



# City of Pensacola

## Community Redevelopment Agency

### Agenda

*The City of Pensacola Community Redevelopment Agency was created by the City Council and is a dependent special district in accordance with the Florida State Statutes Chapter 189 (Resolution No. 55-80 adopted on September 25, 1980; and amended Resolution No. 22-10 adopted on August 19, 2010.)*

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Tuesday, September 8, 2020, 3:30 PM

Council Chambers, 1st Floor

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Immediately after the Agenda Conference. Members of the public may attend & participate only via live stream or phone. Live Meeting Video:  
[cityofpensacola.com/428/Live-Meeting-Video](http://cityofpensacola.com/428/Live-Meeting-Video)  
Public input form here: [www.cityofpensacola.com/CRAInput](http://www.cityofpensacola.com/CRAInput)

#### CALL MEETING TO ORDER

Members: Jared Moore, Chairperson, Ann Hill, Vice Chairperson, Jewel Cannada-Wynn, John Jerralds, Sherri Myers, Andy Terhaar, P.C. Wu

#### BOARD MEMBER DISCLOSURE

Board Members disclose ownership or control of interest directly or indirectly of property in the Community Redevelopment Area

#### CHAIRMAN'S REPORT

#### APPROVAL OF MINUTES

1. [20-00541](#) CRA MEETING MINUTES - 08/10/2020

**Sponsors:** Jared Moore

**Attachments:** [081020CRAdmin.pdf](#)

#### PRESENTATIONS

#### ACTION ITEMS

2. [20-00484](#) INTERLOCAL AGREEMENT FOR PARKING MANAGEMENT OF CRA PARKING FACILITIES WITH THE CITY OF PENSACOLA
- Recommendation:* That the Community Redevelopment Agency (CRA) approve an interlocal agreement with the City of Pensacola for the management of CRA parking facilities under its unified parking management system.
- Sponsors:* Jared Moore
- Attachments:* [Parking Management Interlocal with City of Pensacola](#)
3. [20-00485](#) INTERLOCAL AGREEMENT FOR IMPLEMENTATION OF CERTAIN URBAN CORE REDEVELOPMENT PLAN ACTIVITIES BY THE PENSACOLA DOWNTOWN IMPROVEMENT BOARD
- Recommendation:* That the Community Redevelopment Agency (CRA) approve an interlocal agreement with the Pensacola Downtown Improvement Board (DIB) for the implementation of certain Urban Core Redevelopment Plan activities to be funded through the portion of the Tax Incremental Financing (“TIF”) revenues derived from the Pensacola Downtown Improvement Taxing District special assessment levied within the DIB area, less \$100,000 which shall be retained by the CRA for implementation of affordable housing initiatives.
- Sponsors:* Jared Moore
- Attachments:* [Interlocal Agreement - Implementation of UC Plan Activities by DIB](#)
4. [20-00501](#) INTERLOCAL AGREEMENT WITH THE CITY OF PENSACOLA FOR IMPLEMENTATION OF HOUSING INITIATIVES
- Recommendation:* That the Community Redevelopment Agency (CRA) approve an Interlocal Agreement with the City of Pensacola for implementation of housing initiatives within the Urban Core, Westside and Eastside community redevelopment areas. Further, that the CRA authorize the Chairperson to take all actions necessary to implement the agreement.
- Sponsors:* Jared Moore
- Attachments:* [Housing Initiatives Interlocal Agreement](#)

5. [20-00495](#) APPROVAL OF AN INTERLOCAL AGREEMENT WITH ESCAMBIA COUNTY, FLORIDA RELATING TO THE BEAUTIFICATION OF A PORTION OF WEST GOVERNMENT STREET

**Recommendation:** That the Community Redevelopment Agency (CRA) approve the Interlocal Agreement (IA) with Escambia County, Florida, relating to the beautification of a portion of West Government Street. Further, that the CRA authorize the CRA Chairperson to execute all documents necessary for the execution of the agreement.

**Attachments:** [Interlocal Agreement - Government Street Tree Planters](#)  
[120 W. Government Street - Elevation](#)

6. [20-00483](#) FISCAL YEAR 2021 COMMUNITY POLICING INTERLOCAL AGREEMENT

**Recommendation:** That the Community Redevelopment Agency (CRA) approve an interlocal agreement with the City of Pensacola for the purpose of providing Community Policing Innovations within the Urban Core Community Redevelopment Area for Fiscal Year 2021 in an amount not to exceed \$100,000.

**Sponsors:** Jared Moore

**Attachments:** [FY2021 Community Policing Interlocal Agreement](#)

7. [20-00489](#) PLAZA DE LUNA CONCESSIONS AGREEMENT RENEWAL

**Recommendation:** That the Community Redevelopment Agency (CRA) approve a one-year renewal of the Concession Agreement with DeLuna's Chat and Chew LLC for the operation of the Plaza de Luna Concession and Restroom Facilities. Further, that the CRA authorize the Chairperson to take all actions necessary to complete the renewal.

**Sponsors:** Jared Moore

**Attachments:** [Renewal Request Letter](#)  
[Executed Plaza de Luna Concession Agreement](#)

8. [2020 -03  
CRA](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 2020-03 CRA -  
AMENDING THE FISCAL YEAR 2020 BUDGET

**Recommendation:** That the Community Redevelopment Agency adopt Supplemental Budget Resolution No. 2020-03 CRA.

A RESOLUTION OF THE PENSACOLA COMMUNITY REDEVELOPMENT AGENCY APPROVING AND CONFIRMING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

**Sponsors:** Jared Moore

**Attachments:** [Supplemental Budget Resolution No. 2020-03 CRA](#)  
[Supplemental Budget Explanation No. 2020-03 CRA](#)

## DISCUSSION ITEMS

## OPEN FORUM

## ADJOURNMENT

*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.*

*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*





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 20-00541

Community Redevelopment Agency

9/8/2020

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**SUBJECT:**

CRA MEETING MINUTES - 08/10/2020



# City of Pensacola

## COMMUNITY REDEVELOPMENT AGENCY

### Meeting Minutes

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August 10, 2020

5:26 P.M.

Council Chambers

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The Community Redevelopment Agency (CRA) Board special meeting was called to order by Chairperson Moore at 5:26 P.M. (immediately following the 3:30 P.M. City Council Agenda Conference).

#### CALL MEETING TO ORDER

**CRA Members Present:** Jared Moore, Ann Hill, Jewel Cannada-Wynn, John Jerrals, Sherri Myers (attended by teleconference; left 6:05), P.C. Wu (attended by teleconference)

**CRA Members Absent:** Andy Terhaar

To limit the potential spread of COVID-19, some CRA Members attended by telephonic conferencing, and members of the public had the opportunity to attend and participate **only via live stream or phone**. This change in format was consistent with [Executive Order 20-69](#) issued by Gov. Ron DeSantis and had been adopted at the direction of Council President Jewel Cannada-Wynn in consultation with the City Attorney. Public participation was available as follows:

**To watch the meeting live visit:** [cityofpensacola.com/428/Live-Meeting-Video](http://cityofpensacola.com/428/Live-Meeting-Video).

#### To provide input:

- For Open Forum, for items not on the agenda: citizens may submit an online form here [www.cityofpensacola.com/CRAInput](http://www.cityofpensacola.com/CRAInput) **beginning at 1:00 P.M. until 3:30 P.M. only** to indicate they wish to speak during Open Forum **and include a phone number. Staff will call the person** at the appropriate time so the citizen can directly address the CRA using a telephone held up to a microphone.
- For agenda items: citizens may submit an online form here [www.cityofpensacola.com/CRAInput](http://www.cityofpensacola.com/CRAInput) **beginning at 1:00 P.M. until that agenda item has been voted upon** to indicate they wish to speak to a specific item on the agenda **and include a phone number. Staff will call the person** at the appropriate time so the citizen can directly address the CRA using a telephone held up to a microphone. **Any form received after an agenda item has been voted upon will not be considered.**

**BOARD MEMBERS DISCLOSE OWNERSHIP OR CONTROL OF INTEREST DIRECTLY OR INDIRECTLY OF PROPERTY IN THE COMMUNITY REDEVELOPMENT AREA**

CRA Member Hill disclosed ownership or control of interest directly or indirectly of property in the Community Redevelopment Area.

**CHAIRMAN'S REPORT**

Council Executive Kraher was provided an opportunity to address the CRA Board to discuss the order of meetings on the Mondays that both the CRA Board and City Council Agenda Conference meet. City Council voted in February 2019 to have the CRA Board meet prior to the Agenda Conference which up until the COVID-19 pandemic that has been the order. He suggested it is more appropriate for the Agenda Conference to meet first since it is City-wide business.

Some discussion took place. **Council Executive Kraher indicated if any Council Member wishes to change the order of meetings, they can sponsor an item to bring forward for consideration.**

**APPROVAL OF MINUTES****1. [20-00437 MINUTES OF CRA MEETING - 7/13/2020](#)**

**A motion to approve was made by CRA Member Jerrals and seconded by CRA Member Cannada-Wynn.**

**The motion carried by the following vote:**

Yes: 6	Ann Hill, Jared Moore, Jewel Cannada-Wynn, John Jerrals, P.C. Wu, Sherri Myers
No: 0	None

**PRESENTATIONS**

None

**ACTION ITEMS**2. [20-00411 MLK-ALCANIZ AND DAVIS TWO-WAY CONVERSION](#)

**Recommendation:** That the Community Redevelopment Agency (CRA) recommend to City Council that it request that the Florida-Alabama Transportation Planning Organization (FL-AL TPO) and the Florida Department of Transportation (FDOT) move forward with the two-way conversion of Martin Luther King, Jr. Boulevard/Alcaniz Street and Davis Highway.

**A motion to approve was made by CRA Member Hill and seconded by CRA Member Cannada-Wynn.**

Corey Wilkinson and Mary Morgan of HDR Engineering representing the Emerald Coast Regional Council (ECRC) for the Transportation Planning Organization (TPO) provided an overhead presentation of the proposed project.

Following the presentation discussion took place. During discussion, CRA Administrator Gibson mentioned having **all travel lanes be consistently 10' wide throughout the corridor and was accepted as a friendly amendment.**

Upon conclusion of discussion, the vote was called.

**The motion carried by the following vote (with CRA Member Myers no longer in attendance):**

Yes: 5	Ann Hill, Jared Moore, Jewel Cannada-Wynn, John Jerralds, P.C. Wu
No: 0	None

3. [20-00308 AWARD OF BID #20-052 REUS STREET REVITALIZATION PHASE 1: FROM MAIN STREET TO GARDEN STREET](#)

**Recommendation:** That the Community Redevelopment Agency (CRA) award Bid #20-052 Reus Street Revitalization Phase 1 to Chavers Inc., the lowest and most responsible bidder with a base bid of \$1,019,127.22 plus additive alternates #1 and #6 totaling \$103,502.80 and a 10% contingency in the amount of \$112,263.00 for a total amount of \$1,234,893.02. Further, that CRA authorize the CRA Chairperson to execute a contract and take all actions necessary to complete the project.

**A motion to approve was made by CRA Member Cannada-Wynn and seconded by CRA Member Moore.**

Project Manager and Consultant with Atkins NA David Haight and the City's Capital Improvement Projects Manager David Forte responded accordingly to questions.

**ACTION ITEMS (CONT'D.)**

Upon conclusion of discussion (regarding Item 3, 20-00308), the vote was called.

**The motion carried by the following vote (with CRA Member Myers no longer in attendance):**

Yes: 5      Ann Hill, Jared Moore, Jewel Cannada-Wynn, John Jerralds, P.C.  
                    Wu  
No: 0      None

4. [20-00403 FISCAL YEAR 2021 CRA WORK PLAN](#)

**Recommendation:** That the Community Redevelopment Agency (CRA) approve the CRA Work Plan for the Urban Core, Westside and Eastside community redevelopment areas for Fiscal Year 2021.

**A motion to approve was made by CRA Member Cannada-Wynn and seconded by CRA Member Hill.**

CRA Administrator Gibson responded accordingly to questions from CRA Member Cannada-Wynn regarding this planning process and its impacts.

There being no further discussion, the vote was called.

**The motion carried by the following vote (with CRA Member Myers no longer in attendance):**

Yes: 5      Ann Hill, Jared Moore, Jewel Cannada-Wynn, John Jerralds, P.C.  
                    Wu  
No: 0      None

**ACTION ITEMS (CONT'D.)**

5. [2020-01 CRA BUDGET RESOLUTION NO. 2020-01 CRA - ADOPTING A BUDGET FOR THE TAX INCREMENT FINANCING DISTRICTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020](#)

**Recommendation:** That the Community Redevelopment Agency adopt Budget Resolution No. 2020-21 CRA adopting a budget for Fiscal Year 2021 for the Urban Core Tax Increment Financing District, the Eastside Tax Increment Financing District and the Westside Tax Increment Financing District. Further that the Community Redevelopment Agency formally recommend to City Council to take action to approve the budgets for the tax increment financing districts.

A RESOLUTION OF THE PENSACOLA COMMUNITY REDEVELOPMENT AGENCY ADOPTING A BUDGET FOR THE URBAN CORE TAX INCREMENT FINANCING DISTRICT, THE EASTSIDE TAX INCREMENT FINANCING DISTRICT AND THE WESTSIDE TAX INCREMENT FINANCING DISTRICT FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2020; PROVIDING AN EFFECTIVE DATE.

**A motion to adopt was made by CRA Member Cannada-Wynn and seconded by CRA Member Hill.**

CRA Member Cannada-Wynn inquired of carryover funds and if they could consider funding for the proposed Women's Veterans Memorial and the old Amtrak building on Heinberg Street which they have been talking with the City about leasing.

Upon conclusion of discussion, the vote was called.

**The motion carried by the following vote (with CRA Member Myers no longer in attendance):**

Yes: 5	Ann Hill, Jared Moore, Jewel Cannada-Wynn, John Jerralds, P.C. Wu
No: 0	None

**DISCUSSION ITEMS**

None

**OPEN FORUM**

None

**ADJOURNMENT**

6:34 P.M.

**Approved:** \_\_\_\_\_

Prepared by City Clerk Staff/rmt



Memorandum

File #: 20-00484

Community Redevelopment Agency

9/8/2020

**ACTION ITEM**

**SPONSOR:** Jared Moore, Chairperson

**SUBJECT:**

INTERLOCAL AGREEMENT FOR PARKING MANAGEMENT OF CRA PARKING FACILITIES WITH THE CITY OF PENSACOLA

**RECOMMENDATION:**

That the Community Redevelopment Agency (CRA) approve an interlocal agreement with the City of Pensacola for the management of CRA parking facilities under its unified parking management system.

**SUMMARY:**

On November 29, 2007, the City and the Community Redevelopment Agency (CRA) entered into an interlocal agreement with the Pensacola Downtown Improvement Board (DIB) for the creation of a comprehensive downtown parking strategy for the centralized and efficient management of downtown parking facilities. To facilitate the transition to a unified parking management system under City governance, the CRA authorized the termination of the interlocal agreement with the DIB, effective October 1, 2020.

A separate interlocal agreement with the City is necessary to provide for City management of the CRA’s parking facilities. The agreement will provide for the management of existing and future CRA facilities within the Urban Core, Westside and Eastside community redevelopment areas, to the extent to which such facilities are not managed through a separate agreement.

Currently, the CRA owns three (3) parking facilities, all located within the Urban Core community redevelopment area. These facilities include the:

- Belmont-DeVilliers Coyle Street Parking Facility (Belmont and Coyle St);
- 101 West Main Street Parking Facility; and
- North Palafox Parking Facility (Palafox and Gregory St).

The 101 West Main Street and North Palafox Parking Facilities are managed, in part or in full through lease agreements. The interlocal agreement with the City will provide for any parking management services that are not currently covered under the existing lease agreements and will allow for the transition of such facilities to the parking management system or redevelopment upon the future termination of such lease agreements.



**PRIOR ACTION:**

November 29, 2007 - The CRA entered into an interlocal agreement with the Pensacola Downtown Improvement Board to provide centralized and efficient management of downtown parking facilities.

December 13, 2007 - City Council approved Proposed Ordinance No 53-07, amending the City Code of Ordinance Chapter 11-2 to legally ground the terms of the agreement assigning responsibility for administering and enforcing parking regulations in the Downtown Parking Management District to the Downtown Improvement Board.

January 11, 2016 - The CRA approved an amendment to the November 29, 2007, Interlocal Agreement between the CRA and the Pensacola Downtown Improvement Board to remove 120 West Government Street from the Parking Facilities and Parking Management District in the Interlocal Agreement.

May 8, 2017 - The CRA approved an amendment to the November 29, 2007, Interlocal Agreement between the CRA and the Pensacola Downtown Improvement Board to remove 150 South Baylen Street from the Parking Facilities and Parking Management District in the Interlocal Agreement.

May 26, 2020 - The CRA provide authorized termination of the interlocal agreement between the CRA and the Pensacola Downtown Improvement Board for the management of parking within the Downtown Parking Management District, effective October 1, 2020.

May 28, 2020 - City Council authorized termination of the interlocal agreement between the City and the Pensacola Downtown Improvement Board for the management of parking within the Downtown Parking Management District, effective October 1, 2020, and ratified the CRA's action on May 26, 2020.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

It is anticipated that City management of the CRA's parking facilities with be budget neutral to the CRA and City.

**CITY ATTORNEY REVIEW:** Yes

8/18/2020

**STAFF CONTACT:**

Kerrith Fiddler, Deputy City Administrator - Community Development  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Asst. CRA Administrator

**ATTACHMENTS:**

- 1) Parking Management Interlocal with the City of Pensacola

**PRESENTATION:** No

## INTERLOCAL AGREEMENT

### Management of Community Redevelopment Agency Facilities under City Parking Management System

This **INTERLOCAL AGREEMENT** ("Agreement"), is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2020, between **THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PENSACOLA, FLORIDA**, a public body corporate and politic of the State of Florida ("Agency"), and the **CITY OF PENSACOLA, FLORIDA**, a Florida municipal corporation created under the laws of the State of Florida ("City").

### WITNESSETH:

**WHEREAS**, the City Council of the City of Pensacola ("City Council"), adopted Resolution No. 54-80 on September 25, 1980, describing the Urban Core Community Redevelopment Area ("Urban Core Community Redevelopment Area" or "Urban Core Area") and finding such to be a "blighted area" as defined in Section 163.340, Florida Statutes, and in need of redevelopment, rehabilitation and improvement, which finding and determination was reaffirmed in Resolution No. 65-81, adopted by the City Council on October 22, 1981; and

**WHEREAS**, on September 25, 1980, the City Council adopted Resolution No. 55-80, which created the Community Redevelopment Agency of the City of Pensacola and declared the City Council to be the Agency as provided in Section 163.356, Florida Statutes; and

**WHEREAS**, on March 8, 1984, the City Council adopted Ordinance No. 13-84, which created and established the Redevelopment Trust Fund for the Urban Core Community Redevelopment Area ("Urban Core Trust Fund"); and

**WHEREAS**, on March 27, 1984, the City Council adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core Community Redevelopment Area 2010 ("Urban Core Community Redevelopment Plan" or "Urban Core Plan"), such plan, as revised and amended, subsequently repealed and replaced on January 14, 2010 pursuant to Resolution No. 02-10.

**WHEREAS**, on October 26, 2000, the City Council adopted Ordinance No. 46-00, which delineated the boundaries of the Urban Infill and Redevelopment Area ("UIRA") and Ordinance No. 47-00, which adopted the Urban Infill and Redevelopment Plan ("Eastside Plan"), such plan which has been subsequently amended; and

**WHEREAS**, on October 13, 2005, the City Council adopted Resolution No. 41-05 finding the Eastside Neighborhood Area ("Eastside Area" or "Eastside Urban Infill and Redevelopment Area") of the UIRA to be "blighted area" as defined in Section

163.340, Florida Statutes and to be in need of redevelopment, rehabilitation and improvement; and

**WHEREAS**, on October 27, 2005, pursuant to Section 163.2520, Florida Statutes, the City Council adopted Ordinance No. 16-05, which created and established the Redevelopment Trust Fund for the Urban Infill and Redevelopment Eastside Area (“Eastside Trust Fund”); and

**WHEREAS**, on January 25, 2007, the City Council adopted Resolution No. 04-07 finding the Westside Neighborhood Area, an area contained within the Pensacola Inner City, to be a “blighted area” as defined in Section 163.340, Florida Statutes, and in need of redevelopment, rehabilitation, conservation and improvement and designating the Westside Neighborhood Community Redevelopment Area (“ Westside Area”); and

**WHEREAS**, on May 24, 2007, the City Council adopted Resolution No. 13-07, which adopted and approved a Community Redevelopment Plan for the Westside Area (“Westside Plan”); and

**WHEREAS**, on November 29, 2007, the City and CRA, each independently, entered into interlocal agreements with the Pensacola Downtown Improvement Board (“DIB”) for the creation and implementation of a centralized and efficient parking management system (“DIB Parking Management Interlocal Agreements”); and

**WHEREAS**, on January 17, 2008, the City Council adopted Ordinance No. 01-08, which created and established the Redevelopment Trust Fund for the Westside Area (“Westside Trust Fund”); and

**WHEREAS**, on August 19, 2010, the City Council adopted Resolution 22-10, which became effective on January 10, 2011, amending Resolution No. 55-80 and providing for the continuation of the Agency in conformity with the provisions of the 2010 Charter; and

**WHEREAS**, on May 26, 2020 and May 28, 2020, the CRA and City Council, respectively, elected to terminate the DIB Parking Management Interlocal Agreements effective October 1, 2020, to facilitate the transfer of parking management from the DIB to the City under a unified and city-wide parking management system; and

**WHEREAS**, the Agency has caused to be developed and anticipates that it may cause to be acquired and/or developed in the future, certain improvements to property located within the community redevelopment areas for the provision of parking (“CRA parking facilities”), such improvements as hereinafter described; and

**WHEREAS**, in accordance with the intent and purpose of Section 163.01, Florida Statutes, the Parties elect to enter into an interlocal agreement, setting forth the terms, conditions and responsibilities of a coordinated and collective effort to pursue

management of the CRA parking facilities by the City under the City's unified parking management system; and

**NOW, THEREFORE**, in consideration of the mutual covenants of and benefits derived from this Agreement, the City and the Agency agree as follows:

## ARTICLE 1. CRA PARKING FACILITIES

1.1 Description. The CRA Parking Facilities subject to the terms of this Agreement shall be limited to off-street parking facilities owned, constructed, and/or developed by the Agency, including those developed jointly with the other public or private parties, located within the Urban Core Area, the Eastside Area and/or the Westside Area ("Community Redevelopment Areas").

1.2 Existing Facilities. Existing parking facilities for management under this Agreement shall be as follows, subject to the terms of any other agreement applicable to the facility:

- North Palafox Parking Facility (Palafox and Gregory)
- Belmont-DeVilliers/Coyle Street Parking Facility (Belmont and Coyle)
- 101 West Main Street Parking Facility

The terms of this Agreement shall prevail to the extent that no conflict exists with the terms of any other applicable lease, development, interlocal or similar agreement associated with the facility. Should a conflict exist, the terms of the effective agreement related to the property shall prevail.

1.3 Additions/Removals. Additions to or removal of CRA Parking Facilities covered by this Interlocal Agreement shall be accomplished in the following manner. The CRA Executive Director shall provide the City Administrator with a written notice stating the CRA's intent to add or remove a Parking Facility, and the City Administrator or his or her designee shall respond with acceptance or rejection of the inclusion or deletion within thirty (30) calendar days of the receipt of notice, exclusive of holidays and weekends.

## ARTICLE 2. ROLES AND RESPONSIBILITIES

The Parties shall work cooperatively with one another, and the DIB, to transfer, the authority and responsibility for management of the CRA Parking Facilities to the City under its unified parking management system. The City shall fully assume such authority and responsibility subject to the terms and conditions of this Agreement and to the extent that no conflict exists with the terms of any applicable lease, development, interlocal or similar agreement associated with the facility.

### 2.1 City Responsibilities

- A. Planning and Implementation. The City shall have the authority and responsibility for the overall planning and implementation of its unified parking management system, including the initiation and implementation of parking management and improvement studies, plans, methods and strategies designed to improve the overall efficiency of the parking management system within the City.
- B. Equipment. The City shall have the authority and responsibility for selecting, changing, financing, installing, maintaining, and operating parking control and security equipment and enforcement technologies for the CRA Parking Facilities.
- C. Rates and Schedules. The City shall have the authority and responsibility for setting all parking times, schedules and rates subject to any applicable City policies or procedures.
- D. Enforcement. The City shall have the authority and responsibility for parking enforcement, including loading zone, taxi zone and handicapped parking violations, as permitted under state, local or federal law.
- E. Security. The City shall have authority and responsibility for the development and implementation of a security plan for all CRA Parking Facilities.
- F. Communications and Signage. The City shall have the authority and responsibility for the design, production, distribution, siting, installation and/or maintenance of all communications materials, including all ads, campaigns, print materials, digital materials and social media, and all signage, including directional, informational, promotional, branding and way-finding signage, related to the parking management system.
- G. Cleaning and Maintenance. The City shall have the authority and responsibility for providing litter control, cleaning and day-to-day maintenance services for all CRA Parking Facilities unless otherwise specified in a separate agreement related to the facility.
- H. Personnel. The City shall have the authority and responsibility for setting all parking times, schedules and rates subject to any applicable City policies or procedures.
- I. Special Events. The City shall have the authority and responsibility for the management of the CRA Parking Facilities for use during special events, however, the use of any CRA Parking Facilities for special events shall be coordinated with the CRA Administrator or his or her designee, to ensure no known conflict exists related to the CRA's activities, including any agreement associated with the facility. Satisfaction of any accessibility compliance requirements under the Americans with Disabilities Act (ADA), the Florida

Building Code, or other applicable federal, state or local law, related to the permitted use of the CRA Parking Facilities for special events, shall be the responsibility of the City.

## 2.2 Agency Responsibilities

- A. List of CRA Parking Facilities. The CRA shall maintain a list of the CRA Parking Facilities, including any additions or removals, locations, and any associated leases, development, or interlocal agreements, or similar agreement which may be applicable to the management of such facilities and shall be accessible to the City upon request. Any changes to the CRA Parking Facilities shall be communicated and authorized pursuant to Section 1.3.
- B. Hardscape and Landscape Maintenance. The CRA shall provide regular hardscape and landscape maintenance for all CRA Parking Facilities except such facilities which are maintained by other public or private entities pursuant to a separate agreement.
- C. Coordination with the City. The CRA shall communicate and coordinate with the City regarding all plans for redevelopment, reconstruction, retrofitting, and/or maintenance of the CRA Parking Facilities and/or future plans for acquisition, development, and/or redevelopment of new parking facilities.

## ARTICLE 3: PARKING MANAGEMENT FUND

### 3.1 FUND CREATION AND OPERATION.

The City shall cause to be created a parking management fund (“Fund”) to carry out the purposes of this Agreement. The Fund shall be managed by the City subject to the terms and conditions of this agreement.

- A. Fund Management. The Fund shall be separately managed by the City and not commingled with any other accounts of the City or the CRA. Accounting of all revenues derived from CRA Parking Facilities, and related expenditures shall be separated by facility and its related community redevelopment area.
- B. Fund Revenues. All parking management revenues, such as but not limited to, parking receipts and collections, fines and citations, penalties and interest, and applicable lease payments, derived from the CRA Parking Facilities shall be promptly deposited to and reported as revenue of the Fund. However, revenues derived from the sale, redevelopment, or any payment outlined in a lease, development, interlocal or similar agreement associated with the CRA Parking Facilities which has not been assigned to the City shall not be considered parking management revenue for deposit to and/or use from the Fund.

- C. Fund Expenditures. The Fund and all of its net revenue shall be totally earmarked, expended and restricted for use in the City's responsibilities, maintenance, modification, or enhancement of the CRA Parking Facilities, and efficiency improvements to the parking management system, through complete street improvements, including on-street parking, traffic calming, bicycle and pedestrian, and public transportation initiatives, located within the community redevelopment areas.

#### ARTICLE 4: TERM, EVENT OF DEFAULT

##### 4.1. Term.

This Agreement shall become effective and commence immediately upon filing the Clerk of Court of Escambia County, Florida, as provided in Section 163.01(11), Florida Statutes and shall remain in force until the later of (i) September, 30, 2046, or (ii) termination of the Agency.

##### 4.2. Events of Default.

An "event of default" under this Agreement shall mean a material failure to comply with any of the provisions of this Agreement. Upon an event of default and written notice thereof by the non-breaching party, the breaching party shall proceed diligently and in good faith to take all reasonable actions to cure such breach and shall continue to take all such actions until such breach is cured. If the event of default shall continue uncured for ninety (90) days, the non-breaching party may terminate this agreement and proceed at law or in equity to enforce their rights under this Agreement. No delay or omission of the non-breaching party to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein.

Upon termination of this agreement, the City shall transfer to the Agency copies of any documents, data, and information requested by the Agency relating to the services accomplished herein.

##### 4.3 Obligations, Rights and Remedies Not Exclusive.

The rights and remedies specified herein to which either the Agency or the City are entitled are not exclusive and are not intended to be to the exclusion of any other remedies or means or redress to which any party hereto may otherwise lawfully be entitled.

##### 4.4. Non-Action or Failure to Observe Provisions of this Agreement.

The failure of any party hereto to promptly insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any exhibit hereto or any



other agreement contemplated hereby shall not be deemed a waiver of any available right or remedy, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

## ARTICLE 5: MISCELLANEOUS

### 5.1. Amendments.

This Agreement may be amended by the mutual written agreement of all parties at any time and from time to time, which amendments shall become effective upon filing thereof in the public records of Escambia County, Florida, pursuant to Section 163.01(11), Florida Statutes.

### 5.2. This Agreement Constitutes a Contract.

All parties hereto acknowledge that they will rely on the pledges, covenants and obligations created herein for the benefit of the parties hereto, and this Agreement shall be deemed to be and constitute a contract amongst said parties as of it becoming effective as provided in Section 4.1.

### 5.3. Assignment.

No party to this Agreement may, directly or indirectly, assign or transfer any or all of their duties, rights, responsibilities, or obligations under this Agreement to any other party or person not a party to this Agreement, without the express prior approval of the other party to this Agreement.

### 5.4. Severability.

The provisions of this Agreement are severable, and it is the intention of the parties hereto to confer the whole or any part of the powers herein provided for and if any of the provisions of this Agreement or any other powers granted by this Agreement shall be held unconstitutional, invalid or void by any court of competent jurisdiction, the decision of said court shall not affect or impair any of the remaining provisions of this Agreement. It is hereby declared to be the intent of the parties hereto that this Agreement would have been adopted, agreed to, and executed had such unconstitutional, invalid or void provision or power not been included therein.

### 5.5. Controlling Law; Venue.

Any and all provisions of this Agreement and any proceeding seeking to enforce and challenge any provision of this Agreement shall be governed by the laws of the State of Florida. Venue for any proceeding pertaining to this Agreement shall be Escambia County, Florida.

### 5.6. Members Not Liable.

A. All covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the City and the Agency, respectively, to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida.

B. No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future individual member of a governing body or agent or employee of the Agency or the City in its, his or their individual capacity, and neither the members of the governing body of the Agency or the City or any official executing this Agreement shall individually be liable personally or shall be subject to any accountability by reason of the execution by the City or the Agency of this Agreement or any act pertaining hereto or contemplated hereby.

5.7. Third Party Beneficiaries.

Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy, or claim, legal or equitable, under or by reason of this Agreement or any provision hereof.

5.8. Notices.

A. Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given or filed with a party hereto shall be deemed sufficiently given or filed for all purposes of this Agreement if and when sent by registered mail, return receipt requested, transmitted by a facsimile machine with confirmation of delivery, or by personal hand delivery:

To the Agency

Community Redevelopment  
Agency of  
The City of Pensacola, Florida  
222 West Main Street  
Pensacola, Florida 32502  
Attention: CRA Administrator

To the City

City of Pensacola  
222 West Main Street  
Pensacola, Florida 32502  
Attention: City Administrator

B. The addresses to which any notice, demand, direction or other instrument authorized to be given or filed may be changed from time to time by a written notice to that effect delivered to all the parties, which change shall be effective immediately or at such other time as provided in the notice.

Until notice of a change of address is received, a party may rely upon the last address received. Notice shall be deemed given, if notice is by mail on the date mailed to the address set forth above or as changed pursuant to this Section.

5.9. Execution of Agreement.

This Agreement shall be executed in the manner normally used by the parties hereto. If any officer whose signature appears on this Agreement ceases to hold office before all officers shall have executed this Agreement or prior to the filing and recording of this Agreement as provided in Section 5.10 hereof, his or her signature shall nevertheless be valid and sufficient for all purposes. This Agreement shall bear the signature of, or may be signed by, such individuals as at the actual time of execution of this Agreement thereby shall be the proper and duly empowered officer to sign this Agreement and this Agreement shall be deemed to have been duly and properly executed even though on the Effective Date any such individual may not hold such office.

5.10. Filing with County Clerk of the Court.

The City Clerk is hereby authorized and directed after approval of this Agreement by the Agency and the City Council and the execution hereof by the duly qualified and authorized officers of each of the parties hereto as provided in Section 6.10 hereof, to submit this Agreement to the Clerk of the Court of Escambia County, Florida, for filing in the public records of Escambia County Florida, as provided by Section 163.01(11), Florida Statutes.

5.11. City and Agency Not Liable.

Nothing contained in this Agreement shall be construed or deemed, nor is intended, or impose any obligation upon the City or the Agency except to the extent expressly assumed by the City or the Agency, respectively.

**IN WITNESS WHEREOF**, the parties hereto, by and through the undersigned, have entered into this Interlocal Agreement as of the day and year first above written.

COMMUNITY REDEVELOPMENT  
AGENCY OF THE CITY OF  
PENSACOLA, FLORIDA

CITY OF PENSACOLA, FLORIDA

\_\_\_\_\_  
Jared Moore, CRA Chairperson

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

Attest:

Attest:

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

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

Approved as to Content:

Approved as to Content:

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M. Helen Gibson, CRA Administrator

---

Amy Lovoy, Chief Financial Officer

Legal in Form and Valid as Drawn:

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Susan Woolf, City Attorney



Memorandum

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**File #:** 20-00485

Community Redevelopment Agency

9/8/2020

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**ACTION ITEM**

**SPONSOR:** Jared Moore, Chairperson

**SUBJECT:**

INTERLOCAL AGREEMENT FOR IMPLEMENTATION OF CERTAIN URBAN CORE REDEVELOPMENT PLAN ACTIVITIES BY THE PENSACOLA DOWNTOWN IMPROVEMENT BOARD

**RECOMMENDATION:**

That the Community Redevelopment Agency (CRA) approve an interlocal agreement with the Pensacola Downtown Improvement Board (DIB) for the implementation of certain Urban Core Redevelopment Plan activities to be funded through the portion of the Tax Incremental Financing (“TIF”) revenues derived from the Pensacola Downtown Improvement Taxing District special assessment levied within the DIB area, less \$100,000 which shall be retained by the CRA for implementation of affordable housing initiatives.

**SUMMARY:**

On July 18, 2005, the Community Redevelopment Agency (CRA) approved an interlocal agreement with the Pensacola Downtown Improvement Board (DIB) for the creation of a comprehensive downtown parking strategy and implementation of mutual undertakings of the DIB and CRA, as outlined in the Urban Core Community Redevelopment Plan. This agreement will expire on September 30, 2020.

It is recommended that the CRA enter into a new interlocal agreement with the DIB for the continued implementation of activities outlined in the Urban Core Redevelopment Plan to be funded through the portion of the Tax Incremental Financing (“TIF”) revenues derived from the Pensacola Downtown Improvement Taxing District special assessment levied within the DIB area, less \$100,000 which shall be retained by the CRA for implementation of affordable housing initiatives. Projects for implementation shall include economic development, marketing, public realm enhancement and beautification, community policing innovations, and supporting the multi-modal enhancement of Downtown Pensacola, as authorized by the community redevelopment.

Each year, the DIB shall prepare a tentative work plan to be presented to the City of Pensacola Urban Core Redevelopment Board (UCRB) for input during its October meeting. Following the meeting, DIB and CRA representatives will refine the work plan and present it to the CRA for approval, along with an annual report of DIB’s accomplishments and activities, during the July CRA meeting. The proposed interlocal agreement is attached.

**PRIOR ACTION:**

July 18, 2005 - The CRA entered into an interlocal agreement with the DIB to provide for the creation of a comprehensive downtown parking strategy and for the implementation of mutual undertakings of the DIB and CRA, as outlined in the Urban Core Community Redevelopment Plan.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

The portion of the Tax Incremental Financing (“TIF”) revenues derived from the Pensacola Downtown Improvement Taxing District special assessment levied within the Downtown Improvement Board (DIB) area will be returned to the DIB, less \$100,000, for the implementation of certain activities outlined in the Urban Core Community Redevelopment Plan. The remaining \$100,000 will be retained by the CRA for the implementation of affordable housing initiatives.

**CITY ATTORNEY REVIEW:** Yes

8/22/2020

**STAFF CONTACT:**

Kerrith Fiddler, Deputy City Administrator - Community Development  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D’Angelo, Asst. CRA Administrator

**ATTACHMENTS:**

- 1) Interlocal Agreement - Implementation of UC Plan Activities by DIB

**PRESENTATION:** No

## INTERLOCAL AGREEMENT

Implementation of Certain Urban Core Community Redevelopment Plan Activities by  
the Pensacola Downtown Improvement Board

This **INTERLOCAL AGREEMENT** ("Agreement"), is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2020, between **THE COMMUNITY REDEVELOPMENT CRA OF THE CITY OF PENSACOLA, FLORIDA**, a public body corporate and politic of the State of Florida ("CRA"), and the **PENSACOLA DOWNTOWN IMPROVEMENT BOARD**, a public body corporate and politic of the State of Florida ("DIB"), together referred to as "the Parties".

### WITNESSETH:

**WHEREAS**, in April 1972, the Florida Legislature under Chapter 72-655, as amended, established the DIB to correct commercial blight, preserve property values, encourage economic development, attract commercial and residential re-investment, and beautify downtown Pensacola; and

**WHEREAS**, on September 28, 1972, the City Council adopted Ordinance No. 47-72, following a public hearing on August 24, 1972, approving and establishing a taxing district in the Downtown Pensacola area commonly known as the "Pensacola Downtown Improvement District" or "DIB Area"; and

**WHEREAS**, the City Council of the City of Pensacola ("City Council"), adopted Resolution No. 54-80 on September 25, 1980, describing the Urban Core Community Redevelopment Area ("Urban Core Community Redevelopment Area" or "Urban Core Area"), an area containing the DIB Area, and finding such to be a "blighted area" as defined in Section 163.340, Florida Statutes, and in need of redevelopment, rehabilitation, conservation and improvement, which finding and determination was reaffirmed in Resolution No. 65-81, adopted by the City Council on October 22, 1981; and

**WHEREAS**, on March 8, 1984, the City Council adopted Ordinance No. 13-84, which created and established the Redevelopment Trust Fund ("Urban Core Trust Fund") to fund redevelopment activities within the Urban Core Community Redevelopment Area, such contributions including property tax revenues derived from within the DIB area; and

**WHEREAS**, on March 27, 1984, the City Council adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core Community Redevelopment Area; and

**WHEREAS**, on April 6, 1989, the City Council adopted Resolution No. 19-89, which approved a revised redevelopment plan for the Urban Core Community Redevelopment Area which plan has been subsequently amended; and

**WHEREAS**, on January 14, 2010, the City Council adopted Resolution No. 02-10, which repealed the Community Redevelopment Plan dating from 1989 as amended and adopted the Urban Core Community Redevelopment Plan dated 2010 (“Urban Core Community Redevelopment Plan” or “Urban Core Plan”); and

**WHEREAS**, the Parties have a mutual interest in removing and preventing blight, and revitalizing and preserving the Pensacola Downtown Improvement District, such area located within the Urban Core Area, as a visibly attractive, economically viable, and socially desirable area of the City of Pensacola; and

**WHEREAS**, in accordance with the intent and purpose of Section 163.01, Florida Statutes, the Parties have elected to enter into an interlocal agreement, setting forth the terms, conditions and responsibilities of a coordinated and collective effort, to pursue implementation of the Urban Core Plan, as outlined herein; and

**NOW, THEREFORE**, in consideration of the mutual covenants of and benefits derived from this Agreement, the Parties agree as follows:

1. Description.

Subject to and conditioned upon first satisfying all funding requirements for such Fiscal Year with respect to debt obligations of the CRA or the City secured by or payable from Tax Increment Revenues, the CRA will annually allocate for payment to the DIB, legally available funds in an amount equal to the tax increment revenues derived from the Pensacola Downtown Improvement Taxing District ad valorem tax levy within the DIB Area during the most recent tax year, less \$100,000, which shall be retained by the CRA for implementation of affordable housing initiatives. The use of such funds shall be allocated for economic development, marketing, public realm enhancement and beautification, community policing innovations and to support multi-modal enhancement of Downtown Pensacola, pursuant to the Urban Core Plan, as amended, an annual work plan, as described in Section 2 herein, and any applicable state law. Funded projects shall be consistent and compatible with the long-term goals and objectives of the CRA, and the development and implementation of such projects shall be closely coordinated with the CRA, its’ staff and City of Pensacola officials.

2. Annual Work Plan & Reporting

2.1 Tentative Work Plan. No later than September 15 of each year, the DIB shall submit to the CRA Administrator, a tentative work plan for the fiscal year beginning October 1<sup>st</sup> of the following calendar year (i.e. a tentative work plan submitted on September 15, 2020 shall reflect the plan of work for the 2022 fiscal year, beginning on October 1, 2021). Such projects contained within the tentative work plan shall be presented to the City of Pensacola Urban Core Redevelopment Board (UCRB) during its October meeting for input.



2.2 Proposed Work Plan. Following the meeting of the UCRB, the DIB shall prepare a proposed work plan for the subject fiscal year. Authorized representatives of the DIB and CRA shall meet to review the proposed work plan during its development, and the DIB shall submit a final proposal to the CRA Administrator no later than June 15. The DIB shall present such proposal to the CRA during its July meeting, each year, for approval and incorporation into the City budget.

2.3 Report of Accomplishments and Activities. The DIB shall provide an annual report of its accomplishments and activities to the CRA during its July meeting each year. The DIB shall also provide regular project briefings to CRA staff and City of Pensacola officials throughout the year to ensure officials remain up-to-date on projects and activities undertaken pursuant to this Agreement.

Temporary modification of timelines and deadlines described in this Section may be authorized by the CRA Administrator due to changes in budget schedules, board meetings, or similar causes. However, permanent modifications shall require amendment of this Agreement pursuant to Section 9 herein.

### 3. Representations and Warranties of the CRA.

The CRA represents and warrants to the DIB that each of the following statements is presently true and accurate and can be relied upon by the DIB:

3.1 The CRA is an existing body politic and corporate of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a party.

3.2 This Agreement and each document contemplated hereby to which the CRA is or will be a party has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by, the CRA and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof: (a) requires the approval and consent of any other party, except such as have been or will be duly obtained, (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the CRA or (c) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance upon any party or the CRA, under any indenture, mortgage, deed of trust, bank loan or credit agreement, the CRA's special acts, applicable ordinances, resolutions or any other agreement or instrument to which the CRA is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the CRA outstanding on the Effective Date.

3.3 This Agreement and each document contemplated hereby to which the CRA is or will be a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of the CRA enforceable against it in accordance with the terms

thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

3.4 There are no pending or, to the knowledge of the CRA, threatened actions or proceedings before any court or administrative agency against the CRA, which question the existence of the CRA, the determination of slum and blight in the Community Redevelopment Area, the adoption or implementation of the Plan, the validity of this Agreement or any instrument or document contemplated hereunder, or which are likely in any case or in the aggregate to materially adversely affect the successful redevelopment of the Community Redevelopment Area, the consummation of the transactions contemplated hereunder or the financial condition of the CRA.

3.5 This Agreement does not violate any laws, ordinances, rules, regulations, orders, contracts, or agreements that are or will be applicable to the CRA.

#### 4. Representations and Warranties of the DIB.

The DIB represents and warrants to the CRA that each of the following statements is presently true and accurate and can be relied upon by the CRA:

4.1 The DIB is an existing body politic and corporate of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a party.

4.2 This Agreement and each document to which it is or will be a party has been duly authorized by all necessary action on the part thereof, and has been or will be duly executed and delivered by it and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof: (a) requires the approval and consent of any other party, except such as been duly obtained, (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on it, or (c) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance upon it, under any indenture, mortgage, deed or trust, bank loan or credit agreement, charter, applicable ordinances, resolutions or any other agreement or instrument, specifically including any covenants of any bonds, notes, or other forms of indebtedness outstanding on the Effective Date.

4.3 This Agreement and each document contemplated hereby constitutes, or when entered in will constitute, a legal, valid and binding obligation enforceable against the DIB in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

4.4 There are no pending or, to the knowledge of the DIB, threatened actions or proceedings before any court or administrative agency against it, which question its existence, the validity of this Agreement or any instrument or document contemplated hereunder, or which are likely in any case or in the aggregate to materially adversely affect the consummation of the transactions contemplated hereunder.

4.5 This Agreement does not violate any laws, ordinance, rules, regulations, orders, contract, or agreements that are or will be applicable to the DIB.

5. Term.

This Agreement shall become effective and commence immediately upon filing with the Clerk of the Court of Escambia County, Florida, as provided in Section 163.01(11), Florida Statutes and shall remain in force for a period of five (5) years, with an option for one (1) five-year extension upon mutual consent of the Parties, unless otherwise terminated pursuant to Section 6 or 5.1. The CRA shall be responsible for filing this Agreement with the Clerk of the Court as aforementioned in this Section.

Upon termination of this Agreement, the DIB shall transfer to the CRA copies of any documents, data, and information requested by the CRA relating to the services accomplished herein.

If at the time of termination, unsatisfied financial commitments for services or goods pertaining to projects approved by the CRA under this Agreement remain, the DIB shall be authorized to provide payment from the funding committed under this Agreement, and appropriated to the DIB budget, as of the date of termination. In such case, the Parties' respective obligations shall be suspended; however, the CRA shall cooperate with the DIB and make such funds available from the Trust Fund to satisfy any obligations reasonably undertaken by the DIB in pursuit of the objectives of this Agreement.

5.1. Termination for Convenience. The Parties may terminate this Agreement without cause upon ninety (90) days prior written notice.

6. Event of Default.

An "event of default" under this Agreement shall mean a material failure to comply with any of the provisions of this Agreement. Upon an event of default and written notice thereof by the non-breaching party, the breaching party shall proceed diligently and in good faith to take all reasonable actions to cure such breach and shall continue to take all such actions until such breach is cured. If the event of default shall continue uncured for ninety (90) days, the non-breaching party may terminate this agreement and proceed at law or in equity to enforce their rights under this Agreement. No delay or omission of the non-breaching party to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein.

7. Obligations, Rights and Remedies Not Exclusive.

The rights and remedies specified herein to which either the CRA or the DIB are entitled are not exclusive and are not intended to be to the exclusion of any other remedies or means of redress to which any party hereto may otherwise lawfully be entitled.

8. Non-Action or Failure to Observe Provisions of this Agreement.

The failure of any party hereto to promptly insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any exhibit hereto or any other agreement contemplated hereby shall not be deemed a waiver of any available right or remedy, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

9. Amendments.

This Agreement may be amended by the mutual written agreement of the Parties at any time and from time to time, which amendments shall become effective upon filing thereof in the public records of Escambia County, Florida, pursuant to Section 163.01(11), Florida Statutes.

10. This Agreement Constitutes a Contract.

The Parties hereto acknowledge that they will rely on the pledges, covenants and obligations created herein for the benefit of the parties hereto, and this Agreement shall be deemed to be and constitute a contract amongst said parties as of it becoming effective as provided in Section 5.

11. Assignment.

No party to this Agreement may, directly or indirectly, assign or transfer any or all of their duties, rights, responsibilities, or obligations under this Agreement to any other party or person not a party to this Agreement, without the consent of both Parties.

12. Severability.

The provisions of this Agreement are severable, and it is the intention of the parties hereto to confer the whole or any part of the powers herein provided for and if any of the provisions of this Agreement or any other powers granted by this Agreement shall be held unconstitutional, invalid or void by any court of competent jurisdiction, the decision of said court shall not affect or impair any of the remaining provisions of this Agreement. It is hereby declared to be the intent of the parties hereto that this

Agreement would have been adopted, agreed to, and executed had such unconstitutional, invalid or void provision or power not been included therein.

13. Controlling Law; Venue.

Any and all provisions of this Agreement and any proceeding seeking to enforce and challenge any provision of this Agreement shall be governed by the laws of the State of Florida. Venue for any proceeding pertaining to this Agreement shall be Escambia County, Florida.

14. Members Not Liable.

All covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the DIB and the CRA, respectively, to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida.

No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future individual member of a governing body or agent or employee of the CRA, the City of Pensacola or the DIB in its, his or their individual capacity, and neither the members of the governing body of the CRA, or the DIB or any official executing this Agreement shall individually be liable personally or shall be subject to any accountability by reason of the execution by the DIB or the CRA of this Agreement or any act pertaining hereto or contemplated hereby.

15. Third Party Beneficiaries.

Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy, or claim, legal or equitable, under or by reason of this Agreement or any provision hereof.

16. Notices.

Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given or filed with a party hereto shall be deemed sufficiently given or filed for all purposes of this Agreement if and when sent by registered mail, return receipt requested, transmitted by a facsimile machine with confirmation of delivery, or by personal hand delivery:

To the CRA  
City of Pensacola  
Community Redevelopment Agency  
222 West Main Street  
Pensacola, Florida 32502

To the DIB  
Pensacola  
Downtown Improvement Board  
226 South Palafox Street, Suite 106  
Pensacola, Florida 32502

Attention: CRA Administrator

Attention: DIB Executive Director

The addresses to which any notice, demand, direction or other instrument authorized to be given or filed may be changed from time to time by a written notice to that effect delivered to all the parties, which change shall be effective immediately or such other time as provided in the notice.

Until notice of a change of address is received, a party may rely upon the last address received. Notice shall be deemed given, if notice is by mail on the date mailed to the address set forth above or as changed pursuant to this Section.

17. Execution of Agreement.

This Agreement shall be executed in the manner normally used by the Parties hereto. If any officer whose signature appears on this Agreement ceases to hold office before all officers shall have executed this Agreement or prior to the filing and recording of this Agreement as provided in Section 5 hereof, his or her signature shall nevertheless be valid and sufficient for all purposes. This Agreement shall bear the signature of, or may be signed by, such individuals as at the actual time of execution of this Agreement thereby shall be the proper and duly empowered officer to sign this Agreement and this Agreement shall be deemed to have been duly and properly executed even though on the Effective Date any such individual may not hold such office.

18. Filing with County Clerk of the Court.

The City Clerk is hereby authorized and directed after approval of this Agreement by the CRA and the DIB and the execution hereof by the duly qualified and authorized officers of each of the Parties hereto as provided in Section 17 hereof, to submit this Agreement to the Clerk of the Court of Escambia County, Florida, for filing in the public records of Escambia County Florida, as provided by Section 163.01(11), Florida Statutes.

19. DIB and CRA Not Liable.

Nothing contained in this Agreement shall be construed or deemed, nor is intended, to impose any obligation upon the DIB or the CRA except to the extent expressly assumed by the DIB or the CRA, respectively.

20.

**IN WITNESS WHEREOF**, the Parties hereto, by and through the undersigned, have entered into this Interlocal Agreement as of the day and year first above written.

COMMUNITY REDEVELOPMENT

PENSACOLA DOWNTOWN

AGENCY OF THE CITY OF  
PENSACOLA, FLORIDA

IMPROVEMENT BOARD

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Jared Moore, CRA Chairperson

---

Michael Carro, DIB Chairperson

Attest:

Attest:

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Ericka L. Burnett, City Clerk

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Ericka L. Burnett, City Clerk

Approved as to Content:

Approved as to Content:

---

M. Helen Gibson, CRA Administrator

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Lissa Dees, DIB Executive Director

Legal in Form and Valid as Drawn:

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Susan Woolf, City Attorney



Memorandum

File #: 20-00501

Community Redevelopment Agency

9/8/2020

**ACTION ITEM**

**SPONSOR:** Jared Moore, Chairperson

**SUBJECT:**

INTERLOCAL AGREEMENT WITH THE CITY OF PENSACOLA FOR IMPLEMENTATION OF HOUSING INITIATIVES

**RECOMMENDATION:**

That the Community Redevelopment Agency (CRA) approve an Interlocal Agreement with the City of Pensacola for implementation of housing initiatives within the Urban Core, Westside and Eastside community redevelopment areas. Further, that the CRA authorize the Chairperson to take all actions necessary to implement the agreement.

**SUMMARY:**

On October 24, 2019, City Council authorized the establishment of an Affordable Housing Task Force to research and propose solutions for the development of affordable, workforce housing. The task force is working with the Florida Housing Coalition to develop a report that outlines recommendations for the City of Pensacola to reach its goal of 500 homes in five years. In July 2020, the task force chose six strategies to explore to accomplish this mission. The six selected recommendations include:

- Engage in strategic partnerships (local businesses, charitable organizations, educational facilities, religious institutions, and other community drivers)
- Collaborate with the private sector to identify incentives that spur affordable housing development and increase housing affordability
- Leverage existing city property to produce affordable units
- Support tax credit developments (developments that qualify as Local Government Areas of Opportunity)
- Identify suitable sites for infill, small unit development
- Identify adaptive reuse possibilities

The overarching goals of the City’s implementation of affordable housing initiatives are also a key objective of the adopted Urban Core, Westside, and Eastside-Urban Infill redevelopment plans. Therefore, in an effort to support a unified approach to the implementation of affordable housing initiatives across City agencies, it is recommended that the Community Redevelopment Agency (CRA) enter into an interlocal agreement with the City for the implementation of affordable housing initiatives in the community redevelopment areas. The interlocal agreement will provide for the



assignment of staff based on a cost-sharing arrangement where the City will fund 50% of the costs for staffing, and the CRA will fund the remaining 50% between the three (3) Tax Incremental Financing (TIF) districts for each fiscal year beginning October 1, 2020. To initiate this effort, the City anticipates hiring a program manager who will work closely with stakeholder groups to implement innovative and effective housing strategies, including but not limited to, rehabilitation programs and affordable, workforce, mixed-use, and mixed-income projects.

The Inner City Housing Initiatives Fund, derived from and budgeted in the General Fund was initially allocated for use in the Pensacola Inner City Community Redevelopment Area in order to fund the Eastside and Westside affordable housing rehabilitation projects. On September 10, 2020, City Council will consider Supplemental Budget Resolution No. 2020-36 which, if approved, will consolidate and re-designate the use of the City's General Fund Inner City and Housing Initiatives Funds, to support the implementation of the 500 Homes in Five Years initiative citywide. The combined funding will support the City's 50% contribution to the Housing Manager under the interlocal and other housing efforts under the initiative.

**PRIOR ACTION:**

May 24, 2007 - City Council adopted Resolution No. 13-07, adopting the effective Westside Community Redevelopment Plan.

January 14, 2010 - City Council adopted Resolution No. 02-10, repealing and replacing the adopted 1984 Urban Core Community Redevelopment Plan, as amended, with the effective 2010 Urban Core Community Redevelopment plan.

August 28, 2014 - City Council adopted Ordinance No. 32-14, re-adopting the effective Eastside-Urban Infill and Redevelopment Area Plan, as amended, including the Eastside Neighborhood Plan element.

January 12, 2017 - City Council approved the establishment of an assigned Fund Balance, which was restricted for the Housing Initiatives Fund.

August 10, 2017 - City Council adopted Supplemental Budget Resolution No. 17-44 appropriating funding in connection with the Eastside Redevelopment Revenue Bond, Series 2017, and the Pensacola Inner City Community Redevelopment Area Housing Initiatives Fund.

October 24, 2019 - City Council authorized the establishment of an Affordable Housing Task Force.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

The CRA will compensate and reimburse the City for 50% of the compensation, including salary and benefits, of the assigned housing initiatives personnel for each fiscal year beginning October 1, 2020.

**CITY ATTORNEY REVIEW:** Yes

8/28/2020

**STAFF CONTACT:**

Kerrith Fiddler, Deputy City Administrator - Community Development  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Asst. CRA Administrator

**ATTACHMENTS:**

- 1) Housing Initiatives Interlocal Agreement

**PRESENTATION:** No

## **INTERLOCAL AGREEMENT**

### **Implementation of Housing Initiatives**

This **INTERLOCAL AGREEMENT** (“Agreement”), is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_ 2020, between **THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PENSACOLA, FLORIDA**, a public body corporate and politic of the State of Florida (“Agency”), and the **CITY OF PENSACOLA, FLORIDA**, a Florida municipal corporation created under the laws of the State of Florida (“City”).

#### **WITNESSETH:**

**WHEREAS**, the City has designated three areas within the City limits as community redevelopment areas, to wit: the Urban Core Community Redevelopment Area (“Urban Core CRA”), the Eastside Community Redevelopment Area (“Eastside CRA”), and the Westside Community Redevelopment Area (“Westside CRA”); and

**WHEREAS**, the City and the Agency are willing to cooperate and provide assistance to each other and, to the extent permitted by law, in all such means and manner as will promote the rehabilitation and redevelopment of the Urban Core CRA, Eastside CRA, and Westside CRA, benefit the local economy, and be of substantial benefit to the Agency and the City, are willing to jointly undertake affordable housing initiatives within the community redevelopment areas; and

**WHEREAS**, the Parties have a mutual interest in fostering a diverse mix of housing options, including affordable, workforce, and mixed income housing, within the Urban Core CRA, the Eastside CRA, and the Westside CRA to achieve the goals and objectives outlined in the respective redevelopment area plans; and

**WHEREAS**, the City desires to make available to the Agency, in accordance with the terms and conditions set forth in this Agreement, professional staff and administrative support in order to avoid duplication of efforts for the implementation of housing initiatives and thereby maximize the resources available to the City and Agency for advancing the redevelopment, rehabilitation and improvement of the Urban Core CRA, the Eastside CRA and the Westside CRA, respectively; and

**WHEREAS**, the City Council and the governing body of the Agency have determined that the provision of such staff and administrative support will result in efficient public administration for both parties with respect to short- and long-term planning and cost-effective advancement of the redevelopment objectives described in the plans, and that compensation and payment to the City in exchange for the staff and administrative support provided to the Agency is an appropriate expenditure to accomplish such objectives; and

**WHEREAS**, in accordance with the intent and purpose of Section 163.01, Florida Statutes, the Parties have elected to enter into an interlocal agreement, setting forth the terms, conditions and responsibilities of a coordinated and collective effort, to pursue implementation of

affordable housing initiatives in the Urban Core CRA, the Eastside CRA and the Westside CRA, as outlined herein.

**NOW, THEREFORE**, in consideration of the mutual covenants of and benefits derived from this Agreement, the City and the Agency agree as follows:

## **ARTICLE 1: RECITALS AND PURPOSE**

1.1. Recitals. The City and Agency agree that the foregoing recitals are correct, complete, and not misleading and are hereby incorporated as if fully set forth herein.

1.2. Purpose. The purpose of this Agreement is to establish the responsibilities of the Agency and the City for the employment and utilization of personnel for affordable housing initiatives program activities within the Urban Core CRA, Eastside CRA, and Westside CRA.

## **ARTICLE 2: RESPONSIBILITIES OF THE CITY**

2.1. Services. In consideration of the payment provisions established in Article 3 herein, the City agrees to provide services on behalf of the Agency related to the housing administration functions as described hereinafter, in the discretion of the City, for the implementation of the Plans by the Agency, and administrative services related to those plans for the implementation of housing initiatives. The City expects to continue to perform the following functions and duties in accordance with established procedures or in the absence of same, as performed by the City in the conduct of the City's business operations.

2.2. Personnel. The City shall assign personnel to provide housing initiatives services, which shall include, but not be limited to, management, coordination, and facilitation of rehabilitation programs and affordable, workforce, mixed use, and mixed income projects and strategies, within the Urban Core CRA, Westside CRA, and Eastside CRA. The City shall assign staff, who shall manage the implementation of the housing initiatives services, and work closely with stakeholders to implement innovative and effective housing strategies. Any additional personnel assigned to the Agency to provide such services under this Agreement shall require the consent of the Agency by an affirmative vote of a majority of Agency Board members. Assigned employees shall work under the direction and supervision of the Mayor. In the performance of their duties, assigned personnel will receive direction from the City or by formal CRA action. Personnel assigned by the City shall be employees of the City, subject to policies and procedures of the City, and not officers, employees, or agents of the Agency. As of the date of this Agreement, the Parties anticipate the following positions to be filled and assigned to the housing initiatives program: Program Manager. Additional positions for the housing initiatives program may be filled in the future and will be subject to this Agreement. Approximately fifty percent (50%) of the program staff's work hours, and in any event no less than forty-five percent (45%) and no more than fifty-five percent (55%) of the program staff's work hours, shall be dedicated to affordable housing projects within the Urban Core, Eastside, and Westside Community Redevelopment Areas.

2.3. Title and Contracting. Nothing in this Article shall be construed to prevent the City and the Agency from agreeing that any asset or contract used or useful in the Agency's community redevelopment efforts and acquired or funded in whole or in part by the Agency shall be acquired and permanently or temporarily owned by the City or shall be held and performed by the City for the benefit of Agency.

2.4 Reporting. The City shall provide in writing to the Agency a detailed annual report of all affordable housing activities conducted and projects undertaken by the program manager and other personnel with respect to housing initiatives services. Said report shall contain information and be in a format mutually agreed upon by the Parties and shall be submitted to the Agency by November 1 each year. Upon termination of this Agreement, the City shall transfer to the Agency copies of any documents, data, and information requested in writing by the Agency relating to the services accomplished herein.

### **ARTICLE 3: RESPONSIBILITIES OF THE COMMUNITY REDEVELOPMENT AGENCY**

3.1 Compensation and Reimbursement to the City. In consideration of the services to be provided in Article 2 by the City, the Agency shall compensate and/or reimburse the City in accordance with Section 163.387(6), Florida Statutes. The annual payment to the City by the Agency shall be 50% of the compensation, including salary and benefits, of the assigned personnel authorized under Article 2 for each fiscal year beginning October 1, 2020. Payment shall be made in lump sum fashion no later than December 31 for the then-current fiscal year, or in such other fashion or at such other time or times as the Chief Financial Officer of the City may determine in his/her sole discretion. The Agency's obligation to pay and/or reimburse the City hereunder shall be cumulative and shall continue until the City has been repaid in full for all amounts due and owing hereunder. The Agency's payment obligations under this Agreement shall constitute an obligation to pay an indebtedness in accordance with the Act.

3.2 Subject to Superior Obligations. The Parties agree that the Agency's obligation to compensate the City pursuant to this Article shall be junior and inferior to any other debt obligations of the Agency with respect to payment priority. The Agency shall provide for the debt obligation arising hereunder in its annual budget.

### **ARTICLE 4: TERM, EVENTS OF DEFAULT**

4.1. Term. This Agreement shall become effective on October 1, 2020, and remain in force for a period of five (5) years, with an option for two (2) five-year extensions upon mutual consent of the Parties.

4.2. Events of Default. An "event of default" under this Agreement shall mean a material failure to comply with any of the provisions of this Agreement. Upon an event of default and written notice thereof by the non-breaching party, the breaching party shall proceed

diligently and in good faith to take all reasonable actions to cure such breach and shall continue to take all such actions until such breach is cured. If the event of default shall continue uncured for ninety (90) days, the non-breaching party may terminate this Agreement and proceed at law or in equity to enforce their rights under this Agreement. No delay or omission of the non-breaching party to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default or any acquiescence therein.

## **ARTICLE 5: MISCELLANEOUS**

5.1. Amendments. This Agreement may be amended by the mutual written agreement of all parties at any time and from time to time, which amendments shall become effective upon filing thereof in the public records of Escambia County, Florida, pursuant to Section 163.01(11), Florida Statutes.

5.2. Assignment. No party to this Agreement may, directly or indirectly, assign or transfer any or all of their duties, rights, responsibilities, or obligations under this Agreement to any other party or person not a party to this Agreement, without the express prior approval of the other party to this Agreement.

5.3. Severability. The provisions of this Agreement are severable, and it is the intention of the parties hereto to confer the whole or any part of the powers herein provided for and if any of the provisions of this Agreement or any other powers granted by this Agreement shall be held unconstitutional, invalid or void by any court of competent jurisdiction, the decision of said court shall not affect or impair any of the remaining provisions of this Agreement. It is hereby declared to be the intent of the parties hereto that this Agreement would have been adopted, agreed to, and executed had such unconstitutional, invalid or void provision or power not been included therein.

5.4. Controlling Law; Venue. Any and all provisions of this Agreement and any proceeding seeking to enforce and challenge any provision of this Agreement shall be governed by the laws of the State of Florida. Venue for any proceeding pertaining to this Agreement shall be Escambia County, Florida.

### 5.5. Members Not Liable.

(1) All covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the City and the Agency, respectively, to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida.

(2) No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future individual member of a governing body or agent or employee of the Agency or the City in his or her individual capacity, and neither the members of the governing body of the Agency or the City or any official

executing this Agreement shall individually be liable personally or shall be subject to any accountability by reason of the execution by the City or the Agency of this Agreement or any act pertaining hereto or contemplated hereby.

5.6. Third Party Beneficiaries. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy, or claim, legal or equitable, under or by reason of this Agreement or any provision hereof.

5.7. Notices.

(1) Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given or filed with a party hereto shall be deemed sufficiently given or filed for all purposes of this Agreement if and when sent by registered mail, return receipt requested, transmitted by a facsimile machine with confirmation of delivery, or by personal hand delivery:

To the Agency

Community Redevelopment Agency of  
The City of Pensacola, Florida  
222 West Main Street  
Pensacola, Florida 32502  
Attention: CRA Administrator

To the City

City of Pensacola  
222 West Main Street  
Pensacola, Florida 32502  
Attention: City Administrator

(2) The addresses to which any notice, demand, direction, or other instrument authorized to be given or filed may be changed from time to time by a written notice to that effect delivered to all the parties, which change shall be effective immediately or such other time as provided in the notice.

Until notice of a change of address is received, a party may rely upon the last address received. Notice shall be deemed given, if notice is by mail on the date mailed to the address set forth above or as changed pursuant to this Article.

5.8. Execution of Agreement. This Agreement shall be executed in the manner normally used by the parties hereto. If any officer whose signature appears on this Agreement ceases to hold office before all officers shall have executed this Agreement or prior to the filing and recording of this Agreement as provided in this Article, his or her signature shall nevertheless be valid and sufficient for all purposes. This Agreement shall bear the signature of, or may be signed by, such individuals as at the actual time of execution of this Agreement thereby shall be the proper and duly empowered officer to sign this Agreement and this Agreement shall be deemed to have been duly and properly executed even though on the Effective Date any such individual may not hold such office.

5.9. Filing with County Clerk of the Court. The City is hereby authorized and directed after approval of this Agreement by the Agency and the City and the execution hereof to submit

this Agreement to the Clerk of the Court of Escambia County, Florida, for filing in the public records of Escambia County, Florida, as provided by Section 163.01(11), Florida Statutes.

5.10. City and Agency Not Liable. Nothing contained in this Agreement shall be construed or deemed, nor is intended, or impose any obligation upon the City or the Agency except to the extent expressly assumed by the City or the Agency, respectively.

*Remainder of this page intentionally left blank*



**IN WITNESS WHEREOF**, the parties hereto, by and through the undersigned, have entered into this Interlocal Agreement as of the day and year first above written.

COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF PENSACOLA, FLORIDA

CITY OF PENSACOLA, FLORIDA

\_\_\_\_\_  
Jared Moore, CRA Chairperson

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

Attest:

Attest:

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

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

Approved as to Content:

Approved as to Content:

\_\_\_\_\_  
M. Helen Gibson, CRA Administrator

\_\_\_\_\_  
Amy Lovoy, Chief Financial Officer

Legal in Form and Valid as Drawn:

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



Memorandum

File #: 20-00495

Community Redevelopment Agency

9/8/2020

**ACTION ITEM**

**SPONSOR:** Jared Moore, Chairperson

**SUBJECT:**

APPROVAL OF AN INTERLOCAL AGREEMENT WITH ESCAMBIA COUNTY, FLORIDA RELATING TO THE BEAUTIFICATION OF A PORTION OF WEST GOVERNMENT STREET

**RECOMMENDATION:**

That the Community Redevelopment Agency (CRA) approve the Interlocal Agreement (IA) with Escambia County, Florida, relating to the beautification of a portion of West Government Street. Further, that the CRA authorize the CRA Chairperson to execute all documents necessary for the execution of the agreement.

**SUMMARY:**

On August 9, 2016, the CRA approved a contract for the sale of the surplus property at 120 West Government Street to developers Paul A. Grimes (50%) and Steven P. Grimes and Norma Grimes as Trustees for the Grimes Family Trust (50%) in the amount of \$720,000. The developers proceeded expediently to design, construct, and complete the construction of a four-story mixed-use building in full compliance with the terms of the CRA's sale and redevelopment agreement.

The new structure is a significant enhancement to West Government Street and to the CRA Urban Core. The property is located directly across the street from the M.C. Blanchard Judicial Building located at 190 West Government Street.

In order to further beautify the south side portion of West Government Street, the developers have agreed to donate to Escambia County and install five above-sidewalk tree planters and five crape myrtle trees for placement in front of the Blanchard Building.

The County has agreed to accept these improvements, and as partners in preserving the planters and trees, asks that the CRA water and maintain them for the first two years from installation. The County will be responsible for replacement or repair, if needed during the first two years and for all maintenance and watering thereafter.

**PRIOR ACTION:**

December 5, 2016 - The CRA declared the property at 120 W. Government St surplus.

December 23, 2016 - A 30 day Notice of Property Disposition/RFP was published.

On August 9, 2016, the CRA approved a contract for the sale of the surplus property.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Neither the CRA or the City of Pensacola will incur any costs associated with the purchase and installation of the improvements. Those costs will come from a donation to Escambia County. The costs associated with watering and maintenance for these improvements will be incorporated within the Urban Core CRA Landscape Maintenance Interlocal Agreement with the City of Pensacola.

**CITY ATTORNEY REVIEW:** Yes

8/25/2020

**STAFF CONTACT:**

Kerrith Fiddler, Deputy City Administrator - Community Development  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Assistant CRA Administrator

**ATTACHMENTS:**

- 1) Interlocal Agreement - Government Street Tree Planters
- 2) 120 W. Government Street - Elevation

**PRESENTATION:** No

**INTERLOCAL AGREEMENT BETWEEN ESCAMBIA COUNTY, FLORIDA AND  
THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF  
PENSACOLA RELATING TO THE BEAUTIFICATION OF A PORTION OF  
WEST GOVERNMENT STREET**

**THIS AGREEMENT** is entered into by and between Escambia County, a political subdivision of the State of Florida with administrative offices located at 221 Palafox Place, Pensacola, Florida 32502 (hereinafter referred to as the “County”), acting through its Board of County Commissioners, and the Community Redevelopment Agency of the City of Pensacola, a public body corporate and politic of the State of Florida, with administrative offices at 222 West Main Street, Pensacola, Florida 32502 (hereinafter referred to as the “CRA”).

**WITNESSETH:**

**WHEREAS**, the County and the CRA have legal authority to perform general governmental services within their respective jurisdictions; and

**WHEREAS**, the Board of County Commissioners of Escambia County and the Pensacola CRA are authorized by §163.01, Florida Statutes, to enter into Interlocal Agreements and thereby cooperatively utilize their powers and resources in the most efficient manner possible; and

**WHEREAS**, Steven P. Grimes and Paul A. Grimes (hereinafter referred to as the “Developers”) are the developers of Imperium Condominium located at 120 W. Government Street, Pensacola, FL 32502 (hereinafter referred to as the “Development”); and

**WHEREAS**, Green Procedures, Inc. (hereinafter referred to as the “Landscape”) provided all landscaping services for the Development; and

**WHEREAS**, the Development is across the street from and faces the north side of the M.C. Blanchard Judicial Building located at 190 W. Government Street, Pensacola, FL 32502; and

**WHEREAS**, the Developers have agreed to donate to the County five above-sidewalk tree planters and five Crape Myrtle Trees to be placed along a portion of the sidewalk abutting the north side of the M.C. Blanchard Judicial Building (see attached Exhibit “A”); and

**WHEREAS**, the Landscaper has researched the planters and the Crape Myrtle Trees for this proposal and the Developers intend to engage the Landscaper to fulfill this proposal; and

**WHEREAS**, the County and the CRA have mutual interests in enhancing the beauty of this portion of West Government Street; and

**WHEREAS**, the County and the CRA desire to work together in the maintenance of the donated planters and Crape Myrtle trees.

**NOW THEREFORE**, it is mutually agreed that the County and CRA enter into this Interlocal Agreement subject to the terms and conditions recited below:

1. That the foregoing recitals are declared to be true and correct and are incorporated herein by reference.

2. The Developers have agreed to donate to the County five above-sidewalk tree planters and five Crape Myrtle Trees to be placed along a portion of the sidewalk abutting the north side of the M.C. Blanchard Judicial Building.
3. The Developers and the Landscaper have agreed to use planters that are 4' x 4' x 4' in dimension and are of a fibrous/concrete material. The shape and color of the planters shall be as depicted in Exhibit "A," so as to complement the architecture of the M.C. Blanchard Judicial Building.
4. The Developers and the Landscaper have agreed to use 30-gallon Crape Myrtle Trees. At planting, the Crape Myrtle Trees will be 8'-10' tall.
5. The Developers have agreed to bear all costs for the purchase, delivery and placement of the planters and Crape Myrtle Trees.
6. The Developers and the Landscaper have agreed that, upon the County's acceptance, the planters and Crape Myrtle Trees will remain the property of the County.
7. The CRA hereby agrees to water and otherwise maintain the five planters and the five Crape Myrtle Trees for a period of two (2) years from the effective date of this Interlocal Agreement. During the two year watering period, the County will be responsible for replacement or repair of said trees or planters in the event they should die or be damaged. The CRA shall have no responsibility to replace or repair.
8. Thereafter, the County agrees to take responsibility for all watering and maintenance.
9. This Interlocal Agreement and any amendments thereto shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue for any matter which is a subject of the Interlocal Agreement shall be in the County of Escambia.
10. The invalidity or non-enforceability of any portion of this Interlocal Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Interlocal Agreement and the balance thereof shall be construed and enforced as if this Interlocal Agreement did not contain such invalid or unenforceable portion or provision.
11. This Interlocal Agreement represents the entire and integrated agreement between the County and the CRA and supersedes all prior negotiations, representations or agreements either written or oral. This Interlocal Agreement may be amended only by written instrument signed by authorized representatives of the County and the CRA.
12. This Interlocal Agreement, after being properly executed by all parties named herein, shall become effective upon its filing with the Clerk of the Circuit Court of Escambia County, Florida. The County shall be responsible for filing this document upon receipt of the executed Interlocal Agreement from the CRA.

**[SIGNATURE PAGE TO FOLLOW]**

**IN WITNESS WHEREOF**, the parties hereto have made and executed this Interlocal Agreement on the respective dates, under each signature:

**ESCAMBIA COUNTY, FLORIDA**, a political subdivision of the State of Florida acting by and through its duly authorized Board of County Commissioners.

By: \_\_\_\_\_  
Steven Barry, Chairman

Date: \_\_\_\_\_

BCC APPROVED: \_\_\_\_\_

ATTEST: Pam Childers  
Clerk of the Circuit Court

By: Deputy Clerk

(SEAL)

Approved as to form and legal sufficiency.

By/Title: *Kia M. Johnson, ACA*

Date: 03-27-2020

**COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PENSACOLA**, a public body corporate and politic of the State of Florida.

By: \_\_\_\_\_  
Jared Moore, Chairman

Date: \_\_\_\_\_

ATTEST:

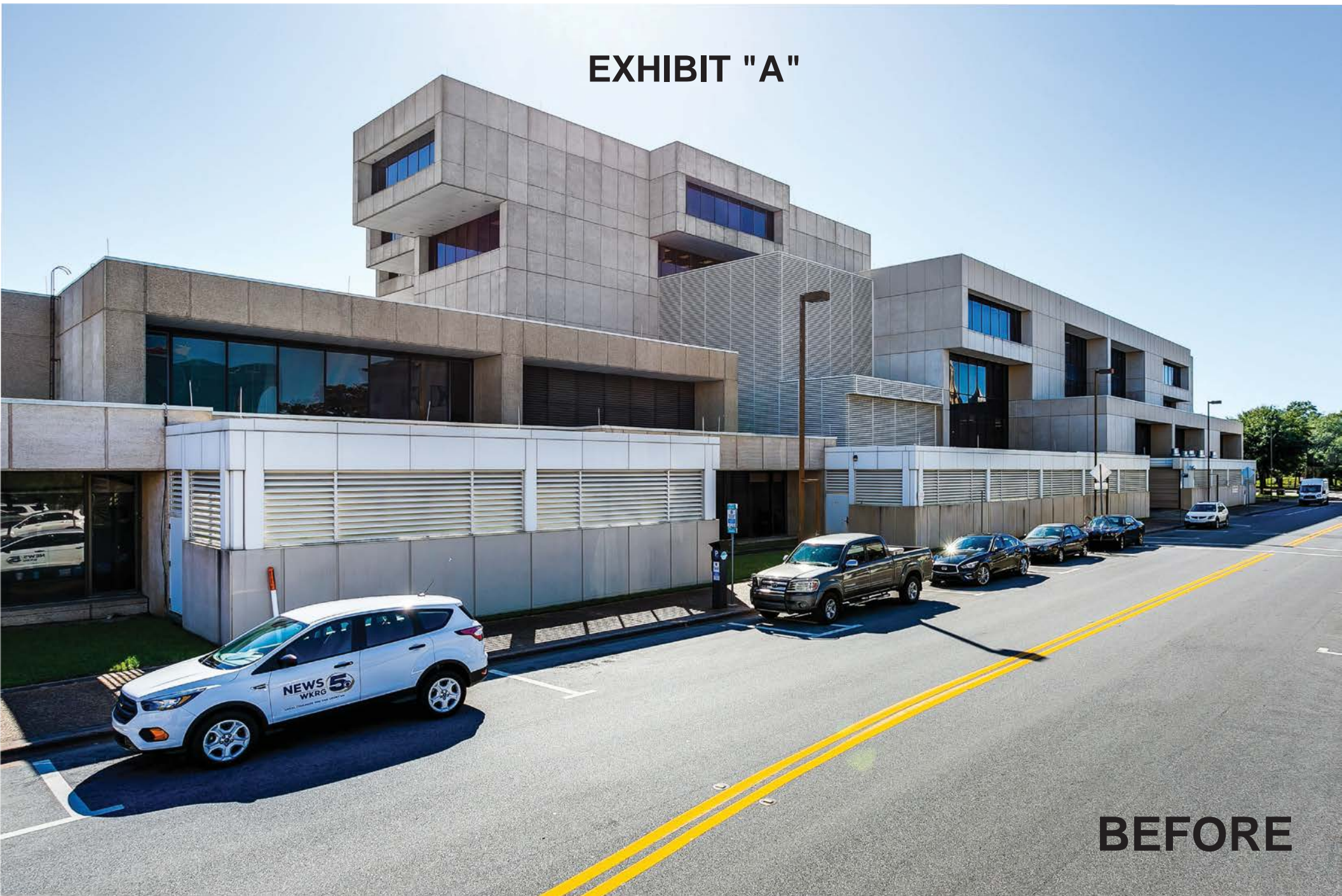
By: \_\_\_\_\_  
City Clerk

Legal in form and valid as drawn:

\_\_\_\_\_  
City Attorney

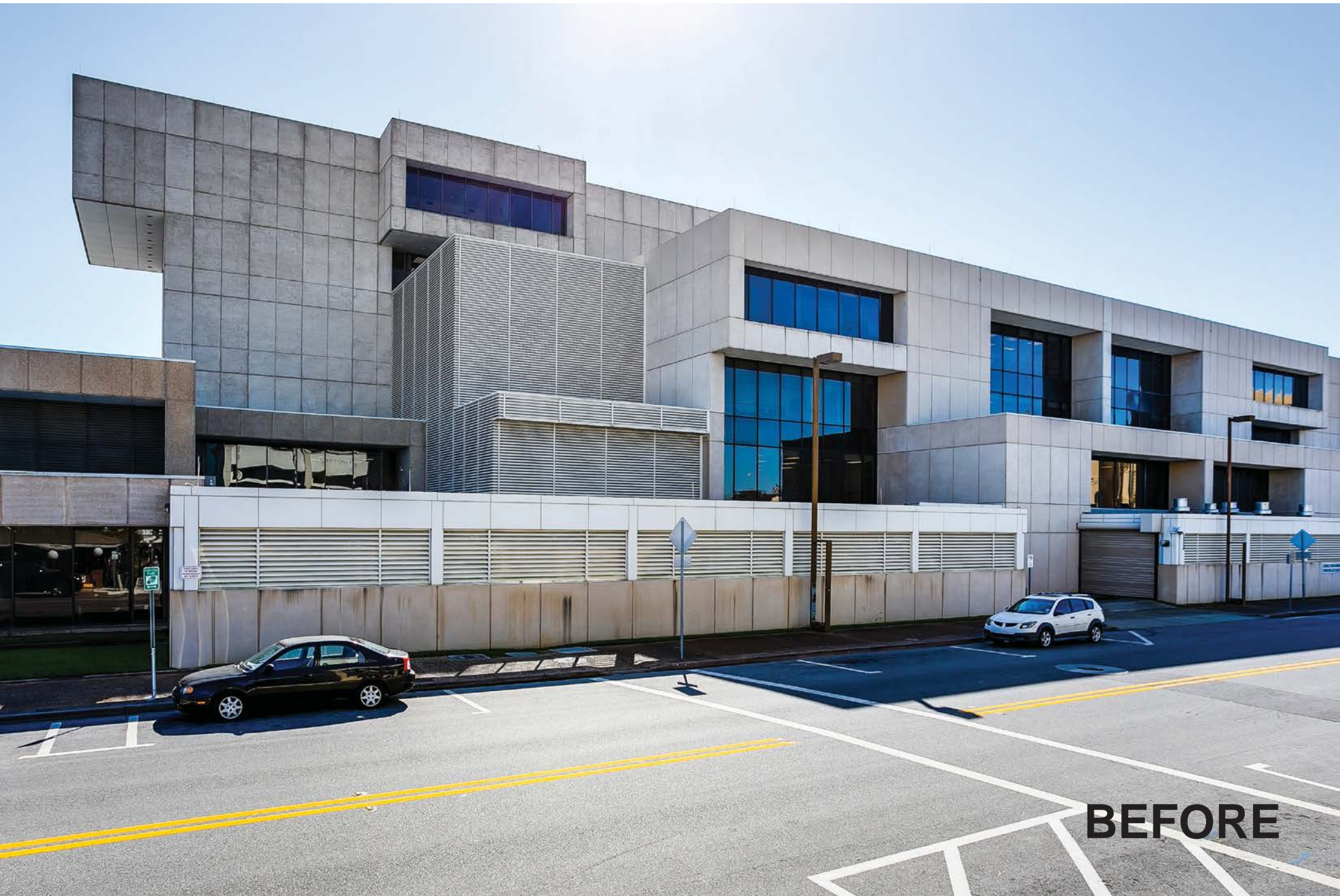


# EXHIBIT "A"



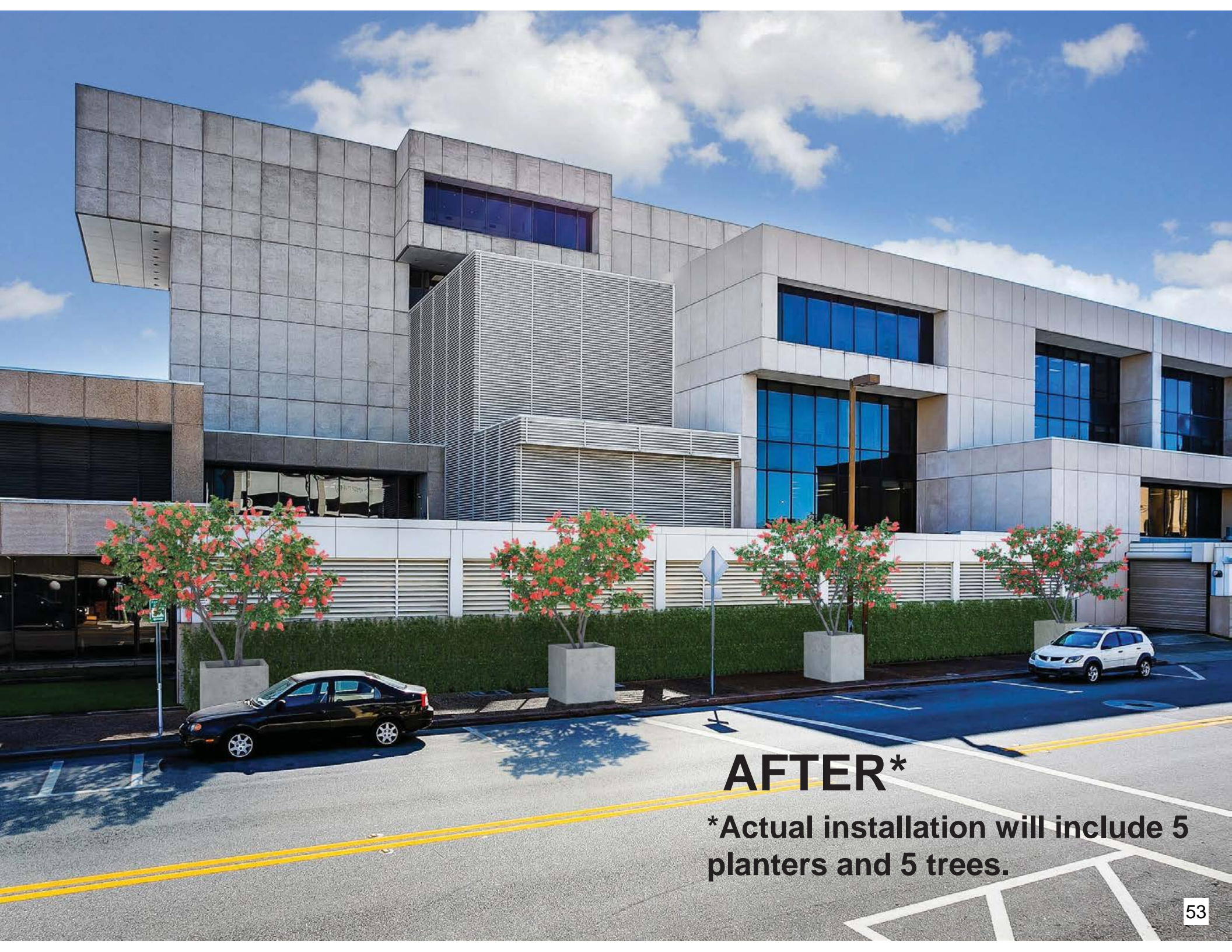
**BEFORE**





**BEFORE**





**AFTER\***

**\*Actual installation will include 5 planters and 5 trees.**







## Memorandum

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**File #:** 20-00483

Community Redevelopment Agency

9/8/2020

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### **ACTION ITEM**

**SPONSOR:** Jared Moore, Chairperson

**SUBJECT:**

FISCAL YEAR 2021 COMMUNITY POLICING INTERLOCAL AGREEMENT

**RECOMMENDATION:**

That the Community Redevelopment Agency (CRA) approve an interlocal agreement with the City of Pensacola for the purpose of providing Community Policing Innovations within the Urban Core Community Redevelopment Area for Fiscal Year 2021 in an amount not to exceed \$100,000.

**SUMMARY:**

One of the primary obstacles to urban revitalization is the perception of a lack of safety. This perception is typically related to criminal activity, may be real or perceived, and may involve both personal safety, as well as, the safety of property. In some cases, unless the safety issues are addressed first, other elements of the redevelopment plan are difficult to accomplish.

Community policing innovations is one approach that can be initiated to target criminal activity within a community redevelopment area. The Community Redevelopment Act describes "community policing innovations" as a policing technique or strategy designed to reduce crime by reducing opportunities for and increasing the perceived risks of engaging in criminal activity through the visible presence of police in the community.

Revitalization has drawn significant numbers of people and activities to areas long underutilized. However, the Urban Core Community Redevelopment Area still experiences safety concerns of varying degrees. To address these concerns, the CRA and City of Pensacola annually enter into an Interlocal Agreement to provide community policing activities within the entirety of the Urban Core Community Redevelopment Area from 17<sup>th</sup> Avenue to A Street.

**PRIOR ACTION:**

July 25, 2002 - City Council adopted Resolution No. 21-02, CRA Plan Additional Priority Element - Urban Core Area Community Policing Innovations.

January 20, 2010 - City Council adopted Resolution No. 02-10, Urban Core Community Redevelopment Plan, 2010, including Community Policing Innovations for the Urban Core.

September 20, 2010 - CRA approved the FY 2011 Community Policing Interlocal Agreement between the City and the Community Redevelopment Agency.

September 23, 2010 - City Council approved the FY 2011 Community Policing Interlocal Agreement between the City and the Community Redevelopment Agency.

September 19, 2011 - CRA approved the Interlocal Service Agreement between the City and CRA for Community Policing, Public Space Improvement Maintenance and Administrative Services for a period of 60 days beginning October 1, 2011.

September 22, 2011 - City Council approved the Interlocal Service Agreement between the City and CRA for Community Policing, Public Space Improvement Maintenance and Administrative Services for a period of 60 days beginning October 1, 2011.

November 28, 2011 - CRA approved the extension of the Interlocal Service Agreement between the City and CRA for Community Policing, Public Space Improvement Maintenance and Administrative Services until January 2013.

December 1, 2011 - City Council approved the extension of the Interlocal Service Agreement between the City and CRA for Community Policing, Public Space Improvement Maintenance, and Administrative Services until January 2013.

May 8, 2017 - CRA approved the extension of the Interlocal Service Agreement between the City and CRA for Community Policing until September 30, 2018.

October 8, 2018 - CRA approved an Interlocal Agreement between the City and CRA for community policing within the Urban Core redevelopment area for Fiscal Year 2019.

April 8, 2019 - CRA authorized the purchase and installation of a security camera at Jefferson Street and Government Street under the Fiscal Year 2019 Urban Core Community Policing Interlocal Agreement.

September 9, 2019 - CRA approved an Interlocal Agreement between the City and CRA for community policing within the Urban Core redevelopment area for Fiscal Year 2020.

September 12, 2019 - City Council approved an Interlocal Agreement between the City and CRA for community policing within the Urban Core redevelopment area for Fiscal Year 2020.

**FUNDING:**

Budget: \$100,000

Actual: \$100,000

**FINANCIAL IMPACT:**

Funding in the amount of \$100,000 has been included in the CRA Fiscal Year 2021 Proposed Budget for the Interlocal Agreement.

**CITY ATTORNEY REVIEW:** Yes

8/18/2020

**STAFF CONTACT:**

Kerrith Fiddler, Deputy City Administrator - Community Development  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Asst. CRA Administrator

**ATTACHMENTS:**

- 1) FY2021 Community Policing Interlocal Agreement

**PRESENTATION:** No

INTERLOCAL AGREEMENT  
FOR COMMUNITY POLICING INNOVATIONS  
FY 2021

between

THE COMMUNITY REDEVELOPMENT AGENCY OF  
THE CITY OF PENSACOLA, FLORIDA

and

THE CITY OF PENSACOLA, FLORIDA

This **INTERLOCAL AGREEMENT** (the " Agreement"), is made and entered into as of this \_\_\_\_day of \_\_\_\_\_, 2020 and between the **COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PENSACOLA, FLORIDA**, a public body corporate and politic of the State of Florida (the "Agency"), and the **CITY OF PENSACOLA, FLORIDA**, a Florida municipal corporation created under the laws of the State of Florida (the "City").

**W I T N E S S E T H:**

**WHEREAS**, the City Council of the City of Pensacola, Florida (the "City Council"), adopted Resolution No. 54-80 on September 25, 1980, which finding and determining the area described therein known as the "Urban Core Community Redevelopment Area," to be a "blighted area" (as defined in Section 163.340, Florida Statutes) and to be in need of redevelopment, rehabilitation and improvement, which finding and determination was reaffirmed in Resolution No. 65-81, adopted by the City Council on October 22, 1981; and

**WHEREAS**, on September 25, 1980, the City Council adopted Resolution No. 55-80, which, created the Community Redevelopment Agency, and declared the City Council to be the Agency as provided in Section 163.356, Florida Statutes; and

**WHEREAS**, on August 19, 2010, the City Council adopted Resolution 22-10, which amended Resolution No. 55-80 and provided for the continuation of the Pensacola Community Redevelopment Agency in conformity with the provisions of the 2010 Charter; and

**WHEREAS**, on March 8, 1984, the City Council adopted Ordinance No. 13-84, which created and established the Community Redevelopment Trust Fund for the Urban Core Community Redevelopment Area; and

**WHEREAS**, on March 27, 1984, the City Council of Pensacola, Florida, adopted Resolution No. 15-84 which approved a community redevelopment plan for the Urban Core Community Redevelopment Area; and

**WHEREAS**, on April 6, 1989, the City Council adopted Resolution No. 18-89, which approved a revised redevelopment plan for the Urban Core Community Redevelopment Area which plan has been subsequently amended; and

**WHEREAS**, on January 14, 2010, the City Council adopted Resolution No. 02-10, which repealed the Community Redevelopment Plan 1989 as amended and adopted the Urban Core Community Redevelopment Plan 2010; and

**WHEREAS**, the Agency is responsible for the implementation of the redevelopment plan for the redevelopment, rehabilitation and improvement of the urban core community redevelopment area in the City; and

**WHEREAS**, one of the primary obstacles to the redevelopment, rehabilitation and improvement of the urban core community redevelopment area is the perception of a lack of safety in areas that have seen decline over time and that are now stigmatized in the public mind; and

**WHEREAS**, the Redevelopment Act (hereinafter defined) authorizes municipalities and community redevelopment agencies to develop and implement Community Policing Innovations which in the singular is statutorily defined as “a policing technique or strategy designed to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the community, including, but not limited to, community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, neighborhood storefront police stations, field interrogation, or intensified motorized patrol”; and

**WHEREAS**, the Agency does not have nor exercise police powers nor employ police officers as needed to undertake Community Policing Innovations; and

**WHEREAS**, the City employs sworn law enforcement officers who have the police power and the ability to assist the Agency by focusing resources upon Community Policing Innovations in an effort to reduce crime within the Urban Core Community Redevelopment Area; and

**WHEREAS**, but for the cooperation of the parties and the assistance to be provided by the Agency to the City pursuant to this Agreement, the Agency would be without resources to undertake the Community Policing Innovations authorized by the Urban Core Community Redevelopment Plan; and

**WHEREAS**, the City and the Agency are willing to cooperate and provide assistance to each other and, to the extent permitted by law, all in such means and manner as will promote the rehabilitation and redevelopment of the urban core community redevelopment area, benefit the local economy, and be of substantial benefit to the Agency and the City by jointly undertaking community policing innovations within the urban core community redevelopment area;

**WHEREAS**, the Agency proposes to exercise its powers available under Part III, Chapter 163, Florida Statutes, as amended (the "Redevelopment Act") to aid, assist, and cause the rehabilitation and the redevelopment of the Urban Core Community Redevelopment Area to be accomplished by, among other things, using some of its "increment revenues" deposited in the Redevelopment Trust Fund (as hereinafter defined) together with funds provided by the City of

Pensacola General Fund to pay for certain Community Policing Innovations (hereinafter defined and referred to hereinafter as the “Project”) to be provided hereinafter by the City; and

**WHEREAS**, the City and the Agency desire to enter into an interlocal agreement setting forth the terms, conditions and responsibilities of a coordinated and collective effort to redevelop the Urban Core Community Redevelopment Area and continue to maintain the Project undertaken by the Agency; and

**WHEREAS**, the City and the Agency have determined that such an agreement to accomplish the purposes as set forth herein involves appropriate public expenditures to accomplish important public purposes.

**NOW, THEREFORE**, in consideration of the mutual covenants of and benefits derived from this Agreement, the City and the Agency agree as follows:

## ARTICLE 1: AUTHORITY

### 1.1. Authority.

This Agreement is entered into pursuant to and under the authority of Section 163.01, Florida Statutes; Part III, Chapter 163, Florida Statutes; Chapter 166, Florida Statutes; Resolution No. 54-80, adopted by the City Council on September 25, 1980, Resolution No. 65-81, adopted by the City Council on October 22, 1981, Ordinance No. 13-84, enacted by the City Council on March 8, 1984, Resolution No. 22-10 adopted by the City Council on August 19, 2010; and other applicable law, all as amended and supplemented.

## ARTICLE 2: DEFINITIONS

### 2.1. Definitions.

As used in this Agreement, the following capitalized terms shall have the following meanings, unless the context clearly indicates otherwise:

(1) “Act” means all or each of the following: Section 163.01, Florida Statutes; Part III, Chapter 163, Florida Statutes; Chapter 166, Florida Statutes, Resolution No. 54-80, adopted by the City Council on September 25, 1980, Resolution No. 65-81, adopted by the City Council on October 22, 1981; Ordinance No. 13-84, enacted by the City Council on March 8, 1984, Resolution No. 22-10 adopted by the City Council on August 19, 2010; and other applicable law, all as amended and supplemented.

(2) “Agency” means the Community Redevelopment Agency of the City of Pensacola, Florida, and any successors or assigns.

(3) “Agency Payments” means, the periodic payments made by the Agency to the City from the Community Policing Innovations Account pursuant to Section 4.3 hereof.



(4) "Agency's Other Obligations" means the payment to be made by the Agency from Increment Revenues deposited in its Redevelopment Trust Fund in the manner, to the extent and so long as such payments are required, respectively, pursuant to resolutions or agreements adopted or entered into prior to or after the Effective Date and which are provided to be superior to the obligation of the Agency under this Agreement.

(5) "Agreement" means this Interlocal Agreement, including any amendments, revisions and exhibits thereto.

(6) "Available Increment Revenues" means Increment Revenues remaining from time to time in the Agency's Redevelopment Trust Fund after all payments and deposits required to be made therefrom for the Agency's Other Obligations have been made and paid by the Agency during that Fiscal Year.

(7) "City" means the City of Pensacola, Florida, a Florida municipal corporation, and any successors or assigns.

(8) "City Council" means the City Council, or such other body constituting the elected governing or legislative body of the City.

(9) "Community Policing Innovations" means law enforcement services provided by the City within the entirety of the Urban Core Community Redevelopment Area, in cooperation and in consultation with the Agency, to reduce crime by reducing opportunities for, and increasing the perceived risks of engaging in, criminal activity through visible presence of police in the visitors district and community areas historically and currently prone to blight and less receptive to traditional law enforcement strategies, including, but not limited to, increased face to face contact with citizens, bike patrols, foot patrols, community mobilization, neighborhood block watch, citizen patrol, citizen contact patrol, foot patrol, attendance at community functions that foster relationships based on trust where there has been a traditional divide or contentious relationship between the community and law enforcement, neighborhood storefront police stations, field interrogation, or intensified motorized patrol.

(10) "Community Policing Innovations Account" means the account created and established by Section 5.2 hereof and in which are deposited the Available Increment Revenues and from which the Agency Payments are made to fund the Community Policing Innovations described herein.

(11) "Community Redevelopment Area" or "Urban Core Community Redevelopment Area" means the area found to be a slum or blighted and described in Resolution No. 54-80, adopted by the City Council on September 25, 1980, as affirmed by Resolution No. 65-81, adopted by the City Council on October 22, 1981.

(12) "Effective Date" means the date on which this Agreement becomes effective as provided in Section 8.12 hereof.

(13) "Expiration Date" means the date on which this Agreement expires by its own terms and is no longer of any force and effect as provided in Section 8.7 hereof.

(14) “Fiscal Year” means the respective fiscal years of the City and the Agency commencing on October 1 of each year and ending on the succeeding September 30, or such other consecutive twelve (12) month period as may be hereafter designated pursuant to general law as the fiscal year of the Agency or the City, respectively.

(15) “Increment Revenues” means the funds received by the Agency and deposited in the Redevelopment Trust Fund in an amount equal to the incremental increase in ad valorem tax revenues calculated pursuant to Section 163.387, Florida Statutes, within the Community Redevelopment Area.

(16) “Plan” means the revised redevelopment plan for the Urban Core Community Redevelopment Area, adopted by the City Council on April 16, 1989, by the adoption of Resolution No. 19-89 as subsequently amended.

(17) “Redevelopment Trust Fund” means the trust fund of the Agency created and established by Ordinance No. 13-84, enacted by the City Council on March 8, 1984, into which Increment Revenues are deposited as provided by that ordinance (and any amendments or successors thereto) and the Redevelopment Act.

(18) “Termination Date” means September 30, 2021, or the date on which this Agreement is terminated and is no longer of any force and effect as provided in Section 7.5, whichever, occurs earlier.

## 2.2. Use of Words and Phrases.

Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the singular shall include the plural as well as the singular number, and the word “person” shall include corporations and associations, including public bodies, as well as natural persons. “Herein”, “hereby”, “hereunder”, “hereof”, “hereinbefore”, “hereinafter”, and other equivalent words refer to this Agreement and not solely to the particular portion thereof in which any such word is used.

## 2.3. Florida Statutes.

Any and all references herein to the “Florida Statutes” are to Florida Statutes (2010), as later amended by any session law enacted during any regular or special session of the Legislature of the State of Florida subsequent to the adoption of Florida Statutes (2010).

# ARTICLE 3: PURPOSE

## 3.1. Purpose.

The purpose of this Agreement is to induce, encourage and assist the redevelopment of the Community Redevelopment Area through assistance and cooperation in undertaking community policing innovations within the area. It is also the purpose of this agreement to avoid expending the Agency’s Increment Revenues (as defined in the Act) on general government

operating expenses unrelated to the planning and carrying out of the Plan. It is also the purpose of this Agreement to define and delineate the responsibilities and obligations of the parties to this Agreement, and to express the desire of the parties to cooperate together to accomplish the purposes and expectations of this Agreement.

#### ARTICLE 4: THE PROJECT

##### 4.1. Description.

The Project consists of the City providing Community Policing Innovation services within the Urban Core Community Redevelopment Area, bounded by A Street, 17<sup>th</sup> Avenue, Cervantes Street, and Pensacola Bay, in its entirety, and in consideration of such services, the Agency Payments to the City.

##### 4.2. Project Administration.

The City, in consultation and cooperation with the Agency, shall be responsible for and shall oversee the administration of the Project, and shall account to the Agency for all costs of the Project.

##### 4.3. Agency Payments.

Within 45 days of receipt of periodic invoices from the City, accompanied by an accounting for the costs of the Project, the Agency shall pay from the Community Policing Innovations Account reimbursing Agency Payments to the City equal to the Actual costs of the Project. Provided, however, the sum of the Agency Payments shall not exceed \$100,000. Upon receipt of the Agency's written approval of any such invoice and accounting, the City's Chief Financial Officer may withdraw the Agency Payment directly from the Community Policing Innovations Account. Although this Sec. 4-3 contemplates and references the production of invoices, accountings and written approvals of invoices and accountings, these documents are accumulated and retained for subsequent auditing purposes and the periodic initiation and transfer of agency payments shall be accomplished through appropriate automated data processing means.

#### ARTICLE 5: FINANCING

##### 5.1. General.

The parties mutually acknowledge and agree that the aggregate cost of undertaking Community Policing Innovations within the Community Redevelopment Area is not to exceed \$100,000 for Fiscal Year 2021. The Agency covenants and agrees with the City to transfer Available Increment Revenues from the Redevelopment Trust Fund to the Community Policing Innovations Account at the times and in the amounts necessary to pay invoices submitted to the Agency by the City pursuant to Section 4.3 hereof. All other costs will be paid from other funds available to the City and set aside and committed for the purpose of paying such costs.

##### 5.2. Community Policing Innovations Account.

(1) The Agency covenants and agrees to establish an account separate and distinct from the Redevelopment Trust Fund to be known as the Community Policing Innovations Account in which the Available Increment Revenues shall be deposited and disbursements made as provided herein. This account is intended to be and shall constitute an escrow account for the purpose of funding the Project.

(2) The Agency's Available Increment Revenues deposited in the Community Policing Innovations Account shall constitute trust funds to secure the payments required to be made by the Agency and until such transfer and deposit, the Agency shall act as trustee of its moneys for the purposes thereof and such moneys shall be accounted for separate and distinct from all other funds of the Agency and shall be used only as provided herein.

(3) The Community Policing Innovations Account shall be deposited and maintained in one or more banks, trust companies, national banking associations, savings and loan associations, savings banks or other banking associations which are under Florida law qualified to be a depository of public funds, as may be determined by the entity maintaining possession and control of such funds and accounts.

### 5.3 Available Increment Revenues.

(1) During the Fiscal Year commencing upon the effective date of this agreement through Termination Date, the Agency covenants and agrees with the City to transfer Available Increment Revenues from the Redevelopment Trust Fund to the Community Policing Innovations Account at the times and in the amounts necessary to pay invoices submitted to the Agency by the City pursuant to Section 4.3 hereof.

(2) The Agency hereby encumbers, commits and pledges the Available Increment Revenues for the purposes of the transfers required by this Section 5.3.

(3) The Agency covenants and agrees with the City and does hereby grant a lien in favor of the City on the funds on deposit in the Community Policing Innovations Account for the purposes set forth in this Agreement. Funds on deposit in this Community Policing Innovations Account may only be used to pay the Costs of the Project. Any funds remaining after all costs of the Project have been paid shall be used only in the manner authorized by Section 163.387(7), Florida Statutes.

### 5.4. Enforcement of Increment Revenues Collections.

The Agency is currently receiving Increment Revenues, having taken all action required by law to entitle it to receive the same, and the Agency will diligently enforce its rights to receive the Increment Revenues and will not take any action which will impair or adversely affect its right to receive such funds or impair or adversely affect in any manner the Agency's covenant to budget and appropriate Available Increment Revenues for deposit to the Community Policing Innovations Account. The Agency and the City covenant and agree, so long as the Agency is required to make the Agency Payments, to take all lawful action necessary or required to continue the entitlement of the Agency to receive the Increment Revenues as now provided by law or may later be authorized, and to make the transfers required by this Agreement. The City does hereby covenant and agree that, so long as the Agency is required to make the Agency

Payments, to timely budget, appropriate and pay into the Redevelopment Trust Fund in each fiscal Year the amount required of it to be so paid by the Redevelopment Act. Notwithstanding any other provision herein to the contrary, the failure of the enforcement of collection of Increment Revenues by the Agency will not relieve the City of its obligations hereunder to pay the City Payment.

5.5. No General Obligation.

Nothing contained in this Agreement shall be deemed to create a debt, liability, or other obligation of the Agency or the City or any other political subdivision of the State of Florida within the meaning of any constitutional, statutory, charter or other provision or limitation, and nothing contained herein shall be deemed to authorize or compel, directly or indirectly, the exercise of the ad valorem taxing power of the City or any other political subdivision of the State of Florida or taxation in any form on any real or personal property for the payment of any amounts contemplated by or as provided in this Agreement, including the payment of any principal or, premium, if any, and interest on any indebtedness relating to the Project.

## ARTICLE 6: REPRESENTATIONS AND WARRANTIES

6.1. Representations and Warranties of the Agency.

The Agency represents and warrants to the City that each of the following statements is presently true and accurate and can be relied upon by the City:

(1) The Agency is the duly designated community redevelopment agency of the City, a validly existing body politic and corporate of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a party.

(2) This Agreement and each document contemplated hereby to which the Agency is or will be a party has been duly authorized by all necessary action on the part of, and has been or will be duly executed and delivered by, the Agency and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof: (a) requires the approval and consent of any other party, except such as have been or will be duly obtained, (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on the Agency or (c) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance upon any party or the Agency, under any indenture, mortgage, deed of trust, bank loan or credit agreement, the Agency's special acts, applicable ordinances, resolutions or any other agreement or instrument to which the Agency is a party, specifically including any covenants of any bonds, notes, or other forms of indebtedness of the Agency outstanding on the Effective Date.

(3) This Agreement and each document contemplated hereby to which the Agency is or will be a party constitutes, or when entered into will constitute, a legal, valid and binding obligation of the Agency enforceable against it in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from

time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(4) There are no pending or, to the knowledge of the Agency, threatened actions or proceedings before any court or administrative agency against the Agency, which question the existence of the Agency, the determination of slum and blight in the Community Redevelopment Area, the adoption or implementation of the Plan, the validity of this Agreement or any instrument or document contemplated hereunder, or which are likely in any case or in the aggregate to materially adversely affect the successful redevelopment of the Community Redevelopment Area, the consummation of the transactions contemplated hereunder or the financial condition of the Agency.

(5) This Agreement does not violate any laws, ordinances, rules, regulations, orders, contracts, or agreements that are or will be applicable to the Agency.

## 6.2. Representations and Warranties of the City.

The City represents and warrants to the Agency that each of the following statements is presently true and accurate and can be relied upon by the Agency:

(1) The City is a municipal corporation created under the laws of the State of Florida, has all requisite corporate power and authority to carry on its business as now conducted and to perform its obligations under this Agreement and each document contemplated hereunder to which it is or will be a party.

(2) This Agreement and each document to which it is or will be a party has been duly authorized by all necessary action on the part thereof, and has been or will be duly executed and delivered by, it and neither the execution and delivery thereof, nor compliance with the terms and provisions thereof or hereof: (a) requires the approval and consent of any other party, except such as been duly obtained, (b) contravenes any existing law, judgment, governmental rule, regulation or order applicable to or binding on it, or (c) contravenes or results in any breach of, default under or result in the creation of any lien or encumbrance upon it, under any indenture, mortgage, deed or trust, bank loan or credit agreement, charter, applicable ordinances, resolutions or any other agreement or instrument, specifically including any covenants of any bonds, notes, or other forms of indebtedness outstanding on the Effective Date.

(3) This Agreement and each document contemplated hereby constitutes, or when entered in will constitute, a legal, valid and binding obligation enforceable against the City in accordance with the terms thereof, except as such enforceability may be limited by applicable bankruptcy, insolvency or similar laws from time to time in effect which affect creditors' rights generally and subject to usual equitable principles in the event that equitable remedies are involved.

(4) There are no pending or, to the knowledge of the City, threatened actions or proceedings before any court or administrative agency against it, which question its existence, the validity of this Agreement or any instrument or document contemplated hereunder, or which are likely in any case or in the aggregate to materially adversely affect the consummation of the transactions contemplated hereunder.

(5) This Agreement does not violate any laws, ordinance, rules, regulations, orders, contract, or agreements that are or will be applicable to the City.

#### ARTICLE 7: DEFAULT; TERMINATION

##### 7 .1. Default by the Agency.

(1) Provided the City is not in default under this Agreement as set forth in Section 7.2 hereof, there shall be an “event of default” by the Agency under this Agreement upon the occurrence of any one or more of the following:

(a) The Agency fails to perform or comply with any material provision of this Agreement and such nonperformance shall have continued, after written notice thereof by the City to the Agency; or

(b) The Agency shall have failed or refused to make any of the Agency Payments when due and payable; or

(c) The Agency shall make a general assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated as bankrupt or insolvent, or shall file a petition seeking any reorganization, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation or shall file an answer admitting, or shall fail reasonably to contest, the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the Agency of any material part of its properties; or

(d) Within sixty (60) days after the commencement of any proceeding by or against the Agency seeking any reorganization, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment without the consent or acquiescence of the Agency or any trustee, receiver or liquidator of the Agency or of any material part of its properties, such appointment shall not have been vacated.

(2) If any “event of default” described in Subsection 7.1(1) hereof shall have occurred, the City may, after giving thirty (30) days written notice of such event of default to the Agency, and upon expiration of such thirty (30) day notice period, if such event of default has not been cured, terminate this Agreement or institute an action seeking such remedies as are available to the City, or both.

##### 7 .2. Default by the City.

(1) Provided the Agency is not then in default under this Agreement, there shall be an “event of default” by the City to this Agreement under this Agreement upon the occurrence of any the following:

(a) The City does not perform as required hereunder and such nonperformance shall have continued, after written notice thereof by the Agency to the City; or

(b) The City shall have failed or refused to proceed with or cause the timely completion of the Project.

(2) If an "event of default" described in Subsection 7.2(1) hereof shall have occurred, the Agency, after giving thirty (30) days written notice of such event of default to the City and upon the expiration of such thirty (30) day period if such event of default has not been cured, may terminate this Agreement or institute an action seeking such remedies as are available to the Agency hereunder.

7.3. Obligations, Rights and Remedies Not Exclusive.

The rights and remedies specified herein to which either the Agency or the City are entitled are not exclusive and are not intended to be to the exclusion of any other remedies or means or redress to which any party hereto may otherwise lawfully be entitled.

7.4. Non-Action or Failure to Observe Provisions of this Agreement.

The failure of any party hereto to promptly insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any exhibit hereto or any other agreement contemplated hereby shall not be deemed a waiver of any available right or remedy, and shall not be deemed a waiver of a subsequent default or nonperformance of such term, covenant, condition or provision.

7.5. Effect of Termination.

(1) Upon the occurrence of an event described in Section 7.1 or 7.2 hereof and receipt by any party of an election to terminate this Agreement pursuant to Sections 7.1 or 7.2 hereof, then this Agreement shall terminate and all obligations of any parties hereto shall then cease and be released and no longer be of any force and effect.

(2) In the event of a termination of this Agreement pursuant to this Section 7.5, no party hereto shall be obligated or liable to any other in any way, financial or otherwise, for any claim or matter arising from or as a result of this Agreement or any actions taken by any party hereto, hereunder or contemplated hereby.

## ARTICLE 8: MISCELLANEOUS

8.1. Amendments.

This Agreement may be amended by the mutual written agreement of all parties at any time and from time to time, which amendments shall become effective upon filing thereof in the public records of Escambia County, Florida, pursuant to Section 163.01(11), Florida Statutes.



8.2. This Agreement Constitutes a Contract.

All parties hereto acknowledge that they will rely on the pledges, covenants and obligations created herein for the benefit of the parties hereto, and this Agreement shall be deemed to be and constitute a contract amongst said parties as of it becoming effective as provided in Section 8.12.

8.3. Assignment.

No party to this Agreement may, directly or indirectly, assign or transfer any or all of their duties, rights, responsibilities, or obligations under this Agreement to any other party or person not a party to this Agreement, without the express prior approval of the other party to this Agreement.

8.4. Severability.

The provisions of this Agreement are severable, and it is the intention of the parties hereto to confer the whole or any part of the powers herein provided for and if any of the provisions of this Agreement or any other powers granted by this Agreement shall be held unconstitutional, invalid or void by any court of competent jurisdiction, the decision of said court shall not affect or impair any of the remaining provisions of this Agreement. It is hereby declared to be the intent of the parties hereto that this Agreement would have been adopted, agreed to, and executed had such unconstitutional, invalid or void provision or power not been included therein.

8.5. Controlling Law; Venue.

Any and all provisions of this Agreement and any proceeding seeking to enforce and challenge any provision of this Agreement shall be governed by the laws of the State of Florida. Venue for any proceeding pertaining to this Agreement shall be Escambia County, Florida.

8.6. Members Not Liable.

(1) All covenants, stipulations, obligations and agreements contained in this Agreement shall be deemed to be covenants, stipulations, obligations and agreements of the City and the Agency, respectively, to the full extent authorized by the Act and provided by the Constitution and laws of the State of Florida.

(2) No covenant, stipulation, obligation or agreement contained herein shall be deemed to be a covenant, stipulation, obligation or agreement of any present or future individual member of a governing body or agent or employee of the Agency or the City in its, his or their individual capacity, and neither the members of the governing body of the Agency or the City or any official executing this Agreement shall individually be liable personally or shall be subject to any accountability by reason of the execution by the City or the Agency of this Agreement or any act pertaining hereto or contemplated hereby.

8.7. Expiration of Agreement.

(1) Unless sooner terminated as provided in Article 7, this Agreement shall expire and terminate on the Termination Date.

(2) The parties hereto covenant and agree that upon this Agreement expiring and terminating all rights, privileges, obligations and responsibilities of any party hereunder shall expire and be of no force and effect, except to the extent any provision hereof expressly survives expiration as provided herein and survives termination as provided in Section 7.5.

(3) Any funds remaining in the Community Policing Innovations Account upon the expiration of this Agreement, which are not encumbered or obligated for any payment shall be used only in the manner authorized by Section 163.387, Florida Statutes.

8.8. Third Party Beneficiaries.

Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon any person, firm or corporation other than the parties hereto, any right, remedy, or claim, legal or equitable, under or by reason of this Agreement or any provision hereof.

8.9. Notices.

(1) Any notice, demand, direction, request or other instrument authorized or required by this Agreement to be given or filed with a party hereto shall be deemed sufficiently given or filed for all purposes of this Agreement if and when sent by registered mail, return receipt requested, transmitted by a facsimile machine with confirmation of delivery, or by personal hand delivery:

To the Agency:                      Community Redevelopment Agency of  
The City of Pensacola, Florida  
Post Office Box 12910  
Pensacola, Florida 32521-0001  
Attention: Administrator

To the City:                              City of Pensacola  
Post Office Box 12910  
Pensacola, Florida 32521-0001  
Attention: City Administrator

(2) The addresses to which any notice, demand, direction or other instrument authorized to be given or filed may be changed from time to time by a written notice to that effect delivered to all the parties, which change shall be effective immediately or such other time as provided in the notice.

Until notice of a change of address is received, a party may rely upon the last address received. Notice shall be deemed given, if notice is by mail on the date mailed to the address set forth above or as changed pursuant to this Section 8.9.

8.10. Execution of Agreement.

This Agreement shall be executed in the manner normally used by the parties hereto. If any officer whose signature appears on this Agreement ceases to hold office before all officers shall have executed this Agreement or prior to the filing and recording of this Agreement as provided in Section 8.11 hereof, his or her signature shall nevertheless be valid and sufficient for

all purposes. This Agreement shall bear the signature of, or may be signed by, such individuals as at the actual time of execution of this Agreement thereby shall be the proper and duly empowered officer to sign this Agreement and this Agreement shall be deemed to have been duly and properly executed even though on the Effective Date any such individual may not hold such office.

8.11. Filing with County Clerk of the Court.

The City Clerk is hereby authorized and directed after approval of this Agreement by the Agency and the City Council and the execution hereof by the duly qualified and authorized officers of each of the parties hereto as provided in Section 8.10 hereof, to submit this Agreement to the Clerk of the Court of Escambia County, Florida, for filing in the public records of Escambia County Florida, as provided by Section 163.01(11), Florida Statutes.

8.12. Effective Date.

This Agreement shall become effective immediately upon filing with the Clerk of the Court of Escambia County, Florida, as provided in Section 163.01(11), Florida Statutes.

8.13. City and Agency Not Liable.

Nothing contained in this Agreement shall be construed or deemed, nor is intended, or impose any obligation upon the City or the Agency except to the extent expressly assumed by the City or the Agency, respectively.

**IN WITNESS WHEREOF**, the parties hereto, by and through the undersigned, have entered into this Interlocal Agreement as of the day and year first above written.

COMMUNITY REDEVELOPMENT AGENCY  
OF THE CITY OF PENSACOLA, FLORIDA

CITY OF PENSACOLA, FLORIDA

\_\_\_\_\_  
Jared Moore, CRA Chairperson

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

Attest:

Attest:

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

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

Approved as to Content:

Approved as to Form and Execution:

\_\_\_\_\_  
M. Helen Gibson, CRA Administrator

\_\_\_\_\_  
Susan Woolf, City Attorney



Memorandum

File #: 20-00489

Community Redevelopment Agency

9/8/2020

**ACTION ITEM**

**SPONSOR:** Jared Moore, Chairperson

**SUBJECT:**

PLAZA DE LUNA CONCESSIONS AGREEMENT RENEWAL

**RECOMMENDATION:**

That the Community Redevelopment Agency (CRA) approve a one-year renewal of the Concession Agreement with DeLuna’s Chat and Chew LLC for the operation of the Plaza de Luna Concession and Restroom Facilities. Further, that the CRA authorize the Chairperson to take all actions necessary to complete the renewal.

**SUMMARY:**

On August 8, 2017, the Community Redevelopment Agency (CRA) approved a Concessions Agreement with DeLuna’s Chat and Chew LLC for the operation of the Plaza de Luna Concession and Restroom Facilities. Pursuant to Articles II and XXXVIII, the Agreement authorized the operation of the Facilities by DeLuna’s Chat and Chew LLC for a term of three (3) years, with an option for a one (1) year renewal.

The Concessionaire has submitted a request for renewal. It is recommended that CRA approve this request to provide for the continued operation of the facilities by DeLuna’s Chat and Chew LLC.

**PRIOR ACTION:**

May 26, 2009 - CRA approved award of contract RFP 09-020 Plaza de Luna Concession Operation to JJW Services, and authorized the CRA Chairperson to execute an Operators Agreement.

August 22, 2013 - CRA approved award of contract RFP 13-013 Plaza de Luna Concession Operation to DeLuna’s Chat and Chew and authorized the CRA Chairperson to execute an Operators Agreement.

April 2, 2014 - CRA amended the Plaza de Luna Operating Agreement to establish February 2, 2014, as the date of beneficial occupancy.

August 8, 2017 - CRA approved a Concessions Agreement with DeLuna’s Chat and Chew for the operation of the Plaza de Luna Concession and Restroom Facilities for a term of three (3) years with a one (1) year renewal option.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

As consideration for the right and privilege of operating the Plaza de Luna concession, the Concessionaire shall continue to pay to the CRA the greater of an annual privilege fee of \$4,000 or 8% of gross concession receipts.

**CITY ATTORNEY REVIEW:** Yes

8/18/2020

**STAFF CONTACT:**

Kerrith Fiddler, Deputy City Administrator - Community Development  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Asst. CRA Administrator

**ATTACHMENTS:**

- 1) Renewal Request Letter
- 2) Executed Plaza DeLuna Concession Agreement

**PRESENTATION:** No

August 3, 2020

To: Community Redevelopment Agency  
(City of Pensacola)

From: Shawn Goad  
Deluna's Chat and Chew  
Owner/Operator

For the past three years, I have had the opportunity to serve the people of Pensacola by utilizing a walk-up Concession on the Palafox Pier. My restaurant, Deluna's Chat and Chew has had an outstanding relationship with the CRA and its affiliates during this time.

Please accept this letter as confirmation of my interest to renew a contract with the CRA and City of Pensacola to continue using the concessieon. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script, appearing to read "Shawn Goad".

Shawn Goad  
Deluna's Chat and Chew

## PLAZA DE LUNA CONCESSIONS AGREEMENT

THIS AGREEMENT ("Agreement") made and entered into this 16th day of October, 2017, by and between the Community Redevelopment Agency of the City of Pensacola, Florida, whose address is P.O. Box 12910, Pensacola, Florida 32521, a public body corporate and politic of the State of Florida ("CRA"), and DeLuna's Chat and Chew LLC, whose address is 8130 Banberry Road, Pensacola FL 32514, a corporation authorized to do business in Florida ("Concessionaire").

**WHEREAS**, on October 22, 2013 the parties entered into an agreement for the provision of concession services at Plaza de Luna in the City of Pensacola, as amended on April 2, 2014 ("Original Agreement"); and

**WHEREAS**, pursuant to Article XXXIX of the Original Agreement, Concessionaire has requested the CRA consider its application for a new agreement; and

**WHEREAS**, the CRA has determined such agreement is in the best interests of the parties.

**NOW, THEREFORE**, in consideration of One Hundred Dollars (\$100.00), the receipt and sufficiency of which is hereby acknowledged, and of the covenants and conditions set forth below and other good and valuable consideration, the parties agree as follows:

### ARTICLE I - RECITALS

The recitals above are true and correct and are hereby incorporated as a material part of this Agreement.

### ARTICLE II - TERM

The term of this Agreement shall commence upon the date first written above, and shall continue for a period of three (3) years ("Term").

### ARTICLE III - CONCESSIONS REQUIREMENTS AND PROHIBITIONS

Subject to this Agreement, the CRA grants to Concessionaire the exclusive right, privilege and obligation to operate the concession within the CRA facility located in Plaza de Luna, 900 South Palafox Street, Pensacola, Florida. Concessionaire shall perform all requirements, services and obligations as provided in Exhibit A attached hereto and incorporated herein by this reference. Concessionaire warrants that all equipment, materials and services furnished will comply with the Exhibit A and this Agreement. The CRA, or its duly authorized representative, shall at all times have full opportunity to inspect the performance of such services to be provided under this Agreement. Concessionaire shall comply with all applicable federal, state and local laws, ordinances, rules and regulations pertaining to the performance of this Agreement.

Concessionaire shall use the concession area solely for the operation of a concession and services as set forth in Exhibit A hereto and for no other purpose. Concessionaire shall not use, nor permit others to use, the concession area for any commercial or non-commercial purpose, other than the authorized

purpose set forth herein, unless the CRA authorizes, in the CRA's sole discretion, said additional use in writing.

Concessionaire is specifically prohibited from operating or selling the following items unless the CRA authorizes, in the CRA's sole discretion, otherwise in writing:

1. Alcoholic beverages (except as permitted under the terms of the Exhibit A).
2. Tobacco products.
3. Vending machines (dispensing food, drinks, snack items, newspapers, cigarettes, or other sundry items).
4. Other coin operated devices including, but not limited to, pay telephones, video games, and pay televisions.

Should the CRA authorize the Concessionaire to operate or sell any of the above referenced items, it is understood that said authorization will not grant the Concessionaire the exclusive right to operate or sell the item(s) and that the CRA reserves the right to operate or provide under separate contract with others any or all of the above-mentioned exceptions to the concession. Said authorization to operate or sell any of the above items may be revoked at any time by the CRA, in the CRA's sole discretion, by written notification from the CRA Administrator to the Concessionaire. Changes in the scope of this Agreement may require the Concessionaire to provide additional or increased limits of insurance coverage.

Should a conflict arise between the Concessionaire and other vendor Concessionaires at Plaza de Luna regarding the scope of the concession privileges, the CRA's decision on the matter shall be final and conclusive.

ARTICLE IV – CONCESSION AREA

The CRA hereby grants permission to Concessionaire to exclusively access and use improvements below at Plaza de Luna ("Concession Area"), specifically described as follows:

Interior Building area:	350 square feet
Men's & Women's Restrooms:	195 square feet/each
Storage area:	90 square feet
Brick Patio:	400 square feet (approximately). Concessionaire must maintain pedestrian access through area and access to shower facility in compliance with applicable federal, state and local laws and regulations.
Rear Seating Area:	420 square feet - 6 feet in width by 70 feet in length. Concessionaire must allow pedestrian access through area along the promenade.

A depiction of such concession area is shown on Exhibit B attached hereto and incorporated herein by this reference.

ARTICLE V - RESTROOM REQUIREMENTS

Concessionaire shall provide access to the men's and women's restrooms during the operation of the Plaza's interactive fountain and concession service. Concessionaire shall regularly inspect the



restrooms to assure they are clean and maintained for the public during all operational hours and provide all services and supplies necessary for such operation.

#### ARTICLE VI - OPERATIONAL STANDARDS

Concessionaire agrees to operate in accordance with this Agreement. The management, maintenance and operation of the concession area shall at all times be under the supervision and direction of an active, qualified and competent manager who shall at all times be subject to the direction and control of Concessionaire. The manager shall be assigned to the facility and shall be available during normal business hours. Concessionaire further agrees to assign a qualified employee to be in charge of the concession area, services and facilities and to be available in the concession area in the absence of the manager.

#### ARTICLE VII - CONCESSIONAIRE EMPLOYEES

Concessionaire shall ensure that its employees shall be of sufficient number so as to properly conduct all of the concessions services as contemplated herein. Concessionaire shall ensure all employees maintain their appearance and dress in a clean and neat manner, and further, as Concessionaires in a City of Pensacola park, that they conduct themselves in a professional and courteous matter at all times. Concessionaire shall control the actions of its employees and that cooperate with the CRA in controlling any employee whose conduct the CRA feels is detrimental to the best interests of the CRA and public. Concessionaire shall maintain at all times adequate fidelity bonds on its employees who handle cash.

#### ARTICLE VIII - CONCESSIONAIRE CASH HANDLING

Concessionaire shall at all times observe prudent cash handling procedures, the same of which shall be incorporated into its written policies, rules and regulations covering accounting and handling of all transactions of merchandise. Concessionaire shall immediately implement any new procedures, or revise any existing procedures, in such a manner as the CRA may, in its sole discretion, require from time to time, provided that the CRA gives written notice thereof to Concessionaire.

Concessionaire shall provide in its cash registers or other point-of-sale equipment the following features:

1. A reasonable number of segregated category addresses to allow for accurate reporting of gross receipts by various merchandise categories.
2. Capable of recording transactions by sequential control number to an audit tape or computer file.
3. Capable of printing a transaction history to tape or computer media by time of day, day, month and year.
4. Capable of printing a customer receipt showing the amount due, amount tendered and change due to the customer as well as the time and date of transaction and name and telephone number of Concessionaire.
5. A fee display of sufficient size and legibility to be readily visible to the customer during a transaction.
6. A reasonable back-up and/or storage of data redundancy to assure sales data are always available and reliable.

#### ARTICLE IV - OTHER VENDORS PERMITTED

In utilizing the concession area, Concessionaire shall not violate in any manner the exclusive use rights that have been granted, or may be granted in the future, by the CRA to other businesses or organizations utilizing the Plaza.

#### ARTICLE X - FEES

As consideration for its possessory interest in the concession area and for the right and privilege of operating a concession therein, Concessionaire shall pay to the CRA the greater of a minimum annual privilege fee or percentages of gross concession receipts as follows:

1. The minimum annual privilege fees for the term of this Agreement is \$4,000.
2. Percentages of annual gross receipts for the term of the Agreement are: (s) prepared food and pre-packaged snack and candy items (8%); and (b) general merchandising items (8%).

Concessionaire's obligation to remit payments under this Agreement shall commence upon the date of execution of this Agreement. For purposes of computing Concessionaire's gross receipts for each year of this Agreement, the concession year shall be deemed to commence at midnight each year this Agreement is in effect and shall be deemed to terminate at 11:59 PM of the following year ("Concession Year"). The term "gross receipts" or "gross revenues" with respect to sales at all locations shall include all charges or other fees charged by Concessionaire on all sales made by Concessionaire of items and all revenues of any kind and character derived from, arising out of, or payable on account of the business conducted by Concessionaire or from the operations of Concessionaire under this Agreement, whether for cash or credit and without any deduction for credit card discounts, and regardless of whether Concessionaire ultimately collects the monies owed for said sales from the customer involved. Any gross receipts included in the formula for determining percentage rentals owed the CRA and determined by Concessionaire at a later date to be uncollectible shall not offset future percentage fees or privilege fees owed the CRA. The term shall also include the value of items when given by Concessionaire to anyone without charge except as provided herein. The term shall not include any sales tax or excise tax stated separately and collected from the customer for remittance to the taxing authority, tips and gratuities, free or compensatory items for employees of Concessionaire, or any other charges on a reimbursable basis as mutually agreed upon by the CRA Administrator and Concessionaire. All gross receipts shall be deemed to be received at the time of the determination of the amount due to Concessionaire, not at the time of billing or payment, unless specifically authorized by the CRA Administrator.

Within thirty (30) days following the end of each month this Agreement is in effect, Concessionaire shall pay to the CRA the amount equal to its percentage payment based on its gross concession revenue for previous month (e.g. payment for August due no later than September 30<sup>th</sup>). Said monthly payments shall be made to the CRA Office. At the same time, Concessionaire shall also remit sales tax due on the monthly rental amount. Said monthly installments shall be made payable to the "City of Pensacola" and forwarded to the office of the CRA Administrator.

At the same time that Concessionaire pays its monthly installment of its percentage payment based on its gross concession receipts, Concessionaire shall provide the CRA Administrator with an itemized statement showing the amount of gross revenues, as defined herein, Concessionaire enjoyed during the preceding calendar month, broken down by gross revenues derived from (a) 8% food item

sales; and (b) 8% merchandising sales during said month, and a copy of the Concessionaire's State of Florida Department of Revenue Sales and Use Tax Return Receipt for said month. Simultaneously with its payment of percentage fees for the last month of the Concession Year, Concessionaire shall furnish the CRA with a written statement signed by the Chief Financial Officer stating that the percentage fees paid to the CRA during the preceding Concession Year were a true and accurate reflection of the revenue generated from the concession and that the payments were made in accordance with the terms and conditions of the Agreement. Additionally, if the percentage fees paid to the CRA for the preceding Concession Year were lower than minimum annual privilege fee as required from Concessionaire for the same year, at the same time as providing its payment of percentage fees for the last month, Concessionaire shall provide payment for the difference between the percentage fee paid and the minimum annual privilege fee owed, plus applicable sales tax.

Without waiving any other right of action available to the CRA in the event of default in payment of any and all fees, charges, or taxes hereunder, or in the event any payments required under this Agreement are not received when due, said payments shall accrue interest at the rate of one and one-half percent per month from the due date until receipt of payment. Any partial payments received for said indebtedness shall be applied first to accrued interest and then to principal.

#### ARTICLE XI - TAXES AND ASSESSMENTS

Concessionaire shall be responsible for and shall promptly pay all property taxes; personal property taxes; all sales and other taxes measured by or related to the payments hereunder required under law; all license fees; and any and all other taxes, charges, imposts or levies of any nature, whether general or special, which, at any time, may be in any way imposed by local, state, or federal authorities, or that become a lien upon the Concessionaire, the CRA, the concession area, or any improvements thereon, by reason of this Agreement or Concessionaire's activities in, or improvements upon, the concession area pursuant to this Agreement. The CRA warrants and represents that it shall not impose any taxes, assessments, or charges, except those imposed on all other business operating in the City of Pensacola, upon Concessionaire during the term of this Agreement.

#### ARTICLE XII - BOOKS AND RECORDS/AUDITS

Concessionaire must maintain full and accurate books of account and records, in a form acceptable to the CRA, from which gross receipts, as defined herein, and the amount of percentage fees owed the CRA hereunder, can be determined according to standard and accepted accounting practices. The books of account and records that Concessionaire must maintain must include, but not be limited to, sales slips, cash register tapes, credit card invoices, monthly sales tax returns, sales and disbursement journals, general ledgers, bank statements, bank books, bank deposit slips and annual federal income tax returns. In lieu of maintaining the books of account and records required herein, Concessionaire may maintain computer records instead, provided that the CRA determines, in its sole discretion, in advance, that said computer records are a reasonably equivalent alternative to the maintenance of books and records otherwise required herein. These books and records shall be stored in Pensacola, Florida, for a period of at least five (5) years following the end of each annual period of this Agreement and be made available to the CRA upon request.

The CRA reserves the right to audit Concessionaire's books and records of gross receipts at any time for the purpose of verifying gross receipts hereunder. If any audit shows percentage payments and other charges that should have been paid to the CRA by the Concessionaire pursuant to the Agreement

were understated or underpaid for the annual period involved, Concessionaire shall, within thirty (30) days' notice of any such deficiency, pay to the CRA the full amount underpaid, plus one and one-half percent (1.5%) interest per month on said underpayment from the time said underpayment should have been paid to the time said underpayment is fully paid. In addition, if the amount of underpayment exceeds one percent of the total percentage payment that was owed by Concessionaire to the CRA for the annual period involved, Concessionaire, in addition to paying the CRA the underpayment owed, shall reimburse the CRA for the cost of the audit. If any audit discloses overpayment of the percentage payments paid to the CRA by Concessionaire, the CRA shall refund the amount of overpayment to Concessionaire within thirty (30) days of said audit.

#### ARTICLE XIII - NOTICES OF PRICES

Concessionaire shall provide the CRA with a statement of prices of goods and services provided pursuant to this Agreement within fifteen (15) days of a written request for said prices by the CRA.

#### ARTICLE XIV - SECURITY DEPOSIT

Prior to commencing operations pursuant to this Agreement, Concessionaire must post with the CRA, a security deposit or letter of credit in the amount of \$1,000 to cover Concessionaire's performance of all of its monetary or other obligations to the CRA hereunder for the entire term. If a letter of credit is to be provided by Concessionaire in lieu of a security deposit, it shall be in a form and from an institution acceptable to the CRA.

The deposit will be returned in full without interest at the termination of the Agreement upon verification by the CRA that the Concessionaire is in compliance with terms and obligations herein. The CRA may, but will not be obligated to, apply all or portions of the deposit on account of Concessionaire's obligations.

#### ARTICLE XV - INSURANCE AND INDEMNIFICATION

At all times during this Agreement the Concessionaire shall procure and maintain insurance of the types and to the limits specified. The term CRA as used in this Article is defined to mean the Community Redevelopment Agency of the City of Pensacola itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents. The term CRA is also defined to mean the City Council of the City of Pensacola in its capacity as the Community Redevelopment Agency, the City of Pensacola itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents.

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

1. Worker's Compensation. Concessionaire shall purchase and maintain Worker's Compensation Insurance Coverage for all Worker's Compensation obligations legally required by law. Additionally, the policy, or separately obtained policy, must include Employer's Liability Coverage of at least One Hundred Thousand Dollars (\$100,000) each person-accident, One Hundred Thousand Dollars (\$100,000) each person disease and Five Hundred Thousand Dollars (\$500,000) aggregate-disease.



2. Commercial General, Automotive, and Umbrella Liability Coverage. The Concessionaire shall purchase coverage on forms no more restrictive than the latest editions of the Commercial General Liability policies filed by the Insurance Services Office. The CRA shall be an Additional Insured 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. The CRA shall not be considered liable for premium payment, entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. If the required limits of liability required should become impaired by reason of any claim, then the Concessionaire agrees to have such limits reinstated under the policy.

- Commercial General Liability. Coverage must be provided, including bodily injury and property damage liability for the concession area, operations, products and completed operations, and independent contractors. The coverage shall be written on an occurrence-type basis. Minimum limit of \$1,000,000 per occurrence and in the aggregate must be provided. Fire Legal Liability insurance must be endorsed on this policy with a minimum limit of \$100,000 per occurrence. The CRA must be listed as an additional insured.
- Automobile Liability Insurance. Coverage must be provided, including bodily injury and property damage arising out of operation, maintenance, or use of owned, non-owned and hired automobiles as applicable. Minimum limits of \$300,000 CSL must be provided.
- 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.
- Liquor Liability Insurance. If alcohol will be furnished, sold or consumed at the concession area, Liquor Liability Insurance must be provided, including coverage for bodily injury and property damage arising out of the furnishing of alcoholic beverages. Minimum limits for this coverage are \$1,000,000 each common cause and in the aggregate. The CRA must be listed as an additional insured.

When alcoholic beverages are to be furnished, sold or consumed at the concession area, the Concessionaire shall not furnish, or sell to or permit its employees, servants, subcontractors, or agents to furnish or sell alcoholic beverages to, or to allow such alcoholic beverages to be consumed by any person who is not lawful drinking age and shall take responsible actions necessary to avoid serving any person habitually addicted to the use of any or all alcoholic beverages, or any person who is, or who would reasonably be expected to be intoxicated. Further, the Concessionaire shall comply whether legally required to do so or not, with Florida Statute 561.705, "Responsible Vendor Qualifications."

3. Property Insurance. To the extent it is available, the CRA will maintain property insurance on the insurable portions of the concession area. The CRA will not maintain property insurance on Concessionaire's contents.

4. Certificates of Insurance. Required insurance shall be documented in the Certificates of Insurance which provide that the CRA shall be notified at least thirty (30) days in advance of cancellation, non-renewal or adverse change or restriction in coverage. The Community Redevelopment Agency and the City of Pensacola shall be named in each Certificate as an Additional Insured and this Agreement shall be listed. If required by the CRA, Concessionaire shall furnish copies of Concessionaire's insurance policies, forms, endorsements, jackets and items forming a part of, or relating to such policies. Certificates shall be on the "Certificates of

Insurance” form equal to, as determined by the CRA, an ACORD 25. Concessionaire shall replace any canceled, adversely changed, restricted or non-renewed policies with new policies acceptable to the CRA and shall file with the CRA 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 CRA, Concessionaire shall, upon instructions of the CRA, cease all operations under the Concession Agreement until directed by the CRA, in writing, to resume operations.

5. Insurance of Concessionaire Primary. Concessionaire required coverage shall be considered primary, and all other insurance shall be considered as excess, over and above Concessionaire’s coverage. Concessionaire’s policy of coverage will be considered primary as it relates to all provisions of the Concession Agreement.
6. Loss Control and Safety. Concessionaire 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 concession area and the manner in which such activities shall be undertaken and to that end, Concessionaire shall not be deemed to be an agent of the CRA. Precaution shall be exercised at all times by Concessionaire for the protection of all persons, including employees and property. Concessionaire shall make special effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.
7. Hold Harmless. Concessionaire shall hold harmless the CRA, City of Pensacola, its subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents from any and all claims, suits, actions, damages, liability and expense in connection with loss of life, bodily or personal injury, or property damage including loss of use thereof, directly or indirectly caused by, resulting from, arising out of, or occurring in connection with this Concession Agreement, whether occasioned wholly, or in part, by negligence of Concessionaire. Concessionaire’s obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.
8. Payment on Behalf of CRA. Concessionaire agrees to pay on behalf of the CRA, as well as provide a legal defense for the CRA, both of which will be done only if and when requested by the CRA, for all claims as described in the Hold Harmless subparagraph. Such payment on behalf of the CRA shall be in addition to any and all other legal remedies available to the CRA and shall not be considered to be the CRA’s exclusive remedy.

#### ARTICLE XVI - CONDITION OF CONCESSION AREA

The concession area is accepted by Concessionaire “AS IS”, without any additional services or improvements to be rendered by CRA. Neither the CRA nor the CRA’s officers, employees or agents have made any representations or promises whatsoever with respect to the concession area or services to the concession area or services to be provided by the CRA in connection with the use, except as expressly set forth herein. The acceptance of permission to the concession area “as-is” by the Concessionaire shall be conclusive evidence that the concession area existed in an acceptable and safe condition at the time of acceptance by the Concessionaire regardless of any subsequent claim by the Concessionaire to the contrary. The CRA shall have the right to construct or install over, in, under, or through the concession area new lines, pipes, mains, wires, conduits and

equipment, provided, however, that such repair, alteration, replacement, or construction shall not unreasonably interfere with Concessionaire's use of the concession area. The CRA will repair any damage resulting from such CRA activities.

#### ARTICLE XVII - CONCESSIONAIRE'S IMPROVEMENTS

Concessionaire may at Concessionaire's sole cost and expense install or construct within the concession area additional improvements necessary to transact Concessionaire's business under this Agreement. Title to the improvements shall vest with the CRA upon completion. However, Concessionaire shall not construct any improvements or alterations or alter or add to any improvements without prior written consent of CRA. Concessionaire shall submit to CRA detailed plans and specifications for any contemplated improvements or alterations, any permanent interior improvements, and any fixture.

#### ARTICLE XVIII - UTILITIES, MAINTENANCE AND CUSTODIAL SERVICES

Utilities. The CRA shall provide, at no cost to the Concessionaire, existing plumbing, sewer, gas and electrical conduits and installations to the concession area. Any additional requirements shall be the responsibility of the Concessionaire. The Concessionaire shall be required to construct all improvements and install all furnishings, equipment, fixtures, etc. that may be required for its operation. The CRA 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 to the concession area as needed. Throughout the term of this Agreement, the Concessionaire shall not render any utility lines inaccessible. Concessionaire shall be responsible for the maintenance and repair of all utility lines from the above referenced point up to and including the distribution system inside the concession area. The CRA reserves the right to invoice the Concessionaire for utilities used by Concessionaire. The Concessionaire shall be solely responsible for the cost of telephone services from the concession area and shall obtain a separate account accordingly. The CRA reserves the right to install, maintain, repair, replace, or remove and replace any utility lines located on the concession area as necessary or appropriate, along with the right to enter the concession area at all reasonable times in order to accomplish the foregoing, provided, however, that the CRA shall take reasonable precautions to avoid the disruption of the Concessionaire's authorized activity.

Maintenance. During the term of this Agreement, the CRA shall provide, at its expense, (a) structural repairs to the roof, floor, exterior walls and windows of the concession area, and (b) general maintenance and upkeep of the Plaza de Luna open park area. The CRA agrees to keep and maintain in reasonable condition all trunk water and sewer mains, supply mains and electrical power to the concession area. Should the CRA be required to make any repairs or improvements under the provisions herein contained, the CRA shall not be liable to Concessionaire for any damage caused by disrepair of any kind until the CRA has had reasonable opportunity to perform repairs after being notified in writing of the need for same by Concessionaire.

Concessionaire, at its own expense shall maintain and repair all interior and exterior areas assigned for the concession, including all equipment and furnishings therein. Concessionaire shall be required to keep all such areas in good operating condition and repair at all times. Items the Concessionaire shall be required to maintain and make necessary repairs to shall include, but not be limited to, the interior windows; doors and entrances; storefronts; signs; floor coverings; interior walls and ceilings;

the interior surface; the surfaces of interior columns exclusive of structural deficiencies; and lighting within the concession area and serving Concessionaire.

Custodial. Concessionaire agrees to keep all of the concession area 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 Concessionaire will deposit all trash and debris resulting from its operations in the concession area in containers approved by the CRA. Concessionaire agrees to provide, at its own expense, such janitorial and cleaning services and supplies for the maintenance of the concession area. Concessionaire also agrees to keep and maintain the concession area in a clean, neat and sanitary condition and attractive appearance and shall additionally provide: (a) building exterior window cleaning, (b) pest control services for the concession area and (c) waste disposal.

General. Should Concessionaire fail to maintain the concession area in conformance with the terms and conditions of this article within a period of seven (7) days following written notice of such failure, the CRA reserves the right to take any action to cure said failure. Should the CRA take action to cure failures, the Concessionaire shall pay to the CRA an amount equal to the CRA's cost for such actions plus a ten percent (10%) administrative charge.

#### ARTICLE XIX - SIGNS

Concessionaire agrees that no signs, logos, or advertising displays shall be painted on or erected in any manner upon the concession area, or in or on any improvements or additions on the concession area, without the prior written approval of the CRA, and said approval shall not be unreasonably withheld; and that signs identifying Concessionaire shall conform to reasonable standards established by the CRA, with respect to type, size, design, condition and location.

#### ARTICLE XX- DAMAGE TO CONCESSION AREA

Concessionaire shall be liable for any damage to the concession area and fixtures therein and to the structure or improvements and to any improvements thereon caused by Concessionaire, its partners, officers, agents, employees, invitees, contractors, subcontractors, assigns, or anyone acting under its direction and control, ordinary wear and tear excepted. All repairs for which Concessionaire is liable shall be made by Concessionaire with due diligence and in a manner acceptable to the CRA unless the CRA determines that it is more appropriate for the CRA to make the repairs. In such a case, the CRA shall make the repairs at Concessionaire's expense. All repairs for which Concessionaire is liable and which are not undertaken after the CRA has given Concessionaire notice to so do shall be performed by the CRA, in which event Concessionaire shall reimburse the CRA for the cost thereof, plus a ten percent (10%) administrative charge, and said amount shall be due no later than the date of the next minimum guarantee payment.

The CRA shall not be liable to Concessionaire, the Concessionaire's employees, patrons, or vendors for any damage to their merchandise, trade fixtures, or personal property caused by water leakage from the roof, water lines, sprinkler, or venting equipment unless caused by the sole negligence of the CRA, its employees or agents.

#### ARTICLE XXI - REPAIRS

In the event that structural or permanent portions of the concession area shall be partially damaged by fire or other casualty, Concessionaire shall give immediate notice thereof to the CRA Administrator.



The same shall be repaired at the expense of the CRA unless fire or other casualty is the fault of Concessionaire, its partners, officers, agents, employees, invitees, contractors, subcontractors, assigns, or anyone acting under its direction and control, in which case Concessionaire shall be liable for expense of the repairs. In any event, the CRA shall proceed with the repairs without unreasonable delay unless the CRA determines that the damage is so extensive that repair or rebuilding is not feasible.

From the date of such casualty until the concession area is repaired, monthly minimum privilege payments hereunder, but not the payment of the percentage of gross receipts, shall abate in such proportion as the part of the concession area so destroyed or rendered inoperable bears to the concession area assigned, provided, however, that if a portion of the concession area shall be so slightly damaged in any such casualty as not to be rendered unfit for occupancy, the monthly minimum privilege payments hereunder shall not cease or be abated during any repair period.

In the event that the damage to the concession area should be so extensive as to render it inoperable, the monthly minimum privilege payments for such area shall cease until such time as it shall again be put in repair. However, in the event the concession area are damaged by fire or other casualty to such an extent as to render it necessary in the sole discretion of the CRA not to rebuild the same then, at the option of the CRA and upon notice to Concessionaire, this Agreement as it applies to said concession area shall cease and come to an end, and the privilege and percentage payments hereunder shall be apportioned and paid up to the date of such damage. If the CRA elects to rebuild said concession area, the CRA shall notify Concessionaire of such intention within thirty (30) days of the date of the notice of damage; otherwise the Agreement as it applies to said concession area shall be deemed canceled and of no further force or effect.

The CRA's obligations to rebuild or repair the concession area under this Article shall in any event be limited to restoring the concession area to substantially the condition that existed prior to the commencement of construction of improvements by Concessionaire. Concessionaire agrees that if the CRA elects to rebuild or repair as provided in this Article, then Concessionaire will proceed with reasonable diligence and, at its sole cost and expense, rebuild, repair and restore its signs, fixtures, furnishings, equipment, improvements and other items provided or installed by Concessionaire, in or about the concession area, in a manner and to a condition at least equal to that which existed prior to its damage or destruction.

Prior to making any repairs other than to its own equipment, Concessionaire shall discuss the same with the CRA Administrator to determine whether the CRA shall make repairs to the concession area using CRA's personnel and charging Concessionaire its standard rates for such service, including overhead, and including all costs for materials. Should the CRA elect not to perform the repairs to the concession area then all work performed by Concessionaire must be inspected and approved by the CRA Administrator or his/her designated representative.

All repairs performed by Concessionaire, or on its behalf by an authorized contractor, shall be of first class quality in both materials and workmanship. All repairs, and the use of an independent contractor shall be made in conformity with the rules and regulations prescribed from time to time by federal, state, or local authorities having jurisdiction over the work in the concession area.

## ARTICLE XXII - DEFAULT AND REMEDIES

The following shall constitute defaults by Concessionaire:

1. As the provision of concessions as contemplated herein is a material inducement to this Agreement, any failure by Concessionaire to perform any covenant or obligation required by this Agreement, specifically such regarding provision of services, hours of operation and other terms made to ensure a high quality concessions operation for the City of Pensacola Plaza de Luna Park, and the failure to cure said default within a period of five (5) days following written notice of said default.
2. The failure to pay any fees owed under this Agreement, or under any other agreement between the CRA and Concessionaire, when due, and the failure to cure said default within a period of thirty (30) days following written notice of said default.
3. The failure to perform any other conditions, not related to the provision of concessions, and non-monetary in nature, and the failure to cure said default within a period of thirty (30) days following written notice of said default.
4. Concessionaire undertakes any other commercial or non-commercial service or activity not specifically permitted under this Agreement.
5. If during the term of this Agreement Concessionaire shall:
  - (a) Apply for, or consent to the appointment of a receiver, trustee, or liquidator of all or a substantial part of its interests;
  - (b) File a voluntary petition in bankruptcy, or admit in writing its inability to pay its debts as they come due;
  - (c) Make a general assignment for the benefit of creditors;
  - (d) File a petition or an answer seeking reorganization or arrangement with creditors or to take advantage of an insolvency law;
  - (e) File an answer admitting the material allegations of a petition filed against any said assignee or sub-lessee in any bankruptcy, reorganization or insolvency proceedings; or if during the term of this Agreement an order, judgment, or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating Concessionaire bankrupt or insolvent,

or approving a petition seeking a reorganization of Concessionaire, and such order, judgment, or decree shall continue un-stayed and in effect for any period of ninety (90) consecutive days.

6. Abandonment of Concessionaire's operations, which shall be defined as Concessionaire's failure to conduct regular and continuing operations in accordance with the requirements of this Agreement for one (1) month.
7. The management, ownership, or operation of the Concessionaire should change to such an extent that it would not satisfactorily perform, then the CRA shall have the right to terminate this Agreement.

If Concessionaire defaults, the CRA may utilize any one or more of the following remedies against Concessionaire. These remedies shall be considered cumulative and not in the alternative:

1. The CRA may sue for specific performance;
2. The CRA may sue for all damages incurred by the CRA, including incidental damages, consequential damages and attorney's fees;
3. The CRA may utilize a portion of or all of the security deposit provided by Concessionaire to remedy the default and to reimburse the CRA for any damages, including attorney's fees and other expenses of collection that it may sustain. In such event, Concessionaire shall not be permitted to resume operations under this Agreement until such time as it furnishes another performance security that satisfies the requirements of Article XII. However, this Agreement shall not be deemed terminated during said period, unless written notice of termination shall have been given and become effective in accordance with subparagraph 4, below. Concessionaire shall be required to fulfill all of the terms and conditions of this Agreement, including the payment of guaranteed minimum privilege fees and percentage fees arising during the time it takes to procure the bond.
4. The CRA may terminate this Agreement, and, at the option of the CRA, any other agreement in effect between the CRA and Concessionaire. The termination of these agreements, however, shall only be effective upon written notice of same provided by the CRA to Concessionaire. In no event shall this Agreement be construed to be terminated unless and until such notice is provided. The termination may be effective immediately upon provision of said notice, or at any other time specified in the notice. If this Agreement is terminated, Concessionaire shall continue to be liable for the performance of all terms and conditions, specifically including those contained in Article XV, INSURANCE AND INDEMNIFICATION, above, and the payment of all fees due hereunder prior to the effective date of said termination, in addition to all damages, including attorney's fees and other expenses of collection, incurred by the CRA as a result of any default.
5. Without terminating the Agreement by so doing, and without further notice to Concessionaire, the CRA may re-enter the concession area with or without process of law, repossess the concession area and all fixtures and improvements thereon, and remove Concessionaire and any third parties who may be occupying or within the concession area and all of their respective personal property, by using either such reasonable force as may be necessary, summary

proceedings, ejectment, or any other means the CRA, in its sole discretion, deems appropriate without being deemed guilty of trespass, eviction, or forcible entry and detainer by so doing. In such case, the CRA shall be obligated to attempt, in good faith, to negotiate the re-letting of the concession area, and any improvements thereon, or any portion thereof, on behalf of Concessionaire, for such period of time and upon such terms and conditions as the CRA deems appropriate. The CRA shall in no way be obligated under the terms of this subparagraph to re-let all or any portion of the concession area, or any improvement thereon, to any third party, or upon terms and conditions that are not acceptable to the CRA, or which the CRA, in its sole discretion, does not feel to be in the best interests of the CRA; nor shall the CRA be responsible for any failure of the sub-Concessionaire or new Concessionaire to pay rent or to perform any other conditions due upon such re-letting. Concessionaire hereby expressly authorizes the CRA to make any reasonable repairs necessary to re-let the concession area, or any improvements thereon, on Concessionaire's behalf. Assuming the CRA attempts to re-let the concession area in good faith, whether or not the CRA is able to re-let the concession area, Concessionaire shall remain liable for the performance of all terms and conditions of the Agreement and the payment of all fees due under the terms of the Agreement for the remainder of the Leasehold term, although Concessionaire shall receive credit for any fees paid or conditions performed as a result of subletting. Concessionaire shall also be responsible for reimbursing the CRA for all costs and expenses the CRA incurs in re-letting or attempting to re-let the concession area, including commission/broker fees and reasonable repair costs. Finally, if, as a result of such re-letting, the CRA becomes entitled to receive excess fees or other benefits over and above what the CRA would have been entitled to receive under this Agreement, the CRA shall be entitled to retain all such surplus fees and other benefits, and Concessionaire shall have no rights or interest therein.

6. The CRA may utilize any other remedy provided by law or equity as a result of Concessionaire's default(s).

In the event of a bankruptcy filing by or on behalf of Concessionaire as debtor, the parties hereto agree that this Agreement shall be construed to be a nonresidential lease of real property subject to treatment in accordance with 11 U.S.C., Section 365(d).

#### ARTICLE XXIII - TERMINATION WITHOUT CAUSE

CRA may terminate this agreement without cause upon thirty (30) days prior written notice. The CRA shall not be responsible to the Concessionaire for any lost profits, expenses, liabilities or claims whatsoever that may result from termination by the Concessionaire or the CRA pursuant to this Article.

#### ARTICLE XXIV - INSPECTION

The CRA and its authorized officers, employees, agents, contractors, subcontractors and other representatives shall have the right to enter upon the concession area for the following purposes:

1. To inspect the concession area to determine whether Concessionaire has complied with and is complying with the terms and conditions of this Agreement.
2. To perform maintenance and make repairs in any case where Concessionaire is obligated but has failed to do so.



3. To perform any and all things which the Concessionaire is obligated to and has failed after reasonable notice so to do.
4. In the exercise of CRA or City of Pensacola's police powers.

#### ARTICLE XXV - QUIET ENJOYMENT

The CRA represents that upon payment of fees when due and upon performance of all other conditions herein, Concessionaire shall peaceably have, possess and enjoy the concession area and uses herein granted without hindrance or disturbance from the CRA, subject to the CRA's audit, inspection, relocation and rights discussed elsewhere herein.

#### ARTICLE XXVI - NON-DISCRIMINATION

1. Concessionaire, for itself, its personal representatives, successors in interest, assigns and 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 concession area and any improvements thereon; and (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 concession area and the furnishing of services therein;
2. Concessionaire shall furnish its accommodations and/or services on a fair, equal, and non-discriminatory basis to all users thereof and it shall charge fair, reasonable, and non-discriminatory prices for each unit or service, PROVIDED THAT Concessionaire may be allowed to make reasonable and non-discriminatory discounts, rebates, or other similar type of price reductions to volume purchasers.
3. Concessionaire shall make its accommodations and/or services available to the public on fair and reasonable terms without unjust discrimination on the basis of race, creed, color, sex, age, national origin, or disability.
4. Non-compliance with subparagraphs A, B, or C, above, after written finding, shall constitute a material breach thereof and in the event of such non-compliance the CRA shall have the right to terminate this Agreement and the estate hereby created without liability therefore or at the election of the CRA or the United States either or both said Governments shall have the right to judicially enforce said subparagraphs A, B, and C.
5. Concessionaire assures that it will undertake an affirmative action program as required by 14 C.F.R. Part 152, Subpart E, to ensure that no person shall on the grounds of race, creed, color, national origin, sex or disability be excluded from participating in any employment activities covered in 14 C.F.R. Part 152, Subpart E. Concessionaire assures that no person shall be excluded on these grounds from participating in or receiving the services or benefits of any program or activity covered by this subpart. Concessionaire assures that it will require that its covered sub-organizations provide assurances to Concessionaire that they similarly will undertake affirmative action programs and that they will require assurances from their sub-organizations as required by 14 C.F.R. Part 152, Subpart E, to the same effect.

ARTICLE XXVII - AUTHORIZATION

The CRA represents that it has the authority to enter into this Agreement and grant the rights contained herein to Concessionaire.

If Concessionaire is a limited or general partnership, the undersigned warrants and represents that (1) he/she is a general partner or agent 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 signator to this Agreement in the same fashion as if all of the general partners of the partnership had executed this Agreement.

If 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 signator to this Agreement by his/her execution of it.

ARTICLE XXVIII - WAIVER

Should Concessionaire breach any of its obligations hereunder, the CRA nevertheless may thereafter accept from Concessionaire any payment or payments due hereunder, and continue this Agreement in effect, without in any way waiving the CRA's right to exercise its default rights hereunder, or any other remedies provided by law, for said breach. In addition, any waiver by the CRA of any default, breach, or omission of Concessionaire under this Agreement shall not be construed as a waiver of any subsequent or different default, breach, or omission.

ARTICLE XXIX - NOTICES

All notices by either party to the other shall be made either by utilizing the registered or certified mail of the United States of America, postage prepaid, or by utilizing 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 utilization.

**All notices to the CRA shall be mailed to:**

CRA Administrator  
Community Redevelopment Agency, City of Pensacola  
222 W. Main St., 3<sup>rd</sup> Floor  
Pensacola, Florida 32502

**All notices to Concessionaire shall be mailed to:**

Shawn Goad, Owner  
DeLuna's Chat and Chew, LLC.  
8130 Banberry Road  
Pensacola, FL 32514

The parties from time to time may designate in writing changes in the address stated.

ARTICLE XXX - RELATIONSHIP OF PARTIES

It is understood that the CRA is not in any way or for any purpose partner or joint-venturer with, or agent of, Concessionaire in the use of the concession area.

#### ARTICLE XXXI - PARTIAL INVALIDITY

If any term or condition of this Agreement or the application thereof to any person or event shall to any extent be deemed invalid and unenforceable, the remainder of this Agreement and the application of such term, covenant, or condition to persons or events other than those to which it is held unenforceable shall not be affected and each term, covenant and condition of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

#### ARTICLE XXXII - SUCCESSORS

The provisions, covenants and conditions of this Agreement shall bind and inure to the benefit of the legal representatives, successors and assigns of each of the parties.

#### ARTICLE XXXIII - ASSIGNMENT

Concessionaire shall not assign its interest herein without the written consent of the CRA. The CRA's consent shall not be unreasonably withheld. If an assignment is made, Concessionaire/Assignor shall continue to be liable, jointly and severally, with the Assignee for the fulfillment of all terms and conditions arising under this Agreement subsequent to the assignment, unless the CRA specifically releases Concessionaire/Assignor from said future liability, in writing. The release shall be effective only if made in writing. All subsequent assignors and assignees shall be subject to this Article as if they were the original Concessionaire.

#### ARTICLE XXXIV - NO SUBLEASE

Concessionaire shall not sublease any portion of this Agreement or the concession area.

#### ARTICLE XXXV - ATTORNEY'S FEES

In the event of a breach of this Concession Agreement by Concessionaire, Concessionaire shall pay to the CRA all reasonable attorney's fees, costs and other expense incurred by the CRA in enforcing its rights as a result of said breach, otherwise, the prevailing party in any action, claim or proceeding arising out of this Agreement shall be entitled to attorney's fees and costs from the losing party.

#### ARTICLE XXXVI - SURRENDER UPON TERMINATION

The City owns the land and the buildings and improvements on the concession area. Upon expiration or termination of the term, all buildings, fixtures and other improvements built on, or made to, the concession area by the Concessionaire shall remain on the concession area and shall immediately become the exclusive property of the CRA except that, if so requested by the CRA, the Concessionaire shall remove any buildings, fixtures or other improvements built on or made to the concession area by Concessionaire within ten (10) days after the expiration of the term. Upon surrender of the concession area, Concessionaire shall remove all equipment, trade fixtures and personal property belonging to it or leased from third parties which have not assumed the characteristics of a permanent fixture. All personal property of Concessionaire not removed from the concession area upon termination or natural expiration of this Agreement shall be deemed abandoned and shall become property of the CRA, unless the CRA elects not to assume ownership, in which case the CRA may dispose of the same or store the same for Concessionaire's benefit, in either case at Concessionaire's sole cost and expense.

ARTICLE XXXVII – RESERVED

ARTICLE XXXVIII - RENEWAL

Concessionaire has no guaranteed or preferential right, as against other third parties, of re-letting the concession area following the termination of this Agreement. No less than six (6) months prior to the expiration of the initial Term, Concessionaire may request renewal of the Agreement by giving written request to CRA, provided that Concessionaire is not in default of any of the provisions of this Agreement. Should the CRA, in the CRA's sole discretion, approve the renewal request, the Agreement may be renewed for one (1) year commencing the day after the initial Term expires.

ARTICLE XXXIX - GOVERNING LAW

The law of the State of Florida shall be the law applied in the resolution of any action, claim or other proceeding arising out of this contract.

ARTICLE XL - VENUE

Venue for any claim, action or proceeding arising out of this contract shall be Escambia County, Florida.

ARTICLE XL - COMPLIANCE WITH RULES AND REGULATIONS

It is expressly understood that the Concessionaire agrees to conform to all Federal, State, and 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 CRA is to be held free and harmless from any act or failures by the Concessionaire to do so.

The Concessionaire shall obtain and maintain in force all licenses, permits and other certificates required by federal, state, county, or municipal authorities for its operation under the terms of this Agreement.

If the CRA incurs any fines and/or penalties imposed by Federal, State, County, or Municipal authorities as a result of the acts or omissions of Concessionaire, its employees, invitees, agents and guests, then Concessionaire shall be responsible to pay or reimburse the CRA for all such costs and expenses.

ARTICLE XLI - PUBLIC RECORDS

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.

ARTICLE XLII - HOLDING OVER

If Concessionaire continues to access the concession area after the expiration of this Agreement without any written renewal thereof, such holding over shall not be deemed as a renewal or extension of this Agreement but shall create only a tenancy from month-to-month which may be terminated at any time by the CRA upon thirty (30) days written notice. Such holding over shall otherwise be upon the same terms and conditions as set forth in this Agreement.



ARTICLE XLIII - HEADINGS

The headings contained in this Agreement are inserted only as matter of convenience and for reference and do not define or limit the scope or intent of any provision of this 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.

ARTICLE XLIV - ENTIRE AGREEMENT

This writing, together with the attached Exhibits, constitutes the entire agreement of the parties. This Agreement supersedes all prior concession agreements, if any, between the CRA and Concessionaire, and no representations, warranties, inducements, or oral agreements that may have been previously made between the parties shall continue in effect unless stated herein. This Agreement shall not be modified except in writing, signed by the CRA and Concessionaire.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in triplicate and sealed the day and year first above written.

**Community Redevelopment Agency of  
the City of Pensacola, Florida**

Attest:

Jewel Cannada-Wynn  
Jewel Cannada-Wynn, CRA Chair

Erica L. Burnett  
City Clerk

**DeLuna's Chat and Chew, LLC.**



Shawn Goad  
Member

Yaju Goad  
Member

Printed Name: Shawn Goad

Printed Name: Yaju Goad

*CORPORATE SEAL*

Approved as to substance:

Legal in form and valid as drawn:

M. Helen Gibson  
M. Helen Gibson, CRA Administrator

Dydia H. Bowling  
City Attorney

**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, 222 WEST MAIN STREET, PENSACOLA, FL 32502.**

EXHIBIT A  
**CONCESSION SERVICES**

***Background***

Completed in 2007, Plaza de Luna was constructed on the site of the former Bayfront Auditorium. This 2+ acre park at the terminus of Palafox overlooking Pensacola Bay features generous lawns, onsite parking with a circular drive, and approximately 1,800 lineal feet of waterfront accessibility (including 600 lineal feet at the breakwater. Approximately 1,200 lineal feet of the waterfront is available for fishing.) The Pensacola City Council named the new park for Don Tristan de Luna, the Spanish explorer who established Pensacola in 1559 as the first European settlement in the United States.

The public enjoys numerous casual activities including fishing, jogging, strolling, interactive fountain play, kite flying and Frisbee. City-permitted special events are held at the park and adjacent areas throughout the year, including fishing tournaments, weddings, visiting ships/marine vessels, festivals, and concerts. Thousands of vehicles drive through Plaza de Luna each day, and hundreds of downtown employees are located within walking distance of the park. A concession and restroom facility was constructed in 2009 to complement and enhance the public enjoyment of the plaza. The facility is designed for counter service from two sides of the building, features additional patio space, waterfront and park views, and provides restroom facilities as required for the operation of the adjacent interactive fountain.

While concerned with revenue from its concessions, the CRA is also concerned with meeting the following objectives in this concession program:

- Providing a high level of service to Plaza de Luna visitors.
- Enhancing the image of the Plaza with residents and visitors.
- Enlivening public space through the establishment of family-friendly facilities.
- Providing a clean and secure public restroom for year-round access by the public.

***Grant of Use***

The Concessionaire shall have the right to use the premises solely for the operation of a food service, general merchandise concession, and related services as authorized under the Concession Agreement.

The Concessionaire shall assume the following general obligations:

- Concessionaire shall operate a food service concession including all services reasonably necessary for such operation. General merchandise may also be offered for sale. The Concessionaire shall offer, as a minimum, prepared foods, beverages and an assortment of pre-packaged, single serving individually wrapped snacks and candy items. Alcohol sales may be permitted with a Concessionaire-held restaurant license and accessory 2-COP alcoholic beverage license (beer and wine) from the Florida Department of Business and Professional regulation. Consumption of alcoholic beverages must be contained within the leased premises and may not be allowed in Plaza de Luna. Package alcohol and tobacco sales are prohibited.
- Concessionaire shall sell products only at the initial prices set forth in this Exhibit. Any proposed price increases during the term of the agreement must be forwarded to the CRA for

review and approval prior to implementation. The Concessionaire must provide information substantiating the proposed price increase. When reviewing a request to increase prices, the CRA shall take into account the information substantiating the increase, the amount of the proposed increase, and the amount of time elapsed between the increase request and either the commencement of the concession or any previously approved increases. The CRA shall not unreasonably deny such requests.

- Concessionaire shall provide access to the men's and women's restrooms during the operation of the Plaza's interactive fountain and concession service. Concessionaire shall regularly inspect the restrooms to assure they are clean and maintained for the public during all operational hours and provide all services and supplies necessary for such operation.
- Reserved parking spaces in Plaza de Luna will not be provided

### ***Supplies, Materials and Equipment***

It is the responsibility of the Concessionaire to furnish all services, labor, materials, equipment, tools, insurance, permits, and fees (if any) necessary to render the services as set forth by the CRA. The Concessionaire will be solely responsible for the installation, construction, and furnishing of all items necessary for the operation of the concession. The Concessionaire will also make all required mechanical and electrical installations and connections. All installations shall be in accordance with plans submitted to and approved by the CRA, and/or other City departments as may be applicable. All mechanical and electrical installations and connections shall become the property of the CRA upon installation, except only plug-in connections. Ownership of improvements by the Concessionaire will be governed by the Concession Agreement as executed.

### ***Maintenance***

All maintenance relating to both the interior and exterior areas assigned for the concession, including restroom floors and walls; plumbing fixtures; supply, refill and cleaning of toilet accessories; electrical fixtures; all equipment and furnishings therein, will be the responsibility of the Concessionaire and it will be required to keep the area in good operating condition and repair and to keep such in a clean and neat condition and appearance. In addition, the Concessionaire will cooperate with the CRA and City in the maintenance and upkeep of the adjacent Park areas. The facility must be returned to the CRA at the completion of the Agreement in the same condition as it was provided to the Concessionaire with allowances for reasonable wear and tear.

### ***Utilities***

Due to the unique nature of the Park, the CRA is responsible for the following utilities for the concession and restroom facilities: electric, natural gas, water and sewer. Concessionaire is responsible for all other including but not limited to garbage, telephone, internet access, alarm system, etc.

### ***Concessionaire Information***

**Background:** Shawn Goad currently works for Lowe's Home Improvement store on Airport Blvd, and has been a full time employee there for 10 ½ years as the stores only RTM Clerk. Shawn Goad also helped to start, and is now owner of Barbasian LLC, a local food truck serving a combination of infused American BBQ and Asian cuisine. Shawn Goad is a graduate from

Pensacola Christian College with a B.A. degree in Missions, and minor in Business Management. He is a member of a local church, serving as a Children's Director and Deacon. Shawn is married and has three children.

**Principal Point of Contact:** Shawn Goad, Owner

**Authorized Signer for Contract Obligations:** Shawn Goad

**Principal Office Address:** 8130 Banberry Road, Pensacola FL 32514

**Telephone Number:** 850-512-4887

**Email Address:** shawn.g.delunas@gmail.com

**Business Structure:** Sole Proprietorship

***Concession Operation***

Deluna's Chat and Chew is a walk up concession providing foods and snacks. It serves some of the local favorite foods such as hamburgers, hotdogs, fries, chicken tenders, and lots of Hershey's ice cream. Customers of Deluna's Chat and Chew consist of nearby business employees, locals of Pensacola, and tourists visiting the area.

***Hours of Operation***

The concession and restrooms shall be operated at such hours as to adequately provide a high level of service to the public using the Plaza de Luna. Concessionaire shall keep its operation open seven (7) days per week during the minimum operating hours as defined below. Concessionaire may extend operating hours in excess of the minimum operating hours required but may not reduce or modify the minimum operating hours as set forth below. Written request for closure must be submitted to and approved by the CRA, in the CRA's sole discretion, in advance of closure events.

The minimum operating hours are as follows:

	In Season (April 1 - October 31)	Off-Season (November 1 - March 31)
Monday - Wednesday	10 a.m. to 6 p.m.	10 a.m. to 5 p.m.
Thursday - Sunday	10 a.m. to 8 p.m.	10 a.m. to 5 p.m.

***Management and Organizational Plan***

Employees of Deluna's Chat and Chew are responsible for cashiering, cooking, serving, and cleaning. All employees will be trained and must obtain a Food Safety Certificate. The owner will be present in busy situations, and most special events due to holidays and Plaza De Luna sponsored activities. Upon owner's absence, the head cook is acting supervisor and has the responsibility to carry out operating procedures as trained.

## ***Personnel Policies***

**Dress:** Employees are to dress professional and be well groomed at all times. Hair nets or Ball caps are required to be worn while in designated cooking areas. Shorts can be worn, but must be to the knee. Pants can be worn, but must be loose fit style. Closed toed shoes must be worn at all times.

**Breaks:** (4 Hour Shift) a 15 min paid break is authorized. (8 Hour Shift) two 15 min paid breaks are authorized and one 30 min non-paid lunch. Any Additional breaks for restroom usage are authorized. Employee is required to post away sign if there are no other employees present.

**Food Prep/Recipes:** Employee agrees not to disclose any recipes used in preparing food for Barbasian, LLC or Deluna's Chat and Chew, LLC to include, but not limited to the ingredients and their quantities used in the making of the rub, barbecue sauce, eggrolls, or pork fried rice. These items are unique to Barbasian, LLC, considered proprietary, and should be safeguarded by all employees.

**Security:** Doors are to remain locked at all times. Windows are to remain closed and locked when not in use. Every effort should be made to secure equipment or property of Barbasian, LLC, and/or Deluna's Chat and Chew. Items to be secured include, but are not limited to: iPad, iPhone, Cash, Smoker, Tables, Chairs, Tractor, Dolly, Tables and Chairs, Wood used for Smoking, etc.

**Accidents:** Any and All accidents no matter how seemingly small or severe are to be immediately reported to Management after taking the appropriate steps are taking to ensure the safety of anyone involved of the accident. Call emergency responders first in an emergency situation before calling management.

**Customer Service:** Employee shall closely follow scripting examples released periodically from management. Secret Shoppers, Audio and Video recording devices, and customer reviews will be routinely consulted to ensure the adherence this policy.

**Cell Phone Usage:** Cell phone usage is strictly limited to business use only. Employee understands that calls, text messages, and all other activities are strictly monitored. Employee is to answer any and all calls that come in throughout the scheduled work period. At the end of the work period employee will set the phone to forward calls to management. Employee will adhere to supplied scripting.

**IPad Usage:** iPad usage is strictly limited to business use only. Employee understands that calls, texts messages, and all other activities are strictly monitored.

**Marketing Calls:** For every marketing call employee should notate the basic details of the call: name of the company, name of the individual, what kind of marketing, a call back number, and a good call back time. **NEVER** should employee give out the name of Owner(s) nor their personal cell phone numbers. Violation of this policy will result in immediate employee termination.



**Tips:** All tips are to be reported. Tips will be paid out on a weekly basis. Tips will be shared by all employees working the same shift while at the same location. Employees are to never verbally ask for tips. Employees are to never verbally suggest tipping. Employees may include an attractive and clean tip jar by the ordering window. Management reserves the right to utilize or not to utilize tipping features in conjunction with cash register software.

**Consent to Monitoring:** Employee consents to audio and video surveillance at all times while performing his/her duties as an employee or while at the premises where Barbasian, LLC, and/or Deluna's Chat and Chew conducts business. These locations include, but are not limited to: 2909 N. Pace Blvd., Pensacola, FL 32505 and 920 S. Palafox Street, Pensacola, FL 32505.

**Safety:** Employee is to notify management immediately if he/she does not have the proper equipment to safely complete any task of his/her job. Employee is to immediately clean any spills. This includes cleaning the spill before assisting a customer. Employee is to keep work area clean at all times and free from debris. Employee shall immediately notify management on any and all perceived unsafe conditions.

**Attendance:** Employee is expected to be on time and ready for work according to the printed employee schedule. Employee must be clocked in using Barbasian, LLC, owned devices no later than 59 seconds past the scheduled clock in time. Tardiness will be handled as follows for any rolling, twelve month period. In the event of a tardy, the employee will receive a verbal warning. In the event of a second tardy, the employee will receive a written warning. In the event of a third tardy, the employee will receive one day off, without pay, to be scheduled by management. In the event of a fourth tardy, the employee will receive two days off, without pay, to be scheduled by management. In the event of a fourth tardy, the employee will be terminated from employment with Deluna's Chat and Chew, LLC. Unauthorized Absences are subject to immediate termination of employment. An unauthorized absence occurs when an employee miss's more than one half of his/her scheduled shift without management approval. Employee shall not be eligible for a raise if tardy or absent in the last 30 calendar days.

**Time Off:** All time off requests must be submitted no later than two weeks prior to the date of the time requested off for consideration. All requests are subject to management approval and are not guaranteed.

### ***Operational Policies***

#### **Opening Guidelines:**

1. Warm appliances
2. Warm food
3. Setup cash register with coins, 30 \$1 bills, 10 \$5 bills, and 5 \$10 bills.
4. Turn on open sign by daily advertised open times

**Cash Drawer:** Cash drawer must be accurate. Cash drawer must be within \$.25 of the generated drawer report. Tips are to be calculated on the spot, separated to a different compartment of the drawer, and reported individually. In any 12 month period that there is an error greater than \$.25 management shall take the following steps: First occurrence, Employee shall receive a verbal

warning and receive continued training, focusing on register accuracy. Second occurrence, Employee shall receive a written warning and receive extensive, remedial training, focusing on register accuracy. Third occurrence, Employee shall receive an unpaid day off to be scheduled by management. Fourth occurrence, Employee shall receive unpaid days off to be scheduled by management. Fifth occurrence, Employee's employment is subject to management review for termination. Cash drawer management features must be turned on and in force for each transaction. All transactions, to include employee discounts, are to be conducted through the point of sale system approved by management.

**Cooking:** Employee shall prepare food according to recipes established by management with no alterations. Employee shall prepare food on a daily basis according to the needs established by management. Employee shall abide by established regulatory procedures with preparing, holding, and storing foods, to include, but not limited to proper labeling. Employee shall freeze foods before their expiration date.

**Hot Holding Foods:** Employee shall log temperatures throughout the day as indicated on the supplied form given by management.

**Cleaning:** Employee shall routinely clean the interior and exterior of the work space as stated on the form supplied from management.

**Inventory:** Employee must daily file an inventory report supplied by management.

**Water Disposal:** Employee must daily drain holding tank into designated container to be disposed of properly by management.

**Closing:** Employee shall secure all equipment, cool all hot held foods, and thoroughly clean, rinse, sanitize, and dry all cookware, utensils, and other items used in the cooking process. The interior and exterior should be perfectly cleaned, and sanitized, ready for inspection. Employee shall not leave anything in the work space unclean.

Closing Guidelines:

1. Turn off "OPEN" sign.
2. Turn off "LED" lights.
3. Turn off steam table.
4. Turn off fryers.
5. Turn off bread warmer
6. Wash all dishes.
7. Tag all food with dates
8. Cool all food before putting in cooler.
9. Wipe all countertops and surfaces.
10. Lock all windows.
11. Count and close Register.
12. Sweep floor.
13. Mop floor.



14. Clock out.
15. Turn off all lights.
16. Lock Bathrooms

**Catering:** Employee must be willing to travel occasionally up to 50 miles one way to fulfill catering requests. Management, at its discretion, reserves the right to authorize additional pay to cover traveling expense.

**Schedule:** Management shall post a schedule two weeks in advance. It is the employee's responsibility to monitor and know his/her own schedule. Schedule is subject to change and management will notify employee of schedule changes as they occur. Employee is not guaranteed any particular shift or amount of hours. Employment is seasonal and temporary.

**Time Clock:** Employee shall clock in and clock out using a devices owned by Barbasian, LLC. Devices owned by Deluna's Chat and Chew, LLC are closely monitored and track times and locations of use. Employee shall notify management immediately of any and all time clock errors and/or discrepancies.

**Discounts:** At the discretion of Management, Deluna's Chat and Chew, LLC employees may receive a discount of 50% off their meal or the meal of an immediate family member. The benefit is not to exceed \$50 in any calendar week. Discount must be processed through the established cash management drawer system. This discount is not to extend to friends or relatives outside of employee's immediate household.


**Regulatory Matters:**

- Employee must be able to acquire Food Management Licensure
- Employee must be able to master knowledgeable of the Food Code
- Employee must possess the knowledge and skills required to comply with local, state, and federal regulations.

***Customer Service Philosophy/Mission Statement***

*Deluna's Chat and Chew, and all employees in association with, are committed to serving its customers fresh, hot, and great tasting food, while providing great customer service from start to finish.*

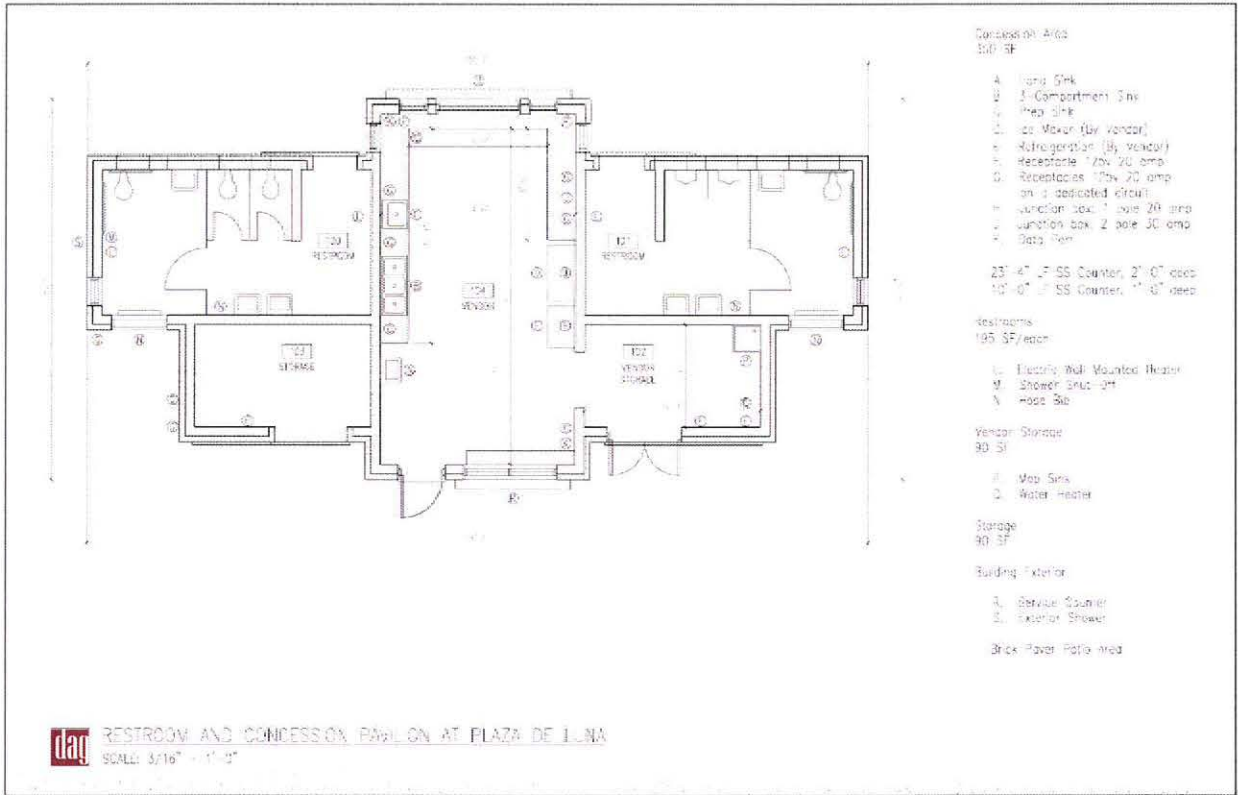
## Products and Menu



<p><b>DELUNA'S ENTREE'S</b> <i>All entree's include a side of fries.</i></p> <p><b>Smoked Pulled Pork Sandwich</b>     \$ 8 <i>Smoked pulled pork loaded onto a bun, drizzled with our homemade BBQ sauce.</i></p> <p><b>Chicken Tenders</b>     \$ 8 <i>Lightly breaded and juicy chicken tenders fried to perfection and served with a sauce of your choice.</i></p> <p><b>Hamburger</b>     \$ 7 <i>Juicy all beef patties, lettuce, tomato, onions, pickles.</i></p> <p><b>Cheeseburger</b>     \$ 8 <i>Juicy all beef patties, Cheese, lettuce, tomato, onions, pickles.</i></p> <p><b>Big Dog</b>     \$ 5 <i>Juicy steamed Natthans dog on a bun.</i></p> <p><b>Big Dog with Chili, Cheese, and Onions</b>     \$ 7<sup>50</sup></p> <p><b>Chicken Tender Sandwich</b>     \$ 8 <i>Juicy tenders loaded on a bun, topped with lettuce, tomato, and onions.</i></p> <p><b>KIDS MENU</b> <i>Includes a bag of chips and a juice box.</i></p> <p><b>Kids Chicken Tenders</b>     \$ 5</p> <p><b>Grilled Cheese on a bun</b>     \$ 5</p> <p><b>SALAD</b></p> <p><b>Chicken Tender Salad</b>     \$ 8 <i>Lettuce, tomato, onion, cheese, pickles, juicy tenders on top.</i></p>	<p><b>SIDES AND FRIES</b></p> <p><b>Egg Rolls</b>     \$ 3 <i>Smoked pulled pork, seasoned, rolled, and fried. Served with our homemade BBQ sauce.</i></p> <p><b>Nachos with cheese</b>     \$ 4 <i>Add chili</i>     \$ 5</p> <p><b>Seasoned Fries</b>     \$ 3 <i>Fried to perfection and sprinkled with seasoning.</i></p> <p><b>Chili and cheese Fries</b>     \$ 5 <i>Seasoned fries loaded with melted cheese and topped with chili and onions.</i></p> <p><b>DeLuna's Ribbon Fries</b>     \$ 5 <i>Add chili</i>     \$ 6</p> <p><b>Loaded Fries</b>     \$ 7 <i>Golden crisp fries topped with smoked pulled pork, melted cheese, chopped onions, and drizzled with our homemade sweet BBQ sauce.</i></p> <p><b>DRINKS</b>     \$ 2<sup>50</sup></p> <table border="0" style="width: 100%;"> <tr> <td>Coke</td> <td>Diet Coke</td> </tr> <tr> <td>Dr. Pepper</td> <td>Sprite</td> </tr> <tr> <td>Lemonade</td> <td>Orange Fanta</td> </tr> <tr> <td>Sweet Tea</td> <td>Unsweet Tea</td> </tr> <tr> <td>Bottled Water (Dasani)</td> <td></td> </tr> <tr> <td>Coffee</td> <td>Hot Chocolate</td> </tr> </table>	Coke	Diet Coke	Dr. Pepper	Sprite	Lemonade	Orange Fanta	Sweet Tea	Unsweet Tea	Bottled Water (Dasani)		Coffee	Hot Chocolate	<div style="text-align: center; margin-bottom: 10px;">  <p><small>View ingredients: Real Ice Cream. Real Toppings.</small></p> </div> <p><b>HERSHEY'S ICE CREAM</b> <i>(Hand-dipped)</i></p> <ul style="list-style-type: none"> <li>• Chocolate</li> <li>• Strawberry</li> <li>• Mint</li> <li>• Superman</li> <li>• Vanilla</li> <li>• Moose Track</li> <li>• Butter Pecan</li> <li>• Featured Flavor?</li> </ul> <table border="0" style="width: 100%;"> <tr> <td><b>Waffle Cone</b></td> <td>Single Scoop</td> <td>\$ 4</td> </tr> <tr> <td></td> <td>Double Scoop</td> <td>\$ 6</td> </tr> <tr> <td><b>Kids Cone</b></td> <td>Single Scoop</td> <td>\$ 3<sup>50</sup></td> </tr> <tr> <td></td> <td>Double Scoop</td> <td>\$ 5<sup>50</sup></td> </tr> <tr> <td><b>Cups</b></td> <td>Single Scoop</td> <td>\$ 3</td> </tr> <tr> <td></td> <td>Double Scoop</td> <td>\$ 5</td> </tr> </table> <p><b>FLOATS</b></p> <table border="0" style="width: 100%;"> <tr> <td>Coke Float</td> <td>\$ 4</td> </tr> <tr> <td>Root Beer Float</td> <td>\$ 4<sup>50</sup></td> </tr> </table>	<b>Waffle Cone</b>	Single Scoop	\$ 4		Double Scoop	\$ 6	<b>Kids Cone</b>	Single Scoop	\$ 3 <sup>50</sup>		Double Scoop	\$ 5 <sup>50</sup>	<b>Cups</b>	Single Scoop	\$ 3		Double Scoop	\$ 5	Coke Float	\$ 4	Root Beer Float	\$ 4 <sup>50</sup>
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*Let us cater your next event. Call us today! (850) 714-2222 Want more? Visit us online! [www.barbasiian.com](http://www.barbasiian.com) 920 Palafox Street, Pensacola, FL 32502*

**EXHIBIT B  
BUILDING LAYOUT**





Memorandum

**File #:** 2020 -03 CRA

Community Redevelopment Agency

9/8/2020

**ACTION ITEM**

**SPONSOR:** Jared Moore, Chairperson

**SUBJECT:**

SUPPLEMENTAL BUDGET RESOLUTION NO. 2020-03 CRA - AMENDING THE FISCAL YEAR 2020 BUDGET

**RECOMMENDATION:**

That the Community Redevelopment Agency adopt Supplemental Budget Resolution No. 2020-03 CRA.

A RESOLUTION OF THE PENSACOLA COMMUNITY REDEVELOPMENT AGENCY APPROVING AND CONFIRMING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

**SUMMARY:**

There are three Tax Increment Financing (TIF) Districts contained within the City of Pensacola's Fiscal Year 2020 Annual Budget; the Urban Core TIF, the Eastside TIF, and the Westside TIF. The Community Redevelopment Agency (CRA) is responsible for using the TIF funds to promote growth, redevelopment, and subsequent property value increases in the Redevelopment Area. TIF funds can only be used to undertake planning and construction of improvements and/or specific projects within the Redevelopment Area or neighborhoods included within the respective plans.

In order to be compliant with Florida Statutes, the CRA is required to approve all budget resolutions involving any TIF District.

The attached Supplemental Budget Resolution adjusts the Allocated Overhead/(Cost Recovery) based on the most recent Full Cost Allocation Study.

**PRIOR ACTION:**

August 5, 2019 - The Community Redevelopment Agency Approved the Fiscal Year 2020 Budget on Budget Resolution No. 2019-06 CRA.

November 12, 2019 - The Community Redevelopment Agency approved an Encumbrance Carryover Budget Resolution on Supplemental Budget Resolution No. 2019-08 CRA.

December 9, 2019 - The Community Redevelopment Agency approved a Non-Encumbered Carryover Budget Resolution on Supplemental Budget Resolution No. 2019-10 CRA.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Adoption of the supplemental budget resolution maintains compliance as required by Florida Statutes pertaining to tax increment financing districts.

**CITY ATTORNEY REVIEW:** Yes

8/28/2020

**STAFF CONTACT:**

Kerrith Fiddler, Deputy City Administrator - Community Development  
M. Helen Gibson, AICP, CRA Administrator  
Amy Lovoy, Finance Director

**ATTACHMENTS:**

- 1) Supplemental Budget Resolution No. 2020-03 CRA
- 2) Supplemental Budget Explanation No. 2020-03 CRA

**PRESENTATION:** No

**CRA RESOLUTION NO. 2020-03 CRA**

A RESOLUTION OF THE PENSACOLA COMMUNITY REDEVELOPMENT AGENCY APPROVING AND CONFIRMING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2020; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE GOVERNING BOARD OF THE COMMUNITY REDEVELOPMENT AGENCY AS FOLLOWS:

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. COMMUNITY REDEVELOPMENT AGENCY FUND**

As Reads:	Operating Expense	5,519,731
Amended		
To Read	Operating Expense	5,561,631
As Reads:	Allocated Overhead/(Cost Recovery)	183,900
Amended		
To Read	Allocated Overhead/(Cost Recovery)	142,000

**B. EASTSIDE TIF FUND**

As Reads:	Operating Expenses	380,985
Amended		
To Read	Operating Expenses	381,385
As Reads:	Allocated Overhead/(Cost Recovery)	14,900
Amended		
To Read	Allocated Overhead/(Cost Recovery)	14,500

**C. WESTSIDE TIF FUND**

As Reads:	Operating Expenses	309,375
Amended		
To Read	Operating Expenses	309,075
As Reads:	Allocated Overhead/(Cost Recovery)	8,000
Amended		
To Read	Allocated Overhead/(Cost Recovery)	8,300

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 immediately upon adoption.

Adopted: \_\_\_\_\_

Approved: \_\_\_\_\_  
Chairman, CRA

Attest:

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

**THE CITY OF PENSACOLA  
COMMUNITY REDEVELOPMENT AGENCY  
SEPTEMBER 2020 SUPPLEMENTAL BUDGET RESOLUTION NO. 2020-03 CRA**

FUND	AMOUNT	DESCRIPTION
<b>A. COMMUNITY REDEVELOPMENT AGENCY FUND</b>		
Appropriations:		
Operating Expenses	41,900	Increase appropriation for Operating Expenses
Allocated Overhead/(Cost Recovery)	(41,900)	Adjust appropriation for Allocated Overhead/(Cost Recovery)
Total Appropriations	<u>0</u>	
<b>B. EASTSIDE TIF FUND</b>		
Appropriations		
Operating Expenses	400	Increase appropriation for Operating Expenses
Allocated Overhead/(Cost Recovery)	(400)	Adjust appropriation for Allocated Overhead/(Cost Recovery)
Total Appropriations	<u>0</u>	
<b>C. WESTSIDE TIF FUND</b>		
Appropriations		
Operating Expenses	(300)	Increase appropriation for Operating Expenses
Allocated Overhead/(Cost Recovery)	300	Adjust appropriation for Allocated Overhead/(Cost Recovery)
Total Appropriations	<u>0</u>	