



# City of Pensacola

## Agenda Conference

### Agenda

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Monday, January 13, 2020, 3:30 PM

Hagler-Mason Conference Room,  
2nd Floor

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Immediately following 3:30 Community Redevelopment Agency Board Meeting

#### ROLL CALL

#### PRESENTATION ITEMS

#### REVIEW OF CONSENT AGENDA ITEMS

1. [20-00002](#) CITY OF PENSACOLA/ST. PAUL CATHOLIC CHURCH AGREEMENT -  
REAL PROPERTY EXCHANGE AT EXCHANGE PARK

**Recommendation:** That City Council declare a small, defined portion of the Michael J. DeSorbo Exchange Park as surplus and authorize the Mayor to execute a deed and all other necessary documents to transfer ownership of the property for the benefit of St. Paul Catholic Church for stormwater construction purposes in exchange for the execution and recording of a reasonable access easement from the Church to the City across Church property to allow City and City lessee access to the park and to the cell towers located in the Michael J. DeSorbo Exchange Park.

**Sponsors:** Grover C. Robinson, IV

**Attachments:** [Map \(with highlights\)](#)  
[Survey](#)

2.     [20-00003](#)     PROJECT TITAN AT PENSACOLA INTERNATIONAL AIRPORT -  
CONSTRUCTION MANAGER AT-RISK SERVICES FOR MRO CAMPUS  
PROJECT

**Recommendation:** That City Council approve the selection of Brasfield & Gorrie, LLC under Request for Qualifications No. 19-022 for the Construction Manager At-Risk services for the MRO Campus Project at the Pensacola International Airport. Further, that City Council authorize the Mayor to execute the contract and take all actions necessary to complete the project.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Construction Manager at Risk Contract](#)  
[Tabulation of Qualifications, RFQ No. 19-022](#)

3.     [20-00029](#)     AIRPORT - AIR METHODS CORPORATION LEASE AGREEMENT

**Recommendation:** That City Council authorize the Mayor to execute the Lease Agreement with Air Methods Corporation to provide for office, hangar, and aircraft ramp space at the Pensacola International Airport for an air ambulance service. Further, that City Council authorize the Mayor to take all actions necessary to execute the Lease Agreement.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Air Methods Corporation Lease Agreement](#)

4.     [20-00027](#)     AIRPORT - EXECUTIVE CAR RENTAL, INC. RENTAL CAR  
CONCESSION AGREEMENT AND REAL PROPERTY LEASE

**Recommendation:** That City Council authorize the Mayor to execute the Rental Car Concession Agreement and Real Property Lease with Executive Car Rental, Inc. Further, that City Council authorize the Mayor to take all actions necessary to execute the Rental Car Concession Agreement and Real Property Lease.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Executive Car Rental Concession Agreement and Real Property Lease](#)



5. [20-00028](#) APPOINTMENTS TO AFFORDABLE HOUSING TASK FORCE

**Recommendation:** That City Council approve the following 13 appointees to the Affordable Housing Task Force:

1. Douglas Brown, Executive Director, Community Action Program Committee, Inc.
2. George Ed Brown, Jr., Vice President, United Bank
3. Rick Byars, Regional Manager, Corporate External Affairs, Gulf Power Company
4. Timothy Evans, Executive Director, Pensacola Habitat for Humanity
5. Frederick Gant, Attorney
6. Laura Gilmore, Branch Manager, Senior Loan Officer, Fairway Independent Mortgage Corporation
7. Percy Goodman, Executive Director, Community Enterprise Investment, Inc.
8. Carolyn Grawi, Executive Director, Center for Independent Living of Northwest Florida, Inc.
9. Shirley Henderson, Deputy Executive Director, Area Housing Commission
10. Patricia Lott, Executive Director, Escambia County Housing Finance Authority
11. John Rickmon, Real Estate Broker
12. Paul Ritz, Architect, Bullock Tice Associates
13. Renee' Wilhoit, Market Sales Leader, Synovus Mortgage Corporation

**Sponsors:** Grover C. Robinson, IV, Jewel Cannada-Wynn

6. [20-00033](#) PORT TARIFF REVISIONS

**Recommendation:** That City Council approve the proposed revisions to Port of Pensacola Tariff No. 5A. Further, that City Council authorize the Mayor take all actions necessary to implement the changes.

**Sponsors:** Grover C. Robinson, IV

**Attachments:** [Proposed Revised Port Tariff No. 5A - markup version](#)

7.     [20-00012](#)     AWARD OF BID #20-001 GABERONNE SWAMP STORMWATER  
PENSACOLA BAY WATERSHED IMPROVEMENTS -LANGLEY AVENUE  
DIVERSION

**Recommendation:** That City Council award Bid #20-001 Gaberonne Swamp Stormwater Pensacola Bay Watershed Improvements Langley Avenue Diversion Project to J Miller Construction, Inc., of Pensacola Florida, the lowest and most responsible bidder with a base bid of \$974,248.76 plus a 10% contingency in the amount of \$97,424.88 for a total amount of \$1,071,673.64. Further that City Council authorize the Mayor to execute the contract and take all actions necessary to complete the project.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Bid Tabulation, Bid No. 20-001](#)  
                          [Final Vendor Reference List, Bid No. 20-001](#)  
                          [Map-Gaberonne Swamp Langley Avenue Diversion Box and Storm Conveya](#)  
                          [FDEP Grant Acceptance 2-13-14](#)

8.     [20-00038](#)     REFERRAL TO PLANNING BOARD - PROPOSED AMENDMENT TO  
SECTION 12-14 (DEFINITIONS) OF THE LAND DEVELOPMENT CODE  
(LDC)

**Recommendation:** That City Council refer to the Planning Board a proposed amendment to Section 12-14 (Definitions) of the Land Development Code (LDC). Specifically, within the definition of "Kennel" including the words, "or unlicensed."

**Sponsors:** Sherri Myers

**Attachments:**     [Sec. 12-14 - Kennel - Proposed amendment](#)

9.     [20-00045](#)     ASSIGNMENT OF COUNCIL MEMBER JOHN JERRALDS TO THE  
TRANSPORTATION PLANNING ORGANIZATION

**Recommendation:** That City Council approve the assignment of Council Member John Jerrals to the Transportation Planning Organization.

**Sponsors:** Jewel Cannada-Wynn

## REVIEW OF REGULAR AGENDA ITEMS (Sponsor)

10.     [20-00006](#)     QUASI-JUDICIAL HEARING - SOUTH PALAFOX BUSINESS DISTRICT - SITE PLAN APPROVAL FOR ADMIRAL'S ROW, LLC, 700-800 BLOCK SOUTH PALAFOX STREET

**Recommendation:** That City Council conduct a quasi-judicial hearing on January 16, 2020 to consider the request for a South Palafox Business District Site Plan Approval for Admirals Row, LLC, 700-800 Block of South Palafox Street.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Admiral's Row LLC Site Plan Application](#)  
                          [Planning Board Minutes November 18, 2019](#)  
                          [Planning Board Memo November 4, 2019](#)

11.     [20-00007](#)     REQUEST FOR LICENSE TO USE RIGHT OF WAY - SOUTH PALAFOX BUSINESS DISTRICT - ADMIRAL'S ROW, LLC, 700-800 BLOCK SOUTH PALAFOX STREET

**Recommendation:** That City Council approve the request for a License to Use Right of Way for improvements in the 700-800 Block of South Palafox Street

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Admiral's Row LLC License to Use Application](#)  
                          [Planning Board Minutes November 18, 2019](#)  
                          [Planning Board Memo November 4, 2019](#)

12.     [37-19](#)         PROPOSED ORDINANCE NO. 37-19 - REQUEST FOR VOLUNTARY ANNEXATION - BAPTIST HOSPITAL OWNED PROPERTIES

**Recommendation:** That City Council adopt Proposed Ordinance No. 37-19 on second reading.

AN ORDINANCE INCORPORATING AND ANNEXING A CERTAIN AREA CONTIGUOUS AND ADJACENT TO THE CITY OF PENSACOLA INTO THE CITY OF PENSACOLA, AND DECLARING SAID AREA TO BE A PART OF THE CITY OF PENSACOLA; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Proposed Ordinance No. 37-19\\_Rev 1\\_CC](#)  
                          [Map of Annexation Area - Baptist Hospital Properties and Adjacent Propert](#)  
                          [Property Appraiser Map and Draft Survey of Annexation Area - Baptist Hos](#)

13.     [20-00019](#)     PUBLIC HEARING: ZONING MAP AND FUTURE LAND USE MAP  
AMENDMENT - BAPTIST ANNEXATION AREA

**Recommendation:** That City Council conduct a Public Hearing on January 16, 2020 to amend the Zoning Map and Future Land Use Map for recently annexed properties owned by Baptist Hospital.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Planning Board Minutes December 10, 2019 DRAFT](#)  
                          [Future Land Use Map December 2019](#)  
                          [Zoning Map December 2019](#)

14.     [03-20](#)     PROPOSED ORDINANCE NO. 03-20 - FUTURE LAND USE MAP  
AMENDMENT - RECENTLY ANNEXED PROPERTIES - BAPTIST  
ANNEXATION AREA

**Recommendation:** That City Council approve Proposed Ordinance No. 03-20 on first reading:

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

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Proposed Ordinance No. 03-20](#)  
                          [Future Land Use Map December 2019](#)  
                          [Planning Board Minutes December 10, 2019 DRAFT](#)

15.     [04-20](#)           PROPOSED ORDINANCE NO. 04-20 - ZONING MAP AMENDMENT-  
RECENTLY ANNEXED PROPERTIES - BAPTIST ANNEXATION AREA

**Recommendation:** That City Council approve Proposed Ordinance No. 04-20 on first reading:

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

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Proposed Ordinance No. 04-20](#)  
                          [Zoning Map December 2019](#)  
                          [Planning Board Minutes December 10, 2019 DRAFT](#)

16.     [20-00022](#)          PUBLIC HEARING: REQUEST TO VACATE RIGHT OF WAY - BAPTIST  
ANNEXATION AREA

**Recommendation:** That City Council conduct a Public Hearing on January 16, 2020 to consider the request to vacate certain rights of way located within the Baptist Annexation Area.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Proposed Ordinance No. 05-20](#)  
                          [Vacation of Right of Way Application](#)  
                          [Planning Board Minutes December 10, 2019 DRAFT](#)

17.     [05-20](#)            PROPOSED ORDINANCE NO. 05-20 - VACATION OF RIGHT OF WAY -  
BAPTIST ANNEXATION AREA

**Recommendation:** That City Council approve Proposed Ordinance No. 05-20 on first reading.

AN ORDINANCE VACATING THE RIGHT OF WAY OF A CERTAIN AREA CONTIGUOUS AND ADJACENT TO THE CITY OF PENSACOLA , AND DECLARING SAID AREA TO BE IN A FULL WIDTH EASEMENT TO THE CITY OF PENSACOLA; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Proposed Ordinance No. 05-20](#)  
                          [Vacation of Right of Way Application](#)  
                          [Planning Board Minutes December 10, 2019 DRAFT](#)

18.     [20-00024](#)     PUBLIC HEARING: PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - CITY CODE SECTION 12-2-25 (B) COMMUNITY REDEVELOPMENT AGENCY URBAN OVERLAY DISTRICT BOUNDARY

**Recommendation:** That City Council conduct a Public Hearing on January 16, 2020 to consider a proposed amendment to the Land Development Code, redefining the boundary of the Community Redevelopment Agency (CRA) Urban Overlay District.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Proposed Ordinance No. 06-20](#)  
                          [CRA Overlay Boundary Map - Revised](#)  
                          [Parcel Map Dated December 23, 2019](#)  
                          [Planning Board Minutes December 10, 2019 DRAFT](#)

19.     [06-20](#)         PROPOSED ORDINANCE NO. 06-20 - PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - CITY CODE SECTION 12-2-25 (B) COMMUNITY REDEVELOPMENT AGENCY URBAN OVERLAY DISTRICT BOUNDARY

**Recommendation:** That City Council approve Proposed Ordinance No. 06-20 on first reading.

AN ORDINANCE AMENDING SECTION 12-2-25 (B) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY DISTRICT BOUNDARIES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Proposed Ordinance No. 06-20](#)  
                          [CRA Overlay Boundary Map - Revised](#)  
                          [Parcel Map Dated December 23, 2019](#)  
                          [Planning Board Minutes December 10, 2019 DRAFT](#)

20.     [20-00032](#)     CITY COUNCIL CONSENT TO THE MAYOR'S APPOINTMENT OF AMY LOVOY AS FINANCE DIRECTOR

**Recommendation:** That City Council consent to the Mayor's appointment of Amy Lovoy as Finance Director in accordance with City Charter Section 4.01(a)(7).

**Sponsors:** Grover C. Robinson, IV

**Attachments:**     [Lovoy Resume](#)

21.     [2020-01](#)     SUPPLEMENTAL BUDGET RESOLUTION NO. 2020-01 - LAW ENFORCEMENT TRUST FUND (LETF) PURCHASES FOR THE PENSACOLA POLICE DEPARTMENT

*Recommendation:* That the City Council adopt Supplemental Budget Resolution No. 2020-01.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

*Sponsors:* Grover C. Robinson, IV

*Attachments:*     [Supplemental Budget Resolution No. 2020-01](#)  
                          [Supplemental Budget Explanation No. 2020-01](#)  
                          [Letter of Certification](#)

22.     [20-00026](#)     PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT #422354-3-94-02 - SEAPORT SECURITY GRANT

*Recommendation:* That City Council authorize the Mayor to accept the State of Florida, Florida Seaport Transportation Economic Development (FSTED) Grant #422354-3-94-02 in the amount of \$46,703 comprised of \$35,027 in FSTED funds and \$11,676 in Port of Pensacola matching funds. Further, that City Council authorize the mayor to take all actions necessary for the acceptance of the grant. Finally, that City Council approve a supplemental budget resolution appropriating the grant funds.

*Sponsors:* Grover C. Robinson, IV

*Attachments:*     [Public Transportation Joint Participaton Agreement](#)  
                          [Supplemental Budget Resolution No. 2020-02](#)  
                          [Supplemental Budget Explanation No. 2020-02](#)

23.     [2020-02](#)     SUPPLEMENTAL BUDGET RESOLUTION NO. 2020-02 - PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT #422354-3-94-02 - SEAPORT SECURITY GRANT

*Recommendation:* That City Council adopt Supplemental Budget Resolution No. 2020-02.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

*Sponsors:* Grover C. Robinson, IV

*Attachments:*     [Supplemental Budget Resolution No. 2020-02](#)  
                          [Supplemental Budget Explanation No. 2020-02](#)

24.     [20-00041](#)     WORKSHOP PERTAINING TO THE WEST CERVANTES STREET ROAD DIET BEING PLACED ON THE TRANSPORTATION PLANNING ORGANIZATION (TPO) LONG-TERM PLAN.

*Recommendation:* That City Council conduct a workshop on Monday, February 3, 2020 at 4:00 p.m. to discuss Phase II of the West Cervantes Street project, the Road Diet.

*Sponsors:* Ann Hill

25.     [01-20](#)     PROPOSED ORDINANCE NO. 01-20 AMENDING SECTION 3-3-11 (4) OF THE CODE OF THE CITY EXTENDING THE SUNSET DATE OF THE MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE PROGRAM TO MARCH 1, 2025.

*Recommendation:* That City Council approve Proposed Ordinance No. 01-20 on first reading.

AN ORDINANCE AMENDING SECTION 3-3-11 (4) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA EXTENDING THE SUNSET DATE OF THE MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE PURCHASING PROGRAM BY MARCH 1, 2020 TO MARCH 1, 2025; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

*Sponsors:* Grover C. Robinson, IV

*Attachments:*     [Proposed Ordinance 01-20](#)  
                          [Fiscal Year 2019 M/WBE Year End Report](#)  
                          [List of Certified M/WBE Businesses](#)  
                          [2020 Supplier Diversity Exchange Flyer](#)



**FOR DISCUSSION**

26.     [20-00037](#)     TRANSPORTATION ALTERNATIVES SET-ASIDE APPLICATION - FLORIDA-ALABAMA TRANSPORTATION PLANNING ORGANIZATION (TPO)
- Sponsors:*         Sherri Myers
27.     [20-00039](#)     DISCUSSION OF THE CITY’S UNSAFE AND SUBSTANDARD HOUSING CODES AND THE POSSIBLE INCORPORATION OF ESCAMBIA COUNTY’S UNSAFE BUILDING ABATEMENT CODE.
- Sponsors:*         Sherri Myers
- Attachments:*     [ARTICLE VI. - UNSAFE BUILDING ABATEMENT - Escambia County](#)
28.     [20-00042](#)     REPEAL OF SOME OF THE CITY’S ANIMAL WELFARE CODES, WITH INCORPORATION OF RELEVANT ESCAMBIA COUNTY ANIMAL CONTROL AND WELFARE CODES.
- Sponsors:*         Sherri Myers

**CONSIDERATION OF ANY ADD-ON ITEMS****READING OF ITEMS FOR COUNCIL AGENDA****COMMUNICATIONS**

City Administrator's Communication

City Attorney's Communication

Monthly Financial Report - Chief Financial Officer Richard Barker, Jr.

29.     [20-00004](#)     MONTHLY FINANCIAL REPORT - CHIEF FINANCIAL OFFICER RICHARD BARKER, JR.
- Sponsors:*         Grover C. Robinson, IV

City Council Communication

**ADJOURNMENT**

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

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



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00002

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

CITY OF PENSACOLA/ST. PAUL CATHOLIC CHURCH AGREEMENT - REAL PROPERTY EXCHANGE AT EXCHANGE PARK

**RECOMMENDATION:**

That City Council declare a small, defined portion of the Michael J. DeSorbo Exchange Park as surplus and authorize the Mayor to execute a deed and all other necessary documents to transfer ownership of the property for the benefit of St. Paul Catholic Church for stormwater construction purposes in exchange for the execution and recording of a reasonable access easement from the Church to the City across Church property to allow City and City lessee access to the park and to the cell towers located in the Michael J. DeSorbo Exchange Park.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The City has been negotiating with St. Paul Catholic Church, a parish of the Diocese of Pensacola-Tallahassee, and the Crown Castle Corporation, owner of T-Mobile, which has a large cell tower in the Michael J. DeSorbo Exchange Park. The agreement being finalized is for the City to deed to the Church a defined piece of property (Area A on Map) for its use as a stormwater holding pond, and the Church will grant the City reasonable access easement (Area B) across a portion of its property to facilitate servicing the Michael J. DeSorbo Exchange Park and the three towers located near the Church property.

The property known as the Michael J. DeSorbo Exchange Park is owned by the City and has two ground space tenants: Escambia County and T-Mobile (facilities managed by Crown Castle). Escambia County Emergency Management has a communications tower and equipment shelter. T-Mobile has a concrete monopole, fenced compound, and radio equipment cabinets. AT&T has a communication shelter and is subletting ground space from T-Mobile. In the center of the park is an FAA Non-Directional Beacon (NDB) tower supporting the Pensacola International Airport.

The City has agreements for tower and ground space with two tenants as follows:

**Escambia County** - The tower was constructed by ConTel in 1993 under an agreement with the City and County in which ownership of the tower conveyed to the County on commencement of the tower. ConTel would have non-exclusive use of the tower site, free of costs or fees, for a period of 25 years. After 25 years, ConTel is eligible for one 10-year extension term. ConTel Corporation has since conveyed the communications tower and shelter to the County.

**T-Mobile** - On June 28, 2000, an agreement was approved between the City and T-Mobile's predecessor cell phone provider for the construction of a cell tower in the Michael J. DeSorbo Exchange Park. The tower is now managed by Crown Castle under lease with the City and the City is obligated to provide the company with reasonable access to the tower for improvement and maintenance purposes. Crown Castle provides compensation to the City for this privilege. In order to maximize the available park land for City sports purposes, the most efficient access to the tower is across a portion of the Church parking lot, and the church is agreeable to a recorded easement granting such access to the City in exchange for a comparable portion of the park which the Church needs to construct a stormwater pond.

**PRIOR ACTION:**

July 8, 1993 - City Council authorized an agreement with ConTel Cellular and Escambia County, Florida to lease space on a communications tower at Exchange Park.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

1/6/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator - Community Development  
Brian Cooper, Parks and Recreation Director

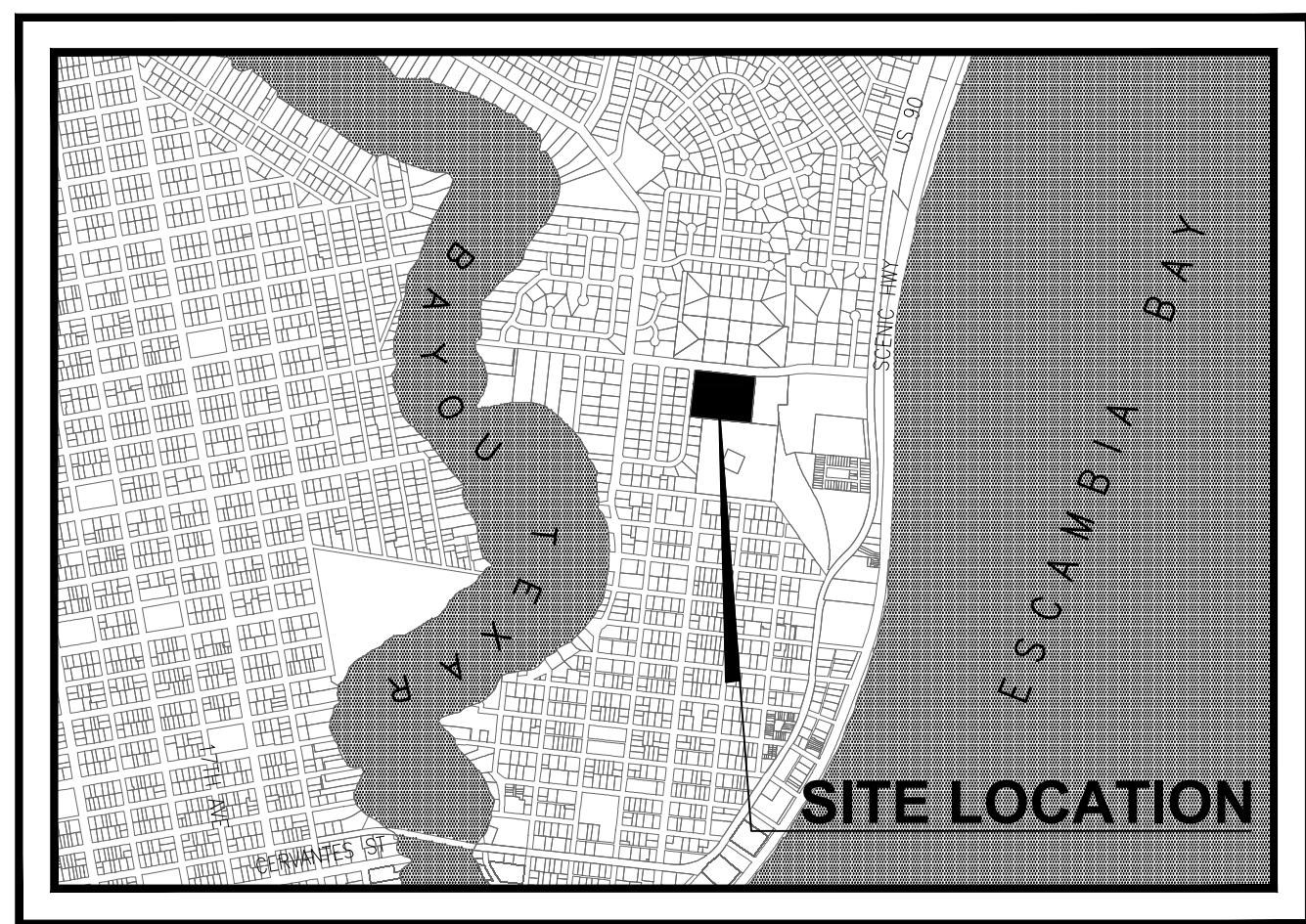
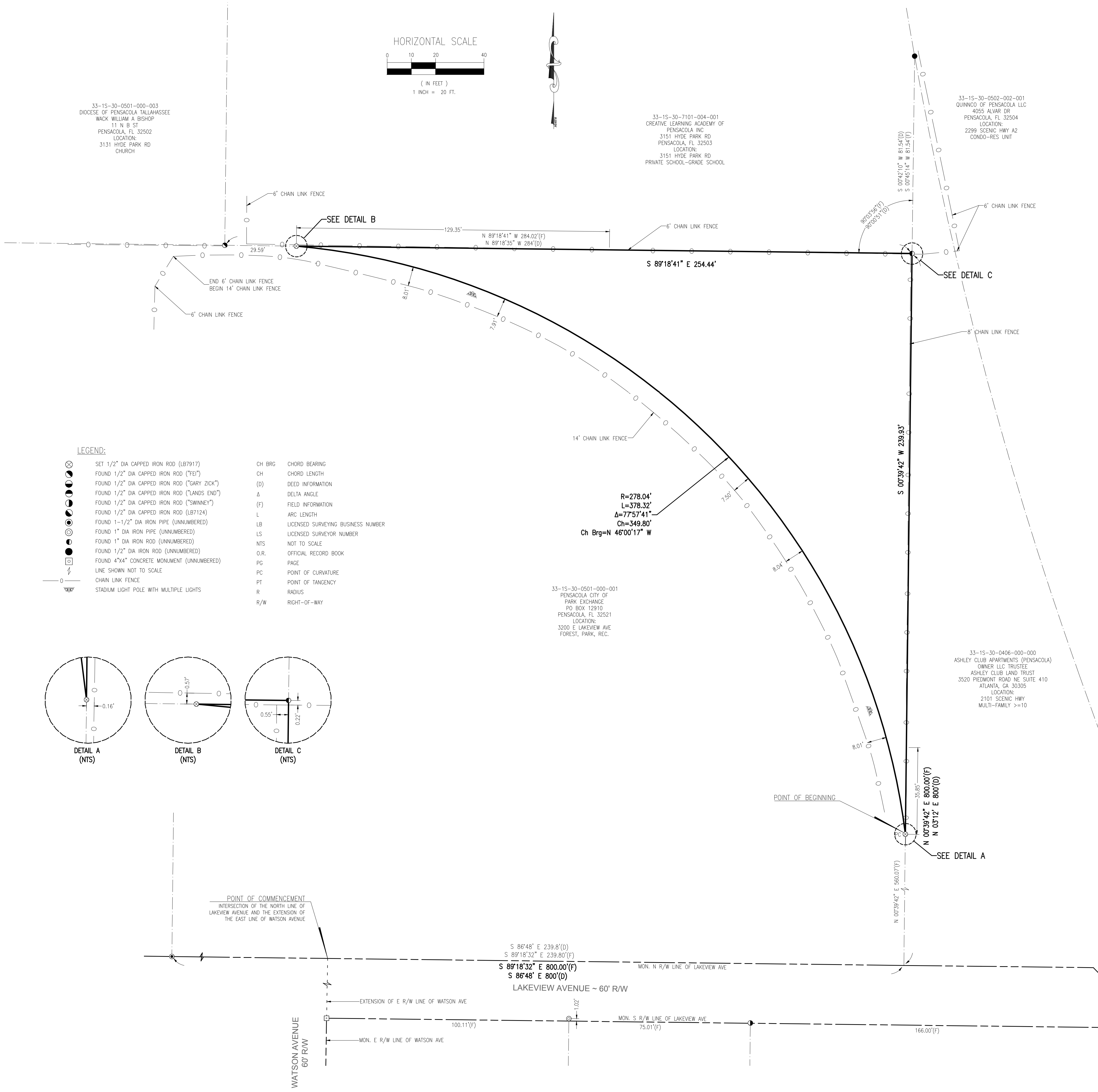
**ATTACHMENTS:**

- 1) Map (with highlights)
- 2) Survey

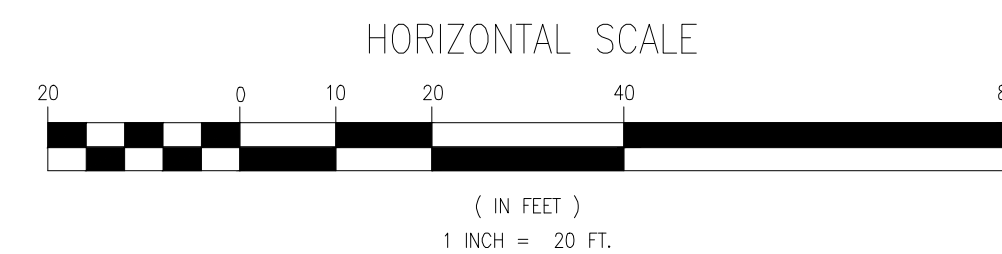
**PRESENTATION:** No







VICINITY MAP  
1" = 2000'



DESCRIPTION: (AS PREPARED BY MCKIM & CREED, INC.)

COMMENCE AT THE INTERSECTION OF THE NORTHERLY RIGHT-OF-WAY (R/W) LINE OF LAKEVIEW AVENUE (60' R/W) AND THE EXTENSION OF THE EASTERLY R/W LINE OF WATSON AVENUE (60' R/W), SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE PARCEL RECORDED AT OFFICIAL RECORDS BOOK 543, PAGE 296, OF THE OFFICIAL RECORDS OF ESCAMBIA COUNTY, FLORIDA; THENCE PROCEED SOUTH 89 DEGREES 18 MINUTES 32 SECONDS EAST ALONG SAID NORTHERLY R/W LINE FOR A DISTANCE OF 239.80 FEET TO THE SOUTHEASTERLY CORNER OF SAID PARCEL; THENCE DEPARTING SAID R/W LINE PROCEED NORTH 00 DEGREES 39 MINUTES 42 SECONDS EAST ALONG THE EASTERLY LINE OF SAID PARCEL FOR A DISTANCE OF 560.07 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE TO THE SOUTHEAST HAVING A RADIUS OF 280.07 FEET; THENCE PROCEED NORTHWESTERLY ALONG 1/4 ARC OF SAID CURVE FOR A DISTANCE OF 378.32 FEET (DELTA=77 DEGREES 57 MINUTES 41 SECONDS, CHORD LENGTH= 349.80 FEET, CHORD BEARING= NORTH 46 DEGREES 00 MINUTES 17 SECONDS WEST) TO THE POINT OF TANGENCY ON THE NORTHERLY LINE OF SAID PARCEL; THENCE PROCEED SOUTH 89 DEGREES 18 MINUTES 41 SECONDS EAST ALONG SAID NORTHERLY LINE FOR A DISTANCE OF 254.44 FEET TO A 1" IRON ROD (UNNUMBERED) AND THE NORTHEASTERLY CORNER OF SAID PARCEL; THENCE DEPARTING SAID NORTH LINE PROCEED SOUTH 00 DEGREES 39 MINUTES 42 SECONDS WEST ALONG AFORESAID EAST LINE FOR A DISTANCE OF 239.93 FEET TO THE POINT OF BEGINNING, SAID PARCEL LYING AND BEING IN SECTION 5, TOWNSHIP 2 SOUTH, RANGE 29 WEST, ESCAMBIA COUNTY, FLORIDA AND CONTAINING 0.36 ACRES, MORE OR LESS.

GENERAL NOTES:

1. NORTH AND THE SURVEY DATUM SHOWN HEREON IS REFERENCED TO AN ASSUMED BEARING OF N 89°59'56" W ALONG THE EASTERLY RIGHT OF WAY LINE OF CONWAY DRIVE AS SHOWN ON A PREVIOUS SURVEY OF ST. PAUL CATHOLIC CHURCH BY THIS FIRM; A COPY OF A PREVIOUS SURVEY BY FABRE ENGINEERING; A PREVIOUS SURVEY BY THIS FIRM; DEEDS OF RECORD, AND EXISTING FIELD MONUMENTATION.
2. ELEVATIONS AS SHOWN HEREON ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) AND ARE REFERENCED TO THE FLORIDA DEPARTMENT OF TRANSPORTATION (FDOT) VERTICAL CONTROL NETWORK BENCH MARK NUMBER 48-02-0101, HAVING A PUBLISHED ELEVATION OF 54.02 FEET.
3. MEASUREMENTS AS SHOWN HEREON WERE MADE TO UNITED STATES STANDARDS AND ARE EXPRESSED IN DECIMAL OF FEET.
4. VISIBLE UTILITIES WITHIN THE SURVEY LIMITS ARE AS SHOWN HEREON.
5. THE STRUCTURE DIMENSIONS DO NOT INCLUDE THE EAVE OVERHANG OR FOUNDATION FOOTINGS.
6. VISIBLE IMPROVEMENTS ARE AS SHOWN HEREON.
7. IT IS THE OPINION OF THE UNDERSIGNED SURVEYOR & MAPPER THAT THE PARCEL OF LAND SHOWN HEREON IS IN ZONE "X", AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, BASED ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR ESCAMBIA COUNTY, FLORIDA, COMMUNITY PANEL NUMBER 12033C03836, EFFECTIVE DATE OF SEPTEMBER 29, 2006.
8. GRAPHIC SYMBOLISM FOR FEATURES SUCH AS MONUMENTATION, FENCES, TREES, TREE LINES, UTILITIES ETCETERA MAY BE EXAGGERATED IN SIZE FOR CLARITY PURPOSES. DIMENSIONS TO EXAGGERATED FEATURES WILL SUPERSEDE SCALED MEASUREMENTS.
9. NO TITLE SEARCH WAS PERFORMED BY NOR PROVIDED TO THIS FIRM FOR THE SUBJECT PROPERTY. THERE MAY BE DEEDS OF RECORD, UNRECORDED DEEDS, EASEMENTS, RIGHTS-OF-WAY, BUILDING SETBACKS, RESTRICTIVE COVENANTS OR OTHER INSTRUMENTS WHICH COULD AFFECT THE BOUNDARIES OR USE OF THE SUBJECT PROPERTY.
10. THIS SURVEY DOES NOT REPRESENT NOR GUARANTEE OWNERSHIP.
11. THE SURVEYING BUSINESS CERTIFICATE OF AUTHORIZATION NUMBER FOR JEHL-HALSTEAD, INC. IS LB7483.
12. THIS TOPOGRAPHIC SURVEY IS NOT A BOUNDARY SURVEY.

NOTE: UNLESS STATED OTHERWISE, NO TITLE SEARCH HAS BEEN FURNISHED NOR PERFORMED BY THE UNDERSIGNED TO DETERMINE ANY DEFECTS AND/OR AMBIGUITIES IN TITLE. THIS SURVEY DOES NOT REFLECT OR DETERMINE OWNERSHIP, UNDERGROUND FOOTINGS OF BUILDINGS AND THE EAVE OVERHANGS THEREOF. VERE NOT LOCATED- UNLESS IT BEARS THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID.

**MCKIM & CREED**  
ENGINEERS SURVEYORS PLANNERS  
1206 North Pelotax Street - Pensacola, Florida 32501  
(850) 994-9603  
www.mckimcreed.com  
Certified Surveying License Number: LB7917

BOUNDARY SURVEY  
ST. PAUL CATHOLIC CHURCH  
STORMWATER POND  
3131 HYDE PARK ROAD  
PENSACOLA, FLORIDA 32502  
SECTION 5 TOWNSHIP 18 RANGE 30W  
ESCAMBIA COUNTY, FLORIDA

SURVEYORS CERTIFICATE  
I, THE UNDERSIGNED, IN HEREON, TO BE CORRECT AND  
COMPLIES WITH THE MINIMUM TECHNICAL STANDARDS FOR  
SURVEYING PER CHAPTER SJ-17.050, SJ-17.051 AND SJ-17.052,  
FLORIDA STATUTES, AND I AM A LICENSED SURVEYOR AND MAPPER  
BEARING PROFESSIONAL SURVEYOR'S AND MAPPER'S LICENSES  
SECTION 472.027 FLORIDA STATUTES.

STEPHEN GARY BUTAN  
PROFESSIONAL LAND SURVEYOR, LICENSE NO. 4208

DATE

Revisions	
Date	Description

Valid only with embossed seal

Designed By: \_\_\_\_\_

Drawn By: JDC

Checked By: SGR

Job No.: 180005

Date: 1/31/2019

Scale: 1" = 20'

FIELD DATE: 1/30/19  
CREW: R6/DD/JC  
CREW: \_\_\_\_\_  
FB R614 PG 1  
FB R615 PG 7



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00003

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PROJECT TITAN AT PENSACOLA INTERNATIONAL AIRPORT - CONSTRUCTION MANAGER AT-RISK SERVICES FOR MRO CAMPUS PROJECT

**RECOMMENDATION:**

That City Council approve the selection of Brasfield & Gorrie, LLC under Request for Qualifications No. 19-022 for the Construction Manager At-Risk services for the MRO Campus Project at the Pensacola International Airport. Further, that City Council authorize the Mayor to execute the contract and take all actions necessary to complete the project.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The development of Project Titan, which is the MRO campus expansion project at the Pensacola International Airport, will require the services of a Construction Manager At-Risk. During the design phase of each element, the Construction Manager At-Risk will review the plans being developed by the architects/engineers in order to provide cost estimates, initial construction schedules, value engineering services, and ultimately a guaranteed maximum price for the work itself. During actual construction, the firm will be the single point of responsibility for the construction activity.

In May 2019, Staff issued Request for Qualifications No. 19-022 for the necessary services. Seven responses were received. A selection committee made up of Mr. Al Coby, former Pensacola City Manager, Mr. Ted Ent, President and CEO of Innisfree Hotels, and Mr. Ed Carson with Carson Lovell Inc. and Carson Construction reviewed all responses. The review committee met in a public setting on July 26, 2019 to discuss each response, rank the respondents, and shortlist firms for oral presentations. At the conclusion of their discussions, the review committee requested that the top four firms consisting of Brasfield & Gorrie, LLC (partnering with Greenhut Construction Company, Inc.), The Haskell Company (partnering with Hewes & Company, LLC), Hensel Phelps, and Caddell Construction Company, LLC (partnering with Whitesell-Green, Inc.) make oral presentations to the committee.

Oral presentations were given on August 20, 2019. At the conclusion of the presentations, the review

committee met in a public setting to discuss each presentation and determined Brasfield & Gorrie, LLC (partnering with Greenhut Construction Company, Inc.) to be the top ranked firm.

Airport Staff and a team of outside consultants have negotiated a proposed contract with Brassfield & Gorrie, LLC for the development of the first additional hangar of the MRO campus expansion project. The contract covers the services to be provided during both the pre-construction phase and construction phase of the hangar and outlines the fees for the Construction Manager At-Risk's pre-construction services. At the end of design development, the Construction Manager At-Risk will provide the City with a guaranteed maximum price for the construction of the hangar itself. An amendment to the contract will be made at that time to incorporate the costs for construction.

#### **PRIOR ACTION:**

June 13, 2013 - City Council adopted a resolution to support the acceptance of a grant offered by the Florida Department of Transportation as a Joint Participation Agreement # 43360229401 in the amount of \$11,090,000 for air commerce park phases I and IA - Infrastructure Development.

February 13, 2014 - City Council Discussion Item and Presentation on the ST Aerospace Economic Development Project at the Pensacola International Airport.

February 27, 2014 - City Council approved the Interlocal Agreement with Escambia County and the City of Pensacola for Funding of Economic Development Project - ST Aerospace of Mobile, Inc.

September 9, 2014 - City Council approved the lease with VT Mobile Aerospace Engineering.

July 16, 2015 - City Council approved the selection of Greenhut Construction and authorized the Mayor to execute the contract.

September 17, 2015 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571729401 in the amount of \$1,531,546 for construction funding to expand the cargo apron and construct a taxiway connector at the Pensacola International Airport of which \$1,121,242 will be used towards taxiway connecting future VT MAE facility to runway 17-35.

March 17, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreements # 42030029401, # 42960929401, and # 42960939401 in the amount of \$2,975,305 for construction of a taxiway connector at the Pensacola International Airport.

April 14, 2016 - City Council authorized the Mayor to execute acceptance of the Florida Department of Transportation Joint Participation Agreement # 43571769401 in the amount of \$8,599,600 for construction of a hangar at the Pensacola International Airport.

September 22, 2016 - City Council authorized the Mayor to execute Amendment No. 1 to the lease the VT Mobile Aerospace Engineering.



September 22, 2016 - City Council authorized the Mayor to execute Amendment No. 1 to the contract with Atkins North America.

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September 22, 2016 - City Council authorized the Mayor to execute Amendment No. 1 to the lease the VT Mobile Aerospace Engineering.

September 22, 2016 - City Council authorized the Mayor to execute Amendment No. 1 to the contract with Atkins North America.

February 8, 2017 - City Council authorized the Mayor to execute Amendment No. 2 and Amendment No. 3 to the contract with Atkins North America.

March 8, 2018 - City Council authorized the Mayor to execute acceptance of the State of Florida Department of Economic Opportunity Grant Agreement G0009 in the amount of \$4,000,000 for construction of infrastructure related to MRO expansion.

September 13, 2018 - City Council authorized the Mayor to accept and execute the State of Florida Department of Transportation Public Transportation Grant Agreement Financial Project 441494-2-94-01 in the amount of \$3,000,000 for Pensacola International Airport Facilities Development related to MRO expansion.

September 13, 2018 - City Council committed funding in the amount of \$10 million from Local Option Sales Tax Series IV in support of the aerospace maintenance repair and overhaul (MRO) campus expansion.

February 6, 2019 - City Council approved the amended Interlocal Agreement between the Escambia County Board of County Commissioners and the City of Pensacola related to additional funding requirements for the aerospace maintenance, repair and overhaul (MRO) campus expansion at the Pensacola International Airport, and approved additional Local Option Sales Tax IV funding of \$5 million for the City's share of the aerospace maintenance, repair and overhaul (MRO) campus expansion at the Pensacola International Airport.

March 28, 2019 - City Council authorized the Mayor to accept and execute the Project Development Agreement, the Master Lease of Real Property, and the Triumph Grant Award Agreement.

August 8, 2019 - City Council authorized the Mayor to accept and execute Financial Award No. 04-79-07378 from the U.S. Department of Commerce, Economic Development Administration in the amount of \$12,250,000 for the MRO expansion, and authorized the Mayor to accept and execute State of Florida Dept. of Transportation Amendment to the grant agreement for Financial Project 441494-2-94-01 in the amount of \$8,000,000 for the MRO expansion.

#### **FUNDING:**

Budget:	\$ 35,000,000	ST Aerospace Engineering
	3,000,000	State Legislature
	14,000,000	Governor's Job Growth
	45,000,000	FDOT Grant
	15,000,000	Escambia County
	15,000,000	City Local Option Sales Tax Series IV
	12,250,000	Federal - U.S. Economic Development Administration
	66,000,000	Triumph Gulf Coast
	<u>4,875,000</u>	Anticipated Additional Funding (City Responsibility)
	<u>\$ 210,125,000</u>	

Actual: \$ 210,125,000 Estimated

#### **FINANCIAL IMPACT:**

The negotiated fee for the Construction Manager's pre-construction phase services will be a not-to-exceed amount of \$232,000, which will come from the overall project funds. The future guaranteed-maximum price will provide a guaranteed maximum price for the construction phase and will be

incorporated into the contract by amendment.

**CITY ATTORNEY REVIEW:** Yes

12/24/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator

Richard Barker, Jr., Deputy City Administrator - Administration & Enterprise

Daniel Flynn, Airport Director

**ATTACHMENTS:**

- 1) Construction Manager At Risk Contract
- 2) Tabulation of Qualifications, RFQ No. 19-022

**PRESENTATION:** No



**CONSTRUCTION MANAGER AT RISK CONTRACT**

**BETWEEN**

**CITY OF PENSACOLA  
(Owner)**

**AND**

**BRASFIELD & GORRIE, L.L.C.  
(Construction Manager at Risk)**

**PROJECT:**

**VT MOBILE AEROSPACE ENGINEERING, INC.  
PROJECT TITAN MRO FACILITIES  
AT PENSACOLA INTERNATIONAL AIRPORT**

**THIS CONTRACT** is made and entered into this \_\_\_\_\_ day of January, 2020 by and between **CITY OF PENSACOLA**, a Florida municipal corporation, hereinafter designated the "Owner" and **BRASFIELD & GORRIE, L.L.C., a Delaware limited liability company**, hereinafter designated the "Construction Manager".

### **RECITALS**

- A. The Mayor of the City of Pensacola is authorized and empowered to execute this Contract.
- B. Owner intends to construct certain aircraft maintenance, repair and overhaul facilities at Pensacola International Airport (the "Airport") to be leased to and occupied by VT Mobile Aerospace Engineering, Inc. ("Tenant"), such facilities to include without limitation three maintenance, repair and overhaul ("MRO") hangar facilities, support services centers, administrative office building, drives, parking lots, taxiways and aprons, being the "Project" as defined below.
- C. Owner has entered into a contract with Atkins North America, Inc., a Florida corporation, hereinafter referred to as the "Design Professional", to design the Project.
- D. Owner has entered into a contract with Mott MacDonald Florida, LLC, a Florida limited liability company, hereinafter referred to as the "Construction Administrator", to perform construction administration services for the Project.
- E. The Construction Manager has represented to Owner its ability to provide design phase services and to construct the Project.
- F. Based on this representation, Owner desires to enter into this Contract with the Construction Manager for the design and construction phase services identified in this Contract.

### **AGREEMENT**

NOW THEREFORE, for and in consideration of the mutual covenants and considerations hereinafter contained, it is agreed by and between Owner and the Construction Manager as follows:

### **ARTICLE 1 -TERMS AND DEFINITIONS**

- 1.1 As used in this Contract and the other Contract Documents, the following terms shall have the indicated meanings, unless another definition is clearly required or expressly provided elsewhere in a Contract Document:

Addenda - Written or graphic instruments issued by Owner prior to the submittal of the GMP Proposal, which clarify, correct or change the GMP Proposal requirements.

Airport - Pensacola International Airport in Pensacola, Florida, as it presently exists as it may be modified in the future.

Change Directive – A written order directing a change in the Work and proposing a change to the Contract Price and/or Contract Time.

Change Order or Amendment - A written instrument issued after execution of the Contract Documents signed by Owner and Construction Manager, stating their agreement upon (1) all of the following: the addition to, deletion of, or revision in the Work, the scope of the Construction Manager's services under the Contract Documents, or the Deliverables; the amount, if any, of the adjustment to the Contract Price; and the extent, if any, of the adjustment to the Contract Time; or (2) modifications of other terms of the Contract Documents.

City – The City of Pensacola, a Florida municipal corporation.

Construction Administrator - The professional organization with which Owner will contract to provide construction administration services for the Project.

Construction Documents – The plans, specifications and drawings prepared by the Design Professional, including without limitation the Plans, the Specifications, and the Project Manual, after correcting for permit review requirements.

Construction Manager - The Construction Manager at Risk for the Project, being the construction management firm of Brasfield & Gorrie, L.L.C., which is a party to this Contract.

Construction Manager's Contingency - A fund to cover cost growth during the Project, the amount of which for Element 1 will be one and three quarters percent (1.75%) of the Cost of the Work. Use and management of the Construction Manager's Contingency is controlled by Section 2.7.

Construction Manager's Fee – The Construction Manager's administrative costs, overhead and profit, whether at the Construction Manager's principal or branch offices. The Construction Manager's Fee for Element 1 will be four and one quarter percent (4.25%) of the sum of the Cost of the Work and the Construction Manager's Contingency.

Construction Manager's Representative – The employee of Construction Manager designated in writing by Construction Manager as its representative for purposes of the Contract. Unless changed by a written document delivered to Owner's Representative, the Construction Manager's Representative shall be Michael Tortorici.

Construction Schedule – The schedule for construction of the Project, prepared and maintained by Construction Manager in accordance with this Contract, using the Critical Path Method, indicating the sequence of all activities required for the prosecution and

completion of construction of the Project, the interdependence of each activity, and the Critical Path.

Contract - This written agreement signed by Owner and Construction Manager, together with all future Change Orders and Amendments hereto.

Contract Documents – The Construction Documents, Project Manual including Plans and Specifications, any Addenda to the Project Manual, this Contract, Addenda, Change Orders, Amendments, the Performance Bond, the Payment Bond, and the Notice(s) to Proceed, are the documents which are collectively referred to as the Contract Documents.

Contract Price: - The lesser of the sum of the items listed in Section 10.1 or the amount established as the Guaranteed Maximum Price (GMP), as may be amended by Change Order.

Contract Time - The time between the date of the Notice to Proceed for commencement of construction and the date for substantial completion, including any milestone dates thereof, established in this Contract, as may be amended by Change Order.

Controlling Work Items or Critical Activities – The activity or work item on the Critical Path having the least amount of total Float. The controlling item of work may also be referred to as a Critical Activity.

Cost of the Work - The direct costs necessarily incurred by the Construction Manager in the proper performance of the Work or any specified portion of the Work. The Cost of the Work shall include without limitation direct labor costs, subcontract costs, costs of materials and equipment incorporated in the completed construction, costs of other materials and equipment, temporary facilities, building permit fees (if not paid for by City), materials testing, and related items. The Cost of the Work shall not include the Construction Manager's Fee, Construction Manager's Contingency, General Conditions Cost, or Taxes. "Cost of the Work" is further defined in Section 10.3 and the matrix attached hereto as Exhibit "E".

Critical Path - The sequence of activities from the start of the Work to the Substantial Completion of the Work, being the longest continuous path of work activities.

Day - Calendar day unless otherwise specifically stated in the Contract Documents.

Deliverables - The work products prepared and provided by the Construction Manager in performing the scope of Work described in this Contract. Some of the major deliverables to be prepared and provided by the Construction Manager during the design phase may include but are not limited to: Construction Management Plan, Constructability Review, Construction Schedule, Schedule of Values, Value Analysis, alternative system evaluations, procurement strategies and plans, cost estimates, construction

market surveys, cash flow projections, GMP Proposals, Subcontractor procurement plan, Statement of Proposed MBE, DBE, and SBE Utilization, Subcontractor agreements, Subcontractor bid packages, Supplier agreements, and others as indicated in this Contract or required by the Project Team. Certain deliverables required from the Construction Manager, such as schedules and others may, in addition to being listed in this Contract, be included in the contract with Design Professional. The Construction Manager hereby acknowledges receipt of such Design Professional contract, and agrees that the Construction Manager shall comply with all pertinent provisions listed in Design Professional contract.

Design Professional - The professional organization with which Owner will contract to provide design services for the Project.

Element 1: The MRO hangar facility (sometimes referred to as Hangar 2) and related taxiways, aprons, driveways, and parking lots, as generally described in Exhibit "A" hereto, to be constructed in the northeast quadrant of the Airport airfield adjacent to the existing MRO hangar (sometimes referred to as Hangar 1) pursuant to the Contract Documents. Unless the parties hereafter enter into Change Orders and/or Amendments to the contrary, the Project and the Work shall consist of only Element 1.

Element 2: Two MRO hangar facilities, which may or may not be attached to each other (sometimes referred to as Hangars 3 and 4, a support services center, which may or may not be attached to one or both of Hangars 3 and 4)), an administrative office building, and related taxiways, aprons, driveways, and parking lots, as generally described in Exhibit "A" hereto, which may be constructed in the northwest quadrant of the Airport airfield. Owner and Construction Manager may at any time and from time to time enter into Change Orders and/or Amendments to add the construction of all or any part of Element 2 to this Contract subject to such terms and conditions as the parties shall mutually agree.

Field Order: A written order which orders minor changes in the Work in accordance with Section 9.5 but which does not involve a change in the Contract Price or Contract Time.

Final Certificate of Payment: A certification to Owner by the Construction Administrator and Design Professional that the Work has achieved Final Completion.

Final Completion: The date certified by Construction Administrator and Design Professional in the Final Certificate of Payment upon which all conditions and requirements of any permits and regulatory agencies have been satisfied; the documents required by the Contract have been received by Construction Administrator; any other documents required to be provided by Construction Manager have been received by Construction Administrator; and to the best of Design Professional's and Construction Administrator's information and belief the Work defined herein has been fully completed in accordance with the requirements, terms and conditions of the Contract Documents.



Float - The number of Days by which the finish of an activity can be delayed. Two kinds of Float are possible: Total Float is the number of Days by which the finish of an activity can be delayed without affecting the Substantial Completion date or an intermediate deadline (constraint). Free Float is the number of Days by which the finish of an activity can be delayed without affecting its earlier successor.

General Conditions Costs – The items included in the General Conditions Cost forth in the list attached hereto as Exhibit “C” and in the matrix attached hereto as Exhibit “E”, plus premiums for insurance required to be provided by Construction Manager and premiums for the Performance Bond and the Payment Bond. The total General Conditions Cost for Element 1 is the fixed amount of \$2,985,220, plus premiums for insurance required to be provided by Construction Manager and premiums for the Performance Bond and the Payment Bond. The aggregate premiums for the Performance Bond and the Payment Bond shall be 0.62% of the GMP, and the insurance premiums shall be 1.54 % of the GMP.

GMP Plans and Specifications - The three sets of Plans and Specifications provided pursuant to Section 2.7.6 upon which a Guaranteed Maximum Price Proposal is based.

Guaranteed Maximum Price or GMP - The sum of the maximum Cost of the Work, Construction Manager's Fee, General Conditions Costs, sales tax, and Construction Manager's Contingency for the entire Work or for any portion of the Work designated by Owner.

Guaranteed Maximum Price Amendment – Each Amendment of this Contract establishing the Guaranteed Maximum Price for the entire Work or for any portion of the Work designated by Owner and the related Contract Time and other provisions required by this Contract.

Guaranteed Maximum Price (GMP) Proposal - Each offer or proposal of the Construction Manager submitted on the prescribed form setting forth a proposed GMP for the entire Work for any portion of the Work designated by Owner.

Holidays –The following holidays that are observed by Owner or the Construction Manager: New Year's Day, Martin Luther King, Jr. Day, President's Day, Good Friday, Memorial Day, Independence Day, Labor Day, Veterans' Day, Thanksgiving Day and the Day after, Christmas Eve, Christmas Day, and the Day after Christmas Day, and New Year's Eve. If any of the foregoing holidays occur on a Saturday or Sunday, the immediately adjacent weekday will be observed as the holiday.

Initiation Date – The date upon which the Contract Time commences for the construction phase of the Project.

Inspector – Any authorized representative or employee of the Construction Administrator, Design Professional or City assigned to make necessary inspections of materials furnished by Construction Manager and of the Work performed by Construction Manager.

Laws and Regulations: Laws or Regulations - Any and all applicable laws, rules, regulations, ordinances, codes and orders of any and all governmental bodies, agencies, authorities and courts having jurisdiction.

Materials – Materials incorporated in this Project, or used or consumed in the performance of the Work.

Normal Work Day – 6:00 a.m. to 7:00 p.m. each Monday thru Friday, inclusive, excluding Holidays.

Notice to Proceed - A written notice given by City to the Construction Manager for a specific date on which the Construction Manager will start to perform all or a specified portion of the Construction Manager's obligations under this Contract. The Notice to Proceed for the construction phase of the Project shall specify the Initiation Date, which shall be no sooner than fourteen (14) days after the Notice to Proceed is delivered to the Construction Manager.

Owner - The City, which is a party hereto and for which this Contract is to be performed. In all respects hereunder, Owner's performance is pursuant to Owner's position as the owner of a construction project. In the event that the City exercises its regulatory authority as a governmental body, the exercise of such regulatory authority and the enforcement of any rules, regulations, laws and ordinances shall be deemed to have occurred pursuant to Owner's police power and authority as a governmental body and shall not be attributable in any manner to City as a party to this Contract. Nothing contained in this Contract shall be construed or deemed to apply to, prohibit, or restrict Owner's exercise of its police power and authority as a governmental body. By entering into this Contract, Owner recognizes that, except if and to the extent otherwise expressly provided in this Contract, it is waiving sovereign immunity as to the enforcement of its legal obligations under the express terms of this Contract, but no further.

Owner Representative – The Director or, if none, the Interim Director, of the Airport or his or her designee, or some other employee expressly designated as Owner Representative in writing by the Mayor of the City, concerning the Contract Documents.

Owner's Contingency - A fund to cover cost growth during the Project used at the discretion of Owner usually for costs that result from City directed changes or unforeseen site conditions. The amount of the Owner's Contingency will be set by Owner and will be in addition to the project costs included in the Construction Manager's GMP packages. Use and management of the Owner's Contingency is described in Section 2.7.

Payment Bond. The Payment Bond required by Article 29.

Payment Request - The form that is accepted by Owner and used by the Construction Manager in requesting progress payments or final payment and which will include such supporting documentation as is required by the Contract Documents or Owner.

Performance Bond – The Performance Bond required by Article 29.

Plans - Documents which visually represent the scope, extent and character of the Work to be furnished and performed by the Construction Manager during the construction phase and which have been prepared or approved by the Design Professional and Owner, including without limitation the official graphic representations of the Project which are a part of the Project Manual or the Contract Documents and drawings that have reached a sufficient stage of completion and released by the Design Professional solely for the purposes of review and/or use in performing constructability or bidability reviews and in preparing cost estimates (e.g. conceptual design drawings, preliminary design drawings, detailed design drawings at 60%, 90% or 100% and schematic, design development, construction documents); provided, however that Shop Drawings that are clearly labeled “*not for construction*” are not included in the term “Plans”.

Pricing Documents – The set of documents upon which a GMP is negotiated, comprised of the following: (i) the Project Manual consisting of the set of Plans, Specifications, and Division-1 General Requirements, Special Provisions and Mandatory Requirements, (ii) the Estimated Construction Manager’s Direct Construction Cost (including unit prices and quantities and explanatory notes), (iii) Construction Manager’s General Condition Items, (iv) schedules developed by Construction Manager and approved by the Construction Administrator, and any other documents or exhibits utilized to derive the GMP or sub-GMP, as the case may be.

Project – The construction project described in the Contract Documents, including the Work described therein and as described in Exhibit "A" attached. Unless the parties hereafter enter into Change Orders and/or Amendments to the contrary, the Project and the Work shall consist of only Element 1. However, Owner and Construction Manager may at any time and from time to time enter into Change Orders and/or Amendments to add the construction of all or any part of Element 2 to this Contract subject to such terms and conditions as the parties shall mutually agree.

Project Manual – The official documents setting forth information and requirements; contract forms, bonds, and certificates; general, special, and supplementary conditions of the Contract Documents; the Specifications; and the Plans.

Project Schedule – The overall master project schedule, prepared and maintained by Construction Administrator using the Critical Path Method, indicating the sequence of all activities required for the prosecution and completion of the Project, the interdependence of each activity, and the Critical Path. The Project Schedule will incorporate the Construction Schedule prepared and maintained by Construction Manager in accordance with this Contract.

Project Team - Collectively, Owner, Owner's Representative, Construction Administrator, Design Professional, Construction Manager, and other stakeholders who are responsible for making decisions regarding the Project.

Schedule of Values - Document required for construction phase of Contract, which divides the Contract Price into pay items, such that the sum of all pay items equals the Contract Price for the construction phase Work, or for any segment of the Work having a separate specified Contract Price.

Shop Drawings - All drawings, diagrams, schedules and other data specifically prepared for the Work by the Construction Manager or a Subconsultant, Subcontractor, Sub-subcontractor, manufacturer, supplier or distributor to illustrate some portion of the Work.

Site - The land or premises on which the Project is located.

Specifications - The part(s) of the Contract Documents for the construction phase consisting of written technical descriptions of materials, equipment, construction systems, standards and workmanship as applied to the Work and certain administrative details applicable thereto.

Subconsultant - A person, firm or corporation having a contract with the Construction Manager to furnish services required as its independent professional associate or consultant with respect to the Project.

Subcontractor – A person, firm or corporation having a direct contract with Construction Manager including one who furnishes material manufactured to a special design according to the Project Manual for this work, but does not include one who merely furnishes material not so manufactured.

Sub-Guaranteed Maximum Price (Sub-GMP) – The Construction Manager shall divide the GMP into separate sub-GMPs if Owner so directs. The Construction Manager shall make recommendations to Owner as to desirable sub-GMPs. Each sub-GMP is a distinct and separate GMP for purposes of this Contract.

Substantial Completion – The stage in the progress of the Work when the Work or designated portion is sufficiently complete in accordance with the Contract Documents so that the Tenant can occupy or utilize the Work for its intended use. A Certificate of Occupancy must be issued for Substantial Completion to be achieved; however, the issuance of a Certificate of Occupancy or the date thereof is not determinative of the achievement of Substantial Completion.

Supplier - A manufacturer, fabricator, supplier, distributor, materialman or vendor having a direct contract with Construction Manager or with any Subcontractor to furnish materials or equipment to be incorporated in the construction phase Work by Construction Manager or any Subcontractor.

Surety – The surety company which is bound by the Performance Bond and the Payment Bond with and for Construction Manager who is primarily liable, and which surety company is responsible for Construction Manager’s acceptable performance of work under the Contract and for the payment of all debts pertaining thereto in accordance with Section 255.05, Florida Statutes.

Taxes - All federal, state, municipal, sales, use, consumer, and other taxes, as applicable to the Project, all with respect to services performed or materials furnished for the Work.

Tenant – VT Mobile Aerospace Engineering, Inc.

Work – The construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by Construction Manager to fulfill Construction Manager’s obligations under the Contract Documents. Unless the parties hereafter enter into Change Orders and/or Amendments to the contrary, the Work shall consist of the construction only of Element 1. However, Owner and Construction Manager may at any time and from time to time enter into Change Orders and/or Amendments to add the construction of all or any part of Element 2 to this Contract subject to such terms and conditions as the parties shall mutually agree.

## **ARTICLE 2 - GENERAL DESIGN PHASE SERVICES**

### **2.1 GENERAL**

- 2.1.1 The Construction Manager shall provide Design Phase Services for the Project as specified in this Contract. Design Phase Services shall be undertaken only upon Owner’s issuance to the Construction Manager of a Notice to Proceed for all or a specified portion of such Design Phase Services. The Construction Manager, to further the interests of Owner, shall perform the services required by, and in accordance with this Contract, to the satisfaction of the Airport Director or his representative, exercising the degree of care, skill and judgment a professional construction manager with similar experience and expertise as Construction Manager and performing similar services would exercise at such time, under similar conditions; however, the Construction Manager shall not be responsible for the Project design. The Construction Manager shall, at all times, perform the required services consistent with sound and generally accepted construction management and construction contracting practice.
- 2.1.2 As a participating member of the Project Team, the Construction Manager will provide to Owner, Construction Administrator and Design Professional a written evaluation of Owner's Project Program and Project Budget, each in terms of the other, with recommendations as to the appropriateness of each.

- 2.1.3 The Construction Manager will attend Project Team meetings which may include, but are not limited to, biweekly (through 60% design) design review meetings, Project workshops, special Project meetings, construction document rolling reviews and partnering sessions (if required by Owner).
- 2.1.4 The Construction Manager will provide design phase services, described herein, in a proactive manner and consistent with the intent of the most current Plans and Specifications. The Construction Manager will promptly notify Owner in writing whenever the Construction Manager determines that any Plans or Specifications are insufficient for the Project and/or cause changes in the scope of Work requiring an adjustment in the cost estimate, Construction Schedule, GMP Proposals and/or in the Contract Time for the Work, to the extent such are established.
- 2.1.5 The Construction Manager, when requested by Owner, will attend, make presentations and participate as may be appropriate in public agency and or community meetings germane to the Project. The Construction Manager will provide drawings, schedule diagrams, budget charts and other materials describing the Project, when their use is required or apropos in any such public agency meetings.

## **2.2 CONSTRUCTION MANAGEMENT PLAN**

- 2.2.1 The Construction Manager shall prepare a Construction Management Plan which shall include the Construction Manager's professional opinions concerning: (a) Project milestone dates and the Construction Schedule, including the broad sequencing of the design and construction of the Project, (b) investigations, if any, to be undertaken to ascertain subsurface conditions and physical conditions of existing surface and subsurface facilities and underground utilities, (c) alternate strategies for fast-tracking and/or phasing the construction, (d) the number of separate subagreements to be awarded to Subcontractors and Suppliers for the Project construction, (e) permitting strategy, (f) safety and training programs, (g) construction quality control, (h) a commissioning program, (i) the cost estimate and basis of the model, and (j) a matrix summarizing each Project Team member's responsibilities and roles.
- 2.2.2 The Construction Manager shall add detail to its previous version of the Construction Management Plan to keep it current throughout the design phase, so that the Construction Management Plan is ready for implementation at the start of the construction phase. The update/revisions shall take into account (a) revisions in Plans and Specifications; (b) the results of any additional investigatory reports of subsurface conditions, drawings of physical conditions of existing surface and subsurface facilities and documents depicting underground utilities placement and physical condition, whether obtained by Owner, Design Professional or the Construction Manager, (c) unresolved construction permitting issues, (d) the fast-tracking if any of the construction, or other chosen construction delivery methods, (e) the requisite number of separate bidding documents to be advertised, (f) the status of the procurement of long-lead time equipment (if any) and/or materials, and (g) funding issues identified by Owner.

- 2.2.3 The Construction Manager shall submit its plans for mobilization for providing field offices for Construction Manager and Construction Administrator. Such plan is to be submitted to Owner through Construction Administrator within 14 days after Notice-to-Proceed.
- 2.2.4 The Construction Manager shall submit a plan for hurricane preparedness to be reviewed and approved by Owner.

### **2.3 CONSTRUCTION SCHEDULE**

- 2.3.1 The fundamental purpose of the "Construction Schedule" is to identify, coordinate and record the tasks and activities to be performed by all of the contractors, subcontractors, vendors and suppliers to be utilized for structuring of the Project Schedule prepared by Construction Administrator. Each Project Team member is responsible for its compliance with the Construction Schedule requirements. The Construction Manager will, however, develop and maintain the "Construction Schedule" on behalf of his Project Team based on input from the other entities with whom the Construction Manager has entered into a Construction Contract. The Construction Schedule will be consistent with the most recent revised/updated Construction Management Plan. The Construction Schedule will use the Critical Path Method technique, unless required otherwise in writing by Owner. The Construction Manager will use scheduling software to develop the Construction Schedule that is acceptable to Owner. The Construction Schedule shall be presented in graphical and tabular reports as agreed upon by the Project Team. If Project phasing as described below is required, the Construction Schedule will indicate milestone dates for the phases once determined.
- 2.3.2. A preliminary Construction Schedule shall be provided with each GMP or sub-GMP, as the case may be, that shall show the sequence of activities, the interdependence of each activity and indicate the Critical Path. The baseline Construction Schedule shall be provided no later than thirty (30) days after the Initiation Date. Based on current information, the Construction Manager estimates that the time from the Initiation Date to the date of Substantial Completion will be 14 ½ months.
  - 2.3.2.1 The Critical Path Method diagram schedule shall be in Days and indicate duration, earliest and latest start and finish dates for all activities, and total Float times for all activities except critical activities.
  - 2.3.2.2 The Critical Path Method diagram schedule shall indicate all relationships between activities.
  - 2.3.2.3 The activities making up the schedule shall be sufficiently detailed to assure that adequate planning has been done for proper execution of the Work and such that it provides an appropriate basis for monitoring and evaluating the progress of the Work.
  - 2.3.2.4 The Critical Path Method diagram schedule shall be based upon activities, which would coincide with the schedule of values.
  - 2.3.2.5 The Critical Path Method diagram schedule shall show all critical or long lead time (30 days

or greater) submittals associated with each work activity and the review time for each submittal.

2.3.2.6 The schedule shall show milestones, including milestones for Owner-furnished information, and shall include activities for Owner-furnished equipment and furniture when those activities are interrelated with the Construction Manager activities.

2.3.2.7 The schedule shall include a critical path activity that reflects the allowance for inclement weather and rain delay during the performance of the Contract in accordance with Section 8.1.6.

2.3.3 The Construction Schedule shall consider Owner's and the Tenant's occupancy requirements and Contract Time.

2.3.4 Float time shall be as prescribed below:

2.3.4.1 Float is not for the exclusive use of either Owner or the Construction Manager, but is jointly owned by both and is a resource available to and shared by both parties as needed to meet contract milestones and completion dates, subject to the terms and constraints of this Contract.

2.3.4.2 The use of Float suppression techniques, such as preferential sequencing (arranging Critical Path through activities more susceptible to Owner-caused delay), extending activity duration estimates to consume available Float, special lead/lag logic constraints, zero total or free Float constraints, extended activity times, or imposing constraint dates other than as required by the Contract Documents, is expressly prohibited and shall be cause for Owner's rejection of the Construction Schedule or updates. Since Float time within the schedule is jointly owned, no time extensions will be granted nor delay damages paid (if delay damages are otherwise payable under Section 8.1.7) unless and until a delay occurs which extends the Work beyond the Substantial Completion date. In no event shall the Construction Manager's use of Float be allowed or deemed to convert a non-critical path activity to a critical path activity.

2.3.4.3 Since Float time within the schedule is jointly owned, the Construction Manager shall not be entitled to receive a time extension or delay damages (if delay damages are otherwise payable under Section 8.1.7) for an Owner-caused delay unless the Owner-caused delaying event extends the Critical Path as measured on the date the delay commences.

2.3.5 The Construction Schedule will be updated and maintained by the Construction Manager throughout the design phase such that it will not require major changes at the start of the construction phase to incorporate the Construction Manager's plan for the performance of the construction phase Work. The Construction Manager will provide updates and/or revisions to the Construction Schedule for use by the Project Team, whenever required, but no less often than at the monthly Project Team meetings. The Construction Manager will include with such submittals a narrative describing its analysis of the progress achieved to-date vs. that planned, any concerns regarding delays or potential delays, and any recommendations regarding mitigating actions.



- 2.3.6 When phased construction is deemed appropriate and Owner approves, the Construction Manager will review the design and make recommendations regarding the phased issuance of Construction Documents to facilitate phased construction of the Work, with the objective of reducing the Construction Schedule and/or Cost of the Work. The Construction Manager will take into consideration such factors as natural and practical lines of work severability, sequencing effectiveness, access and availability constraints, total time for completion, construction market conditions, labor and materials availability, and any other factors pertinent to saving time and cost.

## **2.4 DESIGN DOCUMENT REVIEWS**

- 2.4.1 The Construction Manager will evaluate periodically the availability of labor, materials/equipment, building systems, cost-sensitive aspects of the design; and other factors that may impact the cost estimate, GMP Proposal and/or the Construction Schedule.
- 2.4.2 The Construction Manager will recommend, in conjunction with the Project Team, those additional surface and subsurface investigations that, in its professional opinion, are required to provide the necessary information for the Construction Manager to construct the Project. Before initiating construction operations, the Construction Manager may request additional investigations in its GMP Proposal to improve the adequacy and completeness of the site condition information and data made available with the Construction Documents.
- 2.4.3 The Construction Manager will meet with the Project Team as required to review designs during their development. The Construction Manager will familiarize itself with the evolving documents through the various design phases. The Construction Manager will proactively advise the Project Team and make recommendations on factors related to construction costs, and concerns pertaining to the feasibility and practicality of any proposed means and methods, selected materials, equipment and building systems and, labor and material availability. The Construction Manager will furthermore advise the Project Team on proposed site improvements, excavation and foundation considerations, as well as concerns that exist with respect to coordination of the Plans and Specifications. The Construction Manager will recommend cost effective alternatives. For the avoidance of doubt, the Construction Manager shall not be responsible for the Project design.
- 2.4.4 The Construction Manager will routinely conduct constructability and bidability reviews of the Plans and Specifications as necessary to satisfy the needs of the Project Team. The reviews will attempt to identify all discrepancies and inconsistencies in the Construction Documents especially those related to clarity, consistency, and coordination of work of Subcontractors and Suppliers.
- 2.4.4.1 Constructability Reviews: The Construction Manager will evaluate whether (a) the Plans and Specifications are configured to enable efficient construction, (b) design elements are standardized, (c) construction efficiency is properly considered in the Plans and Specifications, (d) module/preassembly design are prepared to facilitate fabrication, transport and installation, (e) the design promotes accessibility of personnel, material and equipment and

facilitates construction under adverse weather conditions, (f) sequences of work required by or inferable from the Plans and Specifications are practicable, and (g) the design has taken into consideration, efficiency issues concerning; access and entrance to the site, laydown and storage of materials, staging of site facilities, construction parking, and other similar pertinent issues.

- 2.4.4.2 Bidability Reviews: The Construction Manager will check cross-references and complementary Plans and sections within the Specifications, and in general evaluate whether (a) the Plans and Specifications are sufficiently clear and detailed to minimize ambiguity and to reduce scope interpretation discrepancies, (b) named materials and equipment are commercially available and are performing well, or otherwise, in similar installations, (c) Specifications include alternatives in the event a requirement cannot be met in the field, and (d) in its professional opinion, the Project is likely to be subject to differing site conditions.
- 2.4.4.3 The results of the reviews will be provided to Owner in formal, written reports clearly identifying all discovered discrepancies and inconsistencies in the Plans and Specifications with notations and recommendations made on the Plans, Specifications and other documents. If requested by Owner, the Construction Manager will meet with Owner, Construction Administrator and Design Professional to discuss any findings and review reports.
- 2.4.4.4 The Construction Manager's reviews will be from a contractor's perspective, and though it will serve to reduce the number of Requests for Information (RFIs) and changes during the construction phase, responsibility for the Plans and Specifications will remain with the Design Professional and not the Construction Manager.
- 2.4.5 Notification of Variance or Deficiency: It is the Construction Manager's responsibility to assist the Design Professional in ascertaining that, in the Construction Manager's professional opinion, the Construction Documents are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations. If the Construction Manager recognizes that portions of the Construction Documents are at variance with applicable laws, statutes, ordinances, building codes, rules and regulations, it will promptly notify the Design Professional and City in writing, describing the apparent variance or deficiency. However, the Design Professional is ultimately responsible for the compliance with those laws, statutes, ordinances, building codes, rules and regulations.
- 2.4.6 Value Analysis: The Construction Manager will routinely identify and evaluate using value engineering principles any alternate systems, approaches, design, means and methods, scope, and other changes that have the potential to reduce construction costs while still delivering a quality and functional Project that meets City requirements. If the Project Team agrees, the Construction Manager in cooperation with the Design Professional will perform a cost/benefit analysis of the alternatives and submit such in writing to the Project Team. The Project Team will decide which alternatives will be incorporated into the Project. The Design Professional will have full responsibility for the incorporation of the alternatives into the Plans and Specifications. The Construction Manager will include the cost of the alternatives into the cost estimate and any GMP Proposals.

## **2.5 COST ESTIMATES**

2.5.1 Except as otherwise provided in Section 2.7.5 or unless otherwise agreed to by both parties, the Construction Manager shall provide a detailed cost estimate and a written review of the documents within 30 days after receipt of the documents for each of the following phases of design:

1. Concept Design
2. Early Release Packages
3. 60% Design Documents / Preliminary GMP
4. 95% Design Documents / GMP

The Design Professional and Construction Manager shall reconcile any disagreements on the estimate to arrive at an agreed cost. If no consensus is reached, Owner will make the final determination.

2.5.2 If any estimate submitted to Owner exceeds previously accepted estimates (as amended by tracking reports contemplated by Section 2.5.3) or Owner's Project budget, the Construction Manager shall make appropriate recommendations on methods and materials to Owner and Design Professional that he believes will bring the Project back into the Project budget.

2.5.3 In between these milestone estimates, the Construction Manager shall periodically provide a tracking report which identifies the upward or downward movements of costs due to value engineering or scope changes as well as tracking price escalations to major components. It shall be the responsibility of the Construction Manager to keep Owner, Construction Administrator, and Design Professional informed as to the major trend changes in costs relative to Owner's budget.

## **2.6 DISPARITY GOALS PROGRAM**

2.6.1 Goal Setting Meeting: The Construction Manager, based on information provided by the Construction Administrator, Design Professional and City and prior to preparing the GMP Proposal described below, will meet with Owner to obtain Minority, Disadvantaged, and Women-owned Business Enterprise goals. The Construction Manager will identify the estimated value of Work to be performed by each Subcontractor/Supplier in Construction Specifications Institute (CSI) format. The minimum goals for Work to be performed during the construction phase by MBE, DBE, or SBE firms will then be established and expressed as percentages of appropriate construction costs for the Project.

2.6.2 Documentation: The Construction Manager will submit the following documents with the GMP proposal package if subcontractors have been selected prior to submission of the GMP proposal. If the GMP proposal is submitted prior to subcontractor selection, the Construction Manager will submit these documents before the selected MBE, DBE, or SBE subcontractor commences onsite construction operations.

2.6.2.1 In a tabulation form, the Construction Manager shall list all proposed MBE, DBE, or SBE subcontractors who will be performing work under the respective GMP package. The

Construction Manager will list the name of the firm, the value of work to be performed by that firm, and the estimated percentage of the total Project construction cost to be performed by that firm. When received by Owner, these forms will be sent to the Purchasing Department to verify that the firms are properly certified within Owner's system.

2.6.2.2 Letters of Intent to Perform as a Subcontractor. These letters must be submitted for each Subcontractor or Supplier listed on the "Contractor's Statement of Proposed MBE, DBE, or SBE Utilization" form. These letters are prepared by the respective subcontractors and indicate the subcontractors' intent to perform the work as detailed on the Construction Manager's Utilization form for the indicated price.

2.6.3 Firms certified by Owner of Pensacola are eligible to fulfill MBE/DBE/SBE subcontracting goals for City of Pensacola projects. The Construction Manager will ensure that Subcontractors they propose to use on this Project are properly certified with Owner at the time of receipt of bids for their respective bid package.

## **2.7 GUARANTEED MAXIMUM PRICE (GMP) PROPOSALS**

2.7.1 The proposed GMP for the Project will be presented in a format acceptable to Owner, including separate sub-GMPs (see Exhibits "B", "C", and "D" attached). Owner may request GMP Proposals for all or any portion of the Work. Any GMP Proposals submitted by the Construction Manager will be based on and consistent with the current updated/revised cost estimate at the time of the request, the associated estimates for construction costs include any clarifications or assumptions upon which the GMP Proposal(s) are based.

2.7.2 The Guaranteed Maximum Price is comprised of the following not-to-exceed cost reimbursable or lump sum amounts defined below.

2.7.2.1 The Cost of the Work is actual costs and is a not-to-exceed, reimbursable amount.

2.7.2.2 The General Conditions Costs is a fixed, lump sum amount, which will include the premiums for insurance required to be provided by Construction Manager and premiums for the Performance Bond and the Payment Bond based on the full GMP, and which will be shown as a separate line item in the GMP Proposal for the Work and in the GMP Amendment.

2.7.2.3 The Construction Manager's Fee is four and one quarter percent (4.25%) of the sum of the Cost of the Work and the Construction Manager's Contingency and shall be shown as a separate line item in the GMP Proposal for the Work and in the GMP Amendment. Unless otherwise indicated in the matrix attached hereto as Exhibit "E", salaries or other compensation of the Construction Manager's employees who are stationed or principally located in the office and branch offices are included in the Construction Manager's Fee. Unless otherwise indicated in the matrix attached hereto as Exhibit "E", cost related to principal office personnel who are stationed or principally located at the field office in a capacity directly related to performance of the work is not included in the "Construction Manager's Fee" and will be included in the Cost of Work. Specifically, the items included in

the Construction Manager's Fee and in the Cost of the Work are shown in the matrix attached hereto as Exhibit "E".

- 2.7.2.4 The Construction Manager's Contingency shall be one and three quarters percent (1.75%) of the Cost of the Work and shall be shown a separate line item in the GMP Proposal for the Work and in the GMP Amendment. The Construction Manager's Contingency is an amount the Construction Manager may use under the following conditions: (1) at its discretion for increases in the Cost of the Work, or (2) with written approval of Owner for increases in General Condition Costs. Construction Manager's Contingency is assumed to be a direct project cost, and therefore, the Construction Manager's mark up for the Construction Manager's Contingency is included in the Construction Manager's Fee.
- 2.7.2.5 Taxes are deemed to include all sales, use, consumer and other taxes which are legally enacted when negotiations of the GMP were concluded, whether or not yet effective or merely scheduled to go into effect. Taxes are actual costs and are a not-to-exceed reimbursable amount. Taxes are subject to the Construction Manager's mark up.
- 2.7.3 Owner's Contingency are funds to be used at the discretion of the Owner to cover any increases in Project costs that result from Owner directed changes or unforeseen site conditions. The Percentage Mark Up for Construction Manager's Fee and Taxes will be applied by the Construction Manager at the time and to the extent that Owner's Contingency is used by Construction Manager.
- 2.7.4 The Construction Manager's Contingency is distinct and separate for each sub-GMP; however, any portion of the Construction Manager's Contingency for a sub-GMP that is not used may be reallocated by the Construction Manager to other sub-GMPs. The amount of Construction Manager Contingency for each sub-GMP amendment will be one and three quarters percent (1.75%) of the Cost of the Work under each such sub-GMP.
- 2.7.5 Within fourteen (14) days after Owner's issuance to Construction Manager of the Notice to Proceed with pre-construction services, the Construction Manager shall provide a rough order of magnitude (ROM) estimate of costs based on the information then available to Construction Manager, including the Basis of Design for Element 1.
- 2.7.5a Promptly after Owner's issuance to Construction Manager of the Notice to Proceed with pre-construction services and the Construction Manager's receipt from the Design Professional of the pre-engineered metal building bridging documents, the Construction Manager shall issue and publicly advertise a Request for Qualifications, in form and substance acceptable to Owner, directed to potential suppliers of the pre-engineered metal hangar building (including hangar doors) required for Element 1. The Construction Manager shall then invite, after input from Owner, three to five qualified firms to provide general costs and time estimates (including engineering costs) and to be interviewed by the Construction Manager and Owner. The Construction Manager, after giving due consideration to input from Owner and subject to Owner's written consent which shall not be unreasonably withheld or delayed, shall then select the most qualified firm for such portion of the Work. However, the Construction Manager shall not authorize such firm to begin engineering work until such firm has presented a firm cost for such engineering work that is acceptable to both the Construction

Manager and Owner and Owner has issued a Notice to Proceed with such engineering work. In the event that Owner terminates this Contract, the agreed upon cost for such engineering work shall be paid by Owner in addition to any amounts due the Construction Manager hereunder; otherwise, the cost of such engineering work shall be payable by the Construction Manager and included in the GMP.

- 2.7.6 The Construction Manager, in preparing each GMP Proposal, will obtain from the Design Professional Construction Documents that have reached a minimum of 60% completion which include plans and specifications (including all revisions). The Construction Manager will prepare a preliminary GMP based on the 60% documents. Subsequently, the Construction Manager will obtain from the Design Professional Construction documents that have reached 95% completion of all plans and specifications. The Construction Manager will prepare a GMP Proposal based on the 95% documents. In both instances, the Construction Manager will mark the face of each document of each set upon which its proposed GMP is based. The marked 95% documents will be identified as the GMP Plans and Specifications. The Construction Manager will send one set of those documents to the Construction Administrator, keep one set and return the third set to the Design Professional. The City shall cause the Design Professional to also provide to the Construction Manager the 60% documents, the 95% documents, and the 100% (Issued for Construction) documents in both CADD and PDF formats. All CADD files shall be delivered in the AutoCad Version format required by the City. The CADD layer guidelines recommended by the American Institute of Architects, the American Consulting Engineers Council and the American Society of Civil Engineers and approved by the City shall be utilized. The Construction Manager understands that the Design Professional is obligated to provide AutoCad files only subject to the following stipulations to which the Construction Manager hereby agrees: Electronic data files are provided to the Construction Manager solely as a convenience and in an "as is" condition. Electronic data files are not considered part of the Contract Documents. The information contained in these electronic data files is for informational purposes only and cannot be modified without the knowledge and written consent of the Design Professional and the City. Differences may exist between the electronic files delivered and the printed hard copy Contract Documents. In the event that such a conflict is found, the hard copy documents, which are signed and sealed with the Design Professional's Registration Stamp, shall be controlling and take precedence over the electronic version. Any such discrepancies shall not be the basis for a claim by the Construction Manager. The use of the information contained in electronic files is at the Construction Manager's sole risk without liability or legal exposure to the Design Professional or the City.
- 2.7.7 A Construction Schedule will be a part of each GMP Proposal(s) and will reflect the GMP Plans and Specifications. Any such Construction Schedule will comply with the requirements of Section 2.3.
- 2.7.8 Intentionally left blank.

## 2.7.9 Cost Estimates and GMP Proposal(s) Review and Approval

- 2.7.9.0 The Construction Manager will meet with Owner, Construction Administrator and Design Professional to review the initial estimate of costs prepared pursuant to Section 2.7.5 above and the written statement of its basis. In the event Owner discovers inconsistencies or inaccuracies in the information presented, the Construction Manager will make adjustments as necessary to the estimate of costs, its basis or both.
- 2.7.9.1 The Construction Manager will meet with Owner, Construction Administrator and Design Professional to review the preliminary GMP(s) and GMP Proposal(s) and the written statement of its basis. In the event Owner discovers inconsistencies or inaccuracies in the information presented, the Construction Manager will make adjustments as necessary to the GMP Proposal, its basis or both.
- 2.7.9.2 Owner, upon receipt of any GMP proposal from the Construction Manager, may submit the GMP Plans and Specifications to an independent third party for review and verification.
- 2.7.9.3 Owner, in its sole and absolute discretion, may accept or reject the Construction Manager's proposed GMP, whether or not the proposed GMP meets or exceeds the Project Budget.
- 2.7.9.4 Upon acceptance by Owner of the GMP for the Project, Owner and Construction Manager shall execute a Guaranteed Maximum Price Amendment to memorialize such agreement.
- 2.7.9.5 If during the review and negotiation of GMP Proposals design changes are required, Owner will authorize and cause the Design Professional to revise the Construction Documents to the extent necessary to reflect the agreed-upon assumptions and clarifications contained in the final approved GMP Proposal. Such revised Construction Documents will be furnished to the Construction Manager. The Construction Manager will promptly notify the Design Professional and City in writing if any such revised Construction Documents are inconsistent with the agreed-upon assumptions and clarifications.

## 2.8 SUBCONTRACTOR AND MAJOR SUPPLIER SELECTIONS

- 2.8.1 There are two ways to select Subcontractors and major Suppliers (i.e., a Supplier whose contract amount exceeds \$5,000.00) prior to submission of a GMP Proposal. They are qualifications-based selection and competitive bidding. Except as noted below, the selection of Subcontractors/Suppliers is the responsibility of the Construction Manager. In any case, the Construction Manager is solely responsible for the performance of the selected Subcontractors or Suppliers. Further, the pre-engineering metal hangar building supplier shall be selected as set forth in Section 2.7.5 above.
- 2.8.2 Selection by qualifications only - Owner may approve the selection of a Subcontractor(s) or Suppliers(s) based only on their qualifications when the Construction Manager can demonstrate it is in the best interest of the Project.

- 2.8.2.1 Qualification based selection of a Subcontractor(s) or Supplier(s) shall only occur prior to the submittal of the GMP Proposal.
- 2.8.2.2 The Construction Manager will prepare a Subcontractor or Supplier selection plan and submit the plan to Owner for approval. The Construction Manager shall apply the plan in the evaluation of the qualifications of a Subcontractor(s) or Supplier(s) and provide Owner with its review and recommendation.
- 2.8.2.3 The Construction Manager must receive City approval of the selected Subcontractor(s) or Supplier(s).
- 2.8.2.4 The Construction Manager will negotiate costs for services/supplies from each Subcontractor or Supplier selected under this method, the Construction Administrator shall participate in these negotiations. Approval of terms of negotiation by Owner shall be required prior to Construction Manager entering into a Contract with the sub-contractor
- 2.8.3 Selection by competitive bid and qualifications – Unless Owner approves self performance of work by the Construction Manager for a small portion of work (as determined by Owner in its discretion), all Work shall be competitively bid unless a Subcontractor or Supplier was selected pursuant to Section 2.8.2 above. Competitive bids may occur prior to or after the GMP Proposal(s). Subcontracts and purchase orders involving amounts in excess of \$20,000 may be awarded only with the prior approval of the Construction Administrator.
- 2.8.3.1 The Construction Manager will develop Subcontractor and Supplier interest, submit the names of a minimum of three qualified Subcontractors or Suppliers for each trade in the Project for approval by Owner and solicit bids for the various Work categories. The Construction Manager will identify the MBE, DBE, or SBE Subcontractors and Suppliers and during the bidding process keep Owner informed on the progress of meeting the desired MBE, DBE, or SBE goals. If there are not three qualified Subcontractors or Suppliers available for a specific trade or there are extenuating circumstances warranting such, the Construction Manager may request approval by Owner to submit less than three names. Without prior written notice to Owner, no change in the recommended Subcontractors or Suppliers will be allowed.
- 2.8.3.2 If Owner objects to any nominated Subcontractor or Supplier or to any self-performed Work for good reason, the Construction Manager will nominate a substitute Subcontractor or Supplier that is reasonably acceptable to Owner and the parties shall enter into an appropriate Change Order for any resulting difference in the Cost of the Work.
- 2.8.3.3 The Construction Manager will distribute Plans and Specifications, and when appropriate, conduct a prebid conference with prospective Subcontractors and Suppliers.
- 2.8.3.4 If the Construction Manager desires to self-perform certain portions of the Work, it will request to be one of the approved Subcontractor bidders for those specific bid packages. The Construction Manager's bid will be evaluated in accordance with the process identified below. If events warrant and Owner concurs that in order to ensure compliance with the Construction



Schedule and/or cost, the Construction Manager may self-perform the specific Work. In that event, the Construction Administrator may select either Construction Manager's price to perform the work or any one of subcontractors' proposals, and there shall be no application of a preferred subcontract cost differential.

- 2.8.3.5 The Construction Manager shall receive, open, record and evaluate the bids. The apparent low bidders will be interviewed to determine the responsiveness of their proposals. In evaluating the responsiveness of bid proposals the Construction Manager, in addition to bid price, may consider the following factors: past performance on similar projects, qualifications and experience of personnel assigned, quality management plan, approach or understanding of the Work to be performed, and performance schedule to complete the Work. The final evaluation of Subcontractor or Supplier bids will be done with Owner Representative in attendance to observe and witness the process. The Construction Manager will resolve any Subcontractor or Supplier bid withdrawal, protest or disqualification in connection with the award at no increase in the Cost of the Work.
- 2.8.4 The Construction Manager will be required to prepare two different reports on the subcontracting process.
  - 2.8.4.1 Within fifteen days after each major Subcontractor or Supplier bid opening process, the Construction Manager will prepare a report for Owner's review and approval identifying the recommended Subcontractors or Supplier for each category of Work. The report will detail (a) the name of the recommended Subcontractor or Supplier and the amount of the Subcontractor or Supplier bid for each subagreement, (b) the sum of all recommended Subcontractor/Supplier bids received, (c) and trade work and its cost that the Construction Manager intends to self-perform, if any.
  - 2.8.4.2 Upon completion of the Subcontractor or Supplier bidding process, the Construction Manager shall submit a summary report to Owner of the entire Subcontractor or Supplier selection process. The report will indicate, by bid process, all Subcontractors or Suppliers contacted to determine interest, the Subcontractors or Suppliers solicited, the bids received and costs negotiated, and the recommended Subcontractors or Suppliers for each category of Work.
- 2.8.5 The approved Subcontractors or Suppliers will provide a Schedule of Values with their bid proposals, which will be used to create the overall Schedule of Values for each segment of the Project.
- 2.8.6 If after receipt of sub-bids or after award of Subcontractors or Suppliers, Owner objects to any nominated Subcontractor or Supplier or to any self-performed Work for good reason, the Construction Manager will nominate a substitute Subcontractor or Supplier, preferably if such option is still available, from those who submitted Subcontractor or Supplier bids for the Work affected. Once such substitute Subcontractors or Suppliers are approved by Owner, the Construction Manager's proposed GMP for the Work or portion thereof will be correspondingly adjusted to reflect any higher or lower costs from any such substitution.

- 2.8.7 Promptly after submission of the GMP Proposal for the Work, Owner will conduct a pre-award conference with the Construction Manager and other Project Team members. At the pre-award conference, the Construction Manager will (a) review the nominated slate of Subcontractors or Suppliers and discuss any concerns with or objections that Owner has to any nominated Subcontractor or Supplier; (b) discuss City concerns relating to any proposed self-performed Work; (c) review the Construction Manager's proposed Contract Price for the Work during the construction phase; (d) discuss the conditions, if any, under which Owner will agree to leave any portion of the remaining Contractor's Contingency within the Contract Price for the construction phase Work; (e) resolve possible time frames for the Date of Commencement of the Contract time for the construction phase Work; (f) schedule the pre-construction conference; and (g) discuss other matters of import.

### **ARTICLE 3 - PERIOD OF DESIGN PHASE SERVICES**

- 3.1 The design phase services described in this Contract will be performed by Construction Manager in accordance with the most current update/revised Project Schedule. A material failure on the part of the Construction Manager to adhere to the Project Schedule requirements for activities for which it is responsible will be sufficient grounds for termination of this Contract by Owner.
- 3.1.1 Upon a material failure by the Construction Manager to adhere to the approved schedule, City may provide written notice to Construction Manager that it intends to terminate this Contract unless the problem cited is commenced to be cured within three days of Construction Manager's receipt of such notice and such cure is thereafter continuously and diligently prosecuted until completed.
- 3.2 If the date of performance of any obligation or the last day of any time period provided for in this Contract should fall on a Saturday, Sunday, or Holiday, then said obligation will be due and owing, and said time period will expire, on the first day thereafter which is not a Saturday, Sunday or Holiday. Except as may otherwise be set forth herein, any performance provided for herein will be timely made if completed no later than 5:00 p.m. (Local time) on the day of performance.

### **ARTICLE 4 - DESIGN SERVICES PHASE COMPENSATION AND PAYMENTS**

- 4.1 The Construction Manager's compensation for all design phase services for Element 1 of the Project shall be Two Hundred Thirty-Two Thousand and 00/100 (\$232,000.00) Dollars.

Owner may withhold payment to such extent reasonably necessary as a result of (a) third party claims arising out of the services of the Construction Manager and made against Owner and as verified by Owner within 30 days of receipt of said claim. Owner's release of payment to the Construction Manager after said claim does not relieve the Construction Manager from any liability or responsibility otherwise covered in the contract and subsequently arising out of said claim; (b) for the amount of any, over billing, overpayment, or fraud discovered upon audit; (c) failure to make payment prompt payments to sub-consultants; (d) payment request received which includes fees for unapproved sub-consultants; (e) the amount required to correct performance of services

not in accordance with generally accepted standards of care of services by the Construction Manager or its sub-consultants. Owner's withholding of payments to Construction Manager shall not in any way relieve the Construction Manager of its obligations to continue to perform its services under this contract.

4.2 Payments. Progress payments for the design phase of Element 1 of the Project shall be paid as follows:

1. \$63,000 upon submission of cost estimate at completion of Concept Phase;
2. \$21,000 upon submission of cost estimate at completion of Early Release Phase;
3. \$63,000 upon submission of preliminary GMP at completion of 60% Design Phase; and
4. \$48,000 upon submission of GMP at completion of 95% Design Phase.

The Construction Manager's monthly billing shall be on a form approved by the Owner and shall include a cover sheet in which the following is shown:

1. Original amount.
2. The total previous amounts received.
3. The remaining balance to complete the Design Services Phase Project.
4. Amount Due.

Additionally, the monthly billing shall include, without limitation, a narrative of the work completed and a statement of Reimbursable Expenses incurred.

The Owner shall make payment to the Construction Manager in accordance with its standard billing and payment procedures and applicable Florida Statutes. Invoices must be received and approved by Owner by the 20<sup>th</sup> of month in order to be paid in City check cycle. Ordinarily Owner issues checks for payment of invoices on the 10<sup>th</sup> of each month. A complete and accurate billing from the Construction Manager must have been received and approved by the Construction Administrator and forwarded to the Office of the Airport Director by the last day of the month for consideration of payment on the 10<sup>th</sup> of the following month. Items received after the last day of the month will be processed in the following payment cycle.

4.3 Additional Services. Compensation for additional services, if requested by the Owner in writing, shall be for a fee as outlined in a supplemental agreement for such services duly executed by both parties.

4.4 Advance Approval of Additional Services. If the Owner requests additional services, a change order will be executed and the compensation set forth above will be adjusted as agreed by the parties.

4.5 The Construction Manager will pay all sums due Subconsultants for services and reimbursable expenses within 14 calendar days after the Construction Manager has received payment for those

services from Owner. No retainage shall be held in conjunction with design phase services provided by the Construction Manager.

- 4.6 The Construction Manager agrees that no charges or claims for costs or damages of any type will be made by it for any delays or hindrances by Owner during the progress of any portion of the design phase services specified in this Contract. Such delays or hindrances, if any, will be solely compensated for by an extension of time for such reasonable period as may be mutually agreed between the parties. It is understood and agreed, however, that permitting the Construction Manager to proceed to complete any design phase services, in whole or in part after the date to which the time of completion may have been extended, will in no way act as a waiver on the part of Owner of any of its legal rights herein.
- 4.7 If any design phase service(s) executed by the Construction Manager is abandoned or suspended in whole or in part, for a period of more than 180 days through no fault of the Construction Manager, the Construction Manager shall be paid for the services performed prior to the abandonment or suspension.

## **ARTICLE 5 - CONSTRUCTION PHASE SERVICES**

- 5.1 The Construction Manager shall cause to be performed all of the Work required by the Contract Documents as revised or added to from time to time to reflect clarifications and approved changes.
- 5.2. The Work
- 5.2.1 It is the intent of City to describe in the Contract Documents a functionally complete Project to be constructed in accordance with the Contract Documents. Any work, materials or equipment that may reasonably be inferred from the Contract Documents as being required to produce the intended result shall be supplied by the Construction Manager whether or not specifically called for. When words which have a well-known technical or trade meaning are used to describe work, materials or equipment, such words shall be interpreted in accordance with that meaning. Reference to standard specifications, manuals, or codes of any technical society, organization or association, or to the laws or regulations of any governmental authority, whether such reference is specific or by implication, shall mean the latest standard specification, manual, code or laws or regulations in effect at the time of opening of bids. City shall have no duties other than those duties and obligations expressly set forth within the Contract Documents.
- 5.2.2 The Construction Manager agrees that the Work shall be performed in a good and professional manner, free from defects in materials and workmanship, and that all Materials shall be new and approved by or acceptable to the Construction Administrator, except as otherwise expressly provided for in the Contract Documents. The Construction Manager shall cause all Materials and other parts of the Work to be readily available as and when required or needed for or in connection with the construction, furnishing and equipping of the improvements.

5.2.3 The Construction Manager shall plan, record, and update, at least monthly, the construction schedule of the Work (the "Construction Schedule") utilizing the Critical Path Method ("CPM") of scheduling. As part of each GMP Proposal, the Construction Manager shall prepare and submit for the Construction Administrator's approval the Construction Schedule. It shall indicate the dates for the commencement and completion of the various stages of construction and shall be revised as required by the conditions of the Work, subject to the Construction Administrator's approval. The Construction Schedule shall encompass all of the work of all trades necessary for the construction of the Work and shall be sufficiently complete and comprehensive to enable progress to be monitored on a weekly basis.

#### 5.2.4 Superintendence and Supervision

5.2.4.1 The Construction Manager shall keep on the Project during its progress, a competent English speaking superintendent or project manager (hereinafter referred to as "superintendent") and any necessary assistants, all satisfactory to the Construction Administrator. The superintendent must be approved by the Construction Administrator before the work begins and shall not be changed except with the written consent of Construction Administrator, unless the superintendent proves to be unsatisfactory to the Construction Manager and ceases to be in its employ in which case the replacement superintendent must be approved by the Construction Administrator. The superintendent shall represent the Construction Manager and all direction given to the superintendent shall be as binding as if given to the Construction Manager and will be confirmed in writing by Construction Administrator upon the written request of the Construction Manager.

5.2.4.2 Daily, the Construction Manager's superintendent shall record, at a minimum, the following information either in a bound log or electronically in a commonly accessible, shareable, reproducible, and permanent format: the day; date; weather conditions and how any weather condition affected the progress of the Work; time of commencement of work for the day; the work being performed; materials, labor, personnel, equipment and subcontractors at the Project site; visitors to the Project site including representatives of City and Construction Administrator; any conditions or occurrences encountered which impact the timely and efficient performance of the Work; and the time of termination of work for the day. All information shall be recorded in the daily log in ink. The daily log shall be kept on the Project site and shall be available at all times for inspection and copying by City and Construction Administrator.

5.2.4.3 The Construction Administrator and the Construction Manager shall meet every week or as determined by the Construction Administrator, during the course of the Work to review and agree upon the work performed to date, establish the controlling items of work for the week and to discuss such other matters as may contribute to the successful completion of the Project. The Construction Administrator shall publish, keep, and distribute minutes and any comments thereto of each such meeting.

5.2.4.4 If the Construction Manager, at any time, finds any discrepancy between the Contract Documents and the physical conditions of the locality, or any errors, omissions, or discrepancies in the Project Manual, it shall be the Construction Manager's duty to immediately inform Construction Administrator, in writing, and Construction

Administrator will promptly review the same. Any work done after such discovery, until authorized, will be done at the Construction Manager's sole risk.

5.2.4.5 The Construction Manager shall supervise and direct the Work competently and efficiently, devoting such attention thereto and applying such skills and expertise as may be necessary to perform the Work in accordance with the Contract Documents. The Construction Manager shall be solely responsible for the means, methods, techniques, sequences and procedures of construction.

5.2.5 The Construction Manager shall check Plans, Specifications and other data to verify all dimensions, quantities and details shown and shall notify Construction Administrator of all errors, omissions and discrepancies found therein within three (3) calendar days of discovery. The Construction Manager will not be allowed to take advantage of any error, omission or discrepancy. The Construction Manager shall be liable for damages resulting from errors, omissions or discrepancies in the Contract Documents if the Construction Manager recognized such error, omission or discrepancy and knowingly failed to report it to Construction Administrator.

#### 5.2.6 Differing Site Conditions

5.2.6.1 In the event that during the course of the Work the Construction Manager encounters an underground utility that was not shown on the Contract Documents; or subsurface or concealed conditions at the Project site which differ materially from those shown on the Contract Documents, or disclosed in writing to Construction Manager prior to execution of the pertinent GMP Amendment, or ordinarily encountered and generally recognized as inherent in work of the character called for in the Contract Documents; or unknown physical conditions of the Project site of an unusual nature, which differ materially from that ordinarily encountered and generally recognized as inherent in work of the character called for in the Contract Documents, the Construction Manager, without disturbing the conditions and before performing any work affected by such conditions, shall, no later than five (5) Days (excluding Saturdays, Sundays, and Holidays) after their discovery, notify Construction Administrator in writing of the existence of the aforesaid conditions and shall propose changes in the Contract Price or the Contract Time, or both, as a result of such differing site conditions. Construction Administrator shall, within three (3) Days (excluding Saturdays, Sundays, and Holidays) after receipt of the Construction Manager's written notice, investigate the site conditions identified by the Construction Manager. If, in the sole opinion of Construction Administrator, the conditions do materially so differ and cause an increase or decrease in the Construction Manager's cost of, or the time required for, the performance of any part of the Work, Construction Administrator shall recommend an equitable adjustment to the Contract Price, or the Contract Time, or both, which is subject to approval by Owner and the Construction Manager pursuant to Section 9.4 hereof. If Construction Administrator and the Construction Manager cannot agree on an adjustment in the Contract Price or Contract Time, the adjustment shall be determined by the Construction Administrator in accordance with Article 30. Should Construction Administrator determine that the conditions of the Project site are not so materially different as to justify a change in the terms of the Contract, Construction Administrator shall so notify City and the Construction Manager in writing, stating the reasons. The Construction Administrator's determination of differing site conditions is subject to Section 30.1.

5.2.6.2 No request by the Construction Manager for an equitable adjustment to the Contract under this provision shall be allowed unless the Construction Manager has given written notice in strict accordance with the provisions of Section 5.2.6.1. Failure to give such written notice shall constitute an unequivocal waiver of any equitable adjustment under this provision.

5.2.6.3 No request for an equitable adjustment or change to the Contract Price or Contract Time for differing site conditions shall be allowed if made after the date certified by Construction Administrator as the date of Substantial Completion.

#### 5.2.7 Shop Drawings

5.2.7.1 The Construction Manager shall submit Shop Drawings as required by the Technical Specifications. The purpose of the Shop Drawings is to show the suitability, efficiency, technique of manufacture, installation requirements, details of the item and evidence of its compliance or noncompliance with the Contract Documents.

5.2.7.2 Within thirty (30) calendar days after the Project Initiation Date specified in the Notice to Proceed, the Construction Manager shall submit to Construction Administrator a list of preliminary data on items for which Shop Drawings are to be submitted and shall identify the critical items. Approval of this list ("the Schedule of Submissions") by Construction Administrator shall in no way relieve the Construction Manager from submitting complete Shop Drawings and providing materials, equipment, etc., fully in accordance with the Contract Documents. This procedure is required in order to expedite final approval of Shop Drawings.

5.2.7.3 After the approval of the list of items required in Section 5.2.7.2 above, the Construction Manager shall promptly request Shop Drawings from the various manufacturers, fabricators, and suppliers.

5.2.7.4 The Construction Manager shall thoroughly review and check the Shop Drawings and each and every copy shall show its approval thereon.

5.2.7.5 If the Shop Drawings show or indicate departures from the Contract requirements, the Construction Manager shall make specific mention thereof in its letter of transmittal to the Construction Administrator and the party submitting the Shop Drawings. Neither such letter of transmittal pointing out such departures nor the failure to point out such departures shall relieve the Construction Manager from its responsibility to comply with the Contract Documents.

5.2.7.6 Provided such submittals are in conformity with the approved Schedule of Submission, Construction Administrator shall coordinate review and approval of Shop Drawings by Design Professional within fifteen (15) Days from the date received, unless said Shop Drawings are rejected for material reasons; provided that Construction Administrator and Design Professional shall make good faith efforts to respond sooner than fifteen (15) Days upon written notice from the Construction Manager that an expedited response is critical. Approval of Shop Drawings will be general and shall not relieve the Construction

Manager of responsibility for the accuracy of such Shop Drawings, nor for the proper fitting and construction of the work, nor for the furnishing of materials or work required by the Contract Documents and not indicated on the Shop Drawings. No work called for by Shop Drawings shall be performed until the said Shop Drawings have been approved by Design Professional. Approval shall not relieve the Construction Manager from responsibility for errors or omissions of any sort on the Shop Drawings.

5.2.7.7 It is the Construction Manager's responsibility to reasonably assemble the Shop Drawings for all reasonably interconnecting and/or interdependent items, check them, and then make one submittal to Construction Administrator along with its comments as to compliance, noncompliance, or features requiring special attention. No approval will be given for partial submittals of shop drawings for items which reasonably interconnect and/or are reasonably interdependent.

5.2.7.8 If catalog sheets or prints of manufacturer's standard drawings are submitted as Shop Drawings, any additional information or changes on such drawings shall be typewritten or lettered in ink.

5.2.7.9 The Construction Manager shall submit the number of copies required by Construction Administrator. Resubmissions of Shop Drawings shall be made in the same quantity until final approval is obtained.

5.2.7.10 The Construction Manager shall keep one set of Shop Drawings marked with Design Professional's approval at the job site at all times.

**5.2.7.11 The Construction Manager acknowledges and agrees that the Design Professional shall be obligated to review and comment on each shop drawing or technical submittal a maximum of three (3) times and that Construction Manager shall bear the cost of additional reviews.**

#### 5.2.8 Field Layout of the Work, Record Drawings and Equipment Data

5.2.8.1 The entire responsibility for establishing and maintaining line and grade in the field lies with the Construction Manager. The Construction Manager shall maintain an accurate and precise record of the location and elevation of all underground site utilities installed by the Construction Manager, sealed by a Professional Surveyor. The Construction Manager shall deliver these records in good order to Construction Administrator as each segment of the Work is completed. The cost of all such field layout and recording work is included in the prices bid for the appropriate items. All record drawings shall be made on reproducible paper.

5.2.8.2 The Construction Manager shall maintain in a safe place at the project site one record set of the Contract Documents in good order and marked currently to record all changes made during construction and an accurate and precise location of all portions of the Work sufficient for the preparation of accurate as-built drawings.



5.2.8.3 Prior to, and as a condition precedent to Final Payment, the Construction Manager shall submit to Construction Administrator the Construction Manager's record drawings or as-built drawings acceptable to Program Manager.

5.2.8.4 Concurrently with the turnover of any piece of equipment to Owner, the Construction Manager shall deliver to Construction Administrator for delivery to Owner all equipment data, along with its recommended spare parts list, maintenance manuals, manufacturer's warranties and operations manuals as may be required for Owner employees or agents to maintain and operate any equipment delivered as a part of the Work.

5.2.9 Inspection and Testing

5.2.9.1 Construction Administrator and City shall at all times have access to the Work, and the Construction Manager shall provide for use by the Construction Administrator Construction Manager's on-site construction trailer for such access and for inspecting, measuring and testing as is reasonably needed.

5.2.9.2 Should the Contract Documents, Construction Administrator's instructions, any laws, ordinances, or any public authority require any of the Work to be specially tested or approved, the Construction Manager shall provide and update weekly for the Construction Administrator a two (2) week "look-ahead" schedule denoting all activity to be performed and highlighting those that need testing and approval. If the testing or approval is to be made by an authority other than City, timely notice shall be given of the date fixed for such testing. Testing shall be made promptly, and where practicable, at the source of supply. If any of the Work is covered up without approval or consent of Construction Administrator, it must, if required by Construction Administrator, be uncovered for examination and properly restored at the Construction Manager's expense.

5.2.9.3 Reexamination of any of the Work may be ordered by Construction Administrator and if so ordered, the Work must be uncovered by the Construction Manager. If such Work is found to be in accordance with the Contract Documents, City shall pay the cost of reexamination and replacement by means of a change order. If such Work is not in accordance with the Contract Documents, the Construction Manager shall pay such cost as part of the GMP.

5.2.9.4 Inspectors shall have no authority to permit deviations from, or to relax any of the provisions of, the Contract Documents. No action of an inspector shall form the basis of a claim of delay to the Contract.

5.2.9.5 The payment of any compensation, whatever may be its character or form, or the giving of any gratuity or the granting of any favor by the Construction Manager to any inspector, directly or indirectly, is strictly prohibited, and any such act on the part of the Construction Manager will constitute a material breach of this Contract.

#### 5.2.10 Taxes.

5.2.10.1 The Construction Manager shall pay all applicable Taxes required by law. The Construction Manager is responsible for reviewing the pertinent state statutes involving state Taxes and complying with all requirements.

5.2.10.2 Taxes shall be a reimbursable cost under Section 10.3.5 (6). All such Taxes shall be included in the GMP.

5.2.11 Permitted Work Hours. Construction Manager may perform work under this Contract only from 6:00 a.m. until 7:00 p.m., Mondays through Saturdays, but excluding Christmas Day, New Year's Day, Memorial Day and the Saturday prior to Memorial Day, July 4, Labor Day and the Saturday prior to Labor Day, and Thanksgiving Day and the Friday and Saturday after Thanksgiving Day. No work shall be performed during any other hours, days or evenings except with the prior written consent of the Owner Representative and in accordance with applicable City ordinances.

5.2.12 The Construction Manager understands and agrees that the Design Professional is contractually obligated to respond only to legitimate requests for information and clarification of matters properly pertaining to or related to the design of the Project, as determined by the Construction Administrator.

### **ARTICLE 6 - PRIORITY OF PROVISIONS**

6.1 The Contract Documents shall be interpreted so as to eliminate inconsistencies or conflicts, but in the event of any conflict, requirements for greater quantity and/or more expensive work shall govern.

6.2 In case of conflicts between the provisions of this Contract, any ancillary documents executed contemporaneously herewith or prior hereto, or any other of the Contract Documents, the provisions of this Contract (including all Exhibits and Attachments) shall prevail.

6.3 Anything shown on the Plans and not mentioned in the Specifications or mentioned in the Specifications and not shown on the Plans shall have the same effect as if shown or mentioned respectively in both. In case of disagreement between the written and graphic portions of the Project Manual, the written portion shall govern.

6.4 The organization of the Specifications into divisions and sections and the arrangement of Plans shall not control the Construction Manager in dividing the Work among subcontractors or in establishing the extent of the Work to be performed by any trade. The organization of the Specifications and the arrangement of the Plans are for the convenience of the Construction Manager and are not intended to relieve the Construction Manager from its obligation to conduct a complete study of the Plans, Specifications and Addenda for the purpose of directing the various Subcontractors and suppliers as to their respective responsibilities.



## **ARTICLE 7 - CONSTRUCTION ADMINISTRATOR'S AUTHORITY**

- 7.1 The Construction Administrator will provide overall technical and management services to assist Owner in maintaining schedules, establishing budgets, controlling costs, achieving quality and minimizing operational disruptions.
- 7.2 If at any time the Construction Administrator observes or becomes aware of any fault or defect in the Project or of any nonconformance with the Contract Documents, Construction Administrator will promptly notify the Owner Representative and the Construction Manager, and will direct that all reasonable steps be taken to correct such fault, defect or nonconformance. The Construction Administrator shall have the authority to reject Work that does not in its opinion, conform to the Contract Documents.
- 7.3 Construction Administrator shall monitor the work of the Construction Manager and shall coordinate all phases of its work to facilitate completion of the Work in accordance with the established time period and estimate of construction cost.
- 7.4 Construction Administrator shall have no control over construction means, method, techniques, sequences and procedures employed by the Construction Manager in the performance of the Work.
- 7.5 Construction Administrator shall determine when the date of Substantial Completion has occurred.

## **ARTICLE 8 - TIME FOR PERFORMANCE OF CONSTRUCTION OF WORK**

- 8.1 Contract Time
  - 8.1.1 The Construction Manager shall be instructed to commence construction of the Work by written instruction in the form of a Notice to Proceed issued by the Owner Representative. The Notice to Proceed will not be issued until after execution of the Guaranteed Maximum Price Amendment by both parties. The receipt of all initially-required permits by the Construction Manager and the Construction Manager's unimpeded access to and use of the Project Site (subject to FAA, TSA, and Airport security regulations) are condition precedents to the issuance of a Notice to Proceed.
  - 8.1.2 Time is of the essence throughout this Contract. The parties acknowledge that the construction may, at City's direction, proceed under partial permits. The Construction Manager shall provide Construction Administrator with a schedule indicating specific dates by which completed drawings and permits must be received by the Construction Manager to ensure the uninterrupted progress of the Work in order to complete the Work as scheduled.
  - 8.1.3 The Construction Manager shall achieve Substantial Completion no later than the Substantial Completion date set forth in the Guaranteed Maximum Price Amendment and

shall achieve Final Completion no later than sixty (60) days after Substantial Completion.

- 8.1.4 If the Construction Manager fails to achieve Substantial Completion of the Work within the time specified in Section 8.1.3 above and the GMP Amendment, plus approved time extensions, the Construction Manager shall pay to City, for each Day after the time specified in the Guaranteed Maximum Price Amendment, plus any approved extensions, *per diem* liquidated damages in the amount of Six Thousand Dollars (\$6,000.00) for each Day thereafter until Substantial Completion is achieved.

After Substantial Completion, should the Construction Manager fail to achieve Final Completion within the time specified in Section 8.1.3 above, plus approved time extensions thereof, for Final Completion and readiness for final payment, the Construction Manager shall pay to City, *per diem* liquidated damages in the amount of Three Thousand Dollars (\$3,000.00) for each Day thereafter until Final Completion is achieved.

These amounts are not penalties but are liquidated damages to City for its inability to obtain full beneficial use of the Work. Liquidated damages are hereby fixed and agreed upon between the parties, recognizing the impossibility of precisely ascertaining the amount of damages that will be sustained by City as a consequence of such delay, and both parties desiring to obviate any questions or disputes concerning the amount of said damages and the cost and effect of the failure of the Construction Manager to complete the Contract on time.

- 8.1.5 City is authorized to deduct liquidated damages from monies due to the Construction Manager for the Work under this Contract, or as much thereof as City may, at its own option, deem just and reasonable.

- 8.1.6 The Construction Schedule prepared and maintained by Construction Manager shall include, and shall be deemed to include, Saturday, Sundays, Holidays, and monthly inclement weather days normally encountered at the site for the calendar months included in the Construction Schedule as set forth in Exhibit "G" attached hereto ("Monthly Normal Inclement Weather Days"). Construction Manager shall be charged for each Day during the term of construction including Saturday, Sundays, Holidays, and Normal Inclement Weather Days. If in any calendar month Construction Manager is unable to work at least fifty percent (50%) of the Normal Work Day on pre-determined Controlling Work Items due to inclement weather for more Days in such calendar month than the Monthly Normal Inclement Weather Days for such calendar month, as set forth in Exhibit "G" hereto, the Construction Manager may not be charged a Day for each such Day in excess of such Monthly Normal Inclement Weather Days for such calendar month, and the Contract Time shall be extended one Day for each such Day in excess of such Monthly Normal Inclement Weather Days for such calendar month as Construction Manager's sole remedy for loss of time during such calendar month due to weather, provided that Construction Manager strictly complies with the provisions of Section 8.3. Extensions to the Contract Time for delays caused by the effects of inclement weather shall be submitted as a request for change in Contract Time pursuant to Section 8.3. In

any event, time extensions for a delay caused by inclement weather shall be granted only to the extent that such inclement weather delay adversely affects one or more Critical Activities. Nothing in this Section shall be deemed to contradict or affect the application of Section 8.1.7 (no damages for delay).

8.1.7 Extension of the Contract Time shall be the Contractor's sole remedy for any inclement weather delay as well as any other delay unless such other delay shall have been caused by acts constituting fraud, bad faith or active interference by the Owner with Contractor's performance of the Work and where and to the extent that such acts continue after Contractor's notice to Owner of such interference. Owner's exercise of any of its rights as it relates to changes in work regardless of the extent or number of such changes, or Owner's exercise of any of its remedies of suspension of the work, or requirement of correction or re-execution of any defective work, shall not under any circumstances be construed as active interference with Contractor's performance of the work. To exercise Contractor's right to extension of time due to Owner's active interference, Contractor shall, within three calendar days, or the following business day if the third day falls on a Saturday, Sunday, or Holiday ("notification period"), notify Owner in writing of Owner's active interference. If Contractor fails to notify Owner of Owner's active interference within the notification period, then Contractor waives any rights under this Section to claim Owner's active interference from the end of the notification period until the Owner receives written notification of active interference from Contractor.

8.2 When the Construction Manager considers that the Work has reached Substantial Completion, the Construction Manager shall so notify City and Construction Administrator in writing. Construction Administrator shall then promptly inspect the Work. When Construction Administrator, on the basis of such an inspection, determines that the Work has achieved Substantial Completion, Construction Administrator will then prepare a Certificate of Substantial Completion in the customary form acceptable to the parties which shall establish the Date of Substantial Completion; shall state the responsibilities of City and the Construction Manager for security, maintenance, utilities, damage to the Work, and insurance; and shall list all work yet to be completed ("Punch List") to satisfy the requirements of the Contract Documents for Final Completion; and shall establish time for Final Completion of all such final work. The failure to include any items of corrective work on such list does not alter the responsibility of the Construction Manager to complete all of the Work in accordance with the Contract Documents. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated segment thereof unless otherwise provided in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be submitted to City through the Owner Representative, after execution by the Construction Manager and Construction Administrator, indicating their written acceptance of the responsibilities assigned to them in such Certificate.

### 8.3 Notification of Change of Contract Time or Contract Price

8.3.1 Any claim for a change in the Contract Time or Contract Price shall be made by written notice delivered by the Construction Manager to the Construction Administrator within

fifteen (15) Days of the commencement of the event giving rise to the claim and stating the general nature of the claim. Notice of the specific nature and elements of the claim shall be delivered within twenty (20) Days after the date of such written notice. Thereafter, within twenty (20) Days of the termination of the event giving rise to the claim, notice of the extent of the claim with supporting data shall be delivered to Construction Administrator, unless Construction Administrator allows in writing an additional period of time to ascertain more accurate data in support of the claim, and shall be accompanied by the Construction Manager's written sworn certification that the adjustment claimed is the entire adjustment in Contract Time and Contract Price to which the Construction Manager is entitled as a result of the occurrence of said event. All claims for adjustment in the Contract Time or Contract Price shall be determined by Construction Administrator in accordance with Article 30 hereof, if Construction Administrator and the Construction Manager cannot otherwise agree. NO CLAIM FOR AN ADJUSTMENT IN THE CONTRACT TIME OR CONTRACT PRICE WILL BE VALID IF NOT SUBMITTED IN STRICT ACCORDANCE WITH THE REQUIREMENTS OF THIS SECTION. Nothing in this Section shall be deemed to contradict or affect the application of Section 8.1.7 (no damages for delay). Notwithstanding the foregoing, any claim for a change in the Contract Time or the Contract Price with respect to differing site conditions shall be governed by Section 5.2.6.

- 8.4 The Construction Manager has been informed that Tenant desires to have access to the hangar during the ninety (90) day period prior to the anticipated date of Substantial Completion for the purpose of installing and testing Tenant-provided inventory, improvements, systems, trade fixtures, and equipment, including but not limited to computer network systems, public address system, and IT communications systems. The Construction Manager agrees to cooperate and coordinate in good faith with Tenant to permit Tenant such access if, as, and to the extent that construction activities permit and subject to such reasonable conditions as the Construction Manager may require, which may include, without limitation, Tenant indemnification of the Construction Manager, its subcontractors and suppliers, and their respective employees, guests, and invitees, and Tenant-provided liability insurance for the benefit of the Construction Manager, its subcontractors and suppliers, and their respective employees, guests, and invitees.

## **ARTICLE 9 - CHANGES IN THE WORK OR TERMS OF CONTRACT DOCUMENTS**

- 9.1 Without invalidating the Contract and without notice to Surety or any other surety, City reserves and shall have the right, from time to time, to make such increases, decreases or other changes in the character or quantity of the Work as may be considered necessary or desirable to complete fully and acceptably the proposed construction in a satisfactory manner. Any extra or additional work within the scope of this Project must be accomplished by means of appropriate Field Orders, Change Directives or Change Orders; any sums moved between Contract Price Elements included within the Contract Price must be accomplished by an appropriate Contract Price Element Adjustment Memorandum. Without limiting the generality of the foregoing, Owner may at any time and from time to time issue Change Directives and/or Owner and Construction Manager may at any time and from time to time enter into Change Orders and/or

Amendments to add the construction of all or any part of Element 2 to this Contract subject to such terms and conditions as the parties shall mutually agree.

- 9.2 Any changes to the terms of the Contract Documents must be contained in a written document executed by the parties hereto prior to the initiation of any work reflecting such change. This section shall not prohibit the issuance of Change Directives executed only by City as hereinafter provided. The Owner Representative shall have authority to authorize and execute any Change Order on behalf of Owner if the net increase in the GMP resulting from such Change Order is not greater than \$25,000.00. Otherwise, the Change Order must be executed by the Mayor or City Administrator of the City of Pensacola.
- 9.3 The Construction Administrator may direct the Construction Manager to expedite the Work by whatever means the Construction Manager may use, including, without limitation, increasing staffing or working overtime, to bring the Work back within the Construction Schedule. If the expediting of Work is required due to reasons within the control or responsibility of the Construction Manager, then the additional costs incurred shall be chargeable to the Cost of the Work as part of the GMP. If the expediting of Work is required due to reasons outside the control or responsibility of the Construction Manager, then the additional costs incurred shall be the subject of an appropriate adjustment issued pursuant to Section 9.4 below.
- 9.4 Changes to the Work
- 9.4.1 Changes in the quantity or character of the Work within the scope of the Project which are not properly the subject of Field Orders, including all changes resulting in changes in the Contract Price or the Contract Time, shall be authorized only by Change Orders or Change Directives. Without limiting the generality of the foregoing, Owner may at any time and from time to time issue Change Directives and/or Owner and Construction Manager may at any time and from time to time enter into Change Orders and/or Amendments to add the construction of all or any part of Element 2 to this Contract subject to such terms and conditions as the parties shall mutually agree.
- 9.4.2 The Construction Administrator, as authorized by the Owner Representative, may initiate a change order request ("Change Order Request"), setting forth in detail the nature of the requested change. Upon receipt of a Change Order Request, the Construction Manager shall review the change order request with the Construction Administrator prior to furnishing to the Construction Administrator a statement setting forth in detail, with a suitable detailed breakdown including a breakdown of labor and materials, the Construction Manager's estimate of the changes in the Estimated Construction Manager's Direct Construction Cost (as set forth as an exhibit, in the format of Exhibit "B" hereto, to the GMP Amendment) and changes to any other Contract Price Elements attributable to the changes set forth in such Change Order Request and proposed adjustments, if any, to the Contract Time resulting from such Change Order Request. If the Owner Representative accepts such the Construction Manager's Estimate, a Change Order shall be executed by an authorized representative of Owner and delivered by the Construction Administrator to the Construction Manager for execution. Agreement on any Change Order shall constitute a final settlement on all items affected therein, including without limitation any adjustment in the Guaranteed Maximum Price or the Contract Time,



subject to performance thereof and payment therefore pursuant to the terms of this Contract and such Change Order.

9.4.3 The Construction Manager's fee on such changes shall be determined as follows:

(a) A mutually acceptable fixed fee, or if none can be agreed upon,

(b) The Construction Manager's Fee (expressed as a percentage as set forth in the GMP Amendment) multiplied by the net change to the Cost of the Work resulting from the Change Order. Any subcontractor's percentage markup for overhead and profit on change orders shall be reasonable, but in no event shall the aggregate of the subcontractor's overhead and profit markups exceed fifteen percent (15%). In the event subcontractor is affiliated with the Construction Manager by common ownership or management, or is effectively controlled by the Construction Manager, no Construction Manager's Fee will be allowed on the subcontractor's costs. In the event there is more than one level of subcontractor, such as second and third tier subcontractors, the sum of all of the subcontractors' percentage markups for overhead and profit shall not in the aggregate exceed thirty percent (30%).

9.4.4 All changes to construction contracts must be approved in advance in writing.

9.4.5 The Construction Manager shall not start work on any alteration requiring an increase in the Contract Price or the Contract Time until a Change Order setting forth the adjustments is approved in writing by Owner. Upon receipt of a Change Order, the Construction Manager shall promptly proceed with the work set forth within the document.

9.4.6 In the event a satisfactory adjustment cannot be negotiated for any item requiring a change in the Contract Price or Contract Time, and a Change Order has not been issued, City reserves the right at its sole option to either terminate the Contract as it applies to the items in question and make such arrangements as may be deemed necessary to complete the disputed work, or submit the matter in dispute to Construction Administrator as set forth in Article 30 hereof. During the pendency of the dispute, and upon receipt of Change Directive from the Owner Representative, the Construction Manager shall promptly proceed with the change in the Work involved and advise the Construction Administrator and Owner Representative in writing within seven (7) calendar days of the Construction Manager's agreement or disagreement with the adjustment, if any, provided in the Change Directive for the Contract Price or Contract Time.

9.4.7 On approval of any Contract change increasing the Contract Price, the Construction Manager shall ensure that the Performance Bond and the Payment Bond are increased so that each reflects the total Contract Price as increased.

9.5 The Construction Administrator shall have the right to approve and issue Field Orders setting forth written interpretations of the intent of the Contract Documents and ordering minor changes in Work execution, providing the Field Order involves no change in the Contract Price or Contract Time.

## 9.6 Excusable Delay: Compensable and Non Compensable

- 9.6.1 Excusable Delay is delay which extends the Contract Time, is not otherwise contemplated by the Contract (e.g., Section 8.1.6 Monthly Inclement Weather Days), and is caused by circumstances beyond the control of the Construction Manager or its subcontractors, material persons, suppliers, or vendors. Excusable Delay may include, without limitation (a) acts of God; (b) flood, fire, hurricane, earthquake, adverse weather conditions, or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law; (e) actions, embargoes or blockades in effect on or after the date of this Contract; (f) action by any governmental authority; and (g) labor disputes or unavoidable casualties. If Construction Manager is unable to work at least fifty percent (50%) of the Normal Work Day on pre-determined Controlling Work Items due to Excusable Delay, the Construction Manager may not be charged a Day for each such Day, and the Contract Time shall be extended one Day for each such Day as Construction Manager's sole remedy for loss of time during such calendar month due to weather, provided that Construction Manager strictly complies with the provisions of Sections 8.1.7 and 8.3. However, notwithstanding the foregoing, if the Contract Time is so extended for more than thirty (30) Days, Construction Manager shall be entitled to a Change Order increasing the General Conditions Costs and, correspondingly, the Contract Sum by \$ \_\_\_\_\_ per Day for each Day of such extension in excess of thirty (30) Days, as liquidated damages incurred by the Construction Contractor by reason of such Excusable Delay.

The Construction Manager shall document its claim for any time extensions and delay as provided in Section 8.3 hereof.

**Failure of the Construction Manager to comply with Section 8.3 as to any particular event of delay shall be deemed conclusively to constitute a waiver, abandonment or relinquishment of any and all claims resulting from that particular event of delay.**

- 9.6.2 Excusable Delay may be compensable or non-compensable. Except as otherwise expressly provided in Section 9.6.1, Excusable Delay is compensable ("Compensable Excusable Delay") only if the Excusable Delay is solely caused by the fraud, bad faith or active interference by Owner; provided that Construction Manager strictly complies with the provisions of Sections 8.1.7 and 8.3. In no event shall the Construction Manager be compensated for interim delays which do not extend the Contract Time.

The Construction Manager shall be entitled to direct and indirect costs for Compensable Excusable Delay. Direct cost recoverable by the Construction Manager shall be limited to the actual additional costs allowed pursuant to Section 10.3.

City and the Construction Manager recognize and agree that the amount of the Construction Manager's precise actual indirect costs for Compensable Excusable Delay in the performance and completion of the Work is impossible to determine as of the date of execution of the Contract Documents, and that proof of the precise amount will be difficult. Therefore, indirect costs recoverable by the Construction Manager shall be liquidated on a daily basis for each day the Contract Time is delayed due to a

Compensable Excusable Delay. These liquidated indirect costs shall be paid to compensate the Construction Manager for all indirect costs caused by a Compensable Excusable Delay and shall include, but not be limited to, all profit on indirect costs, job site and home office overhead, acceleration, loss of earnings, loss of productivity, loss of bonding capacity, loss of opportunity and all other indirect costs recoverable. City shall pay the Construction Manager liquidated damages in the per diem amount of \$1,500.00 for each day the Contract Time for the Work is delayed due to a Compensable Excusable Delay.

When Excusable Delay is (i) caused by circumstances beyond the control of the Construction Manager, its subcontractors, material persons, suppliers and vendors, and is also caused by circumstances not meeting the criteria of Excusable Compensable Delay, or (ii) is caused jointly or concurrently by the Construction Manager or its subcontractors, material persons, suppliers or vendors and by Owner or Construction Administrator, then the Construction Manager shall be entitled only to a time extension and no further compensation for the delay.

## **ARTICLE 10 - PAYMENTS AND COST OF THE WORK**

10.1 In full consideration of the full and complete performance of the Work and all other obligations of the Construction Manager hereunder, Owner shall pay to the Construction Manager a sum of money, not to exceed the Guaranteed Maximum Price as adjusted by approved Change Orders, equal to the Contract Price which is defined to be the total of: (i) the Cost of the Work, (ii) the General Conditions Costs set forth in the GMP Amendment, (iii) the Construction Manager's design phase fee set forth in Section 4.1, (iv) so much of the approved amount of the Construction Manager's Contingency account as may have been expended, (v) so much of the approved amount of the Owner's Contingency account as may have been expended by Construction Manager for the Work, (vi) Taxes and (vii) the Construction Manager's Fee. The Contract Price shall not exceed the Guaranteed Maximum Price, adjusted to take into account any approved Change Orders, and shall mean those costs necessarily incurred and paid by the Construction Manager in connection with the performance of all the Work.

10.2 Intentionally left blank.

10.3 The term "Cost of the Work" shall mean the sum of all direct costs necessarily incurred and paid by the Construction Manager in the performance of the Work. Such costs shall be at rates not higher than those customarily paid in the locality of the Project except with the prior written consent of City. The Cost of the Work shall include only those items set forth in this Section 10.3 and shall not include any items listed in Section 10.4. Payment for any work covered by the Contract shall be determined in one of the following ways:

### **10.3.1 Subcontractor Costs**

- (1) Where the Work is covered by unit prices contained in the Contract Documents or an applicable subcontract, by application of unit prices to the quantities of items involved. If the quantity of any item of subcontractor work that is covered

by a unit price is increased or decreased by more than twenty percent (20%) from the quantity of such work indicated in the Contract Documents, an appropriate Change Order may be issued to adjust the unit price, if warranted.

- (2) By mutual acceptance of a lump sum which subcontractor, the Construction Manager and Construction Administrator acknowledge contains a component for overhead and profit, which shall be subject to the limitation of subcontractor fees set forth in Section 9.4.3. Whenever a change in subcontractor work is to be based on mutual acceptance of a lump sum, whether the amount is an addition, credit or no change-in-cost, the Construction Manager shall submit an initial cost estimate obtained from the subcontractor and acceptable to Construction Administrator. The breakdown shall list the quantities and unit prices for materials, labor, equipment and other items of cost. Whenever a change involves more than one subcontractor and the change is an increase in the GMP, the overhead and profit percentage of each subcontractor and the Construction Manager, if applicable, shall be itemized separately.
- (3) If a subcontract provides that the subcontractor is to be paid on the basis of cost of the work plus a fee, the subcontractor's cost of the work shall be determined in the same manner as the Construction Manager's cost of the work, subject to the limitation on subcontractor's fees set forth in Section 9.4.3.
- (4) If changes to subcontracted work affect the GMP, such changes shall be accomplished in accordance with Section 9.4. The amount of decrease in the GMP for any change which results in a net decrease in cost will be the amount of the actual net decrease. When both additions and decreases are involved in any one change, the combined effect shall be figured on the basis of the net change in the GMP, if any.

10.3.2 Payroll costs for employees in the direct employ of the Construction Manager in the performance of the work who are stationed or principally located in the field or field office as follows: salaries plus labor burden as set forth in the schedule of job classifications agreed upon by City and the Construction Manager and included in each GMP Proposal and GMP Amendment (Management Services) Labor burden shall include social security contributions, unemployment, excise and payroll taxes, workers' compensation, health and retirement benefits, sick leave, vacation, holiday pay and any other fringe or utilized benefits.

10.3.3 Materials and Equipment: Cost of all materials and equipment furnished and incorporated in the Work, including costs of transportation and storage thereof, and manufacturers' field services required in connection therewith, adjusted in accordance with Article 12, pertaining to "Discounts, Rebates and Refunds;" rentals of all construction equipment and machinery and the parts thereof whether rented from the Construction Manager or others in accordance with rental agreements and the costs of transportation, loading, unloading, installation, dismantling and removal thereof, all in accordance with the terms of said agreements. The rental of any such equipment, machinery or parts shall cease when the use thereof is no longer necessary for the work. If the total rent paid for any item of equipment rented from a vendor or from the Construction Manager's stock will exceed seventy (70%) percent of its fair market value, with Construction Administrator's

approval the item shall be purchased, a bill of sale issued by the Construction Manager, and the item shall become the property of Owner. For equipment owned by the Construction Manager which is utilized in construction of the Work, cost shall be calculated on the actual cost of operation, proration of maintenance and actual depreciation in value.

10.3.4 Owner reserves the right to purchase and/or supply materials, tools or items of equipment to the Construction Manager which Owner is able to provide at a lower cost than that available to the Construction Manager or has already purchased on a prior project or desires to direct purchase so as not to pay sales tax. In the event of such purchase or supply by Owner, the actual purchase price shall be considered as an element of the Direct Construction Cost.

10.3.4.1 City certifies and represents that it is properly certified as an entity exempt from the payment of sales and use taxes in the State of Florida. Prior to City's purchase of any materials pursuant to the provisions of Section 10.3.4, City shall provide Construction Manager, upon request, with documentation confirming such exemption, including City's Certificate of Entitlement. City acknowledges that Construction Manager may rely upon this certification and representation by City.

10.3.4.2 City may purchase materials to be incorporated into the Work directly pursuant to the terms and conditions of this Section 10.3.4.

10.3.4.3 In the event City elects to purchase materials directly, City and Construction Manager shall follow the following procedures:

(a) Prior to City's issuance of the Notice to Proceed, Construction Manager shall provide to City a list of the materials and equipment potentially available for direct purchase by City. Such list shall include (i) an estimate of the value of each such item, (ii) an estimate of the sales/use tax savings on each such item, and (iii) the deadline for ordering each such item, such that the materials can be timely ordered, fabricated and delivered so as not to delay the prosecution of the Work. Construction Manager shall not order any such items until not less than thirty (30) days after such list has been provided to City. City shall notify Construction Manager in writing of the materials and equipment to be used or incorporated into the Work that City has determined that it will purchase directly. This notice must be provided to Construction Manager before the Construction Manager has ordered the materials, and such materials shall be ordered by City on or before the ordering deadline specified in such list.

(b) Construction Manager shall prepare, on City's form, a purchase order directed to the vendor of the materials sufficient to describe and order the materials which City has elected to purchase directly, and shall provide such purchase order to City. Such purchase order shall provide that the purchased item shall be FOB job site. Construction Manager's submission of a completed purchase order form is a representation by Construction Manager to City that the materials described therein comply with the Contract Documents. City may not prepare or issue a purchase order not prepared by Construction Manager.

(c) City shall execute the purchase order and shall issue the purchase order directly to the vendor supplying the materials, including, as an attachment to such purchase order, a copy of the City's Certificate of Exemption in accordance with the provisions of Florida Administrative Code, Paragraph 12A-1.094, Public Works Contracts.

(d) The vendor shall then issue its invoice directly to City, and City shall pay the invoice according to its terms directly to vendor from public funds.

(e) City shall provide Construction Manager with a copy of each invoice and proof of payment.

(f) Upon receipt of each invoice and proof of payment, Construction Manager shall prepare, not more frequently than monthly, a Change Order reducing the Guaranteed Maximum Price by the amount paid by City for the directly purchased materials plus the amount of sales or use tax which Construction Manager would have paid on such materials had Construction Manager purchased the materials itself. The Change Order shall then be executed as provided in the Contract Documents. However, the Construction Manager's Fee and the Construction Manager's Contingency shall be calculated as if the Guaranteed Maximum Price was not reduced by the amount paid by City for directly purchased materials; provided that the amount of sales or use tax savings resulting from direct purchases by City shall be excluded from the Cost of the Work for the purpose of calculating the Construction Manager's Fee and the Construction Manager's Contingency. For the avoidance of doubt, the premiums for bonds and insurance included in the General Conditions Cost shall not be affected by reason of any amount paid by City for directly purchased materials.

(g) City shall take title to the materials at the time of delivery by the vendor to the job site, and all warranties with respect to such materials shall run directly from the vendor to City; however, Construction Manager shall be deemed a third-party beneficiary of such warranties. City's direct purchase of materials shall not, however, alter any of Construction Manager's obligations under the Contract Documents, including but not limited to Construction Manager's warranty obligations under the Contract Documents.

(h) As provided above, direct purchases by City shall be FOB the jobsite, so the vendor assumes the risk of loss or damage to the materials from the date of submission of the order until the materials are delivered to the job site and properly unloaded and stored at the job site, upon which City shall assume the risk of loss or damage to the materials.

10.3.4.4 The provisions of this Section 10.3.4 do not relieve Construction Manager of its obligations to install any directly purchased materials in compliance with the Contract Documents.

10.3.4.5 If City fails to order any direct-purchase materials on or before the date specified by the Construction Manager pursuant to Section 10.3.4.1 and such failure delays the critical path of the Work, Construction Manager shall be entitled an equitable adjustment of the Contract time, unless Construction Manager is at fault for such delay.

10.3.4.6 City shall indemnify and hold the Construction Manager harmless of and from any liability for sales and use taxes for direct purchases by City should it be determined that the purchases, in fact, are subject to the payment of sales and use taxes or that the methodology described herein is not sufficient to exempt such direct-purchase materials from sales and use taxes.

10.3.5 Miscellaneous costs:

- (1) The receipted cost of telephone, telegrams, postage, photographs, blueprints, office supplies, first aid supplies and related miscellaneous costs reasonably incurred in direct support of the Work at the Project Location.
- (2) Premiums (net) on bonds and insurance, not included in General Conditions Costs, that the Construction Manager is obligated to secure and maintain under the terms of the Contract Documents, subject to the written approval of Owner. Premiums paid as part of the Construction Manager's Cost shall be net of trade discounts, volume discounts, dividends and other adjustments. All insurance and bonds shall be provided by companies acceptable to Owner. Self-insurance by the Construction Manager or insurance through any affiliates of the Construction Manager shall not be permitted without Owner's prior written approval; provided that Owner hereby approves Construction Manager's use of Lakeview Risk Partners, a related party, as Construction Manager's agent (but not surety or underwriter) in bonding and insurance transactions. Premiums for subcontractor bonds that are not required under the terms of the Contract Documents shall be considered part of the Construction Manager's Overhead, not Cost of the Work. Notwithstanding the foregoing, the Construction Manager may purchase from AXA XL a Subcontractor Default Insurance ("SDI") policy providing comprehensive default coverage on enrolled subcontractors and specified vendors providing portions of the Work where the subcontractor or supplier has a direct contractual relationship with the Construction Manager. The premium for such SDI policy shall be included in the Cost of the Work up to but not exceeding an amount equal to one and three-tenths percent (1.3%) of the aggregate value of all subcontracts and specified purchase orders, including Change Orders, covered by such SDI policy; provided that any portion of the premium in excess of such amount shall be considered part of the Construction Manager's Overhead, not Cost of the Work; and provided further that the value of any portion of the Work performed by the Construction Manager or a subcontractor affiliated with the Construction Manager by common ownership or management or effectively controlled by the Construction Manager shall not be included in the premium calculation. The Construction Manager's procurement of such SDI policy shall not alter, limit, or restrict in any way the Construction Manager's obligations and liabilities under the Contract Documents.
- (3) The cost of obtaining and using any utility services required for the Work that are not paid directly by City, including fuel and sanitary services at the Project site.
- (4) The cost of removal of debris from the site. The Project site, lay-down locations, and staging sites will be kept clear of all debris on a daily basis. All subcontracts

shall require subcontractors to promptly (no less than weekly) remove all debris created by their activities, and the Construction Manager shall exercise its best efforts to enforce such requirements or to effect the removal of the debris of the subcontractors who fail in this regard. Provided, however, the Construction Manager shall not be required to remove debris created by Owner's separate contractors or operators except pursuant to Change Order procedures set forth herein.

- (5) The cost and expenses, actually sustained by the Construction Manager in connection with the Work, of protecting and repairing adjoining property, if required, except to the extent that any such cost or expense is:
  - (a) the responsibility of the Construction Manager under Article 28, reimbursable by insurance or otherwise;
  - (b) due to the failure of the Construction Manager to comply with the requirements of the Contract Documents with respect to insurance; or,
  - (c) due to the failure of any officer of the Construction Manager or of any of its representatives having supervision or direction of the Work to exercise good faith or the standard of care normally exercised in the conduct of the business of a general contractor experienced in the performance of work of the magnitude, complexity and type encompassed by the Contract Documents, in any of which events any such expenses shall not be included in the Construction Manager's costs.
- (6) Taxes with respect to services performed or material furnished for the Work, it being understood that none of the foregoing includes Taxes.
- (7) All reasonable costs and expenditures necessary for the operation of the project job site office, including cost of field computer equipment and software in accordance with Exhibit "C".
- (8) If not included in General Conditions Costs or in a lump-sum Construction Manager self-performance or subcontract package, necessary transportation, travel, and subsistence expenses incurred by the following employees of Construction Manager: to-wit: \_\_\_\_\_, excluding travel time, incurred in discharge of duties connected with the Work, except for local travel to and from the site of the Work, subject to the following limitations: (1) travel expenses must be approved in advance by the Construction Administrator, such approval not to be unreasonably withheld; (2) fares for air transportation shall not exceed standard coach rates; (3) reimbursement for ground travel (automobile rental, taxi, parking, etc.) shall not exceed \$50.00 per day; and (4) reimbursement for lodging expenses while traveling shall not exceed the corporate rate at major business hotels in the area and the per diem for meal and miscellaneous business expenses shall not exceed \$30.00. The Construction Manager shall provide detailed receipts for all reimbursable charges. The parties understand and agree that teleconferencing, video conferencing, and virtual meeting technologies shall



be used to the maximum extent feasible in order to minimize the need for travel by the Construction Manager's employees.

- (9) Cost, including transportation and maintenance, of all materials, supplies, office equipment, machinery, appliances, office and temporary facilities at the site and hand tools not owned by the workers which are consumed in the performance of the work, and cost less market value of such items used but not consumed which remain the property of the Construction Manager.
- (10) Deposits lost for causes other than the Construction Manager's negligence; royalty payments and fees for permits and licenses.
- (11) Cost of premiums for additional bonds and insurance, not included in General Conditions Costs, and required because of changes in the work.
- (12) Cost of shuttling employees to and from the job site to the designated parking and/or staging area, if required.
- (13) Cost of special consultants, including, but not limited to, engineers, architects, testing laboratories, surveyors, lawyers and accountants, employed for services specifically related to the Work.
- (14) Any other expenses or charges incurred, with the prior written approval of the Construction Administrator, in the performance of the Work.

10.4 Overhead. "Overhead" is defined as any and all other costs, not referenced in Section 10.3, of the Construction Manager and its operation, including but not limited to the overhead items shown on the matrix attached hereto as Exhibit "E". The Direct Cost of the Work shall not include Overhead. The Construction Manager agrees to furnish and perform, as a part of the Contractor's Fee and without reimbursement, said Overhead items which include, but are not limited to, the following materials and services:

10.4.1 Payroll costs and other compensation of the Construction Manager's officers, executives, principals (of partnership and sole proprietorship), general managers, engineers, architects, estimators, lawyers, auditors, accountants, purchasing and contracting agents, expeditors, timekeepers, clerks and other personnel employed by the Construction Manager that are shown under the "\_\_\_\_" column on the matrix attached hereto as Exhibit "E", all of which are to be considered administrative costs covered by the Construction Manager's Fee.

10.4.2 Other than those expenses authorized on Exhibit "C", expenses of the Construction Manager's principal and branch offices.

10.4.3 Any part of the Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work and charges against the Construction Manager for delinquent payments. 10.4.4 Other overhead, general expense costs or charges of any kind and the cost of any item not specifically and expressly included in Section 10.3.

10.4.5 Costs in excess of the Guaranteed Maximum Price.

10.4.6 Entertainment and meal expenses and charges of a personal nature.

10.4.7 Bonuses, profit-sharing or other special labor charges not included in Section 10.3.2, above.

10.4.8 Any outside legal fees incurred without prior written approval from Owner Attorney's Office.

#### 10.5 Progress Payments

10.5.1 The Owner shall make payment to the Construction Manager in accordance with its standard billing and payment procedures and applicable Florida Statutes. Invoices must be received and approved by City by the 20<sup>th</sup> of month in order to be paid in City check cycle. Ordinarily Owner issues checks for payment of invoices on the 10<sup>th</sup> of each month. A complete and accurate billing from the Construction Manager must have been received and approved by the Construction Administrator and forwarded to the Office of the Airport Director by the 20<sup>th</sup> day of the month for consideration of payment on the 10<sup>th</sup> of the following month. Items received after the 20<sup>th</sup> day of the month may be processed in the following payment cycle.

10.5.2 Ten percent (10%) of all monies earned by the Construction Manager shall be retained by City until Final Completion and acceptance by City of the Work in accordance with Section 10.8 hereof. After fifty percent (50%) of the Work has been completed, the Owner Representative may reduce the retainage to five percent (5%) of all monies previously earned and all monies earned thereafter, and after ninety percent (90%) of the Work has been completed, the Owner Representative may reduce the retainage to two and one-half percent (2-1/2%) of all monies previously earned and all monies earned thereafter. Any reduction in retainage shall be in the sole discretion of the Owner Representative, shall be recommended by Construction Administrator, and the Construction Manager shall have no entitlement to a reduction. Without limiting the generality of the foregoing, any reduction in retainage shall be subject to (1) the written consents of the various grant funders, if required by the grant agreements, (2) the written consent of the Surety, and (3) reasonable evidence that there exist no actual or potential claims against the Construction Manager or any of its subcontractors. Any interest earned on retainage shall accrue to the benefit of City.

10.5.3 City may withhold, in whole or in part, payment to such extent as may be necessary to protect itself from loss on account of:

10.5.3.1 Defective Construction Manager or subcontractor work not remedied.

10.5.3.2 Claims filed or upon reasonable evidence indicating probable filing of claims by other parties against the Construction Manager relating to the Project.

10.5.3.3 Failure of the Construction Manager to make payments properly to subcontractors or for material or labor.

10.5.3.4 Damage to another contractor not remedied.

10.5.3.5 Liquidated damages.

10.5.4 Fifteen (15) days prior to the first Request for Payment, the Construction Manager shall prepare an initial schedule of values for approval by the Construction Administrator allocating the entire estimated the Construction Manager's Direct Construction Cost among the various portions of the Work (the "Schedule of Values"). The Schedule of Values shall list the cost of materials, the cost of labor, the cost of equipment and the cost of subcontractor work separately for the portions of the Work delineated. Each monthly Request for Payment shall be for a sum equal to (i) that portion of the Construction Manager's Direct Construction Cost equal to the percentage of the Work completed; plus (ii) the amount of the Construction Manager's General Conditions actually expended; plus (iii) the amount of the Construction Manager's Fee equal to the percentage of the Work completed; provided, however, that prior to the date of the Final Request, and unless subject to reduction under Section 10.5.2, the aggregate of the Construction Manager's Fee payments shall not exceed ninety percent (90%) of the Construction Manager's Fee.

The Construction Manager's Direct Construction Cost shall be segregated and detailed in a manner satisfactory to the Construction Administrator, with sufficient supporting documentation and description of charges for the Construction Administrator to evaluate the charges. The Request for Payment shall indicate the percentage of completion of each portion of the Work, and the total Work, as of the end of the period covered by the Request for Payment. The Schedule of Values shall be used as one basis for reviewing the Request for Payment when such amounts are approved. The Request for Payment may include the cost of Materials not incorporated in the Work, but delivered and suitably stored at the Project location or at some other location approved, in writing in advance, by Owner. Materials stored off-site must be supported by a detailed invoice, bill of sale (transferring ownership to Owner) and insurance certificate naming Owner as additional insured equal to or exceeding the cost of the material so acquired.

- 10.6 If the Construction Administrator, in its good faith judgment, determines that the portion of the Guaranteed Maximum Price then remaining unpaid will not be sufficient to complete the Work in accordance with the Plans, Specifications and Addenda, no additional payments will be due to the Construction Manager hereunder unless and until the Construction Manager, at its sole cost, performs a sufficient portion of the Work so that such portion of the Guaranteed Maximum Price then remaining unpaid is determined by the Construction Administrator to be sufficient to so complete the Work.
- 10.7 The Construction Administrator and Owner shall review each such Request for Payment and may make such written exceptions as the Construction Administrator or Owner reasonably deem necessary or appropriate under the state of circumstances then existing. In no event shall Owner be required to make payment for items of the Construction Manager's Cost to which the Construction Administrator or Owner reasonably take exception.
- 10.8 Thirty (30) days after Final Completion of the Work and acceptance thereof by Owner or as soon thereafter as possible, the Construction Manager shall submit a final request for

payment ("Final Request") which shall set forth all amounts due and remaining unpaid to the Construction Manager (including the unpaid portion of the Construction Manager's Fee). Upon approval of the final request for payment, Owner will issue a Final Certification of Payment in the customary form acceptable to the parties. The Construction Manager shall deliver to Owner the a Final Receipt in the form of Attachment 4 hereto.

- 10.9 Except for the Construction Manager's Fee, the Construction Manager shall use the sums advanced to it pursuant to this Article 10 solely for the purpose of performance of the Work and the construction, furnishing and equipping of the Work in accordance with the Plans, Specifications and Addenda and payment of bills incurred by the Construction Manager in performance of the Work.
- 10.10 Within 10 calendar days the Construction Manager shall pay all bills for labor and material performed and furnished by its subcontractors, suppliers and material providers, in connection with the construction, furnishing and equipping of the Work and the performance of the Work.
- 10.11 Prior to execution of the pertinent GMP Amendment, Owner shall deliver to the Construction Manager a written list of those items, if any, to be purchased for use in the Work with funds furnished therefor by Owner (e.g., hoists, scaffolding, forms, tools, etc.) that Owner desires to retain or require to be sold upon completion of the Work (the "Retention Items"). Upon completion of the Work or the appropriate parts thereof, the Construction Manager shall, as directed by Owner in writing, either (i) deliver the Retained Items to Owner or (ii) either sell the Retained Items to a third party or purchase itself at the then fair market value thereof from Owner (said value determination being subject to Owner's written approval. The amounts received from such sale, if any, shall inure to Owner as a separate transaction outside the scope of this Contract.
- 10.12 In the event the Construction Manager submits charges as a Cost of the Work that are not specifically covered by this Contract, and to which the Construction Administrator objects, the Construction Manager must, as a condition precedent to pursuit of any other method of dispute resolution, notify the Construction Administrator in writing, within twenty (20) days after the Construction Administrator objects to said charge, that the Construction Manager desires to resubmit the charge for resolution. The charge will then be resubmitted and an attempt to resolve the charge may be made by the Construction Manager, the Construction Administrator and Owner. Any charge not approved by the Construction Administrator within thirty (30) days of resubmission will be presumed to be disallowed, and the Construction Manager may thereafter pursue such remedies as may be available to it under this Contract.

#### **ARTICLE 11 – DISCOUNTS, REBATES AND REFUNDS**

- 11.1 All cash discounts obtained on payments made by the Construction Manager shall accrue to Owner unless the Construction Manager actually advanced its own funds, prior to receipt of funds from City, to make the payment giving rise to the discount. When the Construction Manager becomes aware that a cash discount may be available to City, the Construction Manager shall, prior to advancing its own funds, timely notify Construction Administrator of such opportunity so City can make the required payment

to achieve the discount for Owner. The Construction Manager shall only advance its own funds if City declines to make the early payment. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment shall accrue to City, and the Construction Manager shall make provisions so that they shall be obtained.

## **ARTICLE 12 - SUBCONTRACTS AND PURCHASE ORDERS**

- 12.1 Provisions for selection of subcontractors are defined under Section 2.8. Additionally, the following shall be required for all subcontract and purchase order agreements.
- 12.2 When the Construction Administrator has approved the award of any such subcontract or purchase order, the Construction Manager shall contract solely in its own name and behalf, and not in the name or behalf of Owner, with the specified subcontractor or supplier. The Construction Manager's subcontract form shall provide: that the subcontractor shall perform its portion of the Work in accordance with all applicable provisions of this Contract and the other Contract Documents; that subcontractor is bound to the Construction Manager to the same extent as the Construction Manager is bound to Owner; that subcontractor shall have the Construction Manager and City named as additional insureds on its commercial general liability insurance and provide an insurance certificate evidencing same; for termination of the subcontract by the Construction Manager in the same manner and method as provided in Article 23 of this Contract, or as otherwise provided in such subcontract, whichever is more protective of Owner's interest; and shall further provide that, in the event this Contract is terminated for any reason, that the subcontractor shall, at Owner's option, perform its subcontract for Owner, or for a contractor designated by Owner, without additional or increased cost, provided the subcontractor is paid in accordance with its subcontract. Nothing contained herein shall impose on Owner an obligation to assume any subcontract or make any payment to any subcontractor to perform pursuant to this Section 12.2, and nothing contained herein shall create any contractual relationship between Owner and any subcontractor.

The contract between the Construction Manager and subcontractor(s) shall provide that, in the event of this Contract termination for any reason, the subcontractor shall at Owner's option perform its contract for the Owner, or for a Construction Manager or Contractor designated by the Owner, without additional or increased cost. In that event, the Construction Manager shall sign and require subcontractor(s) to sign an assignment of rights under its contract to Owner or the Owner's designee in a form approved by the Owner. Nothing contained herein shall, however, create any obligation of Owner to assume any contract or make any payment to any the Construction Manager subcontractor unless the Owner chooses to assume such contract in accordance with the terms of this provision.

- 12.3 The Construction Administrator may, for good cause, designate as the selected subcontractor or supplier a bidder whose bid exceeds that of the bidder recommended by the Construction Manager, whose bid complies with the Plans, Specifications and Addenda (the amount by which the bid of the selected subcontractor exceeds the bid of the bidder recommended by the Construction Manager is referred to herein as the "preferred subcontractor cost differential"). If the Construction Administrator selects a bidder other than the bidder recommended by the Construction Manager then the Construction Administrator may designate that the preferred subcontractor cost

differential shall be charged against the Construction Manager's Contingency or any surplus amounts within the Owner's Contingency, as mutually agreed by the parties, or the Guaranteed Maximum Price shall be increased by the amount of the preferred subcontractor cost differential.

- 12.4 All subcontracts shall, so far as practicable, contain unit prices and any other feasible formula for use in determination of the cost of changes in the Work.

### **ARTICLE 13 - INSPECTION OF WORK**

- 13.1 As to means and methods, by executing the GMP Amendment, the Construction Manager represents that it has inspected the location or locations of the Work and has satisfied itself as to the condition thereof and that the Guaranteed Maximum Price is just and reasonable compensation for all Work, including all foreseen or reasonably foreseeable risks, hazards and difficulties in connection therewith.
- 13.1.1 Owner and the Construction Administrator at all times shall have access to the Work for inspection thereof, but shall not be obligated to conduct any such inspection. The Construction Manager shall provide proper and safe facilities for such access and inspection by Owner and Construction Administrator. If any of the Work is required to be inspected or approved by any public authority, the Construction Manager shall cause such inspection or approval to be performed at its sole expense.
- 13.1.2 No inspection performed or failed to be performed by Owner or Construction Administrator hereunder shall be a waiver of any of the Construction Manager's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof.
- 13.1.3 The Construction Manager shall check all materials and labor entering into the Work and shall keep such full and detailed accounts as may be necessary to determine the Construction Manager's Cost.
- 13.2 City or its designee shall have the right to inspect and copy the books and records and accounts of the Construction Manager and all subcontractors including but not limited to books, records, correspondence, instructions, drawings, receipts, payment records, vouchers, and memoranda which relate in any way to the Project, and to any claim for additional compensation made by the Construction Manager, and to conduct an audit of the financial and accounting records of the Construction Manager which relate to the Project and to any claim for additional compensation made by the Construction Manager, subject to the limitations and exemptions of Chapter 119, Florida Statutes. The Construction Manager shall preserve and make available to City all financial records, supporting documents, statistical records and any other documents which relate to the Project and to any claim for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.). During the Project and for the appropriate records retention period, the Construction Manager shall provide City access to its books and records at the Construction Manager's usual place of business in Florida upon three Days' written notice (excluding Saturdays, Sundays, and Holidays). If any audit has been initiated and audit findings have not been resolved at the end of the retention period, the books, records and accounts shall be retained until resolution of the audit findings. Any

incomplete or incorrect entry in such books, records and accounts shall be a basis for City's disallowance and recovery of any payment upon such entry.

- 13.2.1 The Construction Manager's records shall include, but not be limited to accounting records (hard copy, as well as computer readable data), written policies and procedures; subcontractor files (including proposals of successful and unsuccessful bidders and bid recaps), original estimates and estimating work sheets, correspondence, change order files (including, but not limited to, documentation covering negotiated settlements), back charge logs and supporting documentation, general ledger entries detailing cash and trade discounts earned, insurance rebates and dividends and any other supporting evidence deemed necessary by Owner to substantiate charges related to this Contract (all of the foregoing hereinafter referred to as "records").
- 13.2.2 The Construction Manager shall require all subcontractors, insurance agents and suppliers to keep and maintain comparable records for the same time period and to permit Owner to review, inspect and audit such records. The Construction Manager shall include such requirements in all subcontracts and purchase orders issued.
- 13.3 If an audit inspection or other examination by Owner or Owner's representatives in accordance with this Article discloses overcharges (of any nature) by the Construction Manager to Owner in excess of three percent (3%) of the total billings, the cost of Owner's audit (whether performed by Owner or outside auditors) shall be reimbursed or paid to Owner by the Construction Manager. Any adjustments and/or payments which must be made as a result of any such audit, inspection or examination of the Construction Manager's invoices and/or records shall be made within a reasonable amount of time (not to exceed thirty (30) days) from presentation of Owner's findings to the Construction Manager.
- 13.4 If the Florida Public Records Act (Chapter 119, Florida Statutes), is determined by the City to be applicable to the Construction Manager's records, the Construction Manager shall comply with all requirements of that Act.
- 13.5 Because of the nature of the relationship between Owner and the Construction Manager, none of the Construction Manager's documents which in any way relate to the Project shall be deemed confidential or trade secrets between Owner and the Construction Manager. Without placing a limitation on the general nature of the foregoing, the Construction Manager's original budgeting and estimating documents and support documents relating to the Construction Manager's preconstruction services, the Construction Manager's general conditions, the Construction Manager's management services, the Construction Manager's fee and the preparation of any bids for self-performing work shall be available for disclosure under the Florida Public Records Act and to audit by Owner pursuant to this Section.
- 13.6 Construction Manager shall comply with the Florida Public Records Act to the full extent that it is applicable to Construction Manager and this Contract.
- 13.7 Construction Manager shall:
  - (a) Keep and maintain public records required by the City to perform the service.

- (b) Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- (c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if Construction Manager does not transfer the records to the City.
- (d) Upon completion of the Contract, transfer, at no cost, to City all public records in possession of Construction Manager or keep and maintain public records required by the City to perform the service. If Construction Manager transfers all public records to City upon completion of the Contract, Construction Manager shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Construction Manager keeps and maintains public records upon completion of the Contract, Construction Manager 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.

13.8 In the event that Construction Manager fails to comply with the provisions of sections 13.4, 13.5, 13.6 or 13.7 of this Contract, the Owner may, without prejudice to any other right or remedy and after having given Construction Manager five (5) days' written notice, during which period Construction Manager still fails to comply with said provisions of this Contract, terminate this Contract for cause.

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

#### **ARTICLE 14 - WORK IN PROGRESS**

- 14.1 The Construction Manager shall protect and prevent damage to all phases of the Work, and any existing facilities or improvements, including but not limited to the protection thereof from damage by the elements, theft or vandalism.
- 14.2 Owner reserves the right to perform other work on Airport property concurrently with the Project. The Construction Manager shall cooperate and coordinate its Work with the



work of Owner or separate contractor employed by Owner. The Construction Manager shall afford Owner and any of Owner's separate contractors reasonable access to the Work for storage of material and equipment and for the prosecution of their work and shall connect and coordinate its Work with theirs as is reasonably inferable from the Contract Documents.

## **ARTICLE 15 - OCCUPATIONAL HEALTH AND SAFETY**

- 15.1 The Construction Manager agrees that it shall not knowingly transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance, (as defined in Section 15.4), except in accordance with applicable Environmental Laws. Further, in performing the work, the Construction Manager shall not knowingly cause any release of hazardous substances into, or contamination of, the environment, including the soil, the atmosphere, any water course or ground water, except in accordance with applicable Environmental Laws.
- 15.2 In the event the Construction Manager encounters on the Project site any Hazardous Substance, or what the Construction Manager reasonably believes to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project Location, in violation of any applicable Environmental Laws, the Construction Manager shall immediately stop work in the area affected and report the condition to the Construction Administrator in writing. The Work in the affected area shall not thereafter be resumed except by written authorization of the Construction Administrator if in fact a Hazardous Substance has been encountered and has not been rendered harmless.
- 15.3 The Owner Representative may direct the Construction Manager by utilization of the Owner's Contingency account funds to remediate and/or render harmless the Hazardous Substance in accordance with any applicable permits then in existence, but the Construction Manager shall not be required to remediate and/or render harmless the Hazardous Substance absent such direction. If the Construction Manager is not so directed, the Construction Manager shall not be required to resume work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless.
- 15.4 For purposes of this Contract, the term "Hazardous Substance" shall mean and include, but shall not be limited to, any element, constituent, chemical, substance, compound or mixture, which are defined in or included under or regulated by any local, state or federal law, rule, ordinance, bylaw, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), The Resource Conservation and Recovery Act ("RCRA"), The Toxic Substances Control Act ("TSCA"), The Clean Water Act ("CWA"), The Clean Air Act ("CAA"), and The Marine Protection Research and Sanctuaries Act ("MPRSA"), The Occupational Safety and Health Act ("OSHA"), The Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws"). It is the Construction Manager's responsibility to comply with this Article 15 based on the law in

effect at the time its services are rendered and to comply with any amendments to those laws for all services rendered after the effective date of any such amendments.

## **ARTICLE 16 - CITY LICENSES, PERMITS AND FEES**

- 16.1 Pursuant to the Public Bid Disclosure Act, THE DOLLAR AMOUNT OF EACH LICENSE, PERMIT OR FEE THE CONSTRUCTION MANAGER WILL HAVE TO PAY THE CITY BEFORE OR DURING CONSTRUCTION, OR THE PERCENTAGE METHOD OR UNIT METHOD OF ALL LICENSES, PERMITS AND FEES REQUIRED BY THE CITY AND PAYABLE TO THE CITY BY VIRTUE OF THIS CONSTRUCTION AS PART OF THE CONTRACT IS AS FOLLOWS:
- 16.1.1 All fees payable to the City have been or will be paid by Owner. All permit fees to other governmental agencies will be paid by Owner. The Construction Manager shall be responsible for obtaining all necessary licenses, building and other permits, and similar authorizations from governmental authorities required or necessary to perform its obligations hereunder, and shall give all notices required by, and otherwise comply with, all applicable laws, ordinances, rules, regulations and restrictions.
- 16.1.2 Occupational Licenses must be in effect as required by applicable law, and must be submitted within fifteen (15) days of execution of this Contract, paid for by the Construction Manager.
- 16.1.3 Licenses, permits and fees which may be required by the State of Florida, State Agencies or by other local governmental entities are not included in the above.
- 16.2 The Construction Manager shall notify the Construction Administrator in writing of all conflicts between the Contract Documents and any laws, ordinances, rules, regulations and restrictions that come to the attention of the Construction Manager. If the Construction Manager performs any of the Work knowing it to be contrary to any such laws, ordinances, rules, regulations or restrictions and fails to give the Construction Administrator written notice thereof prior to performance thereof, the Construction Manager shall bear all costs, liabilities and expenses arising therefrom as part of the GMP.

## **ARTICLE 17 – AIRPORT SECURITY**

- 17.1 A portion of the Work will require access to Airport security areas. The Construction Manager shall comply with all rules, regulations, statutes, orders, directives or other mandates of the United States, the State of Florida, Escambia County and the City of Pensacola as they relate to Airport security requirements. The Construction Manager understands that the Airport is required to maintain an Airport Security Plan in compliance with Title 49 CFR Part 1542. The Construction Manager shall comply with the Airport's security plan as it now exists or as it may be amended in the future and as it applies to the Construction Manager, the Project site, or the Construction Manager's operations or activities on the Airport, and shall take such steps as may be necessary or as directed by the City to ensure that the Construction Manager's subcontractors,

employees, invitees, agents and guests observe these requirements. The Construction Manager specifically agrees and recognizes that such laws and regulations may impede the efficiency of those working in secure areas and has accepted all risk associated with such potential inefficiency.

- 17.2 The Construction Manager shall fully indemnify, defend, and hold harmless Owner, its elected representatives, officers, agents, volunteers, and employees from and against all penalties, fines, or demands of any kind (including, but not limited to, costs of investigation, attorney fees, court costs, and expert fees) arising out of the Company's acts or omissions resulting in alleged violations of any rule, regulation, statute, order, directive or other mandate of the United States, the State of Florida, Escambia County or the City of Pensacola, including but not limited to Title 49 CFR Part 1542, "Airport Security," or any successor regulations related to Airport security.

## **ARTICLE 18 - PERSONNEL**

- 18.1 All personnel used or employed by the Construction Manager in the performance of the Work shall be qualified by training and experience to perform their assigned tasks. At the request of Owner or the Construction Administrator, the Construction Manager shall not use in the performance of the Work any personnel deemed by Owner or the Construction Administrator to be incompetent, careless, unqualified to perform the work assigned to that person, or otherwise unsatisfactory to Owner.
- 18.2 The Construction Manager agrees that in the performance of the Work called for by this Contract, it will employ only such labor, and engage subcontractors that employ only such labor, as will not delay or interfere with the speedy and lawful progress of the Project, and as will be acceptable to and work in harmony with all other workers employed on the Project site or on any other building, structure, or other improvement which the Construction Manager or any other contractor may then be erecting or altering on behalf of Owner.

## **ARTICLE 19 -CONSTRUCTION MANAGER'S WARRANTIES**

- 19.1 The Construction Manager warrants to City and Tenant (Tenant being an intended third party beneficiary of the provisions of this Article 19) that all materials and equipment under this Contract will be new unless otherwise specified and that all of the Work will be of good quality, free from faults and defects and in conformance with the Contract Documents. All work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. If required by Construction Administrator, the Construction Manager shall furnish satisfactory evidence as to the kind and quality of materials and equipment. This warranty is not limited by the provisions of Article 21.
- 19.2 The Construction Manager further represents and warrants to City and Tenant (Tenant being an intended third party beneficiary of the provisions of this Article 19):

That it is financially solvent, able to pay its debts as they mature, and is possessed of sufficient working capital to perform this Contract; that it is able to furnish the Materials, and Services; that it is experienced in and competent to perform the Work contemplated by this Contract; and it is qualified to do the Work herein and is authorized to do business in the state in which the Project is located.

That the Construction Manager holds a license, permit or other special license to perform the services included in this Contract, as required by law, or employs or works under the general supervision of the holder of such license, permit or special license.

That the Work shall be constructed in a good and proficient manner, free from defects, and in compliance with the Contract Documents in all material respects.

## **ARTICLE 20 - DEFECTIVE WORK**

- 20.1 Construction Administrator shall have the authority to reject or disapprove work which Construction Administrator finds to be defective. If required by Construction Administrator, the Construction Manager shall promptly either correct all defective work or remove such defective work and replace it with nondefective work. The Construction Manager shall pay all direct, indirect and consequential costs of such removal or corrections including cost of testing laboratories and personnel. Such costs shall be included in the GMP.
- 20.2 Should the Construction Manager fail or refuse to remove or correct any defective work or to make any necessary repairs in accordance with the requirements of the Contract Documents within the time indicated in writing by Construction Administrator, City shall have the authority to cause the defective work to be removed or corrected, or make such repairs as may be necessary at the Construction Manager's expense. Any expense incurred by City in making such removals, corrections or repairs, shall be paid for out of any monies due or which may become due to the Construction Manager and deducted from the GMP, or may be charged against the Performance Bond. In the event of failure of the Construction Manager to make all necessary repairs promptly and fully, City may declare a default.
- 20.3 If, within one (1) year after the date of final completion or such longer period of time as may be prescribed by the terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be defective or not in accordance with the Contract Documents, the Construction Manager, after receipt of written notice from City, shall promptly correct such defective or nonconforming Work within the time specified by City without cost to City. Nothing contained herein shall be construed to establish a period of limitation with respect to any other obligation which the Construction Manager might have under the Contract Documents.
- 20.4 Failure to reject any defective work or material shall not in any way prevent later rejection when such defect is discovered.
- 20.5 The provisions of this Article 20 shall not apply to corrective work attributable solely to the acts or omissions of any separate contractor or subcontractor of Owner unless the Construction Manager is acting in such capacity or capacities.

- 20.6 The Construction Manager's responsibility to make repairs and redo work under this Article 20 is in addition to the Construction Manager's responsibility to Owner for any other damages of any kind for which the Construction Manager would be legally responsible.
- 20.7 If Owner and the Construction Manager deem it inexpedient to require the correction of work damaged or not performed in accordance with the Contract Documents, an equitable deduction from the Contract Sum and the Guaranteed Maximum Price shall be made by agreement between the Construction Manager and Owner. Until such settlement, Owner may withhold such sums as Owner deems just and reasonable from moneys, if any, due the Construction Manager. If no moneys are held by Owner, reimbursement shall be made to Owner within thirty (30) days by the Construction Manager.
- 20.8 The Construction Manager's express warranty herein shall be in addition to, and not in lieu of, any other warranties or remedies Owner may have under this Contract, at law, or in equity for defective Work.
- 20.9 Notwithstanding the foregoing, except to the extent covered by insurance and except as otherwise provided in this Section, the Construction Manager and Owner waive claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes, but is not limited to:
- (a) damages incurred by the Owner for rental expenses, for losses of use, income, revenue, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and
  - (b) damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with this Agreement. Nothing contained in this Article shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

Notwithstanding the foregoing, as a result of a default by the Construction Manager under this Contract, Owner may be required to re-pay some or all of the funds paid by Escambia County, the State of Florida and/or its agencies, the U. S. Economic Development Agency, Triumph Gulf Coast, Inc., and others for the construction of the Project. All such funds are hereby excepted and excluded from this waiver of consequential damages.

## **ARTICLE 21 - QUALITY CONTROL**

- 21.1 The Construction Manager shall develop and maintain a program, acceptable to Owner and Construction Administrator, to assure quality control of the construction. Within twenty-one (21) calendar days after issuance of the Notice to Proceed for construction, the Construction Manager shall submit its quality control plan to the Construction Administrator. Construction Administrator will review the Quality Control Plan and respond to the Contractor within twenty-one (21) calendar days of receipt. As part of that plan, the Construction Manager must designate a Quality Control Manager who has full authority to act as the Construction Manager's agent to institute any and all actions necessary for the successful implementation of the Plan. While any work is underway on the job site, the Quality Control Manager must always be available upon four (4) hours' notice to administer the Quality Control Plan.
- 21.2 All subcontracts shall include a term requiring subcontractors to comply with the Construction Manager's Quality Control Plan. If at any time the contractor or a subcontractor is not in compliance with the approved Quality Control Plan, or a part of it, affected portions of the Work will be deemed disapproved. In that event, the Construction Manager and/or subcontractors must cease work on the affected operation and submit to the Project Manager a written explanation of how the suspended operation will be brought back into compliance.

## **ARTICLE 22 - SIGNAGE**

- 22.1 Any requirements for a project sign shall be as set forth within the Technical Specifications section.
- 22.2 All construction signage, including, but not limited to, that appearing on tower cranes and other construction equipment located at the Project Location, shall be subject to the prior written approval of the Construction Administrator. The Construction Manager recognizes that all signage may be disallowed, in the Construction Administrator's sole discretion, and that existing signage or advertising on construction equipment, field officers, trailers, construction fences, etc., may be required to be masked or deleted, all at no cost or expense to Owner. Such signage will be considered an overhead expense pursuant to Section 10.4 and shall not be included within the Cost of the Work.

## **ARTICLE 23 - CITY'S RIGHT TO TERMINATE CONTRACT**

- 23.1 If the Construction Manager fails to begin the Work within ten (10) calendar days after the Initiation Date, or fails to perform the Work with sufficient workers and equipment or with sufficient materials to insure the prompt completion of the Work, or performs the Work unsuitably, or causes it to be rejected as defective and unsuitable, or discontinues the prosecution of the Work pursuant to the accepted schedule or if the Construction Manager fails to perform any material term set forth in the Contract Documents or if the Construction Manager becomes insolvent or is declared bankrupt, or commits any act of bankruptcy or insolvency, or makes an assignment for the benefit of creditors, or for any other cause whatsoever does not carry on the Work in an acceptable manner, City may give notice in writing to the Construction Manager and its Surety of such delay, neglect

or default, specifying the same. If the Construction Manager, within a period of ten (10) calendar days after such notice, does not proceed in accordance therewith, then City may upon written certificate from Construction Administrator of the fact of such delay, neglect or default and the Construction Manager's failure to comply with such notice, terminate the services of the Construction Manager, exclude the Construction Manager from the Project site and take the prosecution of the Work out of the hands of the Construction Manager, and appropriate or use any or all materials and equipment on the Project site as may be suitable and acceptable, all without being in breach of the Contract. In such case, the Construction Manager shall not be entitled to receive any further payment until the Project is completed. In addition City may enter into an agreement for the completion of the Project according to the terms and provisions of the Contract Documents, or use such other methods as in City's sole opinion shall be required for the completion of the Project in an acceptable manner. All damages, costs and charges incurred by City, together with the costs of completing the Project, shall be deducted from any monies due or which may become due to the Construction Manager. In case the damages and expenses so incurred by City shall exceed the unpaid balance, then the Construction Manager and its surety shall be liable and shall pay to City the amount of said excess.

- 23.2 If after notice of termination of the Construction Manager's right to proceed, it is determined for any reason that the Construction Manager was not in default, the rights and obligations of City and the Construction Manager shall be the same as if the notice of termination had been issued pursuant to the Termination for Convenience clause as set forth in Section 23.3 below.
- 23.3 This Contract may be terminated for convenience in writing by City upon ten (10) days written notice to the Construction Manager (delivered by certified mail, return receipt requested) of intent to terminate and the date on which such termination becomes effective. In such case, the Construction Manager shall be paid for all work executed and expenses incurred prior to termination in addition to termination settlement costs reasonably incurred by the Construction Manager relating to commitments which had become firm prior to the termination. Payment shall include reasonable profit for work/services performed. No payment shall be made for profit for work/services which have not been performed.
- 23.4 Upon receipt of Notice of Termination pursuant to Sections 23.1 or 23.3 above, the Construction Manager shall promptly discontinue all affected work unless the Notice of Termination directs otherwise and deliver or otherwise make available to City all data, drawings, specifications, reports, estimates, summaries and such other information as may have been required by the Contract Documents whether completed or in process.

#### **ARTICLE 24 - CONSTRUCTION MANAGER'S RIGHT TO STOP WORK OR TERMINATE CONTRACT**

- 24.1 If Construction Administrator fails to review and approve or state in writing reasons for rejection of any Application for Payment within twenty (20) days after it is properly presented, or if City fails either to pay the Construction Manager within thirty (30) days after presentation by Construction Administrator of any sum certified by Construction

Administrator, or to notify the Construction Manager and Construction Administrator in writing of any objection to the Application for Payment, then the Construction Manager may give written notice to City and Construction Administrator of such delay, neglect or default, specifying the same. If City or Construction Administrator (where applicable), within a period of ten (10) calendar days after such notice shall not remedy the delay, neglect, or default upon which the notice is based, then the Construction Manager may stop work or terminate this Contract and recover from City payment for all work executed and reasonable expenses sustained therein plus reasonable termination expenses. Any objection made by City to an Application for Payment may be submitted by the Construction Manager to Construction Administrator in accordance with the provisions of Article 30 hereof.

## **ARTICLE 25 - CITY'S RESPONSIBILITIES**

25.1 Owner, at no cost to the Construction Manager, will furnish the following information:

25.1.1 One copy of data presently available to Owner that Owner deems pertinent to the Work. Notwithstanding the foregoing, the Construction Manager shall make a diligent effort to search the records and request information it deems reasonably required for the Project.

25.1.2 All available data and information pertaining to relevant policies, standards, criteria, studies, etc.

25.2 Owner additionally will:

25.2.1 Contract separately with one or more design professionals to provide architectural and/or engineering design services for the Project. The scope of services for the Design Professional will be provided to the Construction Manager as described in Article 1. The Construction Manager will have no right to limit or restrict any changes of such services that are otherwise mutually acceptable to Owner and Design Professional.

25.2.2 Supply, without charge, all necessary copies of programs, reports, drawings, and specifications reasonably required by the Construction Manager except for those copies whose cost has been reimbursed by Owner.

25.2.3 Provide the Construction Manager with adequate information in its possession or control regarding Owner's requirements for the Project.

25.2.4 Give prompt written notice to the Construction Manager when Owner becomes aware of any default or defect in the Project or non-conformance with the Plans and Specifications, or any of the services required hereunder; provided that neither the giving of such notice or the failure to give any such notice shall relieve Construction Manager of any of its obligations under the Contract Documents. Upon notice of failure to perform, Owner may provide written notice to Construction Manager that it intends to terminate this Contract unless the problem cited is cured, or commenced to be cured, within three days of Construction Manager's receipt of such notice.

25.2.25 Notify the Construction Manager of changes affecting the budget allocations or schedule.



- 25.3 Owner will approve the Project Budget and Project Schedule, and render decisions and furnish information that the Construction Administrator deems appropriate to the Construction Manager.

## **ARTICLE 26 - CONTRACT CONDITIONS**

### **26.1 PROJECT DOCUMENTS AND COPYRIGHTS**

- 26.1.1 City Ownership of Project Documents: All work products (electronically or manually generated) including but not limited to: cost estimates, studies, design analyses, original mylar drawings, Computer Aided Drafting and Design (CADD) file diskettes, and other related documents which are prepared specifically in the performance of this Contract (collectively referred to as Project Documents) shall be and remain the property of Owner and shall be delivered to the Construction Administrator before the final payment is made to the Construction Manager. Nonetheless, in the event these Project Documents are altered, modified or adapted without the written consent of the Construction Manager, which consent the Construction Manager shall not unreasonably withhold, Owner agrees to hold the Construction Manager harmless to the extent permitted by law, from the legal liability arising out of and or resulting from Owner's alteration, modification or adaptation of the Project Documents.
- 26.1.2 Construction Manager to Retain Copyrights: Subject to Section 26.1.1, the copyrights, patents, trade secrets or other intellectual property rights associated with the ideas, concepts, techniques, inventions, processes or works of authorship developed or created by the Construction Manager, its Subconsultants or personnel, during the course of performing this Contract or arising out of the Project will belong to the Construction Manager.
- 26.1.3 License to City for Reasonable Use: Without limiting the generality of Section 26.1.1, the Construction Manager hereby grants, and will require its Subconsultants to grant, a license to Owner, its agents, employees, and representatives for an indefinite period of time to reasonably use, make copies, and distribute as appropriate the Project Documents, works or Deliverables developed or created for the Project and this Contract. This license will also include the making of derivative works. In the event that the derivative works require Owner to alter or modify the Project Documents, then Section 26.1.1 applies.
- 26.1.4 Documents to Bear Seal: When applicable and required by state law, the Construction Manager and its Subconsultants will endorse by a Florida professional seal all plans, works, and Deliverables prepared by them for this Contract.

### **26.2 COMPLETENESS AND ACCURACY OF CONSTRUCTION MANAGER'S WORK**

The Construction Manager will be responsible for the completeness and accuracy of its reviews, reports, supporting data, and other design phase Deliverables prepared or compiled pursuant to its obligations under this Contract and will at its sole expense correct its work or Deliverables. Any damage incurred by Owner as a result of additional construction cost caused by such willful or negligent errors, omissions or acts shall be chargeable to the Construction Manager to the extent that such willful or negligent errors, omissions and acts fall below the standard of care and skill that a professional Construction Manager in

Pensacola, Florida would exercise under similar conditions. The fact that Owner has accepted or approved the Construction Manager's work or Deliverables will in no way relieve the Construction Manager of any of its responsibilities under the Contract, nor does this requirement to correct the work or Deliverable constitute a waiver of any claims or damages otherwise available by law or Contract to Owner. Correction of errors, omissions and acts discovered on architectural or engineering plans and specifications shall be the responsibility of the design architect.

## **26.3 ALTERATION IN CHARACTER OF WORK**

- 26.3.1 In the event an alteration or modification in the character of work or Deliverable results in a substantial change in this Contract, thereby materially increasing or decreasing the scope of services, cost of performance, or Construction Schedule, the work or Deliverable will nonetheless be performed as directed by Owner. However, before any altered or modified work begins, a Change Order or Amendment will be approved and executed by Owner and the Construction Manager. Such Change Order or Amendment will not be effective until approved by Owner.
- 26.3.2 Additions to, modifications, or deletions from the Project provided herein may be made, and the compensation to be paid to the Construction Manager may accordingly be adjusted by mutual agreement of the contracting parties.
- 26.3.3 No claim for extra work done or materials furnished by the Construction Manager will be allowed by Owner except as provided herein, nor will the Construction Manager do any work or furnish any material(s) not covered by this Contract unless such work or material is first authorized in writing. Work or material(s) furnished by the Construction Manager without such prior written authorization will be the Construction Manager's sole jeopardy, cost, and expense, and the Construction Manager hereby agrees that without prior written authorization from Owner no claim for compensation for such work or materials furnished will be made.

## **26.4 DATA CONFIDENTIALITY**

- 26.4.1 As used in the Contract, data means all information, whether written or verbal, including plans, photographs, studies, investigations, audits, analyses, samples, reports, calculations, internal memos, meeting minutes, data field notes, work product, proposals, correspondence and any other similar documents or information prepared by or obtained by the Construction Manager in the performance of this Contract. Without limiting the generality of the foregoing, data expressly includes all of Tenant's "Smart MRO" and "Smart City" technology obtained by the Construction Manager in the performance of this Contract.
- 26.4.2 The parties agree that all data, including originals, images, and reproductions, prepared by, obtained by, or transmitted to the Construction Manager in connection with the Construction Manager's performance of this Contract shall be treated in conformity with provision of Section 13.5.

26.4.3 The Construction Manager will not divulge data to any third party without prior written consent of Owner or, in the case of Tenant's "Smart MRO" or "Smart City" technology, Tenant. The Construction Manager will not use the data for any purposes except to perform the services required under this Contract. These prohibitions will not apply to the following data:

26.4.3.1 Data which was known to the Construction Manager prior to its performance under this Contract unless such data was acquired in connection with work performed for Owner;

26.4.3.2 Data which was acquired by the Construction Manager in its performance under this Contract and which was disclosed to the Construction Manager by a third party, who to the best of the Construction Manager's knowledge and belief, had the legal right to make such disclosure and the Construction Manager is not otherwise required to hold such data in confidence; or

26.4.3.3 Data, which is required to be disclosed by the Construction Manager by virtue of law, regulation, or court order.

26.4.4 In the event the Construction Manager is required or requested to disclose data to a third party, or any other information to which the Construction Manager became privy as a result of any other contract with Owner, the Construction Manager will first notify Owner or, in the case of Tenant's "Smart MRO" or "Smart City" technology, Tenant, as set forth in this Article of the request or demand for the data. The Construction Manager will timely give Owner or Tenant, as the case may be, sufficient facts, such that Owner or Tenant, as the case may be, can have a meaningful opportunity to either first give its consent or take such action that Owner or Tenant, as the case may be, may deem appropriate to protect such data or other information from disclosure.

26.4.5 The Construction Manager, unless prohibited by law, within ten calendar days after completion of services for a third party on real or personal property owned or leased by Owner, will promptly deliver, as set forth in this section, a copy of all data to Owner. All data will continue to be subject to the confidentiality agreements of this Contract.

26.4.6 The Construction Manager assumes all liability for maintaining the confidentiality of the data in its possession and agrees to compensate Owner or Tenant, as the case may be, if any of the provisions of this section are violated by the Construction Manager, its employees, agents or Subconsultants. Solely for the purposes of seeking injunctive relief, it is agreed that a breach of this section will be deemed to cause irreparable harm that justifies injunctive relief in court.

## **26.5 PROJECT STAFFING**

26.5.1 Attached hereto as Exhibit "F" is an organization chart for the Construction Manager staff and Subconsultants (collectively, "Key Personnel") listed in its response to Owner's Request for Qualifications or subsequent fee proposals (or revisions thereto) that will be involved in performing the services prescribed in the Contract. Upon Owner's request, Construction Manager shall promptly provide to Owner detailed resumes of all Key Personnel. Owner hereby acknowledges its acceptance of such Key Personnel to perform such services under

this Contract. In the event the Construction Manager desires to change such Key Personnel from performing such services under this Contract, the Construction Manager will submit the qualifications of the proposed substituted personnel to Owner for prior approval. Key Personnel will include, but are not limited to, principal-in-charge, project manager, superintendent, project director or those persons specifically identified to perform services of cost estimating, scheduling, value engineering, and procurement planning. Construction Manager acknowledges that its representations to Owner that it is partnering with Greenhut Construction Company to provide the services required by this Contract is a material inducement for Owner to enter into this Contract. Construction Manager shall use its best efforts to maximize the participation of Greenhut Construction Company and its key personnel (Bill Greenhut, Ryan Greenhut, Kevin Spellman, and Randy Talcott) in the performance of the Construction Manager's obligations under this Contract.

- 26.5.2 The Construction Manager will maintain an adequate number of competent and qualified persons, as determined by Owner, to ensure acceptable and timely completion of the scope of services described in this Contract throughout the period of those services. If Owner objects, with reasonable cause, to any of the Construction Manager's staff, the Construction Manager will take prompt corrective action acceptable to Owner and, if required, remove such personnel from the Project and replace with new personnel acceptable to Owner.

## **26.6 INDEPENDENT CONTRACTOR**

- 26.6.1 The Construction Manager is and will be an independent contractor, not an agent or employee of Owner, and whatever measure of control Owner exercises over the work or Deliverable pursuant to the Contract will be as to the results of the work only. No provision in this Contract will give or be construed to give Owner the right to direct the Construction Manager as to the details of accomplishing the work or Deliverable. These results will comply with all applicable laws and ordinances. The Construction Manager shall be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under this Contract, unless the Contract Documents give other specific instructions concerning these matters.

## **26.7 SUBCONSULTANTS**

- 26.7.1 Prior to beginning the work or Deliverable, the Construction Manager will furnish Owner for approval, the names of all Subconsultants to be used on this Project. Subsequent changes are subject to the approval of Owner.

## **ARTICLE 27 - INSURANCE; LOSS CONTROL AND SAFETY**

- 27.1 Before beginning performance of any of the Construction Manager's obligations under this Contract, the Construction Manager shall at a minimum provide, pay for and maintain in force at all times during the term of this Contract (and thereafter if and to the extent expressly provided in this Article) insurance of the type and on the terms and

conditions specified in this Article. The cost of this insurance shall be included in the Guaranteed Maximum Price.

27.2 The Contractor shall purchase coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Auto policies filed by the Insurance Services Office. Owner and Tenant shall be named as Additional Insureds and such coverage shall be at least as broad as that provided to the Named Insured under the policy for the terms and conditions of this Contract. Neither Owner nor the Tenant shall be considered liable for premium payment, entitled to any premium return or dividend or considered a member of any mutual or reciprocal company. Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to Owner, for Owner's protection only.

27.3 The term City as used in this section of the Contract is defined to mean the City of Pensacola itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, and representatives. Construction Manager shall maintain its professional insurance coverage required under this Contract in force until final acceptance of the Project or completion of the Construction Manager's services under this Contract. Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to Owner, for Owner's protection only. Unless otherwise agreed, the amounts, form and type of insurance shall conform to the following minimum requirements:

27.3.1 Commercial General Liability coverage will be provided by the Construction Manager and shall provide at a minimum contractual liability applicable to this specific Contract, personal injury liability and property damage liability. Owner and Tenant shall be named as Additional Insureds and such coverage shall be at least as broad as that provided to the Named Insured under the policy for the terms and conditions of this Contract. Neither Owner nor the Tenant shall be considered liable for premium payment, entitled to any premium return or dividend or considered a member of any mutual or reciprocal company. Minimum limits of \$5,000,000 per occurrence, and per accident, combined single limit for liability must be provided, plus additional umbrella insurance coverage of \$15,000,000. If the required limits of liability afforded should become impaired by reason of any claim, then the Contractor agrees to have such limits reinstated under the policy. The coverage shall be written on occurrence-type basis. Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, and must include:

Premises and/or operations

Contractual Liability

Independent contractors

The Construction Manager shall maintain in force until at least three (3) years after completion of all work required under the Contract coverage for Products and Completed Operations, including broad form Property Damage.

## Explosion, Collapse and Underground Coverages

Use of explosives is prohibited on airport property

## Property Damage and Bodily Injury

## Personal and Advertising Injury Coverage

City and Tenant shall be expressly included as additional insureds.

- 27.3.2 Builder's Risk Insurance coverage will be provided by the Construction Manager with Coverage afforded on an Inland Marine "All-Risk" type form which includes collapse coverage. Coverage provided must be the broadest coverage available at the time of placement.

The Amount of Insurance is to be 100% of the completed value of the work described in this Contract. Such coverage will additionally include an amount equal to 10% of the Amount of Insurance of the completed value of the work described in this Contract for materials and equipment stored off the construction site, in transit or delivery, including loading and unloading. At Owner's option and expense, the limits of insurance shall additionally include any damages suffered by Owner or Tenant due to any delay of completion of the work described in this Contract caused by an insurable loss. Deductible is subject to City of Pensacola approval.

The policy must be specifically endorsed to eliminate any "Occupancy" clause or similar warranty or representation that the premises in the course of construction shall not be occupied or used without specific endorsement of the policy. The policy must be endorsed to provide that the Builder's Risk Coverage will continue to apply until final acceptance of the work described in this Contract by Owner, which acceptance shall not be deemed to have been made solely on account of occupancy of any portion of the premises by Owner or Tenant.

Owner and Tenant shall be listed as Named Insureds by endorsement on the policy as well as the Certificate of Insurance and a certified copy of the policy shall be supplied to Owner.

The policy shall contain a "Waiver of Subrogation" clause in favor of Owner Tenant, and their respective subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives, and agents which would waive any subrogation against any of them.

The policy shall contain no exclusion which would exclude damage or loss caused by breakage, freezing, temperature extremes or temperature change, water, leakage, or seepage.

27.3.3 Installation Floater will be provided by the Contractor in a form acceptable to Owner. The amount of Insurance is to be 100% of the completed value of the pre-engineered metal hangar building that is part of the Work. Owner and the Tenant shall be named as Additional Insureds.

27.3.4 Environmental Impairment insurance coverage in the event the Construction Manager is called upon to remediate and/or render harmless any Hazardous Substance discovered in the course of construction as stated in Section 15.3 with minimum limits of \$1,000,000, per occurrence and in the aggregate, with a deductible up to \$25,000.

27.3.5 Business Automobile Liability: Business Automobile Liability with minimum limits of Three Million Dollars (\$3,000,000) per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability, with additional umbrella insurance coverage of \$15,000,000. Coverage must be afforded on a form no more restrictive than the latest edition of the Business Automobile Liability policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include:

Owned Vehicles

Hired and Non-Owned Vehicles

27.3.6 Workers' Compensation Insurance: Workers' Compensation insurance to apply for all employees in compliance with the "Workers' Compensation Law" of the State of Florida and all applicable federal laws. In addition, the policy(ies) must include:

Employers' Liability with a limit of \$1,000,000 per person/accident, \$1,000,000 per person/disease, \$1,000,000 aggregate-disease

27.4 The Construction Manager shall furnish to the Risk Management Department of Owner of Pensacola and Owner Representative Certificates of Insurance or endorsements evidencing the insurance coverages specified by this Article prior to beginning performance of work under this Contract. The required Certificates of Insurance shall name the types of policies provided, refer specifically to this Contract, and state that such insurance is as required by this Contract.

27.5 Coverage is to remain in force until all performance required of the Construction Manager is completed. However, Products and Completed Operations coverage under the General Liability Policy must remain in effect 3 years after job is completed. All policies must be endorsed to provide City with at least thirty (30) days' notice of cancellation and/or restriction. If any of the insurance coverages will expire prior to the completion of the Project, copies of renewal policies shall be furnished at least thirty (30) days' prior to the date of their expiration.

## 27.6 Certificates of Insurance

Required insurance shall be documented in the Certificates of Insurance which provide that Owner of Pensacola shall be notified at least thirty (30) days in advance of cancellation, nonrenewal or adverse change or restriction in coverage. Owner of

Pensacola shall be named on each Certificate as an Additional Insured, except with respect to Professional Liability and Workers Compensation Insurance, and this contract shall be listed. If required by Owner, the Construction Manager shall furnish copies of the Construction Manager's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by Owner an ACORD 25. Any wording in a Certificate which would make notification of cancellation, adverse change or restriction in coverage to Owner an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent or employee. The Construction Manager shall replace any canceled, adversely changed, restricted or non-renewed policies with new policies acceptable to Owner and shall file with Owner Certificates of Insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to Owner, the Construction Manager shall, upon instructions of Owner, cease all operations under the Contract until directed by Owner, in writing, to resume operations.

27.7 Insurance of the Construction Manager Primary

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

27.8. LOSS CONTROL AND SAFETY

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

**ARTICLE 28 - INDEMNIFICATION**

- 28.1 The Construction Manager shall indemnify and hold harmless Owner, its officers and employees, from liabilities, damages, losses and costs, including but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Construction Manager and persons employed or utilized by the Construction Manager in the performance of this Contract. This indemnification survives the termination of the Contract.
- 28.2 The Construction Manager shall indemnify and hold harmless the Tenant and the Construction Administrator and their respective officers and employees from liabilities, damages, losses and costs, including but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the



Construction Manager and persons employed or utilized by the Construction Manager in the performance of this Contract. This indemnification survives the termination of the Contract.

- 28.3 In any and all claims against Owner or any other indemnified person or entity or any of their agents or employees brought by any employee of the Construction Manager or any subcontractor, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, the indemnification obligation under this Article shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for the Construction Manager or any subcontractor under worker's or workman's compensation acts, disability benefit acts or other employee benefit acts.
- 28.4 The monetary limits on the extent of the indemnification provided per occurrence under this Article shall be \$15 million. Owner and the Construction Manager specifically agree that this amount bears a reasonable commercial relationship to the Contract.

#### **ARTICLE 29 - PERFORMANCE AND PAYMENT BOND AND QUALIFICATIONS OF SURETIES**

- 29.1 Concurrently with the execution of the GMP Amendment, the Construction Manager shall furnish a Performance Bond and a separate Payment Bond containing all the provisions of the Performance Bond and Payment Bond attached hereto as Attachment 1.
  - 29.1.1 Each Bond shall be in the amount of one hundred percent (100%) of the Guaranteed Maximum Price guaranteeing to City the timely completion and performance of the work covered in such Contract as well as full payment of all suppliers, material providers, laborers, or subcontractors employed pursuant to this project. Each Bond shall be with a surety company which is qualified pursuant to Section 29.2.
  - 29.1.2 Each Bond shall be prepared so as to be subject to the Florida Statute of Limitations specified in § 95.11(2)(b) Florida Statutes, with liability equal to one hundred percent (100%) of the Contract sum.
  - 29.1.3 Pursuant to the requirements of Section 255.05(1)(a), Florida Statutes, as may be amended from time to time, the Construction Manager shall ensure that the bond(s) referenced above shall be recorded in the public records of Escambia County and provide City with evidence of such recording.
- 29.2 Qualification of Surety
  - 29.2.1 Each bond must be executed by a surety company of recognized standing, authorized to do business in the State of Florida as surety, having a resident agent in the State of Florida and having been in business with a record of successful continuous operation for at least five years.

- 29.2.2 The surety company shall hold a current certificate of authority as acceptable surety on federal bonds in accordance with United States Department of Treasury Circular 570, Current Revisions. If the amount of the Bond exceeds the underwriting limitation set forth in the circular, in order to qualify, the net retention of the surety company shall not exceed the underwriting limitation in the circular, and the excess risks must be protected by coinsurance, reinsurance, or other methods in accordance with Treasury Circular 297, revised September 1, 1978 (31 DFR Section 223.10, Section 223.111). Further, the surety company shall provide City with evidence satisfactory to City that such excess risk has been protected in an acceptable manner.
- 29.2.3 Owner will only accept a surety bond from a company with a rating of A or better provided, however, that if any surety company appears on the watch list that is published quarterly by Intercom of the Florida Department of Financial Services, Owner shall review and either accept or reject the surety company based on the financial information available to Owner. A surety company that is rejected by Owner may be substituted by the bidder or proposer with a surety company acceptable to Owner, but only if the bid amount does not increase.

### **ARTICLE 30 – DISPUTE RESOLUTION**

- 30.1 Dispute Resolution. The parties hereto agree that Construction Administrator shall decide all questions, claims, difficulties and disputes of whatever nature which may arise relative to the technical interpretation of the Contract Documents and fulfillment of this Contract as to the character, quality, amount and value of any work done and materials furnished, or proposed to be done or furnished under or, by reason of, the Contract Documents and Construction Administrator's estimates and decisions upon all claims, questions, difficulties and disputes shall be final and binding to the extent provided in this Article. Any claim, question, difficulty or dispute which cannot be resolved by mutual agreement shall be submitted to Construction Administrator in writing within twenty-one (21) calendar days. Construction Administrator shall notify City and Construction Manager in writing of Construction Administrator's decision within twenty-one (21) calendar days from the date of the submission of the claim, question, difficulty or dispute, unless Construction Administrator requires additional time to gather information or allow the parties to provide additional information. Construction Administrator shall provide Owner and Construction Manager with a written basis for their decision. All nontechnical administrative disputes shall be determined by the Owner Representative pursuant to the time periods provided herein. During the pendency of any dispute and after a determination thereof, Construction Manager, Construction Administrator, and City shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction.

In the event the determination of a dispute under this Article is unacceptable to any of the parties hereto, the party objecting to the determination must notify the other party in writing within ten (10) days of receipt of the written determination. The notice must state the basis of the objection and must be accompanied by a statement that any Contract

Price or Contract Time adjustment claimed is the entire adjustment to which the objecting party has reason to believe it is entitled to as a result of the determination. Within sixty (60) days after Final Completion of the Work, the parties shall participate in mediation to address all pending objections before a mediator mutually agreed upon by the parties. Each party shall pay its pro rata share of fees associated with the use of a mediator. Mediation shall be done in accordance with the standards of the Florida Rules of Civil Procedure. Should any objection not be resolved in mediation, the parties retain all their legal rights and remedies provided under State law. If a party objecting to a determination fails to comply in strict accordance with the requirements of this Article, said party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.

Construction Manager and Owner agree that Construction Administrator and Design Professional may be brought into any mediation or litigation as a party upon written demand of either party and approval of the mediator or court.

Pending resolution of any dispute arising under this Contract, other than termination hereof, the Construction Manager shall proceed diligently with performance of this Contract and Owner shall continue to make payments in accordance with the Contract Documents.

#### **ARTICLE 31 – NON-SOLICITATION STATEMENT**

- 31.1 The Construction Manager warrants that he or she has not employed or retained any company or person, other than a bona fide employee working solely for the Construction Manager to solicit or secure this Contract and that he or she has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Construction Manager any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

#### **ARTICLE 32 - MISCELLANEOUS**

- 32.1 Venue Selection. This Contract shall be interpreted and construed in accordance with and governed by the laws of the State of Florida and the applicable laws of the United States of America. Venue for litigation concerning this Contract shall be exclusively in the appropriate Florida state court located in Escambia County, Florida.
- 32.2 Truth in Negotiation Certificate. Execution of this Contract by the Construction Manager shall act as the execution of a truth-in-negotiation certificate certifying that the wage rates and costs used to determine the compensation provided for in this Contract are accurate, complete, and current as of the date of this Contract. The said rates and costs shall be adjusted to exclude any significant sums should the Owner determine that the rates and costs were increased due to inaccurate, incomplete or noncurrent wage rates or due to

inaccurate representations of fees paid to outside consultants. The Owner shall exercise its rights under this "Certificate" within one (1) year following payment.

- 32.3 This Contract shall be interpreted and construed in accordance with and governed by the laws of the State of Florida and the applicable laws of the United States of America. Venue for litigation concerning this Contract shall be exclusively in the appropriate Florida state court located in Escambia County, Florida.

32.4 Public Entity Crimes Act

- 32.4.1 The Construction Manager represents that the execution of this Contract will not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes).

- 32.4.2 In addition to the foregoing, the Construction Manager further represents that the it has not been placed on the convicted vendors list as described in Florida Statute 287.133(2) (a); that there has been no determination, based on an audit, that it committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime"; and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether the Construction Manager has been placed on the convicted vendor list.

- 32.5. Ownership of Contract Documents: Any and all reports, photographs, surveys, Plans, Specifications, detail drawings and other drawings prepared or created in connection with the Project are and shall remain the property of Owner and are not to be used by the Construction Manager on any other project and shall be relinquished to Owner at Final Completion or upon termination, whether finished or unfinished; provided, however, that the Construction Manager may maintain one record set of as-built drawings.

32.6. Representatives

- 32.6.1 The Construction Administrator and the Owner Representative shall be Owner's representatives on the Project unless and until Owner notifies the Construction Manager in writing that some other person or entity shall be Owner's representative. The Construction Administrator is authorized to recommend approval of Changes and increases in the Contract Price, but Contract Documents and Changes shall be binding on Owner only if signed by Owner.

- 32.6.2 The Construction Manager shall advise Owner, in writing, of any limitations on the authority of the Construction Manager's Representative; otherwise, the Construction Manager's Representative shall be considered to have full authority to execute any and all instruments requiring the Construction Manager's signature and to act on behalf of the Construction Manager with respect to all matters arising out of this Contract.

- 32.7 Assignment: The Construction Manager shall not assign this Contract or subcontract it as a whole without the written consent of Owner; nor shall the Construction Manager assign any monies due or to become due to it hereunder, without the previous written consent of Owner.

- 32.8 Nondiscrimination, Equal Employment Opportunity and Americans With Disabilities Act: The Construction Manager agrees that it will not discriminate against any employee or applicant for employment for work under this Contract because of race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability and will take affirmative steps to ensure that applicants are employed and employees are treated during employment without regard to race, color, religion, gender, sexual orientation, age, national origin, political affiliation, or disability. This provision shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeships. The Construction Manager agrees to furnish City with a copy of its Affirmative Action Policy.
- 32.9 Waiver: No consent or waiver, express or implied, by either party to this Contract to or of any breach or default by the other in the performance of any obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other or future breach or default by such party hereunder, nor deemed to be a modification of this Contract. Failure on the part of any party hereto to complain of any act or failure to act of the other party or to declare the other party in default hereunder, irrespective of how long such failure continues, shall not constitute a waiver of the rights of such party hereunder. Inspection by, payment by or tentative approval or acceptance by Owner, or the failure of Owner to perform any inspection hereunder, shall not constitute a final acceptance of the Work or any part thereof and shall not release the Construction Manager from any of its obligations hereunder.
- 32.10 Construction of Terms: Unless the context clearly intends to the contrary, words singular or plural in number shall be deemed to include the other and pronouns having masculine or feminine gender shall be deemed to include the other. The term "person" shall be deemed to include an individual, corporation, unincorporated organization, partnership, trust, government and governmental agency or subdivision, as the context shall require.
- 32.11 Captions: The captions used for the Articles and Sections in this Contract are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of the intent of this Contract or any Article or Section hereof.
- 32.12 Entire Agreement; Severability; Amendments: These Contract Documents incorporate and include all prior negotiations, correspondence, conversations, agreements, and 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 Contract that are not contained in the Contract Documents. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document in accordance with Article 9 above. In the event any provision of the Contract Documents shall be found by a court of competent jurisdiction to be invalid or otherwise unenforceable, the remainder of this Contract shall not be affected thereby and each remaining provision, term, covenant or condition of the Contract Documents shall continue to be effective.
- 32.13 Notices: All notices to be given hereunder shall be in writing, and may be given (i) by depositing the same in the United States Mail, Federal Express, UPS, or other reputable

overnight delivery service addressed to the party to be notified, fees prepaid, for next business day delivery; or (ii) by delivering the same in person to such party with a request for a written receipt of acknowledgment of delivery. All notices to be given to the parties hereto shall be sent to or made to the addresses shown below. The place for giving notice shall remain the same as set forth herein unless changed in the manner provided in this Section. Any notice sent pursuant to this Contract from one party to the other shall be deemed delivered on and as of (a) the next business day if sent for next business day delivery via United States Mail, Federal Express, UPS or other reputable overnight delivery service, or (b) the day of actual receipt if delivered in person.

For City:

Daniel E. Flynn,  
Airport Director  
2430 Airport Boulevard, Ste. 225  
Pensacola, Florida 32504

For the Construction Manager:

Michael Tortorici, PE  
Brasfield & Gorrie, L.L.C.  
1201 Demonbreun Street  
Suite 200  
Nashville, Tennessee 37203

32.14 Counterparts: This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

32.15 Other Terms and Conditions

32.15.1 Neither the Construction Manager nor City intends to directly or substantially benefit a third party by this Contract other than the Tenant, it being expressly agreed that the Tenant is an intended third-party beneficiary of the following provisions of the Contract: Article 19 and Article 20. Therefore, the parties agree that other than the Tenant, there are no third party beneficiaries to this Contract and that other than the Tenant, no third party shall be entitled to assert a claim against either of them based upon this Contract.

32.15.2 Neither the Construction Manager nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic to or incompatible with the Construction Manager's loyal and conscientious exercise of judgment related to its performance under this Contract. The Construction Manager agrees to prohibit its subcontractors, by written contract, from having any conflicts within the meaning of this Section.

32.15.3 Preparation of this Contract has been a joint effort of City and the Construction Manager and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

32.15.4 It is a requirement of City that it enter into contracts only with firms that certify the establishment of a drug free work place in accordance with Florida Statute. Execution of this Contract by the Construction Manager shall also serve as the Construction Manager's required certification that it either has or that it will establish a drug free work place in accordance with Florida Statute 287.087.

**32.15.5 The Construction Manager agrees to comply with the provisions of Attachment 2, "Federal Requirements for Airport Projects." The provisions of Attachment 2 are a material and integral part of this Contract and are hereby incorporated herein by reference. As used in Attachment 2, the words "contractor", "consultant", "proposer", "offeror", "bidder", "employer", and "applicant", including but not limited to capitalized versions of such words, mean and refer to the Construction Manager; provided that for the Equal Employment Opportunity (EEO) provision, the term "applicant" means an applicant for employment, whether or not the phrase "for employment" follows the word "applicant" or "applicants".**

**32.15.6 The Construction Manager agrees to comply with the provisions of Attachment 3, "Project Titan Grant Requirements." The provisions of Attachment 3 are a material and integral part of this Contract and are hereby incorporated herein by reference.**

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

**OWNER:**

Attest:

**CITY OF PENSACOLA,**  
a Florida municipal corporation

\_\_\_\_\_  
Ericka L. Burnett, City Clerk

By: \_\_\_\_\_  
Grover C. Robinson, IV, Mayor

[AFFIX CITY SEAL]

Approved as to Content:

Approved as to Form:

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

\_\_\_\_\_  
Susan A. Woolf  
City Attorney

**CONSTRUCTION MANAGER:**

Attest:

**BRASFIELD & GORRIE, L.L.C.,**  
a Delaware limited liability company

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title \_\_\_\_\_

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_



## **EXHIBIT A - PROJECT DESCRIPTION**

### **Project Titan Element 1:**

- Element 1 will be constructed adjacent to Hangar 1 in the northeast quadrant of airfield
- MRO Hangar 2
- Aircraft taxiways accessing the hangar aprons
- Aircraft aprons at the hangar
- Automobile ingress and egress roadways and auto parking

### **Project Titan Element 2:**

- Element 2 will be constructed in the northwest quadrant of airfield
- MRO Hangar 3
- MRO Hangar 4
- MRO Support Services Center
- Administrative Office Building
- Aircraft taxiways accessing the hangar aprons
- Aircraft aprons at the hangars
- Automobile ingress and egress roadways and auto parking

## EXHIBIT B

### ESTIMATED CONSTRUCTION MANAGER'S DIRECT CONSTRUCTION COST

Based on \_\_\_\_ % Contract Documents as of \_\_\_\_\_

#### **CONSTRUCTION COSTS**

Item#	Description	Cost Estimate
DC-1		\$
DC-2		\$
DC-3		\$
DC-4		\$
DC-5		\$
DC-6		\$
DC-7		\$
DC-8		\$
DC-9		\$
DC-10		\$
DC-11		\$
DC-12		\$
DC-13		\$
DC-14		\$
DC-15		\$
DC-16		\$
DC-17		\$
DC-18		\$
DC-19		\$
DC-20		\$
DC-21		\$
DC-22		\$
DC-23		\$
DC-24		\$
DC-25		
<b>TOTAL ESTIMATED DIRECT CONSTRUCTION COST</b>		<b>\$0</b>

The above breakdown of Direct Construction Costs is estimated values, not contractual limits. The Total Estimated Direct Construction cost is included in the GMP. The Schedule of Values, per Section 10.5.4. will be the basis of the monthly progress billings.

The above listed Construction Costs do not include:

- General Conditions
- Insurance & Bonds
- Construction Manager's Management Services
- Reconstruction Services
- Consideration for Indemnification
- Contract Documents Completion Allowance
- Construction Manager's Contingency
- Construction Manager's Fee
- City Allowance Account

# EXHIBIT "C"

## CONSTRUCTION MANAGER'S GENERAL CONDITIONS

### Included In GMP

Item#	(Description	Cost
<b>GC-1.0 On-Site Offices</b>		
GC-1.1		
GC-1.2		
GC-1.3		
GC-1.4		
GC-1.5		
GC-1.6		
GC-1.7		
GC-1.8		
GC-1.9		
GC-1.10		
GC-1.11		
GC-1.12		
GC-1.13		
GC-1.14		
GC-1.15		
GC-1.16		
GC-1.17		
GC-1.18		
GC-1.19		
GC-1.20		
GC-1.21		
GC-1.22		
GC-1.23		
Subtotal:		
<b>GC-2.0 Temporary Utilities</b>		
GC-2.1		
<b>GC-3.0 Temporary Construction Services</b>		
GC-3.1		
GC-3.2		
GC-3.3		
GC-3.4		
GC-3.5		
GC-3.6	Cont.	
GC-3.7		
GC-3.8		
GC-3.9		
GC-3.10		

# EXHIBIT "C"

## CONSTRUCTION MANAGER'S GENERAL CONDITIONS

### GC-4.0 Clean-Up

GC-4.1		
GC-4.2		
GC-4.3		
GC-4.4		

### GC-5.0 Safety

GC-5.1		
GC-5.2		
GC-5.3		
GC-5.4		
GC-5.5		

### GC-6.0 Testing & Inspection

GC-6.1		
--------	--	--

### GC-7.0 Fees & Permits

GC-7.1		
GC-7.2		
GC-7.3		
GC-7.4		

### GC-8.0 Equipment

GC-8.1		
GC-8.2		
GC-8.3		
GC-8.4		
GC-8.5		
GC-8.6		

Subtotal: Total General Conditions:

\$
\$

#### /Notes:

**All General Condition items are to be reimbursed at cost and include cost of material, labor, fringe and sales tax where applicable.**

The individual line items of General Conditions are estimated values and the total cost of General Conditions is included in the GMP.

## EXHIBIT D - SUBMITTAL REQUIREMENTS FOR THE GMP

A preliminary GMP Proposal is due when Construction Documents (CD) are progressed to at least 60% completion. A final GMP Proposal is due when Construction Documents are progressed to 95% completion (unless City requests a final GMP Proposal at an earlier stage).

GMP proposal(s) submittals; one original and four (4), copies will be requested by Owner for review by City, Construction Administrator and Design Professional.

### Table of Contents:

1. Scope of Work
  2. Summary of the GMP
  3. Schedule of Values - summary spreadsheet and backup documents
  4. List of Plans and Specifications used for GMP Proposal
  5. List of clarification and assumptions
  6. Construction Schedule
1. Scope of work will consist of a brief description of the work to be performed by Construction Manager and major points that the Construction Manager and Owner must be aware of pertaining to the scope.
  2. All substantiating data utilized in compilation of items "B" thru "D" will also be submitted as an Exhibit to this contract.

The general condition fee includes bond and insurance cost. All costs should be listed individually for future use.

**PROJECT #:**

**DATE:**

**PROJECT NAME:**

GMP Summary				Amount
A.	Cost of Work (Labor, Materials, Equipment, Warranty)			\$
INDIRECT COSTS			RATE	
B.	CM Contingency			% \$
C.	Constuction Fee			% \$
D.	General Conditions			% \$
	D1	Payment and Perfomance bond	\$	%
	D2	Insurance	\$	%
E.	Sales Taxes			%
				F. TOTAL GMP \$
				G. Owner's Contingency \$

### Formulas:

Total GMP:  $A+B+C+D+E = F$

Rates (Percentages) are calculated by dividing each amount by F, such as  $B/F$ ,  $D/F$ , and  $D1/F$

**(Do not acquire bond or insurance until notified by Owner.)**

3. Schedule of Values - spread sheet with the estimated cost organized by subcontract categories, allowances, bid contingency, general conditions costs, taxes, bonds, insurances, and the Construction Manager's construction phase fee. The supporting document for the spreadsheet must be provided in an organized manner that correlates with the schedule of values.
4. A list of the Plans and Specifications with latest issuance date including all revisions used in preparation of the GMP proposal.
5. A list of the clarifications and assumptions made by the Construction Manager in the preparation of the GMP proposal, to supplement the information contained in the documents.
6. A Critical Path Method diagram construction schedule.
7. After cost of GMP has been agreed upon, detailed breakdown of Cost of General Conditions and other elements of GMP cost shall be included herein as attachment "A" and in Construction Contract as Exhibit "C".

*NOTE:* The submittal package must be kept as simple as possible all on 8 ½ x 11 sheets. Color or shading must be kept to a minimum. If used, make sure the color or shading will not affect the reproduction of the submittal in black and white.

For questions regarding the submittal requirements, please contact:

Mr. Daniel E. Flynn  
Pensacola International Airport  
2430 Airport Blvd., Suite 225  
Pensacola, FL 32504  
PH. (850) 436-5000  
FX: (850) 436-5006

Note 1: Insert authorized attester if known and their title.

Note2: Insert the authorized Construction Manager attester (normally the Corporate Secretary or the Assistant Corporate Secretary of the Construction Manager office executing the contract.

EXHIBIT "E"

COSTS MATRIX

EXHIBIT "F"  
KEY PERSONNEL



EXHIBIT "G"

INCLEMENT WEATHER DAYS

ATTACHMENT 1

PAYMENT & PERFORMANCE

BONDS

## PAYMENT BOND

KNOW ALL MEN BY THESE PRESENTS, THAT WE \_\_\_\_\_ of the State of \_\_\_\_\_ and County of \_\_\_\_\_ hereinafter, know as the Principal, and \_\_\_\_\_, a corporation chartered and existing under the laws of the State of \_\_\_\_\_ and duly authorized to do business in the State of Florida as Surety, are held and firmly bound unto the City of Pensacola, Florida hereinafter know as the Owner, in the penal sum of \_\_\_\_\_ Dollars (\$\_\_\_\_\_) for the payment whereof we bind ourselves, our heirs, legal representatives, successors and assigns, jointly and severally, as provided herein.

WHEREAS, Principal has entered into a contract with Owner, dated \_\_\_\_\_, for \_\_\_\_\_ (list or describe contract).

This obligation is, however, subject to the following conditions:

The above bound Principal has entered into a contract with the Owner under which agrees to furnish all the labor and material and do all work necessary to construct all improvements described in these contract documents under certain terms, conditions, and stipulations and in accordance with the plans and specifications for the project, which are hereto attached and made part of this obligation.

Now should the above named Principal and all claimants, as defined in Section 255.05(1) of the Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the Contract, or in any amendment or extension of or addition to said contract, and for the payment of reasonable attorneys fees, incurred by the claimant or claimants in suits on said bond, then the above obligation shall be void; otherwise, to remain in full force and effect.

And the Surety to this bond, for value received agrees that no change, extensions of time, alterations or additions to the terms of the contract or to the work to be performed hereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations or additions to the terms of the Contract or the work to the Plans and Specifications.

It is agreed that this bond is executed pursuant to and in accordance with the provisions of section 255.05 of the Florida Statutes, and is intended to be and shall be construed to be a bond on compliance with the requirements thereof. The payment bond required to exempt an Owner under this part shall be furnished by the Contractor in at least the amount of the original contract price before commencing the construction of the improvement under the direct contract. The bond shall be executed as surety by a surety insurer authorized to do business in this state and shall be conditioned that the Contractor shall promptly make payments for labor, services, and material to all lienors under the Contractor's direct contract. Any form of bond given by a Contractor conditioned to pay for labor, services, and material used to improve real property shall be deemed to include of this subsection.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section 255.05(2), Florida Statutes.

IN WITNESS WHEREOF, said Principal and Surety have thereunto affixed their hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, either in person or by agents fully authorized.

As to Principal:

Signed, sealed and delivered in  
the presence of:

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public

By: \_\_\_\_\_ (L.S.)

State of \_\_\_\_\_

County of \_\_\_\_\_

As to Surety:

Signed, sealed and delivered in  
the presence of:

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Notary Public

By: \_\_\_\_\_ (L.S.)

State of \_\_\_\_\_

County of \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Owner's Attorney

## **PERFORMANCE BOND**

KNOW ALL MEN BY THESE PRESENTS, THAT WE \_\_\_\_\_ of the State of \_\_\_\_\_ and County of \_\_\_\_\_ hereinafter, known as the Principal, and \_\_\_\_\_, a corporation chartered and existing under the laws of the State of \_\_\_\_\_ and duly authorized to do business in the State of Florida as Surety, are held and firmly bound unto the City of Pensacola, Florida hereinafter known as the Owner, in the penal sum of \_\_\_\_\_ Dollars (\$ \_\_\_\_\_) for the payment whereof we bind ourselves, our heirs, legal representatives, successors and assigns, jointly and severally, as provided herein.

WHEREAS, Principal has entered into a contract with Owner, dated \_\_\_\_\_, for (list or describe contract.)

This obligation is, however, subject to the following conditions:

The above bound Principal has entered into a contract with the Owner under which agrees to furnish all the labor and material and do all work necessary to construct all improvements described in these contract documents under certain terms, conditions, and stipulations and in accordance with the plans and specifications for the project, which are hereto attached and made a part of this obligation.

NOW, THEREFORE, the conditions of this obligation are such that if the above bound Principal fails to faithfully and fully carry out and comply with the terms and conditions of said contract and complete the work therein specified, it shall be the duty of the Surety herein to assume the responsibility for the performance of the contract and to complete the work specified therein, including, but not limited to, obligations created by way of warranties and/or guarantees for workmanship and materials which warranty and/or guarantee may extend for a period of time beyond completion of said contract, and liquidated damages, and such alterations or additions as may be made therein or in the plans and specifications, and shall comply with all laws pertaining to said work, and shall comply with and perform any and all warranties and/or guarantees provided for in said contract. If the Principal faithfully and fully carries out and complies with the terms and conditions of said contract, then this obligation shall be void; otherwise it shall remain in full force and effect.

And the Surety to this bond, for value received agrees that no change, extensions of time, alterations or additions to the terms of the contract or to the work to be performed hereunder or the specifications accompanying the same shall in any way affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alterations or additions to the terms of the Contract or the work to the Plans and Specifications.

It is agreed that this bond is executed pursuant to and in accordance with the provisions of section 255.05 of the Florida Statutes, and is intended to be a bond on compliance with the requirements thereof.

IN WITNESS WHEREOF, said Principal and Surety have thereunto affixed their hands and seals on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, either in person or by agents fully authorized.

As to Principal:

Signed, sealed and delivered in  
the presence of:

\_\_\_\_\_  
Principal

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (L.S.)

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_

County of \_\_\_\_\_

As to Surety:

Signed, sealed and delivered in  
the presence of:

\_\_\_\_\_  
Surety

\_\_\_\_\_  
Witness

By: \_\_\_\_\_ (L.S.)

\_\_\_\_\_  
Notary Public

State of \_\_\_\_\_

County of \_\_\_\_\_

Approved as to form:

\_\_\_\_\_  
Owner's Attorney

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**TABULATION OF QUALIFICATIONS**

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**RFQ NO.: 19-022****TITLE: PROVIDE PROFESSIONAL CONSTRUCTION MANAGER AT RISK SERVICES GUARANTEED MAXIMUM PRICE  
FOR THE MRO HANGAR PROJECT AT PENSACOLA INTERNATIONAL AIRPORT**

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**OPENING DATE: June 28, 2018****OPENING TIME: 2:30 P.M.****DEPARTMENT: Airport**

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**Submittals**

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Ajax Building Corporation  
Jay Smith, Vice President  
1080 Commerce Boulevard  
Midway, FL 32343  
850-224-9571  
Fax: 850-224-2496  
[tom@ajaxbuilding.com](mailto:tom@ajaxbuilding.com)

Brasfield & Gorrie, LLC  
John Strid, Vice President/Div. Manager  
3021 7th Avenue South  
Birmingham, AL 35233  
850-685-2451  
[jstrid@brasfieldgorrie.com](mailto:jstrid@brasfieldgorrie.com)

Caddell Construction Co. (DE), LLC  
Dennis Shepard, VP, Estimating & Purchasing  
2700 Lagoon Park Drive  
Montgomery, AL 36109  
334-272-7723  
Fax: 334-272-8844  
[dennis.shepard@caddell.com](mailto:dennis.shepard@caddell.com)

Cleveland Construction, Inc.  
Jason E. Ziegler, VP, Client Dev. & Preconstruction  
8620 Tyler Boulevard  
Mentor, OH 44060  
440-255-8000  
Fax: 440-205-1138  
[jziegler@clevelandconstruction.com](mailto:jziegler@clevelandconstruction.com)

The Haskell Company  
Greg Akers, Div. Leader, Aviation & Aerospace Mfg.  
111 Riverside Avenue  
Jacksonville, FL 32202  
904-791-4686  
Fax: 904-475-7502  
[greg.akers@haskell.com](mailto:greg.akers@haskell.com)

Hensel Phelps Construction Company  
Kirk J. Hazen, Vice President/District Mgr  
6557 Hazeltine National Drive, Suite 100  
Orlando, FL 32822  
407-856-2400  
Fax: 407-856-6111  
[khazen@henselphelps.com](mailto:khazen@henselphelps.com)

Wharton-Smith, Inc.  
Darin Crafton, Executive Vice President  
1087 East Pass Road  
Gulfport, MS 39507  
228-284-2068  
Fax: 228-284-2117  
[dcrafton@whartonsmith.com](mailto:dcrafton@whartonsmith.com)

\*\*\*\*\*

**DRAFT**

\*\*\*\*\*



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00029

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

AIRPORT - AIR METHODS CORPORATION LEASE AGREEMENT

**RECOMMENDATION:**

That City Council authorize the Mayor to execute the Lease Agreement with Air Methods Corporation to provide for office, hangar, and aircraft ramp space at the Pensacola International Airport for an air ambulance service. Further, that City Council authorize the Mayor to take all actions necessary to execute the Lease Agreement.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

In October, 2019 the Pensacola International Airport was contacted by Mr. Andy Goldstrom of Air Methods Corporation, a Specialized Aviation Service Operator (SASO) operating an air ambulance service, about the availability of hangars to rent. Staff showed him a 9,200 square foot office/hangar facility located at 55 Service Center Road that was available.

Mr. Goldstrom contacted the Airport in November 2019 to indicate that he would like to enter into a Lease Agreement with the City for the hangar. The lease includes a 6,400 square foot hangar, 2,800 square foot office/administrative space, 24,500 square feet of paved aircraft ramp, and a 34 vehicle automotive parking lot. The Lease Agreement is for a term of three (3) years with extensions of three (3) and one (1) years.

**PRIOR ACTION:**

None

**FUNDING:**

N/A



**FINANCIAL IMPACT:**

The Lease Agreement will generate approximately \$72,521 in non-airline revenue to the Airport during the first year. The rental amount was determined via a previously performed market rent analysis of the property updated via changes to the Consumer Price Index (CPI). The initial rental amount will be updated each year based on annual changes to the CPI.

**CITY ATTORNEY REVIEW:** Yes

12/24/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator

Richard Barker, Jr, Deputy City Administrator - Administration &amp; Enterprise

Daniel E. Flynn, Airport Director

**ATTACHMENTS:**

- 1) Air Methods Corporation Lease Agreement

**PRESENTATION:** No

***REAL PROPERTY LEASE***

***AT***

***PENSACOLA INTERNATIONAL AIRPORT***

***BETWEEN***

***AIR METHODS CORPORATION***

***AND***

***CITY OF PENSACOLA, FLORIDA***

***EFFECTIVE DATE: FEBRUARY \_\_\_\_, 2020***

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**List of Exhibits**

**EXHIBIT A - LEASED PREMISES**

**EXHIBIT B - ENVIRONMENTAL BASELINE CONDITIONS STUDY**

**PENSACOLA INTERNATIONAL AIRPORT  
REAL PROPERTY LEASE**

**THIS REAL PROPERTY LEASE** (this “Lease”) is hereby made and entered into as of the Effective Date (hereinafter defined), by and between **AIR METHODS CORPORATION**, a Delaware corporation (“the Company”), and the **CITY OF PENSACOLA, FLORIDA**, a Florida municipal corporation (“the City”), in its capacity as owner and operator of **PENSACOLA INTERNATIONAL AIRPORT** (“the Airport”). The City and the Company may, from time to time, be referred to in this Lease individually as “a Party” and collectively as “the Parties.”

**RECITALS**

WHEREAS, the City is the owner and operator of the Airport (as hereinafter defined); and

WHEREAS, it is in the best interest of the community for the City to encourage air transportation services and other aeronautical uses and activities at the Airport; and

WHEREAS, the City, as lessor, desires to lease to the Company, as lessee, and the Company desires to lease from the City, the Leased Premises for the use, upon the terms, and subject to the conditions hereinafter set forth; and

NOW, THEREFORE, in consideration of the promises, covenants, terms, and conditions herein set forth, the Parties hereby agree as follows:



## ARTICLE 1. DEFINITIONS

### Section 1.01 DEFINITIONS

The following words and phrases, wherever used in this Lease, shall, for purposes of this Lease, have the following meanings:

**“Additional Rent”** means, collectively, all amounts payable by the Company under this Lease which are expressly designated as “Additional Rent”, in addition to the Base Rent.

**"Affiliate"** means any corporation or other entity that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with, the Company.

**"Airport"** means Pensacola International Airport located in Pensacola, Florida, as it now exists and as it may exist in the future.

**"Airport Director"** means the person who from time to time holds the position of “Airport Director” or “Interim Airport Director” of the Airport. Said term shall also include any person expressly designated by the City to exercise functions with respect to the rights and obligations of the Airport enterprise.

**“Airport Master Plan”** means the assembly of appropriate documents and drawings addressing development of the Airport from physical, economic, social, and political jurisdictional perspectives as designated from time to time by the City and the Airport Director as the Airport Master Plan. The Airport Master Plan includes, without limitation, forecasts of aviation demand, an Airport land use plan, an Airport layout plan set, an Airport approach and runway protection zone plan, a terminal area plan, an Airport access and parking plan, a staging plan, a capital improvement plan, and a financial plan.

**“Baseline Environmental Conditions Study”** means a study or studies prepared pursuant to Article 14 to document Land environmental conditions existing at the time of the study. Exhibit F is the initial Baseline Environmental Conditions Study prepared to document the present environmental condition of the Land.

**“Bond Resolution”** means Resolution No. 59-88, adopted as of September 8, 1988, as it may be amended or supplemented from time to time, and any other Resolution of the City regulating or authorizing the issuance of Bonds, as amended or supplemented from time to time, other than Special Purpose Facility Bonds (as defined in Resolution No. 59-88), payable from Airport revenue.

**“City”** means the City of Pensacola, Florida, and any successor to the City in ownership of the Airport.

**"Common Airport Facilities"** means all necessary landing area appurtenances, including, but not limited to, approach areas, runways, public taxiways, public ramps/public aprons, public

roadways, public sidewalks, navigational and aviation aids, lighting facilities, terminal facilities, and other common or public facilities appurtenant to the Airport.

**“Company”** means the lessee under this Lease as identified in the first paragraph of this Lease, and any assignee of this Lease pursuant to an assignment permitted by this Lease.

**“Control”** means the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such entity, whether through the ownership of voting securities or by contract or otherwise.

**“Effective Date”** means the date upon which this Lease is executed by the last Party to execute this Lease, as shown by the respective dates set forth after the places provided herein below for the Parties’ execution of this Lease.

**“Environmental Laws”** means, collectively, all federal, state, water management district, and local environmental, land use, safety, and health laws, rules, regulations, and ordinances, and common law, applicable to the Airport, the Company or the Leased Premises, including, but not limited to, the Occupational Safety and Health Act of 1970 (29 U.S.C. § 651 et seq.); the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. § 9601 et seq.); the Hazardous Materials Transportation Act (49 U.S.C. § 5101 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); the Toxic Substances Control Act of 1976 (15 U.S.C. § 2601 et seq.); the Clean Air Act (42 U.S.C. § 7401 et seq.) (“CAA”); the Safe Drinking Water Act (42 U.S.C. §§ 300f-300j), the Federal Water Pollution Control Act (commonly known as the Clean Water Act) (33 U.S.C. §§ 1251-1387), and Sections 253, 373, 376 and 403, Florida Statutes, as any of the foregoing may hereafter be amended, any rule or regulation pursuant thereto, and any other present or future law, ordinance, rule, regulation, code, permit or permit condition, order, notice of violation, decree, consent agreement, or directive addressing any environmental, safety, or health issue of or by the federal government, or of or by any state or other political subdivision thereof, or any agency, court, or body of the federal government or any state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory, or administrative functions. The term Environmental Laws shall also mean and include the Airport’s Spill Prevention, Control, and Countermeasure Plan (“SPCC”) and all future amendments thereto and the Airport’s Storm Water Pollution Prevention Plan (“SWPPP”) and all future amendments thereto.

**“Event of Default”** shall have the meaning assigned in Article 17 below.

**“Exclusive Use Leased Premises”** means the spaces and areas within the Leased Premises for the use and occupancy of the Company to the exclusion of all others, which Exclusive Use Leased Premises is all of the spaces and areas within the Leased Premises other than the Preferential Use Apron Area.

**“FAA”** means the Federal Aviation Administration of the United States government, or any federal agencies succeeding to its jurisdiction.

**“Facilities”** means the presently existing office/hangar building containing approximately 9,200 square foot composed of approximately 6,400 square feet of open hangar bay (approximately 80’ x 80’) and approximately 2,800 square feet of office/administrative and shop/storage areas; approximately 24,500 square feet of paved aircraft ramp; surface parking for approximately thirty-four (34) automobiles; a covered parking canopy on the rear of the building; and perimeter security fencing; together with all future modifications, additions, and accessions to and replacements of any of the foregoing.

**“Base Rent”** means the annual rent for the Leased Premises as specified or determined in this Lease.

**“Hazardous Substances”** means all hazardous, toxic, or harmful substances, wastes, materials, pollutants, and contaminants (including, without limitation, asbestos, polychlorinated biphenyls, petroleum products, flammable explosives, radioactive materials, paint containing more than 0.5% lead by dry weight (“Lead Based Paint”), infectious substances, or raw materials which include hazardous constituents), and any other substances and materials, that are included under or regulated by Environmental Laws.

**“Land”** means the land within the Airport as depicted on Exhibit A attached hereto and incorporated herein by reference, consisting of approximately 2.041 acres and located at 55 Service Center Road.

**“Leased Premises”** means the Land and all improvements now or hereafter existing on the Land, including without limitation the Facilities and the Preferential Use Apron Area, as more particularly described in Section 2.02.

**“Lease Term”** shall have the meaning assigned in Section 3.01 below.

**“Lease Year”** means each period of twelve consecutive calendar months that begins on an anniversary of the Effective Date of this Lease or, if the Effective Date of this Lease is not the first day of a month, each period of twelve consecutive calendar months that begins on the first day of the next month after each such anniversary of the Beginning of this Lease; provided, however, that the first Lease Year shall commence on the beginning of this Lease and continue to, but not including, the first day of the next Lease Year.

**"Minority Business Enterprise"** means a person or entity who qualifies as a small business owned and controlled by socially and economically disadvantaged individuals under the terms of Title I §109 of the Airport and Airway Safety and Capacity Expansion Act of 1987, 49 App. U.S.C. §2210 (a) (17).

**“Ordinary Wear and Tear”** means normal deterioration of an improvement to real property that occurs solely from the reasonable and intended use of the improvement over time despite the timely and proper performance of reasonable routine maintenance and preventive maintenance.

**“Rent”** means, collectively, the Base Rent and the Additional Rent.

**“Rules and Regulations”** means those ordinances, rules and regulations promulgated from time to time by the City or the Airport Director governing conduct on, and operations at, the Airport or the use of any of the land and/or facilities at the Airport.

**"Subsidiary"** means any corporation or other entity more than fifty percent (50%) of whose outstanding stock (or other form of equity ownership) is, at the relevant time, owned by the Company or by another Subsidiary of the Company.

**“TSA”** means the Transportation Security Administration under the Department of Homeland Security of the United States government, or any federal agencies succeeding to its jurisdiction.

#### Section 1.02 **CROSS-REFERENCES**

All references in this Lease to articles, sections, and exhibits pertain to articles, sections, and exhibits of this Lease unless otherwise specified.

END OF ARTICLE

## ARTICLE 2. LEASED PREMISES

### Section 2.01 LEASED PREMISES

For the Rent, upon the terms, and subject to the conditions set forth in this Lease, the City hereby leases and demises the Leased Premises to the Company, and the Company hereby leases the Leased Premises from the City, subject, however, to all liens, easements, restrictions and other claims and encumbrances of record, provided that such matters do not prevent the Company from conducting its business on the Leased Premises as contemplated herein.

### Section 2.02 AUTOMOBILE PARKING AREA

Motor vehicle (including but not limited to automobiles, trucks and motorcycles) parking on the Leased Premises shall be limited solely to parking by the Company's guests, invitees, customers, and employees in connection with the conduct of the Company's business on the Leased Premises as permitted under Article 4 below and shall be provided by the Company without charge. In no event shall the Company permit parking on the Leased Premises by the general public or by the Company's guests, invitees, customers, or employees not related to the conduct of the Company's business on the Leased Premises.

END OF ARTICLE

## ARTICLE 3. TERM

### Section 3.01 LEASE TERM

Subject to compliance with the term and conditions of this Lease, the Company shall have the right to occupy and use the Leased Premises for a term of three (3) years beginning on [REDACTED], 2020 and ending on [REDACTED], 2023 (the "Lease Term"). Company shall have the right to extend the Lease Term for two (2) (each an "Extension Option"), additional consecutive periods of three (3) years and one (1) year respectively, (each and collectively, the "Extension Term") on the terms and conditions below. Company's failure to exercise the first (or any subsequent) Extension Option shall terminate any additional Extension Options. Notwithstanding anything to the contrary herein, Company's right to exercise any Extension Option is subject to the satisfaction of each of the following conditions precedent: (a) the Lease shall be in full force and effect; and (b) Company shall have given written notice of exercise of the Extension Option not less than 180 days prior to the expiration of the then expiring Lease Term. From and after the commencement of any Extension Term, all references in the Lease to "Lease Term" shall refer to the original Lease Term as extended by the applicable Extension Term. The parties rights and obligations during any Extension Term shall be subject to all terms and conditions of the Lease, except that the Lease Term shall be extended for the period of the Extension Term and Base Rent shall adjust in accordance Section 5.02.

### Section 3.02 COMPANY'S RIGHTS UPON EXPIRATION OR EARLIER TERMINATION OF LEASE

Upon expiration of the Lease Term or earlier termination of this Lease, all of the Company's rights, authority, and privileges to use the Leased Premises, services, facilities and property of the Airport as granted herein shall automatically cease without notice to the Company except such notice, if any, as is expressly required by this Lease with respect to an earlier termination of this Lease.

### Section 3.03 SURRENDER OF LEASED PREMISES

Upon expiration of the Lease Term or earlier termination of this Lease, the Company shall surrender the Leased Premises to the City in the same condition as at the beginning of this Lease, except for Ordinary Wear and Tear and except for (i) damage caused by an insured casualty or a condemnation for which the City is fully compensated by insurance proceeds actually received by the City and by deductible amounts actually paid by the Company to the City, with respect to an insured casualty loss, or by a condemnation award pursuant to an order of a court of competent jurisdiction or payment in lieu thereof acceptable to the City, with respect to a condemnation, or (ii) damage caused by the City or its employees, agents, or contractors.

The provisions of this Section 3.03 shall survive the expiration of the Lease Term or earlier termination of this Lease, as the case may be, and shall be fully enforceable by the City against the Company notwithstanding the termination of this Lease.

END OF ARTICLE



## ARTICLE 4. USE OF LEASED PREMISES

### Section 4.01 PERMITTED USE OF LEASED PREMISES

Continuously during the Lease Term, the Company shall use the Leased Premises for solely for the purpose of operating an air ambulance service and all uses which are necessary for such operation. Without the City's prior written consent, which consent may be given or withheld in the City's sole but reasonable discretion, the Company shall not use, nor suffer or permit others to use, the Leased Premises or any improvements thereon for any use or purposes, commercial or non-commercial, other than the specific authorized use set forth in the preceding sentence of this Section 4.01. If the Company desires to perform any additional commercial aeronautical services or activities on or from the Leased Premises, the Company shall make written application to the City requesting to provide such additional services or activities. If the City in its sole but reasonable discretion desires to permit the Company to perform such additional services or activities, and if the City in its sole but reasonable discretion determines that the Company is qualified to perform such additional services or activities, and if the Company and the City execute a mutually agreeable amendment to this Lease setting forth the terms and conditions by which the Company shall perform such additional services or activities, including any additional rent and fees payable to the City, then, but only then, shall the Company be deemed authorized to perform such additional services or activities.

### Section 4.02 STORAGE OF FUEL AND PERSONAL PROPERTY PROHIBITED

The Company shall not use, or suffer or permit the use of, the Leased Premises or any portion thereof for the storage or sale of fuel of any kind, regardless of the time period.

The Company shall not use the Leased Premises or any portion thereof to keep or store, regardless of the time period, any personal property of any nature whatsoever that is not required for the prosecution of the permitted use set forth in Section 4.01 above.

### Section 4.03 ADDITIONAL RESTRICTIONS

Notwithstanding any contrary provision in this Lease, the Company shall not, and the Company shall not suffer or permit any of its agents, employees, directors, officers, contractors, customers, guests, invitees, licensees, or representatives to:

- (a) Do, suffer, or permit anything that may interfere with the effectiveness or accessibility of any drainage and sewage system, electrical system, air conditioning system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, if any, at any time installed or located on or within the premises of the Airport.
- (b) Do, suffer, or permit anything that invalidates or conflicts with any fire or other casualty insurance policies covering the Airport or any part thereof or improvements thereon.
- (c) Keep or store or suffer or permit to be kept or stored, at any time, flammable or combustible liquids except in storage facilities especially constructed for such purposes in



accordance with applicable federal, State, and City laws and ordinances, including the Uniform Fire Code and the Uniform Building Code. For purposes of this Lease, flammable or combustible liquids shall have the same definitions as set forth in the Uniform Fire Code, as that Code may be amended from time to time.

(d) Do, suffer, or permit anything that may be in conflict with 14 CFR Part 139 Airport Certification as that regulation may be amended from time to time, or jeopardize the operating certificate of the Airport.

(e) Do, suffer, or permit anything that may create electrical or electronic interference with communications between the Airport and aircraft, or between aircraft and any navigational controls, whether or not located on the Airport.

(f) Do anything that may interfere with the Airport's Approach Surveillance Radar or the Airport's airspace communications.

(g) Do, suffer, or permit anything that may make it difficult for aircraft pilots to distinguish between the Airport lights and other lights, or that will or might impair visibility or otherwise endanger the landing, taking off, or maneuvering of aircraft.

(h) Do, suffer, or permit anything that may be in conflict with 49 CFR Part 1542 Airport Security or the TSA-approved security plan for the Airport.

(i) Engage in any business or activity not specifically permitted by this Lease.

#### **Section 4.04 REMOVAL OF DISABLED AIRCRAFT**

Except as otherwise agreed to by the Airport Director, the Company shall promptly remove any disabled aircraft that is in the care, custody, or control of the Company from any part of the Airport (other than the Leased Premises), including, without limitation, runways, taxiways, aprons, and gate positions, and place any such disabled aircraft in the Leased Premises or, in the sole discretion of the Airport Director, in such storage areas as may be designated by the Airport Director. The Company may store such disabled aircraft on Airport property, in a storage area on the Airport (other than the Leased Premises) designated by the Airport Director, only for such length of time and on such terms and conditions as may be established by the Airport Director. Nothing herein shall be deemed to limit Company's ability to store any disabled aircrafts in the Leased Premises.

If the Company fails to remove any disabled aircraft promptly, as required hereunder, the Airport Director may, but shall not be obligated to, cause the removal and/or storage of such disabled aircraft, and the Company shall promptly reimburse the City for all reasonable costs of such removal and storage. Further, the Company hereby releases the City from, and agrees to indemnify, defend and hold the City harmless from and against, any and all claims, loss, liability, damages, costs and expenses, including without limitation reasonable attorney's fees, arising from or in any way connected with such removal or storage by the City, including but not

limited to claims for loss of or damage to the disabled aircraft or to any other property of the owner or lessee of such aircraft or of the Company, except to the extent such damage is caused by the gross negligence or willful misconduct of the City.

**Section 4.05 NON-EXCLUSIVE RIGHTS AND PRIVILEGES**

Notwithstanding anything contained in this Lease that may be, or appear to be, to the contrary, it is expressly understood and agreed that the rights granted under this Lease are non-exclusive and the City herein reserves the right to grant similar privileges to one or more other operators or lessees on the Airport.

END OF ARTICLE

## ARTICLE 5. RENTS, FEES, CHARGES AND SALES TAX

In consideration for the Company's use of the Leased Premises, the rights and privileges granted to the Company hereunder, and for the undertakings of City hereunder, the Company agrees to pay the City, without invoicing, notice, demand, deduction or set-off, the Base Rent, Additional Rent, fees, other charges, and sales and use tax as set forth in this Lease, as from time to time recalculated according to the procedures described below.

### Section 5.01 **BASE RENT**

The initial annual base rent ("Base Rent") payable by the Company to the City shall be Seventy-Two Thousand Five Hundred Twenty-One and 59/100 Dollars (\$72,521.59).

### Section 5.02 **BASE RENT ESCALATOR**

The annual Base Rent for each Lease Year shall be increased over the annual Base Rent for the immediately preceding Lease Year in direct proportion to the percentage increase, if any, in the "CPI" (as hereinafter defined) for the most recent month that is more than thirty (30) days prior to the commencement of such new Lease Year for which the CPI has been published (the "New CPI") over the CPI for the same month one year earlier (the "Base CPI"). The Base Rent for the immediately preceding Lease Year shall be multiplied by a fraction, the numerator of which shall be the New CPI and the denominator of which shall be the Base CPI. The product of such multiplication shall be the new annual Base Rent for the new Lease Year. In no event, however, shall the annual Base Rent for any Lease Year be less than the annual Base Rent for the immediately preceding Lease Year, nor shall the annual Base Rent for any Lease Year be more than three percent (3%) greater than the annual Base Rent for the immediately preceding Lease Year. As used herein, "CPI" shall mean the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, All Items, not seasonally adjusted, 1982-84 = 100 reference base, published by the Bureau of Labor Statistics of the United States Department of Labor. If the Bureau of Labor Statistics of the United States Department of Labor ceases publishing the CPI or materially changes the method of its computation, components, base year, consumers whose experiences are included therein or other features thereof, a comparable index published by a governmental agency, responsible financial periodical, trade association or educational institution selected by the City, in its sole discretion, shall be substituted for the CPI and used in making the computations required herein. The City's failure to notify the Company of any increase in the Base Rent under this Section shall not relieve the Company of its obligation to pay the full Base Rent required by this Section.

### Section 5.03 **BASE RENT PAYMENT**

The annual Base Rent shall be paid by the Company to the City without invoicing, notice, demand, deduction, or set-off, in equal monthly installments payable in advance on or before the first day of each calendar month, beginning on[\_\_\_\_\_], 2020, and continuing through the remainder of the Lease Term.

**Section 5.04 OTHER RENTS, FEES AND CHARGES**

Notwithstanding any contrary provision in this Lease, the City reserves the right to charge, in addition to Base Rent, Additional Rent, and other fees and charges under this Lease, such fees and charges for miscellaneous items and services, including, but not limited to current and future taxes, fees, assessments, employee badges, landing fees and other airfield uses for the Company's customers not having an airfield use permit or agreement with the City, parking charges for areas other than the Leased Premises, and airfield drivers' licenses and security classes, that are assessed by the City in connection with the ordinary use of Airport facilities, provided that such fees and charges shall be equally applicable to all similarly situated parties. The City shall give the Company thirty (30) days' notice prior to any the institution of any new fee or charge and any such fee or charge hereunder shall be charged in a universal and non-discriminatory manner to all third parties authorized under the same or similar permitted use of airport property.

**Section 5.05 SALES TAX**

The Company shall pay to City all sales and use tax imposed by Florida Statutes Section 212.031 and any future amendments thereto, or other applicable Florida law in effect from time to time (collectively, the "Sales Tax"), on the Base Rent and Additional Rent due under this Lease and on any other payments required by this Lease to be made by the Company to or for the benefit of the City which are taxable as rent under applicable Florida law. Such sales or use tax shall be due and payable concurrently with the payment of the Base Rent, Additional Rent, or other payment with respect to which such tax is required to be paid.

**Section 5.06 MODE OF PAYMENT**

The payment of all Base Rent, Additional Rent, Sales Tax, fees, and charges that become due and payable by the Company under this Lease shall be paid to the City of Pensacola without the City invoicing the Company. Payments shall be mailed or delivered to Office of the Airport Director, Pensacola International Airport, 2430 Airport Boulevard, Suite 225, Pensacola, Florida 32504, or to such other payment address as the City notifies the Company in writing. The City reserves the right to require that payment be made by wire transfer.

**Section 5.07 LATE FEE AND INTEREST.**

If Base Rent, Additional Rent, or any other fee, charge or payment due and payable under this Lease by the Company to the City is not paid within five (5) calendar days after such Base Rent, Additional Rent, or other fee, charge or payment became due, a late charge of five percent (5%) of the amount due shall be due and payable to the City to compensate the City for its added expenses due to said late payment. Further, any Base Rent, Additional Rent, or other fee, charge or payment due and payable under this Lease by the Company to the City that is not paid within ten (10) calendar days after its date due shall bear interest at ten percent (10%) per annum, or the highest rate allowed by law, whichever is less, from the date due until the date paid in full.

END OF ARTICLE

## ARTICLE 6. SECURITY DEPOSIT

Concurrently with Company's execution of this Lease, Company shall deposit with the City the sum of [ ] ("Security Deposit"), which shall be held by the City, without obligation for interest or segregation, as security for performance of Company's covenants and obligations under this Lease. Upon occurrence of any Event of Default by Company, the City may use such fund to make good any Rent arrearage or any other damage, injury, expense or liability caused by such default. Any remaining balance of such Security Deposit shall be returned by the City to Company no later than thirty (30) days from the date of termination or expiration of this Lease.

END OF ARTICLE

## ARTICLE 7. INSURANCE AND INDEMNIFICATION

### Section 7.01 **REQUIRED INSURANCE**

Prior to the Effective Date, the Company shall procure and maintain insurance of the types and to the limits specified herein, all of which shall be in full force and effect as of the Effective Date.

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

The Company and the City understand and agree that the minimum limits of insurance herein required may become inadequate during the term of this Lease. The Company agrees that it will increase such minimum limits to the levels required by the City from time to time, within ninety (90) days following the receipt of written notice from the Airport Director.

Insurance shall be procured from an insurer whose business reputation, financial stability, and claims payment reputation are satisfactory to the City in its sole discretion, for the City's protection only. The amounts, forms, and types of insurance required to be provided and maintained by the Company shall conform to the following minimum requirements:

<b>Insurance Requirements</b>		
	<b>Type</b>	<b>Amount</b>
(1)	Worker's Compensation and Employer's Liability	Statutory \$1,000,000/\$1,000,000/\$1,000,000
(2)	Broad Form Commercial General Liability Policy to include coverage for the following:	Combined Single Limit for Bodily Injury and Property Damage of \$5,000,000 per occurrence or its equivalent with an aggregate of not less than \$5,000,000
	(A) Premises Operations	
	(B) Independent Contractors	
	(C) Products/Completed Operations	
	(D) Personal Injury	
	(E) Contractual Liability	
	(F) Damage to Leased Premises	
(3)	Property Insurance including flood insurance for physical damage to the property of the Company, including improvements and betterments to the Leased Premises	Coverage for replacement value of property
(4)	Automobile Liability (any automobile)	Combined Single Limit for Bodily Injury and Property Damage of \$1,000,000 per occurrence or its equivalent in excess of umbrella coverage, \$5,000,000 per occurrence or its equivalent in excess of umbrella coverage for vehicle(s) with access to the Air Operations Area.
(5)	Airport Liability including coverage for premises, operations, products and completed operations and independent contractors.	\$10,000,000 per occurrence, combined single limit, written on an occurrence form
(6)	Pollution Legal Liability for transporting or handling hazardous materials or regulated substances	\$3,000,000 per occurrence, with an annual aggregate not less than \$5,000,000
(7)	Environmental Impairment Liability	\$3,000,000 per occurrence, with an annual aggregate not less than \$5,000,000
(8)	Aircraft Liability	\$10,000,000 per occurrence

## Section 7.02 POLICY ENDORSEMENTS; COPIES OF POLICIES; CERTIFICATES OF INSURANCE

All insurance policies required by this Lease to be furnished by the Company shall be endorsed to provide that the insurance carrier shall give the City written notice at least thirty (30) days in advance of any cancellation, nonrenewal, or adverse change or restriction in coverage.

Each policy of property insurance shall be endorsed to name the City as an Additional Insured and Loss Payee, as its interest may appear, and each policy of liability insurance shall be endorsed to name the City as an Additional Insured. In addition, this Lease and the Leased Premises shall be separately listed on each insurance policy.

Within five (5) days after the Effective Date (but in any event prior to the Company being permitted to take possession of any portion of the Leased Premises), and thereafter within five (5) days after the City's written requests from time to time, the Company shall furnish true and complete copies of all of the Company's insurance policies, forms, endorsements, jackets, and



other items forming a part of, or relating to, all policies of insurance carried or required by this Lease to be carried by the Company with respect to the Leased Premises.

In addition, within five (5) days after the Effective Date (but in any event prior to the Company being permitted to take possession of any portion of the Leased Premises), and thereafter within five (5) days after the City's written requests from time to time, the Company shall provide to the City Certificates of Insurance evidencing all insurance carried or required by this Lease to be carried by the Company with respect to the Leased Premises. Each Certificate of Insurance shall provide that the insurance carrier shall give the City written notice least thirty (30) days in advance of any cancellation, nonrenewal, or adverse change or restriction in coverage. The City shall be named on each Certificate of property insurance as an Additional Insured and Loss Payee, as its interest may appear, and on each Certificate of liability insurance as an Additional Insured. In addition, this Lease and the Leased Premises shall be separately listed on each Certificate. Certificates of property insurance shall be provided on the "Certificate of Insurance" form equal to, as determined by the City, the most current ACORD 28 form. Certificates of liability insurance shall be provided on the "Certificate of Insurance" form equal to, as determined by the City, the most current ACORD 25 form. Any wording on a Certificate that would make notification to the City of cancellation, nonrenewal, or adverse change or restriction in coverage an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's authorized agent or employee. The name and address of the City on each policy and certificate of insurance required by this Lease shall be: City of Pensacola, Department of Risk Management, Post Office Box 12910, Pensacola, Florida 32521. In addition, a copy of each Certificate of Insurance shall be sent to Pensacola International Airport, Attn: Manager of Properties, 2430 Airport Boulevard, Suite 225, Pensacola, Florida 32504.

The Company shall immediately replace any cancelled, adversely changed, restricted, or non-renewed policies with new policies acceptable to the City and shall provide to the City copies of all such new policies, as well as Certificates of Insurance regarding the new policies, prior to the effective date of such cancellation, nonrenewal, adverse change, or restriction. If the City determines at any time that it lacks sufficient proof, in its sole discretion, that all insurance policies, forms, endorsements, jackets, and other items forming a part of, or relating to, all policies of insurance required by this Lease to be carried by the Company are fully paid and in full force and effect, the Company shall, upon instructions from the City, cease all operations under the Lease until directed by the City, in writing, to resume operations. The Company's required insurance coverages shall be considered primary for all purposes, and all other insurance shall be considered as excess, over and above the Company's coverages.

Notwithstanding the primary coverage responsibility of the Company, the Company shall protect the indirect and direct interests of the City by at all times promptly complying with all terms and conditions of its insurance policies, including without limitation timely and complete notification of claims. All written notices of claims made to carriers that relate to the use, damage, impairment, or condition of the Leased Premises shall be copied to the City's Department of Risk Management at the following address: City of Pensacola, Department of Risk Management, Post Office Box 12910, Pensacola, Florida 32521. An additional copy shall be sent to Pensacola

International Airport, Attn: Manager of Properties, 2430 Airport Boulevard, Suite 225,  
Pensacola, Florida 32504.

**Section 7.03 INSURANCE OF THE COMPANY PRIMARY**

The insurance coverage required of the Company shall be considered primary, and all other insurance shall be considered as excess, over and above the Company's required coverage.

**Section 7.04 LOSS CONTROL AND SAFETY**

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

**Section 7.05 ACCEPTABILITY OF INSURERS**

Insurance is to be placed with insurers that have a current A.M. Best rating of no less than A: X.

**Section 7.06 HOLD HARMLESS**

The Company, for itself and its successors and assigns, shall, and does hereby, covenant and agree to, FULLY AND FOREVER RELEASE, INDEMNIFY, DEFEND, and HOLD HARMLESS the City and its elected officials, employees, officers, directors, volunteers, and representatives, individually and collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, arbitration awards, regulatory actions, administrative actions, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including, but not limited to, personal or bodily injury, death, environmental remediation and damage, and property damage, made upon or suffered or incurred by the City directly or indirectly arising out of, resulting from, or related to any breach or default by the Company under this Lease, or the activities, acts or omissions of the Company, its successors or assigns, including any of its or their respective agents, officers, directors, representatives, employees, consultants, contractors or subcontractors, and their respective officers, agents, employees, directors, and representatives under this Lease or at or within the Airport, The indemnity provided for in this Section shall not apply to any liability resulting from negligence or willful misconduct of the City, its officers, or employees.

The City shall, upon notice thereof, transmit to the Company every demand, notice, summons, or other process received in any claim or legal proceeding contemplated herein.

**Section 7.07 PAYMENT ON BEHALF OF THE CITY**

The Company agrees to pay on behalf of the City, and to provide a legal defense for the City, both of which will be done only if and when requested by the City, for all claims or other actions or items described in Section 7.05, "Hold Harmless." Such payment 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 remedy.

**Section 7.08 NO WAIVER OF SOVEREIGN IMMUNITY**

Nothing in this Article shall be deemed a change or modification in any manner whatsoever of the method, conditions, limitations, or restrictions of preserving, asserting, or enforcing any claim or legal liability against the City. This Article 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.

**Section 7.09 LIMITATION OF LIABILITY.** In no event shall either Party, its employees, agents, or contractors be liable under this Lease to the other Party for any consequential, incidental, indirect, exemplary, special or punitive damages, including any damages for business interruption, loss of use, revenue or profit, whether arising out of breach of contract, tort (including negligence) or otherwise, regardless of whether such damages were foreseeable and whether or not either Party was advised of the possibility of such damages.

END OF ARTICLE

## **ARTICLE 8. COMMON AIRPORT FACILITIES; INSPECTION OF FACILITIES**

### **Section 8.01 USE OF COMMON AIRCRAFT FACILITIES**

The City hereby grants to the Company, and to the Company's agents, employees, customers, guests, and invitees, the following general, nonexclusive privileges, uses, and rights, subject to the Rules and Regulations, the payment of all applicable fees and charges, and the terms, conditions, and covenants of this Lease:

(a) The general use by the Company of all Common Airport Facilities.

(b) The right of ingress to and egress from the Leased Premises over and across public roadways serving the Airport for the Company, its agents, employees, customers, guests, invitees, suppliers of services, furnishers of materials, and permitted sublessees/sublicensees.

The privileges, uses, and rights granted or permitted under this Article shall be exercisable only if and to the extent necessary in connection with the Company's business on the Leased Premises permitted under Article 4 above.

### **Section 8.02 COMPLIANCE**

The rights and privileges granted pursuant to Section 8.01 above shall be exercised subject to and in accordance with all laws (including without limitation all Environmental Laws), ordinances, Rules and Regulations, and Airport policies of the United States, the State of Florida, Escambia County, the City of Pensacola and the Airport, including without limitation the rules and regulations promulgated with reference to aviation, navigation, security, and all applicable charter provisions, rules, regulations, and ordinances of the City, now in force or hereafter prescribed or promulgated by charter authority or by law.

### **Section 8.03 INSPECTION OF FACILITIES AND IMPROVEMENTS**

The City reserves the right to enter the Leased Premises during normal business hours with reasonable prior notice to the Company, unless in the event of an emergency in which event no prior notice is required, for the purpose of inspecting same or verifying that Environmental Laws, Rules and Regulations, fire, safety, and sanitation regulations, and other applicable laws, rules and regulations, as well as the provisions contained in this Lease, are being adhered to by the Company. During its presence in the Leased Premises, the City shall make reasonable efforts to avoid undue interference with the Company's operations. Provided that the Company receives adequate prior notice of the City's entry into the Leased Premises, the Company shall use its best efforts to guide, direct, and inform the City's representatives of conditions, situations, and actions that could or might result in loss, injury or damages.

END OF ARTICLE

## ARTICLE 9. ACCEPTANCE AND CONDITION OF LEASED PREMISES

THE COMPANY HAS INSPECTED AND EXAMINED ALL OF THE LEASED PREMISES, INCLUDING WITHOUT LIMITATION THE FACILITIES, THE PREFERRED USE APRON AREA, AND ALL OTHER BUILDINGS, STRUCTURES, IMPROVEMENTS, FACILITIES, PAVEMENT, AND INFRASTRUCTURE. THE PARTIES AGREE THAT THIS LEASE IS GRANTED BY THE CITY, AT THE COMPANY'S REQUEST, AND THAT THE LEASED PREMISES AND ALL PORTIONS THEREOF SHALL BE AND HEREBY ARE ACCEPTED BY THE COMPANY IN THEIR "AS IS" CONDITION SUBJECT TO ALL DEFECTS, LATENT AND PATENT.

THE COMPANY HEREBY ACKNOWLEDGES AND AGREES THAT THE CITY LEASES THE LEASED PREMISES, INCLUDING ALL PORTIONS, PARTS, AND COMPONENTS THEREOF, TO THE COMPANY, AND THE COMPANY ACCEPTS THE LEASED PREMISES FROM THE CITY, "AS IS, WHERE IS AND WITH ALL FAULTS" WITHOUT ANY REPRESENTATION OR WARRANTY OF THE CITY, EXPRESS OR IMPLIED, WRITTEN OR ORAL, OF ANY KIND WHATSOEVER, AND SUBJECT TO ALL DEFECTS, LATENT AND PATENT. FURTHER, THE CITY HEREBY EXPRESSLY DISCLAIMS ANY AND ALL EXPRESS AND IMPLIED WARRANTIES AS TO THE CONDITION OF THE LEASED PREMISES AND ALL PORTIONS THEREOF, INCLUDING WITHOUT LIMITATION ANY AND ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR ANY PARTICULAR PURPOSE, HABITABILITY OR TENANTABILITY. THE COMPANY ACKNOWLEDGES THAT THE CITY HAS MADE NO REPRESENTATIONS OR WARRANTIES RELATING TO THE SUITABILITY OF THE LEASED PREMISES OR ANY PORTION THEREOF FOR ANY PARTICULAR USE OR PURPOSE (INCLUDING WITHOUT LIMITATION THE AUTHORIZED, PERMITTED AND REQUIRED USES SET FORTH IN ARTICLE 4 ABOVE) AND THAT THE CITY SHALL HAVE NO OBLIGATION WHATSOEVER TO REPAIR, MAINTAIN, RENOVATE OR OTHERWISE INCUR ANY COST OR EXPENSE WITH RESPECT TO THE LEASED PREMISES OR ANY PORTION THEREOF EXCEPT AS EXPRESSLY SET FORTH IN THIS LEASE. WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, THE CITY SHALL NOT BE LIABLE FOR ANY LATENT OR PATENT DEFECTS IN THE LEASED PREMISES OR ANY PART THEREOF, AND THE CITY SHALL NOT HAVE ANY LIABILITY OR RESPONSIBILITY TO THE COMPANY FOR ANY LOSS, DAMAGE OR EXPENSE INCURRED BY THE COMPANY OCCASIONED BY THE CONDITION OR CHARACTERISTICS OF THE LEASED PREMISES OR ANY PART THEREOF.

THE COMPANY'S TAKING POSSESSION OF THE LEASED PREMISES SHALL BE CONCLUSIVE EVIDENCE OF THE COMPANY'S ACCEPTANCE THEREOF IN AN "AS IS" CONDITION AND THAT THE COMPANY DEEMS THE LEASED PREMISES SUITABLE FOR THE PURPOSES FOR WHICH THEY ARE BEING LEASED.

THE COMPANY AGREES THAT NO REPRESENTATIONS REGARDING THE CONDITION OF THE LEASED PREMISES AND NO PROMISES TO IMPROVE THE

SAME, EITHER BEFORE OR AFTER THE EXECUTION HEREOF, HAVE BEEN OR WILL BE MADE BY THE CITY OR ITS AGENTS TO THE COMPANY.

END OF ARTICLE

## ARTICLE 10. CONSTRUCTION BY THE COMPANY

### Section 10.01 **GENERAL REQUIREMENTS**

The Company shall not construct, alter, remodel, renovate, remove, or demolish improvements on the Leased Premises (including but not limited to hangars, offices, shops, and pavement) without the prior written approval of the City, which approval may be given or withheld in the City's reasonable discretion.

In the event that the Company desires to construct, alter, remodel, renovate, remove, or demolish any improvements on the Leased Premises, it shall submit to the Airport Director plans and specifications and a construction time schedule for such work prepared by Florida-registered architects and engineers, such other information and documents as may be required by the Airport Director, all of which shall be in sufficient detail for the Airport Director, to determine, in his or her sole discretion, whether or not the proposed work is in the best interest of the Airport. The Company shall reimburse the City immediately upon demand for the actual and reasonable out of pocket expenses incurred by the City to review and act upon the Company's request, which expenses may include without limitation the fees and expenses of architects, engineers, attorneys and other professionals. The Airport Director, acting on behalf of the City, shall have thirty (30) days after receipt of such plans and specifications and other requested information and documents to approve or disapprove such work. Such work shall be deemed approved if the Airport Director fails to deliver to the Company written disapproval of such work within such 30-day period.

The Company shall not commence any such work unless and until the City, through the Airport Director, has given its written approval of such work, and the Company has provided to the Airport Director the payment and performance bonds required herein below.

Company shall be solely responsible for payment of all hard and soft costs of such work, and, prior to commencement of any work on the Leased Premises Company shall provide City with reasonably satisfactory evidence of Company's ability to pay the costs of such work as and when due.

Further, prior to the commencement of any such work, the Company shall procure and provide to the Airport Director any and all additional approvals of such work and/or the plans and specifications for such work required by any federal, state, water management district, county, or municipal government, or authority, agency, officer, department, or subdivision thereof, having jurisdiction with respect to such work, and shall obtain and provide to the Airport Director any and all requisite development, building and construction licenses, orders, permits, and approvals. The Company shall be solely responsible for obtaining and paying the costs of obtaining all required licenses, orders, permits, and approvals for such work.

All such work shall strictly conform to the plans and specifications, construction timetable (to the extent reasonably practical) and other documentations submitted to the City by the Company; all conditions and requirements imposed by the City as a condition of its approval, including but

not limited to permissible days and hours of construction; and applicable federal, state, and local laws, codes, ordinances, rules, and regulations, including but not limited to the Rules and Regulations and the federal Americans with Disabilities Act and regulations thereunder. In no event shall the approval of the City required by this Article be deemed to be any acknowledgement by the City that such work or any plans, specifications, or other information or documentation submitted to the City complies or will comply with applicable laws, codes, ordinances, rules, and regulations, including but not limited to those of the City of Pensacola, and shall not relieve Company from obtaining all required governmental authorizations, permits and approvals, including but not limited to authorizations, permits and approvals required by the ordinances, codes, rules and regulations of the City of Pensacola, all of which shall be obtained prior to the commencement of such work. Further, the City, by giving its approval of such work, assumes no liability or responsibility therefor or for any defects in such plans and specifications or for any defects in any of such work.

Upon the commencement of any work permitted under this Article, Company shall thereafter diligently and continuously prosecute such work to completion within a reasonable time. Company shall cause all work on the Leased Premises to be performed and constructed by appropriately licensed contractors, with good quality, new materials, in a good and workmanlike manner, and pursuant to valid building permits. All improvements (expressly excluding, however, movable office furniture and trade fixtures, and trade equipment) installed or constructed on the Leased Premises by the Company shall be deemed to be the sole property of the City and a part of the real estate owned by the City, and shall remain upon and be surrendered with the Leased Premises upon the expiration or termination of this Lease. Company shall indemnify, defend and hold City free and harmless from and against any and all liabilities, claims, demands, lawsuits, administrative proceedings, loss, and damages of any kind, including but not limited to attorneys' fees and costs, arising out of any work done or material supplied to the Leased Premises by or at the request of Company.

Upon completion of all renovations, construction, alterations, or improvements on the Leased Premises, the Company shall provide to the Airport Director an accurate and complete conformed set of "as built" plans and specifications, certified by the appropriate contractor(s) and design professional(s), and a copy of the government-issued Certificate of Occupancy, if required for such work.

#### **Section 10.02 CONSTRUCTION REQUIREMENTS**

Promptly after receipt of all approvals by the City required by this Lease and all permits and approvals required by all federal, state, and local governmental units and agencies having jurisdiction, the Company shall proceed with construction of said improvements. Work shall not be performed on days or at times other than those approved in writing by the Airport Director.

The Company shall construct all improvements and additions to the Leased Premises at its own expense. Although the City has the right to review proposed improvement plans, and not approve



the plans if the plans are inconsistent with the airport development plans or construction quality and design control, pursuant to the standards set forth above, if the City does approve the improvement plans, and the Company thereafter constructs the improvements, the improvements shall be commissioned and constructed at the Company's sole initiative and behest, and nothing herein shall be construed as an authorization by City to the Company to construct the improvements, or as an agreement by City to be responsible for paying for the improvements, and neither the Leased Premises, nor the City's interest in said Leased Premises or any improvements constructed thereon, shall be subjected to any construction lien for any improvements constructed by the Company hereunder.

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

The City shall, at any period during construction of the Company's improvements, alterations, or additions, have the right, but not the obligation, to inspect any or all construction work, workmanship, material and installation involved in, or incidental to, the construction or installation of the improvements, alterations, or additions, for conformance with the applicable standards set forth in this Lease, provided that such inspection shall not include internal work that is exclusively of an operations (non-structural) nature, and provided further that no such inspections shall be deemed to constitute consent to or approval of any such work, and provided further that no such inspection shall unreasonably interfere with the construction work.

Immediately upon completion of any improvements, alterations, or additions, the Company shall submit to the City a detailed, certified statement from the construction contractor (s), architect (s), and engineer(s) specifying the total construction costs, both hard costs such as building contractor and material costs and soft costs such as architect fees, financing costs, bond costs, letter of credit fees, attorney fees to review and negotiate construction contracts and resolution of construction issues and for loan closing, and design and closing costs, but excluding debt service.

END OF ARTICLE

## ARTICLE 11. LIENS PROHIBITED

Notwithstanding any other provision of this Lease, the City's fee simple estate and interest in the Leased Premises shall not be subject to any lien, statutory or otherwise, by reason of any improvements constructed or altered upon, removed from, or demolished on the Leased Premises or work, labor, services or materials performed upon or supplied to the Leased Premises, by or upon the order or request of the Company or its agents, employees or contractors, or any permitted sublessee of the Company, or anyone acting by, through or under the Company. The Company shall include written notice of the foregoing in all contracts for the furnishing of labor, services or materials to or on the Leased Premises. All persons performing labor or service or furnishing materials to the Leased Premises on the order of the Company must look solely to the Company for payment. The Company shall keep the Leased Premises and improvements free from any construction liens, mechanics liens, vendors liens or any other liens or claims arising out of any work performed, materials furnished or obligations incurred by or at the request of the Company or its employees, contractors, or anyone acting by, through or under the Company, all of which liens and claims are hereby expressly prohibited, and the Company shall defend, indemnify and hold the City harmless from and against any such lien or claim or action thereon, together with costs of suit and reasonable attorneys' fees and costs incurred by the City in connection with any such lien, claim or action. In addition to complying with all requirements of Article 10 above, before commencing any work of any kind on or to the Leased Premises, the Company shall give the City at least ten (10) business days' written notice of the proposed work and proposed commencement date in order to afford the City an opportunity to post appropriate notices of non-responsibility. In the event that any claim or lien shall be recorded against the Leased Premises or improvements in violation of this Article, and such claim or lien shall not be removed (by bonding over or otherwise) or discharged within thirty (30) days of filing, the City shall have the right but not the obligation (1) to pay and discharge said lien without regard to whether such lien shall be lawful or correct, and to receive reimbursement therefor from the Company within five (5) days after delivery of written demand to the Company, or (2) to require that the Company promptly deposit with the City in cash, lawful money of the United States, one hundred fifty percent (150%) of the amount of such claim, which sum may be retained by the City until such claim shall have been removed of record or until judgment shall have been rendered on such claim and such judgment shall have become final, at which time the City shall have the right to apply such deposit in discharge of said judgment, claim, or lien (including interest and penalties, if any) and any costs, including reasonable attorneys' fees and costs, incurred by the City, and shall remit the balance thereof, if any, to the Company; provided that if the amounts held by the City are insufficient to pay such judgment, claim, lien, and costs in full, the Company shall pay such shortfall within five (5) days after delivery of written demand to the Company. The City shall have the right to execute and record in the public records of Escambia County, Florida, a notice of the provisions of this Article meeting the requirements of Section 713.10, Florida Statutes.

END OF ARTICLE

## ARTICLE 12. MAINTENANCE AND REPAIR

### Section 12.01 **TRIPLE NET LEASE**

This Lease constitutes a triple net lease of the Leased Premises and, notwithstanding any language herein to the contrary, it is intended and the Company expressly covenants and agrees that all Base Rent, Additional Rent, and other payments herein required to be paid by the Company to the City shall be absolutely net payments to the City, meaning that, during the Lease Term, the City is not and shall not be required to expend any money or do any acts or take any steps affecting or with respect to the use, occupancy, operation, maintenance, preservation, repair, restoration, protection, or insuring of the Leased Premises, or any part thereof, notwithstanding any contrary provision in this Lease.

### Section 12.02 **COMPANY RESPONSIBILITIES**

Notwithstanding the provisions of any previous lease of any of the Leased Premises or any previous course of dealing, course of performance, or understanding between the City and the Company, the Company shall, throughout the Lease Term of this Lease, be solely and entirely responsible for all costs and expenses for, related to or arising out of the use, operation, repair, maintenance and replacement of the Leased Premises, including but not limited to, the Facilities, the Preferential Use Apron Area, all buildings, improvements, pavement, fencing, landscaping, irrigation, foundations, utility lines, doors, locks, windows, ceilings, partitions, walls, interior and exterior lighting, roofs, drainage installations, curbs, islands, sidewalks, driveways, aircraft ramp, parking areas (vehicular and aircraft) and improvements thereon and all components thereof, whether such repair, maintenance or replacement be ordinary, extraordinary, structural, or otherwise. Additionally, without limiting the foregoing, the Company shall:

- (a) At all times perform commercially reasonably routine maintenance and preventive maintenance of the Leased Premises, the Facilities, and all buildings, improvements, and pavement on the Leased Premises and all components thereof and maintain all of the foregoing in a good and clean condition, repair and preservation;
- (b) Replace or substitute any fixtures, equipment and components that have become inadequate, obsolete, worn out, unsuitable, or undesirable with replacement or substitute new fixtures, equipment and components of equal or greater value, free of all liens and encumbrances, that shall automatically become a part of the buildings and improvements;
- (c) At all times keep the Leased Premises' grounds, pavement and exterior of the Leased Premises, its buildings and improvements, fixtures, landscaping, equipment, and personal property in a maintained, clean, and orderly condition and appearance;
- (d) Provide, and maintain in good working order, all obstruction lights and similar devices, fire protection and safety equipment, and all other equipment of every kind and nature required by applicable laws, rules, orders, ordinances, resolutions, or regulations of any competent authority, including the City and the Airport Director, provided that such rules,

regulations, and ordinances shall be applicable in a non-discriminatory manner to all similarly situated parties;

(e) Observe all insurance regulations and requirements concerning the use and condition of the Leased Premises for the purpose of reducing fire hazards and increasing the safety of the Company's operations on the Airport;

(f) Repair any damage to paving or other surfaces of the Leased Premises or the Airport caused by the Company, its employees, agents, sublessees, licensees, contractors, suppliers, guests or invitees as the result of any oil, gasoline, grease, lubricants, flammable liquids, or substances having a corrosive or detrimental effect thereon or as the result of any cause whatsoever;

(g) Comply with the Airport's Storm Water Pollution Prevention Plan and Spill Prevention, Control, and Countermeasure plan and take measures to prevent erosion, including, but not limited to, the planting and replanting of grass on all unpaved or undeveloped portions of the Leased Premises; the planting, maintaining, and replanting of any landscaped areas; the designing and constructing of improvements on the Leased Premises; and the preservation of as many trees as possible, consistent with the Company's construction and operations;

(h) Be responsible for the maintenance and repair of all utility services lines upon and serving the Leased Premises, including, but not limited to, water and gas lines, electrical power and telephone conduits and lines, sanitary sewers, and storm sewers;

(i) Keep and maintain all vehicles and equipment operated on the Airport by the Company in safe condition, good repair, and insured, as required by this Lease;

(j) Replace broken or cracked plate glass, paint/repaint structures upon the Leased Premises, and, where applicable, mow the grass, and keep landscaped areas weeded; and

(k) Provide and use suitable covered metal receptacles for all garbage, trash, and other refuse; assure that boxes, cartons, barrels, or similar items are not piled in an unsightly, unsafe manner on or about the Leased Premises; provide a complete and proper arrangement, satisfactory to the Airport Director, for the adequate sanitary handling and disposal away from the Airport, of all trash, garbage, and refuse resulting from operation of the Company's business.

#### **Section 12.03 SAFE, CLEAN AND ORDERLY OPERATION**

During the term of this Lease, the Company agrees to maintain all portions of the Leased Premises, and any improvements, alterations, or additions thereon, in a safe, clean, and neat condition, and not permit any accumulation of wreckage, debris, or trash. The Company agrees to provide for complete, proper and adequate sanitary handling and disposal, away from the Airport, of all trash, garbage, waste and other refuse caused as a result of the Company's operations; to provide and use suitable covered metal receptacles, to be approved by the Airport Director, for all trash, garbage and other refuse on or about the Leased Premises, and not to pile

boxes, cartons, carts, drums, or the like on the outside of the buildings, or dump any waste matter of any nature, in a liquid state or otherwise, on the Leased Premises nor to permit contamination of the City's sewers or the Airport's drainage control reservoir.

The Company agrees to promptly install, without cost or expense to the City, any other device or devices for the handling and disposition of refuse and all manner of waste (liquid or otherwise) as may reasonably be required by the City or the Airport Director from time to time of all Airport tenants, including the Company.

Should the Company fail to comply with the terms and conditions of this Article within a period of thirty (30) days following written notice of such failure, or for those items that cannot be reasonably cured within 30 days, the Company undertakes to cure and diligently pursues such cure, the city reserves the right to take any action to cure said failure. Should the City take action to cure failures, the Company shall pay to the City an amount equal to the City's cost for such actions plus a twenty-five percent (25%) administrative charge. Said payment is Additional Rent and is to be made by the 10th day of the following month in addition to any other payments

#### **Section 12.04 OTHER SERVICES**

At its own expense the Company shall provide interior and exterior painting, janitorial, security, trash removal and all other services necessary or desirable for the operation of the Company's business on the Leased Premises permitted under Article 4 above.

#### **Section 12.05 QUARTERLY CONDITION SURVEYS**

The City's Airport Properties Manager, together with a representative of the Company may, at the City's option, inspect the Leased Premises quarterly to observe and note its condition, cleanliness, and existing damage and to determine required repairs and maintenance, provided that such inspections do not materially interfere with the Company's use of the Leased Premises. Neither the City's inspection of the Leased Premises nor the City's failure to inspect the Leased Premises shall relieve the Company of any of its obligations under this Lease or applicable law.

#### **Section 12.06 ADEQUACY OF COMPANY'S MAINTENANCE PERFORMANCE**

The adequacy of the Company's performance of its obligations under this Article shall be determined by the Airport Director, whose reasonably exercised judgment shall be conclusive; provided that the Airport Director's failure to notify the Company of any deficiencies in the Company's performance or to enforce any of the Company's obligations under this Lease shall not relieve the Company of any of its obligations under this Lease or applicable law. In the event that the Company refuses or fails to commence any maintenance, repair or replacements within thirty (30) days after written notice from the Airport Director and thereafter diligently pursue the same to completion or, in the event of exigent circumstances, such lesser time as the Airport Director specifies in such written notice, then and in any such event the City shall have the right, but not the obligation, to perform such maintenance, repair or replacement on behalf of and for the Company. The costs of such maintenance, repair or replacement, plus five (5.0%) percent for administration, shall be reimbursed by the Company to the City no later than 30 days following receipt by the Company of written demand from the City for same.

## **Section 12.07 UTILITIES**

The Company shall, at no cost to the City, arrange for all utilities necessary to serve the Leased Premises and promptly pay when due all the utilities costs incurred with respect to the Leased Premises. The Company shall pay or cause to be paid any and all charges for water, heat, gas, electricity, sewer, telephone, internet, cable, and any and all other utilities used on the Leased Premises throughout the Lease Term, including, but not limited to, any connection fees and any and all additional third party costs related to utility connection, metering, maintenance, repair, and usage.

The Company shall be responsible for the maintenance and repair of all exterior telephone, internet, cable, water, gas, sewer, and electrical utility lines required for the Leased Premises commencing at the point(s) where said utilities enter upon the Leased Premises. The City shall have no obligations related to said maintenance and repair. The Company shall coordinate any required maintenance and repair with the appropriate utility company and the office of the Airport Director.

The City reserves to itself the right, at its expense, to install, maintain, repair, replace, or remove and replace water and sewer pipes, electrical lines, cable lines, internet lines, gas pipes, and any other utilities or services located on the Leased Premises as necessary or appropriate, in the City's judgment, to make such utilities available to the City or other tenants, together with the right to enter the Leased Premises at all reasonable times in order to accomplish the foregoing, provided, however, that (i) the City shall take reasonable precautions to avoid the disruption of the Company's authorized activities; (ii) the alteration and additions after installation do not lessen the utilities previously available to the Company; (iii) the City and/or the ultimate user of such utilities will be responsible to repair and maintain such utilities; and (iv) such utilities will be separately metered for different users.

Throughout the Lease Term, the Company shall not render any utility lines inaccessible.

**Section 12.08 UTILITIES SUPPLY OR CHARACTER**

The City shall not be liable in any way to the Company for any failure or defect in the supply or character of electrical energy, internet service, cable service, gas, water, sewer, or other utility service furnished to the Leased Premises by reason of any requirement, act, or omission of the City in its capacity as a utility provider or of any public utility providing such service or for any other reason. The City shall have the right to shut down electrical and other utility services to the Leased Premises when necessitated by safety, repairs, alterations, connections, upgrades, relocations, or reconnections or for any other reason with respect to any such utility system regardless of whether the need for such utility work arises with respect to the Leased Premises or any other facility at the Airport, without incurring any liability therefor to the Company.

Whenever reasonable under the circumstances, the City shall give the Company not less than two (2) days' prior notice of any such utility shutdown. The City shall not be liable to the Company for any losses, including the loss of income or business interruption, resulting from any interruptions or failure in the supply of any utility to the Leased Premises.

END OF ARTICLE

## **ARTICLE 13. TITLE TO IMPROVEMENTS AND PERSONAL PROPERTY**

### **Section 13.01 TITLE TO IMPROVEMENTS**

Title to all buildings, structures, pavement, and other improvements presently existing upon the Leased Premises or any part thereof is vested in the City, and the City is and shall remain owner of all such improvements. Any attempted conveyance, transfer, or assignment by the Company of any improvements owned by the City, whether voluntary, by operation of law, or otherwise, shall be void and of no effect.

Title to all buildings, structures, pavement, and other improvements constructed or installed on the Leased Premises by the Company during the Lease Term, including but not limited to additions and accessions to and modifications of any improvements, shall become vested in the City immediately and automatically upon completion thereof, without notice to the Company or any action by the City. Notwithstanding the foregoing, the City may, in its discretion, require the Company to remove any or all of such improvements constructed by the Company from the Leased Premises upon expiration of the Lease Term or earlier termination of this Lease; provided; however, that the City must give the Company notice of such election at the time that the City approves of such improvements. In the event the City so elects, then prior to the termination or expiration of the Lease, the Company shall remove such improvements at the Company's sole cost and risk, in compliance with all applicable laws and regulations and, to the degree reasonably possible, shall restore the Leased Premises to the condition that existed prior to the construction of same. Further, and in any event, should the Company fail to undertake such removal, the City may undertake such removal and dispose of such Improvements, all at the Company's expense, and the Company shall promptly reimburse the City upon demand for all removal and disposal costs incurred by the City. The provisions of this Section shall survive the expiration of the Lease Term or the earlier termination of this Lease.

### **Section 13.02 TITLE TO PERSONAL PROPERTY**

Except as otherwise provided in this Section 13.02, all trade fixtures and equipment and other business personal property installed or placed by the Company, at its sole expense, in the Leased Premises that can be removed without structural damage to the Leased Premises or any other City-owned property shall remain the property of the Company, subject, however, to the provisions of this Section 13.02, unless otherwise provided in subsequent agreements between the Company and the City. The Company shall have the right at any time during the Lease Term and prior to its expiration or earlier termination of this Lease to remove any and all of said property from the Leased Premises provided that at the time of removal there exists no Event of Default hereunder or any event or state of facts which with the giving of notice or lapse of time, or both, would constitute an Event of Default. The Company shall promptly repair or pay for all damages, if any, resulting from such removal. All City property damaged by or as a result of removal of the Company's property by the Company shall promptly be restored at the Company's expense to substantially the same condition as, or better condition than, it was prior to such damage.



Notwithstanding the foregoing, any and all property not removed by the Company prior to the expiration of the Lease Term or the earlier termination of this Lease shall become a part of the land upon which it is located and title thereto shall automatically vest in the City without notice to the Company or any action by the City. The City reserves the right to remove and dispose of any or all of such property not removed by the Company prior to the expiration of the Lease Term or earlier termination of this Lease, without any liability or obligation to the Company, and if such removal is accomplished by the City within the 90-day period following expiration of the Lease Term or earlier termination of this Lease, as the case may be, such removal by the City shall be at the Company's expense, and the Company shall reimburse the City for such expenses promptly upon demand. During the time that any such property of the Company remains on the Leased Premises and until the expiration of such 90-day period or the removal of such property, whichever first occurs, the Company shall continue to pay Rent on that portion of the Leased Premises that the City is not reasonably able to re-let due until such property is removed at the per square foot rental rate in effect on the expiration of the Lease Term or earlier termination of this Lease, as the case may be.

The provisions of this Section shall survive the expiration of the Lease Term or earlier termination of this Lease, as the case may be, and shall be fully enforceable by the City against the Company notwithstanding the termination of this Lease.

END OF ARTICLE

## ARTICLE 14. ENVIRONMENTAL COMPLIANCE

### Section 14.01 ENVIRONMENTAL LAWS

The Company shall, at all times, abide by all Environmental Laws applicable to, concerning, or arising from the Company's actions or inactions resulting directly or indirectly from its occupancy, use, or lease of the Leased Premises, including, without limitation, state and federal laws regulating storm water runoff contamination and pollution prevention, numeric nutrient criteria requirements, state and federal laws regulating soil, water, and groundwater quality, and state and federal laws regulating air quality. Prior to the beginning of any Lease Term, the Company shall identify in writing to the Airport Director and its Fire Department all Hazardous Substances that are or may be used in the course of its occupation of the Leased Premises. This list shall be updated by Company in March of each year and include quantities of materials stored on the Leased Premises. The City shall have the right to inspect the Leased Premises at any reasonable time to ensure compliance with Environmental Laws and the provisions of this Article.

The City, acting through its Airport Director, has the right to limit the amount of Hazardous Substances used and stored on the Leased Premises, provided that such limit does not unreasonably interfere with the Company's use of the Leased Premises for the purposes set forth herein.

The Company shall comply with the Airport's Spill Prevention, Control, and Countermeasure plan and Storm Water Pollution Prevention Plan and all amendments thereto irrespective of whether it has its own Spill Prevention, Control, and Countermeasure plan or Storm Water Pollution Prevention Plan.

The Company shall not, directly or indirectly, allow the disposal or discharge of Hazardous Substances on the Leased Premises or other Airport property.

### Section 14.02 BASELINE ENVIRONMENTAL CONDITIONS STUDIES

Prior to each initial occupation of the Leased Premises or any portion thereof by the Company or any assignee of this Lease or any sublessee of any portion of the Leased Premises, and immediately following each vacating, abandonment or surrender of the Leased Premises or any portion thereof by the Company or any such assignee or sublessee, the City shall cause to be completed a Baseline Environmental Conditions Study (that will include the elements of a Phase II Environmental Site Assessment) of the Leased Premises or pertinent portion thereof by a licensed professional retained by the City. The pre- and post- baseline environmental conditions studies shall be prepared as follows:

#### *(a) OCCUPANCY BY THE COMPANY*

The City, at the City's sole cost and expense, shall cause a Baseline Environmental Conditions Study of the Leased Premises to be completed by a licensed professional agreed to by both

parties at least thirty (30) days prior to the beginning of the Lease Term. The Company shall have fifteen (15) days after receipt of the completed study to review and comment on the completed study. Completion of the study and final acceptance of the study by the City shall be a condition precedent to the Company's occupying the Leased Premises. The City and the Company agree that the close-out Baseline Environmental Conditions Study prepared in accordance with the requirements of the lease of the Leased Premises in effect immediately prior to this Lease shall serve as the initial Baseline Environmental Conditions Study required by this paragraph.

*(b) ASSIGNMENT*

At least sixty (60) days prior to any assignment, which is not a Permitted Assignment (defined below) of this Lease or any portion thereof pursuant to the provisions of Article 19, the Company shall notify the City of its intent to assign. The Company, at the Company's sole cost and expense, shall cause a Baseline Environmental Conditions Study of the Leased Premises (or that portion to be assigned, if it is a partial assignment) to be completed at least thirty (30) days prior to assignment of the Lease. The Company shall have fifteen (15) days after receipt of the completed study to review and comment on the completed study. Completion of the study and final acceptance of the study by the City shall be a condition of approval of any assignment. All assignments must contain all of the environmental compliance requirements of this Article 14, shall not permit any further assignment or sublease of this Lease, and shall include a provision stating that the provisions of this Article shall survive the termination of any assignment.

*(c) SUBLEASE*

At least sixty (60) days prior to any sublease of the Leased Premises or any portion thereof pursuant to the provisions of Article 19, the Company shall notify the City of its intent to sublet. The Company, at the Company's sole cost and expense, shall cause a Baseline Environmental Conditions Study of the Leased Premises (or that portion to be subleased, if it is a partial sublease) to be completed at least thirty (30) days prior to any sublease. The Company shall have fifteen (15) days to review and comment on the completed study. Completion of the study and final acceptance of the study by the City shall be a condition of approval of any sublease. All subleases must contain all of the environmental compliance requirements of this Article 14, shall not permit any further assignment or sublease of this Lease, and shall include a provision stating that the provisions of this Article shall survive the termination of any sublease.

*(d) VACATING, ABANDONMENT OR SURRENDER*

Within thirty (30) days after notice that the Company, an assignee or a sublessee has vacated, abandoned or surrendered the Leased Premises or any portion thereof, the Company, at the Company's sole cost and expense, shall cause to be completed a Baseline Environmental Conditions Study of the Leased Premises, on that portion of the Leased Premises which has been vacated, abandoned or surrendered. The Company or its sublessee or assignee shall have fifteen (15) days to review and comment on the completed study.

**Section 14.03 REMEDIATION OF ENVIRONMENTAL CONDITIONS**

In the event any Baseline Environmental Conditions Study that is conducted following the vacating, abandonment or surrender of the Leased Premises or any portion thereof by the Company, an assignee or a sublessee identifies an environmental condition that was not identified by a prior Baseline Environmental Conditions Study and that requires assessment or remediation, the City shall perform such assessment or remediation at the Company's sole cost and expense, and the Company shall pay or reimburse to the City the reasonable cost of such assessment or remediation promptly upon demand and shall release, indemnify, defend, and hold the City harmless in accordance with Article 7 and shall comply with all other terms of this Lease. Notwithstanding anything to the contrary set forth herein, the Company's obligations under Section 14.03 shall not apply in the event that the City or the Company has reasonable, objective evidence that the new environmental condition was caused by another user or occupant of the Airport.

**Section 14.04 ENVIRONMENTAL REPORTS**

The Company promptly shall provide to the Airport Director, on an ongoing basis and as updates are required, copies of all Company environmental permits and reports related to the Leased Premises, as well as any notices, orders, decrees, citations, or inspection reports issued by environmental regulatory authorities.

**Section 14.05 SURVIVAL OF OBLIGATIONS**

The obligations of this Article shall survive the expiration, termination, and full or partial assignment of this Lease, as well as the sublease of all or any portion of the Leased Premises.

END OF ARTICLE

## ARTICLE 15. SUBORDINATION OF AGREEMENT AND RIGHT OF RECAPTURE

### Section 15.01 **SUBORDINATION TO AGREEMENTS WITH THE UNITED STATES**

This Lease shall be subordinate to the provisions of any existing or future obligation to or agreement with the United States of America relating to the Airport. Should the effect of such obligation or agreement be the taking of a material portion of the Leased Premises, or a substantial alteration or destruction of the commercial value of the leasehold interest granted herein, the City shall not be held liable therefor but, in such event, the Company, as its sole and exclusive remedy, may cancel this Lease upon one-hundred twenty (120) days' written notice to the City. Notwithstanding the foregoing, the City agrees that, in the event it becomes aware of any such proposed or pending obligation, agreement or taking, the City shall endeavor in good faith to give reasonable notice thereof to the Company and to attempt to minimize, to the extent reasonable in the City's judgment, the adverse consequences to the Company.

### Section 15.02 **SUBORDINATION TO BOND RESOLUTION**

This Lease shall be subject and subordinate to the provisions of each and every Bond Resolution.

END OF ARTICLE

## ARTICLE 16. SECURITY

### Section 16.01 **GENERAL**

The Company shall comply with all rules, regulations, statutes, orders, directives or other mandates of the United States, the State of Florida, Escambia County and the City of Pensacola, including without limitation the Rules and Regulations, as they relate to Airport security requirements. The Company understands that the Airport is required to maintain an Airport Security Plan in compliance with Title 49 CFR Part 1542 and the Company shall comply with the Airport's security plan as it now exists or as it may be amended in the future and as it applies to the Company, the Leased Premises or its operations or activities on the Airport, and shall take such steps as may be necessary or as directed by the City to ensure that employees, agents, contractors, suppliers, guests and invitees observe these requirements.

### Section 16.02 **AIRPORT ACCESS LICENSE/PERMIT**

The City reserves the right to establish a licensing or permit procedure for vehicles requiring access to the Airport Operations Area and to levy directly against the Company or its contractors or suppliers a reasonable regulatory or administrative charge for issuance of such Airport access license or permit.

END OF ARTICLE

## ARTICLE 17. EVENTS OF DEFAULT; REMEDIES; TERMINATION

### Section 17.01 COMPANY EVENTS OF DEFAULT

The occurrence of any one or more of the following events (each such event being referred to in this Lease as an “Event of Default”) shall constitute a material default and breach of this Lease by the Company:

- (a) The Company fails to make any monetary payment required to be made by the Company hereunder, within three (3) days after the date when due; or
- (b) The Company fails to observe, keep, or perform the terms, covenants, agreements, and conditions of any of Articles 4, 6, 7, 10, 19, or 23, or Sections 21.03 or 26.24 of this Lease; or
- (c) The Company fails to observe or perform any covenant, condition or provision of this Lease to be observed or performed by the Company, other than as described in subparagraph (a) or (b) above or subparagraphs (d), (e), (f), (g), or (h) below, and such failure shall continue for a period of thirty (30) days after written notice thereof by the City to the Company; provided, however, that if the nature of such failure is such that more than thirty (30) days are reasonably required for its remedy or cure, then such 30-day period shall be extended for up to thirty (30) additional days provided that the Company begins such remedy or cure within such 30-day period and thereafter diligently and continuously prosecutes such remedy or cure to completion within such additional 30-day period; or
- (d) The Company files a voluntary petition in bankruptcy or any petition or answer seeking or acquiescing in any reorganization, rehabilitation, arrangement, composition, readjustment, liquidation, dissolution or other relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors; or an order for relief is entered in an involuntary bankruptcy case filed against the Company; or the Company seeks or consents to or acquiesces in the appointment of any trustee, custodian, receiver or liquidator of itself or of all or any part of its assets or any interest therein; or the Company shall make a general assignment for the benefit of its creditors; or the Company commits any act providing grounds for the entry of an order for relief under any chapter of the federal bankruptcy code; or
- (e) A petition or case is filed against the Company seeking any reorganization, rehabilitation, arrangement, composition, readjustment, liquidation, dissolution or other relief under any present or future federal, state or other statute, law or regulation relating to bankruptcy, insolvency or other relief for debtors, or the appointment of any trustee, custodian, receiver or liquidator of the Company or of all or any part of its assets or any interest therein, and such petition, case or appointment is not dismissed within sixty (60) days after such filing or appointment; or

(f) The Company fails to comply with the Airport's Spill Prevention, Control, and Countermeasure Plan or Storm Water Pollution Prevention Plan and all amendments thereto; or

(g) The Company abandons all or any material part of the Company's business on the Leased Premises permitted under Article 4 above or ceases to conduct all or any material part of the Company's business at the Leased Premises permitted under Article 4 above for forty-five (45) days during any period of ninety (90) consecutive days; or

(h) The Company, its assignees, sublessees, contractors or subcontractors, employs or contracts with, for work or services performed on or from the Leased Premises, any unauthorized alien as described by Section 274(e) of the federal Immigration and Nationalization Act.

#### **Section 17.02 REMEDIES.**

Upon the occurrence of any Event of Default, the City may at any time thereafter, with or without notice or demand (except as expressly specified in Section 17.01 above or elsewhere in this Lease), and without limiting the City in the exercise of any right or remedy that the City may have by reason of such Event of Default:

(a) Terminate the Company's right to possession of the Leased Premises by any lawful means, in which case this Lease shall terminate and the Company shall immediately surrender possession of the Leased Premises to the City. In such event the City shall be entitled to recover from the Company all damages incurred by the City by reason of the Company's default, including but not limited to the cost of recovering possession of the Leased Premises; expenses of re-letting, including necessary renovation and alteration of the Leased Premises, reasonable attorney's fees and any real estate commission actually paid; and the worth at the time of award by the court having jurisdiction thereof of (i) the amount of unpaid Rent and other unpaid amounts under this Lease which had been earned at the time of termination, (ii) the unpaid Rent and other amounts under this Lease which would have been earned after termination until the time of award, and (iii) the amount of unpaid Rent and other amounts which would have been earned under this Lease after the time of award until the last day of the original Lease Term, had this Lease not have been terminated; in all cases less the amount of rent received by City from any reletting of the Premises or any portion thereof. The worth at the time of award of the sums referred to in clauses (i) and (ii) above shall be computed by allowing interest from the due date at the greater of five percent (5%) per annum or the legal rate applicable to money judgments entered by the courts of the State of Florida. The worth at the time of award of the amount referred to in clause (iii) above shall be computed by discounting such amount at a reasonable discount rate based upon all relevant circumstances existing at the time of the award.

(b) Without terminating this Lease, enter and repossess the Leased Premises, remove the Company's property and signs therefrom, and re-let the same for such rent and upon such terms as shall be satisfactory to the City without such re-entry and repossession working a forfeiture of the Rent and other amounts to be paid and the covenants to be performed by the Company during the remaining Lease Term. For the purpose of such re-letting, the City shall be entitled to make any repairs, changes, alterations or additions in or to the Leased Premises that may be necessary



or convenient, and the City shall be entitled to recover from the Company the cost of such repairs, changes, alterations and additions; the expenses of such re-letting; and the difference in value between the Rent and other amounts which would be payable by the Company hereunder for the remainder of the Lease Term and the value of the rent and other amounts to be realized from such re-letting.

(c) Maintain the Company's right to possession, in which case this Lease shall continue in effect whether or not the Company shall have abandoned the Leased Premises. In such event the City shall be entitled to enforce all of the City's rights and remedies under this Lease, including the right to recover Rent and other amounts as they become due hereunder.

(d) Pursue any other remedy now or hereafter available to the City at law or in equity under the laws or judicial decisions of the State of Florida, including without limitation any right or remedy available to a creditor under the Uniform Commercial Code.

(e) The City shall use commercially reasonable efforts to mitigate its damages.

#### **Section 17.03 RIGHTS AND REMEDIES OF THE CITY CUMULATIVE**

All rights and remedies of the City herein created or otherwise existing or arising at law or in equity by reason of any Event of Default are cumulative, and the exercise of one or more rights or remedies shall not operate to exclude or waive the right to the exercise of any other. All such rights and remedies may be exercised and enforced concurrently, whenever and as often as deemed desirable. Further, failure by the City to take any authorized action upon the occurrence of an Event of Default shall not be construed to be or act as a waiver of said Event of Default or of any subsequent Event of Default. The City's acceptance of Base Rent, Additional Rent or other amounts or payments by the Company for any period or periods after the occurrence of an Event of Default shall not be deemed a waiver of such Event of Default or a waiver of or estoppel to enforce any right or remedy on the part of the City arising or existing by reason of such Event of Default.

END OF ARTICLE

## ARTICLE 18. HOLDING OVER

It is agreed and understood that any holding over by the Company, with the City's written consent, after the termination of this Lease, shall not serve to renew and extend same, but shall operate and be construed as a tenancy from month-to-month, subject to all terms and conditions of this Lease, including without limitation all Rent provisions.

Should the Company hold over without the City's written consent, the Company agrees to pay to the City, as monthly Rent during such period of holding over, for such Leased Premises for each month until the Company completely vacates the Leased Premises, the sum of (i) two hundred percent (200%) of Base Rent payable for the last month of the Lease Term, including without limitation applicable taxes and (ii) all Additional Rent and other fees and charges required by this Lease or by City ordinance to be paid by the Company.

The Company shall be liable to the City for all loss or damage resulting from such holding over against the City's will after the termination of this Lease, whether such loss or damage may be contemplated at this time or not. It is expressly agreed that acceptance of the foregoing rental by the City, in the event that the Company fails or refuses to surrender possession, shall not serve to grant the Company any right to remain in possession beyond the period for which such amount has been paid nor shall it constitute a waiver by the City of its right to immediate possession thereafter.

END OF ARTICLE

## ARTICLE 19. ASSIGNMENT AND SUBLEASE

### Section 19.01 LEASE ASSIGNMENT

The Company shall not assign this Lease or the Company's interest in or to the Leased Premises, or any part thereof, without first having obtained the City's prior written consent which consent shall not be unreasonably withheld, conditioned, or delayed ; provided, however, that this section is not intended to apply to or prevent the assignment of this Lease, in its entirety, to any corporation or other entity with which the Company may merge or to an Affiliate or Subsidiary (a "Permitted Transfer"). Without limiting the foregoing, it is a precondition to City review and approval of a requested assignment of this Lease that there shall then exist no uncured Event of Default nor any event or state of facts which with notice or the lapse of time, or both, would constitute an Event of Default. Further, the City may, in its sole and absolute discretion, condition its consent to any such assignment upon changes in any terms or conditions of this Lease, including but not limited to changes in the changes in the Rent and other fees and charges payable by the lessee hereunder and may also condition its consent to any such assignment upon the Company's payment to the City of an assignment approval fee acceptable to the City in its sole and absolute discretion, determined on the basis of such factors as the City deems relevant in its sole and absolute discretion, which factors may include, without limitation, the City's estimate of the consideration to be received by the Company in respect of such assignment. Any transfer of Control of the Company and any transfer of more than fifty percent (50%) of the equity ownership of the Company, whether such transfer of Control or equity ownership occurs pursuant to a single transaction or a series of related transactions, shall be deemed to be an assignment of this Lease for purposes of this Section 19.01.

In the event that the Company requests permission to assign this Lease in whole or in part, the request shall be submitted to the Airport Director not less than forty-five (45) days prior to the proposed effective date of the assignment requested, and shall be accompanied by a copy of the proposed assignment agreement(s) and of all agreement(s) collateral thereto, together with the following information and any other information requested by the Airport Director: the identity and contact information of the assignee, whether the requested assignment is a full or partial assignment of this Lease, a statement of the entire consideration to be received by the Company by reason of such assignment, the type of business to be conducted on the Leased Premises by the assignee, and reasonable financial history and financial information of the Assignee.

### Section 19.02 LEASED PREMISES SUBLEASE

The Company shall not sublet the Leased Premises or any part thereof, regardless of the time period, without having first obtained the City's prior written consent, which consent shall not be unreasonably withheld, conditioned, or delayed. Without limiting the generality of the foregoing, it is a precondition to consent to sublease of the Leased Premises that there shall then exist no uncured Event of Default nor any event or state of facts that with notice or the lapse of time, or both, would constitute an Event of Default.

In the event that the Company requests permission to sublet the Leased Premises in whole or in part, the request shall be submitted to the Airport Director not less than forty-five (45) days prior to the proposed effective date of the sublease requested, and shall be accompanied by a copy of the proposed sublease agreement(s) and of all agreement(s) collateral thereto, together with the following information and any other information requested by the Airport Director: the identity and contact information of the sublessee, a description of the part of the Leased Premises to be subleased, a statement of the entire consideration to be received by the Company by reason of such sublease (including but not limited to sublease rent and other fees and charges payable by the sublessee), the type of business to be conducted on subleased premises by the sublessee, and reasonable financial history and financial information of the sublessee.

For purposes of this Section 19.02 and Section 19.03 below, “sublease” and related terms shall include, without limitation, any sublease, license, or agreement, regardless of how denominated, that permits a third party to occupy or use all or any part of the Leased Premises other than those persons who use the Leased Premises in the ordinary course of Lessee’s business for the use permitted under Article 4 above.

#### **Section 19.03 CONSUMMATION OF ASSIGNMENT OR SUBLEASE**

The City’s consent for the assignment or sublease for which the City’s consent is required and for which such consent has been given shall be by written instrument, in a form reasonably satisfactory to the Airport Director and the City Attorney, and shall be executed by the assignee or sublessee who shall agree, in writing, for the benefit of the City, to be bound by and to perform all the terms, covenants, and conditions of this Lease. Four (4) executed copies of such written instrument shall be delivered to the City. Failure either to obtain the City’s prior written consent or to comply with the provisions of this Lease shall serve to prevent any such transfer, assignment, or sublease from becoming effective and shall constitute an Event of Default by the Company.

The Company agrees and acknowledges that it shall remain fully and primarily liable for all obligations of lessee under this Lease, notwithstanding any full or partial assignment of this Lease or any sublease of all or any portion of the Leased Premises.

Receipt by the City of rents, fees or any other payment from an assignee, sublessee, or occupant of the Leased Premises shall not be deemed as consent to any assignment or sublease, as a waiver of any covenant in this Lease against assignment and subletting, as acceptance of the assignee, sublessee, or occupant as a tenant, or as a release of the Company from further observance or performance of the covenants contained in this Lease. No provision of this Lease shall be deemed to have been waived by the City, unless such waiver is in writing, signed by the Airport Director.

END OF ARTICLE

## ARTICLE 20. DAMAGE OR DESTRUCTION OF LEASED PREMISES; TAKING BY EMINENT DOMAIN

### Section 20.01 **LEASED PREMISES -- DAMAGE OR DESTRUCTION**

If at any time during the continuance of this Lease, the Leased Premises shall be so destroyed or so injured by fire or other casualty as to be unfit for full occupancy and use by the Company, and such destruction or injury could reasonably be repaired within one hundred eighty (180) days from the date of such destruction or injury, then the Company shall not be entitled to surrender possession of the Leased Premises; provided, however, that the Company's obligation to pay Rent shall be equitably reduced to the extent of the diminution in use to the Company resulting from such destruction or injury until full use and occupancy is restored to the Company. The City shall repair the damage to the improvements existing as of the Effective Dates and the Company shall repair the damage to all improvements constructed by Company with all reasonable speed at least to the extent of the value and as nearly as possible to the character and quality of the building and improvements existing immediately prior to such occurrence.

If the Leased Premises shall be so destroyed or injured by fire or other casualty that such destruction or injury could not reasonably be repaired within one hundred eighty (180) days from the date of such destruction or injury, either Party shall have the option, upon written notice given to the other Party within thirty (30) days from the date of such destruction or injury, to terminate this Lease, and upon giving of such notice this Lease shall be terminated as of the date of such destruction or injury. In the event neither Party elects to terminate this Lease in accordance with the foregoing options, the Company shall repair the damage and restore or rebuild the building and improvements as promptly as reasonably possible.

Notwithstanding the foregoing provisions of this Article, in the event of damage or destruction, as aforesaid, such that fifty percent (50%) or more of the total floor area of the Facilities is rendered unfit for occupancy and use by the Company, then either Party shall have the option, upon written notice given to the other Party within thirty (30) days from the date of such destruction or injury, to terminate this Lease, and upon the giving of such notice this Lease shall be terminated as of the date of such destruction or injury.

### Section 20.02 **TAKING BY EMINENT DOMAIN**

In the event that the Leased Premises or any portion thereof shall be taken for public or quasi-public use or condemned under eminent domain, the Company shall not be entitled to claim or have paid to the Company any compensation or damages whatsoever for or on account of any loss, injury, damage or taking of any right, interest or estate of the Company, and the Company hereby relinquishes and assigns to the City any rights to such damages; provided, however, that nothing herein contained shall be construed to prevent the Company from asserting against the condemn or any separate claim for damages to the Company occurring by reason of said condemnation, including without limitation loss or damage to leasehold improvements,

personal property, business, fixtures, goodwill, cost of removing fixtures or equipment or loss of future profits.

In the event of any such taking or condemnation referred to in the preceding paragraph, then if and when there is an actual taking, in whole or in part, of physical possession of the Leased Premises which shall render the Leased Premises unfit for the use and occupancy by the Company substantially as used and occupied prior to such taking, the Company may terminate this Lease. The Leased Premises shall be deemed to be unfit for use by the Company if the area of the portion thereof remaining after such taking is less than sufficient to accommodate the operations carried on by the Company just prior to such taking. If the Company elects to terminate this Lease as provided above, it shall give written notice to the City within thirty (30) days after the later of (a) the entry of the final order of court authorizing the taking or appropriation or the date of settlement, as the case may be, or (b) the taking of physical possession by the condemner. In the event there is a partial taking of the Leased Premises, but this Lease is not terminated as herein provided, then this Lease shall continue in full force and effect without abatement or reduction in Rent.

END OF ARTICLE

## ARTICLE 21. FEDERAL, STATE, AND LOCAL REGULATIONS

### Section 21.01 COMPLIANCE WITH RULES AND REGULATIONS

The Airport Director is charged with administering the provisions of this Lease, and is authorized from time to time to promulgate and enforce such Rules and Regulations and policies as the Airport Director deems necessary. All such Rules and Regulations and policies so promulgated shall not be inconsistent with any legally authorized rule or regulation of the FAA, or any other federal or State of Florida agency, which is binding in law on the Company, as the same now are or may from time to time be amended or supplemented, nor inconsistent with the reasonable exercise by the Company of any right or privilege granted under this Lease.

The Company shall not, and the Company shall not suffer or permit any of its officers, representatives, agents, employees, guests, patrons, contractors, subcontractors, licensees, subtenants, invitees, or suppliers to, violate or to cause another person to violate any of the Rules and Regulations.

### Section 21.02 COMPLIANCE WITH LAW

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

At all times during the Lease Term, the Company shall, in connection with its activities and operations at the Airport:

Comply with and conform to all applicable current and future statutes and ordinances, and regulations promulgated thereunder, of all federal and State of Florida agencies of competent jurisdiction that apply to or affect, either directly or indirectly, the Company or the Company's operations and activities under this Lease. Without limiting the generality of the foregoing, the Company shall comply with the United States of America, United States Department of Homeland Security, United States Citizenship and Immigration Services E-Verify in order to implement the legal requirements of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and with all applicable provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12101), as may be amended from time to time, and federal regulations promulgated thereunder that may be applicable as a result of activities conducted by the Company.

Subject to the prior written approval of the Airport Director, make, at its own expense, all improvements, repairs, and alterations to the Leased Premises and all buildings and improvements thereon and to its equipment and personal property that are required to comply with or conform to any of such statutes, ordinances, or regulations.

Regarding the City, be and remain an independent contractor with respect to all installations, construction, and services performed by or on behalf of the Company hereunder.

The Company, for itself and its successors and assigns, shall, and does hereby, covenant and agree to FULLY AND FOREVER RELEASE, INDEMNIFY, DEFEND, and HOLD HARMLESS the City and its elected officials, employees, officers, directors, volunteers, and representatives, individually and collectively, from and against any and all penalties, fines, and demands of any kind (including but not limited to costs of investigation, attorneys' fees, court costs, and expert fees) arising out of the Company's acts or omissions resulting in any alleged violation of any rule, regulation, statute, order, directive, or mandate of the United States, the State of Florida, Escambia County, or the City of Pensacola, including but not limited to any alleged violation of Title 49 CFR Part 1542, "Airport Security", and any other or successor or amended regulations related to Airport security.

### **Section 21.03 COMPLIANCE WITH ENVIRONMENTAL LAWS**

At all times during the Lease Term, the Company shall not cause, permit or allow any Hazardous Substances to be placed, stored, dumped, dispensed, released, discharged deposited, used, transported or located on any portion of the Premises; provided, however, that quantities of such Hazardous Substances may be used or stored by Company on the Leased Premises in the ordinary course of business on the condition that such quantities and the use thereof are:

- (a) Identified in the Hazardous Substances listing described in Section 17.01,
- (b) Permitted by or are exempt from applicable governmental regulations, and
- (c) Are transported, stored and utilized in accordance with applicable governmental regulations and the best practices of the Company's industry.

To the extent caused by or resulting from the acts of the Company, its agents, servants, employees, or contractors, Company agrees that it shall, to the extent necessary to bring the Leased Premises into compliance with any and all applicable Environmental Laws regarding Hazardous Substances and clean-up thereof, investigate and promptly (but in any event within the time period permitted by applicable Environmental Laws) clean up Hazardous Substances found in, on, under, around, or within any portion of the Leased Premises and, with respect to such matters as described herein for which Company is responsible, to remediate the Leased Premises, and to pay for all reasonable clean-up and remediation costs at no cost to the City. All clean-up and remediation shall be performed to meet pre-existing conditions, and in no instance shall clean-up or remediation or related agreements with state or federal regulators include restrictions placed on the use of the Leased Premises or any part thereof.

Company shall perform Environmental Reporting required under this Section as described in Section 14.04.



#### **Section 21.04 NONDISCRIMINATION**

As a condition of the use and occupancy of the Airport and its facilities, the Company shall be subject to the following:

(a) In the event that facilities are constructed, maintained, or otherwise operated in or on the space assigned to the Company for a purpose for which a U.S. Department of Transportation (DOT) program or activity is extended or for another purpose involving the provision of similar services or benefits, the Company shall maintain and operate such facilities and services in compliance with all other requirements imposed pursuant to Title 49, CFR, U.S. DOT, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," and as such regulations may be amended from time to time.

(b) No person on the grounds of race, color, national origin, sex, or physical handicap, religion, or ancestry shall be excluded by the Company from participating in, denied the benefits of, or be otherwise subjected to discrimination in the use of the facilities assigned to the Company.

(c) In the construction of any improvements on, over, or under the space assigned to the Company, and the furnishing of services thereon, no person on the grounds of race, color, national origin, sex, or physical handicap shall be excluded by the Company from participating in, denied the benefits of, or otherwise be subject to discrimination.

(d) The Company shall use the Leased Premises in compliance with all other requirements imposed by or pursuant to Title 49, CFR, U.S. DOT, Subtitle A, Office of the Secretary, Part 21, "Nondiscrimination in Federally Assisted Programs of the Department of Transportation-Effectuation of Title VI of the Civil Rights Act of 1964," and as such regulations may be amended.

(e) The Company shall insert the substance of the provisions of the Section 21.05 in any lease, sublease, assignment, agreement, or contract by which the Company grants a right or privilege to any person, firm, or corporation to render accommodations or services to the public on the Company's Leased Premises.

(f) The Company shall fully indemnify, defend, and hold harmless the City, its elected representatives, officers, agents, volunteers, and employees from and against all penalties, fines, demands, fees, costs and expenses of any kind (including, but not limited to, costs of investigation, attorney fees, court costs, and expert fees) arising out of any act or omission of the Company, its partners, officers, agents, employees, contractors, subcontractors, assigns, subtenants, or anyone acting under the Company's direction and control, resulting in alleged violations of any rule, regulation, statute, order, directive or other mandate of the United States, the State of Florida, Escambia County or the City of Pensacola, including without limitation the Rules and Regulations and Title 49 CFR Part 1542, "Airport Security," and any successor regulations related to Airport security.

(g) If the City incurs any such fines, penalties, fees, costs or expenses imposed by Federal, state, county, or municipal authorities as a result of the acts or omissions of the Company, its

partners, officers, agents, employees, contractors, subcontractors, assigns, subtenants, or anyone acting under its direction and control, then the Company shall promptly upon demand pay or reimburse the City, as Additional Rent, for all such costs and expenses.

#### **Section 21.05 BREACH OF NONDISCRIMINATION**

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

#### **Section 21.06 FAIR AND EQUAL FURNISHING OF SERVICES**

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

#### **Section 21.07 AFFIRMATIVE ACTION PROGRAM**

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

#### **Section 21.08 MINORITY BUSINESS ENTERPRISE**

As a condition of its use of Airport services and facilities, the Company shall comply with the requirements of Title 49, CFR, Part 23, "Participation by Minority Business Enterprise in Department of Transportation Programs" as this Part 23 may be amended from time to time.

#### **Section 21.09 RIGHTS OF THE FEDERAL GOVERNMENT**

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

**Section 21.10 LICENSES AND PERMITS**

The Company shall obtain in a timely manner and thereafter maintain in full force and effect during the Lease Term all licenses, permits and other approvals required by the federal, state, county, and municipal authorities in order to engage in the Company's business on the Leased Premises as permitted under Article 4 above.

**Section 21.11 NONEXCLUSIVE RIGHTS**

It is understood and agreed that nothing herein contained shall be construed to grant the Company any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, the Company shall have the right to exclusive possession of the Exclusive Use Leased Premises leased to the Company under the provisions of this Lease.

END OF ARTICLE

## ARTICLE 22. TAXES

### Section 22.01 **PAYMENT OF TAXES**

The Company shall pay all taxes that may be levied upon, assessed, or charged the Company or its personal property located on the Airport by the United States, the State of Florida or any of its political subdivisions, or Escambia County or the City, and shall obtain and pay for all licenses and permits required by law.

### Section 22.02 **REAL PROPERTY TAXES**

The Company shall be responsible for all real property taxes applicable to the Leased Premises during the Lease Term. If any such taxes paid by the Company shall cover any period of time prior to or after the expiration of the Lease Term, the Company's share of such taxes shall be equitably prorated to cover only the period of time within the tax year during which this Lease shall be in effect, and the City shall reimburse the Company to the extent required. If the Company shall fail to pay any such taxes, the City shall have the right, but not the obligation, to pay the same, in which case the Company shall repay such amount to the City with the Company's next Base Rent installment, together with interest at the highest rate allowed by law.

### Section 22.03 **DEFINITION**

As used herein the term "real property tax" shall mean all ad valorem and non-ad valorem taxes and assessments (including interest and penalties thereon) which are imposed against any legal or equitable interest of the City or the Company in the Leased Premises or any portion thereof by the City, Escambia County or the State of Florida or by any school, agricultural, lighting, fire, mosquito control, water, drainage or other improvement, benefits or tax district thereof, and which are collected by the Escambia County, Florida, Tax Collector, together with any tax imposed in substitution, partially or totally, of any tax previously included within the definition of "real property tax" and any additional tax the nature of which was previously included within the definition of "real property tax".

### Section 22.04 **CONTEST**

The Company may contest the legal validity or amount of any taxes, assessment, or charges for which the Company is responsible under this Lease, and may institute such proceedings as the Company considers necessary. If the Company protests any such tax, assessment or charge, the Company may withhold or defer payment or pay under protest but shall indemnify and hold the City and the Leased Premises harmless from and against any claim or lien against the City or the Leased Premises arising out of the Company's failure to pay the contested taxes, assessments or charges.

### Section 22.05 **PERSONAL PROPERTY TAXES**

The Company shall pay prior to delinquency all taxes assessed against and levied upon trade fixtures, furnishings, equipment and all other personal property of the Company contained in the Leased Premises. When possible, the Company shall cause said trade fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the Land and

Leased Premises. If any of the Company's said personal property shall be assessed with the Land or Leased Premises, the Company shall pay the taxes attributable to the Company within ten (10) days prior to the delinquency date for payment of such taxes.

END OF ARTICLE

## ARTICLE 23. ENCUMBRANCE OF LEASEHOLD ESTATE AND NOTICE TO MORTGAGEES

Company shall not encumber by mortgage or other security instrument, by way of collateral assignment, or otherwise, Company's interest in this leasehold estate without the prior written consent of City in its sole discretion, and any such encumbrance made without City's prior written consent shall be void and of no force or effect. In no event shall City be required to encumber or subordinate City's fee simple estate in the Leased Premises.

Provided that City has given its prior written consent to such encumbrance and that Company's lender who has been granted a lien on or security interest in the Company's leasehold estate in the Leased Premises ("Lender") has provided City written thereof, including Lender's address for receipt of notices:

(a) Lender shall have the right:

1. To do any act or thing required of Company hereunder and all such acts or things done and performed shall be as effective to prevent a forfeiture of Company's rights hereunder as if done by the Company; and
2. To realize on the security afforded by the leasehold estate by exercising foreclosure proceedings or power of sale or other remedy afforded in law or in equity or by the security documents (hereinafter sometimes collectively referred to as "foreclosure sale") or to acquire by deed-in-lieu, and to transfer, convey, or assign the title of Company to the leasehold estate created hereby to any purchaser at any such foreclosure sale or transfer from Lender if Lender acquires by a deed-in-lieu and to acquire and succeed to the interest of Company hereunder by virtue of any such foreclosure sale or deed-in-lieu.

(b) In the event of a default by the Company under this Lease, the rights of City may not be exercised until written notice of such default is delivered to Lender, or to the person or firm designated by any such Lender, by written notice to City, to accept such notices, and any applicable cure period has expired. Lender shall have the same notice and cure rights as are provided to Lessee under this Lease, except that Lender shall have the right to cure a monetary default as described in Section 17.01(a) within ten (10) days from delivery of said notice.

(c) Lender shall not be liable to the City as an assignee of this Lease unless and until such time as such Lender shall acquire the rights of Company hereunder through foreclosure or other appropriate proceedings in the nature thereof, or by deed-in-lieu, or as a result of any other action or remedy provided for by such mortgage, or which may otherwise be provided by law.

(d) No modification or voluntary surrender by the Company of this Lease shall be made without the consent of Lender if Lender has requested such authority to consent by written notice delivered to City.

(e) The City agrees to provide an estoppel certificate upon written request of Lender acknowledging that (to the extent true and noting any exceptions) this Lease is in full force and effect; that there are no defaults that exist under the Lease; that the Rent is current; and such other matters as Lender may reasonably require.

(f) Notwithstanding the foregoing, the ultimate transferee of Lessee's leasehold estate under the Lease, in the event of foreclosure, deed-in-lieu or otherwise, is subject to the written approval of the City, such approval not to be unreasonably withheld, conditioned or delayed. As a minimum, such ultimate successor must be able to demonstrate sufficient financial ability to conduct the operations permitted under Article 4 above and have at least five (5) years' experience in the operation of a business of a similar size and offering similar services as that conducted by the Company under this Lease as permitted under Article 4 above.

END OF ARTICLE

ARTICLE 24. INTENTIONALLY OMITTED

END OF ARTICLE



## ARTICLE 25. AIRPORT DEVELOPMENT RIGHTS

The City reserves the right to further develop or improve all areas within the Airport, including landing areas, as the City may determine in its sole discretion to be in the best interests of the Airport, regardless of the desires or views of the Company, and without interference or hindrance from the Company; provided that such development or improvement shall not unreasonably interfere with the Company's use of the Premises for the purposes stated herein.

Except as may be required by this Lease or any other agreement between the parties, the City reserves the right, but shall not be obligated to the Company, to keep and repair all areas, including landing areas, of the Airport.

END OF ARTICLE

## ARTICLE 26. GENERAL PROVISIONS

### Section 26.01 ACKNOWLEDGMENT

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

### Section 26.02 AUTHORITY OF THE AIRPORT DIRECTOR

The Airport Director or his designee may exercise all rights and obligations of the City under this Lease, unless otherwise specifically provided in this Lease or required by law.

### Section 26.03 CAPACITY TO EXECUTE

The individuals executing this Lease personally warrant that they have full authority to execute this Lease on behalf of the entity for whom they are acting hereunder.

### Section 26.04 COMPLIANCE WITH TITLE 14, CFR PART 77

The Company agrees to comply with the notification and review requirements covered in Title 14, CFR, Part 77, "Objects Affecting Navigable Airspace," in the event that future construction of a building is planned for the Leased Premises, or in the event of any planned modification or alteration of any existing or future building or structure situated on the Leased Premises.

Further, the Company shall conduct its operations within the Leased Premises in compliance with Title 14, CFR, Part 77.

### Section 26.05 DELIVERY OF NOTICES

Any notices permitted or required by this Lease shall be in writing and delivered personally or sent by registered or certified U. S. mail, postage prepaid, or by courier service, such as FedEx or UPS. Any such notice shall be deemed to have been delivered to and received by the addressee (i) upon personal delivery to the Company's address below between 9:00 a.m. and 5:00 p.m. on any business day (i.e., any day other than a Saturday, Sunday, or a federally-designated official holiday), (ii) the next business day after deposit with a courier service such as FedEx or UPS, or (iii) five (5) business days after deposit in the U. S. mail.

Notices to the City shall be addressed to:

Airport Director  
City of Pensacola  
Pensacola International Airport  
2430 Airport Boulevard, Suite 225  
Pensacola, Florida 32504

Notices to the Company shall be addressed to:

Air Methods Corporation  
5500 S. Quebec St., Ste. 300  
Greenwood Village, CO 80111  
Attention: Vice President, \_\_\_\_\_ Region,  
with copy, which shall not constitute notice,  
to Legal Dept. \_\_\_\_\_

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

#### **Section 26.06 EMPLOYEES OF THE COMPANY**

The Company shall require all of its employees, subcontractors, and independent contractors hired by the Company and working in view of the public to wear clean and neat attire and to display appropriate identification. Company employees shall obtain identification badges from the City. The Company shall be responsible for paying the cost of TSA-required employee background checks and badging.

#### **Section 26.07 ENTIRE AGREEMENT**

This Lease constitutes the entire agreement between the Parties on the subject matter hereof and may not be changed, modified, discharged, or extended except by written instrument duly executed by the City and the Company, and all prior and contemporaneous agreements and understandings, written as well as oral, are hereby superseded. The Company agrees that no representations or grants of rights or privileges shall be binding upon the City unless expressed in writing in this Lease.

#### **Section 26.08 ESTOPPEL AGREEMENTS**

By applying for estoppel agreements, the Company agrees to reimburse the City for its actual and reasonable out-of-pocket costs for consultants, attorneys, and experts to evaluate the request, to advise the City with respect thereto, and/or to review or prepare appropriate documents.

#### **Section 26.09 FORCE MAJEURE**

Neither the City nor the Company shall be deemed to be in violation of this Lease if it is prevented from performing any of its obligations hereunder by reason of strikes, boycotts, labor disputes, embargoes, shortages of material, acts of God, acts of the public enemy, acts of superior governmental authority, weather conditions, tides, riots, rebellion, sabotage, or any other circumstances for which it is not responsible or which is not in its control; provided, however, that these circumstances shall not excuse the Company from making, as and when due, any monetary payment required under this Lease or by the Rules and Regulations, including but not limited to Base Rent, Additional Rent, airport rentals, fees, and charges, Taxes under Article 22, and insurance premiums.

#### **Section 26.10 GENDER**

Words of either gender used in this Lease shall be held and construed to include the other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.

**Section 26.11 GENERAL INTERPRETATION**

Insofar as this Lease grants, permits, or contemplates the use of space or facilities or the doing of any other act or thing at the Airport by the Company, such use or the doing of such act or thing by the Company is to be in connection with the operation of its Full Service General Aviation Fixed Base Operator business. Each of the Parties, however, has entered into this Lease solely for its own benefit; and (without limiting the right of either Party to maintain suits, actions, or other proceedings because of breaches of this Lease) this Lease does not grant to any third person (excepting a successor party to the City or the Company) a right to claim damages or bring any suit, action, or other proceeding against either the City or the Company because of any breach hereof.

**Section 26.12 GOVERNING LAW**

The laws of the State of Florida shall govern this Lease and all disputes arising hereunder, with venue in Escambia County, Florida.

**Section 26.13 HEADINGS**

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

**Section 26.14 INCORPORATION OF EXHIBITS**

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

**Section 26.15 INCORPORATION OF REQUIRED PROVISIONS**

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

**Section 26.16 INVALID PROVISIONS**

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

**Section 26.17 NONLIABILITY OF INDIVIDUALS**

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

#### **Section 26.18 NONINTERFERENCE WITH AIRPORT OPERATIONS**

The Company, by executing this Lease, expressly agrees for itself, its successors, and assigns that it will not make use of its Leased Premises in any manner that might interfere with the landing and taking off of aircraft at the Airport or otherwise constitute a hazard. In the event that the aforesaid covenant is breached, the City reserves the right to enter the Company's Leased Premises and cause the abatement of such interference or hazard at the expense of the Company.

#### **Section 26.19 NOTICE OR CONSENT**

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

#### **Section 26.20 NONWAIVER**

The acceptance of rentals, fees, and charges by the City for any period or periods after a default of any of the terms, covenants, and conditions contained herein to be performed, kept, and observed by the Company shall not be deemed a waiver of any right on the part of the City to terminate this Lease.

#### **Section 26.21 OTHER LAND AND BUILDINGS EXCLUDED**

It is agreed and understood that this Lease and any exhibit hereto is not intended to provide for the lease of any building, land, space, or area or to set any rental rates for any building, land, space, or area other than that specifically described herein.

#### **Section 26.22 PATENTS AND TRADEMARKS**

The Company represents that it is the owner of, or fully authorized to use, any and all services, processes, machines, articles, marks, names, or slogans used by it in its operations under, or in connection with, this Lease. The Company shall indemnify, defend and hold harmless the City, its elected officials, employees, volunteers, representatives and agents from and against any loss, liability, damage, expense, suit, or claim for damages in connection with any actual or alleged infringement of any patent, trademark, or copyright, or from any claim of unfair competition or other similar claim, arising out of the Company's operations under or in connection with this Lease.

#### **Section 26.23 PUBLIC RECORDS LAWS**

The Florida Public Records Law, as contained in Chapter 119, Florida Statutes, is very broad. As a result, any written communication created or received by the City will be made available to the public and media, upon request, unless a statutory exemption from such disclosure exists. The Company shall comply with the Florida Public Records Law in effect from time to time if

and to the extent that the Florida Public Records Law is applicable to the Company. Notwithstanding any contrary provision in this Lease, any failure by the Company to comply with the Florida Public Records Law, if and to the extent that it is applicable to the Company, that continues for seven (7) days after written notice from the City shall constitute an Event of Default by the Company.

#### **Section 26.24 RESERVATIONS RE: AIRSPACE AND NOISE**

The City reserves unto itself, its successors and assigns, for the use and benefit of the public, a right of flight for the passage of aircraft in the airspace above the surface of the Leased Premises, together with the right to cause in said airspace such noise as maybe inherent in the operation of aircraft, now known or hereafter used, for navigation of or flight in the said airspace, and for use of said airspace for landing on, taking off from or operating on the Airport.

The City reserves the right to establish permissible noise levels for the Airport environs area and hours of material noise generating activities.

#### **Section 26.25 REMEDIES TO BE NONEXCLUSIVE**

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

#### **Section 26.26 RIGHTS RESERVED TO THE CITY**

Nothing contained herein shall impair the right of the City to exercise its governmental and legislative functions. This Lease is made subject to the Constitution and laws of the State of Florida and to the provisions of the Airport Improvement Program grants applicable to the Airport and its operation. The provisions of such Airport Improvement Program grants, insofar as they are applicable to the Company's business on the Leased Premises, the terms and provisions of this Lease, or the Leased Premises, shall be considered a part hereof to the same extent as though copied herein at length to the extent, but only to the extent that the provisions of any such agreements are required generally by the United States at other civil airports receiving federal funds. To the best of the City's knowledge, nothing contained in such laws grants conflicts with the express provisions of this Lease.

#### **Section 26.27 SIGNS**

The installation and operation of identifying signs, posters, and graphics on the Leased Premises are subject to the prior written approval of the Airport Director. Such signs shall be substantially uniform in size, type, and location with those of other tenants, and consistent with the City's graphics standards and the Airport Rules and Regulations, and in compliance with all applicable laws and ordinances. The signs are for the purpose of assigning Airport users with wayfinding. Signs that constitute advertising are prohibited and will not be approved.

Sign(s) and location(s) may be changed and altered from time to time with the written approval of the Airport Director, said approval not to be unreasonably denied or delayed. At the expiration of the Lease Term or earlier termination of this Lease the Company, upon written request from the City, shall remove, at the Company's expense, all lettering and signs so erected on the Leased Premises.

**Section 26.28 SUCCESSORS AND ASSIGNS**

The provisions of this Lease shall be binding upon and inure to the benefit of the successors and assigns of the Parties hereto; provided, however, that this provision shall in no way whatsoever alter the restriction herein regarding assignment and sublease by the Company.

**Section 26.29 NO AUTOMATIC RENEWALS**

This Lease contains no automatic renewals of the Lease Term.

**Section 26.30 TRIAL BY JURY**

**THE PARTIES TO THIS LEASE DESIRE TO AVOID THE ADDITIONAL TIME AND EXPENSE RELATED TO A JURY TRIAL OF ANY DISPUTES ARISING HEREUNDER. THEREFORE, IT IS MUTUALLY AGREED BY AND BETWEEN THE PARTIES HERETO, AND FOR THEIR SUCCESSORS, HEIRS AND PERMITTED ASSIGNS, THAT THEY SHALL AND HEREBY DO WAIVE TRIAL BY JURY OF ANY CLAIM, COUNTERCLAIM, OR THIRD-PARTY CLAIM, INCLUDING WITHOUT LIMITATION ANY AND ALL CLAIMS OF INJURY OR DAMAGES, BROUGHT BY EITHER PARTY AGAINST THE OTHER ARISING OUT OF OR IN ANY WAY CONNECTED WITH THIS LEASE AND/OR THE RELATIONSHIP WHICH ARISES HEREUNDER. THE PARTIES ACKNOWLEDGE AND AGREE THAT THIS WAIVER IS KNOWINGLY, FREELY, AND VOLUNTARILY GIVEN, IS DESIRED BY ALL PARTIES, AND IS IN THE BEST INTEREST OF ALL PARTIES.**

**Section 26.31 NO PARTNERSHIP**

Nothing in this agreement constitutes a partnership or joint venture between the Parties. It is the express intention of the Parties to deny any such relationship.

**Section 26.32 THIRD PARTIES**

Nothing in this Lease, express or implied, is intended to or shall confer upon any person, other than the Parties and their respective permitted successors and assigns, any right, benefit or remedy of any nature whatsoever under or by reason of this Lease.

**Section 26.33 TIME IS OF THE ESSENCE**

Time is of the essence of this Lease.

**Section 26.34 MEMORANDUM OF LEASE.**

Concurrently with the execution of this Lease, the Parties shall execute a short-form memorandum of this Lease satisfactory to the City Attorney, in form suitable for recording, and in substance

sufficient to provide constructive notice to third parties of the material terms and provisions of this Lease. The City shall cause such memorandum to be recorded in the public records of Escambia County, Florida.

**Section 26.35 REPRESENTATIONS AND WARRANTIES OF CITY AND COMPANY.**

City hereby represents and warrants to the Company that as of the Effective Date:

- a. The City is the fee simple owner and record title holder of the Leased Premises.
- b. The City has the full right and authority to make, execute and perform this Lease and grant the rights contained herein to the Company.

The Company hereby represents and warrants to the City that as of the Effective Date:

- a. The Company has the full right, power and authority to make, execute and perform this Lease.
- b. This Lease is binding upon and enforceable against the Company in accordance with its terms.

END OF ARTICLE



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

**CITY:**

**CITY OF PENSACOLA,**  
a Florida municipal corporation

**COMPANY:**

**AIR METHODS CORPORATION**

\_\_\_\_\_  
A Delaware corporation

By: \_\_\_\_\_  
Grover C. Robinson, IV, Mayor

By: \_\_\_\_\_  
, its \_\_\_\_\_

Date: \_\_\_\_\_

Date: \_\_\_\_\_

Attest:

Signed by Company in the presence  
of:

\_\_\_\_\_  
Ericka Burnett, City Clerk

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

Signed by Mayor in the presence of:

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

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

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

Approved as to form

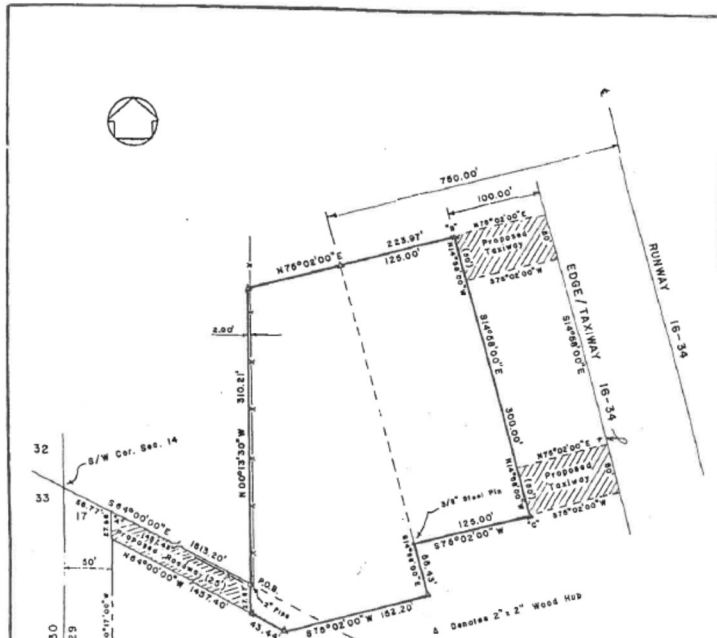
\_\_\_\_\_  
Susan A. Woolf, City Attorney

Approved as to content:

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

**EXHIBIT A - LEASED PREMISES****55 Service Center Road**

The site is approximately 2.041 acres on the west side of the airport. It includes of a 9,200 square foot office/hangar of which 6,400 square feet is open bay hangar (80' x 80'). The remaining 2,800 square feet is an office/administrative and shop/storage area. It was originally constructed in 1982 but was significantly renovated in 2005. The site includes 24,500 square feet of paved aircraft ramp, surface parking for 34 vehicles, a covered parking canopy on the rear of the building and perimeter security fencing.



**EXHIBIT B - ENVIRONMENTAL BASELINE CONDITIONS STUDY**



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00027

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

AIRPORT - EXECUTIVE CAR RENTAL, INC. RENTAL CAR CONCESSION AGREEMENT AND REAL PROPERTY LEASE

**RECOMMENDATION:**

That City Council authorize the Mayor to execute the Rental Car Concession Agreement and Real Property Lease with Executive Car Rental, Inc. Further, that City Council authorize the Mayor to take all actions necessary to execute the Rental Car Concession Agreement and Real Property Lease.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Pensacola International Airport has six on-airport rental car concession counters in the passenger terminal, four full-service facility sites and one quick-turn-around service site. Currently, five of the six terminal counters are occupied by Hertz, Avis/Budget, Enterprise, Dollar/Thrifty, and Alamo/National. The four full-service facility sites are occupied by Hertz, Avis/Budget, Enterprise/Alamo/National (Enterprise Holdings owns Alamo and National), and Dollar/Thrifty. These concessionaires provide rental car services to the individuals utilizing Pensacola International Airport; renting or leasing motor vehicles to the public seven days a week during the hours in which there are scheduled airline operations. One terminal counter location and the one quick-turn-around service site are vacant.

For the privilege of conducting business from the Airport, the concessionaires are required to pay the City a minimum annual guarantee (based on a percentage of their previous year's revenue, with the minimum annual guarantee not being less than \$100,000) or ten percent of their gross revenue, whichever amount is greater. The concessionaires also pay for their terminal counter/office area, pay ground rent on their service facility site, and pay a customer facility charge for the use of the parking garage and service facility.

The current Rental Car Concession Agreement was developed and approved in 2009, with an expiration date of July 2014. Given that over ninety-four percent of all rental car concessionaires were operating at the Pensacola International Airport in 2014, and given the industry-standard payment structure contained in the original agreement, no benefit could have been derived from

advertising the concessions, and no new entrants to the market could have been attracted. Therefore, in lieu of advertising concession documents that would be identical to those already in place, Mayor Hayward executed a five-year extension with each rental car concessionaire beginning August 1, 2014 and ending July 31, 2019.

The existing agreement was reviewed by Airport Staff, outside consultants, and representatives from the rental car industry prior to its expiration in July 2019. As was the case in 2014, given that there had been no changes to the rental car industry that would necessitate revisions other than updating the rental rate for the service facilities and providing for the replacement of certain items in the service facilities, Airport Staff requested, and City Council subsequently approved that the agreement be extended for an additional five years (August 1, 2019 - July 31, 2024).

In October, 2019 the Pensacola International Airport was contacted by Mr. Zubair Ahmed, Chief Operating Officer of Executive Car Rental, Inc. about the availability of on-airport rental car concession space. Mr. Ahmed was shown the vacant terminal counter location and the one vacant quick-turn-around service site, and he expressed an interest in the same.

Mr. Zubair submitted a letter of intent dated October 14, 2019 expressing his desire to enter into the Rental Car Concession Agreement and Real Property Lease under the same terms and conditions as the other rental car concessionaires, with a proposed start date of February 1, 2020 and with a termination date identical to that of the other rental car concessionaires, July 31, 2024.

**PRIOR ACTION:**

July 9, 2009 - City Council awarded a five-year Rental Car Concession Agreement beginning August 1, 2009 and ending July 31, 2014.

October 2014 - Mayor Hayward executed Amendment Number 1, extending the Rental Car Concession Agreement with each concessionaire for another five-year term beginning August 1, 2014 and ending July 31, 2019.

February 14, 2019 - City Council authorized the Mayor to execute Amendment Number 2 of the Rental Car Concession and Real Property Lease at the Pensacola International Airport extending the agreement for another five-year term.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

The Rental Car Concession Agreement and Real Property Lease with Executive Car Rental will generate an estimated \$15,592.16 per year in terminal building rent and \$31,000.00 per year in service facility ground rent. In addition, the concessionaire will collect and remit a Customer Facility Charge of \$4.25 per contract day and an annual privilege fee of 10% of gross revenue or \$100,000.00, whichever is greater.

Fiscal Year 2020 Rental Car Concession Revenues are budgeted at \$4,000,000, and Rental Car Customer Facility Revenues between the garage and the service facilities are budgeted at \$3,625,000. Rental Car Concession Revenues have averaged approximately \$3.56 million per year since Fiscal Year 2014. Additionally, Rental Car Service Facility Revenues have averaged approximately \$3.4 million per year to pay for the ongoing maintenance and debt services of the parking garage and service facilities.

**CITY ATTORNEY REVIEW:** Yes

1/2/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Richard Barker, Jr., Deputy City Administrator - Administration & Enterprise  
Daniel E. Flynn, Airport Director

**ATTACHMENTS:**

- 1) Executive Car Rental Concession Agreement and Real Property Lease

**PRESENTATION:** No

**RENTAL CAR CONCESSION AGREEMENT  
AND  
REAL PROPERTY LEASE**

**BETWEEN  
EXECUTIVE CAR RENTAL, INC.  
AND  
CITY OF PENSACOLA, FLORIDA  
PENSACOLA INTERNATIONAL AIRPORT**

**\_\_\_\_\_ 2020**

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<i>OFFICE OF THE CITY ATTORNEY, (850) 435-1715, <a href="mailto:PUBLICRECORDS@CITYOFPENSACOLA.COM">PUBLICRECORDS@CITYOFPENSACOLA.COM</a>, 222</i>	
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## **EXHIBITS**

- Exhibit A-1: Leased Premises - Terminal Building
- Exhibit A-2: Leased Premises - Ready/Return Parking Space and Kiosk
- Exhibit A-3: Leased Premises - Service Facility Site Plan
- Exhibit A-4: Leased Premises - Service Facility Assigned to Concessionaire
- Exhibit A-5: Cameron-Cole Environmental Baseline Report
- Exhibit B: Reserved
- Exhibit C: Operating and Maintenance Responsibilities Matrix
- Exhibit D: Federal Aviation Administration Grant Assurances
- Exhibit E: Monthly Privilege Fee and CFC Revenue Report Format

## **RENTAL CAR CONCESSION AGREEMENT AND REAL PROPERTY LEASE**

THIS RENTAL CAR CONCESSION AGREEMENT AND REAL PROPERTY LEASE, hereinafter referred to as "Agreement", made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2020, by and between the City of Pensacola, Florida a municipal corporation of the State of Florida, (hereinafter referred to as "the City") and Executive Car Rental, Inc., a corporation authorized to do business in Florida, (hereinafter referred to as "the Concessionaire"). The Concessionaire under this Agreement is operating the following rental car brands: Executive Car Rental, Inc.

WITNESSETH:

WHEREAS, the City is owner and operator of the Pensacola International Airport (hereinafter referred to as "the Airport"); and

WHEREAS, the City has space for multiple automobile rental concessions operating as individual or multiple brands in the Airport terminal building; and

WHEREAS, the City has constructed and owns five (5) rental car service facilities remote from the terminal building designated for use by on-Airport rental car operators; and

WHEREAS, Concessionaire is engaged in the business of renting passenger vehicles and desires to use certain areas and facilities owned by the City and to acquire from the City certain rights and privileges in connection with its use of the Airport; and

WHEREAS, the City has the right to permit use of the property on the Airport upon the terms and conditions hereinafter set forth and has full power and authority to enter into this Agreement as provided herein;

NOW, THEREFORE, in consideration of the proposal dated October 14, 2019 submitted by the Concessionaire for operation of one of the rental car concessions at the Airport, the City's acceptance of said proposal, and the mutual covenants, terms, conditions, privileges, obligations, and agreements herein contained, the City and the Concessionaire hereby mutually undertake, promise, and agree, each for itself and its successors and assigns, as follows.

## **Article 1**

### **DEFINITIONS**

The following words and phrases, wherever used in this Agreement shall, for the purpose of this Agreement, have the following meanings:

**"Agreement Year"** means the year that commences at midnight (12 a.m.) August 1 each year this Agreement is in effect, and terminates at 11:59 p.m. of July 31<sup>st</sup> of the following year.

**"Airport"** means Pensacola International Airport, Pensacola, Florida.

**"Airport Director"** means the person designated by the City to exercise functions with respect to the rights and obligations of the City under this Agreement. Said term shall also include any person expressly designated by the City to exercise functions with respect to the rights and obligations of the Airport under this Agreement.

**"Airport Standards"** means the performance and development standards for the Airport as may be established by the City from time to time.

**"Annual Service Facility Customer Facility Charge Requirement"** means the sum of the following two (2) elements:

1. **"Service Facilities Debt Service:"** the amount to be determined by the City as soon as practicable after the Date of Beneficial Occupancy (DBO) of the Service Facilities as the amount required in each of the City's Fiscal Years to pay the principal, interest, reserve fund deposits, or other amounts required by the Bond Resolution to be deposited or paid, and debt service coverage on bonds (or other forms of indebtedness) issued by the City to finance the costs of planning, designing, financing, and constructing the Service Facilities. The Project Debt Service requirements shall be payable until the principal and interest on the bonds (or other forms of indebtedness) issued to finance the Service Facilities are paid in full; and
2. **"Service Facilities Area Operating and Maintenance Expense:"** the amount of operating and maintenance expenses (i.e., for access and roadway lighting and maintenance, landscaping, drainage, utilities maintenance, utilities, security, and Airport and City administrative charges) incurred by the City in each Fiscal Year for operating and maintaining the Service Facility Area.

**"Bond Resolution"** means Resolution No. 51-88, adopted September 8, 1988, as it may be amended or supplemented from time to time, or any other Resolution of the City regulating or authorizing the issuance of bonds, as amended or supplemented from time to time, other than Special Purpose Facility Bonds, payable from Airport Revenue.

**"City"** means the City of Pensacola, Florida, the owner and operator of the Airport.

**"Concession Agreement and Property Lease"** or **"Agreement"** means the Rental Car Concession Agreement and Real Property Lease between the City and the Concessionaire, which consists of this instrument and the following documents, which are attached hereto,

and by reference made a part hereof to the same extent as though copies were spelled out herein at length.

Exhibit A-1 – Leased Premises - Terminal Building

Exhibit A-2 – Leased Premises - Ready/Return Parking Space and Kiosk plans

Exhibit A-3 – Leased Premises - Service Facility Site Plan

Exhibit A-4 – Leased Premises - Service Facility Assigned to Concessionaire

Exhibit A-5 – Cameron-Cole Environmental Baseline Report

Exhibit B – Concessionaire’s Proposal

Exhibit C – Operating and Maintenance Matrix

Exhibit D – Federal Aviation Administration Grant Assurances

Exhibit E – Monthly Privilege Fee and CFC Revenue Report Format

Conflicts between this Agreement and its exhibits will be resolved in favor of the Agreement.

**“Concessionaire”** means a corporation, limited liability company, or other business entity organized and existing by virtue of the laws of the State of \_\_\_\_\_ that has been awarded a concession at the Pensacola International Airport for the purpose of renting Motor Vehicles to Airport customers.

**"Contract Day"** means each twenty-four (24) hour period, and each fraction thereof, during which a motor vehicle having been delivered by the Concessionaire to each rental car customer at the Airport is rented by such customer from the Concessionaire. Each fractional period less than a 24 hour period shall also be deemed a Contract Day.

**"Customer Contract"** means any automobile rental contract or agreement entered into by the Concessionaire with a customer at, or for the delivery or return of rental automobiles to and by such customer at, the Airport.

**"Customer Facility Charge" or "CFC"** means the per contract daily rate as established by the City to be charged to every rental car customer entering into a Customer Contract with an on-Airport Concessionaire. Notwithstanding anything in this Agreement to the contrary, the amount of the Customer Facility Charge that is added to the Customer Contract shall be excluded from Gross Revenues for calculation of the Privilege Fee payable by the Concessionaire to the City.

**"Disadvantaged Business Enterprise"** means a person (s), partnership or corporation who qualifies as a small business concern owned and controlled by socially and economically disadvantaged individuals under the terms of Title I §109 of the Airport and Airway Safety and Capacity Expansion Act of 1987, 49 App. U.S.C. §2210 (a)(17).

**“Environmental Laws”** means, collectively, all federal, state, and local environmental, safety, and health laws and ordinances and rules of common law, including, but not limited to, the Occupational Safety and Health Act of 1970, as amended (29 U.S.C. § 651 et seq.); the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended (42 U.S.C. § 9601 et seq.); the Hazardous Materials Transportation Act (49 U.S.C.

§ 5101 et seq.); the Resource Conservation and Recovery Act (42 U.S.C. § 6901 et seq.); the Toxic Substances Control Act of 1976, as amended (15 U.S.C. § 2601 et seq.); the Clean Air Act (42 U.S.C. § 7401 et seq.); the Safe Drinking Water Act (42 U.S.C. §§ 300f-300j); and the Federal Water Pollution Control Act (commonly known as the Clean Water Act) (33 U.S.C. §§ 1251-1387), and Chapters 376 and 403 of Florida Statutes as any of the foregoing may hereafter be amended; any rule or regulation pursuant thereto; and any other present or future law, ordinance, rule, regulation, permit or permit condition, order, or directive addressing environmental, health, or safety issues of or by the federal government or state or other political subdivision thereof or any agency, court, or body of the federal government or state or other political subdivision thereof, exercising executive, legislative, judicial, regulatory, or administrative functions.

**"FAA"** means the Federal Aviation Administration of the United States Government, or any federal agencies succeeding to its jurisdiction.

**"Fiscal Year"** means the City's fiscal year as defined today or as it may be redefined in the future, currently the twelve- (12-) month period commencing October 1 and extending through September 30 of the following year.

**"Gross Revenues"** means all revenues the Concessionaire received under rental car agreements it secures through its operations at the Airport or derives from the rentals of vehicles to persons picked up at the Airport by or on behalf of the Concessionaire. "Gross Receipts" as used herein means all monies or other consideration paid or payable to the Concessionaire for all sales made and services performed for cash or credit for sales or services provided to persons picked up at the Airport, regardless of the ownership, area, fleet, or location assignment of the vehicles and without regard to the manner in which, or place at which, the vehicles or other products or services are furnished to the Concessionaire's customers, and without regard to whether the vehicle or other products are returned to the Airport or to some other location.

Such monies or other consideration specifically shall include:

1. All charges, including, but not limited to, time and mileage charges and separately stated Customer Contract fees for rentals of vehicles and other related or incidental services, and any other items or services that may be authorized by the City, made at or from the Airport, regardless of where the vehicles or services are delivered to or returned;
2. All amounts paid for the rental or leasing of vehicles pursuant to daily or time charges and mileage;
3. All amounts charged to the rental car customer for insurance offered by the Concessionaire incidental to the rental of such vehicles, including but not limited to, personal accident insurance and collision or loss damage waiver;
4. All fees generated from the rental of global positioning systems;
5. All charges attributable to any vehicle originally rented at the Airport that is exchanged at any other location of the Concessionaire;

6. All proceeds from the long-term lease of vehicles from any location on the Airport;
7. The amount charged to the Concessionaire's rental car customers and that is separately stated on the Customer Contract as an optional charge for waiver by the Concessionaire of its right to recover from customer for damage to or loss of the vehicle rented;
8. The amount charged to the Concessionaire's rental car customers at the commencement or the conclusion of the rental transaction for the cost of furnishing and/or replacing fuel provided by the Concessionaire; and
9. The amount charged by the Concessionaire as a pass through to its Customers of the Privilege Fee described herein.

Only the following shall be excluded from Gross Revenues:

1. Any federal, State of Florida, County, or City sales, fee, or other similar taxes, fees, or surcharges that are separately stated in the Customer Contract;
2. Any amounts received as insurance proceeds or otherwise for damage to automobiles or other property of the Concessionaire, or for loss, conversion, or abandonment of such automobiles;
3. All nonrevenue rentals to employees of the Concessionaire;
4. All revenue from the wholesale transfer of salvage vehicles; and
5. Fees paid to other governmental agencies relating to transactions at the Airport.
6. The proceeds of Customer Facility Charges that have been remitted to the City.

Gross Revenue shall be determined by the total charges on the face of the Customer Contract receipt, less any charges excluded in the definition of Gross Revenues above.

Gross Revenues to the Concessionaire shall be deemed received at the time the Customer Contract is executed, giving rise to the Concessionaire's right to collect said monies, regardless of whether said Customer Contract was conducted in person, by telephone, or by mail; whether the transaction was for cash or credit; and, if for credit, regardless of whether or not the Concessionaire ultimately collects the monies owed for said transaction from the customer involved. Any Gross Revenues included in the formula for determining percentage payments owed the City and determined by the Concessionaire at a later date to be uncollectible shall not reduce Gross Revenues or offset future percentage payments owed the City. Also, the retroactive adjustment by the Concessionaire of Gross Revenues designated as volume discounts or any other designation or for any other purpose is prohibited.

**“Ground Rent”** means the rent for the land that makes up the Rental Car Service Facility Area.



**"Improvements"** means all buildings, walls, partitions, cabinets, counters, dividers, flooring, shelving, lighting and electrical systems, furniture, fixtures, and equipment, including wall coverings; window treatments, carpeting, and decorative items.

**"Leased Premises"** means the spaces used solely by the Concessionaire for the conduct of the Concessionaire's business at the Airport, including counter space within the terminal building, ready/return spaces, and the Service Facility assigned for use by the Concessionaire.

**"Minimum Annual Guarantee"** means an amount equal to ten percent (10.0%) of eighty-five percent (85.0%) of the prior Agreement Year's Gross Revenues. For the first Agreement Year, the Minimum Annual Guarantee will be equal to ten percent (10.0%) of eighty-five percent (85.0%) of the Gross Revenues for the most recent twelve months for which we have data prior to the effective date of this Agreement. The forgoing notwithstanding, the Minimum Annual Guarantee will not be less than One Hundred Thousand Dollars (\$100,000) per brand per Agreement Year.

**"Motor Vehicles"** means motor vehicles commonly classified as sedans, coupes, convertibles, station wagons, minivans, passenger vans, sport utility vehicles, four-wheel drive vehicles, recreational vehicles, and pickup trucks rated one (1) ton or less.

**"Multi-branding,"** means the operation of more than one rental car brand or trade name by a single company or other business entity. Where a company or business entity operates multiple brands or trade names under one Agreement, the following limitations shall be adhered to:

1. The brand or trade names designated in the Agreement must be one-hundred percent (100%) owned or controlled by the Concessionaire.
2. The Concessionaire is prohibited from operating at the Airport under any brand or trade name(s) other than the brand or trade name(s) that it designates in its proposal dated October 14, 2019 as specified.
3. If a Concessionaire operates more than two (2) brand or trade names, then the Concessionaire is required to lease multiple counter/back office, kiosk, and rental car parking areas. No more than a total of 2 brand or trade names may occupy any single counter/back office, kiosk, or rental car parking area.
4. If a Concessionaire operates more than 2 brand or trade names, then the Concessionaire may operate not more than a total of three (3) brand or trade names from a single Service Facility.

**"Property"** shall include anything of material value that is real, personal, tangible or intangible.

**"Privilege Fee"** means the consideration to be paid to the City by the Concessionaire for the privilege of operating a rental car concession on Airport premises. The Privilege Fee is the greater of the monthly portion of the Minimum Annual Guarantee or ten percent (10%) of the Concessionaire's Gross Revenues for the month.

**"Property"** means anything of material value that is real, personal, tangible, or intangible.

**"Ready Car Area Customer Facility Charge"** means the fee imposed by the City on each and every customer of the Concessionaire with respect to Customer Contracts at the Airport, including customers of the Concessionaire, for each day that each such Customer Contract is in effect (i.e., Contract Day). The City shall determine the amount of the Ready Car Area Customer Facility Charge from time to time as herein provided and the total amount of the Ready Car Area Customer Facility Charges charged to each customer shall be added to each such customer's Customer Contract. The Ready Car Area Customer Facility Charge is intended to recover costs and expenses of planning, financing, constructing, operating, and maintaining the three hundred forty-two (342) parking spaces provided for the rental car companies in the Airport parking garage for use as a ready car area.

**"Regulated Substances"** means and includes any and all substances, chemicals, waste, sewage, stormwater or other materials, which are now or hereafter regulated, controlled, or prohibited by any local, state, or federal law or regulation requiring removal, warning, or restrictions on the use, generation, disposal, or transportation thereof, including, without limitation (a) any substance defined as a "hazardous substance," "hazardous material," "hazardous waste," "toxic substance," or "air pollutant" in the Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 42 U.S.C. §9601 et seq.; the Hazardous Materials Transportation Act (HMTA), 49 U.S.C. §1801 et seq.; the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6901 et seq.; the Federal Water Pollution Control Act (FWPCA), 33 U.S. §1251 et seq.; or the Clean Air Act (CAA), 42 U.S.C. §7401 et seq.; all as amended and as amended hereafter; (b) any substance defined as a "hazardous substance," "hazardous waste," "toxic substance," "extremely hazardous waste," "RCRA hazardous waste," "waste," "hazardous material," or "controlled industrial waste," as defined in Chapters 376 and 403, Florida Statutes; (c) any hazardous substance, hazardous waste, toxic substance, toxic waste, hazardous material, waste, chemical, or compound described in any other federal, state, or local statute, ordinance, code, rule, regulation, order, decree, or other law now or at any time hereafter in effect, regulating, relating to, or imposing liability or standards of conduct concerning any hazardous, toxic, or dangerous substance, chemical, material, compound, or waste. As used herein, the term Regulated Substance or "hazardous substances" also mean and include, without limitation, asbestos, flammable, explosive, or radioactive materials; gasoline; oil; motor oil; waste oil; petroleum (including, without limitation, crude oil or any fraction thereof); petroleum-based products; paints and solvents; leads; cyanide; dichlorodiphenyltrichloroethane (DDT); printing inks; acids; pesticides; ammonium compounds; polychlorobiphenyls (PCBs); and other regulated chemical products.

**"Rental"** means the consideration required to be paid to the City by the Concessionaire for the use and occupancy of certain areas of the Airport.

**"Rules, Regulations, and Ordinances"** means those lawful and reasonable rules, regulations, and ordinances promulgated by the City for the orderly use of the Airport by both the Concessionaire and other tenants and users of the Airport as the same may be amended, modified, or supplemented from time to time.

**“Service Facility”** means one (1) of the five (5) real property lots with improvements, including, but not limited to, office building, car wash, fuel system, storm water drainage and retention system used thereby, and maintenance bay, constructed by the City and assigned to the Concessionaire for the support of its rental car operation at the Airport. Also collectively referred to as Service Facilities and are shown on Exhibit A-4.

**“Service Facility Area”** means the twenty and six one-hundredths (20.06)-acre parcel containing five (5) rental car Service Facilities together with the access roadways serving the area, storm water drainage and retention system, and landscaped areas surrounding the Service Facilities. Also, all of the above are collectively referred to as the Service Facilities as the same is shown on Exhibit A-3.

**“Service Facility Customer Facility Charge”** means the fee imposed by the City on each and every customer of the Concessionaire with respect to Customer Contracts at the Airport, including customers of the Concessionaire, for each day that each such Customer Contract is in effect (i.e., Contract Day). The amount of the Service Facility Customer Facility Charge shall be determined by the City from time to time as herein provided and the total amount of Service Facility Customer Facility Charges charged to each customer shall be added to each such customer's Customer Contract. The Service Facility Customer Facility Charge is intended to recover substantially all of the City's costs and expenses of planning, financing, developing, and constructing the Service Facility and the Service Facility Area for rental car operators to service rental cars at the Airport plus all of the City's costs and expenses of operating and maintaining the common areas (i.e., such as, but not limited to, access, street lighting, security, landscaping, allocated Airport expenses, as well as any other costs and expenses incurred by the City) associated with the Service Facility Area.

**“State”** means the State of Florida.

**“Tenant Finishes”** means those improvements to the Leased Premises installed by the Concessionaire, including, but not limited to, counters, partitions, shelving, carpeting, lighting and power fixtures, wiring accessories, and parts necessary to connect power to the Leased Premises.

**“Trade Fixtures”** means, but shall not be limited to, any signs (electrical or otherwise) used to identify the Concessionaire's business; all machinery and equipment used in connection with the servicing of automotive vehicles in or about the Leased Premises, whether or not such machinery or equipment is bolted or otherwise attached to the Leased Premises; all other miscellaneous office equipment furnishings; and personal property.

**“TSA”** means the Transportation Security Administration of the United States government, or any federal agencies succeeding to its jurisdiction.

END OF ARTICLE

## **Article 2**

### **TERM**

#### **Duration**

The Term of this Agreement shall commence at midnight (12:00 a.m.) on February 1, 2020 (the commencement date) and shall terminate at 11:59 p.m. on July 31, 2024, subject to earlier termination pursuant to the terms and conditions of this Agreement.

#### **Holding Over**

If the Concessionaire remains in possession of the Leased Premises after the expiration of this Agreement without written renewal hereof, such holding over shall not be deemed as a renewal or extension of this Agreement, but shall create a tenancy from month to month that may be terminated at any time by the City upon thirty (30) days' written notice. During any holding over period, the Concessionaire will pay the City the greater of the following: ten percent (10%) of Gross Revenues or a minimum payment equal to eighty-five percent (85%) of the Concessionaire's previous year's payment to the City for the same month. Such holding over shall otherwise be under the same terms and conditions as set forth in this Agreement.

#### **Adverse Tenancy**

Any unauthorized holding over by the Concessionaire after the termination of this Agreement, except for the period authorized for removal of the Concessionaire's personal Property upon the termination hereof, shall entitle the City to collect from the Concessionaire as liquidated damages for such adverse tenancy the monthly rental, percentage of Gross Revenues, and Customer Facility Charges in effect immediately prior to the commencement of such adverse tenancy.

#### **Termination of Rights under Prior Agreements and Understandings**

All prior agreements executed between the City and the Concessionaire, as well as prior understandings that have not previously been terminated, are hereby cancelled and terminated as of commencement date of this Agreement.

Such cancellation and termination shall not be construed as a waiver, relinquishment, or release of any claims, damages, liability, rights of action, or causes of action either of the parties hereto may have against the other under such prior agreements and understandings and that have accrued before the commencement date hereof. Further, any on-going commitments any firm may have for the removal, clean up and mitigation of existing rental car service facility sites covered under a previous Rental Car Concession Agreement with the City remain in full force and effect.

END OF ARTICLE

### **Article 3**

### **LEASED PREMISES**

The following areas are leased or assigned to the Concessionaire upon commencement of this Agreement. They are collectively referred to as “Leased Premises.”

#### **Rental Car Office and Counter Space**

The City hereby leases to the Concessionaire the exclusive right to use one (1) of six (6) rental car office and ticket counter areas located in the Airport terminal building. The City shall assign a specific rental car office and ticket counter area to the Concessionaire pursuant to the procedures set forth in the Instructions to Proposers, as same may have been amended, contained in the proposal documents. The office and counter space leased to the Concessionaire consists of four hundred forty-six (446) square feet, as shown on Exhibit A-2.

#### **Ready Car Area Parking Spaces**

The City has established a rental car parking garage consisting of three hundred forty-two (342) parking spaces for the use of Concessionaires who execute on-Airport Concession Agreements and Property Leases with the City. The City hereby assigns to the Concessionaire a percentage of the 342 parking spaces located in the parking garage, adjacent to the Airport terminal building, for the parking and storage of Motor Vehicles owned or leased by the Concessionaire, as shown on Exhibit A-2.

The City shall allocate a percentage of said 342 parking spaces within the parking garage to each brand of each concessionaire each Agreement Year. The allocation percentages of the 342 parking spaces shall be adjusted each year, with the first said adjustment to be effective August 1, 2009. Each Concessionaire will be reallocated a percentage of the 342 parking spaces available on the first level of the parking garage equal to the percentage derived by dividing the annual Gross Revenues achieved by the Concessionaire during the previous twelve (12) month period for the, for which information is available, by the total Gross Revenue achieved by all Concessionaires during said 12 month period. In no case will any Concessionaire be allocated fewer than ten (10) spaces in the parking garage in any year of the Term of Contract.

Following the City’s calculation of each Concessionaire’s parking space reallocation, the City shall create a space reallocation exhibit by using the zipper pattern used in the initial allocation and adjusting the spaces allocated to each Concessionaire based on the adjusted reallocation percentages.

The allocated percentage of the 342 parking spaces shall be adjusted each year thereafter, with the first said adjustment to be effective August 1, 2010. Each Concessionaire will be allocated a percentage of the 342 parking spaces available within the rental car parking garage equal to the percentage derived by dividing the annual Gross Revenues enjoyed by the Concessionaire during the previous nine (9) months for the first Agreement Year and during the previous twelve (12) month period for subsequent Agreement Years, by the total Gross Revenues enjoyed by all on-Airport Concessionaires during said twelve (12) month period.

In no case will any brand be allocated less than ten (10) spaces in the parking garage in any year of the Term of the Agreement. Also, during each year of the Agreement, each brand shall be entitled to one parking space directly adjacent to their kiosk and this spot shall count toward their overall allocation.

Following the City's calculation of each Concessionaire's parking space reallocation, the City shall create a space reallocation exhibit by using the zipper pattern used in the initial allocation and adjusting the spaces allocated to each Concessionaire based on the adjusted reallocation percentages.

After the percentage of spaces within the parking garage to be allocated to each Concessionaire is determined, a meeting shall be conducted with authorized representatives of each Concessionaire to review the allocation.

Nothing contained herein shall obligate the Concessionaire to take possession of the number of spaces allocated to it under this Article 3, Leased Premises. Should the Concessionaire not desire to take possession of the total number of spaces for which it is eligible, the Concessionaire shall turn said excess spaces over to the City. Once the Concessionaire turns said excess spaces over to the City, the Concessionaire forfeits all rights to the use of said spaces and the City may allocate those spaces to another Concessionaire should another Concessionaire so desire.

### **Rental Car Parking Structure Kiosks**

Each Concessionaire shall be assigned one (1) of six (6) rental car kiosks in the rental car parking garage. Each individual kiosk is approximately eight (8) feet x ten (10) feet. The specific kiosks will be selected in the same order and at the same time as each Concessionaire is selecting specific parking spaces in the rental car parking garage, as discussed above.

### **Service Facility**

The City has constructed five (5) rental car Service Facilities, as shown on Exhibits A-3 and A-4. It is a requirement of this Agreement that the 5 Concessionaires bidding highest Minimum Annual Guarantees must lease a Service Facility. Service Facility Nos. 1 through 4 will be leased on an exclusive basis. Service Facility No. 5 will be leased on a preferential nonexclusive basis.

Each facility is equipped with an office building, wash rack, maintenance bay, and fueling island with a twelve-thousand (12,000)-gallon underground storage tank. Service Facility No. 5 has a small office area, a wash rack, and a fueling island (with a 12,000-gallon underground storage tank).

The following Service Facility is leased to the Concessionaire:

\_\_\_\_\_ Service Facility No. 1 – 22 Service Center Road - 3.08 acres – 10,644 square feet of structures – office, car wash, fueling – as shown on Exhibit A-4 - is hereby leased on an exclusive basis.

\_\_\_\_\_ Service Facility No. 2 – 44 Service Center Road - 2.12 acres – 9,684 square feet of structures – office, car wash, fueling – as shown on Exhibit A-4 - is hereby leased on an exclusive basis.

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\_\_\_\_\_ Service Facility No. 3 – 66 Service Center Road - 3.10 acres – 10,644 square feet of structures – office, car wash, fueling – as shown on Exhibit A-4 - is hereby leased on an exclusive basis.

\_\_\_\_\_ Service Facility No. 4 – 11 Service Center Road - 2.11 acres – 9,684 square feet of structures – office, car wash, fueling – as shown on Exhibit A-4 - is hereby leased on an exclusive basis.

\_\_\_X\_\_\_ Service Facility No. 5 – 33 Service Center Road - 1.60 acres – 3,492 square feet of structures – office, car wash, fueling – as shown on Exhibit A-4 - is hereby leased on a preferential nonexclusive basis to the Concessionaire.

Exhibit A-3 shows eight and five one-hundredths (8.05) acres of common use areas associated with the Service Facilities. The common use area provides access, a storm water drainage and retention system, and infrastructure required for the Service Facilities. All common use area costs and expenses are the responsibility of the Concessionaire together with the other concessionaires at the Airport. Common use area costs are to be prorated among the five (5) Service Facilities and recovered through Customer Facility Charge proceeds and/or Service Facility Rentals.

For additional information, please see Exhibits A-3 and A-4 that shows the Service Facility Area and detailed information about each Service Facility. The Service Facility is provided to the Concessionaire on a “net” basis, as hereinafter described.

### **Inventory of Furnishings, Fixtures, Equipment, and Systems**

Exhibit A-4 shows the inventory of furnishing, fixtures, and equipment being provided to the Concessionaire for its use during the term of the Agreement. The Concessionaire is financially responsible for all furnishings, fixtures, and equipment conveyed in this Agreement for its use. At the end of the term of this Agreement, the City and the Concessionaire will inventory these items and assess their condition. The Concessionaire will reimburse the City for all missing items. The Concessionaire will reimburse the City for and worn items (less reasonable wear and tear as determined by the City) within thirty (30) days of the end of the term of this Agreement.

### **Service Facilities Systems and Equipment**

The City has equipped each Service Facility with the following systems and equipment:

Fuel system

Car wash system

Mechanical automobile hoist

Automated overhead doors

Fire alarm/fire suppression systems

Heating, ventilating, and air conditioning (HVAC) system

Gate access

Vacuum systems

Compressed air and fluids systems

Prior to the Concessionaire commencing operations, the Concessionaire and the City shall jointly register the underground storage tank system and fuel system pursuant to Section 376.303, Florida Statutes and Rule 62-761 of the Florida Administrative Code. The Concessionaire shall be designated as the Facility Owner/Operator and the Facility Account Owner. The City shall be designated as the Property Owner.

#### **Baseline Environmental Assessment**

Prior to Concessionaire taking possession of the Leased Premises, the City shall, at its expense, obtain a baseline environmental assessment encompassing the Service Facility Area (attached hereto as Exhibit A-5, hereinafter, the "Assessment"). The City has selected Cameron-Cole LLC to perform the Assessment. If the Assessment recommends further investigation such as sampling and testing, the City will undertake, at its expense, to obtain such additional testing. (The initial Assessment and any additional testing, (hereinafter, the "First Environmental Review"). The environmental consulting firm selected to perform the additional testing must be insured for errors and omissions with a minimum limit of One Million Dollars (\$1,000,000) per occurrence with a deductible no greater than Twenty-Five Thousand Dollars (\$25,000), and its insurance policy must show the City and the Concessionaire as additional insureds for purposes of this project. The Assessment will be certified to the City and the Concessionaire and will contain no limitation of liability for errors and omissions. The parties hereby accept the findings of the Assessment as an accurate assessment of the existing environmental conditions in the Service Facility prior to the Concessionaire's use.

The parties hereto acknowledge that prior environmental investigations revealed that certain minimum levels of the pesticide dieldrin are present in the groundwater underlying the Service Facility Area that are believed to be from an offsite source. For purposes of establishing a proper baseline of environmental conditions in the Service Facility Area for use between the parties hereto, the presence of the constituent dieldrin is not deemed material and will be ignored.

#### **AS IS Condition of Leased Premises**

The terminal building office and counter area, rental car ready/return spaces and kiosks, and the Service Facility are collectively referred to as the Concessionaire's Leased Premises.

The Leased Premises shall be taken by the Concessionaire in the "AS IS" condition, subject to all defects on, above, and below ground, latent and patent, and shall be improved, maintained, and operated at the Concessionaire's sole cost and expense except as may otherwise be specifically provided in this Agreement. The occupancy and use of the Service Facility shall be accepted by the Concessionaire subject to all conditions and liabilities, including, without limitation, those identified in the Assessment and those that may not be identified therein. It is the express intention of the parties hereto that the Concessionaire's improvements upon, and use and occupancy of, the Leased Premises, and all costs associated therewith, shall be and remain the financial obligation of the Concessionaire.



**Construction Inspection**

Prior to the Concessionaire's tenancy, in addition to reviewing the Assessment, representatives of the City and of the Concessionaire shall jointly inspect the Service Facility and identify warranty work that is new or outstanding and that should be corrected. During the inspection, systems and equipment will be tested to assure that they are fully functional. Upon completion of the inspection and testing, representatives of the City and of the Concessionaire will execute a certificate of inspection and acceptance of the Service Facility. During the first (1st) year of operations in the Service Facility Area, the Concessionaire will work with City staff to identify all construction warranty work that may be required to the City's improvements.

**End of Warranty Inspection**

Representatives of the City and of the Concessionaire shall jointly inspect the Leased Premises and identify any warranty work that is new or outstanding and that should be corrected under the City's construction warranty, thirty (30) days prior to the end of the construction warranty period for the Service Facility. Upon completion of all warranty work, the City and the Concessionaire will execute a release of all construction warranty issues.

END OF ARTICLE

## **Article 4**

### **PRIVILEGES AND USES**

The City hereby grants to the Concessionaire, subject to all terms and conditions of this Agreement, the following privileges.

#### **Nonexclusive Right to Operate a Rental Car Concession**

By its execution of this Agreement, the City hereby grants to the Concessionaire the right, privilege, and obligation to operate a rental car concession at the Airport. Pursuant to said Agreement, the Concessionaire is hereby authorized to lease or rent to the public Motor Vehicles, as said term is defined herein, from the rental car office and ticket counter area located in the Airport terminal building, assigned to the Concessionaire pursuant to Article 3 of this Agreement, "Leased Premises."

The Concessionaire is also hereby authorized to park and store Motor Vehicles, as said term is defined herein, owned, leased, or covered under some other arrangement by which the Concessionaire has the right to use said vehicles in its operation hereunder in its Service Facility and in the parking garage spaces assigned to the Concessionaire pursuant to Article 3 of this Agreement, – Leased Premises.

The Concessionaire shall not lease or rent any other vehicles from the Airport, other than Motor Vehicles, as defined herein, that it owns, leases, or that are covered under some other arrangement by which the Concessionaire has the right to use said vehicles in its operations hereunder. Nor shall the Concessionaire park or store any vehicles in the parking garage spaces assigned to it pursuant to Article 3, "Leased Premises," other than Motor Vehicles, as defined herein, that it owns, leases, or that are covered under some other arrangement by which the Concessionaire has the right to use said vehicles in its operation hereunder, or that the Concessionaire's employees own and operate.

The Concessionaire may use the Service Facility included in its Leased Premises for administrative offices, storage of automobile parts, and the maintenance, cleaning, servicing, and temporary storage of vehicles rented by the Concessionaire to rental car customers under the provisions of this Agreement.

The Concessionaire shall have the right to train, at the Airport, personnel in its employ or to be in its employ only on its Leased Premises. The Concessionaire does not have the right to alter or install improvements on its Leased Premises without the prior written approval of the City as provided herein.

#### **Concessionaire Branding**

The Concessionaire shall be prohibited from operating at the Airport under any brand name or trade name other than the brand name(s) or trade name(s) that it originally designated in this Agreement in its response to the City's Request for Proposals. The Concessionaire shall operate and maintain all signage at the Airport only under the brand or trade name(s) originally designated in its response to the City's Request for Proposals. No other brand name shall be used or displayed by the Concessionaire at the Airport or upon the Concessionaire's Leased Premises.

If the Concessionaire uses any particular brand or trade name under a license or franchise agreement, the Concessionaire represents and warrants to the City that the Concessionaire has been granted the right to use any such brand or trade name at the Airport for the entire term of this Agreement, pursuant to a franchise or license agreement with the trade name owner. At the City's request, the Concessionaire agrees to provide the City with a copy of the franchise agreement and reasonable evidence that such agreement remains in full force and effect throughout the term of this Agreement. The Concessionaire agrees that the termination of its right to use the Concessionaire's brand or trade name at the Airport, or to conduct a rental car concession on the Leased Premises of the type then conducted by or under license from the franchiser under the brand or trade name, shall constitute a material breach of the Concessionaire's obligations under this Agreement.

### **Signage**

The Concessionaire shall operate and maintain all signage only under the brand or trade name(s) originally designated in its response to the City's Request for Proposals. No other brand names shall be used or displayed by the Concessionaire at the Airport or upon its Leased Premises.

The Concessionaire agrees that no signs, logos, or advertising displays shall be painted on or erected in any manner upon its Leased Premises, or in or on any improvements or additions on its Leased Premises, without the prior written approval of the Airport Director (said approval shall not be unreasonably withheld) and that signs identifying the Concessionaire shall conform to reasonable standards established by the Airport Director with respect to type, size, design, condition, and location.

### **Access**

Subject to the provisions hereof, the Rules, Regulations, and Ordinances, and such restrictions as the Concessionaire may impose with respect to its Leased Premises, the City hereby grants to the Concessionaire, its agents, suppliers, employees, contractors, passengers, guests, and invitees, the right and privilege of access, ingress, and egress to the Leased Premises and to public areas and public facilities of the Airport.

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

The City shall have the right at any time or times to close, relocate, reconstruct, change, alter, or modify any such means of access provided for the Concessionaire's use pursuant to this Agreement or otherwise, either temporarily or permanently; provided that reasonable notice to the Concessionaire and a reasonably convenient and adequate means of access, ingress, and egress shall exist or be provided in lieu thereof. The City shall suffer no liability by reason thereof and such action shall in no way alter or affect any of the Concessionaire's obligations under this Agreement.

### **Leased Premises Use Requirement**

If the Concessionaire shall fail to use any portion of its Leased Premises for a period of more than thirty (30) days during the term of this Agreement, the City shall have the right, but not the obligation, to reduce the Concessionaire's Leased Premises by the portion that has remained unused for said period.

### **Concessionaire Employee Parking**

The Concessionaire shall have the right to the use of reasonably adequate vehicular parking facilities for its employees at the Airport in common with other terminal building employees. Such facilities shall be located in an area designated by the Airport Director. The City reserves the right to assess a reasonable charge for such employee parking facilities. Such charge for Concessionaire employee parking shall not exceed that which is charged to other commercial tenants of the terminal building. Nothing in this article shall be construed as prohibiting the Concessionaire from allowing its employees to park in other areas leased by the Concessionaire and approved in advance by the Airport Director for such use.

### **Use of the Airport or Airport Facilities by Concessionaires Suppliers, Contractors, and Service Providers**

It is understood that if the Concessionaire's suppliers, contractors, and furnishers of services exclusively use any portion of the Airport or facilities of the City, then the City may charge reasonable fees therefor, but nothing herein gives the Concessionaire the right to grant to any other party the privilege to use any portion of the Airport or facilities of the City.

### **Disposal of Equipment**

The Concessionaire may not dispose of equipment owned by the City and provided to the Concessionaire for its use.

### **Restriction on the Concessionaire's Operation**

The following restrictions apply to the conduct of the Concessionaire's operations on the Airport:

The rights granted to the Concessionaire hereunder shall be expressly limited to maintaining and operating a rental car business on the Airport and functions incidental and related thereto.

The Concessionaire shall not receive its customers at any on-Airport location other than its counter in the baggage claim area of the terminal building and its kiosk in the ready car area.

The Concessionaire is prohibited from the sale of new or used Motor Vehicles or other vehicles to the public at the Airport.

Except where authorized by the Airport Director in writing, the Concessionaire is prohibited from selling fuel to any other person/entity and from servicing, parking, or storing any vehicles other than those rental cars used by the Concessionaire in its business at the Airport.

Should such activities be approved in writing by the Airport Director and conducted by the Concessionaire, the gross receipts therefrom shall be subject to payment by the Concessionaire of a percentage fee greater than the Privilege Fee on Gross Receipts for on-

Airport rental car concession operations as established by this Agreement for all other sales and services of the Concessionaire, or such other fee as the parties may agree upon by written amendment to this Agreement.

Further:

1. The Concessionaire shall not permit public parking with or without charge on its Leased Premises at the Airport
2. The Concessionaire may not lease, rent, park, store, service, fuel, or clean Motor Vehicles, or other vehicles, not owned or leased by the Concessionaire, or that are not covered under some other arrangement by which the Concessionaire has the right to use said vehicles in its operation hereunder.
3. The Concessionaire may not engage in the placement or dispensing of brochures, pamphlets, leaflets, or like items on the Airport whether for profit or on a promotional basis.
4. The Concessionaire may not use the Leased Premises for any commercial or noncommercial purpose, other than the authorized purposes set forth in this Article unless the City authorizes said additional use of the Leased Premises in writing in the future.
5. The Concessionaire shall not remove, demolish, or replace, in whole or in part, any material elements of the Leased Premises, including equipment and systems, without the prior written consent of the Airport Director, who may, at his discretion, condition such consent upon the obligation of the Concessionaire to replace same by an improvement specified in such consent.
6. The Concessionaire understands that the City reserves the right to adopt, amend, and enforce reasonable rules and regulations governing the Leased Premises and the public areas and facilities of the Airport used by the Concessionaire.

### **Telecommunications**

With regard to telecommunications within the Concessionaire's Leased Premises, the Concessionaire is responsible for providing its own telecommunication systems as well as all costs associated with such systems. The Concessionaire is responsible for the installation and maintenance of its own telephone and computer systems, including lines and cables.

The Concessionaire may only install telecommunication systems within its Leased Premises after it receives the prior written approval of the Airport Director.

### **Concessionaire Otherwise Responsible**

The Concessionaire shall otherwise obtain all licenses/permissions necessary for, and pay all costs and expenses incurred with respect to, its operation of a rental car concession, it being understood and agreed that the City shall not, except as specifically set forth in this Agreement, be required to furnish services of any nature with respect to the operation of the rental car concession. The Concessionaire hereby assumes full and sole responsibility for the

supply of and payment for all licenses, services, and operational costs associated with any and all aspects of its rental car concession at the Airport. This requirement includes, without limitation, all taxes, permit fees, license fees, and assessments lawfully levied or assessed upon the Concessionaire or the City.

### **Independent Agreement**

This Agreement shall be deemed independent of any agreement the City executes with any other Concessionaire providing identical or similar services. The City and the Concessionaire may hereafter modify the Agreement they have executed, without the City being under any obligation to modify, or to offer to so modify, the agreements it has executed with other Concessionaires, unless the City must so modify or offer to so modify the other agreements in accordance with applicable federal and/or State law extant at the time of said modification.

END OF ARTICLE

## **Article 5**

### **GENERAL USE OF LEASED PREMISES**

#### **Noninterference with Utility Systems**

The Concessionaire shall not do or permit to be done anything at or about the Airport that may interfere with the effectiveness or accessibility of the drainage and sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, air conditioning systems, communications systems, and electrical systems, if any installed or located on or within the Leased Premises of the Airport. The Concessionaire shall indemnify and hold the City harmless for any and all damages and/or expenses incurred by the City due to the interference by the Concessionaire or any of its subcontractors with the systems listed above.

#### **Duty to Report Malfunctions**

The Concessionaire shall report all malfunctions of the drainage and sewage system, fire protection system, sprinkler system, alarm system, fire hydrants and hoses, air conditioning systems, communications systems, electrical systems, rental car servicing equipment, and any other system or equipment, if any installed or located on or within the Leased Premises, to the City as soon as discovered.

#### **Hazardous Materials and Regulated Substances**

The Concessionaire shall not keep or store flammable liquids within the enclosed portion of its Leased Premises, except in rooms or tanks or other approved containers especially constructed for such purposes in accordance with standards established by the National Board of Fire Underwriters, and approved by the City from the standpoint of safety. Any such liquids having a flash point of less than one-hundred degrees (100°) Fahrenheit shall be kept and stored in safety containers of a type approved by the Underwriters Laboratories.

Any and all materials stored, handled, used, or disposed of by the Concessionaire or the Concessionaire's tenants shall be the responsibility of the Concessionaire, which shall ensure that all laws, rules, and regulations of the City, the FAA, the U.S. Environmental Protection Agency (EPA), the Florida Department of Environmental Protection (FDEP), and local, State, and federal governments and agencies are followed.

The Concessionaire shall not use the Leased Premises to generate, manufacture, refine, heat, produce, or process any Regulated Substances. The Concessionaire shall handle, store, transfer, and dispose of Regulated Substances, "Substances Hazardous to the Environment," and "Hazardous Waste" in compliance with all applicable local, State, and federal Environmental Laws.

At its own expense, the Concessionaire shall at all times comply with all of the provisions of Chapters 62-761 and 62-762 of the Florida Administrative Code, as may be revised at any time, pertaining to petroleum storage tank and piping system construction, operation, inspection, and compliance monitoring programs; release detection methods and procedures; and maintenance and preventative maintenance programs. The Concessionaire will be responsible for all spillage, overflow, or escape of gases, petroleum, or petroleum products and for all fines and penalties in connection therewith whether contained or allowed to

escape off premises. The Concessionaire shall display its registration certificate as required by law and maintain appropriate documentation of insurance.

The Concessionaire shall train its employees and will use its best efforts to instruct employees of fuel suppliers on proper fuel delivery and dispensing procedures with an emphasis on safety as well as spill prevention and response. All fuel delivered to or dispensed from fuel farm facilities at the Airport will be attended by a designated trained Concessionaire employee.

The Concessionaire shall provide the City with a list of the types and quantities of Regulated Substances to be used in the Concessionaire's operation. All Material Safety Data Sheets shall be properly maintained and updated onsite. Additional Regulated Substances shall not be allowed on the Airport without the City's Airport Director's prior written consent.

No use of spray application automotive paint shall be allowed on the Leased Premises without the prior written consent of the City.

#### **Deprivation of Public Use**

The Concessionaire shall not conduct its operation in a manner that deprives the public of its rightful, equal, and uniform use of the Airport property.

#### **Interference with Use by Others**

The Concessionaire shall not interfere with reasonable use by others of common facilities at the Airport.

#### **Creation of Safety Hazards**

The Concessionaire shall not conduct its operations in such a way as to hinder police, fire fighting, or other emergency personnel in the discharge of their duties or as to constitute a hazardous condition that would increase the risks typically attendant with the operations contemplated under this Agreement.

#### **Creation of Nuisance**

The Concessionaire shall not commit any nuisance or knowingly do or permit to be done anything that may result in the creation or commission of a nuisance at or near the Airport.

#### **Release of Noxious Gases**

The Concessionaire shall not cause, produce, or permit to emanate from its Leased Premises any unusual, noxious, or objectionable smokes, gases, vapors, fumes, or odors.

#### **Use of Area for Lodging**

The Concessionaire shall not use the Leased Premises or any part thereof for lodging or sleeping purposes.

#### **Trash, Garbage, and Other Refuse**

The Concessionaire shall make suitable arrangements for the temporary storage for collection and for removal from the Leased Premises of all trash, garbage, and other refuse resulting from the Concessionaire's operations or the operation of others on the Leased Premises. The Concessionaire shall provide appropriate covered metal receptacles in an attractive, safe, and

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sanitary manner, and store such receptacles in an inconspicuous place on the Leased Premises. The Concessionaire shall pay for all such costs. The Concessionaire shall provide the City with a copy of any contract Concessionaire enters into with a garbage or waste company or disposal service.

### **Airport Operations**

The City reserves unto itself, and unto its successors and assigns for the use and benefit of the public, a right of flight for the passage of aircraft through the airspace above the surface of the Leased Premises, together with the right to cause in said airspace such noise as may be inherent in the operation of aircraft types now known or hereafter used, and for the navigation of flight in said airspace for landing on, taking off from, or operating at the Airport.

The Concessionaire expressly agrees, on behalf of itself and its successors and assigns, to restrict the height of structures, objects of natural growth, and other obstructions on the Leased Premises in compliance with the requirements of Federal Aviation Regulations Part 77, *Objects Affecting Navigable Airspace*.

The Concessionaire expressly agrees, on behalf of itself and its successors and assigns, to prevent any use of the Leased Premises and any leasehold improvements that would interfere with or adversely affect the operation or maintenance of the Airport, or that would otherwise constitute a hazard at the Airport.

The Concessionaire agrees to advise any tenants of its Airport operations and to hold the City harmless from any complaints or losses or alleged losses of the Concessionaire or tenant from said Airport operations.

### **Reserved Rights and Privileges**

All rights and privileges not specifically granted to the Concessionaire in this Agreement are reserved to the City.

END OF ARTICLE

## **Article 6**

### **RENTALS, FEES, AND CHARGES AND REQUIRED REPORTS**

In return for the use of the facilities, rights, licenses, and privileges granted hereunder and for the undertakings of the City, the Concessionaire agrees to pay the City without deduction or set-off, during the term of this Agreement, certain rentals, fees, and charges as set forth herein, in the following manner.

#### **RENTALS, FEES, AND CHARGES**

##### **Terminal Building Rentals**

For the use of the counter and associated space designated in Exhibit A-1, a rental rate per square foot of space equal to that paid by the airlines serving the Airport for counter and associated space, shall be payable in advance to the City, without invoice in equal monthly installments and without demand, on the first day of each calendar month of this Agreement. The Concessionaire's terminal building rental rate will be recalculated each year during the term of this Agreement and shall be effective October 1<sup>st</sup> each year.

The City will provide the Concessionaire with notice of the succeeding Fiscal Year's terminal building space rental rate in August each year during the term of this Agreement. The Fiscal Year 2014 rental rate is Fifty-One dollars and Sixteen cents (\$51.16) per square foot.

##### **Ready Car Area Rent**

For the ready/return spaces designated in Exhibit A-2, Concessionaire will not be required to pay Ready Car Area Rent unless the Ready Car Area Customer Facility Charge proceeds are not adequate to pay the total debt service, operation and maintenance expenses and financing expenses and requirements of Ready Car Area. If the Ready Car Area Customer Facility Charge is inadequate to pay call costs and expenses, the City will charge Concessionaire and other rental car companies, using the area, a Ready Car Area Rent calculated to recover the projected Ready Car Area Rental requirement. The Ready Car Area Rental requirement is the difference between total expenses and projected Ready Car Area Customer Facility Charge proceeds. The Ready Car Area Rental requirement will be prorated over all of the Ready Car Area parking stalls assigned to Concessionaire and will be payable monthly in advance,

##### **Kiosk Rent**

For rental car kiosks in the rental car parking garage, the sum of One Dollar (\$1.00) per year shall be paid to the City in advance and without demand on the first day of each Agreement Year.

## Service Facility Ground Rent

Effective August 1, 2019 and continuing to the end of the term of this Agreement, for the Service Facilities shown on Exhibit A-3 the annual Ground Rent is \$233,000 per year. The \$233,000 is the prior period's Ground Rent of \$215,000 increased by the change in the Consumer Price Index from FY 2014 to FY 2019. Effective August 1, 2019, the Ground Rent for each Service Facility is as follows:

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	Acres	Annual Ground Rent
Service Facility No. 1	3.08	\$ 60,000
Service Facility No. 2	2.12	41,000
Service Facility No. 3	3.10	60,000
Service Facility No. 4	2.11	41,000
Service Facility No. 5	1.60	31,000
	12.01	\$233,000

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The Service Facility Ground Rent is payable to the City monthly in advance and without demand on the first day of each calendar month.

## Service Facility Rent

It is the City's goal to pay the Service Facility and Service Facility Area financing costs and debt service, the City's Service Facility Area operating and maintenance expenses, and allocated Airport expenses from the proceeds of the Service Facility Customer Facility Charge. However, if during the term of this Agreement, the Service Facility Customer Facility Charge Proceeds (see definition below) are not sufficient to pay all of the City's costs and expenses associated with the Service Facilities and Service Facility Area, the City will charge the Concessionaire a Service Facility Rent in accordance with the City of Pensacola Code, Section 10-2-100, to recover all of the City's costs and expenses associated with the Service Facility Area.

On or before August 1st each year, the City will provide the Concessionaire with a Service Facility Report that shows calculations to determine if Service Facility Rent is required to supplement the Service Facility Customer Facility Charge Proceeds in the subsequent Fiscal Year. The report will present an analysis showing the following.

**Service Facility Area Requirement:** Calculation of the projected annual Service Facility Area Requirement for the next Fiscal Year, which equals the sum of the following:

1. The total of all direct and allocated indirect operating and maintenance expenses of every kind relating to the Service Facility Area.

2. An amount up to 1.25 times annual debt service, or such other amount as may be required by the Bond Resolution, Bank of America Loan Agreement, or other financing documents that are allocable to the Service Facility Area.
3. The total operating and maintenance reserve requirement allocable to the Service Facility Area as defined in the City's Bond Resolution.
4. The amount of the annual requirement of any subordinate security or loans made to the Airport by the City or other loans pertaining to the Airport and allocable to the Service Facility Area.
5. The amount of other deposits, if any, required by the Bond Resolution, Bank of America Loan Agreement, or other financing documents that are allocable to the Service Facility Area.
6. Any other Airport expense not included in Items 1 through 5 above.
7. Any overpayment or underpayment for operation of the Service Facility Area during the then-current Fiscal Year or any adjustment carried over from the preceding Fiscal Year to reflect any difference between actual versus estimated Service Facility Customer Facility Charge Proceeds or Service Facility Area expenses.

**Service Facility Customer Facility Charge Proceeds:** The report will show the projected Service Facility Customer Facility Charge proceeds for the next Fiscal Year. The Service Facility Customer Facility Charge Proceeds are hereby defined as the total amount of Service Facility Customer Facility Charge Proceeds projected to be remitted by the Concessionaire and other rental car companies plus interest on the Service Facility Customer Facility Charge Proceeds (if any).

**Service Facility Area Net Rental Requirement:** The report will show the Service Facility Area Net Rental Requirement for the succeeding Fiscal Year, calculated by subtracting the projected Service Facility Customer Facility Charge Proceeds from the Service Facility Area Requirement. The difference, if any, is the Service Facility Area Net Rental Requirement.

**Concessionaire's Service Facility Area Rent:** The report will show the calculation of the Concessionaire's Service Facility Area Rent, if any. The report will show the Service Facility Area Net Rental Requirement being allocated to rented Service Facilities based on the capital cost of each rented Service Facility, divided by the City's total capital costs of all rented Service Facilities. The Service Facility Area Net Rental Requirement allocated to each rented Service Facility shall be the Concessionaire's Service Facility Rent.

Service Facility Rent shall be payable to the City monthly in advance on the first day of each month. Service Facility Rent will be applied exclusively to pay the City's cost and expenses of the Service Facility Area.

Anytime during a Fiscal Year it appears that the Service Facility Customer Facility Charge Proceeds, whether or not supplemented with Service Facility Area Rent for the Fiscal Year,

will not be sufficient to pay when due all of the City's costs and expenses associated with the Service Facilities and the Service Facility Area, the City may increase the Service Facility Area Rent to a level that will, when combined with Service Facility Customer Facility Charge Proceeds, be sufficient to pay all of the City's costs and expenses of the Service Facilities and the Service Facility Area.

The City, after due notice to the Concessionaire, may, but is not obligated to, cure any Service Facility janitorial, maintenance, or preventive obligations or deficiencies on the Concessionaire's part in fulfilling the Concessionaire's covenants and obligations under this Agreement. Any amounts paid or costs incurred by the City to remedy such conditions are hereby agreed on and declared to be Additional Rent payable by the Concessionaire. In addition, the City will be entitled to an administrative fee of fifteen percent (15%) in addition to other expenses incurred. Unless otherwise provided herein, all Additional Rent shall be due and payable with the next succeeding installment of monthly rent due from the Concessionaire to the City under this Agreement.

### **Privilege Fee**

In addition to the other fees, rents, and charges described in the Agreement, the Concessionaire shall pay to the City, without deduction or set-off, for the privilege of operating its rental car concession from the Airport, the Minimum Annual Guarantee or ten percent (10%) of Concessionaire's month Gross Revenue for each brand, whichever is greater, for each month during the Term hereof.

Beginning on the commencement of this Agreement, the Minimum Annual Guarantee for each Agreement Year shall be prorated on a monthly basis and paid, without demand, in an amount equal to one-twelfth (1/12) of the Minimum Annual Guarantee in advance on the first day of each calendar month during the period of this Agreement. All payments are to be made in lawful money of the United States of America at the office of the Airport Director or by wire transfer.

The Privilege Fee is ten percent (10%) of Gross Revenues for the month or the monthly portion of the Minimum Annual Guarantee; whichever is greater, as defined in Article 1 of this Agreement. Said Privilege Fee shall be computed based on the Concessionaire's Gross Revenues each month and, on or before the twentieth (20th) day of the calendar month immediately following the month in which such revenues were generated at the Airport, the Concessionaire shall pay to the City the Privilege Fee to the extent that it exceeds the monthly payment of the Minimum Annual Guarantee, if any, which was owing and paid for that month by the 20th day of the calendar month immediately following the month in which such revenues were generated.

Within ninety (90) days of the end of each Agreement Year, the Concessionaire shall submit to the City a Certified Annual Statement of the previous Agreement Year's Gross Revenues. In the event that an underpayment or overpayment has been made by the Concessionaire, the Concessionaire shall notify the City of said underpayment or overpayment and an amount equal to such payment shall be paid by or credited to the Concessionaire, upon verification of the Certified Annual Statement by the City's auditor, within sixty (60) days after receipt.

### **Pass Through Privilege Fee**

The Concessionaire acknowledges that the its Privilege Fee payments by Concessionaire to the City under this Agreement are for the Concessionaire's privilege to use the Airport facilities and access the Airport market and are not fees imposed by the City upon the Concessionaire's customers. The City does not require, but will not prohibit, a separate statement of and charge for the percentage fee ("Concession Recovery Fee") on customer invoices or rental agreements, ("Concession Recovery Fee"), provided that such Concession Recovery Fee meets the following conditions:

1. Such Concession Recovery Fee must be labeled on the customer invoice or rental agreement "Concession Recovery Fee," "Concession Recoupment Fee," or such other name first approved by the City in writing.
2. The Concession Recovery Fee must be shown on the customer rental agreement and invoiced with other Concessionaire charges (i.e., above the line).
3. The Concession Recovery Fee as stated on the invoice and charged to the customer shall be no more than eleven and one-tenths percent (11.1%) of Gross Revenues and shall be specifically included in the definition of Gross Revenues for purposes of remittance to the City.
4. The Concessionaire shall neither identify, treat, nor refer to the Concession Recovery Fee as a tax, nor imply that the City is requiring the pass through of such fee.
5. The Concessionaire shall comply with all applicable laws, including Federal Trade Commission requirements and any commitment to or contractual obligation by the Concessionaire with any group of State Attorneys General.

Failure to comply with the above rules at all times will result in the following:

For the first infraction, the City will give the Concessionaire thirty (30) days in which to cure and fully comply with the above rules. Should the Concessionaire fail to cure and comply within this period, the Concessionaire will lose its rights to impose this fee for the period of the Agreement.

For any subsequent infractions, the Concessionaire shall immediately lose its rights to impose this fee for the period of the Agreement.

### **Liquidated Damages from Late Payments**

If the Concessionaire is in arrears for seven (7) days or more following the due date of any amount payable to the City hereunder for two or more occurrences in the given contract year, the parties acknowledge that additional clerical, accounting, and other work will need to be performed that would not otherwise be needed absent the late payment. In addition, because the actual charges as a result of the late payment are difficult to identify in advance, the parties hereby agree that the Concessionaire shall pay, as a reasonable charge, liquidated damages for the late payment in the amount of one and one-half percent (1.5%) per month,

applicable from the date such payment was due to the date of actual payment. If the maximum charge permitted by law is less than the foregoing amount, then the rate shall be such amount determined to be the maximum legal amount. This late charge will be calculated and charged on a monthly basis.

### **Utilities**

The Operating and Maintenance Responsibilities Matrix, Exhibit C hereto, describes the responsibilities of the City and the Concessionaire for providing and paying the cost of utilities.

### **Terminal Building**

With regard to portions of the Leased Premises in the terminal building, the City shall provide, at its expense, existing power, air conditioning, and heating for the Concessionaire's office and counter area, as shown on Exhibit A-1. The City shall not be obligated to provide for the extension of these utilities or to provide for the installation of any other utilities. The Concessionaire, at the Concessionaire's sole cost and expense, shall arrange for the extension of these utilities as needed. Throughout the term of this Agreement, the Concessionaire shall not render any utility lines inaccessible.

The City reserves the right to install, maintain, repair, remove, and replace any utility lines located in the Concessionaire's office area and counter as necessary or appropriate, along with the right to enter the office area and counter at all reasonable times to accomplish the foregoing, taking reasonable precautions to avoid disruption of the Concessionaire's authorized activity at the Airport.

### **Ready Car Area**

With regard to portions of the Leased Premises in the ready car area, the City shall provide, at its expense, existing lighting and power. The City shall not be obligated to provide for the extension of these utilities or to provide for the installation of any other utilities. The Concessionaire, at the Concessionaire's sole cost and expense, shall arrange for the extension of these utilities as needed. Throughout the term of this Agreement, the Concessionaire shall not render any utility lines on the Airport inaccessible.

The City reserves the right to install, maintain, repair, remove, and replace any utility lines located in the Concessionaire's ready car area as necessary or appropriate at all reasonable times to accomplish the foregoing, taking reasonable precautions to avoid disruption of the Concessionaire's authorized activity at the Airport.

### **Service Facility**

The Concessionaire is responsible for all utility costs and fees of every kind for its Service Facility. The Concessionaire will set up its own utility accounts with the exception of those for water and sewer. With regard to portions of the Leased Premises in the Service Facility Area, the City shall provide water and sewer for the Concessionaire's Service Facility, as shown on Exhibit A-4. The City will invoice the Concessionaire monthly for the water and sewer services used at its Service Facility. Payment of the utility invoice is due within ten (10) days of delivery of said invoice.

The Concessionaire will provide for its own trash collection and removal at its Service Facility.

The City shall not be obligated to provide for the extension of these utilities or to provide for the installation of any other utilities. The Concessionaire, at the Concessionaire's sole cost and expense, shall arrange for the extension of these utilities as needed. Throughout the term of this Agreement, the Concessionaire shall not render any utility lines at the Airport inaccessible.

The City reserves the right to install, maintain, repair, remove, and replace any utility lines located in the Concessionaire's office area, as necessary or appropriate, along with the right to enter the office area at all reasonable times to accomplish the foregoing, as necessary or appropriate, taking reasonable precautions to avoid disruption of the Concessionaire's authorized activity at the Airport.

### **Net Agreement**

It is the intent and purpose of the City and the Concessionaire that all rentals, fees, and charges payable by the Concessionaire hereunder shall be absolutely net to the City so that this Agreement shall yield to the City the entire rentals, fees, and charges herein specified, in each Agreement Year hereunder, free of any charges, assessments, impositions, taxes, or deductions of any kind or character that may be charged, assessed, or imposed on or against the Concessionaire, as the Concessionaire of the Leased Premises, without abatement, deduction, or set-off by the Concessionaire.

The City shall not be expected or required to pay any such charge, assessment, taxes, or imposition, or be under any obligation or liability hereunder with respect thereto. All losses, costs, expenses, and obligations of any kind relating to the operation and maintenance of the Leased Premises and the City's equipment and systems that may be a part thereof that may arise or become due during the term hereof shall be paid by the Concessionaire, and the Concessionaire shall indemnify, defend, and hold harmless the City, its officers, agents, and employees from any and all such losses, costs, expenses, and obligations.

### **Additional Fees and Charges**

If the City has paid any sum or sums or has incurred any obligations or expenses for which the Concessionaire has agreed to pay or reimburse the City, or if the City is required or elects to pay any sum or sums or incurs any obligations or expenses (a) by reason of failure, neglect, or refusal of the Concessionaire to perform or fulfill any one or more of the conditions, covenants, or agreements contained in this Agreement after written notice thereof by the City to the Concessionaire; or (b) as a result of an act or omission of the Concessionaire contrary to said conditions, covenants, and agreements; then the Concessionaire agrees to pay to the City the sum or sums so paid or the expenses so incurred, including all interest, costs, damages, and penalties, plus twenty-five percent (25%) of the total of the foregoing items as administrative overhead, and the same may be added to any installment of the fees and charges thereafter due hereunder, and each and every part of the same shall be and become additional fees and charges recoverable by the City in the same manner and with like remedies as if it were originally a part of the basic fee and charges. The Concessionaire's failure to contest the reasonableness of any invoice of the City within thirty



(30) days of receipt thereof shall constitute a waiver of the right to contest the validity of the City's records of expenses incurred as prima facie proof of the reasonableness of such expenses. After 30 days following receipt, as aforementioned, regarding any suit, action, or proceeding between the parties hereto, any receipt showing payment of any sum or sums by the City for any work done or material furnished, whether by the City's employees or by contractors hired by the City, shall constitute prima facie proof of the necessity and reasonableness of the charges evidenced by said receipt.

### **Time and Place of Payments**

The Concessionaire will pay the City, without invoice, that which is due and owing to the City as follows.

Terminal building space rentals, ready car area parking stall rentals, and Service Facility rentals shall be payable, without notice or invoice, on the first day of each calendar month for such calendar month or portion thereof, in advance, with sufficient timeliness so as to be received by the City on or before the first calendar day of the month, beginning on the commencement date of this Agreement and continuing thereafter on or before the first calendar day of each month throughout the term of the Concessionaire's leasehold interest in the Leased Premises. Rental for any period less than a full calendar month shall be prorated.

Kiosk rentals shall be payable, without notice or invoice, on the first day of each Agreement Year for such Agreement Year or portion thereof, in advance, with sufficient timeliness so as to be received by the City on or before the first calendar day of the Agreement Year.

The Minimum Annual Guarantee for each Agreement Year shall be prorated on a monthly basis and paid, in an amount equal to one-twelfth (1/12) of the Minimum Annual Guarantee, in advance, on the first day of each calendar month during the term of the Agreement. The monthly Minimum Annual Guarantee shall be payable, without notice or invoice, on the first day of each calendar month for such calendar month or portion thereof, in advance, with sufficient timeliness so as to be received by the City on or before the first calendar day of the month, beginning on the commencement date of the Agreement and continuing thereafter on or before the first calendar day of each month throughout the term of the Agreement.

The Privilege Fee shall be computed for each month's Gross Revenues, as required above, and the Concessionaire shall pay to the City the Privilege Fee (the amount by which the Privilege Fee exceeds the monthly Minimum Annual Guarantee), if any, by the twentieth (20th) day of the calendar month immediately following the month in which such revenues were generated.

Payments to the City may be made by wire transfer to the following account:

**Wachovia Bank**

BA Routing Number 063000021

Acct # 2118800211620

Address: 225 Water Street  
Jacksonville, Florida 32202

Credit to: City of Pensacola/dba/Pensacola International  
Airport  
Airport Revenue Fund Account #404

If the above wire transfer account information changes, the City, if feasible, will give the Concessionaire advance written notice. The City agrees to provide the Concessionaire as much notice as is practical under the circumstances.

If the Concessionaire elects not to make payments by wire transfer, payments to the City shall be made at the Office of the Airport Director as set forth below or at such other place as may hereafter be designated by the City. Checks should be written to the City of Pensacola.

Airport Director  
Pensacola International Airport  
2430 Airport Boulevard, Suite 225  
Pensacola, Florida 32504

### **Performance Security**

The Concessionaire agrees to provide the City with an irrevocable Letter of Credit provided by a bank acceptable to the City in a form substantially the same as the exhibits provided in the City's Request for Proposals, renewable annually in a sum equal to no less than the total the Minimum Annual Guarantee, Ground Rent, and CFC collections equal to four (4) months for the then current year as set forth in Articles 6 and 7 of this Agreement and the full amount of the irrevocable Letter of Credit shall be at risk at all times.

In addition to an irrevocable Letter of Credit, the Concessionaire agrees to provide the City with a Performance Bond and Labor and Material Payment Bond for any construction or capital improvements undertaken by the Concessionaire during the term of this Agreement in a sum equal to the full amount of the construction contract award.

The Concessionaire shall be required to provide certification that surety companies executing bonds appear on the Treasury Department's most current list, Circular 570 as amended, and are authorized, in good standing with the Department of Financial Services, to transact business in the State of Florida.

### **REQUIRED REPORTS**

#### **Monthly Activity Report**

The Concessionaire shall furnish the City on or before the twentieth (20th) day of each month an accurate report setting forth all data necessary to calculate rentals, fees, and charges due under the Agreement. This report shall be in a format as prescribed by the City in Exhibit E and with detailed backup data, which shall be submitted in an electronic medium satisfactory to the City and shall include, but not be limited to, an itemized statement for the concession and CFC revenues generated by the Concessionaire's operations at the Airport. Said statement shall separately identify any credits or reimbursements. The report is to be signed by a responsible accounting officer of the Concessionaire.

If the Concessionaire fails to furnish the City with the Monthly Activity Report during any month of the Agreement Year, the Concessionaire's rentals, fees, and charges will be estimated from prior months for which such data are available. Any necessary adjustments shall be calculated after the Concessionaire delivers an accurate activity report to the City for the month in question. Any resulting surpluses or deficits shall be applied as credits or charges to the appropriate invoices in the next succeeding month.

### **Annual Reports**

The Concessionaire shall furnish the City with a written statement, for each rental car brand it operates, signed by the Chief Financial Officer of the brand, stating that the Privilege Fee and CFCs paid to the City during the preceding Agreement Year by each brand were a true and accurate reflection of all the revenue generated by each brand and that the payments were made in accordance with the terms and conditions of the Agreement.

In addition, the Concessionaire shall, at its sole cost and expense, employ an independent Certified Public Accountant who shall furnish, within ninety (90) days after the close of each Agreement Year, a certified statement to the City stating that, in its opinion, the Privilege Fees and CFCs paid by the Concessionaire to the City during the Agreement Year (the preceding twelve- [12-] month period) pursuant to this Agreement were made in accordance with the terms of this Agreement. Such statement shall also contain a list of the Gross Revenues and CFC revenues as shown on the books and records of the Concessionaire and that were used to compute the fees paid to the City during the period covered by the statement. No credit adjustment for prior fiscal periods will be made after verification of the Concessionaire's Annual Report by the City.

### **Internal Audits, Investigations, Reviews**

Should the Concessionaire conduct internal audits, investigations, or reviews of its operations at the Airport that reveal overpayments by the Concessionaire to the City, before taking a credit for the amount of the overpayment, the Concessionaire will give the City notice of its internal audit, investigation, or review, provide the City copies of the documentation developed, and obtain the City's concurrence concerning the amount of the overpayment and timing of credits against prospective invoices. The City will make no credit adjustment for prior fiscal periods after verification of the Concessionaire's Annual Report.

### **Environmental Reports**

The Concessionaire shall provide to the City, on an ongoing basis and as updates are required, copies of applicable environmental permits and reports, as well as any notices, orders, citations, or inspection reports issued by applicable regulatory authorities. For any reporting required pursuant to Rule 62-770 or 62-780 of the Florida Administrative Code, the Concessionaire shall provide the City with draft copies of the reports. The City shall be allowed sufficient time to review such reports before submittal to the regulatory agency is required.

### **Audit**

The Concessionaire shall, during the term of this Agreement and for three (3) years thereafter, permit, upon the receipt of reasonable written notice, inspections and audits by the

City through its employees and/or representatives of all records and books of account, including, but not limited to, its general ledger, State and federal income tax returns and Florida sales tax return records, including such records as may be required by the Airport Director to be maintained by the Concessionaire and information required to be maintained pursuant to any provision of this Agreement. It is further understood and agreed that any such inspection and audit shall be conducted during the business hours of the Concessionaire and that the Concessionaire shall make all of the aforesaid records, books of account, and other documentation available at a location designated in writing by the Airport Director.

Records that reflect the Concessionaire's performance shall be maintained or made available in Pensacola, Florida. In the event that all necessary records, books, and other pertinent information are not maintained or made available in Pensacola, Florida, all reasonable travel expenses (transportation, lodging, meals, and incidentals) incurred by the City or its authorized representative in the course of such audit shall be reimbursed by the Concessionaire upon presentation of an invoice with supporting bills/receipts attached.

In the event that an inspection or audit by or on behalf of the City discloses any discrepancy in any statement or statements of Gross Revenues or the CFC revenue collections of the Concessionaire or in the amount of any sums of money owed to the City, the Concessionaire shall forthwith pay the sum of monies owed to the City plus a service charge of two percent (2%) of said sum per month for each month from the date said sum shall have been paid to the City to the date payment is made to the City. Further, in the event that an aforesaid audit or inspection discloses a single cumulative discrepancy in excess of three percent (3%) of the amount previously paid by the Concessionaire to the City on account of the audit period in question, the Concessionaire shall forthwith pay to the City the cost of the audit or inspection. Said cost of the audit or inspection shall include all direct and indirect salary costs of the City, any charges made by any consultant of the City, and any materials, supplies, and administrative overhead (as shall be determined by the Airport Director from time to time during the term of this Agreement).

Nothing contained in this section shall preclude the City from terminating this Agreement in the event that any inspection or audit discloses a discrepancy or discrepancies as indicated in this section. In the event that the City retains counsel to collect any sums owing to it from the Concessionaire, the Concessionaire agrees to pay to the City the sums expended by the City on account of the retention of such counsel as well as expenses incurred by the City, including all direct and indirect salary costs, materials, supplies, and administrative overhead.

#### **Rental Contract Form Requirements**

All rental contract forms used by the Concessionaire in its operations at the Airport under this Agreement shall be sequentially controlled and contain the words "PENSACOLA INTERNATIONAL AIRPORT" in bold print. The Concessionaire shall maintain records and controls pertaining to the prenumbered series assigned to the Airport and shall submit them monthly to the City. The records pertaining to the series assigned to the Airport shall be available for inspection and examination at all times by the City or its duly authorized representative.

END OF ARTICLE

## **Article 7**

### **CUSTOMER FACILITY CHARGES**

During the term of this Agreement, the City shall impose, and the Concessionaire will collect and remit to the City, a Customer Facility Charge assessed to rental car customers.

#### **Customer Facility Charge Defined**

The Customer Facility Charge shall be imposed on a transactional basis and shall be a fixed uniform amount applied each day, or fraction thereof, to each Customer Contract and shall be added to the amount collected by the Concessionaire from the rental car customer. The Customer Facility Charges collected by the Concessionaire shall be the amount established by the City for all on-Airport rental car operators. It shall be collected from all customers of the Concessionaire, including customers receiving complimentary or discounted car rentals under the Concessionaire's bona fide marketing plans. The Concessionaire shall be responsible for the amount of any Customer Facility Charges that it does not collect from its customers.

#### **Customer Facility Charge Proceeds**

An amount exactly equivalent to the Customer Facility Charges collected by the Concessionaire, as agent for the City, from rental car customers shall be payable to the City. Such amount shall be immediately due to the City upon collection by the Concessionaire, which shall be required to hold such amount in trust for the City's benefit. These funds shall be considered the City's property and the Concessionaire, as agent for the City, shall hold only a possessory interest, not an equitable interest, in these funds held in trust.

#### **Customer Facility Charge Records and Controls**

The Concessionaire shall maintain records and controls, which are sufficient to demonstrate the correctness of the Customer Facility Charge revenues collected by the Concessionaire and the amount of Customer Facility Charges to be paid to the City. The records shall be subject to the same audit and review requirements as all other remittances, as outlined in Article 6 hereof.

#### **Customer Facility Charge Rates and Rate Recalculation**

From July 2009 through September 2010, the daily Customer Facility Charge collection rate will be Four Dollars and Twenty-five Cents (\$4.25) per Contract Day. During each succeeding Fiscal Year for the term of this Agreement, the City will recalculate the daily Customer Facility Charge collection rate in accordance with Customer Facility Charge requirements.

In recalculating the Customer Facility Charge daily rate per Contract Day, the City will take into consideration all of the City's Service Facility Area costs and expenses (including all capital costs), the economic condition of the region, the state of the rental car market at the Airport, and the level of Customer Facility Charges at other airports similarly situated. No later than August 1st of each Fiscal Year during the term of this Agreement, the City shall notify the Concessionaire of the daily Customer Facility Charge collection rate for the succeeding Fiscal Year.

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The City may adjust the Customer Facility Charge daily rate based on estimates of Contract Days for the upcoming Fiscal Year or other criteria. Approximately sixty (60) days prior to the end of the City's Fiscal Year, the City shall recalculate the Customer Facility Charge daily rate and notify the Concessionaire of the new Customer Facility Charge daily rate for the following Fiscal Year. Any credits or shortfalls from the prior Fiscal Year, as determined by the City, shall carry forward to the next Fiscal Year. The Concessionaire shall provide its estimate of Contract Days for the upcoming Fiscal Year no later than July 1, annually.

After receiving the estimate for the adjusted Customer Facility Charge, the City will invite Concessionaire and other rental car companies to a meeting to discuss the estimated Customer Facility Charge and the daily rates. The meeting shall be within twenty (20) days after the forwarding of the estimated Customer Facility Charges daily rates for the upcoming Fiscal Year.

The adjusted Customer Facility Charge rate shall become effective on October 1 of each year during the term of the Agreement. The foregoing notwithstanding, at any time during a Fiscal Year it becomes evident that the Customer Facility Charge proceeds will not be adequate, the City may increase the Customer Facility Charge daily rate upon thirty (30) days advance written notice to the Concessionaire.

#### **Customer Facility Charge Reporting Requirement**

The number of transactions completed by the Concessionaire shall be reported to the City in the Concessionaire's Monthly Activity Report. The report, signed by an authorized agent of the Concessionaire, is to be received by the City no later than the twentieth (20th) day of the month following such transactions and shall be remitted to the City with the Concessionaire's payment of the Customer Facility Charge proceeds.

#### **Customer Facility Charges Remittance**

The Concessionaire shall remit the amount equivalent to that collected by the Concessionaire at the Airport to the City no later than the twentieth (20th) day of each month. Any amounts not remitted by the 20th of the month shall be assessed Liquidated Damages from Late Payments, as described in Article 6.

#### **Renters Tax on Customer Facility Charge-Financed Facilities**

The City and the Concessionaire acknowledge that it is anticipated that individual members of the traveling public renting the Concessionaire's Motor Vehicles and directly benefiting from the ready car area and the Service Facility are to pay the Customer Facility Charge on each transaction and that such renters are also subject to any sales tax imposed by the State for the lease or license of real property arising from the use of the facility. It shall be the responsibility of the Concessionaire to separately state any such tax liability on its rental car contracts, collect such tax, and remit it to the State.

#### **Registration Requirement**

The Concessionaire shall register as a dealer in commercial real estate and issue a renter's rental certificate (in the form suggested in Rule 12A-1.039, Florida Administrative Code) to the City for the use of all parking spaces held for rental to the traveling public. The requirement of the preceding sentence relates only to the Concessionaire's status as a

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“dealer” for purposes of the Florida sales and use tax imposed under Ch. 212, Florida Statutes, and Rule 12A, Florida Administrative Code. There is not intended to be any implications that the Concessionaire is expected to be a dealer in commercial real estate for any other purpose whatsoever, including, but not limited to, Ch. 475, Florida Statutes, relating to Florida real estate professionals.

END OF ARTICLE

**Article 8**  
**RESERVED**

END OF ARTICLE



## **Article 9**

### **PERFORMANCE AND SERVICE STANDARDS**

In entering into this Agreement, foremost to the City is providing the public and the airline traveler with rental car facilities and services of high quality, commensurate with the trade that is accustomed to using modern airport facilities and airline travel services. To accomplish this, the Concessionaire shall operate the rental car concession in a first class manner, in accordance with the highest standards for this type of service at similarly situated airports and within the rental car industry. In the operation of the rental car privileges granted herein, the Concessionaire shall make available an adequate number of Motor Vehicles at the Airport to meet the reasonable demand of the public therefor.

#### **Quality of Motor Vehicles to Be Rented**

The Concessionaire shall, at all times and at its own cost and expense, maintain all of its Motor Vehicles to be rented in good and safe operating condition and free from known mechanical and safety defects. Motor Vehicles offered for rental to the public shall be no more than three (3) years old and shall have air conditioning. Such Motor Vehicles shall be kept in a clean, neat, and attractive condition inside and out. The City reserves the right to disapprove any Motor Vehicle supplied by the Concessionaire for public use that does not meet the requirements of this Article. Notice of such disapproval shall be submitted to the Concessionaire by the Airport Director in writing with the reasons therefor and the Concessionaire shall immediately withdraw such unsatisfactory Motor Vehicle from service at the Airport.

Nothing herein shall be interpreted as obligating the City to inspect the Concessionaire's Motor Vehicles serving the Airport to ensure that said Motor Vehicles are in good condition and repair, and the City shall not be liable to any third person who suffers personal injury or property damage as a result of a Motor Vehicle leased by the Concessionaire from the Airport that was not in good operating condition or repair.

#### **Hours of Operation**

The Concessionaire shall keep its terminal building office and ticket counter area open and staffed seven (7) days per week, commencing a minimum of one-half (0.5) hour before the first scheduled airline flight for said day. The Concessionaire may close its terminal building office and ticket counter area 0.5 hour after the last scheduled airline flight is scheduled to land at the Airport, regardless of whether or not said flight actually arrives, so long as the Concessionaire and other concessionaires operating under Customer Contracts have an internal agreement whereby at least one (1) rental car concessionaire shall remain open through 0.5 hour after the last scheduled flight actually lands at the Airport at the end of said day; provided, however, that, if the last scheduled airline flight's arrival at the Airport is delayed, all concessionaires may close their terminal building offices and ticket counter areas at the time said flight was scheduled to arrive, provided that the concessionaire that has agreed to remain open does reopen its office and ticket counter area at the time the flight actually arrives, and keeps said office and ticket counter area open at least one hour following the actual arrival of said flight.

In the interest of providing a high level of service to the public using the terminal building, should the various rental car concessionaires fail to reach an internal agreement in accordance with the above paragraph or should the City experience problems whereby no concessionaires are remaining open in accordance with the above paragraph, the Concessionaire shall be required to remain open 0.5 hour after the last scheduled airline flight actually arrives; provided, however, that if the last scheduled airline flight's arrival at the Airport is delayed, the Concessionaire may close its terminal building office and ticket counter area at the time said flight was scheduled to arrive, provided that the Concessionaire reopens said office and ticket counter area at the time the flight actually arrives, and keeps said office and ticket counter area open at least 0.5 hour following the actual arrival of said flight.

### **Quality of Service**

The Concessionaire shall provide all services to be provided under this Agreement on a nondiscriminatory basis to all users of the Airport. The Concessionaire shall maintain and operate the Leased Premises in a first-class manner and shall keep the Leased Premises in a safe, clean, orderly, and inviting condition at all times, to such an extent as shall be satisfactory to the City. Service shall be prompt, courteous, and efficient. The Concessionaire shall use only late model Motor Vehicles in the performance of the privileges granted hereunder.

The Concessionaire shall maintain, at all times and at its own expense, an adequate number of Motor Vehicles at the Airport to meet the reasonable public demand therefor. The Concessionaire shall maintain, at all times and at its own expense, all Motor Vehicles rented under this Agreement free from known mechanical defects and in neat appearance, clean inside and out.

The Concessionaire and its agents and employees shall not engage in open, notorious, and public disputes, disagreements, or conflicts tending to deteriorate the quality of the rental car service of the Concessionaire and its compatibility with the best interests of the public at the Airport.

### **Credit Cards**

At all times during the term of this Agreement, the Concessionaire shall accept as payment for goods and services at least two (2) of the following credit cards: American Express, Master Card, Visa, and Discover Card.

### **Advertised Services and Programs**

If the Concessionaire advertises that services or programs are available at the Airport, they must be provided at the Airport.

### **Personnel**

The Concessionaire shall, in the performance of the services and privileges under this Agreement, employ or permit the employment of only such personnel as will assure a high standard of service to the public. All such personnel, while on duty, shall be clean, neat in appearance, courteous, and suitably attired, with uniforms in such instances as are appropriate. No personnel employed by the Concessionaire while on or about the Leased

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Premises shall use improper language, act in a loud, boisterous, or otherwise unacceptable manner, or be permitted to solicit business in an inappropriate manner.

The Concessionaire shall maintain a close check on attendants and employees to ensure the maintenance of a high standard of service to the public, the performance of such obligation to be determined at the sole discretion of the City. The Concessionaire shall control the conduct, demeanor, and appearance of such persons, and shall take all proper steps to remove from the Airport or to terminate employees who participate in acts of misconduct while on duty or whose conduct is detrimental to the best interests of the public, as determined by the City.

### **Manager**

The management, maintenance, and operation of privileges under this Agreement shall at all times during the term hereof be under the supervision and direction of an active, qualified, competent, and experienced manager representing the Concessionaire, who shall be subject at all times to the direction and control of the Concessionaire. The Concessionaire shall cause such manager to be assigned a duty station or office on the Airport where such manager shall be available upon reasonable request during normal business hours. The Concessionaire will provide the City with a telephone number at which such manager may be reached after business hours. The Concessionaire will, at all times during the absence of such manager, assign or cause to be assigned a qualified subordinate to be in charge of the area, services, and facilities, and to be available in the area and act for the manager in his or her absence.

### **Notice of Prices**

The Concessionaire shall, at all times, inform all patrons of its schedule of rates applicable to the rental of Motor Vehicles, including, but not limited to, daily rental rates, mileage rates, gasoline fees, and insurance premiums. Such information shall be provided prior to execution of the Customer Contracts.

### **Traffic Safety**

The Concessionaire shall ensure that all of its employee drivers are duly licensed, and trained in the safe operation of Concessionaire's Motor Vehicles and will, at all times, operate said vehicles in a safe and lawful manner on Airport premises. The Concessionaire's employee drivers will use the routes specified by the Airport Director for moving vehicles between the Concessionaire's Service Facility and the ready/return spaces. The Concessionaire's employee drivers that fail to abide by Airport, City, or State traffic rules and regulations shall be banned from Airport streets and roads upon written notice of the Airport Director to the Concessionaire.

### **Traffic Lanes Open**

The Concessionaire shall provide a sufficient number of employees in the ready car area, as shown on Exhibit A-2, to keep traffic lanes open at all times. Failure to keep the ready car area free of congestion shall be considered good cause for the City to ticket and/or tow offending vehicles.

The City will also ticket or tow any Motor Vehicles of the Concessionaire found to be causing congestion at curbs or along any public thoroughfares where rental cars are not ordinarily permitted to park.

END OF ARTICLE

## **Article 10**

### **INSURANCE AND INDEMNIFICATION**

Prior to taking possession of the Leased Premises and during the term of this Agreement, the Concessionaire shall procure and maintain insurance of the types and to the limits specified herein.

The term "City" as used in this Article 10 is defined to mean the Airport, the City of Pensacola itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives, and agents.

The Concessionaire and the City understand and agree that the minimum limits and/or types of insurance herein required may become inadequate during the term of this Agreement. The Concessionaire agrees that it will increase or change such coverage to commercially reasonable levels required by the City within ninety (90) days upon receipt of written notice from the Airport Director.

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

#### **Workers' Compensation**

The Concessionaire shall purchase and maintain Workers' Compensation insurance coverage for all Workers' Compensation obligations whether legally required or not. Additionally, the policy, or separately obtained policy, must include Employers' Liability coverage of at least Five Hundred Thousand Dollars (\$500,000) each person-accident, \$500,000 each person-disease, \$500,000 aggregate - disease.

#### **Commercial General Liability, Business Automobile, Garage Liability, Umbrella Liability, Property, and Environmental Impairment Liability Coverage**

The Concessionaire shall purchase coverage on forms no more restrictive than the latest editions of the Commercial General Liability and Business Automobile policies filed by the Insurance Services Office. The City shall be an Additional Insured and such coverage shall be at least as broad as that provided to the Named Insured under the policy regarding the terms and conditions of this Agreement. The City shall not be considered liable for the premium payment, entitled to any premium return or dividend, and shall not be considered a member of any mutual or reciprocal company. Minimum limits of Two Million Dollars (\$2,000,000) per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policy coverages and the total amount of coverage required.

#### **Commercial General Liability**

Commercial General Liability coverage must be provided, including bodily injury and property damage liability, for Leased Premises, operations, contractual, products and completed operations, and independent contractors. Broad form Commercial General

Liability coverage, or its equivalent, shall provide at least broad form contractual liability coverage applicable to this specific Agreement, as well as personal injury liability and broad form property damage liability coverage. The coverage shall be written on an occurrence-type basis. Minimum limits of Two Million Dollars (\$2,000,000) per occurrence and in the aggregate must be provided and the City of Pensacola must be listed as an additional insured. Fire Legal Liability coverage with a minimum limit of One Hundred Thousand Dollars (\$100,000) per occurrence must be endorsed on this policy.

### **Business Automobile**

Business Automobile coverage must be provided, including bodily injury and property damage arising out of operation, maintenance, or use of owned, non-owned, and rented automobiles and employee non-ownership use with a minimum limit of Two Million Dollars (\$2,000,000) combined single limit required.

### **Garage Liability**

Garage Liability insurance must be provided, including coverage for automobiles, premises and operations, products and completed operations, and contractual liability. The minimum limit for this coverage is Two Million Dollars (\$2,000,000) each accident and in the aggregate and the City of Pensacola is to be listed as an Additional Insured.

### **Umbrella Liability**

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

### **Property**

The Concessionaire shall maintain in force at all times, Property insurance coverage that insures any improvements, equipment, and fixtures constructed in or upon the Leased Premises against fire, extended coverage and standard Insurance Services Office defined "Special Perils" of physical damage. The City of Pensacola shall be an Additional Insured under such policy, with coverage afforded to the City that is at least as broad as that provided to the Concessionaire Named Insured under the policy for the terms and conditions of such policy. The amount of coverage will be one-hundred percent (100%) of the replacement cost of such improvements, equipment, and fixtures. Such policy shall contain a "Waiver of Subrogation" endorsement in favor of the City of Pensacola. The Concessionaire agrees to apply any payment made as a result of any insurable loss to the repair or replacement of such improvements, equipment, and fixtures.

### **Environmental Impairment Liability**

The Concessionaire must purchase and maintain in force for the duration of the Agreement, insurance for environmental impairment liability resulting in any loss arising out of the Leased Premises. Coverage must be afforded for: (a) third-party claims for bodily injury and property damage caused by pollution on, at, under, or emanating from the Leased Premises; (b) costs associated with investigation and remediation of pollution conditions, including on and off-Airport cleanup in accordance with Environmental Laws; (c) diminution of value of a

third party property resulting from contamination or the need for any future restricted land use relating thereto; (d) contractual liability; and (e) costs of defense relating to third-party and first-party claims (i.e., claims or actions by the U.S. EPA or the State of Florida that require corrective action or the recover of the costs of corrective action). The City of Pensacola must be listed as an Additional Insured and such coverage shall be at least as broad as that provided to the Named Insured under the policy relating to the terms and conditions of this Agreement. The coverage shall also include severability of interests for all insured. Minimum policy limits of Two Million Dollars (\$2,000,000) per occurrence and in the aggregate must be provided. The policy must be endorsed to include the underground storage tanks located at the Concessionaire's Service Facility.

### **Certificates of Insurance**

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

### **Insurance of the Concessionaire Primary**

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

### **Loss Control and Safety**

The Concessionaire shall retain control over its employees, agents, servants, and subcontractors, as well as its invitees, and its activities on and about the Airport and the manner in which such activities shall be undertaken; to that end, the Concessionaire shall not be deemed to be an agent of the City. Precaution shall be exercised at all times by the Concessionaire for the protection of all persons, including employees, and property. The

Concessionaire shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

### **Acceptability of Insurers**

Insurance is to be placed with insurers that have a current A.M. Best Company rating of no less than A-. The City may waive or alter this requirement, or accept self-insurance in lieu of any required policy of insurance.

### **Hold Harmless**

The Concessionaire covenants that it and all of its agents, servants, employees, and independent contractors will use due care and diligence in all of its or their activities and operations at the Airport which includes but is not limited to the Terminal Building, Ready Car Area, and its Service Facility, and that the Concessionaire hereby agrees to indemnify and hold harmless the City for all damages to Property of the City that shall be caused by an act or omission on the part of the Concessionaire, its agents, servants, employees, or independent contractors, and the Concessionaire shall pay on behalf of the City all sums that the City shall become obligated to pay by reason of the liability, if any, imposed by law upon the City for damages because of bodily injury, including damages for care and loss of service, and including death at any time resulting from bodily injury, and because of injury to or destruction of Property, including pollution, storm water compliance or environmental damage, and including the loss of use thereof, which may be caused by or result from any of the activities, omissions, or operations of the Concessionaire, its agents, servants, employees, or contractors. The Concessionaire shall pay and satisfy final judgments establishing the liability of the City in all actions defended by the Concessionaire pursuant to this section; the Concessionaire shall investigate or cause the investigation of accidents involving such injuries, shall negotiate or cause to be negotiated all claims made as may be deemed expedient by the Concessionaire, and shall defend, or cause to be defended, suits for damages, even if groundless, false, or fraudulent, brought on account of such injuries or damages, in the name and on behalf of the City. The Concessionaire shall pay or cause to be paid all costs incurred by the City, including, but not limited to, legal fees and expert fees in any legal proceeding defended by the Concessionaire aforesaid, and interest accruing up to the date of payment by the Concessionaire, and all premiums charged upon appeal bonds required in such proceedings, and all expenses incurred by the Concessionaire for investigation, negotiation, and defense.

The Concessionaire shall hold harmless and indemnify the City from all such costs, including, but not limited to, legal fees and expert fees even though a jury may find the Concessionaire and the City to be jointly liable. The City shall, upon notice thereof, give the Concessionaire every demand, notice, summons, or other process received in any claim or legal proceeding contemplated herein.

The Concessionaire will defend, indemnify, and hold harmless the City from and against any claims, demands, penalties, fines, damages, costs, or expenses of any nature including, without limitation, attorney [(including in house counsel hours and fees (City Attorney's Office)], engineering and consultant fees, investigation and laboratory fees, testing fees, court costs, and litigation or administrative expenses arising out of or in any way related to: (a) the presence, release or threatened release in, on, under, around or within any portion of the Leased Premises

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of any Regulated Substance from the date of this Agreement and thereafter; and (b) the disposal or removal of any Regulated Substances or contamination or elevated threshold levels related to any Regulated Substance when any such presence, release, threatened release, or disposal was caused or resulted from use of the Leased Premises by the Concessionaire, its agents, employees, or contractors.

Concessionaire shall have no obligation to defend indemnify and hold harmless the City from any claims arising out of the presence of the pesticide dieldrin located in the groundwater underlying the Service Facility Area so long as Concessionaire observes, abides by and complies with and all restrictions and institutional controls on the Leased Premises as part of any FDEP approved plan for the Service Facility Area.

Nothing in this Article 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 or construed as a waiver of the City's sovereign immunity. The Concessionaire's compliance with insurance requirements under this Agreement shall not relieve the Concessionaire of its liability or obligation to indemnify, hold harmless, and defend the City.

Notwithstanding any other provision contained in this Agreement, the parties hereto specifically agree that the provisions of this section will survive the termination of this Agreement and will inure and be enforceable against each and every successor and assigns of a party to this Agreement.

#### **Nonliability of the City**

The City shall not in any event be liable for any acts or omissions of the Concessionaire or its agents, servants, employees, or independent contractors, or for any condition resulting from the operations or activities of any such Concessionaire, tenant, or Concessionaire, Concessionaire, agents, servants, employees, or independent contractors, or for any conditions resulting from the operations or activities of the Concessionaire's agents, servants, employees, or independent contractors either to the Concessionaire or to any other person.

The City shall not be liable for the Concessionaire's failure to perform any of the obligations under this Agreement or for any delay in the performance thereof, nor shall any such delay or failure be deemed a default by the City.

The City shall not be liable for any loss or damages suffered by the Concessionaire arising out of the interruption or cessation of the business conducted by the Concessionaire under this Agreement.

#### **Pay on Behalf of the City**

The Concessionaire agrees to pay on behalf of the City, as well as provide a legal defense for the City, both of which will be done only if and when requested by the City, all claims as described in the Hold Harmless section above. Such payment 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 remedy.

END OF ARTICLE

## **Article 11**

### **SUBLEASE, ASSIGNMENT, MERGERS, MULTIBRANDING**

#### **General**

The Concessionaire shall not sublet or assign any of the rights herein granted to another party nor shall the Concessionaire contract with a third party to perform or provide any of the services that the Concessionaire is authorized or required to perform, provide, or sell under the terms of this Agreement without first obtaining the written consent of the City.

Concerning the Concessionaire's terminal building space, kiosk, and ready and return spaces, in the event that the Concessionaire is authorized, by the Airport Director in writing, to sublet or assign any of the rights herein granted to a third party, the term "Gross Revenues" as defined herein shall include the total monthly revenues derived from the operation, performing, or providing of any rental car concession service, and not just the amount of rent received by the Concessionaire from such third party. The amount of rental received by the Concessionaire from a third party is hereby made a part of Gross Revenues and shall be reported as such.

Concerning the Concessionaire's Service Facility, in the event that the Concessionaire is authorized, by the Airport Director in writing, to sublet or assign all or a portion of the Concessionaire's Service Facility to a third party, Concessionaire will only be allowed to recover, from a third party a prorata share (per square foot) of the Ground Rent. Further, the Concessionaire may not charge rent to a third party for its Service Facility to the extent the cost of which is being paid for with the proceeds of the Service Facility Customer Facility Charge. In the event that the City levy's Service Facility Rent, Concessionaire may recover a prorata portion of the Service Facility Rent from the third party. It is the intent of this section, that Concessionaire not mark up the costs of facilities that are being paid for with Service Facility Customer Facility Charge proceeds.

#### **Sublease**

The Airport Director's written approval of a sublease of the Leased Premises and concession privilege would be subject to the following:

The sublessee's rental car company proposed by the Concessionaire must be acceptable to the City (i.e., a rental car company [other than one then operating as a Concessionaire at the Airport under authority of a written concession agreement with the City] meeting the general standards set forth within the "Request for Proposals" issued by the City that resulted in the Concessionaire acquiring this concession).

Any attempted/purported sublease of this Agreement without the City's advance written consent shall be null and void and shall constitute a breach of this Agreement.

Any sublease granted by the Concessionaire shall be subject to the terms and conditions of this Agreement and shall terminate immediately upon the expiration or earlier termination of this Agreement, without any liability on the part of the City to the Concessionaire or the sublessee.

Any agreement of sublease must include provisions that expressly provide that (a) the sublease is subject to all of the terms and conditions of the Agreement; (b) it shall terminate with the expiration or earlier termination of the Agreement; (c) the sublessee shall assume all of the Concessionaire's obligations and responsibilities with regard to the conduct of rental car concession operations and the payment of related rentals, fees, and charges; and (d) in case of any conflict between the Agreement and the sublease, the Agreement shall control.

The City shall not be obligated to consent to, and may withhold consent to, any sublease of this Agreement by the Concessionaire to any other rental car company if the Concessionaire is in default of any of its obligations hereunder as of the date on which the City's consent to said sublease would have otherwise been given.

Consent by the City to any subletting shall not release the Concessionaire from its obligations or alter the primary liability of the Concessionaire to pay rent and perform and comply with all its obligations under this Agreement.

Consent by the City to any subletting shall not constitute consent to any subsequent subletting by the Concessionaire or to any subletting by the sublessee.

The Concessionaire shall use its best efforts to cause the sublessee to comply with its obligations under its sublease and shall diligently enforce all rights of the City in accordance with the terms thereof.

In the event of any proposed sublease of this Agreement by the Concessionaire to another rental car company, the Concessionaire shall, not less than thirty (30) days prior to the proposed effective date of such action, provide the City with written notice of the proposed sublease setting forth the following:

1. The name, address, and telephone number of the proposed sublessee; and
2. The planned effective date of the proposed sublease; and
3. The information required under the Request for Proposals.

The notice provided to the City by the Concessionaire pursuant to this section must be accompanied by:

1. Fully executed original set(s) of any and all documents being used to effect the proposed actions set forth within such notice in the number then specified by, and in a form acceptable to, the City.
2. All such documents shall, as, when, and where applicable and appropriate, by specific provision contained therein that clearly evidence the fact that the sublease is subject to and/or conditioned upon the City's consenting thereto and that such action shall not become effective nor be binding on either the City, the Concessionaire, or the sublessee named therein, unless and until such consent shall be given by the City in writing.
3. The City's consent thereto, in writing.

Once the City's consent is given for any particular sublease, the documents provided to the City pursuant to the provisions of this section shall not be modified, in any way whatsoever, other than in writing, signed by the parties in interest at the time of the modification, and any such modification shall be null and void unless the City consents thereto, in writing, shall have been obtained by the Concessionaire.

### **Assignment**

Subject to the following provisions of this section, the Concessionaire may assign this Agreement to a single ready, willing and able rental car company acceptable to the City (i.e., a rental car company [other than one then operating as a Concessionaire at the Airport under authority of a written concession agreement with the City] meeting the general standards set forth within the Request for Proposals issued by the City that resulted in the Concessionaire acquiring this concession), upon the written approval of the Airport Director.

The Concessionaire may not and shall not assign this Agreement without first obtaining the written consent of the City in advance. The following shall apply regarding such consent:

1. Any attempted/purported assignment of this Agreement without the City's advance written consent shall be null and void and shall constitute a breach of this Agreement.
2. The City shall not be obligated to consent to and may withhold consent to any assignment of this Agreement by the Concessionaire to any other rental car company if the Concessionaire is in default of any of its obligations hereunder as of the date on which the City's consent to such assignment would have otherwise been given.
3. The City's consenting to any such action shall not constitute a waiver of the conditions, limitations, and restrictions of this section relative to further or other such actions, which conditions, limitations, and restrictions shall apply to each and every transfer and/or assignment hereof and shall be binding upon each and every assignee, transferee, and/or other successor in interest of the Concessionaire, subject to the provisions hereof.

In the event of any proposed assignment of this Agreement by the Concessionaire (as assignor), to another rental car company (as assignee), the Concessionaire shall, not less than thirty (30) days prior to the proposed effective date of such action, provide the City with written notice of the proposed assignment and assumption of this Agreement setting forth the following:

1. The name, address, and telephone number of the proposed assignee.
2. The planned effective date of the proposed Agreement assignment and assumption action.
3. The notice provided the City by the Concessionaire pursuant to the above shall be accompanied by fully executed original set(s) of any and all documents being used to effect the proposed actions set forth within such notice in the number then specified by and in a form acceptable to the City.

All such documents shall, as, when, and where applicable and appropriate, by a specific provision therein contained, clearly evidence the fact that the Agreement assignment and assumption actions specified therein are subject to and/or conditioned upon the City's consenting thereto and that such actions shall not become effective nor be binding on either the City, the assignor, or the assignee named therein unless and until such consent shall be given by the City in writing.

The assignment and assumption agreement shall contain:

1. An "assignment of Agreement" by the Concessionaire (assignor) whereby the Concessionaire (assignor) assigns all of its rights, title, and interests in and to this Agreement to the assignee.
2. An "assumption of agreement" by the assignee, which shall clearly evidence the fact that, as of the effective date of such assignment and assumption of this Agreement, assignee assumes any and all of the obligations as "Concessionaire" under this Agreement and shall, on and after said date, undertake, perform, keep, and/or observe any and all of the terms, covenants, conditions, warranties, agreements, and/or provisions of this Agreement to be undertaken, performed, kept, and/or observed by the assignee; and the specific date on which the assignment and assumption shall be effective.

Once the City's consent is given for any particular assignment and assumption agreement, the documents provided to the City pursuant to the provisions of this section shall not be modified, in any way whatsoever other than in writing, signed by the parties in interest at the time of the modification, and any such modification shall be null and void unless the City's consent thereto, in writing, shall have been obtained by the Concessionaire in advance.

Any assignment or transfer of this Agreement by operation of law or any issuance, sale, or transfer of a sufficient number of shares of stock in the Concessionaire's business that would result in a change in control of the Concessionaire's business shall be deemed an assignment of this Agreement for purposes of this section and shall require immediate written notification to the City and, where required by the Airport Director, a written agreement in a form satisfactory to the Airport Director, wherein the assignee expressly assumes the obligations of the Concessionaire hereto and agrees to be bound by all of the terms and conditions of the Agreement and provides any bonds or surety required by this Agreement.

### **Mergers**

The Concessionaire shall not allow its interest under this Agreement to be transferred to, passed to, or devolved upon any other person, firm, or corporation by operation of law, stock transfer, or otherwise without the prior written consent of the City, it being understood that a transfer or series of transfers of an amount or amounts totaling fifty percent (50%) or more of the Concessionaire's outstanding voting stock to one party or a group of parties acting in concert shall be deemed to be a transfer of the Concessionaire's interest hereunder. The foregoing provisions shall not apply to the Concessionaire or to a corporation that owns all or substantially all of the shares of the Concessionaire's business if the shares of the Concessionaire or such owner corporation are traded on the New York Stock Exchange.

As to the Concessionaire or owner corporation whose shares are traded on the New York Stock Exchange, the following provision shall apply:

The Concessionaire shall not assign, transfer, sublease, pledge, surrender, or otherwise encumber or dispose of the Leased Premises, or any interest therein, or permit any other person to occupy the same, without the prior written consent of the City. However, the obligations of the Concessionaire hereunder may be fulfilled or discharged by a licensed member of the Concessionaire, duly appointed by the Concessionaire and approved by the City, on the express condition that any such licensee shall subscribe to this Agreement and expressly assume each and every obligation of the Concessionaire hereunder and upon such assumption shall have all the privileges and rights granted to the Concessionaire. The restrictions of this paragraph shall also not apply to any assignment by the Concessionaire to a corporation into or with which the Concessionaire may merge or consolidate upon such successor corporation's express assumption of the Concessionaire's obligations hereunder. Any assignment, sublease, or transfer of any type of the Concessionaire's obligations permitted hereunder or to which the City may consent shall not operate to release or discharge the Concessionaire from its obligations under this Agreement.

### **Multi-branding**

For the term of this Agreement, the Concessionaire is hereby authorized to operate the following brands at the Airport: Executive Car Rental, Inc. and such other brands wholly owned by the Concessionaire as approved by the Airport Director from time to time.

In addition to the Executive Car Rental, Inc. brand, Concessionaire may operate one membership-based carsharing concept billable by the hour. Carsharing Concept may not operate or conduct business from the Executive Car Rental, Inc. Leased Premises or any other premises in the Terminal Building and may not place advertising or wayfinding signs of any nature in the Terminal Building. Carsharing Concept may only operate from the ready and return stalls in the parking structure assigned to Executive Car Rental, Inc. Carsharing Concept will not be assigned any automobile parking stalls in the ready and return area.

Carsharing Concept may use up to four automobile parking stalls assigned to Executive Car Rental, Inc. Carsharing Concept may place small signs at each parking stall it uses in the Executive Car Rental, Inc. ready and return area of the parking structure. The size and nature of the Carsharing Concept signs are subject to the prior review and approval of the Director. The Director's decision regarding the suitability, nature, and appropriateness of signs is final.

Due to the unique nature of the Carsharing Concept product (hourly rentals), Carsharing Concept will only be required to pay the Privilege Fee (percentage) and collect from each Carsharing Concept customer a Customer Facility Charge as described and required in the Agreement. During the Term of this Agreement, if airport management determines that this unique produce Carsharing Concept product (hourly rentals) is adversely impacting overall Airport rental car revenue, the Director, may upon thirty (30) days advance written notice, require Carsharing Concept to subject to the Minimum Annual Guarantee as described and defined in this Agreement and continue being subject to the Minimum Annual Guarantee until the expiration of the term of the Agreement.

References and restriction relating to branding in the Agreement and reference Proposals are subject and subordinate to this statement of brands that the Concessionaire is permitted to operate under this Agreement. Also, at the discretion of the airport Director new market entrants may be authorized to operate at the Airport.

### **Bankruptcy**

Furthermore, the prohibitions in this Article 11 shall not apply to any valid assumption or assignment of this Agreement, the Leased Premises, or any part thereof by a trustee, or the Concessionaire, as a debtor in possession under Section 365 of the Bankruptcy Code of 1978, as amended, unless, however, that adequate assurance of future performance as provided by Section 365 of the Bankruptcy Code of 1978, as amended, is given. For the purposes of the assumption or assignment of this Agreement, this shall include, but shall not be limited to:

1. Adequate assurance of the reliability of the proposed source of the rentals, fees, and charges due under this Agreement upon the assumption or assignment of this Agreement;
2. Adequate assurance that all other considerations due under this Agreement shall be forthcoming after the assumption or assignment of this Agreement; and
3. The procurement of a bond from a financially reputable surety covering any costs or damages incurred by the City.

Further, in the event of a bankruptcy filing by or on behalf of the Concessionaire as debtor, the parties hereto agree that this Agreement shall be constructed to be a non-residential lease of real property subject to treatment in accordance with 11 U.S.C., Section 365(d).

### **Consent to Assignment, Transfer, or Conveyance**

The Concessionaire may assign, transfer, or convey its interest under this Agreement only upon receiving the prior written consent of the City, as stated above, which consent shall not be unreasonably withheld. However, the City may withhold consent for logical or practical reasons or if the consent would weaken the City's Airport business enterprise.

Under no circumstances will the Concessionaire be allowed to mortgage, encumber, or subrogate the real property contained in the Leased Premises.

Consent by the City to any type of transfer provided for by this Article shall not in any way be construed to relieve the Concessionaire from obtaining further consent for any subsequent transfer or assignment of any nature whatsoever.

### **Airport Processing Fee**

In the event that the Concessionaire, or a mortgagee of the Concessionaire, requires or requests the City's review, investigation, processing, recordation, or any other consideration of the Concessionaire's proposed sublease, assignment, or other transfer permitted in accordance with this Article, estoppel certificates, documentation regarding the Concessionaire's financing of its leasehold interest, or any other documentation, the Concessionaire agrees that, as a condition precedent to the City's review, the Concessionaire will reimburse the City for all of the City's costs, including but not limited to all of the City's

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staff labor, which shall include any consultants and attorney fees, all postage (both first class and express mail), and all materials used or expended in completing the City's review. The Concessionaire shall make said reimbursement to the City within thirty (30) days after the Concessionaire receives the City's written request. The City may terminate this Agreement should the Concessionaire not pay the City's reimbursement described in this section within thirty (30) days of receipt.

END OF ARTICLE



## **Article 12 IMPROVEMENTS**

### **Initial Improvements**

Upon commencement of this Agreement, the Concessionaire shall promptly construct and install, at its own expense, all improvements needed for its operations to be conducted from the Leased Premises. The design, review, and installation of said improvements shall be performed in compliance with the section entitled “General Construction Requirements” below.

### **Additional Improvements**

During the term of this Agreement, the Concessionaire shall have the right to construct, at its own expense, improvements, alterations, or additions to its Leased Premises to facilitate and further the authorized use of the Leased Premises, provided that the Concessionaire conforms with all conditions of this Article, including:

1. The Concessionaire submits the proposed improvements and alterations to the City for its prior review.
2. The City determines, in its sole discretion (which discretion shall be reasonably applied), that the proposed improvements and alterations will be consistent with the Airport Master Plan, land use plan, architectural design, and quality of construction in effect at the time of construction.
3. The improvements, alterations, and additions are to be constructed by qualified and licensed contractors and subcontractors.

### **General Construction Requirements**

Prior to the commencement of any construction activity, the Concessionaire shall submit detailed plans, specifications, and a construction time schedule for the improvements to the City for approval. The Airport Director shall either approve or disapprove the plans and/or specifications submitted by the Concessionaire. Approval by the Airport Director of any plans and specifications refers only to the conformity of such plans and specifications to the general architectural and aesthetic plan for the area assigned to the Concessionaire. Such plans are not to be considered approved for architectural or engineering design or compliance with applicable laws or codes, and the City, acting through the Airport Director, by approving such plans and specifications, assumes no liability or responsibility therefor or for defect in any structure or improvement constructed according to such plans and specifications. The Airport Director reserves the right to disapprove any design submitted and shall state the reasons for such action. No changes or alterations shall be made to said plans and specifications after approval by the Airport Director.

Immediately upon receipt of the City's written approval of said plans, specifications, and construction time schedule, the Concessionaire shall proceed with construction of said

improvements. Work shall not be performed at times other than shown on the construction time schedule without the prior approval of the Airport Director.

The Concessionaire shall construct all improvements and additions to the Leased Premises at its own expense. Although the City has the right to review proposed improvement plans, and to veto the plans if the plans are inconsistent with the Airport development plans or construction quality and design control, pursuant to the standards set forth above, if the City does not veto said improvement plans and the Concessionaire thereafter constructs the improvements, the improvements shall be commissioned and constructed at the Concessionaire's sole initiative and behest, and nothing herein shall be construed as an authorization by the City to the Concessionaire to construct the improvements, or as an agreement by the City to be responsible for paying for the improvements, and neither the Leased Premises, nor the City's interest in said Leased Premises or any improvements constructed thereon, shall be subjected to a mechanic's lien for any improvements constructed by the Concessionaire hereunder.

Where the cost of improvements exceeds Fifty Thousand Dollars (\$50,000), the City may require the Concessionaire to post a bond or other security acceptable to the City guaranteeing payment for construction of the improvements as a condition precedent to the commencement of construction of the improvements.

The Concessionaire shall be responsible for assuring that all of the improvements, alterations, and additions to the Leased Premises are constructed in accordance with applicable local, State, and federal law. The Concessionaire shall reimburse the City for all costs and expenses, including attorney's fees (including, without limitation in-house counsel – City Attorney's Office -- time or fees, the City incurs:

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

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

The City shall, at any period during construction of the Concessionaire's improvements, alterations, or additions, have the right to inspect any or all construction work, workmanship, materials, and installation involved in, or incidental to, the construction or installation of the improvements, alterations, or additions for conformance with the applicable standards set forth in this Agreement, provided that such inspection shall not include internal work that is

exclusively of an operational (nonstructural) nature, and provided further that no such inspections shall be deemed to constitute consent to or approval of any such work.

The Concessionaire shall provide the City with one complete set of “as-built” drawings for each improvement, alteration, or addition made to the Leased Premises during the term of this Agreement.

Title to all permanent leasehold improvements, alterations, or additions, as defined by Florida law, will vest in the City upon termination or sooner expiration of this Agreement, free and clear on any liens or encumbrances whatsoever.

Notwithstanding the above paragraph, title to all of the Concessionaire's personal property shall at all times during the term of this Agreement remain with the Concessionaire.

The Concessionaire shall not remove or demolish, in whole or in part, any improvements upon the Leased Premises without the prior written consent of the Airport Director.

The Concessionaire shall be responsible for making repairs at its sole expense for any damage (other than from what the City determines to be normal wear and tear) resulting from removal by the Concessionaire of its said furniture, trade fixtures, etc.

The City shall have the right to construct or install over, in, under, or through the Leased Premises new lines, pipes, mains, wires, conduits, and equipment, provided, however, that such repair, alteration, replacement, or construction shall not unreasonably interfere with the Concessionaire's use of the Leased Premises. The City will repair any damage resulting from such activities at the City's sole cost and expense.

END OF ARTICLE

## **Article 13**

### **DEFAULT AND TERMINATION**

#### **Termination**

This Agreement shall terminate on July 31, 2024, and the Concessionaire shall have no further right of interest in any of the premises hereby leased, nor the right to conduct the concession hereby authorized.

#### **Termination of Agreement by the Concessionaire**

The Concessionaire may terminate this Agreement and terminate all of its future obligations hereunder at any time that the Concessionaire is not in default in its payments or other obligations to the City hereunder by giving the City thirty (30) days advance written notice, after the happening of one or more of the following events:

1. If the Airport is permanently abandoned as an air transportation facility.
2. If use of the Airport is restricted in such a manner that the Concessionaire cannot reasonably operate on the Airport for a period of ninety (90) days.
3. If the City is in default of any of the covenants or agreements contained in this Agreement for a period exceeding sixty (60) days after receipt of written notice of such default, provided, however, that more than 60 days may reasonable be deemed to be required for performance., then the City shall not be in default if the City commences performance within such 60-day period and thereafter diligently prosecutes the same to completion. Rentals due hereunder shall be payable only to the date of said termination by the Concessionaire.

#### **Concessionaire's Default and Default Notice**

The following shall be "events of default" under this Agreement constituting a material breach of the Agreement and the terms "events of default" and "default" shall mean, whenever they are used in this Agreement, any one of the following events:

1. If the Leased Premises are vacated or abandoned by the Concessionaire for a period of thirty (30) days or more.
2. If the Concessionaire uses the Leased Premises for unlawful purposes and/or fails to comply with or observe any statute, law, ordinance, rule, regulation, standard, or requirement of any federal, State, or local governmental entity with respect to the Concessionaire's occupancy and/or use of the Leased Premises, where any such failure shall be evidenced by either a finding or judgment of a court of competent jurisdiction or where any such failure shall be admitted by the Concessionaire in any proceeding brought against the Concessionaire by any governmental entity.

3. If the Concessionaire fails to obtain, pay for, and maintain in full force and effect at all times during the life of this Agreement, without any lapse in coverage, such insurance and Letter of Credit as is required of the Concessionaire hereunder.

4. If the Concessionaire shall:

- a. Cease doing business as a going concern;
- b. Make an assignment of all or substantially all of the Concessionaire's assets for the benefit of its creditors;
- c. Admit in writing its inability to pay its debts as they become due;
- d. File a petition commencing a voluntary case under any chapter of the U.S. Bankruptcy Code (11 U.S.C. Sections 101 et seq.);
- e. Be adjudicated insolvent in any court pursuant to any statute of the United States or of any state, territory, or government;
- f. File a petition in any court seeking for itself any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar arrangement under any present or future statute, law, rule, or regulation or file an answer admitting the material allegations of, or in any other way consenting or acquiescing to, a petition filed against it in any such proceedings;
- g. Consent or acquiesce to the appointment of any trustee, receiver, liquidator, custodian, or other similar official for the Concessionaire or of all or of any substantial part of the Concessionaire's assets or property; or
- h. Take any action looking to its dissolution or liquidation.

5. If:

- a. An involuntary petition has been filed in any court against the Concessionaire seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution, or similar arrangement under any chapter of the U.S. Bankruptcy Code or under any other statute of the United States or any state or territory thereof, which petition is not dismissed within sixty (60) days after being filed;
- b. An order for relief against the Concessionaire shall have been entered under any chapter of the U.S. Bankruptcy Code, or a decree or order by a court having jurisdiction in the premises shall have been entered approving as properly filed a petition seeking any reorganization, arrangement, readjustment, liquidation, dissolution, or similar relief against the Concessionaire under any present or

future statute, law, rule, or regulation, which order for relief, judgment, or decree is not stayed or vacated within thirty (30) days after entry thereof; or

- c. Any trustee, receiver, liquidator, custodian or other similar official is appointed for the Concessionaire or if all or any substantial part of the Concessionaire's assets and property, which appointment, if being contested by the Concessionaire, is not vacated within thirty (30) days.
6. Any attempted/purported hypothecation, encumbrance, sale, assignment, or transfer of either this Agreement, in whole or in part; or of any of the Concessionaire's rights, title, and interest in or to any part or all of the Leased Premises and/or in the leasehold improvements during the life of this Agreement; without the City's prior written consent or any attempted/purported subletting or permitting occupancy of any part or all of the Leased Premises by any person or entity other than the Concessionaire, without the City's prior written consent.
7. If any act occurs that deprives the Concessionaire permanently of the right, power, and privileges necessary for the proper conduct and operation of its rental car concession business.
8. If the Concessionaire fails to make any payment of rent or any other required payment, or to furnish any security deposit or instrument, as and when due hereunder, where such failure shall continue for a period of ten (10) days following service of notice thereof upon the Concessionaire by the City.
9. If the Concessionaire fails to actively conduct a rental car concession at the Airport for a period of seventy-two (72) consecutive hours after notice by the City, except when such cessation is due to fire, earthquake, strike, governmental action, default of the City, or other cause beyond the Concessionaire's control.
10. If the Concessionaire uses or permits the use of its Leased Premises at any time for any purpose which at that time is not authorized by this Agreement, or by subsequent written agreement between the parties.
11. If the Concessionaire discontinues its operation at the Airport as a consequence of the Concessionaire filing a bankruptcy petition, voluntary or involuntary, seeking a reorganization or readjustment of its indebtedness under the federal bankruptcy laws, or any other statute of the United States or any state thereof or being adjudicated bankrupt, the Concessionaire shall be deemed to have forfeited its leasehold space and any operating rights or privileges under this Agreement.
12. If the Concessionaire breaches any of the covenants contained in paragraphs 1, 2, and 4 of Section B of the document entitled "Assurances Required by the Federal Aviation Administration."

13. If the Concessionaire shall fail to keep, observe, undertake, fulfill, or perform any of the terms, covenants, conditions, warranties, agreements, obligations, and/or provisions of this Agreement to be kept, observed, undertaken, fulfilled, and/or performed by the Concessionaire (other than those expressly set forth in paragraphs (1) through (12) above), where such failure shall continue for a period of thirty (30) days following service of notice thereof upon the Concessionaire by the City; provided, however, that if the nature of the Concessionaire's default is such that more than 30 days are reasonably required for its cure, then the Concessionaire shall not be deemed to be in default and breach of this Agreement if the Concessionaire commences such cure within said 30-day period and thereafter diligently prosecutes such cure to completion as soon as reasonably possible following service of such notice upon the Concessionaire by the City.

## **City's Remedies**

### **Abandonment**

If the Concessionaire abandons the Leased Premises, this Agreement shall continue in effect. The City shall not be deemed to terminate this Agreement as a result of such material default and breach other than by written notice of termination served upon the Concessionaire by the City, and the City shall have all of the remedies available to the City, so long as the City does not terminate the Concessionaire's right to possession of the Leased Premises, and the City may enforce all of the City's rights and remedies under this Agreement, including the right to recover the rent as it becomes due under the Agreement. After abandonment of the Leased Premises by the Concessionaire, the City may, at any time thereafter, give the Concessionaire notice of termination.

### **Termination**

Upon the occurrence of any material default and breach of this Agreement by the Concessionaire as set forth above, the City may then immediately, or at any time thereafter, terminate this Agreement by service of a minimum of ten (10) days advance written notice to such effect upon the Concessionaire and this Agreement shall terminate at 11:59:59 p.m. on the termination date specified within such notice.

Such notice shall, as a minimum, set forth the following:

1. The default and breach that resulted in such termination by the City; and
2. A demand for possession, which, in the event only ten (10) days advance notice shall be given by the City, shall be effective at 12:00:01 a.m. on the eleventh (11<sup>th</sup>) calendar day following the date on which the notice in which such demand is contained shall be sufficiently served upon the Concessionaire by the City in conformity with the provisions hereof; or, if more than the minimum number of days advance notice shall be given, at 12:00:01 a.m., on the next day following the date specified within such notice as being the date of termination hereof.

Such notice may contain any other notice which the City may, at its option, desire or be required to give (e.g., "Demand for Payment" of any and all monies due and owing).

### **Possession**

Following termination of this Agreement by the City pursuant to the provisions of this Article, without prejudice to other remedies the City may have by reason of the Concessionaire's default and breach and/or by reason of such termination, the City may:

1. Peaceably reenter the Leased Premises upon voluntary surrender thereof by the Concessionaire; or
2. Remove the Concessionaire and/or any other persons and/or entities occupying the Leased Premises there from, and remove all personal property there from and store all personal property not belonging to the City in a public warehouse or elsewhere at the cost of and for the account of the Concessionaire, using such legal proceedings as may be available to the City under the laws or judicial decisions of the State of Florida; or
3. Repossess the Leased Premises or relet the Leased Premises or any part thereof for such term at such rental and upon such other terms and conditions as shall be determined solely by the City with the right to make reasonable alterations and repairs to the Leased Premises.

### **Recovery**

Following termination of this Agreement by the City pursuant to the provisions of this Article, the City shall have all rights and remedies available to the City under the laws of the State of Florida. The amount of damages the City may recover following such termination of this Agreement shall include:

1. The worth at the time of award of the unpaid rent that had been earned at the time of termination of this Agreement;
2. The worth at the time of award of the amount by which the unpaid rent that would have been earned after termination of this Agreement until the time of award exceeds the amount of such rental loss that the Concessionaire proves could have been reasonably avoided;
3. The worth at the time of award of the amount by which the unpaid rent for the balance of the term of this Agreement after the time of award exceeds the amount of such rental loss for the same period the Concessionaire proves could be reasonably avoided; and
4. Any other amount necessary to compensate the City for all the detriment proximately caused by the Concessionaire's failure to perform its obligations under this Agreement or which in the ordinary course of things would be likely to result there from (including, without limitation all related fees, costs and expenses).



### **Additional Remedies**

Following the occurrence of any material default and breach of this Agreement by the Concessionaire as set forth above, in addition to the foregoing remedies, the City may maintain the Concessionaire's right to possession, in which case this Agreement shall continue in effect whether or not the Concessionaire shall have abandoned the Leased Premises and, so long as this Agreement is not terminated by the City or by a decree of a court of competent jurisdiction, the City shall be entitled to enforce all of the City's rights and remedies hereunder, including the right to recover the rent as it becomes due under this Agreement and, during any such period, the City shall have the right to remedy any default of the Concessionaire, to maintain or improve the Leased Premises without terminating this Agreement, to incur expenses on behalf of the Concessionaire in seeking a new subtenant, to cause a receiver to be appointed to administer the Leased Premises and any new or existing subleases, and to add to the rent payable hereunder all of the City's reasonable costs in so doing, with interest at the maximum reasonable rate then permitted by law from the date of such expenditure until the same is repaid.

### **Cumulative Remedies**

Each right and remedy of the City provided for in this Article or now or hereafter existing at law or in equity, by statute or otherwise, shall be cumulative and shall not preclude the City from exercising any other rights or from pursuing any other remedies provided for in this Agreement or now or hereafter available to the City under the laws or judicial decisions of the State of Florida.

### **Indemnification**

Nothing contained within this section of this Article affects the right of the City to indemnification by the Concessionaire, as herein elsewhere provided, for liability arising from personal injuries or property damage prior to the termination of this Agreement.

### **Nonwaiver of Rights**

No waiver by the City at any time of any of the terms, conditions, covenants, or agreements of this Agreement, or noncompliance therewith, shall be deemed or taken as a waiver at any time thereafter of the same or other term, condition, covenant, or agreement herein contained, nor of the strict and prompt performance thereof by the Concessionaire. No delay, failure, or omission of the City to re-enter the Leased Premises or to exercise any right, power, privilege, or option arising from any default, nor subsequent acceptance of rentals, fees, and charges then or thereafter accrued, shall impair any such right, power, privilege, or option or be construed to be a waiver of any such fault or relinquishment thereof, or acquiescence therein.

No notice by the City shall be required to restore or revive time as of the essence hereof after waiver by the City of default in one or more instances. No option, right, power, remedy, or privilege of the City shall be construed as being exhausted or discharged by the exercise thereof in one or more instances. It is agreed that each and all of the rights, power, options, or remedies given to the City by this Agreement are cumulative and not one of them shall be exclusive of the other or exclusive of any remedies provided by law, and that the exercise of

one right, power, option, or remedy by the City shall not impair its rights to any other right, power, option, or remedy.

Continued performance by either party hereto pursuant to the terms of this Agreement after the other party's default of any of the terms, covenants, and conditions herein shall not be deemed a waiver of any right to terminate this Agreement for any subsequent default, and no waiver of any such default shall be construed as a waiver of any subsequent default.

No acceptance by the City of rentals, fees, charges, or other payments, in whole or in part, for any period or periods during or after a default of any of the terms, covenants, or conditions to be performed, kept, or observed by the Concessionaire, other than payment in full after a default in the payment of fees and charges required by this Agreement shall be deemed a waiver of any right on the part of the City to terminate this Agreement on account of such default.

Any other procedure for service of process recognized by the laws of the State of Florida shall be available to the City.

### **City's Right to Recontract**

The City, upon termination or cancellation by the Concessionaire pursuant to this Article, or upon re-entry, regaining, or resumption of possession hereof, may occupy the Leased Premises or may re-contract the same to another party, and shall have the right to permit any person, firm, or corporation to enter upon the Leased Premises and use the same to operate a car rental concession, provided said person, firm, or corporation meets the conditions set out in this Agreement. The rentals, fees, and charges paid to the City by such other party will be credited against, and serve to reduce the Concessionaire's obligations described above. This clause is not intended, and shall not be construed, to waive the City's right to sue the Concessionaire for breach of contract.

### **Surrender upon Termination**

Upon the expiration of the term or sooner termination of this Agreement, for any reason whatsoever, the Concessionaire shall peaceably surrender to the City possession of the Leased Premises, together with any improvements, alterations, or fixtures previously constructed by the Concessionaire or the City within said Leased Premises, and any of the City's personal property located thereon, in as good a condition as the Leased Premises and improvements, alterations, and fixtures constructed thereon were initially provided to, or constructed by, the City or the Concessionaire without any compensation whatsoever, and free and clear of any claims or interests of the Concessionaire or of any mortgages or any other third party whose position was derived from or through the Concessionaire. If any of said improvements, alterations, or fixtures are encumbered by a mortgage or lien at the time of expiration or sooner termination of this Agreement, the Concessionaire shall be responsible for eliminating said mortgage or lien and shall hold the City harmless therefrom.

The Concessionaire shall have the right to remove its items of personal property and Trade Fixtures from the Leased Premises through the close of business on the day of expiration or sooner termination of this Agreement. Should the Concessionaire fail to remove its personal property and Trade Fixtures within said time, the City shall have the right to remove said personal property and to place said personal property and Trade Fixtures into storage on the

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Concessionaire's behalf and at the Concessionaire's sole cost and expense. The City shall be entitled to reasonable rental from the Concessionaire for the use of the Leased Premises occupied by the Concessionaire's personal property and Trade Fixtures, until the City places said property into storage.

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

In addition, upon termination, the Concessionaire shall surrender all items listed in Exhibit A-4. All items surrendered will be in the same condition as they were when the Concessionaire occupied the Service Facility taking into account reasonable wear and tear as evidenced by Concessionaire's documentation of compliance with its facility maintenance requirements otherwise contained herein. The Concessionaire will be invoiced for missing, shopworn, dysfunctional, and damaged items based upon an end of tenancy inventory that shall be conducted within ten (10) days of the Concessionaire vacating the Service Facility.

#### **Environmental Contamination and Conditions**

Upon termination (whether by expiration of the term of this Agreement, cancellation, forfeiture, repurchase, or otherwise), the City may test the Leased Premises for environmental and/or petroleum contamination, the cost for which shall be reimbursed by the Concessionaire upon demand.

Any environmental contamination disclosed in the environmental assessment prepared at the termination of the Agreement not also disclosed in the baseline environmental assessment (see Exhibit A-5 attached hereto, the "Assessment") prepared prior to the Concessionaire taking possession of the Leased Premises, taking into account any matters that may have been reported in that baseline Assessment (but not detected due to improved detection methods at the time), shall be the sole responsibility of the Concessionaire, and the Concessionaire shall be obligated to promptly and continuously effect all remediation, assessment, and monitoring of such environmental contamination, and to have prepared, at its expense, a post-remediation environmental assessment substantiating completion of such remediation in accordance with all applicable laws and agency rules, including, without limitation, all post-remediation sampling, monitoring, and additional or supplemental remediation. The post-remediation environmental assessment and subsequent monitoring shall be certified to the City by a licensed Florida engineering firm.

The Concessionaire and its contractors shall coordinate and obtain prior approval from the City for all phases of investigations, assessments, and remediation. The City and the Concessionaire shall furnish to the other party true and complete copies of all environmental assessments and reports concerning the Leased Premises, including copies of all sampling and other data obtained as a result of any investigations, assessments, and remediation. During the term of this Agreement, the Concessionaire shall grant the City or the City's

designated representative access to the Leased Premises to perform any environmental assessment activities or inspections it deems necessary.

Notwithstanding any other provision contained in this Agreement, the parties hereto specifically agree that the provisions of this section will survive the termination of this Agreement and will inure and be enforceable against each and every successor and assigns of a party to this Agreement.

END OF ARTICLE

## **Article 14**

### **FACILITY MAINTENANCE**

Except as indicated herein, the City shall not be obligated to provide maintenance or repairs in or to or upon or adjoining the Leased Premises or to any structure(s) or other improvement(s) constructed/installed/located therein or thereon.

The following are the responsibilities of the parties hereto.

#### **Concessionaire's Responsibility**

Except as otherwise expressly provided in this Article, the Concessionaire shall, at its sole cost and expense, maintain all portions of the Leased Premises in accordance with the following.

#### **Terminal Building, Kiosk, and Rental Car Ready Areas**

Terminal building, kiosk, and ready/return areas shall be maintained and operated in accordance with Exhibit C, Operation and Maintenance Responsibilities. The Concessionaire, at its own expense, shall perform all preventive maintenance and ordinary upkeep and nonstructural repair of its Leased Premises and equipment, including but not limited to, fixtures, doors, floor coverings, and walls (painting and wall covering). The Concessionaire shall be required to keep all such areas in good operating condition and repair at all times.

1. During the term of this Agreement, the City shall provide, at its expense: Custodial services for the nonleased public areas of the terminal building
2. Pest control services for the Leased Premises and the adjacent areas

The Concessionaire agrees to keep all of the Leased Premises in the terminal building, and areas outside the terminal building used in the course of its normal daily operations, in a neat, clean, safe, sanitary, and orderly condition at all times; that it will keep such areas free at all times of all paper, rubbish, and debris; and that the Concessionaire will deposit all trash and debris resulting from its operations in its Leased Premises in containers approved by the City.

The Concessionaire agrees to provide, at its own expense, such janitorial and cleaning services and supplies for the maintenance of its Leased Premises in the terminal building, kiosk, and ready/return areas. The Concessionaire also agrees to keep and maintain the Leased Premises in the terminal building, kiosk, and ready/return areas in a clean, neat, and sanitary condition and attractive appearance, including the routine cleaning of the carpets in its terminal building office and ticket counter area, with "routine" being defined as at least quarterly.

All maintenance relating to the terminal building counter areas assigned for the rental car concession, including all equipment and furnishings therein, will be the responsibility of the Concessionaire and the Concessionaire will be required to keep the area in good operating condition and repair, shall keep such areas in a clean and neat condition and appearance, and shall provide all janitorial, carpet cleaning, and other services.

The Concessionaire shall be responsible for keeping the ready car area assigned to it free of paper, rubbish, and debris.

### **Service Facility**

The Concessionaire shall maintain the Service Facility in accordance with Exhibit C - Operating and Maintenance Responsibilities, at its sole cost and expense.

Further, the Service Facility portion of the Leased Premises shall at all times be kept in a clean, safe, and orderly condition and appearance, together with all fixtures, equipment, and personal property of the Concessionaire and the City thereon, and all rental car equipment and property at the sole cost and expense of the Concessionaire. The Concessionaire shall provide janitorial/custodial service within the office portions of the buildings at a level equivalent to a first class office building in Pensacola, Florida.

The Concessionaire at its sole expense shall take good care of the Leased Premises Improvements at the Service Facility, including, but not limited to, walls, windows, partitions, floors, ceilings, plumbing, and mechanical fixtures and systems, doors, columns, paving, fuel equipment and fueling system, car wash equipment and car wash system, fences between service sites, and gates installed by the City and shall perform day-to-day upkeep and preventive maintenance and make all structural and nonstructural repairs, repaving, replacements, rebuilding, and painting necessary to keep such premises in the condition existing at the completion of construction. To keep any equipment, improvements, additions, systems, and fixtures made or installed during the term hereof in the condition they were in when made or installed. Also, the Concessionaire is responsible for maintaining the surface storm water drainage facilities.

Further, the Concessionaire shall procure pest control services for the Service Facility. The pest control services specifications will be substantially the same as the pest control services specification in the City's contract with its pest control service contractor. Copies of this specification can be obtained from Airport administration.

Prior to the first Agreement Year of operation at the Service Facility the City shall deliver to the Concessionaire all warranty and operations and maintenance materials for the equipment and systems installed in the Service Facility. During the first Agreement Year, the City will assist the Concessionaire if needed to ensure that all warranty issues are resolved by its contractor(s) and the equipment suppliers.

The Concessionaire is to provide, at its sole expense, routine and preventative maintenance for all equipment and operating systems provided by the City and the routine and preventative maintenance will be consistent with the manufacturer's recommendations. Routine maintenance includes repairs, replacements, and renewal of equipment and systems.

For the systems and equipment listed below, the Concessionaire shall contract with service contractors for preventive maintenance. The service contractors must be certified by the manufacturers and have verifiable qualifications and experience providing preventative maintenance services on equipment and systems listed below.

Fuel system

Car wash system

Mechanical automobile hoist

Automated overhead doors

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Fire alarm/fire suppression systems

Heating, ventilating, and air conditioning system

Gate access

Central vacuum systems

Compressed air and fluids systems

Within ninety (90) days of the date of this Agreement, the Concessionaire shall submit to the City for approval its service contractors' qualifications and experience to perform preventative maintenance on the equipment and systems and a fully executed copy of the service contracts. The Concessionaire is encouraged to contract with the manufacturers of the equipment and systems for preventative maintenance.

The Concessionaire contracting with qualified service contractors to maintain the Service Facility equipment and systems is a material consideration for this Agreement. Failure to contract for these preventative maintenance services (and to maintain these contracts in full force and effect during the term of this Agreement) is a breach of the Agreement that will result in termination in accordance with the provisions of Article 13 hereof.

The Concessionaire will maintain maintenance records of all routine and preventative maintenance and the City may, as part of any inspection or audit, request the maintenance records for the operating systems and equipment provided by the City as part of the Service Facility.

If the City finds that the equipment or systems are not being maintained in accordance with the manufacturers' recommendations, the City will notify the Concessionaire in writing to complete the routine and preventative maintenance and failure by the Concessionaire to complete the maintenance and/or any repairs will constitute a default under this Agreement as specified in Article 13.

Re-lamping of all lights located within the Concessionaire's Service Facility shall be the responsibility of the Concessionaire.

### **Operation of Fuel Storage and Dispensing Equipment**

The Concessionaire shall operate the fuel facilities in such a manner as to meet all federal, State, and local requirements, and the Concessionaire will reduce (and in each instance where necessary by Environmental Laws or rule, timely report any such incident to the appropriate authorities and the City) to the minimum any spillage, overflowing, or escaping of gases, petroleum, or petroleum products to that which is reasonably practicable, considering the nature and extent of the Concessionaire's operations.

Further, the fuel tank is registered in the City's name. The fuel tank registration will be modified to show the City as the owner and the Concessionaire as the operator. The Concessionaire will be responsible for all annual or other inspection requirements and maintenance and repairs to the fuel tank and all associated system components and piping.

### **Disposable Waste**

The Concessionaire shall provide a complete and proper arrangement, in compliance with all ordinances of the City, for the adequate, sightly, and sanitary handling and disposal, away

from the Airport, of all solid waste, such as rubbish, grass clippings and landscape pruning, trash, garbage, discarded machinery or parts, and other refuse caused as a result of the Concessionaire's operations. The Concessionaire shall provide and use suitable covered metal receptacles for all garbage, trash, and any other solid industrial wastes. This shall be accomplished in a manner that is totally screened from and out of public view and prevents odors, fumes, attraction of pests, and dispersal of wastes due to vehicle operations, wind, or water runoff. Solid waste receptacles shall be serviced frequently by qualified waste removal and disposal services, and the area in which such receptacles are stored shall be kept clean and free of litter and debris.

A separate drainage, collection, and/or separation system is provided within and for the Leased Premises to ensure that no untreated liquid waste from any type of operation, including, but not limited to, paint stripping, steam and chemical cleaning, washing, or other types of maintenance activity on vehicles or equipment or components thereof, enters the Airport storm drainage system, sanitary sewer system, or aquifer. The Concessionaire shall, at all times, maintain this system and comply with all applicable laws, ordinances, rules, regulations, and/or orders of any governmental agency having authority or jurisdiction over the treatment or disposal of liquid waste.

### **City's Rights and Responsibilities**

#### **Terminal Building and Rental Ready Area**

In accordance with Exhibit C, Operation and Maintenance Responsibilities, the City shall maintain and repair those portions of the terminal building and the ready car area identified on Exhibit A-1 and Exhibit A-2. Such maintenance and repair shall be performed without additional charge to the Concessionaire, excepting damage or destruction caused by the Concessionaire, its officers, agents, employees, subcontractors, and invitees. In the event of any such damage or destruction, the Concessionaire shall be solely responsible for all cost and expense for or associated with such repair, including, but not limited to, engineering, architectural, or other consultants' fees; inspection fees; labor; and materials. In the event of such damage or destruction, the City may, at its option, require the Concessionaire to perform repairs to the satisfaction of the Airport Director, or itself perform or cause to be performed the same, in which event the Concessionaire shall reimburse the City for all such costs and expense incurred in connection therewith, upon receipt of demand therefor.

The City shall maintain the structural parts of the terminal building, described in Exhibit A-1, which structural parts shall include only the foundations, subflooring, roofs, including bearing and exterior walls, and glass and doors. The City shall:

1. At the counter location, provide maintenance for the floors and walls of the public areas of the building.
2. Maintain window frames, gutters, and downspouts of the terminal building.
3. Maintain the unexposed electrical, plumbing, and sewage systems of the terminal building.



4. Maintain heating, ventilation, air conditioning, electrical, and fire sprinkler systems within the terminal building.
5. Maintain ready car area pavement and lighting.
6. Provide janitorial services in the terminal building only for common areas.

The City shall be responsible for maintenance of the common areas of the Service Facility Area. Further, the City shall be responsible for the maintenance of the subsurface storm water facilities in the Service Facility Area.

### **Operating and Maintenance Responsibilities Matrix**

The operating and maintenance responsibilities of the parties are summarized in Exhibit C, Operation and Maintenance Responsibilities, attached hereto.

### **City's Right to Inspect and Make Repairs**

The City, by its authorized officers, employees, agents, contractors, subcontractors, and other representatives shall have the right (at reasonable times and with as little interruption of the Concessionaire's business as is reasonably practical), to enter upon the Leased Premises accompanied by an authorized representative, if practical, for the following purposes:

1. To inspect such area to determine whether the Concessionaire has complied, and is in compliance, with the terms and conditions of this Agreement. The City shall be the sole judge of the quality of cleaning, systems monitoring, preventative maintenance, and maintenance.
2. Upon reasonable notice to the Concessionaire to perform such maintenance, cleaning, or repair as the City reasonably deems necessary, and if the Concessionaire fails to perform its obligations under this Article, the City may perform the work and recover the reasonable cost of such maintenance, cleaning, or repair from the Concessionaire, plus a twenty-five percent (25%) administrative charge from the Concessionaire that constitutes Additional Rent and is due within ten (10) days of the date of the invoice sent to the Concessionaire by the City.
3. To perform any and all things that the Concessionaire is obligated to perform and has failed to perform after reasonable notice to do so.
4. In the exercise of the City's police powers.
5. Enter the Leased Premises to conduct end of Agreement inventories, inspections, assessments, and reletting activities.

Without limiting the generality of the foregoing, the City, by its officers, employees, representatives, and contractors, shall have the right, for the benefit of the Concessionaire or for the benefit of others at the Airport, to maintain existing or future utilities systems or portions thereof in the Leased Premises, including therein, without limitation thereto, systems

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for the supply of heat, hot and cold water, gas, electricity, and for the furnishing of fire alarm, fire protection, sewage, drainage, air conditioning, telephone, telegraph, and equipment connected with or appurtenant to all such systems, and to enter upon the Leased Premises at all reasonable times to make such repairs, alterations, and replacement as may, in the opinion of the City, be deemed necessary or advisable and from time to time, to construct or install over, in, under, or through the Leased Premises new lines, pipes, mains, wires, conduits, and equipment; provided, however, that such repair, alteration, replacement, or construction shall not unreasonably interfere with the use of the Leased Premises by the Concessionaire.

Notwithstanding the above language, the City shall have the right in the exercise of its police powers to immediate access to utilities systems or portions thereof in Leased Premises in the event of an emergency that would threaten the safety of human life and/or the Property of the City.

Nothing in this section shall, or shall be construed to, impose upon the City any obligations to construct or maintain or to make repairs, replacements, alterations, or additions, or shall create any liability for any failure so to do.

END OF ARTICLE

## **Article 15**

### **GENERAL PROVISIONS**

#### **Airport Development Rights**

Subject to the provisions of the Eminent Domain and Substitution of Premises/Leasehold Condemnation Rights discussed later in the Article, the City reserves the right to further develop or improve all areas within the Airport, including the terminal building, parking and roadways, landing areas, and the Service Facility Area as the City may determine, in its sole discretion (which discretion shall not be unreasonably exercised), to be in the best interest of the Airport, regardless of the desires or views of the Concessionaire and without further interference or hindrance from the Concessionaire. Further, the City retains the right to access any portion of the Leased Premises and any utilities and to perform work or construct necessary elements.

Except as may be required by this Agreement or any other agreement between the parties, the City reserves the right, but shall not be obligated to the Concessionaire, to keep and repair all areas, including landing areas, of the Airport.

The Agreement shall be subject and subordinate to the provisions and requirements of any existing or future agreements between the City and the United States government and the State of Florida, relative to the development, operation, and maintenance of the Airport, subject to the Concessionaire's rights hereunder.

#### **Agent for Service of Process**

It is expressly understood and agreed that if the Concessionaire is not a resident of the State of Florida, or is an association or partnership without a member or partner resident of said State, or is a foreign corporation, then, in any such event, the Concessionaire does designate the Secretary of State of the State of Florida, or its agent, for the purpose of service of process in any court action between it and the City arising out of or based upon this Agreement, and the service shall be made as provided by the laws of the State of Florida for service upon a nonresident. It is further expressly agreed, covenanted, and stipulated that, if for any reason, service of such process is not possible, and as an alternative method of service of process, the Concessionaire may be personally served with such process out of this State by the registered mailing of such complaint and process to the Concessionaire at the address set out hereafter in this Agreement under the section entitled "Notices." Any such service out of this State shall constitute valid service upon the Concessionaire as of the date of mailing, and the Concessionaire shall have thirty-five (35) days from date of mailing to respond thereto. It is further expressly agreed that the Concessionaire is amenable to and hereby agrees to the process so served, submits to the jurisdiction, and waives any and all obligations and protest thereto, any laws to the contrary notwithstanding.

#### **Waiver of Jury Trial, and Complete Agreement**

The parties hereby waive trial by jury in any action, proceeding or counterclaim brought by any party against the other on any matters whatsoever arising out of or any way connected with this Agreement, the relationship of the parties, or pertaining to a party's use or occupancy of the

Service Facility or adjacent City properties. This waiver of jury trial is material inducement to the agreement of each party to enter into this Agreement.

This Agreement, including the above recitals and all attachments hereto, all of which are incorporated herein as agreed upon terms and conditions, constitutes the entire agreement between the parties and is deemed to subsume any previous agreement whether written or oral. This Agreement may be amended only in a writing signed by all parties hereto.

### **Authorization**

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

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

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

If the Concessionaire is a limited liability company, the undersigned warrants and represents that (1) he/she is the managing member or member of the limited liability company authorized to execute this Agreement on the limited liability company's behalf; (2) his/her execution of this Agreement has been authorized by all of the members of the limited liability company and is in the usual course of the company's business; and (3) by his/her execution of this Agreement, the limited liability company shall be deemed a signatory to this Agreement.

### **Collateralization Rights**

The Concessionaire is hereby authorized to use as collateral any of its Trade Fixtures it places on the Leased Premises, and any of its personal property used or stored on the Leased Premises.

Concessionaire shall not use as collateral this Agreement itself, its operating rights under this Agreement, or its right to occupy or use any improvements or fixtures it constructs or installs on its Leased Premises. If the Concessionaire assigns this Agreement, or its operating rights under this Agreement, or its right to occupy or use any improvements or fixtures it constructs or installs on its Leased Premises to a third party as collateral for a loan the Concessionaire obtains from said third party, or to secure performance of the Concessionaire's obligations under an agreement with said third party, or for any other reason whatsoever, said assignment shall be deemed a material breach of this Agreement. Furthermore, said collateralization shall not be binding upon the City, and the assignee or lien holder shall have no interest in the Agreement, nor shall assignee or lien holder enjoy any concession operating rights upon the Airport, or any right to occupy or use any improvement or fixture upon the Airport,

should the Concessionaire default in the payment of its loan, or performance of its agreement, with said third party.

Should the Concessionaire encumber any Improvements or Trade Fixtures it constructs or installs upon the Leased Premises, the Concessionaire shall be responsible for eliminating said lien or encumbrance, and holding the City harmless from said encumbrance, at the time said Improvements and Trade Fixtures are conveyed to the City, following the expiration or sooner termination of this Agreement.

### **Compliance with Rules and Regulations**

It is expressly understood that the Concessionaire agrees to conform to all federal, State, or local laws and regulations, as well as all City of Pensacola Codes and Ordinances, all of which may apply to the services to be performed, and that the Concessionaire agrees that the City of Pensacola is to be held free and harmless from any act or failures by the Concessionaire to do so. The Concessionaire understands and agrees that all documents, reports, and other records relating to this Agreement shall be governed by Chapter 119 of the Florida Statutes, the Public Records Law.

The Concessionaire shall obtain and maintain in force all licenses, permits and other certificates required by federal, State, City, or municipal authorities for its operation under the terms of this Agreement.

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

If the City incurs any fines and/or penalties imposed by federal, State, City, or municipal authorities as a result of the acts or omissions of the Concessionaire, its employees, invitees, agents, and guests, then the Concessionaire shall be responsible to pay or reimburse the City for all such costs and expenses.

### **Concurrence by FAA and TSA**

In the event that, prior to execution of this Agreement, the Federal Aviation Administration or the Transportation Security Administration or their successors require changes in this Agreement as a condition precedent to its concurrence, the Concessionaire agrees to consent to such modifications of any of the terms, conditions, or requirements of this Agreement as may be reasonably required to obtain such concurrence.

### **Consent of the Parties**

Where this Agreement requires the consent of one or more parties, the Concessionaire and the City agree that such consent shall not be unreasonably withheld or delayed.

### **Damage to Airport**

The Concessionaire shall be liable for any damage to its Leased Premises and Trade Fixtures thereon and to the Airport and to any improvements thereon caused by the Concessionaire, its partners, officers, agents, employees, invitees, contractors, subcontractors, assigns, subtenants, or anyone acting under its direction and control, ordinary wear and tear (as

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determined by the City) excepted. All repairs for which the Concessionaire is liable shall be made by the Concessionaire with due diligence and in a manner acceptable to the City unless the City determines that it is more appropriate for the City to make the repairs. In such case, the City shall make the repairs at the Concessionaire's expense. All repairs for which the Concessionaire is liable and which are not undertaken after the City has given the Concessionaire notice to so do shall be performed by the City, in which event the Concessionaire shall reimburse the City for the cost thereof, plus a twenty-five percent (25%) administrative charge as Additional Rent, and said amount shall be due no later than the next payment otherwise due the City.

### **Disadvantaged Business Enterprise (DBE) Participation**

The requirements of 49 CFR Part 23, regulations of the U.S. Department of Transportation, applies to this rental car concession. It is the policy of the City to practice nondiscrimination based on race, color, sex, or national origin in award or performance of these concession services. All firms qualifying under this solicitation are encouraged to submit proposals. These requirements apply to all concessionaires, firms, and suppliers. A DBE concession specific goal of ten percent (10%) of (annual gross receipts; value of leases and/or purchases of goods and services) has been established for this concession. The Concessionaire shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26, to meet the concession specific goal for DBE participation in the performance of this concession.

The Concessionaire will be required to submit the following information: (1) the names and addresses of DBE firms and suppliers that will participate in the concession, (2) a description of the work that each DBE will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) written and signed documentation of commitment to use a DBE whose participation is intended to meet a contract goal; (5) written and signed confirmation from the DBE that it is participating in the concession as provided in the Concessionaire's commitment, and (6) if the contract goal is not met, evidence of good faith efforts.

### **Eminent Domain**

In the event that all or any portion of the Leased Premises is taken for any public or quasi-public purpose by any lawful condemning or by the City exercising its powers of eminent domain (or in the event that all or any portion of the Leased Premises is conveyed to such a condemning, the City, in settlement and acceptance of such condemning, offers to purchase all or any portion of the Leased Premises under power of condemnation or eminent domain), the proceeds, if any, will be deposited in the Airport Fund. If a portion of the Leased Premises is to be taken or sold, and as a result thereof, the remaining part cannot reasonably be used to continue the authorized purposes contemplated by this Agreement, as set forth in Article 4, Privileges and Uses, in an economically viable manner, then this Agreement shall be deemed terminated at the end of a period of sixty (60) days following said taking or conveyance, and the Concessionaire's obligations hereunder, including payment of rent and performance of other terms and conditions of this Agreement, shall cease accruing following said 60 day period. At the end of said 60 day period, the Concessionaire shall surrender the Leased Premises and the Improvements, fixtures, and personal property located thereon, in accordance with the provisions below.

The City expressly reserves the right to grant or take easements or right-of-way across the Leased Premises if the City determines it is in its best interest and in accordance with applicable Florida law of eminent domain.

### **Entire Agreement**

This writing is the entire agreement of the parties. No representation, warranties, inducements, or oral agreements previously made between the parties shall continue unless stated herein. This Agreement shall not be changed, modified, or rescinded except in writing, signed by all parties.

### **Environmental Compliance**

The Concessionaire shall, at all times, abide by all Environmental Laws applicable to, concerning, or arising from the Concessionaire's actions and inactions resulting directly or indirectly from its occupancy, use, or lease of its Service Facility and surrounding City properties, including, without limitation, State and federal laws regulating storm water runoff contamination and pollution prevention, State and federal laws regulating soil, water, and groundwater quality, and State and federal laws regulating air quality. With regard to storm water runoff and any compliance matters related thereto, the parties hereby agree that it is Concessionaire's sole responsibility to timely file or amend any required application, Notice of Intent, or permit, as well as make themselves aware of and comply with any and all Environmental Laws and SWPPPs (Storm Water Pollution Prevention Plans) that may pertain to its operations and occupancy of City property.

### **Exclusivity**

The City agrees that it will not permit more than six (6) rental car concessions to operate simultaneously from the Airport at any given time during the term of this Agreement. However, if the City executes fewer than 6 rental car concession agreements pursuant to the subject Request for Proposals, or if the City terminates a concessionaire's concession rights because of the concessionaire's default under its Agreement, the City reserves the right, but shall not be obligated, to award a rental car concession to any third party whomsoever, upon terms and conditions acceptable to the City, subject to the provisions hereof and subject to the same expiration date as those rental car concession agreements entered into in response to the Request for Proposals, provided that no more than 6 concessions are operating from the Airport at any one time.

The City shall have the right to permit other rental car companies, with which the City has not executed rental car concession agreements, to enter upon the Airport and terminal building to pick up and drop off their customers, to purchase advertising space on the Airport and within the terminal building, to permit said other rental car companies to establish a courtesy phone system on the Airport, and to permit said other rental car companies to service individuals arriving and departing the fixed base operation and corporate operations located upon the Airport, including the placement of rental vehicles at the fixed base operation and corporate operations for use by their customers.

### **Federal Aviation Act - Section 308**

Nothing herein contained shall be deemed to grant the Concessionaire any exclusive right or privilege within the meaning of Section 308 of the Federal Aviation Act of 1958, as amended, for the conduct of any activity on the Airport, except that, subject to the terms and provisions hereof, the Concessionaire shall have the right to exclusive possession of the Leased Premises under the provisions of the Agreement.

### **Force Majeure**

Neither the City nor the Concessionaire shall be deemed in violation of this Agreement if it is prevented from performing any of the obligations hereunder by any reason of rental car (but not airline) strikes, walkouts, or other rental car industry related labor disputes, embargoes, shortages of material, acts of God, weather conditions such as hurricanes, tornadoes, or floods, acts of war, or terrorist attack.

### **Governing Law**

This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. Venues for any actions arising out of this Agreement will lie in Escambia County, Florida.

### **Headings**

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

### **Incorporation of Exhibits**

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

### **Incorporation of Required Provisions**

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

### **Labor**

The Concessionaire warrants that it will not take any action or refrain from taking any action that will cause any labor problem that will affect the City directly or remotely in the event of any strike, walk out, or other labor problem or difficulty directly or indirectly related in any way to this Agreement, the Concessionaire, the Concessionaire's business, or the Concessionaire's action or inaction and the Concessionaire shall save the City harmless from all liability whatsoever and shall indemnify the City for all demands, claims, judgments, arbitration awards, and other costs arising therefrom.

### **Lawful and Reasonable Use**

The Concessionaire may not do anything in or upon the Leased Premises, nor bring or keep anything therein, which shall unreasonably increase or tend to increase the risk of fire, or cause a safety hazard to persons, or obstruct or interfere with the rights of any other tenant(s),

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or in any way injure or annoy them, or which violates or causes violation of any applicable health, fire, environmental, or other regulation of any level of government. The Airport Director may inform the Concessionaire of such violation and set a date for abatement.

### **No Diversion**

The Concessionaire shall not, through its officers, agents, representatives, or employees, divert or cause to be diverted prospective rental car customers from the Airport, in order to avoid paying percentage of Gross Revenue payments or Customer Facility Charges to the City.

### **Nondiscrimination**

This Agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23, Subpart F. The Concessionaire agrees that it will not discriminate against any business owner because of the owners race, color, national origin, or sex in connection with the award or performance of any concession agreement covered by 49 CFR Part 23, Subpart F.

The Concessionaire agrees to include the above statements in any subsequent concession agreements that it enters into and to cause those businesses to similarly include the statements in further agreements.

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

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

Noncompliance with the above provisions, after written findings, shall constitute a material breach hereof and in the event of such noncompliance, the City shall have the right to terminate this Agreement and the estate hereby created without liability therefor or at the election of the City or the United States, either or both said governments shall have the right to judicially enforce said above provisions.

**Nonliability of Agents and Employees**

No member, officer, agent, director, or employee of the City or the Concessionaire shall be charged personally or held contractually liable by or to the other party under term or provision of this Agreement or because of any breach hereof or because of its or their execution or attempted execution.

**Notices**

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

Airport Director  
Pensacola International Airport  
2430 Airport Boulevard, Suite 225  
Pensacola, Florida 32504

All notices to the Concessionaire shall be mailed to:

Executive Car Rental, Inc.  
2387 E. 8 Mile Road  
Warren, MI 48091  
Attn: Mr. Zubair Ahmed

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

**Other Locations**

Upon terms and conditions acceptable to the City, the Concessionaire may establish, on either an exclusive or non-exclusive basis, arrangements with other Airport tenants, other than Airport tenants located in the Airport terminal building, whereby the Concessionaire may rent Motor Vehicles from the leased premises of said tenant on the Airport, provided that gross revenues from said rental transactions shall be included in "Gross Revenues" as defined in this Agreement; and provided further that the Concessionaire must continue to maintain and operate its office and rental car counter area in the Airport terminal building.

**Quiet Enjoyment**

The City represents that, upon the payment of fees when due and upon performance of all other conditions herein, the Concessionaire shall peaceably have, possess, and enjoy the Leased Premises and uses herein granted without hindrance or disturbance from the City, subject to the City's audit, inspection, eminent domain, relocation, and Airport development rights discussed elsewhere herein.

**Relationship of Parties**

Except as otherwise specifically provided herein, it is understood that the City is not in any way or for any purpose partner or joint venturer with, or agent of, the Concessionaire in its use of the Leased Premises.

## **Renewal**

The Concessionaire understands and agrees that, at the termination of the Agreement term, the Concessionaire shall have no guaranteed or preferential right of maintaining its Airport rental car concession rights. Should the Concessionaire desire to renew its Airport rental car concession rights following the expiration of this Agreement, the Concessionaire shall submit a proposal, pursuant to the Request for Proposals issued by the City at said time. The Concessionaire's proposal shall be reviewed by the City, along with all other proposals, if any, in accordance with the criteria, terms, and conditions established by the City for the award of new concession operating rights, set forth in the Request for Proposals issued by the City at said time. Past and persistent breaches by the Concessionaire under this Agreement shall be sufficient cause for the City, in its sole discretion, to refuse to relet the Leased Premises to the Concessionaire whether or not said past breaches were cured by the Concessionaire.

## **Severability**

If one or more clauses, sections, or provisions of this Agreement shall be held to be unlawful, invalid, or unenforceable, it is agreed that the remainder of the Agreement shall not be affected thereby.

## **Subordination**

This Agreement shall be subordinate to existing and future Airport Bond Resolutions and the City's *Rental Car Business Regulation – City Code Section 10-2-80*. Conflicts between this Agreement and the Bond Resolution, as it may be amended or supplemented from time to time, or any other resolution of the City authorizing the issuance of bonds to finance Airport improvements.

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

Any agreements hereafter made between the City and the United States will not be inconsistent with rights granted to the Concessionaire herein.

## **Substitution of Premises/Leasehold Condemnation Rights**

The Concessionaire understands and agrees that the City has the right to take all or any portion of the Leased Premises, and any additions, alterations, or improvements thereon, should the City, in its sole discretion, determine that said portion of the Leased Premises, and improvements thereon, are required for other Airport purposes. If such action is taken, the City shall substitute comparable areas within the Airport, or any additions or extensions thereof, brought to the same level of improvement as the area taken. The City shall bear all expenses of bringing the substituted area to the same level of improvement as the area taken,

and of moving the Concessionaire's improvements, equipment, furniture, and fixtures to the substituted area. If any of the Concessionaire's improvements, equipment, furniture, or fixtures cannot be relocated, the City shall replace, at its own expense, such non-relocatable improvements and other property with comparable property in the substituted area, and the City shall be deemed the owner of the non-relocated improvements and other property, free and clear of all claims of any interest or title therein by the Concessionaire, or any mortgagee or other third party. It is the specific intent of this paragraph that the Concessionaire be placed, to the extent possible, in the same position it would have been had the City not substituted new premises for the Leased Premises; provided, however, that the City shall not be obligated to reimburse the Concessionaire for lost profits or revenues due to such substitution. In the event that the substituted area results in percentage payments to the City of less than the Concessionaire's Minimum Annual Guarantee per month, the Concessionaire shall have the right to cancel this Agreement by giving the City sixty (60) days written notice. It is expressly understood by the Concessionaire that this paragraph does not apply to the initial allocation of rental car counters, kiosks, and rental car parking spaces in response to RFP No. 09-028.

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

### **Taxes and Fees**

Any and all taxes, fees, and charges of whatever character that may be levied, assessed, or charged by any governmental entity shall be paid directly by the Concessionaire. The Concessionaire shall have the right at its sole cost and expense to contest the amount or validity of any taxes, fees, or licenses as may have been levied, assessed, or charged. The Concessionaire shall reimburse the City for any taxes and fees levied on the City for spaces used or occupied by the Concessionaire.

In accordance with Florida law, every person who rents or leases any real property or who grants a license to use, occupy, or enter upon any real property is exercising a taxable privilege. The tax shall be added to the sales price or rental and the amount of the tax shall be separately stated as Florida tax on any charge tickets, sales slips, invoices, or other tangible evidence of sale or rental. The City will forward to the Concessionaire invoices for sales tax and the Concessionaire will pay the tax to the taxing agency.

### **Time Is of the Essence**

Time is of the essence for this Agreement.

**Vending Machines and Exclusive Concessions**

No amusement or vending machines or other machines operated by coins or tokens shall be installed or maintained in or upon the Leased Premises, or any improvements or additions thereon, except with the permission of the City; and the number, type, kind, and locations thereof shall be solely at the discretion of the City. The Concessionaire shall not permit the installation of any such machines, except by an entity authorized by the City or unless the City agrees to the Concessionaire or its subtenants installing their own machines for use by employees and guests of the Concessionaire and its subtenants. In using its Leased Premises, the Concessionaire shall not violate in any manner the exclusive use rights that have been granted, or may be granted in the future, by the City to other businesses servicing the terminal building and the Airport.

**Waiver of Claims**

The Concessionaire hereby waives any claim against the City of Pensacola, Florida, and its officers or employees for loss of anticipated profits caused by any suit or proceedings directly or indirectly attacking the validity of this Agreement or any part hereof, or by any judgment or award in any suit proceeding declaring this Agreement null, void, or avoidable, or delaying the same or any part hereof, from being carried out.

**Public Records Laws**

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

END OF ARTICLE



## **Attachment "A"**

**PUBLIC RECORDS:** Consultant/Contractor/Vendor shall comply with Chapter 119, Florida Statutes. Specifically, Consultant/ Contractor/Vendor shall:

- A. Keep and maintain public records required by the City to perform the service.
- B. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
- C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following the completion of the Agreement if Consultant/ Contractor/Vendor 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 Consultant/Contractor/Vendor or keep and maintain public records required by the City to perform the service. If Consultant/Contractor/Vendor transfers all public records to City upon completion of the Agreement, Consultant/ Contractor/Vendor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Consultant/Contractor/Vendor keeps and maintains public records upon completion of the Agreement, Consultant/Contractor/Vendor 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 Consultant/Contractor/Vendor to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Agreement by City.

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

## **EXHIBITS**

Exhibit A-1: Leased Premises - Terminal Building

Exhibit A-2: Leased Premises - Ready/Return Parking Space and Kiosk

Exhibit A-3: Leased Premises - Service Facility Site Plan

Exhibit A-4: Leased Premises - Service Facility Assigned to Concessionaire

Exhibit A-5: Cameron-Cole Environmental Baseline Report

Exhibit B: Reserved

Exhibit C: Operating and Maintenance Responsibilities Matrix

Exhibit D: Federal Aviation Administration Grant Assurances

Exhibit E: Monthly Privilege Fee and CFC Revenue Report Format





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

**File #:** 20-00028

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor  
City Council President Jewel Cannada-Wynn

**SUBJECT:**

APPOINTMENTS TO AFFORDABLE HOUSING TASK FORCE

**RECOMMENDATION:**

That City Council approve the following 13 appointees to the Affordable Housing Task Force:

1. Douglas Brown, Executive Director, Community Action Program Committee, Inc.
2. George Ed Brown, Jr., Vice President, United Bank
3. Rick Byars, Regional Manager, Corporate External Affairs, Gulf Power Company
4. Timothy Evans, Executive Director, Pensacola Habitat for Humanity
5. Frederick Gant, Attorney
6. Laura Gilmore, Branch Manager, Senior Loan Officer, Fairway Independent Mortgage Corporation
7. Percy Goodman, Executive Director, Community Enterprise Investment, Inc.
8. Carolyn Grawi, Executive Director, Center for Independent Living of Northwest Florida, Inc.
9. Shirley Henderson, Deputy Executive Director, Area Housing Commission
10. Patricia Lott, Executive Director, Escambia County Housing Finance Authority
11. John Rickmon, Real Estate Broker
12. Paul Ritz, Architect, Bullock Tice Associates
13. Renee' Wilhoit, Market Sales Leader, Synovus Mortgage Corporation

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On October 24, 2019, City Council authorized the establishment of an Affordable Housing Task Force. The goal of the task force is to research and propose solutions for the development of affordable, workforce housing. Additionally, the task force members will look at funding opportunities and solutions to housing in reference to the diversity of housing types.

The Task Force members will participate in four public meetings planned for February 2020 through May 2020. A final report incorporating task force member recommendations will be presented to City

Council in the Summer of 2020.

Additionally, members of the Escambia/Pensacola Affordable Housing Advisory Committee (AHAC) were invited to serve on the task force. The AHAC members are jointly appointed by City Council and Escambia County, per statutory guidelines, to serve as an advisory committee. The committee makes recommendations to the City Council and the Board of County Commissioners regarding initiatives to encourage and facilitate affordable housing programs.

**PRIOR ACTION:**

October 24, 2019 - City Council authorized the establishment of an Affordable Housing Task Force

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator - Community Development  
Don Kraher, Council Executive  
Marcie Whitaker, Housing Administrator

**ATTACHMENTS:**

None

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00033

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PORT TARIFF REVISIONS

### **RECOMMENDATION:**

That City Council approve the proposed revisions to Port of Pensacola Tariff No. 5A. Further, that City Council authorize the Mayor take all actions necessary to implement the changes.

**HEARING REQUIRED:** No Hearing Required

### **SUMMARY:**

As a public seaport, the Port of Pensacola is required under Federal Maritime Commission rules and regulations to maintain a publicly-available tariff that sets forth the rules, regulations, policies, procedures, rates, charges, and fees applicable to the conduct of business at the Port.

Additionally, the Port of Pensacola is a member of the Gulf Seaport Marine Terminals Conference (GSMTC), a rate-setting conference which is registered with the Federal Maritime Commission and enjoys anti-trust immunity under the laws of the United States.

Per section 10-3-17 (b) of the City of Pensacola Code of Ordinances, changes to the tariff may be made by the Mayor with City Council approval.

The specific tariff revisions being proposed:

- Increase vessel security fee rates to current GSMTC rates
- Under section 400 on dockage, addition of a note allowing additional vessel charges as directed by Port Director.

### **PRIOR ACTION:**

June 13, 2019 - City Council approved an administrative revision regarding the Gulf Seaports Marine Terminal Conference as well as increases in rates for the following: wharfage, dockage, security surcharge, and other miscellaneous charges. Further, City Council authorized the Mayor to amend

Port of Pensacola Terminal Tariff No. 5A to reflect the changes.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

The proposed tariff revisions increasing rates will result in increased revenue to the Port.

**CITY ATTORNEY REVIEW:** Yes

1/2/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator

Richard Barker, Jr., Deputy City Administrator - Administration & Enterprise

Amy Miller, Port Director

**ATTACHMENTS:**

- 1) Proposed Revised Port Tariff No. 5A - markup version

**PRESENTATION:** No

## Terminal Tariff 5-A

Containing Rates, Charges, Rules and Regulations Applicable to Facilities at the

### PORT OF PENSACOLA

(An Enterprise Department of the City of Pensacola)

Originally Issued: September 15, 2005

Revisions Effective: **February 1, 2020**

**PORT OF PENSACOLA**  
**TARIFF NO. 5-A**  
**P.O. Box 889**  
**Pensacola, FL 32594-0889**

**Issued by:**

Amy S. Miller  
Port Director  
Telephone: 850-436-5070  
Fax: 850-436-5076  
Email: [amiller@portofpensacola.com](mailto:amiller@portofpensacola.com)

**Other Staff Contacts:**

Clark Merritt  
Business Development Manager  
Telephone: 850-436-5070  
Fax: 850-436-5076  
Email: [cmerritt@portofpensacola.com](mailto:cmerritt@portofpensacola.com)

Reference Federal Maritime Commission Carrier List FMC1  
Marine Terminal Operator Organization #002049

Revisions Effective: July 1, 2019

## PORT TERMINAL TARIFF 5-A

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## Port Terminal Tariff 5-A

### SECTION ONE – DEFINITIONS

ITEM #:	DEFINITION
100	<p><b>GULF SEAPORTS MARINE TERMINAL CONFERENCE</b> (Effective: April 25, 2016)</p> <p>GULF SEAPORTS MARINE TERMINAL CONFERENCE FEDERAL MARITIME COMMISSION AGREEMENT NO. 224-200163 APPROVED DECEMBER 2, 1988 PARTICIPATING MEMBERS:</p> <ol style="list-style-type: none"> <li>1. Board of Commissioners of the Port of New Orleans</li> <li>2. Board of Commissioners of Lake Charles Harbor and Terminal District</li> <li>3. Greater Baton Rouge Port Commission</li> <li>4. Orange County Navigation and Port District, Orange, Texas</li> <li>5. Mississippi State Port Authority at Gulfport</li> <li>6. Board of Commissioners of the Port of Beaumont, Navigation District of Jefferson County, Texas</li> <li>7. Port Commission of the Port of Houston Authority of Harris County, Texas</li> <li>8. Board of Trustees of the Galveston Wharves</li> <li>9. Alabama State Docks - Port of Mobile</li> <li>10. South Louisiana Port Commission, LaPlace, Louisiana</li> <li>11. Brownsville Navigation District of Cameron County, Texas</li> <li>12. Port of Port Arthur Navigation District of Jefferson County, Texas</li> <li>13. Tampa Port Authority</li> <li>14. Port of Corpus Christi Authority</li> <li>15. Panama City Port Authority</li> <li>16. Port of Pensacola</li> <li>17. Brazos River Harbor Navigation District, Freeport, Texas</li> <li>18. Port of Pascagoula, Pascagoula, Mississippi</li> <li>19. Manatee Port Authority</li> <li>20. St. Bernard Port, Harbor and Terminal District</li> </ol> <p>Notice: The Gulf Seaports Marine Terminal Conference Agreement permits the participating members to discuss and agree upon port terminal rates, charges, rules, and regulations. Any such rates, charges, rules, and regulations, adopted pursuant to said agreement, shall be published in the respective tariffs of said members and so identified by proper Symbol and explanation.</p> <p><b><u>SHIPPER'S REQUESTS AND COMPLAINTS:</u></b> Shippers, or other users of the facilities and services of the members of said conference, desiring to present requests or complaints with respect to any such rates, charges, rules and regulations, adopted pursuant to said Conference agreement, should submit the same, in writing, to the chairman of the Conference, at the address below, giving full particulars, including all relevant facts, conditions and circumstances pertaining to the request or complaint. Should further information be required by the Conference for full consideration of the request or</p>

	<p>complaint, the Conference Chairman will so advise by mail. The said chairman will notify such shipper or complainant of the docketing of the matter and the date and time of the proposed meeting, and if said shipper or complainant desires to be heard, he shall make request therefore upon the Conference Chairman in advance of the meeting.</p> <p>Bill Inge, Conference Chairman c/o Alabama State Port Authority P.O. Box 1588 Mobile, AL 36633</p>
<b>102</b>	<p><b>AGENT OR VESSEL AGENT</b> (Effective: September 15, 2005)</p>
	The party or entity which submits the application for berth.
<b>104</b>	<p><b>APRON, APRON WHARF, WHARF APRON</b> (Effective: September 15, 2005)</p>
	That part of the wharf structure lying between the outer edge of the guard rail and the transit shed; or, as to open wharves, that part of the wharf structure carried on piles beyond the fill.
<b>106</b>	<p><b>ARRIVAL DATE; DATE OF ARRIVAL; ARRIVAL</b> (Effective: September 15, 2005)</p>
	The date and time at which a vessel arrives at the Port of Pensacola and is moored at her berth.
<b>108</b>	<p><b>BERTH</b> (Effective: September 15, 2005)</p>
	The water area at the edge of a wharf, including mooring facilities, used by a vessel while docked.
<b>110</b>	<p><b>BONDED STORAGE</b> (Effective: September 15, 2005)</p>
	Storage accomplished under bond payable to the United States Treasury Department until cleared for entry by United States Customs.
<b>112</b>	<p><b>CHECKING</b> (Effective: September 15, 2005)</p>
	The service of counting and checking cargo against appropriate documents for the account of the cargo or the vessel, or other person requesting same.
<b>114</b>	<p><b>CONTAINER</b> (Effective: September 15, 2005)</p>
	A standard (I.S.O.) seagoing container 20 feet in length or over.
<b>116</b>	<p><b>DAY</b> (Effective: September 15, 2005)</p>
	A consecutive 24-hour period or fraction thereof.
<b>118</b>	<p><b>DOCKAGE</b> (Effective: September 15, 2005)</p>
	The charge assessed against a vessel for berthing at a wharf, pier, bulkhead structure, or bank or for mooring to a vessel so berthed.
<b>120</b>	<p><b>END OF SHIP'S TACKLE</b> (Effective: September 15, 2005)</p>

	Wherever in this tariff the term end of ship's tackle is used, it means that immediate moment in time that a container or cargo is on hook or gear of ship or stevedore simultaneous with fastening of the container or cargo to or release of the container or cargo from the hook or gear.
<b>121</b>	<b>ESCORT</b> (Effective: May 1, 2014) An individual who has been issued a TWIC, who engages in escorting, as defined, and who assumes the responsibility for accompanying authorized non-TWIC holder(s) into a Secure Restricted Area.
<b>122</b>	<b>ESCORTING</b> (Effective: May 1, 2014)
	Ensuring that the escorted individual is continuously accompanied while within a Secure Restricted area in a manner sufficient to observe whether the escorted individual is engaged in activities other than those of which escorted access was granted.
<b>123</b>	<b>FREE TIME</b> (Effective: September 15, 2005)
	The specified period during which cargo may occupy space assigned to it on terminal property free of wharf demurrage or terminal storage charges immediately prior to the unloading or subsequent to the discharge of such cargo on or off the vessel.
<b>124</b>	<b>FREIGHT HANDLER</b> (Effective: September 15, 2005)
	As used in this tariff, the term freight handler refers to and includes persons, firms, corporations, or other business entities and their subsidiaries, engaged in the physical loading or unloading of trucks or railcars, or engaged in any other cargo handling operations. Freight handlers may not load/unload commercial cargo vessels or barges.
<b>126</b>	<b>GRT/LOA</b> (Effective: September 15, 2005)
	Whenever used in this tariff with respect to a vessel the term "GRT" means the tonnage figure, or if more than one, the highest tonnage figure, appearing in Lloyd's Register of Shipping as the official gross registered tonnage of the vessel; "LOA" designation refers to the length overall of a vessel as reflected in Lloyd's Register of Shipping.
<b>128</b>	<b>HANDLING</b> (Effective: September 15, 2005)
	The service of physically moving cargo between point of rest and any place on the terminal facility, other than the end of ship's tackle.
<b>130</b>	<b>HARBOR FEE</b> (Effective: September 15, 2005)
	The charge assessed against a vessel for use of the harbor and waterways of the port.
<b>132</b>	<b>HEAVY LIFT</b> (Effective: September 15, 2005)
	The service of providing heavy lift cranes or equipment for lifting cargo.
<b>134</b>	<b>HEAVY LIFT CARGO</b> (Effective: September 15, 2005)
	A single unit of cargo exceeding a weight of 75,000 pounds.
<b>136</b>	<b>LINER SERVICE</b>

	<b>(Effective: September 15, 2005)</b>
	Vessels making regularly-scheduled calls for the receipt and delivery of cargo or passengers at this port.
<b>138</b>	<b>LOADING OR UNLOADING</b> <b>(Effective: September 15, 2005)</b>
	The service of loading or unloading cargo between any place on the terminal and railroad cars, trucks, or any other means of conveyance to or from the terminal facility. All loading and unloading rates contained in this tariff are exclusive of any securing, blocking and/or bracing required to be performed by the cargo handling permittee.
<b>140</b>	<b>MARGINAL TRACKS</b> <b>(Effective: September 15, 2005)</b>
	Railroad tracks on the wharf apron within reach of ship's tackle.
<b>142</b>	<b>POINT OF REST</b> <b>(Effective: September 15, 2005)</b>
	The area of the terminal facility which is assigned for the receipt of inbound cargo from the ship and from which inbound cargo may be delivered to the consignee and that area which is assigned for the receipt of outbound cargo from shipper for loading of vessel.
<b>144</b>	<b>PORT DIRECTOR</b> <b>(Effective: September 15, 2005)</b>
	As used in this tariff, the term port director includes the port director's duly-authorized representative.
<b>146</b>	<b>PORT OF PENSACOLA</b> <b>(Effective: September 15, 2005)</b>
	As used in this tariff, the term Port of Pensacola includes, when applicable, the City of Pensacola as the port's parent agency and/or the Pensacola City Council as the port's governing body.
<b>148</b>	<b>SAILING DATE; DATE OF SAILING; DEPARTURE DATE</b> <b>(Effective: September 15, 2005)</b>
	The date and time at which a vessel releases her final mooring line and is underway.
<b>149</b>	<b>SECURE RESTRICTED AREA</b> <b>(Effective May 1, 2014)</b>
	The area over which an owner/operator has implemented security measures for limited access and a higher degree of security protection.
<b>150</b>	<b>SHIPSIDE</b> <b>(Effective: September 15, 2005)</b>
	The location of cargo within reach of ship's tackle or in berth space, in accordance with the customs and practices of this port.
<b>151</b>	<b>STEVEDORE</b> <b>(Effective: September 15, 2005)</b>
	As used in this tariff, "stevedore" includes persons, firms, corporations, or other business entities and their subsidiaries engaged in the activity of loading and/or unloading commercial cargo vessels and/or barges, providing the organization, labor, equipment and necessary experience to load and unload said commercial cargo vessels and/or barges.



<b>152</b>	<b>STORAGE</b> (Effective: September 15, 2005)
	A charge assessed for providing storage in or upon designated areas of the wharves, transit sheds and terminal facilities owned or operated by the Port of Pensacola after expiration of free time.
<b>154</b>	<b>STORAGE PERIOD</b> (Effective: September 15, 2005)
	A period of storage based on each 30 days or fraction thereof unless otherwise specified.
<b>156</b>	<b>SWITCHING</b> (Effective: September 15, 2005)
	A charge made for the movement of cars within the switching limits of the terminal, made usually on a flat per car basis.
<b>158</b>	<b>TERMINAL STORAGE</b> (Effective: September 15, 2005)
	The service of providing warehouse or other terminal facilities for the storage of inbound or outbound cargo after the expiration of free time, including wharf storage, shipside storage, closed or covered storage, open or ground storage, bonded storage, and refrigerated storage, after storage arrangements have been made.
<b>159</b>	<b>TRANSPORTATION WORKER IDENTIFICATION CREDENTIAL (TWIC)</b> (Effective: September 15, 2005)
	A government issued, biometric, photo identification card issued to qualified individuals only after a criminal background check has been completed. This card is required for any individual to gain unescorted authorized access to the secure areas of a vessel or facility regulated by 33 CFR 101-105.
<b>160</b>	<b>TON</b> (Effective: September 15, 2005)
	Unless otherwise specified in individual tariff items, the term ton as used in this tariff is equal to a short ton of 2,000 pounds or a measurement ton of 40 cubic feet, whichever results in the greatest revenue to the port.
<b>162</b>	<b>UNITIZED CARGO</b> (Effective: September 15, 2005)
	Shipments of commodities – whether pre-palletized, skidded, crated, boxed or packaged – to permit free access of forklift tines.
<b>164</b>	<b>USER</b> (Effective: September 15, 2005)
	A user of the terminal facilities owned, leased, and/or controlled by the Port of Pensacola shall include any vessel, consignor, consignee, beneficial owner of cargo , stevedore firm, or other person: (1) who uses any Port of Pensacola properties, facilities or equipment; or (2) to whom or from whom any service, work or labor is furnished, performed, done or made available by the Port of Pensacola at the port; or (3) who owns or has custody of cargo moving over the port.
<b>166</b>	<b>VESSEL</b> (Effective: September 15, 2005)
	Every description of water craft or other artificial contrivance whether self-propelled or not self-propelled, used or capable of being used as a means of transportation on water and shall include in its meaning the owner thereof.

<b>168</b>	<b>VOLUME RATES</b> (Effective: September 15, 2005)
	Volume rates will be based on equal rates for equal volumes for all exporters or importers. Volume rates will be quoted upon request.
<b>170</b>	<b>WHARF OR WHARVES</b> (Effective: September 15, 2005)
	Any wharf, pier, quay, landing or other stationary structure to which a vessel may make fast or which may be utilized in the transit or handling of cargo or passengers and shall include other port terminal facility areas alongside of which vessels may lie or which are suitable for and are used in the loading, unloading, assembling, distribution or handling of cargo.
<b>172</b>	<b>WHARF DEMURRAGE</b> (Effective: September 15, 2005)
	A charge assessed against cargo remaining in or on terminal facilities after the expiration of free-time unless arrangements have been made for storage.
<b>174</b>	<b>WHARFAGE</b> (Effective: September 15, 2005)
	A charge assessed against any cargo passing or conveyed over, onto or under wharves or between vessels (to or from barge, lighter or water) when berthed at wharf or when moored in slip adjacent to wharf. Wharfage is due even if cargo is not handled to or from a vessel, and whether or not the wharf is used. Wharfage does not include charges for any other services.

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190	<b>EXPLANATION OF ABBREVIATIONS AND REFERENCE MARKS USED IN TARIFF</b> (Effective: September 15, 2005)	
	\$	Dollars
	%	Percent
	BBL	Barrel
	(C)	Change in wording resulting in neither an increase nor reduction in charges
	Cont'd	Continued
	Cu. Ft.	Cubic feet
	CWT	Hundredweight
	DHS	U.S. Department of Homeland Security
	ETA	Estimated time of arrival
	ETD	Estimated time of departure
	FMC	Federal Maritime Commission
	FTZ	Foreign Trade Zone
	GRT	Gross registered ton
	GSMTC	Rate Adopted in Accordance with Official Action of the Gulf Seaports Marine Terminals Conference
	(I)	Increase in rate
	ISO	International Standardization Organization
	LBS	Pounds
	LOA	Length overall
	MIN	Minimum
	MISC	Miscellaneous
	MFB	Thousand board feet
	MT	Metric ton
	(N)	New item or addition
	NO	Number
	NOS	Not otherwise specified
	O/T	Other than
	(R)	Reduction in rate
	SFTB	Southern Freight Traffic Bureau
	Sq. Ft.	Square Feet
	UFC	Uniform freight classification
	USCG	United States Coast Guard
	Wt.	Weight

<b>192</b>	<b>METRIC CONVERSION TABLES</b> (Effective: September 15, 2005)		
	<b><u>TO FIND</u></b>	<b><u>GIVEN</u></b>	<b><u>MULTIPLY</u></b>
	Short Tons	Metric Tons	Metric Tons by 1.102
	Metric Tons	Long Tons	Long Tons by 1.016
	Long Tons	Metric Tons	Metric Tons by 0.984
	Kilos	Pounds	Pounds by 0.4536
	Pounds	Kilos	Kilos by 2.2046
	Cubic Meters	Measurement Tons	Tons by 1.133
	Measurement Tons	Cubic Meters	Cubic Meters by 0.883
	MFB's	Cubic Meters	Cubic Meters by 0.424
<b>194</b>	<b>METRIC EQUIVALENTS</b> (Effective: May 1, 2014)		
	<b><u>Measure</u></b>	<b><u>Metric Equivalent</u></b>	
	1 Pound	0.4536 Kilograms	
	1 CWT (US - 100 Pounds)	45.359 Kilograms or 0.04536 Metric Tons	
	1 CWT (British - 112 Pounds)	50.802 Kilograms or 0.0508 Metric Tons	
	1 Ton of 2000 Pounds	907.2 Kilograms	
	2 Metric Ton	1,000 Kilograms	
	1 Inch	2.54 Centimeters	
	1 Foot	0.3048 Meters	
	1 Yard	0.9144 Meters	
	1 Cubic Foot	0.0283168 Cubic Meters	
	40 Cubic Feet	113.27 Cubic Meters	
	1 Bushel Grain	27.216 Kilos	
	1 Barrel (US - 42 Gallons)	158.987 Liters	
	<b><u>Measure</u></b>	<b><u>English Equivalent</u></b>	
	1 Kilogram	2.2046 Pounds	
	1000 Kilograms	2204.6 Pounds or 1.1023 Short Tons	
	1 Centimeter	0.3937 Inches	
	1 Meter	39.37 Inches	
	1 Cubic Meter	35.314 Cubic Feet	
	1,000 Feet, Board Measure	83.333 Cubic Feet	
	1 Cubic Meter	423.792 Feet, Board Measure	

## Terminal Tariff 5-A

### SECTION TWO – GENERAL INFORMATION, RULES AND REGULATIONS

<b>200a</b>	<p><b>ACCESS - TO HARBOR</b> (Effective: September 15, 2005)</p>
	<p>Notwithstanding any other provision of this Tariff, the Port Director may refuse entry of any vessel to the Port of Pensacola when, in his discretion, such refusal shall be in the best interest of the Port of Pensacola.</p>
<b>200b</b>	<p><b>ACCESS - TO PORT PROPERTY</b> (Effective: July 1, 2019)</p>
	<p>The Port of Pensacola is designated as a “Secure Restricted Area,” which includes all land, facilities, buildings and offices; open and covered cargo-storage areas; cargo sheds; all docks, including their entry and exit ways; all equipment, machinery, railroad right-of-ways, and roadways which are owned, controlled or operated by the Port. In effect, the “Restricted Area” is all property south of the main entrance to the port located on Barracks Street.</p> <p>Access Control Policies for the Port of Pensacola are developed in accordance with federal guidelines, and any amendments to these laws. The Port of Pensacola Seaport Security Plan establishes all guidelines for access to the “Secure Restricted Area.” This plan is maintained by the Seaport Security Administrator.</p> <p>All STEVEDORES, FREIGHT HANDLERS, INDUSTRIAL VENDORS, PEDDLERS, CASUAL VENDORS, DAY LABORERS, and SHIPS' CREW MEMBERS AND OTHER SEAGOING PERSONNEL are subject to access control procedures identified in the Seaport Security Plan.</p> <p>"Industrial vendors" includes vessel agent; line-handling contractors, ship chandlers; fuel and bunkering merchants servicing vessels; radio- and related electronic-repair firms servicing vessels; ship-repair firms; certified for-hire motor carriers of property and passengers, including licensed taxicabs; non-profit maritime support organizations; and, construction contractors.</p> <p>It shall be unlawful for any person or firm to conduct or carry on any business activity on Port of Pensacola property without first obtaining the necessary licenses from the City of Pensacola.</p> <p><b><u>TWIC &amp; TWIC ESCORT POLICY:</u></b></p> <p>In accordance with U.S. Coast Guard regulation 33 CFR 101.514, all persons requiring unescorted access to secure restricted areas of facilities regulated by the USCG must possess a Transportation Worker Identification Credential (TWIC) before such access is granted. Persons requesting access to Port of Pensacola facilities who do not have a TWIC must make advance arrangements for escorting by a person holding a valid TWIC who has been approved for access to Port facilities and who has been granted escorting privileges. Such escorting must be side-by-side for the duration of the visit. Details of the current Port escort policy may be obtained from the Port Administration Office.</p> <p>Escorts by Port of Pensacola personnel may be provided when suitable personnel are available, and at the sole discretion of the Port, at a rate of \$50.00 per hour (or part) with a minimum charge of \$50.00 per individual escort. The Port of Pensacola makes no representation that escorts will be available or will be able to remain with persons requesting the service for the duration of their visit.</p>

Only checks, cash, or money orders are acceptable payment methods (billing/invoicing is not authorized).

**RESPONSIBILITY FOR PERSONAL INJURY, DEATH, OR LOSS  
AND DAMAGE TO PERSONAL PROPERTY:**

Except for personal injury, death or loss and damage to personal property caused by its own liability, the Port of Pensacola will not be responsible for personal injury, death or loss and damage to personal property of persons granted permission to enter upon Port property as provided in this ITEM. Persons who are granted permission to enter upon Port property as provided in this ITEM agree to defend, indemnify and save harmless the Port of Pensacola from and against all losses, claims, demands and suits for losses and damages to property, death and personal injury, including court costs and attorney's fees, incident to or resulting from their entry upon Port of Pensacola property.

**OPERATION OF MOTOR VEHICLES ON PORT PROPERTY:**

Vehicular Access Control procedures are outlined in the Port of Pensacola Seaport Security Plan, which is maintained by the Seaport Security Administrator.

If, in the judgment of the Port, the use, driving, operation or parking of a vehicle does, will or could interfere with the efficient or safe operations of Port property, designated Port representatives, including Port security personnel, may order such vehicle or vehicles out of the area of interference or off Port property. The Port may order the removal of vehicles not in compliance with this provision with all towing and storage at owner's expense.

Certain areas have been or may be designated for parking and are or will be so marked. Automobiles or other vehicles must park in these areas.

No owner or driver of any automobile, truck, trailer or other vehicle shall allow same to remain parked on any wharf, apron or dock, parking lot or in any approach to same, for a period longer than reasonably necessary to load or unload cargo or passengers.

No vehicles shall be driven closer than 100 feet to any vessel handling flammable cargo or materials without specific permission from the Port Director.

**SEARCHES:**

All vehicles entering the Port are subject to search.

ENTERING the Port: If the driver of a vehicle refuses to permit a search, access will be denied.

EXITING the Port: If the driver of a vehicle refuses to permit a search, local law enforcement will respond and conduct the search. The individual will also be placed on the "Revocation Roster" and banned from accessing the Port for a time specified by the Port Director.

**PROHIBITED ITEMS:**

	<p>Except as otherwise provided herein, all persons entering upon Port property may not be in possession of the following items, for whatever reason, while on Port property: firearms of any type (subject to the provisions of Florida Statutes 740.06 and 790.251), or any other items considered to be dangerous weapons; alcoholic beverages; illegal drugs, narcotics or illegal controlled substances. Persons found to be in possession of any of these restricted items may be subject to arrest and/or the prohibited items confiscated by proper authority.</p> <p>EXCEPTIONS:</p> <ul style="list-style-type: none"> <li>• <b>FIREARMS:</b> Port security personnel, civil law enforcement personnel and federal government personnel required to carry firearms in the official performance of their duties may do so while on Port property.</li> <li>• <b>ALCOHOLIC BEVERAGES:</b> With regard to the respective definitions provided by Florida Statutes, Chapter(s) 561.01 and 561.02. Vessel crewmembers are authorized to bring alcoholic beverages aboard the respective vessel, provided that the Master/Captain of the respective vessel, or their designated authorized representative has communicated authorization to the Port Director, or designee. Additionally, the Port Director may approve alcoholic beverages to be on premise for certain special events or for tenant's private use. In the case of special events, Special Event Insurance with Liquor Liability Coverage may be required, if applicable. At no time may alcoholic beverages be sold on Port without Port Director approval.</li> </ul>
<b>200c</b>	<p><b>ACCESS - TO RECORDS</b> (Effective: September 15, 2005)</p>
	<p>All users of the Port of Pensacola facilities and waterways shall be required to permit access to their files, manifests of cargo, transportation documents, charter parties, contracts of affreightment, and all other documents for the purpose of audit, determining fulfillment of vessel obligations and compliance with Port Tariff requirements, and for ascertaining the correctness of reports filed, documents furnished, and assessment of published charges. Any such information so acquired shall not be disclosed to any unauthorized person other than a member of the Port of Pensacola or its staff in carrying out official duties.</p>
<b>201</b>	<p><b>ADMINISTRATION</b> (Effective: September 15, 2005)</p>
	<p>The administration, operation, maintenance and development of the Port of Pensacola are under the direction and control of the Port Director, but certain operating responsibilities have been delegated to stevedore firms.</p>
<b>202</b>	<p><b>ANCHORAGE</b> (Effective: September 15, 2005)</p>
	<p>Pensacola Bay offers a safe natural harbor with good holding ground.</p>
<b>203</b>	<p><b>ANCHORAGE, TURNING BASIN AND CHANNEL</b> (Effective: September 15, 2005)</p>
	<p>No person, firm or corporation, whether as principal, servant, agent, employee or otherwise, shall anchor any vessel in the Port of Pensacola, except in cases of emergency.</p>
<b>205</b>	<p><b>BERTH ASSIGNMENTS</b> (Effective: May 1, 2014)</p>
	<p>No vessel (vessels in duress or distress accepted) shall enter the Port of Pensacola without having first made assignment and without such assignment having been granted. Applications for berth assignment</p>

	<p>must specify arrival and departure times and dates and the nature and quantity of freight, if any, to be loaded or discharged. The Berth Application Request should be made in as far advance as practical, but not less than 72 hours prior to the time of docking. All vessels must provide a firm 24-hour Estimated Time of Arrival (ETA).</p> <p>The Port of Pensacola requires that all ships be represented by an agent, owner or charterer of the vessel. All agents requesting berth space for a vessel and or representing a vessel while it is in the Port must be approved by the Port of Pensacola.</p> <p>As part of its application for berth, the vessel, its owners or agents shall advise the Port of Pensacola of the PROTECTION AND INDEMNITY ASSOCIATION (P &amp; I CLUB) which affords the vessel indemnity coverage, as well as the name and telephone number of the local legal representative thereof who is knowledgeable with regard to such coverage.</p> <p>Any vessel that does not conform with the 72-hour berth application or the 24-hour ETA requirements and such vessel conflicts with berth assignments previously made may be assigned to an alternate berth or, alternatively, await the vacancy of a preferred berth.</p> <p>All working vessels--including coastwise or foreign sea-going barges; but not including internal barge movements--will be assigned berth facilities by the Port Director on a "first-come, first served" basis.</p> <p>At the sole discretion of the Port Director, when there is no congestion or threat of congestion, vessels not engaged in commerce may make application to the Port Director for a berth; specifying the date and time of arrival, sailing date and all such vessels are subject to all applicable port rules, regulations and charges.</p> <p>Should such vessels not have a licensed agent, the Port may at its discretion act as the vessel's temporary agent and assign agent's fee in the amount of \$150.00 for each 30-day period, in addition to the dockage charge.</p> <p>Additionally, the Port Director reserves the right to assign berths for the best utilization of the Port facilities.</p> <p>The Port Director reserves the right to refuse entry to any vessel carrying explosives or hazardous cargo or determined to be hazardous or not in seaworthy condition.</p> <p>No vessel will be allowed to remain idle in berth if other vessels are awaiting berthage and prepared to work; except as otherwise provided for in existing leases or agreements.</p> <p>ALL DECISIONS OF THE PORT DIRECTOR ARE FINAL.</p>
<b>206</b>	<p><b>BONDED STORAGE</b> (Effective: July 1, 2019)</p>
	<p>Bonded storage can be made available at the Port of Pensacola through prior arrangement with a licensed general cargo stevedore.</p>
<b>208a</b>	<p><b>CARGO- ARRIVING AT THE PORT OR DEPARTING FROM THE PORT IN RAILCARS</b> (Effective: September 15, 2005)</p>
	<p>Within twenty four (24) hours of the departure of cargo via rail bound for the Port of Pensacola, the shipper or consignee must provide written notification to the Port Director or his designee of the car numbers, car contents and estimated time of arrival of the cargo at the Port. All shippers or consignees shall be required</p>



	<p>to furnish and/or permit access to any electronic railcar tracking files or programs for cargo destined for the Port of Pensacola by rail.</p> <p>If upon arrival at the Port, there is insufficient space in the Port facilities to handle the cars, or for other reasons the receipt of such railcars will interfere with Port operations, the railcars shall be held at the terminating rail carrier's rail yard subject to demurrage payable by the shipper/consignee/vessel or agent thereof.</p> <p>Railcars with cargo arriving at the Port before the scheduled arrival date, as supplied by the shipper or consignee, will be handled on a space-available basis only. The Port of Pensacola reserves the right and privilege to hold such railcars out of the Port until the scheduled arrival date, with all demurrage for the account of the shipper/consignee.</p> <p>It is the obligation of the shipper/consignee to arrange for space allocation with the Port of Pensacola and for loading/unloading of cargo (freight handling) with their designated freight handler prior to shipping of cargo.</p>
<b>208b</b>	<b>CARGO - CONDITIONS GOVERNING RECEIPT, PLACEMENT AND HANDLING</b> (Effective: September 15, 2005)
	<p>The Port of Pensacola does not engage in the warehouse/storage business. Transit sheds and open terminal facilities are provided only for the temporary placement of waterborne cargo prior to final disposition and for the assembling and expediting of waterborne commerce at the Port of Pensacola. The acceptance of cargo is at the option and discretion of the Port Director and application for space and handling must be made in advance of the arrival of the cargo and vessel. No cargo will be received or handled without consignment to a specific vessel booked for berthing at the terminal facilities. Any cargo left in or on Port of Pensacola terminal facilities or premises in excess of free time will be subject to storage charges in addition to any other charge published herein. The Port Director reserves the right to order cargo sent to a commercial storage facility at the expense and risk of the owner (reference <a href="#">ITEM 209</a>).</p>
<b>208c</b>	<b>CARGO- HANDLING, RECEIPT AND DELIVERY</b> (Effective: September 15, 2005)
	<p>Without preference or discrimination, and in order to promote the orderly receipt and dispatch of railcars and trucks, the Port reserves the right to control the loading and unloading of all cargo handled on Port facilities, and the rates to be charged. With the exception of the shunting of railcars within the Port facilities after initial placement and prior to pick up for removal from the Port, all handling of cargo on the Port will be performed by general-license stevedores or freight handlers which have been issued a franchise to operate at the Port of Pensacola and selected by the shipper, consignee or vessel.</p> <p>Specific warehouse space and outside storage space will be assigned by the Port for scheduled cargo and leased space. Freight handling maximum rates are governed by the Port. Lower handling rates than those published in this Tariff may be negotiated with the designated freight handler. As per the provisions of <a href="#">ITEM 246 (5)</a>, billing for freight handling charges will be the responsibility of the general-license freight handler.</p> <p>Only the Port may shunt railcars (switch cars after initial placement by rail carrier and before pickup by rail carrier for removal from Port) within Port facilities. See <a href="#">ITEM 426</a> for governing terms and charges. Shippers, consignees and freight handlers may not shunt railcars within Port facilities.</p>
<b>208d</b>	<b>CARGO – HEAVY LIFT</b>

	<b>(Effective: September 15, 2005)</b>
	Any single unit of cargo exceeding 75,000 pounds shall be considered a heavy lift cargo and shall be assessed port costs associated with each project. Rates shall be quoted on a case by case basis, as determined by the Port Director.
<b>208e</b>	<b>CARGO – NON-WATERBORNE</b> <b>(Effective: September 15, 2005) (I)</b>
	<p>Cargo delivered to the Port of Pensacola by any means of conveyance other than waterborne transportation and placed in or on Port of Pensacola-owned or operated land or facilities which are not re-shipped from the Port of Pensacola by waterborne transportation will be assessed wharfage, handling and storage charges. No free time will be allowed and full charges will be billed for each day the cargo is in or on Port of Pensacola property or facilities beginning with the day the cargo arrived and including the day it is removed unless said charge is waived by the Port Director.</p> <p>The storage charge for non-waterborne cargo is <b>\$1.50 per ton per day</b>.</p>
<b>208f</b>	<b>CARGO – OR FREIGHT LIKELY TO DAMAGE OTHER CARGO OR FREIGHT</b> <b>(Effective: September 15, 2005)</b>
	Any freight or cargo likely to damage other freight or cargo will be transferred to another location on the terminal facilities or to private facilities at the risk and expense of the owner if so determined by the Port Director. Prior notification to the owner, agent or forwarder will not be required if time is of the essence to protect the other freight or cargo from damage or contamination.
<b>208g</b>	<b>CARGO - RESPONSIBILITY FOR</b> <b>(Effective: September 15, 2005)</b>
	<p>Export cargo, while on terminal facilities, is in the care, custody and control of its owner, owner's agents and/or shipper/consignee/supplier.</p> <p>Import cargo, while on terminal facilities is in the care, custody and control of the vessel, the consignee, its agents, importer or agents of importer thereof and full responsibility for forwarding rests with one or the other of these parties.</p>
<b>208h</b>	<b>CARGO – SCHEDULING MOVEMENT THROUGH THE PORT</b> <b>(Effective: September 15, 2005)</b>
	<p>All cargo moving through the Port facilities and arriving via rail, truck or vessel must be scheduled in advance with the Port Director or his designee. Cargo is "scheduled" when the shipper or consignee advises the Port Director, or his designee, of the type and volume of cargo, the mode of transport to the Port with the expected date of arrival, and receives the consent of the Port Director or his designee, to move the cargo through the Port as scheduled. Unscheduled cargo movements will be handled on a space-available basis only, and at the option of the Port Director without recourse on the part of the shipper/consignee against the Port (see <a href="#">ITEM 208a</a>).</p> <p>No export cargo will be scheduled or received at the Port without consignment to a specific vessel scheduled for berthing at the terminal facilities or without a shipping date established and approved by the Port Director. No export cargo may be consigned to the Port, unless merely as a "care-of" agent for the consignor, consignee, vessel, beneficial owner of the cargo or other person. The Port has the right to seek proof from a shipper or consignor of export cargo that compliance with this requirement has been or is being met.</p>

	<p>All export cargo is scheduled with the full understanding and agreement of the shipper/consignee that the vessel fixed or nominated to lift such cargo will be ready, willing and able to do so within cargo free-time rules and regulations applicable under this Tariff. When vessels fail to lift cargo on schedule, the shipper, consignee or vessel, or agents thereof, will be responsible for any resulting demurrage and detention charges and will indemnify and hold harmless the Port against any such demurrage and detention charges and related costs and expenses, including attorney's fees and court costs.</p>
<b>208i</b>	<p><b>CARGO - DISPOSITION OF UNDELIVERED</b> (Effective: September 15, 2005)</p>
	<p>The Port of Pensacola shall have a lien on the cargo, goods or other personal property stored or located on premises owned by the Port. The Port of Pensacola reserves the right, at its option, to sell said cargo, goods or other personal property whenever the payment for charges assessed by the Port is delinquent or the items are unclaimed for a period in excess of 3 months. When enforcing the terms of this ITEM, the Port of Pensacola shall:</p> <ol style="list-style-type: none"> <li>1. Give notice by registered or certified mail to the person last known by the Port of Pensacola to claim an interest in the cargo, goods, or other personal property. <ol style="list-style-type: none"> <li>a. Said notice shall include a description of the goods, a statement of the claim, and a demand for payment within a specified time and must state that the goods will be sold at a specified date, time and place if the claim is not paid within the specified period.</li> </ol> </li> <li>2. Satisfy its lien from the proceeds of the sale.</li> </ol>
<b>209</b>	<p><b>CARGO STATEMENT REQUIRED</b> (Effective: September 15, 2005)</p>
	<p>The owner, agent, operator or Master (or the importer, exporter, freight forwarder, customs house broker, shipper or its agent) of any vessel loading or discharging cargo shall furnish to the Port of Pensacola within 4 days after the sailing of each vessel a certified statement with a description of all cargo loaded aboard or discharged from said vessels. The Port of Pensacola may require such other information and data or documents as may be necessary to ensure correct assessment of terminal charges and to develop statistical records.</p>
<b>210</b>	<p><b>CARGO STATEMENT/SHIPS' MANIFESTS</b> (Effective: July 1, 2019)</p>
	<p>All users of Port of Pensacola facilities including but not limited to steamship agents, steamship lines, shippers, stevedores, freight handlers, barge lines, importers, exporters, and/or their agents or assignees, shall, upon arrival (Import)*, or not later than 10 working days (Export) after departure, furnish the Port of Pensacola with (1) a manifest, and (2) a Load List (Export Only – must be submitted with, or in conjunction with, the manifest by the party responsible for compiling the information) or (3) a Cargo Discharge Receipt (Import Only - must be submitted with, or in conjunction with, the manifest by the party responsible for compiling the information) containing data sufficient to assure the correct assessment of charges and information necessary to maintain statistical records. At a minimum, submitted documents must include a description of the cargo; weight, board feet or number of units, whichever is applicable; shipper or consignee details (exports); receiver or consignee details (imports); and any and all other information the Port of Pensacola deems necessary.</p> <p>Failure to submit required documents in accordance with the stated deadlines may result in assessment of a Documentation Delinquency Penalty of \$100 per day for each day the documentation is delinquent.</p>

	* AMS Manifest does not substitute this requirement.
<b>211</b>	<b>CHANGE OF LOCATION OF VESSELS</b> (Effective: September 15, 2005)
	Whenever it is deemed necessary that any vessel be moved, or its position changed, in order to facilitate navigation and commerce or for the protection of other vessels or property, the Port Director may order and enforce the removal or shifting of such vessel to such place as may be determined by the Port Director at the expense and risk of the vessel. Notice of such order shall be given to the Master of the vessel, or the person in charge of the vessel who shall take immediate steps to comply with the order, the Port Director may take the action necessary to cause the vessel to be moved as originally ordered.
<b>212</b>	<b>CHANGE OF OWNERSHIP</b> (Effective: September 15, 2005)
	The Port of Pensacola reserves the right to accept or reject a request for a change of title or ownership of cargo received or in storage at the Port of Pensacola for the purpose of invoicing a new owner.  All requests must be in writing, addressed to the Port Director. If the request is approved by the Port Director, it is with the full understanding that initial billing will be made to the new owner effective at the start of the next regular billing period and the original owner will be held responsible for payment of all charges should they not be paid by the new owner. All accrued charges must be paid to date by the owner-of-record prior to the transfer of title of ownership.
<b>213</b>	<b>COLLISION</b> (Effective: May 1, 2014)
	In the event of a grounding or a collision between two vessels or between a vessel and any wharf, dock, pier, or any structure owned by the Port of Pensacola, written report of such collision or grounding, shall within twenty-four hours, be furnished to the Port Director separately by the pilot and the master, owner or agent of said vessel, provided that in the case of a minor collision where a vessel is underway and proceeding to the open seas, there being no need of repair to Port facilities, vessel (s) or environmental resources, said report may be mailed by the master of such vessel from the next port which it enters, and provided further that in all cases of collision or grounding, report of an owner or agent shall not relieve the pilot of the duty of rendering his report within the specified time.
<b>214</b>	<b>COMPLIANCE WITH GOVERNMENTAL REGULATIONS</b> (Effective: September 15, 2005)
	All Port users shall comply with all governmental regulations, statutes, ordinances, rules and directives of any Federal, State, County or Municipal governmental units or agencies having jurisdiction over the Port of Pensacola or the business being conducted thereon and all rules and regulations now in effect or hereafter imposed by the Port of Pensacola shall be imposed uniformly against all businesses or industries located or providing services at the Port of Pensacola.  If any Port user incurs any fines and/or penalties imposed by Federal, State, county or Municipal Authorities as a result of the acts or omissions of the Port user, its partners, officers, agents, employees, contractors, subcontractors, assigns, subtenants, or anyone acting under its direction and control, then the Port User shall be responsible to pay or reimburse the Port for all such costs and expenses.
<b>215</b>	<b>CRANE OPERATIONS ON PORT PROPERTY</b> (Effective: September 15, 2005)

	<p>Cranes with tractor lugs will not be permitted on Port property without proper protection of the pier, as provided to the satisfaction of the Port Director.</p> <p>Any and all safety rules and regulations pertaining to the operation of cranes must be observed at all times. The operation of a crane on Port property establishes verification by the owner thereof that the crane is suitable to perform the work for which it is hired and that the operator of such crane is qualified and competent to operate said crane in accordance with all applicable standards.</p> <p>Except as may be caused by the Port's own negligence, the Port of Pensacola shall not be responsible for any damages occasioned as a result of the operation of cranes on Port property. Crane owners/operators shall be considered users of the Port facilities and shall be bound by the provisions of <a href="#">ITEM 265b</a>, in addition to other applicable items contained in this Tariff. Cranes will not be permitted to remain on Port property overnight without the prior approval of the Port Director; nor are they permitted to block rail tracks or the movement of other wheeled vehicles.</p>
<b>218</b>	<p><b>DELIVERY ORDERS</b> (Effective: September 15, 2005)</p>
	<p>All persons whomsoever (truck companies; rail carriers; owners; shippers; etc.) must present a written Delivery Order for each truck or railcar (or other) to be loaded at the Port of Pensacola. The Delivery Order should be on an order form or letterhead of the firm owning the cargo and it must be signed by an official of the company, or a person authorized to sign such orders. The Delivery Order must describe the cargo, the amount to be loaded, the ship, bill of lading, and the numbers and marks, if any. Any truck company, rail carrier, shipper, or others not having a written Delivery Order will not be permitted to load or leave the terminal premises without surrendering a copy of the order to the appropriate Port representative.</p>
<b>219</b>	<p><b>DEMURRAGE OR DETENTION</b> (Effective: September 15, 2005)</p>
	<p>The Port of Pensacola is not responsible for any delays, detention or demurrage on railcars, vessels, or trucks.</p> <p>Parties responsible for ordering and/or scheduling vessels and railcars shall be responsible for the payment of rail demurrage which is caused by or arises out of, directly or indirectly, the ordering and/or scheduling of vessels and railcars, and such parties will indemnify and hold harmless the Port for any rail demurrage and related costs and expenses, including attorney's fees and court costs, caused by or arising out of such parties' ordering and/or scheduling of vessels and railcars.</p> <p>Nothing contained herein shall be deemed to exculpate or relieve the Port from liability for its own negligence. (Issued in compliance with FMC Regulation 46 CFR §525.2 (a)(1)).</p>
<b>220</b>	<p><b>DISCHARGING BALLAST, REFUSE OR SIMILAR OFFENSIVE MATTER</b> (Effective: July 1, 2019)</p>
	<p>No person, firm or corporation shall deposit, place or discharge into the waterways of the Port of Pensacola, either directly or through private or public sewers, any sanitary sewage, butchers' offal, garbage, dead residuum of gas, calcium carbide, trade wastes, tar or refuse, or any other matter which is capable of producing floating matter or scum on the surface of the water, sediment in the bottom of the waterways, hazards or obstructions to navigation or the odors and gasses of putrefaction.</p> <p>Vessels discharging pollutants into the waters of the Port of Pensacola will be reported to the</p>

	<p>U.S. Coast Guard National Response Center (NRC) hotline at (800) 424-8802. All matters relating to pollutant discharges shall be handled in accordance with applicable laws governing such discharge.</p> <p>Should any vessel cause pollution of any kind of character within the Port, the vessel shall have the first responsibility for taking effective corrective action. It shall be the responsibility of the vessel to have on hand, at all times, adequate personnel to eliminate or mitigate any contamination caused by pollutants being discharged into the waters of the Port of Pensacola. Any penalties imposed by the United States of America or the State of Florida upon the vessel, Master, person, firm or corporation shall be administered in accordance with applicable law.</p> <p>All vessels, firms and persons using the terminal facilities shall take every precaution practical to prevent pollution of the environment.</p> <p>Rules and regulations of the U.S. Coast Guard and any other Federal, State, County or City agency pertaining to pollution of any kind shall be applicable in addition to the rules and regulations set forth above.</p>
<b>221a</b>	<b>DOCKAGE - BASIS OF CHARGES</b> <b>(Effective: September 15, 2005)</b>
	<ol style="list-style-type: none"> <li>1. Dockage shall be based on the overall length of the vessel as shown in LLOYD's REGISTER. If length is not shown in LLOYD's REGISTER the ship's Certificate of Registry showing length of vessel will be accepted.</li> <li>2. Vessels for which the overall length is not available in either LLOYD's REGISTER or the Certificate of Registry named in Paragraph 1 of this ITEM, shall be measured at the direction of the Port Director. When necessary to measure a vessel, the linear distance in feet shall be determined from the most forward point on the bow of the vessel to the aftermost part of the stern of the vessel.</li> <li>3. In computing dockage charges based on overall length of vessel, the following will govern in the disposition of fractions: <ol style="list-style-type: none"> <li>a. Less than one-half foot (1/2'), discard. One-half foot (1/2') or more, increase to the next whole figure.</li> </ol> </li> <li>4. When a vessel is shifted directly from one wharf (berth) to another wharf (berth), the total time at such berths will be considered together in computing the dockage charge.</li> <li>5. Dockage rates are assessed each 24-hour period or fraction thereof.</li> <li>6. Unless advised to the contrary in advance of docking, dockage on river barges will be assessed against the owner of the cargo.</li> </ol>
<b>221b</b>	<b>DOCKAGE – DURATION</b> <b>(Effective: September 15, 2005)</b>
	<p>The period of time upon which dockage will be assessed shall commence when the vessel is made fast to the wharf, pier, bulkhead structure, or bank or for mooring to a vessel so berthed, and shall continue until such vessel is completely free from and has vacated such facilities.</p>
<b>221c</b>	<b>DOCKAGE – UNAUTHORIZED</b> <b>(Effective: September 15, 2005)</b>

	Any vessel berthed in an unauthorized manner, unassigned berth or shifted without the approval of the Port Director shall be subject to payment of dockage in an amount equal to (3) three times the published rate. Such vessel may be moved at the Port Director's option to a properly designated berth without notice at the owner's risk and expense.
<b>221d</b>	<b>DOCKAGE – VESSELS EXEMPT FROM</b> <b>(Effective: September 15, 2005)</b>
	At the sole discretion of the Port Director, when there is no congestion or threat of congestion, vessels engaged in non-commercial exhibition, educational or training endeavors, owned or operated by charitable institution that qualify for exemption pursuant to the provision of the Internal Revenue Code and are accordingly exempt from taxes, may moor to public wharves free of charge, with advance approval.
<b>222</b>	<b>DOCK RECEIPTS</b> <b>(Effective: September 15, 2005)</b>
	At the time export outbound cargo is received at the pier facility, a dock receipt shall be issued evidencing receipt of the cargo. The receipt will show the date of receipt and shall identify the vessel on which the goods are to move.  The dock receipt is executed by the agent and/or its designated representative. All completed dock receipts must be delivered to the Port of Pensacola at the close of each business day.
<b>224</b>	<b>EMERGENCY SHIP MOVEMENT POLICY</b> <b>(Effective: July 1, 2019)</b>
	<p>TO MASTERS, PILOTS, TOWBOAT COMPANIES, STEAMSHIP AGENTS, VESSEL OWNERS OR CHARTERERS AND ALL OTHER CONCERNED PARTIES:</p> <ol style="list-style-type: none"> <li>1. All vessels will provide wire ropes from the bow and stern with eyes that can be reached by tugs coming alongside. Pilots will make sure wires are in proper position before leaving the vessel.</li> <li>2. All vessels and/or vessel agents will immediately report any spillage of petroleum or chemical products on the wharf or on the water and the extent of such spill to the U.S. Coast Guard National Response Center (NRC) hotline at (800) 424-8802. If spillage is considerable, all cargo operations within the port must stop immediately and vessels prepared to undock.</li> <li>3. All vessels will undock and proceed to anchorage or open sea when so ordered by the Port Director in the event of: <ul style="list-style-type: none"> <li>• A severe petroleum or chemical spill;</li> <li>• Fire discovered on board a vessel laden with petroleum, explosives, chemicals or other dangerous commodities;</li> <li>• Vessel in jeopardy due to conditions on shore;</li> </ul> </li> <li>4. Tugboats proceeding to a vessel laden with petroleum, chemicals, explosive or other dangerous cargoes and/or through a spill composed of such products floating on the water surface will stop all smoking on board, put out cooking fires, burners, pilot lights and extinguish all open lights or flames.</li> </ol>



	<p>5. Vessels discovering fire on board or on shore will sound repeated long whistle-blast signals and use every other available means to report the fire to shore side personnel. The Security Division of the Port of Pensacola monitors Channel 16 (156.8 MHz) for emergency calls.</p> <p>6. Emergency vessel movements will be made with able sea watches and without waiting for the return of its other ship's personnel when necessary to protect life and property (reference <a href="#">ITEM 288d</a>).</p>
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<b>225</b>	<b>ENVIRONMENTAL MATTERS</b> <b>(Effective: October 20, 2009)</b>
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	<p>All persons and entities in possession of facilities at the Port of Pensacola pursuant to an agreement, lease, license or other arrangement with the Port or otherwise using the Port facilities shall comply with all federal, state, municipal and county laws, statutes, ordinances, codes, administrative orders, SWPPP (current Port version), rules and regulations and permits relating to environmental matters, storm water, and other pollution control applicable to the construction, occupancy and operation of said facilities. All such persons and entities shall furnish to the Port Director or his designee at the time same are filed, received, submitted or tendered, a copy of every permit application, permit, notice, order or other document sent to or received from any regulatory agency responsible for environmental matters, storm water, or other pollution control. All such persons and entities are prohibited from allowing, causing, condoning, licensing, permitting or sanctioning any activities, conduct or operations that enable or result in any pollutants, contaminants, hazardous materials or substances or other waste to be accumulated, deposited, placed, released, spilled, stored or used upon or under any portion of said facilities or adjacent waters contrary to or in violation of any of said laws, statutes, ordinances, codes, administrative orders, SWPPP (current Port version), rules, regulations or permits. All such persons and entities that violate this prohibition shall be solely responsible for any and all reporting, cleanup, remediation, fines and penalties in accordance with said laws, statutes, ordinances, codes, administrative orders, SWPPP (current Port version), rules, regulations or permits.</p> <p><b><u>NATIONAL RESPONSE CENTER (NRC):</u></b>  <b>(Effective May 1, 2014)</b></p> <p>Oil and chemical spills entering or having the potential to enter navigable waters must be reported immediately to the NRC. Users are responsible for notifying the NRC of unauthorized releases and providing the Port's Spill Response Coordinator (SRC) with a copy of the incident report within 24 hours. The phone number for the NRC is: 1-800-424-8802.</p>
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<b>226a</b>	<b>FACILITIES – BERTHING</b> <b>(Effective: July 1, 2019)</b>
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	The Port of Pensacola has 2,570 linear feet of berthing facilities as follows:
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	<u>Berth #</u>	<u>Depth</u>	<u>Length</u>	<u>Apron</u>	<u>Rail</u>	<u>Use</u>
	1	33'	540'	100'	Yes	All Purpose
	2	33'	398'	Open	Yes	All Purpose
	3	33'	344.5'	Open	Yes	All Purpose
	5	33'	507.5'	50'	Yes	All Purpose
	6	33'	580'	50'	No	All Purpose
	7	16'	200'	0	No	Dockage Only



226b	<b>FACILITIES – BUNKERING</b> <b>(Effective: September 15, 2005)</b>
	<p>None of the berths are equipped with pipeline-hose connections for bunker fuels. Bunker fuels may be delivered by barge or tank truck. No vessel will be permitted to take bunkers while cargo operations are being performed.</p>
226c	<b>FACILITIES – DAMAGE TO</b> <b>(Effective: July 1, 2019)</b>
	<p>All vessels, their owners or agents, stevedores and all other users of the Port terminal facilities will be held responsible for all damages to the facilities caused by or arising out of their use of such facilities. It is the responsibility of the users of the Port facilities to <u>immediately</u> notify the Port Director or his designated representative of damages to the facilities caused by or arising out of their use of such facilities and to confirm same in writing within three (3) working days. The Port of Pensacola will acknowledge the reported damages in writing, either electronic or via letter.</p> <p>Any damages to the Port facilities will be for the account of the vessel, its owner or agent, the stevedore, freight handler or other user of the terminal facility and repairs must be undertaken as expeditiously as possible with the prior approval of the Port Director. The Port Director, or designee, shall review and approve all repairs in advance of repairs or construction beginning. Responsible parties will be given up to thirty (30) calendar days from the date the damage occurred to initiate required repairs, after which the Port of Pensacola reserves the right to repair the damage on a cost basis plus 25% overhead. Failure to notify the Port of damages to the facilities will result in the cost of repairs of such damages plus 50%.</p> <p>Any damage caused by the vessel to the wharf or any installation or equipment which is the property of the Port of Pensacola, whether it be through incompetence or carelessness on the part of the Pilot or Officer of the ship carrying out operations or for any other reason, shall be the responsibility of the master and the owner of the ship causing the damage. The Port of Pensacola shall be able to detain the ship until it has received satisfactory guarantee for payment of the amount of damage caused or a reasonable estimate thereof.</p>
226d	<b>FACILITIES – SPACE ASSIGNMENTS</b> <b>(Effective: July 1, 2019)</b>
	<p>The Port Director has the authority to grant nonexclusive space assignments for use of harbor lands to assignees on the following terms and conditions.</p> <p>Space assignments are granted on the Port’s standard space assignment forms and shall describe the area granted. Leased areas are excluded from Space assignment requests. See <a href="#">ITEM 243</a> for Lease Information.</p> <p>Short Term Operating Agreements (STOA’s) may be exempt from the minimum charge and negotiated with the Port Director, but the Space Assignment Request must still be on file with Port Operations.</p> <p>General license stevedores shall be required to submit the required space assignment forms for allocation of space to their transient cargo operations. However, transient cargo evoking free time shall not be eligible for the space assignment rates noted below and shall, instead, be subject to Storage Charges as outlined in <a href="#">ITEM 436b</a> after expiration of free time.</p>

Space assignments will be issued in thirty (30) day periods. Upon application and if conditions and circumstances warrant, one or more renewals for an additional thirty (30) days or longer or shorter period may be granted.

If a space assignment exceeds 30 days or is revoked by the Port Director, charges will be prorated on a daily basis.

Charges for space assignments are:

Type of Area	Cents per Sq. Ft. (Per 30-day Period)
Covered Area - On Dock	\$ 0.45
Covered Area - Off Dock	\$ 0.35
Uncovered Area	\$ 0.25
Minimum Charge	\$375.00

All other applicable tariff charges shall also be paid. Charges shall begin to accrue on the day the space assignment is made available for assignee's occupancy.

An electrical power surcharge may be levied on the above charges at the discretion of the Port Director after reviewing the proposed use of the space. The rate shall be agreed to in advance of any party occupying approved space.

Property placed in a space assignment area shall be stored, stacked, palletized, or high piled in accordance with customary and operational safety procedures. The Port Director has the right to examine and review all property placed on Port premises under a space assignment.

The grant of such assignment shall not interfere with the prompt loading or unloading of vessels.

**226e** **FACILITIES - TRANSIT CARGO SHEDS**  
(Effective: July 1, 2019)

The Port of Pensacola owns 457,000 square feet of transit cargo storage facilities as follows, some of which may be committed to private usage through lease, contract or other obligation from time to time.

Subject to [ITEM 208b](#) and to space availability based on prior commitments, the Port of Pensacola assigns general cargo moving through the Port to storage facilities on a first-come-first-served basis.

Use of facilities marked with an asterisk (\*) involves special circumstances. Contact Port Administration at 850.436.5070 for details.

Facility	Sq. Ft.
Warehouse No. 1	72,000 sq. ft. (leased)
Warehouse No. 4	45,000 sq. ft.
Warehouse No. 5	72,000 sq. ft.
Warehouse No. 6	90,000 sq. ft. (leased)
Warehouse No. 8	83,000 sq. ft.
Warehouse No. 9	40,000 sq. ft. (*)

	Warehouse No. 10	55,000 sq. ft. (*)								
228a	FREE TIME - COMPUTATION OF (Effective: July 1, 2019)									
	<p>The free time allowed for assembling export shipments shall commence at 0700 hours on the day after said cargo or each portion thereof (i.e. each truck or railcar) is received at the terminal facility and it shall terminate at 2359 hours on the final day of free time allowed.</p> <p>The free time allowed for removal of import shipments shall commence at 0700 hours on the day following the day the vessel completes discharging and it shall terminate at 1859 hours on the final day of free time allowed.</p> <p>The Port Director reserves the right to grant extensions of free time to regular and/or high volume shippers on a case-by-case basis when space availability permits.</p> <p>The time cargo is held in railcars (under demurrage rules) will be deducted from the free time allowed for said cargo, when railcars are held at the direction of the Port Director (reference <a href="#">ITEM 208i</a> for additional information).</p>									
228b	FREE TIME - DISPOSITION OF CARGO AFTER EXPIRATION OF (Effective: September 15, 2005)									
	<p>Cargo remaining on terminal premises after the expiration of free time (reference <a href="#">ITEM 228a</a>, <a href="#">228c</a> and <a href="#">228d</a>) and cargo shut out at clearance of vessel from berth (reference <a href="#">ITEM 271</a>) may, at the discretion of the Port Director, be allowed to remain where situated, be piled or re-piled to make space; be transferred to other locations or terminal premises; or, be removed to public or private warehouse with all expenses and risk of loss and/or damage for the account of the owner, agent, consignee or carrier. In any event, the agent for such cargo will be responsible for payment of all expenses regardless of when payment is received by them from the owner, consignee or carrier.</p> <p>All such cargo remaining on Port property will be assessed storage charges in accordance with the applicable rates published in this Tariff.</p>									
228c	FREE TIME (Effective: July 1, 2019)									
	<p>Except as otherwise provided, the free time allowed for assembling export cargo shipments or removing import cargo shipments, inclusive of Saturdays, Sundays and Legal Holidays, shall be as follows:</p> <table><tr><th>Shipment Type</th><th>No. Days</th></tr><tr><td>Exports</td><td>30</td></tr><tr><td>Imports</td><td>30</td></tr><tr><td>Transshipment</td><td>30</td></tr></table> <p>Upon expiration of the free-time period, storage charges (as provided elsewhere in this Tariff) will be assessed or, at the option of the Port Director, cargo may be removed to private storage facilities at the expense and risk of the owner.</p>		Shipment Type	No. Days	Exports	30	Imports	30	Transshipment	30
Shipment Type	No. Days									
Exports	30									
Imports	30									
Transshipment	30									

	<p>NOTE: Shipments handled direct from shipside to railcars or trucks, or vice versa, shall not be entitled to free time.</p> <p>NOTE: Shipments not properly booked with the Port Director in advance in accordance with <a href="#">ITEM 209</a> shall not be entitled to free time specified herein.</p>
<b>228d</b>	<b>FREE TIME - AND STORAGE DURING WORK STOPPAGE OR INTERRUPTION</b> (Effective: September 15, 2005)
	<p>In the event of a work stoppage that prevents the loading and/or unloading of vessels, the following will apply:</p> <ol style="list-style-type: none"> <li>1. Free time will cease at 0700 hours on the day after a work stoppage occurs. Free time will commence or resume at 0700 hours on the day after a work stoppage officially ends.</li> <li>2. Cargo on hand will be assessed storage charges prorated for that period of time of the work stoppage. Credit for unused time will be deducted from storage charges.</li> <li>3. Cargo received during a work stoppage will be received on a space-available basis only. Storage charges will commence immediately and free time will begin at 0700 hours on the day following the day of the termination of the work stoppage.</li> <li>4. When the terminal facilities reach maximum capacity for efficient operations and Port safety, rail and truck operations will cease, with demurrage accruing for the account of the shipper.</li> </ol> <p>The Port Director may waive storage charges per this ITEM if cargo is removed within ordinary free time allowed.</p>
<b>228e</b>	<b>FREE TIME – NON WATERBORNE CARGO</b> (Effective: May 1, 2014)
	Per <a href="#">ITEM 208e</a> , <b>no</b> free time is allowed on non-waterborne cargo and full charges will be billed for each day the cargo is in or on Port of Pensacola property or facilities beginning with the day the cargo arrived and including the day it is removed unless said charge is waived by the Port Director.
<b>230</b>	<b>FUMIGATION REQUIREMENT</b> (Effective: September 15, 2005)
	<p>Bagged agricultural products that remain in transit sheds for a period of 45 days must be fumigated at that time; and again after each 45-day period thereafter, as long as the cargo remains in the transit sheds.</p> <p>All expense of fumigation will be for the account of the cargo owner, shipper, consignee, or whomever has care, custody and control of the cargo.</p> <p>If fumigation is not performed as required herein, the Port reserves the right to fumigate such bagged agricultural products and will bill the cargo owner, shipper, consignee, or whomever has care, custody and control of the cargo for the cost therefore.</p>
<b>232</b>	<b>GENERAL RESTRICTIONS AND LIMITATIONS</b> (Effective: September 15, 2005)
	Under application of this Tariff, the Port of Pensacola is not obligated to provide storage for cargo that has not been scheduled with the Port Director, or which has not been transported by water to or from the Port or terminal facilities; nor is it obligated to provide facilities beyond reasonable capacity.
<b>233</b>	<b>GROUND RUBBER TIRE ADDITIVES</b> (Effective: September 15, 2005)

	The use of Ground Rubber Tire (GRT) Additives in the processing and/or production of asphalt and other materials is strictly prohibited on Port property and on or in Port facilities.
<b>234</b>	<b>GUNS; EXPLOSIVES; OTHER HAZARDOUS COMMODITIES</b> (Effective: September 15, 2005)
	<p>Explosives and hazardous or highly-flammable commodities or material may be handled over, under, or received on the wharves or other terminal facilities of the Port of Pensacola only by special arrangement with and at the option of the Port Director. The receiving, handling or storage of such commodities shall be subject to Federal, State, Municipal, County and City of Pensacola laws, ordinances, rules and regulations.</p> <p>The agent or charterer of a vessel is responsible for informing the Port Director whenever a vessel plans to load, discharge or is transporting as in transit cargo any manifested cargo classified as a gun, firearm, deadly weapon, explosives, and ammunition, flammable or hazardous commodity. No action to load or discharge such cargo shall be taken without approval of the Port Director in advance. Detailed information as to the description, packaging and stowage location of explosives, flammable and hazardous materials must be provided to the Port of Pensacola to enable planning for fire protection and security watches necessary for these items.</p>
<b>235</b>	<b>HARBOR CHANNEL</b> (Effective: September 15, 2005)
	The entrance to the main channel to Pensacola Bay is by the Caucus Channel. The channel is 500' wide at its seaward end and dredged to 35'. The approach channel to the Port of Pensacola, 300' wide with a control depth of 33', intersects Pensacola Bay in a generally northeasterly direction. The distance from sea buoy to pier is 11 miles.
<b>236</b>	<b>HARBOR SAFETY</b> (Effective: September 15, 2005)
	<ol style="list-style-type: none"> <li>1. Minimum bottom clearance shall be established by the Harbor Pilot prior to vessel entry of departure in consideration of weather conditions, tidal stage, vessel equipment and time of day.</li> <li>2. All vessels shall establish radio communication with the Port of Pensacola prior to entry or departure and no vessel shall be permitted to enter, leave or shift berths in the Port of Pensacola jurisdictional area without the authorization of the Port Director or his duly-authorized representative.</li> <li>3. All heavy oil transfer operations to or from a vessel with a heavy oil storage capacity greater than 10,000 gallons shall be required to adequately boom or seal off the area between the vessel and the dock, bulkhead or land during transfer or bunkering operations.</li> <li>4. All vessels with a storage capacity to carry 10,000 gallons or more of pollutants as fuel and cargo shall maintain an adequate written ship-specific spill prevention and control contingency plan, and have on board a "discharge officer" designated in the plan.</li> </ol> <p>Published pursuant to Chapter 313.23; Chapter 376.07 and 376.071, Florida Statutes, as amended in 1990.</p>
<b>237</b>	<b>HOLIDAYS – LIST OF</b> (Effective: July 1, 2019)

When reference is made in this Tariff to "legal holidays," it means those days listed below, which are observed as holidays by the City of Pensacola and on which Port Administration will be closed. Holidays marked with an asterisk (\*) denote holidays observed by the Port's licensed stevedores and on which vessel and cargo operations are conducted by special arrangement only.

#### **Holidays – 12 Total**

New Year's Day (*)	Labor Day (*)
Martin Luther King's Birthday	Veteran's Day (*)
President's Day (*)	Thanksgiving Day (*)
Good Friday (*)	Friday after Thanksgiving (*)
Memorial Day (*)	Christmas Day (*)
Independence Day (*)	Day after Christmas

When any of the above referenced holidays falls on a Sunday, it will be observed on the Monday following. Other holidays may be observed by the stevedoring companies but are not necessarily observed by the Port of Pensacola.

**239**

#### **INTRACOASTAL WATERWAY (Effective: September 15, 2005)**

The Gulf Intracoastal Waterway intersects Pensacola Bay. The waterway is 150' wide and 12' deep. On the intra-coastal, the Port of Pensacola is 185 miles east of Harvey Lock, Louisiana; and 51.4 miles east of the entrance to the Mobile Ship Channel.

**240**

#### **INDEMNIFICATION AND HOLD HARMLESS (Effective: September 15, 2005)**

All users shall indemnify and hold harmless the Port, its subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents from any and all claims, suits, actions, damages, liability and expenses in connection with loss of life, bodily or personal injury, property damage, including loss of use of property, or demurrage, directly or indirectly caused by, resulting from, arising out of, or occurring in connection with their presence on the Port or their operations, whether arising solely out of the negligence of the User or not. This obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in exclusion or omission from any policy of insurance.

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

Nothing contained herein shall be deemed to exculpate or relieve the Port from liability for its own negligence. (Issued in compliance with FMC Regulation 46 CFR §525.2 (a) (1)).

**241a**

#### **INSURANCE (Effective January 1, 2015)**

All persons or firms using or conducting business operations on terminal facilities or other port-owned or operated property are required to procure and maintain Commercial General Liability, Business Auto, and Workers' Compensation insurance. Unless specified otherwise in this tariff or otherwise required by the

	<p>City, minimum limits for commercial general liability and business auto of \$1,000,000 per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required. The Commercial General Liability policy must provide bodily injury and property damage coverage for premises, operations, products and completed operations, and independent contractors. Broad Form Commercial General Liability coverage, or its equivalent shall provide at least, broad form contractual liability applicable to this tariff, as well as personal injury liability and broad form property damage liability. Coverage must be written on an occurrence type basis. The Business Auto policy must include coverage for bodily injury and property damage arising out of the operation, maintenance, or use of owned, non-owned, and hired autos including non-ownership employee use. Umbrella Liability Insurance coverage shall not be more restrictive than the underlying insurance policy coverage. Worker's Compensation must be provided as legally required and must include Employers Liability coverage of at least \$100,000 each person-accident, \$100,000 each person-disease, \$500,000 aggregate-disease. At the option of the City, coverage must be included for the Longshore and Harbor Workers Act and Maritime (Jones) Act exposures. Required insurance policies shall be documented in Certificates of Insurance. The policies shall contain an endorsement that provides that the City of Pensacola shall be notified at least thirty (30) days in advance of cancellation, nonrenewable or adverse change or restriction in coverage. The City of Pensacola shall be named on each commercial general liability certificate as an Additional Insured. If required by the City, the User shall furnish copies of the User's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by the City, an ACORD 25. Any wording in a Certificate which would make notification of cancellation, adverse change or restriction in coverage to the City an option shall be <b>deleted</b> or <b>crossed out</b> by the insurance carrier or the insurance carrier's agent or employee. The User shall replace any canceled, adversely changed, restricted or non-renewed policies with new policies acceptable to the City and shall file with the City Certificates of Insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not timely replaced, in a manner acceptable to the City, the User shall, upon instructions of the City, cease all operations on terminal facilities or other port-owned or operated property until directed by the City, in writing, to resume operations. The "Certificate Holder" address should read:</p> <p>City of Pensacola Department of Risk Management Post Office Box 12910 Pensacola, FL 32521-0063</p>
<b>241b</b>	<b>INSURANCE – CARGO</b> <b>(Effective: September 15, 2005)</b>
	The Port of Pensacola does not insure or provide insurance for any cargo. Any insurance required must be furnished by the party desiring such coverage.
<b>241c</b>	<b>INSURANCE - STEVEDORES AND FREIGHT HANDLERS</b> <b>(Effective: September 15, 2005)</b>
	Each stevedoring company or freight handler filing an application for a Stevedore License or Freight Handling Permit with the Port of Pensacola, in accordance with <a href="#">ITEM 276</a> , shall furnish with such application evidence of insurance as described in <a href="#">ITEM 241a</a> and as listed in Appendix A of this Tariff. Application for Stevedore License or Freight Handling Permit as well as specific policy, rules and regulations, and insurance requirements are included in <a href="#">Appendix A</a> of this Tariff.
<b>242</b>	<b>INVENTORY, REQUIREMENTS FOR</b>



	<p><b>(Effective: July 1, 2019)</b></p> <p>Each Freight Handling Licensee shall be required to submit an end-of-month inventory reflective of the last day of each calendar month for any and all cargo and commodities remaining in inventory at any General Cargo facility or warehouse. Licensees shall submit said inventory reports to the Cargo Operations Superintendent no later than the fifth (5th) day of the following month.</p> <p>An Export Cargo Inventory shall be submitted listing all commodities on hand, broken down by shipper, and at a minimum shall provide:</p> <ol style="list-style-type: none"> <li>1. Shipper name;</li> <li>2. Commodity;</li> <li>3. Date received;</li> <li>4. Quantity on hand;</li> <li>5. Type units;</li> <li>6. Weight in pounds (board feet for export lumber);</li> <li>7. Service Order #, mark, or other identifier; and</li> <li>8. Location;</li> </ol> <p>An Import Cargo Inventory shall be submitted listing all commodities on hand, broken down by shipper, and at a minimum shall provide:</p> <ol style="list-style-type: none"> <li>1. Vessel name with arrival date;</li> <li>2. Shipper and/or Receiver name;</li> <li>3. Commodity;</li> <li>4. Quantity on hand;</li> <li>5. Type units;</li> <li>6. Weight in pounds (board feet for export lumber);</li> <li>7. Bill of Lading #, mark, or other identifier; and</li> <li>8. Location;</li> </ol> <p>For all cargo sold or released to other parties, the Permittee must identify:</p> <ol style="list-style-type: none"> <li>1. The receiving Permittee;</li> <li>2. The party responsible for payment of the Authority's charges;</li> <li>3. A copy of the release instructions from the original shipper;</li> </ol> <p>All shippers will be billed storage charges for cargoes remaining in inventory beyond the allotted FREE TIME based upon the inventory information provided by Permittees, and as such the information must be accurate and submitted as described.</p> <p>Failure to submit required documents in accordance with the stated deadlines may result in assessment of a Documentation Delinquency Penalty of \$100 per day for each day the documentation is delinquent.</p>
<b>243</b>	<p><b>LEASING OF REAL PROPERTY</b> <b>(Effective: July 1, 2019)</b></p> <p>Leasing of real property, including costs for warehouse and/or open ground storage areas, shall be negotiated on a case by case basis with the Port Director. To the extent practicable, these rates will be in conformity with the most recent land appraisals or comparable commercial real estate market assessment.</p>



	<p>However, space constraints, cargo volumes and other market conditions may dictate price changes at the discretion of the Port Director.</p> <p>Leases do not provide for paving, electricity, water, housekeeping services, maintenance, or other improvements to the area rented. These items may be provided for within the individual lease.</p> <p>All requests to lease space should be directed to the Port Director who reserves the right to employ the use of a licensed Commercial Real Estate Broker as/if warranted.</p>
<b>244</b>	<p><b>LESSEES' AND RENTERS' RESPONSIBILITY</b> (Effective: September 15, 2005)</p>
	<p>When equipment is rented or leased to others by the Port of Pensacola, it is expressly understood that the equipment will be operated under the direction and control of the renter or lessee, and the renter or lessee shall be responsible for the operation thereof and assumes all risk for injuries or damages which may arise or grow out of the use or operation of said equipment. It is hereby understood and agreed that in the event the renter or lessee uses the operator of said equipment employed by the Port of Pensacola, such operator shall be under the direction of the renter or lessee and the operator shall be considered as the agent or servant of the renter or lessee, and the renter or lessee shall be responsible for the acts of such operator during the time of the rental or lease. It is incumbent upon the renter or lessee to make a thorough inspection and satisfy himself as to the physical condition and capacity of the unit, as well as the competency of the operator, there being no representation or warranties by the Port of Pensacola with reference to such matters.</p>
<b>245</b>	<p><b>LIABILITY: EXCULPATORY PROVISION</b> (Effective: September 15, 2005)</p>
	<p>No provision or sub-rule in this tariff shall relieve or limit the PORT OF PENSACOLA from liability for its own negligence nor require any user or lessee to indemnify or hold harmless the Port of Pensacola from liability for its own negligence. ISSUED IN COMPLIANCE WITH FMC REGULATION 46 CFR §525.2 (a)(1).</p>
<b>246</b>	<p><b>LIABILITY AND PAYMENT OF CHARGES</b> (Effective: July 1, 2019)</p>
	<ol style="list-style-type: none"> <li>1. Except as otherwise provided, all carriers, vessels, their owners, or agents, and all other users of the services or facilities of the Port are responsible for the payment of charges as provided for in this Tariff.</li> <li>2. On all vessels utilizing Port facilities, the agent shall be responsible for the payment of all dockage and other terminal charges assessed against the vessel as provided for in this Tariff. The Port of Pensacola reserves the right to hold the vessel, its owners, operators, despondent owners, charterers, sub-charterers, and/or agent or sub-agent liable for payment of all terminal charges not otherwise paid.</li> <li>3. The arrest or attachment of any vessel by court order will not relieve or diminish the responsibility of the agent for the payment of dockage and related port terminal charges. The arrest or attachment of any cargo by court order will not relieve or diminish the responsibility of the party booking the cargo for the payment of all terminal charges including, but not limited to handling, storage and wharfage, assessed by the Port in accordance with the provisions of this Tariff.</li> <li>4. All invoices are due upon presentation. Presentation of invoice shall be deemed to occur and user's financial responsibility to port for payment of invoice shall commence when port deposits invoice</li> </ol>

	<p>in United States mail service. The Port of Pensacola, at its option, may at any time extend credit to any user conducting business with the Port pursuant to provisions of this Tariff or amendments or re-issues thereof subject to user establishing and maintaining a single transaction or period or annual surety bond with the corporate surety acceptable to the Port, and in an amount equal to 125% of maximum liability. The form and contract of such bond shall be acceptable to the Port.</p> <ol style="list-style-type: none"> <li>5. <a href="#">All handling charges</a> will be billed by the applicable licensed cargo handler with payment in full to be remitted to the cargo handler. The port shall bill to all cargo handlers the applicable cargo handling franchise fee(s) as described in <a href="#">ITEM 222</a> of this Tariff with these funds to be remitted to the Port by the cargo handler in accordance with the payment terms as set out in this <a href="#">ITEM 246</a>. If, at any time, any cargo handler falls in arrears on his accounts payable to the port by 60 or more days, the port reserves the right to bill and receive payment for all handling charges and remit any amounts due to the cargo handler only after said arrearage is paid and all accounts brought current.</li> <li>6. Extension and continuation of credit shall be conditioned upon payment of invoice charges within 30 days from the date of presentation.* An interest charge of 12% per annum will be assessed against unpaid invoices over 30 days for each day over 30 days and added to the amount due each month until the amount of arrearage is paid. Written notice of any invoice in dispute must be furnished to the Port of Pensacola billing department within 20 days from the date of invoice or else interest charges will apply.</li> <li>7. The Port of Pensacola reserves the right to suspend or cancel the privilege of being billed on account previously granted to users who are habitually delinquent.</li> <li>8. Any carrier, vessel, owner, shipper, receiver, stevedore, forwarder, agent, or other users of the Port facilities who fails to pay any invoice on the 30th day following the date on which the invoice was presented will be subject to the conditions outlined in Paragraph 9 herein below.</li> <li>9. In the event of failure to pay invoices within 90 days from the date of presentation, the vessel, owner, shipper, receiver, forwarder, stevedore, agent or other user shall be placed on a cash basis under which further use of the Port facilities may be denied except upon advance payment by Cashier's/Certified Check or Wire Transfer of all charges which may be incurred under this Tariff, as estimated by the Port Director. The Port Director reserves the right to deny use of the Port's facilities to any such vessel, owner, charterer, agent, shipper, receiver, forwarder, stevedore or any user until all outstanding delinquent charges have been paid in full.</li> <li>10. The Port of Pensacola reserves the right to apply any payment received against the oldest bills rendered against vessels, their owners and agents, or other users of facilities, except that payment made on behalf of specific vessels and/or owners will be applied as specified by the payor.</li> <li>11. The Port of Pensacola reserves the right to estimate and collect in advance all charges which may accrue against vessels or cargo utilizing Port facilities.</li> <li>12. Issued pursuant to agreement of Gulf Port members of the GULF SEAPORTS MARINE TERMINAL CONFERENCE. Refer to <a href="#">ITEM 100</a> for further details of the CONFERENCE and its members.</li> </ol>
247	<p><b>LOCATION</b> (Effective: July 1, 2019)</p>

	The Port of Pensacola is situated in Pensacola Bay on the Gulf of Mexico and is located generally at latitude 30 degrees, 24 minutes north, longitude 87 degrees, 13 minutes west.																			
248	<b>LOITERING ON PREMISES</b> (Effective: September 15, 2005)																			
	It shall be unlawful for any person to loiter upon or in any of the terminal facilities or properties of the Port of Pensacola. It shall be unlawful for any unauthorized persons to enter cargo-handling areas.																			
249	<b>LOSS CONTROL AND SAFETY</b> (Effective: September 15, 2005)																			
	All Port users shall retain control over their employees, agents, servants and subcontractors, as well as control their invitees, and their activities on and about the Port and the manner in which such activities shall be undertaken and to that end, they shall not be deemed to be an agent of the City. Precaution shall be exercised at all times by the users for the protection of all persons, including employees, and property. The users shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.																			
252	<b>MINIMUM BILLING CHARGES</b> (Effective: July 1, 2019)																			
	<table><tr><th>Billing Item(s)</th><th>Minimum Charge</th></tr><tr><td>Dockage, per vessel</td><td>\$100.00</td></tr><tr><td>Wharfage, per shipment</td><td>\$ 50.00</td></tr><tr><td>Handling Franchise, per shipment</td><td>\$15.00</td></tr><tr><td>Shore Power, per vessel</td><td>\$ 50.00</td></tr><tr><td>Stevedoring Franchise, per vessel</td><td>\$150.00</td></tr><tr><td>Storage, per invoice</td><td>\$ 25.00</td></tr><tr><td>Water, per vessel</td><td>\$ 75.00</td></tr><tr><td>All Other Charges</td><td>\$ 25.00</td></tr></table>		Billing Item(s)	Minimum Charge	Dockage, per vessel	\$100.00	Wharfage, per shipment	\$ 50.00	Handling Franchise, per shipment	\$15.00	Shore Power, per vessel	\$ 50.00	Stevedoring Franchise, per vessel	\$150.00	Storage, per invoice	\$ 25.00	Water, per vessel	\$ 75.00	All Other Charges	\$ 25.00
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253	<b>NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES)</b> (Effective: October 20, 2009)																			
	All tenants and users shall comply with the requirements of the National Pollutant Discharge Elimination System (NPDES) program delegated by the United States Environmental Protection Agency (EPA) to the state of Florida and administered in part by the Florida Department of Environmental Protection (FDEP). The Port and Tenants are required to be covered by a Multi-Sector Generic Permit (MSGP) which is currently identified as “co-located permittee”, and the Port shall submit the required Notice of Intent (NOI) to FDEP and provide a copy of the NOI and related Storm Water Pollution Prevention Plan (SWPPP) to the Tenants and users. The Port Administrative Office maintains copies of the most current SWPPP for Tenants. All Tenants and users are responsible for obtaining and maintaining a current copy of the SWPPP, as well as informing and familiarizing Tenant and user employees of the SWPPP contents and Tenant and user responsibilities there under. The Port of Pensacola has control over the establishment and implementation of all policies relating to storm water activates associated with port docks and tenant areas, including leased premises. All tenants and users shall comply with the most current version of the SWPPP and with the most current Best Management Practices (BMP) applicable to their facilities and operations contained																			

	in the document entitled “Port Pensacola BMP’s for Potential Pollutant Sources”, copies of which are available from the Port Manager.					
254	<b>NORMAL WORKING HOURS</b> <b>(Effective: September 15, 2005)</b>					
	<p>The normal working hours of the Port of Pensacola are from 0800 hours to 1200 hours and 1300 hours to 1700 hours, Monday through Friday, holidays excepted.</p> <p>Cargo arriving at the Port by truck must be prepared for loading and/or unloading during the normal working hours of the Port unless prior special arrangements have been made and approved by the Port Director and freight handler (reference <a href="#">ITEM 284</a>).</p> <p>Cargo services performed by the freight handler during other than normal working hours, holidays excepted, will be assessed 165% of the applicable charge provided for in SECTION III or the applicable schedule of rates provided for in <a href="#">ITEM 430</a> of this Tariff, whichever is greater. When such services are performed by the Port during holiday hours (reference <a href="#">ITEM 237</a>) they will be assessed 250% of the applicable charge provided in SECTION III or the applicable schedule of rates provided in <a href="#">ITEM 430</a> of this Tariff, whichever is greater, when such service is performed on request.</p>					
256	<b>OILY WASTE DISPOSAL/SHIPS WASTE DISPOSAL</b> <b>(Effective January 1, 2015)</b>					
	<p>Under the provision of ANNEX I of the INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS, known as MARPOL 73/78, and the United States Coast Guard implementing regulation, PART 158 of TITLE 33 of the CODE of FEDERAL REGULATIONS (33 CFR 158), all terminals and ports which receive tankers or other ocean-going vessels of 400 gross tons or more must make provisions for adequate oily-waste-reception facilities. The application of the Port of Pensacola for its public wharves and facilities for a Certificate of Adequacy (COA) for reception facilities for receipt of oily waste was approved and the COA was issued February 11, 1986.</p> <p>The firms listed below have indicated to the Captain of the Port that they are interested in contracting their services in receipt of the oily waste. Listing herein does not indicate a preferential recommendation on the part of the Port of Pensacola but merely reflects the firms' desire to function in the above-mentioned capacity and the Captain of the Port's recognition of the firms with respect to the application of the Port of Pensacola. All inquiries should be directed to the Captain of the Port, United States Coast Guard. Any contractor is subject to the applicable regulations for the transfer of oil (33 CFR 154.156).</p> <table><tr><td><b>OILY WASTE RECEPTION FACILITIES:</b></td></tr><tr><td><b>Oil Recovery Company Inc.</b></td></tr><tr><td><b>1101 S. Conception Street</b></td></tr><tr><td><b>Mobile, AL 36603</b></td></tr><tr><td><b>PHONE: 251-690-9010</b></td></tr></table> <p>Under the provision of ANNEX V of MARPOL 73/78 PORT RECEPTION FACILITIES FOR <b>SHIP’S GARBAGE</b> and separation onboard vessel of various waste and required. Garbage is defined as "all kinds of victual, domestic and operational waste excluding fresh fish and parts thereof, generated during the normal</p>	<b>OILY WASTE RECEPTION FACILITIES:</b>	<b>Oil Recovery Company Inc.</b>	<b>1101 S. Conception Street</b>	<b>Mobile, AL 36603</b>	<b>PHONE: 251-690-9010</b>
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<b>Oil Recovery Company Inc.</b>						
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<b>Mobile, AL 36603</b>						
<b>PHONE: 251-690-9010</b>						

operation of the ship and liable to be disposed of continuously or periodically." In order to accommodate the need of shipping and commerce through facilities of the Port of Pensacola, the Port has filed an application for a Certificate of Adequacy (COA) with the Captain of the Port, United States Coast Guard, for garbage reception facilities. Applicants for berth at any facility of the Port of Pensacola shall provide, upon request, the reception facilities which meet the requirements contained in 33 CFR, PARTS 151, 158. Berth applicants shall provide a 24-hour notice of vessel's intent to discharge garbage at any facility of the Port of Pensacola and reception facilities for food, plant, meat, and other potentially infectious waste shall be provided by the berth applicant in accordance with the above and with the requirements set forth in 7 CFR 330 and 9 CFR 94.

Regulated food waste must be handled at the facility approved by the Animal and Plant Health Inspection Service (APHIS). Berth applicants or their designees shall provide the necessary reception facilities when requested to do so for other than APHIS-regulated garbage from any commercial, full-service solid waste form. The firm listed below has indicated to the Captain of the Port that it is interested in contracting its service in this regard and is approved by the United States Department of Agriculture (USDA), APHIS. The listing below does not indicate preferential recommendation on the part of the Port of Pensacola but merely reflects the company's desire to function in the above-mentioned capacity. Qualified contractors are subject to the applicable regulations for the collection and disposal of ship's waste (33 CFR, PART 151, 155, and 158; 46 CFR, PART 25).

SHIP'S REGULATED FOOD WASTE FACILITY:	GENERAL GARBAGE FACILITY:
Dockside Services Inc.	Waste Pro
2910 North Palafox Street	401 West Burgess Road
Mobile, AL 36633	Pensacola, FL 32503
PHONE: 251-438-2362	PHONE: 850-474-0800

**258** **PALLET RENTAL AND USAGE**  
(Effective: September 15, 2005)

As a non-operating, landlord port, the Port of Pensacola does not maintain available for rent or otherwise provide pallets for cargo handling operations. Licensed stevedores and cargo handlers should be prepared to provide sufficient pallets to support their operations at the Port of Pensacola. The Port expressly disclaims liability for any damages, demurrage and/or detention charges, costs, and expenses related to or arising out of any inadequate supply of pallets for cargo-handling operations at the Port. Each user (reference [ITEM 164](#)) of the Port whose use of Port facilities for cargo-handling operations causes or gives rise to damages, demurrage and/or detention charges resulting from an inadequate supply of pallets agrees to defend, indemnify and hold harmless the Port from and against any and all such damages, demurrage and/or detention charges, costs and expenses, including attorney's fees related thereto.

**259** **PERMIT AND FRANCHISE FEES**  
(Effective: July 1, 2019)

Except as published in [ITEMS 404a](#) and [404b](#), the Port of Pensacola does not require the payment of a permit or franchise fee for the privilege of conducting business on Port property. Any person, firm, or business desiring to conduct business at the Port of Pensacola must obtain a Business Tax Receipt (business license) issued by the City of Pensacola before engaging in any commercial activity at the Port.

**260** **PILOT SERVICE**

	<b>(Effective: October 20, 2009)</b>	
	PENSACOLA BAY PILOTS provide 24-hour service for all vessels entering or leaving the Port of Pensacola. For information concerning pilotage rates, contact:	
	<b>Pilot Service</b>	<b>Pilot Name</b>
	Pensacola Bay Pilots	Capt. Brian McGee
	<b>Phone No.</b>	850-481-4222
<b>261</b>	<b>POTABLE WATER</b> <b>(Effective: September 15, 2005)</b>	
	All berths have or are accessible to pipeline hose connections for potable water ( <b>ITEM 440</b> ).	
<b>262</b>	<b>PROJECT CARGO RATES AND RATES FOR SPECIAL SERVICES</b> <b>(Effective: September 15, 2005)</b>	
	Project rates and rates for special services not covered in this Tariff will be quoted upon request by the Port Director or designated stevedore or freight handler, if applicable.	
<b>264</b>	<b>RADIO EQUIPMENT</b> <b>(Effective: September 15, 2005)</b>	
	The following radio channels are designated for radio communication at the Port of Pensacola:	
	<b>Radio Channel</b>	<b>Use</b>
	Channel 10	Commercial
	Channel 12	Port Operations
	Channel 14	Port Operations
	Channel 16	International Distress, Safety & Calling
<b>265a</b>	<b>RESERVED</b> <b>(Effective: July 1, 2019)</b>	
<b>265b</b>	<b>RAILCARS - PLACING, LOADING AND UNLOADING</b> <b>(Effective: September 15, 2005)</b>	
	Each freight handler will communicate directly with the delivering rail carrier and/or shippers/consignees regarding the placement of loaded railcars at the Port, the pickup of empty railcars from the Port and the loading and unloading of railcars at the Port. Each freight handler will be responsible for all railcar traffic functions (excluding shunting of railcars within Port facilities, see <b>ITEMS 208c</b> and <b>426</b> ) for all cargo it handles including, but not limited to receipt, handling and payment of demurrage bills.	
<b>266</b>	<b>RAILROADS</b> <b>(Effective: September 15, 2005)</b>	
	The Port of Pensacola facilities are served by the CSX Transportation Inc. (CSX) and Burlington Northern Santa Fe (BNSF) and Alabama Gulf Railroad (AGRR) by reciprocal switching arrangements.	
<b>267</b>	<b>REQUIREMENT TO WORK OVERTIME</b> <b>(Effective: September 15, 2005)</b>	
	Agents, owners, despondent owners and/or charterers of vessels which have been authorized and accepted for berthing may be required to work overtime on weekdays, Saturdays, Sundays, and Legal Holidays when ordered and to the extent determined by the Port Director in order to expedite the handling of cargo and to avoid cargo and/or vessel congestion. Such order may include the requirement to work continuously* until completion when considered necessary in the judgment of the Port Director.	

	<p>Vessels failing to arrive on schedule as published, anticipated or actual facilities congestion and transit-shed overcrowding, including railcar backlog, shall be considered justifiable reasons for requiring vessels to work overtime. All expenses incurred as a result of the requirement to work overtime shall be for the account of the vessel and the Port shall not be liable for any costs associated therewith.</p> <p>*Excluding meal periods.</p> <p>ALL DECISIONS OF THE PORT DIRECTOR ARE FINAL.</p>
<b>268</b>	<p><b>RESPONSIBILITY FOR LOSS OR DAMAGE</b> (Effective: September 15, 2005)</p>
	<p>Except for its own proven negligence, the Port of Pensacola will not be responsible for any damages to or delays from freight or cargo being loaded, unloaded, handled, stored or otherwise present on its facilities; or for loss of any freight or cargo; or for any delay of same caused by or resulting from fire; flood; leakage or discharge from sprinklers, fire-protection systems, water supply pipes, gutters, or downspouts; collapse of buildings; rats, mice, termites, moths, weevils or other insects; frost; rust; mold; corrosion; evaporation; shrinkage; leakage from containers; decay; contamination; discoloration; the elements; or, insufficient notification; nor will it be responsible for any delay, loss or damage arising from insurrections, riots, commotions or strikes of any persons in its employ, or in the service of others; nor for any consequence arising therefrom; nor will it be responsible for freight or cargo on its wharves, or in its transit sheds or warehouses or in the open against the risk of theft, pilferage or non-delivery. All cargo, ships' supplies, ship's gear and equipment, regardless of its location on Port property, will remain in the care, custody and control of the vessel, its agents or the shipper and full responsibility therefore shall be assumed by the vessel, its agents or the shipper.</p>
<b>269</b>	<p><b>RIGHT TO REFUSE CARGO</b> (Effective: September 15, 2005)</p>
	<p>The Port of Pensacola reserves the right, without responsibility for demurrage, detention, loss or damage attaching, to refuse to accept, receive or unload or to permit a vessel to discharge and/or load:</p> <ol style="list-style-type: none"> <li>1. Cargo for which previous arrangements with the Port Director for space, receiving, unloading or handling have not been made by shipper, consignee or carrier; or</li> <li>2. Cargo deemed extra offensive, perishable, hazardous, or detrimental to the safety and health of the public, public property and/or adversely affecting the environment.</li> </ol> <p>Where not prohibited by law, the movement of such articles or commodities over or in connection with facilities of the Port of Pensacola is subject strictly to the making of prior arrangement there or with and at the option and convenience of the Port of Pensacola. Loading, unloading, handling, storage and heavy-lift services required or requested on the following cargo will be subject to special quotation.</p> <ol style="list-style-type: none"> <li>1. Cargo, the value of which may be determined to be less than the probable terminal charges;</li> <li>2. Cargo not packed in packages or containers suitable for ordinary handling incident to its transportation. Such cargo, however, may be repacked or reconditioned at the discretion of the Port of Pensacola; and all expense, loss or damage incident thereto will be for the account of the shipper, consignee, owner or charterer.</li> </ol>



270	<b>SHIPPERS REQUESTS AND COMPLAINTS</b> (Effective: September 15, 2005)				
	<p>Any interested party may initiate requests or complaints on matters relating to rates, rules and regulations contained in this Tariff by filing a statement fully documenting the request or complaint and mailing to the Port of Pensacola as follows:</p> <p>PORT OF PENSACOLA ATTN: Office of the Port Director Post Office Box 889 Pensacola FL 32594-0889</p>				
271	<b>SHUT-OUT CARGO</b> (Effective: September 15, 2005)				
	<p>The ocean carrier is responsible for the payment of all storage charges on cargo not lifted by nominated vessels as scheduled. Carriers are required to furnish statements of cargo not lifted within 5 days after departure of vessel. The Port Director reserves the right to order shut-out cargo removed from the terminal facilities at the expense and risk of the vessel, its owners and/or agents upon 24-hours notification to the vessel, its owners and/or agents (reference <a href="#">ITEM 228b</a>).</p>				
272	<b>SIGNS</b> (Effective: October 20, 2009)				
	<p>Any signage erected on Port property must be approved in advance by the Port Director or his designee and must comply with any and all locale sign ordinances and regulations.</p>				
273	<b>SMOKING</b> (Effective: September 15, 2005)				
	<p>It shall be unlawful for any person to smoke or to light any match upon or in any Port facility where such is prohibited by the Port of Pensacola, the Pensacola Fire Department or the United States Coast Guard.</p>				
274	<b>SPECIAL SERVICES</b> (Effective: September 15, 2005)				
	<p>Special services such as bulking, heavy-lift, separating, sorting, stenciling, tagging, checking, recouping, etc. will be performed and billed by general license stevedores to the party requested such service.</p>				
275	<b>STEVEDORES/FREIGHT HANDLERS and STEAMSHIP AGENTS</b> (Effective: July 1, 2019) (C)				
	<p>The Port of Pensacola requires that the loading or unloading of cargo to or from trucks, railcars, vessels and ocean-going barges from or to the place of rest be performed by stevedoring companies or freight handlers which are duly-licensed and authorized by the Port of Pensacola to perform such activities. The Port of Pensacola does not perform or arrange for any loading or unloading of cargo at the Port.</p> <p>All vessels engaged in coastwise and foreign trade calling at the Port of Pensacola must be represented by an agent duly-authorized to do business at the Port of Pensacola.</p> <table><tr><td><b>Licensed Stevedore/Freight Handlers</b></td></tr><tr><td>PATE STEVEDORE COMPANY (a member of the LOGISTEC family of companies)</td></tr><tr><td>720A South Barracks Street</td></tr><tr><td>Pensacola, FL 32575</td></tr></table>	<b>Licensed Stevedore/Freight Handlers</b>	PATE STEVEDORE COMPANY (a member of the LOGISTEC family of companies)	720A South Barracks Street	Pensacola, FL 32575
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720A South Barracks Street					
Pensacola, FL 32575					



	<p>Phone: 850-438-3648 / Fax: 850-438-5214</p> <p>Email: <a href="mailto:mpate@patestevedore.com">mpate@patestevedore.com</a></p>														
	<p>Participating steamship agents are as follows:</p> <table border="1"> <thead> <tr> <th colspan="2" data-bbox="248 384 1536 443">Steamship Agents</th></tr> </thead> <tbody> <tr> <td data-bbox="248 443 987 632"> <b>AZTEC MARITIME SERVICE, INC.</b>  303 Saint Louis St.  Mobile, AL 36602  Phone: 251-432-7273  Email: <a href="mailto:ops@aztecmaritime.com">ops@aztecmaritime.com</a> </td><td data-bbox="987 443 1536 632"> <b>LOTT SHIPPING AGENCY, INC.</b>  259 Conception St.  Mobile, AL 36601  Phone: 251-433-1621  Email: <a href="mailto:operations@lottship.com">operations@lottship.com</a> </td></tr> <tr> <td data-bbox="248 632 987 852"> <b>BIEHL &amp; COMPANY</b>  118 N. Royal St.  Suite 705  Mobile, AL 36602  Phone: 251-432-1605  Email: <a href="mailto:ops-mobile@biehlco.com">ops-mobile@biehlco.com</a> </td><td data-bbox="987 632 1536 852"> <b>MARITIME ENDEAVERS SHIPPING</b>  1901 Alabama State Docks Blvd.  Building 50, Suite 109  Mobile, AL 36602  Phone: 251-434-9600  Email: <a href="mailto:ops-mobile@mescltd.com">ops-mobile@mescltd.com</a> </td></tr> <tr> <td data-bbox="248 852 987 1073"> <b>FILLETTE, GREEN SHIPPING SVC. (USA) CORP.</b>  261 N. Conception St.  Mobile, AL 36603  Phone: 251-375-2224  Email: <a href="mailto:mob@fillettegreen.com">mob@fillettegreen.com</a> </td><td data-bbox="987 852 1536 1073"> <b>NORTON LILLY INTERNATIONAL</b>  One St. Louis Centre  Suite 3002  Mobile, AL 36602  Phone: 251-431-6335  Email: <a href="mailto:mob-ops@nortonlilly.com">mob-ops@nortonlilly.com</a> </td></tr> <tr> <td data-bbox="248 1073 987 1293"> <b>GENERAL STEAMSHIP CORP</b>  118 North Royal St.  Suite 508  Mobile, AL 36602  Phone: 251-438-5071 (24 hour)  Email: <a href="mailto:mobops@gensteam.com">mobops@gensteam.com</a> </td><td data-bbox="987 1073 1536 1293"> <b>PAGE &amp; JONES, INC.</b>  3902 N. 9<sup>th</sup> Ave.  Suite 3D  Pensacola, FL 32503  Phone: 850-432-4954  Email: <a href="mailto:agency@pageandjones.com">agency@pageandjones.com</a> </td></tr> <tr> <td data-bbox="248 1293 987 1514"> <b>GREAT CIRCLE SHIPPING</b>  3 W. Garden St.  Suite 707  Pensacola, FL 32501  Phone: 850-429-0510  Email: <a href="mailto:calm@greatcircleship.com">calm@greatcircleship.com</a> </td><td data-bbox="987 1293 1536 1514"> <b>SEAGULL MARINE, INC.</b>  115 Canvasback Dr.  St. Rose, LA 70087  Phone: 504-465-1017  Email: <a href="mailto:Ops@seagullmarine.com">Ops@seagullmarine.com</a> </td></tr> <tr> <td data-bbox="248 1514 987 1780"> <b>INCHCAPE SHIPPING SERVICES</b>  11 N. Water St.  Suite 9290  Mobile, AL 36602  Phone: 251-461-2747  Email: <a href="mailto:iss.mobile@iss-shipping.com">iss.mobile@iss-shipping.com</a> </td><td data-bbox="987 1514 1536 1780"> <b>WILHELMSSEN SHIPS SERVICES</b>  2614 Hals Mill Rd.  Mobile, AL 36606  Phone: 251-471-2661  Email: <a href="mailto:wss.mobile@wilhelmsen.com">wss.mobile@wilhelmsen.com</a> </td></tr> </tbody> </table>	Steamship Agents		<b>AZTEC MARITIME SERVICE, INC.</b> 303 Saint Louis St. Mobile, AL 36602 Phone: 251-432-7273 Email: <a href="mailto:ops@aztecmaritime.com">ops@aztecmaritime.com</a>	<b>LOTT SHIPPING AGENCY, INC.</b> 259 Conception St. Mobile, AL 36601 Phone: 251-433-1621 Email: <a href="mailto:operations@lottship.com">operations@lottship.com</a>	<b>BIEHL &amp; COMPANY</b> 118 N. Royal St. Suite 705 Mobile, AL 36602 Phone: 251-432-1605 Email: <a href="mailto:ops-mobile@biehlco.com">ops-mobile@biehlco.com</a>	<b>MARITIME ENDEAVERS SHIPPING</b> 1901 Alabama State Docks Blvd. Building 50, Suite 109 Mobile, AL 36602 Phone: 251-434-9600 Email: <a href="mailto:ops-mobile@mescltd.com">ops-mobile@mescltd.com</a>	<b>FILLETTE, GREEN SHIPPING SVC. (USA) CORP.</b> 261 N. Conception St. Mobile, AL 36603 Phone: 251-375-2224 Email: <a href="mailto:mob@fillettegreen.com">mob@fillettegreen.com</a>	<b>NORTON LILLY INTERNATIONAL</b> One St. Louis Centre Suite 3002 Mobile, AL 36602 Phone: 251-431-6335 Email: <a href="mailto:mob-ops@nortonlilly.com">mob-ops@nortonlilly.com</a>	<b>GENERAL STEAMSHIP CORP</b> 118 North Royal St. Suite 508 Mobile, AL 36602 Phone: 251-438-5071 (24 hour) Email: <a href="mailto:mobops@gensteam.com">mobops@gensteam.com</a>	<b>PAGE &amp; JONES, INC.</b> 3902 N. 9 <sup>th</sup> Ave. Suite 3D Pensacola, FL 32503 Phone: 850-432-4954 Email: <a href="mailto:agency@pageandjones.com">agency@pageandjones.com</a>	<b>GREAT CIRCLE SHIPPING</b> 3 W. 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276	<b>STEVEDORE LICENSE OR FREIGHT HANDLING PERMIT (Effective: July 1, 2019)</b>														

Each company providing stevedoring or freight handling services and desiring to do business on or in connection with the facilities of the Port of Pensacola shall file a completed Stevedore License or Freight Handling Permit Application accompanied by the necessary supporting information called for therein. See [Appendix A](#) of this Tariff for Application, Policy, Rules and Regulations and additional insurance requirements. License/Permit. Fees shall be as follows:

<b>Purpose</b>	<b>Original Application</b>	<b>Annual Fee</b>
Stevedore License	\$5,000.00	\$1,000.00
Freight Handling Permit (may not load and unload ships/vessels)	\$2,500.00	\$ 750.00

From and after the effective date of this provision, no stevedoring company or freight handler, whether currently doing business on or in connection with the facilities of the Port of Pensacola or whether applying for authority to so perform, shall be permitted to conduct business thereon until such Stevedore License or Freight Handlers Application, accompanied by the appropriate application fee and other required documents, has been received and approved by the Port of Pensacola.

**277a** **STORAGE INVOICES**  
(Effective: July 1, 2019)

The Port of Pensacola will invoice storage charges to the agent or company shown on the manifest or fright waybill records in the Port office. When billing is rendered to an owner of cargo on instructions of the agent, such agent assumes full guarantee of the owner's credit and after 60 days will remit all unpaid charges, including delinquency penalties, to the Port of Pensacola. Changes of title for the purpose of invoicing another person or company for any or all charges contained in this Tariff will be subject to the provisions of [ITEM 209](#).

Except as otherwise provided in this Tariff, storage charges will be for the account of the cargo owner. In the event storage charges are not paid, the Port of Pensacola reserves the right to refuse to accept any future cargo from the delinquent cargo owner until such time as all outstanding storage invoices have been paid. The Port further reserves the right, at the discretion of the Port Director, to hold and refuse to release any cargo upon which there are any unpaid storage charges.

When a vessel fails to meet the announced date of arrival/sailing, for any reason, storage charges accruing after such date shall be assessed for the account of the vessel until the vessel commences to load.

Any arrangements for the payment of storage charges in conflict with the regulations stated herein must be approved in advance by the Port Director.

**277b** **STORAGE, STAGING AND ASSEMBLY OF NON-CARGO AND MATERIALS (N)**  
(Effective: May 1, 2014)

The Port of Pensacola, at its sole discretion, shall determine what constitutes cargo and what constitutes non-cargo equipment and materials.

Staging, storage, and assembling of non-cargo equipment and materials on Port terminal facilities will be subject to adherence to directives of the Port's Director or designee. Storage, staging and assembling of materials and equipment as required for vessel repair or alterations and other materials not deemed as cargo, will be allotted a "Free Time" period of no more than 72 hours prior to the arrival of the vessel and

	<p>of not more than 72 hours after the departure of the vessel. In recognition of emergencies, congestion of facilities, or other similar factors, free time may be reduced or extended at the discretion of the Port Director, or designee.</p> <p>Free Time is defined as a specified number of days or hours during which materials and equipment may remain on wharf or terminal premises without incurring Port Charges. See <a href="#">ITEM 228a-228e</a> for details.</p> <p>The Port retains the right to enter into agreement with consignees and their agents concerning rates and services relating to staging, storage and assembling of equipment materials at Port facilities.</p>
<b>278</b>	<p><b>STORM PROTECTION</b> (Effective: September 15, 2005)</p>
	<p>The owners and/or agents of all cargo stored in open areas at the Port of Pensacola shall be responsible for securing it so as to avoid damage to it or other property resulting from hurricanes or other disturbances. If the owner and/or agents fail to provide such security, the Port of Pensacola shall have the right to secure such cargo, or order the last stevedoring company handling the cargo to protect it against such possible damage and to charge the cost thereof against the owner and/or agent of the cargo, plus 25%. The Port of Pensacola assumes no responsibility for damage to cargo resulting from hurricanes, floods or other disturbances.</p>
<b>279</b>	<p><b>SUBSTITUTION OF VESSELS</b> (Effective: September 15, 2005)</p>
	<p>When, in the opinion of the Port Director, circumstances arise that are considered beyond the control of the steamship owner or agent and are such so as to prevent a vessel from lifting her assigned outward cargo, then another vessel may be substituted to lift such cargo, provided that the substitute vessel and/or charterer/operator accepts the loading date of the original vessel and pays all applicable charges based on such loading date.</p> <p>Once a vessel begins to load her outward cargo, any quantity of such cargo not lifted shall be classified as "shut-out cargo" (reference <a href="#">ITEM 271</a>).</p>
<b>282a</b>	<p><b>TARIFF - APPLICATION AND INTERPRETATION OF</b> (Effective: May 1, 2014)</p>
	<p>The charges, rates, rules and regulations published in this Tariff shall apply equally to all users of, and all traffic on the waterways and facilities owned by, operated by or under the jurisdiction of the Port of Pensacola, on or after the effective date of this Tariff or any supplements thereto. The Port of Pensacola reserves the right to negotiate and establish rates through separate contracts, terminal leases, or operating agreements, or to offer volume or frequency discounts as may be deemed appropriate by the Port Director.</p> <p>The Port Director shall be the sole judge to interpret and determine the applicability of any of the rates, rules, regulations or services provided for in this Tariff.</p>
<b>282b</b>	<p><b>TARIFF - CONSENT TO TERMS</b> (Effective: September 15, 2005)</p>
	<p>The use of waterways, piers, wharves, bulkheads, docks, transit sheds and/or other facilities under the jurisdiction of the Port of Pensacola shall constitute consent to the terms and conditions of this Tariff, and such use establishes an agreement regarding the port facilities to promptly pay all charges specified in this Tariff upon presentation of invoices. All users agree to be bound by and governed by all rules and regulations published herein.</p>

283	<b>TIDES</b> <b>(Effective: September 15, 2005)</b>
	<p>The normal mean tidal range in Pensacola Bay is 0.6'. The extreme tidal range is about 2'. Strong southeasterly winds sometimes raise the water level approximately 1' in the bay, while strong northeasterly winds lower the level about 1' in the bay.</p>
284	<b>TRAFFIC VIA MOTOR CARRIER</b> <b>(Effective: September 15, 2005)</b>
	<p>To ensure efficiency in the use of Port facilities shippers/receivers are urged to give 24-hour advance notice of their intention to pick up cargo from or deliver cargo to the Port. The Port reserves the right to postpone the pickup or delivery of cargo until an opportune time in the event of an unscheduled request for pick-up or delivery but the Port will make every reasonable effort to accommodate all pick-up and delivery requests. Unless special arrangements have been approved by the Port Director or his designated representative and the designated cargo handler, pickup and delivery activities should commence not later than 1500 hours, Monday through Friday. The freight handler is responsible for notifying the Port Director or his designated representative for approval prior to the commencement of any activity outside of normal working hours.</p> <p>The Port of Pensacola assumes no responsibility for demurrage associated with motor carrier pick-up or delivery. <a href="#">ITEM 245</a> LIABILITY, EXCULPATORY PROVISION, of this Tariff applies to this disclaimer.</p>
285	<b>TRESPASSING</b> <b>(Effective: September 15, 2005)</b>
	<p>Unless otherwise specified in a contractual agreement between a user of the Port and the Port of Pensacola, the Director of the Port of Pensacola or his designee has the authority to restrict or prohibit any person's access to any portion of Port property.</p> <p>To enhance security, promote public safety and efficient operations, the Director of the Port of Pensacola may restrict or prohibit any individual's access to any portion of Port property. This includes all land, facilities, buildings and offices; open and covered cargo storage areas; cargo sheds; all docks, including entry and exit ways; all equipment, machinery, railroad right-of-ways and roadways which are owned, controlled or operated by the Port.</p> <p>Persons entering Port facilities without proper authorization shall be considered trespassers and may be subject to civil or criminal action as appropriate. The Port Director or his designee may initiate the enforcement of the trespass laws of the State of Florida against any person or persons who the Port Director or his designee determines is a threat to the peace, security, public safety or efficient operations of the Port of Pensacola.</p>
286	<b>TUG SERVICE</b> <b>(Effective: July 1, 2019)</b>
	<p>The Port of Pensacola performs no tug assistance in docking and undocking vessels at berths or slips. Such service is performed by licensed towing companies. <b>Port of Pensacola has a mandatory tug utilization policy.</b> All vessels in excess of 350' LOA are required to use at least one (1) tug to assist with channel transit, docking and undocking upon arrival and departure. At the discretion of the harbor pilot when warranted by tide, current and weather conditions, vessels 399' LOA and below AND equipped with DP2 or better dynamic positioning system technology may be exempted from this mandatory tug requirement. Outside of this requirement, all other tug use shall remain at the discretion of the vessel and harbor pilot. The resident harbor tug service provider at the Port of Pensacola is <b>Portside Marine &amp; Towing (850-777-1285).</b></p>

<b>288a</b>	<b>VESSEL(S) - SPEED</b> <b>(Effective: September 15, 2005)</b>
	No vessel shall proceed at a speed which will endanger other vessels or structures. Any official signs indicating limited speeds through critical portions of the waterways shall be strictly obeyed. All applicable Federal, State, and local rules and regulations apply.
<b>288b</b>	<b>VESSEL(S) - TO VACATE</b> <b>(Effective: July 1, 2019)</b>
	<p>The Port may order any vessel to vacate any berth when the Port deems that the continued presence of such vessel at berth would be a potential hazard to the vessel, the berth, the Port's facilities, or the rights or property or safety of others, or would unreasonably interfere with the use of the Port's facilities by others. Such situations include, but are not limited to the following: when a potential natural disaster, such as a hurricane, tornado, earthquake or flooding, makes the continued presence of the vessel a threat to the vessel and/or the Port's facilities; when the berth is committed to others under a preferential berth arrangement or other agreement; when the vessel's cargo or other items represent a hazard to other vessels, cargo or facilities; and when the vessel refuses to work continuously to completion of its loading and/or discharge.</p> <p>The Port shall provide written notice (letter, facsimile or electronic transmission, etc.) to the vessel's agents, owners, despondent owners and/or charterers of vessels or party arranging for berthing of the vessel advising of the requirements to vacate and referring to this tariff item in the communication. The notice shall state the time that the berth must be vacated and shall be presented at least four hours prior to said time.</p> <p>If a vessel fails to vacate the berth as ordered, without reasonable excuse, it shall be responsible for any damage or expense which may be incurred by the Port and to others caused by such failure to vacate. The Port shall have the option (but not the duty) to move the vessel to other locations at the risk and expense of the vessel.</p> <p>If such movement occurs, the vessel shall hold harmless the Port for any damage or liability it may incur as a result of such movement.</p> <p>Failure to comply with an order to vacate will result in a penalty charge to the vessel of triple the applicable dockage rate. This charge shall not constitute a waiver by the Port of any greater actual damages it may sustain as a result of the vessel's failure or refusal to vacate. Refusal to vacate may result in denial of future berthing privileges.</p> <p>When a working vessel is required to vacate an assigned berth for the purpose of making way for another vessel which has preferential berthing privileges at such berth and subsequently returns to that berth to complete loading or discharging of cargo, dockage charges will be assessed on the total time the vessel actually occupies that berth and the separate berthing's will be treated as one continual berthing.</p>
<b>288c</b>	<b>VESSEL(S) - LIGHTS AT NIGHT</b> <b>(Effective: July 1, 2019)</b>
	All vessels, barges, or other water craft, while anchored in the waterways or moored at the docks of the Port of Pensacola, must at all times of the night show proper lights as determined by the U.S. Coast Guard.
<b>288d</b>	<b>VESSEL(S) - MANNING OF AND MOBILE CONDITION</b>

	<b>(Effective: July 1, 2019)</b>
	<p>Every vessel must at all times have on board at least one licensed officer in charge to take any action as may be directed by the Port Director, and every vessel must at all times be kept in a mobile condition and have on board sufficient crew members to operate or handle the vessel should movement of the vessel be ordered by the Port Director.</p> <p>Written request must be made to and approved by the Port Director prior to any complete shutdown of all propulsion machinery for repairs or otherwise.</p> <p>Vessels calling at Offshore Inland Marine's vessel modification, maintenance, repair &amp; overhaul (MMRO) facility for 30 or more consecutive days may be exempted from the requirements of this section. Such exemption must be requested in writing by Offshore Inland and approved by the Port Director in advance of the subject vessel's scheduled arrival. Such requests must include the specific provision(s) from which the exemption is being sought, the date or dates during which the exemption is requested, and Offshore Inland's plan to address and mitigate any potential issues caused by the exemption.</p> <p>Vessels failing to comply with this provision are subject to three times the normal dockage rate as provided in <a href="#">ITEM 400</a> and subject to the provisions of <a href="#">ITEM 211</a>.</p>
<b>288e</b>	<b>VESSEL(S) – MOORING</b> <b>(Effective: September 15, 2005)</b>
	All vessels shall be safely moored and properly secured to the dock at all times. Mooring lines are to include rat guards. The Port of Pensacola is not a bailee and does not assume any liability for improperly-moored vessels.
<b>288f</b>	<b>VESSEL(S) – MOVEMENTS, REGULATION OF</b> <b>(Effective: September 15, 2005)</b>
	<p>The Port of Pensacola shall regulate vessel movements within its jurisdiction by:</p> <ol style="list-style-type: none"> <li>1. Scheduling vessels for use of berth, anchorage or other facilities at the Port;</li> <li>2. Ordering and enforcing a vessel to vacate or change position at a berth, anchorage or other facility in order to facilitate navigation, commerce or protection of other vessels or property;</li> <li>3. Designating port facilities for the loading or discharging of vessels;</li> <li>4. Assigning berths at wharves for arriving vessels;</li> </ol> <p>Published pursuant to Chapter 313.22, Florida Statutes, 1996.</p>
<b>288g</b>	<b>VESSEL(S) - NUISANCE CREATED BY</b> <b>(Effective: September 15, 2005)</b>
	<p>No vessel shall permit excessive smoke, clean boilers, blow tubes, or create similar conditions while the vessel is in the channel, turning basin, or in a berth.</p> <p>Except as provided by law, the blowing of whistles and horns is prohibited.</p>
<b>288h</b>	<b>VESSEL(S) - SUBJECT TO PILOTAGE</b> <b>(Effective: September 15, 2005)</b>
	<ol style="list-style-type: none"> <li>1. All vessels, except vessels exempted by the laws of the United States or vessels drawing less than 7' of water, shall have a licensed State pilot or certified deputy pilot on board to direct the</li> </ol>

	<p>movements of the vessel when entering or leaving ports of this State; or when underway upon the navigable waters of the bays, rivers, harbors and ports.</p> <p>2. Nothing contained herein shall be construed to deny the services of a licensed State pilot to a vessel otherwise exempt who applies for such service.</p> <p>Published pursuant to Chapter 310.141, Florida Statutes, 2000.</p>
<b>292</b>	<p><b>WEIGHING</b> (Effective: February 15, 2009)</p>
	<p>Highway scales are available at the Port of Pensacola and operated by private terminal operators. Contact information for these operators is available upon request.</p>
<b>293</b>	<p><b>WHARF CLEANING</b> (Effective: July 1, 2019)</p>
	<p>All users of docks, wharves, sheds and other property of the Port of Pensacola shall be held responsible for cleaning of said property which they have been allowed to use or which has been assigned or leased to them, including adjacent aprons, yards open storage areas, rail tracks, roadways and gutters, as directed by the Port of Pensacola.</p> <p>If such user does not clean the docks, wharves or other property he has been using to the standards set by the Port of Pensacola within 72 hours of notice, the Port of Pensacola shall order the property cleaned and shall bill the user responsible at cost plus 20% as set forth in <a href="#">ITEM 430</a>. In the case of docks, wharves and berth aprons used for vessel operations, such facilities must be cleaned to the standards set by the Port of Pensacola within 72 hours of the conclusion of vessel operations and no additional notice from the Port to the vessel's attending stevedore shall be required.</p> <p>All litter, dunnage, and refuse of all kinds must be cleaned up and disposed of at the end of each day and freight must be re-stacked as found, otherwise the work will be performed by the Port and the Port will bill the user responsible at cost plus 20% as set forth in <a href="#">ITEM 430</a>.</p>
<b>294</b>	<p><b>WHARF OBSTRUCTION</b> (Effective: July 1, 2019)</p>
	<p>Stevedore's, Port tenants and other Port users' tools, appliances, equipment, gear, vehicles or other material or objects which are not part of the cargo or other approved operations will not be permitted to remain on the wharves or terminal facilities except at the discretion of the Port Director. If such obstruction is not removed within 24 hours after notification by the Port Director, such equipment and material will be stored and <u>\$25.00</u> charged for each day it remains unclaimed; together with expense of removal, storage or sale.</p>
<b>295</b>	<p><b>WHARF/TERMINAL LIGHTS; TRANSIT SHED USE</b> (Effective: July 1, 2019)</p>
	<p>Transit sheds are open for business from 0800 hours to 1700 hours, Monday through Friday, excluding holidays. Requests to utilize sheds on weekends, holidays, and before 0800 hours or after 1700 hours must be made to the Port Operations Superintendent a minimum of four (4) hours preceding the time requested. The agent, stevedore or freight handler making the overtime request is responsible for payment of a charge amounting to \$75.00 per night or fraction thereof. Said charge includes wharf and terminal lights whether or not both are utilized by the requesting party. Nighttime operations conducted by non-cargo vessels must also be approved a minimum of four (4) hours in advance by the Port Operations Superintendent, and these</p>



	operations will also be subject to a wharf and terminal lights fee of \$75.000 per night or fraction thereof. Vessels ordered to work overtime by the Port Director are exempt from this charge.
<b>296a</b>	<b>WHARFAGE – EARNED</b> <b>(Effective: September 15, 2005)</b>
	All cargo moved over or placed on a wharf, in transit sheds, covered storage sheds, open storage areas, shipside or on any port-owned property, land or facilities shall be considered to have earned wharfage when so placed and wharfage will be collected on it whether or not it is eventually loaded on a vessel.  No wharfage charges will be assessed on ships' stores.
<b>296b</b>	<b>WHARFAGE – RATE FOR CARGO MOVING DIRECTLY BETWEEN WATER AND WATER CARRIER</b> <b>(Effective: September 15, 2005)</b>
	Half-wharfage is applicable on any commodity being loaded or unloaded directly between vessels and barges or any combination thereof.
<b>296c</b>	<b>WHARFAGE – RATE FOR TRANSSHIPMENT CARGO</b> <b>(Effective: September 15, 2005)</b>
	Import cargo which is to be reshipped in waterborne commerce from the Port of Pensacola will be assessed one-half (1/2) of the applicable wharfage rate outbound.  In order for cargo to be entitled to the transshipment cargo wharfage rate, the owner's agent must designate in writing prior to vessel arrival that such cargo is to be reshipped.

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## Terminal Tariff 5-A

### SECTION THREE – WHARFAGE, LOADING, AND UNLOADING RATES

(All rates are per weight or measurement ton, whichever is greater, unless otherwise specified)

300	<b>ARTICLES NOT OTHERWISE SPECIFIED (NOS)</b> (Effective: July 1, 2019)				
		<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
		Loose/Packages	\$2.50	\$7.00	\$7.15
		Pallets/Pre-Palletized	\$2.50	\$4.35	\$4.50
302	<b>ALUMINUM, VIZ</b> (Effective: July 1, 2019) PLATE, SHEET ROOFING, SCRAP WHEN IN BUNDLES OR OTHER PACKAGES WIRE OR CABLE WHEN ON REELS WEIGHING NOT LESS THAT 1,000 POUNDS				
		<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
		To/From Trucks or Flat/Rack Cars	\$2.00	\$3.50	\$3.50
		To/From Boxcars	\$2.00	\$5.55	\$5.55
306	<b>BAGGED PRODUCTS, VIZ</b> (Effective: July 1, 2019)				
	GRAIN, GRAIN PRODUCTS, GRAIN FLOUR OR MEAL, BEANS, LENTILS, PEAS, OTHER BAGGED PRODUCTS	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
		Bags/Sacks/Packages –	\$1.50	\$7.00	\$7.00
		Palletized – Flatbed Truck Loading Only	\$1.50	\$3.50	\$3.50
	<b>Product</b>	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
	MILK: (DEHYDRATED/POWERED)	Bags/Sacks/Packages	\$1.50	\$7.00	\$7.00
		Palletized – Flatbed Truck Loading Only	\$1.50	\$3.50	\$3.50
	ROLLED OATS	Bags/Sacks/Packages	\$1.50	\$7.00	\$7.00
	RICE/RICE PRODUCTS	Bags/Sacks/Packages	\$1.50	\$7.00	\$7.00
	MISCELLANEOUS (NOS)	Bags/Sacks/Packages	\$1.75	\$7.00	\$7.00
		Pallets/Pre-Palletized	\$1.75	\$3.50	\$3.50
308	<b>BEVERAGES</b> (Effective: July 1, 2019)				
		<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
		All Kinds	\$2.00	\$4.35	\$4.50
310	<b>BULK MATERIALS, DRY</b> (Effective: July 1, 2019)				
	<b>Product</b>	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
	NOT OTHERWISE SPECIFIED (NOS)	Railroad Cars/Dump Trucks	\$2.00	\$5.00	\$5.00

	AGGREGATE, VIZ. (LIMESTONE/GRANITE/DREDGE MATERIAL/RIP RAP/ROCK)	From Self-Unloading Vessels To or From Railcars/Trucks	\$0.75	\$3.00	\$3.00
	BAUXITE	From Self-Unloading Vessels To or From Railcars/Trucks	\$2.00	\$5.00	\$5.00
	CEMENT/CEMENT PRODUCTS, GYPSUM ROCK, PUMICE, SALT AND ALL OTHER	Bulk Covered Hopper Cars/Dump Trucks	\$2.00	\$5.00	\$5.00
<b>312</b>	<b>COTTON/COTTON LINTERS/RESINS IN BALES</b> (Effective: July 1, 2019)				
		<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
		Railcars/Vans/Flatbed Trucks	\$2.00	\$6.00	\$6.00
<b>314</b>	<b>IRON/STEEL ARTICLES, VIZ</b> (Effective: July 1, 2019) ANGLES, BARS, BEAMS, BILLETS, CHANNELS, COILS, FLANGES, FLATS, PILING, PIPE, PLATES, RAILS, REBAR'S, ROUNDS, SLABS, AND TIN PLATE				
		<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
		Lifts/Bundles – To/From Flatbed Trucks; Proper Skids/Dunnage and Bundled/Packaged Properly for Forklift Equipment;	\$1.90	\$3.20	\$3.20
		To/From Source (Other Than Flat Cars/Flatbed Trucks); Requiring Use of Crane; Proper Dunnage and Bundled/Packaged Properly for Wire Slings.	\$1.90	\$3.65	\$3.65
	NOTE: In connection with above rates and charges, iron or steel articles such as flat stack, angles, reinforcing bars, foot lengths, or other articles that are not sufficiently packaged or reinforced to prevent bending or other damage when handled with forklift, trucks or cranes, will be handled only at owner's risk with no liability for damages resulting from to the Port of Pensacola.				
<b>316</b>	<b>LIME</b> (Effective: July 1, 2019)				
	<b>Product</b>	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
	LIME HYDRATE	Bags/Pallets	\$2.00	\$3.40	\$3.40
	LIME	Jumbo Sacks	\$2.00	\$1.65	\$1.95
		Bulk	\$2.00	\$5.00	\$5.00
<b>318</b>	<b>LUMBER, VENEER/FOREST PRODUCTS</b>				

<b>(Effective: July 1, 2019)</b>					
	<b>Product</b>	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
	LUMBER: (Uniform in Size; Unitized Requiring Only Mechanical Equipment)	All	\$2.40 Per MBF	\$3.50 Per MBF	\$3.75 Per MBF
	PLYWOOD – BUNDLES: (SHEETROCK/DRYWALL/GYPSUM BOARD, etc.)	All	\$2.40 Per MBF	\$3.50	\$3.75
	SHINGLES: (PALLETS/SKIDS)	All	\$2.00	\$3.55	\$3.80
	TIES: (RAIL/CROSS/STITCH) And TIMBERS (6x6 and over)	Flatbed Trucks/Flat Cars	\$2.00	\$3.20	\$3.45
		Open Top Cars	\$2.00	\$5.20	\$5.45
	LOGS/POLES/POSTS/PILING: (65 ft. or Less)	Flatcars/Trucks - Bundles	\$2.00	\$3.50	\$3.75
		Flatcars/Trucks - Loose	\$2.00	\$5.40	\$5.65
		Open Cars/Open Top Flatcars - in bundles	\$2.00	\$4.50	\$4.75
	LOGS/POLES/POSTS/PILING: (Over 65 ft.)	Flatcars/Trucks - Bundles	\$2.00	\$4.05	\$4.30
		Flatcars/Trucks - Loose	\$2.00	\$6.05	\$6.30
		Open Cars/Open Top Flatcars - in bundles	\$2.00	\$5.50	\$5.75
	LUMBER/PLYWOOD: (Exception)	Flatbed Trucks – Bundled and/or Packaged Properly for Fork Handling	\$2.00	\$44.00 (Per Truck)	\$47.00 (Per Truck)
<b>320 MAGNESITE, DEAD/BURNT/CALCINED (Effective: July 1, 2019)</b>					
	<b>Product</b>	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
	POLYBAGS	Flatbed Trucks	\$2.00	\$3.05	\$3.05
	POLYBAGS	Open Top Flatbed Trucks	\$2.00	\$3.15	\$3.15
	BULK	Covered Hopper Cars/Dump Trucks	\$2.00	\$5.00	\$5.00
<b>322 METAL/ALLOY, VIZ (Effective: July 1, 2019)</b> ALUMINUM (BAR, BLOCK, INGOT, PIG OR SLAB), TIN (BAR, BLOCK, PIG, SLAB), ZINC AND ZINC ALLOYS (PIG OR SPELTER) WHEN IN BUNDLES					
		<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
		Boxcars/Vans	\$2.00	\$3.50	\$3.50
		Flatbed Trucks	\$2.00	\$2.90	\$2.90
<b>324 PAPER/PAPER ARTICLES/WOOD PULP (Effective: July 1, 2019)</b>					

	<b>Product</b>	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
	PAPER: (WASTE/SCRAP)	Baled	\$2.00	\$3.75	\$4.50
	FIBERBOARD/LINERBOARD/ NEWSPRINT/PULPBOARD, WRAPPING PAPER	Rolled	\$1.90	\$3.50	\$3.50
	WOOD PULP/WOOD FLOUR	Boxcars/Vans and Rolls/Other Units	\$2.00	\$3.50	\$3.50
<b>326</b>	<b>RUBBER</b> (Effective: July 1, 2019)				
	<b>Product</b>	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
	NATURAL/SYNTHETIC (Not LIQUID/LATEX)	Baled/Packaged (Not Palletized)	\$2.00	\$5.40	\$5.40
		Palletized/Unitized	\$2.00	\$3.70	\$3.70
<b>328</b>	<b>VEGETABLE OILS</b> (Effective: July 1, 2019)				
		<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
		Barrels, Drums, Boxes or Cases	\$2.00	\$4.10	\$4.35
		Palletized for Mechanical Handling	\$2.00	\$3.50	\$3.75
<b>330</b>	<b>VEHICLES, VIZ</b> (Effective: July 1, 2019) AUTOMOBILES, BUSES, TRACTORS, TRUCKS, MOTORIZED VEHICLES, MOBILE HOMES, CRANES, RAILROAD CARS, PER UNIT, UNLESS OTHERWISE SPECIFIED				
	<b>Product</b>	<b>Specifications</b>	<b>Wharfage</b>	<b>Unloading</b>	<b>Loading</b>
	AUTOMOBILES AND TRUCKS		\$20.00	\$30.00	\$30.00
	TRACTORS / COMBINES / AGRICULTURAL IMPLEMENTS / MILITARY JEEPS & HUMVEES		\$20.00	\$30.00	\$30.00
	ARMORED PERSONNEL CARRIERS / MILITARY TANKS		\$35.00	\$30.00	\$30.00
	MOTOR HOMES/ MOBILE HOMES / HOUSE TRAILERS / PASSENGER BUS/SELF- PROPELLED CAMPING VEHICLE		\$75.00	\$5.00 Per ton	\$5.25 Per ton
	GRADING/ROAD MAKING MACHINERY		\$30.00	\$5.00 Per ton	\$5.25 Per ton
	RAILROAD CARS – EMPTY		\$20.00	\$5.00 Per ton	\$5.25 Per ton
	RAILROAD CARS – LOADED	Per net ton of contents	\$2.00	\$5.00	\$5.25

## Terminal Tariff 5-A

### SECTION FOUR – GENERAL CHARGES

<b>400</b>	<b>DOCKAGE RATES (GSMTC)</b> <b>(Effective: February 1, 2020)</b> All vessels subject to a <u>\$100</u> minimum:		
	<b>ALL OCEAN-GOING VESSELS - INCLUDING OCEAN-GOING BARGES:</b>		
	<b>LENGTH OVERALL</b>	<b>LENGTH OVERALL</b>	<b>RATE PER FOOT (*) PER 24 - HOURS</b>
	<b>Over (in Feet)</b>	<b>Not Over (in Meters)</b>	<b>(Except as Otherwise Provided)</b>
	0	60.70	<del>\$ 2.90</del> \$ 3.12
	200	121.60	<del>\$ 3.81</del> \$ 4.10
	400	152.10	<del>\$ 5.18</del> \$ 5.58
	500	182.60	<del>\$ 6.96</del> \$ 7.49
	600	213.10	<del>\$ 8.08</del> \$ 8.69
	700	243.50	<del>\$10.25</del> \$11.03
	800	274.20	<del>\$12.35</del> \$13.29
	900	And Over	<del>\$14.77</del> \$16.37
	<b>BARGES:</b>		
	<b>LENGTH OVERALL</b>	<b>LENGTH OVERALL</b>	<b>RATE PER 24 - HOURS</b>
	<b>Over (in Feet)</b>	<b>Not Over (in Feet)</b>	
	0	199	<del>\$200.00</del> \$250.00
	200	And Over	<del>\$275.00</del> \$325.00
	<b>OTHER:</b>		
	<b>TUGS (not serving the Port), FISHING VESSELS, PLEASURE BOATS and OTHER WATERCRAFT</b>	<b>LENGTH OVERALL</b>	<b>RATE PER FOOT (*) 24 - HOURS</b>
		<b>Over (in Feet)</b>	
		0	<del>\$3.50</del> \$ 4.00
		And Over	
	(*) Reference <a href="#">ITEMS 221a - 221d.</a>		
	NOTE 1:		

One full day's dockage will be assessed for each 24-hour day or fraction thereof. Any vessel undocking within two (2) hours of expiration of its last 24-hour increment will not be billed an additional day's dockage.

**NOTE 2:**

Dockage will be computed on length overall as listed in Lloyd's Register of Shipping or Certificate of Registry or other official document deemed acceptable by the Port Director.

**NOTE 3:**

Ocean-going vessels in "repair" or "layup" status making application for layberth in advance of docking may be granted such ONLY if approved by the Port Director. Layberth dockage will be assessed at 75% of the applicable published tariff rate.

- 1) Vessels permitted to arrive at dock at least 24 hours prior to starting work may apply for layberth status.
- 2) Requests for layberth status will not be considered once a vessel has docked, except that vessels permitted to remain at berth after completion of work may apply for layberth status to commence upon expiration of the last billing period for that vessel's working status. Such requests MUST be made prior to the vessel sailing.

**NOTE 4:**

Tugs will be exempt from dockage when landing tows. Tugs waiting in assist of ocean-going barges that are working will be exempt from dockage.

**NOTE 5:**

The Port Director may, subject to berth availability, intended use, length of stay, absence of interference with other Port of Pensacola users and activities, and other criteria as may from time to time be established by the Port Director, grant reduction of dockage.

**NOTE 6:**

The Port Director may assess additional charges to vessel for various activities conducted while moored at Port of Pensacola.

**404a FRANCHISE FEES – HANDLING GENERAL LICENSE  
(Effective: July 1, 2019)**

Each stevedore company and freight handler performing handling operations at the Port of Pensacola in accordance with a franchise issued by the Port, will be allowed to handle cargo and will be assessed the following charges for the privilege of cargo handling and for maintenance of facilities at the Port. Also applicable on self-loading and self-unloading vessels.

Specifications	Fee
All General Cargo (including container contents)	\$0.35 (Per Ton)
Bulk Cargo	\$0.18 (Per Ton)
Minimum Charge Per Rail Car	\$25.00 (Each)
Minimum Charge Per Truck/Van/Container/Trailer	\$6.00 each

**404b FRANCHISE FEES – STEVEDORES**

	<b>(Effective: July 1, 2019)</b>		
	Each stevedore company loading and/or unloading vessels at the Port of Pensacola in accordance with a franchise issued by the Port will be assessed the following charges for the privilege of conducting their operations and for maintenance of facilities at the Port. Also applicable on self-unloading and self-loading vessels.		
	<b>Specifications</b>	<b>Fee</b>	
	All General Cargo (Including Container Contents)	\$0.35 (Per Ton)	
	Bulk Cargo	\$0.18 (Per Ton)	
408	<b>HARBOR FEES</b> <b>(Effective: February 1, 2020)</b>		
	All vessels engaged in foreign, coastwise or intra-coastal trade, operating at the Port of Pensacola, shall be assessed a harbor fee based upon the registered length of the vessel, to defray the expense of the administration and maintenance of the port and harbor.		
	LASH and SEABEE barges are exempt only when the barge-carrying vessel (mother vessel) is assessed the harbor fee.		
	<b>LENGTH OVERALL</b>	<b>LENGTH OVERALL</b>	<b>RATE PER VESSEL CALL</b>
	<b>Over (in Feet)</b>	<b>Not Over (in Feet)</b>	
	0	199	<del>\$ 165.00</del> \$ 185.00
	200	399	<del>\$ 385.00</del> \$ 430.00
	400	499	<del>\$ 605.00</del> \$ 675.00
	500	599	<del>\$ 715.00</del> \$ 795.00
	600	799	<del>\$ 825.00</del> \$ 915.00
800	And Over	<del>\$1,000.00</del> \$1,015.00	
	<b>SUPPLEMENT TO HARBOR FEE</b> All vessels engaged in foreign, coastwise or intra-coastal trade that handle or transfer cargo in midstream or when anchored or moored to mooring facilities, including barge fleet mooring facilities, shall be assessed, in addition to the above regular harbor fees, a supplemental harbor fee of <u>\$0.25 Per Ton</u> , or fraction, based on the weight of the cargo so handled or transferred.  This supplement to the harbor fee shall not be applicable when vessels are docked at regular cargo handling wharves. Vessels desiring to handle or transfer such cargo in midstream must first notify the Port of Pensacola.		
410	<b>LINE-HANDLING</b> <b>(Effective: July 1, 2019)</b>		
	The service of line handling for mooring, unmooring and shifting of vessels is performed by service providers authorized to conduct business at the Port of Pensacola. Any concern performing line handling services at the Port of Pensacola must be insured in accordance with the policy types and limits specified in <b>ITEM 241a</b> . Firms currently authorized to perform line handling services at the Port of Pensacola are:		

	Pate Stevedore Company (850-438-3648), Portside Marine & Towing (850-777-1285), and Offshore Inland Marine (850-912-6966).	
<b>420</b>	<b>PASSENGER WHARFAGE RATES</b> <b>(Effective: July 1, 2019) (I)</b>	
	<b><u>Specifications</u></b>	<b><u>Fee Per Passenger</u></b>
	Cruise Homeport Operations	\$15.00
	Cruise Port of Call Operations	\$10.00
	Persons aboard cargo, research or other commercial vessels booked as Passengers	\$15.00
	Ferry, day cruise, dinner cruise and other operations using Pensacola Ferry Terminal dock	\$ 5.00
<b>426</b>	<b>RAILCAR SHUNTING</b> <b>(Effective: July 1, 2019)</b>	
	<p>Unless otherwise specified herein, only the Port of Pensacola may shunt (switch) railcars within the terminal facilities or on Port-owned or -operated tracks, land or facilities after initial railcar placement by the rail carrier and prior to pickup of railcars by the rail carrier for removal from the Port. Shippers, consignees and freight handlers may not shunt railcars within the terminal facilities or on Port-owned or -operated tracks, lands or facilities. The first repositioning of loaded railcars to or from the working platform will be provided by the Port at no charge, if requested in a timely manner during normal working hours (<a href="#">ITEM 237</a>).</p> <p>Any shunting requested after the first repositioning, or outside of normal working hours, will be assessed the following rates, plus overtime (<a href="#">ITEM 430</a>) if applicable:</p>	
	<b><u>Specifications</u></b>	
		\$90.00 Per Loaded Railcar
		or
		\$450.000 Per Hour, or any fraction thereof
	<p>When the Port is required to shunt railcars alongside vessels or within the Port by means of mechanical equipment, charges for same will be assessed against ocean vessels, their owners, agents, operators, firms or party requesting such service at the following rates, plus overtime if applicable:</p>	
	<b><u>Specifications</u></b>	
		\$90.00 Per Loaded Railcar
		or
		\$450.000 Per Hour, or any fraction thereof
	<p>The party ordering shunting services shall have the option of selecting either the per-car or the hourly rate, whichever is most economical, on an order-by-order basis, at the time each order is placed. In cases where no preference is expressed at the time the service order is placed, the per-railcar rate shall automatically apply.</p> <p><b>NORMAL WORKING HOURS</b> (see <a href="#">ITEM 254</a>):  Shippers, consignees and freight handlers desiring a railcar(s) to be shunted within the Port facilities must notify the Port Director or his designee by telephone, fax or in person of the desired shunt. The Port will</p>	



perform the requested shunt as soon after its receipt of notification as is reasonably practicable in light of all material considerations.

**OUTSIDE OF NORMAL WORKING HOURS:**

Shippers, consignees and freight handlers desiring a railcar(s) to be shunted within the Port facilities must notify the Port Security by telephone, fax or in person of the desired shunt. The Port will perform the requested shunt as soon after its receipt of notification as is reasonably practicable in light of all material considerations.

**EXCEPTION:**

Lessees and Terminal Operators owning or leasing their own railcar mover(s), track mobile(s), yard engine(s) or other railcar moving devices deemed acceptable by the Port Director, may shunt (switch) railcars consigned to their terminals utilizing their owned or leased equipment and shall do so in accordance with any and all rules, regulations, restrictions, policies or procedures that may be imposed at any time at the full discretion of the Port Director including, but not necessarily limited to, restrictions on the speed, weight or numbers of railcars permitted to be shunted in a single move. Any violation of such rules established by the Port may result in the loss of railcar shunting privileges.

Lessees and Terminal Operators conducting their own shunting in accordance with this exception assume and accept all liability and responsibility for any and all injury to persons or damage to property that may be caused as result of the actions of the Lessee or Terminal Operator or its employee(s) or agent(s), including any and all damage to tracks, switches, spurs, turnouts, and other infrastructure regardless of the condition of said infrastructure at the time the damage occurred as well as full responsibility for safely righting any and all derailments, including paying any and all costs for related emergency response that may be required.

In any and all cases of injury to person(s) or damage to property, a complete, detailed incident report shall be filed with the Port of Pensacola Cargo Operations Superintendent no later than 0830 the next regular business day. Said report shall include, at a minimum, the date, time and location of the incident, detailed narrative describing the occurrence, a detailed listing of all resulting injuries and property damage, and the full names of all equipment operator(s), signal men, watchmen, and/or shunting crew members involved, and the name and full contact information for the Lessee or Terminal Operator on whose behalf shunting operations were be conducted. All incident reports will be maintained on file with the Port of Pensacola. All incidents will be tracked and, based on incident volumes, incident severities, or a combination thereof, the Port Cargo Operations Superintendent may, at any time, revoke any operator's authority to conduct railcar shunting operations at the Port of Pensacola.

Lessees and Terminal Operators conducting their own shunting in accordance with this exception must maintain on file with the Port of Pensacola a Hold Harmless Agreement signed annually by the Lessee or Terminal Operator and all employees or agents authorized to conduct shunting on its behalf as well as a complete, up-to-date listing of all employees and agents authorized to conduct shunting activities on its behalf.

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**RAILCAR STORAGE**  
**(Effective: June 23, 2007)**

Working railcars arriving at the Port of Pensacola for either loading or discharge shall be afforded 5 calendar days free dwell time on port beginning immediately upon arrival in order to allow sufficient

	time for the railcar to be received, worked and removed from the port. After 5 calendar days, storage shall be assessed at a rate of <u>\$1.50 Per Railcar, Per Day</u> .																																														
429	<p><b>RAIL TRACK USAGE &amp; MAINTENANCE FEE</b> (Effective: July 1, 2019)</p> <p>Lessees and Terminal Operators conducting their own railcar shunting in accordance with <b>ITEM 426</b> shall pay to the Port a Rail Track Usage &amp; Maintenance Fee of \$25.00 per railcar moved. Rail Track Usage &amp; Maintenance Fees will be invoiced to Lessees and Terminal Operators at the beginning of each month for the prior month’s activity as tracked by the Port Operations Division.</p>																																														
430	<p><b>SCHEDULE OF MISCELLANEOUS LABOR RATES AND RENTAL CHARGES</b> (Effective: July 1, 2019)</p> <p>The Port of Pensacola does not furnish equipment with labor or supplies, except in the event of a special emergency situation or to perform other-than-normal cargo operations. A specific request for the use of Port labor, equipment, or supplies must be submitted to and approved by the Port Director in advance. When such requests are approved by the Port Director, the following charges will be assessed:</p> <p><b>LABOR - Per Hour:</b></p> <table><tr><td></td><td><b><u>Specifications</u></b></td><td><b><u>Fee</u></b></td></tr><tr><td></td><td>Supervisors</td><td>\$100.00</td></tr><tr><td></td><td>Mechanics &amp; Equipment Operators</td><td>\$ 75.00</td></tr><tr><td></td><td>Laborers</td><td>\$ 50.00</td></tr><tr><td></td><td>Security Officers (With 30 Hours Advance Notice)</td><td>\$ 50.00</td></tr><tr><td></td><td>Security Officers (With Less Than 30 Hours Advance Notice)</td><td>\$ 75.00</td></tr></table> <p>The rate for overtime, including Saturday and Sunday, will be 1 1/2 times the regular rate. The rate for overtime on Legal Holidays (as described in <b>ITEM 237</b>) will be 2 1/2 times the regular rate. Overtime will be subject to a minimum charge of 2 hours, except for Saturday, Sunday and Legal Holidays which will be subject to a minimum charge of 4 hours. After minimum has been met, billing minimum is in 1/2 hour increments. The 2-hour minimum charge will not apply to the hours between 0700 and 0800 and 1700 and 1800, weekdays.</p> <p><b>EQUIPMENT:</b></p> <table><tr><td></td><td><b><u>Specifications</u></b></td><td><b><u>Per Day Fee</u></b></td><td><b><u>Per Week Fee</u></b></td></tr><tr><td></td><td><b>ITEM</b></td><td><b>(8 Hours)</b></td><td><b>(40 Hours)</b></td></tr><tr><td></td><td>Forklift (8,000 lb. Capacity)</td><td>\$225.00</td><td>\$1,100.00</td></tr><tr><td></td><td>Forklift (10,000 lb. Capacity)</td><td>\$300.00</td><td>\$1,350.00</td></tr><tr><td></td><td>Forklift Operator</td><td>\$600.00</td><td>\$2,700.00</td></tr><tr><td></td><td>Sweeper with Operator</td><td>\$750.00</td><td>\$3,300.00</td></tr><tr><td></td><td>Work Boat with Operator</td><td>\$1,200.00</td><td>\$5,400.00</td></tr></table> <p>Sweeper/forklift with operator rental and boat with operator rental will be subject to a minimum charge of 2 hours, except for Saturday, Sunday and Legal Holidays, which will be subject to a minimum charge of 4 hours. The Port of Pensacola will not rent sweeper or boat without a Port operator. Forklift rentals commence at 0800 hours and end at 1700 hours, Monday through Friday. Forklifts will be rented with a</p>		<b><u>Specifications</u></b>	<b><u>Fee</u></b>		Supervisors	\$100.00		Mechanics & Equipment Operators	\$ 75.00		Laborers	\$ 50.00		Security Officers (With 30 Hours Advance Notice)	\$ 50.00		Security Officers (With Less Than 30 Hours Advance Notice)	\$ 75.00		<b><u>Specifications</u></b>	<b><u>Per Day Fee</u></b>	<b><u>Per Week Fee</u></b>		<b>ITEM</b>	<b>(8 Hours)</b>	<b>(40 Hours)</b>		Forklift (8,000 lb. Capacity)	\$225.00	\$1,100.00		Forklift (10,000 lb. Capacity)	\$300.00	\$1,350.00		Forklift Operator	\$600.00	\$2,700.00		Sweeper with Operator	\$750.00	\$3,300.00		Work Boat with Operator	\$1,200.00	\$5,400.00
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	Work Boat with Operator	\$1,200.00	\$5,400.00																																												

full tank of gas and returned with a full tank. Failure to fill the tank prior to returning will result in a charge of \$6.00 Per Gallon to fill the tank.

#### **CHARGES FOR MISCELLANEOUS SERVICES/MATERIALS**

Unless otherwise specifically provided to the contrary in other Rules, Sections, or Items of the Tariff, materials and/or services of a miscellaneous nature may be supplied and/or performed by the Port of Pensacola at its option and convenience on a basis of actual cost of labor, supervision, equipment, supplies and materials, plus 20%.

**434**

#### **SECURITY FEE (GSMTC) (Effective: February 1, 2020)**

A security surcharge, as described in this tariff item, shall be assessed against, and collected from, all vessels, barges and cargo interests utilizing services or facilities at the Port of Pensacola in accordance with notice filed with the Federal Maritime Commission by the Gulf Seaports Marine Terminal Conference.

The security surcharge is assessed to recover costs incurred for security assessments, security plans, equipment purchase, installation and maintenance, and staffing required to implement and maintain surveillance and access controls mandated by the Maritime Transportation Security Act of 2002 and U.S. Coast Guard regulation 33 CFR 105.

At the Port's sole discretion, charges may be assessed to cargo and/or vessels for additional Security costs associated with an increase in MARSEC Level mandated by the U.S. Department of Homeland Security.

The security surcharge will be assessed against vessels and barges as a percentage of total dockage charged, and as a tonnage fee against cargo, with the exception of containers, which will be assessed on a per unit basis. The security surcharge will be assessed in addition to all other fees which may be due under this tariff as follows:

#### **Specifications**

	<b>FEE AGAINST</b>	<b>RATE</b>	<b>BASIS</b>
	<b>Vessels/Barges</b>	<del>9.82%</del> 10.11%	Of Dockage

#### **Specifications**

	<b>FEE AGAINST Cargo</b>	<b>CARGO TYPE</b>	<b>RATE</b>	<b>BASIS</b>
		Break Bulk	<del>\$0.206</del> \$0.210	Per Short Ton
		Bulk (Dry/Liquid)	<del>\$0.047</del> \$0.048	Per Short Ton
		Containers	<del>\$4.34</del> \$4.470	Each
		Vehicles	\$1.00	Each
		Passengers	\$1.00	Each

**436a**

**RESERVED**

**436b**

**STORAGE CHARGES - FOR ALL COMMODITIES (INCLUDING N.O.S.)  
(Effective: July 1, 2019)**

All commodities listed in [Section III](#) of this Tariff will be assessed storage in accordance with the following schedule of rates upon expiration of free time:

#### **Specifications**

	<b>INSIDE:</b>		
		First 15 – Day Period	\$0.30 Per Ton, Per Day
		Second 15 – Day Period	\$0.45 Per Ton, Per Day
		Thereafter	\$0.75 Per Ton, Per Day

#### **Specifications**

	<b>OUTSIDE:</b>		
		First 15 – Day Period	\$0.23 Per Ton, Per Day
		Second 15 – Day Period	\$0.38 Per Ton, Per Day
		Thereafter	\$0.68 Per Ton, Per Day

#### **Specifications**

	<b>VEHICLES:</b>	Including automobiles, buses, motorcycles, tractors, trucks, trailers, motorized vehicles, mobile homes, cranes, railroad cars (Wharfage <a href="#">ITEM 330</a> ) will be assessed storage in accordance with the following schedule of rates upon expiration of free time:	
		First 15 – Day Period	\$2.25 Per Vehicle, Per Day
		Thereafter	\$4.50 Per Vehicle, Per Day

**440**

#### **WATER**

**(Effective: July 1, 2019)**

Rates for fresh water delivered to vessels at wharves shall be as follows:

<b>Specifications</b>	<b>Fees</b>
Vessels - Per Ton (240 Gallons)	\$1.65
Hookup Fee/Meter Installation	\$30.00

An additional fee of \$100.00 will be charged when water is requested during overtime hours.

ONLY PORT OF PENSACOLA PERSONNEL are permitted to make connections and install metering devices to fresh water pumping stations at the Port of Pensacola. The vessel's agent, captain, master or other authorized representative MUST contact Port Security a minimum of two (2) hours in advance on weekdays to schedule fresh water connections during regular working hours. Evening, weekend and holiday service must be scheduled no later than 3 p.m. local time the last regular business day proceeding the required service date.

Indicating the need to take on fresh water on berth applications is considered a courtesy notification only and DOES NOT constitute the scheduling of service.

Any vessel taking on water without proper advance scheduling or without having a metering device properly affixed at the pumping location by Port Personnel will be charged three times the above rate on the vessel's total tank capacity, plus three times the overtime rate, regardless of whether water was taken on during straight-time or overtime hours.

**442**

#### **WATER HOSE RENTAL**

	<b>(Effective: July 1, 2019)</b>	
	When the Port of Pensacola is requested to furnish a water hose, rental rates will be charged in accordance with the following schedule. All water hose made available by the vessel must be free of leaks or Port of Pensacola water hose must be used when available.	
	<b><u>Specifications</u></b>	<b><u>Fees</u></b>
	Per 50-Foot Section	\$10.00
	Minimum Charge	\$20.00

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## Terminal Tariff 5-A

### SECTION FIVE – CONTAINERS

<b>500</b>	<b>CONTAINER: POINT-OF-REST</b> <b>(Effective: September 15, 2005)</b>
	Except as otherwise provided in this Tariff, all container cargo will be received at and delivered to the terminal at a point-of-rest designated by the Port of Pensacola.
<b>502</b>	<b>HANDLING OF CONTAINERS</b> <b>(Effective: September 15, 2005)</b>
	General-license stevedores and/or freight handlers will exercise physical control and perform container-handling services over the entire time that a container is in the container-marshaling yard or on Port of Pensacola facilities.
<b>504</b>	<b>INTERIM PARKING AREA</b> <b>(Effective: September 15, 2005)</b>
	The term "interim parking area," as used in this Tariff shall refer to a designated parking area, when available, on the terminal where loaded or empty containers on wheels, bogeys, chassis or frames may be temporarily parked during hours or periods of time when the terminal is not open for the receipt or delivery of containers. The Port of Pensacola will not assume responsibility for loss or damage to containers or the contents thereof when placed in the interim parking area.
<b>506</b>	<b>MARSHALING YARD</b> <b>(Effective: September 15, 2005)</b>
	The term "marshaling yard," as used in this Tariff, shall refer to the designated area on the terminal where loaded or empty seagoing containers can be physically exchanged by the inland carrier (or its contractual agent) and the other carrier, through the controlled medium of the Port of Pensacola's marine terminal.
<b>508</b>	<b>RECEIVING/DELIVERING CONTAINER</b> <b>(Effective: September 15, 2005)</b>
	<p>The term "receiving or delivering container," as used in this Tariff, shall refer to physical acceptance or delivery of a container, empty or loaded, at the Port of Pensacola from or to the inland carrier, so as to facilitate physical exchange of the container between the inland carrier and the water carrier from the point-of-rest.</p> <p>Under the term "receiving or delivering container," the Port of Pensacola will, by use of its own mechanical equipment, perform the necessary interim functions to effect the physical exchange of a container between the inland carrier and the water carrier berthing at the terminal.</p>
<b>510</b>	<b>RE-HANDLING CONTAINER</b> <b>(Effective: September 15, 2005)</b>
	The term "re-handling container," as used in this Tariff, shall refer to the moving of a so-called "standard 20', 35' or 40' seagoing container" from or to the point-of-rest to or from a designated point on the terminal including movement to or from container freight station.
<b>512</b>	<b>RELOCATION OF EMPTY CONTAINER</b> <b>(Effective: September 15, 2005)</b>

	The term, "relocation of empty container," as used in this Tariff, shall refer to the removal of any empty container from a stack and placement on steamship-line-owned or leased chassis for movement to container freight station. This also applies to empty containers returned from the container freight station to the stack.
<b>514</b>	<b>SEGREGATION OF CONTAINER</b> (Effective: September 15, 2005)
	The term, "segregation of container," as used in this Tariff shall refer to the movement of a container from one location to another location in close proximity within the marshaling yard, without the use of a yard-jockey or tractor upon instructions from the vessel or its authorized agent.
<b>516a</b>	<b>RECEIVING OF CONTAINER: FROM INLAND CARRIER</b> (Effective: September 15, 2005)
	Upon instructions from the vessel and/or its authorized agent, a wheeled container will be appropriately moved into position in the container-marshaling yard by the inland motor carrier or rail carrier (or its contractual agent) or flatbed trailer by the Port of Pensacola with its own labor and mechanical equipment. In turn, the container will be grounded or stacked by the Port of Pensacola in the marshaling yard at a point-of-rest awaiting movement to the vessel. When so requested, the Port of Pensacola will inform the vessel and/or its authorized agent as to the exact location of the container. The vessel and/or its authorized agent will, in turn, remove the container from the point-of-rest in the marshaling yard and transport the container to the vessel.
<b>516b</b>	<b>RECEIVING OF CONTAINER: HAVING DAMAGE OR VARIANCES WHICH IMPEDE NORMAL MOVEMENT</b> (Effective: September 15, 2005)
	Seagoing containers having damage or variances which may impede normal movement with the Port of Pensacola's mechanical equipment will not be received or handled unless prior arrangements have been made with the Port Director.
<b>518</b>	<b>DELIVERY OF CONTAINER TO INLAND CARRIER</b> (Effective: September 15, 2005)
	The Port of Pensacola will receive a container without wheels from the vessel and/or its authorized agent at a point-of-rest in the container-marshaling yard for delivery to an inland motor carrier or rail carrier (or its contractual agent). The vessel and/or its authorized agent will ground or stack the container in the marshaling yard at a point-of-rest designated by the Port of Pensacola. When so requested by the vessel and/or its authorized agent, the Port of Pensacola, with its labor and mechanical equipment, will remove the container from its point-of-rest and place the container on wheels, bogeys, chassis, frames or flatbed trailer for delivery to the inland motor carrier or rail carrier (or its contractual agent).
<b>520</b>	<b>TRANSFER OF CONTAINERS BETWEEN VEHICULAR CONVEYANCES</b> (Effective: September 15, 2005)
	Upon instructions from the vessel and/or its authorized agent or shipper or consignee or their agents, the Port of Pensacola will perform transfer service between flatbed trailers and bogeys; between flatbed trailers and flatbed trailers; or, between bogeys and bogeys where the movement between vehicles does not require extensive movement by the container-handling equipment as determined by the Port of Pensacola.
<b>522</b>	<b>CONTAINERS LOADED IN EXCESS OF RATED CAPACITY</b> (Effective: September 15, 2005)

	<p>The rates, rules, regulations and charges published in this Section are not applicable to standard seagoing containers loaded in excess of their rated capacity. The Port of Pensacola will not permit its mechanical equipment designated for movement or carriage of containers) to be used in any way to lift, move, or transport a container which is loaded in excess of the container's rated capacity. Should the Port of Pensacola transport a container which is loaded in excess of the rated capacity, the party or parties requesting such use shall be held liable for all losses, claims, demands and suits for damages, including death and personal injury, including court costs and attorneys' fees, incident to or resulting from such unauthorized use.</p>	
<b>524</b>	<p><b>CHARGES FOR CONTAINER SERVICES DURING OTHER THAN NORMAL WORKING HOURS</b> (Effective: September 15, 2005)</p>	
	<p>Rates and charges for receiving, delivering and/or re-handling containers as set forth in this Tariff are applicable only during recognized working hours and days as set forth in <a href="#">ITEM 237</a> of this Tariff.</p> <p>Upon written authorization by vessels or their agents, containers will be received, delivered and/or re-handled by the Port of Pensacola at time other than recognized work hours or days, subject to the following charges or conditions:</p> <p>One charge for receiving, delivering and/or re-handling as set forth in this Tariff will be assessed for each service performed subject to a minimum of one container per hour plus the actual total overtime cost. All charges will be for the account of the vessel or its agent.</p>	
<b>528a</b>	<p><b>FREE TIME: IMPORT CONTAINERIZED TRAFFIC</b> (Effective: September 15, 2005)</p>	
	<p>The free time allowed for removing import containers and container cargo, inclusive of Saturdays, Sundays and legal holidays, shall be as follows:</p>	
	<p><b>Specifications</b></p>	
	Import Traffic	30 Days
	<p>On house containers, free time shall not be more than 10 days (inclusive of Saturdays, Sundays and Legal Holidays).</p>	
<b>528b</b>	<p><b>FREE TIME: EXPORT CONTAINERIZED TRAFFIC</b> (Effective: September 15, 2005)</p>	
	<p>The free time allowed for assembling export containers and container cargo, inclusive of Saturdays, Sundays, and legal holidays, shall be as follows:</p>	
	<p><b>Specifications</b></p>	
	Export Traffic	30 Days
	<p><b>1. LCL TRAFFIC:</b> Upon the request of the export shipper or its agent to the Port of Pensacola, cargo stuffed into containers at the terminal facilities may be granted extended free time not to exceed 15 days (inclusive of Saturdays, Sundays, and Legal Holidays) after loading into container, in addition to the 15-day free time provided above. Cargo upon which such extended free time has been granted shall be designated on dock receipt upon arrival at the terminal facilities as "hold on dock for consolidation." Cargo not so designated and cargo not actually consolidated into containers on the piers will not be entitled to the granting of extended free time.</p>	
	<p><b>2. FCL TRAFFIC:</b></p>	



On consolidated export container shipments, upon request of the export shipper or its agent to the Port of Pensacola, container consolidation time not to exceed 15 days (inclusive of Saturdays, Sundays, and Legal Holidays) may be granted to loaded containers in addition to the free time provided above. Containers upon which such consolidation time has been granted shall be designated on dock receipts as "hold on dock for consolidation." Containers not so designated and containers not actually consolidated on the piers will not be entitled to the granting of consolidation time. As used in this Section, "consolidated export container shipments" shall mean shipments of cargo commodities which move under a single bill-of-lading to overseas consignees in more than one TEU container.

3. Upon request of the export shipper or its agent to the Port of Pensacola, containers stuffed at the terminal facilities in accordance with Paragraph A) above, may be granted additional free time as provided for in Paragraph B, subject to availability of space on approval by the Port Director. In no instance will free time exceed 45 days (inclusive of Saturdays, Sundays, and Legal Holidays).
4. On consolidated export container shipments as defined and provided for in Paragraph A) above, upon written request by the export shipper or its agent and subject to the availability of space, containers delivered to an inland carrier by the Port of Pensacola for ultimate shipment by waterborne transportation may be granted an exemption from [ITEM 208e](#) of this Tariff, provided such charge is waived by the Port Director.
5. On house containers, free time shall not be more than 10 days (inclusive of Saturdays, Sundays and Legal Holidays).

**532**
**RATES AND CHARGES: CONTAINERIZED TRAFFIC  
(Effective: July 1, 2019)**

The following charges apply on containers and/or chassis not exceeding 40' in length or loaded in excess of rated capacity. These charges are assessed against the vessel or its agent unless arrangements to do otherwise have been made with and approved by the Port Director.

**Specifications**

WHARFAGE	EMPTY CONTAINERS	20' or Less	\$4.50	Per Unit
		More than 20'	\$7.50	Per Unit

**Specifications**

WHARFAGE	LOADED CONTAINERS	Per Net Ton of Contents Only	\$2.00
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**Specifications**

HANDLING FEES	To be quoted by the handling Stevedore		

	<p>Note 1: Receiving, delivering or handling underframes or chassis does not include any inspection for visible damage. The Port of Pensacola assumes no responsibility for condition of containers, contents therein, underframes, or road-serviceability of equipment.</p> <p>Note 2: For Handling and Stevedoring Franchise Fees applicable to container cargo, see <a href="#">ITEM 404a</a> and <a href="#">ITEM 404b</a>.</p> <p>Note 3: For Security Fee applicable to container cargo, see <a href="#">ITEM 434</a>.</p>				
<b>534</b>	<b>CONTAINER STORAGE</b> <b>(Effective: July 1, 2019)</b>				
	Storage charges on containers held in excess of free time shall be as follows:				
	<b><u>Specifications</u></b>				
	<b>EMPTY</b>				
	Container	Less Than 21' in Length	Per 15-day period or Fraction Thereafter	\$22.00	Per Container
		Over 21' in Length	Per 15-day period or Fraction Thereafter	\$35.00	Per Container
	<b>LOADED</b>				
	Container	Any Size	Per 15-day period or Fraction Thereafter	\$2.50	Per Container

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## Terminal Tariff 5-A

### SECTION SIX – FOREIGN TRADE ZONE NO. 249

600	<b>ROLE OF THE PORT OF PENSACOLA</b> <b>(Effective: July 1, 2019)</b>		
	<p>The Port of Pensacola is one of five designated sites within Foreign Trade Zone No. 249 (FTZ #249). Grantee authority for FTZ #249 is through the Pensacola-Escambia Development Commission (PEDC), which resides in the offices of the Escambia County Commission, Office of the County Administrator, 221 Palafox Place, Suite 420, Pensacola, FL 32502; telephone: (850) 595-4947.</p> <p>The role of the Port of Pensacola in the FTZ program is to market the benefits of Zone program participation to present and future port tenants, users and customers in an effort to attract new Zone users and program beneficiaries to Port facilities and other designated sites within the Zone.</p>		
602	<b>SITE DESCRIPTIONS</b> <b>(Effective: September 15, 2005)</b>		
	<p>All sites within Foreign Trade Zone #249 are designated as General Purpose Zone Sites unless otherwise specified.</p>		
	<b>SITE #</b>	<b>LOCATION</b>	<b>DESCRIPTION</b>
	1	PORT OF PENSACOLA	The entire 50-acre commercial port area owned by the City of Pensacola, excluding approximately 10 acres of dredge disposal site currently owned by the US Army Corps of Engineers.
	2	PENSACOLA REGIONAL AIRPORT	The entire 1,400-acre airport site.
	3	PENSACOLA MARINE TERMINAL	The entire 70-acre complex, configured for marine waterfront industrial use and zoned M-2 (Heavy Industrial) by the City of Pensacola.
	4	SPRUCE STREET INDUSTRIAL WAREHOUSE	9.7 acres of the former Florida Drum Corp. manufacturing and warehouse facility, zoned ID-2 (Heavy Industrial) by Escambia County.
	5	CENTURY INDUSTRIAL PARK	140-acre industrial park in northern Escambia County approximately 45 miles from the City of Pensacola, zoned industrial/mixed use by the City of Century.
604	<b>ZONE SCHEDULE INCORPORATED BY REFERENCE</b> <b>(Effective: September 15, 2005)</b>		
	<p>The schedule of charges, rates, rules and regulations applicable at FTZ #249, as administered by the PEDC, is incorporated herein, in its entirety, by reference. As a designated site within FTZ #249, the Port of Pensacola and all FTZ program participants operating within or utilizing activated FTZ facilities at the Port of Pensacola are subject to all provisions of said schedule.</p>		
606	<b>OPERATOR REQUIRED</b> <b>(Effective: September 15, 2005)</b>		
	<p>The Port of Pensacola serves as a facilitator and provider of facilities only in the FTZ program and, therefore, does not serve as the Operator of its FTZ site. All users of activated FTZ areas at the Port of</p>		

	<p>Pensacola are required to designate a qualified zone Operator to manage cargo flows, documentation, reporting requirements and to insure compliance with all rules, regulations, policies and procedures of the Port of Pensacola, FTZ #249, the US Foreign-Trade Zones Board, US Customs Service (or any successor thereto) and all other relevant local, state and federal regulatory agencies.</p> <p>Users may elect to become designated as their own Operator or may designate an existing Operator for this purpose, provided that, in either case, such designee is qualified under the rules and regulations of FTZ #249, the US Foreign-Trade Zones Board and the US Customs Service (or any successor thereto).</p>
<b>608</b>	<p><b>PAYMENT OF CHARGES</b> (Effective: September 15, 2005)</p> <p>With the exception of any site annual fee as established by the PEDC as Grantee of FTZ #249, all fees, charges, rates and assessments levied by the PEDC, the US Foreign-Trade Zones Board, and/or the US Customs Service (or any successor thereto) related to FTZ program participation and operations shall be the responsibility of the User, either directly or through his designated Operator.</p> <p>In the case of fees, charges, rates and assessments billed to the account of the Port of Pensacola, the Port shall through-bill all amounts at actual cost to the appropriate User with such through bills to be subject to the standard payment terms of the Port of Pensacola as expressed in <a href="#">ITEM 246</a> of this Tariff.</p>

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## Terminal Tariff 5-A

### APPENDIX A – STEVEDORE FRANCHISE LICENSE/FREIGHT HANDLING PERMIT

<p><b>SECTION I</b></p>	<p><b>STEVEDORE LICENSE/FREIGHT HANDLING PERMIT GENERAL</b> (Effective: January 15, 2015)</p>
	<p>No person, firm, corporation or other business entity shall operate as or carry on business of a stevedore or freight handler on Port facilities or on facilities otherwise controlled by the City of Pensacola, Florida unless and until such person, firm, corporation or other business entity shall first have obtained from the Port of Pensacola a license or permit issued authorizing such stevedore or freight handling activity.</p> <p>As used herein “stevedore” includes persons, firms, corporations, or other business entities and their subsidiaries, engaged in the activity of loading and/or unloading commercial cargo vessels and/or barges, providing the organization, labor, equipment and necessary expertise to load and unload said commercial cargo vessels and/or barges. General-license stevedores are automatically dually licensed as both a stevedore and freight handler.</p> <p>As used herein “freight handler” refers to and includes persons, firms, corporations, or other business entities and their subsidiaries, engaged in the physically loading or unloading of trucks or railcars, or engaged in any other cargo handling operations. Freight handlers may not load/unload commercial cargo vessels or barges.</p> <p>Terminal lessees are not required to obtain a Freight Handling Permit. They must however, if engaged in stevedore activities, obtain a Stevedore Franchise License.</p> <p>Each Stevedore License or Freight Handling Permit issued by the City of Pensacola shall be <u>non-exclusive</u> basis and no licensee or permittee has any right to serve as the sole provider of the licensed or permitted service or to any other type of exclusivity.</p>
<p><b>SECTION II</b></p>	<p><b>STEVEDORE LICENSE/FREIGHT HANDLING PERMIT APPLICATION POLICY</b> (Effective: January 15, 2015)</p>
	<ol style="list-style-type: none"> <li>1. Application for license with accompanying fee shall be submitted to the Port Director. Licensing and permit fees are specified in <a href="#">Section V</a> of this item. New applications may be submitted and new licenses or permits may be issued at any time during the calendar year.</li> <li>2. Each applicant for a Stevedore License or Freight Handling Permit must furnish a bond or letter of credit in the penal sum of Ten Thousand Dollars (\$10,000.00) payable to the City of Pensacola which shall guarantee the licensee or permittee proper performance and compliance with the Port of Pensacola terminal tariff prior to the conduct of any business operations. In addition to the aforesaid bond or letter-of-credit, each licensee or permittee must file a Certificate of Insurance evidencing insurance coverage in the form and amounts as prescribed in the Port of Pensacola’s Terminal Tariff No. 5-A (or any revisions or reissues thereof or successors thereto): <a href="#">ITEM 241a</a>, “Insurance;” <a href="#">ITEM 241c</a>, “Stevedore and Freight Handling Insurance;” and <a href="#">Section VII</a> of <a href="#">Appendix A</a>.</li> </ol>

	<p>3. Cancellation of insurance or aforementioned bond or letter of credit shall be grounds for the immediate revocation of License or Permit.</p>
<b>SECTION III</b>	<p><b>STEVEDORE LICENSE/FREIGHT HANDLING PERMIT CONSIDERATION</b> (Effective: September 15, 2015)</p>
	<p>The Port Director will review the completed application and may require the applicant to furnish any additional information deemed appropriate. The Port Director may require a personal interview with the applicant or the applicant's officers if deemed necessary. The Port Director will consider the applicant's trustworthiness; competency; financial responsibility; previous experience; whether or not the issuance of the Stevedore License or Freight Handling Permit is desirable for the productive operation of the Port of Pensacola, having specific regard for the commitment to promote commerce, generate economic activity and create employment opportunities; any new business for the Port of Pensacola which the applicant will attract; any specialized equipment or expertise for handling cargo owned by or available to the applicant; and, any other pertinent information.</p>
<b>SECTION IV</b>	<p><b>STEVEDORE LICENSE/FREIGHT HANDLING PERMIT ISSUANCE</b> (Effective: January 15, 2015)</p>
	<p><b><u>Stevedore License (original issue)</u></b></p> <ol style="list-style-type: none"> <li>1. If the applicant is qualified under the criteria established in <a href="#">Section II</a> above, the Port Director may issue a Stevedore License.</li> <li>2. Notice of the issuance of a Stevedore License by the Port Director will be filed immediately in the Office of the City Clerk where it will be available for public inspection.</li> <li>3. The Port Director will send notice of the issuance to the applicant of the Stevedore License, which notice will inform the applicant of the right of any person aggrieved by the decision of the Port Director to appeal to the Mayor of the City of Pensacola and subsequently to the Pensacola City Council in accordance with the process outlined elsewhere herein. Notice of the issuance of the Stevedore License will be advertised in a general-circulation newspaper and by letter to those parties that, in the estimation of the Port Director may have cause to be aggrieved. The Stevedore License issued by the Port Director will become effective 14 days after issuance and is not subject to suspension or revocation except as specifically provided for in this Policy.</li> <li>4. Any person aggrieved by the decision of the Port Director may appeal to the Mayor of the City of Pensacola by filing a written notice of appeal in the office of the City Clerk within 14 days after the date notice of issuance-decision was sent to the applicant. The notice of appeal shall set forth a short and plain statement alleging the reasons why the Port Director's decision was not in compliance with the provisions of this Policy. The City Clerk shall refer the appeal for a hearing and action by the Mayor. In the event of grievance filed, the effective date of license will be suspended until such date as the Mayor may make a ruling in the matter.</li> <li>5. The Mayor will consider the properly filed appeal of any person aggrieved and will act to confirm or overturn the decision of the Port Director within 30 days of the filing of the notice of appeal.</li> </ol>

6. Upon completion of the Mayoral appeal process outlined above, the aggrieved party may elect to further appeal to the Pensacola City Council by filing a written notice of final appeal in the Office of the City Clerk within 14 days after the date of issuance of the Mayor's appeal decision. The notice of final appeal shall set forth a short and plain statement alleging the reasons why Port Director's and Mayor's decisions were not in compliance with the provisions of this policy. The City Clerk shall refer the appeal for a hearing and action by City Council. In the event of grievance filed, the effective date of license will be suspended until such date as City Council may make a ruling in the matter.
7. City Council will consider the properly filed appeal of any person aggrieved and will act to confirm or overturn the decisions of the Port Director and Mayor at the next scheduled regular meeting of City Council following receipt of the notice of final appeal.

**Freight Handling Permit (original issue)**

1. If the applicant is qualified under the criteria established in [Sections II](#) and [III](#), the Port Director may issue a Freight Handling Permit.
2. Notice of the issuance of a Freight Handling Permit by the Port Director shall be filed immediately in the Office of the City Clerk where it shall be available for public inspection.
3. The process for appealing Freight Handling Permit application decisions is the same as outlined in items 4 through 7 above.

The acceptance of a Stevedore License or Freight Handling Permit shall signify the consent of the licensee or permittee to be governed by the rules and regulations published in the Port of Pensacola Terminal Tariff filed electronically on the Port of Pensacola's website ([www.portofpensacola.com](http://www.portofpensacola.com)) in accordance with the provisions of the Ocean Shipping Reform Act of 1998.

Each firm licensed under the Stevedore License or Freight Handling Permit in accordance with the provisions with this Policy is required, as a condition of the License or Permit, to establish a local telephone number for the purpose of communicating with representatives of the Port of Pensacola and/or prospective business clients.

**SECTION  
V**

**STEVEDORE LICENSE/FREIGHT HANDLING PERMIT  
FEES  
(Effective: July 1, 2019)**

A separate License or Permit is required for each category of business.

**Stevedore License Fee**

Initial Processing Fee or Reinstatement Fee (When License is Revoked)	\$5,000.00
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Annual Renewal Fee	\$1,000.00
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**Freight Handling Permit Fee**

Initial Processing Fee or Reinstatement Fee (When License is Revoked)	\$2,500.00
--	------------

	Annual Renewal Fee	\$ 750.00
<b>SECTION VI</b>	<b>STEVEDORE LICENSE AND FREIGHT HANDLING PERMIT RENEWAL APPLICATION POLICY</b> <b>(Effective: January 15, 2015)</b>	
	<ol style="list-style-type: none"> <li>1. All applications for renewal shall be submitted to the Port Director at least 45 days prior to the expiration date of the License or Permit and shall be accompanied by the Annual Renewal Fee as applicable under <a href="#">Section V</a> in this item. Upon receipt of the application for renewal, the Port Director shall review the licensee or permittee past performance; financial condition; tonnage contracted or sub-contracted; and, such other matters as the Port Director deems appropriate. The Port Director may issue a renewal that the applicant meets existing criteria. If the Port Director fails to grant a renewal public hearing before the Pensacola City Council may be held to appeal the renewal denied, if requested by the applicant.</li> <li>2. The City Manager may revoke any Stevedore License or Freight Handling Permit after due notice if he finds misconduct, neglect of duty or other cause or complaint sufficient, in his opinion, to justify such revocation. In each instance, the licensee or permittee shall be granted a public hearing before Pensacola City Council, if so desired.</li> <li>3. No Stevedore License or Freight Handling Permit shall be transferred or assigned or otherwise used by any person other than the named Licensee or Permittee without written approval by the City Manager in advance. All applications for transfer or assignment shall be submitted to the City Manager. Prospective transferee shall provide to the City Manager an application and other information as he may request. Any person, firm, corporation or other business entity acquiring a Stevedore License or Freight Handling Permit shall demonstrate proof of being trustworthy, ready, willing and able to perform stevedore or freight handling services and shall comply with the applicable provisions of this Policy. All license and permit holders shall report any change in names and addresses of individuals and/or firms in writing to the Port Director. Any change in ownership involving more than 20% ownership in a Stevedore License or Freight Handling Permit shall be reported to the Port Director within 30 days.</li> </ol>	
<b>SECTION VII</b>	<b>STEVEDORE LICENSE AND FREIGHT HANDLING INSURANCE</b> <b>(Effective: January 15, 2015) (C)</b>	
	<p>Upon Application of Stevedore License and Freight Handling Permit under Port of Pensacola's Terminal Tariff No. 5-A <a href="#">ITEM 241a</a> "Insurance" and <a href="#">ITEM 241c</a> "Stevedore and Freight Handler Insurance," the applicant shall furnish a bond or letter-of-credit in the penal sum of Ten Thousand Dollars (\$10,000.00) payable to the City of Pensacola which shall guarantee the applicant's proper performance and compliance with the Port of Pensacola terminal tariff prior to the conduct of any business operations. In addition to the aforesaid bond or letter-of-credit, each applicant shall file a Certificate of Insurance evidencing insurance coverage in the form and amounts as delineated below. Applicable to both Stevedore Licenses and Handling Permits except as noted:</p>	
	<b>TYPE OF COVERAGE</b>	<b>LIMITS</b>
	Workman's Compensation	Statutory
	Longshore and Harbor Workers	Statutory*



	Stevedore Legal Liability (With City of Pensacola Listed as an <u>Additional Insured</u> )	\$ 500,000.00
	Employer's Liability	\$ 500,000.00
	Automobile	\$1,000,000.00**
	Commercial General Liability (With City of Pensacola Listed as an <u>Additional Insured</u> )	\$1,000,000.00
	Performance Bond/Letter of Credit	\$ 10,000.00
	Umbrella Coverage	To make up the difference between the policy limits of underlying policies and the total amount of coverage required.
<b>NOTES</b>	* Not Required for Freight Handling Permit	
	** Combined Single Limit Bodily Injury and Property Damage	
	<p>Such policy or policies shall contain a clause stating that the Insurer will not cancel or change such insurance without first giving the City of Pensacola/Port of Pensacola thirty (30) days prior written notice of intent to so cancel or change. A copy of such policy or policies of insurance, or certificates of insurance so furnished shall certify that the policy or policies comply with the requirements thereof. Under the General Liability section, policy must show Port of Pensacola/City of Pensacola as additional insured.</p> <p>The Stevedore Franchisee/Freight Handler shall also indemnify and hold harmless the City of Pensacola/Port of Pensacola, its subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives, and agents from any and claims, suits, actions, damages, liability and expenses in connection with loss of life, bodily or personal injury , property damage, including loss of use of property, or demurrage, and reasonable attorney's fees directly or indirectly caused by, resulting from, arising out of, or occurring in connection with their presence on the Port or their operations whether arising solely out of the negligence of Stevedore Franchisee/freight Handler or not. This obligation shall not be limited by, or in any way, to any insurance coverage or by any provision in exclusion or omission from any policy of insurance.</p> <p>The Stevedore Franchisee/Freight Handler also agrees to pay on behalf of the City of Pensacola/Port of Pensacola, as well as provide a legal defense for the City of Pensacola/Port of Pensacola, both of which will be done only if and when requested by the City of Pensacola/Port of Pensacola, for all claims as described in the above paragraph. Such payment on the behalf of the City of Pensacola/Port of Pensacola shall be in addition to any and all other legal remedies available to the City of Pensacola/Port of Pensacola and shall not be considered to be the City of Pensacola/Port of Pensacola's exclusive remedy.</p> <p>Cancellation of insurance or aforementioned bond or letter-of-credit shall be grounds for immediate revocation of Stevedore License or Freight Handling Permit.</p>	

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**APPLICATION – STEVEDORE FRANCHISE LICENSE/FREIGHT HANDLING PERMIT**  
(Effective: July 1, 2019)

1.	APPLICANT:			
2.	LOCAL MAILING ADDRESS:			
3.	MAILING ADDRESS OF CORPORATE HEADQUARTERS:			
4.	FORM OF BUSINESS ENTITY: (Check One)	<input type="checkbox"/> Corporation <input type="checkbox"/> Partnership <input type="checkbox"/> Proprietorship		
5.	STATE OF INCORPORATION:		DATE OF INCORPORATION:	
6.	FLORIDA RESIDENT AGENT And ADDRESS:			
7.	TYPE OF LICENSE APPLIED FOR: (Check One)	<input type="checkbox"/> Stevedore Franchise <input type="checkbox"/> Freight Handling Permit		
8.	Has applicant ever been refused a Stevedore Franchise, Freight Handling Permit, or Bond?			<input type="checkbox"/> Yes <input type="checkbox"/> No
9.	List previous business history, including dates and locations: (Use Additional Sheets if Necessary)			
	<u>Date</u>	<u>Previous Business History</u>	<u>Locations</u>	
10.	List names and addresses of all officers, directors, and stockholders of the corporation. If said firm is sole proprietorship or partnership, list principles and their addresses and percentage of ownership: (Use Additional Sheets if Necessary)			
	<u>Position</u>	<u>Name</u>	<u>Address</u>	<u>% of Ownership</u>
11.	Has officer, director, stockholder, or partner of Applicant ever been convicted of a felony or entered a plea of nolo contendere? If so, explain:			<input type="checkbox"/> Yes <input type="checkbox"/> No
12.	List advantages you believe your company can bring to the Port of Pensacola:			

13.	In support of this Application, please provide the following documents:																																															
	<p>1. Ownership or availability of equipment essential to the performance of proffered service, and;</p> <p>1. Insurance Certificates with City of Pensacola as additional insured (non-cancelable without 30 days notice):</p> <table border="1"> <thead> <tr> <th></th> <th>TYPE</th> <th>MINIMUM</th> </tr> </thead> <tbody> <tr> <td><input type="checkbox"/></td> <td>Worker's Compensation Insurance</td> <td>Statutory</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Longshoreman &amp; Harbor Works Act (Not Required for Freight Handling Permit)</td> <td>Statutory</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Employer's Liability Insurance (Including Jones Act)</td> <td>\$ 500,000</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Stevedore's Legal Liability</td> <td>\$ 500,000</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Commercial General Liability (Combined Single Limit Bodily Injury &amp; Property Damage)</td> <td>\$1,000,000</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Umbrella (To make up the difference between the policy limits of underlying policies and the total amount of coverage required)</td> <td></td> </tr> <tr> <td></td> <td>2. Performance Bond or Letter of Credit</td> <td>\$ 10,000</td> </tr> <tr> <td></td> <td colspan="2">3. Enclose check for applicable license:</td> </tr> <tr> <td></td> <td>TYPE</td> <td>AMOUNT</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Stevedore Franchise License Initial Application or Reinstatement</td> <td>\$5,000.00</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Stevedore Franchise License Renewal</td> <td>\$1,000.00</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Freight Handling Permit Initial Application or Reinstatement</td> <td>\$2,500.00</td> </tr> <tr> <td><input type="checkbox"/></td> <td>Freight Handling Permit Renewal</td> <td>\$ 750.00</td> </tr> <tr> <td></td> <td colspan="2">4. Financial Statements – Last two (2) years; Audited Preferred</td> </tr> </tbody> </table>				TYPE	MINIMUM	<input type="checkbox"/>	Worker's Compensation Insurance	Statutory	<input type="checkbox"/>	Longshoreman & Harbor Works Act (Not Required for Freight Handling Permit)	Statutory	<input type="checkbox"/>	Employer's Liability Insurance (Including Jones Act)	\$ 500,000	<input type="checkbox"/>	Stevedore's Legal Liability	\$ 500,000	<input type="checkbox"/>	Commercial General Liability (Combined Single Limit Bodily Injury & Property Damage)	\$1,000,000	<input type="checkbox"/>	Umbrella (To make up the difference between the policy limits of underlying policies and the total amount of coverage required)			2. Performance Bond or Letter of Credit	\$ 10,000		3. Enclose check for applicable license:			TYPE	AMOUNT	<input type="checkbox"/>	Stevedore Franchise License Initial Application or Reinstatement	\$5,000.00	<input type="checkbox"/>	Stevedore Franchise License Renewal	\$1,000.00	<input type="checkbox"/>	Freight Handling Permit Initial Application or Reinstatement	\$2,500.00	<input type="checkbox"/>	Freight Handling Permit Renewal	\$ 750.00		4. Financial Statements – Last two (2) years; Audited Preferred	
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14.	Please write a narrative explaining as to why the Applicant is qualified to hold a Stevedore Franchise or Freight Handling Permit with the Port of Pensacola (Attach as a Separate Piece of Paper).																																															
15.	If Applicant is owned by a holding company, list names and addresses of all officers stockholders and directors of the holding company and percentage of ownership.																																															
	Position	Name	Address																																													
16.	Does Applicant have any affiliated or subsidiary companies? If so, please list:		<input type="checkbox"/> Yes <input type="checkbox"/> No																																													
	Company Name:	Address:																																														

17.	Provide any other information which Applicant thinks might be of value to the Port Director regarding this application (Use Separate Piece of Paper if Necessary).
18.	<p><b>Rules and Regulations Governing Stevedore/Freight Handling Operations at Port of Pensacola.</b></p> <ol style="list-style-type: none"> <li>1. The Stevedore Franchisee/Freight Handler shall exercise care in the performance of its operations in order to prevent injury or death to any person or damage or loss of property.</li> <li>2. The Stevedore Franchisee/Freight Handler shall take all necessary safety and fire precautions and comply with recognized commercial and marine safety practices, procedures and regulations.</li> <li>3. The Stevedore Franchisee/Freight Handler shall conduct its business with all necessary labor and equipment and ensure efficient and expeditious handling practices or vessel loading and discharging operations, including the appointment of at least one qualified supervisor to be present at all times while vessels are loading or unloading. In addition to the qualified supervisor, at least one responsible officer or official representative (with authority to make all operating decisions concerning the stevedoring of vessels at the PORT OF PENSACOLA shall be available for contact by the Port at all times.</li> <li>4. The Stevedore Franchisee/Freight Handler shall cooperate fully with the Port in all respects by: <ol style="list-style-type: none"> <li>a) Advising in advance concerning the type of vessel to be loaded or unloaded; the estimated quantity of cargo to be loaded or unloaded; any special problems known in advance;</li> <li>b) Determining the equipment needed for the operation, and;</li> <li>c) Coordinating the sequence and timing of handling or loading/unloading operations for the convenience and efficiency of the PORT OF PENSACOLA;</li> </ol> </li> <li>5. The Stevedore Franchisee/Freight Handler shall promptly restore terminal working areas to a safe and orderly condition upon completion of handling or stevedoring operations.</li> <li>6. The Stevedore Franchisee/Freight Handler shall comply with all rules and regulations contained in the PORT OF PENSACOLA Terminal Tariff No. 5-A and any revisions or re-issues thereof.</li> <li>7. The Stevedore Franchisee/Freight Handler shall observe and operate in accordance with all laws, ordinances, rules and regulations applicable in any area within the jurisdictional limits of the CITY OF PENSACOLA. Additionally, the Stevedore Franchisee/Freight Handler shall conduct, observe, operate and comply with rules and regulations promulgated by the Port Director with respect to activities on Port property including, but not limited to: <ol style="list-style-type: none"> <li>a) Parking or driving;</li> <li>b) Operation of heavy equipment and protection of property, and;</li> <li>c) Servicing or repairing equipment;</li> </ol> </li> </ol>

8.	The Stevedore Franchisee/Freight Handler shall furnish Certificates of Insurance evidencing continuous coverage as delineated in <a href="#">ITEM 241a</a> , <a href="#">ITEM 241c</a> , and <a href="#">Section VII</a> of <a href="#">Appendix A</a> of this Tariff.
9.	In the event the PORT OF PENSACOLA furnishes equipment for the exclusive use of the Stevedore Franchisee/Freight Handler (subject to conditions, availability and charges), such equipment shall be under the direction and control of the Stevedore Franchisee/Freight Handler and the Stevedore Franchisee/Freight Handler is responsible for the operation thereof and assumes all risk for injuries or damages which may arise or grow out of the use or operation of such equipment except to the extent that such injuries or damages arise directly out of proven negligence by the PORT OF PENSACOLA. It is incumbent upon the Stevedore Franchisee/Freight Handler to make a thorough inspection and satisfy itself as to the physical condition and capacity of the equipment, as well as the competency of the operator, if any; there being no representation or warranty by the PORT OF PENSACOLA with respect to such matters.
10.	It is agreed that all such equipment will be properly used by the Stevedore Franchisee/Freight Handler and not subject to abuse or more-than-normal wear and tear. If there is any such abuse or more-than-normal wear and tear, the Stevedore Franchisee/Freight Handler shall pay for the damage to such equipment.
11.	Upon conclusion of the period of use, all such equipment shall be returned to the PORT OF PENSACOLA in the same condition as when received, normal wear and tear expected.
12.	It shall be incumbent upon the Stevedore Franchisee/Freight Handler to make a reasonable inspection of all accesses permitted to and from a work area and the work areas themselves to satisfy itself that these are safe places for the access and the work to be performed. There is no representation or warranty by the PORT OF PENSACOLA with respect to such matters.
13.	It is understood and agreed that Stevedore Franchisee/Freight Handler will defend, indemnify and hold harmless the City of Pensacola/Port of Pensacola for any and all demurrage and/or detention charges, including costs or attorney's fees, arising out of its freight-handling operations at the Port.

#### STATEMENT OF UNDERSTANDING

<p>I attest that all information provided in this application is true and accurate to the best of my knowledge. Furthermore, I attest that I have read, understood and agree to be bound by all applicable sections of the Port of Pensacola Tariff No. 5-A and all its revisions and amendments, with particular attention to those items dealing directly with Stevedoring/Freight Handling operations.</p> <p>Agreed to this _____ day of _____, 20____.</p> <p>BY: _____ (Authorized Representative – Notarized Signature Required)</p> <p>_____ (Name of Firm)</p> <p>Receipt Acknowledged:</p> <p>_____ (Port Director or Authorized Representative)</p> <p>_____ (Date)</p>	
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# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

File #: 20-00012

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

AWARD OF BID #20-001 GABERONNE SWAMP STORMWATER PENSACOLA BAY WATERSHED IMPROVEMENTS -LANGLEY AVENUE DIVERSION

**RECOMMENDATION:**

That City Council award Bid #20-001 Gaberonne Swamp Stormwater Pensacola Bay Watershed Improvements Langley Avenue Diversion Project to J Miller Construction, Inc., of Pensacola Florida, the lowest and most responsible bidder with a base bid of \$974,248.76 plus a 10% contingency in the amount of \$97,424.88 for a total amount of \$1,071,673.64. Further that City Council authorize the Mayor to execute the contract and take all actions necessary to complete the project.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

This Section 319 grant project will consist of the final phase of a three-phase construction project to route approximately 760 acres of untreated stormwater runoff to the newly constructed Spanish Trail Retention Pond (phase II) for primary treatment. The new retention pond will discharge the treated stormwater into Gaberonne Swamp to provide enhanced stormwater treatment prior to final discharge into Pensacola Bay and will help restore the sensitive ecology of the Gaberonne Swamp system. The first phase (I), Langley Pond Retrofit, is now completed and consisted of re-vamping the existing stormwater pond at Langley Avenue/Scenic Highway and relocation of an outdated ECUA sanitary-sewer lift station. The second phase (II), Spanish Trail Retention Pond, is also completed and is approximately 8 acres in size and constructed on City (Airport) owned property east of Spanish Trail and south of Avenida de Marina immediately adjacent to Gaberonne swamp. The proposed improvements will meet all applicable standards and specifications for City of Pensacola, Northwest Florida Water Management District (NFWFMD), the Army of Corps of Engineers (ACOE), and the Florida Department of Environmental Protection (FDEP).

**PRIOR ACTION:**

July 18, 2013 - Award of Professional Engineering Design Services to Atkins, N.A. for the preparation of 60% construction documents to retrofit the existing stormwater management pond at the

intersection of Langley Avenue and Scenic Highway to increase pollutant removal efficiencies and restore the natural hydrology to the northern portion of Gaberonne Swamp.

February 13, 2014 - City Council approved the Florida Department Environmental Protection (FDEP) Total Maximum Daily Load (TMDL) Award of \$1,584,118.17 and Section 319 FY13 Grant Award in the amount of \$200,000.00.

March 26, 2015 - City Council approved the Gaberonne Swamp Stormwater - Pensacola Bay Watershed Improvements, ECUA Easement and Cost Sharing Interlocal Agreement.

February 11, 2016 - City Council approved the Award of Contract - Bid #16-020 Gaberonne Swamp Stormwater - Pensacola Bay Watershed Improvements - Langley Pond Retrofit Project.

March 9, 2017 - City Council approved the Award of Contract - Bid #17-002 Gaberonne Swamp Stormwater Pensacola Bay Watershed Improvements - Spanish Trail Retention Pond Project.

#### FUNDING:

Budget:	\$1,584,210.00	Florida Department Environmental Protection (FDEP)
		Total Maximum Daily Load (TMDL) Award
	200,000.00	Section 319 FY 13 Grant Award
	<u>1,758,883.00</u>	Stormwater Capital Award Project Fund
	<u>\$3,543,093.00</u>	TOTAL (all phases)
Actual:	\$ 974,248.76	Contract (Langley Avenue Diversion Box Task 6)
	97,424.88	10% Contingency (Langley Avenue Diversion Box Task 6)
	278,413.77	Design, Permitting and Misc. (Langley Avenue Diversion Box Task 6) Completed
	25,000.00	Engineering Project Management and Inspection (Langley Avenue diversion Box Task 6) Estimate
	5,000.00	Construction Testing/Misc. (Langley Avenue Diversion Box Task 6) Estimate
	62,120.44	Watershed Analysis/Public Education (Task 1 and 2) Completed
	350,000.00	ECUA Lift Station Relocation (Task 3) Completed
	401,270.88	Langley Avenue Pond Retrofit (Task 4) Completed
	1,220,551.25	Spanish Trail Retention Pond (Task 5) Completed
	<u>80,000.00</u>	Monitoring/Final Report (Task 7) Pending
	<u>\$3,464,029.98</u>	TOTAL (all phases)

#### FINANCIAL IMPACT:

Total funding for the project in the amount of \$3,543,093.00 is available through the State of Florida

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Department of Environmental Protection Grant previously accepted by City Council and through the Stormwater Capital Project Fund. To date, \$2,362,356.34 has been expended for completed items related to Engineering Design, ECUA Lift Station Relocation, Langley Pond Retrofit and Spanish Trail Retention Pond leaving a budgeted balance of \$1,180,736.66. The remaining budget balance is sufficient to cover the remaining items have yet to be complete/expended.

**CITY ATTORNEY REVIEW:** Yes

1/6/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator

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

**ATTACHMENTS:**

- 1) Bid Tabulation, Bid No. 20-001
- 2) Final Vendor Reference List, Bid No. 20-001
- 3) Map-Gaberonne Swamp Langley Avenue Diversion Box and Storm Conveyance Project
- 4) FDEP Grant Acceptance 2-13-14

**PRESENTATION:** No



TABULATION OF BIDS

BID NO: 20-001

TITLE: GABERONNE SWAMP PENSACOLA BAY WATERSHED IMPROVEMENTS  
LANGLEY AVENUE DIVERSION BOX AND STORM CONVEYANCE PROJECT

OPENING DATE: November 15, 2019 OPENING TIME: 2:30 P.M. DEPARTMENT: Engineering	J. MILLER CONSTRUCTION, INC. Pensacola, FL	SITE & UTILITY, LLC Pensacola, FL
Base Bid	\$974,248.76	\$1,210,700.00
Attended Prebid	Yes	Yes

\*\*\*\*\*

\*\*\*\*\*

Opening Date: 11/15/19

Bid No.: 20-001

**FINAL VENDOR REFERENCE LIST**  
**GABERONNE SWAMP PENSACOLA BAY WATERSHED IMPROVEMENTS**  
**LANGLEY AVENUE DIVERSION BOX AND STORM CONVEYANCE PROJECT**  
**ENGINEERING**

Vendor	Name	Address	City	St	Zip Code	SMWBE
004632	A E NEW JR INC	460 VAN PELT LANE	PENSACOLA	FL	32505	
067544	AFFORDABLE CONCRETE & CONSTRUCTION LLC	4089 E JOHNSON AVE	PENSACOLA	FL	32515	Y
044957	ALL SEASONS CONSTRUCTION LLC	6161 BLUE ANGEL PARKWAY	PENSACOLA	FL	32526	
068571	B&W UTILITIES INC	1610 SUCCESS DRIVE	CANTONMENT	FL	32533	
002504	BARNES FEED STORE INC	8650 NORTH PALAFOX HWY	PENSACOLA	FL	32534	Y
069786	BEAR GENERAL CONTRACTORS LLC	2803 E CERVANTES ST STE C	PENSACOLA	FL	32503	
036997	BELLVIEW SITE CONTRACTORS INC	3300 GODWIN LANE	PENSACOLA	FL	32526	Y
073772	BIGGS CONSTRUCTION COMPANY INC	PO BOX 1552	PENSACOLA	FL	32591	Y
053457	BIRKSHIRE JOHNSTONE LLC	507 E FAIRFIELD DR	PENSACOLA	FL	32503	Y
065013	BKW INC	8132 PITTMAN AVE	PENSACOLA	FL	32534	Y
070527	BLOWERS, BENJAMIN DBA INNOVIS USA LLC	5540 LEESWAY BLVD	PENSACOLA	FL	32504	
022856	BROWN CONSTRUCTION OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	Y
041503	BROWN, AMOS P JR DBA P BROWN BUILDERS LLC	4231 CHERRY LAUREL DRIVE	PENSACOLA	FL	32504	Y
050107	CANTONMENT BUILDING MATERIALS INC	990 HIGHWAY 29 N	CANTONMENT	FL	32533	
042045	CHIVERS CONSTRUCTION INC	1795 WEST DETROIT BLVD	PENSACOLA	FL	32534	Y
049653	CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC	6550 BUD JOHNSON ROAD	PENSACOLA	FL	32505	Y
045454	COASTLINE STRIPING INC	8840 FOWLER AVENUE	PENSACOLA	FL	32534	
071766	CONSTRUCTION MANAGEMENT ADVISORS LLC	4547 LASSASSIER	PENSACOLA	FL	32504	
036146	CRONIN CONSTRUCTION INC	99 S ALCANIZ ST SUITE A	PENSACOLA	FL	32502	Y
070475	CRUZ, SHAWN C DBA COASTAL PROPERTY PREPARATION LLC	5700 ALMAX COURT	PENSACOLA	FL	32506	
033554	D K E MARINE SERVICES	P O BOX 2395	PENSACOLA	FL	32513	Y
070603	D+B BUILDERS	670 MOLINO ROAD	MOLINO	FL	32577	
007055	DAVIS MARINE CONSTRUCTION INC	8160 ASHLAND AVENUE	PENSACOLA	FL	32534	Y
065871	ECSC LLC	8400 LITTLE JOHN JUNCTION	NAVARRE	FL	32566	Y
072705	EVAN CHASE CONSTRUCTION INC	2991 SOUTH HIGHWAY 29	CANTONMENT	FL	32533	Y
032038	EVANS CONTRACTING INC	400 NEAL ROAD	CANTONMENT	FL	32533	
039109	FRANK KELLY INDUSTRIAL SALES	744 E BURGESS RD A105	PENSACOLA	FL	32504	Y
074355	GANNETT MHC MEDIA INC DBA PENSACOLA NEWS JOURNAL	2 NORTH PALAFOX ST	PENSACOLA	FL	32502	
032792	GATOR BORING & TRENCHING INC	1800 BLACKBIRD LANE	PENSACOLA	FL	32534	Y
050495	GB GREEN CONSTRUCTION MANAGEMENT & CONSULTING INC	303 MAN'O'WAR CIRCLE	CANTONMENT	FL	32533	Y
053862	GFD CONSTRUCTION INC	8771 ASHLAND AVE	PENSACOLA	FL	32514	
058714	GREG ALLEN CONSTRUCTION INC	5006 PERSIMMON HOLLOW ROAD	MILTON	FL	32583	Y
000591	GULF ATLANTIC CONSTRUCTORS INC	650 WEST OAKFIELD RD	PENSACOLA	FL	32503	Y
044100	GULF BEACH CONSTRUCTION	1308 UPLAND CREST COURT	GULF BREEZE	FL	32563	Y
069565	GULF COAST INDUSTRIAL CONSTRUCTION LLC	12196 HWY 89	JAY	FL	32565	Y
074827	GULF COAST MINORITY CHAMBER OF COMMERCE INC	321 N DEVILLERS ST STE 104	PENSACOLA	FL	32501	
017352	GULF COAST TRAFFIC ENGINEERS	8203 KIPLING STREET	PENSACOLA	FL	32514	
036662	H H H CONSTRUCTION OF NWF INC	8190 BELLE PINES LANE	PENSACOLA	FL	32526	
070385	HANTO & CLARKE GENERAL CONTRACTORS LLC	1401 EAST BELMONT STREET	PENSACOLA	FL	32501	
056716	HOWELL, KENNETH C, JR DBA KEN JR CONSTRUCTION LLC	1102 WEBSTER DRIVE	PENSACOLA	FL	32505	
022978	INGRAM SIGNALIZATION INC	4522 N DAVIS HWY	PENSACOLA	FL	32503	Y
049240	J MILLER CONSTRUCTION INC	8900 WARING RD	PENSACOLA	FL	32534	Y
053163	J2 ENGINEERING INC	2101 WEST GARDEN STREET	PENSACOLA	FL	32502	
071564	JOSEPH BRIDGES DBA JOE'S LINE UP	222 EHRLMANN ST	PENSACOLA	FL	32507	
043857	KBI CONSTRUCTION CO INC	9214 WARING RD	PENSACOLA	FL	32534	

Opening Date: 11/15/19

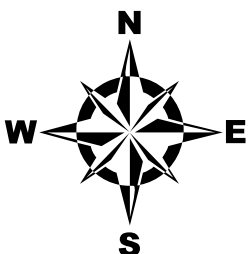
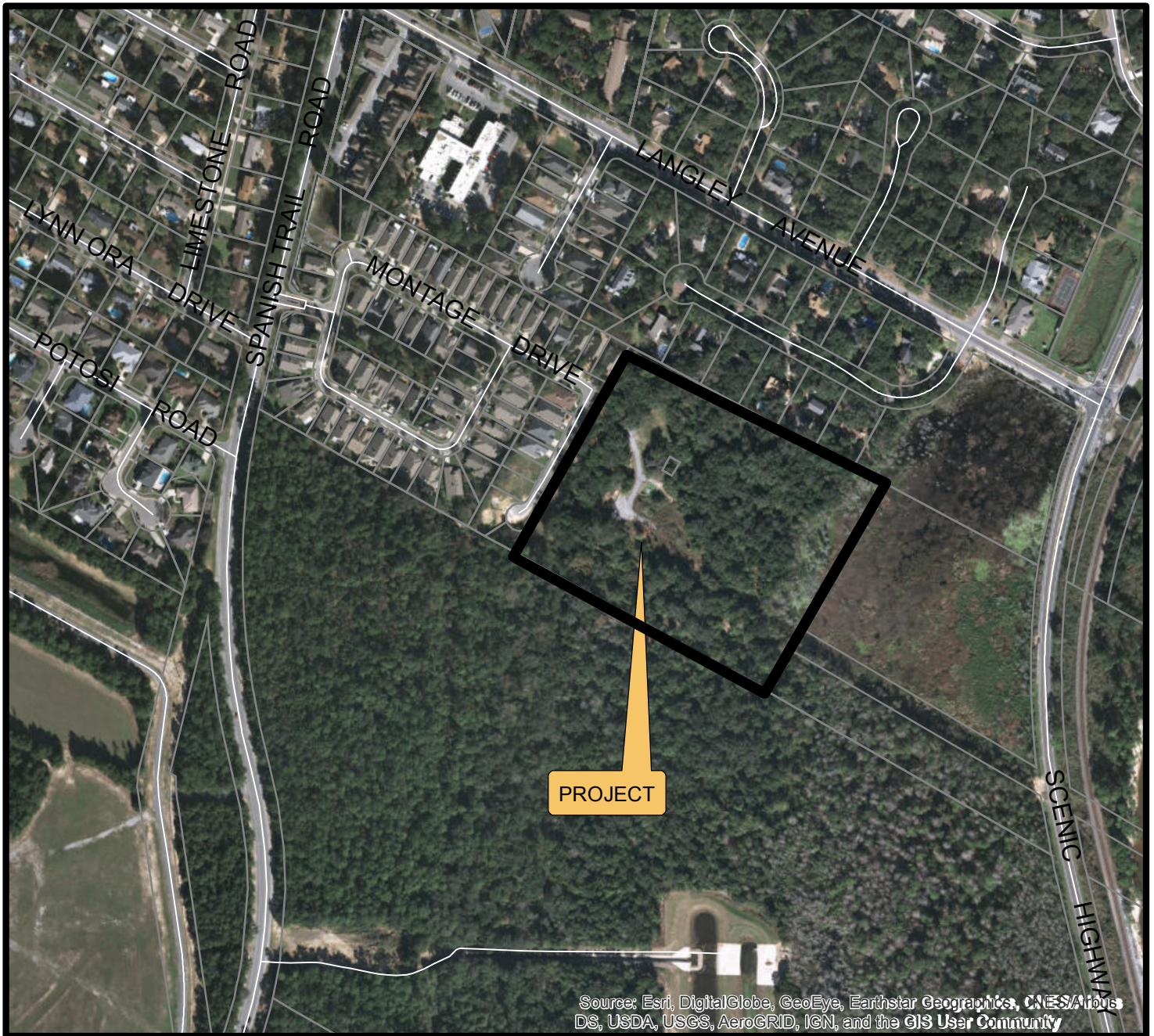
Bid No.: 20-001

**FINAL VENDOR REFERENCE LIST**  
**GABERONNE SWAMP PENSACOLA BAY WATERSHED IMPROVEMENTS**  
**LANGLEY AVENUE DIVERSION BOX AND STORM CONVEYANCE PROJECT**  
**ENGINEERING**

Vendor	Name	Address	City	St	Zip Code	SMWBE
068161	LEA, DOUGLAS C DBA L&L CONSTRUCTION SERVICES LLC	9655 SOUTH TRACE ROAD	MILTON	FL	32583	Y
058332	LEIDNER BUILDERS INC	409 N PACE BLVD	PENSACOLA	FL	32505	Y
058801	M&H CONSTRUCTION SERVICES INC	1161 W 9 1/2 MILE RD	PENSACOLA	FL	32534	Y
053467	MIDSOUTH PAVING INC	PO BOX 198495	ATLANTA	GA	30384	
016210	NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	Y
059552	NOVA ENGINEERING AND ENVIRONMENTAL LLC	3900 KENNESAW 75 PKWY STE 100	KENNESAW	GA	30144	
002720	PANHANDLE GRADING & PAVING INC	P O BOX 3717	PENSACOLA	FL	32516	
058953	PARSCO LLC	714 NORTH DEVILLIERS STREET	PENSACOLA	FL	32501	Y
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	
003956	PENSACOLA CONCRETE CONSTRUCTION CO INC	P O BOX 2787	PENSACOLA	FL	32513	
055028	PERDIDO GRADING & PAVING	PO BOX 3333	PENSACOLA	FL	32516	Y
073174	PERRITT, CHRIS LLC	5340 BRIGHT MEADOWS ROAD	MILTON	FL	32570	Y
066152	PRINCIPLE PROPERTIES INC	3773 HIGHWAY 87 S	NAVARRE BEACH	FL	32566	Y
051133	PUGH, KEVIN D DBA KEVIN D PUGH SITE & DOZER WORKS LLC	5731 STEWART ROAD	WALNUT HILL	FL	32568	Y
021834	R & L PRODUCTS INC	9492 PENSACOLA BLVD	PENSACOLA	FL	32534	
018305	R D WARD CONSTRUCTION CO INC	15 EAST HERMAN STREET	PENSACOLA	FL	32505	
049671	RADFORD & NIX CONSTRUCTION LLC	7014 PINE FOREST ROAD	PENSACOLA	FL	32526	Y
001681	RANDALL, HENRY DBA RANDALL CONSTRUCTION	1045 S FAIRFIELD DRIVE	PENSACOLA	FL	32506	
031881	ROADS INC OF NWF	106 STONE BLVD	CANTONMENT	FL	32533	
017634	ROBERSON EXCAVATION INC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	Y
067564	ROBERSON UNDERGROUND UTILITY LLC	9790 ROBERSON WAY	MILTON	FL	32570	Y
055499	ROCKWELL CORPORATION	3309 LINGER COURT	PENSACOLA	FL	32526	Y
042044	SALTER/3C'S CONSTRUCTION CO	4512 TRICE RD	MILTON	FL	32571	
065450	SITE AND UTILITY LLC	PO BOX 30136	PENSACOLA	FL	32503	Y
068159	SOUTHERN DRILL SUPPLY INC	1822 BLACKBIRD LANE	PENSACOLA	FL	32534	
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	Y
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	Y
062939	THREE TRADE CONSULTANTS	5690 JEFF ATEES RD	MILTON	FL	32583	Y
069066	UNDERGROUND SOLUTIONS LLC	3070 GODWIN LN	PENSACOLA	FL	32526	Y
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	Y
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	Y
021725	WHITESSELL-GREEN INC	P O BOX 2849	PENSACOLA	FL	32513	
069212	YERKES SOUTH INC	634 LAKEWOOD RD	PENSACOLA	FL	32507	Y

Vendors: 79

# GABERONNE SWAMP PENSACOLA BAY WATERSHED PROJECT LANGLEY AVE. DIVERSION BOX & CONVEYANCE SYSTEM

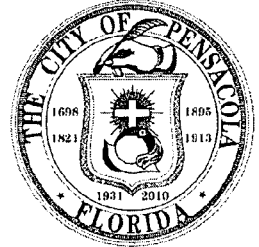


**DEPARTMENT OF PUBLIC WORKS AND FACILITIES  
ENGINEERING AND CONSTRUCTION SERVICES DIVISION**



# Report of City Council Action Items

February 13, 2014



**Members Present:** Council President Jewel Cannada-Wynn, Council, Charles Bare, Larry B. Johnson, Sherri Myers, Brian Spencer, Andy Terhaar, and Gerald Wingate

**Absent:** Megan B. Pratt and P. C. Wu

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## CONSENT AGENDA ITEMS

### 1. REQUEST FOR LICENSE TO USE – 7 & 15 WEST MAIN STREET

That City Council approve the request for a license to use a 4' x 106.63" portion of the West Main Street right of way.

*The motion passed 6 - 0. Council Member Spencer abstaining from the vote.*

## REGULAR AGENDA ITEMS

### 2. GABERONNE SWAMP STORMWATER – PENSACOLA BAY WATERSHED IMPROVEMENTS GRANT ACCEPTANCE

That City Council authorize the Mayor to accept and execute the Florida Department Environmental Protection (FDEP) Total Maximum Daily Load (TMDL) Award of \$1,584,118.17 and Section 319 FY13 Grant Award in the amount of \$2000,000. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

*The motion passed unanimously.*

### SUPPLEMENTAL BUDGET RESOLUTION NO. 01-14 – **MOTION TO APPROVE**

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2014; PROVIDING FOR AN EFFECTIVE DATE.

*The motion passed unanimously.*

### 3. PUBLIC HEARING – AMENDMENT TO THE LAND DEVELOPMENT CODE – MINOR LICENSE TO USE APPROVALS – **MOTION TO APPROVE**

That City Council conduct a public hearing on February 13, 2014 to consider the proposed amendment to the Land Development Code.

*The motion passed unanimously.*

### PROPOSED ORDINANCE NO. 06-14 – *1<sup>st</sup> Reading* - **MOTION TO APPROVE**

AN ORDINANCE AMENDING SECTION 12-12-7 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE LICENSE TO USE RIGHT OF WAY REGULATIONS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

*The motion passed unanimously.*

### 4. PUBLIC HEARING – REQUEST TO VACATE ALLEY – 2900 EAST CERVANTES STREET – A.K. SUTER SCHOOL – **MOTION TO APPROVE**

That City Council conduct a public hearing on February 13, 2014 to consider the request to vacate the alleyway adjacent to 2900 East Cervantes Street.

*The motion passed unanimously.*



# COUNCIL MEMORANDUM

Council Meeting Date: February 13, 2014

## LEGISLATIVE ACTION ITEM

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

**SUBJECT:** Gaberonne Swamp Stormwater – Pensacola Bay Watershed Improvements Grant Acceptance

### RECOMENDATION:

That City Council authorize the Mayor to accept and execute the Florida Department Environmental Protection (FDEP) Total Maximum Daily Load (TMDL) Award of \$1,584,118.17 and Section 319 FY13 Grant Award in the amount of \$200,000. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

**AGENDA:** \_\_\_\_\_ Regular \_\_\_\_\_ X Consent  
Hearing Required: Public \_\_\_\_\_ Quasi-Judicial \_\_\_\_\_ No Hearing Required X

### SUMMARY:

The City of Pensacola is one of the oldest cities in the state of Florida, with a history of urban settlement dating back 300 years. Urbanization has put substantial pressure on both the natural and man-made hydrologic systems to accommodate increasing amounts of runoff carrying ever more complex pollutants. All of the runoff from the City discharges into the Pensacola Bay watershed and the City has moved on several fronts within the last decade to address stormwater impacts on local area waters. The Scenic Heights area in Northeast Pensacola has been identified as an area of concern regarding pollutant loadings as it is a large single family residential development that has a direct discharge to Pensacola Bay. Most of this area was developed prior to water quality regulations and consists of a 72" main trunk line that runs down Langley Avenue to the east and discharges directly to the bay.

In August 2006, City Council authorized the preparation of a grant application under the Florida Forever Competitive Grant and Section 319 Grant Programs for the Gaberonne Swamp Stormwater Enhancement Project. In September 2007, the grant application was prepared by the Engineering consultant and submitted to the Northwest Florida Water Management District (NFWFMD) and the Florida Department of Environmental Protection (FDEP) for evaluation and consideration. The NFWFMD through several programs has identified the preservation of bottomland hardwood habitats, which includes the Gaberonne Swamp, as an essential element with regard to the long term health of the Pensacola Bay System.

This project will serve as a means to provide stormwater treatment for over 760 acres of untreated runoff into Pensacola Bay and help restore the sensitive ecology of the Gaberonne Swamp system. This will primarily take place through the construction of an advanced treatment train process that will remove approx. 96,000 lbs. of pollutants annually utilizing a large stormwater retention pond uphill and adjacent to the swamp, where stormwater will be routed for treatment prior to replenishing the swamp and ultimately discharging into the bay.

Council Memorandum

Gaberonne Swamp Stormwater – Pensacola Bay Watershed Improvements Grant Acceptance

February 13, 2014

Page #2

As part of this, the Emerald Coast Utilities Authority (ECUA) has agreed to partner with the City to relocate a sanitary sewer lift-station facility that currently occupies the area where the new stormwater pond is Proposed and is part of the grant scope. ECUA will oversee the relocation and the City will reimburse them for 50% of the costs up to \$350,000. Funding for the reimbursement will come from the City matching Funds identified in the Funding portion of this memorandum. The existing pond at the intersection of Langley Avenue and Scenic Highway will also be retrofitted to provide treated stormwater to the swamp and will function in a much more effective and efficient manner. This overall project will be phased out over approximately five (5) years with each phase represented as a “sub” or smaller stand-alone project that will ultimately all tie together.

Education of the public about personal impacts on stormwater, changing city field operating procedures, increasing land development code requirements, and addressing water quality in all city construction projects have been instituted for the protection and improvement of water quality. As part of the grant scope, an educational kiosk explaining the importance of stormwater management to enhance bay water quality will be placed at the Pensacola Bay Bluffs Park, a popular destination for city residents and visitors of all ages.

**PRIOR ACTION:**

JUL 2013 - Award of Professional Engineering Design Services to Atkins, N.A. for the preparation of 60% construction documents to retrofit the existing stormwater management pond at the intersection of Langley Avenue and Scenic Highway to increase pollutant removal efficiencies and restore the natural hydrology to the northern portion of Gaberonne Swamp.

**FUNDING:**

Revenues:

FDEP TMDL Grant Award	\$1,584,118.17
Section 319 FY13 Grant Award	\$ 200,000.00
Matching Funds (City)	\$ 976,381.04 (Stormwater Capital Fund)
Matching Funds (ECUA)	<u>\$ 350,000.00</u>
<b>Total</b>	<b>\$3,110,499.21</b>

Expenditures\*:

Construction	\$2,275,499.21
Engineering Design/Permitting	\$ 250,000.00
Project Administration	\$ 150,000.00
Other/Misc.	\$ 85,000.00
Payment to ECUA	<u>\$ 350,000.00</u>
<b>Total</b>	<b>\$3,110,499.21</b>

\*Approximate estimates only

Council Memorandum

Gaberonne Swamp Stormwater – Pensacola Bay Watershed Improvements Grant Acceptance

February 13, 2014

Page #3

**FINANCIAL IMPACT:**

Funding is currently available for the required City “match” within the Stormwater Capital Projects Fund for the Scenic Heights Discharge Project in the amount of \$656,861.89 with the remaining \$319,519.15 available in the FY 2015 Stormwater Capital Projects Fund for the same project. Per ECUA, funding in the amount of \$350,000 is available from them to provide their required match. Approval of the attached supplemental budget resolution will appropriate the grant funds.

**STAFF CONTACT:**

Colleen M. Castille, City Administrator

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

Richard Barker, Chief Financial Officer

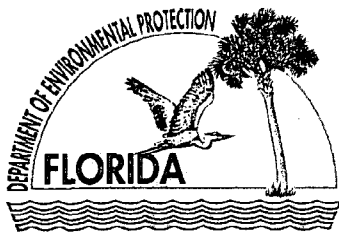
**ATTACHMENTS:**

- 1) FDEP FY13 Award Letter Authorization
- 2) ECUA Letter of Commitment
- 3) Supplemental Budget Resolution
- 4) Supplemental Budget Resolution Explanation

**PRESENTATION:**

No.





## Florida Department of Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

Via e-mail: [dowens@cityofpensacola.com](mailto:dowens@cityofpensacola.com)

August 20, 2013

Mr. Derrik Owens, P.E.  
Public Works Director  
2757 North Palafox Street  
Pensacola, FL 32501

RE: Section 319(h) Grant Proposal Status

Dear Mr. Owens:

The previous award letter informing you that your proposal entitled "Gaberonne Swamp Stormwater- Pensacola Bay Watershed" was selected for funding this year did not include the total amount awarded. In fact it is our pleasure to report that, you will be awarded a total grant amount of \$1,784,118.17. The City will be providing match dollars in the amount of 1,246,381.04 with additional funds in the amount of \$50,000.00 for a total project cost of \$3,080,499.21. The draft work plan was submitted to EPA on September 30, 2012. While we have selected this project for inclusion in the draft work plan, please be aware that funding cannot be guaranteed until EPA approves the draft work plan and the federal funds are received by the state. We would expect to receive EPA's approval and the federal funds by September 2013. Upon receipt of the federal funds, we will contact you to initiate contracting. For planning purposes, if approved by EPA, you should expect contract initiation to occur between September 2013 and January 2014. In the interim (starting October 1, 2012) any non-federal expenditures made for the project can be counted towards the required minimum 40% match.

So that we may better plan our restoration efforts across the state, please respond to this letter by August 23, 2013 and indicate that you accept this grant. You may either email me at [Connie.L.Becker@dep.state.fl.us](mailto:Connie.L.Becker@dep.state.fl.us) or mail to the address in this letterhead. If we do not hear from you by that date, we will assume you do not intend to accept that grant and will reallocate the grant funds as needed.



Mr. Derrick Owens  
August 20, 2013  
Page Two

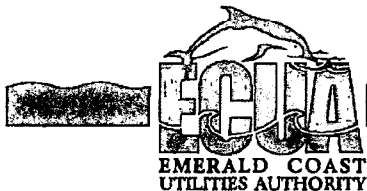
We look forward to working with you on this project and value your commitment to restoring Florida's waters. In addition to the federal section 319(h) grant, please accept this as notification of the TMDL Award which is included in the total grant award in Paragraph 2 above. If you have any questions, please do not hesitate to call me at (850) 245-8505 or e-mail at [Connie.L.Becker@dep.state.fl.us](mailto:Connie.L.Becker@dep.state.fl.us) or contact Mike Scheinkman at (850) 245-8521 or [Michael.Scheinkman@dep.state.fl.us](mailto:Michael.Scheinkman@dep.state.fl.us).

Sincerely,

Connie Becker  
Division of Environmental Assessment and Restoration

XC: Lee Marchman, Non-Point Source Section  
Mike Scheinkman, Contract Manager





P.O. Box 15311 • 9255 Sturdevant Street  
Pensacola, Florida 32514-0311  
ph: 850 476-5110 • fax: 850 494-7346

January 23, 2014

Mr. L. Derrik Owens, P.E.  
Director of Public Works and Facilities/City Engineer  
2757 North Palafox Street  
Pensacola, FL 32501

Re: Cost-sharing Agreement between City of Pensacola and ECUA  
Gaberonne Swamp Stormwater - Pensacola Bay Watershed Improvements  
FEID No. 59-6000406; ECUA CIP #RS419

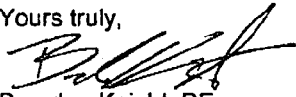
Dear Derrik:

This letter is intended to serve as cost-sharing agreement between the City and the ECUA regarding the referenced project. The City's project will include the removal of an existing roadbed in Gaberonne Swamp as well as the construction of a new stormwater pond. Both of these activities will require the abandonment of ECUA's LS#25 and utility mains serving the station. In order to support the City's project, ECUA will be required to rebuild our current lift station, currently at the corner of Scenic and Langley, in a new location, to include a new force main and other sewer system modifications.

The lift station construction and associated sewer main work is estimated to cost \$700,000, to include engineering and construction. Per prior conversations, the ECUA and the City agreed to split these costs, to include ECUA developing the project plans and managing the construction of the project. Additional coordination will be required with the City's design engineer, Atkins. Construction is estimated to begin in October 2014 and take approximately 4 months to complete.

Please indicate by signing the below that the City will reimburse ECUA for half of the total project costs, up to \$350,000. Please call if you have any questions.

Yours truly,

  
Brandon Knight, PE  
Project Engineer

\*\*\*\*\*  
**The City of Pensacola agrees to reimburse ECUA half of the total project costs for the project described above, up to \$350,000, with future authorization being required by both the City Council and ECUA Board:**

_____	_____		1-23-2014
City Signature	Date	ECUA Signature	Date

\*\*\*\*\*

copy: Stephen E. Sorrell, PE, MPA; ECUA Executive Director  
William E. Johnson, PE, PLS; ECUA Director if Engineering

X:\Engineering Staff\Brandon Knight\RS419-Scenic and Langley (LS#64) Replacement\Cost-sharing letter to City - Derrik Owens.docx

Elizabeth S. Campbell District One	Lois Benson District Two	Elvin McCorvey District Three	Dale Perkins District Four	Larry Walker District Five
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RESOLUTION  
NO. 01-14

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2014; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND		
As Reads:	Federal Grant Contributions	256,559
Amended		
To Read	Federal Grant Contributions	1,840,679
As Reads:	Federal Grant Contributions	256,559
Amended		
To Read	Federal Grant Contributions	456,559
As Reads:	Operating Expenses	1,399,162
Amended		
To Read	Operating Expenses	1,459,056
As Reads:	Capital Outlay	840,808
Amended		
To Read	Capital Outlay	2,565,034

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

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: \_\_\_\_\_

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

Attest:

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

Legal in form and valid as drawn:

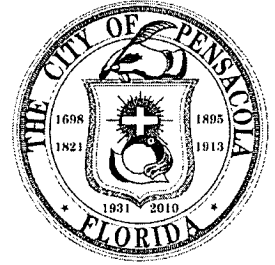
\_\_\_\_\_  
City Attorney

THE CITY OF PENSACOLA  
FEBRUARY 2014 - SUPPLEMENTAL BUDGET RESOLUTION - GABERONNE SWAMP STORMWATER GRANT

FUND	ACCOUNT NUMBER	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND	102		
Estimated Revenues			
Federal Grant Contributions		1,584,120	Increase estimated revenue for Federal Grant Contributions
State Grant Contributions		200,000	Increase estimated revenue for State Grant Contributions
Total Revenues		<u>1,784,120</u>	
Appropriations			
Operating Expenses		59,894	Increase appropriation for Operating Expenses
Capital Outlay		<u>1,724,226</u>	Increase appropriation for Capital Outlay
Total Appropriations		<u>1,784,120</u>	

# Report of City Council Action Items

February 13, 2014



**Members Present:** Council President Jewel Cannada-Wynn, Council, Charles Bare, Larry B. Johnson, Sherri Myers, Brian Spencer, Andy Terhaar, and Gerald Wingate

**Absent:** Megan B. Pratt and P. C. Wu

---

## CONSENT AGENDA ITEMS

### 1. REQUEST FOR LICENSE TO USE – 7 & 15 WEST MAIN STREET

That City Council approve the request for a license to use a 4' x 106.63" portion of the West Main Street right of way.

*The motion passed 6 - 0. Council Member Spencer abstaining from the vote.*

## REGULAR AGENDA ITEMS

### 2. GABERONNE SWAMP STORMWATER – PENSACOLA BAY WATERSHED IMPROVEMENTS GRANT ACCEPTANCE

That City Council authorize the Mayor to accept and execute the Florida Department Environmental Protection (FDEP) Total Maximum Daily Load (TMDL) Award of \$1,584,118.17 and Section 319 FY13 Grant Award in the amount of \$2000,000. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

*The motion passed unanimously.*

### SUPPLEMENTAL BUDGET RESOLUTION NO. 01-14 – **MOTION TO APPROVE**

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2014; PROVIDING FOR AN EFFECTIVE DATE.

*The motion passed unanimously.*

### 3. PUBLIC HEARING – AMENDMENT TO THE LAND DEVELOPMENT CODE – MINOR LICENSE TO USE APPROVALS – **MOTION TO APPROVE**

That City Council conduct a public hearing on February 13, 2014 to consider the proposed amendment to the Land Development Code.

*The motion passed unanimously.*

### PROPOSED ORDINANCE NO. 06-14 – *1<sup>st</sup> Reading* – **MOTION TO APPROVE**

AN ORDINANCE AMENDING SECTION 12-12-7 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE LICENSE TO USE RIGHT OF WAY REGULATIONS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

*The motion passed unanimously.*

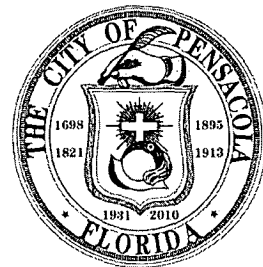
### 4. PUBLIC HEARING – REQUEST TO VACATE ALLEY – 2900 EAST CERVANTES STREET – A.K. SUTER SCHOOL – **MOTION TO APPROVE**

That City Council conduct a public hearing on February 13, 2014 to consider the request to vacate the alleyway adjacent to 2900 East Cervantes Street.

*The motion passed unanimously.*

# COUNCIL MEMORANDUM

Council Meeting Date: February 13, 2014



## LEGISLATIVE ACTION ITEM

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

**SUBJECT:** Gaberonne Swamp Stormwater – Pensacola Bay Watershed Improvements Grant Acceptance

### RECOMENDATION:

That City Council authorize the Mayor to accept and execute the Florida Department Environmental Protection (FDEP) Total Maximum Daily Load (TMDL) Award of \$1,584,118.17 and Section 319 FY13 Grant Award in the amount of \$200,000. Further, that City Council adopt the attached supplemental budget resolution to appropriate the grant funds.

**AGENDA:** \_\_\_\_\_ Regular   X   Consent  
Hearing Required: Public \_\_\_\_\_ Quasi-Judicial \_\_\_\_\_ No Hearing Required   X  

### SUMMARY:

The City of Pensacola is one of the oldest cities in the state of Florida, with a history of urban settlement dating back 300 years. Urbanization has put substantial pressure on both the natural and man-made hydrologic systems to accommodate increasing amounts of runoff carrying ever more complex pollutants. All of the runoff from the City discharges into the Pensacola Bay watershed and the City has moved on several fronts within the last decade to address stormwater impacts on local area waters. The Scenic Heights area in Northeast Pensacola has been identified as an area of concern regarding pollutant loadings as it is a large single family residential development that has a direct discharge to Pensacola Bay. Most of this area was developed prior to water quality regulations and consists of a 72" main trunk line that runs down Langley Avenue to the east and discharges directly to the bay.

In August 2006, City Council authorized the preparation of a grant application under the Florida Forever Competitive Grant and Section 319 Grant Programs for the Gaberonne Swamp Stormwater Enhancement Project. In September 2007, the grant application was prepared by the Engineering consultant and submitted to the Northwest Florida Water Management District (NFWFMD) and the Florida Department of Environmental Protection (FDEP) for evaluation and consideration. The NFWFMD through several programs has identified the preservation of bottomland hardwood habitats, which includes the Gaberonne Swamp, as an essential element with regard to the long term health of the Pensacola Bay System.

This project will serve as a means to provide stormwater treatment for over 760 acres of untreated runoff into Pensacola Bay and help restore the sensitive ecology of the Gaberonne Swamp system. This will primarily take place through the construction of an advanced treatment train process that will remove approx. 96,000 lbs. of pollutants annually utilizing a large stormwater retention pond uphill and adjacent to the swamp, where stormwater will be routed for treatment prior to replenishing the swamp and ultimately discharging into the bay.

Council Memorandum

Gaberonne Swamp Stormwater – Pensacola Bay Watershed Improvements Grant Acceptance

February 13, 2014

Page #2

As part of this, the Emerald Coast Utilities Authority (ECUA) has agreed to partner with the City to relocate a sanitary sewer lift-station facility that currently occupies the area where the new stormwater pond is Proposed and is part of the grant scope. ECUA will oversee the relocation and the City will reimburse them for 50% of the costs up to \$350,000. Funding for the reimbursement will come from the City matching Funds identified in the Funding portion of this memorandum. The existing pond at the intersection of Langley Avenue and Scenic Highway will also be retrofitted to provide treated stormwater to the swamp and will function in a much more effective and efficient manner. This overall project will be phased out over approximately five (5) years with each phase represented as a “sub” or smaller stand-alone project that will ultimately all tie together.

Education of the public about personal impacts on stormwater, changing city field operating procedures, increasing land development code requirements, and addressing water quality in all city construction projects have been instituted for the protection and improvement of water quality. As part of the grant scope, an educational kiosk explaining the importance of stormwater management to enhance bay water quality will be placed at the Pensacola Bay Bluffs Park, a popular destination for city residents and visitors of all ages.

**PRIOR ACTION:**

JUL 2013 - Award of Professional Engineering Design Services to Atkins, N.A. for the preparation of 60% construction documents to retrofit the existing stormwater management pond at the intersection of Langley Avenue and Scenic Highway to increase pollutant removal efficiencies and restore the natural hydrology to the northern portion of Gaberonne Swamp.

**FUNDING:**

Revenues:

FDEP TMDL Grant Award	\$1,584,118.17
Section 319 FY13 Grant Award	\$ 200,000.00
Matching Funds (City)	\$ 976,381.04 (Stormwater Capital Fund)
Matching Funds (ECUA)	\$ 350,000.00
<b>Total</b>	<b>\$3,110,499.21</b>

Expenditures\*:

Construction	\$2,275,499.21
Engineering Design/Permitting	\$ 250,000.00
Project Administration	\$ 150,000.00
Other/Misc.	\$ 85,000.00
Payment to ECUA	\$ 350,000.00
<b>Total</b>	<b>\$3,110,499.21</b>

\*Approximate estimates only



Council Memorandum

Gaberonne Swamp Stormwater – Pensacola Bay Watershed Improvements Grant Acceptance

February 13, 2014

Page #3

**FINANCIAL IMPACT:**

Funding is currently available for the required City “match” within the Stormwater Capital Projects Fund for the Scenic Heights Discharge Project in the amount of \$656,861.89 with the remaining \$319,519.15 available in the FY 2015 Stormwater Capital Projects Fund for the same project. Per ECUA, funding in the amount of \$350,000 is available from them to provide their required match. Approval of the attached supplemental budget resolution will appropriate the grant funds.

**STAFF CONTACT:**

Colleen M. Castille, City Administrator

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

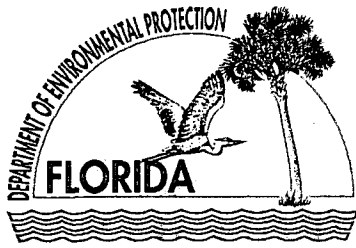
Richard Barker, Chief Financial Officer

**ATTACHMENTS:**

- 1) FDEP FY13 Award Letter Authorization
- 2) ECUA Letter of Commitment
- 3) Supplemental Budget Resolution
- 4) Supplemental Budget Resolution Explanation

**PRESENTATION:**

No.



## Florida Department of Environmental Protection

Bob Martinez Center  
2600 Blair Stone Road  
Tallahassee, Florida 32399-2400

Rick Scott  
Governor

Jennifer Carroll  
Lt. Governor

Herschel T. Vinyard Jr.  
Secretary

Via e-mail: [dowens@cityofpensacola.com](mailto:dowens@cityofpensacola.com)

August 20, 2013

Mr. Derrik Owens, P.E.  
Public Works Director  
2757 North Palafox Street  
Pensacola, FL 32501

RE: Section 319(h) Grant Proposal Status

Dear Mr. Owens:

The previous award letter informing you that your proposal entitled "Gaberonne Swamp Stormwater- Pensacola Bay Watershed" was selected for funding this year did not include the total amount awarded. In fact it is our pleasure to report that, you will be awarded a total grant amount of \$1,784,118.17. The City will be providing match dollars in the amount of 1,246,381.04 with additional funds in the amount of \$50,000.00 for a total project cost of \$3,080,499.21. The draft work plan was submitted to EPA on September 30, 2012. While we have selected this project for inclusion in the draft work plan, please be aware that funding cannot be guaranteed until EPA approves the draft work plan and the federal funds are received by the state. We would expect to receive EPA's approval and the federal funds by September 2013. Upon receipt of the federal funds, we will contact you to initiate contracting. For planning purposes, if approved by EPA, you should expect contract initiation to occur between September 2013 and January 2014. In the interim (starting October 1, 2012) any non-federal expenditures made for the project can be counted towards the required minimum 40% match.

So that we may better plan our restoration efforts across the state, please respond to this letter by August 23, 2013 and indicate that you accept this grant. You may either email me at [Connie.L.Becker@dep.state.fl.us](mailto:Connie.L.Becker@dep.state.fl.us) or mail to the address in this letterhead. If we do not hear from you by that date, we will assume you do not intend to accept that grant and will reallocate the grant funds as needed.

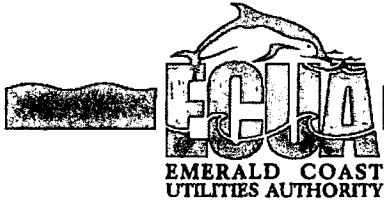
Mr. Derrick Owens  
August 20, 2013  
Page Two

We look forward to working with you on this project and value your commitment to restoring Florida's waters. In addition to the federal section 319(h) grant, please accept this as notification of the TMDL Award which is included in the total grant award in Paragraph 2 above. If you have any questions, please do not hesitate to call me at (850) 245-8505 or e-mail at [Connie.L.Becker@dep.state.fl.us](mailto:Connie.L.Becker@dep.state.fl.us) or contact Mike Scheinkman at (850) 245-8521 or [Michael.Scheinkman@dep.state.fl.us](mailto:Michael.Scheinkman@dep.state.fl.us).

Sincerely,

Connie Becker  
Division of Environmental Assessment and Restoration

XC: Lee Marchman, Non-Point Source Section  
Mike Scheinkman, Contract Manager



P.O. Box 15311 • 9255 Sturdevant Street  
Pensacola, Florida 32514-0311  
ph: 850 476-5110 • fax: 850 494-7346

January 23, 2014

Mr. L. Derrik Owens, P.E.  
Director of Public Works and Facilities/City Engineer  
2757 North Palafox Street  
Pensacola, FL 32501

Re: Cost-sharing Agreement between City of Pensacola and ECUA  
Gaberonne Swamp Stormwater - Pensacola Bay Watershed Improvements  
FEID No. 59-6000406; ECUA CIP #RS419

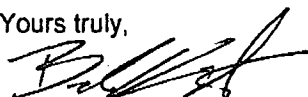
Dear Derrik:

This letter is intended to serve as cost-sharing agreement between the City and the ECUA regarding the referenced project. The City's project will include the removal of an existing roadbed in Gaberonne Swamp as well as the construction of a new stormwater pond. Both of these activities will require the abandonment of ECUA's LS#25 and utility mains serving the station. In order to support the City's project, ECUA will be required to rebuild our current lift station, currently at the corner of Scenic and Langley, in a new location, to include a new force main and other sewer system modifications.

The lift station construction and associated sewer main work is estimated to cost \$700,000, to include engineering and construction. Per prior conversations, the ECUA and the City agreed to split these costs, to include ECUA developing the project plans and managing the construction of the project. Additional coordination will be required with the City's design engineer, Atkins. Construction is estimated to begin in October 2014 and take approximately 4 months to complete.

Please indicate by signing the below that the City will reimburse ECUA for half of the total project costs, up to \$350,000. Please call if you have any questions.


Yours truly,

  
Brandon Knight, PE  
Project Engineer

\*\*\*\*\*  
**The City of Pensacola agrees to reimburse ECUA half of the total project costs for the project described above, up to \$350,000, with future authorization being required by both the City Council and ECUA Board:**

\_\_\_\_\_  
City Signature

\_\_\_\_\_  
Date

 1-23-2014  
ECUA Signature Date

\*\*\*\*\*  
copy: Stephen E. Sorrell, PE, MPA; ECUA Executive Director  
William E. Johnson, PE, PLS; ECUA Director of Engineering

X:\Engineering Staff\Brandon Knight\RS419-Scenic and Langley (LS#64) Replacement\Cost-sharing letter to City - Derrik Owens.docx

Elizabeth S. Campbell  
District One

Lois Benson  
District Two

Elvin McCorvey  
District Three

Dale Perkins  
District Four

Larry Walker  
District Five

**RESOLUTION  
NO. 01-14**

**A RESOLUTION  
TO BE ENTITLED:**

**A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2014; PROVIDING FOR AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA**

**SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:**

**A. SPECIAL GRANTS FUND**

As Reads:	Federal Grant Contributions	256,559
Amended		
To Read	Federal Grant Contributions	1,840,679
As Reads:	Federal Grant Contributions	256,559
Amended		
To Read	Federal Grant Contributions	456,559
As Reads:	Operating Expenses	1,399,162
Amended		
To Read	Operating Expenses	1,459,056
As Reads:	Capital Outlay	840,808
Amended		
To Read	Capital Outlay	2,565,034

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

**SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.**

Adopted: \_\_\_\_\_

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

Attest:

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

Legal in form and valid as drawn:

\_\_\_\_\_  
City Attorney

THE CITY OF PENSACOLA

FEBRUARY 2014 - SUPPLEMENTAL BUDGET RESOLUTION - GABERONNE SWAMP STORMWATER GRANT

FUND	ACCOUNT NUMBER	AMOUNT	DESCRIPTION
<b>SPECIAL GRANTS FUND</b>	<b>102</b>		
Estimated Revenues			
Federal Grant Contributions		1,584,120	Increase estimated revenue for Federal Grant Contributions
State Grant Contributions		200,000	Increase estimated revenue for State Grant Contributions
Total Revenues		<u>1,784,120</u>	
Appropriations			
Operating Expenses		59,894	Increase appropriation for Operating Expenses
Capital Outlay		1,724,226	Increase appropriation for Capital Outlay
Total Appropriations		<u>1,784,120</u>	



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00038

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Sherri Myers

**SUBJECT:**

REFERRAL TO PLANNING BOARD - PROPOSED AMENDMENT TO SECTION 12-14 (DEFINITIONS) OF THE LAND DEVELOPMENT CODE (LDC)

**RECOMMENDATION:**

That City Council refer to the Planning Board a proposed amendment to Section 12-14 (Definitions) of the Land Development Code (LDC). Specifically, within the definition of "Kennel" including the words, "or unlicensed."

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Currently the LDC defines a Kennel as:

Kennel means an establishment which is licensed to house dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. Outside pens and runs are allowed.

The proposed amendment would read as follows:

Kennel means an establishment which is licensed or unlicensed to house dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. Outside pens and runs are allowed.

The current wording within the definition does not apply to unlicensed dog and cat breeders. The proposed amendment would remove that loophole, thereby placing the same onus on these breeders that are placed on commercial breeders.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) Proposed Amendment to Section 12-14 - Kennel

**PRESENTATION:** No



Sec. 12-14-1. - Definitions enumerated.

Kennel means an establishment which is licensed or unlicensed to house dogs, cats, or other household pets and where grooming, breeding, boarding, training, or selling of animals is conducted as a business. Outside pens and runs are allowed.



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00045

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council President Jewel Cannada-Wynn

**SUBJECT:**

ASSIGNMENT OF COUNCIL MEMBER JOHN JERRALDS TO THE TRANSPORTATION PLANNING ORGANIZATION

**RECOMMENDATION:**

That City Council approve the assignment of Council Member John Jerralds to the Transportation Planning Organization.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

In December of 2018 the City Council approved the Council Presidents assignments to external boards, commissions and authorities for the Council term 2018-2020.

At that time Council Member Gerald Wingate was assigned to the Transportation Planning Organization; with his passing, a new member of Council needs to be assigned to fulfill the term expiring when the new Council Members take office in November of 2020.

This item assigns Council Member John Jerralds to the Transportation Planning Organization until the term expires in November of 2020.

**PRIOR ACTION:**

December 13, 2018 - City Council Members assigned to External Boards, Commissions and Authorities

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

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**File #:** 20-00045

City Council

1/16/2020

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None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

None

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00006

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

QUASI-JUDICIAL HEARING - SOUTH PALAFOX BUSINESS DISTRICT - SITE PLAN APPROVAL FOR ADMIRAL'S ROW, LLC, 700-800 BLOCK SOUTH PALAFOX STREET

**RECOMMENDATION:**

That City Council conduct a quasi-judicial hearing on January 16, 2020 to consider the request for a South Palafox Business District Site Plan Approval for Admirals Row, LLC, 700-800 Block of South Palafox Street.

**HEARING REQUIRED:** Quasi-Judicial

**SUMMARY:**

Admiral's Row, LLC, is requesting a combined Preliminary/Final Site Plan approval for a new multi-family development, "Admiral's Row", located in the South Palafox Business District - SPBD, 700-800 Block of South Palafox Street. The development includes eighteen condominium residences.

On November 18, 2019 the Planning Board unanimously recommended approval for the request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator, Community Development  
Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Admiral's Row LLC Site Plan Application
- 2) Planning Board Minutes November 18, 2019
- 3) Planning Board Memo November 4, 2019

**PRESENTATION:** No

SITE CONSTRUCTION PLANS  
FOR  
ADMIRAL'S ROW  
SOUTH PALAFOX STREET  
PENSACOLA, FLORIDA

RBA PROJECT NO.: 2018.242

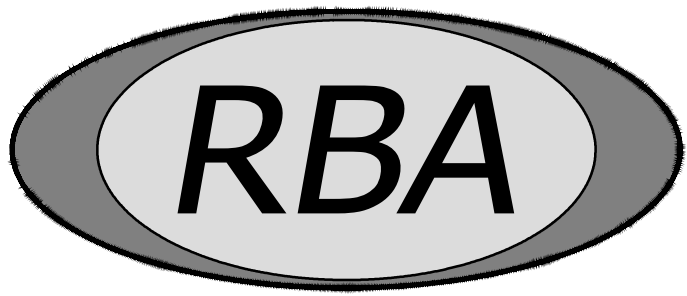
SITE INFORMATION	
OWNER:	ADMIRALS ROW, LLC PO BOX 12346 PENSACOLA, FL 32591
DEVELOPER:	ADMIRALS ROW, LLC PO BOX 12346 PENSACOLA, FL 32591
PROPERTY REFERENCE NO:	00-0S-00-9100-011-044
PROPERTY ADDRESS:	800 BLOCK S PALAFOX STREET
PROPERTY AREA:	1.47 ACRES
PROJECT AREA:	1.47 ACRES
PROPERTY ZONING:	SPBD
FUTURE LAND USE:	COMMERCIAL
PROPOSED ACTIVITY:	MULTI-FAMILY RESIDENTIAL
REQUIRED BUILDING SETBACKS SPDB:	FRONT YARD - 0 FT. SIDE YARD - 0 FT. REAR YARD - 0 FT.

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
AE	120080	12033C	0390	G	SEPT 29, 2006

CONTACTS	
GULF POWER 5120 DOGWOOD DRIVE MILTON, FLORIDA 32570	CONTACT: CHAD SWAILS PHONE: 850.429.2446 FAX: 850.429.2432
COX CABLE 3405 McLEMORE DR. PENSACOLA, FLORIDA 32514	CONTACT: TROY YOUNG PHONE: 850.857.4510 FAX: 850.475.0621
ECUA 9255 STURDEVANT ST. PENSACOLA, FLORIDA 32514	CONTACT: TOMMY TAYLOR PHONE: 850.969.6516
ENERGY SERVICES GAS 1625 ATWOOD DRIVE PENSACOLA, FLORIDA 32504	CONTACT: DIANE MOORE PHONE: 850.474.5319 FAX: 850.474.5331
AT&T, INC. 605 W. GARDEN STREET PENSACOLA, FLORIDA 32501	CONTACT: JONATHAN BLANKINSHIP PHONE: 850.436.1489
CITY OF PENSACOLA ENGINEER 180 GOVERNMENTAL CENTER PENSACOLA, FLORIDA 32502	CONTACT: L. DERRIK OWENS PHONE: 850.435.1645
MCI	PHONE: 800.624.9675
SUNSHINE UTILITIES	PHONE: 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 ENGINEERING MANUAL REFERENCE NOTE\***

\*NOTES SHALL BE INSERTED IN THE UPPER RIGHT CORNER OF TITLE SHEET

\*APPLICABLE ONLY TO ECUA INFRASTRUCTURE TO BE CONSTRUCTED IN PUBLIC ROW OR IN UTILITY EASEMENT; NOT TO BE APPLIED TO PRIVATE WATER/SEWER FACILITIES ON PRIVATE PROPERTY (SEE BUILDING CODE)

**A. ECUA ENGINEERING MANUAL INCORPORATED BY REFERENCE**

THE ECUA ENGINEERING MANUAL, DATED DECEMBER 18, 2014, ALONG WITH UPDATE # 1 DATED SEPTEMBER 1, 2016 (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 PLANS, CONTRACTOR SHALL CONSULT ENGINEER OF RECORD FOR PROPER 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 PORTIONS 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 EXISTING SITE, DEMOLITION AND EROSION CONTROL PLAN
- C1.1 EROSION CONTROL DETAILS
- C2.0 SITE LAYOUT AND DIMENSION PLAN
- C2.1 SITE DETAILS
- C3.0 GRADING AND DRAINAGE PLAN
- C3.1 GRADING AND DRAINAGE DETAILS
- C3.2 GRADING AND DRAINAGE DETAILS
- C4.0 UTILITY PLAN
- C4.1 UTILITY DETAILS
- C4.2 UTILITY DETAILS

LEGAL DESCRIPTION

DESCRIPTION: (OFFICIAL RECORDS BOOK 4688, PAGE 1389)  
LOT 11 THROUGH 20 AND 26 THROUGH 30 AND THE NORTH 30 FEET OF CYPRESS STREET ADJOINING LOT 20, 26, 27 AND 30, BLOCK 44, ALSO THE SOUTH HALF OF PINE STREET, ADJOINING LOTS 11, 25, 28, AND 29, BLOCK 44, WATERFRONT GRANT. MORE PARTICULARLY DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHEAST CORNER OF LOT 11, BLOCK 44, WATERFRONT GRANT; THENCE PROCEED SOUTH 10 DEGREES 34 MINUTES 11SECONDS EAST ALONG THE WEST RIGHT-OF-WAY LINE OF PALAFOX STREET (78.92' R/W) A DISTANCE OF 280.19 FEET TO THE CENTERLINE OF CYPRESS STREET (60' R/W AS VACATED); THENCE PROCEED SOUTH 79 DEGREES 25 MINUTES 49 SECONDS WEST ALONG THE CENTERLINE OF CYPRESS STREET A DISTANCE OF 219.42 FEET; THENCE PROCEED NORTH 10 DEGREES 34 MINUTES 11 SECONDS WEST A DISTANCE OF 155.10 FEET TO THE NORTHWEST CORNER OF LOT 26; THENCE PROCEED SOUTH 79 DEGREES 25 MINUTES 49 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 26 A DISTANCE OF 31.00 FEET TO THE SOUTHWEST CORNER OF LOT 28; THENCE PROCEED NORTH 10 DEGREES 34 MINUTES 11 SECONDS WEST ALONG THE WEST LINE OF SAID LOT 28 FOR A DISTANCE OF 125.09 FEET TO THE NORTHWEST CORNER OF SAID LOT 28; THENCE PROCEED SOUTH 79 DEGREES 25 MINUTES 49 SECONDS WEST ALONG THE NORTH LINE OF LOT 25 A DISTANCE OF 31.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 25; THENCE PROCEED NORTH 10 DEGREES 34 MINUTES 11 SECONDS WEST A DISTANCE OF 30.00 FEET TO THE CENTERLINE OF PINE STREET (60' R/W AS VACATED); THENCE PROCEED NORTH 79 DEGREES 25 MINUTES 49 SECONDS EAST ALONG SAID CENTERLINE OF PINE STREET A DISTANCE OF 219.42 FEET TO THE AFOREMENTIONED WEST RIGHT-OF-WAY LINE OF PALAFOX STREET; THENCE PROCEED SOUTH 10 DEGREES 34 MINUTES 11 SECONDS EAST ALONG SAID WEST RIGHT-OF-WAY LINE A DISTANCE OF 30.00 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PARCEL OF LAND IS SITUATED IN SECTION 42, TOWNSHIP 2 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA. SUBJECT TO AND TOGETHER WITH RIPARIAN AND LITTORAL RIGHTS APPERTAINING THERETO.

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.









12.25	A MULTI-RESIDENCE DWELLING UNITS	PROJECT PER ACRE
-------	----------------------------------	------------------

**smp.**  
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40 S. PALAFOX STREET • SUITE 202  
PENSACOLA, FLORIDA 32502 | P 850.432.7772  
www.smpo-arch.com • AAC001828

Listen. Interpret. Translate.

CERTIFICATION :

RE ADMIRAL'S  
ROW  
( Building "A"

South Palafox Street  
Pensacola, Florida

ALL DRAWINGS AND WRITTEN MATERIAL HEREIN CONSTITUTE ORIGINAL AND UNPUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED IN ANY PART WITHOUT THE WRITTEN CONSENT OF THE ARCHITECT.

REVISIONS :

DRAWN BY : RAP

CHECKED BY : PDP

PROJECT NO. 1814

DATE : OCTOBER 9, 2019

**SHEET TITLE :**

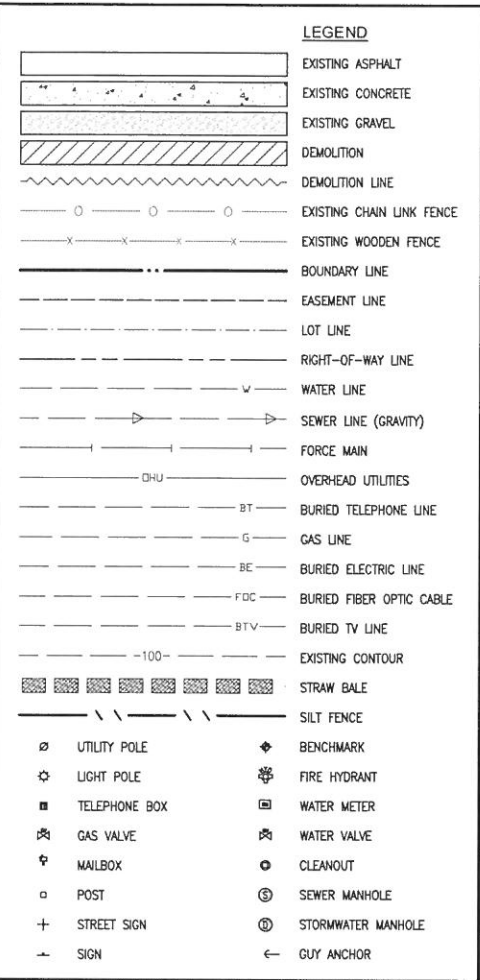
COVER SHEET &  
INDEX OF DRAWINGS  
BUILDING "A"

SHEET NO. :

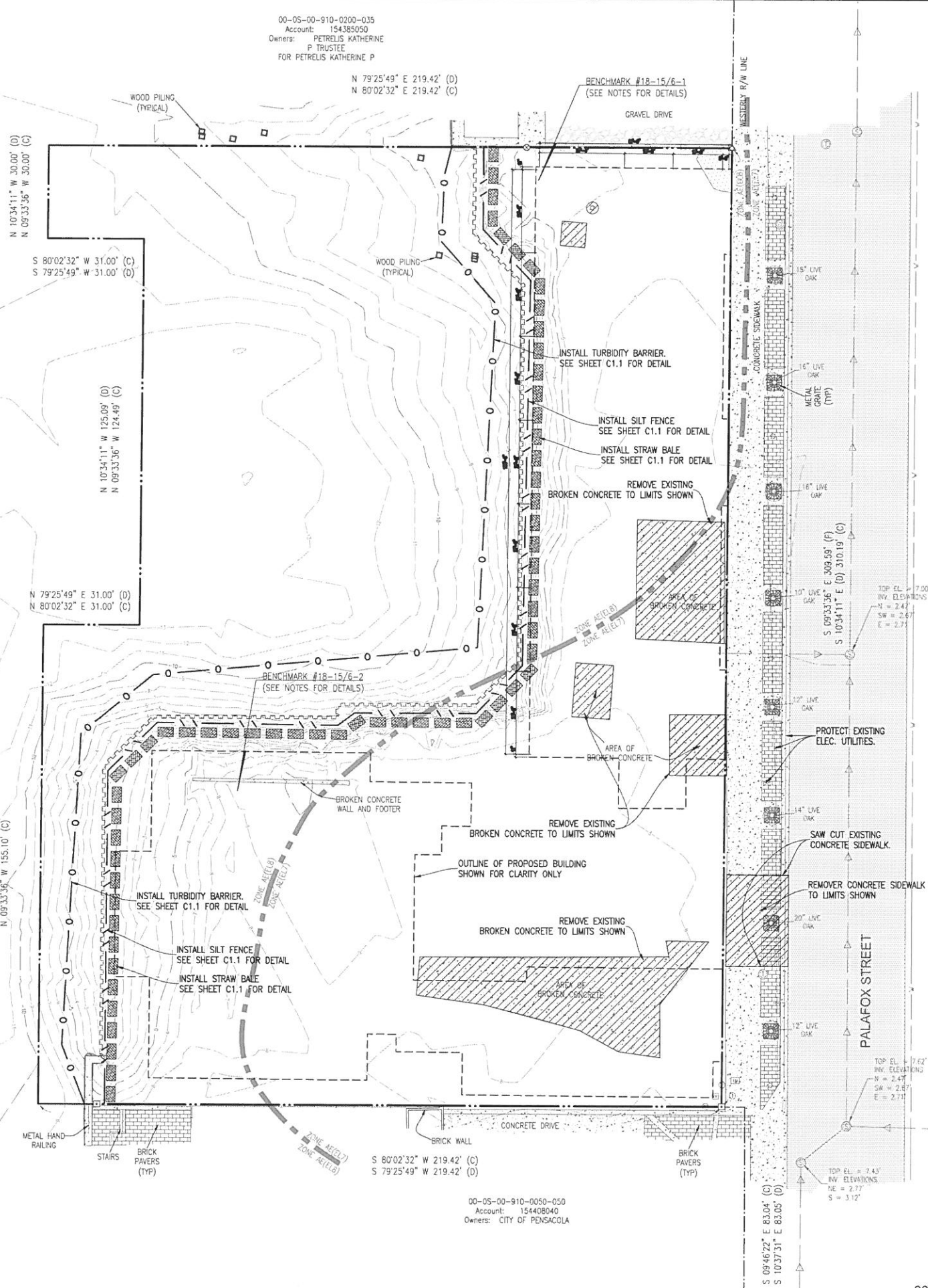
GA-001

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1. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH THESE PLANS AND SPECIFICATIONS AND THE REQUIREMENTS AND STANDARDS OF ALL GOVERNING AUTHORITIES.
2. 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.
3. 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.
4. 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 OF 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.
5. 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.
6. THE CONTRACTOR SHALL MAINTAIN TRAFFIC CONTROL IN ACCORDANCE WITH FOOT STANDARD INDEX 600 (LATEST EDITION), FOOT STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION (LATEST EDITION) AND IN ACCORDANCE WITH ALL PERMIT REQUIREMENTS.
7. THE CONTRACTOR SHALL PLACE AND MAINTAIN ADEQUATE BARRICADES, CONSTRUCTION SIGNS, FLASHING LIGHTS, TORCHES, RED LANTERNS & GUARDS DURING PROGRESS OF CONSTRUCTION WORK, IN ACCORDANCE WITH APPLICABLE MUTCD INDEX.
8. ALL AREAS, NOT PAVED, DISTURBED DURING CONSTRUCTION SHALL BE STABILIZED. REFER TO LANDSCAPE PLANS FOR PLANTING MATERIALS.
9. THE CONTRACTOR SHALL VISIT THE SITE TO FAMILIARIZE HIMSELF WITH EXISTING CONDITIONS AND THE EXTENT OF CLEARING AND GRUBBING REQUIRED.
10. 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.
11. 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.
12. 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.



90% PLANS



# EXISTING SITE, DEMOLITION & EROSION CONTROL PLAN

**ADMIRAL'S ROW**  
800 BLK SOUTH PALAFOX STREET  
PENSACOLA, FLORIDA

No.	DATE	REVISION

SEAL  
NOT FOR CONSTRUCTION

Paul A. Battle, P.E.  
No. 53126

Dr. By: GTP  
Ck By: PAB  
Job No.: 2018-242  
Date: 10-09-2019

DRAWING No.

C1.0  
SHEET 2 OF 1

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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 SEEDDED 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 FOOT "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 SILTATION 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 MATTED 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, ESCAMBA 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:

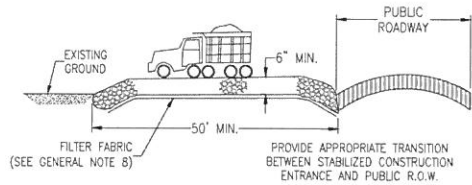
1. DAMAGED TRUNKS OR EXPOSED ROOTS WILL BE PAINTED IMMEDIATELY WITH A GOOD GRADE OF "TREE PAINT".
2. TREE LIMB REMOVAL, WHERE NECESSARY, WILL BE DONE FLUSH TO TRUNK OR MAIN BRANCH AND THAT AREA PAINTED IMMEDIATELY WITH A GOOD GRADE OF TREE PAINT.

DUST CONTROL:

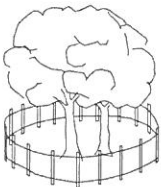
1. ALL AREAS OF CLEARING AND EMBANKMENT AS WELL AS CONSTRUCTION HAIL ROADS SHALL BE TREATED AND MAINTAINED IN SUCH A MANNER AS TO MINIMIZE ANY DUST GENERATION.
2. DISTURBED AREAS SHALL BE MAINTAINED IN A ROUGH GRADED CONDITION AND TEMPORARILY SEEDDED AND/OR MULCHED UNTIL PROPER WEATHER CONDITIONS EXIST 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 FOOT 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.



STABILIZED CONSTRUCTION ENTRANCE DETAIL  
N.T.S.



NOTE:  
ALL PROTECTED TREES AS SHOWN ON THE PLANS TO REMAIN ARE TO BE PROTECTED DURING CONSTRUCTION. THE CONTRACTOR SHALL INSTALL ORANGE CONSTRUCTION FENCING AT THE DRIP LINE OF EACH PROTECTED TREE BEFORE WORKING IN THE VICINITY OF THE TREE.

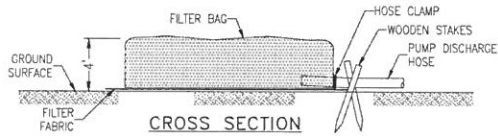
TREE BARRICADE DETAIL  
N.T.S.

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

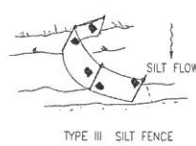
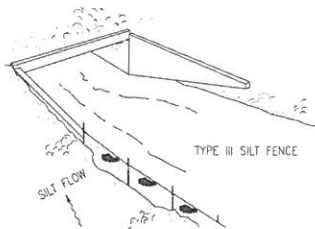
INSTALLATION:  
WETLAND FILTER BAGS MAY REPLACE HAY BALE CORRALS DURING TRENCH DEWATERING. AT THE DISCRETION OF THE ENGINEER INSPECTOR, TO INSURE PROPER INSTALLATION, FILTER BAGS WILL BE PLACED ON RELATIVELY FLAT TERRAIN FREE OF BRUSH AND STUMPS TO AVOID RUPTURES AND PUNCTURES. PROPER INSTALLATION REQUIRES 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 ENCIRCLED 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.

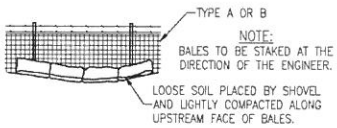


FILTER BAG DETAIL FOR TRENCH DEWATERING OPERATIONS  
N.T.S.

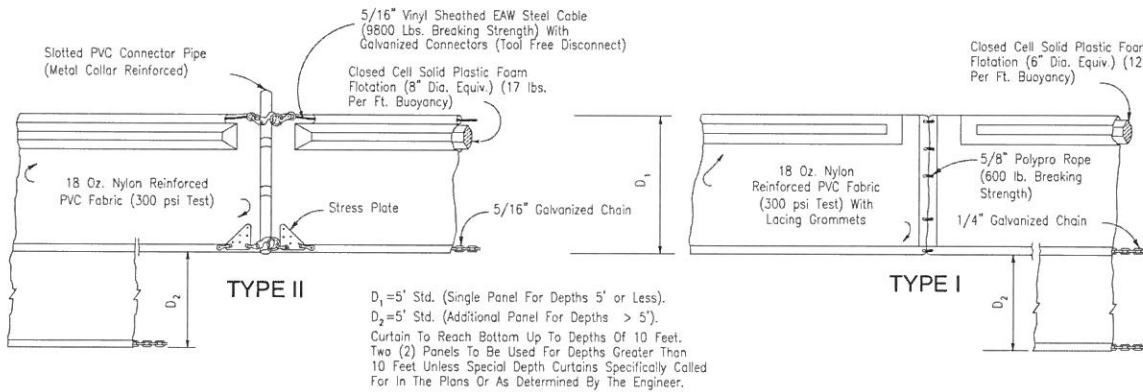


SILT FENCE APPLICATIONS  
N.T.S.

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.

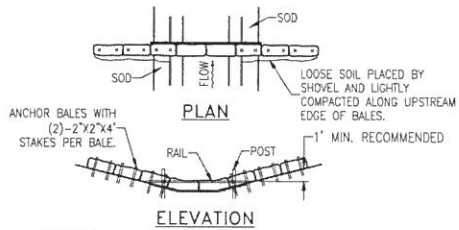


STRAW BALES BACKED BY FENCE  
N.T.S.



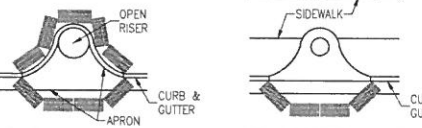
NOTICE: COMPONENTS OF TYPES I AND II MAY BE SIMILAR OR IDENTICAL TO PROPRIETARY DESIGNS. ANY INFRINGEMENT ON THE PROPRIETARY RIGHTS OF THE DESIGNER SHALL BE THE SOLE RESPONSIBILITY OF THE USER. SUBSTITUTIONS FOR TYPES I AND II SHALL BE AS APPROVED BY THE ENGINEER.

FLOATING TURBIDITY BARRIERS  
N.T.S.

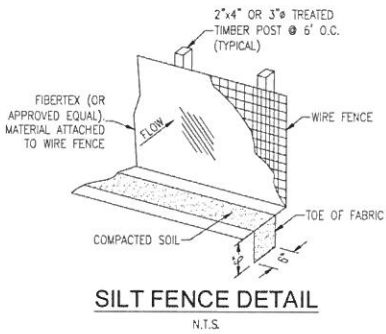


BARRIER FOR PAVED DITCH  
N.T.S.

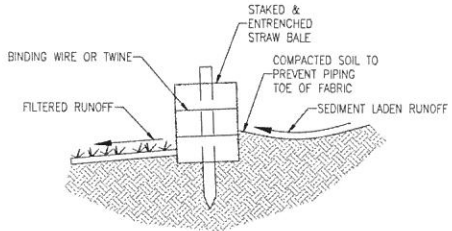
SPACING:  
BALE BARRIERS FOR PAVED DITCHES SHOULD BE SPACED IN ACCORDANCE WITH CHART I, SHEET 1 OF 3, INDEX NO. 102



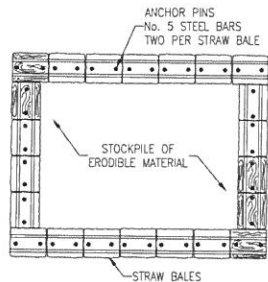
PARTIAL INLET  
COMPLETED INLET  
N.T.S.



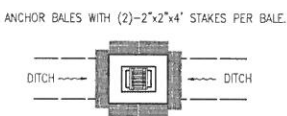
SILT FENCE DETAIL  
N.T.S.



STRAW BALE DETAIL  
N.T.S.



MATERIAL STOCKPILE DETAIL  
N.T.S.



DITCH BOTTOM INLET  
N.T.S.

REVISION	No.	DATE			

SEAL  
NOT FOR CONSTRUCTION

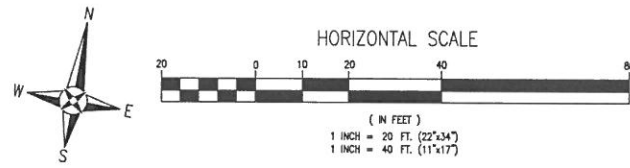
Paul A. Battle, P.E.  
No. 53126

Dr. By: GTP  
Ck By: PAB  
Job No.: 2018-242  
Date: 10-09-2019

DRAWING No.

C1.1  
SHEET 3 OF 11

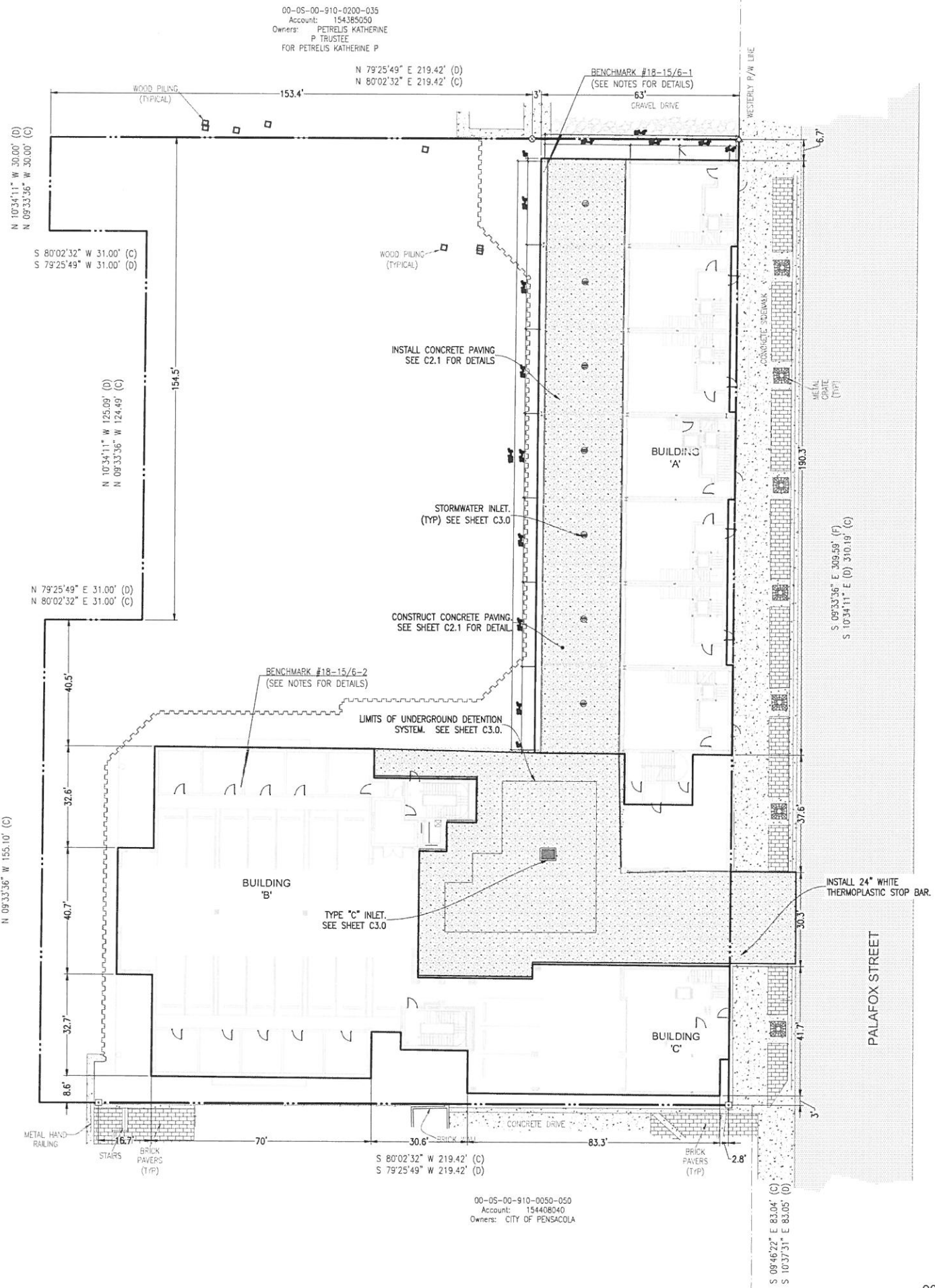




LEGEND	
	EXISTING ASPHALT
	EXISTING CONCRETE
	PROPOSED ASPHALT
	PROPOSED CONCRETE
	BOUNDARY LINE
	EASEMENT LINE
	LOT LINE
	RIGHT-OF-WAY LINE

00-05-00-910-0001-034  
Account: 154375000  
Owners: PENSACOLA CITY OF

N 10°34'11" W 155.10' (P)  
N 09°33'36" W 155.10' (C)



90% PLANS

**RBA**

**REBOL-BATTLE & ASSOCIATES**  
Civil Engineers and Surveyors  
2201 N. Ninth Avenue, Suite 300  
Pensacola, Florida 32503  
Telephone 850.438.0400 Fax 850.438.0448  
EIR 00009657 1B7016

**SITE LAYOUT &  
DIMENSION PLAN**

**ADMIRAL'S ROW**  
800 BLK SOUTH PALAFOX STREET  
PENSACOLA, FLORIDA

REVISION	
No.	DATE

SEAL  
NOT FOR CONSTRUCTION

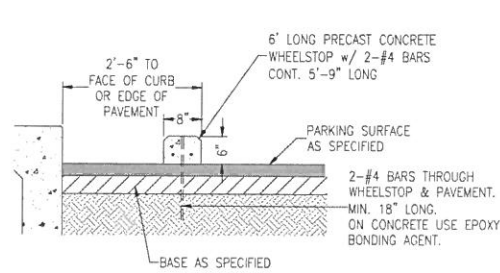
Paul A. Battle, P.E.  
No. 53126

Dr. By: GTP  
Ck By: PAB  
Job No.: 2018-242  
Date: 10-09-2019

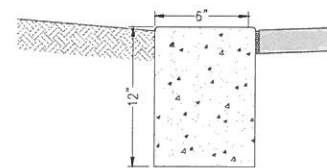
DRAWING No.

**C2.0**  
SHEET 4 OF 11

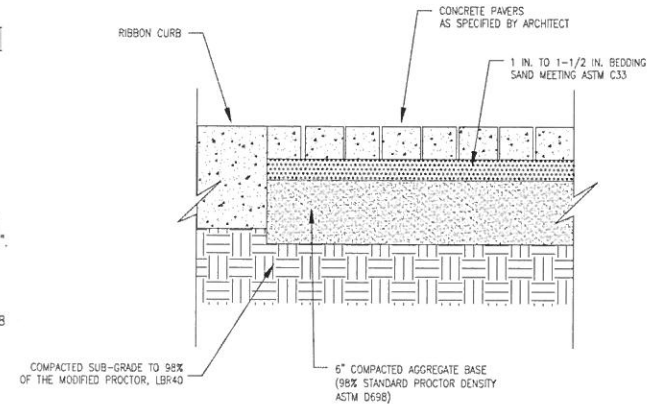
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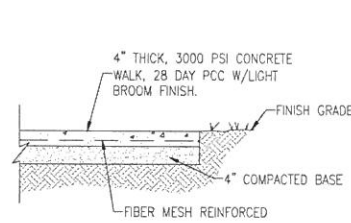
**WHEEL STOP DETAIL**  
N.T.S.



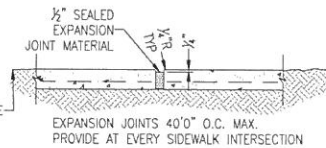
**6" RIBBON CURB**  
N.T.S.



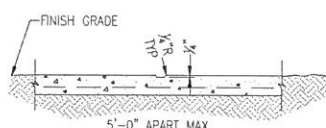
**TYPICAL CONCRETE PAVERS DETAIL**  
N.T.S.



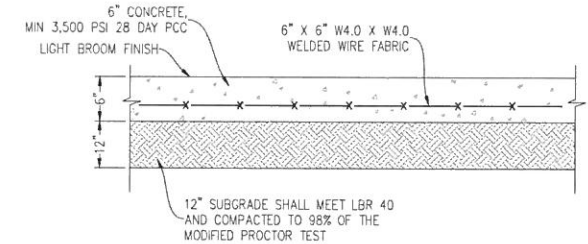
**TYPICAL SECTION**  
N.T.S.  
NOTE: WALK SLOPE VARIES, SEE PLAN



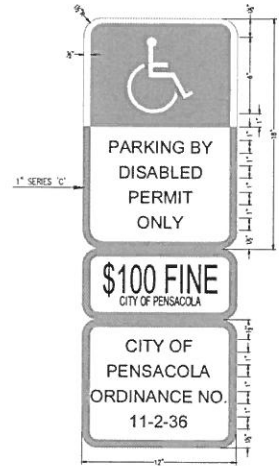
**EXPANSION JOINT**



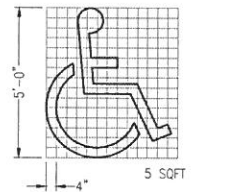
**DUMMY GROVE**



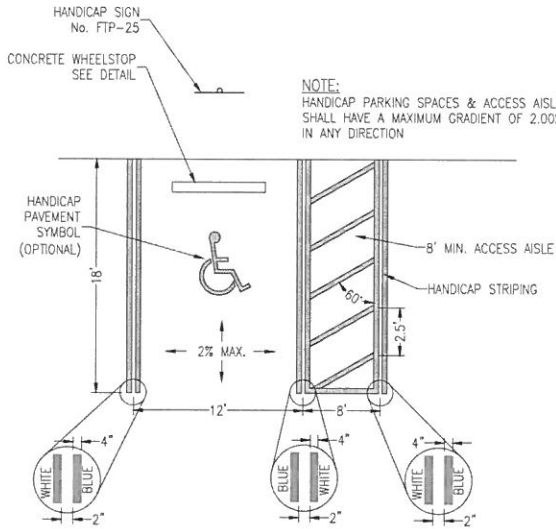
**CONCRETE PAVING DETAIL**  
N.T.S.



SIGN USED AS PER FLORIDA STATUTES  
FTP 25 Per FS 316.1955, FS 316.1956



**HANDICAP PAVEMENT SYMBOL**

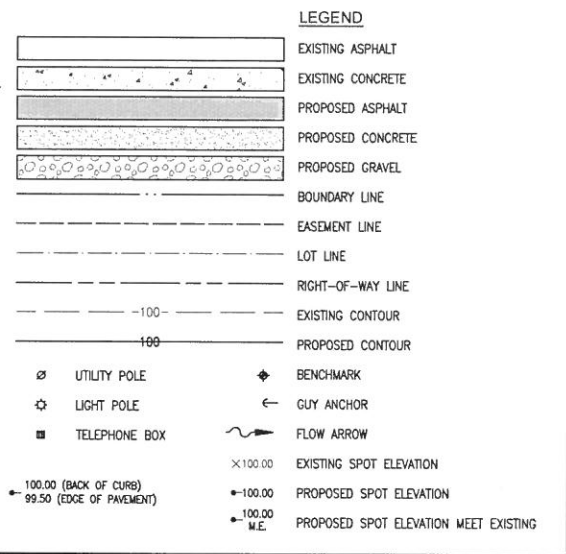


**HANDICAP PARKING STALL**

**HANDICAP PARKING STALL DETAILS**  
N.T.S.

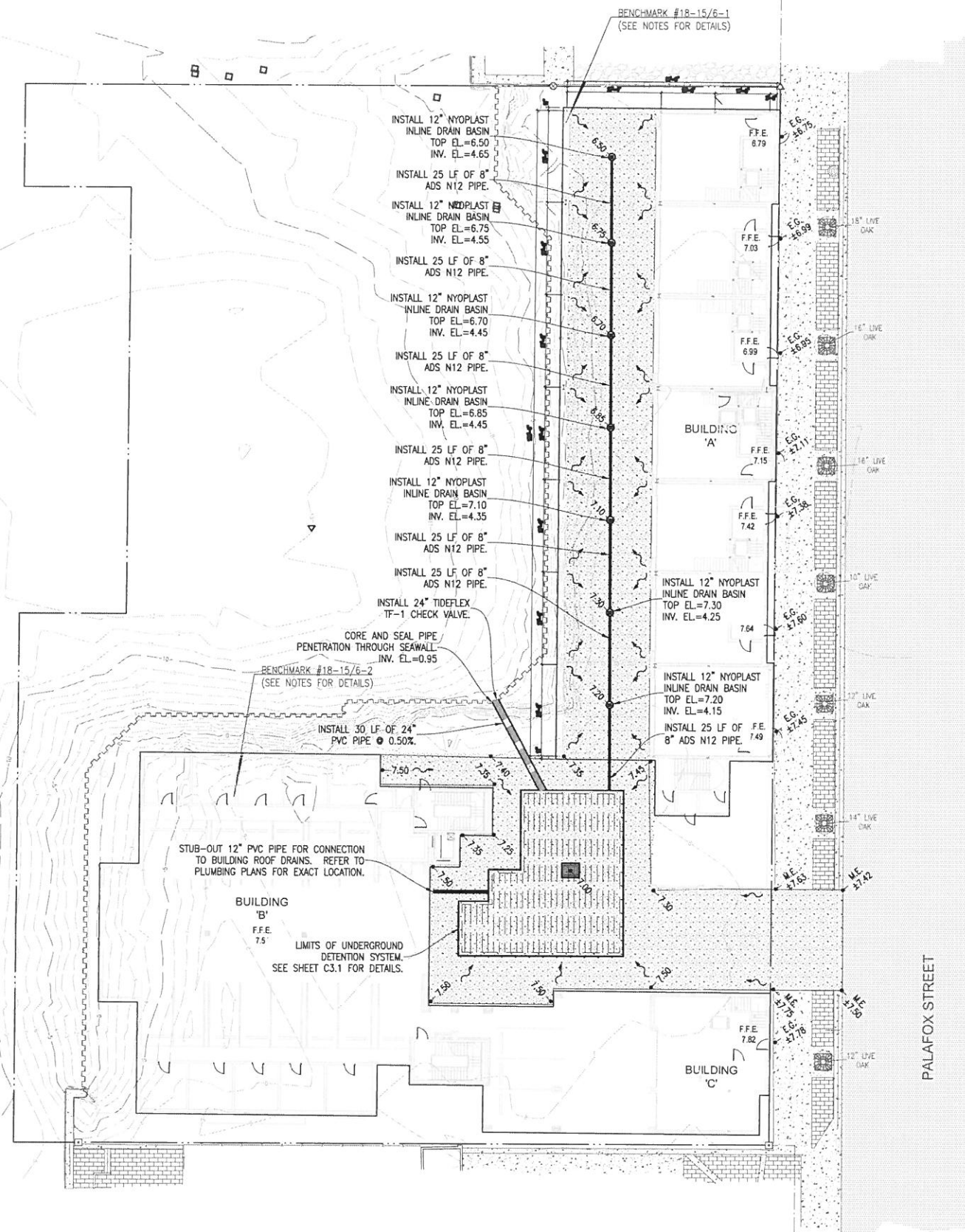
NOTE:  
ALL CONCRETE SIDEWALKS, RAMPS,  
DRIVEWAYS AND CURBING SHALL BE  
MINIMUM 3000 PSI, 28 DAY PCC, FIBER MESH  
REINFORCED CONCRETE UNLESS NOTED  
OTHERWISE.

REVISION	DATE	BY	CHK



00-05-00-910-0001-034  
Account: 154375000  
Owners: PENSACOLA CITY OF

00-05-00-910-0200-035  
Account: 154385050  
Owners: PETRELIS KATHERINE  
P TRUSTEE  
FOR PETRELIS KATHERINE P



00-05-00-910-0050-050  
Account: 154408040  
Owners: CITY OF PENSACOLA

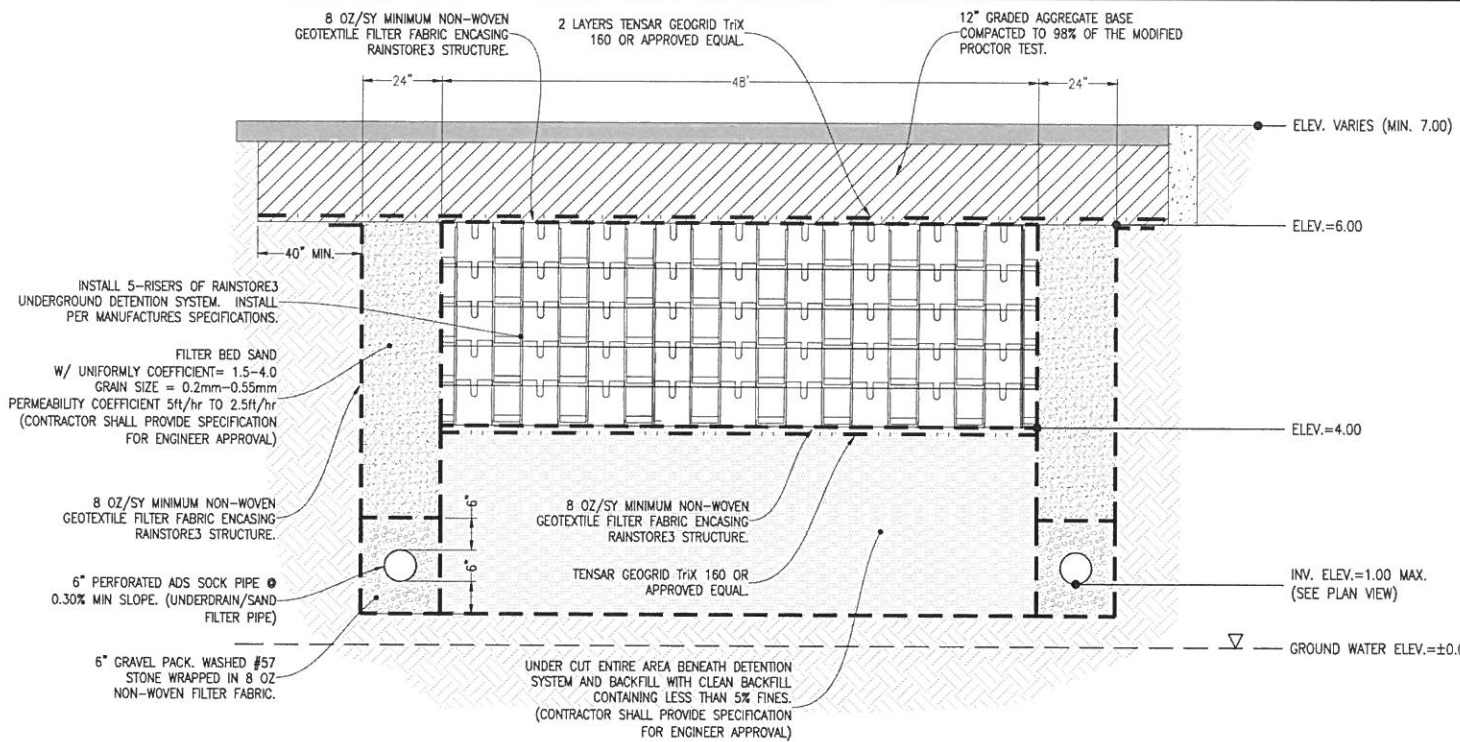
90% PLANS

<b><u>REBOL-BATTLE &amp; ASSOCIATES</u></b> Civil Engineers and Surveyors 2301 N. Ninth Avenue, Suite 300 Pensacola, Florida 32503-4507 Telephone: 850.438.5400 Fax: 850.438.0448 E-Mail: rebol@rbaeng.com EB: 00009657 LB7916		
<h2 style="margin: 0;"><b>GRADING &amp; DRAINAGE PLAN</b></h2>		
<h3 style="margin: 0;"><b>ADMIRAL'S ROW</b></h3> <p style="margin: 0;"><b>800 BLK SOUTH PALAFOX STREET PENSACOLA, FLORIDA</b></p>		
No.	DATE	REVISION

SEAL	
NOT FOR CONSTRUCTION	
Paul A. Battle, P.E. No. 53126	
Dr. By:	GTP
Ck By:	PAB
Job No.:	2018-242
Date:	10-09-2019
DRAWING No.	
<span style="font-size: 2em; font-weight: bold;">C3.0</span> <small>SHEET 6 OF 11</small>	

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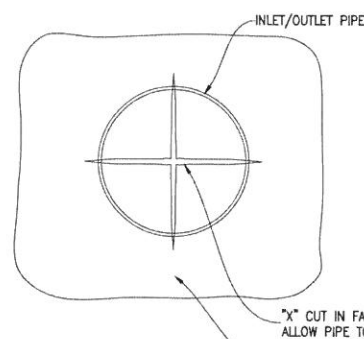




CROSS SECTION A-A

SCALE: NTS

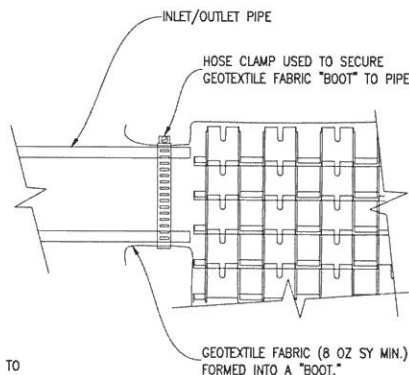
END VIEW OF PIPE/FABRIC CONNECTION. CUT AN X IN THE FABRIC SLIGHTLY LARGER THAN PIPE. PULL THE FABRIC AROUND THE PIPE TO CREATE THE "BOOT" AND THEN SECURE WITH A HOSE-CLAMP.



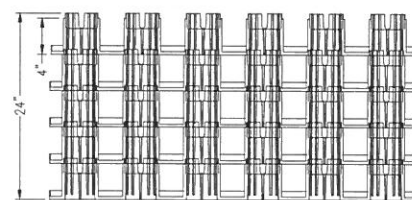
END VIEW

RAINSTORE3 INLETS/OUTLETS WITH FABRIC DETAIL

N.T.S.

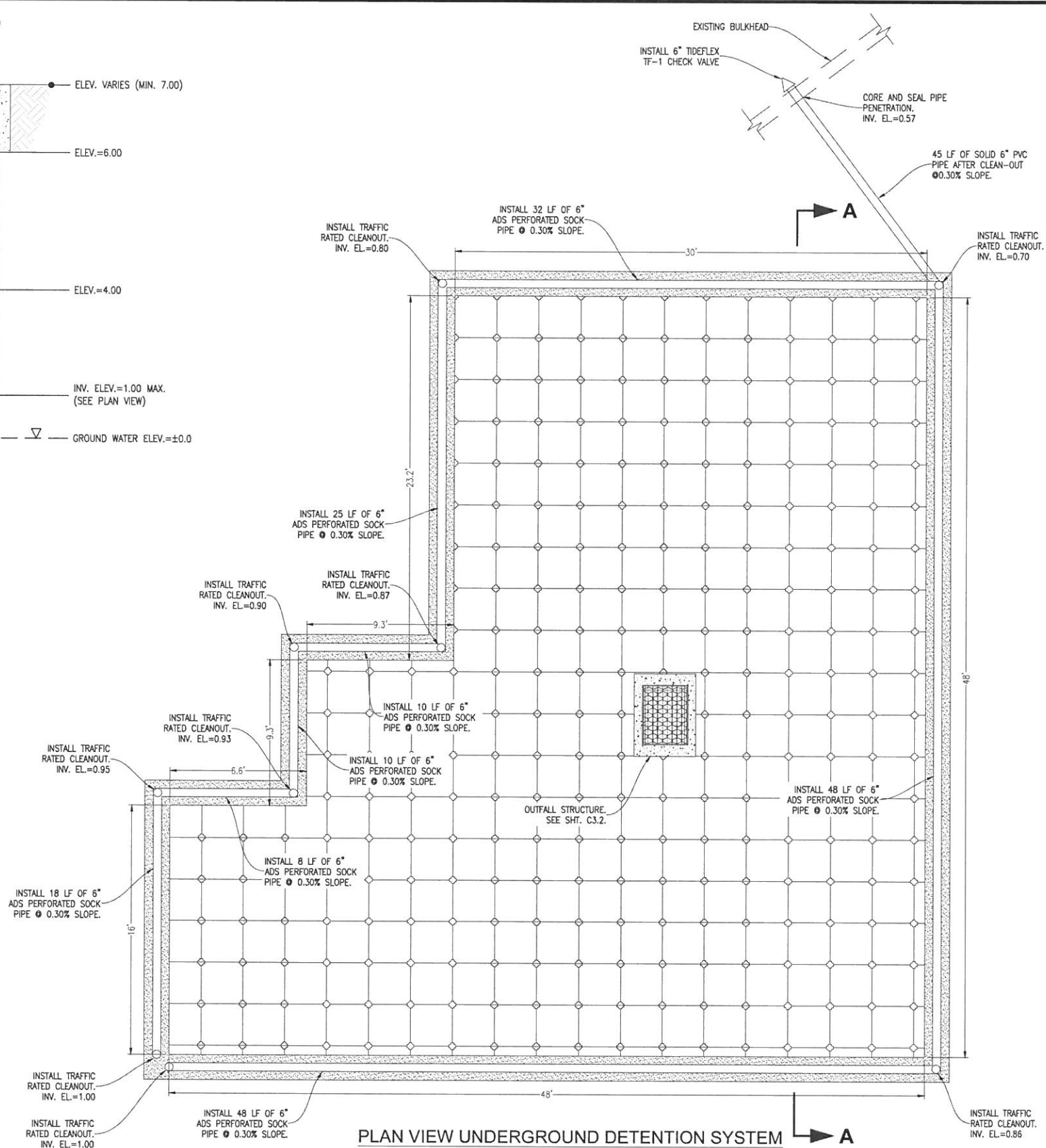
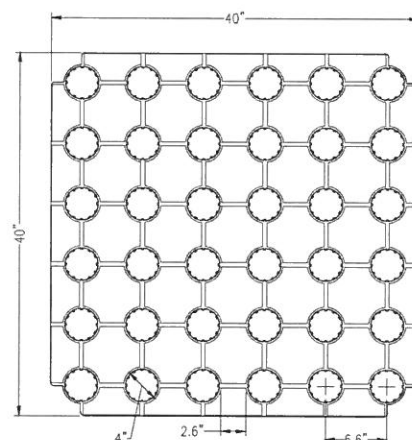


SIDE VIEW



RAINSTORE3 UNIT DETAIL

N.T.S.



REVISION	DATE	BY	CHK

SEAL

NOT FOR CONSTRUCTION

Paul A. Battle, P.E.

No. 53126

Dr. By: GTP

Ck By: PAB

Job No.: 2018-242

Date: 10-09-2019

DRAWING No.

**C3.1**

SHEET 7 OF 11

(1, 2) INTEGRATED DUCTILE IRON FRAME & GRATE TO MATCH BASIN O.D.

16" MIN WIDTH GUIDELINE

8" MIN THICKNESS GUIDELINE

16" MIN HEIGHT GUIDELINE

MINIMUM PIPE BURIAL DEPTH PER MANUFACTURER RECOMMENDATION

(3) VARIOUS TYPES OF INLET & OUTLET ADAPTERS AVAILABLE:  
4" - 12" FOR CORRUGATED HDPE (ADS N-12/HANCOR DUAL WALL, ADS/HANCOR SINGLE WALL), N-12 HP, PVC SEWER (EX: SDR 35), PVC DWV (EX: SCH 40), PVC C900/C905, CORRUGATED & RIBBED PVC (CORRUGATED HDPE SHOWN)

TRAFFIC LOADS: CONCRETE SLAB DIMENSIONS ARE FOR GUIDELINE PURPOSES ONLY. ACTUAL CONCRETE SLAB MUST BE DESIGNED TAKING INTO CONSIDERATION LOCAL SOIL CONDITIONS, TRAFFIC LOADING, & OTHER APPLICABLE DESIGN FACTORS. SEE DRAWING NO. 7001-110-111 FOR NON TRAFFIC INSTALLATION.

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.

ADAPTER SIZE	B
4"	10.50
6"	11.50
8"	11.50
10"	11.25
12"	6.00


GRATE OPTIONS	LOAD RATING	PART #	DRAWING #
PEDESTRIAN	MEETS H-10	1299CGP	7001-110-202
STANDARD	MEETS H-20	1299CGS	7001-110-203
SOLID COVER	MEETS H-20	1299CGC	7001-110-204
PEDESTRIAN BRONZE	N/A	1299CGPB	7001-110-205
DOME	N/A	1299CGD	7001-110-206
DROP IN GRATE	LIGHT DUTY	1201DI	7001-110-021

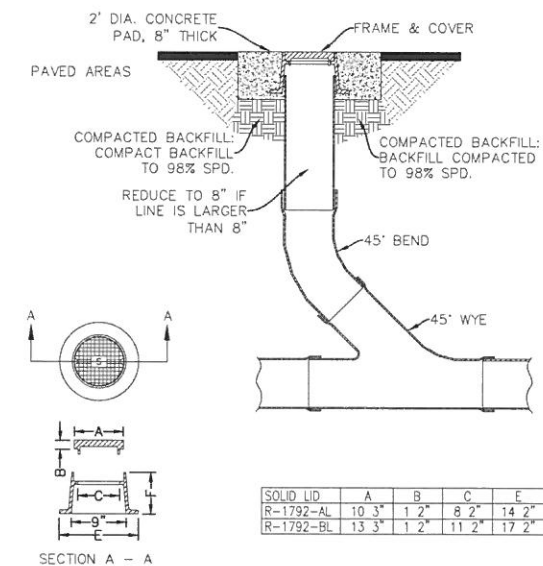
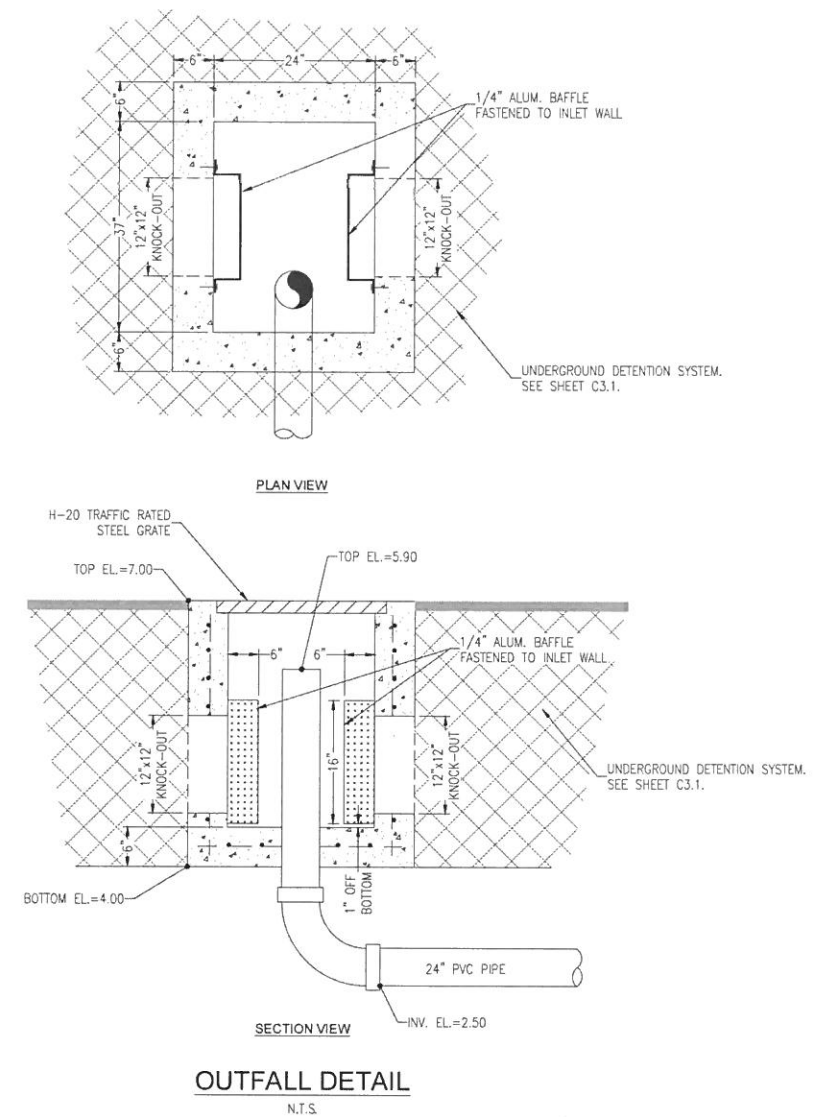
- 1 - GRATES/SOLID COVER SHALL BE DUCTILE IRON PER ASTM A536 GRADE 70-50-05,  
WITH THE EXCEPTION OF THE BRONZE GRATE.
- 2 - FRAMES SHALL BE DUCTILE IRON PER ASTM A536 GRADE 70-50-05.
- 3 - DRAINAGE CONNECTION STUB JOINT TIGHTNESS SHALL CONFORM TO  
ASTM D3212 FOR CORRUGATED HDPE (ADS N-12/HANCOR DUAL WALL),  
N-12 HP, & PVC SUEDE.
- 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.

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DRAWN BY	EDC	MATERIAL		
DATE	04-03-06			
REVISED BY	NMH	PROJECT NO./NAME		
DATE	03-15-16			
DWG SIZE	A	SCALE	1:20	SHEET 1 OF 1

 <b>Nyloplast</b> TITLE	3130 VERONA AVE. BUFORD, GA 30518 PHN (770) 532-2443 FAX (770) 532-2490 <a href="http://www.nyloplast-us.com">www.nyloplast-us.com</a>	
DWG NO.	7303-110-025	REV



## CLEANOUT DETAIL

[illegible]

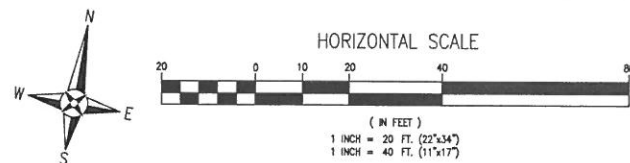
SEAL  
NOT FOR CONSTRUCTION

Paul A. Battle, P.E.  
No. 53126

Dr. By: GTP  
Ck By: PAB  
Job No.: 2018-242  
Date: 10-09-2019

DRAWING No.

**C3.2**  
SHEET 8 OF 11

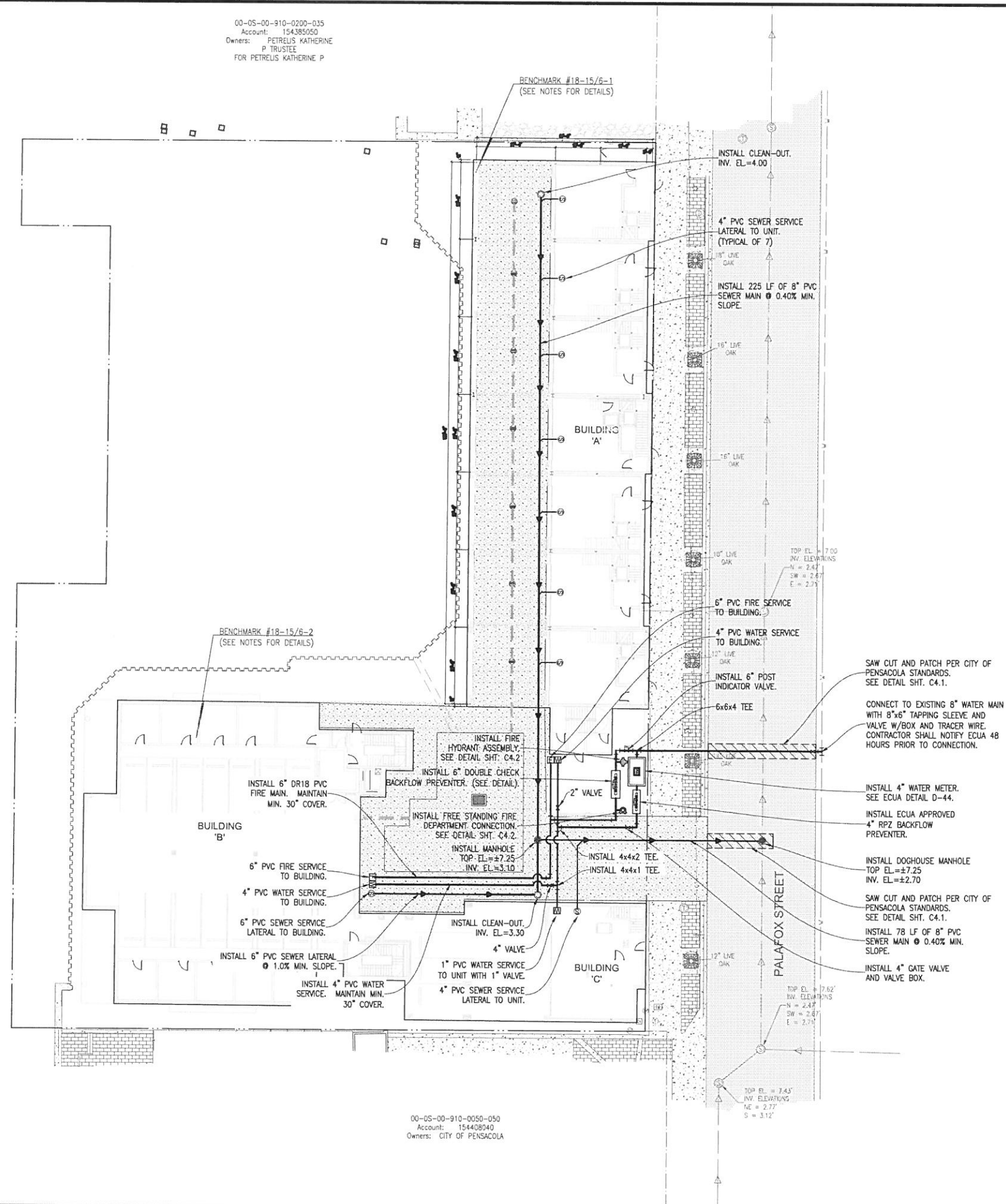


LEGEND	
	EXISTING ASPHALT
	EXISTING CONCRETE
	PROPOSED ASPHALT
	PROPOSED CONCRETE
	EXISTING CHAIN LINK FENCE
	EXISTING WOODEN FENCE
	BOUNDARY LINE
	EASEMENT LINE
	LOT LINE
	RIGHT-OF-WAY LINE
	WATER LINE
	SEWER LINE (GRAVITY)
	FORCE MAIN
	OVERHEAD UTILITIES
	BURIED TELEPHONE LINE
	GAS LINE
	BURIED ELECTRIC LINE
	BURIED FIBER OPTIC CABLE
	BURIED TV LINE
	BENCHMARK
	UTILITY POLE
	GUY ANCHOR
	LIGHT POLE
	TELEPHONE BOX
	GAS VALVE
	FIRE HYDRANT
	WATER METER
	WATER VALVE
	CLEANOUT
	SEWER MANHOLE
	STORMWATER MANHOLE

#### UTILITY NOTES:

- IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE EXACT LOCATION AND DEPTH OF EXISTING UTILITIES AND TO DETERMINE IF OTHER UTILITIES WILL BE ENCOUNTERED DURING THE COURSE OF THE WORK AND TAKE WHATEVER STEPS NECESSARY TO PROVIDE FOR THEIR PROTECTION.
- THE CONTRACTOR SHALL COORDINATE WITH ECUA, GULF POWER, OR ANY OTHER UTILITY COMPANIES HAVING JURISDICTION FOR REMOVAL/RELOCATION AND/OR PROTECTION OF EXISTING UTILITY POLES, AERIAL LINES, FIRE HYDRANTS, AND OTHER UTILITIES AS NECESSARY TO COMPLETE CONSTRUCTION.
- ALL NEW WATER LINES SHALL BE CLEANED, DISINFECTED, PRESSURE TESTED, AND BACTERIOLOGICALLY CLEANED FOR SERVICE IN ACCORDANCE WITH THE LATEST AWWA STANDARDS AND THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION RULES AND REGULATIONS.
- ALL WATER MAINS SHALL BE NSF APPROVED FOR POTABLE WATER USE.
- MAINTAIN 18 INCH MINIMUM VERTICAL SEPARATION BETWEEN ALL POTABLE WATER MAINS AND SANITARY SEWER GRAVITY LINES. (WATER ABOVE SEWER).
- THE TOP OF ALL CLEANOUTS SHALL BE FLUSH WITH THE PAVEMENT OR, WHEN NOT IN THE PAVEMENT, FLUSH WITH THE FINISH GRADE. CONNECTION POINTS FOR UTILITIES SHALL BE CLEARLY MARKED FOR FUTURE BUILDING CONNECTION. COORDINATE WITH THE PLUMBING CONTRACTOR.
- ALL WATER AND SEWER WORK SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE ECUA ENGINEERING MANUAL.
- ADEQUATE PROVISIONS SHALL BE MADE FOR THE FLOW OF SEWERS, DRAINS AND WATER COURSES ENCOUNTERED DURING CONSTRUCTION.
- THE CONTRACTOR SHALL NOTIFY THE APPROPRIATE UTILITY COMPANIES 72 HOURS (3 BUSINESS DAYS) PRIOR TO BEGINNING CONSTRUCTION.
- ALL NEW WATER AND SEWER SERVICE LINES SHALL HAVE A MINIMUM COVER OF 30 INCHES (MAXIMUM 36"), UNLESS OTHERWISE NOTED.
- THE CONTRACTOR IS TO RESTORE ALL DISTURBED RIGHTS-OF-WAY IN ACCORDANCE WITH CITY OF PENSACOLA AND THE ECUA GUIDELINES.
- THE CONTRACTOR SHALL COORDINATE WITH THE PLUMBING CONTRACTOR FOR BUILDING UTILITY CONNECTIONS.
- ALL CONNECTIONS TO THE ECUA WATER AND SEWER SYSTEM SHALL BE MADE WITH ECUA PERSONNEL PRESENT.
- ANY REMOVAL OR RELOCATION OF ECUA WATER/SEWER UTILITIES MUST BE APPROVED IN WRITING PRIOR TO THE WORK BEING DONE.

00-05-00-910-0001-034  
Account: 154375000  
Owners: PENSACOLA CITY OF



00-05-00-910-0050-050  
Account: 154408040  
Owners: CITY OF PENSACOLA

**RBA**  
**REBOL-BATTLE & ASSOCIATES**  
Civil Engineers and Surveyors  
2301 N. Avenida America, Suite 300  
Pensacola, Florida 32503  
Telephone: 850.438.0400 Fax: 850.438.0448  
EB 00000657 LE7916

#### UTILITY PLAN

**ADMIRAL'S ROW**  
800 BLK SOUTH PALAFOX STREET  
PENSACOLA, FLORIDA

REVISION	
No.	DATE

SEAL  
NOT FOR CONSTRUCTION

Paul A. Battle, P.E.  
No. 53126

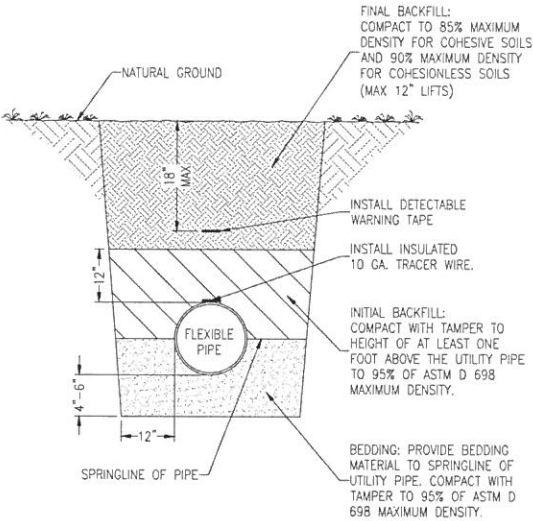
Dr. By: GTP  
Ck By: PAB  
Job No.: 2018-242  
Date: 10-09-2019

DRAWING No.

**C4.0**  
SHEET 9 OF 11

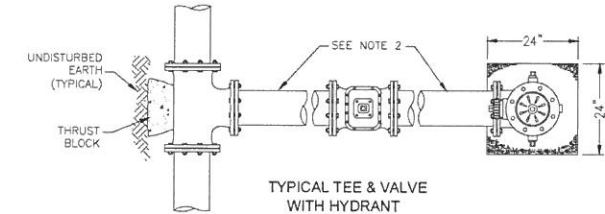






FLEXIBLE PIPE BEDDING DETAIL  
N.T.S.

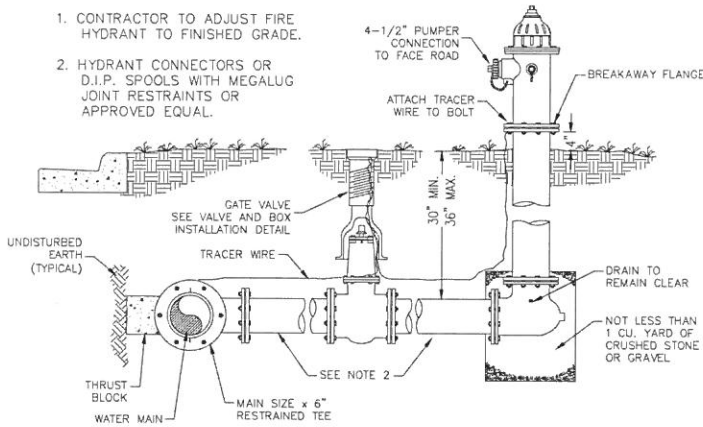
- NOTES:
1. EXCAVATE TRENCH TO A DEPTH THAT PROVIDES MINIMUM COVER OF 30" FROM EXISTING GROUND SURFACE, OR FROM THE INDICATED FINISHED GRADE, WHICHEVER IS LOWER, TO THE TOP OF PIPE.
  2. FOR FIRE PROTECTION YARD MAINS OR PIPING, AN ADDITIONAL 6" OF COVER IS REQUIRED.



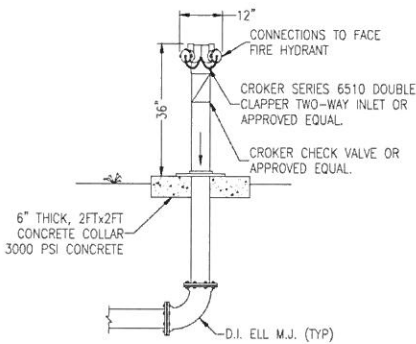
TYPICAL TEE & VALVE WITH HYDRANT

NOTES:

1. CONTRACTOR TO ADJUST FIRE HYDRANT TO FINISHED GRADE.
2. HYDRANT CONNECTORS OR D.I.P. SPOOLS WITH MEGALUG JOINT RESTRAINTS OR APPROVED EQUAL.



TYPICAL FIRE HYDRANT INSTALLATION  
VALVE AND TEE CONNECTION  
N.T.S.



FREESTANDING FIRE DEPARTMENT  
CONNECTION DETAIL  
N.T.S.

RBA

REBOL-BATTLE & ASSOCIATES

Civil Engineers and Surveyors

2501 North Adams Street, Suite 300  
Pensacola, Florida 32503  
Telephone 850.438.0400 Fax 850.438.0448  
EB 0000657 LBT116

UTILITY DETAILS

ADMIRAL'S ROW

800 BLK SOUTH PALAFOX STREET

PENSACOLA, FLORIDA

No.	DATE	REVISION

SEAL

NOT FOR CONSTRUCTION

Paul A. Battle, P.E.  
No. 53126

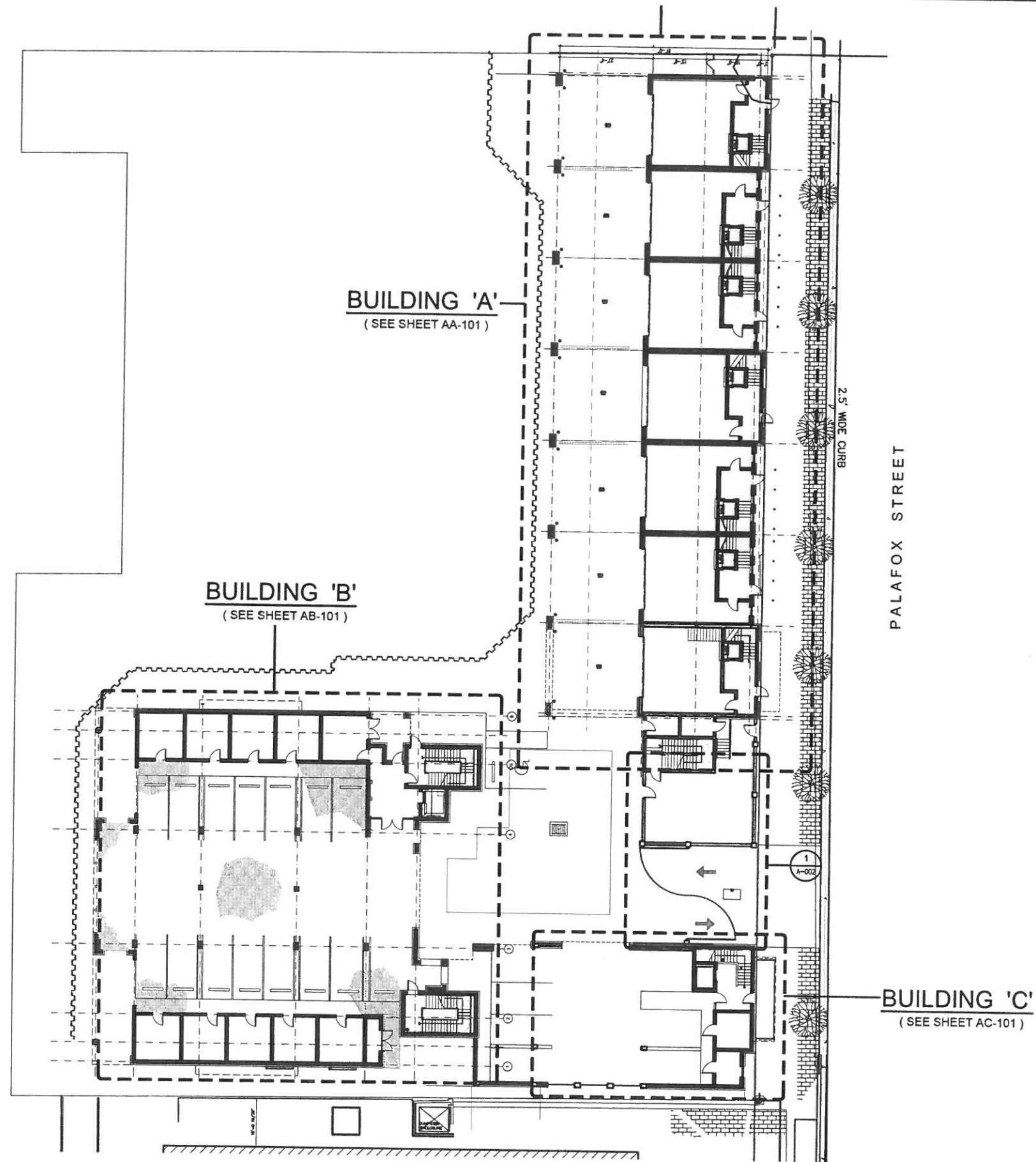
Dr. By: GTP  
Ck By: PAB  
Job No.: 2018-242  
Date: 10-09-2019

DRAWING No.

C4.2

SHEET 11 OF 11

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OVERALL SITE PLAN  
SCALE: 1/16" = 1'-0"

Listen. Interpret. Translate.  
CERTIFICATION:

ADMIRAL'S  
ROW

South Palafox Street  
Pensacola, Florida

ALL DRAWINGS AND WRITTEN MATERIAL  
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PUBLISHED WORK OF THE ARCHITECT  
AND MAY NOT BE DUPLICATED IN ANY  
PART WITHOUT THE WRITTEN CONSENT  
OF THE ARCHITECT.

REVISIONS:

95% Submittal  
October 3, 2019

DRAWN BY: RAP

CHECKED BY: PDP

PROJECT NO. 1814

DATE: JULY 29, 2019

SHEET TITLE:  
ARCHITECTURAL  
SITE PLAN

SHEET NO.:

**A-001**

Listen. Interpret. Translate.  
CERTIFICATION:

ADMIRAL'S  
ROW  
(Building "A")

South Palafox Street  
Pensacola, Florida

ALL DRAWINGS AND WRITTEN MATERIAL  
HEREIN CONSTITUTE ORIGINAL AND UN-  
PUBLISHED WORK OF THE ARCHITECT  
AND MAY NOT BE DUPLICATED IN ANY  
PART WITHOUT THE WRITTEN CONSENT  
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REVISIONS:

95% Submittal  
October 3, 2019

DRAWN BY: RAP

CHECKED BY: PDP

PROJECT NO. 1814

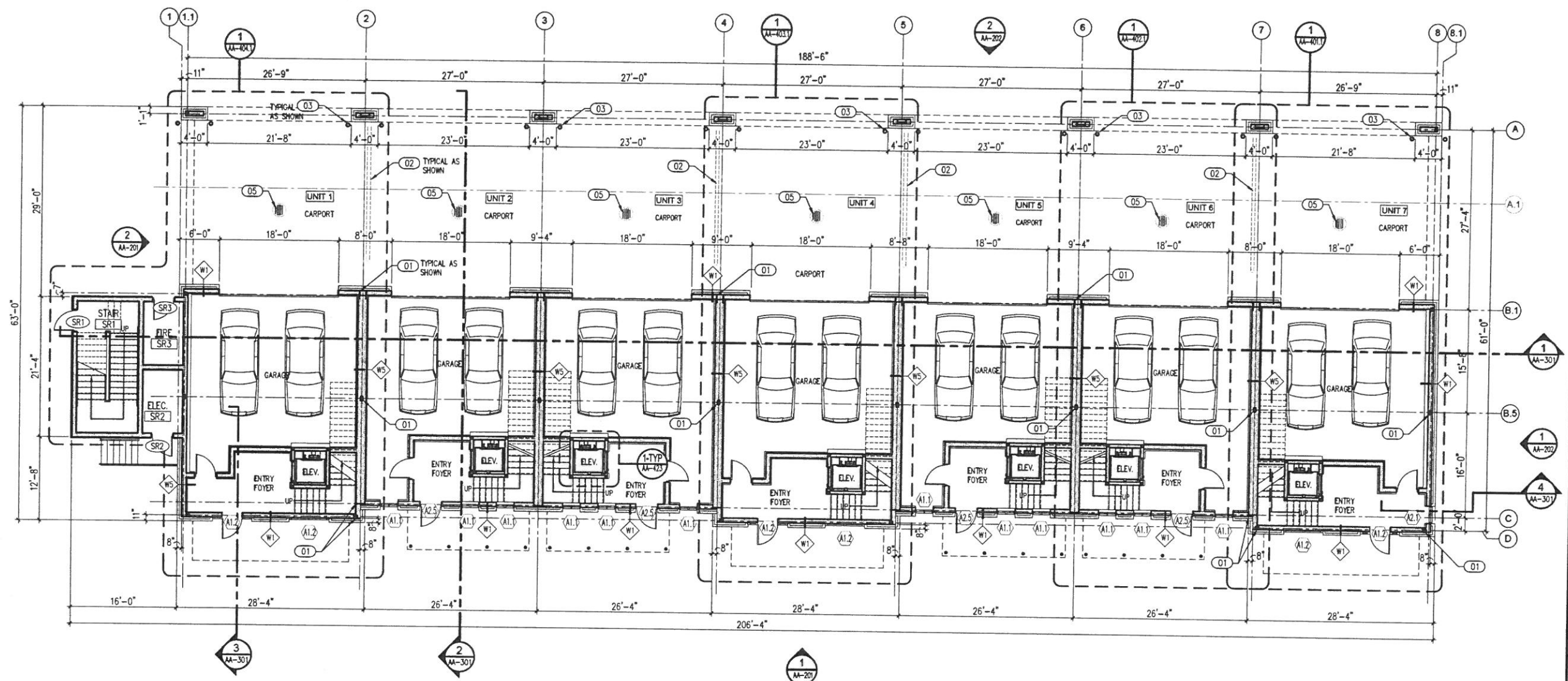
DATE: SEPTEMBER 12, 2019

SHEET TITLE:  
1ST FLOOR PLAN  
BUILDING "A"

SHEET NO.:

AA-101

©2018 SMP ARCHITECTURE



1 1ST FLOOR PLAN (BUILDING "A")  
SCALE: 1/8" = 1'-0"  
NORTH

GENERAL NOTES:

- COORDINATE REFLECTED CEILING PLAN (RCP) AND ACCESS PANEL LOCATIONS WITH ELECTRICAL & MECHANICAL DRAWINGS.
- REFER TO MECHANICAL DRAWINGS FOR DIFFUSER LOCATIONS AND INFORMATION.
- REFER TO ENLARGED UNIT PLAN FOR ADDITIONAL DIMENSIONED PLAN & INFORMATION.
- ALL SMOKE DETECTORS TO BE HARDWIRED; DETECTORS IN SLEEPING ROOMS TO BE FAULT PROTECTED (TYPICAL).
- REFER TO AA-004 FOR WALL TYPES, CEILING TYPES & DESCRIPTIONS.

DRAWING LEGEND:

- PAINTED GYPSUM
- STUCCO SYSTEM
- PAINTED WOOD CROWN MOLDING
- TRIM-BRICK SYSTEM

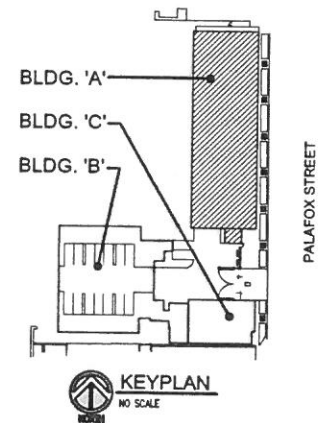
- 10'-0" CEILING HEIGHT ABOVE FINISHED FLOOR, TYPICAL U.N.O.
- EXP STUCCO SYSTEM OVER FIBERGLASS-MAT EXTERIOR SHEATHING
- SCOOCE WALL MOUNT (EXTERIOR)
- WALL SCOOCE (INTERIOR)
- DOWNLIGHT FIXTURE
- DOWNLIGHT FIXTURE
- JUNCTION BOX
- PENDANT
- CEILING MOUNT LIGHT FIXTURE/CEILING FAN
- UNDER CABINET LIGHTING
- SUPPLY AIR DIFFUSER
- RETURN AIR DIFFUSER
- EXHAUST FAN

ELECTRICAL LEGEND:

- QUAD RECEPTACLE
- DUPLEX RECEPTACLE
- DUPLEX RECEPTACLE (GROUND FAULT CIRCUIT INTERRUPTER)
- DUPLEX RECEPTACLE (WATERPROOF)
- TELEPHONE OUTLET
- WALL SWITCH
- 3-WAY WALL SWITCH

KEY NOTES:

- 01 STEEL COLUMN; REFER TO STRUCTURAL
- 02 RAINLEADER FROM ROOF DRAIN, COORDINATE RISERS WITH PLUMBING & ELECTRICAL LINES
- 03 CONCRETE FILLED BOLLARDS
- 04 ELECTRICAL PANEL & COMMUNICATION PANEL; COORDINATE WITH ELECTRICAL DRAWINGS
- 05 INLET; SEE CIVIL DRAWINGS





Listen. Interpret. Translate.

CERTIFICATION :

**ADMIRAL'S  
ROW  
(Building "A")**

South Palafox Street  
Pensacola, Florida

ALL DRAWINGS AND WRITTEN MATERIAL  
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REVISIONS :

**95% Submittal**  
October 3, 2019

DRAWN BY: RAP

CHECKED BY: POP

PROJECT NO. 1814

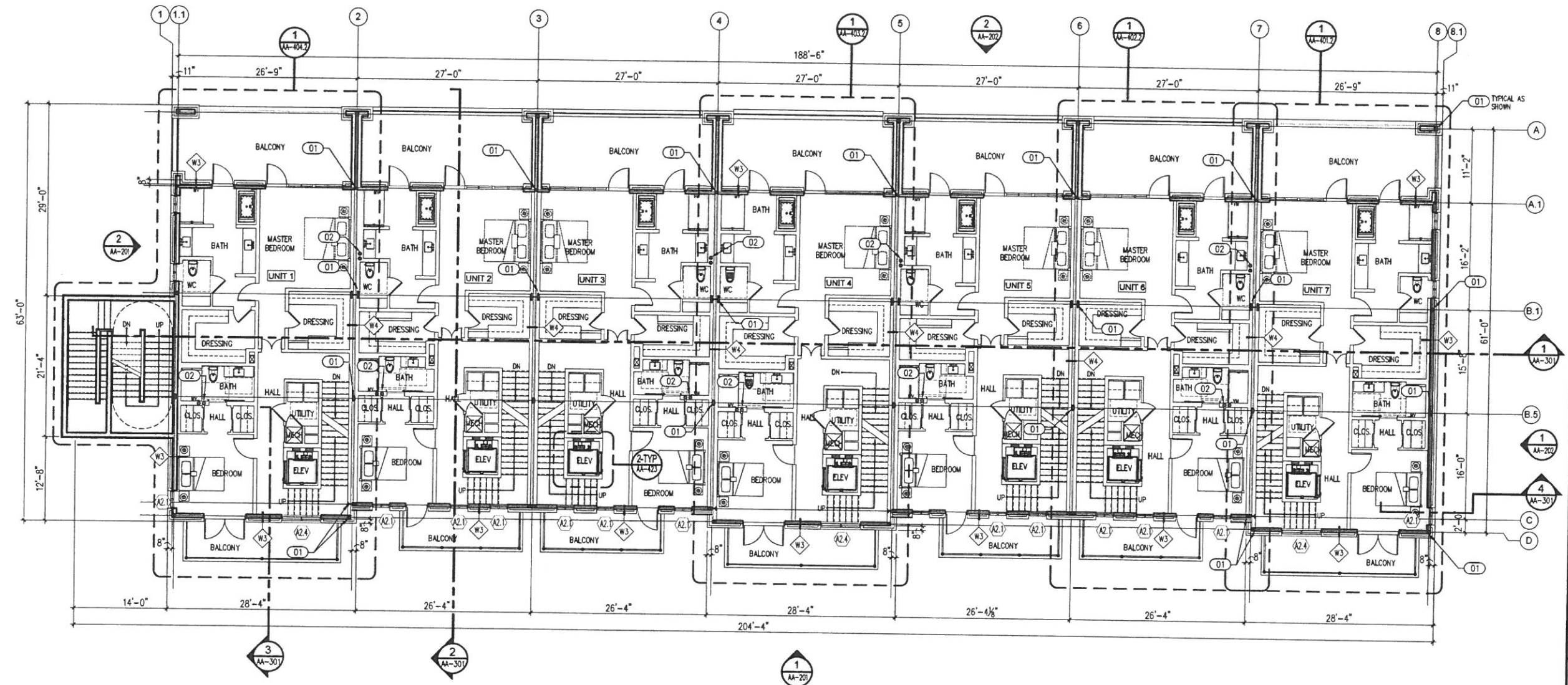
DATE: SEPTEMBER 12, 2019

SHEET TITLE:  
**2ND FLOOR PLAN  
BUILDING "A"**

SHEET NO.:

**AA-102**

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**2ND FLOOR PLAN (BUILDING "A")**  
SCALE: 1/8" = 1'-0"  
NORTH

**GENERAL NOTES:**

- COORDINATE REFLECTED CEILING PLAN (RCP) AND ACCESS PANEL LOCATIONS WITH ELECTRICAL & MECHANICAL DRAWINGS.
- REFER TO MECHANICAL DRAWINGS FOR DIFFUSER LOCATIONS AND INFORMATION.
- REFER TO ENLARGED UNIT PLAN FOR ADDITIONAL DIMENSIONED PLAN & INFORMATION.
- ALL SMOKE DETECTORS TO BE HARDWIRED; DETECTORS IN SLEEPING ROOMS TO BE FAULT PROTECTED (TYPICAL).
- REFER TO AA-004 FOR WALL TYPES, CEILING TYPES & DESCRIPTIONS.

**DRAWING LEGEND:**

- PAINTED GWS.
- STUCCO SYSTEM.
- PAINTED WOOD CROWN MOLDING.
- THIN-BRICK SYSTEM.

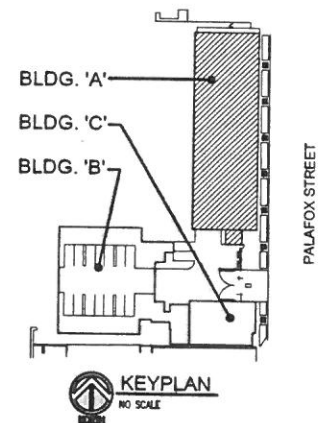
- 10'-0" CEILING HEIGHT ABOVE FINISHED FLOOR. TYPICAL U.N.O.
- EXP STUCCO SYSTEM OVER FIBERGLASS-MAT EXTERIOR SHEATHING.
- SCONE WALL MOUNT (EXTERIOR).
- WALL SCONE (INTERIOR).
- DOWNLIGHT FIXTURE.
- DOWNLIGHT FIXTURE.
- JUNCTION BOX.
- PENDANT.
- CEILING MOUNT LIGHT FIXTURE/CEILING FAN.
- UNDER CABINET LIGHTING.
- SUPPLY AIR DIFFUSER.
- RETURN AIR DIFFUSER.
- EXHAUST FAN.

**ELECTRICAL LEGEND:**

- QUAD RECEPTACLE.
- DUPLEX RECEPTACLE.
- DUPLEX RECEPTACLE (GROUND FAULT CIRCUIT INTERRUPTER).
- DUPLEX RECEPTACLE (WATERPROOF).
- TELEPHONE OUTLET.
- WALL SWITCH.
- 3-WAY WALL SWITCH.

**KEY NOTES:**

- (01) STEEL COLUMN; REFER TO STRUCTURAL.
- (02) RAINLEADER FROM ROOF DRAIN. COORDINATE RISERS WITH PLUMBING & ELECTRICAL LINES.
- (03) CONCRETE FILLED BOLLARDS.
- (04) ELECTRICAL PANEL & COMMUNICATION PANEL; COORDINATE WITH ELECTRICAL DRAWINGS.
- (05) INLET; SEE CIVIL DRAWINGS.



Listen. Interpret. Translate.  
CERTIFICATION:

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(Building "A")

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REVISIONS:

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October 3, 2019

DRAWN BY: RAP

CHECKED BY: PDP

PROJECT NO. 1814

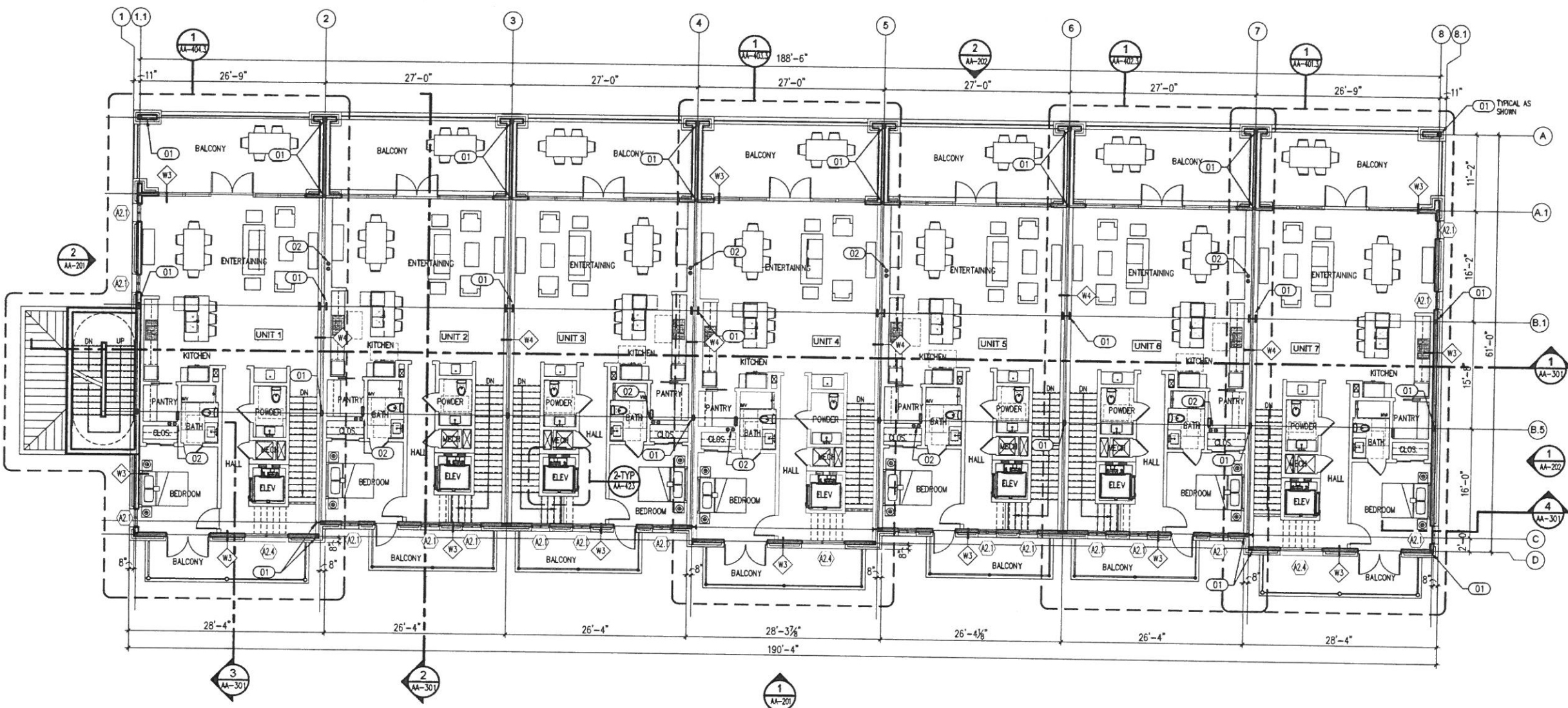
DATE: SEPTEMBER 12, 2019

SHEET TITLE:  
3RD FLOOR PLAN  
BUILDING "A"

SHEET NO.:

AA-103

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1 3RD FLOOR PLAN (BUILDING "A")  
SCALE: 1/8" = 1'-0"  
NORTH

GENERAL NOTES:

- COORDINATE REFLECTED CEILING PLAN (RCP) AND ACCESS PANEL LOCATIONS WITH ELECTRICAL & MECHANICAL DRAWINGS.
- REFER TO MECHANICAL DRAWINGS FOR DIFFUSER LOCATIONS AND INFORMATION.
- REFER TO ENLARGED UNIT PLAN FOR ADDITIONAL DIMENSIONED PLAN & INFORMATION.
- ALL SMOKE DETECTORS TO BE HARDWIRED; DETECTORS IN SLEEPING ROOMS TO BE FAULT PROTECTED (TYPICAL).
- REFER TO AA-004 FOR WALL TYPES, CEILING TYPES & DESCRIPTIONS.

DRAWING LEGEND:

- PAINTED GWB.
- STUCCO SYSTEM.
- PAINTED WOOD CROWN MOLDING.
- THIN-BRICK SYSTEM.

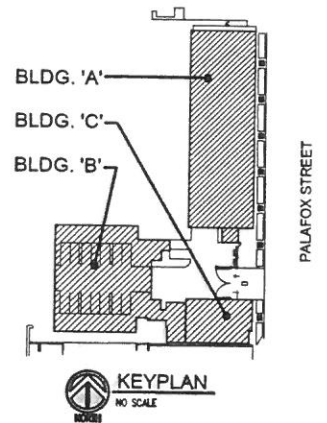
- 10'-0" CEILING HEIGHT ABOVE FINISHED FLOOR. TYPICAL U.A.O.
- EXP STUCCO SYSTEM OVER FIBERGLASS-MAT EXTERIOR SHEATHING.
- SCONE WALL MOUNT (EXTERIOR).
- WALL SCONE (INTERIOR).
- DOWNLIGHT FIXTURE.
- DOWNLIGHT FIXTURE.
- JUNCTION BOX.
- PENDANT.
- CEILING MOUNT LIGHT FIXTURE/CEILING FAN.
- UNDER CABINET LIGHTING.
- SUPPLY AIR DIFFUSER.
- RETURN AIR DIFFUSER.
- EXHAUST FAN.

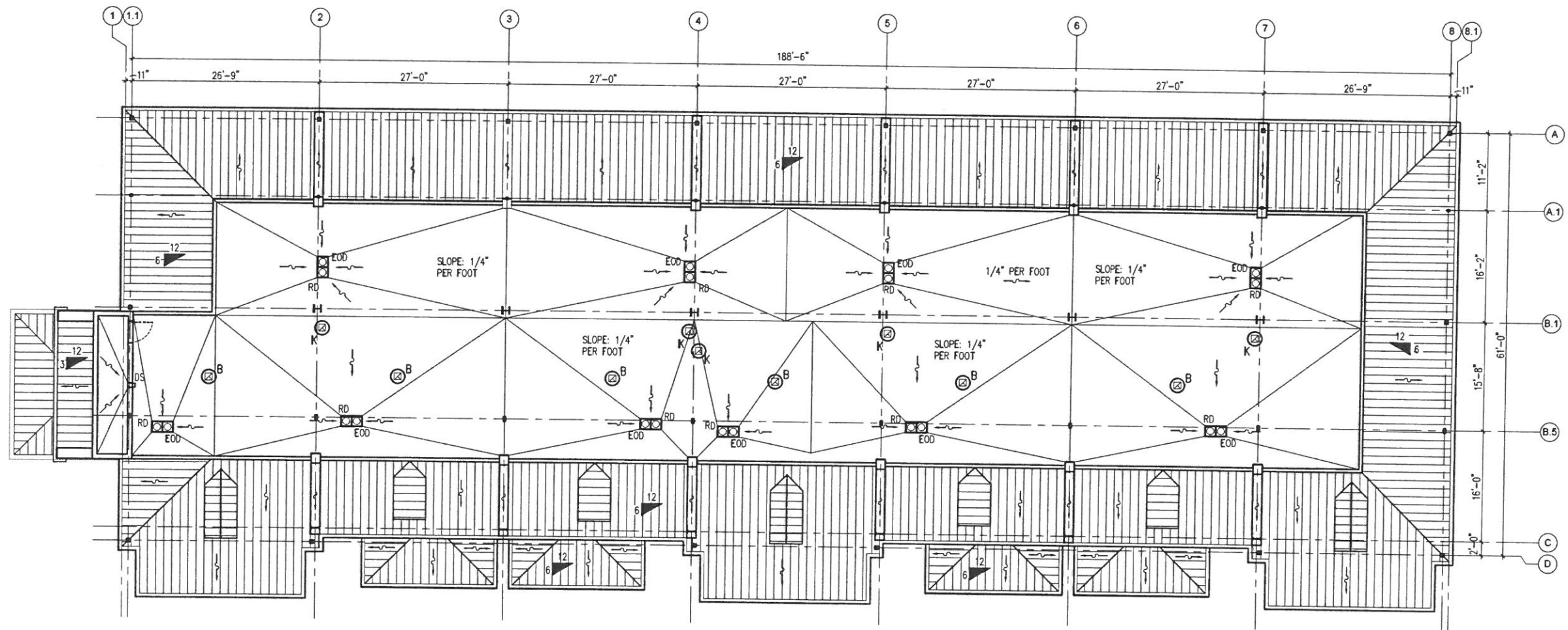
ELECTRICAL LEGEND:

- QUAD RECEPTACLE.
- DUPLEX RECEPTACLE.
- DUPLEX RECEPTACLE (GROUND FAULT CIRCUIT INTERRUPTER).
- DUPLEX RECEPTACLE (WATERPROOF).
- TELEPHONE OUTLET.
- WALL SWITCH.
- 3-WAY WALL SWITCH.

KEY NOTES:

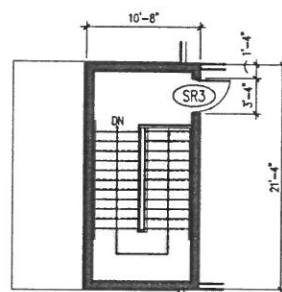
- (01) STEEL COLUMN; REFER TO STRUCTURAL.
- (02) RAINLEADER FROM ROOF DRAIN. COORDINATE RISERS WITH PLUMBING & ELECTRICAL LINES.
- (03) CONCRETE FILLED BOLLARDS.
- (04) ELECTRICAL PANEL & COMMUNICATION PANEL. COORDINATE WITH ELECTRICAL DRAWINGS.
- (05) INLET. SEE CIVIL DRAWINGS.





**1 ROOF PLAN (BUILDING "A")**

SCALE: 1/8" = 1'-0"



REFER TO AA-423 FOR  
RAMP AND STAIR DETAIL



**2 STAIR TO ROOF (BUILDING "A")**

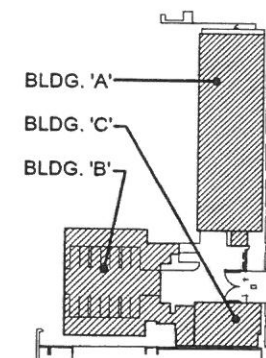
SCALE: 1/8" = 1'-0"

#### GENERAL NOTES:

- ALL DIMENSIONS ARE TO FACE OF STUDS, FACE OF CMU WALL, CENTERLINE OF COLUMNS AND/OR CENTERLINE STRUCTURAL GRID LINE, UNLESS NOTED OTHERWISE.
- CONTRACTOR TO VERIFY ALL DIMENSIONS IN THE FIELD.
- COORDINATE WITH MECHANICAL & PLUMBING DRAWINGS FOR MECHANICAL ROOF TOP UNITS AND OTHER ROOF PENETRATIONS.
- COORDINATE WITH ELECTRICAL DRAWINGS FOR LIGHTNING PROTECTION LOCATIONS.
- TYPICAL NOTE: ALL CRICKETS APPLICATION (C) SHALL BE PART OF THE ROOFING SYSTEM.
- REFER TO SHEET AA-423 FOR EXTERIOR STAIR TO ROOF.
- REFER TO AA-004 FOR WALL TYPES, CEILING TYPES & DESCRIPTIONS.

#### LEGEND:

- EOD** EMERGENCY OVERFLOW DRAIN.
- RD** ROOF DRAIN.
- DS** DOWNSPOUT.
- DIRECTION OF SLOPE TO DRAIN (1/4" PER FOOT).
- ROOF CRICKET (SEE NOTE #5).
- BATHROOM EXHAUST.
- KITCHEN EXHAUST.
- PRE-FINISHED METAL COPING.
- ROOF MOUNTED EXHAUST FAN.
- MECHANICAL ROOF TOP UNITS.
- GAS FLUE.
- ENGINEERED MEMBRANE ROOFING SYSTEM MECHANICALLY ATTACHED OVER APPROVED COVER BOARD ON 3" (MIN.) RIGID INSULATION ON DECKING. SLOPE STRUCTURE TO DRAIN; REFER TO STRUCTURAL DRAWINGS.



**smp.**

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REVISIONS:

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October 3, 2019

DRAWN BY: RAP

CHECKED BY: PDP

PROJECT NO. 1814

DATE: SEPTEMBER 12, 2019

SHEET TITLE:

**ROOF PLAN  
(BUILDING "A")**

SHEET NO.:

**AA-104**

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CHECKED BY : pdp

PROJECT NO. 1814

DATE : SEPTEMBER 12, 2019

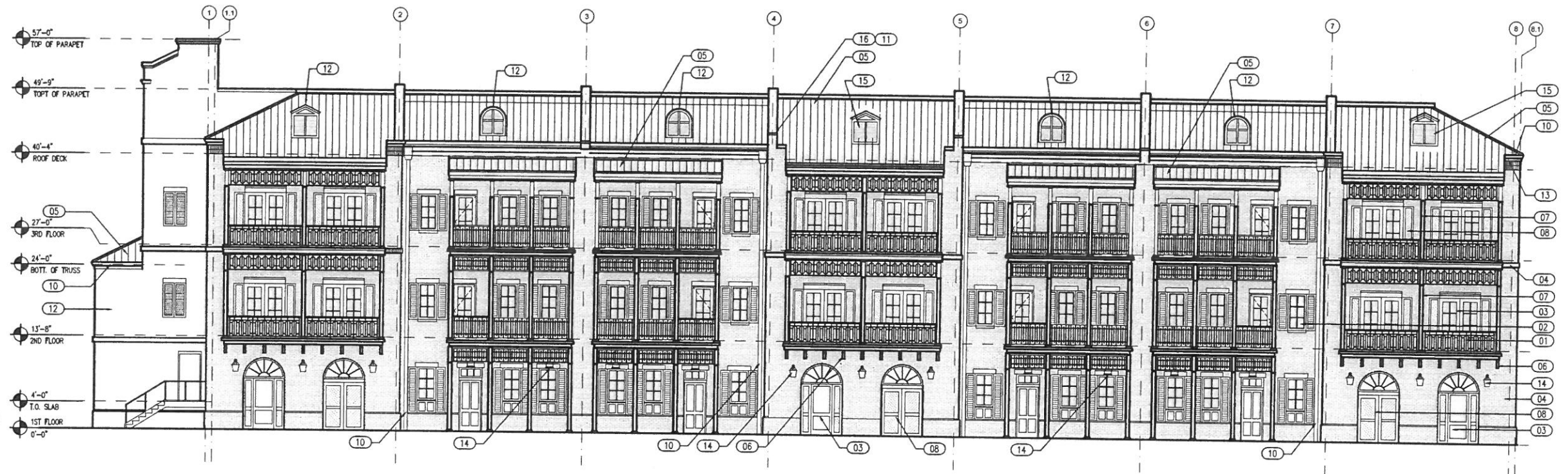
SHEET TITLE :

EXTERIOR  
ELEVATIONS  
BUILDING "A"

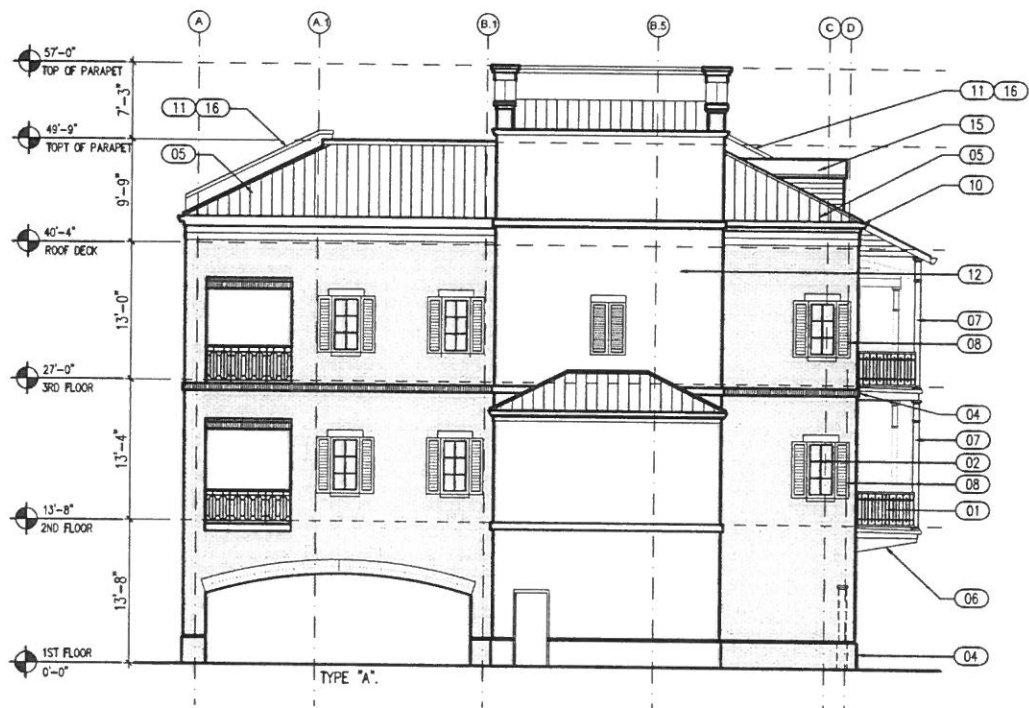
SHEET NO. :

AA-201

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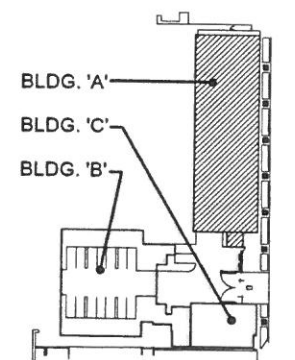
1 EAST ELEVATION - PALAFOX STREET - BUILDING "A"  
AA-201 SCALE: 1/8" = 1'-0"



2 SOUTH ELEVATION - BUILDING "A"  
AA-201 SCALE: 1/8" = 1'-0"

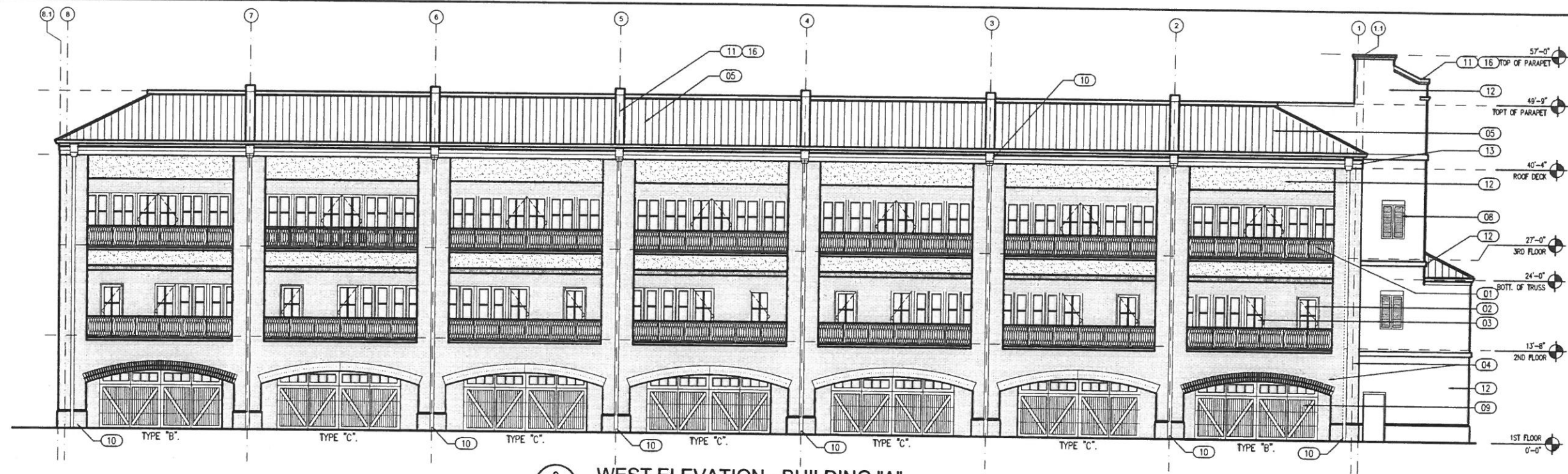
KEY NOTES :

- 01 ALUMINUM RAILING SYSTEM.
- 02 ALUMINUM CLAD WINDOW SYSTEM.
- 03 ALUMINUM CLAD ENTRY DOOR SYSTEM.
- 04 BRICK VENEER WALLS, COLUMNS & ARCHES/HEADERS.
- 05 STANDING SEAM METAL ROOF SYSTEM.
- 06 WOOD BRACKETS AND SUPPORTS.
- 07 STEEL COLUMN & SUPPORTS.
- 08 COMPOSITE GLASS-FIBER FIXED SHUTTERS & PANELS.
- 09 COMPOSITE GARAGE DOORS.
- 10 6" ALUMINUM GUTTER & RAINLEADER.
- 11 PRE-FINISHED METAL COPING.
- 12 STUCCO SYSTEM.
- 13 FASCIA TRIM.
- 14 LIGHT FIXTURES.
- 15 DORMER WITH FALSE LOUVER.
- 16 PARAPET WALL.

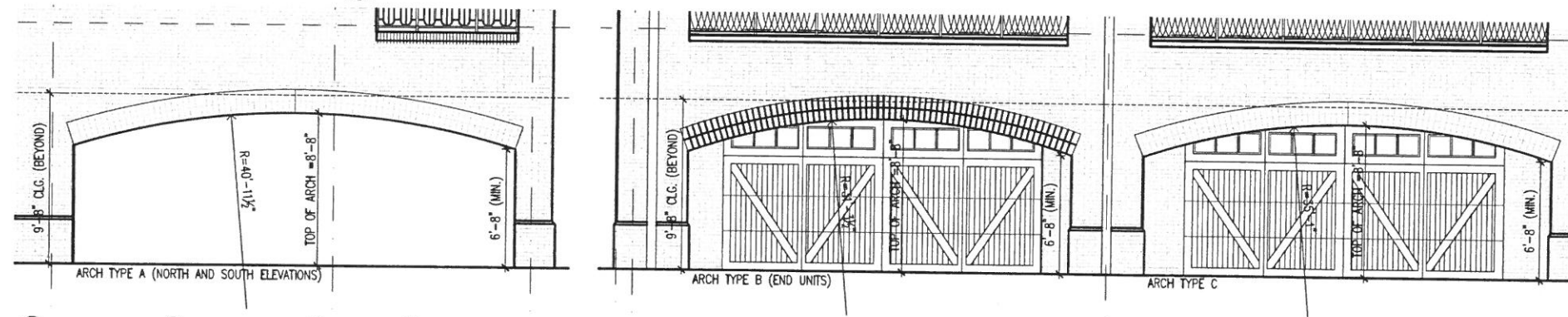


KEYPLAN  
NO SCALE

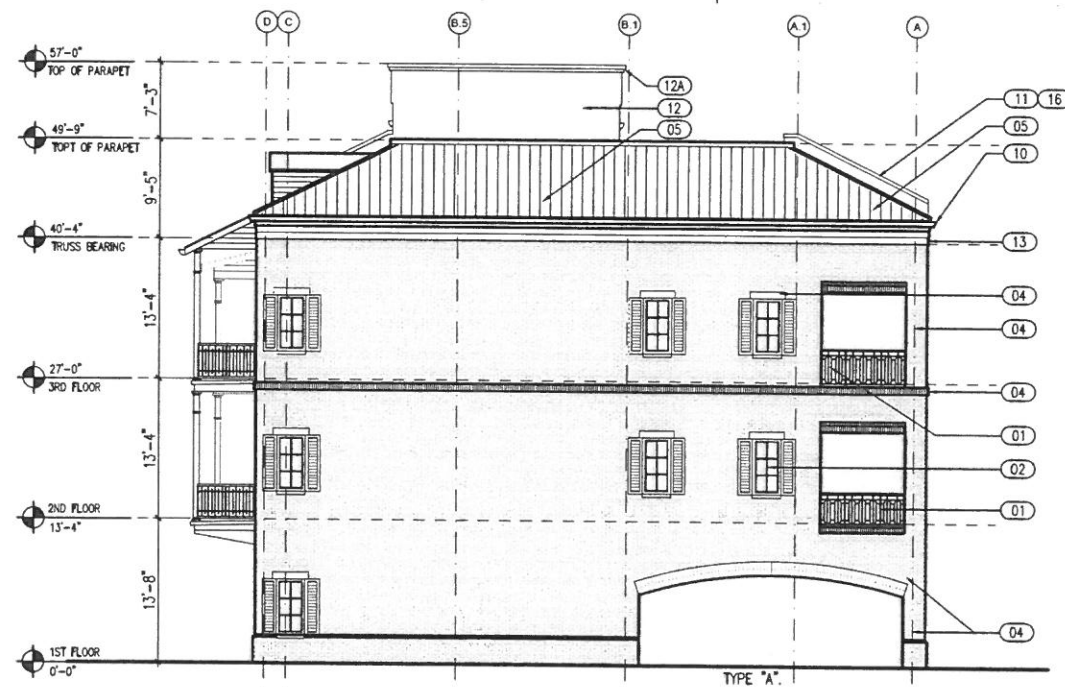




2 WEST ELEVATION - BUILDING "A"  
SCALE: 1/8" = 1'-0"



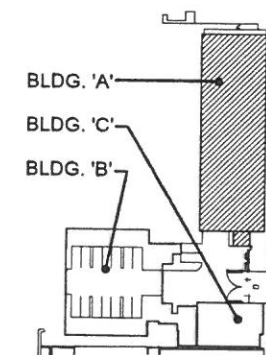
3 TYPICAL BRICK ARCH TYPES  
SCALE: 1/4" = 1'-0"



1 NORTH ELEVATION - BUILDING "A"  
SCALE: 1/8" = 1'-0"

#### KEY NOTES :

- (01) ALUMINUM RAILING SYSTEM.
- (02) ALUMINUM CLAD WINDOW SYSTEM.
- (03) ALUMINUM CLAD ENTRY DOOR SYSTEM.
- (04) BRICK VENEER WALLS, COLUMNS & ARCHES/HEADERS.
- (05) STANDING SEAM METAL ROOF SYSTEM.
- (06) WOOD BRACKETS AND SUPPORTS.
- (07) STEEL COLUMN & SUPPORTS.
- (08) COMPOSITE GLASS-FIBER FIXED SHUTTERS & PANELS.
- (09) COMPOSITE GARAGE DOORS.
- (10) 6" ALUMINUM GUTTER & RAINLEADER.
- (11) PRE-FINISHED METAL COPING.
- (12) STUCCO SYSTEM.
- (13) FASCIA TRIM.
- (14) LIGHT FIXTURES.
- (15) DORMER WITH FALSE LOUVER.
- (16) PARAPET WALL.



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PENSACOLA, FLORIDA 32502 P 850.432.7772  
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REVISIONS :

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PROJECT NO. 1814

DATE : SEPTEMBER 12, 2019

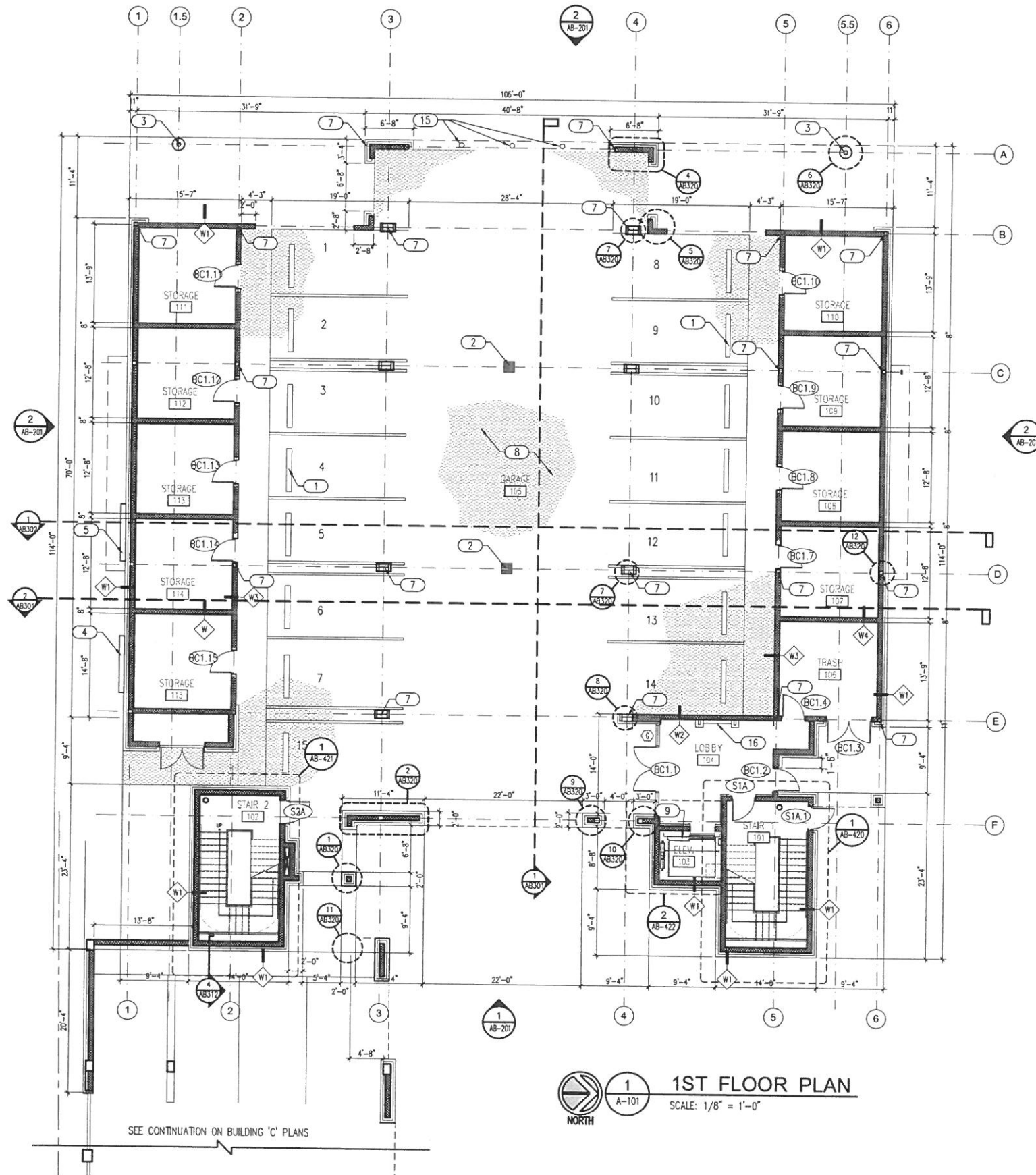
SHEET TITLE :

EXTERIOR  
ELEVATIONS  
BUILDING "A"

SHEET NO. :

AA-202

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# GENERAL NOTES: smp.

1. ALL DIMENSIONS ARE TO FACE OF STUDS, FACE OF CMU WALL, FACE OF CONCRETE AND CENTER OF OPENING OR STRUCTURAL GRID LINE, UNLESS NOTED OTHERWISE.
2. CONTRACTOR TO VERIFY ALL DIMENSIONS IN THE FIELD.
3. SEE STRUCTURAL DRAWINGS FOR ADDITIONAL BUILDING, WALL SECTIONS AND SLAB ELEVATION HEIGHTS INFORMATION.
4. SEE CIVIL DRAWINGS FOR CURB AND SIDEWALK INFORMATION.
5. COORDINATE REFLECTED CEILING PLAN (RCP) AND ACCESS PANEL LOCATIONS WITH ELECTRICAL, MECHANICAL & FIRE PROTECTION DRAWINGS.

## KEYNOTES:

- 1 RUBBER PARKING STOP (TYP.)
- 2 STORM DRAIN - SEE CIVIL DRAWINGS
- 3 CONCRETE COLUMN - SEE STRUCTURAL DRAWINGS
- 4 ELECTRICAL METERS - SEE ELECTRICAL DRAWINGS
- 5 GAS METERS - SEE PLUMBING DRAWINGS
- 6 LINE OF FLOOR ABOVE
- 7 STEEL COLUMN - SEE STRUCTURAL DRAWINGS
- 8 CONCRETE PAVERS
- 9 ELEVATOR
- 10 ORNAMENTAL METAL GUARDRAIL
- 11 GLASS GUARDRAIL
- 12 FAUX COMPOSITE SHUTTER
- 13 LIQUID-APPLIED WATERPROOF MEMBRANE
- 14 LIQUID APPLIED TRAFFIC BEARING W.P. MEMBRANE
- 15 6" DIAMETER X 48" H. STEEL PIPE BOLLARD FILLED WITH GROUT.
- 16 PREFABRICATED MAILBOX UNITS.
- 17 TILE ON WATERPROOFING SYSTEM.

Listen. Interpret. Translate.

CERTIFICATION :

ADMIRAL'S  
ROW  
Building "B"

South Palafox Street  
Pensacola, Florida

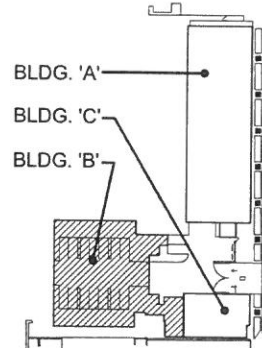
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REVISIONS :

## WALL LEGEND:

- CONCRETE STRUCTURE.
- C.M.U. WALL CONSTRUCTION.
- BRICK VENEER / AIR SPACE C.M.U. WALL CONSTRUCTION.
- BRICK VENEER / AIR SPACE METAL STUD WALL CONSTRUCTION.
- (NON-RATED) G.M.S. WALL CONSTRUCTION
- (1HR FIRE RATED) WALL CONSTRUCTION AS SCHEDULED.
- (2HR FIRE RATED) WALL CONSTRUCTION AS SCHEDULED.

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October 3, 2019

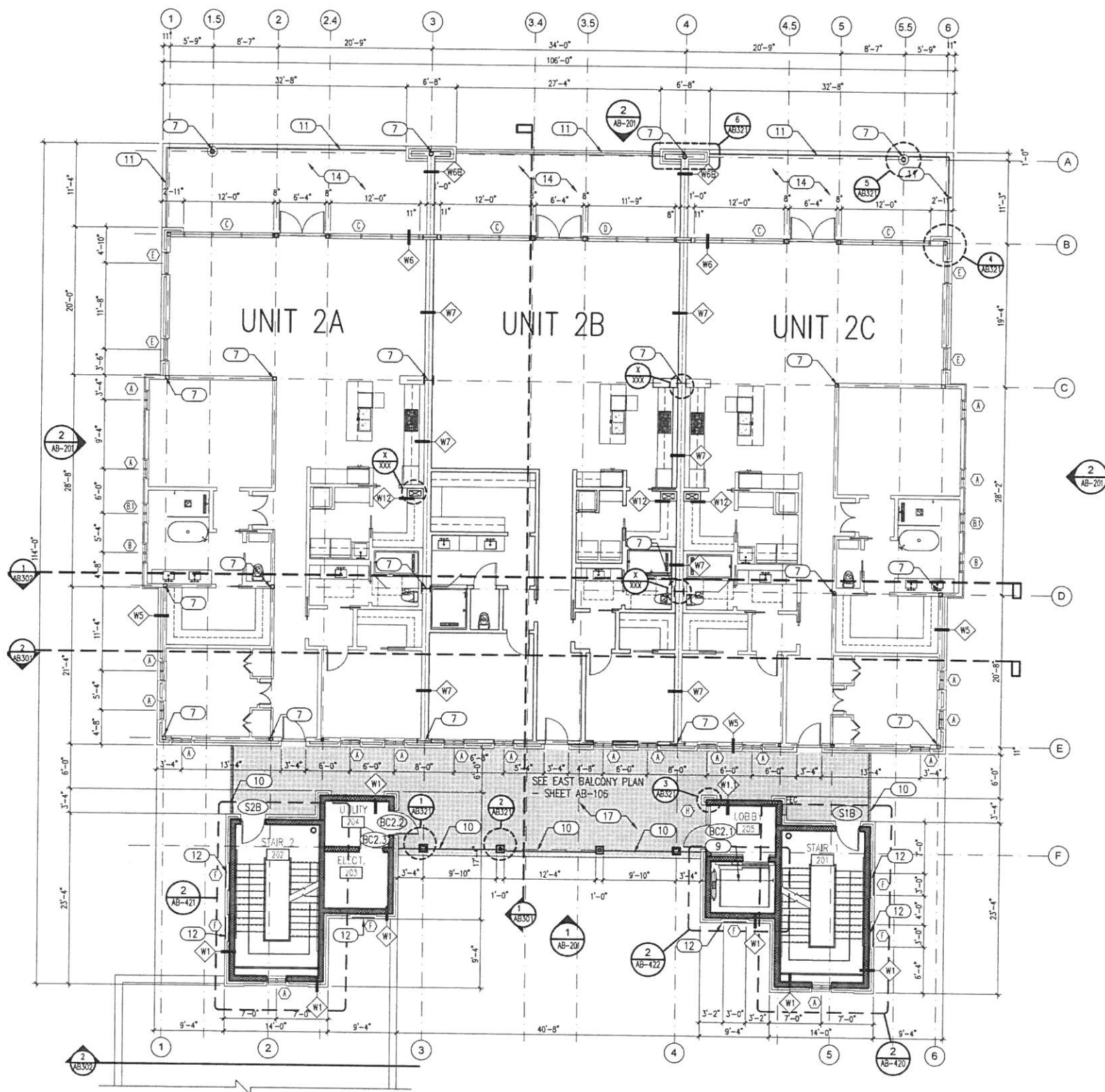


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PROJECT NO. 1814  
DATE : SEPTEMBER 12, 2019  
SHEET TITLE :  
1ST FLOOR  
PLAN  
SHEET NO. :

AB-101

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**2ND FLOOR PLAN**  
SCALE: 1/8" = 1'-0"  
NORTH

## GENERAL NOTES: smp.

1. ALL DIMENSIONS ARE TO FACE OF STUDS, FACE OF CMU WALL, FACE OF CONCRETE AND CENTER OF OPENING OR STRUCTURAL GRID LINE, UNLESS NOTED OTHERWISE.
2. CONTRACTOR TO VERIFY ALL DIMENSIONS IN THE FIELD.
3. SEE STRUCTURAL DRAWINGS FOR ADDITIONAL BUILDING, WALL SECTIONS AND SLAB ELEVATION HEIGHTS INFORMATION.
4. SEE CIVIL DRAWINGS FOR CURB AND SIDEWALK INFORMATION.
5. COORDINATE REFLECTED CEILING PLAN (RCP) AND ACCESS PANEL LOCATIONS WITH ELECTRICAL, MECHANICAL & FIRE PROTECTION DRAWINGS.

## KEYNOTES:

- 1 RUBBER PARKING STOP (TYP.)
- 2 STORM DRAIN - SEE CIVIL DRAWINGS
- 3 CONCRETE COLUMN - SEE STRUCTURAL DRAWINGS
- 4 ELECTRICAL METERS - SEE ELECTRICAL DRAWINGS
- 5 GAS METERS - SEE PLUMBING DRAWINGS
- 6 LINE OF FLOOR ABOVE
- 7 STEEL COLUMN - SEE STRUCTURAL DRAWINGS
- 8 CONCRETE PAVERS
- 9 ELEVATOR
- 10 ORNAMENTAL METAL GUARDRAIL
- 11 GLASS GUARDRAIL
- 12 FAUX COMPOSITE SHUTTER
- 13 LIQUID-APPLIED WATERPROOF MEMBRANE
- 14 LIQUID APPLIED TRAFFIC BEARING W.P. MEMBRANE
- 15 6" DIAMETER X 48" H. STEEL PIPE BOLLARD FILLED WITH GROUT.
- 16 PREFABRICATED MAILBOX UNITS.
- 17 TILE ON WATERPROOFING SYSTEM.

Listen. Interpret. Translate.  
CERTIFICATION :

**ADMIRAL'S  
ROW  
Building "B"**

South Palafox Street  
Pensacola, Florida

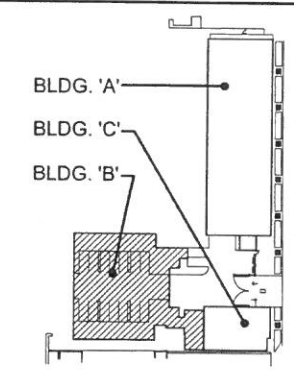
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REVISIONS :

## WALL LEGEND:

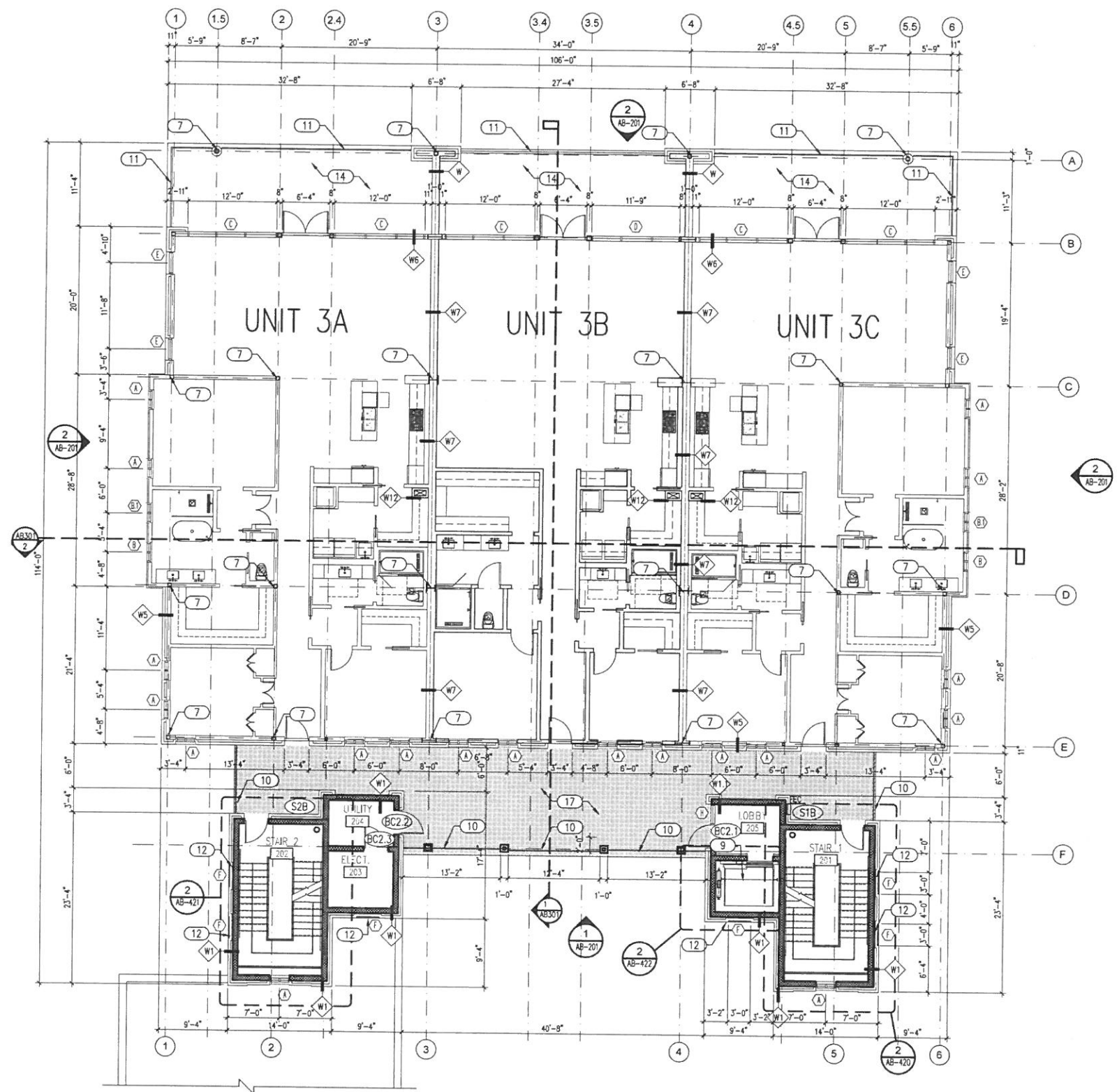
- CONCRETE STRUCTURE.
- C.M.U. WALL CONSTRUCTION.
- BRICK VENEER / AIR SPACE C.M.U. WALL CONSTRUCTION.
- BRICK VENEER / AIR SPACE METAL STUD WALL CONSTRUCTION.
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- (1HR FIRE RATED) WALL CONSTRUCTION AS SCHEDULED.
- (2HR FIRE RATED) WALL CONSTRUCTION AS SCHEDULED.

95% Submittal  
October 3, 2019



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CHECKED BY : PDP  
PROJECT NO. 1814  
DATE : SEPTEMBER 12, 2019  
SHEET TITLE :  
**2ND FLOOR  
PLAN**  
SHEET NO. :

**AB-102**  
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 1 AB-103 3RD FLOOR PLAN  
SCALE: 1/8" = 1'-0"

## GENERAL NOTES:

1. ALL DIMENSIONS ARE TO FACE OF STUDS, FACE OF CMU WALL, FACE OF CONCRETE AND CENTER OF OPENING OR STRUCTURAL GRID LINE, UNLESS NOTED OTHERWISE.
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4. SEE CIVIL DRAWINGS FOR CURB AND SIDEWALK INFORMATION.
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## KEYNOTES:

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CERTIFICATION:

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ROW  
Building "B"

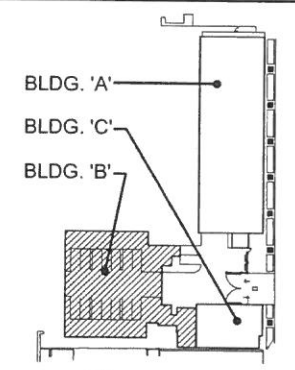
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REVISIONS:

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- CONCRETE STRUCTURE.
- C.M.U. WALL CONSTRUCTION.
- BRICK VENEER / AIR SPACE C.M.U. WALL CONSTRUCTION.
- BRICK VENEER / AIR SPACE METAL STUD WALL CONSTRUCTION.
- (NON-RATED) G.M.S. WALL CONSTRUCTION
- (1HR FIRE RATED) WALL CONSTRUCTION AS SCHEDULED.
- (2HR FIRE RATED) WALL CONSTRUCTION AS SCHEDULED.



95% Submittal  
October 3, 2019

DRAWN BY: RAP

CHECKED BY: PDP

PROJECT NO. 1814

DATE: SEPTEMBER 12, 2019

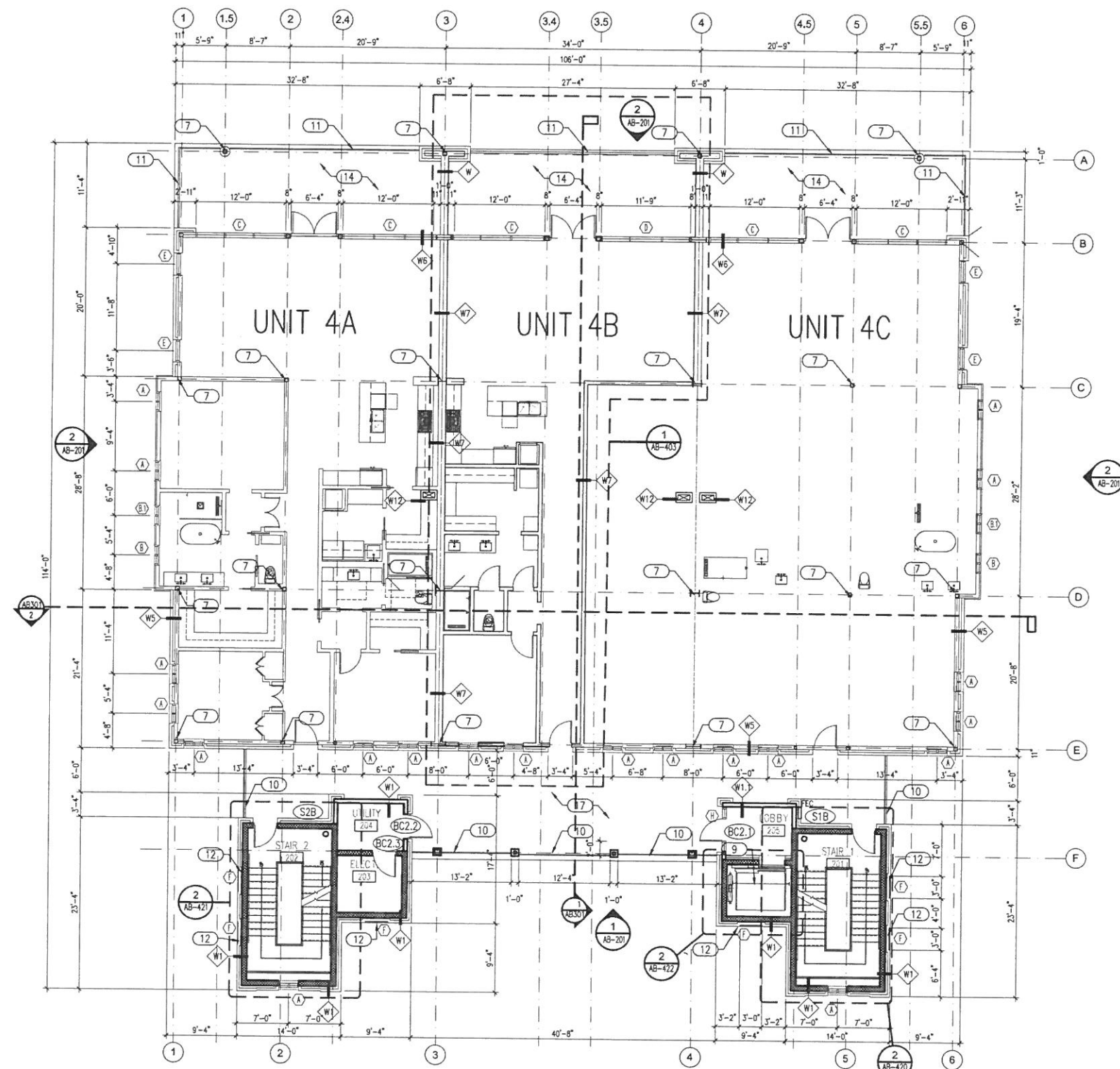
SHEET TITLE:

3RD FLOOR  
PLAN

SHEET NO.:

AB-103

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**4TH FLOOR PLAN**  
SCALE: 1/8" = 1'-0"

## GENERAL NOTES: smp.

- ALL DIMENSIONS ARE TO FACE OF STUDS, FACE OF CMU WALL, FACE OF CONCRETE AND CENTER OF OPENING OR STRUCTURAL GRID LINE, UNLESS NOTED OTHERWISE.
- CONTRACTOR TO VERIFY ALL DIMENSIONS IN THE FIELD.
- SEE STRUCTURAL DRAWINGS FOR ADDITIONAL BUILDING, WALL SECTIONS AND SLAB ELEVATION HEIGHTS INFORMATION.
- SEE CIVIL DRAWINGS FOR CURB AND SIDEWALK INFORMATION.
- COORDINATE REFLECTED CEILING PLAN (RCP) AND ACCESS PANEL LOCATIONS WITH ELECTRICAL, MECHANICAL & FIRE PROTECTION DRAWINGS.

## KEYNOTES:

- RUBBER PARKING STOP (TYP.)
- STORM DRAIN - SEE CIVIL DRAWINGS
- CONCRETE COLUMN - SEE STRUCTURAL DRAWINGS
- ELECTRICAL METERS - SEE ELECTRICAL DRAWINGS
- GAS METERS - SEE PLUMBING DRAWINGS
- LINE OF FLOOR ABOVE
- STEEL COLUMN - SEE STRUCTURAL DRAWINGS
- CONCRETE PAVERS
- ELEVATOR
- ORNAMENTAL METAL GUARDRAIL
- GLASS GUARDRAIL
- FAUX COMPOSITE SHUTTER
- LIQUID-APPLIED WATERPROOF MEMBRANE
- LIQUID APPLIED TRAFFIC BEARING W.P. MEMBRANE
- 6" DIAMETER X 48" H. STEEL PIPE BOLLARD FILLED WITH GROUT.
- PREFABRICATED MAILBOX UNITS.
- TILE ON WATERPROOFING SYSTEM.

SMP Architecture, P.A.  
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PENSACOLA, FLORIDA 32502 P 850.432.7772  
www.smp-arch.com AAC001828

Listen. Interpret. Translate.

CERTIFICATION:

**ADMIRAL'S  
ROW  
Building "B"**

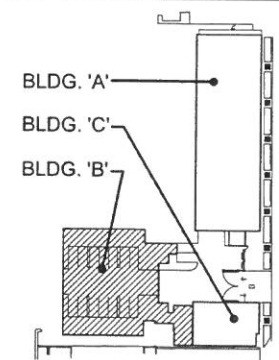
South Palafox Street  
Pensacola, Florida

ALL DRAWINGS AND WRITTEN MATERIAL  
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PUBLISHED WORK OF THE ARCHITECT  
AND MAY NOT BE DUPLICATED IN ANY  
PART WITHOUT THE WRITTEN CONSENT  
OF THE ARCHITECT.

REVISIONS:

## WALL LEGEND:

- CONCRETE STRUCTURE.
- C.M.U. WALL CONSTRUCTION.
- BRICK VENEER / AIR SPACE C.M.U. WALL CONSTRUCTION.
- BRICK VENEER / AIR SPACE METAL STUD WALL CONSTRUCTION.
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- (1HR FIRE RATED) WALL CONSTRUCTION AS SCHEDULED.
- (2HR FIRE RATED) WALL CONSTRUCTION AS SCHEDULED.



**KEYPLAN**  
NO SCALE

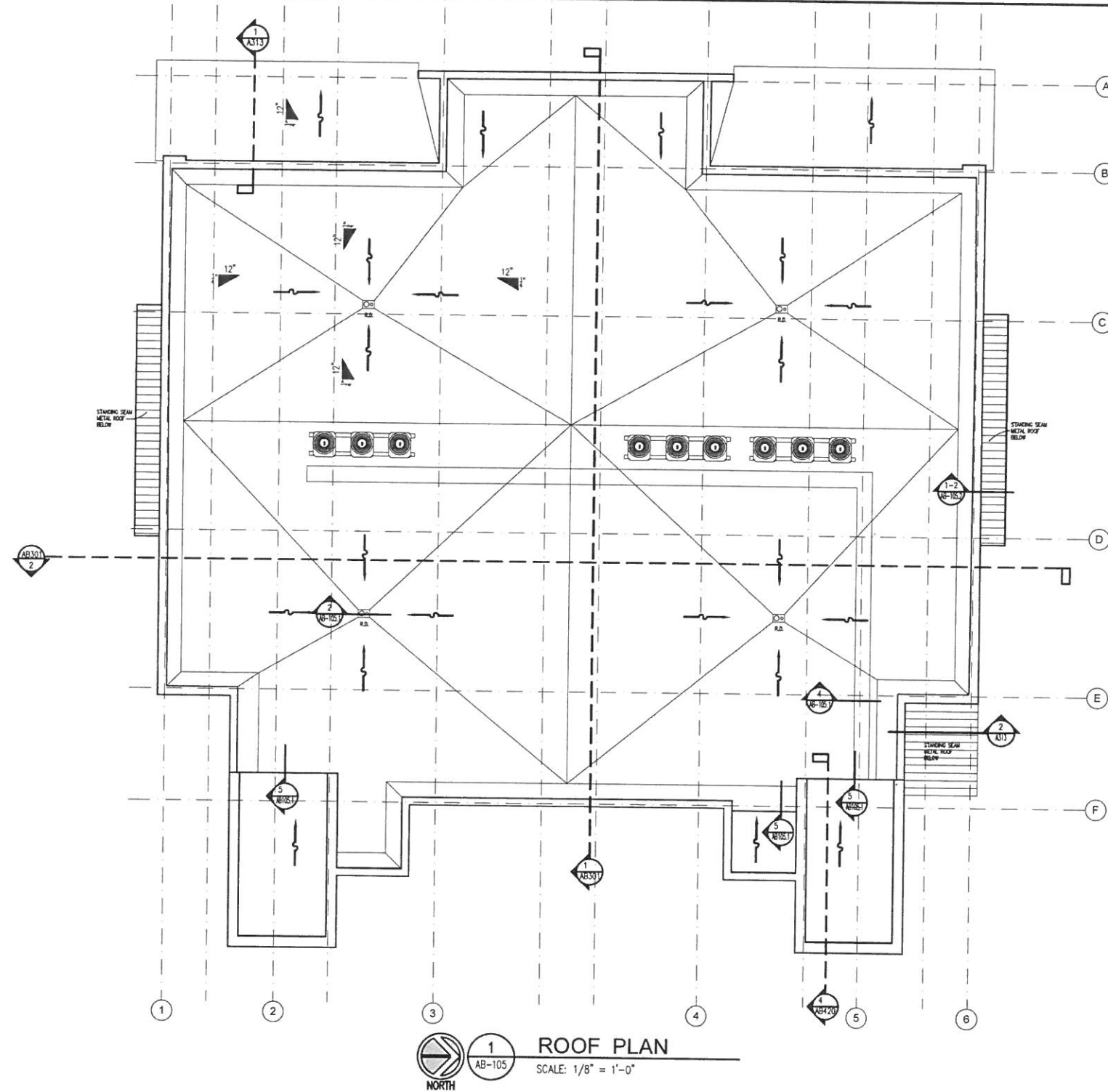
95% Submittal  
October 3, 2019

DRAWN BY: RAP  
CHECKED BY: PDP  
PROJECT NO. 1814  
DATE: SEPTEMBER 12, 2019  
SHEET TITLE:  
**4TH FLOOR  
PLAN**  
SHEET NO.:

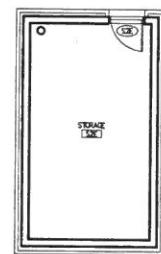
**AB-104**

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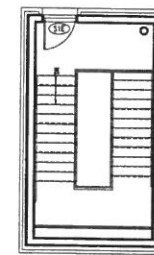




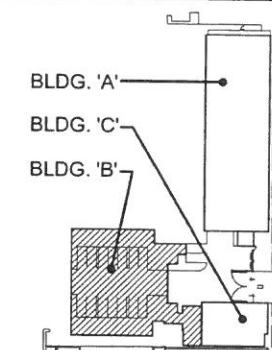
**1 ROOF PLAN**  
 AB-105  
 SCALE: 1/8" = 1'-0"  
 NORTH



**2 STAIR #2 AT ROOF**  
 AB-105  
 SCALE: 1/8" = 1'-0"



**3 STAIR #1 AT ROOF**  
 AB-105  
 SCALE: 1/8" = 1'-0"



**KEYPLAN**  
 NO SCALE

Listen. Interpret. Translate.  
 CERTIFICATION :

**ADMIRAL'S  
 ROW  
 Building "B"**

South Palafox Street  
 Pensacola, Florida

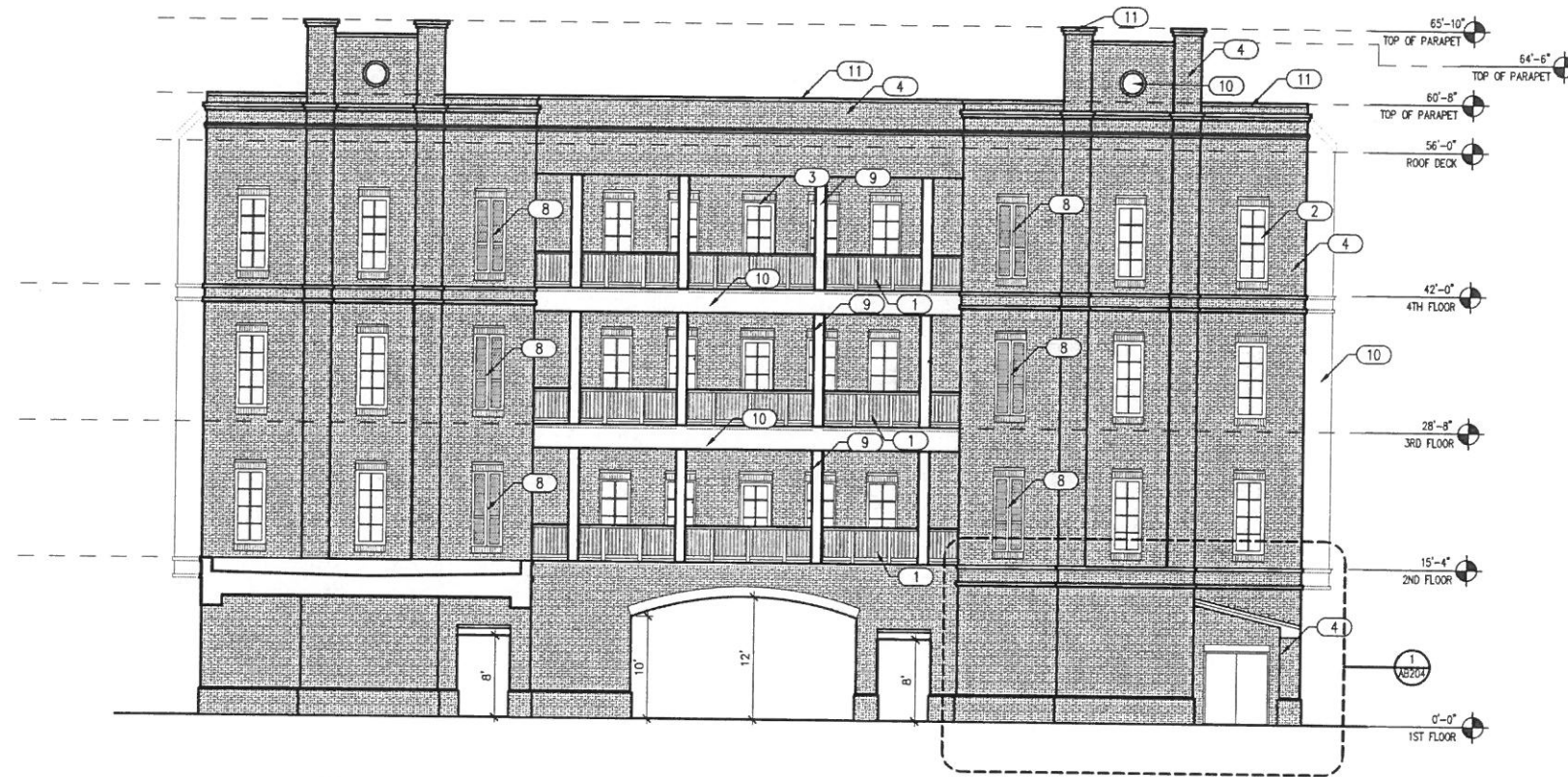
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REVISIONS :

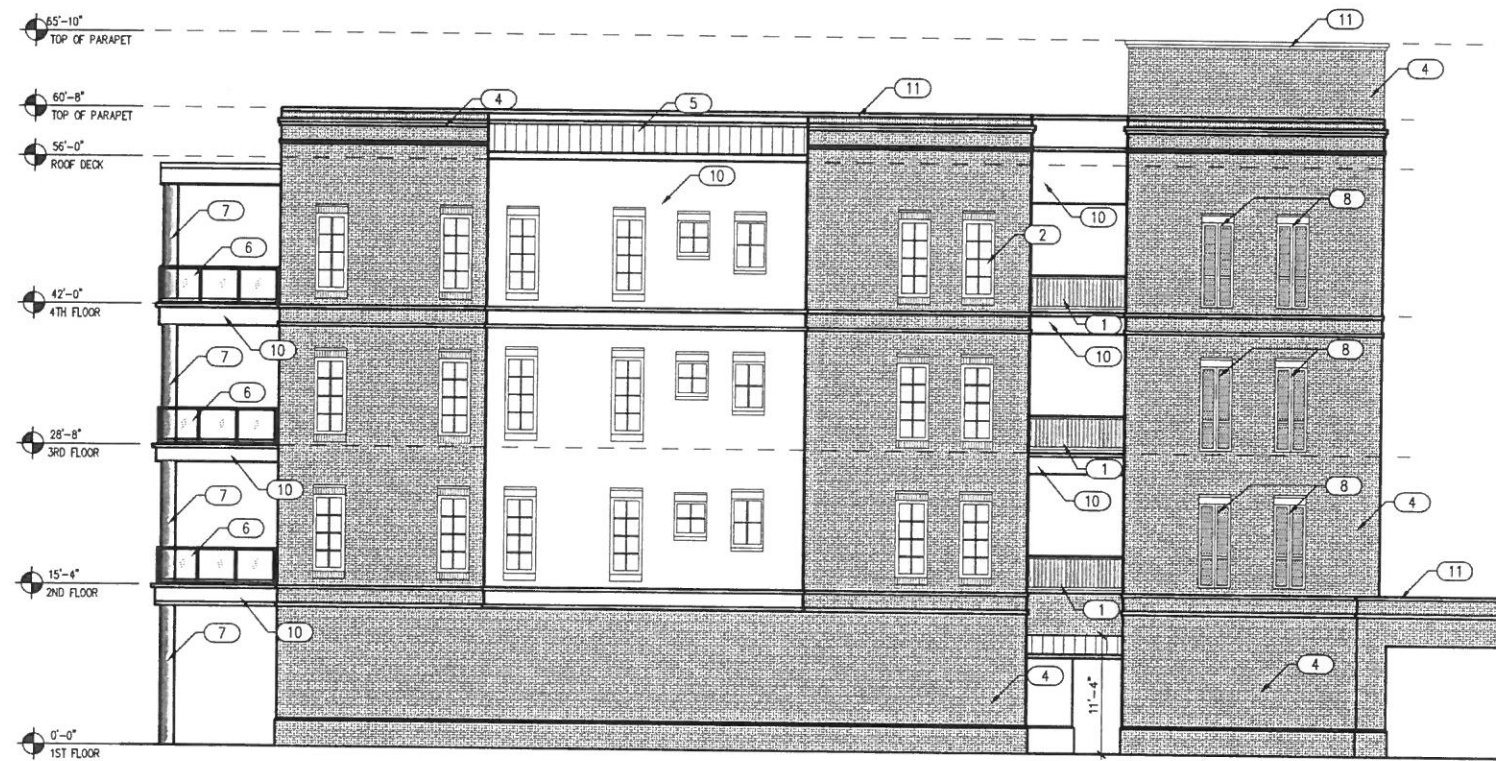
95% Submittal  
 October 3, 2019

DRAWN BY : RAP  
 CHECKED BY : PDP  
 PROJECT NO. 1814  
 DATE : SEPTEMBER 12, 2019  
 SHEET TITLE :  
**ROOF  
 PLAN**  
 SHEET NO. :

**AB-105**



1 EAST ELEVATION - PALAFOX STREET - BUILDING "B"  
AB-201 SCALE: 1/8" = 1'-0"



2 SOUTH ELEVATION - BUILDING "B"  
AB-201 SCALE: 1/8" = 1'-0"

#### KEY NOTES :

- (01) ALUMINUM RAILING (PATTERN T.B.D.)
- (02) ALUMINUM WINDOW (TYP.)
- (03) ALUMINUM ENTRY DOOR (TYP.)
- (04) BRICK VENEER
- (05) STANDING SEAM METAL ROOF
- (06) GLASS RAILING
- (07) STUCCO ON CONCRETE COLUMN.
- (08) COMPOSITE FIXED SHUTTER.
- (09) STUCCO ON FRAMED COLUMN.
- (10) STUCCO SYSTEM.
- (11) PRE-FINISHED METAL COPING.

**smp.**

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Listen. Interpret. Translate.

CERTIFICATION :

ADMIRAL'S  
ROW  
Building "B"

South Palafox Street  
Pensacola, Florida

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REVISIONS :

95% Submittal  
October 3, 2019

DRAWN BY : RAP

CHECKED BY : pdp

PROJECT NO. 1814

DATE : SEPTEMBER 12, 2019

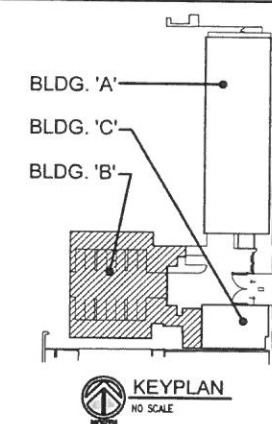
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EXTERIOR  
ELEVATIONS  
BUILDING "B"

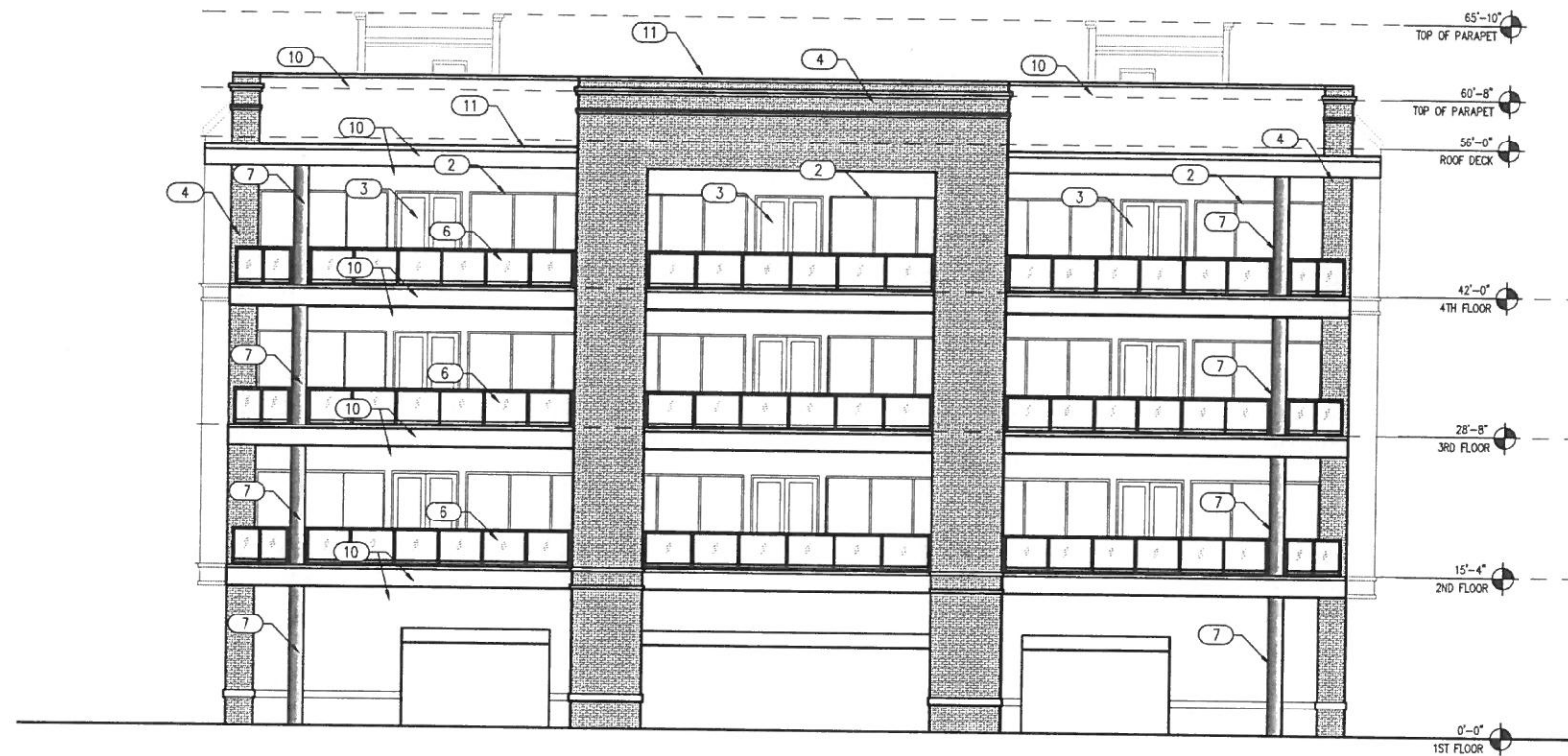
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AB-201

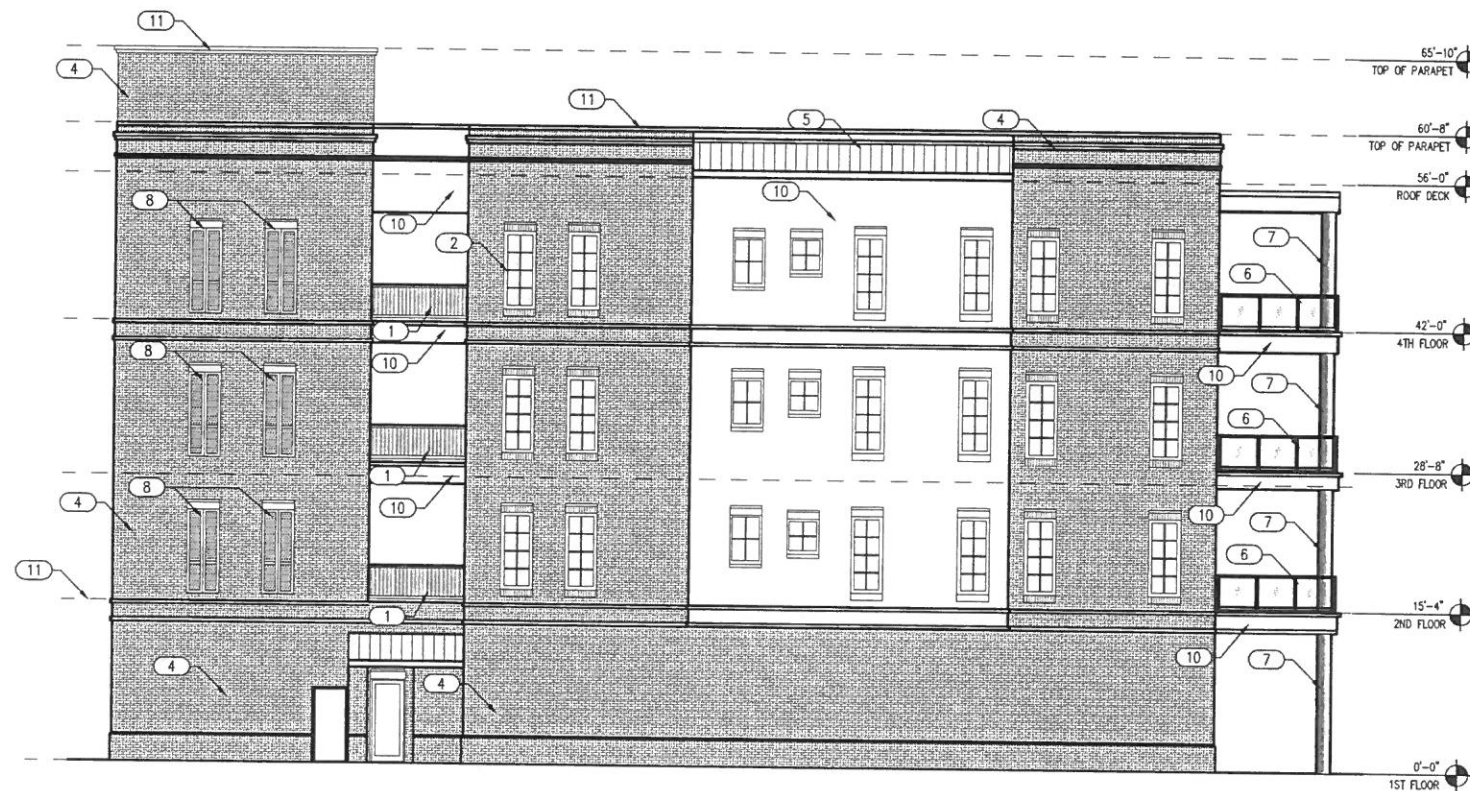
©2018 SMP ARCHITECTURE



KEYPLAN  
NO SCALE



1 WEST ELEVATION - BUILDING "B"  
AB-202 SCALE: 1/8" = 1'-0"



2 NORTH ELEVATION - BUILDING "B"  
AB-202 SCALE: 1/8" = 1'-0"

#### KEY NOTES:

- (01) ALUMINUM RAILING (PATTERN T.B.D.)
- (02) ALUMINUM WINDOW (TYP.)
- (03) ALUMINUM ENTRY DOOR (TYP.)
- (04) BRICK VENEER
- (05) STANDING SEAM METAL ROOF
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**smp.**

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REVISIONS:

95% Submittal  
October 3, 2019

DRAWN BY: RAP

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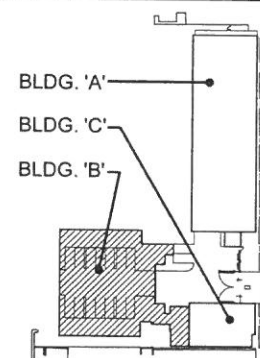
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EXTERIOR  
ELEVATIONS  
BUILDING "B"

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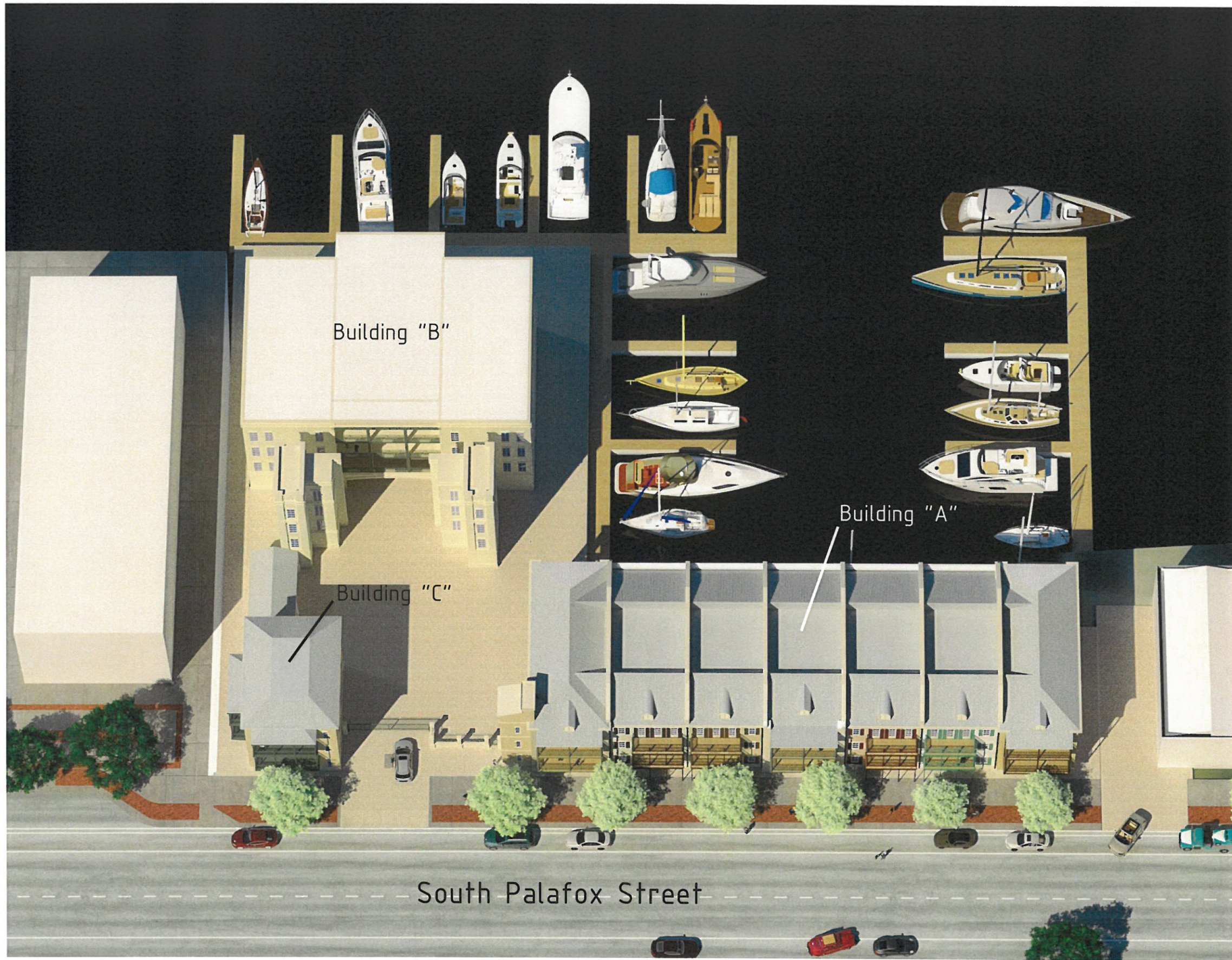
**AB-202**

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KEYPLAN  
NO SCALE









South Palafox Elevation





Building "A" looking south on Palafox





View at Palafox Entry Gate





LOOKING WEST



LOOKING NORTH-NORTHWEST

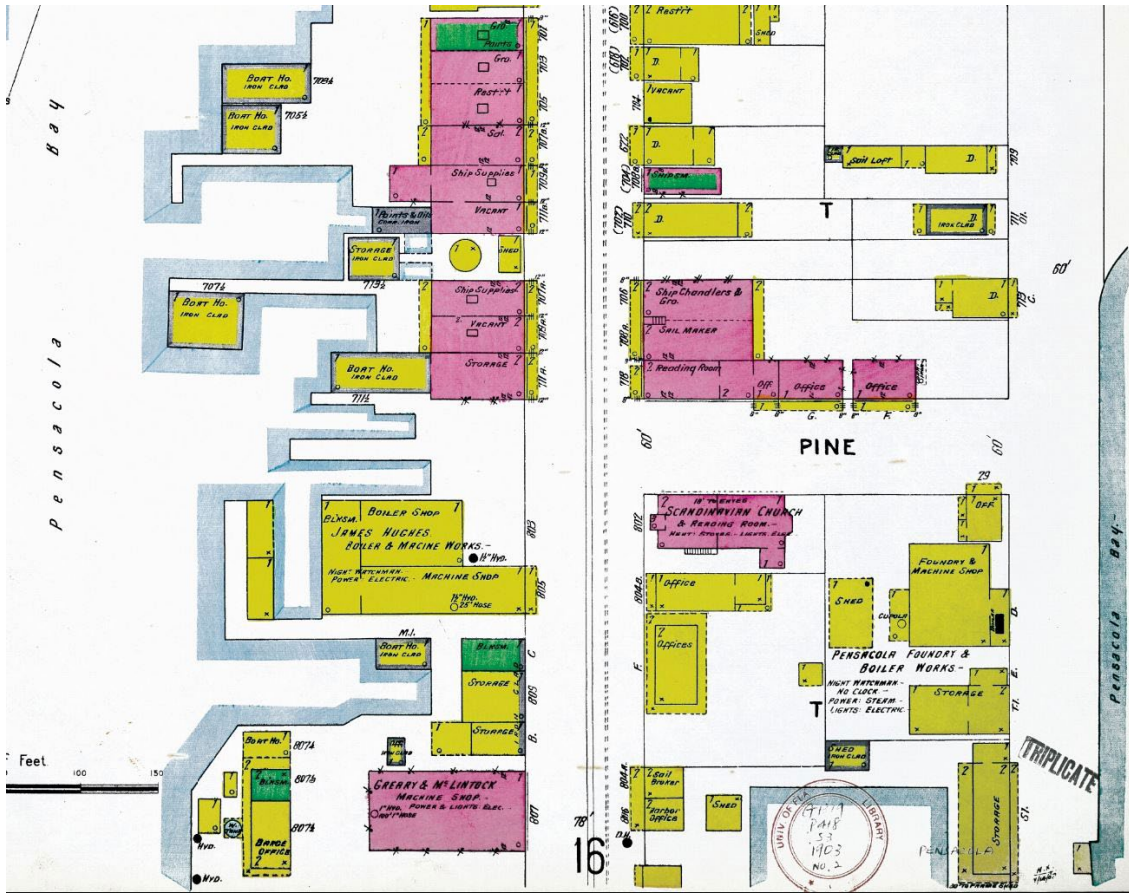
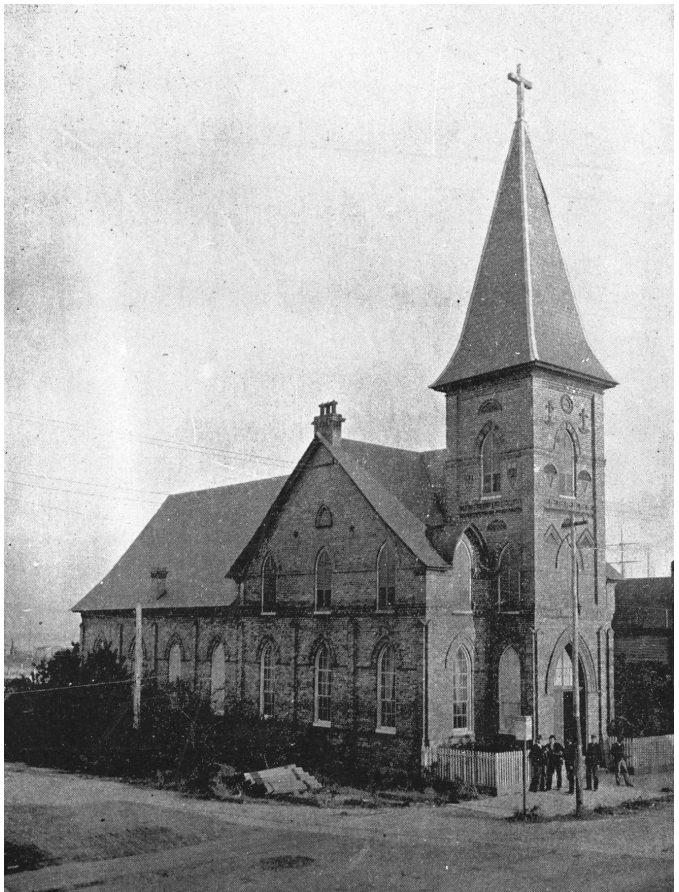


LOOKING SOUTH



LOOKING WEST - NORTHWEST









**MINUTES OF THE PLANNING BOARD**  
**November 18, 2019**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Kurt Larson, Danny Grundhoefer, Laurie Murphy

**MEMBERS ABSENT:** Board Member Charletha Powell, Board Member Eladies Sampson, Board Member Ryan Wiggins

**STAFF PRESENT:** Assistant Planning Services Administrator Cannon, Planning Services Administrator Morris, Assistant City Attorney Lindsay, Deputy City Attorney Wells, Senior Planner Leslie Statler, Transportation-Planner-Complete Streets Ziarnek, Neighborhood Administrator Harding, Councilperson Myers, Digital Media Coordinator Siedah

**OTHERS PRESENT:** Jack Dillon, Robert Fabbro, Scott Miller, Neil Richards, Diane Mack, Greg Dziadon

**AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from October 8, 2019.
- Approval of Tree Ordinance Workshop Minutes from October 24, 2019
- **New Business:**
  1. **Consider Amendment to LDC Section 12-6-4 (D) Tree Ordinance**  
\*\* This item pertains to the addition of a phone number on the notification signage \*\*
  2. **Request for Aesthetic Review – 997 South Palafox Street “Jaco’s”**
  3. **Consider Preliminary/Final Site Plan Approval – 700-800 BLK South Palafox Street “Admiral’s Row”**
  4. **Request for License to Use Right-of-Way – 700-800 BLK South Palafox Street “Admiral’s Row”**
  5. **Discussion on the Proposed Amendment to the Tree Ordinance**
- Open Forum
- Adjournment

**Call to Order / Quorum Present**

Chairperson Ritz called the meeting to order at 2:01 pm with a quorum present and explained the procedures of the Board meeting.

### **Approval of Meeting Minutes**

**Board Member Murphy made a motion to approve the October 8, 2019 minutes, seconded by Board Member Larson, and it carried unanimously. Board Member Murphy made a motion to approve the October 24, 2019 workshop minutes, seconded by Board Member Larson, and it carried unanimously.**

### **New Business**

#### **Consider Amendment to LDC Section 12-6-4 (D) Tree Ordinance**

**\*\* This item pertains to the addition of a phone number on the notification signage \*\***

The proposed change would require future notices to state: "For Further Information Contact the City of Pensacola at 850-\*\*\*.\*\*\*\*." **Board Member Grundhoefer made a motion to approve, seconded by Board Member Larson, and it carried unanimously.**

#### **Request for Aesthetic Review – 997 South Palafox Street "Jaco's"**

Guy Brothers Roofing Company is requesting approval to replace the existing roof at "Jaco's" which is located in the WRD, Waterfront Redevelopment District. The Land Development Code requires an aesthetic review in accordance with the design guidelines set forth in Section 12-2-82 (D), specifically architectural style such as exterior colors and materials.

Jason Guy, Guy Brothers Roofing, and Scott Miller addressed the Board and stated the new roof would be a Patina Green slate. Chairperson Ritz confirmed there were no other modifications from the original roof. Mr. Miller advised the color was the closest to the existing slate. He explained as the building aged, there was a safety hazard with slate tiles sliding out of place and falling to the ground. The buildings in the area were standing seam. For safety precautions, the work would take place at night starting at the beginning of the year.

**Board Member Larson made a motion to approve, seconded by Board Member Murphy, and it carried unanimously.**

#### **Consider Preliminary Site Plan Approval – 700-800 BLK South Palafox Street "Admiral's Row"**

Admirals Row, LLC, is requesting a combined *preliminary/final* approval for site improvements for a new multi-family development, "Admiral's Row", located in the SPBD, South Palafox Business District. New developments in the SPBD are subject to Sections 12-2-81 (C), approval procedure, and 12-2-82 (D), design standards and guidelines, aesthetic review provisions, as well as the additional provisions in Section 12-2-13 (E). Assistant Planning Services Administrator Cannon advised the Code was clear on allowing both preliminary and final approval at the same time, and if the applicant had gone to that level of detail, they were allowed to do both.

Mr. Spencer presented to the Board and advised the development team kept the building in context with the surrounding structures. They presented revised renderings to Planning staff to accommodate the AT&T request to remove the columns at the balcony level on South Palafox. He appreciated the flexibility to present the preliminary and final project since they had to make some design decisions and move forward beyond design development and construction documents.

Chairperson Ritz explained the Board was reviewing three buildings broken up so that it was not one huge complex. He felt life moving further down Palafox was a good thing, and he pointed out the new renderings presented the new look. Mr. Spencer explained the buildings were brick with an intentional variety of color hue, texture and size to prevent the project from looking like a new project. Board Member Murphy asked if a tree landscape plan had been determined, and Mr. Spencer advised the street trees in the renderings are existing trees (Live Oak), and there wasn't



much more for them to do. With being in the Northwest Florida Water Management District, they were not allowed to build a parking garage; the auto courtyard is an underground stormwater vault where no trees can be planted. He also pointed out that multiple driveways impacted the walkability; they will construct one curb cut with no garage doors visible in driveways, which would require removal of the oak trees. Chairperson Ritz clarified that this presentation did not include the marina aspect even though it was depicted in the drawings.

Board Member Grundhoefer liked the scale and consistency of design and asked about the AT&T lines. Mr. Spencer stated they did not believe the columns were a problem, but they did not have the authority with the AT&T service provider regarding the proximity of the balcony columns should they need to service their underground lines. He also indicated they met the parking requirements of two spaces per unit with one additional for guests located in the auto court. Chairperson Ritz appreciated the parking garages to the west which worked with the walkability and engaging the community. **Board Member Grundhoefer made a motion to approve, seconded by Board Member Larson, and it carried unanimously.**

#### **Request for License to Use Right-of-Way – 700-800 BLK South Palafox Street “Admiral’s Row”**

Admirals Row, LLC, is requesting approval for a License to Use (LTU) for improvements within the right-of-way of the 700-800 Block of South Palafox Street in connection with the “Admiral’s Row” multi-family residential development. The purpose of this request is to provide balconies for residential units along the northern portion of the development. Chairperson Ritz explained the LTU was to use the space above the sidewalks. Mr. Spencer clarified this was the eastern side. **Board Member Larson made a motion to approve, seconded by Board Member Grundhoefer, and it carried unanimously.**

#### **Discussion on the Proposed Amendment to the Tree Ordinance**

Chairperson Ritz clarified that this was discussion only and the Board would not be voting. Since she helped write the ordinance, Board Member Murphy removed herself from the discussion at this time. Assistant Planning Services Administrator Cannon advised that on July 18, 2019 the City Council referred a proposed amendment to Section 12-6 of the City’s Land Development Code, Tree and Landscape regulations, to the Planning Board and Environmental Advisory Board for review and recommendation. The Board held a meeting on September 10, 2019 to determine the best process and procedures for going forward with the review process; the Board reviewed an agenda item on October 8, 2019 to consider future workshop dates for community engagement; and the Board conducted a workshop on October 24, 2019 for fact finding and to consider future direction based on citizen feedback. Completed speaker forms and comment cards were furnished to the Board.

Chairperson Ritz offered his opinion based on some of the scientific discussion presented at the workshop implying that the proposed amendments were flawed; he referred to the Crepe Myrtles on the replant list as being an invasive species. He suggested the Board return to the original ordinance and felt very hesitant to decide what was a flaw and what was not without the scientific community weighing in. He advised it might be more appropriate to work on the existing tree ordinance rather than the one that was presented by Ms. Murphy.

Assistant Planning Services Administrator Cannon read the email from Chief Financial Officer Dick Barker answering some of the questions regarding the Tree Fund.

1. Amount Currently in the Tree Fund - The unaudited amount in the Tree Fund at the end of FY 2019 is \$495,450.87
2. Who Controls It - City Council controls the appropriation of funds and from a departmental level, in the past most of it has been handled by Parks and Recreation.
3. How is it Spent - The funds are spent according to appropriations by City Council.
4. Is there a requirement for the funds to be applied to the area where the trees are being mitigated or can it be used at-large per the discretion of staff – No there is not a requirement for the funds to be applied to the area where the trees are being mitigated. The funds are expended based on where they are appropriated by City Council. However, once Council has appropriated, there is a stipulation in the City Code that the mayor may make expenditures for projects up to \$25,000 to replant trees, or to plant new trees and other appropriate landscape vegetation, purchase irrigation supplies and purchase equipment dedicated to the planting and maintaining of city trees. Once appropriated by City Council, there is also a stipulation in the Code that states the first priority for expenditure of funds deposited in the tree planting trust fund is for restoration of the tree canopy in the area where trees generating the funds were removed. Any expenditure in excess of \$25,000 must be approved by the City Council following review by the Environmental Advisory Board (EAB).

Board Member Grundhoefer asked if the Parks and Recreation Department had any authority or judgment in the location of replanting the trees. Assistant Planning Services Administrator Cannon advised that would be where their expertise factors in. Chairperson Ritz explained this would also be on City property.

Neil Richards, Chairman of the EAB, stated they were here to work with the Board. Currently, there is a separate ordinance that EAB recommends for the use of the Tree Fund which is referenced on pg. 19 of the draft, and talks about the grants and the types of trees recommended for the use of those funds. He emphasized the right tree, in the right place, at the right time and in the right soil. Chairperson Ritz agreed with this thought and used the example of someone requesting that Crepe Myrtles be planted with these funds. Mr. Richards advised the EAB had not made a recommendation to the Council, but they had talked about three categories of trees being, native, non-native non-invasive, and non-native invasive. He pointed out the middle category involved Crepe Myrtles. He stated they anticipated a neighborhood association or garden club requesting certain trees in property they own (public property), and the EAB would have to make a credible determination that would stand scrutiny. He pointed to the draft from the Mayor's office at the last Council meeting releasing \$10K for each district. He advised the EAB looked at this fund monthly for what has come in and what has gone out. He clarified that the EAB receives projects from Council, Mayor and staff, and they respond accordingly. The members are appointed by Council and include a balance of expertise, and they do have access to an arborist. He also suggested increasing the use of underground utilities wherever and whenever possible. He indicated if the recommendation came out for one ordinance which incorporated the grant funds into the tree fund, the EAB would rather stay with the existing ordinance and come up with recommendations as each individual district comes to the EAB for recommendations to the Council for release of those funds.

Councilperson Myers stated under the old form of government, the EAB primarily dealt with the Superfund Site. After the EAB went away, she was the only Council member who fought for the reestablishment of the EAB. Several years ago when she proposed a tree advisory committee based on the one in Gainesville, Florida, Council moved that task to the EAB. She stated the Board might want to refer back to the EAB for some of its concerns. She also pointed out most of the

funds in the Tree Fund came from the Carpenter's Creek watershed, and the City had done nothing to prevent the destruction of Carpenter's Creek, and it is now a raging river when it rains. She pointed out \$600K came from FEMA for Ivan remediation which was used downtown. She also advised that FDOT had spent millions in District 6 and 7 for trees and landscaping. When the new Pensacola Bay Bridge is complete, we might get around \$6M for tree planting to be used on any state road. She pointed out we have an opportunity with FDOT to submit a plan for these funds. She also preferred codes that make it harder to cut down trees, and it was better to save them than to see them as a slush fund.

Board Member Murphy addressed the Board to clarify negative comments from the tree ordinance workshop. Emerald Coastkeepers had to begin with something for all stakeholders. The tree list provided was not her list; her tree list from the Gainesville ordinance was not included in the document. She stated they added only information which came from the IFAS extension in Gainesville, real scientists, and those sources were submitted to Planning staff. After speaking with Planning staff and Councilperson Myers, she felt the best way to proceed would be with charrettes through her organization where the attendees could get involved and ask questions of technical advisors. She advised she would be going to every district to engage the public and get the community and government to work together. Chairperson Ritz pointed out the assimilation of all the information would be through paper because of the Sunshine Law. He also stated the largest crowd tended to show up when there was a vote. Board Member Murphy suggested putting together the information monthly. Chairperson Ritz stated it sounded like this process would take some amount of time, and it would become awkward for this Board to keep a discussion item open for 6 months, and the public would become disinterested in this format and not show up until something was actually done. The Board would need to come up with a way to address the information during that time. Board Member Grundhoefer thought it was great that Board Member Murphy would take this on but suggested it would be easier if the information was assimilated into what was important and how it affected the ordinance than conducting several meetings. Chairperson Ritz clarified that in the meantime, the City was operating under a tree ordinance covering when to cut, how to cut and replanting, so it was not in a vacuum. Assistant City Attorney Lindsay suggested if there were charrettes in each district once a month, then possibly the remarks from the public could be compiled and shared as an informational item so the Board would not have to absorb everything at once. It would also help Council from a public records standpoint in understanding what the public is wanting. Board Member Murphy wanted to make sure it was not pulled off the agenda and they had to bring it back since it was no longer a discussion item. Chairperson Ritz advised even after all the information was compiled, the Board might need another workshop prior to an agenda item where the Board voted. Board Member Larson suggested as the process goes along, at the end put together a summary of what changed, what stayed the same and the reasons why.

Board Member Grundhoefer asked about the City possibly taking out \$15-\$20K from the Tree Fund to get a consultant for a more scientific approach. Board Member Murphy stated her group did not have the expertise but assembled what was already working in ordinances from other communities like Pensacola; they just facilitated the presentation but did not write the information. She indicated it would be up to the Council on hiring someone to evaluate the data. Chairperson Ritz stated in the City format, this would go out as a contract with the requested requirements. He pointed out sometimes the studies are beneficial and become a third party reinforcement. Board Member Murphy explained it was her intention to have some of the experts who wrote the data to attend the charrettes so she would not be the one answering the questions.

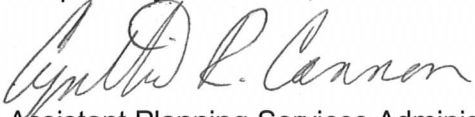


Councilperson Myers clarified that it was not that she did not support the charrettes in seven districts, but it would mean seven meetings, and she did not have that kind of time. She advised she was bringing an agenda item to Council involving clearcutting of the lots on Grande and on Airport and other places on Carpenters Creek. She advised by the time the charrettes were performed, it would be too late to address the situations going on right now. She felt there needed to be another moratorium (not on the Tree Fund) but she would bring that issue forward. She also advised when looking at the whole city, we needed to look at the different watersheds and what trees were indigenous then and was there even a possibility to restore the watersheds. Chairperson Ritz offered that legislatively, the citizens voted in the '90s not to protect pine trees. Neil Richards reaffirmed that the EAB would be confirming with the Mayor on how he intends to proceed with the release of the money from the Tree Fund. He stated the verbiage in the current ordinance talked about a request from neighborhood associations, civic organizations, garden clubs, etc., on public property not to be limited necessarily to city property which could be ECUA or school property. Those are their guidelines, and they proceed anticipating that those neighborhoods will be coming to the EAB with a grant proposal now that they have those funds released.

**Open Forum** – Board Member Murphy advised she would be out of town the month of December, but she might do two meetings a month to shorten up the timeframe for the charrettes. She stated the Board might want to approach the Council to see if they wanted to hire a consultant, or they could come up with a final product and then hire a consultant to evaluate it. She explained she wanted a broad scale of comments, so they might put all the HOAs together and come up with one product for them and do the same with other groups. Chairperson Ritz explained the Board could not comment on how they chose to do the charrettes, but stated that the Board realizes it would be a broad spectrum. However, it might be difficult in populating the charrettes when designating it specifically for HOA, etc. Board Member Grundhoefer suggested discussing a specific portion of the document for input and then move on to another portion so the input was more specific to the segments instead of the overall portion. Board Member Murphy agreed and thanked the Board for their input. Chairperson Ritz agreed with maintaining this item as a discussion item, and even if it was just an update on the charrettes, it could be a quick discussion. He also wanted to postpone any future Planning Board workshops at this time since Ms. Murphy was conducting the charrettes.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:46 pm.

Respectfully Submitted,



Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board

PLANNING SERVICES

**MEMORANDUM**

**TO:** Planning Board Members

**FROM:** Cynthia Cannon, AICP, Assistant Planning Services Administrator

**DATE:** November 4, 2019

**SUBJECT:** Consider *Preliminary/Final* Site Plan Approval – 700-800 BLK South Palafox Street  
“Admiral’s Row”

Admirals Row, LLC, is requesting a combined *preliminary/final* approval for site improvements for a new multi-family development, “Admiral’s Row”, located in the SPBD, South Palafox Business District. New developments in the SPBD are subject to Sections 12-2-81 (C), approval procedure, and 12-2-82 (D), design standards and guidelines, aesthetic review provisions, as well as the additional provisions in Section 12-2-13 (E).

General Project Description:

- Multi-family residential - 1.47 Acres
- Building “A” 7 Condominiums Residences
- Building “B” 9 Condominiums Residences
- Building “C” 2 condominiums Residences

This request has been routed through the various City departments and utility providers. Those comments are attached for your review.



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00007

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

REQUEST FOR LICENSE TO USE RIGHT OF WAY - SOUTH PALAFOX BUSINESS DISTRICT - ADMIRAL'S ROW, LLC, 700-800 BLOCK SOUTH PALAFOX STREET

**RECOMMENDATION:**

That City Council approve the request for a License to Use Right of Way for improvements in the 700 -800 Block of South Palafox Street

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Admiral's Row, LLC, is requesting approval for a License to Use for improvements within the Right of Way of the 700-800 Block of South Palafox Street in conjunction with the "Admiral's Row" multi-family residential development. The purpose of this request is to provide balconies for eight of the residential units fronting South Palafox Street. The balconies will project above the right-of-way by six (6) feet.

On November 18, 2019, the Planning Board unanimously recommended approval of the request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator

Kerrith Fiddler, Deputy City Administrator, Community Development

Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Admiral's Row LLC License to Use Application
- 2) Planning Board Minutes November 18, 2019
- 3) Planning Board Memo November 4, 2019

**PRESENTATION:** No





## APPLICATION FOR LICENSE TO USE CITY RIGHT OF WAY

### Please check application type:



Residential License to Use

*Application Fee: \$500.00*

*Rehearing/Rescheduling Fee: \$100.00*

*Annual Fee: NA*



Commercial License to Use

*Application Fee: \$500.00 ~~41000.00~~*

*Rehearing/Rescheduling Fee: \$100.00*

*Annual Fee: \$500.00*



License to Use for Sandwich Board Sign

*Application Fee: \$100*

*Rehearing/Rescheduling Fee: NA*

*Annual Fee: NA*

### Applicant Information:

Name: Admirals Row, LLC , Attention Mr. Tom Bizzell

Address: P.O. Box 12448, Pensacola, FL 32591

Phone: 850-434-5574

Fax: 850-438-9256

Email: TomBizzell@cpabizzness.com

### Property Information:

Owner Name: Admirals Row, LLC , Attention Mr. Tom Bizzell Phone: 850-434-5574

Location/Address: 800 Block of South Palafox

Parcel ID #: 00 - 05 - 00 - 9100 - 011 - 044

Purpose of use of city right of way/comments: The purpose of the City right of Way request is to provide balconies for a multi family residential development.

Please attach a map indicating the actual dimensions of the requested license.

I, the undersigned applicant, understand that submittal of this application does not entitle me to approval of this license to use. I have reviewed a copy of the applicable regulations and understand that I must be present on the date of the Planning Board and City Council meeting. If applicable, I understand a city right of way permit must be acquired from the Engineering Department prior to any work commencing within the right of way.

Signature of Applicant

SIMP ARCHITECTURE, P.A.

5 REPRESENTATIVE

Date

10/16/19

### FOR OFFICE USE ONLY

District: \_\_\_\_\_

Zoning: \_\_\_\_\_

Date Received: \_\_\_\_\_

Case Number: \_\_\_\_\_

Date Postcards mailed: \_\_\_\_\_

Annual fee required: \_\_\_\_\_

Amount of insurance coverage: \_\_\_\_\_

Planning Board Date: \_\_\_\_\_

Recommendation: \_\_\_\_\_

Date City Council meeting in newspaper: \_\_\_\_\_

Committee Date: \_\_\_\_\_

Council Date: \_\_\_\_\_

Council Action: \_\_\_\_\_



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

(A) *Planning board review and recommendation.* The Department of Planning and Neighborhood Development 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 city Department of Planning and Neighborhood Development. The planning board shall review the license to use right-of-way request and make a recommendation to the city council.

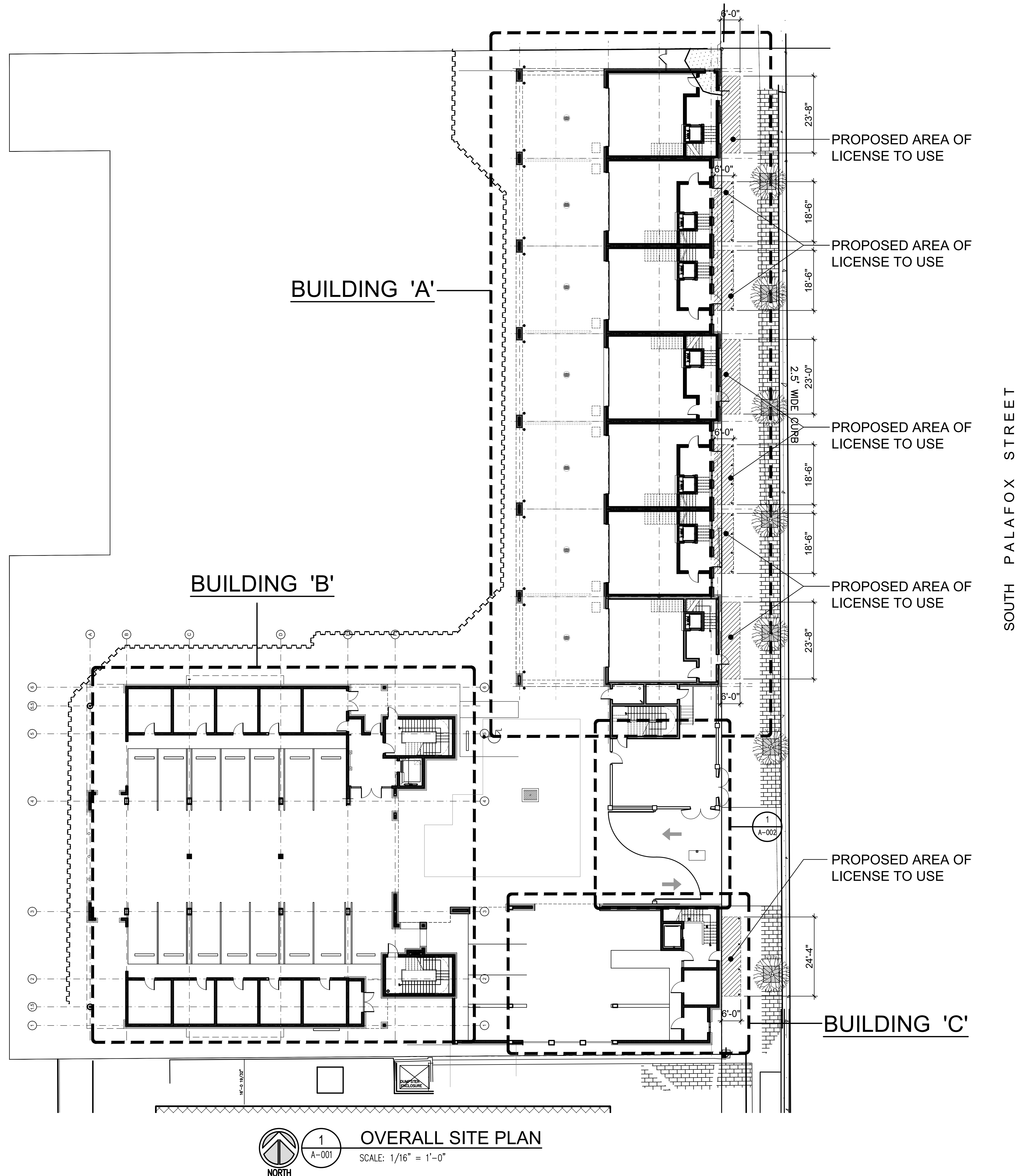
(1) Public notice for license to use right-of-way.

- (a) The Department of Planning and Neighborhood Development shall notify addressees within a three hundred (300) 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 (post card prepared by Department of Planning and Neighborhood Development), at least five (5) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting. Notice shall be at the expense of the applicant.
- (b) License to use right-of-way request must be submitted to the Department of Planning and Neighborhood Development at least nine (9) working days prior to the planning board meeting.

(B) *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 Department of Planning and Neighborhood Development shall notify addressees within a three hundred (300) 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 (post card prepared by Department of Planning and Neighborhood Development), at least five (5) days prior to the board meeting. The public notice shall state the date, time and place of the board meeting. Notice shall be at the expense of the applicant.
- (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.

(Ord. No. 15-00, § 9, 3-23-00)



1  
A-001

# OVERALL SITE PLAN

SCALE: 1/16" = 1'-0"

smp.

SMP Architecture, P.A.  
40 S. PALAFOX STREET • SUITE 202  
PENSACOLA, FLORIDA 32502 • P 850.432.7772  
www.smp-arch.com • AAC001628

Listen. Interpret. Translate.

CERTIFICATION :

ADMIRAL'S  
ROW

South Palafox Street  
Pensacola, Florida

ALL DRAWINGS AND WRITTEN MATERIAL  
HEREIN CONSTITUTE ORIGINAL AND UN-  
PUBLISHED WORK OF THE ARCHITECT  
AND MAY NOT BE DUPLICATED IN ANY  
PART WITHOUT THE WRITTEN CONSENT  
OF THE ARCHITECT.

REVISIONS :

License to Use  
Application  
October 16, 2019

DRAWN BY : RAP

CHECKED BY : ppp

PROJECT NO. 1814

DATE : JULY 29, 2019

SHEET TITLE :  
ARCHITECTURAL  
SITE PLAN

SHEET NO. :

A-001

©2018 SMP ARCHITECTURE



**MINUTES OF THE PLANNING BOARD**  
**November 18, 2019**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Kurt Larson, Danny Grundhoefer, Laurie Murphy

**MEMBERS ABSENT:** Board Member Charletha Powell, Board Member Eladies Sampson, Board Member Ryan Wiggins

**STAFF PRESENT:** Assistant Planning Services Administrator Cannon, Planning Services Administrator Morris, Assistant City Attorney Lindsay, Deputy City Attorney Wells, Senior Planner Leslie Statler, Transportation-Planner-Complete Streets Ziarnek, Neighborhood Administrator Harding, Councilperson Myers, Digital Media Coordinator Siedah

**OTHERS PRESENT:** Jack Dillon, Robert Fabbro, Scott Miller, Neil Richards, Diane Mack, Greg Dziadon

**AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from October 8, 2019.
- Approval of Tree Ordinance Workshop Minutes from October 24, 2019
- **New Business:**
  1. **Consider Amendment to LDC Section 12-6-4 (D) Tree Ordinance**  
\*\* This item pertains to the addition of a phone number on the notification signage \*\*
  2. **Request for Aesthetic Review – 997 South Palafox Street “Jaco’s”**
  3. **Consider Preliminary/Final Site Plan Approval – 700-800 BLK South Palafox Street “Admiral’s Row”**
  4. **Request for License to Use Right-of-Way – 700-800 BLK South Palafox Street “Admiral’s Row”**
  5. **Discussion on the Proposed Amendment to the Tree Ordinance**
- Open Forum
- Adjournment

**Call to Order / Quorum Present**

Chairperson Ritz called the meeting to order at 2:01 pm with a quorum present and explained the procedures of the Board meeting.

### **Approval of Meeting Minutes**

**Board Member Murphy made a motion to approve the October 8, 2019 minutes, seconded by Board Member Larson, and it carried unanimously. Board Member Murphy made a motion to approve the October 24, 2019 workshop minutes, seconded by Board Member Larson, and it carried unanimously.**

### **New Business**

#### **Consider Amendment to LDC Section 12-6-4 (D) Tree Ordinance**

**\*\* This item pertains to the addition of a phone number on the notification signage \*\***

The proposed change would require future notices to state: "For Further Information Contact the City of Pensacola at 850-\*\*\*.\*\*\*\*." **Board Member Grundhoefer made a motion to approve, seconded by Board Member Larson, and it carried unanimously.**

#### **Request for Aesthetic Review – 997 South Palafox Street "Jaco's"**

Guy Brothers Roofing Company is requesting approval to replace the existing roof at "Jaco's" which is located in the WRD, Waterfront Redevelopment District. The Land Development Code requires an aesthetic review in accordance with the design guidelines set forth in Section 12-2-82 (D), specifically architectural style such as exterior colors and materials.

Jason Guy, Guy Brothers Roofing, and Scott Miller addressed the Board and stated the new roof would be a Patina Green slate. Chairperson Ritz confirmed there were no other modifications from the original roof. Mr. Miller advised the color was the closest to the existing slate. He explained as the building aged, there was a safety hazard with slate tiles sliding out of place and falling to the ground. The buildings in the area were standing seam. For safety precautions, the work would take place at night starting at the beginning of the year.

**Board Member Larson made a motion to approve, seconded by Board Member Murphy, and it carried unanimously.**

#### **Consider Preliminary Site Plan Approval – 700-800 BLK South Palafox Street "Admiral's Row"**

Admirals Row, LLC, is requesting a combined *preliminary/final* approval for site improvements for a new multi-family development, "Admiral's Row", located in the SPBD, South Palafox Business District. New developments in the SPBD are subject to Sections 12-2-81 (C), approval procedure, and 12-2-82 (D), design standards and guidelines, aesthetic review provisions, as well as the additional provisions in Section 12-2-13 (E). Assistant Planning Services Administrator Cannon advised the Code was clear on allowing both preliminary and final approval at the same time, and if the applicant had gone to that level of detail, they were allowed to do both.

Mr. Spencer presented to the Board and advised the development team kept the building in context with the surrounding structures. They presented revised renderings to Planning staff to accommodate the AT&T request to remove the columns at the balcony level on South Palafox. He appreciated the flexibility to present the preliminary and final project since they had to make some design decisions and move forward beyond design development and construction documents.

Chairperson Ritz explained the Board was reviewing three buildings broken up so that it was not one huge complex. He felt life moving further down Palafox was a good thing, and he pointed out the new renderings presented the new look. Mr. Spencer explained the buildings were brick with an intentional variety of color hue, texture and size to prevent the project from looking like a new project. Board Member Murphy asked if a tree landscape plan had been determined, and Mr. Spencer advised the street trees in the renderings are existing trees (Live Oak), and there wasn't



much more for them to do. With being in the Northwest Florida Water Management District, they were not allowed to build a parking garage; the auto courtyard is an underground stormwater vault where no trees can be planted. He also pointed out that multiple driveways impacted the walkability; they will construct one curb cut with no garage doors visible in driveways, which would require removal of the oak trees. Chairperson Ritz clarified that this presentation did not include the marina aspect even though it was depicted in the drawings.

Board Member Grundhoefer liked the scale and consistency of design and asked about the AT&T lines. Mr. Spencer stated they did not believe the columns were a problem, but they did not have the authority with the AT&T service provider regarding the proximity of the balcony columns should they need to service their underground lines. He also indicated they met the parking requirements of two spaces per unit with one additional for guests located in the auto court. Chairperson Ritz appreciated the parking garages to the west which worked with the walkability and engaging the community. **Board Member Grundhoefer made a motion to approve, seconded by Board Member Larson, and it carried unanimously.**

#### **Request for License to Use Right-of-Way – 700-800 BLK South Palafox Street “Admiral’s Row”**

Admirals Row, LLC, is requesting approval for a License to Use (LTU) for improvements within the right-of-way of the 700-800 Block of South Palafox Street in connection with the “Admiral’s Row” multi-family residential development. The purpose of this request is to provide balconies for residential units along the northern portion of the development. Chairperson Ritz explained the LTU was to use the space above the sidewalks. Mr. Spencer clarified this was the eastern side. **Board Member Larson made a motion to approve, seconded by Board Member Grundhoefer, and it carried unanimously.**

#### **Discussion on the Proposed Amendment to the Tree Ordinance**

Chairperson Ritz clarified that this was discussion only and the Board would not be voting. Since she helped write the ordinance, Board Member Murphy removed herself from the discussion at this time. Assistant Planning Services Administrator Cannon advised that on July 18, 2019 the City Council referred a proposed amendment to Section 12-6 of the City’s Land Development Code, Tree and Landscape regulations, to the Planning Board and Environmental Advisory Board for review and recommendation. The Board held a meeting on September 10, 2019 to determine the best process and procedures for going forward with the review process; the Board reviewed an agenda item on October 8, 2019 to consider future workshop dates for community engagement; and the Board conducted a workshop on October 24, 2019 for fact finding and to consider future direction based on citizen feedback. Completed speaker forms and comment cards were furnished to the Board.

Chairperson Ritz offered his opinion based on some of the scientific discussion presented at the workshop implying that the proposed amendments were flawed; he referred to the Crepe Myrtles on the replant list as being an invasive species. He suggested the Board return to the original ordinance and felt very hesitant to decide what was a flaw and what was not without the scientific community weighing in. He advised it might be more appropriate to work on the existing tree ordinance rather than the one that was presented by Ms. Murphy.

Assistant Planning Services Administrator Cannon read the email from Chief Financial Officer Dick Barker answering some of the questions regarding the Tree Fund.

1. Amount Currently in the Tree Fund - The unaudited amount in the Tree Fund at the end of FY 2019 is \$495,450.87
2. Who Controls It - City Council controls the appropriation of funds and from a departmental level, in the past most of it has been handled by Parks and Recreation.
3. How is it Spent - The funds are spent according to appropriations by City Council.
4. Is there a requirement for the funds to be applied to the area where the trees are being mitigated or can it be used at-large per the discretion of staff – No there is not a requirement for the funds to be applied to the area where the trees are being mitigated. The funds are expended based on where they are appropriated by City Council. However, once Council has appropriated, there is a stipulation in the City Code that the mayor may make expenditures for projects up to \$25,000 to replant trees, or to plant new trees and other appropriate landscape vegetation, purchase irrigation supplies and purchase equipment dedicated to the planting and maintaining of city trees. Once appropriated by City Council, there is also a stipulation in the Code that states the first priority for expenditure of funds deposited in the tree planting trust fund is for restoration of the tree canopy in the area where trees generating the funds were removed. Any expenditure in excess of \$25,000 must be approved by the City Council following review by the Environmental Advisory Board (EAB).

Board Member Grundhoefer asked if the Parks and Recreation Department had any authority or judgment in the location of replanting the trees. Assistant Planning Services Administrator Cannon advised that would be where their expertise factors in. Chairperson Ritz explained this would also be on City property.

Neil Richards, Chairman of the EAB, stated they were here to work with the Board. Currently, there is a separate ordinance that EAB recommends for the use of the Tree Fund which is referenced on pg. 19 of the draft, and talks about the grants and the types of trees recommended for the use of those funds. He emphasized the right tree, in the right place, at the right time and in the right soil. Chairperson Ritz agreed with this thought and used the example of someone requesting that Crepe Myrtles be planted with these funds. Mr. Richards advised the EAB had not made a recommendation to the Council, but they had talked about three categories of trees being, native, non-native non-invasive, and non-native invasive. He pointed out the middle category involved Crepe Myrtles. He stated they anticipated a neighborhood association or garden club requesting certain trees in property they own (public property), and the EAB would have to make a credible determination that would stand scrutiny. He pointed to the draft from the Mayor's office at the last Council meeting releasing \$10K for each district. He advised the EAB looked at this fund monthly for what has come in and what has gone out. He clarified that the EAB receives projects from Council, Mayor and staff, and they respond accordingly. The members are appointed by Council and include a balance of expertise, and they do have access to an arborist. He also suggested increasing the use of underground utilities wherever and whenever possible. He indicated if the recommendation came out for one ordinance which incorporated the grant funds into the tree fund, the EAB would rather stay with the existing ordinance and come up with recommendations as each individual district comes to the EAB for recommendations to the Council for release of those funds.

Councilperson Myers stated under the old form of government, the EAB primarily dealt with the Superfund Site. After the EAB went away, she was the only Council member who fought for the reestablishment of the EAB. Several years ago when she proposed a tree advisory committee based on the one in Gainesville, Florida, Council moved that task to the EAB. She stated the Board might want to refer back to the EAB for some of its concerns. She also pointed out most of the

funds in the Tree Fund came from the Carpenter's Creek watershed, and the City had done nothing to prevent the destruction of Carpenter's Creek, and it is now a raging river when it rains. She pointed out \$600K came from FEMA for Ivan remediation which was used downtown. She also advised that FDOT had spent millions in District 6 and 7 for trees and landscaping. When the new Pensacola Bay Bridge is complete, we might get around \$6M for tree planting to be used on any state road. She pointed out we have an opportunity with FDOT to submit a plan for these funds. She also preferred codes that make it harder to cut down trees, and it was better to save them than to see them as a slush fund.

Board Member Murphy addressed the Board to clarify negative comments from the tree ordinance workshop. Emerald Coastkeepers had to begin with something for all stakeholders. The tree list provided was not her list; her tree list from the Gainesville ordinance was not included in the document. She stated they added only information which came from the IFAS extension in Gainesville, real scientists, and those sources were submitted to Planning staff. After speaking with Planning staff and Councilperson Myers, she felt the best way to proceed would be with charrettes through her organization where the attendees could get involved and ask questions of technical advisors. She advised she would be going to every district to engage the public and get the community and government to work together. Chairperson Ritz pointed out the assimilation of all the information would be through paper because of the Sunshine Law. He also stated the largest crowd tended to show up when there was a vote. Board Member Murphy suggested putting together the information monthly. Chairperson Ritz stated it sounded like this process would take some amount of time, and it would become awkward for this Board to keep a discussion item open for 6 months, and the public would become disinterested in this format and not show up until something was actually done. The Board would need to come up with a way to address the information during that time. Board Member Grundhoefer thought it was great that Board Member Murphy would take this on but suggested it would be easier if the information was assimilated into what was important and how it affected the ordinance than conducting several meetings. Chairperson Ritz clarified that in the meantime, the City was operating under a tree ordinance covering when to cut, how to cut and replanting, so it was not in a vacuum. Assistant City Attorney Lindsay suggested if there were charrettes in each district once a month, then possibly the remarks from the public could be compiled and shared as an informational item so the Board would not have to absorb everything at once. It would also help Council from a public records standpoint in understanding what the public is wanting. Board Member Murphy wanted to make sure it was not pulled off the agenda and they had to bring it back since it was no longer a discussion item. Chairperson Ritz advised even after all the information was compiled, the Board might need another workshop prior to an agenda item where the Board voted. Board Member Larson suggested as the process goes along, at the end put together a summary of what changed, what stayed the same and the reasons why.

Board Member Grundhoefer asked about the City possibly taking out \$15-\$20K from the Tree Fund to get a consultant for a more scientific approach. Board Member Murphy stated her group did not have the expertise but assembled what was already working in ordinances from other communities like Pensacola; they just facilitated the presentation but did not write the information. She indicated it would be up to the Council on hiring someone to evaluate the data. Chairperson Ritz stated in the City format, this would go out as a contract with the requested requirements. He pointed out sometimes the studies are beneficial and become a third party reinforcement. Board Member Murphy explained it was her intention to have some of the experts who wrote the data to attend the charrettes so she would not be the one answering the questions.

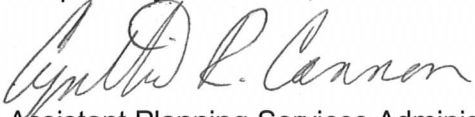


Councilperson Myers clarified that it was not that she did not support the charrettes in seven districts, but it would mean seven meetings, and she did not have that kind of time. She advised she was bringing an agenda item to Council involving clearcutting of the lots on Grande and on Airport and other places on Carpenters Creek. She advised by the time the charrettes were performed, it would be too late to address the situations going on right now. She felt there needed to be another moratorium (not on the Tree Fund) but she would bring that issue forward. She also advised when looking at the whole city, we needed to look at the different watersheds and what trees were indigenous then and was there even a possibility to restore the watersheds. Chairperson Ritz offered that legislatively, the citizens voted in the '90s not to protect pine trees. Neil Richards reaffirmed that the EAB would be confirming with the Mayor on how he intends to proceed with the release of the money from the Tree Fund. He stated the verbiage in the current ordinance talked about a request from neighborhood associations, civic organizations, garden clubs, etc., on public property not to be limited necessarily to city property which could be ECUA or school property. Those are their guidelines, and they proceed anticipating that those neighborhoods will be coming to the EAB with a grant proposal now that they have those funds released.

**Open Forum** – Board Member Murphy advised she would be out of town the month of December, but she might do two meetings a month to shorten up the timeframe for the charrettes. She stated the Board might want to approach the Council to see if they wanted to hire a consultant, or they could come up with a final product and then hire a consultant to evaluate it. She explained she wanted a broad scale of comments, so they might put all the HOAs together and come up with one product for them and do the same with other groups. Chairperson Ritz explained the Board could not comment on how they chose to do the charrettes, but stated that the Board realizes it would be a broad spectrum. However, it might be difficult in populating the charrettes when designating it specifically for HOA, etc. Board Member Grundhoefer suggested discussing a specific portion of the document for input and then move on to another portion so the input was more specific to the segments instead of the overall portion. Board Member Murphy agreed and thanked the Board for their input. Chairperson Ritz agreed with maintaining this item as a discussion item, and even if it was just an update on the charrettes, it could be a quick discussion. He also wanted to postpone any future Planning Board workshops at this time since Ms. Murphy was conducting the charrettes.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:46 pm.

Respectfully Submitted,



Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board



PLANNING SERVICES

**MEMORANDUM**

**TO:** Planning Board Members

**FROM:** Cynthia Cannon, AICP, Assistant Planning Services Administrator

**DATE:** November 4, 2019

**SUBJECT:** Request for License to Use Right-of-Way – 700-800 BLK South Palafox Street  
"Admiral's Row"

Admirals Row, LLC, is requesting approval for a License to Use for improvements within the right-of-way of the 700-800 Block of South Palafox Street in connection with the "Admiral's Row" multi-family residential development. The purpose of this request is to provide balconies for a residential units along the northern portion of the development.

This request has been routed through the various City departments and utility providers and those comments are attached for your review.



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 37-19

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PROPOSED ORDINANCE NO. 37-19 - REQUEST FOR VOLUNTARY ANNEXATION - BAPTIST HOSPITAL OWNED PROPERTIES

**RECOMMENDATION:**

That City Council adopt Proposed Ordinance No. 37-19 on second reading.

AN ORDINANCE INCORPORATING AND ANNEXING A CERTAIN AREA CONTIGUOUS AND ADJACENT TO THE CITY OF PENSACOLA INTO THE CITY OF PENSACOLA, AND DECLARING SAID AREA TO BE A PART OF THE CITY OF PENSACOLA; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. The requested parcels are located in the southwest quadrant of I-110 and Brent Lane which is in an unincorporated portion of Escambia County. The proposed area for annexation is on the west border of the City and is referred to as "Baptist Annexation Area".

The Baptist Annexation Area is contiguous to the City and encompasses approximately fifty-three (53) acres. When added to the City's current area of 16,057 acres, the new proposed City area would be 16,110 acres.

Approval of the annexation request will necessitate a subsequent amendment to the City's Zoning and Future Land Use Maps to include the subject properties. The recommended designation of C-3 is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits. Additionally, Baptist Health Care will request the vacation of the following rights-of-way within the annexed area subject to City Council approval: Rawson lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

F.S. 171.0413 provides that:

Annexation procedures.-Any municipality may annex contiguous, compact, unincorporated territory in the following manner:

(1) An ordinance proposing to annex an area of contiguous, compact, unincorporated territory shall be adopted by the governing body of the annexing municipality pursuant to the procedure for the adoption of a nonemergency ordinance established by s. 166.041. Prior to the adoption of the ordinance of annexation, the local governing body shall hold at least two advertised public hearings. The first public hearing shall be on a weekday at least 7 days after the day that the first advertisement is published. The second public hearing shall be held on a weekday at least 5 days after the day that the second advertisement is published. Each such ordinance shall propose only one reasonably compact area to be annexed. However, prior to the ordinance of annexation becoming effective, a referendum on annexation shall be held as set out below, and, if approved by the referendum, the ordinance shall become effective 10 days after the referendum or as otherwise provided in the ordinance, but not more than 1 year following the date of the referendum.

(6) Notwithstanding subsections (1) and (2), if the area proposed to be annexed does not have any registered electors on the date the ordinance is finally adopted, a vote of electors of the area proposed to be annexed is not required. In addition to the requirements of subsection (5), the area may not be annexed unless the owners of more than 50 percent of the parcels of land in the area proposed to be annexed consent to the annexation. If the governing body does not choose to hold a referendum of the annexing municipality pursuant to subsection (2), then the property owner consents required pursuant to subsection (5) shall be obtained by the parties proposing the annexation prior to the final adoption of the ordinance, and the annexation ordinance shall be effective upon becoming a law or as otherwise provided in the ordinance.

Therefore, in accordance with paragraph (6) of F.S. 171.0413, a referendum is not required as there are no registered electors on the parcels in the proposed annexation area.

Moreover, the entire area to be annexed is owned by the requesting party or one of its wholly owned subsidiary entities. Because of these circumstances, the annexation procedure set forth in F.S. 171.044 also applies and supports annexation: "(1) The owner or owners of real property in an unincorporated area of a county which is contiguous to a municipality and reasonably compact may petition the governing body of said municipality that said property be annexed to the municipality." The City Attorney's office, after the initial review on October 31, has continued to monitor to ensure the process set forth in the remaining paragraphs of F.S. 171.044 has been followed.

#### **PRIOR ACTION:**

December 12, 2019 the City Council voted to approve Proposed Ordinance No. 37-19 on first reading.

#### **FUNDING:**

N/A

**FINANCIAL IMPACT:**

The City would receive stormwater and franchise fees and where applicable, ad valorem and public service tax revenues from the subject parcels as well as from any future improvements.

**CITY ATTORNEY REVIEW:** Yes

10/31/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator - Community Development  
Sherry H. Morris, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 37-19
- 2) Map of Annexation Area - Baptist Hospital Properties and Adjacent Properties
- 3) Property Appraiser Map and Draft Survey of Annexation Area - Baptist Hospital Properties and Adjacent Properties

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 37-19

ORDINANCE NO. \_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE INCORPORATING AND ANNEXING A CERTAIN AREA CONTIGUOUS AND ADJACENT TO THE CITY OF PENSACOLA INTO THE CITY OF PENSACOLA, AND DECLARING SAID AREA TO BE A PART OF THE CITY OF PENSACOLA; REPEALING CLAUSE, AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola has found that the property described below is contiguous to the City of Pensacola and reasonably compact in nature; and meets the requirements of Section 171.043, Florida Statutes, and Section 171.044.

WHEREAS, the City Council of the City of Pensacola has determined that the area described below does not have any registered voters and that the owners of more than 50 percent of the parcels of land in such area consent to such area being annexed into the City of Pensacola as provided by Section 171.0413(6), Florida Statutes; and

WHEREAS, the City Council has caused to be prepared a report setting forth the plans to provide urban services to the area described below, which report is in conformance with the requirements of Section 171.042, Florida Statutes and said report has been distributed in accordance with said act; NOW THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the City of Pensacola hereby finds and declares that all requirements of law provided by Chapter 171, Florida Statutes, have been met, for the purpose of integrating and annexing said area into the City of Pensacola, the hereafter described area, and that the City of Pensacola does hereby accept into the City of Pensacola the following described properties which are being integrated and annexed by the City of Pensacola and made a part and portion of the City of Pensacola, lying within and hereby incorporated into the City of Pensacola, to-wit:

COMMENCE AT THE INTERSECTION OF THE CENTERLINE OF BRENT LANE (S.R. #296, R/W VARIES) AND THE EASTERLY RIGHT OF WAY (R/W) LINE OF LOUISVILLE AND NASHVILLE RAILROAD (100' R/W), SAID POINT ALSO KNOWN AS THE J.E. SPOON'S NORTHWEST CORNER; THENCE PROCEED SOUTH 22°53'30" EAST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 627.69 FEET; THENCE DEPARTING SAID EASTERLY R/W LINE, PROCEED NORTH 67°03'42" EAST FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE EASTERLY R/W LINE OF SYCAMORE STREET (50' PUBLIC R/W); THENCE PROCEED SOUTH 22°53'30" EAST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 261.02 FEET TO THE INTERSECTION OF SAID EASTERLY R/W LINE AND THE SOUTHERLY R/W LINE OF CORDAY STREET (66' PUBLIC R/W) FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY R/W LINE PROCEED NORTH 67°19'37" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 960.37 FEET TO THE EXTENSION OF THE WESTERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 7653 AT PAGE 674 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY; THENCE DEPARTING SAID SOUTHERLY R/W LINE, PROCEED NORTH 23°03'24" WEST ALONG SAID EXTENSION AND WESTERLY LINE FOR A DISTANCE OF 460.54 FEET TO THE NORTHERLY LINE OF SAID O.R. BOOK 7653 PAGE 674; THENCE DEPARTING SAID EXTENSION AND WESTERLY LINE, PROCEED NORTH 67°04'47" EAST ALONG SAID NORTHERLY LINE FOR A DISTANCE OF 33.56 FEET TO THE WESTERLY LINE OF SAID O.R. BOOK 7653, PAGE 674; THENCE DEPARTING SAID NORTHERLY LINE, PROCEED NORTH 23°04'55" WEST ALONG SAID WESTERLY LINE FOR A DISTANCE OF 395.34 FEET TO THE SOUTHERLY R/W LINE OF BRENT LANE (STATE ROAD No. 296 - PUBLIC R/W VARIES); THENCE DEPARTING SAID WESTERLY LINE, PROCEED NORTH 66°54'12" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 208.38 FEET; THENCE PROCEED SOUTH 23°02'21" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 21.03 FEET; THENCE PROCEED NORTH 68°40'34" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 711.08 FEET; THENCE PROCEED NORTH 66°39'56" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 22.10 FEET; THENCE PROCEED NORTH 66°55'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 79.63 FEET; THENCE PROCEED NORTH 71°47'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 110.56 FEET;



THENCE PROCEED NORTH 66°55'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 218.15 FEET TO THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE I-110 (STATE ROAD 8A - PUBLIC R/W VARIES); THENCE DEPARTING SAID SOUTHERLY R/W LINE PROCEED SOUTH 19°18'50" EAST ALONG SAID WESTERLY R/W LINE FOR A DISTANCE OF 1589.52 FEET TO THE NORTHERLY R/W LINE OF SELINA STREET (40' PUBLIC R/W); THENCE DEPARTING SAID WESTERLY R/W, PROCEED SOUTH 67°05'49" WEST ALONG SAID NORTHERLY R/W LINE FOR DISTANCE OF 944.63 FEET TO THE EASTERLY R/W LINE OF CHANEY STREET (66' PUBLIC R/W); THENCE DEPARTING SAID NORTHERLY R/W LINE, PROCEED NORTH 22°55'14" WEST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 354.55 FEET TO THE NORTHERLY R/W LINE OF AMBER STREET (66' PUBLIC R/W); THENCE DEPARTING SAID EASTERLY R/W PROCEED SOUTH 67°04'53" WEST ALONG SAID NORTHERLY R/W LINE FOR A DISTANCE OF 506.47 FEET TO THE WESTERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 8072 AT PAGE 158 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY, FLORIDA; THENCE DEPARTING SAID NORTHERLY R/W LINE PROCEED NORTH 22°54'01" WEST ALONG SAID WESTERLY LINE FOR A DISTANCE OF 104.93 FEET TO THE SOUTHERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 8029 AT PAGE 812 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY, FLORIDA; THENCE DEPARTING SAID WESTERLY LINE, PROCEED SOUTH 67°03'22" WEST ALONG SAID SOUTHERLY LINE FOR A DISTANCE OF 790.16 FEET TO THE AFORESAID EASTERLY R/W LINE OF SYCAMORE STREET; THENCE DEPARTING SAID SOUTHERLY LINE, PROCEED NORTH 22°53'30" WEST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 323.54 FEET TO THE POINT OF BEGINNING. LYING IN AND BEING A PORTION OF SECTION 48, TOWNSHIP 1 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA AND CONTAINING 53.52 ACRES MORE OR LESS.

A map depicting the area to be annexed is attached hereto as Exhibit A.

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

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

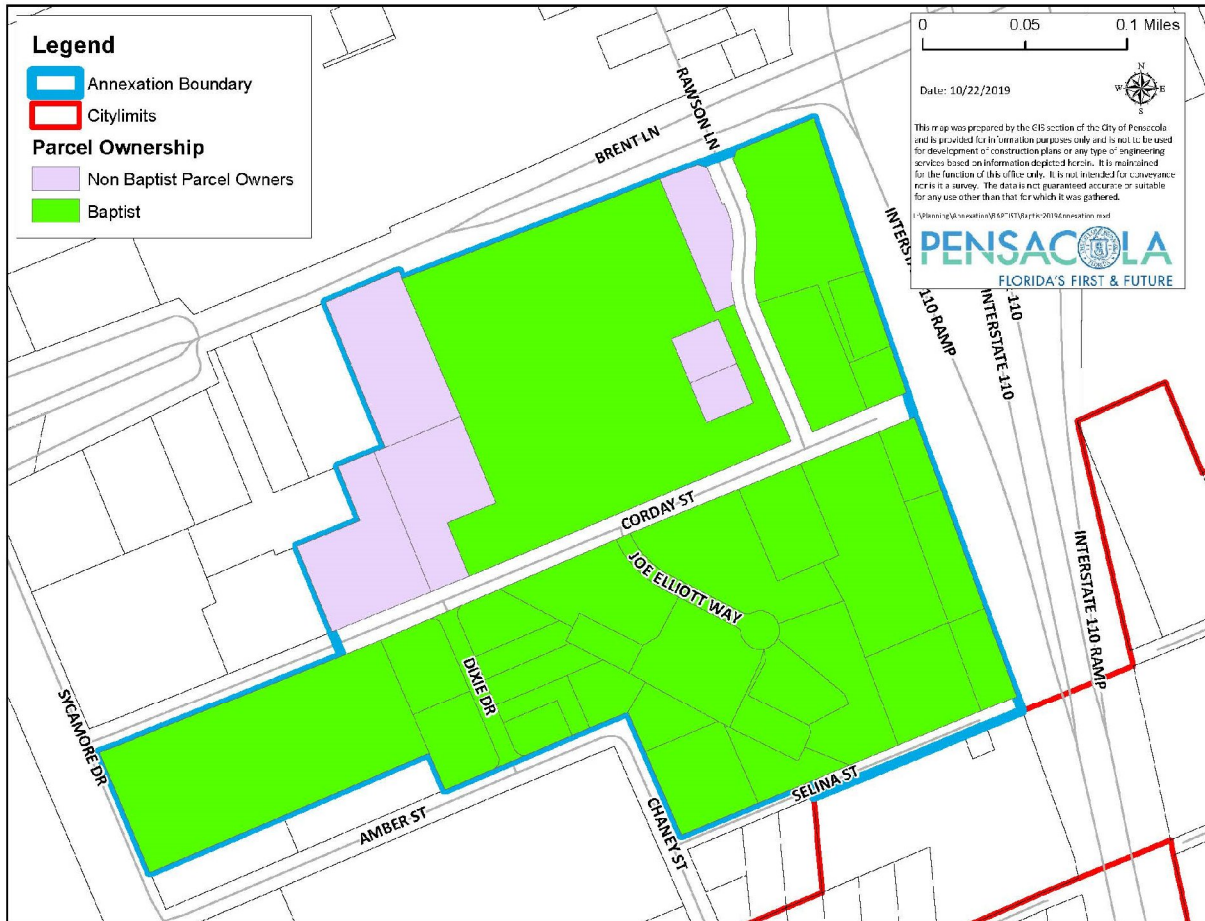
SECTION 4. This ordinance shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: \_\_\_\_\_

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




Attest:

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



## Legend

### Parcel Ownership

-  Baptist
-  Citylimits
-  Annexation Boundary

0 250 500 Feet

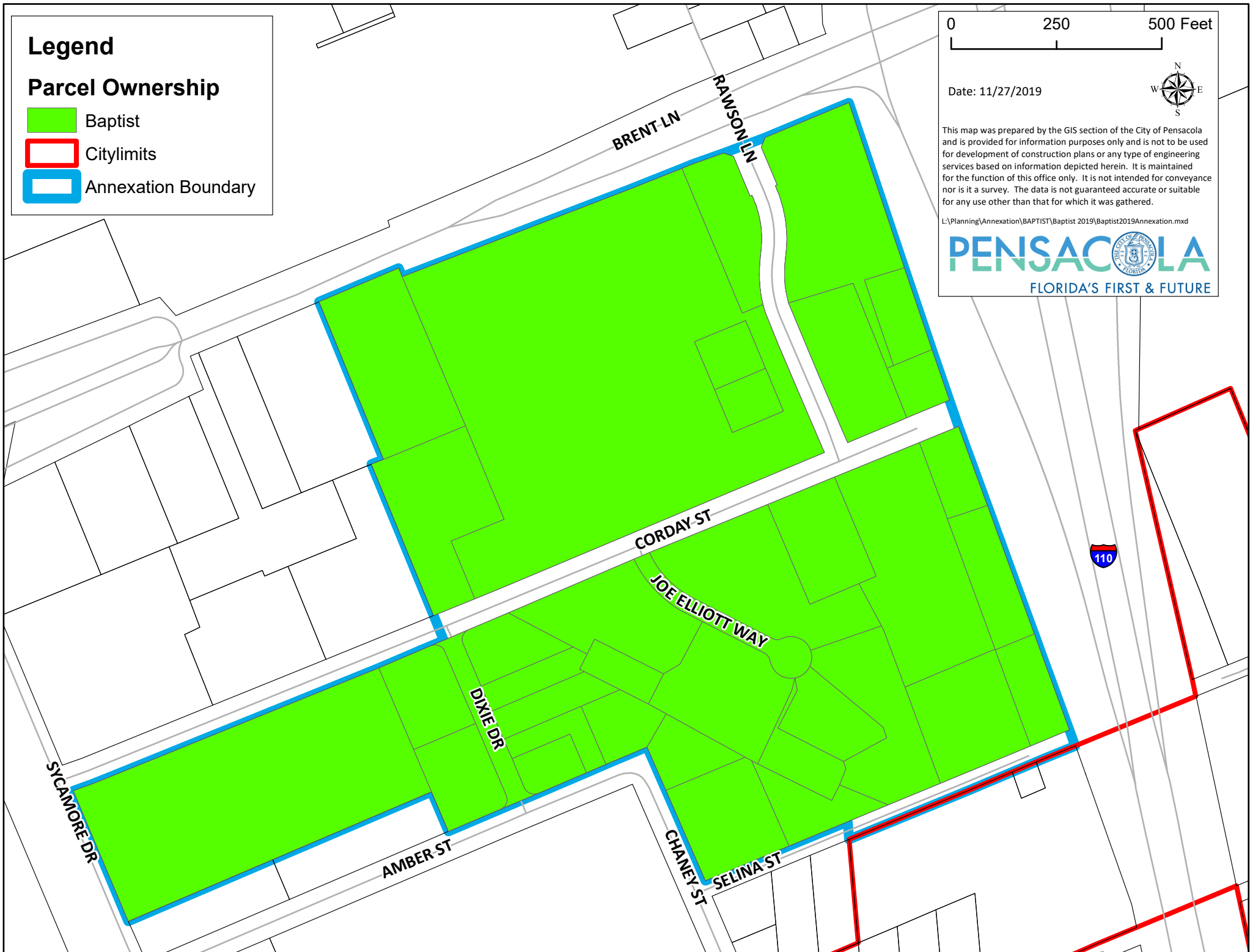
Date: 11/27/2019



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.

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**PENSACOLA**  
FLORIDA'S FIRST & FUTURE







- GENERAL NOTES:**
1. THIS SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING AND MAPPING ACT, CHAPTER 349, F.S., AND THE RULES OF THE FLORIDA BOARD OF SURVEYING AND MAPPING, CHAPTER 61, F.A.C.
  2. THE SURVEY WAS CONDUCTED ON THE DATE INDICATED ON THE TITLE SHEET.
  3. THE SURVEY WAS CONDUCTED BY THE SURVEYOR INDICATED ON THE TITLE SHEET.
  4. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING AND MAPPING ACT, CHAPTER 349, F.S., AND THE RULES OF THE FLORIDA BOARD OF SURVEYING AND MAPPING, CHAPTER 61, F.A.C.
  5. THE SURVEY WAS CONDUCTED IN ACCORDANCE WITH THE FLORIDA SURVEYING AND MAPPING ACT, CHAPTER 349, F.S., AND THE RULES OF THE FLORIDA BOARD OF SURVEYING AND MAPPING, CHAPTER 61, F.A.C.

- LEGEND:**
- (S) SURVEYED PROPERTY
  - (P) PUBLIC RIGHT-OF-WAY
  - (R) RIGHT-OF-WAY
  - (E) EASEMENT
  - (L) LOT
  - (B) BLOCK
  - (C) CORNER
  - (M) MONUMENT
  - (D) DITCH
  - (F) FENCE
  - (T) TRAIL
  - (W) WATER
  - (S) SHORELINE
  - (L) LOT
  - (B) BLOCK
  - (C) CORNER
  - (M) MONUMENT
  - (D) DITCH
  - (F) FENCE
  - (T) TRAIL
  - (W) WATER
  - (S) SHORELINE

**SURVEYOR'S CERTIFICATE:**

I, the undersigned, being a duly qualified and licensed Surveyor in the State of Florida, do hereby certify that the foregoing is a true and correct copy of the original survey as shown to me by the owner of the property, and that the same is a true and correct copy of the original survey as shown to me by the owner of the property.

DATE: 11/14/2019

BY: [Signature]

FLORIDA REGISTRATION NO. 5711

**DESCRIPTION AND SKETCH**

PREPARED FOR: BAPTIST HOSPITAL

REQUESTED BY: MR. JOHN PORTER

PROJECT NO. 2019.114

DRAWN BY: BTH

CHECKED BY: MAN

SCALE: 1" = 100'

PLOT NO.

DATE: N/A

NO. DATE APPR. REVISION/NOTATION TAKEN

**BAPTIST HOSPITAL**  
BRENT LANE,  
PENSACOLA, FL

A PORTION OF  
SECTION 45 TOWNSHIP 1 SOUTH, RANGE 30 WEST  
COUNTY ESCAMBIA, STATE FLORIDA

NOT VALID WITHOUT THE  
SIGNATURE AND THE  
ORIGINAL BASED SEAL  
OF A FLORIDA LICENSED  
SURVEYOR AND MAPPER

**RBA**  
**REBOL-BATTLE & ASSOCIATES**  
Civil Engineers and Surveyors

2701 N. North Avenue, Suite 300  
Pensacola, Florida 32502  
Telephone 905.438.0400 Fax 905.438.0448  
905.699.9957 1-877-614



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00019

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PUBLIC HEARING: ZONING MAP AND FUTURE LAND USE MAP AMENDMENT - BAPTIST ANNEXATION AREA

**RECOMMENDATION:**

That City Council conduct a Public Hearing on January 16, 2020 to amend the Zoning Map and Future Land Use Map for recently annexed properties owned by Baptist Hospital.

**HEARING REQUIRED:** Public

**SUMMARY:**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Per state statute, approval of the annexation request by City Council necessitates an amendment to the City's Zoning and Future Land Use maps to include the subject properties.

The recommended designation of Commercial Future Land Use, and a corresponding C-3 Zoning designation is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits. The subject parcels are located in the southwest quadrant of I-110 and Brent Lane.

On December 10, 2019 the Planning Board unanimously recommended approval of the request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**



None

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator - Community Development  
Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Planning Board Minutes December 10, 2019 DRAFT
- 2) Future Land Use Map December 2019
- 3) Zoning Map December 2019

**PRESENTATION:** No



## **MINUTES OF THE PLANNING BOARD**

**December 10, 2019**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Kurt Larson, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Wiggins

**MEMBERS ABSENT:** Board Member Murphy

**STAFF PRESENT:** Assistant Planning Services Administrator Cannon, Assistant City Attorney Lindsay, Planning Services Administrator Morris, Senior Planner Statler, Transportation Planner-Complete Streets Ziarnek, Neighborhoods Administrator Powell, Council Executive Kraher

**OTHERS PRESENT:** Will Dunaway, Carrie Stevenson, Eric Fears, Chris & Tracy Gonsoulin, Steve Corbae

### **AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from November 18, 2019.
- **New Business:**
  1. **Consider Rezoning for Community Maritime Park Parcels to WRD-1**
  2. **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**
  3. **Consider Baptist Request for Vacation of Right-of-Way**
  4. **Consider Amendment to the CRA Urban Overlay District Boundary**
  5. **Discussion on the Proposed Amendment to the Tree Ordinance**
- Open Forum
- Adjournment

### **Call to Order / Quorum Present**

Chairperson Ritz called the meeting to order at 2:03 pm with a quorum present and explained the procedures of the Board meeting.

### **Approval of Meeting Minutes**

**Board Member Larson made a motion to approve the November 18, 2019 minutes, seconded**

222 West Main Street Pensacola, Florida 32502

[www.cityofpensacola.com](http://www.cityofpensacola.com)

**by Board Member Powell, and it carried unanimously.**

### **New Business**

#### **Consider Rezoning for Community Maritime Park Parcels to WRD-1**

Staff received a request to amend the zoning map for the Community Maritime Park (CMP) parcels to WRD-1. This is consistent with the existing Future Land Use Map (FLUM) classification for the CMP which is "Redevelopment".

On October 8, 2019 the Planning Board approved a request to modify the Redevelopment Land Use District WRD by establishing a subcategory which would become the WRD-1. The proposed WRD-1 is a standalone section with the intent of optimizing the future development of the City's CMP parcels.

To reinforce, Chairperson Ritz stated the previous Board meeting was to establish the WRD-1 subcategory and was not specific to a piece of property, so today it is actually being applied to a particular parcel. WRD-1 was approved by the Board and Council, and today's agenda item is to apply it to a particular parcel. He also clarified there were multiple parcels.

Mr. Rothfeder with Studer Properties addressed the Board and stated he thought the first process with the Board was to rezone these parcels and did not realize it would be done in a two-step process – create the zoning district and then rezone the parcels. Chairperson Ritz clarified that any parcel within the WRD designation had that option. Mr. Rothfeder deferred to the City to determine the parcels to be rezoned. Assistant Planning Services Administrator Cannon explained that WRD-1 was being applied to the vacant parcels. But if it was the applicant's desire to apply that to the entire park, the Board would have that latitude to make that change. Chairperson Ritz advised it did not make any difference to him but from a development standpoint, it captured the end goal of this project. He also clarified these were the remaining undeveloped parcels.

Mr. Gonsoulin who owns a few lots north of Main Street asked if the rezoning would affect his properties. Chairperson Ritz advised it would not but could not attest to the property values going better or worse, but it would definitely not affect his zoning or setback lines. He was notified because of his location to these parcels (within 500' public notification).

**Board Member Grundhoefer made a motion to approve, seconded by Board Member Wiggins. The motion carried unanimously.**

#### **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Approval of the annexation request by City Council necessitated an amendment to the City's Zoning and Future Land Use maps to include the subject properties. The recommended designation of C-3 is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits.

Chairperson Ritz explained because this was not property belonging to the City prior to the annexation, it did not have a City zoning designation, and the County rules were in effect. It was not a part of the City, and this agenda item was to apply a zoning designation to the newly annexed City property. C-3 is very consistent with the surrounding properties. Board Member Larson had been concerned that it was not going C-1, but understood that C-3 allowed for greater height, and he was good with allowing that for Baptist's capabilities.

Mr. Rebol represented the hospital and confirmed that the C-3 designation was primarily to allow for the building height.

**Board Member Powell made a motion to approve, seconded by Board Member Larson. The motion carried unanimously.**

### **Consider Baptist Request for Vacation of Right-of-Way**

Subsequent to the approval of the Baptist Health Care Annexation and rezoning request is a request for vacation of the following rights-of-way within the annexed area: Rawson Lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

Assistant Planning Services Administrator Cannon explained that Baptist had reassured that they were working with ECUA and AT&T in maintaining the utility easements for those areas. Board Member Larson felt the plan gave more flexibility to Baptist for development of whatever they needed.

#### **Board Member Larson made a motion to approve, seconded by Board Member Wiggins.**

Chairperson Ritz agreed this would greatly benefit Baptist Hospital. He explained in the vacation of right-of-ways, the City could not just sell the property to Baptist since that property was owned collectively by the citizens of Pensacola, therefore, the citizens must grant the vacation to give the property to Baptist. Board Member Grundhoefer asked if there were any streets where Baptist did not own adjacent property. Assistant City Attorney Lindsay advised they own all the adjacent property. Assistant Planning Services Administrator Cannon pointed out the proper notification had been met. She also explained there would be full width easements for those utilities to be maintained as necessary, and Baptist had been working with ECUA and AT&T from the beginning. The language presented to Council would contain that easement language.

**The motion then carried unanimously.**

### **Consider Amendment to the CRA Urban Overlay District Boundary**

Please consider a request to redefine the boundary of the CRA Urban Overlay District. The current CRA boundary includes industrial uses located on the outer edge of the district that were not intended to be included in the overlay district.

Chairperson Ritz advised he had visited the area and noted the larger parcels were heavy industrial uses and would not fit with what the CRA was intended to accomplish. He did not think the rail yard would change in the near future and supported redefining the boundary. Assistant City Attorney Lindsay explained the request was coming from the design requirements of the CRA Urban Overlay and that City staff was requesting the Board to consider removing these parcels. Board Member Grundhoefer questioned the three parcels north of Chase close to the Global Learning Academy. Assistant City Attorney Lindsay explained those parcels were in close proximity to Gulf Power, and their boundary was with the Wildlife Refuge Center. In order to encourage development there, industrial use was the only thing anticipated to occur at that location and something that would not have to meet the urban requirements. She offered who would want to make that capital investment to meet the urban design overlay to encourage foot traffic there. Assistant Planning Services Administrator Cannon explained the uses would not change, but they were only removing the additional layer of design in this industrial area.

**Board Member Wiggins made a motion to approve, seconded by Board Member Sampson.**  
**The motion carried unanimously.**

### **Discussion on the Proposed Amendment to the Tree Ordinance**

Assistant Planning Services Administrator Cannon explained no new information had been received regarding the timeline for Board Member Murphy's charrettes. Board Member Wiggins asked if there was a reason for charrettes rather than a Board workshop; she felt more comfortable with the Board taking the lead due to public access. Chairperson Ritz explained Board Member Murphy wanted to reach out more strongly to the community for those who chose not to participate in the first workshop. He believed the consensus of the Board was to allow that to happen but to have additional information available to the public forum prior to any kind of vote. He explained the Board was keeping it as a

discussion item on the agenda, and if Board Member Murphy was unable to bring those constituencies together in her outside charrettes, the Board would fall back to the normal process. Board Member Wiggins' only concern was that the business community was involved as well. Board Member Grundhoefer had not been aware of the City's EAB who might have more scientific basis for discussion. Board Member Sampson emphasized that was the reason this Board had decided to involve them in this process. Chairperson Ritz explained this Board would have the final say, and the final draft could be something totally different than what was presented to the Board, and hopefully at that time, the Board would have more information on which to base the decision. Board Member Powell asked if editing was an option, and it was determined to be a choice. Board Member Grundhoefer pointed out the document which had been presented had revised the existing ordinance. Board Member Powell asked if the current document could be reviewed. In the workshop, information was obtained from the scientific and professional community. Chairperson Ritz stated the workshop ultimately brought up more questions with tree funds, tree choices, etc. Assistant Planning Services Administrator Cannon stated in modifying language in an existing code, you need clear knowledge of what you are trying to solve, and the stakeholder groups need to be on the same page. Board Member Grundhoefer offered the focus was on building up the Tree Fund and making it more difficult to tear down heritage trees by developers. He explained our current ordinance protects the trees but doesn't have enough incentive for developers to build around the trees and pay into the Tree Fund. Assistant City Attorney Lindsay commented that Board Member Murphy had intended that the charrettes address the questions that were raised, and that she was open to making sure the Board's questions were addressed. However, she also thought the Board was having another workshop after the charrettes. It was determined that the Board had postponed the workshop until the additional feedback was received, and the item was maintained as a discussion item for review. Chairperson Ritz explained if the ordinance needed to be addressed, it would be in due time. Board Member Larson hoped to formulate his questions based on the feedback from the charrettes. Chairperson Ritz explained with more information coming, there was time to reassess as the Board moved from additional workshops to an agenda vote.

**Open Forum** – Ms. Bennett addressed the Board and mentioned the Crepe Myrtles which do not provide a food supply or nesting for birds. Ms. Stephenson with the Escambia County Extension Office offered her input if the Board had specific questions. She also had information from the public survey done for the County as well as information from the University of Florida on hurricane-resistant tree species and the life span of trees. She also explained that in general, root systems are within the first 18" of the soil, going two to three times as wide as the canopy. She was encouraged to send her information to Planning staff to compare with the current Ordinance. Board Member Grundhoefer also encouraged her to attend the charrettes given by Board Member Murphy; Assistant Planning Services Administrator Cannon advised she would keep Ms. Stephenson informed of the progress.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:00 pm.

Respectfully Submitted,

Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board

## Legend

 AnnexationBoundary

 Citylimits

## Future Landuse

 COMMERCIAL

 INDUSTRIAL DISTRICT

## Proposed Future Land Use Baptist Annexation

0 0.05 0.1 Miles

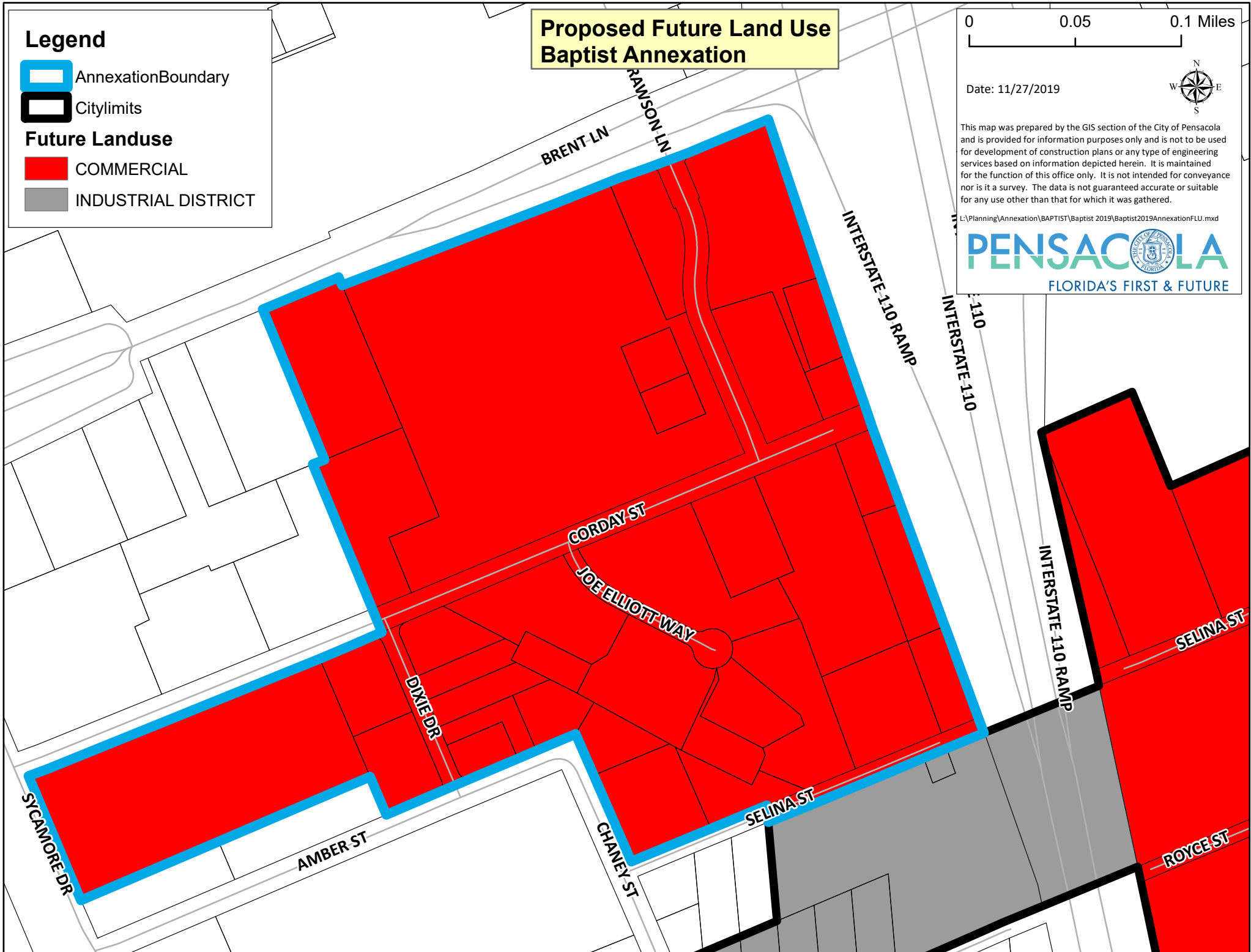
Date: 11/27/2019







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**PENSACOLA**  
FLORIDA'S FIRST & FUTURE



## Legend

-  Annexation Boundary
-  Citylimits
-  COMMERCIAL
-  INDUSTRIAL

## Proposed Zoning Baptist Annexation

0 270 540 Feet

Date: 11/27/2019



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**PENSACOLA**  
FLORIDA'S FIRST & FUTURE

**COMMERCIAL (C-3)**

**RETAIL COMMERCIAL (C-1)**

**INDUSTRIAL**

BRENT LN  
RAWSON LN

INTERSTATE-110 RAMP  
INTERSTATE-110

INTERSTATE-110 RAMP

CORDAY ST

JOE ELLIOTT WAY

DIXIE DR

SELINA ST

CHANEX ST

AMBER ST

SYCAMORE DR





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 03-20

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PROPOSED ORDINANCE NO. 03-20 - FUTURE LAND USE MAP AMENDMENT - RECENTLY ANNEXED PROPERTIES - BAPTIST ANNEXATION AREA

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 03-20 on first reading:

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

**HEARING REQUIRED:** Public

**SUMMARY:**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Approval of the annexation request by City Council necessitated an amendment to the City's Zoning and Future Land Use maps to include the subject properties.

The recommended designation of Commercial is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits. The subject parcels are located in the southwest quadrant of I-110 and Brent Lane.

The Baptist Annexation Area is contiguous to the City and encompasses approximately fifty-three (53) acres.

On December 10, 2019, the City of Pensacola Planning Board voted unanimously to recommend approval of the request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator - Community Development  
Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 03-20
- 2) Future Land Use Map December 2019
- 3) Planning Board Minutes December 10, 2019 DRAFT

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 03-20

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

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN  
AND FUTURE LAND USE MAP OF THE CITY OF  
PENSACOLA, FLORIDA; REPEALING CLAUSE;  
PROVIDING AN EFFECTIVE DATE.

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

WHEREAS, the City Council desires to affect an amendment to a portion of the Future Land Use element of the Comprehensive Plan; and

WHEREAS, said amendment is consistent with the other portions of the Future Land Use Element and all other applicable elements of the Comprehensive Plan, as amended; and

WHEREAS, said amendment will affirmatively contribute to the health, safety and general welfare of the citizens of the City of Pensacola; and

WHEREAS, the City Council has followed all of the procedures set forth in §§163.3184 and 163.3187, Fla. Stat., and all other applicable provisions of law and local procedures with relation to amendment to the Future Land Use Element of the Comprehensive Plan; and

WHEREAS, proper public notice was provided and appropriate public hearing was held pursuant to the provisions referred to hereinabove as to the following amendment to the Comprehensive Plan and Future Land Use map of the City of Pensacola; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the Comprehensive Plan and Future Land Use Map of the City of Pensacola, and all notations, references and information shown thereon as it relates to the following described real property in the City of Pensacola, Florida, to-wit:

PARCEL 1:

COMMENCE AT THE INTERSECTION OF THE CENTERLINE OF BRENT LANE (S.R. #296, R/W VARIES) AND THE EASTERLY RIGHT OF WAY (R/W) LINE OF

LOUISVILLE AND NASHVILLE RAILROAD (100' R/W), SAID POINT ALSO KNOWN AS THE J.E. SPOON'S NORTHWEST CORNER; THENCE PROCEED SOUTH 22°53'30" EAST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 627.69 FEET; THENCE DEPARTING SAID EASTERLY R/W LINE, PROCEED NORTH 67°03'42" EAST FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE EAOF STERLY R/W LINE OF SYCAMORE STREET (50' PUBLIC R/W); THENCE PROCEED SOUTH 22°53'30" EAST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 261.02 FEET TO THE INTERSECTION OF SAID EASTERLY R/W LINE AND THE SOUTHERLY R/W LINE OF CORDAY STREET (66' PUBLIC R/W) FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY R/W LINE PROCEED NORTH 67°19'37" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 960.37 FEET TO THE EXTENSION OF THE WESTERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 7653 AT PAGE 674 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY; THENCE DEPARTING SAID SOUTHERLY R/W LINE, PROCEED NORTH 23°03'24" WEST ALONG SAID EXTENSION AND WESTERLY LINE FOR A DISTANCE OF 460.54 FEET TO THE NORTHERLY LINE OF SAID O.R. BOOK 7653 PAGE 674; THENCE DEPARTING SAID EXTENSION AND WESTERLY LINE, PROCEED NORTH 67°04'47" EAST ALONG SAID NORTHERLY LINE FOR A DISTANCE OF 33.56 FEET TO THE WESTERLY LINE OF SAID O.R. BOOK 7653, PAGE 674; THENCE DEPARTING SAID NORTHERLY LINE, PROCEED NORTH 23°04'55" WEST ALOING SAID WESTERLY LINE FOR A DISTANCE OF 395.34 FEET TO THE SOUTHERLY R/W LINE OF BRENT LANE (STATE ROAD No. 296 - PUBLIC R/W VAIRES); THENCE DEPARTING SAID WESTERLY LINE, PROCEED NORTH 66°54'12" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 208.38 FEET; THENCE PROCEED SOUTH 23°02'21" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 21.03 FEET; THENCE PROCEED NORTH 68°40'34" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 711.08 FEET; THENCE PROCEED NORTH 66°39'56" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 22.10 FEET; THENCE PROCEED NORTH 66°55'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 79.63 FEET; THENCE PROCEED NORTH 71°47'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 110.56 FEET; THENCE PROCEED NORTH 66°55'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 218.15 FEET TO THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE I-110 (STATE ROAD 8A - PUBLIC R/W VARIES); THENCE DEPARTING SAID SOUTHERLY R/W LINE PROCEED SOUTH 19°18'50" EAST ALONG SAID WESTERLY R/W LINE FOR A DISTANCE OF 1589.52 FEET TO THE NORTHERLY R/W LINE OF SELINA STREET (40' PUBLIC R/W); THENCE DEPARTING SAID WESTERLY R/W, PROCEED SOUTH 67°05'49" WEST ALONG SAID NORTHERLY R/W LINE FOR DISTANCE OF 944.63 FEET TO THE EASTERLY R/W LINE OF CHANEY STREET (66' PUBLIC R/W); THENCE DEPARTING SAID NORTHERLY R/W LINE, PROCEED NORTH 22°55'14" WEST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 354.55 FEET TO THE NORTHERLY R/W LINE OF AMBER STREET (66' PUBLIC R/W); THENCE DEPARTING SAID EASTERLY R/W PROCEED SOUTH 67°04'53" WEST ALONG SAID NORTHERLY R/W LINE FOR A DISTANCE OF 506.47 FEET TO THE WESTERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 8072 AT PAGE 158 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY, FLORIDA;

THENCE DEPARTING SAID NORTHERLY R/W LINE PROCEED NORTH 22°54'01" WEST ALONG SAID WESTERLY LINE FOR A DISTANCE OF 104.93 FEET TO THE SOUTHERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 8029 AT PAGE 812 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY, FLORIDA; THENCE DEPARTING SAID WESTERLY LINE, PROCEED SOUTH 67°03'22" WEST ALONG SAID SOUTHERLY LINE FOR A DISTANCE OF 790.16 FEET TO THE AFORESAID EASTERLY R/W LINE OF SYCAMORE STREET; THENCE DEPARTING SAID SOUTHERLY LINE, PROCEED NORTH 22°53'30" WEST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 323.54 FEET TO THE POINT OF BEGINNING. LYING IN AND BEING A PORTION OF SECTION 48, TOWNSHIP 1 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA AND CONTAINING 53.52 ACRES MORE OR LESS.

the same is hereby changed to C (commercial) Future Land Use District, fully as if all of the said real property had been originally included in City of Pensacola C (commercial) Future Land Use District.

SECTION 2. The City Council shall by subsequently adopted ordinance change the zoning classification and zoning map for the subject property to a permissible zoning classification, as determined by the discretion of the City Council, which is consistent with the future land use classification adopted by this ordinance. Pending the adoption of such a rezoning ordinance, no development of the subject property shall be permitted which is inconsistent with the future land use classification adopted by this ordinance.

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

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

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

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

Attest:

City Clerk

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# Legend

 AnnexationBoundary

 Citylimits

## Future Landuse

 COMMERCIAL

 INDUSTRIAL DISTRICT

## Proposed Future Land Use Baptist Annexation

0 0.05 0.1 Miles

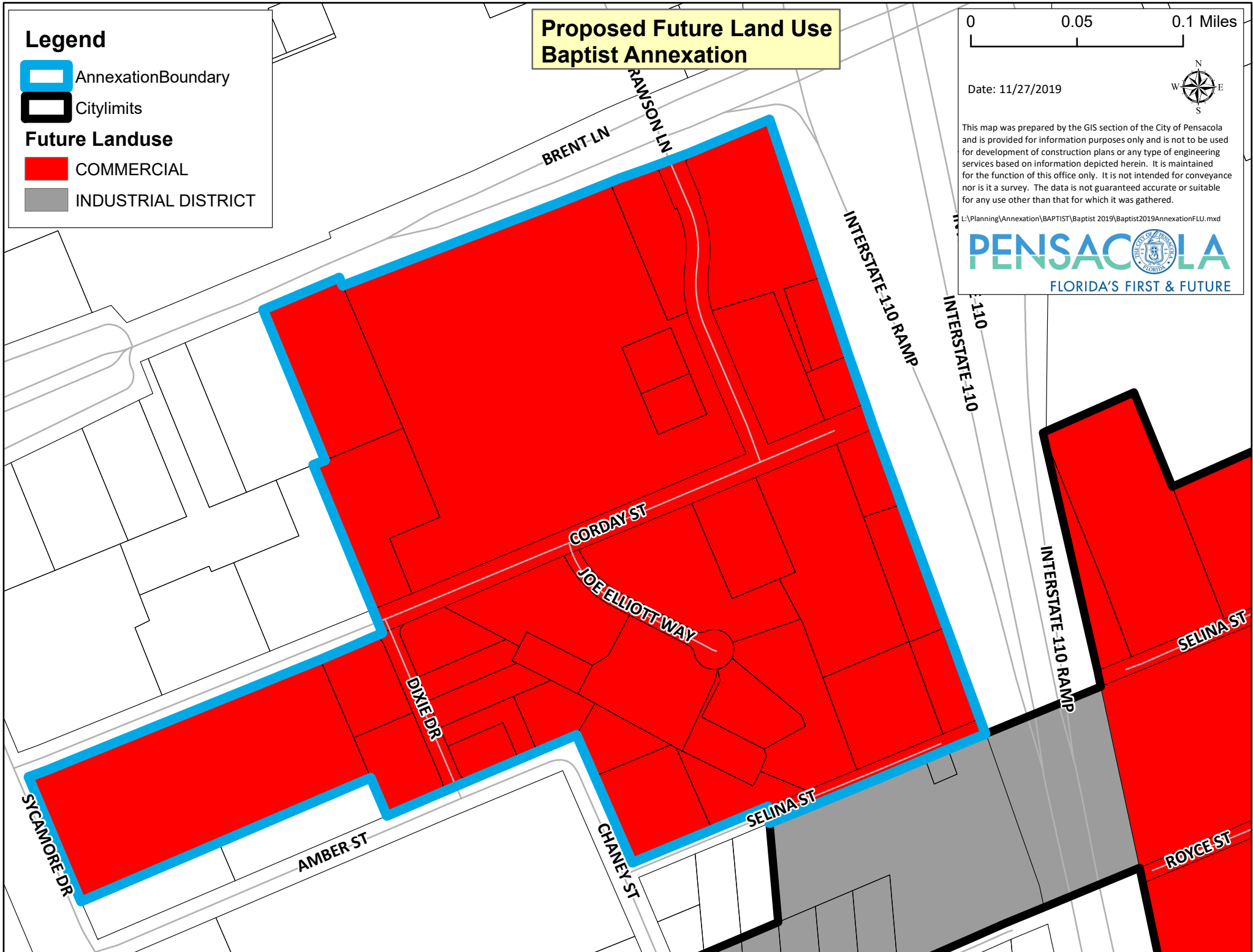
Date: 11/27/2019



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.

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**PENSACOLA**  
FLORIDA'S FIRST & FUTURE







## **MINUTES OF THE PLANNING BOARD**

**December 10, 2019**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Kurt Larson, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Wiggins

**MEMBERS ABSENT:** Board Member Murphy

**STAFF PRESENT:** Assistant Planning Services Administrator Cannon, Assistant City Attorney Lindsay, Planning Services Administrator Morris, Senior Planner Statler, Transportation Planner-Complete Streets Ziarnek, Neighborhoods Administrator Powell, Council Executive Kraher

**OTHERS PRESENT:** Will Dunaway, Carrie Stevenson, Eric Fears, Chris & Tracy Gonsoulin, Steve Corbae

### **AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from November 18, 2019.
- **New Business:**
  1. **Consider Rezoning for Community Maritime Park Parcels to WRD-1**
  2. **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**
  3. **Consider Baptist Request for Vacation of Right-of-Way**
  4. **Consider Amendment to the CRA Urban Overlay District Boundary**
  5. **Discussion on the Proposed Amendment to the Tree Ordinance**
- Open Forum
- Adjournment

### **Call to Order / Quorum Present**

Chairperson Ritz called the meeting to order at 2:03 pm with a quorum present and explained the procedures of the Board meeting.

### **Approval of Meeting Minutes**

**Board Member Larson made a motion to approve the November 18, 2019 minutes, seconded**

222 West Main Street Pensacola, Florida 32502

[www.cityofpensacola.com](http://www.cityofpensacola.com)

**by Board Member Powell, and it carried unanimously.**

### **New Business**

#### **Consider Rezoning for Community Maritime Park Parcels to WRD-1**

Staff received a request to amend the zoning map for the Community Maritime Park (CMP) parcels to WRD-1. This is consistent with the existing Future Land Use Map (FLUM) classification for the CMP which is "Redevelopment".

On October 8, 2019 the Planning Board approved a request to modify the Redevelopment Land Use District WRD by establishing a subcategory which would become the WRD-1. The proposed WRD-1 is a standalone section with the intent of optimizing the future development of the City's CMP parcels.

To reinforce, Chairperson Ritz stated the previous Board meeting was to establish the WRD-1 subcategory and was not specific to a piece of property, so today it is actually being applied to a particular parcel. WRD-1 was approved by the Board and Council, and today's agenda item is to apply it to a particular parcel. He also clarified there were multiple parcels.

Mr. Rothfeder with Studer Properties addressed the Board and stated he thought the first process with the Board was to rezone these parcels and did not realize it would be done in a two-step process – create the zoning district and then rezone the parcels. Chairperson Ritz clarified that any parcel within the WRD designation had that option. Mr. Rothfeder deferred to the City to determine the parcels to be rezoned. Assistant Planning Services Administrator Cannon explained that WRD-1 was being applied to the vacant parcels. But if it was the applicant's desire to apply that to the entire park, the Board would have that latitude to make that change. Chairperson Ritz advised it did not make any difference to him but from a development standpoint, it captured the end goal of this project. He also clarified these were the remaining undeveloped parcels.

Mr. Gonsoulin who owns a few lots north of Main Street asked if the rezoning would affect his properties. Chairperson Ritz advised it would not but could not attest to the property values going better or worse, but it would definitely not affect his zoning or setback lines. He was notified because of his location to these parcels (within 500' public notification).

**Board Member Grundhoefer made a motion to approve, seconded by Board Member Wiggins. The motion carried unanimously.**

#### **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Approval of the annexation request by City Council necessitated an amendment to the City's Zoning and Future Land Use maps to include the subject properties. The recommended designation of C-3 is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits.

Chairperson Ritz explained because this was not property belonging to the City prior to the annexation, it did not have a City zoning designation, and the County rules were in effect. It was not a part of the City, and this agenda item was to apply a zoning designation to the newly annexed City property. C-3 is very consistent with the surrounding properties. Board Member Larson had been concerned that it was not going C-1, but understood that C-3 allowed for greater height, and he was good with allowing that for Baptist's capabilities.

Mr. Rebol represented the hospital and confirmed that the C-3 designation was primarily to allow for the building height.

**Board Member Powell made a motion to approve, seconded by Board Member Larson. The motion carried unanimously.**

### **Consider Baptist Request for Vacation of Right-of-Way**

Subsequent to the approval of the Baptist Health Care Annexation and rezoning request is a request for vacation of the following rights-of-way within the annexed area: Rawson Lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

Assistant Planning Services Administrator Cannon explained that Baptist had reassured that they were working with ECUA and AT&T in maintaining the utility easements for those areas. Board Member Larson felt the plan gave more flexibility to Baptist for development of whatever they needed.

#### **Board Member Larson made a motion to approve, seconded by Board Member Wiggins.**

Chairperson Ritz agreed this would greatly benefit Baptist Hospital. He explained in the vacation of right-of-ways, the City could not just sell the property to Baptist since that property was owned collectively by the citizens of Pensacola, therefore, the citizens must grant the vacation to give the property to Baptist. Board Member Grundhoefer asked if there were any streets where Baptist did not own adjacent property. Assistant City Attorney Lindsay advised they own all the adjacent property. Assistant Planning Services Administrator Cannon pointed out the proper notification had been met. She also explained there would be full width easements for those utilities to be maintained as necessary, and Baptist had been working with ECUA and AT&T from the beginning. The language presented to Council would contain that easement language.

**The motion then carried unanimously.**

### **Consider Amendment to the CRA Urban Overlay District Boundary**

Please consider a request to redefine the boundary of the CRA Urban Overlay District. The current CRA boundary includes industrial uses located on the outer edge of the district that were not intended to be included in the overlay district.

Chairperson Ritz advised he had visited the area and noted the larger parcels were heavy industrial uses and would not fit with what the CRA was intended to accomplish. He did not think the rail yard would change in the near future and supported redefining the boundary. Assistant City Attorney Lindsay explained the request was coming from the design requirements of the CRA Urban Overlay and that City staff was requesting the Board to consider removing these parcels. Board Member Grundhoefer questioned the three parcels north of Chase close to the Global Learning Academy. Assistant City Attorney Lindsay explained those parcels were in close proximity to Gulf Power, and their boundary was with the Wildlife Refuge Center. In order to encourage development there, industrial use was the only thing anticipated to occur at that location and something that would not have to meet the urban requirements. She offered who would want to make that capital investment to meet the urban design overlay to encourage foot traffic there. Assistant Planning Services Administrator Cannon explained the uses would not change, but they were only removing the additional layer of design in this industrial area.

**Board Member Wiggins made a motion to approve, seconded by Board Member Sampson. The motion carried unanimously.**

### **Discussion on the Proposed Amendment to the Tree Ordinance**

Assistant Planning Services Administrator Cannon explained no new information had been received regarding the timeline for Board Member Murphy's charrettes. Board Member Wiggins asked if there was a reason for charrettes rather than and Board workshop; she felt more comfortable with the Board taking the lead due to public access. Chairperson Ritz explained Board Member Murphy wanted to reach out more strongly to the community for those who chose not to participate in the first workshop. He believed the consensus of the Board was to allow that to happen but to have additional information available to the public forum prior to any kind of vote. He explained the Board was keeping it as a

discussion item on the agenda, and if Board Member Murphy was unable to bring those constituencies together in her outside charrettes, the Board would fall back to the normal process. Board Member Wiggins' only concern was that the business community was involved as well. Board Member Grundhoefer had not been aware of the City's EAB who might have more scientific basis for discussion. Board Member Sampson emphasized that was the reason this Board had decided to involve them in this process. Chairperson Ritz explained this Board would have the final say, and the final draft could be something totally different than what was presented to the Board, and hopefully at that time, the Board would have more information on which to base the decision. Board Member Powell asked if editing was an option, and it was determined to be a choice. Board Member Grundhoefer pointed out the document which had been presented had revised the existing ordinance. Board Member Powell asked if the current document could be reviewed. In the workshop, information was obtained from the scientific and professional community. Chairperson Ritz stated the workshop ultimately brought up more questions with tree funds, tree choices, etc. Assistant Planning Services Administrator Cannon stated in modifying language in an existing code, you need clear knowledge of what you are trying to solve, and the stakeholder groups need to be on the same page. Board Member Grundhoefer offered the focus was on building up the Tree Fund and making it more difficult to tear down heritage trees by developers. He explained our current ordinance protects the trees but doesn't have enough incentive for developers to build around the trees and pay into the Tree Fund. Assistant City Attorney Lindsay commented that Board Member Murphy had intended that the charrettes address the questions that were raised, and that she was open to making sure the Board's questions were addressed. However, she also thought the Board was having another workshop after the charrettes. It was determined that the Board had postponed the workshop until the additional feedback was received, and the item was maintained as a discussion item for review. Chairperson Ritz explained if the ordinance needed to be addressed, it would be in due time. Board Member Larson hoped to formulate his questions based on the feedback from the charrettes. Chairperson Ritz explained with more information coming, there was time to reassess as the Board moved from additional workshops to an agenda vote.

**Open Forum** – Ms. Bennett addressed the Board and mentioned the Crepe Myrtles which do not provide a food supply or nesting for birds. Ms. Stephenson with the Escambia County Extension Office offered her input if the Board had specific questions. She also had information from the public survey done for the County as well as information from the University of Florida on hurricane-resistant tree species and the life span of trees. She also explained that in general, root systems are within the first 18" of the soil, going two to three times as wide as the canopy. She was encouraged to send her information to Planning staff to compare with the current Ordinance. Board Member Grundhoefer also encouraged her to attend the charrettes given by Board Member Murphy; Assistant Planning Services Administrator Cannon advised she would keep Ms. Stephenson informed of the progress.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:00 pm.

Respectfully Submitted,

Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 04-20

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PROPOSED ORDINANCE NO. 04-20 - ZONING MAP AMENDMENT- RECENTLY ANNEXED PROPERTIES - BAPTIST ANNEXATION AREA

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 04-20 on first reading:

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

**HEARING REQUIRED:** Public

**SUMMARY:**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Per state statute, approval of the annexation request by City Council necessitates an amendment to the City's Zoning and Future Land Use maps to include the subject properties.

The recommended designation of C-3 is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits. The subject parcels are located in the southwest quadrant of I-110 and Brent Lane.

The Baptist Annexation Area is contiguous to the City and encompasses approximately fifty-three (53) acres.

On December 10, 2019, the City of Pensacola Planning Board voted unanimously to recommend approval of the request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator

Kerrith Fiddler, Deputy City Administrator - Community Development

Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 04-20
- 2) Zoning Map December 2019
- 3) Planning Board Minutes December 10, 2019 DRAFT

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 04-20

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

AN ORDINANCE  
TO BE ENTITLED:

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

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

WHEREAS, a proposed amended zoning classification has been referred to the local planning agency pursuant to §163.3174, Fla. Stat., and a proper public hearing was held on January 16, 2020 concerning the following proposed zoning classification affecting the property described therein; and

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

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

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

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

PARCEL 1:

COMMENCE AT THE INTERSECTION OF THE CENTERLINE OF BRENT LANE (S.R. #296, R/W VARIES) AND THE EASTERLY RIGHT OF WAY (R/W) LINE OF LOUISVILLE AND NASHVILLE RAILROAD (100' R/W), SAID POINT ALSO KNOWN AS THE J.E. SPOON'S NORTHWEST CORNER; THENCE PROCEED SOUTH 22°53'30" EAST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 627.69 FEET; THENCE DEPARTING SAID EASTERLY R/W LINE, PROCEED NORTH 67°03'42" EAST FOR A DISTANCE OF 50.00 FEET TO A POINT ON THE EAOF



STERLY R/W LINE OF SYCAMORE STREET (50' PUBLIC R/W); THENCE PROCEED SOUTH 22°53'30" EAST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 261.02 FEET TO THE INTERSECTION OF SAID EASTERLY R/W LINE AND THE SOUTHERLY R/W LINE OF CORDAY STREET (66' PUBLIC R/W) FOR THE POINT OF BEGINNING; THENCE DEPARTING SAID EASTERLY R/W LINE PROCEED NORTH 67°19'37" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 960.37 FEET TO THE EXTENSION OF THE WESTERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 7653 AT PAGE 674 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY; THENCE DEPARTING SAID SOUTHERLY R/W LINE, PROCEED NORTH 23°03'24" WEST ALONG SAID EXTENSION AND WESTERLY LINE FOR A DISTANCE OF 460.54 FEET TO THE NORTHERLY LINE OF SAID O.R. BOOK 7653 PAGE 674; THENCE DEPARTING SAID EXTENSION AND WESTERLY LINE, PROCEED NORTH 67°04'47" EAST ALONG SAID NORTHERLY LINE FOR A DISTANCE OF 33.56 FEET TO THE WESTERLY LINE OF SAID O.R. BOOK 7653, PAGE 674; THENCE DEPARTING SAID NORTHERLY LINE, PROCEED NORTH 23°04'55" WEST ALOING SAID WESTERLY LINE FOR A DISTANCE OF 395.34 FEET TO THE SOUTHERLY R/W LINE OF BRENT LANE (STATE ROAD No. 296 - PUBLIC R/W VAIRES); THENCE DEPARTING SAID WESTERLY LINE, PROCEED NORTH 66°54'12" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 208.38 FEET; THENCE PROCEED SOUTH 23°02'21" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 21.03 FEET; THENCE PROCEED NORTH 68°40'34" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 711.08 FEET; THENCE PROCEED NORTH 66°39'56" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 22.10 FEET; THENCE PROCEED NORTH 66°55'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 79.63 FEET; THENCE PROCEED NORTH 71°47'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 110.56 FEET; THENCE PROCEED NORTH 66°55'52" EAST ALONG SAID SOUTHERLY R/W LINE FOR A DISTANCE OF 218.15 FEET TO THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE I-110 (STATE ROAD 8A - PUBLIC R/W VARIES); THENCE DEPARTING SAID SOUTHERLY R/W LINE PROCEED SOUTH 19°18'50" EAST ALONG SAID WESTERLY R/W LINE FOR A DISTANCE OF 1589.52 FEET TO THE NORTHERLY R/W LINE OF SELINA STREET (40' PUBLIC R/W); THENCE DEPARTING SAID WESTERLY R/W, PROCEED SOUTH 67°05'49" WEST ALONG SAID NORTHERLY R/W LINE FOR DISTANCE OF 944.63 FEET TO THE EASTERLY R/W LINE OF CHANEY STREET (66' PUBLIC R/W); THENCE DEPARTING SAID NORTHERLY R/W LINE, PROCEED NORTH 22°55'14" WEST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 354.55 FEET TO THE NORTHERLY R/W LINE OF AMBER STREET (66' PUBLIC R/W); THENCE DEPARTING SAID EASTERLY R/W PROCEED SOUTH 67°04'53" WEST ALONG SAID NORTHERLY R/W LINE FOR A DISTANCE OF 506.47 FEET TO THE WESTERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 8072 AT PAGE 158 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY, FLORIDA; THENCE DEPARTING SAID NORTHERLY R/W LINE PROCEED NORTH 22°54'01" WEST ALONG SAID WESTERLY LINE FOR A DISTANCE OF 104.93 FEET TO THE SOUTHERLY LINE OF THAT PARCEL AS DESCRIBED IN O.R. BOOK 8029 AT PAGE 812 OF THE PUBLIC RECORDS OF THE AFORESAID ESCAMBIA COUNTY, FLORIDA; THENCE DEPARTING SAID WESTERLY LINE, PROCEED SOUTH

67°03'22" WEST ALONG SAID SOUTHERLY LINE FOR A DISTANCE OF 790.16 FEET TO THE AFORESAID EASTERLY R/W LINE OF SYCAMORE STREET; THENCE DEPARTING SAID SOUTHERLY LINE, PROCEED NORTH 22°53'30" WEST ALONG SAID EASTERLY R/W LINE FOR A DISTANCE OF 323.54 FEET TO THE POINT OF BEGINNING. LYING IN AND BEING A PORTION OF SECTION 48, TOWNSHIP 1 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA AND CONTAINING 53.52 ACRES MORE OR LESS.

is hereby zoned C-3 (Commercial) District.

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

SECTION 3. This ordinance shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.





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

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

Attest:

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

## Legend

-  Annexation Boundary
-  Citylimits
-  COMMERCIAL
-  INDUSTRIAL

## Proposed Zoning Baptist Annexation

0 270 540 Feet

Date: 11/27/2019



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:\Planning\Annexation\BAPTIST\Baptist 2019\Baptist2019AnnexationZoning.mxd

**PENSACOLA**  
FLORIDA'S FIRST & FUTURE

**COMMERCIAL (C-3)**

**RETAIL COMMERCIAL (C-1)**

**INDUSTRIAL**

BRENT LN  
RAWSON LN

INTERSTATE-110 RAMP  
INTERSTATE-110

INTERSTATE-110 RAMP

CORDAY ST

JOE ELLIOTT WAY

DIXIE DR

SELINA ST

CHANEX ST

AMBER ST

SYCAMORE DR



## **MINUTES OF THE PLANNING BOARD**

**December 10, 2019**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Kurt Larson, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Wiggins

**MEMBERS ABSENT:** Board Member Murphy

**STAFF PRESENT:** Assistant Planning Services Administrator Cannon, Assistant City Attorney Lindsay, Planning Services Administrator Morris, Senior Planner Statler, Transportation Planner-Complete Streets Ziarnek, Neighborhoods Administrator Powell, Council Executive Kraher

**OTHERS PRESENT:** Will Dunaway, Carrie Stevenson, Eric Fears, Chris & Tracy Gonsoulin, Steve Corbae

### **AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from November 18, 2019.
- **New Business:**
  1. **Consider Rezoning for Community Maritime Park Parcels to WRD-1**
  2. **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**
  3. **Consider Baptist Request for Vacation of Right-of-Way**
  4. **Consider Amendment to the CRA Urban Overlay District Boundary**
  5. **Discussion on the Proposed Amendment to the Tree Ordinance**
- Open Forum
- Adjournment

### **Call to Order / Quorum Present**

Chairperson Ritz called the meeting to order at 2:03 pm with a quorum present and explained the procedures of the Board meeting.

### **Approval of Meeting Minutes**

**Board Member Larson made a motion to approve the November 18, 2019 minutes, seconded**

222 West Main Street Pensacola, Florida 32502

[www.cityofpensacola.com](http://www.cityofpensacola.com)

**by Board Member Powell, and it carried unanimously.**

### **New Business**

#### **Consider Rezoning for Community Maritime Park Parcels to WRD-1**

Staff received a request to amend the zoning map for the Community Maritime Park (CMP) parcels to WRD-1. This is consistent with the existing Future Land Use Map (FLUM) classification for the CMP which is "Redevelopment".

On October 8, 2019 the Planning Board approved a request to modify the Redevelopment Land Use District WRD by establishing a subcategory which would become the WRD-1. The proposed WRD-1 is a standalone section with the intent of optimizing the future development of the City's CMP parcels.

To reinforce, Chairperson Ritz stated the previous Board meeting was to establish the WRD-1 subcategory and was not specific to a piece of property, so today it is actually being applied to a particular parcel. WRD-1 was approved by the Board and Council, and today's agenda item is to apply it to a particular parcel. He also clarified there were multiple parcels.

Mr. Rothfeder with Studer Properties addressed the Board and stated he thought the first process with the Board was to rezone these parcels and did not realize it would be done in a two-step process – create the zoning district and then rezone the parcels. Chairperson Ritz clarified that any parcel within the WRD designation had that option. Mr. Rothfeder deferred to the City to determine the parcels to be rezoned. Assistant Planning Services Administrator Cannon explained that WRD-1 was being applied to the vacant parcels. But if it was the applicant's desire to apply that to the entire park, the Board would have that latitude to make that change. Chairperson Ritz advised it did not make any difference to him but from a development standpoint, it captured the end goal of this project. He also clarified these were the remaining undeveloped parcels.

Mr. Gonsoulin who owns a few lots north of Main Street asked if the rezoning would affect his properties. Chairperson Ritz advised it would not but could not attest to the property values going better or worse, but it would definitely not affect his zoning or setback lines. He was notified because of his location to these parcels (within 500' public notification).

**Board Member Grundhoefer made a motion to approve, seconded by Board Member Wiggins. The motion carried unanimously.**

#### **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Approval of the annexation request by City Council necessitated an amendment to the City's Zoning and Future Land Use maps to include the subject properties. The recommended designation of C-3 is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits.

Chairperson Ritz explained because this was not property belonging to the City prior to the annexation, it did not have a City zoning designation, and the County rules were in effect. It was not a part of the City, and this agenda item was to apply a zoning designation to the newly annexed City property. C-3 is very consistent with the surrounding properties. Board Member Larson had been concerned that it was not going C-1, but understood that C-3 allowed for greater height, and he was good with allowing that for Baptist's capabilities.

Mr. Rebol represented the hospital and confirmed that the C-3 designation was primarily to allow for the building height.

**Board Member Powell made a motion to approve, seconded by Board Member Larson. The motion carried unanimously.**

### **Consider Baptist Request for Vacation of Right-of-Way**

Subsequent to the approval of the Baptist Health Care Annexation and rezoning request is a request for vacation of the following rights-of-way within the annexed area: Rawson Lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

Assistant Planning Services Administrator Cannon explained that Baptist had reassured that they were working with ECUA and AT&T in maintaining the utility easements for those areas. Board Member Larson felt the plan gave more flexibility to Baptist for development of whatever they needed.

#### **Board Member Larson made a motion to approve, seconded by Board Member Wiggins.**

Chairperson Ritz agreed this would greatly benefit Baptist Hospital. He explained in the vacation of right-of-ways, the City could not just sell the property to Baptist since that property was owned collectively by the citizens of Pensacola, therefore, the citizens must grant the vacation to give the property to Baptist. Board Member Grundhoefer asked if there were any streets where Baptist did not own adjacent property. Assistant City Attorney Lindsay advised they own all the adjacent property. Assistant Planning Services Administrator Cannon pointed out the proper notification had been met. She also explained there would be full width easements for those utilities to be maintained as necessary, and Baptist had been working with ECUA and AT&T from the beginning. The language presented to Council would contain that easement language.

**The motion then carried unanimously.**

### **Consider Amendment to the CRA Urban Overlay District Boundary**

Please consider a request to redefine the boundary of the CRA Urban Overlay District. The current CRA boundary includes industrial uses located on the outer edge of the district that were not intended to be included in the overlay district.

Chairperson Ritz advised he had visited the area and noted the larger parcels were heavy industrial uses and would not fit with what the CRA was intended to accomplish. He did not think the rail yard would change in the near future and supported redefining the boundary. Assistant City Attorney Lindsay explained the request was coming from the design requirements of the CRA Urban Overlay and that City staff was requesting the Board to consider removing these parcels. Board Member Grundhoefer questioned the three parcels north of Chase close to the Global Learning Academy. Assistant City Attorney Lindsay explained those parcels were in close proximity to Gulf Power, and their boundary was with the Wildlife Refuge Center. In order to encourage development there, industrial use was the only thing anticipated to occur at that location and something that would not have to meet the urban requirements. She offered who would want to make that capital investment to meet the urban design overlay to encourage foot traffic there. Assistant Planning Services Administrator Cannon explained the uses would not change, but they were only removing the additional layer of design in this industrial area.

**Board Member Wiggins made a motion to approve, seconded by Board Member Sampson.**  
**The motion carried unanimously.**

### **Discussion on the Proposed Amendment to the Tree Ordinance**

Assistant Planning Services Administrator Cannon explained no new information had been received regarding the timeline for Board Member Murphy's charrettes. Board Member Wiggins asked if there was a reason for charrettes rather than a Board workshop; she felt more comfortable with the Board taking the lead due to public access. Chairperson Ritz explained Board Member Murphy wanted to reach out more strongly to the community for those who chose not to participate in the first workshop. He believed the consensus of the Board was to allow that to happen but to have additional information available to the public forum prior to any kind of vote. He explained the Board was keeping it as a

discussion item on the agenda, and if Board Member Murphy was unable to bring those constituencies together in her outside charrettes, the Board would fall back to the normal process. Board Member Wiggins' only concern was that the business community was involved as well. Board Member Grundhoefer had not been aware of the City's EAB who might have more scientific basis for discussion. Board Member Sampson emphasized that was the reason this Board had decided to involve them in this process. Chairperson Ritz explained this Board would have the final say, and the final draft could be something totally different than what was presented to the Board, and hopefully at that time, the Board would have more information on which to base the decision. Board Member Powell asked if editing was an option, and it was determined to be a choice. Board Member Grundhoefer pointed out the document which had been presented had revised the existing ordinance. Board Member Powell asked if the current document could be reviewed. In the workshop, information was obtained from the scientific and professional community. Chairperson Ritz stated the workshop ultimately brought up more questions with tree funds, tree choices, etc. Assistant Planning Services Administrator Cannon stated in modifying language in an existing code, you need clear knowledge of what you are trying to solve, and the stakeholder groups need to be on the same page. Board Member Grundhoefer offered the focus was on building up the Tree Fund and making it more difficult to tear down heritage trees by developers. He explained our current ordinance protects the trees but doesn't have enough incentive for developers to build around the trees and pay into the Tree Fund. Assistant City Attorney Lindsay commented that Board Member Murphy had intended that the charrettes address the questions that were raised, and that she was open to making sure the Board's questions were addressed. However, she also thought the Board was having another workshop after the charrettes. It was determined that the Board had postponed the workshop until the additional feedback was received, and the item was maintained as a discussion item for review. Chairperson Ritz explained if the ordinance needed to be addressed, it would be in due time. Board Member Larson hoped to formulate his questions based on the feedback from the charrettes. Chairperson Ritz explained with more information coming, there was time to reassess as the Board moved from additional workshops to an agenda vote.

**Open Forum** – Ms. Bennett addressed the Board and mentioned the Crepe Myrtles which do not provide a food supply or nesting for birds. Ms. Stephenson with the Escambia County Extension Office offered her input if the Board had specific questions. She also had information from the public survey done for the County as well as information from the University of Florida on hurricane-resistant tree species and the life span of trees. She also explained that in general, root systems are within the first 18" of the soil, going two to three times as wide as the canopy. She was encouraged to send her information to Planning staff to compare with the current Ordinance. Board Member Grundhoefer also encouraged her to attend the charrettes given by Board Member Murphy; Assistant Planning Services Administrator Cannon advised she would keep Ms. Stephenson informed of the progress.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:00 pm.

Respectfully Submitted,

Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00022

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PUBLIC HEARING: REQUEST TO VACATE RIGHT OF WAY - BAPTIST ANNEXATION AREA

**RECOMMENDATION:**

That City Council conduct a Public Hearing on January 16, 2020 to consider the request to vacate certain rights of way located within the Baptist Annexation Area.

**HEARING REQUIRED:** Public

**SUMMARY:**

Subsequent to the approval of the Baptist Health Care Annexation, is a request for vacation of the following rights-of-way within the annexed area: Rawson Lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

On December 10, 2019 the City of Pensacola Planning Board unanimously recommended approval of the request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator - Community Development  
Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 05-20
- 2) Vacation of Right of Way Application
- 3) Planning Board Minutes December 10, 2019 DRAFT

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 05-20

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

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE CLOSING, ABANDONING AND VACATING  
RAWSON LANE FROM BRENT LANE TO CORDAY STREET,  
CORDAY STREET FROM DIXIE DRIVE TO I-110 AND  
JOE ELLIOT WAY RIGHT OF WAY; IN PENSACOLA,  
ESCAMBIA COUNTY, STATE OF FLORIDA; REPEALING  
CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a public hearing was held on January 16,  
2020, as to the vacation of Rawson Lane from Brent Lane to  
Corday Street, Corday Street from Dixie Drive to I-110 and Joe  
Elliot Way right of way; Pensacola, Escambia County, Florida;  
and

WHEREAS, the vacation of said right-of-way,  
hereinafter described, will contribute to the general welfare of  
the City of Pensacola in that said right-of-way is no longer  
needed as a public thoroughfare; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the following described right of way  
in Pensacola, Escambia County, Florida is hereby closed,  
discontinued, vacated and forever abandoned by the City of  
Pensacola as a public thoroughfare:

CORDAY STREET VACATION: VACATE CORDAY STREET FROM THE  
WESTERLY RIGHT-OF-WAY LINE OF INTERSTAE 1-110 TO THE  
WESTERN RIGHT-OF-WAY TANGENT OF DIXIE LANE; DIXIE DRIVE  
VACATION: VACATE JOE ELLIOT WAY IN ITS ENTIRETY FROM  
THE SOUTHERLY RIGHT-OF-WAY LINE OF CORDAY STREET TO THE  
NORTHERLY RIGHT-OF-WAY LINE OF AMBER STREET; JOE ELLIOT  
WAY VACATION: VACATE JOE ELLIOT WAY IN ITS ENTIRETY  
FROM THE SOUTHERLY RIGHT-OF-WAY LINE OF CORDAY STREET  
TO THE SOUTHERN CUL-DESAC; RAWSON LANE VACATION: VACATE  
RAWSON LANE IN ITS ENTIRETY FROM THE SOUTHERN RIGHT-OF-  
WAY LINE OF BRENT LANE (S.R. NO. 296) TO THE NORTHERLY  
RIGHT-OF-WAY LINE OF CORDAY STREET.

SECTION 2. That the owners of the abutting property be, and they are hereby authorized to acquire possession of the right-of-way more particularly described in Section 1 of this ordinance, and the City of Pensacola does hereby abandon all claim of right, if any it has, in said property, and it shall remain and be the property of the abutting property owners.

SECTION 3. That, notwithstanding the foregoing sections, the City of Pensacola reserves for itself, Gulf Power Company, Bell South, Cox Cable, and the Emerald Coast Utilities Authority, their successors and assigns, a full width easement in the entire portion the right of way vacated hereby for the purpose of locating and maintaining public utilities and improvements.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. 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

## VACATION OF ALLEY OR STREET RIGHT OF WAY

Fee: \$2,000.00

Rehearing/Rescheduling Planning Board: \$250.00

Rehearing/Rescheduling City Council: \$500.00



### Applicant Information:

Name: BAPTIST HEALTH CARE

Address: 177 N. E STREET, PENSACOLA, FL 32501

Phone: 469-2338 Fax: 434-4841 Email: JPORTER@BHC-PNS.ORG

### Property Information:

Owner Name: BAPTIST HEALTH CARE

Location/Address: 245 BRENT LANE

Legal Description: Please attach a full legal description (from deed or survey)

### Purpose of vacation of city right of way/comments:

RIGHT-OF-WAY VACATION IS REQUESTED FOR THE DEVELOPMENT  
OF A NEW 250 ROOM HOSPITAL.

I, the undersigned applicant, understand that submittal of this application does not entitle me to approval of this vacation request and that no refund of these fees will be made. I have reviewed a copy of the applicable regulations and understand that I must be present on the date of the Planning Board and City Council meeting.

Signature of Applicant

Date

(Owner of Property or Official Representative of Owner)

11-14-19

### FOR OFFICE USE ONLY

District: \_\_\_\_\_

Date Received: \_\_\_\_\_

Case Number: \_\_\_\_\_

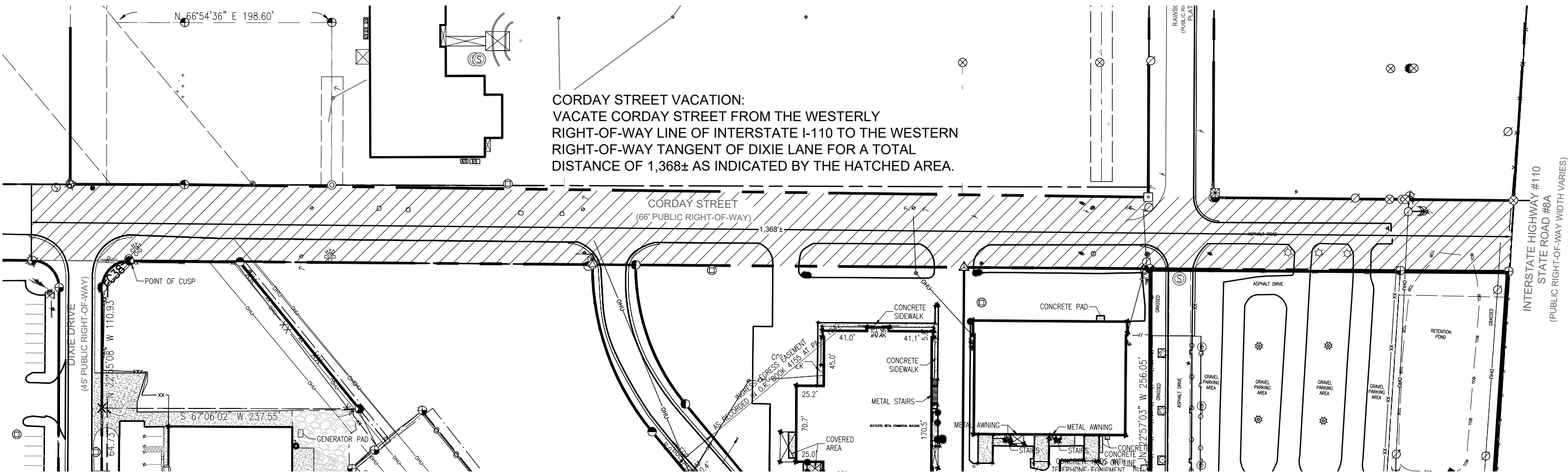
Date Postcards mailed: \_\_\_\_\_

Planning Board Date: \_\_\_\_\_

Recommendation: \_\_\_\_\_

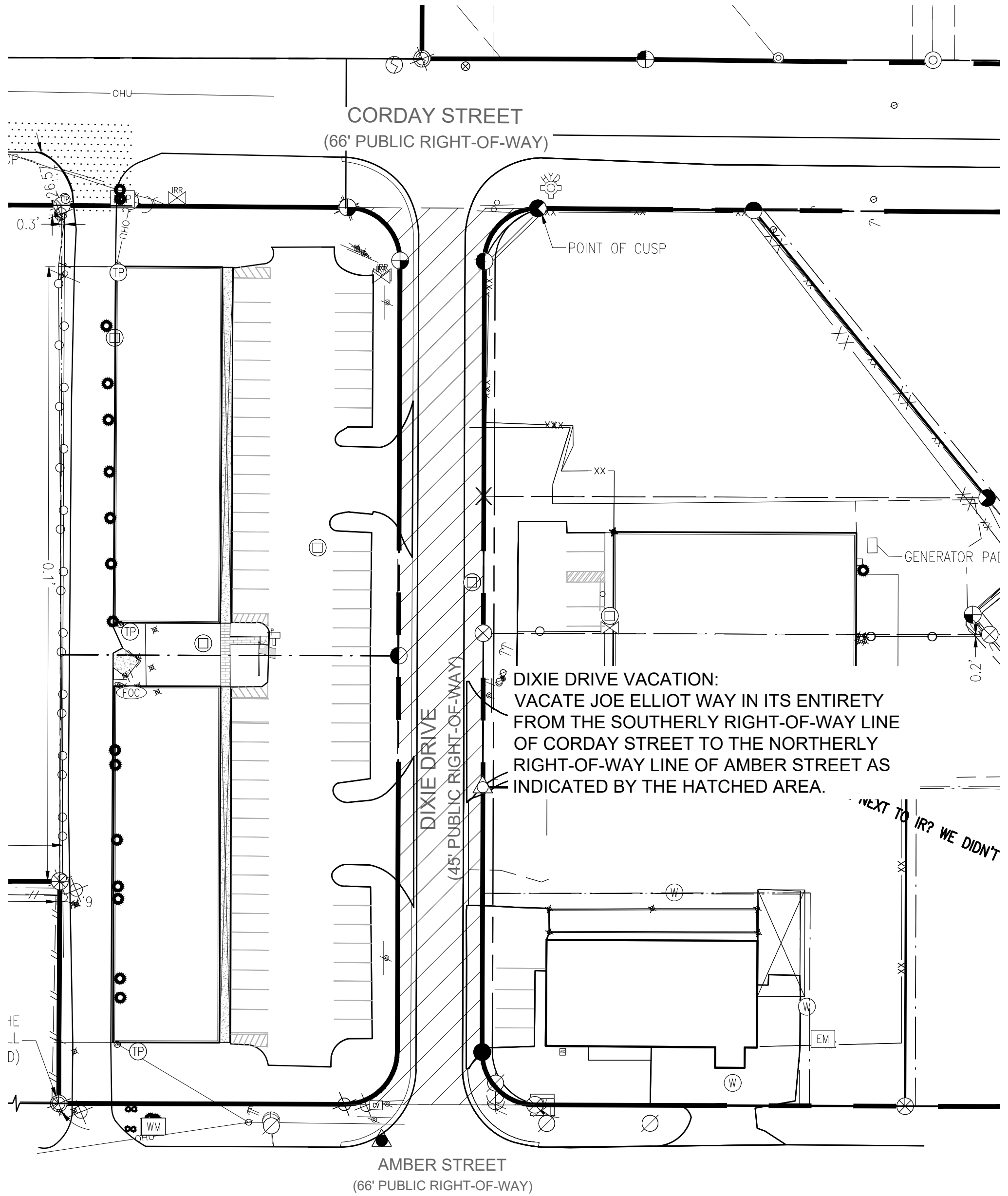
Council Date: \_\_\_\_\_

Council Action: \_\_\_\_\_

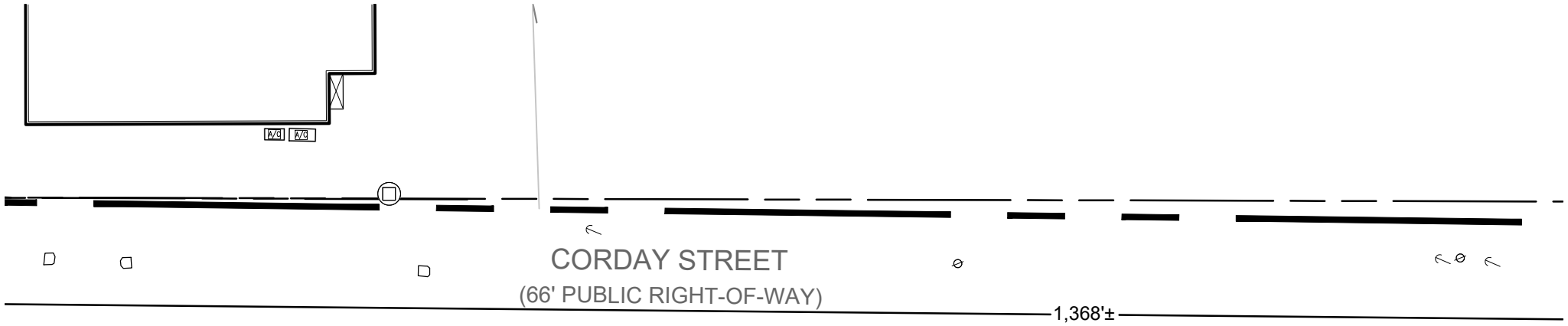


CORDAY STREET VACATION:  
VACATE CORDAY STREET FROM THE WESTERLY  
RIGHT-OF-WAY LINE OF INTERSTATE I-110 TO THE WESTERN  
RIGHT-OF-WAY TANGENT OF DIXIE LANE FOR A TOTAL  
DISTANCE OF 1,368± AS INDICATED BY THE HATCHED AREA.

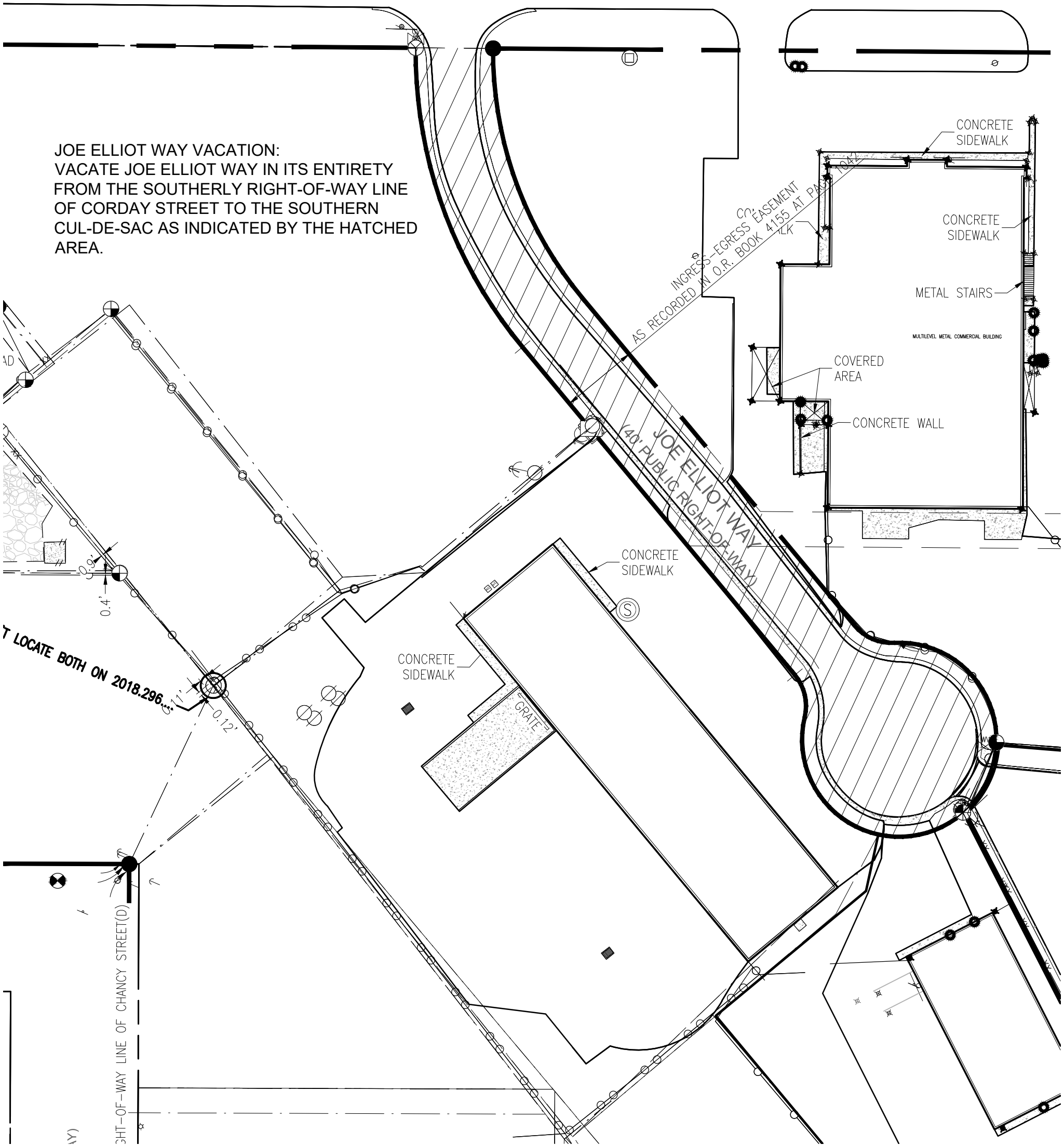
INTERSTATE HIGHWAY #110  
STATE ROAD #8A  
(PUBLIC RIGHT-OF-WAY WIDTH VARIES)







JOE ELLIOT WAY VACATION:  
VACATE JOE ELLIOT WAY IN ITS ENTIRETY  
FROM THE SOUTHERLY RIGHT-OF-WAY LINE  
OF CORDAY STREET TO THE SOUTHERN  
CUL-DE-SAC AS INDICATED BY THE HATCHED  
AREA.







## **MINUTES OF THE PLANNING BOARD**

**December 10, 2019**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Kurt Larson, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Wiggins

**MEMBERS ABSENT:** Board Member Murphy

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  4. **Consider Amendment to the CRA Urban Overlay District Boundary**
  5. **Discussion on the Proposed Amendment to the Tree Ordinance**
- Open Forum
- Adjournment

### **Call to Order / Quorum Present**

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### **Approval of Meeting Minutes**

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222 West Main Street Pensacola, Florida 32502

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**by Board Member Powell, and it carried unanimously.**

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#### **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Approval of the annexation request by City Council necessitated an amendment to the City's Zoning and Future Land Use maps to include the subject properties. The recommended designation of C-3 is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits.

Chairperson Ritz explained because this was not property belonging to the City prior to the annexation, it did not have a City zoning designation, and the County rules were in effect. It was not a part of the City, and this agenda item was to apply a zoning designation to the newly annexed City property. C-3 is very consistent with the surrounding properties. Board Member Larson had been concerned that it was not going C-1, but understood that C-3 allowed for greater height, and he was good with allowing that for Baptist's capabilities.

Mr. Rebol represented the hospital and confirmed that the C-3 designation was primarily to allow for the building height.

**Board Member Powell made a motion to approve, seconded by Board Member Larson. The motion carried unanimously.**

### **Consider Baptist Request for Vacation of Right-of-Way**

Subsequent to the approval of the Baptist Health Care Annexation and rezoning request is a request for vacation of the following rights-of-way within the annexed area: Rawson Lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

Assistant Planning Services Administrator Cannon explained that Baptist had reassured that they were working with ECUA and AT&T in maintaining the utility easements for those areas. Board Member Larson felt the plan gave more flexibility to Baptist for development of whatever they needed.

#### **Board Member Larson made a motion to approve, seconded by Board Member Wiggins.**

Chairperson Ritz agreed this would greatly benefit Baptist Hospital. He explained in the vacation of right-of-ways, the City could not just sell the property to Baptist since that property was owned collectively by the citizens of Pensacola, therefore, the citizens must grant the vacation to give the property to Baptist. Board Member Grundhoefer asked if there were any streets where Baptist did not own adjacent property. Assistant City Attorney Lindsay advised they own all the adjacent property. Assistant Planning Services Administrator Cannon pointed out the proper notification had been met. She also explained there would be full width easements for those utilities to be maintained as necessary, and Baptist had been working with ECUA and AT&T from the beginning. The language presented to Council would contain that easement language.

**The motion then carried unanimously.**

### **Consider Amendment to the CRA Urban Overlay District Boundary**

Please consider a request to redefine the boundary of the CRA Urban Overlay District. The current CRA boundary includes industrial uses located on the outer edge of the district that were not intended to be included in the overlay district.

Chairperson Ritz advised he had visited the area and noted the larger parcels were heavy industrial uses and would not fit with what the CRA was intended to accomplish. He did not think the rail yard would change in the near future and supported redefining the boundary. Assistant City Attorney Lindsay explained the request was coming from the design requirements of the CRA Urban Overlay and that City staff was requesting the Board to consider removing these parcels. Board Member Grundhoefer questioned the three parcels north of Chase close to the Global Learning Academy. Assistant City Attorney Lindsay explained those parcels were in close proximity to Gulf Power, and their boundary was with the Wildlife Refuge Center. In order to encourage development there, industrial use was the only thing anticipated to occur at that location and something that would not have to meet the urban requirements. She offered who would want to make that capital investment to meet the urban design overlay to encourage foot traffic there. Assistant Planning Services Administrator Cannon explained the uses would not change, but they were only removing the additional layer of design in this industrial area.

**Board Member Wiggins made a motion to approve, seconded by Board Member Sampson.**  
**The motion carried unanimously.**

### **Discussion on the Proposed Amendment to the Tree Ordinance**

Assistant Planning Services Administrator Cannon explained no new information had been received regarding the timeline for Board Member Murphy's charrettes. Board Member Wiggins asked if there was a reason for charrettes rather than a Board workshop; she felt more comfortable with the Board taking the lead due to public access. Chairperson Ritz explained Board Member Murphy wanted to reach out more strongly to the community for those who chose not to participate in the first workshop. He believed the consensus of the Board was to allow that to happen but to have additional information available to the public forum prior to any kind of vote. He explained the Board was keeping it as a

discussion item on the agenda, and if Board Member Murphy was unable to bring those constituencies together in her outside charrettes, the Board would fall back to the normal process. Board Member Wiggins' only concern was that the business community was involved as well. Board Member Grundhoefer had not been aware of the City's EAB who might have more scientific basis for discussion. Board Member Sampson emphasized that was the reason this Board had decided to involve them in this process. Chairperson Ritz explained this Board would have the final say, and the final draft could be something totally different than what was presented to the Board, and hopefully at that time, the Board would have more information on which to base the decision. Board Member Powell asked if editing was an option, and it was determined to be a choice. Board Member Grundhoefer pointed out the document which had been presented had revised the existing ordinance. Board Member Powell asked if the current document could be reviewed. In the workshop, information was obtained from the scientific and professional community. Chairperson Ritz stated the workshop ultimately brought up more questions with tree funds, tree choices, etc. Assistant Planning Services Administrator Cannon stated in modifying language in an existing code, you need clear knowledge of what you are trying to solve, and the stakeholder groups need to be on the same page. Board Member Grundhoefer offered the focus was on building up the Tree Fund and making it more difficult to tear down heritage trees by developers. He explained our current ordinance protects the trees but doesn't have enough incentive for developers to build around the trees and pay into the Tree Fund. Assistant City Attorney Lindsay commented that Board Member Murphy had intended that the charrettes address the questions that were raised, and that she was open to making sure the Board's questions were addressed. However, she also thought the Board was having another workshop after the charrettes. It was determined that the Board had postponed the workshop until the additional feedback was received, and the item was maintained as a discussion item for review. Chairperson Ritz explained if the ordinance needed to be addressed, it would be in due time. Board Member Larson hoped to formulate his questions based on the feedback from the charrettes. Chairperson Ritz explained with more information coming, there was time to reassess as the Board moved from additional workshops to an agenda vote.

**Open Forum** – Ms. Bennett addressed the Board and mentioned the Crepe Myrtles which do not provide a food supply or nesting for birds. Ms. Stephenson with the Escambia County Extension Office offered her input if the Board had specific questions. She also had information from the public survey done for the County as well as information from the University of Florida on hurricane-resistant tree species and the life span of trees. She also explained that in general, root systems are within the first 18" of the soil, going two to three times as wide as the canopy. She was encouraged to send her information to Planning staff to compare with the current Ordinance. Board Member Grundhoefer also encouraged her to attend the charrettes given by Board Member Murphy; Assistant Planning Services Administrator Cannon advised she would keep Ms. Stephenson informed of the progress.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:00 pm.

Respectfully Submitted,

Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 05-20

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PROPOSED ORDINANCE NO. 05-20 - VACATION OF RIGHT OF WAY - BAPTIST ANNEXATION AREA

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 05-20 on first reading.

AN ORDINANCE VACATING THE RIGHT OF WAY OF A CERTAIN AREA CONTIGUOUS AND ADJACENT TO THE CITY OF PENSACOLA , AND DECLARING SAID AREA TO BE IN A FULL WIDTH EASEMENT TO THE CITY OF PENSACOLA; REPEALING CLAUSE, AND PROVIDNG AN EFFECTIVE DATE.

**HEARING REQUIRED:** Public

**SUMMARY:**

Subsequent to the approval of the Baptist Health Care Annexation, is a request for vacation of the following rights-of-way within the annexed area: Rawson Lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

On December 10, 2019 City of Pensacola Planning Board unanimously recommended approval of the request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**



None

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator

Kerrith Fiddler, Deputy City Administrator - Community Development

Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 05-20
- 2) Vacation of Right of Way Application
- 3) Planning Board Minutes December 10, 2019 DRAFT

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 05-20

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

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE CLOSING, ABANDONING AND VACATING  
RAWSON LANE FROM BRENT LANE TO CORDAY STREET,  
CORDAY STREET FROM DIXIE DRIVE TO I-110 AND  
JOE ELLIOT WAY RIGHT OF WAY; IN PENSACOLA,  
ESCAMBIA COUNTY, STATE OF FLORIDA; REPEALING  
CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, a public hearing was held on January 16,  
2020, as to the vacation of Rawson Lane from Brent Lane to  
Corday Street, Corday Street from Dixie Drive to I-110 and Joe  
Elliot Way right of way; Pensacola, Escambia County, Florida;  
and

WHEREAS, the vacation of said right-of-way,  
hereinafter described, will contribute to the general welfare of  
the City of Pensacola in that said right-of-way is no longer  
needed as a public thoroughfare; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the following described right of way  
in Pensacola, Escambia County, Florida is hereby closed,  
discontinued, vacated and forever abandoned by the City of  
Pensacola as a public thoroughfare:

CORDAY STREET VACATION: VACATE CORDAY STREET FROM THE  
WESTERLY RIGHT-OF-WAY LINE OF INTERSTAE 1-110 TO THE  
WESTERN RIGHT-OF-WAY TANGENT OF DIXIE LANE; DIXIE DRIVE  
VACATION: VACATE JOE ELLIOT WAY IN ITS ENTIRETY FROM  
THE SOUTHERLY RIGHT-OF-WAY LINE OF CORDAY STREET TO THE  
NORTHERLY RIGHT-OF-WAY LINE OF AMBER STREET; JOE ELLIOT  
WAY VACATION: VACATE JOE ELLIOT WAY IN ITS ENTIRETY  
FROM THE SOUTHERLY RIGHT-OF-WAY LINE OF CORDAY STREET  
TO THE SOUTHERN CUL-DESAC; RAWSON LANE VACATION: VACATE  
RAWSON LANE IN ITS ENTIRETY FROM THE SOUTHERN RIGHT-OF-  
WAY LINE OF BRENT LANE (S.R. NO. 296) TO THE NORTHERLY  
RIGHT-OF-WAY LINE OF CORDAY STREET.

SECTION 2. That the owners of the abutting property be, and they are hereby authorized to acquire possession of the right-of-way more particularly described in Section 1 of this ordinance, and the City of Pensacola does hereby abandon all claim of right, if any it has, in said property, and it shall remain and be the property of the abutting property owners.

SECTION 3. That, notwithstanding the foregoing sections, the City of Pensacola reserves for itself, Gulf Power Company, Bell South, Cox Cable, and the Emerald Coast Utilities Authority, their successors and assigns, a full width easement in the entire portion the right of way vacated hereby for the purpose of locating and maintaining public utilities and improvements.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. 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

## VACATION OF ALLEY OR STREET RIGHT OF WAY

Fee: \$2,000.00

Rehearing/Rescheduling Planning Board: \$250.00

Rehearing/Rescheduling City Council: \$500.00



### Applicant Information:

Name: BAPTIST HEALTH CARE

Address: 177 N. E STREET, PENSACOLA, FL 32501

Phone: 469-2338 Fax: 434-4841 Email: JPORTER@BHC-PNS.ORG

### Property Information:

Owner Name: BAPTIST HEALTH CARE

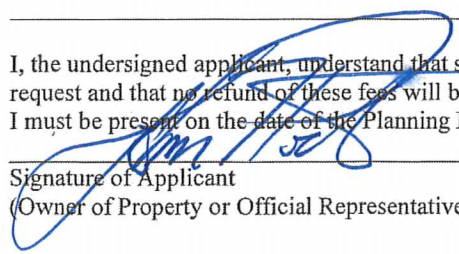
Location/Address: 245 BRENT LANE

Legal Description: Please attach a full legal description (from deed or survey)

### Purpose of vacation of city right of way/comments:

RIGHT-OF-WAY VACATION IS REQUESTED FOR THE DEVELOPMENT  
OF A NEW 250 ROOM HOSPITAL.

I, the undersigned applicant, understand that submittal of this application does not entitle me to approval of this vacation request and that no refund of these fees will be made. I have reviewed a copy of the applicable regulations and understand that I must be present on the date of the Planning Board and City Council meeting.

  
Signature of Applicant

Date 11-14-19

(Owner of Property or Official Representative of Owner)

### FOR OFFICE USE ONLY

District: \_\_\_\_\_

Date Received: \_\_\_\_\_

Case Number: \_\_\_\_\_

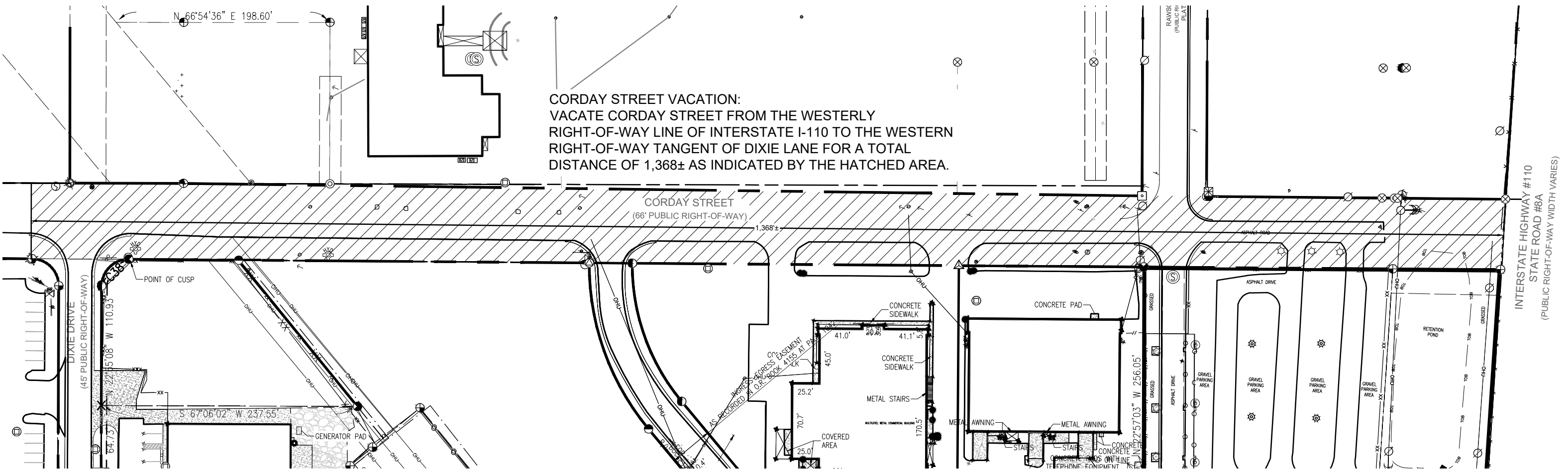
Date Postcards mailed: \_\_\_\_\_

Planning Board Date: \_\_\_\_\_

Recommendation: \_\_\_\_\_

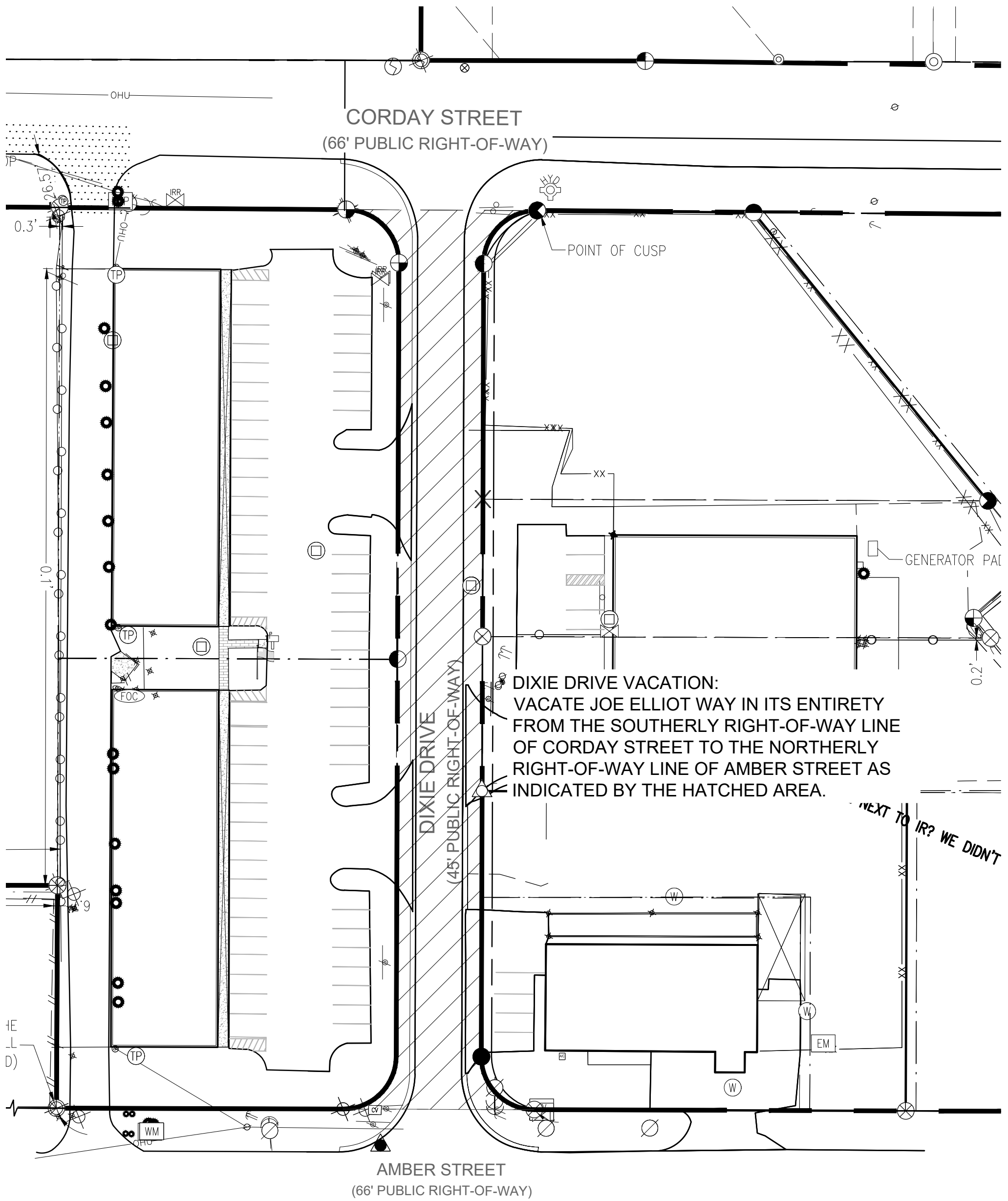
Council Date: \_\_\_\_\_

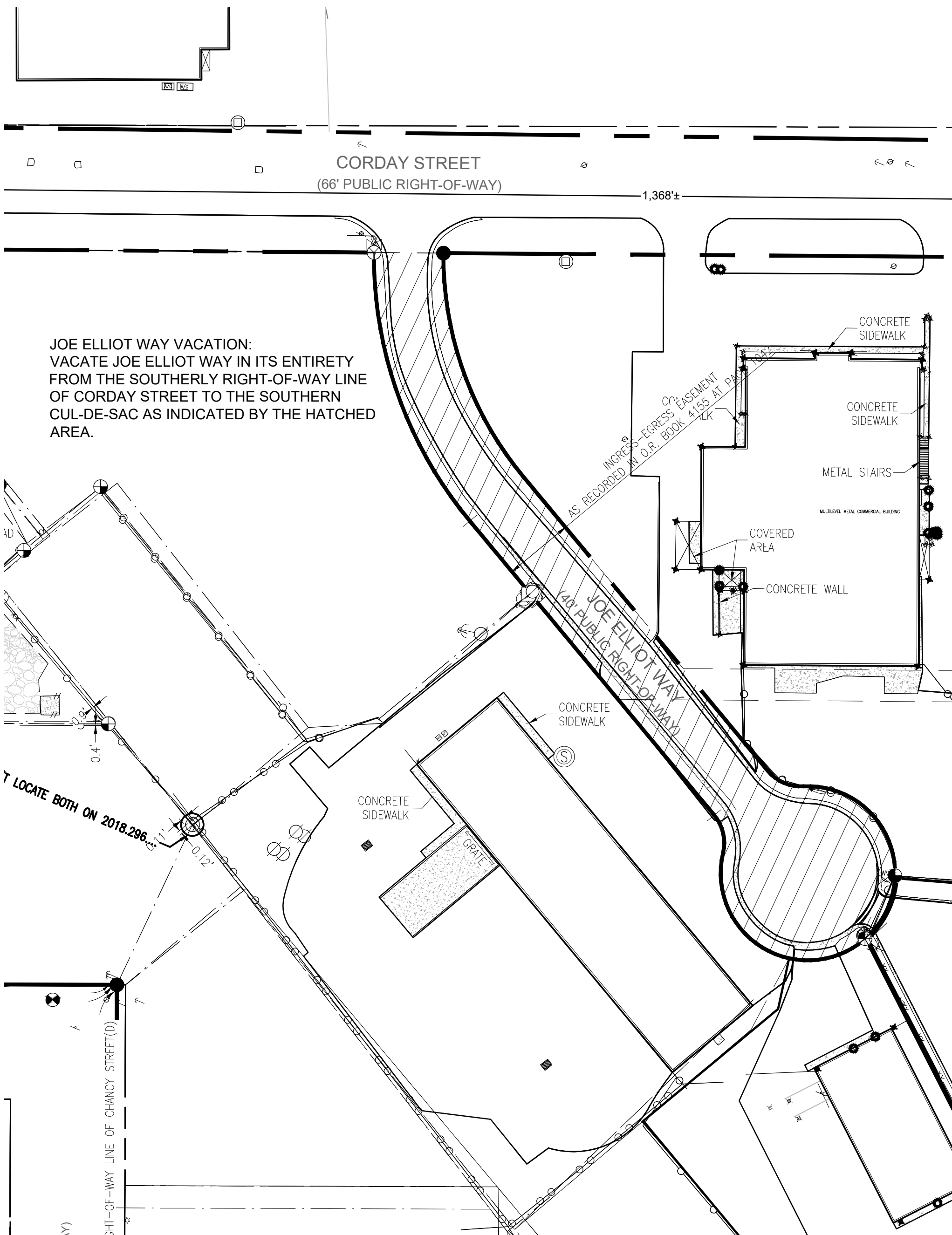
Council Action: \_\_\_\_\_



CORDAY STREET VACATION:  
VACATE CORDAY STREET FROM THE WESTERLY  
RIGHT-OF-WAY LINE OF INTERSTATE I-110 TO THE WESTERN  
RIGHT-OF-WAY TANGENT OF DIXIE LANE FOR A TOTAL  
DISTANCE OF 1,368± AS INDICATED BY THE HATCHED AREA.

INTERSTATE HIGHWAY #110  
STATE ROAD #8A  
(PUBLIC RIGHT-OF-WAY WIDTH VARIES)











## **MINUTES OF THE PLANNING BOARD**

**December 10, 2019**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Kurt Larson, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Wiggins

**MEMBERS ABSENT:** Board Member Murphy

**STAFF PRESENT:** Assistant Planning Services Administrator Cannon, Assistant City Attorney Lindsay, Planning Services Administrator Morris, Senior Planner Statler, Transportation Planner-Complete Streets Ziarnek, Neighborhoods Administrator Powell, Council Executive Kraher

**OTHERS PRESENT:** Will Dunaway, Carrie Stevenson, Eric Fears, Chris & Tracy Gonsoulin, Steve Corbae

### **AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from November 18, 2019.
- **New Business:**
  1. **Consider Rezoning for Community Maritime Park Parcels to WRD-1**
  2. **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**
  3. **Consider Baptist Request for Vacation of Right-of-Way**
  4. **Consider Amendment to the CRA Urban Overlay District Boundary**
  5. **Discussion on the Proposed Amendment to the Tree Ordinance**
- Open Forum
- Adjournment

### **Call to Order / Quorum Present**

Chairperson Ritz called the meeting to order at 2:03 pm with a quorum present and explained the procedures of the Board meeting.

### **Approval of Meeting Minutes**

**Board Member Larson made a motion to approve the November 18, 2019 minutes, seconded**

222 West Main Street Pensacola, Florida 32502

[www.cityofpensacola.com](http://www.cityofpensacola.com)

**by Board Member Powell, and it carried unanimously.**

### **New Business**

#### **Consider Rezoning for Community Maritime Park Parcels to WRD-1**

Staff received a request to amend the zoning map for the Community Maritime Park (CMP) parcels to WRD-1. This is consistent with the existing Future Land Use Map (FLUM) classification for the CMP which is "Redevelopment".

On October 8, 2019 the Planning Board approved a request to modify the Redevelopment Land Use District WRD by establishing a subcategory which would become the WRD-1. The proposed WRD-1 is a standalone section with the intent of optimizing the future development of the City's CMP parcels.

To reinforce, Chairperson Ritz stated the previous Board meeting was to establish the WRD-1 subcategory and was not specific to a piece of property, so today it is actually being applied to a particular parcel. WRD-1 was approved by the Board and Council, and today's agenda item is to apply it to a particular parcel. He also clarified there were multiple parcels.

Mr. Rothfeder with Studer Properties addressed the Board and stated he thought the first process with the Board was to rezone these parcels and did not realize it would be done in a two-step process – create the zoning district and then rezone the parcels. Chairperson Ritz clarified that any parcel within the WRD designation had that option. Mr. Rothfeder deferred to the City to determine the parcels to be rezoned. Assistant Planning Services Administrator Cannon explained that WRD-1 was being applied to the vacant parcels. But if it was the applicant's desire to apply that to the entire park, the Board would have that latitude to make that change. Chairperson Ritz advised it did not make any difference to him but from a development standpoint, it captured the end goal of this project. He also clarified these were the remaining undeveloped parcels.

Mr. Gonsoulin who owns a few lots north of Main Street asked if the rezoning would affect his properties. Chairperson Ritz advised it would not but could not attest to the property values going better or worse, but it would definitely not affect his zoning or setback lines. He was notified because of his location to these parcels (within 500' public notification).

**Board Member Grundhoefer made a motion to approve, seconded by Board Member Wiggins. The motion carried unanimously.**

#### **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Approval of the annexation request by City Council necessitated an amendment to the City's Zoning and Future Land Use maps to include the subject properties. The recommended designation of C-3 is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits.

Chairperson Ritz explained because this was not property belonging to the City prior to the annexation, it did not have a City zoning designation, and the County rules were in effect. It was not a part of the City, and this agenda item was to apply a zoning designation to the newly annexed City property. C-3 is very consistent with the surrounding properties. Board Member Larson had been concerned that it was not going C-1, but understood that C-3 allowed for greater height, and he was good with allowing that for Baptist's capabilities.

Mr. Rebol represented the hospital and confirmed that the C-3 designation was primarily to allow for the building height.

**Board Member Powell made a motion to approve, seconded by Board Member Larson. The motion carried unanimously.**

### **Consider Baptist Request for Vacation of Right-of-Way**

Subsequent to the approval of the Baptist Health Care Annexation and rezoning request is a request for vacation of the following rights-of-way within the annexed area: Rawson Lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

Assistant Planning Services Administrator Cannon explained that Baptist had reassured that they were working with ECUA and AT&T in maintaining the utility easements for those areas. Board Member Larson felt the plan gave more flexibility to Baptist for development of whatever they needed.

#### **Board Member Larson made a motion to approve, seconded by Board Member Wiggins.**

Chairperson Ritz agreed this would greatly benefit Baptist Hospital. He explained in the vacation of right-of-ways, the City could not just sell the property to Baptist since that property was owned collectively by the citizens of Pensacola, therefore, the citizens must grant the vacation to give the property to Baptist. Board Member Grundhoefer asked if there were any streets where Baptist did not own adjacent property. Assistant City Attorney Lindsay advised they own all the adjacent property. Assistant Planning Services Administrator Cannon pointed out the proper notification had been met. She also explained there would be full width easements for those utilities to be maintained as necessary, and Baptist had been working with ECUA and AT&T from the beginning. The language presented to Council would contain that easement language.

**The motion then carried unanimously.**

### **Consider Amendment to the CRA Urban Overlay District Boundary**

Please consider a request to redefine the boundary of the CRA Urban Overlay District. The current CRA boundary includes industrial uses located on the outer edge of the district that were not intended to be included in the overlay district.

Chairperson Ritz advised he had visited the area and noted the larger parcels were heavy industrial uses and would not fit with what the CRA was intended to accomplish. He did not think the rail yard would change in the near future and supported redefining the boundary. Assistant City Attorney Lindsay explained the request was coming from the design requirements of the CRA Urban Overlay and that City staff was requesting the Board to consider removing these parcels. Board Member Grundhoefer questioned the three parcels north of Chase close to the Global Learning Academy. Assistant City Attorney Lindsay explained those parcels were in close proximity to Gulf Power, and their boundary was with the Wildlife Refuge Center. In order to encourage development there, industrial use was the only thing anticipated to occur at that location and something that would not have to meet the urban requirements. She offered who would want to make that capital investment to meet the urban design overlay to encourage foot traffic there. Assistant Planning Services Administrator Cannon explained the uses would not change, but they were only removing the additional layer of design in this industrial area.

**Board Member Wiggins made a motion to approve, seconded by Board Member Sampson.**  
**The motion carried unanimously.**

### **Discussion on the Proposed Amendment to the Tree Ordinance**

Assistant Planning Services Administrator Cannon explained no new information had been received regarding the timeline for Board Member Murphy's charrettes. Board Member Wiggins asked if there was a reason for charrettes rather than a Board workshop; she felt more comfortable with the Board taking the lead due to public access. Chairperson Ritz explained Board Member Murphy wanted to reach out more strongly to the community for those who chose not to participate in the first workshop. He believed the consensus of the Board was to allow that to happen but to have additional information available to the public forum prior to any kind of vote. He explained the Board was keeping it as a

discussion item on the agenda, and if Board Member Murphy was unable to bring those constituencies together in her outside charrettes, the Board would fall back to the normal process. Board Member Wiggins' only concern was that the business community was involved as well. Board Member Grundhoefer had not been aware of the City's EAB who might have more scientific basis for discussion. Board Member Sampson emphasized that was the reason this Board had decided to involve them in this process. Chairperson Ritz explained this Board would have the final say, and the final draft could be something totally different than what was presented to the Board, and hopefully at that time, the Board would have more information on which to base the decision. Board Member Powell asked if editing was an option, and it was determined to be a choice. Board Member Grundhoefer pointed out the document which had been presented had revised the existing ordinance. Board Member Powell asked if the current document could be reviewed. In the workshop, information was obtained from the scientific and professional community. Chairperson Ritz stated the workshop ultimately brought up more questions with tree funds, tree choices, etc. Assistant Planning Services Administrator Cannon stated in modifying language in an existing code, you need clear knowledge of what you are trying to solve, and the stakeholder groups need to be on the same page. Board Member Grundhoefer offered the focus was on building up the Tree Fund and making it more difficult to tear down heritage trees by developers. He explained our current ordinance protects the trees but doesn't have enough incentive for developers to build around the trees and pay into the Tree Fund. Assistant City Attorney Lindsay commented that Board Member Murphy had intended that the charrettes address the questions that were raised, and that she was open to making sure the Board's questions were addressed. However, she also thought the Board was having another workshop after the charrettes. It was determined that the Board had postponed the workshop until the additional feedback was received, and the item was maintained as a discussion item for review. Chairperson Ritz explained if the ordinance needed to be addressed, it would be in due time. Board Member Larson hoped to formulate his questions based on the feedback from the charrettes. Chairperson Ritz explained with more information coming, there was time to reassess as the Board moved from additional workshops to an agenda vote.

**Open Forum** – Ms. Bennett addressed the Board and mentioned the Crepe Myrtles which do not provide a food supply or nesting for birds. Ms. Stephenson with the Escambia County Extension Office offered her input if the Board had specific questions. She also had information from the public survey done for the County as well as information from the University of Florida on hurricane-resistant tree species and the life span of trees. She also explained that in general, root systems are within the first 18" of the soil, going two to three times as wide as the canopy. She was encouraged to send her information to Planning staff to compare with the current Ordinance. Board Member Grundhoefer also encouraged her to attend the charrettes given by Board Member Murphy; Assistant Planning Services Administrator Cannon advised she would keep Ms. Stephenson informed of the progress.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:00 pm.

Respectfully Submitted,

Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00024

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PUBLIC HEARING: PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - CITY CODE SECTION 12-2-25 (B) COMMUNITY REDEVELOPMENT AGENCY URBAN OVERLAY DISTRICT BOUNDARY

**RECOMMENDATION:**

That City Council conduct a Public Hearing on January 16, 2020 to consider a proposed amendment to the Land Development Code, redefining the boundary of the Community Redevelopment Agency (CRA) Urban Overlay District.

**HEARING REQUIRED:** Public

**SUMMARY:**

The current CRA Urban Overlay boundary includes existing industrial uses on the perimeter of the district that were not intended to be included in the overlay district. . It has been determined that the CRA Urban Overlay boundary should be redefined to exclude the following parcels from the district:

00-0S-00-9090-001-136; 00-0S-00-9090-001-113; 00-0S-00-9090-001-114; 00-0S-00-9090-001-115; 00-0S-00-9090-001-116; 00-0S-00-9090-009-143; 00-0S-00-9090-011-143; 00-0S-00-9090-001-002; 00-0S-00-9090-001-004; 00-0S-00-9090-006-001; 00-0S-00-9090-001-003; 00-0S-00-9090-001-001; AND 00-0S-00-9090-007-001.

On December 10, 2019, the City of Pensacola Planning Board voted unanimously to recommend approval of this request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/24/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator - Community Development  
Helen Gibson, AICP, CRA Administrator  
Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 06-20
- 2) CRA Overlay Boundary - Revised
- 3) Parcel Map Dated December 23, 2019
- 4) Planning Board Minutes December 10, 2019 DRAFT

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 06-20

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

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-2-25 (B) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY DISTRICT BOUNDARIES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

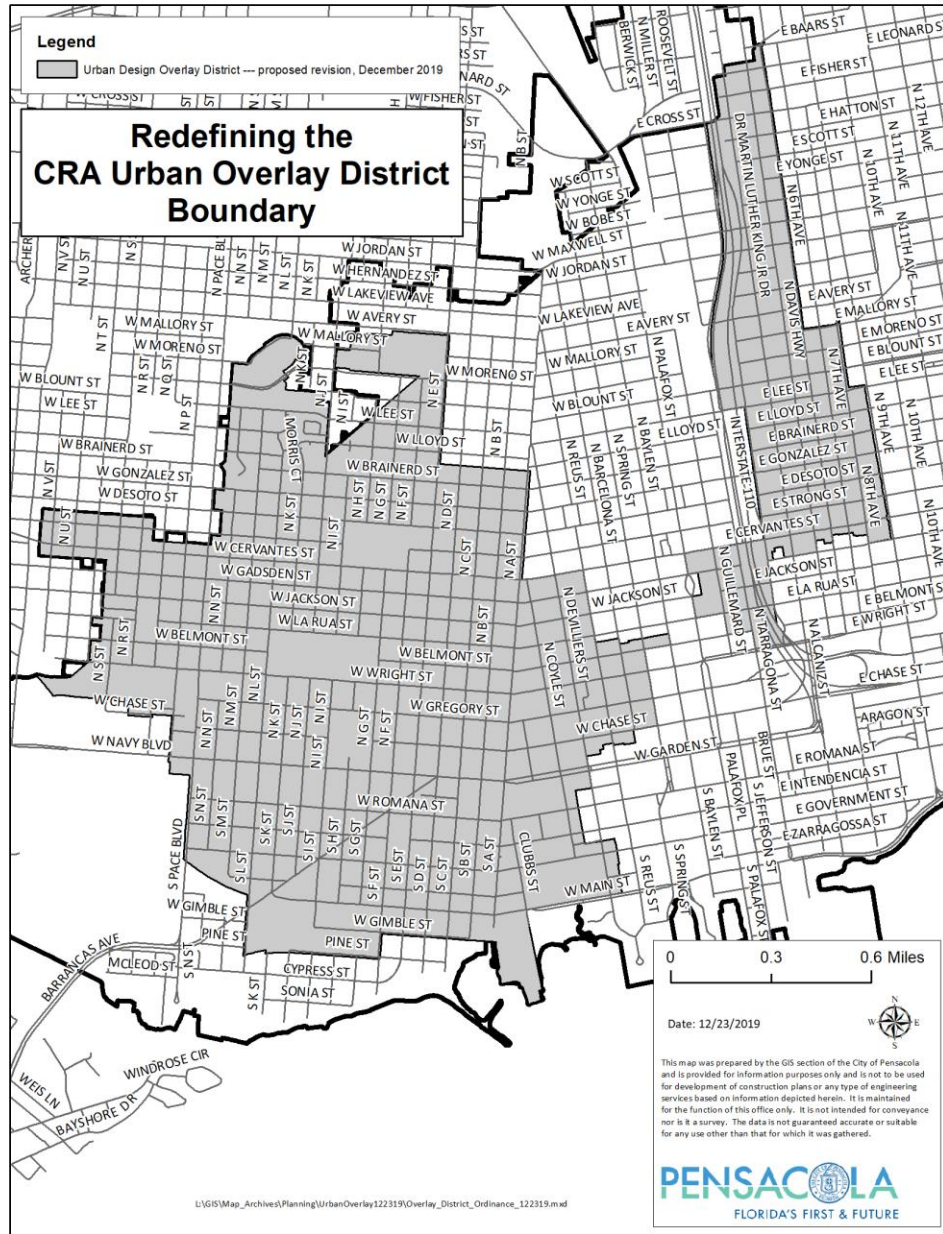
BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-2-25 of the Code of the City of Pensacola, Florida, is hereby amended to redefine the boundaries of the Community Redevelopment Area (CRA) Urban Design Overlay District:

Section 12-2-25. – Community Redevelopment Area (CRA) Urban Design Overlay District

(B) *Boundaries of the District.* The boundaries of the CRA Urban Design Overlay District shall be as outlined on Figure 12-2-25.1. A more detailed map of the boundaries of the Overlay is on file in the City of Pensacola Office of the City Clerk.

**Figure 12-2-25.1 - CRA Urban Design Overlay District Boundaries**



**Figure 12-2-25.1 - CRA Urban Design Overlay District Boundaries**



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

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

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

Adopted: \_\_\_\_\_

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

Attest:

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

Urban Design Overlay District --- proposed revision, December 2019

**Legend**

Urban Design Overlay District --- proposed revision, December 2019

# Redefining the CRA Urban Overlay District Boundary

0 0.3 0.6 Miles

Date: 12/23/2019

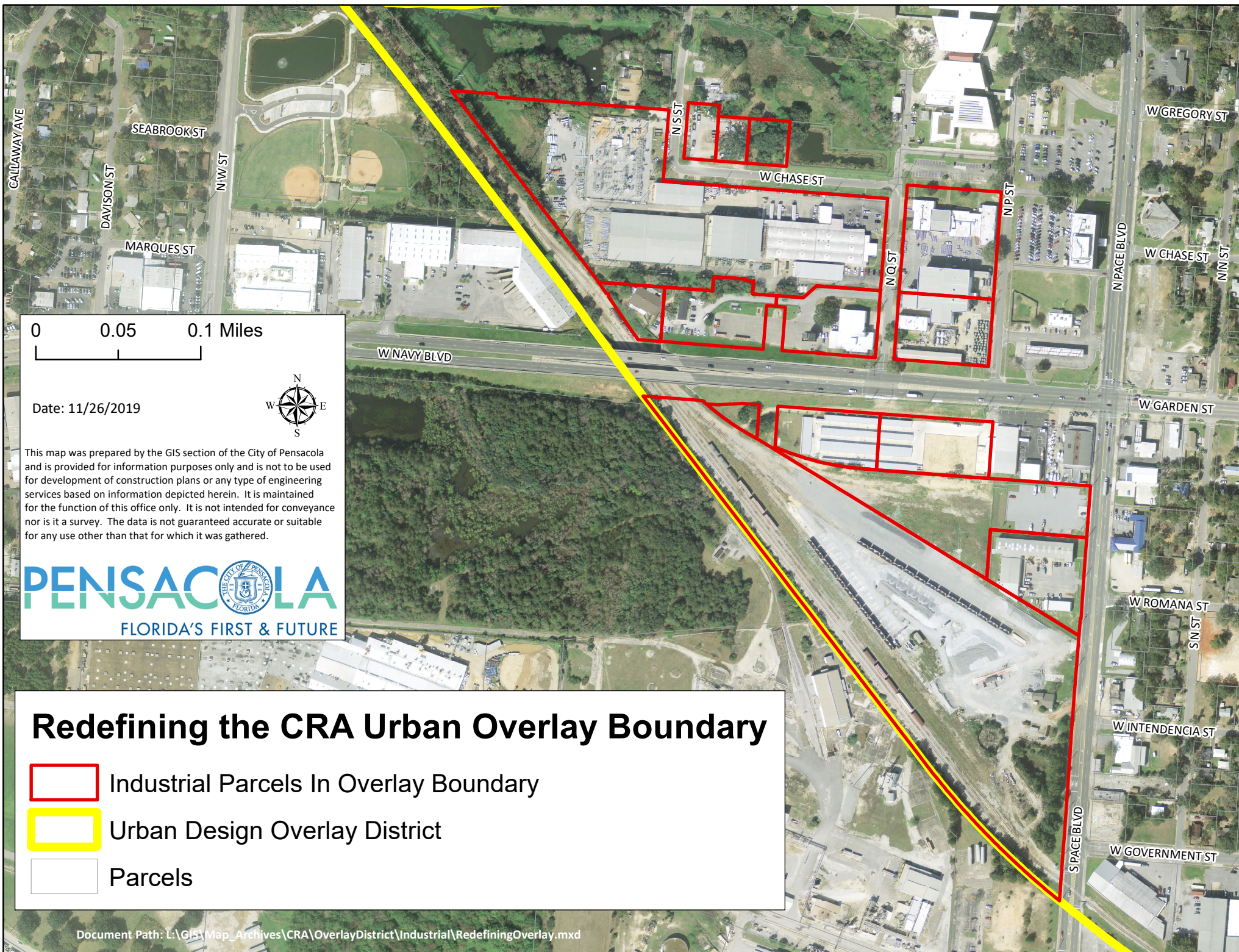
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**PENSACOLA**  
FLORIDA'S FIRST & FUTURE

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0 0.05 0.1 Miles




Date: 11/26/2019



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## Redefining the CRA Urban Overlay Boundary

-  Industrial Parcels In Overlay Boundary
-  Urban Design Overlay District
-  Parcels





## **MINUTES OF THE PLANNING BOARD**

**December 10, 2019**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Kurt Larson, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Wiggins

**MEMBERS ABSENT:** Board Member Murphy

**STAFF PRESENT:** Assistant Planning Services Administrator Cannon, Assistant City Attorney Lindsay, Planning Services Administrator Morris, Senior Planner Statler, Transportation Planner-Complete Streets Ziarnek, Neighborhoods Administrator Powell, Council Executive Kraher

**OTHERS PRESENT:** Will Dunaway, Carrie Stevenson, Eric Fears, Chris & Tracy Gonsoulin, Steve Corbae

### **AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from November 18, 2019.
- **New Business:**
  1. **Consider Rezoning for Community Maritime Park Parcels to WRD-1**
  2. **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**
  3. **Consider Baptist Request for Vacation of Right-of-Way**
  4. **Consider Amendment to the CRA Urban Overlay District Boundary**
  5. **Discussion on the Proposed Amendment to the Tree Ordinance**
- Open Forum
- Adjournment

### **Call to Order / Quorum Present**

Chairperson Ritz called the meeting to order at 2:03 pm with a quorum present and explained the procedures of the Board meeting.

### **Approval of Meeting Minutes**

**Board Member Larson made a motion to approve the November 18, 2019 minutes, seconded**

222 West Main Street Pensacola, Florida 32502

[www.cityofpensacola.com](http://www.cityofpensacola.com)

**by Board Member Powell, and it carried unanimously.**

### **New Business**

#### **Consider Rezoning for Community Maritime Park Parcels to WRD-1**

Staff received a request to amend the zoning map for the Community Maritime Park (CMP) parcels to WRD-1. This is consistent with the existing Future Land Use Map (FLUM) classification for the CMP which is "Redevelopment".

On October 8, 2019 the Planning Board approved a request to modify the Redevelopment Land Use District WRD by establishing a subcategory which would become the WRD-1. The proposed WRD-1 is a standalone section with the intent of optimizing the future development of the City's CMP parcels.

To reinforce, Chairperson Ritz stated the previous Board meeting was to establish the WRD-1 subcategory and was not specific to a piece of property, so today it is actually being applied to a particular parcel. WRD-1 was approved by the Board and Council, and today's agenda item is to apply it to a particular parcel. He also clarified there were multiple parcels.

Mr. Rothfeder with Studer Properties addressed the Board and stated he thought the first process with the Board was to rezone these parcels and did not realize it would be done in a two-step process – create the zoning district and then rezone the parcels. Chairperson Ritz clarified that any parcel within the WRD designation had that option. Mr. Rothfeder deferred to the City to determine the parcels to be rezoned. Assistant Planning Services Administrator Cannon explained that WRD-1 was being applied to the vacant parcels. But if it was the applicant's desire to apply that to the entire park, the Board would have that latitude to make that change. Chairperson Ritz advised it did not make any difference to him but from a development standpoint, it captured the end goal of this project. He also clarified these were the remaining undeveloped parcels.

Mr. Gonsoulin who owns a few lots north of Main Street asked if the rezoning would affect his properties. Chairperson Ritz advised it would not but could not attest to the property values going better or worse, but it would definitely not affect his zoning or setback lines. He was notified because of his location to these parcels (within 500' public notification).

**Board Member Grundhoefer made a motion to approve, seconded by Board Member Wiggins. The motion carried unanimously.**

#### **Consider Zoning and Future Land Use Map Amendment for Baptist Annexation Parcels**

Baptist Health Care officially requested Annexation into the City of Pensacola on October 17, 2019. Approval of the annexation request by City Council necessitated an amendment to the City's Zoning and Future Land Use maps to include the subject properties. The recommended designation of C-3 is consistent with the adjacent industrially and commercially zoned properties currently located within the City limits.

Chairperson Ritz explained because this was not property belonging to the City prior to the annexation, it did not have a City zoning designation, and the County rules were in effect. It was not a part of the City, and this agenda item was to apply a zoning designation to the newly annexed City property. C-3 is very consistent with the surrounding properties. Board Member Larson had been concerned that it was not going C-1, but understood that C-3 allowed for greater height, and he was good with allowing that for Baptist's capabilities.

Mr. Rebol represented the hospital and confirmed that the C-3 designation was primarily to allow for the building height.

**Board Member Powell made a motion to approve, seconded by Board Member Larson. The motion carried unanimously.**

### **Consider Baptist Request for Vacation of Right-of-Way**

Subsequent to the approval of the Baptist Health Care Annexation and rezoning request is a request for vacation of the following rights-of-way within the annexed area: Rawson Lane from Brent Lane to Corday Street, Corday Street from Dixie Drive to I-110 and Joe Elliot Way in its entirety.

Assistant Planning Services Administrator Cannon explained that Baptist had reassured that they were working with ECUA and AT&T in maintaining the utility easements for those areas. Board Member Larson felt the plan gave more flexibility to Baptist for development of whatever they needed.

#### **Board Member Larson made a motion to approve, seconded by Board Member Wiggins.**

Chairperson Ritz agreed this would greatly benefit Baptist Hospital. He explained in the vacation of right-of-ways, the City could not just sell the property to Baptist since that property was owned collectively by the citizens of Pensacola, therefore, the citizens must grant the vacation to give the property to Baptist. Board Member Grundhoefer asked if there were any streets where Baptist did not own adjacent property. Assistant City Attorney Lindsay advised they own all the adjacent property. Assistant Planning Services Administrator Cannon pointed out the proper notification had been met. She also explained there would be full width easements for those utilities to be maintained as necessary, and Baptist had been working with ECUA and AT&T from the beginning. The language presented to Council would contain that easement language.

**The motion then carried unanimously.**

### **Consider Amendment to the CRA Urban Overlay District Boundary**

Please consider a request to redefine the boundary of the CRA Urban Overlay District. The current CRA boundary includes industrial uses located on the outer edge of the district that were not intended to be included in the overlay district.

Chairperson Ritz advised he had visited the area and noted the larger parcels were heavy industrial uses and would not fit with what the CRA was intended to accomplish. He did not think the rail yard would change in the near future and supported redefining the boundary. Assistant City Attorney Lindsay explained the request was coming from the design requirements of the CRA Urban Overlay and that City staff was requesting the Board to consider removing these parcels. Board Member Grundhoefer questioned the three parcels north of Chase close to the Global Learning Academy. Assistant City Attorney Lindsay explained those parcels were in close proximity to Gulf Power, and their boundary was with the Wildlife Refuge Center. In order to encourage development there, industrial use was the only thing anticipated to occur at that location and something that would not have to meet the urban requirements. She offered who would want to make that capital investment to meet the urban design overlay to encourage foot traffic there. Assistant Planning Services Administrator Cannon explained the uses would not change, but they were only removing the additional layer of design in this industrial area.

**Board Member Wiggins made a motion to approve, seconded by Board Member Sampson.**  
**The motion carried unanimously.**

### **Discussion on the Proposed Amendment to the Tree Ordinance**

Assistant Planning Services Administrator Cannon explained no new information had been received regarding the timeline for Board Member Murphy's charrettes. Board Member Wiggins asked if there was a reason for charrettes rather than a Board workshop; she felt more comfortable with the Board taking the lead due to public access. Chairperson Ritz explained Board Member Murphy wanted to reach out more strongly to the community for those who chose not to participate in the first workshop. He believed the consensus of the Board was to allow that to happen but to have additional information available to the public forum prior to any kind of vote. He explained the Board was keeping it as a

discussion item on the agenda, and if Board Member Murphy was unable to bring those constituencies together in her outside charrettes, the Board would fall back to the normal process. Board Member Wiggins' only concern was that the business community was involved as well. Board Member Grundhoefer had not been aware of the City's EAB who might have more scientific basis for discussion. Board Member Sampson emphasized that was the reason this Board had decided to involve them in this process. Chairperson Ritz explained this Board would have the final say, and the final draft could be something totally different than what was presented to the Board, and hopefully at that time, the Board would have more information on which to base the decision. Board Member Powell asked if editing was an option, and it was determined to be a choice. Board Member Grundhoefer pointed out the document which had been presented had revised the existing ordinance. Board Member Powell asked if the current document could be reviewed. In the workshop, information was obtained from the scientific and professional community. Chairperson Ritz stated the workshop ultimately brought up more questions with tree funds, tree choices, etc. Assistant Planning Services Administrator Cannon stated in modifying language in an existing code, you need clear knowledge of what you are trying to solve, and the stakeholder groups need to be on the same page. Board Member Grundhoefer offered the focus was on building up the Tree Fund and making it more difficult to tear down heritage trees by developers. He explained our current ordinance protects the trees but doesn't have enough incentive for developers to build around the trees and pay into the Tree Fund. Assistant City Attorney Lindsay commented that Board Member Murphy had intended that the charrettes address the questions that were raised, and that she was open to making sure the Board's questions were addressed. However, she also thought the Board was having another workshop after the charrettes. It was determined that the Board had postponed the workshop until the additional feedback was received, and the item was maintained as a discussion item for review. Chairperson Ritz explained if the ordinance needed to be addressed, it would be in due time. Board Member Larson hoped to formulate his questions based on the feedback from the charrettes. Chairperson Ritz explained with more information coming, there was time to reassess as the Board moved from additional workshops to an agenda vote.

**Open Forum** – Ms. Bennett addressed the Board and mentioned the Crepe Myrtles which do not provide a food supply or nesting for birds. Ms. Stephenson with the Escambia County Extension Office offered her input if the Board had specific questions. She also had information from the public survey done for the County as well as information from the University of Florida on hurricane-resistant tree species and the life span of trees. She also explained that in general, root systems are within the first 18" of the soil, going two to three times as wide as the canopy. She was encouraged to send her information to Planning staff to compare with the current Ordinance. Board Member Grundhoefer also encouraged her to attend the charrettes given by Board Member Murphy; Assistant Planning Services Administrator Cannon advised she would keep Ms. Stephenson informed of the progress.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:00 pm.

Respectfully Submitted,

Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

**File #:** 06-20

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PROPOSED ORDINANCE NO. 06-20 - PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE - CITY CODE SECTION 12-2-25 (B) COMMUNITY REDEVELOPMENT AGENCY URBAN OVERLAY DISTRICT BOUNDARY

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 06-20 on first reading.

AN ORDINANCE AMENDING SECTION 12-2-25 (B) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY DISTRICT BOUNDARIES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

**HEARING REQUIRED:** Public

**SUMMARY:**

The current CRA Urban Overlay boundary includes existing industrial uses on the perimeter of the district that were not intended to be included in the overlay district. It has been determined that the CRA Urban Overlay boundary should be redefined to exclude the following parcels from the district:

00-0S-00-9090-001-136; 00-0S-00-9090-001-113; 00-0S-00-9090-001-114; 00-0S-00-9090-001-115; 00-0S-00-9090-001-116; 00-0S-00-9090-009-143; 00-0S-00-9090-011-143; 00-0S-00-9090-001-002; 00-0S-00-9090-001-004; 00-0S-00-9090-006-001; 00-0S-00-9090-001-003; 00-0S-00-9090-001-001; AND 00-0S-00-9090-007-001.

On December 10, 2019, the City of Pensacola Planning Board voted unanimously to recommend approval of this request.

**PRIOR ACTION:**

None



**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

12/30/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Kerrith Fiddler, Deputy City Administrator - Community Development  
Helen Gibson, AICP, CRA Administrator  
Sherry Morris, AICP, Planning Services Administrator

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 06-20
- 2) CRA Overlay Boundary Map - Revised
- 3) Parcel Map Dated December 23, 2019
- 4) Planning Board Minutes December 10, 2019 DRAFT

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 06-20

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

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-2-25 (B) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY DISTRICT BOUNDARIES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

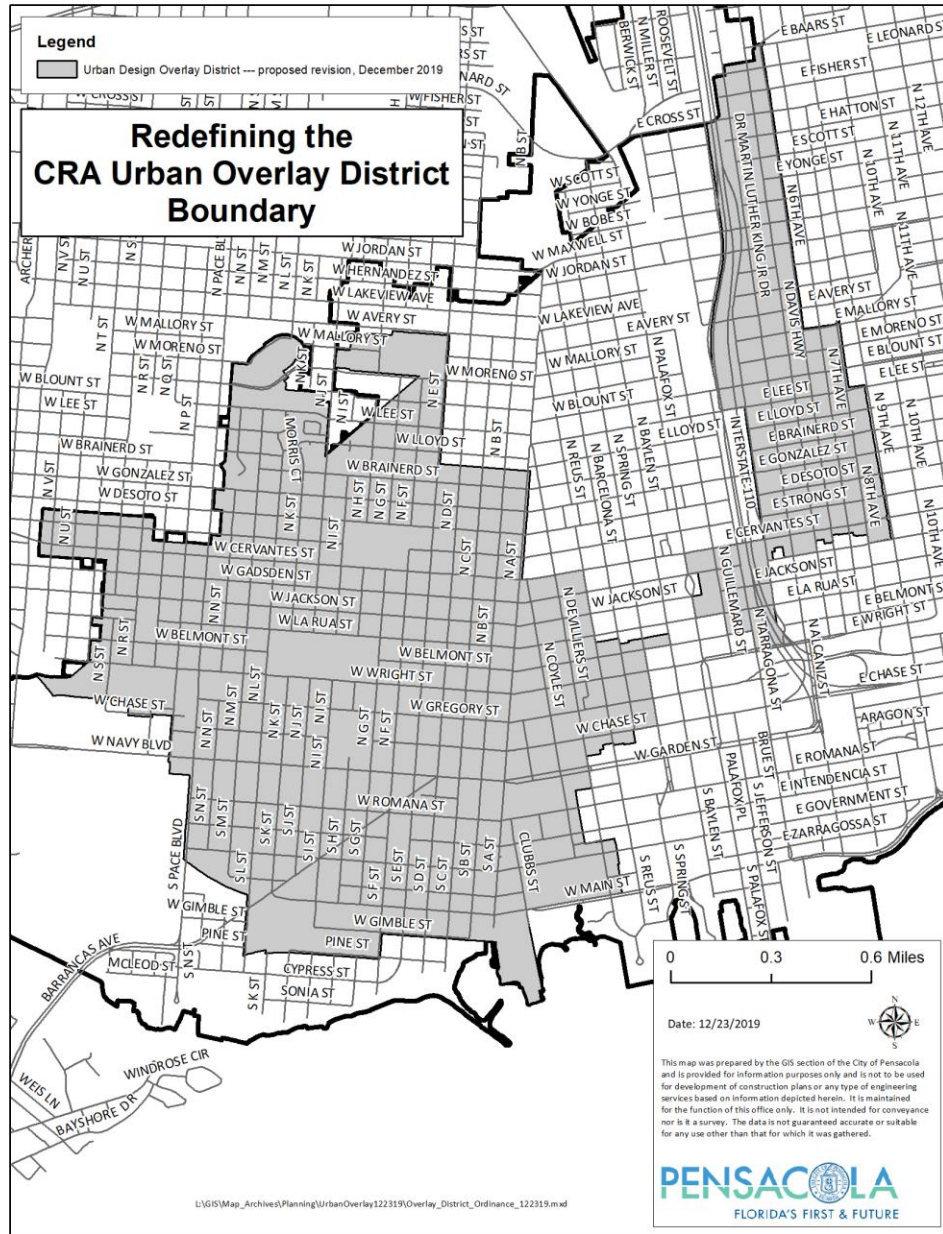
BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-2-25 of the Code of the City of Pensacola, Florida, is hereby amended to redefine the boundaries of the Community Redevelopment Area (CRA) Urban Design Overlay District:

Section 12-2-25. – Community Redevelopment Area (CRA) Urban Design Overlay District

- (B) *Boundaries of the District.* The boundaries of the CRA Urban Design Overlay District shall be as outlined on Figure 12-2-25.1. A more detailed map of the boundaries of the Overlay is on file in the City of Pensacola Office of the City Clerk.

**Figure 12-2-25.1 - CRA Urban Design Overlay District Boundaries**



**Figure 12-2-25.1 - CRA Urban Design Overlay District Boundaries**

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

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

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

Adopted: \_\_\_\_\_

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

Attest:

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

Urban Design Overlay District --- proposed revision, December 2019

**Legend**

Urban Design Overlay District --- proposed revision, December 2019

# Redefining the CRA Urban Overlay District Boundary

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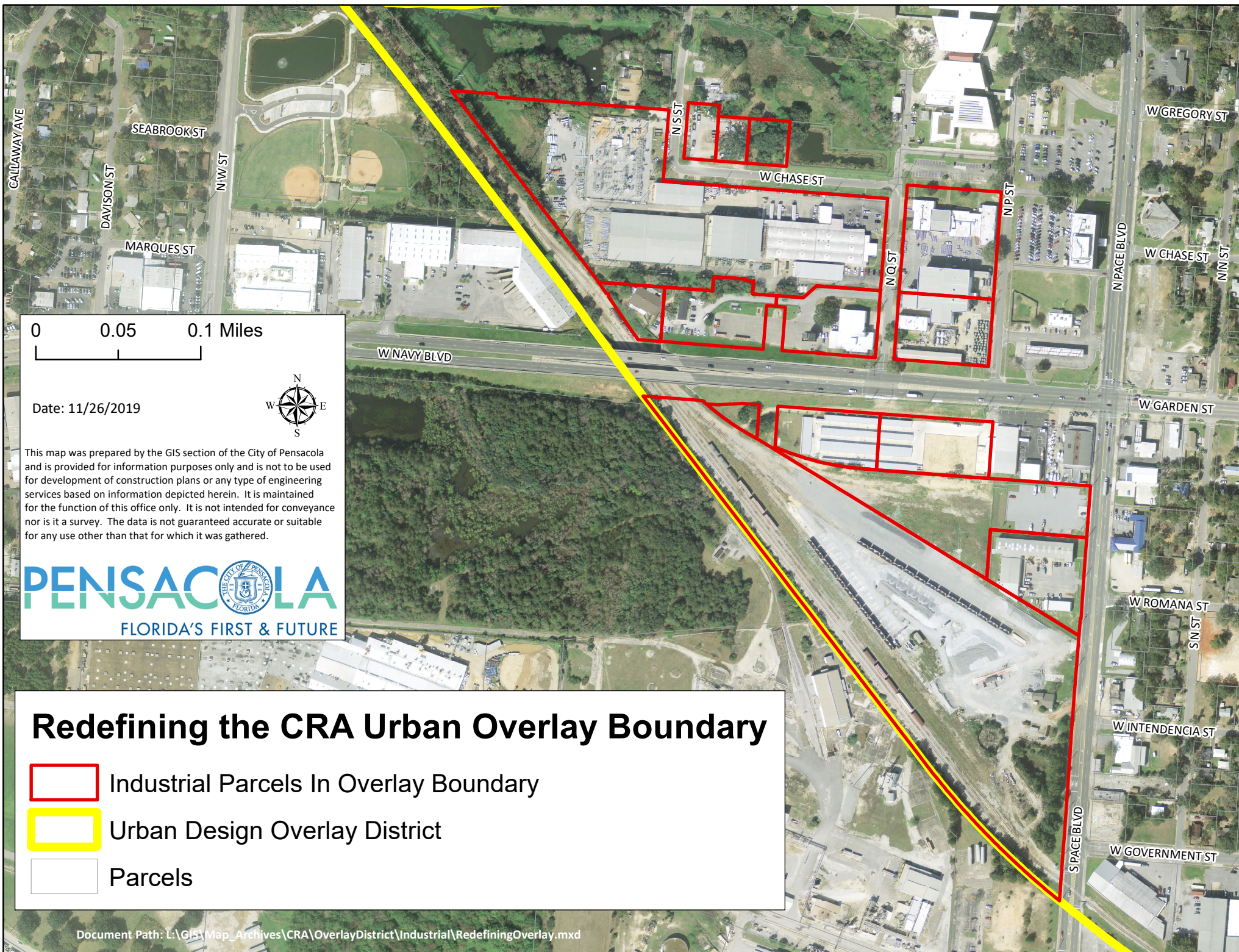
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## **MINUTES OF THE PLANNING BOARD**

**December 10, 2019**

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**MEMBERS ABSENT:** Board Member Murphy

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- Open Forum
- Adjournment

### **Call to Order / Quorum Present**

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**Board Member Larson made a motion to approve the November 18, 2019 minutes, seconded**

222 West Main Street Pensacola, Florida 32502

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**by Board Member Powell, and it carried unanimously.**

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Mr. Rebol represented the hospital and confirmed that the C-3 designation was primarily to allow for the building height.

**Board Member Powell made a motion to approve, seconded by Board Member Larson. The motion carried unanimously.**

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Assistant Planning Services Administrator Cannon explained that Baptist had reassured that they were working with ECUA and AT&T in maintaining the utility easements for those areas. Board Member Larson felt the plan gave more flexibility to Baptist for development of whatever they needed.

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Chairperson Ritz agreed this would greatly benefit Baptist Hospital. He explained in the vacation of right-of-ways, the City could not just sell the property to Baptist since that property was owned collectively by the citizens of Pensacola, therefore, the citizens must grant the vacation to give the property to Baptist. Board Member Grundhoefer asked if there were any streets where Baptist did not own adjacent property. Assistant City Attorney Lindsay advised they own all the adjacent property. Assistant Planning Services Administrator Cannon pointed out the proper notification had been met. She also explained there would be full width easements for those utilities to be maintained as necessary, and Baptist had been working with ECUA and AT&T from the beginning. The language presented to Council would contain that easement language.

**The motion then carried unanimously.**

### **Consider Amendment to the CRA Urban Overlay District Boundary**

Please consider a request to redefine the boundary of the CRA Urban Overlay District. The current CRA boundary includes industrial uses located on the outer edge of the district that were not intended to be included in the overlay district.

Chairperson Ritz advised he had visited the area and noted the larger parcels were heavy industrial uses and would not fit with what the CRA was intended to accomplish. He did not think the rail yard would change in the near future and supported redefining the boundary. Assistant City Attorney Lindsay explained the request was coming from the design requirements of the CRA Urban Overlay and that City staff was requesting the Board to consider removing these parcels. Board Member Grundhoefer questioned the three parcels north of Chase close to the Global Learning Academy. Assistant City Attorney Lindsay explained those parcels were in close proximity to Gulf Power, and their boundary was with the Wildlife Refuge Center. In order to encourage development there, industrial use was the only thing anticipated to occur at that location and something that would not have to meet the urban requirements. She offered who would want to make that capital investment to meet the urban design overlay to encourage foot traffic there. Assistant Planning Services Administrator Cannon explained the uses would not change, but they were only removing the additional layer of design in this industrial area.

**Board Member Wiggins made a motion to approve, seconded by Board Member Sampson.**  
**The motion carried unanimously.**

### **Discussion on the Proposed Amendment to the Tree Ordinance**

Assistant Planning Services Administrator Cannon explained no new information had been received regarding the timeline for Board Member Murphy's charrettes. Board Member Wiggins asked if there was a reason for charrettes rather than a Board workshop; she felt more comfortable with the Board taking the lead due to public access. Chairperson Ritz explained Board Member Murphy wanted to reach out more strongly to the community for those who chose not to participate in the first workshop. He believed the consensus of the Board was to allow that to happen but to have additional information available to the public forum prior to any kind of vote. He explained the Board was keeping it as a

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**Open Forum** – Ms. Bennett addressed the Board and mentioned the Crepe Myrtles which do not provide a food supply or nesting for birds. Ms. Stephenson with the Escambia County Extension Office offered her input if the Board had specific questions. She also had information from the public survey done for the County as well as information from the University of Florida on hurricane-resistant tree species and the life span of trees. She also explained that in general, root systems are within the first 18" of the soil, going two to three times as wide as the canopy. She was encouraged to send her information to Planning staff to compare with the current Ordinance. Board Member Grundhoefer also encouraged her to attend the charrettes given by Board Member Murphy; Assistant Planning Services Administrator Cannon advised she would keep Ms. Stephenson informed of the progress.

**Adjournment** – With no further business, Chairperson Ritz adjourned the meeting at 3:00 pm.

Respectfully Submitted,

Assistant Planning Services Administrator Cynthia Cannon  
Secretary to the Board



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00032

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

CITY COUNCIL CONSENT TO THE MAYOR'S APPOINTMENT OF AMY LOVOY AS FINANCE DIRECTOR

**RECOMMENDATION:**

That City Council consent to the Mayor's appointment of Amy Lovoy as Finance Director in accordance with City Charter Section 4.01(a)(7).

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

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

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

Upon the resignation of City Administrator Christopher Holley, Keith Wilkins was appointed as City Administrator leaving a vacancy in the Deputy City Administrator - Administration & Enterprise position. After an exhaustive search and due diligence conducted by City administrative staff, the Mayor has appointed Richard Barker, Jr., as Deputy City Administrator - Administration & Enterprise. Mr. Barker will retain his Chief Financial Officer status until March 31, 2020 when the Fiscal Year 2019 Comprehensive Annual Financial Report has been finalized. Amy Lovoy has been designated as Interim Finance Director until such time as she is confirmed by City Council to assume full responsibility of the Financial Services Department.

Ms. Lovoy comes to the City with over 19 years of governmental finance experience in roles of Budget Manager, Director of the Management and Budget Services Department, Assistant County Administrator as well as Interim County Administrator. Ms. Lovoy started with the City in June 2019 as the Deputy Chief Financial Officer and has been actively involved in various aspects of the City's Financial Services Department. She brings a wealth of knowledge in governmental finance and administration and will be a valuable asset to the City.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Funding for this position is available in the Fiscal Year 2020 Budget.

**CITY ATTORNEY REVIEW:** Yes

1/2/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator

**ATTACHMENTS:**

- 1) Lovoy Resume

**PRESENTATION:** No

2300 Magnolia Avenue  
Pensacola, FL 32503

Ph: (850) 293-1981  
e-mail: amy\_lovoy@yahoo.com

# Amy Lovoy

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## Objective

To work in a first-class environment with committed individuals looking to create the brightest possible future for the City of Pensacola

## Experience

1996 -1998                      Escambia County                      Pensacola, FL

### **Budget Analyst, Office of Management and Budget**

- Helped prepare the County's annual budget.
- Oversaw the County's Municipal Services Benefit Unit (MSBU) program.
- Maintained the County's Capital Improvement Program.

1998 – 1999                      Advantage Credit International                      Pensacola, FL

### **Chief Financial Officer**

- Acted as the CFO for multi-million dollar credit reports reseller.
- Managed accounts payable, accounts receivable and payroll.
- Secured credit lines and other financing vehicles for rapid expansion of business.

2001 – 2008                      Escambia County                      Pensacola, FL

### **Budget Manager**

- Responsible for the preparation and recommendation of the County's \$400+ million budget.
- Responsible for developing financing vehicles to accomplish County goals.
- Responsible for the overall financial position of the County.

2008 – 2014                      Escambia County                      Pensacola, FL

### **Department Director, Management and Budget Services**

- Department head in charge of Human Resources, Purchasing, Information Resources, Risk Management and the Budget Office.
- Responsible for the operations of each division within the bureau.
- The County's financial liaison with FEMA and the Florida Division of Emergency Management

2014 – 2019                      Escambia County                      Pensacola, FL

### **Assistant County Administrator – Escambia County**

- Assistant in charge of Budget, Purchasing, Risk Management, Information Technology, Solid Waste Management, Libraries and Natural Resource Conservation

2019- Present    City of Pensacola                      Pensacola, FL

**Deputy Finance Director – City of Pensacola**

- Assistant in charge of Budget, Purchasing, Risk Management, Information Technology, Solid Waste Management, Libraries and Natural Resource Conservation

**Education**

1986 - 1990            Huntingdon College                      Montgomery, AL

- B.A., Business Administration with specialization in finance.
- Graduated Cum Laude.

1990 - 1993            University of West Florida                      Pensacola, FL

- Master of Business Administration (MBA).





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 2020-01

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

SUPPLEMENTAL BUDGET RESOLUTION NO. 2020-01 - LAW ENFORCEMENT TRUST FUND (LETF) PURCHASES FOR THE PENSACOLA POLICE DEPARTMENT

**RECOMMENDATION:**

That the City Council adopt Supplemental Budget Resolution No. 2020-01.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The Law Enforcement Trust Fund was established by City of Pensacola to allow the Police Department the use of money and goods confiscated as a result of criminal activity. Florida State Statute 932.7055 as amended on July 1, 2016 details the circumstances confiscated goods may be used. The Federal Controlled Substance Act, Section 881 (e) (3) of Title 21, United States Code, in accordance with the United States Department of Justice Guide to Equitable Sharing designates the uses of Federal Law Enforcement Trust Funds.

The Pensacola Police Department is requesting \$17,300.00 from the Law Enforcement Trust Fund for additional training needs for SWAT members and supervisors. Funds for trainings and associated cost being requested under Florida State Statute 932.7055 are necessary due to recent turnover within the SWAT Team. The funds will provide Camp Blanding, Baer Solutions Tactical Firearms, NTOA SWAT team leader development, Less-lethal Instructor and training materials. The trainings sought are focused on providing fledgling members with basic SWAT skills and team integration. Additional requested trainings will educate a young or newer command group with operational leadership skills and tactics. The funding will include registration, per diem and travel costs.

**PRIOR ACTION:**

None

**FUNDING:**

Budget: \$17,300

Actual:      8,800 Camp Blanding  
                 3,000 Baer Solutions Tactical Firearms (for 5 members & ammo)  
                 3,100 NTOA SWAT Team Leader Development (3 team leaders)  
                 1,700 Less-Lethal Instructor (certify 2 members)  
                       700 Training materials  
                 \$17,300

**FINANCIAL IMPACT:**

The funds would be from the Law Enforcement Trust Fund and would have no impact on the City's General Fund. The attached supplemental budget resolution will appropriate funds for these purposes.

**CITY ATTORNEY REVIEW:** Yes

12/23/2019

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Tommi S. Lyter, Chief of Police

**ATTACHMENTS:**

- 1) Supplemental Budget Resolution No. 2020-01
- 2) Supplemental Budget Explanation No. 2020-01
- 3) Letter of Certification

**PRESENTATION:** No

**RESOLUTION  
NO. 2020-01**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR  
THE FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

**A. LAW ENFORCEMENT TRUST FUND**

To:	Fund Balance	17,300
As Reads:	Operating Expenses	39,801
Amended		
To Read:	Operating Expenses	57,101

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

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: \_\_\_\_\_

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

Attest:

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

**THE CITY OF PENSACOLA****JANUARY 2020 - SUPPLEMENTAL BUDGET RESOLUTION - LETF FUNDS - NO. 2020-01**

FUND	AMOUNT	DESCRIPTION
<b>LAW ENFORCEMENT TRUST FUND</b>		
Fund Balance	<u>17,300</u>	Increase appropriated fund balance
Appropriations		
Operating Expenses	<u>17,300</u>	Increase appropriation for Operating Expenses
Total Appropriations	<u>17,300</u>	

**CITY OF PENSACOLA POLICE DEPARTMENT**

**Local Law Enforcement Trust Funds**

**Letter of Certification**

I hereby certify that the requests contained herein comply in full with the provisions of Florida State Statute 932.7055 as amended on July 1, 2016, in reference to the use of contraband forfeiture from a State Law Enforcement Trust Fund and/or under the Federal Controlled Substance Act, Section 881 (e)(3) of Title 21, United States Code, in accordance with the US Department of Justice Guide to Equitable Sharing from a designated Federal Law Enforcement Trust Fund.

Item	Description of Requested Items	Amount
1	Camp Blanding	\$8,800
2	Baer Soutions Tactical Firearms (for 5 members & required ammo)	\$3,000
3	NTOA SWAT Team Leader Development (3 team leaders)	\$3,100
4	Less-lethal Instructor (certify 2 members)	\$1,700
5	Training materterials	\$700
**amounts listed include registration, per diem & travel		
Total Requested		\$17,300

  
Tommi S. Lyter, Chief of Police

12/18/19  
Date



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

File #: 20-00026

City Council

1/16/2020

### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT #422354-3-94-02 - SEAPORT SECURITY GRANT

**RECOMMENDATION:**

That City Council authorize the Mayor to accept the State of Florida, Florida Seaport Transportation Economic Development (FSTED) Grant #422354-3-94-02 in the amount of \$46,703 comprised of \$35,027 in FSTED funds and \$11,676 in Port of Pensacola matching funds. Further, that City Council authorize the mayor to take all actions necessary for the acceptance of the grant. Finally, that City Council approve a supplemental budget resolution appropriating the grant funds.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The Port of Pensacola was awarded the subject grant as part of the 2019-2020 Florida Seaport Transportation Economic Development (FSTED) annual grant program. In addition to the \$25 million in annual funding for the FSTED Port Capital Improvements Grant Program, the Legislature has appropriated an additional \$500,000 in each of the last two fiscal years for port security grants. This funding was awarded through this new Seaport Security Grant Program.

This grant is specifically for procurement and maintenance of the access control equipment for Port of Pensacola security operations to include cameras, data storage, monitors, network equipment, etc. in order to provide the necessary level of security per Department of Homeland Security policies.

**PRIOR ACTION:**

None

**FUNDING:**

Budget:	\$ 35,027	FSTED
	<u>11,676</u>	Port Grant Matching Funds

\$ 46,703

Actual: \$ 46,703

**FINANCIAL IMPACT:**

FSTED grant funds in the amount of \$35,027 will provide partial funding for this project. The City's required matching funds of \$11,676 will come from various expense line items in the Port Fund. Approval of the supplemental budget resolution will appropriate the grant funds for this project.

**CITY ATTORNEY REVIEW:** Yes

1/2/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator

Richard Barker, Jr., Deputy City Administrator - Administration & Enterprise

Amy Miller, Port Director

**ATTACHMENTS:**

- 1) Public Transportation Joint Participation Agreement
- 2) Supplemental Budget Resolution
- 3) Supplemental Budget Explanation

**PRESENTATION:** No



# PUBLIC TRANSPORTATION GRANT AGREEMENT

Financial Project Number(s): <small>(item-segment-phase-sequence)</small> 422354-3-94-02	Fund(s): Work Activity Code/Function: 215 Federal Number/Federal Award Identification Number (FAIN) – Transit only:	EM20	FLAIR Category: 088794 Object Code: 751000 Org. Code: 55032020329 Vendor Number: F596000406008
Contract Number:	Federal Award Date:		
CFDA Number: N/A	Agency DUNS Number: 80-939-7102		
CFDA Title: N/A			
CSFA Number: 55.005			
CSFA Title: Seaport Grant Program			

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into \_\_\_\_\_, by and between the State of Florida, Department of Transportation, ("Department"), and Pensacola City Council, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 311, Florida Statutes, to enter into this Agreement.
2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Port of Pensacola's seaport security initiative, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☒ **Aviation**
- ☒ **Seaports**
- ☐ **Transit**
- ☐ **Intermodal**
- ☐ **Rail Crossing Closure**
- ☐ **Match to Direct Federal Funding** (Aviation or Transit)
- ☐ (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ **Other**

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ \*Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ \*Exhibit B2: Advance Payment Financial Provisions
- ☐ \*Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☒ \*Exhibit G: Financial Assistance (Single Audit Act)

**PUBLIC TRANSPORTATION  
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- \_\_\_ \*Exhibit H: Audit Requirements for Awards of Federal Financial Assistance  
\_\_\_ \*Additional Exhibit(s):

\*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. **Time.** Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

6. **Term of Agreement.** This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through November 30, 2024. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

a. \_\_\_ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the \_\_\_ day of \_\_\_, or within \_\_\_ days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. **Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

8. **Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

a. If the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

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**9. Project Cost:**

- a. The estimated total cost of the Project is \$46,703. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$35,027 and, the Department's participation in the Project shall not exceed 75.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

**10. Compensation and Payment:**

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

X Travel expenses are NOT eligible for reimbursement under this Agreement.

     Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

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f. **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within sixty (60) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. **Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. **Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. **Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

j. **Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

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- k. Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:
- "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- o. Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved

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in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities**.

**11. General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.
- b. Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:
  - i.** Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
  - ii.** Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d.** ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e.** ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
  - i.** ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
  - ii.** ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
  - iii.** ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make

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best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

**12. Contracts of the Agency:**

- a. Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

- 13. Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:



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- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

**14. Sale, Transfer, or Disposal of Department-funded Property:**

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
  - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
  - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
  - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
  - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement.
  - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
  - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

- 15. Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

**Federal Funded:**

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any

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inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
  - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
  - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency’s resources obtained from other than Federal entities).
  - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
  - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an

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audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
  2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
  3. Wholly or partly suspend or terminate the Federal award;
  4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
  5. Withhold further Federal awards for the Project or program;
  6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0450  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

**State Funded:**

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
  - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial

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assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation  
Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0405  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

And

State of Florida Auditor General  
Local Government Audits/342  
111 West Madison Street, Room 401  
Tallahassee, FL 32399-1450  
Email: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

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- vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
      - viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
    - c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

**16. Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

**17. Restrictions, Prohibitions, Controls and Labor Provisions:**

- a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

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- d. Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. E-Verify.** The Agency shall:
  - i.** Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
  - ii.** Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

**18. Indemnification and Insurance:**

- a.** It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the Agency shall indemnify and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Agency's sovereign immunity. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs,

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including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the Agency's sovereign immunity."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.
- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per



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occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.

- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

**19. Miscellaneous:**

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.
- g. **Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

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- h. Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY Pensacola City Council

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: \_\_\_\_\_

By: \_\_\_\_\_

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

Name: Jared Perdue, P.E.

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

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
Legal Review:

\_\_\_\_\_

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
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**EXHIBIT A**

**Project Description and Responsibilities**

**A. Project Description** (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): This Agreement provides Department funding for procurement and installation of capital equipment related to Port of Pensacola's seaport security initiative. There are two components to this project. The first component consists of replacement and repairs of the Port of Pensacola access control and camera systems. The second component consists of upgrading the current camera system by replacing a server for the camera system and adding additional multi-sensor cameras to monitor blind spots at the Port.

**B. Project Location** (limits, city, county, map): Pensacola, FL

**C. Project Scope** (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): This project includes the procurement of capital equipment to complete the activities described in the Project Description, including: brackets; cables; enclosures; installation and testing; installation hardware and equipment rentals; monitors; mounting equipment; network equipment and materials; power supply equipment and materials; software; and, tower server systems.

**D. Deliverable(s):**

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

**E. Unallowable Costs** (including but not limited to): Travel costs are not allowed.

**F. Transit Operating Grant Requirements (Transit Only):**

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants.

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**EXHIBIT B**

**Schedule of Financial Assistance**

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT  
 CONSIST OF THE FOLLOWING:

**A. Fund Type and Fiscal Year:**

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
422354-3-94-02	EM20	088794	2020	751000	55.005	Seaport Grant Program	\$35,027
422354-3-94-02	LF	088794	2020				\$11,676
<b>Total Financial Assistance</b>							<b>\$46,703</b>

**B. Estimate of Project Costs by Grant Phase:**

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Planning	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Environmental/Design/Construction	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Capital Equipment	\$35,027	\$11,676	\$0	\$46,703	75.00	25.00	0.00
Match to Direct Federal Funding	\$0	\$0	\$0	\$0	0.00	0.00	0.00
Mobility Management (Transit Only)	\$0	\$0	\$0	\$0	0.00	0.00	0.00
<b>Totals</b>	<b>\$35,027</b>	<b>\$11,676</b>	<b>\$0</b>	<b>\$46,703</b>			

\*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

**BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Ray Corbitt

Department Grant Manager Name

Signature

Date

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/19

**EXHIBIT D**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/19

**EXHIBIT E  
PROGRAM SPECIFIC TERMS AND CONDITIONS – SEAPORTS**

**A. General.**

1. These assurances shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit “A”, Project Description and Responsibilities** and **Exhibit “B”, Schedule of Financial Assistance** as well as serving to protect public investment in seaports and the continued viability of the State Seaport System.
3. The Agency shall comply with the assurances as specified in this Agreement.

**B. Required Documents.** The documents listed below, as applicable, are required to be submitted to the Department by the Agency in accordance with the terms of this Agreement:

1. Quarterly Progress Reports provided within thirty (30) days of the end of each calendar year quarter, if requested by the Department.
2. Electronic invoice summaries and backup information, including a progress report must be submitted to the District Office when requesting payment.
3. All proposals, plans, specifications, and third party contracts covering the Project.

**C. Duration of Terms and Assurances.**

1. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for a seaport development project, but shall not exceed 20 years from the effective date of this Agreement.
2. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by the State of Florida.

**D. Compliance with Laws and Rules.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and local governments, which may apply to the Project. Including but not limited to the following (current version of each):

1. Chapter 311, Florida Statutes (F.S.)
2. Local Government Requirements
  - a. Local Zoning/Land Use Ordinance
  - b. Local Comprehensive Plan

**E. Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, including but not limited to the following:

1. Federal Requirements
2. Local Government Requirements
  - a. Local Building Codes
  - b. Local Zoning Codes
3. Department Requirements
  - a. Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the “Florida Green Book”)
  - b. Manual on Uniform Traffic Control Devices

**F. Consistency with Local Government Plans.**

1. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the seaport.
2. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.
3. The Agency assures that the Comprehensive Master Plan, if applicable, is incorporated as part of the approved local government comprehensive plan as required by Chapter 163, F.S.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
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**G. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:

1. Acquire the land in accordance with federal and state laws governing such action.
2. Maintain direct control of Project administration, including:
  - a. Maintain responsibility for all related contract letting and administrative procedures.
  - b. Ensure a qualified, State certified general appraiser provides all necessary services and documentation.
  - c. Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
  - d. Establish a Project account for the purchase of the land.
  - e. Collect and disburse federal, state, and local Project funds.
3. The Agency assures that it shall use the land for seaport purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.

**H. Preserving Rights, Powers and Interest.**

1. The Agency will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, it will act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
2. If an arrangement is made for management and operation of the funded facility or equipment by any entity or person other than the Agency, the Agency shall reserve sufficient rights and authority to ensure that the funded facility or equipment will be operated and maintained in accordance with the terms and assurances of this Agreement.
3. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in the funded facility or equipment without prior written approval by the Department. This assurance shall not limit the Agency's right to lease seaport property, facilities or equipment for seaport-compatible purposes in the regular course of seaport business.

**I. Third Party Contracts.** The Department reserves the right to approve third party contracts, except that written approval is hereby granted for:

1. Execution of contracts for materials from a valid state or intergovernmental contract. Such materials must be included in the Department approved Project scope and/or quantities.
2. Other contracts less than \$5,000.00 excluding engineering consultant services and construction contracts. Such services and/or materials must be included in the Department approved Project scope and/or quantities.
3. Construction change orders less than \$5,000.00. Change orders must be fully executed prior to performance of work.
4. Contracts, purchase orders, and construction change orders (excluding engineering consultant services) up to the threshold limits of Category Three. Such contracts must be for services and/or materials included in the Department approved Project scope and/or quantities. Purchasing Categories and Thresholds are defined in Section 287.017, F.S., and Chapter 60, Florida Administrative Code. The threshold limits are adjusted periodically for inflation, and it shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Agreement comply with the current threshold limits. Obligations made in excess of the appropriate limits shall be cause for Department non-participation.
5. In all cases, the Agency shall include a copy of the executed contract or other agreement with the backup documentation of the invoice for reimbursement of costs associated with the contract.

**J. Inspection or verification and approval of deliverables.** Section 215.422(1), F.S., allows 5 working days for the approval and inspection of goods and services unless the bid specifications, purchase orders, or contracts specifies otherwise. The Agreement extends this timeline by specifying that the inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of an invoice.



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
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OGC 09/19

**K. Federal Navigation Projects**

1. Funding reimbursed from any federal agency for this Project shall be remitted to the Department, in an amount proportional to the Department's participating share in the Project. The Agency shall remit such funds to the Department immediately upon receipt.
2. Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance**, may not be used for environmental monitoring costs.

**L. Acquisition of Crane.** Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance** will be cost reimbursed using the following schedule, unless stated otherwise in **Exhibit "A", Project Description and Responsibilities**:

1. Sixty (60) percent after landside delivery and acceptance by the Agency.
2. Forty (40) percent after installation and commissioning has been completed.

**-- End of Exhibit E --**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
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**EXHIBIT F**

**Contract Payment Requirements**  
**Florida Department of Financial Services, Reference Guide for State Expenditures**  
***Cost Reimbursement Contracts***

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address [http://www.myfloridacfo.com/Division/AA/Manuals/Auditing/Reference\\_Guide\\_For\\_State\\_Expenditures.pdf](http://www.myfloridacfo.com/Division/AA/Manuals/Auditing/Reference_Guide_For_State_Expenditures.pdf).

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 09/19

**EXHIBIT G**

**STATE FINANCIAL ASSISTANCE (FLORIDA SINGLE AUDIT ACT)**

**THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~**

**Awarding Agency:** Florida Department of Transportation  
**State Project Title:** Seaport Grant Program  
**CSFA Number:** 55.005  
**\*Award Amount:** \$35,027

\*The award amount may change with amendments

Specific project information for CSFA Number 55.005 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:**

State Project Compliance Requirements for CSFA Number 55.005 are provided at:  
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

**RESOLUTION  
NO. 2020-02**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

**A. PORT FUND**

As Reads	State Grants	1,502,528
To:		
Reads	State Grants	1,537,555
As Reads	Capital Outlay	2,054,759
To:		
Reads	Capital Outlay	2,089,786

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

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: \_\_\_\_\_

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

Attest:

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

**THE CITY OF PENSACOLA****JANUARY 2020 - SUPPLEMENTAL BUDGET RESOLUTION - PORT SEAPORT SECURITY GRANT - RES NO. 2020-02**

FUND		AMOUNT	DESCRIPTION
<b>PORT FUND</b>			
Estimated Revenues			
State Grants		35,027	Increase estimated revenue from State Grants
Total Revenues		<u>35,027</u>	
Appropriations			
Capital Outlay		35,027	Increase appropriation for Capital Outlay
Total Appropriations		<u>35,027</u>	



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 2020-02

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

SUPPLEMENTAL BUDGET RESOLUTION NO. 2020-02 - PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT #422354-3-94-02 - SEAPORT SECURITY GRANT

**RECOMMENDATION:**

That City Council adopt Supplemental Budget Resolution No. 2020-02.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The Port of Pensacola was awarded the subject grant as part of the 2019-2020 Florida Seaport Transportation Economic Development (FSTED) annual grant program. In addition to the \$25 million in annual funding for the FSTED Port Capital Improvements Grant Program, the Legislature has appropriated an additional \$500,000 in each of the last two fiscal years for port security grants. This funding was awarded through this new Seaport Security Grant Program.

This grant is specifically for procurement and maintenance of the access control equipment for Port of Pensacola security operations to include cameras, data storage, monitors, network equipment, etc. in order to provide the necessary level of security per Department of Homeland Security policies.

**PRIOR ACTION:**

None

**FUNDING:**

Budget: \$ 35,027 FSTED

<u>11,676</u>	Port Grant Matching Funds
<u>\$ 46,703</u>	

Actual: \$ 46,703**FINANCIAL IMPACT:**

FSTED grant funds in the amount of \$35,027 will provide partial funding for this project. The City's required matching funds of \$11,676 will come from various expense line items in the Port Fund. Approval of the supplemental budget resolution will appropriate the grant funds for this project.

**CITY ATTORNEY REVIEW:** Yes

1/2/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator

Richard Barker, Jr., Deputy City Administrator - Administration &amp; Enterprise

Amy Miller, Port Director

**ATTACHMENTS:**

- 1) Supplemental Budget Resolution No. 2020-02
- 2) Supplemental Budget Explanation No. 2020-02

**PRESENTATION:** No

**RESOLUTION  
NO. 2020-02**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

**A. PORT FUND**

As Reads	State Grants	1,502,528
To:		
Reads	State Grants	1,537,555
As Reads	Capital Outlay	2,054,759
To:		
Reads	Capital Outlay	2,089,786

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

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: \_\_\_\_\_

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

Attest:

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



**THE CITY OF PENSACOLA****JANUARY 2020 - SUPPLEMENTAL BUDGET RESOLUTION - PORT SEAPORT SECURITY GRANT - RES NO. 2020-02**

FUND		AMOUNT	DESCRIPTION
<b>PORT FUND</b>			
Estimated Revenues			
State Grants		35,027	Increase estimated revenue from State Grants
Total Revenues		<u>35,027</u>	
Appropriations			
Capital Outlay		35,027	Increase appropriation for Capital Outlay
Total Appropriations		<u>35,027</u>	



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00041

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Ann Hill

**SUBJECT:**

WORKSHOP PERTAINING TO THE WEST CERVANTES STREET ROAD DIET BEING PLACED ON THE TRANSPORTATION PLANNING ORGANIZATION (TPO) LONG-TERM PLAN.

**RECOMMENDATION:**

That City Council conduct a workshop on Monday, February 3, 2020 at 4:00 p.m. to discuss Phase II of the West Cervantes Street project, the Road Diet.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The West Cervantes Street project has been divided into two Phases, Safety and Road Diet.

Phase I, the Safety Phase is currently underway. Phase II, the Road Diet, will need a request to be made to the TPO to include this project within their long-range plan.

This workshop will allow City Council to gather further information and knowledge about the project and develop a plan of action for the project to be presented to the TPO for future consideration.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

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**File #:** 20-00041

City Council

1/16/2020

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Don Kraher, Council Executive

**ATTACHMENTS:**

None

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 01-20

City Council

1/16/2020

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** Grover C. Robinson, IV, Mayor

**SUBJECT:**

PROPOSED ORDINANCE NO. 01-20 AMENDING SECTION 3-3-11 (4) OF THE CODE OF THE CITY EXTENDING THE SUNSET DATE OF THE MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE PROGRAM TO MARCH 1, 2025.

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 01-20 on first reading.

AN ORDINANCE AMENDING SECTION 3-3-11 (4) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA EXTENDING THE SUNSET DATE OF THE MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE PURCHASING PROGRAM BY MARCH 1, 2020 TO MARCH 1, 2025; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

In February 2015, the City Council adopted an ordinance creating a Minority-Woman Owned Business (M/WBE) program. The program was instituted in response to a 2012 Disparity Study prepared by MGT of America, Inc. indicating underutilization of Minority and Woman Owned business in the City's procurement activities.

The M/WBE program is scheduled to "sunset" on March 1, 2020. Staff is recommending that the program be extended for an additional 5-year period to continue provide increased opportunities for M/WBE businesses. This will allow the City to continue to include M/MBE participation goals to city projects and to further increase the number of businesses certified under the City's program. Since 2015, the City has sponsored, co-sponsored and participated in numerous outreach efforts to identify and certify businesses for the program. The City has partnered with the State of Florida (see attached flyer), the Gulf Coast Minority Chamber of Commerce and other professional purchasing organizations in its outreach efforts. In addition, the City has instituted a web based M/WBE certification module to make the certification process easier and more efficient. The City will continue

efforts to add businesses to the program.

An update to the Disparity Study will be recommended, should a future City Council decide to extend the program after 2025. The estimated cost of that update is between \$300,000- \$400,000.

**PRIOR ACTION:**

February 12, 2015 - City Council adopted an ordinance creating the City's Minority and Woman-Owned Business Program

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

1/2/2020

**STAFF CONTACT:**

Keith Wilkins, City Administrator  
Amy Lovoy, Interim Finance Director  
George J. Maiberger, Purchasing Manager  
Hosea Goodwyn, Assistant Purchasing Manager

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 01-20
- 2) Fiscal Year 2019 M/WBE Year End Report
- 3) List of Certified M/WBE Businesses
- 4) 2020 Supplier Diversity Exchange Flyer

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 01-20

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

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 3-3-11 (4) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA EXTENDING THE SUNSET DATE OF THE MINORITY AND WOMEN OWNED BUSINESS ENTERPRISE PURCHASING PROGRAM BY MARCH 1, 2020 TO MARCH 1, 2025; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 3-3-11 (4) of the Code of the City of Pensacola, Florida is hereby amended to read:

Sec. 3-3-11. - Program review and sunset.

- (1) The city council shall hear annual reports from the purchasing department detailing the city's performance under the program.
- (2) The city council will review these reports, including the annual participation goals and the city's progress towards meeting those goals and eliminating disparate treatment in its contracting activities and marketplace.
- (3) Within five (5) years after the effective date of this ordinance, the city will review the operation of the program and the evidentiary basis for the program in order to determine whether the city has a continuing compelling interest in remedying disparate treatment against MBEs and WBEs in its marketplace, and the permissible scope of any narrowly tailored remedies to redress disparate treatment against MBEs or WBEs.
- (4) This subdivision shall sunset on or before March 1, ~~2020~~ 2025.

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

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

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

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

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

Attest:

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

## MEMORANDUM

TO: City Council

FROM: Keith Wilkins, City Administrator

DATE: December 27, 2019

SUBJ: FY 2019 MWBE Annual Report

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The Minority and Women Business Enterprise (M/WBE) Annual Report for Fiscal Year 2019 is provided for Council's information. The overall participation rate for the year is 11.7% and \$2,984,672.42 was paid to M/WBE firms working directly for the City or through prime contractors.

The City of Pensacola Minority and Women Business Enterprise (M/WBE) program is designed to encourage the use of minority- and women-owned businesses for City projects and as subcontractors. Certification as a M/WBE for the City's program requires that a business meet the following criteria: 1) majority owner(s) must be a minority or woman who manage and controls the business (51% ownership); 2) U.S citizen or lawfully admitted permanent resident of the U.S.; 3) legally structured business (e.g.: LLC, Inc. etc..) as required in Florida; 4) must have expertise normally required by the industry for the field in which certification is requested; 5) must be independent, not an affiliate or conduit; 6) for-profit; 7) business must be located in Escambia, Santa Rosa, Okaloosa, or Walton Counties in Florida, or Mobile, Alabama; 8) possess all licenses required by local, state, and federal law; 9) minimum of one (1) full year of business operations; and 10) must be registered with the Florida Department of State Division of Corporations (sunbiz.org).

The typical minority and women business participation goal for construction projects is 5%. The goal is established based on the type of construction work and materials associated with a City construction project. The M/WBE goal is voluntary in that if a vendor does not meet the established goal, the City will still consider his or her bid, if the vendor demonstrates a good faith effort (GFE) in seeking M/WBE participation. To encourage the use of M/WBE vendors, the Purchasing Office prepares a list of potential M/WBE businesses providing goods or services applicable for the project from the City's M/WBE Directory.

### M/WBE Expenditure Participation Rate

The annual M/WBE participation rate for the past 4 years provided below:

<u>2016</u>	<u>2017</u>	<u>2018</u>	<u>2019</u>
7.4%	20%	8.8%	11.7%



**ANNUAL MINORITY- AND WOMEN-BUSINESS ENTERPRISE (M/WBE) REPORT  
FOR FISCAL YEAR 2019**

**BID AWARDED WITH M/WBE PARTICIPATION \***

Bid #	Description	M/WBE Goal/GFE	Cost	M/WBE Participation	Prime	M/WBE Prime/ Subcontractor
18-033	Raintree Stow Menendez Outfall at Bayou Texar Stormwater Treatment Enhancement Project	5%	\$218,988.72	11.6%	\$193,609.02	\$25,379.70
18-035	Bayview Community Resource Center	5%	\$5,991,000.00	17.2%	\$4,962,029.00	\$1,028,971.00
19-002	Morris Court Park Improvement Project	5%	\$299,580.25	9.6%	\$270,920.25	\$28,660.00
18-037	Fleet Management Garage Renovation	5%	\$337,500.00	0%	337,500.00	\$0
19-001	East Cross, Yates, Escambia And Osceola Outfall at Bayou Texar Treatment Enhancement Project	5%	\$445,486.95	9%	\$401,651.45	\$43,835.50
19-005	Natural Gas Pipeline Construction North Hill Low Pressure Area Upgrades	3%	\$881,650.00	5.5%	\$833,250.00	\$48,400.00
19-011	Cobb Center Gym Exterior Windows and Doors Replacement	5%	\$113,000.00	7.25%	\$104,800.00	\$8,200.00
19-012	Texar Drive, 17 <sup>th</sup> & 18 <sup>th</sup> Avenue Outfalls and Bayou Texar	5%	\$299,235.80	10.21%	\$268,658.80	\$30,577.00
19-014	Pensacola International Airport Economy Lot #1 Expansion Area Upgrades	5%	\$1,105,801.20	17.56%	\$911,612.20	\$194,189.00
19-021	Jefferson Street Sidewalks	5%	<u>\$190,755.00</u>	100%	<u>\$0</u>	<u>\$190,755.00</u>
<b>Total</b>			<u>\$9,882,997.92</u>	16.1%		<u>\$1,598,967.20</u>

**PAYMENTS TO M/WBEs & AWARDS TO MWBE PRIMES & SUBCONTRACTORS**

	<u>Bid Awards to Subcontractors</u>	<u>Payments for Commodity/Svcs.</u>	<u>M/WBE Totals for Report Period</u>
Minority Business Enterprise (MBE)	\$264,484.00	\$619,499.88	\$883,983.88
Women Business Enterprise (WBE)	<u>\$1,334,483.20</u>	<u>\$766,205.34</u>	<u>\$2,100,688.54</u>
<b>TOTAL</b>	<u>\$1,598,967.20</u>	<u>\$1,385,705.22</u>	<u>\$2,984,672.42</u>

Total Certified Minority- and Women-Business Enterprises To Date: 93

<u>TOTAL EXPENDITURE ALL OBJECTIVE CODES</u>	<u>%MWBE</u>	<u>MWBE TOTAL</u>
\$25,550,124.77	11.7%	\$2,984,672.42

Certified Minority and Women Business Enterprise (M/WBE) Directory  
as of December 27, 2019

**Air Conditioning and Heating**

- |   |     |   |              |
|---|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>Larry Tronu Mechanical, Inc.</b><br/>Contact: Barbara J. Tronu, <a href="mailto:office@LTMECH.com">office@LTMECH.com</a></li> </ul>   | WBE | 3701 North Pace Blvd<br>Pensacola, FL 32505 | 850-433-8877 |
| <ul style="list-style-type: none"> <li>• <b>Galavis Investments, Inc. dba Walmer Air Conditioning &amp; Heating</b><br/>Contact: Alejandro Galavis, <a href="mailto:alex@walmerac.com">alex@walmerac.com</a></li> </ul> | MBE | 7700 Lawton Street<br>Pensacola, FL 32507   | 850-479-9151 |

**Automotive**

- |  |     |  |              |
|--|-----|--|--------------|
| <ul style="list-style-type: none"> <li>• <b>Hub City Ford Mercury, Inc.</b><br/>Contact: Mr. Leon Daggs, <a href="mailto:windrow1@windrowfleetsales.com">windrow1@windrowfleetsales.com</a></li> </ul> | MBE | 4060 S Ferdon Blvd<br>Crestview, FL 32536-5219 | 850-682-2721 |
|--|-----|--|--------------|

**Badges, Awards, Emblems, Name Tags, Plates, Coins, etc.**

- |   |     |   |              |
|---|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>The Kirkman Co., Inc</b><br/>Contact: Lisa Kirkman, <a href="mailto:kirkman@cox.net">kirkman@cox.net</a></li> </ul>   | WBE | 5106 Treahna Road<br>Pensacola, FL 32526  | 850-455-1500 |
| <ul style="list-style-type: none"> <li>• <b>Speedy Stamp &amp; Engraving Co.</b><br/>Contact: Mrs. Margaret Cunningham, <a href="mailto:topper1128@bellsouth.net">topper1128@bellsouth.net</a></li> </ul> | WBE | 1128 Sunset Lane<br>Gulf Breeze, FL 32563 | 850-932-2914 |

**Billboard**

- |  |     |  |              |
|--|-----|--|--------------|
| <ul style="list-style-type: none"> <li>• <b>Yaseen, Inc.</b><br/>Contact: Julie Akbar, <a href="mailto:ybillboard@gmail.com">ybillboard@gmail.com</a></li> </ul> | WBE | 2277 Airport Blvd<br>Pensacola, FL 32504 | 850-525-5224 |
|--|-----|--|--------------|

**Civil Engineering, Environmental Engineering, Land Surveyors Services**

- |   |     |   |              |
|---|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>Gulf Civil Engineering, LLC</b><br/>Contact: Erica Floyd</li> </ul>   | WBE | 3250 W. Navy Blvd., Ste.200<br>Pensacola, FL. 32505 | 850-375-8263 |
| <ul style="list-style-type: none"> <li>• <b>RJH &amp; Associates</b><br/>Contact: Robert Hinojosa, <a href="mailto:robert@rjhassoc.com">robert@rjhassoc.com</a></li> </ul>      | MBE | 215 Grand Blvd, Ste.102<br>Miramar, FL 32550        | 850-608-6221 |
| <ul style="list-style-type: none"> <li>• <b>LG2 Environmental Solutions, Inc.</b><br/>Contact: Kristal Walsh, <a href="mailto:kwalsh@lg2es.com">kwalsh@lg2es.com</a></li> </ul> | WBE | 449 West Main Street<br>Pensacola, FL 32502         | 850-324-7634 |

Certified Minority and Women Business Enterprise (M/WBE) Directory  
as of December 27, 2019

<ul style="list-style-type: none"> <li> <b>REYCO Contracting Solutions, LLC</b>  Contact: Virna Reynoso, <a href="mailto:vreynoso@reycocontracting.com">vreynoso@reycocontracting.com</a> </li> </ul>	WBE	2172 W. Nine Mile Rd., Ste 198 Pensacola, FL 32526	850-273-4309
<b>Concrete</b>			
<ul style="list-style-type: none"> <li> <b>Gulf Coast Environmental Contractors, Inc</b>  Contact: Tracy Hayes, <a href="mailto:gcec@cox.net">gcec@cox.net</a> </li> </ul>	WBE	251 E. Johnson Ave Pensacola, FL 32514	850-433-6770
<ul style="list-style-type: none"> <li> <b>James Mallory Contractor, Inc</b>  Contact: James Mallory, <a href="mailto:JMALLORY@JMALLORYCONTRACTORINC.COM">JMALLORY@JMALLORYCONTRACTORINC.COM</a> </li> </ul>	MBE	6756 Cedar Ridge CR Milton, FL 32570	850-525-2149
<ul style="list-style-type: none"> <li> <b>Kevin D. Pugh Site &amp; Dozer Works, LLC</b>  Contact: Mr. Kevin PUGH, <a href="mailto:Nativeamerican46@frontiernet.net">Nativeamerican46@frontiernet.net</a> </li> </ul>	MBE	5731 STEWART ROAD WALNUT HILL, FL 32568	850-327-6336
<ul style="list-style-type: none"> <li> <b>PBrown Builders, LLC</b>  Contact: Mr. AMOS P BROWN JR, <a href="mailto:patb@pbrownllc.com">patb@pbrownllc.com</a> </li> </ul>	MBE	4231 CHERRY LAUREL DRIVE PENSACOLA, FL 32504	850-346-3175
<ul style="list-style-type: none"> <li> <b>Principle Properties, Inc.</b>  Contact: RUTH DUPONT ESSER, <a href="mailto:rdesser007@gmail.com">rdesser007@gmail.com</a> </li> </ul>	WBE	4371 Marilyn Ct. Gulf Breeze, FL 32563	850-390-5151
<ul style="list-style-type: none"> <li> <b>HUEY'S Works Corporation</b>  Contact: GEORGE L HUEY, <a href="mailto:admin@hueyworks.com">admin@hueyworks.com</a> </li> </ul>	MBE	1206 NORTH PENSACOLA, FL 32505	850-438-0000
<ul style="list-style-type: none"> <li> <b>Alfred Watson Construction</b>  Contact: Alfred Watson, <a href="mailto:alfredwatson@cox.net">alfredwatson@cox.net</a> </li> </ul>	MBE	4007 North W Street PENSACOLA, FL 32505	850-898-6032
<ul style="list-style-type: none"> <li> <b>Dominguez Design-Build, Inc.</b>  Contact: Mr. Shawn Dominguez, <a href="mailto:shawn@dominguezdesign-build.com">shawn@dominguezdesign-build.com</a> </li> </ul>	MBE	4340 Devereux Drive Pensacola, FL 32504	850-501-7845
<ul style="list-style-type: none"> <li> <b>GM Concrete Company, LLC.</b>  Contact: Ms. Patrina Moye, <a href="mailto:gmconcretecompany@yahoo.com">gmconcretecompany@yahoo.com</a> </li> </ul>	MWBE	8557 Untreiner Avenue Pensacola, FL 32534	850-477-9611

Certified Minority and Women Business Enterprise (M/WBE) Directory  
as of December 27, 2019

- |   |     |   |              |
|---|-----|---|--------------|
| • <b>G. B. Green Construction Management &amp; Consulting, Inc.</b><br>Contact: Mr. Gregory Green, <a href="mailto:gbgreen30@hotmail.com">gbgreen30@hotmail.com</a> | MBE | 303 Manowar Circle<br>Cantonment, FL 32533            | 850-698-3785 |
| • <b>Gulf Atlantic Constructors, Inc.</b><br>Contact: Ms. Pamela Caddell, <a href="mailto:chilliard@gacinc.net">chilliard@gacinc.net</a>                            | WBE | 650 W. Oakfield Rd<br>Pensacola, FL 32503             | 850-477-0588 |
| • <b>Emerald Coast Milling &amp; Services, Inc.</b><br>Contact: Ms. Kimberly Connor, <a href="mailto:emeralcoastmilling@yahoo.com">emeralcoastmilling@yahoo.com</a> | WBE | 7370 Kavanaugh Road<br>Milton, FL 32570               | 850-313-8080 |
| • <b>Affordable Concrete and Construction, LLC</b><br>Contact: Rhonda Goggans, <a href="mailto:affordableconcrete@outlook.com">affordableconcrete@outlook.com</a>   | WBE | 4089 E. Johnson Ave<br>Pensacola, FL 32514            | 850-255-0129 |
| • <b>REYCO Contracting Solutions, LLC</b><br>Contact: Virna Reynoso, <a href="mailto:vreynoso@reycocontracting.com">vreynoso@reycocontracting.com</a>               | WBE | 2172 W. Nine Mile Rd., Ste 198<br>Pensacola, FL 32526 | 850-273-4309 |
| • <b>Moor Better Contractors, Inc.</b><br>Contact: Jo Moore, <a href="mailto:jo@moorebetter.com">jo@moorebetter.com</a>   | WBE | 1721 East Cervantes<br>Pensacola, FL 32501            | 850-698-4152 |
| • <b>Roberson Underground Utility, LLC</b><br>Contact: Christy Baker, <a href="mailto:robersonundergroundllc@aol.com">robersonundergroundllc@aol.com</a>            | MBE | 9790 Roberson Way<br>Milton, FL 32570                 | 850-564-2095 |
| • <b>LAM Construction, LLC</b><br>Contact: Leslie Mathews, <a href="mailto:leslie.mathews325@gmail.com">leslie.mathews325@gmail.com</a>                             | WBE | 2152 Horn Road<br>Milton, FL 32570                    | 850-748-1944 |
| • <b>All Phase Construction of NW FL, LLC.</b><br>Contact: Ms. Ashley Perritt, <a href="mailto:Ashley.apc@outlook.com">Ashley.apc@outlook.com</a>                   | WBE | 5340 Bright Meadows<br>Milton, FL 32570               | 850-777-9737 |

**General Construction**

- |   |     |   |              |
|---|-----|---|--------------|
| • <b>Cronin Construction, Inc.</b><br>Contact: KATIE T CRONIN, <a href="mailto:KTCRONIN@CRONINCONSTRUCTIONUSA.COM">KTCRONIN@CRONINCONSTRUCTIONUSA.COM</a> | WBE | 99 S Alcaniz Street, Suite A<br>Pensacola, FL 32502 | 850-932-4826 |
|---|-----|---|--------------|

Certified Minority and Women Business Enterprise (M/WBE) Directory  
as of December 27, 2019

<ul style="list-style-type: none"> <li>• <b>Gulf Coast Industrial Construction, LLC</b> Contact: Mr. Johnny Baggett, <a href="mailto:johnny.baggett96@yahoo.com">johnny.baggett96@yahoo.com</a></li> </ul>	MBE	12196 Hwy 89 Jay, FL 32565	850-377-9667
<ul style="list-style-type: none"> <li>• <b>M &amp; H Construction Services, LLC</b> Contact: My Tran, <a href="mailto:mtran850@yahoo.com">mtran850@yahoo.com</a></li> </ul>	MBE	1161 W. 9 1/2 Mile Road Pensacola, FL 32534	850-393-3266
<ul style="list-style-type: none"> <li>• <b>PBrown Builders, LLC</b> Contact: Mr. AMOS P BROWN JR, <a href="mailto:patb@pbrownllc.com">patb@pbrownllc.com</a></li> </ul>	MBE	4231 CHERRY LAUREL DRIVE PENSACOLA, FL 32504	850-346-3175
<ul style="list-style-type: none"> <li>• <b>HUEY'S Works Corporation</b> Contact: GEORGE L HUEY, <a href="mailto:admin@hueyworks.com">admin@hueyworks.com</a></li> </ul>	MBE	1206 NORTH PENSACOLA, FL 32505	850-438-0000
<ul style="list-style-type: none"> <li>• <b>Yerkes South, Inc.</b> Contact: Ms. Christine Yerkes, <a href="mailto:cverkes@verkessouth.com">cverkes@verkessouth.com</a></li> </ul>	WBE	634 Lakewood Road Pensacola, FL 32507	850-377-5177
<ul style="list-style-type: none"> <li>• <b>Dominguez Design-Build, Inc.</b> Contact: Mr. Shawn Dominguez, <a href="mailto:shawn@dominguezdesign-build.com">shawn@dominguezdesign-build.com</a></li> </ul>	MBE	4340 Devereux Drive Pensacola, FL 32504	850-501-7845
<ul style="list-style-type: none"> <li>• <b>Sunrise Contracting Services, Inc.</b> Contact: Candace Reaves, <a href="mailto:marshall@sunrisecontractingsrv.com">marshall@sunrisecontractingsrv.com</a></li> </ul>	WBE	1508 John Carroll Drive Pensacola, FL 32504	850-476-2478
<ul style="list-style-type: none"> <li>• <b>Joy Gordon Construction, LLC.</b> Contact: Joy Gordon, <a href="mailto:joy@joygordonconstruction.com">joy@joygordonconstruction.com</a></li> </ul>	WBE	1957 Meander Circle Cantonment, FL 32533	850-465-3043
<ul style="list-style-type: none"> <li>• <b>MCDELT, LLC.</b> Contact: Michael Taylor, <a href="mailto:nisbez@me.com">nisbez@me.com</a></li> </ul>	MBE	4675 Balmoral Drive Pensacola, FL 32504	850-602-0240
<ul style="list-style-type: none"> <li>• <b>REYCO Contracting Solutions, LLC</b> Contact: Virna Reynoso, <a href="mailto:vreynoso@reycocontracting.com">vreynoso@reycocontracting.com</a></li> </ul>	WBE	2172 W. Nine Mile Rd., Ste 198 Pensacola, FL 32526	850-273-4309
<ul style="list-style-type: none"> <li>• <b>Moor Better Contractors, Inc.</b> Contact: Jo Moore, <a href="mailto:jo@moorebetter.com">jo@moorebetter.com</a></li> </ul>	WBE	1721 East Cervantes Pensacola, FL 32501	850-698-4152

Certified Minority and Women Business Enterprise (M/WBE) Directory  
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**Builder Supply & Construction Materials**

- |   |     |   |              |
|---|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>Ram Tool &amp; Supply Co., Inc</b><br/>Contact: Hillary Head, <a href="mailto:wbe@ram-tool.com">wbe@ram-tool.com</a></li> </ul>                               | WBE | 3027 North Davis Hwy<br>Pensacola, FL 32503 | 205-714-3300 |
| <ul style="list-style-type: none"> <li>• <b>Southern Standard Equipment, Inc.</b><br/>Contact: Linda New, <a href="mailto:southernstandardequip@gmail.com">southernstandardequip@gmail.com</a></li> </ul> | WBE | 460 Van Pelt Lane<br>Pensacola, FL          | 850-472-1006 |

**CPA**

- |   |     |                                  |              |
|---|-----|----------------------------------|--------------|
| <ul style="list-style-type: none"> <li>• <b>Jessica Posey, CPA, P.A</b><br/>Contact: Jessica Posey, <a href="mailto:jessica.posey@yahoo.com">jessica.posey@yahoo.com</a></li> </ul> | WBE | 3050 Shell Road<br>Jay, FL 32565 | 850-336-2211 |
|---|-----|----------------------------------|--------------|

**Crane Service**

- |   |     |   |              |
|---|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>Eager Beaver Professional Tree Care, LLC</b><br/>Contact: Kerry Abbott, <a href="mailto:eagerbeaverprotreecare@gmail.com">eagerbeaverprotreecare@gmail.com</a></li> </ul> | WBE | 5205 Gulf Breeze Parkway<br>Gulf Breeze, FL 32563 | 850-934-5660 |
|---|-----|---|--------------|

**Demolition**

- |  |     |   |              |
|--|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>HUEY'S Work Corporation</b><br/>Contact: GEORGE L HUEY, <a href="mailto:admin@hueyworks.com">admin@hueyworks.com</a></li> </ul>                                    | MBE | 1206 NORTH<br>PENSACOLA, FL 32505                   | 850-438-0000 |
| <ul style="list-style-type: none"> <li>• <b>M &amp; H Construction Services, LLC</b><br/>Contact: My Tran, <a href="mailto:mtran850@yahoo.com">mtran850@yahoo.com</a></li> </ul>                               | MBE | 1161 W. 9 1/2 Mile Road<br>Pensacola, FL 32534      | 850-393-3266 |
| <ul style="list-style-type: none"> <li>• <b>Cronin Construction, Inc</b><br/>Contact: KATIE T CRONIN, <a href="mailto:KTCRONIN@CRONINCONSTRUCTIONUSA.COM">KTCRONIN@CRONINCONSTRUCTIONUSA.COM</a></li> </ul>    | MBE | 99 S Alcaniz Street, Suite A<br>Pensacola, FL 32502 | 850-932-4826 |
| <ul style="list-style-type: none"> <li>• <b>PBrown Building, LLC</b><br/>Contact: Mr. AMOS P BROWN JR, <a href="mailto:patb@pbrownllc.com">patb@pbrownllc.com</a></li> </ul>                                   | MBE | 4231 CHERRY LAUREL DRIVE<br>PENSACOLA, FL 32504     | 850-346-3175 |
| <ul style="list-style-type: none"> <li>• <b>Dominguez Design-Build, Inc.</b><br/>Contact: Mr. Shawn Dominguez, <a href="mailto:shawn@dominguezdesign-build.com">shawn@dominguezdesign-build.com</a></li> </ul> | MBE | 4340 Devereux Drive<br>Pensacola, FL 32504          | 850-501-7845 |

Certified Minority and Women Business Enterprise (M/WBE) Directory  
as of December 27, 2019

- |   |     |   |              |
|---|-----|---|--------------|
| • <b>G. B. Green Construction Management &amp; Consulting, Inc.</b><br>Contact: Mr. Gregory Green, <a href="mailto:gbgreen30@hotmail.com">gbgreen30@hotmail.com</a> | MBE | 303 Manowar Circle                                    | 850-698-3785 |
| • <b>Gulf Atlantic Constructors, Inc.</b><br>Contact: Ms. Pamela Caddell, <a href="mailto:chilliard@gacinc.net">chilliard@gacinc.net</a>                            | WBE | 650 W. Oakfield Rd<br>Pensacola, FL 32503             | 850-477-0588 |
| • <b>REYCO Contracting Solutions, LLC</b><br>Contact: Virna Reynoso, <a href="mailto:vreynoso@reycocontracting.com">vreynoso@reycocontracting.com</a>               | WBE | 2172 W. Nine Mile Rd., Ste 198<br>Pensacola, FL 32526 | 850-273-4309 |

**Electrical Installation and Maintenance Services**

- |   |     |   |              |
|---|-----|---|--------------|
| • <b>SAMM Enterprises, Inc.</b><br>Contact: Melanie Adams, <a href="mailto:admin@SAMMinc.com">admin@SAMMinc.com</a>                                       | WBE | 1358 Co. Hwy 147 W<br>Laurel Hill, FL 32567           | 850-834-4377 |
| • <b>Bill Smith Electric, Inc</b><br>Contact: Bill Smith, <a href="mailto:sarah@billsmithelectric.com">sarah@billsmithelectric.com</a>                    | MBE | 1095 Hidden Terrace Drive<br>Cantonment, FL 32533     | 850-968-6500 |
| • <b>Ingram Signalization, Inc</b><br>Contact: Mr. Tony Kuhl, <a href="mailto:tony@ingramcorp.com">tony@ingramcorp.com</a>                                | WBE | 4522 North Davis Hwy<br>Pensacola, FL, FL 32503       | 850-433-8266 |
| • <b>Cronin Construction, Inc.</b><br>Contact: KATIE T CRONIN, <a href="mailto:KTCRONIN@CRONINCONSTRUCTIONUSA.COM">KTCRONIN@CRONINCONSTRUCTIONUSA.COM</a> | WBE | 99 S Alcaniz Street, Suite A<br>Pensacola, FL 32502   | 850-932-4826 |
| • <b>REYCO Contracting Solutions, LLC</b><br>Contact: Virna Reynoso, <a href="mailto:vreynoso@reycocontracting.com">vreynoso@reycocontracting.com</a>     | WBE | 2172 W. Nine Mile Rd., Ste 198<br>Pensacola, FL 32526 | 850-273-4309 |

**Excavation**

- |   |     |  |              |
|---|-----|--|--------------|
| • <b>Kevin D. Pugh Site &amp; Dozer Works, LLC</b><br>Contact: Mr. Kevin PUGH, <a href="mailto:Nativeamerican46@frontiernet.net">Nativeamerican46@frontiernet.net</a> | MBE | 5731 STEWART ROAD<br>WALNUT HILL, FL 32568 | 850-327-6336 |
|---|-----|--|--------------|

Certified Minority and Women Business Enterprise (M/WBE) Directory  
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<ul style="list-style-type: none"> <li>• <b>Principle Properties, Inc</b> Contact: RUTH DUPONT ESSER, <a href="mailto:rdesser007@gmail.com">rdesser007@gmail.com</a></li> </ul>	WBE	4371 Marilyn Ct. Gulf Breeze, FL 32563	850-390-5151
<ul style="list-style-type: none"> <li>• <b>Cronin Construction, Inc</b> Contact: KATIE T CRONIN, <a href="mailto:KTCRONIN@CRONINCONSTRUCTIONUSA.COM">KTCRONIN@CRONINCONSTRUCTIONUSA.COM</a></li> </ul>	WBE	99 S Alcaniz Street, Suite A Pensacola, FL 32502	850-932-4826
<ul style="list-style-type: none"> <li>• <b>Gator Boring &amp; Trenching, Inc</b> Contact: Ms. Lisa Lyons, <a href="mailto:lisa@gatorboring.com">lisa@gatorboring.com</a></li> </ul>	WBE	1800 Blackbird Lane Pensacola, FL 32534	850-477-0742
<ul style="list-style-type: none"> <li>• <b>BKW Inc.</b> Contact: Mrs. Karen Webb, <a href="mailto:karen@bkw-inc.com">karen@bkw-inc.com</a></li> </ul>	WBE	5615 Duval Street Pensacola, FL 32503	850-484-4344
<ul style="list-style-type: none"> <li>• <b>Dominguez Design-Build, Inc.</b> Contact: Mr. Shawn Dominguez, <a href="mailto:shawn@dominguezdesign-build.com">shawn@dominguezdesign-build.com</a></li> </ul>	MBE	4340 Devereux Drive Pensacola, FL 32504	850-501-7845
<ul style="list-style-type: none"> <li>• <b>G. B. Green Construction Management &amp; Consulting, Inc.</b> Contact: Mr. Gregory Green, <a href="mailto:gbgreen30@hotmail.com">gbgreen30@hotmail.com</a></li> </ul>	MBE	303 Manowar Circle	850-698-3785
<ul style="list-style-type: none"> <li>• <b>Gulf Atlantic Constructors, Inc.</b> Contact: Ms. Pamela Caddell, <a href="mailto:chilliard@gacinc.net">chilliard@gacinc.net</a></li> </ul>	WBE	650 W. Oakfield Rd Pensacola, FL 32503	850-477-0588
<ul style="list-style-type: none"> <li>• <b>Moor Better Contractors, Inc.</b> Contact: Jo Moore, <a href="mailto:jo@moorebetter.com">jo@moorebetter.com</a></li> </ul>	WBE	1721 East Cervantes Pensacola, FL 32501	850-698-4152
<ul style="list-style-type: none"> <li>• <b>Roberson Underground Utility, LLC</b> Contact: Christy Baker, <a href="mailto:robersonundergroundllc@aol.com">robersonundergroundllc@aol.com</a></li> </ul>	MBE	9790 Roberson Way Milton, FL 32570	850-564-2095
<b>Fire Protection Services</b>			
<ul style="list-style-type: none"> <li>• <b>Living Water Fire Protection, LLC</b> Contact: Lorenzo Evans, <a href="mailto:gmc@livingwaterfp.com">gmc@livingwaterfp.com</a></li> </ul>	MBE	1160 McKenzie Road Cantonment, FL 32526	850-937-1850



## Certified Minority and Women Business Enterprise (M/WBE) Directory as of December 27, 2019

### Janitorial Services

<ul style="list-style-type: none"> <li>Florida Janitorial Service of Pensacola, LLC Contact: Willie Johnson, <a href="mailto:floridajanitorialservice@yahoo.com">floridajanitorialservice@yahoo.com</a></li> </ul>	MBE	6234 Windwood Drive Pensacola, FL 32504	850-418-0010
<ul style="list-style-type: none"> <li>New World Cleaning, LLC Contact: Latasha Jones, <a href="mailto:latashaj6@icloud.com">latashaj6@icloud.com</a></li> </ul>	MBE	1211 Santa Fe Circle PENSACOLA, FL 32505	850-607-3252
<ul style="list-style-type: none"> <li>Austin Exclusive Janitor Services, LLC Contact: Sarita Austin, <a href="mailto:saritaaustin10@gmail.com">saritaaustin10@gmail.com</a></li> </ul>	WBE	3741 Idlewood Drive PENSACOLA, FL 32505	850-532-5709
<ul style="list-style-type: none"> <li>Empire Cleaning, LLC Contact: Major Phillips, <a href="mailto:Majorphillips26@gmail.com">Majorphillips26@gmail.com</a></li> </ul>	MBE	7591 US98 Apt 3C PENSACOLA, FL 32506	850-525-9727
<ul style="list-style-type: none"> <li>GQS Enterprises, LLC Contact: John Lomax, <a href="mailto:john@gqsenterprise.com">john@gqsenterprise.com</a></li> </ul>	MBE	1211 Santa Fe Circle PENSACOLA, FL 32533	850-483-1939
<ul style="list-style-type: none"> <li>OneSource Lawn Service, LLC Contact: ANTHONY SUTTON, <a href="mailto:onesource@peoplepc.com">onesource@peoplepc.com</a></li> </ul>	MBE	2415 BERRYDALE RD PENSACOLA, FL 32505	850-261-6331
<ul style="list-style-type: none"> <li>REYCO Contracting Solutions, LLC Contact: Virna Renyoso, <a href="mailto:vrenyoso@reycococontracting.com">vrenyoso@reycococontracting.com</a></li> </ul>	WBE	2172 W. Nine Mile Rd., Ste. 198 PENSACOLA, FL 32534	850-273-4309
<ul style="list-style-type: none"> <li>Team Cleaners, LLC Contact: Mildred Schaab, <a href="mailto:schaabmilli@gmail.com">schaabmilli@gmail.com</a></li> </ul>	WBE	2430 Pleasant Point Circle PENSACOLA, FL 32566	850-240-5881
<ul style="list-style-type: none"> <li>Tracy Simon's Professional Cleaning, LLC Contact: Tracy Simon, <a href="mailto:tracysimon40@gmail.com">tracysimon40@gmail.com</a></li> </ul>	WBE	1662 Hollow Point Dr. Cantonment, FL 32533	850-384-7467

### Landscaping

<ul style="list-style-type: none"> <li>Green Procedures, Inc. Contact: Shelley Black, <a href="mailto:greenprocedures@gmail.com">greenprocedures@gmail.com</a></li> </ul>	WBE	2629 S. Hwy 29 Cantonment, FL 32533	850-969-0051
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Certified Minority and Women Business Enterprise (M/WBE) Directory  
as of December 27, 2019

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|--|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>Gulf Coast Environmental Contractors, Inc.</b><br/>Contact: Tracy Hayes, <a href="mailto:gcec@cox.net">gcec@cox.net</a></li> </ul>                                     | WBE | 251 E. Johnson Ave<br>Pensacola, FL 32514     | 850-433-6770 |
| <ul style="list-style-type: none"> <li>• <b>ONESOURCE LAWN SERVICE LLC</b><br/>Contact: ANTHONY SUTTON, <a href="mailto:onesource@peoplepc.com">onesource@peoplepc.com</a></li> </ul>                              | MBE | 2415 BERRYDALE RD<br>PENSACOLA, FL 32534      | 850-261-6331 |
| <ul style="list-style-type: none"> <li>• <b>Family Landscaping</b><br/>Contact: Mr. Eddie Jackson, <a href="mailto:familylandscaping@gmail.com">familylandscaping@gmail.com</a></li> </ul>                         | MBE | 409 Peppertree Terrace<br>Pensacola, FL 32506 | 850-529-6075 |
| <ul style="list-style-type: none"> <li>• <b>New World Cleaning, LLC (Commercial/Residential Landscaping)</b><br/>Contact: Latasha Jones, <a href="mailto:latashja6@icloud.com">latashja6@icloud.com</a></li> </ul> | MBE | 1211 Santa Fe Circle<br>PENSACOLA, FL 32505   | 850-607-3252 |

**Milling (Road & Highway)**

- |  |     |   |              |
|--|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>Gulf Atlantic Constructors, Inc.</b><br/>Contact: Ms. Pamela Caddell, <a href="mailto:chilliard@gacinc.net">chilliard@gacinc.net</a></li> </ul>                            | WBE | 650 W. Oakfield Rd<br>Pensacola, FL 32503 | 850-477-0588 |
| <ul style="list-style-type: none"> <li>• <b>Emerald Coast Milling &amp; Services, Inc.</b><br/>Contact: Ms. Kimberly Connor, <a href="mailto:emeralcoastmilling@yahoo.com">emeralcoastmilling@yahoo.com</a></li> </ul> | WBE | 7370 Kavanaugh Road<br>Milton, FL 32570   | 850-313-8080 |
| <ul style="list-style-type: none"> <li>• <b>All Phase Construction of NW FL, LLC.</b><br/>Contact: Ms. Ashley Perritt, <a href="mailto:Ashley.apc@outlook.com">Ashley.apc@outlook.com</a></li> </ul>                   | WBE | 5340 Bright Meadows<br>Milton, FL 32570   | 850-777-9737 |

**Painting**

- |  |     |   |              |
|--|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>Cronin Construction Inc.</b><br/>Contact: KATIE T CRONIN, <a href="mailto:KTCRONIN@CRONINCONSTRUCTIONUSA.COM">KTCRONIN@CRONINCONSTRUCTIONUSA.COM</a></li> </ul>                        | WBE | 99 S Alcaniz Street, Suite A<br>Pensacola, FL 32502 | 850-932-4826 |
| <ul style="list-style-type: none"> <li>• <b>Quality Sheetrock and Painting Contractors, LLC</b><br/>Contact: Mr. Albert Mixon, <a href="mailto:qualitysrpcontractorllc@gmail.com">qualitysrpcontractorllc@gmail.com</a></li> </ul> | MBE | 116 S. Donnelson St.<br>Pensacola, FL 32502         | 850-287-3537 |

Certified Minority and Women Business Enterprise (M/WBE) Directory  
as of December 27, 2019

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|--|-----|---|--------------|
| <ul style="list-style-type: none"> <li><b>Huey Works Corporation</b><br/>Contact: GEORGE L HUEY, <a href="mailto:admin@hueyworks.com">admin@hueyworks.com</a></li> </ul>                               | MBE | 1206 NORTH<br>PENSACOLA, FL 32505                     | 850-438-0000 |
| <ul style="list-style-type: none"> <li><b>REYCO Contracting Solutions, LLC</b><br/>Contact: Virna Reynoso, <a href="mailto:vreynoso@reycocontracting.com">vreynoso@reycocontracting.com</a></li> </ul> | WBE | 2172 W. Nine Mile Rd., Ste 198<br>Pensacola, FL 32526 | 850-273-4309 |
| <ul style="list-style-type: none"> <li><b>Touch by Tracy Painting and Designs, LLC</b><br/>Contact: Tracy Simon, <a href="mailto:tracysimon40@gmail.com">tracysimon40@gmail.com</a></li> </ul>         | WBE | 1662 Hollow Point Dr.<br>Cantonment, FL 32533         | 850-384-7467 |

**Restoration**

- |  |     |  |              |
|--|-----|--|--------------|
| <ul style="list-style-type: none"> <li><b>Complete DKI</b><br/>Contact: Tiffany Meece, <a href="mailto:tiffany.meece@completedki.com">tiffany.meece@completedki.com</a></li> </ul> | WBE | 544 Wynnehurst St<br>Pensacola, FL 32503 | 850-225-5354 |
|--|-----|--|--------------|

**Stormwater**

- |  |     |   |              |
|--|-----|---|--------------|
| <ul style="list-style-type: none"> <li><b>All Phase Construction of NW FL, LLC.</b><br/>Contact: Ms. Ashley Perritt, <a href="mailto:Ashley.apc@outlook.com">Ashley.apc@outlook.com</a></li> </ul> | WBE | 5340 Bright Meadows<br>Milton, FL 32570 | 850-777-9737 |
|--|-----|---|--------------|

**Technology Services (hardware, software, etc..)**

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|--|-----|--|--------------|
| <ul style="list-style-type: none"> <li><b>R-com Enterprise, LLC</b><br/>Contact: Ruthel McCormick, <a href="mailto:ruthel@rcoment.com">ruthel@rcoment.com</a></li> </ul>           | MBE | 1700 East Burgess Road<br>Pensacola, FL 32504  | 850-969-9989 |
| <ul style="list-style-type: none"> <li><b>ONESOURCEPCS, LLC</b><br/>Contact: Jonathan Llanera, <a href="mailto:jllanera@onesourcepcs.com">jllanera@onesourcepcs.com</a></li> </ul> | MBE | 1805 CREIGHTON RD STE 1<br>Pensacola, FL 32504 | 850-611-3379 |
| <ul style="list-style-type: none"> <li><b>Tech Advanced Computers, Inc.</b><br/>Contact: Patrick Tan, <a href="mailto:ptan@techadvanced.com">ptan@techadvanced.com</a></li> </ul>  | MBE | 1508 CREIGHTON RD<br>Pensacola, FL 32504       | 850-479-9227 |

**Tree Service**

- |   |     |   |              |
|---|-----|---|--------------|
| <ul style="list-style-type: none"> <li><b>Eager Beaver Professional Tree Care, LLC</b><br/>Contact: Kerry Abbott, <a href="mailto:eagerbeaverprotreecare@gmail.com">eagerbeaverprotreecare@gmail.com</a></li> </ul> | WBE | 5205 Gulf Breeze Parkway<br>Gulf Breeze, FL 32563 | 850-934-5660 |
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## Certified Minority and Women Business Enterprise (M/WBE) Directory as of December 27, 2019

<ul style="list-style-type: none"> <li><b>Gulf Coast Environmental Contractors, Inc</b> Contact: Tracy Hayes, <a href="mailto:gcec@cox.net">gcec@cox.net</a></li> </ul>	WBE	251 E. Johnson Ave Pensacola, FL 32514	850-433-6770
<ul style="list-style-type: none"> <li><b>Family Landscaping</b> Contact: Mr. Eddie Jackson</li> </ul>	MBE	409 Peppertree Terrace Pensacola, FL 32506	850-529-6075
<b>Traffic Control, Traffic Lights (signals)</b>			
<ul style="list-style-type: none"> <li><b>L30 Consulting, LLC; dba L30 Traffic Control</b> Contact: Ms. ANGELA N MCNULTY, <a href="mailto:angela@L30consulting.com">angela@L30consulting.com</a></li> </ul>	WBE	3276 W SCOTT ST PENSACOLA, FL 32561	850-890-8408
<ul style="list-style-type: none"> <li><b>Ingram Signalization, Inc</b> Contact: Mr. Tony Kuhl, <a href="mailto:tony@ingramcorp.com">tony@ingramcorp.com</a></li> </ul>	WBE	4522 North Davis Hwy Pensacola, FL, FL 32503	850-433-8266
<b>Transportation</b>			
<ul style="list-style-type: none"> <li><b>Helping Hands Shuttle Child Transportation, LLC</b> Contact: Ms. Sabrina Murphy, <a href="mailto:helpinghandsshuttle@gmail.com">helpinghandsshuttle@gmail.com</a></li> </ul>	WBE	2702 Massachusetts Pensacola, FL 32505	850-696-8856
<b>Underground Utility</b>			
<ul style="list-style-type: none"> <li><b>Gator Boring &amp; Trenching, Inc</b> Contact: Ms. Lisa Lyons, <a href="mailto:lisa@gatorboring.com">lisa@gatorboring.com</a></li> </ul>	WBE	1800 Blackbird Lane Pensacola, FL 32534	850-477-0742
<ul style="list-style-type: none"> <li><b>Principle Properties, Inc</b> Contact: RUTH DUPONT ESSER, <a href="mailto:rdesser007@gmail.com">rdesser007@gmail.com</a></li> </ul>	WBE	4371 Marilyn Ct. Gulf Breeze, FL 32563	850-390-5151
<ul style="list-style-type: none"> <li><b>PBrown Building, LLC</b> Contact: Mr. AMOS P BROWN JR, <a href="mailto:patb@pbrownllc.com">patb@pbrownllc.com</a></li> </ul>	MBE	4231 CHERRY LAUREL DRIVE PENSACOLA, FL 32504	850-346-3175
<ul style="list-style-type: none"> <li><b>M &amp; H Construction Services, LLC</b> Contact: My Tran, <a href="mailto:mtran850@yahoo.com">mtran850@yahoo.com</a></li> </ul>	MBE	1161 W. 9 1/2 Mile Road Pensacola, FL 32534	850-393-3266
<ul style="list-style-type: none"> <li><b>BKW Inc.</b> Contact: Mrs. Karen Webb, <a href="mailto:karen@bkw-inc.com">karen@bkw-inc.com</a></li> </ul>	WBE	5615 Duval Street Pensacola, FL 32503	850-484-4344

Certified Minority and Women Business Enterprise (M/WBE) Directory  
as of December 27, 2019

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|---|-----|--|--------------|
| <ul style="list-style-type: none"> <li>• <b>Moor Better Contractors, Inc.</b><br/>Contact: Jo Moore, <a href="mailto:jo@moorebetter.com">jo@moorebetter.com</a></li> </ul>                                  | WBE | 1721 East Cervantes<br>Pensacola, FL 32501 | 850-698-4152 |
| <ul style="list-style-type: none"> <li>• <b>Roberson Underground Utility, LLC</b><br/>Contact: Christy Baker, <a href="mailto:robersonundergroundllc@aol.com">robersonundergroundllc@aol.com</a></li> </ul> | MBE | 9790 Roberson Way<br>Milton, FL 32570      | 850-564-2095 |

**Waste Consulting Utility Management**

- |   |     |   |              |
|---|-----|---|--------------|
| <ul style="list-style-type: none"> <li>• <b>EmCo Consulting, Inc</b><br/>Contact: Ms. Leanne Blanton, <a href="mailto:leanne@emcoco.com">leanne@emcoco.com</a></li> </ul> | WBE | 604 N. New Warrington Road<br>Pensacola, FL 32506 | 850-457-0330 |
|---|-----|---|--------------|

February  
4

# Pensacola Supplier Diversity Exchange

*Getting Focused*

2020



**8:30 a.m. - 3:00 p.m.**

Sanders Beach-Corinne Jones Resource Center  
913 South I Street, Pensacola, FL 32502

**Register at: [PensacolaExchange.Eventbrite.com](https://PensacolaExchange.Eventbrite.com)**





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00037

City Council

1/16/2020

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### **DISCUSSION ITEM**

**FROM:** City Council Member Sherri Myers

**SUBJECT:**

TRANSPORTATION ALTERNATIVES SET-ASIDE APPLICATION - FLORIDA-ALABAMA  
TRANSPORTATION PLANNING ORGANIZATION (TPO)

**SUMMARY:**

The Florida-Alabama Transportation Planning Organization (TPO) is hosting a workshop to review applications submitted for the Transportation Alternatives Set-Aside Program. The workshop will be held on Wednesday, January 8, at 9 a.m. in the Emerald Coast Regional Council office, 4081 E. Olive Road, Suite A, Pensacola, Florida.

The TA Set-Aside is intended to fund a variety of small-scale transportation projects such as pedestrian and bicycle facilities, recreational trails, safe routes to school projects, community improvements such as historic preservation and vegetation management, and environmental mitigation related to stormwater and habitat connectivity.

This item is to further the discussion of possible projects for submission.

**PRIOR ACTION:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive.

**ATTACHMENTS:**

None

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00039

City Council

1/16/2020

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### **DISCUSSION ITEM**

**FROM:** City Council Member Sherri Myers

**SUBJECT:**

DISCUSSION OF THE CITY'S UNSAFE AND SUBSTANDARD HOUSING CODES AND THE POSSIBLE INCORPORATION OF ESCAMBIA COUNTY'S UNSAFE BUILDING ABATEMENT CODE.

**SUMMARY:**

This discussion item seeks to look at the City's Unsafe and Substandard Housing Codes, standards and remedies as well as the possible incorporation of Escambia County's Unsafe Building Abatement code.

**PRIOR ACTION:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

1) ARTICLE VI. - UNSAFE BUILDING ABATEMENT

**PRESENTATION:** No



## ARTICLE VI. - UNSAFE BUILDING ABATEMENT<sup>161</sup>

Footnotes:

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**Editor's note**— Section 1 of Ord. No. 2006-77, adopted Oct. 5, 2006, amended the title of Art. VI, Nuisance and Unsafe Building Abatement, to read as herein set out. Section 2 of said ordinance further provided for the deletion of § 30-203 and renumbering of §§ 30-204—30-208 as §§ 30-203—30-207.

Sec. 30-200. - Short title.

This article shall be known as the "Unsafe Building Abatement Ordinance", and may be cited as such.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 1, 10-5-2006)

Sec. 30-201. - Legislative findings and intent.

- (a) The board of county commissioners hereby declares that unsafe buildings upon real property within the county constitute a menace to the public health, safety and welfare of the county and its inhabitants, and the board of county commissioners shall have the authority to abate such unsafe buildings pursuant to the authority vested by F.S. ch. 125 and F.S. ch. 162 in the manner provided herein.
- (b) It is declared by the board of county commissioners that it shall be a violation of this article to create, maintain, or allow the creation or continuation of any unsafe building.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-202. - Definitions.

Terms not specifically defined in this article shall be interpreted in accordance with those definitions provided in the Escambia County Land Development Code, and Chapter 2, Florida Building Code, as may be amended from time to time. The following terms and phrases, when used in this article, shall have the following meanings, unless the context clearly indicates a different meaning:

- (a) *Abate* or *abatement* mean the cessation or removal of an unsafe building.
- (b) *Agent* means any person with valid oral or written authority to represent an owner of real property and to act on behalf of the owner, which may be evidenced by a notarized document signed by the owner.
- (c) *Building* means any structure having a roof supported by columns or walls.
- (d) *Dilapidation* means the substantial deterioration of a building or parts thereof, such that it is no longer adequate for the purpose for which it was originally intended, or has significant structural deficiencies.
- (e) *Dwelling* means any building, structure, trailer, mobile home, or roominghouse which is wholly or partially used or intended to be used, in whole or in part, for living or sleeping by human occupants.
- (f) *Gabage* means:

- (1) Any animal or vegetable waste materials resulting from the storage, handling, preparation, cooking, and serving of food;
  - (2) Market wastes;
  - (3) Trimmings and other discarded matter from meat or produce;
  - (4) Containers and packaging for any of the material identified in subsections (1) through (3) of this definition.
- (g) *Lot* means a tract, plot, parcel, or other portion of a subdivision or any other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership, or possession, or for building development; provided, however, that north of Ten Mile Road this term shall apply only to lots of three acres or less in size.
- (h) *Owner* means the record owner of, whether one or more persons or entities, of fee simple title as set out in official records of the county to any lot or parcel of real property, their successors and assigns, but excluding those holding title merely as security for the performance of an obligation. If a lot or parcel is jointly owned by two or more persons or entities, then such joint owners shall constitute a single owner for purposes of this article.
- (i) *Parcel* means a unit of real property within legally established boundary lines, or a lot, or contiguous group of lots in single ownership or under single control, and considered a unit for purposes of development.
- (j) *Premises* means a lot, plot, parcel, or tract of land, including the buildings, structures and improvements on such premises.
- (k) *Responsible party* means the owner, agent, or other person committing, creating, owning, keeping or maintaining an unsafe building hereunder.
- (l) *Structure* means anything constructed, assembled, or erected, the use of which requires location on the ground or attachment to something having location on or in the ground; this shall include, among other things, buildings, swimming pools, mobile homes, fences, walls, tanks, signs, tents, trailers, dining cars, camp cars or similar structures on wheels or other supports used for living, business, or storage purposes. The term includes any structure equipped with a roof, permanent or temporary, such as porches, carports, awnings, canopies, screened enclosures, arbors, balconies and similar elements, but does not include unroofed surfaces such as paving, sidewalks, or those used for sports.
- (m) *Unsafe building* means any building that has any of the following conditions, such that life, health, property or safety of its occupants or the general public are endangered:
- (1) The building, dwelling or portion thereof has been damaged by fire, flood, earthquake, wind or other cause to the extent that the structural integrity of the building or dwelling is less than it was prior to the damage and is less than the minimum requirement established by the Florida Building Code for new buildings.
  - (2) Any exterior appendage or portion of the building or dwelling is not securely fastened, attached or anchored such that it is capable of resisting wind, seismic or similar loads as required by the Florida Building Code for new buildings.
  - (3) If for any reason the building, dwelling or portion thereof is manifestly unsafe or unsanitary for the purpose for which it is being used.
  - (4) The building, dwelling or portion thereof as a result of decay, deterioration or dilapidation is likely to fully or partially collapse.
  - (5) The buildings, dwellings, or portion thereof has been constructed or maintained in violation of a specific requirement of the Florida Building Code or of a city, county, or state law.
  - (6) Any building, dwelling or portion thereof that is in such a condition as to constitute a public nuisance.

- (7) Any building, dwelling or portion thereof that is unsafe, unsanitary or not provided with adequate egress, or which constitutes a fire hazard, or is otherwise dangerous to human life, or, which in relation to existing use, constitutes a hazard to safety or health by reason of inadequate maintenance, dilapidation, obsolescence or abandonment.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-203. - Defining unsafe building conditions.

The following conditions existing on real property in the unincorporated areas of the county, upon confirmation by the building official, shall constitute prima facie evidence of maintaining an unsafe building within the meaning of section 30-202 injurious to the health, safety and welfare and shall include, but shall not be limited to:

- (a) A dwelling unit containing less than a kitchen sink, lavatory, tub or shower, and a water closet, all in good working condition, properly installed and connected to an approved water and sewer system, and maintained in a sanitary working condition, free from defects, leaks, and obstructions.
- (b) A plumbing fixture not located within the dwelling unit and accessible to the occupants of same. The water closet, tub or shower and lavatory not located in a room affording privacy to the use and such room without a minimum floor space of thirty square feet with any dimensions less than four feet (1,219 mm). Bathrooms inaccessible from habitable rooms, hallways, corridors and other protected or enclosed areas.
- (c) A dwelling unit having an inadequate supply of both cold and hot water connected to the kitchen sink, lavatory, and tub or shower. All water shall be supplied through an approved distribution system connected to a potable water supply.
- (d) A dwelling unit having inadequately installed and maintained water heating facilities that are unsafe and in bad working condition and are incapable of heating water to such a temperature as to permit an adequate amount of water to be drawn at every required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than 120°F (49°C). Apartment houses may use a centralized water heating facility capable of heating an adequate amount of water to not less than 120°F (49°C).
- (e) A dwelling unit without a central heating system and without facilities to connect heating appliances.
- (f) A dwelling unit with unvented gas heaters.
- (g) A dwelling unit using any untested or unlisted liquid fueled, unvented heating appliances. (The terms "untested" and "unlisted" shall be interpreted in accordance with the provisions of Chapter 2, Florida Building Code.)
- (h) A dwelling unit that does not provide a smoke detector that is installed in accordance with the manufacturer's recommendations.
- (i) A dwelling unit with habitable rooms that have fewer than one window or skylight that can be easily opened, or such other device as will adequately ventilate the room. The total of openable window area in every habitable room shall be equal to at least 45 percent of the minimum window area size or minimum skylight-type window size, without approved, equivalent ventilation.
- (j) A dwelling unit with fewer than two separate and remote receptacle outlets in every habitable room or space. Bedrooms that do not have at least one wall switch controlling a lighting outlet. Kitchens that have fewer than two separate and remote receptacle outlets and without a wall or ceiling outlet controlled by a wall switch. (Receptacles rendered inaccessible by appliances fastened in place or by appliances occupying dedicated space shall not be considered as these required outlets.) Every hall, water closet compartment, bathroom, laundry room or furnace

room shall have at least one ceiling-mounted or wall-mounted lighting outlet. In bathrooms, the lighting outlet shall be controlled by a wall switch. In addition to the lighting outlet in every bathroom and laundry room, there shall be provided at least one receptacle outlet. Any new bathroom receptacle outlet shall have ground fault circuit interrupter protection.

- (k) A common hall or inside stairway in a building, other than one-family dwellings, without adequate lighting or at least one footcandle intensity (10.76 lux) at the floor in the darkest portion of the normally traveled stairs and passageways.
- (l) Electrical outlets and fixtures, electrical wiring and equipment unconnected to a source of electric power in accordance with the provisions of the Florida Building Code.
- (m) A building foundation maintained in an unsafe manner and incapable of supporting the load which normal use may cause to be placed thereon.
- (n) An exterior wall with holes, breaks, loose or rotting boards or timbers, any condition which might admit rain or dampness to the interior portions of the walls or occupied spaces of a building, and any siding material not kept in repair.
- (o) A roof not structurally sound and not maintained in a safe manner and has defects which might admit rain and cause dampness in the walls or interior portions of the building.
- (p) Portions, additions or sections of a roof including, but not limited to, the fascia, eave, soffit, sheathing, rafter, tail, barge rafter, vent screening, gutter, downspout, roof jack, lead or metal flashing, not complete with trim strips, moldings, brackets, braces and supports in accordance with common building practices. An item displaying signs of deterioration, abuse or improper installation that could be construed to affect the purpose of that item or is causing damage to the immediate area or roof structure, that could allow dampness or admit rain to the interior of that building.
- (q) A dwelling unit without a safe, unobstructed means of egress, without a minimum ceiling height of seven feet (2,134 mm) leading to a safe and open space at ground level. Stairs without a minimum head room of six feet eight inches (2,032 mm).
- (r) An unsafe inside or outside stair, porch or any appurtenance thereto incapable of supporting the load that normal use may cause to be placed thereon and is in unsound condition and bad repair.
- (s) Any unenclosed structure over thirty inches (762 mm) above the ground level or any steps containing four or more risers without protective railing.
- (t) Windows that are not weathertight, watertight, rodentproof, in unsound working condition and/or bad repair.
- (u) Windows with missing window panes, have open cracks or holes.
- (v) Window sashes that are improperly fitted and not weathertight within the window frame.
- (w) Windows that meet the requirement for light and ventilation that are not easily opened or are not secured in position by window hardware.
- (x) Exterior doors, basement or cellar doors or hatchways that are not weathertight, watertight, rodentproof, in working condition, or in good repair.
- (y) Exterior doors that have improperly installed hardware that requires unreasonable effort to open, close and secure in an open or closed position.
- (z) Exterior door frames that are improperly maintained, without weatherstripping and thresholds to keep the door frame weathertight, watertight and rodent and insect resistant when the door is in a closed position.
- (aa) Exterior door jambs, stops, headers, and moldings that are insecurely attached to the structure, not maintained in good condition, split or deteriorating that minimizes the strength and security of the door in a closed position.

- (bb) Dwelling units without central air conditioning systems, without screens on all exterior openable windows and doors use or required for ventilation. Screens on windows and doors shall be stretched and fitted and maintained without open rips or tears.
- (cc) Garages, carports, storage buildings, and all other accessory structures unmaintained and in bad repair and unsound structural condition.
- (dd) Structural elements of a dwelling unmaintained, structurally unsound, and showing evidence of deterioration which makes it incapable of carrying normal loads.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-204. - Methods of abatement.

The conditions described under section 30-203 may be abated in the following ways:

- (a) Obtain appropriate building permits to correct all violations to the standards of the building codes in effect; or
- (b) Obtain a demolition permit to remove all violating structures, including the physical removal of demolition debris.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-205. - Inspection of the premises.

In order to ensure compliance with this article, the office of code enforcement may inspect any property, house, building, structure or other premises; however, at no time shall code enforcement personnel enter into any building or structure without the express permission of the responsible party or a warrant issued by a court of competent jurisdiction. Any such inspection shall pertain only to the subject matter covered by this article.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-206. - Enforcement.

This article may be enforced in any manner allowed, authorized, or provided by F.S. ch. 162, as amended. Any violation of this article also may be prosecuted by the state attorney in the same manner as a misdemeanor pursuant to F.S. § 125.69, as amended.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Sec. 30-207. - Condemnation following natural disaster or other declared local emergency.

Following a natural disaster or other declared state of local emergency, the board of county commissioners may, pursuant to its police power (and not pursuant to its power of eminent domain), confer on the building official by resolution the power to summarily condemn buildings, structures, and other properties that present a serious threat to the public health, safety and welfare, and to authorize all necessary action to correct the threat, including, but not limited to, demolition of the building or structure.

- (a) Prior to any corrective action by the county, the building official shall provide notice to the owners of the property. Such notice shall:
  - (1) Be in writing and sent by regular mail to the last known address of the owner according to the records of the tax collector.

- (2) Be posted on the building or structure or other obvious location on the property.
  - (3) State the reasons why the notice is being issued.
  - (4) State the period of time allowed for the owner or other person entitled to use or possession of the property to take corrective action.
  - (5) State the nature of the corrective action required to eliminate the serious threat to the public health, safety and welfare.
  - (6) State that if the corrective action is not voluntarily completed within the stated time as set forth in the notice, corrective action will be taken by the county.
- (b) No building, structure or property that has been condemned by the building official shall be inhabited or occupied until approval is secured from and the posted notice is removed by the building official. The building official shall remove the notice whenever the threat upon which the condemnation action is based has been eliminated.
  - (c) Any person aggrieved pursuant to this section may appeal the decision of the building official to the board of county commissioners. A notice of appeal shall be in writing and shall be filed within 15 days from the date of the notice issued by the building official. The notice of appeal shall state the location of the property, the date of the notice, the relief requested and the reasons therefore, and the grounds upon which the appeal is made.
  - (d) No notice of appeal filed later than fifteen days after the date of the notice issued by the building official shall be acted upon by the board of county commissioners. Upon receipt of the written notice of appeal, the board of county commissioners shall direct the county administrator to review all aspects of the appeal with the building official and the county attorney, and the county administrator shall take all reasonable steps to resolve the case in question. In the event that the administrative action of the county administrator does not result in a satisfactory resolution of the matter, the county administrator shall inform the board of county commissioners, in writing, that all administrative remedies have been exhausted.
  - (e) Upon receipt of a written notice from the county administrator that all administrative remedies have been exhausted, the board of county commissioners shall schedule a public hearing and shall notify the owner or the owner's duly authorized agent, in writing, of the time, date, and place at which the hearing will be held. The hearing shall be held no less than 30 days after the notice of appeal is filed. At the hearing, the owner or the duly authorized agent shall be given the opportunity to be heard, present evidence, and show cause why the decision of the building official should be modified, varied, or reversed.
  - (f) The board of county commissioners may vary the application of any provision of this section when in its judgment, the building official has misapplied the provisions of this section.
  - (g) The decision of the board of county commissioners to modify, vary, or reverse the application of any provisions of this section shall specify the manner in which such modification or variation is to be made, the conditions upon which it is made, and the reasons therefore.
  - (h) Every decision of the board of county commissioners shall be final. The proceedings of each hearing, including any findings and decisions of the board, shall be summarized in writing and entered in the public records of the board. A copy of the decision of the board of county commissioners shall be sent by certified mail to the appellant and the original shall be filed with the building official. The building official shall immediately take action in accordance with the decision of the board.
  - (i) Any person aggrieved by the decision of the board of county commissioners rendered pursuant to this section may seek relief therefrom in a court of competent jurisdiction as provided by the laws of the State of Florida.

(Ord. No. 2006-40, § 1, 5-18-2006; Ord. No. 2006-77, § 2, 10-5-2006)

Secs. 30-208—30-299. - Reserved.



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00042

City Council

1/16/2020

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### **DISCUSSION ITEM**

**FROM:** City Council Member Sherri Myers

**SUBJECT:**

REPEAL OF SOME OF THE CITY'S ANIMAL WELFARE CODES, WITH INCORPORATION OF RELEVANT ESCAMBIA COUNTY ANIMAL CONTROL AND WELFARE CODES.

**SUMMARY:**

Currently Escambia County Animal Control handles enforcement within the City. However, Animal Control normally does not enforce City Code. The repeal of some of the City's current code and then the incorporation of relevant County Code would allow for more consistent enforcement as well as giving the citizens a clearer picture of applicable enforcement activities.

This discussion will allow for clarification of the current status of our codes vs. the County codes as it relates to enforcement activities. As well as a discussion of those areas where the City has an existing code that the County does not have and how that enforcement might take place.

**PRIOR ACTION:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

None

**PRESENTATION:** No





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00004

City Council

1/16/2020

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**DISCUSSION ITEM**

**SUBJECT:**

MONTHLY FINANCIAL REPORT - CHIEF FINANCIAL OFFICER RICHARD BARKER, JR.