



City of Pensacola

Agenda Conference

Agenda

Monday, May 24, 2021, 3:30 PM

Hagler Mason Conference Room,
2nd Floor

Members of the public may attend the meeting in person; however there will be limited seating capacity. Consistent with CDC guidelines, attendees will be encouraged to sit at least 6 feet apart and wear face coverings that cover their nose and mouth.

The meeting can be watched via live stream at cityofpensacola.com/428/Live-Meeting-Video.

ROLL CALL

PRESENTATION ITEMS

1. [21-00411](#) PRESENTATION - FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP) RESILIENT COASTLINES PROGRAM - ERIN DEADY

Recommendation: That City Council receive a presentation from Erin Deady regarding the Florida Department of Environmental Protection (FDEP) Resilient Coastlines Program and Resilience Planning Grant received by the City.

Sponsors: Grover C. Robinson, IV

REVIEW OF CONSENT AGENDA ITEMS

2. [21-00398](#) APPOINTMENTS - CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

Recommendation: That City Council appoint to the Construction Board of Adjustment and Appeals an electrical contractor to a term expiring March 31, 2023; a mechanical contractor to a term ending March 31, 2024; and a member at-large to a term ending March 31, 2022.

Sponsors: Jared Moore

Attachments: [Application of Interest - Amir Fooladi](#)
[Application of Interest - Sean McLemore](#)
[Application of Interest - Stephen Ritz](#)
[Ballots](#)

3. [21-00435](#) DECLARATION OF SURPLUS AND DISPOSITION OF REAL PROPERTY - RANDWICK ROAD (ADJACENT TO CAMELOT PARK)
- Recommendation:** That City Council declare the real property located at Randwick Road (Parcel Ref. No. 071S292001007002) as surplus and authorize the Mayor to dispose of via direct negotiation with the Escambia County Housing Finance Authority (ECHFA), per the terms of their Interlocal Agreement with the City of Pensacola for Urban Infill Housing Development Initiatives. Further, that City Council authorize the Mayor to take all actions necessary to execute any contracts or related documents to dispose of the property.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Aerial and Parcel Info from Property Appraiser's website](#)
 [Council Action - Establishing List of City-owned Affordable Housing I](#)
 [Resolution No. 37-08 - Affordable Housing Incentive Plan - adopted](#)
 [Letter of Interest from ECHFA](#)
4. [21-00440](#) DISPOSITION OF REAL PROPERTY - SUBMERGED LAND IN BAYLEN SLIP ADJACENT TO FORMER SCUBA SHACK PROPERTY
- Recommendation:** That City Council approve the publication of the notice of intention to dispose of submerged real property (portion of Parcel Ref. No. 000S009100001034) located in inland waterway Baylen Slip adjacent to 711 South Palafox Street (former Scuba Shack property), via lease, with acceptance of redevelopment submittals during the statutory-required notice period for City-owned parcels located in a designated community redevelopment area (CRA).
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Legal Ad - Notice for Scuba Shack Submerged - DRAFT](#)
 [Council Action - Scuba Shack Lease - 02-27-1997](#)
 [Scuba Shack Lease - 1997](#)

5. [21-00450](#) ASSIGNMENT OF SUBLEASE AND APPROVAL OF ESTOPPEL CERTIFICATE - HARBORMASTER BUILDING, 997 SOUTH PALAFOX STREET

Recommendation: That City Council consent to the assignment of the sublease of the Harbormaster Building (also referred to as the Jaco's Building) located at 997 South Palafox Street from Downtown Property Group USA, LLC to Harbourmaster Pensacola, LLC and approve an estoppel certificate relevant to the same transaction. Further, that City Council authorize the Mayor to execute all pertinent documents necessary to facilitate and complete this action.

Sponsors: Grover C. Robinson, IV

Attachments: [Council Action - Approval of Assignment and Estoppel for Harbormaster Building](#)
[Assignment of Amended and Restated Lease Agreement - Harbourmaster Pensacola, LLC](#)
[Lessor Estoppel Certificate with Exhibit for Jacos Bldg - May 2021](#)

6. [21-00453](#) NON-EXCLUSIVE USE AGREEMENT BETWEEN THE UNIVERSITY OF WEST FLORIDA BOARD OF TRUSTEES AND THE CITY OF PENSACOLA

Recommendation: That City Council approve the execution of the Non-Exclusive Use Agreement between the University of West Florida Board of Trustees, and the City of Pensacola, Florida for the Vince Whibbs, Sr. Community Maritime Park. Further, that City Council authorize the Mayor to take any and all actions necessary to execute the agreement.

Sponsors: Grover C. Robinson, IV

Attachments: [Non-Exclusive Use Agreement](#)
[Renewal Letter - April 23, 2018](#)
[Renewal Letter - August 15, 2019](#)

REVIEW OF REGULAR AGENDA ITEMS (Sponsor)

7. [21-00449](#) PUBLIC HEARING - PROPOSED AMENDMENTS TO THE LAND DEVELOPMENT CODE - PROVIDING FOR PROTECTION OF WATER RESOURCES AND PROMOTING STORMWATER MANAGEMENT

Recommendation: That City Council conduct a public hearing on May 27, 2021 to consider proposed amendment to the Land Development Code Sections 12-3-43, 12-4-3, 12-8-4, 12-8-6 and 12-8-18.

Sponsors: Grover C. Robinson, IV

Attachments: [Proposed Ordinance No. 20-21](#)
[February 9, 2021 Planning Board Item - Proposed Amendments to the](#)
[February 9, 2021 Planning Board Minutes](#)
[August 11, 2021 Planning Board Item - Proposed Amendments to the](#)
[August 11, 2020 - Planning Board Minutes.pdf](#)

8. [20-21](#) PROPOSED ORDINANCE NO. 20-21: PROPOSED AMENDMENTS TO THE LAND DEVELOPMENT CODE - PROVIDING FOR PROTECTION OF WATER RESOURCES AND PROMOTING STORMWATER MANAGEMENT

Recommendation: That City Council adopt the Proposed Ordinance No. 20-21 on first reading:

AN ORDINANCE AMENDING TITLE XII OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE SECTION 12-3-43 BAYOU TEXAR SHORELINE PROTECTION DISTRICT; SECTION 12-4-3 PARKING LOTS; SECTION 12-8-4 EXEMPTIONS; SECTION 12-8-6 DESIGN STANDARDS FOR STORMWATER MANAGEMENT SYSTEM; AND SECTION 12-8-18 ILLICIT DISCHARGE EXEMPTIONS; TO PROVIDE FURTHER PROTECTION OF WATER RESOURCES AND PROMOTE STORMWATER MANAGEMENT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Grover C. Robinson, IV

Attachments: [Proposed Ordinance No. 20-21](#)
[February 9, 2021 Planning Board Item - Proposed Amendments to the](#)
[February 9, 2021 Planning Board Minutes](#)
[August 11, 2020 Planning Board Item - Proposed Amendments to the](#)
[August 11, 2020 - Planning Board Minutes](#)

9. [21-00455](#) REFERRAL TO PARKS AND RECREATION BOARD - REVIEW AND RECOMMENDATION FOR ALTERNATIVE FENCING FOR THE EAST PENSACOLA HEIGHTS LIONS PARK.
- Recommendation:* That City Council refer to the Parks and Recreation Board for review and recommendation alternative fencing, currently chain link, at the East Pensacola Heights Lions Park.
- Sponsors:* Jared Moore
- Attachments:* [Lions Park Fence Layout](#)
10. [21-00470](#) COUNCIL MEMBER EMERITUS DESIGNATION FOR DR. P.C. WU.
- Recommendation:* That City Council confer the designation of Council Member Emeritus to Dr. P.C. WU.
- Sponsors:* Jared Moore
11. [2021-26](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 2021-26 - PENSACOLA ENERGY - ACQUISITION OF CAPITAL EQUIPMENT REPLACEMENT VEHICLES
- Recommendation:* That City Council adopt Supplemental Budget Resolution No. 2021-26.
- A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.
- Sponsors:* Grover C. Robinson, IV
- Attachments:* [Supplemental Budget Resolution No. 2021-26](#)
 [Supplemental Budget Explanation No. 2021-26](#)
12. [2021-27](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 2021-27 - LAW ENFORCEMENT TRUST FUND (LETF) PURCHASES FOR THE PENSACOLA POLICE DEPARTMENT
- Recommendation:* That the City Council adopt Supplemental Budget Resolution No. 2021-27.
- A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.
- Sponsors:* Grover C. Robinson, IV
- Attachments:* [Supplemental Budget Resolution No. 2021-27](#)
 [Supplemental Budget Explanation No. 2021-27](#)
 [Letter of Certification](#)
 [Boys and Girls Club of the Emerald Coast LETF Application](#)

13. [2021-31](#) RESOLUTION NO. 2021-31 - PRELIMINARY ASSESSMENT
RESOLUTION INDICATING CITY COUNCIL'S INTENT TO INCREASE
THE CITY'S STORMWATER ASSESSMENT RATE FOR FY 2021-22
AND TO SET A MAXIMUM RATE OF EIGHTY DOLLARS (\$80.00) PER
EQUIVALENT STORMWATER UNIT (ESU).

Recommendation: That City Council adopt Resolution No. 2021-31:

A RESOLUTION OF THE CITY OF PENSACOLA, FLORIDA,
RELATING TO THE PROVISION OF STORMWATER MANAGEMENT
SERVICES; ESTIMATING THE COST OF STORMWATER
MANAGEMENT SERVICES PROVIDED BY THE CITY'S
STORMWATER UTILITY; DESCRIBING THE METHOD OF
CHARGING THE COST OF STORMWATER MANAGEMENT
SERVICES AGAINST ASSESSED PROPERTY; DIRECTING THE
STORMWATER UTILITY DIRECTOR TO PREPARE OR DIRECT THE
PREPARATION OF A STORMWATER ASSESSMENT ROLL;
AUTHORIZING A PUBLIC HEARING FOR THE PROPOSED
STORMWATER SERVICE ASSESSMENTS AND DIRECTING THE
PROVISION OF NOTICE THEREOF; PROVIDING FOR
COLLECTION; AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Grover C. Robinson, IV

Attachments: [Resolution No. 2021-31](#)

14. [2021-32](#) RESOLUTION NO. 2021-32 - AMENDING THE CITY'S FINANCIAL
PLANNING AND ADMINISTRATION POLICY

Recommendation: That City Council adopt Resolution No. 2021-32.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PENSACOLA, FLORIDA; AMENDING THE FINANCIAL PLANNING
AND ADMINISTRATION POLICY; PROVIDING SEVERABILITY;
PROVIDING AN EFFECTIVE DATE.

Sponsors: Grover C. Robinson, IV

Attachments: [Resolution No. 2021-32](#)

15. [26-21](#) PROPOSED ORDINANCE NO. 26-21 - REPEALING SECTION 7-8-5(F) - MAXIMUM TOWING CHARGES FOR REMOVING INOPERABLE VEHICLES

Recommendation: That City Council approve Proposed Ordinance No. 26.21 on first reading:

AN ORDINANCE REPEALING SECTION 7-8-5 (f) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ELIMINATING MAXIMUM CHARGES FOR TOWING INOPERABLE VEHICLES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Lissa Dees

Attachments: [Proposed Ordinance No. 26-21](#)
[City Ordinance No. 25-09, adopted July 9, 2009](#)
[Escambia County Code Sec. 94-171 through 94-176](#)
[Escambia County Resolution No. R-2021-59, adopted March 25, 2021](#)

16. [21-21](#) PROPOSED ORDINANCE NO. 21-21 - ESTABLISHING A PROCESS AND SCHEDULE FOR THE DISTRICTING COMMISSION TO SUBMIT PLAN FOR THE REDISTRICTING OF CITY COUNCIL BOUNDARIES FOR THE NOVEMBER 8, 2022 GENERAL ELECTION

Recommendation: That City Council adopt Proposed Ordinance No. 21-21, Version-1 on second reading:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA; ESTABLISHING A PROCESS AND A SCHEDULE FOR THE DISTRICTING COMMISSION TO SUBMIT PLAN FOR THE REDISTRICTING OF CITY COUNCIL BOUNDARIES FOR THE NOVEMBER 8, 2022 GENERAL ELECTION; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Jared Moore

Attachments: [Proposed Ord. No.21-21 V1](#)
[Proposed Ord No.21-21 V2](#)
[Redistricting Time Line Comparison](#)

CONSIDERATION OF ANY ADD-ON ITEMS

FOR DISCUSSION

READING OF ITEMS FOR COUNCIL AGENDA

COMMUNICATIONS**CITY ADMINISTRATOR'S COMMUNICATION****CITY ATTORNEY'S COMMUNICATION****CITY COUNCIL COMMUNICATION****ADJOURNMENT**

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

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



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00411

City Council

5/27/2021

PRESENTATION ITEM

FROM: Grover C. Robinson, IV, Mayor

SUBJECT:

PRESENTATION - FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (FDEP)
RESILIENT COASTLINES PROGRAM - ERIN DEADY

REQUEST:

That City Council receive a presentation from Erin Deady regarding the Florida Department of Environmental Protection (FDEP) Resilient Coastlines Program and Resilience Planning Grant received by the City.

SUMMARY:

Northwest Florida is threatened by sea level rise, record-breaking heat indexes, increasing frequency and long durations of extreme heat and drought, heavier rain events, wildfires, inland and coastal flooding, storm surges exacerbated by stronger hurricanes, and decreasing freshwater availability. Historical water level records from Pensacola, Florida National Oceanic and Atmospheric Administration (NOAA) tide gauges have established a representative long-term historical SLR trend of 0.73 ft/century.

The City of Pensacola and its regional partners, including counties and other local governments, are pursuing an aggressive and overarching climate-planning objective to address underlying climate change threats. The City of Pensacola has the opportunity of ensuring more detailed and new planning initiatives to ensure the community is resilient to climate change. The first step is to better understand what changes are likely at the local (and regional) level and to prepare for these future impacts.

Resilience Planning Grant (RPG) 2116 was secured by the City's Planning Department to further these initiatives. This grant scope of work advances five (5) key tasks that include identifying coastal risk from sea level rise, linking coastal risk to FEMA's Community Rating System ("CRS") program, developing a technical basis to plan for future sea level rise (with mitigation and adaptation strategies) and communicating future sea level rise risks to the public. The City is currently a Class Rating of seven (7) in the CRS program and data completed as part of this scope of work will serve as a strategy to improve the City's Class Rating during its next CRS cycle. The City also has an excellent opportunity to move its vulnerability planning to the next step building on work previously completed by the Climate Mitigation and Adaptation Task Force (CMATF) and other local and regional partnerships.

This project includes reviewing existing policy guidance, best practices and case studies to determine the most current approaches for complying with the Peril of Flood (POF) amendments. The efforts of all of these initiatives provide an immediate opportunity to update the City's Comprehensive Plan and bring it into compliance with the Peril of Flood statutory requirements. A portion of this grant scope of work is to draft amendments to comply with these new comprehensive planning requirements. This grant does not require adoption of these amendments at this time, but there is an urgency since this is a Chapter 163, F.S. requirement that the City must ultimately meet. The other portion of this grant work includes a vulnerability assessment for which the City has also completed an initial set of Climate Action Recommendations building upon the data and outputs from this assessment and previous climate-related work to date.

Current data that was incorporated into this effort includes: previous CRS submittals, city-owned areas (including city-owned parcels & "city" right-of-way, or may just be "city" right-of-way), sewer and components, water and components, some stormwater information and streets. This data will serve as the basis for a Preliminary Vulnerability Assessment to launch a more data-driven approach to resiliency planning for the City.

PRIOR ACTION:

August 13, 2020 - City Council approved and authorized the Mayor to execute the acceptance of the Florida Department of Environmental Protection Grant R2116.

STAFF CONTACT:

Keith Wilkins, City Administrator
Kerrith Fiddler, Deputy City Administrator - Community Development
Sherry Morris, AICP, Planning Services Director
Cynthia Cannon, AICP, Assistant Planning Services Director

ATTACHMENTS:

None

PRESENTATION: Yes



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00398

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Jared Moore

SUBJECT:

APPOINTMENTS - CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

RECOMMENDATION:

That City Council appoint to the Construction Board of Adjustment and Appeals an electrical contractor to a term expiring March 31, 2023; a mechanical contractor to a term ending March 31, 2024; and a member at-large to a term ending March 31, 2022.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Construction Board of Adjustment and Appeals reviews and grants or denies applications for variances and waivers of all technical codes, including the building code, the plumbing code, the gas code, the mechanical code, the electrical code, the minimum housing code, the unsafe building abatement code and the swimming pool code but not the life safety and fire prevention codes. The Board serves as the regulation and discipline board for holders of City plumbing and gas certificates of competency, and reviews the appeals of the interpretation of the Building Official in regards to technical codes.

The following are incumbents that wish to be considered for reappointment:

Nominee

Nominated by

Electrical Contractor

Sean McLemore

Incumbent

Mechanical Contractor

Stephen Ritz

Incumbent

Alternate At-Large from Public

Amir Fooladi

Incumbent

PRIOR ACTION:

Council makes appointments to this board annually.

FUNDING:

Budget: N/A

Actual: N/A

FINANCIAL IMPACT:

None.

STAFF CONTACT:

Ericka L. Burnett, City Clerk

ATTACHMENTS:

- 1) Member List
- 2) Application of Interest - Amir Fooladi
- 3) Application of Interest - Sean McLemore
- 4) Application of Interest - Stephen Ritz
- 5) Ballots

PRESENTATION: No

Ericka Burnett

From: noreply@civicplus.com
Sent: Wednesday, May 12, 2021 3:25 PM
To: Ericka Burnett; Robyn Tice
Subject: [EXTERNAL] Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT

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

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

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

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

(Section Break)

Personal Information

Name	Amir M Fooladi
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Home Address	23929 Meadow Creek Dr. Robertsdale, AL 36567
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Business Address	700 N. De Villiers Pensacola, FL 32501
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To which address do you prefer we send correspondence regarding this application?	Business
---	----------

Preferred Contact Phone Number(s)	8506967656
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Email Address	amir@pars-co.net
---------------	--

Upload Resume (optional)	Field not completed.
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(Section Break)

Details

Are you a City resident?	No
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If yes, which district?	Field not completed.
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If yes, how long have you been a City resident?	Field not completed.
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Do you own property within the City limits?	Yes
---	-----

Are you a registered voter in the city?	No
---	----

Board(s) of interest:	Construction Board of Adjustments and Appeals
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Please list the reasons for your interest in this position:	I wish to assist the City in any matters relating to construction.
---	--

Do you currently serve on a board?	Yes
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If yes, which board(s)?	Construction Board of Adjustments and Appeals
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Do you currently hold a public office?	No
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If so, what office?	Field not completed.
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Would you be willing to resign your current office for the appointment you now seek?	N/A
--	-----

(Section Break)

Diversity

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

Gender	Male
--------	------

Race	Other
------	-------

Physically Disabled	No
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(Section Break)

Acknowledgement of Terms	I accept these terms.
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Email not displaying correctly? [View it in your browser.](#)

Ericka Burnett

From: noreply@civicplus.com
Sent: Wednesday, January 29, 2020 2:45 PM
To: Ericka Burnett; Robyn Tice
Subject: [EXTERNAL] Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

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

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(Section Break)

Personal Information

Name	Sean McLemore
------	---------------

Home Address	2028 Blue Sky Drive Pensacola, FL 32506
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Business Address	Field not completed.
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To which address do you prefer we send correspondence regarding this application?	Home
---	------

Preferred Contact Phone Number(s)	850-777-7872
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Email Address	seanmclemore@hotmail.com
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Upload Resume (optional)	Field not completed.
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(Section Break)

Details

Are you a City resident? No

If yes, which district? *Field not completed.*

If yes, how long have you been a City resident? *Field not completed.*

Do you own property within the City limits? No

Are you a registered voter in the city? No

Board(s) of interest: electrical

Please list the reasons for your interest in this position: i have been a contractor in pensacola since 1999

Do you currently serve on a board? Yes

If yes, which board(s)? board of appeals electrical

Do you currently hold a public office? No

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

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

(Section Break)

Diversity

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

Gender Male

Race Caucasian

Physically Disabled No

(Section Break)

Acknowledgement of Terms I accept these terms.

Email not displaying correctly? [View it in your browser.](#)

----- **THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT** -----

Ericka Burnett

From: noreply@civicplus.com
Sent: Thursday, May 13, 2021 3:33 PM
To: Ericka Burnett; Robyn Tice
Subject: [EXTERNAL] Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

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(Section Break)

Personal Information

Name	Stephen F Ritz
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Home Address	3773 De Loach St Pensacola, FL 32514
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Business Address	1010 N 12th Ave., Suite 201 Pensacola, FL 32501
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To which address do you prefer we send correspondence regarding this application?	Field not completed.
---	----------------------

Preferred Contact Phone Number(s)	8504385416
-----------------------------------	------------

Email Address	stephen.ritz@gcbc.biz
---------------	--

Upload Resume (optional)	Field not completed.
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(Section Break)

Details

Are you a City resident?	No
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If yes, which district?	Field not completed.
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If yes, how long have you been a City resident?	Pensacola
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Do you own property within the City limits?	Yes
---	-----

Are you a registered voter in the city?	No
---	----

Board(s) of interest:	Construction Board of Adjustment and Appeals
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Please list the reasons for your interest in this position:	I have been part of this board for over 20 years and wish to continue providing valuable insight to help the City and Public with construction issues so a good outcome is achieved.
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Do you currently serve on a board?	Yes
------------------------------------	-----

If yes, which board(s)?	Construction Board of Adjustment and Appeals
-------------------------	--

Do you currently hold a public office?	No
--	----

If so, what office?	Field not completed.
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Would you be willing to resign your current office for the appointment you now seek?	N/A
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(Section Break)

Diversity

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

Gender	Male
--------	------

Race	Caucasian
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Physically Disabled	Yes
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(Section Break)

Acknowledgement of Terms	I accept these terms.
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Email not displaying correctly? [View it in your browser.](#)

Ballot – **Construction Board of Adjustment and Appeals**

May 27, 2021

Three year term expiring March 31, 2023

Electrical Contractor

_____ Sean McLemore

Vote for One

Signed: _____
Council Member

Ballot – **Construction Board of Adjustment and Appeals**

May 27, 2021

Three year term expiring March 31, 2024

Mechanical Contractor

_____ Stephen Ritz

Vote for One

Signed: _____
Council Member

Ballot – **Construction Board of Adjustment and Appeals**

May 27, 2021

Two year term expiring March 31, 2022

Alternate At-Large from Public

_____ Amir Fooladi

Vote for One

Signed: _____
Council Member



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00435

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

DECLARATION OF SURPLUS AND DISPOSITION OF REAL PROPERTY - RANDWICK ROAD
(ADJACENT TO CAMELOT PARK)

RECOMMENDATION:

That City Council declare the real property located at Randwick Road (Parcel Ref. No. 071S292001007002) as surplus and authorize the Mayor to dispose of via direct negotiation with the Escambia County Housing Finance Authority (ECHFA), per the terms of their Interlocal Agreement with the City of Pensacola for Urban Infill Housing Development Initiatives. Further, that City Council authorize the Mayor to take all actions necessary to execute any contracts or related documents to dispose of the property.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The real property located at Randwick Road is adjacent northwest to Camelot Park in the Camelot (previously Stanford Place) subdivision. The unimproved parcel is approximately 0.4589 acres and zoned R-1AAAA.

The ECHFA, a not-for-profit affordable housing provider, has expressed an interest in acquiring this parcel for the development of workforce housing. This request to surplus and convey the real property is in keeping with the Interlocal Agreement and with Council policy for the disposition of real property. Also, the Randwick Road parcel was on a list of properties approved by Council in April 2008 as appropriate for affordable housing and included as part of the Affordable Housing Incentive Plan adopted by Council in December 2008.

Per revised Council policy regarding the inclusion of a review via the "Sensitive Properties Ordinance", no significant historical findings requiring retaining this parcel were identified nor is the property waterfront or with a water view. Notices were also mailed out the week of May 10th to property owners within a 300-ft radius of the subject parcel. In April, Housing Department staff also corresponded with the president of the subdivision's homeowner association regarding the intent to develop this parcel for affordable housing and no objections were raised.

PRIOR ACTION:

April 24, 2008 - City Council approved a list of city-owned real property appropriate for affordable housing by adoption of Resolution No. 08-08.

December 11, 2008 - City Council adopted the Affordable Housing Incentive Plan via Resolution No. 37-08.

FUNDING:

N/A

FINANCIAL IMPACT:

The City will soon benefit from tax revenue generated as a result of adding this parcel to the tax roll.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

5/7/2021

STAFF CONTACT:

Keith Wilkins, City Administrator
Kerrith Fiddler, Deputy City Administrator - Community Development
Marcie Whitaker, Housing Director

ATTACHMENTS:

- 1) Aerial and Parcel Info from Property Appraiser's website
- 2) Council Action - Establishing List of City-owned Affordable Housing Parcels - 04-24-2008
- 3) Resolution No. 37-08 - Affordable Housing Incentive Plan - adopted 12-11-2008
- 4) Letter of Interest from ECHFA

PRESENTATION: No

[Restore Full Version](#)

General Information		Assessments				
Reference:	071S292001007002	Year	Land	Imprv	Total	Cap Val
Account:	010579000	2020	\$38,000	\$0	\$38,000	\$27,817
Owners:	PENSACOLA CITY OF	2019	\$38,000	\$0	\$38,000	\$25,289
Mail:	PO BOX 12910 PENSACOLA, FL 32521	2018	\$38,000	\$0	\$38,000	\$22,990
Situs:	RANDWICK RD 32514	Disclaimer				
Use Code:	VACANT RESIDENTIAL	Market Value Breakdown Letter				
Taxing Authority:	PENSACOLA CITY LIMITS	Tax Estimator				
Tax Inquiry:	Open Tax Inquiry Window	File for New Homestead Exemption Online				
Tax Inquiry link courtesy of Scott Lunsford Escambia County Tax Collector		Report Storm Damage				

Sales Data						2020 Certified Roll Exemptions	
Sale Date	Book	Page	Value	Type	Official Records (New Window)	MUNICIPAL OWNED	
None						Legal Description	
Official Records Inquiry courtesy of Pam Childers Escambia County Clerk of the Circuit Court and Comptroller						LT 7 BLK B OR 679 P 199 STANFORD PLACE PB 6 P 6	
						Extra Features	
						None	

Parcel Information

Section Map Id:
[07-1S-29-2](#)

Approx. Acreage:
 0.4589

Zoned:
 R-1AAAA

Evacuation & Flood Information
[Open Report](#)

+

-

RANDWICK RD

[View Florida Department of Environmental Protection\(DEP\) Data](#)

[Launch Interactive Map](#)


Buildings
Images
None

The primary use of the assessment data is for the preparation of the current year tax roll. No responsibility or liability is assumed for inaccuracies or errors.

Randwick Road Proposed Surplus Parcel



May 6, 2021

 Randwick Rd parcel

 Property Lines

1:1,128

0 0.01 0.01 0.03 mi
0 0.01 0.03 0.06 km

**REPORT OF CITY COUNCIL ACTION
OFFICE OF THE CITY CLERK**

Date 4/24/2008

Agenda Item: 9D-5

SUBJECT:

**HOUSING DEPARTMENT – A RESOLUTION ESTABLISHING AN INVENTORY LIST OF
CITY OWNED REAL PROPERTY DETERMINED APPROPRIATE FOR USE AS
AFFORDABLE HOUSING**

ORDINANCE #: _____

ACTION TAKEN: ☒ APPROVED BY COUNCIL ☐ MOTION FAILED ☐ FIRST READING ☐ SECOND READING
☐ REFERRED TO: ☐ STAFF ☐ OTHER ☐ COMMITTEE

COUNCIL MEMBER	ACTION				COMMITTEE			
	MOT	SEC	YES	NO		Enterprise	Neighborhood	Economic & Community
					Finance	Oper	Services	Development
JEWEL CANNADA-WYNN			✓		*			*
MIKE DESORBO			absent			VC	VC	
MARTY DONOVAN			✓			*		VC
JOHN FOGG			✓		VC			
SAM HALL			✓				*	*
JOHN JERRALDS		✓	✓		C		*	
JOHN NOBLES	✓		✓		*	C		*
RONALD P. TOWNSEND			✓		*		C	
MICHAEL WIGGINS			✓		*	*		C
P. C. WU			✓			*	*	

C = CHAIRMAN
COPIES:

VC = ☒ VICE CHAIRMAN
COUNCIL FILE

* = MEMBER
MUNICIPAL CODE

**5. SUBJECT: HOUSING DEPARTMENT - A RESOLUTION ESTABLISHING AN
INVENTORY LIST OF CITY OWNED REAL PROPERTY DETERMINED
APPROPRIATE FOR USE AS AFFORDABLE HOUSING**

Reference Material:

Committee Memorandum dated April 21, 2008.

Recommendation:

**That City Council approve a Resolution establishing an inventory list of City
owned real property determined appropriate for use as affordable housing.**

The motion passed unanimously.

COMMITTEE MEMORANDUM

COMMITTEE: Enterprise Operations

FROM: Thomas J. Bonfield, City Manager *TJB*

DATE: April 21, 2008

SUBJECT: Housing Department – A Resolution Establishing an Inventory List of City Owned Real Property Determined Appropriate for Use as Affordable Housing

RECOMMENDATION: That City Council approve a Resolution establishing an inventory list of City owned real property determined appropriate for use as affordable housing.

SUMMARY: Section 166.0451 Florida Statutes provides that by each municipality shall prepare an inventory list of all real property within its jurisdiction to which the City holds fee simple title that is appropriate for use as affordable housing. The statute further provides that the City Council must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. The final inventory list is established by resolution. Four (4) parcels have been identified (Exhibit A of Resolution) as suitable for affordable housing, using the criteria that, at a minimum, the parcel is buildable and within a subdivision having direct access to an existing paved or city maintained street.

PRIOR ACTION:

CURRENT ACTION:

FUNDING: None required.

ATTACHMENTS:

- (1) Staff Report
- (2) Resolution
- (3) Florida Statutes Section 166.0451 providing for establishing inventory list

City of
Pensacola



Committee Memorandum

Enterprise Operations

**Housing Department – A Resolution Establishing an Inventory List of City Owned Real Property
Determined Appropriate for Use as Affordable Housing**

April 21, 2008

Page 2

- (4) Florida Statutes Sections 420.0004(3)(8)(10) (11)
(15) defining “affordable” and “very low to
moderate income persons”
- (5) Policy for Disposition of City Owned Real
Property

STAFF CONTACT:

Robert T. Payne, Assistant City Manager, Pat
Hubbard, Director of Housing

PRESENTATION:

None.

MEMORANDUM

TO: Thomas J. Bonfield
City Manager

THRU: Robert T. Payne *RT*
Assistant City Manager

FROM: Pat Hubbard, Director *PH*
Department of Housing

DATE: April 21, 2008

SUBJECT: Housing Department – A Resolution Establishing an Inventory List of City Owned Real Property Determined Appropriate for Use as Affordable Housing

RECOMMENDATION:

That City Council approve a Resolution establishing an inventory list of City owned real property determined appropriate for use as affordable housing.

BACKGROUND:

Section 166.0451 Florida Statutes provides that each municipality shall prepare an inventory list of all real property within its jurisdiction to which the City holds fee simple title that is appropriate for use as affordable housing. The statute further provides that the City Council must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. The final inventory list is established by resolution. Four (4) parcels have been identified (Exhibit A of Resolution) as suitable for affordable housing, using the criteria that, at a minimum, the parcel is buildable and within a subdivision having direct access to an existing paved or city maintained street.

It is the City's goal to examine opportunities to increase the number of affordable and attainable housing units, encourage sound attainable housing development and redevelopment, and the preservation of affordable housing within the corporate limits.

Affordable housing is considered to be affordable if the monthly housing costs for rents or mortgage payments including taxes, insurance and utilities do not exceed a certain percentage of a family's monthly income, usually 30%. The term "affordable" is defined under F.S. 420.004(3) (Attachment 4).

This list of parcels identified represents city owned parcels within the corporate limits that, at a minimum, have vested development rights by virtue of the fact they are

buildable and located in residential subdivisions with the appropriate zoning and future land use designations located on existing paved or city maintained streets. These parcels have a high probability of not requiring additional infrastructure in order to build one and two family housing units. This makes the provision of new affordable/attainable housing stock likely due to the development cost savings. By providing this list of parcels, all housing providers will be able to more easily identify parcels available for one and two family infill development and restore them to the tax rolls.

The properties identified as appropriate for use as affordable housing on the adopted inventory list may:

- 1) be offered for sale and the proceeds used to purchase land for the development of affordable housing;
- 2) be offered for sale to increase the local government fund earmarked for affordable housing;
- 3) be donated to a nonprofit housing organization for the construction of permanent affordable housing; or
- 4) be made available for use for the production and preservation of permanent affordable housing.

A recommendation regarding which specific options should be exercised for each of the parcels will be provided to Council at a future date if the current Recommendation in this memorandum is adopted.

FINANCIAL IMPACT:

None.

RESOLUTION
NO.

**A RESOLUTION ESTABLISHING AN
INVENTORY LIST OF CITY OWNED REAL
PROPERTY DETERMINED TO BE
APPROPRIATE FOR USE AS AFFORDABLE
HOUSING**

WHEREAS, Florida Statute 166.0451(1) provides that by July 1, 2007, and every 3 years thereafter, each municipality shall prepare an inventory list of all real property within the jurisdiction to which the city holds fee simple title that is appropriate for use as affordable housing; and

WHEREAS, Florida Statute 166.0451(1) further provides that the council must review the inventory list at a public hearing and may revise the list at the conclusion of the public hearing and shall adopt a resolution that includes an inventory list of such property following the public hearing; and

WHEREAS, Florida Statute 166.0451(2) provides that the property identified as appropriate for use as affordable housing on the inventory list adopted by the city may be offered for sale and the proceeds used to purchase land for the development of affordable housing; or to increase the local government fund earmarked for affordable housing; or may be donated to a nonprofit housing organization for the construction of permanent affordable housing; or the city may make the property available for use for the production and preservation of permanent affordable housing.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL
OF THE CITY OF PENSACOLA, FLORIDA:**

SECTION 1. That the property described on "Exhibit A", attached hereto and by reference made part hereof, shall be designated as the City of Pensacola inventory list of city owned real property appropriate for use as affordable housing in accordance with the requirements and provisions of Section 166.0451 Florida Statutes.

SECTION 2: This resolution shall take effect immediately upon its adoption by the City Council.

Adopted: _____

Approved: _____
Mayor

Attest:

City Clerk

Legal in form and valid if enacted:

City Attorney

Exhibit A

Exhibit A to Resolution
Establishing an Inventory List of City Owned Real Property
Appropriate for Affordable Housing

Number	Parcel number	Legal Description	Address	Vacant/Improved	Size	Disposition
1	00 0S 00 9010 300 028	Lot 30 Block 28 Belmont Tract	400 Block W. Gadsden Street	Vacant	30 x150	<u>Near Devillers</u>
2	07 1S 29 2001 007 002	Lot 7 Block B Stanford Place S/D	Randwick Road	Vacant	100 x200	<u>S/D lot adjacent to a Park</u>
3	00 0S 00 9020 043 090	Part of Lot 4 Block 90 East King Tract	2420 N 7 th Ave.	Vacant	40 x70	<u>Corner of Scott and & 7th</u>
4	09 1S 29 1200 000 025	Block Y Baywoods Unit 1 S/D	4600 Block Baywoods Drive	Vacant (left over piece of ROW)	105 x 97	<u>Surrounded by single family dwellings</u>

Title XII
MUNICIPALITIES

Chapter 166
MUNICIPALITIES

[View Entire Chapter](#)

166.0451 Disposition of municipal property for affordable housing.--

(1) By July 1, 2007, and every 3 years thereafter, each municipality shall prepare an inventory list of all real property within its jurisdiction to which the municipality holds fee simple title that is appropriate for use as affordable housing. The inventory list must include the address and legal description of each such property and specify whether the property is vacant or improved. The governing body of the municipality must review the inventory list at a public hearing and may revise it at the conclusion of the public hearing. Following the public hearing, the governing body of the municipality shall adopt a resolution that includes an inventory list of such property.

(2) The properties identified as appropriate for use as affordable housing on the inventory list adopted by the municipality may be offered for sale and the proceeds may be used to purchase land for the development of affordable housing or to increase the local government fund earmarked for affordable housing, or may be sold with a restriction that requires the development of the property as permanent affordable housing, or may be donated to a nonprofit housing organization for the construction of permanent affordable housing. Alternatively, the municipality may otherwise make the property available for use for the production and preservation of permanent affordable housing. For purposes of this section, the term "affordable" has the same meaning as in s. 420.0004(3).

History.--s. 4, ch. 2006-69.

<u>Title XXX</u> SOCIAL WELFARE	<u>Chapter 420</u> HOUSING	<u>View Entire Chapter</u>
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420.0004 Definitions.--As used in this part, unless the context otherwise indicates:

- (1) "Adjusted for family size" means adjusted in a manner which results in an income eligibility level which is lower for households with fewer than four people, or higher for households with more than four people, than the base income eligibility determined as provided in subsection (8), subsection (10), subsection (11), or subsection (15), based upon a formula as established by the United States Department of Housing and Urban Development.
- (2) "Adjusted gross income" means all wages, assets, regular cash or noncash contributions or gifts from persons outside the household, and such other resources and benefits as may be determined to be income by the United States Department of Housing and Urban Development, adjusted for family size, less deductions allowable under s. 62 of the Internal Revenue Code.
- (3) "Affordable" means that monthly rents or monthly mortgage payments including taxes, insurance, and utilities do not exceed 30 percent of that amount which represents the percentage of the median adjusted gross annual income for the households as indicated in subsection (8), subsection (10), subsection (11), or subsection (15).
- (4) "Corporation" means the Florida Housing Finance Corporation.
- (5) "Community-based organization" or "nonprofit organization" means a private corporation organized under chapter 617 to assist in the provision of housing and related services on a not-for-profit basis and which is acceptable to federal and state agencies and financial institutions as a sponsor of low-income housing.
- (6) "Department" means the Department of Community Affairs.
- (7) "Elderly" describes persons 62 years of age or older.
- (8) "Extremely-low-income persons" means one or more natural persons or a family whose total annual household income does not exceed 30 percent of the median annual adjusted gross income for households within the state. The Florida Housing Finance Corporation may adjust this amount annually by rule to provide that in lower income counties, extremely low income may exceed 30 percent of area median income and that in higher income counties, extremely low income may be less than 30 percent of area median income.
- (9) "Local public body" means any county, municipality, or other political subdivision, or any housing authority as provided by chapter 421, which is eligible to sponsor or develop housing for farmworkers and very-low-income and low-income persons within its jurisdiction.
- (10) "Low-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.
- (11) "Moderate-income persons" means one or more natural persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross

income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

(12) "Student" means any person not living with his or her parent or guardian who is eligible to be claimed by his or her parent or guardian as a dependent under the federal income tax code and who is enrolled on at least a half-time basis in a secondary school, career center, community college, college, or university.

(13) "Substandard" means:

(a) Any unit lacking complete plumbing or sanitary facilities for the exclusive use of the occupants;

(b) A unit which is in violation of one or more major sections of an applicable housing code and where such violation poses a serious threat to the health of the occupant; or

(c) A unit that has been declared unfit for human habitation but that could be rehabilitated for less than 50 percent of the property value.

(14) "Substantial rehabilitation" means repair or restoration of a dwelling unit where the value of such repair or restoration exceeds 40 percent of the value of the dwelling.

(15) "Very-low-income persons" means one or more natural persons or a family, not including students, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or, if not within an MSA, within the county in which the person or family resides, whichever is greater.

History.--s. 2, ch. 88-376; s. 1, ch. 89-121; s. 13, ch. 90-275; s. 72, ch. 2000-153; s. 36, ch. 2004-357; ss. 44, 53, ch. 2006-26; s. 14, ch. 2006-69.

**PROPOSED RESOLUTION
NO. 37-08**

**A RESOLUTION ADOPTING THE CITY OF PENSACOLA'S
AFFORDABLE HOUSING INCENTIVE PLAN AND PROVIDING AN
EFFECTIVE DATE**

WHEREAS, Florida Statute 420.9076 provides that by March 31, 2009, each county or eligible municipality participating in the State Housing Initiatives Partnership (SHIP) Program, including a municipality receiving program funds through the county, or an eligible municipality, must amend its Local Housing Assistance Plan (LHAP) to incorporate affordable housing incentives to be implemented in the City of Pensacola and Escambia County, and

WHEREAS, Escambia County and the City of Pensacola currently receive SHIP funding annually with the funds jointly implemented and managed through an Interlocal Agreement, the Statute necessitates concurrent review and approval of the LHAP amendment respectively by the Board of County Commissioners and City Council to continue receipt of SHIP funds by both parties, and

WHEREAS, the Statute clearly defines requirements for appointment of an Affordable Housing Advisory Committee (AHAC), consideration of affordable housing incentives recommended by the AHAC, amendment of the LHAP to incorporate adopted incentives, and the penalties for failure to complete these measures within established time limitations, and

WHEREAS, the City Council finds that it is in the best interest of the public for the City of Pensacola to adopt the City of Pensacola Affordable Housing Incentive Plan as recommended by the AHAC;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA:

SECTION 1: The City Council of the City of Pensacola, Florida hereby accepts the assessment of regulatory incentives and disincentives, as performed by the Escambia-Pensacola Affordable Housing Advisory Committee (AHAC) and the recommendations of the AHAC with respect to utilizing regulatory incentives to foster development and/or preservation of affordable ownership and rental housing within the local community.

SECTION 2: The City Council of the City of Pensacola, Florida hereby adopts the recommendations of the Escambia-Pensacola Affordable Housing Advisory Committee (AHAC) as summarized in the City of Pensacola's Affordable Housing Incentive Plan.

SECTION 3: The City Council of the City of Pensacola, Florida hereby authorizes preparation of a formal amendment to the current Escambia-Pensacola Local Housing Assistance Plan (LHAP) for the purpose of incorporating affordable housing incentives recommended by the AHAC and adopted by the Council through the City of Pensacola's Affordable Housing Incentive Plan.

SECTION 4: The Mayor of the City of Pensacola and/or the City Manager (or his designee) are hereby designated and authorized to execute any documents and certifications as may be required by the Florida Housing Finance Corporation in relation to adoption of the City of Pensacola's Affordable Housing Incentive Plan.

SECTION 5: This resolution shall take effect immediately upon its adoption by the City Council.

Adopted: December 11, 2008

Approved: _____

Mayor

Attest:

Trisha L. Burnett
City Clerk

Legal in form and valid if enacted:

Willie Wells
City Attorney

CITY COUNCIL MEMORANDUM

Item #13B

TO: Mayor and City Council

FROM: Alvin G. Coby, City Manager

DATE: December 11, 2008

SUBJECT: Resolution No. 37-08 – Adoption of the City of Pensacola's Affordable Housing Incentive Plan

RECOMMENDATION: That City Council approve Resolution No. 37-08.

SUMMARY: In June 2008, pursuant to Section 420.9076 of Florida Statutes, City Council and the Escambia County Board of County Commissioners mutually established and appointed by resolution members to serve on the Escambia/Pensacola Affordable Housing Advisory Committee (AHAC).

The City's and County's versions of the Incentive Plans are being dually submitted for approval on December 11, 2008. Following approval by City Council and the Escambia County Board of County Commissioners, the recommendations cited in the Incentive Plans must be incorporated into the Escambia-Pensacola Local Housing Assistance Plan (LHAP) by formal amendment which must be approved by local governing bodies prior to March 31, 2009.

PRIOR ACTION:

CURRENT ACTION:

FUNDING:

ATTACHMENTS: Resolution No. 37-08

STAFF CONTACT: Robert T. Payne, Assistant City Manager, Pat Hubbard, Director of Housing

PRESENTATION: No

City of
Pensacola



**PROPOSED RESOLUTION
NO. 37-08**

**A RESOLUTION ADOPTING THE CITY OF PENSACOLA'S
AFFORDABLE HOUSING INCENTIVE PLAN AND PROVIDING AN
EFFECTIVE DATE**

WHEREAS, Florida Statute 420.9076 provides that by March 31, 2009, each county or eligible municipality participating in the State Housing Initiatives Partnership (SHIP) Program, including a municipality receiving program funds through the county, or an eligible municipality, must amend its Local Housing Assistance Plan (LHAP) to incorporate affordable housing incentives to be implemented in the City of Pensacola and Escambia County, and

WHEREAS, Escambia County and the City of Pensacola currently receive SHIP funding annually with the funds jointly implemented and managed through an Interlocal Agreement, the Statute necessitates concurrent review and approval of the LHAP amendment respectively by the Board of County Commissioners and City Council to continue receipt of SHIP funds by both parties, and

WHEREAS, the Statute clearly defines requirements for appointment of an Affordable Housing Advisory Committee (AHAC), consideration of affordable housing incentives recommended by the AHAC, amendment of the LHAP to incorporate adopted incentives, and the penalties for failure to complete these measures within established time limitations, and

WHEREAS, the City Council finds that it is in the best interest of the public for the City of Pensacola to adopt the City of Pensacola Affordable Housing Incentive Plan as recommended by the AHAC;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA:

SECTION 1: The City Council of the City of Pensacola, Florida hereby accepts the assessment of regulatory incentives and disincentives, as performed by the Escambia-Pensacola Affordable Housing Advisory Committee (AHAC) and the recommendations of the AHAC with respect to utilizing regulatory incentives to foster development and/or preservation of affordable ownership and rental housing within the local community.

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SECTION 3: The City Council of the City of Pensacola, Florida hereby authorizes preparation of a formal amendment to the current Escambia-Pensacola Local Housing Assistance Plan (LHAP) for the purpose of incorporating affordable housing incentives recommended by the AHAC and adopted by the Council through the City of Pensacola's Affordable Housing Incentive Plan.

SECTION 4: The Mayor of the City of Pensacola and/or the City Manager (or his designee) are hereby designated and authorized to execute any documents and certifications as may be required by the Florida Housing Finance Corporation in relation to adoption of the City of Pensacola's Affordable Housing Incentive Plan.

SECTION 5: This resolution shall take effect immediately upon its adoption by the City Council.

Adopted: December 11, 2008

Approved: _____
Mayor

Attest:

City Clerk

Legal in form and valid if enacted:

City Attorney

CITY COUNCIL MEMORANDUM Item #13B

TO: Mayor and City Council

FROM: Alvin G. Coby, City Manager

DATE: December 11, 2008

SUBJECT: Resolution No. 37-08 – Adoption of the City of Pensacola's Affordable Housing Incentive Plan

RECOMMENDATION: That City Council approve Resolution No. 37-08.

SUMMARY: In June 2008, pursuant to Section 420.9076 of Florida Statutes, City Council and the Escambia County Board of County Commissioners mutually established and appointed by resolution members to serve on the Escambia/Pensacola Affordable Housing Advisory Committee (AHAC).

The City's and County's versions of the Incentive Plans are being dually submitted for approval on December 11, 2008. Following approval by City Council and the Escambia County Board of County Commissioners, the recommendations cited in the Incentive Plans must be incorporated into the Escambia-Pensacola Local Housing Assistance Plan (LHAP) by formal amendment which must be approved by local governing bodies prior to March 31, 2009.

PRIOR ACTION:

CURRENT ACTION:

FUNDING:

ATTACHMENTS: Resolution No. 37-08

STAFF CONTACT: Robert T. Payne, Assistant City Manager, Pat Hubbard, Director of Housing

PRESENTATION: No

City of
Pensacola





**ESCAMBIA COUNTY
HOUSING FINANCE AUTHORITY**
WWW.ESCAMBIAHFA.COM

700 South Palafox Street, Suite 310
Pensacola, Florida 32502-5958

Phone: (850) 432-7077
Fax: (850) 438-5205
Toll Free: (800) 388-1970

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April 21, 2021

Ms. Marcie Whitaker, Housing Administrator
Pensacola Housing Division
420 West Chase Street
Pensacola, Florida 32502

RE: City Owned Parcel located on Randwick Road/Lot 7 Block B OR 679 P 199 Stanford
Place PB 6 P 6 (Property Reference #: 071S292001007002)

Dear Marcie:

We would like to thank the City of Pensacola for its continued interest in working with the Escambia County Housing Finance Authority as we continue to implement the Authority's Urban Infill Housing Development Loan Program. We are pleased to partner with you as you continue to explore partnership opportunities for the City's Housing Initiatives Fund. We love the ongoing synergy between our initiatives, and want to continue to contribute to this valuable and effective partnership.

The vacant infill lot located on Randwick Road (as referenced above) is suitable for residential development with a single family for sale home in compliance with the income and program parameters of the Authority's Urban Infill Program. Given our mutual interest in enhancing effective housing strategies through a combined effort, we respectfully ask that the City of Pensacola donate, or transfer the parcel to the Authority at the minimal cost possible, specifically for use in meeting affordable workforce housing needs within the City of Pensacola. Our intent is to proceed with development of this parcel in close cooperation with your office regarding design, compatibility and marketing/sale of the home to an eligible buyer. This cooperative action supports the City's commitment to affordable housing as stipulated in the City's Affordable Housing Incentive Plan, the City's 500 Homes in 5 Years Initiative, the Escambia Consortium Consolidated Plan and the Housing Element of the City's Comprehensive Plan. Likewise, this cooperative venture falls squarely within the Authority's mission to provide safe, sanitary and decent housing by helping to alleviate the shortage of affordable homes available to persons of moderate, middle and low income in our community.



We are an Equal Opportunity Lender.

We see the redevelopment of this parcel with a quality home as an additional step in our long-term partnership. We look forward to working with you in the coming months to make this a reality.

Sincerely



Patricia D. Lott
Executive Director





City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00440

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

DISPOSITION OF REAL PROPERTY - SUBMERGED LAND IN BAYLEN SLIP ADJACENT TO FORMER SCUBA SHACK PROPERTY

RECOMMENDATION:

That City Council approve the publication of the notice of intention to dispose of submerged real property (portion of Parcel Ref. No. 000S009100001034) located in inland waterway Baylen Slip adjacent to 711 South Palafox Street (former Scuba Shack property), via lease, with acceptance of redevelopment submittals during the statutory-required notice period for City-owned parcels located in a designated community redevelopment area (CRA).

HEARING REQUIRED: No Hearing Required

SUMMARY:

The 50-ft wide submerged parcel adjacent to the former Scuba Shack parcel has been leased to the Scuba Shack since May 1, 1997 per Council action approving the lease in February 1997. Per the terms of the 25-year lease, the owners of the Scuba Shack were able to transfer the lease upon sale to the new owners JME of NWF, LLC in April of this year. The initial lease expires in April 2022, and the "right of first refusal" clause in the lease requires this notice, as the City is not contractually obligated to renew this lease with the current lessee.

Pursuant to F.S. 163.380(3)(a), the City is required to provide public notice by advertising for at least 30 days prior to the disposition of any City-owned property in the CRA, stating the intent of the disposition and inviting submittals. The draft public notice is attached to this memorandum.

The new owner of the Scuba Shack property would like to negotiate and secure a new lease as soon as possible, thus the impetus for publishing this notice now, rather than when the lease actually expires in 2022. After the expiration of the 30-day period required by the notice, City staff will prepare a memo for Council consideration at the next available meeting.

PRIOR ACTION:

February 27, 1997 - City Council authorized the negotiation of a lease with Scuba Shack, Inc.

FUNDING:

N/A

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

5/13/2021

STAFF CONTACT:

Keith Wilkins, City Administrator

Kerrith Fiddler, Deputy City Administrator - Community Development

Amy Lovoy, Finance Director

ATTACHMENTS:

- 1) Legal Ad - Notice for Scuba Shack Submerged - DRAFT
- 2) Council Action - Scuba Shack Lease - 02-27-1997
- 3) Scuba Shack Lease - 1997

PRESENTATION: No

NOTICE OF INTENTION TO
DISPOSE (LEASE) OF REAL PROPERTY
AND ACCEPT SUBMITTALS

The City of Pensacola, Florida (the "City") hereby gives notice required by Section 163.380, Florida Statutes, of its intention to dispose of real property as generally described below (the "Site") via lease and to accept submittals for redevelopment of the Site.

The Site is a parcel of submerged real property located in the inland waterway commonly known as Baylen Slips in downtown Pensacola. The Site can accommodate a 50' vessel and is directly adjacent to the former Scuba Shack upland property, and is more particularly identified as follows:

THE EAST 14 FEET OF THE NORTH 50 FEET OF LOT 26 AND THE NORTH 50 FEET OF LOTS 27 AND 30 OF BLOCK 35 OF THE WATERFRONT TRACT AS PER THE MAP OF THE CITY OF PENSACOLA, FLORIDA, COPYRIGHTED BY THOMAS C. WATSON IN 1906.

Please note that this Site is leased through April 30, 2022 and that the current lessee has "right of first refusal" with the City in developing a new lease for the Site. Any further information regarding the Site or the submission of submittals may be obtained by contacting the City in writing at the address below or via email to destallworth@cityofpensacola.com. Submittals must be received by the City **no later than 3:00 p.m. CST** on _____. Proposals must be delivered to the City at the following address:

Property Lease Manager
City of Pensacola
222 W. Main Street
Pensacola, Florida 32501

Submittals delivered to a different address or received after the deadline date and time listed above will not be accepted.

The City reserves the right to select and subsequently negotiate definitive documents to implement a submittal which, in its sole discretion, it deems to be in the public interest and in furtherance of the purposes of Chapter 163, Part III, Florida Statutes, or alternatively, to reject all submittals or solicit the same or different submittals for consideration. Interested persons shall be solely responsible for the cost of preparing and submitting submittals. Submittals shall become the physical and intellectual property of the City.

2/27/97

REPORT OF STANDING COMMITTEES: Cont'd:

2. SUBJECT: STATE CONTRACT PURCHASE - TRACTOR

Reference Material:

Committee Memorandum February 20, 1997

Recommendation:

That City Council approve the purchase of one (1) Model #580L Case tractor/loader, complete with options, under State Contract #760-001-96-1, Spec #760-960-110 (66) for \$43,653.

The motion passed unanimously.

3. SUBJECT: BUILDING MANAGEMENT SUPPORT SERVICES CONTRACT - PENSACOLA REGIONAL AIRPORT

Reference Material:

Committee Memorandum February 20, 1997

Recommendation:

That City Council authorize the City Manager to enter into a one year contract with Honeywell, Inc. for building management support services at Pensacola Regional Airport for a fee of \$17,946.

The motion passed unanimously.

4. SUBJECT: LEASE OF SUBMERGED PROPERTY - BAYLEN SLIP

Reference Material:

Committee Memorandum February 20, 1997

Recommendation:

That City Council authorize the City Manager to negotiate a lease with Scuba Shack, Inc. for the use of submerged land in Baylen Slip.

The motion passed unanimously.

LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this 15th day of ^{May}~~APRIL~~, 1997, by and between THE CITY OF PENSACOLA, Florida, a municipal corporation of Florida, hereinafter called the "City," and SCUBA SHACK, INC., a Florida corporation, hereinafter referred to as "Scuba Shack," whose address is 711 South Palafox Street, Pensacola, Florida 32501.

FOR AND IN CONSIDERATION of the monies to be paid and the premises and other good and valuable considerations, the City and Scuba Shack agree as follows:

1. The City hereby leases to Scuba Shack and Scuba Shack hereby leases from the City a parcel of submerged real property situated in Pensacola, Escambia County, Florida, which is more particularly described as:

The East 14 feet of the North 50 feet of Lot 26 and the North 50 feet of Lots 27 and 30 of Block 35 of the Waterfront Tract as per the map of the City of Pensacola, Florida, copyrighted by Thomas C. Watson in 1906.

2. The term of this lease shall commence on the date first written above and shall run for a period of twenty-five (25) years. If Scuba Shack notifies the City in writing during the period commencing on the twenty-third anniversary of the date of this lease agreement and ending on the twenty-fourth anniversary date of this lease agreement, that Scuba Shack desires to release the Leased Premises for a period beyond the expiration of the twenty-five year term of this lease and if Scuba Shack submits with said notice a proposed lease agreement for such period, then the City shall not lease the Leased Premises to any other party without first considering Scuba Shack's proposal and rejecting it with written notice of such rejection.

3. At all times during the term of the lease all leasehold improvements on the Leased Premises shall be and remain the property of Scuba Shack. If Scuba Shack fails to remove such leasehold improvements prior to the termination of the lease, then the leasehold improvements shall become the property of the City. Provided, however, if the City gives Scuba Shack written demand, one hundred eighty days prior to the termination of this lease, that Scuba Shack remove the leasehold improvements, then Scuba Shack shall remove such improvements at its own expense prior to the termination of this lease, whereupon such improvements shall remain the property of Scuba Shack. If Scuba Shack, after receipt of such demand, fails or refuses to remove such leasehold improvements, then the City may, at its option, remove or cause such improvements to be removed, in which event Scuba Shack shall pay the City's expense for such removal without being entitled to any offset or credit for salvage value.



4. Scuba Shack shall pay to the City, as rent for the Leased Premises, the annual sum of four hundred dollars (\$400) in advance for the first five years of the lease term, the first such annual payment being due and payable upon the date of this lease agreement. A fair market rent shall be renegotiated every five years prior to the anniversary date of this lease agreement based upon the submerged lands lease policy currently in effect with the Bureau of State Land Management of the Department of Natural Resources for State submerged land leases, or its successor. If the parties fail to negotiate a fair market rent six months prior to such anniversary date, then the rent for the succeeding five year period shall be determined by the average of the fair market rent recommended by the reports of two independent appraisers, one selected by the City and one selected by Scuba Shack. If the appraisal reports are not completed prior to the anniversary dates so that such average and fair market rent cannot be determined, then Scuba Shack shall pay the same annual rent as it paid during the previous five year period until such time as the fair market rent can be determined, at which time the rent shall be adjusted as of the date of commencement of the five year period with appropriate refund or additional payment being due.

5. The Leased Premises shall be used solely for docking and related facilities, the design and specifications for construction of which must first be approved by the City Engineer. Scuba Shack shall not fill any part of the Leased Premises without the express consent of the City.

6. The Lessee may at its own expense remove any existing docking on the Leased Premises or the adjacent City submerged property and, after construct such docking and related facilities desired. The Lessee agrees that any construction, modification, alteration and removal of docking and related facilities on the Leased Premises will be done in accordance with local, state and federal laws. The Lessee agrees to submit to the City for its review and approval, plans for the construction, modification, alteration and removal of docking and related facilities on the leased premises during the term of this lease. The Lessee agrees that it will make every effort to incorporate dock design standards compatible with the Baylen Slip Marina and future City marinas.

7. Scuba Shack shall indemnify and save harmless the City against and from any and all claims for property damage or bodily injury including death, by or on behalf of any person or persons, partnerships, corporations, or other entities arising from Scuba Shack's conduct of or management about the Leased Premises, or from any occurrence in or about the Leased Premises, and will further indemnify and save the City harmless against and from any and all claims arising from any breach or default on the part of Scuba Shack in the performance of any covenant or agreement on the part of Scuba Shack to be performed pursuant to the terms of this lease agreement, or arising from any act or negligence of Scuba Shack, or any of its agents, contractors, servants, employees or licensees, and from and against all costs, counsel fees, expense and liabilities incurred incident to any such claim or action thereon; and in case any action or proceeding be

brought against the City by reason of any such claim Scuba Shack, upon notice from the City, shall resist or defend at Scuba Shack's expense, such action or proceeding by counsel reasonably satisfactory to the City.

8. Scuba Shack shall maintain insurance and provide the City with certificates of insurance in accordance with Exhibit "A" during the life of this lease agreement. Scuba Shack will not commence construction activities on the Leased Premises until the certificates of insurance have been approved by the City's Department of Risk Management. The City shall have the right to make reasonable increases to the minimum required limits of liability on Exhibit "A" during the term of this lease agreement or any renewal or extension hereof. Scuba Shack shall be responsible for all deductibles under its insurance policies.

Scuba Shack shall provide the City with Certificates of Insurance listing the City as an Additional Insured from all Contractors performing construction, modification, alteration, or removal of docking and from all Contractors performing dredging services on and about the Leased Premises during the term of this lease.

9. It shall be Scuba Shack's responsibility to provide maintenance dredging on and about the Leased Premises as deemed necessary for the operation of the marina and docking facility. The Lessee shall dredge only to depths permitted by the Florida Department of Environmental Regulation and the U.S. Army Corps of Engineers. It shall be the City's responsibility to provide maintenance dredging of the Baylen Slip basin to the boundaries of the Leased Premises in accordance with maintenance schedules of the Port of Pensacola, or as otherwise necessary to maintain navigable access to the Leased Premises. The City's responsibility to maintain navigable access to the leased boundaries shall be governed by permits issued for such work. The City will not object, and shall assist, if necessary, Scuba Shack in securing a separate contract with the City's maintenance dredge contractor at such times as the opportunity provides. However, in no way shall any assistance be construed to be a monetary obligation on the part of the City.

10. The City shall retain all rights in adjacent waters, which shall include the right to construct additional piers, docks, boat slips and the like.

11. Scuba Shack, its transferees, grantees, successors and assigns, shall irrevocably release the City, its contractors, employees, agents and servants, from any and all claims for damages of whatever nature resulting from any dredging by the City, including the incidental depositing of dredged materials resulting from dredging, bulkheading, and/or riprapping, and other incidental damage resulting from any dredging operations and the like which might occur. The parties, their successors and assigns, shall cooperate with each other in connection with the securing of periodic dredging of Baylen Slip, and in this connection, agree to execute such applications, releases and other documents necessary or incidental to the approval of the U.S. Army Corps of Engineers,

or other public agency, to undertake and execute such dredging as shall be requested by either party. The parties, on behalf of themselves and their successors and assigns, further release each other from any and all claims for damage occasioned or arising from any disturbance of the submerged water bottom which results as a natural consequence, from normal periodic maintenance, bulkheading, riprapping of dredging by either party, either in the maintenance and repair of any marina of the use, maintenance and employment of the rights of the marina waterways.

12. In the event that Scuba Shack desires to construct a new bulkhead waterward of the existing bulkhead on the City's property, they shall submit plans for such bulkhead for the City's review and approval. Both parties agree that in the event a new bulkhead constructed on any part of the Leased Premises or if a bulkhead is constructed on adjacent property owned by Scuba Shack and such construction is in any part funded by the City, that Scuba Shack shall provide a walkway and provide public access along any walkway constructed as part of the bulkhead construction and an easement will be recorded recognizing the public's right to utilize the public walkway.

13. Scuba Shack may not, without the City's prior written consent, assign its interest in this lease agreement to any person or entity other than its successor as owner of the parcel of real property lying immediately easterly of the Leased Premises.

14. This lease agreement may be terminated by either party at any time by giving written notice of its intention to terminate the lease agreement six (6) months prior to said termination.

15. All notices sent to Scuba Shack pursuant to this lease agreement shall be sent to Scuba Shack, Inc., 711 South Palafox Street, Pensacola, Florida 32501. All notices sent to the City pursuant to this lease agreement shall be sent to the Office of the City Manager, City of Pensacola, 180 Governmental Center, Pensacola, Florida 32501.

IN WITNESS WHEREOF, the parties hereto, or their agents duly authorized, have hereunto set their hands and affixed their seals on the day and year first above written.

CITY OF PENSACOLA, FLORIDA
a municipal corporation

By: *[Signature]*
City Manager

ATTEST:

[Signature]
City Clerk

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 1st day of May, 1997, by EDMOND R. HINKLE and SHIRLEY F. LAW, the City Manager and City Clerk, respectively, of the CITY OF PENSACOLA, a municipal corporation, for and on behalf of the City.

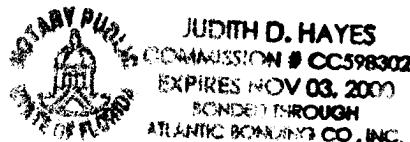
NOTARY PUBLIC

Signature: *[Signature]*
Printed: Judith D. Hayes

STATE OF FLORIDA AT LARGE
My Commission Expires:

"APPROVED AS TO CONTENT"

By *[Signature]*
Assistant City Mgr.
Date 4-29-97



APPROVED AS TO FORM AND EXECUTION	
BY	<u><i>[Signature]</i></u> City Attorney
Dated	<u>5/6/97</u>

SCUBA SHACK, INC.

By: Eilene Beard

Eilene Beard, Co-Director

Gene Ferguson

Gene Ferguson, Co-Director

WITNESSES:

Greg Jorgensen
Ben Rush

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 29th day of April, 1997, by EILENE BEARD and GENE FERGUSON, Co-Directors, SCUBA SHACK, INC., a corporation, on behalf of the corporation. He/she is personally known to me or has produced Driver's Licenses as identification.

NOTARY PUBLIC

Signature: Veronica Winters

Printed: VERONICA WINTERS



Veronica Winters
MY COMMISSION # CC506252 EXPIRES
October 26, 1999
BONDED THIRD TROY FARM INSURANCE, INC.

STATE OF FLORIDA AT LARGE
My Commission Expires:

ATTACHMENT "A"

MINIMUM INSURANCE REQUIREMENTS

1. Workers' Compensation - If legally required, Coverage to apply for all employees for Statutory Limits in compliance with the applicable state and federal laws. In addition, the policy must include:
 - a) Employers' Liability with a limit of not less than \$100,000 each person - accident, \$100,000 each person - disease, \$500,000 aggregate - disease.
 - b) Notice of Cancellation and/or Restriction - Insurance must be documented in a Certificate of Insurance which provides the City with thirty (30) days notice of cancellation or material change.
 - c) Coverage must be included for the U.S. Longshoremen and Harbor Workers Act on an "if any" basis.
2. Commercial General Liability - Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability policy filed by the Insurance Services Office and must include:
 - a) Minimum limits of \$1,000,000 per occurrence combined single limit for Bodily Injury and Property Damage Liability.
 - b) Premises and Operations
 - c) Products and Completed Operations
 - d) Independent Contractors
 - e) Protection and Indemnity Insurance for liability arising out of the ownership and operation of vessels.
 - f) City of Pensacola listed as an additional insured and coverage documented in a Certificate of Insurance which provides the City with thirty (30) days notice of cancellation or adverse material change.

FINAL DOCUMENT REVIEW FORM
(blue)USER AGENCYDocument: SCUBA SHACK, INC. & CITY LEASE AGREEMENT (2 Copies)☐ Project ☐ Contract ☐ Lease ☐ Other (Check One)Name/Description: Lease Agreement for Submerged Property between
City of Pensacola and Scuba Shack, Inc. (Baylen Slip)User Agency: Administration Contact Person: Al CobyDate of Council Approval: 2/27/97 Sent to Contract Administration: 4/16/97**RECEIVED**CONTRACT ADMINISTRATIONDate Received: APR 16 1997☐ Pending (See comments below); 25 YR 4/96 - 4/21
(Signature) \$400 YR Send to User Agency: / / ☒ Approved: [Signature] Send to Risk Management Agency 4/22/97
(Signature)Comments: "APPROVED AS TO CONTENT"RISK MANAGERDate Received: 4/22/97☐ Pending (See comments below); Send to User Agency: / /
(Signature)☒ Approved: [Signature] Send to City Manager 4/25/97
(Signature)Comments: **RECEIVED**
APR 22 1997DEPARTMENT OF
RISK MANAGEMENT

CITY MANAGER'S OFFICE

Date Received: 4/29/97

☒ Approved: [Signature]
(Deputy/Assistant Manager)

☐ Pending (See comments below); _____ Send to User Agency: ____/____/____
(City Manager)

☒ Document Executed; [Signature] Send to City Clerk: 5/1/97
(Signature)

Comments: _____

CITY CLERK

5/1/97

Send Original to City Attorney 5/1/97

Document Officially Recorded: _____
(Signature)

CITY ATTORNEY

Date Received: 5/1/97

☒ Pending (See comments below); [Signature] Send To User Agency: ____/____/____
(Signature)

☒ Approved as to Form; [Signature] Send Original to City Clerk 5/6/97
(Signature)

Comments: We need the corporate seal of the corporation. If it is not available, a
corporate officer may write the word "seal" & draw a circle around it.

CITY CLERK

5/6 Returned 1 to Roxane, kept 1 original

Retain Original

City Clerk Document Control Number: _____

Send copy of original to User Agency ____/____/____



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00450

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

ASSIGNMENT OF SUBLEASE AND APPROVAL OF ESTOPPEL CERTIFICATE -
HARBORMASTER BUILDING, 997 SOUTH PALAFOX STREET

RECOMMENDATION:

That City Council consent to the assignment of the sublease of the Harbormaster Building (also referred to as the Jaco's Building) located at 997 South Palafox Street from Downtown Property Group USA, LLC to Harbourmaster Pensacola, LLC and approve an estoppel certificate relevant to the same transaction. Further, that City Council authorize the Mayor to execute all pertinent documents necessary to facilitate and complete this action.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In November 1998, the City Council approved a South Palafox Commercial Lease Agreement with Palafox Pier & Yacht Harbor Inc. (now Marina Management Corp.), as part of the South Palafox Street Community Redevelopment Project. This lease co-terminates with the South Palafox Marina Lease Agreement approved in June 1997. Under the terms of the Commercial Lease, construction of two buildings were completed - the former "Icehouse Building", a mixed-use building near the terminus of Palafox, and the Harbormaster Building, another mixed-use building which houses Jaco's Bayfront Bar & Grille.

There have been several amendments to both the Commercial and Marina Leases since their inception, with various assignments for portions of the properties of the leases. The latest one relevant to the Harbormaster Building in this memo is the assignment and lessor estoppel certificate related to the Downtown Property Group USA's purchase of the building, approved by Council in March 2014.

In mid-April, representatives of sublessee Downtown Property Group USA (via American Healthcare Partners LLC) contacted City staff regarding the need to obtain an estoppel certificate from the ground lease lessor (the City of Pensacola), required by the lender, ServiFirst Bank, for closing on the sale of the 997 South Palafox building to Harbourmaster Pensacola, LLC, owned by restaurateur David Hambrick. (Verification via the Florida Division of Corporations' Sunbiz.org is not available at this time due to the newness of the entity's formation, per counsel representing the sale.)

After various discussions and transmittals between the various parties and City staff, including the City Attorney's office, the attached consent to assignment and lessor estoppel certificate were agreed upon. These documents are expressly limited in their scope and do not subordinate the City's fee simple interest, nor alter the terms or rights of the Commercial Lease.

PRIOR ACTION:

November 30, 1998 - City Council approved the original South Palafox Commercial Lease to Palafox Pier & Yacht Harbor, Inc (now Marina Management Corp.)

March 13, 2014 - After various other amendments and assignments of buildings under the Commercial Lease, the City Council approved the Assignment of the Amended and Restated Lease and Lessor Estoppel Certificate to Downtown Property Group USA, LLC for the Harbormaster Building.

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

5/13/2021

STAFF CONTACT:

Keith Wilkins, City Administrator
Kerrith Fiddler, Deputy City Administrator - Community Development
Amy Lovoy, Finance Director

ATTACHMENTS:

- 1) Council Action - Approval of Assignment and Estoppel for Harbormaster Bldg - 03-14-2014
- 2) Assignment of Amended and Restated Lease Agreement - Harbourmaster Pensacola LLC - May 2021
- 3) Lessor Estoppel Certificate with Exhibit for Jacos Bldg - May 2021

PRESENTATION: No

Report of City Council Action Items

March 13, 2014

Members Present: Council President Jewel Cannada-Wynn, Council Vice-President Megan Pratt, Charles Bare, Larry B. Johnson, Sherri Myers, Brian Spencer, Andy Terhaar, and Gerald Wingate



Absent: P. C. Wu

CONSENT AGENDA ITEMS

1. AWARD OF CONTRACT – BID #14-012 – DESOTO STREET AT BAYOU TEXAR (WESTERN SHORE) STORMWATER PROJECT

That City Council award a contract for construction of the DeSoto Street @ Bayou Texar (Western Shore) Stormwater Project to J. Miller Construction, Inc. of Pensacola, Florida, the lowest and most responsible bidder with a base bid of \$374,200.00, plus a 10% contingency.

The motion passed unanimously.

REGULAR AGENDA ITEMS

2. ASSIGNMENT OF LEASE –HARBORMASTER BUILDING

That City Council approve assignment of the lease of the Harbormaster Building property on South Palafox Street, from Harbourmaster Building, LLC, to Downtown Property Group USA LLC, a Florida limited liability company, as well as execution of an Amendment to Amended and Restate Lease Agreement, and a Lessor Estoppel Certificate to facilitate the transaction.

The motion passed 6-0. Council Members Johnson and Spencer abstaining.

3. PUBLIC HEARING: PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE – PROHIBITED ACTIVITY REGARDING THE PARKING OF VEHICLES ON RESIDENTIAL PROPERTY – **MOTION TO APPROVE**

That City Council conduct a public hearing on March 13, 2014 to consider the proposed amendment to the Land Development Code pertaining to prohibited activity regarding the parking of vehicles on residential property.

The motion passed unanimously.

PROPOSED ORDINANCE NO. 11-14 – *1st Reading* – **MOTION TO APPROVE**

AN ORDINANCE CREATING SECTION 12-3-5 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR THE REGULATION OF OFF-STREET PARKING ON RESIDENTIAL PROPERTY; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE

The motion passed unanimously.

4. PUBLIC HEARING: AMENDMENT TO THE LAND DEVELOPMENT CODE – OFF-SITE PARKING - **MOTION TO APPROVE**

That City Council conduct a public hearing on March 13, 2014 to consider the proposed amendment to the Land Development Code.

The motion passed unanimously.

PROPOSED ORDINANCE NO. 12-14 – *1st Reading* – **MOTION TO APPROVE**

AN ORDINANCE AMENDING SECTION 12-2-1(D) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE OFF-SITE PARKING REQUIREMENTS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE

The motion passed unanimously.

COUNCIL MEMORANDUM

Council Meeting Date: March 13, 2014



LEGISLATIVE ACTION ITEM

SPONSOR:

Ashton J. Hayward, III, Mayor *aml*

SUBJECT:

Assignment of Lease – Harbormaster Building

RECOMMENDATION:

That City Council approve assignment of the lease of the Harbormaster Building property on South Palafox Street, from Harbourmaster Building, LLC, to Downtown Property Group USA LLC, a Florida limited liability company, as well as execution of an Amendment to Amended and Restated Lease Agreement, and a Lessor Estoppel Certificate to facilitate the transaction.

AGENDA:

_____ Regular X Consent

Hearing Required: Public _____ Quasi-Judicial _____ No Hearing Required X

SUMMARY:

In 1997, as part of the South Palafox Street Community Redevelopment Project which resulted in the removal of the Bayfront Auditorium and construction of DeLuna Park, the City Council approved a 100 year lease to Palafox Pier and Yacht Harbor, Inc. The purpose of the lease was to provide for the construction of a marina and related, compatible upland structures. One of the structures built on the leased property was the Harbormaster Building, which currently houses Jaco's Restaurant. The initial lease provided that the lease could be assigned with approval of the City Council, which approval will not be unreasonably withheld, and that the City would provide an estoppel letter, certifying that lease payments are current and there are no impediments to assignment, if requested by the lessee.

There have been several amendments to the initial lease and subleases executed since 1997. One of the amendments occurred in 2008, between the City, Marina Management Corp., and its wholly owned subsidiaries, Harbourmaster Building, L.L.C., and Icehouse Property, L.L.C., and in that transaction an erroneous portion of the legal description of the leased property was included and recorded as part of the amended lease.

The City has been requested by the current lessee, Harbourmaster Building, L.L.C., to approve an assignment of the lease to Downtown Property Group USA LLC., along with an estoppel certificate, and also to amend the prior 2008 amended lease in order to correct the erroneous legal description contained in that document.

Council Memorandum
Assignment of Lease – Harbourmaster Building
March 13, 2014
Page 2

Downtown Property Group USA LLC's principals are John D. Levitan, Sr., James W. Dillard, Sr., Aaron Montgomery and Alex Cross.

PRIOR ACTION:

The City initially approved the 100 year lease of this property in 1997, and has approved several amendments to the lease since that time.

FUNDING: None required.

FINANCIAL IMPACT: None.

STAFF CONTACT: Colleen Castille, City Administrator; James Messer, City Attorney; Richard Barker, Jr., Chief Financial Officer

ATTACHMENTS:

- 1) Assignment of Amended and Restated Lease Agreement
- 2) Amendment to Amended and Restated Lease Agreement
- 3) Lessor Estoppel Certificate
- 4) Aerial Photo of Subject Property

PRESENTATION: None

ASSIGNMENT OF AMENDED AND RESTATED LEASE AGREEMENT ("Assignment")

Harbourmaster Building, L.L.C., a Florida limited liability company ("Harbourmaster"), 1901 Cypress Street, Pensacola, FL 32502, is the current Sublessee under a Sublease dated May 1, 2006, and recorded in O.R. Book 5928 at page 1065 of the public records of Escambia County, Florida, and an Assignment of Sublease dated May 18, 2007 and recorded in O.R. Book 6147 at page 1161 of the public records of Escambia County, Florida; and

Marina Management Corp., a Florida corporation ("Marina Management"), 1901 Cypress Street, Pensacola, FL 32502, is the owner and holder of a Lessee interest under the Amended And Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida and the amendment thereto recorded in O.R. Book _____ at page _____ of the public records of Escambia County, Florida ("Amended And Restated Lease"); and

Whereas, Harbourmaster and Marina Management desire to assign the Amended and Restated Lease to Downtown Property Group USA LLC, a Florida corporation ("Downtown Property"), 997 South Palafox Street, Pensacola, FL 32502, with Harbourmaster receiving a purchase money mortgage and security agreement for \$1,890,000.00 from Downtown Property; and

Whereas, Harbourmaster and Marina Management shall terminate the Sublease dated May 1, 2006, and recorded in O.R. Book 5928 at page 1065 of the public records of Escambia County, Florida;

It is therefore, for ten dollars (\$10.00) and other good and valuable consideration, agreed as follows:

1. Harbourmaster and Marina Management ("Assignors") do transfer, assign and convey all of their interest in Amended and Restated Lease to Downtown Property Group USA LLC, a Florida corporation ("Assignee"). Assignee hereby assumes and covenants to comply with the provisions of the aforesaid Amended and Restated Lease from the date of this Assignment. Assignors covenant that Assignors are the owners of the leasehold estate set forth in the Amended and Restated Lease, that Assignors have the right to transfer the same and have received prior approval of the City of Pensacola with regard to this Assignment, that this Assignment is free and clear of any liens or encumbrances subject to the matters set forth on Exhibit A; that Assignee may at all times peaceably and quietly enter upon, hold, occupy and enjoy said leasehold estate subject to the matters set forth on Exhibit A, that Assignors shall make such further assurances as to protect the Assignee in the leasehold estate under the Amended and Restated Lease and Assignors shall defend the same against the lawful claims of all persons, except as otherwise provided herein.

Executed on March _____, 2014.

Witness:

Harbourmaster Building, L.L.C., a Florida
limited liability company

By: _____
Leo J. Cyr, Its Managing Member

Marina Management Corp., a Florida
corporation

By: _____
Leo J. Cyr, Its President

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of March, 2014, by Leo J. Cyr, Managing Member of Harbourmaster Building, L.L.C., a Florida limited liability company and Leo J. Cyr, President of Marina Management Corp., a Florida corporation on behalf of the company and corporation () who is personally known to me or () who produced a valid driver's license as identification.

NOTARY PUBLIC - STATE OF FLORIDA
Typed Name: Charles L. Hoffman, Jr.
My Commission Expires: 02/28/17

Amendment to Amended and Restated Lease Agreement

Whereas, City of Pensacola, Florida ("Lessor") and Marina Management Corp. ("Lessee") entered into an Amended and Restated Lease Agreement dated May 16, 2008; recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida as joined in by HARBOURMASTER BUILDING, L.L.C., a Florida limited liability company ("Sublessee") and ICEHOUSE PROPERTY, L.L.C. a Florida limited liability company ("Subsidiary"); and

Whereas, it was determined that the legal description set forth in Parcel 2 in O.R. Book 6330 at page 110 and 111 was in error;

It is therefore, for good and valuable consideration, agreed as follows:

1. The legal description in Parcel 2 as set forth in Parcel 2 in O.R. Book 6330 at page 110 and 111 is deleted and the following description is inserted as Parcel 2:

That certain Parcel known as and referred to as "Marina Lease Area B-1" described as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence go South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence go South 79 degrees 29 minutes 22 seconds West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds West for a distance of 10.79 feet; Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence go North 79 degrees 15 minutes 18 seconds East for a distance of 8.98 feet to the point of beginning; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 4.52 feet; thence go South 76 degrees 07 minutes 18 seconds East for a distance of 41.79 feet to a point on a Non-Tangent curve being concave Southeasterly and having a radius of 137.68 feet; thence go Northeasterly along the arc of said curve having a radius of 137.68 feet for an arc distance of 83.81 feet (Delta= 34 degrees 52 minutes 38 seconds, Chord Bearing=N 18 degrees 32 minutes 15 seconds East, Chord Distance = 82.52 feet) to a Point of Non-Tangency; thence go North 47 degrees 08 minutes 36 seconds East for a distance of 23.83 feet; thence go North 11 degrees 01 minutes 20 seconds West for a distance of 62.36 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 8.21 feet; thence Go South 10 degrees 44 minutes 42 seconds East for a distance of 10.00 feet; thence go South 43 degrees 43 minutes 22 seconds West for a distance of 25.81 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 18.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 17.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a

distance of 20.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 83.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 31.02 feet to the point of beginning. The above described parcel of land is situate in a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

The above described property is set forth on that survey by Northwest Florida Land Surveying, Inc. Dated July 9, 2007 as Project Number 17437-BNDY, a copy of which is attached hereto.

2. Except as amended herein, the Agreement remained in full force and effect.

Executed ____ day of January, 2014.

CITY OF PENSACOLA,
a municipal corporation of Florida, Lessor

By: _____

Mayor: _____

Print Name: Ashton J. Hayward, III

(SEAL)

City Clerk/ Ericka Burnett

Signed, sealed and delivered

in the presence of:

Print Name: _____

MARINA MANAGEMENT CORP.,
a Florida Corporation, Lessee

By: _____

Print Name: _____

Leo J. Cyr, its President

Print Name: _____

HARBOURMASTER BUILDING, L.L.C.,
a Florida limited liability company, Sublessee

By: _____

Print Name: _____

Leo J. Cyr, its Managing Member

Print Name: _____

ICEHOUSE PROPERTY, L.L.C.,
a Florida limited liability company, Subsidiary

By: MARINA MANAGEMENT CORP.,
a Florida Corporation

Print Name: _____

By: _____
Leo J. Cyr, its President
Managing Member

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this _____ day of _____, 2014, by Ashton J. Hayward, III and ERICKA BURNETT, the Mayor and City Clerk, respectively, of the CITY OF PENSACOLA, a municipal corporation of Florida, for and on behalf of the City. Said persons () are personally known to me or () have produced _____ as identification.

NOTARY PUBLIC
Commission No.: _____
My commission expires: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this _____ day of _____, 2014, by Leo J. Cyr as President of MARINA MANAGEMENT CORP., a Florida corporation, on behalf of said corporation. Said person () is personally known to me or () has produced _____ as identification.

NOTARY PUBLIC
Commission No.: _____
My commission expires: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this ____ day of January, 2014, by Leo J. Cyr as Managing Member of HARBOURMASTER BUILDING, L.L.C., a Florida limited liability company, on behalf of said company. Said person () is personally known to me or () has produced _____ as identification.

NOTARY PUBLIC

Commission No.: _____

My commission expires: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this ____ day of _____, 2014, by Leo J. Cyr as President of MARINA MANAGEMENT CORP., a Florida corporation, as managing member of ICEHOUSE PROPERTY, L.L.C. on behalf of said companies. Said person () is personally known to me or () has produced _____ as identification.

NOTARY PUBLIC

Commission No.: _____

My commission expires: _____

LESSOR ESTOPPEL CERTIFICATE

Lessor: City of Pensacola

Lessee: Downtown Property Group USA LLC, a Florida corporation

Lease: Amended And Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida and the amendment thereto recorded in O.R. Book _____ at page _____ of the public records of Escambia County, Florida

Lender: Harbourmaster Building, L.L.C., a Florida limited liability company

Date:

Pursuant to Article XVI.A. of the Lease, Lessor certifies to Lessee and Lender as follows::

a) The Lease and First Amendment thereto, attached hereto as Exhibit "A", is a true, correct and complete agreement between Lessor and Lessee.

b) The Lease has not been modified or amended and is in full force and effect.

c) The assignment of the Lease from Harbourmaster Building, L.L.C., a Florida limited liability company and Marina Management Corp., a Florida corporation to Lessee has been approved by Lessor.

d) The mortgage and security agreement on the Lease from Lessee to Harbourmaster Building, L.L.C., a Florida limited liability company, has been approved by Lessor. The Lease will not be modified, amended or changed by Lessor or Lessee without the prior written approval of Lender. Any correspondence, notice of default or notice of non-compliance from Lessor to Lessee shall also be sent to Lender and Lender shall have the right to cure any default by Lessee. Lender's current address is 1901 Cypress Street, Pensacola, FL 32502 and Lender shall promptly notify Lessor of a change to Lender's address.

e) As of the date hereof, to our knowledge, no default, or state of facts which with the passage of time or notice would constitute a default under the Lease exists by either Lessor or Lessee or by Marina Management Corp., a Florida corporation as the prior owner of the leasehold interest.

City of Pensacola

By: _____
Richard Barker, Jr., Chief Financial Officer

Print Visible Windows

Zoom: - +

Chris Jones - Escambia County Property Appraiser

Reference: 000S009100060050

Account: 154408050

Section Map: CA071

Situs: 997 S PALAFOX ST

Complex:

Owner: PENSACOLA CITY OF

Mailing Address:
C/O MARINA MANAGEMENT CORP
1901 CYPRESS ST
PENSACOLA, FL 32501

Last Sale: n/a,\$0

Property Use: LEASEHOLD INTEREST

Approx. Acreage: 0.1600

Bldg. Count: 1

Total heated Area: 7280

Zoned: WRD

40m
100ft

Tools Layers

Search

Address

Ex: 123 E Main

☒ Like ☐ Begins ☐ Ends ☐ Equals

Execute Search

Identify GPS

Selection

☐ Append selections

☐ Suppress Auto Expand

☐ Include radius in selection

500 ft (5280 ft max)

Measure

Map Output

Layouts A3 Landscape

Formats JPG

Export Map

Print Visible Windows

Zoom: - +

Chris Jones - Escambia County Property Appraiser

Reference: 000S009100060050

Account: 154408050

Section Map: CA071

Situs: 997 S PALAFOX ST

Complex:

Owner: PENSACOLA CITY OF

Mailing Address:
C/O MARINA MANAGEMENT CORP
1901 CYPRESS ST
PENSACOLA, FL 32501

Last Sale: n/a, \$0

Property Use: LEASEHOLD INTEREST

Approx. Acreage: 0.1600

Bldg. Count: 1

Total heated Area: 7280

Zoned: WRD

40m
100ft

SPALAX ST
SUTTERSON ST

CA071

Tools **Layers**

Search

Address

Ex: 123 E Main

☒ Like ☐ Begins ☐ Ends ☐ Equals

Execute Search

Identify **GPS**

Selection

☐ Append selections
☐ Suppress Auto Expand
☐ Include radius in selection

500 ft (5280 ft max)

Measure

Map Output

Layouts A3 Landscape

Formats JPG

Export Map

Report of City Council Action Items

March 13, 2014

Members Present: Council President Jewel Cannada-Wynn, Council Vice-President Megan Pratt, Charles Bare, Larry B. Johnson, Sherri Myers, Brian Spencer, Andy Terhaar, and Gerald Wingate



Absent: P. C. Wu

CONSENT AGENDA ITEMS

1. AWARD OF CONTRACT – BID #14-012 – DESOTO STREET AT BAYOU TEXAR (WESTERN SHORE) STORMWATER PROJECT

That City Council award a contract for construction of the DeSoto Street @ Bayou Texar (Western Shore) Stormwater Project to J. Miller Construction, Inc. of Pensacola, Florida, the lowest and most responsible bidder with a base bid of \$374,200.00, plus a 10% contingency.

The motion passed unanimously.

REGULAR AGENDA ITEMS

2. ASSIGNMENT OF LEASE –HARBORMASTER BUILDING

That City Council approve assignment of the lease of the Harbormaster Building property on South Palafox Street, from Harbourmaster Building, LLC, to Downtown Property Group USA LLC, a Florida limited liability company, as well as execution of an Amendment to Amended and Restate Lease Agreement, and a Lessor Estoppel Certificate to facilitate the transaction.

The motion passed 6-0. Council Members Johnson and Spencer abstaining.

3. PUBLIC HEARING: PROPOSED AMENDMENT TO THE LAND DEVELOPMENT CODE – PROHIBITED ACTIVITY REGARDING THE PARKING OF VEHICLES ON RESIDENTIAL PROPERTY – **MOTION TO APPROVE**

That City Council conduct a public hearing on March 13, 2014 to consider the proposed amendment to the Land Development Code pertaining to prohibited activity regarding the parking of vehicles on residential property.

The motion passed unanimously.

PROPOSED ORDINANCE NO. 11-14 – *1st Reading* – **MOTION TO APPROVE**

AN ORDINANCE CREATING SECTION 12-3-5 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR THE REGULATION OF OFF-STREET PARKING ON RESIDENTIAL PROPERTY; PROVIDING A PENALTY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE

The motion passed unanimously.

4. PUBLIC HEARING: AMENDMENT TO THE LAND DEVELOPMENT CODE – OFF-SITE PARKING - **MOTION TO APPROVE**

That City Council conduct a public hearing on March 13, 2014 to consider the proposed amendment to the Land Development Code.

The motion passed unanimously.

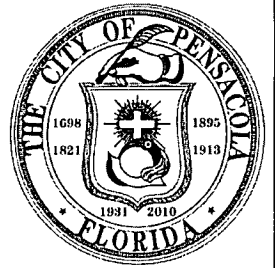
PROPOSED ORDINANCE NO. 12-14– *1st Reading* – **MOTION TO APPROVE**

AN ORDINANCE AMENDING SECTION 12-2-1(D) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE OFF-SITE PARKING REQUIREMENTS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE

The motion passed unanimously.

COUNCIL MEMORANDUM

Council Meeting Date: March 13, 2014



LEGISLATIVE ACTION ITEM

SPONSOR:

Ashton J. Hayward, III, Mayor *aml for 3/13/14*

SUBJECT:

Assignment of Lease – Harbormaster Building

RECOMMENDATION:

That City Council approve assignment of the lease of the Harbormaster Building property on South Palafox Street, from Harbourmaster Building, LLC, to Downtown Property Group USA LLC, a Florida limited liability company, as well as execution of an Amendment to Amended and Restated Lease Agreement, and a Lessor Estoppel Certificate to facilitate the transaction.

AGENDA:

_____ Regular X Consent

Hearing Required: Public _____ Quasi-Judicial _____ No Hearing Required X

SUMMARY:

In 1997, as part of the South Palafox Street Community Redevelopment Project which resulted in the removal of the Bayfront Auditorium and construction of DeLuna Park, the City Council approved a 100 year lease to Palafox Pier and Yacht Harbor, Inc. The purpose of the lease was to provide for the construction of a marina and related, compatible upland structures. One of the structures built on the leased property was the Harbormaster Building, which currently houses Jaco's Restaurant. The initial lease provided that the lease could be assigned with approval of the City Council, which approval will not be unreasonably withheld, and that the City would provide an estoppel letter, certifying that lease payments are current and there are no impediments to assignment, if requested by the lessee.

There have been several amendments to the initial lease and subleases executed since 1997. One of the amendments occurred in 2008, between the City, Marina Management Corp., and its wholly owned subsidiaries, Harbourmaster Building, L.L.C., and Icehouse Property, L.L.C., and in that transaction an erroneous portion of the legal description of the leased property was included and recorded as part of the amended lease.

The City has been requested by the current lessee, Harbourmaster Building, L.L.C., to approve an assignment of the lease to Downtown Property Group USA LLC., along with an estoppel certificate, and also to amend the prior 2008 amended lease in order to correct the erroneous legal description contained in that document.

Council Memorandum
Assignment of Lease – Harbourmaster Building
March 13, 2014
Page 2

Downtown Property Group USA LLC's principals are John D. Levitan, Sr., James W. Dillard, Sr., Aaron Montgomery and Alex Cross.

PRIOR ACTION:

The City initially approved the 100 year lease of this property in 1997, and has approved several amendments to the lease since that time.

FUNDING: None required.

FINANCIAL IMPACT: None.

STAFF CONTACT: Colleen Castille, City Administrator; James Messer, City Attorney; Richard Barker, Jr., Chief Financial Officer

ATTACHMENTS:

- 1) Assignment of Amended and Restated Lease Agreement
- 2) Amendment to Amended and Restated Lease Agreement
- 3) Lessor Estoppel Certificate
- 4) Aerial Photo of Subject Property

PRESENTATION: None

ASSIGNMENT OF AMENDED AND RESTATED LEASE AGREEMENT ("Assignment")

Harbourmaster Building, L.L.C., a Florida limited liability company ("Harbourmaster"), 1901 Cypress Street, Pensacola, FL 32502, is the current Sublessee under a Sublease dated May 1, 2006, and recorded in O.R. Book 5928 at page 1065 of the public records of Escambia County, Florida, and an Assignment of Sublease dated May 18, 2007 and recorded in O.R. Book 6147 at page 1161 of the public records of Escambia County, Florida; and

Marina Management Corp., a Florida corporation ("Marina Management"), 1901 Cypress Street, Pensacola, FL 32502, is the owner and holder of a Lessee interest under the Amended And Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida and the amendment thereto recorded in O.R. Book _____ at page _____ of the public records of Escambia County, Florida ("Amended And Restated Lease"); and

Whereas, Harbourmaster and Marina Management desire to assign the Amended and Restated Lease to Downtown Property Group USA LLC, a Florida corporation ("Downtown Property"), 997 South Palafox Street, Pensacola, FL 32502, with Harbourmaster receiving a purchase money mortgage and security agreement for \$1,890,000.00 from Downtown Property; and

Whereas, Harbourmaster and Marina Management shall terminate the Sublease dated May 1, 2006, and recorded in O.R. Book 5928 at page 1065 of the public records of Escambia County, Florida;

It is therefore, for ten dollars (\$10.00) and other good and valuable consideration, agreed as follows:

1. Harbourmaster and Marina Management ("Assignors") do transfer, assign and convey all of their interest in Amended and Restated Lease to Downtown Property Group USA LLC, a Florida corporation ("Assignee"). Assignee hereby assumes and covenants to comply with the provisions of the aforesaid Amended and Restated Lease from the date of this Assignment. Assignors covenant that Assignors are the owners of the leasehold estate set forth in the Amended and Restated Lease, that Assignors have the right to transfer the same and have received prior approval of the City of Pensacola with regard to this Assignment, that this Assignment is free and clear of any liens or encumbrances subject to the matters set forth on Exhibit A; that Assignee may at all times peaceably and quietly enter upon, hold, occupy and enjoy said leasehold estate subject to the matters set forth on Exhibit A, that Assignors shall make such further assurances as to protect the Assignee in the leasehold estate under the Amended and Restated Lease and Assignors shall defend the same against the lawful claims of all persons, except as otherwise provided herein.

Executed on March _____, 2014.

Witness:

Harbourmaster Building, L.L.C., a Florida
limited liability company

By: _____
Leo J. Cyr, Its Managing Member

Marina Management Corp., a Florida
corporation

By: _____
Leo J. Cyr, Its President

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this _____ day of March, 2014, by Leo J. Cyr, Managing Member of Harbourmaster Building, L.L.C., a Florida limited liability company and Leo J. Cyr, President of Marina Management Corp., a Florida corporation on behalf of the company and corporation () who is personally known to me or () who produced a valid driver's license as identification.

NOTARY PUBLIC - STATE OF FLORIDA
Typed Name: Charles L. Hoffman, Jr.
My Commission Expires: 02/28/17

Amendment to Amended and Restated Lease Agreement

Whereas, City of Pensacola, Florida ("Lessor") and Marina Management Corp. ("Lessee") entered into an Amended and Restated Lease Agreement dated May 16, 2008; recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida as joined in by HARBOURMASTER BUILDING, L.L.C., a Florida limited liability company ("Sublessee") and ICEHOUSE PROPERTY, L.L.C. a Florida limited liability company ("Subsidiary"); and

Whereas, it was determined that the legal description set forth in Parcel 2 in O.R. Book 6330 at page 110 and 111 was in error;

It is therefore, for good and valuable consideration, agreed as follows:

1. The legal description in Parcel 2 as set forth in Parcel 2 in O.R. Book 6330 at page 110 and 111 is deleted and the following description is inserted as Parcel 2:

That certain Parcel known as and referred to as "Marina Lease Area B-1" described as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence go South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence go South 79 degrees 29 minutes 22 seconds West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds West for a distance of 10.79 feet; Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence go North 79 degrees 15 minutes 18 seconds East for a distance of 8.98 feet to the point of beginning; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 4.52 feet; thence go South 76 degrees 07 minutes 18 seconds East for a distance of 41.79 feet to a point on a Non-Tangent curve being concave Southeasterly and having a radius of 137.68 feet; thence go Northeasterly along the arc of said curve having a radius of 137.68 feet for an arc distance of 83.81 feet (Delta= 34 degrees 52 minutes 38 seconds, Chord Bearing=N 18 degrees 32 minutes 15 seconds East, Chord Distance = 82.52 feet) to a Point of Non-Tangency; thence go North 47 degrees 08 minutes 36 seconds East for a distance of 23.83 feet; thence go North 11 degrees 01 minutes 20 seconds West for a distance of 62.36 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 8.21 feet; thence Go South 10 degrees 44 minutes 42 seconds East for a distance of 10.00 feet; thence go South 43 degrees 43 minutes 22 seconds West for a distance of 25.81 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 18.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 17.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a

distance of 20.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 83.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 31.02 feet to the point of beginning. The above described parcel of land is situate in a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

The above described property is set forth on that survey by Northwest Florida Land Surveying, Inc. Dated July 9, 2007 as Project Number 17437-BNDY, a copy of which is attached hereto.

2. Except as amended herein, the Agreement remained in full force and effect.

Executed ____ day of January, 2014.

CITY OF PENSACOLA,
a municipal corporation of Florida, Lessor

By: _____
Mayor: _____
Print Name: Ashton J. Hayward, III

(SEAL)

City Clerk/ Ericka Burnett

Signed, sealed and delivered

in the presence of:

Print Name: _____

Print Name: _____

MARINA MANAGEMENT CORP.,
a Florida Corporation, Lessee

By: _____
Leo J. Cyr, its President

Print Name: _____

Print Name: _____

HARBOURMASTER BUILDING, L.L.C.,
a Florida limited liability company, Sublessee

By: _____
Leo J. Cyr, its Managing Member

Print Name: _____

ICEHOUSE PROPERTY, L.L.C.,
a Florida limited liability company, Subsidiary

By: MARINA MANAGEMENT CORP.,
a Florida Corporation

Print Name: _____

By: _____
Leo J. Cyr, its President
Managing Member

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this _____ day of _____, 2014, by Ashton J. Hayward, III and ERICKA BURNETT, the Mayor and City Clerk, respectively, of the CITY OF PENSACOLA, a municipal corporation of Florida, for and on behalf of the City. Said persons () are personally known to me or () have produced _____ as identification.

NOTARY PUBLIC
Commission No.: _____
My commission expires: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this _____ day of _____, 2014, by Leo J. Cyr as President of MARINA MANAGEMENT CORP., a Florida corporation, on behalf of said corporation. Said person () is personally known to me or () has produced _____ as identification.

NOTARY PUBLIC
Commission No.: _____
My commission expires: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this ____ day of January, 2014, by Leo J. Cyr as Managing Member of HARBOURMASTER BUILDING, L.L.C., a Florida limited liability company, on behalf of said company. Said person () is personally known to me or () has produced _____ as identification.

NOTARY PUBLIC

Commission No.: _____

My commission expires: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this ____ day of _____, 2014, by Leo J. Cyr as President of MARINA MANAGEMENT CORP., a Florida corporation, as managing member of ICEHOUSE PROPERTY, L.L.C. on behalf of said companies. Said person () is personally known to me or () has produced _____ as identification.

NOTARY PUBLIC

Commission No.: _____

My commission expires: _____

LESSOR ESTOPPEL CERTIFICATE

Lessor: City of Pensacola

Lessee: Downtown Property Group USA LLC, a Florida corporation

Lease: Amended And Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida and the amendment thereto recorded in O.R. Book _____ at page _____ of the public records of Escambia County, Florida

Lender: Harbourmaster Building, L.L.C., a Florida limited liability company

Date:

Pursuant to Article XVI.A. of the Lease, Lessor certifies to Lessee and Lender as follows::

- a) The Lease and First Amendment thereto, attached hereto as Exhibit "A", is a true, correct and complete agreement between Lessor and Lessee.
- b) The Lease has not been modified or amended and is in full force and effect.
- c) The assignment of the Lease from Harbourmaster Building, L.L.C., a Florida limited liability company and Marina Management Corp., a Florida corporation to Lessee has been approved by Lessor.
- d) The mortgage and security agreement on the Lease from Lessee to Harbourmaster Building, L.L.C., a Florida limited liability company, has been approved by Lessor. The Lease will not be modified, amended or changed by Lessor or Lessee without the prior written approval of Lender. Any correspondence, notice of default or notice of non-compliance from Lessor to Lessee shall also be sent to Lender and Lender shall have the right to cure any default by Lessee. Lender's current address is 1901 Cypress Street, Pensacola, FL 32502 and Lender shall promptly notify Lessor of a change to Lender's address.
- e) As of the date hereof, to our knowledge, no default, or state of facts which with the passage of time or notice would constitute a default under the Lease exists by either Lessor or Lessee or by Marina Management Corp., a Florida corporation as the prior owner of the leasehold interest.

City of Pensacola

By: _____
Richard Barker, Jr., Chief Financial Officer

ASSIGNMENT OF AMENDED AND RESTATED LEASE AGREEMENT ("Assignment")

WHEREAS, Downtown Property Group USA, LLC ("Assignor") is the lessee under that certain Amended and Restated Lease Agreement dated May 16, 2008 and recorded in Book 6330, Page 87; as amended by that certain Amendment to Amended and Restated Lease Agreement dated March 14, 2014 and recorded in Book 7156, Page 1324; and as assigned to Assignor by that certain Assignment of Amended and Restated Lease Agreement dated April 9, 2014 and recorded in Book 7156, Page 1450, all of the Official Records of Escambia County, Florida (collectively, the "Amended And Restated Lease"), which pertains to property described on Exhibit A; and

WHEREAS, Assignor desires to assign all of its rights and interest in the Amended and Restated Lease to Harbourmaster Pensacola, LLC, a Florida limited liability company having an address of 997 South Palafox Street, Pensacola, FL 32502 ("Assignee"); and

WHEREAS, the Assignment has been approved by the City of Pensacola.

NOW THEREFORE, for and in consideration of ten dollars (\$10.00), and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed as follows:

1. Assignor does transfer, assign and convey all of its interest in Amended and Restated Lease to Assignee. Assignee hereby assumes and covenants to comply with the provisions of the aforesaid Amended and Restated Lease from the date of this Assignment. Assignor covenants that Assignor is the owner of the leasehold estate set forth in the Amended and Restated Lease, that Assignor has the right to transfer the same and has received the prior approval of the City of Pensacola with regard to this Assignment, that this Assignment is free and clear of any liens or encumbrances subject to the matters set forth on Exhibit B; that Assignee may at all times peaceably and quietly enter upon, hold, occupy and enjoy said leasehold estate subject to the matters set forth on Exhibit B, that Assignor shall make such further assurances as to protect the Assignee in the leasehold estate under the Amended and Restated Lease, and Assignor shall defend the same against the lawful claims of all persons, except as otherwise provided herein.

Executed on _____, 2021.

ASSIGNOR

Downtown Property Group USA, LLC,
a Florida limited liability company

Witnesses:

By: _____

Print: _____

By: American Healthcare Partners, LLC
a Delaware limited liability company

By: _____

Print: _____

By: _____

Alexander Cover

Its: Manager

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this ____ day of _____, 2021, by Alexander Cover, III, as Manager of American Healthcare Partners, LLC, a Delaware limited liability company, as Manager of Downtown Property Group USA, LLC, a Florida limited liability company () who is personally known to me or () who produced a valid driver's license as identification.

NOTARY PUBLIC

Typed Name:

My Commission Expires:

Exhibit "A"

Property as described in: Amended and Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330, Page 87, Public Records of Escambia County, Florida and the amendment thereto recorded in O.R. Book 7156, Page 1324 of the Public Records of Escambia County, Florida. (As to Parcel 1. Parcel 2 is not conveyed herein as it is only subject to being Additional Property under the terms of the Amended And Restated Lease.)

Parcel 1

That certain parcel known as and referred to as "Marina Lease Area B-2" or the "Harbourmaster Building", the legal description for which is as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola Copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence, North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence South 79 degrees 29 minutes 22 seconds, West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds East for a distance of 10.79 feet to the Point of Beginning. Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 40.00 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 83.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 20.00 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 17.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 18.00 feet; thence North 43 degrees 43 minutes 22 seconds East for a distance of 25.81 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 10.00 feet; thence South 79 degrees 15 minutes 18 seconds West for a distance of 99.00 feet to the point of Beginning.

Containing 0.15 acres, more or less and all lying and being in Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

Which property is also depicted and described in Official Records Book 4575 at Page 0783 of the Public Records of Escambia County, Florida.

Parcel 2 (This parcel is not conveyed herein as it is only subject to being Additional Property under the terms of the Amended And Restated Lease)

That certain Parcel known as and referred to as "Marina Lease Area B-1"

Described as follows:

Commence at the North West corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117 .00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence go South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence go South 79 degrees 29 minutes 22 seconds West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds West for a distance of 10.79 feet; Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence go North 79 degrees 15 minutes 18 seconds East for a distance of 8.98 feet to the point of beginning; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 4.52 feet; thence go South 76 degrees 07 minutes 18 seconds East for a distance of 41.79 feet to a point on a Non-Tangent curve being concave Southeasterly and having a radius of 137.68 feet; thence go Northeasterly along the arc of said curve having a radius of 137.68 feet for an arc distance of 83.81 feet (Delta= 34 degrees 52 minutes 38 seconds, Chord Bearing=N 18 degrees 32 minutes 15 seconds East, Chord Distance = 82.52 feet) to a Point of Non-Tangency; thence go North 47 degrees 08 minutes 36 seconds East for a distance of 23.83 feet; thence go North 11 degrees 01 minutes 20 seconds West for a distance of 62.36 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 8.21 feet; thence Go South 10 degrees 44 minutes 42 seconds East for a distance of 10.00 feet; thence go South 43 degrees 43 minutes 22 seconds West for a distance of 25.81 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 18.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 17 .00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 20.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 83.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 31.02 feet to the point of beginning. The above described parcel of land is situate in a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

Exhibit B

1. Subject to Terms and Conditions of and Easements set forth in Commercial Lease Agreement recorded in Official Records Book 4396, Page 733, with Amendments in Official Records Book 4575, Page 768, and Official Records Book 4684, Page 932, and Marina Lease Agreement in Official Records Book 4203, Page 1071, with Amendments in Official Records Book 4720, Page 1937, Official Records Book 5303, Page 1691, and Official Records Book 6343, Page 1672, with Amended and Restated Lease Agreement in Official Records Book 6330, Page 87, as Amended in Official Records Book 7156, Page 1324, with Sublease in Official Records Book 5928, Page 1065, which was assigned in Official Records Book 6147, Page 1161, and Terminated in Official Records Book 7156, Page 1361, with Assignments of Sublease in Official Records Book 7156, Page 1396 and Official Records Book 7156, Page 1450, and Sub-Sublease Agreement in Official Records Book 7156, Page 1438, of the Public Records of Escambia County, Florida.
2. Easement Agreement recorded in O.R. Book 7156, Page 1478 of the Public Records of the Escambia County, Florida.
3. Declaration of Covenants and Restrictions recorded in O.R. Book 7156, Page 1406, of the Public Records of Escambia County, Florida.
4. Nonexclusive Revocable Parking license recorded in O.R. Book 5027, Page 847, of the Public Records of Escambia County, Florida.
5. Agreement between City of Pensacola and the State of Florida Department of Environmental Regulation recorded in Official Records Book 2906, Page 174, of the Public Records of Escambia County, Florida.

LESSOR ESTOPPEL CERTIFICATE

Lessor: City of Pensacola

Lessee: Downtown Property Group USA, LLC, a Florida corporation

Assignee: Harbourmaster Pensacola, LLC, a Florida limited liability company

Lease: Amended and Restated Lease Agreement dated May 16, 2008, and recorded in Book 6330 at Page 87 of the Official Records of Escambia County, Florida; as amended by that certain Amendment to Amended and Restated Lease Agreement dated May 14, 2014, and recorded in Book 7156, at Page 1324 of the Official Records of Escambia County, Florida; and as assigned by that certain Assignment of Amended and Restated Lease Agreement dated April 9, 2014, and recorded in Book 7156, at Page 1450 of Official Records of Escambia County, Florida (collectively, the “**Lease**”)

Lender: ServisFirst Bank

Date: _____, 2021

Pursuant to Article XVI(A) of the Lease, Lessor certifies to Lessee, Assignee and Lender as follows:

- (a) The Lease, attached hereto as Exhibit “A”, is a true, correct and complete copy of the agreement between Lessor and Lessee.
- (b) The Lease has not been modified or amended and is in full force and effect.
- (c) The assignment of the Lease from Lessee to Assignee has been approved by Lessor.
- (d) Lessor understands and acknowledges that Assignee intends to finance its acquisition of the Lease with Lender, and as security for said financing, intends to grant Lender a Mortgage and Security Agreement on its interests in the Lease (“**Mortgage**”). Lessor consents to the Mortgage, subject in all respects to the terms of the Lease. Any correspondence, notice of default or notice of non-compliance from Lessor to Lessee or Assignee shall also be sent to Lender and Lender shall have the right to cure any default by Assignee. Lender’s current address is 219 E. Garden Street, Pensacola, FL 32502 and Lender shall promptly notify Lessor of a change to Lender’s address.
- (e) As of the date hereof, to our knowledge, no default, or state of facts which with the passage of time or notice would constitute a default under the Lease exists by either Lessor, Lessee, or Assignee.

[A separate signature page follows.]

City of Pensacola

Sign: _____

Print: _____

Title: _____

Date: _____

Harbourmaster Pensacola, LLC – signature page to Lessor Estoppel Certificate

Recorded in Public Records 05/20/2008 at 04:30 PM OR Book 6330 Page 87,
Instrument #2008038689, Ernie Lee Magaha Clerk of the Circuit Court Escambia
County, FL Recording \$231.00

Prepared by and Return to:

Daniel R. Lozier
Lozier, Thames, Frazier,
Spencer & Schlieter, P.A.
24 West Chase Street
Pensacola, FL 32502
(850) 469-0202

STATE OF FLORIDA

COUNTY OF ESCAMBIA

AMENDED AND RESTATED LEASE AGREEMENT

This Amended and Restated Lease Agreement ("Lease Agreement" or the "Agreement") is entered into effective the 16th day of May, 2008, by and between the CITY OF PENSACOLA, FLORIDA, a municipal corporation of the state of Florida, hereinafter called the "Lessor" or "City", and MARINA MANAGEMENT CORP., a Florida corporation, hereinafter called the "Lessee" or "Developer", whose address is c/o Daniel R. Lozier, 24 West Chase Street, Pensacola, Florida 32502, Harbourmaster Building, LLC, a Florida limited liability company, wholly owned by Lessee, hereinafter called the "Sublessee", whose address is c/o Daniel R. Lozier, 24 West Chase Street, Pensacola, Florida, 32502, and Icehouse Property, LLC, a Florida limited liability company, and wholly owned by Lessee, hereinafter called "Icehouse", whose address is c/o Daniel R. Lozier, 24 West Chase Street, Pensacola, Florida, 32502.

WITNESSETH:

WHEREAS, certain of the parties hereto are parties to that certain South Palafox Marina Lease Agreement dated on or about June 12, 1997, and recorded in Official Records Book 4203 at Page 1071 of the Public Records of Escambia County, Florida, as subsequently amended by that certain First and Second Amendment to South Palafox Marina Lease Agreement recorded in Official Records Book 4720 at Pages 1937-1944 of the Public Records

of Escambia County, Florida, as subsequently amended by that certain Third Amendment to South Palafox Marina Lease Agreement recorded on Official Records Book 5303 at Pages 1691-1697 of the Public Records of Escambia County, Florida, which South Palafox Marina Lease Agreement as amended is hereinafter referred to as the "Marina Lease"; and

WHEREAS, certain of the parties hereto are also parties to that certain South Palafox Commercial Lease Agreement dated on or about November 30, 1998 and recorded in Official Records Book 4396 at Page 0733, of the Public Records of Escambia County, Florida, which Lease was subsequently amended by that certain First Amendment to South Palafox Commercial Lease Agreement, and that certain Second Amendment to South Palafox Commercial Lease Agreement, both of which amendments are recorded in Official Records Book 4575 at Pages 0768-0789, of the Public Records of Escambia County, Florida, and further amended by that certain Third Amendment to South Palafox Commercial Lease Agreement dated on or about November 9, 2000, and recorded in Official Records Book 4684 at Pages 0932-0937 of the Public Records of Escambia County, Florida, which South Palafox Commercial Lease Agreement, as amended, is hereinafter referred to as the "Commercial Lease"; and

WHEREAS, the Marina Lease and the Commercial Lease were executed and delivered in connection with the redevelopment, development, construction, and operation of a marina and of commercial and residential upland improvements on property owned by the City and leased to Lessee along what is commonly called or referred to as the "Palafox Pier Peninsula"; and

WHEREAS, pursuant to the terms of the Marina Lease and the Commercial Lease, Lessor and Lessee substantially completed the intended redevelopment of the Palafox Pier Peninsula; and

WHEREAS, Lessee previously assigned its interest in a portion of the property leased pursuant to the Commercial Lease by that certain Partial Assignment of Lease dated May 7, 2001 and recorded in Official Records Book 4720 at Page 1945 of the Public Records of Escambia County, Florida (which assignment is hereinafter referred to as the "Condominium Assignment"); and

WHEREAS, Lessee also assigned its interest in a portion of the property leased pursuant to the Marina Lease to Icehouse by that certain Partial Assignment of Lease dated June 27, 2005 and recorded in Official Records Book 5672 at Page 402 of the Public Records of Escambia County, Florida (which assignment is hereinafter referred to as the "Icehouse Assignment"); and

WHEREAS, Lessee also subleased a portion of the property leased pursuant to the Marina Lease, by that certain Sublease dated on or about May 1, 2006, and recorded in Official Records Book 5928 at Page 1065 of the Public Records of Escambia County, Florida (hereinafter "Sublease"), which Sublease was subsequently assigned to Sublessee pursuant to that certain Assignment of Sublease as recorded in Official Records Book 6147 at Page 1161 of the Public Records of Escambia County, Florida; and

WHEREAS, Lessor and Lessee desire to further segregate and remove certain of the various parcels leased under the Marina Lease and Commercial Lease (as such parcels are described and depicted in Exhibit A to the Marina Lease) from the Marina Lease and Commercial Lease, and enter into this new lease with respect to said parcels so that such parcels are represented by a separate and independent lease agreement between the parties and their respective successors and assigns;

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

I. PREMISES LEASED

Lessor, hereby leases to Lessee the property described in Exhibit "A" as Parcel 1, attached and incorporated by reference, which property is hereinafter referred to as the "Subject Property", together with the improvements constructed and to be constructed thereon, subject to the terms, provisions and conditions of this Lease Agreement. Upon mutual agreement of Lessor and Lessee, the Subject Property may be expanded to include additional property described as Parcel 2 in Exhibit "A" and depicted in Attachment "A" to Exhibit "A" hereto ("Additional Property"), and Lessee may additionally acquire the exclusive right to use the three (3) Northernmost parking spaces depicted on said Attachment, at no additional cost to Lessee provided: (i) Lessee agrees to restrict the use of such Additional Property and the ground floor of the building located on the Subject Property to a restaurant, nightclub and/or bar, or other use acceptable to Lessor; and (ii) the parties negotiate and execute a document setting forth such other terms and conditions related to such use as the parties deem appropriate at such time, including but not limited to lease fees for the additional property, term of use restrictions, penalties for non-compliance, and a possible license to use other property near or adjacent to the Subject Property or Additional Property for outdoor dining or other use acceptable to Lessor.

II. EASEMENTS/PUBLIC PROPERTY

Lessor reserves an easement for public pedestrian access and public utilities over, under and across the upland portion of the Subject Property upon which no buildings, improvements, fixtures, equipment, or furnishings have been or will be constructed.

Said property (hereinafter collectively referred to as the "Public Property") has been improved by the City for public use as hereinafter provided.

III. LEASE TERM

The term of this lease shall be for a period of one hundred (100) years commencing June 12, 1997 ("Effective Date"), and ending on June 12, 2097.

IV. USE OF SUBJECT PROPERTY

The Subject Property shall be developed and utilized substantially in the same manner as currently developed and utilized as of the date hereof and for further and other uses incidental thereto and compatible therewith including but not limited to commercial, residential, retail, indoor and outdoor restaurant, nightclub, and/or bar, and other uses incidental thereto or consistent therewith Lessee shall at all times comply with all governmental laws, ordinances and regulations relating to the Subject Property and the Project, shall keep the Subject Property and the Project clean and free of trash and debris and shall not use the Subject Property and the Project in any way or manner which would cause injury to the buildings or structures on the Subject Property or which would constitute a nuisance to others.

V. CONSTRUCTION OF IMPROVEMENTS

All utilities on the Subject Property and adjacent "Public Property" shall be underground. No alterations or additions to the improvements to be placed upon the Subject Property shall be made at any time without the prior written consent of the Lessor which shall not be unreasonably withheld, nor shall Lessor alter the Public Property immediately adjacent to the Subject Property without Lessee's consent which shall, not be unreasonably withheld. In the event the other party shall so consent, all work shall be done in a good and workman-like manner and in compliance with governmental rules and regulations, all at the cost of the party making said alterations or additions. The subsequent removal of any such fixed additions or

.....

structural alterations shall be authorized by both parties and shall be at the cost of the party making such additions or alterations who shall restore the Subject Property to the same Condition as it existed prior to the structural alterations and fixed additions so removed.

VI. TITLE TO IMPROVEMENTS

Title to the Subject Property, including any building or other improvement of a permanent character that shall be placed upon the Subject Property, shall immediately vest in Lessor subject to this Lease or any renewal or extension hereof.

VII. MAINTENANCE AND REPAIRS

Lessee shall, during the term of this Lease or any subsequent extension, maintain and repair in good condition all of the Subject Property and constructed thereon. Lessor shall maintain and repair the Public Property and improvements constructed thereon.

It is agreed between the parties that the development of the Subject Property, the other parcels developed under the Marina Lease and Commercial Lease, and the Public Property, is one of the most visible and important parts of the City of Pensacola and the parties intend that they shall maintain such property and all improvements thereon in good condition and in new or near-new exterior condition and appearance during the entire term of this lease. Lessee shall, at its sole cost and expense, maintain the Subject Property in a clean manner, free of refuse and debris, in good order and repair and shall keep all the elements and systems of the Subject Property in good working order, repair and appearance, including, without limitation, all structural elements, all utilities systems, roofs, exterior walls, walkways, drive-ways, docks, piers, boat slips, floors, doors, windows, toilets, electrical fixtures, gas fixtures, fuel storage and distribution facilities, parking areas, and all waste water removal and disposal facilities to the extent that they or any of them are located within the Subject Property. Any damage to the Public Property caused by or through uses of Lessee, its invitees, guests, employees or Lessees

will be repaired by Lessee at its own cost.

It is agreed and understood that if, through normal wear and tear or otherwise, the buildings and improvements upon the Subject Property shall deteriorate so that they are not in compliance with current governmental codes and regulations or if the appearance thereof shall look shabby or deteriorated, they will be brought into compliance by Lessee or Lessor as the case may be, at such party's sole cost and expense and the appearance upgraded or improved to good condition and new or near-new exterior condition and the parties shall continue to maintain such buildings and improvements and the Subject Property and the Public Property, to such standards of appearance and condition during the entire term of this lease. Because of the long term of this lease, exceptions for normal wear and tear shall not be considered.

IX. ACCESS TO PROPERTY

During the term of this Lease, Lessee shall permit representatives of the Lessor access to the Subject Property at all reasonable times deemed necessary for inspection of all work being performed in connection with the construction of the improvements on the Subject Property.

X. PERFORMANCE SCHEDULE

Performance by both parties shall be extended when delays result from fire, storm, inclement weather, forces of nature, governmental restrictions enacted subsequent to this instrument, civil disobedience, riots, war, work stoppage, or other causes beyond the reasonable control of the parties.

XI. COVENANTS AND RESTRICTIONS

Lessor and Lessee agree that the following restrictions shall be covenants running with the land, and shall be binding on Lessor, Lessee, and the successors and assigns of the parties,

and all other successors in interest to the leased property, or any part thereof:

A. That the Subject Property and Public Property shall be devoted only to and used in accordance with the uses contemplated by the Marina Lease and Commercial Lease and as specified in Section IV hereto.

B. That all utility distribution lines shall be placed underground.

C. The westernmost ten (10) feet (more or less) of the Subject Property shall not be occupied by any building, wall, or other permanent or semi-permanent structure other than a railed terrace and a roof overhang. The cost of constructing the terrace, including the elevation thereof, steps, ramps, or access ways, the railing (which meets Lessor's safety standards), and the cost of pavers similar to those placed on the public ways by Lessor, shall be borne and paid by Lessee.

XII. INDEMNIFICATION AND HOLD HARMLESS AGREEMENT

To the extent insurance policy proceeds are insufficient to cover the same, the Lessee shall hold the Lessor, its subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents, harmless from any and all claims, suits, actions, damages, liability and expense, including reasonable attorneys fees, in connection with loss of life bodily or personal injury or property damage, including loss or use thereof, directly or indirectly caused by, resulting from, arising out of or occurring in connection with Lessee's performance under this Lease or Lessee's use of the Subject Property.

To the extent insurance policy proceeds are insufficient to cover the same, the Lessee shall defend and indemnify the Lessor and save it harmless from any and all claims, suits, actions, damages, liability and expense, including reasonable attorneys fees in connection with loss of life, bodily or personal injury, and property damage arising from or out of any occurrence in, upon, at or about the leased premises or any part thereof, or occasioned wholly or in part by

any act or omission of the Lessee, its agents, contractors, employees, servants, invitees, licensees or concessionaires.

The parties acknowledge and agree that Lessor's rights and remedies under this Article XI shall, not be deemed Lessor's exclusive rights and remedies.

Notwithstanding the aforesaid, before Lessee shall have any obligation of indemnity hereunder, Lessor shall provide notice to Lessee, reasonable under the circumstances, of the matter for which indemnification is claimed hereunder and shall thereafter, provide Lessee with an opportunity, reasonable under the circumstances, to defend, litigate, compromise, arbitrate, appeal, settle, or otherwise resolve said matter, to the reasonable satisfaction of the Lessor.

XIII. ENVIRONMENTAL INDEMNITY

Lessee shall fully and promptly pay, perform, discharge, indemnify and hold Lessor harmless from any and all claims, orders, demands, causes of actions, proceedings, judgments or suits in all liabilities, losses, costs or expenses (including, without limitation, technical consultant fees, court costs, expenses paid to third parties and reasonable legal fees) and damages arising out of or as a result of, any contamination or pollution discharged, released, deposited, dumped, spilled, leached, leaked, or placed into, on or from the Subject Property at anytime after the commencement of this Lease or the commencement of this Lease or the commencement of construction, which ever shall occur first.

Lessee shall indemnify, hold harmless and defend, Lessor, its council members, officers and employees against and in respect of any and all damages, costs, expenses (including, without limitation, fines, penalties, consequential damages and remedial costs) and other liabilities arising from claims based upon the environmental condition of the Subject Property or any portion thereof and the surrounding property (including, without limitations, all

facilities, improvements, structures and equipment thereon and all soil and ground water thereunder and all waters which form a part thereof), resulting from (a) Lessee's leasehold ownership of the Subject Property, or operations thereon by or on behalf of Lessee, its affiliates, agents, successors, tenants, transferees, or tenants of the transferees (b) claims arising out of, related to, or in connection with (i) the release of any hazardous or toxic substance, waste, constituent or other substance into, onto or from the Subject Property after the commencement date of this lease or commencement date of this Lease or commencement of construction by Lessee, whichever occurs first; or (ii) any arrangement by Lessee, its affiliates, successors, agents, tenant transferees or tenants of transferees, for the treatment, recycling, storage or disposal of any facility owned or operated by any person or entity of a hazardous or toxic substance, waste, constituent or other substance which is present on the Subject Property, or which has been or may be deposited at, disposed on, or released onto the Subject Property; and (c) claims related to demolition, clean up or other remedial measures with regard to environmental conditions on or around the Subject Property by Lessee, its affiliates, successors, agents, tenants, transferees or tenants of transferees. Notwithstanding the foregoing, Lessee does not indemnify Lessor, and Lessor shall indemnify Lessee, for claims related to the environmental conditions caused prior to the initial date of Marina Lease (with respect to the Subject Property originally leased under the Marina Lease) or Commercial Lease (with respect to the Subject Property originally leased under the Commercial Lease), whichever is applicable, except and only to the extent such conditions are not made worse by the negligent or unreasonable acts or omissions of Lessee, its affiliates, successors, agents, tenants, transferees or tenants of transferees. Lessor and Lessee, prior to seeking indemnity hereunder, shall first give the other party prior reasonable notice of and a reasonable opportunity to defend, cure or litigate (including all appeals) with third parties, all matters for which indemnification is

sought hereunder.

XIV. CONTROL AND SAFETY

The Lessee shall retain reasonable control over its employees, agents, servants, subcontractors, guests, invitees and its activities on or about the Subject Property and shall exercise reasonable caution for the reasonable protection of the general public. The parties acknowledge and agree that the Lessee shall not be deemed an agent of the Lessor.

XV. INSURANCE REQUIRED

Lessee shall, at its sole cost and expense, maintain insurance and provide Lessor with certificates of insurance in accordance with the Schedule of Insurance as shown on Exhibit "F" to the Marina Lease during the life of this Lease Agreement. The Lessee will not take possession of the Subject Property or commence construction activities on the Subject Property until certificates have been approved by the Lessor's Department of Risk Management. The Lessor shall have the right to make reasonable periodic increases to the minimum required limits of insurance on Exhibit "F" of the Marina Lease during the term of this Lease Agreement, but in any event said increases shall occur no more frequently than once on each second annual anniversary of the prior increase or commencement of coverage.

XVI. SPECIAL PROVISIONS

A. Lessee, its successors, and assigns may assign its interest in this Lease Agreement provided that Lessee is not in default of any of its obligations under this Lease Agreement and provided further that the Lessee obtains the prior written consent of the Lessor to such assignments, which consent shall not be unreasonably withheld, delayed, or conditioned. Lessor shall provide such estoppels or certifications as Lessee may reasonably require in connection with any intended assignment. Upon any such assignment, the assigning party shall no longer remain obligated hereunder.

B. The Lessee shall have the right to collaterally assign its interest in this Lease subject to all the terms of this Lease Agreement. There shall be no subordination of this Lease Agreement.

C. The Subject Property shall be placed on the city and county tax rolls for the purpose of levying the full amount of ad valorem taxes that would be due as if Lessee owned the fee simple title to the Subject Property, which amount is hereinafter referred to as the "Full Measure". The Lessee shall pay the Full Measure of any and all ad valorem real property taxes or other taxes that may be levied against the Subject Property during the term of this Lease Agreement. In the event that at any time during the period of this Lease, the law of Florida or interpretation of the law of Florida by an appropriate appellate court is altered so that less than the Full Measure is required to be paid on the Subject Property, then, and in that event, the Lessee shall pay to the Lessor on an annual basis, as additional lease payments, an amount equivalent to the difference between the Full Measure and any other tax or levy paid in lieu of the Full Measure. "Ad valorem taxes" shall mean city, county and state taxes on improved and unimproved real property.

D. The Lessee shall post or cause to be posted a construction bond reasonably suitable to Lessor, at the commencement of any construction of Improvements on the Subject Property and said bond shall remain for the duration of the construction.

E. The Lessor and Lessee agree to cooperate and use their respective best efforts to assist the Lessee under the Marina Lease and such lessee's immediate and remote successors and assigns (herein referred to as the "Marina Owner") in securing in the name of the Lessor, any modification to permits and approvals received to construct piers, docks, boat slips, and all other marina facilities pursuant to the Marina Lease.

F. Lessee agrees that it will not discriminate upon the basis of race, creed, color,

national origin, age, or sex in the construction, subleasing, use, occupancy, or *operation of the* Subject Property *or in the improvements to be* erected thereon and that each contract, sublease or agreement with respect thereto shall specifically contain substantially the following provision:

EQUAL OPPORTUNITY PROVISION:

In the construction and operation of the improvements, neither the lessee nor any contractor or manager employed by Lessee shall discriminate against any employee or applicant for employment because of race, color, religion, age, sex or national origin, and they shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, age, sex or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion or transfer; recruitment, or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The Lessee agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by Lessee setting forth the provisions of the Equal Opportunity Provision and to cause any contractor, subcontractor or manager to do likewise.

The Lessee, its Sublessee and any contractor or manager shall, in all solicitations or advertisements for employees placed by them or on their behalf, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, age, sex or national origin. They shall send to each labor union or representative of workers with which they, or any of them, have a collective bargaining agreement or other contract or understanding, a notice, to be provided by Lessee, advising the labor union or workers' representative of their commitments under this Equal opportunity Provision and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

Lessee certifies it does not maintain or provide for its employees any segregated facilities at any of its establishments and it does not permit its employees to perform their services at any location under its control where segregated facilities are maintained. The Lessee certifies further

that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained.

As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, rest rooms and wash rooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, color, religion or national origin, because of habit, local custom or otherwise. Lessee further agrees that it will obtain identical certificates from proposed sublessee, contractors, subcontractors and managers prior to the award of any contracts or subleases, and that it will retain such certificates in its files.

G. Intentionally Omitted.

H. The Lessee, the Lessor, and its or their respective transferees, grantees, successors, and assigns irrevocably releases the Lessor, its agents or assigns, and the Marina Owner, from any and all claims for damages resulting from dredging operations by the Lessor or Marina Owner from any and all claims for damages resulting from dredging operations by the Lessor or Marina Owner now or during the term of the Lease or any extension thereof, including the incidental depositing of dredged materials resulting from dredging, bulk heading, and/or rip rapping, except as may result from the gross negligence of intentional misconduct of the Lessor, Marina Owner, or its respective agents or subcontractors

I. Lessor and Lessee acknowledge that the Marina Owner shall have the right to own and operate a marina on parcels adjacent to the Subject Property pursuant to the Marina Lease and that Marina Owner shall have the right to establish and impose reasonable rules and

regulations pertaining to the nature, type, and number of such transient, commercial and special purpose vessels permitted in the marina, as well as to establish, impose, and enforce reasonable rules, regulations, conditions, or limitations of use of the marina and related facilities.

J. It is specifically understood, acknowledged and agreed that except as specified in this Section J: this Amended and Restated Lease Agreement does not amend nor modify Lessee's or Developer's parking rights as granted in the Marina Lease or Commercial Lease; nor does this Amended and Restated Lease Agreement make specific provision for parking rights with respect to the Subject Property described herein; and parking rights, if any, with respect to the Subject Property described herein, shall be represented if at all, by a separate instrument executed by Lessee or Developer granting such rights with respect to the Subject Property.

Lessee, its successors, and assigns shall have exclusive use of the five (5) southernmost parking spaces located on the west side of the north-bound side of South Palafox Street as depicted in Exhibit "B" hereto.

K. Lessee shall have the right, at the Lessee's sole cost and expense to relocate utility service equipment serving the improvements on the Subject Property to the south end of the landscaping island or median strip in the center of South Palafox Street, subject to prior approval of Lessor, which shall not be unreasonably withheld.

L. Lessee and Lessor covenant and agree to provide prior notice to each other, reasonable under the circumstances, of special events being conducted from time to time on the Public Property, and to coordinate such events with each other for the purpose of maintaining traffic flow to and from the Subject Property, and minimizing adverse impacts of such events on Lessee's activities on the Subject Property.

**XVII. ENFORCEMENT OF LEASE; FORFEITURE DEFAULT;
REMEDIES; NONWAIVER**

Lessor may enforce the performance of this Lease Agreement in any manner not prohibited by law:

A. If Lessee shall abandon, desert, or vacate the Subject Property or any portion thereof.

B. If default shall be made by Lessee in the payment of the lease payments (from any source) as specified in this Agreement.

C. If default shall be made by Lessee in the performance of any of the terms or conditions of this Agreement that Lessee is to perform.

D. If Lessee shall fail to comply with any of the statutes, ordinances, rules or regulations of any governmental body governing or regulating the Subject Property or the Lessee's business.

E. If Lessee shall file a petition in bankruptcy, or make an assignment for the benefit of creditors, or be adjudicated a bankrupt, or take advantage of any insolvency act, Lessor shall notify Lessee of any such default and of Lessor's intention to declare this Lease Agreement forfeited. The notice from Lessor shall be sent as specified in this Lease Agreement or may be delivered to Lessee personally, and unless Lessee shall have removed or cured the default or commenced taking action that will result in the default being removed or cured within ninety (90) days (five (5) days for defaults in the payment of Lease Payments, Taxes or to provide insurance required hereunder from the date of Lessor's notice of intention to declare the Lease Agreement forfeited (unless extended by written agreement of Lessor and Lessee), this Lease Agreement shall come to an end, as if the date established by notice of forfeiture were the day originally fixed herein for the expiration of the term of this Lease Agreement without any further notice from Lessor to Lessee. Lessor's agent or attorney shall have the

right, without further notice or demand, to re-enter and remove Lessee and Lessee's property from the leased property without being deemed guilty of any trespass.

The failure of either party to insist, in any one or more instances, on a strict performance of any of the terms or conditions of this Lease Agreement or to exercise any option set forth in this Lease Agreement shall not be construed as a future waiver or a relinquishment of the provision or option, but it shall continue and remain in full force and effect. The receipt by Lessor of rent, with knowledge of the breach of any term or condition hereof, shall not be deemed a waiver of the breach and no waiver by Lessor of any provision hereof shall be deemed to have been made unless expressed in writing and signed by Lessor.

XVIII. WASTE

Lessee shall repair, replace and maintain the Subject Property and all improvements placed thereon in reasonably good condition and shall use all reasonable precaution to prevent waste, damage or injury to the Subject Property or to any third parties. In the event of damage to or destruction of any improvements hereafter constructed on the Subject Property by fire, windstorm, flood, water or any other cause whatsoever, Lessee shall, within a reasonable time, repair or rebuild such structures so as to place the same in as good and tenable condition as existed before the event causing such damage or destruction; failure to do so shall constitute a breach of this Lease. Lessee shall maintain the Subject Property in any event to preserve the initial intended uses in good repair throughout the term of the lease and any extension hereof.

XIX. ATTORNEY'S FEES

If default be made by Lessor or Lessee in the performance of any of the terms, covenants, agreements or conditions set forth in this Lease Agreement so that it becomes necessary to place the enforcement of this Lease Agreement or any part of this Lease Agreement, or the collection of any rent due or to become due hereunder or the recovery or possession of the leased property

in the hands of an attorney or to file suit upon this Lease Agreement, the prevailing party shall be entitled to recover all the costs incurred in such action, including a reasonable attorney's fee, including those incurred on appeal.

XX. NOTICES

All notices provided in this Lease Agreement shall be deemed sufficient when sent via U.S. Certified Mail, Return Receipt Requested, postage prepaid, to the following addresses:

Lessor: CITY OF PENSACOLA
c/o City Manager
City Hall
Pensacola, Florida 32501

Lessee: Marina Management, Corp.
c/o Daniel R. Lozier, Esquire
24 West Chase Street
Pensacola, Florida 32502

Sublessee: Harbourmaster Building, LLC
c/o Daniel R. Lozier, Esquire
24 West Chase Street
Pensacola, Florida 32502

Sublessee: Icehouse Property, LLC
c/o Daniel R. Lozier, Esquire
24 West Chase Street
Pensacola, Florida 32502

XXI. PROVISIONS BINDING

The terms and provisions of this Lease Agreement shall be binding upon and shall inure to the benefit of the parties hereto, their successors and assigns, respectively.

XXII. AMENDMENT

This Lease Agreement may not be altered, changed or amended except by an instrument in writing approved by Lessor's City Council, signed by the parties hereto.

XXIII. SEVERABILITY

If any provision of this Lease Agreement shall be declared in contravention of law or

void as against public policy, such provisions shall be considered severable and the remaining provisions of this Lease Agreement shall continue in full force and effect.

XXIV. PARAGRAPH HEADINGS

The paragraph headings in this Lease Agreement are intended for convenience only and shall not be taken into consideration in any construction or interpretation of this Lease Agreement or any of its provisions.

XXVI. ENTIRE AGREEMENT

This instrument constitutes the entire agreement between Lessor and Lessee on the subject of this Lease Agreement in so far as it relates to the Subject Property and all prior or contemporaneous oral or written agreement or representations of any nature with reference to the subject matter of this Lease Agreement in so far as it relates to the Subject Property are canceled and superseded by the provisions of this Lease Agreement.

XXVII. WAIVER

Failure on the part of either party to complain of any action or non-action on the part of the other, no matter how long it may continue, shall never be deemed to be a waiver by said party of any of its rights under this Lease Agreement. Further, it is covenanted and agreed that no waiver at any time of any of the provisions of this Lease Agreement by any party shall be construed as a waiver at any subsequent time of the same provisions.

The consent or approval by either party to or of any action by the other requiring said party's consent or approval shall not be deemed to waiver or render unnecessary said party's consent or approval to or of any subsequent similar act.

XXVIII. TIME OF THE ESSENCE

Time is of the essence of each and every provision, covenant and condition of this Lease Agreement on the part of Lessor and Lessee to be done and performed.

XXIX. GOVERNING LAW

This Lease Agreement is subject to and shall be governed by the laws of the State of Florida.

XXX. RADON GAS

Radon Gas is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risk to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida.. Additional information regarding radon and radon testing may be obtained from the Escambia County Public Health Unit.

XXXI. LEASE RENEWAL

While this language shall not operate as a renewal of the lease or a promise to renew the lease after the expiration of the term, if the governing body of the Lessor is and has been satisfied with the performance with the Lessee during the one hundred (100) year term hereof, the governing body of the Lessor is encouraged to consider an arrangement which would extend and renew the relationship with Lessee, its successors and assigns, as herein established on such terms as shall at the time be deemed appropriate by the governing body of the Lessor.

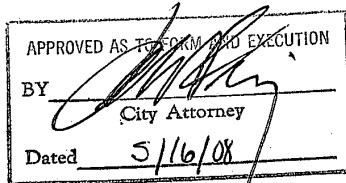
XXX. CROSS DEFAULTS/SUPERSEDURE/SUBLEASE TERMINATION

Notwithstanding anything in the Commercial Lease, the Marina Lease, the Condominium Assignment, the Icehouse Assignment, or herein to the contrary, a default under any lease of any parcel of property described in the Marina Lease or Commercial Lease shall not constitute a default hereunder or under any other lease of any other parcel of property leased under the Marina Lease or Commercial Lease, nor shall a default under the Marina Lease or Commercial Lease constitute a default hereunder. Solely with respect to the Subject Property described on Exhibit A attached hereto, this Amended and Restated Lease Agreement supersedes and replaces the Marina Lease and the Commercial Lease.

BK: 6330 PG: 107

Sublessee acknowledges and agrees that the Sublease shall be deemed terminated and replaced with this Lease Agreement at such time as this Lease Agreement is executed by all parties hereto, and thereafter assigned by Lessee to Sublessee and Sublessee covenants and agrees to execute and deliver such documents as Lessor may request for the purpose of documenting such termination and replacement.

EXECUTED in multiple original copies to be effective as of the day and year first above written.



CITY OF PENSACOLA,
a municipal corporation of Florida, Lessor

By: [Signature]
City Manager
Thomas J. Bonfield

[Signature]
City Clerk/ Ericka Burnett

{SEAL}

MARINA MANAGEMENT CORP.
a Florida Corporation, Lessee

By: [Signature]
Its: PRESIDENT

[Signature]
Witness
Print Name: Meredith Wilkinson
[Signature]
Witness
Print Name: TOSHIA HASEE

BK: 6330 PG: 108

HARBOURMASTER BUILDING, LLC
a Florida limited liability company, Sublessee

By: _____

Its: PRESIDENT

Meredith Wilkinson
Witness

Print Name: Meredith Wilkinson

Joshia L. Hasse
Witness

Print Name: TOSHIA HASSE

ICEHOUSE PROPERTY, LLC
a Florida limited liability company, Subsidiary

By: _____

Its: PRESIDENT

Meredith Wilkinson
Witness

Print Name: Meredith Wilkinson

Joshia L. Hasse
Witness

Print Name: TOSHIA HASSE

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 16th day of May, 2008, by TOM BONFIELD and ERICKA BURNETT, the City Manager and City Clerk, respectively, of the CITY OF PENSACOLA, a municipal corporation of Florida, for and on behalf of the City. Said persons (✓) are personally known to me or () have produced _____ as identification.

(seal)

NOTARY PUBLIC

Commission No.: DD 684667My Commission expires: June 12, 2011

BK: 6330 PG: 109

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 5 day of May, 2008 by Leo Cyr, President, on behalf of MARINA MANAGEMENT CORP., a Florida Corporation who (✓) is personally known to me or who () has produced _____ as identification.


NOTARY PUBLIC

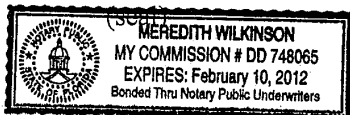
Commission No.: _____

My Commission Expires: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 5 day of May, 2008 by Leo Cyr, President, on behalf of HARBOURMASTER, LLC, a Florida limited liability company, who (✓) is personally known to me or who () has produced _____ as identification.


NOTARY PUBLIC

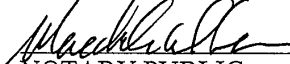
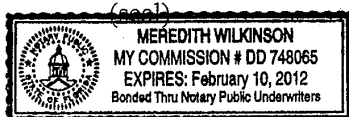
Commission No.: _____

My Commission Expires: _____

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 5 day of May, 2008 by Leo Cyr, President, on behalf of ICEHOUSE PROPERTY, LLC, a Florida limited liability company, who (✓) is personally known to me or who () has produced _____ as identification.


NOTARY PUBLIC

Commission No.: _____

My Commission Expires: _____

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EXHIBIT A**Parcel 1**

That certain parcel known as and referred to as "Marina Lease Area B-2" or the "Harbourmaster Building", the legal description for which is as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34'11" East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25'49" East for a distance of 8.12 feet; thence North 79 degrees 23'15" East for a distance of 117.00 feet; thence South 10 degrees 36'45" East for a distance of 642.43 feet; thence North 79 degrees 29'51" East for a distance of 288.58 feet; thence South 10 degrees 37'31" East for a distance of 520.29 feet; thence South 79 degrees 29'22" West for a distance of 114.07 feet; thence South 10 degrees 44'42" East for a distance of 10.79 feet for the Point of Beginning.

Thence continue South 10 degrees 44'42" East for a distance of 125.00 feet; thence North 79 degrees 15'18" East for a distance of 40.00 feet; thence North 10 degrees 44'42" West for a distance of 83.00 feet; thence North 79 degrees 15'18" East for a distance of 20.00 feet; thence North 10 degrees 44'42" West for a distance of 17.00 feet; thence North 79 degrees 15'18" East for a distance of 18.00 feet; thence North 43 degrees 43'22" East for a distance of 25.81 feet; thence North 10 degrees 44'42" West for a distance of 10.00 feet; thence South 79 degrees 15'18" West for a distance of 99.00 feet to the point of Beginning.

Containing 0.15 acres, more or less and all lying and being in Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

which property is also depicted and described in Official Records Book 4575 at Page 0783 of the Public Records of Escambia County, Florida, and on Attachment "A" hereto.

Parcel 2

All areas north and west of brick wall and brick pavers as depicted on Attachment "A" hereto, the legal description for which is as follows:

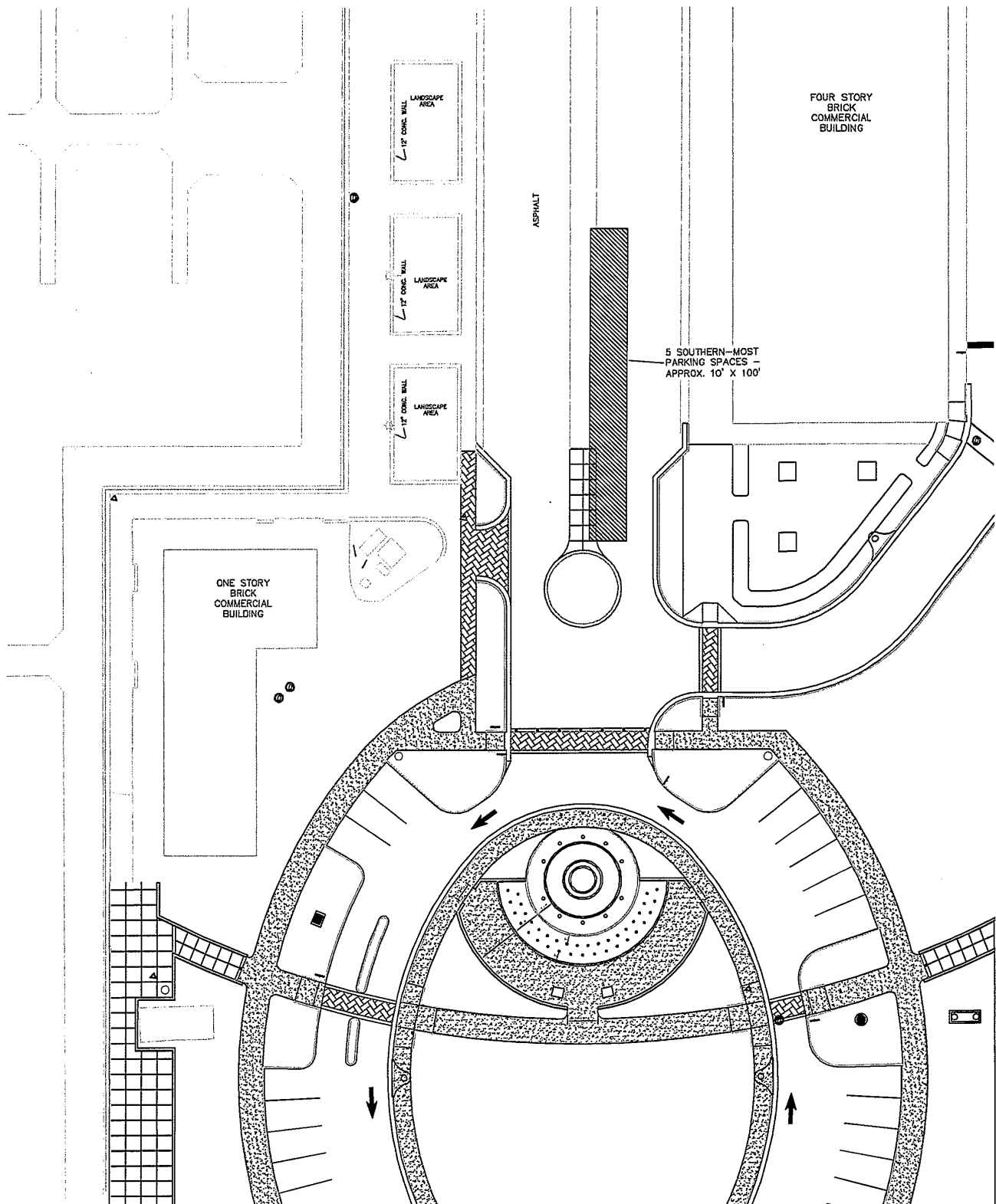
Lots 11, 12, 13, 14, and 15, and the South 95 feet of Lots 28 and 29, and the South 95 feet of the East 14 feet of Lot 25, all in Block 35, of the Waterfront Tract in the City of Pensacola, Escambia County, Florida, according to map of said City copyrighted by Thomas C. Watson in 1906; together with that certain strip of hard-surfaced land

BK: 6330 PG: 111

25 feet in width, used as a parking area, adjoining and lying North of the North line of the building located on said Lot 11, extended on the East to Palafox Street and on the West to the waters of Baylen Street Slip, and on the West of the waters of Baylen Street Slip, and which said land is located between the West line of Palafox Street on the East and the waters of Baylen Street Slip on the West. (Formerly conveyed by previous deeds of realty recorded in Official Record book 4079 at pages 1467, 1469, and 1471 and Book 5234 page 1462.)



EXHIBIT B



Recorded in Public Records 04/09/2014 at 04:37 PM OR Book 7156 Page 1324,
Instrument #2014024718, Pam Childers Clerk of the Circuit Court Escambia
County, FL Recording \$44.00

Amendment to Amended and Restated Lease Agreement

Whereas, City of Pensacola, Florida ("Lessor") and Marina Management Corp. ("Lessee") entered into an Amended and Restated Lease Agreement dated May 16, 2008; recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida as joined in by HARBOURMASTER BUILDING, L.L.C., a Florida limited liability company ("Sublessee") and ICEHOUSE PROPERTY, L.L.C. a Florida limited liability company ("Subsidiary"); and

Whereas, it was determined that the legal description set forth in Parcel 2 in O.R. Book 6330 at page 110 and 111 was in error;

It is therefore, for good and valuable consideration, agreed as follows:

1. The legal description in Parcel 2 as set forth in Parcel 2 in O.R. Book 6330 at page 110 and 111 is deleted and the following description is inserted as Parcel 2:

That certain Parcel known as and referred to as "Marina Lease Area B-1" described as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence go South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence go South 79 degrees 29 minutes 22 seconds West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds West for a distance of 10.79 feet; Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence go North 79 degrees 15 minutes 18 seconds East for a distance of 8.98 feet to the point of beginning; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 4.52 feet; thence go South 76 degrees 07 minutes 18 seconds East for a distance of 41.79 feet to a point on a Non-Tangent curve being concave Southeasterly and having a radius of 137.68 feet; thence go Northeasterly along the arc of said curve having a radius of 137.68 feet for an arc distance of 83.81 feet (Delta= 34 degrees 52 minutes 38 seconds, Chord Bearing=N 18 degrees 32 minutes 15 seconds East, Chord Distance = 82.52 feet) to a Point of Non-Tangency; thence go North 47 degrees 08 minutes 36 seconds East for a distance of 23.83 feet; thence go North 11 degrees 01 minutes 20 seconds West for a distance of 62.36 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 8.21 feet; thence Go South 10 degrees 44 minutes 42 seconds East for a distance of 10.00 feet; thence go South 43 degrees 43 minutes 22 seconds West for a distance of 25.81 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 18.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 17.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 20.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 83.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a

BK: 7156 PG: 1325

distance of 31.02 feet to the point of beginning. The above described parcel of land is situate in a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

The above described property is set forth on that survey by Northwest Florida Land Surveying, Inc. Dated July 9, 2007 as Project Number 17437-BNDY, a copy of which is attached hereto.

2. Except as amended herein, the Agreement remained in full force and effect.

Executed 14th day of March, 2014.

CITY OF PENSACOLA,
a municipal corporation of Florida, Lessor

By: Colleen M. Castille for
Mayor: Ashton J. Hayward III
Print Name: Ashton J. Hayward, III

Ericka L. Burnett
City Clerk/ Ericka Burnett

(SEAL)

Signed, sealed and delivered

in the presence of:

Crystal Stearns
Print Name: Crystal Stearns

April L. Swift
Print Name: April L. Swift

MARINA MANAGEMENT CORP.,
a Florida Corporation, Lessee

By: Leo J. Cyr
Leo J. Cyr, its President


Crystal Stearns
Print Name: Crystal Stearns

April L. Swift
Print Name: April L. Swift

HARBOURMASTER BUILDING, L.L.C.,
a Florida limited liability company, Sublessee

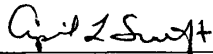
By: Leo J. Cyr
Leo J. Cyr, its Managing Member

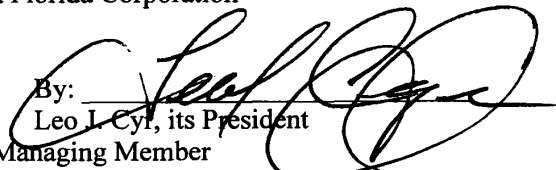
BK: 7156 PG: 1326


 Print Name: Crystal Stearns

ICEHOUSE PROPERTY, L.L.C.,
 a Florida limited liability company, Subsidiary

By: MARINA MANAGEMENT CORP.,
 a Florida Corporation


 Print Name: April L. Swift

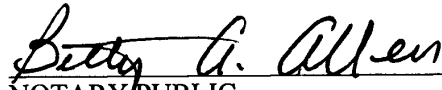
By: 
 Leo J. Cyr, its President
 Managing Member

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 14th day of March, 2014, by Colleen M. Castille and ERICKA BURNETT, the City Administrator and City Clerk, respectively, of the CITY OF PENSACOLA, a municipal corporation of Florida, for and on behalf of the City. Said persons (☒) are personally known to me or () have produced _____ as identification.

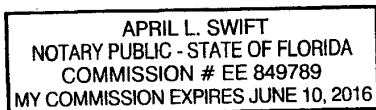


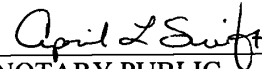

 NOTARY PUBLIC
 Commission No.: EE 139747
 My commission expires: 10/20/15

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 13th day of March AS, 2014, by Leo J. Cyr as President of MARINA MANAGEMENT CORP., a Florida corporation, on behalf of said corporation. Said person () is personally known to me or (X) has produced FL DL as identification.



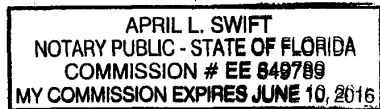

 NOTARY PUBLIC
 Commission No.: _____
 My commission expires: _____

BK: 7156 PG: 1327

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 13th day of March, 2014, by Leo J. Cyr as Managing Member of HARBOURMASTER BUILDING, L.L.C., a Florida limited liability company, on behalf of said company. Said person () is personally known to me or (☒) has produced FL DL as identification.

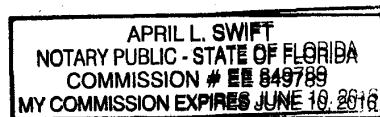


April L Swift
NOTARY PUBLIC
Commission No.: _____
My commission expires: _____

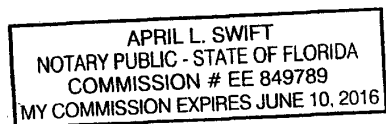
STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was sworn to, subscribed, and acknowledged before me this 13th day of March, 2014, by Leo J. Cyr as President of MARINA MANAGEMENT CORP., a Florida corporation, as managing member of ICEHOUSE PROPERTY, L.L.C. on behalf of said companies. Said person () is personally known to me or (X) has produced FL DL as identification.



April L Swift
NOTARY PUBLIC
Commission No.: _____
My commission expires: _____



Recorded in Public Records 04/09/2014 at 04:57 PM OR Book 7156 Page 1450,
Instrument #2014024761, Pam Childers Clerk of the Circuit Court Escambia
County, FL Recording \$44.00 Deed Stamps \$14700.00

Prepared by:
Charles L. Hoffman, Jr., of
SHELL, FLEMING, DAVIS & MENGE
226 Palafox Place, 9th floor
Pensacola, Florida 32501
SFD&M File No.: H5236.00000

ASSIGNMENT OF AMENDED AND RESTATED LEASE AGREEMENT ("Assignment")

Harbourmaster Building, L.L.C., a Florida limited liability company ("Harbourmaster"), 1901 Cypress Street, Pensacola, FL 32502, is the current Sublessee under a Sublease dated May 1, 2006, and recorded in O.R. Book 5928 at page 1065 of the public records of Escambia County, Florida, and an Assignment of Sublease dated May 18, 2007 and recorded in O.R. Book 6147 at page 1161 of the public records of Escambia County, Florida; and

Marina Management Corp., a Florida corporation ("Marina Management"), 1901 Cypress Street, Pensacola, FL 32502, is the owner and holder of a Lessee interest under the Amended And Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330 at page 87 of the public records of Escambia County, Florida and the amendment thereto recorded in O.R. Book 7156 at page 1324 of the public records of Escambia County, Florida ("Amended And Restated Lease") which pertains to property described on Exhibit A; and

Whereas, Harbourmaster and Marina Management desire to assign the Amended and Restated Lease to Downtown Property Group USA LLC, a Florida limited liability company ("Downtown Property"), 997 South Palafox Street, Pensacola, FL 32502, with Harbourmaster receiving a purchase money mortgage and security agreement for \$2,025,000.00 from Downtown Property; and

Whereas, the Assignment has been approved by the City of Pensacola;


It is therefore, for ten dollars (\$10.00) and other good and valuable consideration, agreed as follows:


1. Harbourmaster and Marina Management ("Assignors") do transfer, assign and convey all of their interest in Amended and Restated Lease to Downtown Property Group USA LLC, a Florida limited liability company ("Assignee"). Assignee hereby assumes and covenants to comply with the provisions of the aforesaid Amended and Restated Lease from the date of this Assignment. Assignors covenant that Assignors are the owners of the leasehold estate set forth in the Amended and Restated Lease, that Assignors have the right to transfer the same and have received prior approval of the City of Pensacola with regard to this Assignment, that this Assignment is free and clear of any liens or encumbrances subject to the matters set forth on Exhibit B; that Assignee may at all times peaceably and quietly enter upon, hold, occupy and enjoy said leasehold estate subject to the matters set forth on Exhibit B, that Assignors shall make such further assurances as to protect the Assignee in the leasehold estate under the Amended and Restated Lease and Assignors shall defend the same against the lawful claims of all persons, except as otherwise provided herein.

BK: 7156 PG: 1451

Executed on April 9th, 2014.

Witness:



Charles L. Hoffman, Jr.

Charlene C. MabireHarbourmaster Building, L.L.C., a Florida
limited liability companyBy: 

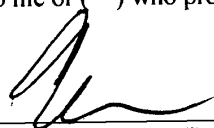
Leo J. Cyr, Its Managing Member

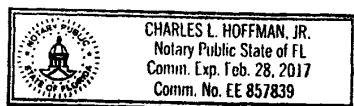
Marina Management Corp., a Florida
corporationBy: 

Leo J. Cyr, Its President

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 9th day of April, 2014, by Leo J. Cyr, Managing Member of Harbourmaster Building, L.L.C., a Florida limited liability company and Leo J. Cyr, President of Marina Management Corp., a Florida corporation on behalf of the company and corporation (☒) who is personally known to me or (☐) who produced a valid driver's license as identification.



NOTARY PUBLIC - STATE OF FLORIDA
Typed Name: Charles L. Hoffman, Jr.
My Commission Expires: 02/28/17

BK: 7156 PG: 1452

Exhibit "A"

Property as described in: Amended and Restated Lease Agreement dated May 16, 2008 and recorded in O.R. Book 6330, Page 87, Public Records of Escambia County, Florida and the amendment thereto recorded in O.R. Book _____, Page _____, Public Records of Escambia County, Florida. (As to Parcel 1. Parcel 2 is not conveyed herein as it is only subject to being Additional Property under the terms of the Amended And Restated Lease.)

Parcel 1

That certain parcel known as and referred to as "Marina Lease Area B-2" or the "Harbourmaster Building", the legal description for which is as follows:

Commence at the Northwest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola Copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence, North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence South 79 degrees 29 minutes 22 seconds, West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds East for a distance of 10.79 feet to the Point of Beginning. Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 40.00 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 83.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 20.00 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 17.00 feet; thence North 79 degrees 15 minutes 18 seconds East for a distance of 18.00 feet; thence North 43 degrees 43 minutes 22 seconds East for a distance of 25.81 feet; thence North 10 degrees 44 minutes 42 seconds West for a distance of 10.00 feet; thence South 79 degrees 15 minutes 18 seconds West for a distance of 99.00 feet to the point of Beginning.

Containing 0.15 acres, more or less and all lying and being in Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

Which property is also depicted and described in Official Records Book 4575 at Page 0783 of the Public Records of Escambia County, Florida.

Parcel 2 (This parcel is not conveyed herein as it is only subject to being Additional Property under the terms of the Amended And Restated Lease)

That certain Parcel known as and referred to as "Marina Lease Area B-1 "

Described as follows:

Commence at the NorthWest corner of Lot 1, Block 34, of the Waterfront Tract or Pintado Grant according to the map of the City of Pensacola copyrighted by Thomas C. Watson in 1906; thence South 10 degrees 34 minutes 11 seconds East along the Westerly line of said Block 34 and the extension thereof for a distance of 257.00 feet; thence North 78 degrees 25 minutes 49 seconds East for a distance of 8.12 feet; thence North 79 degrees 23 minutes 15 seconds East for a distance of 117.00 feet; thence South 10 degrees 36 minutes 45 seconds East for a distance of 642.43 feet; thence North 79 degrees 29 minutes 51 seconds East for a distance of 288.58 feet; thence go South 10 degrees 37 minutes 31 seconds East for a distance of 520.29 feet; thence go South 79 degrees 29 minutes 22 seconds West for a distance of 114.07 feet; thence South 10 degrees 44 minutes 42 seconds West for a distance of 10.79 feet; Thence continue South 10 degrees 44 minutes 42 seconds East for a distance of 125.00 feet; thence go North 79 degrees 15 minutes 18 seconds East for a distance of 8.98 feet to the point of beginning; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 4.52 feet; thence go South 76 degrees 07 minutes 18 seconds East for a distance of 41.79 feet to a

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point on a Non-Tangent curve being concave Southeasterly and having a radius of 137.68 feet; thence go Northeasterly along the arc of said curve having a radius of 137.68 feet for an arc distance of 83.81 feet (Delta= 34 degrees 52 minutes 38 seconds, Chord Bearing=N 18 degrees 32 minutes 15 seconds East, Chord Distance = 82.52 feet) to a Point of Non-Tangency; thence go North 47 degrees 08 minutes 36 seconds East for a distance of 23.83 feet; thence go North 11 degrees 01 minutes 20 seconds West for a distance of 62.36 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 8.21 feet; thence Go South 10 degrees 44 minutes 42 seconds East for a distance of 10.00 feet; thence go South 43 degrees 43 minutes 22 seconds West for a distance of 25.81 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 18.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 17.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 20.00 feet; thence go South 10 degrees 44 minutes 42 seconds East for a distance of 83.00 feet; thence go South 79 degrees 15 minutes 18 seconds West for a distance of 31.02 feet to the point of beginning. The above described parcel of land is situate in a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

Exhibit B

1. Subject to Road right of ways for Hickory Street and Palafox Street and Juniper Street as shown on the Waterfront or Pintado Grant according to the Map of the City of Pensacola copyrighted by Thomas C. Watson in 1906.
2. Terms and Conditions of Amended and Restated Lease Agreement recorded in O.R. Book 6330, Page 87, as amended, and Fourth Amendment recorded in O.R. Book 6343, Page 1672, of the South Palafox Commercial Lease Agreement dated November 30, 1998, by and between the City of Pensacola, Florida and Palafox Pier & Yacht Harbor, Inc., recorded April 15, 1999 in O.R. Book 4396, Page 733, with First and Second Amendment to Lease recorded in O.R. Book 4575, Page 768, Third Amendment to Lease recorded in O.R. Book 4684, Page 932, and Partial Assignment of Lease recorded in O.R. Book 4720, Page 1945, Public Records of Escambia County, Florida, together with the South Palafox Marina Lease Agreement recorded in O.R. Book 4203, Page 1071, and Second Amendment recorded in O.R. Book 4720, page 1937 and 1941, and Third Amendment recorded in O.R. Book 5303, Page 1691, with Partial Assignment of Lease O.R. Book 5672, Page 402.
3. Sublease Agreement from Marina Management Corp., a Florida corporation and Harbourmaster Building, LLC, a Florida limited liability company in favor of Marina Management Corp., a Florida corporation.
4. Sub-Sublease Agreement from Marina Management Corp., a Florida corporation in favor of Palafox Ventures, L.L.C., a Florida limited liability company.
5. Easement Agreement from Assignee in favor of Marina Management Corp., a Florida corporation and Harbourmaster Building, LLC, a Florida limited liability company.
6. Declaration of Covenants and Restrictions document from Assignee in favor of Marina Management Corp., a Florida corporation and Harbourmaster Building, LLC, a Florida limited liability company.
7. Nonexclusive Revocable Parking License recorded in O.R. Book 5027, Page 847, Public Records of Escambia County, Florida.
8. Riparian and littoral rights are not insured.
9. Those portions of the property herein described being artificially filled in land in what was formerly navigable waters, are subject to the right of the United States Government arising by reason of the United States Government control over navigable waters in the interest of navigation and commerce.
10. Rights of the lessees under unrecorded leases.
11. Actual Acreage Content is neither insured nor guaranteed.



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00453

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

NON-EXCLUSIVE USE AGREEMENT BETWEEN THE UNIVERSITY OF WEST FLORIDA BOARD OF TRUSTEES AND THE CITY OF PENSACOLA

RECOMMENDATION:

That City Council approve the execution of the Non-Exclusive Use Agreement between the University of West Florida Board of Trustees, and the City of Pensacola, Florida for the Vince Whibbs, Sr. Community Maritime Park. Further, that City Council authorize the Mayor to take any and all actions necessary to execute the agreement.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On September 9, 2014, The University of West Florida Board of Trustees (UWF) entered into a Use Agreement with Community Maritime Park Associates, Inc. (CMPA) a non-profit corporation for the use of the non-leased private parcels, the Multi-Use Facility, the Amphitheater, the Festival Grounds, the Exhibition Grounds, and the Parking areas for purposes related to UWF Intercollegiate Football Home Games and potentially for playoffs or post-season play. This agreement commenced on August 15, 2016. The terms of the original agreement were for a period of 2 years, with an option to renew for 3 additional 1-year terms. On June 2, 2017, the CMPA filed Articles of Dissolutions and by doing so transferred all assets, existing contracts, and maintenance responsibilities to the City of Pensacola (City).

Since the City acquired the contract, UWF has exercised its right to renew the agreement for a period of two 1-year terms on April 23, 2018 and August 15, 2019. However, due to COVID restrictions, UWF decided to cancel the 2020 football season. Therefore, the option to exercise the third and final year renewal was not utilized. UWF now desires to enter into a new use agreement for the non-leased private parcels, the Multi-Use Facility, the Amphitheater, the Festival Grounds, the Exhibition Grounds, and the Parking areas for purposes related to UWF Intercollegiate Football Home Games and potentially for playoffs or post-season play.

PRIOR ACTION:

April 13, 2017 - City Council authorized the Mayor to execute all documents and take all action

necessary associated with unwinding the New Market Tax Credit transaction, accept the CMPA's distributed assets and forgive the loans made to the CMPA in association with the New Market Tax Credit transaction.

June 8, 2017 - City Council approved Supplemental Budget Resolution 17-25 appropriating funding for the Community Maritime Park.

FUNDING:

N/A

FINANCIAL IMPACT:

The University of West Florida Board of Trustees will continue to pay the same amount included in the prior agreement. All funds will be received in the Community Maritime Park Management Fund.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

5/13/2021

STAFF CONTACT:

Keith Wilkins, City Administrator
Kerrith Fiddler, Deputy City Administrator - Community Development

ATTACHMENTS:

- 1) Non-Exclusive Use Agreement
- 2) Renewal Letter - April 23, 2018
- 3) Renewal Letter - August 15, 2019

PRESENTATION: No

**USE AGREEMENT BETWEEN THE UNIVERSITY OF WEST FLORIDA
BOARD OF TRUSTEES AND THE CITY OF PENSACOLA**

THIS NON-EXCLUSIVE USE AGREEMENT (“Agreement”) is made and entered into this 1st day of February 2021, by and between the University of West Florida Board of Trustees, a public body corporate (hereinafter referred to as “UWF” or “University”), and CITY OF PENSACOLA (hereinafter referred to as the “CITY”).

WITNESSETH

WHEREAS, CITY is the owner of the Vince Whibbs, Sr. Community Maritime Park, which is a multi-use, public-private development located on the waterfront in Pensacola, Florida (the “Community Maritime Park”); and

WHEREAS, the Community Maritime Park includes private development parcels, a Multi-Use Facility, the Amphitheater, Festival Grounds, Exhibition Grounds, and Parking Areas, as those terms are further defined in Section 1, which are all available for use by members of the public, private entities, or public entities upon execution of a written use agreement with CITY; and

WHEREAS, UWF desires to use the non-leased private parcels, the Multi-Use Facility, the Amphitheater, the Festival Grounds, the Exhibition Grounds and the Parking areas for purposes related to UWF Intercollegiate Football Home Games and possibly for the playoffs or post-season play; and

WHEREAS, UWF and the CITY believe the presence of UWF home football games at the Community Maritime Park will encourage the development of the private development parcels of the park and will encourage economic development in Pensacola and the surrounding area;

NOW, THEREFORE, in consideration of the mutual covenants, conditions, and promises, herein contained, UWF and the CITY agree as follows:

SECTION 1 - DEFINITIONS

The following terms for purposes of this Agreement shall have the meaning set forth in this section:

“Advertising” shall mean all announcements, acknowledgments, promotions, messages, displays, banners, sponsor signs, and other advertising methods.

“Amphitheater” shall mean the Hunter Amphitheater, including the green space area used for seating in front of the structure as shown on Exhibit B.

“CMPA” shall refer to Community Maritime Park Associates, Inc.

“Community Maritime Park” shall mean the City park known as the “Vince Whibbs, Sr. Community Maritime Park”, a 32-acre, multi-use, public-private development located on Pensacola Bay in downtown Pensacola, Florida as further reflected in Exhibit A to this Agreement and incorporated herein.

“Exhibition Grounds” shall mean the parcel west of Museum Lane as shown on Exhibit B.

“Festival Grounds” shall mean the parcel south of Museum Lane and the cul-de-sac as shown on Exhibit B.

“Game” or “Games” shall mean college football contests between the UWF football team and any other college football team.

“Home Games” shall mean those Games during UWF’s regular season schedule for which UWF is the host team responsible for procuring the playing site.

“Media Rights” shall mean, with respect to radio, television, Internet or World Wide Web (including by video streaming), audio-visual program transmission or retransmission, satellite, and any and all other communications media, whether presently existing or hereafter developed and regardless of the method of transmission or retransmission, the following exclusive rights: (a) the broadcasting, transmission, retransmission or other dissemination of all or any part of all Games and all activities related thereto; (b) the broadcasting, transmission, retransmission or other dissemination of Games and by any means of VHF, UHF, Internet, or any other method of transmission, retransmission or other dissemination whether presently existing or hereafter developed (whether broadcast, cable, microwave, satellite, over the air, fiber optics or otherwise), of television, audio, visual or other sensory signals, and shall be deemed to include, without limitation, premium and basic television service, cable television, over the air pay television, broadcast network, weblet, multipoint and multichannel distribution system television, direct broadcast satellite television, subscription television, pay-per view television, master antenna and satellite master antenna television, low power television, closed circuit television and any other electronic or digital media such as computer distribution or

computer on-line application; (c) the right (i) to display banners in camera visible and other locations as any broadcaster of Games shall determine, in and around the Multi-Use Facility, advertising such broadcaster, and (ii) unfettered electronic insertion and deletion rights with respect to the broadcast, transmission, retransmission or other dissemination of Games; and (d) subject to any specific provision of this Agreement to the contrary, the right to select and control all production facilities and personnel necessary to exercise the rights enumerated in clauses (a), (b), and (c) hereof. Media Rights shall also include the exclusive right to photographing, filming, television taping, radio broadcasting and recoding in analog, digital or other forms or recording, whether presently existing or hereafter developed. The exclusivity of these Media Rights does not apply to the City, which will have the right to utilize UWF's photographs, film, television footage, radio broadcasts, and other forms of recordings – at no cost to the City - for the purpose of promoting the City, the Multi-Use Facility, and the Community Maritime Park.

“Multi-Use Facility” shall mean the stadium and all areas within the stadium's dripline as further reflected in Exhibit B to this Agreement and incorporated herein. It is the intention of the Parties that this definition describes the same facility as the term in the NFPB Use Agreement.

“NFPB” shall refer to Northwest Florida Professional Baseball, LLC.

“Parking Areas” shall mean those areas under the control of the CITY in the areas adjacent to the Multi-Use Facility that are designated by the CITY from time to time for the parking of vehicles during the Games and as further reflected in Exhibit C to this Agreement and incorporated herein.

“Playoff Home Game(s)” shall mean those Games outside of UWF's regular football season schedule for which the Home Team is the host team responsible for procuring the playing site.

“Ticket(s)” shall mean the certificate, license, badge, pass or other indicia by which admission to the Multi-Use Facility is permitted and controlled.

SECTION 2 – TERM AND TERMINATION

A. The “Term” of this Agreement shall commence on the date indicated in the first paragraph of this Agreement and shall terminate three (3) years thereafter and expiring unless sooner terminated. UWF shall have the right to renew this Agreement for one (1) three-year term by giving written notice to CITY of UWF's

election to so renew, such notice to be given at least one (1) year prior to the expiration of the then-existing term. Such renewal shall be on the same terms and conditions as are contained in this Agreement. Further renewal, if any, shall be upon a new written use agreement to be negotiated in full between the parties.

- B. Either party shall have the right to elect to terminate this Agreement in the event of a breach of the terms or conditions herein, if the breach remains uncured for sixty (60) days after delivery of a written notice of the alleged breach to the breaching party. Upon termination, both parties retain all of their legal remedies against the other party
- C. At any time during the term of this Agreement, UWF or the CITY may unilaterally terminate the Agreement without cause by giving the other party 180 days' notice in writing of its intention to do so by registered or certified mail.
- D. It is expressly understood by all parties that should UWF construct facilities to host football games on the UWF campus, upon one (1) year written notice to CITY, this Agreement may be terminated, effective as of the 366th day after delivery of the written notice. No refund of any fees contained herein shall be provided should UWF exercise the election to terminate as set forth in this clause. Upon such termination by UWF, both parties shall retain all of their legal remedies for the period of the Term that occurred prior to termination.
- E. Notwithstanding any other provision of this Agreement, UWF shall, in its sole discretion, unilaterally terminate the Agreement in the event any directive from any authoritative agent requires UWF to cancel games due to COVID-19 or any other reason.
- E. All parties acknowledge that a "Multi-Use Facility Non-Exclusive Use Agreement" between the Community Maritime Park Associates, Inc. ("CMPA") and the Northwest Florida Professional Baseball, LLC ("NFPB") dated July 20, 2011, and all amendments thereto, has been assigned and assumed by the CITY (hereinafter referred to as the "NFPB Use Agreement").
- F. The NFPB Use Agreement details certain rights and responsibilities of the CITY and NFPB. UWF acknowledges and agrees that all UWF events that use the Community Maritime Park shall be Community Events as defined in the NFPB Use Agreement.

- G. Pursuant to the requirements of Florida law, the State of Florida's and UWF's performance and obligation to fund this Agreement shall be contingent upon an annual appropriation by the Florida legislature. Any failure to pay according to the terms herein will be considered a material breach and either party may terminate this Agreement pursuant to the terms of Section 2.B.

SECTION 3 - OWNERSHIP

UWF shall not have any ownership or leasehold interest in any area of the Community Maritime Park. Notwithstanding the foregoing, UWF shall have the right, with prior written CITY approval, and, if within the Multi-Use Facility, with prior written NFPB approval, to make improvements to the areas that are the subject of this Agreement that enhance UWF's activities at the Community Maritime Park. It is understood that any permanent improvements made by UWF shall become the property of the CITY upon termination of this Agreement.

SECTION 4 – RIGHT TO USE PREMISES

- A. UWF shall have the right to use the Community Maritime Park to exhibit, promote, schedule, and play all UWF Football Home Games, including Playoff Home Games, if any. This right shall commence at 8:00 a.m. CT on Saturday Home Game days and shall terminate at 11:59 p.m. the same day. The right shall commence at 12:00 p.m. CT on weekday Home Game days and shall terminate at 11:59 p.m. the same day, with the exception of the Parking Area, which will not be available until 5:30 p.m. CT. UWF may elect to have other UWF events at the Community Maritime Park on Home Game days at UWF's sole discretion and UWF acknowledges that CITY has advised that such events shall also be Community Events as defined in the NFPB Use Agreement. UWF agrees to abide by the terms of the NFPB Use Agreement with relation to Community Events.
- B. Further, UWF shall have access to the Multi-Use Facility for at least eight (8) hours the day prior to all Home Games for the purpose of team walk-through, team meals, UWF football sponsor events, other pre-game activities, installation of equipment, and other preparation activities including without limitation, placement of advertising signs and hospitality and/or sponsor tents and access and parking for television and radio production vehicles. UWF will coordinate these activities with the CITY and NFPB to ensure there are no scheduling conflicts. CITY agrees that such UWF events are Community Events as defined in the NFPB Use Agreement.

- C. UWF shall have the exclusive right and license to use the Community Maritime Park except for any privately developed parcel to conduct Home Games on such dates during the term of this Agreement as UWF may reserve, and to reserve same for use for a NCAA Division II Playoff Home Game(s). The CITY shall reserve the Community Maritime Park for the exclusive use of UWF for such purpose on each such scheduled date. Nothing herein shall be construed to require UWF to utilize the Community Maritime Park for all Home Games or Playoff Home Game(s). UWF football season begins the Thursday preceding September 6th each year.
- D. Ancillary Uses. In addition to those uses contained in this Agreement, UWF may use the Community Maritime Park during and after Home Games or Playoff Home Game(s), including but not limited to ancillary-type events and uses; stage events on field and in Parking Areas; tailgate parties in Parking Areas and other hospitality events; pre-game, half-time and post-game events; sponsor representation and presence; and pyrotechnics. UWF will obtain any authorizations and permits necessary for special events and pyrotechnics.
- E. Game Day Entertainment. UWF shall have the right to provide, or permit others to provide, at the sole cost and expense of UWF, pre-game, half-time and post-game entertainment in connection with Home Games and Playoff Home Games; provided, however, that UWF shall notify the CITY of the nature of such entertainment at least thirty (30) calendar days prior to the date of each Home Game and Playoff Home Game and such entertainment shall be subject to the approval of the CITY, such approval not to be unreasonably withheld.
- F. Scheduling of UWF Home Games.
1. In cooperation with the CITY and NFPB, UWF will schedule UWF Home Games and Playoff Home Game(s) in such a manner as to not conflict with any scheduled NFPB home baseball game. In the event of a conflict, the NFPB Home Game shall prevail. It is expressly understood by all parties that UWF Home Games and Playoff Home Game(s), in general, will be held at the Community Maritime Park following the conclusion of NFPB's regular season and post season, if any. Following the conclusion of the NFPB season, UWF Home Games shall supersede any other event.
 2. UWF Home Games will generally be held on Saturdays. Certain Home Games may be held on weekdays. If the opportunity arises for a weekday

Home Game, UWF will contact the CITY and NFPB prior to accepting the opportunity to ensure availability of the Community Maritime Park. In the event a Saturday Home Game must be rescheduled, all parties agree to utilize their best efforts to accommodate the request. However, availability of the Community Maritime Park in the event of rescheduling a scheduled Saturday Home Game to a weekday is not guaranteed. Rescheduling a Game will be subject to the provisions of subsection 4.G. below.

3. As soon as the UWF home game schedule is prepared and UWF chooses the games it wishes to hold at the Community Maritime Park, UWF shall submit the schedule for the football season to commence in September of the following year to CITY and NFPB.

G. Schedule Changes. In the event UWF desires to change the date reserved by UWF for the conduct of any reserved Home Games or Playoff Home Game(s), including any such change made to accommodate a television broadcast of such game, UWF shall have the exclusive right and license to use the Community Maritime Park to conduct such Home Game or Playoff Home Game on the date to which such Game is to be changed unless the CITY or NFPB has previously reserved the Community Maritime Park on such date for any other purpose. In the event the date reserved by UWF for the conduct of any Home Game or Playoff Home Game is changed pursuant to this paragraph, then subject to the provisions of the immediately preceding sentence, the CITY shall have no duty to continue to reserve the Multi-Use Facility and Parking Area for the exclusive use of UWF on the date previously reserved. UWF shall notify the CITY of any change in date of a Home Game or Playoff Home Game, within 72 hours, if practical, of the decision to change the date.

H. Emergency Cancellation. In case of emergency or for reasons beyond the NFPB's, CITY's or UWF's control, UWF and/or the CITY reserve the right to cancel or reschedule a Home Game prior to scheduled use without liability. Examples of such instances include but are not limited to: Acts of God, force majeure, severe weather, COVID-19 and other pandemics, fire, damage/destruction of the facility, local/state/national state of emergency, and all government and NCAA directives.

I. Notwithstanding any other language in this Agreement, UWF acknowledges and agrees that Parcels 4, 5, 6, 7, 9, and the Exhibition Grounds, all as shown in Exhibit B, are subject to future development, and thus UWF's use of these spaces

may be restricted or prohibited during the initial term or any renewal term of this Agreement at the sole discretion of the CITY.

SECTION 5 – CITY OF PENSACOLA OBLIGATIONS

- A. On each Home Game day, the CITY shall furnish and make available to UWF the stadium fully equipped and operational subject to the NFPB Use Agreement. This obligation does not include provisions of disposable or consumable items.
- B. Parking. UWF shall have the exclusive right to use the Parking Areas in designated spaces marked on Exhibit C to this Agreement during all Home Games and Playoff Home Game(s) and retain any and all revenue generated therein with the exception of 20% of the revenue generated from the City Hall parking lot going to the CITY. UWF may provide parking services directly or contract with the CITY to provide parking services. Notwithstanding any other language in this Agreement, City employees will be permitted to park in the City Hall parking lot free of charge so long as parking space is available.

No vehicles may be parked on grass areas except in designated areas for tailgating, walkways, promenades, or at the loading docks during Home Game days without the express written permission from CITY.

- C. Utilities. CITY shall provide or cause to be provided to the Community Maritime Park all utilities necessary for UWF's use of the facilities.

It is expressly understood by all parties that the Multi-Use Facility's field lighting is designed and configured to standards required for professional baseball. Any adjustment to the field lighting will be carried out by UWF or its authorized agents as necessary with prior CITY and NFPB approval. The field lighting will be returned to CITY at the conclusion of each football season in the same configuration as it was provided to UWF at no cost to the CITY. Any additional temporary lighting required by NCAA regulations for football shall be provided by UWF at UWF's sole cost and expense.

- D. Equipment and Storage.

1. Equipment. CITY shall store the facility specific football equipment including, but not limited to goal posts, field goal catch nets, and end-zone play clocks purchased by UWF for the University's Home Games. All other necessary equipment, including, but not limited to, additional temporary

seating shall be provided by UWF. CITY shall also allow UWF use of utility vehicle(s) and barricades provided by CITY at no cost to UWF during UWF home football games. The utility vehicles used by UWF shall be driven only on Community Maritime Park property.

2. Storage. CITY shall provide, at no charge to UWF, a secure lockable storage area as currently provided in the Multi-Use Facility assessable only to UWF during the term of the Agreement.
3. Netting. UWF is solely responsible for removal and installation of the protective netting utilized by NFPB and solely responsible for any costs related thereto.

SECTION 6 – RENT, USE FEE, TICKETS

A. Use Fee. UWF will be charged \$5,000.00 rent per Home Game, Playoff Home Game, or for any other event that falls under the purview of this Agreement for use of the Community Maritime Park.

B. Tickets.

1. Sales Surcharge. UWF shall pay CITY during the terms of the Agreement a surcharge of two dollars (\$2.00) per ticket sold for all UWF events at the Multi-Use Facility, excluding the following: (a) all tickets sold for regular or post-season games to active duty military and their families; (b) youth under the age of 12; (c) all tickets provided to UWF students free of charge; and (d) complimentary tickets given away by UWF. The ticket sales surcharge shall be paid to CITY within thirty (30) days after the last Home Game of the UWF football season. The ticket sales surcharge may, in UWF's discretion, be separately charged and identified on each ticket as a "surcharge," "facilities surcharge," or other identifying language. UWF shall provide attendance and ticket sales reports to CITY's Finance Department within one week following each Game.
2. The parties acknowledge that NFPB has the exclusive right to provide on-site ticketing services and operate the ticket office for all events at the Multi-Use Facility. UWF shall contract with NFPB for on-site ticketing for Home Games through a separate written agreement.

3. UWF will select the location and number of tickets to be sold on a season ticket basis. UWF will also select the number and location of tickets to be sold to the general public. UWF will also select the number of complimentary tickets given to UWF employees, officers, agents, and patrons.

C. Revenue Streams. Notwithstanding anything in the NFPB Use Agreement to the contrary, UWF shall retain any and all other revenue streams that may be generated through its use of the Community Maritime Park hereunder, including, but not limited to: ticket sales and entry fees (except for the ticket sales surcharge detailed in Section 6(b)), Media Rights, Advertising and signage, concessions (excluding the CITY share of concessions detailed in Section 7), parking (excluding the CITY share of parking in the City Hall parking lot), and merchandising.

SECTION 7 – CONCESSIONS AND MERCHANDISE SALES

A. Concessions.

1. UWF acknowledges and agrees that NFPB holds exclusive rights to food and beverage (including alcoholic and non-alcoholic drinks) concession sales at all events held within the dripline of the Multi-Use Facility, subject to the terms of the NFPB Use Agreement. NFPB will provide concession services at UWF Home Games within the dripline of the Multi-Use Facility pursuant to the same terms as provided in the NFPB Use Agreement, section 8.2(c).
2. UWF hereby acknowledges that all participants associated with UWF Home Games are prohibited from bringing any food, beverage, alcohol, beverage containers, or other food stuffs inside the Multi-Use Facility. However, this prohibition does not apply to water, sports drinks, and food provided to coaches, athletic trainers, cheerleaders, officials, and student athletes during games, pre-game activities, and post-game activities.
3. If UWF chooses to allow food vendors outside of the dripline of the Multi-Use Facility, the CITY shall receive 20% of all net revenue generated. All food vendors that prepare foods with an open flame are required to have on site two (2) 10 lb. ABC fire extinguishers. If hot oil or grease is to be used in food preparation, one (1) 6 liter or 2.5-gallon class K fire extinguisher is required. Food vendor tents and their extinguishers will be inspected by the Fire Department prior to event start. If cooking oils or charcoal are used, all waste products must be properly disposed of and may not be disposed of

anywhere on Community Maritime Park property. Outside food vendors may not pour used oils down the drainage systems. Outside food vendors may not pour hot coals on the grass. UWF will be charged a fee equal to the repair or replacement cost for damage to grass or other surfaces damaged by grease, oil, or hot coals. Vendors using extension cords must ensure that they are outdoor heavy duty 13-15amp cords, are in good working condition (not frayed or repaired) and are secured to prevent tripping.

4. Food vendors will comply with all laws of the United States, the State of Florida, City of Pensacola, Police and Fire Departments, or any other applicable laws, codes, and regulations. Vendors should display both a City of Pensacola business tax receipt and a state license.

- B. Merchandise/Novelty Sales. The right to sell and/or distribute UWF Game programs and novelty concessions, including but not limited to clothing, in the Community Maritime Park shall belong exclusively to UWF. UWF may provide directly for the sale of merchandise at the Community Maritime Park or may contract with NFPB to provide services. UWF shall be entitled to receive all revenue collected for Merchandise Sales. UWF's exclusive novelty and program sales rights shall include the entire Community Maritime Park before, during and after, games during the times described in Section 4. A.

SECTION 8 – INSURANCE AND LIABILITY

- A. UWF, as a state of Florida public body corporate, maintains general liability and workers' compensation coverage pursuant to the provisions and limitations of Chapter 284, Part II, and Section 768.28, Florida Statutes. UWF shall, upon request, submit certificates of insurance to CITY evidencing such insurance at the time of the execution of this Agreement and at any renewals thereafter.
- B. UWF shall not be responsible for personal injury or property damage or loss, except that resulting from its own negligence or the negligence of its employees or others for whom it is legally responsible. UWF does not indemnify any person, party or entity under this Agreement.
- C. UWF and CITY agree that nothing contained herein shall be construed or interpreted as (1) denying to either party any remedy or defense available to such party under the laws of the State of Florida; (2) the consent of the State of Florida, UWF or its agents and agencies to be sued; or (3) a waiver of sovereign immunity of the State of Florida or UWF beyond the waiver provided in Section 768.28,

Florida Statutes. However, CITY and UWF acknowledge and agree that solely as between CITY and UWF, the signing parties have full and complete legal authority to bind UWF and CITY to the contractual terms contained herein. CITY and UWF expressly deny that this Agreement creates any rights to any third party who may claim to be a third-party beneficiary hereto. UWF or CITY do not indemnify any person, party or entity under this Agreement.

- D. UWF agrees to require all vendors allowed by UWF outside of the Multi-Use Facility dripline to obtain and maintain commercial general liability insurance for the vendor's activities. Required minimum limits of insurance for the vendors will be at least \$1,000,000 per occurrence and in the aggregate. Fire legal liability, if applicable, must have minimum limits of at least \$100,000 per occurrence. Statutory Workers' Compensation insurance, including \$100,000 employer liability each person – accident, \$100,000 each person – disease, and \$100,000 aggregate disease, is required for each vendor. UWF agrees to maintain on file current certificates of insurance evidencing the required coverage from each vendor utilized by UWF under this Agreement.
- E. UWF agrees to maintain participant accident insurance that meets or exceeds the minimum coverage and limits required by NCAA regulations.
- F. If alcohol is being sold, given away, or furnished, UWF shall require NFPB or the vendor providing the liquor service to maintain Liquor Liability or Host Liquor Liability Insurance (as applicable) with minimum limits of at least \$1,000,000 each common cause and in aggregate. The CITY must be listed as an "additional insured". For the time period UWF utilizes the Multi-use Facility, UWF shall also be listed as an "additional insured." UWF shall maintain on file a copy of the vendor's current certificate of insurance evidencing the required coverage. UWF shall provide copies of any or all certificates of insurance required under this Agreement to CITY.

SECTION 9 – ADVERTISING AND SIGNAGE

A. Advertising and Signage.

- 1. All Advertising and signage utilized by UWF shall be of a non-permanent nature and can stay up for the entire football season to include the post season. It is expressly understood and agreed that NFPB retains certain Advertising rights at the Multi-Use Facility year-round and shall be consulted by UWF prior to entering into any Advertising or signage agreement. All parties agree

to utilize best efforts to allow UWF consideration for areas created for sponsors during football season. Any disagreements between UWF and NFPB regarding Advertising and signage shall be resolved between those two entities.

2. At all times during UWF's Home Games, UWF shall have the sole and exclusive control of all announcements, acknowledgments, promotions, messages, displays, banners, sponsor signs, and advertising (collectively "Advertising") on the scoreboard(s) and elsewhere in the Multi-Use Facility. In no event will UWF display, promote, or advertise in any form or manner advertisement that conflicts with prior sponsorship agreements between the CITY and NFPB.
 3. UWF agrees that no signage or Advertising used at the Community Maritime Park shall advertise, promote, contain, depict, or suggest illegal activity, sexually suggestive conduct, obscene or pornographic materials, or otherwise be inconsistent with the best interests of the residents of the City as reasonably determined by CITY. All signage utilized by UWF at the Community Maritime Park must conform to all federal, state, and local laws and ordinances.
 4. All parties acknowledge that the NCAA may require all sponsorship signage to be removed or covered for NCAA playoff or post-season competitions.
- B. Revenue for Sponsorships. UWF shall be entitled to all of the revenue from sponsorships or Advertising solicited by UWF for display as fixed or temporary signage, all announcements on the message center, video display system, or public address system immediately before, during and after the Games, and all other sponsorship activities that occur during UWF Games.

SECTION 10 – MEDIA RIGHTS

- A. All Media Rights are hereby reserved to and shall be the property of UWF. The CITY shall cooperate fully and coordinate its efforts with media representatives so as to permit such media representatives to fulfill their contractual obligations and duties. At all reasonable times during the term of this Agreement, the CITY shall provide reasonable access to the Multi-Use Facility to broadcasters designated by UWF for the purpose of broadcasting the Games or UWF football events. Notwithstanding any other language in this Agreement, UWF agrees to

work in good faith with the CITY regarding Media Rights to provide the CITY with marketing material it may request from time to time.

- B. Subject to the prior approval and inspection of the CITY, authorized broadcasters may, without additional charge, operate, maintain, and remove such broadcast and associated production equipment as they may require (including cameras, cables, platforms, announcer booths, sound equipment, graphic units, microphones, and lighting) and shall have the right to utilize their own employees or employees of their contractors for such activities without being required to utilize or pay any employees, agents or contractors of the CITY in connection with such work; provided that the CITY shall be reimbursed for all reasonable costs and expenses associated with work that it performs at UWF's request in connection therewith.

SECTION 11 – MUTUAL DEFAULT

If either party fails to observe or perform any of the provisions of this Agreement and such failure is not cured within thirty (30) calendar days after notice by the other party, then the breaching party shall be in default and without further notice, the other party may at any time thereafter: (i) terminate this Agreement; or (ii) continue this Agreement and recover damages resulting from the default.

SECTION 12 – NOTICE

Addresses for Payments and Notices. All notices and payments hereunder shall be in writing and shall be deemed to be duly given, upon receipt, if given by personal delivery, nationally recognized overnight courier, or certified mail, return receipt requested and postage prepaid, to the parties at their respective addresses set forth below or at such other address or addresses as may be designated by any party by like notice.

(1) Notices to CITY: City Administrator
 222 W. Main Street
 Pensacola, Florida 32502

With a copy to: City Attorney
 433 E. Government St.
 Pensacola, Florida 32502

Payments to CITY: Finance Department

222 W. Main Street
Pensacola, Florida 32502

(2) Notices to UWF: University of West Florida
Department of Intercollegiate Athletics
Attention: David L. Scott – Director
11000 University Parkway
Bldg. 54, Room 157
Pensacola, FL 32514

With a copy to: Office of the General Counsel
11000 University Parkway
Bldg. 10
Pensacola, FL 32514

SECTION 13 – SEVERABILITY

If any term or provision of this Agreement is contrary to or is determined to be invalid or unenforceable by applicable laws or regulations, then said provisions shall be deemed inapplicable and omitted and shall not invalidate the remaining provisions of the Agreement. In the event any provision of this Agreement shall be held invalid or unenforceable by a court of competent jurisdiction, or by an administrative hearing officer in accordance with Chapter 120, Florida Statutes, such holding shall not invalidate or render unenforceable any other provision hereof.

SECTION 14 – FORCE MAJEURE

If either party shall be unable to perform hereunder as a result of acts of God, war, national disasters, health epidemic or pandemics including COVID-19, or strikes or other work stoppage, fire and other comparable events, or as a result of any lawful or emergency action issued by the United States Government, any official of the State of Florida, the University or other emergency action by a governmental entity, the NCAA or the Gulf South Conference or for any reason beyond the reasonable control of the parties, then this Agreement shall be suspended during such period and for as long as such conditions shall exist. Even if a court determines that disruptions of performance or frustrations of purpose were foreseeable at the time the Contract was signed, the parties agree that UWF will not be held liable for a failure to perform if that failure is caused by prohibitions resulting from executive

orders, laws, regulations, or oral or written directives from a state or local governmental entity that has authority over UWF.

If the force majeure only affects UWF's performance, the CITY shall have the right to use the Community Maritime Park for any other purposes during the period of the force majeure. If as a consequence of such force majeure, the Multi-Use Facility should be destroyed or rendered unfit or unavailable for the purpose of this Agreement, UWF shall have the right to play its Games in any other stadium during the term such conditions continue to exist. Any sums incurred by UWF prior to the suspension of this Agreement due to a force majeure, shall be paid to the CITY by UWF when due, but no additional fees shall be incurred during the suspension period.

SECTION 15 – INTERPRETATION

This Agreement is an integrated contract which contains the complete understanding of the parties as to all matters herein. There are no oral or written statements, representations, agreements, understandings, or surrounding circumstances that modify, amend or vary, or purport to modify, amend or vary, any of the provisions hereof. All prior and contemporaneous representations, negotiations and agreements are superseded and replaced hereby. All exhibits and schedules referenced herein and attached hereto shall be deemed to have been incorporated herein so as to become a part of this Agreement. This Agreement may be altered, amended or revoked only by an instrument in writing duly executed by all parties hereto. No waiver by either party of a provision hereof, nor the failure of the aggrieved party to seek redress for a violation, shall be considered to be a waiver of such provision or of any subsequent breach thereof. The parties hereto mutually understand and declare that time is of the essence in this Agreement. The provisions for default and termination shall operate promptly upon the expiration of the time limits specified herein.

SECTION 16 – MAINTENANCE AND REPAIR

A. Maintenance and repair of the Facilities.

1. Except for the playing field area, the facilities shall be returned to the CITY following every Home Game and Playoff Home Game in the same condition as provided to UWF. Trash pick-up and disposal outside the stadium following each Home Game is the sole responsibility of UWF.

2. UWF shall not affix any signs or objects on any roof or any portion of the exterior of any facility at the park; make any changes to or paint the exterior of any facility; install any exterior lighting, paintings, signs, or displays; install any sign or display on fences, sidewalks, parking lots, or driveways without the written permission of CITY. Staking of tents, inflatables, or other equipment is not allowed by UWF at the Community Maritime Park without advance written permission from the CITY. Permanent anchors have been installed in various locations, which can be provided upon request. If UWF installs any stakes, with or without the CITY's permission, and damages any aspects of the irrigation system, hardscaping, landscaping, or other component of the Community Maritime Park, then UWF will be responsible for payment of the costs, including labor costs if incurred by the CITY, to repair the damage.

B. Inspections.

1. Immediately prior to the first Home Game of each season, representatives from the CITY, NFPB and UWF shall conduct a preseason inspection of the entire Community Maritime Park. The purpose of this walk-through is to identify the current state of repair of the Community Maritime Park facilities prior to commencement of UWF events at the Community Maritime Park. Video documentation of the inspection and findings is encouraged, but not required. Any findings of damage or disrepair during the preseason inspection will not be the responsibility of UWF.
2. Within three (3) days after the conclusion of the UWF football season including Playoff Homes Games, representatives from the CITY, NFPB and UWF shall conduct a post-season inspection of the Community Maritime Park. The purpose of this inspection is to identify any damage or disrepair that occurred during the football season as a result of UWF's use of the Community Maritime Park. It is expressly understood by the CITY, NFPB and UWF that the CITY, NFPB and others may undertake events at the Multi-Use Facility, on the playing field, and on the surrounding grounds during football season. All events that take place on the playing field must have prior approval from UWF. All parties agree that the party that undertakes the event will be required to return the facilities in the same condition as received. The parties agree to document the condition of the facilities following each of such events. UWF shall not be held responsible for documented damage or disrepair occurring during the football season by non-UWF events.

C. Field Maintenance.

1. All parties agree that only NCAA collegiate football field markings are on the playing surface during the UWF football season. UWF shall make every attempt and use every precaution to protect the field turf at all times under the supervision of NFPB's head grounds keeper. UWF shall only utilize a field crew approved by NFPB for preparation and maintenance of the playing field under separate agreement. The current agreement is the agreement between NFPB and UWF dated August 26, 2014, as amended by the first and second amendments. UWF shall provide all necessary field and grounds crews at its expense.
2. UWF has the right, but not the obligation, to fill in the infield baseball diamond and mound with turf, if so desired by NFPB, under the supervision of NFPB's head grounds keeper. At the conclusion of each football season, UWF shall return the playing field to CITY in substantially the same condition and state (baseball configuration) as it was provided to UWF.

- D. Rigging System/Sound and Lights. UWF is responsible for providing all sound, light, and backline equipment for any UWF event at the Amphitheater, Festival Grounds, or other area outside the stadium during Game Days and all associated costs.

SECTION 17 – RECORDS

- A. Public Records. UWF and CITY are subject to the Florida Public Records law. This Agreement and any later amendments are public records and, except to the extent they are exempt from public disclosure under applicable law, are not Confidential Information. If UWF or CITY believes any material it provides to the other pursuant to this Agreement is exempt from the public record, then UWF or the CITY must notify the other of the basis for the claim of trade secret or public record exemption, allowable by law, at the time of disclosing the material and mark the documents in accordance with Florida law. Confidential information shall not include information that is a public record pursuant to Florida law (Florida Statutes Chapter 119), and the University or CITY will respond to public records request without any duty to give the other prior notice.
- B. IF EITHER PARTY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CITY'S DUTY TO

PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF RECORDS FOR THE OTHER PARTY AT: 1) for University at the Office of General Counsel: (850) 474-3420, gcfrofrontdesk@uwf.edu, Building 10, 11000 University Parkway, Pensacola, FL 32514; 2) for CITY at the City Clerk's Office, (850) 435-1715, publicrecords@cityofpensacola.com, 222 West Main Street, Pensacola, FL 32502.

C. BOTH PARTIES MUST:

1. Keep and maintain public records required to perform the service.
2. Upon request from either Party's custodian of public records, provide the other Party with a copy of the requested records or allow the records to be inspected or copies 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.
3. 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 completion of the Agreement.
4. Upon completion of the Agreement, each Party shall keep and maintain public records required by that Party to perform the service.

D. Accounting, Audit and Inspection. CITY and UWF must submit invoices in sufficient detail to allow for a proper pre-audit and post-audit. UWF or the CITY may cause, upon reasonable notice, an audit to be made of the records and accounts as such records and accounts relate to the calculation of the amounts payable to UWF or the CITY.

SECTION 18 – MISCELLANEOUS PROVISIONS

A. Governing Law and Jurisdiction. This Agreement shall be construed and enforced in accordance with the laws of the State of Florida. The parties hereby submit to the jurisdiction of the United States District Court for the Northern District of Florida or of any Florida state court sitting in Escambia County, Florida, for the purposes of all legal proceedings arising out of or relating to this Agreement, and the parties irrevocably waive, to the fullest extent permitted by law, any objection which they may now or hereafter have to the venue of any such proceeding which is brought in such a court.

- B. Naming Rights. If the Multi-Use Facility is named, UWF agrees to utilize the name of the purchasing sponsor in all promotional materials. Until such time, UWF will utilize “Blue Wahoos Stadium” when identifying the stadium.
- C. Security, Traffic Control and EMS. UWF shall provide security, traffic control and Emergency Medical Services at the Community Maritime Park for UWF events held there. UWF shall contract with the CITY to provide security and traffic control services. UWF may, upon written approval of the CITY, provide security services directly, utilizing sworn law enforcement officers, if such officers have full authority and jurisdiction within the City Limits.
- D. Usher, Hospitality, Restroom Attendants, A/V/Scoreboard and other staff. UWF may provide directly the staff necessary to safely, effectively and efficiently carry out the operations on Game days or may contract with NFPB to provide such services.
- E. Accessibility. UWF shall make Game days accessible to people with disabilities in compliance with the requirements of the Americans with Disabilities Act (ADA). For activities conducted directly by or authorized by UWF outside of the Multi-Use Facility, UWF shall provide portable bathroom facilities, five percent (5%) of the total number of portable bathroom facilities and at least one in each grouping of the facilities must be accessible to people with disabilities. Accessible parking is provided and available at the Community Maritime Park. UWF must honor those spaces and follow applicable Florida law in selling or assigning of those spaces.
- F. Election by the Parties Not Exclusive. The exercise by a party of any right or remedy to collect fees or enforce its rights under this Agreement will not be a waiver or preclude the exercise of any other right or remedy afforded the party by this Agreement or by statute or law. The failure of a party in one or more instances to insist on strict performance or observations of one or more of the covenants or conditions of this Agreement or to exercise any remedy, privilege, or option conferred by this Agreement on or reserved to the party shall not operate or be construed as a relinquishment or future waiver of the covenant or condition or the right to enforce it or to exercise that privilege, option, or remedy; that right shall continue in full force and effect. The receipt by a party of fees or any other payment or partial payment required to be made by a party shall not act to waive any other additional fee or payment then due. Even with the knowledge of the breach of any covenant or condition of this Agreement, receipt will not operate as or be deemed to be a waiver of this breach, and no waiver by a party of any of

the provisions of this Agreement, or any of the party's rights, remedies, privileges, or options under this Agreement, will be deemed to have been made unless made by the party in writing.

- G. Non-Discrimination. UWF and the CITY, its employees, staff, agents, or volunteers shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities and prohibit discrimination against all individuals based on their race, color, religion, ancestry, gender, sex, sexual orientation, or disability. Moreover, these regulations require that the parties take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.
- H. Headings. Headings used in the Agreement are for reference purposes only and shall not be considered to be a substantive part of the Agreement.
- I. Meetings. The parties shall conduct at least one pre-season meeting just before the start of the season and at least one post-season meeting immediately after the season ends, at which they should discuss all pending issues that could significantly affect the other party. This obligation is in addition to the meetings that occur before, during, and after the season for inspections. The parties intend to include NFPB in these meetings.
- J. Assignment. UWF may not assign this Agreement without the consent of the CITY in its sole and absolute discretion.

(The remainder of this page is intentionally left blank)

SIGNATURE PAGE

IN WITNESS WHEREOF the parties have executed this Agreement as of the date first given above.

CITY OF PENSACOLA

By: _____

Mayor, Grover C. Robinson, IV

Date: _____

Attest:

City Clerk, Ericka L. Burnett

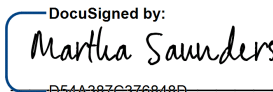
Approved As To Substance:

Legal in form and execution:

Department Director/Division Head

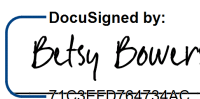
City Attorney

THE UNIVERSITY OF WEST FLORIDA BOARD OF TRUSTEES

By: 
Dr. Martha D. Saunders, President

Date: 01/26/2021


40C10B2F0D994D7...

By: 
Betsy Bowers, Vice President
Finance & Administration

Date: 01/22/2021

PENSACOLA

THE UPSIDE of FLORIDA

OFFICE OF THE MAYOR

April 23, 2018

Tony Nguyen, Associate Director Intercollegiate Athletics
University of West Florida
11000 University Parkway
Building 54/154
Pensacola, Florida 32514

Dear Mr. Nguyen,

We are in receipt of your April 16, 2018 email advising the City that the University of West Florida (UWF) has elected to exercise UWF's right to renew the UWF Community Maritime Park Use Agreement dated September 9, 2018 (Use Agreement). As you are aware, the Community Maritime Park Associates, Inc. (CMPA) recently assigned the CMPA's interest as lessor of the park to the City of Pensacola (City), including the CMPA's interest in the Use Agreement. The Use Agreement has an initial term expiration date of August 15, 2018.

The City recognizes the excitement and energy that Argos Football brings to downtown and is pleased to contribute to UWF's vision and future championship success.

This letter shall hereby serve as evidence of the proper renewal of the Use Agreement for the first one year term, which shall expire August 15, 2019, based on the same terms and conditions as are contained in the Use Agreement, in accordance Section 1 of the Use Agreement.

This letter of renewal shall be executed with the same formality as the Use Agreement. Please return a fully executed original to the City for our records.

Sincerely,



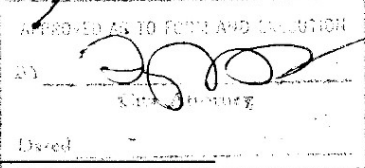
Eric W. Olson
City Administrator

APPROVED AS TO
FORM AND LEGALITY
 5-878
OFFICE OF THE GENERAL COUNSEL

University of West Florida


Dr. Martha Saunders, President

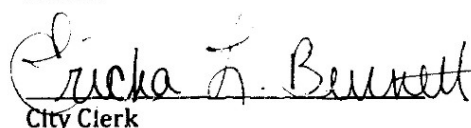
Attest:

APPROVED AS TO FORM AND LEGALITY

Dated: _____

City of Pensacola


Ashton J. Hayward, III, Mayor

Attest:


City Clerk

EVERYTHING THAT'S GREAT ABOUT FLORIDA IS BETTER IN PENSACOLA.
222 West Main Street Pensacola, FL 32502 / T: 850.435.1626 / www.cityofpensacola.com

PENSACOLA

THE UPSIDE of FLORIDA

OFFICE OF THE MAYOR

April 23, 2018

Tony Nguyen, Associate Director Intercollegiate Athletics
University of West Florida
11000 University Parkway
Building 54/154
Pensacola, Florida 32514

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The City recognizes the excitement and energy that Argos Football brings to downtown and is pleased to contribute to UWF's vision and future championship success.

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Sincerely,



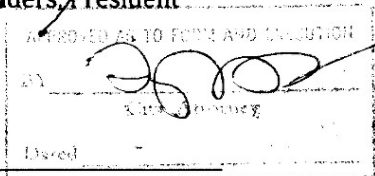
Eric W. Olson
City Administrator

APPROVED AS TO
FORM AND LEGALITY
 5-878
OFFICE OF THE GENERAL COUNSEL

University of West Florida


Dr. Martha Saunders, President

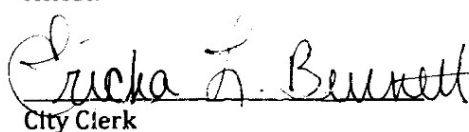
Attest:

APPROVED AS TO FORM AND LEGALITY

Dated: _____

City of Pensacola


Ashton J. Hayward, III, Mayor

Attest:


City Clerk

EVERYTHING THAT'S GREAT ABOUT FLORIDA IS BETTER IN PENSACOLA.
222 West Main Street Pensacola, FL 32502 / T: 850.435.1626 / www.cityofpensacola.com

Office of the Mayor

August 15, 2019

Tony Nguyen, Associate Director Intercollegiate Athletics
University of West Florida
11000 University Parkway
Building 54/154
Pensacola, Florida 32514

Dear Mr. Nguyen,

We understand that that the University of West Florida (UWF) has elected to exercise UWF's right to renew the UWF Community Maritime Park Use Agreement dated September 9, 2018 (Use Agreement). As you are aware, the Community Maritime Park Associates, Inc. (CMPA) assigned the CMPA's interest as lessor of the park to the City of Pensacola (City), including the CMPA's interest in the Use Agreement in June of 2017. The Use Agreement has an initial term expiration date of August 15, 2019.

The City recognizes the excitement and energy that Argos Football brings to downtown and is pleased to contribute to UWF's vision and future championship success.

This letter shall hereby serve as evidence of the proper renewal of the Use Agreement for the first one year term, which shall expire August 15, 2020, based on the same terms and conditions as are contained in the Use Agreement, in accordance Section 1 of the Use Agreement.

This letter of renewal shall be executed with the same formality as the Use Agreement. Please return a fully executed original to the City for our records.

Sincerely,



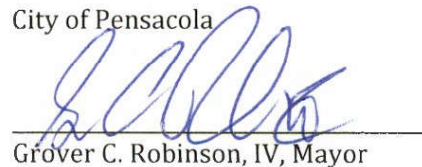
Kerrith Fiddler
Assistant City Administrator

University of West Florida

Dr. Martha Saunders, President

Attest:

City of Pensacola



Grover C. Robinson, IV, Mayor

Attest:



City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00449

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

PUBLIC HEARING - PROPOSED AMENDMENTS TO THE LAND DEVELOPMENT CODE - PROVIDING FOR PROTECTION OF WATER RESOURCES AND PROMOTING STORMWATER MANAGEMENT

RECOMMENDATION:

That City Council conduct a public hearing on May 27, 2021 to consider proposed amendment to the Land Development Code Sections 12-3-43, 12-4-3, 12-8-4, 12-8-6 and 12-8-18.

HEARING REQUIRED: Public

SUMMARY:

Many sections of the City's Land Development Code were drafted a number of years ago and have not been updated. Over time, various items are in need of updating or modification. These proposed revisions to the City of Pensacola's Land Development Code (LDC) have a twofold goal. First, they codify language for items, which have been enforced for quite some time without being included in the LDC. This results in a vast improvement to the clarity and efficiency of the engineering review process. Second, this new language provides a commonsense approach to the permitting of developments, which have a negligible impact to the City's stormwater quality or quantity. These changes maintain the City's focus on ensuring the well-being of our prized water bodies, wetlands, and smaller water bodies that feed them while aligning us more closely with the Statewide stormwater rules.

PRIOR ACTION:

February 9, 2021 - Planning Board - Proposed Land Development Code Amendments.

August 11, 2020 - Planning Board - Proposed Land Development Code Amendments.

FUNDING:

N/A

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

5/13/2021

STAFF CONTACT:

Keith Wilkins, City Administrator

Kerrith Fiddler, Deputy City Administrator - Community Development

David Forte, Interim Director - Public Works & Facilities Department & Capital Improvements Projects Manager

ATTACHMENTS:

- 1) Proposed Ordinance No. 20-21
- 2) February 9, 2021 Planning Board Item - Proposed Amendments to the Land Development Code
- 3) February 9, 2021 Planning Board Minutes
- 4) August 11, 2020 Planning Board Item - Proposed Amendment to the Land Development Code
- 5) August 11, 2020 Planning Board Minutes

PRESENTATION: No

PROPOSED
ORDINANCE NO. 20-21

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING TITLE XII OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE SECTION 12-3-43 BAYOU TEXAR SHORELINE PROTECTION DISTRICT; SECTION 12-4-3 PARKING LOTS; SECTION 12-8-4 EXEMPTIONS; SECTION 12-8-6 DESIGN STANDARDS FOR STORMWATER MANAGEMENT SYSTEM; AND SECTION 12-8-18 ILLICIT DISCHARGE EXEMPTIONS; TO PROVIDE FURTHER PROTECTION OF WATER RESOURCES AND PROMOTE STORMWATER MANAGEMENT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-3-43 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-3-43. - Bayou Texar shoreline protection district.

- (a) *Purpose.* The purpose of this district is to establish standards that recognize and protect the environmental resources of the Bayou Texar shoreline. This section ensures the preservation of the natural buffering effect of open spaces along the shoreline for storm surge abatement and the filtering of stormwater runoff; and enhances the public's recreational and aesthetic utilization of the shoreline and adjacent waters.
- (b) *Shoreline protection zone.* The Bayou Texar shoreline protection zone includes all property abutting Bayou Texar bounded on the north by the 12th Avenue bridge and on the south by the L & N trestle located at the mouth of the bayou.
- (c) *Permitted land use.* Land use shall be permitted in the shoreline protection zone as designated by the city comprehensive plan and zoning regulations.
- (d) *Procedure for review of plans.* Prior to the issuance of a building permit for construction within the Bayou Texar shoreline protection district the owner, developer or contractor shall submit to the city planning and engineering departments a drainage plan indicating soil erosion and sedimentation control measures that will be undertaken to prevent runoff into Bayou Texar during construction and indicating methods to accommodate stormwater runoff on-site

during and after construction. The drainage plan shall include the following information:

- (1) Existing topographical contours of the site (two-foot intervals).
- (2) Location of all structures, parking areas, curb cuts and other construction activities that could contribute to removal of vegetation, erosion and stormwater runoff.
- (3) Design of grades and retention measures to control stormwater runoff during and after construction, including type of surfacing material to be used, vegetation to be removed, and revegetation of the site.
 - a. *Review and approval.* The required drainage plan shall be subject to the review and approval of the planning services department and city engineer. If the developer intends to request a waiver of any of the provisions of this section concerning the drainage plan, the request must be submitted, in writing, with the drainage plan to the planning services department and the city engineer. The request shall itemize and shall state the reasons for which each waiver is requested. When considering waivers, the planning services department and the city engineer shall review the comprehensive plan objectives and policies pertaining to coastal management and conservation to determine if the waiver request is consistent with the intent of said plan.
 - b. *Exemptions.* Operations that shall be exempt from this section are set forth below. However, any exemption from this section does not relieve responsibility to take all action necessary to prevent erosion and sedimentation from occurring.
 1. Home gardening or other similar activity not expected to contribute to any on-site generated erosion or chemical pollution.
 2. Emergency repairs such as those on public and private utilities and roadways systems.
 3. Improvements such as driveways, buildings, pools, etc. and/or accessory structures that do not exceed 1,500 square feet and which are not part of a larger/future development plan shall be exempt from installation of a stormwater treatment facility. Specifically, this 1,500 square foot exemption is a cumulative, one-time exemption. Even so, any such construction shall go through the city's permitting process, have proper erosion/sedimentation control meeting city standards as described in section 12-8-6(c), and neither create nor exacerbate any flooding problems. The city engineer may increase

this requirement as warranted based upon site-specific circumstances and conditions.

(e) *Regulations.*

(1) *Shoreline setback.* All habitable structures shall observe the following minimum setback from the mean high water line. Docks and boathouses shall conform to the regulations set forth in section 12-3-60.

- a. R-2, R-2A and R-ZL zones shall require a 20-foot setback from the mean high water line of the bayou.
- b. R-1AA, R-1AAA and R-1AAAA zones shall require a 30-foot setback from the mean high water line of Bayou Texar.
- c. R-1AAAAA shall require a 60-foot setback from the mean high water line of Bayou Texar.
- d. Lots of record shall require a minimum 20-foot setback from the mean high water line of Bayou Texar.

(2) *Required yards.* The front and rear yard requirements shall be the same as the applicable zoning district requirements. Each required side yard shall be ten percent of the lot width, not to exceed 15 feet. For lots of record the front and rear yard requirements shall be the same as described in section 12-1-6(b), and the required side yards shall be ten percent of the lot width, not to exceed ten feet.

(3) *Protection of trees.* No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any tree listed in chapter 12-6, Appendix A, "Protected Tree List," whether it be on private property or public right-of-way within the Bayou Texar shoreline protection district, without first having obtained a permit from the city to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

(f) *Development guidelines.* The following guidelines should be utilized in the review of each development proposal within the district. The adoption of guidelines herein are intended to provide flexibility in the development of property within the district in a manner that balances the interests of the property owner with the public's need for assurance that development will be orderly and consistent with the intent of this section. Individual parcels of property may have physical attributes that justify departure from regulatory norms when strict application of such norms would deny a property owner a reasonable use of his or her property and when

deviation from such norms is consistent with the intent of this regulation as described herein.

- (1) Structures should be sited to retain the maximum amount of open space for natural stormwater retention.
- (2) Where possible and practical, existing vegetation, including shoreline vegetation, should be maintained as a buffer between development and the surface waters of Bayou Texar.
- (3) Development within the shoreline protection zone which would be dependent on future bulkheading or other shoreline fortification for protection shall be discouraged.
- (4) Proposed stormwater treatment facility(ies) shall be situated laterally across the width of the subject property and parallel to the shoreline (or provide grading, collection, and conveyance mechanism) to the greatest extent possible, in order to route and contain stormwater runoff from the up gradient yard into stormwater treatment facility(ies).
- (5) Proposed stormwater treatment facility(ies) shall be located at the farthest possible and practical downstream location adjacent to the shoreline without causing any adverse impacts to the shoreline or existing vegetative buffers. Facility(ies) shall be sized to provide treatment for one inch (1") of runoff and provide a minimum of six inches (6") of freeboard above the treatment volume elevation. The city engineer may increase these requirements as warranted based upon site-specific circumstances and conditions.
- (g) *Public access to the shoreline.* All extensions of street rights-of-way that are perpendicular to or otherwise intersect Bayou Texar within the shoreline protection zone shall be reserved for public use unless officially vacated by city council action.
- (h) *Conflicts.* It is not intended that this section interfere with or abrogate or annul any other ordinances, rules, or regulations except where this section imposes a greater restriction upon land within a zone.

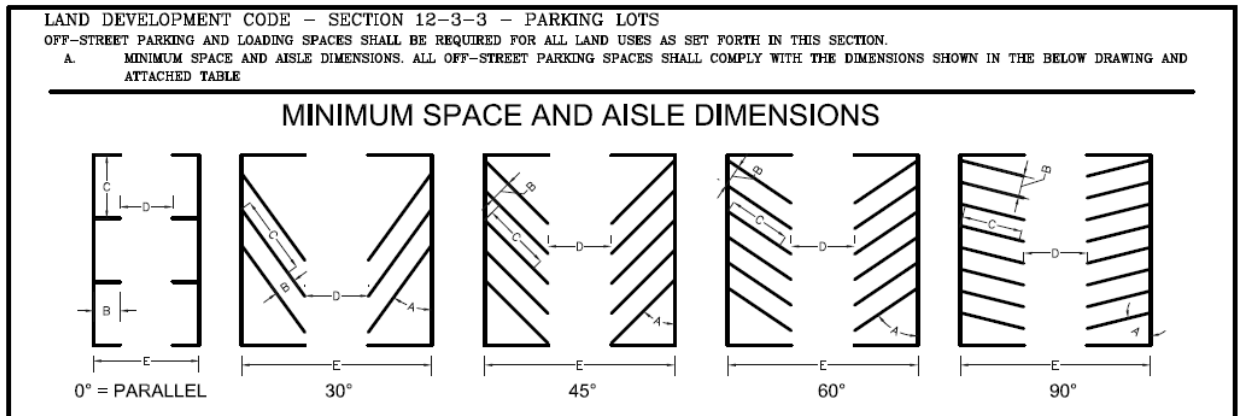
SECTION 2. Section 12-4-3 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-4-3. - Parking lots.

In addition to the provisions in this chapter all parking lots shall comply with tree preservation and landscaping provisions established in [chapter 12-6](#). The following requirements are applicable to all parking lots and parking spaces, whether or not such lots or spaces are required by the provisions of this chapter:

- (1) *Design of parking lots.* All parking lot plans must be reviewed by the city engineer or his or her designee. Proper ingress and egress from the lot shall be required and adequate interior drives shall be required for all parking lots.
- (2) *Grading and surfacing.*
 - a. *Parking lots that include lanes for drive-in windows or contain more than ten parking spaces.* Parking lots that include lanes for drive-in windows or contain more than ten parking spaces shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust.
 - b. *Parking lots with ten or less parking spaces.* Parking lots with ten or less parking spaces may be surfaced with alternative surface materials (crushed stone, gravel, or other suitable material) other than those specified in subsection (2)a of this section, with the approval of the city engineer, to provide a surface that is stable and will help to avoid dust and erosion. The perimeter of such parking shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever a parking lot abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the parking area in the public right-of-way), shall be paved as provided in subsection (2)a of this section.
- (3) *Demarcation of parking spaces.* Parking spaces in areas surfaced in accordance with subsection (2)a of this section shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (2)b of this section shall be demarcated whenever practicable.
- (4) *Maintenance.* Parking lots shall be properly maintained in all respects. Parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
- (5) *Lighting.* Lighting shall be provided for parking lots with more than ten spaces, and this lighting shall be arranged to reflect away from the adjoining properties. The minimum illumination level required for the entire paved area shall be an average maintained 1.0 footcandle. The lowest footcandle value at any point on the pavement shall not be less than one-fourth of the required average.
- (6) *Screening.* Where a parking lot adjoins a residential district or fronts on a street adjoining a residential district, directly across said street, a solid wall, fence, or compact hedge not less than four feet high shall be erected along the lot lines, except that within a visibility triangle the height requirement shall be reduced to three feet.
- (7) *Measurement of parking stalls and/or drive aisles.* All parking stalls shall measure not less than nine feet by 18 feet, across the contiguous paved/improved surface

and shall exclude any portion of the curb or gutter except as provided for herein. For land uses that assign parking spaces to specific employees or residents, a maximum of 30 percent of all required vehicle parking spaces may be designed for compact cars. A compact car space may be a minimum of 7.5 feet by 16 feet across the contiguous paved/improved surface and shall exclude any portion of the curb or gutter. The occupant or owner of the principal use for which the parking is required shall enforce the use of such assigned compact car spaces. See attached drawing, "Minimum Space and Aisle Dimensions," below:



MINIMUM DIMENSIONAL AREAS INDICATED ON THE DRAWING "MINIMUM SPACE AND AISLE DIMENSIONS"						
A	B	C	D		E	
PARKING AISLE	STALL WIDTH IN FEET (see note 1)	LENGTH OF STALL IN FEET (see note 1)	AISLE WIDTH IN FEET		BAY WIDTH (CENTER TO CENTER WIDTH OF TWO ROW BAY WITH AISLE IN BETWEEN) (see note 1)	
			1-WAY	2-WAY	1-WAY	2-WAY
0°	9	23	15	22	24	34'
30°-53°	9	18	15	22	46'-7"	51'
54°-75°	9	18	20	22	61'-2"	56'
76°-90°	9	18	22	24	63'-4"	62'
NOTE 1. DIMENSION SHALL NOT INCLUDE ANY PORTION OF THE CURB AND/OR GUTTER						

- (8) *Fencing, wheelstops or bumper guards.* Fencing, wheelstops or bumper guards are required along property and street lines to avoid the chance of encroachment on other properties or sidewalks.

SECTION 3. Section 12-8-4 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-8-4. - Exemptions.

- (a) *Individual single-family and duplex homes.* Individual single-family and duplex home construction plans shall be exempt from the required stormwater management plan providing the lot is in an approved platted subdivision. However,

the owner, developer, or builder will be required to submit a description of the methods they will utilize to ensure that no erosion or sedimentation will occur during construction. They will be required to clear the lot in stages such that a siltation barrier of natural vegetation around the lot perimeter will be maintained until lot stabilization is completed. If a siltation or erosion problem develops during construction, the owner, developer or builder will be required to provide an additional siltation barrier and will be responsible for restoring the affected area to predevelopment condition. This exemption does not apply within the Bayou Texar or Escambia Bay shoreline protection districts.

(b) *Impervious surface projects.* Projects that include the addition of 1,500 square feet or less of impervious surface and which are not part of a larger/future development plan shall be exempt from this chapter. Specifically, this 1,500 square foot exemption is a cumulative one-time exemption. Even so, any such construction shall go through the city's permitting process, have proper erosion/sedimentation control meeting city's standards as described in section 12-8-6(c), and neither create nor exacerbate any flooding problems. The city engineer may increase this requirement as warranted based upon site-specific circumstances and conditions.

~~(b)~~ (c) *Other exempted operations.* Operations which shall, in any case, be exempt from this chapter are the following. However, any exemption from this chapter does not relieve responsibility to take all action necessary to prevent erosion and sedimentation from occurring.

- (1) Home gardening or other similar activity not expected to contribute to any on-site generated erosion.
- (2) Emergency repairs such as those on public and private utilities and roadway systems.
- (3) Maintenance, alteration or improvement of an existing structure that will not change the rate or volume of stormwater runoff from the site on which that structure is located.

SECTION 4. Section 12-8-6 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-8-6. - Design standards for stormwater management system.

(a) *General.*

- (1) The design of stormwater management facilities including all water retention or detention structures and flow attenuation devices shall comply with applicable state regulations (i.e., F.A.C. ch. 62-330) and shall be subject to approval of the city engineer pursuant to the following requirements. In the event of conflict

between the provisions of this chapter and the provisions of the applicable state regulations, the more strict requirements shall prevail.

- (2) All stormwater management facilities shall be designed for a minimum of 50-year life, have low maintenance cost and easy legal access for periodic maintenance.
- (3) All proposed stormwater management facilities shall be designed to prevent flooding, safety or health hazards and shall not contribute to the breeding of mosquitoes and arthropods.
- (4) The use of drainage facilities and vegetated buffer zones for open space, recreation, and conservation areas shall be encouraged.
- (5) The use of alternative permeable surface materials are encouraged for private parking lots and will be given due consideration in drainage plan review.

(b) *Water quality.*

- (1) The first one inch of runoff shall be retained on the development site. At the discretion of the city engineer, retention standards may be increased beyond the one-inch minimum standard on a site-specific basis to prevent flooding and drainage problems, and to protect environmentally sensitive water bodies.
- (2) Stormwater management facilities that receive stormwater runoff from areas containing a potential source of oil and grease contamination, including, but not limited to, any land use involving the sale or handling of petroleum products or any land use involving the repair, maintenance or cleaning of motor vehicles shall include a baffle, skimmer, grease trap, or other suitable oil and grease separation mechanism.
- (3) Channeling runoff directly into water bodies is prohibited. Runoff shall be routed through stormwater management systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle, and remove pollutants.

(c) *Erosion and sedimentation.*

- (1) Erosion and sediment control best management practices shall be used during construction to retain sediment on-site. These management practices shall be designed by an engineer or other competent professional experienced in the fields of soil conservation or sediment control according to specific site conditions and shall be shown or noted on the plans of the stormwater management system. The engineer or designer shall furnish the contractor with information pertaining to the construction, operation and maintenance of the erosion and sediment control practices.

- (2) The area of land disturbed by development shall be as small as practicable. Those areas that are not to be disturbed shall be protected by an adequate barrier from construction activity. Whenever possible, natural vegetation shall be retained and protected.
- (3) No clearing, grading, cutting, filling or alteration to the site of any kind shall be commenced until adequate erosion and sedimentation structural controls have been installed as per plan between the disturbed area and water bodies, watercourses, and wetlands and inspected by the building official. Limited clearing shall be permitted as necessary to allow the installation of the structural controls.
- (4) Land that has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to temporarily stabilize the areas.
- (5) Sediment shall be retained on the site of the development, unless discharged into an approved off-site drainage facility as provided for in section 12-8-7.
- (6) Erosion and sedimentation facilities shall receive regular maintenance during construction to ensure that they continue to function properly.
- (7) Vegetated buffer strips shall be created or, where practicable, retained in their natural state along the banks of all watercourses, water bodies, or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, maintain natural drainage patterns to the water body, and allow for periodic flooding without damage to structures.

(d) *Design frequency.*

- (1) Stormwater management facilities with approved positive outfall shall be designed to attenuate the 100 year/critical duration storm event. The city engineer may waive or reduce this requirement if the stormwater management facility discharges directly into a natural outfall after treatment, does not contribute to potential or existing flooding conditions and does not increase pollutant loading.
- (2) Retention facilities that fall within a closed drainage basin and have no positive outfall shall retain the entire runoff volume from a 100-year storm event and shall include all storm durations up to and including the 24-hour duration. This retention volume must be recovered within 72 hours of the contributing storm event by natural percolation or other approved means.
- (3) Detention and/or retention facilities that connect directly to the city's storm drainage system shall be designed so that the post-development discharge rate does not exceed the pre-development discharge rate for a ten-year/critical

duration storm event. Where the existing capacity of the city storm drainage system is not adequate to accept the discharge from a ten-year storm event, the city engineer may reduce the allowable post-development discharge rate from the detention facility to an acceptable level. Detention and/or retention facilities that do not connect directly to the city storm system or have a direct impact on the system shall be allowed to discharge up to the pre-development rate for the 100-year/critical duration storm event or as otherwise approved by the city engineer.

- (4) The drainage area used in runoff calculations shall be the total natural watershed area including areas beyond proposed site limits (offsite runoff).

(e) *Stormwater retention and/or detention facilities.*

(1) *General requirements.*

- a. Recovery time for treatment/retention volume shall be a maximum of 72 hours. Recovery time for facilities that are underdrained or side drained shall be 36 hours.
- b. Minimum freeboard for retention and/or detention facilities shall be one foot between design high water and top of facility. The city engineer may waive or reduce this requirement for shallow ponds and swales.
- c. Stormwater retention and/or detention facilities shall include appropriate access for periodic maintenance as approved by the city engineer.
- d. Stormwater retention and/or detention facilities located adjacent to a public right-of-way shall be landscaped with a visual screen installed in accordance with the provisions of section 12-3-56(d) through (g) or landscaped as a part of the overall landscaping for the development with plant species that are suitable for individual pond characteristics and that provide an effective and visually pleasing screen for the retention and/or detention facility. All landscaping shall be maintained in accordance with the provisions of section 12-6-5.
- e. Designs for stormwater detention and/or retention facilities that use predominantly non-angular, freeform, curvilinear contouring that functions to visually integrate the facility into the overall design and landscaping of the development shall be encouraged.
- f. The method in which proposed pond bottom will be stabilized shall be: rock, gravel, planting, or sprigging. Sod is not acceptable for pond bottom stabilization.

- (2) *Public facilities.* Stormwater retention and/or detention facilities to be dedicated to the city for maintenance shall comply with the following requirements in addition to the general requirement specified in subsection (e)(1) of this section.
- a. Slide slopes of facilities shall be no steeper than four horizontal feet for every one vertical foot (4:1) out to a depth of two feet below the control elevation. Grades steeper than 4:1 may be allowed where unique circumstances exist as approved by the city engineer.
 - b. Side slopes shall be stabilized with sod or other materials as approved by the city engineer.
 - c. Dry stormwater retention and/or detention facilities that contain side slopes that are steeper than 4:1 and have a retention depth greater than 30 inches shall be completely enclosed by a six-foot fence constructed of chain-link, wrought iron or other material as approved by the city engineer. Chain-link fences and related appurtenances (posts, gates, etc.) shall be vinyl-coated (dark green or black). The fence shall have a minimum 12-foot wide (15-foot maximum) gate opening. The maximum clearance from the bottom of the fence to existing grade shall be no more than three inches. This provision does not apply to shallow swales with a retention depth of 30 inches or less.
 - d. Permanently wet retention and/or detention facilities that contain side slopes that are steeper than 4:1 shall be fenced or otherwise restricted from public access in accordance with F.A.C. ch. 62-330. Where a fence is proposed it shall be constructed according to the provisions of subsection (e)(2)c of this section.
- (3) *Private facilities.* Stormwater retention and/or detention facilities to be maintained shall comply with the following requirements in addition to the general requirement specified in subsection (e)(1) of this section:
- a. Slide slopes of facilities with earthen slopes shall be no steeper than two horizontal feet for every one vertical foot (2:1). Grades steeper than 2:1 may be allowed where unique circumstances exist as approved by the city engineer.
 - b. Side slopes shall be stabilized with sod or other material as approved by the city engineer.
 - c. Private facilities with side slopes that are steeper than 4:1 shall be fenced or otherwise restricted from public access in accordance with F.A.C. ch. 62-330. Private stormwater retention and detention facilities that are located adjacent to a public right-of-way or easement shall be fenced in accordance with subsection (e)(2)c of this section.

(f) *Redevelopment.*

- (1) The following redevelopment activities will not be subject to the requirements of this section:
 - a. Alterations to the interior of an existing structure.
 - b. Alterations of an existing structure that do not result in a net increase in impervious surface area.
 - c. Routine building repair including adding a facade to a building.
 - d. Resurfacing an existing paved area such as a parking lot, driveway or other vehicle use area.
- (2) Redevelopment activities, including, but not limited to, alterations of existing buildings or structures or new construction following demolition of existing buildings and structures shall be subject to the requirements of this section only for the stormwater runoff that results from a net increase in impervious surface area provided that the new construction is under construction within two years of demolition. For the purpose of this subsection (f), under construction shall mean that a legal building permit has been issued and that actual construction has been or will be started within the period of validity of the permit, exclusive of any time extensions. Previously developed sites where buildings and structures were demolished and construction was not commenced within two years shall be considered new construction and subject to the requirements of this section. The following locations shall be excluded from the two-year time restriction:
 - a. All properties located in the C-2A downtown retail commercial district, SPBD South Palafox business district or HC-2 historical commercial district.
 - b. The area generally described as the Belmont/DeVillers Business Core area bounded by LaRua Street, Wright Street, Coyle Street, and Reus Street.
 - c. The area generally described as the Brownsville Commercial Area that is within the city limits bounded by Strong Street, Gadsden Street, Pace Boulevard and the city limits.
- (3) The city engineer may require certification from a licensed engineer that there is adequate capacity in the downstream stormwater conveyance system for the redevelopment site and that any known flooding or drainage problem will not be worsened.

SECTION 5. Section 12-8-18 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-8-18. - Illicit discharges exemptions.

The following activities shall not be considered either an illicit discharge or illicit connection unless such activities cause, or significantly contribute to the impairment of the use of the city's MS4 or the violation of the conditions of NPDES Permit No. FLS000019:

(1) Discharges from:

- a. Water line flushing;
- b. Flushing of reclaimed water lines;
- c. Street cleaning;
- d. Construction dust control;
- e. Landscape irrigation;
- f. Diverted stream flows;
- g. Rising groundwaters;
- h. Foundation and footing drains;
- i. ~~Swimming pool discharges;~~
- ij. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20));
- jk. Uncontaminated pumped groundwater;
- kl. Discharges from potable water sources;
- lm. Air conditioning condensate;
- mn. Irrigation waters;
- no. Springs;
- op. Lawn watering;
- pq. Individual residential car washing;
- qr. Flows from riparian habitat and wetlands;

rs. Discharges or flows from emergency firefighting activities; and emergency fire response activities done in accordance with an adopted spill response/action plan; and

st. Decanted water from MS4 cleaning operations.

- (2) Discharges which have obtained appropriate federal, state, and local permits and are in compliance with the conditions of these permits.

SECTION 6. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



Legislation Details (With Text)

File #: 21-00142 **Version:** 2 **Name:**
Type: Action Item **Status:** Agenda Ready
File created: 1/28/2021 **In control:** City Council
On agenda: 2/9/2021 **Final action:**
Enactment date: **Enactment #:**
Title: Proposed Amendments to Sections 12-3, 12-4, and 12-8 of the Land Development Code
Sponsors:
Indexes:
Code sections:
Attachments: 1. Engineering Memo - LDC Changes, 2. Proposed Ordinance - LDC Changes from Engineering

Date	Ver.	Action By	Action	Result
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TO: Planning Board Members
FROM: Cynthia Cannon, AICP, Assistant Planning Director
DATE: 2/2/2021
SUBJECT:

Proposed Amendments to Sections 12-3, 12-4, and 12-8 of the Land Development Code

BACKGROUND:

Many sections of the City's Land Development Code were drafted a number of years ago and have not been updated. Over time, various items have come to light that need updating or modification. These proposed revisions to the City of Pensacola's Land Development Code (LDC) have a twofold goal. First, they codify language for items which have been enforced for quite some time without actually being included in the LDC. This results in a vast improvement to the clarity and efficiency of the engineering review process. Second, this new language provides a common sense approach to the permitting of developments which have a negligible impact to the City's stormwater quality or quantity.

The proposed amendments are sponsored by the Public Works and Facilities - Engineering and Construction Services Division. Please see the attached memo which provides greater detail on the proposed revisions.



MINUTES OF THE PLANNING BOARD

February 9, 2021

MEMBERS PRESENT: Chairperson Paul Ritz, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Wiggins

MEMBERS ABSENT: Vice Chairperson Larson, Board Member Murphy

STAFF PRESENT: Assistant Planning Director Cannon, Historic Preservation Planner Harding, Engineering Project Manager Hinote, Network Engineer Johnston

STAFF VIRTUAL: Planning Director Morris, Senior Planner Statler, Assistant City Attorney Lindsay

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from January 12, 2021.
- **New Business:**
 - Request for Aesthetic Review – 662 Aragon Street**
- **Proposed Amendments to Sections 12-3, 12-4, and 12-8 of the Land Development Code**
- Open Forum
- Discussion
- Adjournment

Call to Order / Quorum Present

Chairperson Ritz called the meeting to order at 2:01 pm with a quorum present and explained the procedures of the partially virtual Board meeting.

Approval of Meeting Minutes

1. **Board Member Powell made a motion to approve the January 12, 2021 minutes, seconded by Board Member Wiggins, and it carried unanimously.**

222 West Main Street Pensacola, Florida 32502

www.cityofpensacola.com

New Business

2. Request for Aesthetic Review – 662 Aragon Street

Chairperson Ritz stated he knew the owners/applicants but had no contact with the owners and had no issues with the design. Mr. Sallis addressed the Board and asked for comments. Board Member Grundhoefer advised he took no exception to the design. Board Member Wiggins agreed. Mr. Sallis explained they had not received approval from the Aragon Architectural Review Board (AARB) and requested approval pending their AARB approval. He explained there was a pergola on the front to make the porch larger. With no speakers, **Board Member Grundhoefer made a motion to approve, seconded by Board Member Wiggins, and it carried unanimously.**

3. Proposed Amendments to Sections 12-3, 12-4, and 12-8 of the Land Development Code

Assistant Planning Director Cannon explained this item was sponsored by the Public Works and Facilities – Engineering and Construction Services Division for the purpose of streamlining the language in the Land Development Code (LDC). These proposed revisions to the LDC have a twofold goal. First, they codify language for items which have been enforced for quite some time without actually being included in the LDC. This results in a vast improvement to the clarity and efficiency of the engineering review process. Second, this new language provides a commonsense approach to the permitting of developments which have a negligible impact to the City's stormwater quality or quantity. These changes maintain the City's focus on ensuring the well-being of our prized water bodies, wetlands, and smaller water bodies that feed them while aligning us more closely with the Statewide stormwater rules.

Engineering Project Manager Hinote presented to the Board and stated the proposed changes had been vetted through our legal staff since the previous Board meeting.

Section 12-3(d)(3)3. Was revised to state: Improvements such as driveways, buildings, pools, etc. and/or accessory structures that do not exceed 1,500 square feet and which are not part of a larger/future development plan shall be exempt from installation of a stormwater treatment facility. Specifically, this 1,500 square foot exemption is a cumulative one-time exemption. Even so, any such construction shall go through the City's permitting processes, have proper erosion/sedimentation control meeting City standards as described in LDC Section 121-9-6(C), and neither create nor exacerbate any flooding problems. The City Engineer may increase this requirement as warranted based upon site specific circumstances and conditions.

Chairperson Ritz noted a typo under 3. "121-9-6(C)" which would be corrected to 12-9-6(C), and LDC should be written out.

Under (f) Development guidelines:

(4) Proposed stormwater treatment facility(ies) shall be situated laterally across the width of the subject property and parallel to the shoreline (or provide grading, collection, and conveyance mechanism) to the greatest extent possible, in order to route and contain stormwater runoff from the up-gradient yard into stormwater treatment facility(ies).

(5) Proposed stormwater treatment facility(ies) shall be located at the farthest possible and practical downstream location adjacent to the shoreline without causing any adverse impacts to the shoreline or existing vegetative buffers. Facility(ies) shall be sized to provide treatment for one inch (1") of runoff and provide a minimum of six inches (6") of freeboard above the treatment volume elevation. The City Engineer may increase these requirements as warranted based upon site specific circumstances and conditions.

Mr. Hinote explained the pond would be elongated. He advised they wanted to ask “what does your specific lot look like,” and they also tried to build in a variety of uses. He also explained they wanted to capture pollutants before they ran into the bayou.

Under Section 12-4-3 Parking Lots (7):

Measurement of parking stalls and/or drive aisles. All parking stalls shall measure not less than nine feet by 18 feet, across the contiguous paved/improved surface and shall exclude any portion of the curb or gutter except as provided for herein. For land uses that assign parking spaces to specific employees or residents, a maximum of 30 percent of all required vehicle parking spaces may be designed for compact cars. A compact car space may be a minimum of 7.5 feet by 16 feet across the contiguous paved/improved surface and shall exclude any portion of the curb or gutter. The occupant or owner of the principal use for which the parking is required shall enforce the use of such assigned compact car spaces. See attached drawing, “Minimum Space and Aisle Dimensions,” below:

Board Member Grundhoefer discussed the chart regarding curb and gutter.

Under Section 12-8-4 Exemptions (b) Impervious surface projects:

Projects that include the addition of 1,500 square feet or less of impervious surface and which are not part of a larger/future development plan shall be exempt from this chapter. Specifically, this 1,500 square foot exemption is a cumulative one-time exemption. Even so, any such construction shall go through the City’s permitting processes, have proper erosion/sedimentation control meeting City standards as described in Section 12-8-6(c), and neither create nor exacerbate any flooding problems. The City Engineer may increase this requirement as warranted based upon site-specific circumstances and conditions.

Mr. Hinote stated online software made it vastly better to track. The pond bottom requirements were no longer allowing sod. (e)f. Pond bottom stabilization. The method in which proposed pond bottom will be stabilized shall be: rock, gravel, planting, or sprigging. Sod is not acceptable for pond bottom stabilization.

Under Section 12-8-18 Illicit discharges exemptions, i. Swimming pool discharges are now considered an illicit discharge per the Florida Department of Environmental Protection and Northwest Florida Water Management District. Mr. Hinote advised this is a State of Florida rule, and we want to be in compliance. He also stated the City might need to get with the PIO regarding these changes in order to inform the public.

Board Member Powell made a motion to approve, seconded by Board Member Wiggins, and it carried unanimously.

It was noted the amendments would proceed to Council for their next meeting.

Open Forum – None

Discussion – Board Member Grundhoefer asked about the Tree Ordinance, and it was determined the ordinance would be considered at the March 11, 2021 Council meeting.

Adjournment – With no further business, Chairperson Ritz thanked the Board for its patience and adjourned the meeting at 2:31 pm.

Respectfully Submitted,

Cynthia Cannon, AICP
Assistant Planning Director
Secretary to the Board



Legislation Details (With Text)

File #: 20-00356 **Version:** 1 **Name:**
Type: Action Item **Status:** Agenda Ready
File created: 6/29/2020 **In control:** Planning Board
On agenda: 8/11/2020 **Final action:**
Enactment date: **Enactment #:**
Title: Proposed LDC Amendments - Sec. 12-2-27 (D)(2). - Bayou Texar shoreline protection district. Sec. 12-2-27 (F). - Bayou Texar shoreline protection district. Sec. 12-3-3 (G). - Parking lots. Sec. 12-9-4. - Exemptions. Sec. 12-9-6 (E). - Design standards for stormwater management system.

Sponsors:

Indexes:

Code sections:

Attachments: 1. LDC Shoreline Protection Amendments

Date	Ver.	Action By	Action	Result
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TO: Planning Board Members

FROM: Cynthia Cannon, AICP, Assistant Planning Director

DATE: 8/4/2020

SUBJECT:

Proposed LDC Amendments - Sec. 12-2-27 (D)(2). - Bayou Texar shoreline protection district. Sec. 12-2-27 (F). - Bayou Texar shoreline protection district. Sec. 12-3-3 (G). - Parking lots. Sec. 12-9-4. - Exemptions. Sec. 12-9-6 (E). - Design standards for stormwater management system.

BACKGROUND:

City staff received a request to amend Sec. 12-2-27 (D)(2). - Bayou Texar shoreline protection district. Sec. 12-2-27 (F). - Bayou Texar shoreline protection district. Sec. 12-3-3 (G). - Parking lots. Sec. 12-9-4. - Exemptions. Sec. 12-9-6 (E). - Design standards for stormwater management system. The purpose of the proposed amendments is to update the code to current standards and to improve the clarity and efficiency of the engineering review process.



MINUTES OF THE PLANNING BOARD

August 11, 2020

MEMBERS PRESENT: Chairperson Paul Ritz, Board Member Grundhoefer

MEMBERS VIRTUAL: Vice Chairperson Larson, Board Member Murphy, Board Member Powell, Board Member Sampson

MEMBERS ABSENT: Board Member Wiggins

STAFF PRESENT: Assistant Planning Director Cannon, Senior Planner Statler, Assistant City Attorney Lindsay (virtual), Historic Preservation Planner Harding, City Surveyor Odom, City Engineer Hinote, Councilwoman Myers, Network Engineer Johnston, Digital Media Coordinator Rose

OTHERS VIRTUAL: Mitchell Hubbell, Shadia Jaramillo

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from July 14, 2020.
- **New Business:**
 1. **657 Aragon St – Gateway Review District – New Two Story S/F Residence**
 2. **671 Centros St – Gateway Review District – New Two Story S/F Residence**
 3. **PROPOSED LDC AMENDMENTS - SEC. 12-2-27 (D)(2). - BAYOU TEXAR SHORELINE PROTECTION DISTRICT. SEC. 12-2-27 (F). - BAYOU TEXAR SHORELINE PROTECTION DISTRICT. SEC. 12-3-3 (G). - PARKING LOTS. SEC. 12-9-4. - EXEMPTIONS. SEC. 12-9-6 (E). - DESIGN STANDARDS FOR STORMWATER MANAGEMENT SYSTEM.**
- Open Forum
- Discussion on the Proposed Amendment to the Tree Ordinance
- Adjournment

Call to Order / Quorum Present

Chairperson Ritz called the meeting to order at 2:00 pm with a quorum present and explained the procedures of the virtual Board meeting.

222 West Main Street Pensacola, Florida 32502

www.cityofpensacola.com

Approval of Meeting Minutes

Board Member Larson made a motion to approve the July 14, 2020 minutes, seconded by Board Member Powell, and it carried unanimously.

New Business

657 ARAGON ST – GATEWAY REVIEW DISTRICT – NEW TWO STORY RESIDENCE

Chairperson Ritz stated he had no problem with the designs submitted by Mr. Sallis and had no input except to say he appreciated the design effort.

Mr. Sallis presented to the Board and stated his client was moving here from Mississippi, and they had received approval from the Aragon committee. They hoped to begin construction in the fall of 2020. Chairperson Ritz explained this project would fill in an empty spot along this roadway, and Board Member Grundhoefer advised it looked very attractive. He explained this Board depends on the Aragon ARB for their knowledge, and this project had received their preliminary approval.

Board Member Grundhoefer made a motion to approve, seconded by Board Member Larson, and it carried unanimously.

671 CENTROS ST – GATEWAY REVIEW DISTRICT – NEW TWO STORY RESIDENCE

Mr. Sallis presented to the Board and explained this project had been before the Aragon ARB and received preliminary approval. Chairperson Ritz again appreciated the design which played off the existing structures already in Aragon.

Board Member Larson made a motion to approve, seconded by Board Member Powell, and it carried unanimously. Mr. Sallis was excited to see new faces on the Board and thanked them for their service.

PROPOSED LDC AMENDMENTS

Proposed LDC Amendments - Sec. 12-2-27 (D) (2). - Bayou Texar shoreline protection district. Sec. 12-2-27 (F). - Bayou Texar shoreline protection district. Sec. 12-3-3 (G). – Parking lots. Sec. 12-9-4. – Exemptions. Sec. 12-9-6 (E). - Design standards for stormwater management system. Sec. 12-8-2. – Prohibition. Sec. 12-8-3. – Procedure for subdivision approval. Sec. 12-8-8. Preliminary plat. Sec. 12-8-9. Final plat. Sec. 12-8-10. Final approval. Appendix A Design Standards.

Chairperson Ritz appreciated the amendments bringing the Code in line with the neighboring jurisdictions and saw it as a housekeeping effort to codify several items so that developers coming before the City had a better series of rules with which to operate. Assistant Planning Director Cannon stated normally changes were indicated in a strike-through underline format, but in this case, nothing was struck through.

In Sec. 12-2-27 (F) (d), Board Member Murphy asked the meaning of the “greatest extent possible.” City Engineer Hinote stated the intent of the language was ultimately to collect and retain fertilizers from the adjacent yards; the intent was to allow alternatives to retain nutrients before discharging into the bay. Board Member Murphy asked if there was a technology-based standard for the City. Mr. Hinote advised that sediments were collected on site and (e) addressed the size of the pond required which was a technology-based standard. He also noted these standards applied only to the Bayou Texar District – shoreline waterfront property. Board Member Murphy referenced a section outside of this district and wanted to know if this language could be a protection standard. Chairperson Ritz advised the Board could not go to a parcel specific addition since this was not advertised, but it could be a future agenda item.

Board Member Powell addressed Sec. 12-2-27 (D) (2) (c) “meeting City standards” and asked if applicants would go through the permitting process. Mr. Hinote stated if you install 1500 sq. ft. or less, they would not have to hire a civil engineer for a pond, but they would still need erosion control, and a building permit would be required.

Board Member Grundhoefer stated in 12-2-4 (B), the 1500 sq. ft. looked like this was an exemption. Mr. Hinote advised this was intended to be a cumulative calculation. Staff advised any amendments were always brought to Legal before presentation to the Board. Chairperson Ritz explained the language could be revised, and Board Member Grundhoefer suggested sending it back to staff to clarify that language.

Board Member Grundhoefer addressed 12-3-3 (G) parking lots. Mr. Hinote stated most of the time, the intent of gutter pan was to allow flow of water. Parking cars in it would not allow flow as it was intended. Board Member Grundhoefer addressed the sod at the pond bottom, noting the City did not want sod but the County did. Mr. Hinote explained with sod, you end up with a thick clay layer at the bottom of the pond which will not allow water to percolate. Chairperson Ritz clarified that sod could bring in other elements which would not allow water percolation. Regarding the 1500 sq. ft. language, Board Member Grundhoefer explained Engineering would probably like some leeway, but did not believe they should be able to “waive” the requirement. Chairperson Ritz stated other Board members seemed to prefer to strike the word “waive.” **Board Member Murphy made a motion to change the language and return the document at the September meeting. The motion was seconded by Board Member Larson. Staff confirmed the changes to include “cumulative not to exceed 1500 sq. ft.,” which would be filtered through Legal; also, to omit the word “waive” to state “that the City Engineer may increase this requirement as warranted.”**

Board Member Powell addressed 12-2-27 (D) (2) with the “1500 sq. ft. which are not part of a larger development” for clarification. She thought it might be a loophole for someone to say it was 1500 sq. ft. but not a part of the larger project. Board Member Murphy addressed 12-9-4 (B) “Projects that include the addition of 1500 sq. ft.” Board Member Grundhoefer stated this referred to additional square footage after the already permitted project development. Mr. Hinote wanted to clearly distinguish that 12-9 is specific to commercial development and what would allow them to become exempt (parking lots, hospitals, etc.) For example, to add two additional parking spaces would not require a civil engineer. Exemption was to allow additional impervious surfaces without having to add a retention pond. He stressed a single home residence has no requirement for stormwater treatment or attenuation. He explained the City’s stormwater attenuation requirements are more stringent (requiring 100 year attenuation) than the Northwest Florida Water Management District.

Chairperson Ritz clarified that the 1500 sq. ft. involved the Bayou Texar shoreline protection district, and parking lots with the 1500 sq. ft. exemption. Senior Planner Statler advised Mr. Hinote used the parking lot as an example; currently, they would have to hire a civil engineer to add two parking spaces, and the intent was to allow them to have an exemption. Mr. Hinote advised modifying that language of 1500 sq. ft. could be done. Chairperson Ritz explained modifying it to 2000 would be too much 1500 was more reasonable. Board Member Grundhoefer asked if language could be revised to state that with the impervious area being added, the runoff would be directed toward the existing pond. Mr. Hinote explained that was already noted in a different section of the LDC and could be cited. Board Member Powell advised the language to indicate where the water must go could possibly be in 12-2-27 (D).

The motion then carried unanimously. Chairperson Ritz explained the proposed amendments would be sent back to Engineering staff for further clarification and brought back at a later Planning Board meeting.

Open Forum – None

Discussion on the Proposed Amendment to the Tree Ordinance

Board Member Murphy advised they were working on ways to conduct public meetings versus zoom meetings requiring computer technology. Possible amendment modifications would be coming to the Board in September. Staff explained the public could still participate in meetings virtually; however due to Covid they would not be permitted to attend in person. Chairperson Ritz explained Board Member comments or suggestions would be furnished to staff for dissemination.

Adjournment – With no further business, Chairperson Ritz thanked the Board for its patience with the change in methods of physical and virtual participation and adjourned the meeting at 3:20 pm.

Respectfully Submitted,

Cynthia Cannon, AICP
Assistant Planning Director
Secretary to the Board



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 20-21

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 20-21: PROPOSED AMENDMENTS TO THE LAND DEVELOPMENT CODE - PROVIDING FOR PROTECTION OF WATER RESOURCES AND PROMOTING STORMWATER MANAGEMENT

RECOMMENDATION:

That City Council adopt the Proposed Ordinance No. 20-21 on first reading:

AN ORDINANCE AMENDING TITLE XII OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE SECTION 12-3-43 BAYOU TEXAR SHORELINE PROTECTION DISTRICT; SECTION 12-4-3 PARKING LOTS; SECTION 12-8-4 EXEMPTIONS; SECTION 12-8-6 DESIGN STANDARDS FOR STORMWATER MANAGEMENT SYSTEM; AND SECTION 12-8-18 ILLICIT DISCHARGE EXEMPTIONS; TO PROVIDE FURTHER PROTECTION OF WATER RESOURCES AND PROMOTE STORMWATER MANAGEMENT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: Public

SUMMARY:

Many sections of the City's Land Development Code were drafted a number of years ago and have not been updated. Over time, various items have come to light that need updating or modification. These proposed revisions to the City of Pensacola's Land Development Code (LDC) have a twofold goal. First, they codify language for items which have been enforced for quite some time without actually being included in the LDC. This results in a vast improvement to the clarity and efficiency of the engineering review process. Second, this new language provides a commonsense approach to the permitting of developments which have a negligible impact to the City's stormwater quality or quantity. These changes maintain the City's focus on ensuring the well-being of our prized water bodies, wetlands, and smaller water bodies that feed them while aligning us more closely with the Statewide stormwater rules.

PRIOR ACTION:

February 9, 2021- Planning Board - Proposed Land Development Code Amendments.

August 11, 2020 - Planning Board - Proposed Land Development Code Amendments.

FUNDING:

N/A

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

5/10/2021

STAFF CONTACT:

Keith Wilkins, City Administrator

Kerrith Fiddler, Deputy City Administrator - Community Development

David Forte, Interim Director - Public Works & Facilities Department &
Capital Improvements Projects Manager

ATTACHMENTS:

- 1) Proposed Ordinance No. 20-21
- 2) February 9, 2021 Planning Board Item - Proposed Amendments to the Land Development Code
- 3) February 9, 2021 Planning Board Minutes
- 4) August 11, 2020 Planning Board Item - Proposed Amendments to the Land Development Code
- 5) August 11, 2020 Planning Board Minutes

PRESENTATION: No

PROPOSED
ORDINANCE NO. 20-21

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING TITLE XII OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE SECTION 12-3-43 BAYOU TEXAR SHORELINE PROTECTION DISTRICT; SECTION 12-4-3 PARKING LOTS; SECTION 12-8-4 EXEMPTIONS; SECTION 12-8-6 DESIGN STANDARDS FOR STORMWATER MANAGEMENT SYSTEM; AND SECTION 12-8-18 ILLICIT DISCHARGE EXEMPTIONS; TO PROVIDE FURTHER PROTECTION OF WATER RESOURCES AND PROMOTE STORMWATER MANAGEMENT; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-3-43 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-3-43. - Bayou Texar shoreline protection district.

- (a) *Purpose.* The purpose of this district is to establish standards that recognize and protect the environmental resources of the Bayou Texar shoreline. This section ensures the preservation of the natural buffering effect of open spaces along the shoreline for storm surge abatement and the filtering of stormwater runoff; and enhances the public's recreational and aesthetic utilization of the shoreline and adjacent waters.
- (b) *Shoreline protection zone.* The Bayou Texar shoreline protection zone includes all property abutting Bayou Texar bounded on the north by the 12th Avenue bridge and on the south by the L & N trestle located at the mouth of the bayou.
- (c) *Permitted land use.* Land use shall be permitted in the shoreline protection zone as designated by the city comprehensive plan and zoning regulations.
- (d) *Procedure for review of plans.* Prior to the issuance of a building permit for construction within the Bayou Texar shoreline protection district the owner, developer or contractor shall submit to the city planning and engineering departments a drainage plan indicating soil erosion and sedimentation control measures that will be undertaken to prevent runoff into Bayou Texar during construction and indicating methods to accommodate stormwater runoff on-site

during and after construction. The drainage plan shall include the following information:

- (1) Existing topographical contours of the site (two-foot intervals).
- (2) Location of all structures, parking areas, curb cuts and other construction activities that could contribute to removal of vegetation, erosion and stormwater runoff.
- (3) Design of grades and retention measures to control stormwater runoff during and after construction, including type of surfacing material to be used, vegetation to be removed, and revegetation of the site.
 - a. *Review and approval.* The required drainage plan shall be subject to the review and approval of the planning services department and city engineer. If the developer intends to request a waiver of any of the provisions of this section concerning the drainage plan, the request must be submitted, in writing, with the drainage plan to the planning services department and the city engineer. The request shall itemize and shall state the reasons for which each waiver is requested. When considering waivers, the planning services department and the city engineer shall review the comprehensive plan objectives and policies pertaining to coastal management and conservation to determine if the waiver request is consistent with the intent of said plan.
 - b. *Exemptions.* Operations that shall be exempt from this section are set forth below. However, any exemption from this section does not relieve responsibility to take all action necessary to prevent erosion and sedimentation from occurring.
 1. Home gardening or other similar activity not expected to contribute to any on-site generated erosion or chemical pollution.
 2. Emergency repairs such as those on public and private utilities and roadways systems.
 3. Improvements such as driveways, buildings, pools, etc. and/or accessory structures that do not exceed 1,500 square feet and which are not part of a larger/future development plan shall be exempt from installation of a stormwater treatment facility. Specifically, this 1,500 square foot exemption is a cumulative, one-time exemption. Even so, any such construction shall go through the city's permitting process, have proper erosion/sedimentation control meeting city standards as described in section 12-8-6(c), and neither create nor exacerbate any flooding problems. The city engineer may increase

this requirement as warranted based upon site-specific circumstances and conditions.

(e) *Regulations.*

(1) *Shoreline setback.* All habitable structures shall observe the following minimum setback from the mean high water line. Docks and boathouses shall conform to the regulations set forth in section 12-3-60.

- a. R-2, R-2A and R-ZL zones shall require a 20-foot setback from the mean high water line of the bayou.
- b. R-1AA, R-1AAA and R-1AAAA zones shall require a 30-foot setback from the mean high water line of Bayou Texar.
- c. R-1AAAAA shall require a 60-foot setback from the mean high water line of Bayou Texar.
- d. Lots of record shall require a minimum 20-foot setback from the mean high water line of Bayou Texar.

(2) *Required yards.* The front and rear yard requirements shall be the same as the applicable zoning district requirements. Each required side yard shall be ten percent of the lot width, not to exceed 15 feet. For lots of record the front and rear yard requirements shall be the same as described in section 12-1-6(b), and the required side yards shall be ten percent of the lot width, not to exceed ten feet.

(3) *Protection of trees.* No person, organization, society, association or corporation, or any agent or representative thereof, directly or indirectly, shall cut down, destroy, undertake tree removal, or effectively destroy through damaging, any tree listed in chapter 12-6, Appendix A, "Protected Tree List," whether it be on private property or public right-of-way within the Bayou Texar shoreline protection district, without first having obtained a permit from the city to do so. Refer to section 12-6-7 for tree removal permit application procedures and guidelines.

(f) *Development guidelines.* The following guidelines should be utilized in the review of each development proposal within the district. The adoption of guidelines herein are intended to provide flexibility in the development of property within the district in a manner that balances the interests of the property owner with the public's need for assurance that development will be orderly and consistent with the intent of this section. Individual parcels of property may have physical attributes that justify departure from regulatory norms when strict application of such norms would deny a property owner a reasonable use of his or her property and when

deviation from such norms is consistent with the intent of this regulation as described herein.

- (1) Structures should be sited to retain the maximum amount of open space for natural stormwater retention.
 - (2) Where possible and practical, existing vegetation, including shoreline vegetation, should be maintained as a buffer between development and the surface waters of Bayou Texar.
 - (3) Development within the shoreline protection zone which would be dependent on future bulkheading or other shoreline fortification for protection shall be discouraged.
 - (4) Proposed stormwater treatment facility(ies) shall be situated laterally across the width of the subject property and parallel to the shoreline (or provide grading, collection, and conveyance mechanism) to the greatest extent possible, in order to route and contain stormwater runoff from the up gradient yard into stormwater treatment facility(ies).
 - (5) Proposed stormwater treatment facility(ies) shall be located at the farthest possible and practical downstream location adjacent to the shoreline without causing any adverse impacts to the shoreline or existing vegetative buffers. Facility(ies) shall be sized to provide treatment for one inch (1") of runoff and provide a minimum of six inches (6") of freeboard above the treatment volume elevation. The city engineer may increase these requirements as warranted based upon site-specific circumstances and conditions.
- (g) *Public access to the shoreline.* All extensions of street rights-of-way that are perpendicular to or otherwise intersect Bayou Texar within the shoreline protection zone shall be reserved for public use unless officially vacated by city council action.
- (h) *Conflicts.* It is not intended that this section interfere with or abrogate or annul any other ordinances, rules, or regulations except where this section imposes a greater restriction upon land within a zone.

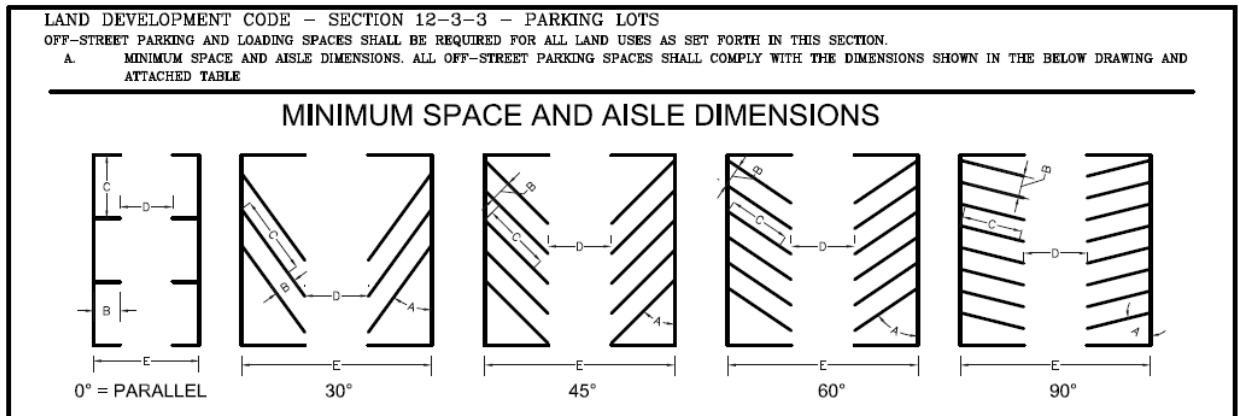
SECTION 2. Section 12-4-3 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-4-3. - Parking lots.

In addition to the provisions in this chapter all parking lots shall comply with tree preservation and landscaping provisions established in [chapter 12-6](#). The following requirements are applicable to all parking lots and parking spaces, whether or not such lots or spaces are required by the provisions of this chapter:

- (1) *Design of parking lots.* All parking lot plans must be reviewed by the city engineer or his or her designee. Proper ingress and egress from the lot shall be required and adequate interior drives shall be required for all parking lots.
- (2) *Grading and surfacing.*
 - a. *Parking lots that include lanes for drive-in windows or contain more than ten parking spaces.* Parking lots that include lanes for drive-in windows or contain more than ten parking spaces shall be graded and surfaced with asphalt, concrete or other material that will provide equivalent protection against potholes, erosion, and dust.
 - b. *Parking lots with ten or less parking spaces.* Parking lots with ten or less parking spaces may be surfaced with alternative surface materials (crushed stone, gravel, or other suitable material) other than those specified in subsection (2)a of this section, with the approval of the city engineer, to provide a surface that is stable and will help to avoid dust and erosion. The perimeter of such parking shall be defined by bricks, stones, railroad ties, or other similar devices. In addition, whenever a parking lot abuts a paved street, the driveway leading from such street to such area (or, if there is no driveway, the portion of the parking area in the public right-of-way), shall be paved as provided in subsection (2)a of this section.
- (3) *Demarcation of parking spaces.* Parking spaces in areas surfaced in accordance with subsection (2)a of this section shall be appropriately demarcated with painted lines or other markings. Parking spaces in areas surfaced in accordance with subsection (2)b of this section shall be demarcated whenever practicable.
- (4) *Maintenance.* Parking lots shall be properly maintained in all respects. Parking area surfaces shall be kept in good condition (free from potholes, etc.) and parking space lines or markings shall be kept clearly visible and distinct.
- (5) *Lighting.* Lighting shall be provided for parking lots with more than ten spaces, and this lighting shall be arranged to reflect away from the adjoining properties. The minimum illumination level required for the entire paved area shall be an average maintained 1.0 footcandle. The lowest footcandle value at any point on the pavement shall not be less than one-fourth of the required average.
- (6) *Screening.* Where a parking lot adjoins a residential district or fronts on a street adjoining a residential district, directly across said street, a solid wall, fence, or compact hedge not less than four feet high shall be erected along the lot lines, except that within a visibility triangle the height requirement shall be reduced to three feet.
- (7) *Measurement of parking stalls and/or drive aisles.* All parking stalls shall measure not less than nine feet by 18 feet, across the contiguous paved/improved surface

and shall exclude any portion of the curb or gutter except as provided for herein. For land uses that assign parking spaces to specific employees or residents, a maximum of 30 percent of all required vehicle parking spaces may be designed for compact cars. A compact car space may be a minimum of 7.5 feet by 16 feet across the contiguous paved/improved surface and shall exclude any portion of the curb or gutter. The occupant or owner of the principal use for which the parking is required shall enforce the use of such assigned compact car spaces. See attached drawing, "Minimum Space and Aisle Dimensions," below:



MINIMUM DIMENSIONAL AREAS INDICATED ON THE DRAWING "MINIMUM SPACE AND AISLE DIMENSIONS"						
A	B	C	D		E	
PARKING AISLE	STALL WIDTH IN FEET (see note 1)	LENGTH OF STALL IN FEET (see note 1)	AISLE WIDTH IN FEET		BAY WIDTH (CENTER TO CENTER WIDTH OF TWO ROW BAY WITH AISLE IN BETWEEN) (see note 1)	
			1-WAY	2-WAY	1-WAY	2-WAY
0°	9	23	15	22	24	34'
30°-53°	9	18	15	22	46'-7"	51'
54°-75°	9	18	20	22	61'-2"	56'
76°-90°	9	18	22	24	63'-4"	62'
NOTE 1. DIMENSION SHALL NOT INCLUDE ANY PORTION OF THE CURB AND/OR GUTTER						

- (8) *Fencing, wheelstops or bumper guards.* Fencing, wheelstops or bumper guards are required along property and street lines to avoid the chance of encroachment on other properties or sidewalks.

SECTION 3. Section 12-8-4 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-8-4. - Exemptions.

- (a) *Individual single-family and duplex homes.* Individual single-family and duplex home construction plans shall be exempt from the required stormwater management plan providing the lot is in an approved platted subdivision. However,

the owner, developer, or builder will be required to submit a description of the methods they will utilize to ensure that no erosion or sedimentation will occur during construction. They will be required to clear the lot in stages such that a siltation barrier of natural vegetation around the lot perimeter will be maintained until lot stabilization is completed. If a siltation or erosion problem develops during construction, the owner, developer or builder will be required to provide an additional siltation barrier and will be responsible for restoring the affected area to predevelopment condition. This exemption does not apply within the Bayou Texar or Escambia Bay shoreline protection districts.

(b) *Impervious surface projects.* Projects that include the addition of 1,500 square feet or less of impervious surface and which are not part of a larger/future development plan shall be exempt from this chapter. Specifically, this 1,500 square foot exemption is a cumulative one-time exemption. Even so, any such construction shall go through the city's permitting process, have proper erosion/sedimentation control meeting city's standards as described in section 12-8-6(c), and neither create nor exacerbate any flooding problems. The city engineer may increase this requirement as warranted based upon site-specific circumstances and conditions.

~~(b)~~ (c) *Other exempted operations.* Operations which shall, in any case, be exempt from this chapter are the following. However, any exemption from this chapter does not relieve responsibility to take all action necessary to prevent erosion and sedimentation from occurring.

- (1) Home gardening or other similar activity not expected to contribute to any on-site generated erosion.
- (2) Emergency repairs such as those on public and private utilities and roadway systems.
- (3) Maintenance, alteration or improvement of an existing structure that will not change the rate or volume of stormwater runoff from the site on which that structure is located.

SECTION 4. Section 12-8-6 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-8-6. - Design standards for stormwater management system.

(a) *General.*

- (1) The design of stormwater management facilities including all water retention or detention structures and flow attenuation devices shall comply with applicable state regulations (i.e., F.A.C. ch. 62-330) and shall be subject to approval of the city engineer pursuant to the following requirements. In the event of conflict

between the provisions of this chapter and the provisions of the applicable state regulations, the more strict requirements shall prevail.

- (2) All stormwater management facilities shall be designed for a minimum of 50-year life, have low maintenance cost and easy legal access for periodic maintenance.
- (3) All proposed stormwater management facilities shall be designed to prevent flooding, safety or health hazards and shall not contribute to the breeding of mosquitoes and arthropods.
- (4) The use of drainage facilities and vegetated buffer zones for open space, recreation, and conservation areas shall be encouraged.
- (5) The use of alternative permeable surface materials are encouraged for private parking lots and will be given due consideration in drainage plan review.

(b) *Water quality.*

- (1) The first one inch of runoff shall be retained on the development site. At the discretion of the city engineer, retention standards may be increased beyond the one-inch minimum standard on a site-specific basis to prevent flooding and drainage problems, and to protect environmentally sensitive water bodies.
- (2) Stormwater management facilities that receive stormwater runoff from areas containing a potential source of oil and grease contamination, including, but not limited to, any land use involving the sale or handling of petroleum products or any land use involving the repair, maintenance or cleaning of motor vehicles shall include a baffle, skimmer, grease trap, or other suitable oil and grease separation mechanism.
- (3) Channeling runoff directly into water bodies is prohibited. Runoff shall be routed through stormwater management systems designed to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle, and remove pollutants.

(c) *Erosion and sedimentation.*

- (1) Erosion and sediment control best management practices shall be used during construction to retain sediment on-site. These management practices shall be designed by an engineer or other competent professional experienced in the fields of soil conservation or sediment control according to specific site conditions and shall be shown or noted on the plans of the stormwater management system. The engineer or designer shall furnish the contractor with information pertaining to the construction, operation and maintenance of the erosion and sediment control practices.

- (2) The area of land disturbed by development shall be as small as practicable. Those areas that are not to be disturbed shall be protected by an adequate barrier from construction activity. Whenever possible, natural vegetation shall be retained and protected.
- (3) No clearing, grading, cutting, filling or alteration to the site of any kind shall be commenced until adequate erosion and sedimentation structural controls have been installed as per plan between the disturbed area and water bodies, watercourses, and wetlands and inspected by the building official. Limited clearing shall be permitted as necessary to allow the installation of the structural controls.
- (4) Land that has been cleared for development and upon which construction has not commenced shall be protected from erosion by appropriate techniques designed to temporarily stabilize the areas.
- (5) Sediment shall be retained on the site of the development, unless discharged into an approved off-site drainage facility as provided for in section 12-8-7.
- (6) Erosion and sedimentation facilities shall receive regular maintenance during construction to ensure that they continue to function properly.
- (7) Vegetated buffer strips shall be created or, where practicable, retained in their natural state along the banks of all watercourses, water bodies, or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, maintain natural drainage patterns to the water body, and allow for periodic flooding without damage to structures.

(d) *Design frequency.*

- (1) Stormwater management facilities with approved positive outfall shall be designed to attenuate the 100 year/critical duration storm event. The city engineer may waive or reduce this requirement if the stormwater management facility discharges directly into a natural outfall after treatment, does not contribute to potential or existing flooding conditions and does not increase pollutant loading.
- (2) Retention facilities that fall within a closed drainage basin and have no positive outfall shall retain the entire runoff volume from a 100-year storm event and shall include all storm durations up to and including the 24-hour duration. This retention volume must be recovered within 72 hours of the contributing storm event by natural percolation or other approved means.
- (3) Detention and/or retention facilities that connect directly to the city's storm drainage system shall be designed so that the post-development discharge rate does not exceed the pre-development discharge rate for a ten-year/critical

duration storm event. Where the existing capacity of the city storm drainage system is not adequate to accept the discharge from a ten-year storm event, the city engineer may reduce the allowable post-development discharge rate from the detention facility to an acceptable level. Detention and/or retention facilities that do not connect directly to the city storm system or have a direct impact on the system shall be allowed to discharge up to the pre-development rate for the 100-year/critical duration storm event or as otherwise approved by the city engineer.

- (4) The drainage area used in runoff calculations shall be the total natural watershed area including areas beyond proposed site limits (offsite runoff).

(e) *Stormwater retention and/or detention facilities.*

(1) *General requirements.*

- a. Recovery time for treatment/retention volume shall be a maximum of 72 hours. Recovery time for facilities that are underdrained or side drained shall be 36 hours.
- b. Minimum freeboard for retention and/or detention facilities shall be one foot between design high water and top of facility. The city engineer may waive or reduce this requirement for shallow ponds and swales.
- c. Stormwater retention and/or detention facilities shall include appropriate access for periodic maintenance as approved by the city engineer.
- d. Stormwater retention and/or detention facilities located adjacent to a public right-of-way shall be landscaped with a visual screen installed in accordance with the provisions of section 12-3-56(d) through (g) or landscaped as a part of the overall landscaping for the development with plant species that are suitable for individual pond characteristics and that provide an effective and visually pleasing screen for the retention and/or detention facility. All landscaping shall be maintained in accordance with the provisions of section 12-6-5.
- e. Designs for stormwater detention and/or retention facilities that use predominantly non-angular, freeform, curvilinear contouring that functions to visually integrate the facility into the overall design and landscaping of the development shall be encouraged.
- f. The method in which proposed pond bottom will be stabilized shall be: rock, gravel, planting, or sprigging. Sod is not acceptable for pond bottom stabilization.

(2) *Public facilities.* Stormwater retention and/or detention facilities to be dedicated to the city for maintenance shall comply with the following requirements in addition to the general requirement specified in subsection (e)(1) of this section.

- a. Slide slopes of facilities shall be no steeper than four horizontal feet for every one vertical foot (4:1) out to a depth of two feet below the control elevation. Grades steeper than 4:1 may be allowed where unique circumstances exist as approved by the city engineer.
- b. Side slopes shall be stabilized with sod or other materials as approved by the city engineer.
- c. Dry stormwater retention and/or detention facilities that contain side slopes that are steeper than 4:1 and have a retention depth greater than 30 inches shall be completely enclosed by a six-foot fence constructed of chain-link, wrought iron or other material as approved by the city engineer. Chain-link fences and related appurtenances (posts, gates, etc.) shall be vinyl-coated (dark green or black). The fence shall have a minimum 12-foot wide (15-foot maximum) gate opening. The maximum clearance from the bottom of the fence to existing grade shall be no more than three inches. This provision does not apply to shallow swales with a retention depth of 30 inches or less.
- d. Permanently wet retention and/or detention facilities that contain side slopes that are steeper than 4:1 shall be fenced or otherwise restricted from public access in accordance with F.A.C. ch. 62-330. Where a fence is proposed it shall be constructed according to the provisions of subsection (e)(2)c of this section.

(3) *Private facilities.* Stormwater retention and/or detention facilities to be maintained shall comply with the following requirements in addition to the general requirement specified in subsection (e)(1) of this section:

- a. Slide slopes of facilities with earthen slopes shall be no steeper than two horizontal feet for every one vertical foot (2:1). Grades steeper than 2:1 may be allowed where unique circumstances exist as approved by the city engineer.
- b. Side slopes shall be stabilized with sod or other material as approved by the city engineer.
- c. Private facilities with side slopes that are steeper than 4:1 shall be fenced or otherwise restricted from public access in accordance with F.A.C. ch. 62-330. Private stormwater retention and detention facilities that are located adjacent to a public right-of-way or easement shall be fenced in accordance with subsection (e)(2)c of this section.

(f) *Redevelopment.*

- (1) The following redevelopment activities will not be subject to the requirements of this section:
 - a. Alterations to the interior of an existing structure.
 - b. Alterations of an existing structure that do not result in a net increase in impervious surface area.
 - c. Routine building repair including adding a facade to a building.
 - d. Resurfacing an existing paved area such as a parking lot, driveway or other vehicle use area.
- (2) Redevelopment activities, including, but not limited to, alterations of existing buildings or structures or new construction following demolition of existing buildings and structures shall be subject to the requirements of this section only for the stormwater runoff that results from a net increase in impervious surface area provided that the new construction is under construction within two years of demolition. For the purpose of this subsection (f), under construction shall mean that a legal building permit has been issued and that actual construction has been or will be started within the period of validity of the permit, exclusive of any time extensions. Previously developed sites where buildings and structures were demolished and construction was not commenced within two years shall be considered new construction and subject to the requirements of this section. The following locations shall be excluded from the two-year time restriction:
 - a. All properties located in the C-2A downtown retail commercial district, SPBD South Palafox business district or HC-2 historical commercial district.
 - b. The area generally described as the Belmont/DeVillers Business Core area bounded by LaRua Street, Wright Street, Coyle Street, and Reus Street.
 - c. The area generally described as the Brownsville Commercial Area that is within the city limits bounded by Strong Street, Gadsden Street, Pace Boulevard and the city limits.
- (3) The city engineer may require certification from a licensed engineer that there is adequate capacity in the downstream stormwater conveyance system for the redevelopment site and that any known flooding or drainage problem will not be worsened.

SECTION 5. Section 12-8-18 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-8-18. - Illicit discharges exemptions.

The following activities shall not be considered either an illicit discharge or illicit connection unless such activities cause, or significantly contribute to the impairment of the use of the city's MS4 or the violation of the conditions of NPDES Permit No. FLS000019:

(1) Discharges from:

- a. Water line flushing;
- b. Flushing of reclaimed water lines;
- c. Street cleaning;
- d. Construction dust control;
- e. Landscape irrigation;
- f. Diverted stream flows;
- g. Rising groundwaters;
- h. Foundation and footing drains;
- i. ~~Swimming pool discharges;~~
- ij. Uncontaminated groundwater infiltration (as defined at 40 CFR 35.2005(20));
- jk. Uncontaminated pumped groundwater;
- kl. Discharges from potable water sources;
- lm. Air conditioning condensate;
- mn. Irrigation waters;
- no. Springs;
- op. Lawn watering;
- pq. Individual residential car washing;
- qr. Flows from riparian habitat and wetlands;

rs. Discharges or flows from emergency firefighting activities; and emergency fire response activities done in accordance with an adopted spill response/action plan; and

st. Decanted water from MS4 cleaning operations.

- (2) Discharges which have obtained appropriate federal, state, and local permits and are in compliance with the conditions of these permits.

SECTION 6. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 7. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 8. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



Legislation Details (With Text)

File #: 21-00142 **Version:** 2 **Name:**
Type: Action Item **Status:** Agenda Ready
File created: 1/28/2021 **In control:** City Council
On agenda: 2/9/2021 **Final action:**
Enactment date: **Enactment #:**
Title: Proposed Amendments to Sections 12-3, 12-4, and 12-8 of the Land Development Code
Sponsors:
Indexes:
Code sections:
Attachments: 1. Engineering Memo - LDC Changes, 2. Proposed Ordinance - LDC Changes from Engineering

Date	Ver.	Action By	Action	Result
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TO: Planning Board Members
FROM: Cynthia Cannon, AICP, Assistant Planning Director
DATE: 2/2/2021
SUBJECT:

Proposed Amendments to Sections 12-3, 12-4, and 12-8 of the Land Development Code

BACKGROUND:

Many sections of the City's Land Development Code were drafted a number of years ago and have not been updated. Over time, various items have come to light that need updating or modification. These proposed revisions to the City of Pensacola's Land Development Code (LDC) have a twofold goal. First, they codify language for items which have been enforced for quite some time without actually being included in the LDC. This results in a vast improvement to the clarity and efficiency of the engineering review process. Second, this new language provides a common sense approach to the permitting of developments which have a negligible impact to the City's stormwater quality or quantity.

The proposed amendments are sponsored by the Public Works and Facilities - Engineering and Construction Services Division. Please see the attached memo which provides greater detail on the proposed revisions.



MINUTES OF THE PLANNING BOARD

February 9, 2021

MEMBERS PRESENT: Chairperson Paul Ritz, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Wiggins

MEMBERS ABSENT: Vice Chairperson Larson, Board Member Murphy

STAFF PRESENT: Assistant Planning Director Cannon, Historic Preservation Planner Harding, Engineering Project Manager Hinote, Network Engineer Johnston

STAFF VIRTUAL: Planning Director Morris, Senior Planner Statler, Assistant City Attorney Lindsay

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from January 12, 2021.
- **New Business:**
 - Request for Aesthetic Review – 662 Aragon Street**
- **Proposed Amendments to Sections 12-3, 12-4, and 12-8 of the Land Development Code**
- Open Forum
- Discussion
- Adjournment

Call to Order / Quorum Present

Chairperson Ritz called the meeting to order at 2:01 pm with a quorum present and explained the procedures of the partially virtual Board meeting.

Approval of Meeting Minutes

1. **Board Member Powell made a motion to approve the January 12, 2021 minutes, seconded by Board Member Wiggins, and it carried unanimously.**

222 West Main Street Pensacola, Florida 32502

www.cityofpensacola.com

New Business

2. Request for Aesthetic Review – 662 Aragon Street

Chairperson Ritz stated he knew the owners/applicants but had no contact with the owners and had no issues with the design. Mr. Sallis addressed the Board and asked for comments. Board Member Grundhoefer advised he took no exception to the design. Board Member Wiggins agreed. Mr. Sallis explained they had not received approval from the Aragon Architectural Review Board (AARB) and requested approval pending their AARB approval. He explained there was a pergola on the front to make the porch larger. With no speakers, **Board Member Grundhoefer made a motion to approve, seconded by Board Member Wiggins, and it carried unanimously.**

3. Proposed Amendments to Sections 12-3, 12-4, and 12-8 of the Land Development Code

Assistant Planning Director Cannon explained this item was sponsored by the Public Works and Facilities – Engineering and Construction Services Division for the purpose of streamlining the language in the Land Development Code (LDC). These proposed revisions to the LDC have a twofold goal. First, they codify language for items which have been enforced for quite some time without actually being included in the LDC. This results in a vast improvement to the clarity and efficiency of the engineering review process. Second, this new language provides a commonsense approach to the permitting of developments which have a negligible impact to the City's stormwater quality or quantity. These changes maintain the City's focus on ensuring the well-being of our prized water bodies, wetlands, and smaller water bodies that feed them while aligning us more closely with the Statewide stormwater rules.

Engineering Project Manager Hinote presented to the Board and stated the proposed changes had been vetted through our legal staff since the previous Board meeting.

Section 12-3(d)(3)3. Was revised to state: Improvements such as driveways, buildings, pools, etc. and/or accessory structures that do not exceed 1,500 square feet and which are not part of a larger/future development plan shall be exempt from installation of a stormwater treatment facility. Specifically, this 1,500 square foot exemption is a cumulative one-time exemption. Even so, any such construction shall go through the City's permitting processes, have proper erosion/sedimentation control meeting City standards as described in LDC Section 121-9-6(C), and neither create nor exacerbate any flooding problems. The City Engineer may increase this requirement as warranted based upon site specific circumstances and conditions.

Chairperson Ritz noted a typo under 3. "121-9-6(C)" which would be corrected to 12-9-6(C), and LDC should be written out.

Under (f) Development guidelines:

(4) Proposed stormwater treatment facility(ies) shall be situated laterally across the width of the subject property and parallel to the shoreline (or provide grading, collection, and conveyance mechanism) to the greatest extent possible, in order to route and contain stormwater runoff from the up-gradient yard into stormwater treatment facility(ies).

(5) Proposed stormwater treatment facility(ies) shall be located at the farthest possible and practical downstream location adjacent to the shoreline without causing any adverse impacts to the shoreline or existing vegetative buffers. Facility(ies) shall be sized to provide treatment for one inch (1") of runoff and provide a minimum of six inches (6") of freeboard above the treatment volume elevation. The City Engineer may increase these requirements as warranted based upon site specific circumstances and conditions.

Mr. Hinote explained the pond would be elongated. He advised they wanted to ask “what does your specific lot look like,” and they also tried to build in a variety of uses. He also explained they wanted to capture pollutants before they ran into the bayou.

Under Section 12-4-3 Parking Lots (7):

Measurement of parking stalls and/or drive aisles. All parking stalls shall measure not less than nine feet by 18 feet, across the contiguous paved/improved surface and shall exclude any portion of the curb or gutter except as provided for herein. For land uses that assign parking spaces to specific employees or residents, a maximum of 30 percent of all required vehicle parking spaces may be designed for compact cars. A compact car space may be a minimum of 7.5 feet by 16 feet across the contiguous paved/improved surface and shall exclude any portion of the curb or gutter. The occupant or owner of the principal use for which the parking is required shall enforce the use of such assigned compact car spaces. See attached drawing, “Minimum Space and Aisle Dimensions,” below:

Board Member Grundhoefer discussed the chart regarding curb and gutter.

Under Section 12-8-4 Exemptions (b) Impervious surface projects:

Projects that include the addition of 1,500 square feet or less of impervious surface and which are not part of a larger/future development plan shall be exempt from this chapter. Specifically, this 1,500 square foot exemption is a cumulative one-time exemption. Even so, any such construction shall go through the City’s permitting processes, have proper erosion/sedimentation control meeting City standards as described in Section 12-8-6(c), and neither create nor exacerbate any flooding problems. The City Engineer may increase this requirement as warranted based upon site-specific circumstances and conditions.

Mr. Hinote stated online software made it vastly better to track. The pond bottom requirements were no longer allowing sod. (e)f. Pond bottom stabilization. The method in which proposed pond bottom will be stabilized shall be: rock, gravel, planting, or sprigging. Sod is not acceptable for pond bottom stabilization.

Under Section 12-8-18 Illicit discharges exemptions, i. Swimming pool discharges are now considered an illicit discharge per the Florida Department of Environmental Protection and Northwest Florida Water Management District. Mr. Hinote advised this is a State of Florida rule, and we want to be in compliance. He also stated the City might need to get with the PIO regarding these changes in order to inform the public.

Board Member Powell made a motion to approve, seconded by Board Member Wiggins, and it carried unanimously.

It was noted the amendments would proceed to Council for their next meeting.

Open Forum – None

Discussion – Board Member Grundhoefer asked about the Tree Ordinance, and it was determined the ordinance would be considered at the March 11, 2021 Council meeting.

Adjournment – With no further business, Chairperson Ritz thanked the Board for its patience and adjourned the meeting at 2:31 pm.

Respectfully Submitted,

Cynthia Cannon, AICP
Assistant Planning Director
Secretary to the Board



Legislation Details (With Text)

File #: 20-00356 **Version:** 1 **Name:**
Type: Action Item **Status:** Agenda Ready
File created: 6/29/2020 **In control:** Planning Board
On agenda: 8/11/2020 **Final action:**
Enactment date: **Enactment #:**
Title: Proposed LDC Amendments - Sec. 12-2-27 (D)(2). - Bayou Texar shoreline protection district. Sec. 12-2-27 (F). - Bayou Texar shoreline protection district. Sec. 12-3-3 (G). - Parking lots. Sec. 12-9-4. - Exemptions. Sec. 12-9-6 (E). - Design standards for stormwater management system.

Sponsors:

Indexes:

Code sections:

Attachments: 1. LDC Shoreline Protection Amendments

Date	Ver.	Action By	Action	Result
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TO: Planning Board Members

FROM: Cynthia Cannon, AICP, Assistant Planning Director

DATE: 8/4/2020

SUBJECT:

Proposed LDC Amendments - Sec. 12-2-27 (D)(2). - Bayou Texar shoreline protection district. Sec. 12-2-27 (F). - Bayou Texar shoreline protection district. Sec. 12-3-3 (G). - Parking lots. Sec. 12-9-4. - Exemptions. Sec. 12-9-6 (E). - Design standards for stormwater management system.

BACKGROUND:

City staff received a request to amend Sec. 12-2-27 (D)(2). - Bayou Texar shoreline protection district. Sec. 12-2-27 (F). - Bayou Texar shoreline protection district. Sec. 12-3-3 (G). - Parking lots. Sec. 12-9-4. - Exemptions. Sec. 12-9-6 (E). - Design standards for stormwater management system. The purpose of the proposed amendments is to update the code to current standards and to improve the clarity and efficiency of the engineering review process.



MINUTES OF THE PLANNING BOARD

August 11, 2020

MEMBERS PRESENT: Chairperson Paul Ritz, Board Member Grundhoefer

MEMBERS VIRTUAL: Vice Chairperson Larson, Board Member Murphy, Board Member Powell, Board Member Sampson

MEMBERS ABSENT: Board Member Wiggins

STAFF PRESENT: Assistant Planning Director Cannon, Senior Planner Statler, Assistant City Attorney Lindsay (virtual), Historic Preservation Planner Harding, City Surveyor Odom, City Engineer Hinote, Councilwoman Myers, Network Engineer Johnston, Digital Media Coordinator Rose

OTHERS VIRTUAL: Mitchell Hubbell, Shadia Jaramillo

AGENDA:

- Quorum/Call to Order
- Approval of Meeting Minutes from July 14, 2020.
- **New Business:**
 1. **657 Aragon St – Gateway Review District – New Two Story S/F Residence**
 2. **671 Centros St – Gateway Review District – New Two Story S/F Residence**
 3. **PROPOSED LDC AMENDMENTS - SEC. 12-2-27 (D)(2). - BAYOU TEXAR SHORELINE PROTECTION DISTRICT. SEC. 12-2-27 (F). - BAYOU TEXAR SHORELINE PROTECTION DISTRICT. SEC. 12-3-3 (G). - PARKING LOTS. SEC. 12-9-4. - EXEMPTIONS. SEC. 12-9-6 (E). - DESIGN STANDARDS FOR STORMWATER MANAGEMENT SYSTEM.**
- Open Forum
- Discussion on the Proposed Amendment to the Tree Ordinance
- Adjournment

Call to Order / Quorum Present

Chairperson Ritz called the meeting to order at 2:00 pm with a quorum present and explained the procedures of the virtual Board meeting.

222 West Main Street Pensacola, Florida 32502

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Approval of Meeting Minutes

Board Member Larson made a motion to approve the July 14, 2020 minutes, seconded by Board Member Powell, and it carried unanimously.

New Business

657 ARAGON ST – GATEWAY REVIEW DISTRICT – NEW TWO STORY RESIDENCE

Chairperson Ritz stated he had no problem with the designs submitted by Mr. Sallis and had no input except to say he appreciated the design effort.

Mr. Sallis presented to the Board and stated his client was moving here from Mississippi, and they had received approval from the Aragon committee. They hoped to begin construction in the fall of 2020. Chairperson Ritz explained this project would fill in an empty spot along this roadway, and Board Member Grundhoefer advised it looked very attractive. He explained this Board depends on the Aragon ARB for their knowledge, and this project had received their preliminary approval.

Board Member Grundhoefer made a motion to approve, seconded by Board Member Larson, and it carried unanimously.

671 CENTROS ST – GATEWAY REVIEW DISTRICT – NEW TWO STORY RESIDENCE

Mr. Sallis presented to the Board and explained this project had been before the Aragon ARB and received preliminary approval. Chairperson Ritz again appreciated the design which played off the existing structures already in Aragon.

Board Member Larson made a motion to approve, seconded by Board Member Powell, and it carried unanimously. Mr. Sallis was excited to see new faces on the Board and thanked them for their service.

PROPOSED LDC AMENDMENTS

Proposed LDC Amendments - Sec. 12-2-27 (D) (2). - Bayou Texar shoreline protection district. Sec. 12-2-27 (F). - Bayou Texar shoreline protection district. Sec. 12-3-3 (G). – Parking lots. Sec. 12-9-4. – Exemptions. Sec. 12-9-6 (E). - Design standards for stormwater management system. Sec. 12-8-2. – Prohibition. Sec. 12-8-3. – Procedure for subdivision approval. Sec. 12-8-8. Preliminary plat. Sec. 12-8-9. Final plat. Sec. 12-8-10. Final approval. Appendix A Design Standards.

Chairperson Ritz appreciated the amendments bringing the Code in line with the neighboring jurisdictions and saw it as a housekeeping effort to codify several items so that developers coming before the City had a better series of rules with which to operate. Assistant Planning Director Cannon stated normally changes were indicated in a strike-through underline format, but in this case, nothing was struck through.

In Sec. 12-2-27 (F) (d), Board Member Murphy asked the meaning of the “greatest extent possible.” City Engineer Hinote stated the intent of the language was ultimately to collect and retain fertilizers from the adjacent yards; the intent was to allow alternatives to retain nutrients before discharging into the bay. Board Member Murphy asked if there was a technology-based standard for the City. Mr. Hinote advised that sediments were collected on site and (e) addressed the size of the pond required which was a technology-based standard. He also noted these standards applied only to the Bayou Texar District – shoreline waterfront property. Board Member Murphy referenced a section outside of this district and wanted to know if this language could be a protection standard. Chairperson Ritz advised the Board could not go to a parcel specific addition since this was not advertised, but it could be a future agenda item.

Board Member Powell addressed Sec. 12-2-27 (D) (2) (c) “meeting City standards” and asked if applicants would go through the permitting process. Mr. Hinote stated if you install 1500 sq. ft. or less, they would not have to hire a civil engineer for a pond, but they would still need erosion control, and a building permit would be required.

Board Member Grundhoefer stated in 12-2-4 (B), the 1500 sq. ft. looked like this was an exemption. Mr. Hinote advised this was intended to be a cumulative calculation. Staff advised any amendments were always brought to Legal before presentation to the Board. Chairperson Ritz explained the language could be revised, and Board Member Grundhoefer suggested sending it back to staff to clarify that language.

Board Member Grundhoefer addressed 12-3-3 (G) parking lots. Mr. Hinote stated most of the time, the intent of gutter pan was to allow flow of water. Parking cars in it would not allow flow as it was intended. Board Member Grundhoefer addressed the sod at the pond bottom, noting the City did not want sod but the County did. Mr. Hinote explained with sod, you end up with a thick clay layer at the bottom of the pond which will not allow water to percolate. Chairperson Ritz clarified that sod could bring in other elements which would not allow water percolation. Regarding the 1500 sq. ft. language, Board Member Grundhoefer explained Engineering would probably like some leeway, but did not believe they should be able to “waive” the requirement. Chairperson Ritz stated other Board members seemed to prefer to strike the word “waive.” **Board Member Murphy made a motion to change the language and return the document at the September meeting. The motion was seconded by Board Member Larson. Staff confirmed the changes to include “cumulative not to exceed 1500 sq. ft.,” which would be filtered through Legal; also, to omit the word “waive” to state “that the City Engineer may increase this requirement as warranted.”**

Board Member Powell addressed 12-2-27 (D) (2) with the “1500 sq. ft. which are not part of a larger development” for clarification. She thought it might be a loophole for someone to say it was 1500 sq. ft. but not a part of the larger project. Board Member Murphy addressed 12-9-4 (B) “Projects that include the addition of 1500 sq. ft.” Board Member Grundhoefer stated this referred to additional square footage after the already permitted project development. Mr. Hinote wanted to clearly distinguish that 12-9 is specific to commercial development and what would allow them to become exempt (parking lots, hospitals, etc.) For example, to add two additional parking spaces would not require a civil engineer. Exemption was to allow additional impervious surfaces without having to add a retention pond. He stressed a single home residence has no requirement for stormwater treatment or attenuation. He explained the City’s stormwater attenuation requirements are more stringent (requiring 100 year attenuation) than the Northwest Florida Water Management District.

Chairperson Ritz clarified that the 1500 sq. ft. involved the Bayou Texar shoreline protection district, and parking lots with the 1500 sq. ft. exemption. Senior Planner Statler advised Mr. Hinote used the parking lot as an example; currently, they would have to hire a civil engineer to add two parking spaces, and the intent was to allow them to have an exemption. Mr. Hinote advised modifying that language of 1500 sq. ft. could be done. Chairperson Ritz explained modifying it to 2000 would be too much 1500 was more reasonable. Board Member Grundhoefer asked if language could be revised to state that with the impervious area being added, the runoff would be directed toward the existing pond. Mr. Hinote explained that was already noted in a different section of the LDC and could be cited. Board Member Powell advised the language to indicate where the water must go could possibly be in 12-2-27 (D).

The motion then carried unanimously. Chairperson Ritz explained the proposed amendments would be sent back to Engineering staff for further clarification and brought back at a later Planning Board meeting.

Open Forum – None

Discussion on the Proposed Amendment to the Tree Ordinance

Board Member Murphy advised they were working on ways to conduct public meetings versus zoom meetings requiring computer technology. Possible amendment modifications would be coming to the Board in September. Staff explained the public could still participate in meetings virtually; however due to Covid they would not be permitted to attend in person. Chairperson Ritz explained Board Member comments or suggestions would be furnished to staff for dissemination.

Adjournment – With no further business, Chairperson Ritz thanked the Board for its patience with the change in methods of physical and virtual participation and adjourned the meeting at 3:20 pm.

Respectfully Submitted,

Cynthia Cannon, AICP
Assistant Planning Director
Secretary to the Board



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00455

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Jared Moore

SUBJECT:

REFERRAL TO PARKS AND RECREATION BOARD - REVIEW AND RECOMMENDATION FOR ALTERNATIVE FENCING FOR THE EAST PENSACOLA HEIGHTS LIONS PARK.

RECOMMENDATION:

That City Council refer to the Parks and Recreation Board for review and recommendation alternative fencing, currently chain link, at the East Pensacola Heights Lions Park.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The East Pensacola Heights Neighborhood Association would like to look at a possible change to the existing chain-link fencing around the East Pensacola Heights Lions Park. The hope would be a change to a more aesthetic option.

This item seeks to refer this issue to the Parks & Recreation Board for their review and possible recommendation of a style of fencing. Attached to this item is a proposed fence layout for the park as provided by the Neighborhood Association.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

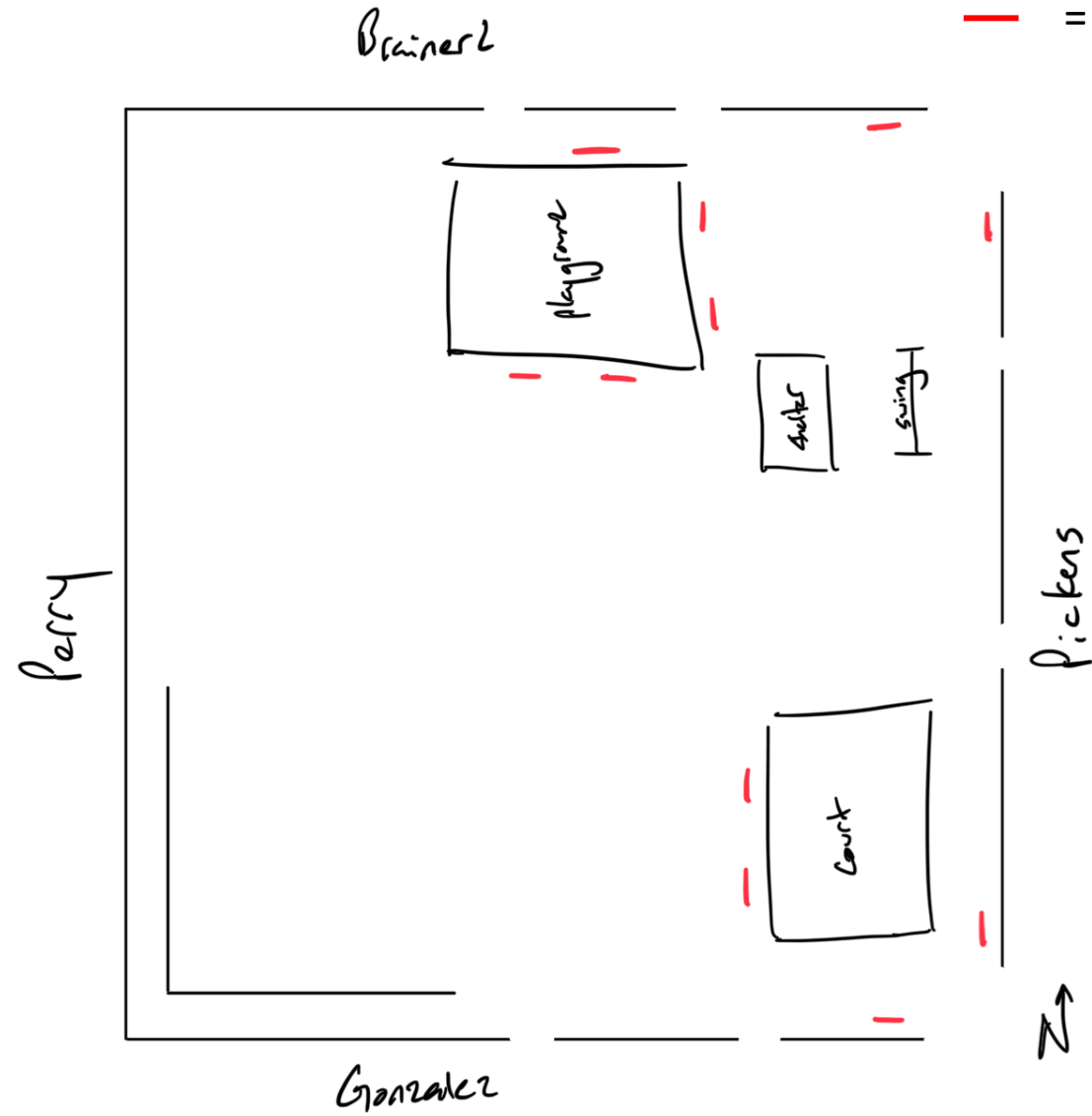
STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Lions Park Fence Layout

PRESENTATION: No



2 x 8' gaps per side

24' open corners on NE and SE sides

— = Bench



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 21-00470

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Jared Moore

SUBJECT:

COUNCIL MEMBER EMERITUS DESIGNATION FOR DR. P.C. WU.

RECOMMENDATION:

That City Council confer the designation of Council Member Emeritus to Dr. P.C. WU.

HEARING REQUIRED: No Hearing Required

SUMMARY:

As a way of extending Council's appreciation and gratitude to former Council Members for their years of service to the City, City Council established Policy 4.37 - Council Member Emeritus Designation through the passage of Resolution No. 2021-13.

In order to receive this designation, a former Council Member would have served for a minimum period of twelve years or the equivalent of three (3) terms when the terms are defined as lasting for four (4) years. While this designation inures no special benefit or privilege to the former Council Member, it is an honorary designation presented as a sign of appreciation for the former Council Member's distinguished service to the City of Pensacola.

Our first recipient to receive this designation is Dr. P.C. Wu.

Dr. Wu served the City for 15 years, representing District 1. During that time Dr. Wu held the positions of City Council Vice President, Council President, and the Chair of the CRA. He is well known and well respected with the Northwest Florida League of Cities and the, Florida League of Cities where he served as President of these organizations. He also served as a member of the Board of Directors of the National League of Cities as well as the Asian - Pacific American Municipal Officials Committee with the National League of Cities. Dr. Wu was one of the first Asian Americans to serve the City Council as a Council Member.

PRIOR ACTION:

March 11, 2021 - City Council passed Resolution No. 2021-13 which created Policy 4.37, Council

Member Emeritus.

FUNDING:

N/A

FINANCIAL IMPACT:

None

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1) None

PRESENTATION: Yes



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 2021-26

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2021-26 - PENSACOLA ENERGY - ACQUISITION OF CAPITAL EQUIPMENT REPLACEMENT VEHICLES

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2021-26.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Pensacola Energy requests the early replacement of three CNG F-550 Utility Trucks capital equipment vehicles: These items were scheduled to be replaced in FY 2022. There is a significant timeline delay in production due to COVID-19, it is being requested to appropriate them now so they can be ordered. Below is a list of the CNG equipment replacements:

Vehicle #223-13, F-550 Ford Utility Truck	\$115,000
Vehicle #224-09, F-550 Ford Utility Truck	115,000
Vehicle #233-07, F-550 Ford Utility Truck	<u>115,000</u>
	<u>\$345,000</u>

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

Due to the nature of ordering vehicles and the production timeline associated with receipt, it is necessary to appropriate for these purchases now so that they will be received during Fiscal Year 2022. Adoption of the supplemental budget resolution will appropriate the funds to purchase the needed capital equipment vehicles.

CITY ATTORNEY REVIEW: Yes

5/4/2021

STAFF CONTACT:

Keith Wilkins, City Administrator

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

Don J. Suarez, Pensacola Energy Director

ATTACHMENTS:

- 1) Supplemental Budget Resolution No. 2021-26
- 2) Supplemental Budget Explanation No. 2021-26

PRESENTATION: No

**RESOLUTION
NO. 2021-26**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE
FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. GAS UTILITY FUND		
Fund Balance		345,000
As Reads	Capital Outlay	3,406,760
To:		
Reads	Capital Outlay	3,751,760

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

THE CITY OF PENSACOLA**MAY 2021 - SUPPLEMENTAL BUDGET RESOLUTION - PENSACOLA ENERGY - ACQUISITION OF CAPITAL EQUIPMENT REPLACEMENT VEHICLES - RES NO. 2021-26**

FUND	AMOUNT	DESCRIPTION
GAS UTILITY FUND		
Fund Balance	<u>345,000</u>	Increase appropriated fund balance
Appropriations		
Capital Outlay	<u>345,000</u>	Increase appropriation for Capital Outlay
Total Appropriations	<u>345,000</u>	



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 2021-27

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2021-27 - LAW ENFORCEMENT TRUST FUND (LETF) PURCHASES FOR THE PENSACOLA POLICE DEPARTMENT

RECOMMENDATION:

That the City Council adopt Supplemental Budget Resolution No. 2021-27.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Law Enforcement Trust Fund was established by City of Pensacola to allow the Police Department the use of money and goods confiscated as a result of criminal activity. Florida State Statute 932.7055 as amended on July 1, 2016 details the circumstances confiscated goods may be used. The Federal Controlled Substance Act, Section 881 (e) (3) of Title 21, United States Department of Justice Guide to Equitable Sharing designates the uses of Federal Law Enforcement Trust Funds.

The Pensacola Police Department is requesting \$5,000 be appropriated from the Law Enforcement Trust Fund (LETF) for the purpose of donating to Boys & Girls Club of Emerald Coast. The funds will help provide with costs associated with the prevention/education program designed to address problems such as drug, alcohol, tobacco use, gang involvement and premature sexual activity. The program uses a team approach involving Club staff, peer leaders, parents, and community representatives to deliver impactful lessons regarding poor choices, peer pressure, conflict resolution, resilience, and perseverance. More than emphasizing a "Say No" message, the program teaches young people, ages 6 to 18, how to say "no" by involving them in discussion and role playing, practicing resistance and refusal skills, developing assertiveness, strengthening decision making skills, analyzing media and involvement through the practice of smart behavior. SMART Moves programs such as Passport to Manhood, Passport to Womanhood (otherwise known as SMART Girls), Street Smartz, SMART Leaders, SMART Kids and more are a required element of daily programming at the Pensacola Clubs in conjunction with our Character & Leadership, Academic

Success and Healthy Lifestyles priority outcomes.

The funds will be used to pay \$2,574 towards personnel costs/salaries and \$2,426 towards supplies.

The Interim Police Chief has certified that this request complies with the statutory requirements of Florida Statute 932.7055 and that the funds appropriated will be used for the qualifying purpose(s) of crime prevention, drug prevention and safe neighborhood.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

Adoption of the Supplemental Budget Resolution will appropriate the funds in the Law Enforcement Trust Fund for these purposes. There is no impact to the General Fund.

CITY ATTORNEY REVIEW: Yes

5/5/2021

STAFF CONTACT:

Keith Wilkins, City Administrator
Kevin Christman, Interim Chief of Police

ATTACHMENTS:

- 1) Supplemental Budget Resolution No. 2021-27
- 2) Supplemental Budget Explanation No. 2021-27
- 3) Letter of Certification
- 4) Boys & Girls Club of the Emerald Coast LETF Application

PRESENTATION: No

**RESOLUTION
NO. 2021-27**

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR
THE FISCAL YEAR ENDING SEPTEMBER 30, 2021; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. LAW ENFORCEMENT TRUST FUND

	Fund Balance	5,000
As Reads:	Operating Expenses	59,908
Amended		
To Read:	Operating Expenses	64,908

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

THE CITY OF PENSACOLA
MAY 2021 - SUPPLEMENTAL BUDGET RESOLUTION - LETF FUNDS - NO. 2021-27

FUND	AMOUNT	DESCRIPTION
LAW ENFORCEMENT TRUST FUND		
Fund Balance	<u>5,000</u>	Increase appropriated fund balance
Appropriations		
Operating Expenses	<u>5,000</u>	Increase appropriation for Operating Expenses
Total Appropriations	<u>5,000</u>	

CITY OF PENSACOLA POLICE DEPARTMENT
Local Law Enforcement Trust Funds
Letter of Certification

225

I hereby certify that the requests contained herein comply in full with the provisions of Florida State Statute 932.7055 as amended on July 1, 2016, in reference to the use of contraband forfeiture from a State Law Enforcement Trust Fund and/or under the Federal Controlled Substance Act, Section 881 (e)(3) of Title 21, United States Code, in accordance with the US Department of Justice Guide to Equitable Sharing from a designated Federal Law Enforcement Trust Fund.

Item	Description of Requested Items	Amount
1	Boys & Girls Club of Emerald Coast	\$5,000
Total Requested		\$5,000


Kevin Christman, Interim Chief of Police

4-30-21

Date



PENSACOLA POLICE

COURTESY • INTEGRITY • PROFESSIONALISM

PENSACOLA POLICE DEPARTMENT LAW ENFORCEMENT TRUST FUND ("LETF") APPLICATION

The Pensacola Police Department (PPD) is pleased that we are able to benefit our community with the use of asset forfeiture funds by providing financial assistance to local nonprofit organizations that make a difference in our community. These funds are the result of civil forfeitures of assets (including cash) that have been seized as contraband linked to certain felony crimes and that meet the strict standards and statutory requirements by the seizing law enforcement agency. Once the civil forfeiture process is complete, the seized money is maintained in a Law Enforcement Trust Fund (LETf) and can only be used in accordance with the rules set forth in Florida Statutes, Section 932.701 - 932.707, called the "Florida Contraband Forfeiture Act (FCFA)." The provisions of the FCFA allows law enforcement agencies, such as PPD, to support projects and programs that strive to improve neighborhood safety, prevent crime, and provide drug abuse education and prevention within our Pensacola community.

Applications requesting funding may be a request to fund an entire project or may be a request to fund a particular piece of a larger project or program if that project or program meets the eligibility criteria set forth in the statutes described below.

Funding requests are subject to approval by the Chief of the Pensacola Police Department and the City Council, as well as funding availability.

Eligibility:

To be considered for funding:

1. The project/program must meet the statutory criteria as to the use of LETF money and must fall into one of the following categories:

- Crime Prevention
- Drug Abuse and Prevention Program
- Safe Neighborhoods
- School Resource Officer
- Other Law Enforcement Purpose in Compliance with F.S. §932.7055(5)(a).

2. In order to be considered for submission, the following documents **MUST** be attached to the application at the time of submission.

- Part 1 of this application
- Part 2 of this application (including line item budget)
- Sunbiz Certification of Status
- IRS Form 501(c)(3)
- IRS Form W-9

3. If the application is approved and money for the project is awarded, applicants will have 90 days to complete Part 3 and return to the PPD. Part 3 provides statutorily required audit information of how the funds received were utilized along with a description of the outcomes of the project or program for which the funds were granted. This must include receipts where applicable, as well as documentation of expenses that account for exactly how the money was spent for the program or project for which it was requested. **Part 3 must be completed and returned within 90 days following the performance period of the project / program / event for which the LETF money was awarded. Failure to submit Part 3 in a timely manner may result in a demand for the funds granted to be returned and will result in a failure of the agency to be considered as a recipient for future LETF money.**



PENSACOLA POLICE

COURTESY • INTEGRITY • PROFESSIONALISM

PART 1

The person completing this application must have legal authority on behalf of the requesting agency to submit this application and to ensure funds are used for the purposes specified herein to provide the required accounting and reporting of these funds.

Initial LM Applicant will keep clear and accurate records throughout the Program period so that the progress of the services rendered may be readily evaluated by PPD.

Initial LM I understand that a final report of activities and expenditures documented by receipts or other financial proof of expenditure of the Program must be submitted by Applicant on the report form (Part 3) to the PPD no later than 90 days of the end of the performance period.

Initial LM I understand that failure to comply with the reporting requirements in Part 3 may result in Applicant having to return LETF monies and will remove the applicant agency from future consideration to receive LETF monies.

Initial LM If Applicant's agency fails to use the funds in the manner described in this application, or if the project or program does not occur or is not completed in the same manner and in the performance period as described in the application, or is determined later to not be qualified to receive LETF monies; or if there was an untruthful statement made by Applicant within Application; or fails to provide the necessary reporting documents to the PPD, then all LETF monies disbursed to the Applicant must be returned to the PPD within ten (10) business days of the PPD's written demand for the same and Applicant will be ineligible for any further LETF disbursements.

Initial LM I understand that false statements or claims made in connection with this LETF application may result in fines, imprisonment, and/or any other remedy available by law.

I certify that I have the appropriate authority on behalf of the requesting agency to submit this application and to ensure funds are used for the purposes specified herein to provide the required accounting and reporting of these funds. I also certify that the assurances provided are true and accurate to the best of my knowledge.

Applicant Agency Name: Boys & Girls Clubs of the Emerald Coast

Leslie Mickles

Printed Name of Person Authorized to Complete this Application

VP of Financial Advancement

Title

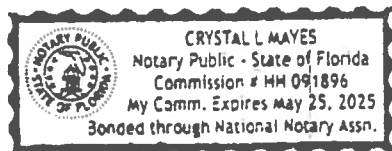
Leslie Mickles

Signature

STATE OF FLORIDA
COUNTY OF ESCAMBIA

SWORN TO AND SUBSCRIBED before me this 14 day of APRIL, 2021, by (name of person making statement) who is personally known to me or has produced _____ as identification.

(Notary Seal)



NOTARY PUBLIC

Crystal L. Mayes

Signature of Notary
State of Florida at Large
My Commission Expires:

PART 2

Section 1

APPLICANT INFORMATION

Name of Agency:	Boys & Girls Clubs of the Emerald Coast		
Name of Program to receive funding from LETF:	Academic Success		
Amount of LETF Funds Requested:	5,000		
Name/ Title of Contact:	Leslie Mickles		
Address:	923 Denton Blvd NW	Phone:	850.862.1616
City • Zip Code:	Fort Walton Beach 32547	Fax:	850.438.5412
Total Program Budget:	185,949	E-mail:	lmickles@bgcec.com
Dates of Project/Program:	8.2.2021-8.1.2022		

Section 2

LETF CATEGORY

(Place an "X" to the left of one program area for which you intend to apply):

<input checked="" type="checkbox"/>	1. Crime Prevention
<input checked="" type="checkbox"/>	2. Drug Abuse Education and Prevention Programs
<input checked="" type="checkbox"/>	3. Safe Neighborhood
<input type="checkbox"/>	4. School Resource Officer
<input type="checkbox"/>	5. Other Law Enforcement Purpose in Compliance with F.S. §932.7055(5)(a)

Section 3

PROPOSED PROGRAM INFORMATION

a. What is the mission statement of your agency?

To enable all young people, especially those that need us most, to reach their full potential as productive, caring and responsible citizens.

b. How does your proposed project or program address the statutorily applicable LETF Category as marked in Part 2 , section 2 of this application?

Funds requested from the Law Enforcement Trust Fund are to directly support Boys & Girls Clubs of the Emerald Coast(Pensacola/Dixon Club) SMART(Skills Mastery And Resistance Training) Programming. July 2021, Boys & Girls Clubs of the Emerald Coast will add to their family of clubs and open a new club site inside of Dixon School of the Arts & Sciences. This center is located at 1201 North H Street, Pensacola, FL 32501. For over 50 years, Boys & Girls Clubs of the Emerald Coast(BGCEC) has been in the forefront of youth enrichment, working with young people that are at-risk. The proposed funding will follow evidence based practices while targeting children in grades Kindergarten-12th. BGCEC Programs meet the needs of at-risk students, afterschool and during the summer months, by providing a variety of academic enrichment, good character plus healthy lifestyles activities to assist students in meeting and exceeding state standards in core subjects plus prompt them to become well-round, productive, law-abiding citizens. The SMART prevention/education program is designed to address problems such as drug, alcohol, tobacco use, gang involvement and premature sexual activity. The program uses a team approach to deliver impactful lessons regarding poor choices, peer pressure, conflict resolution, resilience and perseverance. More than emphasizing a "Say No" message, the program teaches young people ages 6 to 18 how to say no by involving them in discussion and role playing practicing resistance and refusal skills, developing assertiveness, strengthening decision making skills, analyzing media and involvement through the practice of responsible behavior.

- c. Why is this funding needed (what community program does it address)? What data or information suggests this program will be beneficial to the residents of Pensacola?

Even in the midst of the pandemic BGCEC, working at reduced capacity, continued to serve youth who need us most. In 2020 Pensacola Clubs, made a lasting impact on 191 young people from 5 to 18 years of age. Of those, 191 Club youth 96% members qualify for free and reduced lunch. However, 51% of our youth have attended the Club for 52 days or more per year. 78% of those young people come from a single family household. 80% are from Black or African American ethnic group. Statistics show that the majority of families BGCEC are serving are extremely low income and are at the most risk of educational failure of any area in Northwest Florida. We serve a large number of young, African-American males, almost 50%, who are statistically at an increased risk to engage in juvenile crime. Club memberships gives them a fun, positive, supervised environment in which they can engage with peers and professional staff to sow seeds of good characters, community service and the need for academic success. Even those with minor issues with the juvenile justice system can join the Club perform community service all while absorbing the impact of Boys & Girls Club "way." The Office of Justice and Delinquency Prevention Statistical Briefing Book states that juveniles are most likely to commit violence crime between the hours of 3pm and 6pm immediately following school days. On non-school days, the incidence of juvenile violence increase through the afternoon and early evening hours, peaking between 7pm and 9pm. Hence, our rationale to operate 2pm-6pm, Monday-Friday.

- d. What is the specific time frame of dates that this program or project will be performed?

8.2.2021-8.1.2022

- e. Describe in detail the program or project for which you are seeking LETF funds and specifically how the funds requested will be used. A specific breakdown of the funds must be included on the attached line item budget

Boys & Girls Clubs in partnership with the Department of Juvenile Justice conducts SMART Moves programming each year. It is a prevention/education program designed to address problems such as drug, alcohol, tobacco use, gang involvement and premature sexual activity. The program uses a team approach involving Club staff, peer leaders, parents and community representatives to deliver impactful lessons regarding poor choices, peer pressure, conflict resolution, resilience and perseverance. More than emphasizing a "Say No" message, the program teaches young people ages 6 to 18 how to say no by involving them in discussion and role playing practicing resistance and refusal skills, developing assertiveness, strengthening decision making skills, analyzing media and involvement through the practice of responsible behavior. SMART Moves programs such as Passport to Manhood, Passport to Womanhood (otherwise known as SMART Girls), Street Smartz, SMART Leaders, SMART Kids and more are a required element of daily programming at the Pensacola Clubs in conjunction with our Character & Leadership, Academic Success and Healthy Lifestyles priority outcomes.

I certify that I have the appropriate authority on behalf of the requesting agency to submit this application and to ensure funds are used for the purposes specified herein to provide the required accounting and reporting of these funds. I also certify that the assurances provided are true and accurate to the best of my knowledge.

OFFICIAL AUTHORIZED TO SIGN AND BIND APPLICANT AGENCY TO APPLICATION:

Signature: *Leslie Mickles*

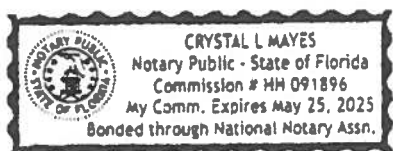
Print: Leslie Mickles

Title: VP of Financial Advancement

STATE OF FLORIDA
COUNTY OF ESCAMBIA

SWORN TO AND SUBSCRIBED before me this 14 day of APRIL, 2021, by (name of person making statement) who is personally known to me or has produced _____ as identification.

(Notary Seal)



NOTARY PUBLIC

Crystal L. Mayes
Signature of Notary

State of Florida at Large

My Commission Expires:



Total Program Line Item Budget

LEFT LINE ITEM BUDGET

CALCULATION

TOTAL AMOUNT

Program Expenses

Personnel Costs/Salaries: <i>*Program Staff (Afterschool & Summer)</i> <i>Works with actively participating club members during program hours to facilitate SMART programming, assist with homework, educational life skills, decision-making skills and character development activities. Uses hands on interaction with club members to achieve program objectives.</i>	2 Program Staff @ 11.00/hr. x 2hrs. x 42 afterschool wks= \$1,848 2 Program Staff @ 11.00/hr. x 3hrs. x 11 wks in summer= \$726 *\$2,574	\$ 102,399
Consultants and Professional Fees		
Travel		\$ 800
Equipment		\$ 250
Supplies: <i>* Educational materials needed for direct operations of the SMART program and used by actively participating club members. Teaching materials to include such items as books, worksheets, team building materials such as balls, jump ropes, hula hoops. Cost to cover/replace supplies such as pens, pencils, ink, sharpeners, printer paper, tape, scissors, folders, crayons, markers, paint, glue, staples construction paper and paper clips for use by club members during program hours.</i>	\$40.43/student x 60 students=\$2,426 *2,426	\$ 6,275
Printing and Copying		
Other(specify)		
<i>Facilities</i>		\$ 73,525
<i>Dues & Subscriptions</i>		\$ 750
<i>Bank & Credit Card Fees</i>		\$ 850
<i>Special Events</i>		\$ 1,100
Total Program Expenses	\$185, 949	\$ 185,949
	LETF Request: \$5,000 (*Personnel Cost & *Supplies)	\$5,000
	Total: \$5,000	\$180,949



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 2021-31

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

RESOLUTION NO. 2021-31 - PRELIMINARY ASSESSMENT RESOLUTION INDICATING CITY COUNCIL'S INTENT TO INCREASE THE CITY'S STORMWATER ASSESSMENT RATE FOR FY 2021-22 AND TO SET A MAXIMUM RATE OF EIGHTY DOLLARS (\$80.00) PER EQUIVALENT STORMWATER UNIT (ESU).

RECOMMENDATION:

That City Council adopt Resolution No. 2021-31:

A RESOLUTION OF THE CITY OF PENSACOLA, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT SERVICES; ESTIMATING THE COST OF STORMWATER MANAGEMENT SERVICES PROVIDED BY THE CITY'S STORMWATER UTILITY; DESCRIBING THE METHOD OF CHARGING THE COST OF STORMWATER MANAGEMENT SERVICES AGAINST ASSESSED PROPERTY; DIRECTING THE STORMWATER UTILITY DIRECTOR TO PREPARE OR DIRECT THE PREPARATION OF A STORMWATER ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING FOR THE PROPOSED STORMWATER SERVICE ASSESSMENTS AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR COLLECTION; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola established a stormwater assessment fee in 2001 to provide a dedicated funding source for stormwater management costs. Since its inception, the fee has generated over \$42 million in revenue and anticipates approximately \$2,735,000 for this fiscal year. The fee has allowed the City to provide critical maintenance and upkeep of City stormwater facilities that would not otherwise be completed. The assessment charge is based on the amount of impervious area located on properties and is derived from data provided by the Escambia County Property Appraiser. The City may charge an amount sufficient to recover the annual operating costs incurred to manage the impact of stormwater throughout the City.

In 2020, the City's stormwater assessment consultant, Government Services Group, Inc. (GSG) prepared a study to determine what the City would need to charge for stormwater management,

according to an updated analysis of stormwater operating costs. Based on the study, it was determined that to fully fund the needs of the stormwater maintenance program the City would need to charge the stormwater assessment rate of \$100.77 per Equivalent Stormwater Unit (ESU) per 2,998 square feet of impervious area. The rate would generate approximately \$4.13 million annually (an additional gross amount of \$1.17 million per year). Historically, this rate has been set well below the \$100.77 recommended by the study. The fee was previously increased in 2015 from \$68.43 per ESU to the current rate of \$72.24 per ESU.

Despite the capability to raise the stormwater assessment rate by approximately 28%, a modest 5.37% increase is being recommended for FY 2021-22 for an additional \$3.88 per ESU and another planned increase of \$3.88 for FY 2022-23. As required by Florida Statute, a first class notice will be mailed in July 2021 to all property owners notifying them of the City's intent to increase the rate for FY 2021-22 to \$76.12 per ESU and to set a maximum of \$80.00 per ESU. The additional revenue will allow the City to maintain the current service level for stormwater management and provide for the purchase of needed capital equipment.

At the City Council meeting on August 12, 2021, Council will need to hold a public hearing and adopt the final annual assessment resolution setting the desired assessment rate for FY 2021-22 and approving the 2021 assessment roll.

A summary of current and proposed residential and commercial charges is provided below:

FY 2020-21 Current Rate Structure:

Residential:

<u>Building Sq. Ft.</u>	<u>Current Rate</u>
Small 100-1,100	\$31.79
Small-Med 1,101-1,600	\$49.12
Medium 1,601-2,500	\$72.24
Large 2,501-5,600	\$110.53
Very Large 5,601+	Treated as a Commercial Property

Commercial:

A rate of \$72.24 per 2,998 square feet of impervious area (building footprint, paved parking, etc.) minus appropriate mitigation credit, typically 32%, provided for on-site stormwater retention.

FY 2021-22 Proposed Rate Structure:

Residential:

<u>Building Sq. Ft.</u>	<u>Proposed Rate</u>
Small 100-1,100	\$33.49
Small-Med 1,101-1,600	\$51.76
Medium 1,601-2,500	\$76.12
Large 2,501-5,600	\$116.47
Very Large 5,601+	Treated as a Commercial Property

Commercial:

A rate of \$76.12 per 2,998 square feet of impervious area (building footprint, paved parking, etc.) minus appropriate mitigation credit, typically 32%, provided for on-site stormwater retention.

PRIOR ACTION:

August 20, 2015 - City Council adopted Resolution No. 28-15 to increase the stormwater fee from \$68.43 to \$72.24 per ESU.

FUNDING:

N/A

FINANCIAL IMPACT:

The FY 2021-22 stormwater assessment program will generate an estimated \$2,735,000 at the current rate or \$2,900,000 at the proposed rate for stormwater management, an increase of \$165,000. Additionally, it is contemplated to increase the rate in FY 2022-23 by another \$3.88 for a total rate of \$80.00 per ESU which will be below the maximum rate allowed of \$100.77 per ESU as indicated in the study.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

5/16/2021

STAFF CONTACT:

Keith Wilkins, City Administrator
Kerrith Fiddler, Deputy City Administrator - Community Development
Amy Lovoy, Finance Director
David Forte, Interim Public Works & Facilities Director
George J. Maiberger, Purchasing Manager

ATTACHMENTS:

- 1) Resolution No. 2021-31

PRESENTATION: Yes

RESOLUTION NO. 2021-31

A RESOLUTION OF THE CITY OF PENSACOLA, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT SERVICES; ESTIMATING THE COST OF STORMWATER MANAGEMENT SERVICES PROVIDED BY THE CITY'S STORMWATER UTILITY; DESCRIBING THE METHOD OF CHARGING THE COST OF STORMWATER MANAGEMENT SERVICES AGAINST ASSESSED PROPERTY; DIRECTING THE STORMWATER UTILITY DIRECTOR TO PREPARE OR DIRECT THE PREPARATION OF A STORMWATER ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING FOR THE PROPOSED STORMWATER SERVICE ASSESSMENTS AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR COLLECTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of Pensacola, Florida, has enacted Ordinance No. 52-00 (the "Ordinance"), which authorizes the imposition of Stormwater Service Assessments against real property specially benefited by the City's Stormwater Management Services;

WHEREAS, the City Council desires to reimpose a Stormwater Service Assessment program using the tax bill collection method for the Fiscal Year beginning on October 1, 2021;

WHEREAS, pursuant to Section 3.08 of the Ordinance, in order to reimpose Stormwater Service Assessments for the Fiscal Year beginning October 1, 2021, the City Council must adopt an Annual Stormwater Assessment Resolution during its budget adoption process for each Fiscal Year, which establishes the rate of assessment and approves the updated Stormwater Assessment Roll for the upcoming Fiscal Year;

WHEREAS, in accordance with the Ordinance and Section 197.3632, Florida Statutes, if the proposed Stormwater Service Assessment for any Tax Parcel of Developed Property exceeds the maximum established amount or will be imposed

against property not previously assessed, then the City must provide notice to the owner of such property in accordance with Section 3.05 and 3.06 of the Ordinance; and

WHEREAS, due to the increased costs of Stormwater Management Services experienced by the City, the City Council is adopting this Preliminary Rate Resolution to establish new maximum Stormwater Service Assessment rates, establish a public hearing to consider the implementation of those new maximum rates, and provide for the provision of notice to the owner of such property in accordance with Section 3.05 and 3.06 of the Ordinance.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the provisions of the Ordinance, Resolution No. 18-10 (the "Amended and Restated Initial Assessment Resolution"), Resolution No. 36-10 (the "Amended and Restated Final Assessment Resolution"), Article VIII, Section 2(b), Florida Constitution, sections 166.021 and 166.041, Florida Statutes, the City Charter of the City of Pensacola, and other applicable provisions of law.

SECTION 3. PURPOSE AND DEFINITIONS.

(A) This Resolution constitutes a preliminary rate resolution (the "Preliminary Rate Resolution") to initiate the annual process for updating the Stormwater Assessment Roll, including the establishment of new maximum Stormwater Service Assessment rates for the Fiscal Year beginning October 1, 2021 and future Fiscal Years, establishment of a public hearing to consider the implementation of those new maximum rates, and provide

for the provision of notice to the owner of such property in accordance with Section 3.05 and 3.06 of the Ordinance.

(B) All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance, the Amended and Restated Initial Assessment Resolution, and the Amended and Restated Final Assessment Resolution.

(C) Unless the context indicates otherwise, words imparting the singular number, include the plural number, and vice versa; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this resolution. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

SECTION 4. LEGISLATIVE DETERMINATIONS.

(A) The legislative determinations embodied in the Ordinance, the Amended and Restated Initial Assessment Resolution, and the Amended and Restated Final Assessment Resolution are affirmed and incorporated herein by reference.

(B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property within the Stormwater Service Area will be specially benefited by the City's Stormwater Management Services in an amount not less than the Stormwater Assessment for such Tax Parcel, computed in the manner set forth in the Amended and Restated Initial Assessment Resolution, and set forth in the updated Stormwater Assessment Roll.

(C) In accordance with section 163.3162(3), Florida Statutes, the City is prohibited from charging a Stormwater Service Assessment on certain agricultural property, if such farm operation has a National Pollution Discharge Elimination System

Permit, an environmental resource permit, a works-of-the-district permit, or if it has implemented best management practices adopted as rules by the Florida Department of Environmental Protection, the Department of Agricultural and Consumer Services, or an appropriate water management district. Accordingly, any Owner of such agricultural property demonstrating that they meet the outlined requirements shall be exempted from the Stormwater Service Assessment.

SECTION 5. PROVISION OF STORMWATER MANAGEMENT SERVICES; DETERMINATION OF STORMWATER SERVICE COST; ESTABLISHMENT OF STORMWATER ASSESSMENTS.

(A) The Stormwater Service Cost to be assessed and apportioned among benefited parcels for the Fiscal Year beginning October 1, 2021 is \$2,963,997. The approval of this Preliminary Rate Resolution determines the amount of the Stormwater Service Cost. The remainder of such Fiscal Year budget for Stormwater Management Services shall be funded from available City revenue other than Stormwater Service Assessments.

(B) For the Fiscal Year in which Stormwater Service Assessments for Stormwater Management Services are imposed, the Stormwater Service Cost shall be allocated among all Tax Parcels of Assessed Property within the Stormwater Service Area based upon each parcel's number of Net ESUs as determined in the manner set forth in the Amended and Restated Initial Assessment Resolution.

(C) An annual rate of assessment equal to \$76.12 per Net ESU for Stormwater Management Services is hereby approved for each Tax Parcel of Developed Property for the Fiscal Year beginning October 1, 2021.

(D) The maximum rate of assessment equal to \$80.00 per Net ESU for

Stormwater Management Services is hereby approved for future Fiscal Years.

(E) The rate of the Stormwater Service Assessments established in this Preliminary Rate Resolution shall be the rates applied by the Stormwater Utility Director in the preparation of the updated Stormwater Assessment Roll for the Fiscal Year commencing October 1, 2021, as provided in Section 6 of this Preliminary Rate Resolution.

(F) Upon the imposition of Stormwater Service Assessments for Stormwater Management Services against Tax Parcels located within the Stormwater Service Area, the Stormwater Utility created in Section 2.01 of the Ordinance shall provide Stormwater Management Services to such property. All or any portion of the Stormwater Service Cost to provide such Stormwater Management Services shall be funded from proceeds of the Stormwater Service Assessments. The remaining cost, if any, required to provide Stormwater Management Services shall be funded by legally available City revenues.

(G) The Stormwater Service Area created in Section 2.01 of the Amended and Restated Initial Assessment Resolution is hereby confirmed and established as the service area for the Fiscal year beginning on October 1, 2021.

SECTION 6. STORMWATER ASSESSMENT ROLL.

(A) The Stormwater Utility Director is hereby directed to prepare, or direct the preparation of, the updated Stormwater Assessment Roll for the Fiscal Year beginning October 1, 2021, in the manner provided in Section 3.04 of the Ordinance.

(B) Such updated Stormwater Assessment Roll shall contain the following: (1) a summary description of all Assessed Property within the Stormwater Service Area conforming to the description contained on the Tax Roll; (2) the name and address of the Owner of each Tax Parcel as shown on the Tax Roll, if available; (3) the number of ESUs

attributable to the Tax Parcel; and (4) the maximum amount of the Stormwater Service Assessment for Stormwater Management Services.

(C) The updated Stormwater Assessment Roll shall be open to public inspection. The foregoing shall not be construed to require that the Stormwater Assessment Roll be in printed form if the amount of the Stormwater Service Assessment for each Tax Parcel can be determined by use of computer terminal available to the public.

SECTION 7. AUTHORIZATION OF PUBLIC HEARING. There is hereby established a public hearing to be held at 5:30 p.m. on August 12, 2021, in the City Council Chambers in City Hall, 222 West Main Street, Pensacola, Florida, for the purpose of (1) receiving and considering any comments on the Stormwater Service Assessments from affected property owners; and (2) authorizing the imposition of such Stormwater Service Assessments for Stormwater Management Services and collection on the same bill as ad valorem taxes.

SECTION 8. NOTICE BY PUBLICATION. The Stormwater Utility Director shall publish a notice of the public hearing authorized by Section 7 of this resolution, as required by Section 3.05 of the Ordinance, in substantially the form attached hereto as Appendix A. Such notice shall be published not later than July 22, 2021 in a newspaper generally circulated in the City.

SECTION 9. NOTICE BY MAIL.

(A) The Stormwater Utility Director shall provide notice of the public hearing authorized by Section 7 of this resolution by first class mail to the Owner of each Tax Parcel of Assessed Property, as required by Section 3.06 of the Ordinance, in substantially the form attached hereto as Appendix B. Such notices shall be mailed not

later than July 22, 2021.

(B) For Tax Parcels with exempt "home addresses" pursuant to Section 119.071(4), Florida Statutes, the Stormwater Utility Director shall work with the Property Appraiser and/or Tax Collector for provision of notice.

SECTION 10. METHOD OF COLLECTION.

(A) The Stormwater Service Assessments shall be collected from all Assessed Property, except Government Property, pursuant to the Uniform Assessment Collection Act as provided in Section 4.01 of the Ordinance.

(B) The Stormwater Service Assessments shall be collected from all Government Property in accordance with Section 4.04 of the Ordinance.

SECTION 11. EFFECTIVE DATE. This resolution shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

DULY ADOPTED this 27th day of May, 2021.

CITY OF PENSACOLA, FLORIDA

Jared Moore
President of the City Council

ATTEST:

Ericka L. Burnett
City Clerk

APPENDIX A
FORM OF NOTICE TO BE PUBLISHED

To Be Published by July 22, 2021

[MAP OF STORMWATER SERVICE AREA]

**NOTICE OF HEARING TO IMPOSE AND
PROVIDE FOR COLLECTION OF NON-AD VALOREM ASSESSMENTS**

Notice is hereby given that the City Council of the City of Pensacola, Florida, will conduct a public hearing to consider reimposing Stormwater Service Assessments in the area receiving Stormwater Management Service from the City, as shown above, for the fiscal year beginning October 1, 2021 and future fiscal years. The hearing will be held at 5:30 p.m. on Thursday, August 12, 2021 in the City Council Chambers in City Hall, 222 West Main Street, Pensacola, Florida. 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 (850) 435-1606 (or TDD 435-1666) for further information. The request must be made at least 48 hours in advance of the event in order to allow the City time to provide requested services. All affected property owners have a right to appear at the hearing and to file written objections with the City Council. All written objections to the non-ad valorem assessments must be filed with the City Council of Pensacola within twenty (20) days of this notice. Please include your name, parcel number, and the reason you object to the assessment on all written objections. Address all written objections as follows: The Purchasing Office; Objections to Non-ad Valorem Assessment; Post Office Box 12910, Pensacola, Florida 32521. Any person wishing to appeal any decision of the City Council with respect to any matter considered will need a record of the proceedings and may wish to ensure that a verbatim record of the proceedings is made.

The Stormwater Service Assessments have been imposed to fund the City's cost to provide Stormwater Management Service in the area shown above. The Stormwater Service Assessments are based upon the estimated amount of stormwater runoff generated by impervious surface on the property. Impervious surfaces include the roof top, patios, driveways, parking lots and similar areas. The City has determined that the median single-family residence in the Stormwater Service Area includes 2,998 square feet of impervious surface, which is defined as the "equivalent stormwater unit value" or "ESU Value." The annual Stormwater Service Assessment rate for the upcoming Fiscal Year will be \$76.12 for each Net ESU. The maximum Stormwater Service Assessment rate that can be imposed in future fiscal years is \$80.00 per net ESU.

Generally, the number of ESUs were calculated individually for each parcel of property by dividing the impervious surface area by 2,998 square feet. Credit for privately maintained Stormwater management facilities and other factors affecting the quantity or quality of Stormwater runoff has also been applied, resulting in an assignment of Net ESUs. A more specific description is set forth in the Amended and Restated Initial Stormwater Assessment Resolution adopted by the City Council on July 22, 2010. Copies of the Stormwater Services Assessment Ordinance (Ordinance No. 52-00), Amended and Restated Initial Assessment Resolution (Resolution No. 18-10), Amended and Restated Final Assessment Resolution (Resolution No. 36-10), the Preliminary Rate Resolution (Resolution No. 2021-31), and the updated assessment roll are available for inspection at the Office of the City Clerk, 222 West Main Street, 7th Floor, Pensacola, Florida.

The Stormwater Service Assessment, except for those imposed on government property, will be collected on the annual property ad valorem tax bill that is mailed in November by the Escambia County Tax Collector. Failure to pay the Stormwater Service Assessment will cause a tax certificate to be issued against the assessed property which may result in a loss of title.

If you have any questions, please contact Customer Service at (850) 435-1800.

THE CITY OF PENSACOLA, FLORIDA

APPENDIX B
FORM OF NOTICE TO BE MAILED

City of Pensacola
P.O. Box 12910
Pensacola, FL 32521-0001

CITY OF PENSACOLA, FLORIDA

NOTICE OF PUBLIC HEARING FOR ADOPTION OF
STORMWATER SERVICE ASSESSMENT

NOTICE DATE: JULY 22, 2021

Owner Name
Address
Address
City, State Zip

Parcel ID#: _____
Legal Description: _____
Sequence Number: _____

*****NOTICE TO PROPERTY OWNER*****

Dear City of Pensacola Property Owner:

The past decades have brought increased awareness of the detrimental environmental impacts associated with stormwater runoff from developed property including degradation of surface waters, land erosion, flooding and collection of standing water on streets and property. In 2001, in response to public demand and increased federal regulations, the City initiated efforts to improve stormwater management services and provide a dedicated funding source for these services by creating a stormwater service assessment program to generate revenues. The original stormwater service assessments were imposed and collected on the November 2001 tax bill and subsequent years. The City updated the stormwater service assessment program in 2010. **THIS IS NOT A NEW ASSESSMENT PROGRAM; THE STORMWATER SERVICE ASSESSMENT HAS BEEN IMPOSED SINCE 2001.**

Stormwater service assessments are based upon the estimated amount of stormwater runoff generated by impervious surface on your property. Impervious surfaces include the rooftop, patios, driveways, parking lots and similar areas. The City has determined that the median single-family residence in the Stormwater Service Area includes 2,998 square feet of impervious surface, which is the value of one "equivalent stormwater unit" or "ESU Value." Single-family residential properties are categorized into one of five ESU tiers based on the estimated amount of impervious area associated with each parcel (computed by using the building footprint of the residence). Condominium and townhouse residential units are charged generally by calculating the total number of ESUs applicable to the condominium or townhouse complex as a whole, then dividing that total number of ESUs by the total number of condominium residential units on the property. For general parcels, such as commercial parcels, the number of ESUs has been calculated individually for each parcel of property by dividing the impervious surface area by 2,998 square feet. Credit for privately maintained stormwater management facilities and other factors affecting the quantity or quality of stormwater runoff has also been calculated, if applicable, resulting in the assignment of Net ESUs. The annual Stormwater Service Assessment rate for Fiscal Year 2021-22 will be \$76.12 for each Net ESU. The maximum Stormwater Service Assessment rate that can be imposed without further mailed notice for future fiscal years is \$80.00 for each Net ESU. It is estimated that the City will collect \$2,963,997 from the Stormwater Service Assessments for Fiscal Year 2021-22.

The above referenced parcel has been assigned the following Net ESUs and assessment amounts:

Number of Net Equivalent Stormwater Units (ESUs): _____

The FY 2021-22 annual stormwater service assessment for the above parcel is \$_____.

The maximum annual stormwater service assessment that can be imposed without further notice for future fiscal years is \$_____.

The City Council will hold a public hearing at 5:30 p.m. on August 12, 2021, in the City Council Chambers located at City Hall, 222 West Main Street, Pensacola, Florida. Comments will be received on the proposed Stormwater Service Assessments, including their collection on the ad valorem tax bill. You are invited to attend and participate in the hearing. You may also file written objections with the City Council within twenty (20) days of the date of this notice. Please include your name, parcel number, and the reason you object to the assessment on all written objections. Objections should be forwarded as follows: Mayor; Objections to Non-ad Valorem Assessments; P.O. Box 12910, Pensacola, Florida 32521. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, if you need a special accommodation or an interpreter to participate in this proceeding, please contact the City Clerk at (850) 435-1606 at least 48 hours prior to the date of the hearing.

Because the Stormwater Service Assessment will be collected by the Tax Collector of Escambia County, pursuant to Chapter 197, Florida Statutes, failure to pay the Stormwater Service Assessment will cause a tax certificate to be issued against the assessed property, which may result in a loss of title to your property.

If you have any questions regarding the number of Net ESUs assigned to your property or the amount of the Stormwater Service Assessment, please contact Customer Service by telephone at (850) 435-1800.

*******THIS IS NOT A BILL*******



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 2021-32

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

RESOLUTION NO. 2021-32 - AMENDING THE CITY'S FINANCIAL PLANNING AND ADMINISTRATION POLICY

RECOMMENDATION:

That City Council adopt Resolution No. 2021-32.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE FINANCIAL PLANNING AND ADMINISTRATION POLICY; PROVIDING SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On July 23, 1998 City Council adopted a Financial Planning and Administration Policy. Since that time it has been revised on eight different occasions with the last revision on May 10, 2018 amending the section under Budget Policies regarding budgeted line items for salary increases. On September 13, 2001, City Council amended the Financial Planning and Administration Policy to include a provision in regards to appropriations within the Stormwater Capital Project Fund. In that amendment City Council approved a transfer in the amount equivalent to the stormwater utility fee revenue be made annually to fund stormwater capital projects.

The attached resolution proposed to amend that section of the policy to allow for the purchase of capital equipment in order to maintain the capital improvement projects as well as set a specific dollar amount to be transferred to the Stormwater Capital Project Fund.

The City of Pensacola established the stormwater assessment fee in 2001 to provide a dedicated funding source for stormwater management costs. It was last increased in 2015 from \$68.43 per ESU to the current rate of \$72.24 per ESU. Since that time, costs associated with stormwater maintenance has increased to the point that capital equipment has been unable to be replaced. Unfortunately, revenue from the stormwater assessment fee has not increased at the same pace.

In 2020, the City's stormwater assessment consultant, Government Services Group, Inc. (GSG) prepared a study to determine what the City would need to charge for stormwater management,

according to an updated analysis of stormwater operating costs. Based on the study, it was determined that to fully fund the needs of the stormwater maintenance program, the City would need to change the stormwater assessment rate from \$72.24 per ESU to \$100.77 per ESU, almost a 40% increase. In order to avoid such a dramatic increase it is requested that a revision to the Financial Planning and Administration Policy be revised to allow for the purchase of capital equipment needed to maintain the stormwater projects that have been completed, as well as those in the future to be paid for out of the Stormwater Capital Project Fund. This will provide a mechanism for ongoing replacement at the same time not burdening the property owners of such a large increase.

Another proposed change is to maintain a set dollar amount of the transfer into the Stormwater Capital Project Fund at the current amount of \$2,735,000 each fiscal year. Historically, the policy provides for the amount transferred into the Stormwater Capital Project Fund to be an amount equivalent to the stormwater utility fee revenue. In 1999, a Citizens Task Force on Urban Stormwater Runoff was created as a joint undertaking and cooperative effort among the Escambia County Commissioners, the City of Pensacola, and the Emerald Coast Utilities Authority (formerly Escambia County Utilities Authority). The mission of that task force was to "Make Stormwater Clean". In 2000 the task force published a report expressing an urgency for the City and the County to take immediate and additional measures to reduce the impact of stormwater runoff on the region's water bodies. Prior to that time, the City's policy on stormwater was focused on the prevention of flooding as opposed to the quality of stormwater runoff. The task force suggested establishing a focus to improve water quality versus water quantity. Upon adoption of the stormwater utility fee, a Stormwater Capital Improvement and Maintenance Program was developed to address improving water quality. The projects identified for water quality are substantially complete and now the focus will return to addressing the prevention of flooding and the Stormwater Capital Improvement and Maintenance Program will be adjusted accordingly.

Based on the current policy for any increase in the stormwater utility fee revenue a similar increase must be made in the Stormwater Capital Improvement Fund. While not specifically identified from where, historically that transfer has come from the General Fund. By maintaining the transfer into the Stormwater Capital Improvement Fund it will allow the General Fund to plan accordingly in the future knowing there will be a set amount transferred out, thus not impacting other departmental programs within the General Fund. Additionally, there will be a set amount within the Stormwater Capital Project Fund for the programming of projects to address flooding.

PRIOR ACTION:

July 23, 1998 - Financial Planning and Administration Policy adopted by City Council

November 18, 1999 - Financial Planning and Administration Policy amended by City Council revising General Fund and Enterprise Funds reserve goals and the targeted level of the Pensacola Energy transfer to the General Fund.

September 13, 2001 - Financial Planning and Administration Policy amended by City Council providing for the appropriation of funding for the Stormwater Capital Project Fund.

September 30, 2004 - Financial Planning and Administration Policy amended by City Council amending fiscal year end related issues and audit notes and exceptions..

November 9, 2006 - Financial Planning and Administration Policy amended by City Council increasing the General Fund Reserve, placing a percentage limit on the Pensacola Energy transfer to the General Fund and increasing the amount of total grant expenditures requiring Council approval and the addition of language to cap the amount of Beginning Fund Balance that can be appropriated in each fiscal budget.

August 19, 2010 - Financial Planning and Administration Policy amended by City Council amending the policy to be consistent with a Strong Mayor.

September 9, 2010 - Financial Planning and Administration Policy amended by City Council reorganizing the policy into categories for reference and revisions in order to formalize existing practice under the City Manager-Council form of government.

September 8, 2011 - Financial Planning and Administration Policy amended by City Council requiring all executed contracts or issued purchase orders for purchases, including capital and construction purchases, exceeding \$25,000 be reported to City Council.

May 10, 2018 - Financial Planning and Administration Policy amended by City Council establishing a line item appropriation for employee salary increases.

FUNDING:

N/A

FINANCIAL IMPACT:

Adoption of the resolution will amend the Financial Planning and Administration Policy allowing for the purchase of stormwater capital equipment as well as setting a dedicated amount for stormwater capital improvement projects.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

5/10/2021

STAFF CONTACT:

Keith Wilkins, City Administrator
Amy Lovoy, Finance Director

ATTACHMENTS:

- 1) Resolution No. 2021-32

PRESENTATION: No

RESOLUTION
NO. 2021-32

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PENSACOLA, FLORIDA AMENDING THE
FINANCIAL PLANNING AND ADMINISTRATION POLICY
OF THE CITY COUNCIL; PROVIDING SEVERABILITY;
PROVIDING AN EFFECTIVE DATE

WHEREAS, the City Council has previously adopted the Financial Planning and Administration Policy in Resolution 18-19 adopted May 10, 2018;

WHEREAS, the policies pertain to Financial Planning and Administration Policy require further revisions in order formalize the proposed changes to the Stormwater Capital Projects funding;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. That the City Council hereby adopts the revised financial planning and administration policy as it relates to Revenues and Fees, to amend as follows:

¶ The Mayor shall recommend to City Council for approval of the stormwater utility fee each fiscal year as part of the budget process. At the beginning of each fiscal year, an amount equal to \$2,735,000 ~~budgeted stormwater utility fee revenue~~ will be appropriated in the Stormwater Capital Project Fund for stormwater and flooding related capital projects and stormwater capital equipment, including stormwater basin master plans, as presented by the Mayor and approved by City Council. At the end of each fiscal year the budget will be adjusted to reflect actual revenue received

SECTION 2. If any section, subsection, clause or provision of this resolution is held invalid, such holding shall not affect the validity of the remainder.

SECTION 3. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This Resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk



City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 26-21

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: Grover C. Robinson, IV, Mayor

SUBJECT:

PROPOSED ORDINANCE NO. 26-21 - REPEALING SECTION 7-8-5(f) - MAXIMUM TOWING CHARGES FOR REMOVING INOPERABLE VEHICLES

RECOMMENDATION:

That City Council approve Proposed Ordinance No. 26.21 on first reading:

AN ORDINANCE REPEALING SECTION 7-8-5 (f) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ELIMINATING MAXIMUM CHARGES FOR TOWING INOPERABLE VEHICLES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In 2009, the Escambia County Board of County Commissioners adopted Ordinance No. 2009-11, establishing maximum rates for towing vehicles which were unlawfully parked on private property and which had become inoperable on a public street or right-of-way. The County ordinance provides that it will apply to the unincorporated areas of the county and in the incorporated areas unless the municipality has a conflicting regulation. In 2009, the City Council allowed the trespass towing rates to take effect in the city limits, but it also allowed Code section 7-8-5(f) to remain in force, establishing a lower maximum rate for inoperable vehicle towing (\$85) than the county had adopted.

Earlier this year, Escambia County amended its towing regulations to permit a higher maximum rate for towing (\$150, with additional charges), to be increased in the future based on a cost-of-living index. The towing companies have approached the City requesting that the City's regulations be amended to defer to the County's ordinance so that they may experience their first rate increase in the city since 2009, and the rates for towing will be uniform throughout the county.

PRIOR ACTION:

July 9, 2009 - City Council adopted Ordinance No. 25-09, capping rates for towing of inoperable vehicles.

FUNDING:

N/A

FINANCIAL IMPACT:

None

CITY ATTORNEY REVIEW: Yes

5/6/2021

STAFF CONTACT:

Keith Wilkins, City Administrator
Dick Barker Jr., Deputy City Administrator - Administration & Enterprise
Kevin Christman, Interim Deputy Police Chief
Lissa Dees, Parking Manager

ATTACHMENTS:

- 1) Proposed Ordinance No. 26-21
- 2) City Ordinance No. 25-09, adopted July 9, 2009
- 3) Escambia County Code Sec. 94-171 through 94-176
- 4) Escambia County Resolution No. R-2021-59, adopted March 25, 2021

PRESENTATION: No

PROPOSED
ORDINANCE NO. 26.21

ORDINANCE NO. _____

AN ORDINANCE REPEALING SECTION 7-8-5(f) OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; ELIMINATING MAXIMUM CHARGES FOR TOWING INOPERABLE VEHICLES WITH THE CITY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 7-8-5(f) of the Code of the City of Pensacola, Florida, is hereby repealed:

Sec. 7-8-5. - Wrecker rotation lists.

- (a) If the owner of a vehicle involved in an accident or collision is physically unable to designate the wrecker company desired or refuses to designate one, the investigating officer shall communicate that fact immediately to police department headquarters. The police department shall keep separate master wrecker rotation lists for general use, bridge rotation, and heavy-duty rotation. The wrecker rotation lists will be in numerical inspection order and will include all wrecker companies which:
 - (1) Have been issued a vehicle permit and inspection permit;
 - (2) Have applied to be on such lists;
 - (3) Maintain 24-hour wrecker service with wreckers;
 - (4) Meet all special and minimum requirements as herein established.
- (b) General wrecker rotation list requirements. All minimum requirements for the general-duty wreckers and equipment will apply.
- (c) Heavy-duty wrecker rotation list requirements. All minimum requirements for wreckers qualified, as defined in section 7-8-3(a)(2), to tow heavy-duty trucks and vehicles, and equipment requirements will apply.
- (d) Bridge rotation list requirements. Due to unusual circumstances arising from Pensacola Bay Bridge traffic and restraints, wrecker companies desiring to be on the bridge rotation list must be able to conform to the special requirements as follows:

- (1) Maintain a response time to all calls within 15 minutes from the location of the wrecker business to the Pensacola Bay Bridge on a 24-hour basis. Response time will be measured from the time the wrecker company receives the call from police communications until the wrecker arrives on the scene.
 - (2) Maintain a place of business, as defined in section 7-8-12, within five miles of the Pensacola Bay Bridge.
 - (3) Comply with all other provisions of this chapter and as stated for the general rotation list.
- (e) On receiving the first communication, the dispatcher receiving the communication at police headquarters shall call the first wrecker company on the list to tow the disabled vehicle and remove the same from the public streets of the city. If a wrecker belonging to the wrecker company receiving the communication fails to arrive at the scene of the accident within 30 minutes for general wrecker rotation and heavy-duty or 15 minutes for a bridge rotation call, the investigating officer shall notify police headquarters. The first wrecker called shall be canceled and the next wrecker on the rotation list called. The wrecker whose call was canceled shall be placed in the last position on the rotation list. In each succeeding communication of the inability or refusal of the owner to designate a wrecker, the next company on the list shall be called, and proper notation of each call shall be made on the individual master wrecker card.
- ~~(f) When responding to a rotation call, each business shall charge as a wrecker towing fee an amount that is fair and reasonable, but in no instance to exceed \$85.00 for towing disabled vehicles on the streets of the city, when the vehicle requires only the normal wrecker services. In addition, companies required to store vehicles at their facilities shall charge as a storage fee an amount that is fair and reasonable, but in no instance to exceed \$10.00 per day. Failure to comply will cause the wrecker business to be removed from the master wrecker rotation lists kept at police headquarters.~~
- ~~(g)~~(f) Requests for voluntary removal from any of the wrecker rotation lists require a written statement to be submitted to the police department before removal from any of the lists.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or application of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

PROPOSED
ORDINANCE NO. 22-09

ORDINANCE NO. 25-09

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE REPEALING SECTION 7-11-14 OF
THE CODE OF THE CITY OF PENSACOLA, FLORIDA;
PROVIDING FOR THE REMOVAL OF VEHICLES FROM
PRIVATE PROPERTY WITHOUT OWNER CONSENT;
REPEALING CLAUSE; PROVIDING AN EFFECTIVE
DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 7-11-14 of the Code of the City of
Pensacola, Florida, is hereby repealed.

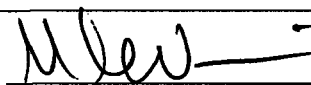
**Sec.7-11-14. Removal of vehicles from private property
without owner consent.**

Whenever a wrecker or a wrecker business is utilized to
remove a vehicle from private property without the consent of
the owner or other legally authorized person in control of the
vehicle being removed, the rate charged for the removal shall
not exceed eighty-five dollars (\$85.00).

SECTION 2. All ordinances or parts of ordinances in
conflict herewith are hereby repealed to the extent of such
conflict.

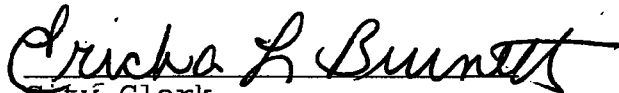
SECTION 3. This ordinance shall take effect immediately
upon its passage by the City Council.

Passed: July 9, 2009


Approved: 

Mayor

Attest:


City Clerk

Legal in form and valid if
enacted:


City Attorney

Published Daily-Pensacola, Escambia County, FL

PROOF OF PUBLICATION

State of Florida

County of Escambia:

Before the undersigned authority personally appeared **Becky Hildebrand** who on oath, says that she is a personal representative of the Pensacola News Journal, a daily newspaper published in Escambia County, Florida; that the attached copy of advertisement, being a Legal in the matter of:

NOTICE OF PROPOSED ORDINANCES

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

June 29, 2009

Affiant further says that the said Pensacola News Journal is a newspaper published in said Escambia County, Florida, and that the said newspaper has heretofore been published in said Escambia County, Florida, and has been entered as second class matter at the Post Office in said Escambia County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this 29th Day of June, 2009, by **Becky Hildebrand** who is personally known to me.

Becky Hildebrand Affiant

Arthur E. Wheeler Notary Public

NIKKI E. NICHOLS
 Notary Public-State of FL
 Comm. Exp. Aug. 01, 2012
 Comm. No. DD 789478

NOTICE OF PROPOSED ORDINANCES

Please be advised that Proposed Ordinance Nos. 18-09, 19-09, 20-09, 21-09, and 22-09 were presented to the City Council of the City of Pensacola for first reading on Thursday, June 25, 2009, and will be presented for final reading and adoption on Thursday, July 9, 2009 at 7:00 p.m. in Council Chambers on the first floor of City Hall, 222 West Main Street, Pensacola, Florida.

The titles of the proposed ordinances are as follows:

P.O. #18-09:
AN ORDINANCE CLOSING, ABANDONING AND VACATING THE ALLEYWAY LOCATED IN BLOCK 37, NORTH HILL HIGH LANDS IN PENSACOLA, ESCAMBIA COUNTY, STATE OF FLORIDA; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

P.O. #19-09:
AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN AND FUTURE LAND USE MAP OF THE CITY OF PENSACOLA, FLORIDA; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE. (1421 Sonia St. & 900 Block South 11 St.)

P.O. #20-09:
AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA; AMENDING THE ZONING MAP OF THE CITY OF PENSACOLA; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE. (1421 Sonia St. & 900 Block South 11 St.)

P.O. #21-09:
AN ORDINANCE AMENDING SECTIONS 7-14-1, 7-14-2 AND 7-14-5 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING A FEE FOR FRONT YARD AVERAGING; INCREASING PERMIT APPLICATION FEES; INCREASING FEE FOR CERTIFICATE OF OCCUPANCY INSPECTION; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

P.O. #22-09:
AN ORDINANCE REPEALING SECTION 7-11-14 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR THE REMOVAL OF VEHICLES FROM PRIVATE PROPERTY WITHOUT OWNER CONSENT; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

A copy of the proposed ordinances may be inspected by the public in the City Clerk's office located on the 7th floor of City Hall, 222 West Main Street, Pensacola, Florida. Interested parties may appear at the Council meeting and be heard with respect to the proposed ordinances.

If any person decides to appeal any decision made with respect to any matter considered at this meeting or public hearing, such person may need to insure that a verbatim record of the proceedings is made, which record includes the testimony and any evidence upon which the appeal is to be based.

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

CITY OF PENSACOLA, FLORIDA
 By: Ericka L. Burnett, City Clerk
 Visit www.cityofpensacola.com to learn more about City activities. Council agendas posted on-line before meetings.

Legal No. 1409769 11 June 29, 2009

CITY COUNCIL MEMORANDUM

Item #12E

TO: Mayor and City Council

FROM: Alvin G. Coby, City Manager

DATE: July 9, 2009

SUBJECT: Proposed Ordinance No. 22-09 – Ordinance Capping Towing Fees of Vehicles from Private Property

RECOMMENDATION:

That City Council approve Proposed Ordinance No. 22-09 on second reading.

SUMMARY:

Earlier this year, adoption of a regulation capping the amount tow companies can charge when towing vehicles from private property throughout the County was discussed at a joint City Council – County Commission meeting. The City Council expressed approval of this regulation and on April 20, the County Commission's regulation of towing rates throughout the County became effective. Essentially, barring an unusual feature of a wreck or a vehicle, the County has capped the private towing charge at \$100.

PRIOR ACTION: June 25, 2009, Council approved Proposed Ordinance No. 22-09 on first reading.

FUNDING: None required.

ATTACHMENTS: (1) Proposed Ordinance No. 22-09

STAFF CONTACT: William D. Wells, City Attorney

PRESENTATION: No.

City of
Pensacola



ARTICLE V. NONCONSENSUAL TOWING AND STORAGE CHARGES

Sec. 94-171. Intent.

Escambia County intends to regulate the maximum price charged for nonconsensual towing services throughout the incorporated and unincorporated areas of Escambia County.

(Ord. No. 2009-11, § 1, 4-16-2009)

Sec. 94-172. Scope.

- (1) The provisions of this article shall regulate the maximum price charged for nonconsensual towing services, which shall include tows of vehicles on private property, removal and storage of wrecked or disabled vehicles from an accident scene, or for the removal and storage of vehicles in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle.
- (2) This article shall apply to all incorporated and unincorporated areas of Escambia County unless a municipality expresses its intent to exclude itself through resolution.
- (3) Nothing in this article shall be construed to prevent any municipality from enacting additional regulations of towing and storage services within the municipality's incorporated areas.

(Ord. No. 2009-11, § 2, 4-16-2009)

Sec. 94-173. Maximum price.

- (1) The Escambia County Board of County Commissioners shall establish rates for nonconsensual towing services by resolution. It shall be unlawful and a violation of this article for any tow truck operator or owner to charge, demand, or request any rate exceeding those rates established pursuant to such resolution for nonconsensual towing services specified therein. In its sole discretion, the board of county commissioners may review the rates on an annual basis to determine if new rates are necessary.
- (2) Nothing in this article shall be construed to prevent a municipality from establishing additional rate regulations within the municipality's incorporated areas.

(Ord. No. 2009-11, § 3, 4-16-2009)

Sec. 94-174. Documentation.

Any tow truck operator or owner who provides nonconsensual towing services shall keep records for two years of mileage, services provided, and prices charged for each nonconsensual towing service and shall provide these records to any law enforcement agency upon request.

(Ord. No. 2009-11, § 4, 4-16-2009)

Sec. 94-175. Penalty.

- (1) A violation of this article shall be a noncriminal infraction enforced pursuant to article III of chapter 30 of the Escambia County Code of Ordinances. The board of county commissioners hereby adopts the civil penalty citation schedule as provided for under section 30-63 for violations of this article. Each violation of any provision of this article shall constitute a separate offense.
- (2) Any person who willfully refuses to sign and accept a citation issued by a law enforcement officer shall be guilty of a misdemeanor of the second degree, punishable as provided in F.S. § 775.082 or 775.083. A written warning to this effect shall be provided at the time any citation is issued hereunder.

(Ord. No. 2009-11, § 5, 4-16-2009)

Sec. 94-176. Enforcement.

The sheriff shall enforce the provisions of this article in the unincorporated areas of Escambia County. If a municipality employs its own law enforcement agency, the law enforcement agency of that municipality shall enforce the provisions of this article in the incorporated area of the municipality which the law enforcement agency serves.

(Ord. No. 2009-11, § 6, 4-16-2009)

Secs. 94-177—94-180. Reserved.

3/25/2021 CATI-5

RESOLUTION NUMBER R-2021 - 59

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, AMENDING THE MAXIMUM PRICES AND CERTAIN RESTRICTIONS RELATED TO NONCONSENSUAL TOWING AND STORAGE SERVICES IN ESCAMBIA COUNTY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Escambia County Board of County Commissioners recognizes the need to regulate the maximum prices imposed for nonconsensual towing and storage service in Escambia County; and

WHEREAS, the Board of County Commissioners is authorized to set maximum prices for nonconsensual towing and storage pursuant to Sections 125.0103(1)(b)-(c) and 715.07(2)(b), Florida Statutes and by Escambia County Ordinance 2009-11;

WHEREAS, the Board of County Commissioners previously adopted Resolution 2009-63, which initially established the maximum prices for nonconsensual towing and storage services in Escambia County; and

WHEREAS, it has been concluded by the Board of County Commissioners that in order to provide adequately for the health, safety, and welfare of the citizens of Escambia County, it is appropriate to adopt a resolution amending the maximum prices and certain restrictions related to nonconsensual towing and storage services is in the public interest.

NOW, THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ESCAMBIA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS.

The above recitals are hereby incorporated into this Resolution.

SECTION 2. DEFINITIONS.

For purposes of this Resolution, these terms have the following meanings:

Bona-fide extra labor time: Based on special circumstances, the amount of time, at the scene, in

Date: 3/25/2021 Verified By: [Signature]

excess of fifteen (15) minutes that is reasonably necessary to safely effect the removal of a vehicle or its load from the scene of an accident or other incident requiring a tow. All special circumstances must be approved by the law enforcement officer on the scene.

Bona-fide waiting time: The actual time at the site of the vehicle to be towed when the towing service is prevented from working to effect the removal due to circumstances beyond its control. No travel time may be included.

Nonconsensual towing: The removal and storage of wrecked or disabled vehicles from an accident scene or the removal and storage of vehicles in the event the owner is incapacitated, unavailable, leaves the procurement of a towing service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle, excepting trespass tows as defined by this Resolution.

Normal wrecker service: Normal vehicle hook-up and minor debris cleanup that does not generally take longer than fifteen (15) minutes to complete. Evidence of customary local service times and practices may be introduced to establish whether a particular incident constitutes normal wrecking service.

Tow: To haul, carry, pull along, or otherwise transport or remove a vehicle, vessel, or trailer by means of another vehicle.

Towing service: Any person, company, corporation or other entity, whether licensed or not, who engages in or owns or operates a business which engages, in whole or in part, in the towing or removal of motor vehicles, vessels, or trailers for compensation.

Trespass towing: Towing or removal of a vehicle, without the consent of the vehicle's owner or operator, as authorized by Section 715.07, Florida Statutes, when that vehicle is parked on private real property.

SECTION 3. MAXIMUM RATES FOR TOWING AND STORAGE.

Pursuant to Escambia County Ordinance 2009-11, the maximum rates for nonconsensual towing services and storage of the following classes of vehicles are hereby amended as follows:

(a) *Class A Vehicles* (gross vehicle weight of 10,000 pounds or less or vessel or trailer 15 feet or less in length):

Trespass tow: \$150.00 flat rate for any normal wrecker service not involving special circumstances.

Nonconsensual tow: \$150.00 flat rate for any normal wrecker service not involving special circumstances.

Nonconsensual or trespass tow, per full extra mile over ten (10) miles: \$5.00 per mile. This charge shall only apply to towing services performed exclusively in the unincorporated areas of Escambia County.

Nonconsensual tow, bona-fide waiting time or extra labor time in excess of thirty (30) minutes at scene: \$37.50 per .25 hours (15 minutes).

Storage rate for trespass or nonconsensual tow: \$40.00 per day.

(b) *Class B Vehicles* (gross vehicle weight of 10,000 or more pounds but less than 20,000 pounds or vessel or trailer greater than 15 feet but less than 30 feet in length):

Trespass tow: \$250.00 base rate for any normal wrecker service not involving special circumstances.

Nonconsensual tow: \$250.00 base rate for tow of ten (10) miles or less.

Nonconsensual or trespass tow, per full extra mile over ten (10) miles: \$6.00 per mile.

Nonconsensual tow, bona-fide waiting time or extra labor time in excess of thirty (30) minutes at scene: \$62.50 per .25 hours (15 minutes).

Storage rate for trespass or nonconsensual tow: \$50.00 per day.

(c) Class C Vehicles (gross vehicle weight of 20,000 or more pounds but less than 58,000 pounds or vessel or trailer greater than 30 feet in length):

Trespass tow: \$350.00 base rate for any normal wrecker service not involving special circumstances.

Nonconsensual tow: \$350.00 base rate for tow of ten (10) miles or less.

Nonconsensual or trespass tow, per full extra mile over ten (10) miles: \$7.00 per mile.

Nonconsensual tow, bona-fide waiting time or extra labor time in excess of thirty (30) minutes at scene: \$87.50 per .25 hours (15 minutes).

Storage rate for trespass or nonconsensual tow: \$60.00 per day.

(d) Class D Vehicles (gross vehicle weight of 58,000 or more pounds):

Trespass tow: \$450.00 base rate for any normal wrecker service not involving special circumstances.

Nonconsensual tow: \$450.00 base rate for tow of ten (10) miles or less.

Nonconsensual or trespass tow, per full extra mile over ten (10) miles: \$8.00 per mile.

Nonconsensual tow, bona-fide waiting time or extra labor time in excess of thirty (30) minutes at scene: \$112.50 per .25 hours (15 minutes).

Storage rate for trespass or nonconsensual tow: \$70.00 per day

(e) Retrieval prior to nonconsensual tow. When the owner of the vehicle to be towed, or an authorized driver or agent, arrives at the scene prior to the vehicle being removed or towed from the property, the vehicle shall be disconnected from the tow truck and the owner shall be allowed to remove the vehicle without interference upon payment of a reasonable service fee of not more than one-half of the rate set by this resolution for the particular vehicle class.

SECTION 4. MAXIMUM RATES FOR ADDITIONAL CHARGES RELATED TO NONCONSENSUAL OR TRESPASS TOWING.

Pursuant to Escambia County Ordinance 2009-11, if a towing service is able to provide an itemized and detailed description of using the following equipment, and can show that such use was necessary to complete a nonconsensual or trespass tow, the towing service or business may impose a charge not to exceed the following amended rates:

(a) *Use of additional trucks for assistance.* A rate equal to 80.0% of the rate established under Section 2 of this Resolution for each additional truck.

(b) *Extra manpower:* \$75.00 per man-hour.

(c) *Deployed air bags by towing service:* \$2,000.00 flat rate.

(d) *Landoll trailer (semi rollback or drop back trailer):* \$350.00 per hour used.

(e) *Removal and replacement of driveshaft, axles, air hookup, secure load, etc., to prepare vehicle for towing:* May be billed at the extra labor rate established for the class of vehicle, vessel, or trailer by Section 2 of this Resolution.

(f) *Specialized equipment such as forklifts and loaders, hazardous material cleanup, underwater recovery, maintenance of traffic, etc.:* May be billed at the prevailing markets rates for the towing service industry.

(g) *Fuel Surcharge:* A towing service may assess a fuel surcharge of not more than 5.0% for every \$0.25 over \$3.00 per gallon, to be calculated using the total bill price excluding any storage or administrative fee. The fuel price shall be determined by reference to the weekly report prepared for the Gulf Coast area by the United States Energy Information Administration.

SECTION 5. MAXIMUM RATES FOR ADDITIONAL CHARGES RELATED TO NONCONSENSUAL OR TRESPASS STORAGE.

Pursuant to Escambia County Ordinance 2009-11, if a towing service stores a vehicle as a result

of a nonconsensual tow or trespass tow, the towing service may impose charges not to exceed the following amended rates:

(a) Gate fees. An after-hours gate fee may be charged in an amount of not more than \$50.00 between the hours of 5:00 p.m. and 8:00 a.m. for any day that a person may seek to retrieve a vehicle, including all day on weekends and holidays. However, a gate fee may not be charged for the retrieval of prescription medicine or medical devices.

(b) Storage fees. (1) A towing service may not impose any charges, other than those established by this resolution, for services rendered during the first six (6) hours that the vehicle is in possession of the towing service for trespass and nonconsensual tows, beginning from the time that the vehicle was delivered to a storage facility maintained by the towing service.

(2) A towing service may impose a storage fee established by this resolution based on twenty-four hour increments rather than calendar days after the vehicle is in possession of the towing service for the first six (6) hours for nonconsensual tows and trespass tows, beginning from the time that the vehicle was delivered to a storage facility maintained by the towing service.

(3) A towing service may impose an administrative fee of \$50.00 plus actual cost (i.e. certified mail, record search, or advertising), provided that the towing service has complied with the requirements of Section 713.78, Florida Statutes.

(c) Tarpaulin fees. A towing service may impose a fee of \$30.00 if the towing service finds it necessary to install and maintain tarpaulin coverage on any stored vehicle in order to protect the vehicle from damage from inclement weather.

SECTION 6. ANNUAL CONSUMER PRICE INDEX (CPI) ADJUSTMENT.

The rates established herein shall be adjusted annually by the County's Office of Management and Budget Services to reflect the Consumer Price Index (CPI) as of January 1 of each year. The new

rates as of January 1 of each year shall be made available for access on the County's website.

SECTION 7. EFFECTIVE DATE.

This Resolution shall take effect immediately upon adoption by the Board of County Commissioners.

ADOPTED this 23rd day of March 2021.

**BOARD OF COUNTY COMMISSIONERS
ESCAMBIA COUNTY, FLORIDA**

Date Executed

3/25/2021

By:

Robert Bender
Robert Bender, Chairman

Approved as to form and legal sufficiency

By:

Kin M. Johnson

Title: Assistant County Attorney

Date: March 11, 2021



Pam Childers
Clerk of the Circuit Court

[Signature]
Deputy Clerk



Memorandum

File #: 21-21

City Council

5/27/2021

LEGISLATIVE ACTION ITEM

SPONSOR: City Council President Jared Moore

SUBJECT:

PROPOSED ORDINANCE NO. 21-21 - ESTABLISHING A PROCESS AND SCHEDULE FOR THE DISTRICTING COMMISSION TO SUBMIT PLAN FOR THE REDISTRICTING OF CITY COUNCIL BOUNDARIES FOR THE NOVEMBER 8, 2022 GENERAL ELECTION

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 21-21, Version-1 on second reading:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA; ESTABLISHING A PROCESS AND A SCHEDULE FOR THE DISTRICTING COMMISSION TO SUBMIT PLAN FOR THE REDISTRICTING OF CITY COUNCIL BOUNDARIES FOR THE NOVEMBER 8, 2022 GENERAL ELECTION; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Section 6.08. Council Districts of the City Charter outlines the process to be taken every ten years as the City engages in the evaluation of the population of each of its districts based on the results of the census. Adjustments to the district boundaries are then made as necessary to equalize the populations more closely for each district. This section also sets forth the criteria of establishing a Districting Commission to perform the task of delivering a Redistricting Plan to the City Council.

Section 6.08 (c)(6) of the charter states:

If in any year population figures are not available at least one year and five months before the general election following the decennial census, the City Council may, by local law, shorten the time periods provided for districting commission action in paragraphs (2), (3), (4), and (5) of the subsection."

There will be a delay in receiving census results this year. Therefore, an ordinance setting forth a new deadline for the commission to submit its plan to the City Council is needed. Attached to this item are two (2) proposed Ordinances, V1 and V2; the only difference between the two versions is

the proposed timeline. A comparative table of the two timelines is also attached. Whichever version a majority of Council chooses will become Proposed Ordinance No. 21-21.

PRIOR ACTION:

May 13, 2021 - The City Council voted to approve Proposed Ordinance No. 21-21, version 1 on first reading.

FUNDING:

Budget: \$50,000

Actual: \$50,000

FINANCIAL IMPACT:

\$50,000 is available for any necessary staff assistance and/or technical assistance.

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

- 1) Proposed Ord. No. 21-21 V1
- 2) Proposed Ord. No. 21-21 V2
- 3) Redistricting Timeline Comparison

PRESENTATION: No

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA;
ESTABLISHING A PROCESS AND A SCHEDULE FOR THE
DISTRICTING COMMISSION TO SUBMIT PLAN FOR THE
REDISTRICTING OF CITY COUNCIL BOUNDARIES FOR THE
NOVEMBER 8, 2022 GENERAL ELECTION; PROVIDING FOR
SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN
EFFECTIVE DATE.

WHEREAS, section 6.08(b)(3) of the charter requires the city council to appoint a districting commission no later than one year and five months before the first general election of the city council after each federal decennial census for the purpose of redrawing the council district boundaries where necessary; and

WHEREAS, section 6.08(c) of the charter provides for the powers and duties of the districting commission, including a time frame for holding public hearings, making its plan available for public inspection, and submission to the city council not less than one year before the first general election of the city council after each decennial census; and

WHEREAS, the city has been informed that there will be a delay in the receipt of the results of the 2020 decennial census, necessitating an adjustment by the city council in the schedule for the districting commission to perform its duties; and

WHEREAS, section 6.08(c)(6) of the charter provides that in any year that population figures are not available at least one year and five months before the first general election following the decennial census, the city council may, by local law, shorten the time periods provided for districting commission action required by the charter; and

WHEREAS, the city council finds that it is necessary to adopt this ordinance pursuant to section 6.08(c)(6) in order to shorten the time frame for districting commission action;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Findings.

The legislative findings recited above are true and correct and are incorporated herein by reference as if fully set forth.

SECTION 2. Amended schedule for districting commission action.

- (a) The deadline for the districting commission to hold one or more public hearings and to make its plan available for public inspection before it submits its plan to city council shall remain as provided in section 6.08(c)(2).
- (b) The districting commission shall submit its plan to the city council not less than ten (10) months in advance of the first general election of the city council after the decennial census, which deadline is January 7, 2022.
- (c) The districting commission plan shall be deemed adopted by the city council unless disapproved by the council within three (3) weeks of the plan submission to the council or by January 19, 2022, whichever is earlier, by the vote of the majority of all members of the city council. If the city council fails to adopt the plan, it shall return the plan to the districting commission with its objections and the objections of individual councilmembers.
- (d) Upon rejection of the plan by the city council, the districting commission shall prepare a revised plan and shall submit such revised plan to the city council no later than February 8, 2022. Such revised plan shall be deemed adopted by the city council unless disapproved within two (2) weeks by the vote of two-thirds of all councilmembers and unless, by a vote of two-thirds of all councilmembers, the city council votes to file a petition in the circuit court in and for Escambia County for determination that the plan fails to meet the requirements of the charter. The city council shall file its petition no later than ten (10) days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of the charter, the plan shall be deemed adopted by the city council and the commission shall deliver the plan to the city clerk. The plan delivered to the city clerk shall include a map and description of the districts.

SECTION 3. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

PROPOSED
ORDINANCE NO. _____

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA;
ESTABLISHING A PROCESS AND A SCHEDULE FOR THE
DISTRICTING COMMISSION TO SUBMIT PLAN FOR THE
REDISTRICTING OF CITY COUNCIL BOUNDARIES FOR THE
NOVEMBER 8, 2022 GENERAL ELECTION; PROVIDING FOR
SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN
EFFECTIVE DATE.

WHEREAS, section 6.08(b)(3) of the charter requires the city council to appoint a districting commission no later than one year and five months before the first general election of the city council after each federal decennial census for the purpose of redrawing the council district boundaries where necessary; and

WHEREAS, section 6.08(c) of the charter provides for the powers and duties of the districting commission, including a time frame for holding public hearings, making its plan available for public inspection, and submission to the city council not less than one year before the first general election of the city council after each decennial census; and

WHEREAS, the city has been informed that there will be a delay in the receipt of the results of the 2020 decennial census, necessitating an adjustment by the city council in the schedule for the districting commission to perform its duties; and

WHEREAS, section 6.08(c)(6) of the charter provides that in any year that population figures are not available at least one year and five months before the first general election following the decennial census, the city council may, by local law, shorten the time periods provided for districting commission action required by the charter; and

WHEREAS, the city council finds that it is necessary to adopt this ordinance pursuant to section 6.08(c)(6) in order to shorten the time frame for districting commission action;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Findings.

The legislative findings recited above are true and correct and are incorporated herein by reference as if fully set forth.

SECTION 2. Amended schedule for districting commission action.

- (a) The deadline for the districting commission to hold one or more public hearings and to make its plan available for public inspection before it submits its plan to city council shall remain as provided in section 6.08(c)(2).
- (b) The districting commission shall submit its plan to the city council no later than December 13, 2021.
- (c) The districting commission plan shall be deemed adopted by the city council unless disapproved by the council within four (4) weeks of the plan submission to the council by the vote of the majority of all members of the city council. If the city council fails to adopt the plan, it shall return the plan to the districting commission with its objections and the objections of individual councilmembers.
- (d) Upon rejection of the plan by the city council, the districting commission shall prepare a revised plan and shall submit such revised plan to the city council no later than January 28, 2022. Such revised plan shall be deemed adopted by the city council unless disapproved within two (2) weeks by the vote of two-thirds of all councilmembers and unless, by a vote of two-thirds of all councilmembers, the city council votes to file a petition in the circuit court in and for Escambia County for determination that the plan fails to meet the requirements of the charter. The city council shall file its petition no later than ten (10) days after its disapproval of the plan. Upon a final determination upon appeal, if any, that the plan meets the requirements of the charter, the plan shall be deemed adopted by the city council and the commission shall deliver the plan to the city clerk. The plan delivered to the city clerk shall include a map and description of the districts.

SECTION 3. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

Adopted: _____

Approved: _____
President of City Council

Attest:

City Clerk

Resetting Districting Commission Deadlines

	Ordinance	
	<u>Version 1</u>	<u>Version 2</u>
Formation of districting commission	June 8, 2021 ¹	June 8, 2021
Orientation and education meetings of districting commission	June 9 – Sept 30, 2021	June 9 – Sept 30, 2021
Receipt of census data	September 30, 2021 ²	September 30, 2021
Districting commission meetings to create the plan	Oct 1 – Nov 6, 2021	Oct 1 – Oct 13, 2021
Public inspection	November 7, 2021 ³	October 13, 2021 ⁴
Public hearing	December 7, 2021 ⁵	November 13, 2021 ⁶
Submit to City Council	January 7, 2022 ⁷	December 13, 2021 ⁸
Approved/disapproved by Council	within three weeks of submission or January 19, 2022, whichever is earlier	within four weeks of submission (January 10, 2022 if submitted on December 13, 2021)
Revised plan if disapproved	February 8, 2022	January 28, 2022

¹ Required by the Charter sec. 6.08(b)(3).

² Currently, the Census bureau is anticipating it will release population figures by September 30, 2021.

³ The public shall have a right to inspect the plan no less than one month before the public hearing. (Charter sec. 6.08(c)(2)).

⁴ See footnote 3.

⁵ Public hearing to be held no less than one month before submission of the plan to the City Council. (Charter sec. 6.08(c)(2)).

⁶ See footnote 5.

⁷ The first Friday in January 2022 and ten (10) months prior to the general election, thus potentially thirteen (13) days before the January council meeting (if only one meeting is held in January on the third Thursday of the month).

⁸ The Monday for the agenda conference meeting in December 2021.