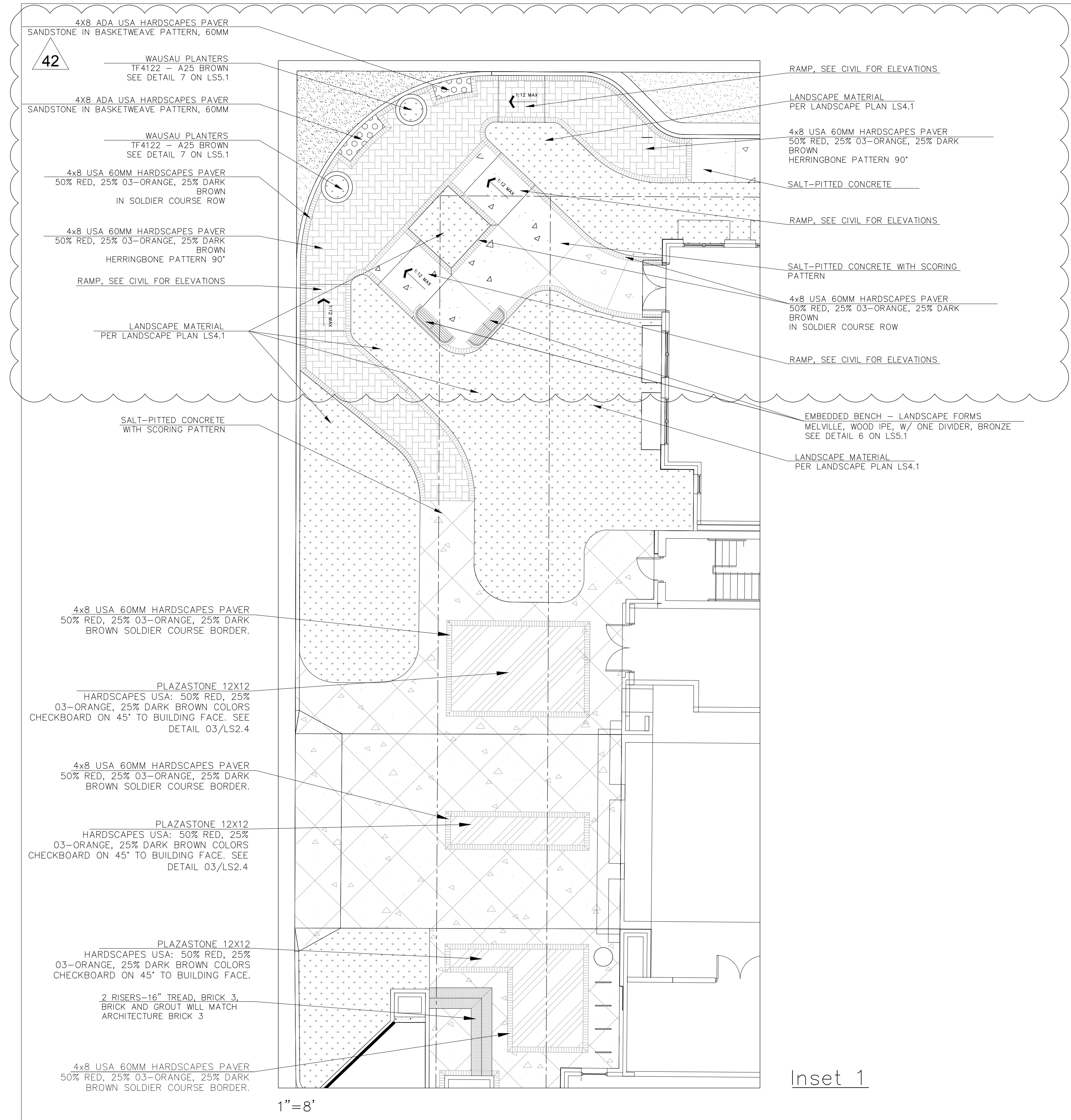
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LAYOUT PLAN

SHEET NUMBER:
LS1.1

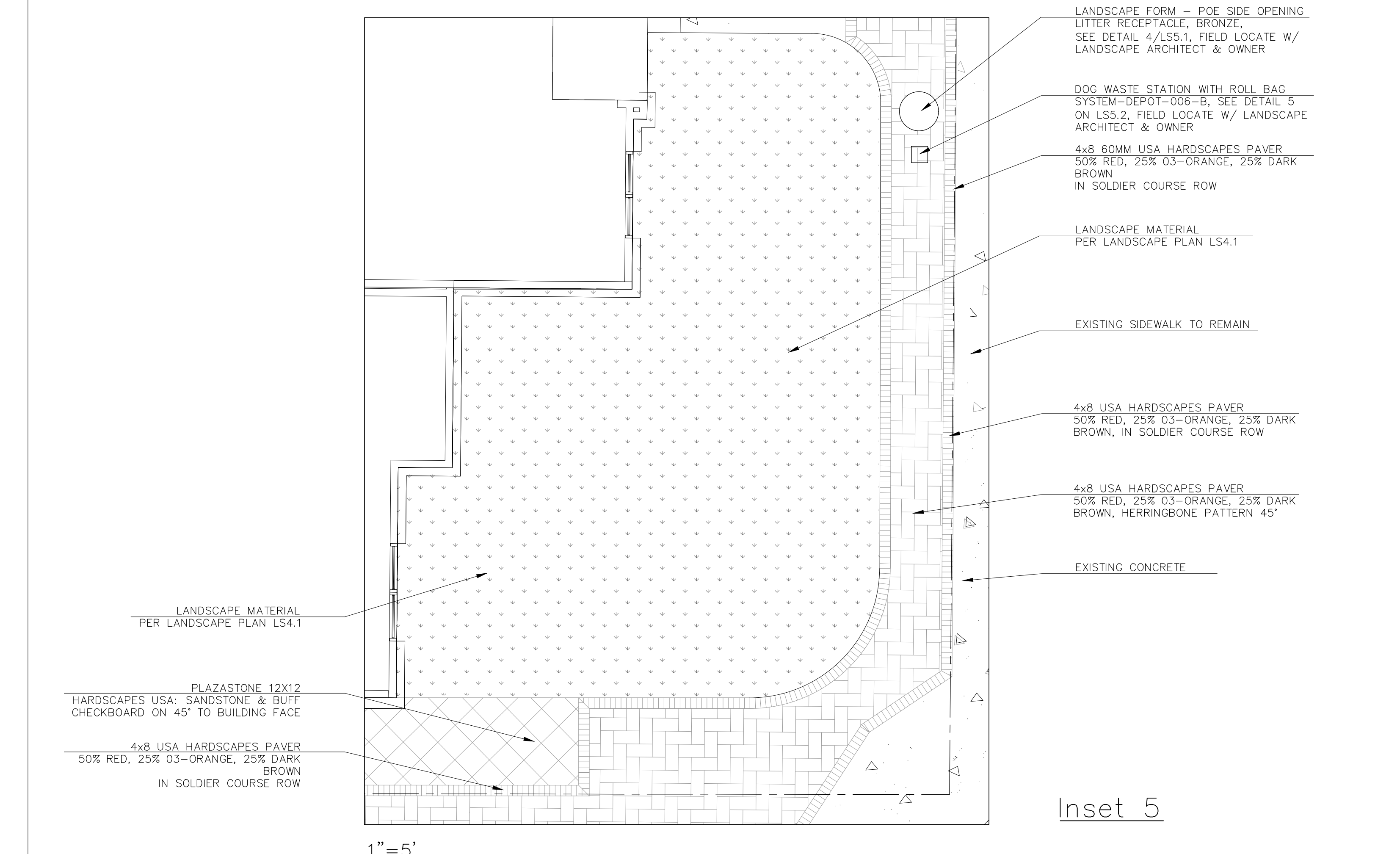
DATE: 01/13/2017



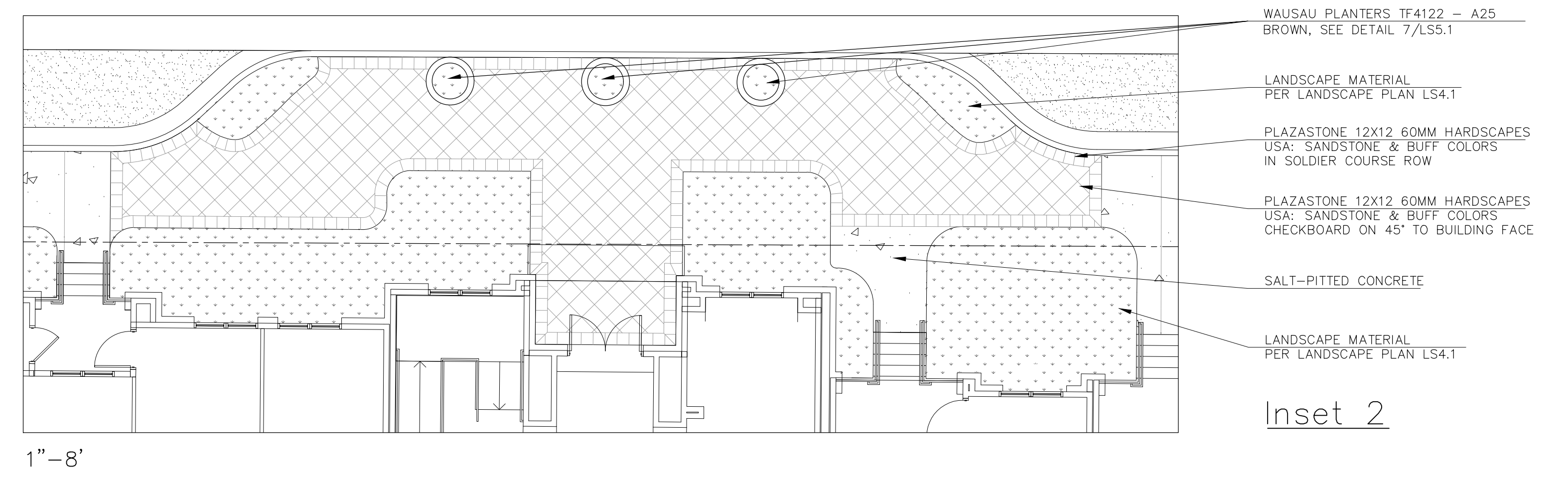
ISSUE FOR CONSTRUCTION



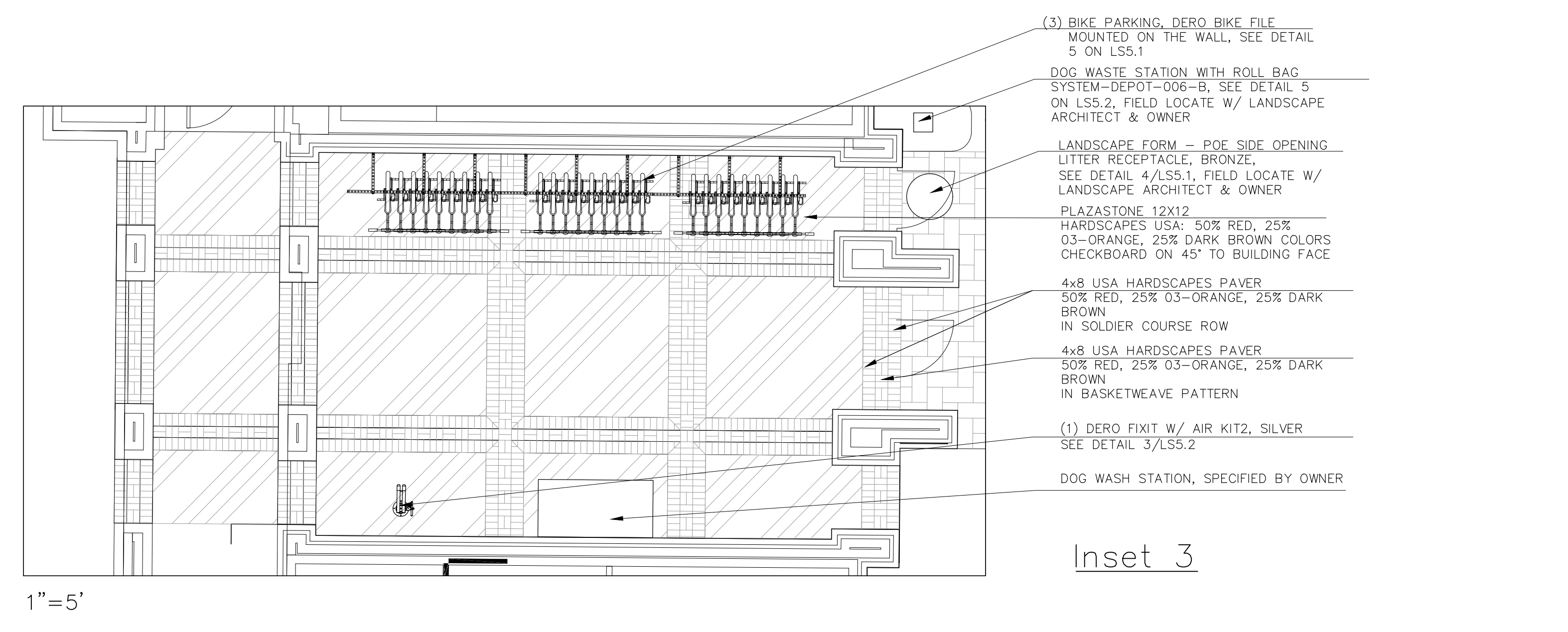
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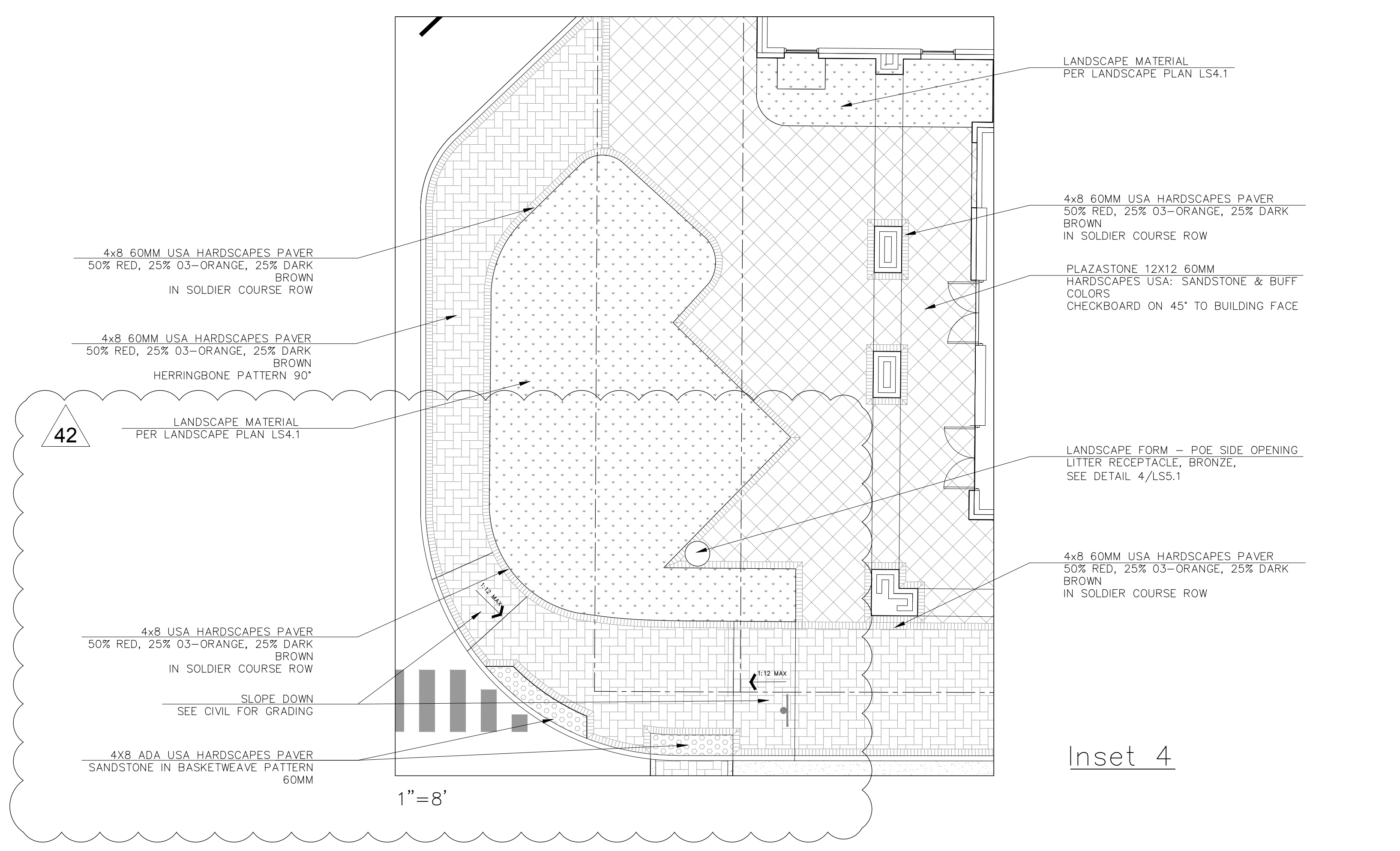
Inset 5



Inset 2



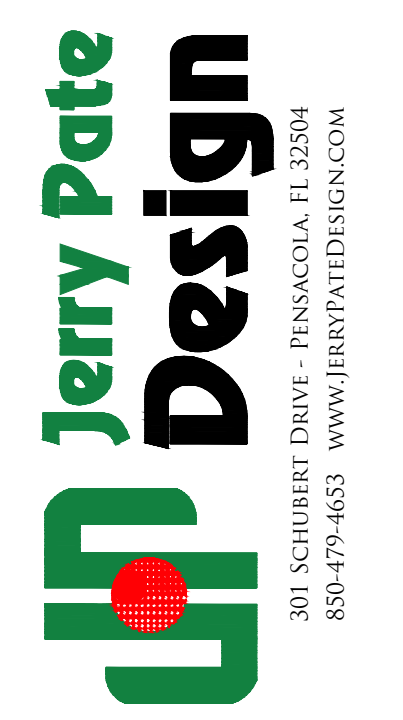
Inset 3



Inset 4

NOTE: ALL PLANTS, MATERIALS, AND WORKMANSHIP ARE SUBJECT TO THE APPROVAL OF THE LANDSCAPE ARCHITECT. DO NOT MAKE SUBSTITUTIONS OF REVISIONS. ANY REVISIONS OR MODIFICATIONS TO THE LANDSCAPE PLANS MUST HAVE PRIOR APPROVAL BY THE LANDSCAPE ARCHITECT AND OWNER.

PROJECT #: EZ
DRAWN BY: SD
CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.
06/19/2017	AS17-R26
07/11/2017	AS120-R29
10/06/2017	AS129-R38
01/10/2018	AS133-R42

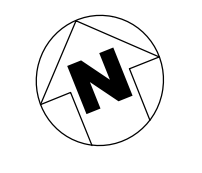
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PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
HARDCAPE
INSETS

SHEET NUMBER:
LS2.2

DATE: 01/13/2017



ISSUE FOR CONSTRUCTION

PROJECT #:
 DRAWN BY: EZ
 CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.
06/19/2017	ASI17-R26
07/11/2017	ASI20-R29
10/06/2017	ASI29-R38
01/12/2018	ASI33-R42
02/14/2018	ASI35-R43

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MIXED-USE DEVELOPMENT
 JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
 PENSACOLA, FLORIDA
 DEVELOPED BY DAILY CONVO, LLC

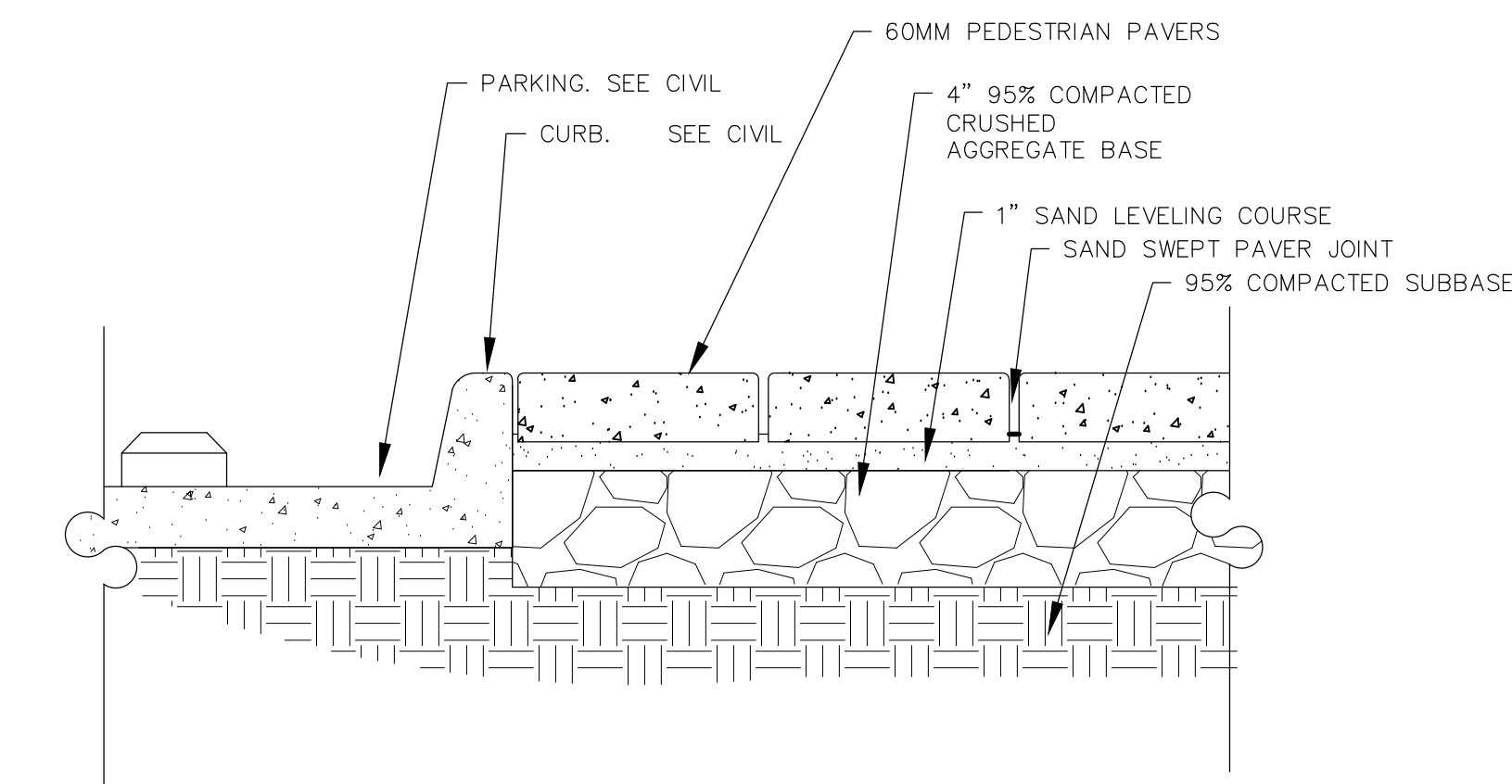
SHEET TITLE:
**HARDSCAPE
 DETAILS**

SHEET NUMBER:

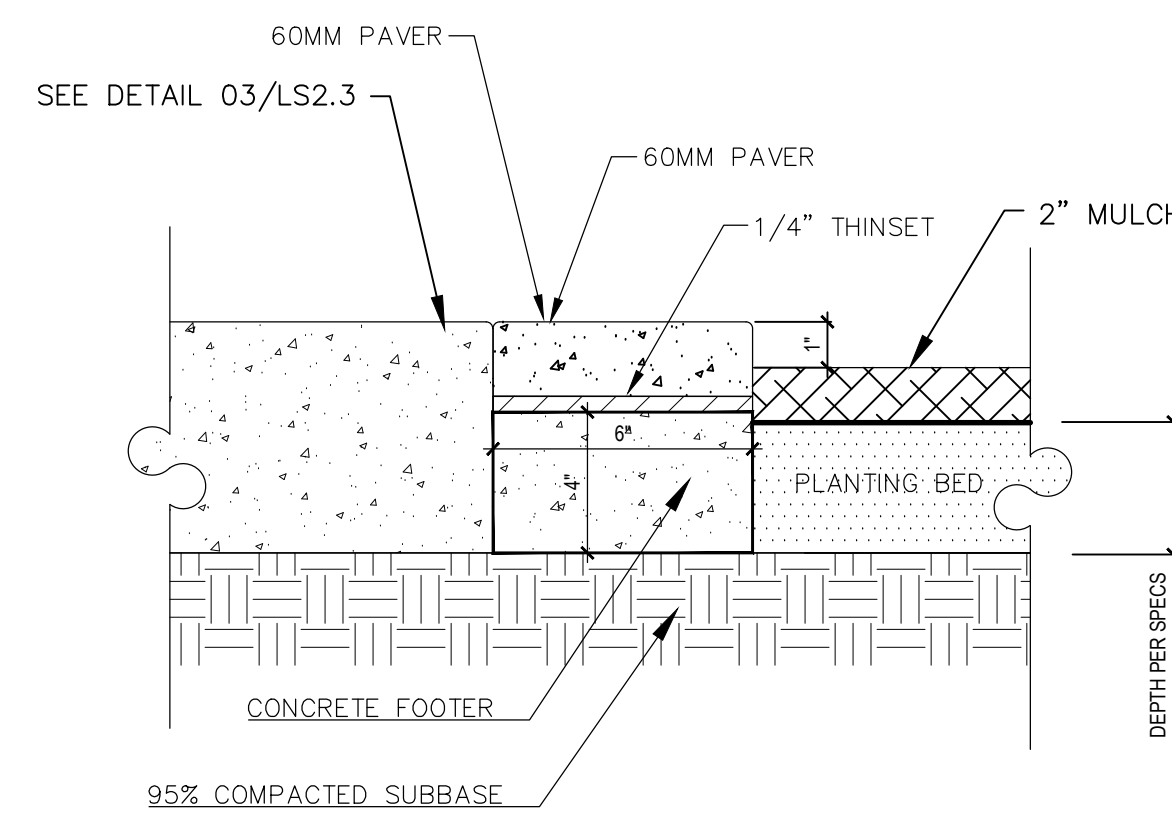
LS2.3

DATE: 01/13/2017

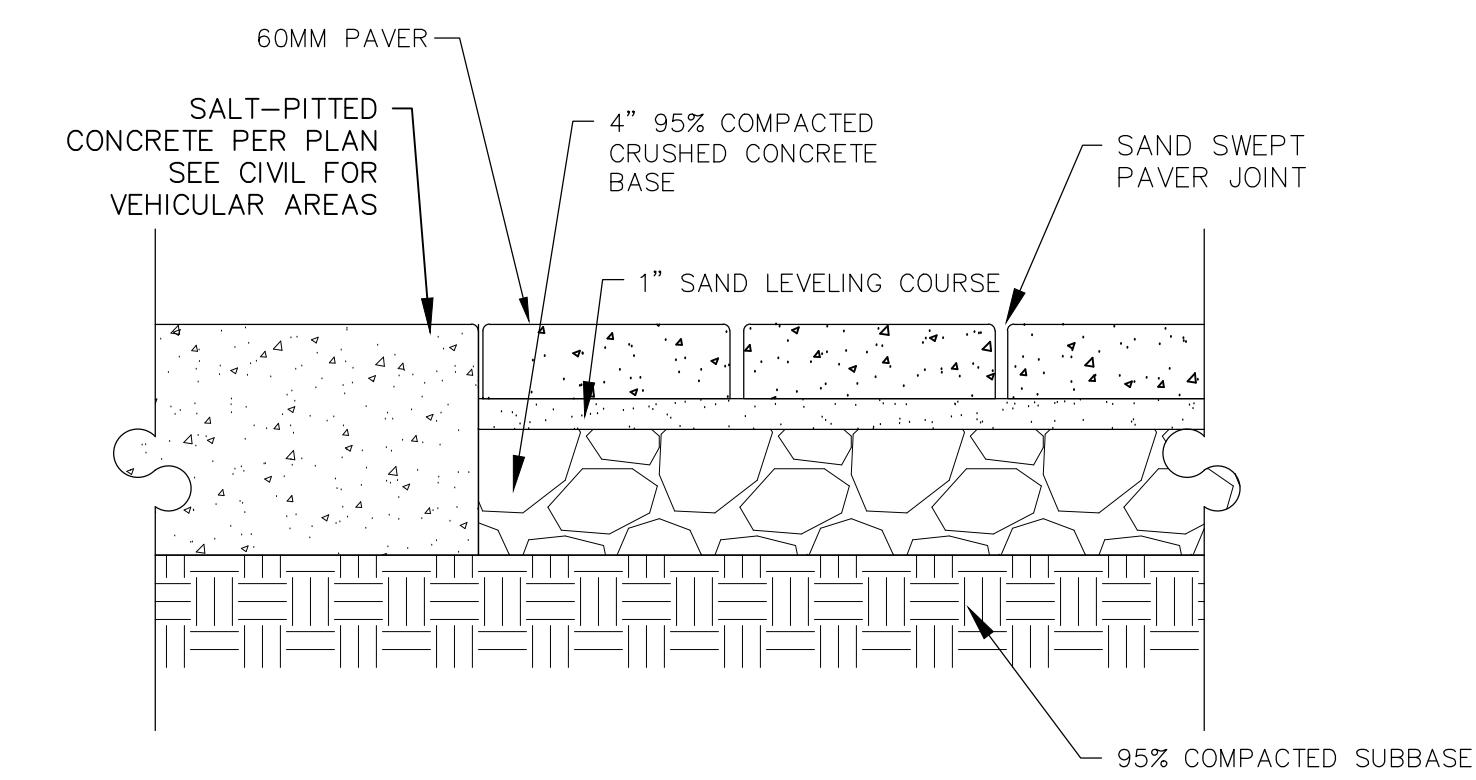
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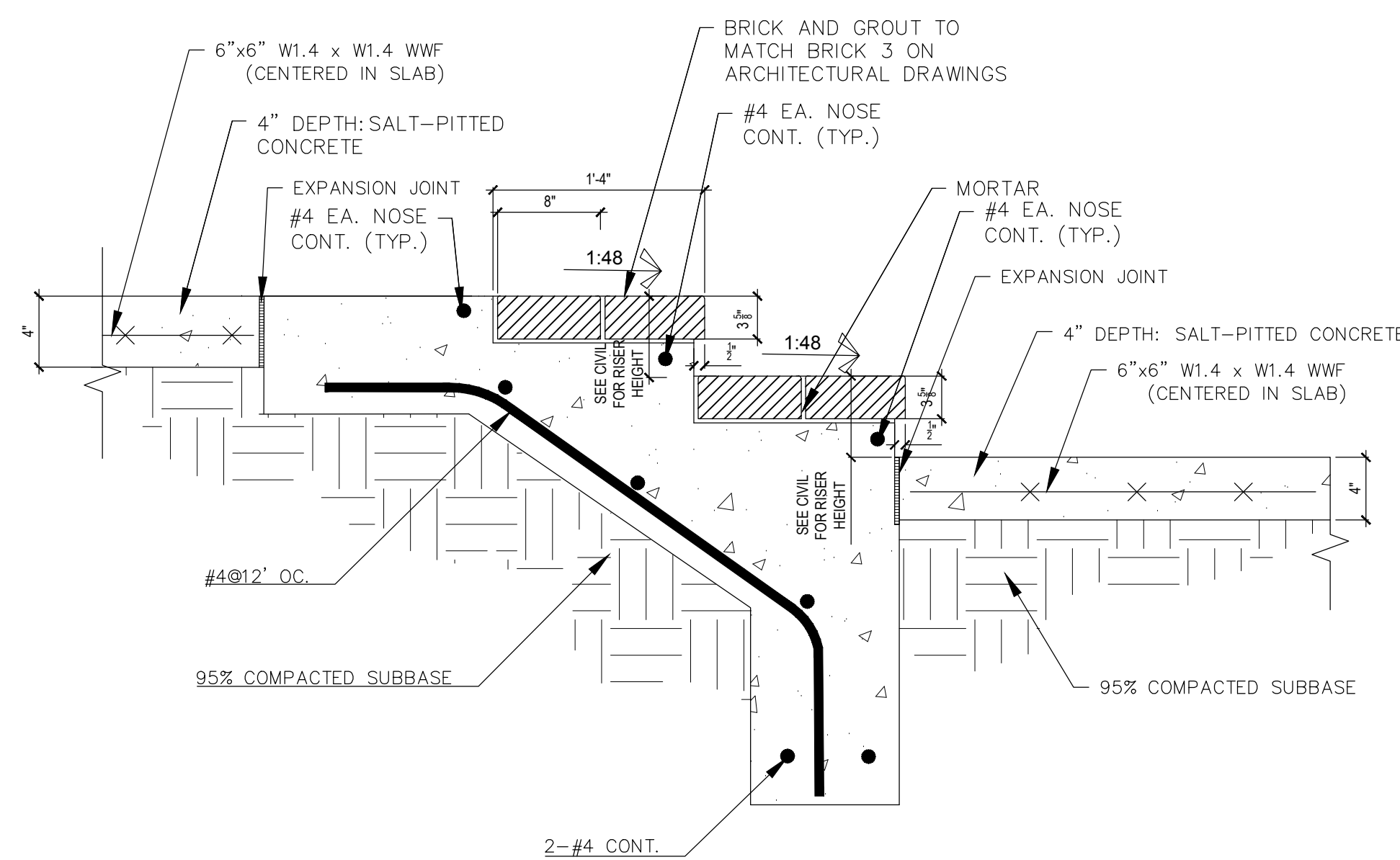
01 TYPICAL PEDESTRIAN PAVERS AT CURB
 NTS



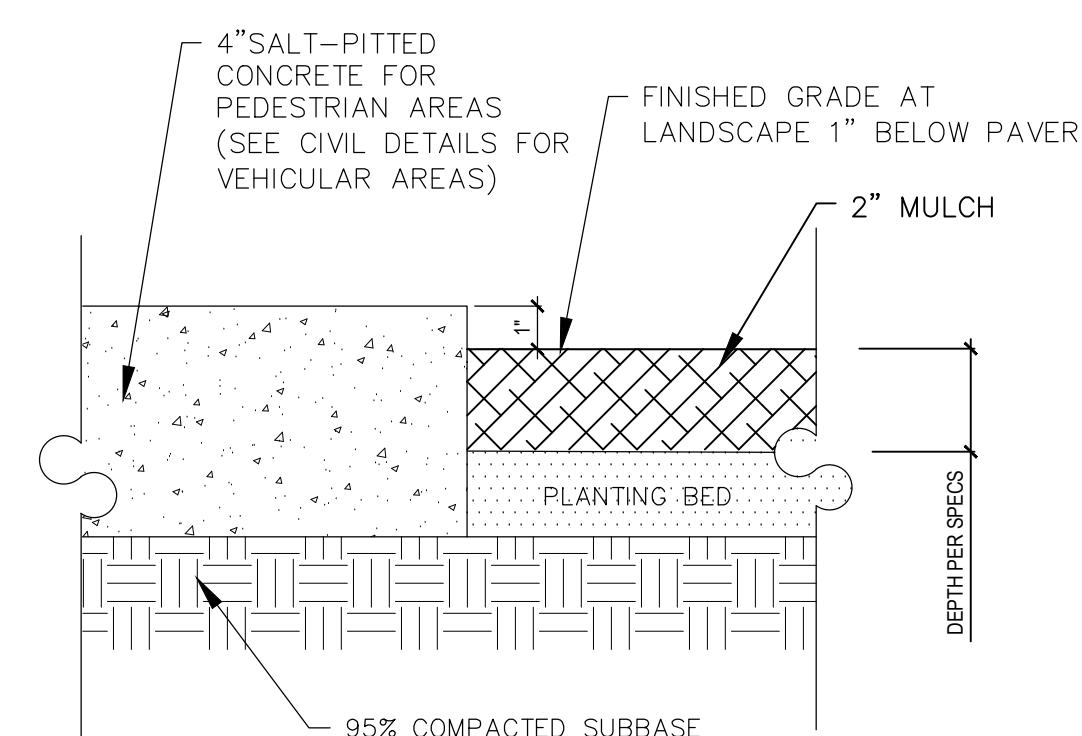
02 TYPICAL CONCRETE WITH PEDESTRIAN PAVER
 AT PLANTING BED
 NTS



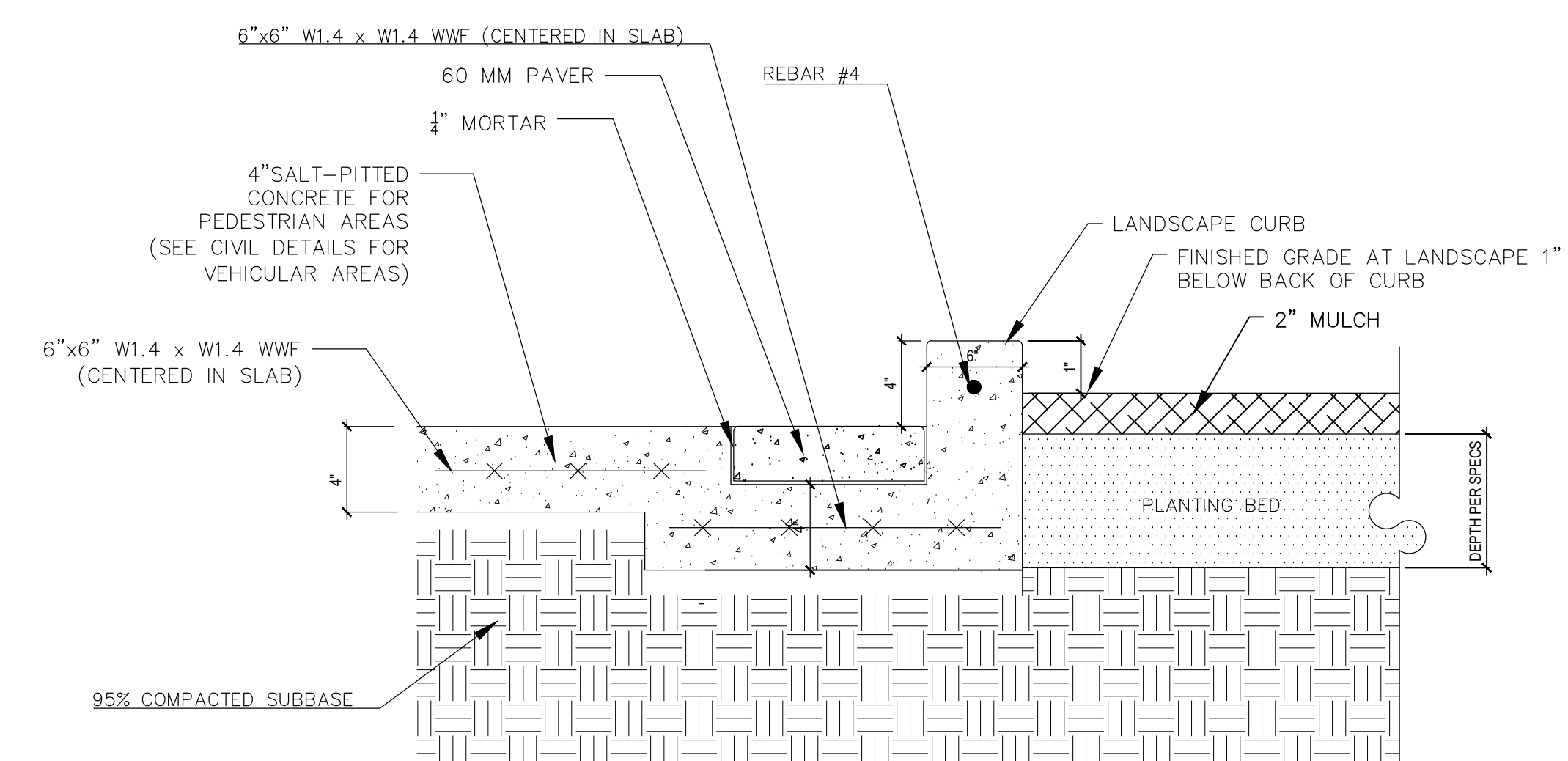
03 TYPICAL PEDESTRIAN PAVERS TO CONCRETE EDGE
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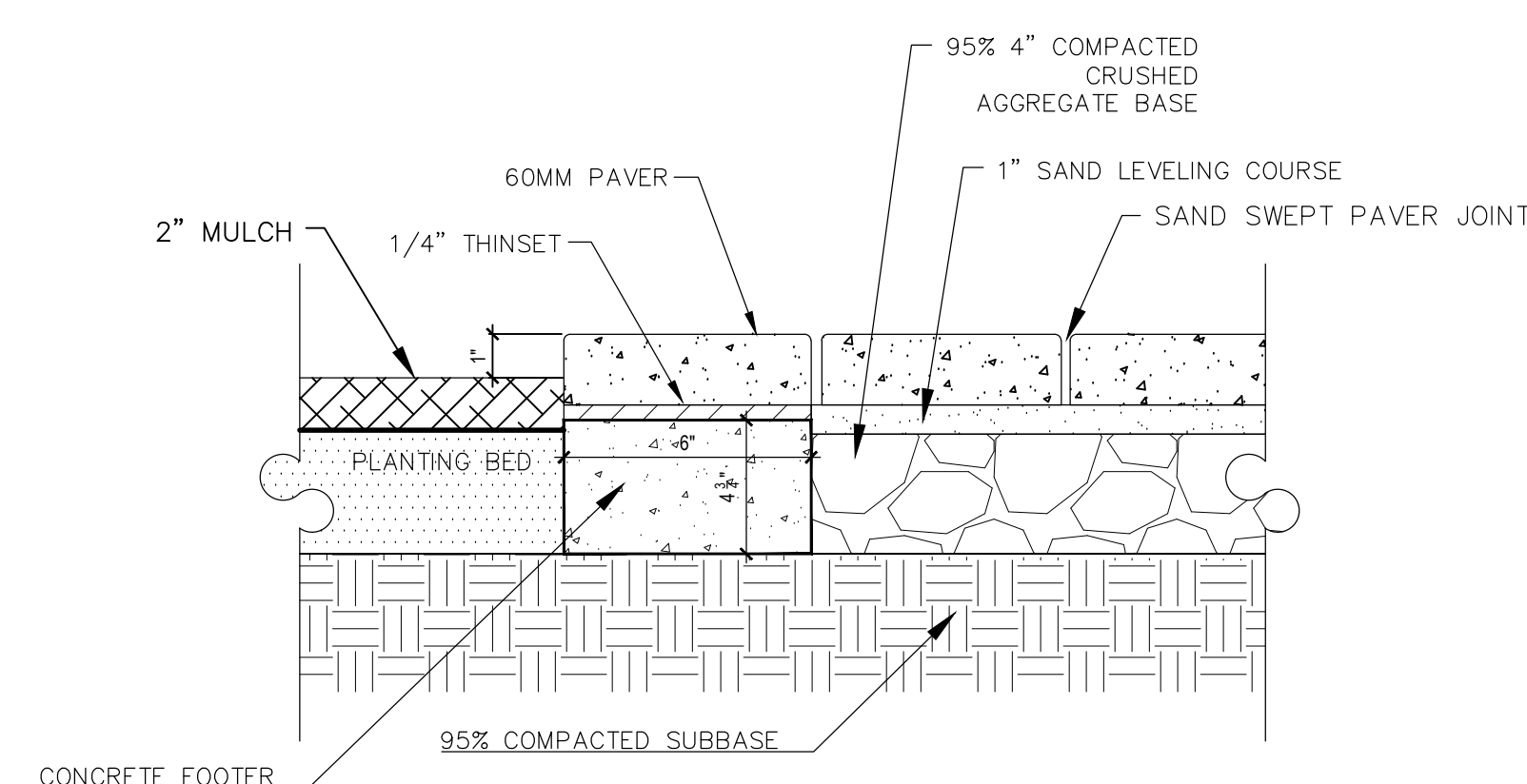
04 CONCRETE TO BRICK STAIRS TO CONCRETE
 NTS



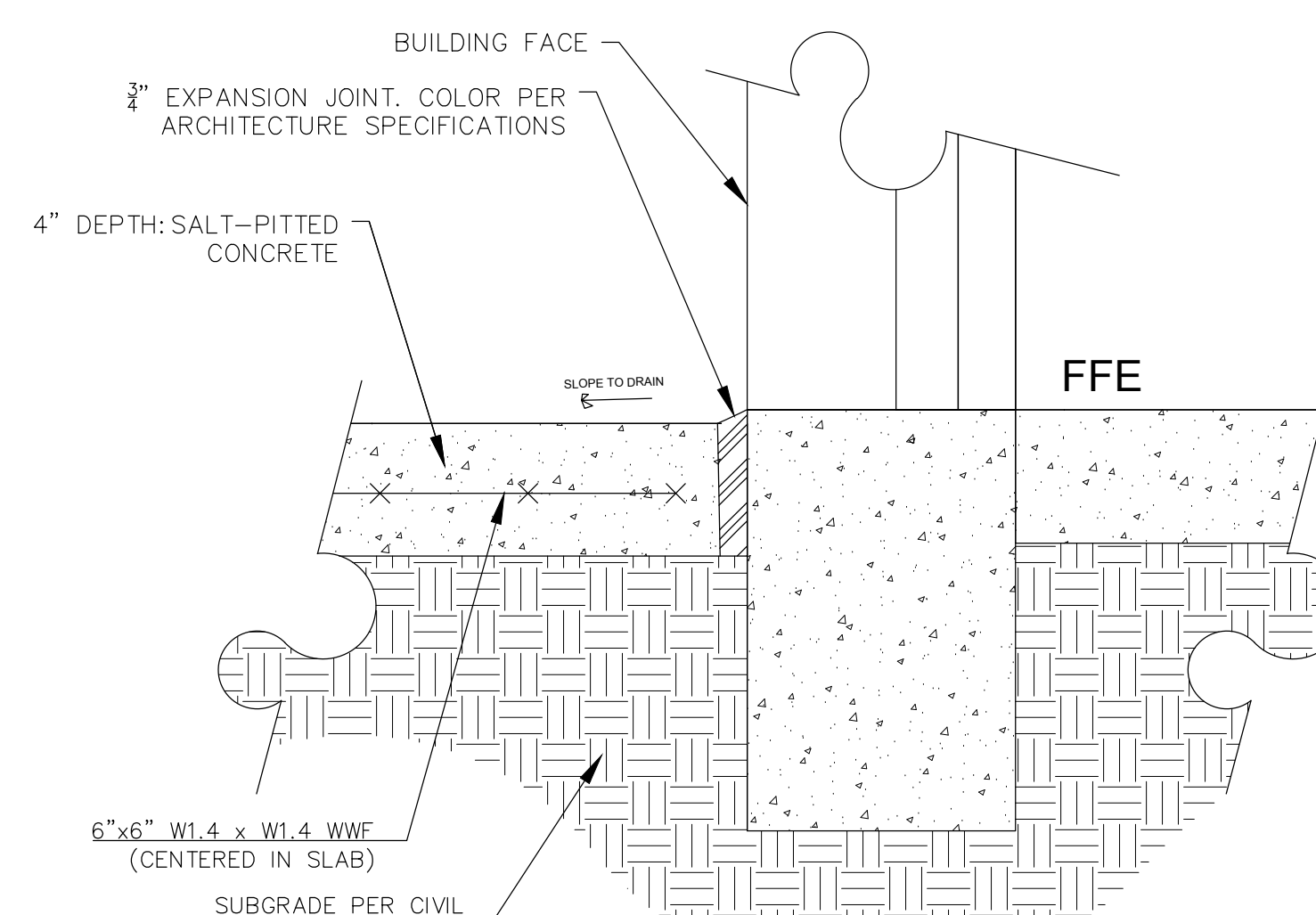
05 TYPICAL SALT-PITTED CONCRETE TO LANDSCAPE
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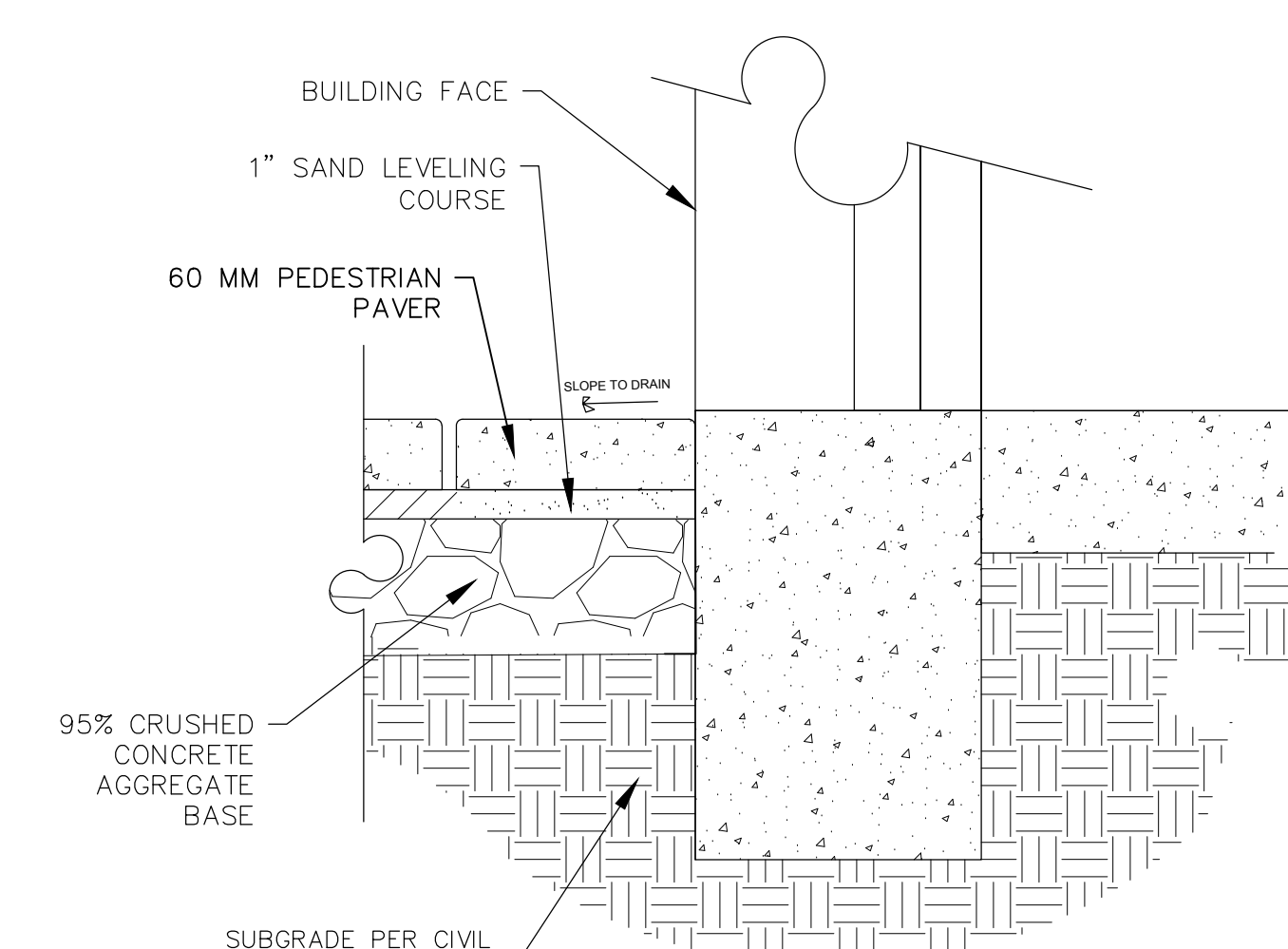
06 TYPICAL CONCRETE TO LANDSCAPE CURB AT
 LANDSCAPE BED
 NTS



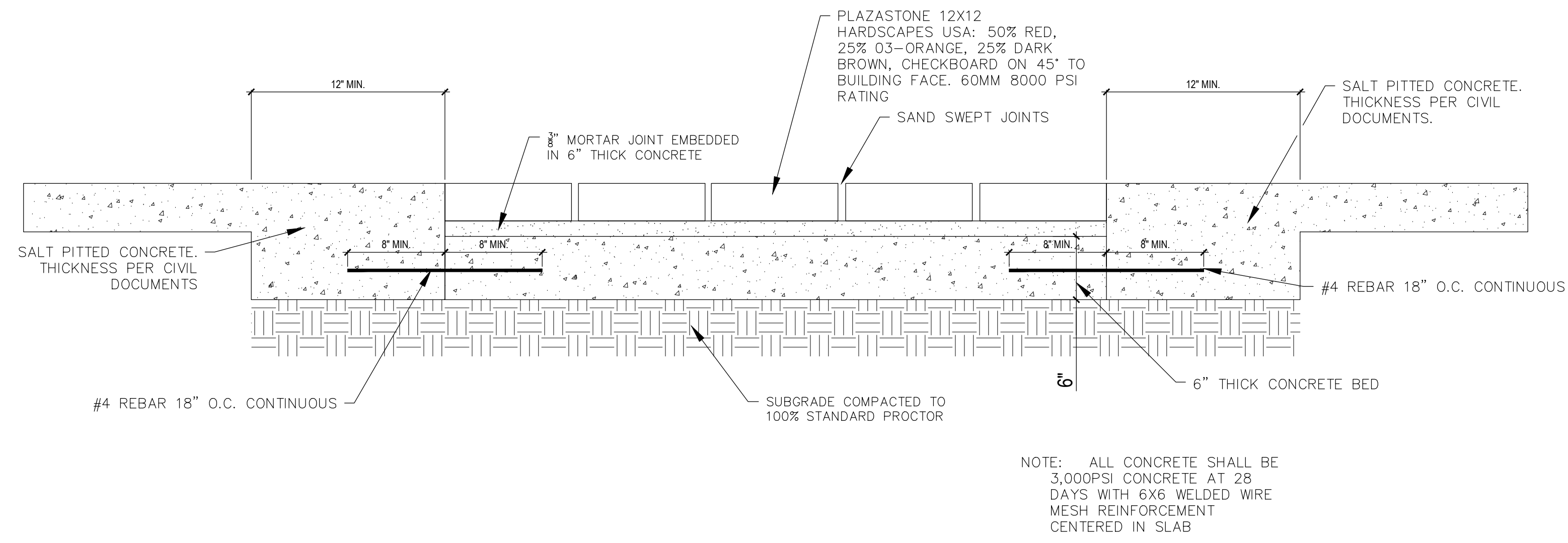
07 TYPICAL PEDESTRIAN PAVER AT PLANTING BED
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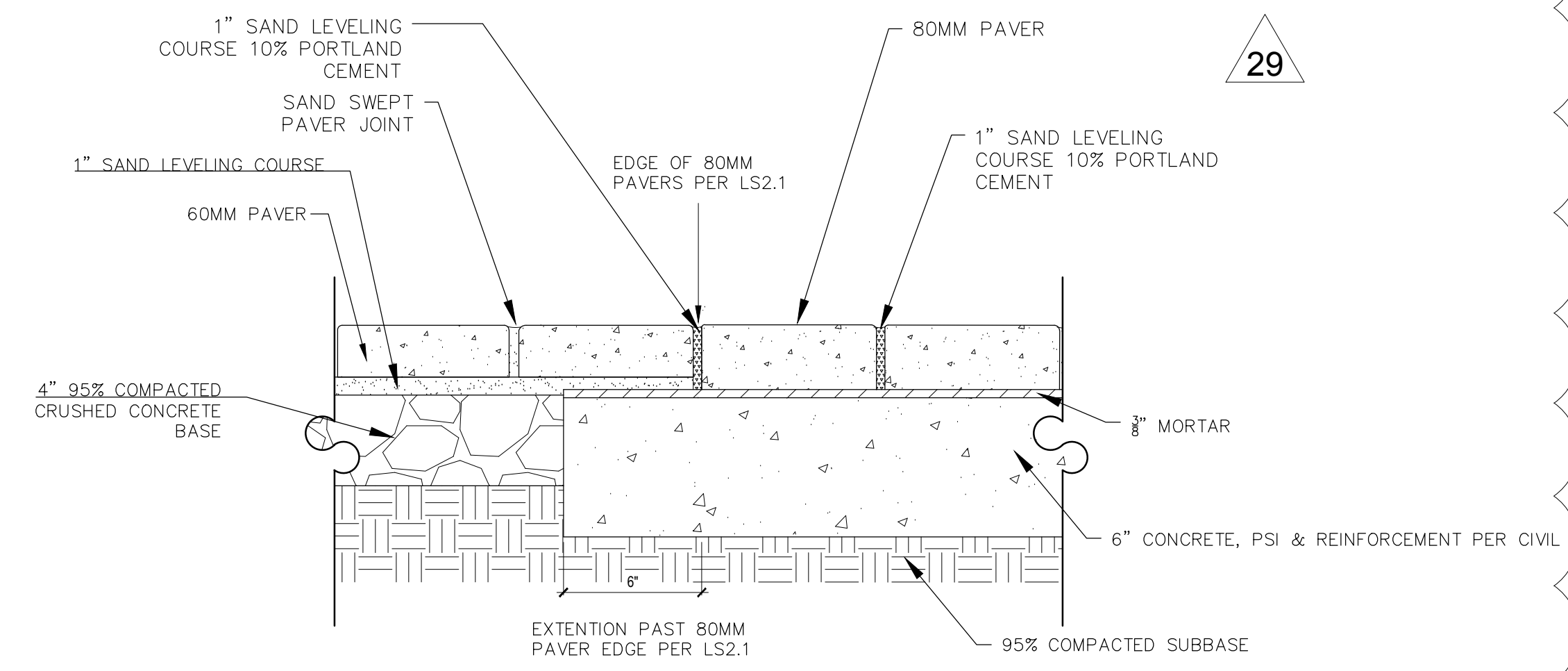
08 TYPICAL PEDESTRIAN CONCRETE AT BUILDING
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09 TYPICAL PEDESTRIAN PAVER AT BUILDING
 NTS



01 TYPICAL CONCRETE TO REINFORCED PAVER DETAIL
NTS



02 TYPICAL PEDESTRIAN PAVERS TO VEHICULAR PAVERS
NTS



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
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06/19/2017	ASI17-R26
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10/06/2017	ASI29-R38
01/12/2018	ASI33-R42
02/14/2018	ASI35-R43

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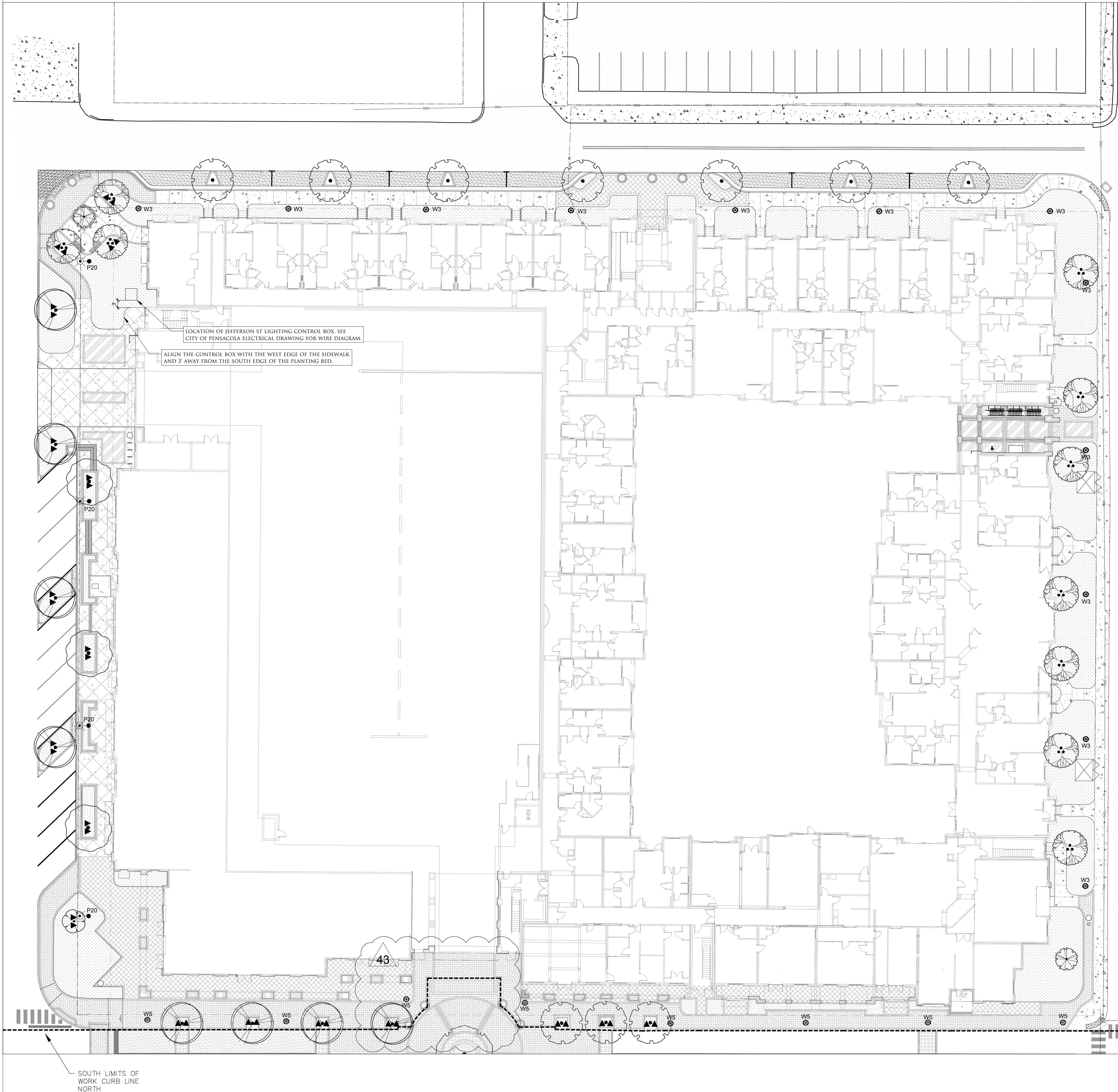
MIXED-USE DEVELOPMENT
JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
HARDSCAPE
DETAILS

SHEET NUMBER:

LS2.4

DATE: 01/13/2017



FIXTURE SCHEDULE

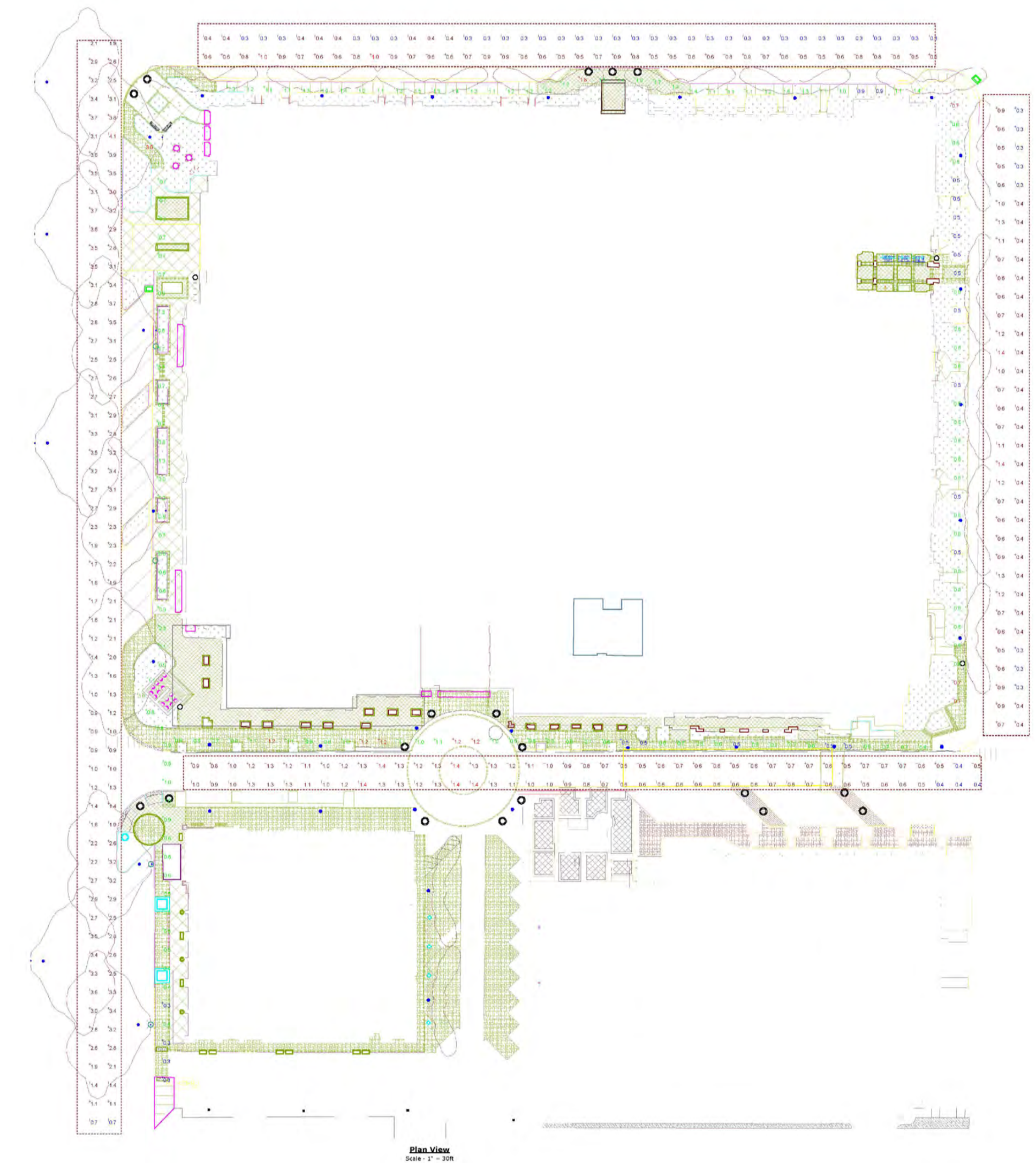
Symbol	Label	Quantity	Manufacturer	Catalog Number	Description	Number Lamps	Light Loss Factor	Wattage	Note
●	P20	4	Holophane	MPL2 P20S 40K AS BK TG 3 S mounted on 28' pole.	Esplanade LED, 3 COBs (downlight), 4000K, Teardrop glass and door, Type 3	1	0.9	83	Relocate Existing Jefferson Street Fixture or New Fixtures Supplied by City of Pensacola
⊙	W3	12	Holophane	WSE2 P20 40K AS BK 3 BK 4 P7 mounted on 12' pole	Glass Washington Utility LED, LED Package 20, 39W, 4000K, 120-277V, Type 3 distribution	1	0.9	39	Pole Number: WDA 12 FSJ 17 P07 ABG BK
⊙	W5	8	Holophane	WSE2 P20 40K AS BK 3 BK 4 P7 mounted on 12' pole	Glass Washington Utility LED, LED Package 20, 39W, 4000K, 120-277V, Type 5 distribution	1	0.9	39	Pole Number: WDA 12 FSJ 17 P07 ABG BK
▲	LF	36	Philips	HADCO #B9-DC-A-SP1	Accent line - voltage luminaire LED, 4000K, 120-277V, 10K	1	0.9	33	/

REFER TO ELECTRICAL PLANS FOR POWER SOURCE AND CIRCUITRY. HADCO & SESCO LANDSCAPE ACCENT LIGHTING SHALL BE ON SEPERATE CIRCUITS FROM HOLOPHANE & JEFFERSON STREET POLE FIXTURES. CONTRACTOR SHALL BE RESPONSIBLE FOR A RECESSED ELECTRICAL BOX FOR THE HADCO U/LIGHT MOUNTING. LIGHTS SHALL BE FIELD LOCATED BY LANDSCAPE ARCHITECT. CONTRACTOR SHALL CONTACT OWNER/LANDSCAPE ARCHITECT PRIOR TO INSTALLATION.

CALCULATION SUMMARY

Description	Unit	Avg	Max	Min	Max/Min	Avg/Min
Intendencia St.	Fc	0.9	1.4	0.4	3.5:1	2.3:1
Jefferson St.	Fc	2.5	4.1	0.7	5.9:1	3.6:1
Romana St.	Fc	0.5	1	0.3	3.3:1	1.7:1
Tarragonna St.	Fc	0.6	1.4	0.3	4.7:1	2.0:1
Sidewalk Intendencia	Fc	0.8	1.2	0.5	2.4:1	1.6:1
Sidewalk Jefferson	Fc	0.9	3.5	0.3	11.7:1	3.0:1
Sidewalk Romana	Fc	1.3	1.8	0.9	2.0:1	1.4:1
Sidewalk Tarragonna	Fc	0.6	0.7	0.5	1.4:1	1.2:1

PHOTOMETRICS PROVIDED BY ACUITY BRANDS LIGHTING.



SOUTH LIMITS OF WORK CURB LINE NORTH

PROJECT #: EZ
DRAWN BY: SD
CHECKED BY: SD

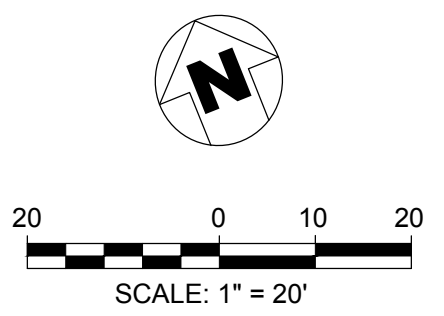


ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.
06/19/2017	ASI17-R26
07/11/2017	ASI20-R29
10/06/2017	ASI29-R38
01/12/2018	ASI33-R42
02/14/2018	ASI35-R43

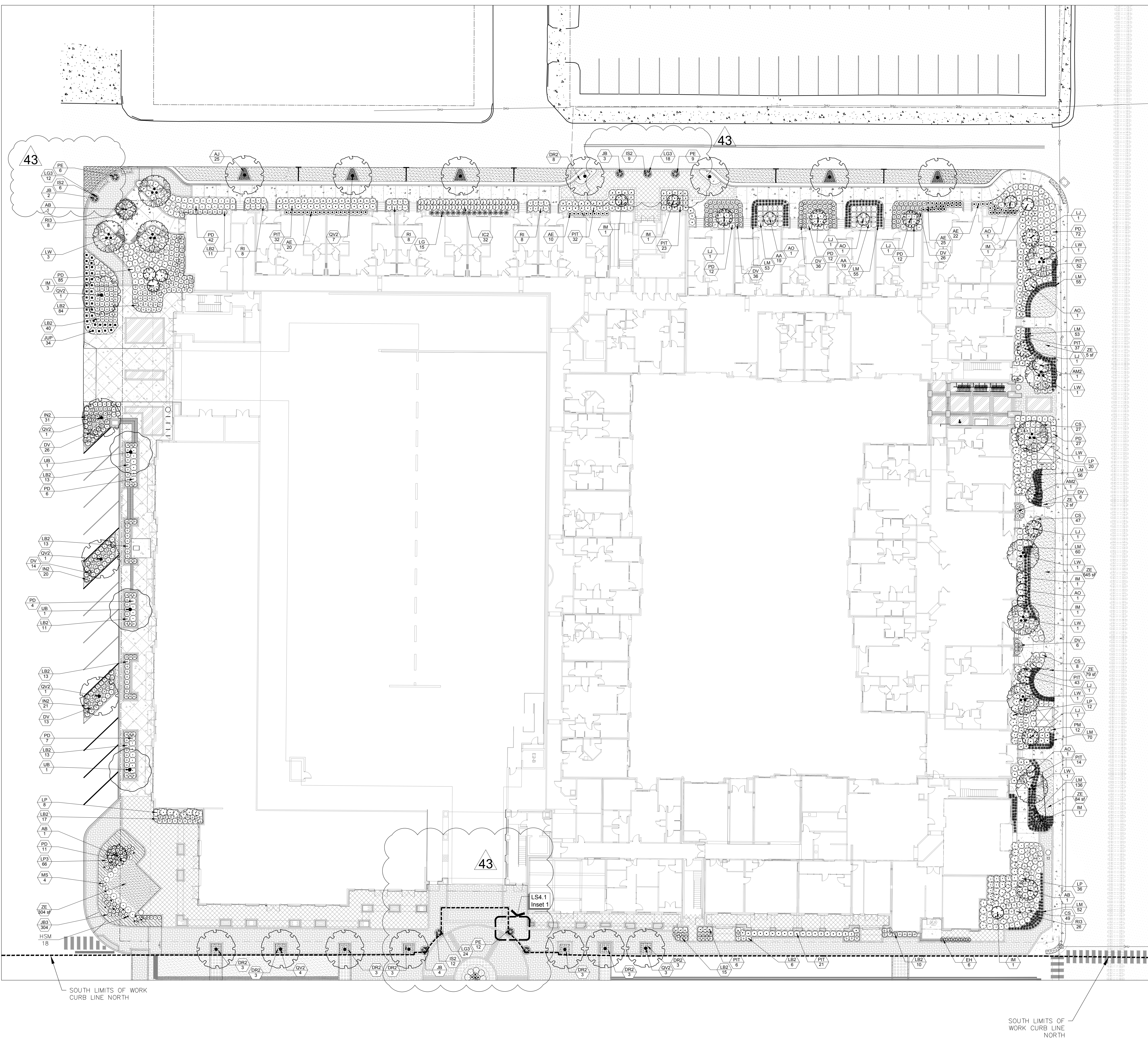
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MIXED-USE DEVELOPMENT
JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
LIGHTING PLAN
SHEET NUMBER:
LS3.1
DATE: 01/13/2017



ISSUE FOR CONSTRUCTION



PLANT SCHEDULE APARTMENT

TREES	CODE	QTY	BOTANICAL NAME / COMMON NAME	CONT	CAL	SIZE
	AM2	2	Acer palmatum 'Manyo No Sato' / Manyo No Sato Japanese Maple	15gal	1.5"Cal	5-6' HT
	AB	2	Acer palmatum 'Bloodgood' / Bloodgood Japanese Maple	FG	3.5"4"Cal	10-12'H
	AS2	1	Acer palmatum 'Seiryu' / Seiryu Japanese Maple	B & B	3.5"4"Cal	9-11' H
	AO	6	Acer palmatum 'Orangeola' / Orangeola Japanese Maple	15gal	1.5"Cal	5-6' HT
	IM	10	Ilex x 'Mary Nell' / Mary Nell Holly	FG	Varies	6'-8' HT
	JB	9	Juniperus chinensis 'Blue Point' / Blue Point Juniper	3 gal	Specimen	2-3' HT
	LW	10	Lagerstroemia x 'Natchez' / White Crape Myrtle Multi-Trunk	FG	Varies	12-15' HT
	LJ	6	Ligustrum japonicum / Tree Form Japanese Ligustrum	FG	Varies	6'-8' HT
	QV2	18	Quercus virginiana / Southern Live Oak	FG	3" DBH	16'-18' HT
	UB	3	Ulmus parvifolia 'Bosque' / Bosque Elm	FG	3" DBH	14'-16' HT

SHRUBS	CODE	QTY	BOTANICAL NAME / COMMON NAME	CONT	SIZE	SPEC	SPACING
	AE	77	Aspidistra elatior / Cast Iron Plant	3 gal	18" OA	FTB, SP	24" o.c.
	AA	38	Azalea Encore 'Autumn Angel' / Autumn Angel Azalea	3 gal	18" OA	FTB, SP	36" o.c.
	CS	131	Camellia sasanqua 'Shishi-Gashira' / Camellia	3 gal	36" OA	SP	36" o.c.
	DV	163	Dianella tasmanica 'Varegata' / Variegated Flax Lily	3 gal	12" OA	Full Pot	30" o.c.
	EH	6	Equisetum hyemale / Horsetail Reed Grass	3 gal	12" OA	Full Pot	30" o.c.
	IC2	32	Ilex cornuta 'Carissa' / Carissa Holly	3 gal	18" OA	FTB, SP	36" o.c.
	IN2	27	Ilex vomitoria 'Nana' / Dwarf Yaupon	3 gal	18" OA	FTB, SP	30" o.c.
	IS2	27	Iponoea batatas 'Sweet Caroline Sweetheart Purple' / Sweetheart Purple Sweet Potato Vine	4" POT			8" o.c.
	JUP	34	Juniperus chinensis 'Parsonii' / Parsonii Juniper	3 gal	30" OA	FTB, SP	36" o.c.
	LM	590	Liriope muscari 'Big Blue' / Big Blue Liriope	1 gal	12" OA	Full Pot	18" o.c.
	LG	15	Liriope muscari 'Evergreen Giant' / Evergreen Giant Border Grass	3 gal	18" OA	Full Pot	30" o.c.
	LB2	247	Lomandra longifolia 'Breeze' / Breeze Grass	3 gal	18" OA	Full Pot	30" o.c.
	LP	76	Loropetalum chinense 'Purple Diamond' / Fringe Flower	3 gal	24" OA	FTB, SP	42" o.c.
	LP3	67	Loropetalum chinense 'Purple Pixie' / Purple Pixie Loropetalum	3 gal	36" OC	FTB, SP	24" o.c.
	LG3	54	Lysimachia nummularia 'Goldlocks' / Creeping Jenny	1 gal	12" OA		6" o.c.
	MS	4	Miscanthus sinensis 'Adagio' / Adagio Eulalia Grass	3 gal	18" OA	FTB, SP	36" o.c.
	PIT	260	Pittosporum tobira 'Variegated Dwarf' / Variegated Dwarf Pittosporum	3 gal	18" OA	Full Pot	36" o.c.
	PD	390	Podocarpus macrophyllus 'Dwarf Pingles' / Dwarf Podocarpus	3 gal	36" OA	Full Pot	36" o.c.
	PM	12	Podocarpus macrophyllus maki / Shubby Yew	3 gal	18" OA	FTB, SP	36" o.c.
	RI	24	Rhapheolepis indica / Indian Hawthorn 'Snow White'	3 gal	30" OA	FTB, SP	36" o.c.
	RI3	34	Rosa x 'Icy Drift' / Icy Drift Rose	3 gal	18" OA	SP	36" o.c.

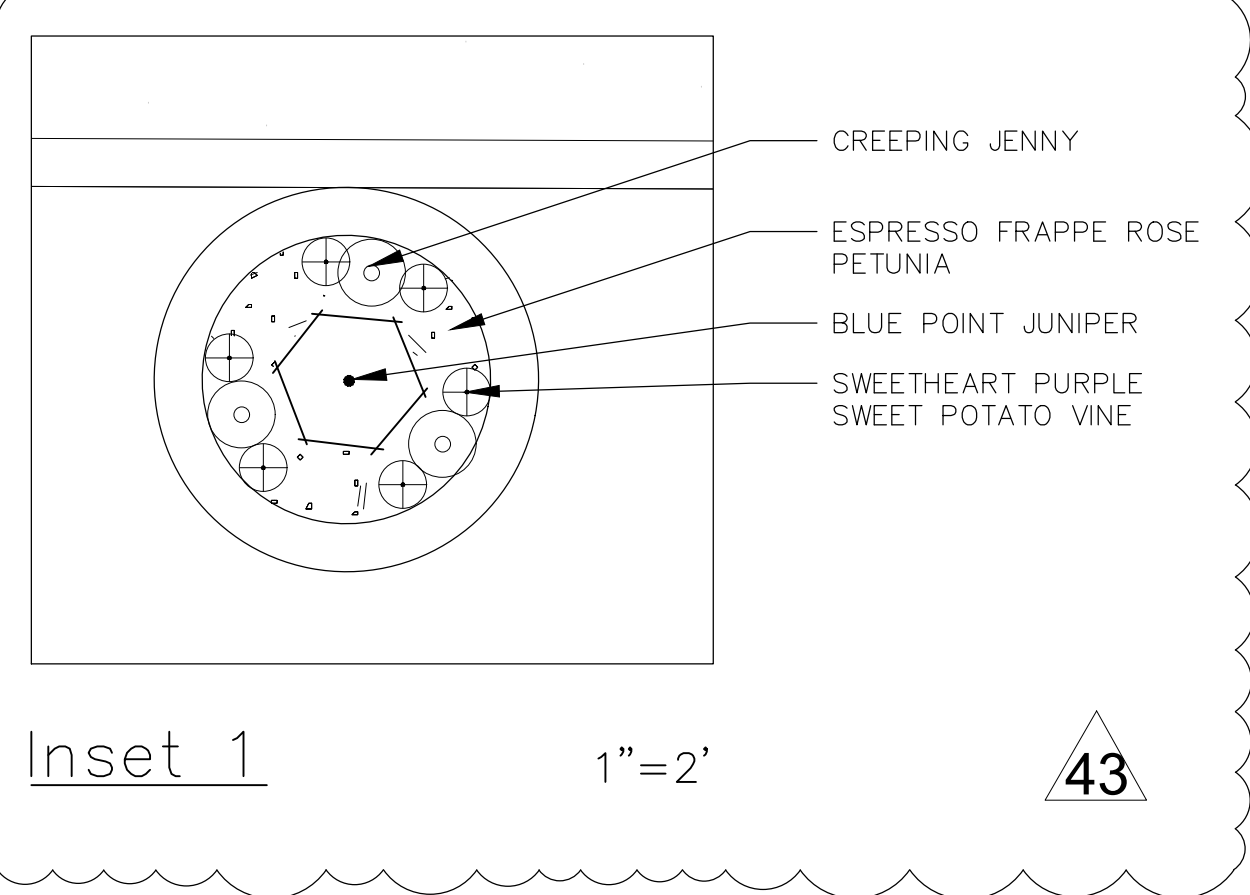
GROUND COVERS	CODE	QTY	BOTANICAL NAME / COMMON NAME	CONT	SIZE	SPAC	SPACING
	DR2	30	Delosperma dyeri 'Red Mountain' / Red Mountain Iceplant	1 gal	24" OA		36" o.c.
	JB3	304	Juniperus conferta 'Blue Pacific' / Blue Pacific Juniper	1 gal	12" OA		12" o.c.
	PE	27	Petunia x hybrida Espresso Frappe Rose / Espresso Frappe Rose Petunia	4" Pot	12" OA		12" o.c.
	AJ	25	Trachelospermum asiaticum 'Asiatic' / Asiatic Jasmine	1 gal	12" OA		24" o.c.
	ZE	1,020 sf	Zoysia japonica 'Emerald' / Emerald Zoysia	sod	N/A		

HSM 18 HISTORIC PENSACOLA STREET MARKERS PROVIDED BY OWNERS. SEE DETAIL 2.LS5.2

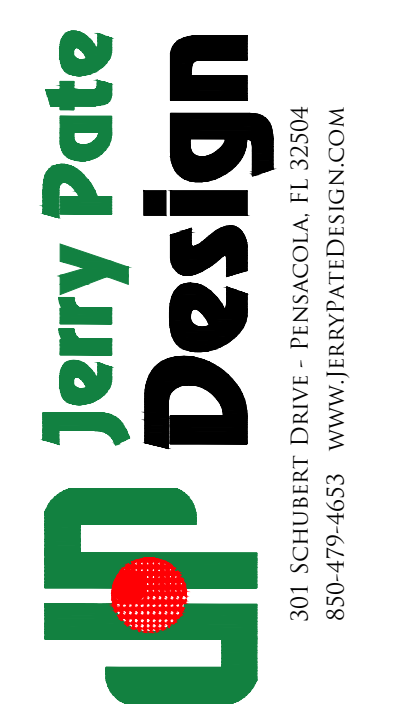
NOTE: ROOT BARRIER TO BE INSTALLED AT THE EDGE OF HARDSCAPE WITH 7 LIVE OAKS ON ROMANA STREET, 3 ELMS ON JEFFERSON STREET, AND 7 LIVE OAKS ON INTENDENCIA STREET.

PROTECTED TREE MITIGATION:

PROTECTED TREES REMOVED:	=	5 TREES
	=	98 DBH
MITIGATION TREES REQUIRED: (PER CH. 12-6, LAND DEVELOPMENT CODE)	=	18 TREES
	=	MIN. 3" DBH
MITIGATION TREES PROVIDED:	=	(18) 3" DBH TREES



PROJECT #:
 DRAWN BY: EZ
 CHECKED BY: SD

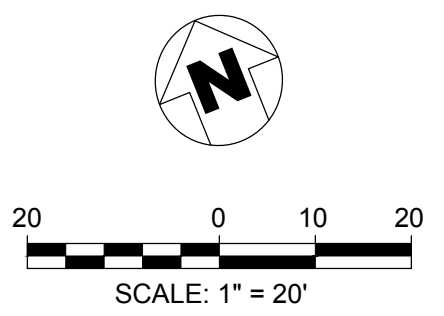


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MIXED-USE DEVELOPMENT
JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
LANDSCAPE PLAN
SHEET NUMBER:
LS4.1
DATE: 01/13/2017



GENERAL NOTES

- All construction shall be in accordance with the plans and written notes. No substitutions shall be made without prior written approval by the landscape architect, Jerry Pate Design.
- Written dimensions shall take precedence over scaled dimensions. The Contractor shall verify and be responsible for all dimensions and conditions on the job. The landscape architect shall be notified of any variation from the dimensions and conditions shown on the plans.
- One Year Landscape Maintenance:**
The Establishment Period for watering and maintenance by the Contractor shall be 365 days. The Contractor shall request an Establishment Period Inspection at the end of the 365 day Establishment Period. A representative from the Owner who is responsible for the maintenance shall be in attendance at the establishment period inspection.
- Landscape materials shall be adjusted in the field to avoid conflicts with any proposed or remaining utility structures, drainage structures, ditches, under drains, ditch boxes, storm water facilities and drainage discharge paths, existing signage, and existing lighting and their appearances. The Contractor shall not install the proposed improvements if a conflict exists. Any costs to remove and/or repair work adjusted that has not been approved previously by the landscape architect shall be at the Contractor's expense.
- Landscape improvements shall be installed by the Contractor in accordance with the most current FDOT Standard Specification 580, and any other planting specifications included in the Construction Documents.
- Plant quantities shown on the landscape plan are minimum only. The Contractor is responsible for the Contractor's own quantity take-off, and shall provide all plant material required to fill the planting beds at the spacing indicated on the planting legend.
- Planting for all plant material and the protection of existing trees to remain shall be in accordance with the most current FDOT Design Standard Index 987, and the details in the Construction Documents.
- The Contractor shall insure that, prior to moving on site, all equipment which last operated in places known to be infested with noxious weeds is free of soil, seeds, vegetative matter, or other debris that could contain or hold seeds.
- The Contractor shall not bring any hazardous materials onto the job site. If the Contractor needs hazardous materials to perform the contracted work, the contractor shall request, in writing, advance permission from the Owner. If any known or suspected hazardous material is found on the project, the Contractor shall immediately notify the Owner.
- Any public land survey system corner or any monument that perpetuates the Right-of-Way within the limits of construction is to be protected by the contractor. If a monument is in danger of being destroyed and has not been properly referenced, the Contractor should notify the Owner.

PLANTING BED PREPARATION

- Contractor shall confirm all planting beds are not compacted beyond 85 percent to ensure drainage. Should compacted soils exist, soils shall be excavated and replaced with well-draining soil. No parking lot sub-base or asphalt material shall remain in planting beds. Contractor shall install soil chimneys reference to detail 1&3 LS501 as necessary.
- All existing vegetation shall be removed in all planting bed areas unless otherwise noted on the plans. Herbicide manufacturer specifications and instructions shall be followed as to treatment dilution, mix, application, and time periods between applications as applicable to assure weeds are eliminated from the planting beds prior to commencing planting. All personnel involved in the chemical program are to receive the proper training and licensure, and follow the operating guidelines provided by FDOT for chemical control. Contact the Escambia County Extension Service for additional information regarding herbicides, pesticides, and required licenses.
- Contractor shall amend soil with a minimum 1" of new topsoil to all planting beds. The mixture of topsoil shall be 2/3 bamy sand and 1/3 mushroom compost to ensure plant material has a sufficient amount of nutrients to establish. Loamy sand soil used shall consist of 80% - 80% Sand, 10% - 30% Silt, and 0% - 20% Clay according to NRCS USDA soil classification chart.
- Representative soil samples (3 minimum) from varying areas throughout the project shall be taken and provided to the owner's representative. Based on the soil sample results and recommendations from the testing laboratory, the contractor shall incorporate all soil amendments / fertilizer necessary to correct any soil deficiencies so that optimal plant health can occur.
- All soil amendments shall be added to the planting beds and incorporated into the soil prior to commencing final grading and planting. All beds shall be graded to provide positive drainage with no areas where standing water could occur.
- All planting bed areas shall be treated with a pre-emergent herbicide to assure that weeds will be controlled. If pre-emergent is a granular product the pre-emergent shall be installed after all plants and mulch are installed in each bed. Granular pre-emergent shall be watered in to activate within 24 hours of application or time frame specified by manufacturer. Water used to activate granular pre-emergent shall come from an overhead source, not from a drip irrigation system.

UTILITY NOTES

- The locations of the utilities shown on the plans should be considered approximate only, and interpolations between these points have not been verified.
- The Contractor shall notify all utilities two business days prior to demolition and/or excavation. Call "Sunshine State One Call System" 1-800-432-4770 (or 811) so that underground utilities may be field located.
- The Contractor shall coordinate with the utility companies during construction. No utility is to be relocated. Planting shall be adjusted horizontally, at the direction of the landscape architect, to address any utility conflicts.

365-DAY ESTABLISHMENT PERIOD MAINTENANCE PLAN

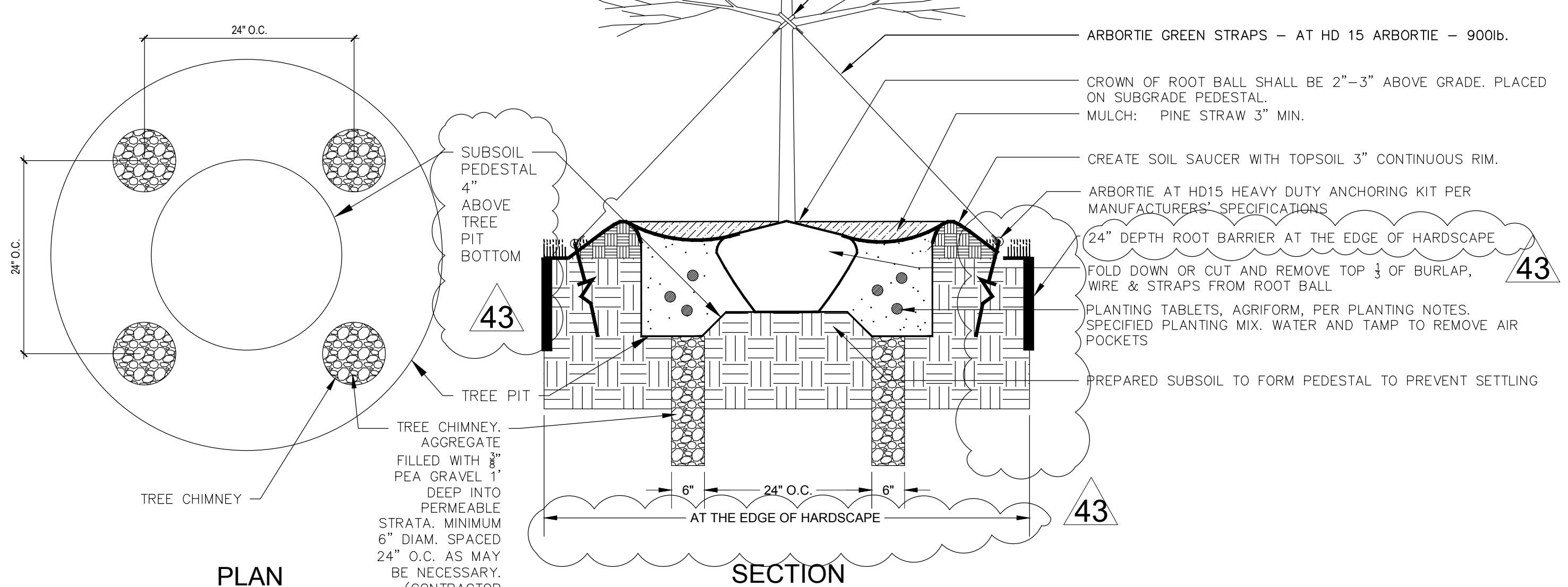
The following maintenance operations shall be performed by the Contractor during the 365 Day Establishment Period. The Contractor shall assume responsibility for the proper maintenance, survival, and condition of all plants and irrigation components for a period of one year after the final installation acceptance of all work under the contract. At a minimum, maintenance shall occur weekly from April through October, and twice a month from November through March. The contractor shall include this 365 day maintenance within their bid. Work shall include all labor, material, equipment, supplies, and services required for the maintenance.

The Contractor shall follow accepted horticultural practices to keep the project attractive and clean in appearance and maintain all plants in a healthy, vigorous condition. All work shall be performed in a professional manner, using quality equipment, methods and materials, all of which must be maintained and operated to the highest industry standards. The workers shall be neat in appearance, wear a uniform which identifies the contractor, and perform their work in a professional manner.

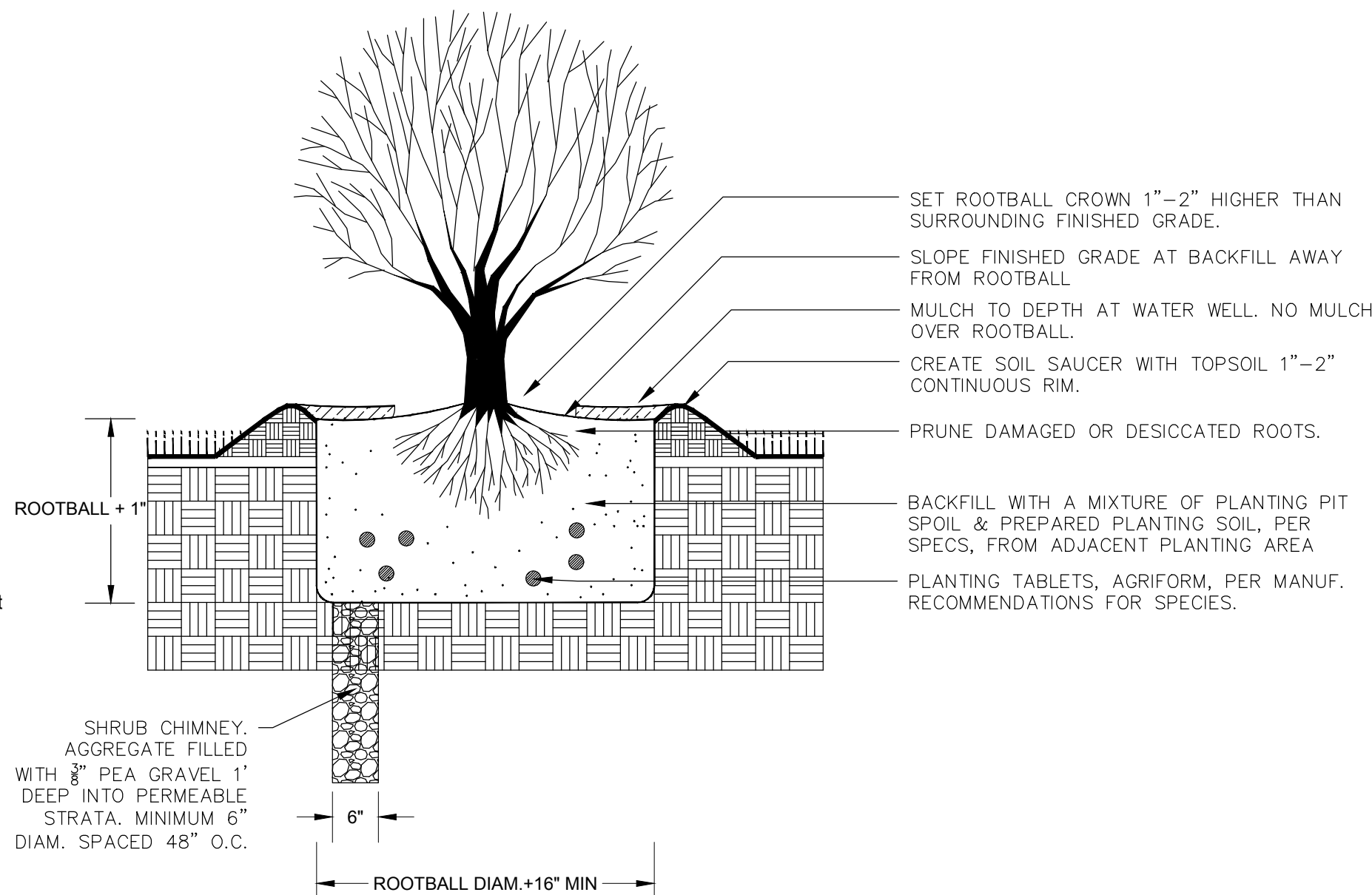
- Representative soil samples (3 minimum) from varying areas throughout the project shall be taken and provided to the owner's representative at the 6-month point of the establishment period. Based upon the soil sample results and recommendations from the testing laboratory, the contractor shall incorporate all soil amendments / fertilizer necessary to correct any soil deficiencies so that optimal plant health can occur.
- Fertilizer: During the establishment period, at a frequency necessary based on plant growth monitoring and soil analysis.
- Weeding / Edging:
 - Weeding - All planting areas shall remain weed free during the establishment period. Manual removal of weeds is preferable to control by herbicide.
 - Edging - All applicable concrete walks and curbing shall be edged as needed to maintain a neat appearance. All beds shall be edged as needed to maintain definition of the original outline approved by the landscape architect.
- Herbicides / Pesticides:
 - Pre-emergent weed control is required in all bed areas. Post emergent weed control shall be applied as needed to control weed growth in landscape beds and any pavement cracks. Pre-emergent weed control shall be applied two to three times per growing season. All personnel involved in the chemical program are to receive proper training and follow the operating guidelines provided by the FDOT for chemical control. Contact the Escambia County Extension Service for additional information regarding herbicides, pesticides, and required licenses.
 - Remove mechanically or by herbicide treatment all invasive exotic species, including aquatics, found during the establishment period on an as-needed basis. This includes all noxious weeds, Florida Exotic Pest Plant Council Category 1 and Category 2 listed plants.
 - Provide plant material insect and disease control inspections continually during the establishment period and treat as necessary.
- Pruning: Prune all plants as necessary to maintain proper form, health and vigor during the establishment period. Pruning into geometric shapes is to be avoided. The contractor shall not pollard the trees.
- Mulch:
 - All planting beds are to be mulched.
 - Replenish all mulch one month before the end of the establishment period. The cost of this replenishment must be included with the Contractor's bid. During this replenishment, the new mulch is to be spread to a depth of 1.5 inches such that none of the old or previously laid mulch is visible. The contractor is responsible for accurate measurements of all mulch areas as part of the bid process. During the establishment period the contractor is responsible for spot mulching all bare soil areas that may have occurred.
 - All pine straw shall be 'high grade' from the 'Improved' slash pine tree with a minimum needle length of eight inches.
- Irrigation: Maintain the irrigation system and well, and provide sufficient water to ensure plant material health during the establishment. Overwatering is recognized to be as serious a detriment to plant health as under-watering and shall be avoided. Irrigation runtimes shall be established and adjusted using plant water use, ET, as a guide. Rainfall shall be factored into irrigation runtimes.
- Litter Pick-Up: During the establishment period, ensure litter pickup, including but not limited to debris such as paper, cans, bottles, sticks, etc.
- Staking: Contractor shall maintain all tree-bracing for the duration of the establishment period. Contractor to remove all tree bracing immediately prior to the end of the establishment period.

PLANTING NOTES

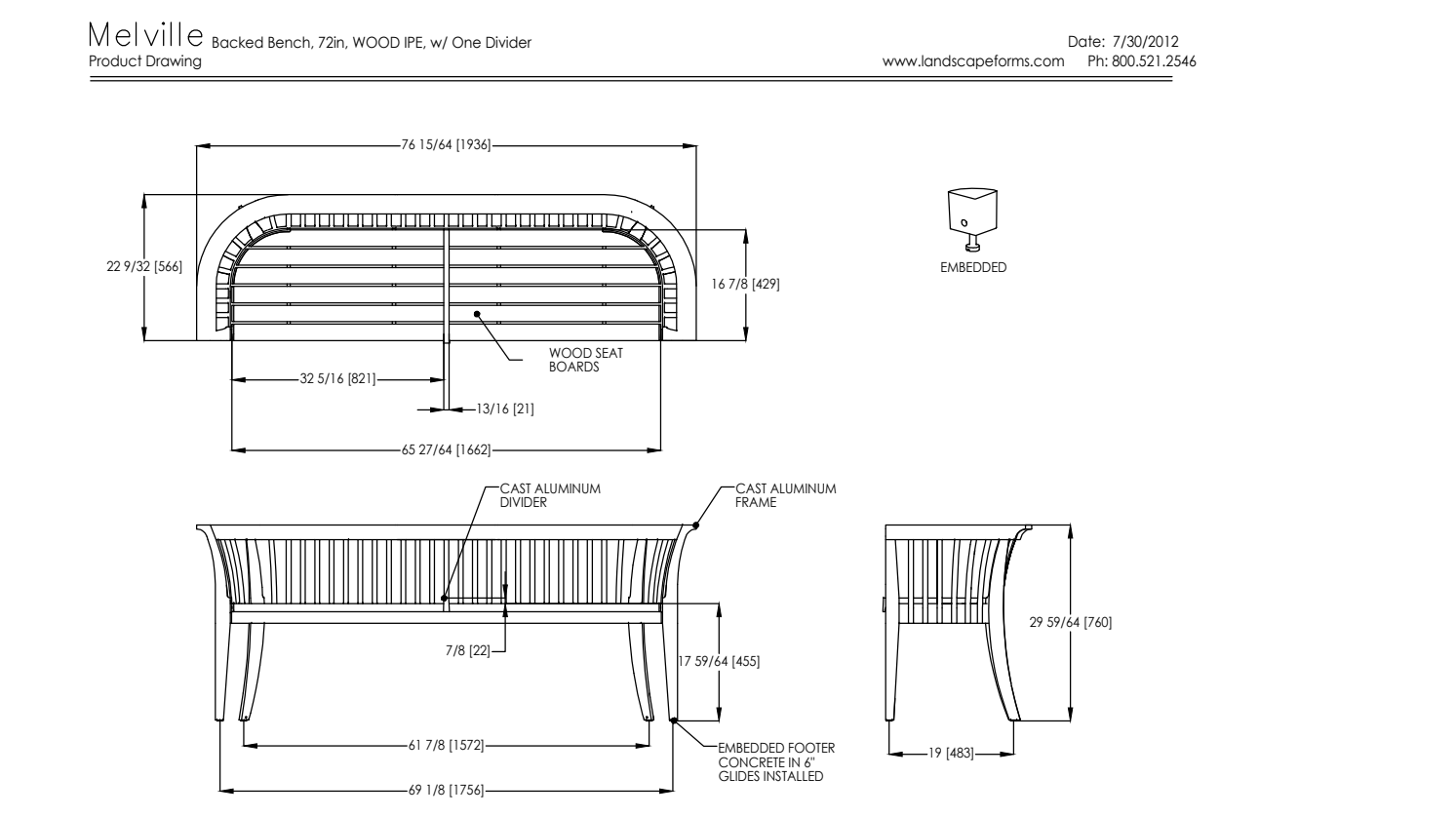
- The landscape installation must be properly sequenced with other construction so that the landscape is not damaged by other work/trades and vice versa.
- The Contractor shall verify the existence of and stake all utilities prior to construction. Excavation of plant pits located within 5' of utilities shall be performed by hand. Any utility and plant material conflicts shall be brought to the attention of the landscape architect prior to installation, or field adjustments.
- All plants shall meet size, container, and spacing specifications as shown in the plant schedule. The contractor shall guarantee plant health and survivability for one year from date of project acceptance by the landscape architect. Any material not meeting specifications or displaying poor health shall be replaced at Contractor's expense within two weeks of notice.
- All plant material shall be Florida No. 1 or better, unless otherwise noted, as set forth in the current edition of the 'Grades and Standards for Nursery Plants,' State of Florida. Notify the landscape architect a minimum of one week prior to plant delivery to schedule on-site inspection upon delivery. Installed plant material not meeting specifications shall be removed and replaced at contractor's expense. All plants must be brought to the site free of weeds. Additionally, the contractor shall provide the landscape architect with representative plant photos to approve for all plant materials prior to any plant delivery. Measuring sticks shall be shown in photos, as appropriate.
- All plant materials indicated with a gallon size shall be container grown and within a container appropriate for the plant size. Root bound plants shall not be accepted. No substitutions shall be permitted without prior approval of the landscape architect.
- The landscape architect reserves the right to make planting bed field changes to accommodate site conditions and to achieve the design intent. The Contractor shall flag all tree and bedline locations for approval of landscape architect prior to any installation.
- The Contractor shall conduct representative soil analysis prior to the installation of any plant material. The Contractor shall notify the landscape architect of any improper soil condition including nutritional deficiencies, poor drainage, wetness, muck, debris, etc. and shall recommend to the landscape architect, prior to installation, all soil amendments that may be necessary to promote healthy vigorous plant growth. The soil sample test results shall include, at a minimum, pH, primary macronutrients, micronutrients, percentage of organic matter, and soil texture. Submit all soil samples and amendment recommendations to the landscape architect for review. The contractor is ultimately responsible for all appropriate soil amendments and a properly prepared finished soil layer in accordance with FDOT Standard Specifications 162 and 967.
- The Contractor shall repair or replace any existing vegetation intended to remain that is disturbed by plant material installation activities. This repair /replacement shall blend seamlessly with the existing landscape.
- The Contractor shall coordinate with all other trades and plans in preparing planting areas, including final grade elevations.
- All plant material must be planted immediately upon delivery to the site and watered in, by hand if the irrigation system is not yet functioning properly. Any plant material not installed within 6 hours of delivery to the site must be stored in an approved, protected holding area and shall be watered as necessary to maintain plant health and quality. All black plastic placed around tree rootballs shall be removed immediately upon delivery to the site, burlap wrapping shall stay in place. For trees not planted within 6 hours of delivery to the site, water shall be immediately applied to the rootball and foliage. The tops shall be unlined and the trees stored upright with mulch, pine straw or hay covering the rootballs. Trees shall not be stored lying down. If trees have plastic trunk protectors, the protectors may stay in place prior to planting but shall not be left on indefinitely.
- Plant shrubs in circular pits with a diameter 1/5' greater than rootball or container.
- Plant trees in circular pits with a diameter 3/8' greater than rootball or container.
- Fertilize all trees with agriform 21 gram tablets, slow release 20-10-5 analysis with one tablet per 1/2" of trunk diameter.
- The Contractor shall notify the landscape architect a minimum of 48 hours prior to completion to schedule a final walkthrough. A final walkthrough shall not be performed if previous punch lists are not completed.
- The Contractor shall be responsible for maintaining all planting and grades until final acceptance by the landscape architect. This maintenance includes keeping beds free of debris, weeds, diseases, and infestations. The Contractor shall also be responsible for providing sufficient water to the plants during this time, and repairing erosion areas.
- The Contractor shall supply the landscape architect with electronic as-built drawings within 30 days of project acceptance.
- Refer to current FDOT Standard Specifications and Design Standard Indices, the General Notes, and all other notes within the Contract Documents for additional requirements.
- One year warranty on all plants and labor



1 TYPICAL TREE PLANTING
NTS



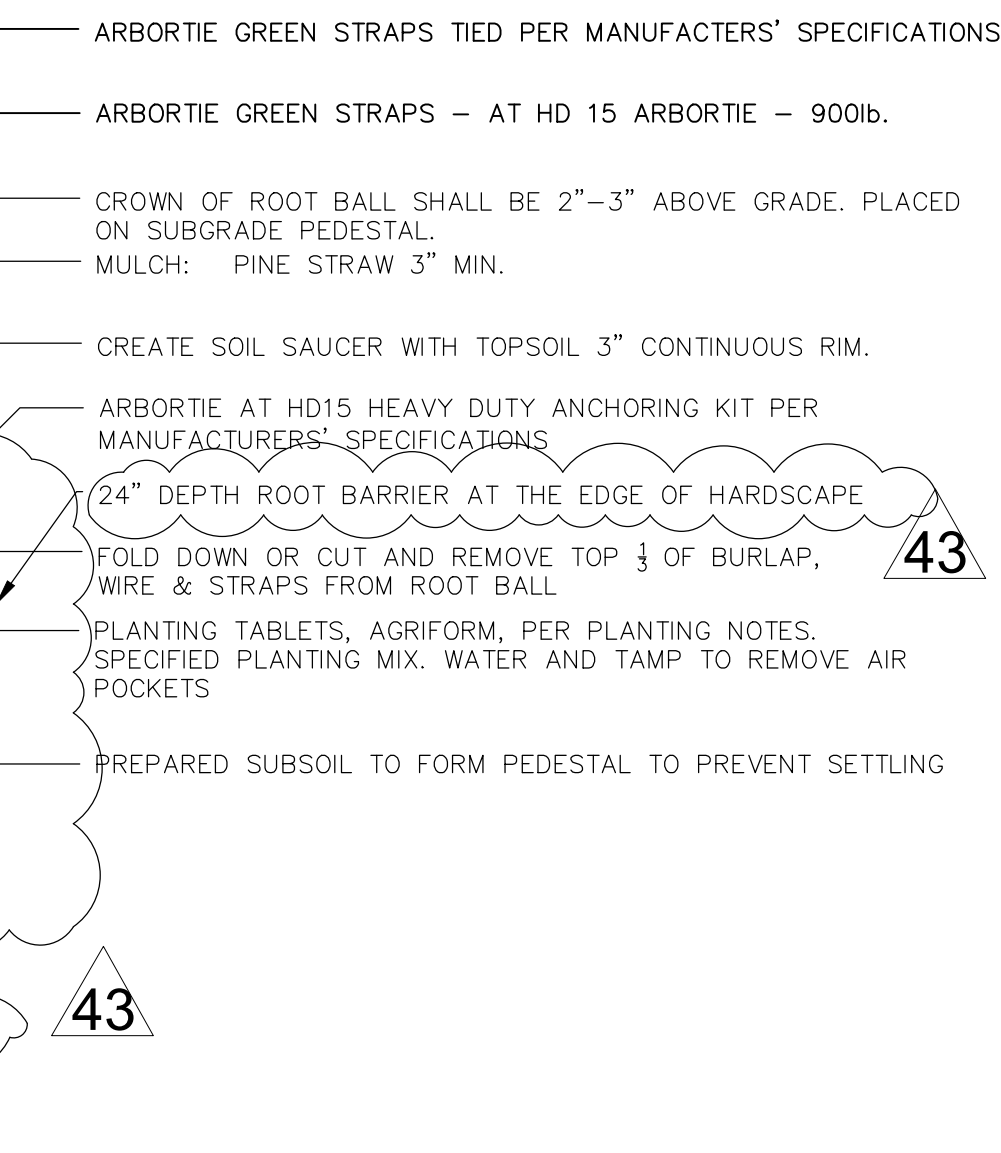
3 TYPICAL SHRUB PLANTING - BARE ROOT
NTS



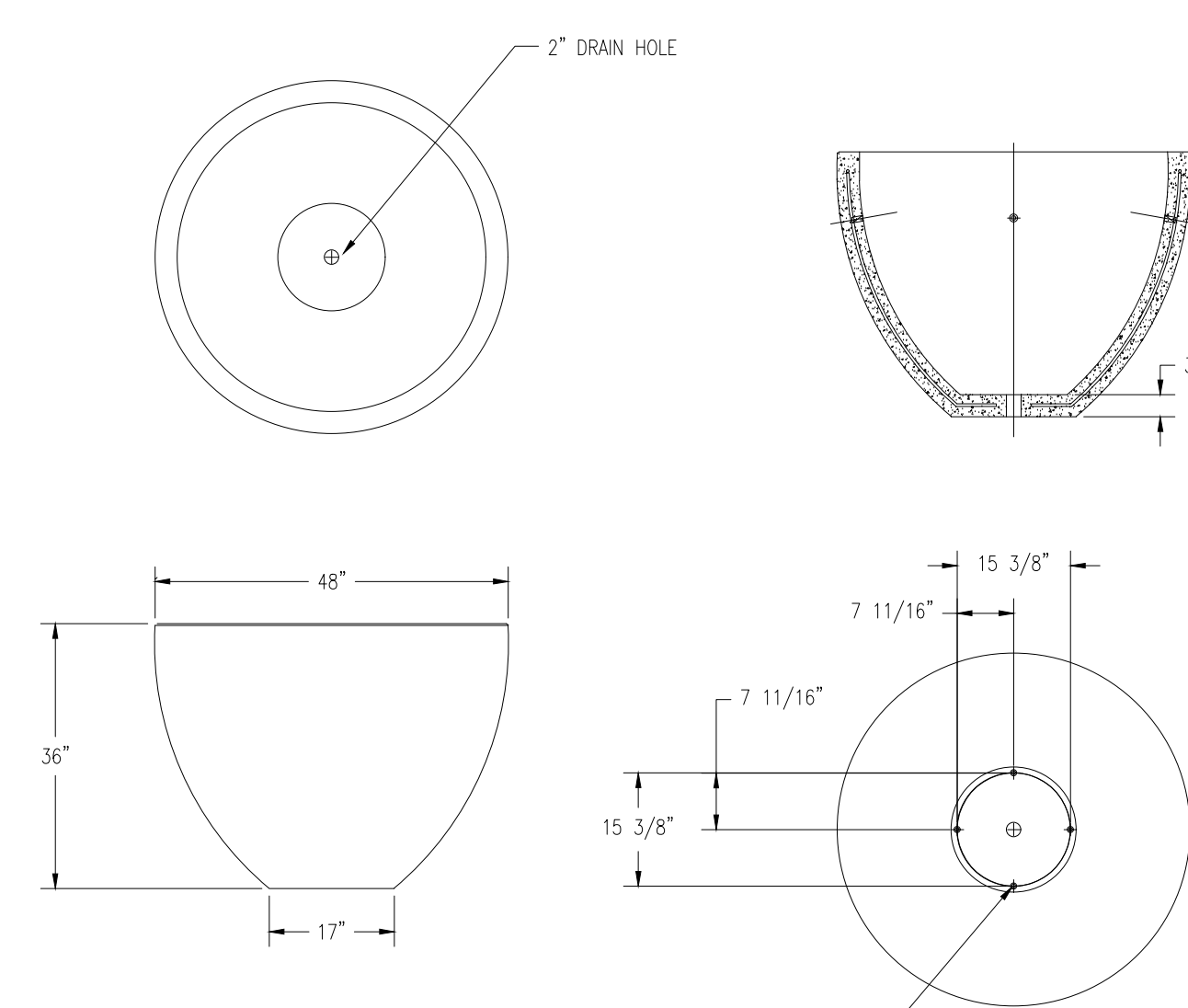
6 EMBEDDED BENCH, BRONZE, ONE DIVIDER - LANDSCAPE FORMS MELVILLE
NTS

NOTES: TREE PLANTING (>2\"/>

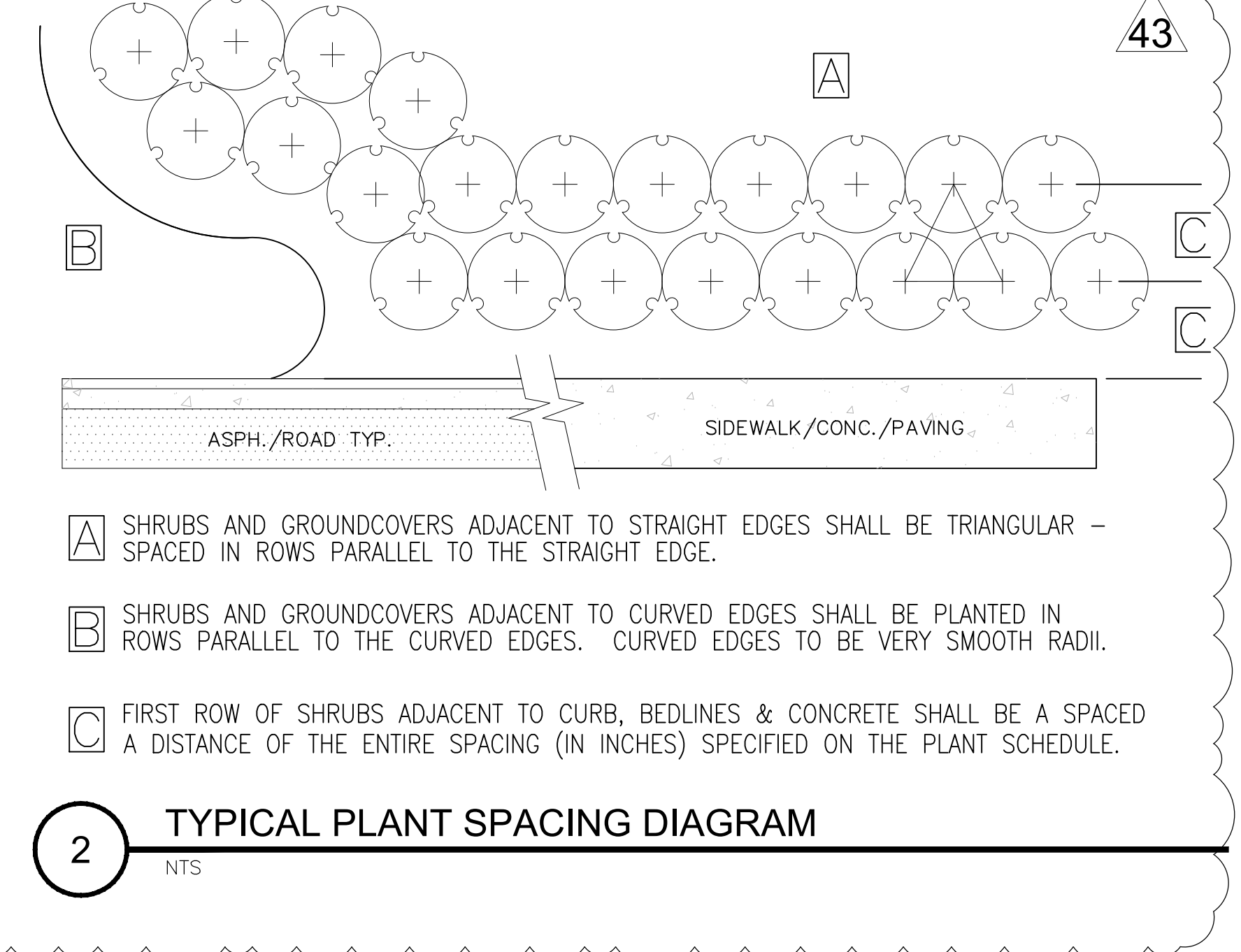
- ALL PLANT MATERIALS SHALL BE IN ACCORDANCE WITH THE AMERICAN STANDARDS FOR NURSERY STOCK (ANSI 601-2004). PLANT ACCORDING TO ANSI ALSO PART 1.
- DIG THE PLANTING HOLE A MINIMUM OF 2x WIDTH OF ROOTBALL FOR AT LEAST THE FIRST 12 INCHES OF BELOW 12 INCHES. DIG HOLE WIDE ENOUGH TO PERMIT ADJUSTING. DO NOT DIG THE HOLE DEEPER THAN ROOT BALL DEPTH.
- SCARIFY THE SUBGRADE AND SIDES OF THE PLANTING HOLE WHEN PLANTING IN CLAY SOILS (MORE THAN 15% CLAY).
- LIFT AND SET THE TREE BY ROOT BALL ONLY. DO NOT LIFT USING THE TREE TRUNK AND DO NOT USE TREE TRUNK AS A LEVER.
- SET THE TOP OF THE ROOT BALL 2\"/>



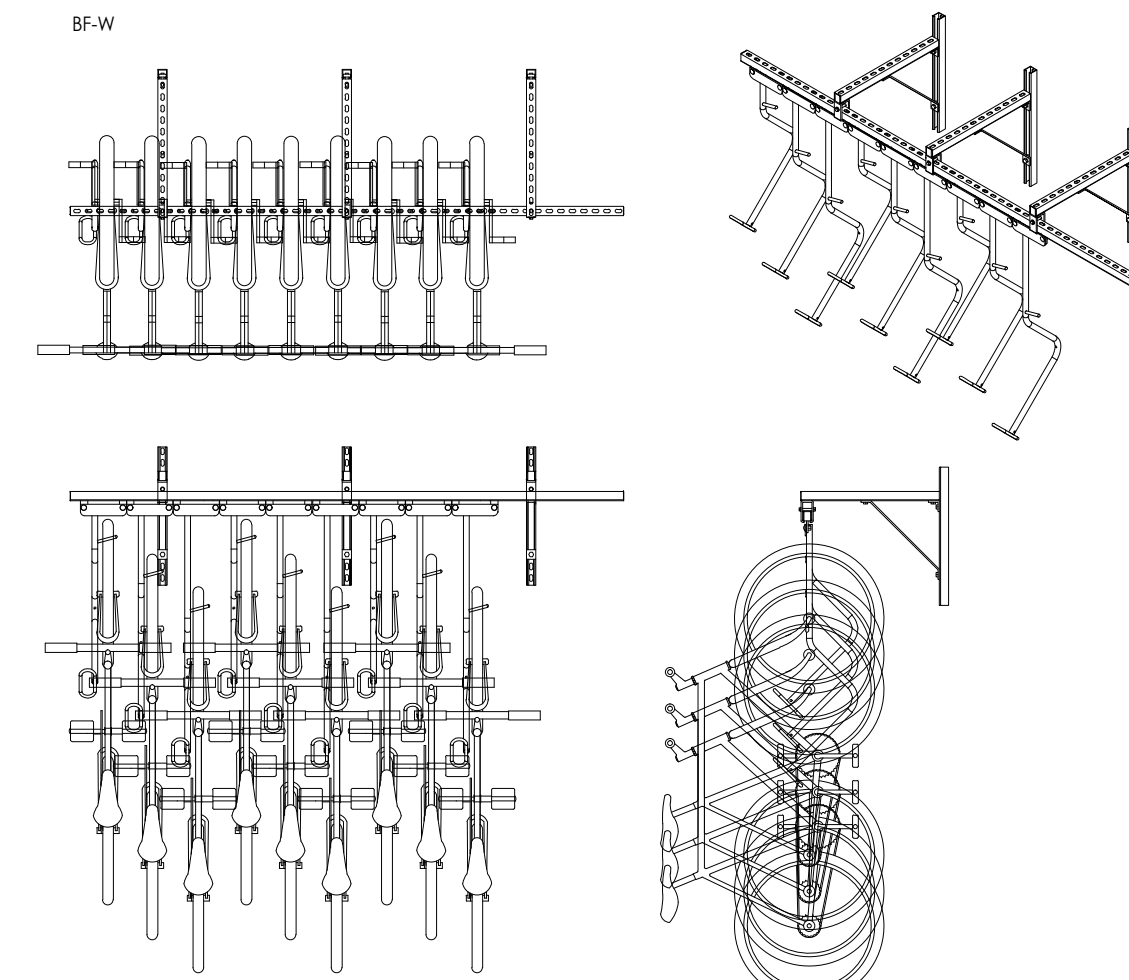
4 SIDE OPENING RECEPTACLE, BRONZE - LANDSCAPE FORMS POE
NTS



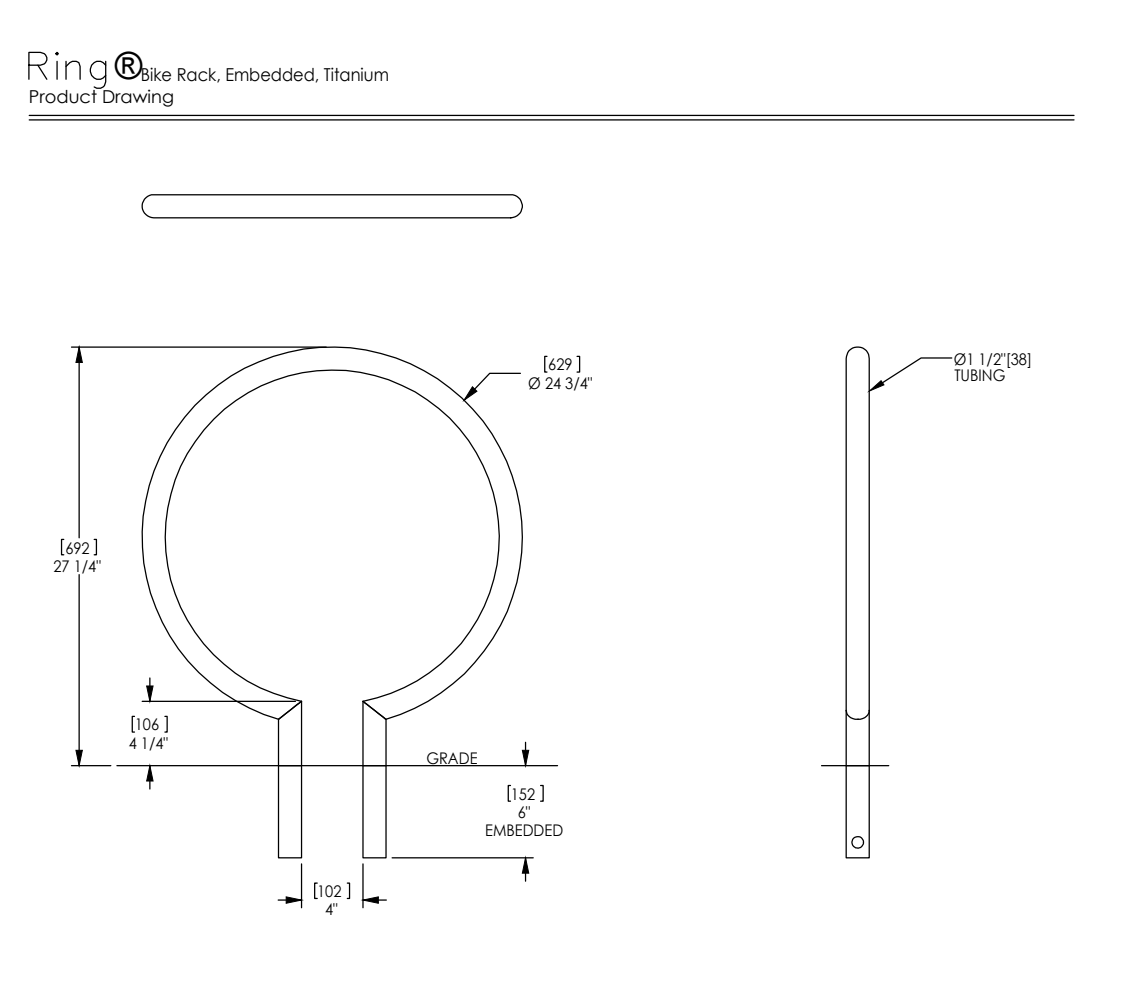
7 WAUSAU TF4122 PLANTER DETAIL A25 BROWN
NTS



2 TYPICAL PLANT SPACING DIAGRAM
NTS

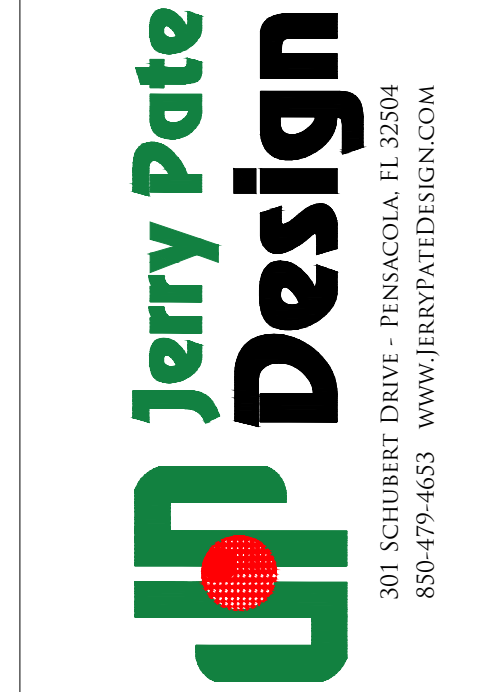


5 DERO BIKE FILE, SILVER MOUNTED TO THE WALL
NTS



8 RING BIKE RACK, TITANIUM - LANDSCAPE FORMS
NTS

PROJECT #:
DRAWN BY: EZ
CHECKED BY: SD



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DETAILS


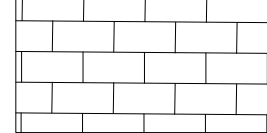
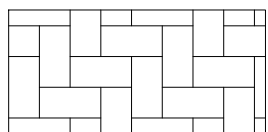
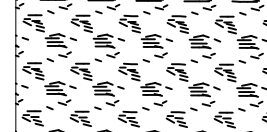
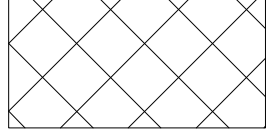
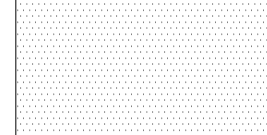
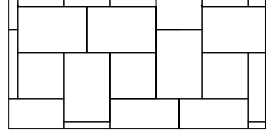
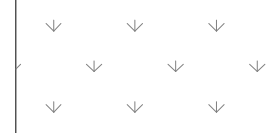
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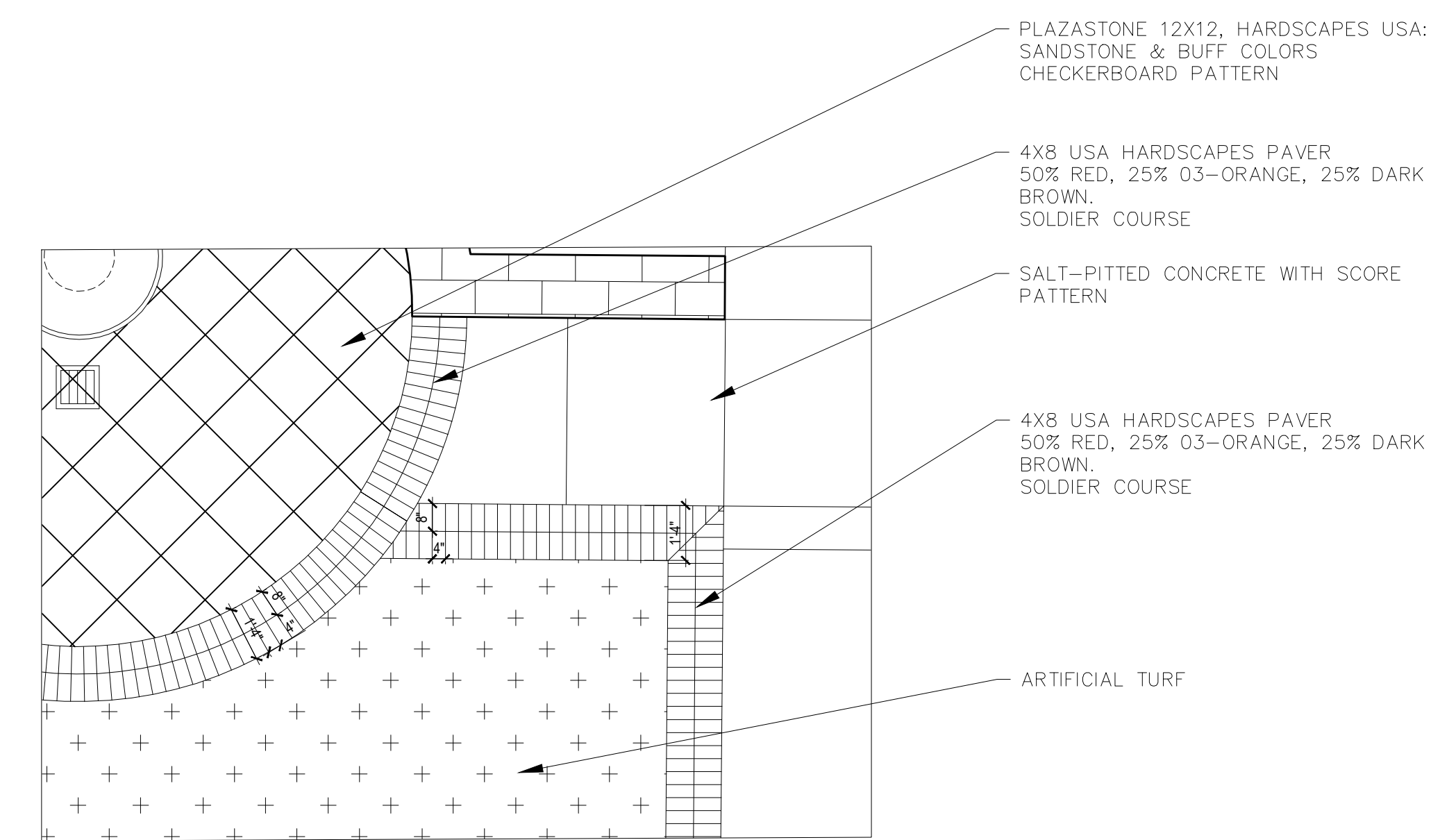
LS5.1

DATE: 01/13/2017

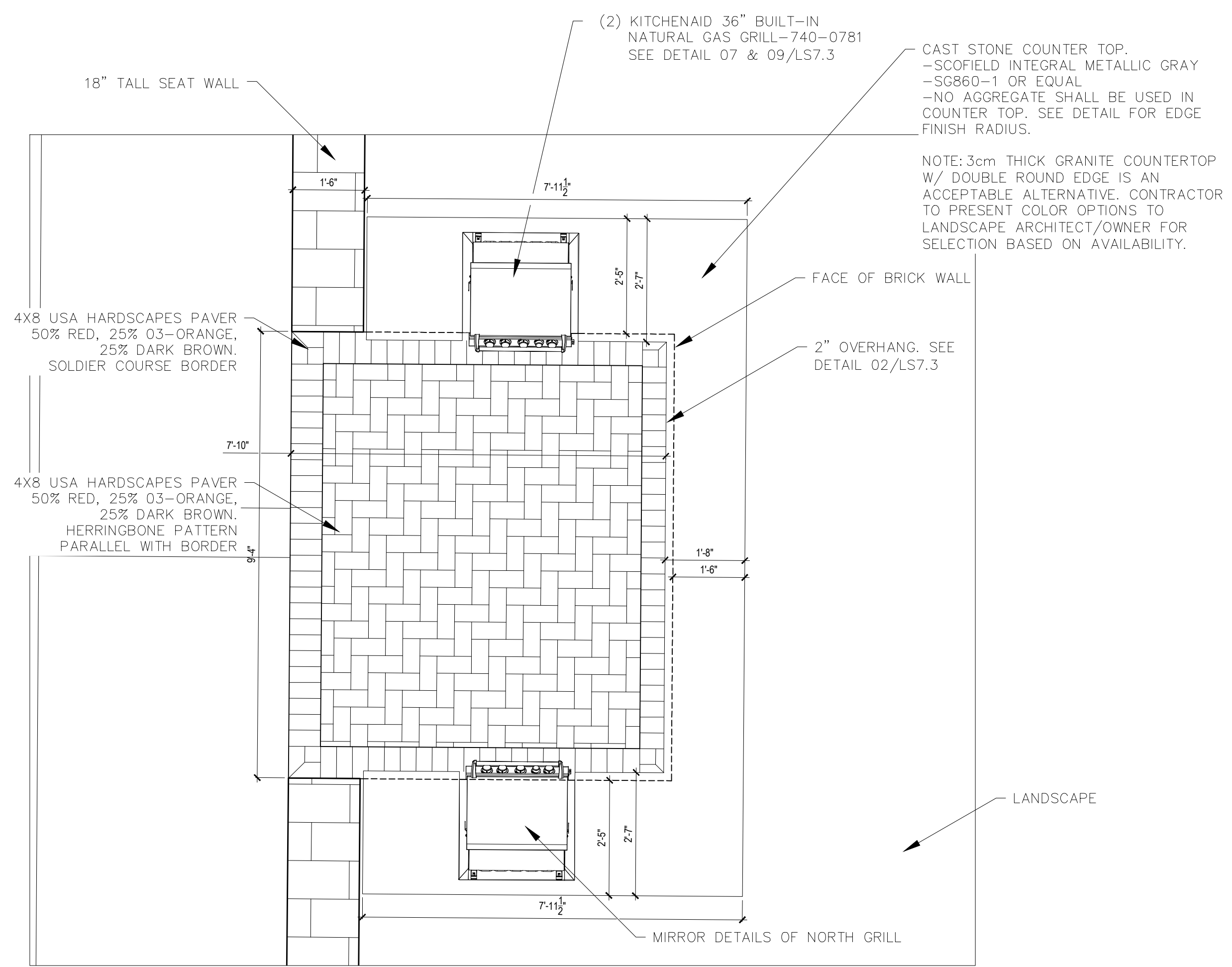
ISSUE FOR CONSTRUCTION

NOTE: ALL PLANTERS, BENCHES, BIKE RACKS, RECEPTACLES, BIKE FILES, DOG WASTE STATIONS, BIKE FIX, GRILLS SHALL NOT BE INCLUDED IN THE GENERAL CONTRACTOR'S BASE BID.

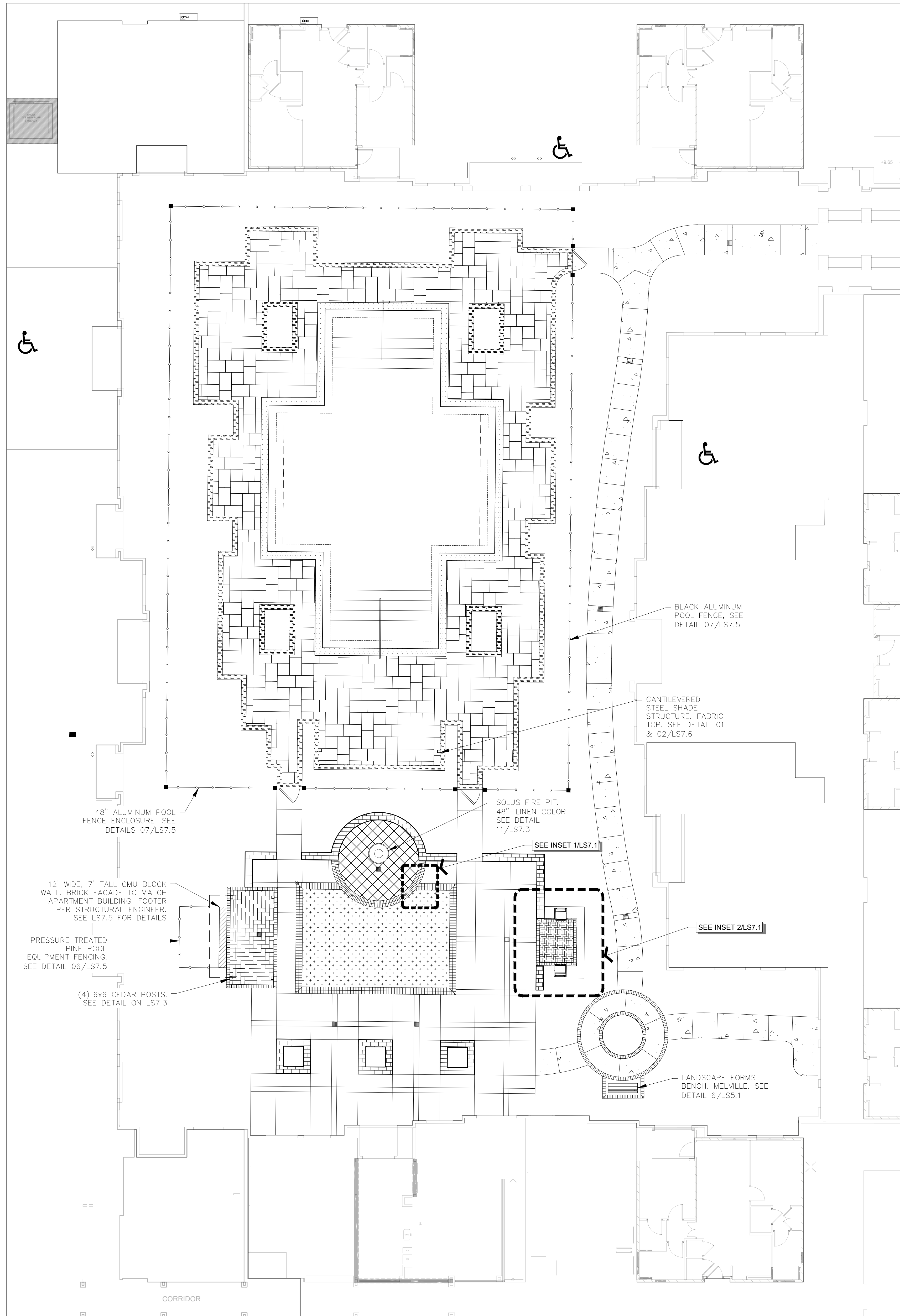
-  SALT-PITTED CONCRETE
-  18" SEATWALL
-SEE DETAIL 02/LS2.3
-  4X8 USA HARDSCAPES PAVER
50% RED, 25% 03-ORANGE, 25% DARK BROWN, HERRINGBONE PATTERN
-  ARTISTIC PAVERS FLORIDA SERIES SHELLOCK
-CAFE
-12x12 SIZE PAVERS
-  PLAZASTONE 12X12, HARDSCAPES USA:
SANDSTONE & BUFF COLORS
CHECKERBOARD PATTERN
-  ARTISTIC PAVERS FLORIDA SERIES SHELLOCK
-CAFE
-12x12 SIZE PAVERS WITH BULLNOSE COPING
-  ARTISTIC PAVERS FLORIDA SERIES SHELLOCK
-IVORY
-HOPSCOTCH DIAMOND PATTERN
-12x12 & 16x16 SIZE PAVERS
-  ARTIFICIAL TURF



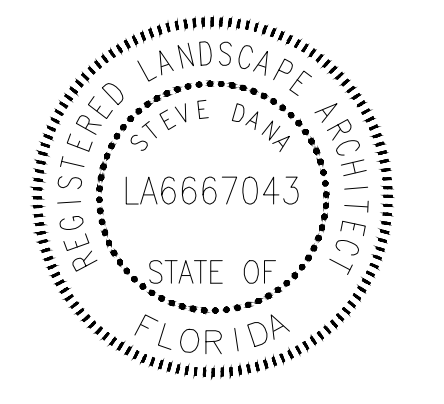
01 4X8 PAVING DETAIL AROUND ARTIFICIAL TURF
N.T.S.



02 OUTDOOR KITCHEN INSET DETAIL
SCALE: 1"=2'



PROJECT #: BA
DRAWN BY: BA
CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.

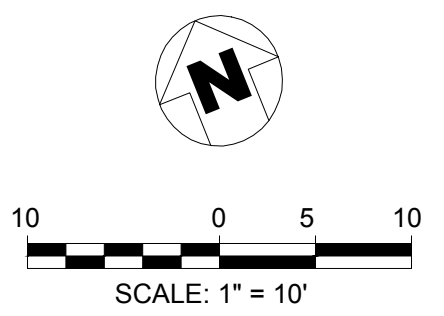
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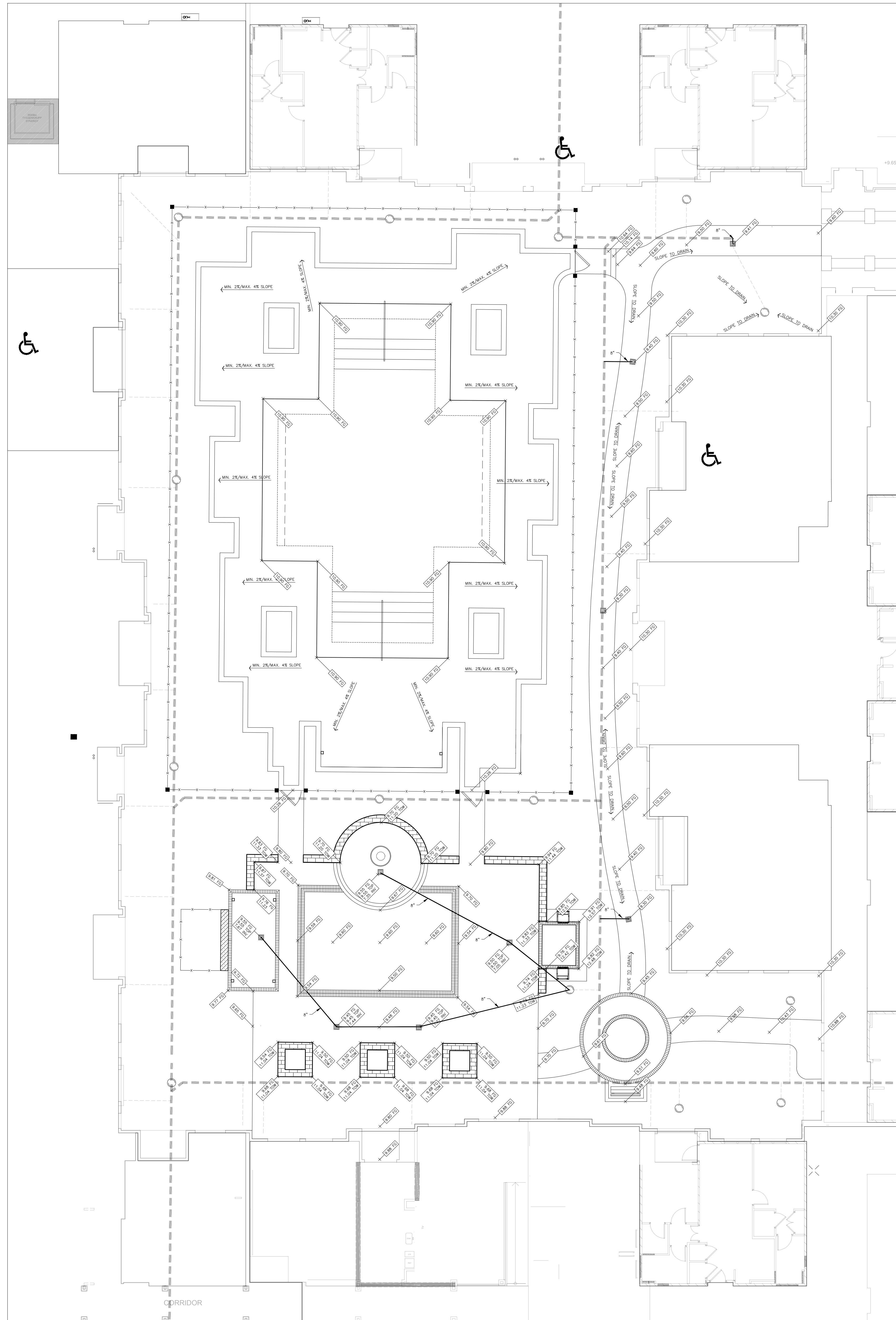
MIXED-USE DEVELOPMENT
JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
HARDSCAPE PLAN

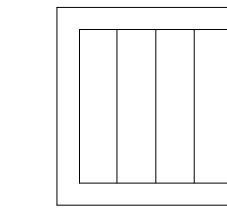
SHEET NUMBER:
LS7.1

DATE: 01/13/2017





DRAINAGE SCHEDULE

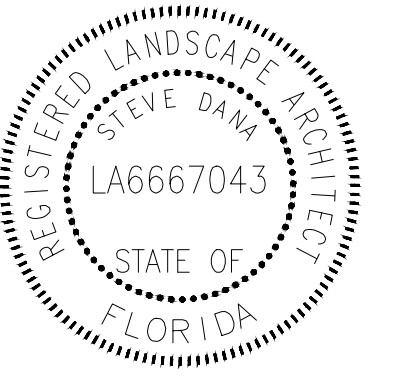


- (9) NYLOPLAST IN-LINE 12" DRAIN W/ H-10 12" PEDESTRIAN CAST IRON GRATE (MODEL 1299CGP). BLACK FINISH. SEE DETAILS 07 & 08 / LS7.4



- ADS N12 DRAINAGE PIPE - AS SIZED

PROJECT #:
DRAWN BY: BA
CHECKED BY: SD



ISSUE DATE	DESCRIPTION
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04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.

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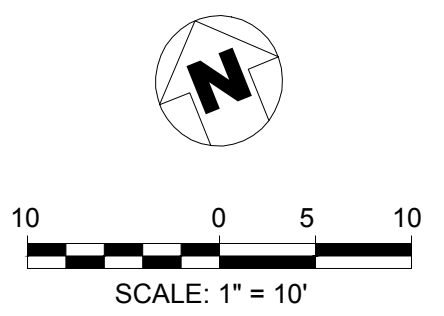
MIXED-USE DEVELOPMENT
JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
GRADING/
DRAINAGE PLAN

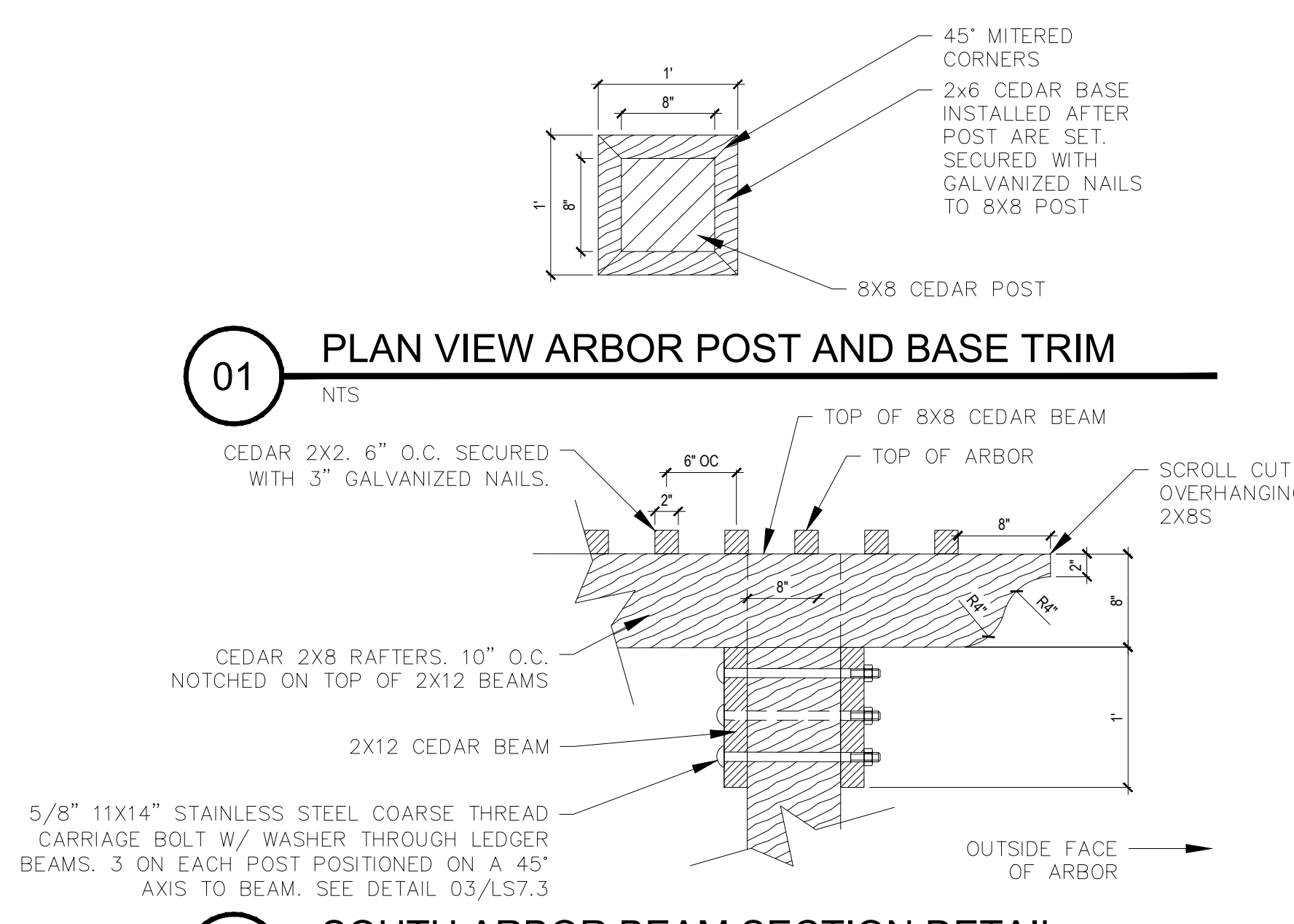
SHEET NUMBER:

LS7.2

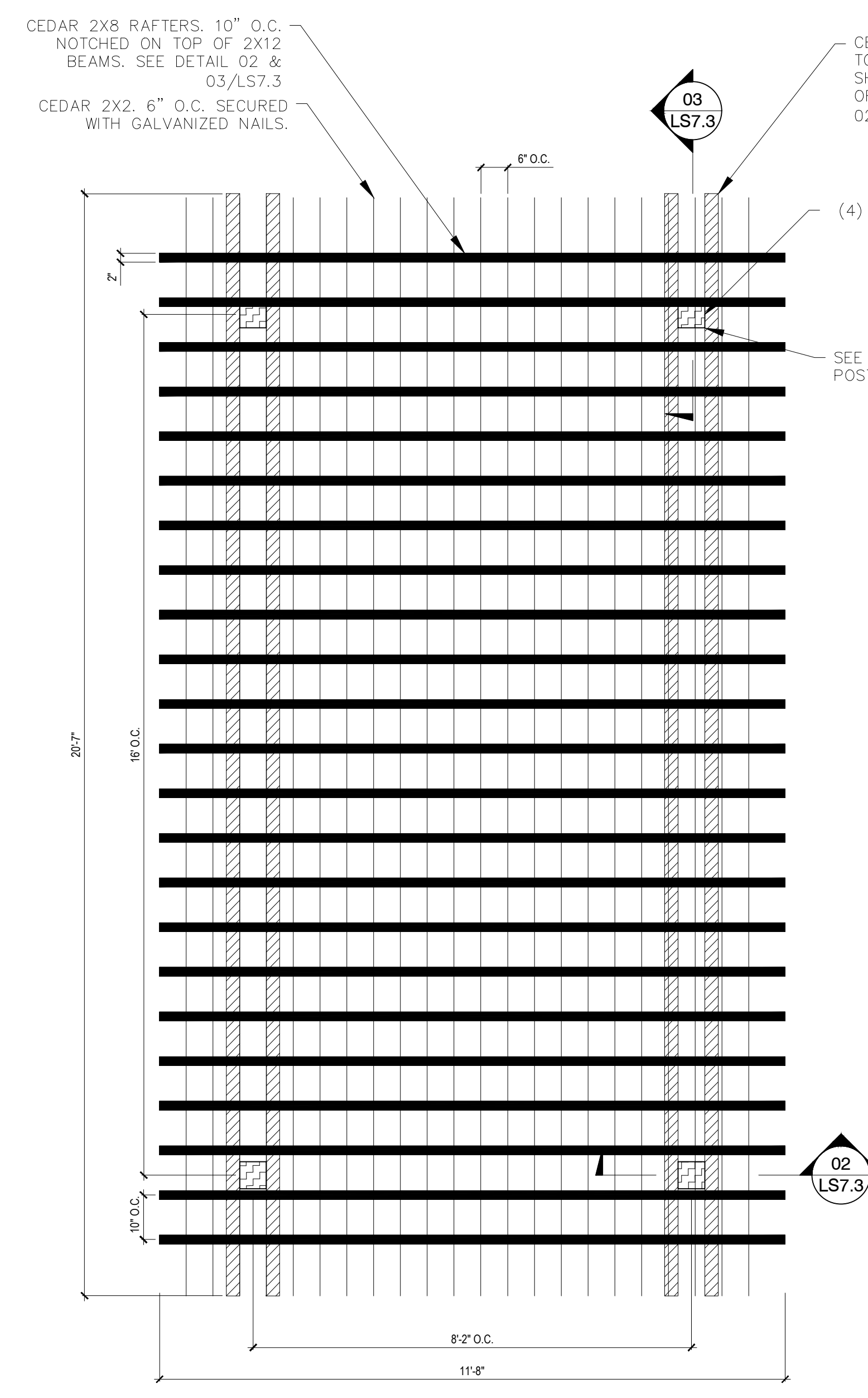
DATE: 01/13/2017



01 PLAN VIEW ARBOR POST AND BASE TRIM
NTS

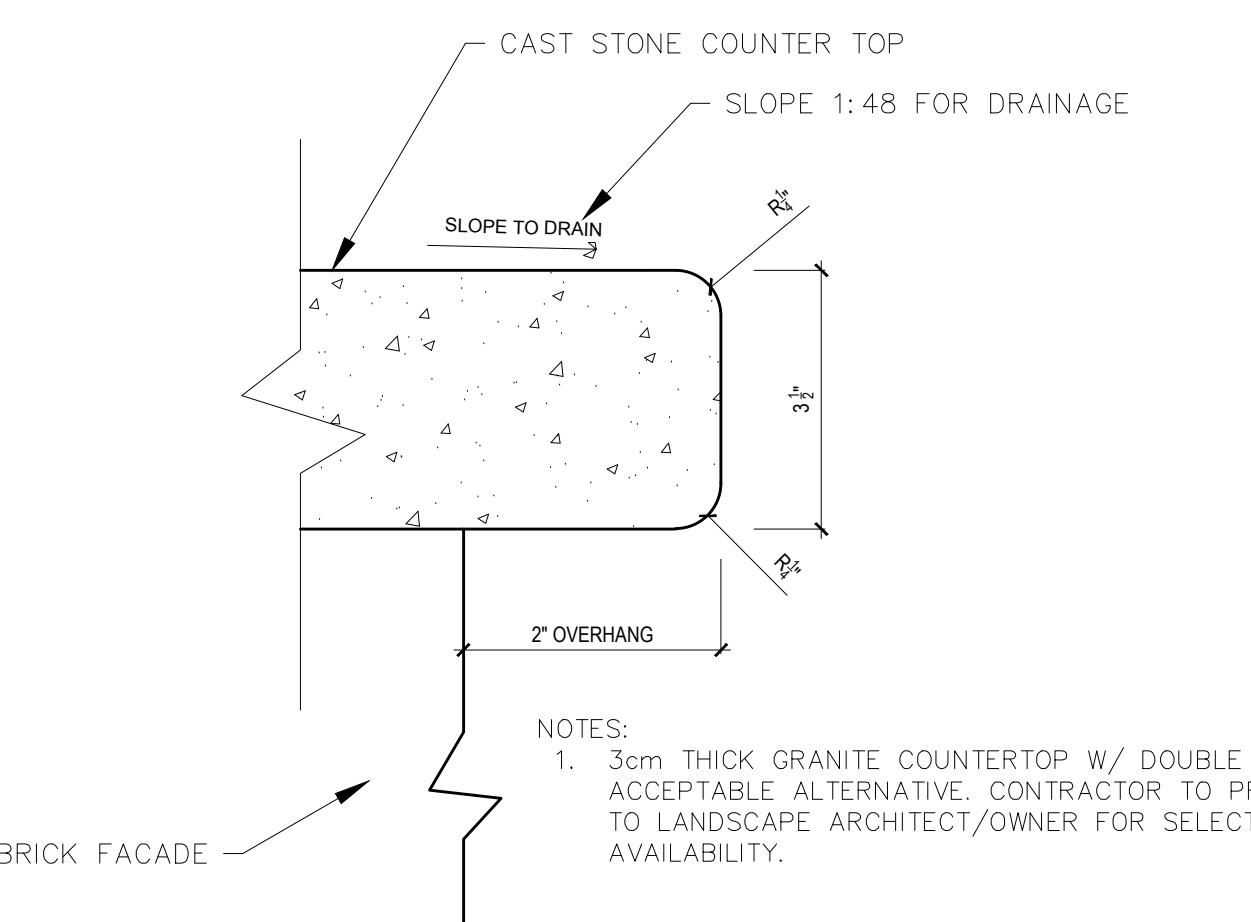


02 SOUTH ARBOR BEAM SECTION DETAIL
NTS

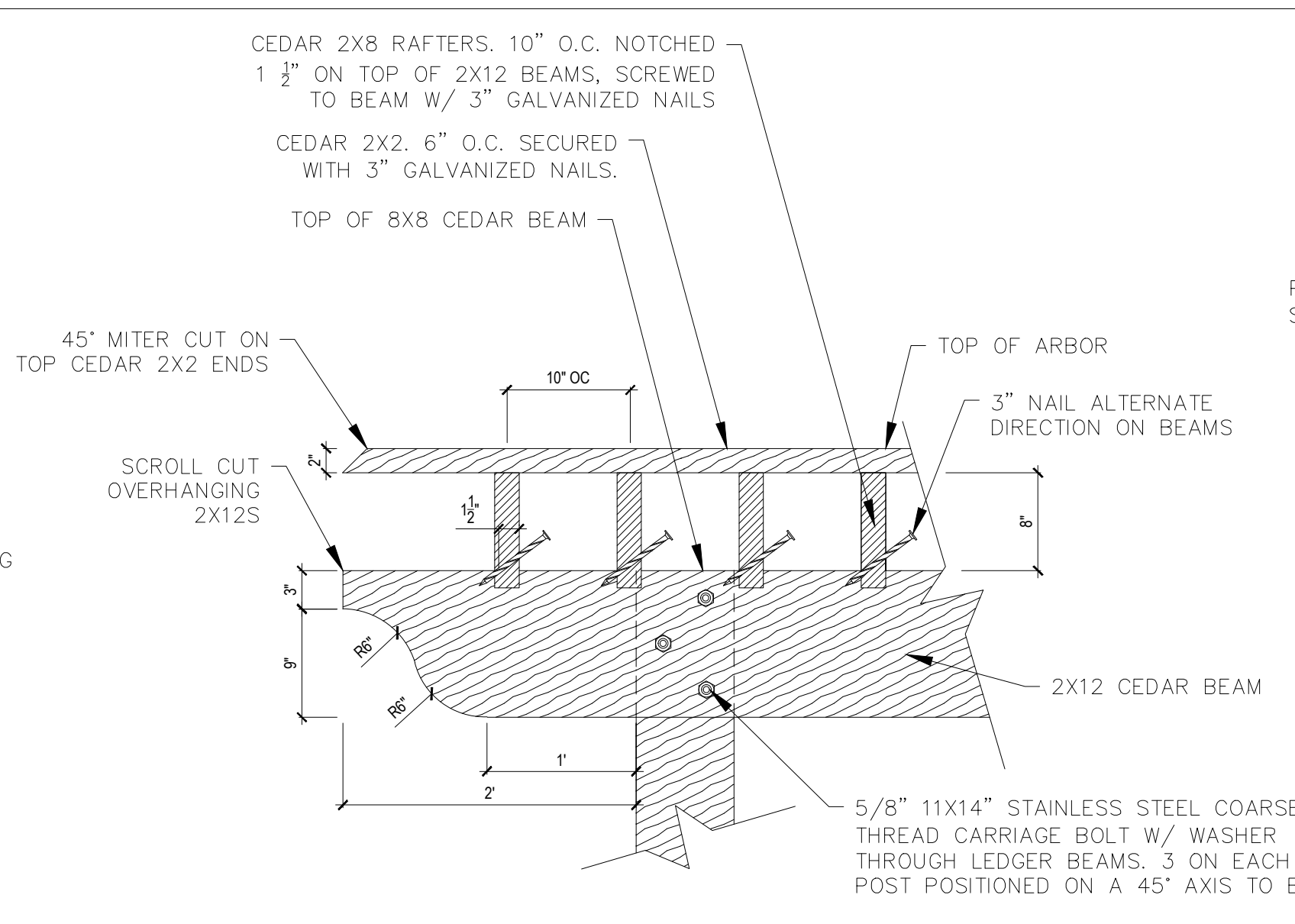


NOTE: ALL CEDAR SHALL BE SEALED WITH A SATIN POLYURETHANE OIL BASED SEALER. SEALING SHALL BE COMPLETED 12 MONTHS AFTER STRUCTURE HAS BEEN COMPLETED.

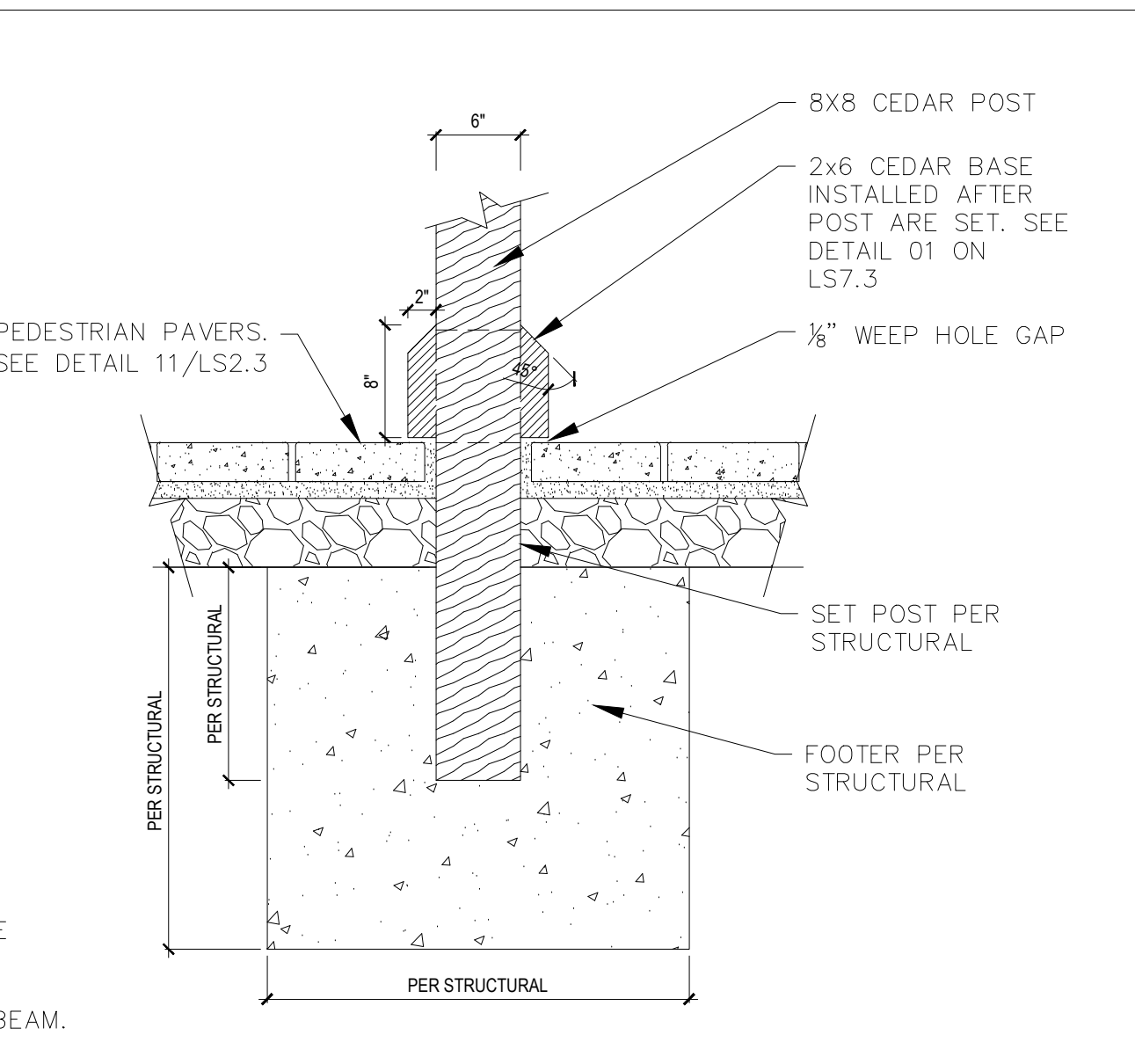
06 COURTYARD ARBOR DETAIL
NTS



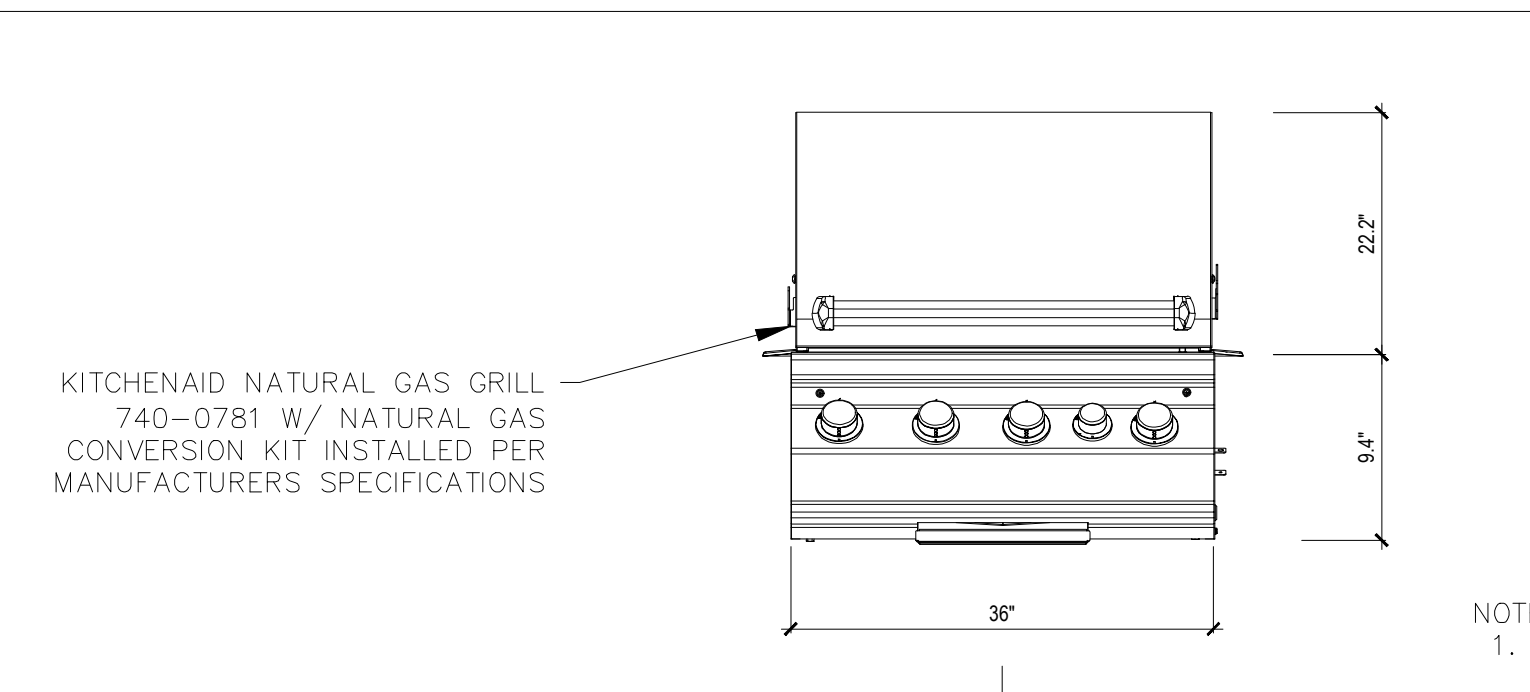
10 OUTDOOR KITCHEN CAST STONE TOP DETAIL
NTS



03 EAST ARBOR BEAM SECTION DETAIL
NTS

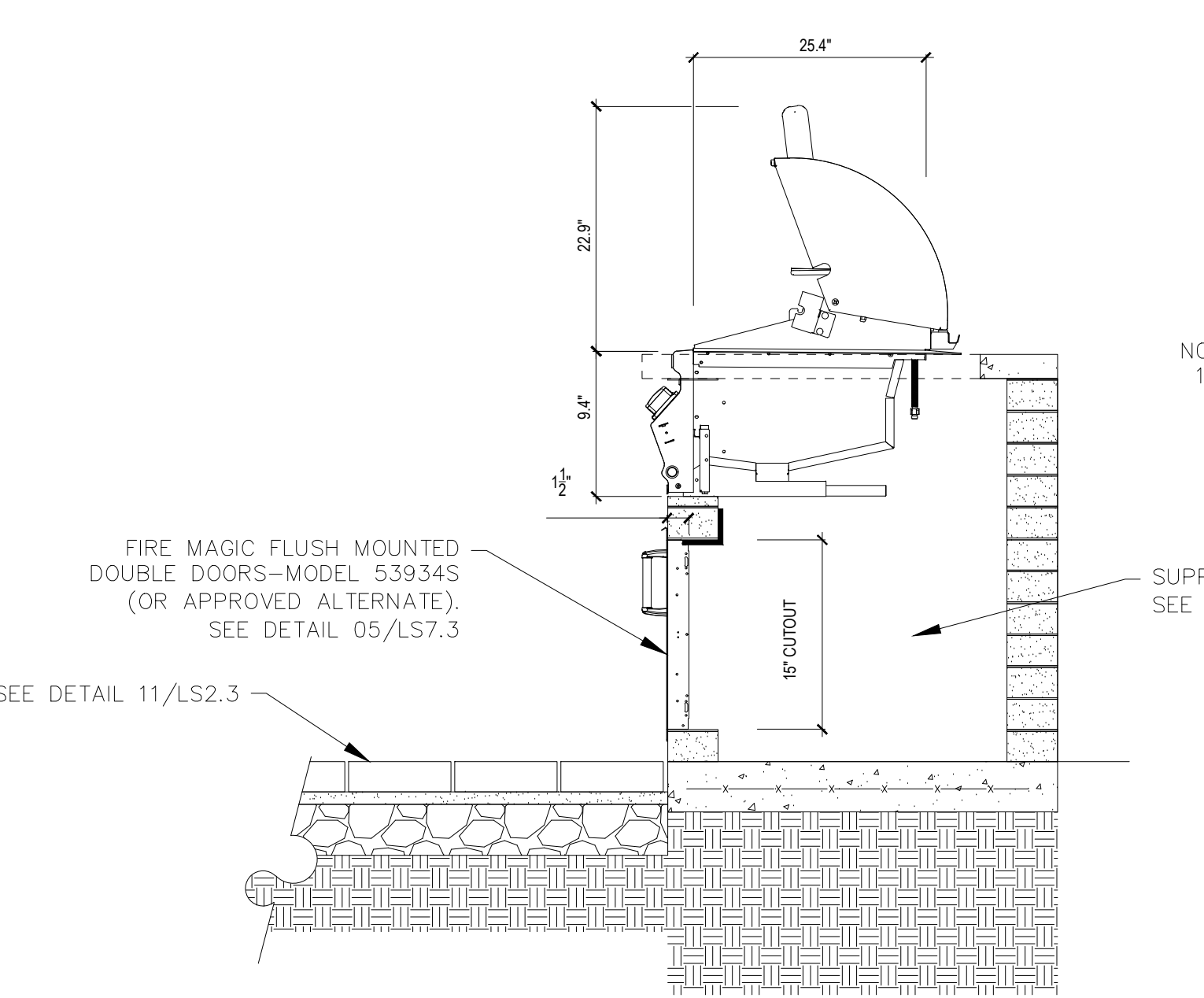


04 ARBOR POST SET SECTION DETAIL
NTS



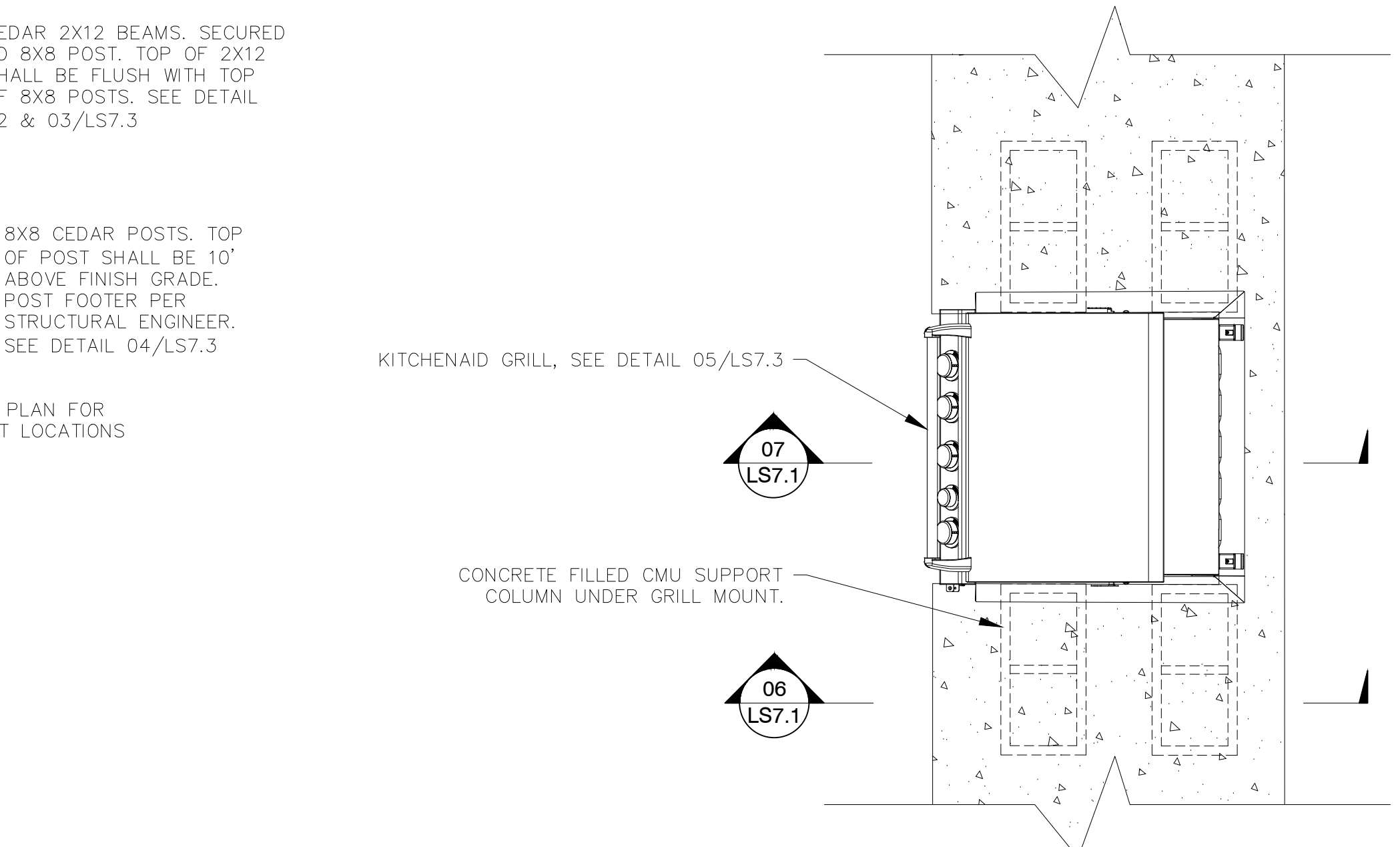
NOTE: 1. ALL DIMENSIONS ARE INFORMATIONAL AND SHALL BE VERIFIED BY CONTRACTOR BASED ON MANUFACTURERS INSTALLATION SPECIFICATIONS.

05 OUTDOOR KITCHEN GRILL INSERT DETAIL
NTS

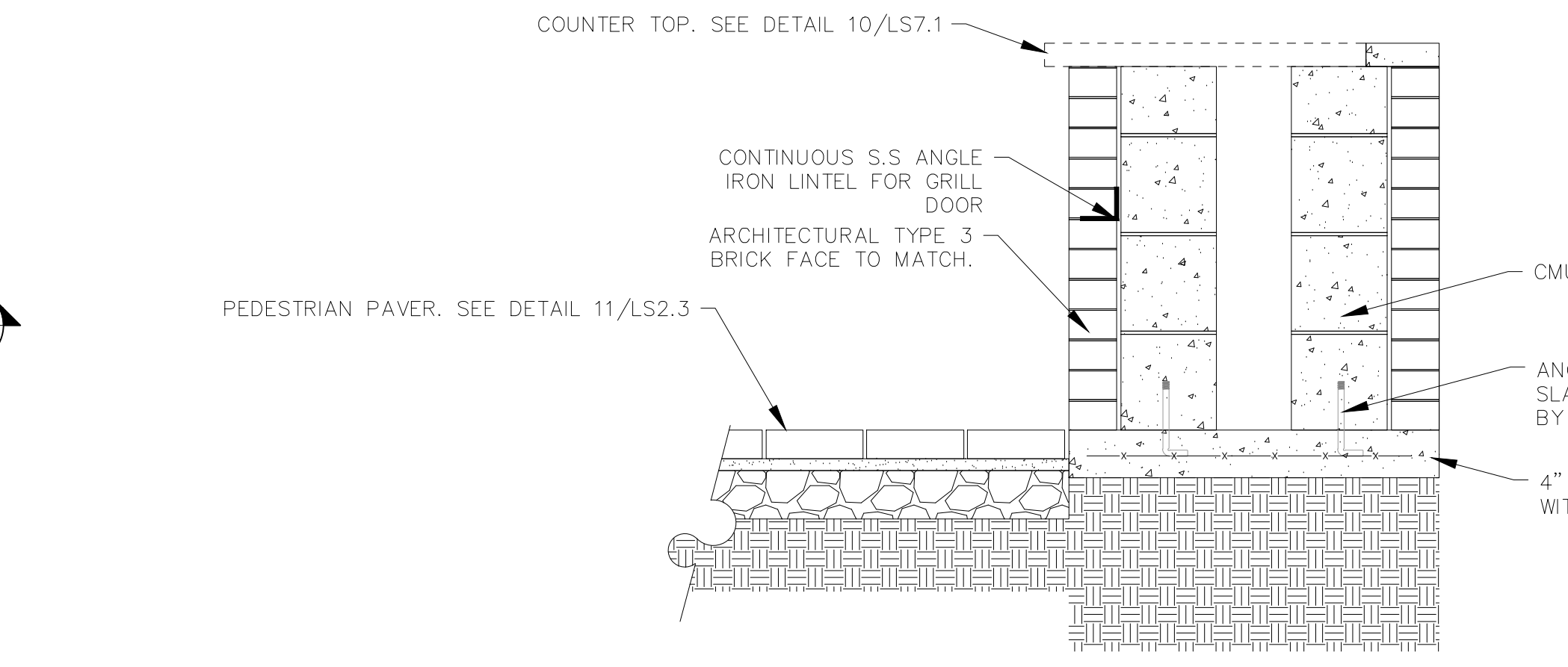


NOTE: 1. ALL DIMENSIONS ARE INFORMATIONAL AND SHALL BE VERIFIED BY CONTRACTOR BASED ON MANUFACTURERS INSTALLATION SPECIFICATIONS.
1. SEE PLUMBING PLAN FOR NATURAL GAS SUPPLY & CONNECTIONS.

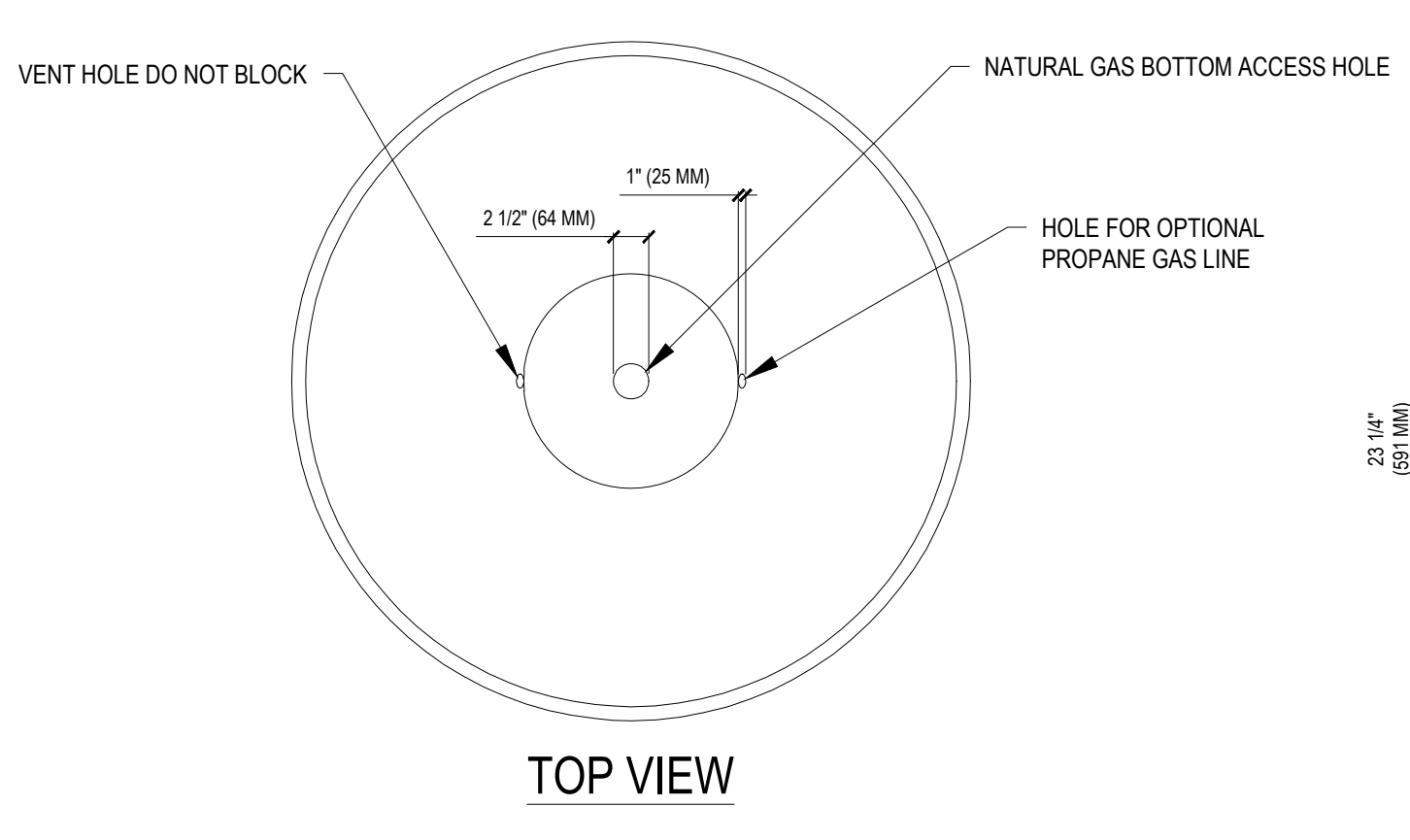
09 OUTDOOR KITCHEN GRILL INSERT SECTION DETAIL
NTS



07 GRILL PLAN VIEW/SUPPORT COLUMNS
NTS

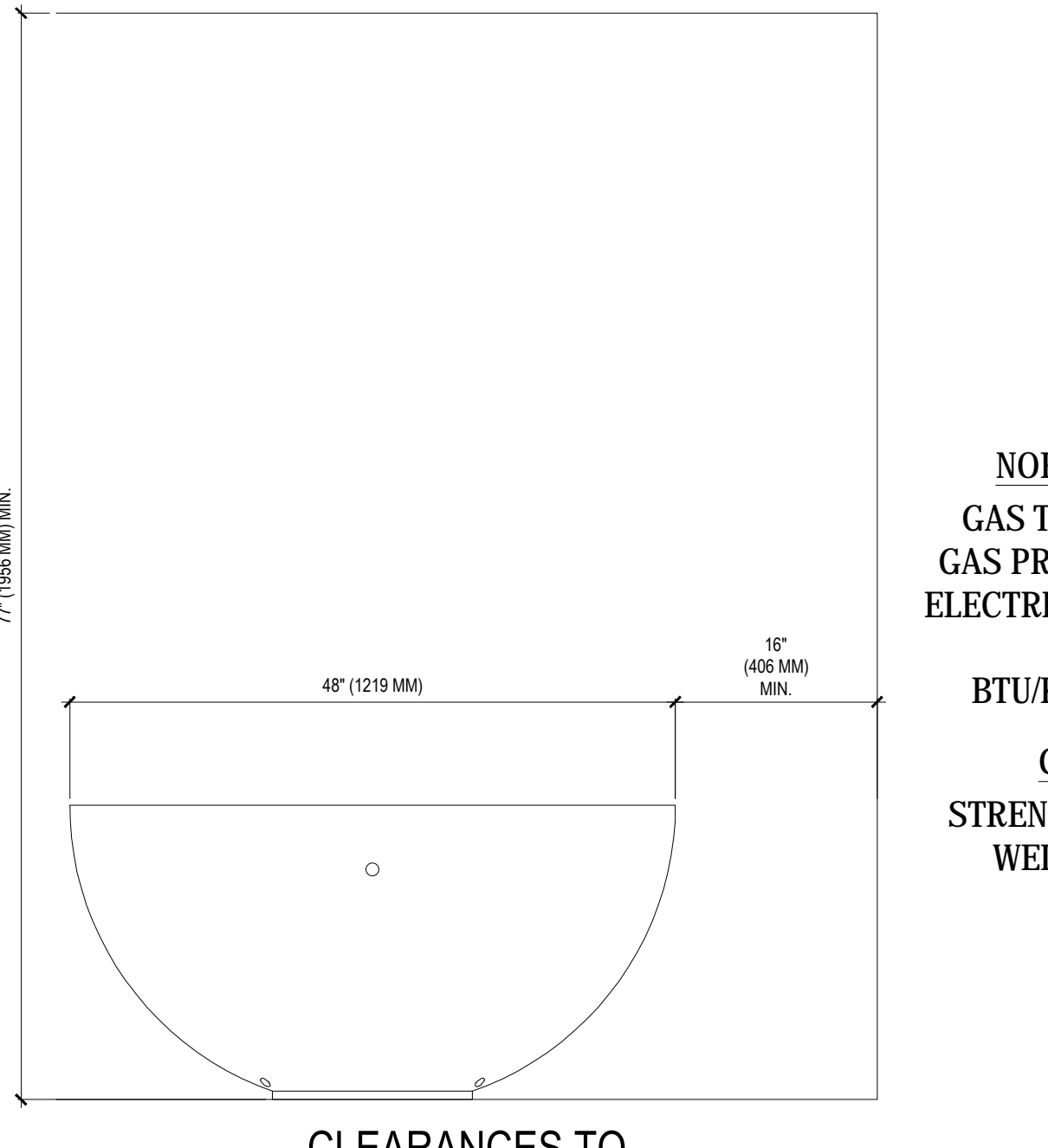


08 OUTDOOR KITCHEN SECTION DETAIL
NTS



11 SOLUS - FIRE PIT - LINEN COLOR - 48" NATURAL GAS W/ AUTO STARTER
NTS

NOTE: 1. SEE PLUMBING PLAN FOR NATURAL GAS SUPPLY & CONNECTIONS.

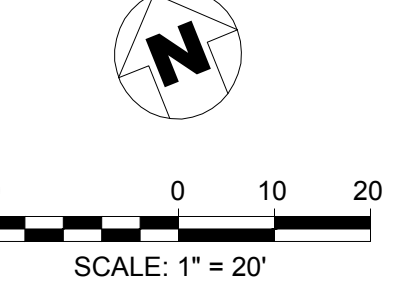


CLEARANCES TO ADJACENT MATERIALS

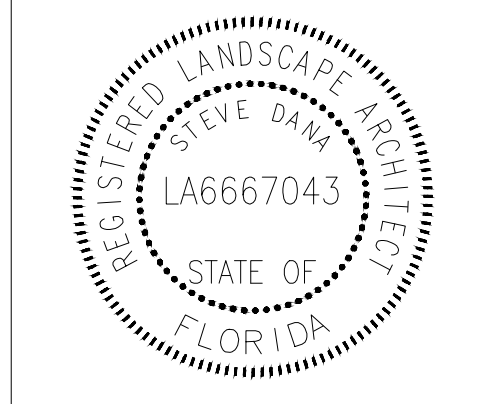
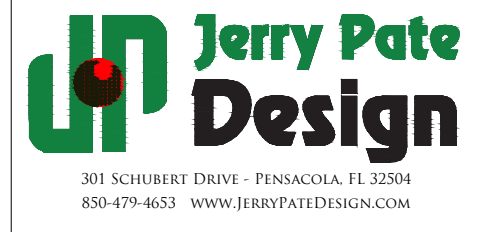
NORTH AMERICA SPECIFICATIONS:

GAS TYPE:	NATURAL GAS	PROPANE/BUT
GAS PRESS:	3.5" - 7.0" W.C.	N/A
ELECTRICAL:	24V/110 VAC	24V/110 VAC
	1.5A, 60 HZ	1.5A, 60 HZ
BTU/KWH:	60,000/11.7	76,000/22.5

CONCRETE SPECIFICATIONS:
STRENGTH: 10,000 PSI (PROPRIETARY)
WEIGHT: 225 LBS/102 KG



PROJECT #: BA
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ISSUE DATE	DESCRIPTION
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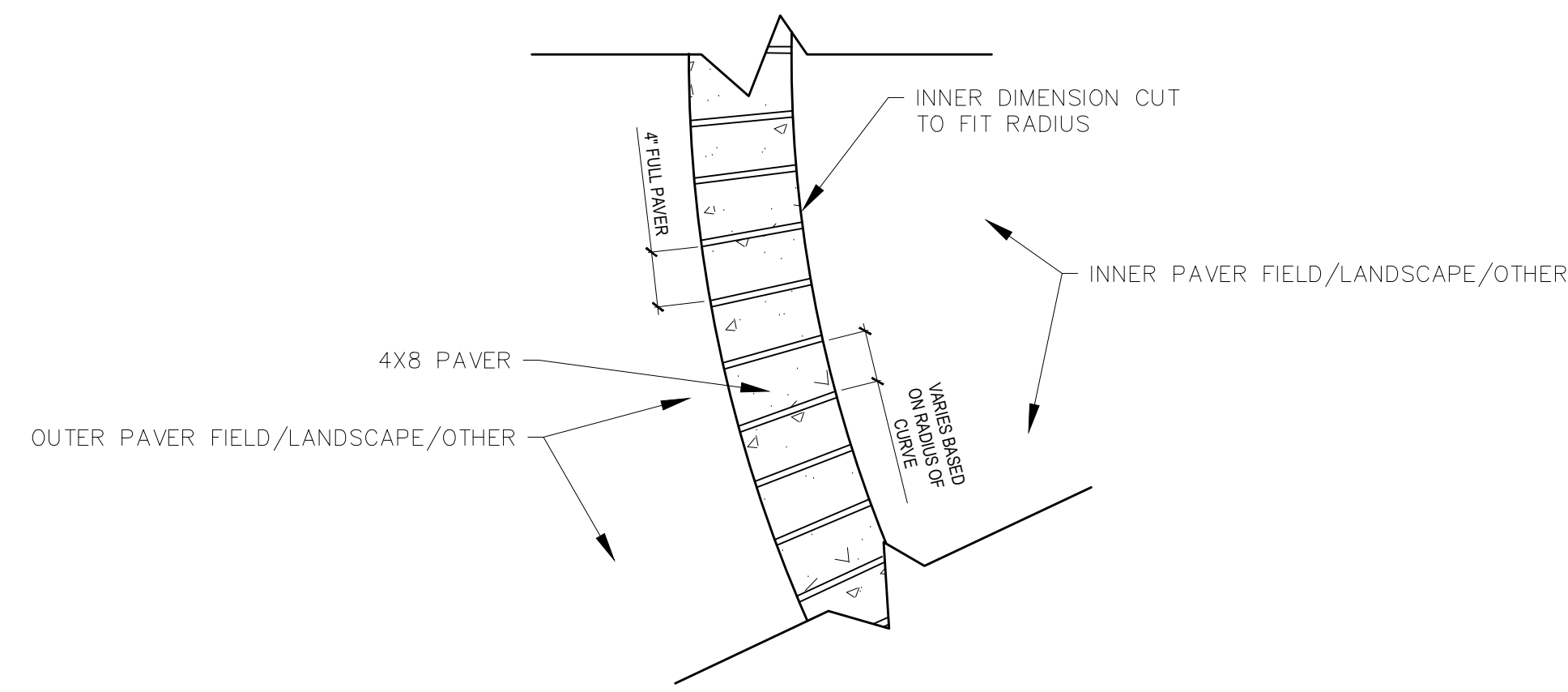
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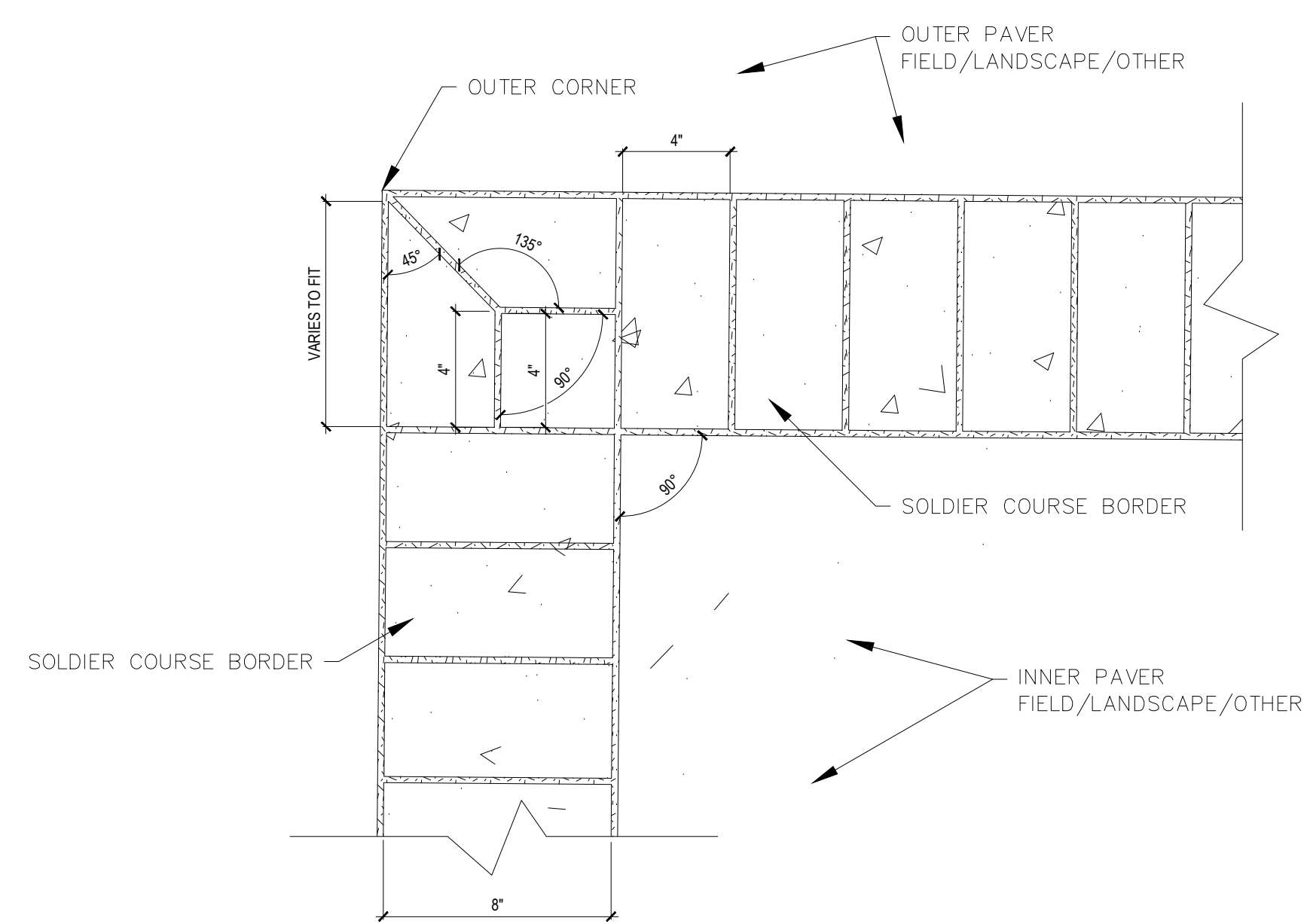
SHEET TITLE:
HARDSCAPE DETAILS

SHEET NUMBER:
LS7.3

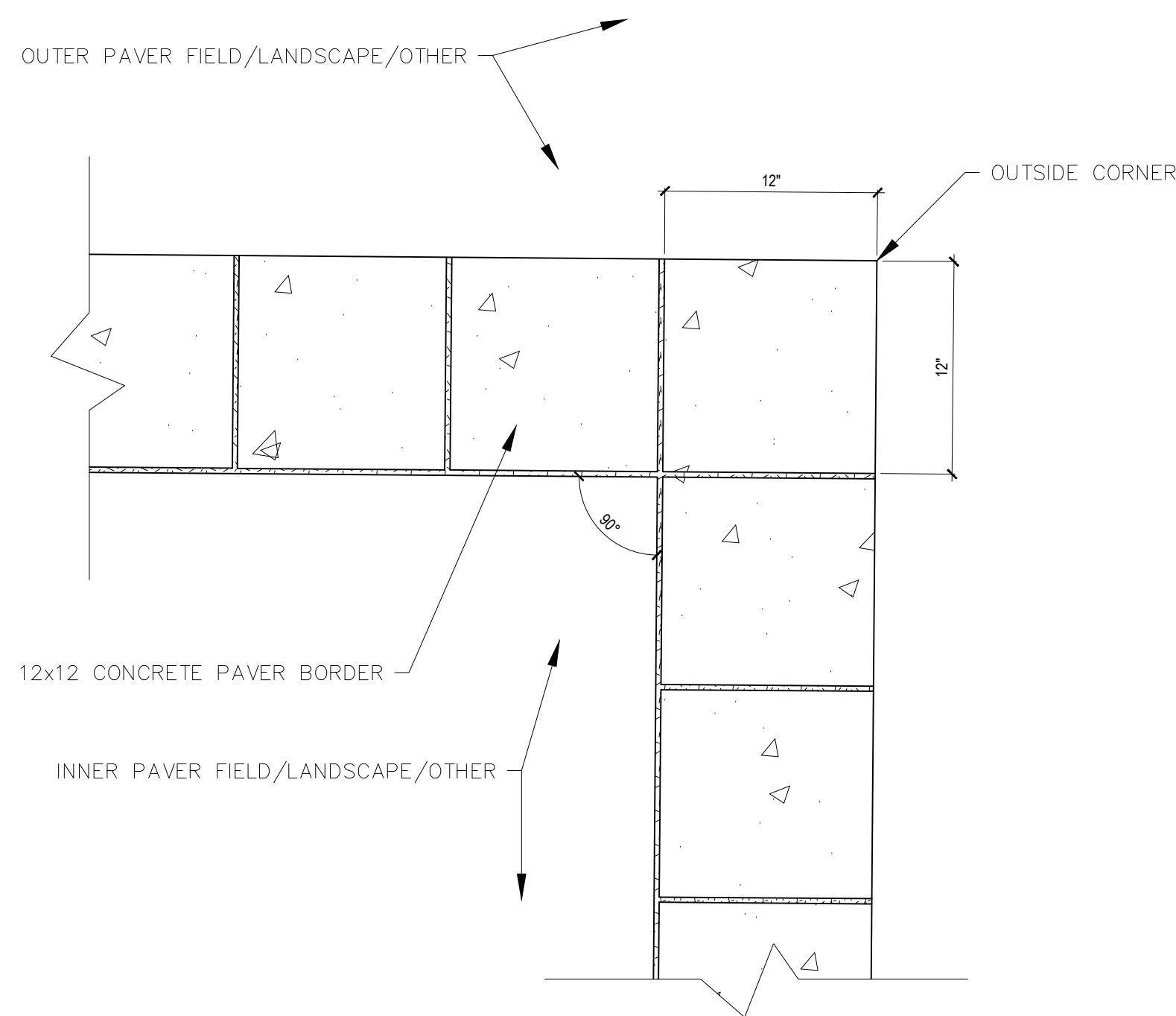
DATE: 01/13/2017



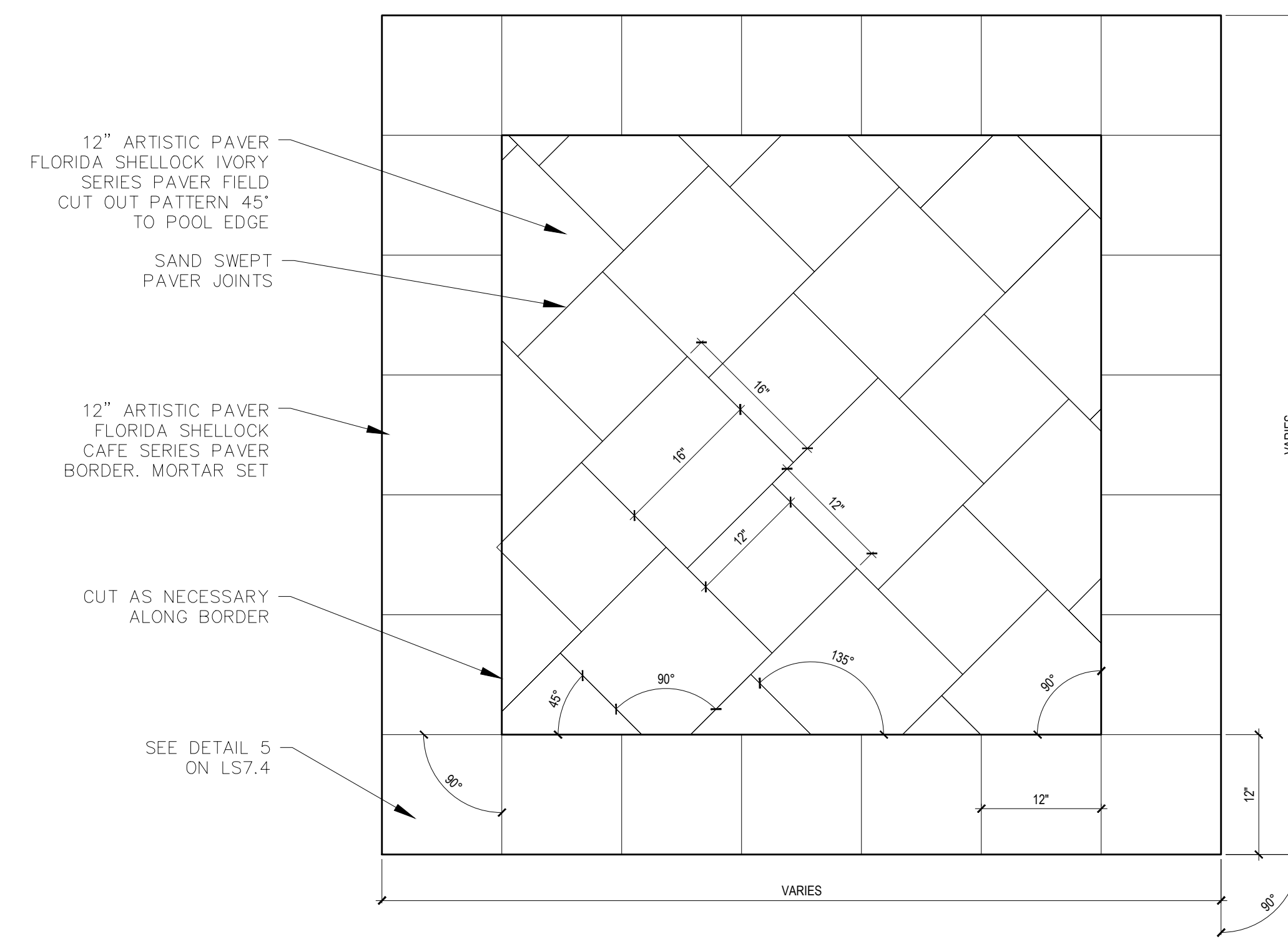
01 TYPICAL 4x8 PAVER BORDER ON RADIUS
NTS



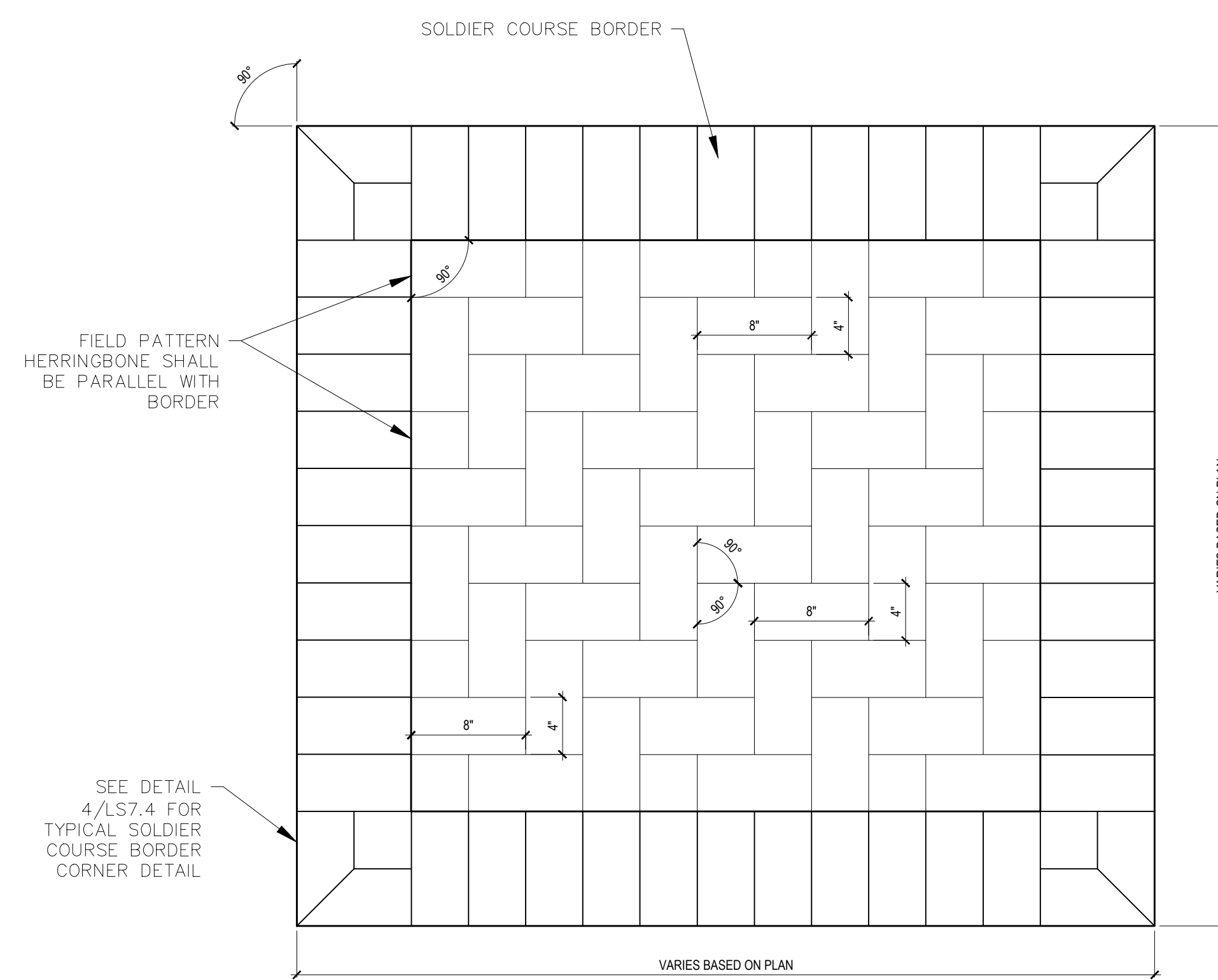
04 TYPICAL 4x8 PAVER BORDER & CORNER LAYOUT
NTS



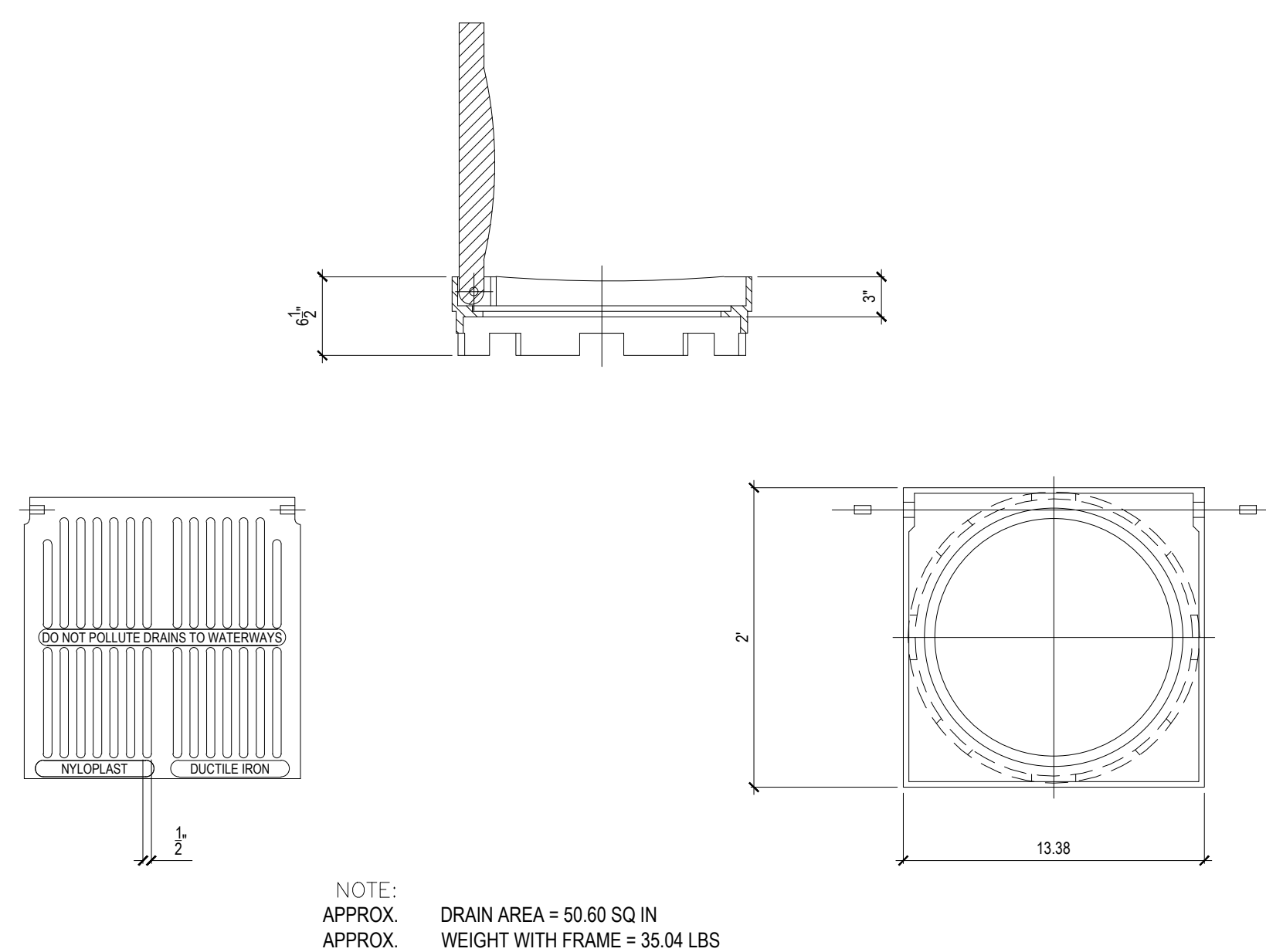
05 TYPICAL 12x12 PAVER BORDER & CORNER LAYOUT
NTS



03 REPRESENTATIVE ARTISTIC PAVERS POOL DECK LAYOUT
NTS

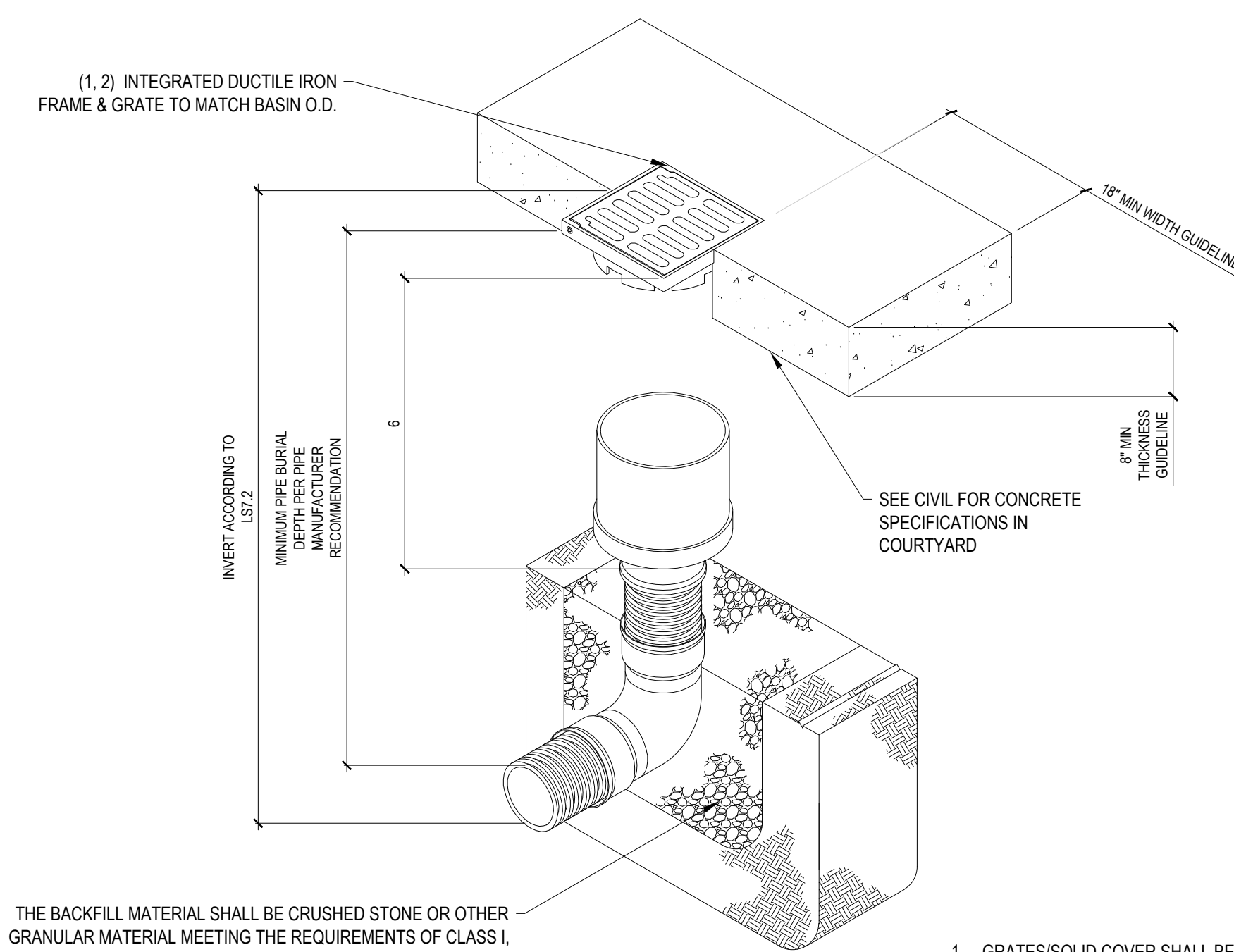


06 REPRESENTATIVE HERRINGBONE FIELD PATTERN LAYOUT
NTS



NOTE:
APPROX. DRAIN AREA = 50.60 SQ IN
APPROX. WEIGHT WITH FRAME = 35.04 LBS

07 NYLOPLAST H-10 12" PEDESTRIAN GRATE
MODEL 1299CGP
NTS

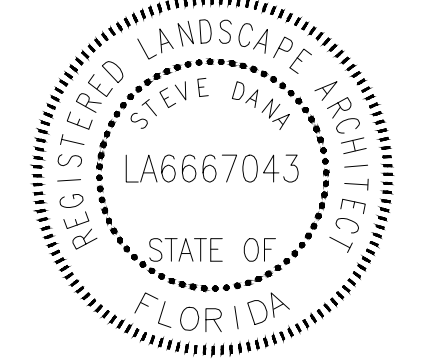
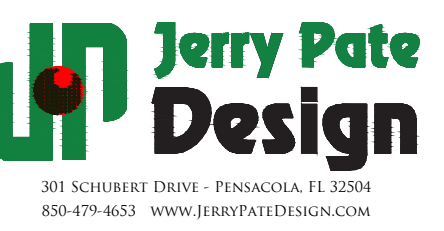


THE BACKFILL MATERIAL SHALL BE CRUSHED STONE OR OTHER GRANULAR MATERIAL MEETING THE REQUIREMENTS OF CLASS I, CLASS II, OR CLASS III MATERIAL AS DEFINED IN ASTM D2321. BEDDING & BACKFILL FOR SURFACE DRAINAGE INLETS SHALL BE PLACED & COMPACTED UNIFORMLY IN ACCORDANCE WITH ASTM D2321.

- 1 - GRATES/SOLID COVER SHALL BE DUCTILE IRON PER ASTM A536 GRADE 70-50-05, WITH THE EXCEPTION OF THE BRONZE GRATE.
- 2 - FRAMES SHALL BE DUCTILE IRON PER ASTM A536 GRADE 70-50-05.
- 3 - DRAINAGE CONNECTION STUB JOINT TIGHTNESS SHALL CONFORM TO ASTM D3212 FOR CORRUGATED HDPE (ADS N-12/HANCOR DUAL WALL), N-12 HP & PVC SEWER.
- 4 - DIMENSIONS ARE FOR REFERENCE ONLY. ACTUAL DIMENSIONS MAY VARY.
- 5 - DIMENSIONS ARE IN INCHES.
- 6 - SEE DRAWING NO. 7001-110-275 FOR ADS N-12 & HANCOR DUAL WALL BELL INFORMATION & DRAWING NO. 7001-110-364 FOR N-12 HP BELL INFORMATION.

08 NYLOPLAST 12" INLINE DRAIN
NTS

PROJECT #:
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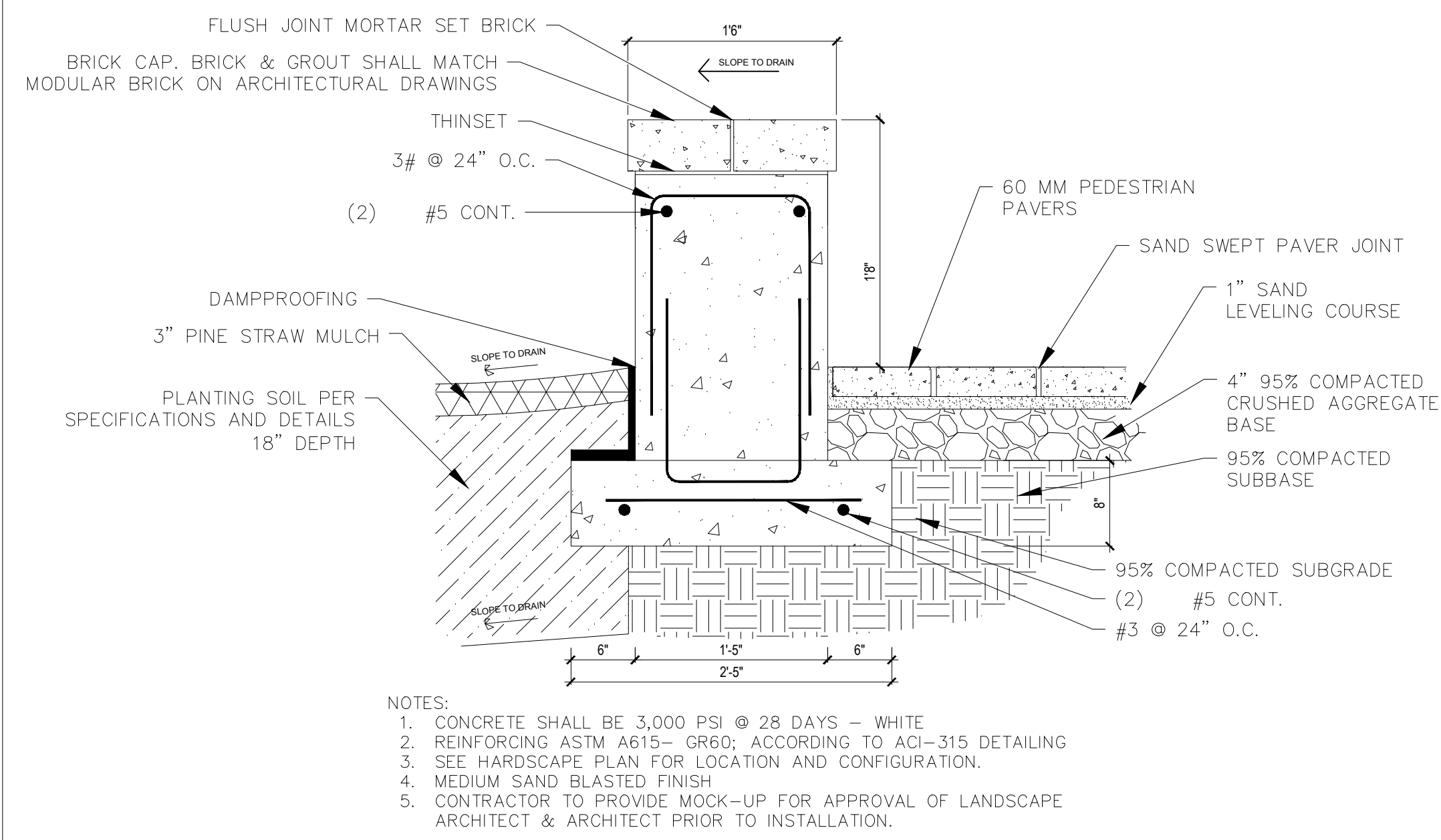
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PENSACOLA, FLORIDA
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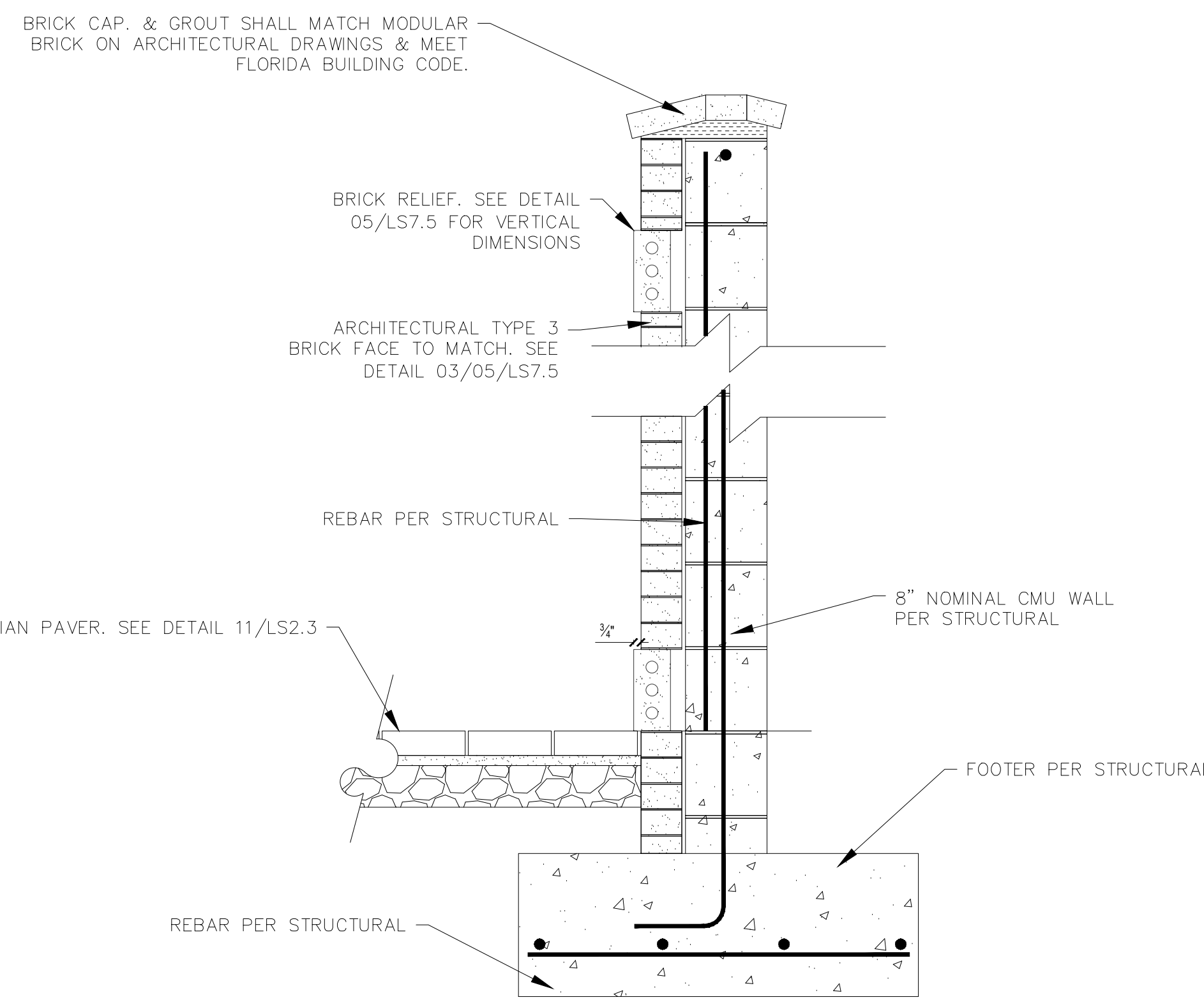
SHEET TITLE:
HARDSCAPE
DETAILS

SHEET NUMBER:
LS7.4

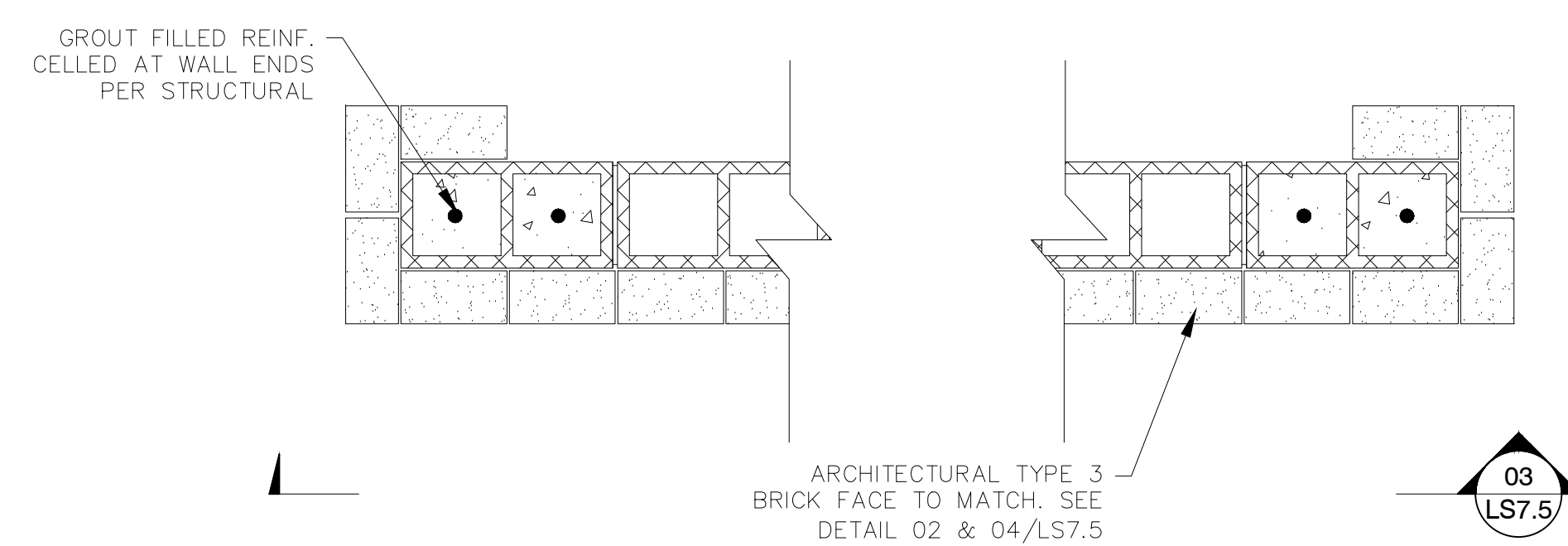
DATE: 01/13/2017



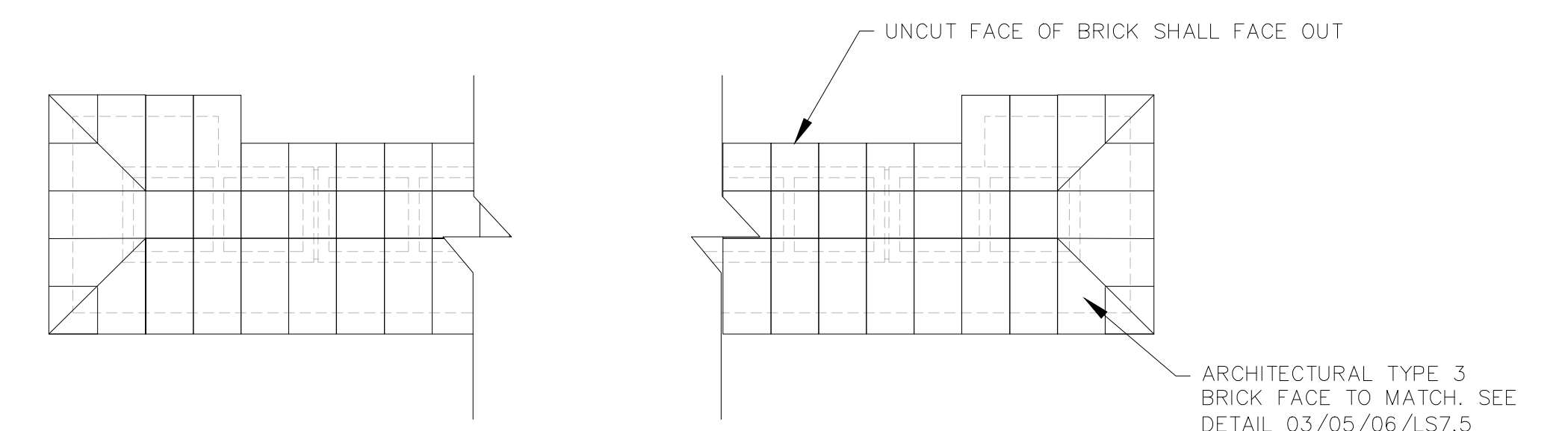
01 COURTYARD 18" CONCRETE WALL SECTION @ PEDESTRIAN PAVER
NTS



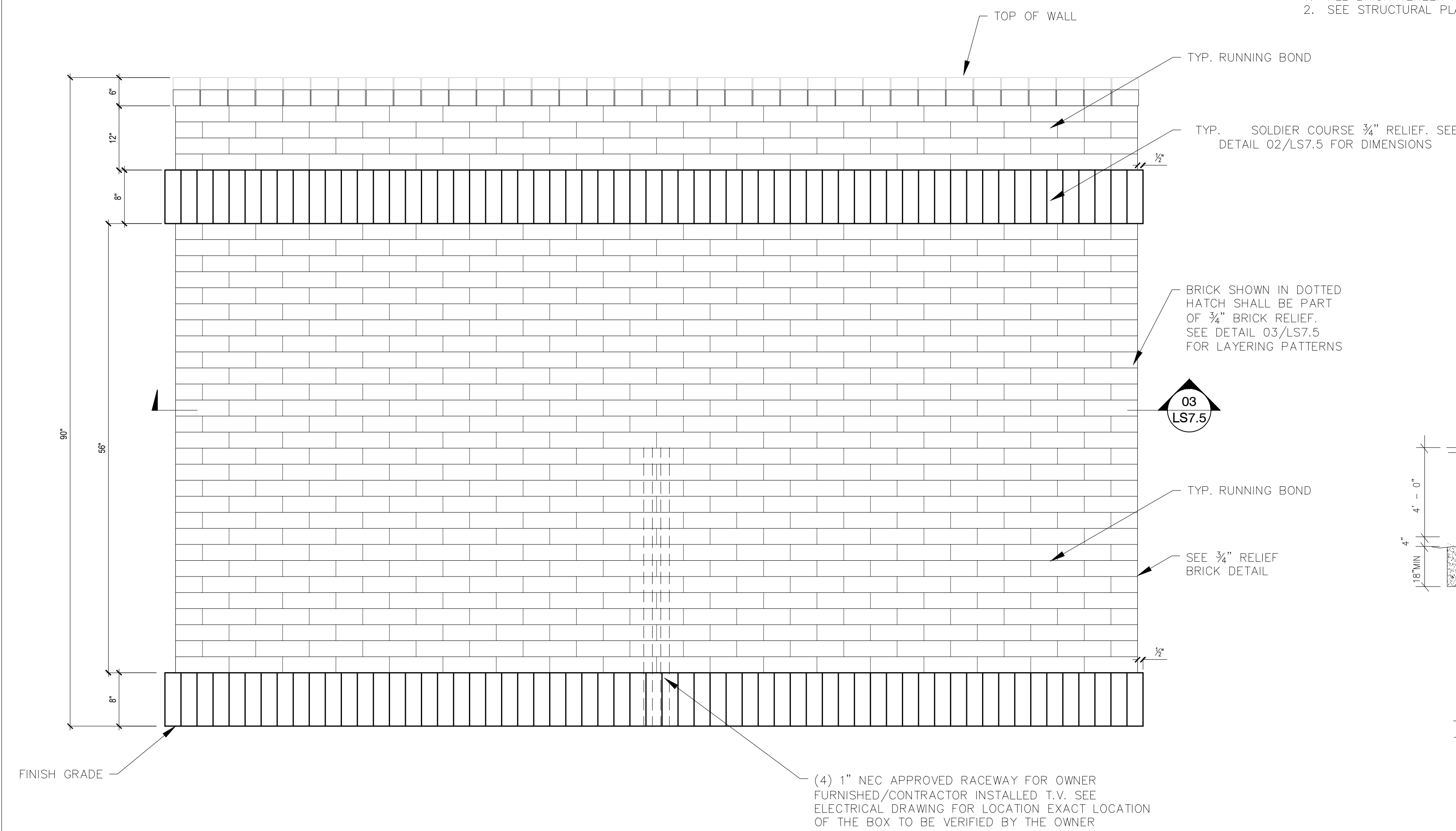
02 BRICK PATIO WALL SECTION
NTS



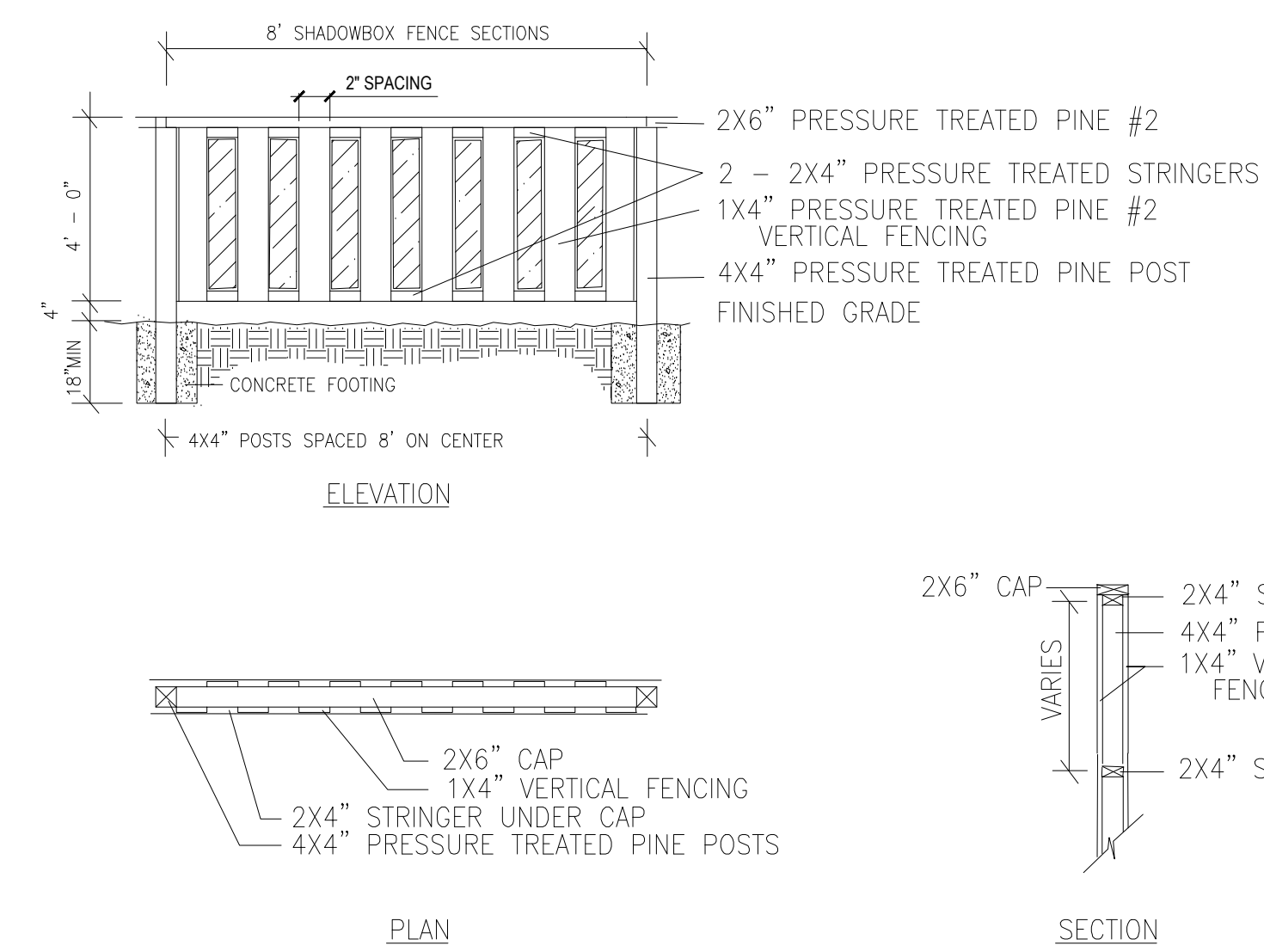
03 BRICK PATIO WALL VERTICAL SECTION
NTS



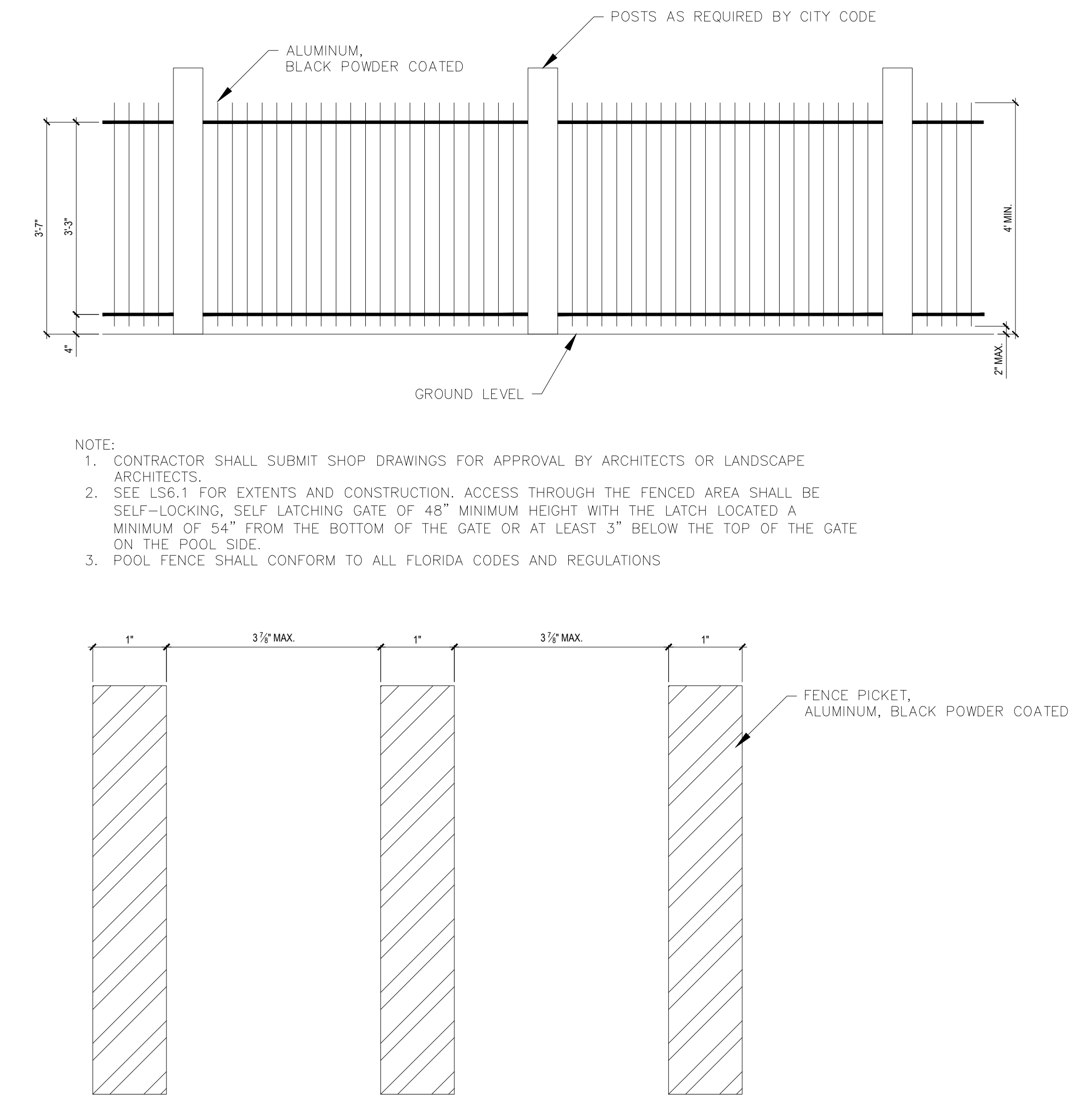
04 BRICK PATIO WALL BRICK CAP LAYOUT
NTS



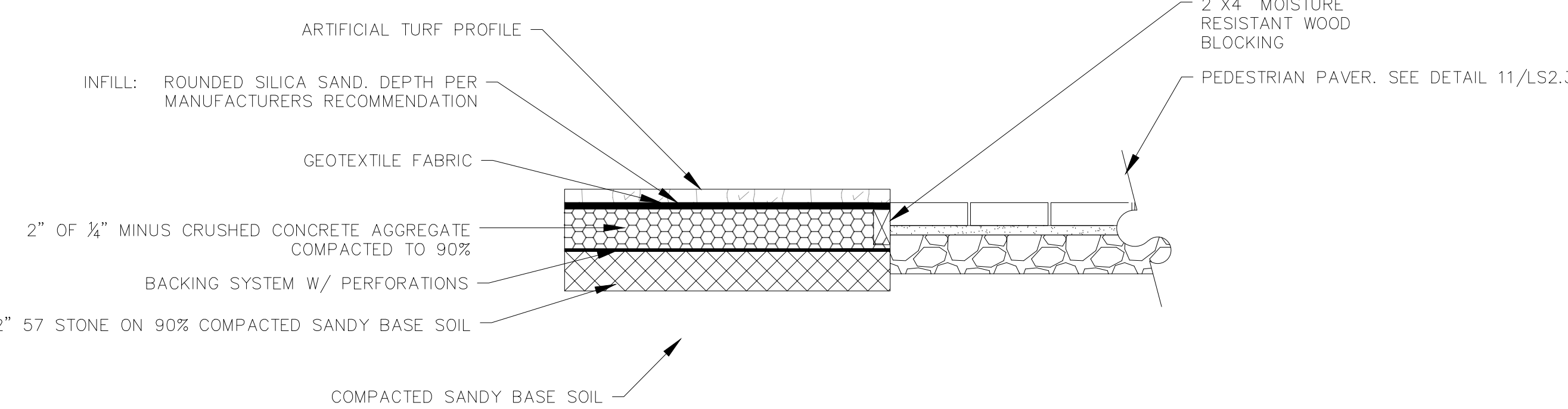
05 BRICK PATIO WALL ELEVATION
NTS



06 POOL EQUIPMENT FENCE 4' SHADOWBOX - PT PINE
NTS

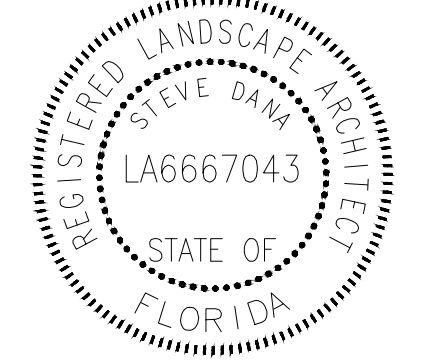
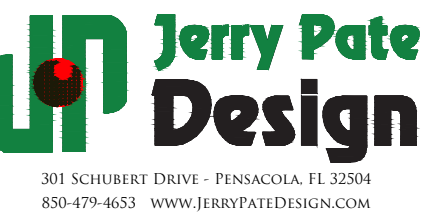


07 ALUMINUM, BLACK POWDER COATED
NTS



08 ARTIFICIAL TURF SECTION
NTS

PROJECT #: BA
DRAWN BY: BA
CHECKED BY: SD



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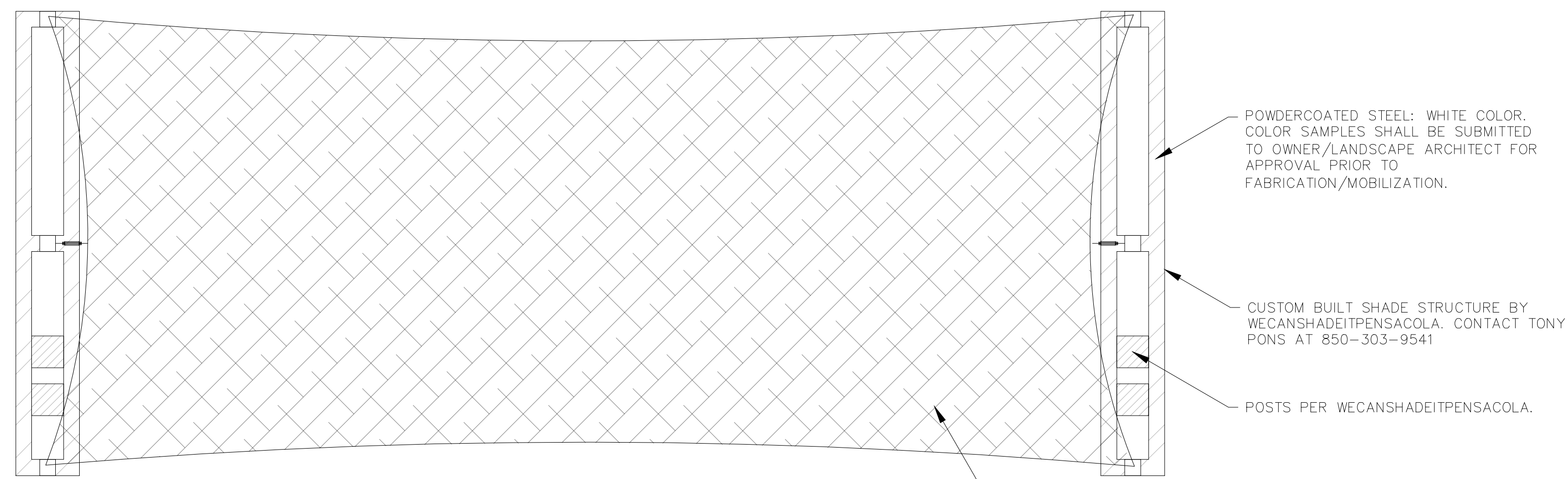
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PENSACOLA, FLORIDA
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SHEET TITLE:
HARDSCAPE DETAILS

SHEET NUMBER:

LS7.5

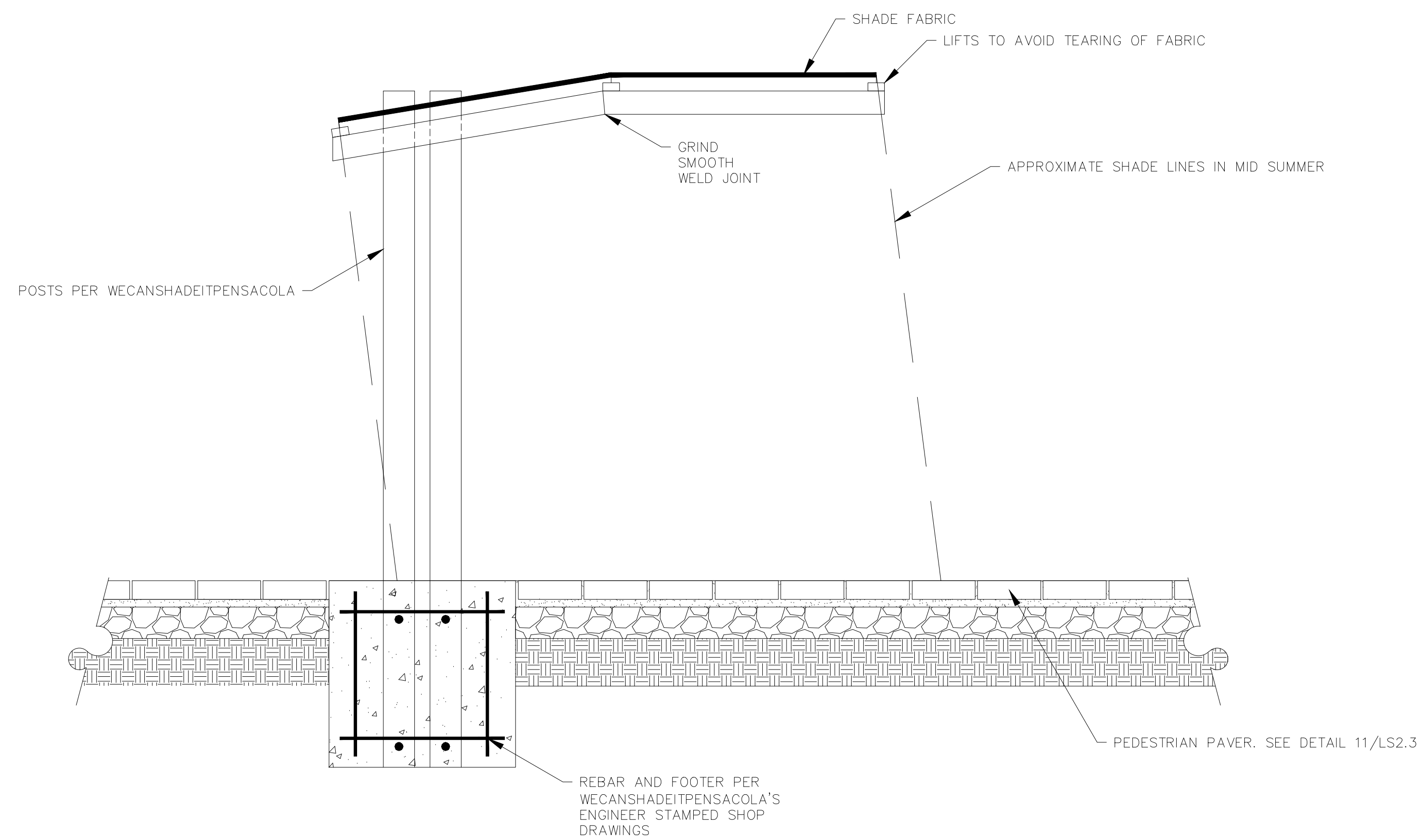
DATE: 01/13/2017



01 CUSTOM POWDER COATED STEEL SHADE STRUCTURE
NTS PLAN VIEW

NOTE:
 1. CUSTOM SHADE STRUCTURE BY WECANSHADEITPENSACOLA. CONTACT TONY PONS: 850-303-9541.
 2. CONTRACTOR SHALL SUBMIT ENGINEER STAMPED SHOP DRAWINGS TO BE APPROVED BY OWNER.
 3. ALL PORTIONS OF THE SHADE STRUCTURE SHALL CONFORM TO APPLICABLE FLORIDA CODES.

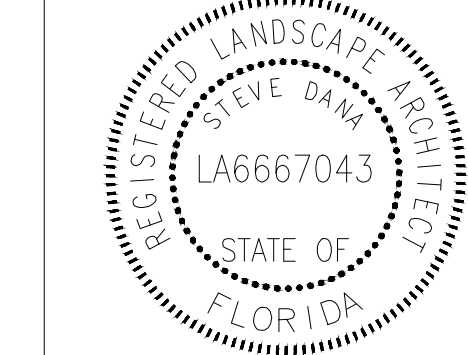
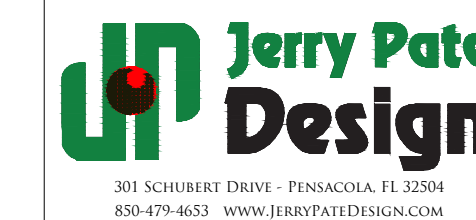
SHADE SAIL FABRIC: ARCHITEC 400 "ORANGE". COLOR SAMPLES SHALL BE SUBMITTED TO OWNER/LANDSCAPE ARCHITECT FOR APPROVAL PRIOR TO FABRICATION/MOBILIZATION.



02 CUSTOM POWDER COATED STEEL SHADE STRUCTURE
NTS SECTION ELEVATION VIEW

NOTE:
 1. CUSTOM SHADE STRUCTURE BY WECANSHADEITPENSACOLA. CONTACT TONY PONS: 850-303-9541.
 2. CONTRACTOR SHALL SUBMIT ENGINEER STAMPED SHOP DRAWINGS TO BE APPROVED BY OWNER.
 3. ALL PORTIONS OF THE SHADE STRUCTURE SHALL CONFORM TO APPLICABLE FLORIDA CODES.

PROJECT #: BA
 DRAWN BY: SD
 CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.

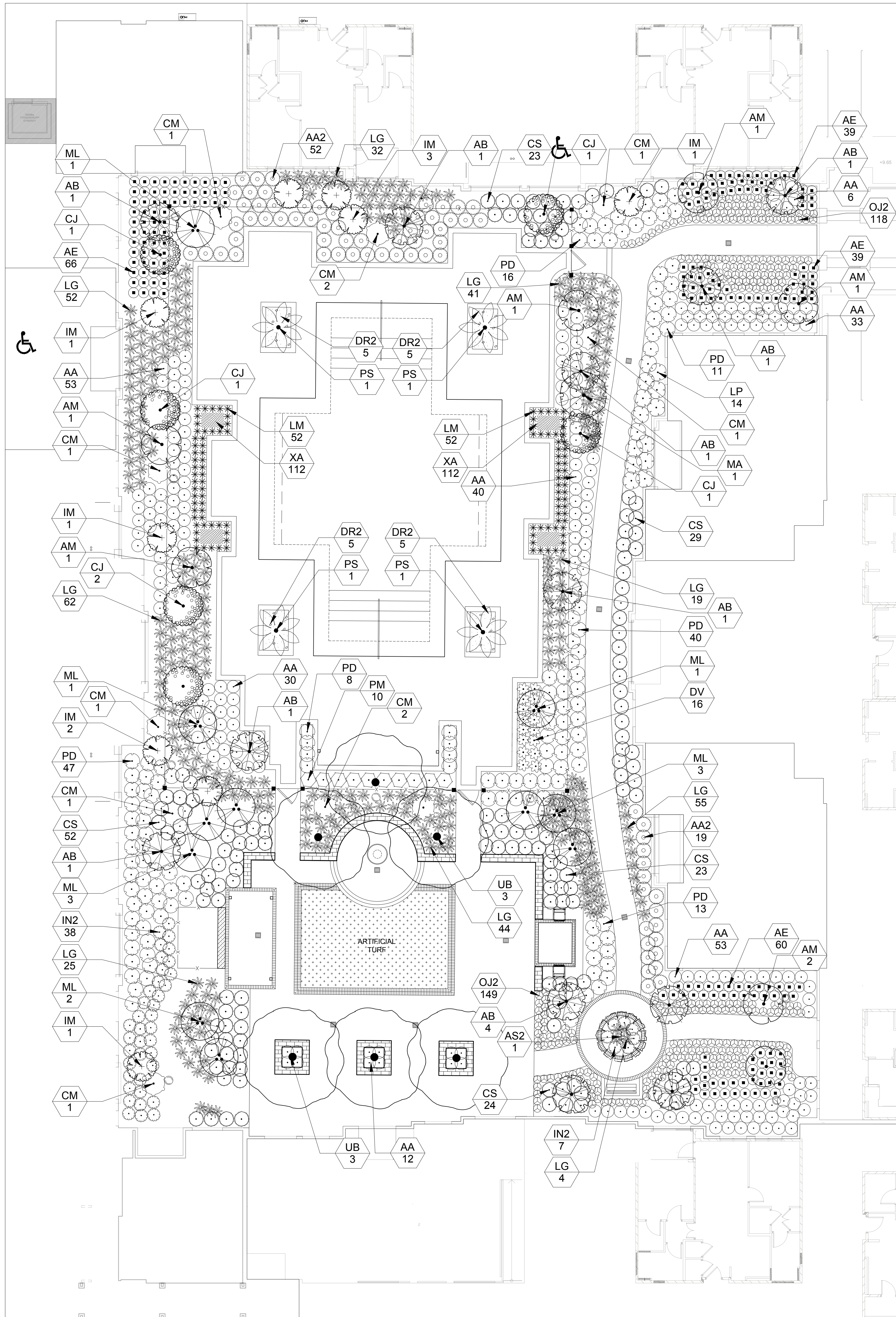
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MIXED-USE DEVELOPMENT
 JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
 PENSACOLA, FLORIDA
 DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
**HARDSCAPE
 DETAILS**

SHEET NUMBER:
LS7.6

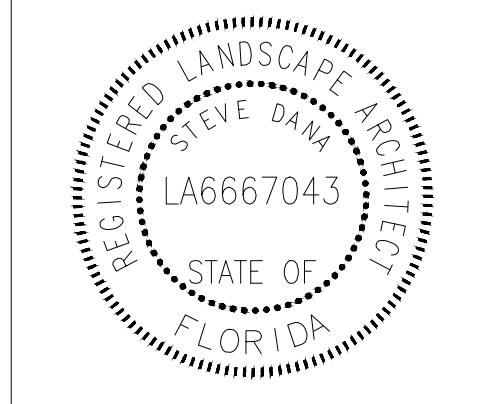
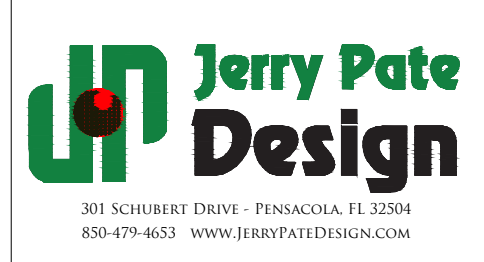
DATE: 01/13/2017



PLANT SCHEDULE

TREES		CODE	QTY	BOTANICAL NAME / COMMON NAME	CONT	CAL	SIZE	
	AB	12	Acer palmatum 'Bloodgood' / Bloodgood Japanese Maple	15gal	1.5"Cal	5-6' HT		
	AM	7	Acer palmatum 'Manyo No Sato' / Manyo No Sato Japanese Maple	15gal	1.5"Cal	5-6' HT		
	AS2	1	Acer palmatum 'Seiryu' / Seiryu Japanese Maple	B & B	3.5"-4"Cal	9-11' H		
	CJ	6	Camellia japonica / Tree Form Camellia	15gal	3"Cal	8'		
	IM	9	Ilex x 'Mary Nell' / Mary Nell Holly	FG	Varies	6'-8' HT		
	MA	1	Magnolia grandiflora 'Alta' / Alta Magnolia	FG	3" Cal	6'-8' HT		
	ML	11	Magnolia grandiflora 'Little Gem' / Dwarf Southern Magnolia	FG	2.5"Cal	Varies		
	PS	4	Phoenix sylvestris / Wild Date Palm	FG	12" CT	12" CT		
	UB	6	Ulmus parvifolia 'Bosque' / Bosque Elm	FG	Approx 3"Cal	Varies		
SHRUBS		CODE	QTY	BOTANICAL NAME / COMMON NAME	CONT	SIZE	SPEC	SPACING
	AE	204	Aspidistra elatior / Cast Iron Plant	3 gal	30" OA		FTB, SP	24" o.c.
	AA2	71	Azalea Encore 'Autumn Amethyst' TM / Autumn Amethyst Azalea	3 gal	18" OA		SP	36" o.c.
	AA	227	Azalea Encore 'Autumn Angel' TM / Autumn Angel Azalea	3 gal	18" OA		FTB, SP	30" o.c.
	CM	11	Camellia sasanqua 'Mine No Yuki' / White Camellia	3 gal	24" OA		SP	60" o.c.
	CS	151	Camellia sasanqua 'Shishi-Gashira' / Camellia	3 gal	18" OA		SP	36" o.c.
	DV	16	Daniellia tasmanica 'Variegata' / Variegated Flax Lily	1 gal	12" OA		Full Pot	30" o.c.
	IN2	45	Ilex vomitoria 'Nana' / Dwarf Yaupon	3 gal	18" OA		FTB, SP	30" o.c.
	LM	104	Liriope muscari 'Big Blue' / Big Blue Liriope	1 gal	12" OA		Full Pot	18" o.c.
	LG	334	Liriope muscari 'Evergreen Giant' / Evergreen Giant Border Grass	3 gal	12" OA		Full Pot	30" o.c.
	LP	14	Loropetalum chinense 'Purple Diamond' / Fringe Flower	3 gal	24" OA		FTB, SP	42" o.c.
	OJ2	267	Ophiopogon japonicus / Mondo Grass	1 gal	12" OA		Full Pot	18" o.c.
	PD	135	Podocarpus macrophyllus 'Dwarf Pringles' / Dwarf Podocarpus	3 gal	36" OA		Full Pot	36" o.c.
	PM	10	Podocarpus macrophyllus maki / Shrubby Yew	3 gal	18" OA		FTB, SP	36" o.c.
GROUND COVERS		CODE	QTY	BOTANICAL NAME / COMMON NAME	CONT	SIZE	SPACING	
	XA	224	Annuals / Annuals	4" Pot			6" o.c.	
	DR2	20	Delosperma dyeri 'Red Mountain' / Red Mountain Iceplant	1 gal	24" OA		36" o.c.	

PROJECT #: BA
 DRAWN BY: BA
 CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.

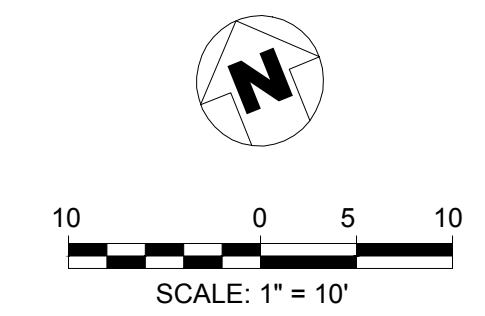
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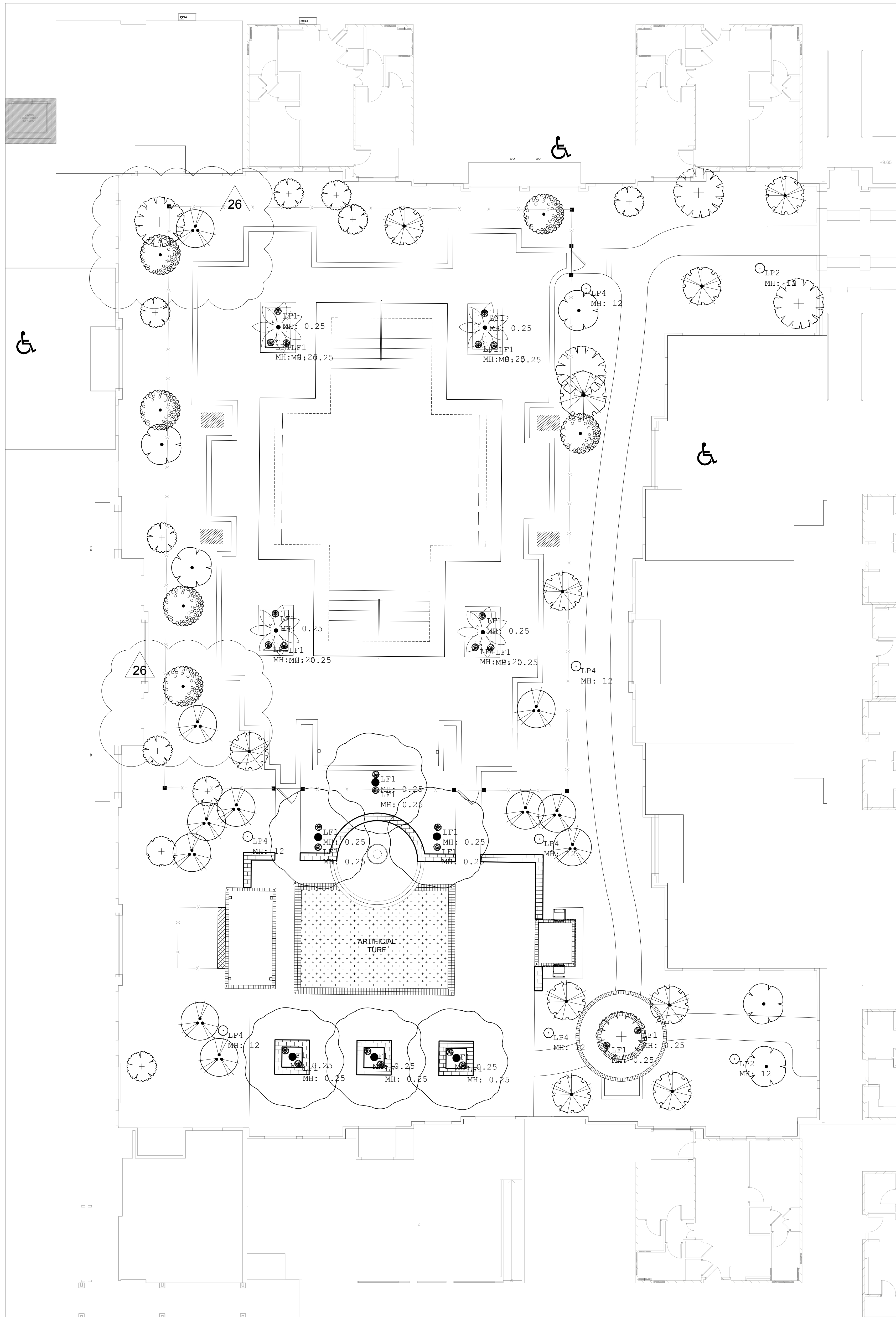
MIXED-USE DEVELOPMENT
 JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
 PENSACOLA, FLORIDA
 DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
COURTYARD LANDSCAPE PLAN

SHEET NUMBER:
LS8.1

DATE: 01/13/2017





Symbol	Qty	Label	Arrangement	Description	[LAMP]	LLF	Lum. Watts
	28	LF1	SINGLE	HADCO#B9-DC-(BLACK FINISH)-SP1	3000K WHITE LED	0.900	33
	2	LP2	SINGLE	LUMEC#MPTR-35W32LED3K-T-LE2-(VOLTAGE)-MOUNTING-(BLACK FINISH)-POLE:VALMONT#7B02A-R-12004085JL-PXX-(BLACK FINISH)	3000K WHITE LED	0.850	37
	6	LP4	SINGLE	LUMEC#MPTR-35W32LED3K-T-LE4-(VOLTAGE)-MOUNTING-(BLACK FINISH)-POLE:VALMONT#7B02A-R-12004085JL-PXX-(BLACK FINISH)	3000K WHITE LED	0.850	37

The lighting fixtures listed in the lighting fixture schedule are the basis of design for the lighting system for this project. This project must be bid using only the specified fixtures as the base (as specified) bid. All LED product submittals must include LM-79 and LM-80 reports by a lab accredited by NIST. If the contractor would like to propose alternate fixtures to those specified, he is required, at the time of the bid, to furnish all of the following with his bid:

- a) Total amount of credit to owner if alternate fixtures are used in lieu of specified fixtures.
- b) Cost to the owner for each alternate fixture type
- c) Complete catalog and photometric information for each alternate fixture type
- d) Fixture sample on fixture types requested or noted in the fixture schedule

All proposed alternate fixtures must be equivalent to the basis of design (specified fixtures) in all respects as to performance, light output, quality of finish, suitability for the application, and overall appearance and including aesthetic considerations for compatibility with the architecture. The engineer shall have sole discretion in determining acceptable alternatives.

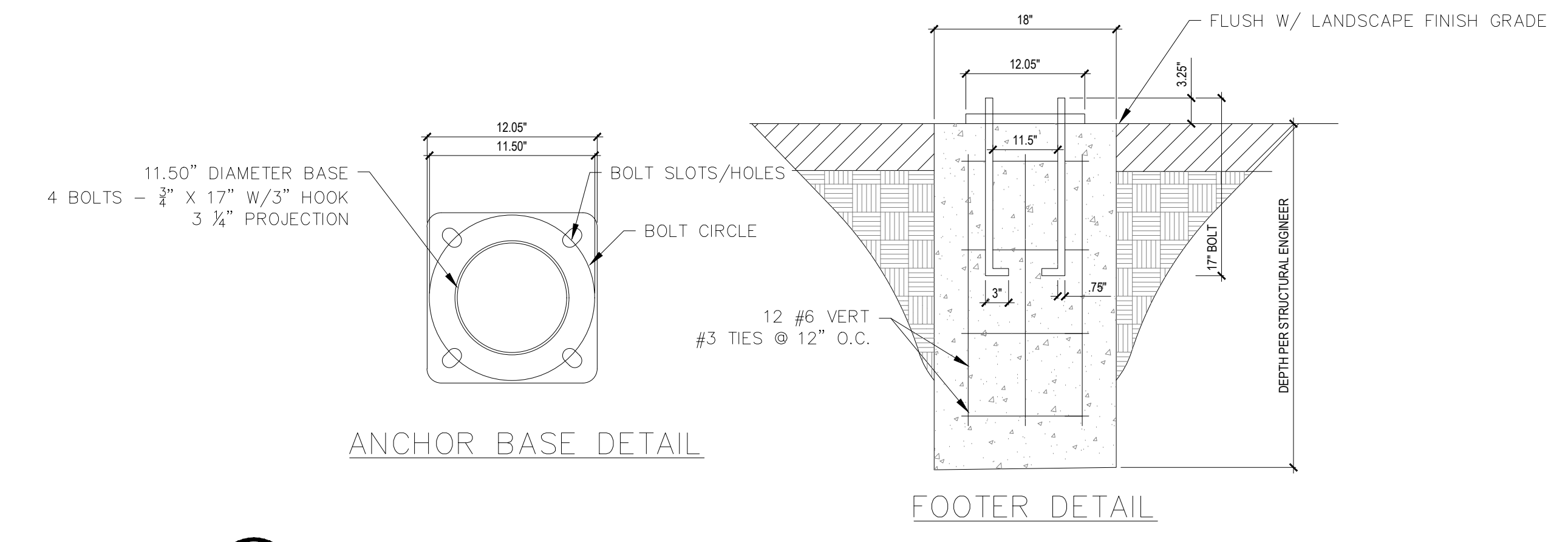
Label	CalcType	Units	Avg	Max	Min	Avg/Min	Max/Min
FIRE PIT AREA	Illuminance	Fc	1.68	3.5	0.5	3.36	7.00
PATIO AREA	Illuminance	Fc	1.13	2.9	0.3	3.77	9.67
POOL DECK	Illuminance	Fc	0.92	3.1	0.2	4.60	15.50
WALKWAY	Illuminance	Fc	1.73	4.2	0.4	4.33	10.50

- Notes:
- 1) Readings shown are taken at grade.
 - 2) Readings shown are average maintained illuminance.
 - 3) Luminaire mounting heights: Shown at base of fixture locations.
 - 4) MH=Lighting Fixture mounting height above grade.

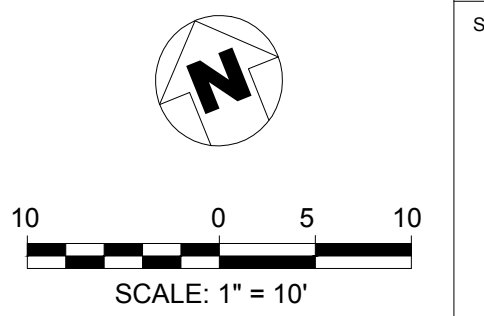
Based on the information provided, all dimensions and luminaire locations shown represent recommended positions. The Contractor and/or Engineer and/or Architect must determine applicability of the layout to existing or future field conditions.

This lighting pattern represents illumination levels calculated from laboratory data taken under controlled conditions in accordance with the Illuminating Engineering Society approved methods. Actual performance of any manufacturer's luminaire may vary due to variations in electrical voltage, tolerance in lamps, and other variable field conditions.

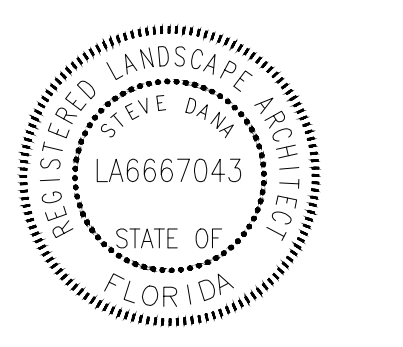
Contractor shall be responsible for a recessed electrical box for the Hadco LF1 uplight fixture mounting.



01 LIGHT POLE BASE DETAIL
NTS LP2 & LP4



PROJECT #: BA
DRAWN BY: SD
CHECKED BY: SD



ISSUE DATE	DESCRIPTION
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04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.
06/19/2017	ASH17-R26

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MIXED-USE DEVELOPMENT
JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
COURTYARD LIGHTING PLAN

SHEET NUMBER:
LS9.1

DATE:
01/13/2017

IRRIGATION SCHEDULE

SYMBOL	MANUFACTURER/MODEL	QTY	ARC	PSI	GPM	RADIUS
⊕	Rain Bird 1806-SAM 8 Series MPR	13	180	30	0.52	8'
⊕	Rain Bird 1806-SAM 8 Series MPR	4	90	30	0.26	8'
⊕	Rain Bird 1806-SAM 10 Series MPR	7	180	30	0.79	10'
⊕	Rain Bird 1806-SAM 10 Series MPR	6	90	30	0.39	10'
⊕	Rain Bird 1806-SAM VAN Series	4	Adj	30		18'
△	Rain Bird 1800-1400 Flood	25	360	30	0.25	3'
△	Rain Bird 1800-1400 Flood	33	360	30	0.50	3'

SYMBOL	MANUFACTURER/MODEL/DESCRIPTION	QTY
■	Rain Bird XCZ-150-PRB-COM 1-1/2" High Flow Control Zone Kit, for Large Commercial Drip Zones. 1-1/2" PEBB Valve with two 1" Pressure Regulating (40psi) Quick-Check Basket Filters. Flow range: 15-40gpm.	2
⊕	Rain Bird MDCFCAP Dripine Flush Valve cap in compression fitting coupler.	2
⊕	Rain Bird ARV050 1/2" 1/2" Air Relief Valve, made of quality rust-proof materials, with a 6" drip valve box (SEE TXB emitter box). Use with installation below soil. The valve will allow air to escape the pipeline, thus preventing water hammer or blockage.	2
⊕	Area to Receive Drip Emitters Rain Bird XB-PC Single Outlet, Pressure Compensating Drip Emitters. Flow rates of 0.5gph=blue, 1.0gph=black, and 2.0gph=red. Comes with a self-piercing barb inlet x barb outlet.	11,762 s.f.

SYMBOL	MANUFACTURER/MODEL/DESCRIPTION	QTY
⊕	Rain Bird PEB-PRS-D 1" 1", 1-1/2", 2" Plastic Industrial Valves. Low Flow Operating Capability, Globe Configuration. With Pressure Regulator Module.	4
M	Water Meter 1 1/2" 1.5" Water Meter, Assumed 60 PSI at Water Meter	1
—	Irrigation Lateral Line: HDPE PE4710 DR11 (200PSI) 1"	3,631 l.f.
—	Irrigation Lateral Line: HDPE PE4710 DR11 (200PSI) 1 1/2"	657.5 l.f.
—	Irrigation Lateral Line: HDPE PE4710 DR11 (200PSI) 2"	481.1 l.f.
—	Irrigation Mainline: HDPE PE4710 DR11 (200PSI) 2"	251.6 l.f.

Valve Callout

Valve Number
Valve Flow
Valve Size

VALVE SCHEDULE

NUMBER	MODEL	SIZE	TYPE	GPM	PSI	PSI @ POC	PRECIP
1	Rain Bird PEB-PRS-D	1"	Bubbler	10.25	38.07	38.81	1.52 in/h
2	Rain Bird XCZ-150-PRB-COM	1-1/2"	Area for Drip Emitters	16.68	49.66	51.25	6.28 in/h
3	Rain Bird XCZ-150-PRB-COM	1-1/2"	Area for Drip Emitters	31.55	60.23	66.29	7.79 in/h
4	Rain Bird PEB-PRS-D	1"	Bubbler	12.50	37.88	38.64	1.22 in/h
5	Rain Bird PEB-PRS-D	1"	Turf Spray	15.67	36.87	38.02	1.00 in/h
6	Rain Bird PEB-PRS-D	1"	Turf Spray	5.46	35.48	35.73	1.42 in/h

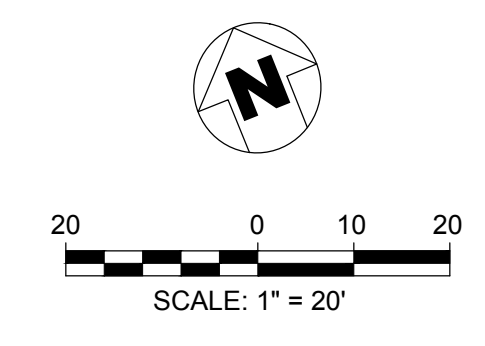
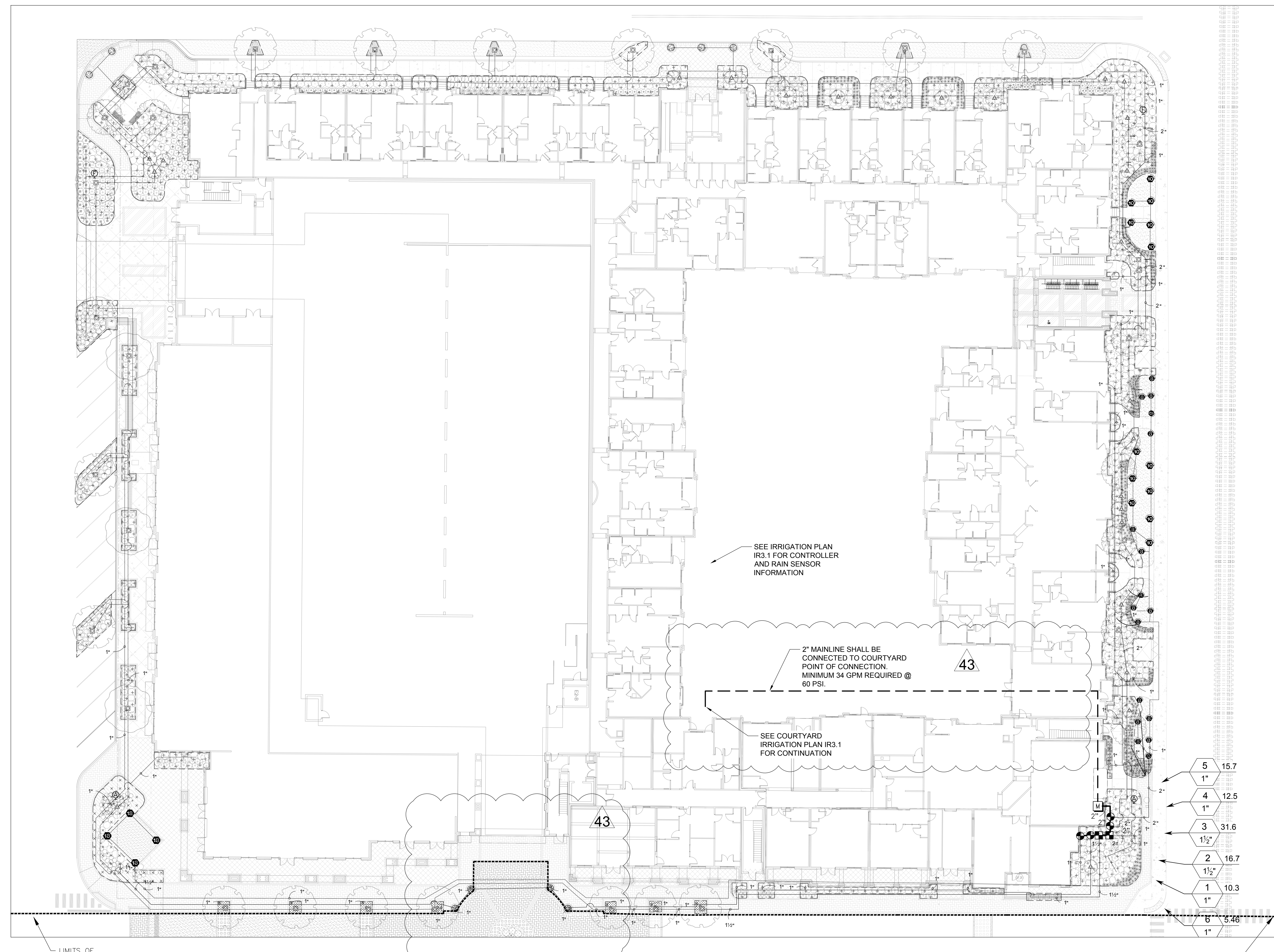
WATERING SCHEDULE

NUMBER	MODEL	TYPE	PRECIP	IN/WEEK	MIN./WEEK	GAL./WEEK	GAL./DAY
1	Rain Bird PEB-PRS-D	Bubbler	1.52 in/h	2	80	117.1	
2	Rain Bird XCZ-150-PRB-COM	Area for Drip Emitters	6.28 in/h	1.10	11	183.5	26.2
3	Rain Bird XCZ-150-PRB-COM	Area for Drip Emitters	7.79 in/h	1.10	9	284.0	40.6
4	Rain Bird PEB-PRS-D	Bubbler	1.22 in/h	2	99	1,238	175.8
5	Rain Bird PEB-PRS-D	Turf Spray	1.00 in/h	1.50	61	1,426	203.7
6	Rain Bird PEB-PRS-D	Turf Spray	1.42 in/h	1.50	64	1,495	49.9
TOTALS:					354	4,300	614.4

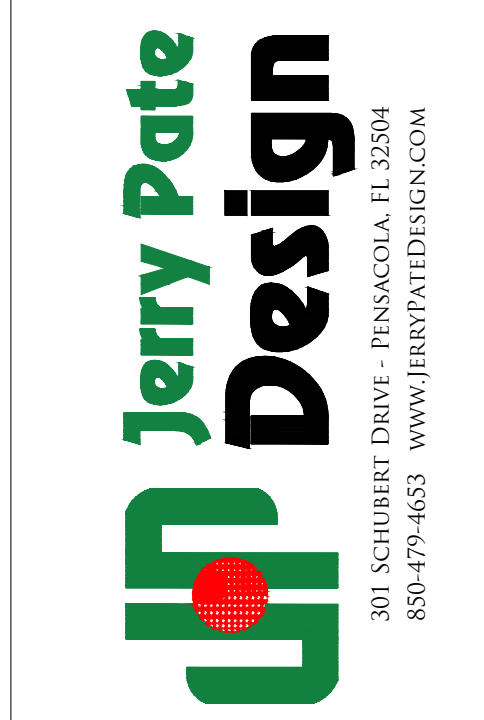
Drip Emitter Chart

Plant Material	Botanical	Common	Emitter Size (gph)
Asclepias tuberosa	Butterfly Milkweed	Butterfly Milkweed	0.5
Azalea Encore 'Autumn Amethyst'	Autumn Amethyst Azalea	Autumn Amethyst Azalea	1.0
Azalea Encore 'Autumn Angel'	Autumn Angel Azalea	Autumn Angel Azalea	1.0
Camellia sasanqua 'Mine No Yuki'	White Camellia	White Camellia	1.0
Camellia sasanqua 'Shishi-Gashira'	Camellia	Camellia	1.0
Daniella tasmanica 'Variegata'	Variegated Flax Lily	Variegated Flax Lily	0.5
Equisetum hyemale	Horsetail Reed Grass	Horsetail Reed Grass	2.0
Helianthus angustifolius 'Gold Lace'	Gold Lace Sunflower	Gold Lace Sunflower	1.0
Ilex cornuta 'Carissa'	Carissa Holly	Carissa Holly	0.5
Ilex vomitoria 'Nana'	Dwarf Yaupon	Dwarf Yaupon	0.5
Juniperus chinensis 'Parsonii'	Parsoni Juniper	Parsoni Juniper	0.5
Liriope muscari 'Big Blue'	Big Blue Liriope	Big Blue Liriope	1.0
Liriope muscari 'Evergreen Giant'	Evergreen Giant Border Grass	Evergreen Giant Border Grass	1.0
Lomandra longifolia 'Breeze'	Breeze Grass	Breeze Grass	0.5
Loropetalum chinense 'Purple Diamond'	Fringe Flower	Fringe Flower	1.0
Loropetalum chinense 'Purple Pixie'	Purple Pixie Loropetalum	Purple Pixie Loropetalum	1.0
Miscanthus sinensis 'Adagio'	Adagio Eulalia Grass	Adagio Eulalia Grass	0.5
Ophiopogon japonicus	Mondo Grass	Mondo Grass	1.0
Pittosporum tobira 'Variegated Dwarf'	Variegated Dwarf Pittosporum	Variegated Dwarf Pittosporum	1.0
Podocarpus macrophyllus 'Dwarf Pringles'	Dwarf Podocarpus	Dwarf Podocarpus	1.0
Podocarpus macrophyllus maki	Shrubby Yew	Shrubby Yew	1.0
Rhaphiolepis indica	Indian Hawthorn 'Snow White'	Indian Hawthorn 'Snow White'	0.5
Rosa acicularis 'Noaschnee' TM	White Flower Carpet Rose	White Flower Carpet Rose	1.0

NOTES:
 1. ELEMENT LOCATION ON DRAWINGS ARE SCHEMATIC SHOWING DESIGN INTENT. ENSURE 100% IRRIGATION COVERAGE AND LOCATE PIPE IN BEDS.
 2. GALLONS PER MINUTE AND PSI SHALL BE VERIFIED BY THE CONTRACTOR. SHOULD ACTUAL GPM & PSI BE LESS THAN SPECIFIED ON IRRIGATION PLANS THE CONTRACTOR SHALL NOTIFY THE OWNER'S REPRESENTATIVE OR LANDSCAPE ARCHITECT IN WRITING. ARCHITECT SUPPLEMENTAL INSTRUCTIONS MAY BE NECESSARY FOR CORRECT FUNCTION OF THE INTENDED IRRIGATION SYSTEM DESIGN.



PROJECT #:
 DRAWN BY: EZ
 CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	IR1.1-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.
06/19/2017	ASI17-R26
07/11/2017	ASI20-R29
10/06/2017	ASI29-R38
01/12/2018	ASI33-R42
02/14/2018	ASI35-R43

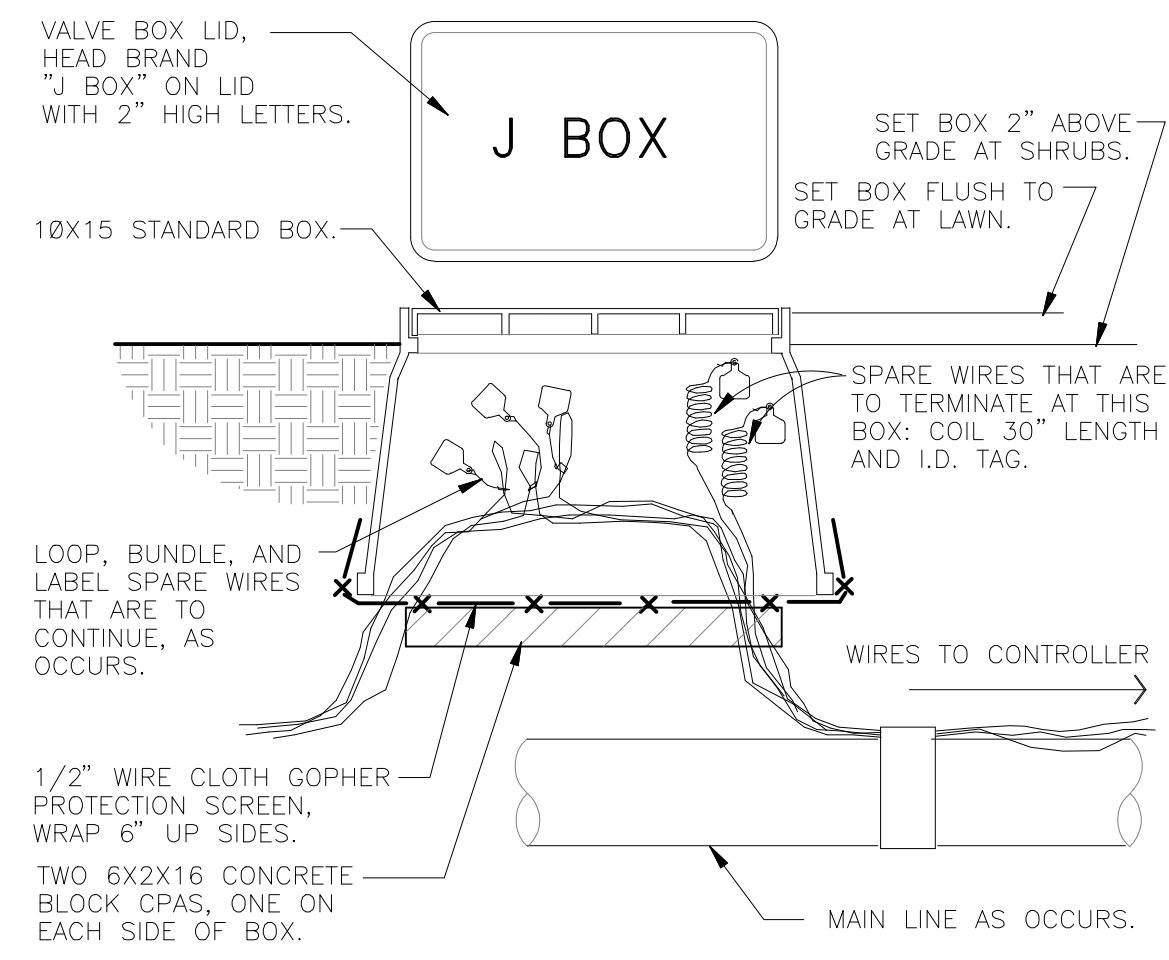
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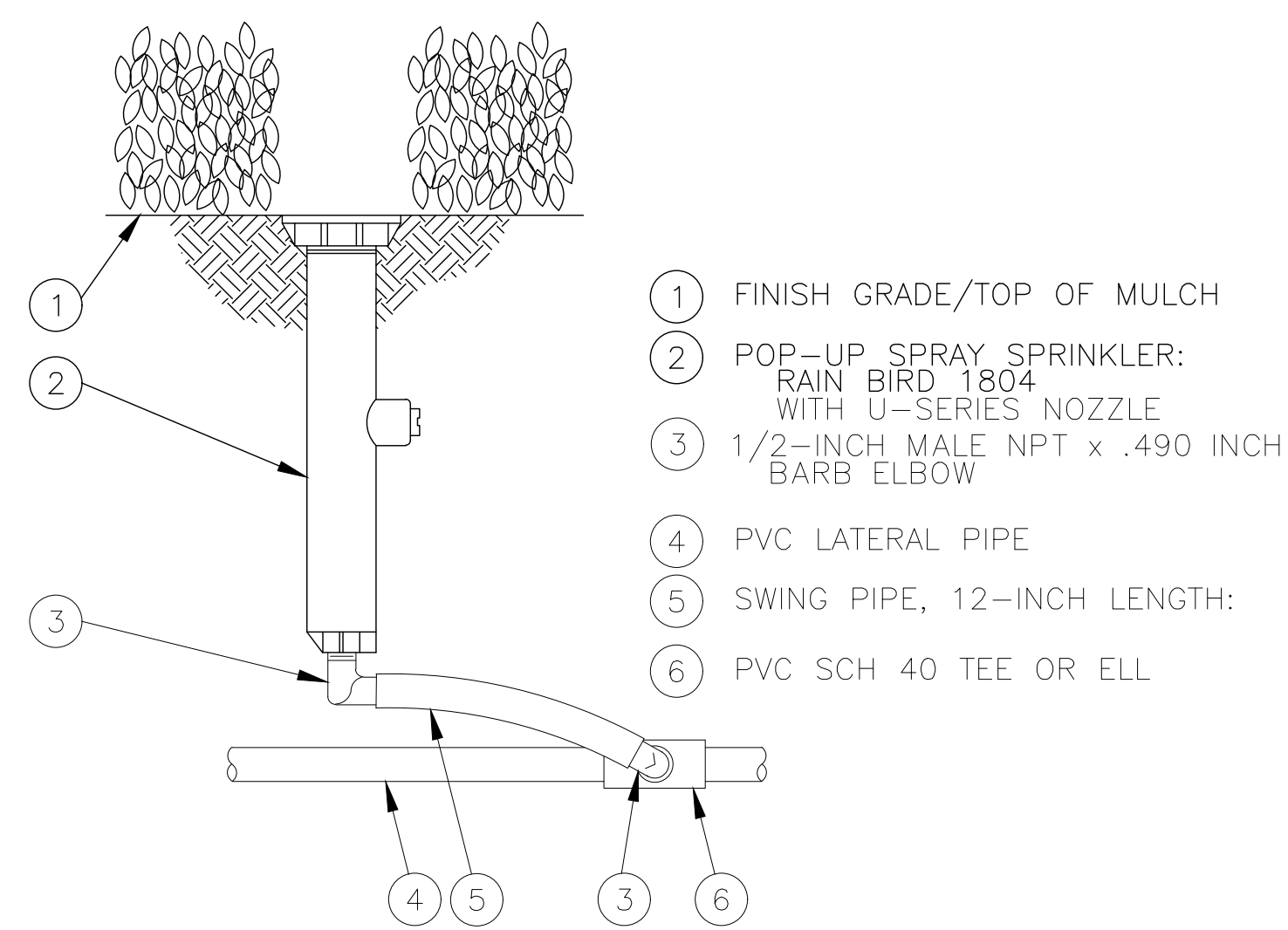
SHEET TITLE:
 IRRIGATION PLAN

SHEET NUMBER:
 IR1.1

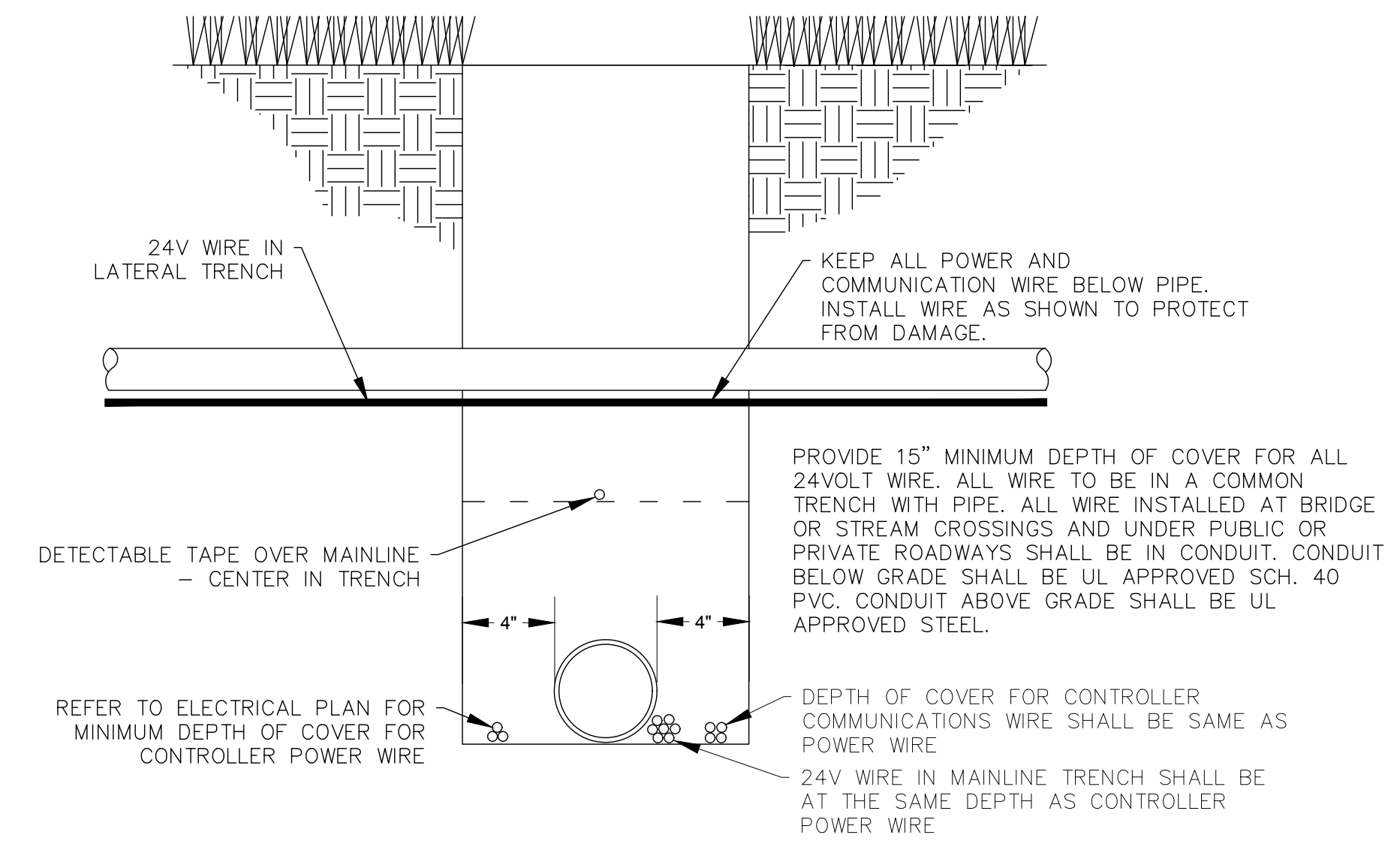
DATE:
 01/13/2017



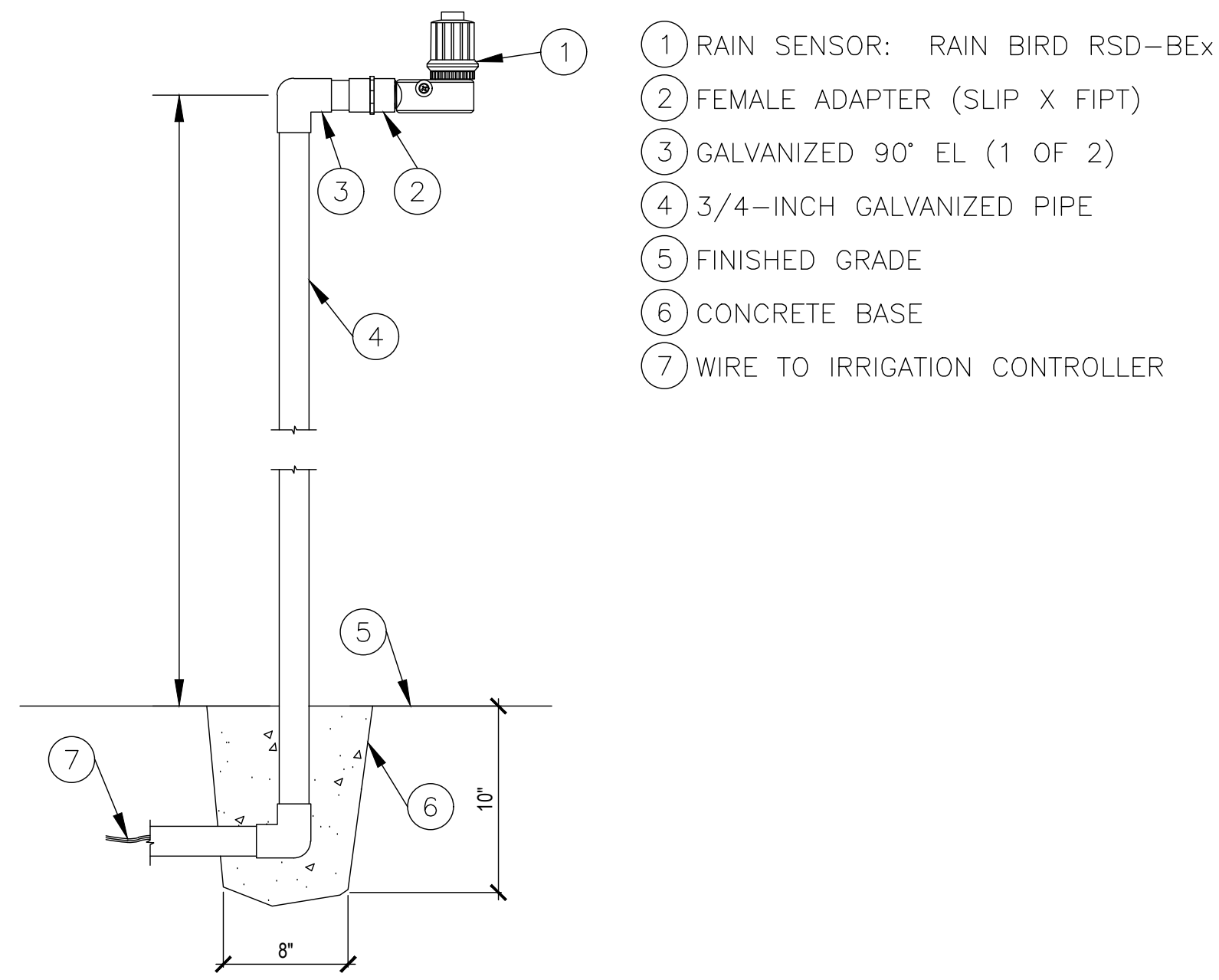
01 WIRE BUNDLE JUNCTION BOX
N.T.S.



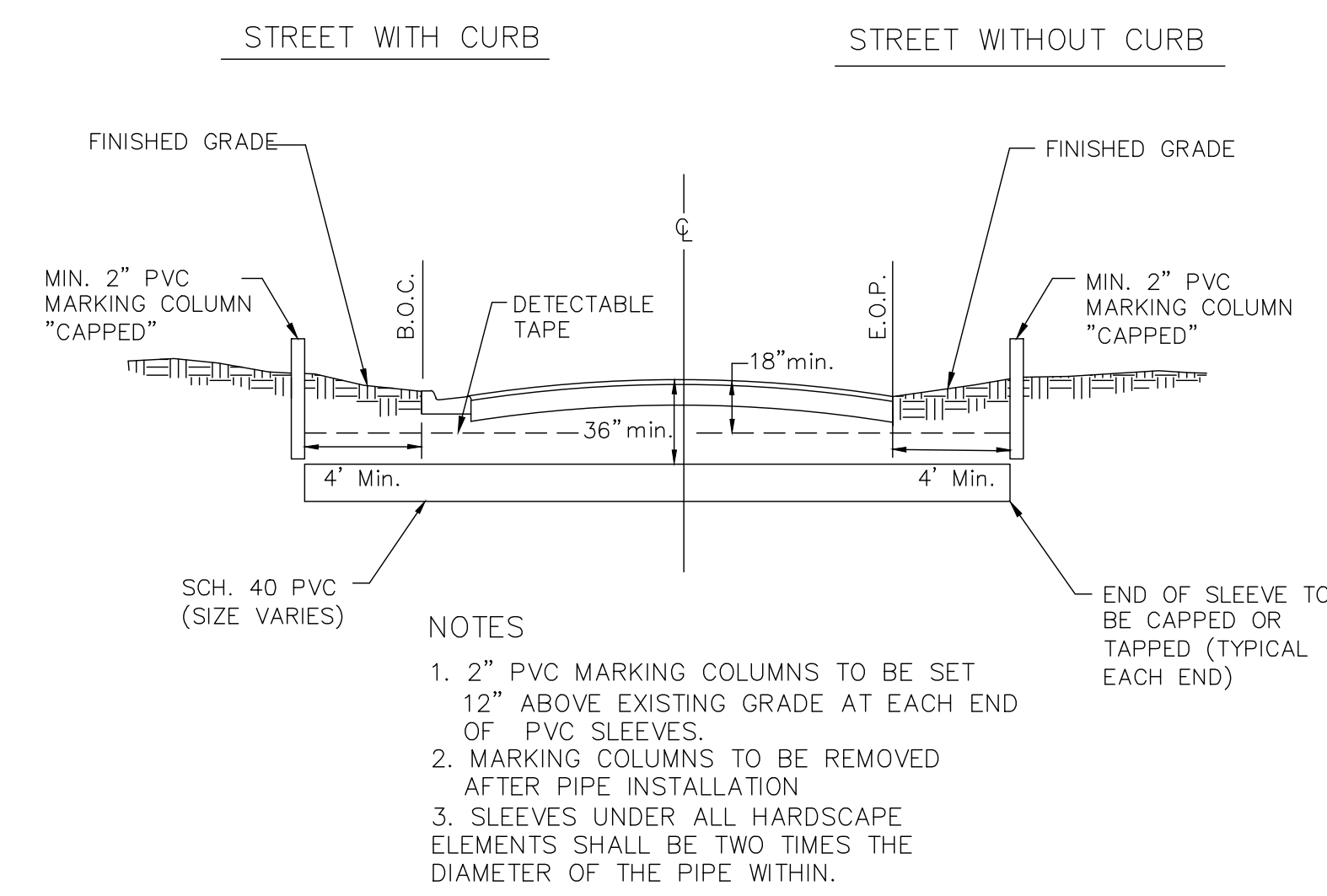
02 POP UP SPRAY SPRINKLER
N.T.S. RAINBIRD 1804-SAM-PRS



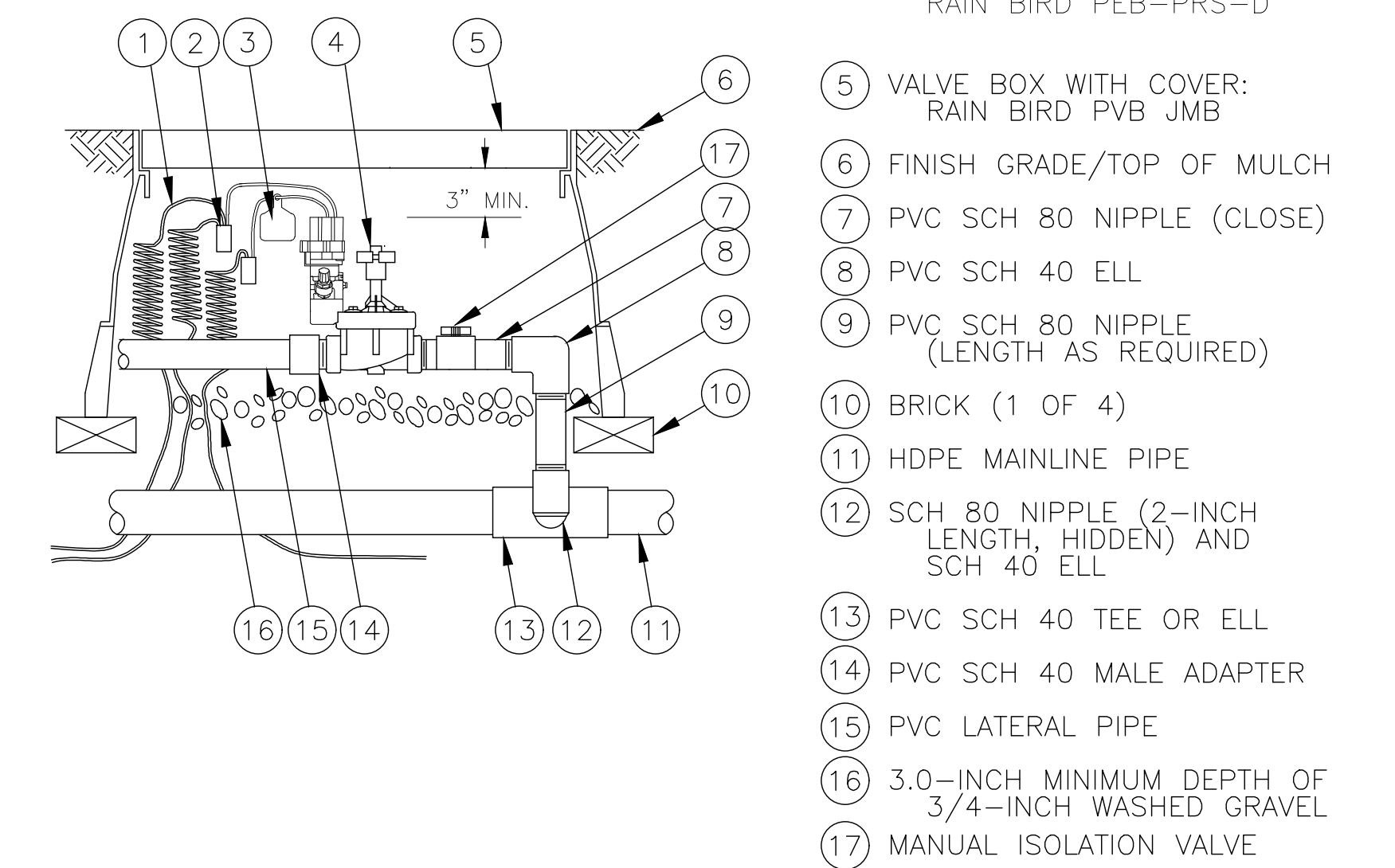
03 MAINLINE & TRENCHES
N.T.S.



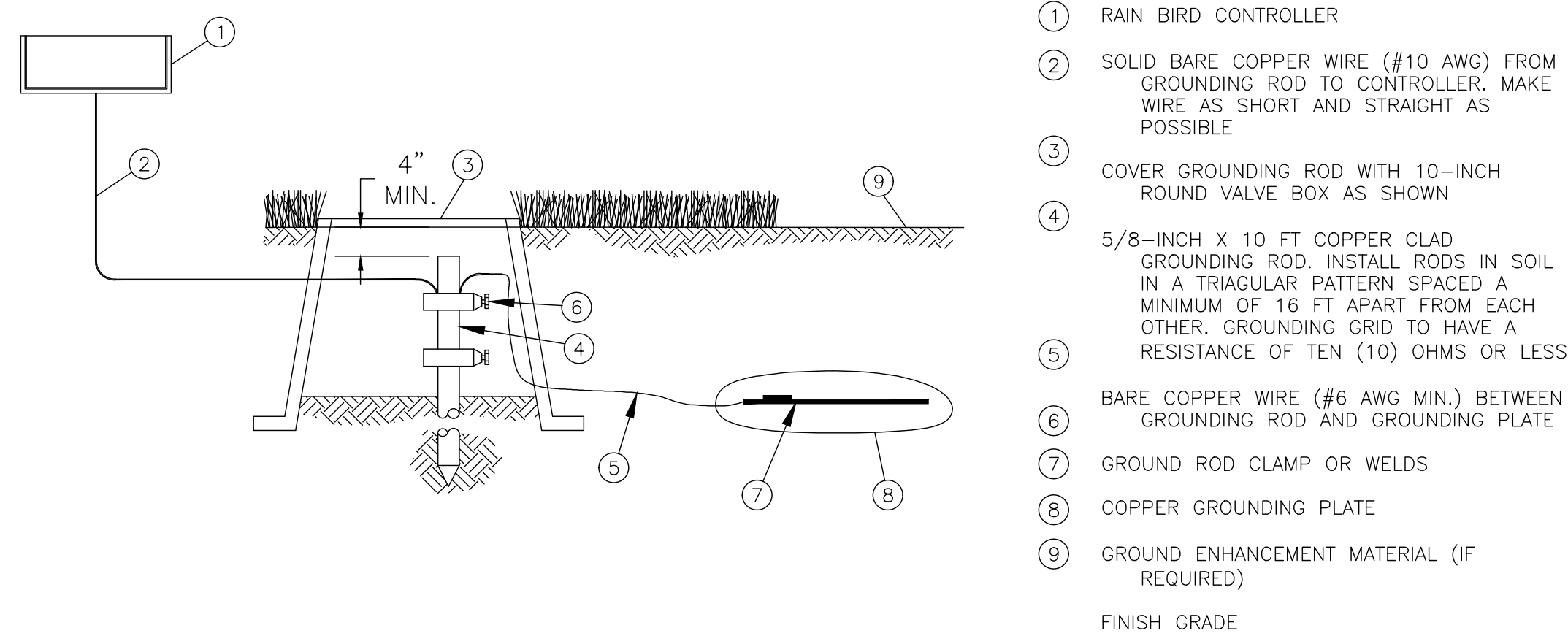
04 RAIN SENSOR
N.T.S. RSD-CEx POLE MOUNT



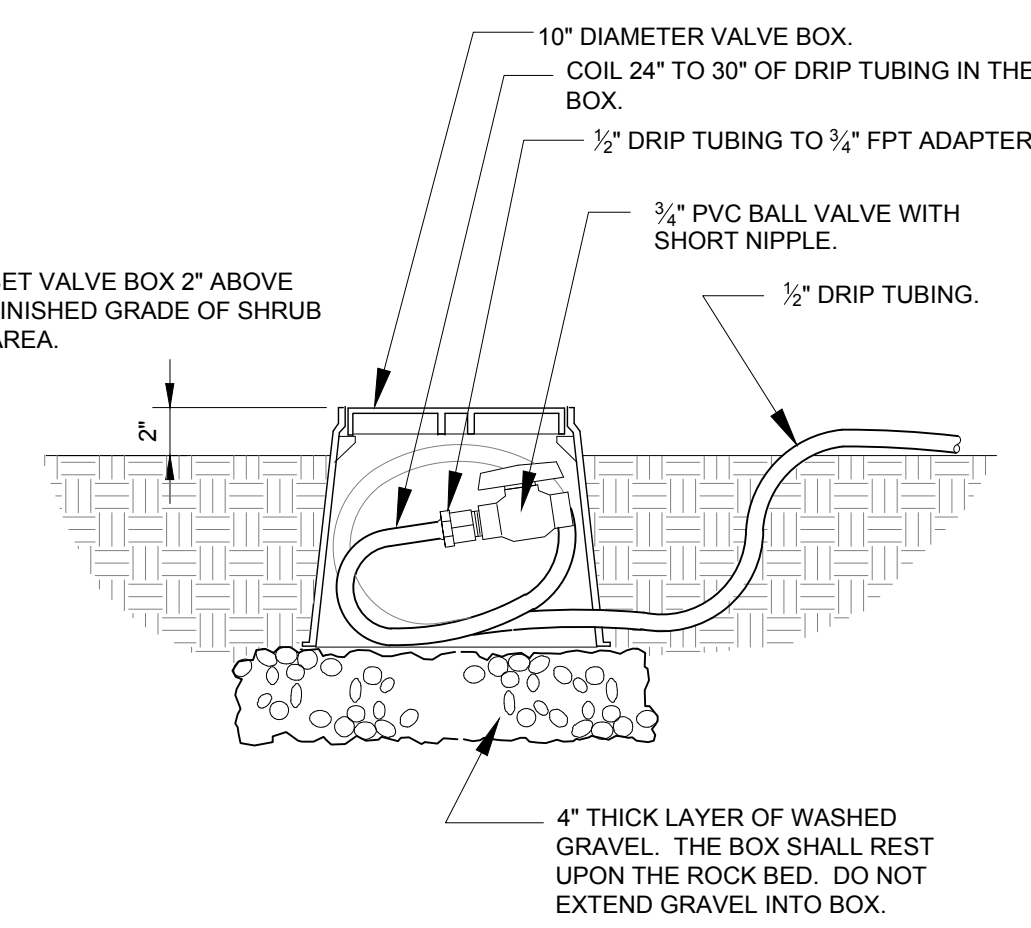
05 IRRIGATION SLEEVE
N.T.S.



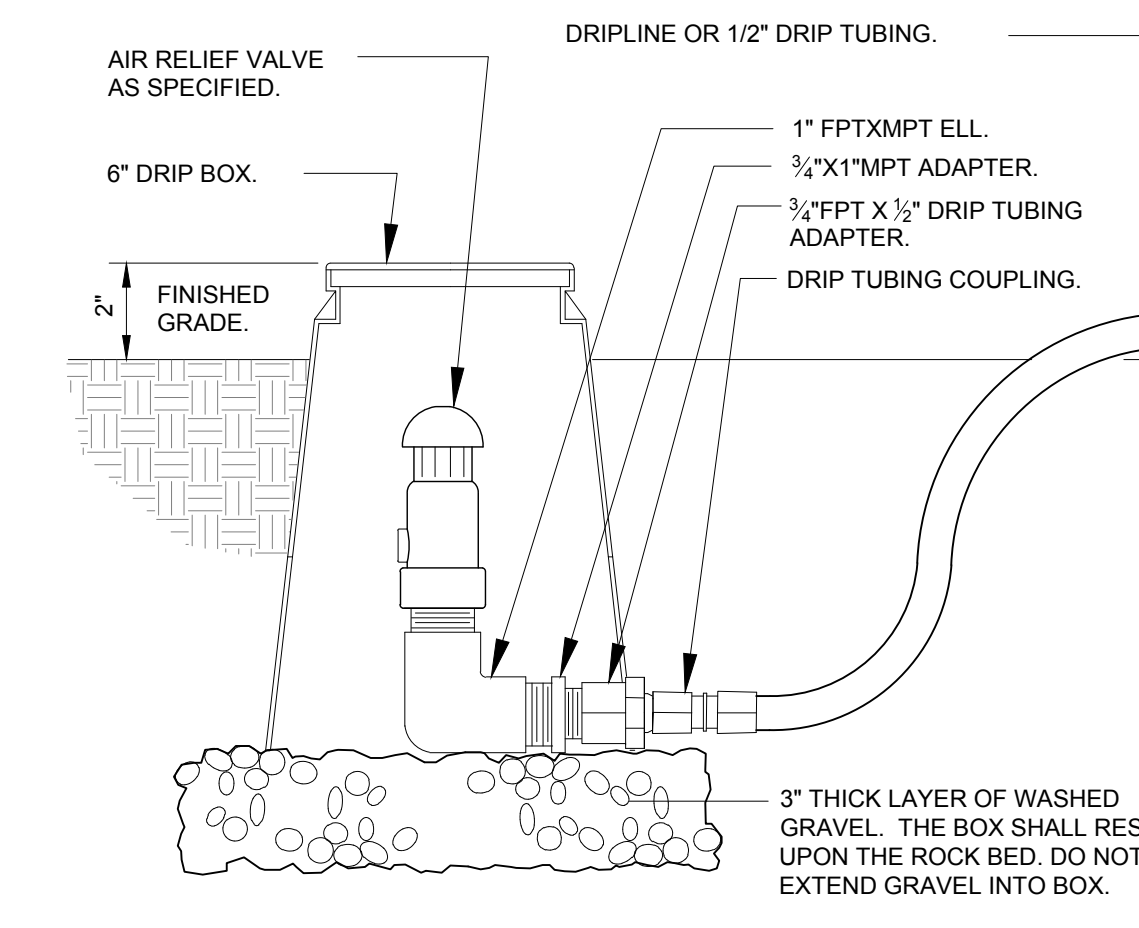
06 REMOTE CONTROL VALVE
N.T.S. PEB - PRS - D



07 CONTROLLER GROUNDING GRID
N.T.S. GROUNDING PLATE DESIGN LAYOUT



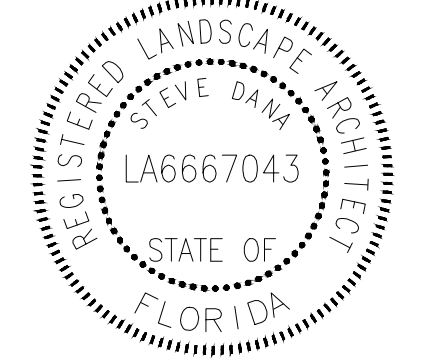
08 DRIP FLUSH BALL VALVE ASSEMBLY
N.T.S.



09 DRIP AIR RELIEF VALVE IN BOX
N.T.S.

PROJECT #:
DRAWN BY: EZ
CHECKED BY: SD

Jerry Pate Design
80 SCHUBERT DRIVE - PENSACOLA, FL 32504
850-471-4833 WWW.JERRYPADESDSIGN.COM



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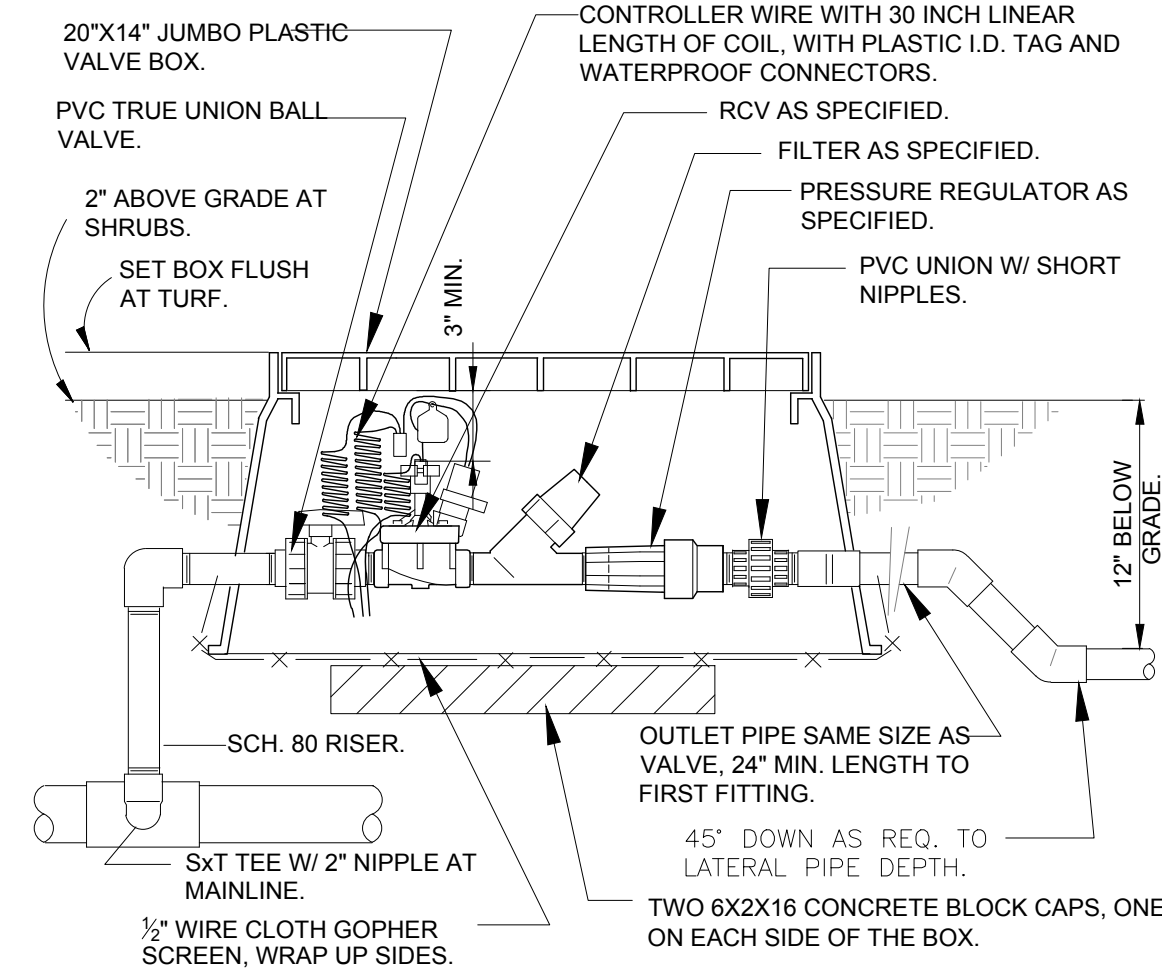
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JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
IRRIGATION DETAIL

SHEET NUMBER:

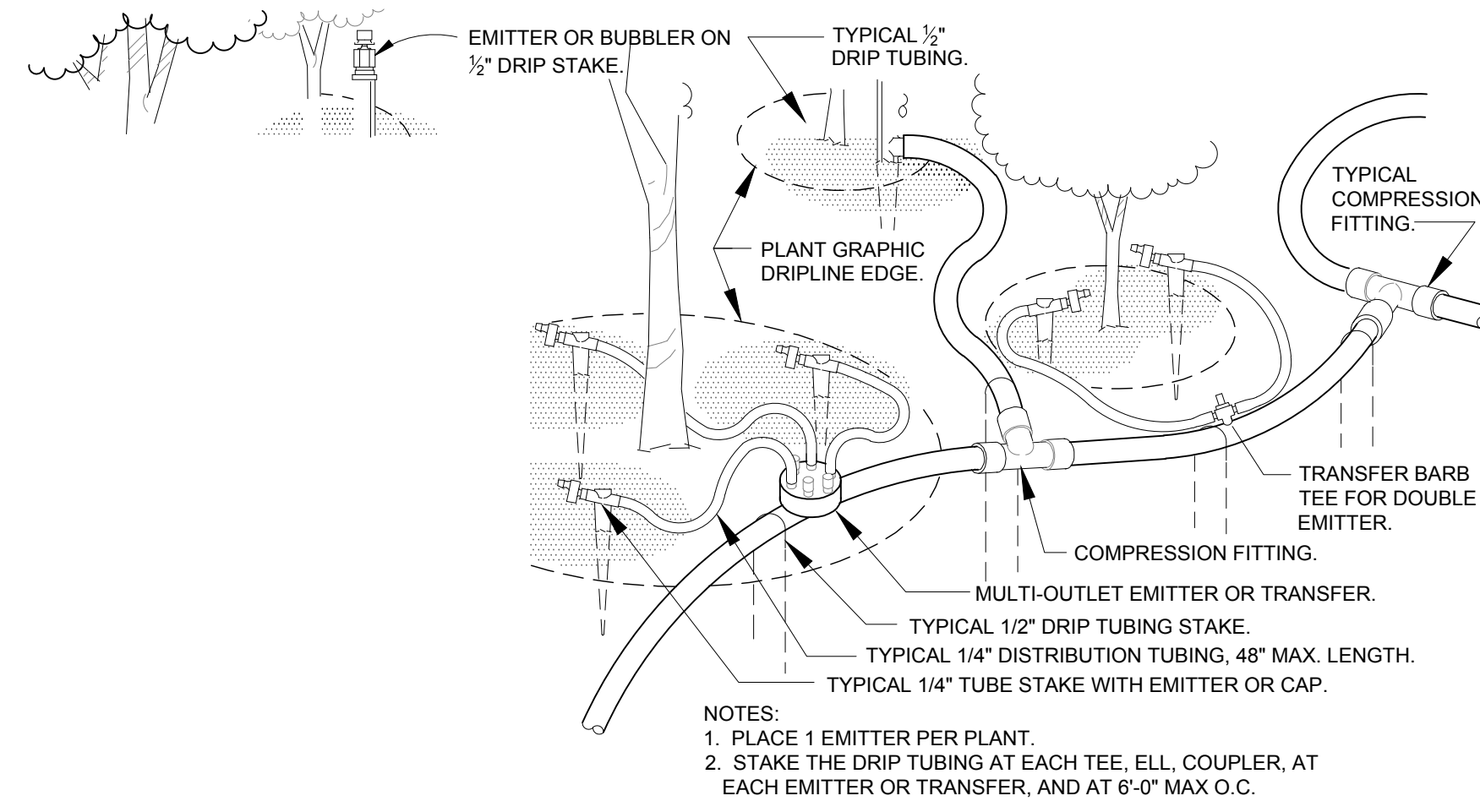
IR2.1

DATE: 01/13/2017



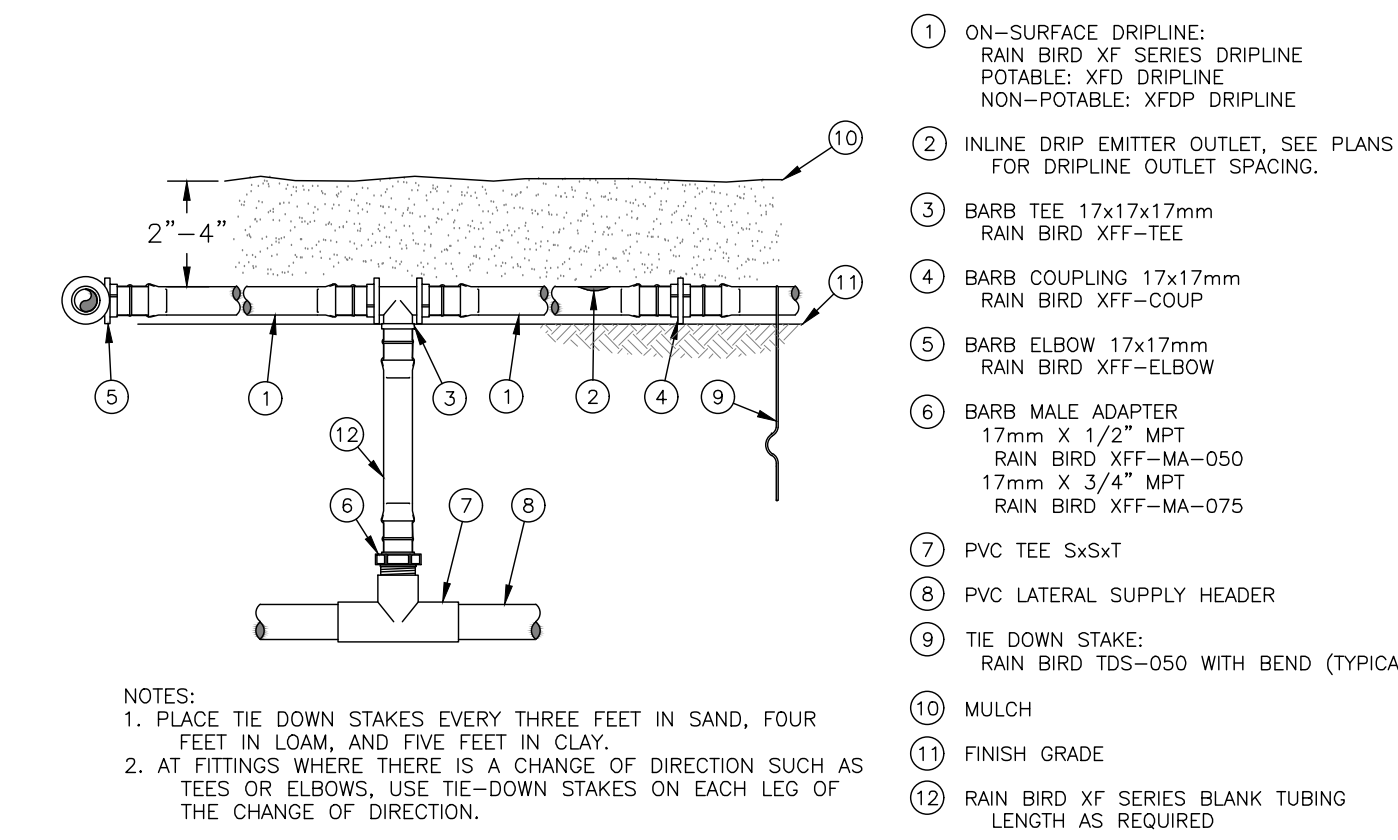
01 1" DRIP VALVE/FILTER/REGULATOR

NTS



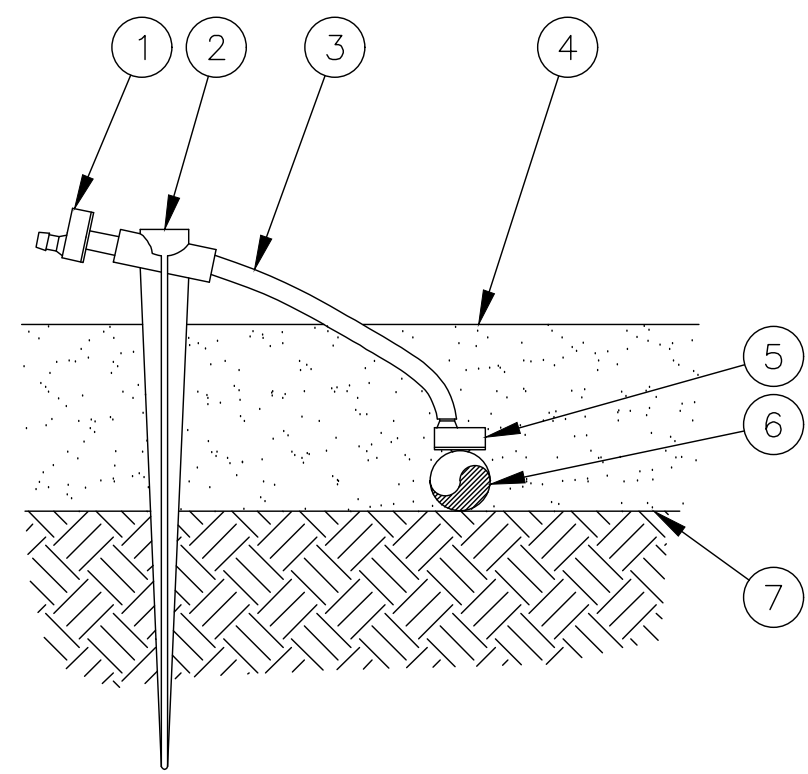
02 TYPICAL DRIP TUBING

NTS



03 XFD ON SURFACE DRIPLINE RISER ASSEMBLY

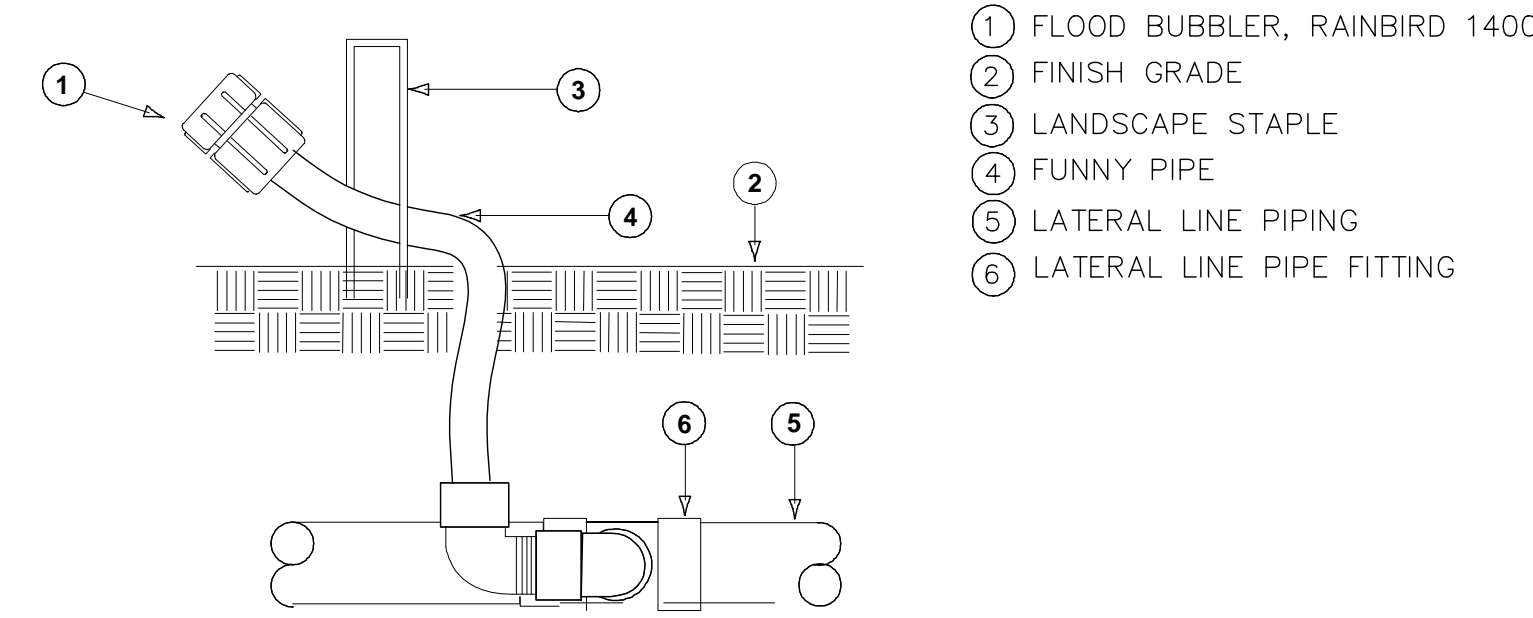
NTS



NOTES:
 1. USE RAIN BIRD XERIMAN TOOL XM—TOOL TO INSERT BARB CONNECTOR DIRECTLY INTO 1/2" POLYETHYLENE TUBING.
 2. SHOULD THE EMITTER BECOME DISLODGED UNREGULATED FLOW WILL OCCUR.
 3. RAIN BIRD XERI-BUG BARB X BARB EMITTERS ARE AVAILABLE IN THE FOLLOWING MODELS:
 XB-05PC 0.5 GPH XB-10PC 1.0 GPH XB-20PC 2.0 GPH

04 BARB CONNECTOR INTO 1/2" TUBING WITH 1/4" TUBING, STAKE AND XERI-BUG

NTS



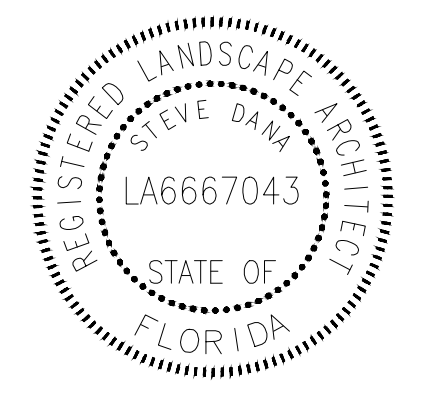
05 FLOOD BUBBLER RAINBIRD 1400

N.T.S.

IRRIGATION NOTES:

1. Locate all underground utilities, electrical wiring, water, sewer, telephone, cable tv, and other underground lines before landscape and irrigation installation.
2. Install an automatic irrigation system to ensure 100% coverage of all planted and grassed areas. The contractor shall provide as-built drawings to landscape architect and owner showing all information required by local codes and necessary for the efficient operation and maintenance of the system.
3. Element location on the drawings is schematic showing intent. Contractor shall not make changes to pipe sizing or routing without prior approval of owner & irrigation designer.
4. The controller shall be equipped by the contractor with properly located and installed rain / freeze / wind shutoff sensors. The sensors shall be located in such a manner so that they are unobstructed, and directly exposed to natural rainfall, wind, and sunlight from all directions, but not to runoff water from swales or other surfaces.
5. All mainline and lateral piping is HDPE PE4710 DR 11.
6. Irrigation sleeving shall be schedule 40, 2X total pipe diameter.
7. The landscape bid shall be for the irrigation materials specified. Requests to use equal, substitute materials shall be submitted to the landscape architect in writing and owner's approval given in writing before the substitution is allowed. Requests to use equal, substitute materials shall include complete product specifications and any cost savings to the project.
8. If discrepancies occur between the plans, notes, and actual conditions contact the landscape architect in writing for clarification before proceeding.
9. The installer shall be familiar with all requirements for the work, and to conduct his work in a clean, safe, and workmanlike manner. The Owner reserves the right to act to protect his property and the other personnel at work there, and to make emergency repairs or take corrective action if the installer does not fulfill his obligations in a timely manner. The Owner further reserves the right to back-charge the installer to cover such expenses, to the extent allowed under applicable law.
10. Irrigation materials and workmanship shall be warranted for one year. Manufacturer's warranties shall be passed to the owner.
11. All work shall be done in accordance with prevailing codes and regulations, and Escambia County irrigation standards. It shall be the responsibility of the Contractor to verify and conform to the particular codes and regulations applicable to this location, as well as Escambia County irrigation standards. The Contractor shall be responsible for obtaining all necessary permits.
12. Irrigation system and its components shall be installed according to manufactures' specifications
13. All wire splices shall occur in a valve box with DBR waterproof wire splice kits.
14. Irrigation schedules are provided for informational purposes only. Contractor is responsible for performing their own take off based on plan documents & ensuring uniform coverage of landscaped areas.
15. Irrigation water schedule shall be understood to be for informational purposes only. Should landscape material require increased precipitation the irrigation watering schedule shall be adjusted as needed to ensure a healthy landscape.
16. Irrigation system shall be fully operational, tested, and adjusted prior to planting commencing.

PROJECT #:
 DRAWN BY: EZ
 CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-A21 CONSTRUCTION DOC.

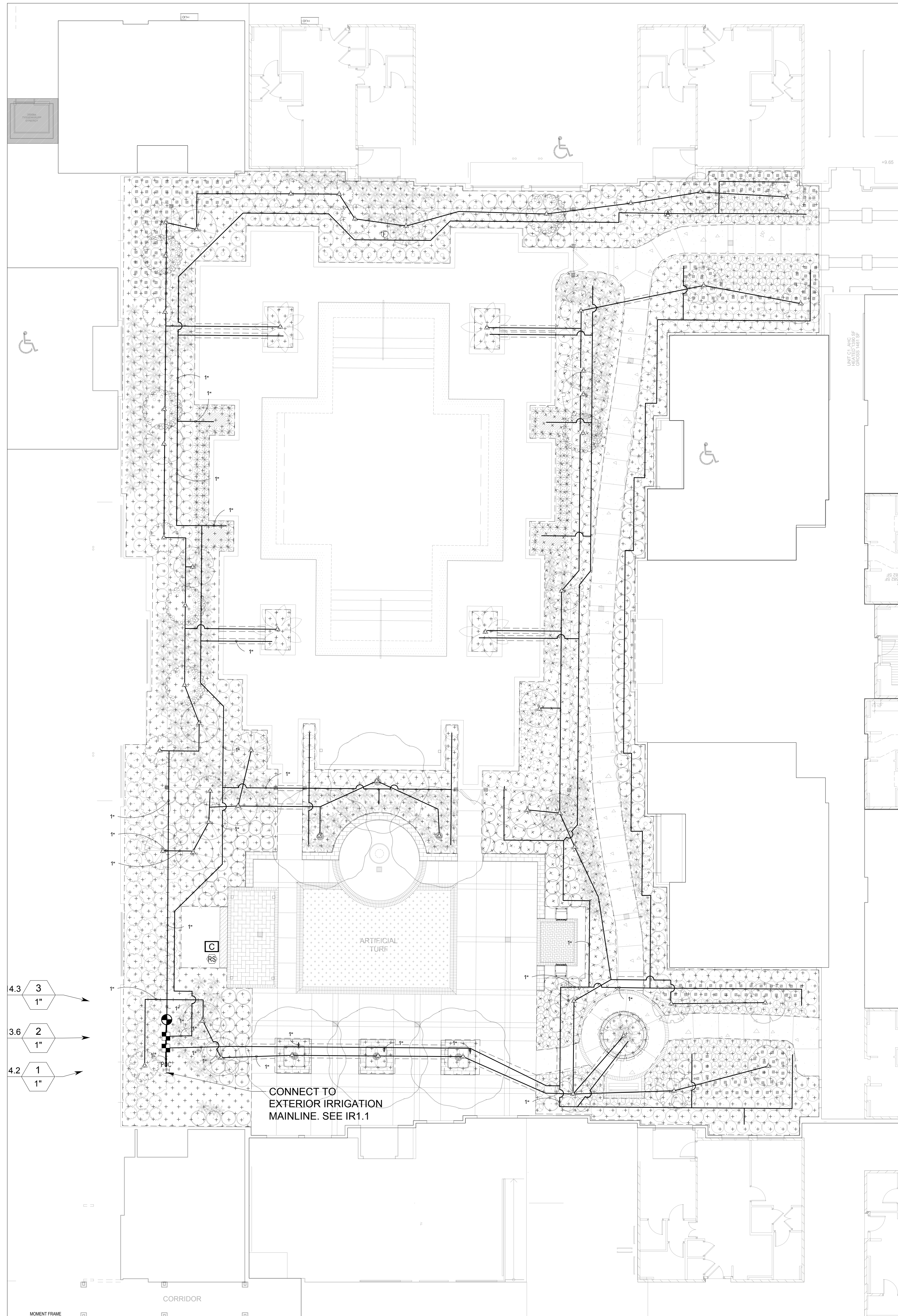
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MIXED-USE DEVELOPMENT
 JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
 PENSACOLA, FLORIDA
 DEVELOPED BY DAILY CONVO, LLC

SHEET TITLE:
 IRRIGATION
 DETAIL

SHEET NUMBER:
 IR2.2

DATE: 01/13/2017



IRRIGATION SCHEDULE

SYMBOL	MANUFACTURER/MODEL/DESCRIPTION	QTY	PSI	DETAIL
△ 1401, △ 1402, △ 1404, △ 1408	Rain Bird 1800-1400 Flood Fixed flow rate (0.25-2.0GPM), full circle bubbler, 1/2" FIPT.	57	30	
■	Rain Bird XCZ-100-PRB-COM 1" Medium Plus Flow Drip Control Kit for Commercial Applications. 1" Ball Valve with 1" PESS Valve and 1" Pressure Regulating 40psi Quick-Check Basket Filter. 3gpm to 20gpm.	2		
⊕	Rain Bird MDCFCAP Dripless Flush Valve cap in compression fitting coupler.	1		
Ⓐ	Rain Bird ARV050 1/2" 1/2" Air Relief Valve, made of quality rust-proof materials, with a 6.0" drip valve box (SEB 7XB emitter box). Use with installation below soil. The valve will allow air to escape the pipeline, thus preventing water hammer or blockage.	1		
⊙	Area to Receive Drip Emitters Rain Bird XB-PC Single Outlet, Pressure Compensating Drip Emitters. Flow rates of 0.5gph-blue, 1.0gph-black, and 2.0gph-red. Comes with a self-piercing barb inlet x barb outlet. Emitter Notes: See drip emitter chart on IR3.1	9,898 s.f.		
⊙	Rain Bird PEB-PRS-D 1" 1" 1-1/2" 2" Plastic Industrial Valves. Low Flow Operating Capability, Globe Configuration. With Pressure Regulator Module.	1		
Ⓢ	Rain Bird ESP4-SMTE with (1) ESP-SM6 10 Station Outdoor Smart Modular Control System for Residential and Light Commercial Use. Wall Mount, Tipping Bucket Rain Sensor that Measures Rainfall.	1		
Ⓢ	Rain Bird RSD-BEX Rain Sensor, with metal latching bracket, extension wire.	1		
POC	34 GPM 1 1/2" Main From Street Irrigation Main. Assumed 34GPM @ 60PSI	1		
---	Irrigation Lateral Line: PVC Class 200 SDR 21 1" PVC Class 200 SDR 21	2,018 l.f.		
---	Irrigation Mainline: PVC Class 200 SDR 21 1" PVC Class 200 Irrigation pipe.	10.0 l.f.		
---	Pipe Sleeve: PVC Class 200 SDR 21 Pipe sleeve shall be 2X the diameter of the pipe it is sleeving.	152.8 l.f.		



VALVE SCHEDULE

NUMBER	MODEL	SIZE	TYPE	GPM	PSI	PSI @ POC	PRECIP
1	Rain Bird XCZ-100-PRB-COM	1"	Area for Drip Emitters	14.18	65.27	65.40	0.35 in/h
2	Rain Bird XCZ-100-PRB-COM	1"	Area for Drip Emitters	13.63	65.77	65.96	0.26 in/h
3	Rain Bird PEB-PRS-D	1"	Bubbler	14.25	33.15	33.45	0.85 in/h

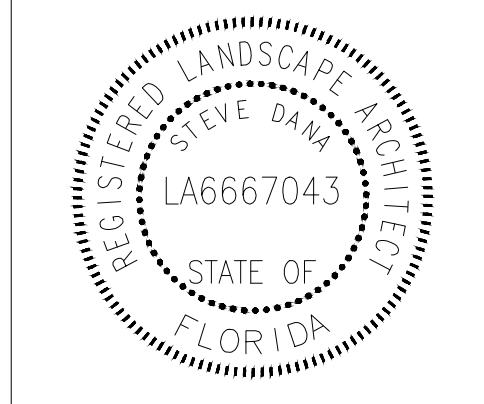
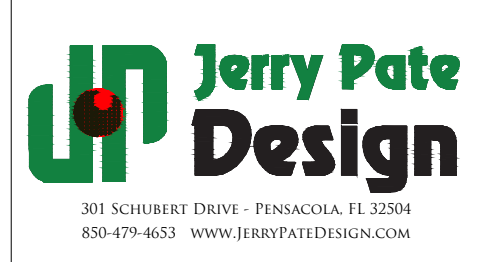
WATERING SCHEDULE

NUMBER	MODEL	TYPE	PRECIP	IN./WEEK	MIN./WEEK	GAL./WEEK	GAL./DAY
1	Rain Bird XCZ-100-PRB-COM	Area for Drip Emitters	0.35 in/h	1.10	188	2,665	380.7
2	Rain Bird XCZ-100-PRB-COM	Area for Drip Emitters	0.26 in/h	1.10	256	3,490	498.6
3	Rain Bird PEB-PRS-D	Bubbler	0.85 in/h	2	141	2,009	287.0
TOTALS:					585	6,164	1,166

Drip Emitter Chart

Plant Material	Botanical	Common	Emitter Size (gph)
Asclepias tuberosa	Butterfly Milkweed	Butterfly Milkweed	0.5
Azalea Encore 'Autumn Amethyst'	Autumn Amethyst Azalea	Autumn Amethyst Azalea	1.0
Azalea Encore 'Autumn Angel'	Autumn Angel Azalea	Autumn Angel Azalea	1.0
Camellia sasanqua 'Mine No Yuki'	White Camellia	White Camellia	1.0
Camellia sasanqua 'Shishi-Gashira'	Camellia	Camellia	1.0
Daniellia tasmanica 'Variegata'	Variegated Flax Lily	Variegated Flax Lily	0.5
Equisetum hyemale	Horsetail Reed Grass	Horsetail Reed Grass	2.0
Helianthus angustifolius 'Gold Lace'	Gold Lace Sunflower	Gold Lace Sunflower	1.0
Ilex cornuta 'Carissa'	Carissa Holly	Carissa Holly	0.5
Ilex vomitoria 'Nana'	Dwarf Yaupon	Dwarf Yaupon	0.5
Juniperus chinensis 'Parsonii'	Parsonii Juniper	Parsonii Juniper	0.5
Liriope muscari 'Big Blue'	Big Blue Liriope	Big Blue Liriope	1.0
Liriope muscari 'Evergreen Giant'	Evergreen Giant Border Grass	Evergreen Giant Border Grass	1.0
Lomandra longifolia 'Breeze'	Breeze Grass	Breeze Grass	0.5
Loropetalum chinense 'Purple Diamond'	Fringe Flower	Fringe Flower	1.0
Loropetalum chinense 'Purple Pixie'	Purple Pixie Loropetalum	Purple Pixie Loropetalum	1.0
Miscanthus sinensis 'Adagio'	Adagio Eulalia Grass	Adagio Eulalia Grass	0.5
Ophiopogon japonicus	Mondo Grass	Mondo Grass	1.0
Pittosporum tobira 'Variegated Dwarf'	Variegated Dwarf Pittosporum	Variegated Dwarf Pittosporum	1.0
Podocarpus macrophyllus 'Dwarf Pringles'	Dwarf Podocarpus	Dwarf Podocarpus	1.0
Podocarpus macrophyllus 'maki'	Shrubby Yew	Shrubby Yew	1.0
Rhaphiolepis indica	Indian Hawthorn 'Snow White'	Indian Hawthorn 'Snow White'	0.5
Rosa acicularis 'Noaschnee' TM	White Flower Carpet Rose	White Flower Carpet Rose	1.0

PROJECT #: BA
DRAWN BY: BA
CHECKED BY: SD



ISSUE DATE	DESCRIPTION
01/13/2017	R12-LANDSCAPE DEV.
04/26/2017	ARB REVIEW SET
04/27/2017	R14-R21 CONSTRUCTION DOC.

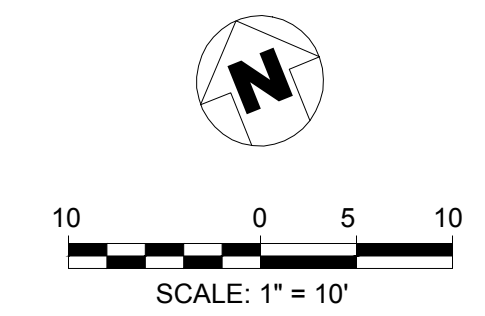
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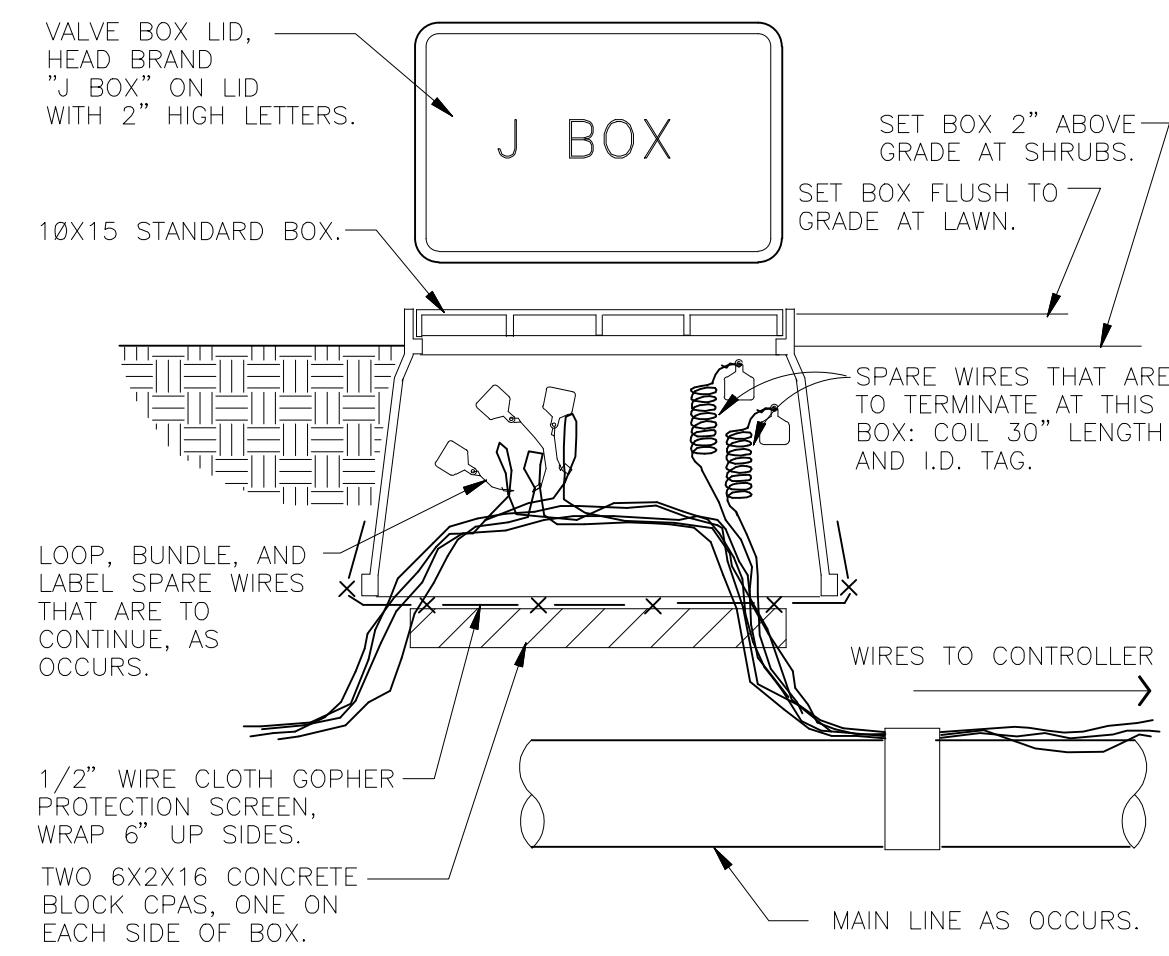
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JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
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SHEET TITLE:
COURTYARD IRRIGATION PLAN

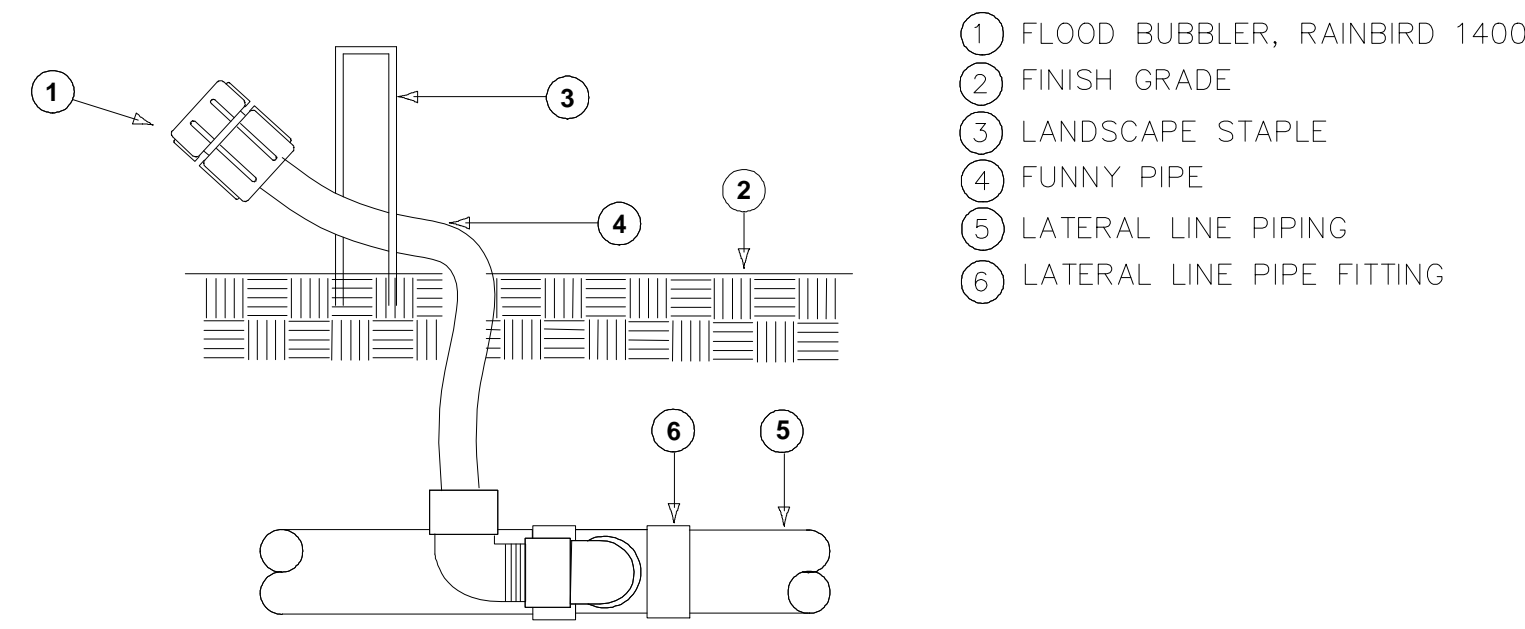
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DATE:
01/13/2017

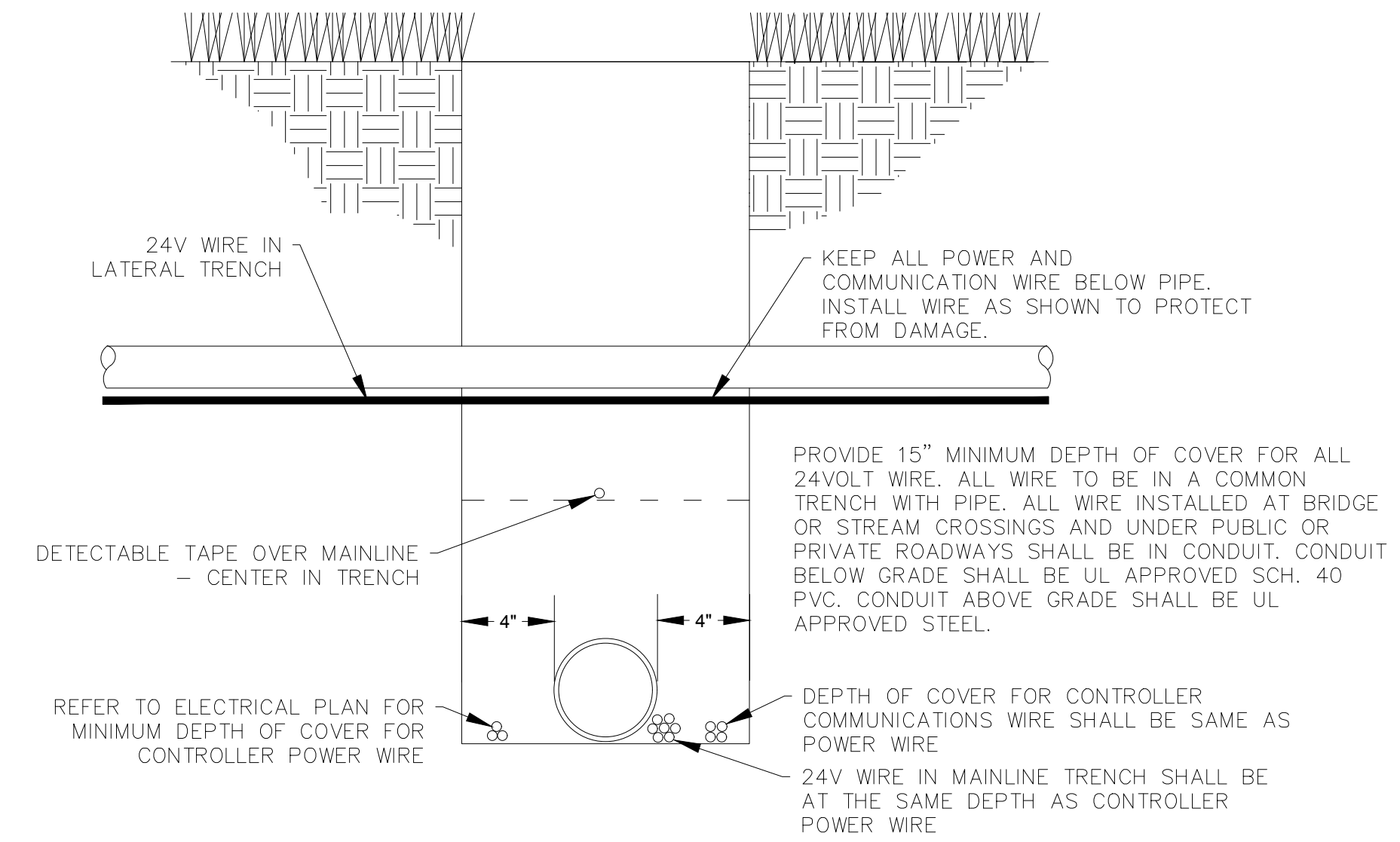




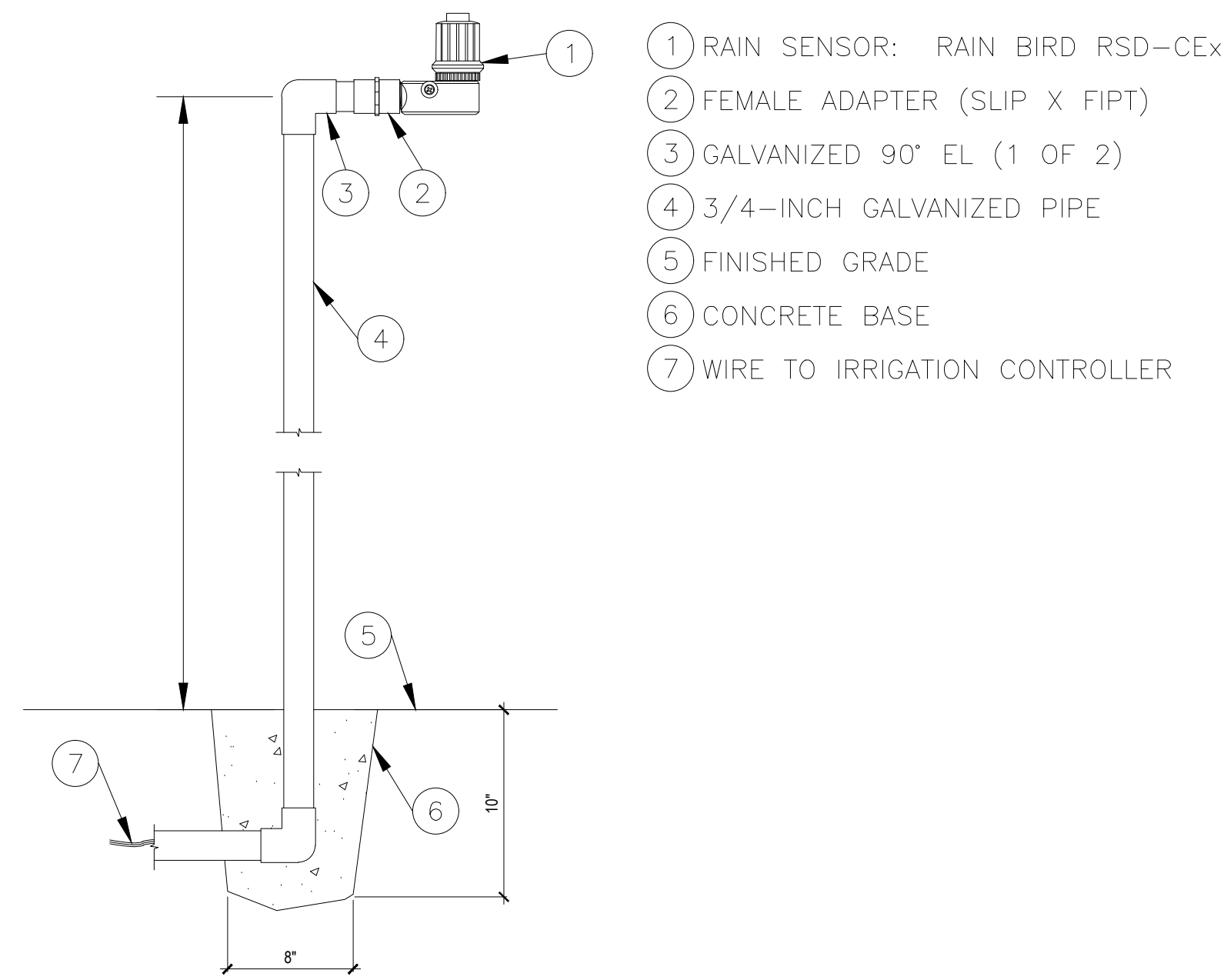
01 WIRE BUNDLE JUNCTION BOX
NTS



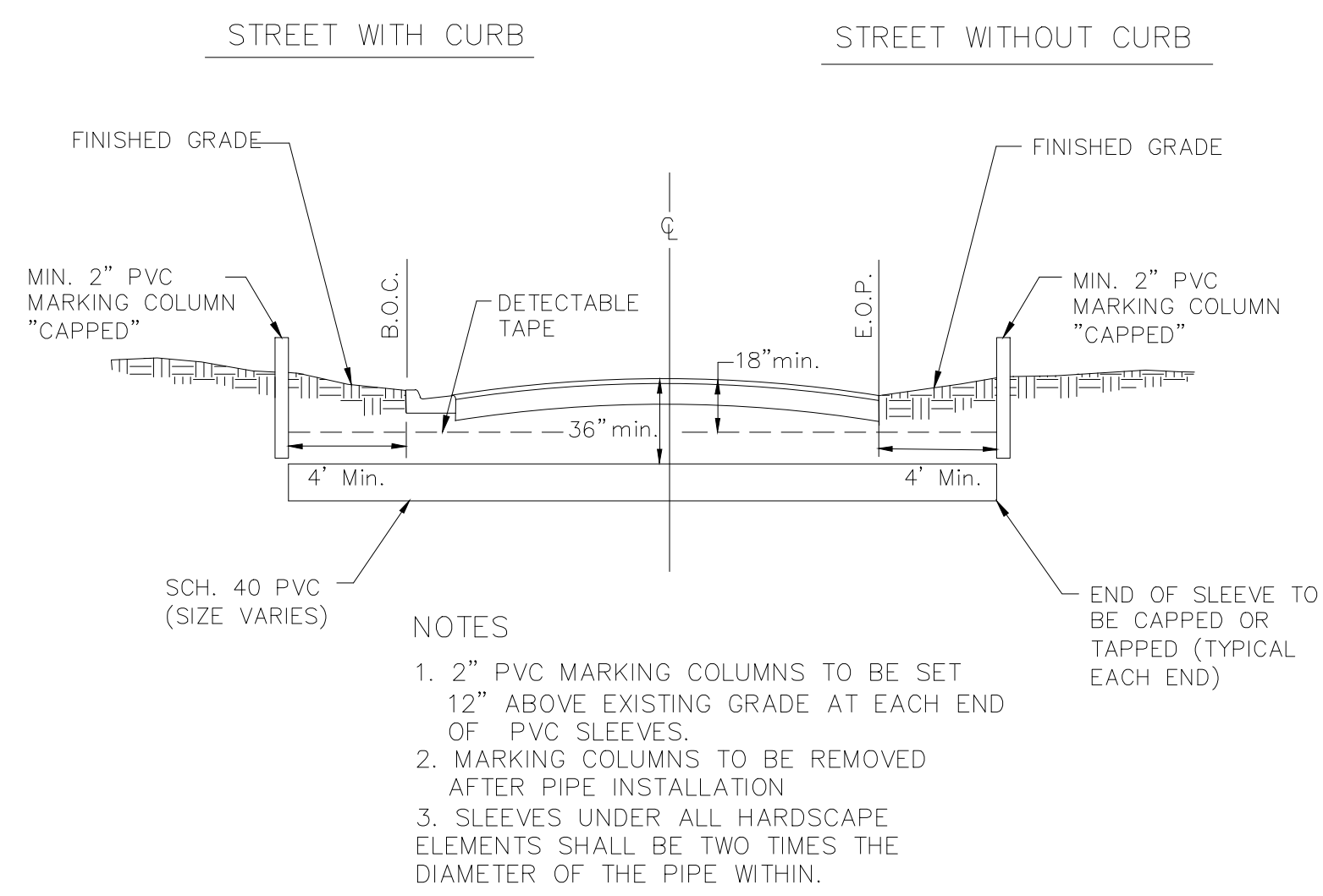
00 FLOOD BUBBLER RAINBIRD 1400
N.T.S.



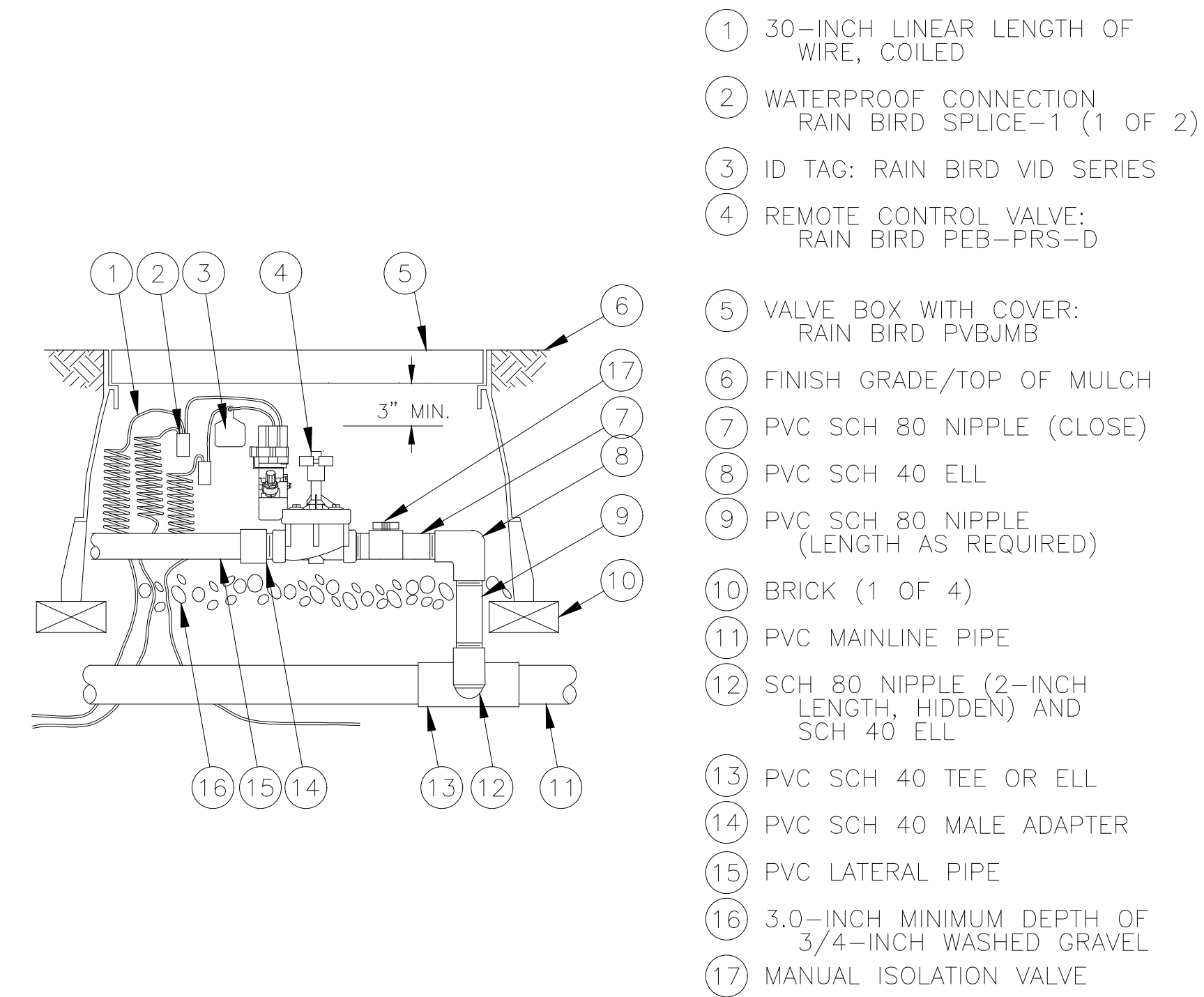
03 MAINLINE & TRENCHES
NTS



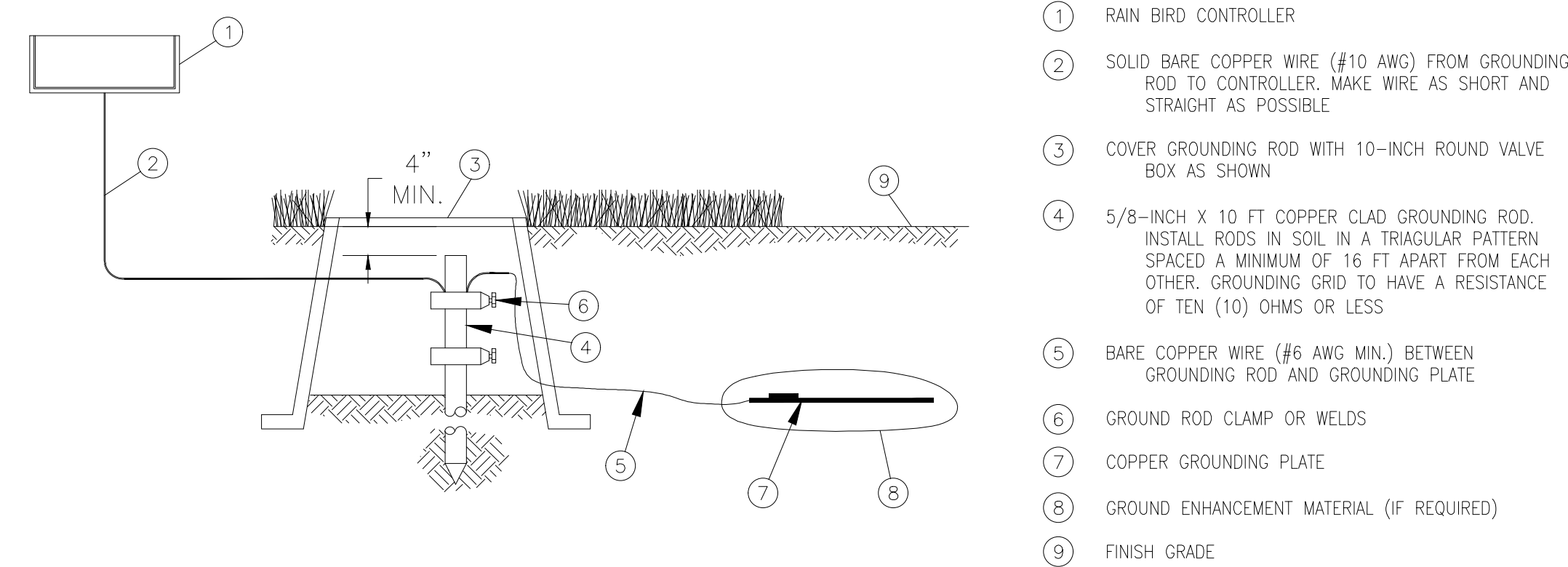
04 RAIN SENSOR RSD-CEX POLE MOUNT
N.T.S.



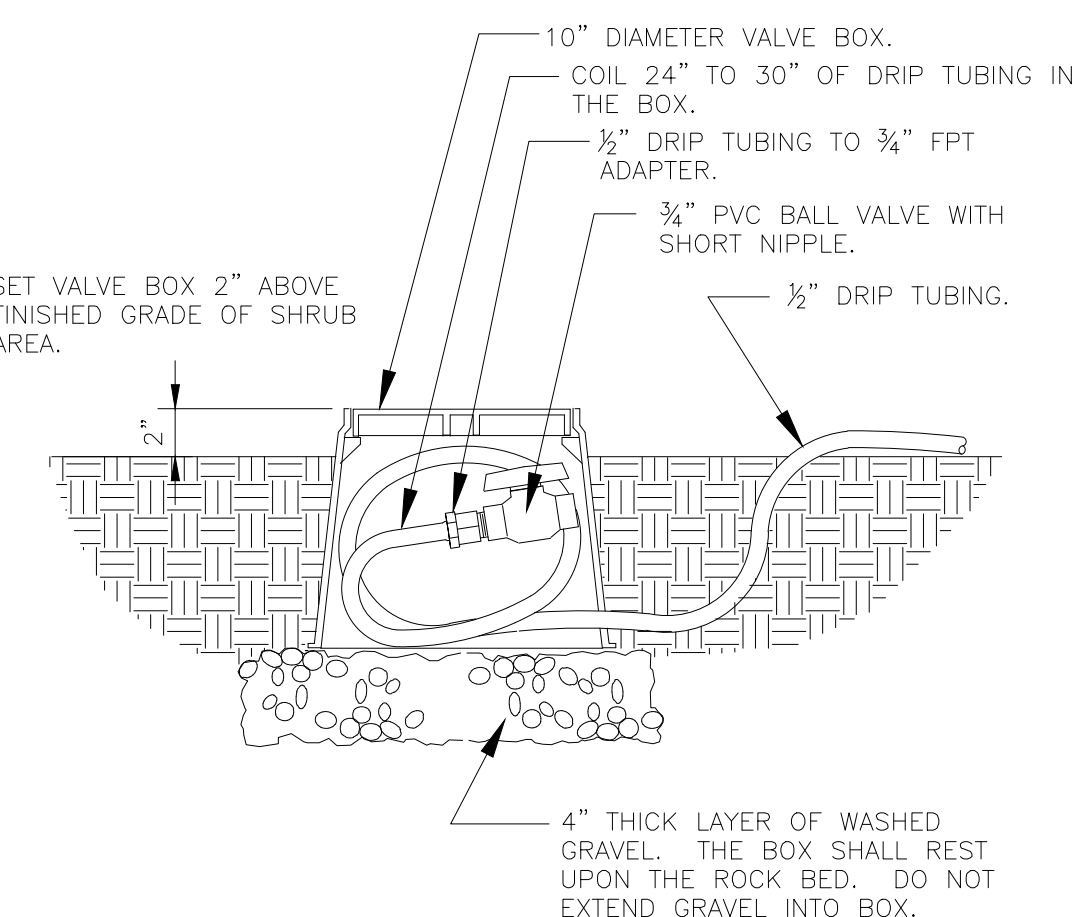
05 IRRIGATION SLEEVE
N.T.S.



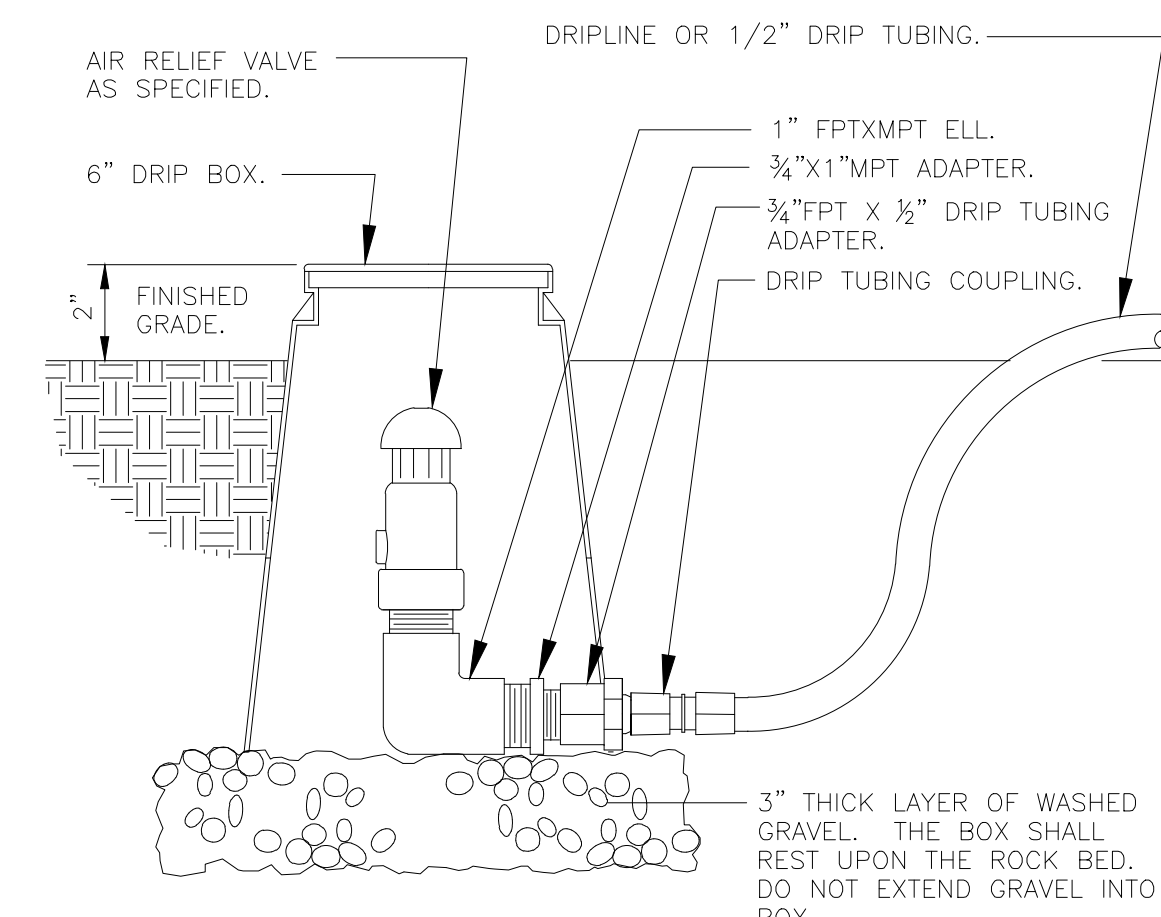
06 REMOTE CONTROL VALVE PEB-PRS-D
N.T.S.



07 CONTROLLER GROUNDING GRID GROUNDING PLATE DESIGN LAYOUT
N.T.S.



08 DRIP FLUSH BALL VALVE ASSEMBLY
NTS



09 DRIP AIR RELIEF VALVE IN BOX
NTS

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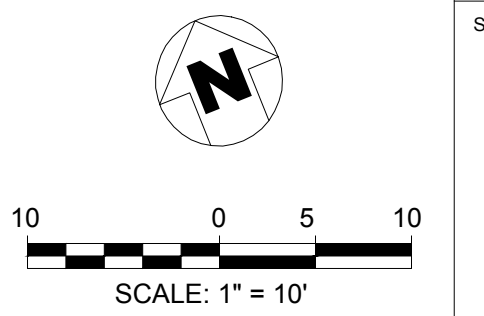
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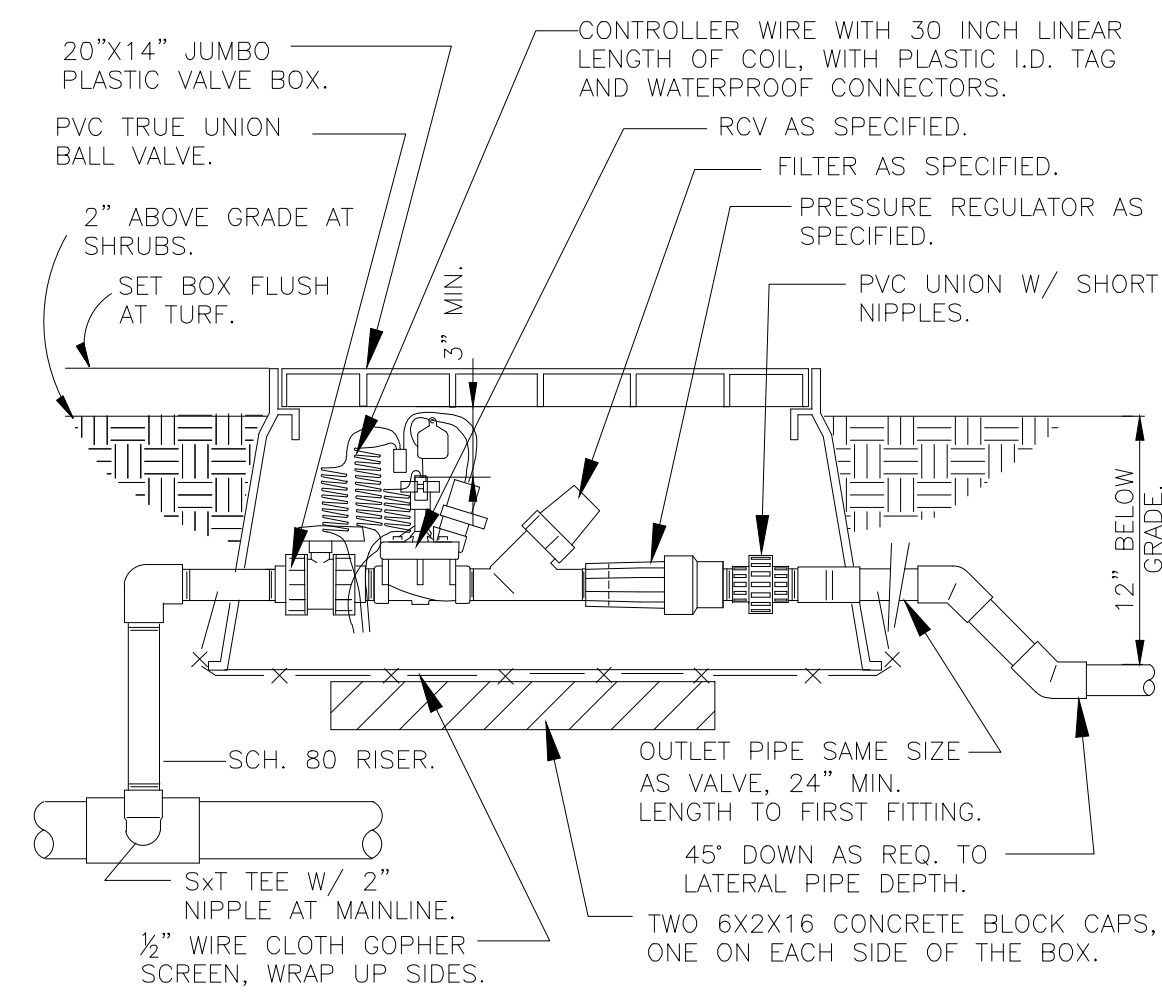
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SHEET TITLE:
COURTYARD IRRIGATION DETAILS

SHEET NUMBER:
IR4.1

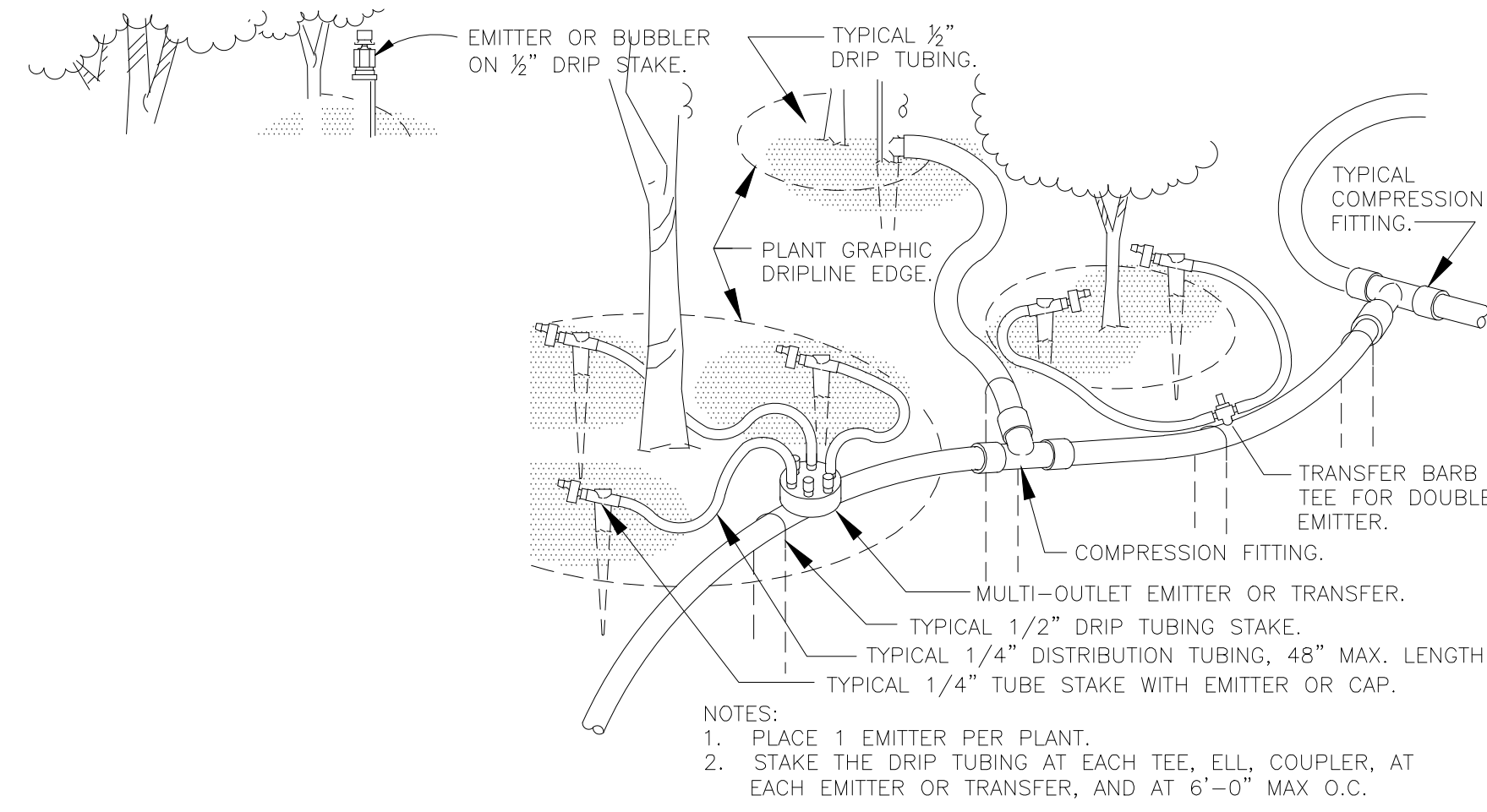
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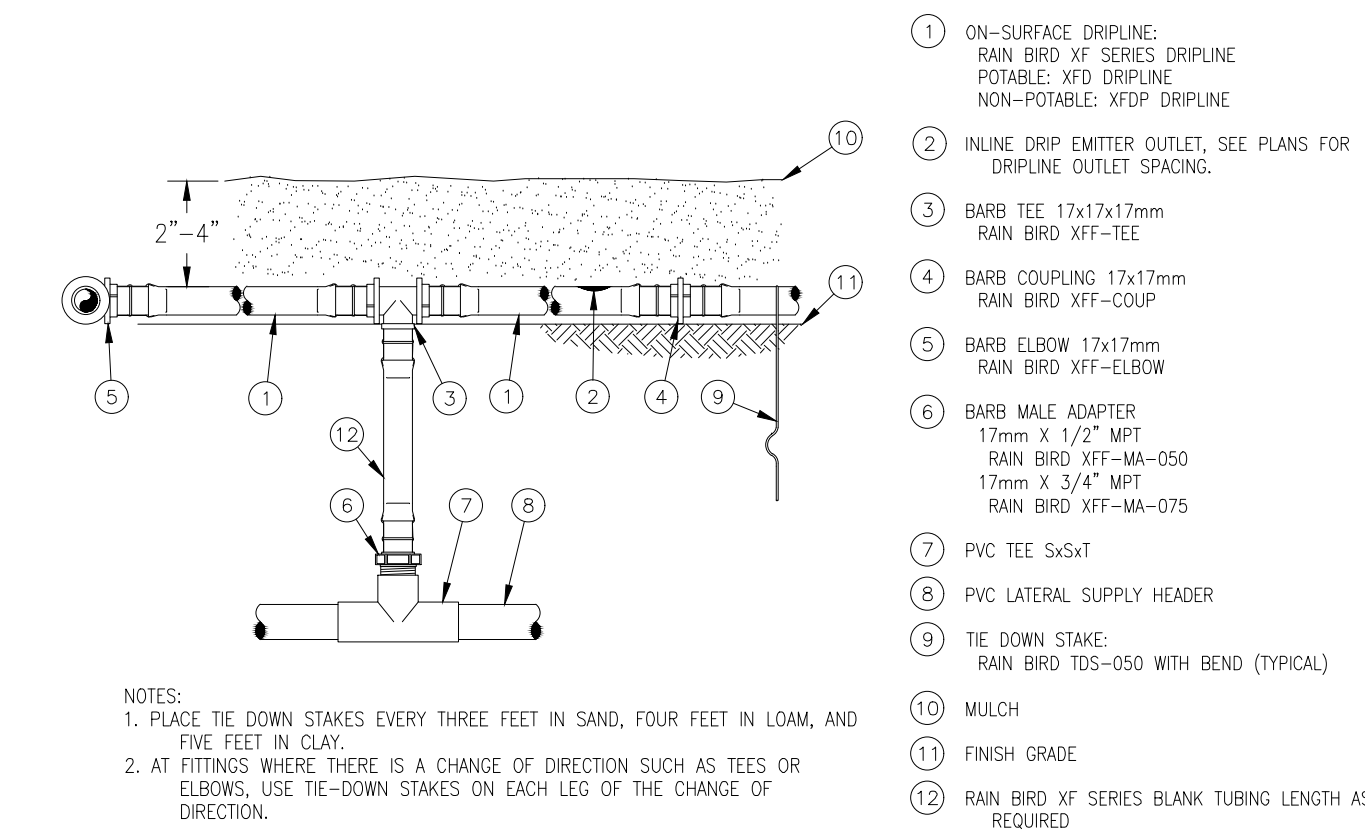
01 1" DRIP VALVE/FILTER/REGULATOR

NTS



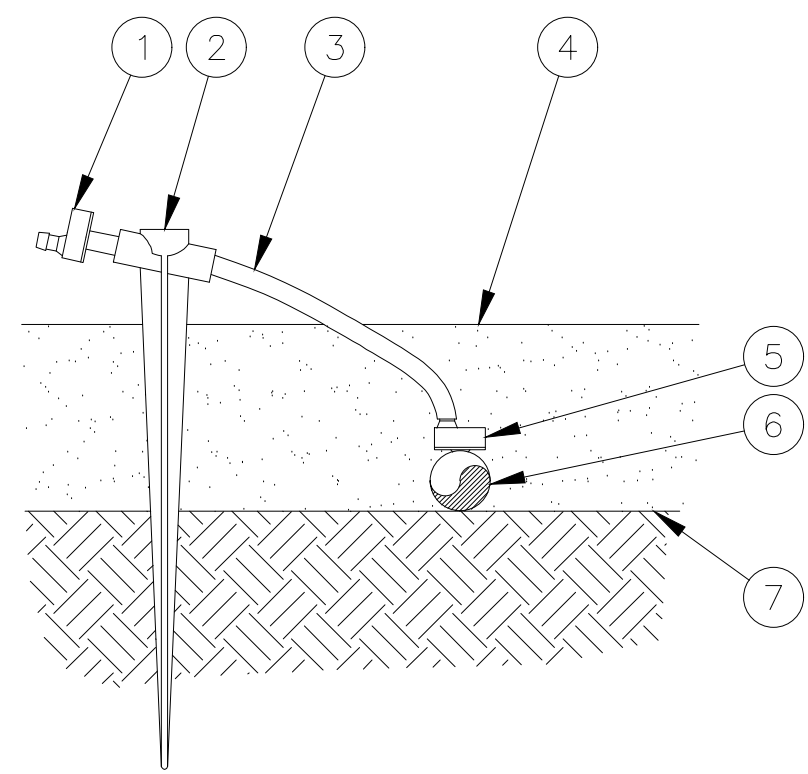
02 TYPICAL DRIP TUBING

NTS



03 XFD ON SURFACE DRIPLINE RISER ASSEMBLY

NTS



- 1 SINGLE-OUTLET BARB INLET X BARB OUTLET EMITTER:
RAIN BIRD XERI-BUG EMITTER PER EMITTER SCHEDULE ON IR3.1
- 2 UNIVERSAL 1/2" TUBING STAKE:
RAIN BIRD TS-025
- 3 1/4" DISTRIBUTION TUBING:
RAIN BIRD XQ TUBING
(LENGTH AS REQUIRED)
- 4 TOP OF MULCH
- 5 1/4" SELF-PIERCING BARB CONNECTOR:
RAIN BIRD SPB-025
- 6 1/2" POLYETHYLENE TUBING:
RAIN BIRD XF SERIES TUBING OR
RAIN BIRD XT-700 XERI-TUBE OR
RAIN BIRD XBS BLACK STRIPE TUBING
- 7 FINISH GRADE

NOTES:
1. USE RAIN BIRD XERIMAN TOOL XM-TOOL TO INSERT BARB CONNECTOR DIRECTLY INTO 1/2" POLYETHYLENE TUBING.
2. SHOULD THE EMITTER BECOME DISLODGED UNREGULATED FLOW WILL OCCUR.
3. RAIN BIRD XERI-BUG BARB X BARB EMITTERS ARE AVAILABLE IN THE FOLLOWING MODELS:
XB-05PC 0.5 GPH XB-10PC 1.0 GPH XB-20PC 2.0 GPH

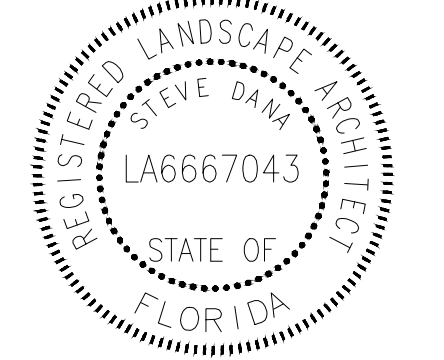
04 BARB CONNECTOR INTO 1/2" TUBING WITH 1/4" TUBING, STAKE AND XERI-BUG

NTS

IRRIGATION NOTES:

1. Locate all underground utilities, electrical wiring, water, sewer, telephone, cable tv, and other underground lines before landscape and irrigation installation.
2. Install an automatic irrigation system to ensure 100% coverage of all planted and grassed areas. The contractor shall provide as-built drawings to landscape architect and owner showing all information required by local codes and necessary for the efficient operation and maintenance of the system.
3. Element location on the drawings is schematic showing intent. Contractor shall not make changes to pipe sizing or routing without prior approval of owner & irrigation designer.
4. The controller shall be equipped by the contractor with properly located and installed rain / freeze / wind shutoff sensors. The sensors shall be located in such a manner so that they are unobstructed, and directly exposed to natural rainfall, wind, and sunlight from all directions, but not to runoff water from swales or other surfaces.
5. Piping shall be SDR 21 CL200 pvc with glue fittings. Glue fittings shall be glued following the requirements of the pipe and fitting manufacturers, and county plumbing ordinance.
6. Irrigation sleeving shall be schedule 40, 2X total pipe diameter.
7. The landscape bid shall be for the irrigation materials specified. Requests to use equal, substitute materials shall be submitted to the landscape architect in writing and owner's approval given in writing before the substitution is allowed. Requests to use equal, substitute materials shall include complete product specifications and any cost savings to the project.
8. If discrepancies occur between the plans, notes, and actual conditions contact the landscape architect in writing for clarification before proceeding.
9. The installer shall be familiar with all requirements for the work, and to conduct his work in a clean, safe, and workmanlike manner. The Owner reserves the right to act to protect his property and the other personnel at work there, and to make emergency repairs or take corrective action if the installer does not fulfill his obligations in a timely manner. The Owner further reserves the right to back-charge the installer to cover such expenses, to the extent allowed under applicable law.
10. Irrigation materials and workmanship shall be warranted for one year. Manufacturer's warranties shall be passed to the owner.
11. All work shall be done in accordance with prevailing codes and regulations, and Escambia County irrigation standards. It shall be the responsibility of the Contractor to verify and conform to the particular codes and regulations applicable to this location, as well as Escambia County irrigation standards. The Contractor shall be responsible for obtaining all necessary permits.
12. Irrigation system and its components shall be installed according to manufactures' specifications
13. All wire splices shall occur in a valve box with DBR waterproof wire splice kits.
14. Irrigation schedules are provided for informational purposes only. Contractor is responsible for performing their own take off based on plan documents & ensuring uniform coverage of landscaped areas.
15. Irrigation water schedule shall be understood to be for informational purposes only. Should landscape material require increased precipitation the irrigation watering schedule shall be adjusted as needed to ensure a healthy landscape.
16. Irrigation system shall be fully operational, tested, and adjusted prior to planting commencing.

PROJECT #:
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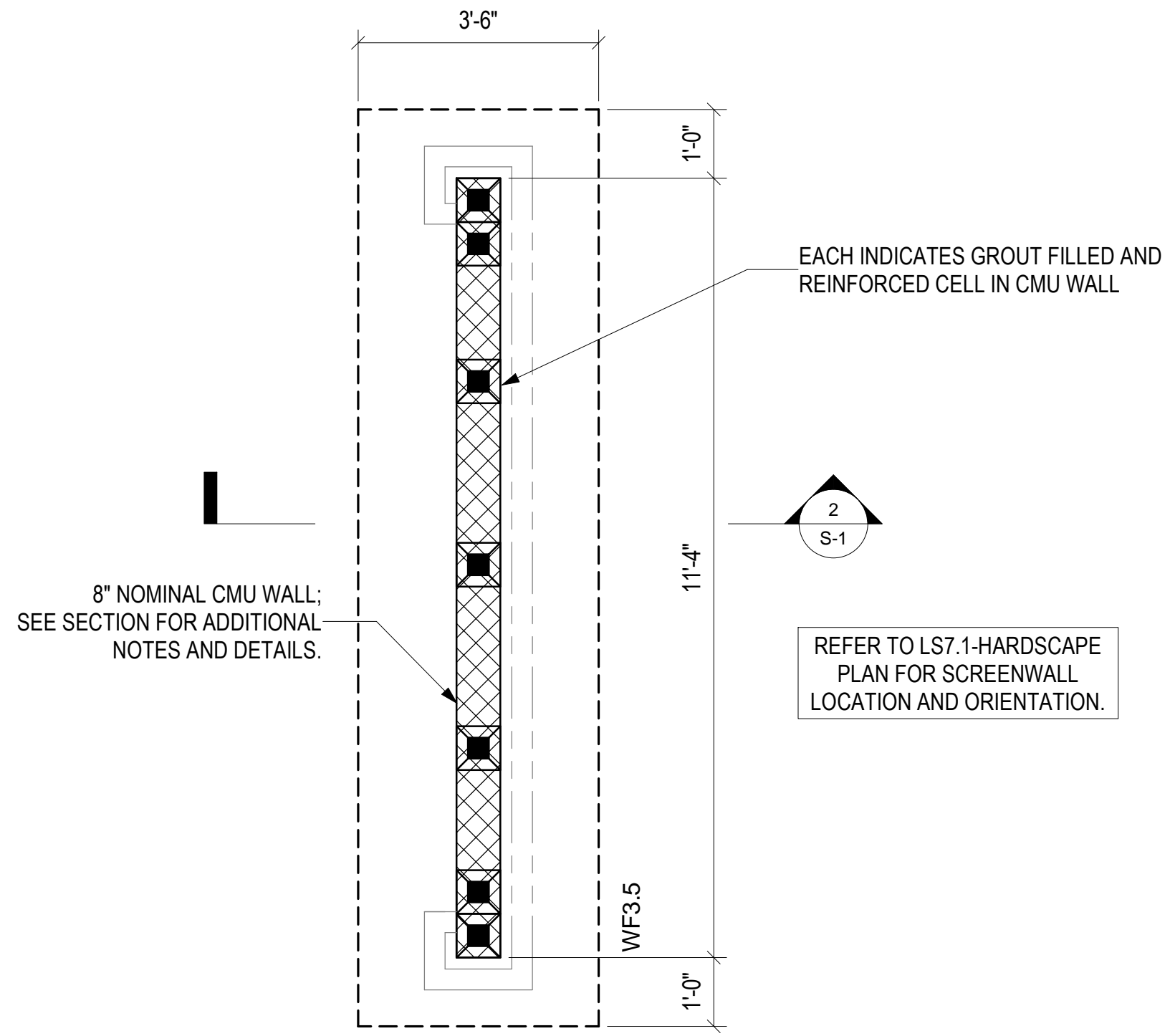
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SHEET TITLE:
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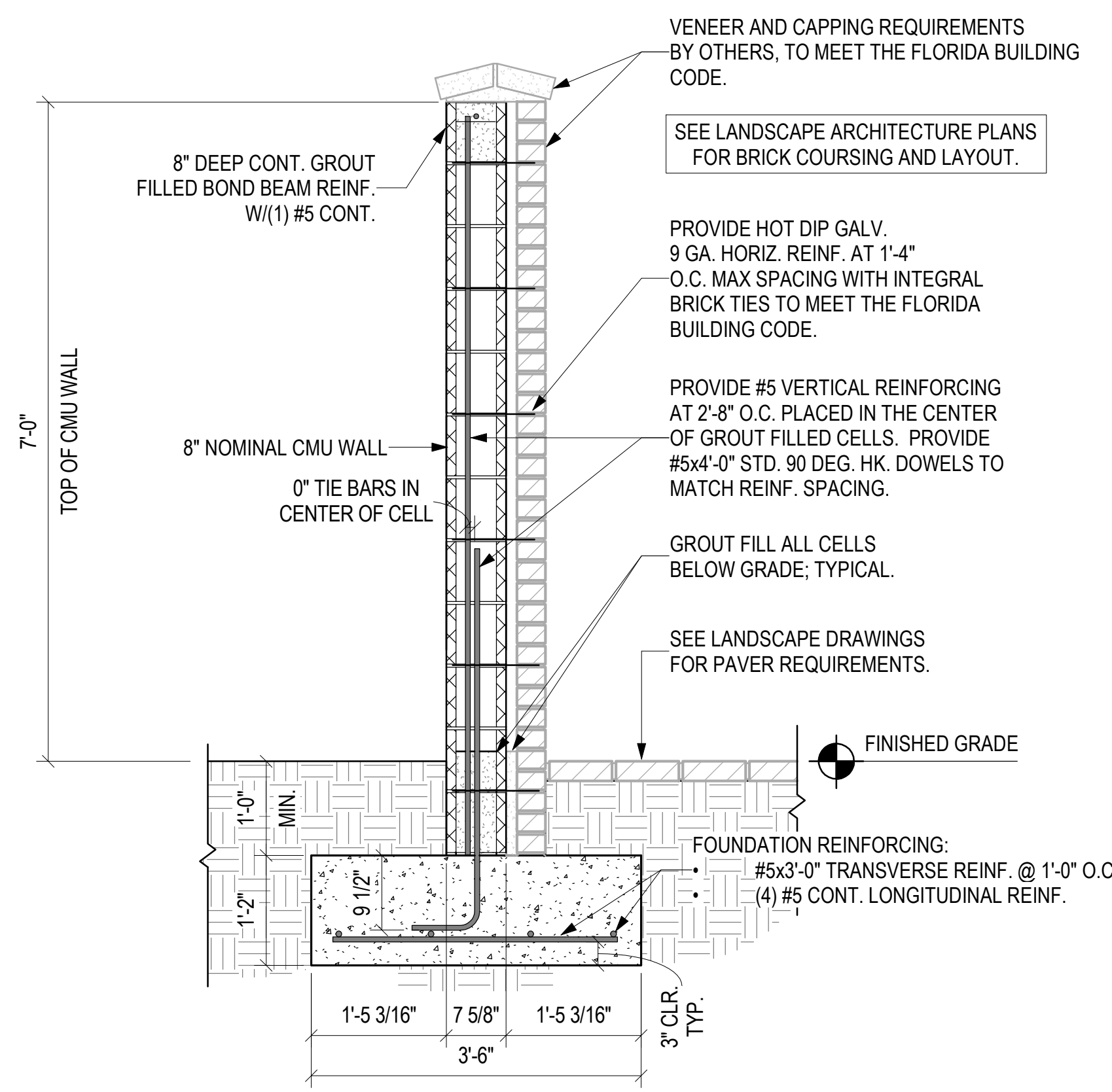
SHEET NUMBER:

IR4.2

DATE: 01/13/2017



1 SCREENWALL PLAN
S-1 1/2" = 1'-0"

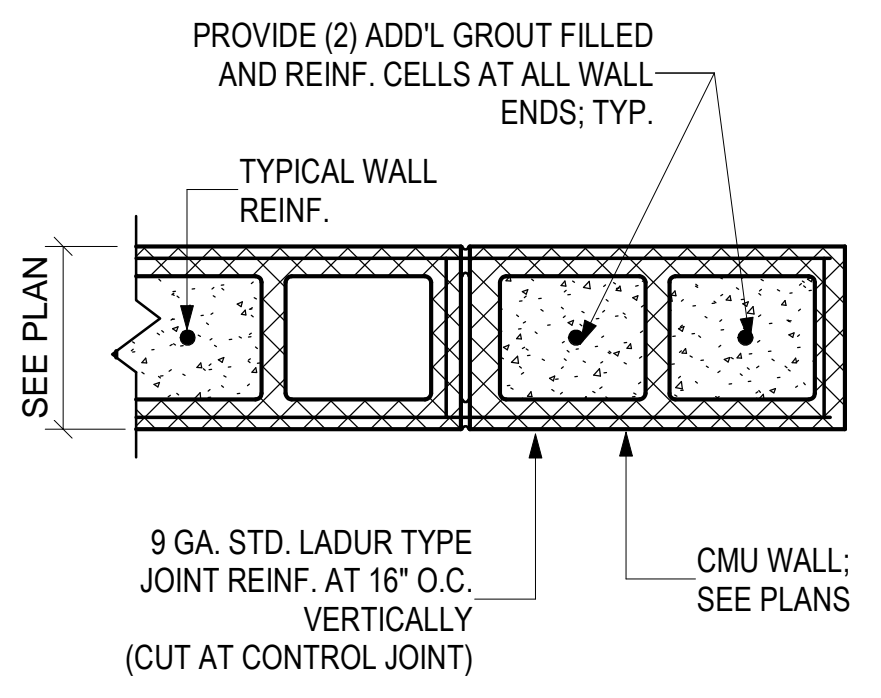


2 SCREENWALL SECTION
S-1 3/4" = 1'-0"

1.00 GENERAL NOTES

- 1.01 ALL CONSTRUCTION SHALL CONFORM TO THE FLORIDA BUILDING CODE, 2014.
- 1.02 WIND LOADS - THE SCREENWALL HAS BEEN DESIGNED TO CONFORM TO THE WIND PROVISIONS OF ASCE 7-10 BASED ON THE FOLLOWING CRITERIA:
 - A. ULTIMATE BASIC WIND SPEED: 140 MPH (BASED ON RISK CATEGORY 1)
 - B. RISK CATEGORY: 1
 - C. WIND EXPOSURE CATEGORY: C
 - D. DESIGN WIND BASIS: SOLID FREESTANDING WALLS AND SOLID SIGNS
 - E. DESIGN WIND PRESSURE FOR THE WALL: 47 PSF ULTIMATE
- 1.03 DRAWINGS SHOW TYPICAL AND CERTAIN SPECIFIC CONDITIONS ONLY. FOR DETAILS NOT SPECIFICALLY SHOWN, PROVIDE DETAILS SIMILAR TO THOSE SHOWN.
- 1.04 THE DESIGN, ADEQUACY, AND SAFETY OF ERECTION BRACING, SHORING, TEMPORARY SUPPORTS, ETC., ARE THE SOLE RESPONSIBILITY OF THE CONTRACTOR.
- 1.05 CONTRACTOR SHALL MAKE NO DEVIATION FROM DESIGN DRAWINGS WITHOUT WRITTEN APPROVAL OF THE ENGINEER.
- 1.06 REVIEW OF SUBMITTALS AND/OR SHOP DRAWINGS BY THE STRUCTURAL ENGINEER OR OTHERS DOES NOT RELIEVE THE CONTRACTOR OF THE RESPONSIBILITY TO REVIEW AND CHECK SHOP DRAWINGS BEFORE SUBMITTAL TO THE STRUCTURAL ENGINEER. THE CONTRACTOR REMAINS SOLELY RESPONSIBLE FOR ERRORS AND OMISSIONS ASSOCIATED WITH THE PREPARATION OF SHOP DRAWINGS AS THEY PERTAIN TO MEMBER SIZES, DETAILS, AND DIMENSIONS SPECIFIED IN THE CONTRACT DOCUMENTS. CONTRACTOR IS ALSO RESPONSIBLE FOR MEANS, METHODS, TECHNIQUES, SEQUENCES, AND PROCEDURES OF CONSTRUCTION.
- 2.00 FOUNDATIONS AND SLAB-ON-GRADE
 - 2.01 AN ALLOWABLE SOIL BEARING PRESSURE OF 1,500 PSF HAS BEEN CONSERVATEVELY ESTIMATED BASED ON SILAR PROJECTS LOCATED IN THE SAME GENERAL AREA OF CONSTRUCTION. FOUNDATION SHALL BE PLACED ON NATURAL UNDISTURBED SOILS OR COMPACTED FILL.
 - 2.02 SIDES OF FOUNDATIONS SHALL BE FORMED UNLESS CONDITIONS PERMIT EARTH FORMING. FOUNDATIONS POURED AGAINST THE EARTH REQUIRE THE FOLLOWING PRECAUTIONS: SLOPE SIDES OF EXCAVATIONS AS APPROVED BY GEOTECHNICAL ENGINEER AND CLEAN UP SLOUGHING BEFORE AND DURING CONCRETE PLACEMENT.
 - 2.03 CONTRACTOR IS RESPONSIBLE FOR ADEQUATELY PROTECTING ALL EXCAVATION SLOPES.
 - 2.04 DEWATER TO AT LEAST TWO FEET BELOW BOTTOM OF LOWEST FOUNDATION IF GROUNDWATER IS ENCOUNTERED.

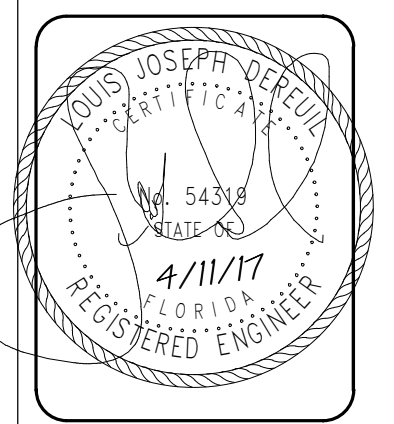
4 TYPICAL CMU SCREENWALL REINFORCING
S-1 1 1/2" = 1'-0"



3.00 REINFORCED CONCRETE

- 3.01 ALL CONCRETE WORK SHALL CONFORM TO ACI 301-10, SPECIFICATIONS FOR STRUCTURAL CONCRETE FOR BUILDINGS. DESIGN IS BASED ON ACI 318-11, BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE. DETAIL CONCRETE REINFORCEMENT AND ACCESSORIES IN ACCORDANCE WITH ACI 315, DETAILING MANUAL.
- 3.02 UNLESS NOTED OTHERWISE, ALL CONCRETE SHALL BE NORMAL WEIGHT AND HAVE THE FOLLOWING MINIMUM 28 DAY COMPRESSIVE STRENGTHS:
 - A. FOUNDATIONS 3000 PSI
 CONCRETE MAY CONTAIN A PROPERLY DESIGNED SUPERPLASTICIZER FOR WORKABILITY.
- 3.03 REINFORCING STEEL SHALL CONFORM TO ASTM A615, GRADE 60 UNLESS NOTED OTHERWISE.
- 3.04 THE PROPOSED MATERIALS AND MIX DESIGN SHALL BE FULLY DOCUMENTED AND REVIEWED BY THE OWNER'S TESTING LABORATORY. RESPONSIBILITY FOR OBTAINING THE REQUIRED DESIGN STRENGTH IS THE CONTRACTOR'S.
- 3.05 USE OF CALCIUM CHLORIDE, CHLORIDE IONS, OR OTHER SALTS IN CONCRETE IS NOT PERMITTED.
- 3.06 CHAMFER OR ROUND ALL EXPOSED CORNERS A MINIMUM OF 3/4".
- 3.07 TIE ALL REINFORCING STEEL AND EMBEDMENTS SECURELY IN PLACE PRIOR TO PLACING CONCRETE. PROVIDE SUFFICIENT SUPPORTS TO MAINTAIN THE POSITION OF REINFORCEMENT WITHIN SPECIFIED TOLERANCE DURING ALL CONSTRUCTION ACTIVITIES. "STICKING" DOWELS INTO WET CONCRETE IS NOT PERMITTED.
- 3.08 PROVIDE CONTINUOUS REINFORCEMENT WHEREVER POSSIBLE; SPLICE ONLY AS SHOWN OR APPROVED; STAGGER SPLICE WHERE POSSIBLE; USE FULL TENSION SPLICE (CLASS "B") UNLESS NOTED OTHERWISE. DOWELS SHALL MATCH THE SIZE AND SPACING OF THE SPECIFIED REINFORCEMENT AND SHALL BE LAPPED WITH FULL TENSION SPLICES (CLASS "B") UNLESS NOTED OTHERWISE. TERMINATE BARS WITH STANDARD HOOKS.
- 3.09 REINFORCING STEEL SHALL HAVE 3" CLEAR COVER UNLESS NOTED OTHERWISE.
- 4.00 MASONRY
 - 4.01 CONCRETE MASONRY DESIGN AND CONSTRUCTION SHALL CONFORM TO ACI 530, BUILDING CODE REQUIREMENTS FOR CONCRETE MASONRY STRUCTURES AND ACI 530.1, SPECIFICATIONS FOR CONCRETE MASONRY CONSTRUCTION.
 - 4.02 PROVIDE LIGHTWEIGHT, HOLLOW, CONCRETE MASONRY UNITS (CMU) CONFORMING TO ASTM C90, UNLESS NOTED OTHERWISE.
 - 4.03 PROVIDE MASONRY CONSTRUCTION WITH MINIMUM COMPRESSIVE STRENGTH, $f_m = 1700$ PSI.
 - 4.04 PROVIDE TYPE "N" MORTAR IN ACCORDANCE WITH ASTM C270, UNLESS NOTED OTHERWISE.
 - 4.05 VERTICAL CELLS SHALL BE REINFORCED WITH #5 @32" O.C. MINIMUM, UNLESS NOTED OTHERWISE (U.N.O.) IN THE CONTRACT DRAWINGS. VERTICAL REINFORCING SHALL BE CONTINUOUS (LAPPED 48 BAR DIAMETERS MINIMUM AT SPLICES, U.N.O.) AND HELD IN POSITION AT THE TOP AND BOTTOM OF THE GROUT POUR. U.N.O., POSITION VERTICAL REINFORCING IN THE CENTER OF THE CELL.
 - 4.06 PROVIDE GROUT FOR REINFORCED MASONRY IN ACCORDANCE WITH ASTM C476. GROUT SHALL HAVE A MINIMUM 28 DAY COMPRESSIVE STRENGTH OF 2,000 PSI UNLESS NOTED OTHERWISE. GROUT SHALL BE FLUID CONSISTENCY. FLUID CONSISTENCY SHALL MEAN THAT CONSISTENCY AS FLUID AS POSSIBLE FOR POURING WITHOUT SEGREGATION OF THE CONSTITUENT PARTS. FILL ALL CELLS BELOW GRADE WITH GROUT. ALL GROUT SHALL BE CONSOLIDATED AT THE TIME OF POURING BY VIBRATING AND THEN RECONSOLIDATED BY AGAIN PUDDLING LATER, BEFORE PLASTICITY IS LOST. WHEN GROUTING IS STOPPED FOR ONE HOUR OR LONGER, CONSTRUCTION JOINTS SHALL BE FORMED BY STOPPING THE POUR OF THE GROUT 1-1/2 INCHES BELOW THE TOP OF THE UPPERMOST UNIT.
 - 4.07 PROVIDE HORIZONTAL JOINT REINFORCEMENT COMPLYING WITH ASTM A82, NO. 9 GAUGE OR HEAVIER, ZINC COATED, PLACED 16 INCHES ON CENTER IN 8" NOMINAL CMU WALLS AND 8" ON CENTER IN 12" NOMINAL CMU WALLS, UNLESS NOTED OTHERWISE.
 - 4.08 PROVIDE RUNNING BONDS WITH VERTICAL JOINTS LOCATED AT CENTER OF MASONRY UNITS IN THE ALTERNATE COURSE BELOW, UNLESS NOTED OTHERWISE.
 - 4.09 ALL MASONRY UNITS SHALL BE FREE OF EXCESSIVE DUST AND DIRT AT THE TIME THEY ARE LAYED BY THE MASON.
 - 4.10 ALL REINFORCED HOLLOW UNIT MASONRY SHALL BE BUILT TO PRESERVE THE UNOBSTRUCTED VERTICAL CONTINUITY OF THE CELLS TO BE FILLED. WALLS AND CROSS WEBS IN ALL REINFORCED MASONRY WALLS SHALL BE FULLY BEDDED IN MORTAR. ALL HEAD (OR END) JOINTS SHALL BE SOLIDLY FILLED WITH MORTAR FOR A DISTANCE IN FROM EACH FACE OF THE UNIT NOT LESS THAN THE THICKNESS OF THE LONGITUDINAL FACE SHELLS, BOND SHALL BE PROVIDED BY LAPPING UNITS IN SUCCESSIVE VERTICAL COURSES.
 - 4.11 PROVIDE VERTICAL CONTROL JOINTS BETWEEN REINFORCED MASONRY WALLS AND MASONRY PARTITION WALLS AND AS INDICATED IN THE STRUCTURAL CONTRACT DRAWINGS.
 - 4.12 SAMPLE AND TEST MASONRY MATERIAL IN ACCORDANCE WITH TMS 602-16, TABLE 3, QUALITY ASSURANCE LEVEL 2 FOR RISK CATEGORY 1.
 - 4.13 INSPECT MASONRY CONSTRUCTION IN ACCORDANCE WITH TMS 602-16, TABLE 4, QUALITY ASSURANCE LEVEL 2 FOR RISK CATEGORY 1.

JDA JOE DEREUIL ASSOCIATES, LLC
STRUCTURAL ENGINEERS
STATE OF FLORIDA
P.E. NO. 54319 / C.A. NO. 9515
301 West Cervantes St.
Pensacola, FL 32501
Tel. 850.429.1951
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CHECKED: LJD
DATE: 11 APRIL 2017
DESIGNED: BJB
DRAWN: BJB

MIXED-USE DEVELOPMENT
JEFFERSON AT ROMANA AT TARRAGONA AT INTENDENCIA
PENSACOLA, FLORIDA
DEVELOPED BY DAILY CONVO, LLC

S-1



PLANNING SERVICES

THE UPSIDE *of* FLORIDA

MINUTES OF THE PLANNING BOARD

April 10, 2018

MEMBERS PRESENT: Chairman Paul Ritz, Nathan Monk, Nina Campbell, Kurt Larson, Jared Moore

MEMBERS ABSENT: Danny Grundhoefer

STAFF PRESENT: Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner, Steve Richards, Code Enforcement Officer, Rusty Wells, Assistant City Attorney, Lysia Bowling, City Attorney

OTHERS PRESENT: Barbara Chapman, Laura T. Hall, Amber Hoverson, Lou Courtney, Steven Shelley, Damian Zimmerman, Bruce Partington, John Myslak, Betty Bowlin Hinote, Don Kraher, Council Executive,

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from March 13, 2018
- New Business:
 1. Request for License to Use Right-of-Way – Intendencia Street - Southtowne
 2. Consider Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District
- Open Forum
- Adjournment

Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:00 pm with a quorum present.

Approval of Meeting Minutes

Mr. Larson made a motion to approve the March 13, 2018 minutes, seconded by Mr. Monk, and it carried unanimously.

New Business

Request for License to Use Right-of-Way – Intendencia Street - Southtowne

Daily Convo is requesting approval for a License to Use for improvements within the Intendencia Street right-of-way in connection with the Southtowne Development. This request is unique in that the project will provide a large amount of improvements within the right-of-way of Intendencia and the perimeter of the development, however, the property owner will assume maintenance for these improvements. This will be agreed upon in the form of a modified License to Use agreement between Daily Convo and the City. This request has been routed through the various City departments and utility providers with those comments provided.

Bruce Partington presented to the Board and stated the project presented today was the final piece of the development.

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

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He explained he had negotiated at length with the City Attorney for the License to Use (LTU) which will comply with all city requirements. Daily Convo would bear 100 percent of the construction and ongoing maintenance. He indicated the project would be aesthetically consistent with the existing structures.

Chairman Ritz appreciated the work placed into the overall project with the level of quality, concern for citizens, and addressing the environment. He also appreciated the use of the right-of-way for bettering the entire development and believed this would be a better treatment of the roadway than the city could execute without private dollars. The size of the development showed the level of commitment over the span of time. **Mr. Larson made a motion to approve, seconded by Ms. Campbell.** Mr. Larson pointed out he liked the public-private partnership and wanted to take the opportunity to try this LTU in a different manner. Ms. Campbell noted the utility comments, and Ms. Deese advised the project had oversight through the Engineering Department. Mr. Monk wanted to state a no conflict of interest since at the inception of Southtowne, he was an employee of Studer Properties, however, none of this discussion was going on at that time. Chairman Ritz advised since Mr. Monk was not in play for any financial gain, no conflict of interest would exist. **The motion then carried unanimously.**

Consider Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District

The City has received a request from Dr. Laura Hall of East Hill Animal Hospital for an amendment to Land Development Code Section 12-2-10 Historic & Preservation Land Use District. More specifically, Dr. Hall is requesting that the use of animal hospitals, veterinary clinics and pet resorts (with fully enclosed kennels, with no outside runs, exercise areas are permitted) no longer require Conditional Use Permit approval and instead become a permitted use by right. Dr. Hall recently appeared before the Special Magistrate for a code violation of having exercise areas in the OEHC-1 zoning district. The Special Magistrate gave Dr. Hall one year to resolve the issue. Dr. Hall is requesting this amendment in order to bring her property into compliance.

In reviewing the Code Violation form, Chairman Ritz note the violation involved dogs running outside of the building which was not allowed. Ms. Deese advised a Conditional Use Permit would no longer be necessary, and it would become a permitted use by right. Chairman Ritz pointed out even though it was for one piece of property, if we keep changing the Code, the neighborhood could lose some of its character. One of the issues was encroachment and movement of commercial businesses within the residential neighborhood. But on the positive side, customers appreciated Dr. Hall's services and the convenience of having her clinic at this location. The change to the Code would become area-wide and not just for one property. Mr. Monk wanted to clarify that this change would allow for exterior exercise areas for pets in the clinic or the resort during business hours. Chairman Ritz advised there were no time limitations. Ms. Deese confirmed that since the ordinance does not define that, another use could come in by right without a Conditional Use Permit, and there would not be any ability to add those stipulations; they could operate at any hour, however, they would still operate under the noise ordinance.

Dr. Hall stated she had been in the OEHPD since 2007. She explained she put the outdoor exercise area provision in herself and had operated since 2007 with no formal complaints. Her pet resort was given the same rights as pet shops. She explained she attended the neighborhood association meeting and understood their concerns with businesses, future expansions, and parking. She explained all noise ordinances would still be intact, and this change in the Code would simply allow her to continue the business the City had allowed. She indicated the Magistrate from the Code Enforcement hearing advised her to change the Code so a violation would not happen again.

Ms. Campbell confirmed that the business had improved the neighborhood while maintaining the architectural integrity and spirit of that area. Chairman Ritz had not noticed a parking issue. In full disclosure, Ms. Campbell explained that Dr. Hall was her veterinarian, and her pets had stayed at the pet resort; she had not been overwhelmed with noise on the inside or outside. She stated when addressing these issues, certain areas of the community want to be self-sufficient as a sub community, and if that was the case, it might be appropriate for a pet resort to go in; Dr. Hall did bring a lot of business into the area.

Lou Courtney agreed Dr. Hall had a great reputation and was a great businesswoman. She explained a lot of the neighbors were opposed to the business when it was originally permitted because of the barking. Ms. Courtney lives one block away and observed the animals go outside five times a day, and the noise gets loud during the summer and during holidays. She indicated she worked from home in a studio and had followed the noise to observe 20 dogs within the exercise area with an attendant present. However, she was unable to address the attendant because of the noise. She applauded the doctor for the integrity of the architecture, but noise pollution was a serious issue. She also pointed out the doctor could sell the clinic, and the next owner might not be as conscientious. She also explained they do not like changes that hurt property values, aesthetic values, or quality of life. She explained there were no neighbors immediately adjacent to the doctor; one was being used for storage and the two behind were vacant. Joshua Gleaton appeared before the Board and stated he works from home does hear the dogs barking and it is a noticeable background noise. He did appreciate what the doctor's business had brought to the neighborhood but was concerned the Code change would allow for the continuation and the addition to what he sees as an existing problem. He felt changes to the Code should benefit the community and not just a few people. He stated Dr. Hall had indicated she was involved with the original language, and he was concerned with the result of changing the Code when someone is found in violation, and he did not see the benefit being for the neighborhood but for only one business.

Steven Shelley advised he had been an East Hill resident for 50 years, and even though the business was not in East Hill, he wanted to comment that when she was with Sacred Heart, she was well respected and loved. He was amazed in driving up to the facility how little noise was heard. He stated her business is exactly what the community was looking for.

Amber Hoverson, President of the OEHPA, was at the meeting and as a neighborhood, they were opposed to the Code change. She explained they were not opposed to change but were concerned with the noise and that some other business could come in and not be as mindful of the neighborhood. Also, as a homeowner of a contributing structure, she felt it was not fair when a homeowner in this district is required to go before the ARB and comply with their guidelines. However, this is a law that is being considered; she expressed you can avoid ugly but you cannot avoid noise, and many of the older homes are not insulated.

Betty Bowlin Hinote with Innerpeace Massage Therapies behind the McDonald's stated she had heard barking during therapy sessions, and they would lose business if the noise continued during treatments. She explained patients do sleep during therapy sessions, and the business maintains a quite atmosphere. She further stated the Code was set up to protect the interest of owners, their property values, and safety. She stated she had been at this location for 17 years and felt her property might lose value if the Code is changed. She had visited the pet resort on Hayne Street, and it was absolutely too loud, and if the Code is changed to include any hour, this noise would also be outside. One of her therapists left a note to her to make sure this does not happen since there will be barking dogs while the therapies are in session. Mr. Monk asked how long she had been in business, and she stated they had been operating there 17 years. She was not sure how much business she had already lost. With the Code change and having the dogs outside along with the possibility of a growing business, the problem might get worse. Mr. Monk asked if any customer left an appointment because of the barking dogs. Ms. Hinote explained they could not know if a person did not return because their session was disturbed. She further explained the Code protects against many issues, but she could not provide any solid facts supporting loss of income since this would be speculative. She did emphasize with a change in the Code, the situation would likely get worse.

Chairman Ritz stated as he reflected back from 2008, the noise issue was of concern. At that time, many Old East Hill residents were concerned with the noise; there were no outside exercise runs at that time. As of today, some of those members still do not embrace the idea of outdoor exercise runs, which have been consistent from then to now. He explained the idea of a Conditional Use allows for

checks and balances to occur should situations change. Changing the Code affects the entire area, and if another veterinarian should choose to come in, they could put in an outside run a block away. He advised one of the reasons for the Conditional Use being granted at that time was that a lack of outside runs would prevent a noise issue. He said he tended to think on the side of the neighborhood who opposed it in light of the way it came before the Board the first time. Mr. Monk emphasized the historic nature of East Hill and the Van Gogh Coffee Shop where the youth populated; the 309 house was a safe place for train hoppers and both were a part of the history of this community. It was constantly shut down because of noise complaints. His opinion was if you want quiet, don't live in the city which includes traffic, movement, and noise.

Ms. Campbell questioned how long this area had been business and residential, and Ms. Deese advised since its inception in the late 90s. Dr. Hall pointed out nothing would change since the dogs had already been entering an exercise yard. The exercise yard simply means they go out and exercise and come back in. Ms. Campbell indicated aside from the most recent complaint, the doctor had no other complaints and thought that was an interesting observation; it seemed the problem was not with the dog resort or the veterinarian but the noise level. She questioned if anyone had come up with a build-out for sounds. Dr. Hall stated she had investigated other resorts in the city which are all C-1, but they were not in a historic neighborhood, and when she went to change the Code in 2008, they placed the language in there. She advised at that time, parking was the main concern. She also explained as a property owner, she would be using outside cameras to protect her interests and confirm activity documenting the number of dogs.

Chairman Ritz clarified a Code violation was issued which stated "There are dogs running and exercising outside this facility which has a Conditional Use Permit which prohibits same and the condition constitutes an apparent violation of the Conditional Use Permit." Ms. Deese verified the Code violation was because there were dogs outside. She explained there was a video on the website showing how many times animals go outside into the exercise areas which was the specific Code violation. Dr. Hall explained exercise areas were where dogs were left unattended, which was not the case in her exercise areas. Mr. Moore asked if the change was approved, would it allow dogs to be left unattended. Ms. Deese referred to Dr. Hall's request for fully enclosed kennels with no outside runs and exercise areas are permitted. She explained there are scenarios where there are no outside runs, but the animals could go outside unsupervised, which was not Dr. Hall's intent. Mr. Monk asked if the Board had the authority to limit the number of animals allowed within a square footage. Ms. Deese advised the Board could include in the recommendation to City Council added conditions amending Dr. Hall's request. She clarified that the amendment takes it out of a Conditional Use Permit and makes it a standalone by right use. Chairman Ritz emphasized Conditional Use historically was used as a check and balance. Ms. Deese pointed out limiting the number of animals would be a challenge to enforce. Dr. Hall emphasized she wanted to operate her business as the City gave her permission to ten years ago.

Ms. Campbell asked if the amendment did not go forward and the doctor had one year to satisfy this issue, how would that impact her business. Dr. Hall advised she would not operate a boarding facility where the animals could not go outside. For clarification, Ms. Deese stated during the discussions with Code Enforcement, they felt it would be unreasonable to think that a medical facility for animals could not allow the dogs to go out and relieve themselves, but when the evidence was compiled along with the website video with the five times a day, it clearly was more than relieving themselves. Dr. Hall advised she wished she had clarified "no exercise yards where animals are left unattended" on her original plans. Ms. Campbell advised it would be a terrible loss for this portion of Pensacola to lose Dr. Hall, and asked could there be some sort of buildout for the exercise pad. Dr. Hall explained they incorporated vegetation and astro turf as well as 9' fencing.

Mr. Monk pointed out with the evolution of cities and small towns, we were going to see more small

businesses in isolated parts of the community so people do not have to drive great distances for these services. He personally did not want to live in a community where his children were playing the backyard and someone would call in a complaint on them or his dogs. More small business were going to creep into historic neighborhoods, and this natural evolution is where we're going as a community; There will be some discomfort, but that is the reality of living in a city.

Mr. Larson asked Dr. Hall if she was going to solve the problem before the Board involving multiple dogs, supervised or unsupervised, because he was not comfortable with just saying "exercise areas." Dr. Hall advised she liked the term "no exercise areas where dogs are left unattended." She explained they had play groups with 6 to 8 dogs maximum, and if they were loud, they returned to the inside. However, she was fine with whatever the Board approved. **Mr. Monk made a motion to support with an edit that it read "allows animal hospitals, veterinary clinics and pet resorts within the district by right with fully enclosed kennels, no unsupervised outside runs or exercise areas permitted with a limitation of 5 animals in the area."** The motion was seconded by Mr. Larson. For clarification, Mr. Larson stated with this change, a Conditional Use Permit would no longer be required in C-1. Ms. Deese explained this amendment was specifically for 12-2-10 Old East Hill Preservation District; C-1 still has the language which does not permit exercise areas, and you would be opening up to the entire city if you modified C-1. This is specific to Old East Hill, taking out the Conditional Use Permit requirement. Ms. Deese clarified Dr. Hall's proposal stated "with no outside runs." Was the Board meaning "no unsupervised outside runs" and thus allow "outside runs" or add "unsupervised" to the exercise areas, and Mr. Monk verified adding "unsupervised" to the exercise areas only. The amendment was accepted by Mr. Larson. For further clarification Mr. Moore stated in OEHPD exercise areas would be allowed, but the language would state they would go out in groups of 5 or fewer supervised. There were no outside runs and the amendment was by right with no Conditional Use. The motion then carried 4 to 1 with Mr. Moore dissenting. Ms. Deese reminded the audience that this amendment was a recommendation which would proceed to the City Council on May 10, 2018 at 5:30 pm.

Open Forum – None

Adjournment – With no further business, Chairman Ritz adjourned the meeting at 3:34 pm.

Respectfully Submitted,



Brandi C. Deese
Secretary to the Board

LICENSE TO USE AGREEMENT

This License to Use Agreement (“Agreement”) is made and entered into this ____ day of _____, 2018, by and between the City of Pensacola, a municipal corporation of the State of Florida, hereinafter referred to as the "City," and Daily Convo, LLC, a Florida Limited Liability Company, hereinafter referred to as "Daily Convo.”

RECITALS

A. Daily Convo is the record titleholder and responsible for the maintenance of certain real property located within Pensacola, Escambia County, Florida, legally described in Exhibit “A,” attached to and by this reference incorporated in this Agreement, such real property being commonly known as Southtowne, located North of East Intendencia Street, South of East Romana Street, and between South Jefferson and South Tarragona Streets. Pensacola, Florida. ("Daily Convo Property").

B. City is the owner of the following public rights-of-way that are adjacent to the Daily Convo Property: (1) the right of way of East Intendencia Street between Jefferson and Tarragona Streets; (2) the right of way of Jefferson Street between Romana and Intendencia Streets; (3) the right of way of Tarragona Street between Romana and Intendencia Streets; and (4) the right of way of Romana Street between Jefferson and Tarragona Streets (collectively, the "City Rights-of-Way").

C. City has agreed to grant to Daily Convo permission to construct and maintain certain Improvements (hereinafter defined) upon portions of the Rights-of-Way, all in accordance with and subject to the terms, conditions and limitations of this Agreement.

In consideration of the matters described above, and of the mutual benefits and obligations set forth in this Agreement, the receipt and sufficiency of which are hereby

acknowledged, the parties agree as follows:

I. INCORPORATION OF RECITALS

The foregoing Recitals are incorporated in this Agreement in their entirety.

AGREEMENT

1.

City hereby grants to Daily Convo permission to construct and install, and maintain over the term of this Agreement, those certain improvements (the “Improvements”) described in the plans and specifications identified in Exhibit “A” attached hereto and incorporated herein by references, copies of which plans and specifications are attached hereto as Exhibit “B” and incorporated herein by reference (the “Plans and Specifications”) that encroach upon, use or occupy portions of the space under, on or above the City Rights-of-Way. The location and description of said Improvements and the encroachments upon the City Rights-of-Way permitted hereby are more particularly described in the Plans and Specifications.

2.

Daily Convo shall, at Daily Convo’s sole cost and expense, cause the Improvements to be constructed in a first-class, good and workmanlike manner, free from defects in materials or workmanship, by qualified and duly licensed contractors and construction professionals. The Improvements as constructed shall not materially deviate from the Plans and Specifications except with the prior written consent of the City. The initial construction of the Improvements shall be completed within five (5) years after the date of this Agreement. Any portion of the Improvements that have not been completed within such five-year period shall not thereafter be constructed except with the prior written consent of the City. All construction, maintenance, and operation in connection with such Improvements, and the use of the Improvements, shall be

performed in strict compliance with this Agreement, the Plans and Specifications, the Florida Building Code and other applicable construction and safety codes, and the Charter, Ordinances and Codes of the City and in accordance with the directions of the Director of Public Works and Facilities of City, or his duly authorized representative. All Plans and Specifications for the Improvements shall be subject to the prior written approval of the Director of Public Works and Facilities, or his duly authorized representative, but such approval shall not relieve Daily Convo of responsibility and liability for concept, design and computation in preparation of such Plans and Specifications. Any directions or approval by the Director of Public Works and Facilities shall be consistent with, and not more onerous than, the Plans and Specifications, the City's Ordinances and Codes, the Florida Building Code and other applicable construction and safety codes, and this Agreement.

At all times during the term of this Agreement, Daily Convo shall, at its sole cost and expense, maintain the Improvements in good, clean, safe and first-class order, condition and appearance and to that end shall make all necessary repairs and replacements to the Improvements.

In the event that Daily Convo desires to modify the Improvements after their initial construction is completed, and such modifications would require, under the then existing City Ordinances and Codes, a review of such modifications by a department or agency within the City, Daily Convo agrees to comply with such requirements as applicable. Further, no modification shall be made to the Improvements after their initial construction which would constitute a material deviation from the Improvements described in the Plans and Specifications except with the prior written consent of the City.

3.

Upon completion of construction and installation of the Improvements and thereafter, there shall be no encroachments in, under, on or above the surface area of the streets, alleys, sidewalks and other public rights-of-way involved, except as described herein and shown on the Plans and Specifications.

4.

Daily Convo, at no expense to the City, shall make proper provisions for the relocation and installation of any existing utilities affected by such encroachment use and occupancy, including obtaining approval and consent from the utility companies and the appropriate agencies of the State and its political subdivisions. In the event that any installation, reinstallation, relocation or repair of any existing or future utility or improvements owned by, constructed by or on behalf of the public or at public expense is made more costly by virtue of the construction, maintenance or existence of such encroachment and use, Daily Convo shall pay to City an additional amount equal to such additional cost as reasonably determined by the Director of Public Works and Facilities of the City, or his duly authorized representative.

5.

City may enter and utilize the City Rights-of-Way at any time for any public purpose, including but not limited to the purpose of installing or maintaining improvements necessary for the health, safety and welfare of the public or for any other public purpose. In this regard, Daily Convo understands and agrees that City shall bear no responsibility or liability for damage or disruption of Improvements, but City will make reasonable efforts to minimize such damage. City will provide Daily Convo such notice, if any, as is reasonable and appropriate under the circumstances Daily Convo before acting under this section 5.

6.

In order to defray all costs of inspection and supervision which City has incurred or will incur as a result of the construction, maintenance, inspection or management of the Improvements and other uses provided for by this Agreement, Daily Convo agrees to pay to City: (1) concurrently with the execution of this Agreement, an application fee in the sum of One Thousand Dollars (\$1,000.00), and (2) an annual fee in the amount of One Thousand Dollars (\$1,000.00), payable on or before each anniversary of the date of this Agreement; provided that such annual fee shall be subject to reasonable adjustment by the City from time to time should the City modify the ordinance establishing such fee during the term of this Agreement. City will send Daily Convo an invoice annually for the annual fee.

7.

Unless sooner terminated pursuant to the other terms of this Agreement, the term of this Agreement shall be for ninety-nine (99) years, commencing on the date this Agreement is executed by the City of Pensacola. Provided however, this Agreement may be terminated by the City upon the material non-compliance of any of the terms of this Agreement by the Licensee. City shall notify Daily Convo in writing of the non-compliance and if not cured within thirty days this Agreement shall be terminated upon a further notice of termination by City to Licensee. Any such termination shall be in addition to, and without prejudice to, any and all other rights and remedies of the City at law or in equity.

Daily Convo may terminate this Agreement upon ninety (90) days written notice to the City.

8.

During the term of this Agreement, the Improvements shall be the sole and separate property of Daily Convo, subject to the terms and conditions of this Agreement, and upon the termination

of this Agreement, Daily Convo shall surrender the Improvements to the City in good, clean, safe and first-class order, condition and appearance, and upon termination of this Agreement the Improvements shall automatically be and become the sole and separate property of City. Notwithstanding the foregoing, however, upon termination of this Agreement, Daily Convo shall, at the option of and upon written notice from City and at no expense to City, restore the public right-of-way, and remove the Improvements encroaching into the public right-of-way, to a condition acceptable to the Director of Public Works and Facilities, or his or her duly authorized representative, and in accordance with then existing City specifications. City shall notify Daily Convo of its election regarding such option not less than thirty (30) days before the effective date of any termination. Failure to give such notice shall be deemed a waiver of the City's right to require Daily Convo to remove the Improvements. It is understood and agreed to by Daily Convo that if this Agreement is terminated and Daily Convo fails to remove the Improvement within a reasonable time after notice of the City's election of the option to have the Improvements removed by Licensee, City may remove the Improvements and any supporting structures and may charge Daily Convo with the reasonable cost of such removal.

THE PARTIES AGREE THAT THE DUTIES AND OBLIGATIONS CONTAINED IN THIS SECTION 8 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

9.

It is further understood and agreed upon between the parties hereto that the public rights-of-way, streets, alleys and sidewalks ("public right-of-way") to be used and encroached upon as described herein are held by City as trustee for the public; that City exercises such powers over the public right-of way as have been delegated to it by the Constitution of the State of Florida or by the Legislature; and that City cannot, and does not hereby, contract away or

limit its duty and its legislative power to control the public right-of-way for the use and benefit of the public. It is accordingly agreed that if the governing body of City may at any time during the term hereof determine in its sole discretion to use or cause or permit the right of way to be used for any other public purpose, including but not being limited to underground, surface of overhead communication, drainage, sanitary sewerage, transmission of natural or electricity, or any other public purpose, whether presently contemplated or not, that this Agreement shall automatically terminate upon not less than ninety (90) days' written notice to Daily Convo.

10.

Daily Convo agrees and acknowledges that this Agreement is solely for the purpose of permitting Daily Convo to construct, maintain and locate the Improvements over or within the described public right of way and is not a conveyance of any right, title or interest in or to the public right of way other than as described in this Agreement nor any restriction on the public's right to use the public right of way, including without limitation the Improvements, for its or their intended purposes, nor is it meant to convey any right to use or occupy property in which a third party may have an interest. Daily Convo agrees that it will obtain all necessary permission before occupying such property.

11.

Daily Convo agrees to comply fully with all applicable federal, state and local laws, statutes, ordinances, codes or regulations in connection with the design, construction, operation and maintenance of said Improvement, encroachment and uses.

12.

Daily Convo agrees to pay promptly when due all fees, taxes or rentals provided for by this Agreement or by any federal, state or local statute, law or regulation.

13.

Daily Convo covenants and agrees that it shall operate hereunder as an independent contractor as to all rights and privileges granted hereunder and not as an officer, agent, servant or employee of City and Daily Convo shall have exclusive control of and the exclusive right to control the details of its operations, and all persons performing same, and shall be solely responsible for the acts and omissions of its officers, agents, servants, employees, contractors, subcontractors, licensees and invitees. The doctrine of respondeat superior shall not apply as between City and Daily Convo, its officers, agents, servants, employees, contractors and subcontractors, and nothing herein shall be construed as creating a partnership or joint enterprise between City and Daily Convo.

14.

DAILY CONVO COVENANTS AND AGREES TO, AND DOES HEREBY, INDEMNIFY, HOLD HARMLESS AND DEFEND CITY, ITS ELECTED AND APPOINTED OFFICIALS, OFFICERS, AGENTS, REPRESENTATIVES, SERVANTS, VOLUNTEERS AND EMPLOYEES, FROM AND AGAINST ANY AND ALL CLAIMS, DEMANDS, SUITS, LIABILITIES, COSTS AND EXPENSES, INCLUDING WITHOUT LIMITATION REASONABLE ATTORNEYS' FEES, FOR PROPERTY DAMAGE OR LOSS, PERSONAL INJURY, AND DEATH, TO ANY AND ALL PERSONS, OF WHATSOEVER KIND OR CHARACTER, WHETHER REAL OR ASSERTED, ARISING OUT OF OR IN CONNECTION WITH, DIRECTLY OR INDIRECTLY, THE DESIGN, CONSTRUCTION, MAINTENANCE, OCCUPANCY, USE, EXISTENCE OR LOCATION OF THE IMPROVEMENTS AND USES GRANTED HEREUNDER, WHETHER OR NOT CAUSED, IN WHOLE OR IN PART, BY ALLEGED NEGLIGENCE OF OFFICERS,

AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES OR INVITEES OF THE CITY OR DAILY CONVO; AND DAILY CONVO HEREBY ASSUMES ALL LIABILITY AND RESPONSIBILITY FOR SUCH CLAIMS, DEMANDS, SUITS, LIABILITIES, COSTS AND EXPENSES. HOWEVER, THIS PROVISION IS NOT INTENDED TO REQUIRE DAILY CONVO TO INDEMNIFY CITY FOR CITY'S OWN FAULT OR NEGLIGENCE, OR THE FAULT OR NEGLIGENCE OF PERSONS ACTING ON BEHALF OF THE CITY IN ANY CAPACITY. DAILY CONVO SHALL LIKEWISE ASSUME ALL LIABILITY AND RESPONSIBILITY FOR, AND SHALL INDEMNIFY, DEFEND AND HOLD HARMLESS CITY FROM AND AGAINST ANY AND ALL LOSS, INJURY OR DAMAGE TO CITY PROPERTY TO THE EXTENT ARISING OUT OF OR CAUSED BY ANY AND ALL ACTS OR OMISSIONS OF DAILY CONVO, ITS OFFICERS, AGENTS, SERVANTS, EMPLOYEES, CONTRACTORS, SUBCONTRACTORS, LICENSEES, INVITEES, OR TRESPASSERS.

WITHOUT LIMITING THE GENERALITY OF THE FORGOING, DAILY CONVO AGREES TO PAY ON BEHALF OF THE CITY AND TO PROVIDE A LEGAL DEFENSE FOR THE CITY WITH LEGAL COUNSEL OF CITY'S CHOICE AND REASONABLY ACCEPTABLE TO DAILY CONVO, BOTH OF WHICH WILL BE DONE ONLY IF AND WHEN REQUESTED BY THE CITY, FOR ALL CLAIMS AND OTHER ACTIONS OR ITEMS WHICH ARE THE DAILY CONVO'S RESPONSIBILITY UNDER THIS SECTION. SUCH PAYMENT AND LEGAL DEFENSE ON BEHALF OF THE CITY SHALL BE IN ADDITION TO ANY AND ALL OTHER LEGAL REMEDIES AVAILABLE TO THE CITY AND SHALL NOT BE CONSIDERED TO BE THE CITY'S EXCLUSIVE REMEDIES.

NOTHING IN THIS SECTION SHALL BE DEEMED A CHANGE OR MODIFICATION IN ANY MANNER WHATSOEVER OF THE METHOD OR CONDITIONS OF PRESERVING, ASSERTING, OR ENFORCING ANY CLAIM OR LEGAL LIABILITY AGAINST THE CITY. THIS SECTION SHALL IN NO WAY BE CONSTRUED AS A WAIVER, IN WHOLE OR IN PART, OF THE CITY'S SOVEREIGN IMMUNITY UNDER THE CONSTITUTION, STATUTES AND CASE LAW OF THE STATE OF FLORIDA.

15.

THE PARTIES AGREE THAT THE FOREGOING DUTIES AND OBLIGATIONS CONTAINED IN THIS SECTION 14 SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT WITH RESPECT TO ANY STATE OF FACTS THAT EXISTS.

While this Agreement is in effect, Daily Convo agrees to furnish City with a Certificate of Insurance, naming City as Certificate Holder and Additional Insured, as proof that it has secured and paid for a policy of public liability insurance covering all public risks related to the proposed use and occupancy of public property pursuant to this Agreement. The coverages and amounts of such insurance shall be not less than the following:

Commercial General Liability Insurance with minimum limits of \$1,000,000 per occurrence and in the aggregate. Coverage must be provided for bodily injury and property damage liability for premises, operations, products and completed operations contractual liability and independent contractors. The coverage shall be written on an Occurrence Basis and list the City of Pensacola as an additional insured. The City shall not be considered liable for premium payment, entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company.

The coverage will be considered primary as relates to all provisions of the Agreement.

As used in this Section, “the City” is defined to mean the City of Pensacola itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives, and agents.

Daily Convo understands and agrees that such insurance amounts may in the future be reasonably revised upward at City’s option and that Daily Convo shall so revise such amounts immediately following notice to Daily Convo of such requirement. Such insurance policy shall provide that it cannot be canceled or amended without at thirty (30) days’ prior written notice to the City of Pensacola. A copy of the current Certificate of Insurance is attached as attached as Exhibit “C.” Daily Convo agrees to submit a similar Certificate of Insurance annually to City on the anniversary date of the effective date of this Agreement. The “Holder Address” is City of Pensacola, Risk Management, P.O. Box 12910, Pensacola FL 32521.

Daily Convo shall maintain and keep in force such public liability insurance at all times during the term of this Agreement and until the removal of the Improvements and the cleaning and restoration of the city streets affected by the Improvements. All insurance coverage required herein shall include coverage of all Daily Convo’s contractors.

16.

Daily Convo agrees to pay necessary costs to record this Agreement in its entirety in the deed records of Escambia County, Florida. After being recorded, the original shall be returned to the City Clerk of the City of Pensacola, Florida.

17.

In any dispute between the parties that arises out of or relates to this Agreement, the prevailing

party shall recover its reasonable attorneys' fees and costs from the non-prevailing party, whether incurred in negotiation, mediation, arbitration, litigation, or on appeal. The attorneys' fees and costs awarded shall also include the reasonable attorneys' fees and costs for proceedings to determine the entitlement to and amount of any award of attorneys' fees or costs. **The parties agree that the provisions of this Section 17 shall survive the termination of this Agreement.**

18.

Daily Convo covenants and agrees that it will not assign all or any of its rights, privileges or duties under this contract without the prior written approval of the Mayor or his or her designee, which approval will not be unreasonably withheld or conditioned. Any attempted assignment without prior written approval will be void. A change in the control or majority ownership of Daily Convo shall be deemed an assignment for purposes of this Section 18, requiring the prior written approval of the Mayor or his or her designee, which approval will not be unreasonably withheld or conditioned.

19.

PUBLIC RECORDS

The parties acknowledge that this Agreement is a public record under Florida Law, and agree to fulfill all obligations respecting required contract provisions in any contract entered into or amended after July 1, 2016, in full compliance pursuant to Section 119.0701, *Florida Statutes*, and obligations respecting termination of a contract for failure to provide public access to public records. The parties expressly agree specifically that the contracting parties hereto shall comply with the requirements within Exhibit "C" attached hereto and incorporated by reference. **The parties agree that the provisions of this Section 19 shall survive the termination of this Agreement.**

20.

NOTICES

Any notice required or permitted under this Agreement shall be in writing and shall be sufficient if personally delivered or mailed by certified mail, return receipt requested, addressed as follows:

If to City:

City of Pensacola
Attn: City Administrator
222 W. Main Street
Pensacola, Florida 32502

With a copy to:

City of Pensacola
Attn: City Attorney
222 W. Main Street
Pensacola, Florida 32502

If to Daily Convo:

Daily Convo, LLC
321 N. Devilliers St., Suite 103
Pensacola, FL 32501

With a Copy to:

Scott A. Remington
Clark Partington
125 E. Intendencia
Pensacola, FL 32502
PO Box 13010
Pensacola, FL 32591-3010

Notices mailed in accordance with the provisions of this Section 20 shall be deemed to have been given on the fifth (5th) business day following mailing. Notices personally delivered shall be deemed to have been given upon delivery.

III. MISCELLANEOUS

1.

No Joint Venture or Partnership

This Agreement shall not be construed so as to create a joint venture, partnership, employment, or other agency relationship between the parties to this Agreement.

2.

No Personal Liability

No official, director, officer, agent or employee of City or Daily Convo shall be charged personally or held contractually liable under any term or provision of this Agreement, or because of their execution, approval or attempted execution of this Agreement.

3.

Severability

The terms of this Agreement are severable. If any of the terms or provisions of this Agreement are deemed to be void or otherwise unenforceable, for any reason, the remainder of this Agreement shall remain in full force and effect.

4.

Governing Law

This Agreement shall be subject to and governed by the laws of the State of Florida, without regard for principles regarding choice or conflict of laws. The venue for the resolution of any disputes or the enforcement of any rights arising out of or in connection with this Agreement shall be in Circuit Court of Escambia County, Florida.

5.

Multiple Counterparts

This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

6.

Headings

Section and paragraph titles and headings are inserted for convenience only and in no way limit or define the interpretation to be placed upon this Agreement.

7.

Binding Effect

This Agreement shall be binding on the parties to this Agreement and their respective successors and permitted assigns. Further, this Agreement burdens the Daily Convo Property, shall run with said land, and shall be binding upon and enforceable against Daily Convo and each future owner in fee simple of the Daily Convo Property or any portion thereof or interest therein, and each and every such future owner shall be deemed to have assumed and agreed to perform all duties and obligations of Daily Convo under this Agreement. Accordingly, the term “Daily Convo” as used in this Agreement shall mean Daily Convo, LLC, its successors, permitted assigns and successors-in-title to the Daily Convo Property or any portion thereof or interest therein.

8.

Entire Agreement

This Agreement and its exhibits constitute the entire agreement and understanding between the parties and supersede any prior agreement or understanding relating to the subject matter of this Agreement.

9.

Modification

This Agreement may be changed, modified or amended only by a duly authorized written instrument executed by both parties to this Agreement. Each party agrees that no representation or warranty shall be binding upon the other party unless expressed in writing in this Agreement or in a duly authorized and executed amendment of this Agreement.

10.

Authority to Execute; Authority to Consent on Behalf of City

Each party to this Agreement represents to the other party that the person executing this Agreement on behalf of either party has the agency and authority to execute this Agreement and bind the party on whose behalf such person is executing this Agreement. Each party further represents that all actions necessary to approve this Agreement and to convey the authority to execute this Agreement have been properly completed as required by applicable law, ordinance, or other governing organizational documents.

Further, whenever the consent or approval of the City is required, requested or permitted under this Agreement, such consent shall be given, if at all, or withheld by the Mayor of the City or his or her designee.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective officials or agents thereunto duly authorized, as of the day and year first above written.

CITY OF PENSACOLA
a Florida municipal corporation

(AFFIX CITY SEAL)
Attest:

By: _____
Ashton J. Hayward, Mayor

Ericka L. Burnett, City Clerk

Signed, sealed and delivered in the presence of:

Print Name: _____

Print Name: _____

Legal in form and valid as drawn:

Approved as to content:

Lysia H. Bowling, City Attorney

Print Name: _____

Title: _____

Signed, sealed and delivered
of:

DAILY CONVO, LLC in the presence

Print Name: _____

By: _____

Print Name: _____

Title: _____

Print Name: _____

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017 by Ashton J. Hayward, Mayor of the City of Pensacola, a municipal corporation of the State of Florida, on behalf of said municipal corporation. Said person is personally known to me and/or produced a current Florida driver's license as identification.

NOTARY PUBLIC

(AFFIX NOTARY SEAL)

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2017 by _____, as _____ of Daily Convo, LLC, a Florida limited liability company, on behalf of said company. Said person is personally known to me and/or produced a current Florida driver's license as identification.

NOTARY PUBLIC

(AFFIX NOTARY SEAL)

EXHIBIT “C”

FLORIDA PUBLIC RECORDS COMPLIANCE REQUIREMENTS

Daily Convo shall comply with Chapter 119, Florida Statutes. Specifically, Daily Convo shall:

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

Failure by Daily Convo to comply with Chapter 119, Florida Statutes, shall be grounds for termination of this Agreement by City as provided herein.

IF DAILY CONVO HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO DAILY CONVO'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

THE OFFICE OF THE CITY ATTORNEY, (850) 435-1715, PUBLICRECORDS@CITYOFPENSACOLA.COM, 222 WEST MAIN STREET, PENSACOLA, FLORIDA 32502.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00195

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Gerald Wingate

SUBJECT:

AWARD OF FIVE YEAR CONTRACT TO WARREN AVERETT, LLC FOR REQUEST FOR PROPOSALS (RFP) 18-010 PROFESSIONAL AUDITING SERVICES

RECOMMENDATION:

That City Council, in accordance with Section 218.391 of the Florida Statute, select Warren Averett, LLC for award of a five (5) year contract for RFP 18-010 Professional Auditing Services. Further, that City Council authorize the Council President to take all actions necessary to negotiate and execute the contract, as well as approve and execute the annual letters of engagement.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On December 14, 2017, City Council voted to establish itself as the Audit Committee. A meeting of the Audit Committee was held on February 27, 2018 to establish the factors to use for the evaluation of professional auditing services and to approve the RFP. Proposals were received from five firms: Carr, Riggs & Ingram, LLC (Miramar Beach, FL); Mauldin & Jenkins, LLC (Bradenton, FL); Moore Stephens Lovelace, PA (Orlando, FL); Saltmarsh Cleaveland & Gund (Pensacola, FL); and Warren Averett, LLC (Pensacola, FL).

On April 23, 2018, the Audit Committee met to discuss and deliberate on the five proposals. After discussion, the members individually scored the proposals for all criteria excluding cost to arrive at a technical score. After individual scores were tallied, the committee voted to remove from further consideration Carr Riggs, & Ingram due to an unacceptably low technical score. Sealed fee proposals were then opened and a value between 0-10 was assigned to each fee by a vote of the committee, without the knowledge of which firm submitted the price. In accordance with the RFP, the lowest cost received 10 points and fractional scores were assigned to the other submitted prices. Once the point values were determined, proposed costs were matched and added to each firm's technical score.

The rankings of the firms and the proposed costs were discussed. The Audit Committee then approved the ranking of the firms as follows:

- 1) Warren Averett, LLC (\$467,600)
- 2) Saltmarsh Cleaveland & Gund (\$500,000)

- 3) Mauldin & Jenkins, LLC (\$502,700)
- 4) Moore Stephens Lovelace, PA (\$490,000)

When compensation is one of the established factors used for evaluation of audit services, Florida Statute requires that the governing body shall select the highest-ranked qualified firm or must document in its public records the reason for not selecting the highest-ranked firm.

PRIOR ACTION:

In June 2013, the City Council awarded a five year contract to Mauldin & Jenkins, LLC for professional auditing services.

FUNDING:

Budget: \$99,700

Actual: \$87,525

FINANCIAL IMPACT:

The all-inclusive maximum cost for auditing services is \$467,600 for the five year contract period.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Final Ranking Matrix

PRESENTATION: No

RFQ NO. 18-010

PROFESSIONAL AUDITING SERVICES

Audit Committee Meeting (04/23/18)

Written Evaluations

FIRMS Score	Jewel Cannada-Wynn	Sherri. F. Myers	Brian Spencer	Andy Terhaar	Gerald Wingate	TOTAL SCORE	RANK
Carr, Riggs & Ingram, LLC	57	45	63	66	77	308	N/A*
Mauldin & Jenkins, LLC	84	92	85	79	84	424	3
Moore Stephens Lovelace, P.A.	77	87	79	76	85	404	4
Saltmarsh, Cleaveland & Gund, P.A.	88	88	93	81	85	435	2
Warren Averett, LLC	86	93	94	74	89	436	1

Motion: Jewel Cannada-Wynn made a motioned to approve ranking by the committee.

Seconded: Andy Terhaar seconded the motion.

Vote: Unanimous

Note: Larry B. Johnson and P.C. Wu did not attend

*Audit Committee voted to consider top four firms

RFQ NO. 18-010

PROFESSIONAL AUDITING SERVICES

Audit Committee Meeting (04/23/18)

Written Evaluations

Evaluation Criteria Points

<u>Jewel Cannada-Wynn</u>	CRI	MJ	MSL	SCG	WA
1. Gov't audit experience	12	18	18	18	18
2. Defined Benefit Pension	2	5	3	4	3
3. Housing Assistance	3	5	4	5	5
4. Enterprise Funds	3	5	3	5	5
5. Quality	13	12	12	15	13
6. Size, Organization, Location	4	3	4	5	5
7. Adequacy of approach	12	18	15	18	18
8. Demonstrated understanding	3	5	4	5	4
9. Familiarity with CAFR	5	5	5	5	5
10. MBE/WBE/SBE	0	0	0	0	0
11. VBE	0	0	0	0	0
12. Cost/Fee Proposal*	/	8	9	8	10
	57	84	77	88	86

*Points were assigned by vote of the committee

RFQ NO. 18-010

PROFESSIONAL AUDITING SERVICES

Audit Committee Meeting (04/23/18)

Written Evaluations

Evaluation Criteria Points

Sherri F. Myers

	CRI	MJ	MSL	SCG	WA
1. Gov't audit experience	10	19	15	15	18
2. Defined Benefit Pension	0	5	5	5	5
3. Housing Assistance	0	5	5	5	5
4. Enterprise Funds	1	5	5	5	5
5. Quality	15	15	15	15	15
6. Size, Organization, Location	3	5	5	5	5
7. Adequacy of approach	10	20	18	20	20
8. Demonstrated understanding	1	5	5	5	5
9. Familiarity with CAFR	5	5	5	5	5
10. MBE/WBE/SBE	0	0	0	0	0
11. VBE	0	0	0	0	0
12. Cost/Fee Proposal*	/	8	9	8	10
	45	92	87	88	93

*Points were assigned by vote of the committee

RFQ NO. 18-010

PROFESSIONAL AUDITING SERVICES

Audit Committee Meeting (04/23/18)
Written Evaluations

Evaluation Criteria Points

<u>Brian Spencer</u>	CRI	MJ	MSL	SCG	WA
1. Gov't audit experience	15	20	20	20	20
2. Defined Benefit Pension	0	5	5	5	5
3. Housing Assistance	5	5	5	5	5
4. Enterprise Funds	5	5	3	5	5
5. Quality	10	10	10	15	15
6. Size, Organization, Location	3	2	2	5	4
7. Adequacy of approach	15	20	15	20	20
8. Demonstrated understanding	5	5	5	5	5
9. Familiarity with CAFR	5	5	5	5	5
10. MBE/WBE/SBE	0	0	0	0	0
11. VBE	0	0	0	0	0
12. Cost/Fee Proposal*	/	8	9	8	10
	63	85	79	93	94

*Points were assigned by vote of the committee

RFQ NO. 18-010

PROFESSIONAL AUDITING SERVICES

Audit Committee Meeting (04/23/18)

Written Evaluations

Evaluation Criteria Points

Andy Terhaar

	CRI	MJ	MSL	SCG	WA
1. Gov't audit experience	17	15	15	12	17
2. Defined Benefit Pension	2	5	5	5	2
3. Housing Assistance	2	5	4	4	4
4. Enterprise Funds	2	5	3	5	5
5. Quality	15	13	13	15	10
6. Size, Organization, Location	3	3	3	5	5
7. Adequacy of approach	18	15	16	17	13
8. Demonstrated understanding	5	5	5	5	5
9. Familiarity with CAFR	2	5	3	5	3
10. MBE/WBE/SBE	0	0	0	0	0
11. VBE	0	0	0	0	0
12. Cost/Fee Proposal*	/	8	9	8	10
	66	79	76	81	74

*Points were assigned by vote of the committee

RFQ NO. 18-010

PROFESSIONAL AUDITING SERVICES

Audit Committee Meeting (04/23/18)

Written Evaluations

Evaluation Criteria Points

<u>Gerald Wingate</u>	CRI	MJ	MSL	SCG	WA
1. Gov't audit experience	17	18	17	18	19
2. Defined Benefit Pension	5	5	5	5	5
3. Housing Assistance	5	5	5	5	5
4. Enterprise Funds	5	5	5	5	5
5. Quality	12	14	14	14	15
6. Size, Organization, Location	5	5	5	5	5
7. Adequacy of approach	18	14	15	15	15
8. Demonstrated understanding	5	5	5	5	5
9. Familiarity with CAFR	5	5	5	5	5
10. MBE/WBE/SBE	0	0	0	0	0
11. VBE	0	0	0	0	0
12. Cost/Fee Proposal*	/	8	9	8	10
	77	84	85	85	89

*Points were assigned by vote of the committee



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00182

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PUBLIC HEARING: PROPOSED AMENDMENT TO LAND DEVELOPMENT CODE SECTION 12-2-10 (C)(4)(b) HISTORIC AND PRESERVATION LAND USE DISTRICT ; OLD EAST HILL PRESERVATION ZONING DISTRICT; USES PERMITTED; OEHC-1 NEIGHBORHOOD COMMERCIAL DISTRICT.

RECOMMENDATION:

That City Council conduct the first of two required public hearings on May 10, 2018 to consider the proposed amendment to the Land Development Code Section 12-2-10 (C)(4)(b) Historic and Preservation Land Use District; Old East Hill Preservation Zoning District; Uses Permitted; OEHC-1, Neighborhood Commercial District.

HEARING REQUIRED: Public

SUMMARY:

The City has received a request from Dr. Laura Hall of East Hill Animal Hospital for an amendment to the Land Development Code Section 12-2-10(C)(4)(b) Historic and Preservation Land Use District Old East Hill Preservation Zoning District; Uses Permitted; OEHC-1 Neighborhood Commercial District. More specifically, Dr. Hall is requesting that the use of animal hospitals, veterinary clinics and pet resorts no longer require Conditional Use Permit approved and instead become a permitted use by right. In addition, Dr. Hall is requesting that this use be permitted with the stipulation that kennels must be fully enclosed, outside runs are not permitted but exercise areas are permitted. Dr. Hall recently appeared before the Special Magistrate for a code violation of having exercise areas in the OEHC-1 zoning district. The Special Magistrate gave Dr. Hall one year to resolve the issue. Dr. Hall is requesting this amendment in order to bring her property at 805 E. Gadsden Street into compliance.

On April 10, 2018, the Planning Board recommended approval of this amendment by a 4-1 vote with the stipulation that outside exercise areas must be supervised and limited to five (5) or fewer animals at one time.

The second public hearing for this item is scheduled to be held on June 14, 2018.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

4/25/2018

STAFF CONTACT:

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

ATTACHMENTS:

- 1) Applicant's Request, LDC Amendment 12-2-10, Dr. Laura Hall
- 2) Map of Impacted Commercial Districts in Old East Hill
- 3) Correspondence from Citizens, LDC Amendment 12-2-10, Dr. Laura Hall
- 4) Ruling from Code Enforcement Authority, 805 E. Gadsden Street, Dr. Laura Hall
- 5) April 10, 2018 Planning Board Minutes
- 6) Proposed Ordinance

PRESENTATION: Yes

Brandi Deese

From: Laura Hall <laura@drhall.us>
Sent: Friday, March 09, 2018 3:02 PM
To: Brandi Deese; Sherry Morris
Subject: OEHC1 Language change

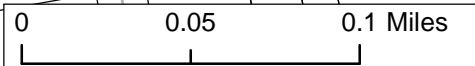
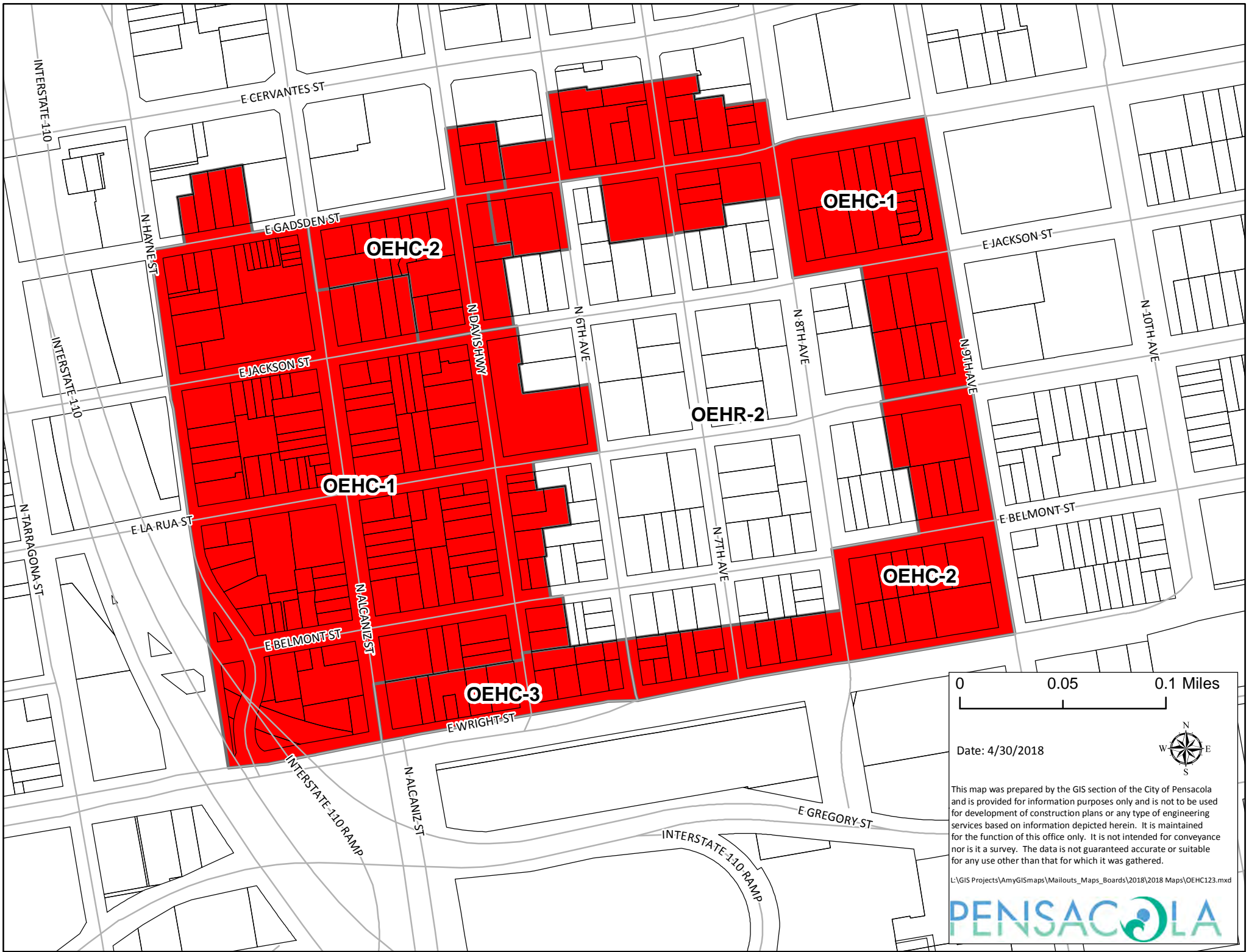
Afternoon,

I am requesting an amendment to land development code section 12-2-10 historic and preservation land use district. More specifically, section C, Old East Hill Preservation Zoning District, #4 Uses Permitted OEHC-1 section b: change permitted uses to: animal hospitals, veterinary clinics, pet resorts and with fully enclosed kennels, with no outside runs, exercise areas are permitted.

#6 Conditional uses permitted animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas be removed from the code.

Thanks for your time in advance,

Dr. Laura Hall
East Hill Animal Hospital
805 E Gadsden St. 32501
850-437-9932



Date: 4/30/2018



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

L:\GIS Projects\AmyGISmaps\Mailouts_Maps_Boards\2018\2018 Maps\OEHC123.mxd



Brandi Deese

From: president@historicnorthhill.com
Sent: Friday, March 30, 2018 10:24 PM
To: Brandi Deese
Cc: christianwagley@gmail.com; nicholsmelanie2@gmail.com
Subject: Planning Board Item - Request to consider Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District
Attachments: City_Council_Minutes_November_20_2008.pdf; Section_12_2_54_Animal_Hospitals_businesses_that_board_animals.docx; Section_12_2_32_Buffer_Yards.docx; Section_12_2_8_Commercial_Land_Use_District.docx

Brandi,

I hope this finds you doing well.

Our Board saw on the agenda that an amendment to the Historic & Preservation Land Use District, Section 12-2-10 was being proposed and reviewed the application and past history on the change in great detail.

It appears that the applicant has changed the wording of what is currently in Section 12-2-10 in their request, (added two words for a new land use not previously approved, or defined in the Land Development Code, "Pet Resort", and deleted the word "or". That one word "or" changes it from the current reading of "Animal Hospitals and Veterinary Clinics with fully enclosed kennels and no outside runs OR exercise areas" to now adding Pet Resorts AND exercise areas as an allowed Conditional Use..

I think that it would be very helpful if the Public and the Board: have a copy of what the existing Section 12-2-10 says on the subject, the background for the change in 2008, and where such a use that is being requested is currently allowed in the rest of the City (C-3 Zoning District) and that perhaps more clarification could be added to the Staff Memorandum. As it is now, the Board and Public don't know that the applicant is trying to put a C-3 type use in a C-1 Zoning District. This is a MAJOR change in the 12-2-10.

Here is the section of OEHC-1 from Section 12-2-10

(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.}

This is the exact same language that is in the Municipal Code for the same use in C-1 districts throughout the City. Our Board does not have an issue if the applicant makes this a permitted versus conditional use, however, we take issue to the addition of "Pet Resort" (not in the LDC and the removal of the word or which would allow outside exercise areas.

Previous to November 2008, Animal hospitals and veterinary clinics were NOT allowed in the OEH Zoning Districts. This same applicant, Dr.

Hall, petitioned to have them added in 2008 and was approved on the condition that there would be no outside runs or exercise areas.

It was very controversial and there was much concern about noise to adjacent residential property owners and Dr. Hall is on record saying that there would be no outside exercise areas. Sherry Morris is on record throughout the Council Hearing insisting that there would not be any outside runs or exercise areas. I have attached the minutes from the City Council meeting from November 17, 2008 which voted to approve the conditional use of animal hospitals and veterinary clinics with no outside runs or exercise areas. The minutes also contain numerous concerns by adjacent property owners.

Many of the residents concerns have materialized according to the Code Enforcement Complaint and Violation. I think that the Board and the Public should have a copy of the minutes from that CEB Meeting since it's referenced in your memorandum.

Has notice been mailed to the adjacent property owners about this new proposal before the Planning Board?

I would recommend that the Planning Board look in the Municipal Code to see where the facility the applicant would like to run would be allowed to occur. It is only allowed to occur in the C-3 Zoning District which is by no means comparable to the OEHC-1 District where this change would be made.

Dr. Hall is currently operating a Pet Resort with outside exercise areas that meets with the City's Municipal Code in the C-3 Zoning District near Hayne Street. (Not within the boundaries of Old East Hill governed by the ARB). The applicant's request to bring C-3 uses within the Preservation District is not compatible.

C-3, commercial zoning district (wholesale and limited industry)

(a) Any use permitted in the C-2 district. (Animal Hospitals and Vet Clinics with NO outside kennels, runs, or exercise allowed in C-2) but you can't have outside exercise areas until section (b) below in C-3

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

Section 12-2-54 is titled, Animal Hospitals, veterinary clinics, commercial kennels and businesses that board animals and contains minimum setbacks of 100 feet to a residence and must contain a buffer yard as described in Section 12-2-32 Buffer Yard.

There is no survey or diagram of the site in the application to see how close the clinic and outside exercise area would be to adjacent properties.

As you will see from the attached minutes and Memorandum from Thaddeus Cohen, Community Development Director and also signed by Sherry Morris, Planning Services Administrator, "The majority of those who responded were opposed to the proposed request" in 2008.

Now, additional changes are being proposed which will intensify the use on this property and the noise which could impair the quiet enjoyment of adjacent properties.

The North Hill Preservation Association Inc. does NOT support this change to the Historic and Preservation Land Use District. We strongly feel that such a change would negatively impact the families who make Old East Hill their home and who like us, have very small lots which are close together. Furthermore, such a change establishes a legal precedent which could be used to add this use to all the other Districts governed by Section 12-2-10.

In closing, the words of Robyn Tice to the City Council in November 2008 say it best, "Codes aren't written for one individual's benefit, they are to be to the benefit of the citizens/neighborhood as a whole".

Thank you for your consideration,

Melanie Nichols, President
North Hill Preservation Association, Inc.

Brandi Deese

From: Christian Wagley <christianwagley@gmail.com>
Sent: Tuesday, April 10, 2018 11:42 AM
To: Brandi Deese
Subject: Old East Hill

Hello Brandi:

In response to my email to our Old East Hill Property Owner's Association email list regarding the proposed change to the LDC regarding outdoor exercise areas at pet resorts and vet clinics in Old East Hill, I received the following:

Lou Courtney

to me

Christian, can you please forward this letter to our Old East Hill mailing list? I think it would be good to get it out sooner rather than later. Also I would like Melanie Nichols contact information if you have it. Thanks

I am a resident of Old East Hill and am concerned about the issue described below. Our next neighborhood meeting is **this coming Monday, April 9th**, at Mount Lily Church a few blocks away at 619 East Gadsden in the community center next to the church. Meeting begins at **6:30pm**. We will be holding board member elections that night also, so if you are property owner, please come vote! (you do not need to be an owner to attend meetings and voice concerns)

The East Hill Veterinary Clinic and Pet Resort Too on the corner of Gadsden and 8th Avenue is applying to CHANGE our neighborhood CODE. This is a dramatic change that will affect our entire district. **This vet clinic has been in violation since adding their outdoor run and exercise areas**, which they have been advertising on their website www.Pensacolapetresorttoo.com ('they go outside 5 times a day'). When this vet came into our area they were granted a Conditional Use permit. This type of permit is granted because the city thinks there may be unforeseen problems that arise and that might not be compatible. On their original permit application they clearly state there would be **'NO outdoor runs or exercise areas'**. At the time, it was explained that the boarding of pets was already established several blocks away at Pensacola Pet Resort on Hayne street and they would not board animals at the Gadsden location. This vet understood yet completely disregarded code restrictions. I anticipate they intend to expand their business in our area. Although we are a mixed use neighborhood, meaning that we allow for businesses with different restrictions in different areas, allowing this code change will impact us all negatively, both now and in the future. Speaking with several people who have been in planning and code enforcement for many years, they said that there are always unintended, negative, consequences after a code change even 8, 9, 10 years later.

As a neighborhood, we should have voiced concerns when the vet went to the magistrate a month or 2 ago to address their code violation. Unfortunately, it was not publicized and no-one showed up to speak against it.

WE STILL HAVE A CHANCE TO PREVENT THIS CODE CHANGE: We can attend the **Tuesday, April 10th CITY PLANNING BOARD MEETING** at 2:00 pm at **City Hall** in the Mason Conference room, 222 West Main Street. **SHOWING UP IN PERSON MAKES A DIFFERENCE. You can also write in ahead of time to Brandi Deese at Bdeese@cityofpensacola.com BOTH before April 10th and before May 10th**

*****IT IS ALSO IMPORTANT to SHOW UP** for the Thursday, **May 10th CITY COUNCIL MEETING** at 5:30pm at City Hall, where a decision will be made after hearing comments from the audience.

copyeditor@michaelkenneydesign.com

to me

Hello Christian,

Takes some study to understand this. (For example, on the map of Old East Hill, there's OEHC and OEHR and I'm not sure of the meaning of C and R.) I doubt any ruling would affect us; it's those folks who live close to the clinic who ought to have a sayso. But one more thing: What are the ramifications for the whole neighborhood in the future? When Dr. Hall petitioned to get a zoning change so she could open the clinic, I saw it as continued encroachment by businesses such that in the future they could be right next door. That might be far away, but the encroachment process itself might cause grief, little by little.

Or course, most of what I just said is my imagination.

By the by, do you happen to know what's going to be done with that empty lot across the street from Bill and Nanette's?

Hope to see you Monday,

Jerry

Christian,

Thank you for this information.

I may not be at the meeting so here is my position.

I am strongly against changing OEHC-1, which equates to about half the neighborhood, to allow **animal hospitals, veterinary clinics, and pet resorts with fully enclosed kennels and no outside runs; outdoor exercise areas are permitted** by right. *The placement of a new Animal Facility with an outside exercise area in a primarily residential area should not be allowable by right. This should be a conditional use and the neighbors should have say as it could affect their enjoyment of their own home.*

I personally have no issue with Dr Halls current facility but I also don't live close to it.

It seems her specific issue is what should be addressed, not code for an entire area (OEHC-1). And her issue should be addressed with input from her neighbors near by who are potentially affected by this. (Maybe they have no issue with the facility as it is and could work with her and the city to come up with a variance. I don't know)

Sincerely,

Mark Casson

Brandi Deese

From: Amber Hoverson <amberlynnie1@gmail.com>
Sent: Tuesday, April 10, 2018 11:39 AM
To: Brandi Deese
Subject: Section 12-2-10

Brandi,

My name is Amber Hoverson and I live at 706 E Jackson Street in Old East Hill preservation district. I am writing in regards to the amendment to the Historic and Preservation Land Use District, Section 12-2-10 that is being proposed

My husband and I moved to our home in Old East Hill in 2010 so we were not here when the original code was changed in 2008 to allow for veterinary clinics. My understanding is that many of the homeowners were not in favor of the code changing because they were concerned about noise, overcrowding, parking, the structure's design complementing the neighborhood's integrity, and lastly changing the precedence in which our neighborhood's codes were originally designed and created for.

Here are my observations of East Hill Veterinary Clinic and Pet Resort Too for the past few years: I live a block away from the clinic.

1. The structure is very much in keeping with the integrity of our neighborhood. I think the owner/designers did an excellent job adhering to, even elevating the way remodels and new construction should be treated in our historic preservation district.
2. Having a vet and groomer in the neighborhood is convenient. I've been able to walk my pet to get groomed instead of stressing it out by driving. My In-Laws have also taken advantage of boarding their dog at the Pet Resort when visiting from out of town.
3. Parking can be a problem. The street gets congested and there have been several instances where I've had to stop driving on 8th avenue for someone pulling out of the parking lot that either couldn't see me or wasn't paying attention.
4. Noise from the barking dogs is a problem. Both my husband and I are home all day and the noise can be distracting and annoying. It seems that the barking noise has become more bothersome within the last 6 months.

Here are my concerns about the current proposal to amend section 12-2-10 further:

1. I don't think that any codes should be changed for an individual business. Codes are written for a reason and changing them should benefit the entire neighborhood, not just an individual/business. Also, if changing a code is easy to do current codes lose their authority and people are less likely to comply with them to begin with. This equates to more code violations in general and people doing what they want because they can.

2. We are a mixed use neighborhood so there is commercial zoning throughout the area. The proposed change could hypothetically allow for a veterinary clinic or animal hospital with dogs barking throughout the day to open anywhere within the neighborhood with commercial zoning. Which means hypothetically we could have barking dogs scattered around our entire neighborhood instead of concentrated in one area. Noise pollution lowers home values and quality of life.

3. As someone who has had to go to the ARB several times to get approval for our own home's renovations I can speak to strict guidelines that are in place. The majority of structures in our neighborhood are people's homes. It seems grossly unfair to me that homeowners are held to such strict standards for the exterior renovation of our homes but a business (someone who makes money here) can violate a code (which is a law and not merely a guideline as in the case of the ARB), have a year to come into compliance with the code, and has the option of changing the code so that the business can continue to do what it has always done. Also consider that homeowner's guidelines set in place by the ARB only influence what we see. The proposed code change affects what we hear. A person can make a choice to ignore something they find ugly in the neighborhood, but noise pollution cannot simply be ignored, even from the interior of a home.

I congratulate East Hill Veterinary Clinic and Pet Resort Too on its business success, however as the saying goes, there is a time and place for everything. The place for the part of her business that includes outdoor runs or exercise areas is not Old East Hill. This is a place that is primarily made up of charming old houses and a scattering of small businesses that are either unobtrusive or adding to the charm. We live in a very special place and it is exciting to see the growth that our community has experienced. Allowing a business to change the code to suit its needs does not set us up for success. The needs of the community need to be put before anything. We will survive without a pet resort in the neighborhood but we will not survive if we are known as the noisy neighborhood with the barking dogs because we are the only C1 zoning area that allows for C3 noise.

Sincerely,

Amber Hoverson

Brandi Deese

From: Charles Voltz <voltzpj@yahoo.com>
Sent: Thursday, April 05, 2018 8:06 PM
To: Brandi Deese
Subject: Proposed LDC Amendment for Old East Hill Preservation District

My address is 603 N. 8th Avenue. This puts me across from East Hill Animal Hospital on the same block. I am writing to voice my strenuous objections to Ms. Hall's proposed changes to the land development code for a neighborhood in which she chose to place a business, with full knowledge of what the limitations to that business would be.

Ms. Hall has been in violation of the code for quite some time now. Her casual disregard for the people who have property, children, investments, and long-term regard for the neighborhood is obscene. I have been subjected to hour after hour of 8-10 dogs barking in an enclosure behind her business, IN VIOLATION OF THE CODE. Countless times, I have witnessed her clientele using our neighborhood as a repository for their dogs' feces, IN VIOLATION OF THE LAW. Nearly every day of the week, she and her employees use the City's grass easement (between the sidewalk and 8th Avenue) as a parking lot, IN VIOLATION OF THE LAW.

I remember distinctly when Ms. Hall showed up years ago with a lot of promises and assurances. In truth, she has been a very poor neighbor, and this beautiful piece of historic Pensacola is dirtier, louder, trashier, and more congested for Ms. Hall having been here. We take care of this place because it is our home. Clearly she does not feel the same responsibility.

The Code was not written for or against Ms. Hall, so there is no compelling reason to amend it for Ms. Hall. She knew what the Code said when she located here, and she chose to violate it over and over and over. Now she wants the Planning Board, whom she has pointedly ignored, to change the Code solely for her benefit? For her to even make this request, after what she has done to our street, is outrageous.

I would prefer Ms. Hall pack up her business and move it to a location in which the Land Development Code suits her goals. Otherwise, I fully expect the City of Pensacola to reject this ridiculous request, and then get serious about enforcing the existing regulations to bring this business into compliance. Thank you.

Sincerely, Charles Voltz and Dr. Stacey Rimmerman

Brandi Deese

From: Lou Courtney <loumitchell@loumitchell.com>
Sent: Monday, April 09, 2018 8:12 AM
To: Brandi Deese
Subject: East Hill Vet Clinic

Having been a resident of Old East Hill for over 20 years, I am adamantly opposed to the request for code change by the East Hill Veterinary Clinic and Pet Resort Too. This vet clinic has been in violation since adding their outdoor run and exercise areas. When this vet came into our area they were granted a Conditional Use permit. This type of permit is granted because the city thinks there may be unforeseen problems that arise and that might not be compatible. On their original permit application they clearly state there would be '**NO outdoor runs or exercise areas**'. At the time, it was explained that the boarding of pets was already established several blocks away at Pensacola Pet Resort on Hayne street and they would not board animals at the Gadsden location. **This vet understood yet completely disregarded code restrictions.** As their business has grown, the number of barking dogs has increased and gotten louder. I work at home and am often outside. Even though I am a block away, the noise is very loud and obnoxious and, as their website advertises, it occurs when **they take the dogs out '5 TIMES A DAY'**. I am asking the planning board to SAY NO to this request and to enforce the existing code. I am disappointed they have been given a YEAR to come into compliance.

City Code was created to protect the majority of the citizens, not for special interest groups. We are a small, HISTORIC PRESERVATION neighborhood. Our quality of life is diminished by this NOISE POLLUTION.

I anticipate they are attempting to change this code because they intend to expand this business in our district. If they need to expand their business they should find an area more compatible with their needs. Although we are a mixed use neighborhood, meaning that we allow for businesses with different restrictions in different areas, allowing this code change will impact our ENTIRE DISTRICT negatively, both now and in the future. Speaking with several people who have been in planning and code enforcement for many years, they said that there are always **unintended, negative, consequences after a code change even 8, 9, 10 years later.**
Lou Mitchell Courtney
523 N 8th avenue

Brandi Deese

From: theresa finkbeiner <coyotemoonherbcompany@cox.net>
Sent: Sunday, April 08, 2018 7:19 PM
To: Brandi Deese
Subject: 805 E. Gadsden St code ordinance

Dear Ms. Deese,

i became aware of an ordinance that Laura Hall wants to remove from the Code at 805 East Gadsden St.

This is not a good move. As a Licensed Massage Therapist and renter at Innerpeace 815 E. Gadsden,

the dog barking noise will be unavoidable. I give massage throughout the day along with 3 other therapists

and we are not happy to hear of a dog run and kennels outside. This is a residential area too and the noise can be unnerving.

I hope you will consider the people on the whole block on Gadsden St and around the corner.

No one wants to listen to dogs barking all day and night. Please do not remove the code ordinance for this area.

When she bought here, she knew the deal and has broken the code already. Can you please put an end to it right now!!

Thank you for your consideration, I am not able to attend the meeting on this topic .

Theresa Finkbeiner 437 9192

Brandi Deese

From: Lou Courtney <loumitchell@loumitchell.com>
Sent: Tuesday, April 10, 2018 10:53 AM
To: Brandi Deese
Subject: Vet code change letter vote

I have been a home owner in Old East Hill for over 20 years. I am opposed to the code changes proposed by Dr. Laura Hall regarding East Hill Veterinary Hospital/ Pet Resort. I already hear loud nuisance barking off and on throughout each day. She was granted **conditional use** and has not abided by the original code which was written as a condition for allowing her business into the neighborhood. Why is the city even considering changing a land use code for one business when it will affect all residents negatively and open up unforeseen complications years down the road? I am OPPOSED to these changes.

Michael Courtney
523 N 8th avenue

Brandi Deese

From: Laura Dean <laurad@portofinoisland.com>
Sent: Friday, April 06, 2018 3:01 PM
To: Brandi Deese
Subject: East Hill Vet

Planning and Zoning board:
Attention Brandi Deese

This letter is to serve as a statement that my home is directly behind Dr. Laura Hall's businesses. My back yard shares a fence with the pet resort yard. I have never had any issue with her business, employees, customers or clients. I have had no noise, odor or parking concerns. Nor have any of the residents living in my home.

I am in favor of any code change that will allow her to continue to conduct her business with the intended use that the city allowed in 2008. She has conducted herself in a professional manner and has been a pleasant addition to the neighborhood.

Sincerely,

Ken Norris 804 East Jackson

Show quoted text

Brandi Deese

From: Laura Hall <laura@drhall.us>
Sent: Monday, April 09, 2018 10:53 AM
To: D. Brandon Cobb; Brandi Deese
Subject: Re: neighbor favor!

thanks!

On Mon, Apr 9, 2018 at 10:51 AM, D. Brandon Cobb <dbrandoncobb@gmail.com> wrote:

Laura Hall, DVM
East Hill Animal Hospital
805 East Gadsden Street
Pensacola, Florida 32501

Good morning, Laura. Please forward the following letter to whomever you deem necessary.

April 9, 2018

RE: East Hill Animal Hospital

To whom it may concern:

I, D. Brandon Cobb, am the property owner at 811 East Gadsden Street, the property directly next to East Hill Animal Hospital. This property has been mine or in my family since before East Hill Animal Hospital came to be our neighbors. It is my understanding that there have been some complaints about the clinic and the animals there.

While I do not currently reside full time in the building (as I am staying with my great aunt who has had a stroke and help manage her care), I am there periodically and have a working knowledge of the neighborhood. In addition, we had a tenant in the property for over twelve years. I am listing these facts so that you will have an idea of our involvement with our neighbors.

East Hill Animal Hospital has never given me or my tenant any reason to raise a complaint. They have been good and considerate neighbors even taking the extra effort and asking if I minded them using the parking in front of my home rather than just telling their employees or customers to park there. As I am not there, I have had no issue with them using the property which is, after all, part of the public right of way along Gadsden street.

East Hill Animal Hospital has added to our diverse neighborhood and done so while keeping the charming look of Old East Hill in mind. I count them as an asset to our community.

On a personal note, it is extremely convenient to walk next door when I have any veterinary need.

If you have any further questions, I can be reached by phone at 850.748.2200, by email at dbrandoncobb@gmail.com, or by U.S. Mail at 811 East Gadsden Street, Pensacola, Florida 32501.

Cordially,
D. Brandon Cobb

On Fri, Apr 6, 2018 at 1:45 PM, Laura Hall <laura@drhall.us> wrote:

----- Forwarded message -----
From: **Laura Hall** <laura@drhall.us>
Date: Fri, Apr 6, 2018 at 1:44 PM
Subject: neighbor favor!
To: cobb@gmail.com

I have an annoying, waste of time, situation I was hoping you could help me with. :)

I have never had any sort of complaint or issue with the city with any of my 3 businesses but in the recent months my staff has been legally "on street" parking so an anonymous neighbor made a complaint and became frustrated when she was told the parking was legal so she started snooping around for something else to complain about. So, she told the code enforcement officer that she heard dogs barking and followed the barking onto my property and saw 14 dogs in the yard. Not true, not ever!! She then took the time to watch my video on my website "Pensacola Pet Resort, too" and it does say that we allow the "play time is offered next" and "afternoon playtime before dinner" and "offered 5 leash free outings a day 365 days a year". "In 1 of 3 clean shaded and spacious exercise yards" .. all true. **Never unattended always in the fence, always under direct control.**

She then looked up the code and saw my conditional use in OEHC-1 that said " animal hospitals or Veterinary Clinics with fully enclosed kennels and no outside runs or exercise areas." The distinction was a distinction with C3 in which outdoor runs are allowed- see pics attached below. Very sadly, after a lengthy explanation, (see letter also attached) Code Enforcement turfed the issue saying that they could not make that distinction or interpretation and that I had to go before a magistrate which is next Tuesday. (Needless to say once I found out the parking was a concern of a neighbor I asked my staff to stop doing it that problem is solved.) I asked code enforcement to have the lady come talk to me and she refused and wanted to remain anonymous- probably because she lied and trespassed!

I went to the magistrate for a proposed code violation and he could not rule on the interpretation so gave me a year to get the wording changed so there is no concern in the future, he was very nice. The city is behind the change as I have always complied with the intended use, but as always there are some crazy neighbors opposing any change even though it is no change from my original use, just a clarification about the language.

I would love it if as a direct neighbor to my business you would write a letter saying something like you have never had noise or odor complaints or congestion or any issues at all that this business has in fact improved the lot etc etc.

I can write something for you to copy and paste into your email?
Thanks, the meeting is Tuesday with planning and zoning!

Have a good day! Bet it is beautiful in NC- you in the mountains?

Dr. Laura

I sent this to president of local association:

"1) pet resorts were already allowed-- I did not have any changes with the code for that, all uses were to be indoors such as boarding, grooming, exchange of pets and products etc. and they are, the dogs go out to potty and play shortly less than 5-10 mins at a time and always attended. I have no formal or informal complaint of noise at all since 2010 when I opened my doors or of dog droppings, odors, traffic or anything. It's just the recent on street parking that lead to all of this.

2) the term 'outdoor exercise areas' in the conditional use is what all the fuss is about--- how is that interpreted? It was interpreted in 2008 by planning and zoning and city council to mean no outdoor runs or exercise areas in which the dogs are housed outside overnight and where the dogs have access via a dog door to go in and out at free will. Never are my patients left unattended. Never, it is always like you saw it 1 or 2 staff members 1 or 2 dogs, at times like on my video at PensacolaPetResort, too you will see we do have groups that go out together: we have old dog play, young dog play, rowdy dog play etc and all of these dogs are under 40#-- never unattended never barking always playing or pottying! they are done playing in 5- 10 mins and we let them back inside, in the summer heat it is even less and we have indoor playtime. (so let's call it a potty yard and a play yard not an exercise yard)

I realize that it was our mistake in 2008 for not giving more detail in the code, that is why we are correcting it now. All it takes is 1 person to challenge the black and white of the law. Even though her claims were false and in my opinion she not only lied but she trespassed. I am a rule follower and have improved the area and I am passionate about my career, my family and my employees and the East Hill Neighborhood which I have been a part of since 2002!! I would be happy to give anyone a tour as I did you."

12-2-10 (C)(4)(b)6 & 5(n) of the Code of the City of Pensacola, Florida.
 of the Florida Building Code.
 of the Standard Housing Code.
 of the International Property Maintenance Code.

2. The City prevailed in prosecuting this case before the Special Magistrate Judge. If the City has already incurred costs to date in attempting to abate this violation and has requested that they be determined at this time, the Special Magistrate Judge finds the City's costs to be \$ _____. [If the City has not as yet requested that its costs to date, if any, be determined at this time and/or if it later incurs costs to abate this violation, those total costs shall be administratively entered in this blank: \$ _____.]

3. The aforesaid violation(s) or the condition causing the violation(s) does (do) not present a serious threat to the public health, safety, or welfare and/but the violation(s) or the condition causing the violation(s) is (are) not irreparable or irreversible in nature.

C. ORDER:

Based on the above and foregoing findings and conclusions, it is hereby

ORDERED that:

1. **The respondent(s) must correct the apparent violation(s) before February 5, 2019, by discontinuing allowing animals to run and exercise outside the pet shop/vet clinic. Immediately after this work has been completed, the respondent(s) must call the City Code Enforcement Office at (850) 436-5500 to schedule a re-inspection of the property to confirm that it has been done to code and/or completed.**

2. In the event this order is not complied with before the above compliance date, **as early as at the City Code Enforcement Authority Meeting and Hearings scheduled to take place beginning at 3:00 P.M. (Central Time) on Tuesday, February 5, 2019, or at any such meeting and hearings thereafter,** without further hearing or notice to the respondent(s), : **A FINE MAY BE ASSESSED AGAINST EACH RESPONDENT AND THE ABOVE-DESCRIBED PROPERTY IN AN AMOUNT UP TO AND INCLUDING TWO HUNDRED FIFTY AND NO/100 DOLLARS (\$250.00) PER DAY** for that day and each and every day thereafter any violation continues to exist; and, without further hearing or notice to the respondent(s), **A LIEN MAY BE IMPOSED AGAINST ANY AND ALL REAL AND PERSONAL PROPERTY OWNED BY THE RESPONDENT(S) WHICH IS NOT LEGALLY PROTECTED FROM ENCUMBERANCE AND LEVY; AND THE COSTS INCURRED BY THE CITY IN SUCCESSFULLY PROSECUTING THIS CASE MAY BE ASSESSED AGAINST THE RESPONDENT(S).**

3. It is the responsibility of the respondent(s) to contact the above-named City Office prosecuting this case to arrange for re-inspection of the property to verify compliance **AS SOON AS IT IS ACHIEVED.**

4. If the violation(s) is (are) corrected and, thereafter, a City Code Enforcement Officer finds that a repeat violation has occurred, a fine in the amount of up to and including Five Hundred and no/100 Dollars (\$500.00) per day may be assessed against the respondent(s) for each day the repeat violation is found to have occurred by the City Code Enforcement Officer and for each and every day thereafter the repeat violation continues to exist.

5. Pursuant to Sections 162.07 and 162.09, Florida Statutes, without further hearing or notice to the respondent(s), the original or a certified copy of this and/or any subsequent Special Magistrate Judge's order may be recorded in the public records of Escambia County, Florida, and, once recorded, CONSTITUTES NOTICE TO AND MAKES THE FINDINGS OF THIS ORDER BINDING on the respondent(s) and any subsequent purchasers of the property, and any successors in interest or assigns of the respondent(s).

6. Jurisdiction of this matter and the parties is retained to enter such further orders as may be appropriate and necessary.

7. Any aggrieved party hereto, including the City, may appeal this order to the Circuit Court of Escambia County, Florida, within thirty (30) days of the entry of this order.

ENTERED on February 8, 2018, at Pensacola, Florida.

PENSACOLA CODE ENFORCEMENT AUTHORITY

Louis F. Ray, Jr.

(Signature of Special Magistrate Judge)

Louis F. Ray, Jr.

(Printed Name of Special Magistrate Judge)

[SEAL]

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The execution of the foregoing order was acknowledged before me on February 8, 2018, by Louis F. Ray, Jr., as Special Magistrate Judge for the City of Pensacola, Florida, who is personally known to me and who did take an oath.

This original order was prepared by
and ATTESTED to by:

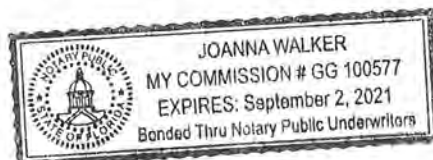
Joanna Walker
Florida Notary Public &
Administrative Officer of the
Code Enforcement Authority of the
City of Pensacola, Florida
Post Office Box 12910
Pensacola, FL 32521-0001
(850) 436-5500

Joanna Walker

(Signature of Notary and Administrative Officer)

Joanna Walker

(Printed Name of Notary & Admin. Officer)





PLANNING SERVICES

THE UPSIDE *of* FLORIDA

MINUTES OF THE PLANNING BOARD

April 10, 2018

MEMBERS PRESENT: Chairman Paul Ritz, Nathan Monk, Nina Campbell, Kurt Larson, Jared Moore

MEMBERS ABSENT: Danny Grundhoefer

STAFF PRESENT: Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner, Steve Richards, Code Enforcement Officer, Rusty Wells, Assistant City Attorney, Lysia Bowling, City Attorney

OTHERS PRESENT: Barbara Chapman, Laura T. Hall, Amber Hoverson, Lou Courtney, Steven Shelley, Damian Zimmerman, Bruce Partington, John Myslak, Betty Bowlin Hinote, Don Kraher, Council Executive,

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from March 13, 2018
- New Business:
 1. Request for License to Use Right-of-Way – Intendencia Street - Southtowne
 2. Consider Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District
- Open Forum
- Adjournment

Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:00 pm with a quorum present.

Approval of Meeting Minutes

Mr. Larson made a motion to approve the March 13, 2018 minutes, seconded by Mr. Monk, and it carried unanimously.

New Business

Request for License to Use Right-of-Way – Intendencia Street - Southtowne

Daily Convo is requesting approval for a License to Use for improvements within the Intendencia Street right-of-way in connection with the Southtowne Development. This request is unique in that the project will provide a large amount of improvements within the right-of-way of Intendencia and the perimeter of the development, however, the property owner will assume maintenance for these improvements. This will be agreed upon in the form of a modified License to Use agreement between Daily Convo and the City. This request has been routed through the various City departments and utility providers with those comments provided.

Bruce Partington presented to the Board and stated the project presented today was the final piece of the development.

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

222 West Main Street Pensacola, FL 32502 / T: 850.435.1670 / F: 850.595.1143/www.cityofpensacola.com

He explained he had negotiated at length with the City Attorney for the License to Use (LTU) which will comply with all city requirements. Daily Convo would bear 100 percent of the construction and ongoing maintenance. He indicated the project would be aesthetically consistent with the existing structures.

Chairman Ritz appreciated the work placed into the overall project with the level of quality, concern for citizens, and addressing the environment. He also appreciated the use of the right-of-way for bettering the entire development and believed this would be a better treatment of the roadway than the city could execute without private dollars. The size of the development showed the level of commitment over the span of time. **Mr. Larson made a motion to approve, seconded by Ms. Campbell.** Mr. Larson pointed out he liked the public-private partnership and wanted to take the opportunity to try this LTU in a different manner. Ms. Campbell noted the utility comments, and Ms. Deese advised the project had oversight through the Engineering Department. Mr. Monk wanted to state a no conflict of interest since at the inception of Southtowne, he was an employee of Studer Properties, however, none of this discussion was going on at that time. Chairman Ritz advised since Mr. Monk was not in play for any financial gain, no conflict of interest would exist. **The motion then carried unanimously.**

Consider Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District

The City has received a request from Dr. Laura Hall of East Hill Animal Hospital for an amendment to Land Development Code Section 12-2-10 Historic & Preservation Land Use District. More specifically, Dr. Hall is requesting that the use of animal hospitals, veterinary clinics and pet resorts (with fully enclosed kennels, with no outside runs, exercise areas are permitted) no longer require Conditional Use Permit approval and instead become a permitted use by right. Dr. Hall recently appeared before the Special Magistrate for a code violation of having exercise areas in the OEHC-1 zoning district. The Special Magistrate gave Dr. Hall one year to resolve the issue. Dr. Hall is requesting this amendment in order to bring her property into compliance.

In reviewing the Code Violation form, Chairman Ritz note the violation involved dogs running outside of the building which was not allowed. Ms. Deese advised a Conditional Use Permit would no longer be necessary, and it would become a permitted use by right. Chairman Ritz pointed out even though it was for one piece of property, if we keep changing the Code, the neighborhood could lose some of its character. One of the issues was encroachment and movement of commercial businesses within the residential neighborhood. But on the positive side, customers appreciated Dr. Hall's services and the convenience of having her clinic at this location. The change to the Code would become area-wide and not just for one property. Mr. Monk wanted to clarify that this change would allow for exterior exercise areas for pets in the clinic or the resort during business hours. Chairman Ritz advised there were no time limitations. Ms. Deese confirmed that since the ordinance does not define that, another use could come in by right without a Conditional Use Permit, and there would not be any ability to add those stipulations; they could operate at any hour, however, they would still operate under the noise ordinance.

Dr. Hall stated she had been in the OEHPD since 2007. She explained she put the outdoor exercise area provision in herself and had operated since 2007 with no formal complaints. Her pet resort was given the same rights as pet shops. She explained she attended the neighborhood association meeting and understood their concerns with businesses, future expansions, and parking. She explained all noise ordinances would still be intact, and this change in the Code would simply allow her to continue the business the City had allowed. She indicated the Magistrate from the Code Enforcement hearing advised her to change the Code so a violation would not happen again.

Ms. Campbell confirmed that the business had improved the neighborhood while maintaining the architectural integrity and spirit of that area. Chairman Ritz had not noticed a parking issue. In full disclosure, Ms. Campbell explained that Dr. Hall was her veterinarian, and her pets had stayed at the pet resort; she had not been overwhelmed with noise on the inside or outside. She stated when addressing these issues, certain areas of the community want to be self-sufficient as a sub community, and if that was the case, it might be appropriate for a pet resort to go in; Dr. Hall did bring a lot of business into the area.

Lou Courtney agreed Dr. Hall had a great reputation and was a great businesswoman. She explained a lot of the neighbors were opposed to the business when it was originally permitted because of the barking. Ms. Courtney lives one block away and observed the animals go outside five times a day, and the noise gets loud during the summer and during holidays. She indicated she worked from home in a studio and had followed the noise to observe 20 dogs within the exercise area with an attendant present. However, she was unable to address the attendant because of the noise. She applauded the doctor for the integrity of the architecture, but noise pollution was a serious issue. She also pointed out the doctor could sell the clinic, and the next owner might not be as conscientious. She also explained they do not like changes that hurt property values, aesthetic values, or quality of life. She explained there were no neighbors immediately adjacent to the doctor; one was being used for storage and the two behind were vacant. Joshua Gleaton appeared before the Board and stated he works from home does hear the dogs barking and it is a noticeable background noise. He did appreciate what the doctor's business had brought to the neighborhood but was concerned the Code change would allow for the continuation and the addition to what he sees as an existing problem. He felt changes to the Code should benefit the community and not just a few people. He stated Dr. Hall had indicated she was involved with the original language, and he was concerned with the result of changing the Code when someone is found in violation, and he did not see the benefit being for the neighborhood but for only one business.

Steven Shelley advised he had been an East Hill resident for 50 years, and even though the business was not in East Hill, he wanted to comment that when she was with Sacred Heart, she was well respected and loved. He was amazed in driving up to the facility how little noise was heard. He stated her business is exactly what the community was looking for.

Amber Hoverson, President of the OEHPA, was at the meeting and as a neighborhood, they were opposed to the Code change. She explained they were not opposed to change but were concerned with the noise and that some other business could come in and not be as mindful of the neighborhood. Also, as a homeowner of a contributing structure, she felt it was not fair when a homeowner in this district is required to go before the ARB and comply with their guidelines. However, this is a law that is being considered; she expressed you can avoid ugly but you cannot avoid noise, and many of the older homes are not insulated.

Betty Bowlin Hinote with Innerpeace Massage Therapies behind the McDonald's stated she had heard barking during therapy sessions, and they would lose business if the noise continued during treatments. She explained patients do sleep during therapy sessions, and the business maintains a quite atmosphere. She further stated the Code was set up to protect the interest of owners, their property values, and safety. She stated she had been at this location for 17 years and felt her property might lose value if the Code is changed. She had visited the pet resort on Hayne Street, and it was absolutely too loud, and if the Code is changed to include any hour, this noise would also be outside. One of her therapists left a note to her to make sure this does not happen since there will be barking dogs while the therapies are in session. Mr. Monk asked how long she had been in business, and she stated they had been operating there 17 years. She was not sure how much business she had already lost. With the Code change and having the dogs outside along with the possibility of a growing business, the problem might get worse. Mr. Monk asked if any customer left an appointment because of the barking dogs. Ms. Hinote explained they could not know if a person did not return because their session was disturbed. She further explained the Code protects against many issues, but she could not provide any solid facts supporting loss of income since this would be speculative. She did emphasize with a change in the Code, the situation would likely get worse.

Chairman Ritz stated as he reflected back from 2008, the noise issue was of concern. At that time, many Old East Hill residents were concerned with the noise; there were no outside exercise runs at that time. As of today, some of those members still do not embrace the idea of outdoor exercise runs, which have been consistent from then to now. He explained the idea of a Conditional Use allows for

checks and balances to occur should situations change. Changing the Code affects the entire area, and if another veterinarian should choose to come in, they could put in an outside run a block away. He advised one of the reasons for the Conditional Use being granted at that time was that a lack of outside runs would prevent a noise issue. He said he tended to think on the side of the neighborhood who opposed it in light of the way it came before the Board the first time. Mr. Monk emphasized the historic nature of East Hill and the Van Gogh Coffee Shop where the youth populated; the 309 house was a safe place for train hoppers and both were a part of the history of this community. It was constantly shut down because of noise complaints. His opinion was if you want quiet, don't live in the city which includes traffic, movement, and noise.

Ms. Campbell questioned how long this area had been business and residential, and Ms. Deese advised since its inception in the late 90s. Dr. Hall pointed out nothing would change since the dogs had already been entering an exercise yard. The exercise yard simply means they go out and exercise and come back in. Ms. Campbell indicated aside from the most recent complaint, the doctor had no other complaints and thought that was an interesting observation; it seemed the problem was not with the dog resort or the veterinarian but the noise level. She questioned if anyone had come up with a build-out for sounds. Dr. Hall stated she had investigated other resorts in the city which are all C-1, but they were not in a historic neighborhood, and when she went to change the Code in 2008, they placed the language in there. She advised at that time, parking was the main concern. She also explained as a property owner, she would be using outside cameras to protect her interests and confirm activity documenting the number of dogs.

Chairman Ritz clarified a Code violation was issued which stated "There are dogs running and exercising outside this facility which has a Conditional Use Permit which prohibits same and the condition constitutes an apparent violation of the Conditional Use Permit." Ms. Deese verified the Code violation was because there were dogs outside. She explained there was a video on the website showing how many times animals go outside into the exercise areas which was the specific Code violation. Dr. Hall explained exercise areas were where dogs were left unattended, which was not the case in her exercise areas. Mr. Moore asked if the change was approved, would it allow dogs to be left unattended. Ms. Deese referred to Dr. Hall's request for fully enclosed kennels with no outside runs and exercise areas are permitted. She explained there are scenarios where there are no outside runs, but the animals could go outside unsupervised, which was not Dr. Hall's intent. Mr. Monk asked if the Board had the authority to limit the number of animals allowed within a square footage. Ms. Deese advised the Board could include in the recommendation to City Council added conditions amending Dr. Hall's request. She clarified that the amendment takes it out of a Conditional Use Permit and makes it a standalone by right use. Chairman Ritz emphasized Conditional Use historically was used as a check and balance. Ms. Deese pointed out limiting the number of animals would be a challenge to enforce. Dr. Hall emphasized she wanted to operate her business as the City gave her permission to ten years ago.

Ms. Campbell asked if the amendment did not go forward and the doctor had one year to satisfy this issue, how would that impact her business. Dr. Hall advised she would not operate a boarding facility where the animals could not go outside. For clarification, Ms. Deese stated during the discussions with Code Enforcement, they felt it would be unreasonable to think that a medical facility for animals could not allow the dogs to go out and relieve themselves, but when the evidence was compiled along with the website video with the five times a day, it clearly was more than relieving themselves. Dr. Hall advised she wished she had clarified "no exercise yards where animals are left unattended" on her original plans. Ms. Campbell advised it would be a terrible loss for this portion of Pensacola to lose Dr. Hall, and asked could there be some sort of buildout for the exercise pad. Dr. Hall explained they incorporated vegetation and astro turf as well as 9' fencing.

Mr. Monk pointed out with the evolution of cities and small towns, we were going to see more small

businesses in isolated parts of the community so people do not have to drive great distances for these services. He personally did not want to live in a community where his children were playing the backyard and someone would call in a complaint on them or his dogs. More small business were going to creep into historic neighborhoods, and this natural evolution is where we're going as a community; There will be some discomfort, but that is the reality of living in a city.

Mr. Larson asked Dr. Hall if she was going to solve the problem before the Board involving multiple dogs, supervised or unsupervised, because he was not comfortable with just saying "exercise areas." Dr. Hall advised she liked the term "no exercise areas where dogs are left unattended." She explained they had play groups with 6 to 8 dogs maximum, and if they were loud, they returned to the inside. However, she was fine with whatever the Board approved. **Mr. Monk made a motion to support with an edit that it read "allows animal hospitals, veterinary clinics and pet resorts within the district by right with fully enclosed kennels, no unsupervised outside runs or exercise areas permitted with a limitation of 5 animals in the area." The motion was seconded by Mr. Larson.** For clarification, Mr. Larson stated with this change, a Conditional Use Permit would no longer be required in C-1. Ms. Deese explained this amendment was specifically for 12-2-10 Old East Hill Preservation District; C-1 still has the language which does not permit exercise areas, and you would be opening up to the entire city if you modified C-1. This is specific to Old East Hill, taking out the Conditional Use Permit requirement. **Ms. Deese clarified Dr. Hall's proposal stated "with no outside runs." Was the Board meaning "no unsupervised outside runs" and thus allow "outside runs" or add "unsupervised" to the exercise areas, and Mr. Monk verified adding "unsupervised" to the exercise areas only. The amendment was accepted by Mr. Larson.** For further clarification **Mr. Moore stated in OEHPD exercise areas would be allowed, but the language would state they would go out in groups of 5 or fewer supervised. There were no outside runs and the amendment was by right with no Conditional Use. The motion then carried 4 to 1 with Mr. Moore dissenting.** Ms. Deese reminded the audience that this amendment was a recommendation which would proceed to the City Council on May 10, 2018 at 5:30 pm.

Open Forum – None

Adjournment – With no further business, Chairman Ritz adjourned the meeting at 3:34 pm.

Respectfully Submitted,



Brandi C. Deese
Secretary to the Board

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-2-10(C)(4)(b) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE HISTORIC AND PRESERVATION LAND USE DISTRICT; OLD EAST HILL PRESERVATION ZONING DISTRICT; USES PERMITTED; OEHC-1 NEIGHBORHOOD COMMERCIAL DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, two public hearings were held on May 10, 2018 and June 14, 2018 concerning the following proposed amendment to the Land Development Code; NOW

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Chapter 12-2-10 of the Code of the City of Pensacola, Florida, is hereby amended as follows:

(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.
- r. Animal hospitals, veterinary clinics, pet resorts with fully enclosed kennels, no outside runs. Outside exercise areas permitted only if supervised and limited to five (5) or fewer animals.
- ~~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.

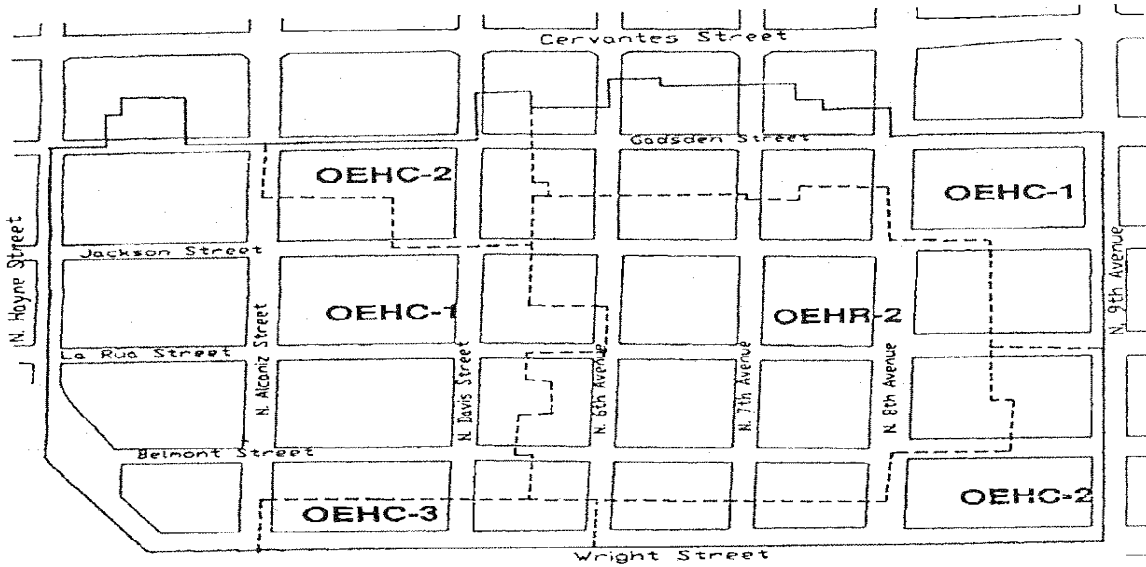
- (9) Regulations for new construction in the Old East Hill preservation district. New construction shall be built in a manner which is complementary to the overall character of the district in height, proportion, shape, scale, style and building materials. The regulations established in paragraph (6), 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	feet 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.



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. 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

Robyn Tice

From: Brandi Deese
Sent: Monday, May 7, 2018 1:42 PM
To: Ericka Burnett; Robyn Tice
Subject: Fwd: City Council Item Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District
Attachments: information-packet-full.pdf; ATT00001.htm

Sent from my iPhone

Begin forwarded message:

From: "Amber Hoverson" <amber.hoverson@oldeasthill.com>
To: "Brandi Deese" <bdeese@cityofpensacola.com>, "Leslie Statler" <LStatler@cityofpensacola.com>
Subject: Fwd: City Council Item Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District

Hi ladies,

I wanted to forward this message to you so you're aware of what I sent over to the councilmen/women. Hopefully it's clear and informative enough.

Happy Monday:)

----- Forwarded message -----

From: Amber Hoverson <amber.hoverson@oldeasthill.com>
Date: Mon, May 7, 2018 at 1:32 PM
Subject: City Council Item Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District
To: dkraher@cityofpensacola.com, gwingate@cityofpensacola.com, smyers@cityofpensacola.com, ljohnson@cityofpensacola.com, bspencer@cityofpensacola.com, aterhaar@cityofpensacola.com, pcwu@cityofpensacola.com, jcanada-wynn@cityofpensacola.com

To: Pensacola City Council

To: Don Kraher, Council Executive

Re: City Council Item Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District

Dear Pensacola City Council Members,

My name is Amber Hoverson and I am the President of Old East Hill Property Owners Association.

East Hill Animal Hospital/Pensacola Pet Resort Too is requesting a City Code change that would allow exercise areas in OEHC-1 zoning. While outdoor exercise areas are

allowed in C-3 (light industrial) areas of Pensacola, no such zoning is permitted in our historic districts or any other C-1 zone of the city.

Currently, this Old East Hill business is operating under a Conditional Use Permit granted in 2008 in which the owner agreed not to have outdoor exercise areas. Neighbors in 2008 expressed their concern that outdoor areas would create a noise nuisance that would negatively impact the enjoyment of their property. This fear has become a reality.

In 2008 the code was written to protect our neighborhood by preventing this business from overreaching or impacting our area negatively. The proposed code change will diminish the protection we have while giving more privileges to a business that is already overstepping and in violation of the original agreement.

After hearing from over 50 residents who live and own property in our neighborhood, our Board voted unanimously in opposition of the code change to Section 12-2-10 proposed by the Planning and Zoning Board on April 10, 2018.

We are very concerned as a neighborhood that our voice will not be heard. Even though we are pet friendly and supportive of our small business, we cannot support *this* code change, which would allow inappropriate business operation in our preservation district.

Please vote No on the Proposed Amendment to Land Development Code Section 12-2-10(C)(4)(B) Historic and Preservation Land Use District; Old East Hill Preservation Zoning District: Uses Permitted; OEHC-1 neighborhood Commercial District.

Attached is a packet of information that contains a high level overview of background/ current information in regards to the issue, 17 messages from 20 property owners expressing their concerns about the code change, and 6 comments copied from [a petition started at change.org](#).

https://www.change.org/p/pensacola-city-council-keep-the-power-with-the-people-a23539f5-a173-46d3-b20e-ce60adea225e?recruiter=874303628&utm_source=share_petition&utm_medium=copylink&utm_campaign=share_petition

In addition to the online petition started 2 days ago we also have collected over 50 signatures from residents who live/ own property in Old East Hill.

Thank you for your careful consideration of our concern.

Sincerely,

Amber Hoverson

OEHPOA President

Like us on Facebook!

<http://www.facebook.com/Old.East.Hill>

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Amber Hoverson

OEHPOA President

Like us on Facebook!

<http://www.facebook.com/Old.East.Hill>

Dear Pensacola City Council Members:

Please vote NO on the "PROPOSED AMENDMENT TO LAND DEVELOPMENT CODE SECTION 12-2-10 (C)(4)(B) HISTORIC AND PRESERVATION LAND USE DISTRICT; OLD EAST HILL PRESERVATION ZONING DISTRICT; USES PERMITTED; OEHC-1 NEIGHBORHOOD COMMERCIAL DISTRICT."

What's Going On?

A business in our neighborhood is trying to get City Code changed for the second time in 10 years to support its business needs. The proposed code change would currently only benefit the business, for everyone else it causes harm. A code change opens up our neighborhood for future issues. For example, if a business in our district can change a code now to benefit itself then any future business can use "they did it why can't we" approach to bend the rules to suit its needs. This is unacceptable and very scary.

Currently the businesses at 805 E Gadsden (East Hill Animal Hospital and Pensacola Pet Resort Too) are in violation of City Code 12-2-10(C)(4)(b)6&5(n).

The code allows:

- **Pet shops with all uses inside the principal building**
- **Animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas**

The businesses at 805 E Gadsden are in violation of the above codes because there are 3 outdoor areas that dogs use multiple times a day. At the businesses' website <https://pensacolapetresorttoo.com/> you can see a video (You Tube PPR TOO-FINAL) that shows dogs going out multiple times a day as a key selling point. See transcript attached. The violations exist in that all uses **are not** in the principal building and there is **clearly an exercise area**. While Old East Hill Property Owner's Association appreciates the quality of care being given to these animals (who wouldn't want their pets to get this level of attention?!), it does not appreciate disregard for City Code in our district and for the quality of life of its neighbors.

Code Enforcement found East Hill Animal Hospital and Pensacola Pet Resort Too in violation of both codes on February 6, 2018. As a result, they were given until 2/5/19 to "correct the violations by discontinuing allowing animals to run and exercise outside the pet shop/vet clinic". **Instead of removing the option for animals to run and exercise outside the pet shop/vet clinic, the business owner has proposed an amendment to change the code.** Furthermore, the proposed code change not only allows the businesses to continue as before, but allows any NEW BUSINESS to open with no input from the neighborhood. While changing the code would ensure that there is no disruption in business operation at 805 E Gadsden, it poses a major problem for residents who oppose current noise levels and have addressed their concerns to Code Enforcement and City Planning. Again, City Code has already changed once for this business to operate within our district in 2008.

In 2008 these businesses were allowed to move into our neighborhood despite substantial concern and protest from the residents of Old East Hill. Pensacola Pet Resort Too was allowed to open without any input from residents because it was determined that the resort would be **acting upon the same rules as a pet shop**. The Animal Hospital was allowed after getting an amendment to the Land Development Code for OEHC-1, whose regulations specifically excluded veterinary hospitals and clinics. Despite letters and residents speaking out against these businesses at City Hall our voice was not heard and/or understood. Many people in the neighborhood voiced concerns about noise, parking, congestion and

the building's design. Ten years later most people can agree that the building is a welcome addition to overall aesthetics. **However our association has heard complaints from residents about: East Hill Vet customers leaving dog excrement in the yards, sidewalks or green areas surrounding the business, cars parking on the street in front of homes that people live in adjacent to the business, and dogs barking incessantly (more than 5 minutes).** We are an active property owner's association in one of the City's three historic **preservation** neighborhoods and our input must be taken into account. At the City Council Meeting Thursday May 10th we will be requesting that East Hill Vet Clinic/Pensacola Pet Resort Too operate within the original permit granted in 2008.

Summary of Concerns from over 50 residents in Old East Hill

- The business is currently operating under a Conditional Use Permit but is asking for "Permitted Use by Right". Permitted use by right means that the neighborhood loses an additional layer of protection from the City.
- The City or Planning can put restrictions on the operation of a business with a Conditional Use Permit. Without it, this business or any new one can potentially expand without limitations.
- Old East Hill has clearly established historic preservation guidelines that have been disregarded. If this business is granted Right of Use and its Conditional Use permit is removed our concerns as a neighborhood will be much harder to act upon. Currently our option in dealing with unwanted aspects of the business is by filing an affidavit under oath with a witness who lives at a different address; putting the workload on the resident, not the business owner. An affidavit must be notarized by the resident.
- If the code change is approved, anyone can open a C-3 type business in a C-1 area in two thirds of our district. In looking at a city map from 2014 there were 72 homes in the residential area and 162 in all other zones (234 total). Roughly 70% of our neighborhood will be *directly* impacted by this code change. Imagine unwanted businesses scattered around all of Old East Hill permitted by right. If this code change goes through that could happen to our neighborhood or yours.
- A change like this establishes a legal precedent which could be used to add unwanted use to North Hill and Seville.
- This business' specific issue needs to be addressed, not a code change for an entire area.
- This code change affects surrounding businesses, why should one business' needs be put before another's?
- Why should the code be changed to benefit one? It should be changed to benefit the entire neighborhood.

WE BELIEVE THIS CHANGE WILL HAVE A DRAMATIC AND NEGATIVE AFFECT ON OUR NEIGHBORHOOD AND PROPERTY VALUES, AND WOULD GREATLY APPRECIATE YOUR SUPPORT AND HELP

PPR TOO-FINAL Transcript

This is a transcript of the PPR TOO-FINAL clip found at <https://youtu.be/-Ys1i6DgGwU> advertising services that place it in clear violation of current code 12-2-10.

Welcome to Pensacola Pet Resort Too, the first and only pet resort in the Pensacola area that caters to your furry family members 40 pounds and under. We are conveniently located in the Old East Hill Historic District at 805 e Gadsden Street, 1 block south of Cervantes street. Owned, operated and supervised by the doctors at East Hill Animal Hospital, our primary goal is the health and happiness of our feline and canine guests. Therefore, each guest is given a complimentary wellness exam by one of our staff members to ensure that your pet is disease and parasite free. If any problems are noted, our doctors will be happy to attend to your guest's medical needs. If requested our guests will then be checked into one of our spacious suites that mimic your home environment. They will have plenty of room to stretch out and relax or play. We also offer traditional boarding as well as some dogs feel more comfortable in these spaces.

Your pet's day will begin with a 7a wake up walk followed by breakfast and tidying up of their suite. We feed Hills prescription diet ID to our guests for their optimum digestive health during their stay.

Playtime is offered next either inside or out followed by lunchtime snacks, and then another walk outside.

After a lunchtime rest another walk is given, followed by afternoon playtime before dinner.

After dinner the dogs are given 2 more walks before being tucked in for the evening.

All dogs are offered 5 leash free outings a day 365 days a year in one of 3 clean shaded and spacious exercise yards. We adhere to a strict schedule to ensure that all of your pet's needs are taken care of and any changes or problems will be noted by our staff and reported accordingly.

Doggy dare care is offered and enjoyed by many dogs that make lasting friends with other guests and with our staff members. This is a great way to help our puppy guests with socialization and potty training as well as helping our adolescent guests in preventing boredom and increasing exercise. Older guests enjoy the companionship at our doggy day care.

Our amazing staff gets to know your pet and assigns an appropriate playgroup for exercise and interaction during their visit. **Playtime is offered in doggy day care (video shows dogs playing outside) as well as to our overnight guests if requested.**

Our feline guests will enjoy a dog free zone with multi-level cat condos which provide viewing access to our feline play area. In this area the cats can climb, play or just sunbathe in the picture window.

Optional amenities are offered to all of our canine and feline guests such as extra walks and playtimes, cuddles, massages, and bathing and grooming that can add to your pet's experience at Pensacola Pet Resort Too. Our amazing pet resort staff has joined 22 experienced and very talented groomers. They treat each of their grooming clients with kindness, patience, and perfection and can accommodate dogs and cats of any size shape or breed Monday thru Friday. They offer traditional grooming as well as creative grooming for those special or just plain fun occasions. Give us a call at 438 dogs or 438-3467 or visit our website at pensacolapetresorttoo.com for more information.

ALL THE DETAILS

Our neighborhood has its own preservation zoning districts: OEHR-2 (residential) OEHC-1, OEHC-2, and OEHC-3.

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.

Currently, only C-3 section B allows for outside kennels, runs, exercise areas for animals subject to regulations in section s 12-2-54.

Section 12-2-12

Review of Land Development Code OEHC-1 changes and proposed changes

2008 Section 12-2-10 (C) (4) original code

OEHC-2 allows for hospitals and clinics (except for animal hospitals and clinics)

2008 code amendment proposal to add:

“Animal Hospitals and Veterinary Clinics with fully enclosed kennels and no outside runs or exercise areas” to the permitted uses allowed in the Old East Hill Commercial District (OEHC-1)

Background: at the time 805 E Gadsden Street was zoned OEHC-1. The regulations which govern development in OEH district allow hospitals and clinics in OEHC-2 District, with the specific exclusion of animal hospitals and clinics.

Pet shops with all uses inside the principal building were allowed in OEHC-1 in 2008.

2008 code change and Current Code for OEHC-1

Conditional uses permitted. Animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas

2018 proposed code change:

Animal hospitals, veterinary clinics, and pet resorts with fully enclosed kennels and no outside runs; outdoor exercise areas are permitted by right

2018 proposed code change modifications from Planning Board:

Outside exercise areas would be permitted as long as they are supervised and limited to 5 animals at one time. Conditional Use Permit requirements would be eliminated.

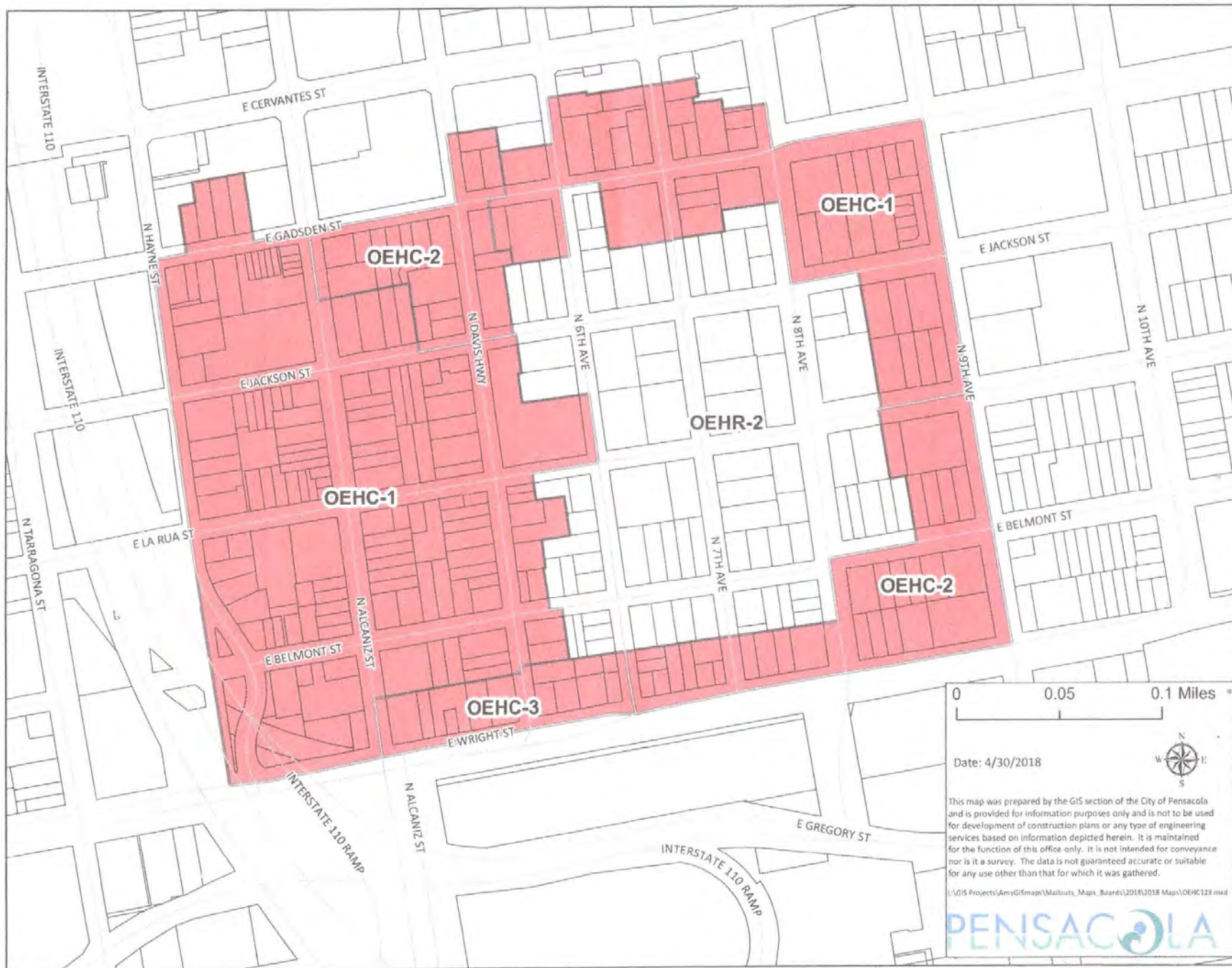
Current City Code Violation City Code 12-210(C)(4)(b)6&5(n)

(C) Old East Hill preservation zoning districts. OEHR-2, OEHC-1, OEHC-2 and OEHC-3

(4) Uses permitted.

(b) OEHC-1, neighborhood commercial district.

6. Conditional uses permitted. Animal hospitals and veterinary clinics with fully enclosed kennels and no outside runs or exercise areas.
5. The following uses, retail only, with no outside storage or work permitted, except as provided herein:
 - n. Pet shops with all uses inside the principal building.



May 2, 2018

To: Pensacola City Council

To: Amber Hoverson, President of Old East Hill Property Owners Association

Re: Proposed changes to operating guidelines of 805 East Gadsden Street.

As homeowners at 616 East Belmont street, we feel that future changes to the current operating guidelines as proposed at 805 East Gadsden would be a detriment in regulating future business opportunities within this historic district.

We purchased our dilapidated bungalow in 2013, a residence that had aesthetic code violations and liens with the full intent to restore it to its former 1900 glory. Five years and many months of hard work later; our former drug infested residence is fully renovated. As residents we had to follow strict aesthetic and material use rules as written and made no attempts to revise the current guidelines to suit our needs; even though in many cases it would have been a big money saver. We knew the rules going in.

We made this commitment after evaluating the neighborhood and future growth opportunities as we feel this part of Pensacola is the new 'Hot Spot'. This trend will only continue on this path as many new homes are being built and renovated following strict guidelines for use, materials and aesthetics already in place AND followed by all current and new residents and businesses coming in. Revisions to benefit one entity only will serve as a bad precedent for any future tenant of Old East Hill. Though we appreciate the value of the local business and it's aesthetic appeal within the district, no resident wants to deal with the noise/cleanliness issues associated with it's current business practices which are clearly a violation of it's operating codes; a code which was understood when this process began.

Please add our names to this list of NO revision to the current code.

Sincerely,

Mario Roberts

Jeff Elbert

My name is Lou Mitchell Courtney. My husband & I have lovingly and painstakingly invested time, sweat, and money into restoring our historic home over the past 20 years. We have helped to build trust and community with neighbors in our tiny neck of the woods, Old East Hill. How many of you desire to live next to this facility?

Dr. Hall was given special permission to open Pensacola Pet Resort Too under the analogy to it being a PET SHOP with all uses inside the principle building. In 2008 she requested an amendment to the LDC to allow a veterinary clinic in OEHC-1, whose regulations specifically excluded veterinary hospitals and clinics. Dr. Hall stated in that City Council meeting 'My vet will have completely enclosed areas for sick and surgical animals so there won't be a noise issue.' Dr. Hall operates a clinic, a hospital and grooming facility, and she operates a boarding facility with outdoor areas: it is an EXPENSIVE KENNEL, which is not permitted in our area. The business tax license for her other business (PPR) at 300 Gadsden describes it as a kennel. It is properly zoned for that there. The PPR Too business at 805 Gadsden is described as Pet services/grooming. WHAT IS THE BENEFIT TO THE COMMUNITY IN ALLOWING A **C-3** business to operate in a **C-1** area?

A Conditional Use permit is an added layer of protection that allows for problems to be addressed: we are here today because there IS a problem. On their original permit application it clearly stated there would be 'no outdoor runs or exercise areas'. Their website states they take the dogs out '5 times a day' . They do this 365 days a year, in 1 of their 3 outdoor runs. I remember from our neighborhood meeting in 2008 Dr. Hall said that the boarding of animals would be at the 300 Gadsden location and grooming and veterinary services would be at the 805 location . Was she boarding dogs at PPR Too to begin with or did the demand for boarding outgrow her space at 300 Gadsden? She should be retroactively fined for the length of time she has been in violation. Recently, when asked to share the current number of dogs there on an average Spring weekday, Dr. Hall responded: 25 during weekdays, 45 on weekends. If the dogs go out 5 (or more) times a day for 20 minutes at a time, then 45 dogs are each outside longer than an hour and a half each day. The barking is noticeably louder in summer months through December, when people vacation.

If the code is changed from Conditional to Right of Use, that means they can expand into our area even further without notifying residents or getting their input and that decision is IRREVERSIBLE. She has intentions to expand. **This will affect our property values adversely.** It would intensify incompatible uses which will result in a nuisance lawsuit and a lot of bad PR. The City can't control any aspect of the operation of her business so they can't protect residents from bad practices. There can be 200 barking dogs there and neighbors cannot complain, except under the city noise ordinance which is vague and ineffective. Nearly half of Old East Hill is zoned HC-1 which means new dog boarding facilities could open up throughout the neighborhood without input from residents.

Let me point out that 3 supporting letters are from adjacent property owners who do not live in their house and 2 have been unoccupied for at least 3 years and the other one burned 1.5 years ago after having housed people with bad drug problems. These people stand to potentially benefit financially (because they are adjacent) if or when Dr. Hall buys their property to expand her business.

City Code was created to protect the majority of the citizens, not for the financial interest of one. We are a small, historic preservation neighborhood with 300 homes. Our quality of life is diminished by this business. There are always **unintended, negative, consequences after a code change even 8, 9, 10 years later.**

I am opposed to this requested code change by the East Hill Veterinary Clinic and Pet Resort Too.

Lou Mitchell Courtney
523 N 8th avenue

SALLY RAUSA

May 6, 2018

City of Pensacola,
Council Members

Dear Council Members,

This letter is to show my concern on the proposed change of Land Development Code OEHC-1 in the Old East Hill Historic District.


I recently moved into this area from out of state and chose it because of its rich history, beauty and dedication to preserving the structures that make Old East Hill unique. Our community is going through some very positive changes due to the fact that caring people have been committing their time and money to various projects to keep it going in the right direction.

I feel that making the proposed change to allow animal hospitals, veterinary clinics, and pet resorts to have outdoor exercise areas "by right" is not going to help our residents, only the person (s) owning said type of business.

I do believe in entrepreneurialism and economic growth, but if a long standing code has to be changed in order for one business to operate, who is to say next week another business won't be asking for a code change so that they will gain from it.

I ask the council that they might think more about this change and not allow it to pass through, so that our area will not have problems in the future regarding other land use issues.

Sincerely,


Sally Rausa

170506pensacitycouncil.doc

Christian,

Thank you for this information.

I may not be at the meeting so here is my position.

I am strongly against changing OEHC-1, which equates to about half the neighborhood, to allow **animal hospitals, veterinary clinics, and pet resorts with fully enclosed kennels and no outside runs; outdoor exercise areas are permitted** by right. The placement of a new Animal Facility with an outside exercise area in a primarily residential area should not be allowable by right. This should be a conditional use and the neighbors should have say as it could affect their enjoyment of their own home.

I personally have no issue with Dr Halls current facility but I also don't live close to it.

It seems her specific issue is what should be addressed, not code for an entire area (OEHC-1). And her issue should be addressed with input from her neighbors near by who are potentially affected by this. (Maybe they have no issue with the facility as it is and could work with her and the city to come up with a variance. I don't know)

Sincerely,
Mark Casson

Morning Amber.

Thank you for the info packet. I am opposed to letting Dr. Hall institute the change to existing code. I have various reasons but most importantly is the fact that **I feel one person should not be allowed to dismantle the rules/regulations** myself and neighbors have had to adhere to for many many years.

I've personally saved several homes from being torn down in our area and still own 2 properties in the affected area. I've had to bear the expense of doing renovations according to the existing law and feel that we as a community should not allow the change due to what appears to be economic reasons. While it's very nice that Dr. Hall is successful: **other businesses in the same position are forced to move to areas that can accommodate them.** I've been in the neighborhood for 43 years and have seen many positive changes; I truly feel this is a request to accommodate one individual and in doing so it would adversely affect not only our neighborhood but All of Pensacola with this zoning.

Thank you. Beverly Elliott

To Amber Hoverson (Pres. of OEHPOA),
Brandi Deese (City of Pensacola),
Planning Board Members,
& City Council Members,

My name is Susan Agnew, resident with my husband and two children, who have lived in our home at 810 East La Rua Street for the past 20 years. This neighborhood has changed for the better while I have resided here and raised my two children. The community is quaint, friendly, giving and open to changes that enhance the community, while also growing with businesses moving into the area and mostly working to be a part of this community.

I am concerned that the code enforcement violation by East Hill Animal Hospital/Pensacola Pet Resort Too, at 805 E Gadsden, is being handled in the wrong manner for the betterment of our neighborhood, now and moving forward, and for all the Neighbors living here. Our neighborhood association has met and overwhelmingly voted to not change present code 12-2-10 in April 2018 at our association meeting.

There was a violation to the present code 12-2-10; there is a proposal to have the code changed by the person/business that violated it. *This is like letting the Fox who broke into the Hen House getting to design the new Hen House and all security around it. I do not believe it is correct to change the present code to circumvent the code violation that has taken place on February 6, 2018 by East Hill Animal Hospital /Pensacola Pet Resort Too.* **I am AGAINST** the code change presented by East Hill Animal Hospital/Pensacola Pet Resort Too. The code should stay as is, and the CONDITIONAL USE PERMIT with FULLY ENCLOSED KENNELS and NO OUTSIDE RUNS or EXERCISE AREAS should stay enforced.

Thank you for allowing my voice to be heard and for handling this in a timely manner.

Susan C. Agnew
810 East La Rua St.
Pensacola, FL 32501
susandanagnew@cox.net
850.470.9014
850.572.1721

Barbara D'Amico
Shaib AlAgily
307 East Gadsden
Pensacola, Florida 32501

To: Amber Hoverson
OEHPOA President

Dear Ms. Hoverson:

We write to voice our agreement with the position of OEHPOA; we do not support the code change.

As we live on the corner of Haynes and Gadsden, we struggle in particular in our area to maintain a residential environment. We do not wish to encourage more businesses and or their expansion in our neighborhood. My husband and I strongly believe that any change in the code would allow other businesses as well to ask for expansion of their businesses. In particular we question why we are allowing this change for one business that has requested a change that will have an impact for all who live in residential areas in our city.

We believe Pensacola like so many other cities struggles with housing for all. We lack in particular in Pensacola affordable housing. Our small corner of old historical East Hill has a larger population of minorities. We wish to keep our neighborhood diverse and affordable; we do not wish to see businesses expand and push affordable housing out simply because those companies have the financial means and political power to expand and push agendas that serve only those businesses.

I strongly urge the City Council not to grant a single taxpayer an exception that will have long-term consequences for all residents of our city not just historical old East Hill.

Thank you,

Barbara D'Amico mobile: 972 897 7951

Shaib Agily mobile: 972 533 6252

Danny Agnew
810 East La Rua St
Pensacola, FL. 32501
susandanagnew@cox.net
850.470.9014 or 850.572.1299

To Whom It May Concern:

As a resident on the OEHPOA community, I would like to state my opinion on the proposed change in code of 12-2-10 by East Hill Animal Hospital/Pensacola Pet Resort Too.

My understanding is the code was violated in February of 2018. There is a proposed change of the code in order to circumvent the enforcement of the violation. I **oppose** changing the present code. The business should be required to adhere to the code that was written and approved in 2008 that allowed it to enter the neighborhood originally.

The code, as currently written, was put in place to protect the neighborhood, and prevent **this** business from overreaching, or impacting the neighborhood environment negatively. The proposed code, from East Hill Animal Hospital/ Pensacola Pet Resort, puts that in jeopardy and only seeks to weaken the protection that was sought originally.

Sincerely,

Danny Agnew

I currently reside in the neighborhood that places me across the street from East Hill Animal Hospital. I am writing to voice my obvious objections to Ms. Hall's proposed changes to the land development code for a neighborhood in which she chose to place a business.

Ms. Hall has been in violation of the code for quite some time now. She has a transparent uncaring regard for the people who have property, children, investments, and long-term regard for the neighborhood. I have been subjected to hour after hour of 8-10 dogs barking in an enclosure behind her business, IN VIOLATION OF THE CODE. Countless times, I have witnessed her clientele using our neighborhood as a repository for their dogs' feces, IN VIOLATION OF THE LAW. Nearly every day of the week, she and her employees use the City's grass easement (between the sidewalk and 8th Avenue) as a parking lot, IN VIOLATION OF THE LAW.

I remember distinctly when Ms. Hall showed up years ago with a lot of promises and assurances. In truth, she has been a very poor neighbor, and this beautiful piece of historic Pensacola is dirtier, louder, trashier, and more congested for Ms. Hall having been here. We take care of this place because it is our home. Clearly, she takes no responsibility.

The Code was not written for or against our current business owners in the area, so there is no compelling reason to amend it for Ms. Hall. She knew what the Code said when she located here, and she chose to violate it over and over again. Now she wants the Planning Board, whom she has pointedly ignored, to change the Code solely for her benefit? For her to even make this request, after what she has done to our street, is obscene.

I would prefer Ms. Hall pack up her business and move it to a location in which the Land Development Code suits her goals. Otherwise, I fully expect the City of Pensacola to reject this request, and then get serious about enforcing the existing regulations to bring this business into compliance.

Sincerely,
Dr. Stacey Rimmerman

My name is Michael Courtney and I live a block from this business. We have poured time, sweat and money into our home in Old East Hill for over 20 years. Our home is our investment in preserving the past, maintaining the present, and insuring for the future. That is in jeopardy: we stopped recent plans for renovations until we see what the City decides on this issue. Will it protect the people's rights and their property values by enforcing the existing code or will it side with this C-3 business that is located in a C-1 zone? How many of you would choose to live next door to this business? Dr. Hall said she is planning to buy adjacent properties. Behind her there are 2 run down contributing houses on 3 lots which will give her the ability to board 3 times as many dogs. Right now residents have concerns about contaminated storm water runoff. Is each poo picked up diligently right after they go? How much salt accumulates into the soil and groundwater every time a dog marks their territory or urinates? She says on an average Spring weekend she houses 45 dogs. An average dog produces 3/4 pounds of poop a day. That's 33.6 pounds a day and that's a lot of poop. How many dogs board during summer and the fall holidays? Buying those lots would allow 135 dogs to board on an average Spring weekend.

In 2008 Laura Hall petitioned the city to open her business here, even though our clearly established historic preservation guidelines did not allow that type of business and there was opposition from residents and concerns about parking and excessive barking. In the November 2008 City Council meeting Dr. Hall and Sherri Morris promised there would be no outdoor exercise areas. Despite the code at the time and concern of residents, City Council disregarded both and granted her a conditional use permit with the restriction that there be no outdoor exercise areas. She agreed to these restrictions then she broke them. Now, 10 years later and concerns have grown into problems. In addition to being a clinic and a hospital, it is a fancy kennel (a place where people leave their dogs while they are away) with 3 outdoor areas. Now this business wants to expand without conditions or restraint, by trying to change the code, and the conditional permit to a right of use permit. What other OEHC-3 businesses could sneak in to our C-1 & C-2 areas under this code change?

2 properties adjacent to this business have been unoccupied over 3 years & are not well kept. Another one burned 1.5 years ago & is sitting there. Several other nearby properties have a hard time keeping renters-perhaps this business is contributing to the beginning of urban blight. Other areas of our small neighborhood are thriving.

The city should take pride in and protect their few historic preservation districts by adhering to the regulations already in place, not changing to a code that will adversely affect much of Pensacola for the financial benefit of one individual.

Michael Courtney
523 N 8th avenue

Brandi Deese

From: theresa finkbeiner <coyotemoonherbcompany@cox.net>
Sent: Sunday, April 08, 2018 7:19 PM
To: Brandi Deese
Subject: 805 E. Gadsden St code ordinance

Dear Ms. Deese,

i became aware of an ordinance that Laura Hall wants to remove from the Code at 805 East Gadsden St.

This is not a good move. As a Licensed Massage Therapist and renter at Innerpeace 815 E. Gadsden,

the dog barking noise will be unavoidable. I give massage throughout the day along with 3 other therapists

and we are not happy to hear of a dog run and kennels outside. This is a residential area too and the noise can be unnerving.

I hope you will consider the people on the whole block on Gadsden St and around the corner.

No one wants to listen to dogs barking all day and night. Please do not remove the code ordinance for this area.

When she bought here, she knew the deal and has broken the code already. Can you please put an end to it right now!!

Thank you for your consideration, I am not able to attend the meeting on this topic .

Theresa Finkbeiner 437 9192

My address is 603 N. 8th Avenue. This puts me across from East Hill Animal Hospital on the same block. I am writing to voice my strenuous objections to Ms. Hall's proposed changes to the land development code for a neighborhood in which she chose to place a business, with full knowledge of what the limitations to that business would be.

Ms. Hall has been in violation of the code for quite some time now. Her casual disregard for the people who have property, children, investments, and long-term regard for the neighborhood is obscene. I have been subjected to hour after hour of 8-10 dogs barking in an enclosure behind her business, IN VIOLATION OF THE CODE. Countless times, I have witnessed her clientele using our neighborhood as a repository for their dogs' feces, IN VIOLATION OF THE LAW. Nearly every day of the week, she and her employees use the City's grass easement (between the sidewalk and 8th Avenue) as a parking lot, IN VIOLATION OF THE LAW.

I remember distinctly when Ms. Hall showed up years ago with a lot of promises and assurances. In truth, she has been a very poor neighbor, and this beautiful piece of historic Pensacola is dirtier, louder, trashier, and more congested for Ms. Hall having been here. We take care of this place because it is our home. Clearly she does not feel the same responsibility.

The Code was not written for or against Ms. Hall, so there is no compelling reason to amend it for Ms. Hall. She knew what the Code said when she located here, and she chose to violate it over and over and over. Now she wants the Planning Board, whom she has pointedly ignored, to change the Code solely for her benefit? For her to even make this request, after what she has done to our street, is outrageous.

I would prefer Ms. Hall pack up her business and move it to a location in which the Land Development Code suits her goals. Otherwise, I fully expect the City of Pensacola to reject this ridiculous request, and then get serious about enforcing the existing regulations to bring this business into compliance. Thank you.

Sincerely, Charles Voltz

What are the ramifications for the whole neighborhood in the future? When Dr. Hall petitioned to get a zoning change so she could open the clinic I saw it as continued encroachment by businesses such that in the future they could be right next door. That might be far away but the encroachment process itself might cause grief, little by little.

I am against the code change because I see it as an intrusion of business establishments into a historical Pensacola neighborhood. Old East Hill is not very large, and businesses already border much of the area—all along Cervantes Street, Ninth Avenue, and Wright Street (were these businesses grandfathered in?). Our quiet little neighborhood is inexorably being squeezed closer together. I'll sign the petition against code change.

Cheers,

Jerry Gill

Amber,

It looks like Dr. Hall is going to get her way, no matter what the residents of Old East Hill want. What about talking to the owners of Maria's seafood.....They might get involved if they knew that dogs would be barking during their lunch and dinner service, once they open the new restaurant.

My personal complaint is that OEH is being encroached upon and is getting smaller and smaller as a residential area. So sad.

Diana

To the Planning and Zoning Board April 10, 2018

My name is Amber Hoverson and I live at 706 E Jackson Street in Old East Hill preservation district. I am writing in regards to the amendment to the Historic and Preservation Land Use District, Section 12-2-10 that is being proposed

Here are my concerns about the current proposal to amend section 12-2-10 further:

1. I don't think that any codes should be changed for an individual business. Codes are written for a reason and changing them should benefit the entire neighborhood, not just an individual/business. Also, if changing a code is easy to do current codes lose their authority and people are less likely to comply with them to begin with. This equates to more code violations in general and people doing what they want because they can.
2. We are a mixed use neighborhood so there is commercial zoning throughout the area. The proposed change could hypothetically allow for a veterinary clinic or animal hospital with dogs barking throughout the day to open anywhere within the neighborhood with commercial zoning. Which means hypothetically we could have barking dogs scattered around our entire neighborhood instead of concentrated in one area. Noise pollution lowers home values and quality of life.
3. As someone who has had to go to the ARB several times to get approval for our own home's renovations I can speak to strict guidelines that are in place. The majority of structures in our neighborhood are people's homes. It seems grossly unfair to me that homeowners are held to such strict standards for the exterior renovation of our homes but a business (someone who makes money here) can violate a code (which is a law and not merely a guideline as in the case of the ARB), have a year to come into compliance with the code, and has the option of changing the code so that the business can continue to do what it has always done. Also consider that homeowner's guidelines set in place by the ARB only influence what we see. The proposed code change affects what we hear. A person can make a choice to ignore something they find ugly in the neighborhood, but noise pollution cannot simply be ignored, even from the interior of a home.

I congratulate East Hill Veterinary Clinic and Pet Resort Too on its business success; however, there is a time and place for everything. The place for the part of this business that includes outdoor runs or exercise areas is not Old East Hill. This is a place that is primarily made up of charming old houses and a scattering of small businesses that are either unobtrusive or adding to the charm. We live in a very special place and it is exciting to see the growth that our community has experienced. Allowing a business to change the code to suit its needs does not set us up for success. The needs of the community need to be put before anything. We will survive without a pet resort in the neighborhood but we will not survive if we are known as the noisy neighborhood with the barking dogs because we are the only C1 zoning area that allows for C3 noise.

Sincerely,

Amber Hoverson

Re: Businesses at 805 E. Garden St presently
in Violation of City Code 12-2-10(c)(4)(b) 6e5(n)

As owners of a residence and business in the 800 blk
of E. Jackson St. we are directly impacted + we are
profusely Opposed to the current request for code
change requested by East Hill Pet Resort and
Pensacola Pet Resort too:

- (a) It benefits only them;
- (b) It will ADVERSELY impact not only our property
values, but the values of homes within a two to
Three block area. We can't even sit on a deck or
enjoy our back yards without incessant barking
interrupting conversations;
- (c) The business has allowed for no on-site parking
to sustain employees nor customers, as the rest
of commercial businesses have had to do;
- (d) Most importantly the proposed code change would
allow the requesting businesses to continue
as before without adhering to Notice of Violation
and allow New Businesses to open with no
regard for the right to a peaceful + quiet
home environment and input by those whom
it adversely affects or might potentially impact

We are in total and complete support of the

Petition submitted by Amber Hoverson on behalf
of Homeowners in Old East Hill Preservation District

*

Residence: 820 E. Jackson
(2 backyards away
from open dog runs)

Business: Jackson Hill Antiques
819 E. Jackson

Maria Hanell (MARIA HANELL)
Patricia McGrath (Patricia McGrath)
Joint Owners 820 E. Jackson ST
819 E. Jackson ST

Brandi Deese

From: president@historicnorthhill.com
Sent: Friday, March 30, 2018 10:24 PM
To: Brandi Deese
Cc: christianwagley@gmail.com; nicholsmelanie2@gmail.com
Subject: Planning Board Item - Request to consider Amendment to LDC Section 12-2-10 Historic and Preservation Land Use District
Attachments: City_Council_Minutes_November_20_2008.pdf; Section_12_2_54_Animal_Hospitals_businesses_that_board_animals.docx; Section_12_2_32_Buffer_Yards.docx; Section_12_2_8_Commercial_Land_Use_District.docx

Brandi,

I hope this finds you doing well.

Our Board saw on the agenda that an amendment to the Historic & Preservation Land Use District, Section 12-2-10 was being proposed and reviewed the application and past history on the change in great detail.

It appears that the applicant has changed the wording of what is currently in Section 12-2-10 in their request, (added two words for a new land use not previously approved, or defined in the Land Development Code, "Pet Resort", and deleted the word "or". That one word "or" changes it from the current reading of "Animal Hospitals and Veterinary Clinics with fully enclosed kennels and no outside runs OR exercise areas" to now adding Pet Resorts AND exercise areas as an allowed Conditional Use..

I think that it would be very helpful if the Public and the Board: have a copy of what the existing Section 12-2-10 says on the subject, the background for the change in 2008, and where such a use that is being requested is currently allowed in the rest of the City (C-3 Zoning District) and that perhaps more clarification could be added to the Staff Memorandum. As it is now, the Board and Public don't know that the applicant is trying to put a C-3 type use in a C-1 Zoning District. This is a MAJOR change in the 12-2-10.

Here is the section of OEHC-1 from Section 12-2-10

(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.}

This is the exact same language that is in the Municipal Code for the same use in C-1 districts throughout the City. Our Board does not have an issue if the applicant makes this a permitted versus conditional use, however, we take issue to the addition of "Pet Resort" (not in the LDC and the removal of the word or which would allow outside exercise areas.

Previous to November 2008, Animal hospitals and veterinary clinics were NOT allowed in the OEH Zoning Districts. This same applicant, Dr.

Hall, petitioned to have them added in 2008 and was approved on the condition that there would be no outside runs or exercise areas.

It was very controversial and there was much concern about noise to adjacent residential property owners and Dr. Hall is on record saying that there would be no outside exercise areas. Sherry Morris is on record throughout the Council Hearing insisting that there would not be any outside runs or exercise areas. I have attached the minutes from the City Council meeting from November 17, 2008 which voted to approve the conditional use of animal hospitals and veterinary clinics with no outside runs or exercise areas. The minutes also contain numerous concerns by adjacent property owners.

Many of the residents concerns have materialized according to the Code Enforcement Complaint and Violation. I think that the Board and the Public should have a copy of the minutes from that CEB Meeting since it's referenced in your memorandum.

Has notice been mailed to the adjacent property owners about this new proposal before the Planning Board?

I would recommend that the Planning Board look in the Municipal Code to see where the facility the applicant would like to run would be allowed to occur. It is only allowed to occur in the C-3 Zoning District which is by no means comparable to the OEHC-1 District where this change would be made.

Dr. Hall is currently operating a Pet Resort with outside exercise areas that meets with the City's Municipal Code in the C-3 Zoning District near Hayne Street. (Not within the boundaries of Old East Hill governed by the ARB). The applicant's request to bring C-3 uses within the Preservation District is not compatible.

C-3, commercial zoning district (wholesale and limited industry)

(a) Any use permitted in the C-2 district. (Animal Hospitals and Vet Clinics with NO outside kennels, runs, or exercise allowed in C-2) but you can't have outside exercise areas until section (b) below in C-3

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

Section 12-2-54 is titled, Animal Hospitals, veterinary clinics, commercial kennels and businesses that board animals and contains minimum setbacks of 100 feet to a residence and must contain a buffer yard as described in Section 12-2-32 Buffer Yard.

There is no survey or diagram of the site in the application to see how close the clinic and outside exercise area would be to adjacent properties.

As you will see from the attached minutes and Memorandum from Thaddeus Cohen, Community Development Director and also signed by Sherry Morris, Planning Services Administrator, "The majority of those who responded were opposed to the proposed request" in 2008.

Now, additional changes are being proposed which will intensify the use on this property and the noise which could impair the quiet enjoyment of adjacent properties.

The North Hill Preservation Association Inc. does NOT support this change to the Historic and Preservation Land Use District. We strongly feel that such a change would negatively impact the families who make Old East Hill their home and who like us, have very small lots which are close together. Furthermore, such a change establishes a legal precedent which could be used to add this use to all the other Districts governed by Section 12-2-10.

In closing, the words of Robyn Tice to the City Council in November 2008 say it best, "Codes aren't written for one individual's benefit, they are to be to the benefit of the citizens/neighborhood as a whole".

Thank you for your consideration,

Melanie Nichols, President
North Hill Preservation Association, Inc.



Betty Wilson

5 hours ago ago

REASON FOR SIGNING

Zoning is tricky and should not be changed to help one business or individual.

♥ 1

Share Tweet



simone sandifer

6 hours ago ago

REASON FOR SIGNING

Although I support local business I do agree once zoning changes one way it's hard to stop and go back.

♥ 1 · 1 reply

Share Tweet



Michael Courtney

4 hours ago ago

IMPOSSIBLE to go back.



Cameron Northup

21 hours ago ago

REASON FOR SIGNING

I want to support east hill and I live in new east hill

♥ 1





Kari Traud

22 hours ago ago

REASON FOR SIGNING

This type of zoning should not be allowed in old historic neighborhoods due to houses being close together. Please do not rezone this area! Or any old neighborhood as its not fair to the residents! Thank you!



Share Tweet



Bianca Villegas

23 hours ago ago

REASON FOR SIGNING

I'm a resident of North Hill and believe that these sorts of businesses should exist in the north of Pensacola where there is land to accommodate for their needs. Noise ordinance alone should not allow this type of business to exist within our neighborhoods in this part of Pensacola.



Share Tweet



Teresa Hill

24 hours ago ago

REASON FOR SIGNING

I love old east hill. We are counting on you, our leaders, to ensure that preserving diversity and character is your top priority for our downtown core. Vote no on this zoning change, as it will open up the wrong kind of development for this historic neighborhood. #keeppensacolaunique



Share Tweet

Robyn Tice

From: Brandi Deese
Sent: Monday, May 7, 2018 9:53 AM
To: Don Kraher
Cc: Robyn Tice; Ericka Burnett; Sherry Morris
Subject: FW: Code change proposal 12-2-10 for EOHCO 2018
Attachments: Danny Agnew OEHCO Letter.doc; Susan AGnew OEHEO Letter.doc

Please see attached letters of opposition for the LDC Amendment to Section 12-2-10 proposed by Dr. Laura Hall. Thanks.

Brandi C. Deese, AICP

Planning Services Division
City of Pensacola
PO Box 12910
Pensacola, FL 32521
Office – 850.435.1697
Fax – 850.595.1143

From: susandanagnew@cox.net [mailto:susandanagnew@cox.net]
Sent: Monday, May 07, 2018 9:41 AM
To: susandanagnew@cox.net
Subject: Code change proposal 12-2-10 for EOHCO 2018

I have attached letters for the meeting that is pertaining to the proposed code changes for Old East Hill Community for 2018.

Thank you for allowing our voices to be heard.

~Susan and Danny Agnew



FREE Animations for your email [Click Here!](#)

To Amber Hoverson (Pres. of OEHCO),
Brandi Deese (City of Pensacola),
Planning Board Members,
& City Council Members,

My name is Susan Agnew, resident with my husband and two children, who have lived in our home at 810 East La Rua Street for the past 20 years as of this October. This neighborhood has changed for the better while I have resided here and raised my two children. The community is quiet, friendly, giving and open to changes that enhance the community, while also growing with businesses moving into the area and mostly working to be a part of this community.

I am concerned that the code enforcement violation by East Hill Animal Hospital/Pensacola Pet Resort Too, at 805 E Gadsden, is being handled in the wrong manner for the betterment of our neighborhood, now and moving forward, and for all the Neighbors living here. Our neighborhood association has met and overwhelmingly voted to not change present code 12-2-10 in April 2018 at our association meeting.

There was a violation to the present code 12-2-10; there is a proposal to have the code changed by the person/business that violated it. *This is like letting the Fox who broke into the Hen House getting to design the new Hen House and all security around it. I do not believe it is correct to change the present code to circumvent the code violation that has taken place on February 6, 2018 by East Hill Animal Hospital /Pensacola Pet Resort Too. I am AGAINST the code change presented by East Hill Animal Hospital/Pensacola Pet Resort Too. The code should stay as is, and the CONDITIONAL USE PERMIT with FULLY ENCLOSED KENNELS and NO OUTSIDE RUNS or EXERCISE AREAS should stay enforced.*

Thank you for allowing my voice to be heard and for handling this in a timely manner.

Susan C. Agnew

810 East La Rua St.

Pensacola, FL 32501

susandanagnew@cox.net

850.470.9014

850.572.1721

Danny Agnew
810 East La Rua St
Pensacola, FL. 32501
susandanagnew@cox.net
850.470.9014 or 850.572.1299

To Whom It May Concern:

As a resident on the OEHCO community, I would like to state my opinion on the proposed change in code of 12-2-10 by East Hill Animal Hospital/Pensacola Pet Resort Too.

My understanding is the code was violated in February of 2018. There is a proposed change of the code in order to circumvent the enforcement of the violation. I **oppose** changing the present code. The business should be required to adhere to the code that was written and approved in 2008 that allowed it to enter the neighborhood originally.

The code, as currently written, was put in place to protect the neighborhood, and prevent **this** business from overreaching, or impacting the neighborhood environment negatively. The proposed code, from East Hill Animal Hospital/ Pensacola Pet Resort, puts that in jeopardy and only seeks to weaken the protection that was sought originally.

Sincerely,

Published Daily-Pensacola, Escambia County, FL

PROOF OF PUBLICATION

State of Florida

County of Escambia:

++-----

Before the undersigned authority personally appeared **Steve Dulaney** who, on oath, says that she is a personal representative of the Pensacola News Journal, a daily newspaper published in Escambia County, Florida; that the attached copy of advertisement, being a Legal in the matter of:

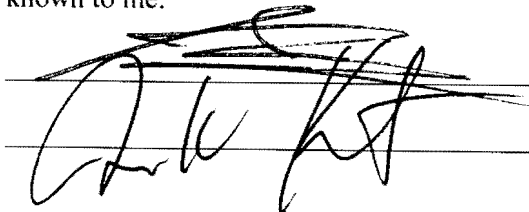
NOTICE OF PUBLIC HEARING

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

April 30, 2018

Affiant further says that the said Pensacola News Journal is a newspaper published in said Escambia County, Florida, and that the said newspaper has heretofore been 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 she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this **30th** day of **APRIL, 2018**, by **Steve Dulaney**, who is personally known to me.



Affiant

Notary Public

NOTICE OF PUBLIC HEARING

On **Thursday, May 10, 2018** at 5:30 p.m. in the Council Chambers of City Hall, 222 West Main Street, the Pensacola City Council will conduct quasi-judicial hearings and public hearings to consider the following:

- **PUBLIC HEARING - Request to Amend the Land Development Code - Section 12-2-10 - Historic and Preservation Land Use District - Request to Allow Animal Hospitals, Veterinary Clinics and Pet Resorts as a Permitted Use in the Old East Hill Commercial Districts.**

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



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00191

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Gerald Wingate

SUBJECT:

LETTER OF SUPPORT FOR THE US29 CONNECTOR AND BEULAH INTERCHANGE JOINT PROJECT APPLICATION FOR CONSIDERATION OF THE TRIUMPH GULF COAST BOARD

RECOMMENDATION:

That City Council authorize the Council President to send a letter of support for the US29 Connector and Beulah Interchange Joint Project Application to Triumph Gulf Coast Board.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Escambia County Board of County Commissioners approved submitting an application to the Triumph Gulf Coast Board for the US 29 Connector and Beulah Interchange Joint Project.

The Project, from SR10 (Nine Mile Road) to CR184 (Muscogee Road), including a new I-10 interchange, is vitally important, and will provide multiple benefits (new hurricane evacuation route / Interstate 10 access, public safety improvements, congestion relief to surrounding facilities including US29 and US90A, economic development opportunities, etc.) to not only Escambia County, but also for the greater region.

Escambia County Staff plans to present the full project application to the TPO Board at the June 13, 2018 meeting; Escambia County has requested a letter of support from the City of Pensacola.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Draft Letter of Support

PRESENTATION: No

Mr. Allan Bense
Florida Triumph Gulf Coast, Inc.
P. O. Box 12007
Tallahassee, FL 32317

RE: US29 Connector and Beulah Interchange Joint Project Application to Triumph Gulf Coast Board

Dear Chairman Bense,

With the ongoing and planned growth in the greater Beulah community in Escambia County, the City of Pensacola supports the US29 Connector and Beulah Interchange Joint Project (“Project”) Application for consideration of the Triumph Gulf Coast Board.

The Project, from SR10 (Nine Mile Road) to CR184 (Muscogee Road), including a new I-10 interchange, is vitally important, and will provide multiple benefits (new hurricane evacuation route/Interstate 10 access, public safety improvements, congestion relief to surrounding facilities including US29 and US90A, economic development opportunities, etc.) to not only Escambia County, but also for the greater region.

It is our understanding that the County is currently performing the required Project Development and Environmental Study, and has invested approximately \$2.7 million of Local Funds towards the Project to date; however, is in need of identifying funding for future project phases (design, right-of-way, and construction).

Any support that Triumph Gulf Coast Board can provide to the County to see the Project through from the PD&E Study to construction, would be greatly appreciated.

Sincerely,

Gerald C. Wingate
City Council President



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00119

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Brian Spencer

SUBJECT:

APPROVAL OF DOWNTOWN IMPROVEMENT BOARD (DIB) BY-LAW AMENDMENT AND RATIFICATION OF 2009 AMENDMENTS

RECOMMENDATION:

That City Council approve the submitted amendment to the DIB By-Laws as required by said By-Laws as well as the State Enabling Act, Chapter 72-655, Laws of Florida. Further, that City Council ratify previous amendments made in 2009.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Pensacola Downtown Improvement Board (DIB) was established by Chapter 72-655, Laws of Florida, as amended by Chapters 76-466 and 80-582, Laws of Florida. In accordance with Chapter 72-655, the DIB adopted certain By-Laws and Internal Governance, with the ability to further amend the By-Laws. Prior to becoming effective, the amendments must be approved by the City Council.

Article VI. Section 1. (2) - DIB By-Laws

“No Amendments to the bylaws shall become effective until approval by the City Council, as provided within the State Enabling Act.”

Chapter 72-655, Laws of Florida - Section 6. Board bylaws and internal governance.

“The board shall formulate and may amend its own rules of procedure and written bylaws not inconsistent, herewith, and such rules of procedure and written bylaws, and amendments thereto, shall not become effective until approved by the city council....”

Proposed Amendment(s):

Article I, Section 2 - Purpose and Objective - add language, “...to contribute to the progress and growth

of Downtown Pensacola through promotion; manage parking in Downtown Pensacola.”

Article I, Section 2, subsection 5 - add language, “...including hosting events.”

Article I, Section 4 - Office - add language, “...unless the main office is located in facilities owned by the City of Pensacola, Florida or Escambia County, Florida.”

Article II - Section 1 - Membership and Term, subsection (a) - adjust dates, “...shall be appointed in 1992, ...1993,...1994

Article III, Section 1, Subsection 7 - DIB By-Laws

Length of Term: There is no limit to the number of terms a Board officer may serve in the same office.

Article III - Committee Appointments - strike, “The Chairman shall be responsible for making standing committee appointments.” Add, “The Chairman shall determine when a standing committee will be active and may make appointments to the active standing committees as needed.”

Also, certain amendments made in 2009 need to be ratified by City Council. These amendments have been relied upon by the DIB since this time; no indication can be found that Council approved said amendments.

PRIOR ACTION:

June 16, 2016 - City Council approved Downtown Improvement Board (DIB) By-law Amendments

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) DIB Bylaws Complete Exact Feb 2018
- 2) DIB By-Laws Ratification

- 3) DIB By-Laws Amendment
- 4) DIB By-Law Amendments June 2016

PRESENTATION: No

**BYLAWS AND INTERNAL GOVERNANCE PROCEDURES OF THE
PENSACOLA DOWNTOWN IMPROVEMENT BOARD**

A NOT-FOR-PROFIT FLORIDA CORPORATION

ARTICLE I – THE BOARD (PURPOSES AND POWERS)

Section 1 - Name

The official name of the Board shall be “Pensacola Downtown Improvement Board” or short title “Downtown Improvement Board”. As used herein, Board, shall mean the Pensacola Downtown Improvement Board unless otherwise specified.

Section 2 – Purpose and Objective

The Downtown Improvement Board was established in April 1972 by the Florida Legislature (Chapter 72-655 as amended 76-466 and 80-582) to correct downtown Pensacola commercial blight; preserve property values; to contribute to the progress and growth of Downtown Pensacola through promotion; manage parking in Downtown Pensacola; encourage economic development; attract commercial and residential re-investment into urban core; and beautify downtown Pensacola through proper maintenance, aesthetic and technical design and redevelopment measures. The overall objectives of the Board are specifically itemized in the state charter and include the following:

- 1 Prepare and maintain, on a current basis, an analysis of the economic conditions and changes occurring in the downtown area, including the effect thereon of such factors as metropolitan growth, traffic congestion, lack of adequate parking and other access facilities, and structural obsolescence and deterioration
- 2 Formulate and maintain on a current basis both short-range and long-range plans for improving the attractiveness and accessibility to the public of downtown facilities, promoting efficient use therefore, remedying the deterioration of downtown property values and developing the downtown area
- 3 Recommend to the City Council for its consideration and approval the actions deemed most suitable for implementing the downtown development plans, including removal; razing; repair; renovation; reconstruction; remodeling and improvement of existing structures; addition of new structures and facilities; relocation of those existing and changes in facilities ingress and egress patterns
- 4 Participate actively in the implementation and execution of approved development plans; including establishment, acquisition, construction, ownership, financing, leasing, licensing, operation and management of publicly owned or leased facilities deemed feasible and beneficial in effecting implementation for public purposes
- 5 Carrying on all other projects and undertakings, including hosting events authorized by laws and within the limits of the powers granted to it by law, and such additional lawful projects and undertaking; related to the downtown area as the City Council may assign to the board with its consent

The general purposes for which the Board is organized are to operate exclusively to promote the health, safety and general economic and social welfare so as to qualify it as a tax-exempt organization under Section 501 (c) (4) of the Internal Revenue Code of 1954, or the corresponding provisions of any subsequent federal tax laws. The Board is not organized for and shall not be operated for profit.

Section 3 – Corporate Seal

The corporate seal of the Board is in the form of a circle, the outer rim of which bears the name “Downtown Improvement Board, Florida” and the date of its organization, 1972 (i.e. April 26, 1972).

Section 4 – Office

The main office of the Board shall be at 11 West Romana Street, Pensacola, Florida, or such other place as may be designated by the Board from time to time provided it remains within the bounds of its established district unless the main office is located in facilities owned by the City of Pensacola, Florida or Escambia County, Florida.

Section 5 – Powers

The Board shall have all powers granted it by the laws of the State of Florida including but not limited to the powers specifically designated in its enabling legislation (Chapter 72-655, as amended) which include the following:

1. To enter into contracts and agreements, and to sue and be sued as a body corporate
2. To have and use a corporate seal
3. To acquire, own, convey or otherwise dispose of lease as lessor or lessee, construct, maintain, improve, enlarge, raze, relocate, operate, and manage property and facilities of whatever type to which it holds title; and to grant and acquire licenses, easements and options with respect thereto; provided however, any property owned by the Board not used for public or governmental purposes will be subject to the applicable state and local taxes imposed thereon
4. To accept grants and donations of any type of property, labor, or other thing of value from any public or private source
5. To receive the proceeds of the tax hereby imposed upon it by trusts or other agreements validly entered into by it
6. To have exclusive control of funds legally available to it, subject to limitations imposed upon it by law or by any agreement validly entered into by it
7. To cooperate and enter into agreements with other governmental agencies or other public bodies
8. To make or to receive from the City of Pensacola conveyances, leaseholds, grants, contributions, loans and other rights and privileges
9. To request by resolution that the City exercise its power of eminent domain to acquire any real property for public purposes. If the property involved is acquired, the Board shall take over and assume control of the property on terms mutually agreed upon between the City and the Board, but the Board shall not thereafter be authorized to sell, lease, or otherwise dispose of the property so acquired without the formal consent of the City Council

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10. To issue and sell revenue certificates as hereinafter provided, or in any other manner permitted by law and not inconsistent with the provisions hereof, including the power to exchange revenue certificates for property, and to take all steps necessary for efficient preparation and marketing of the certificates at public or private sale at the best price obtainable, including the entry into agreements with corporate trustees, underwriters, and the holders of certificates and the employment and payment, as a necessary expense of issuance, for the service of consultants on valuations, costs and feasibility of undertaking, revenues to be anticipated and other financial matters, architecture, engineering, legal matters, accounting matters and any other fields in which expert advice may be needed to effectuate advantageous issuance and marketing
11. To fix, regulate, and collect rents, fees, rates and charges for facilities or projects or any parts thereof or services furnished by it or under its control and to pledge the revenue to the payment of revenue certificates issued by it
12. To borrow money on its secured and unsecured notes, for a period not exceeding 9 months in an aggregate amount for all outstanding unsecured notes not exceeding 50 percent of the unpledged proceeds received during the immediately prior fiscal year from the tax hereby imposed, and at an annual rate of interest not exceeding the rate being charged at the time of the loan by bank in the city on unsecured short-term loans to local businesses
13. To acquire by rental or otherwise and equip and maintain a principal office for the conduct of its business and such branch offices as may be necessary
14. To employ and prescribe the duties, authority and compensation not to exceed the highest salary [aid to other non-elective city employees and reimbursement of expenses of the executive director of the Board, who shall act as its chief executive officer, a general counsel, who shall be an attorney in active Florida practice and so engaged at the time of appointment and such other personnel as may be necessary from time to time, provided its personnel shall not be under civil service regulations and shall be employed to serve at its pleasure, and with the exception if its secretary, shall not while employed by it serve as a member of the Board
15. To exercise all powers incidental to the effective and expedient exercise of the foregoing powers to the extent not in conflict here with or inconsistent with
16. To establish development and taxing sub-districts within the downtown area for sectional development in accordance with the comprehensive plan, taxes acquired from said sub-districts to be utilized solely within the sub-district area, said area not to be less than one city block in size; provided, however, that no sub-district shall be the electors located therein. No limitation shall be placed on the amount of taxes imposed under this sub-section, said taxes to be levied only on the real property within the sub-district area
17. To raise funds by the issuance of bonds of the same type and in the same manner, with the same power and authority, and subject to the same limitations as are now provided by statute and charter for issuance of bonds by the City. The general provisions relating to the issuance of revenue certificates as set out in Chapter 72-655, as amended, shall apply to the issuance of such bonds. No such bonds shall be issued except on approval in a referendum. The referendum shall be held in accordance with the provisions of Chapter 72-655, as amended. The aggregate amount of bonded indebtedness shall at no time exceed 10 percent of the valuation of taxable property in the downtown area as the time of issuance. The term of the bonds may extend beyond the life of the Board if the City shall have agreed to service and pay the bonds after the expiration of the Board. In that event, after the Board expires, the City shall continue to levy and collect any fees, charges, or special taxes which have been authorized for the purpose of retiring the bonds. Any excess fees, charges, shall be transferred to the general revenue fund of the City and such fees, charges, and taxes shall not be levied in subsequent years

ARTICLE II – MEMBERSHIP, TERMS AND MEETING PROCEDURES

Section 1 – Membership and Term

- a. *Board Composition, Term and Appointments:* The Board shall be composed of five (5) members appointed by the Mayor of Pensacola with the concurrence of the Pensacola City Council for three (3) year staggered terms. As established in 1972 with the staggered term appointment process and hereafter, 2 Board members shall be appointed in 1992, 2 Board members in 1993, and 1 Board member in 1994
- b. *Qualifications:* To qualify for appointment to the Board and to remain qualified for service on it, a prospective member or a member already appointed shall be an owner of realty within the Downtown Improvement Board district, subject to ad valorem taxation or a lessee thereof required by lease to pay taxes thereon. No voting member shall be serving as a City or County officer or employee
- c. *Ex-Officio Members:* A member of the City Council and County Commission appointed by the Mayor and Chairman respectively, shall serve as ex-officio members of the Board. A representative head of the Planning Department, shall also serve as an ex-officio member of the Board. Such ex-officio member shall be non-voting members of the Board, but shall be treated in all other respects as appointed members

Section 2 – Vacancy

Vacancy in office, which shall be filled in the manner herein above provided within thirty (30) days of its occurrence for the remainder of the unexpired term, shall occur whenever a member is removed from office, becomes disqualified or it otherwise unable to serve or resigns. The Chairman of the Board can provide the Mayor with the name or names of qualified candidates for membership which the Mayor may consider

Section 3 – Attendance/Absence

At any time that any Board member has had three (3) or more consecutive unexcused absences or at any time that the overall attendance record of any Board member (including excused and unexcused absences) is less than 70% for any six-month consecutive period, the Chairman of the Board shall notify the City Clerk of City Council and the Mayor. Excused absences are those absences with occur from regular or special meetings after notification by such person to the Chairman or Secretary prior to such absence explaining the reasons thereof. All other absences are here defined to be unexcused.

Section 4 – Compensation for Expenses

Each member of the Board shall serve without compensation for services rendered as a member, but may be reimbursed by the Board for necessary and reasonable expenses actually incurred in the performance of duty.

Section 5 – Disclosure of Interest

In addition to any other requirement for disclosure of conflict of interest, and regardless of the applicability or inapplicability of any law respecting the disclosure of any interest of a Board member, any Board member owning an interest in any property, either individually or in the form of a partnership, limited partnership, corporation, trust, or any form of representative capacity whatsoever for others, shall, leased, taken by eminent domain, or otherwise conveyed to the Board, make a public disclosure in writing, of the interest of such member in such property. Any Board member having any interest whatsoever, either individually or in a representative contract with the Board shall prior to entering into such contract, make a public disclosure in writing of such interest. Any disclosure made by any Board member hereunder shall be read into the minutes of the next ensuing regular meeting of the Board.

Section 6 – Removal

A member of the Board may be removed for fraud, dishonesty or other good cause upon the vote of City Council at a regular or special meeting held not less than ten days after notice of the intended action, which notice shall include a statement of the reasons for the removal, and the date, time and place of the meeting at which the matter will be acted upon, has been delivered or sent to the Board member involved by Certified Mail – Return Receipt Requested. The Board member involved may appear and be heard at such meeting before a vote is taken

Section 7 – Meetings of the Board

- 1) *Regular Meetings:* The Board shall hold its regular meetings once each month in the DIB Board Room unless otherwise designated by the Board
- 2) *Special Meetings:* Special meetings of the Board may be called for any purpose(s) at any place in the City of Pensacola, at any reasonable time, by call of the Chairman of the Board, or by at least three of the members of the Board. Notice of such special meetings shall be given at least 48 hours prior to the date of such meeting, except emergency meetings upon call of the Chairman
- 3) *Emergency Meeting:* Emergency meetings may be held on call of the Chairman so long as the Chairman or Secretary also notifies the public and/or press of the meeting in sufficient time to attend
- 4) *Open Meetings and Public Notice of Meetings:* In accordance with the laws of the State of Florida, all business of the Board shall be conducted as public meetings. No member of the Board shall conduct business of the Board with another member at any formal or informal meeting, unless reasonable notice, considering the circumstances, to the public of such meeting. Notice of regularly scheduled and special meetings shall be given to each Board member and the Pensacola News Journal or other appropriate media at least 48 hours prior to the date set for such meeting
- 5) *Member Quorum and Voting:* A majority of the membership of the Board, three (3) members, shall constitute a quorum. When a quorum is present an affirmative vote of at least three (3) members is required for the adoption of any motion that is order. In the case of a tie vote, the item in question shall be tabled until the next scheduled meeting. Voting shall be by roll call when requested by any member, with the Chairman voting last.
- 6) *Adjourned Meetings:* If any meeting cannot be organized because a quorum is not present, the members who are present may adjourn the meeting to a time not less than 2 weeks after the time the original meeting was called, and notice of such adjourned meeting shall be given to each Board Member, unless waived.

- 7) *Organizational Meetings:* At least twice per fiscal year the Board shall have organizational meetings. Organizational meetings can include such activities such as election of officers, appointments, reports from the Chairman, the Treasurer and the Executive Director – Secretary to the Board on the activities of the Board during the previous twelve (12) months, and to discuss the budget, and the goals and objectives for the next 12 months
- 8) *Recessed and Continued Meeting:* Where a meeting having been set and noticed under the provisions of these Bylaws and during the course of said meeting is recessed to a time and place certain, there shall be a reasonable service of notice of the time and place of the continuation of said meeting in addition to the original meeting notice
- 9) *Parliamentary Procedure:* The rules of Parliamentary Procedure set forth in Roberts Rules of Order, Revised, shall govern all meetings of the Board except as otherwise herein provided
- 10) *Order of Business:* At the Regular meetings of the Board, the following shall be the order of business:
 - a) Approval of Minutes of previous meetings
 - b) Requests to address the Board
 - c) Report to the Executive Director or Staff Members
 - aa. Current agenda items
 - bb. Status reports and update informational items
 - cc. Pending items
 - dd. Miscellaneous/Informational news
 - ee. Notice of next meeting date
 - d) Report of Committees (unless already provided for on meeting agenda)
 - e) Correspondence and Communications
 - f) Unfinished business
 - g) New business
 - h) Adjournment

ARTICLE III – OFFICERS, EMPLOYEES AND APPOINTMENTS

Section 1 – Election of Officers and Duties

The officers of the Board shall consist of a Chairman, Vice-Chairman, Secretary, a Treasurer, and other such officers and assistant officers and agents as may be deemed necessary by the Board from time to time. Any two elected offices may be held by the same person with Board consent. In July of each year, after the annual Board appointments are made by the Mayor and confirmed by City Council, the Board shall elect a Chairman, Vice-Chairman and a Treasurer from tis members after receiving nomination recommendations from an Ad Hoc Nominating Committee consisting of two (2) Board members appointed by the Chairman. The Ad Hoc Nominating Committee recommendations will be forwarded to the Board not less than 5 days prior to Board consideration. In July or soon thereafter, after officers are elected, the Board shall also appoint a Secretary, who is also the Executive Director of the Board

- 1) *Chairman:* The Chairman shall preside at all meetings and hearings of the Board and shall have the duties normally conferred by parliamentary usage on such officers. He shall have the privilege of discussing all matters before the Board and voting thereon. The Chairman shall appoint the standing committees and other Ad Hoc committees as may be deemed appropriate
- 2) *Vice Chairman:* The Vice-Chairman shall act for the Chairman in his absence, disqualification, or disability of the Chairman at the Chairman’s discretion, exercise all the functions of the Chairman
- 3) In the absence of a Chairman and Vice Chairman the quorum present shall select a Chairman for the meeting

- 4) *Secretary*: The Secretary to the Board shall also be the Executive Director appointed by the Board. The Secretary to the Board shall be the custodian of all books and records of the Board and of the Downtown Improvement Board District; shall keep the minutes of all meetings; shall send out all notices of meetings; and shall perform such other duties as may be designated by the Board
- 5) *Treasurer*: The Treasurer shall also be the Downtown Improvement Boards Budget and Finance Committee Chairman as elected by the Board. The Treasurer, working jointly with the Executive Director, shall keep the financial records of the Board and of the Downtown Improvement Board District; shall keep full and accurate accounts of receipts and disbursements of the Board,; shall have the custody of all Board funds; shall together with the Executive Director render budget reports to the Board; shall assist the Executive Director in the preparation of the proposed Board budget; shall make and file all financial reports and statements necessary to be made and filed by the Board; and shall perform such other duties as may be designated by the Board.
- 6) *Removal of Officers*: Any two (2) members of the Board may seek the removal of any officer. Provided ten (10) day notice in writing is given such officer, of the reasons for which such removal is sought. Following such ten (10) day notice, the Board shall consider such requested removal at a public meeting at which all interested parties shall be given the opportunity to present their views. Removal of any officer must be by the vote of at least three (3) of the appointed members of the Board
- 7) *Length of Term*: No elected Board officer shall serve more than ~~two (2)~~ four (4) consecutive one-year terms in the same office.

Section 2 – Committee Appointments

~~The Chairman shall be responsible for making standing committee appointments.~~ The Chairman shall determine when a standing committee will be active and may make appointments to the active standing committees as needed. There are eleven (11) Board standing committees with the duties as follows:

- | | |
|---|---|
| 1. Information and Publications Committee | 7. Maintenance/Beautification Committee |
| 2. Planning & District Boundary Committee | 8. Budget & Finance Committee |
| 3. Parking and Traffic Committee | 9. Crime/Safety Committee |
| 4. Aesthetics & Physical Design Committee | 10. Retail Council Special Committee |
| 5. Owners & Tenants Liaison Committee | 11. Events Committee |
| 6. Leasing Recruitment Committee | |
- 1) The *Information and Publications Committee* is responsible for ensuring that the DIB is collecting and making downtown available and properly maintaining the DIB Resource-Reference Room. Similarly, this committee reviews any DIB publications before presented to the Board and the public, i.e. downtown directory, promotional and investors brochure, DIB newsletters, information packages, bylaws and internal governance procedures and slide show.
 - 2) The *Planning and District Boundary Committee* is assigned the task of reviewing downtown development plans affecting the district. Developing planning proposals and recommending changes to the DIB District boundaries when necessary
 - 3) The *Parking and Traffic Committee* has the task of developing a downtown physical and financial parking plan and program, in addition to coordinating downtown traffic circulation with the City. This committee will also analyze the impacts of large scale development outside of the District yet impacting the parking and traffic circulation patterns within the District.
 - 4) The *Aesthetics and Physical Design Committee* is interested in any physical developments which affect the aesthetics within the District; in developing and monitoring physical design techniques with improve building facades, signage and streetscapes; and in updating the Palafox Historic Business District Ordinance to create more incentives and better conformance to said ordinance and in working with the Architectural Review Board.

- 5) The *Owners and Tenants Liaison Committee* will work with downtown owners and tenants, to provide a better communication channel to owners and tenants within the District and act as an idea sounding board back to the DIB
- 6) The *Leasing Recruitment Committee* will monitor and evaluate the marketing strategy used to market the downtown as a unified entity; the strategy to fill vacant structures within the DIB District; and the efforts used to increase small business development and economic development within the DIB District
- 7) The *Maintenance/Beautification Committee* is responsible for the DIB maintenance programs within the District and for working with property owners and the Pensacola Escambia Clean Community Commission (PECCC) as it pertains to cleanliness education and attitude modifications relating to litter
- 8) The *Budget and Finance Committee* deals with any topic areas relating to developing new revenue resources; to program and project funding and taxation as well as the operational budgeting for the DIB as an organization
- 9) The *Crime/Safety Committee* is responsible for recommending programs which will assist with facilitation the need for additional law enforcement downtown, assist with specific problems which may occur within the District; improve downtown safety perceptions; plan, promote and coordinate with outside agencies improved efforts towards removal of criminal activities; panhandling, vagrants, etc.
- 10) The *Retail Council* is responsible for coordinating joint advertising promotions among downtown retailers, restaurants and other business types in both the print and television media. Additionally, the Council is charged with assisting with promoting special events and developing a shopping, dining and entertainment guide
- 11) The *Special Events Committee* is responsible for coordinating with downtown events coordinators to improve the events as well as develop special events programs which will generate traffic downtown
- 12) *Committee Appointments and Filling Vacancies:* The Board Chairman shall make in a timely manner, committee appointments each year after the election of officers. Similarly, any committee vacancies shall be made in a timely and appropriate manner

Section 3 – Employees

- 1) *Executive Director:* The Executive Director shall act also as the Secretary to the Board; shall be appointed by the Board each year after the election of officers, and shall service at the pleasure of the Board. The Executive Director shall be the Chief Executive of the Board; be responsible for the effectuation of the Board's policies of budgets and related documents involved in the financial affairs of the Board; be in charge of supervision of the administrative, research maintenance and other staff of the Board; be in charge of the carrying out of the liaison with the City, State and Federal agencies participating in the program and public information; and, when directed and authorized by resolution of the Board, shall act for the Board. The Executive Director shall perform all such other duties and functions as may from time to time be required by the Board or by the bylaws of the Board
- 2) *General Council:* The General Counsel to the Board shall be appointed by the Board each year after the election of officers and shall serve at the pleasure of the Board. The Board shall delegate to said Counsel such authority and responsibility as the Board deems necessary to provide the legal services required by the Board
- 3) *Administrative and Other Staff:* The Executive Director ~~Board may appoint or~~ employ such permanent and temporary personnel, as it deems necessary to exercise its powers, duties and functions as prescribed by statute, and determine their qualifications, duties and compensation subject to statutory limitations and availability of funds. Such employees may include, but is not limited to, an Administrative Secretary, Researcher(s) and Maintenance Personnel

- 4) *Professional Services:* The Board may further engage the use of consultants, experts, specialist and other contractual services as it may require to fully carry out its objectives
- 5) *Personnel Policy:* The Board shall adopt a personnel policy for permanent, part-time and temporary employees and shall give or cause to give annual written personnel evaluations. The Board established that qualifications for each employee position as it deems appropriate or may delegate the firing of such employees to its Executive Director. Salaries for any employee shall, however, be approved by the Board. In regard to the hiring of an employee all reasonable steps shall be taken to encourage and promote quality for opportunity for all applicants

ARTICLE IV – BOARD RECORDS AND FISCAL MANAGEMENT

Section 1 – Fiscal Year

The fiscal year of the Board shall coincide with that of the City of Pensacola (i.e. begins October 1 of each year).

Section 2 – Funds

All funds of the Board shall be received, held and secured like other public funds by the appropriate fiscal officers of the City. The funds of the Board shall be maintained under a separate account, shall be used for purposes authorized by law and shall be disbursed only by direction of or with the approval of the Board pursuant to requisitions signed by the Director or other designate Chief Fiscal Officers of the Board and countersigned by at least one (1) other person who shall be a member of the Board

Section 3 – Minutes and Official Records

The minutes of each Board meeting shall be approved by the Board prior to taking up new agenda items at the following meeting. Official records of the Board shall be approved by the Board and kept on file in Board offices or other appropriately deemed locations

Section 4 – Budget

Prior to September 1 of each year, the Board shall adopt a recommended budget for forwarding to the City Council of the City of Pensacola, so that a budget for the Downtown Improvement Board District may be included with the general budget of the City of Pensacola in accordance with State Law

Section 5 – Accounting Practices

In accordance with State law, the Board shall comply with all regulations of the State Department of Banking and Finance regarding uniform accounting practices and procedures for units of local government

Section 6 – Annual Report

Within ninety (90) days after the close of each fiscal year, the Board shall submit to the State Department of Banking and Finance, in accordance with State law, a copy of a financial report covering the operations of the Pensacola Downtown Improvement Board during each preceding fiscal year

Section 7 – Audit

Within ninety (90) days after the end of each fiscal year, the Board shall cause to be prepared an internal audit of the accounts and records of the Board in accordance with the rules of the State Department of Banking and Finance. Such external audit shall be completed by an independent certified public accountant retained by the Board and paid from its funds. Similarly, the Board shall file said external audit with the City Clerk within ninety (9) days after the end of the fiscal year

Section 8 – Surplus Funds

Surplus funds of the Board shall be invested in accordance with the requirements of State Law

Section 9 – Competitive Bidding

Whenever practical and depending upon the availability of funds therefore, all reasonable opportunity shall be given for competitive bidding for any purchase of material or services by the Board

ARTICLE V – EXECUTION OF DOCUMENTS AND SERVICE OF PROCESS

Section 1 – Execution of Documents

All documents executed by the Board for the Pensacola Downtown Improvement Board District shall be executed by the Chairman, with an attestation by the Secretary and affixing of the seal of the Board

Section 2 – Service of Process

The Board designates the Executive Director, who for service of process purposes will use the Boards office address as the person upon whom process against it may be served

ARTICLE VI – AMENDMENT TO BYLAWS, BOARD POLICIES AND ORGANIZATIONAL STRUCTURE

Section 1 – Amendments

- a) The Board may amend these bylaws consistent with the Enabling State Act (Chapter 71-655, as amended) creating the Board, by majority vote of the Board if the text of the proposed amendment has been read at least once at a previous regular meeting
- b) No amendment to the bylaws shall become effective until approval by the City Council, as provided in the State Enabling Act

Section 2 – Board Policies

The Board may develop certain policies as it related to the operations and position taken by the Board as it pertains to specific subject matters. These policies will be the decision-making guidelines for programs, services and actions of the Board. Similarly, these policies may be changed as conditions so dictate and as approved by the Board. Adopted Board policies shall be attached and kept with Board bylaws for informational purposes

Section 3 – Organizational Structure

The function and objectives of the Board shall be carried out in accordance with the structure of organization as set forth in the State Enabling Act creating the Board (Chapter 72-655, as amended). Said structure of organization shall be subject to amendment in the manner provided for in the State Enabling Act or as herein provided for in these bylaws, not inconsistent with the State Enabling Act

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AMENDMENTS

ARTICLE III, Section 1, Subsection 7. Length of Term of Bylaws is amended to read as follows:

- 8) Length of Term – No elected Board officer shall serve more than four (4) consecutive one-year terms in the same office

ARTICLE III, Section 2, Committee Appointments of the Bylaws is amended to

- a) Add the following at the end thereof:
 - 12) Expanded District Committee
 - 13) Such other Committees as the Chairman deems to be appropriate subject to approval of the Board
- b) Add the following subsections at the end thereof:
 - 13) The Expanded District Committee is responsible for gathering and communicating to the Downtown Improvement Board any and all data and recommendations relevant to any area of the district added to the district within the immediately preceding five-year term. The Expanded District Committee shall cease to exist at such time as the Board is expanded to more than five (5) members
 - 14) Any and all other Committees shall be responsible for the charge provided by the Chairman and approved by the Board

The above amendments will take effect when read at least once in a prior regular meeting, approved by a majority vote of the Board at a subsequent meeting, and approved by the City Council

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**AMENDMENT TO THE BY-LAWS AND INTERNAL GOVERNANCE OF THE PENSACOLA
DOWNTOWN IMPROVEMENT**

WHEREAS, the Pensacola Downtown Improvement Board (“DIB”) was established by Chapter 72-655, Laws of Florida as amended by Chapters 76-466 and 80-582, Laws of Florida (the “Act); and,

WHEREAS, the DIB adopted those certain By-Laws and Internal Governance of the Pensacola Downtown Improvement Board as amended per the Act (“By-Laws”); and,

WHEREAS, the DIB desires to further amend the By-Laws (“Amendment”); and,

WHEREAS, this Amendment is subject to the approval of the Pensacola City Council.

NOW, THEREFORE, in consideration of the afore mentioned, the Board of Directors of the DIB, subject to the approval of the Pensacola City Council, agree as follows:

1. Article I Section 2 of the By-Laws is amended by inserting the phrase “to contribute to the progress and growth of Downtown Pensacola through promotion, manage parking in Downtown Pensacola” between the term “values;” and “encourage”.
2. Article I Subsection 2.5 of the By-Laws is amended by inserting the phrase “including hosting events” between the terms “undertakings” and “authorized”.
3. Article I Section 4 of the By-Laws is amended by inserting at the end of Section 1.4 the phrase “unless the main office is located in facilities owned by the City of Pensacola, Florida or Escambia County, Florida”
4. Article III, Section 2 of the By-laws is amended by deleting the sentence “The Chairman shall be responsible for making standing committee appointments” and substituting the sentence “The Chairman shall determine with the concurrence of the Board of Directors of the DIB when a standing committee will be active and may make appointments to the active standing committees as needed”
5. Article III, Section 3.3 is to be amended to substitute the term “Executive Director” for the word “Board” and strike the words “appoint or”
6. This amendment is effective upon its adoption by a majority vote of the Board of Directors of the DIB after the text of the proposed amendment has been read at least once at a previous regular meeting of the Board of Directors of the DIB and after the approval of the Pensacola City Council. The Chairman of the Board of Directors of the DIB is hereby authorized to sign the Amendment

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CERTIFICATION**

I, THE UNDERSIGNED, hereby certify that I am the duly elected Chairman of the DIB and this Amendment is hereby adopted per the Act and the By-laws.

Date of the Previous Regular Meeting when the proposed amendment was read February 16, 2016

Date of Adoption of the Amendment was February 16, 2016

PENSACOLA DOWNTOWN IMPROVEMENT BOARD

By: _____
John L. Peacock
Chairman

Attest: _____
Name: Ronald J. Butlin
Secretary

APPROVAL BY THE PENSACOLA CITY COUNCIL

I, THE UNDERSIGNED, hereby certify that I am the duly elected President of the Pensacola City Council and this Amendment is hereby adopted by the Pensacola City Council on this _____, 2016.

PENSACOLA CITY COUNCIL

By: _____
Name:
President:

Attest: _____
Name:
City Clerk

**RATIFICATION OF PREVIOUSLY ADOPTED AMENDMENTS TO THE BY-LAWS
AND INTERNAL GOVERNANCE PROCEDURES OF THE PENSACOLA
DOWNTOWN IMPROVEMENT**

WHEREAS, the Pensacola Downtown Improvement Board (“DIB”) was established by Chapter 72-655, Laws of Florida as amended by Chapters 76-466 and 80-582, Laws of Florida (the “Act”); and,

WHEREAS, the DIB adopted, and the Pensacola City Council approved, those certain By-Laws and Internal Governance Procedures of the Pensacola Downtown Improvement Board per the Act (“By-Laws”); and,

WHEREAS, the DIB desires to ratify, and request the Pensacola City Council to approve ratification of, the By-law amendments approved on November 3, 2009 and attached hereto as Exhibit A (“2009 Amendments”) because the DIB has governed itself in accordance with the 2009 Amendments since the date of the 2009 Amendment approval and because through the passage of time the records of the previous adoption of the 2009 Amendments by the DIB and the approval of the 2009 DIB Amendments by the Pensacola City Council are no longer available; and,

WHEREAS, this ratification of the 2009 Amendments is subject to the approval of the Pensacola City Council.

NOW, THEREFORE, in consideration of the aforementioned, the Board of Directors of the DIB, subject to the approval of the Pensacola City Council, agree as follows:

1. The 2009 Amendments are hereby ratified.
2. This ratification is effective upon its adoption by a majority vote of the Board of Directors of the DIB after the text of the 2009 Amendments have been read at least once at a previous regular meeting of the Board of Directors of the DIB and after the approval of the Pensacola City Council. The Chairman of the Board of Directors of the DIB is hereby authorized to sign this ratification.

CERTIFICATION

I, THE UNDERSIGNED, hereby certify that I am the duly elected Chairman of the DIB and this ratification is approved.

Date of the Previous Regular Meeting when the 2009 Amendments were read on March __, 2018

Date of Adoption of this ratification was _____, 2018.

PENSACOLA DOWNTOWN IMPROVEMENT BOARD

By: _____
John L. Peacock
Chairman

Attest:

Name:
Secretary

**OFFICIAL
SEAL**

APPROVAL BY THE PENSACOLA CITY COUNCIL

I, THE UNDERSIGNED, hereby certify that I am the duly elected President of the Pensacola City Council and this ratification adopted by the DIB is hereby approved by the Pensacola City Council on this _____, 2018.

PENSACOLA CITY COUNCIL

By: _____
Name:
President

Attest:

Name:
City Clerk

Amendments

ARTICLE III, Section 1, Subsection 7, Length of Term, of the Bylaws is amended to read as follows:

7. Length of Term. No elected Board officer shall serve more than four (4) consecutive one-year terms in the same office.

ARTICLE III, Section 2, Committee Appointments, of the Bylaws is amended to

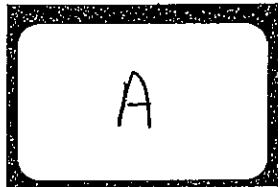
(a) add the following at the end thereof:

12. Expanded District Committee
13. Such other Committees as the Chairman deems to be appropriate subject to approval of the Board

(b) add the following subsections at the end thereof:

13. The Expanded District Committee is responsible for gathering and communicating to the Downtown Improvement Board any and all data and recommendations relevant to any area of the district added to the district within the immediately preceding five-year term. The Expanded District Committee shall cease to exist at such time as the Board is expanded to more than five (5) members.
14. Any and all other Committees shall be responsible for the charge provided by the Chairman and approved by the Board.

The above amendments will take effect when read at least once in a prior regular meeting, approved by a majority vote of the Board at a subsequent meeting, and approved by the City Council.



**AMENDMENT TO THE BY-LAWS AND INTERNAL GOVERNANCE PROCEDURES
OF THE PENSACOLA DOWNTOWN IMPROVEMENT BOARD**

WHEREAS, the Pensacola Downtown Improvement Board (“DIB”) was established by Chapter 72-655, Laws of Florida as amended by Chapters 76-466 and 80-582, Laws of Florida (the “Act”); and,

WHEREAS, the DIB adopted, and the Pensacola City Council approved, those certain By-Laws and Internal Governance Procedures of the Pensacola Downtown Improvement Board per the Act (“By-Laws”); and,

WHEREAS, the DIB desires to further amend the By-Laws; and,

WHEREAS, this amendment to the By-laws is, per the Act, subject to the approval of the Pensacola City Council.

NOW, THEREFORE, in consideration of the aforementioned, the Board of Directors of the DIB, subject to the approval of the Pensacola City Council, agree as follows:

1. Article III, Section 1, Subsection 7 of the By-Laws is amended to read as follows:

Length of Term: There is no limit to the number of terms a Board officer may serve in the same office.

2. This Amendment is effective upon its adoption by a majority vote of the Board of Directors of the DIB after the text of the amendment has been read at least once at a previous regular meeting of the Board of Directors of the DIB and after the approval of the Pensacola City Council. The Chairman of the Board of Directors of the DIB is hereby authorized to sign the amendment.

CERTIFICATION

I, THE UNDERSIGNED, hereby certify that I am the duly elected Chairman of the DIB and this amendment is hereby adopted per the Act.

Date of the Previous Regular Meeting when this amendment was read on March __, 2018.

Date of Adoption of the amendment was _____, 2018.

PENSACOLA DOWNTOWN IMPROVEMENT BOARD

By: _____
John L. Peacock
Chairman

Attest:

Name:
Secretary

**OFFICIAL
SEAL**

APPROVAL BY THE PENSACOLA CITY COUNCIL

I, THE UNDERSIGNED, hereby certify that I am the duly elected President of the Pensacola City Council and the above amendment to the By-laws is hereby approved by the Pensacola City Council on this _____, 2018.

PENSACOLA CITY COUNCIL

By: _____
Name:
President

Attest:

Name:
City Clerk

**AMENDMENT TO THE BY-LAWS AND INTERNAL GOVERNANCE OF THE
PENSACOLA DOWNTOWN IMPROVEMENT**

WHEREAS, the Pensacola Downtown Improvement Board (“DIB”) was established by Chapter 72-655, Laws of Florida as amended by Chapters 76-466 and 80-582, Laws of Florida (the “Act”); and,

WHEREAS, the DIB adopted those certain By-Laws and Internal Governance of the Pensacola Downtown Improvement Board as amended per the Act (“By-Laws”); and,

WHEREAS, the DIB desires to further amend the By-Laws (“Amendment”); and,

WHEREAS, this Amendment is subject to the approval of the Pensacola City Council.

NOW, THEREFORE, in consideration of the aforementioned, the Board of Directors of the DIB, subject to the approval of the Pensacola City Council, agree as follows:

1. Article I, Section 2 of the By-Laws is amended by inserting the phrase “to contribute to the progress and growth of Downtown Pensacola through promotion, manage parking in Downtown Pensacola” between the term “values;” and “encourage”.
2. Article I, Sub-Section 2.5. of the By-Laws is amended by inserting the phrase “,including hosting events” between the terms “undertakings” and “authorized”.
3. Article I, Section 4 of the By-Laws is amended by inserting at the end of Section 4 the phrase “unless the main office is located in facilities owned by the City of Pensacola, Florida or Escambia County, Florida”.
4. Article III, Section 2. of the By-Laws is amended by deleting the sentence “The Chairman shall be responsible for making standing committee appointments.” and substituting the sentence “The Chairman shall determine with the concurrence of the Board of Directors of the DIB when a standing committee will be active and may make appointments to the active standing committees as needed.”.
5. Article III, Section 3.3. is be amended to substitute the term “Executive Director” for the word “Board” and strike the words “appoint or”.
6. This Amendment is effective upon its adoption by a majority vote of the Board of Directors of the DIB after the text of the proposed amendment has been read at least once at a previous regular meeting of the Board of Directors of the DIB and after the approval of the Pensacola City Council. The Chairman of the Board of Directors of the DIB is hereby authorized to sign the Amendment.

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CERTIFICATION

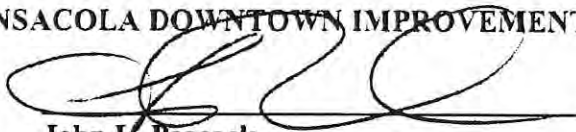
I, THE UNDERSIGNED, hereby certify that I am the duly elected Chairman of the DIB and this Amendment is hereby adopted per the Act and the By-Laws.

Date of the Previous Regular Meeting when the proposed amendment was read February 16, 2016.

Date of Adoption of the Amendment was February 16, 2016.

PENSACOLA DOWNTOWN IMPROVEMENT BOARD

By:



John L. Peacock
Chairman

Attest:



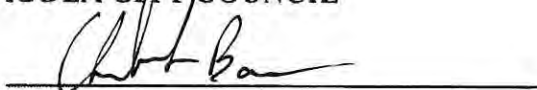
Name: Ronald J. Butlin
Secretary

APPROVAL BY THE PENSACOLA CITY COUNCIL

I, THE UNDERSIGNED, hereby certify that I am the duly elected President of the Pensacola City Council and this Amendment is hereby adopted by the Pensacola City Council on this June 16, 2016.

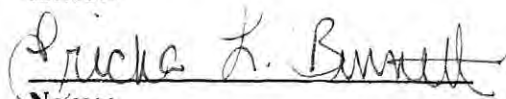
PENSACOLA CITY COUNCIL

By:



Name:
President

Attest:



Name:
City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00185

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

APPROVAL OF INTERLOCAL AGREEMENT WITH ESCAMBIA COUNTY AND LETTER OF REQUEST TO FDOT FOR WEST CERVANTES CORRIDOR TRAFFIC FEASIBILITY STUDY

RECOMMENDATION:

That City Council authorize the Mayor to take all necessary action to execute an Interlocal Agreement (ILA) with Escambia County relating to cost sharing for the West Cervantes Corridor Traffic Feasibility Study and approve a letter requesting the Florida Department of Transportation (FDOT) to program the locally-funded Traffic Feasibility Study.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On December 14, 2016, the Florida-Alabama TPO formally adopted the West Cervantes Corridor Management Plan. The Plan identified short-term and long-term strategies to improve the traffic flow and safety for all modes of travel along the corridor. The long-term strategies provided for a "road diet" with two options: (1) to reduce the existing four-lane facility to a two-lane facility; or (2) to rebalance the lanes by decreasing the width of the travel lanes and adding landscaped medians.

On July 13, 2017, the Pensacola City Council adopted Resolution No. 17-29 supporting the short-term and long-term recommendations within the West Cervantes Corridor Management Plan and the progression of the project through all phases by FDOT for design and roadway improvements.

City and County staff have met with FDOT representatives to determine the course of action to implement the Plan. Through the course of their meetings, it became apparent the next step was to proceed with a Traffic Feasibility Study to confirm the viability of the long-term strategy. Providing additional support for this decision have been the concerns voiced by FDOT with respect to allowing enhanced short-term improvements which might have to be removed to accomplish the long-term goals. Given that funds are not available through FDOT to facilitate the Study, the proposed Interlocal Agreement would allow the City and County to fund the Study locally by sharing the cost. The City and County portion would be based upon the proportion of the corridor within each jurisdiction.

The accompanying letter requests FDOT program the Study as soon as possible.

PRIOR ACTION:

September 20, 2017 - City Council adopted the Fiscal Year 2018 Budget.

FUNDING:

Budget:	\$1,500,000	Local Option Sales Tax Series IV
Actual:	\$ 384,000	Traffic Feasibility Study (64% of FDOT Estimate)
	<u>32,000</u>	8.3% Contingency
	\$ <u>416,000</u>	

FINANCIAL IMPACT:

City Council appropriated \$1.5 million from Local Option Sales Tax Series IV funds for unspecified improvements to the West Cervantes Street Corridor in the Fiscal Year 2018 Budget. The estimated cost provided by FDOT is \$600,000. A contingency of 8.3% has been added to the estimate, increasing the overall project cost to \$650,000. The City's proportionate cost would be 64%, or \$416,000.

CITY ATTORNEY REVIEW: Yes

4/24/2018

STAFF CONTACT:

Eric W. Olson, City Administrator
L. Derrik Owens, Director of Public Works & Facilities/City Engineer
Sherry H. Morris, Planning Services Administrator

ATTACHMENTS:

- 1) Interlocal Agreement with Escambia County - West Cervantes Street Corridor Traffic Feasibility Study
- 2) FDOT Traffic Feasibility Study Letter of Request - West Cervantes Street

PRESENTATION: No

**INTERLOCAL AGREEMENT BETWEEN ESCAMBIA COUNTY, FLORIDA
AND THE CITY OF PENSACOLA RELATING TO THE WEST CERVANTES
STREET CORRIDOR TRAFFIC FEASIBILITY STUDY**

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

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

WHEREAS, the Florida-Alabama Transportation Planning Organization (TPO) is primarily responsible for carrying out the cooperative and comprehensive transportation planning process for the Florida-Alabama TPO Planning Area; and

WHEREAS, the TPO previously selected State Road 10A (US 90 / West Cervantes St), from North "A" Street to Dominguez Street as the subject for a Corridor Management Plan (CMP); and

WHEREAS, on December 14, 2016, the TPO formally adopted the West Cervantes CMP; and

WHEREAS, the West Cervantes CMP identified both short-term and long-term strategies and projects to improve traffic flow and safety for all modes of travel along the West Cervantes corridor based upon a process that included the analysis of existing and future safety and travel capacity needs along with local stakeholder review and recommendations; and

WHEREAS, the West Cervantes CMP also detailed significant traffic and crash data collected from 2010-2015; and

WHEREAS, in 2015, the average annual daily traffic count was 17,250 vehicles, and 457 traffic accidents occurred on the corridor, with four accidents resulting in a fatality, 147 accidents resulting in bodily injury, and 306 accidents resulting in property damage; and

WHEREAS, since the CMP was completed, many other accidents have occurred on the West Cervantes corridor, and as recently as January 5, 2018, another accident resulted in a fatality; and

WHEREAS, the County and City have adopted Resolutions in support of the TPO's West Cervantes CMP and directed staff to cooperatively implement the short-term and long-term corridor improvements; and

WHEREAS, the West Cervantes corridor lies within the jurisdictional boundaries of both the City of Pensacola and Escambia County, with 4,250 feet or 36% of the corridor located within the unincorporated area of Escambia County and 7,600 feet or 64% of the corridor located within the City's jurisdiction; and

WHEREAS, the Florida Department of Transportation has estimated a traffic feasibility study for the West Cervantes corridor will cost a total of approximately \$600,000.00; and

WHEREAS, the County and City have determined it is in the best interest of the citizens to enter into this Agreement whereby the parties shall contribute funding for the completion of a traffic feasibility study for the West Cervantes corridor with each party bearing a proportionate share of the cost based upon the percentage of linear footage located within each jurisdiction.

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:

Section 1. Purpose of Agreement.

1.1 Recitals. 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 Purpose. Pursuant to §163.01, Florida Statutes, this Agreement establishes the conditions, extent, and mechanism whereby the parties shall contribute funding for the completion of a traffic feasibility study for the West Cervantes corridor with each party bearing a proportionate share of the cost based upon the percentage of linear footage located within each jurisdiction.

Section 2. Responsibilities of Parties.

2.1 Subject to the terms and conditions set forth herein, the County agrees to contribute funding in the amount of \$234,000.00, and the City agrees to contribute funding in the amount of \$416,000.00 for the purpose of completing a traffic feasibility study for the West Cervantes/Mobile Highway corridor from "A" Street to Dominguez Street (hereinafter referred to as the "Project"). Said County and City contributions include an 8.3% contingency amount to allow for the payment for the study in the event that the actual cost exceeds the estimate.

2.2 It is expressly understood that this Agreement is subject to, and conditioned upon, the approval and execution of a Locally Funded Agreement (LFA) relating to the Project between the County and the Florida Department of Transportation (FDOT).

2.3 Within thirty (30) days of the execution of the LFA between the County and the FDOT, the City shall remit to the County the sum of \$416,000.00. Within 15 days thereafter, the County shall remit the total sum of \$650,000.00 to the FDOT for the funding of the Project.

2.4 Upon completion of the Project, any remaining residual funds shall be distributed between the County and City on a pro rata basis with 36% of the funds returned to the County and 64% of the funds returned to the City.

2.5 By separate agreement, the FDOT shall be responsible for initiating, administering, and concluding the public procurement process to retain said services, and the FDOT will serve as the contract administrator with the third-party provider.

2.6 This Agreement, after being properly executed by the 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.

Section 3. Miscellaneous Provisions.

3.1 Termination: This Agreement may be terminated by either party for cause or convenience upon providing thirty (30) days' written notice to the non-terminating party.

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

3.3 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.

3.4 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.

3.5 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.

3.6 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.

3.7 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.

3.8 Interpretation:

(a) 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.

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

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

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

3.11 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.

3.12 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:

<u>COUNTY</u>	<u>CITY</u>
County Administrator	City Administrator
221 Palafox Place, Suite 420	City of Pensacola
Post Office Box 1591	Post Office Box 12910
Pensacola, FL 32597	Pensacola, FL 32521

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

3.13 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: _____
Jeff Bergosh, Chairman

Date: _____

BCC APPROVED: _____

ATTEST: Pam Childers
Clerk of the Circuit Court

By: _____
Deputy Clerk

(SEAL)

CITY:
CITY OF PENSACOLA, a Florida Municipal Corporation acting by and through its duly authorized City Council

By: _____

Date: _____

ATTEST:

By: _____
City Clerk



May 10, 2018

Mr. Bryant Paulk, AICP
Florida Department of Transportation
6025 Old Bagdad Highway
Milton, Florida 32583

RE: West Cervantes Street / Mobile Highway – Traffic Feasibility Study

Dear Mr. Paulk,

The Escambia County Board of County Commissioners at its Thursday, May 3, 2018 regular meeting, and the City of Pensacola Council at its Thursday, May 10, 2018 regular meeting approved this letter requesting that the Florida Department of Transportation (FDOT) program a traffic feasibility study for the West Cervantes Street / Mobile Highway corridor from A Street to Dominguez Street in the FDOT 5 Year Work Program. The two agencies also agreed via Interlocal Agreement (attached herein) to locally fund the study in efforts to expedite production of such.

The Florida-Alabama Transportation Planning Organization (FL-AL TPO) approved a Corridor Management Plan (CMP) for SR10A (US90) West Cervantes Street/ Mobile Highway from North A Street to Dominguez Street in December 2016. The CMP details significant traffic and crash data that was collected during the time period of 2010 – 2015. The annual average daily traffic along the corridor was approx. 17,250 in 2015 (approx. 16,400 west of Pace Blvd. and approx. 18,100 east of Pace Blvd.) The corridor experienced 457 crashes during the time period of 2010 – 2015. Of the crashes, 4 were fatalities, 147 resulted in injury, and 306 caused property damage only. The 4 fatalities occurred at the intersections or vicinity of Cervantes / N Street, Cervantes / E Street, Cervantes / F Street, and Mobile Highway / Krasnosky Avenue. 82 of the crashes occurred while it was dark, and 12 crashes occurred during the dawn or dusk periods of the day. However, outside of the CMP collection time period, numerous other crashes have occurred since with 1 being a fatality as recent as January 5, 2018.

The Board and Council's request is that FDOT program a traffic feasibility study along the corridor as soon as possible understanding that FDOT will manage the study, but funded locally.

Mr. Bryant Paulk

RE: West Cervantes Street / Mobile Highway – Traffic Feasibility Study

May 10, 2018

Page 2

We appreciate all the support that the County and City receives from the Department and look forward to the Department's response.

Sincerely,

Commissioner Jeff Bergosh, Chairman
Escambia County Board of County Commissioners

Councilman Gerald Wingate, President
City of Pensacola City Council

c: Jack Brown, Escambia County Administrator
Joy Jones, P.E., Escambia County Public Works Department Director
Colby Brown, P.E., Deputy Director, Escambia County Public Works
David Forte, Division Manager, Escambia County Public Works
Clara Long, Escambia County CRA Manager
Eric Olson, City of Pensacola Administrator
Derrick Owens, P.E., City of Pensacola Public Works Director
Ryan Novota, P.E., City of Pensacola Traffic Engineer
Helen Gibson, City of Pensacola CRA Administrator
Leslie Statler, City of Pensacola Planning Staff
Michael Lewis, FDOT District 3 Safety Office



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00192

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Vice President Sherri F. Myers

SUBJECT:

SHADE MEETING REGARDING POLICE COLLECTIVE BARGAINING

RECOMMENDATION:

That City Council schedule a Shade meeting in accordance with Fla Stat 447.605 pertaining to Collective Bargaining.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Currently the City of Pensacola and the Pensacola Police Department representatives are in collective bargaining negotiations.

Fla Stat 447.605 states in part:

- (1) All discussions between the chief executive officer of the public employer, or his or her representative, and the legislative body or the public employer relative to collective bargaining shall be closed and exempt from the provisions of s. 286.011.

Attorney General Opinion 98-06 related to Government in the Sunshine - Collective Bargaining states in part:

“...The chief executive officer of the public employer is responsible for bargaining collectively with the representative of the employee organization and consulting with and representing the views of the legislative body of the public employer. ... Thus, the purpose of the discussions between the chief executive officer, or his representative, and the legislative body of the public employer is to allow the chief executive officer or representative to seek direction and information from the public employer regarding its position on the pending collective bargaining issues.

This meeting will serve this purpose.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Fla Stat 447.605
- 2) AGO 98-06

PRESENTATION: No

Select Year:

The 2017 Florida Statutes

[Title XXXI](#)

LABOR

[Chapter 447](#)

LABOR ORGANIZATIONS

[View Entire Chapter](#)**447.605 Public meetings and records law; exemptions and compliance. –**

(1) All discussions between the chief executive officer of the public employer, or his or her representative, and the legislative body or the public employer relative to collective bargaining shall be closed and exempt from the provisions of s. [286.011](#).

(2) The collective bargaining negotiations between a chief executive officer, or his or her representative, and a bargaining agent shall be in compliance with the provisions of s. [286.011](#).

(3) All work products developed by the public employer in preparation for negotiations, and during negotiations, shall be confidential and exempt from the provisions of s. [119.07\(1\)](#).

History.—s. 3, ch. 74-100; s. 23, ch. 77-343; s. 18, ch. 91-269; s. 302, ch. 96-406; s. 1075, ch. 97-103.

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**Advisory Legal Opinion - AGO 98-06**[Print Version](#)

Number: AGO 98-06

Date: January 27, 1998

Subject: Sunshine Law, collective bargaining, attorney-client

Mr. G. Russell Petersen
Indian River County School Board Attorney
3339 Cardinal Drive, Suite 200
Vero Beach, Florida 32963

RE: GOVERNMENT IN THE SUNSHINE--COLLECTIVE BARGAINING--ATTORNEYS--PUBLIC OFFICERS AND EMPLOYEES--attendance at collective bargaining discussions and at attorney-client meetings. ss. 286.011(8), 447.605(1), Fla. Stat.

Dear Mr. Petersen:

On behalf of the Indian River County School Board, you ask substantially the following questions:

1. May the superintendent and the labor negotiating committee meet with the school board pursuant to section 447.605(1), Florida Statutes, and discuss matters relating to pending collective bargaining, in closed session and exempt from section 286.011, Florida Statutes?
2. May the school board attorney meet with the school board, its litigation attorney and the superintendent pursuant to section 286.011(8), Florida Statutes, and discuss matters relating to pending litigation in closed session?

In sum:

1. Where the superintendent's responsibility to conduct collective bargaining on behalf of the school board has been completely delegated to a separate labor negotiating committee and the superintendent does not participate in the collective bargaining negotiations, the exemption afforded by section 447.605(1), Florida Statutes, applies to discussions between the labor negotiating committee and the school board only and does not encompass discussions among the committee, school board and superintendent.
2. Although the litigation attorney may be primarily responsible for

handling the litigation for the school board, in most cases the governmental entity's attorney will still be involved in the litigation. Accordingly, as the purpose of the meeting held pursuant to section 286.011(8), Florida Statutes, is to allow the attorney to seek direction and information from the governmental entity regarding the litigation, it appears appropriate that both the school board attorney and the litigation attorney may attend the meeting.

Question One

Section 286.011(1), Florida Statutes, requires that meetings of governmental boards be conducted in the sunshine. Florida courts have repeatedly stated that it is the entire decision-making process to which the Sunshine Law applies and not merely to a formal assemblage of a public body at which voting to ratify an official decision is carried out. Thus, the statute extends to discussions and deliberations as well as to formal action taken by a public body.[1]

Section 447.605(1), Florida Statutes, however, grants a limited exemption from the requirements of section 286.011, Florida Statutes, for certain meetings relating to collective bargaining, stating:

"All discussions between the chief executive officer of the public employer, or his or her representative, and the legislative body or the public employer relative to collective bargaining shall be closed and exempt from the provisions of s. 286.011." (e.s.)

The exemption only extends to and applies in the context of the collective bargaining process itself and is inapplicable in the absence of actual or impending collective bargaining negotiations.[2]

The chief executive officer of a public employer is responsible for bargaining collectively with the representative of the employee organization and consulting with and representing the views of the legislative body of the public employer.[3] Any agreement reached between the chief executive officer and the employees' bargaining agent must be ratified by the legislative body of the public employer at a regularly scheduled meeting before it becomes binding on the employer. [4] If the legislative body does not ratify the tentative agreement or if a majority of the employees do not ratify it, the agreement is returned to the chief executive officer and the employee organization for further negotiations.[5] Thus, the purpose of the discussions between the chief executive officer, or his representative, and the legislative body of the public employer is to allow the chief executive officer or representative to seek direction and information from the public employer regarding its position on the pending collective bargaining issues.

Section 447.203(9) of Part II, Chapter 447, Florida Statutes, defines the term "[c]hief executive officer" as used in that part, and specifically as used in section 447.605(1), Florida Statutes, to mean "the person, whether elected or appointed, who is responsible to the

legislative body of the public employer for the administration of the governmental affairs of the public employer." [6]

In Attorney General Opinion 85-99, this office concluded that the negotiating committee of a city that lacked a city administrator or city manager could utilize the exemption afforded by section 447.605(1), Florida Statutes, when meeting with the city council to discuss pending collective bargaining negotiations. This office noted that the term "person" used in the definition of "chief executive officer" contained in section 447.203(9), Florida Statutes, need not be interpreted to mean only individuals. [7]

This office thus concluded that the chief executive officer, whether that position be held by an individual or a group, should also be allowed the benefits provided by section 447.605(1), Florida Statutes, that is, the opportunity to consult privately with the legislative body or the public employer. Moreover, section 447.605(1), Florida Statutes, specifically recognizes that the role of the chief executive officer may be delegated to the officer's representative.

You state that the responsibility of the superintendent relative to collective bargaining has been delegated to the labor negotiating committee. According to your letter, the superintendent only selects the members of the separate labor negotiating committee and does not participate in the collective bargaining negotiations. As noted above, it is the responsibility of the superintendent as chief executive officer or, as here, the superintendent's representative, to consult with and represent the views of the school board during collective bargaining negotiations. The discussions exempted pursuant to section 447.605(1), Florida Statutes, are to advise such negotiators of the stance and position of the public employer. Accordingly, where the superintendent's responsibility to conduct collective bargaining has been completely delegated to a separate and independent labor negotiating committee and the superintendent does not participate in the collective bargaining negotiations, the exemption afforded by section 447.605(1), Florida Statutes, relates only to the discussions between the labor negotiating committee and the school board and does not encompass discussions among the committee, school board and superintendent.

Question Two

As noted in Question One, Florida requires governmental entities to conduct their business at open public meetings. In 1993, however, the Legislature created a limited exception for attorney-client discussions. Section 286.011(8), Florida Statutes, provides:

"Notwithstanding the provisions of subsection (1), any board or commission of any state agency or authority or any agency or authority of any county, municipal corporation, or political subdivision, and the chief administrative or executive officer of the governmental entity, may meet in private with the entity's attorney to discuss pending

litigation to which the entity is presently a party before a court or administrative agency, provided that the following conditions are met:

(a) The entity's attorney shall advise the entity at a public meeting that he or she desires advice concerning the litigation.

(b) The subject matter of the meeting shall be confined to settlement negotiations or strategy sessions related to litigation expenditures.

(c) The entire session shall be recorded by a certified court reporter. The reporter shall record the times of commencement and termination of the session, all discussion and proceedings, the names of all persons present at any time, and the names of all persons speaking. No portion of the session shall be off the record. The court reporter's notes shall be fully transcribed and filed with the entity's clerk within a reasonable time after the meeting.

(d) The entity shall give reasonable public notice of the time and date of the attorney-client session and the names of persons who will be attending the session. The session shall commence at an open meeting at which the persons chairing the meeting shall announce the commencement and estimated length of the attorney-client session and the names of the persons attending. At the conclusion of the attorney-client session, the meeting shall be reopened, and the person chairing the meeting shall announce the termination of the session.

(e) The transcript shall be made part of the public record upon conclusion of the litigation."

Prior to the enactment of this exemption, no attorney-client privilege for governmental agencies was recognized and the Sunshine Law had been construed to apply to all meetings between governmental agencies and their attorneys conducted for the purpose of discussing settlement of pending litigation. [8]

The courts have held that the Legislature intended a strict construction of the exemption afforded by section 286.011(8), Florida Statutes. [9] In keeping with this mandate, this office in Attorney General Opinion 95-06 stated that only those persons listed in the statutory exemption--that is, the entity, the entity's attorney, the chief administrative officer of the entity, and the court reporter--are authorized to attend a closed attorney-client session. Other staff members or consultants may not be present at such closed sessions:

"Section 286.011(8), Florida Statutes, by its terms, is not expansive but is limited to particular individuals who are, in their official capacity, authorized to discuss particular limited subjects, i.e., litigation strategy or settlement negotiations. Nothing in the language of the statute authorizes the attendance of persons other than those officials who are designated to participate in these private strategy sessions."

In *School Board of Duval County v. Florida Publishing Company*, [10] the court stated that it was unable to conclude that the interpretation of the statute in Attorney General Opinion 95-06 is at variance with the legislative intent. The court examined the staff analysis for the legislation. As explained in the analysis, the 1993 addition to section

286.011(8), Florida Statutes, permits any governmental agency, its chief executive, and its attorney to meet in private if the agency is a party to litigation and the attorney desires advice concerning settlement negotiations or strategy. The amendment was not, however, intended to permit nondesignated personnel to discuss settlement matters in private with the agency. As emphasized in the staff analysis:

"This act simply provides a governmental entity's attorney an opportunity to receive necessary direction and information from the government entity. No final decisions on litigation matters can be voted on during these private, attorney-client strategy meetings. The decision to settle a case, for a certain amount of money, under certain conditions is a decision which must be voted upon in a public meeting." [11]

While it appears that the school board has a litigation attorney and a school board attorney, you have not advised this office of the respective roles of each in handling the litigation. Even though outside counsel may be employed by a governmental entity to handle the litigation, it has been this office's experience that in most cases the governmental entity's attorney will still be involved in such litigation.

Thus, since the purpose of the meeting between the board, its chief administrative officer, and its attorney is to allow the attorney to seek direction and information from the governmental entity regarding the litigation, it appears appropriate that both the school board attorney and the litigation attorney may attend the meeting with the superintendent and school board pursuant to section 286.011(8), Florida Statutes.

Sincerely,

Robert A. Butterworth
Attorney General

RAB/tjw

[1] See *Board of Public Instruction of Broward County v. Doran*, 224 So. 2d 693, 699 (Fla. 1969), in which the Court recognized the right of the public to be present and heard during all phases of enactments by public boards; *Times Publishing Company v. Williams*, 222 So. 2d 470, 473 (Fla. 2d DCA 1969).

[2] See *City of Fort Myers v. News-Press Publishing Company, Inc.*, 514 So. 2d 408 (Fla. 2d DCA 1987); Op. Att'y Gen. Fla. 75-48 (1975).

[3] See s. 447.309, Fla. Stat.; *City of Winter Haven v. Florida Public Employees Relations Commission*, 358 So. 2d 1374, 1376 (Fla. 1st DCA 1978).

[4] Section 447.309(1), Fla. Stat.

[5] Section 447.309(4), Fla. Stat.

[6] *And see* Op. Att'y Gen. Fla. 85-99 (1985), referencing *Liberty County NEA/FTP-NEA v. School Board of Liberty County and Laquita Shuler*, 6 FPER para. 11012, in which the Florida Public Employees Relations Commission applied a functional test in stating that a school superintendent was a "chief executive officer" within the meaning of s. 447.203(9), referring to pertinent extraneous statutory provisions describing the required duties and functions of a superintendent, including the superintendent's duty to advise and counsel with the School Board and to make recommendations regarding numerous matters of policy and administration.

[7] *See, e.g.,* s. 1.01(3), Fla. Stat., providing that in construing the Florida Statutes, where the context will permit, the word "person" includes "individuals, children, firms, associations, joint adventures, partnerships, estates, trusts, business trusts, syndicates, fiduciaries, corporations, and all other groups or combinations."

[8] *Neu v. Miami Herald Publishing Company*, 462 So. 2d 821 (Fla. 1985); *and see* Staff of Fla.H.R.Comm. on Government Operations, CS/HB 491 (1993) Final Bill Analysis & Economic Impact Statement 2 [hereafter Staff Analysis].

[9] *City of Dunnellon v. Aran*, 662 So. 2d 1026 (Fla. 5th DCA 1995); *School Board of Duval County v. Florida Publishing Company*, 670 So. 2d 99 (Fla. 1st DCA 1996).

[10] 662 So. 2d at 101.

[11] Final Staff Analysis, at 3. *School Board of Duval County v. Florida Publishing Company*, *supra* at 100.

Florida Toll Free Numbers:

- Fraud Hotline 1-866-966-7226

- Lemon Law 1-800-321-5366



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00193

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Jewel Cannada-Wynn

SUBJECT:

AMENDING CITY COUNCIL RULES AND PROCEDURES; ARTICLE IV. CODE OF ETHICS, BY ADDING SECTION 4.04 - INQUIRIES AND INVESTIGATIONS

RECOMMENDATION:

That City Council amend Council Rules and Procedures by adding section 4.04, a process for conducting inquiries and investigations as promulgated within Section 4.02(a)(3) of the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Section 4.02(a) (3) of the City Charter (City Council Powers and Duties) states:

“To inquire into the conduct of any municipal office, department, agency or officer and to investigate municipal affairs, and for that purpose, may subpoena witnesses, administer oaths and compel the production of books, papers and other evidence.”

This item puts into place a process for undertaking the Charter authorized activity.

PRIOR ACTION:

Pensacola City Charter enacted

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Inquiries and Investigations - Final

PRESENTATION: No

CITY COUNCIL RULES AND PROCEDURES

ARTICLE _____. INQUIRIES AND INVESTIGATIONS RULES AND PROCEDURES

Sec. _____ City Council Inquiries and Investigations

(A) Scope. This section governs all inquiries and investigations conducted by City Council under Section 4.02(a)(3) of the City Charter for the City of Pensacola.

(B) Authority. City Charter Section 4.02(a)(3) authorizes City Council “To inquire into the conduct of any municipal office, department, agency or officer and to investigate municipal affairs, and for that purpose, may subpoena witnesses, administer oaths and compel the production of books, papers, or other evidence.”

(C) Definitions.

a. Inquiry. Under this section, the word “inquiry” shall mean any legislative inquiry authorized in good faith as required by City Charter by resolution of City Council by the affirmative vote of the majority of the full City Council and conducted by City Council under the authority of City Charter Sections 4.02(a)(3) and 4.04(b) and in accordance with City Council Rules and Procedures under this section, for the purpose of requesting information to provide necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council under the City Charter.

b. Investigation. Under this section, the word “investigation” shall mean any legislative investigation authorized in good faith by resolution of City Council by the affirmative vote of at least a majority of the full City Council members and conducted by City Council under the authority of City Charter Sections 4.02(a)(3) and 4.04(b) in accordance with City Council Rules and Procedures under this section, said investigation to include a public hearing of City Council at which witnesses may be requested or compelled by subpoena to appear and provide testimony and to produce records to provide necessary factual knowledge to City Council to aid it in carrying out the legislative powers and duties imposed on City Council under the City Charter.

c. Subpoena. Under this section, the word “subpoena” shall mean a subpoena or subpoena duces tecum directed to be issued by resolution of City Council under the authority of City Charter Sections 4.02(a)(3) and 4.04(b) for the purpose of requesting

the production of documents, books, papers, witnesses or other evidence pertinent and material to providing necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council by City Charter.

d. Agency. Under this section, the word “agency” shall mean a City board, commission or authority as contemplated by City Charter Section 5.05.

(D) Request for City Council to Authorize an Inquiry or Investigation.

a. Complaint. An individual City Council member may submit a written request for City Council to authorize an inquiry or investigation under the authority of City Charter Sections 4.02(a)(3) and 4.04(b) to assist City Council in carrying out the legislative powers and duties imposed on City Council by City Charter.

b. Sufficient Legal Basis. The complaint shall set out a factual basis and provide the legal rationale for the inquiry or investigation to ensure the legal basis is appropriate and justified in assisting City Council in carrying out the legislative powers and duties of City Council under the City Charter.

c. Insufficient Legal Basis. Upon review of the request, should City Council determine that the legal basis of the complaint is insufficient to invoke the inquiry or investigative authority of City Council under the City Charter or not within the jurisdiction of City Council under the City Charter, it shall suspend further consideration of the complaint and state the reasons.

d. No Presumption Raised. City Council authorization to conduct an inquiry or investigation does not give rise to a presumption of violation of the City Charter or City Code, or rules or policies of the City, or any other local, state or federal laws.

e. Criminal Law Violation. Should City Council have a reasonable belief that the subject matter would violate a criminal law, City Council will refer the matter to the appropriate authority and state the reasons.

(E). Authorization by Resolution.

a. Agenda Item. A request for City Council to authorize an inquiry or investigation shall be considered as an item on the agenda of a properly noticed meeting of City Council. City Council may only discuss the legal basis for the inquiry or investigation and may not discuss the merits of the complaint nor make factual determinations or findings relating to the complaint.

b. Inquiry shall be authorized by Majority Vote. An inquiry by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter shall be authorized by

resolution approved by the affirmative vote of the majority of the full City Council, at a properly noticed meeting of City Council.

c. Investigations shall be authorized by Majority of the Full City Council Members. An investigation by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter shall be authorized by resolution approved by the affirmative vote of at least a majority of the full City Council members, at a properly noticed meeting of City Council.

d. Time Frame. City Council shall determine the appropriate time frame for completion of an inquiry or investigation on a case by case basis provided that such time frame does not exceed ninety (90) days from the date of the authorizing resolution. Every reasonable effort shall be made to complete an inquiry or investigation within the time frame set by City Council. However, each case presents different circumstances and it is not always possible to maintain the time frame set by City Council. Extensions of time may be allowed by the affirmative vote of the majority of the full City Council upon good cause shown.

e. Progress Reports. The City Council Executive shall report monthly on the progress of each pending inquiry and investigation at a properly noticed meeting of City Council.

(F) Inquiry. An inquiry by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter, into the conduct of any municipal office, department, agency or officer, shall be for the purpose of providing necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council by City Charter and shall be authorized by resolution approved by the affirmative vote of the majority of the full City Council, at a properly noticed meeting of the City Council.

a. Such resolution shall describe with particularity the subject matter of the inquiry, specifically the alleged conduct and related municipal office, department, agency or officer, the conduct of which is subject to inquiry.

b. Such resolution shall request a written response from the appropriate representative of such municipal office, department or agency or in the case of a municipal officer, from such officer, and may direct responses to specific questions to be provided, request supporting documentation and other relevant material be included with the response, and shall also request that other individuals with relevant information be identified.

c. Such resolution shall set a date for the written report to be submitted to City Council as an agenda item at a properly noticed meeting of the City Council.

d. Such responsive information shall be submitted into the record at the public meeting scheduled for submitting the response. City Council shall review the responsive information at the meeting and deliberate and make findings. Such findings shall be adopted by resolution approved by a majority vote of the full City Council.

(G) Investigation. An investigation by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter, into municipal affairs, shall be for the purpose of providing necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council by City Charter and shall be authorized by resolution approved by the affirmative vote of at least a majority of the full City Council members, at a properly noticed meeting of the City Council.

a. Such resolution shall describe with particularity the subject matter of the investigation, detailing with specificity the scope and purpose of the investigation, and shall provide the course of action to be followed in carrying out such investigation and investigative hearing.

b. City Council may employ an expert for assistance in conducting an investigation pursuant to this section herein. The terms of the employment agreement shall be for the sole purpose of assisting with an investigation consistent with and limited to the scope of City Council's investigative authority under Sections 4.02(a)(3) and 4.04(b) of the City Charter and shall be set forth and authorized by a resolution approved by City Council. Investigative information shall be subject to public disclosure as required by law.

(H) Investigative Hearing. City Council shall determine on a case by case basis whether an investigative hearing shall be conducted. An investigation by City Council as authorized by Sections 4.02(a)(3) and 4.04(b) of the City Charter, into municipal affairs, shall be for the purpose of providing necessary factual knowledge to City Council to assist it in carrying out the legislative powers and duties imposed on City Council by City Charter and shall be authorized by resolution approved by the affirmative vote of at least a majority of the full City Council members, at a properly noticed meeting of the City Council. Such investigative hearing shall be open to the public.

a. An investigative hearing is legislative in nature and not a judicial proceeding. Normal procedural guarantees which surround the conduct of a trial, therefore, are not required as a matter of general law in such investigations. Accordingly, except for the

constitutional privilege against self-incrimination, and the guarantee of the First Amendment, witnesses before investigative hearing of City Council shall have those rights which City Council determines are appropriate to ensure that all procedures are orderly and fair.

b. At the conclusion of an investigative hearing, City Council shall make written findings and conclusions.

(I) Authorization for Preparation and Issuance of Subpoenas. City Council shall authorize by resolution, at a properly noticed meeting of City Council, the preparation and issuance of subpoenas or subpoenas duces tecum for purposes of an investigation under this section by the City Clerk in accordance with state statute. The authorization shall direct the City Council Executive to prepare subpoenas or subpoenas duces tecum and submit such subpoenas or subpoenas duces tecum to the City Attorney for review for legal sufficiency.

(J) Authorization for Contempt Order. The punishment for violation of a subpoena or subpoena duces tecum that City Council may impose against any person who violates a subpoena or subpoena duces tecum shall be prescribed by ordinance.

a. Pursuant to such ordinance, City Council is authorized to hold a person in contempt for violation of a subpoena or subpoena duces tecum and to impose a fine, not to exceed five hundred dollars (\$500), against any person for such violation.

b. City Council shall determine whether grounds for a contempt order exist and shall prescribe the fine amount for violation of the ordinance.

c. Public Notice. The City Clerk shall publish legal notice of each investigative hearing authorized under this section at least one time in a newspaper published in the city which meets the requirements of Section 50.031, Florida Statutes.

d. Transcripts of Investigations. The investigative hearing under this section shall be recorded and transcribed verbatim and provided to City Council.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00194

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PENSACOLA ENERGY - APPROVAL OF NATURAL GAS SUPPLY CONTRACT WITH PUBLIC ENERGY AUTHORITY OF KENTUCKY

RECOMMENDATION:

That City Council approve a thirty year contract for the purchase of natural gas through a pre-paid agreement with the Public Energy Authority of Kentucky (PEAK). Further, that City Council authorize the Mayor to take all actions necessary to execute the gas supply contract by May 15, 2018.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The purpose of the recommendation is to secure a thirty (30) year partial supply of natural gas at a significant savings, estimated to be \$236,000 annually, to be passed on to Pensacola Energy (PE) customers. A natural gas prepayment project is a structured financial transaction using tax-exempt bonds to prepay for the delivery of gas on a long-term basis to achieve a discount to the market index price of gas. PEAK is a Natural Gas Acquisition Authority and acts as the agency for its members and other participating public agencies to acquire, finance and promote economic sources and supply of natural gas as well as provide transportation, storage and management of gas supply. PEAK will prepay for gas supply from BP Energy (PE's current supplier) and sell to the City of Pensacola at a guaranteed minimum discount of \$0.20 per MMBtu below the index price of gas. The agreement provides approximately 30% of PE's annual sales and is consistent with PE's gas purchasing strategy. The City and PE will have no bonded indebtedness related to this transaction.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

Natural gas costs are budgeted annually. While the amount is unknown, this agreement will reduce natural gas costs for Pensacola Energy customers.

CITY ATTORNEY REVIEW: Yes

4/30/2018

STAFF CONTACT:

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

ATTACHMENTS:

- 1) Gas Supply Contract

PRESENTATION: No

GAS SUPPLY CONTRACT

DATED AS OF [____], 2018

BETWEEN

PUBLIC ENERGY AUTHORITY OF KENTUCKY, as Seller

AND

[____], as Buyer

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GAS SUPPLY CONTRACT

This Gas Supply Contract (this “*Contract*”) is made and entered into as of [], 2018 (the “*Effective Date*”), by and between Public Energy Authority of Kentucky, a Natural Gas Acquisition Authority formed under the Natural Gas Acquisition Authority Act of the Commonwealth of Kentucky (“*Seller*”), and [_____] a [_____] (“*Buyer*”). Seller and Buyer are sometimes hereinafter referred collectively as the “*Parties*” and individually as a “*Party*”.

WITNESSETH

WHEREAS Seller was created between and among public agencies to acquire Gas at reasonable prices that would enhance reliability, efficiency, and supply security through the joint purchases and the arrangement of joint services on behalf of its members and other public agencies; and

WHEREAS, Seller has planned and developed a project to obtain a long-term supply of natural gas from BP Energy Company, a Delaware corporation (“*BPEC*”), pursuant to a Prepaid Natural Gas Purchase and Sale Agreement dated as of [], 2018 (the “*Prepaid Agreement*”); and

WHEREAS, the Seller will finance this project by issuing certain bonds pursuant to the Indenture; and

WHEREAS, Seller desires to sell this long-term supply of Gas to one or more public agencies, including Buyer (Buyer, together with all such other public agencies, collectively, the “*Gas Purchasers*”); and

WHEREAS, Buyer desires to purchase from Seller a portion of the Gas available to Seller under the Prepaid Agreement, and Seller desires to sell such Gas to Buyer, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises above and the mutual covenants and agreements herein set forth, Buyer and Seller agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 Defined Terms. The following terms and abbreviations, when used in this Contract, have the respective meanings set forth below, unless otherwise provided in this Contract.

“**Administrative Charge**” means \$0.05 per MMBtu.

“**Available Discount**” means, the amount expressed in cents per MMBtu (rounded down to the nearest one-tenth cent) determined pursuant to the Repricing Agreement for each Month of a Reset Period. Any estimated Available Discount provided by Seller under Section

2.04 may differ from the Available Discount because the final Available Discount for any Reset Period will be finally determined under the Repricing Agreement's provisions.

"Billing Statement" has the meaning specified in Section 7.01.

"Bond Counsel" means any attorney(s) or firm(s) of attorneys of recognized national standing in the field of law relating to municipal bonds and the exclusion of interest on municipal bonds from gross income for federal income tax purposes, reasonably acceptable to both Seller and BPEC.

"Bonds" means bonds of one or more Series (including any refunding bonds) issued under the Indenture.

"BPEC" has the meaning specified in the recitals.

"Btu" means International Btu, which is also called the Btu (IT).

"Business Day" means (i) with respect to payments and general notices required to be given under this Contract, any day other than (a) a Saturday or Sunday, (b) a Federal Reserve Bank holiday, (c) any day on which commercial banks located in either New York, New York or the Commonwealth of Kentucky are required or authorized by Law or other governmental action to close, or (d) any other day excluded as a business day pursuant to the Indenture, and (ii) solely with respect to Gas deliveries and notices with respect thereto, any day.

"Buyer" has the meaning specified in the preamble.

"Buyer Statement" has the meaning specified in Section 7.01.

"Buyer Termination Event" has the meaning specified in Section 8.02.

"Central Prevailing Time" or **"CPT"** means Central Daylight Savings Time when such time is applicable and otherwise means Central Standard Time.

"Claims" means all claims or actions, threatened or filed, that directly or indirectly relate to the indemnities provided for in this Contract, and the resulting losses, damages, expenses and disbursements (including reasonable attorneys' and experts' fees and disbursements and court costs (and which, for the avoidance of doubt, shall exclude the allocated costs of in-house counsel)), whether incurred by settlement or otherwise, without regard to whether such claims or actions are threatened or filed prior to or after the termination of this Contract.

"Code" means the Internal Revenue Code of 1986, as amended, and the U.S. Treasury Regulations thereunder, or any successor or successors thereto.

"Contract" has the meaning specified in the preamble and shall include exhibits, recitals and attachments referenced herein and attached hereto and all amendments, supplements and modifications hereto and thereto.

"Contract Price" has the meaning specified in Section 3.02.

"Cover Standard" shall mean, if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract by a Party, then the performing Party shall use

commercially reasonable efforts to (i) if the Buyer is the performing Party, purchase Gas quantities or (ii) if the Seller is the performing Party, sell Gas quantities, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with (a) the amount of notice provided by the nonperforming Party; (b) the immediacy of Buyer's Gas delivery needs or Seller's Gas sales requirements, as applicable; (c) the quantities involved; and (d) the anticipated length of failure by the nonperforming Party.

"Daily Contract Quantity" means, with respect to each Gas Day during the Delivery Period, the daily quantity of Gas (in MMBtu) shown on Exhibit A, as may be revised from time to time pursuant to the terms of this Contract, to be delivered from Seller to Buyer and received by Buyer from Seller pursuant to this Contract for each Gas Day of each Month.

"Default Rate" means, as of any date of determination, the lesser of (a) the rate of interest per annum quoted in *The Wall Street Journal* (Eastern Edition) under the "Money Rates" section as the "Prime Rate" for such date of determination or (b) if a maximum rate is imposed by applicable Law, such maximum lawful rate.

"Delivery Period" shall mean [MM] 1, 2018, through the earlier of [MM] [DD], 20[YY], or an Early Termination Date.

"Delivery Point" or **"Delivery Points"** means the point or points set forth in Exhibit B.

"Delivery Suspension" shall have the meaning in Section 7.04.

"Discount" shall be [\$0.20] per MMBtu, provided that the Available Discount (as determined under the Repricing Agreement for any Reset Period) shall become the Discount after the Initial Reset Period.

"Early Termination Date" means a date occurring automatically pursuant to Section 8.01 or a date designated pursuant to Section 8.03, upon which in each case the Delivery Period will end and Buyer's and Seller's respective obligations to receive and deliver Gas under this Contract will terminate.

"Effective Date" has the meaning specified in the preamble.

"FERC" means the Federal Energy Regulatory Commission and any successor thereto.

"Firm" shall mean that either Party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the Party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 5.02(c) related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.

"Force Majeure" has the meaning specified in Article XIII.

"Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.

"Gas Day" means a period of twenty-four (24) consecutive hours beginning at 9:00 a.m. CPT on a calendar day and ending at 9:00 a.m. CPT on the next succeeding calendar day. If,

through standardization of business practices in the industry or for any other reason, a Transporter or FERC changes the definition of Gas Day, such change shall apply to the definition of Gas Day in this Contract with respect to such Transporter or generally, as the case may be.

“Gas Project” means, collectively, the acquisition by Seller of Gas supplies from BPEC, the financing by Seller of the cost of acquisition of such Gas supplies, and the execution and performance by Seller of related contracts that provide Gas to the Gas Purchasers.

“Gas Purchasers” or **“Gas Purchaser”** has the meaning specified in the recitals.

“Government Agency” means the United States of America, any state thereof, or any local jurisdiction, or any political subdivision of any of the foregoing including, but not limited to courts, administrative bodies, departments, commissions, boards, bureaus, agencies, municipalities or other instrumentalities.

“Governmental Person” means a state or local governmental unit or any instrumentality thereof. It does not include the United States or any agency or instrumentality thereof.

“Imbalance Charges” shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter’s balance and/or nomination requirements.

“Indenture” means the Trust Indenture, dated as of [] 1, 2018, between the Seller and the Trustee, as the same may be amended or supplemented in accordance with its terms.

“Index Price” means, with respect to any Gas Day, the price published and in effect for the Month in which such Gas Day occurs as specified in Exhibit B.

“Initial Reset Period” means the period from and including [], 2018 to and including [], 202[].

“Law” means any statute, law, rule, regulation, order, or any judicial or administrative interpretation thereof having the effect of the foregoing imposed by a Government Agency whether in effect as of the Effective Date or at any time in the future.

“Minimum Discount” means \$[0.20] per MMBtu.

“MMBtu” means one million Btus.

“Month” means the period beginning at the beginning of the first Gas Day of a calendar month and ending at the beginning of the first Gas Day of the next calendar month.

“Municipal Utility” means any Person that (i) is a gas district, gas board, utility board, municipality or other entity to which Buyer is authorized to sell Gas under applicable law, (ii) is a “governmental person” as defined in U.S. Treas. Reg. §1.141-1(b) (or any successor regulation or provision of the Code), (iii) owns either or both a Gas distribution utility or an electric distribution utility (or provides Gas or electricity generated using the Gas at wholesale to “governmental persons” that own such utilities), and (iv) agrees in writing (a) to use the Gas it acquires from the Gas Project (or to cause such Gas to be used) in a “qualifying use” as defined in U.S. Treas. Reg. §1.148-1(e)(2)(iii)(A)(2) (or any successor regulation or provision of the

Code), (b) not to allocate directly or indirectly the Gas to the proceeds of any tax-exempt financing other than the Bonds, and (c) not to use the Gas for any Private Business Use. Except in the case of manifest error, any Qualifying Use Certificate that is (x) provided by a Person as to the identity, form or status of such Person, its intended use for the Gas or other matters contained in any such certificate, and (y) relied upon by Seller, BPEC or both, shall be deemed to have met the requirements under clause (iv). To the extent required or permitted by any change in the Code after the Effective Date, the Parties from time to time may revise the definition of "Municipal Utility" to conform to the applicable provisions of the Code, provided that a Favorable Opinion of Bond Counsel is obtained.

"New Tax" means (a) any Tax enacted and effective after the Effective Date of this Contract, including, without limitation, that portion of any Tax in effect on the Effective Date that constitutes an increase in such Tax over the rate thereof in effect as of the Effective Date, or (b) any law, rule, order or regulation, or interpretation thereof, enacted and effective after the Effective Date of this Contract resulting in the application of any Taxes enacted or effective on or before the Effective Date of this Contract to a new or different class of Persons.

"Nongovernmental Agency" means any Person other than a Governmental Person.

"Operational Flow Order" has the meaning set forth in Section 5.02(d).

"Output Contract" means a contract for the purchase by a Nongovernmental Agency of available output of an output facility financed with proceeds of an issue (as defined in U.S. Treas. Reg. §1.141-7).

"Partial Termination Condition" has the meaning specified in Section 9.02(b).

"Party" and **"Parties"** have the meaning specified in the preamble.

"Payment Default" has the meaning specified in Section 7.04.

"Person" means any individual, public or private corporation, partnership, limited liability company, state, county, district, authority, municipality, political subdivision, instrumentality, association, firm, trust, estate or any other entity or organization whatsoever.

"Prepaid Agreement" has the meaning specified in the recitals.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any Person other than a Governmental Person. For purposes of the foregoing:

(i) Except as provided below Private Business Use includes: (a) any contracts by a Governmental Person for the sale of the Gas financed with Bond proceeds (or the electricity generated by the Gas) to a Nongovernmental Agency pursuant to: (1) a take contract, (2) a take or pay contract, or (3) a requirements contract, in each case, as defined in U.S. Treas. Reg. §1.141-7; or (b) any use of the Gas financed with the Bond proceeds (or electricity generated using the Gas) by a Nongovernmental Agency that may occur pursuant to: (1) a lease of, or management contract with respect to, all or a portion of a Municipal Utility's facilities, or (2) a brokerage contract or other arrangement creating a special legal entitlement with respect to such Gas (or electricity generated using the Gas); or (c) an Output Contract having a term longer than 3 years (including any renewal options).

(ii) Private Business Use does not include any of the following, provided that the Seller or Gas Purchaser, as the case may be, obtains a Favorable Opinion of Bond Counsel: (a) any lease, management contract or other arrangement that: meets the applicable requirements set forth in the U.S. Treas. Reg. §1.141-3 or IRS Revenue Procedure 2017-13, as such requirements are modified from time to time; or (b) any Output Contract with a term, including renewal options, that is not longer than 3 years, and that meets the requirements of U.S. Treas. Reg. §1.141-7(f)(3); or (c) any other arrangement with respect to the use of Gas (or electricity generated using Gas), including, but not limited to, small purchases of output as described in U.S. Treas. Reg. §1.141-7(f)(1); or (d) any swapping and pooling arrangement described in U.S. Treas. Reg. §1.141-7(f)(2).

“Project Management Committee” has the meaning set forth in Section 16.02.

“Qualifying Use” shall have the meaning ascribed in U.S. Treas. Reg. § 1.148-1(e)(2)(iii)(A)(2) (or any successor regulation or provision of the Code); provided that the use does not give rise to a Private Business Use.

“Qualifying Use Certificate” means (i) a Buyer Certificate executed by (a) a Municipal Utility, in substantially the form set forth in Exhibit D, or (b) a Governmental Person other than a Municipal Utility that sells Gas (or electricity generated from such Gas) to a Municipal Utility, as modified from the form set forth in Exhibit D with language approved by Bond Counsel, or (ii) in the case of a remarketing of the Gas, a certificate signed by a Gas Purchaser of the Gas delivered hereunder and sold by Seller (or BPEC on behalf of Seller), certifying in language approved by Bond Counsel which may be included in a confirmation for the sale of Gas that such Gas (or the electricity generated by the Gas) shall be applied for a “qualifying use” as defined in U.S. Treas. Reg. §1.148-1(e)(2)(iii)(A)(2) (or any successor regulation or provision of the Code); provided that the use does not give rise to Private Business Use.

“Rate Stabilization Fund” has the meaning set forth in Section 3.04.

“Receivables Purchase Agreement” means the Receivables Purchase Agreement, dated as of [], between Seller, BPEC, and the Trustee, as amended or supplemented from time to time in accordance with its terms.

“Receivables Purchase Agreement Provider” means BPEC.

“Remarketing Notice” means the form set forth in Exhibit H attached hereto.

“Repricing Agreement” means the Repricing Agreement, dated as of the Effective Date, between Seller and BPEC, as amended or supplemented from time to time in accordance with its terms.

“Reset Period” means a period commencing on the first day following the Initial Reset Period or prior Reset Period, as the case may be, and ending on the day prior to the first day of the subsequent Reset Period; provided that the final Reset Period shall be the period from the first day after the prior Reset Period to the end of the Delivery Period.

“Reset Period Remarketing” has the meaning set forth in Section 2.03.

“Seller” has the meaning specified in the preamble.

“Tax” or “Taxes” means (a) any or all ad valorem, property, occupation, severance, production, generation, extraction, first use, conservation, Btu or energy, gathering, transport, transmission, pipeline, utility, gross receipts, gas or oil revenue, gas or oil import, privilege, sales, use, consumption, excise, lease, transaction, greenhouse gas, carbon, and other taxes or any interest, penalties, or assessments thereon, (b) state or local Taxes or any interest, penalties, or assessments thereon, (c) New Taxes or any interest, penalties, or assessments thereon, and (d) governmental charges, licenses, fees, permits and assessments, or any interest, penalties, or increases thereon, and specifically excludes taxes based on net income or net worth.

“Transporter” or “Transporters” shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point(s).

“Trustee” means [The Bank of New York Mellon Trust Company, N.A.], a national banking association organized and existing under the laws of the United States, or any successor thereto under the Indenture.

Section 1.02 Interpretation. All references to any agreement or document shall be construed as of the particular time that such agreement or document may then have been executed, amended, varied, supplemented or modified. Terms defined in this Contract shall have the meanings given therein when used elsewhere in this Contract. Titles appearing at the beginning of any articles, sections, subsections and other subdivisions of this Contract are for convenience only and shall not constitute part of such subdivisions and shall be disregarded in construing the language contained in such subdivisions. References in the singular shall include the plural, and references to the masculine shall include the feminine, and vice versa. Any reference in this Contract to any Person includes its successors and permitted assigns and, in the case of any governmental authority, any Person succeeding to its functions and capacities. Reference to a particular article, section, subsection, paragraph, subparagraph, attachment, schedule or exhibit, if any, shall be a reference to such article, section, subsection, paragraph, subparagraph, attachment, schedule or exhibit in and to this Contract. Any appendices, schedules or exhibits are fully incorporated and made part of this Contract. The appendices, schedules or exhibits shall be read in conjunction with the provisions of the body of this Contract, and the appendices, schedules or exhibits and the body of this Contract shall be interpreted to give effect to the intent of the Parties as evidenced by their terms when taken as a whole, *provided, however*, that in the event of an express and irreconcilable conflict between the terms of an attachment, schedule or exhibit and the provisions of the body of this Contract, the provisions of the body of this Contract shall control. Capitalized terms appearing in an attachment, schedule or exhibit shall have the meanings set forth in Section 1.01, unless the context requires otherwise. The recitals at the beginning of this Contract are incorporated herein for all purposes. All uses of “include” or “including” shall be deemed to be followed by “without limitation”, whether expressly so stated or not. All references to a law, rule, regulation, contract, agreement, or other document mean that law, rule, regulation, contract, agreement, or document as amended, modified, supplemented or restated, from time to time.

Section 1.03 Technical Meanings. Words not otherwise defined in this Contract that have well-known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

ARTICLE II TERM AND DELIVERY PERIOD

Section 2.01 Term. This Contract shall be in effect from and including the Effective Date to and including the last day of the Month following the last Month of the Delivery Period, subject to the provisions of Section 2.02, Section 7.05 and Article VIII.

Section 2.02 Termination Prior to Commencement of Delivery Period. In the event that the Prepaid Agreement is terminated prior to the commencement of the Delivery Period because BPEC does not receive the prepayment, Seller shall terminate this Contract without any further obligation or liability of either Party.

Section 2.03 Reset Period Remarketing. A Reset Period Remarketing occurs when the Available Discount for a new Reset Period is not equal to or greater than the Minimum Discount. Upon a Reset Period Remarketing, Buyer (and each other Gas Purchaser) shall either (i) continue to purchase and receive its Daily Contract Quantity for each Gas Day during such Reset Period at a Contract Price that reflects the Available Discount, or (ii) deliver to Seller a written notice designating a Reset Period Remarketing.

Section 2.04 Reset Period Remarketing Notice Procedure. No later than thirty (30) days prior to the first day of a new Reset Period, Seller shall provide Buyer a written notice setting forth the duration of the new Reset Period and the estimated Available Discount for such Reset Period. Buyer may elect conditionally to remarket its Daily Contract Quantity by delivering to Seller a notice designating a Reset Period Remarketing, in the form set forth in Exhibit E attached hereto, no later than 4:00 p.m. Central Prevailing Time on the eighth (8th) Business Day following the date of the Seller's notice. Buyer's notice designating a Reset Period Remarketing shall only be effective if the Available Discount as finally determined fails to equal or exceed the Minimum Discount.

ARTICLE III SALE AND PURCHASE; DELIVERY POINT PREMIUM

Section 3.01 Sale and Purchase. Seller agrees to sell and deliver or cause to be delivered to Buyer, and Buyer agrees to purchase and take, on a Firm basis, the Daily Contract Quantity for each Gas Day during the Delivery Period pursuant to the terms and conditions set forth in this Contract.

Section 3.02 Contract Price. The price payable for Gas delivered and purchased pursuant to this Contract (the "*Contract Price*") shall be equal to the Index Price applicable to the relevant quantity of Gas for the applicable Delivery Point minus the Discount.

Section 3.03 Annual Refund. At the end of each fiscal year following completion of the annual audit of Seller's financial statements, Seller shall compare its revenues (as determined in accordance with the Indenture) and expenses under the Gas Project for that fiscal year. For purposes of such annual comparison, Seller's expenses shall include: (a) its expenses incurred in obtaining Gas supply under the Gas Project; (b) its administrative, legal, and accounting expenses directly incurred in connection with or properly allocable to the Gas Project, including the administration of this Contract and all other contracts for the sale of Gas obtained under the Gas Project; (c) debt service on the Bonds, including payments under any hedge agreement; (d) any replenishment of draws made upon any working capital fund associated with the Gas Project; (e) any deposits required to be made by Seller into any debt service reserve or other

reserve or contingency fund or funds established with respect to the Bonds; (f) any fees or other amounts due to any provider of credit support for the Bonds; (g) payments under any commodity price swap or hedge agreement entered into in connection with the Gas Project; (h) any amounts required by the Repricing Agreement to be deposited to the Rate Stabilization Fund, and (i) any other similar costs and expenses. If this annual comparison demonstrates that such revenues exceeded such expenses during the applicable fiscal year and there are amounts on deposit in the fund established by the Indenture available for such purpose, then Seller shall make refunds to Buyer and the other Gas Purchasers in the amount available after making allowances for any necessary and appropriate reserves and contingencies to fund any working capital reserve and to reserve or account for unfunded liabilities, including future sinking fund or other principal amortization of the Bonds. The amount available for refund shall be allocated among and paid to Buyer and the other Gas Purchaser in proportion to their respective purchases for such fiscal year. Buyer acknowledges and agrees that (a) there is no assurance an annual refund will be achieved and that, under the structure of the Gas Project, none is anticipated, and (b) any such refund and the amount thereof is subject to the availability to Seller of sufficient funds for Seller to satisfy its obligations and covenants under the Indenture and the Prepaid Agreement, and other reasonably related factors, some of which may not be known to the Parties at the time of execution of this Contract.

Section 3.04 Rate Stabilization Fund. A fund (the “Rate Stabilization Fund”) will be created in the Indenture so that monies deposited in such fund may, at the direction of Seller, be applied from time to time, primarily to supplement (increase) the Available Discount pursuant the terms of the Repricing Agreement. Pursuant to the Indenture, any amounts remaining in the Rate Stabilization Fund on the first day of the final Reset Period shall be applied to increase the Available Discount to all Gas Purchasers over the term of such final Reset Period.

ARTICLE IV FAILURE TO DELIVER OR TAKE GAS

Section 4.01 Seller’s Unexcused Failure to Deliver.

(a) If on any Gas Day Seller fails to deliver all or any portion of the Daily Contract Quantity pursuant to the terms of this Contract, and such failure is not due to either (i) the actions or inactions of Buyer, or (ii) Force Majeure, then the portion of the Daily Contract Quantity that Seller failed to deliver shall be the “*Deficiency Quantity*”.

(b) To the extent Buyer purchases replacement Gas that is delivered prior to the end of the Month in which such Deficiency Quantity arose, then Seller shall pay to Buyer the amount determined as follows:

$$P = DQ \times (RP + AC)$$

Where:

P = the amount payable by Seller under this Section 4.01(b)

DQ = the Deficiency Quantity

RP = Utilizing the Cover Standard, the positive amount, if any, by which the price actually paid by Buyer for the replacement Gas in an arm’s length Gas purchase from an unaffiliated third party, as may

be adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), exceeds the Contract Price for the applicable Gas Day and Delivery Point.

AC = the Administrative Charge

(c) Imbalance Charges shall not be recovered pursuant to Section 4.01, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 5.02(c). The replacement prices referred to under the definition of "RP" as used in Section 4.01(b) shall not include any administrative or other internal costs incurred by Buyer, it being understood that such costs are being compensated by way of the Administrative Charge included above.

Section 4.02 Buyer's Unexcused Failure to Take.

(a) If on any Gas Day Buyer fails to take all or any portion of the Daily Contract Quantity at any Delivery Point(s) for any reason other than Force Majeure, Seller will attempt to remarket such Gas. If Seller is able to remarket such Gas, Seller will invoice Buyer in the amount equal to the positive difference, if any, between the Index Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), plus the Administrative Charge, multiplied by the difference between the Daily Contract Quantity and the quantity actually taken by Buyer for such Gas Day(s). If Seller remarkets the Gas for Qualified Use, the Cover Standard may be adjusted to reflect any discounts required to complete that sale.

(b) Buyer agrees to notify Seller promptly upon becoming aware that Buyer or any Gas Purchaser may not be able to take all or a portion of the Daily Contract Quantity at any Delivery Point(s) on any Gas Day.

Section 4.03 Failure to Deliver or Take Due to Force Majeure. If on any Gas Day Buyer fails to take or Seller fails to deliver, all or any portion of the Daily Contract Quantity at any Delivery Point(s) and such failure is due to either Party claiming Force Majeure, then each Party shall be relieved of its respective obligation to deliver and receive, as applicable, such portion of the Daily Contract Quantity.

Section 4.04 Load Loss. If Buyer experiences a sustained load loss such that it is unable to take all or any part of the Daily Contract Quantities, it may request remarketing of the affected quantities of Gas and Seller shall use commercially reasonable efforts to resell such quantities on behalf of Buyer consistent with Article IX.

Section 4.05 Make-up Delivery in Lieu of Payment. The Parties may mutually agree to make up all or a portion of the Daily Contract Quantity not delivered or taken by increasing deliveries and takes over the remainder of the Month in which such failure occurred or the following Month.

Section 4.06 Sole Remedies. Except with respect to the payment of Imbalance Charges pursuant to Section 5.02(c) the remedies set forth in this Article IV shall be each Party's sole and exclusive remedies for any failure by the other Party to deliver or take Gas pursuant to this Contract.

ARTICLE V
DELIVERY POINTS; TRANSPORTATION; NOMINATIONS AND IMBALANCES

Section 5.01 Delivery Points.

(a) Gas delivered hereunder shall be delivered and received at the points specified as Delivery Point(s) in Exhibit B, or any other Delivery Point established pursuant to Section 5.01(b) or otherwise by mutual agreement of the Parties. Each Delivery Point must have a published Index Price, mutually agreed by the Parties, corresponding to such Delivery Point.

(b) Not more frequently than once during the ensuing summer season (the period from April through October) or once during the ensuing winter season (the period from November through March), Buyer may change delivery for all or a portion of the Daily Contract Quantity at any of the Delivery Point(s) to any other delivery point(s), as may be allowed under the operating terms and conditions of the applicable Transporter or Transporters; provided (A) Seller is able to obtain a corresponding change under the Prepaid Agreement; (B) such new Delivery Point is in the reasonable opinion of each Party a liquidly traded Gas delivery point, (C) the Parties designate a replacement Index Price that is reasonably acceptable to each Party, (D) the Parties are able to agree on any reasonable actual incremental costs, including but not limited to actual costs incurred to meet such request and including transportation costs, fuel costs and hedge unwind costs, if any, or the reduction in actual costs, if any, and (E) Seller shall not be obligated to enter into any new upstream supply agreement, transportation agreement or other arrangement to meet Buyer's request. Following any agreed upon modification to the Delivery Points, Buyer and Seller shall enter into a revised Exhibit B reflecting said change.

(c) Seller will deliver and Buyer will receive Gas at the Delivery Point(s) in accordance with Buyer's pooling arrangements, if any, and other requirements in each case as specified in Exhibit A. Buyer may issue a standing nomination with respect to pooling arrangements at any Delivery Point. Any changes to such standing nomination must be received by Seller not later than six (6) Business Days prior to the applicable delivery Month for any change to the monthly standing nomination, and prior to 7:30 AM CPT on the Business Day prior to any change for a Gas Day.

Section 5.02 Responsibility for Transportation, Nominations and Imbalances.

(a) Seller shall have the sole responsibility for all transportation necessary for delivery of the Daily Contract Quantity to the Delivery Point(s). Buyer shall have the sole responsibility for all transportation necessary to receive the Daily Contract Quantity at the Delivery Point(s) and to transport the Daily Contract Quantity from the Delivery Point(s). Seller has responsibility for all compliance with applicable Transporter tariffs and regulations of the FERC for Gas transported on pipelines prior to the Delivery Points. Buyer has responsibility for all compliance with applicable Transporter tariffs and regulations of the FERC for Gas transported on pipelines from the Delivery Point(s).

(b) Unless otherwise agreed by the Parties or required by a Transporter, Seller shall nominate, schedule and deliver, and Buyer shall nominate, schedule and take, the Daily Contract Quantity, ratably, at the Delivery Point(s) in accordance with the requirements of the receiving Transporter and the delivering Transporter at such Delivery Point. The Parties shall coordinate their nomination activities, giving sufficient time to meet the nomination deadlines of the Transporters. Should either Party become aware that the actual deliveries of Gas at the

Delivery Point(s) are greater or less than the Daily Contract Quantity, such Party shall promptly notify the other Party.

(c) The Parties shall use commercially reasonable efforts to avoid the imposition of any Imbalance Charges. If either Party receives an invoice from a Transporter that includes Imbalance Charges related to the obligations of either Party under this Contract, the Parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's takes of quantities of Gas greater than or less than the Daily Contract Quantity at any Delivery Point, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Daily Contract Quantity at any Delivery Point, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

(d) Should either Party receive an operational flow order or other order or notice from a Transporter, or a Transporter posts such notice on its bulletin board or provides the notice by another industry standard, requiring action to be taken in connection with the Gas being delivered under this Contract (a "*Operational Flow Order*"), it shall notify the other Party as soon as possible during normal business hours and provide the other Party with a copy of the Operational Flow Order, or direct the other Party to an electronic version of the Operational Flow Order. The Parties shall cooperate to take all actions required by the Operational Flow Order within the time prescribed. Seller shall indemnify, defend and hold harmless Buyer from any Claims, including, without limitation, all non-compliance penalties and reasonable attorneys' fees, if any, associated with an Operational Flow Order (i) with respect to which Seller failed to give the notice required hereunder to Buyer, or (ii) under which Seller failed to take the action required by the Operational Flow Order within the time prescribed; provided, that any notice required to be given to Buyer by Seller was timely delivered as required by this Section 5.02(d). To the extent not otherwise prohibited by law, Buyer agrees to indemnify, defend and hold harmless Seller from any Claims, including, without limitation, all non-compliance penalties and reasonable attorneys' fees, if any, associated with an Operational Flow Order (i) with respect to which Buyer failed to give the notice required hereunder to Seller, or (ii) under which Buyer failed to take the action required by the Operational Flow Order within the time prescribed; provided, that any notice required to be given to Seller by Buyer was timely delivered as required by this Section 5.02(d).

Section 5.03 Agreements Regarding Operations and Delivery.

Agreements regarding operations and delivery may be made in one or more telephone conversations or by instant messenger between Seller (or BPEC on behalf of Seller) and Buyer whereby an offer and acceptance shall constitute a valid and enforceable agreement subject to the terms of this Agreement that also shall be considered a part of this Agreement. Such an agreement shall be considered a "writing" or "in writing" and to have been "signed." To the extent permitted by applicable law, Seller (or BPEC on behalf of Seller) and Buyer: (i) consent to the recording of telephone conversations between the trading, marketing and other relevant personnel of the Parties in connection with this Agreement; (ii) agree to obtain any necessary consent of, and give any necessary notice of such recording to, its relevant personnel; (iii) agree that recordings may be submitted in evidence in any proceedings; and (iv) acknowledge to the other Party and consent that such other Party may from time to time and without further notice (A) retain electronic transmissions (including telephone conversations, e-mail and instant messaging between the Parties' respective representatives in connection with this Contract) on central and local databases for their respective legitimate purposes, and (B) monitor electronic

transmissions through their internal and external networks for purposes of security and compliance with applicable laws, regulations and internal policies for their legitimate business purposes. Each Party further agrees that, to extent permitted by applicable law, it will indemnify, defend and hold the other Party harmless from any and all damages, losses, claims, liabilities, judgments, costs and expenses, including but not limited to reasonable attorney's fees and costs of court arising directly or indirectly from or out of such Party's failure to obtain any consent necessary from a Party's trading, marketing and other relevant personnel, agents or representatives or such Party's failure to give any notice required to such individuals. The Parties shall be entitled to rely without further inquiry on oral representations as to the identity of person(s) purporting to transact on behalf of the other Party.

Section 5.04 Title and Risk of Loss.

(a) Title to Gas delivered hereunder shall pass from Seller to Buyer at the Delivery Points. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT FOR THE WARRANTIES EXPRESSLY MADE BY SELLER IN THIS SECTION AND Article XI, SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE.

(b) As between the Parties, Seller shall be deemed to be in exclusive control and possession of Gas delivered hereunder and responsible for and will assume any liability with respect to the Gas prior to its delivery to Buyer at the Delivery Points. As between the Parties, Buyer shall be deemed to be in exclusive control and possession thereof and responsible for and will assume any liability with respect to the Gas after its delivery to Buyer at the Delivery Points. Seller agrees to indemnify Buyer and save it harmless from all Claims, from any and all persons, arising from or out of claims of title, personal injury (including death) or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury (including death) or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

**ARTICLE VI
QUALITY AND MEASUREMENT**

Section 6.01 Quality and Measurement. The Parties acknowledge that the Gas delivered by Seller under this Contract shall meet the quality specifications of the receiving Transporter at the applicable Delivery Point(s). The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Transporters that own or operate the measurement facilities at the Delivery Point(s). The Parties acknowledge that the Gas delivered by Seller under this Contract will be delivered in common stream with other sources of Gas. In the event and to the extent that a Transporter refuses to receive or transport Gas nominated for delivery to Buyer at the Delivery Point(s) for reasons of gas quality, the event shall be considered an event of Force Majeure, and Seller shall be relieved of its obligation to deliver and Buyer shall be relieved of its obligation to receive the affected volumes of Gas until the situation is remedied in accordance with Article XIII.

**ARTICLE VII
BILLING, PAYMENT AND AUDIT**

Section 7.01 Monthly Statements.

(a) No later than the fifth (5th) day of each Month (or the immediately succeeding Business Day, if such day is not a Business Day) following any Month during which replacement Gas was purchased by Buyer pursuant to Section 4.01(b), Buyer shall deliver to Seller a statement (the "*Buyer Statement*") setting forth the quantity and replacement price.

(b) No later than the tenth (10th) day of each Month (or the immediately succeeding Business Day, if such day is not a Business Day) (the "*Billing Date*"), of each Month following the Month in which Gas was delivered, Seller shall deliver to Buyer a statement (the "*Billing Statement*") setting forth (i) the quantities of Gas delivered, (ii) the total amount due to Buyer, if any, under Article III and Article IV with respect to the prior Month(s), (iii) any other amounts due to Seller in connection with this Contract, including, but not limited to, amounts due under Section 4.02 with respect to the prior Month(s), and (iv) the net amount due to Buyer or Seller. If the actual quantity of Gas delivered is not known by the Billing Date, the Billing Statement will be prepared based upon the quantity of Gas confirmed by the Transporter(s) for transportation. Adjustments will be made in the following Month's Billing Statement for any differences between the quantity of Gas delivered and the quantity of Gas confirmed by the Transporter(s) for transportation.

(c) Upon reasonable request by either Party, the other Party will deliver such supporting documentation acceptable in industry practice to support an amount due.

Section 7.02 Payment.

(a) Any amounts due shall be remitted by wire transfer in immediately available funds to the accounts specified in Exhibit C, on or before the twentieth (20th) day of the Month in which the Billing Statement or the Buyer Statement, as applicable, was received unless such day is not a Business Day, in which case payment is due on the Business Day immediately preceding such day.

(b) If the invoiced Party, in good faith, disputes any amounts included in a statement, such Party will (except in the case of manifest error) pay the full amount due. In the event the Parties are unable to resolve such dispute, either Party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

(c) If a Party owing any amounts due under this Contract fails to remit the full amount then payable when and as due, interest on the unpaid portion shall accrue at the Default Rate from and including the date on which the payment was due to, and including, the date on which the full amount is paid.

Section 7.03 Netting. The Parties shall net all amounts due and owing, and/or past due, arising under this Contract such that the Party owing the greater amount shall make a single payment of the net amount to the other Party in accordance with this Article VII.

Section 7.04 Payment Default and Suspension. If by the twenty-fourth (24th) day of the Month in which Buyer fails to pay when due any amount owed to Seller ("Payment Default"), the Trustee shall draw on the Receivables Purchase Agreement in accordance with its terms to

make payments in satisfaction of all or a portion of amounts owed to Seller. The Receivables Purchase Agreement Provider then shall be subrogated to the rights of Seller against Buyer in respect of such Payment Default. Upon a Payment Default, delivery of Buyer's Daily Contract Quantity shall be suspended ("*Delivery Suspension*") until either (a) Buyer's payment is received in full, including any interest at the Default Rate, on or before the twentieth (20th) day of the Month following the Month that payment was originally due, or (b) this Contract is terminated pursuant to Section 7.05 or Article VIII. Seller shall provide notice of the Delivery Suspension to Buyer, BPEC and its designee(s), and the Trustee. Buyer agrees that such notice shall be deemed received by Buyer (whether or not actually given or received) as of the sixth (6th) Business Day after the time any such amounts referred to in the first sentence of this Section were due.

Section 7.05 Termination. If Buyer fails to pay any amount owed to Seller on or before the twentieth (20th) day of the Month following Buyer's Delivery Suspension, then Seller may at its option terminate this Contract by providing notice pursuant to Section 15.02, with copies to Buyer, BPEC, and the Trustee. Upon such notice (a) the Delivery Period will end, (b) Seller shall no longer have any obligation to sell or deliver Gas to Buyer under this Contract, (c) the obligation of Buyer to purchase and receive Gas from Seller under this Contract will terminate, and (d) Buyer shall have no right to any Discount or proceeds that may arise due to remarketing of the Gas. In lieu of or in addition to notice of termination given by Seller, the Trustee purporting to act pursuant to the terms of the Indenture may provide notice of termination to Buyer, Seller, and BPEC.

ARTICLE VIII TERMINATION

Section 8.01 Automatic Termination Event. If the Prepaid Agreement terminates prior to the end of the Delivery Period, this Contract shall terminate on the date of early termination of the Prepaid Agreement (subject to all winding up arrangements) such that all Gas deliveries hereunder shall cease. In the event of the early termination of the Prepaid Agreement, Seller agrees to transfer to Buyer, solely from amounts thereof actually available to Seller under the Indenture, if any, Buyer's share of any excess monies available from the Gas Project. Notwithstanding the foregoing, Seller's reasonable determination of Buyer's share of any such amounts may include retention by Seller from Buyer's share recoupment of costs incurred because of the early termination, costs incurred due to any audit of the Gas Project or any transactions thereunder, and amounts reasonably determined by Seller to represent the present value of administrative fees that Seller would otherwise have retained or received in respect of the Daily Contract Quantity over the remainder of the Delivery Period had such early termination of the Prepaid Agreement not occurred. Seller in its sole discretion may delay such a payment until the time that the Gas Project and any transactions thereunder are no longer subject to audit.

Section 8.02 Buyer Termination Events. Each of the following events shall constitute a "**Buyer Termination Event**" under this Contract:

(a) Failure by Buyer to pay when due any of the amounts owed to Seller pursuant to Section 7.05;

(b) Any representation, warranty, or covenant made by Buyer in this Contract shall prove to have been incorrect in any material respect when made or deemed made;

(c) Buyer otherwise fails to perform any covenant under this Contract;

(d) Buyer (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) otherwise becomes bankrupt or insolvent (however evidenced); (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (vii) causes or is subject to any event with respect to it, which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vi) above (inclusive); or (viii) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

Section 8.03 Right to Termination; Remedies.

(a) At any time a Buyer Termination Event has occurred and is continuing, Seller may by notice to the Buyer specifying the relevant Buyer Termination Event designate an Early Termination Date not later than the last day of the Month in which such notice is provided. Each of (i) Seller's obligation to sell and deliver Gas, (ii) Buyer's obligation to purchase and take Gas, and (iii) Seller's obligation to remarket Gas pursuant to the terms of this Contract shall terminate on the Early Termination Date.

(b) In lieu of or in addition to any notice provided by Seller, the Trustee acting pursuant to the Indenture may provide notice to Buyer of any Early Termination Date or Partial Termination Condition.

(c) If a Partial Termination Condition under Section 9.02(b) has occurred, Seller, unless the Parties agree otherwise, may designate an Early Termination Date with respect to that portion of this Contract represented by the quantities of Gas remaining to be delivered hereunder described in clause (i) of Section 9.02(b). If this Contract is so partially terminated with respect to such quantities of Gas, the provisions of this Article VIII shall apply to the portion terminated. Nothing in this paragraph (c) is meant to imply that a complete termination of this Contract would or would not be required or permitted pursuant to the exercise of any other right or remedy under this Contract.

(d) In the event of a default by Seller under any covenant, agreement, or obligation in this Contract, for which no exclusive remedy is expressly provided herein, Buyer may bring any suit, action, or proceeding at law or in equity to enforce Seller's obligation(s), including mandamus, injunction, and action for specific performance, as Buyer determines may be necessary or appropriate to enforce any covenant, agreement, or obligation in this Contract against Seller.

Section 8.04 Other Remedies. If all amounts payable by a defaulting Party on the Early Termination Date shall not have been received on such date by the non-defaulting Party, the non-defaulting Party may proceed to protect and enforce its rights, either by suit in equity or by action at law or both, whether for the specific performance of any covenant or agreement contained in this Contract or in aid of the exercise of any power, right or remedy granted in this Contract or may proceed to enforce the payment of all amounts owing to the non-defaulting Party under this Contract (including, without limitation, any sums specified as liquidated

damages or any other unpaid amounts due to the non-defaulting Party hereunder, together with interest thereon to the extent provided herein); it being intended that, except with respect to events or circumstances for which an exclusive remedy is expressly provided herein, no remedy conferred herein is to be exclusive of any other remedy, and each and every remedy contained herein shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 8.05 Limitation on Damages. Neither Party shall be liable for consequential, incidental, punitive, exemplary, or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise, unless such breach is the result of gross negligence or willful misconduct. It is the intent of the Parties that (i) the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including, without limitation, the negligence of either Party, other than gross negligence or willful misconduct, whether such negligence be sole, joint or concurrent, or active or passive, and (ii) if and to the extent any damages required to be paid hereunder are liquidated, the parties acknowledge that the damages are difficult or impossible to determine, otherwise obtaining an adequate remedy is inconvenient and the liquidated damages constitute a reasonable approximation of the harm or loss. In determining the appropriate measure of damages that would make the Parties whole, the Parties have thoroughly considered, inter alia, the uncertainty of fluctuations in gas prices, the ability and intention of the Parties to hedge such fluctuations, the bargained-for allocation of risk, the knowledge, sophistication and equal bargaining power of the Parties, the arms-length nature of the negotiations, the special circumstances of this transaction, the accounting and tax treatment of the transaction by the Parties and the entering into of other transactions in reliance on the enforceability of the liquidated damages provisions contained herein. The Parties acknowledge that this Contract is subject to Article 2 of the Uniform Commercial Code, as enacted by the state or commonwealth the law of which shall govern this Contract, including without limitation, §§ 2-706(6), 2-711, 2-718, and 2-719, except to the extent any provisions of such Article 2 (inclusive of such sections) may be inconsistent with the provisions of this Contract, which shall control. Except as expressly set forth herein, Seller expressly disclaims any, and makes no other, representation or warranty, written or oral, express or implied, including, without limitation, any representation or warranty with respect to conformity to models or samples, merchantability, or fitness for any particular purposes. There are no warranties which extend beyond the description on the face hereof.

ARTICLE IX REMARKETING

Section 9.01 Remarketing Notices.

(a) Upon delivery by Buyer to Seller of a Remarketing Notice satisfying the criteria in clause (b) below, provided that no Buyer Termination Event exists, Seller shall use commercially reasonable efforts to remarket on behalf of Buyer (or arrange for BPEC to remarket) all or a specified portion of the Daily Contract Quantity as set forth in the Remarketing Notice.

(b) Each Remarketing Notice shall specify: (i) the portion (in MMBtu) of the Daily Contract Quantity to be remarketed with respect to the applicable Delivery Point for each Gas Day; (ii) the applicable period during which such Gas is to be remarketed; and (iii) an explanation, in reasonable detail, as to the reason(s) for the remarketing. Each such notice in the form of Exhibit H shall be sent by electronic mail, with a mailed copy following, shall be

deemed to have been properly delivered, with such notice complete upon transmission by electronic mail, notwithstanding any different requirements for notice under Section 15.02. A Remarketing Notice where the type of remarketing is "Daily" must be delivered by 7:15 a.m. CPT on the Business Day prior. A Remarketing Notice where the type of remarketing is "Monthly" must be delivered by 4:00 p.m. CPT on the fifteenth (15th) day of the Month preceding the Month in which Gas is to be remarketed. If the remarketing is for a season, the Remarketing Notice must be delivered by 4:00 p.m. CPT on February 10th for remarketing of Gas during the ensuing summer season (the period from April through October) and by 4:00 p.m. CPT on September 10th for remarketing of Gas during the ensuing winter season (the period from November through March).

(c) The provision of a Remarketing Notice in itself does not relieve Buyer of its obligation to pay the Contract Price to Seller for the Daily Contract Quantity.

Section 9.02 Remarketing Terms.

(a) For all Gas remarketed pursuant to Section 9.01, if the remarketed Gas does not sell for a price equal to or exceeding the Contract Price plus the Administrative Charge, then Buyer shall pay Seller for the difference between the Contract Price plus the Administrative Charge and the price at which the remarketed Gas actually sold.

(b) If during any period of twelve (12) consecutive Months during the Delivery Period (i) the sum of (A) the quantity of Gas requested to be remarketed under Section 4.02 and Section 9.01, and (B) the quantity of Gas which Buyers fails to take under Section 4.02 (without duplication), exceeds (ii) fifty percent (50%) of the sum of the Daily Contract Quantity during such twelve (12) Month period, and (iii) Seller shall have given written notice thereof to Buyer, then a "*Partial Termination Condition*" shall be deemed to exist and Section 8.03(c) shall apply.

ARTICLE X EXCHANGES

Section 10.01 General Principle. With the consent of Seller, Buyer may effectuate an exchange of Delivery Points for Gas purchased under this Contract on a daily or monthly basis under this Article X, provided, however, that any failure by a third party to perform its obligations under any such exchange arrangement shall not relieve Buyer of its obligations under this Contract.

ARTICLE XI REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 11.01 Tax-Exempt Status of the Bonds. Buyer and Seller acknowledge and agree that Seller will finance the prepayment under the Prepaid Agreement with the proceeds of the Bonds, which will be issued as obligations under which the interest is excluded from the gross income of the owners thereof for federal income tax purposes. Buyer and Seller covenant and agree that each will not take any action, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstance within its control to arise or continue, unless specifically so ordered by a Government Agency, if any such action or inaction would adversely affect the exclusion from gross income for federal income tax purposes of the interest on any of the Bonds under the Code. Buyer further agrees that it will provide all documents and records reasonably requested by Seller for response to any inquiry or audit relating to the tax-exempt status of the bonds.

Section 11.02 Qualifying Use.

(a) Buyer represents, warrants, covenants and agrees that:

(i) it is (a) either (1) a Municipal Utility or (2) a Governmental Person that sells Gas (or electricity generated from such Gas) to a Municipal Utility, and (b) which, in either case, possesses all power, authority, and applicable approvals necessary for it to enter into this Contract;

(ii) it has delivered to Seller, as a condition precedent to Seller's execution of this Contract, the Buyer Certificate, in substantially the form set forth in Exhibit D hereto;

(iii) the Gas purchased under this Contract is and shall be used, at all times during the Delivery Period, by Buyer in its normal and customary governmental utility operations to provide utility service to consumers located within its governmental service territory pursuant to Buyer's rate schedules and tariffs as they exist from time to time; and

(iv) it will execute such additional documents and certificates as Bond Counsel may reasonably request evidencing Gas Purchaser's compliance with this Section, with the Code, and with Treasury Regulations thereunder.

(b) Without limiting the foregoing, Buyer further agrees that it will use the Gas (i) for Qualifying Use, (ii) in a manner that will not result in any Private Business Use, and (iii) that it will not use Gas purchased under this Contract in any other manner without the prior written consent of Seller. Buyer agrees that it will execute such additional documents and certificates as Bond Counsel may reasonably request evidencing Gas Purchaser's compliance with this Section, with the Code, and with Treasury Regulations thereunder.

Section 11.03 Representations and Warranties. As a material inducement to entering into this Contract, each Party, with respect to itself, hereby represents and warrants to the other Party as of the Effective Date as follows:

(a) it is duly organized and validly existing in good standing under the Laws of the state or commonwealth in which it is organized, and has all requisite power and authority, corporate or otherwise, to enter into and to perform its obligations hereunder and to carry out the terms and conditions hereof and the transactions contemplated hereby;

(b) it has all requisite power and authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Contract;

(c) there is no litigation, action, suit, proceeding or investigation pending or, to the best of such Party's knowledge, threatened, before or by any Government Agency that could reasonably be expected to materially and adversely affect the performance by such Party of its obligations hereunder or that questions the validity, binding effect or enforceability hereof or of any action taken or to be taken by such Party pursuant hereto or any of the transactions contemplated hereby;

(d) the execution, delivery and performance of this Contract by such Party have been duly authorized by all necessary actions on the part of such Party and do not

require any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party;

(e) this Contract has been duly executed and delivered on behalf of such Party by an appropriate officer or authorized Person of such Party and constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms, as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights generally and by general principles of equity;

(f) the execution, delivery and performance of this Contract by such Party shall not violate any provision of any Law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination applicable to it;

(g) the execution, delivery and performance by such Party of this Contract, and the consummation of the transactions contemplated hereby, including the incurrance by such Party of its financial obligations hereunder, shall not result in any violation of any term of any material contract or agreement applicable to it, or any of its charter or bylaws or of any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, Law, ordinance, rule or regulation applicable to it or any of its properties or to any obligations incurred by it or by which it or any of its properties or obligations are bound or affected, or of any determination or award of any arbitrator applicable to it, and shall not conflict with, or cause a breach of, or default under, any such term or result in the creation of any Lien upon any of its properties or assets; and

(h) to the best of the knowledge and belief of such Party, no consent, approval, order or authorization of, or registration, declaration or filing with, or giving of notice to, obtaining of any license or permit from, or taking of any other action with respect to, any Government Agency is required in connection with the valid authorization, execution, delivery and performance by such Party of this Contract or the consummation of any of the transactions contemplated hereby.

Section 11.04 Additional Representations, Warranties and Covenants of Buyer. As a material inducement to entering into this Contract, Buyer hereby represents, warrants and covenants to Seller as follows:

(a) the amounts payable by Buyer under this Contract (i) shall be payable as a "Operation and Maintenance Cost" under and as defined in any of Buyer's revenue bond resolutions that is payable prior to debt service on Buyer's revenue bonds, as applicable, and (ii) do not constitute an indebtedness or liability of Buyer within the meaning of any constitutional or statutory limitation or restriction applicable to Buyer; and

(b) Buyer shall establish, maintain and collect rates and charges for the sale or use of Gas or electric energy generated, transmitted, distributed or furnished by it so as to provide revenues sufficient, together with other legally available moneys, to enable Buyer to pay timely all amounts payable to Seller under this Contract, to pay any other amounts legally payable from such revenues, to maintain any required reserves pursuant to any financing obligations, and to promptly enforce the payment of any and all accounts owing to Buyer for the sale of Gas or electricity or the provision of distribution or other services to its customers.

(c) Buyer further agrees to use Gas purchased under this Contract prior to other Gas purchased by Buyer that is not subject to any Qualifying Use restrictions.

Section 11.05 Negative Covenant. Buyer agrees that unless the Receivable Purchase Agreement Provider shall otherwise expressly consent in writing, Buyer shall not create, incur or suffer to exist, or agree to create, incur or suffer to exist, or consent to cause or permit in the future (upon the happening of a contingency or otherwise) the creation, incurrence or existence of any Lien on the source of payment for Buyer's payment obligations hereunder to or for the benefit of any Person that would provide such Person with a right to payment that is prior to the rights of Seller to payment under this Contract or the rights of the Receivable Purchase Agreement Provider to payment under this Contract.

ARTICLE XII TAXES

Section 12.01 Taxes. Seller shall (i) be responsible for and shall pay, cause to be paid, or promptly reimburse Buyer if Buyer has paid all Taxes assessed upstream of the Delivery Point, and (ii) indemnify Buyer and its Affiliates for any such taxes paid by Buyer or its Affiliates. Buyer shall (i) be responsible for and shall pay, cause to be paid, or promptly reimburse Seller if Seller has paid, all Taxes assessed at or downstream of the Delivery Point, and (ii) indemnify Seller and its Affiliates for any such taxes paid by Seller or its Affiliates. The Index Price does not include any applicable state or local, gross receipts, compensating, utility, transaction privilege, sales or use tax, and any other transactional-type tax which may be levied as a result of sales of or use of Gas hereunder and that is allowed by applicable law to be invoiced to the Buyer as a separate charge from the Index Price, whether measured by quantity or revenues; and if there are any such taxes Seller will invoice Buyer and Buyer will pay Seller the amount of such taxes which Seller will remit as required by applicable law. The parties agree to cooperate, in the event either party in good faith protests, contests, disputes, or files a refund request, with the applicable taxing authority or court with jurisdiction, by providing any relevant information, upon request, within a party's possession, which will support the filing party's filing. At Seller's request, Buyer shall provide Seller with a valid sales tax exemption certificate and any other required exemption or resale certificate to the extent applicable necessary for exemption from any relevant state taxes that may be levied against the Parties in relation to the transactions under, or pursuant, to this Contract.

ARTICLE XIII FORCE MAJEURE

Section 13.01 Force Majeure.

(a) Except with regard to a Party's obligation to make payment(s) due under Section 7.02, and Imbalance Charges under Section 5.02(c), neither Party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in this section.

(b) Notwithstanding and without limiting the generality of the foregoing, Buyer acknowledges and agrees that the Delivery Points under this Contract are at, near, or supplied by Gas production areas at point(s) or pool(s) at which Gas is aggregated, and that these Gas production areas may be affected by weather-related events, including hurricanes and wellhead freeze offs, which could disrupt or curtail Seller's ability to access Gas supplies, and that such

circumstances, if and to the extent that they actually affect Seller's performance, constitute a Force Majeure event that relieves Seller of all or part, as applicable, of its obligations under this Contract to either (a) make deliveries of Gas, or (b) financially to keep Buyer whole, in either case by using any other source of Gas that may be available, including without limitation (x) storage deliveries and (y) deliveries under any third-party supply contracts not used to supply Gas under this Contract prior to such event, including deliveries from a different supply region than the regions used to supply Gas at the Delivery Points.

(c) Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuations of the affected area, floods, washouts, explosions or breakage, accident or the necessity of repairs to machinery or equipment or lines of pipe; (ii) weather-related events affecting a broad geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts, or other industrial disturbances, riots, sabotage, insurrections, acts of terrorism or wars; (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation or policy having the effect of law promulgated by a governmental authority having jurisdiction (excluding any actions taken by Buyer or a Gas Purchaser unless such actions are taken in response to an event that would otherwise constitute an event of Force Majeure); and (vi) an event of the type specified as an event of Force Majeure in Section 6.01. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance. In no event shall Seller be under any obligation to source Gas from storage or other markets if an event of Force Majeure occurs. To the extent an event of Force Majeure occurs, Seller or Buyer will allocate the supply or purchase of Firm Gas for affected transactions, as applicable, on a pro rata basis with other similarly situated Firm Gas customers.

(d) If an event of Force Majeure occurs, the Party affected may, in its sole discretion and without notice to the other Party, determine not to make a claim of Force Majeure and waive its rights under this Contract as such rights would apply to such event. Such determination or waiver shall not preclude the affected Party from claiming Force Majeure with respect to any subsequent event, including any event that is substantially similar to the event with respect to which such determination or waiver is made.

(e) Neither Party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is prevented by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path Firm transportation is also curtailed; (ii) the Party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; (iii) Seller's ability to sell Gas at a higher or more advantageous price, and Buyer's ability to purchase Gas at a lower or more advantageous price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Contract; (iv) the loss of Buyer's markets or Buyer's inability to use or resell Gas purchased under this Contract, except, in either case, as a result of Force Majeure; or (v) the loss or failure of Seller's Gas supply or depletion of reserves, except, in either case, for reasons of Force Majeure. The Party claiming Force Majeure shall not be excused from its responsibility for costs associated with Imbalances.

(f) Notwithstanding anything to the contrary in this Contract, the Parties agree that the settlement of strikes, lockouts, or other industrial disturbances shall be within the sole discretion of the Party experiencing such disturbance.

(g) The Party whose performance is prevented by Force Majeure must provide notice to the other Party. Initial notice may be given orally; however, written notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written notice of Force Majeure to the other Party, the affected Party will be relieved of its obligation to make or accept delivery of Gas, as applicable, to the extent and for the duration of the Force Majeure event, and neither Party shall be deemed to have failed in such obligation to the other during such occurrence or event.

ARTICLE XIV GOVERNING RULES AND REGULATIONS

Section 14.01 Compliance with Laws. This Contract shall be subject to all present and future Laws of any Government Agency having jurisdiction, and neither Party has or will knowingly undertake or knowingly cause to be undertaken any activity that would conflict with such Laws; *provided, however*, that nothing herein shall be construed to restrict or limit either Party's right to object to or contest any such Law, and neither acquiescence therein or compliance therewith for any period of time shall be construed as a waiver of such right.

Section 14.02 Contests. Excluding all matters involving a contractual dispute between the Parties, no Party shall contest, cause to be contested or in any way actively support the contest of the equity, fairness, reasonableness or lawfulness of any terms or conditions set forth or established pursuant to this Contract, as those terms or conditions may be at issue before any Government Agency in any proceeding, if the successful result of such contest would be to preclude or excuse the performance of this Contract by either Party.

Section 14.03 Defense of Contract. Excluding all matters involving a contractual dispute between the Parties, each Party shall hereafter defend and support, and shall take no action in derogation of, this Contract before any Government Agency in any proceeding, if the substance, validity or enforceability of all or any part of this Contract is hereafter challenged or if any proposed changes in Law or regulatory practices or procedures would have the effect of making this Contract invalid or unenforceable or would subject either Party to any greater or different regulation or jurisdiction that materially affects the rights or obligations of the Parties under this Contract.

Section 14.04 Continuing Disclosure. Buyer understands and acknowledges that, in connection with the public offering of the Bonds, Seller is subject to certain disclosure requirements for the benefit of prospective purchasers and beneficial owners of the Bonds under Rule 15c2-12 ("**Rule 15c2-12**") and under Rule 10b-5 ("**Rule 10b-5**"), promulgated pursuant to the Securities Exchange Act of 1934 (including any amended or successor regulation or statute thereto). To assist Seller in complying with Rule 15c2-12 and Rule 10b-5, Buyer covenants and agrees that if Seller reasonably determines that (i) Buyer is a material obligated person, as that term is defined in Rule 15c2-12, or (ii) that a material event, as that term is defined in Rule 15c2-12, has occurred with respect to Buyer or this Contract, then Buyer will authorize and provide to Seller, for inclusion in any preliminary official statement, final official statement or disclosure document prepared in connection with the remarketing of the Bonds or any continuing disclosure relating thereto, all statements and information relating to Buyer deemed material by Seller for the purpose of satisfying Rule 15c2-12 as well as Rule 10b-5. If Seller has determined that Buyer is a material obligated person for purposes of Rule 15c2-12, then Buyer further covenants and agrees that Buyer will enter into a continuing disclosure agreement in such form as Seller shall reasonably determine to be necessary for compliance

with Rule 15c2-12 and shall thereafter provide ongoing disclosure as required thereby and by Rule 15c2-12.

ARTICLE XV MISCELLANEOUS

Section 15.01 Assignment. Neither Party shall assign this Contract or any of its rights or obligations under this Contract without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed, *provided, however* (i) Seller may pledge and assign its right, title, and interest in this Contract and the amounts payable by Buyer under this Contract to the Trustee under the Indenture, such that the Trustee or any receiver appointed under the Indenture shall have the right to enforce all obligations of Buyer and to perform all obligations of Seller under this Contract; (ii) in the event of Payment Default and receipt by the Trustee of payment by the Receivables Purchase Agreement Provider of amounts owing by Buyer, Seller shall be deemed to have assigned its rights under this Contract to the Receivables Purchase Agreement Provider; and (iii) Buyer shall not assign this Contract or any of its rights or obligations under this Contract without the prior written consent of the Receivables Purchase Agreement Provider.

Section 15.02 Notices. All notices, requests, statements or payments shall be made as specified on Exhibit C hereto. All notices, requests, or statements to Buyer shall be recognized as valid, whether from Seller, or its designee(s), and Buyer shall not be held liable by reason of Buyer having relied on them. Notices required to be in writing shall be delivered by letter, electronic mail, facsimile or other documentary form or such other means of communication as the Parties may agree from time to time in writing and shall be deemed given upon actual receipt by the Party to which such notice is given except that any notices received after 2:00 p.m. CPT shall be deemed received at the close of the next Business Day. A Party may change its address by providing notice of same in accordance herewith. Notwithstanding the foregoing, any notices regarding day-to-day operations may be given orally, to be followed up in writing.

Section 15.03 Indemnification Procedure. With respect to each indemnification included in this Contract, the indemnity is given to the fullest extent permitted by applicable Law and the following provisions shall be applicable. The indemnified Party shall promptly notify the indemnifying Party in writing of any Claim and the indemnifying Party shall have the right to assume its investigation and defense, including employment of counsel, and shall be obligated to pay related court costs and the indemnifying Party's attorneys' and experts' fees, and to post any appeals bonds; *provided, however*, that the indemnified Party shall have the right to employ at its expense separate counsel and participate in the defense of any Claim. The indemnifying Party shall not be liable for any settlement of a Claim without its express written consent thereto. In order to prevent double recovery, the indemnified Party shall reimburse the indemnifying Party for reasonable payments or costs incurred in respect of an indemnity with the proceeds of any judgment, insurance, bond, surety or other recovery made by the indemnified Party with respect to a covered event.

Section 15.04 Entirety. This Contract, including the Exhibits hereto, constitutes the entire agreement between the Parties and supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those herein expressed. Except for any matters that, in accordance with the express provisions of this Contract, may be resolved by oral agreement between the Parties, no amendment,

modification or change herein shall be enforceable unless reduced to writing and executed by both Parties.

Section 15.05 Governing Law. This Contract shall be interpreted and construed in accordance with the applicable Laws of the State of New York, excluding conflicts of law principles which would refer to the laws of another jurisdiction; *provided* that the authority of each of Buyer and Seller to enter into and perform its obligations under this Contract shall be determined in accordance with the Laws of the state or commonwealth, as applicable, of formation of each Party.

Section 15.06 Non-Waiver. No waiver of any breach of any of the terms of this Contract shall be effective unless such waiver is in writing and signed by the Party against whom such waiver is claimed. No waiver of any breach shall be deemed a waiver of any other subsequent breach.

Section 15.07 Severability. If any provision of this Contract, or the application thereof, shall for any reason and to any extent be invalid or unenforceable, the remainder of this Contract and the application of such provision to other Persons or circumstances shall not be affected thereby, but rather shall be enforced to the maximum extent permissible under applicable Law, so long as the economic and legal substance of the transactions contemplated hereby is not affected in any materially adverse manner as to either Party.

Section 15.08 Exhibits. Any and all Exhibits referenced in this Contract shall be incorporated herein by reference and shall be deemed to be an integral part hereof.

Section 15.09 Winding Up Arrangements. All indemnity obligations, audit rights and other provisions specifically providing for survival shall survive the expiration or termination of this Contract. The expiration or termination of this Contract shall not relieve either Party of (a) any unfulfilled obligation or undischarged liability of such Party on the date of such termination, or (b) the consequences of any breach or default of any warranty or covenant contained in this Contract. All obligations and liabilities described in the preceding sentence of this Section 15.09, and applicable provisions of this Contract creating or relating to such obligations and liabilities, shall survive such expiration or termination.

Section 15.10 Relationship of the Parties. The Parties shall not be deemed in a relationship of partners or joint ventures by virtue of this Contract, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement. This Contract is intended to secure and provide for the services of each Party as an independent contractor.

Section 15.11 Immunity. Buyer and Seller represent and covenant to and agree that each is not entitled to, and hereby waives any rights it may have to and shall not assert the defense of, sovereign immunity with respect to its obligations or any claims under this Contract.

Section 15.12 Counterparts. This Contract may be executed and acknowledged in multiple counterparts and by different Parties in separate counterparts, each of which shall be an original and all of which shall be and constitute one and the same instrument.

Section 15.13 Third-Party Beneficiaries. With the exception of the Receivables Purchase Agreement Provider and as provided in Section 15.14 with respect to the Trustee, the Parties acknowledge and agree that there are no third party beneficiaries of this Contract, and

that this Contract shall not impart any rights enforceable by any person, firm, organization, or corporation not a party to this Contract. Regarding the Receivables Purchase Agreement Provider, it shall be an express third party beneficiary of this Contract entitled, but not obligated, to enforce each of the covenants and provisions of this Contract. Each Party expressly acknowledges and agrees that, irrespective of any action taken or omitted to be taken by the Receivables Purchase Agreement Provider under or in connection with this Contract or otherwise in connection with the transactions contemplated by this Contract, the sole liability and obligation of the Receivables Purchase Agreement Provider in connection therewith shall be those obligations which are expressly undertaken pursuant to the Receivables Purchase Agreement.

Section 15.14 Rights of Trustee. Pursuant to the terms of the Indenture, Seller has irrevocably appointed the Trustee as its agent to issue notices (including Remarketing Notices) and to take any other actions that Seller is required or permitted to take under this Contract, and as assignee of Seller under the Indenture and subject to the terms thereof, the Trustee shall have all rights of Seller to enforce Buyer's payment and other obligations under this Contract on behalf of the holders of the Bonds and the other parties secured under the Indenture. Buyer may rely on notices or other actions taken by Seller or the Trustee, and Buyer has the right to exclusively rely on any notices delivered by the Trustee, regardless of any conflicting notices that it may receive from Seller.

Section 15.15 Non-Publication of Index Price. Pursuant to the Prepaid Agreement, Seller and BPEC shall undertake a process to agree on a replacement Index Price (or on a method for determining a replacement Index Price) for the affected Gas Day(s) should any of the following events occur: (a) the failure of the price source to announce or publish information necessary for determining the Index Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading on the exchange or market acting as the price source; (c) the temporary or permanent discontinuance or unavailability of the price source; (d) the temporary or permanent closing of any exchange acting as the price source; or (e) both Seller and BPEC agree that a material change in the formula for or the method of determining the Index Price has occurred. Seller shall involve Buyer in this process. If Seller incurs any costs associated with this process, such as payment to an independent third party, such costs shall be paid by Buyer.

ARTICLE XVI PROJECT MANAGEMENT AND ADMINISTRATION

Section 16.01 Administration of the Gas Project. Seller covenants and agrees that it will use its best efforts to acquire, manage and administer the Gas Project for the benefit of all of the Gas Purchasers. Buyer acknowledges and agrees that Seller may from time to time enter into amendments of and supplements to the Indenture and any or all of the related project agreements and that Seller will not be required to obtain the consent or approval of Buyer in connection with any such supplement or amendment.

Section 16.02 Project Management Committee. Pursuant to the Seller's bylaws, Gas Purchasers may appoint a representative to serve on the Seller's "Project Management Committee" (the "**Project Management Committee**") created for this transaction. The Project Management Committee is required to act in accordance with and is governed by the Seller's bylaws. In the event that a weighted vote is called for on any matter before the Project Management Committee, the Gas Purchaser shall be entitled to cast the number of votes that is

equal to the total daily quantities of Gas to be purchased by it under its Gas Supply Contract with Seller.

ARTICLE XVII CLOSING DOCUMENTATION

Section 17.01 Closing Documentation.

(a) The following documents shall be delivered by Buyer on or before the Effective Date of this Contract:

(i) a completed and executed certificate of Buyer, in substantially the form attached as Exhibit D;

(ii) a certificate of the Secretary or Assistant Secretary or other duly authorized representative of Buyer setting forth (i) the resolutions of its governing body authorizing Buyer to execute and deliver this Contract and to enter into the transactions contemplated hereby and any agreements relating thereto, in substantially the form attached as Exhibit G, (ii) the appropriate individuals who are authorized to execute the Agreement and any such agreements, (iii) specimen signatures of such authorized individuals, and (iv) the organizational documents of Buyer, certified as being true and complete;

(iii) such other documents, certificates and opinions as may be reasonably requested by Seller; and

(iv) a legal opinion of counsel to the Buyer, in substantially the form of Exhibit F hereto, addressed to PEAK, the Trustee and the Receivables Purchase Agreement Provider to the effect that this Contract has been duly authorized, executed and delivered by Buyer and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms.

(b) The following documents shall be delivered by Seller on the Effective Date of this Contract:

(i) An executed copy of the resolution(s) of its governing body authorizing Seller to execute and deliver this Contract and to enter into the transactions contemplated hereby and any agreements relating thereto;

(ii) a legal opinion addressed to the Buyer, Trustee, BPEC, the Swap Counterparty and the Receivables Purchase Agreement Provider to the effect that this Contract has been duly authorized, executed and delivered by Seller and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms; and

(iii) executed copy of the Prepaid Agreement and Repricing Agreement.

(c) Buyer shall provide to Seller such updates to the documents provided by Buyer pursuant to Section 17.01(a) as Seller may reasonably request prior to the beginning of the Delivery Period.

IN WITNESS WHEREOF, Seller and Buyer have caused this Contract to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

[GAS PURCHASER]

By: _____

Name: _____

Title: _____

PUBLIC ENERGY AUTHORITY OF KENTUCKY

Name: _____

Title: _____

Name: _____

EXHIBIT A
DAILY CONTRACT QUANTITY

ESTIMATED:

MONTH	PREPAY VOLUME	% OF LOAD
JANUARY	5,000	25%
FEBRUARY	5,000	30%
MARCH	3,500	26%
APRIL	2,500	24%
MAY	2,500	26%
JUNE	2,500	28%
JULY	2,500	28%
AUGUST	2,500	28%
SEPTEMBER	2,500	27%
OCTOBER	2,500	25%
NOVEMBER	4,000	32%
DECEMBER	4,000	27%

EXHIBIT B
DELIVERY POINTS AND INDICES

[TBD]

EXHIBIT C

NOTICE CONTACT AND PAYMENT INSTRUCTIONS

NOTICES

If to Seller: Public Energy Authority of
Kentucky
516 Highland Ave.
Carrollton, KY 41008

Attention: President and
General Manager
Telephone: (502) 732-0991
Fax: (502) 732-8777
E-mail: gballinger@peakgas.net

with a copy to: BPEC

Attention:
Telephone:
Fax:

PAYMENT INSTRUCTIONS

By Wire Transfer:

Account No.
ABA No.

EXHIBIT D
BUYER CERTIFICATE*

DATED: [] 1, 2018

The undersigned hereby certifies that [he/she] is the [Title] of the [Entity] (“Buyer”), and that as such [he or she] is authorized to execute this certificate on behalf of Buyer. This certificate is executed in connection with the Gas Supply Contract, dated as of _____, 2018 (the “Gas Supply Contract”), between Buyer and the Public Energy Authority of Kentucky (“PEAK” or “Seller”). Capitalized terms used and not otherwise defined in this Certificate have the meanings assigned to them in the Gas Supply Contract.

Pursuant to the Indenture, Seller will issue the Bonds to finance the cost of acquisition of the Gas Supply Project, Gas from which will be sold to Buyer under the Gas Supply Contract. In connection with the foregoing, Buyer hereby certifies and represents as follows:

1. Buyer is a Municipal Utility duly created and validly existing and in good standing under the laws of the [State Name] (“State”) and has the corporate power and authority to enter into and perform its obligations under the Gas Supply Contract.
2. The Gas Supply Contract has been duly authorized, executed and delivered by Buyer, is in full force and effect and constitutes the legal, valid and binding obligation of Buyer enforceable in accordance with its terms. Attached hereto as Annex A is a true, correct and complete copy of the resolution or ordinance of Buyer authorizing the execution and delivery of the Gas Supply Contract.
3. I have reviewed the statements and information relating to Buyer and its utility system attached as Annex B that are contained in the final Official Statement prepared by the Seller in connection with the sale of the Bonds with respect to the Bonds and, as of the date hereof and to the best of my knowledge, such statements and information are true and correct in all material respects and did not and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make such statements, in light of the circumstances under which they were made, not misleading.
4. The authorization, execution and delivery of the Gas Supply Contract and compliance with the provisions thereof (a) will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of Buyer, any commitment, agreement, bond resolution, bond, note, indenture or other instrument to which Buyer is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which Buyer (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State relating to Buyer and its affairs, and (b) will not result in, or require the creation or imposition of, any

* The Buyer Certificate set forth in this Exhibit D is a form certificate for buyers that are Municipal Utilities. This form will be modified with language approved by Bond Counsel in the case of a Governmental Person (other than a Municipal Utility) that sells Gas (or electricity generated from such Gas) to a Municipal Utility, and possesses all power, authority, and applicable approvals necessary for it to enter into this Contract.

Lien on any of the properties or revenues of Buyer pursuant to any of the foregoing.

5. There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or administrative body pending or, to the best of Buyer's knowledge, threatened, against Buyer which in any way affects or questions the validity or enforceability of any provision of the Gas Supply Contract.
6. Buyer has entered into the Gas Supply Contract for the purpose of acquiring a long-term supply of Gas (x) for sale to its Retail Customers, or (y) to produce electricity for sale to its Retail Customers.
7. Tax Certifications
 - a. Buyer understands that PEAK will issue the Bonds to finance prepayment of the purchase price payable by PEAK for the Gas to be sold and delivered to Buyer under the Gas Supply Contract. Buyer further understands and acknowledges that PEAK will issue the Bonds as tax-exempt obligations under Sections 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury regulations promulgated thereunder (the "Regulations"). Sections 141-150 of the Code and the Regulations impose certain conditions and requirements on Buyer's use of the Gas purchased by it under the Gas Supply Contract (the "Gas Supply") in order to establish and maintain the tax exemption for interest on the Bonds. Buyer understands that the statements made herein will be relied upon by PEAK in its effort to comply with the conditions imposed by the Code and the Regulations, and by Bond Counsel in rendering its opinion with respect to the exclusion from gross income for federal income tax purposes of interest on the Bonds.
 - b. Definitions: For purposes of this Certificate:
 - i. "Testing Period" means calendar years 2013 through 2017.
 - ii. "Service Area" means (A) any area throughout which Buyer provided, at all times during (x) the Testing Period, and (y) the period immediately following the Testing Period and ending on the Issue Date, natural gas transmission or distribution services or electric energy distribution services, or (B) any area recognized as the natural gas or electric distribution service area of Buyer under state or federal law.
 - iii. "Issue Date" shall mean [Issue Date], 2018, the issue date of the Bonds.
 - iv. "Governmental Person" means a state or local governmental unit or any instrumentality thereof. It does not include the United States or any agency or instrumentality thereof.
 - v. "Retail Customer" shall mean a customer of Buyer located in the Service Area of the Buyer that purchases Gas or electricity, as applicable, for consumption and not for resale.

- vi. "Nongovernmental Agency" means any Person other than a Governmental Person.
 - vii. "Private Use" means use of property, directly or indirectly, in any trade or business carried on by any Person, or any activity of any Person other than a natural person, in each case excluding Governmental Persons, unless (1) such use is merely as a member of the general public, (2) such property is intended to be and is in fact reasonably available for use on the same basis as natural persons not engaged in a trade or business, and (3) no priority rights therein or special benefits therefrom are extended to such Person (other than customary and reasonable differences in rates and terms and conditions of service for different classes of users). For this purpose, property is considered to be "used" by a Person if it is owned by such Person or otherwise actually or beneficially used by such Person under a lease, management contract, output-type contract, or similar arrangement. For the avoidance of doubt, Private Use does not arise as a result of the receipt by a Nongovernmental Agency (including an industrial or commercial customer) of retail Gas service from Buyer under a generally applicable and uniformly applied tariff (including, for example, customary and reasonable differences in rates and terms and conditions of service for different classes of users). On the other hand, Private Use does arise, for example, if a Nongovernmental Agency receives retail Gas service for its trade or business from Buyer under a contract entered into between such Nongovernmental Agency and Buyer, other than bona fide requirements contracts satisfying the requirements of the Regulations.
- c. In accordance with the requirements of Sections 141-150 of the Code and the Regulations, Buyer certifies as follows:
- i. Buyer is a Municipal Utility that owns and operates either or both a gas distribution utility or an electricity distribution utility (the "System").
 - ii. Attachment I hereto shows (A) the average annual amount of Gas either (x) sold by Buyer to Retail Customers within its Service Area during the Testing Period, or (y) used by Buyer to generate electricity for sale to Retail Customers within its Service Area during the Testing Period, (B) the maximum amount of Gas storage available to Buyer on the date hereof, and (C) the amount of Gas that Buyer has a right to acquire for the System from any Person in any year during the term of the Gas Supply Contract.
 - iii. Buyer owns and operates the System and reasonably expects to use all of the Gas Supply solely to (x) furnish Gas to its Retail Customers located in its Service Area in the normal and customary operations of the System, or (y) generate electricity for sale to its Retail Customers located in its Service Area in the normal and customary operation of the System.
 - iv. The amount of Gas to be acquired under the Gas Supply Contract during any year, plus the amount of Gas otherwise available to Buyer for the System as of the Issue Date, does not exceed the sum of (A) the annual

average amount during the Testing Period of Gas purchased by Retail Customers of Buyer, (B) the amount of Gas to be used by Buyer to generate electricity for sale to Retail Customers of Buyer, and (C) the amount of Gas to be used to transport the Gas acquired under the Gas Supply Contract to the System during the year. For purposes of the preceding sentence, the “amount of Gas otherwise available to Buyer for the System as of the Issue Date” means the sum of (I) the amount of Gas held by Buyer for the System on the Issue Date, and (II) the amount of Gas that Buyer has an obligation to purchase for the System in any year during the term of the Gas Supply Contract, divided by [] (the number of years in the Gas Supply Contract).

- v. Buyer will not engage in any intentional act to render the volume of Gas acquired under the Gas Supply Contract to be in excess of (A) the amount of Gas needed to serve Retail Customers of Buyer, and (B) the amount of Gas used to transport the acquired Gas to the System. Buyer reasonably expects that all amounts paid for Gas acquired pursuant to the Gas Supply Contract will be derived from current revenues from operations of the System.
- vi. The Gas Supply is to be used in the Service Area. Therefore, the Gas Supply may not be used in any expansion of the Service Area occurring after the date of this Certificate unless Buyer receives the prior written approval of PEAK and agrees to comply with such conditions and limitations as PEAK may require, provided however that Buyer may expand its Service Area for this purpose, without seeking approval of PEAK, to any area contiguous to its existing Service Area if permitted by State law.
- vii. Except to the extent set forth in the Gas Supply Contract, or a prior written consent of PEAK delivered to Buyer, Buyer will not permit any portion of the Gas Supply to be used for a Private Use. In determining compliance with this requirement, Buyer will inform PEAK of the current existence of, and during the term of the Gas Supply Contract will notify PEAK prior to entering into, any of the following types of contracts or arrangements:

(A) Any sale or other disposition to a Nongovernmental Agency of all or any part of the System;

(B) Any lease of or management contract for the operation of all or any part of the System if such lease or management contract is with a Nongovernmental Agency;

(C) Any contract providing for the sale of Gas delivered under the Gas Supply Contract to a Nongovernmental Agency; and

(D) Any arrangement that conveys to a Nongovernmental Agency priority rights or any other preferential benefits to use of the output of the System (other than customary and reasonable differences in rates and terms and conditions of service for different classes of users).

Buyer will not use any of the types of contracts or arrangements described in A through D above without the prior written approval of PEAK and under PEAK's the written instruction, provided, however, that arrangements providing for the retail sale of Gas from the System to the general public (including private businesses as members of the general public) solely on the basis of rates or charges that are generally applicable and uniformly applied do not have to be reported to PEAK.

8. The undersigned has been duly authorized to execute and deliver this certificate on behalf of Buyer.

Dated as of the day and year first above written.

[BUYER]

By

Name:

Its

[SEAL]

ANNEX A

[insert Buyer's resolution in the form of Exhibit G]

ANNEX B

[TBD]

EXHIBIT E

FORM OF RESET REMARKETING NOTICE

[Date]

Public Energy Authority of Kentucky
Post Office Box 299
516 Highland Avenue
Carrollton, Kentucky 41008
Attn: President and General Manager

BP Energy Company
201 Helios Way
Houston, TX 77079

To the Addressees:

The undersigned, duly authorized representative of [] (the "Buyer"), is providing this notice (the "Reset Remarketing Election Notice") pursuant to the Gas Supply Contract, dated as of [] 1, 2018 (the "Supply Agreement"), between Public Energy Authority of Kentucky and the Buyer.

Pursuant to Section 2.04 of the Gas Supply Contract, if the Available Discount for the Reset Period beginning on [_____], 20[___] as finally determined does not equal or exceed the Minimum Discount, the Buyer has elected to have its Daily Contract Quantity for each Gas Day of such Reset Period remarketed.

Given this [___] day of [_____], 20[___].

[BUYER]

By: _____
Name:
Title:

EXHIBIT F

OPINION OF COUNSEL TO BUYER

[dated as of Closing], 2018

Public Energy Authority of Kentucky
Post Office Box 299
516 Highland Avenue
Carrollton, Kentucky 41008
Attn: President and General Manager

Morgan Stanley & Co. LLC
1585 Broadway
New York, NY 10036

The Bank of New York Mellon Trust Company, N.A
One Wall Street
New York, NY 10286

BP Energy Company
201 Helios Way
Houston, TX 77079

Re: Gas Supply Contract between Public Energy Authority of
Kentucky and Buyer [Name]

Ladies and Gentlemen:

I am the duly appointed and acting ___ for and have acted as counsel to the Board of [_____] for the (“Buyer”) in connection with the Gas Supply Contract between Public Energy Authority of Kentucky (“PEAK”) and the Buyer dated as of [_____]1, 2018 (the “Gas Supply Contract”). PEAK acquired a supply of natural gas (the “Gas Supply”) from BP Energy Company (“Supplier”) pursuant to the Prepaid Natural Gas Purchase and Sale Agreement, dated as of [_____] , 2018, between Supplier and PEAK with the net proceeds of its Gas Supply Revenue Bonds 2018 Series B. PEAK will sell a portion of the Gas Supply to the Buyer under the Gas Supply Contract.

Unless otherwise specified herein, all terms used but not defined in this opinion shall have the same meaning ascribed to them in the Gas Supply Contract.

In connection with this opinion, I have assumed the genuineness of all signatures (other than the signatures of officers and directors of the Buyer) and the authenticity of all items submitted to me as originals and the conformity with originals of all items submitted to me as copies, and I am aware of no facts or circumstances that might indicate that these assumptions are not correct. I have further assumed the due authorization, execution and delivery of the Gas Supply Contract by PEAK. In connection with this opinion, I have examined originals or copies, certified or otherwise identified to my satisfaction, of the following:

(a) Resolution No. __, duly adopted by the governing body of Buyer on _____, 2018 (the "Resolution") authorizing Buyer to execute and deliver the Gas Supply Contract;

(b) Executed counterparts of the Gas Supply Contract, together with each of the Exhibits thereto; and

(c) Such other documents, information, and facts as are necessary for me to render the opinions contained herein.

Based upon the foregoing, I am of the opinion that:

i. The Buyer is a _____ duly organized and validly existing under the laws of the state of _____ (the "State"), and has the power and authority to deliver gas to retail gas customers desiring such service from the Buyer within its service area, to own its properties, to carry on its business as now being conducted, to execute, deliver, and perform the Gas Supply Contract.

ii. The rates charged by the Buyer to its retail gas customers are currently not regulated by any state or federal regulatory authority.

iii. The Buyer has lawful authority to own, operate, and manage its gas distribution utility and to fix and collect rates, fees and other charges in connection with such distribution system.

iv. The governing body of the Buyer has duly authorized executed, and delivered the Gas Supply Contract and do not and will not require, subsequent to the execution of the Gas Supply Contract by the Buyer, any consent or approval of the governing body or any officers of the Buyer.

v. The Gas Supply Contract constitutes the legal, valid, and binding obligation of the Buyer, enforceable in accordance with its terms. The Buyer complied with any applicable procurement requirements of State or local law prior to entering into the Gas Supply Contract.

vi. The authorization, execution and delivery of the Gas Supply Contract and compliance with the provisions thereof (a) will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of the Buyer, any commitment, agreement, bond resolution, bond, note, indenture or other instrument to which the Buyer is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which the Buyer (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State relating to the

Buyer and its affairs, and (b) will not result in, or require the creation or imposition of, any Lien on any of the properties or revenues of the Buyer pursuant to any of the foregoing. The foregoing assumes that all payments under the Gas Supply Contract are operating expenses of the Buyer's municipal utility system, as described in the Gas Supply Contract.

vii. As of the date of the Gas Supply Contract, to the best of my knowledge after due inquiry, there is no pending or threatened action or proceeding against or affecting the Buyer which in any way would adversely affect the legality, validity, or enforceability of the Gas Supply Contract.

viii. The foregoing opinion with respect to the enforceability of the Gas Supply Contract is subject to the effect of bankruptcy, insolvency, reorganization, moratorium, and other similar laws relating to or affecting creditors' rights generally, to the exercise of judicial discretion in the appropriate case, and to the limitations imposed by general principles of equity upon the specific enforceability of any of the remedies, covenants or other provisions of the Gas Supply Contract and any related documents and upon the availability of injunctive relief or other equitable remedies.

My opinion as to enforceability is limited by standards of good faith, fair dealing, materiality, and reasonableness that may be applied by a court to the exercise of certain rights and remedies; limitations based on statutes or on public policy limiting a person's right to waive the benefits of statutory provisions or of a common law right; and limitations releasing a party from or indemnifying a party against liability for its own wrongful or negligent act when such release or indemnification is contrary to public policy.

This opinion is rendered solely for use and benefit of the addressees in connection with the Gas Supply Contract and may not be relied upon other than in connection with the Gas Supply Contract, or by any other person or entity for any purpose whatsoever, nor may it be quoted in whole or in part or otherwise referred to in any document or delivered to any other person or entity without the prior written consent of the undersigned.

This opinion is given as of the date hereof and no opinion is expressed as to the effect of future applicable laws or court decisions. I assume no obligation, and expressly disclaim any obligation, to update or supplement this opinion to reflect any facts or circumstances which may hereafter come to my attention or as to any change in laws which may hereafter occur.

Very truly yours,

EXHIBIT G

BUYERS AUTHORIZING RESOLUTION

NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, (i) AUTHORIZING THE EXECUTION OF A GAS SUPPLY CONTRACT WITH THE PUBLIC ENERGY AUTHORITY OF KENTUCKY (“PEAK”) FOR THE PURCHASE OF NATURAL GAS FROM PEAK; (ii) ACKNOWLEDGING THAT PEAK WILL ISSUE ITS GAS SUPPLY REVENUE BONDS TO FUND THE PURCHASE OF A SUPPLY OF NATURAL GAS FROM BP ENERGY COMPANY (“BPEC”), WHICH GAS WILL BE USED TO MAKE DELIVERIES UNDER THE CONTRACT; AND (iii) FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Pensacola owns and operates a municipal gas distribution utility known as Pensacola Energy and is authorized to acquire, purchase, transport, store and manage supplies of gas necessary to meet the requirements of the residential, commercial and industrial customers served by such utility; and

WHEREAS, the acquisition of secure, reliable and economic supplies of natural gas is necessary for the prudent and businesslike operation of the utility owned by the City of Pensacola, the continued economic development of its community and the promotion of the public health, safety and welfare; and

WHEREAS, the Public Energy Authority of Kentucky which was formed pursuant to the Natural Gas Acquisition Authority Act, KRS 353.400 to 353.410, has offered to sell to the City of Pensacola, pursuant to the contract, a supply of natural gas in the quantities on the dates set forth in the Contract, on the condition that PEAK issues its Gas Supply Revenue Bonds, 2018 Series A (the “Bonds”) the proceeds of which will be used to acquire a supply of natural gas (the “Gas Supply”) pursuant to a Prepaid Agreement with BPEC (the “Prepaid Agreement”); and

WHEREAS, the City of Pensacola is a Government Agency, as such term is defined in the Gas Supply Contract, and desires to enter into the Contract with PEAK.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA as follows:

1. The City of Pensacola hereby approves the execution and delivery of the Gas Supply Contract, in substantially the form previously submitted to the City of Pensacola and attached hereto as Exhibit A, pursuant to which the City of Pensacola will agree to purchase specified quantities of natural gas from PEAK, such deliveries to be made on the dates, at the volumes and for the prices set forth in such Gas Supply Contract.

2. The Mayor of the City of Pensacola is hereby authorized to execute any such other

closing documents or certifications which may be required or contemplated in connection with the execution and delivery of the Contract or carrying out the intent and purpose of this resolution.

3. This Resolution shall become effective 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

EXHIBIT H

FORM OF REMARKETING NOTICE

To: Public Energy Authority of Kentucky

From: [], Participant

Check the box to indicate type of remarketing.

- Daily
- Monthly
- Seasonal Remarketing Notice
- Remainder of the current Reset Period

Period for which remarketing is requested: _____, 20__ through _____, 20__

Buyer requests that Seller remarket the amounts of Gas listed below pursuant to Article IX of the Agreement for the following reason(s):

Delivery Point		Daily Contract Quantity and total Quantity subject to remarketing (MMBtu)



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-16

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

RESOLUTION NO. 18-16 - NATURAL GAS SUPPLY CONTRACT WITH PUBLIC ENERGY AUTHORITY OF KENTUCKY

RECOMMENDATION:

That the City Council adopt Resolution 18-16:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, (i) AUTHORIZING THE EXECUTION OF A GAS SUPPLY CONTRACT WITH THE PUBLIC ENERGY AUTHORITY OF KENTUCKY ("PEAK") FOR THE PURCHASE OF NATURAL GAS FROM PEAK; (ii) ACKNOWLEDGING THAT PEAK WILL ISSUE ITS GAS SUPPLY REVENUE BONDS TO FUND THE PURCHASE OF A SUPPLY OF NATURAL GAS FROM BP ENERGY COMPANY ("BPEC"), WHICH GAS WILL BE USED TO MAKE DELIVERIES UNDER THE CONTRACT; AND (iii) FOR OTHER PURPOSES.

HEARING REQUIRED: Choose an item.

SUMMARY:

The purpose of the recommendation is to secure a thirty (30) year partial supply of natural gas at a significant savings, estimated to be \$236,000 annually, to be passed on to Pensacola Energy (PE) customers. A natural gas prepayment project is a structured financial transaction using tax-exempt bonds to prepay for the delivery of gas on a long-term basis to achieve a discount to the market index price of gas. PEAK is a Natural Gas Acquisition Authority and acts as the agency for its members and other participating public agencies to acquire, finance and promote economic sources and supply of natural gas as well as provide transportation, storage and management of gas supply. PEAK will prepay for gas supply from BP Energy (PE's current supplier) and sell to the City of Pensacola at a guaranteed minimum discount below the index price of gas.

This resolution is Exhibit G of the Gas Supply Agreement with PEAK.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

Natural gas costs are budgeted annually. While the amount is unknown, this agreement will reduce natural gas costs for Pensacola Energy customers.

CITY ATTORNEY REVIEW: Yes

4/30/2018

STAFF CONTACT:

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

ATTACHMENTS:

- 1) Resolution No. 18-16
- 2) Exhibit A

PRESENTATION: No

RESOLUTION
NO. 18-16

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, (i) AUTHORIZING THE EXECUTION OF A GAS SUPPLY CONTRACT WITH THE PUBLIC ENERGY AUTHORITY OF KENTUCKY (“PEAK”) FOR THE PURCHASE OF NATURAL GAS FROM PEAK; (ii) ACKNOWLEDGING THAT PEAK WILL ISSUE ITS GAS SUPPLY REVENUE BONDS TO FUND THE PURCHASE OF A SUPPLY OF NATURAL GAS FROM BP ENERGY COMPANY (“BPEC”), WHICH GAS WILL BE USED TO MAKE DELIVERIES UNDER THE CONTRACT; AND (iii) FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Pensacola owns and operates a municipal gas distribution utility known as Pensacola Energy and is authorized to acquire, purchase, transport, store and manage supplies of gas necessary to meet the requirements of the residential, commercial and industrial customers served by such utility; and

WHEREAS, the acquisition of secure, reliable and economic supplies of natural gas is necessary for the prudent and businesslike operation of the utility owned by the City of Pensacola, the continued economic development of its community and the promotion of the public health, safety and welfare; and

WHEREAS, the Public Energy Authority of Kentucky which was formed pursuant to the Natural Gas Acquisition Authority Act, KRS 353.400 to 353.410, has offered to sell to the City of Pensacola, pursuant to the contract, a supply of natural gas in the quantities on the dates set forth in the Contract, on the condition that PEAK issues its Gas Supply Revenue Bonds, 2018 Series A (the “Bonds”) the proceeds of which will be used to acquire a supply of natural gas (the “Gas Supply”) pursuant to a Prepaid Agreement with BPEC (the “Prepaid Agreement”); and

WHEREAS, the City of Pensacola is a Government Agency, as such term is defined in the Gas Supply Contract, and desires to enter into the Contract with PEAK.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA as follows:

1. The City of Pensacola hereby approves the execution and delivery of the Gas Supply Contract, in substantially the form previously submitted to the City of Pensacola and attached hereto as Exhibit A, pursuant to which the City of Pensacola will agree to purchase specified quantities of natural gas from PEAK, such deliveries to be made on the dates, at the volumes and for the prices set forth in such Gas Supply Contract.

2. The Mayor of the City of Pensacola is hereby authorized to execute the gas supply contract and any such other closing documents or certifications which may be required or contemplated in connection with the execution and delivery of the Contract or carrying out the intent and purpose of this resolution.

3. This Resolution shall become effective 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

GAS SUPPLY CONTRACT

DATED AS OF [____], 2018

BETWEEN

PUBLIC ENERGY AUTHORITY OF KENTUCKY, as Seller

AND

[____], as Buyer

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GAS SUPPLY CONTRACT

This Gas Supply Contract (this “*Contract*”) is made and entered into as of [], 2018 (the “*Effective Date*”), by and between Public Energy Authority of Kentucky, a Natural Gas Acquisition Authority formed under the Natural Gas Acquisition Authority Act of the Commonwealth of Kentucky (“*Seller*”), and [_____] a [_____] (“*Buyer*”). Seller and Buyer are sometimes hereinafter referred collectively as the “*Parties*” and individually as a “*Party*”.

WITNESSETH

WHEREAS Seller was created between and among public agencies to acquire Gas at reasonable prices that would enhance reliability, efficiency, and supply security through the joint purchases and the arrangement of joint services on behalf of its members and other public agencies; and

WHEREAS, Seller has planned and developed a project to obtain a long-term supply of natural gas from BP Energy Company, a Delaware corporation (“*BPEC*”), pursuant to a Prepaid Natural Gas Purchase and Sale Agreement dated as of [], 2018 (the “*Prepaid Agreement*”); and

WHEREAS, the Seller will finance this project by issuing certain bonds pursuant to the Indenture; and

WHEREAS, Seller desires to sell this long-term supply of Gas to one or more public agencies, including Buyer (Buyer, together with all such other public agencies, collectively, the “*Gas Purchasers*”); and

WHEREAS, Buyer desires to purchase from Seller a portion of the Gas available to Seller under the Prepaid Agreement, and Seller desires to sell such Gas to Buyer, upon the terms and conditions set forth herein;

NOW, THEREFORE, in consideration of the premises above and the mutual covenants and agreements herein set forth, Buyer and Seller agree as follows:

ARTICLE I DEFINITIONS

Section 1.01 Defined Terms. The following terms and abbreviations, when used in this Contract, have the respective meanings set forth below, unless otherwise provided in this Contract.

“**Administrative Charge**” means \$0.05 per MMBtu.

“**Available Discount**” means, the amount expressed in cents per MMBtu (rounded down to the nearest one-tenth cent) determined pursuant to the Repricing Agreement for each Month of a Reset Period. Any estimated Available Discount provided by Seller under Section

2.04 may differ from the Available Discount because the final Available Discount for any Reset Period will be finally determined under the Repricing Agreement's provisions.

"Billing Statement" has the meaning specified in Section 7.01.

"Bond Counsel" means any attorney(s) or firm(s) of attorneys of recognized national standing in the field of law relating to municipal bonds and the exclusion of interest on municipal bonds from gross income for federal income tax purposes, reasonably acceptable to both Seller and BPEC.

"Bonds" means bonds of one or more Series (including any refunding bonds) issued under the Indenture.

"BPEC" has the meaning specified in the recitals.

"Btu" means International Btu, which is also called the Btu (IT).

"Business Day" means (i) with respect to payments and general notices required to be given under this Contract, any day other than (a) a Saturday or Sunday, (b) a Federal Reserve Bank holiday, (c) any day on which commercial banks located in either New York, New York or the Commonwealth of Kentucky are required or authorized by Law or other governmental action to close, or (d) any other day excluded as a business day pursuant to the Indenture, and (ii) solely with respect to Gas deliveries and notices with respect thereto, any day.

"Buyer" has the meaning specified in the preamble.

"Buyer Statement" has the meaning specified in Section 7.01.

"Buyer Termination Event" has the meaning specified in Section 8.02.

"Central Prevailing Time" or **"CPT"** means Central Daylight Savings Time when such time is applicable and otherwise means Central Standard Time.

"Claims" means all claims or actions, threatened or filed, that directly or indirectly relate to the indemnities provided for in this Contract, and the resulting losses, damages, expenses and disbursements (including reasonable attorneys' and experts' fees and disbursements and court costs (and which, for the avoidance of doubt, shall exclude the allocated costs of in-house counsel)), whether incurred by settlement or otherwise, without regard to whether such claims or actions are threatened or filed prior to or after the termination of this Contract.

"Code" means the Internal Revenue Code of 1986, as amended, and the U.S. Treasury Regulations thereunder, or any successor or successors thereto.

"Contract" has the meaning specified in the preamble and shall include exhibits, recitals and attachments referenced herein and attached hereto and all amendments, supplements and modifications hereto and thereto.

"Contract Price" has the meaning specified in Section 3.02.

"Cover Standard" shall mean, if there is an unexcused failure to take or deliver any quantity of Gas pursuant to this Contract by a Party, then the performing Party shall use

commercially reasonable efforts to (i) if the Buyer is the performing Party, purchase Gas quantities or (ii) if the Seller is the performing Party, sell Gas quantities, in either case, at a price reasonable for the delivery or production area, as applicable, consistent with (a) the amount of notice provided by the nonperforming Party; (b) the immediacy of Buyer's Gas delivery needs or Seller's Gas sales requirements, as applicable; (c) the quantities involved; and (d) the anticipated length of failure by the nonperforming Party.

"Daily Contract Quantity" means, with respect to each Gas Day during the Delivery Period, the daily quantity of Gas (in MMBtu) shown on Exhibit A, as may be revised from time to time pursuant to the terms of this Contract, to be delivered from Seller to Buyer and received by Buyer from Seller pursuant to this Contract for each Gas Day of each Month.

"Default Rate" means, as of any date of determination, the lesser of (a) the rate of interest per annum quoted in *The Wall Street Journal* (Eastern Edition) under the "Money Rates" section as the "Prime Rate" for such date of determination or (b) if a maximum rate is imposed by applicable Law, such maximum lawful rate.

"Delivery Period" shall mean [MM] 1, 2018, through the earlier of [MM] [DD], 20[YY], or an Early Termination Date.

"Delivery Point" or **"Delivery Points"** means the point or points set forth in Exhibit B.

"Delivery Suspension" shall have the meaning in Section 7.04.

"Discount" shall be [\$0.20] per MMBtu, provided that the Available Discount (as determined under the Repricing Agreement for any Reset Period) shall become the Discount after the Initial Reset Period.

"Early Termination Date" means a date occurring automatically pursuant to Section 8.01 or a date designated pursuant to Section 8.03, upon which in each case the Delivery Period will end and Buyer's and Seller's respective obligations to receive and deliver Gas under this Contract will terminate.

"Effective Date" has the meaning specified in the preamble.

"FERC" means the Federal Energy Regulatory Commission and any successor thereto.

"Firm" shall mean that either Party may interrupt its performance without liability only to the extent that such performance is prevented for reasons of Force Majeure; provided, however, that during Force Majeure interruptions, the Party invoking Force Majeure may be responsible for any Imbalance Charges as set forth in Section 5.02(c) related to its interruption after the nomination is made to the Transporter and until the change in deliveries and/or receipts is confirmed by the Transporter.

"Force Majeure" has the meaning specified in Article XIII.

"Gas" shall mean any mixture of hydrocarbons and noncombustible gases in a gaseous state consisting primarily of methane.

"Gas Day" means a period of twenty-four (24) consecutive hours beginning at 9:00 a.m. CPT on a calendar day and ending at 9:00 a.m. CPT on the next succeeding calendar day. If,

through standardization of business practices in the industry or for any other reason, a Transporter or FERC changes the definition of Gas Day, such change shall apply to the definition of Gas Day in this Contract with respect to such Transporter or generally, as the case may be.

“Gas Project” means, collectively, the acquisition by Seller of Gas supplies from BPEC, the financing by Seller of the cost of acquisition of such Gas supplies, and the execution and performance by Seller of related contracts that provide Gas to the Gas Purchasers.

“Gas Purchasers” or **“Gas Purchaser”** has the meaning specified in the recitals.

“Government Agency” means the United States of America, any state thereof, or any local jurisdiction, or any political subdivision of any of the foregoing including, but not limited to courts, administrative bodies, departments, commissions, boards, bureaus, agencies, municipalities or other instrumentalities.

“Governmental Person” means a state or local governmental unit or any instrumentality thereof. It does not include the United States or any agency or instrumentality thereof.

“Imbalance Charges” shall mean any fees, penalties, costs or charges (in cash or in kind) assessed by a Transporter for failure to satisfy the Transporter’s balance and/or nomination requirements.

“Indenture” means the Trust Indenture, dated as of [] 1, 2018, between the Seller and the Trustee, as the same may be amended or supplemented in accordance with its terms.

“Index Price” means, with respect to any Gas Day, the price published and in effect for the Month in which such Gas Day occurs as specified in Exhibit B.

“Initial Reset Period” means the period from and including [], 2018 to and including [], 202[].

“Law” means any statute, law, rule, regulation, order, or any judicial or administrative interpretation thereof having the effect of the foregoing imposed by a Government Agency whether in effect as of the Effective Date or at any time in the future.

“Minimum Discount” means \$[0.20] per MMBtu.

“MMBtu” means one million Btus.

“Month” means the period beginning at the beginning of the first Gas Day of a calendar month and ending at the beginning of the first Gas Day of the next calendar month.

“Municipal Utility” means any Person that (i) is a gas district, gas board, utility board, municipality or other entity to which Buyer is authorized to sell Gas under applicable law, (ii) is a “governmental person” as defined in U.S. Treas. Reg. §1.141-1(b) (or any successor regulation or provision of the Code), (iii) owns either or both a Gas distribution utility or an electric distribution utility (or provides Gas or electricity generated using the Gas at wholesale to “governmental persons” that own such utilities), and (iv) agrees in writing (a) to use the Gas it acquires from the Gas Project (or to cause such Gas to be used) in a “qualifying use” as defined in U.S. Treas. Reg. §1.148-1(e)(2)(iii)(A)(2) (or any successor regulation or provision of the

Code), (b) not to allocate directly or indirectly the Gas to the proceeds of any tax-exempt financing other than the Bonds, and (c) not to use the Gas for any Private Business Use. Except in the case of manifest error, any Qualifying Use Certificate that is (x) provided by a Person as to the identity, form or status of such Person, its intended use for the Gas or other matters contained in any such certificate, and (y) relied upon by Seller, BPEC or both, shall be deemed to have met the requirements under clause (iv). To the extent required or permitted by any change in the Code after the Effective Date, the Parties from time to time may revise the definition of "Municipal Utility" to conform to the applicable provisions of the Code, provided that a Favorable Opinion of Bond Counsel is obtained.

"New Tax" means (a) any Tax enacted and effective after the Effective Date of this Contract, including, without limitation, that portion of any Tax in effect on the Effective Date that constitutes an increase in such Tax over the rate thereof in effect as of the Effective Date, or (b) any law, rule, order or regulation, or interpretation thereof, enacted and effective after the Effective Date of this Contract resulting in the application of any Taxes enacted or effective on or before the Effective Date of this Contract to a new or different class of Persons.

"Nongovernmental Agency" means any Person other than a Governmental Person.

"Operational Flow Order" has the meaning set forth in Section 5.02(d).

"Output Contract" means a contract for the purchase by a Nongovernmental Agency of available output of an output facility financed with proceeds of an issue (as defined in U.S. Treas. Reg. §1.141-7).

"Partial Termination Condition" has the meaning specified in Section 9.02(b).

"Party" and **"Parties"** have the meaning specified in the preamble.

"Payment Default" has the meaning specified in Section 7.04.

"Person" means any individual, public or private corporation, partnership, limited liability company, state, county, district, authority, municipality, political subdivision, instrumentality, association, firm, trust, estate or any other entity or organization whatsoever.

"Prepaid Agreement" has the meaning specified in the recitals.

"Private Business Use" means use (directly or indirectly) in a trade or business carried on by any Person other than a Governmental Person. For purposes of the foregoing:

(i) Except as provided below Private Business Use includes: (a) any contracts by a Governmental Person for the sale of the Gas financed with Bond proceeds (or the electricity generated by the Gas) to a Nongovernmental Agency pursuant to: (1) a take contract, (2) a take or pay contract, or (3) a requirements contract, in each case, as defined in U.S. Treas. Reg. §1.141-7; or (b) any use of the Gas financed with the Bond proceeds (or electricity generated using the Gas) by a Nongovernmental Agency that may occur pursuant to: (1) a lease of, or management contract with respect to, all or a portion of a Municipal Utility's facilities, or (2) a brokerage contract or other arrangement creating a special legal entitlement with respect to such Gas (or electricity generated using the Gas); or (c) an Output Contract having a term longer than 3 years (including any renewal options).

(ii) Private Business Use does not include any of the following, provided that the Seller or Gas Purchaser, as the case may be, obtains a Favorable Opinion of Bond Counsel: (a) any lease, management contract or other arrangement that: meets the applicable requirements set forth in the U.S. Treas. Reg. §1.141-3 or IRS Revenue Procedure 2017-13, as such requirements are modified from time to time; or (b) any Output Contract with a term, including renewal options, that is not longer than 3 years, and that meets the requirements of U.S. Treas. Reg. §1.141-7(f)(3); or (c) any other arrangement with respect to the use of Gas (or electricity generated using Gas), including, but not limited to, small purchases of output as described in U.S. Treas. Reg. §1.141-7(f)(1); or (d) any swapping and pooling arrangement described in U.S. Treas. Reg. §1.141-7(f)(2).

“Project Management Committee” has the meaning set forth in Section 16.02.

“Qualifying Use” shall have the meaning ascribed in U.S. Treas. Reg. § 1.148-1(e)(2)(iii)(A)(2) (or any successor regulation or provision of the Code); provided that the use does not give rise to a Private Business Use.

“Qualifying Use Certificate” means (i) a Buyer Certificate executed by (a) a Municipal Utility, in substantially the form set forth in Exhibit D, or (b) a Governmental Person other than a Municipal Utility that sells Gas (or electricity generated from such Gas) to a Municipal Utility, as modified from the form set forth in Exhibit D with language approved by Bond Counsel, or (ii) in the case of a remarketing of the Gas, a certificate signed by a Gas Purchaser of the Gas delivered hereunder and sold by Seller (or BPEC on behalf of Seller), certifying in language approved by Bond Counsel which may be included in a confirmation for the sale of Gas that such Gas (or the electricity generated by the Gas) shall be applied for a “qualifying use” as defined in U.S. Treas. Reg. §1.148-1(e)(2)(iii)(A)(2) (or any successor regulation or provision of the Code); provided that the use does not give rise to Private Business Use.

“Rate Stabilization Fund” has the meaning set forth in Section 3.04.

“Receivables Purchase Agreement” means the Receivables Purchase Agreement, dated as of [], between Seller, BPEC, and the Trustee, as amended or supplemented from time to time in accordance with its terms.

“Receivables Purchase Agreement Provider” means BPEC.

“Remarketing Notice” means the form set forth in Exhibit H attached hereto.

“Repricing Agreement” means the Repricing Agreement, dated as of the Effective Date, between Seller and BPEC, as amended or supplemented from time to time in accordance with its terms.

“Reset Period” means a period commencing on the first day following the Initial Reset Period or prior Reset Period, as the case may be, and ending on the day prior to the first day of the subsequent Reset Period; provided that the final Reset Period shall be the period from the first day after the prior Reset Period to the end of the Delivery Period.

“Reset Period Remarketing” has the meaning set forth in Section 2.03.

“Seller” has the meaning specified in the preamble.

“Tax” or **“Taxes”** means (a) any or all ad valorem, property, occupation, severance, production, generation, extraction, first use, conservation, Btu or energy, gathering, transport, transmission, pipeline, utility, gross receipts, gas or oil revenue, gas or oil import, privilege, sales, use, consumption, excise, lease, transaction, greenhouse gas, carbon, and other taxes or any interest, penalties, or assessments thereon, (b) state or local Taxes or any interest, penalties, or assessments thereon, (c) New Taxes or any interest, penalties, or assessments thereon, and (d) governmental charges, licenses, fees, permits and assessments, or any interest, penalties, or increases thereon, and specifically excludes taxes based on net income or net worth.

“Transporter” or **“Transporters”** shall mean all Gas gathering or pipeline companies, or local distribution companies, acting in the capacity of a transporter, transporting Gas for Seller or Buyer upstream or downstream, respectively, of the Delivery Point(s).

“Trustee” means [The Bank of New York Mellon Trust Company, N.A.], a national banking association organized and existing under the laws of the United States, or any successor thereto under the Indenture.

Section 1.02 Interpretation. All references to any agreement or document shall be construed as of the particular time that such agreement or document may then have been executed, amended, varied, supplemented or modified. Terms defined in this Contract shall have the meanings given therein when used elsewhere in this Contract. Titles appearing at the beginning of any articles, sections, subsections and other subdivisions of this Contract are for convenience only and shall not constitute part of such subdivisions and shall be disregarded in construing the language contained in such subdivisions. References in the singular shall include the plural, and references to the masculine shall include the feminine, and vice versa. Any reference in this Contract to any Person includes its successors and permitted assigns and, in the case of any governmental authority, any Person succeeding to its functions and capacities. Reference to a particular article, section, subsection, paragraph, subparagraph, attachment, schedule or exhibit, if any, shall be a reference to such article, section, subsection, paragraph, subparagraph, attachment, schedule or exhibit in and to this Contract. Any appendices, schedules or exhibits are fully incorporated and made part of this Contract. The appendices, schedules or exhibits shall be read in conjunction with the provisions of the body of this Contract, and the appendices, schedules or exhibits and the body of this Contract shall be interpreted to give effect to the intent of the Parties as evidenced by their terms when taken as a whole, *provided, however*, that in the event of an express and irreconcilable conflict between the terms of an attachment, schedule or exhibit and the provisions of the body of this Contract, the provisions of the body of this Contract shall control. Capitalized terms appearing in an attachment, schedule or exhibit shall have the meanings set forth in Section 1.01, unless the context requires otherwise. The recitals at the beginning of this Contract are incorporated herein for all purposes. All uses of “include” or “including” shall be deemed to be followed by “without limitation”, whether expressly so stated or not. All references to a law, rule, regulation, contract, agreement, or other document mean that law, rule, regulation, contract, agreement, or document as amended, modified, supplemented or restated, from time to time.

Section 1.03 Technical Meanings. Words not otherwise defined in this Contract that have well-known and generally accepted technical or trade meanings are used herein in accordance with such recognized meanings.

ARTICLE II TERM AND DELIVERY PERIOD

Section 2.01 Term. This Contract shall be in effect from and including the Effective Date to and including the last day of the Month following the last Month of the Delivery Period, subject to the provisions of Section 2.02, Section 7.05 and Article VIII.

Section 2.02 Termination Prior to Commencement of Delivery Period. In the event that the Prepaid Agreement is terminated prior to the commencement of the Delivery Period because BPEC does not receive the prepayment, Seller shall terminate this Contract without any further obligation or liability of either Party.

Section 2.03 Reset Period Remarketing. A Reset Period Remarketing occurs when the Available Discount for a new Reset Period is not equal to or greater than the Minimum Discount. Upon a Reset Period Remarketing, Buyer (and each other Gas Purchaser) shall either (i) continue to purchase and receive its Daily Contract Quantity for each Gas Day during such Reset Period at a Contract Price that reflects the Available Discount, or (ii) deliver to Seller a written notice designating a Reset Period Remarketing.

Section 2.04 Reset Period Remarketing Notice Procedure. No later than thirty (30) days prior to the first day of a new Reset Period, Seller shall provide Buyer a written notice setting forth the duration of the new Reset Period and the estimated Available Discount for such Reset Period. Buyer may elect conditionally to remarket its Daily Contract Quantity by delivering to Seller a notice designating a Reset Period Remarketing, in the form set forth in Exhibit E attached hereto, no later than 4:00 p.m. Central Prevailing Time on the eighth (8th) Business Day following the date of the Seller's notice. Buyer's notice designating a Reset Period Remarketing shall only be effective if the Available Discount as finally determined fails to equal or exceed the Minimum Discount.

ARTICLE III SALE AND PURCHASE; DELIVERY POINT PREMIUM

Section 3.01 Sale and Purchase. Seller agrees to sell and deliver or cause to be delivered to Buyer, and Buyer agrees to purchase and take, on a Firm basis, the Daily Contract Quantity for each Gas Day during the Delivery Period pursuant to the terms and conditions set forth in this Contract.

Section 3.02 Contract Price. The price payable for Gas delivered and purchased pursuant to this Contract (the "*Contract Price*") shall be equal to the Index Price applicable to the relevant quantity of Gas for the applicable Delivery Point minus the Discount.

Section 3.03 Annual Refund. At the end of each fiscal year following completion of the annual audit of Seller's financial statements, Seller shall compare its revenues (as determined in accordance with the Indenture) and expenses under the Gas Project for that fiscal year. For purposes of such annual comparison, Seller's expenses shall include: (a) its expenses incurred in obtaining Gas supply under the Gas Project; (b) its administrative, legal, and accounting expenses directly incurred in connection with or properly allocable to the Gas Project, including the administration of this Contract and all other contracts for the sale of Gas obtained under the Gas Project; (c) debt service on the Bonds, including payments under any hedge agreement; (d) any replenishment of draws made upon any working capital fund associated with the Gas Project; (e) any deposits required to be made by Seller into any debt service reserve or other

reserve or contingency fund or funds established with respect to the Bonds; (f) any fees or other amounts due to any provider of credit support for the Bonds; (g) payments under any commodity price swap or hedge agreement entered into in connection with the Gas Project; (h) any amounts required by the Repricing Agreement to be deposited to the Rate Stabilization Fund, and (i) any other similar costs and expenses. If this annual comparison demonstrates that such revenues exceeded such expenses during the applicable fiscal year and there are amounts on deposit in the fund established by the Indenture available for such purpose, then Seller shall make refunds to Buyer and the other Gas Purchasers in the amount available after making allowances for any necessary and appropriate reserves and contingencies to fund any working capital reserve and to reserve or account for unfunded liabilities, including future sinking fund or other principal amortization of the Bonds. The amount available for refund shall be allocated among and paid to Buyer and the other Gas Purchaser in proportion to their respective purchases for such fiscal year. Buyer acknowledges and agrees that (a) there is no assurance an annual refund will be achieved and that, under the structure of the Gas Project, none is anticipated, and (b) any such refund and the amount thereof is subject to the availability to Seller of sufficient funds for Seller to satisfy its obligations and covenants under the Indenture and the Prepaid Agreement, and other reasonably related factors, some of which may not be known to the Parties at the time of execution of this Contract.

Section 3.04 Rate Stabilization Fund. A fund (the “Rate Stabilization Fund”) will be created in the Indenture so that monies deposited in such fund may, at the direction of Seller, be applied from time to time, primarily to supplement (increase) the Available Discount pursuant the terms of the Repricing Agreement. Pursuant to the Indenture, any amounts remaining in the Rate Stabilization Fund on the first day of the final Reset Period shall be applied to increase the Available Discount to all Gas Purchasers over the term of such final Reset Period.

ARTICLE IV FAILURE TO DELIVER OR TAKE GAS

Section 4.01 Seller’s Unexcused Failure to Deliver.

(a) If on any Gas Day Seller fails to deliver all or any portion of the Daily Contract Quantity pursuant to the terms of this Contract, and such failure is not due to either (i) the actions or inactions of Buyer, or (ii) Force Majeure, then the portion of the Daily Contract Quantity that Seller failed to deliver shall be the “*Deficiency Quantity*”.

(b) To the extent Buyer purchases replacement Gas that is delivered prior to the end of the Month in which such Deficiency Quantity arose, then Seller shall pay to Buyer the amount determined as follows:

$$P = DQ \times (RP + AC)$$

Where:

P = the amount payable by Seller under this Section 4.01(b)

DQ = the Deficiency Quantity

RP = Utilizing the Cover Standard, the positive amount, if any, by which the price actually paid by Buyer for the replacement Gas in an arm’s length Gas purchase from an unaffiliated third party, as may

be adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), exceeds the Contract Price for the applicable Gas Day and Delivery Point.

AC = the Administrative Charge

(c) Imbalance Charges shall not be recovered pursuant to Section 4.01, but Seller and/or Buyer shall be responsible for Imbalance Charges, if any, as provided in Section 5.02(c). The replacement prices referred to under the definition of "RP" as used in Section 4.01(b) shall not include any administrative or other internal costs incurred by Buyer, it being understood that such costs are being compensated by way of the Administrative Charge included above.

Section 4.02 Buyer's Unexcused Failure to Take.

(a) If on any Gas Day Buyer fails to take all or any portion of the Daily Contract Quantity at any Delivery Point(s) for any reason other than Force Majeure, Seller will attempt to remarket such Gas. If Seller is able to remarket such Gas, Seller will invoice Buyer in the amount equal to the positive difference, if any, between the Index Price and the price received by Seller utilizing the Cover Standard for the resale of such Gas, adjusted for commercially reasonable differences in transportation costs to or from the Delivery Point(s), plus the Administrative Charge, multiplied by the difference between the Daily Contract Quantity and the quantity actually taken by Buyer for such Gas Day(s). If Seller remarkets the Gas for Qualified Use, the Cover Standard may be adjusted to reflect any discounts required to complete that sale.

(b) Buyer agrees to notify Seller promptly upon becoming aware that Buyer or any Gas Purchaser may not be able to take all or a portion of the Daily Contract Quantity at any Delivery Point(s) on any Gas Day.

Section 4.03 Failure to Deliver or Take Due to Force Majeure. If on any Gas Day Buyer fails to take or Seller fails to deliver, all or any portion of the Daily Contract Quantity at any Delivery Point(s) and such failure is due to either Party claiming Force Majeure, then each Party shall be relieved of its respective obligation to deliver and receive, as applicable, such portion of the Daily Contract Quantity.

Section 4.04 Load Loss. If Buyer experiences a sustained load loss such that it is unable to take all or any part of the Daily Contract Quantities, it may request remarketing of the affected quantities of Gas and Seller shall use commercially reasonable efforts to resell such quantities on behalf of Buyer consistent with Article IX.

Section 4.05 Make-up Delivery in Lieu of Payment. The Parties may mutually agree to make up all or a portion of the Daily Contract Quantity not delivered or taken by increasing deliveries and takes over the remainder of the Month in which such failure occurred or the following Month.

Section 4.06 Sole Remedies. Except with respect to the payment of Imbalance Charges pursuant to Section 5.02(c) the remedies set forth in this Article IV shall be each Party's sole and exclusive remedies for any failure by the other Party to deliver or take Gas pursuant to this Contract.

ARTICLE V
DELIVERY POINTS; TRANSPORTATION; NOMINATIONS AND IMBALANCES

Section 5.01 Delivery Points.

(a) Gas delivered hereunder shall be delivered and received at the points specified as Delivery Point(s) in Exhibit B, or any other Delivery Point established pursuant to Section 5.01(b) or otherwise by mutual agreement of the Parties. Each Delivery Point must have a published Index Price, mutually agreed by the Parties, corresponding to such Delivery Point.

(b) Not more frequently than once during the ensuing summer season (the period from April through October) or once during the ensuing winter season (the period from November through March), Buyer may change delivery for all or a portion of the Daily Contract Quantity at any of the Delivery Point(s) to any other delivery point(s), as may be allowed under the operating terms and conditions of the applicable Transporter or Transporters; provided (A) Seller is able to obtain a corresponding change under the Prepaid Agreement; (B) such new Delivery Point is in the reasonable opinion of each Party a liquidly traded Gas delivery point, (C) the Parties designate a replacement Index Price that is reasonably acceptable to each Party, (D) the Parties are able to agree on any reasonable actual incremental costs, including but not limited to actual costs incurred to meet such request and including transportation costs, fuel costs and hedge unwind costs, if any, or the reduction in actual costs, if any, and (E) Seller shall not be obligated to enter into any new upstream supply agreement, transportation agreement or other arrangement to meet Buyer's request. Following any agreed upon modification to the Delivery Points, Buyer and Seller shall enter into a revised Exhibit B reflecting said change.

(c) Seller will deliver and Buyer will receive Gas at the Delivery Point(s) in accordance with Buyer's pooling arrangements, if any, and other requirements in each case as specified in Exhibit A. Buyer may issue a standing nomination with respect to pooling arrangements at any Delivery Point. Any changes to such standing nomination must be received by Seller not later than six (6) Business Days prior to the applicable delivery Month for any change to the monthly standing nomination, and prior to 7:30 AM CPT on the Business Day prior to any change for a Gas Day.

Section 5.02 Responsibility for Transportation, Nominations and Imbalances.

(a) Seller shall have the sole responsibility for all transportation necessary for delivery of the Daily Contract Quantity to the Delivery Point(s). Buyer shall have the sole responsibility for all transportation necessary to receive the Daily Contract Quantity at the Delivery Point(s) and to transport the Daily Contract Quantity from the Delivery Point(s). Seller has responsibility for all compliance with applicable Transporter tariffs and regulations of the FERC for Gas transported on pipelines prior to the Delivery Points. Buyer has responsibility for all compliance with applicable Transporter tariffs and regulations of the FERC for Gas transported on pipelines from the Delivery Point(s).

(b) Unless otherwise agreed by the Parties or required by a Transporter, Seller shall nominate, schedule and deliver, and Buyer shall nominate, schedule and take, the Daily Contract Quantity, ratably, at the Delivery Point(s) in accordance with the requirements of the receiving Transporter and the delivering Transporter at such Delivery Point. The Parties shall coordinate their nomination activities, giving sufficient time to meet the nomination deadlines of the Transporters. Should either Party become aware that the actual deliveries of Gas at the

Delivery Point(s) are greater or less than the Daily Contract Quantity, such Party shall promptly notify the other Party.

(c) The Parties shall use commercially reasonable efforts to avoid the imposition of any Imbalance Charges. If either Party receives an invoice from a Transporter that includes Imbalance Charges related to the obligations of either Party under this Contract, the Parties shall determine the validity as well as the cause of such Imbalance Charges. If the Imbalance Charges were incurred as a result of Buyer's takes of quantities of Gas greater than or less than the Daily Contract Quantity at any Delivery Point, then Buyer shall pay for such Imbalance Charges or reimburse Seller for such Imbalance Charges paid by Seller. If the Imbalance Charges were incurred as a result of Seller's delivery of quantities of Gas greater than or less than the Daily Contract Quantity at any Delivery Point, then Seller shall pay for such Imbalance Charges or reimburse Buyer for such Imbalance Charges paid by Buyer.

(d) Should either Party receive an operational flow order or other order or notice from a Transporter, or a Transporter posts such notice on its bulletin board or provides the notice by another industry standard, requiring action to be taken in connection with the Gas being delivered under this Contract (a "*Operational Flow Order*"), it shall notify the other Party as soon as possible during normal business hours and provide the other Party with a copy of the Operational Flow Order, or direct the other Party to an electronic version of the Operational Flow Order. The Parties shall cooperate to take all actions required by the Operational Flow Order within the time prescribed. Seller shall indemnify, defend and hold harmless Buyer from any Claims, including, without limitation, all non-compliance penalties and reasonable attorneys' fees, if any, associated with an Operational Flow Order (i) with respect to which Seller failed to give the notice required hereunder to Buyer, or (ii) under which Seller failed to take the action required by the Operational Flow Order within the time prescribed; provided, that any notice required to be given to Buyer by Seller was timely delivered as required by this Section 5.02(d). To the extent not otherwise prohibited by law, Buyer agrees to indemnify, defend and hold harmless Seller from any Claims, including, without limitation, all non-compliance penalties and reasonable attorneys' fees, if any, associated with an Operational Flow Order (i) with respect to which Buyer failed to give the notice required hereunder to Seller, or (ii) under which Buyer failed to take the action required by the Operational Flow Order within the time prescribed; provided, that any notice required to be given to Seller by Buyer was timely delivered as required by this Section 5.02(d).

Section 5.03 Agreements Regarding Operations and Delivery.

Agreements regarding operations and delivery may be made in one or more telephone conversations or by instant messenger between Seller (or BPEC on behalf of Seller) and Buyer whereby an offer and acceptance shall constitute a valid and enforceable agreement subject to the terms of this Agreement that also shall be considered a part of this Agreement. Such an agreement shall be considered a "writing" or "in writing" and to have been "signed." To the extent permitted by applicable law, Seller (or BPEC on behalf of Seller) and Buyer: (i) consent to the recording of telephone conversations between the trading, marketing and other relevant personnel of the Parties in connection with this Agreement; (ii) agree to obtain any necessary consent of, and give any necessary notice of such recording to, its relevant personnel; (iii) agree that recordings may be submitted in evidence in any proceedings; and (iv) acknowledge to the other Party and consent that such other Party may from time to time and without further notice (A) retain electronic transmissions (including telephone conversations, e-mail and instant messaging between the Parties' respective representatives in connection with this Contract) on central and local databases for their respective legitimate purposes, and (B) monitor electronic

transmissions through their internal and external networks for purposes of security and compliance with applicable laws, regulations and internal policies for their legitimate business purposes. Each Party further agrees that, to extent permitted by applicable law, it will indemnify, defend and hold the other Party harmless from any and all damages, losses, claims, liabilities, judgments, costs and expenses, including but not limited to reasonable attorney's fees and costs of court arising directly or indirectly from or out of such Party's failure to obtain any consent necessary from a Party's trading, marketing and other relevant personnel, agents or representatives or such Party's failure to give any notice required to such individuals. The Parties shall be entitled to rely without further inquiry on oral representations as to the identity of person(s) purporting to transact on behalf of the other Party.

Section 5.04 Title and Risk of Loss.

(a) Title to Gas delivered hereunder shall pass from Seller to Buyer at the Delivery Points. Seller warrants that it will have the right to convey and will transfer good and merchantable title to all Gas sold hereunder and delivered by it to Buyer, free and clear of all liens, encumbrances, and claims. EXCEPT FOR THE WARRANTIES EXPRESSLY MADE BY SELLER IN THIS SECTION AND Article XI, SELLER HEREBY DISCLAIMS ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR OF FITNESS FOR ANY PARTICULAR PURPOSE.

(b) As between the Parties, Seller shall be deemed to be in exclusive control and possession of Gas delivered hereunder and responsible for and will assume any liability with respect to the Gas prior to its delivery to Buyer at the Delivery Points. As between the Parties, Buyer shall be deemed to be in exclusive control and possession thereof and responsible for and will assume any liability with respect to the Gas after its delivery to Buyer at the Delivery Points. Seller agrees to indemnify Buyer and save it harmless from all Claims, from any and all persons, arising from or out of claims of title, personal injury (including death) or property damage from said Gas or other charges thereon which attach before title passes to Buyer. Buyer agrees to indemnify Seller and save it harmless from all Claims, from any and all persons, arising from or out of claims regarding payment, personal injury (including death) or property damage from said Gas or other charges thereon which attach after title passes to Buyer.

ARTICLE VI QUALITY AND MEASUREMENT

Section 6.01 Quality and Measurement. The Parties acknowledge that the Gas delivered by Seller under this Contract shall meet the quality specifications of the receiving Transporter at the applicable Delivery Point(s). The unit of quantity measurement for purposes of this Contract shall be one MMBtu dry. Measurement of Gas quantities hereunder shall be in accordance with the established procedures of the Transporters that own or operate the measurement facilities at the Delivery Point(s). The Parties acknowledge that the Gas delivered by Seller under this Contract will be delivered in common stream with other sources of Gas. In the event and to the extent that a Transporter refuses to receive or transport Gas nominated for delivery to Buyer at the Delivery Point(s) for reasons of gas quality, the event shall be considered an event of Force Majeure, and Seller shall be relieved of its obligation to deliver and Buyer shall be relieved of its obligation to receive the affected volumes of Gas until the situation is remedied in accordance with Article XIII.

ARTICLE VII BILLING, PAYMENT AND AUDIT

Section 7.01 Monthly Statements.

(a) No later than the fifth (5th) day of each Month (or the immediately succeeding Business Day, if such day is not a Business Day) following any Month during which replacement Gas was purchased by Buyer pursuant to Section 4.01(b), Buyer shall deliver to Seller a statement (the "*Buyer Statement*") setting forth the quantity and replacement price.

(b) No later than the tenth (10th) day of each Month (or the immediately succeeding Business Day, if such day is not a Business Day) (the "*Billing Date*"), of each Month following the Month in which Gas was delivered, Seller shall deliver to Buyer a statement (the "*Billing Statement*") setting forth (i) the quantities of Gas delivered, (ii) the total amount due to Buyer, if any, under Article III and Article IV with respect to the prior Month(s), (iii) any other amounts due to Seller in connection with this Contract, including, but not limited to, amounts due under Section 4.02 with respect to the prior Month(s), and (iv) the net amount due to Buyer or Seller. If the actual quantity of Gas delivered is not known by the Billing Date, the Billing Statement will be prepared based upon the quantity of Gas confirmed by the Transporter(s) for transportation. Adjustments will be made in the following Month's Billing Statement for any differences between the quantity of Gas delivered and the quantity of Gas confirmed by the Transporter(s) for transportation.

(c) Upon reasonable request by either Party, the other Party will deliver such supporting documentation acceptable in industry practice to support an amount due.

Section 7.02 Payment.

(a) Any amounts due shall be remitted by wire transfer in immediately available funds to the accounts specified in Exhibit C, on or before the twentieth (20th) day of the Month in which the Billing Statement or the Buyer Statement, as applicable, was received unless such day is not a Business Day, in which case payment is due on the Business Day immediately preceding such day.

(b) If the invoiced Party, in good faith, disputes any amounts included in a statement, such Party will (except in the case of manifest error) pay the full amount due. In the event the Parties are unable to resolve such dispute, either Party may pursue any remedy available at law or in equity to enforce its rights pursuant to this Section.

(c) If a Party owing any amounts due under this Contract fails to remit the full amount then payable when and as due, interest on the unpaid portion shall accrue at the Default Rate from and including the date on which the payment was due to, and including, the date on which the full amount is paid.

Section 7.03 Netting. The Parties shall net all amounts due and owing, and/or past due, arising under this Contract such that the Party owing the greater amount shall make a single payment of the net amount to the other Party in accordance with this Article VII.

Section 7.04 Payment Default and Suspension. If by the twenty-fourth (24th) day of the Month in which Buyer fails to pay when due any amount owed to Seller ("Payment Default"), the Trustee shall draw on the Receivables Purchase Agreement in accordance with its terms to

make payments in satisfaction of all or a portion of amounts owed to Seller. The Receivables Purchase Agreement Provider then shall be subrogated to the rights of Seller against Buyer in respect of such Payment Default. Upon a Payment Default, delivery of Buyer's Daily Contract Quantity shall be suspended ("*Delivery Suspension*") until either (a) Buyer's payment is received in full, including any interest at the Default Rate, on or before the twentieth (20th) day of the Month following the Month that payment was originally due, or (b) this Contract is terminated pursuant to Section 7.05 or Article VIII. Seller shall provide notice of the Delivery Suspension to Buyer, BPEC and its designee(s), and the Trustee. Buyer agrees that such notice shall be deemed received by Buyer (whether or not actually given or received) as of the sixth (6th) Business Day after the time any such amounts referred to in the first sentence of this Section were due.

Section 7.05 Termination. If Buyer fails to pay any amount owed to Seller on or before the twentieth (20th) day of the Month following Buyer's Delivery Suspension, then Seller may at its option terminate this Contract by providing notice pursuant to Section 15.02, with copies to Buyer, BPEC, and the Trustee. Upon such notice (a) the Delivery Period will end, (b) Seller shall no longer have any obligation to sell or deliver Gas to Buyer under this Contract, (c) the obligation of Buyer to purchase and receive Gas from Seller under this Contract will terminate, and (d) Buyer shall have no right to any Discount or proceeds that may arise due to remarketing of the Gas. In lieu of or in addition to notice of termination given by Seller, the Trustee purporting to act pursuant to the terms of the Indenture may provide notice of termination to Buyer, Seller, and BPEC.

ARTICLE VIII TERMINATION

Section 8.01 Automatic Termination Event. If the Prepaid Agreement terminates prior to the end of the Delivery Period, this Contract shall terminate on the date of early termination of the Prepaid Agreement (subject to all winding up arrangements) such that all Gas deliveries hereunder shall cease. In the event of the early termination of the Prepaid Agreement, Seller agrees to transfer to Buyer, solely from amounts thereof actually available to Seller under the Indenture, if any, Buyer's share of any excess monies available from the Gas Project. Notwithstanding the foregoing, Seller's reasonable determination of Buyer's share of any such amounts may include retention by Seller from Buyer's share recoupment of costs incurred because of the early termination, costs incurred due to any audit of the Gas Project or any transactions thereunder, and amounts reasonably determined by Seller to represent the present value of administrative fees that Seller would otherwise have retained or received in respect of the Daily Contract Quantity over the remainder of the Delivery Period had such early termination of the Prepaid Agreement not occurred. Seller in its sole discretion may delay such a payment until the time that the Gas Project and any transactions thereunder are no longer subject to audit.

Section 8.02 Buyer Termination Events. Each of the following events shall constitute a "**Buyer Termination Event**" under this Contract:

(a) Failure by Buyer to pay when due any of the amounts owed to Seller pursuant to Section 7.05;

(b) Any representation, warranty, or covenant made by Buyer in this Contract shall prove to have been incorrect in any material respect when made or deemed made;

(c) Buyer otherwise fails to perform any covenant under this Contract;

(d) Buyer (i) is dissolved (other than pursuant to a consolidation, amalgamation or merger); (ii) becomes insolvent or is unable to pay its debts or fails or admits in writing its inability generally to pay its debts as they become due; (iii) makes a general assignment, arrangement or composition with or for the benefit of its creditors; (iv) otherwise becomes bankrupt or insolvent (however evidenced); (v) has a resolution passed for its winding-up, official management or liquidation (other than pursuant to a consolidation, amalgamation or merger); (vi) seeks or becomes subject to the appointment of an administrator, provisional liquidator, conservator, receiver, trustee, custodian or other similar official for it or for all or substantially all its assets; (vii) causes or is subject to any event with respect to it, which, under the applicable laws of any jurisdiction, has an analogous effect to any of the events specified in clauses (i) to (vi) above (inclusive); or (viii) takes any action in furtherance of, or indicating its consent to, approval of, or acquiescence in, any of the foregoing acts.

Section 8.03 Right to Termination; Remedies.

(a) At any time a Buyer Termination Event has occurred and is continuing, Seller may by notice to the Buyer specifying the relevant Buyer Termination Event designate an Early Termination Date not later than the last day of the Month in which such notice is provided. Each of (i) Seller's obligation to sell and deliver Gas, (ii) Buyer's obligation to purchase and take Gas, and (iii) Seller's obligation to remarket Gas pursuant to the terms of this Contract shall terminate on the Early Termination Date.

(b) In lieu of or in addition to any notice provided by Seller, the Trustee acting pursuant to the Indenture may provide notice to Buyer of any Early Termination Date or Partial Termination Condition.

(c) If a Partial Termination Condition under Section 9.02(b) has occurred, Seller, unless the Parties agree otherwise, may designate an Early Termination Date with respect to that portion of this Contract represented by the quantities of Gas remaining to be delivered hereunder described in clause (i) of Section 9.02(b). If this Contract is so partially terminated with respect to such quantities of Gas, the provisions of this Article VIII shall apply to the portion terminated. Nothing in this paragraph (c) is meant to imply that a complete termination of this Contract would or would not be required or permitted pursuant to the exercise of any other right or remedy under this Contract.

(d) In the event of a default by Seller under any covenant, agreement, or obligation in this Contract, for which no exclusive remedy is expressly provided herein, Buyer may bring any suit, action, or proceeding at law or in equity to enforce Seller's obligation(s), including mandamus, injunction, and action for specific performance, as Buyer determines may be necessary or appropriate to enforce any covenant, agreement, or obligation in this Contract against Seller.

Section 8.04 Other Remedies. If all amounts payable by a defaulting Party on the Early Termination Date shall not have been received on such date by the non-defaulting Party, the non-defaulting Party may proceed to protect and enforce its rights, either by suit in equity or by action at law or both, whether for the specific performance of any covenant or agreement contained in this Contract or in aid of the exercise of any power, right or remedy granted in this Contract or may proceed to enforce the payment of all amounts owing to the non-defaulting Party under this Contract (including, without limitation, any sums specified as liquidated

damages or any other unpaid amounts due to the non-defaulting Party hereunder, together with interest thereon to the extent provided herein); it being intended that, except with respect to events or circumstances for which an exclusive remedy is expressly provided herein, no remedy conferred herein is to be exclusive of any other remedy, and each and every remedy contained herein shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity.

Section 8.05 Limitation on Damages. Neither Party shall be liable for consequential, incidental, punitive, exemplary, or indirect damages, lost profits or other business interruption damages, by statute, in tort or contract, under any indemnity provision or otherwise, unless such breach is the result of gross negligence or willful misconduct. It is the intent of the Parties that (i) the limitations herein imposed on remedies and the measure of damages be without regard to the cause or causes related thereto, including, without limitation, the negligence of either Party, other than gross negligence or willful misconduct, whether such negligence be sole, joint or concurrent, or active or passive, and (ii) if and to the extent any damages required to be paid hereunder are liquidated, the parties acknowledge that the damages are difficult or impossible to determine, otherwise obtaining an adequate remedy is inconvenient and the liquidated damages constitute a reasonable approximation of the harm or loss. In determining the appropriate measure of damages that would make the Parties whole, the Parties have thoroughly considered, inter alia, the uncertainty of fluctuations in gas prices, the ability and intention of the Parties to hedge such fluctuations, the bargained-for allocation of risk, the knowledge, sophistication and equal bargaining power of the Parties, the arms-length nature of the negotiations, the special circumstances of this transaction, the accounting and tax treatment of the transaction by the Parties and the entering into of other transactions in reliance on the enforceability of the liquidated damages provisions contained herein. The Parties acknowledge that this Contract is subject to Article 2 of the Uniform Commercial Code, as enacted by the state or commonwealth the law of which shall govern this Contract, including without limitation, §§ 2-706(6), 2-711, 2-718, and 2-719, except to the extent any provisions of such Article 2 (inclusive of such sections) may be inconsistent with the provisions of this Contract, which shall control. Except as expressly set forth herein, Seller expressly disclaims any, and makes no other, representation or warranty, written or oral, express or implied, including, without limitation, any representation or warranty with respect to conformity to models or samples, merchantability, or fitness for any particular purposes. There are no warranties which extend beyond the description on the face hereof.

ARTICLE IX REMARKETING

Section 9.01 Remarketing Notices.

(a) Upon delivery by Buyer to Seller of a Remarketing Notice satisfying the criteria in clause (b) below, provided that no Buyer Termination Event exists, Seller shall use commercially reasonable efforts to remarket on behalf of Buyer (or arrange for BPEC to remarket) all or a specified portion of the Daily Contract Quantity as set forth in the Remarketing Notice.

(b) Each Remarketing Notice shall specify: (i) the portion (in MMBtu) of the Daily Contract Quantity to be remarketed with respect to the applicable Delivery Point for each Gas Day; (ii) the applicable period during which such Gas is to be remarketed; and (iii) an explanation, in reasonable detail, as to the reason(s) for the remarketing. Each such notice in the form of Exhibit H shall be sent by electronic mail, with a mailed copy following, shall be

deemed to have been properly delivered, with such notice complete upon transmission by electronic mail, notwithstanding any different requirements for notice under Section 15.02. A Remarketing Notice where the type of remarketing is "Daily" must be delivered by 7:15 a.m. CPT on the Business Day prior. A Remarketing Notice where the type of remarketing is "Monthly" must be delivered by 4:00 p.m. CPT on the fifteenth (15th) day of the Month preceding the Month in which Gas is to be remarketed. If the remarketing is for a season, the Remarketing Notice must be delivered by 4:00 p.m. CPT on February 10th for remarketing of Gas during the ensuing summer season (the period from April through October) and by 4:00 p.m. CPT on September 10th for remarketing of Gas during the ensuing winter season (the period from November through March).

(c) The provision of a Remarketing Notice in itself does not relieve Buyer of its obligation to pay the Contract Price to Seller for the Daily Contract Quantity.

Section 9.02 Remarketing Terms.

(a) For all Gas remarketed pursuant to Section 9.01, if the remarketed Gas does not sell for a price equal to or exceeding the Contract Price plus the Administrative Charge, then Buyer shall pay Seller for the difference between the Contract Price plus the Administrative Charge and the price at which the remarketed Gas actually sold.

(b) If during any period of twelve (12) consecutive Months during the Delivery Period (i) the sum of (A) the quantity of Gas requested to be remarketed under Section 4.02 and Section 9.01, and (B) the quantity of Gas which Buyers fails to take under Section 4.02 (without duplication), exceeds (ii) fifty percent (50%) of the sum of the Daily Contract Quantity during such twelve (12) Month period, and (iii) Seller shall have given written notice thereof to Buyer, then a "*Partial Termination Condition*" shall be deemed to exist and Section 8.03(c) shall apply.

ARTICLE X EXCHANGES

Section 10.01 General Principle. With the consent of Seller, Buyer may effectuate an exchange of Delivery Points for Gas purchased under this Contract on a daily or monthly basis under this Article X, provided, however, that any failure by a third party to perform its obligations under any such exchange arrangement shall not relieve Buyer of its obligations under this Contract.

ARTICLE XI REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 11.01 Tax-Exempt Status of the Bonds. Buyer and Seller acknowledge and agree that Seller will finance the prepayment under the Prepaid Agreement with the proceeds of the Bonds, which will be issued as obligations under which the interest is excluded from the gross income of the owners thereof for federal income tax purposes. Buyer and Seller covenant and agree that each will not take any action, or fail to take any action, or permit any action to be taken on its behalf or cause or permit any circumstance within its control to arise or continue, unless specifically so ordered by a Government Agency, if any such action or inaction would adversely affect the exclusion from gross income for federal income tax purposes of the interest on any of the Bonds under the Code. Buyer further agrees that it will provide all documents and records reasonably requested by Seller for response to any inquiry or audit relating to the tax-exempt status of the bonds.

Section 11.02 Qualifying Use.

(a) Buyer represents, warrants, covenants and agrees that:

(i) it is (a) either (1) a Municipal Utility or (2) a Governmental Person that sells Gas (or electricity generated from such Gas) to a Municipal Utility, and (b) which, in either case, possesses all power, authority, and applicable approvals necessary for it to enter into this Contract;

(ii) it has delivered to Seller, as a condition precedent to Seller's execution of this Contract, the Buyer Certificate, in substantially the form set forth in Exhibit D hereto;

(iii) the Gas purchased under this Contract is and shall be used, at all times during the Delivery Period, by Buyer in its normal and customary governmental utility operations to provide utility service to consumers located within its governmental service territory pursuant to Buyer's rate schedules and tariffs as they exist from time to time; and

(iv) it will execute such additional documents and certificates as Bond Counsel may reasonably request evidencing Gas Purchaser's compliance with this Section, with the Code, and with Treasury Regulations thereunder.

(b) Without limiting the foregoing, Buyer further agrees that it will use the Gas (i) for Qualifying Use, (ii) in a manner that will not result in any Private Business Use, and (iii) that it will not use Gas purchased under this Contract in any other manner without the prior written consent of Seller. Buyer agrees that it will execute such additional documents and certificates as Bond Counsel may reasonably request evidencing Gas Purchaser's compliance with this Section, with the Code, and with Treasury Regulations thereunder.

Section 11.03 Representations and Warranties. As a material inducement to entering into this Contract, each Party, with respect to itself, hereby represents and warrants to the other Party as of the Effective Date as follows:

(a) it is duly organized and validly existing in good standing under the Laws of the state or commonwealth in which it is organized, and has all requisite power and authority, corporate or otherwise, to enter into and to perform its obligations hereunder and to carry out the terms and conditions hereof and the transactions contemplated hereby;

(b) it has all requisite power and authority to conduct its business, to own its properties and to execute, deliver and perform its obligations under this Contract;

(c) there is no litigation, action, suit, proceeding or investigation pending or, to the best of such Party's knowledge, threatened, before or by any Government Agency that could reasonably be expected to materially and adversely affect the performance by such Party of its obligations hereunder or that questions the validity, binding effect or enforceability hereof or of any action taken or to be taken by such Party pursuant hereto or any of the transactions contemplated hereby;

(d) the execution, delivery and performance of this Contract by such Party have been duly authorized by all necessary actions on the part of such Party and do not

require any approval or consent of any security holder of such Party or any holder (or any trustee for any holder) of any indebtedness or other obligation of such Party;

(e) this Contract has been duly executed and delivered on behalf of such Party by an appropriate officer or authorized Person of such Party and constitutes the legal, valid and binding obligation of such Party, enforceable against it in accordance with its terms, as such enforceability may be limited by applicable bankruptcy, insolvency, reorganization, moratorium and similar Laws affecting creditors' rights generally and by general principles of equity;

(f) the execution, delivery and performance of this Contract by such Party shall not violate any provision of any Law, rule, regulation, order, writ, judgment, decree or other legal or regulatory determination applicable to it;

(g) the execution, delivery and performance by such Party of this Contract, and the consummation of the transactions contemplated hereby, including the incurrance by such Party of its financial obligations hereunder, shall not result in any violation of any term of any material contract or agreement applicable to it, or any of its charter or bylaws or of any license, permit, franchise, judgment, writ, injunction or regulation, decree, order, charter, Law, ordinance, rule or regulation applicable to it or any of its properties or to any obligations incurred by it or by which it or any of its properties or obligations are bound or affected, or of any determination or award of any arbitrator applicable to it, and shall not conflict with, or cause a breach of, or default under, any such term or result in the creation of any Lien upon any of its properties or assets; and

(h) to the best of the knowledge and belief of such Party, no consent, approval, order or authorization of, or registration, declaration or filing with, or giving of notice to, obtaining of any license or permit from, or taking of any other action with respect to, any Government Agency is required in connection with the valid authorization, execution, delivery and performance by such Party of this Contract or the consummation of any of the transactions contemplated hereby.

Section 11.04 Additional Representations, Warranties and Covenants of Buyer. As a material inducement to entering into this Contract, Buyer hereby represents, warrants and covenants to Seller as follows:

(a) the amounts payable by Buyer under this Contract (i) shall be payable as a "Operation and Maintenance Cost" under and as defined in any of Buyer's revenue bond resolutions that is payable prior to debt service on Buyer's revenue bonds, as applicable, and (ii) do not constitute an indebtedness or liability of Buyer within the meaning of any constitutional or statutory limitation or restriction applicable to Buyer; and

(b) Buyer shall establish, maintain and collect rates and charges for the sale or use of Gas or electric energy generated, transmitted, distributed or furnished by it so as to provide revenues sufficient, together with other legally available moneys, to enable Buyer to pay timely all amounts payable to Seller under this Contract, to pay any other amounts legally payable from such revenues, to maintain any required reserves pursuant to any financing obligations, and to promptly enforce the payment of any and all accounts owing to Buyer for the sale of Gas or electricity or the provision of distribution or other services to its customers.

(c) Buyer further agrees to use Gas purchased under this Contract prior to other Gas purchased by Buyer that is not subject to any Qualifying Use restrictions.

Section 11.05 Negative Covenant. Buyer agrees that unless the Receivable Purchase Agreement Provider shall otherwise expressly consent in writing, Buyer shall not create, incur or suffer to exist, or agree to create, incur or suffer to exist, or consent to cause or permit in the future (upon the happening of a contingency or otherwise) the creation, incurrence or existence of any Lien on the source of payment for Buyer's payment obligations hereunder to or for the benefit of any Person that would provide such Person with a right to payment that is prior to the rights of Seller to payment under this Contract or the rights of the Receivable Purchase Agreement Provider to payment under this Contract.

ARTICLE XII TAXES

Section 12.01 Taxes. Seller shall (i) be responsible for and shall pay, cause to be paid, or promptly reimburse Buyer if Buyer has paid all Taxes assessed upstream of the Delivery Point, and (ii) indemnify Buyer and its Affiliates for any such taxes paid by Buyer or its Affiliates. Buyer shall (i) be responsible for and shall pay, cause to be paid, or promptly reimburse Seller if Seller has paid, all Taxes assessed at or downstream of the Delivery Point, and (ii) indemnify Seller and its Affiliates for any such taxes paid by Seller or its Affiliates. The Index Price does not include any applicable state or local, gross receipts, compensating, utility, transaction privilege, sales or use tax, and any other transactional-type tax which may be levied as a result of sales of or use of Gas hereunder and that is allowed by applicable law to be invoiced to the Buyer as a separate charge from the Index Price, whether measured by quantity or revenues; and if there are any such taxes Seller will invoice Buyer and Buyer will pay Seller the amount of such taxes which Seller will remit as required by applicable law. The parties agree to cooperate, in the event either party in good faith protests, contests, disputes, or files a refund request, with the applicable taxing authority or court with jurisdiction, by providing any relevant information, upon request, within a party's possession, which will support the filing party's filing. At Seller's request, Buyer shall provide Seller with a valid sales tax exemption certificate and any other required exemption or resale certificate to the extent applicable necessary for exemption from any relevant state taxes that may be levied against the Parties in relation to the transactions under, or pursuant, to this Contract.

ARTICLE XIII FORCE MAJEURE

Section 13.01 Force Majeure.

(a) Except with regard to a Party's obligation to make payment(s) due under Section 7.02, and Imbalance Charges under Section 5.02(c), neither Party shall be liable to the other for failure to perform a Firm obligation, to the extent such failure was caused by Force Majeure. The term "Force Majeure" as employed herein means any cause not reasonably within the control of the party claiming suspension, as further defined in this section.

(b) Notwithstanding and without limiting the generality of the foregoing, Buyer acknowledges and agrees that the Delivery Points under this Contract are at, near, or supplied by Gas production areas at point(s) or pool(s) at which Gas is aggregated, and that these Gas production areas may be affected by weather-related events, including hurricanes and wellhead freeze offs, which could disrupt or curtail Seller's ability to access Gas supplies, and that such

circumstances, if and to the extent that they actually affect Seller's performance, constitute a Force Majeure event that relieves Seller of all or part, as applicable, of its obligations under this Contract to either (a) make deliveries of Gas, or (b) financially to keep Buyer whole, in either case by using any other source of Gas that may be available, including without limitation (x) storage deliveries and (y) deliveries under any third-party supply contracts not used to supply Gas under this Contract prior to such event, including deliveries from a different supply region than the regions used to supply Gas at the Delivery Points.

(c) Force Majeure shall include, but not be limited to, the following: (i) physical events such as acts of God, landslides, lightning, earthquakes, fires, storms or storm warnings, such as hurricanes, which result in evacuations of the affected area, floods, washouts, explosions or breakage, accident or the necessity of repairs to machinery or equipment or lines of pipe; (ii) weather-related events affecting a broad geographic region, such as low temperatures which cause freezing or failure of wells or lines of pipe; (iii) interruption and/or curtailment of Firm transportation and/or storage by Transporters; (iv) acts of others such as strikes, lockouts, or other industrial disturbances, riots, sabotage, insurrections, acts of terrorism or wars; (v) governmental actions such as necessity for compliance with any court order, law, statute, ordinance, regulation or policy having the effect of law promulgated by a governmental authority having jurisdiction (excluding any actions taken by Buyer or a Gas Purchaser unless such actions are taken in response to an event that would otherwise constitute an event of Force Majeure); and (vi) an event of the type specified as an event of Force Majeure in Section 6.01. Seller and Buyer shall make reasonable efforts to avoid the adverse impacts of a Force Majeure and to resolve the event or occurrence once it has occurred in order to resume performance. In no event shall Seller be under any obligation to source Gas from storage or other markets if an event of Force Majeure occurs. To the extent an event of Force Majeure occurs, Seller or Buyer will allocate the supply or purchase of Firm Gas for affected transactions, as applicable, on a pro rata basis with other similarly situated Firm Gas customers.

(d) If an event of Force Majeure occurs, the Party affected may, in its sole discretion and without notice to the other Party, determine not to make a claim of Force Majeure and waive its rights under this Contract as such rights would apply to such event. Such determination or waiver shall not preclude the affected Party from claiming Force Majeure with respect to any subsequent event, including any event that is substantially similar to the event with respect to which such determination or waiver is made.

(e) Neither Party shall be entitled to the benefit of the provisions of Force Majeure to the extent performance is prevented by any or all of the following circumstances: (i) the curtailment of interruptible or secondary Firm transportation unless primary, in-path Firm transportation is also curtailed; (ii) the Party claiming excuse failed to remedy the condition and to resume the performance of such covenants or obligations with reasonable dispatch; (iii) Seller's ability to sell Gas at a higher or more advantageous price, and Buyer's ability to purchase Gas at a lower or more advantageous price, or a regulatory agency disallowing, in whole or in part, the pass through of costs resulting from this Contract; (iv) the loss of Buyer's markets or Buyer's inability to use or resell Gas purchased under this Contract, except, in either case, as a result of Force Majeure; or (v) the loss or failure of Seller's Gas supply or depletion of reserves, except, in either case, for reasons of Force Majeure. The Party claiming Force Majeure shall not be excused from its responsibility for costs associated with Imbalances.

(f) Notwithstanding anything to the contrary in this Contract, the Parties agree that the settlement of strikes, lockouts, or other industrial disturbances shall be within the sole discretion of the Party experiencing such disturbance.

(g) The Party whose performance is prevented by Force Majeure must provide notice to the other Party. Initial notice may be given orally; however, written notice with reasonably full particulars of the event or occurrence is required as soon as reasonably possible. Upon providing written notice of Force Majeure to the other Party, the affected Party will be relieved of its obligation to make or accept delivery of Gas, as applicable, to the extent and for the duration of the Force Majeure event, and neither Party shall be deemed to have failed in such obligation to the other during such occurrence or event.

ARTICLE XIV GOVERNING RULES AND REGULATIONS

Section 14.01 Compliance with Laws. This Contract shall be subject to all present and future Laws of any Government Agency having jurisdiction, and neither Party has or will knowingly undertake or knowingly cause to be undertaken any activity that would conflict with such Laws; *provided, however*, that nothing herein shall be construed to restrict or limit either Party's right to object to or contest any such Law, and neither acquiescence therein or compliance therewith for any period of time shall be construed as a waiver of such right.

Section 14.02 Contests. Excluding all matters involving a contractual dispute between the Parties, no Party shall contest, cause to be contested or in any way actively support the contest of the equity, fairness, reasonableness or lawfulness of any terms or conditions set forth or established pursuant to this Contract, as those terms or conditions may be at issue before any Government Agency in any proceeding, if the successful result of such contest would be to preclude or excuse the performance of this Contract by either Party.

Section 14.03 Defense of Contract. Excluding all matters involving a contractual dispute between the Parties, each Party shall hereafter defend and support, and shall take no action in derogation of, this Contract before any Government Agency in any proceeding, if the substance, validity or enforceability of all or any part of this Contract is hereafter challenged or if any proposed changes in Law or regulatory practices or procedures would have the effect of making this Contract invalid or unenforceable or would subject either Party to any greater or different regulation or jurisdiction that materially affects the rights or obligations of the Parties under this Contract.

Section 14.04 Continuing Disclosure. Buyer understands and acknowledges that, in connection with the public offering of the Bonds, Seller is subject to certain disclosure requirements for the benefit of prospective purchasers and beneficial owners of the Bonds under Rule 15c2-12 ("**Rule 15c2-12**") and under Rule 10b-5 ("**Rule 10b-5**"), promulgated pursuant to the Securities Exchange Act of 1934 (including any amended or successor regulation or statute thereto). To assist Seller in complying with Rule 15c2-12 and Rule 10b-5, Buyer covenants and agrees that if Seller reasonably determines that (i) Buyer is a material obligated person, as that term is defined in Rule 15c2-12, or (ii) that a material event, as that term is defined in Rule 15c2-12, has occurred with respect to Buyer or this Contract, then Buyer will authorize and provide to Seller, for inclusion in any preliminary official statement, final official statement or disclosure document prepared in connection with the remarketing of the Bonds or any continuing disclosure relating thereto, all statements and information relating to Buyer deemed material by Seller for the purpose of satisfying Rule 15c2-12 as well as Rule 10b-5. If Seller has determined that Buyer is a material obligated person for purposes of Rule 15c2-12, then Buyer further covenants and agrees that Buyer will enter into a continuing disclosure agreement in such form as Seller shall reasonably determine to be necessary for compliance

with Rule 15c2-12 and shall thereafter provide ongoing disclosure as required thereby and by Rule 15c2-12.

ARTICLE XV MISCELLANEOUS

Section 15.01 Assignment. Neither Party shall assign this Contract or any of its rights or obligations under this Contract without the prior written consent of the other Party, such consent not to be unreasonably withheld or delayed, *provided, however* (i) Seller may pledge and assign its right, title, and interest in this Contract and the amounts payable by Buyer under this Contract to the Trustee under the Indenture, such that the Trustee or any receiver appointed under the Indenture shall have the right to enforce all obligations of Buyer and to perform all obligations of Seller under this Contract; (ii) in the event of Payment Default and receipt by the Trustee of payment by the Receivables Purchase Agreement Provider of amounts owing by Buyer, Seller shall be deemed to have assigned its rights under this Contract to the Receivables Purchase Agreement Provider; and (iii) Buyer shall not assign this Contract or any of its rights or obligations under this Contract without the prior written consent of the Receivables Purchase Agreement Provider.

Section 15.02 Notices. All notices, requests, statements or payments shall be made as specified on Exhibit C hereto. All notices, requests, or statements to Buyer shall be recognized as valid, whether from Seller, or its designee(s), and Buyer shall not be held liable by reason of Buyer having relied on them. Notices required to be in writing shall be delivered by letter, electronic mail, facsimile or other documentary form or such other means of communication as the Parties may agree from time to time in writing and shall be deemed given upon actual receipt by the Party to which such notice is given except that any notices received after 2:00 p.m. CPT shall be deemed received at the close of the next Business Day. A Party may change its address by providing notice of same in accordance herewith. Notwithstanding the foregoing, any notices regarding day-to-day operations may be given orally, to be followed up in writing.

Section 15.03 Indemnification Procedure. With respect to each indemnification included in this Contract, the indemnity is given to the fullest extent permitted by applicable Law and the following provisions shall be applicable. The indemnified Party shall promptly notify the indemnifying Party in writing of any Claim and the indemnifying Party shall have the right to assume its investigation and defense, including employment of counsel, and shall be obligated to pay related court costs and the indemnifying Party's attorneys' and experts' fees, and to post any appeals bonds; *provided, however*, that the indemnified Party shall have the right to employ at its expense separate counsel and participate in the defense of any Claim. The indemnifying Party shall not be liable for any settlement of a Claim without its express written consent thereto. In order to prevent double recovery, the indemnified Party shall reimburse the indemnifying Party for reasonable payments or costs incurred in respect of an indemnity with the proceeds of any judgment, insurance, bond, surety or other recovery made by the indemnified Party with respect to a covered event.

Section 15.04 Entirety. This Contract, including the Exhibits hereto, constitutes the entire agreement between the Parties and supersedes all prior discussions and agreements between the Parties with respect to the subject matter hereof. There are no prior or contemporaneous agreements or representations affecting the same subject matter other than those herein expressed. Except for any matters that, in accordance with the express provisions of this Contract, may be resolved by oral agreement between the Parties, no amendment,

modification or change herein shall be enforceable unless reduced to writing and executed by both Parties.

Section 15.05 Governing Law. This Contract shall be interpreted and construed in accordance with the applicable Laws of the State of New York, excluding conflicts of law principles which would refer to the laws of another jurisdiction; *provided* that the authority of each of Buyer and Seller to enter into and perform its obligations under this Contract shall be determined in accordance with the Laws of the state or commonwealth, as applicable, of formation of each Party.

Section 15.06 Non-Waiver. No waiver of any breach of any of the terms of this Contract shall be effective unless such waiver is in writing and signed by the Party against whom such waiver is claimed. No waiver of any breach shall be deemed a waiver of any other subsequent breach.

Section 15.07 Severability. If any provision of this Contract, or the application thereof, shall for any reason and to any extent be invalid or unenforceable, the remainder of this Contract and the application of such provision to other Persons or circumstances shall not be affected thereby, but rather shall be enforced to the maximum extent permissible under applicable Law, so long as the economic and legal substance of the transactions contemplated hereby is not affected in any materially adverse manner as to either Party.

Section 15.08 Exhibits. Any and all Exhibits referenced in this Contract shall be incorporated herein by reference and shall be deemed to be an integral part hereof.

Section 15.09 Winding Up Arrangements. All indemnity obligations, audit rights and other provisions specifically providing for survival shall survive the expiration or termination of this Contract. The expiration or termination of this Contract shall not relieve either Party of (a) any unfulfilled obligation or undischarged liability of such Party on the date of such termination, or (b) the consequences of any breach or default of any warranty or covenant contained in this Contract. All obligations and liabilities described in the preceding sentence of this Section 15.09, and applicable provisions of this Contract creating or relating to such obligations and liabilities, shall survive such expiration or termination.

Section 15.10 Relationship of the Parties. The Parties shall not be deemed in a relationship of partners or joint ventures by virtue of this Contract, nor shall either Party be an agent, representative, trustee or fiduciary of the other. Neither Party shall have any authority to bind the other to any agreement. This Contract is intended to secure and provide for the services of each Party as an independent contractor.

Section 15.11 Immunity. Buyer and Seller represent and covenant to and agree that each is not entitled to, and hereby waives any rights it may have to and shall not assert the defense of, sovereign immunity with respect to its obligations or any claims under this Contract.

Section 15.12 Counterparts. This Contract may be executed and acknowledged in multiple counterparts and by different Parties in separate counterparts, each of which shall be an original and all of which shall be and constitute one and the same instrument.

Section 15.13 Third-Party Beneficiaries. With the exception of the Receivables Purchase Agreement Provider and as provided in Section 15.14 with respect to the Trustee, the Parties acknowledge and agree that there are no third party beneficiaries of this Contract, and

that this Contract shall not impart any rights enforceable by any person, firm, organization, or corporation not a party to this Contract. Regarding the Receivables Purchase Agreement Provider, it shall be an express third party beneficiary of this Contract entitled, but not obligated, to enforce each of the covenants and provisions of this Contract. Each Party expressly acknowledges and agrees that, irrespective of any action taken or omitted to be taken by the Receivables Purchase Agreement Provider under or in connection with this Contract or otherwise in connection with the transactions contemplated by this Contract, the sole liability and obligation of the Receivables Purchase Agreement Provider in connection therewith shall be those obligations which are expressly undertaken pursuant to the Receivables Purchase Agreement.

Section 15.14 Rights of Trustee. Pursuant to the terms of the Indenture, Seller has irrevocably appointed the Trustee as its agent to issue notices (including Remarketing Notices) and to take any other actions that Seller is required or permitted to take under this Contract, and as assignee of Seller under the Indenture and subject to the terms thereof, the Trustee shall have all rights of Seller to enforce Buyer's payment and other obligations under this Contract on behalf of the holders of the Bonds and the other parties secured under the Indenture. Buyer may rely on notices or other actions taken by Seller or the Trustee, and Buyer has the right to exclusively rely on any notices delivered by the Trustee, regardless of any conflicting notices that it may receive from Seller.

Section 15.15 Non-Publication of Index Price. Pursuant to the Prepaid Agreement, Seller and BPEC shall undertake a process to agree on a replacement Index Price (or on a method for determining a replacement Index Price) for the affected Gas Day(s) should any of the following events occur: (a) the failure of the price source to announce or publish information necessary for determining the Index Price; (b) the failure of trading to commence or the permanent discontinuation or material suspension of trading on the exchange or market acting as the price source; (c) the temporary or permanent discontinuance or unavailability of the price source; (d) the temporary or permanent closing of any exchange acting as the price source; or (e) both Seller and BPEC agree that a material change in the formula for or the method of determining the Index Price has occurred. Seller shall involve Buyer in this process. If Seller incurs any costs associated with this process, such as payment to an independent third party, such costs shall be paid by Buyer.

ARTICLE XVI PROJECT MANAGEMENT AND ADMINISTRATION

Section 16.01 Administration of the Gas Project. Seller covenants and agrees that it will use its best efforts to acquire, manage and administer the Gas Project for the benefit of all of the Gas Purchasers. Buyer acknowledges and agrees that Seller may from time to time enter into amendments of and supplements to the Indenture and any or all of the related project agreements and that Seller will not be required to obtain the consent or approval of Buyer in connection with any such supplement or amendment.

Section 16.02 Project Management Committee. Pursuant to the Seller's bylaws, Gas Purchasers may appoint a representative to serve on the Seller's "Project Management Committee" (the "**Project Management Committee**") created for this transaction. The Project Management Committee is required to act in accordance with and is governed by the Seller's bylaws. In the event that a weighted vote is called for on any matter before the Project Management Committee, the Gas Purchaser shall be entitled to cast the number of votes that is

equal to the total daily quantities of Gas to be purchased by it under its Gas Supply Contract with Seller.

ARTICLE XVII CLOSING DOCUMENTATION

Section 17.01 Closing Documentation.

(a) The following documents shall be delivered by Buyer on or before the Effective Date of this Contract:

(i) a completed and executed certificate of Buyer, in substantially the form attached as Exhibit D;

(ii) a certificate of the Secretary or Assistant Secretary or other duly authorized representative of Buyer setting forth (i) the resolutions of its governing body authorizing Buyer to execute and deliver this Contract and to enter into the transactions contemplated hereby and any agreements relating thereto, in substantially the form attached as Exhibit G, (ii) the appropriate individuals who are authorized to execute the Agreement and any such agreements, (iii) specimen signatures of such authorized individuals, and (iv) the organizational documents of Buyer, certified as being true and complete;

(iii) such other documents, certificates and opinions as may be reasonably requested by Seller; and

(iv) a legal opinion of counsel to the Buyer, in substantially the form of Exhibit F hereto, addressed to PEAK, the Trustee and the Receivables Purchase Agreement Provider to the effect that this Contract has been duly authorized, executed and delivered by Buyer and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms.

(b) The following documents shall be delivered by Seller on the Effective Date of this Contract:

(i) An executed copy of the resolution(s) of its governing body authorizing Seller to execute and deliver this Contract and to enter into the transactions contemplated hereby and any agreements relating thereto;

(ii) a legal opinion addressed to the Buyer, Trustee, BPEC, the Swap Counterparty and the Receivables Purchase Agreement Provider to the effect that this Contract has been duly authorized, executed and delivered by Seller and constitutes its legal, valid and binding obligation, enforceable in accordance with its terms; and

(iii) executed copy of the Prepaid Agreement and Repricing Agreement.

(c) Buyer shall provide to Seller such updates to the documents provided by Buyer pursuant to Section 17.01(a) as Seller may reasonably request prior to the beginning of the Delivery Period.

IN WITNESS WHEREOF, Seller and Buyer have caused this Contract to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

[GAS PURCHASER]

By: _____

Name: _____

Title: _____

PUBLIC ENERGY AUTHORITY OF KENTUCKY

Name: _____

Title: _____

Name: _____

EXHIBIT A
DAILY CONTRACT QUANTITY

ESTIMATED:

MONTH	PREPAY VOLUME	% OF LOAD
JANUARY	5,000	25%
FEBRUARY	5,000	30%
MARCH	3,500	26%
APRIL	2,500	24%
MAY	2,500	26%
JUNE	2,500	28%
JULY	2,500	28%
AUGUST	2,500	28%
SEPTEMBER	2,500	27%
OCTOBER	2,500	25%
NOVEMBER	4,000	32%
DECEMBER	4,000	27%

EXHIBIT B
DELIVERY POINTS AND INDICES

[TBD]

EXHIBIT C

NOTICE CONTACT AND PAYMENT INSTRUCTIONS

NOTICES

If to Seller: Public Energy Authority of
 Kentucky
 516 Highland Ave.
 Carrollton, KY 41008

 Attention: President and
 General Manager
 Telephone: (502) 732-0991
 Fax: (502) 732-8777
 E-mail: gballinger@peakgas.net

 with a copy to: BPEC

 Attention:
 Telephone:
 Fax:

PAYMENT INSTRUCTIONS

By Wire Transfer:

 Account No.
 ABA No.

EXHIBIT D
BUYER CERTIFICATE*

DATED: [] 1, 2018

The undersigned hereby certifies that [he/she] is the [Title] of the [Entity] (“Buyer”), and that as such [he or she] is authorized to execute this certificate on behalf of Buyer. This certificate is executed in connection with the Gas Supply Contract, dated as of _____, 2018 (the “Gas Supply Contract”), between Buyer and the Public Energy Authority of Kentucky (“PEAK” or “Seller”). Capitalized terms used and not otherwise defined in this Certificate have the meanings assigned to them in the Gas Supply Contract.

Pursuant to the Indenture, Seller will issue the Bonds to finance the cost of acquisition of the Gas Supply Project, Gas from which will be sold to Buyer under the Gas Supply Contract. In connection with the foregoing, Buyer hereby certifies and represents as follows:

1. Buyer is a Municipal Utility duly created and validly existing and in good standing under the laws of the [State Name] (“State”) and has the corporate power and authority to enter into and perform its obligations under the Gas Supply Contract.
2. The Gas Supply Contract has been duly authorized, executed and delivered by Buyer, is in full force and effect and constitutes the legal, valid and binding obligation of Buyer enforceable in accordance with its terms. Attached hereto as Annex A is a true, correct and complete copy of the resolution or ordinance of Buyer authorizing the execution and delivery of the Gas Supply Contract.
3. I have reviewed the statements and information relating to Buyer and its utility system attached as Annex B that are contained in the final Official Statement prepared by the Seller in connection with the sale of the Bonds with respect to the Bonds and, as of the date hereof and to the best of my knowledge, such statements and information are true and correct in all material respects and did not and do not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make such statements, in light of the circumstances under which they were made, not misleading.
4. The authorization, execution and delivery of the Gas Supply Contract and compliance with the provisions thereof (a) will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of Buyer, any commitment, agreement, bond resolution, bond, note, indenture or other instrument to which Buyer is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which Buyer (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State relating to Buyer and its affairs, and (b) will not result in, or require the creation or imposition of, any

* The Buyer Certificate set forth in this Exhibit D is a form certificate for buyers that are Municipal Utilities. This form will be modified with language approved by Bond Counsel in the case of a Governmental Person (other than a Municipal Utility) that sells Gas (or electricity generated from such Gas) to a Municipal Utility, and possesses all power, authority, and applicable approvals necessary for it to enter into this Contract.

Lien on any of the properties or revenues of Buyer pursuant to any of the foregoing.

5. There is no action, suit, proceeding, inquiry or investigation by or before any court, governmental agency, public board or administrative body pending or, to the best of Buyer's knowledge, threatened, against Buyer which in any way affects or questions the validity or enforceability of any provision of the Gas Supply Contract.
6. Buyer has entered into the Gas Supply Contract for the purpose of acquiring a long-term supply of Gas (x) for sale to its Retail Customers, or (y) to produce electricity for sale to its Retail Customers.
7. Tax Certifications
 - a. Buyer understands that PEAK will issue the Bonds to finance prepayment of the purchase price payable by PEAK for the Gas to be sold and delivered to Buyer under the Gas Supply Contract. Buyer further understands and acknowledges that PEAK will issue the Bonds as tax-exempt obligations under Sections 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"), and the Treasury regulations promulgated thereunder (the "Regulations"). Sections 141-150 of the Code and the Regulations impose certain conditions and requirements on Buyer's use of the Gas purchased by it under the Gas Supply Contract (the "Gas Supply") in order to establish and maintain the tax exemption for interest on the Bonds. Buyer understands that the statements made herein will be relied upon by PEAK in its effort to comply with the conditions imposed by the Code and the Regulations, and by Bond Counsel in rendering its opinion with respect to the exclusion from gross income for federal income tax purposes of interest on the Bonds.
 - b. Definitions: For purposes of this Certificate:
 - i. "Testing Period" means calendar years 2013 through 2017.
 - ii. "Service Area" means (A) any area throughout which Buyer provided, at all times during (x) the Testing Period, and (y) the period immediately following the Testing Period and ending on the Issue Date, natural gas transmission or distribution services or electric energy distribution services, or (B) any area recognized as the natural gas or electric distribution service area of Buyer under state or federal law.
 - iii. "Issue Date" shall mean [Issue Date], 2018, the issue date of the Bonds.
 - iv. "Governmental Person" means a state or local governmental unit or any instrumentality thereof. It does not include the United States or any agency or instrumentality thereof.
 - v. "Retail Customer" shall mean a customer of Buyer located in the Service Area of the Buyer that purchases Gas or electricity, as applicable, for consumption and not for resale.

- vi. "Nongovernmental Agency" means any Person other than a Governmental Person.
 - vii. "Private Use" means use of property, directly or indirectly, in any trade or business carried on by any Person, or any activity of any Person other than a natural person, in each case excluding Governmental Persons, unless (1) such use is merely as a member of the general public, (2) such property is intended to be and is in fact reasonably available for use on the same basis as natural persons not engaged in a trade or business, and (3) no priority rights therein or special benefits therefrom are extended to such Person (other than customary and reasonable differences in rates and terms and conditions of service for different classes of users). For this purpose, property is considered to be "used" by a Person if it is owned by such Person or otherwise actually or beneficially used by such Person under a lease, management contract, output-type contract, or similar arrangement. For the avoidance of doubt, Private Use does not arise as a result of the receipt by a Nongovernmental Agency (including an industrial or commercial customer) of retail Gas service from Buyer under a generally applicable and uniformly applied tariff (including, for example, customary and reasonable differences in rates and terms and conditions of service for different classes of users). On the other hand, Private Use does arise, for example, if a Nongovernmental Agency receives retail Gas service for its trade or business from Buyer under a contract entered into between such Nongovernmental Agency and Buyer, other than bona fide requirements contracts satisfying the requirements of the Regulations.
- c. In accordance with the requirements of Sections 141-150 of the Code and the Regulations, Buyer certifies as follows:
- i. Buyer is a Municipal Utility that owns and operates either or both a gas distribution utility or an electricity distribution utility (the "System").
 - ii. Attachment I hereto shows (A) the average annual amount of Gas either (x) sold by Buyer to Retail Customers within its Service Area during the Testing Period, or (y) used by Buyer to generate electricity for sale to Retail Customers within its Service Area during the Testing Period, (B) the maximum amount of Gas storage available to Buyer on the date hereof, and (C) the amount of Gas that Buyer has a right to acquire for the System from any Person in any year during the term of the Gas Supply Contract.
 - iii. Buyer owns and operates the System and reasonably expects to use all of the Gas Supply solely to (x) furnish Gas to its Retail Customers located in its Service Area in the normal and customary operations of the System, or (y) generate electricity for sale to its Retail Customers located in its Service Area in the normal and customary operation of the System.
 - iv. The amount of Gas to be acquired under the Gas Supply Contract during any year, plus the amount of Gas otherwise available to Buyer for the System as of the Issue Date, does not exceed the sum of (A) the annual

average amount during the Testing Period of Gas purchased by Retail Customers of Buyer, (B) the amount of Gas to be used by Buyer to generate electricity for sale to Retail Customers of Buyer, and (C) the amount of Gas to be used to transport the Gas acquired under the Gas Supply Contract to the System during the year. For purposes of the preceding sentence, the “amount of Gas otherwise available to Buyer for the System as of the Issue Date” means the sum of (I) the amount of Gas held by Buyer for the System on the Issue Date, and (II) the amount of Gas that Buyer has an obligation to purchase for the System in any year during the term of the Gas Supply Contract, divided by [] (the number of years in the Gas Supply Contract).

- v. Buyer will not engage in any intentional act to render the volume of Gas acquired under the Gas Supply Contract to be in excess of (A) the amount of Gas needed to serve Retail Customers of Buyer, and (B) the amount of Gas used to transport the acquired Gas to the System. Buyer reasonably expects that all amounts paid for Gas acquired pursuant to the Gas Supply Contract will be derived from current revenues from operations of the System.
- vi. The Gas Supply is to be used in the Service Area. Therefore, the Gas Supply may not be used in any expansion of the Service Area occurring after the date of this Certificate unless Buyer receives the prior written approval of PEAK and agrees to comply with such conditions and limitations as PEAK may require, provided however that Buyer may expand its Service Area for this purpose, without seeking approval of PEAK, to any area contiguous to its existing Service Area if permitted by State law.
- vii. Except to the extent set forth in the Gas Supply Contract, or a prior written consent of PEAK delivered to Buyer, Buyer will not permit any portion of the Gas Supply to be used for a Private Use. In determining compliance with this requirement, Buyer will inform PEAK of the current existence of, and during the term of the Gas Supply Contract will notify PEAK prior to entering into, any of the following types of contracts or arrangements:

(A) Any sale or other disposition to a Nongovernmental Agency of all or any part of the System;

(B) Any lease of or management contract for the operation of all or any part of the System if such lease or management contract is with a Nongovernmental Agency;

(C) Any contract providing for the sale of Gas delivered under the Gas Supply Contract to a Nongovernmental Agency; and

(D) Any arrangement that conveys to a Nongovernmental Agency priority rights or any other preferential benefits to use of the output of the System (other than customary and reasonable differences in rates and terms and conditions of service for different classes of users).

Buyer will not use any of the types of contracts or arrangements described in A through D above without the prior written approval of PEAK and under PEAK's the written instruction, provided, however, that arrangements providing for the retail sale of Gas from the System to the general public (including private businesses as members of the general public) solely on the basis of rates or charges that are generally applicable and uniformly applied do not have to be reported to PEAK.

8. The undersigned has been duly authorized to execute and deliver this certificate on behalf of Buyer.

Dated as of the day and year first above written.

[BUYER]

By

Name:

Its

[SEAL]

ANNEX A

[insert Buyer's resolution in the form of Exhibit G]

ANNEX B

[TBD]

EXHIBIT E
FORM OF RESET REMARKETING NOTICE

[Date]

Public Energy Authority of Kentucky
Post Office Box 299
516 Highland Avenue
Carrollton, Kentucky 41008
Attn: President and General Manager

BP Energy Company
201 Helios Way
Houston, TX 77079

To the Addressees:

The undersigned, duly authorized representative of [] (the "Buyer"), is providing this notice (the "Reset Remarketing Election Notice") pursuant to the Gas Supply Contract, dated as of [] 1, 2018 (the "Supply Agreement"), between Public Energy Authority of Kentucky and the Buyer.

Pursuant to Section 2.04 of the Gas Supply Contract, if the Available Discount for the Reset Period beginning on [_____], 20[___] as finally determined does not equal or exceed the Minimum Discount, the Buyer has elected to have its Daily Contract Quantity for each Gas Day of such Reset Period remarketed.

Given this [___] day of [_____], 20[___].

[BUYER]

By: _____
Name:
Title:

EXHIBIT F

OPINION OF COUNSEL TO BUYER

[dated as of Closing], 2018

Public Energy Authority of Kentucky
Post Office Box 299
516 Highland Avenue
Carrollton, Kentucky 41008
Attn: President and General Manager

Morgan Stanley & Co. LLC
1585 Broadway
New York, NY 10036

The Bank of New York Mellon Trust Company, N.A
One Wall Street
New York, NY 10286

BP Energy Company
201 Helios Way
Houston, TX 77079

Re: Gas Supply Contract between Public Energy Authority of
Kentucky and Buyer [Name]

Ladies and Gentlemen:

I am the duly appointed and acting ___ for and have acted as counsel to the Board of [_____] for the ("Buyer") in connection with the Gas Supply Contract between Public Energy Authority of Kentucky ("PEAK") and the Buyer dated as of [_____]1, 2018 (the "Gas Supply Contract"). PEAK acquired a supply of natural gas (the "Gas Supply") from BP Energy Company ("Supplier") pursuant to the Prepaid Natural Gas Purchase and Sale Agreement, dated as of [_____] , 2018, between Supplier and PEAK with the net proceeds of its Gas Supply Revenue Bonds 2018 Series B. PEAK will sell a portion of the Gas Supply to the Buyer under the Gas Supply Contract.

Unless otherwise specified herein, all terms used but not defined in this opinion shall have the same meaning ascribed to them in the Gas Supply Contract.

In connection with this opinion, I have assumed the genuineness of all signatures (other than the signatures of officers and directors of the Buyer) and the authenticity of all items submitted to me as originals and the conformity with originals of all items submitted to me as copies, and I am aware of no facts or circumstances that might indicate that these assumptions are not correct. I have further assumed the due authorization, execution and delivery of the Gas Supply Contract by PEAK. In connection with this opinion, I have examined originals or copies, certified or otherwise identified to my satisfaction, of the following:

(a) Resolution No. __, duly adopted by the governing body of Buyer on _____, 2018 (the "Resolution") authorizing Buyer to execute and deliver the Gas Supply Contract;

(b) Executed counterparts of the Gas Supply Contract, together with each of the Exhibits thereto; and

(c) Such other documents, information, and facts as are necessary for me to render the opinions contained herein.

Based upon the foregoing, I am of the opinion that:

i. The Buyer is a _____ duly organized and validly existing under the laws of the state of _____ (the "State"), and has the power and authority to deliver gas to retail gas customers desiring such service from the Buyer within its service area, to own its properties, to carry on its business as now being conducted, to execute, deliver, and perform the Gas Supply Contract.

ii. The rates charged by the Buyer to its retail gas customers are currently not regulated by any state or federal regulatory authority.

iii. The Buyer has lawful authority to own, operate, and manage its gas distribution utility and to fix and collect rates, fees and other charges in connection with such distribution system.

iv. The governing body of the Buyer has duly authorized executed, and delivered the Gas Supply Contract and do not and will not require, subsequent to the execution of the Gas Supply Contract by the Buyer, any consent or approval of the governing body or any officers of the Buyer.

v. The Gas Supply Contract constitutes the legal, valid, and binding obligation of the Buyer, enforceable in accordance with its terms. The Buyer complied with any applicable procurement requirements of State or local law prior to entering into the Gas Supply Contract.

vi. The authorization, execution and delivery of the Gas Supply Contract and compliance with the provisions thereof (a) will not conflict with or constitute a breach of, or default under, any instrument relating to the organization, existence or operation of the Buyer, any commitment, agreement, bond resolution, bond, note, indenture or other instrument to which the Buyer is a party or by which it or its property is bound or affected, or any ruling, regulation, ordinance, judgment, order or decree to which the Buyer (or any of its officers in their respective capacities as such) is subject or any provision of the laws of the State relating to the

Buyer and its affairs, and (b) will not result in, or require the creation or imposition of, any Lien on any of the properties or revenues of the Buyer pursuant to any of the foregoing. The foregoing assumes that all payments under the Gas Supply Contract are operating expenses of the Buyer's municipal utility system, as described in the Gas Supply Contract.

vii. As of the date of the Gas Supply Contract, to the best of my knowledge after due inquiry, there is no pending or threatened action or proceeding against or affecting the Buyer which in any way would adversely affect the legality, validity, or enforceability of the Gas Supply Contract.

viii. The foregoing opinion with respect to the enforceability of the Gas Supply Contract is subject to the effect of bankruptcy, insolvency, reorganization, moratorium, and other similar laws relating to or affecting creditors' rights generally, to the exercise of judicial discretion in the appropriate case, and to the limitations imposed by general principles of equity upon the specific enforceability of any of the remedies, covenants or other provisions of the Gas Supply Contract and any related documents and upon the availability of injunctive relief or other equitable remedies.

My opinion as to enforceability is limited by standards of good faith, fair dealing, materiality, and reasonableness that may be applied by a court to the exercise of certain rights and remedies; limitations based on statutes or on public policy limiting a person's right to waive the benefits of statutory provisions or of a common law right; and limitations releasing a party from or indemnifying a party against liability for its own wrongful or negligent act when such release or indemnification is contrary to public policy.

This opinion is rendered solely for use and benefit of the addressees in connection with the Gas Supply Contract and may not be relied upon other than in connection with the Gas Supply Contract, or by any other person or entity for any purpose whatsoever, nor may it be quoted in whole or in part or otherwise referred to in any document or delivered to any other person or entity without the prior written consent of the undersigned.

This opinion is given as of the date hereof and no opinion is expressed as to the effect of future applicable laws or court decisions. I assume no obligation, and expressly disclaim any obligation, to update or supplement this opinion to reflect any facts or circumstances which may hereafter come to my attention or as to any change in laws which may hereafter occur.

Very truly yours,

EXHIBIT G

BUYERS AUTHORIZING RESOLUTION

NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, (i) AUTHORIZING THE EXECUTION OF A GAS SUPPLY CONTRACT WITH THE PUBLIC ENERGY AUTHORITY OF KENTUCKY (“PEAK”) FOR THE PURCHASE OF NATURAL GAS FROM PEAK; (ii) ACKNOWLEDGING THAT PEAK WILL ISSUE ITS GAS SUPPLY REVENUE BONDS TO FUND THE PURCHASE OF A SUPPLY OF NATURAL GAS FROM BP ENERGY COMPANY (“BPEC”), WHICH GAS WILL BE USED TO MAKE DELIVERIES UNDER THE CONTRACT; AND (iii) FOR OTHER PURPOSES.

WHEREAS, the City Council of the City of Pensacola owns and operates a municipal gas distribution utility known as Pensacola Energy and is authorized to acquire, purchase, transport, store and manage supplies of gas necessary to meet the requirements of the residential, commercial and industrial customers served by such utility; and

WHEREAS, the acquisition of secure, reliable and economic supplies of natural gas is necessary for the prudent and businesslike operation of the utility owned by the City of Pensacola, the continued economic development of its community and the promotion of the public health, safety and welfare; and

WHEREAS, the Public Energy Authority of Kentucky which was formed pursuant to the Natural Gas Acquisition Authority Act, KRS 353.400 to 353.410, has offered to sell to the City of Pensacola, pursuant to the contract, a supply of natural gas in the quantities on the dates set forth in the Contract, on the condition that PEAK issues its Gas Supply Revenue Bonds, 2018 Series A (the “Bonds”) the proceeds of which will be used to acquire a supply of natural gas (the “Gas Supply”) pursuant to a Prepaid Agreement with BPEC (the “Prepaid Agreement”); and

WHEREAS, the City of Pensacola is a Government Agency, as such term is defined in the Gas Supply Contract, and desires to enter into the Contract with PEAK.

NOW, THEREFORE, BE IT RESOLVED BY CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA as follows:

1. The City of Pensacola hereby approves the execution and delivery of the Gas Supply Contract, in substantially the form previously submitted to the City of Pensacola and attached hereto as Exhibit A, pursuant to which the City of Pensacola will agree to purchase specified quantities of natural gas from PEAK, such deliveries to be made on the dates, at the volumes and for the prices set forth in such Gas Supply Contract.

2. The Mayor of the City of Pensacola is hereby authorized to execute any such other

closing documents or certifications which may be required or contemplated in connection with the execution and delivery of the Contract or carrying out the intent and purpose of this resolution.

3. This Resolution shall become effective 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

EXHIBIT H

FORM OF REMARKETING NOTICE

To: Public Energy Authority of Kentucky

From: [], Participant

Check the box to indicate type of remarketing.

- Daily
- Monthly
- Seasonal Remarketing Notice
- Remainder of the current Reset Period

Period for which remarketing is requested: _____, 20__ through _____, 20__

Buyer requests that Seller remarket the amounts of Gas listed below pursuant to Article IX of the Agreement for the following reason(s):

Delivery Point		Daily Contract Quantity and total Quantity subject to remarketing (MMBtu)



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-18

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Vice President Sherri F. Myers

SUBJECT:

RESOLUTION NO. 18-18 - RECOGNIZING AND HONORING ASHTON J. HAYWARD, III

RECOMMENDATION:

That City Council adopt Resolution No.18-18.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, RECOGNIZING AND HONORING MAYOR ASHTON J. HAYWARD, III, FOR HIS EFFORTS IN BRINGING THE VT MOBILE AREOSPACE ENGINEERING, INC. PROJECT TO THE PENSACOLA INTERNATIONAL AIRPORT.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The VT MAE project started in 2013 when Mayor Hayward informed the City Council that the City had executed a nonbinding Memorandum of Understanding with ST Aerospace of Mobile, Inc. which allowed the City to begin contract negotiations for the leasing of Airport property.

Through a collaborative effort between the Mayor, City Council, the Escambia County Board of County Commissioners and the Greater Pensacola Chamber, ST Aerospace was drawn to the airport with a proposal to expand their current aircraft maintenance, repair and overhaul operations to the Airport.

In September of 2014, Mayor Hayward signed the final lease agreement between the City of Pensacola and VT Mobile Aerospace Engineering Inc. (VT MAE) for the development of a Maintenance, Repair Overhaul (MRO) Hangar at the Pensacola International Airport.

Per the lease, the City of Pensacola will construct an aircraft hangar complex on nearly 19 acres at the Pensacola International Airport and lease the facilities to VT MAE for a 30-year term. The original configuration was designed to accommodate two wide-body aircraft inside of a 160,000 square foot MRO facility. In 2015, the design configuration was expanded to 173,452 square foot facility and will now have the ability to accommodate either two Boeing 777's, four Boeing 757's, or six Airbus A-320 sized aircraft.

The new MRO Hangar at the Pensacola International Airport (PIA) will create 400 new jobs and will bring a new industry to the area. VT MAE will hire skilled personnel including Master Airplane Technicians, Aircraft Inspectors, Master Structures Technicians, Sheet Metal Mechanics, and Avionics Technicians. Local economic development agencies, local educational institutions, and VT MAE have worked together to implement training programs to create a sustainable workforce.

By working with VT MAE, Pensacola will be able to create quality, high-paying jobs and cement Pensacola's position as a true contender for aviation and aerospace industry investments. This partnership aligns well with the City's regional goals to create a robust aerospace cluster and to improve business and job opportunities for the citizens of Pensacola and Escambia County.

Design and construction of the \$46 million dollar project is being made possible through a combination of funds from the State of Florida/Florida Department of Transportation (FDOT), the City of Pensacola, Escambia County, VT MAE, and the Industry Recruitment, Retention and Expansion Fund.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Resolution No. 18-18

PRESENTATION: No

RESOLUTION
NO. 18-18

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, RECOGNIZING AND HONORING MAYOR ASHTON J. HAYWARD, III, FOR HIS EFFORTS IN BRINGING THE VT MOBILE AREOSPACE ENGINEERING, INC. PROJECT TO THE PENSACOLA INTERNATIONAL AIRPORT

WHEREAS, the VT MAE project at the Pensacola International Airport began in 2013 with a non-binding Memorandum of Understanding between ST Aerospace and the City; and

WHEREAS, the VT MAE project began as a 160,000 sq. ft. facility, it has grown to become a 173,000 sq. ft. facility to accommodate larger planes; and

WHEREAS, the VT MAE project is projected to create 400 new jobs with a proposed average annual salary of \$41,000 per year; and

WHEREAS, substantial completion of the VT MAE Hangar 1 was completed in April of 2018, on time and within budget; and

WHEREAS, VT MAE has future hopes to create three (3) additional MRO hangars, one administrative office building along with shops and a warehouse, totaling an additional 775,000 sq. ft. footprint; and

WHEREAS, if the VT MAE Aviation Campus is completed as hoped, it will directly create more than 1,300 new jobs while indirectly creating an anticipated 3,400 new jobs; and

WHEREAS, Mayor Ashton J. Hayward, III, along with his staff, worked tirelessly with local, county and state officials to bring this project to fruition; and

WHEREAS, the efforts of Mayor Ashton J. Hayward, III, in initiating the VT MAE project and seeing it through to completion of phase 1 will have a long lasting and positive effect on the City of Pensacola;

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

Section 1. That the City Council of the City of Pensacola does hereby recognize and honor Mayor Ashton J. Hayward, III, for his vision, foresight and efforts in bringing the VT MAE project to fruition.

Section 2. That a copy of this resolution be presented to Ashton J. Hayward, III, with the admiration, respect, and sincere appreciation of the City Council Members.

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 #: 18-19

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: City Council Member Jewel Cannada-Wynn

SUBJECT:

RESOLUTION NO. 18-19 - A RESOLUTION AMENDING CITY COUNCIL FINANCIAL PLANNING AND ADMINISTRATION POLICY

RECOMMENDATION:

That City Council adopt Resolution No. 18-19.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA,
FLORIDA AMENDING THE FINANCIAL PLANNING AND ADMINISTRATION
POLICY OF THE CITY COUNCIL

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City Council sets certain policies establishing their desire that certain activities take place, these policies are established through Resolutions.

The City Council has established a Financial Planning and Administration Policy which became effective in January of 2011. Within this policy is a Budget Policies section which contains 10 paragraphs.

Currently, within the City Budget, no line item appropriation is made for salaries, salary increases and employee bonuses. It is the Council's desire to have these separate line items in order to better plan for future expenditures and appropriations.

This resolution will state the City Council's desires to this end.

PRIOR ACTION:

January 10, 2011 - City Council Policy becomes effective

FUNDING:

N/A

FINANCIAL IMPACT:

An additional category to be created for a Council appropriation.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Resolution No. 18-19

PRESENTATION: No

RESOLUTION
NO. 18-19

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PENSACOLA, FLORIDA AMENDING THE FINANCIAL
PLANNING AND ADMINISTRATION POLICY OF THE
CITY COUNCIL

WHEREAS, the City Council has previously adopted the Financial Planning and Administration Policy in Resolution 41-10 adopted November 18, 2010; and

WHEREAS, the Financial Planning and Administration Policy was amended by Resolution 24-11 on September 8, 2011; and

WHEREAS, in accordance with the City Charter, the City Council has the Power and Duty to adopt the annual budget and all other appropriations necessary for efficient City government; and

WHEREAS, the City Council, through its appropriations powers sees the need to plan for the future and appropriate sufficient funds for personnel services; and

WHEREAS, the City Council believes these personnel services appropriations must remain as adopted within the final budget without authority for transfer sans approval by the City Council; and

WHEREAS, the City Council understands that for efficient and effective governance, the Mayor's authority to otherwise transfer funds shall be maintained;

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

SECTION 1. That the City Council hereby adopts the revised financial planning and administration policy as it relates to Budget Policies, to amend as follows:

¶ 8 – The budget should be prepared by department or programmatic activity. Within each department or programmatic activity it should be further divided by expenditure categories, personnel services, operating expenses, capital, grants in aid, debt service and non-operating. Within the personnel services expense category, salaries, salary increases (not coincident with employee promotion to a different job classification and excepting those covered under collective bargaining agreements,) and employee bonuses (if established consistent with State of Florida Statute Section 215.425) will be included as separate budget line items.

¶ 9 – The Mayor shall have the authority to transfer appropriations within expenditure categories between different departments or programmatic activities, except for amounts appropriated in budget line items for salary increases (not coincident with employee promotion to a different job classification and excepting those covered under collective bargaining agreements,), and employee bonuses (if established), which must remain as adopted unless changed by supplemental budget resolution. Amounts appropriated for capital outlay cannot be transferred to any other expenditure category provided no transfer shall be made from the appropriations that are contrary to Florida Law.

SECTION 2. If any section, subsection, clause or provision of this resolution is held invalid, such holding shall not affect the validity of the remainder.

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

SECTION 4. This Resolution shall become effective on the fifth business day after 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

RESOLUTION
NO. 18-19

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PENSACOLA, FLORIDA AMENDING THE FINANCIAL
PLANNING AND ADMINISTRATION POLICY OF THE
CITY COUNCIL

WHEREAS, the City Council has previously adopted the Financial Planning and Administration Policy in Resolution 41-10 adopted November 18, 2010; and

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WHEREAS, in accordance with the City Charter, the City Council has the Power and Duty to adopt the annual budget and all other appropriations necessary for efficient City government; and

WHEREAS, the City Council, through its appropriations powers sees the need to plan for the future and appropriate sufficient funds for personnel services; and

WHEREAS, the City Council believes these personnel services appropriations must remain as adopted within the final budget without authority for transfer sans approval by the City Council; and

WHEREAS, the City Council understands that for efficient and effective governance, the Mayor's authority to otherwise transfer funds shall be maintained;

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SECTION 1. That the City Council hereby adopts the revised financial planning and administration policy as it relates to Budget Policies, to amend as follows:

¶ 8 – The budget should be prepared by department or programmatic activity. Within each department or programmatic activity it should be further divided by expenditure categories, personnel services, operating expenses, capital, grants in aid, debt service and non-operating. Within the personnel services expense category, salaries, salary increases (not coincident with employee promotion to a different job classification), and employee bonuses (if established consistent with State of Florida Statute Section 215.425) will be included as separate budget line items.

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

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 04-18

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 04-18 UPDATING FIRE CODE - CHAPTER 2 OF TITLE XIV

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 04-18 on second reading as amended, updating the City Code references to the Florida Fire Prevention Code and related regulations.

AN ORDINANCE AMENDING CHAPTER 2 OF TITLE XIV OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING THE CITY OF PENSACOLA FIRE CODE; AMENDING AND UPDATING REFERENCES TO APPLICABLE FIRE PREVENTION CODE; REGULATING FIREWORKS; REPEALING LIFE SAFETY CODE AND BUREAU OF FIRE PREVENTION PROVISIONS; CREATING PROVISIONS PROHIBITING OUTDOOR FIRES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City Code provisions pertaining to the adoption and enforcement of the State Fire Prevention Code are out of date and require updating. Proposed Ordinance No. 04-18, if adopted, will amend the current code provisions to incorporate references to the currently applicable fire codes and NFPA (National Fire Prevention Association) "Life Safety Code" provisions. The proposed ordinance will also expand the regulation of prohibited fireworks, eliminate outdated code provisions, and explicitly prohibit the use of outdoor fires to dispose of trash or rubbish.

The following amendment takes the place of the original:

It shall be unlawful to build, ignite, maintain outdoor fires or conduct open burning of any kind within the city limits of Pensacola. This shall include the burning of rubbish, trash and combustible waste materials. Examples include but are not limited to; leaves, grass, shrubbery, tree branches, treated wood, paper, plastics, copper and tires.

Permanent barbecues, portable barbecues, outdoor fireplaces, fire pits, Chiminea's or grills shall not be used for the disposal of rubbish, trash or combustible waste material. These items shall be used for the purposes intended by the manufacturer only. All lids and spark guards shall be used while any such units are in use.

Any person found to be in violation of this code shall be subject to penalties set forth in Section 1-1-8 of the City Code; or pursuant to Chapter 13 of this code. Any investigating officer may cause an illegal burn to be extinguished.

PRIOR ACTION:

March 23, 2000 - City Council adopted Ordinance No. 19-00 amending the Fire Code for the provision of *Key Boxes* on certain specific structures.

April 12, 2018 - The City Council voted to approve Ordinance No. 04-18 on first reading

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

4/2/2018

STAFF CONTACT:

Eric W. Olson, City Administrator
Ginny Cranor, Fire Chief
Annie Bloxson, Fire Marshal

ATTACHMENTS:

- 1) Amended - Revised Proposed Ordinance No.04-18
- 2) Amended Proposed Ordinance No. 04-18
- 3) Proposed Ordinance No. 04-18

PRESENTATION: No

PROPOSED ORDINANCE NO. 04-18
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2 OF TITLE XIV OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING THE CITY OF PENSACOLA FIRE CODE; AMENDING AND UPDATING REFERENCES TO APPLICABLE FIRE PREVENTION CODE; REGULATING FIREWORKS; REPEALING LIFE SAFETY CODE AND BUREAU OF FIRE PREVENTION PROVISIONS; CREATING PROVISIONS PROHIBITING OUTDOOR FIRES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1.

Section 14-2-2 of the Code of the City of Pensacola, Florida is amended to read:

Sec. 14-2-2. – Purpose

The purpose of this chapter is to create compliance with F.S. Chs. 633 and 553, and Florida Administrative Code 69A, and to provide rules and regulations to improve public safety by: regulating the use of structures; promoting the control and abatement of fire hazards; and regulating the use of structures, promoting the control and abatement of fire hazards; and regulating the installation, use and maintenance of equipment for fire protection.

SECTION 2.

Section 14-2-3 of the Code of the City of Pensacola, Florida is amended to read:

Sec. 14-2-3. ~~National Fire Codes~~ – Adopted.

- (a) *Generally.* Pursuant to F.S. § 633.025 ~~202~~ 202 and other applicable provisions of law, the Florida Fire Prevention Code, NFPA 1, “Fire Prevention Code” and NFPA 101 “Life Safety Code” of the National Fire Protection Association, and its incorporated standards and codes as published in the National Fire Codes of the National Fire Protection Association, being particularly the ~~1997~~ 2015 edition thereof, save and except such portions as are hereafter deleted, modified or amended, and is hereby adopted by the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. The same is hereby incorporated as fully as if set out at length herein. A copy of NFPA 1 has been for more than ten (10) days preceding passage of this ordinance and is now on fire in the office of the city fire chief.
- (b) *Amendments.* The following section(s) of the Fire Prevention Code adopted by subsection (a) of this section are amended as follows:

3-6 Key Boxes.

The authority having jurisdiction shall have the authority to require a knox (key) box to be installed in an accessible location in cases where:

- a. A building or other structure is protected by an automatic suppression or standpipe system.
- b. A building or other structure is protected by an automatic alarm system.
- c. A property is protected by a locked fence or gate and immediate access to the property is necessary for life saving or firefighting purposes.
- d. Access to or within a building is difficult because of security, and immediate access to the property is necessary for life saving or firefighting purposes.

The knox (key) box shall be a type approved by the authority having jurisdiction and shall contain keys necessary to gain access as required by the authority having jurisdiction. The operator of the premises shall immediately notify the authority having jurisdiction. The operator of the premises shall immediately notify the authority having jurisdiction, and provide the new key(s), any time a lock is changed or re-keyed and a key(s) to that lock is contained in the key box.

SECTION 3.

Sec. 14-2-4 of the Code of the City of Pensacola, is hereby repealed.

~~Sec. 14-2-4. Life Safety Code—Adopted.~~

~~Pursuant to Section 633.025, Florida Statutes and other applicable provisions of law, the city hereby adopts NFPA 101, "Life Safety Code" of the National Fire Protection Association, being particularly the 1997 edition thereof, for the purpose of specifying measures which will provide that degree of public safety from fire which can be reasonably required. While the Life Safety Code endeavors to avoid requirements which might involve unreasonable hardships or unnecessary inconvenience or interference with the normal use or occupancy of a structure, it also demands compliance with a minimum standard for fire safety necessary in the public interest even though a financial hardship may be involved in some individual cases. A copy of this code has been for more than ten (10) days preceding passage of this ordinance and is now on file in the office of the city fire chief, and the same is hereby incorporated as fully as if set out at length herein.~~

SECTION 4.

Sec. 14-2-6 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-6. Additional ~~firemen~~ firefighters and officers for temporary service.

In case of riot, conflagration or emergency, the ~~city manager~~ mayor may appoint additional ~~firemen~~ firefighters and officers for temporary service, ~~who need not be in the classified service.~~

SECTION 5.

Sec. 14-2-7 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-7. Authority of ~~chief~~mayor to destroy building to prevent spread of fire.

Whenever any building in the city shall be on fire, it shall be lawful for the ~~chief of the fire department~~mayor to order and direct the building or any other building which he may deem hazardous and likely to communicate fire to buildings, or any part of the building, to be pulled down or destroyed; and no action shall be maintained against the ~~chief~~mayor or any person acting under his authority.

SECTION 6.

Sec. 14-2-23 of the Code of the City of Pensacola, Florida, is hereby repealed.

~~Sec. 14-2-23. Reports and recommendations.~~

~~A report of the activities of the Bureau of Fire Prevention shall be made monthly, and transmitted to the city manager through the chief of the fire department. The report shall contain all proceedings under the city fire code, with such statistics as the chief of the fire department may wish to include therein. The chief of the fire department shall also recommend any amendments to the code which in his judgment shall be desirable.~~

SECTION 7.

Sec. 14-2-64 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-64. Obstructing streets and alleys.

No person shall close or obstruct for the free passage of pedestrian and vehicular traffic any existing public way or alley either private or public on any public street within the city, without prior approval of the ~~city manager~~mayor. All existing alleys providing ingress and egress to commercial establishments and providing ingress and egress for the fire department of the city and public utilities of the city shall be kept unobstructed and free and clear for that traffic.

SECTION 8.

Section 14-2-67 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-67. Possession or sale of fireworks and other explosive devices.

It shall be unlawful to sell or keep or expose for sale within the city any firecracker, torpedo, skyrocket, roman candle, DA60 bomb, or toy pistol charged with gunpowder or with any fulminating, detonating or explosive material and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance; provided, however, that nothing herein shall prohibit the sale or possession of what are commonly known as "sparklers" approved by the State Fire Marshal's Office pursuant to F.S. § 791.013(1).

SECTION 9.

Section 14-2-68 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-68. Discharge of fireworks.

It shall be unlawful for any person to discharge or explode in or upon any street, public way or park within the city, or upon any private premises within the city, any ~~firecracker~~ fireworks of the character defined in ~~the preceding section 7~~ Sec. 14-2-67, unless the discharging or exploding be performed under the direction, supervision and control of the chief of the fire department and a permit has been issued by the chief of the fire department so to do; provided, however, that nothing contained herein shall prohibit the use of what are commonly known as "sparklers" as defined in ~~section 7~~ F.S. § 791.01(8).

SECTION 10.

Section 14-2-71 of the Code of the City of Pensacola, Florida, is hereby created to read:

Sec. 14-2-71. Outdoor fires.

~~Outdoor fires shall not be built or maintained in or upon any area determined by the fire marshal or designee to be a hazardous fire area. Outdoor fireplaces, permanent barbecues, portable barbecues, or grills shall not be used for the disposal of rubbish, trash, or combustible waste material.~~

It shall be unlawful to build, ignite, maintain outdoor fires or conduct open burning of any kind within the city limits of Pensacola. This shall include the burning of rubbish, trash and combustible waste materials. Examples include but are not limited to; leaves, grass, shrubbery, tree branches, treated wood, paper, plastics, copper and tires.

Permanent barbecues, portable barbecues, outdoor fireplaces, fire pits, Chiminea's or grills shall not be used for the disposal of rubbish, trash or combustible waste material. These items shall be used for the purposes intended by the manufacturer only. All lids and spark guards shall be used while any such units are in use.

Any person found to be in violation of this code shall be subject to penalties set forth in Section 1-1-8 of the City Code; or pursuant to Chapter 13 of this code. Any investigating officer may cause an illegal burn to be extinguished.

SECTION 11. 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 12. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 13. 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.

Passed: _____

Approved: _____
President of the City Council

Attest:

City Clerk

PROPOSED ORDINANCE NO. 04-18
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2 OF TITLE XIV OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING THE CITY OF PENSACOLA FIRE CODE; AMENDING AND UPDATING REFERENCES TO APPLICABLE FIRE PREVENTION CODE; REGULATING FIREWORKS; REPEALING LIFE SAFETY CODE AND BUREAU OF FIRE PREVENTION PROVISIONS; CREATING PROVISIONS PROHIBITING OUTDOOR FIRES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

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Sec. 14-2-2. – Purpose

The purpose of this chapter is to create compliance with F.S. Chs. 633 and 553, and Florida Administrative Code 69A, and to provide rules and regulations to improve public safety by: regulating the use of structures; promoting the control and abatement of fire hazards; and regulating the use of structures, promoting the control and abatement of fire hazards; and regulating the installation, use and maintenance of equipment for fire protection.

SECTION 2.

Section 14-2-3 of the Code of the City of Pensacola, Florida is amended to read:

Sec. 14-2-3. ~~National Fire Codes~~ – Adopted.

- (a) *Generally.* Pursuant to F.S. § 633.025 ~~202~~ 202 and other applicable provisions of law, the Florida Fire Prevention Code, NFPA 1, “Fire Prevention Code” and NFPA 101 “Life Safety Code” of the National Fire Protection Association, and its incorporated standards and codes as published in the National Fire Codes of the National Fire Protection Association, being particularly the ~~1997~~ 2015 edition thereof, save and except such portions as are hereafter deleted, modified or amended, and is hereby adopted by the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. The same is hereby incorporated as fully as if set out at length herein. A copy of NFPA 1 has been for more than ten (10) days preceding passage of this ordinance and is now on fire in the office of the city fire chief.
- (b) *Amendments.* The following section(s) of the Fire Prevention Code adopted by subsection (a) of this section are amended as follows:

3-6 Key Boxes.

The authority having jurisdiction shall have the authority to require a knox (key) box to be installed in an accessible location in cases where:

- a. A building or other structure is protected by an automatic suppression or standpipe system.
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- c. A property is protected by a locked fence or gate and immediate access to the property is necessary for life saving or firefighting purposes.
- d. Access to or within a building is difficult because of security, and immediate access to the property is necessary for life saving or firefighting purposes.

The knox (key) box shall be a type approved by the authority having jurisdiction and shall contain keys necessary to gain access as required by the authority having jurisdiction. The operator of the premises shall immediately notify the authority having jurisdiction. The operator of the premises shall immediately notify the authority having jurisdiction, and provide the new key(s), any time a lock is changed or re-keyed and a key(s) to that lock is contained in the key box.

SECTION 3.

Sec. 14-2-4 of the Code of the City of Pensacola, is hereby repealed.

~~Sec. 14-2-4. Life Safety Code—Adopted.~~

~~Pursuant to Section 633.025, Florida Statutes and other applicable provisions of law, the city hereby adopts NFPA 101, "Life Safety Code" of the National Fire Protection Association, being particularly the 1997 edition thereof, for the purpose of specifying measures which will provide that degree of public safety from fire which can be reasonably required. While the Life Safety Code endeavors to avoid requirements which might involve unreasonable hardships or unnecessary inconvenience or interference with the normal use or occupancy of a structure, it also demands compliance with a minimum standard for fire safety necessary in the public interest even though a financial hardship may be involved in some individual cases. A copy of this code has been for more than ten (10) days preceding passage of this ordinance and is now on file in the office of the city fire chief, and the same is hereby incorporated as fully as if set out at length herein.~~

SECTION 4.

Sec. 14-2-6 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-6. Additional ~~firemen~~ firefighters and officers for temporary service.

In case of riot, conflagration or emergency, the ~~city manager~~ mayor may appoint additional ~~firemen~~ firefighters and officers for temporary service, ~~who need not be in the classified service.~~

SECTION 5.

Sec. 14-2-7 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-7. Authority of chief mayor to destroy building to prevent spread of fire.

Whenever any building in the city shall be on fire, it shall be lawful for the ~~chief of the fire department~~ mayor to order and direct the building or any other building which he may deem hazardous and likely to communicate fire to buildings, or any part of the building, to be pulled down or destroyed; and no action shall be maintained against the chief mayor or any person acting under his authority.

SECTION 6.

~~Sec. 14-2-21 of the Code of the City of Pensacola, Florida, is hereby repealed.~~

~~Sec. 14-2-21. Bureau of fire prevention established; fire marshal; powers and duties.~~

~~(a) The Chief of the Pensacola Fire Department shall be responsible for the enforcement of the City of Pensacola Fire Code. To assist in the performance of the responsibilities and duties placed upon the chief of the fire department, a Bureau of Fire Prevention is hereby created.~~

~~(b) The bureau shall operate under the supervision of the chief of the fire department, who shall designate a fire official of the department as fire marshal. The fire marshal shall be the administrator of the Bureau of Fire Prevention. The fire marshal shall be responsible for the direct administration and enforcement of the fire and life safety codes adopted herein. The fire marshal shall be appointed on the basis of examination or other method as provided by the city civil service system for determining qualifications.~~

~~(c) The chief of the fire department may also designate qualified members of the fire department as inspectors, from time to time, as may be necessary. The chief of the fire department may recommend to the city manager the employment of technical inspectors, who when authorization is made, shall be selected through an examination to determine their fitness for the position, and which examination and selection shall be in conformity with the laws, rules and regulations of the civil service of the city.~~

SECTION 7.

~~Sec. 14-2-23 of the Code of the City of Pensacola, Florida, is hereby repealed.~~

~~Sec. 14-2-23. Reports and recommendations.~~

~~A report of the activities of the Bureau of Fire Prevention shall be made monthly, and transmitted to the city manager through the chief of the fire department. The report shall contain all proceedings under the city fire code, with such statistics as the chief of the fire department may wish to include therein. The chief of the fire department shall also recommend any amendments to the code which in his judgment shall be desirable.~~

SECTION 8.

Sec. 14-2-64 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-64. Obstructing streets and alleys.

No person shall close or obstruct for the free passage of pedestrian and vehicular traffic any existing public way or alley either private or public on any public street within the city, without prior approval of the ~~city manager~~ mayor. All existing alleys providing ingress and egress to commercial establishments and providing ingress and egress for the fire department of the city and public utilities of the city shall be kept unobstructed and free and clear for that traffic.

SECTION 9.

Section 14-2-67 of the Code of the City of Pensacola, Florida, is hereby amended to read:

Sec. 14-2-67. Possession or sale of fireworks and other explosive devices.

It shall be unlawful to sell or keep or expose for sale within the city any firecracker, torpedo, ~~skyrocket, roman candle, DA60 bomb,~~ or toy pistol charged with gunpowder or with any fulminating, detonating or explosive material and any fireworks containing any explosives or flammable compound or any tablets or other device containing any explosive substance; provided, however, that nothing herein shall prohibit the sale or possession of what are commonly known as "sparklers" approved by the State Fire Marshal's Office pursuant to F.S. § 791.013(1).

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SECTION 11.

Section 14-2-71 of the Code of the City of Pensacola, Florida, is hereby created to read:

Sec. 14-2-71. Outdoor fires.

Outdoor fires shall not be built or maintained in or upon any area determined by the fire marshal or designee to be a hazardous fire area. Outdoor fireplaces, permanent barbeques, portable barbeques, or grills shall not be used for the disposal of rubbish, trash, or combustible waste material.

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Examples include but are not limited to; leaves, grass, shrubbery, tree branches, treated wood, paper, plastics, copper and tires.

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SECTION 12. 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 13. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 14. 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.

Passed: _____

Approved: _____
President of the City Council

Attest:

City Clerk



PROPOSED ORDINANCE NO. 04-18
ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2 OF TITLE XIV OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING THE CITY OF PENSACOLA FIRE CODE; AMENDING AND UPDATING REFERENCES TO APPLICABLE FIRE PREVENTION CODE; REGULATING FIREWORKS; REPEALING LIFE SAFETY CODE AND BUREAU OF FIRE PREVENTION PROVISIONS; CREATING PROVISIONS PROHIBITING OUTDOOR FIRES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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SECTION 1.

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Sec. 14-2-2. – Purpose

The purpose of this chapter is to create compliance with F.S. Chs. 633 and 553, and Florida Administrative Code 69A, and to provide rules and regulations to improve public safety by: regulating the use of structures; promoting the control and abatement of fire hazards; and regulating the use of structures, promoting the control and abatement of fire hazards; and regulating the installation, use and maintenance of equipment for fire protection.

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Section 14-2-3 of the Code of the City of Pensacola, Florida is amended to read:

Sec. 14-2-3. ~~National Fire Codes~~ – Adopted.

- (a) *Generally.* Pursuant to F.S. § ~~633.025~~ 202 and other applicable provisions of law, the Florida Fire Prevention Code, NFPA 1, “Fire Prevention Code” and NFPA 101 “Life Safety Code” of the National Fire Protection Association, and its incorporated standards and codes as published in the National Fire Codes of the National Fire Protection Association, being particularly the ~~1997~~ 2015 edition thereof, save and except such portions as are hereafter deleted, modified or amended, and is hereby adopted by the city, for the purpose of prescribing regulations governing conditions hazardous to life and property from fire or explosion. The same is hereby incorporated as fully as if set out at length herein. A copy of NFPA 1 has been for more than ten (10) days preceding passage of this ordinance and is now on fire in the office of the city fire chief.
- (b) *Amendments.* The following section(s) of the Fire Prevention Code adopted by subsection (a) of this section are amended as follows:

3-6 Key Boxes.

The authority having jurisdiction shall have the authority to require a knox (key) box to be installed in an accessible location in cases where:

- a. A building or other structure is protected by an automatic suppression or standpipe system.
- b. A building or other structure is protected by an automatic alarm system.
- c. A property is protected by a locked fence or gate and immediate access to the property is necessary for life saving or firefighting purposes.
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The knox (key) box shall be a type approved by the authority having jurisdiction and shall contain keys necessary to gain access as required by the authority having jurisdiction. The operator of the premises shall immediately notify the authority having jurisdiction. The operator of the premises shall immediately notify the authority having jurisdiction, and provide the new key(s), any time a lock is changed or re-keyed and a key(s) to that lock is contained in the key box.

SECTION 3.

Sec. 14-2-4 of the Code of the City of Pensacola, is hereby repealed.

~~Sec. 14-2-4. Life Safety Code — Adopted.~~

~~Pursuant to Section 633.025, Florida Statutes and other applicable provisions of law, the city hereby adopts NFPA 101, "Life Safety Code" of the National Fire Protection Association, being particularly the 1997 edition thereof, for the purpose of specifying measures which will provide that degree of public safety from fire which can be reasonably required. While the Life Safety Code endeavors to avoid requirements which might involve unreasonable hardships or unnecessary inconvenience or interference with the normal use or occupancy of a structure, it also demands compliance with a minimum standard for fire safety necessary in the public interest even though a financial hardship may be involved in some individual cases. A copy of this code has been for more than ten (10) days preceding passage of this ordinance and is now on file in the office of the city fire chief, and the same is hereby incorporated as fully as if set out at length herein.~~

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Sec. 14-2-6. Additional ~~firemen~~ firefighters and officers for temporary service.

In case of riot, conflagration or emergency, the ~~city manager~~ mayor may appoint additional ~~firemen~~ firefighters and officers for temporary service, ~~who need not be in the classified service.~~

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SECTION 6.

~~Sec. 14-2-21 of the Code of the City of Pensacola, Florida, is hereby repealed.~~

~~Sec. 14-2-21. -- Bureau of fire prevention established; fire marshal; powers and duties.~~

~~(a) The Chief of the Pensacola Fire Department shall be responsible for the enforcement of the City of Pensacola Fire Code. To assist in the performance of the responsibilities and duties placed upon the chief of the fire department, a Bureau of Fire Prevention is hereby created.~~

~~(b) The bureau shall operate under the supervision of the chief of the fire department, who shall designate a fire official of the department as fire marshal. The fire marshal shall be the administrator of the Bureau of Fire Prevention. The fire marshal shall be responsible for the direct administration and enforcement of the fire and life safety codes adopted herein. The fire marshal shall be appointed on the basis of examination or other method as provided by the city civil service system for determining qualifications.~~

~~(c) The chief of the fire department may also designate qualified members of the fire department as inspectors, from time to time, as may be necessary. The chief of the fire department may recommend to the city manager the employment of technical inspectors, who when authorization is made, shall be selected through an examination to determine their fitness for the position, and which examination and selection shall be in conformity with the laws, rules and regulations of the civil service of the city.~~

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~~A report of the activities of the Bureau of Fire Prevention shall be made monthly, and transmitted to the city manager through the chief of the fire department. The report shall contain all proceedings under the city fire code, with such statistics as the chief of the fire department may wish to include therein. The chief of the fire department shall also recommend any amendments to the code which in his judgment shall be desirable.~~

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Section 14-2-71 of the Code of the City of Pensacola, Florida, is hereby created to read:

Sec. 14-2-71. Outdoor fires.

Outdoor fires shall not be built or maintained in or upon any area determined by the fire marshal or designee to be a hazardous fire area. Outdoor fireplaces, permanent barbecues, portable barbecues, or grills shall not be used for the disposal of rubbish, trash, or combustible waste material.

SECTION 12. 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 13. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 14. 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.

Passed: _____

Approved: _____
President of the City Council

Attest:

City Clerk

CITY CLERK'S OFFICE/LEGAL ADS
3RD FLOOR, 222 WEST MAIN STREET
222 W MAIN ST

32502

Published Daily-Pensacola, Escambia County, FL
PROOF OF PUBLICATION

State of Florida
County of Escambia:

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

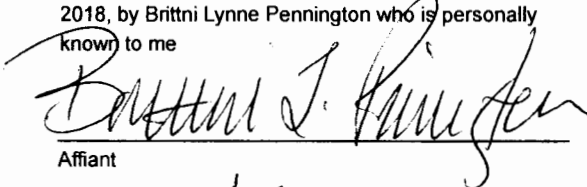
NOTICE OF PROPOSED ORDINANCE


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

04/30/18

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

Sworn to and Subscribed before me this 30th of May 2018, by Brittini Lynne Pennington who is personally known to me


Affiant


Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

Publication Cost: \$200.74
Ad No: 0002890432
Customer No: PNJ-25615500

NOTICE OF PROPOSED ORDINANCES

Please be advised that Proposed Ordinance Nos. 04-18 and 09-18 were presented to the City Council of the City of Pensacola for first reading on Thursday, April 12, 2018 and will be presented for final reading and adoption on Thursday, May 10, 2018 at 5:30 p.m., in Council Chambers on the First Floor of City Hall, 222 West Main Street, Pensacola, Florida.
The title(s) of the proposed ordinance(s) are as follows:
P.O. #04-18:
AN ORDINANCE AMENDING CHAPTER 2 OF TITLE XIV OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING THE CITY OF PENSACOLA FIRE CODE; AMENDING AND UPDATING REFERENCES TO APPLICABLE FIRE PREVENTION CODE; REGULATING FIREWORKS; REPEALING LIFE SAFETY CODE AND BUREAU OF FIRE PREVENTION PROVISIONS; CREATING PROVISIONS PROHIBITING OUTDOOR FIRES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
P.O. #09-18:
AN ORDINANCE AMENDING SECTIONS 12-2-9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE INDUSTRIAL AND USE DISTRICT PROVIDING FOR SEVERABILITY; 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, Pensacola, Florida, or on-line on the City's website: <https://pensacola.legistar.com/Calendar.aspx>. Interested parties may appear at the Council meeting and be heard with respect to the proposed ordinances.

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

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

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

Legal No. 2890432 1T April 30, 2018



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 09-18

City Council

5/10/2018

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 09-18 - AMENDING LAND DEVELOPMENT CODE SECTION 12-2-9 INDUSTRIAL LAND USE DISTRICT

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 09-18 on second reading, as amended.

AN ORDINANCE AMENDING SECTION 12-2-9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE INDUSTRIAL LAND USE DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City's Land Development Code addresses permitted uses within each Zoning District as a stand-alone use or as an accessory to a primary use. Outdoor storage and work is first listed in the Land Development Code within the Commercial Land Use District (C-3). However, the use is listed as an accessory use and requires that it

“shall be screened by an opaque fencer 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.”

The next time this use is found is within the Industrial Land Use District (M-1) and it is permitted as a stand-alone use. Although our Land Development Code is cumulative, as a stronger enforcement tool, staff is recommending that the screening language listed in C-3 be added to the stand-alone use in the Industrial Land Use District (M-1).

At the April 12, 2018 City Council meeting, City Council requested additional language be added to (B)(1)(b) Outdoor storage and work, to make it subject to the regulations contained in Section 12-6 of this Chapter.

PRIOR ACTION:

April 12, 2018 - City Council voted to approve Ordinance No. 09-18 on first reading.

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

3/23/2018

STAFF CONTACT:

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

ATTACHMENTS:

- 1) Amended Proposed Ordinance No. 09-18
- 2) Proposed Ordinance No. 09-18
- 3) March 13, 2018 Planning Board Minutes

PRESENTATION: No

AMENDED

PROPOSED
ORDINANCE NO. 09-18

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTIONS 12-2-9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE INDUSTRIAL LAND USE DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a proper public hearing was held on April 12, 2018 concerning the following proposed amendment to the Land Development Code; NOW

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Chapter 12-2-9 of the Code of the City of Pensacola, Florida, is hereby amended as follows:

Sec. 12-2-9. - Industrial land use district.

The regulations in this section shall apply to the light industrial (wholesale and light industry) and heavy industrial zoning districts: M-1 and M-2.

(A) Purpose of district. The industrial land use district is established for the purpose of providing areas for industrial development for a community and regionally oriented service area. The industrial zoning district's regulations are intended to facilitate the manufacturing, warehousing, distribution, wholesaling and other industrial functions of the city and the region. New residential uses are prohibited in the M-2 zoning district. The industrial district regulations are designed to:

- Encourage the formation and continuance of a compatible environment for industries, especially those which require large tracts of land and/or employ large numbers of workers;
- Protect and reserve undeveloped areas which are suitable for industries;
- Discourage development of new residential or other uses capable of adversely affecting or being affected by the industrial character of this district; and

- Provide an opportunity for review by the planning board and approval by the city council for specific uses that may be an environmental nuisance to the community.

- (B) Uses permitted.

- (1) M-1, light industrial district.

- (a) Any use permitted in the C-3 district.

- (b) Outdoor storage and work-, 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, and shall be subject to the regulations contained in Section 12-6 of this Chapter.

- (c) Wholesale business.

- (d) Lumber, building material yards.

- (e) Furniture manufacture/repair.

- (f) Assembly of electrical appliances, instruments, etc.

- (g) Welding and metal fabrication, except the fabrication of iron and steel or other metal for structural purposes, such as bridges, buildings, radio and television towers, oil derricks, and sections for ships, boats and barges.

- (h) Processing/packaging/distribution.

- (i) Canning plants.

- (j) Ice plant/storage buildings.

- (k) Bottling plants.

- (l) Stone yard or monument works.

- (m) Manufacturing uses of a scale and intensity likely to be capable of producing sound, vibration, odor, etc. that is incompatible with the general commercial districts.

- (n) Conditional uses permitted:

- 1. Residential and non-residential community correction centers, probation offices, and parole offices provided that no such site shall be located any closer than one-quarter mile, one thousand three hundred twenty (1,320) feet, from a school for children in grade 12 or lower, licensed day care center facility, park, playground, nursing home, convalescent center, hospital, association for disabled population, mental health center, youth center, group home for disabled population or youth, or other place where children or a population especially vulnerable to crime due to age or physical or mental disability regularly congregates.

- (2) M-2, heavy industrial district.

- (a) Any use permitted in the M-1 district.

- (b) Any use or the expansion of any use or building not permitted in the preceding district may be permitted upon development plan review by the planning board and city council approval subject to regulations in section 12-2-81.

(C) Regulations. All developments are required to comply with design standards and are encouraged to follow the design guidelines as established in section 12-2-82. Table 12-2-8, describes requirements for the industrial zoning districts.

TABLE 12-2.8

REGULATIONS FOR THE INDUSTRIAL ZONING DISTRICTS

Standards M-1 M-2

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 yard, or for industrial uses a forty-foot yard, unless the two (2) districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.

Maximum Building Height No building shall exceed forty-five (45) feet in height at the property or building setback lines if contiguous to a residential district. Above the height permitted three (3) feet may be added to the height of the building for each foot the building is set back from the property lines up to a maximum height of one hundred (100) feet.

If not contiguous to a residential zoning district no building shall exceed one hundred (100) feet in height at the property lines.

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.

(D) Additional regulations. In addition to the regulations established above in section 12-2-9(C), all developments within the industrial 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 in Chapter 12-6.
- Storm-water 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. This ordinance shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Passed: _____

Approved: _____
President of City Council

Attest:

City Clerk

PROPOSED
ORDINANCE NO. 09-18

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-2-9 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE INDUSTRIAL LAND USE DISTRICT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, a proper public hearing was held on April 12, 2018 concerning the following proposed amendment to the Land Development Code; NOW

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The regulations in this section shall apply to the light industrial (wholesale and light industry) and heavy industrial zoning districts: M-1 and M-2.

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- Encourage the formation and continuance of a compatible environment for industries, especially those which require large tracts of land and/or employ large numbers of workers;
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- Provide an opportunity for review by the planning board and approval by the city council for specific uses that may be an environmental nuisance to the community.

(B) Uses permitted.

(1) M-1, light industrial district.

(a) Any use permitted in the C-3 district.

(b) Outdoor storage and work-, 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.

(c) Wholesale business.

(d) Lumber, building material yards.

(e) Furniture manufacture/repair.

(f) Assembly of electrical appliances, instruments, etc.

(g) Welding and metal fabrication, except the fabrication of iron and steel or other metal for structural purposes, such as bridges, buildings, radio and television towers, oil derricks, and sections for ships, boats and barges.

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(m) Manufacturing uses of a scale and intensity likely to be capable of producing sound, vibration, odor, etc. that is incompatible with the general commercial districts.

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1. Residential and non-residential community correction centers, probation offices, and parole offices provided that no such site shall be located any closer than one-quarter mile, one thousand three hundred twenty (1,320) feet, from a school for children in grade 12 or lower, licensed day care center facility, park, playground, nursing home, convalescent center, hospital, association for disabled population, mental health center, youth center, group home for disabled population or youth, or other place where children or a population especially vulnerable to crime due to age or physical or mental disability regularly congregates.

(2) M-2, heavy industrial district.

(a) Any use permitted in the M-1 district.

(b) Any use or the expansion of any use or building not permitted in the preceding district may be permitted upon development plan review by the planning board and city council approval subject to regulations in section 12-2-81.

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Passed: _____

Approved: _____
President of City Council

Attest:

City Clerk



PLANNING SERVICES

THE UPSIDE of FLORIDA

MINUTES OF THE PLANNING BOARD

March 13, 2018

MEMBERS PRESENT: Chairman Paul Ritz, Danny Grundhoefer, Nina Campbell, Jared Moore, Kurt Larson

MEMBERS ABSENT: Nathan Monk, Kyle Owens

STAFF PRESENT: Brandi Deese, Assistant Planning Services Administrator, Leslie Statler, Planner, Don Kraher, Council Executive, Helen Gibson, CRA Administrator

OTHERS PRESENT: Curt Morse

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from February 13, 2018
- New Business:
 1. Request for License to Use Right-of-Way – Intendencia Street - Southtowne
 2. Consider Amendment to LDC Section 12-2-9 Industrial Land Use District
- Open Forum
- Adjournment

Call to Order / Quorum Present

Chairman Ritz called the meeting to order at 2:00 pm with a quorum present.

Approval of Meeting Minutes

Mr. Larson made a motion to approve the February 13, 2018 minutes, seconded by Mr. Moore, and it carried unanimously.

New Business

Request for License to Use Right-of-Way – Intendencia Street - Southtowne

Daily Convo is requesting approval for a License to Use for improvements within the Intendencia Street right-of-way in connection with the Southtowne Development. **This item was withdrawn at the request of the applicant's legal counsel.**

Consider Amendment to LDC Section 12-2-9 Industrial Land Use District

The City's Land Development Code addresses permitted uses within each Zoning District as a stand-alone use or as an accessory to a primary use. Outdoor storage and work is first listed in the Land Development Code within the Commercial Land Use District (C-3). However, the use is listed as an accessory use and requires that it *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.* The next time this use is found is within the Industrial Land District (M-1) and it is permitted as a stand-alone use.

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

Although our Land Development Code is cumulative, as a stronger enforcement tool, staff is recommending that the screening language listed in C-3 be added to the stand-alone use in the Industrial Land Use District (M-1).

Chairman Ritz explained as Pensacola progresses and moves away from the heavy industrial forms closer to the center of downtown, screening would help some of the other developments already occurring downtown.

Mr. Larson made a motion to approve, seconded by Mr. Moore. Mr. Grundhoefer asked if this would leave out any other districts, and Ms. Deese explained that everything below the industrial zoning districts that permits this type of use is covered currently and because the zoning ordinance is cumulative, the M-2 zone would be covered as well. **The motion then carried unanimously.**

Open Forum – With Mr. Owens' departure, Mr. Larson nominated Mr. Grundhoefer, and Ms. Campbell nominated Mr. Larson for Vice Chairman. **Mr. Grundhoefer moved to accept Mr. Larson's nomination, seconded by Ms. Campbell, and the vote was unanimous for Mr. Larson as Vice Chairman.**


The Board then discussed the License to Use (LTU) requirements, since Chairman Ritz had not seen an LTU for an entire street. Ms. Deese agreed that the Southtowne project did not fit the mold, but this process was the best option chosen between the applicant's attorney and the City Attorney in how to vet out this project. She advised vacation was considered as an option, but was not chosen for several reasons.

Mr. Grundhoefer asked for an update on the DPZ exercise with the overlay districts and asked if the Board would see a draft of proposed changes. Ms. Deese explained that this was a CRA project, and staff was not involved in it other than distributing it through the normal process, however, it has been scheduled for the April board meeting. She explained this issue would come before the Board as a normal item for consideration for approval, denial, or approval with recommended changes. She also advised this project was partially funded through a grant which had specific requirements involving public meetings/input. The process will begin again on March 19 at 2:00 pm with a super workshop involving the Planning Board and City Council to accept the draft. Ms. Gibson advised a notice was sent out through the Clerk's Office, and the meeting with the Board was crucial to the process for their direct input, with an opportunity to speak directly to the consultant.

The Board members were also invited to attend Ed McMahon speaking this evening on how to preserve and enhance what makes our community so special.

Adjournment – With no further business, Chairman Ritz adjourned the meeting at 2:35 pm.

Respectfully Submitted,


Brandi C. Deese
Secretary to the Board

CITY CLERK'S OFFICE/LEGAL ADS
3RD FLOOR, 222 WEST MAIN STREET
222 W MAIN ST

32502

Published Daily-Pensacola, Escambia County, FL
PROOF OF PUBLICATION

State of Florida
County of Escambia:

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

NOTICE OF PROPOSED ORDINA

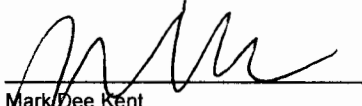
as published in said newspaper in the issue(s) of:

04/30/18

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

Sworn to and Subscribed before me this 30th of May 2018, by Brittini Lynne Pennington who is personally known to me


Affiant


Mark Dee Kent
Notary Public for the State of Florida
My Commission expires October 27, 2019

Publication Cost: \$200.74
Ad No: 0002890432
Customer No: PNJ-25615500

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

Legal No. 2890432 1T April 30, 2018



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 18-00189

City Council

5/10/2018

DISCUSSION ITEM

FROM: City Council Vice President Sherri F. Myers

SUBJECT:

CITY OF PENSACOLA RECYCLING

SUMMARY:

The City of Pensacola currently has a recycling program within the City. This item will seek discussion of this program as well as an update on vendor(s) used to facilitate this program.

PRIOR ACTION:

None

STAFF CONTACT:

Don Kraher, Council Executive


ATTACHMENTS:

1) None

PRESENTATION: No

OFFICE OF THE MAYOR

MEMORANDUM

TO: City Council
FROM: Eric W. Olson, City Administrator 
DATE: May 2, 2018
SUBJ: City of Pensacola Recycling Program

In advance of your discussion about recycling that is scheduled to be held at the May 10 council meeting (Agenda File #18-00189), you may find the following information to be of use.

The traditional solid waste business is in exceptional health, and Sanitation Services continues to impress with its outstanding customer service. Nevertheless, there are significant challenges presented by external market factors in the recycling line of business. Last year, the Chinese government decided to act in order to reduce the importation of increasingly contaminated recyclables, so it changed its policy to only accept recyclables with a 0.5 percent contamination content. That contributed to a decrease of over 35 percent in average recycling commodity prices as well as an uptick in operations costs and transportation costs as recycling processors had to find new buyers and send materials to them. Those impacts were felt by recycling processors throughout the country, including by Tarpon Paper, the City's processor.

The disruptions to the recycling industry caused Tarpon Paper to stop taking recyclables from the City. While recycling is a service that the City is committed to, given the clouded outlook for Tarpon Paper, I determined it was not in the City's best interest to seek a renewal of our contract with Tarpon Paper when it expired in March. Instead I asked Jerry Moore to negotiate with ECUA to process our recyclables at its facility. These negotiations are currently being completed and the ECUA Board is expected to vote on the proposed agreement this month. If the ECUA Board approves the agreement it will be placed on the June 14 city council agenda for your action.

In the interim, please remind your constituents that the success of the recycling program is directly linked to the items that they place in their recycling carts. We need to work together so that customers remain diligent in their recycling habits during this temporary interruption in recycling service.