



# City of Pensacola

## Agenda Conference

### Agenda

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Monday, February 7, 2022, 3:30 PM

Hagler-Mason Conference Room,  
2nd Floor

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**Members of the public may attend the meeting in person. City Council encourages those not fully vaccinated to wear face coverings that cover their nose and mouth.**

The meeting can be watched via live stream at [cityofpensacola.com/video](http://cityofpensacola.com/video).

### ROLL CALL

### PRESENTATION ITEMS

1. [22-00134](#) PRESENTATION FROM WALTER GULLEY JR., PRESIDENT OF THE ELLA L. JORDAN AFRICAN AMERICAN HISTORY MUSEUM

**Recommendation:** That City Council receive a presentation from Walter Gulley, Jr. on behalf of the 501(c)3 organization for the museum.

**Sponsors:** Ann Hill

2. [22-00154](#) PRESENTATION FOR THE TERM SHEET WITH INSPIRED COMMUNITIES AS WELL AS AN OVERVIEW OF THE OPTION AGREEMENT WITH INSPIRED FOR THE DEVELOPMENT OF LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK

**Recommendation:** That the City Council hear the presentation regarding a Term Sheet for the development of Lots 4 and 5 at the Community Maritime Park. Further, an overview of the option agreement with Inspired Communities.

**Attachments:** [ICF Maritime 45 Term Sheet Final](#)  
[IFC Maritime 45 Option Final](#)

### REVIEW OF CONSENT AGENDA ITEMS

3. [22-00041](#) AWARD OF BID NO. 22-011 - PLAZA DE LUNA HURRICANE REPAIRS PROJECT
- Recommendation:** That City Council award Bid No. 22-011 Plaza De Luna Hurricane Repairs Project to Emerald Coast Constructors, Inc., of Pensacola Florida, the lowest and most responsible bidder with a base bid of \$1,227,630.00 plus a 10% contingency in the amount of \$122,763.00 for a total amount of \$1,350,393.00. Further, that City Council authorize the Mayor to execute the contract and take all action necessary to complete the project.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Bid Tabulation, Bid No. 22-011](#)  
[Final Vendor Reference List, Bid No. 22-011](#)
4. [22-00109](#) PUBLIC WORKS AND FACILITIES - AWARD OF BID #22-013 "I" STREET STORM PIPE REHABILITATION PROJECT
- Recommendation:** That City Council award Bid #22-013 "I" Street Storm Pipe Rehabilitation Project to Nu-Pipe, LLC of Charleston, South Carolina, the lowest and most responsible bidder with a total bid of \$319,926.10 plus a 10% contingency in the amount of \$31,992.61 for a total amount of \$351,918.71. Further, that City Council authorize the Mayor to execute the contract and take all actions necessary to complete the project.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Bid Tabulation, Bid No. 22-013](#)  
[Final Vendor Reference List, Bid No. 22-013](#)  
[Aerial Map Depicting Limits of Pipe Rehabilitation Project](#)  
[Supplemental Budget Resolution No. 2021-98 - adopted by Council](#)
5. [22-00136](#) AWARD OF BID NO. 22-002 - GARDEN STREET LANDSCAPE PROJECT FROM "A" STREET TO ALCANIZ STREET
- Recommendation:** That the City Council award Bid No. 22-002 for Garden Street Landscaping from "A" Street to Alcaniz Street to The Wallace Company, the lowest and most responsive bidder in the amount of \$564,391.80 plus a 10% contingency in the amount of \$56,439.32 for a total amount of \$620,831.12.
- Sponsors:** Teniade Broughton
- Attachments:** [22-002 FINAL tab](#)  
[Final Vendor Reference List Bid 20-002](#)  
[Garden Street Landscaping Signed & Sealed](#)

## REVIEW OF REGULAR AGENDA ITEMS (Sponsor)



6. [22-00047](#) QUASI-JUDICIAL HEARING - FINAL SUBDIVISION PLAT - THE LANDING AT DEVILLIERS
- Recommendation:** That City Council conduct a quasi-judicial hearing on February 10, 2022, to consider approval of the Final Subdivision Plat - The Landing at DeVilliers.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [The Landing at DeVilliers Final Plat Application](#)  
[Planning Board Minutes January 11 2022 DRAFT](#)
7. [22-00151](#) APPROVAL OF THE TERM SHEET BETWEEN THE CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC (INSPIRED) FOR THE DEVELOPMENT OF LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK
- Recommendation:** That the City Council approve in concept the term sheet between the City of Pensacola and Inspired Communities of Florida, LLC. The Mayor or designee will then use this term sheet to negotiate a final lease that will be returned to City Council for their approval.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [ICF Maritime 45 Term Sheet Final](#)
8. [22-00152](#) APPROVAL OF THE OPTION AGREEMENT BETWEEN THE CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC (INSPIRED) FOR LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK
- Recommendation:**
- That City Council approve and authorize the Mayor to execute the Option Agreement between the City of Pensacola and Inspired Communities of Florida LLC. for the exclusive right to develop Parcels 4 and 5 of the Vince J. Whibbs Jr. Community Maritime Park, until August 31, 2023 as well as allow for one 6-month extension at the Optionee's discretion.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [IFC Maritime 45 Option Final](#)

9. [22-00077](#) PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 445548-1-94-02, LANDSIDE IMPROVEMENTS
- Recommendation:** That City Council authorize the Mayor to execute Florida Seaport Transportation Economic Development (FSTED) Grant No. 445548-1-94-02 for Hurricane Sally-related landside improvements in the amount of \$453,131. Further, that City Council authorize the Mayor to take all actions necessary to accept, execute and administer the grant. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Grant Agreement No. 445548-1-94-02](#)  
[Supplemental Budget Resolution No. 2022-021](#)  
[Supplemental Budget Explanation No. 2022-021](#)
10. [2022-021](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 2022-021 FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 445548-1-94-02, LANDSIDE IMPROVEMENTS
- Recommendation:** That City Council adopt Supplemental Budget Resolution No. 2022-021
- A RESOLUTION AUTHORIZING AND MAKING REVENUE REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; PROVIDING FOR AN EFFECTIVE DATE.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Supplemental Budget Resolution No. 2022-021](#)  
[Supplemental Budget Explanation No. 2022-021](#)

11. [22-00096](#) PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 445549-1-94-03, WATERSIDE IMPROVEMENTS
- Recommendation:** That City Council authorize the Mayor to execute Florida Seaport Transportation Economic Development (FSTED) Grant No. 445549-1-94-03 for Hurricane Sally-related waterside improvements in the amount of \$628,581. Further, that City Council authorize the Mayor to take all actions necessary to accept, execute and administer the grant. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Grant Agreement No 445549-1-94-03](#)  
[Supplemental Budget Resolution No. 2022-024](#)  
[Supplemental Budget Explanation No. 2022-024](#)
12. [2022-024](#) SUPPLEMENTAL BUDGET RESOLUTION NO. 2022-024 FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 445549-1-94-03, WATERSIDE IMPROVEMENTS
- Recommendation:** That City Council adopt supplemental Budget Resolution 2022-024
- A RESOLUTION AUTHORIZING AND MAKING REVENUE REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; PROVIDING FOR AN EFFECTIVE DATE.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [Supplemental Budget Resolution No. 2022-024](#)  
[Supplemental Budget Explanation No. 2022-024](#)
13. [22-00044](#) PENSACOLA INTERNATIONAL AIRPORT - STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION PUBLIC TRANSPORTATION GRANT AGREEMENT NO. 435717-7-94-01
- Recommendation:** That City Council approve the acceptance of the Public Transportation Grant Agreement No. 435717-7-94-01 in the amount of \$275,000 to provide partial funding for the construction phase of the rehabilitation of the North half of Taxiway A at the Pensacola International Airport. Further, that City Council approve the grant resolution and authorize the Mayor to take all actions necessary relating to the acceptance and execution of the grant.
- Sponsors:** Grover C. Robinson, IV
- Attachments:** [State of Florida Department of Transportation Public Transportation Resolution No. 2022-013](#)

14. [2022-013](#) RESOLUTION NO. 2022-013 - STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION PUBLIC TRANSPORTATION AGREEMENT NO. 435717-7-94-01

**Recommendation:** That City Council adopt Resolution No. 2022-013.

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF PENSACOLA TO EXECUTE THE PUBLIC TRANSPORTATION GRANT AGREEMENT NO. 435717-7-94-01 WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR TAXIWAY A REHABILITATION - CONSTRUCTION AT THE PENSACOLA INTERNATIONAL AIRPORT; PROVIDING AN EFFECTIVE DATE.

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

**Attachments:** [Resolution No. 2022-013](#)  
[State of Florida Department of Transportation Public Transportation](#)

15. [22-00084](#) TRANSFER OF FUNDS WITHIN THE AMERICAN RESCUE PLAN ACT (ARPA) FUND TO PROVIDE FUNDING FOR EXPENSES RELATED TO THE CLOSURE OF THE I-110 ENCAMPMENT

**Recommendation:** That City Council authorize the Mayor to transfer funds within the American Rescue Plan Act (ARPA) Fund to provide funding for expenses related to the closure of the I-110 encampment.

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

**Attachments:** [ARPA Projects 12312021](#)

16. [22-00094](#) PLAYGROUND EQUIPMENT PURCHASE AND INSTALLATION - BAYVIEW PARK

**Recommendation:** That City Council approve the purchase and installation of a playground structure for Bayview Park Playground from Kompan, Inc., through Omini Partners cooperative purchasing (Contract #2017001135) for \$301,818.54 plus a requested 10% contingency of \$30,181.85 for a total amount of \$332,000.39. Further, that City Council authorize the Mayor to take all actions necessary to execute the contract and complete the project.

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

**Attachments:** [Legislative Action Item No. 22-00057](#)  
[Bayview Playground Map and Equipment](#)

17. [22-00132](#) WORKSHOP ON THE CLIMATE MITIGATION AND ADAPTATION TASK FORCE RECOMMENDATIONS

**Recommendation:** That City Council schedule a workshop to get a presentation on the Climate Mitigation and Adaptation Task Force report and recommendations. Further, that Council authorize the Council President and Council Executive to schedule the workshop.

**Sponsors:** Sherri Myers

**Attachments:** [Pensacola-Climate-Task-Force-Report-2018](#)

18. [22-00055](#) DISPARITY STUDY REGARDING ON HIRING PRACTICES WITHIN THE CITY AND THE IMPACT ON WOMEN

**Recommendation:** That City Council allocate \$50,000 to hire a consultant to look at the hiring practices of the City of Pensacola and the impact of the practices on women.

**Sponsors:** Sherri Myers

**Attachments:** [Active Full Time Women](#)

19. [22-00135](#) FEASIBILITY STUDY FOR A SUMMIT BOULEVARD ROAD DIET

**Recommendation:** That City Council authorize the Mayor to transfer funds within the American Rescue Plan Act (ARPA) Fund to provide funding for expenses related to a Road Diet Feasibility Study on Summit Boulevard

**Sponsors:** Jared Moore

20. [22-00146](#) RECOMMENDATION TO THE CHARTER REVIEW COMMISSION REGARDING A CITIZENS' BILL OF RIGHTS

**Recommendation:** That City Council send a recommendation to the Charter Review Commission to entertain adding a Citizens' Bill of Rights to the Pensacola City Charter, modeled after the City of Miami Citizens' Bill of Rights.

**Sponsors:** Sherri Myers

**Attachments:** [Miami Citizens' Bill of Rights](#)

21.     [2022-025](#)     RESOLUTION NO. 2022-025 - SUPPORTING A MAINTENANCE AGREEMENT FOR US 90 OVER BAYOU TEXAR BRIDGE (FPID ID: 218608-4-52-01) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION

**Recommendation:**     That City Council adopt Resolution No. 2022-025:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA SUPPORTING A MAINTENANCE AGREEMENT FOR US 90 OVER BAYOU TEXAR BRIDGE (FPID ID: 218608-4-52-01); PROVIDING FOR AN EFFECTIVE DATE.

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

**Attachments:**         [RESOLUTION NO. 2022-025](#)  
                              [Maintenance Agreement US90 Bayou Texar Bridge](#)

22.     [2022-018](#)     SUPPLEMENTAL BUDGET RESOLUTION NO. 2022-018 - APPROPRIATION OF FUNDING FOR ADDITIONAL PERSONNEL AND EQUIPMENT IN INSPECTIONS

**Recommendation:**     That City Council adopt Supplemental Budget Resolution No. 2022-018:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS TO BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; PROVIDING FOR AN EFFECTIVE DATE.

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

**Attachments:**         [Supplemental Budget Resolution No. 2022-018](#)  
                              [Supplemental Budget Explanation No. 2022-018](#)

23. [02-22](#) PROPOSED ORDINANCE NO. 02-22 - AMENDING SECTION 3-1-11  
COUNCIL RESERVE (GENERAL FUND)

**Recommendation:** That City Council approve Proposed Ordinance No. 02-22 on first reading.

AN ORDINANCE AMENDING SECTION 3-1-11 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, COUNCIL RESERVE (GENERAL FUND) TO PROVIDE THE FINANCE DIRECTOR THE AUTHORITY TO DETERMINE IF ANNUAL INTEREST EARNINGS SHOULD BE APPLIED TO THE RESERVE BALANCE; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

**Attachments:** [Proposed Ordinance No. 02-22 .docx](#)

24. [01-22](#) REVISED: PROPOSED ORDINANCE NO. 01-22 - PROPOSED  
AMENDMENT TO CHAPTER 7-9 OF THE CODE OF THE CITY OF  
PENSACOLA - DOCKLESS SHARED MICROMOBILITY DEVICES  
PILOT PROGRAM

**Recommendation:** The City Council adopt Proposed Ordinance No. 01-22 as revised on second reading:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA AMENDING CHAPTER 7-9 OF THE CODE OF THE CITY OF PENSACOLA TO REGULATE A DOCKLESS SHARED MICROMOBILITY DEVICE PILOT PROGRAM; PROVIDING FOR INDEMNIFICATION AND INSURANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

**Attachments:** [Revised for 2nd Reading - Proposed Ordinance No. 01-22](#)  
[2nd Revision Map - Proposed Shared Micromobility Devices Franch](#)  
[Revisions Approved as Amended on 1st Reading - Proposed Ordina](#)  
[1st Revision to Map - Proposed Shared Micromobility Devices Franc](#)  
[Original Draft - Proposed Ordinance No. 01-22](#)  
[Original Map - Proposed Shared Micromobility Devices Franchise Ar](#)

25. [03-22](#) PROPOSED ORDINANCE NO. 03-22 - AMENDMENT TO LAND DEVELOPMENT CODE SECTION 12-3-31 (6) AND TABLE 12-3-31.12 - COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY
- Recommendation:* That City Council adopt Proposed Ordinance No. 03-22 on second reading:
- AN ORDINANCE AMENDING SECTION 12-3-31 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY DISTRICT STANDARDS; REVISING SECTION 12-3-31 (6) MODIFICATIONS AND APPEALS AND TABLE 12-3-31.12 GLAZING REQUIREMENTS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
- Sponsors:* Teniade Broughton
- Attachments:* [REVISED - APPROVED ON 1ST READING Proposed Ordinance No. 03-22](#)  
[Proposed Ordinance No. 03-22](#)  
[Planning Board Minutes 12-14-21](#)
26. [05-22](#) PROPOSED ORDINANCE NO. 05-22 - AMENDING SECTION 11-4-182 OF THE CITY CODE - USE OF RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES
- Recommendation:* That City Council adopt Proposed Ordinance No. 05-22 as revised on second reading:
- AN ORDINANCE AMENDING SECTION 11-4-182 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; USE OF RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.
- Attachments:* [APPROVED - REVISED FOR 1ST READING Proposed Ordinance No. 05-22](#)  
[SUMMARY OF 5G ORDINANCE QUESTIONS AND MODIFICATIONS Proposed Ordinance No. 05-22](#)

## CONSIDERATION OF ANY ADD-ON ITEMS

## FOR DISCUSSION

27. [22-00131](#) DISCUSSION - DEDICATED PARKING SPACES FOR MICROMOBILITY DEVICES
- Sponsors:* Sherri Myers



**28.     [22-00133](#)     DISCUSSION - CITY COUNCIL'S BUDGET PROCESS**

*Sponsors:*             Sherri Myers

**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 #: 22-00134

City Council

2/10/2022

### **PRESENTATION ITEM**

**FROM:** City Council President Ann Hill

**SUBJECT:**

PRESENTATION FROM WALTER GULLEY JR., PRESIDENT OF THE ELLA L. JORDAN AFRICAN AMERICAN HISTORY MUSEUM

**REQUEST:**

That City Council receive a presentation from Walter Gulley, Jr. on behalf of the 501(c)3 organization for the museum.

**SUMMARY:**

The Ella L. Jordan African American History Museum serves as an important social and educational institution for Pensacola's African American community.

The Ella L. Jordan Home, constructed circa 1890, is a one story, Queen Anne cottage and was purchased in 1951 by the Pensacola Federation of Colored Women's Club. Mrs. Ella L. Jordan, the Club's founder, dedicated her life to the Club's works and community activities. Initially the group met in members' homes or local schools and churches until the property on "C" Street was purchased in 1951.

The Federation was an umbrella group that included four major clubs: The Mary Mcleod Bethune Federated Club, Book Lovers Club, Idea and Art Study Club, and the Barnett Club. The Home also hosted many other clubs and social activities in the Black community throughout the decades including wedding receptions, teas, and Mardi Gras parties.

The Ella L. Jordan Home was badly damaged by Hurricane Ivan in 2004 and was subsequently condemned and set to be torn down by the City. The tireless efforts of many dedicated volunteers helped to save this historic home that had so much significance in our community, and as of early 2020 the construction and renovations were complete. Now, the mission changes from saving the home, to outfitting it with the necessary equipment, furniture, and resources that will transform it from a historical home to its former glory as a community center, educational museum, and event space.

### Ella L. Jordan African American History Museum - Mission Statement

- To honor the significant political, social, and economic contributions of African American women in our community throughout our history, particularly that of Ms. Ella L Jordan

- To provide a space where citizens can come together across race and gender to continue the betterment of our community
- To provide educational opportunities for those interested in learning more about African American history in Pensacola

**PRIOR ACTION:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

None

**PRESENTATION:** Yes



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00154

City Council

2/10/2022

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### **PRESENTATION ITEM**

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

**SUBJECT:**

PRESENTATION FOR THE TERM SHEET WITH INSPIRED COMMUNITIES AS WELL AS AN OVERVIEW OF THE OPTION AGREEMENT WITH INSPIRED FOR THE DEVELOPMENT OF LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK

**REQUEST:**

That the City Council hear the presentation regarding a Term Sheet for the development of Lots 4 and 5 at the Community Maritime Park. Further, an overview of the option agreement with Inspired Communities.

**SUMMARY:**

Two items will come before City Council at their February 10, 2022 Council meeting: (1) A Term Sheet between the City and Inspired Communities (22-00151) and (2) a proposed option agreement between the two parties (22-00152). These represent two distinct non-reliant items.

This presentation assists in providing an opportunity to explain the two documents and answer questions prior to the discussion on the merits, Thursday.

**PRIOR ACTION:**

October 1, 2018 - City enters into an Option Agreement with Studer Properties for all vacant lots in Community Maritime Park.

March 26, 2020 - City authorizes an Addendum to the Option Agreement with Studer Properties, extending the term through March 31, 2021.

April 22, 2021 - City Council approved the publication of the public notice for disposition of Lots 4 and 5 at the Community Maritime Park for redevelopment.

July 12, 2021 - City Council approved the scheduling of a special meeting regarding the redevelopment submitting groups and ranking

July 28, 2021 - City Council ranked the submittals for Parcels 4 and 5 and set in place a mechanism for movement to the next in line if negotiations fail.

October 14, 2021 - City Council rejected an MOU from Carson Lovell, seemingly then moving to the next in line, Inspired Communities.

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Amy Lovoy, Finance Director

**ATTACHMENTS:**

- 1) IFC Maritime 45 Term Sheet Final
- 2) IFC Maritime 45 Option Final

**PRESENTATION:** Yes

**TERM SHEET**  
**PROPOSED GROUND LEASE BETWEEN THE CITY OF PENSACOLA AND**  
**INSPIRED COMMUNITIES OF FLORIDA, LLC**

**January 31, 2022**

This Term Sheet outlines the basis upon which the City of Pensacola (the “City”) would lease to Inspired Communities of Florida, LLC (“ICF”) certain real property owned by the City consisting of Lot 4 and Lot 5 of the Community Maritime Park in Pensacola, Florida as shown on Exhibit A attached hereto (the “Property”). The proposed transaction is subject to the negotiation, execution and delivery by the City and ICF of a mutually acceptable and legally binding definitive Option agreement and Lease consistent with the following provisions:

**PROJECT:**

ICF proposes to develop a mixed-use project consisting of up to 600 apartments across two phases, up to 50,000 square feet (but no less than 10,000 square feet) of ground floor retail, and approximately 900 parking spaces (the “Parking Garage”) to be constructed by ICF. City shall have input into the garage design. Upon completion and C.O. of the garage, ownership of the garage shall be retained by ICF. City shall be responsible for operating, managing, and maintaining the garage, subject to the rights of ICF as set forth in the Ground Lease. ICF shall have parking rights in the garage for approximately 350 exclusive parking spaces (locations near apartment entrances) and 200 shared parking spaces pursuant to the terms of the Ground Lease, and shall pay its pro rata share of garage expenses including all operating, maintenance, taxes and renewal and replacement costs. City parking rights in the Parking Garage shall be for 350 exclusive spaces, and 200 shared spaces. The design and construction costs of the Parking Garage shall be shared equally (50/50) between ICF and the City. Final determination of parking deck size, design, configuration, number of spaces, and allocation of exclusive and shared parking between ICF and City shall be determined within the first 180 days of the Option term, informed in a collaborative process with consultation and input from parking design professionals

The use of the Property will be broken down into three parts as follows:

- Phase 1a - The Parking Garage will have approx. 900 parking spaces that will be used jointly by the Project and the surrounding parcels. Parties acknowledge that the ultimate design may allow a portion of such Garage to be built along with Phase 1b, and the remaining portion to be built thereafter, such date to be defined in the Ground Lease. Whether this is possible will be based on the design,

as well as City determining if it can temporarily accept less than the total parking it will eventually need.

- Phase 1b will consist of approximately 250 - 300 apartment units and up to 50,000 square feet (but no less than 10,000 square feet) of retail space.
- Phase 2 will consist of approximately 250-300 apartment units.
- The City will guarantee a five-hundred and forty-seven (547) units of residential density. ICF will need to secure any addition density through existing land development code bonuses for green building, design excellence, and affordable housing or transfer available density between parcels under which ICF has residential density rights.

**OPTION  
AGREEMENT:**

The Parties will execute an Option agreement acceptable to ICF and the City whereby ICF will have the exclusive right to enter into a ground lease for the Property on terms and conditions set forth in the Ground Lease (as defined below) that will be attached to the Option Agreement for the duration of the Option Period (as defined below). In consideration for the Option Agreement, ICF will pay the City a non-refundable (but applicable as credit against building permit fees) option fee equal to \$3,480 per month, effective March 1, 2022, until the expiration of the Option Period (the "Option Payments"). ICF shall have the right to terminate the Option Agreement at any time prior to the expiration of the Option Period by giving the City not less than thirty (30) days prior written notice.

**OPTION PERIOD:**

The Option Period shall commence upon the date that the Parties execute the Option Agreement and shall expire on the date that is eighteen (18) months following the execution of the Option Agreement, which Option Period may be extended for an additional six (6) month period as more fully set forth in the Option Agreement, which Option period may be extended for an additional six (6) month period as more fully set forth in the Option Agreement.

**ICF RIGHTS DURING  
OPTION PERIOD:**

ICF, its agents, lenders, investors, and representatives designated by ICF, shall have the right to enter upon the Property for the purposes of appraising, inspecting the physical condition of, performing an environmental assessment of, take measurements, do test borings, make inspections, make survey maps, order title commitments, and to conduct geotechnical, environmental, groundwater, wetland and other studies required by ICF in its sole discretion and to determine the adequacy and suitability of the Property for ICF's intended uses thereof ("Due Diligence Investigations"). However, ICF acknowledges that a portion of the

Property is currently being utilized for parking, and this parking must be maintained during Due Diligence Investigations.

Additionally, ICF, at its sole expense shall, with the City's cooperation, use good faith commercially reasonable efforts to obtain all approvals and permits necessary (including, but not limited to, zoning, site plan approval, and permits) for the subdivision, development, use and operation of the Property to a classification for ICF's contemplated uses of the Property to include ICF's intended improvements and structures compatible with multifamily development designed to ICF's specifications, but subject to conformance with the West Main Master Plan ("Approvals").

Current zoning at Maritime Park allows for 60 residential units per acre. The Property is 4.76 acres, allowing for approximately 285 dwelling units. All Maritime Park private development parcels collectively are 12.06 acres, thus allowing approximately 723 residences on all of Maritime Park. Existing ground leases (Parcels 1 and 2) currently use 3 of these allowable units. City and ICF shall work collaboratively and within the rights of existing ground leases to effectuate density transfer within and between the Maritime Park parcels to increase the allowed density on the Property, while retaining market rate allowable density on the still undeveloped parcels. However, it is not anticipated that this density transfer will allow the 600 residences contemplated in this Term Sheet. Thus, City and ICF shall work collaboratively to effectuate additional residential density transfer from neighboring property, subject to applicable law and cooperation from neighboring property owners.

**MINIMUM  
INVESTMENT:**

ICF shall spend no less than \$110mm on total hard costs of the project (Phases 1(b) and 2), including the portion of Phase 1(a) Parking Garage to be utilized by ICF. ICF shall spend no less than \$55mm on Phase 1(b) of the Project (including the ICF portion of Phase 1(a) Parking Garage)

**TITLE MATTERS:**

City warrants and agrees that the Property will be leased to ICF free and clear of all liens, claims and encumbrances except for: (i) provisions of any general ordinance, municipal regulation, or public law; and (iii) such other matters of record as shown in a current title commitment (the "Title Commitment") that are acceptable to ICF. In the event the Title Commitment (or a current survey) discloses any matter adversely affecting title to the Property other than those enumerated above, ICF shall notify the City on or before the date that is thirty (30) days prior to the



expiration of the Option Agreement. On the earlier to occur of thirty (30) days after receipt of ICF's Title Notice or the expiration of the Option Period, the City (a) shall use its best efforts to remove the matters objected to by ICF in the Title Notice; (b) shall remove any matter that relates to a monetary obligation of the City; and (c) shall use its best efforts to remove any matters which adversely affect title to the Property that arise from and after the issuance of the Title Commitment. In the event that despite the City's best efforts it is unable to provide for the removal of an objectionable matter, then ICF may either (x) terminate the Option Agreement or (y) extend the Option Agreement for such time as may be required for the City to cure such objection (in any event not to exceed 90 days). The City shall cooperate with ICF in all respects to obtain an ALTA leasehold policy of title insurance, with the standard printed exceptions removed, in the amount of the fair market value of the Property, insuring that a leasehold interest in the Property is vested in ICF, free and clear from all liens and encumbrances, except for those matters permitted in this paragraph.

Notwithstanding the foregoing, ICF shall have the right to object to any matters which appear on an updated Title Commitment or Survey following the delivery of the Title Notice within ten (10) days upon receipt of such updated Commitment or Survey ("Post Title Notice Exceptions"). Any matters raised by ICF as a result of any Post Title Notice Exceptions shall be governed by the paragraph above.

**GROUND LEASE  
DOCUMENTS:**

The Ground Lease Agreement will be drafted using (i) the base form of ground sublease agreement typically used by the City for prior Maritime Park ground leases and (ii) that certain Master Lease Agreement, dated as of March 27, 2006 by and between the City as lessor and the City as lessee (the "Master Lease"), together with such changes that are agreeable to ICF and the City.

**MASTER LEASE  
AGREEMENT:**

The City shall terminate the Master Lease prior to the Ground Lease Commencement Date.

**GROUND LEASE  
COMMENCEMENT  
DATE:**

The date that ICF exercises its right to enter into the Ground Lease pursuant to the terms and conditions of the Option Agreement.

**GROUND LEASE  
TERM:**

The Ground Lease shall commence upon the Ground Lease Commencement Date and shall expire upon the date that is ninety-nine (99) years following the Option Exercise Date.

**GROUND LEASE  
RENT:**

ICF shall pay base rent as follows during the Ground Lease Term:

1. Commencement Date through CO of Phase 1(b) (but no later than 12/31/24): \$0
2. CO of Phase 1(b) (but no later than 1/1/25) through CO of Phase 2 (but no later than 12/31/27): If Phase 1(b) is the northern half of the property - \$325,000/year – paid in monthly installments of \$27,083.33. If Phase 1(b) is the southern half of the property - \$275,000/year – paid in monthly installments of \$22,916.67
3. CO of Phase 2 (but no later than 1/1/28) through remainder of lease term: \$500,000/year, paid in monthly installments of \$41,666.67. This amount shall increase five percent (5%) every 5 years of the lease term.
4. Ground lease rent shall be paid starting on the calendar dates listed above regardless of the execution date of the ground lease or the exercise of the one-time extension of the option contract.

**REAL ESTATE TAXES  
AND OPERATING  
EXPENSES:**

Subject to the sharing of Parking Garage costs described above and the Area Reinvestment Agreement below, ICF shall be responsible for all real estate taxes, assessments, utilities and operating expenses associated with the Property during the term of the Ground Lease, including its pro-rata share of CAM expenses for Maritime Park.

**COMPLETION  
DATES:**

ICF anticipates substantially completing the Project in accordance with the anticipated completion timeframes (the “Proposed Schedule”), which shall be extended automatically on a day-for day basis in the event of a force majeure event that prevents ICF from diligently completing the construction of the applicable portion of the Project (each a “Completion Date, and collectively, the “Completion Dates”). As used below, the term “Substantial Completion” shall mean the date upon which ICF receives a certificate of occupancy which permits it to use one hundred percent (100%) of the applicable portion of Project for its intended use:

- The completion date for phase 1(a) and 1(b) shall be January 1, 2026. The completion date for phase 2 shall be January 1, 2028. Should ICF commenced Construction but not have certificates of occupancy by these above dates, ICF can extend each of the completion dates for up to three (3) one (1) year extensions by relinquishing their tax abatements for the applicable Phase on a year by year basis as follows: for the first year the completion date is

extended, the tax abatement for that Phase shall be relinquished in year twenty (20), for a second year extension of that Phase the tax abatement shall be relinquished for year nineteen (19), for a third year extension of that Phase the tax abatement shall be relinquished for year eighteen (18). Thereafter, ICF may extend a Phase only for one (1) additional year by payment of a one-time non-refundable payment of \$150,000 per Phase. If the completion dates have still not been met, then the Ground Lease shall be amended, as more specially set forth in Construction Matters below.

**CONSTRUCTION  
MATTERS:**

ICF, at ICF's sole cost and expense, shall use commercially reasonable efforts to substantially complete the portions of the Project described in the Completion Dates section of this Term Sheet. City agrees to cooperate with ICF in this effort in all reasonable respects including without limitation execution of applications for permits to be made by the owner of the Property but without any requirement that it expend its own funds to do so.

If (a) ICF has not substantially completed Phase 1(a) and 1(b) of the Project by the applicable Substantial Completion Date (taking into account the Construction Extension Period) and is not paying property taxes based on improvements valued at no less than \$55mm, and (b) the City acting through its Mayor in his sole discretion concludes that continuing with the Ground Lease to ICF is not in the best interests of the City, then the City and ICF shall enter into good faith but exclusive negotiations for a period not to exceed sixty (60) days in order to determine whether there is common ground between them for amendments to the Ground Lease to allow for further efforts to develop the Project. In the event such negotiations are not successful within such sixty (60) day period, and subject to Lender's Rights below, the City shall have the right in its sole discretion and without cost to terminate ICF's right to develop all phases of the Project and to terminate the Ground Lease by written notice to ICF given within thirty (30) days of the end of the sixty (60) day exclusive negotiation period.

If (a) ICF has not substantially completed Phase 2 of the Project by the applicable Substantial Completion Date (taking into account the Construction Extension Period) and is not paying property taxes based on improvements valued at no less than \$110mm, and (b) the City acting through its Mayor in his sole discretion concludes that continuing with the Ground Lease of phase to ICF is not in the best interests of the City, then the City and ICF shall

enter into good faith but exclusive negotiations for a period not to exceed sixty (60) days in order to determine whether there is common ground between them for amendments to the Ground Lease to allow for further efforts to develop Phase 2 of the Project. In the event such negotiations are not successful within such sixty (60) day period, and subject to Lender's Rights below, the City shall have the right in its sole discretion and without cost to terminate ICF's right to develop Phase 2 of the Project and to amend the Ground Lease accordingly and to adjust the tax abatement equitably by written notice to ICF given within thirty (30) days of the end of the sixty (60) day exclusive negotiation period.

**AREA  
REINVESTMENT  
AGREEMENT:**

Upon completion of Phase 1 (issuance of CO), the City and Escambia County will provide ICF with (1) a 75% tax refund of the City and County's portion of the property taxes paid on Phase 1 the Property for a period of ten (10) years following the issuance of the Phase 1 CO, and (2) a 50% tax refund of the City and County's portion of the property taxes paid on the Phase 1 of the Property for an additional period of ten (10) years. Should the completion date be extended as provided for above, the tax abatement relinquishments would amend these provisions as appropriate.

Upon completion of Phase 2 (issuance of CO), the City and Escambia County will provide ICF with (1) a 75% tax refund of the City and County's portion of the property taxes paid on Phase 2 the Property for a period of ten (10) years following the issuance of the Phase 2 CO, and (2) a 50% tax refund of the City and County's portion of the property taxes paid on Phase 2 of the Property for an additional period of ten (10) years. Should the completion date be extended as provided for above, the tax abatement relinquishments would amend these provisions as appropriate.

**LENDER RIGHTS:**

The Ground Lease will contain mortgagee protective covenants in favor of ICF's mortgagees from time to time, including the right to cure any default by the ICF under the Ground Lease, a right to obtain a new Ground Lease on the same terms and conditions and with no additional payment of rent in the event of any termination of the Ground Lease without the consent of the Mortgagee, and such other protections as will allow ICF to obtain financing substantially similar in form and terms as would be available for a fee purchase of the Property.

**THIRD PARTY  
EXPENSES:**

Each Party shall be responsible for its own legal, advisory and other expenses associated with completion of this transaction.

**EXCLUSIVITY:**

During the period of negotiation of the Documents and thereafter in accordance with the Option Agreement, City shall not solicit or accept any other offers for purchase or lease of the Property.

**PARKING GARAGE  
COSTS:**

As currently contemplated, ICF and City shall each be responsible for 50% of the cost to construct the Parking Garage, as the usage is anticipated to be 50/50. Should the final design and mutually agreed upon allocation of parking between ICF and City be different then 50/50, the cost sharing percentages shall be adjusted accordingly. Subject to provisions to be described in the Ground Lease, ICF shall be responsible for constructing the Parking Garage, with City paying for its 50% (or such other percentage if so determined per above) of the garage as and when payments are due under the construction contract between ICF and its contractor. The parties agree that the parking garage construction is essential to the development of Parcels 4 and 5 and the remaining parcels. ICF agrees that it will have to pay penalties or liquidated damages in the event that the construction of the parking garage is delayed through no fault of the City and not as a result of a *force majeure*. ICF understands that others who have rights in the parcels, such as Valencia, will be looking to the parking garage for utilizing their parcel to its best and highest use.

**COVENANT WITH  
THE COMMUNITY:**

ICF agrees in good faith to comply with the provisions of the Covenant in all material respects.

This Preliminary Term Sheet is not intended to be and shall not constitute a legally binding agreement to lease the Property, but each party agrees to negotiate exclusively to execute the documents described herein.

Acknowledged and Agreed to:

**City:**

**ICF**

**CITY OF PENSACOLA**

**INSPIRED COMMUNITIES OF  
FLORIDA, LLC**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

## EXHIBIT A

### Community Maritime Park Lots 4 and 5



## OPTION AGREEMENT

**THIS OPTION AGREEMENT** (this “**Agreement**”), dated as of \_\_\_\_\_, 2022 (the “**Effective Date**”), is entered into between **CITY OF PENSACOLA, a Florida municipal corporation (“Optionor”)**, and **INSPIRED COMMUNITIES OF FLORIDA, LLC., a Florida limited liability corporation (“Optionee”)**. Optionor, and Optionee, their successors, and assigns, are each a “**Party**,” and collectively referred to herein as the “**Parties**”.

### RECITALS

WHEREAS, Optionor is the owner of those certain vacant parcels of land more particularly described on the attached **Exhibit “A”** (the “**Lots**” described in the description on Exhibit “A” are referred to hereinafter individually as a “**Parcel**”, and collectively as the “**Parcels**” or the “**Property**”); and

WHEREAS, the purpose of this Agreement is to provide for the development of the Property as a predominantly multifamily apartment project with retail space and a parking garage as more particularly described in this Agreement and the Lease Agreement (the “**Project**”) in order to spur the development of the western side of downtown in a cohesive way pursuant to and in accordance with the West Main Master Plan created by DPZ CoDesign and Speck & Associates dated November 24, 2019, including without limitation the design guidelines dated November 21, 2019 and the project report dated November 24, 2019 (collectively, the “**West Main Master Plan**”).

NOW, THEREFORE, in consideration of the Option Payment and the other mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Grant of Option. Subject to Optionee's timely payment of the Option Payments (defined below), Optionor hereby grants to Optionee an irrevocable and exclusive option (the “**Option**”) to lease the Property, pursuant to a ground lease as more fully described in Section 6.

2. Option Term. The term of the Option (“**Option Term**”) shall commence on the Effective Date and automatically expire at midnight on August 31, 2023 (such date being 18 months from the Effective Date) (the “**Option Termination Date**”), unless duly extended, exercised or sooner terminated as provided below in this Agreement and specifically including the extension provisions provided in Section 3 below and the termination provisions provided in Section 9 below.

3. Extension of Option Term. Optionee shall have the right, in Optionee’s sole discretion, to extend the Option Term for an additional six (6) calendar months provided Optionee provides Optionor with at least five (5) days’ notice of such extension and subject to Optionee’s payment of the applicable Option Payment referenced in Section 4(a) below.:

4. Option Consideration.



- a. Option Payments. The Option is granted in consideration of Optionee's payment to Optionor of the "Option Payment" described below, which shall be payable by Optionee by certified check or official bank check.

Effective Date through August 31, 2023	\$3,480.00 per month
September 1, 2023 – February 28, 2024 (if applicable per Section 3)	non-refundable lump sum of \$60,000.00

If Optionee exercises the Option, the sum of all option payments will be credited towards the Optionee's payment of building permit fees in connection with the proposed project to be built on the Property.

- b. Option Payment Earned Upon Execution. Optionee acknowledges and agrees that the Option Payment constitutes consideration to Optionor for Optionor's agreement to (i) enter into this Agreement with Optionee, (ii) neither solicit for sale nor lease, nor sell nor lease the Property to another purchaser, lessee, or tenant while this Agreement is in effect, and (iii) lease the Property to Optionee on certain terms and conditions to be more particularly defined in a definitive ground lease agreement, provided that Optionee has exercised the Option in the manner provided in Section 8 below. The Option Payment shall be fully earned by Optionor, and due and owing by Optionee, upon the Parties' execution of this Agreement, and shall be non-refundable to Optionee except for (A) a default by Optionor giving Optionee the right to terminate this Agreement, (B) a termination of this Agreement pursuant to Section 9 below (but only with respect to any portion of the Option Payment accruing after the effective date of such termination); (C) a termination of this Agreement pursuant to Section 11 below, or (D) a termination of this Agreement pursuant to Section 12 below.

5. Project; Project Compliance; Parking Garage and City's Expansion Rights.

- a. Project. The Project shall include (1) a mixed-use complex consisting of up to 600 apartments across two phases, and up to 50,000 square feet (but no less than 10,000 square feet) of ground floor retail, all as more fully described in the Ground Lease Term Sheet; (3) subject to Section 5(c), a structured concrete parking garage consisting of approximately, but not less than, 900 parking spaces (being Phase 1a and sometimes referred to as the "**Parking Garage**"), which Parking Garage may be built in phases as the Parties determine.
- b. Project Compliance. Optionee shall make good faith efforts to pursue all pre-development approvals and entitlements for the Project in a commercially reasonable and diligent manner.
- c. Parking Garage. Within one hundred twenty (120) days of execution of this Agreement, Optionee and Optionor, will execute a mutually acceptable Parking Garage Agreement with respect to the Parking Garage.

6. Ground Lease Agreement. As of the Effective Date, Optionor and Optionee have agreed upon certain terms for a ground lease agreement, a copy of which is attached hereto as **Exhibit “B”** (the “**Ground Lease Term Sheet**”). The Parties agree to use the Ground Lease Term Sheet as a starting point for negotiations of a definitive ground lease agreement. The ground lease agreement will be drafted using (i) the base form of ground lease agreement typically used by the Optionor for prior Maritime Park ground leases and (ii) that certain Master Lease Agreement, dated as of March 27, 2006 by and between the Optionor, as lessor and the Optionor, as lessee (the “**Master Lease**”), together with such changes that are agreeable to Optionee and Optionor. Optionor and Optionee expressly agree that all other terms and conditions of any definitive ground lease agreement for any Parcel will be negotiated using commercially reasonable terms and conditions taking into consideration the specific use of any Parcel as proposed by Optionee. The Parties will consider in good faith, any revisions, deletions, and modifications to the final form of any ground lease agreement in working towards finalizing a mutually agreeable definitive ground lease agreement (the “**Ground Lease Agreement**”) on or before March 31, 2022.

7. Optionee Rights to Enter the Property during the Option Period. Optionee, its agents, lenders, investors, and representatives designated by Optionee, shall have the right to enter upon the Property for the purposes of appraising, inspecting the physical condition of, performing an environmental assessment of, take measurements, do test borings, make inspections, make survey maps, order title commitments, and to conduct geotechnical, environmental, groundwater, wetland and other studies required by Optionee in its sole discretion and to determine the adequacy and suitability of the Property for Optionee’s intended uses thereof (“**Due Diligence Investigations**”). In conducting the Due Diligence Investigations, Optionee agrees to not unreasonably interfere with the Property’s current use as a parking lot. Notwithstanding the foregoing, Optionee shall not conduct any test boring, excavation, drilling, or other destructive test on or of any portion of the Property or any improvements thereon without Optionor’s prior written approval, such approval not to be unreasonably withheld, conditioned or delayed. Further, Optionee shall promptly repair any damage to the Property, any improvements thereon, or any other real or personal property of Optionor or any other person resulting from any activities of Optionee, its agents, contractors, lenders, investors, or representatives to the condition that had previously existed prior to such damage. Optionee shall indemnify, defend and hold Optionor harmless from and against any and all construction or mechanics liens and all claims, liabilities, injuries and damages to persons and property (including without limitation the Property) suffered or incurred by Optionor as a result of such activities or the acts of anyone undertaking such activities for or on behalf of Optionee; provided that in no event shall Optionee be liable for any damage caused to the Property by Optionor and Optionor shall not be liable for the discovery of any adverse conditions on the Property. In the event that Optionee does not exercise the Option, then all property inspection reports, environmental site assessments, surveys and title reports shall be provided by Optionee to the Optionor within thirty (30) days after the date of expiration or earlier termination of this Option Agreement. Optionee’s obligations under this Section shall survive any exercise or termination of the Option.

8. Exercise of Option. At any time during the Option Term, Optionee may exercise the Option by timely sending Optionor a written notice of Optionee's intention to exercise the Option (“**Exercise Notice**”). The Parties agree to work diligently in good faith to enter into the Ground Lease Agreement after Optionee’s Exercise Notice. If Optionee does not timely exercise

the Option in the manner described herein on or before the Option Termination Date, the Optionor shall have the right to terminate this agreement and retain all option payments made by Optionee prior to Optionor's exercise of its right to terminate. Thereafter, neither party shall have any further obligations hereunder except for those that expressly survive termination of this Agreement.

9. Termination of Option. Optionee shall have the right, at Optionee's sole discretion to terminate this Agreement on no less than thirty (30) days' prior written notice to Optionor and after the effective date of such termination, neither party shall have any further obligations hereunder except for those that expressly survive termination of this Agreement. All option payments made by Optionee prior to and during the thirty (30) days of notice to terminate shall be retained by Optionor.

10. Damage or Destruction. If the Property is totally or partially damaged or destroyed by fire, earthquake, accident or other casualty prior to exercise of the Option through no fault of Optionee, Optionee may cancel this Agreement by giving written notice to Optionor and shall be entitled to the return of the Option Payment. However, Optionee shall have no right to cancel this Agreement if, before Optionee gives notice of cancellation to Optionor, the Property has been repaired or replaced so that it is in substantially the same condition as it was on the Effective Date.

11. Obligation to Maintain/Restrictions. During the Option Term, Optionor will maintain the Property in its existing condition and will not make any major removals, alterations or changes thereto, except as may be required by law, and shall effect no changes to the Property's zoning classification, land use, boundary lines or physical topography unless Optionee, in its sole absolute discretion, consents thereto in writing. Optionor shall keep the Property free of all liens and encumbrances, except for those in effect on even date herewith and identified in a title commitment obtained by Optionee, and delivered to Optionor on or before the Effective Date.

12. Title Matters. During the Option Term, Optionee may, at its sole expense, obtain a title insurance commitment (the "**Title Commitment**") for the issuance of an ALTA leasehold policy of title insurance, with the standard printed exceptions removed, in the amount of the fair market value of the Property, insuring that a leasehold interest in the Property will be vested in Optionee upon its timely and proper exercise of this Option, subject only to the exceptions identified in the Title commitment. In addition, during the Option Term, Optionee may, at its sole expense, obtain a current ALTA/NSPS survey (the "**Survey**") of the Property. In the event that Optionee finds objectionable any exceptions listed in the Title Commitment or any matters disclosed by the Survey (collectively, the "**Title Objections**"), Optionor shall deliver to Optionee written notice specifying the Title Objections (the "**Title Objection Notice**"). Optionor shall make good faith efforts to cure such Title Objections to Optionee's satisfaction, except that Optionor shall be obligated to cause to be cancelled or terminated of record all leases, mortgages, liens, claims of liens, and notices of commencement affecting the Property within thirty (30) days after delivery of the Title Objection Notice. In the event that despite the Optionor's best efforts it is unable to provide for the removal of an objectionable matter, then Optionee, as its sole and exclusive remedies, may either (x) terminate the Option Agreement, or (y) extend the Option Agreement for such time as may be required for the Optionor to cure such objection (in any event

not to exceed 90 days), or (z) exercise the Option in accordance with the terms of this Agreement and accept leasehold title to the Property subject to all uncured Title Objections.

Notwithstanding the foregoing, Optionee shall have the right to object to any matters which first appear on an updated Title Commitment or Survey following the delivery of the initial Title Objection Notice within ten (10) days upon receipt of such updated Commitment or Survey (the “**Post Notice Title Objections**”). Any Post Notice Title Objections shall be treated as Title Objections and governed by the immediately preceding paragraph.

13. Area Reinvestment Agreement. Concurrently with the execution of this Agreement, Optionee and the Community Redevelopment Agency of the City of Pensacola have executed a mutually acceptable Area Reinvestment Agreement with respect to the Project pursuant to Section 163.387, Florida Statutes which provides for a redevelopment incentive in an amount equal to seventy-five percent (75%) of the City of Pensacola and Escambia County’s portion of the incremental increase in property taxes resulting from the Project for a period of ten (10) years, followed by a redevelopment incentive in an amount equal to fifty percent (50%) of such incremental property tax increase for the next ten (10) years, with such time periods in each case commencing upon the issuance of a final certificate of occupancy for Phase 1a, 1b, or 2, as the case may be. Such Area Reinvestment Agreement is attached hereto as **Exhibit “C”** and incorporated herein by reference.

14. Default by Optionee. In addition to Optionor's rights in the event that Optionee does not exercise the Option in the manner described in Section 8 on or before the Option Termination Date, if Optionee fails to perform any of its monetary obligations under this Option Agreement and such failure continues for more than ten (10) days after notice from Optionor, then Optionor may terminate this Option Agreement and retain all Option Payments paid by Optionee, and neither Optionor nor Optionee shall thereafter any further liability or obligations hereunder.

15. Default by Optionor. If Optionor fails to perform any of its obligations or is otherwise in default hereunder, Optionee, as its sole and exclusive remedies, shall have the right either (1) to terminate this Option Agreement and obtain a refund of the Option Payment, or (2) to seek such other relief Optionee may have in equity, including, without limitation, seeking injunctive relief to prevent a lease, sublease, or sale of the Property to a party other than Optionee and the filing of an action for specific performance. In no event shall Optionee have the right to seek or recover monetary damages (other than a refund of the Option Payment) from Optionor.

16. Assignment of Option. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs or successors and permitted assigns. Optionee may not assign its interest under this Agreement without the prior consent of the Optionor, which consent will not be unreasonably withheld; provided however, Optionee will be permitted to assign this Agreement without the consent of the Optionor, if (a) Optionee gives the Optionor written notice of such assignment at least thirty (30) days prior to such assignment, and (b) the assignee is a corporation, limited liability company, partnership, other entity, or joint venture of which The Dawson Company, LLC remains a principal thereof, and (c) Optionee's assignee executes an instrument in form reasonably satisfactory to the Optionor agreeing to be bound by all the terms and conditions of this Agreement, and (d) Optionee or Optionee’s assignee

pays in full all Option Fee installments then accrued but unpaid.. Upon any assignment of Optionee's entire interest under this Agreement made in accordance with the conditions and requirements of this Section, Optionee shall be relieved of all further liability under this Agreement and shall have no further rights under this Agreement.

17. Recording of Agreement. Within ten (10) days after the Parties' execution of this Agreement, Optionee, at its sole expense, shall record this Agreement in the public records of Escambia County, Florida.

18. Notices. Unless specifically stated otherwise in this Agreement, all notices shall be in writing and delivered by one the following methods: (a) personal delivery, whereby delivery is deemed to have occurred at the time of delivery; (b) overnight delivery by a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the business day following deposit with the courier, (c) registered or certified mail, postage prepaid, return receipt requested, whereby delivery is deemed to have occurred on the third business day following deposit with the United States Postal Service, or (d) electronic transmission (facsimile or electronic mail) provided that such transmission is completed no later than 5:00 pm on a business day and the original is also sent by personal delivery, overnight delivery or by mail for receipt the next business day, in the manner previously described, whereby delivery is deemed to have occurred at the end of the business day on which the electronic transmission is complete. The address for the aforesaid notice is as follows:

Optionor: City of Pensacola  
  
Attn: City Administrator  
222 West Main Street, 7<sup>th</sup> Floor  
Pensacola, Florida 32502  
Email: kfiddler@cityofpensacola.com  
Telephone: (850) 436-5627

With copy to:  
City of Pensacola  
Attn: City Attorney  
222 West Main Street, 7<sup>th</sup> Floor  
Pensacola, Florida 32502  
Email: legal@cityofpensacola.com  
Telephone: (850) 435-1615

Optionee: Inspired Communities of Florida, LLC  
Attention: Harold Dawson  
223 W. Gregory Street  
Pensacola, Florida 32502  
Email: had@thedawsoncompany.com  
Telephone: (404) 406 9473

With copy to:

Greenberg Traurig, P.A.  
Attn: Brian J. Sherr, Esq. and Zachary Bazara, Esq.  
401 East Las Olas Boulevard, Suite 2000  
Fort Lauderdale, Florida 33301  
Email: [sherrb@gtlaw.com](mailto:sherrb@gtlaw.com); [bazaraz@gtlaw.com](mailto:bazaraz@gtlaw.com)  
Telephone: (954) 768-8247

19. No Optionee Real Estate Broker. Optionee warrants and represents to Optionor that it has not engaged any finder or broker who is or may be entitled to a commission or fee with respect to the transactions contemplated by this Agreement.

20. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

21. Time of Essence. Optionor and Optionee hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either Party will constitute a material breach of and a non-curable (but waivable) default under this Agreement by the Party so failing to perform.

22. Force Majeure. Each Party's obligations under this Agreement shall be abated or excused when performance of such obligations is rendered impossible or impracticable by reason of strikes, riots, acts of God, fire, public enemy, injunction, closure of capital markets, insurrection, court order, requisition of other governmental body or authority, war, or any other causes which are beyond the reasonable control of the Parties hereto (each a “**Force Majeure Event**”), until such Force Majeure Event is eliminated or ceases to exist; provided however, that each responsible Party shall use all due diligence to eliminate or mitigate such Force Majeure Event or the effects thereof as soon as possible.

23. Jurisdiction and Venue. In the event of any litigation arising out of or based upon this Agreement, Optionee hereby irrevocably consents to the personal jurisdiction over Optionee of the state courts of the State of Florida; irrevocably waives the right to invoke the jurisdiction of any other court, state or federal, and irrevocably agrees that venue for such litigation shall be in Escambia County, Florida, which forum Optionee acknowledges and agrees is convenient.

24. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

25. Recitals. The recitals on page one of this Agreement are true and correct and are hereby incorporated herein by reference.

[Signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

OPTIONOR:

**CITY OF PENSACOLA**

a Florida municipal corporation

By:

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

(AFFIX CITY SEAL)

\_\_\_\_\_, 2022

Attest:

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

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Legal in form and valid as drawn:

\_\_\_\_\_  
Charles V. Peppler, City Attorney  
\_\_\_\_\_

Date

signed:

Approved as to content:

Print

Name:

Title: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_ day of \_\_\_\_\_, 2022, by Grover C. Robinson, IV, the Mayor of City of Pensacola, a Florida municipal corporation, on behalf of said municipal corporation, who ( ) is personally known to me or ( ) has produced a driver's license as identification.

[SEAL]

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NOTARY PUBLIC



OPTIONEE:

LLC

**INSPIRED COMMUNITIES OF FLORIDA,**

\_\_\_\_\_  
Print: \_\_\_\_\_

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

Print name: \_\_\_\_\_

\_\_\_\_\_  
Print: \_\_\_\_\_

Its: Managing Member \_\_\_\_\_

Date signed: \_\_\_\_\_, 2022

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, the managing member of INSPIRED COMMUNITIES OF FLORIDA, LLC., a Florida limited liability company, on behalf of said limited liability company, who ( ) is personally known to me or ( ) has produced a driver's license as identification.

\_\_\_\_\_  
NOTARY PUBLIC

[SEAL]

**EXHIBIT “A”**  
**to**  
**OPTION AGREEMENT**  
**BETWEEN**  
**CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC**

**PROPERTY**

The land referred to herein below is situated in the County of Escambia, State of Florida, and is described as follows:

Lots 4 and 5 of VINCE WHIBBS SR. COMMUNITY MARITIME PARK, according to the Plat thereof as recorded in Plat Book 19, Page(s) 23 and 23A, of the Public Records of Escambia County, Florida.

**EXHIBIT “B”  
to  
OPTION AGREEMENT  
BETWEEN  
CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC**

**Ground Lease Term Sheet**

**[TBA]**

**EXHIBIT “C”**  
**to**  
**OPTION AGREEMENT**  
**BETWEEN**  
**CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC**  
  
**AREA REINVESTMENT AGREEMENT**



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00041

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

AWARD OF BID NO. 22-011 - PLAZA DE LUNA HURRICANE REPAIRS PROJECT

**RECOMMENDATION:**

That City Council award Bid No. 22-011 Plaza De Luna Hurricane Repairs Project to Emerald Coast Constructors, Inc., of Pensacola Florida, the lowest and most responsible bidder with a base bid of \$1,227,630.00 plus a 10% contingency in the amount of \$122,763.00 for a total amount of \$1,350,393.00. Further, that City Council authorize the Mayor to execute the contract and take all action necessary to complete the project.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

This project will primarily repair the damage that resulted from Hurricane Sally in September 2020. The proposed construction will include sidewalk, pavers, curbing, guardrail, electrical, lighting, pump house building, splash pad equipment, pavement markings, signage, landscaping, and irrigation.

The current Project Worksheet (PW) filed with FEMA was for a total amount of \$1,267,000.00 with a 75% provided by the Federal Emergency Management (FEMA), 12.5% provided by the Florida Division of Emergency Management (FDEM) and the remaining 12.5% from the City of Pensacola. However, the bids came in higher than the original PW amount. Therefore, since this is considered a large project by FEMA, it is expected that the additional costs will be covered by FEMA, provided that the work completed adheres to the scope outlined in the PW.

**PRIOR ACTION:**

None

**FUNDING:**

Budget:	\$ 950,250.00	Federal FEMA 75% Funding - Natural Disaster Fund
	281,383.50	Additional FEMA 75% Funding To Be Requested
	158,375.00	State FDEM 12.5% Funding - Natural Disaster Fund
	46,897.25	Additional State of Florida 12.5% Funding To Be

	158,375.00	Requested
		City of Pensacola 12.5% Funding - Plaza De Luna
		Waterside Damages Fund
	<u>46,897.25</u>	Additional City of Pensacola 12.5% Funding - Plaza
		De Luna Waterside Damages Fund
	<u>\$1,642,178.00</u>	
Actual:	\$1,227,630.00	Contract Amount
	245,526.00	20% Contingency
	169,022.00	Architectural and Engineering Cost
	<u>100.59</u>	Miscellaneous
	<u>\$1,642,178.00</u>	

**FINANCIAL IMPACT:**

FEMA has obligated a PW in the amount of \$1,267,000.00 with 75% provided by the Federal Emergency Management Agency (FEMA, 12.5% provided by the Florida Division of Emergency Management (FDEM) and the remaining 12.5% from the City of Pensacola. While this is a large project and upon closeout the City will request additional funds from FEMA and FDEM based on actual project cost. Should additional funding not be granted, additional funding will be sought after. At the end of Fiscal Year 2021, \$2.46 million of available Fund Balance within the General Fund was assigned to ensure the City has sufficient funds for the required 12.5% match for Hurricane Sally projects.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/28/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator

David Forte, Deputy City Administrator - Community Development

Brian Cooper, Parks and Recreation Director

**ATTACHMENTS:**

- 1) Bid Tabulation, Bid No. 22-011
- 2) Final Vendor Reference List, Bid No. 22-011

**PRESENTATION:** No

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TABULATION OF BIDS

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BID NO: 22-011

TITLE: PLAZA DE LUNA HURRICANE REPAIRS

SUBMITTALS DUE:	EMERALD COAST	GSI
December 20, 2021, 2:30 P.M.	CONSTRUCTORS,	CONSTRUCTION
DEPARTMENT:	INC.	CORPORATION, INC.
Parks & Recreation	Pensacola, FL	Pace, FL

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Base Bid

\$1,227,630.00

\$1,966,873.43

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Submittal Due Date: 12/21/21

Bid No.: 22-011

**FINAL VENDOR REFERENCE LIST  
PLAZA DE LUNA HURRICANE REPAIRS  
PARKS & RECREATION**

Vendor	Name	Address	City	St	Zip Code	SMWBE
004632	A E NEW JR INC	460 VAN PELT LANE	PENSACOLA	FL	32505	
067544	AFFORDABLE CONCRETE & CONSTRUCTION LLC	4089 E JOHNSON AVE	PENSACOLA	FL	32515	Y
077498	ALL PHASE CONSTRUCTION OF NW FL LLC	5340 BRIGHT MEADOW RD	MILTON	FL	32570	Y
068495	ANDALA ENTERPRISES INC	641 BAYOU BOULEVARD	PENSACOLA	FL	32503	
071765	ATLAS BUILDERS GROUP	4366 AVALON BLVD	MILTON	FL	32583	
081043	BCK SPECUALTIES INC	1709 ANTIBES CIR	GULF BREEZE	FL	32563	
069786	BEAR GENERAL CONTRACTORS LLC	2803 E CERVANTES ST STE C	PENSACOLA	FL	32503	
036997	BELLVIEW SITE CONTRACTORS INC	3300 GODWIN LANE	PENSACOLA	FL	32526	Y
038068	BIGGS GREEN CONSTRUCTION SERVICES INC	PO BOX 1552	PENSACOLA	FL	32591	Y
053457	BIRKSHIRE JOHNSTONE LLC	507 E FAIRFIELD DR	PENSACOLA	FL	32503	Y
065013	BKW INC	8132 PITTMAN AVE	PENSACOLA	FL	32534	Y
070527	BLOWERS, BENJAMIN DBA INNOVIS USA LLC	5540 LEESWAY BLVD	PENSACOLA	FL	32504	
067318	BLUE WATER CONSTRUCTION & LANDSCAPING INC	2314 S HWY 97	CANTONMENT	FL	32533	Y
022856	BROWN CONSTRUCTN OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	Y
078639	C W ROBERTS CONTRACTING INC	3372 CAPITAL CIR NE	TALLAHASSEE	FL	32308	
042045	CHAVERS CONSTRUCTION INC	801 VIRECENT ROAD	CANTONMENT	FL	32533	Y
049653	CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC	6550 BUD JOHNSON ROAD	PENSACOLA	FL	32505	Y
024722	COASTAL REEF BUILDERS INC	40 AUDUSSON AVENUE	PENSACOLA	FL	32507	Y
070475	CRUZ, SHAWN C DBA COASTAL PROPERTY PREPARATION LLC	5700 ALMAX COURT	PENSACOLA	FL	32506	
033554	D K E MARINE SERVICES	P O BOX 2395	PENSACOLA	FL	32513	Y
070603	D+B BUILDERS	670 MOLINO ROAD	MOLINO	FL	32577	
007055	DAVIS MARINE CONSTRUCTION INC	8160 ASHLAND AVENUE	PENSACOLA	FL	32534	Y
065871	ECSC LLC	8400 LITLE JOHN JUNCTION	NAVARRE	FL	32566	Y
049947	EMERALD COAST CONSTRUCTORS INC	9425 WANDA DR	PENSACOLA	FL	32514	
072705	EVAN CHASE CONSTRUCTION INC	2991 SOUTH HIGHWAY 29	CANTONMENT	FL	32533	Y
032038	EVANS CONTRACTING INC	400 NEAL ROAD	CANTONMENT	FL	32533	
055177	FLORIDA CONCRETE CONCEPTS INC	4432 ALANTHUS STREET	MILTON	FL	32583	
074355	GANNETT MHC MEDIA INC DBA PENSACOLA NEWS JOURNAL	2 NORTH PALAFOX ST	PENSACOLA	FL	32502	
050495	GB GREEN CONSTRUCTION MGMT & CONSULTING INC	303 MAN'O'WAR CIRCLE	CANTONMENT	FL	32533	Y
053862	GFD CONSTRUCTION INC	8771 ASHLAND AVE	PENSACOLA	FL	32514	
058714	GREG ALLEN CONSTRUCTION INC	5006 PERSIMMON HOLLOW ROAD	MILTON	FL	32583	Y
063457	GSI CONSTRUCTION CORP INC	2993 WALLACE LAKE ROAD	PACE	FL	32571	Y
000591	GULF ATLANTIC CONSTRUCTORS INC	650 WEST OAKFIELD RD	PENSACOLA	FL	32503	Y
044100	GULF BEACH CONSTRUCTION	1308 UPLAND CREST COURT	GULF BREEZE	FL	32563	Y
069565	GULF COAST INDUSTRIAL CONSTRUCTION LLC	12196 HWY 89	JAY	FL	32565	Y
074827	GULF COAST MINORITY CHAMBER OF COMMERCE INC	321 N DEVILLERS ST STE 104	PENSACOLA	FL	32501	
017352	GULF COAST TRAFFIC ENGINEERS	8203 KIPLING STREET	PENSACOLA	FL	32514	
081690	GULF MARINE CONSTRUCTION, INC	1232 N PACE BLVD	PENSACOLA	FL	32505	
036662	H H H CONSTRUCTION OF NWF INC	8190 BELLE PINES LANE	PENSACOLA	FL	32526	



Submittal Due Date: 12/21/21

Bid No.: 22-011

**FINAL VENDOR REFERENCE LIST  
PLAZA DE LUNA HURRICANE REPAIRS  
PARKS & RECREATION**

Vendor	Name	Address	City	St	Zip Code	SMWBE
070385	HANTO & CLARKE GENERAL CONTRACTORS LLC	1401 EAST BELMONT STREET	PENSACOLA	FL	32501	
080650	HARRIS INMAN CONSTRUCTN CO INC	3583 LAGUNA COURT	GULF BREEZE	FL	32563	
044713	HENRY HAIRE BUILDING & DEVELOPMENT INC	6341 HIGHWAY 90 STE B	MILTON	FL	32570	
052866	HEWES & COMPANY LLC	251 AMBER STREET	PENSACOLA	FL	32503	Y
022978	INGRAM SIGNALIZATION INC	4522 N DAVIS HWY	PENSACOLA	FL	32503	Y
049240	J MILLER CONSTRUCTION INC	8900 WARING RD	PENSACOLA	FL	32534	Y
002026	JACK MOORE & CO INC	P O BOX 37010	PENSACOLA	FL	32526	
071564	JOSEPH BRIDGES DBA JOE'S LINE UP	222 EHRMANN ST	PENSACOLA	FL	32507	
032824	KENNETH HORNE & ASSOCIATES	7201 NORTH 9TH AVENUE SUITE 6	PENSACOLA	FL	32504	Y
068161	LEA, DOUGLAS C DBA L&L CONSTRUCTION SERVICES LLC	9655 SOUTH TRACE ROAD	MILTON	FL	32583	Y
039164	LOFTIS MARINE DIVISION INC	7150 CLEARWOOD ROAD	PENSACOLA	FL	32526	Y
081795	LYNN, STEVEN W MCCULLOUGH AND SON	1104 FRETZ STREET	PENSACOLA	FL	32534	
016210	NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	Y
049113	O'DANIEL MARINE CONSTRUCTION INC	1165 SUNSET LANE	GULF BREEZE	FL	32563	
002720	PANHANDLE GRADING & PAVING INC	P O BOX 3717	PENSACOLA	FL	32516	
042853	PAUL PATRICK ELECTRIC INC	5924 GRAHAM LANE	MILTON	FL	32583	Y
030951	PAV'R CONSTRUCTION INC	P O BOX1293	GULF BREEZE	FL	32562	
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	
067916	PENSACOLA MARINE CONSTRUCTION INC	2207 LIBERTY LOOP ROAD	CANTONMENT	FL	32533	Y
055028	PERDIDO GRADING & PAVING	PO BOX 3333	PENSACOLA	FL	32516	Y
073174	PERRITT, CHRIS LLC	5340 BRIGHT MEADOWS ROAD	MILTON	FL	32570	Y
018305	R D WARD CONSTRUCTION CO INC	15 EAST HERMAN STREET	PENSACOLA	FL	32505	
049671	RADFORD & NIX CONSTRUCTION LLC	7014 PINE FOREST ROAD	PENSACOLA	FL	32526	Y
001681	RANDALL, HENRY DBA RANDALL CONSTRUCTION	1045 S FAIRFIELD DRIVE	PENSACOLA	FL	32506	
058753	SAILWIND CONSTRUCTION INC	7 GILMORE DRIVE	GULF BREEZE	FL	32561	Y
044550	SEA COAST & COMPANY	P O BOX 1422	GULF BREEZE	FL	32562	
065450	SITE AND UTILITY LLC	PO BOX 30136	PENSACOLA	FL	32503	Y
024992	SNELLGROVE CONSTRUCTION INC	P O BOX 34340	PENSACOLA	FL	32507	
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	Y
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	Y
033913	UNITY ENTERPRISES INC	506 W BELMONT STREET	PENSACOLA	FL	32501	
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	
027461	VISION CONSTRUCTION ENT INC	P O BOX 9604	PENSACOLA	FL	32513	Y
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	Y
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	Y
021725	WHITESELL-GREEN INC	P O BOX 2849	PENSACOLA	FL	32513	
069212	YERKES SOUTH INC	634 LAKEWOOD RD	PENSACOLA	FL	32507	Y

Vendors: 76



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

File #: 22-00109

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

PUBLIC WORKS AND FACILITIES - AWARD OF BID #22-013 "I" STREET STORM PIPE REHABILITATION PROJECT

**RECOMMENDATION:**

That City Council award Bid #22-013 "I" Street Storm Pipe Rehabilitation Project to Nu-Pipe, LLC of Charleston, South Carolina, the lowest and most responsible bidder with a total bid of \$319,926.10 plus a 10% contingency in the amount of \$31,992.61 for a total amount of \$351,918.71. Further, that City Council authorize the Mayor to execute the contract and take all actions necessary to complete the project.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

South "I" Street has a 54" concrete stormwater pipe that has deteriorated to the point of pipe failure. This below grade failure is evident by the pipe's leakage and corresponding pavement fall-ins, which has created a public safety hazard and a continual maintenance issue for staff. Due to this, there is an urgent need to rehabilitate the pipe. Therefore, the purpose of this project is to seal up the interior of the pipe, eliminate the leakage issues, and restore the structural integrity of the pipe.

**PRIOR ACTION:**

November 18, 2021 - City Council adopted Supplemental Budget Resolution No. 2021-98 appropriating funding in the amount of \$1,009,547 for the "I" Street Pipe Rehabilitation Project

**FUNDING:**

Budget:	\$ 1,009,547.00	Stormwater Capital Projects Fund
Actual:	\$ 319,926.10	Construction Contract
	31,992.61	10% Contingency
	17,052.38	Engineering Design/Permitting/Surveying (Completed)
	25,000.00	Engineering Management/Inspection (Estimate)
	<u>5,000.00</u>	Construction Testing/Misc. (Estimate)

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\$ 398,971.09

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**FINANCIAL IMPACT:**

The total budget for this project is \$1,009,547.00 and is funded as described in the Supplemental Budget Resolution No. 2021-98. To date, \$17,052.09 has been expended for completed items relate to Surveying, Engineering Design, Studies, and Permitting, leaving a balance of \$992,494.62. The remaining budget balance is sufficient to cover the remaining items that have yet to be completed/expended. As it appears as though there will be excess funds remaining in the budget for this project, the remaining funds will be redistributed amongst the Stormwater Capital Improvements Projects from which they were taken. Specifically, any remaining funds will be distributed as follows:

- Bayou Texar Outfalls at Lee, Lloyd, Stanley - 20%
- Spring Street Outfall to Pensacola Bay - 40%
- Summit Blvd. - Spanish Trail to Firestone Blvd. Stormwater Treatment Enhancement Project - 40%

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/20/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
David Forte, Deputy City Administrator - Community Development  
Amy Tootle, PE - Director of Public Works & Facilities  
Brad Hinote, PE - City Engineer

**ATTACHMENTS:**

- 1) Bid Tabulation, Bid No. 22-013
- 2) Final Vendor Reference List, Bid No. 22-013
- 3) Aerial Map Depicting Limits of Pipe Rehabilitation Project
- 4) Supplemental Budget Resolution No. 2021-98 - adopted by Council on 11/18/2021

**PRESENTATION:** No

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**TABULATION OF BIDS**

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BID NO: 22-013

TITLE: "I" STREET STORM PIPE REHABILITATION

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Submittals Due: January 10, 2022, 2:30 P.M.	NU PIPE, LLC	LMR CONSTRUCTION, LLC
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Department: Engineering	Charleston, SC	Frostproof, FL
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Base Bid

\$472,203.64

\$613,718.00

Deductive Alternate #1

(\$152,277.54)

(\$65,236.00)

Deductive Alternate #2

(\$285,282.54)

(\$302,098.00)

Base Bid + Deductive Alt. #1

\$319,926.10

\$548,482.00

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Submittal Due Date: 01/10/22

Bid No.: 22-013

**FINAL VENDOR REFERENCE LIST  
"I" STREET STORM PIPE REHABILITATION  
ENGINEERING**

Vendor	Name	Address	City	St	Zip Code	SMWBE
004632	A E NEW JR INC	460 VAN PELT LANE	PENSACOLA	FL	32505	
082877	ADVANCED PACE TECHNOLOGIES, LLC D/B/A ADVANCED PLUMBING TECHNOLOGY	638 FL-50 / SUITE 4	CLERMONT	FL	34711	
067544	AFFORDABLE CONCRETE & CONSTRUCTION LLC	4089 E JOHNSON AVE	PENSACOLA	FL	32515	Y
077498	ALL PHASE CONSTRUCTION OF NW FL LLC	5340 BRIGHT MEADOW RD	MILTON	FL	32570	Y
082880	AMERICAN INFRASTRUCTURE TECHNOLOGIES CORP.	8799 US HWY 31	HANCEVILLE	AL	35077	
071765	ATLAS BUILDERS GROUP	4366 AVALON BLVD	MILTON	FL	32583	
068571	B&W UTILITIES INC	1610 SUCCESS DRIVE	CANTONMENT	FL	32533	
081043	BCK SPECUALTIES INC	1709 ANTIBES CIR	GULF BREEZE	FL	32563	
069786	BEAR GENERAL CONTRACTORS LLC	2803 E CERVANTES ST STE C	PENSACOLA	FL	32503	
036997	BELLVIEW SITE CONTRACTORS INC	3300 GODWIN LANE	PENSACOLA	FL	32526	Y
070400	BIG SKY UNDERGROUND LLC	2172 W NINE MILE ROAD	PENSACOLA	FL	32534	
038068	BIGGS GREEN CONSTRUCTION SERVICES INC	PO BOX 1552	PENSACOLA	FL	32591	Y
065013	BKW INC	8132 PITTMAN AVE	PENSACOLA	FL	32534	Y
070527	BLOWERS, BENJAMIN DBA INNOVIS USA LLC	5540 LEESWAY BLVD	PENSACOLA	FL	32504	
022856	BROWN CONSTRUCTN OF NW FL INC	10200 COVE AVE	PENSACOLA	FL	32534	Y
041503	BROWN, AMOS P JR DBA P BROWN BUILDERS LLC	4231 CHERRY LAUREL DRIVE	PENSACOLA	FL	32504	Y
042045	CHIVERS CONSTRUCTION INC	801 VIRECENT ROAD	CANTONMENT	FL	32533	Y
049653	CHRISTOPHER C BARGAINEER CONCRETE CONSTRUCTION INC	6550 BUD JOHNSON ROAD	PENSACOLA	FL	32505	Y
070475	CRUZ, SHAWN C DBA COASTAL PROPERTY PREPARATION LLC	5700 ALMAX COURT	PENSACOLA	FL	32506	
033554	D K E MARINE SERVICES	P O BOX 2395	PENSACOLA	FL	32513	Y
070603	D+B BUILDERS	670 MOLINO ROAD	MOLINO	FL	32577	
007055	DAVIS MARINE CONSTRUCTION INC	8160 ASHLAND AVENUE	PENSACOLA	FL	32534	Y
065871	ECSC LLC	8400 LITLE JOHN JUNCTION	NAVARRE	FL	32566	Y
072705	EVAN CHASE CONSTRUCTION INC	2991 SOUTH HIGHWAY 29	CANTONMENT	FL	32533	Y
032038	EVANS CONTRACTING INC	400 NEAL ROAD	CANTONMENT	FL	32533	
055177	FLORIDA CONCRETE CONCEPTS INC	4432 ALANTHUS STREET	MILTON	FL	32583	
074355	GANNETT MHC MEDIA INC DBA PENSACOLA NEWS JOURNAL	2 NORTH PALAFOX ST	PENSACOLA	FL	32502	
032792	GATOR BORING & TRENCHING INC	1800 BLACKBIRD LANE	PENSACOLA	FL	32534	Y
050495	GB GREEN CONSTRUCTION MGMT & CONSULTING INC	303 MAN'O'WAR CIRCLE	CANTONMENT	FL	32533	Y
053862	GFD CONSTRUCTION INC	8771 ASHLAND AVE	PENSACOLA	FL	32514	
058714	GREG ALLEN CONSTRUCTION INC	5006 PERSIMMON HOLLOW ROAD	MILTON	FL	32583	Y
000591	GULF ATLANTIC CONSTRUCTORS INC	650 WEST OAKFIELD RD	PENSACOLA	FL	32503	Y
044100	GULF BEACH CONSTRUCTION	1308 UPLAND CREST COURT	GULF BREEZE	FL	32563	Y
069565	GULF COAST INDUSTRIAL CONSTRUCTION LLC	12196 HWY 89	JAY	FL	32565	Y
074827	GULF COAST MINORITY CHAMBER OF COMMERCE INC	321 N DEVILLERS ST STE 104	PENSACOLA	FL	32501	

Submittal Due Date: 01/10/22

Bid No.: 22-013

**FINAL VENDOR REFERENCE LIST  
"I" STREET STORM PIPE REHABILITATION  
ENGINEERING**

Vendor	Name	Address	City	St	Zip Code	SMWBE
017352	GULF COAST TRAFFIC ENGINEERS	8203 KIPLING STREET	PENSACOLA	FL	32514	
082881	GULF COAST UNDERGROUND, LLC	5655 MIDDLE RD THEODORE, AL 36582	THEODORE	AL	36582	
036662	H H H CONSTRUCTION OF NWF INC	8190 BELLE PINES LANE	PENSACOLA	FL	32526	
070385	HANTO & CLARKE GENERAL CONTRACTORS LLC	1401 EAST BELMONT STREET	PENSACOLA	FL	32501	
080650	HARRIS INMAN CONSTRUCTN CO INC	3583 LAGUNA COURT	GULF BREEZE	FL	32563	
044713	HENRY HAIRE BUILDING & DEVELOPMENT INC	6341 HIGHWAY 90 STE B	MILTON	FL	32570	
022978	INGRAM SIGNALIZATION INC	4522 N DAVIS HWY	PENSACOLA	FL	32503	Y
065750	INSITUFORM TECHNOLOGIES, LLC	18378 TOM DRIVE	HAMMOND	LA	70403	
049240	J MILLER CONSTRUCTION INC	8900 WARING RD	PENSACOLA	FL	32534	Y
034691	JOHNSON SEPTIC TANK	10050 SOUTH HWY 97-A	WALNUT HILL	FL	32568	Y
071564	JOSEPH BRIDGES DBA JOE'S LINE UP	222 EHRLMANN ST	PENSACOLA	FL	32507	
043857	KBI CONSTRUCTION CO INC	9214 WARING RD	PENSACOLA	FL	32534	
055564	L & L BACKFLOW INC DBA L & L UTILITIES INC	115 MCLAUGHLIN ROAD	MILTON	FL	32570	
068161	LEA, DOUGLAS C DBA L&L CONSTRUCTION SERVICES LLC	9655 SOUTH TRACE ROAD	MILTON	FL	32583	Y
058332	LEIDNER BUILDERS INC	409 N PACE BLVD	PENSACOLA	FL	32505	Y
082882	LMR CONSTRUCTION LLC (GUEST)	997 DAWES RD	FROSTPROOF	FL	33843	
058801	M & H CONSTRUCTION SVCS INC	1161 W 9 1/2 MILE RD	PENSACOLA	FL	32534	Y
081795	MCCULLOUGH AND SON	1104 FRETZ STREET	PENSACOLA	FL	32534	
082878	MICHELS CORPORATION	1715 16 <sup>TH</sup> STREET SE	SALEM	OR	97302	
073522	MOORE BETTER CONTRACTORS, INC	1721 EAST CERVANTES STREET	PENSACOLA	FL	32501	Y
022368	MOTES, MIKE DBA MIKE MOTES CONSTRUCTION INC	4164 HUCKLEBERRY FINN ROAD	MILTON	FL	32583	
016210	NORD, STEVE DBA SEA HORSE GENERAL CONTRACTORS INC	4238 GULF BREEZE PKWY	GULF BREEZE	FL	32563	Y
082879	NU-PIPE LLC	944 ROCHELLE AVE. STE A	CHARLESTON	SC	92407	
001823	NWF CONTRACTORS INC	P O BOX 1718	FORT WALTON BEACH	FL	32549	
002720	PANHANDLE GRADING & PAVING INC	P O BOX 3717	PENSACOLA	FL	32516	
058953	PARSCO LLC	700 N DEVILLIERS STREET	PENSACOLA	FL	32501	Y
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	
055028	PERDIDO GRADING & PAVING	PO BOX 3333	PENSACOLA	FL	32516	Y
073174	PERRITT, CHRIS LLC	5340 BRIGHT MEADOWS ROAD	MILTON	FL	32570	Y
050307	QCFS MANAGEMENT GROUP INC	3326 NORTH W STREET	PENSACOLA	FL	32505	
021834	R & L PRODUCTS INC	9492 PENSACOLA BLVD	PENSACOLA	FL	32534	
018305	R D WARD CONSTRUCTION CO INC	15 EAST HERMAN STREET	PENSACOLA	FL	32505	
049671	RADFORD & NIX CONSTRUCTION LLC	7014 PINE FOREST ROAD	PENSACOLA	FL	32526	Y
001681	RANDALL, HENRY DBA RANDALL CONSTRUCTION	1045 S FAIRFIELD DRIVE	PENSACOLA	FL	32506	
031881	ROADS INC OF NWF	106 STONE BLVD	CANTONMENT	FL	32533	

Submittal Due Date: 01/10/22

Bid No.: 22-013

**FINAL VENDOR REFERENCE LIST  
"I" STREET STORM PIPE REHABILITATION  
ENGINEERING**

Vendor	Name	Address	City	St	Zip Code	SMWBE
017634	ROBERSON EXCAVATION INC	6013 SOUTHRIDGE ROAD	MILTON	FL	32570	Y
067564	ROBERSON UNDERGROUND UTILITY LLC	9790 ROBERSON WAY	MILTON	FL	32570	Y
042044	SALTER/3C'S CONSTRUCTION CO	4512 TRICE RD	MILTON	FL	32571	
065450	SITE AND UTILITY LLC	PO BOX 30136	PENSACOLA	FL	32503	Y
011457	SOUTHERN UTILITY CO INC	P O BOX 2055	PENSACOLA	FL	32513	Y
045247	TEAM POWER SOLUTIONS	4033 WILLIS WAY	MILTON	FL	32583	
028060	THE GREEN SIMMONS COMPANY INC	3407 NORTH W STREET	PENSACOLA	FL	32505	Y
062939	THREE TRADE CONSULTANTS	5690 JEFF ATES RD	MILTON	FL	32583	Y
069066	UNDERGROUND SOLUTIONS LLC	3070 GODWIN LN	PENSACOLA	FL	32526	Y
082876	UTILITY ASSET MANAGEMENT, INC.	P O BOX 1665	PERRY	GA	31069	
002482	UTILITY SERVICE COMPANY INC	4326 GULF BREEZE PARKWAY	GULF BREEZE	FL	32563	
030317	W P R INC	4175 BRIARGLEN RD	MILTON	FL	32583	Y
030448	WARRINGTON UTILITY & EXCAVATING INC	8401 UNTREINER AVE	PENSACOLA	FL	32534	Y
021725	WHITESSELL-GREEN INC	P O BOX 2849	PENSACOLA	FL	32513	
069212	YERKES SOUTH INC	634 LAKEWOOD RD	PENSACOLA	FL	32507	Y

Vendors: 86

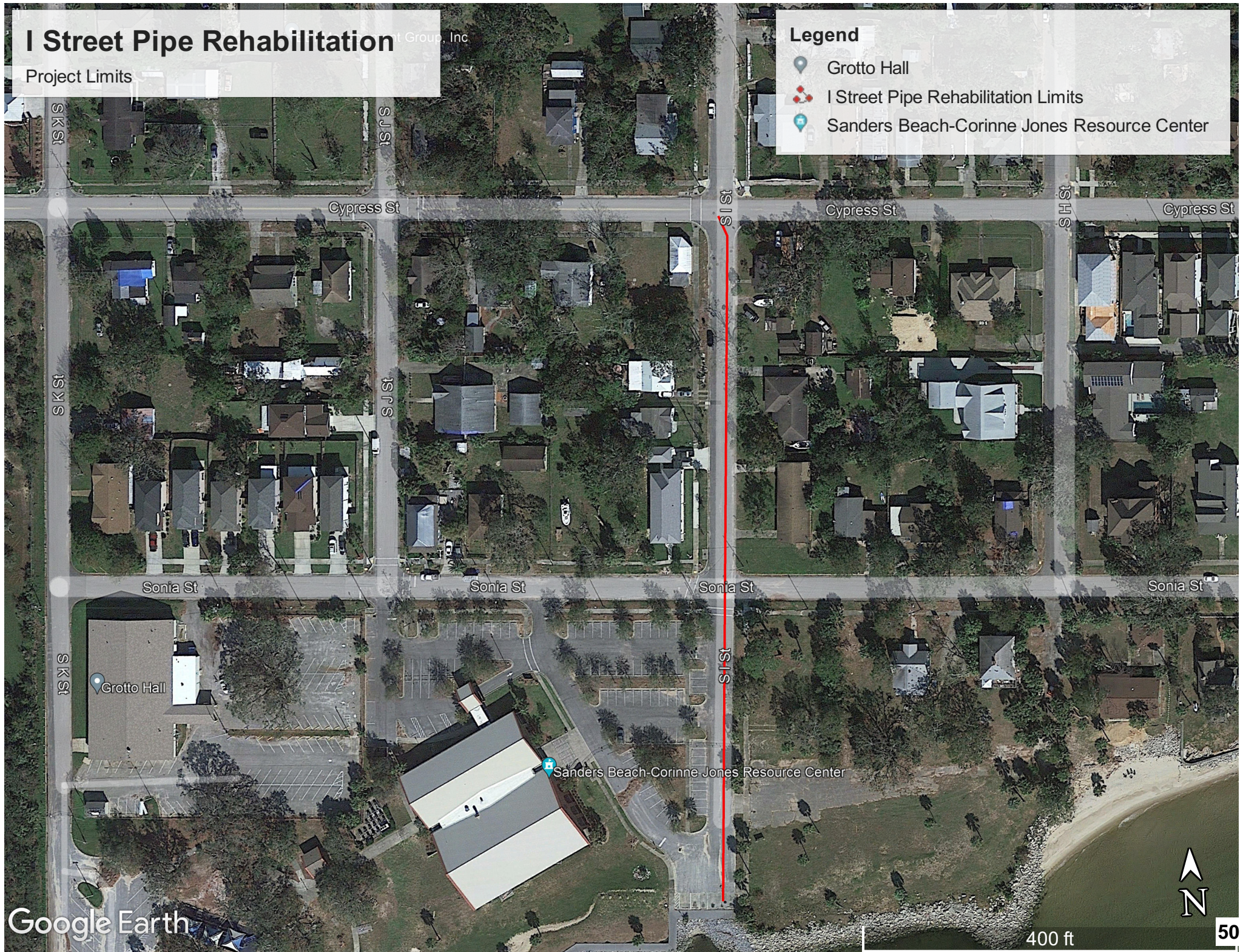


# I Street Pipe Rehabilitation

Project Limits

## Legend

- Grotto Hall
- I Street Pipe Rehabilitation Limits
- Sanders Beach-Corinne Jones Resource Center





**RESOLUTION  
NO. 2021-98**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2022; 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. STORMWATER CAPITAL FUND**

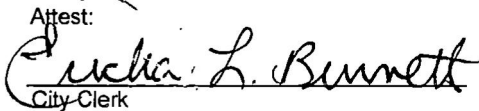
As Reads	Capital Outlay	1,925,700
Amended		
To Read:	Capital Outlay	1,925,700

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 retroactive to September 30, 2021 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: November 18, 2021

Approved:   
President of City Council

Attest:  
  
City Clerk

**THE CITY OF PENSACOLA**

**NOVEMBER 2021 - BUDGET RESOLUTION - REALLOCATION OF STORMWATER CAPITAL PROJECTS EXPLANATION NO. 2021-98**

FUND	AMOUNT	DESCRIPTION
<b>STORMWATER CAPITAL FUND</b>		
Appropriations		
Capital Outlay -Stormwater Capital - Bayou Texar Outfall	(233,395)	Decrease appropriation for Stormwater Capital - Bayou Texar Outfall
Capital Outlay -Stormwater Capital - Spring Street Outfall	(376,964)	Decrease appropriation for Stormwater Capital - Spring Street Outfall
Capital Outlay -Stormwater Capital - Summit Blvd Spanish Trail to Firestone	(399,188)	Decrease appropriation for Stormwater Capital - Summit Blvd Spanish Trail to Firestone
Capital Outlay -Stormwater Capital - "I" Street Pipe Rehabilitation Project	1,009,547	Appropriate funding for Stormwater Capital "I" Street Pipe Rehabilitation Project
Total Appropriations	<u>0</u>	



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00136

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Teniadé Broughton

**SUBJECT:**

AWARD OF BID NO. 22-002 - GARDEN STREET LANDSCAPE PROJECT FROM "A" STREET TO ALCANIZ STREET

**RECOMMENDATION:**

That the City Council award Bid No. 22-002 for Garden Street Landscaping from "A" Street to Alcaniz Street to The Wallace Company, the lowest and most responsive bidder in the amount of \$564,391.80 plus a 10% contingency in the amount of \$56,439.32 for a total amount of \$620,831.12.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On September 10, 2018 and February 11, 2019, the CRA adopted a resolution authorizing the CRA to apply for, accept and execute a Florida Beautification Grant, Landscape Construction and Maintenance Memorandum of Agreement with the Florida Department of Transportation for a Florida Landscape Beautification Grant for landscape improvements to the Garden Street median from A Street to Alcaniz Street. Following award of the grant design was initiated. An open house was held on October 27, 2020.

Invitation to Bid #22-002 was advertised on October 7, 2021 for construction of the landscape improvements. Two (2) responsive bids were received. The Wallace Company provided the lowest and best responsive bid.

**PRIOR ACTION:**

August 6, 2018 - The CRA adopted Resolution No. 2018-01 CRA adopting a budget for the fiscal year beginning October 1, 2018.

September 10, 2018 - The CRA adopted Resolution No. 2018-03 CRA authorizing the CRA to apply for and accept an FDOT Beautification Grant for landscape improvements to Garden Street.

September 13, 2018 - City Council adopted Resolution No. 18-43 authorizing the CRA to apply for and accept an FDOT Beautification Grant for landscape improvements to Garden Street.

February 11, 2019 - CRA adopted Resolution No. 2019-02 CRA authorizing the execution of a Florida Beautification Grant, Landscape Construction and Maintenance Memorandum of Agreement with the Florida Department of Transportation.

February 28, 2019 - City Council adopted Resolution No. 2019-07 authorizing the execution of a Florida Beautification Grant, Landscape Construction and Maintenance Memorandum of Agreement with the Florida Department of Transportation.

January 20, 2022 - City Council adopted Supplemental Budget Resolution No. 2022-011, appropriating \$150,000 towards the project from LOST IV.

**FUNDING:**

Budget:	\$ 415,396.00	CRA Fund
	150,000.00	Additional LOST IV Funding
	98,000.00	FDOT Grant
	<u>\$ 663,396.00</u>	
Actual:	\$ 564,391.80	Construction Contract
	56,439.32	Contingency (10%)
	28,304.00	Engineering Design
	14,260.88	CEI
	<u>\$ 663,396.00</u>	

**FINANCIAL IMPACT:**

The total budget for this project is \$663,396.00. Of the total budget, \$415,396.00 is available within the CRA Fund, \$98,000.00 is funded by a Florida Department of Transportation Landscape Beautification Grant and \$150,000.00 is available in LOST IV. To date, \$42,528.00 has been encumbered or expended, leaving a balance of \$620,868.00, which is projected to be sufficient to cover the remaining items for this project.

**STAFF CONTACT:**

Don Kraher, Council Executive  
David Forte, Deputy City Administrator - Community Development  
Sherry Morris, Development Services Director  
M. Helen Gibson, AICP, CRA Administrator  
Victoria D'Angelo, Assistant CRA Administrator

**ATTACHMENTS:**

- 1) Bid No. 20-002 Final Bid Tabulation
- 2) Final Vendor Reference List
- 3) Garden Street Landscaping signed and sealed

**PRESENTATION:** No

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TABULATION OF BIDS

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BID NO: 22-002

TITLE: GARDEN STREET LANDSCAPING - FROM "A" STREET TO ALCANIZ STREET

SUBMITTALS DUE:	WALLACE SPRINKLER	EXECUTIVE
November 16, 2021, 2:30 P.M.	& SUPPLY, INC.	LANDSCAPING, INC.
DEPARTMENT:		
CRA	Pensacola, FL	Pensacola, FL

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Base Bid

\$564,391.80

\$799,992.60

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Submittal Due Date: 11/16/21

Bid No.: 21-002

**FINAL VENDOR REFERENCE LIST**  
**GARDEN STREET LANDSCAPING - FROM "A" STREET TO ALCANIZ STREET**  
**CRA**

Vendor	Name	Address	City	St	Zip Code	SMWBE
075492	ASL LAWN & CARE SERVICES LLC	190 GREENRIDGE DRIVE	PENSACOLA	FL	32534	
082604	BLUERIDGE ENTERPRISES	PO BOX 35	LAPINE	AL	36046	
069659	EAST BAY LNDSCAPG & IRRGTN INC DBA PINELANDS NURSERY CO	8365 HIGHWAY 90	MILTON	FL	32583	Y
003282	EXECUTIVE LANDSCAPING INC	P O BOX 11487	PENSACOLA	FL	32524	
074355	GANNETT MHC MEDIA INC DBA PENSACOLA NEWS JOURNAL	2 NORTH PALAFOX ST	PENSACOLA	FL	32502	
073703	GRAND SERVICE COMPANY LLC	320 EDGEWATER DRIVE	PENSACOLA	FL	32507	Y
074076	GRAY SERVICE PAVERS CO INC	8121 LILLIAN HWY LOT 90	PENSACOLA	FL	32506	
034436	GULF COAST ENVIRONMENTAL CONTRACTORS INC	1765 E NINE MILE RD ST 1, #110	PENSACOLA	FL	32514	Y
074827	GULF COAST MINORITY CHAMBER OF COMMERCE INC	321 N DEVILLERS ST STE 104	PENSACOLA	FL	32501	
042216	HEROMAN SERVICES PLANT CO LLC	505 MOUNTAIN DRIVE # H	DESTIN	FL	32541	
007077	KEN GRIFFIN LANDSCAPE CONTRACTORS INC	3004 WESTFIELD ROAD	GULF BREEZE	FL	32563	Y
059406	MADRIL BUILDERS LLC	1965 STOUT ROAD	CANTONMENT	FL	32533	
043858	MOORE, JILL DBA TIMBERWOLF IRRIGATION CONSULTANTS	3745 BONNER ROAD	PENSACOLA	FL	32503	
069833	NEW WORLD CLEANING	7096 RAMPART WAY	PENSACOLA	FL	32505	Y
060344	PENSACOLA BAY AREA CHAMBER OF COMMERCE DBA GREATER PENSACOLA CHAMBER	117 W GARDEN ST	PENSACOLA	FL	32502	
044550	SEA COAST & COMPANY	P O BOX 1422	GULF BREEZE	FL	32562	
073705	SEAL, DILLON DBA A CUT ABOVE LANDSCAPING&PROPERTY MAINTNCE	4771 BAYOU BLVD #176	PENSACOLA	FL	32503	
072701	SOUTHERN ROOTS LANDSCAPING & MORE BY CHRISTOPHER GLAZE	11626 WAKEFIELD DRIVE	PENSACOLA	FL	32514	Y
004461	WALLACE SPRINKLER & SUPPLY INC DBA THE WALLACE COMPANY	P O BOX 1313	GULF BREEZE	FL	32562	

Vendors: 19

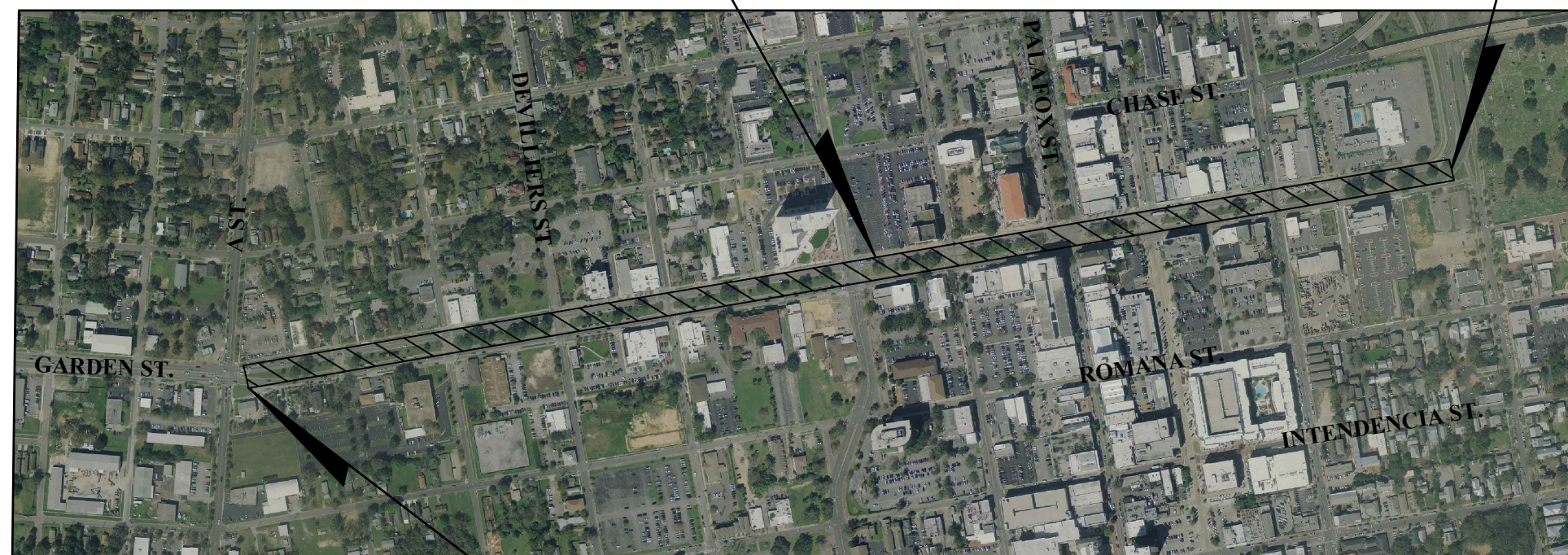


## FROM A STREET TO ALCANIZ STREET



## PROJECT LOCATION

**END  
PROJECT  
MP 4.278**



**BEGIN  
PROJECT  
MP 3.306**

**ESCAMBIA COUNTY SEC. 28 T2S R30W & SEC. 42 T2S R30W**

**N.T.S**

**MAYOR GROVER ROBINSON IV**

## CITY COUNCIL MEMBERS

DISTRICT 1	JENNIFER BRAHIER
DISTRICT 2	SHERRI F. MYERS
DISTRICT 3	CASEY JONES
DISTRICT 4	JARED MOORE (PRESIDENT)
DISTRICT 5	TENIADÉ BROUGHTON
DISTRICT 6	ANN HILL (VICE-PRESIDENT)
DISTRICT 7	DELARIAN WIGGINS

**(850) 436-5650**

**222 WEST MAIN STREET  
PENSACOLA, FLORIDA 32502**

**COMMUNITY REDEVELOPMENT AGENCY**

**HELEN GIBSON (CRA ADMINISTRATOR)**  
**VICTORIA D'ANGELO (ASSISTANT CRA ADMINISTRATOR)**

## CRA MEMBERS

**DELARIAN WIGGINS (CHAIRPERSON)**  
**TENIADÉ BROUGHTON (VICE-CHAIRPERSON)**  
**JENNIFER BRAHIER**  
**ANN HILL**  
**CASEY JONES**  
**JAROD MOORE**  
**SHERRI F. MYERS**

## Index of Sheets

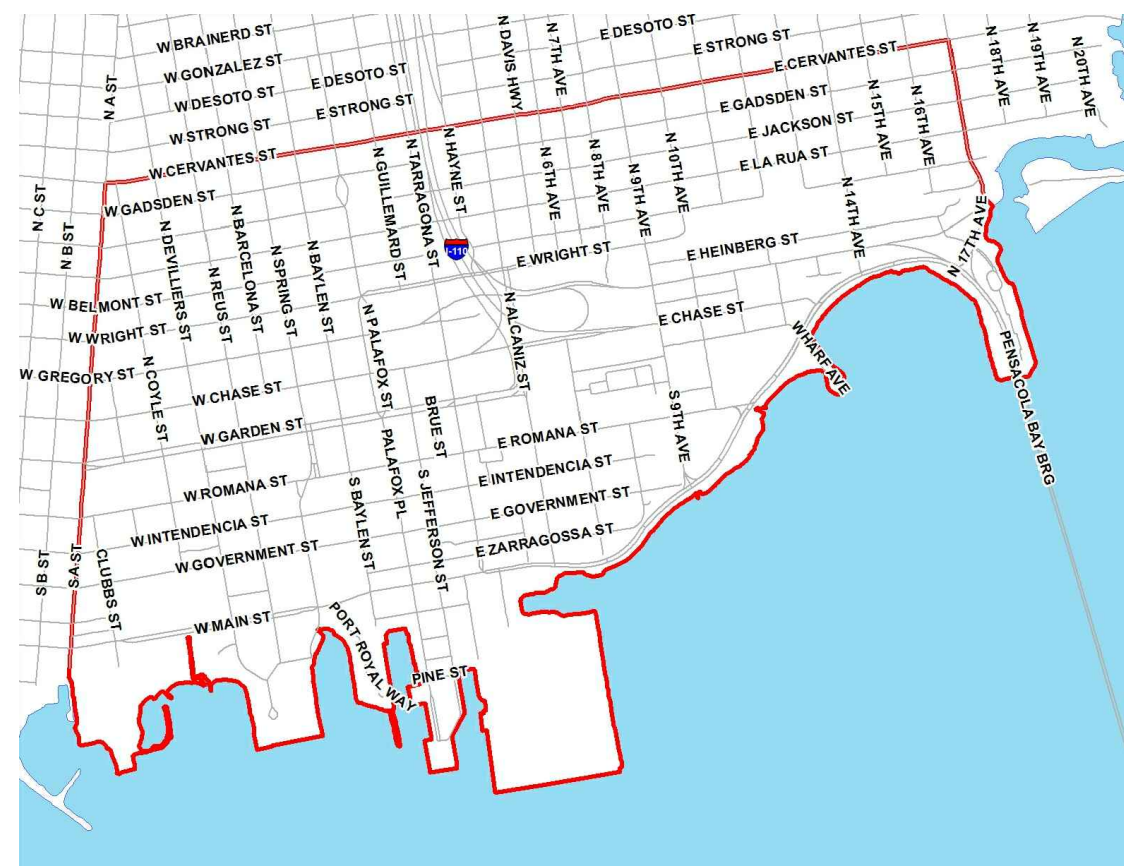
Sheet #	Sheet Title	Issued Date	Rev.	Revised Date
C0.00	Cover Sheet	2021/--/--	-	----/--/--
C0.01	General Notes	2021/--/--	-	----/--/--
C0.02	General Notes	2021/--/--	-	----/--/--
1 of 5	Topographic Survey	2021/--/--	-	----/--/--
2 of 5	Topographic Survey	2021/--/--	-	----/--/--
3 of 5	Topographic Survey	2021/--/--	-	----/--/--
4 of 5	Topographic Survey	2021/--/--	-	----/--/--
5 of 5	Topographic Survey	2021/--/--	-	----/--/--
L1.01	Landscape Plan	2021/--/--	-	----/--/--
L1.02	Landscape Plan	2021/--/--	-	----/--/--
L1.03	Landscape Plan	2021/--/--	-	----/--/--
L1.04	Landscape Plan	2021/--/--	-	----/--/--
L1.05	Landscape Plan	2021/--/--	-	----/--/--
L2.01	Landscape & Irrigation Notes	2021/--/--	-	----/--/--
L2.02	Landscape Schedule & Details	2021/--/--	-	----/--/--
C1.01	Storm Water Pollution Prevention Plan	2021/--/--	-	----/--/--
T1.01	Traffic Control Plan	2021/--/--	-	----/--/--

# ATKINS

2114 AIRPORT BLVD., SUITE 1450  
PENSACOLA, FLORIDA 32504  
PHONE NO. 850.478.9844  
CERTIFICATE OF AUTHORIZATION NO. 24

# May 2021

## 100% Plans FOR CONSTRUCTION

**INNER CITY CRA**

URBAN CORE CRA

**GOVERNING STANDARDS & SPECIFICATIONS (WHERE APPLICABLE):  
CITY OF PENSACOLA DESIGN STANDARDS CURRENT EDITION,  
FLORIDA DEPARTMENT OF TRANSPORTATION, FY 2020/21 STANDARD  
PLANS, AND JANUARY 2021 STANDARD SPECIFICATIONS FOR ROAD  
AND BRIDGE CONSTRUCTION.**



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City of pensacola projects\garden street landscaping\CADD\Plan Sheets\C0,XX General Sheets.dwg 05/21/2021 09:50:22 AM

GENERAL NOTES:

1.

ALL SITE WORK MATERIALS AND CONSTRUCTION METHODS SHALL BE IN ACCORDANCE WITH THE LATEST EDITION OF THE FLORIDA DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS, UNLESS NOTED OTHERWISE IN THE CONSTRUCTION DOCUMENTS.
2.

CONTRACTOR SHALL ADHERE TO RULES CONCERNING SAFETY OF THE CITY OF PENSACOLA, AND OTHER AUTHORITIES HAVING JURISDICTION.
3.

THE CONTRACTOR IS REQUIRED TO VISIT THE SITE AND FAMILIARIZE HIMSELF WITH THE PROJECT PRIOR TO BIDDING.
4.

AT THE PRE-CONSTRUCTION MEETING THE CONTRACTOR SHALL DESIGNATE A REPRESENTATIVE WHO SHALL BE CAPABLE OF BEING REACHED 24 HOURS A DAY, 7 DAYS A WEEK.
5.

HORIZONTAL AND VERTICAL CONTROL HAS BEEN PROVIDED FOR THE CONTRACTOR PER THE SURVEY INFORMATION PROVIDED ON THE SHEETS INCLUDED IN THIS SET. THE CONTRACTOR IS RESPONSIBLE FOR MAINTAINING THE SURVEY CONTROLS THROUGHOUT THE DURATION OF CONSTRUCTION AND/OR SETTING ADDITIONAL CONTROLS IF REQUIRED DUE TO MEANS AND METHODS FOR CONSTRUCTION OF THE IMPROVEMENTS.
6.

CONTRACTOR IS TO NOTIFY CITY OF PENSACOLA AND ENGINEER OF RECORD 72 HOURS PRIOR TO BEGINNING CONSTRUCTION.
7.

ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH THE PLANS AND WRITTEN SPECIFICATION, NO SUBSTITUTIONS SHALL BE MADE WITHOUT PRIOR WRITTEN APPROVAL BY THE OWNER OR THE OWNER'S REPRESENTATIVE.
8.

EROSION AND SEDIMENTATION CONTROLS WILL BE PROVIDED AND MAINTAINED BY THE CONTRACTOR AT ALL TIMES AS PER CITY AND STATE AGENCY REQUIREMENTS.
9.

THE CONTRACTOR SHALL ARRANGE WITH THE CITY AN INSPECTION OF THE EROSION AND SEDIMENT CONTROL DEVICES PRIOR TO CONSTRUCTION, UNDERGROUND DRAINAGE STRUCTURES PRIOR TO BURIAL, AND THE FINAL INSPECTION OF THE ENTIRE PROJECT UPON COMPLETION.
10.

THE CONTRACTOR SHALL TAKE WHATEVER STEPS NECESSARY TO PREVENT AND CONTROL EROSION AND SEDIMENTATION. MEASURES FOR EROSION CONTROL DEPICTED IN THE PLANS ARE MINIMUM SUGGESTIONS ONLY AND DO NOT RELIEVE THE CONTRACTOR OF ANY RESPONSIBILITY TO PREVENT AND CONTROL EROSION AND SEDIMENTATION. THESE CONTROLS SHALL BE ADDED TO OR REINFORCED AS CONDITIONS DICTATE.
11.

CLEAR AND GRUB ONLY AS NECESSARY TO COMPLETE NEW CONSTRUCTION.
12.

BURNING SHALL NOT BE PERMITTED ONSITE OR WITHIN CITY LIMITS.
13.

SEDIMENT SHALL BE RETAINED ON THE SITE OF DEVELOPMENT. REMOVE SEDIMENT AT APPROPRIATE TIME AND PRIOR TO THE END OF CONSTRUCTION.
14.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR ENSURING MATERIAL DOES NOT SPILL, LEAK, OR FALL FROM TRUCKS HAULING MATERIAL TO OR AWAY FROM SITE, INCLUDING MATERIAL FALLING FROM TIRES. SHOULD THE STATE OR COUNTY REQUIRE SWEEPING AND CLEANING OF ROADWAYS DUE TO THE ABOVE, THE SAME SHALL BE THE RESPONSIBILITY OF THE CONTRACTOR. THE CONTRACTOR SHALL ALSO BE RESPONSIBLE FOR ANY FINES DUE TO THE ABOVE.
15.

SHOULD THE CONTROL OF DUST AT THE SITE BE NECESSARY, THE SITE WILL BE SPRINKLED UNTIL THE SURFACE IS WET, TEMPORARY VEGETATION COVER SHALL BE ESTABLISHED OR MULCH SHALL BE APPLIED IN ACCORDANCE WITH STANDARDS FOR EROSION CONTROL.
16.

ALL SOIL WASHED, DROPPED, SPILLED OR TRACKED OUTSIDE THE LIMITS OF DISTURBANCE OR ONTO PUBLIC RIGHT-OF-WAY WILL BE REMOVED IMMEDIATELY.
17.

THE CONTRACTOR SHALL BE RESPONSIBLE FOR ANY EROSION OR SEDIMENTATION THAT MAY OCCUR BELOW STORMWATER OUTFALLS OR OFF SITE AS A RESULT OF CONSTRUCTION OF THE PROJECT.
18.

ALL SOIL STOCKPILES ARE TO BE TEMPORARILY STABILIZED IN ACCORDANCE WITH SOIL EROSION AND SEDIMENT CONTROL NOTE NUMBER 16 (ABOVE).
19.

THE SITE SHALL AT ALL TIMES BE GRADED AND MAINTAINED SUCH THAT ALL STORM WATER RUNOFF IS DIVERTED TO SOIL EROSION AND SEDIMENT CONTROL FACILITIES.
20.

ALL SEDIMENTATION STRUCTURES SHALL BE INSPECTED AND MAINTAINED REGULARLY.
21.

CONTRACTOR SHALL NOTIFY SUNSHINE 811 TWO (2) FULL BUSINESS DAYS IN ADVANCE PRIOR TO DIGGING WITHIN R/W; 1-800-432-4770.
22.

THESE DRAWINGS REPRESENT KNOWN STRUCTURES AND UTILITIES LOCATED IN THE PROJECT AREA. THE CONTRACTOR IS CAUTIONED THAT OTHER STRUCTURES AND UTILITIES, ABOVE OR BELOW GROUND, MAY BE ENCOUNTERED DURING THE COURSE OF THE PROJECT. THE CONTRACTOR SHOULD NOTIFY THE PROJECT ENGINEER IMMEDIATELY UPON ENCOUNTERING ANY UNEXPECTED STRUCTURE, UTILITY LINE, OR OTHER UNUSUAL CONDITION. IT IS THE CONTRACTOR'S RESPONSIBILITY TO DETERMINE THE EXACT LOCATION AND DEPTH OF EXISTING UTILITIES AND TO DETERMINE IF OTHER UTILITIES WILL BE ENCOUNTERED DURING THE COURSE OF THE WORK AND TAKE WHATEVER STEPS NECESSARY TO PROVIDE FOR THEIR PROTECTION.
23.

FAILURE OF THE PLANS TO SHOW THE EXISTENCE OF ANY UNDERGROUND UTILITY, STRUCTURES, ETC., SHALL NOT RELIEVE THE CONTRACTOR FROM THE RESPONSIBILITY OF LOCATING, PRESERVING AND PROTECTING SAID UTILITY OR STRUCTURE.
24.

ADEQUATE PROVISIONS SHALL BE MADE FOR FLOW OF SEWERS, DRAINS, AND WATER COURSES ENCOUNTERED DURING CONSTRUCTION. ALL EARTHWORK SHALL BE ACCOMPLISHED TO KEEP WATER FLOW AND DRAINAGE WITHIN THE CONFINES OF THE EXISTING CURBS.
25.

THE CONTRACTOR SHALL COMPLY WITH ANY TESTING REQUIRED BY THE LOCAL GOVERNING AGENCY IN ADDITION TO THE TESTING REQUIREMENTS OUTLINED IN THE CONSTRUCTION DOCUMENTS. TESTING SHALL BE PAID FOR BY THE CONTRACTOR AND THE CITY SHALL APPROVE OF TESTING LAB CHOSEN. CONTRACTOR SHALL COORDINATE AND ASSIST TESTING LABORATORIES WITH TESTING. ANY NECESSARY RE-TESTING SHALL BE PAID FOR BY THE CONTRACTOR.
26.

ALL DEMOLITION MATERIALS AND EXCESS SOIL MATERIAL EXCAVATED AND NOT USED AS FILL SHALL BE REMOVED FROM THE SITE AND DISPOSED OF OFF-SITE IN A LEGAL AND RESPONSIBLE MANNER BY THE CONTRACTOR. CONCRETE AND ANY OTHER DEBRIS SHALL BE

REMOVED AND HAULED OFF THE SAME DAY.

27.

CONTRACTOR SHALL COMPLETE ALL WORK INDICATED IN CONSTRUCTION DOCUMENTS USING HAND LABOR IF NECESSARY OR APPROPRIATE.
28.

THE CONTRACTOR SHALL NOTIFY THE OWNER OF ANY CONFLICTS BETWEEN VENDOR DRAWINGS, EXISTING CONDITIONS, AND THE CONSTRUCTION DOCUMENTS.
29.

ALL WORK SHALL BE CONFINED TO WITHIN THE CITY R/W OR PROPERTY LIMITS. ALL REMOVAL OF DEBRIS AND DELIVERY OF PLANT MATERIALS AND SOILS BY HEAVY VEHICLES SHALL BE DONE IN SUCH A WAY AS TO PROTECT THE EXISTING CURB AND GUTTER FROM CRACKING AND BREAKING.
30.

CONTRACTOR TO PROVIDE TEMPORARY PROTECTION OF TREES TO REMAIN. FOR ANY TREE SHOWN TO REMAIN THAT IS DAMAGED BY THE CONTRACTOR'S FORCES, THE CONTRACTOR SHALL PAY THE CITY OF PENSACOLA THE SUM OF \$150.00 DOLLARS PER INCH DIAMETER OF TREE THAT IS DAMAGED. OFF R/W TREES SHALL BE PROTECTED.
31.

CONTRACTOR SHALL COORDINATE HIS WORK AND COOPERATE WITH OTHER CONTRACTORS WORKING AROUND THE PROJECT AREA.
32.

SHOULD CONTRACTOR ELECT TO USE ONSITE EXCAVATION AS FILL, HE IS CAUTIONED NO ADDITIONAL TIME OR COST WILL BE ALLOWED SHOULD MATERIAL BECOME WET AND UNWORKABLE. IF NECESSARY, CONTRACTOR WILL BE REQUIRED TO BRING IN OFFSITE FILL MATERIAL MEETING TECHNICAL SPECIFICATIONS AT HIS OWN EXPENSE.
33.

THE CONTRACTOR SHALL FLUSH AND CLEAN ALL EXISTING AND NEW STORMWATER PIPES AND STRUCTURES IMPACTED BY THE PROJECT AT END OF CONSTRUCTION AFTER ALL DISTURBED AREAS HAVE BEEN STABILIZED.
34.

EXPEDITIOUS CLEANUP OF OFF-SITE TRACKING OF DIRT AND SEDIMENT SHALL BE REQUIRED.
35.

NO SITE WORK ACTIVITIES SHALL TAKE PLACE WITHOUT CITY SITE REVIEW/APPROVAL OF PROPOSED EROSION CONTROL MEASURES, AND ADVANCED NOTIFICATION OF THE REQUESTED INSPECTION IS REQUIRED.
36.

THE CONTRACTOR SHALL PROVIDE CONTINUED MAINTENANCE OF TRAFFIC TO PUBLIC/PRIVATE PROPERTY IN A SAFE AND FEASIBLE MANNER IN AREAS IMPACTED BY THE PROJECT CONSTRUCTION UNTIL ALL SUCH ACCESS CAN BE RESTORED PERMANENTLY. ALL MAINTENANCE OF TRAFFIC PLANS MUST BE SUBMITTED TO THE CITY FOR APPROVAL A MINIMUM OF FIVE (5) CALENDAR DAYS PRIOR TO IMPLEMENTING ANY PROPOSED MEASURES AND COORDINATION WITH IMPACTED RESIDENTS AND/OR PROPERTY OWNERS (OR OWNER REPRESENTATIVES) MAY BE REQUIRED OF THE CONTRACTOR AS PART OF THE MAINTENANCE OF TRAFFIC PLAN. ALL COST FOR SUCH REVISED MAINTENANCE OF TRAFFIC PLANS AND MEASURES SHALL BE COVERED/INCLUDED IN THE CONTRACTORS BID. SEE ADDITIONAL MOT INFORMATION IN THE PLANS.
37.

THE CONTRACTOR SHALL PLACE AND MAINTAIN ADEQUATE BARRICADES, CONSTRUCTION SIGNS, FLASHING LIGHTS, AND GUARDS DURING PROGRESS OF CONSTRUCTION WORK AND UNTIL IT IS SAFE FOR BOTH PEDESTRIAN AND VEHICULAR TRAFFIC.
38.

THE CONTRACTOR SHALL NOT BLOCK OR OBSTRUCT ANY ROADS OR DRIVES WITHOUT FIRST RECEIVING PERMISSION FROM THE CITY OF PENSACOLA TO DO SO.
39.

PROPERTY OBSTRUCTIONS WHICH ARE TO REMAIN IN PLACE, SUCH AS SEWER, DRAINS, WATER OR GAS PIPES, ELECTRICAL, CONDUITS, POLES, ETC., ARE TO BE CAREFULLY PROTECTED AND ARE NOT TO BE DISPLACED UNLESS NOTED ON PLANS.
40.

CONTRACTOR SHALL CLEANUP ENTIRE SITE INCLUDING STAGING AREAS AT LEAST TWO TIMES PER WEEK. THIS SHALL INCLUDE LOCATING TRASH/SCRAP RECEPTACLES AT APPROPRIATE LOCATIONS AROUND THE SITE. CONTRACTOR SHALL PICK UP ALL ROCKS, METAL, PIPE, NAILS, NUTS, BOLTS, BOARDS, PAPER, TRASH, ETC., AT LEAST TWICE A WEEK AT NO ADDITIONAL COST TO THE CITY.
41.

CONTRACTOR SHALL RESTORE ALL STAGING AREAS TO AS GOOD AS OR BETTER CONDITION THAN EXISTED PRIOR TO CONSTRUCTION. THIS INCLUDES IRRIGATION AND SOD REPLACEMENT IF NECESSARY. ANY DISTURBED AREAS THAT WILL BE LEFT EXPOSED MORE THAN 20 DAYS, AND NOT SUBJECT TO CONSTRUCTION TRAFFIC, WILL IMMEDIATELY RECEIVE A TEMPORARY SEEDING. IF THE SEASON PREVENTS THE ESTABLISHMENT OF A TEMPORARY COVER, THE DISTURBED AREAS WILL BE MULCHED WITH STRAW, OR EQUIVALENT MATERIAL, AT A RATE OF TWO (2) TONS PER ACRE.
42.

ANY AREAS USED FOR THE CONTRACTOR'S STAGING, INCLUDING BUT NOT LIMITED TO, TEMPORARY STORAGE OF STOCKPILED MATERIALS (E.G. CRUSHED STONE, QUARRY PROCESS STONE, SELECT FILL, EXCAVATED MATERIALS, ETC.) SHALL BE ENTIRELY PROTECTED BY A SILT FENCE ALONG THE LOW ELEVATION SIDE TO CONTROL SEDIMENT RUNOFF.
43.

ALL ITEMS OF PRIVATE PROPERTY LOCATED WITHIN THE CITY R/W SHALL BE PROTECTED AND/OR RELOCATED TO THE CITY'S SATISFACTION AS PART OF THE PROJECT. SUCH ITEMS SHALL INCLUDE, BUT NOT BE LIMITED TO, IRRIGATION SYSTEMS, MAIL BOXES, SIGNS, LANDSCAPE, PLANTER BEDS/BOXES, YARD DRAINS, BENCHES, ETC., AND SHALL BE COORDINATED AND ADDRESSED IN A TIMELY AND PROFESSIONAL MANNER. ITEMS REQUIRING REPLACEMENT SHALL BE OF EQUAL OR BETTER QUALITY.
44.

THE LOCATION OF THE CONTRACTOR'S MATERIAL AND EQUIPMENT LAY-DOWN AREA SHALL BE APPROVED BY THE CITY PRIOR TO SECURING SUCH ARRANGEMENTS, AS DIRECTLY RELATED TO THE PROJECT. THE LAY-DOWN AREA SHALL BE COMPLETELY SECURED UTILIZING TEMPORARY 6' CHAIN-LINK CONSTRUCTION FENCING WITH LOCKED GATES AND PROPER EROSION CONTROL BARRIER, AS NECESSARY, AND SHALL BE KEPT IN A NEAT AND UNIFORM MANNER AT ALL TIMES, AS DETERMINED BY THE CITY. ONLY MATERIALS AND EQUIPMENT DIRECTLY REQUIRED TO FACILITATE THE CURRENT PROGRESS OF THE PROJECT CONSTRUCTION SHALL BE STORED IN THE LAY-DOWN AREA AT ANY GIVEN TIME AND ALL OTHER MATERIALS AND EQUIPMENT SHALL BE IMMEDIATELY REMOVED AT THE REQUEST OF THE CITY. CONTRACTOR IS RESPONSIBLE FOR LAY-DOWN AREAS.
45.

THE CONTRACTOR'S PROPOSED SCHEDULE OF WORK FOR BOTH STANDARD (M-F, 7AM-4PM) AND NON-STANDARD HOURS SHALL BE REVIEWED AND APPROVED BY THE CITY AND SUBMITTED FOR REVIEW IN WRITING A MINIMUM OF SEVEN (7) CALENDAR DAYS PRIOR TO COMMENCEMENT OF THE PROPOSED WORK. THE CITY RESERVES THE RIGHT TO DENY WORK ON ANY PROPOSED

DAY IF CERTAIN PUBLIC EVENTS, ENVIRONMENTAL CONDITIONS, NEIGHBORHOOD CIRCUMSTANCES, ETC., REQUIRE SUCH ACTION. THE CONTRACTOR SHALL ACKNOWLEDGE ULTIMATE RESPONSIBILITY OF THE JOB SITE DURING CONSTRUCTION (24 HRS/DAY) FOR THE ENTIRE DURATION OF THE PROJECT, REGARDLESS OF APPROVED WORK SCHEDULES AND HOURS OF OPERATION.

46.

THE CONTRACTOR SHALL SUBMIT A POST-CONSTRUCTION CERTIFICATION AND REPRODUCIBLE RECORD DRAWINGS TO THE CITY PRIOR TO INSPECTION AND ACCEPTANCE. THE RECORD DRAWINGS SHALL BE PREPARED AND CERTIFIED BY A FLORIDA PROFESSIONAL SURVEYOR.
47.

BENCHMARK ELEVATIONS SHOWN ON THE PLANS ARE NORTH AMERICAN VERTICAL DATUM OF 1983 (NAVD 83).
48.

ALL SURVEY INFORMATION WAS OBTAINED FROM A LICENSED FLORIDA PROFESSIONAL SURVEYOR AND MAPPER AND UTILIZED AS SUPPORTING DATA IN THE PRODUCTION OF DESIGN PLANS AND FOR CONSTRUCTION ON SUBJECT PROJECT. THE PROFESSIONAL SURVEYOR AND MAPPER OF RECORD IS:  
MARK A. NORRIS, P.S.M  
P.S.M. NO: 6211  
REBOL-BATTLE & ASSOCIATES  
2301 N. NINTH AVENUE, SUITE 300  
PENSACOLA, FLORIDA 32503  
CERTIFICATE OF AUTHORIZATION NO: LB 7918
49.

THE LOCATION(S) OF THE UTILITIES SHOWN IN THE PLANS (INCLUDING THOSE DESIGNATED Vv, Vh, AND Vvh) ARE BASED ON LIMITED INVESTIGATION TECHNIQUES AND SHOULD BE CONSIDERED APPROXIMATE ONLY. THE VERIFIED LOCATIONS/ELEVATIONS APPLY ONLY AT THE POINTS SHOWN. INTERPOLATIONS BETWEEN THESE POINTS HAVE NOT BEEN VERIFIED.
50.

WRITTEN DIMENSIONS SHALL TAKE PRECEDENCE OVER SCALED DIMENSIONS. THE CONTRACTOR SHALL VERIFY AND BE RESPONSIBLE FOR ALL DIMENSIONS AND CONDITIONS ON THE JOB. THE OWNER'S REPRESENTATIVE SHALL BE NOTIFIED OF ANY VARIATION FROM THE DIMENSIONS AND CONDITIONS SHOWN ON THE PLANS.
51.

THE CONTRACTOR SHALL NOT BRING ANY HAZARDOUS MATERIALS ONTO THE PROJECT SITE. SHOULD THE CONTRACTOR REQUIRE SUCH FOR PERFORMING CONTRACTED WORK, THE CONTRACTOR SHALL REQUEST, IN WRITING, PERMISSION FROM THE OWNER'S REPRESENTATIVE IN ADVANCE. THE CONTRACTOR SHALL PROVIDE THE OWNER'S REPRESENTATIVE WITH A COPY OF THE MATERIAL SAFETY DATA SHEET (MSDS) FOR EACH HAZARDOUS MATERIAL PROPOSED FOR USE. THE OWNER'S REPRESENTATIVE SHALL COORDINATE WITH THE CRA/CITY PRIOR TO ISSUING WRITTEN APPROVAL TO THE CONTRACTOR. BECAUSE STATE LAW DOES NOT TREAT PETROLEUM PRODUCTS THAT ARE PROPERLY CONTAINERIZED AND INTENDED FOR EQUIPMENT USE AS A HAZARDOUS MATERIAL, SUCH PRODUCTS DO NOT NEED A MSDS SUBMITTAL. ANY KNOWN OR SUSPECTED HAZARDOUS MATERIAL FOUND ON THE PROJECT BY THE CONTRACTOR SHALL BE IMMEDIATELY REPORTED TO THE OWNER'S REPRESENTATIVE, WHO SHALL DIRECT THE CONTRACTOR TO PROTECT THE AREA OF KNOWN OR SUSPECTED CONTAMINATION FROM FURTHER ACCESS. THE OWNER'S REPRESENTATIVE IS TO NOTIFY THE CRA/CITY OF THE DISCOVERY. THE CRA/CITY WILL ARRANGE FOR INVESTIGATION, IDENTIFICATION AND REMEDIATION OF THE HAZARDOUS MATERIAL. THE CONTRACTOR SHALL NOT RETURN TO THE AREA OF CONTAMINATION UNTIL APPROVAL IS PROVIDED BY THE OWNER'S REPRESENTATIVE.
52.

THE LANDSCAPE CONTRACTOR SHALL BE RESPONSIBLE FOR ATTENDING A PRE-CONSTRUCTION MEETING DURING WHICH INSTALLATION SPECIFICATIONS, INSTALLATION REQUIREMENTS, SCHEDULES, AND MAINTENANCE REQUIREMENTS WILL BE DISCUSSED.



APPROVED BY	DATE	REVISIONS					NUMBER
GARDEN STREET LANDSCAPING							
GENERAL NOTES							
<div><div>ATKINS</div><div>2114 AIRPORT BLVD., SUITE 1450 PENSACOLA, FLORIDA 32504 PHONE NO. 850.478.9844 CERTIFICATE OF AUTHORIZATION NO. 24</div></div>							
LANDSCAPE ARCHITECT OF RECORD							
ALYSSA GARCIA FL LA NO. 6667475							
DRAWN BY: HIL							
DESIGNED BY: AG							
CHECKED BY: JK							
APPROVED BY: JLG							
PROJECT NUMBER						100070786	
DRAWING NUMBER						C0.01	

SPECIAL NOTES:

1. CONTRACTOR SHALL NOTE THAT THE PROJECT IS A LUMP SUM PROJECT BUT SEPARATE COSTS FOR EACH BID ITEM ARE REQUIRED TO BE SUBMITTED IN THE BID.
2. CONTRACTOR SHALL ORDER AND INSTALL (2) BENCHES PER THE DETAIL PROVIDED BY THE CITY/CRA. COORDINATE WITH THE CITY/CRA FOR LOCATION OF BENCHES AND (1) TRASH RECEPTACLE. TRASH RECEPTACLE TO BE PROVIDED BY THE CITY/CRA.

PAY ITEM NOTES:

1. CONTRACTOR IS TO INCLUDE ANY COSTS FOR TEMPORARY MEASURES AND SUPPORT TO ACCESS SITE IN THE COST FOR MOBILIZATION IN HIS BID. CONTRACTOR SHALL REPAIR ANY DAMAGE TO EXISTING FACILITIES TO THE SATISFACTION OF THE CITY AT NO ADDITIONAL COST.
2. CONTRACTOR IS TO INCLUDE COST OF WATER FOR PLANT ESTABLISHMENT AND MAINTENANCE OF LANDSCAPING AND GRASSING IN THE UNIT PRICE FOR LANDSCAPING.
3. PROTECTION OF EXISTING ELECTRICAL POLE(S), WILL BE INCLUDED IN THE COST FOR DEMOLITION.
4. COST FOR ANY IMPORTED TOPSOIL OR AMENDMENTS TO EXISTING TOPSOIL ON SITE SHALL BE INCLUDED IN THE COST FOR SODDING/LANDSCAPING.

Garden Street from A Street to Alcaniz Street - Landscaping			
FL 811 Design Ticket # 325001565			
Escambia County			
Utility Owners			
Company	Contact Person	Contact Number	Email Address
AT&T Florida <i>(Distribution)</i>	Rob St. Pierre	(850) 436-1701	<a href="mailto:rs364y@att.com">rs364y@att.com</a>
CenturyLink / Level 3	Jimmy Young	(352) 303-2430	<a href="mailto:james.young2@lumen.com">james.young2@lumen.com</a>
City of Pensacola	Ryan Novota	(850) 435-1755	<a href="mailto:rnovota@cityofpensacola.com">rnovota@cityofpensacola.com</a>
Cox Communications	Troy Young	(850) 857-4510	<a href="mailto:troy.young@cox.com">troy.young@cox.com</a>
Emerald Coast Utilities Authority <i>(ECUA)</i>	Brandon Knight	(850) 969-6650	<a href="mailto:brandon.knight@ecua.fl.gov">brandon.knight@ecua.fl.gov</a>
FDOT ITS	Greg Reynolds	(850) 330-1782	<a href="mailto:william.reynolds@dot.state.fl.us">william.reynolds@dot.state.fl.us</a>
Gulf Power Company <i>(Distribution)</i>	Chad Swails	(850) 429-2446	<a href="mailto:chad.swails@nexteraenergy.com">chad.swails@nexteraenergy.com</a>
Pensacola Energy	Diane Moore	(850) 474-5319	<a href="mailto:dmoore@cityofpensacola.com">dmoore@cityofpensacola.com</a>
Quanta Telecommunication <i>(for Verizon-MCI)</i>	Russell Ribblett	(678) 836-5610	<a href="mailto:rribblett@quantatelcom.com">rribblett@quantatelcom.com</a>
Uniti Fiber	Kyle Hill	(850) 544-1400	<a href="mailto:james.hill@uniti.com">james.hill@uniti.com</a>
Verizon Business <i>(MCI)</i>	Thomas Broyles	(850) 475-7465	<a href="mailto:thomas.broyles@verizon.com">thomas.broyles@verizon.com</a>



ATKINS

2114 AIRPORT BLVD., SUITE 1450  
PENSACOLA, FLORIDA 32504  
PHONE NO. 850.478.9844  
CERTIFICATE OF AUTHORIZATION NO. 24

LANDSCAPE ARCHITECT OF RECORD

ALYSSA GARCIA  
FL LA NO. 6667475

DRAWN BY: HIL

DESIGNED BY: AG

CHECKED BY: JK

APPROVED BY: JLG

PROJECT NUMBER: 100070786

DRAWING NUMBER: C0.02

GARDEN STREET LANDSCAPING

GENERAL NOTES

APPROVED BY							
DATE							
REVISIONS							
NUMBER							





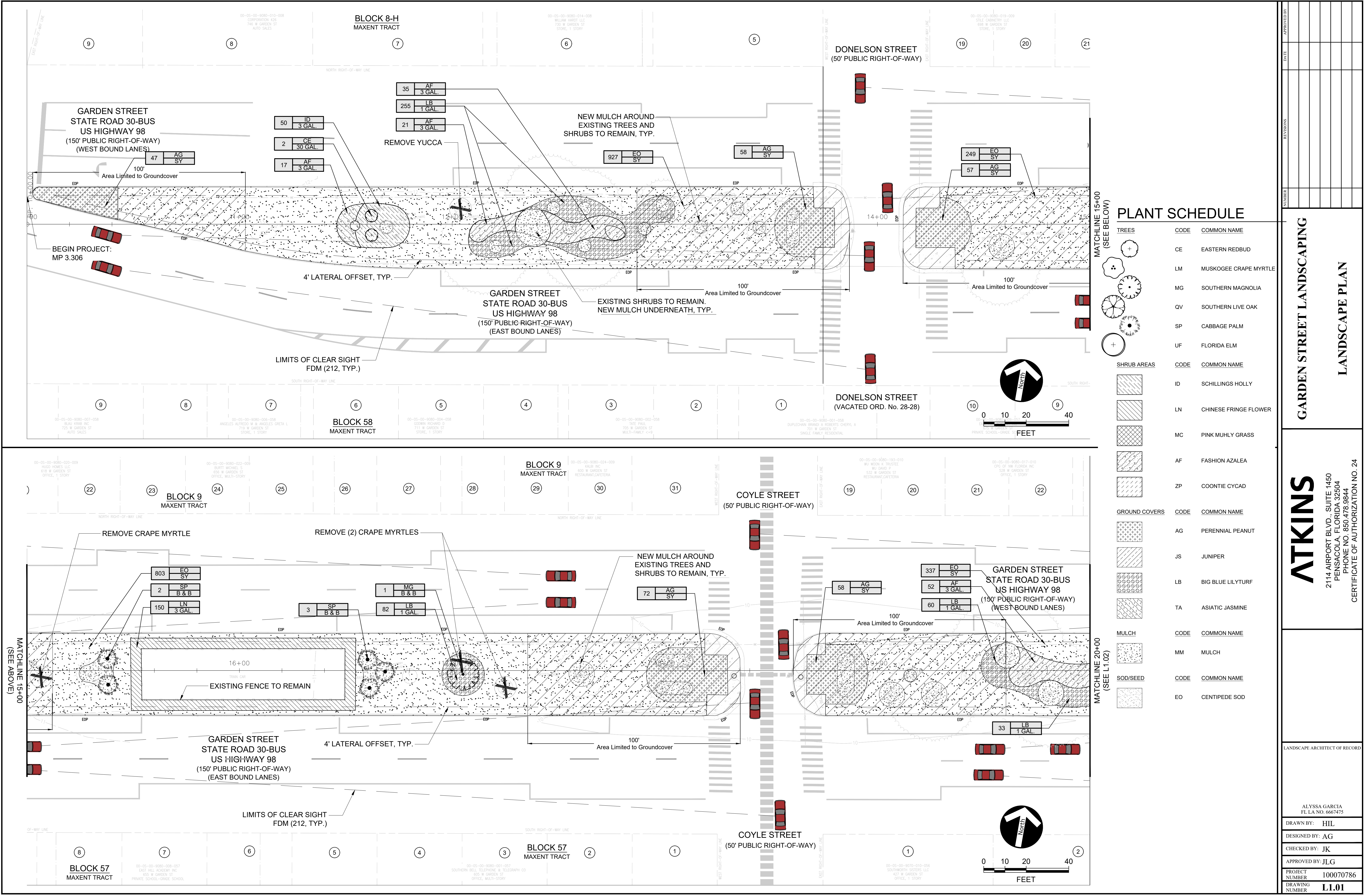






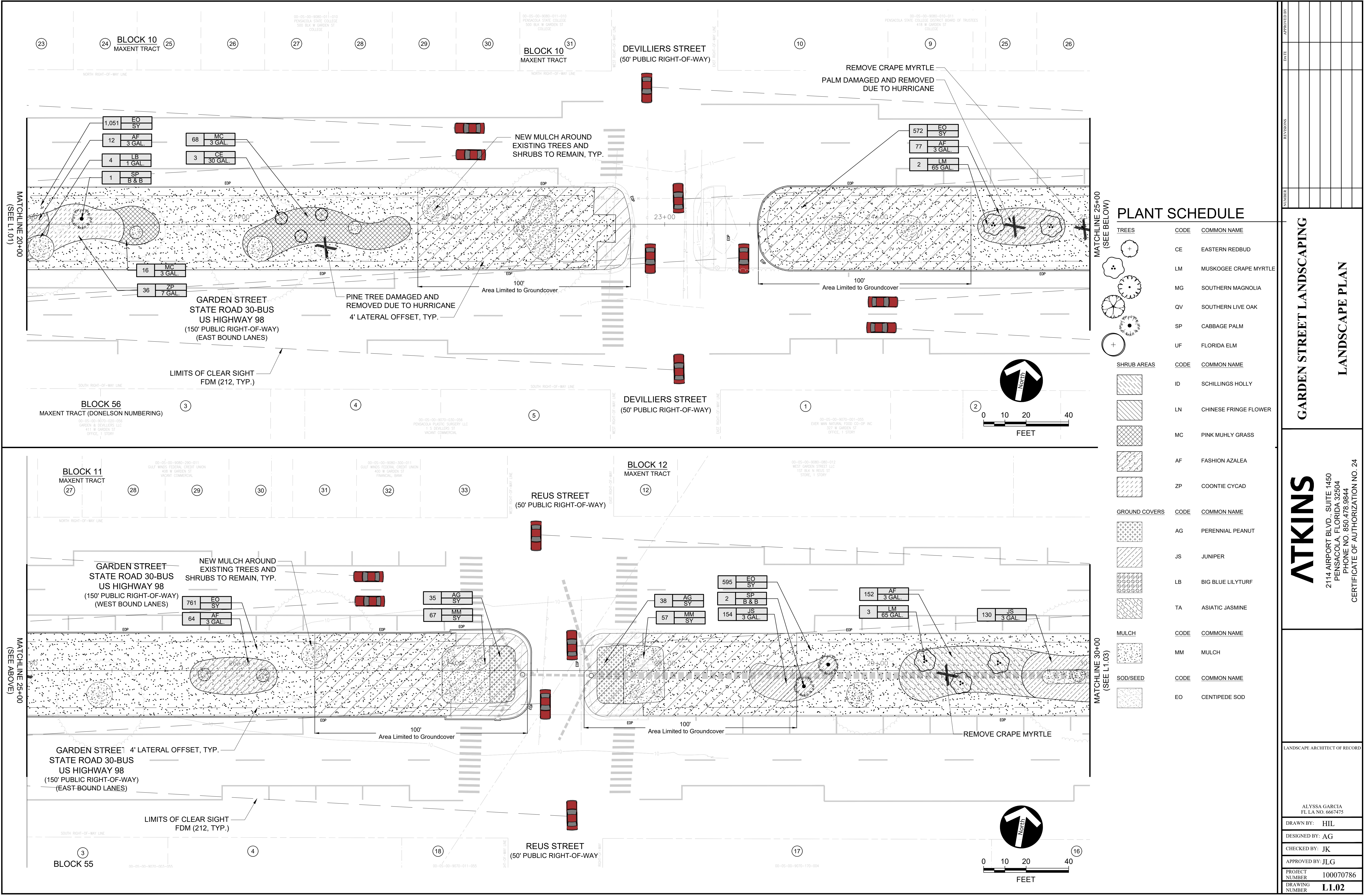


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GARDEN STREET LANDSCAPING

LANDSCAPE PLAN

ATKINS

2114 AIRPORT BLVD., SUITE 1450  
PENSACOLA, FLORIDA 32504  
PHONE NO. 850.478.9844

CERTIFICATE OF AUTHORIZATION NO. 24

LANDSCAPE ARCHITECT OF RECORD

ALYSSA GARCIA  
FL LA NO. 6667475

DRAWN BY: HIL

DESIGNED BY: AG

CHECKED BY: JK

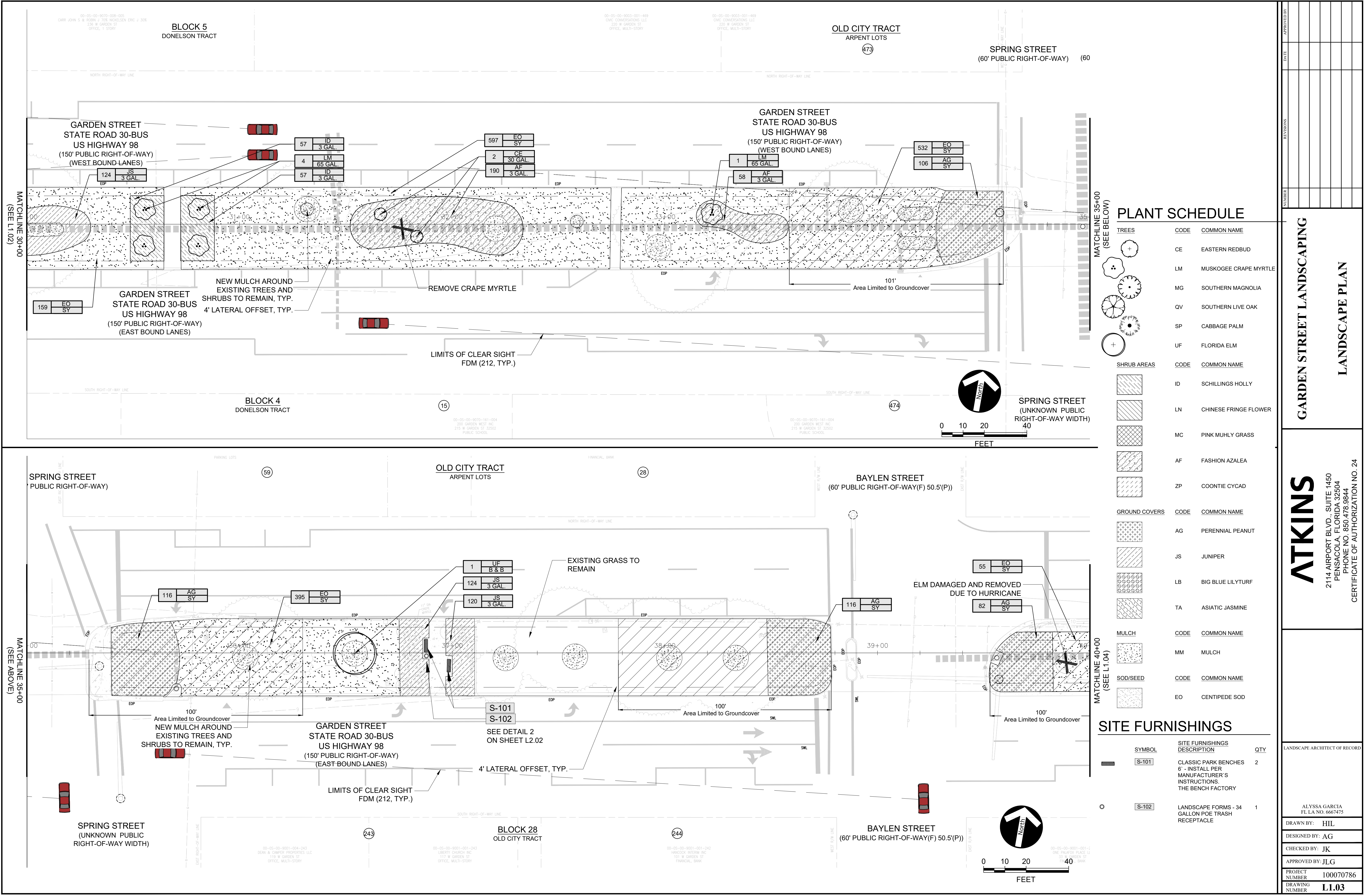
APPROVED BY: JLG

PROJECT NUMBER 100070786

DRAWING NUMBER L1.02



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DATE	
REVISIONS	
NUMBER	

**GARDEN STREET LANDSCAPING**

**LANDSCAPE PLAN**

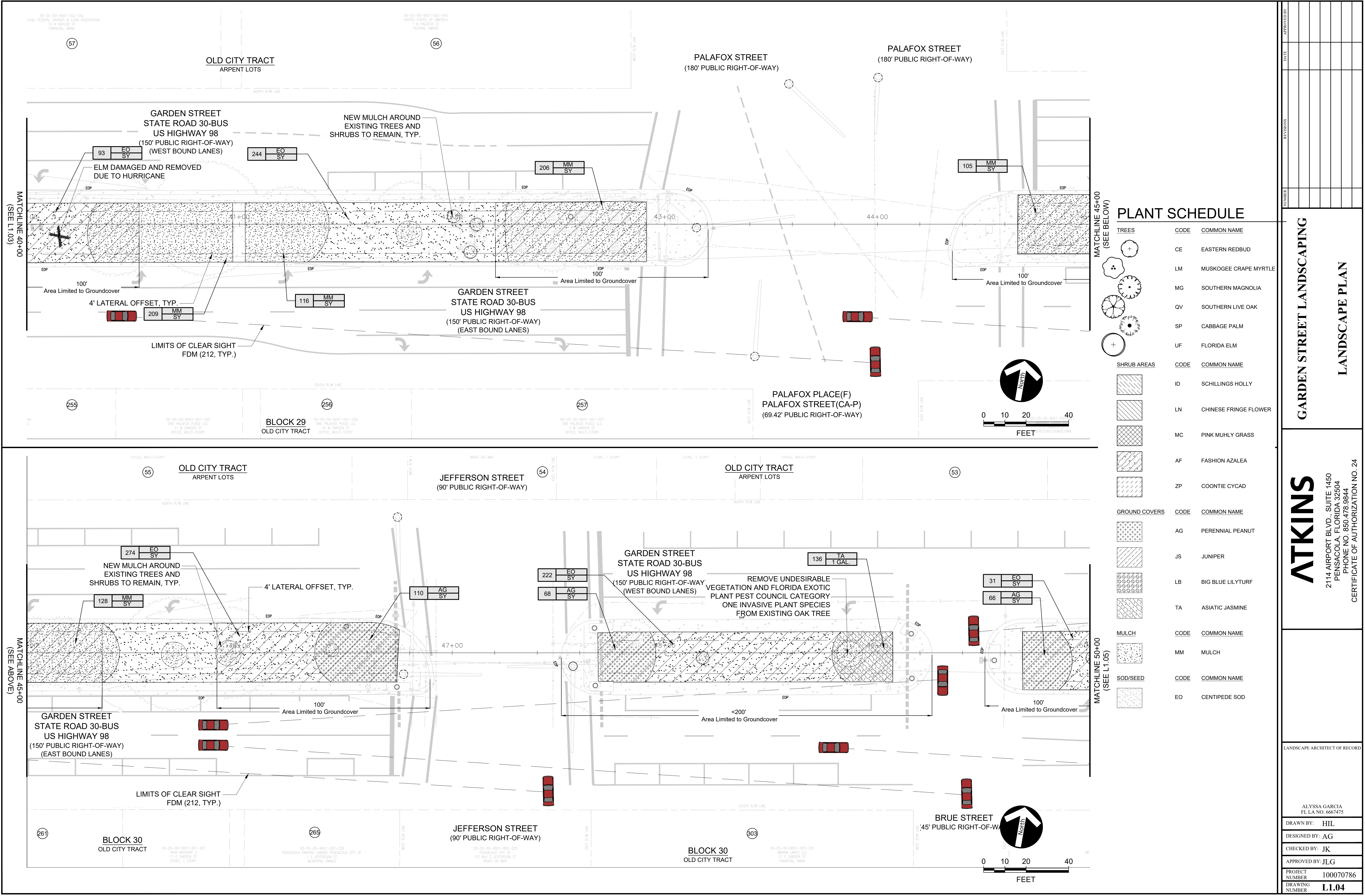
**ATKINS**

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PENSACOLA, FLORIDA 32504  
PHONE NO. 850.478.9844  
CERTIFICATE OF AUTHORIZATION NO. 24

LANDSCAPE ARCHITECT OF RECORD	
ALYSSA GARCIA FL LA NO. 6667475	
DRAWN BY:	HIL
DESIGNED BY:	AG
CHECKED BY:	JK
APPROVED BY:	JLG
PROJECT NUMBER	100070786
DRAWING NUMBER	L1.03

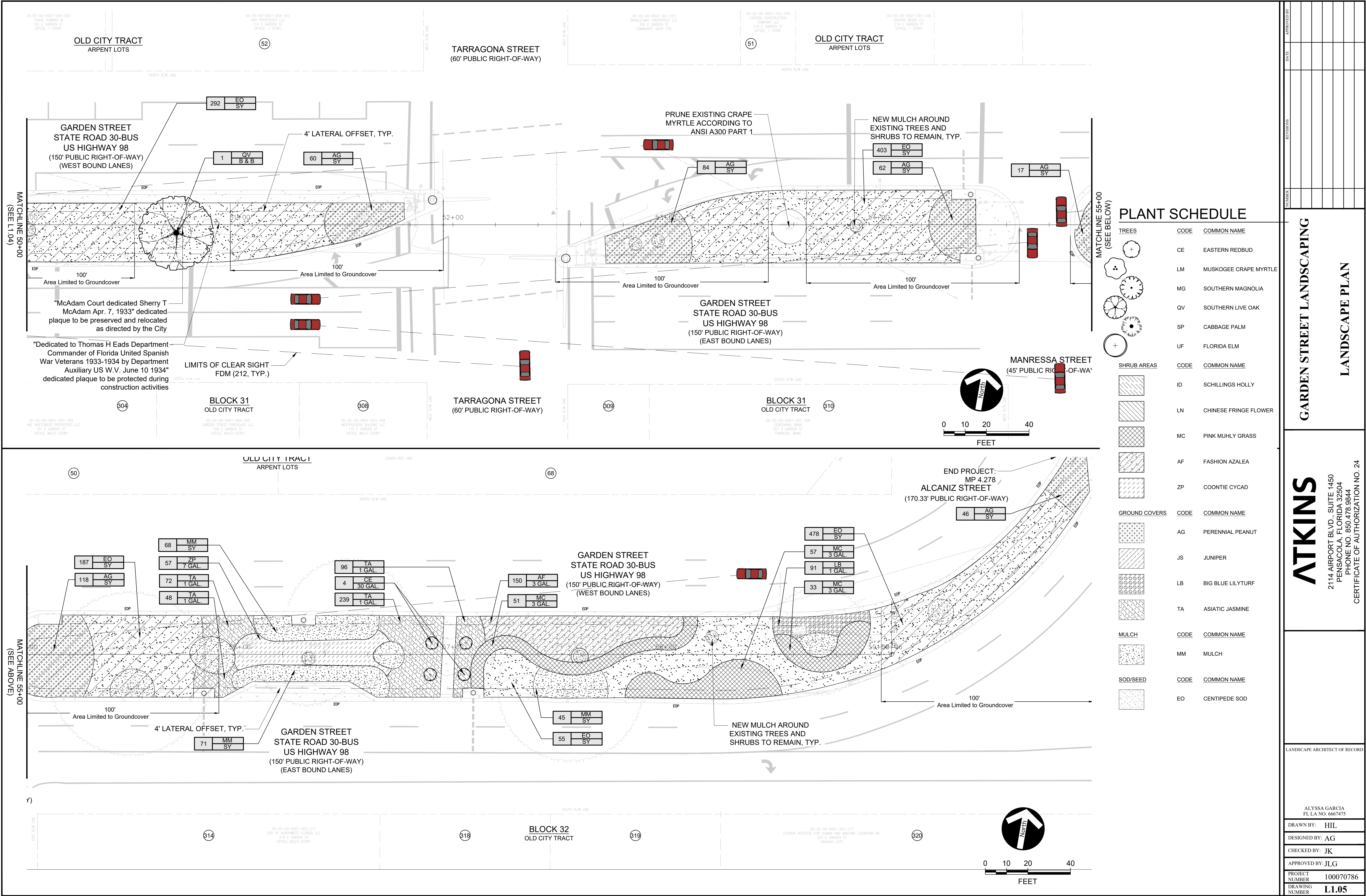


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GARDEN STREET LANDSCAPING

ATKINS

2114 AIRPORT BLVD., SUITE 1450  
PENSACOLA, FLORIDA 32504  
PHONE NO. 850.478.9844  
CERTIFICATE OF AUTHORIZATION NO. 24

LANDSCAPE ARCHITECT OF RECORD

ALYSSA GARCIA  
FL LA NO. 6667475

DRAWN BY: HIL

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PROJECT NUMBER 100070786

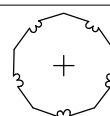
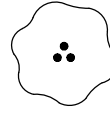
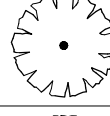
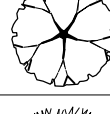
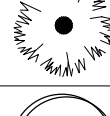





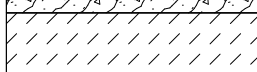
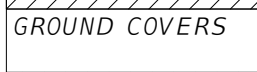




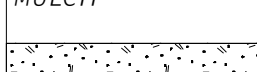
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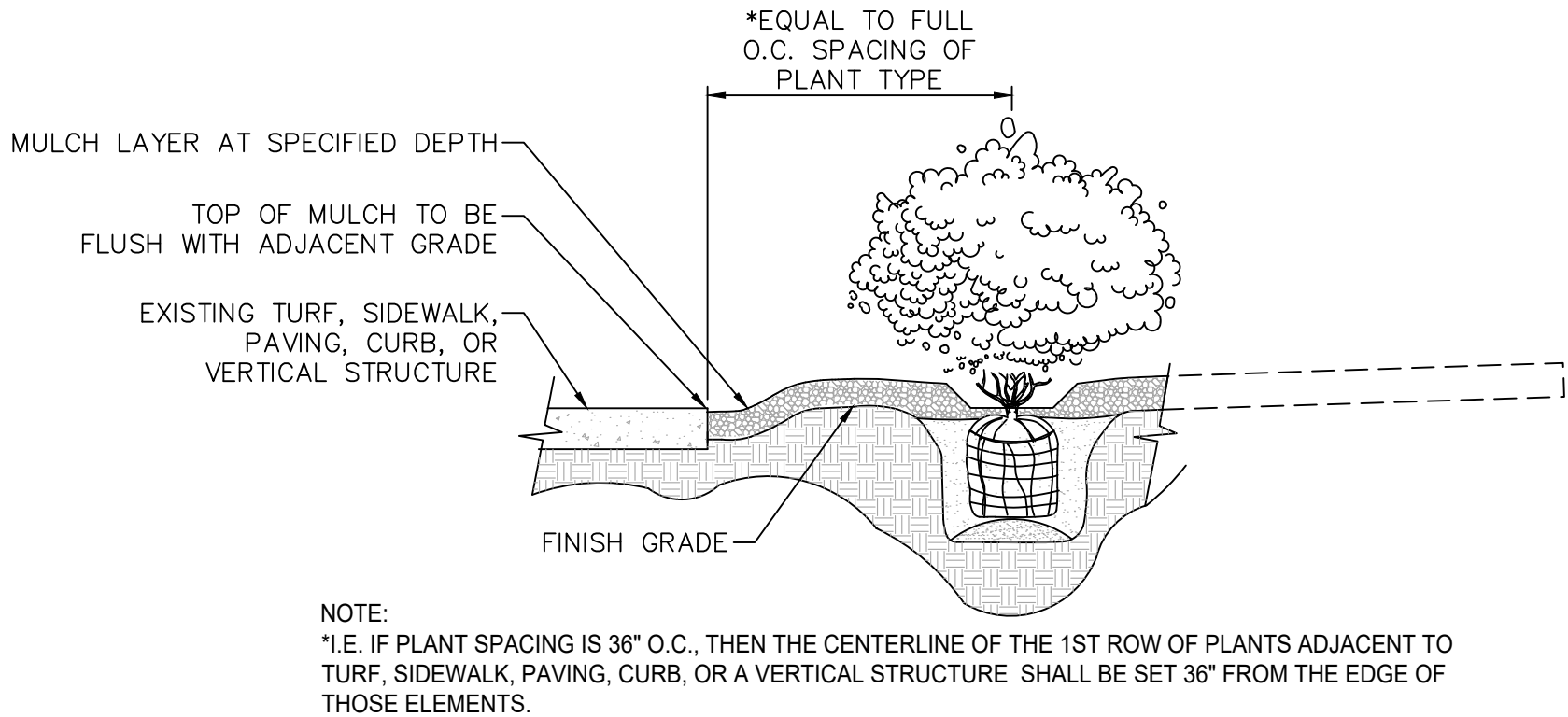
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PLANT SCHEDULE

TREES	CODE	QTY	BOTANICAL NAME	COMMON NAME	SIZE		REMARKS
	CE	11	CERCIS CANADENSIS	EASTERN REDBUD	30 GAL.		8'-10' HT. X 4'-5' SPR.; 1.5"-2" CAL.; MULTI-TRUNK
	LM	10	LAGERSTROEMIA INDICA X FAURIEI 'MUSKOGEE'	MUSKOGEE CRAPE MYRTLE	65 GAL.		14'-18' HT, MULTI-TRUNK
	MG	1	MAGNOLIA GRANDIFLORA 'BRACKEN'S BROWN BEAUTY'	SOUTHERN MAGNOLIA	B & B		14'-16' HT.; 3"-3.5" CAL.; MIN. 2' CT
	QV	1	QUERCUS VIRGINIANA	SOUTHERN LIVE OAK	B & B		B & B, 30'-40' HT, 15'-25' SPR, 14"-16" CAL, SINGLE TRUNK
	SP	8	SABAL PALMETTO	CABBAGE PALM	B & B		8'-14' CT, REGENERATED ROOTS; STAGGER CLEAR TRUNK HEIGHTS TO PROVIDE A MINIMUM 3' CT DIFFERENCE TO ADJACENT PALMS
	UF	1	ULMUS AMERICANA FLORIDANA	FLORIDA ELM	B & B		10'-12' HT, 3'-4" CAL.
SHRUB AREAS	CODE	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING	REMARKS
	ID	164	ILEX VOMITORIA 'SCHILLINGS DWARF'	SCHILLINGS HOLLY	3 GAL.	36" o.c.	1'-2' OA
	LN	150	LOROPETALUM CHINENSE RUBRUM	CHINESE FRINGE FLOWER	3 GAL.	36" o.c.	12"-18" OA, FULL
	MC	225	MUHLENBERGIA CAPILLARIS	PINK MUHLY GRASS	3 GAL.	48" o.c.	2' HT
	AF	834	RHODODENDRON X 'FASHION'	FASHION AZALEA	3 GAL.	36" o.c.	1'-1.5' HT., FULL
	ZP	93	ZAMIA PUMILA	COONTIE CYCAD	7 GAL.	48" o.c.	1.5'-2' OA, FULL
GROUND COVERS	CODE	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING	REMARKS
	AG	1,416	ARACHIS GLABRATA 'ECOTURF'	PERENNIAL PEANUT	SY		SOD
	JS	652	JUNIPERUS CHINENSIS 'BLUE PACIFIC'	JUNIPER	3 GAL.	24" o.c.	1'-1.5' SPRD, FULL
	LB	525	LIRIOPE MUSCARI 'BIG BLUE'	BIG BLUE LILYTURF	1 GAL.	24" o.c.	12" OA, FULL
	TA	591	TRACHELOSPERMUM ASIATICUM	ASIATIC JASMINE	1 GAL.	24" o.c.	FULL, MIN. 12" VINES
MULCH	CODE	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING	REMARKS
	MM	1,943	PINE STRAW	MULCH	SY		
SOD/SEED	CODE	QTY	BOTANICAL NAME	COMMON NAME	CONT	SPACING	REMARKS
	EO	9,418	EREMOCHLOA OPHIUROIDES	CENTIPEDE SOD	SY		

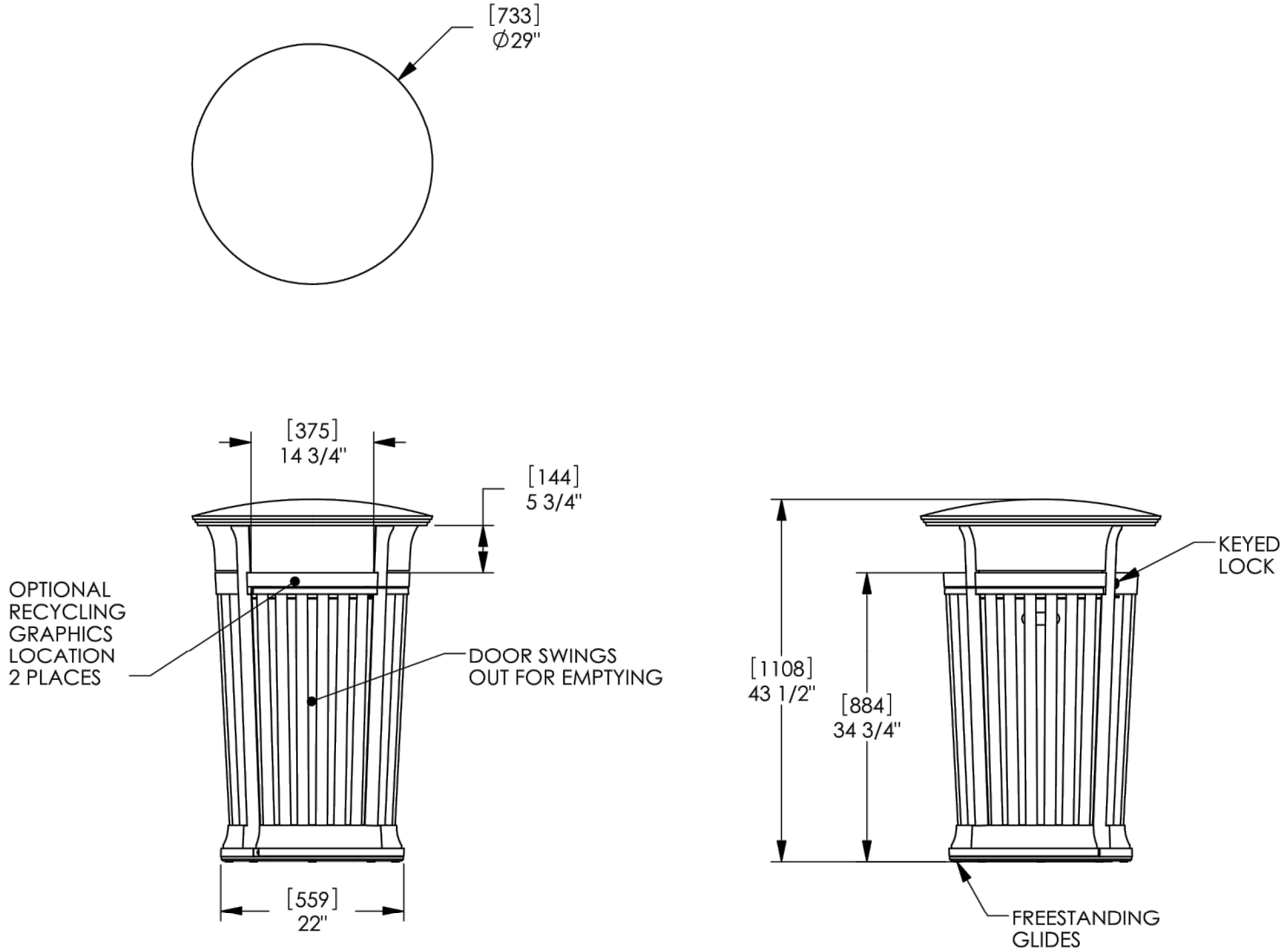
REFERENCE NOTES SCHEDULE

SYMBOL	SITE FURNISHINGS DESCRIPTION	QTY
<div>S-101</div>	THE BENCH FACTORY - CLASSIC PARK BENCHES 6' - INSTALL PER MANUFACTURER'S INSTRUCTIONS.	2
<div>S-102</div>	LANDSCAPE FORMS - 34 GALLON POE TRASH RECEPTACLE INSTALL PER MANUFACTURER'S INSTRUCTIONS.	1



1  
L2.02 PLANT SPACING AT PERIMETER OF BED DETAIL

Poe Side Opening Receptacle, 34 Gallon, standard opening, with lock  
Product Drawing  
Date: 8/31/2011  
www.landscapiforms.com Ph: 800.521.2546



landscapiforms® Drawing: PO257-04  
Dimensions are in inches [mm]  
U.S. Patent No. D643,987

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2  
L2.02 LANDSCAPE FORMS - POE TRASH RECEPTACLE

- Install per the Manufacturer's Specifications
- Side Opening
- 34-Gallon
- One Liner
- Powder Coat Color - Storm Cloud

GARDEN STREET LANDSCAPING

LANDSCAPE SCHEDULE & DETAILS

ATKINS

2114 AIRPORT BLVD., SUITE 1450  
PENSACOLA, FLORIDA 32504  
PHONE NO. 850.478.9844  
CERTIFICATE OF AUTHORIZATION NO. 24

LANDSCAPE ARCHITECT OF RECORD

ALYSSA GARCIA  
FL LA NO. 6667475

DRAWN BY: HIL

DESIGNED BY: AG

CHECKED BY: JK

APPROVED BY: JLG

PROJECT NUMBER: 100070786

DRAWING NUMBER: L2.02

APPROVED BY

DATE

REVISIONS

NUMBER



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STORMWATER POLLUTION PREVENTION PLAN

1. SITE DESCRIPTION

- A. NATURE OF CONSTRUCTION ACTIVITY:  
THE CONSTRUCTION ACTIVITY INCLUDES 0.951 MILES OF LANDSCAPE ENHANCEMENTS.
- B. SEQUENCE OF MAJOR SOIL DISTURBING ACTIVITIES:  
IN THE SEDIMENT AND EROSION CONTROL PLAN, THE CONTRACTOR SHALL PROVIDE A DETAILED SEQUENCE OF CONSTRUCTION FOR ALL CONSTRUCTION ACTIVITIES. THE CONTRACTOR SHALL FOLLOW THE SEQUENCE OF MAJOR ACTIVITIES DESCRIBED BELOW, UNLESS THE CONTRACTOR PROPOSES A DIFFERENT SEQUENCE THAT IS EQUAL OR BETTER AT CONTROLLING EROSION AND TRAPPING SEDIMENT AND IS APPROVED IN WRITING BY THE ENGINEER.

SEQUENCE:

1. CONSTRUCT EROSION CONTROL
2. CLEAR & GRUB
3. CREATE LANDSCAPE BEDS
4. PLANT TREES AND SHRUBS
5. PLACE MULCH OR SOD PRIOR TO REMOVING EROSION CONTROL

- C. AREA ESTIMATES:
- |                             |             |
|-----------------------------|-------------|
| TOTAL SITE AREA:            | 3.315 ACRES |
| TOTAL AREA TO BE DISTURBED: | 3.315 ACRES |

- D. RUNOFF DATA:
- RUNOFF COEFFICIENTS:
- |         |      |
|---------|------|
| BEFORE: | 0.20 |
| DURING: | 0.50 |
| AFTER:  | 0.20 |

OUTFALL INFORMATION:

ANY RUNOFF FROM THE PROJECT MUST TRAVEL THROUGH APPROXIMATELY 0.5 MILES OF CLOSED STORM SEWER SYSTEM BEFORE ULTIMATELY DISCHARGING TO PENSACOLA BAY.

E.LOCATION OF DRAINAGE AREAS:  
THE PROJECT IS LOCATED IN SECTIONS 42, 43, 45, & 46 TOWNSHIP 2 SOUTH RANGE 30 WEST OF THE US GEOLOGICAL SURVEY (USGS) COORDINATE SYSTEM. THE SITE IS LOCATED ON SR 30B (US 98B) IN ESCAMBIA COUNTY, FLORIDA.

F.NAME OF RECEIVING WATERS:  
PENSACOLA BAY

G. WETLAND AREAS:  
TOTAL WETLAND IMPACTS = THERE ARE NO WETLANDS

H. USE THE PLAN SET KEYSHEET, LAYOUT SHEET AND PLANS TO LOCATE PROJECT IN LIEU OF A SITE MAP.

2. CONTROLS

THE FOLLOWING DISCUSSION DEFINES GENERAL GUIDELINES FOR THE SEQUENCE OF CONSTRUCTION AND THE USE OF STABILIZATION AND STRUCTURAL PRACTICES. THE EROSION AND SEDIMENT CONTROL IS IDENTIFIED IN THE FDOT STANDARD SPECIFICATIONS.

THE CONTRACTOR IS RESPONSIBLE FOR DOCUMENTING THIS PORTION OF THE SWPPP IN THE EROSION CONTROL PLAN.

A. EROSION AND SEDIMENT CONTROLS:  
FOR EACH CONSTRUCTION ACTIVITY, INSTALL PERIMETER CONTROLS AFTER CLEARING AND GRUBBING NECESSARY FOR INSTALLATION OF CONTROLS BUT PRIOR TO BEGINNING OTHER WORK. REMOVE PERIMETER CONTROLS ONLY AFTER ALL UPSTREAM AREAS ARE STABILIZED.

B. STORMWATER MANAGEMENT:  
EXISTING STORMWATER MANAGEMENT AREAS (SWALES, CULVERTS, ENDWALLS, ETC) ARE TO BE MAINTAINED UNLESS DISTURBED BY CONSTRUCTION. THE PROPOSED SWALES AND CULVERT EXTENSIONS SHOWN IN THE PLANS ARE DESIGNED TO PROVIDE CONVEYANCE TO THE EXISTING OUTFALLS.

C. OTHER CONTROLS:

a.OFFSITE VEHICLE TRACKING:  
LOADED HAUL TRUCKS ARE TO BE COVERED WITH TARPS, EXCESS DIRT ON ROADWAY IS TO BE REMOVED DAILY.

b.FERTILIZER & PESTICIDE:  
FERTILIZER WILL BE APPLIED IN ACCORDANCE WITH SECTION 570 OF THE SPECIFICATIONS.

c.APPROVED STATE AND LOCAL PLANS AND PERMITS:  
NONE

3. MAINTENANCE:

THE FOLLOWING DISCUSSION DEFINES GENERAL GUIDELINES FOR THE MAINTENANCE OF STABILIZATION AND STRUCTURAL PRACTICES.

THE CONTRACTOR IS RESPONSIBLE FOR DOCUMENTING THIS PORTION OF THE SWPPP IN THE EROSION CONTROL PLAN.

ITEM: PROPOSED MAINTENANCE: REPLACEMENT INTERVAL:  
SEDIMENT BARRIER IN ACCORDANCE WITH SPECIFICATION 104 1 YEAR

4. INSPECTION:  
QUALIFIED PERSONNEL SHALL INSPECT THE FOLLOWING ITEMS AT LEAST ONCE DAILY. WHERE SITES HAVE BEEN FINALLY STABILIZED, INSPECTION SHALL BE CONDUCTED AT LEAST ONCE MONTHLY.

\*DISTURBED AREAS OF THE SITE THAT HAVE NOT BEEN FINALLY STABILIZED.  
\* AREAS USED FOR STORAGE OF MATERIALS THAT ARE EXPOSED TO PRECIPITATION.  
\* STRUCTURAL CONTROLS & STORMWATER MANAGEMENT SYSTEMS.  
\* LOCATIONS WHERE VEHICLES ENTER OR EXIT THE SITE.

5. NON-STORMWATER DISCHARGES:

THE CONTRACTOR IS RESPONSIBLE FOR DOCUMENTING THIS PORTION OF THE SWPPP IN THE EROSION CONTROL PLAN. IF CONTAMINATED SOIL OR GROUNDWATER IS ENCOUNTERED, CONTACT THE FLORIDA DEPARTMENT OF TRANSPORTATION, DISTRICT 3, ENVIRONMENTAL MANAGEMENT OFFICE.

6. PERMITS

A. CONTRACTOR SHALL OBTAIN A NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT FOR CONSTRUCTION ACTIVITIES AND SHALL ABIDE BY NPDES PERMIT CONDITIONS. CONTRACTOR MAY UTILIZE THE STORM WATER POLLUTION PREVENTION PLAN (SWPPP) INCLUDED IN THESE PLANS OR PROVIDE HIS OWN SWPPP FOR NPDES PERMITTING.

B. COST FOR OBTAINING AN NPDES PERMITS AND FOR ABIDING BY ALL PERMIT CONDITIONS SHALL BE BORNE BY THE CONTRACTOR.

C. CONTRACTOR SHALL PROVIDE A COPY OF HIS NPDES PERMIT NOI TO THE CITY OF PENSACOLA OFFICE OF THE CITY ENGINEER.

NUMBER	REVISIONS		DATE	APPROVED BY

GARDEN STREET LANDSCAPING

STORM WATER POLLUTION  
PREVENTION PLAN

ATKINS

2114 AIRPORT BLVD., SUITE 1450  
PENSACOLA, FLORIDA 32504  
PHONE NO. 850.478.9844  
CERTIFICATE OF AUTHORIZATION NO. 24

LANDSCAPE ARCHITECT OF RECORD

ALYSSA GARCIA  
FL LA NO. 6667475

DRAWN BY: HIL

DESIGNED BY: AG

CHECKED BY: JK

APPROVED BY: JLG

PROJECT NUMBER 100070786

DRAWING NUMBER C1.01

TRAFFIC CONTROL NOTES:

1. LANE CLOSURES ARE PROHIBITED UNLESS PERMISSION IS GRANTED FROM FDOT IN WRITING. THE ENGINEER SHALL COORDINATE ALL LANE CLOSURE REQUEST WITH FDOT. LANE CLOSURES ARE NOT ALLOWED BETWEEN THE HOURS OF 7:00 AM AND 9:30 PM. PERFORM WORK DURING DAYLIGHT HOURS MONDAY THROUGH FRIDAY UNLESS EXPRESS PERMISSION IS GRANTED FROM THE CITY OF PENSACOLA AND FDOT. LANE CLOSURES WILL ALSO BE PROHIBITED DURING SPECIAL SCHOOL EVENTS. CONTACT THE LOCAL SCHOOL BOARD ADMINISTRATION OFFICE FOR INFORMATION, DATES, AND TIME OF THESE EVENTS.
2. ALL LANES MUST BE REOPENED TO NORMAL TRAFFIC WITHIN 12 HOURS OF AN EVACUATION NOTICE FOR A HURRICANE OR ANY OTHER EMERGENCY EVENT AND SHALL REMAIN OPEN UNTIL OTHERWISE DIRECTED BY THE ENGINEER.
3. EXISTING REGULATORY SPEED SHALL BE USED FOR TRAFFIC CONTROL DURING CONSTRUCTION.
4. CONTRACTOR MAY UTILIZE ON-STREET PARKING ADJACENT TO THE MEDIAN IN ACCORDANCE WITH FDOT STANDARD PLANS 102-602. ON-STREET PARKING MAY BE TEMPORARILY CLOSED ONE BLOCK AT A TIME DURING CONSTRUCTION ACTIVITIES.

TRAFFIC PHASING NOTES:

PHASE I

1. INSTALL ALL TRAFFIC CONTROL DEVICES IN ACCORDANCE WITH REQUIRED STANDARD PLANS DEPENDENT ON OPERATION TO BE PREFORMED. INSTALL SIDE STREET SIGNAGE PER STANDARD PLANS 102-600.

PHASE II

1. MARK EXISTING UNDERGROUND UTILITIES IN AREAS OF PLANTING AND INSTALLATION.
2. INSTALL IRRIGATION AS SPECIFIED IN THE DESIGN-BUILD IRRIGATION NOTES & PLANS.
3. COMPLETE TREE, SHRUB/NATIVE GRASS, AND GROUNDCOVER PLANTING IN ACCORDANCE WITH THE LANDSCAPE PLANS.

PHASE III

1. INSTALL FINAL MULCHING AND SODDING.
2. REMOVE ALL TRAFFIC CONTROL DEVICES AND ALL CONSTRUCTION SIGNAGE.

ENGINEER OF RECORD

MICHAEL E. REID  
FL PE NO. 50542

DRAWN BY: HIL

DESIGNED BY: AG

CHECKED BY: JK

APPROVED BY: MER

PROJECT NUMBER100070786

DRAWING NUMBERT1.01

ATKINS

2114 AIRPORT BLVD., SUITE 1450  
PENSACOLA, FLORIDA 32504  
PHONE NO. 850.478.9844  
CERTIFICATE OF AUTHORIZATION NO. 24

GARDEN STREET LANDSCAPING

TRAFFIC CONTROL PLAN

REVISIONS

DATE

APPROVED BY

NUMBER






# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00047

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

QUASI-JUDICIAL HEARING - FINAL SUBDIVISION PLAT - THE LANDING AT DEVILLIERS

**RECOMMENDATION:**

That City Council conduct a quasi-judicial hearing on February 10, 2022, to consider approval of the Final Subdivision Plat - The Landing at DeVilliers.

**HEARING REQUIRED:** Quasi-Judicial

**SUMMARY:**

Robert C. Krasnosky, PE, is requesting Final Subdivision Plat approval for a new residential subdivision, The Landing at DeVilliers, located along the east side of DeVilliers Street between LaRua Street and Jackson Street at 514 North DeVilliers Street. The proposed subdivision includes a total of twelve (12) townhome lots and one (1) common parcel. The proposed subdivision is located in the R-NCB zoning district and is also within the CRA Urban Design Overlay. The Final Plat complies with lot size requirements and has been reviewed by applicable City Departments for compliance with both state and local regulations. Future development will be required to conform to the aesthetic design standards of the CRA Overlay.

On January 11, 2022, the Planning Board unanimously recommended approval of the request.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**CITY ATTORNEY REVIEW:** Yes

1/11/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator

David Forte, Deputy City Administrator - Community Development

Sherry Morris, AICP, Development Services Director

**ATTACHMENTS:**

- 1) The Landing at DeVilliers Final Plat Application
- 2) Planning Board Minutes January 11, 2022 - DRAFT

**PRESENTATION:** No



## SUBDIVISION PLAT

### **Please Check Application Type:**

#### Minor Subdivision (< 4 lots)

☐ Preliminary & Final Plat Submission

Fee: \$2,000.00

[Resubmittal: 1/2 the initial fee; Rescheduling to Planning Board / City Council: \$250.00]

#### Subdivision (> 4 lots)

☐ Preliminary Plat Submission

Fee: \$1,000.00 + \$25/lot

☒ Final Plat Submission

Fee: \$1,500.00 + \$25/lot

#### Applicant Information

Name: Robert C. Krasnosky, PE

Address: 7201 N. 9th Avenue, Suite 6

Pensacola, FL 32504

Phone: 850-471-9005

Fax: 850-471-0093

Email: charlie@kh-a.com

#### Owner Information (if different from applicant)

Name: Nathan Mansfield

Address: 5512 Timber Creek Drive

Pace, FL 32571

Phone: 850-232-2798

Fax: \_\_\_\_\_

Email: nmtile@msn.com

#### Property Information

Location/Address: East side of De Villiers St. between La Rua St. and Jackson St. 514 North De Villiers St.

Subdivision Name: West King Tract

# of Parcels to be Subdivided: 6

Parcel ID #(s): See attached

# of Existing Lots: 5

# of Proposed Lots: 12

Total Acreage: 0.77

Legal Description: Please attach a full legal description from deed or survey

Type of Subdivision: X Residential\* \_\_\_\_\_ Non-Residential

[\*If residential, see reverse for open space requirement]

Will a Variance from the Subdivision Regulations be requested for the project (Sec. 12-8-7)? \_\_\_\_\_ YES X NO

If yes, specify exact variance requested: \_\_\_\_\_

I, the undersigned applicant, understand that payment of these fees does not entitle me to approval of this plat and that no refund of these fees will be made. Also, I understand that any resubmissions based on non-compliance with City subdivision and/or development requirements will result in one-half (1/2) the initial application fee. I have reviewed a copy of the applicable zoning and subdivision requirements and understand that I must be present on the date of the Planning Board meeting.

Robert C. Krasnosky

Signature of Applicant  
(Owner of Property or Official Representative of Owner)

12/8/2021

Date

#### FOR OFFICE USE ONLY

Zone: \_\_\_\_\_ District: \_\_\_\_\_

Date Received: \_\_\_\_\_ Case Number: \_\_\_\_\_

Application Fee: \_\_\_\_\_ Receipt #: \_\_\_\_\_

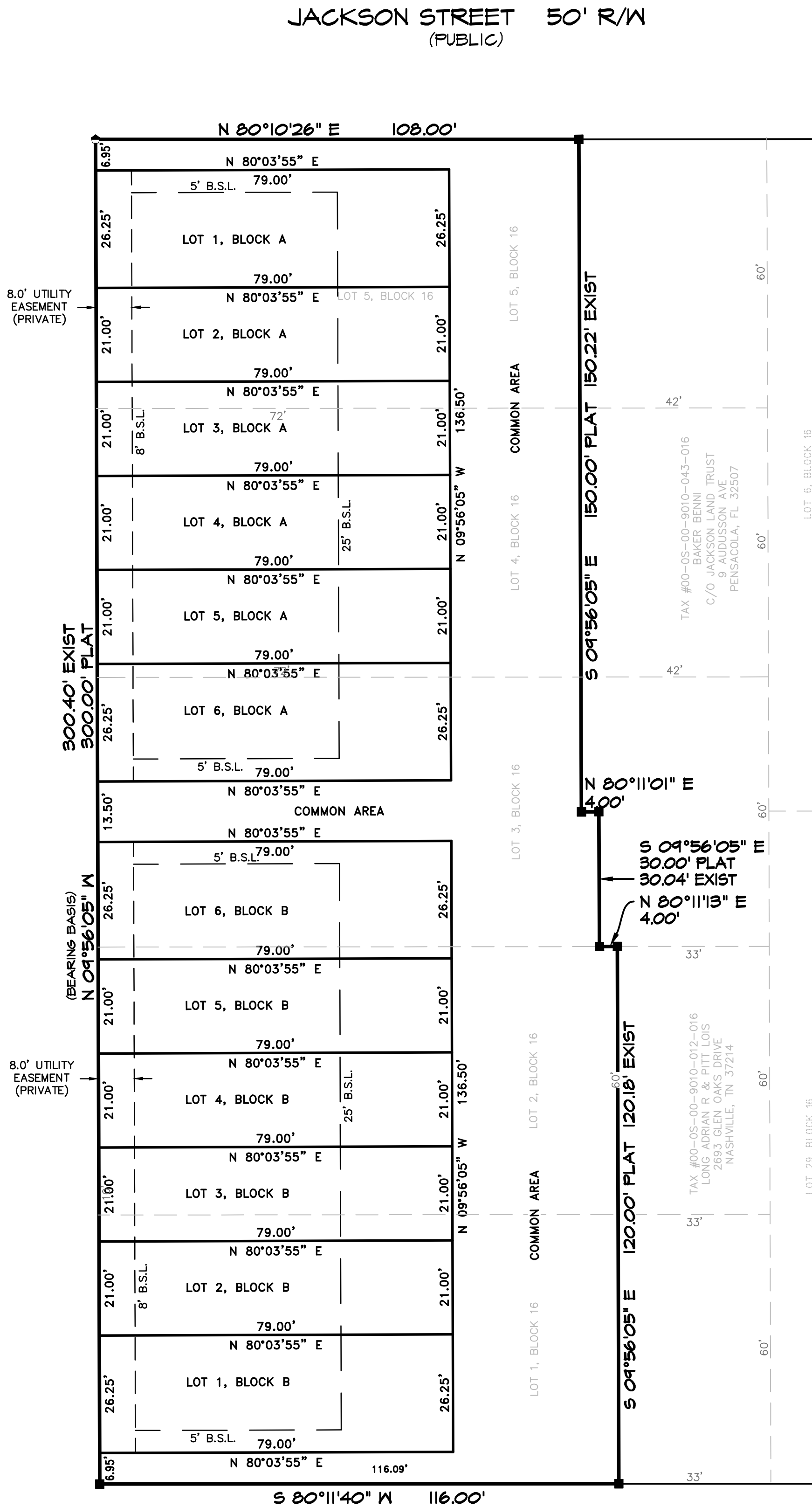
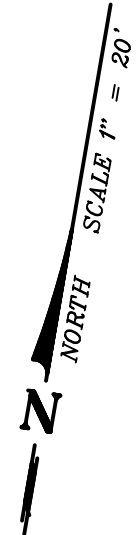
Open Space Requirement (acres or \$): \_\_\_\_\_ Receipt #: \_\_\_\_\_

Planning Board Date: \_\_\_\_\_ Recommendation: \_\_\_\_\_

Council Date: \_\_\_\_\_ Action: \_\_\_\_\_

Recording Date: \_\_\_\_\_ Map Bk/Pg: \_\_\_\_\_

DeVilliers Street 50' R/W  
(PUBLIC)



JACKSON STREET 50' R/W  
(PUBLIC)

LA RUA STREET 50' R/W  
(PUBLIC)

**SURVEYOR**  
David D. Glaze PSM#5605  
Pittman, Glaze & Associates  
5700 North Davis Highway  
Suite 2  
Pensacola, FL 32503  
Phone: 850-434-6666

**ENGINEER**  
Robert C. Krasnosky, Jr. PE#49949  
Kenneth Horne & Associates, Inc.  
7201 North Ninth Avenue  
Suite 6  
Pensacola, FL 32504  
Phone: 850-471-9005

**DEVELOPER**  
Nathan Mansfield  
Mansfield Home Properties, LLC  
5512 Timber Creek Drive  
Pace, FL 32571  
Phone: 850-232-2798

**LEGAL DESCRIPTION:**

The West 108 feet of Lots 4 and 5 and of the North Half of Lot 3, Block 16, West King Tract, Belmont Numbering, in the City of Pensacola, Escambia County, Florida, according to map of said city copyrighted by Thomas C. Watson in 1906.  
The West 112 feet South Half of Lot 3, Block 16, West King Tract, Belmont Numbering, in the City of Pensacola, Escambia County, Florida, according to map of said city copyrighted by Thomas C. Watson in 1906.  
The West 116 feet of Lots 1 and 2, Block 16, West King Tract, Belmont Numbering, in the City of Pensacola, Escambia County, Florida, according to map of said city copyrighted by Thomas C. Watson in 1906.

**SURVEYOR'S NOTES:**

- 1) FB Denotes Plat Book
- 2) PG Denotes Page
- 3) PI Denotes point of Intersection
- 4) ■ Denotes Permanent Referenced Monument Set #T073
- 5) ● Denotes 1/2" Capped Iron Rod Set #T073
- 6) ▲ Denotes Permanent Control Point (PCP) LB #T073
- 7) The sign ( ° ) means degrees, The sign ( ' ) means feet or minutes, The sign ( " ) means seconds.
- 8) Measurements made in accordance to United States Standards.
- 9) All dimensions on curves are arc distances.
- 10) Subject to setbacks, easements and restrictions of record.
- 11) There may be additional restrictions that are not recorded on this plat that may be found in the Public Records of this County.
- 12) Bearings are based upon the the east right of way DeVilliers Street as North 09°56'05" West (grid north)
- 13) Utility easements as shown hereon are to include cable television in accordance with Plat Act Chapter 177.091(28).
- 14) There are entrance marker or subdivision signs proposed.

**NOTICE:**

This plat, as recorded in its graphic form, is the official depiction of the subdivided lands described herein and will in no circumstances be supplanted in authority by any other graphic or digital form of the plat. There may be additional restrictions that are not recorded on this plat may be found in the public records of this County.

**AVIGATION EASEMENT**

The overall plat is subject to an Avigation Easement.

**CABLE TELEVISION NOTE:**

All platted utility easements as shown hereon shall also be easements for the construction, installation, maintenance, and operations of cable television in accordance with and subject to the provisions of Section 177.091 (28) Florida Statutes.

**ZONING INFORMATION**

- As furnished by City of Pensacola, Planning Services Division
1. Current zoning: R-NCB
  2. Overlay District: CRA Urban Design Overlay
  3. Future Land Use: C, Commercial
  4. Density: The maximum density is 35 DU/acre.
- Parking: One space is required per DU.

**FLOOD STATEMENT:**

I hereby certify that the subject property is located in Flood Zone "X", areas determined to be outside the 0.2% annual chance floodplain and is not in a Special Flood Hazard Area as determined by Federal Emergency Management Agency (FEMA). Reference Community Panel Number 12033C043906. Effective September 29, 2006.

**BUILDING SETBACK LINES:**

Front = 8 feet  
Rear = 25 feet  
Side = 0 feet or 5 feet, as depicted

**DEDICATION**

Know all men by these present that Mansfield Home Properties, LLC owner of the land herein described and platted hereon, known as the Landing at DeVilliers, hereby dedicate to and hereby authorize and request the filing of this plat in the Public Records of Escambia County, Florida. And hereby further dedicate to The Landing at DeVilliers Homeowners Association, Inc., the common area and private utility easement.

Witness  
Print  
Signature  
By: Nathan Mansfield  
Position  
Signature

**STATE OF FLORIDA, COUNTY OF ESCAMBIA**

Before the subscriber personally appeared \_\_\_\_\_, known to me to be the individuals described herein and who executed the foregoing instrument and acknowledged that they executed the same for the uses and purposes herein set forth. They are personally known to me and they did not take an oath. Given under my hand and official seal this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Notary Public, State of Florida  
My commission expires \_\_\_\_\_  
My commission number \_\_\_\_\_

**CERTIFICATE OF COUNTY CLERK**

I, Pam Childers, Clerk of Courts of Escambia County, Florida hereby certify that this plat complies with all the requirements of the Plat Act Chapter 177 Florida Statutes and the same was recorded on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 in Plat Book \_\_\_\_\_ at Page \_\_\_\_\_ of the public records of said County.

Pam Childers, Clerk of Courts

**CITY COUNCIL CERTIFICATE**

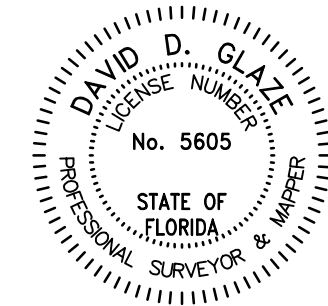
I, Ericka L. Burnett, City Clerk of the City of Pensacola, Florida hereby certify that this plat was presented to the City Council at its meeting held on the \_\_\_\_\_ day of \_\_\_\_\_, 2021 and was approved by said Council.

Pam Childers, Clerk of Courts

**SURVEYOR'S CERTIFICATE**

The undersigned hereby certifies that this plat is a true and correct presentation of the land described herein, that said land has been subdivided as indicated, that permanent reference monuments (P.R.M.) have been placed as indicated, that the survey was made under my responsible direction and supervision and that the survey data complies with all requirements of The Plat Act Chapter 177.011 - 177.151 Florida Statutes, and the Minimum Technical Standards as set forth by the Florida Board of Professional Land Surveyors in Chapter 5J-17.050 to 5J-17.026, Florida Administration Code, Signed this 7th day of December, 2021.

David D. Glaze  
Registered Land Surveyor No. 5605, LB No. 7073  
Pittman, Glaze & Associates  
700 North 9th Avenue  
Pensacola, FL 32501

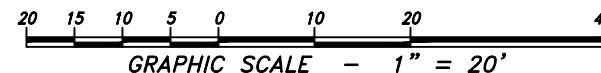


**CERTIFICATE OF PLAT REVIEW**

This is to certify that this plat has been reviewed for conformity to Florida Statutes Chapter 177, Part I, by the undersigned Surveyor and Mapper for the City of Pensacola on this \_\_\_\_\_ day of \_\_\_\_\_, 2021.

Leslie D. Odum  
Professional Surveyor and Mapper  
Florida Certification No. 6520

**THE LANDING AT DeVILLIERS**  
A PLANNED UNIT DEVELOPMENT BEING  
A RE-SUBDIVISION OF A PORTION OF BLOCK 16,  
WEST KING TRACT, BELMONT NUMBERING,  
IN THE CITY OF PENSACOLA, SECTION 28,  
TOWNSHIP 2 SOUTH, RANGE 30, WEST  
ESCAMBIA COUNTY, FLORIDA  
DECEMBER 2021



RESTRICTIVE COVENANTS FILED IN OFFICIAL RECORDS BOOK \_\_\_\_\_, PAGE \_\_\_\_\_.

PLAT BOOK \_\_\_\_\_, PAGE \_\_\_\_\_.



## **MINUTES OF THE PLANNING BOARD**

### **January 11, 2022**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Vice Chairperson Larson, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Villegas

**MEMBERS ABSENT:** Board Member Van Hoose

**STAFF PRESENT:** Assistant Planning & Zoning Manager Cannon, Historic Preservation Planner Harding, Building Official Bilby, Urban Design Specialist Parker, Help Desk Technician Russo

**STAFF VIRTUAL:** Development Services Director Morris, Senior Planner Statler

**OTHERS PRESENT:** Charlie Krasnosky, Brad Carter

### **AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from December 14, 2021
- **New Business:**
  - Request for Final Plat Approval - The Landing at DeVilliers Subdivision
  - Open Forum
  - Discussion – 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 Board meeting including requirements for audience participation.

**Approval of Meeting Minutes** - Board Member Villegas made a motion to approve the December 14, 2021 minutes, seconded by Board Member Sampson, and it carried 6 to 0.

### **New Business –**

#### **Request for Final Plat Approval – The Landing at DeVilliers Subdivision**

Robert C. Krasnosky, PE is requesting final plat approval for The Landing at DeVilliers Subdivision located along the east side of DeVilliers Street between La Rua and Jackson Street. This property is located in the R-NCB - Residential/neighborhood commercial - B

zoning district and CRA district. Six (6) parcels will be subdivided into twelve (12) lots to accommodate single-family attached residences.

Chairperson Ritz advised all the comments had been addressed, and staff advised Section 12-7-3 addressed the requirements for final plat approval indicating it must substantially adhere to the preliminary plat, and there had been no changes.

Mr. Krasnosky addressed the Board and stated he had nothing to add. Board Member Powell asked if there was any information on what the final plans would look like, and Mr. Krasnosky indicated they had elevations and floor plans as well as a progressive landscape plan; they did not have the real estate to do onsite mitigation, but the future site plan would contain additional landscaping to reduce the amount of mitigation required. He explained the developer, Mr. Carter, had reached out to Eddie Todd who was very supportive and appreciative of their efforts. Board Member Powell stated that while gentrification was an issue and was going to happen, her biggest fear was this property would look the same as other properties which showed no progress and was glad they had put some thought into the development. Chairperson Ritz advised since this project was in the CRA district, those regulations would take priority. Board Member Powell explained she wanted to see their vision for that area. Board Member Villegas pointed out they were to meet with the Belmont DeVilliers Association next month and asked if they were going to present their future plans at that time. Mr. Carter advised his wife would be presenting the plans in the meeting at the request of Mr. Todd. He also clarified the parking would be rear access with a garage for each unit and a designated parking area. Mr. Krasnosky advised they would have stormwater retention and attenuation in the southeast corner – a vertical retention pond. Staff advised the City Surveyor comments had been addressed, and this item would proceed to the February City Council meeting.

**Board Member Villegas made a motion for approval, seconded by Board Member Powell, and it carried 6 to 0.**

**Open Forum – None.**

#### **Discussion – Tree Ordinance Discussion Item**

Staff advised that CRA staff had previously proposed amendments to the CRA overlay district, and as part of that process it was recommended that setback reductions for heritage trees should be applied citywide. There was also a revision to the language regarding who had the authority to approve setback reductions.

Mr. Bilby advised they did not want the arborist to be the sole designee making setback deviations, and stated the mayor or their designee, and possibly someone from the planning and building side could render the decision. His concern was with granting a setback deviation which might constitute a fire separation issue with the Florida Building Code; this language had been added to *e. Setback Reductions* to make sure it was codified.

Board Member Villegas asked when writing the ordinances, if it were possible to indicate local flora instead of trees and shrubs which do not necessarily work in our environment. Chairperson Ritz advised the LDC contained lists which tend to be local native, but there were some which were not; because it was a legislative action, the City's legislature had the ultimate approval for those lists. Since Mr. Bilby reviews most of the landscaping plans, he advised if a developer submits plans, whether it is a mitigation condition or a landscape provision, they were required to pick certain species on that list when meeting the landscape provisions. However, they could deviate from that list and plant other species

in conjunction with that. The required plantings must be on the replant list, but they could add other plantings as well, and an ordinance revision would be needed to change that requirement. He explained it was their feeling that once the arborist was onboard, he or she could formulate a better list to submit to Council at that point. He explained if you had a heritage tree on a lot at the edge of a setback, it would allow you to reduce the setback on the other side, shift the structure over, and save the existing heritage tree; the intent was to allow flexibility on the land to move the structure and save that existing heritage tree. It was determined if a neighbor had a problem with this issue, staff would review the circumstances. Mr. Bilby advised the setback deviation would ultimately be reviewed by himself and the Planning Director to give some building flexibility; it would need to be a staff decision and not just one person. Board Member Grundhoefer pointed out the language gave authority to make that decision. Chairperson Ritz asked would this get bogged down if a Board would see a request of this type in a public forum, and Board Member Grundhoefer explained if you were the neighbor, you might want that forum to present your concerns.

Board Member Sampson asked about saving trees which would reduce parking, and Chairperson Ritz explained that was another issue, but there had been discussion on reducing parking spaces in order to save trees. Chairperson Ritz pointed out if it was just a staff decision, the neighbor would not know until the structure was built legally, and there would be no recourse. If the Planning Board was involved, then the building official and arborist could be requested to attend that meeting. Mr. Bilby advised a lot of developers do not want to seek a variance and take the course of removing the tree. But if there was a way to allow this without a variance process, we could save a few more trees which was the intent of this process. Maybe a notification process would be necessary to give neighbors a chance to voice their concerns.

Board Member Powell suggested instead of having the neighbors come before the Board, just notify the persons who would be affected at the time of the reviewing process, giving them a time period in which to respond to the persons making the decisions; if they did not respond, it would not go any further; if they did respond, the person making the decision would review and make a decision with their input. Assistant Planning & Zoning Manager Cannon explained staff already has the authorization to make administrative variances up to a certain point for setbacks, but in this case, they would be justifying it for saving a heritage tree without creating another process that could potentially create delays in permitting. Staff also noted that the Zoning Board of Adjustments (ZBA) was already the reviewing entity for reductions to setbacks. Historic Preservation Planner Harding explained a member of the public had the opportunity to appeal a decision of the staff which would go before the ZBA; if a staff member made a decision which someone had an issue with, it could then be forwarded to the ZBA. Heritage tree issues had been before the ZBA and the Architectural Review Board as well. These boards were only allowed to create the minimum setback variance requirement, and this verbiage mimics that minimum granting.

Chairperson Ritz trusted the staff to review the request and avoid the zero-lot line in a residential district. Mr. Bilby stated the fire setbacks for residential were 3' from the lot line, and no case would be approved closer than 3'. You could do additional fire ratings which would require the builder to do extra modifications to the house. This is where staff would draw the line in trying to save the tree to make sure the project was not too close to that lot line. Historic Preservation Planner Harding pointed out he had seen administrative variances denied by staff, and that they do weigh and evaluate each situations according

to the circumstances of the adjacent area.

Chairperson Ritz explained this document would return to the Board for any additional revisions and for public input. He personally was not for neighbor involvement. Board Member Villegas indicated the conversation could be good or bad, and felt if the process was there to be dealt with in the best way possible, she had no problem with the process. Staff advised a certified arborist would be onboard for those decisions. It was determined this document would come before the Board as an agenda item.

**Adjournment** – With no further business, the Board adjourned at 2:34 p.m.

Respectfully Submitted,

Cynthia Cannon, AICP  
Assistant Planning & Zoning Manager  
Secretary to the Board





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

File #: 22-00151

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

APPROVAL OF THE TERM SHEET BETWEEN THE CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC (INSPIRED) FOR THE DEVELOPMENT OF LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK

**RECOMMENDATION:**

That the City Council approve in concept the term sheet between the City of Pensacola and Inspired Communities of Florida, LLC. The Mayor or designee will then use this term sheet to negotiate a final lease that will be returned to City Council for their approval.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On June 30 2021, the City Council received proposals from firms interested in developing lots 4 and 5 at the Community Maritime Park (CMP). Three qualified proposals were received. On July 28, 2021, the Council ranked Carson-Lovell as the #1 ranked firm and authorized the Mayor or his designee to attempt negotiations with this firm for a period of 60 days. These negotiations were ultimately unsuccessful; so the City began negotiations with Inspired as the #2 ranked firm.

The Mayor is now ready to recommend and request that the council approve in concept the terms with Inspired for the lease of lots 4 & 5. These terms include:

- 500-600 rental apartments
  - Built in 2 phases
  - Total completion of both phases by January 1, 2028
  - Will require transferring density from other parcels
- Between 10,000 and 50,000 square feet of commercial space
- At least \$110,000,000 in capital investment
- Construction of a 900 space parking garage with an estimated total cost of \$22,500,000.
  - The City will pay for 50%
  - Inspired will retain ownership of the garage
  - The city will operate and maintain the garage
- Ground Lease of \$500,000 annually commencing as follows:
  - Upon receipt of a certificate of occupancy for the first phase (no later than 1/1/25),

- \$325,000 annually if development occurs first on the northern half of the site and
  - \$275,000 annually if development occurs first on the southern half of the site
  - Upon receipt of certificate of occupancy for phase 2 (no later than 1/1/28), \$500,000
  - Lease will increase 5% every 5 years
- City will rebate 75% of the total taxes paid to the Urban Core Community Redevelopment Agency (CRA) for the first 10 years of each phase of development and 50% of the second 10 years of each phase of development commencing with the CO's issued for each phase.
  - The tax rebate granted for phase 2 will run beyond the sunset date of the Urban Core CRA. The City will need to make the final tax rebate payments from other available revenue sources.

**PRIOR ACTION:**

April 22, 2021 - City Council approved the publication of the public notice for disposition of Lots 4 and 5 at the Community Maritime Park for redevelopment.

July 12, 2021 - City Council approved the scheduling of a special meeting regarding the redevelopment submitting groups and ranking

July 28, 2021 - City Council ranked the submittals for Parcels 4 & 5 and set in place a mechanism for movement to the next in line if negotiations fail.

October 14, 2021 - City Council rejected an MOU from Carson Lovell, seemingly then moving to the next in line, Inspired Communities

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

The intent of these terms is to present to the City Council a lease that will have a net positive return over the life of the Urban Core Community Redevelopment Agency

**LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes**

1/31/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Click or tap here to enter text.

**ATTACHMENTS:**

- 1) ICF Maritime 45 Term Sheet Final

**PRESENTATION:** No

**TERM SHEET**  
**PROPOSED GROUND LEASE BETWEEN THE CITY OF PENSACOLA AND**  
**INSPIRED COMMUNITIES OF FLORIDA, LLC**

**January 31, 2022**

This Term Sheet outlines the basis upon which the City of Pensacola (the “City”) would lease to Inspired Communities of Florida, LLC (“ICF”) certain real property owned by the City consisting of Lot 4 and Lot 5 of the Community Maritime Park in Pensacola, Florida as shown on Exhibit A attached hereto (the “Property”). The proposed transaction is subject to the negotiation, execution and delivery by the City and ICF of a mutually acceptable and legally binding definitive Option agreement and Lease consistent with the following provisions:

**PROJECT:**

ICF proposes to develop a mixed-use project consisting of up to 600 apartments across two phases, up to 50,000 square feet (but no less than 10,000 square feet) of ground floor retail, and approximately 900 parking spaces (the “Parking Garage”) to be constructed by ICF. City shall have input into the garage design. Upon completion and C.O. of the garage, ownership of the garage shall be retained by ICF. City shall be responsible for operating, managing, and maintaining the garage, subject to the rights of ICF as set forth in the Ground Lease. ICF shall have parking rights in the garage for approximately 350 exclusive parking spaces (locations near apartment entrances) and 200 shared parking spaces pursuant to the terms of the Ground Lease, and shall pay its pro rata share of garage expenses including all operating, maintenance, taxes and renewal and replacement costs. City parking rights in the Parking Garage shall be for 350 exclusive spaces, and 200 shared spaces. The design and construction costs of the Parking Garage shall be shared equally (50/50) between ICF and the City. Final determination of parking deck size, design, configuration, number of spaces, and allocation of exclusive and shared parking between ICF and City shall be determined within the first 180 days of the Option term, informed in a collaborative process with consultation and input from parking design professionals

The use of the Property will be broken down into three parts as follows:

- Phase 1a - The Parking Garage will have approx. 900 parking spaces that will be used jointly by the Project and the surrounding parcels. Parties acknowledge that the ultimate design may allow a portion of such Garage to be built along with Phase 1b, and the remaining portion to be built thereafter, such date to be defined in the Ground Lease. Whether this is possible will be based on the design,

as well as City determining if it can temporarily accept less than the total parking it will eventually need.

- Phase 1b will consist of approximately 250 - 300 apartment units and up to 50,000 square feet (but no less than 10,000 square feet) of retail space.
- Phase 2 will consist of approximately 250-300 apartment units.
- The City will guarantee a five-hundred and forty-seven (547) units of residential density. ICF will need to secure any addition density through existing land development code bonuses for green building, design excellence, and affordable housing or transfer available density between parcels under which ICF has residential density rights.

**OPTION  
AGREEMENT:**

The Parties will execute an Option agreement acceptable to ICF and the City whereby ICF will have the exclusive right to enter into a ground lease for the Property on terms and conditions set forth in the Ground Lease (as defined below) that will be attached to the Option Agreement for the duration of the Option Period (as defined below). In consideration for the Option Agreement, ICF will pay the City a non-refundable (but applicable as credit against building permit fees) option fee equal to \$3,480 per month, effective March 1, 2022, until the expiration of the Option Period (the "Option Payments"). ICF shall have the right to terminate the Option Agreement at any time prior to the expiration of the Option Period by giving the City not less than thirty (30) days prior written notice.

**OPTION PERIOD:**

The Option Period shall commence upon the date that the Parties execute the Option Agreement and shall expire on the date that is eighteen (18) months following the execution of the Option Agreement, which Option Period may be extended for an additional six (6) month period as more fully set forth in the Option Agreement, which Option period may be extended for an additional six (6) month period as more fully set forth in the Option Agreement.

**ICF RIGHTS DURING  
OPTION PERIOD:**

ICF, its agents, lenders, investors, and representatives designated by ICF, shall have the right to enter upon the Property for the purposes of appraising, inspecting the physical condition of, performing an environmental assessment of, take measurements, do test borings, make inspections, make survey maps, order title commitments, and to conduct geotechnical, environmental, groundwater, wetland and other studies required by ICF in its sole discretion and to determine the adequacy and suitability of the Property for ICF's intended uses thereof ("Due Diligence Investigations"). However, ICF acknowledges that a portion of the

Property is currently being utilized for parking, and this parking must be maintained during Due Diligence Investigations.

Additionally, ICF, at its sole expense shall, with the City's cooperation, use good faith commercially reasonable efforts to obtain all approvals and permits necessary (including, but not limited to, zoning, site plan approval, and permits) for the subdivision, development, use and operation of the Property to a classification for ICF's contemplated uses of the Property to include ICF's intended improvements and structures compatible with multifamily development designed to ICF's specifications, but subject to conformance with the West Main Master Plan ("Approvals").

Current zoning at Maritime Park allows for 60 residential units per acre. The Property is 4.76 acres, allowing for approximately 285 dwelling units. All Maritime Park private development parcels collectively are 12.06 acres, thus allowing approximately 723 residences on all of Maritime Park. Existing ground leases (Parcels 1 and 2) currently use 3 of these allowable units. City and ICF shall work collaboratively and within the rights of existing ground leases to effectuate density transfer within and between the Maritime Park parcels to increase the allowed density on the Property, while retaining market rate allowable density on the still undeveloped parcels. However, it is not anticipated that this density transfer will allow the 600 residences contemplated in this Term Sheet. Thus, City and ICF shall work collaboratively to effectuate additional residential density transfer from neighboring property, subject to applicable law and cooperation from neighboring property owners.

**MINIMUM  
INVESTMENT:**

ICF shall spend no less than \$110mm on total hard costs of the project (Phases 1(b) and 2), including the portion of Phase 1(a) Parking Garage to be utilized by ICF. ICF shall spend no less than \$55mm on Phase 1(b) of the Project (including the ICF portion of Phase 1(a) Parking Garage)

**TITLE MATTERS:**

City warrants and agrees that the Property will be leased to ICF free and clear of all liens, claims and encumbrances except for: (i) provisions of any general ordinance, municipal regulation, or public law; and (iii) such other matters of record as shown in a current title commitment (the "Title Commitment") that are acceptable to ICF. In the event the Title Commitment (or a current survey) discloses any matter adversely affecting title to the Property other than those enumerated above, ICF shall notify the City on or before the date that is thirty (30) days prior to the

expiration of the Option Agreement. On the earlier to occur of thirty (30) days after receipt of ICF's Title Notice or the expiration of the Option Period, the City (a) shall use its best efforts to remove the matters objected to by ICF in the Title Notice; (b) shall remove any matter that relates to a monetary obligation of the City; and (c) shall use its best efforts to remove any matters which adversely affect title to the Property that arise from and after the issuance of the Title Commitment. In the event that despite the City's best efforts it is unable to provide for the removal of an objectionable matter, then ICF may either (x) terminate the Option Agreement or (y) extend the Option Agreement for such time as may be required for the City to cure such objection (in any event not to exceed 90 days). The City shall cooperate with ICF in all respects to obtain an ALTA leasehold policy of title insurance, with the standard printed exceptions removed, in the amount of the fair market value of the Property, insuring that a leasehold interest in the Property is vested in ICF, free and clear from all liens and encumbrances, except for those matters permitted in this paragraph.

Notwithstanding the foregoing, ICF shall have the right to object to any matters which appear on an updated Title Commitment or Survey following the delivery of the Title Notice within ten (10) days upon receipt of such updated Commitment or Survey ("Post Title Notice Exceptions"). Any matters raised by ICF as a result of any Post Title Notice Exceptions shall be governed by the paragraph above.

**GROUND LEASE  
DOCUMENTS:**

The Ground Lease Agreement will be drafted using (i) the base form of ground sublease agreement typically used by the City for prior Maritime Park ground leases and (ii) that certain Master Lease Agreement, dated as of March 27, 2006 by and between the City as lessor and the City as lessee (the "Master Lease"), together with such changes that are agreeable to ICF and the City.

**MASTER LEASE  
AGREEMENT:**

The City shall terminate the Master Lease prior to the Ground Lease Commencement Date.

**GROUND LEASE  
COMMENCEMENT  
DATE:**

The date that ICF exercises its right to enter into the Ground Lease pursuant to the terms and conditions of the Option Agreement.

**GROUND LEASE  
TERM:**

The Ground Lease shall commence upon the Ground Lease Commencement Date and shall expire upon the date that is ninety-nine (99) years following the Option Exercise Date.

**GROUND LEASE  
RENT:**

ICF shall pay base rent as follows during the Ground Lease Term:

1. Commencement Date through CO of Phase 1(b) (but no later than 12/31/24): \$0
2. CO of Phase 1(b) (but no later than 1/1/25) through CO of Phase 2 (but no later than 12/31/27): If Phase 1(b) is the northern half of the property - \$325,000/year – paid in monthly installments of \$27,083.33. If Phase 1(b) is the southern half of the property - \$275,000/year – paid in monthly installments of \$22,916.67
3. CO of Phase 2 (but no later than 1/1/28) through remainder of lease term: \$500,000/year, paid in monthly installments of \$41,666.67. This amount shall increase five percent (5%) every 5 years of the lease term.
4. Ground lease rent shall be paid starting on the calendar dates listed above regardless of the execution date of the ground lease or the exercise of the one-time extension of the option contract.

**REAL ESTATE TAXES  
AND OPERATING  
EXPENSES:**

Subject to the sharing of Parking Garage costs described above and the Area Reinvestment Agreement below, ICF shall be responsible for all real estate taxes, assessments, utilities and operating expenses associated with the Property during the term of the Ground Lease, including its pro-rata share of CAM expenses for Maritime Park.

**COMPLETION  
DATES:**

ICF anticipates substantially completing the Project in accordance with the anticipated completion timeframes (the “Proposed Schedule”), which shall be extended automatically on a day-for day basis in the event of a force majeure event that prevents ICF from diligently completing the construction of the applicable portion of the Project (each a “Completion Date, and collectively, the “Completion Dates”). As used below, the term “Substantial Completion” shall mean the date upon which ICF receives a certificate of occupancy which permits it to use one hundred percent (100%) of the applicable portion of Project for its intended use:

- The completion date for phase 1(a) and 1(b) shall be January 1, 2026. The completion date for phase 2 shall be January 1, 2028. Should ICF commenced Construction but not have certificates of occupancy by these above dates, ICF can extend each of the completion dates for up to three (3) one (1) year extensions by relinquishing their tax abatements for the applicable Phase on a year by year basis as follows: for the first year the completion date is



extended, the tax abatement for that Phase shall be relinquished in year twenty (20), for a second year extension of that Phase the tax abatement shall be relinquished for year nineteen (19), for a third year extension of that Phase the tax abatement shall be relinquished for year eighteen (18). Thereafter, ICF may extend a Phase only for one (1) additional year by payment of a one-time non-refundable payment of \$150,000 per Phase. If the completion dates have still not been met, then the Ground Lease shall be amended, as more specially set forth in Construction Matters below.

**CONSTRUCTION  
MATTERS:**

ICF, at ICF's sole cost and expense, shall use commercially reasonable efforts to substantially complete the portions of the Project described in the Completion Dates section of this Term Sheet. City agrees to cooperate with ICF in this effort in all reasonable respects including without limitation execution of applications for permits to be made by the owner of the Property but without any requirement that it expend its own funds to do so.

If (a) ICF has not substantially completed Phase 1(a) and 1(b) of the Project by the applicable Substantial Completion Date (taking into account the Construction Extension Period) and is not paying property taxes based on improvements valued at no less than \$55mm, and (b) the City acting through its Mayor in his sole discretion concludes that continuing with the Ground Lease to ICF is not in the best interests of the City, then the City and ICF shall enter into good faith but exclusive negotiations for a period not to exceed sixty (60) days in order to determine whether there is common ground between them for amendments to the Ground Lease to allow for further efforts to develop the Project. In the event such negotiations are not successful within such sixty (60) day period, and subject to Lender's Rights below, the City shall have the right in its sole discretion and without cost to terminate ICF's right to develop all phases of the Project and to terminate the Ground Lease by written notice to ICF given within thirty (30) days of the end of the sixty (60) day exclusive negotiation period.

If (a) ICF has not substantially completed Phase 2 of the Project by the applicable Substantial Completion Date (taking into account the Construction Extension Period) and is not paying property taxes based on improvements valued at no less than \$110mm, and (b) the City acting through its Mayor in his sole discretion concludes that continuing with the Ground Lease of phase to ICF is not in the best interests of the City, then the City and ICF shall

enter into good faith but exclusive negotiations for a period not to exceed sixty (60) days in order to determine whether there is common ground between them for amendments to the Ground Lease to allow for further efforts to develop Phase 2 of the Project. In the event such negotiations are not successful within such sixty (60) day period, and subject to Lender's Rights below, the City shall have the right in its sole discretion and without cost to terminate ICF's right to develop Phase 2 of the Project and to amend the Ground Lease accordingly and to adjust the tax abatement equitably by written notice to ICF given within thirty (30) days of the end of the sixty (60) day exclusive negotiation period.

**AREA  
REINVESTMENT  
AGREEMENT:**

Upon completion of Phase 1 (issuance of CO), the City and Escambia County will provide ICF with (1) a 75% tax refund of the City and County's portion of the property taxes paid on Phase 1 the Property for a period of ten (10) years following the issuance of the Phase 1 CO, and (2) a 50% tax refund of the City and County's portion of the property taxes paid on the Phase 1 of the Property for an additional period of ten (10) years. Should the completion date be extended as provided for above, the tax abatement relinquishments would amend these provisions as appropriate.

Upon completion of Phase 2 (issuance of CO), the City and Escambia County will provide ICF with (1) a 75% tax refund of the City and County's portion of the property taxes paid on Phase 2 the Property for a period of ten (10) years following the issuance of the Phase 2 CO, and (2) a 50% tax refund of the City and County's portion of the property taxes paid on Phase 2 of the Property for an additional period of ten (10) years. Should the completion date be extended as provided for above, the tax abatement relinquishments would amend these provisions as appropriate.

**LENDER RIGHTS:**

The Ground Lease will contain mortgagee protective covenants in favor of ICF's mortgagees from time to time, including the right to cure any default by the ICF under the Ground Lease, a right to obtain a new Ground Lease on the same terms and conditions and with no additional payment of rent in the event of any termination of the Ground Lease without the consent of the Mortgagee, and such other protections as will allow ICF to obtain financing substantially similar in form and terms as would be available for a fee purchase of the Property.

**THIRD PARTY  
EXPENSES:**

Each Party shall be responsible for its own legal, advisory and other expenses associated with completion of this transaction.

**EXCLUSIVITY:**

During the period of negotiation of the Documents and thereafter in accordance with the Option Agreement, City shall not solicit or accept any other offers for purchase or lease of the Property.

**PARKING GARAGE  
COSTS:**

As currently contemplated, ICF and City shall each be responsible for 50% of the cost to construct the Parking Garage, as the usage is anticipated to be 50/50. Should the final design and mutually agreed upon allocation of parking between ICF and City be different than 50/50, the cost sharing percentages shall be adjusted accordingly. Subject to provisions to be described in the Ground Lease, ICF shall be responsible for constructing the Parking Garage, with City paying for its 50% (or such other percentage if so determined per above) of the garage as and when payments are due under the construction contract between ICF and its contractor. The parties agree that the parking garage construction is essential to the development of Parcels 4 and 5 and the remaining parcels. ICF agrees that it will have to pay penalties or liquidated damages in the event that the construction of the parking garage is delayed through no fault of the City and not as a result of a *force majeure*. ICF understands that others who have rights in the parcels, such as Valencia, will be looking to the parking garage for utilizing their parcel to its best and highest use.

**COVENANT WITH  
THE COMMUNITY:**

ICF agrees in good faith to comply with the provisions of the Covenant in all material respects.

This Preliminary Term Sheet is not intended to be and shall not constitute a legally binding agreement to lease the Property, but each party agrees to negotiate exclusively to execute the documents described herein.

Acknowledged and Agreed to:

**City:**

**ICF**

**CITY OF PENSACOLA**

**INSPIRED COMMUNITIES OF  
FLORIDA, LLC**

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

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

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

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

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

## EXHIBIT A

### Community Maritime Park Lots 4 and 5





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00152

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

APPROVAL OF THE OPTION AGREEMENT BETWEEN THE CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC (INSPIRED) FOR LOTS 4 AND 5 AT THE COMMUNITY MARITIME PARK

**RECOMMENDATION:**

That City Council approve and authorize the Mayor to execute the Option Agreement between the City of Pensacola and Inspired Communities of Florida LLC. for the exclusive right to develop Parcels 4 and 5 of the Vince J. Whibbs Jr. Community Maritime Park, until August 31, 2023 as well as allow for one 6-month extension at the Optionee's discretion.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

In October 2018, the City entered into an option agreement with Studer Properties LLC for the exclusive right to develop and lease all of the vacant parcels at the Community Maritime Park, specifically parcels 3, 4, 5, 6, 7, 8, and 9. In March 2020, the option agreement was extended through March 31, 2021.

In October 2020, prior to the expiration of the option agreement with Studer Properties, both parties entered into a partial assignment of the option agreement with Inspired Communities of Florida for parcels 3, 6, 8, and 9. Corresponding partial assignments were also entered into with two other development groups for the remainder of the parcels - Valencia Development Group for parcel 7 and Silver Hills Development for parcels 4 and 5, with the former still in effect and the latter being no longer valid. .

The City and Inspired seek to enter into an Option Agreement that would allow Inspired to have an exclusive right to develop Parcels 4 and 5 until August 31, 2023 with the ability to extend the option for one 6-month period.

**PRIOR ACTION:**

October 1, 2018 - City enters into an Option Agreement with Studer Properties for all vacant lots in Community Maritime Park.

March 26, 2020 - City authorizes an Addendum to the Option Agreement with Studer Properties, extending the term through March 31, 2021.

April 22, 2021 - City Council approved the publication of the public notice for disposition of Lots 4 and 5 at the Community Maritime Park for redevelopment.

July 12, 2021 - City Council approved the scheduling of a special meeting regarding the redevelopment submitting groups and ranking

July 28, 2021 - City Council ranked the submittals for Parcels 4 and 5 and set in place a mechanism for movement to the next in line if negotiations fail.

October 14, 2021 - City Council rejected an MOU from Carson Lovell, seemingly then moving to the next in line, Inspired Communities.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Inspired Communities of Florida will continue to pay \$3,480 monthly per the terms of their agreement. If Inspired wishes to exercise their one 6-month extension, they agree to pay to the City one non-refundable lump-sum of \$60,000.

If Inspired exercises their option all lease payments will be credited towards building permit fees associated with the project

**LEGAL REVIEW ONLY BY CITY ATTORNEY:**

1/31/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Amy Lovoy, Finance Director

**ATTACHMENTS:**

- 1) IFC Maritime 45 Option Final

**PRESENTATION:** No

## OPTION AGREEMENT

**THIS OPTION AGREEMENT** (this “**Agreement**”), dated as of \_\_\_\_\_, 2022 (the “**Effective Date**”), is entered into between **CITY OF PENSACOLA, a Florida municipal corporation (“Optionor”)**, and **INSPIRED COMMUNITIES OF FLORIDA, LLC., a Florida limited liability corporation (“Optionee”)**. Optionor, and Optionee, their successors, and assigns, are each a “**Party**,” and collectively referred to herein as the “**Parties**”.

### RECITALS

WHEREAS, Optionor is the owner of those certain vacant parcels of land more particularly described on the attached **Exhibit “A”** (the “**Lots**” described in the description on Exhibit “A” are referred to hereinafter individually as a “**Parcel**”, and collectively as the “**Parcels**” or the “**Property**”); and

WHEREAS, the purpose of this Agreement is to provide for the development of the Property as a predominantly multifamily apartment project with retail space and a parking garage as more particularly described in this Agreement and the Lease Agreement (the “**Project**”) in order to spur the development of the western side of downtown in a cohesive way pursuant to and in accordance with the West Main Master Plan created by DPZ CoDesign and Speck & Associates dated November 24, 2019, including without limitation the design guidelines dated November 21, 2019 and the project report dated November 24, 2019 (collectively, the “**West Main Master Plan**”).

NOW, THEREFORE, in consideration of the Option Payment and the other mutual covenants and agreements hereinafter set forth and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

1. Grant of Option. Subject to Optionee's timely payment of the Option Payments (defined below), Optionor hereby grants to Optionee an irrevocable and exclusive option (the “**Option**”) to lease the Property, pursuant to a ground lease as more fully described in Section 6.

2. Option Term. The term of the Option (“**Option Term**”) shall commence on the Effective Date and automatically expire at midnight on August 31, 2023 (such date being 18 months from the Effective Date) (the “**Option Termination Date**”), unless duly extended, exercised or sooner terminated as provided below in this Agreement and specifically including the extension provisions provided in Section 3 below and the termination provisions provided in Section 9 below.

3. Extension of Option Term. Optionee shall have the right, in Optionee’s sole discretion, to extend the Option Term for an additional six (6) calendar months provided Optionee provides Optionor with at least five (5) days’ notice of such extension and subject to Optionee’s payment of the applicable Option Payment referenced in Section 4(a) below.:

4. Option Consideration.



- a. Option Payments. The Option is granted in consideration of Optionee's payment to Optionor of the "Option Payment" described below, which shall be payable by Optionee by certified check or official bank check.

Effective Date through August 31, 2023	\$3,480.00 per month
September 1, 2023 – February 28, 2024 (if applicable per Section 3)	non-refundable lump sum of \$60,000.00

If Optionee exercises the Option, the sum of all option payments will be credited towards the Optionee's payment of building permit fees in connection with the proposed project to be built on the Property.

- b. Option Payment Earned Upon Execution. Optionee acknowledges and agrees that the Option Payment constitutes consideration to Optionor for Optionor's agreement to (i) enter into this Agreement with Optionee, (ii) neither solicit for sale nor lease, nor sell nor lease the Property to another purchaser, lessee, or tenant while this Agreement is in effect, and (iii) lease the Property to Optionee on certain terms and conditions to be more particularly defined in a definitive ground lease agreement, provided that Optionee has exercised the Option in the manner provided in Section 8 below. The Option Payment shall be fully earned by Optionor, and due and owing by Optionee, upon the Parties' execution of this Agreement, and shall be non-refundable to Optionee except for (A) a default by Optionor giving Optionee the right to terminate this Agreement, (B) a termination of this Agreement pursuant to Section 9 below (but only with respect to any portion of the Option Payment accruing after the effective date of such termination); (C) a termination of this Agreement pursuant to Section 11 below, or (D) a termination of this Agreement pursuant to Section 12 below.

5. Project; Project Compliance; Parking Garage and City's Expansion Rights.

- a. Project. The Project shall include (1) a mixed-use complex consisting of up to 600 apartments across two phases, and up to 50,000 square feet (but no less than 10,000 square feet) of ground floor retail, all as more fully described in the Ground Lease Term Sheet; (3) subject to Section 5(c), a structured concrete parking garage consisting of approximately, but not less than, 900 parking spaces (being Phase 1a and sometimes referred to as the "**Parking Garage**"), which Parking Garage may be built in phases as the Parties determine.
- b. Project Compliance. Optionee shall make good faith efforts to pursue all pre-development approvals and entitlements for the Project in a commercially reasonable and diligent manner.
- c. Parking Garage. Within one hundred twenty (120) days of execution of this Agreement, Optionee and Optionor, will execute a mutually acceptable Parking Garage Agreement with respect to the Parking Garage.

6. Ground Lease Agreement. As of the Effective Date, Optionor and Optionee have agreed upon certain terms for a ground lease agreement, a copy of which is attached hereto as **Exhibit “B”** (the “**Ground Lease Term Sheet**”). The Parties agree to use the Ground Lease Term Sheet as a starting point for negotiations of a definitive ground lease agreement. The ground lease agreement will be drafted using (i) the base form of ground lease agreement typically used by the Optionor for prior Maritime Park ground leases and (ii) that certain Master Lease Agreement, dated as of March 27, 2006 by and between the Optionor, as lessor and the Optionor, as lessee (the “**Master Lease**”), together with such changes that are agreeable to Optionee and Optionor. Optionor and Optionee expressly agree that all other terms and conditions of any definitive ground lease agreement for any Parcel will be negotiated using commercially reasonable terms and conditions taking into consideration the specific use of any Parcel as proposed by Optionee. The Parties will consider in good faith, any revisions, deletions, and modifications to the final form of any ground lease agreement in working towards finalizing a mutually agreeable definitive ground lease agreement (the “**Ground Lease Agreement**”) on or before March 31, 2022.

7. Optionee Rights to Enter the Property during the Option Period. Optionee, its agents, lenders, investors, and representatives designated by Optionee, shall have the right to enter upon the Property for the purposes of appraising, inspecting the physical condition of, performing an environmental assessment of, take measurements, do test borings, make inspections, make survey maps, order title commitments, and to conduct geotechnical, environmental, groundwater, wetland and other studies required by Optionee in its sole discretion and to determine the adequacy and suitability of the Property for Optionee’s intended uses thereof (“**Due Diligence Investigations**”). In conducting the Due Diligence Investigations, Optionee agrees to not unreasonably interfere with the Property’s current use as a parking lot. Notwithstanding the foregoing, Optionee shall not conduct any test boring, excavation, drilling, or other destructive test on or of any portion of the Property or any improvements thereon without Optionor’s prior written approval, such approval not to be unreasonably withheld, conditioned or delayed. Further, Optionee shall promptly repair any damage to the Property, any improvements thereon, or any other real or personal property of Optionor or any other person resulting from any activities of Optionee, its agents, contractors, lenders, investors, or representatives to the condition that had previously existed prior to such damage. Optionee shall indemnify, defend and hold Optionor harmless from and against any and all construction or mechanics liens and all claims, liabilities, injuries and damages to persons and property (including without limitation the Property) suffered or incurred by Optionor as a result of such activities or the acts of anyone undertaking such activities for or on behalf of Optionee; provided that in no event shall Optionee be liable for any damage caused to the Property by Optionor and Optionor shall not be liable for the discovery of any adverse conditions on the Property. In the event that Optionee does not exercise the Option, then all property inspection reports, environmental site assessments, surveys and title reports shall be provided by Optionee to the Optionor within thirty (30) days after the date of expiration or earlier termination of this Option Agreement. Optionee’s obligations under this Section shall survive any exercise or termination of the Option.

8. Exercise of Option. At any time during the Option Term, Optionee may exercise the Option by timely sending Optionor a written notice of Optionee's intention to exercise the Option (“**Exercise Notice**”). The Parties agree to work diligently in good faith to enter into the Ground Lease Agreement after Optionee’s Exercise Notice. If Optionee does not timely exercise

the Option in the manner described herein on or before the Option Termination Date, the Optionor shall have the right to terminate this agreement and retain all option payments made by Optionee prior to Optionor's exercise of its right to terminate. Thereafter, neither party shall have any further obligations hereunder except for those that expressly survive termination of this Agreement.

9. Termination of Option. Optionee shall have the right, at Optionee's sole discretion to terminate this Agreement on no less than thirty (30) days' prior written notice to Optionor and after the effective date of such termination, neither party shall have any further obligations hereunder except for those that expressly survive termination of this Agreement. All option payments made by Optionee prior to and during the thirty (30) days of notice to terminate shall be retained by Optionor.

10. Damage or Destruction. If the Property is totally or partially damaged or destroyed by fire, earthquake, accident or other casualty prior to exercise of the Option through no fault of Optionee, Optionee may cancel this Agreement by giving written notice to Optionor and shall be entitled to the return of the Option Payment. However, Optionee shall have no right to cancel this Agreement if, before Optionee gives notice of cancellation to Optionor, the Property has been repaired or replaced so that it is in substantially the same condition as it was on the Effective Date.

11. Obligation to Maintain/Restrictions. During the Option Term, Optionor will maintain the Property in its existing condition and will not make any major removals, alterations or changes thereto, except as may be required by law, and shall effect no changes to the Property's zoning classification, land use, boundary lines or physical topography unless Optionee, in its sole absolute discretion, consents thereto in writing. Optionor shall keep the Property free of all liens and encumbrances, except for those in effect on even date herewith and identified in a title commitment obtained by Optionee, and delivered to Optionor on or before the Effective Date.

12. Title Matters. During the Option Term, Optionee may, at its sole expense, obtain a title insurance commitment (the "**Title Commitment**") for the issuance of an ALTA leasehold policy of title insurance, with the standard printed exceptions removed, in the amount of the fair market value of the Property, insuring that a leasehold interest in the Property will be vested in Optionee upon its timely and proper exercise of this Option, subject only to the exceptions identified in the Title commitment. In addition, during the Option Term, Optionee may, at its sole expense, obtain a current ALTA/NSPS survey (the "**Survey**") of the Property. In the event that Optionee finds objectionable any exceptions listed in the Title Commitment or any matters disclosed by the Survey (collectively, the "**Title Objections**"), Optionor shall deliver to Optionee written notice specifying the Title Objections (the "**Title Objection Notice**"). Optionor shall make good faith efforts to cure such Title Objections to Optionee's satisfaction, except that Optionor shall be obligated to cause to be cancelled or terminated of record all leases, mortgages, liens, claims of liens, and notices of commencement affecting the Property within thirty (30) days after delivery of the Title Objection Notice. In the event that despite the Optionor's best efforts it is unable to provide for the removal of an objectionable matter, then Optionee, as its sole and exclusive remedies, may either (x) terminate the Option Agreement, or (y) extend the Option Agreement for such time as may be required for the Optionor to cure such objection (in any event

not to exceed 90 days), or (z) exercise the Option in accordance with the terms of this Agreement and accept leasehold title to the Property subject to all uncured Title Objections.

Notwithstanding the foregoing, Optionee shall have the right to object to any matters which first appear on an updated Title Commitment or Survey following the delivery of the initial Title Objection Notice within ten (10) days upon receipt of such updated Commitment or Survey (the “**Post Notice Title Objections**”). Any Post Notice Title Objections shall be treated as Title Objections and governed by the immediately preceding paragraph.

13. Area Reinvestment Agreement. Concurrently with the execution of this Agreement, Optionee and the Community Redevelopment Agency of the City of Pensacola have executed a mutually acceptable Area Reinvestment Agreement with respect to the Project pursuant to Section 163.387, Florida Statutes which provides for a redevelopment incentive in an amount equal to seventy-five percent (75%) of the City of Pensacola and Escambia County’s portion of the incremental increase in property taxes resulting from the Project for a period of ten (10) years, followed by a redevelopment incentive in an amount equal to fifty percent (50%) of such incremental property tax increase for the next ten (10) years, with such time periods in each case commencing upon the issuance of a final certificate of occupancy for Phase 1a, 1b, or 2, as the case may be. Such Area Reinvestment Agreement is attached hereto as **Exhibit “C”** and incorporated herein by reference.

14. Default by Optionee. In addition to Optionor's rights in the event that Optionee does not exercise the Option in the manner described in Section 8 on or before the Option Termination Date, if Optionee fails to perform any of its monetary obligations under this Option Agreement and such failure continues for more than ten (10) days after notice from Optionor, then Optionor may terminate this Option Agreement and retain all Option Payments paid by Optionee, and neither Optionor nor Optionee shall thereafter any further liability or obligations hereunder.

15. Default by Optionor. If Optionor fails to perform any of its obligations or is otherwise in default hereunder, Optionee, as its sole and exclusive remedies, shall have the right either (1) to terminate this Option Agreement and obtain a refund of the Option Payment, or (2) to seek such other relief Optionee may have in equity, including, without limitation, seeking injunctive relief to prevent a lease, sublease, or sale of the Property to a party other than Optionee and the filing of an action for specific performance. In no event shall Optionee have the right to seek or recover monetary damages (other than a refund of the Option Payment) from Optionor.

16. Assignment of Option. This Agreement shall be binding upon and shall inure to the benefit of the Parties hereto and their respective heirs or successors and permitted assigns. Optionee may not assign its interest under this Agreement without the prior consent of the Optionor, which consent will not be unreasonably withheld; provided however, Optionee will be permitted to assign this Agreement without the consent of the Optionor, if (a) Optionee gives the Optionor written notice of such assignment at least thirty (30) days prior to such assignment, and (b) the assignee is a corporation, limited liability company, partnership, other entity, or joint venture of which The Dawson Company, LLC remains a principal thereof, and (c) Optionee's assignee executes an instrument in form reasonably satisfactory to the Optionor agreeing to be bound by all the terms and conditions of this Agreement, and (d) Optionee or Optionee’s assignee

pays in full all Option Fee installments then accrued but unpaid.. Upon any assignment of Optionee's entire interest under this Agreement made in accordance with the conditions and requirements of this Section, Optionee shall be relieved of all further liability under this Agreement and shall have no further rights under this Agreement.

17. Recording of Agreement. Within ten (10) days after the Parties' execution of this Agreement, Optionee, at its sole expense, shall record this Agreement in the public records of Escambia County, Florida.

18. Notices. Unless specifically stated otherwise in this Agreement, all notices shall be in writing and delivered by one the following methods: (a) personal delivery, whereby delivery is deemed to have occurred at the time of delivery; (b) overnight delivery by a nationally recognized overnight courier company, whereby delivery is deemed to have occurred the business day following deposit with the courier, (c) registered or certified mail, postage prepaid, return receipt requested, whereby delivery is deemed to have occurred on the third business day following deposit with the United States Postal Service, or (d) electronic transmission (facsimile or electronic mail) provided that such transmission is completed no later than 5:00 pm on a business day and the original is also sent by personal delivery, overnight delivery or by mail for receipt the next business day, in the manner previously described, whereby delivery is deemed to have occurred at the end of the business day on which the electronic transmission is complete. The address for the aforesaid notice is as follows:

Optionor: City of Pensacola  
  
Attn: City Administrator  
222 West Main Street, 7<sup>th</sup> Floor  
Pensacola, Florida 32502  
Email: kfiddler@cityofpensacola.com  
Telephone: (850) 436-5627

With copy to:  
  
City of Pensacola  
Attn: City Attorney  
222 West Main Street, 7<sup>th</sup> Floor  
Pensacola, Florida 32502  
Email: legal@cityofpensacola.com  
Telephone: (850) 435-1615

Optionee: Inspired Communities of Florida, LLC  
Attention: Harold Dawson  
223 W. Gregory Street  
Pensacola, Florida 32502  
Email: had@thedawsoncompany.com  
Telephone: (404) 406 9473

With copy to:

Greenberg Traurig, P.A.  
Attn: Brian J. Sherr, Esq. and Zachary Bazara, Esq.  
401 East Las Olas Boulevard, Suite 2000  
Fort Lauderdale, Florida 33301  
Email: [sherrb@gtlaw.com](mailto:sherrb@gtlaw.com); [bazaraz@gtlaw.com](mailto:bazaraz@gtlaw.com)  
Telephone: (954) 768-8247

19. No Optionee Real Estate Broker. Optionee warrants and represents to Optionor that it has not engaged any finder or broker who is or may be entitled to a commission or fee with respect to the transactions contemplated by this Agreement.

20. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one and the same document.

21. Time of Essence. Optionor and Optionee hereby acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision hereof and that failure to timely perform any of the terms, conditions, obligations or provisions hereof by either Party will constitute a material breach of and a non-curable (but waivable) default under this Agreement by the Party so failing to perform.

22. Force Majeure. Each Party's obligations under this Agreement shall be abated or excused when performance of such obligations is rendered impossible or impracticable by reason of strikes, riots, acts of God, fire, public enemy, injunction, closure of capital markets, insurrection, court order, requisition of other governmental body or authority, war, or any other causes which are beyond the reasonable control of the Parties hereto (each a “**Force Majeure Event**”), until such Force Majeure Event is eliminated or ceases to exist; provided however, that each responsible Party shall use all due diligence to eliminate or mitigate such Force Majeure Event or the effects thereof as soon as possible.

23. Jurisdiction and Venue. In the event of any litigation arising out of or based upon this Agreement, Optionee hereby irrevocably consents to the personal jurisdiction over Optionee of the state courts of the State of Florida; irrevocably waives the right to invoke the jurisdiction of any other court, state or federal, and irrevocably agrees that venue for such litigation shall be in Escambia County, Florida, which forum Optionee acknowledges and agrees is convenient.

24. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

25. Recitals. The recitals on page one of this Agreement are true and correct and are hereby incorporated herein by reference.

[Signature pages follow.]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the Effective Date.

OPTIONOR:

**CITY OF PENSACOLA**  
a Florida municipal corporation

By:

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

(AFFIX CITY SEAL)

\_\_\_\_\_, 2022

Attest:

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

Signed, sealed and delivered in the presence of:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_

Legal in form and valid as drawn:

\_\_\_\_\_  
Charles V. Peppler, City Attorney  
\_\_\_\_\_

Approved as to content:

Print Name:

Title: \_\_\_\_\_

STATE OF FLORIDA

COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_ day of \_\_\_\_\_, 2022, by Grover C. Robinson, IV, the Mayor of City of Pensacola, a Florida municipal corporation, on behalf of said municipal corporation, who ( ) is personally known to me or ( ) has produced a driver's license as identification.

[SEAL]

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NOTARY PUBLIC



OPTIONEE:

LLC

**INSPIRED COMMUNITIES OF FLORIDA,**

\_\_\_\_\_  
Print: \_\_\_\_\_

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

Print name: \_\_\_\_\_

\_\_\_\_\_  
Print: \_\_\_\_\_

Its: Managing Member \_\_\_\_\_

Date signed: \_\_\_\_\_, 2022

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me by means of physical presence this \_\_\_\_\_ day of \_\_\_\_\_, 2022, by \_\_\_\_\_, the managing member of INSPIRED COMMUNITIES OF FLORIDA, LLC., a Florida limited liability company, on behalf of said limited liability company, who ( ) is personally known to me or ( ) has produced a driver's license as identification.

\_\_\_\_\_  
NOTARY PUBLIC

[SEAL]

**EXHIBIT “A”**  
**to**  
**OPTION AGREEMENT**  
**BETWEEN**  
**CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC**

**PROPERTY**

The land referred to herein below is situated in the County of Escambia, State of Florida, and is described as follows:

Lots 4 and 5 of VINCE WHIBBS SR. COMMUNITY MARITIME PARK, according to the Plat thereof as recorded in Plat Book 19, Page(s) 23 and 23A, of the Public Records of Escambia County, Florida.

**EXHIBIT “B”  
to  
OPTION AGREEMENT  
BETWEEN  
CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC**

**Ground Lease Term Sheet**

**[TBA]**

**EXHIBIT “C”**  
**to**  
**OPTION AGREEMENT**  
**BETWEEN**  
**CITY OF PENSACOLA AND INSPIRED COMMUNITIES OF FLORIDA, LLC**  
  
**AREA REINVESTMENT AGREEMENT**



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00077

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 445548-1-94-02, LANDSIDE IMPROVEMENTS

**RECOMMENDATION:**

That City Council authorize the Mayor to execute Florida Seaport Transportation Economic Development (FSTED) Grant No. 445548-1-94-02 for Hurricane Sally-related landside improvements in the amount of \$453,131. Further, that City Council authorize the Mayor to take all actions necessary to accept, execute and administer the grant. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On September 16, 2020, Hurricane Sally made landfall before dawn near Gulf Shores, Alabama, causing significant damage to both the waterside and landside improvements at the Port of Pensacola. While the Port has received funding from the Federal Emergency Management Agency (FEMA) and the Florida Division of Emergency Management (FDEM) through FEMA's Public Assistance Program, the assistance only reimburses 87.5% of the total project cost, leaving the remaining 12.5% to be covered by the Port. Since repairs for both the waterside and landside improvements are estimated to be in the millions, staff started researching options to assist the Port in covering the 12.5% not covered under FEMA's Public Assistance Program.

At the January 12, 2021, Florida Ports Financing Commission (FPFC) meeting, the FPFC agreed to issue Florida Ports Financing Commission Refunding Revenue Bonds, Series 2021 in order to refinance the Series 2011 Bonds. The savings realized by the refunding were deposited into the State of Florida's Seaport Grant Program and funds were awarded to various Florida ports through the Florida Department of Transportation (FDOT). The Port of Pensacola's allocation totaled \$628,581 for waterside rehabilitations and \$453,131 for landside rehabilitations. As part of the application process, the Port requested that these allocations be used to fund any costs the Port would be responsible for covering as it relates to the Hurricane Sally Public Assistance projects approved by FEMA.

The Florida Ports Financing Commission in the fall of 2020 refinanced their series 19 bonds and,

using a portion of those proceeds and the FSTED grant allocation process, has awarded the Port of Pensacola \$453,131 for use for hurricane rehabilitation Landside projects. Additionally, these funds may also be used to satisfy the 12.5% FEMA match requirement for projects related to damage from Hurricane Sally. These funds may be used for any of the following Landside Hurricane Sally damages. 1) Rehabilitate port administration building damaged by hurricane generated storm surge and wave action; 2) Rehabilitate warehouses 1,4,5,6,8,9/10 damaged by hurricane generated storm surge and wave action; 3) Replace asphalt damaged by hurricane generated storm surge and wave action; 4) Rehabilitate on port rail damaged by hurricane generated storm surge and wave action. Additionally, obligated funds from FEMA Project Worksheets (PW) projects may be used to satisfy the local match.

**PRIOR ACTION:**

None

**FUNDING:**

Budget: \$453,131 FDOT Seaport Grant Program  
Actual: \$453,131 Landside Rehabilitation Projects

**FINANCIAL IMPACT:**

Adoption of the supplemental budget resolution will appropriate the grant funds in the amount of \$453,131. Any required grant match will be met with funds allocated by FEMA already budgeted in the Natural Disaster Fund.

**LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes**

1/26/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Amy Miller, Deputy City Administrator-Administration & Enterprise  
Clark Merritt, Port Director

**ATTACHMENTS:**

- 1) Grant Agreement No. 445548-1-94-02
- 2) Supplemental Budget Resolution No. 2022-021
- 3) Supplemental Budget Explanation No. 2022-021

**PRESENTATION: No**

# PUBLIC TRANSPORTATION GRANT AGREEMENT

Financial Project Number(s): <small>(item-segment-phase-sequence)</small> 445548-1-94-02	Fund(s): Work Activity Code/Function: 215	PORB	FLAIR Category: 088794
	Federal Number/Federal Award		Object Code: 751000
	Identification Number (FAIN) – Transit only:		Org. Code: 55032020329
Contract Number:	Federal Award Date:		Vendor Number: F596000406008
CFDA Number: N/A	Agency DUNS Number:	07-313-1559	
CFDA Title: N/A			
CSFA Number: 55.005			
CSFA Title: Seaport Grant Program			

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into \_\_\_\_\_, by and between the State of Florida, Department of Transportation, ("Department"), and City of Pensacola, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 311, Florida Statutes, to enter into this Agreement.
2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Port of Pensacola's upland cargo improvements initiative, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☒ **Aviation**
- ☒ **Seaports**
- ☐ **Transit**
- ☐ **Intermodal**
- ☐ **Rail Crossing Closure**
- ☐ **Match to Direct Federal Funding** (Aviation or Transit)
- ☐ (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ **Other**

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ \*Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ \*Exhibit B2: Advance Payment Financial Provisions
- ☒ \*Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☒ \*Exhibit G: Audit Requirements for Awards of State Financial Assistance

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- \_\_\_ \*Exhibit H: Audit Requirements for Awards of Federal Financial Assistance  
\_\_\_ \*Additional Exhibit(s):

\*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. **Time.** Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

6. **Term of Agreement.** This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through December 31, 2026. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

a. \_\_\_ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the \_\_\_ day of \_\_\_, or within \_\_\_ days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. **Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

8. **Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.



STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 7/2021

**9. Project Cost:**

- a. The estimated total cost of the Project is \$906,262. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$453,131 and, the Department's participation in the Project shall not exceed 50.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

**10. Compensation and Payment:**

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

X Travel expenses are NOT eligible for reimbursement under this Agreement.

     Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 7/2021

f. **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. **Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. **Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. **Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

j. **Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- k. Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:
- "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- o. Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved

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in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities.**

**11. General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.
- b. Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:
  - i.** Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
  - ii.** Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d.** ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e.** ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
  - i.** ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
  - ii.** ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
  - iii.** ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make

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best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

**12. Contracts of the Agency:**

- a. Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

- 13. Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

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- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

**14. Sale, Transfer, or Disposal of Department-funded Property:**

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
  - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
  - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
  - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
  - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions “a” and “b” above shall survive the termination of this Agreement.
  - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
  - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

- 15. Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

**Federal Funded:**

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any

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inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
  - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
  - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency’s resources obtained from other than Federal entities).
  - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
  - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an

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audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
  2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
  3. Wholly or partly suspend or terminate the Federal award;
  4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
  5. Withhold further Federal awards for the Project or program;
  6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0450  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

**State Funded:**

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
  - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial



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assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation  
Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0405  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

And

State of Florida Auditor General  
Local Government Audits/342  
111 West Madison Street, Room 401  
Tallahassee, FL 32399-1450  
Email: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

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- vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
        - viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
  - c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

**16. Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

**17. Restrictions, Prohibitions, Controls and Labor Provisions:**

- a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

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- d. Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. E-Verify.** The Agency shall:
  - i.** Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
  - ii.** Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at [fdotsingleaudit@dot.state.fl.us](mailto:fdotsingleaudit@dot.state.fl.us) within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

**18. Indemnification and Insurance:**

- a.** It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims

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for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, the Agency shall indemnify and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or

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coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

**19. Miscellaneous:**

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

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- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.
- g. **Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. **Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. **Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. **Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY City of Pensacola

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

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

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

Name: \_\_\_\_\_

Name: Tim Smith, P.E.

Title: \_\_\_\_\_

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
Legal Review:

\_\_\_\_\_

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**EXHIBIT A**

**Project Description and Responsibilities**

**A. Project Description** (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): This Agreement provides for the Department's financial participation in Port of Pensacola's upland cargo improvements initiative. This project has four (4) components intended to rehabilitate and increase the resiliency of landside facilities at the seaport. 1) Rehabilitate port administration building damaged by hurricane generated storm surge; 2) Rehabilitate warehouses 1, 4, 5, 6, 8, 9/10 damaged by hurricane generated storm surge and wind; 3) Replace asphalt damaged by hurricane generated storm surge and wave action; 4) Rehabilitate on port rail damaged by hurricane generated storm surge and wave action.

**B. Project Location** (limits, city, county, map): Pensacola, Florida

**C. Project Scope** (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): This Project includes the environmental, design and construction work required to complete the building development activities described in the Project Description, including: aluminum; anchoring components; asphalt paving activities; assemblage; backfilling; ballast; bolt installation; compaction; concrete; concrete repair; concrete sealing treatment; concrete-tub road crossings; construction; construction inspection services; construction management services; consulting services; contractor stand-by; conveyor systems; costs estimates; delivery fees; demobilization; demolition; dewatering; disposal; doors; drainage systems; drywall; dust control systems; earthwork; electrical systems; elevators; engineering services; entrance canopies; erection of pre-fabricated structure(s); exterior finishes; environmental assessments; fasteners and connectors; fencing; fire protection systems; flooring; framing; form work; geotechnical services; glass and glazing; ground covering; handrails; heating and cooling system components; installation and testing; insulation; interior divider walls; interior finishes; joint bolts; lighting systems; line and cross leveling railroad tracks; loading dock leveler; masonry; mitigation assessments; mobilization; permitting; plan development (e.g., 30 / 60 / 90 / 100 % and as-builts); plumbing systems; precast concrete; preconstruction engineering and design; procurement cost; railroad spikes; railroad cross ties and ballast; rail crossing equipment; rails; ramps; rebar and rebar installation; roofing systems; security systems; shore and slope protection; siding; signage and way finding; soil improvement work; steel; stairways; storage rack systems; stormwater management; structural components; surveying; switch gear; temporary structures; temperature control system; thermal barriers; tie box anchoring; tie plates; track operations planning; underlying subgrade; ventilation systems; utilities; and, windows.

**D. Deliverable(s):**

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

**E. Unallowable Costs** (including but not limited to): Travel costs are not allowed.

**F. Transit Operating Grant Requirements (Transit Only):**

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.





## Project Location

Approximate location and port boundary

### Legend

A – Port Admin Building

# - Warehouse Numbers



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**EXHIBIT B**

**Schedule of Financial Assistance**

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT  
 CONSIST OF THE FOLLOWING:

**A. Fund Type and Fiscal Year:**

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
445548-1-94-02	PORB	088794	2022	751000	55.005	Seaport Grant Program	\$453,131.00
445548-1-94-02	LF	088794	2022	-	-	Local Matching Funds	\$453,131.00
<b>Total Financial Assistance</b>							<b>\$906,262</b>

**B. Estimate of Project Costs by Grant Phase:**

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Planning	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Environmental/Design/Construction	\$453,131.00	\$453,131.00	\$0.00	\$906,262.00	50.00	50.00	0.00
Capital Equipment/ Preventative Maintenance	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Totals</b>	<b>\$453,131.00</b>	<b>\$453,131.00</b>	<b>\$0.00</b>	<b>\$906,262.00</b>			

\*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

**BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Ray Corbitt

Department Grant Manager Name

Signature

Date

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**EXHIBIT C**

**TERMS AND CONDITIONS OF CONSTRUCTION**

**1. Design and Construction Standards and Required Approvals.**

- a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.
- b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, FDOT District 3 Seaport Coordinator (email: Ray.Corbitt@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.
- c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.
- d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).
- e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.
- f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

**2. Construction on the Department's Right of Way.** If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

- a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

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- b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.
- c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
- d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is FDOT District 3 Seaport Coordinator.
- e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

- i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
- k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.
- m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

- q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
- r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation): Not Applicable
- u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

Phone: (850) 330-1205; FAX: (850) 330-1761

**Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)**

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

**PUBLIC TRANSPORTATION  
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PUBLIC TRANSPORTATION GRANT AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

DEPARTMENT CONTRACT NO.: \_\_\_\_\_

FINANCIAL MANAGEMENT NO.: \_\_\_\_\_

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: \_\_\_\_\_, P.E.

SEAL:

Name: \_\_\_\_\_

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

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**EXHIBIT D**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***

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**EXHIBIT E  
PROGRAM SPECIFIC TERMS AND CONDITIONS – SEAPORTS**

**A. General.**

1. These assurances shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit “A”, Project Description and Responsibilities** and **Exhibit “B”, Schedule of Financial Assistance** as well as serving to protect public investment in seaports and the continued viability of the State Seaport System.
3. The Agency shall comply with the assurances as specified in this Agreement.

**B. Required Documents.** The documents listed below, as applicable, are required to be submitted to the Department by the Agency in accordance with the terms of this Agreement:

1. Quarterly Progress Reports provided within thirty (30) days of the end of each calendar year quarter, if requested by the Department.
2. Electronic invoice summaries and backup information, including a progress report must be submitted to the District Office when requesting payment.
3. All proposals, plans, specifications, and third party contracts covering the Project.
4. The Agency will upload required and final close out documents to the Department's web-based grant management system (e.g., SeaCIP.com).

**C. Duration of Terms and Assurances.**

1. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for a seaport development project, but shall not exceed 20 years from the effective date of this Agreement.
2. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by the State of Florida.

**D. Compliance with Laws and Rules.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and local governments, which may apply to the Project. Including but not limited to the following (current version of each):

1. Chapter 311, Florida Statutes (F.S.)
2. Local Government Requirements
  - a. Local Zoning/Land Use Ordinance
  - b. Local Comprehensive Plan

**E. Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, including but not limited to the following:

1. Federal Requirements
2. Local Government Requirements
  - a. Local Building Codes
  - b. Local Zoning Codes
3. Department Requirements
  - a. Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the “Florida Green Book”)
  - b. Manual on Uniform Traffic Control Devices

**F. Consistency with Local Government Plans.**

1. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the seaport.
2. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.



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3. The Agency assures that the Comprehensive Master Plan, if applicable, is incorporated as part of the approved local government comprehensive plan as required by Chapter 163, F.S.

**G. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:

1. Acquire the land in accordance with federal and state laws governing such action.
2. Maintain direct control of Project administration, including:
  - a. Maintain responsibility for all related contract letting and administrative procedures.
  - b. Ensure a qualified, State certified general appraiser provides all necessary services and documentation.
  - c. Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
  - d. Establish a Project account for the purchase of the land.
  - e. Collect and disburse federal, state, and local Project funds.
3. The Agency assures that it shall use the land for seaport purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.

**H. Preserving Rights, Powers and Interest.**

1. The Agency will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, it will act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
2. If an arrangement is made for management and operation of the funded facility or equipment by any entity or person other than the Agency, the Agency shall reserve sufficient rights and authority to ensure that the funded facility or equipment will be operated and maintained in accordance with the terms and assurances of this Agreement.
3. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in the funded facility or equipment without prior written approval by the Department. This assurance shall not limit the Agency's right to lease seaport property, facilities or equipment for seaport-compatible purposes in the regular course of seaport business.

**I. Third Party Contracts.** The Department reserves the right to approve third party contracts, except that written approval is hereby granted for:

1. Execution of contracts for materials from a valid state or intergovernmental contract. Such materials must be included in the Department approved Project scope and/or quantities.
2. Other contracts less than \$5,000.00 excluding engineering consultant services and construction contracts. Such services and/or materials must be included in the Department approved Project scope and/or quantities.
3. Construction change orders less than \$5,000.00. Change orders must be fully executed prior to performance of work.
4. Contracts, purchase orders, and construction change orders (excluding engineering consultant services) up to the threshold limits of Category Three. Such contracts must be for services and/or materials included in the Department approved Project scope and/or quantities. Purchasing Categories and Thresholds are defined in Section 287.017, F.S., and Chapter 60, Florida Administrative Code. The threshold limits are adjusted periodically for inflation, and it shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Agreement comply with the current threshold limits. Obligations made in excess of the appropriate limits shall be cause for Department non-participation.
5. In all cases, the Agency shall include a copy of the executed contract or other agreement with the backup documentation of the invoice for reimbursement of costs associated with the contract.

**J. Inspection or verification and approval of deliverables.** Section 215.422(1), F.S., allows 5 working days for the approval and inspection of goods and services unless the bid specifications, purchase orders, or contracts specifies otherwise. The Agreement extends this timeline by specifying that the inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of an invoice.

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**K. Federal Navigation Projects**

1. Funding reimbursed from any federal agency for this Project shall be remitted to the Department, in an amount proportional to the Department's participating share in the Project. The Agency shall remit such funds to the Department immediately upon receipt.
2. Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance**, may not be used for environmental monitoring costs.

**L. Acquisition of Crane.** Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance** will be cost reimbursed using the following schedule, unless stated otherwise in **Exhibit "A", Project Description and Responsibilities**:

1. Sixty (60) percent after landside delivery and acceptance by the Agency.
2. Forty (40) percent after installation and commissioning has been completed.

**-- End of Exhibit E --**

**EXHIBIT F**

**Contract Payment Requirements**  
**Florida Department of Financial Services, Reference Guide for State Expenditures**  
***Cost Reimbursement Contracts***

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**EXHIBIT G**

**AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE**

**THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~**

**Awarding Agency:** Florida Department of Transportation

**State Project Title:** Seaport Grant Program

**CSFA Number:** 55.005

**\*Award Amount:** \$453,131

\*The award amount may change with amendments

Specific project information for CSFA Number 55.005 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:**

State Project Compliance Requirements for CSFA Number 55.005 are provided at:  
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

**RESOLUTION  
NO. 2022-021**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2022; 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. NATURAL DISASTER FUND**

As Reads	State Grants	7,917,969
Amended		
To Read:	State Grants	8,371,100
As Reads	Capital Outlay	1,275,977
Amended		
To Read:	Capital Outlay	1,729,108

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

Approved: \_\_\_\_\_  
President of City Council

Attest:

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

THE CITY OF PENSACOLA

FEBRUARY 2022 - SUPPLEMENTAL BUDGET RESOLUTION - FSTED GRANT - LANDSIDE IMPROVEMENTS - RES NO. 2022-021

FUND	AMOUNT	DESCRIPTION
<b>NATURAL DISASTER FUND</b>		
Estimated Revenues		
State Grants	453,131	Increase estimated revenue for State Grants
Total Revenues	<u>453,131</u>	
Appropriations		
Capital Outlay	453,131	Increase appropriation for Capital Outlay
Total Appropriations	<u>453,131</u>	



## Memorandum

File #: 2022-021

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

SUPPLEMENTAL BUDGET RESOLUTION NO. 2022-021 FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 445548-1-94-02, LANDSIDE IMPROVEMENTS

**RECOMMENDATION:**

That City Council adopt Supplemental Budget Resolution No. 2022-021

A RESOLUTION AUTHORIZING AND MAKING REVENUE REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; PROVIDING FOR AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On September 16, 2020, Hurricane Sally made landfall before dawn near Gulf Shores, Alabama, causing significant damage to both the waterside and landside improvements at the Port of Pensacola. While the Port has received funding from the Federal Emergency Management Agency (FEMA) and the Florida Division of Emergency Management (FDEM) through FEMA's Public Assistance Program, the assistance only reimburses 87.5% of the total project cost, leaving the remaining 12.5% to be covered by the Port. Since repairs for both the waterside and landside improvements are estimated to be in the millions, staff started researching options to assist the Port in covering the 12.5% not covered under FEMA's Public Assistance Program.

At the January 12, 2021, Florida Ports Financing Commission (FPFC) meeting, the FPFC agreed to issue Florida Ports Financing Commission Refunding Revenue Bonds, Series 2021 in order to refinance the Series 2011 Bonds. The savings realized by the refunding were deposited into the State of Florida's Seaport Grant Program and funds were awarded to various Florida ports through the Florida Department of Transportation (FDOT). The Port of Pensacola's allocation totaled \$628,581 for waterside rehabilitations and \$453,131 for landside rehabilitations. As part of the application process, the Port requested that these allocations be used to fund any cost the Port would be responsible for covering as it relates to the Hurricane Sally Public Assistance projects approved by FEMA.

The Florida Ports Financing Commission in the fall of 2020 refinanced their series 19 bonds and, using a portion of those proceeds and the FSTED grant allocation process, has awarded the Port of Pensacola \$453,131 for use for hurricane rehabilitation Landside projects. Additionally, these funds may also be used to satisfy the 12.5% FEMA match requirement for projects related to damage from Hurricane Sally. These funds may be used for any of the following Landside Hurricane Sally damages. 1) Rehabilitate port administration building damaged by hurricane generated storm surge and wave action; 2) Rehabilitate warehouses 1,4,5,6,8,9/10 damaged by hurricane generated storm surge and wave action; 3) Replace asphalt damaged by hurricane generated storm surge and wave action; 4) Rehabilitate on port rail damaged by hurricane generated storm surge and wave action. Additionally, Obligated funds from FEMA Project Worksheets (PW) projects may be used to satisfy the local match.

**PRIOR ACTION:**

NONE

**FUNDING:**

Budget: \$453,131 FDOT Seaport Grant Program  
Actual: \$453,131 Landside Rehabilitation Projects

**FINANCIAL IMPACT:**

Adoption of the supplemental budget resolution will appropriate the grant funds in the amount of \$453,131. Any required grant match will be met with funds allocated by FEMA already budgeted in the Natural Disaster Fund.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/26/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Amy Miller, Deputy City Administrator-Administration & Enterprise  
Clark Merritt, Port Director

**ATTACHMENTS:**

- 1) Supplemental Budget Resolution No. 2022-021
- 2) Supplemental Budget Explanation No. 2022-021

**PRESENTATION:** No



**RESOLUTION  
NO. 2022-021**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2022; 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. NATURAL DISASTER FUND**

As Reads	State Grants	7,917,969
Amended		
To Read:	State Grants	8,371,100
As Reads	Capital Outlay	1,275,977
Amended		
To Read:	Capital Outlay	1,729,108

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

Approved: \_\_\_\_\_  
President of City Council

Attest:

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

**THE CITY OF PENSACOLA**

**FEBRUARY 2022 - SUPPLEMENTAL BUDGET RESOLUTION - FSTED GRANT - LANDSIDE IMPROVEMENTS - RES NO. 2022-021**

FUND	AMOUNT	DESCRIPTION
<b>NATURAL DISASTER FUND</b>		
Estimated Revenues		
State Grants	453,131	Increase estimated revenue for State Grants
Total Revenues	<u>453,131</u>	
Appropriations		
Capital Outlay	453,131	Increase appropriation for Capital Outlay
Total Appropriations	<u>453,131</u>	



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00096

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 445549-1-94-03, WATERSIDE IMPROVEMENTS

**RECOMMENDATION:**

That City Council authorize the Mayor to execute Florida Seaport Transportation Economic Development (FSTED) Grant No. 445549-1-94-03 for Hurricane Sally-related waterside improvements in the amount of \$628,581. Further, that City Council authorize the Mayor to take all actions necessary to accept, execute and administer the grant. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On September 16, 2020, Hurricane Sally made landfall before dawn near Gulf Shores, Alabama, causing significant damage to both the waterside and landside improvements at the Port of Pensacola. While the Port has received funding from the Federal Emergency Management Agency (FEMA) and the Florida Division of Emergency Management (FDEM) through FEMA's Public Assistance Program, the assistance only reimburses 87.5% of the total project cost, leaving the remaining 12.5% to be covered by the Port. Since repairs for both the waterside and landside improvements are estimated to be in the millions, staff started researching options to assist the Port in covering the 12.5% not covered under FEMA's Public Assistance Program.

At the January 12, 2021, Florida Ports Financing Commission (FPFC) meeting, the FPFC agreed to issue Florida Ports Financing Commission refunding Revenue Bonds, Series 2021 in order to refinance the Series 2011 Bonds. The savings realized by the refunding were deposited into the State of Florida's Seaport Grant Program and funds were awarded to various Florida ports through the Florida Department of Transportation (FDOT). The Port of Pensacola's allocation totaled \$628,581 for waterside rehabilitations and \$453,131 for landside rehabilitations. As part of the application process, the Port requested that these allocations be used to fund any cost the Port would be responsible for covering as it relates to the Hurricane Sally Public Assistance projects approved by FEMA.

The Florida Ports Financing Commission in the fall of 2020 refinanced their series 19 bonds using a

portion of those proceeds and the FSTED grant allocation process, has awarded the Port of Pensacola \$628,581 for use for hurricane rehabilitation waterside projects. Additionally, these funds may also be used to satisfy the 12.5% FEMA match requirement for projects related to damage from Hurricane Sally. These funds may be used any of the following waterside Hurricane Sally damages: 1) Rehabilitation of Berths 2, 3, 5, 6, 7, and the ferry terminal dock damaged by hurricane generated storm surge and wave action; 2) Refurbish berth cathodic protection systems damaged by hurricane generated storm surge and wave action; 3) Maintenance dredging; 4) Restore rip rap shoreline protection damaged by hurricane generated storm surge and wave action. Additionally, obligated funds from FEMA Project Worksheets (PW) projects may be used to satisfy the local match.

**PRIOR ACTION:**

None

**FUNDING:**

Budget:	\$628,581	FDOT Seaport Grant
Actual:	\$628,581	Waterside Rehabilitation Projects

**FINANCIAL IMPACT:**

Adoption of the supplemental budget resolution will appropriate the grant funds in the amount of \$628,581. Any required grant match will be met with funds allocated by FEMA already budgeted in the Natural Disaster Fund.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/26/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Amy Miller, Deputy City Administrator-Administration & Enterprise  
Clark Merritt, Port Director

**ATTACHMENTS:**

- 1) Grant Agreement No 445549-1-94-03
- 2) Supplemental Budget Resolution No. 2022-024
- 3) Supplemental Budget Explanation No. 2022-024

**PRESENTATION:** No

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Financial Project Number(s): (item-segment-phase-sequence) 445549-1-94-03	Fund(s): Work Activity Code/Function: 215 Federal Number/Federal Award Identification Number (FAIN) – Transit only:	PORB	FLAIR Category: 088794
	Federal Award Date:		Object Code: 751000
Contract Number:	Agency DUNS Number: 07-313-1559		Org. Code: 55032020329
CFDA Number: N/A			Vendor Number: F596000406008
CFDA Title: N/A			
CSFA Number: 55.005			
CSFA Title: Seaport Grant Program			

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into \_\_\_\_\_, by and between the State of Florida, Department of Transportation, ("Department"), and City of Pensacola, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

- 1. Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 311, Florida Statutes, to enter into this Agreement.
- 2. Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Port of Pensacola's waterside improvements initiative, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
- 3. Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☐ Aviation
- ☒ **Seaports**
- ☐ Transit
- ☐ Intermodal
- ☐ Rail Crossing Closure
- ☐ **Match to Direct Federal Funding** (Aviation or Transit)
- (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ **Other**

- 4. Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ \*Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ \*Exhibit B2: Advance Payment Financial Provisions
- ☒ \*Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☒ \*Exhibit G: Audit Requirements for Awards of State Financial Assistance

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- \_\_\_ \*Exhibit H: Audit Requirements for Awards of Federal Financial Assistance  
\_\_\_ \*Additional Exhibit(s):

\*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

**5. Time.** Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

**6. Term of Agreement.** This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through December 31, 2026. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

**a.** \_\_\_ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the \_\_\_ day of \_\_\_, or within \_\_\_ days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

**7. Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

**8. Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

**a.** Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

**b.** The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

**c.** If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

**d.** In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

**e.** The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 7/2021

**9. Project Cost:**

- a. The estimated total cost of the Project is \$838,108. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$628,581 and, the Department's participation in the Project shall not exceed 75.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

**10. Compensation and Payment:**

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:
  - ☒ Travel expenses are NOT eligible for reimbursement under this Agreement.
  - ☐ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Form 725-000-01  
STRATEGIC  
DEVELOPMENT  
OGC 7/2021

f. **Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

g. **Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

h. **Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

i. **Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

j. **Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.



**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- k. Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:
- "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- o. Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved

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in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities**.

**11. General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.
- b. Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:
  - i.** Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
  - ii.** Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d.** ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e.** ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
  - i.** ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
  - ii.** ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
  - iii.** ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make

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best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

**12. Contracts of the Agency:**

- a. Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

- 13. Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

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- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

**14. Sale, Transfer, or Disposal of Department-funded Property:**

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
  - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
  - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
  - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
  - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions “a” and “b” above shall survive the termination of this Agreement.
  - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
  - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

- 15. Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

**Federal Funded:**

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any

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inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
  - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
  - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency’s resources obtained from other than Federal entities).
  - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
  - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an

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audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
  2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
  3. Wholly or partly suspend or terminate the Federal award;
  4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
  5. Withhold further Federal awards for the Project or program;
  6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0450  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

**State Funded:**

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
  - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial

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assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation  
Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0405  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

And

State of Florida Auditor General  
Local Government Audits/342  
111 West Madison Street, Room 401  
Tallahassee, FL 32399-1450  
Email: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

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- vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
        - viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
  - c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

**16. Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

**17. Restrictions, Prohibitions, Controls and Labor Provisions:**

- a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.



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- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
  - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. **Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at [fdotsingleaudit@dot.state.fl.us](mailto:fdotsingleaudit@dot.state.fl.us) within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

**18. Indemnification and Insurance:**

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims

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for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, the Agency shall indemnify and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or

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coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

**19. Miscellaneous:**

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

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- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.
- g. **Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. **Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. **Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. **Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY City of Pensacola

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

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

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

Name: \_\_\_\_\_

Name: Tim Smith, P.E.

Title: \_\_\_\_\_

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
Legal Review:

\_\_\_\_\_

## **EXHIBIT A**

### **Project Description and Responsibilities**

**A. Project Description** (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): This Agreement provides for the Department's financial participation in Port of Pensacola's berth improvements initiative. This project has four (4) components intended to rehabilitate and increase resiliency of waterside facilities at the seaport. 1) Rehabilitation of Berths 2, 3, 5, 6, 7, and the ferry terminal dock damaged by hurricane generated storm surge and wave action; 2) Refurbish berth cathodic protection systems damaged by hurricane generated storm surge and wave action; 3) Maintenance dredging; 4) Restore rip rap shoreline protection damaged by hurricane generated storm surge and wave action.

**B. Project Location** (limits, city, county, map): Pensacola, Florida

**C. Project Scope** (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): This Project includes the environmental work, design work, and construction work required to complete the Berth development activities described in the Project Description, including: aids to navigation; anchoring system and components; apron improvements; asphalt paving activities; backfill; benthic studies; berth/basin area maintenance dredging; bulkhead caps; cap faces repair or installation; cable protection systems; cap soffits repair or installation; cast in place concrete; cathodic protection; compaction; concrete; concrete beams; concrete caps; construction; construction inspection services; construction management services; construction services; consulting services; contractor stand-by; cost estimates; crack repairs; crane rail repair or installation; deck ballast; demobilization; demolition; electrical components and systems; engineering services; environmental assessments; fasteners and connectors; fenders / fender system and bollards; form work; geotechnical services; historical resource studies; installation and testing; lighting systems; mitigation assessments; mobilization; painting; panel soffits repair or installation; permitting; pilings; plan development (e.g., 30 / 60 / 90 / 100 % and as-builts); precast concrete; preconstruction engineering and design; procurement costs; rebar repair or installation; reconstruction of underdeck concrete; seagrass studies; sealers; sheet piling; shore and slope protection; sidewalk and walkway systems; signage and way finding; steel; stormwater management; striping of roadway or storage areas; structural components; surveying; temporary structures; tie-back systems; turning basin widening and deepening; utilities; and, water quality protection structures.

**D. Deliverable(s):**

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

**E. Unallowable Costs** (including but not limited to): Travel costs are not allowed.

**F. Transit Operating Grant Requirements (Transit Only):**

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.



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**EXHIBIT B**

**Schedule of Financial Assistance**

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT  
 CONSIST OF THE FOLLOWING:

**A. Fund Type and Fiscal Year:**

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
445549-1-94-03	PORB	088794	2022	751000	55.005	Seaport Grant Program	\$628,581.00
445549-1-94-03	LF	088794	2022	-	-	Local Matching Funds	\$209,527.00
<b>Total Financial Assistance</b>							<b>\$838,108</b>

**B. Estimate of Project Costs by Grant Phase:**

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Planning	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Environmental/Design/Construction	\$628,581.00	\$209,527.00	\$0.00	\$838,108.00	75.00	25.00	0.00
Capital Equipment/ Preventative Maintenance	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Totals</b>	<b>\$628,581.00</b>	<b>\$209,527.00</b>	<b>\$0.00</b>	<b>\$838,108.00</b>			

\*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

**BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Ray Corbitt

Department Grant Manager Name

Signature

Date



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**EXHIBIT C**

**TERMS AND CONDITIONS OF CONSTRUCTION**

**1. Design and Construction Standards and Required Approvals.**

- a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.
- b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, FDOT District 3 Seaport Coordinator (email: Ray.Corbitt@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.
- c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.
- d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).
- e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.
- f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

**2. Construction on the Department's Right of Way.** If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

- a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.



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- b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.
- c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
- d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is FDOT District 3 Seaport Coordinator.
- e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

- i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
- k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.
- m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

- q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
- r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation): Not Applicable
- u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:

Phone: (850) 330-1205; FAX: (850) 330-1761

**Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)**

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

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PUBLIC TRANSPORTATION GRANT AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

DEPARTMENT CONTRACT NO.: \_\_\_\_\_

FINANCIAL MANAGEMENT NO.: \_\_\_\_\_

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: \_\_\_\_\_, P.E.

SEAL:

Name: \_\_\_\_\_

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

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**EXHIBIT D**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***

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**EXHIBIT E  
PROGRAM SPECIFIC TERMS AND CONDITIONS – SEAPORTS**

**A. General.**

1. These assurances shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit “A”, Project Description and Responsibilities** and **Exhibit “B”, Schedule of Financial Assistance** as well as serving to protect public investment in seaports and the continued viability of the State Seaport System.
3. The Agency shall comply with the assurances as specified in this Agreement.

**B. Required Documents.** The documents listed below, as applicable, are required to be submitted to the Department by the Agency in accordance with the terms of this Agreement:

1. Quarterly Progress Reports provided within thirty (30) days of the end of each calendar year quarter, if requested by the Department.
2. Electronic invoice summaries and backup information, including a progress report must be submitted to the District Office when requesting payment.
3. All proposals, plans, specifications, and third party contracts covering the Project.
4. The Agency will upload required and final close out documents to the Department's web-based grant management system (e.g., SeaCIP.com).

**C. Duration of Terms and Assurances.**

1. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for a seaport development project, but shall not exceed 20 years from the effective date of this Agreement.
2. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by the State of Florida.

**D. Compliance with Laws and Rules.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and local governments, which may apply to the Project. Including but not limited to the following (current version of each):

1. Chapter 311, Florida Statutes (F.S.)
2. Local Government Requirements
  - a. Local Zoning/Land Use Ordinance
  - b. Local Comprehensive Plan

**E. Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, including but not limited to the following:

1. Federal Requirements
2. Local Government Requirements
  - a. Local Building Codes
  - b. Local Zoning Codes
3. Department Requirements
  - a. Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the “Florida Green Book”)
  - b. Manual on Uniform Traffic Control Devices

**F. Consistency with Local Government Plans.**

1. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the seaport.
2. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.

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3. The Agency assures that the Comprehensive Master Plan, if applicable, is incorporated as part of the approved local government comprehensive plan as required by Chapter 163, F.S.

**G. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:

1. Acquire the land in accordance with federal and state laws governing such action.
2. Maintain direct control of Project administration, including:
  - a. Maintain responsibility for all related contract letting and administrative procedures.
  - b. Ensure a qualified, State certified general appraiser provides all necessary services and documentation.
  - c. Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
  - d. Establish a Project account for the purchase of the land.
  - e. Collect and disburse federal, state, and local Project funds.
3. The Agency assures that it shall use the land for seaport purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.

**H. Preserving Rights, Powers and Interest.**

1. The Agency will not take or permit any action that would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, it will act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
2. If an arrangement is made for management and operation of the funded facility or equipment by any entity or person other than the Agency, the Agency shall reserve sufficient rights and authority to ensure that the funded facility or equipment will be operated and maintained in accordance with the terms and assurances of this Agreement.
3. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in the funded facility or equipment without prior written approval by the Department. This assurance shall not limit the Agency's right to lease seaport property, facilities or equipment for seaport-compatible purposes in the regular course of seaport business.

**I. Third Party Contracts.** The Department reserves the right to approve third party contracts, except that written approval is hereby granted for:

1. Execution of contracts for materials from a valid state or intergovernmental contract. Such materials must be included in the Department approved Project scope and/or quantities.
2. Other contracts less than \$5,000.00 excluding engineering consultant services and construction contracts. Such services and/or materials must be included in the Department approved Project scope and/or quantities.
3. Construction change orders less than \$5,000.00. Change orders must be fully executed prior to performance of work.
4. Contracts, purchase orders, and construction change orders (excluding engineering consultant services) up to the threshold limits of Category Three. Such contracts must be for services and/or materials included in the Department approved Project scope and/or quantities. Purchasing Categories and Thresholds are defined in Section 287.017, F.S., and Chapter 60, Florida Administrative Code. The threshold limits are adjusted periodically for inflation, and it shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Agreement comply with the current threshold limits. Obligations made in excess of the appropriate limits shall be cause for Department non-participation.
5. In all cases, the Agency shall include a copy of the executed contract or other agreement with the backup documentation of the invoice for reimbursement of costs associated with the contract.

**J. Inspection or verification and approval of deliverables.** Section 215.422(1), F.S., allows 5 working days for the approval and inspection of goods and services unless the bid specifications, purchase orders, or contracts specifies otherwise. The Agreement extends this timeline by specifying that the inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of an invoice.

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**K. Federal Navigation Projects**

1. Funding reimbursed from any federal agency for this Project shall be remitted to the Department, in an amount proportional to the Department's participating share in the Project. The Agency shall remit such funds to the Department immediately upon receipt.
2. Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance**, may not be used for environmental monitoring costs.

**L. Acquisition of Crane.** Department funding, as listed in **Exhibit "B", Schedule of Financial Assistance** will be cost reimbursed using the following schedule, unless stated otherwise in **Exhibit "A", Project Description and Responsibilities**:

1. Sixty (60) percent after landside delivery and acceptance by the Agency.
2. Forty (40) percent after installation and commissioning has been completed.

**-- End of Exhibit E --**



**EXHIBIT F**

**Contract Payment Requirements**  
**Florida Department of Financial Services, Reference Guide for State Expenditures**  
***Cost Reimbursement Contracts***

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
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**EXHIBIT G**

**AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE**

**THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:**

**SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~**

**Awarding Agency:** Florida Department of Transportation

**State Project Title:** Seaport Grant Program

**CSFA Number:** 55.005

**\*Award Amount:** \$628,581

\*The award amount may change with amendments

Specific project information for CSFA Number 55.005 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

**COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:**

State Project Compliance Requirements for CSFA Number 55.005 are provided at:  
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>

**RESOLUTION  
2022-024**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2022; 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. NATURAL DISASTER FUND**

As Reads	State Grants	8,371,100
Amended		
To Read:	State Grants	8,999,681
As Reads	Capital Outlay	1,729,108
Amended		
To Read:	Capital Outlay	2,357,689

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

Approved: \_\_\_\_\_  
President of City Council

Attest:

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

THE CITY OF PENSACOLA

FEBRUARY 2022 - SUPPLEMENTAL BUDGET RESOLUTION - FSTED GRANT - WATERSIDE IMPROVEMENTS - RES NO. 2022-024

FUND	AMOUNT	DESCRIPTION
<b>NATURAL DISASTER FUND</b>		
Estimated Revenues		
State Grants	628,581	Increase estimated revenue for State Grants
Total Revenues	<u>628,581</u>	
Appropriations		
Capital Outlay	628,581	Increase appropriation for Capital Outlay
Total Appropriations	<u>628,581</u>	



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

**File #:** 2022-024

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

SUPPLEMENTAL BUDGET RESOLUTION NO. 2022-024 FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 445549-1-94-03, WATERSIDE IMPROVEMENTS

**RECOMMENDATION:**

That City Council adopt supplemental Budget Resolution 2022-024

A RESOLUTION AUTHORIZING AND MAKING REVENUE REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; PROVIDING FOR AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On September 16, 2020, Hurricane Sally made landfall before dawn near Gulf Shores, Alabama, causing significant damage to both the waterside and landside improvements at the Port of Pensacola. While the Port has received funding from the Federal Emergency Management Agency (FEMA) and the Florida Division of Emergency Management (FDEM) through FEMA's Public Assistance Program, the assistance only reimburses 87.5% of the total project cost, leaving the remaining 12.5% to be covered by the Port. Since repairs for both the waterside and landside improvements are estimated to be in the millions, staff started researching options to assist the Port in covering the 12.5% not covered under FEMA's Public Assistance Program.

At the January 12, 2021, Florida Ports Financing Commission (FPFC) meeting, the FPFC agreed to issue Florida Ports Financing Commission Refunding Revenue Bonds, Series 2021 in order to refinance the Series 2011 Bonds. The savings realized by the refunding were deposited into the State of Florida's Seaport Grant Program and funds were awarded to various Florida ports through the Florida Department of Transportation (FDOT). The Port of Pensacola's allocation totaled \$628,581 for waterside rehabilitations and \$453,131 for landside rehabilitations. As part of the application process, the Port requested that these allocations be used to fund any cost the Port would be responsible for covering as it relates to the Hurricane Sally Public Assistance projects approved by FEMA.

The Florida Ports Financing Commission in the fall of 2020 refinanced their series 19 bonds using a portion of those proceeds and the FSTED grant allocation process, has awarded the Port of Pensacola \$628,581 for use for hurricane rehabilitation waterside projects. Additionally, these funds may also be used to satisfy the 12.5% FEMA match requirement for projects related to damage from Hurricane Sally. These funds may be used any of the following waterside Hurricane Sally damages: 1) Rehabilitation of Berths 2, 3, 5, 6, 7, and the ferry terminal dock damaged by hurricane generated storm surge and wave action; 2) Refurbish berth cathodic protection systems damaged by hurricane generated storm surge and wave action; 3) Maintenance dredging; 4) Restore rip rap shoreline protection damaged by hurricane generated storm surge and wave action. Additionally, Obligated funds from FEMA Project Worksheets (PW) projects may be used to satisfy the local match.

**PRIOR ACTION:**

NONE

**FUNDING:**

Budget: \$628,581 FDOT Seaport Grant

Actual: \$628,581 Waterside Rehabilitation Projects

**FINANCIAL IMPACT:**

Adoption of the supplemental budget resolution will appropriate the grant funds in the amount of \$628,581. Any required match will be met with funds allocated my FEMA already budgeted in the Natural Disaster Fund.

**LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes**

1/26/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator

Amy Miller, Deputy City Administrator-Administration &amp; Enterprise

Clark Merritt, Port Director

**ATTACHMENTS:**

- 1) Supplemental Budget Resolution No. 2022-024
- 2) Supplemental Budget Explanation No. 2022-024

**PRESENTATION: No**

**RESOLUTION  
2022-024**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE  
FISCAL YEAR ENDING SEPTEMBER 30, 2022; 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. NATURAL DISASTER FUND**

As Reads	State Grants	8,371,100
Amended		
To Read:	State Grants	8,999,681
As Reads	Capital Outlay	1,729,108
Amended		
To Read:	Capital Outlay	2,357,689

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

Approved: \_\_\_\_\_  
President of City Council

Attest:

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

**THE CITY OF PENSACOLA****FEBRUARY 2022 - SUPPLEMENTAL BUDGET RESOLUTION - FSTED GRANT - WATERSIDE IMPROVEMENTS - RES NO. 2022-024**

FUND	AMOUNT	DESCRIPTION
<b>NATURAL DISASTER FUND</b>		
Estimated Revenues		
State Grants	628,581	Increase estimated revenue for State Grants
Total Revenues	<u>628,581</u>	
Appropriations		
Capital Outlay	628,581	Increase appropriation for Capital Outlay
Total Appropriations	<u>628,581</u>	





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

File #: 22-00044

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

PENSACOLA INTERNATIONAL AIRPORT - STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION PUBLIC TRANSPORTATION GRANT AGREEMENT NO. 435717-7-94-01

**RECOMMENDATION:**

That City Council approve the acceptance of the Public Transportation Grant Agreement No. 435717-7-94-01 in the amount of \$275,000 to provide partial funding for the construction phase of the rehabilitation of the North half of Taxiway A at the Pensacola International Airport. Further, that City Council approve the grant resolution and authorize the Mayor to take all actions necessary relating to the acceptance and execution of the grant.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The Florida Department of Transportation (FDOT) Airport Pavement Evaluation Report completed in November 2019 classified the section of Taxiway A between Runway 8-26 and Taxiway A1 as Fair, while Taxiway A1 was classified as Very Poor. In addition to the needs identified in the FDOT Pavement Evaluation Report, the approved Airport Layout Plan (ALP) identified a few geometric improvements along Taxiway A based on Federal Aviation Administration (FAA) requirements.

Under Work Order No. 30, Atkins North America, Inc., will provide an evaluation of the existing conditions, recommendations of pavement rehabilitation methods, and design of airfield pavement improvements. These deliverables are expected to be completed by the end of January 2022. Construction is anticipated to start in May 2022.

This Grant will be used as matching funds to FAA Airport Improvement Program Funding. The balance will be paid from Airport Capital Funds.

**PRIOR ACTION:**

March 3, 2021 - The Mayor approved Work Order No. 30 with Atkins North America, Inc. for design work related to Taxiway A at the Pensacola International Airport.

**FUNDING:**

Budget: \$ 1,497,590 FAA AIP Grant 47  
10,800,000 FY22 FAA Airport Improvement Program Funding  
275,000 State of Florida Department of Transportation  
925,000 Airport Capital Funds  
\$13,497,590

Actual: \$ 1,497,590 Design  
9,600,000 Construction (Estimated)  
1,200,000 Contingency (Estimated)  
1,200,000 Construction Administration (Estimated)  
\$13,497,590

**FINANCIAL IMPACT:**

Funds will be provided from the FDOT on a reimbursable basis.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/19/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Amy Miller, Deputy City Administrator - Administration and Finance  
Matthew F. Coughlin, Airport Director

**ATTACHMENTS:**

- 1) State of Florida Department of Transportation Public Transportation Grant Agreement No. 435717-7-94-01
- 2) Resolution No. 2022-013

**PRESENTATION:** No

# PUBLIC TRANSPORTATION GRANT AGREEMENT

Financial Project Number(s): <small>(item-segment-phase-sequence)</small> 435717-7-94-01	Fund(s): Work Activity Code/Function: 215	DDR	FLAIR Category: 088719
	Federal Number/Federal Award Identification Number (FAIN) – Transit only: N/A		Object Code: 751000
	Federal Award Date: N/A		Org. Code: 55032020329
Contract Number:	Agency DUNS Number:		Vendor Number: VF596000406004
CFDA Number: N/A			
CFDA Title: N/A			
CSFA Number: N/A			
CSFA Title: N/A			

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into \_\_\_\_\_, by and between the State of Florida, Department of Transportation, ("Department"), and City of Pensacola, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 332.007, Florida Statutes, to enter into this Agreement.
2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Taxiway A Rehabilitation - Construction, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☐ Aviation
- ☐ Seaports
- ☐ Transit
- ☐ Intermodal
- ☐ Rail Crossing Closure
- ☒ Match to Direct Federal Funding (Aviation or Transit)
- (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ Other

4. **Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ \*Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ \*Exhibit B2: Advance Payment Financial Provisions
- ☒ \*Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☐ \*Exhibit G: Audit Requirements for Awards of State Financial Assistance
- ☐ \*Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
- ☐ \*Additional Exhibit(s):

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\*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

**5. Time.** Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

**6. Term of Agreement.** This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through June 30, 2023. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

**a.** ☐ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the  day of , or within  days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

**7. Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

**8. Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

**a.** Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

**b.** The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

**c.** If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

**d.** In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

**e.** The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

**9. Project Cost:**

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

- a. The estimated total cost of the Project is \$12,200,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$275,000 and, the Department's participation in the Project shall not exceed 2.25% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

**10. Compensation and Payment:**

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

X Travel expenses are NOT eligible for reimbursement under this Agreement.

       Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

**f. Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

**g. Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

**h. Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

**i. Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

**j. Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

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GRANT AGREEMENT**

- k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. **Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

- o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved

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in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities**.

**11. General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.
- b. Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:
  - i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
  - ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d.** ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e.** ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
  - i. ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
  - ii. ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
  - iii. ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make



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best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

**12. Contracts of the Agency:**

- a. Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

- 13. Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

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- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

**14. Sale, Transfer, or Disposal of Department-funded Property:**

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
  - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
  - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
  - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
  - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement.
  - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
  - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

- 15. Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

**Federal Funded:**

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any

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inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
  - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
  - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency’s resources obtained from other than Federal entities).
  - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
  - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an

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audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
  2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
  3. Wholly or partly suspend or terminate the Federal award;
  4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
  5. Withhold further Federal awards for the Project or program;
  6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0450  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

**State Funded:**

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
  - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial

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assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation  
Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0405  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

And

State of Florida Auditor General  
Local Government Audits/342  
111 West Madison Street, Room 401  
Tallahassee, FL 32399-1450  
Email: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

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- vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
- viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

**16. Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

**17. Restrictions, Prohibitions, Controls and Labor Provisions:**

- a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.
- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

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- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
  - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. **Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at [fdotsingleaudit@dot.state.fl.us](mailto:fdotsingleaudit@dot.state.fl.us) within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

**18. Indemnification and Insurance:**

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including,

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but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
  
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.



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- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

**19. Miscellaneous:**

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that

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appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

- g. Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY City of Pensacola

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

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

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

Name: \_\_\_\_\_

Name: Tim Smith, P.E.

Title: \_\_\_\_\_

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
Legal Review:

\_\_\_\_\_

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
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Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**EXHIBIT A**

**Project Description and Responsibilities**

**A. Project Description** (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Taxiway A Rehabilitation - Construction

See Attachment 1

**B. Project Location** (limits, city, county, map): Pensacola International Airport/Pensacola, FL/Escambia

**C. Project Scope** (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): See Attachment 1

**D. Deliverable(s)**: See Attachment 1

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

**E. Unallowable Costs** (including but not limited to):

**F. Transit Operating Grant Requirements (Transit Only):**

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.

**Attachment 1**  
**Project Description and Budget**  
**Taxiway A (North) Rehabilitation and Reconstruction 435717-7**  
**Pensacola International Airport, Pensacola, Florida**

**SECTION A: PROJECT DESCRIPTION**

As required by 215.971, F.S., this scope of work includes but is not limited to consultant and design fees, survey and geotechnical costs, permitting, construction inspection and material testing costs, mobilization and demobilization, maintenance of traffic, erosion control, demolition of some existing pavement, pavement enhancement or reconstruction with asphalt, pavement markings (removal and new), upgrade of airfield lighting system to LED edge lights and signage, drainage, stormwater structures, addition of taxiway shoulders, fencing and gates, and sodding, including all materials, equipment, labor, and incidentals required to rehabilitate/reconstruct the taxiway pavement. The Sponsor will comply with Aviation Program Assurances.

**SECTION B: PROJECT JUSTIFICATION**

The Airport Pavement Evaluation Report developed by the FDOT in November 2019 for PNS classified the section of Taxiway A between Runway 8-26 and Taxiway A1 as Fair, while Taxiway A1 was classified as Very Poor. At the time of the report, both pavements were forecasted to receive a major rehabilitation in 2020.

In addition to the needs identified in the FDOT Pavement Evaluation Report, the approved Airport Layout Plan (ALP) for the Airport identifies a few geometric improvements along Taxiway A. This includes the removal and relocation of Taxiway A2 and A3 connectors to eliminate direct access from the apron to Runway 17-35, and the realignment of Taxiway A7 connector to eliminate the expansive pavement at Taxiway A and Taxiway B intersection.

The existing taxiway leading to the apron from Taxiway A will be renamed to use Taxiway F naming conventions as they would no longer be continuous. The reconstruction of Taxiway A3 is considered as a bid alternative for budgetary reasons, however the removal of the taxiway will remain in the base bid.

**SECTION C: DESCRIPTION OF CONSTRUCTION**

The construction contractor for this project will be determined via a public competitive bidding process. The contractor's scope will include performing the site improvements, furnish and install the LED lights/signage, tie new lighting/signage into existing lighting circuits, tie drainage facilities into existing stormwater conveyance system, and other related work as specified in the contract documents.

The bid documents will be set up with one bid alternate – the construction of Taxiway A3 in its new location. Should bids and funding permit, this connector taxiway will be built. If not, construction of the connector will be deferred until a later date. The design will accommodate the addition of the connector with minimal rework of new pavement.

The contractor(s) will be required to provide all performance and payment bonds, to ensure maintenance of traffic, to comply with all safety and security requirements, to perform final clean-up

and to provide all documentation required by the contract. The contractor(s) shall furnish all materials, labor, incidentals, and supplies required to construct the project.

**Payment & Deliverable Milestones.** Payment will be made to the Contractor based on an estimate of work complete. Upon completion of the work and prior to final payment, a final change order will be prepared and executed to reflect the final contract amount.

#### **SECTION D: PROJECT BUDGET ESTIMATES**

Estimated Total Construction \$12,200,000

##### Estimated Funding Sources

Local \$945,000

FDOT \$275,000

FAA AIP \$10,980,000

#### **SECTION E: PROJECT SCHEDULE**

- |                                  |              |
|----------------------------------|--------------|
| • Grant execution                | January 2022 |
| • Advertise for Bids             | March 2022   |
| • Construction Notice to Proceed | May 2022     |
| • Final Completion               | May 2023     |

#### **SECTION F: ASSUMPTIONS AND EXCLUSIONS**

- On-site inspection services shall be include a full time RPR.
- The contractor shall be responsible for performing all construction activities, including but not limited to implementing specified erosion control measures, NPDES permitting, and any local permitting required for construction.
- Requests for reimbursement are to be submitted to FDOT no less than quarterly.

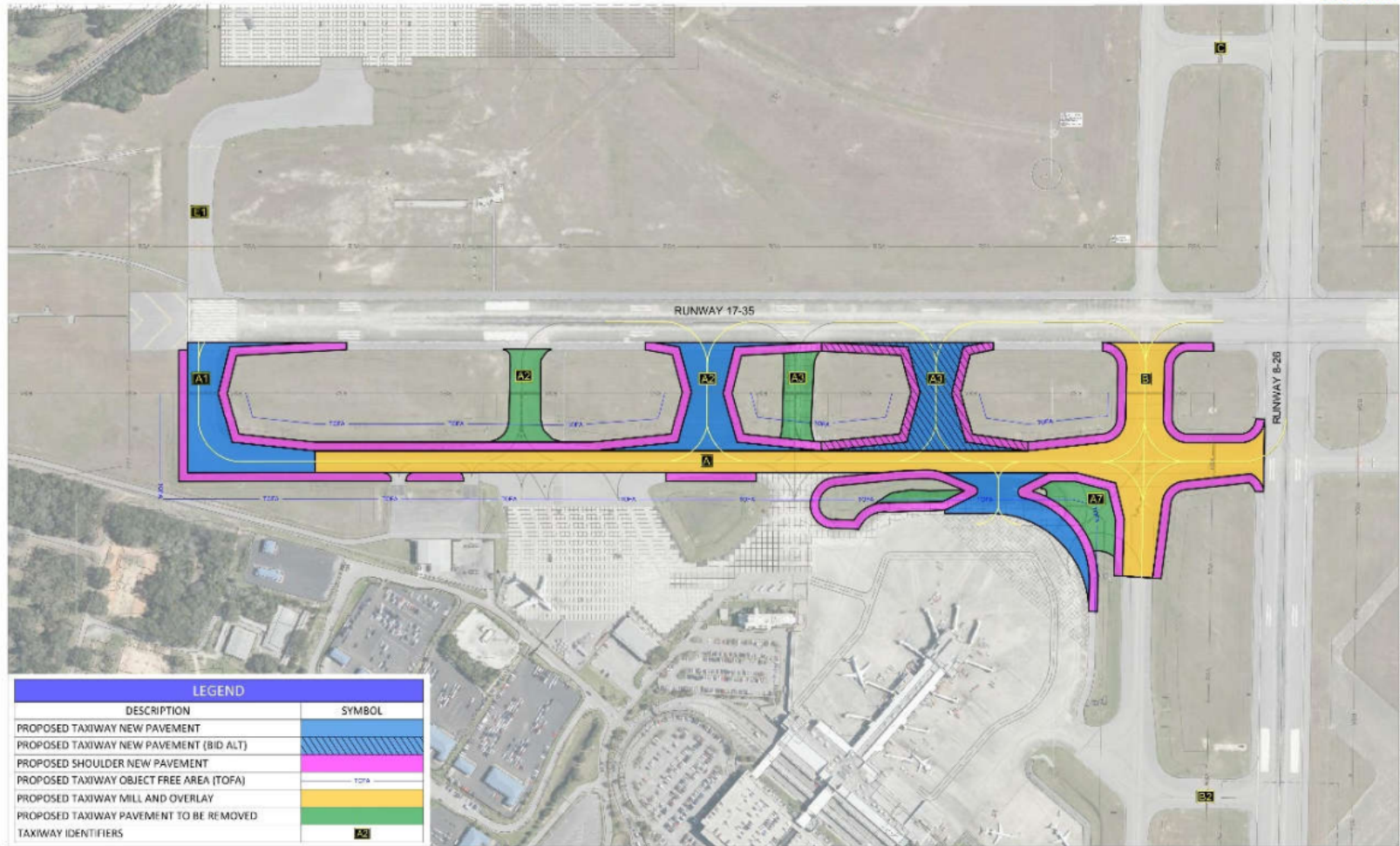


EXHIBIT 1 - RECONSTRUCTION OF TAXIWAYS A1, A2, A3, AND A7 AND MILL & OVERLAY OF TAXIWAYS A AND B.

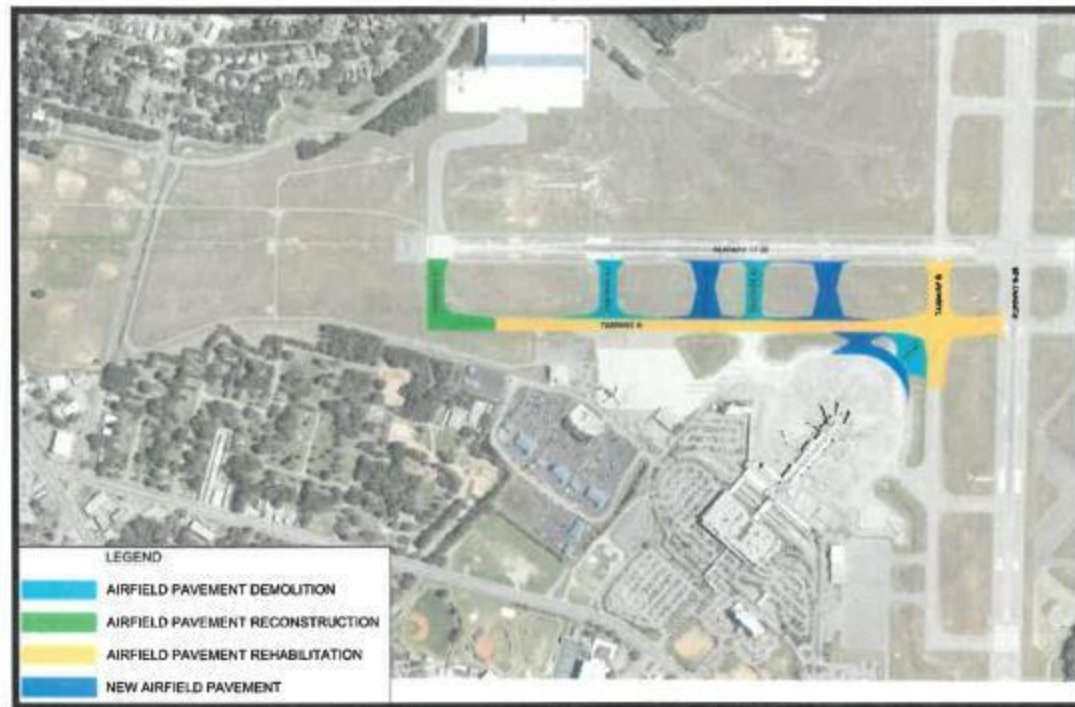


Figure 1: Taxiway A Rehabilitation and Reconstruction Limits

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**EXHIBIT B**

**Schedule of Financial Assistance**

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT  
CONSIST OF THE FOLLOWING:

**A. Fund Type and Fiscal Year:**

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
435717-7-94-01	DDR	088719	2022	740100	N/A	N/A	\$275,000.00
435717-7-94-01	FAA	088719	2022	740100	N/A	N/A	\$10,980,000.00
435717-7-94-01	LF	088719	2022	740100	N/A	N/A	\$945,000.00
<b>Total Financial Assistance</b>							<b>\$12,200,000.00</b>

**B. Estimate of Project Costs by Grant Phase:**

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Planning	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Environmental/Design/Construction	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Capital Equipment/ Preventative Maintenance	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	\$275,000.00	\$945,000.00	\$10,980,000.00	\$12,200,000.00	2.25	7.75	90.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Totals</b>	<b>\$275,000.00</b>	<b>\$945,000.00</b>	<b>\$10,980,000.00</b>	<b>\$12,200,000.00</b>			

\*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

**BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

\_\_\_\_\_  
Department Grant Manager Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date



**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS****EXHIBIT C****TERMS AND CONDITIONS OF CONSTRUCTION****1. Design and Construction Standards and Required Approvals.**

- a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.
- b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Quinton Williams (email: quinton.williams@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.
- c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.
- d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).
- e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.
- f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

**2. Construction on the Department's Right of Way.** If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

- a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

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- b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.
- c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
- d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is Quinton Williams.
- e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

- i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
- k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.
- m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

- q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
- r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation):
- u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:  
850-330-1205

**Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)**

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS****ENGINEER'S CERTIFICATION OF COMPLIANCE**

PUBLIC TRANSPORTATION GRANT AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

DEPARTMENT CONTRACT NO.: \_\_\_\_\_

FINANCIAL MANAGEMENT NO.: \_\_\_\_\_

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: \_\_\_\_\_, P.E.

SEAL:

Name: \_\_\_\_\_

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

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**EXHIBIT D**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***

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**EXHIBIT E**

**PROGRAM SPECIFIC TERMS AND CONDITIONS - AVIATION  
AVIATION PROGRAM ASSURANCES**

**A. General.**

1. The assurances herein shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the Parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit “A”, Project Description and Responsibilities**, and **Exhibit “B”, Schedule of Financial Assistance**, as well as serving to protect public investment in public-use airports and the continued viability of the Florida Aviation System.
3. The Agency shall comply with the assurances as specified in this Agreement.
4. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for an airport development or noise compatibility program project, but shall not exceed 20 years from the effective date of this Agreement.
5. There shall be no limit on the duration of the terms and assurances of this Agreement regarding Exclusive Rights and Airport Revenue so long as the property is used as a public airport.
6. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by this Agreement.
7. Subject to appropriations, the Department shall continue to comply with its financial commitment to this Project under the terms of this Agreement, until such time as the Department may determine that the Agency has failed to comply with the terms and assurances of this Agreement.
8. An Agency that has been determined by the Department to have failed to comply with either the terms of these Assurances, or the terms of the Agreement, or both, shall be notified, in writing, by the Department, identifying the specifics of the non-compliance and any corrective action by the Agency to remedy the failure.
9. Failure by the Agency to satisfactorily remedy the non-compliance shall absolve the Department's continued financial commitment to this Project and immediately require the Agency to repay the Department the full amount of funds expended by the Department on this Project.
10. Any history of failure to comply with the terms and assurances of an Agreement will jeopardize the Agency's eligibility for further state funding of airport projects by the Department.

**B. Agency Compliance Certification.**

1. **General Certification.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and applicable local governments, as well as Department policies, guidelines, and requirements, including but not limited to, the following (latest version of each document):
  - a. **Florida Statutes (F.S.)**
    - Chapter 163, F.S., Intergovernmental Programs
    - Chapter 329, F.S., Aircraft: Title; Liens; Registration; Liens
    - Chapter 330, F.S., Regulation of Aircraft, Pilots, and Airports
    - Chapter 331, F.S., Aviation and Aerospace Facilities and Commerce
    - Chapter 332, F.S., Airports and Other Air Navigation Facilities
    - Chapter 333, F.S., Airport Zoning

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**b. Florida Administrative Code (FAC)**

- Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
- Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
- Section 62-256.300, FAC, Open Burning, Prohibitions
- Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety

**c. Local Government Requirements**

- Airport Zoning Ordinance
- Local Comprehensive Plan

**d. Department Requirements**

- Eight Steps of Building a New Airport
- Florida Airport Revenue Use Guide
- Florida Aviation Project Handbook
- Guidebook for Airport Master Planning
- Airport Compatible Land Use Guidebook

- 2. Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:

**a. Federal Requirements**

- FAA AC 70/7460-1, Obstruction Marking and Lighting
- FAA AC 150/5300-13, Airport Design
- FAA AC 150/5370-2, Operational Safety on Airports During Construction
- FAA AC 150/5370-10, Standards for Specifying Construction of Airports

**b. Local Government Requirements**

- Local Building Codes
- Local Zoning Codes

**c. Department Requirements**

- Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
- Manual on Uniform Traffic Control Devices
- Section 14-60.007, FAC, Airfield Standards for Licensed Airports
- Standard Specifications for Construction of General Aviation Airports
- Design Guidelines & Minimum Standard Requirements for T-Hangar Projects

- 3. Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:

**a. Federal Requirements**

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- National Environmental Policy of 1969
- FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
- FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects

**b. Florida Requirements**

- Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
- Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
- Section 286.23, F.S., Public Business: Miscellaneous Provisions



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**C. Agency Authority.**

1. **Legal Authority.** The Agency hereby certifies, with respect to this Agreement, that it has the legal authority to enter into this Agreement and commit to this Project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the airport sponsor's governing body authorizing this Agreement, including assurances contained therein, and directing and authorizing the person identified as the official representative of the governing body to act on its behalf with respect to this Agreement and to provide any additional information as may be required.
2. **Financial Authority.** The Agency hereby certifies, with respect to this Agreement, that it has sufficient funds available for that portion of the Project costs which are not paid by the U.S. Government or the State of Florida; that it has sufficient funds available to assure future operation and maintenance of items funded by this Project, which it will control; and that authority has been granted by the airport sponsor governing body to commit those funds to this Project.

**D. Agency Responsibilities.** The Agency hereby certifies it currently complies with or will comply with the following responsibilities:

**1. Accounting System.**

- a. The Agency shall create and maintain a separate account to document all of the financial transactions related to the airport as a distinct entity.
- b. The accounting records shall be kept by the Agency or its authorized representative in accordance with Generally Accepted Accounting Principles and in an accounting system that will facilitate an effective audit in accordance with the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Section 215.97, F.S., Florida Single Audit Act.
- c. The Department has the right to audit and inspect all financial records of the Agency upon reasonable notice.

**2. Good Title.**

- a. The Agency holds good title, satisfactory to the Department, to the airport or site thereof, or gives assurance, satisfactory to the Department, that good title will be obtained.
- b. For noise compatibility program projects undertaken on the airport sponsor's property, the Agency holds good title, satisfactory to the Department, to that portion of the property upon which state funds will be expended, or gives assurance, satisfactory to the Department, that good title will be obtained.

**3. Preserving Rights and Powers.**

- a. The Agency shall not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, the Agency shall act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
- b. If an arrangement is made for management and operation of the airport by any entity or person other than the Agency or an employee of the Agency, the Agency shall reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the terms and assurances of this Agreement.

**4. Hazard Removal and Mitigation.**

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- a. For airport hazards located on airport controlled property, the Agency shall clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
- b. For airport hazards not located on airport controlled property, the Agency shall work in conjunction with the governing public authority or private land owner of the property to clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. The Agency may enter into an agreement with surrounding property owners or pursue available legal remedies to remove potential hazards to air navigation.

**5. Airport Compatible Land Use.**

- a. The Agency assures that appropriate airport zoning ordinances are in place consistent with Section 333.03, F.S., or if not in place, that it will take appropriate action necessary to ensure local government adoption of an airport zoning ordinance or execution of an interlocal agreement with another local government body having an airport zoning ordinance, consistent with the provisions of Section 333.03, F.S.
- b. The Agency assures that it will disapprove or oppose any attempted alteration or creation of objects, natural or man-made, dangerous to navigable airspace or that would adversely affect the current or future levels of airport operations.
- c. The Agency assures that it will disapprove or oppose any attempted change in local land use development regulations that would adversely affect the current or future levels of airport operations by creation or expansion of airport incompatible land use areas.

**6. Consistency with Local Government Plans.**

- a. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the airport.
- b. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.
- c. The Agency shall consider and take appropriate actions, if deemed warranted by the Agency, to adopt the current, approved Airport Master Plan into the local government comprehensive plan.

**7. Consistency with Airport Master Plan and Airport Layout Plan.**

- a. The Agency assures that the project, covered by the terms and assurances of this Agreement, is consistent with the most current Airport Master Plan.
- b. The Agency assures that the Project, covered by the terms and assurances of this Agreement, is consistent with the most current, approved Airport Layout Plan (ALP), which shows:
  - 1) The boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;
  - 2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
  - 3) The location of all existing and proposed non-aviation areas on airport property and of all existing improvements thereon.

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- c. The Agency assures that it will not make or permit any changes or alterations on the airport or any of its facilities that are not consistent with the Airport Master Plan and the Airport Layout Plan, as approved by the Department.
- d. Original Airport Master Plans and Airport Layout Plans and each amendment, revision, or modification thereof, will be subject to the approval of the Department.

**8. Airport Financial Plan.**

- a. The Agency assures that it will develop and maintain a cost-feasible Airport financial plan to accomplish the projects necessary to achieve the proposed airport improvements identified in the Airport Master Plan and depicted in the Airport Layout Plan, and any updates thereto. The Agency's Airport financial plan must comply with the following conditions:
  - 1) The Airport financial plan will be a part of the Airport Master Plan.
  - 2) The Airport financial plan will realistically assess project phasing considering availability of state and local funding and likelihood of federal funding under the FAA's priority system.
  - 3) The Airport financial plan will not include Department funding for projects that are inconsistent with the local government comprehensive plan.
- b. All Project cost estimates contained in the Airport financial plan shall be entered into and kept current in the Florida Aviation Database (FAD) Joint Automated Capital Improvement Program (JACIP) website.

- 9. Airport Revenue.** The Agency assures that all revenue generated by the airport will be expended for capital improvement or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

**10. Fee and Rental Structure.**

- a. The Agency assures that it will maintain a fee and rental structure for facilities and services at the airport that it will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.
- b. If this Agreement results in a facility that will be leased or otherwise produce revenue, the Agency assures that the price charged for that facility will be based on the market value.

**11. Public-Private Partnership for Aeronautical Uses.**

- a. If the airport owner or operator and a person or entity that owns an aircraft or an airport tenant or potential tenant agree that an aircraft hangar or tenant-specific facility, respectively, is to be constructed on airport property for aircraft storage or tenant use at the expense of the aircraft owner or tenant, the airport owner or operator may grant to the aircraft owner or tenant of the facility a lease that is subject to such terms and conditions on the facility as the airport owner or operator may impose, subject to approval by the Department.
- b. The price charged for said lease will be based on market value, unless otherwise approved by the Department.

**12. Economic Nondiscrimination.**

- a. The Agency assures that it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.
  - 1) The Agency may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.

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- 2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

- b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.

**13. Air and Water Quality Standards.** The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

**14. Operations and Maintenance.**

- a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.
  - 1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
  - 2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
  - 3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.
- b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.

**15. Federal Funding Eligibility.**

- a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.
- b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.

**16. Project Implementation.**

- a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.
- b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.
- c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.

**17. Exclusive Rights.** The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.

**18. Airfield Access.**

- a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency

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equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage, except for those normal airport providers responsible for standard airport daily services or during special events at the airport open to the public with limited and controlled access.

- b. The Agency assures that it will not grant or allow general easement or public access to any portion of the airfield from adjacent real property which is not owned, operated, or otherwise controlled by the Agency without prior Department approval.

**19. Retention of Rights and Interests.** The Agency will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the real property shown as airport owned or controlled on the current airport layout plan without prior written approval by the Department. It will not sell, lease, encumber, terminate, waive, or otherwise transfer or dispose of any part of its title, rights, or other interest in existing noise easements or aviation easements on any property, airport or non-airport, without prior written approval by the Department. These assurances shall not limit the Agency's right to lease airport property for airport-compatible purposes.

**20. Consultant, Contractor, Scope, and Costs.**

- a. The Department has the right to disapprove the Agency's employment of consultants, contractors, and subcontractors for all or any part of this Project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department.
- b. Further, the Department maintains the right to disapprove the proposed Project scope and cost of professional services.

**21. Planning Projects.** For all planning projects or other aviation studies, the Agency assures that it will:

- a. Execute the project per the approved project narrative or with approved modifications.
- b. Furnish the Department with such periodic project and work activity reports as indicated in the approved scope of services.
- c. Make such project materials available for public review, unless exempt from public disclosure.
  - 1) Information related to airport security is considered restricted information and is exempt from public dissemination per Sections 119.071(3) and 331.22 F.S.
  - 2) No materials prepared under this Agreement shall be subject to copyright in the United States or any other country.
- d. Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.
- e. If the Project involves developing an Airport Master Plan or an Airport Layout Plan, and any updates thereto, it will be consistent with provisions of the Florida Aviation System Plan, will identify reasonable future growth of the airport and the Agency will comply with the Department airport master planning guidebook, including:
  - 1) Provide copies, in electronic and editable format, of final Project materials to the Department, including computer-aided drafting (CAD) files of the Airport Layout Plan.
  - 2) Develop a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the Airport Master Plan or depicted in the Airport Layout Plan, and any updates thereto. The cost-feasible financial plan shall realistically assess Project phasing considering availability of state and local funding and federal funding under the FAA's priority system.
  - 3) Enter all projects contained in the cost-feasible plan in the Joint Automated Capital Improvement Program (JACIP).

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- f. The Agency understands and agrees that Department approval of this Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.
- g. The Agency will submit master planning draft and final deliverables for Department and, if required, FAA approval prior to submitting any invoices to the Department for payment.

**22. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:

- a. **Laws.** Acquire the land in accordance with federal and/or state laws governing such action.
- b. **Administration.** Maintain direct control of Project administration, including:
  - 1) Maintain responsibility for all related contract letting and administrative procedures related to the purchase of real property.
  - 2) Secure written Department approval to execute each agreement for the purchase of real property with any third party.
  - 3) Ensure a qualified, State-certified general appraiser provides all necessary services and documentation.
  - 4) Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
  - 5) Establish a Project account for the purchase of the land.
  - 6) Collect and disburse federal, state, and local project funds.
- c. **Reimbursable Funds.** If funding conveyed by this Agreement is reimbursable for land purchase in accordance with Chapter 332, F.S., the Agency shall comply with the following requirements:
  - 1) The Agency shall apply for a FAA Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.
  - 2) If federal funds are received for the land purchase, the Agency shall notify the Department, in writing, within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares per Chapter 332, F.S.
  - 3) If federal funds are not received for the land purchase, the Agency shall reimburse the Department within 30 calendar days after the reimbursable funds are due in order to achieve normal project state and local funding shares as described in Chapter 332, F.S.
  - 4) If federal funds are not received for the land purchase and the state share of the purchase is less than or equal to normal state and local funding shares per Chapter 332, F.S., when reimbursable funds are due, no reimbursement to the Department shall be required.
- d. **New Airport.** If this Project involves the purchase of real property for the development of a new airport, the Agency assures that it will:
  - 1) Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.
  - 2) Complete an Airport Master Plan within two years of land purchase.
  - 3) Complete airport construction for basic operation within 10 years of land purchase.
- e. **Use of Land.** The Agency assures that it shall use the land for aviation purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.
- f. **Disposal of Land.** For the disposal of real property the Agency assures that it will comply with the following:
  - 1) For land purchased for airport development or noise compatibility purposes, the Agency shall, when the land is no longer needed for such purposes, dispose of such land at fair market value and/or make available to the Department an amount equal to the state's proportionate share of its market value.

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- 2) Land will be considered to be needed for airport purposes under this assurance if:
  - a) It serves aeronautical purposes such as a runway protection zone or as a noise buffer.
  - b) Revenue from uses of such land contributes to airport financial self-sufficiency.
- 3) Disposition of land under Sections D.22.f.1. or D.22.f.2. of this Exhibit, above, shall be subject to retention or reservation of any interest or right therein needed to ensure such land will only be used for purposes compatible with noise levels related to airport operations.
- 4) Revenues from the sale of such land must be accounted for as outlined in Section D.1. of this Exhibit, and expended as outlined in Section D.9. of this Exhibit.

**23. Construction Projects.** The Agency assures that it will:

**a. Project Certifications.** Certify Project compliances, including:

- 1) Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.
- 2) All design plans and specifications comply with federal, state, and professional standards and applicable FAA advisory circulars, as well as the minimum standards established by the Department for State of Florida licensing as a public-use airport.
- 3) Completed construction complies with all applicable local building codes.
- 4) Completed construction complies with the Project plans and specifications with certification of that fact by the Project Engineer.

**b. Design Development.** For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, which are hereinafter collectively referred to as "plans", the Engineer will certify that:

- 1) The plans shall be developed in accordance with sound engineering and design principles, and with generally accepted professional standards.
- 2) The plans shall be consistent with the intent of the Project as defined in Exhibit A and Exhibit B of this Agreement.
- 3) The Project Engineer shall perform a review of the certification requirements listed in Section B.2. of this Exhibit, Construction Certification, and make a determination as to their applicability to this Project.
- 4) Development of the plans shall comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

**c. Inspection and Approval.** The Agency assures that:

- 1) The Agency will provide and maintain competent technical supervision at the construction site throughout the Project to assure that the work conforms to the plans, specifications, and schedules approved by the Department, as applicable, for the Project.
- 2) The Agency assures that it will allow the Department to inspect the work and that it will provide any cost and progress reporting, as may be required by the Department.
- 3) The Agency assures that it will take the appropriate corrective action necessary, as required by the Department, for work which does not conform to the Department standards.

**d. Pavement Preventive Maintenance.** The Agency assures that for a project involving replacement or reconstruction of runway or taxiway pavement it has implemented an airport pavement maintenance management program and that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

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**24. Noise Mitigation Projects.** The Agency assures that it will:

- a. Government Agreements.** For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, the Agency shall enter into an agreement with that government body.
  - 1) The local agreement, satisfactory to the Department, shall obligate the unit of local government to the same terms and assurances that apply to the Agency.
  - 2) The Agency assures that it will take steps to enforce the local agreement if there is substantial non-compliance with the terms of the local agreement.
- b. Private Agreements.** For noise compatibility projects on privately owned property:
  - 1) The Agency shall enter into an agreement with the owner of that property to exclude future actions against the airport.
  - 2) The Agency assures that it will take steps to enforce such agreement if there is substantial non-compliance with the terms of the agreement.

**- End of Exhibit E -**



**EXHIBIT F**

**Contract Payment Requirements  
Florida Department of Financial Services, Reference Guide for State Expenditures  
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

RESOLUTION  
NO. 2022-013

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF PENSACOLA TO EXECUTE THE PUBLIC TRANSPORTATION GRANT AGREEMENT NO. 435717-7-94-01 WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR TAXIWAY A REHABILITATION – CONSTRUCTION AT THE PENSACOLA INTERNATIONAL AIRPORT; PROVIDING AN EFFECTIVE DATE.

WHEREAS, The City of Pensacola uses Airport Management as a tool for scheduling and planning projects at the Pensacola International Airport; and

WHEREAS, The City of Pensacola and Airport Management are planning the expansion of aircraft maintenance, repair, and overhaul facilities at Pensacola International Airport; and

WHEREAS, the pavement condition of Taxiway A North requires rehabilitation; and

WHEREAS, the Florida Department of Transportation has approved the project and offered the Public Transportation Grant Agreement in the amount of \$275,000 to support the construction efforts;

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

SECTION 1. That the City of Pensacola shall accept the Public Transportation Grant Agreement for the purpose of obtaining State aid for the Airport's facilities.

SECTION 2. The Mayor is hereby empowered to take all actions necessary relating to this Resolution, the duties hereunder, and execute any agreements or documents related hereto.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03 (d) of the City Charter of the City of Pensacola.

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

Approved: \_\_\_\_\_  
President of City Council

Attest: \_\_\_\_\_  
City Clerk



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 2022-013

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

RESOLUTION NO. 2022-013 - STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
PUBLIC TRANSPORTATION AGREEMENT NO. 435717-7-94-01

**RECOMMENDATION:**

That City Council adopt Resolution No. 2022-013.

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF PENSACOLA TO EXECUTE THE PUBLIC TRANSPORTATION GRANT AGREEMENT NO. 435717-7-94-01 WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR TAXIWAY A REHABILITATION - CONSTRUCTION AT THE PENSACOLA INTERNATIONAL AIRPORT; PROVIDING AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The Florida Department of Transportation (FDOT) Airport Pavement Evaluation Report completed in November 2019 classified the section of Taxiway A between Runway 8-26 and Taxiway A1 as Fair, while Taxiway A1 was classified as Very Poor. In addition to the needs identified in the FDOT Pavement Evaluation Report, the approved Airport Layout Plan (ALP) identified a few geometric improvements along Taxiway A based on Federal Aviation Administration (FAA) requirements.

Under Work Order No. 30, Atkins North America, Inc., will provide an evaluation of the existing conditions, recommendations of pavement rehabilitation methods, and design of airfield pavement improvements. These deliverables are expected to be completed by the end of January 2022. Construction is anticipated to start in May 2022.

This Grant will be used as matching funds to FAA Airport Improvement Program Funding. The balance will be paid from Airport Capital Funds.

**PRIOR ACTION:**

March 3, 2021 - The Mayor approved Work Order No. 30 with Atkins North America, Inc. for design work related to Taxiway A at the Pensacola International Airport.

**FUNDING:**

Budget: \$ 1,497,590 FAA AIP Grant 47  
10,800,000 FY22 FAA Airport Improvement Program Funding  
275,000 State of Florida Department of Transportation  
925,000 Airport Capital Funds  
\$13,497,590

Actual: \$ 1,497,590 Design  
9,600,000 Construction (Estimated)  
1,200,000 Contingency (Estimated)  
1,200,000 Construction Administration (Estimated)  
\$13,497,590

**FINANCIAL IMPACT:**

Funds will be provided from FDOT on a reimbursable basis.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/19/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Amy Miller, Deputy City Administrator - Administration and Enterprise  
Matthew F. Coughlin, Airport Director

**ATTACHMENTS:**

- 1) Resolution No. 2022-013
- 2) State of Florida Department of Transportation Public Transportation Grant Agreement No. 435717-7-94-01

**PRESENTATION:** No

RESOLUTION  
NO. 2022-013

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING THE MAYOR OF THE CITY OF PENSACOLA TO EXECUTE THE PUBLIC TRANSPORTATION GRANT AGREEMENT NO. 435717-7-94-01 WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION FOR TAXIWAY A REHABILITATION – CONSTRUCTION AT THE PENSACOLA INTERNATIONAL AIRPORT; PROVIDING AN EFFECTIVE DATE.

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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

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT**

Financial Project Number(s): (item-segment-phase-sequence) 435717-7-94-01	Fund(s): Work Activity Code/Function: 215	DDR	FLAIR Category: 088719
	Federal Number/Federal Award		Object Code: 751000
	Identification Number (FAIN) – Transit only: N/A		Org. Code: 55032020329
Contract Number:	Federal Award Date: N/A		Vendor Number: VF596000406004
CFDA Number: N/A	Agency DUNS Number:		
CFDA Title: N/A			
CSFA Number: N/A			
CSFA Title: N/A			

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into \_\_\_\_\_, by and between the State of Florida, Department of Transportation, ("Department"), and City of Pensacola, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

- 1. Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 332.007, Florida Statutes, to enter into this Agreement.
- 2. Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Taxiway A Rehabilitation - Construction, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
- 3. Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☐ Aviation
- ☐ Seaports
- ☐ Transit
- ☐ Intermodal
- ☐ Rail Crossing Closure
- ☒ Match to Direct Federal Funding (Aviation or Transit)
- (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ Other

- 4. Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ \*Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ \*Exhibit B2: Advance Payment Financial Provisions
- ☒ \*Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☐ \*Exhibit G: Audit Requirements for Awards of State Financial Assistance
- ☐ \*Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
- ☐ \*Additional Exhibit(s):



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\*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

**5. Time.** Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

**6. Term of Agreement.** This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through June 30, 2023. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

**a.** ☐ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the  day of , or within  days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

**7. Amendments, Extensions, and Assignment.** This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

**8. Termination or Suspension of Project.** The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

**a.** Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.

**b.** The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.

**c.** If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.

**d.** In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.

**e.** The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

**9. Project Cost:**

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- a. The estimated total cost of the Project is \$12,200,000. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$275,000 and, the Department's participation in the Project shall not exceed 2.25% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

**10. Compensation and Payment:**

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

X Travel expenses are NOT eligible for reimbursement under this Agreement.

       Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061, Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

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**f. Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.

**g. Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

**h. Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.

**i. Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.

**j. Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

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- k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. **Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."

- o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved

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in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities**.

**11. General Requirements.** The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.
- b. Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:
  - i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
  - ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d.** ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e.** ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
  - i. ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
  - ii. ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
  - iii. ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.
- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make

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best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

**12. Contracts of the Agency:**

- a. **Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. **Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. **Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. **Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

- 13. Maintenance Obligations.** In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

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- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

**14. Sale, Transfer, or Disposal of Department-funded Property:**

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
  - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
  - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
  - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
  - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement.
  - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
  - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

- 15. Single Audit.** The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

**Federal Funded:**

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any

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inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
  - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
  - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency’s resources obtained from other than Federal entities).
  - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
  - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an



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audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
  2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
  3. Wholly or partly suspend or terminate the Federal award;
  4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
  5. Withhold further Federal awards for the Project or program;
  6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0450  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

**State Funded:**

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
  - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial

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assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

- ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at [FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us) no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation  
Office of Comptroller, MS 24  
605 Suwannee Street  
Tallahassee, Florida 32399-0405  
[FDOTSingleAudit@dot.state.fl.us](mailto:FDOTSingleAudit@dot.state.fl.us)

And

State of Florida Auditor General  
Local Government Audits/342  
111 West Madison Street, Room 401  
Tallahassee, FL 32399-1450  
Email: [flaudgen\\_localgovt@aud.state.fl.us](mailto:flaudgen_localgovt@aud.state.fl.us)

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

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- vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.
- viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

**16. Notices and Approvals.** Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

**17. Restrictions, Prohibitions, Controls and Labor Provisions:**

- a. **Convicted Vendor List.** A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.
- b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.
- c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.
- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

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- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
  - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
  - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. **Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at [fdotsingleaudit@dot.state.fl.us](mailto:fdotsingleaudit@dot.state.fl.us) within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

**18. Indemnification and Insurance:**

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any subcontractor, in connection with this Agreement. Additionally, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including,

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but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
  
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

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- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

**19. Miscellaneous:**

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that

**PUBLIC TRANSPORTATION  
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appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

- g. Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY City of Pensacola

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

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

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

Name: \_\_\_\_\_

Name: Tim Smith, P.E.

Title: \_\_\_\_\_

Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
Legal Review:

\_\_\_\_\_

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**EXHIBIT A**

**Project Description and Responsibilities**

**A. Project Description** (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Taxiway A Rehabilitation - Construction

See Attachment 1

**B. Project Location** (limits, city, county, map): Pensacola International Airport/Pensacola, FL/Escambia

**C. Project Scope** (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): See Attachment 1

**D. Deliverable(s)**: See Attachment 1

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

**E. Unallowable Costs** (including but not limited to):

**F. Transit Operating Grant Requirements (Transit Only):**

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.



**Attachment 1**  
**Project Description and Budget**  
**Taxiway A (North) Rehabilitation and Reconstruction 435717-7**  
**Pensacola International Airport, Pensacola, Florida**

**SECTION A: PROJECT DESCRIPTION**

As required by 215.971, F.S., this scope of work includes but is not limited to consultant and design fees, survey and geotechnical costs, permitting, construction inspection and material testing costs, mobilization and demobilization, maintenance of traffic, erosion control, demolition of some existing pavement, pavement enhancement or reconstruction with asphalt, pavement markings (removal and new), upgrade of airfield lighting system to LED edge lights and signage, drainage, stormwater structures, addition of taxiway shoulders, fencing and gates, and sodding, including all materials, equipment, labor, and incidentals required to rehabilitate/reconstruct the taxiway pavement. The Sponsor will comply with Aviation Program Assurances.

**SECTION B: PROJECT JUSTIFICATION**

The Airport Pavement Evaluation Report developed by the FDOT in November 2019 for PNS classified the section of Taxiway A between Runway 8-26 and Taxiway A1 as Fair, while Taxiway A1 was classified as Very Poor. At the time of the report, both pavements were forecasted to receive a major rehabilitation in 2020.

In addition to the needs identified in the FDOT Pavement Evaluation Report, the approved Airport Layout Plan (ALP) for the Airport identifies a few geometric improvements along Taxiway A. This includes the removal and relocation of Taxiway A2 and A3 connectors to eliminate direct access from the apron to Runway 17-35, and the realignment of Taxiway A7 connector to eliminate the expansive pavement at Taxiway A and Taxiway B intersection.

The existing taxiway leading to the apron from Taxiway A will be renamed to use Taxiway F naming conventions as they would no longer be continuous. The reconstruction of Taxiway A3 is considered as a bid alternative for budgetary reasons, however the removal of the taxiway will remain in the base bid.

**SECTION C: DESCRIPTION OF CONSTRUCTION**

The construction contractor for this project will be determined via a public competitive bidding process. The contractor's scope will include performing the site improvements, furnish and install the LED lights/signage, tie new lighting/signage into existing lighting circuits, tie drainage facilities into existing stormwater conveyance system, and other related work as specified in the contract documents.

The bid documents will be set up with one bid alternate – the construction of Taxiway A3 in its new location. Should bids and funding permit, this connector taxiway will be built. If not, construction of the connector will be deferred until a later date. The design will accommodate the addition of the connector with minimal rework of new pavement.

The contractor(s) will be required to provide all performance and payment bonds, to ensure maintenance of traffic, to comply with all safety and security requirements, to perform final clean-up

and to provide all documentation required by the contract. The contractor(s) shall furnish all materials, labor, incidentals, and supplies required to construct the project.

**Payment & Deliverable Milestones.** Payment will be made to the Contractor based on an estimate of work complete. Upon completion of the work and prior to final payment, a final change order will be prepared and executed to reflect the final contract amount.

#### **SECTION D: PROJECT BUDGET ESTIMATES**

Estimated Total Construction \$12,200,000

##### Estimated Funding Sources

Local \$945,000

FDOT \$275,000

FAA AIP \$10,980,000

#### **SECTION E: PROJECT SCHEDULE**

- |                                  |              |
|----------------------------------|--------------|
| • Grant execution                | January 2022 |
| • Advertise for Bids             | March 2022   |
| • Construction Notice to Proceed | May 2022     |
| • Final Completion               | May 2023     |

#### **SECTION F: ASSUMPTIONS AND EXCLUSIONS**

- On-site inspection services shall include a full time RPR.
- The contractor shall be responsible for performing all construction activities, including but not limited to implementing specified erosion control measures, NPDES permitting, and any local permitting required for construction.
- Requests for reimbursement are to be submitted to FDOT no less than quarterly.

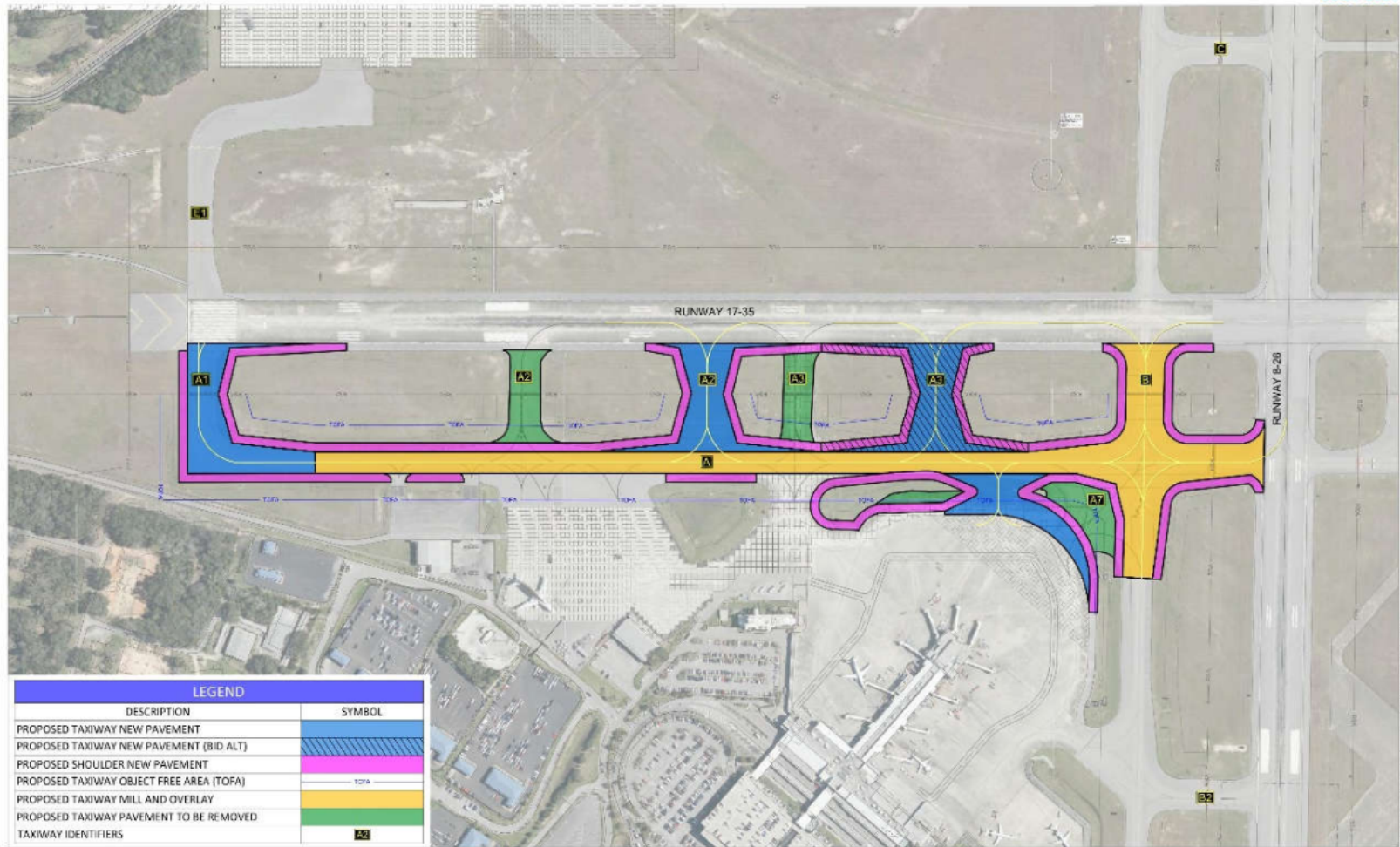
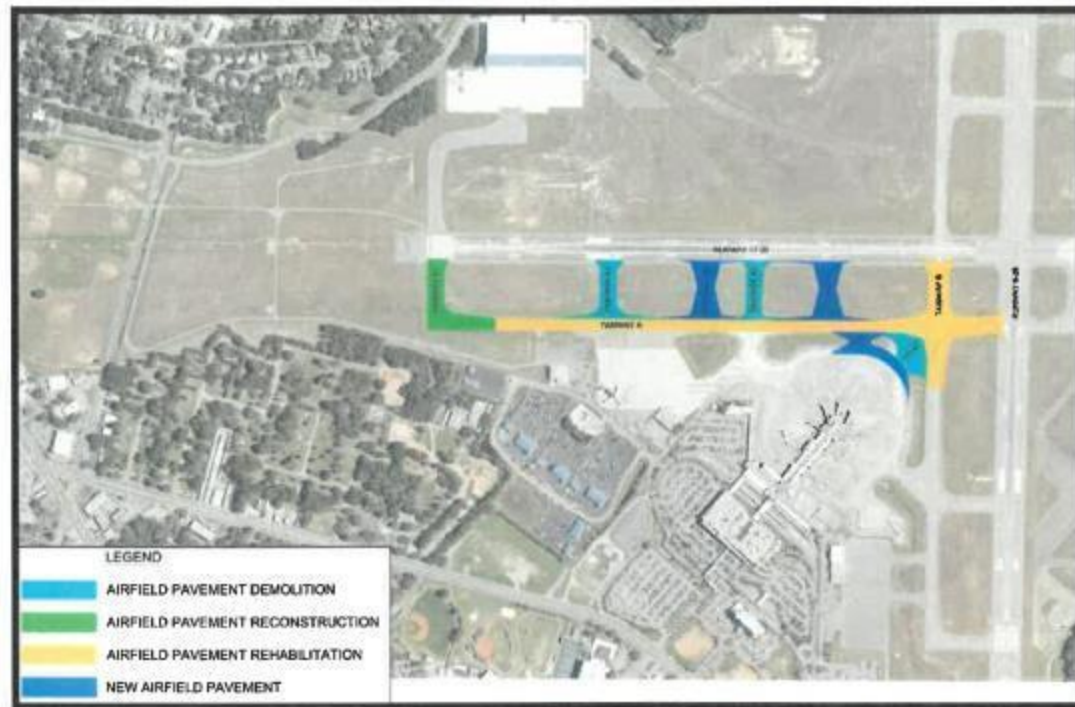


EXHIBIT 1 - RECONSTRUCTION OF TAXIWAYS A1, A2, A3, AND A7 AND MILL & OVERLAY OF TAXIWAYS A AND B.



**Figure 1: Taxiway A Rehabilitation and Reconstruction Limits**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**EXHIBIT B**

**Schedule of Financial Assistance**

FUNDS AWARDED TO THE AGENCY AND REQUIRED MATCHING FUNDS PURSUANT TO THIS AGREEMENT  
CONSIST OF THE FOLLOWING:

**A. Fund Type and Fiscal Year:**

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
435717-7-94-01	DDR	088719	2022	740100	N/A	N/A	\$275,000.00
435717-7-94-01	FAA	088719	2022	740100	N/A	N/A	\$10,980,000.00
435717-7-94-01	LF	088719	2022	740100	N/A	N/A	\$945,000.00
<b>Total Financial Assistance</b>							<b>\$12,200,000.00</b>

**B. Estimate of Project Costs by Grant Phase:**

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Planning	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Environmental/Design/Construction	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Capital Equipment/ Preventative Maintenance	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	\$275,000.00	\$945,000.00	\$10,980,000.00	\$12,200,000.00	2.25	7.75	90.00
Mobility Management (Transit Only)	\$0.00	\$0.00	\$0.00	\$0.00	0.00	0.00	0.00
<b>Totals</b>	<b>\$275,000.00</b>	<b>\$945,000.00</b>	<b>\$10,980,000.00</b>	<b>\$12,200,000.00</b>			

\*Shifting items between these grant phases requires execution of an Amendment to the Public Transportation Grant Agreement.

**BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:**

I certify that the cost for each line item budget category (grant phase) has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

\_\_\_\_\_  
Department Grant Manager Name

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS****EXHIBIT C****TERMS AND CONDITIONS OF CONSTRUCTION****1. Design and Construction Standards and Required Approvals.**

- a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.
- b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Quinton Williams (email: quinton.williams@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.
- c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.
- d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).
- e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.
- f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

**2. Construction on the Department's Right of Way.** If the Project involves construction on the Department's right-of-way, then the following provisions apply to any and all portions of the Project that are constructed on the Department's right-of-way:

- a. The Agency shall hire a qualified contractor using the Agency's normal bid procedures to perform the construction work for the Project. The Agency must certify that the installation of the Project is completed by a Contractor prequalified by the Department as required by Section 2 of the Standard Specifications for Road and Bridge Construction (2016), as amended, unless otherwise approved by the Department in writing or the Contractor exhibits past project experience in the last five years that are comparable in scale, composition, and overall quality to the site characterized within the scope of services of this Project.

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- b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.
- c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.
- d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is Quinton Williams.
- e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.
- f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.
- g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.
- h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

**PUBLIC TRANSPORTATION  
GRANT AGREEMENT EXHIBITS**

estate in Department right of way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Agency's use, occupancy or possession of Department right of way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, F.S.

- i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.
- j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.
- k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.
- l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.
- m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.
- n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.
- o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.
- p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,



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without Department liability to the Agency for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Agency with an invoice for the costs incurred by the Department and the Agency shall pay the invoice within thirty (30) days of the date of the invoice.

- q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.
- r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.
- s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.
- t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation):
- u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:  
850-330-1205

**Note: (Highlighted sections indicate need to confirm information with District Office or appropriate DOT person managing the Agreement)**

3. **Engineer's Certification of Compliance.** The Agency shall complete and submit and if applicable Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

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PUBLIC TRANSPORTATION GRANT AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION  
and \_\_\_\_\_

PROJECT DESCRIPTION: \_\_\_\_\_

DEPARTMENT CONTRACT NO.: \_\_\_\_\_

FINANCIAL MANAGEMENT NO.: \_\_\_\_\_

In accordance with the Terms and Conditions of the Public Transportation Grant Agreement, the undersigned certifies that all work which originally required certification by a Professional Engineer has been completed in compliance with the Project construction plans and specifications. If any deviations have been made from the approved plans, a list of all deviations, along with an explanation that justifies the reason to accept each deviation, will be attached to this Certification. Also, with submittal of this certification, the Agency shall furnish the Department a set of "as-built" plans for construction on the Department's Right of Way certified by the Engineer of Record/CEI.

By: \_\_\_\_\_, P.E.

SEAL:

Name: \_\_\_\_\_

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

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**EXHIBIT D**

**AGENCY RESOLUTION**

***PLEASE SEE ATTACHED***

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**EXHIBIT E**

**PROGRAM SPECIFIC TERMS AND CONDITIONS - AVIATION  
AVIATION PROGRAM ASSURANCES**

**A. General.**

1. The assurances herein shall form an integral part of the Agreement between the Department and the Agency.
2. These assurances delineate the obligations of the Parties to this Agreement to ensure their commitment and compliance with specific provisions of **Exhibit “A”, Project Description and Responsibilities**, and **Exhibit “B”, Schedule of Financial Assistance**, as well as serving to protect public investment in public-use airports and the continued viability of the Florida Aviation System.
3. The Agency shall comply with the assurances as specified in this Agreement.
4. The terms and assurances of this Agreement shall remain in full force and effect throughout the useful life of a facility developed; equipment acquired; or Project items installed within a facility for an airport development or noise compatibility program project, but shall not exceed 20 years from the effective date of this Agreement.
5. There shall be no limit on the duration of the terms and assurances of this Agreement regarding Exclusive Rights and Airport Revenue so long as the property is used as a public airport.
6. There shall be no limit on the duration of the terms and assurances of this Agreement with respect to real property acquired with funds provided by this Agreement.
7. Subject to appropriations, the Department shall continue to comply with its financial commitment to this Project under the terms of this Agreement, until such time as the Department may determine that the Agency has failed to comply with the terms and assurances of this Agreement.
8. An Agency that has been determined by the Department to have failed to comply with either the terms of these Assurances, or the terms of the Agreement, or both, shall be notified, in writing, by the Department, identifying the specifics of the non-compliance and any corrective action by the Agency to remedy the failure.
9. Failure by the Agency to satisfactorily remedy the non-compliance shall absolve the Department's continued financial commitment to this Project and immediately require the Agency to repay the Department the full amount of funds expended by the Department on this Project.
10. Any history of failure to comply with the terms and assurances of an Agreement will jeopardize the Agency's eligibility for further state funding of airport projects by the Department.

**B. Agency Compliance Certification.**

1. **General Certification.** The Agency hereby certifies, with respect to this Project, it will comply, within its authority, with all applicable, current laws and rules of the State of Florida and applicable local governments, as well as Department policies, guidelines, and requirements, including but not limited to, the following (latest version of each document):
  - a. **Florida Statutes (F.S.)**
    - Chapter 163, F.S., Intergovernmental Programs
    - Chapter 329, F.S., Aircraft: Title; Liens; Registration; Liens
    - Chapter 330, F.S., Regulation of Aircraft, Pilots, and Airports
    - Chapter 331, F.S., Aviation and Aerospace Facilities and Commerce
    - Chapter 332, F.S., Airports and Other Air Navigation Facilities
    - Chapter 333, F.S., Airport Zoning

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**b. Florida Administrative Code (FAC)**

- Chapter 73C-41, FAC, Community Planning; Governing the Procedure for the Submittal and Review of Local Government Comprehensive Plans and Amendments
- Chapter 14-60, FAC, Airport Licensing, Registration, and Airspace Protection
- Section 62-256.300, FAC, Open Burning, Prohibitions
- Section 62-701.320(13), FAC, Solid Waste Management Facility Permit Requirements, General, Airport Safety

**c. Local Government Requirements**

- Airport Zoning Ordinance
- Local Comprehensive Plan

**d. Department Requirements**

- Eight Steps of Building a New Airport
- Florida Airport Revenue Use Guide
- Florida Aviation Project Handbook
- Guidebook for Airport Master Planning
- Airport Compatible Land Use Guidebook

- 2. Construction Certification.** The Agency hereby certifies, with respect to a construction-related project, that all design plans and specifications will comply with applicable federal, state, local, and professional standards, as well as Federal Aviation Administration (FAA) Advisory Circulars (AC's) and FAA issued waivers thereto, including but not limited to, the following:

**a. Federal Requirements**

- FAA AC 70/7460-1, Obstruction Marking and Lighting
- FAA AC 150/5300-13, Airport Design
- FAA AC 150/5370-2, Operational Safety on Airports During Construction
- FAA AC 150/5370-10, Standards for Specifying Construction of Airports

**b. Local Government Requirements**

- Local Building Codes
- Local Zoning Codes

**c. Department Requirements**

- Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (Commonly Referred to as the "Florida Green Book")
- Manual on Uniform Traffic Control Devices
- Section 14-60.007, FAC, Airfield Standards for Licensed Airports
- Standard Specifications for Construction of General Aviation Airports
- Design Guidelines & Minimum Standard Requirements for T-Hangar Projects

- 3. Land Acquisition Certification.** The Agency hereby certifies, regarding land acquisition, that it will comply with applicable federal and/or state policies, regulations, and laws, including but not limited to the following:

**a. Federal Requirements**

- Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
- National Environmental Policy of 1969
- FAA Order 5050.4, National Environmental Policy Act Implementing Instructions for Airport Projects
- FAA Order 5100.37B, Land Acquisition and Relocation Assistance for Airport Projects

**b. Florida Requirements**

- Chapter 73, F.S., Eminent Domain (re: Property Acquired Through Condemnation)
- Chapter 74, F.S., Proceedings Supplemental to Eminent Domain (re: Condemnation)
- Section 286.23, F.S., Public Business: Miscellaneous Provisions

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**C. Agency Authority.**

1. **Legal Authority.** The Agency hereby certifies, with respect to this Agreement, that it has the legal authority to enter into this Agreement and commit to this Project; that a resolution, motion, or similar action has been duly adopted or passed as an official act of the airport sponsor's governing body authorizing this Agreement, including assurances contained therein, and directing and authorizing the person identified as the official representative of the governing body to act on its behalf with respect to this Agreement and to provide any additional information as may be required.
2. **Financial Authority.** The Agency hereby certifies, with respect to this Agreement, that it has sufficient funds available for that portion of the Project costs which are not paid by the U.S. Government or the State of Florida; that it has sufficient funds available to assure future operation and maintenance of items funded by this Project, which it will control; and that authority has been granted by the airport sponsor governing body to commit those funds to this Project.

**D. Agency Responsibilities.** The Agency hereby certifies it currently complies with or will comply with the following responsibilities:

**1. Accounting System.**

- a. The Agency shall create and maintain a separate account to document all of the financial transactions related to the airport as a distinct entity.
- b. The accounting records shall be kept by the Agency or its authorized representative in accordance with Generally Accepted Accounting Principles and in an accounting system that will facilitate an effective audit in accordance with the 2 CFR Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards and Section 215.97, F.S., Florida Single Audit Act.
- c. The Department has the right to audit and inspect all financial records of the Agency upon reasonable notice.

**2. Good Title.**

- a. The Agency holds good title, satisfactory to the Department, to the airport or site thereof, or gives assurance, satisfactory to the Department, that good title will be obtained.
- b. For noise compatibility program projects undertaken on the airport sponsor's property, the Agency holds good title, satisfactory to the Department, to that portion of the property upon which state funds will be expended, or gives assurance, satisfactory to the Department, that good title will be obtained.

**3. Preserving Rights and Powers.**

- a. The Agency shall not take or permit any action which would operate to deprive it of any of the rights and powers necessary to perform any or all of the terms and assurances of this Agreement without the written approval of the Department. Further, the Agency shall act promptly to acquire, extinguish, or modify, in a manner acceptable to the Department, any outstanding rights or claims of right of others which would interfere with such performance by the Agency.
- b. If an arrangement is made for management and operation of the airport by any entity or person other than the Agency or an employee of the Agency, the Agency shall reserve sufficient rights and authority to ensure that the airport will be operated and maintained in accordance with the terms and assurances of this Agreement.

**4. Hazard Removal and Mitigation.**

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- a. For airport hazards located on airport controlled property, the Agency shall clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards.
- b. For airport hazards not located on airport controlled property, the Agency shall work in conjunction with the governing public authority or private land owner of the property to clear and protect terminal airspace required for instrument and visual operations at the airport (including established minimum flight altitudes) by removing, lowering, relocating, marking, or lighting or otherwise mitigating existing airport hazards and by preventing the establishment or creation of future airport hazards. The Agency may enter into an agreement with surrounding property owners or pursue available legal remedies to remove potential hazards to air navigation.

**5. Airport Compatible Land Use.**

- a. The Agency assures that appropriate airport zoning ordinances are in place consistent with Section 333.03, F.S., or if not in place, that it will take appropriate action necessary to ensure local government adoption of an airport zoning ordinance or execution of an interlocal agreement with another local government body having an airport zoning ordinance, consistent with the provisions of Section 333.03, F.S.
- b. The Agency assures that it will disapprove or oppose any attempted alteration or creation of objects, natural or man-made, dangerous to navigable airspace or that would adversely affect the current or future levels of airport operations.
- c. The Agency assures that it will disapprove or oppose any attempted change in local land use development regulations that would adversely affect the current or future levels of airport operations by creation or expansion of airport incompatible land use areas.

**6. Consistency with Local Government Plans.**

- a. The Agency assures the Project is consistent with the currently existing and planned future land use development plans approved by the local government having jurisdictional responsibility for the area surrounding the airport.
- b. The Agency assures that it has given fair consideration to the interest of local communities and has had reasonable consultation with those parties affected by the Project.
- c. The Agency shall consider and take appropriate actions, if deemed warranted by the Agency, to adopt the current, approved Airport Master Plan into the local government comprehensive plan.

**7. Consistency with Airport Master Plan and Airport Layout Plan.**

- a. The Agency assures that the project, covered by the terms and assurances of this Agreement, is consistent with the most current Airport Master Plan.
- b. The Agency assures that the Project, covered by the terms and assurances of this Agreement, is consistent with the most current, approved Airport Layout Plan (ALP), which shows:
  - 1) The boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the Agency for airport purposes and proposed additions thereto;
  - 2) The location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars, and roads), including all proposed extensions and reductions of existing airport facilities; and
  - 3) The location of all existing and proposed non-aviation areas on airport property and of all existing improvements thereon.

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- c. The Agency assures that it will not make or permit any changes or alterations on the airport or any of its facilities that are not consistent with the Airport Master Plan and the Airport Layout Plan, as approved by the Department.
- d. Original Airport Master Plans and Airport Layout Plans and each amendment, revision, or modification thereof, will be subject to the approval of the Department.

**8. Airport Financial Plan.**

- a. The Agency assures that it will develop and maintain a cost-feasible Airport financial plan to accomplish the projects necessary to achieve the proposed airport improvements identified in the Airport Master Plan and depicted in the Airport Layout Plan, and any updates thereto. The Agency's Airport financial plan must comply with the following conditions:
  - 1) The Airport financial plan will be a part of the Airport Master Plan.
  - 2) The Airport financial plan will realistically assess project phasing considering availability of state and local funding and likelihood of federal funding under the FAA's priority system.
  - 3) The Airport financial plan will not include Department funding for projects that are inconsistent with the local government comprehensive plan.
- b. All Project cost estimates contained in the Airport financial plan shall be entered into and kept current in the Florida Aviation Database (FAD) Joint Automated Capital Improvement Program (JACIP) website.

- 9. Airport Revenue.** The Agency assures that all revenue generated by the airport will be expended for capital improvement or operating costs of the airport; the local airport system; or other local facilities which are owned or operated by the owner or operator of the airport and which are directly and substantially related to the air transportation of passengers or property, or for environmental or noise mitigation purposes on or off the airport.

**10. Fee and Rental Structure.**

- a. The Agency assures that it will maintain a fee and rental structure for facilities and services at the airport that it will make the airport as self-sustaining as possible under the circumstances existing at the particular airport.
- b. If this Agreement results in a facility that will be leased or otherwise produce revenue, the Agency assures that the price charged for that facility will be based on the market value.

**11. Public-Private Partnership for Aeronautical Uses.**

- a. If the airport owner or operator and a person or entity that owns an aircraft or an airport tenant or potential tenant agree that an aircraft hangar or tenant-specific facility, respectively, is to be constructed on airport property for aircraft storage or tenant use at the expense of the aircraft owner or tenant, the airport owner or operator may grant to the aircraft owner or tenant of the facility a lease that is subject to such terms and conditions on the facility as the airport owner or operator may impose, subject to approval by the Department.
- b. The price charged for said lease will be based on market value, unless otherwise approved by the Department.

**12. Economic Nondiscrimination.**

- a. The Agency assures that it will make the airport available as an airport for public use on reasonable terms without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public.
  - 1) The Agency may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport.



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- 2) The Agency may prohibit or limit any given type, kind or class of aeronautical use of the airport if such action is necessary for the safe operation of the airport or necessary to serve the civil aviation needs of the public.

- b. The Agency assures that each airport Fixed-Based Operator (FBO) shall be subject to the same rates, fees, rentals, and other charges as are uniformly applicable to all other FBOs making the same or similar uses of such airport and utilizing the same or similar facilities.

**13. Air and Water Quality Standards.** The Agency assures that all projects involving airport location, major runway extension, or runway location will be located, designed, constructed, and operated so as to comply with applicable air and water quality standards.

**14. Operations and Maintenance.**

- a. The Agency assures that the airport and all facilities, which are necessary to serve the aeronautical users of the airport, shall be operated at all times in a safe and serviceable condition and in accordance with the minimum standards as may be required or prescribed by applicable federal and state agencies for maintenance and operation, as well as minimum standards established by the Department for State of Florida licensing as a public-use airport.
  - 1) The Agency assures that it will not cause or permit any activity or action thereon which would interfere with its use for airport purposes.
  - 2) Except in emergency situations, any proposal to temporarily close the airport for non-aeronautical purposes must first be approved by the Department.
  - 3) The Agency assures that it will have arrangements for promptly notifying airmen of any condition affecting aeronautical use of the airport.
- b. Nothing contained herein shall be construed to require that the airport be operated for aeronautical use during temporary periods when adverse weather conditions interfere with safe airport operations.

**15. Federal Funding Eligibility.**

- a. The Agency assures it will take appropriate actions to maintain federal funding eligibility for the airport and it will avoid any action that renders the airport ineligible for federal funding.
- b. If the Agency becomes ineligible for federal funding of airport projects, such determination will render the Agency ineligible for state funding of airport projects.

**16. Project Implementation.**

- a. The Agency assures that it will begin making expenditures or incurring obligations pertaining to this Project within one year after the effective date of this Agreement.
- b. The Agency may request a one-year extension of this one-year time period, subject to approval by the Department District Secretary or designee.
- c. Failure of the Agency to make expenditures, incur obligations or receive an approved extension may allow the Department to terminate this Agreement.

**17. Exclusive Rights.** The Agency assures that it will not permit any exclusive right for use of the airport by any person providing, or intending to provide, aeronautical services to the public.

**18. Airfield Access.**

- a. The Agency assures that it will not grant or allow general easement or public access that opens onto or crosses the airport runways, taxiways, flight line, passenger facilities, or any area used for emergency

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equipment, fuel, supplies, passengers, mail and freight, radar, communications, utilities, and landing systems, including but not limited to flight operations, ground services, emergency services, terminal facilities, maintenance, repair, or storage, except for those normal airport providers responsible for standard airport daily services or during special events at the airport open to the public with limited and controlled access.

- b. The Agency assures that it will not grant or allow general easement or public access to any portion of the airfield from adjacent real property which is not owned, operated, or otherwise controlled by the Agency without prior Department approval.

**19. Retention of Rights and Interests.** The Agency will not sell, lease, encumber, or otherwise transfer or dispose of any part of its title or other interests in the real property shown as airport owned or controlled on the current airport layout plan without prior written approval by the Department. It will not sell, lease, encumber, terminate, waive, or otherwise transfer or dispose of any part of its title, rights, or other interest in existing noise easements or aviation easements on any property, airport or non-airport, without prior written approval by the Department. These assurances shall not limit the Agency's right to lease airport property for airport-compatible purposes.

**20. Consultant, Contractor, Scope, and Costs.**

- a. The Department has the right to disapprove the Agency's employment of consultants, contractors, and subcontractors for all or any part of this Project if the specific consultants, contractors, or subcontractors have a record of poor project performance with the Department.
- b. Further, the Department maintains the right to disapprove the proposed Project scope and cost of professional services.

**21. Planning Projects.** For all planning projects or other aviation studies, the Agency assures that it will:

- a. Execute the project per the approved project narrative or with approved modifications.
- b. Furnish the Department with such periodic project and work activity reports as indicated in the approved scope of services.
- c. Make such project materials available for public review, unless exempt from public disclosure.
  - 1) Information related to airport security is considered restricted information and is exempt from public dissemination per Sections 119.071(3) and 331.22 F.S.
  - 2) No materials prepared under this Agreement shall be subject to copyright in the United States or any other country.
- d. Grant the Department unrestricted authority to publish, disclose, distribute, and otherwise use any of the material prepared in connection with this Agreement.
- e. If the Project involves developing an Airport Master Plan or an Airport Layout Plan, and any updates thereto, it will be consistent with provisions of the Florida Aviation System Plan, will identify reasonable future growth of the airport and the Agency will comply with the Department airport master planning guidebook, including:
  - 1) Provide copies, in electronic and editable format, of final Project materials to the Department, including computer-aided drafting (CAD) files of the Airport Layout Plan.
  - 2) Develop a cost-feasible financial plan, approved by the Department, to accomplish the projects described in the Airport Master Plan or depicted in the Airport Layout Plan, and any updates thereto. The cost-feasible financial plan shall realistically assess Project phasing considering availability of state and local funding and federal funding under the FAA's priority system.
  - 3) Enter all projects contained in the cost-feasible plan in the Joint Automated Capital Improvement Program (JACIP).

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- f. The Agency understands and agrees that Department approval of this Agreement or any planning material developed as part of this Agreement does not constitute or imply any assurance or commitment on the part of the Department to approve any pending or future application for state aviation funding.
- g. The Agency will submit master planning draft and final deliverables for Department and, if required, FAA approval prior to submitting any invoices to the Department for payment.

**22. Land Acquisition Projects.** For the purchase of real property, the Agency assures that it will:

- a. **Laws.** Acquire the land in accordance with federal and/or state laws governing such action.
- b. **Administration.** Maintain direct control of Project administration, including:
  - 1) Maintain responsibility for all related contract letting and administrative procedures related to the purchase of real property.
  - 2) Secure written Department approval to execute each agreement for the purchase of real property with any third party.
  - 3) Ensure a qualified, State-certified general appraiser provides all necessary services and documentation.
  - 4) Furnish the Department with a projected schedule of events and a cash flow projection within 20 calendar days after completion of the review appraisal.
  - 5) Establish a Project account for the purchase of the land.
  - 6) Collect and disburse federal, state, and local project funds.
- c. **Reimbursable Funds.** If funding conveyed by this Agreement is reimbursable for land purchase in accordance with Chapter 332, F.S., the Agency shall comply with the following requirements:
  - 1) The Agency shall apply for a FAA Airport Improvement Program grant for the land purchase within 60 days of executing this Agreement.
  - 2) If federal funds are received for the land purchase, the Agency shall notify the Department, in writing, within 14 calendar days of receiving the federal funds and is responsible for reimbursing the Department within 30 calendar days to achieve normal project federal, state, and local funding shares per Chapter 332, F.S.
  - 3) If federal funds are not received for the land purchase, the Agency shall reimburse the Department within 30 calendar days after the reimbursable funds are due in order to achieve normal project state and local funding shares as described in Chapter 332, F.S.
  - 4) If federal funds are not received for the land purchase and the state share of the purchase is less than or equal to normal state and local funding shares per Chapter 332, F.S., when reimbursable funds are due, no reimbursement to the Department shall be required.
- d. **New Airport.** If this Project involves the purchase of real property for the development of a new airport, the Agency assures that it will:
  - 1) Apply for federal and state funding to construct a paved runway, associated aircraft parking apron, and connecting taxiway within one year of the date of land purchase.
  - 2) Complete an Airport Master Plan within two years of land purchase.
  - 3) Complete airport construction for basic operation within 10 years of land purchase.
- e. **Use of Land.** The Agency assures that it shall use the land for aviation purposes in accordance with the terms and assurances of this Agreement within 10 years of acquisition.
- f. **Disposal of Land.** For the disposal of real property the Agency assures that it will comply with the following:
  - 1) For land purchased for airport development or noise compatibility purposes, the Agency shall, when the land is no longer needed for such purposes, dispose of such land at fair market value and/or make available to the Department an amount equal to the state's proportionate share of its market value.

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- 2) Land will be considered to be needed for airport purposes under this assurance if:
  - a) It serves aeronautical purposes such as a runway protection zone or as a noise buffer.
  - b) Revenue from uses of such land contributes to airport financial self-sufficiency.
- 3) Disposition of land under Sections D.22.f.1. or D.22.f.2. of this Exhibit, above, shall be subject to retention or reservation of any interest or right therein needed to ensure such land will only be used for purposes compatible with noise levels related to airport operations.
- 4) Revenues from the sale of such land must be accounted for as outlined in Section D.1. of this Exhibit, and expended as outlined in Section D.9. of this Exhibit.

**23. Construction Projects.** The Agency assures that it will:

**a. Project Certifications.** Certify Project compliances, including:

- 1) Consultant and contractor selection comply with all applicable federal, state and local laws, rules, regulations, and policies.
- 2) All design plans and specifications comply with federal, state, and professional standards and applicable FAA advisory circulars, as well as the minimum standards established by the Department for State of Florida licensing as a public-use airport.
- 3) Completed construction complies with all applicable local building codes.
- 4) Completed construction complies with the Project plans and specifications with certification of that fact by the Project Engineer.

**b. Design Development.** For the plans, specifications, construction contract documents, and any and all other engineering, construction, and contractual documents produced by the Engineer, which are hereinafter collectively referred to as "plans", the Engineer will certify that:

- 1) The plans shall be developed in accordance with sound engineering and design principles, and with generally accepted professional standards.
- 2) The plans shall be consistent with the intent of the Project as defined in Exhibit A and Exhibit B of this Agreement.
- 3) The Project Engineer shall perform a review of the certification requirements listed in Section B.2. of this Exhibit, Construction Certification, and make a determination as to their applicability to this Project.
- 4) Development of the plans shall comply with all applicable laws, ordinances, zoning and permitting requirements, public notice requirements, and other similar regulations.

**c. Inspection and Approval.** The Agency assures that:

- 1) The Agency will provide and maintain competent technical supervision at the construction site throughout the Project to assure that the work conforms to the plans, specifications, and schedules approved by the Department, as applicable, for the Project.
- 2) The Agency assures that it will allow the Department to inspect the work and that it will provide any cost and progress reporting, as may be required by the Department.
- 3) The Agency assures that it will take the appropriate corrective action necessary, as required by the Department, for work which does not conform to the Department standards.

**d. Pavement Preventive Maintenance.** The Agency assures that for a project involving replacement or reconstruction of runway or taxiway pavement it has implemented an airport pavement maintenance management program and that it will use such program for the useful life of any pavement constructed, reconstructed, or repaired with state financial assistance at the airport.

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
**PUBLIC TRANSPORTATION**  
**GRANT AGREEMENT EXHIBITS**

Form 725-000-02  
STRATEGIC  
DEVELOPMENT  
OGC 02/20

**24. Noise Mitigation Projects.** The Agency assures that it will:

- a. Government Agreements.** For all noise compatibility projects that are carried out by another unit of local government or are on property owned by a unit of local government other than the Agency, the Agency shall enter into an agreement with that government body.
  - 1) The local agreement, satisfactory to the Department, shall obligate the unit of local government to the same terms and assurances that apply to the Agency.
  - 2) The Agency assures that it will take steps to enforce the local agreement if there is substantial non-compliance with the terms of the local agreement.
- b. Private Agreements.** For noise compatibility projects on privately owned property:
  - 1) The Agency shall enter into an agreement with the owner of that property to exclude future actions against the airport.
  - 2) The Agency assures that it will take steps to enforce such agreement if there is substantial non-compliance with the terms of the agreement.

**- End of Exhibit E -**

**EXHIBIT F**

**Contract Payment Requirements  
Florida Department of Financial Services, Reference Guide for State Expenditures  
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.



## Memorandum

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**File #:** 22-00084

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

TRANSFER OF FUNDS WITHIN THE AMERICAN RESCUE PLAN ACT (ARPA) FUND TO PROVIDE FUNDING FOR EXPENSES RELATED TO THE CLOSURE OF THE I-110 ENCAMPMENT

**RECOMMENDATION:**

That City Council authorize the Mayor to transfer funds within the American Rescue Plan Act (ARPA) Fund to provide funding for expenses related to the closure of the I-110 encampment.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

At the May 24, 2021 City Council workshop, a presentation was given by staff regarding a draft expenditure plan for the American Rescue Plan Act (ARPA). The ARPA is a \$1.9 trillion economic stimulus bill and within ARPA, the Coronavirus Local Fiscal Recovery Fund provides \$350 billion for states, municipalities, counties, tribes, and territories, including \$130 billion for local governments. The City of Pensacola is scheduled to receive \$19,153,643 from the Coronavirus Local Fiscal Recovery Fund. The draft expenditure plan included six spending categories: (1) the recovery of revenue loss, (2) grant compliance and administration, (3) facility improvements, (4) personnel, (5) stormwater and sewer abatement and (6) citizen assistance.

On June 17, 2021, City Council approved appropriations for the recovery of revenue loss, grant compliance and administration and facility improvements.

On July 15, 2021, City Council approved appropriations for Premium Pay and Employee Vaccination Incentive Pay for those essential workers who worked during the COVID-19 Pandemic over the last year as well as to motivate employees to get vaccinated to reduce the spread of COVID-19 in the workplace and ensure the safety of our employees.

On August 12, 2021. Council approved appropriations for Stormwater and Sewer abatement located at Main Street, Barrancas Avenue, Cordova Square, and 9th Ave to Pensacola Bay as well as Citizen Assistance to direct services toward homeless reduction, local vaccine program, and housing assistance/affordable housing. Additional appropriations included ARPA funding for the design and construction of the skateboard park at the Hollice T. Williams Park.

On November 18, 2021, council approved funding to cover premium pay for city employees who have been employed with the City for at least 6 months as of October 1, 2021 and have not previously been paid premium pay.

This request is to move \$150,000 from an unspecified marina project to cover anticipated expenses associated with the closure of the I-110 campsite. These costs will include but not be limited to security for the site and any possessions remaining on the site, moving costs and temporary fencing.

**PRIOR ACTION:**

June 17, 2021 - City Council appropriated funding in relation to ARPA for the recovery of revenue loss, grant compliance and administration and facility improvements.

July 15, 2021 - City Council appropriated funding in relation to ARPA for premium pay and employee vaccination incentive pay.

August 12, 2021 - City Council appropriated funding in relation to ARPA for the design and construction of the skateboard park at the Hollice T. Williams Park.

August 12, 2021 - City Council appropriated funding in relation to ARPA for Stormwater, Drainage, and Sewer Abatement and Citizen Assistance.

November 18, 2021 - City Council appropriated funding in relation to premium pay for City employees.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Upon approval by City Council funding in the amount of \$150,000 will be transferred from an unspecified marina project to be used for costs associated with the closure of the I110 encampment.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/24/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator

Amy Miller, Deputy City Administrator - Administration & Enterprise

Amy Lovoy, Finance Director

**ATTACHMENTS:**

- 1) ARPA Projects 12312021



**PRESENTATION:** No

CITY OF PENSACOLA					
DIRECT FEDERAL COVID-19 FUNDING RELIEF FOR MUNICIPALITIES					
BUDGET TO ACTUAL THRU 12/31/2021					
	Project	Estimated Cost	FY2021	FY2022	Remaining Balance
Recovery of Revenue Loss & Expense	Maritime Park	\$533,995	534,000		(5)
	Parking	300,000	300,000		0
	Recreation	786,509	786,500		9
Sub-Total Recovery of Revenue Loss		\$1,620,504	\$1,620,500	\$0	\$4
Citizen Assistance	Homelessness Reduction Investment	3,000,000	0	0	3,000,000
	Vaccination Program	125,000	35,525	30,000	59,475
	Housing Assistance	2,000,000	0		2,000,000
Sub-Total Citizen Assistance		\$5,125,000	\$35,525	\$30,000	\$5,059,475
Personnel	Essential Workers	3,679,426	68,936	3,603,351	7,139
	All Employees/Vaccination Incentive	58,538	48,720	9,240	578
Sub-Total Personnel		\$3,737,964	\$117,656	\$3,612,591	\$7,717
Grant Compliance		320,000	31,866	25,129	263,005
Sub-Total Grant Compliance		\$320,000	\$31,866	\$25,129	\$263,005
Facilities Infrastructure	Building Infrastructure	1,000,000	2,905	3,254	993,841
	Audio/Video System Enhancements/Upgrade	250,000		10,070	239,930
	Council Chambers	350,000			350,000
	Upgrade/Improve Phone Services	65,000			65,000
		\$1,665,000	\$2,905	\$13,324	\$1,648,771
Sub-Total Facilities Sanitization					
Stormwater	Main & Barrancas, Tanyard and Palafox Street	-	0		0
	Main Street	1,679,003	0		1,679,003
	Barrancas Ave.	600,000	0		600,000
	Cordova Square Pond Expansion	350,000	0		350,000
	9th Ave to Pensacola Bay	325,000	0		325,000
Sub-total Stormwater		2,954,003	\$0	\$0	\$2,954,003
Other	Bayview Erosion Rehabilitation	500,000			500,000
	Scenic Hwy Property	240,000	4,435	0	235,565

	<b>CITY OF PENSACOLA</b>					
	<b>DIRECT FEDERAL COVID-19 FUNDING RELIEF FOR MUNICIPALITIES</b>					
	<b>BUDGET TO ACTUAL THRU 12/31/2021</b>					
	<b>Project</b>		<b>Estimated Cost</b>	<b>FY2021</b>	<b>FY2022</b>	<b>Remaining Balance</b>
	Street Sweeper		250,000			250,000
	Arborist (3 years)/Canopy Study/Parks Tree Study/Solar Ca		413,405			413,405
		Tree Canopy Study		0	0	0
		Solar Feasibility Study	21,000	0	0	21,000
		Solar Canopy	18,000			18,000
		Tree Replacement Plan (Parks)	34,595	0	7,903	26,692
	PFAS Cleanup		200,000	0	2,648	197,352
	Hunter Pool		-			0
	Covid Expenses		252,140			252,140
	Cultural/Historical Affairs		498,755			498,755
		Maritime Museum/804 S Palafox	1,245		1,245	0
	Skate Park		950,000			950,000
	Marina		352,000			352,000
	<b>Sub-total Other</b>		<b>\$3,731,140</b>	<b>\$4,435</b>	<b>\$11,796</b>	<b>\$3,714,909</b>
	<b>Grand Total</b>		<b>\$19,153,611</b>	<b>\$1,812,888</b>	<b>\$3,692,840</b>	<b>\$13,647,883</b>



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

**File #:** 22-00094

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

PLAYGROUND EQUIPMENT PURCHASE AND INSTALLATION - BAYVIEW PARK

**RECOMMENDATION:**

That City Council approve the purchase and installation of a playground structure for Bayview Park Playground from Kompan, Inc., through Omini Partners cooperative purchasing (Contract #2017001135) for \$301,818.54 plus a requested 10% contingency of \$30,181.85 for a total amount of \$332,000.39. Further, that City Council authorize the Mayor to take all actions necessary to execute the contract and complete the project.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The play structure and surfacing being requested provides unique, creative, and imaginative play opportunities for youth ages 2-5 and 5-12 through the "Little Turtle Town" structure and the Large Agility Course. The City worked with several playground agencies to develop a distinctive playground that would meet the needs of the community. Kompan Inc., was chosen due to the innovative design and multiple play options that youth would be provided. Along with the equipment, the addition of a Poured in Place Rubber Surface will create multiple opportunities for inclusiveness and access for all individuals who wish to participate.

The equipment, playground surface, and installation will be purchased through a government purchasing cooperative organization, Omini Partners (Contract #2017001135) that the City has previously used for much of its playground equipment.

**PRIOR ACTION:**

November 18, 2021 - City Council approved \$220,854 additional funding for the purchase of the Bayview Park Playground equipment.

January 20, 2022 - City Council allocated \$100,000 to the Bayview Park Playground project to allow for a Poured in Place Base.

**FUNDING:**

Budget: \$320,854.00 LOST IV - Bayview Park  
11,147.00 ADA Improvements  
\$332,001.00

Actual: \$ 87,843.03 Playground Equipment  
80,430.53 Installation  
124,311.79 ADA Surfacing  
9,233.19 Freight  
30,181.85 Contingency  
\$332,000.39

**FINANCIAL IMPACT:**

Upon City Council approval for the purchase of the playground equipment, \$11,147.00 will be transferred from LOST IV ADA Improvements to LOST IV Bayview Park to provide sufficient funding for the ADA portion of this project. In addition, funds in the amount of \$320,854.00 are available within LOST IV-Bayview Park for a total budget amount of \$332,001.00. This budget balance will be sufficient to complete this project.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/28/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
David Forte, Deputy City Administrator - Community Development  
Brian Cooper, Parks and Recreation Director

**ATTACHMENTS:**

- 1) Legislative Action Item No. 22-00057
- 2) Bayview Playground Map and Equipment

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00057

City Council

1/20/2022

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Jared Moore

**SUBJECT:**

BAYVIEW PARK PLAYGROUND FUNDING FOR A POURED IN PLACE BASE VS. ENGINEERED WOOD FIBER.

**RECOMMENDATION:**

That City Council allocate \$100,000 to the Bayview Park Playground project to allow for a Poured in Place Base.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On November 18, 2021, City Council approved funding for the Bayview Park Playground. Included within this cost was an Engineered Wood Fiber Base.

Based on previous conversations regarding equitable access to the playground, it is felt that a Poured in Place base would be much more appropriate.

The Poured in Place base has an additional cost of approximately \$100,000.

**PRIOR ACTION:**

November 18, 2021 - City Council approved funding for the purchase of the Bayview Park Playground equipment.

**FUNDING:**

Budget: \$100,000

Actual: \$100,000 (Taken from carried forward LOST surplus)

**FINANCIAL IMPACT:**

Reduction in the LOST surplus that was carried forward of \$100,000

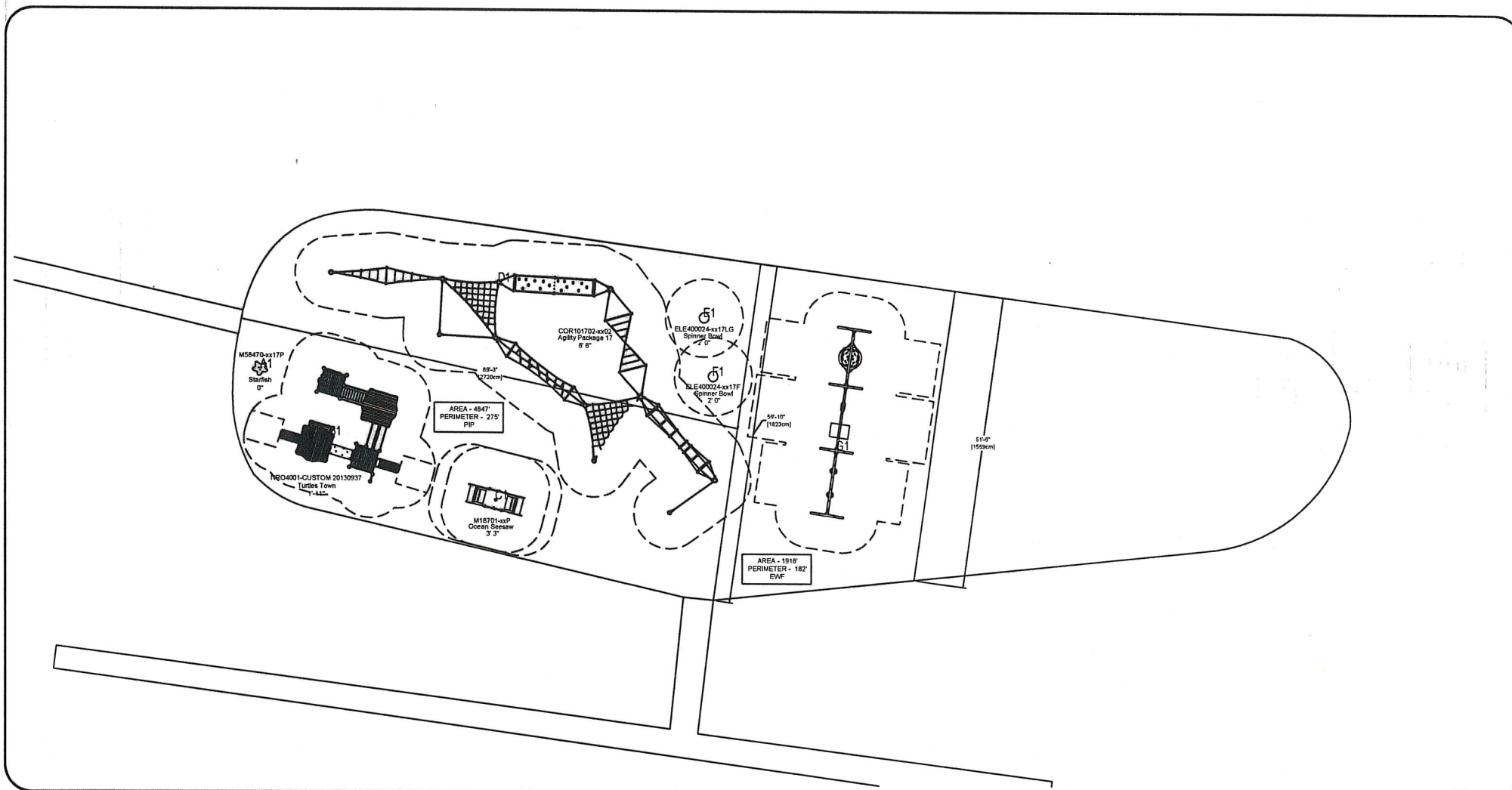
**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

1) None

**PRESENTATION:** No



#	Product Number	Product Name	M.F.H.	Count
A	M58470-xx17P	Starfish	0' feet	1
B	NFD4001-CUSTOM-455 70sec			1
C	M18701-xxP	Ocean Seesaw	3' 3" feet	1
D	COR101702-xx02	Agility Package 17	8' 8" feet	1
E	ELE400024-xx17LG	Spinner Bowl	2' 0" feet	1
F	ELE400024-xx17F	Spinner Bowl	2' 0" feet	1
G	KSW526-CUSTOM_201 43783 2d			1

## Bayview Playground

### Site Plan



**KOMPAN!**  
Let's play

#### MANUFACTURER'S SHOP DRAWING:

FOR USE BY CONTRACTOR, ENGINEER, OR DESIGN PRIOR TO FINAL OF RECORDS. SEE BIDDING RULES PROVISION FOR COMPLETE RESPONSE TO BE PROVIDED BY KOMPAN OR REPRESENTING AGENCY, CONFIDENTIAL PLAN AND SCOPE WITH KOMPAN SALES REP OR PROJECT MANAGER PRIOR TO USE FOR REVIEW, PERMITTING, OR CONSTRUCTION.

TO BE FIELD CORROBORATED WITH KOMPAN'S STANDARDS FOR SITE PREPARATION, MATERIALS AND INSTALLATION PROCESSES PROVIDED AFTER EQUIPMENT PURCHASE. A COMPLIANT PLAYGROUND TO KOMPAN'S STANDARDS MUST SATISFY ALL REQUIREMENTS IN THE CODE OF CONDUCT.

SLAB BY OTHERS UNLESS OTHERWISE NOTED. FOR SURFACE MOUNT OPTIONS, THE CONCRETE REQUIREMENTS MAY BE UP TO 1500 PSI MINIMUM COMPRESSIVE STRENGTH. CONTACT KOMPAN FOR SPECIFIC PRODUCT REQUIREMENTS. ALL CONCRETE STRUCTURES SHOWN REQUIRE A SITE GRADE OF 7% MAXIMUM IN OPTIMAL SLOPE DRAINAGE FOR EACH KOMPAN STRUCTURE. MAY BE FOUND AT KOMPAN.COM/CW/ANALYST.

ENGINEERING OF PLAY AREA, ACCESS AND ORIENTATION LAYOUTS OF ALL EXISTING UTILITIES, EQUIPMENT AND SITE FURNISHINGS TO BE FIELD VERIFIED PRIOR TO CONSTRUCTION.

PREPARED AND PRINTED IN USA BY KOMPAN © 2021 KOMPAN, INC. AUSTRALIA, TX, USA 800-426-4788

REVIEW BY:	DATE:	SHEET:
DESIGN	12/15/21	L2.0
REPS NAME:	DRAWN BY:	
Stacy Moreley	HenSco	
REV. NO.	REV. BY:	REVISION NOTES
-	-	-
		REVISION DATE:
		-

LAYOUT IS IN ACCORDANCE WITH ASTM F1487









Bayview Playground





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00132

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Sherri Myers

**SUBJECT:**

WORKSHOP ON THE CLIMATE MITIGATION AND ADAPTATION TASK FORCE  
RECOMMENDATIONS

**RECOMMENDATION:**

That City Council schedule a workshop to get a presentation on the Climate Mitigation and Adaptation Task Force report and recommendations. Further, that Council authorize the Council President and Council Executive to schedule the workshop.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

In 2018 the Climate Mitigation and Adaptation Task Force submitted their final report and recommendations. This proposed workshop would allow for Council to receive a presentation from Dr. Haris Alibasic, one of the Task Force Members.

Further, it would allow the Council to prioritize the recommendations and adopt a strategic plan for implementation that is tied to budget considerations.

**PRIOR ACTION:**

November 8, 2018 - City Council was presented the Climate Mitigation and Adaptation Task Force Final Report and Recommendations

January 26, 2017 - Climate Mitigation and Adaptation Task Force holds its first meeting

October 13, 2016 - City Council appoints members to the Climate Mitigation and Adaptation Task Force

December 9, 2015 - City Council directed the Council Executive to work with the Chairperson of the EAB to organize the Climate Mitigation and Adaptation Task Force based on the recommendations sent to the City Council by the EAB

June 18, 2015 - City Council voted to hold a workshop to receive recommendations from the EAB to

establish a Climate Mitigation and Adaptation Task Force

August 28, 2014 - City Council adopted Resolution No. 29-14 referring the matter of creating a Climate Change Task Force to the Environmental Advisory Board for recommendation to the City Council

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) Climate Mitigation and Adaptation Final Report

**PRESENTATION:** Yes

# Climate Action Recommendations

A Blueprint for Addressing  
Climate Change  
at the Municipal Level

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City of Pensacola Climate Mitigation and Adaptation Task Force

**2018**

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## PHOTO CREDITS

### Introductory pages:

Duncan McCall: 12th Avenue trees

Duncan McCall: Live oaks on shoreline

City of Pensacola: Aerial view of downtown featuring Plaza DeLuna and Palafox

Duncan McCall: Thiesen Building, downtown Pensacola, p 3

Duncan McCall: Ferdinand Plaza, downtown Pensacola, p 4

Google: Imagery ©2018 DigitalGlobe, p 7

Bruce Graner, Pensacola News Journal: Rescue of flood victims in Pensacola after historic rainfall—April 30, 2014, p 10

Elaine Sargent: Pensacola City Hall viewed from Maritime Park, p 13

Carrie Stevenson: Saufley Solar Field, p 14

Carrie Stevenson: Seawall along Bayfront Parkway, p 16

Elaine Sargent: Shade for pedestrians on South Palafox, p 17

City of Pensacola Climate Mitigation and Adaptation Task Force

**2018**

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# Climate Action Recommendations

A Blueprint for Addressing  
Climate Change  
at the Municipal Level

Climate Mitigation and Adaptation Task Force  
City of Pensacola

2018

## TASK FORCE MEMBERS

---

Elaine Sargent

**Chairman**

350 Pensacola

Laurie Murphy

**Vice Chairman**

Emerald Coastkeeper

Dr. Haris Alibašić

University of West Florida

Cynthia Cannon, AICP

Santa Rosa County

Carrie Stevenson

Escambia County

Tim Haag

Emerald Coast Utilities Authority

Mark Gibson

NAS Pensacola

### **Advisors:**

Dr. Wade Jeffrey

University of West Florida

Christy Johnson, AICP

Florida Department of Transportation





City of Pensacola Climate Mitigation and Adaptation Task Force

**2018**

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City of Pensacola Climate Mitigation and Adaptation Task Force

**2018**

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# Introduction

**T**he imperative for climate adaptation and mitigation planning stems from overwhelming evidence of climate change and the effects on coastal cities and regions. Researchers and scientists point to the changing climate as a direct result of human activities with devastating consequences for communities around the world. The climate-related threats include intense rain and flood events, sea level rise, droughts, and heat waves. Addressing climate change is imperative for communities to pursue and is based on unique characteristics of communities and local governments and threats they are facing.

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 planning process included an appointment of the Climate Mitigation and Adaptation Task Force. The report produced by the Task Force provides a general outline of the direction for the City of Pensacola and the region to undertake specific actions to counter threats and impacts of climate change and extreme weather.

## Task Force Goals and Objectives

---

The goals and objectives of the Climate Mitigation and Adaptation Task Force shall include, and are not limited to:

- Advance adaptation and mitigation strategies to enhance the City's and regional resilience and preparedness for withstanding the likely adverse effects of climate change, including flooding resulting from heavy precipitation, rising sea levels, intense hurricanes, heat waves, and other extreme weather events.
- Promote a program of education, incentives, and public outreach to encourage residents, business owners, governments, and organizations to participate in the Climate Adaptation and Mitigation Plan.
- Generate suggestions to obtain federal and state grants, investments in energy efficiency and other financial resources to offset program costs. Measures may include initiatives to conserve energy and reduce greenhouse gas (GHG) emissions within government operations and incentives for homeowners, businesses and organizations to save energy, reduce costs and decrease GHG emissions.



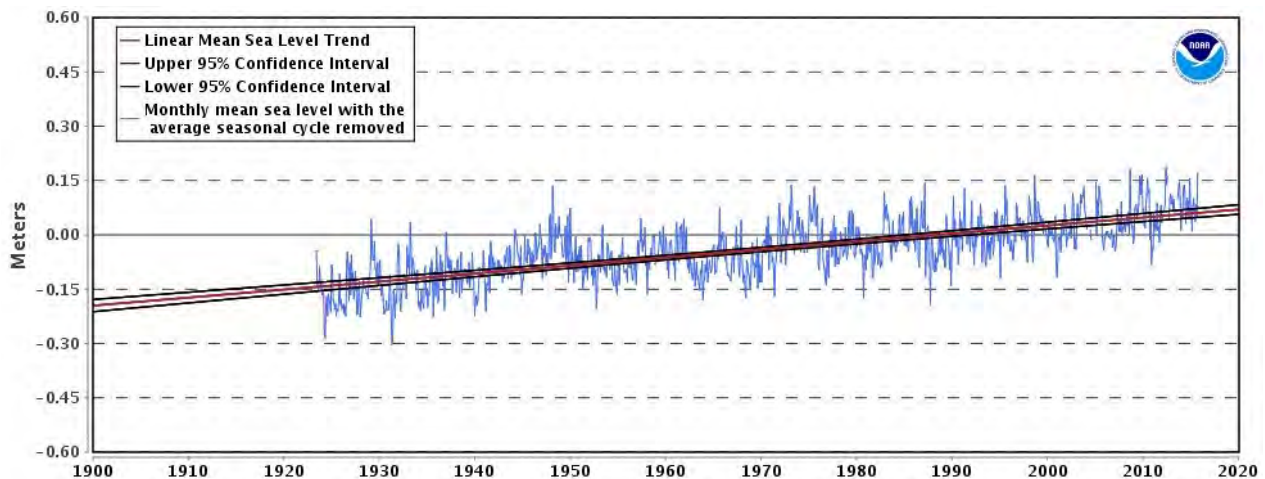
## The Climate Change Threats to Northwest Florida and the City of Pensacola

Climate change is a driving force in Florida's growing weather extremes. Florida is becoming hotter and more humid (Climate Central, 2016, July 13). Northwest Florida is threatened by sea level rise, record-breaking heat indexes, increasing frequency and duration of extreme heat and drought, heavier rain, wildfires, inland and coastal flooding, storm surges exacerbated by stronger hurricanes, and decreasing freshwater availability (Climate Central and ICF International 2015) (Carter et al. , p. 397).

These risks threaten natural and built environments, the economy, and human health. Our region has already been affected by the kind of economic and social disruptions that extreme heat, heavy rain, and flooding can create. As noted in the Climate Central report and projections, Pensacola faces several risks associated with global warming, including sea level rise, multiplying extreme flood risk in the Pensacola region (Strauss et al. 2014, p. 51).

## A Blueprint for Addressing Climate Change at the Municipal Level

Local governments are typically the first responders when an extreme weather event affects their communities. Coastal communities in particular have long dealt with the aftermath of disastrous hurricanes and floods, with devastating consequences to local economies. Continuing and expanding the efforts to be better prepared to proactively address these events will result in a highly resilient community.



Historical water level records from Pensacola, Florida have established a representative long-term historical SLR trend of 0.73 ft/century (source: NOAA Center for Operational Oceanographic Products and Services).



## : Planning for : Energy Efficiency : and Climate : Change Mitigation :

- Greenhouse gas (GHG) emissions
- have undeniably been affecting
- the climate. The reduction of GHG
- emissions can decrease the extent
- and severity of climate change.
- Remaining at the status quo or
- increasing GHG emissions will
- escalate changes in climate. Climate
- change mitigation includes actions to
- decrease GHG emissions, reducing
- the ultimate magnitude of climate
- change. Some of these actions also
- have the potential to contribute to
- cost savings, green jobs, and local
- economic development. The City of
- Pensacola and surrounding area can
- take actions to assess energy use and
- GHG emissions to achieve the carbon
- footprint reductions.
- The recommendations provide a
- blueprint for moving forward.

- 
- Adopt a pledge to reduce the GHG emissions and join and actively participate in programs that provide planning tools such as: The Northwest Florida Clean Cities Coalition, Transformative Actions Program (TAP), Be Ready Alliance Coordinating for Emergencies (BRACE), United States Geological Survey (USGS) Sea-level Rise Simulation and Inundation Models, USGS Wetland Change Models, USGS Surface Elevation and Shoreline Erosion Models, and the Gulf Tools for Resilience Exploration Engine (Gulf TREE) through Northern Gulf of Mexico Sentinel Site Cooperative.





- The mayor should join the Mayors Climate Protection Agreement in solidarity with other cities in Florida. Joining the Climate Protection Agreement will support a mitigation initiative to reduce future impacts of climate change through pledge reductions in GHG emissions.
- Join the International Council for Local Environmental Initiatives (ICLEI)—Local Governments for Sustainability. ICLEI provides guidance for local climate action, including ClearPath™—“an online software platform for completing greenhouse gas inventories, forecasts, climate action plans, and monitoring at the community-wide or government-operations scales.” ([icleiusa.org/clearpath/](http://icleiusa.org/clearpath/))
- Commit to meet a 30% renewable energy target by 2030 for city-owned facilities and operations, with a goal of 100% renewable by 2040.
- Support and encourage energy efficiency efforts, including the ENERGY STAR® labeling program and Leadership in Energy and Environmental Design™ (LEED).
- Encourage the start of a special adaptation action area group similar to the Southeast Florida Regional Compact. This group could be called the Northwest Florida Regional Compact and would study the outcome of adaptation strategies.
- Complete an inventory of city-wide GHG emissions and prepare a climate adaptation plan, as have many municipalities and counties around the state.
- Incorporate language about climate change in updated comprehensive plans, and pass local laws or codes that uphold those values.
- Include the following sectors: transportation, water resources/ utilities, natural resources, agriculture, and disaster risk as part of the climate change planning process.
- Reduce GHG emissions from municipal facilities and operations, including increasing energy efficiency and conservation measures. In addition to reducing negative environmental impact, these efforts may provide for cost avoidance and savings.
- Install or purchase renewable energy, such as solar panels or other renewable power on municipal buildings, and incorporate LEED design.
- Educate the public about the changing climate, and involve and engage local citizens and volunteers in the processes of adaptation and mitigation. Encourage and incentivize local businesses and residents to reduce their energy consumption.
- Support regional and statewide policies to promote and develop renewable energy systems, net-metering, and installation of solar and geothermal projects.

# Planning for Resilience and Climate Change Adaptation

The City of Pensacola has the opportunity and responsibility to start planning to ensure the community is resilient to climate change. The first course of action is to better understand what changes are likely at the local (and regional) level and to continue to make sure to prepare for these changes. Climate change adaptation refers to the actions organizations adopt and implement to reduce the impacts of the climate changes that either have already occurred or will inevitably occur. Resilience is the capacity of communities and organizations to withstand stress and catastrophe, and to recover and adapt successfully in the face of threats or disaster.

Here are some of the initiatives that the City of Pensacola can undertake to increase the community's resilience to climate change impacts.

- Develop emergency management plans and Federal Emergency Management Agency (FEMA) all-hazard mitigation plans that include climate change projections and adaptation strategies, and participate in the National Flood Insurance Program as well as FEMA's Community Rating System (CRS). The City of Pensacola is currently ranked 7 out of 10 on the FEMA CRS scale, resulting in a 15% annual discount in flood insurance for all insured properties. Surrounding communities have reached levels 5 (Pensacola Beach, Santa Rosa County) and 6 (Escambia County). The City should continue making a concerted effort to improve its CRS rating. Acting on the suggestions made in this report would contribute significantly to improving this rating.

- Consider current and subsequent updates to sea level rise (SLR) projections to inventory and map municipal infrastructure that may be vulnerable to climate change, and make plans and budget to replace, move or harden, or add supportive infrastructure at appropriate times as those models indicate.
- Utilize local authority to protect open space, wetlands, and riparian buffers to increase resilience to extreme weather events.
- Become an active participant on the policy board of the Pensacola and Perdido Bay's Estuary Program; encourage climate resilience strategies in addition to water quality management and improvement.
- Incorporate Better Site Design, Low Impact Development (LID) and green infrastructure principles into local codes and planning decisions to increase resilience of streams, bayous and floodplains to heavy precipitation events. Protect the natural riparian (natural shoreline) zones of these water bodies and incentivize restoration of living shorelines instead of hardening (stone, wood and concrete seawalls). Utilize Escambia County's LID Reference Manual and create incentives for its use within the City and region.
- Use a watershed-level rather than site-level approach to manage stormwater runoff and flooding. Wide-scale watershed management can reduce impacts of flooding from stormwater downstream through the use of better urban planning and design principles including a multi-jurisdictional approach.
- Encourage higher density development where appropriate as an urban stormwater best-management practice. More compact development patterns generate less stormwater runoff overall than low-density development.

## Areas of Emphasis for Climate Preparedness

### Comprehensive Plan Climate Mitigation and Adaptation Element

**Goal:** Achieve a sustainable, climate resilient community by promoting energy efficiency and greenhouse gas reduction strategies; protecting and adapting public infrastructure, services, natural systems and resources from climate change impacts; and continuing to coordinate and communicate locally and regionally to monitor and address the changing needs and conditions of the community.

### Greenhouse Gas Emissions Reduction Goals

#### Transportation

#### Built Environment

#### Emergency Planning

#### Local Utilities

#### Public Health

#### Outreach

#### Economic Development and Resilience

## Greenhouse Gas Emissions Reduction Goals

**Objective:** Mitigate the causes of climate change while providing clean energy solutions and a more energy efficient way of life for residents, business interests, and visitors.

### Policy Recommendations:

- The City of Pensacola shall mitigate its contribution to global climate change by reducing municipal operations greenhouse gas emissions to 30% by 2030, based on the data from the City's inventory of GHG emissions (see inventory recommendation, page 4). The long-term goal shall be zero GHG emissions. The City will continue to regularly monitor and track the progress of programs and initiatives that contribute to the final reaching of these goals.
- The City of Pensacola shall encourage research for increasing the proportion of electricity generated by alternative and renewable energy sources within the City, such as solar, wind, geothermal and ocean energy technologies.
- The City of Pensacola should plan for and facilitate the development of infrastructure that provides public access to alternative fuels and electric vehicle charging stations by 2025. Actions should include:
  - Preparing for deployment and optimal distribution of a regional system
  - Negotiating inter-local agreements with County, State, and private entities to share existing and proposed infrastructure
  - Incentivizing and improving processes and programs for installation of alternative fuel and electric vehicle charging infrastructure (including city-owned parking lots and buildings)





## Transportation

**Objective:** Advance transportation and land-use choices that reduce fossil fuel use and vehicle miles traveled; improve the mobility of people, goods, and services; provide a diverse, efficient and equitable choice of transportation options; and increase the City’s resilience to the impacts of climate change.

### Policy Recommendations:

- The City of Pensacola shall continue to encourage mixed land uses which promote functional, walkable mixed-use development designs and projects by providing flexibility in development review and requirements for these projects, revising the zoning and land development codes to support such projects, and promoting the adoption of land development codes that support and establish sustainable development patterns, especially in areas identified as high risk to sea level rise. Discourage and/or prevent development in flood zones and areas near wetlands and coastal zones. Reduce future development in areas prone to flooding. Preserve and grow mixed-use and dense development neighborhoods in low hazard (non-historically flooded) areas, making essential services and businesses accessible through multimodal means of transportation.
- The City of Pensacola shall continue to seek to diversify fuel options for public transit and fleet vehicles, expand infrastructure for charging electric and hybrid electric vehicles and incentivize parking for alternative fuel vehicles. Adopt a policy that discourages expansion of roadways that add more lanes to grow capacity. Focus on the maintenance and the improvements of “vital streets” or existing roads where appropriate. Evaluate the adoption of a complete streets concept, looking at street design from a pedestrian/biking perspective as well as the importance of traffic calming. Any new road project would need to meet the following criterion before approval: Roadway will serve as a connector between areas to reduce driving miles, consequently decreasing carbon footprint and emissions.
- The City of Pensacola shall review and support new city codes that help to create more bicycle and pedestrian-friendly infrastructure for our communities.

## Built Environment

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**Objective:** Improve the climate resilience and energy-efficiency of new and existing buildings and public infrastructure, and develop adaptation strategies for areas vulnerable to climate change-related impacts.

### Policy and Initiative Recommendations:

The City of Pensacola shall encourage greener, more efficient and climate resilient construction practices.

- Build all new construction of city or public facilities to LEED standards.
- Utilize national guidelines and performance benchmarks for sustainable land design, construction and maintenance practices, as developed by The Sustainable Sites Initiative™ (SITES).
- Reevaluate the base finish floor elevation standards concerning projected sea level rise scenarios and flooding potential.
- Install solar panels on City buildings.
- Use ENERGY STAR rated appliances and HVAC equipment within City buildings.
- Incorporate building design specifications city-wide for commercial and residential developments to increase resistance to impacts from more intense storm events.
- Encourage all building/construction personnel to have National Pollutant Discharge Elimination System (NPDES) training and erosion/sediment control training.
- Encourage sustainable practices for site design, construction and maintenance. These regulations help reduce urban runoff and mitigate the effect of new development, redevelopment, or infill development on the existing drainage system. Develop a new unified Stormwater Building Code. The new code would contain requirements to protect the City's drainage system during construction, as well as post-construction stormwater management requirements.

- Develop permeable surfaces and green incentives for residents and businesses throughout the City of Pensacola. Encourage stormwater fee reduction based on beneficial pervious surface area and development incentives during the process of applying for development permits for zoning upgrades. Explore grant opportunities to provide direct funding to property owners and/or community groups for implementing a range of green infrastructure projects and practices. Develop a rebate program or provide installation financing to provide funding, tax credits or reimbursements to property owners who install specific practices, and promote an awards and recognition program that would provide marketing opportunities and public outreach for exemplary projects. This may include financial incentives.

### Policy Recommendations:

- Work cooperatively to review and re-evaluate current zoning codes, regulations and policies according to sustainable community development practices, such as those outlined in the criteria recommended by the United States Green Building Council's Leadership in Energy and Environmental Design for Neighborhood Development (LEED-ND) certification, or by application of a national rating system for local governments, such as the STAR Community Index™ (STAR), and NPDES stormwater permit.

- Identify areas of frequent “nuisance flooding” and create a public database for future reference, which will disincentivize construction in historically and newly flooded area.
- Create an Inland Flooding Adaptation Action Area.
- Create a mechanism for transfer of ownership for properties in high hazard areas to create green space and mitigate flood risks.
- Limit public expenditures in coastal high hazard areas.
- Reduce development density in high flood zones/coastal high hazard areas.

#### **Policy Recommendation:**

The City of Pensacola shall continue to review policies and promote programs which advance GHG reduction and energy conservation strategies; promote compact, transit-oriented, pedestrian-friendly development; further green construction practices and the design of climate-sensitive and energy efficient buildings; encourage cluster development in order to retain or create native vegetative communities; and address the resilience and survivability of buildings and infrastructure to rising sea levels, tropical storms, storm surge, and other climate change impacts, thoroughly evaluate and re-evaluate coastal land use.

#### **Policy Recommendation:**

The City of Pensacola shall evaluate the costs and benefits of adaptation alternatives in the location and design of new infrastructure as well as the fortification or retrofit of existing infrastructure.

#### **Policy Recommendation:**

Assess and quantify the multiple environmental, social, and economic benefits of green infrastructure, as trees, forests, wetlands, and waterways provide natural protection and increase resilience by improving air quality, providing shade, reducing heat, storing surface water and retaining stormwater runoff through green stormwater initiatives. Furthermore, conservation and expansion of green infrastructure decisions should include measurements of meeting the GHG mitigation targets, public health, and safety goals, and climate change adaptation priorities.

- The City of Pensacola shall utilize the City Tree Ordinance fund to maximize the benefits of trees throughout the community to absorb carbon dioxide, rebuild urban riparian zones, provide passive cooling for buildings, and provide shade for more walkable streets.
- The City of Pensacola shall continue to maintain annual certification as a Tree City USA Community in partnership with the Florida Forest Service and the Arbor Day Foundation. Tree City USA designation demonstrates the commitment of the city in protecting, conserving, and managing trees on the city-owned property to ensure that the benefits of healthy, native, urban forests and trees are fully utilized.
- The City of Pensacola shall partner with other area organizations by joining the Six Rivers Cooperative Invasive Species Management Area (CISMA) as a partner-member. The Six Rivers CISMA Partnership is comprised of local, private, and public partners who work together to control invasive species in the NW Florida region. The City of Pensacola has many wetlands and stormwater treatment areas that are predominantly comprised of invasive species. Controlling these species followed by the establishment of native species will improve the effectiveness of stormwater management in wetlands.





## Emergency Planning

**Objective:** Ensure exceptional planning and coordinated emergency preparedness and post-disaster management in the context of climate change.

### Policy and Initiative Recommendations:

- The City of Pensacola shall coordinate with Escambia County and regional planning agencies to ensure adequate planning and response for emergency management in the context of climate change by maximizing the resilience and self-sufficiency of, and provide access to, public structures, schools, hospitals and other shelters and critical facilities.
- The City of Pensacola shall develop plans and monitor programs to address the impacts of climate change on households and individuals especially vulnerable to health risks attributable to or exacerbated by rising temperatures, to include low-income families and the elderly.
- The City of Pensacola shall continue to communicate and collaboratively plan with other local, regional, state and federal agencies on emergency preparedness and disaster management strategies. This includes incorporating climate change impacts into updates of local mitigation plans, water management plans, shelter placement and capacity, review of significant traffic ways and evacuation routes, and cost analysis of post-disaster redevelopment strategies.
- The City of Pensacola shall work to encourage dialogue between residents, businesses, insurance companies and other stakeholders, through public education campaigns and workshops to increase understanding regarding the potential impacts of climate change on our coastal communities and evaluate the shared costs of action or inaction in human, ecological and financial terms.
- The City of Pensacola shall work with the Florida Division of Emergency Management and other agencies to incorporate sea level rise and increasing storm surge impacts into the remapping of potential hazard areas in coastal zones by 2020. Revised hazard area designations should better reflect the risks to communities associated with climate change and allow reevaluation of suitability for development or redevelopment in these areas.
- The City of Pensacola shall cooperatively develop model codes and policies to encourage post-hazard redevelopment in areas with less vulnerability to storm surge, inundation, flooding, sea level rise and other impacts of climate change, and incentivize locally appropriate mitigation and adaptation strategies.

## Local Utilities

**Objective:** Ensure the resilience of existing water resources, and water and wastewater infrastructure to the impacts of climate variability and change to protect water quality and quantity, and minimize the potential for flood damage and water shortages, while improving the energy efficiency of utilities and reducing carbon emissions and climate impacts. Work with energy provider utilities on mitigation of climate change by transitioning to zero GHG emission energy sources (e.g., renewable energy).

### Policy Recommendations:

- The City of Pensacola shall, by 2020, coordinate with local service providers to ensure that water and wastewater service planning and policy development consider methods for reducing utilities' "carbon footprint," including the best management practices recommended in American Waterworks Association Florida Vision 2030, which have been recognized by utilities as appropriate utility responses to climate change. Also, additional means of reducing demand for traditional energy sources at the water and wastewater treatment facilities, such as through the production of energy through cogeneration systems, should be explored.
- The City of Pensacola shall develop, implement and coordinate water conservation initiatives, in partnership with water and wastewater utilities, as part of long-term water supply planning, and seek the continued support of the Northwest Florida Water Management District and other agencies. Recognizing the fragility of our community's sole water source, the Sand-and-Gravel Aquifer, the City should strive to protect the groundwater resource along with both existing and future public drinking water supply wells. The City should consider a uniform approach, in conjunction with Escambia County, to protection of the groundwater resource and the drinking water supply by adoption of the County's Wellhead Protection Areas (WHPAs) and the applicable development standards for those WHPAs.
- The City of Pensacola shall support recurring and continued development of local integrated models and continuous data collection, to help predict and track the impacts of sea level rise on groundwater levels, saltwater intrusion, and drainage infrastructure through enhanced development and application of local aquifer and hydraulic models and the use of down-scaled climate models.
- The City of Pensacola shall work in coordination with local utilities to maintain and advance infrastructure protection, utility location, and adaptation through infiltration and inflow program development to reduce the flow of groundwater and stormwater to wastewater collection and treatment facilities.
- The City of Pensacola shall work with utility services to investigate the feasibility of relocating above-ground utilities underground in areas vulnerable to high winds and frequent power disruption due to storms.
- The City of Pensacola shall send to electric utilities that provide power to the area within the City of Pensacola a formal statement declaring the City's desire to receive electric energy from zero GHG emission sources (e.g., renewable energy). The City shall also send a request to these utilities to transition to renewable energy sources, with a goal of zero GHG emissions. Furthermore, the City shall request a long-term plan from these utilities for making this transition.

## Public Health

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Climate change influences public health in Florida through higher average temperatures and an increase of the frequency, intensity, and duration of extreme weather—heat waves, heavy rains, drought, tornadoes, hurricanes, and storm surge. The impacts to public health include an increase in aeroallergen-related asthma and other respiratory diseases, vector-borne and water-related diseases, heat-related deaths and illnesses, and mental health issues related to dealing with disasters such as hurricanes and flooding. Power grid/power outages and infrastructure failures due to severe weather compound the effects on public health. All communities are impacted, but the most vulnerable are the poor, the elderly, young children, the sick, households of color, and people with disabilities. (Luber, G. et al., 2014, pp. 221-233)

**Objective:** Prepare for and protect the public from adverse health impacts of climate change.

### Policy Recommendations:

- The City of Pensacola and City subcontractors shall follow Federal guidelines and best practices to prevent injuries, cognitive difficulties, and other hazards related to working outside in weather extremes such as high temperature and humidity. The guidelines may require providing shade, rest, or cooling to outdoor workers. The City shall also encourage local businesses to follow the recommendations.
- The City of Pensacola shall increase the resilience of critical infrastructure when appropriate to support human health and well-being.
- The City of Pensacola shall work with other governmental agencies and the Escambia County Health Department to support drinking water quality monitoring and source water protection.
- The City of Pensacola shall work with other governmental agencies and the Escambia County Health Department to support enhanced surveillance of mosquitos to mitigate vector-borne disease. Long-term and consistent vector mosquito surveillance can create a baseline to identify periods with heightened risk.
- The City of Pensacola shall partner with the Escambia County Health Department, emergency management organizations such as BRACE, and public utilities to prepare and protect the safety, health and well-being of the public in the event of a hurricane or other severe weather event.
- The City of Pensacola shall partner with Escambia County and the Escambia County Health Department to notify the public of heat advisories, pollen alerts, and other climate-related health warnings.



## Outreach

**Objective:** Increase opportunities in the community to learn about climate change, participate in decision-making, engage in a green economy, utilize green infrastructure, study health impacts, and reduce population vulnerability.

### Policy Recommendations:

- The City of Pensacola shall continue to engage stakeholders, regional, state and federal partners, academia, practitioners and climate scientists, in exchanging information, best practices, and policy solutions regarding local climate change impacts and mitigation and adaptation strategies.
- The City of Pensacola shall promote partnerships between local government agencies, universities, professionals and practitioners, to foster an environment for connecting scientific research and education with practical applications that will contribute to the resilience and adaptation within the built and natural environments to the impacts of climate change. Work with University of West Florida and University of Florida Institute of Food and Agricultural Sciences (UF IFAS) Extension faculty to promote climate education events.
- The City of Pensacola shall partner with innovative construction projects to showcase the changes they incorporate in new construction to mitigate for flooding and other climate impacts.
- The City of Pensacola shall promote partnerships between local middle and high school career and academic academies to encourage student internships and learning opportunities to develop and educate local talent in the green jobs sector.
  - Beulah Middle School Pre-Engineering/STEM
  - Escambia High Engineering Academy
  - Pine Forest High Home Builders Association of West Florida Green Construction Trades Academy
  - West Florida High School Academies of Civil Engineering & Architecture, Cox Telecommunications, and Gulf Power
  - Washington High School Marine Science Academy





## Economic Development and Resilience

**Objective:** Strengthen the local economy through green job opportunities, expand renewable energy and the market for energy efficient products and services, and incentivize energy conservation and retrofits.

### Policy Recommendations:

- The City of Pensacola shall encourage the development of green industry and business which diversify the local economy and contribute benefits towards a sustainable future.
- The City of Pensacola shall continue to develop plans and programs in coordination with local municipalities, power companies, and private partners to reduce GHG emissions and create green job opportunities throughout the community, by
  - Expanding the market for energy efficient products and services;
  - Supporting alternative and renewable energy production through innovative financing; and
  - Promoting and incentivizing energy conservation retrofits.
- The City of Pensacola shall seek to strengthen the local economy by promoting green economic growth and green-collar work training programs in order to: create resilience; reduce reliance on fossil-fuel-based economies; provide a positive focus for economic development; advance the use of sustainable materials, technologies and services; and encourage local jobs in sustainable businesses which offer a living wage and make it possible for regional climate change goals to be met.
- The City of Pensacola shall review codes and regulations to enable and encourage eco-industrial development and business practices in line with the concept of the circular economy. Specifically, businesses models and land development patterns should be supported which promote by-product exchanges (so that one company's waste stream is another's source of raw materials) as to more efficiently use resources (materials, water, energy) throughout society.



# : Task Force : Findings and : Recommendations

- Incorporate a Climate Mitigation and Adaptation Element into the City's Comprehensive Plan (as opposed to updating each element of the Comp plan with climate adaptation and mitigation policies).
- Seek funding to develop a Climate Action Plan or Climate Resilience Plan.
- Complete an inventory of city-wide GHG emissions to begin the mitigation plan. The establishment of a baseline measurement of GHG emissions is a fundamental step in addressing climate change and the community's resilience.
- Conduct a Vulnerability Assessment and establish resilience strategies based on those findings. Utilize the existing Florida Department of Economic Opportunity (FDEO) Vulnerability Assessment of Escambia County, which includes detail related to the City of Pensacola.
- Reestablish and fund the City of Pensacola Office of Sustainability (or similar program) to implement the Climate Action Plan and to provide an annual review and assessment of climate adaptation and mitigation of policies and strategies.
- Engage the Environmental Advisory Board (or appropriate entity) to work with City Council and city planning staff to ensure the city's Land Development Code addresses mitigation and adaptation policies.
- Pursue grant opportunities for City and regional partners to develop climate adaptation programming.



## Addendum

### Community Concerns and Priorities

- Develop Task Force priorities, for example, clean energy solutions, to start discussion with the community.
- Gather community feedback on the Task Force's proposed climate change policies and establish priorities based on that feedback.
- Create and implement a community-wide survey (see Satellite Beach report) and prioritize action areas based on resident feedback.
- Create a page on the City website dedicated to climate resilience information.

Find stakeholders' comments to the Task Force draft report at:  
[www.cityofpensacola.com/2900/Climate-Mitigation-and-Adaptation-Task-F](http://www.cityofpensacola.com/2900/Climate-Mitigation-and-Adaptation-Task-F)

## Appendix

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Resolution of the Pensacola City Council  
Creating a Climate Change Task Force:  
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## Other Resources

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American Institute of Architects commentary on climate change mitigation  
[www.aia.org/resources/77941-the-architects-critical-role-in-climate-chan](http://www.aia.org/resources/77941-the-architects-critical-role-in-climate-chan)

C40 Programmes: Compact of Mayors. C40 Cities.  
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Escambia Low Impact Design BMP Manual (2016)

[myescambia.com/our-services/natural-resources-management/water-quality-land-management/low-impact-design](http://myescambia.com/our-services/natural-resources-management/water-quality-land-management/low-impact-design)

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Broward County Climate Action Plan—Local Strategy to Address Global Climate Change  
[www.broward.org/NaturalResources/Documents/BrowardCAPReport2015\\_FINAL\\_DRAFT\\_01252016.pdf](http://www.broward.org/NaturalResources/Documents/BrowardCAPReport2015_FINAL_DRAFT_01252016.pdf)

City of Punta Gorda Adaptation Plan  
[www.cakex.org/sites/default/files/Punta\\_Gorda.pdf](http://www.cakex.org/sites/default/files/Punta_Gorda.pdf)

Community Resiliency in the City of Satellite Beach  
[www.satellitebeach.org/Residents-Visitors/City Documents/City Sustainability Plan 5-3-2017.pdf](http://www.satellitebeach.org/Residents-Visitors/City_Documents/City_Sustainability_Plan_5-3-2017.pdf)



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00055

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Sherri Myers

**SUBJECT:**

DISPARITY STUDY REGARDING ON HIRING PRACTICES WITHIN THE CITY AND THE IMPACT ON WOMEN

**RECOMMENDATION:**

That City Council allocate \$50,000 to hire a consultant to look at the hiring practices of the City of Pensacola and the impact of the practices on women.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Based on information from Department Heads during the 2021 budget workshop it appears that in some departments there are no women in certain job categories. It appears that women make up only about 30 percent of the City workforce. It appears of the 500 plus employees who received Covid-19 premium pay that only 66 of those employees were women. The Mayor eventually, with Council approval, provided premium pay to all employees, but only after the issue was raised with some employees complaining about what appeared to a discriminatory practice. In the past the City Council has provided funds to conduct a disparity study of the City's minority and women contracting policies which resulted in a finding of discrimination with corrective policies instituted. There exists enough evidence to warrant further investigation as to the hiring practices of the City of Pensacola as those practices impact women.

**PRIOR ACTION:**

None

**FUNDING:**

Budget: \$ 0

Actual: \$ 50,000

**FINANCIAL IMPACT:**

\$50,000 reduction from a funding source

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) Active full time women

**PRESENTATION:** No

### **Employee's – # of Full Time and % that are women**

Total # of FT Employees: 765

Total # of Female Employees: 228

29.8% Females

### **# of Employee's by department and % that are women**

	Total #	# Females	% of Females
Administration	10	5	50%
Airport	45	9	20%
City Attorney	6	5	83%
City Clerk	3	3	100%
City Council Staff	3	2	67%
CRA	4	3	75%
Financial Services	23	19	83%
Fire	129	9	7%
Housing	23	18	78%
Human Resources	13	12	92%
Innovation & Technology	17	5	29%
Inspections	12	3	25%
Parking Administration	7	2	29%
Parks & Recreation	56	18	32%
Pensacola Energy	105	26	25%
Planning	7	6	86%
Police	184	64	35%
Port	7	2	29%
Public Works & Facilities	52	5	10%
Sanitation Services	59	12	20%

### **Employee's – Part-Time**

City-wide:

Part time employee total: 19

Part time female total: 5

26.31% Female

Airport:

Part time employee total: 7

Part time female total: 1

14.28% Female

Council Executive:

Part time employee total: 1

Part time employee total: 1

100% Female

Police:

Part time employee total: 11

Part time female total: 3

27.27% Female

Female Classification titles:

EPS-Police Officer

EPS-Telecommunicator

**Job Classifications of all Active Full Time Female Employee's**

ACCOUNTING SERVICES MANAGER

ADMINISTRATIVE ASSISTANT I

ADMINISTRATIVE ASSISTANT II

ADMINISTRATIVE ASSISTANT III

AFFORDABLE HOUSING PROGRAM MANAGER  
AIRPORT OPS DISPATCHER  
ASSIST PLANNING SERV DIRECTOR  
ASSIST TO PW & FACILITIES DIR  
ASSISTANT CITY ATTORNEY  
ASSISTANT CITY CLERK  
ASSISTANT CITY NURSE  
ASSISTANT CRA ADMINISTRATOR  
ASSISTANT RISK MANAGER  
ASSISTANT TO FINANCE DIRECTOR  
ASST AIRPORT DIR FOR FINANCE  
ASST HUMAN RESOURCES DIRECTOR  
BATTALION CHIEF  
BENEFIT COORDINATOR  
BUDGET & SYSTEMS ADMINISTRATOR  
BUDGET ANALYST  
CITY CLERK  
CITY NURSE  
CLASSIFICATION & COMPENSATION SPECIALIST  
CLERK PUBLIC RECORDS COORD  
CODE ENFORCEMENT SPECIAL  
CONSTITUENT SERVICES ADMIN  
COUNCIL ASSISTANT  
CRA ADMINISTRATOR  
CRIME ANALYST  
CRIME SCENE ANALYST II (SWORN)  
CRIME SCENE SUPERVISOR  
CUST SERVICE REP II@CUSTOMER SERVICE REP I



CUSTOMER SERVICE REP I  
CUSTOMER SERVICE REP II  
DEPUTY CITY ADMIN-ADMIN & ENTERPRISE  
DEPUTY FINANCE DIRECTOR  
DEVELOPMENT SERVICES DIRECTOR  
DIR OF INNOVATION & TECHNOLOGY  
ENERGY SPECIALIST  
ENGINEERING SERVICES TECHNICIAN  
EVIDENCE TECHNICIAN  
EXEC ASSISTANT TO CITY ADMINISTRATOR  
EXECUTIVE AIDE TO MAYOR  
EXECUTIVE ASSISTANT  
EXECUTIVE ASSISTANT TO COUNCIL  
FINANCE DIRECTOR  
FIRE CADET  
FIRE CHIEF  
FIRE LIEUTENANT  
GAS CONTROLLER  
GAS DISTRIBUTION ENGINEER  
GIS TECHNICIAN  
HOUSING DIRECTOR  
HOUSING PLACEMENT SPECIALIST  
HOUSING SEC 8 FINANCE SPECIALIST  
HUMAN RESOURCES ASSOCIATE  
HUMAN RESOURCES COORDINATOR  
INSURANCE & RISK ANALYST  
LATENT PRINT TECHNICIAN  
LEGAL ASSISTANT

MAINTENANCE WORKER III  
MARKETING MANAGER  
OFFICE ASSISTANT  
OPS SUPPORT MANAGER  
P & R BUDGET & PLANNING SPECIALIST  
PARKING DIVISION MANAGER  
PAYROLL & RETIREMENT MANAGER  
PAYROLL COORDINATOR  
PENSACOLA ENERGY ADMIN OF OPS  
PERMIT CLERK  
PLANNER  
POLICE ACCRED & GRANT COMP SPE  
POLICE ADMINISTRATIVE CAPTAIN  
POLICE BUDGET & PLAN SPECIALIST  
POLICE CADET  
POLICE COMMUNITY OUTREACH & ENGAGEMENT MANAGER  
POLICE LIEUTENANT  
POLICE OFFICER  
POLICE RECORDS CLERK  
POLICE SERGEANT  
PORT BUDGET & PLANNING SPECIAL  
PROFESSIONAL FIREFIGHTER  
PROGRAM COORDINATOR  
PROGRAM MANAGER  
PROPERTY LEASE MANAGER  
PROPERTY SUPERVISOR  
PUB SAFETY TELECOMM SUPV  
PUBLIC INFORMATION OFFICER

PUBLIC INFORMATION SPECIALIST  
PUBLIC RECORDS COORDINATOR  
PUBLIC SAFETY TELECOMMUNICATOR  
PUBLIC WORKS & FACILITIES DIR  
RECREAT ASST SUPERVISOR  
RECREATION SUPERVISOR  
RECRUITING & TRAINING MANAGER  
RENTAL ASSISTANCE PROGRAMS MGR  
SANITATION EQUIP OPER II@SANITATION EQUIP OPER I  
SENIOR ACCOUNTANT  
SENIOR PLANNER  
SOFTWARE DEVELOPMENT SUPVR  
SPECIAL EVENT SUPERVISOR  
TECHNOLOGY RESOURCES MANAGER  
TRANSPORTATION PLANNER  
UTILITY BILLING CLERK  
UTILITY SUPPORT CLERK  
VICTIM ASSISTANCE COORDINATOR  
WATERFRONT DEVE PROJ COORD



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00135

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Jared Moore

**SUBJECT:**

FEASIBILITY STUDY FOR A SUMMIT BOULEVARD ROAD DIET

**RECOMMENDATION:**

That City Council authorize the Mayor to transfer funds within the American Rescue Plan Act (ARPA) Fund to provide funding for expenses related to a Road Diet Feasibility Study on Summit Boulevard

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

Summit Boulevard is a source of frequent resident concern due to excessive vehicle speed through a residential context, nearby public recreational amenities, and a public elementary school.

With consistent historical Annual Average Daily Travel (AADT) numbers between 5000-5500, and the heavy bicycle and pedestrian usage of Summit Blvd., it is a prudent study to prioritize safety and stewardship moving forward.

Traffic counts, travels speeds, recently waived parking requirements at Roger Scott, and surrounding residential areas make Summit Blvd a good candidate to assess the suitability for a road diet.

**PRIOR ACTION:**

June 17, 2021 - City Council appropriated funding in relation to ARPA for the recovery of revenue loss, grant compliance and administration and facility improvements.

July 15, 2021 - City Council appropriated funding in relation to ARPA for premium pay and employee vaccination incentive pay.

August 12, 2021 - City Council appropriated funding in relation to ARPA for the design and construction of the skateboard park at the Hollice T. Williams Park.

August 12, 2021 - City Council appropriated funding in relation to ARPA for Stormwater, Drainage, and Sewer Abatement and Citizen Assistance.

November 18, 2021 - City Council appropriated funding in relation to premium pay for City employees.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Upon approval by City Council funding in the amount of \$75,000 will be transferred from an unspecified marina project to be used for costs associated with a Summit Blvd. Road Diet Feasibility Study.

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

None

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00146

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Sherri Myers

**SUBJECT:**

RECOMMENDATION TO THE CHARTER REVIEW COMMISSION REGARDING A CITIZENS' BILL OF RIGHTS

**RECOMMENDATION:**

That City Council send a recommendation to the Charter Review Commission to entertain adding a Citizens' Bill of Rights to the Pensacola City Charter, modeled after the City of Miami Citizens' Bill of Rights.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The Charter Review Commission is currently in the process of Charter Review. This item seeks to have Council send a recommendation to the Charter Review Commission asking them to entertain the possibility of including a Citizens' Bill of Rights within their recommendations to Council for possible charter amendments.

**PRIOR ACTION:**

September 9, 2021 - City Council appointed members to the Charter Review Commission

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) Miami Citizens' Bill of Rights

**PRESENTATION:** No

## Subpart A THE CHARTER<sup>1</sup>

### Citizens' Bill of Rights

- (A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the City of Miami adopts the provisions of the Miami-Dade County Citizens' Bill of Rights as applied to municipal governments located within Miami-Dade County and guarantees the following additional rights to its Citizens:
1. To Be Governed By The Rule of Law. The City of Miami Charter is the Constitution of the City of Miami and the City shall abide by all of its express provisions.
  2. Religion and Conscience. The City shall not interfere with the freedom of each person in the city to follow the dictates of his or her own conscience concerning religious worship, nor shall the city support any religion.
  3. Speech, Assembly and Press. The City shall not interfere with the rights: (i) of freedom of speech; (ii) of freedom of the press; (iii) to petition the government, or (iv) to peaceable assembly.
  4. Unreasonable Searches and Seizures. The City shall not authorize any unreasonable search or seizure.
  5. Nondiscrimination. The City shall not, directly or indirectly, discriminate among persons because of race, color, creed, religion, sex, domestic relationship status, parental status, familial status, sexual orientation, national origin, political affiliation, gender identity and expression, or racial profiling. Nothing herein shall prevent the City of Miami from remedying present discrimination or the present

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<sup>1</sup>Editor's note(s)—The present charter of the City of Miami, excepting the later amendments and additions thereto, was prepared and proposed by a charter board of 15 citizens elected at a charter board election, held January 21, 1921. The charter prepared and proposed by such board was adopted by the electors of the city at an election held May 17, 1921; and Laws of Fla., ch. 9024(1921) validated, legalized and confirmed the proceedings in the election of the charter board and the adoption of the city charter, but did not enact the charter in full. The charter was amended by the legislature in its regular session in 1923, and the amendment was confirmed by the electorate of the city at an election held July 17, 1923. At the session of the legislature in 1925, the entire charter was reenacted as contained in Laws of Fla., ch. 10847(1925). The charter as contained in Laws of Fla., ch. 10847(1925) has been amended at subsequent sessions of the legislature, and by the electorate pursuant to the provisions of section 5.03 of the Dade County Charter. This version of the charter represents the text as amended by Ord. No. 9861 and approved by referendum on September 4, 1984, which amended the charter in its entirety, and as approved by final judgment in the case of the Rolle v. City of Miami Circuit Court Case No. 84-07522.

Amendments to the charter are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates that the provision remains unchanged from the original. Obvious misspellings have been corrected without notation. For stylistic purposes, a uniform system of headings, catchlines and citations to state statutes has been used. Additions made for clarity are indicated by brackets.

**County Charter reference**—Municipal charters, § 5.03.

**State law reference(s)**—Home rule powers of municipalities generally, F.S. § 166.021; charter amendments, F.S. § 166.031.



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- effects of past discrimination by a race-conscious affirmative action program which is in compliance with the Constitution and laws of the United States of America and the State of Florida.
6. Environmental Protection. The City shall promote the right of the people to clean air, pure water, freedom from excessive and unnecessary noise, and the natural, scenic, historic and aesthetic qualities of the environment.
  7. Natural Resources and Scenic Beauty. It shall be the policy of the City to conserve and protect its natural resources and scenic beauty, which policy shall include the abatement of air and water pollution, and excessive and unnecessary noise.
- (B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of Miami. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.
- (C) Remedies for violations. Residents of the City shall have standing to bring legal actions to enforce the City Charter, the Citizens' Bill of Rights, and the Miami-Dade County Citizens' Bill of Rights as applied to the City. Such actions shall be filed in Miami-Dade County Circuit Court pursuant to its general equity jurisdiction and, if successful, the plaintiff shall be entitled to recover costs, but not attorney's fees, as fixed by the court. Any public official, or employee who is found by the court to have willfully violated this section shall forthwith forfeit his or her office or employment.
- (D) Construction. All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida or the provisions of the Florida Constitution. If any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions.
- (Res. No. 07-0625, § 2, 10-25-07; Res. No. 16-0352, § 2, 7-29-16)

#### LAWS OF FLORIDA, CHAPTER 10847

An act to amend and reenact the Charter of the City of Miami, in the County of Dade, and to fix the boundaries and provide for the government, powers and privileges of said city and means for exercising the same; and to authorize the imposition of penalties for the violation of ordinances; and to ratify certain acts and proceedings of the commission and of the officers of the city.

*Be It Enacted by the Legislature of the State of Florida:*

### **Sec. 1. Creation and existence.**

The inhabitants of the City of Miami, Florida, within the boundaries hereinafter designated, or within such boundaries as may hereafter be established, shall continue to be a body politic and corporate under the name the "City of Miami," and as such shall have perpetual succession and may use a common seal.

(Res. No. 01-843, § 2, 8-9-01)

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, amended § 1 in its entirety to read as herein set out. Formerly, § 1 pertained to body politic and corporate; name; seal; right to contract, sue, and be sued, and derived from original codification.

Case law reference(s)—The city is a governmental entity created by the state. It is a public institution designed to promote the common interests of the inhabitants in their organized capacity as a local government, and its objects are governmental, not commercial. *Miami Water Works Local No. 654 v. City of Miami*, 157 Fla. 445, 26 So. 2d 194, 165 A.L.R. 967.

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The city is a municipal corporation and is not exempt from paying interest on its obligations. Highway Construction Co. v. City of Miami, 126 F.2d 777.

## **Sec. 2. Corporate limits.**

The corporate limits of the City of Miami shall include all the territory and inhabitants within the following area, and no other:

[For the latest legal description of the city boundaries, the user is referred to exhibit A of this Charter, on file in the office of the city clerk.]

(Res. No. 01-843, § 2, 8-9-01)

Editor's note(s)—The territorial limits of the City of Miami were fixed pursuant to Laws of Fla., ch. 15687(1931).

Further special acts extending, enlarging, or otherwise changing the corporate limits include Laws of Fla., ch. 15821(1931); Laws of Fla., ch. 18685(1937); Laws of Fla., chs. 21393, 21396(1941); Laws of Fla., chs. 23405, 23409(1945); Laws of Fla., ch. 26021(1949); Laws of Fla., ch. 57-1583.

The board of county commissioners of Dade County further extended the boundaries of the city (Primrose Park) by Dade County Ordinance No. 63-6, adopted March 5, 1963.

**County Charter reference**—Method of changing city boundaries, § 5.04.

**State law reference(s)**—Municipalities within Dade County to adopt annexation or contraction ordinances pursuant to provisions of county home rule charter, F.S. § 171.071.

## **Sec. 3. Powers.**

The City of Miami shall have the governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions and render municipal services and may exercise any power for municipal purposes, except when expressly prohibited by law.

The city shall have the extraterritorial powers granted to the city by general and special law and including Laws of Florida, ch. 10847 (1925), as amended.

The City of Miami shall have power to:

(a)—(e). [Reserved.]

(f) *Acquisition and disposition of property and services:*

- (i) To acquire by purchase, gift, devise, condemnation or otherwise, real or personal property or any estate or interest therein, inside or outside the city, for any of the purposes of the city; and to improve, sell, lease, mortgage, pledge, or otherwise dispose of such property or any part thereof.
- (ii) To acquire or dispose of services inside or outside the city, by purchase, gift, or otherwise for any purposes of the city.
- (iii) To lease to or contract with entities for the management of any of the city's waterfront property, but only in compliance with the other requirements of this charter and on condition that:
  - (A) the terms of the contract allow reasonable public access to the water and reasonable public use of the property, and comply with other charter waterfront setback and view-corridor requirements; and
  - (B) the terms of the contract result in a fair return to the city based on two independent appraisals; and

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- (C) the use is authorized under the then existing master plan of the city;
  - (D) the procurement methods prescribed by ordinances are observed;
  - (E) the contract does not exceed five years and does not contain an automatic renewal or termination penalty.

Any such lease or management agreement or proposed extension or modification of an existing such lease or management agreement which does not comply with each of the above conditions shall not be valid unless it has first been approved by a majority of the voters of the city.

Nothing herein contained shall in any manner affect or apply to any project the financing of which has been provided by the authorization of bonds to be issued by the city.

(g)—(l). [Reserved.]

- (m) *Harbor and shipping facilities:* To establish, construct, maintain, and operate, both inside and outside the city, public landings, wharves, docks, and warehouses; to dredge or deepen harbors and rivers, or any branch or portion thereof; to install turning basins, build jetties, and otherwise improve the harbor and shipping facilities of the city, inside and outside the city and inside and outside harbor lines where such improvements outside of harbor lines are approved by the United States Government or its proper agencies; to acquire by condemnation or otherwise all lands, riparian, and other rights and easements [necessary for the purposes aforesaid; to lay and collect] reasonable duties or fees on vessels coming through or using said landings, wharves, docks or warehouses; to regulate the manner of using other landings, wharves, docks, and warehouses within the city; to prescribe and enforce reasonable rules and regulations for the protection and use of said property; to advance to the Government of the United States, with or without interest, funds to be expended in harbor improvements to be made by the government in or near the city, or directly affecting the city within Miami Harbor and the approaches thereto, if such work has been duly authorized by laws of the United States; and to issue bonds or notes to obtain funds for such advances.

(n)—(ll). [Reserved.]

(mm) *Building and zoning:*

- (i) To provide by ordinance building, planning, and zoning regulations and restrictions governing the height, number of stories, method of construction, type, and size of buildings and other structures; the percentage and portion of the lot or site that may be occupied; the size of the front, rear, and side yards, courts, and other open spaces; the location, use of buildings, structures, and land for trade, industry, residences, apartment houses, and other purposes; and the widening and future widening of streets in zoned street areas that the city may establish. Such regulations may provide that a board of appeals or the city commission may determine and vary the application of building, planning, or zoning ordinances in harmony with their general purpose and intent.
- (ii) In order to preserve the city's natural scenic beauty, to guarantee open spaces, and to protect the waterfront, anything in this Charter or the ordinances of the city to the contrary notwithstanding, neither the city nor any of its agencies shall issue building permits for any surface parking or enclosed structures located on Biscayne Bay or the Miami River from its mouth to the N.W. 5th Street Bridge,
  - (A) which are not set back at least 50 feet from the seawall (where the depth of the lot is less than 200 feet, the setback shall be at least 25 percent of the lot depth), and
  - (B) which do not have average side yards equal in aggregate to at least 25 percent of the water frontage of each lot based on average lot width.
- (iii) The above setback and side-yard requirements may be modified by the city commission after design and site-plan review and public hearing only if the city commission determines that the modifications requested provide public benefits such as direct public access, public walkways, plaza dedications,

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covered parking up to the floodplain level, or comparable benefits which promote a better urban environment and public advantages, or which preserve natural features. Wherever setback, side-yard, or site-plan review requirements of zoning ordinances are greater than the foregoing requirements, such greater requirements shall govern.

- (iv) These requirements shall not apply to docks and appurtenant structures, single-family residences and appurtenant structures, and waterfront industrial uses along the Miami River and at the Port of Miami. Nothing herein contained shall in any manner affect or apply to: the City of Miami/University of Miami James L. Knight International Center and hotel facility, including all improvements thereon, or to lands and projects which the city commission has approved prior to September 18, 1979, by development order pursuant to F.S. ch. 380 of a planned area development pursuant to article XXI-1, City of Miami Comprehensive Zoning ordinance or which have received site and development plan approval, including Plaza Venetia, Phase II, Resolution No. 72-113, April 20, 1972; Resolution No. 72-114, April 20, 1972; and Resolution No. 72-416, July 20, 1972.

(Res. No. 01-841, § 2, 8-9-01; Res. No. 01-843, § 2, 8-9-01)

Editor's note(s)—The department of neighborhood rehabilitation of the city and all functions involved therein were abolished pursuant to Ord. No. 7576, § 1, adopted July 17, 1967, and effective on the date of transfer of said department to Dade County. At the direction of the city, § 3(vv), added to the charter by Char. Amend. No. 2, effective Jan. 1, 1963, is not set forth herein.

#### **Sec. 4. Form of government; nomination and election.**

- (a) *General description.* The form of government of the City of Miami, Florida, provided for under this Charter shall be known as the "mayor-city commissioner plan," and the city commission shall consist of five citizens, who are qualified voters of the city and who shall be elected from districts in the manner hereinafter provided. The city commission shall constitute the governing body with powers (as hereinafter provided) to pass ordinances adopt regulations and exercise all powers conferred upon the city except as hereinafter provided. The mayor shall exercise all powers conferred herein and shall appoint as provided in section 4(g)(6) of this Charter a chief administrative officer to be known as the "city manager."
- (b) *Election of mayor and city commission; terms of office; recall.* There shall be elected by the qualified electors of the city at large a mayor who shall be a qualified elector residing within the city at least one (1) year before qualifying and must maintain a residence in the city for the duration of his or her term. The mayor shall not serve as a member of the city commission.

The city commission shall consist of five members who shall be elected from districts within the city, numbered 1 through 5. All persons desiring to run for the office of city commissioner shall file in the district, numbered 1 through 5, for which they are qualified as provided in subsection (c) of this section of the Charter. City commissioners in districts numbered 3 and 5 shall be elected at the general municipal election or runoff election to be held in the year 2001 and at the general municipal election or runoff election each four years thereafter. City commissioners in districts numbered 1, 2, and 4 shall be elected at the general municipal election or runoff election to be held in the year 2003 and at the general municipal election or runoff election each four years thereafter.

The mayor shall be elected at large by the electors of the city and shall hold office for a term of four years.

The mayor and all city commissioners [are] to hold office from twelve o'clock noon five days after the canvass of the vote by the supervisor of elections and the declaration of the result of either 1) the general municipal election or 2) runoff election and until their successors are elected and qualified. Commencing with the election to be held in November 2001, and all elections subsequent thereto, no mayor or city commissioner elected and qualified for two consecutive full terms shall be eligible for reelection in the next

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succeeding term. The mayor and all other members of the city commission shall be subject to recall. Vacancies shall be filled as provided in section 12[.] of the.

If a candidate for office of mayor or city commissioner receives a majority of votes in the general municipal election for that office, the candidate shall be considered elected upon and after the canvass of the vote and the declaration of the result of the election as provided. If no candidate receives a majority of the votes for that office, the two candidates for the respective office who received the greatest number of votes for that office in the general municipal election shall be placed on the ballot at the runoff election. The candidate receiving the greatest number of votes in the runoff election, shall be considered elected to the office for which the candidate has qualified.

- (c) *Qualifications of mayor and city commission; mayor, city commissioners, and other officers and employees not to be interested in contracts, etc.; franks, free tickets, passes or service.* Candidates for mayor shall be residents of the city for at least one (1) year prior to qualifying and shall be electors therein. Further, candidates for the city commission shall have resided within the district at least one (1) year before qualifying and be electors in that district, and shall maintain residence in that district for the duration of their term of office. The mayor, city commissioners, and other officers and employees shall not be interested in the profits or emoluments of any contract, job, work or service for the municipality. The mayor or any city commissioner who shall cease to possess any of the qualifications herein required shall forthwith forfeit his or her office, and any such contract in which any member is or may become interested may be declared void by the city commission.

No mayor, city commissioner, or other officer or employee of said city shall accept any frank, free ticket, pass or service directly or indirectly, from any person, firm or corporation upon terms more favorable than are granted to the public generally. Any violation of the provisions of this section shall be a misdemeanor. Such prohibition of free service shall not apply to police or fire personnel in uniform or wearing their official badges, where same is provided by ordinance.

- (d) *City commission to be judge of its own elections; neither mayor nor city commission nor any committees nor members thereof to dictate appointments by or interfere with city manager.* The city commission shall be the judge of the election and qualifications of the mayor and its own members, subject to review by the courts. Neither the mayor nor the city commission, nor any committees nor members thereof shall direct, request, take part in or dictate the appointment or removal of any person in office or employment by the city manager or subordinates or in any manner interfere with the city manager or prevent the city manager from exercising his/her own judgment in the appointment of officers and employees in the administrative service. Except for the purpose of inquiry and as may be necessary as provided in section 14, the mayor, the city commission, any committees and members thereof shall deal with the administrative service solely through the city manager, and neither the mayor nor the city commission, nor any committees nor members thereof shall give orders to any of the subordinates of the city manager, city attorney, city clerk and independent auditor general, either publicly or privately. Any such dictation, prevention, orders or other interference or violation of this section on the part of the mayor or a member of the city commission or committees shall be deemed to be violation of the Charter, and upon conviction before a court of competent jurisdiction any individual so convicted shall be subject to a fine not exceeding five hundred dollars (\$500.00) or imprisonment for a term of not exceeding sixty days or both, and in the discretion of the court shall forfeit his or her office. Any willful violation of the provisions to this section by the mayor or any city commissioner shall be grounds for his or her removal from office by an action brought in the Circuit Court by the state attorney of this county.
- (e) *Election of officers by city commission; rules of city commission; quorum.* The city commission shall elect a city clerk and a city attorney. No member of the city commission or the mayor shall be chosen as city manager or as a member of the civil service board or appointed to any other city office or employment. The city commission may determine its own rules of procedure, may punish its own members for misconduct and

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may compel attendance of members. A majority of all the members of the city commission shall constitute a quorum to do business, but a smaller number may adjourn from time to time.

- (f) *Meetings of city commission; ordinance to be read by title only.* At twelve o'clock noon on the day the mayor or city commissioners take office, they shall meet at the city hall. Thereafter, the city commission shall meet at such time and place as may be prescribed by ordinance or resolution. The meetings of the city commission and all sessions of committees of the city commission shall be public. Ordinances shall be read by title only. No member shall be excused from voting except on matters involving the consideration of his or her own official conduct, or where his or her financial interests are involved.
- (g) *Powers and duties of mayor.* The mayor shall serve as the chief executive officer and head of the city government with the following specific powers and duties:
- (1) The mayor shall be the presiding officer of the city commission with the authority to designate another member of the city commission to serve as presiding officer.
  - (2) The mayor shall be recognized as the official head of the city for all ceremonial purposes, by the courts for the purpose of serving civil process, and by the governor for military purposes.
  - (3) In time of public danger or emergency, the mayor may declare a state of emergency as provided in state law and may with the consent of the city commission, take command of the police and maintain order and enforce the laws.
  - (4) During the temporary absence or disability, the mayor shall appoint a member of the city commission to perform the duties of the mayor. However, in the event that the mayor does not or is unable to make such designation, the city commission shall designate a member of the city commission to perform the duties of the mayor during the temporary absence or disability of the mayor by a four-fifths vote of the city commissioners then in office.
  - (5) The mayor shall, within ten days of final adoption by the city commission, have veto authority over any legislative, quasi-judicial, zoning, master plan or land use decision of the city commission, including the budget or any particular component contained therein which was approved by the city commission; provided, however that if any revenue item is vetoed, an expenditure item in the same or greater dollar amount must also be vetoed. The city commission may, at its next regularly scheduled or special meeting after the veto occurs, override that veto by a four-fifths vote of the city commissioners present, notwithstanding any provisions to the contrary contained in the Charter and city code. Said veto power shall include actions pursuant to sections 29-B through 29-D of the Charter.
  - (6) When one person succeeds another in the position of mayor, the successor shall have the right to appoint the city manager, subject to the approval within 14 days of a majority of the city commissioners then in office. In the event of a vacancy in the office of city manager, the mayor shall appoint the city manager, subject to the approval within 14 days of a majority of the city commissioners then in office. The mayor may remove the city manager subject to the city commission's conducting a hearing within 10 days of said removal and the city commission's overriding the mayor's action by a four-fifths vote of those city commissioners then in office. Additionally, the city commission by a four-fifths vote of those city commissioners then in office shall be able to remove the city manager.
  - (7) The mayor shall establish and appoint the members of all standing and special committees of the city commission and the chairperson and vice-chairperson of each committee. There shall be as many standing and special committees of the city commission as deemed necessary by the Mayor. Standing or special committees of the city commission shall mean those comprised of city commission members only.

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- (8) The mayor shall prepare and deliver a report on the state of the city to the people of the city between November 1 and January 31 annually. Such report shall be prepared after consultation with the city commissioners and the city manager.
- (9) The mayor shall prepare and deliver a budgetary address annually to the people of the city between July 1 and September 30. Such report shall be prepared after consultation with the city manager.
- (h) *Salaries of the mayor and commission.* Effective on November 4, 2003, there shall be paid to the city commissioners the sum of \$58,200, which is equal to sixty percent of the mayor's salary in effect on July 16, 2003. Such salary shall be paid per year for each commissioner, in twelve equal installments. The compensation of the mayor shall be determined by the commission.

(Laws of Fla., ch. 15344(1931); Laws of Fla., ch. 23401(1945); Laws of Fla., ch. 26022(1949); Laws of Fla., ch. 31000(1955); Char. Amend. No. 2, § 1, 1-1-60; Char. Amend. No. 1, 12-1-63; Char. Amend. No. 1, 12-1-65; Ord. No. 88-541, § 2a, 6-9-88/9-6-88; Res. No. 97-447, § 2, 7-3-97; Res. No. 99-613, § 3, 8-2-99; Res. No. 01-843, § 2, 8-9-01; Res. No. 03-918, § 3, 9-5-03)

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, amended § 4 in its entirety to read as herein set out. Formerly, § 4 pertained to form of government. The historical notation has been retained for reference purposes.

Case law reference(s)—Officials provided for in subsection (e) shall be elected and none of them shall hold office at the will of the city commission when elected, but the city manager when appointed shall hold office subject to the will of the commission. *State v. Bloodworth*, 134 Fla. 369, 184 So. 1.

Where resolution adopted by the city commission appointing the city clerk failed to fix or state the period of time he was to hold the said office, clerk was entitled to hold office until the next regular city election provided for in this charter unless lawfully removed. *Id.* See also, *State v. Bloodworth*, 135 Fla. 525, 185 So. 339.

## **Sec. 5. The initiative.**

- (a) *Power to adopt ordinances.* The electors shall have power at their option to adopt ordinances, excluding ordinances relating to subjects that would be precluded by law and to adopt the same at the polls, such power being known as the "initiative". A petition meeting the requirements hereinafter provided and requesting the city commission to pass an ordinance therein set forth or attached shall be termed an "initiative petition" and shall be acted upon as hereinafter provided.

Any five registered voters may commence initiative proceedings by filing with the city clerk an affidavit stating they will constitute the committee of the petition and be responsible for circulating the petition and filing it in proper form. The affidavit shall state the names and addresses of the members of the committee of the petition and shall specify the name and address of the member to whom all notices are to be sent. The affidavit shall set out in full the proposed initiative ordinance.

- (b) *Preparation of initiative petition; affidavit of genuineness of signatures.* Signatures of 10 percent of the electors of the city registered at the last general municipal election are required for initiative petitions. The signatures need not all be on one paper, but must be in ink or indelible pencil and include the printed name and residence address of each signer and date signed. The proposed ordinance in full should be attached to the petition for review of the signer. The circulator of every such paper shall make an affidavit on each page in substantially the following form:

STATE OF FLORIDA )

ss.

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COUNTY OF MIAMI-DADE )

\_\_\_\_\_ being duly sworn, deposes and says that he or she is the circulator of the foregoing petition paper containing signatures, and that said signatures were made in his or her presence and are the signatures of the persons whose names they purport to be.

(Signed) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_.

Notary Public

All papers pertaining to any one ordinance shall be filed in the office of the City Clerk as one instrument and shall have written or printed thereon the names and addresses of the committee of the petition who shall be officially regarded as filing the petition and who shall constitute the committee of the petition for the purposes hereinafter named.

- (c) *Filing of petitions.* Within 20 days after the filing of a petition, the city clerk shall ascertain by examination the number of registered voters in the city whose signatures are appended thereto and whether said number is at least 10 percent of the total number of registered voters as shown by the registration records. The city clerk shall attach to said petition a certificate showing the result of said examination and give notice thereof in writing to one or more of the members of the committee of the petition. If the number of signatures supporting the petition is shown to be insufficient, the petition may be amended once within 10 days from the date of said certificate by the filing of additional signatures.
- The city clerk shall, with 10 days after such amendments, make examination of the amended petition. The final finding of the insufficiency of a petition shall not prejudice the filing of a new petition for the same purpose.
- (d) *Submission of petition to city commission.* Upon ascertaining that a petition is supported by a sufficient number of signatures, the city clerk shall so certify, and the city clerk shall submit the proposed ordinance to the city commission at its next meeting. Upon receiving the proposed, the city commission shall proceed to consider it and shall take final action thereon within 30 days from the date the petition is certified by the city clerk.
- (e) *Election on initiated ordinances.* If the city commission fails to pass the proposed ordinance, or if it passes it in a form different from that set forth in the petition, then the ordinance shall be submitted in its original form by the city commission to the vote of the electors at the next election occurring not fewer than 30 days from the date of the final action by the city commission. If no election is to be held within six months from such date, the city commission shall call a special election to be held not fewer than 30 days nor more than 120 days from such date.
- (f) *Initiative ballots.* The ballots used when voting upon any such proposed ordinance shall state the substance thereof in clear, concise language, without argument or prejudice, and shall provide only for a vote "for the ordinance" or "against the ordinance". If a majority of the electors voting on any such ordinance vote in favor thereof, it shall thereupon become an ordinance of the city. When a ordinance proposed by initiative petition is passed by the city commission, but not in its original form, the ordinance as passed by the city commission shall not take effect until after the vote of the electors; if the ordinance so submitted is approved by a majority of electors voting thereon, it shall thereupon become an ordinance of the city, and the ordinance as passed by the city commission shall be deemed repealed.

The following title shall be substantially the form of the ballot:



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TITLE OF WITH GENERAL  
STATEMENT OF SUBSTANCE THEREOF

FOR THE ORDINANCE.

AGAINST THE ORDINANCE.

- (g) *Number of ordinances to be initiated.* Any number of proposed ordinances may be voted upon at the same election in accordance with the provisions of this Charter.

(Res. No. 01-843, § 2, 8-9-01)

**Sec. 6. The referendum.**

- (a) *Power of referendum.* The electors shall have power at their option to approve or reject at the polls any measure passed by the city commission or measure submitted by the city commission to a vote of the electors excluding measures relating to subjects that would be precluded by law. Such power shall known as the "referendum". Measures submitted to the city commission by initiative petition and passed by the city commission without change or passed in an amended form shall be subject to the referendum in the same manner as other measures.

Any five registered voters may commence referendum proceedings by filing with the city clerk an affidavit stating they will constitute the committee of the petition and be responsible for circulating the petition and filing it in proper form. The affidavit shall state the names and addresses of the members of the committee of the petition and shall specify the name and address of the member to whom all notices are to be sent. The affidavit shall set out in full the referred measure.

- (b) *Referendum petition.* If within not less than ten days nor more than 30 days after the final passage of any measure by the city commission, a petition signed by 15 percent of the total number of voters registered at the last general municipal election as shown by the city registration records, is filed with the city clerk requesting that such measure or any part thereof be repealed or be submitted to a vote of the electors, that measure or part shall not, except in the case of an emergency measure, become operative until the steps indicated herein have been taken.
- (c) *Signatures to petition.* The signatures of the 15 percent of the electors of the city registered at the last general municipal election are required for referendum petitions. The referred measure in full shall be attached to the petition for review of the signer. The signatures of referendum petitions need not all be on one paper, but the circulator of every such paper shall make an affidavit that each signature appended thereto is the genuine signature of the person whose name it purports to be. Each signature shall be in ink or indelible pencil and shall include the date signed, the printed name and address of the signer. All such papers shall be filed in the office of the city clerk as one instrument. A referendum petition need not contain the text of the measure or part of which repeal is sought, but shall briefly describe the ordinance or part sought to be repealed and such measure shall be attached to the petition for review of the signer.

The circulator of every such paper shall make an affidavit on each page in substantially the following form:

STATE OF FLORIDA )

ss.

COUNTY OF MIAMI-DADE )

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\_\_\_\_\_ being duly sworn, deposes and says that he (or she) is the circulator of the foregoing petition paper containing \_\_\_\_\_ signatures, and that said signatures were made in his (or her) presence and are the signatures of the persons whose names they purport to be.

(Signed) \_\_\_\_\_

Subscribed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

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

All papers pertaining to any one measure shall be filed in the office of the city clerk as one instrument and shall have written or printed thereon the names and addresses of the committee of the petition who shall be officially regarded as filing the petition and who shall constitute the committee of the petition for the purposes hereinafter named.

- (d) *Certification of petition.* Within 20 days after the filing of the petition, the city clerk shall ascertain by examination the number of registered voters whose signatures are appended thereto and whether said number is at least 15 percent of the total number of registered voters as shown by the city registration records. The city clerk shall attach to such petition his or her certificate showing the result of such examination and give notice thereof in writing to the person designated to receive notices by the committee of the petition. If the number of signatures supporting the petition is shown to be insufficient, the petition may be amended once within 10 days from the date of said certificate by the filing an amended petition with additional signatures. The city clerk shall, within 10 days after such amendment, make examination of the amended petition.
- (e) *Referendum election.* If the petition is found sufficient, the city commission shall proceed to reconsider such measure or such section thereof as the petition shall specify. If upon such reconsideration such measure, or such part thereof, is not repealed or amended as demanded in the petition, the city commission shall provide for submitting the same, by the method herein provided, to a vote of the electors at the next general municipal election occurring not less than thirty days after the receipt by the city commission of the city clerk's certificate, and such measure, or such part thereof, shall thereupon be suspended from going into effect until said election and shall then be deemed repealed unless approved by a majority of those voting thereon. The city commission by a four-fifths vote may submit such measure or part thereof with like effect to the electors at a special election to be called by said city commission not less than thirty days after the receipt of the city clerk's certificate.
- (f) *Limitations on enforcement of ordinances.* No measure shall go into effect until thirty days after its passage unless it is declared in such ordinance to be an emergency measure on the ground of urgent public need for the preservation of peace, health, safety, or property and the measure being passed by a vote of not less than four-fifths of the members of the city commission. No measure amending or repealing any measure adopted by the people at the polls or by the city commission in compliance with an initiative petition shall be regarded as an emergency measure.
- (g) *Form of ballot.* The ballots used when voting upon such referendum shall state the substance of the measure in clear, concise language, without argument or prejudice, and shall specify whether the measure is being submitted for approval or for repeal. If the measure is being submitted for approval, the ballot shall provide only for a vote "for the measure" or "against the measure". If the measure is being submitted for repeal, the ballot shall provide only for a vote "for repeal" or "against repeal".
- (h) *Emergency measures.* Measures passed as emergency measures shall be subject to referendum like other measures, except that they shall not be suspended from going into effect while referendum proceedings are pending. An emergency measure subsequently repealed shall be deemed sufficient authority for any payment made or expense incurred in accordance with the measure previous to the repeal.

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- (i) *Conflict of referred measures.* If two or more measures adopted or approved at the same election conflict with respect to any of their provisions, all nonconflicting provisions shall go into effect. The provisions of the measure receiving the highest affirmative vote shall prevail over the conflicting provisions of other measures.
  - (j) *Adoption or repeal.* If a majority of the electors voting on any referendum vote to adopt or repeal any measure or part thereof, such measure or part shall thereupon be deemed adopted or repealed, as the case may be.

(Res. No. 01-843, § 2, 8-9-01)

## **Sec. 7. Election of city commissioners and mayor.**

A general municipal election for the mayor and city commissioners shall be held on the first Tuesday after the first Monday in November in odd-numbered years. A runoff election for the mayor and city commissioners shall be held on the third Tuesday after the first Monday in November in odd-numbered years. All elections held in said city shall be conducted and held according to the provisions of the general election laws of the State of Florida, except as otherwise provided for in the Charter. The name of any person qualified as provided in section 4 of this Charter shall be printed upon the ballot as a candidate for the office of mayor or city commissioner upon paying to the City of Miami the sum as prescribed by ordinance to be accepted by the city clerk as a qualifying fee along with the sum for election assessment as prescribed by state law during the qualifying period as prescribed in this Charter prior to the date of such general municipal election or special election to fill a vacancy. Any person qualified to run for mayor or city commissioner shall file an affidavit of candidacy in the form provided by the city clerk including his or her name, address, occupation and willingness to serve if elected, accompanied by the requisite documents and fees as provided in state law and section 7 of this Charter. An affidavit of candidacy shall be filed not earlier than 60 days and not later than 45 days prior to the date of the general municipal election or during the qualifying period for a special election to fill a vacancy.

All such qualifying documents and fees shall be deposited with the city clerk no later than 6:00 pm. on the forty-fifth day prior to the general municipal election or the last day for qualifying in a special election to fill a vacancy.

(Laws of Fla., ch. 15339(1931); Laws of Fla., ch. 19974(1939); Laws of Fla., ch. 21387(1941); Laws of Fla., ch. 22395(1943); Laws of Fla., ch. 23408(1945); Char. Amend. No. 1, 3-14-72; Char. Amend. No. 6, 11-6-73; Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01; Res. No. 16-0350, § 2, 7-29-16)

Editor's note(s)—Res. No. 01-843, § 1, adopted August 9, 2001, amended § 7 in its entirety to read as herein set out. Formerly, § 7 pertained to regular and primary elections of commissioners. The historical notation has been retained for reference purposes.

## **Sec. 8. Form of ballots.**

All ballots used in any general municipal election, runoff election or special election to fill a vacancy held under authority of this Charter shall be without party mark or designation and without any insignia or mark of any association or organization thereon, and shall be substantially in the same form as the election ballot used in all general state elections.

(Laws of Fla., ch. 15339(1931); Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01)

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, amended § 8 in its entirety to read as herein set out. Formerly, § 8 pertained to form of ballots; what candidates in primary election for mayor and commissioners placed on ballot. The historical notation has been retained for reference purposes.

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## **Sec. 9. Declaration of election; how tie vote decided.**

At any runoff election or special election to fill a vacancy held under the provisions of this Charter, the candidates for the office of city commissioner, who shall have received the greatest number of votes cast, shall be declared elected after the canvass of the vote by the supervisor of elections as provided in section 4. A tie between two or more candidates for the office of city commissioner shall be decided by lot under the supervision of the chair of the canvassing board in the presence of the candidates.

At any runoff election or election to fill a vacancy for the office of mayor held under the provisions of this Charter, the candidate for the office of mayor, who shall have received the greatest number of votes cast, shall be declared elected after the canvass of the vote by the supervisor of elections as provided in Section 4. A tie between the candidates for the office of mayor shall be decided by lot under the supervision of the chair of the canvassing board in the presence of the candidates.

(Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01)

## **Secs. 10, 11. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed §§ 10, 11 in their entirety. Formerly, §§ 10, 11 pertained to distinction between general and special municipal election and the recall, respectively, and derived from Laws of Fla., ch. 14616(1929); Res. No. 97-47, § 2, adopted July 3, 1997.

## **Sec. 12. Filling vacancies for mayor and commission.**

- (a) A vacancy on the city commission or in the office of mayor caused by death, resignation, forfeiture, suspension, removal, or other action or causes shall be filled within ten days after such vacancy occurs by a majority of the remaining city commissioners. The person appointed must meet the qualifications of the office as required in section 4 of this Charter. The term of office of the person so appointed, except in the circumstances detailed in section (c) below, shall be until the successor in office is elected and qualified at whichever of the following occurs first:
- (1) the odd-year general municipal election for mayor and city commissioners held pursuant to section 4 of the Charter, or
  - (2) the even-year State of Florida general election, at which election national, state and county offices are filled,

The candidates for such election shall be qualified as provided in section 4 of this Charter and the qualifying period and requirements for such election shall be as provided in section 7 of this Charter. The person elected as provided in (a)(1) or (a)(2) of this Section shall serve for the remainder of the unexpired term of that office.

- (b) If the remaining city commissioners shall fail or refuse to fill such vacancy within ten days after it occurs, as provided herein, the city commission shall call a special election to fill the vacancy to be held at a date not less than thirty-eight or more than forty-five days after the expiration of the ten-day period and the five day qualifying period. The qualifying period for such special election shall be for the five days not including Saturday, Sunday or legal holidays before the thirty-eighth day before the date of the election and the procedure for the election not otherwise provided for in this section shall be as provided in section 7 of this Charter. Except in the circumstances detailed in section (c), effective November 7, 2017, the person who receives the greatest number of votes for the office in said special election is elected to fill the vacancy for the remainder of the unexpired term of that office.
- (c) If a vacancy in any elected office is caused by forfeiture, suspension, or removal, the vacancy shall be filled in the same manner as described in sections (a) and (b) above, provided that if the elected official who has so

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vacated his or her seat is later absolved of the allegations of wrong-doing, that elected official shall be entitled to resume his or her elected position for the remainder of the unexpired term, if any. The term of the individual who assumed the position previously vacated by that elected official shall automatically terminate upon the restoration to office of the original seat-holder.

- (d) If the city commissioners shall fail to comply with their duties as set forth in this section, then, and in that event, the court is hereby empowered and authorized to enforce compliance with this act or to call an election itself to fill such vacancy or vacancies on the city commission or in the office of mayor.

(Laws of Fla., ch. 22393(1943); Laws of Fla., ch. 27724(1951); Ord. No. 8287, 11-5-74; Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01; Res. No. 17-0318, § 2, 7-13-17)

### **Sec. 13. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repeal § 13 in its entirety. Formerly, § 13 pertained to election when terms of four or more commissioners expire simultaneously, and derived from Laws of Fla., ch. 22393(1943); Laws of Fla., ch. 27724(1951).

### **Sec. 14. Commission may investigate official transactions, acts and conduct.**

The mayor, city commission, or any committee thereof may investigate the financial transactions of any office or department of the city government and the official acts and conduct of any city official, and by similar investigations may secure information upon any matter. In conducting such investigations the mayor, city commission, or any committee thereof, may require the attendance of witnesses and the production of books, papers and other evidence, and for that purpose may issue subpoenas which shall be signed by the presiding officer of the city commission or the chair of such committee, as the case may be, which may be served and executed by any police officer.

(Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01)

### **Sec. 15. City manager—Qualifications; appointment; term; salary; sickness or absence; removal.**

The city manager shall be the head of the administrative branch of the city government. The city commission shall fix the city manager's compensation, and the city manager shall serve as provided in section 4(g). The city manager shall be chosen on the basis of the city manager's executive and administrative qualifications. At the time of the city manager's appointment the city manager need not be a resident of the state. Neither the mayor nor any city commissioner shall be eligible for the position of city manager during or within two years after the expiration of their respective terms.

The mayor, subject to the approval of the city commission, may designate a qualified administrative officer of the city to assume the duties and authority of the city manager during periods of temporary absence or disability of the city manager.

The city manager shall be responsible for the administration of all units of the city government under the city manager's jurisdiction, and for carrying out policies adopted by the city commission. The city manager or designee shall execute contracts and other instruments, sign bonds and other evidences of indebtedness.

(Char. Amend. No. 2, 1-1-62; Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01)

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## Sec. 16. Same—Powers and duties.

The powers and duties of the city manager shall be to:

- (a) See that the laws and ordinances are enforced.
- (b) Appoint and remove, except as otherwise provided in this Charter, all directors of the departments and all subordinate officers and employees in the departments in both the classified and unclassified service; all appointments to be upon merit and fitness alone, and in the classified service all appointments and removals to be subject to the civil service provisions of this Charter.
- (c) Exercise control over all departments and divisions created herein or that may be hereafter created by the city commission.
- (d) Attend all meetings of the city commission with the right to take part in the discussion but having no vote.
- (e) Recommend to the mayor and city commission for adoption such measures as the city manager may deem necessary or expedient.
- (f) Keep the mayor and city commission fully advised as to the financial condition and needs of the city; and
- (g) Perform such other duties as may be prescribed by this Charter or be required by the mayor or ordinance or resolution of the city commission.

(Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01)

Editor's note(s)—As to removal and suspension of chief of police, see annotation to charter § 26.

Case law reference(s)—It was the intention of the legislature to make the city manager at all times hold office subject to the will of the commission upon whom rested the administrative affairs of the city government, which could be speedily checked and corrected if necessary at the will of the commission by a change in the office of the city manager. *State v. Bloodworth*, 134 Fla. 369, 184 So. 1.

*Subsection (b)*—The phrase "except as herein provided," employed in subsection (b) of this section, qualifies or limits every provision of the city charter providing for removals in specific cases, and such other provisions must be construed with the subsection. *Bryan v. Landis*, 106 Fla. 19, 142 So. 650.

The city manager has no summary power of appointment under civil service rules, and all appointments and promotions by the city manager must be within the requirements of such rules. *Bloodworth v. Suggs*, 60 So. 2d 768.

Police officers may be demoted during probationary period after accepting probationary promotion in rank. *Clarke v. City of Miami*, 81 So. 2d 217.

The city manager is not required as a matter of law to promote civil service employees when a vacancy occurs. His refusal to fill vacancies due to economic conditions is a matter within his discretion. *City of Miami v. Elmore*, 131 So. 2d 517.

Where city manager opts to utilize advisory group to directly assist him in the decision-making process to select a new police chief, the advisory group is a "board" within the meaning of F.S. § 286.011, the city manager is an "agency" within the meaning of said statute, and meetings of the advisory group must be open meetings pursuant to said statute. *State v. Krause*, 47 Fla. Supp. 36, *aff'd* *Krause v. Reno*, 366 So. 2d 1244.

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**Sec. 17. Same—Examination of affairs of departments, officers or employees.**

The city manager may, without notice, cause the affairs of any department or the conduct of any officer or employee to be examined. Any person or persons appointed by the city manager to examine the affairs of any department or the conduct of any officer or employee shall have the same right to require the attendance of witnesses and production of books and papers and other evidence as is conferred upon the mayor and city commission by this Charter.

(Res. No. 01-843, § 2, 8-9-01)

**Sec. 18. Departments established.<sup>2</sup>**

The following administrative departments are hereby established by this Charter:

- (1) Department of law.
- (2) Reserved.
- (3) Reserved.
- (4) Department of public safety.
- (5) Department of finance.

(Res. No. 01-843, § 2, 8-9-01)

**Sec. 19. Creation of new departments; discontinuance of departments.**

The city commission may, by ordinance adopted by vote of at least three members of the city commission, create new departments or discontinue any department and determine, combine, and distribute the functions and duties of departments and subdivisions thereof.

(Laws of Fla., ch. 21391(1941); Res. No. 01-843, § 2, 8-9-01)

**Sec. 19-A. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed § 19-A in its entirety. Formerly, § 19-A pertained to authority to create and discontinue departments by ordinance not limited to other charter provisions and derived from Laws of Fla., ch. 21391(1941).

**Sec. 20. Directors of departments.**

The city manager shall appoint a director for each department and, in the city manager's discretion, may consolidate two departments under one director. Each such director shall serve until removed by the city manager or until a successor has been appointed and qualified, shall conduct the affairs of his or her department in accordance with rules and regulations made by the city manager, shall be responsible for the conduct of the

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<sup>2</sup>Note(s)—Pursuant to authority granted in section 19 of this charter, the departments of public service, public welfare and public safety have been discontinued and numerous new departments have been created by ordinance. The user's attention is directed to ch. 2 of the Code of Ordinances for existing departments and functions thereof.

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officers and employees of his or her department, for the performance of its business, and for the custody and preservation of the books, records, papers and property under its control, and, subject to the supervision and control of the city manager in all matters, shall manage the department. None of the provisions of this section, however, shall be applicable to the department of law, city clerk or office of independent auditor general.<sup>3</sup>

(Laws of Fla., ch. 21388(1941); Res. No. 01-843, § 2, 8-9-01)

## **Sec. 21. Department of law.**

The city attorney shall be the director of the department of law and an attorney-at-law admitted to the practice in the State of Florida. The city attorney shall be the legal advisor of and attorney and counsel for the city, and for all officers and departments thereof in matters relating to their official duties. The city attorney shall prosecute and defend all suits for and in behalf of the city, and shall prepare all contracts, bonds and instruments in writing in which the city is concerned and shall endorse on each approval of the form and correctness thereof.

The city attorney shall be the prosecuting attorney of the municipal court. The city attorney shall have such number of assistants as the city commission by ordinance may authorize. The city attorney shall prosecute all cases brought before such court and perform the same duties, so far as they are applicable thereto, as are required of the prosecuting attorney of the county.

When required to do so by the resolution of the city commission, the city attorney shall prosecute or defend for and in behalf of the city all complaints, suits and controversies in which the city is a party, and such other suits, matters and controversies as he shall, by resolution or ordinance, be directed to prosecute or defend.

The mayor, city commission, the city manager, the director of any department, or any officer or board not included within a department, may require the opinion of the city attorney upon any question of law involving their respective powers and duties.

The city attorney shall be a full-time governmental employee; shall not engage in the private practice of law; and upon his or her election by the city commission shall serve until the time for the election of the city officials specified in section 4 of the Charter which follows the next general municipal election.

(Char. Amend. No. 1, 11-6-73; Res. No. 97-447, § 2, 7-3-97; Res. No. 01-843, § 2, 8-9-01)

## **Secs. 22—22-C. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed §§ 22—22-C in their entirety. Formerly, §§ 22—22-C pertained to department of public service, department of water and sewers; water and sewer board, department of public welfare, and board of trustees of Jackson Memorial Hospital, respectively.

## **Sec. 23. Department of off-street parking; off-street parking board.**

- (a) There is hereby created and established as an agency and instrumentality of the City of Miami, a new department to be named and known as the "Department of Off-Street Parking of the City of Miami" (hereinafter sometimes called the "department of off-street parking" or the "department"), and by that name it may sue and be sued, plead and be impleaded, contract and be contracted with and have an official seal; provided, however, that the department shall not commence business or exercise any of the powers granted by this act unless and until the city commission of the City of Miami shall by ordinance declare the

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<sup>3</sup>Note(s)—Transfer of the operations of the city's department of water and sewers to Metropolitan Dade County was authorized by Res. No. 73-225, adopted March 22, 1973.



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need for the department and for the off-street parking board of the City of Miami hereinafter created. The department, which shall operate and function under the supervisory control of the board created and established in subsection (b) hereof, shall consist of a chief executive officer to be known as the "director of the department of off-street parking" (hereinafter sometimes called the "director of the department" or the "director") and such other officers and employees as shall be necessary to exercise the powers and perform the duties and functions of the department.

- (b) There is hereby created and established a board to be known as the "Off-Street Parking Board of the City of Miami" (hereinafter sometimes called the "off-street parking board" or the "board") which shall consist of five members. Each member of the board shall either reside or have his or her principal place of business in the city and shall be an individual of outstanding reputation for integrity, responsibility and business ability, but no officer or employee of the city shall serve as a member of the board while employed as such officer or employee of the city.

Within thirty days after the city commission shall have adopted an ordinance declaring the need for the department and for the board, it shall appoint the members of the board, two of whom shall hold office for a term of two years, two of whom shall hold office for a term of three years, and one of whom shall hold office for a term of four years, and thereafter each member shall be appointed for a term of five years, as herein provided.

At least twenty days prior to the date of expiration of the term of any member of the board, or within ten days after the death, resignation or removal of any such member, such member's successor shall be named and appointed by the remaining members of the board, subject to confirmation by the city commission of the city. In the event that any appointment so made shall not be confirmed by the city commission within ten days after notice of such appointment has been served upon the city commission, the appointment shall be null and void, and thereupon the remaining members of the board shall make a new appointment, or appointments, which shall likewise be subject to confirmation by the city commission and each member of the board shall be eligible for reappointment. The successor in each case shall be appointed and shall hold office for a term of five years from the date of expiration of the term of his or her predecessor, except that any person appointed to fill a vacancy shall serve only for the unexpired term.

Upon the effective date of his or her appointment, or as soon thereafter as practicable, each member of the board shall enter upon his or her duties, but before doing so he or she shall take the oath prescribed by law and shall execute a bond in the penal sum of ten thousand dollars (\$10,000.00) payable to the department and conditioned upon the faithful performance of the duties of his or her office, which bond shall be approved by the city commission of the city and filed with the city clerk, the cost of the premium on any such bond to be treated as part of the cost of operating the department.

The members of the board shall each be paid a salary of fifty dollars (\$50.00) per annum, or such larger sum as the city commission may establish by ordinance, payable in monthly installments.

Any member of the board may be removed by the city commission of the city for good cause and after proper hearing by the city commission, but if so removed, may apply to the Circuit Court of the Eleventh Judicial Circuit in and for Dade County, Florida, for a review of the action of the city commission.

- (c) The board shall have the powers, duties and responsibilities customarily invested in the board of directors of a private corporation, and shall exercise supervisory control over the operation of the off-street parking facilities of the city, and all acts of the department and of the director with respect to such facilities shall be subject to the approval of the board. The board shall elect one of its members to serve as chair of the board, shall make appropriate rules and regulations for its own government and procedure, and shall hold a regular meeting at least once a month and such special meetings as it may deem necessary, and all such meetings shall be open to the public.
- (d) From and after the date of appointment of the first member of the board, the department shall operate, manage and control the off-street parking facilities of the city and all properties pertaining thereto now

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owned or hereafter acquired or constructed by the city or by the department and shall succeed to and exercise all powers vested in and succeed to and perform all functions and duties imposed upon the department of off-street parking of the city by and under the provisions of this act.

Upon the adoption by the city commission of an ordinance declaring the need for the department and the board, all powers, functions and duties relating to such off-street parking facilities and properties pertaining thereto then vested in the city or any of its departments officers, including but not limited to the exercise of the power of eminent domain, shall be and are hereby transferred to the department, and all books, records and papers now existing or hereafter acquired in the operation and maintenance of said facilities or relating thereto shall be the property of and under the jurisdiction and control of the department; provided, however, that nothing contained in this section shall be deemed to vest in the department the power to establish and fix rates and charges for off-street parking service furnished by the off-street parking facilities of the city or the power to issue revenue bonds. The department shall have full power and authority to acquire, own, use, hire, lease, operate and dispose of real property and personal property and of any interest therein, including the power to acquire by eminent domain proceedings lands or any interest therein and rights-of-way and easements upon, in, along or across any public street, road or highway for the purpose of constructing, maintaining or operating off-street parking facilities as shall be necessary in the judgment of the off-street parking board, and to make and enter into all contracts necessary or incidental to the exercise of its powers and the performance of its duties and functions with respect to the operation, management and control of said facilities, and to promulgate and enforce appropriate rules and regulations governing the utilization of the services of the off-street parking facilities of the city.

- (e) The director shall be appointed by and shall hold office at the will of the board. Such person shall be of good moral character and have an excellent reputation for integrity, responsibility and business ability, but no member of the board shall be eligible for appointment as director. The director shall receive such salary, payable to him or her in equal semi-monthly installments, as shall be fixed by the board. Before entering upon his or her duties, the director shall take any oath and execute any bond prescribed by law. The director shall act as the chief executive officer of the department, shall devote his or her entire time and attention to the duties of his or her office and shall not engage actively in any other business or profession. Subject to the direction and approval of the board, the director shall have general supervision over and be responsible for the operation and maintenance of the off-street parking facilities of the city and shall exercise the powers vested in and perform the functions and duties imposed upon him or her as herein provided. The director shall attend all meetings of the board, shall furnish to the board and the city commission of the city a monthly report with respect to the operation, maintenance and financial condition of the department of off-street parking, and shall from time to time have prepared and shall furnish such reports, audits and other information relating to said facilities as may be required by the board.

In the event that the director shall for any reason be temporarily incapable of exercising the powers and of performing the duties and functions of his or her office, the board may appoint an acting director to exercise such powers and to perform such functions and duties until such incapacity of the director shall be terminated.

- (f) Subject to the approval of the board, the director shall employ such additional executive and operating assistance, including engineering and other experts and professional assistance, as shall be necessary to provide for the efficient operation of the department. Included in the personnel to be employed, there shall be the following subordinate officers whose positions shall be in the unclassified service of the city:
  - (1) A treasurer, who shall perform the functions and duties customarily performed by the treasurer of a private corporation. The treasurer shall be responsible for all funds of the department, for all accounts and accounting records relating to the department and its operation, and for the preparation of all checks and vouchers requisite to the operation of the department.
  - (2) A secretary, who shall perform the functions and duties customarily performed by the secretary of a private corporation. The secretary shall have charge and custody of the official seal and of all books,

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records, documents and papers of the department other than those required to be in the custody of the treasurer. He or she shall attend in person all meetings of the board, and shall keep a correct record of all the proceedings of the board, and shall perform such other duties as may be assigned to him or her as secretary by the board.

- (g) The city attorney shall act as general counsel for the department and for the board in all matters of law which may arise, and shall prosecute or defend all suits brought by or against the city or the department or the board which relate to the off-street parking facilities of the city. Special counsel as shall be deemed necessary by the city attorney may be employed by the director subject to the approval of the board, city attorney and city commission. Such special counsel shall serve under the direct supervision and control of the city attorney.
- (h) All budgets, funds and accounts pertaining to the off-street parking facilities of the city shall be segregated from all other budgets, funds and accounts of the city and shall be so kept that they shall reflect the financial condition and the operation of each off-street parking facility of the city separately. Not later than one month before the end of each fiscal year the director, with the approval of the board, shall prepare and submit to the city commission of the city a budget estimate of expenditures and revenues for the ensuing fiscal year in the same form and like manner as all other departments of the city for approval by the city commission with the exception, however, that such budget estimate will be submitted directly to the city commission of the city for its approval.
- (i) All expenses incurred by the department and by the board in exercising their powers and performing their functions and duties shall be paid solely from the revenues of the off-street parking facilities of the city and no liability or obligation not payable from the revenues of said facilities shall at any time be incurred in connection with the operation thereof.
- (j) Should there occur in any fiscal year an excess of revenue over expenditures required for operation, maintenance, required reserves and debt service, then such excess revenues shall, subject to the provisions of any ordinance of the city commission of the city authorizing the issuance of parking facilities revenue bonds of the city, and to the provisions of any trust indenture or trust agreement securing such bonds, be paid into the general funds of the city.
- (k) All powers and rights conferred by this section shall be in addition and supplemental to those conferred by any other general or special law and shall be liberally construed to effectuate the purposes hereof; and the department and the board shall have power, in addition to exercising the powers expressly conferred in and by this section, to do all things necessary or convenient to carry out the purposes hereof.

(Laws of Fla., ch. 30997(1955); Res. No. 88-535, 6-9-88/9-6-88; Res. No. 01-843, § 2, 8-9-01)

## **Sec. 24. Department of public safety.**

The head of the department of public safety shall be known as the director of public safety.

Subject to the supervision and control of the city manager in all matters, the head of the department of public safety shall be the executive head of the division of police and fire. He or she shall be the chief administrative authority in all matters pertaining to the erection, maintenance, repair, removal, razing, occupancy and inspection of buildings under such regulations as may be ordained by the city commission.

- (a) *Division of police.* The police force shall be composed of a chief and such officers and other employees as the city manager may determine. The chief of police shall have the immediate direction and control of the police force, subject to the supervision of the director of public safety, and to such rules, regulations and orders as the said director may prescribe, and through the chief of police, the director of public safety shall promulgate all orders, rules and regulations for the government of the police force. The chief of police shall devote his or her entire time to the discharge of his or her official duties

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and shall not be absent from the city except in the performance of his or her official duties, unless granted a written leave of absence by the city manager. His or her office shall be kept open at all hours, day or night, and either the chief of police or a subordinate shall be in constant attendance. In case of the disability of the chief of police by reason of sickness, absence from the city or other cause, the director of public safety shall designate one of the captains or lieutenants of police to act as chief of police during such disability, and the officer so designated shall serve without additional compensation. The members of the police force, other than the chief, shall be selected from the list of eligibles prepared by the civil service board, and in accordance with such rules as the said board may prescribe; provided, that in case of riot or emergency, the director of public safety may appoint additional patrolmen for temporary service, who need not be in the classified service. Each member of the police force, both rank and file, shall have receive a warrant of appointment signed by the city manager, in which the date of the appointment shall be stated, and such shall be that member's commission.

No person, except as otherwise provided by general law or this Charter, shall act as special police or special detective except upon written authority from the director of public safety. Such authority, when conferred, shall be exercised only under the direction and control of the chief of police and for a time specified in the appointment.

The members of the police force of said city shall be invested with all the power and authority necessary for enforcing the ordinances of said city.

The chief of police or any police officer of the City of Miami, may arrest without warrant, any person violating any of the ordinances of the city committed in the presence of such officer, and when knowledge of the violation of any ordinance of said city shall come to the said chief of police or police officer, not committed in his or her presence, he or she shall make affidavit before the judge or clerk of municipal court against the person charged with such violation, whereupon, said judge or clerk shall issue a warrant for the arrest of such person.

- (b) *Division of fire.* The fire force shall be composed of a chief and such other officers, firemen and employees as the city manager may determine. The fire chief shall have immediate direction and control of the said department, subject to the supervision of the director of public safety and to such rules, regulations and orders as the said director may prescribe and through the fire chief the director of public safety shall promulgate all orders, rules and regulations for the government of the fire department.

The members of the fire department, other than the chief, shall be appointed from the list of eligibles prepared by the civil service board and in accordance with such rules and regulations as may be prescribed by said board; provided, that in case of riot, conflagration or emergency, the director of public safety may appoint additional firemen and officers for temporary service who need not be in the classified service.

The chief of the fire department and his or her assistants are authorized to exercise the powers of police officers while going to, attending or returning from any fire or alarm of fire. The fire chief and each of his or her assistants shall have issued to him or her a warrant of appointment signed by the city manager, in which the date of his or her appointment shall be stated, and such warrant shall be his or her commission.

Whenever any building in said city shall be on fire, it shall be lawful for the chief of the fire department to order and direct such building or any other building which he or she may deem hazardous and likely to communicate fire to other buildings, or any part of such buildings, to be pulled down or destroyed and no action shall be maintained against said chief or any person acting under his or her authority therefor.

(Res. No. 01-843, § 2, 8-9-01)

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Editor's note(s)—This section and sections 25 and 26 were purportedly repealed by chapter 27719, Special Acts of 1951. However, that act, together with chapters 27720 and 27721, which established the departments of police and fire, was held invalid in the case of *City of Miami v. Headley*, 61 So. 2d 321, and, consequently, this section and sections 25 and 26 remained in effect. Also, chapter 27722, Special Acts of 1951, which added a section creating the department of communications, is deemed to have been held invalid by implication by the same case and has been omitted.

Although this section has never been expressly repealed, the department of public safety and all divisions thereof were discontinued pursuant to the exercise of the authority contained in the provisions of charter section 19 (Laws of Fla., ch. 21391(1941)) by the adoption of ordinances establishing separate departments of fire, police and communications.

## **Sec. 25. Supervision in divisions of police and fire.**

The chief of police and fire chief shall have the right and power to suspend any of the officers and employees in their respective division who may be under their management and control for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority, or for any other just and reasonable cause. If any officer or employee be suspended as herein provided, the chief of the division concerned shall forthwith in writing certify the fact together with the cause of suspension, to the director of public safety, who shall render judgment thereon, which judgment, if the charge be sustained, may be a reprimand, fine, suspension, reduction in rank or dismissal.

The director of public safety in any investigation shall have the power to administer oaths and secure the attendance of witnesses and the production of books and papers.

The employee shall be allowed the same appeal procedure as set forth in section 36(f) of the Charter, provided, however, in the event the offices of city manager and director of public safety are held by the same person, the city manager-director of public safety, before passing upon the guilt or innocence of the person suspended, may authorize the civil service board to conduct a hearing upon the suspension charges preferred by the chiefs of fire or police and to report its findings and recommendations back to said city manager-director of public safety. The city manager-director of public safety then shall pass judgment upon the person suspended, after considering the findings and recommendations of the civil service board.

(Laws of Fla., ch. 24695(1947); Res. No. 01-843, § 2, 8-9-01)

Editor's note(s)—See the editor's note following § 24. Also, although this section has never been expressly repealed, the department of public safety and all divisions thereof were discontinued pursuant to the exercise of the authority contained in the provisions of charter section 19 (Laws of Fla., ch. 21391(1941)) by the adoption of ordinances establishing separate departments of fire, police and communications.

Case law reference(s)—In *Rosenfelder v. Huttoe*, 156 Fla. 682, 24 So. 2d 108, a mandamus proceeding by a civil service member of the police force, arising before the amendment, to cancel an order dismissing him from the division of police, it was held that while a court might not under all circumstances substitute its judgment for that of the director, it was competent to determine whether jurisdictional charges were brought against accused and whether or not the requirements of the charter preliminary to his suspension were complied with.

## **Sec. 26. Suspension and removal of chief of police and fire chief.**

The city manager shall have the exclusive right to suspend the chief of police and fire chief for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority, or for any other just and reasonable cause. If either of such chiefs be so suspended the city manager shall forthwith certify the fact,

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together with the cause of suspension, to the commission who within five (5) days from the date of receipt of such notice, shall proceed to hear such charges and render judgment thereon, which judgment shall be final.

Editor's note(s)—See note to § 24.

Case law reference(s)—This section provides the sole and exclusive means for suspending and removing the chief of police. *Bryan v. Landis*, 106 Fla. 19, 142 So. 650, 653.

The chief of police may be suspended by the city manager only for one or more of the causes enumerated in this section, and when such suspension has been certified to the city commission and the cause thereof examined by them and found after a full hearing to be well grounded, then the commission enters its affirmative judgment which is final. When the affirmative judgment of the commission is entered, the suspension of the chief of police *eo instante* becomes a removal, but, if the judgment of the commission is in the negative, the suspension ceases, and he is *eo instante* reinstated. *Bryan v. Landis*, 106 Fla. 19, 142 So. 650, 653.

The city manager may not summarily remove from office the chief of police without notice or opportunity to be heard in his defense. *Bryan v. Landis*, 106 Fla. 19, 142 So. 650, 651.

Pursuant to charter section 19 the department of public safety and the divisions thereof, police and fire, were discontinued. Subsequent ordinances established a department of police and department of fire with each department having a director. Section 16 of this charter authorizes the city manager to remove all department directors in accordance with the provisions set forth in this charter.

## **Sec. 27. Finance, department of finance.**

- (a) *Department director.* Subject to the supervision and control of the city manager, the director of finance shall have charge of the department of finance and shall administer the financial affairs of the city, including the keeping and supervision of all accounts, the levy, assessment and collection of revenues, the making and collection of special assessments, the custody and disbursement of city funds and monies, the control over expenditures, and such other duties as the city manager may direct.
- (b) *Form and manner of keeping accounts and making reports.* Accounts shall be kept by the department of finance showing the financial transactions of all departments and offices of the city. The forms of all such accounts and the financial reports rendered to or by the department of finance shall be prescribed by the director of finance with the approval of the city manager. The accounts and accounting procedure of the city shall be consistent with the pronouncements of the Governmental Accounting Standards Board and accounting principles as generally accepted in the United States.

(Res. No. 01-843, § 2, 8-9-01)

## **Secs. 27-A—28. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed §§ 27-A—28 in their entirety. Formerly, §§ 27-A—28 pertained to limitation as to levy of ad valorem taxes for public library and library systems; levy of taxes; tax assessor; board of equalization; assessor to have power of county assessor, general assessment roll; signing and endorsing general assessment roll, return and presumption of validity; copy of assessment roll annexed to warrant commanding collection; state law as to taxes applies; discounts if taxes paid before certain time; when taxes become delinquent, interest rates on delinquent taxes; tax certificates, interest rate thereon; and chief procurement officer, respectively.

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**Sec. 29-A. Contracts for, unified development projects, and real property; safeguards.**

- (a) *Unified development projects.* A unified development project shall mean a project where an interest in real property is owned or is to be acquired by the city, is to be used for the development of improvements, and as to which the city commission determines that for the development of said improvements it is most advantageous to the city to procure from a private person, as defined in the Code of the City of Miami, one or more of the following integrated packages:

- (1) planning and design, construction, and leasing; or
- (2) planning and design, leasing, and management; or
- (3) planning and design, construction, and management; or
- (4) planning and design, construction, leasing, and management.

So long as the person from whom the city procures one of the above-mentioned integrated packages provides all of the functions listed for that package, such person need not provide each listed function for the entire unified development project nor for the same part of the unified development project.

As many members of the public having expertise in the field of real estate development or in other relevant technical areas or who reside within the vicinity of a proposed unified development project site as deemed appropriate by the city manager shall be invited by the city manager to provide input during the preparation of documents for competitive processes of the unified development project.

If deemed appropriate by the city manager, the unified development project process shall include a request for qualifications process prior to the issuance of a request for proposals. Qualifications shall be evaluated by the city manager or designee(s) and only those deemed qualified in accordance with the specified evaluation criteria shall be invited to participate in the subsequent request for proposal process for said unified development project.

Requests for proposals for unified development projects shall generally define the nature of the uses the city is seeking for the unified development project and the estimated allocations of land for each use. They shall also state the following:

- (1) the specific parcel of land contemplated to be used or the geographic area the city desires to develop pursuant to the unified development project;
- (2) the specific evaluation criteria to be used by the below-mentioned certified public accounting firm;
- (3) the specific evaluation criteria to be used by the below-mentioned review committee;
- (4) the extent of the city's proposed commitment of funds, property, and services;
- (5) the definitions of the terms "substantial increase" and "material alteration" that will apply to the project pursuant to subsection (e)(4) hereof; and
- (6) a reservation of the right to reject all proposals and of the right of termination referred to in subsection (e)(4), below.

After public notice there shall be a public hearing at which the commission shall consider:

- (1) the contents of the request for proposals for the subject unified development project;
- (2) the selection of a certified public accounting firm, which shall include at least one member with previous experience in the type of development in question; and
- (3) the recommendations of the city manager for the appointment of persons to serve on the review committee. Said review committee shall consist of an appropriate number of city officials or employees

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and an equal number plus one of members of the public, whose names shall be submitted by the city manager no fewer than five days prior to the above-mentioned public hearing.

At the conclusion of the public hearing the city commission shall authorize the issuance of a request for proposals, select a certified public accounting firm, and appoint the members of the review committee only from among the persons recommended by the city manager.

The procedure for the selection of an integrated package proposals shall be as follows:

- (1) all proposals shall be analyzed by a certified public accounting firm appointed by the commission based only on the evaluation criteria applicable to said certified public accounting firm contained in the request for proposals. Said certified public accounting firm shall render a written report of its findings to the city manager.
- (2) the review committee shall evaluate each proposal based only on the evaluation criteria applicable to said review committee contained in the request for proposals. Said review committee shall render a written report to the city manager of its evaluation of each proposal, including any minority opinions.
- (3) taking into consideration the findings of the aforementioned certified public accounting firm and the evaluations of the aforementioned review committee, the city manager shall recommend one or more of the proposals for acceptance by the city commission, or alternatively, the city manager may recommend that all proposals be rejected. If there are three or more proposals and the city manager recommends only one, or if the city manager recommends rejection of all proposals, the city manager shall state in writing the reasons for such recommendation.

In transmitting his or her recommendation or recommendations to the commission, the city manager shall include the written reports, including any minority opinions, rendered to by the aforementioned certified accounting firm and review committee.

- (4) all contracts for unified development projects shall be awarded to the person whose proposal is most advantageous to the city, as determined by the city commission.

The commission may accept any recommendation of the city manager by an affirmative vote of a majority of its members. In the event the commission does not accept a proposal recommended by the city manager or does not reject all proposals, the commission shall seek recommendations directly from the aforementioned review committee, which shall make a recommendation or recommendations to the commission taking into account the report of the aforementioned certified public accounting firm and the evaluation criteria specified for the review committee in the request for proposals.

After receiving the direct recommendations of the review committee, the commission shall, by an affirmative vote of a majority of its members:

- (1) accept any recommendation of the review committee; or
- (2) accept any previous recommendation of the city manager; or
- (3) reject all proposals.

All contracts for unified development projects shall be signed by the city manager or designee after approval thereof by the commission. The city manager or designee shall be responsible for developing a minority procurement program as may be prescribed by ordinance and permitted by law in conjunction with the award of contracts for unified development projects. The provisions of this charter section shall supersede any other charter or code provision to the contrary.

- (b) *Sales and leases of real property; prohibition.* Except as otherwise provided in this section, there shall be no sale, conveyance, or disposition of any interest, including any leasehold, in real property owned by the city, the department of off-street parking, or the downtown development authority, unless there has been prior public notice and a prior opportunity given to the public to compete for said real property or interest. Any



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such sale, conveyance, or disposition shall be conditioned upon compliance with: the provisions of this section; such procurement methods as may be prescribed by ordinance; and any restrictions that may be imposed by the city, the department of off-street parking, or the downtown development authority, as appropriate. Further, no right, title, or interest shall vest in the transferee of such property unless the sale, conveyance, or disposition is made to the highest responsible bidder, as is determined by the city commission, or the off-street parking board, or the downtown development authority board of directors. The city commission or the off-street parking board or the downtown development authority board of directors, as appropriate, may by resolution waive the requirement of sale, conveyance, or disposition to the highest responsible bidder by means of the following procedure: the city manager, the director of the off-street parking authority, or the director of the downtown development authority, as appropriate, must make a written finding that a valid emergency exists, which finding must be ratified by an affirmative vote of two-thirds of the city commission after a properly advertised public hearing. When the requirement of sale, conveyance, or disposition to the highest responsible bidder is waived, other procurement methods as may be prescribed by ordinance shall be followed. The city or the department of off-street parking or the downtown development authority shall have the power to reject all offers. All invitations for bids, requests for proposals, or other solicitations shall contain a reservation of the foregoing right to reject all offers. This section shall not apply to transfers to the United States or any department or agency thereof, to the State of Florida, or to any political subdivision or agency thereof.

(c) *Safeguards.*

- (1) All persons contracting with the city under this section shall be required to certify their compliance with the antitrust laws of the United States and of the State of Florida and to hold harmless, defend, and indemnify the city for any noncompliance by said persons with the above laws.
- (2) All persons contracting with the city under this section shall be obligated to pay whichever is the greater of the following: (i) all applicable ad valorem taxes that are lawfully assessed against the property involved or (ii) an amount to be paid to the city equal to what the ad valorem taxes would be if the property were privately owned and used for a profit-making purpose. Such taxes shall not be credited against any revenues accruing to the city under any contract that may be awarded under this section.
- (3) Any proposal by a potential bidder or contractor that contemplates more than the estimated extent of the city's proposed commitment of funds, property, or services shall be ineligible for acceptance by the city commission.
- (4) Any substantial increase in the city's commitment of funds, property, or services, or any material alteration of any contract awarded under subsection (c) of this section shall entitle the city commission to terminate the contract after a public hearing. Prior to such public hearing, the city commission shall seek and obtain a report from the city manager and from the review committee that evaluated the proposals for the project, concerning the advisability of exercising that right.

(Char. Amend. No. 3, 11-6-79; Ord. No. 9507, § 1, 10-28-82/11-2-82; Res. No. 86-656, § 2.a, 7-24-86/11-4-86; Res. No. 87-678, § 2(a), 7-9-87/11-3-87; Res. No. 01-841, § 2, 8-9-01; Res. No. 01-843, § 2, 8-9-01)

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, amended § 29-A in its entirety to read as herein set out. Formerly, § 29-A pertained to contracts for personal property, public works or improvements, unified development projects, and real property; safeguards. The historical notation has been retained for reference purposes.

Ord. No. 9489, adopted by the commission on Sept. 17, 1982, set forth Charter Amendment No. 1 for approval/rejection at election on Nov. 2, 1982. On Oct. 28, 1982, Ord. No. 9507 amended the language of subsections (a) and (c) of § 53 as proposed by Ord. No. 9489. The election was to approve the language of Charter Amendment No. 1, as amended by Ord. No. 9507. Subsequently, in light of Charter Amendment No.

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2 of Nov. 3, 1987, the city attorney directed the codifier to delete paragraph (ii) of subsection (d) as superseded by § 29-B.

Case law reference(s)—For case decided prior to enactment by Charter Amendment No. 3 of 1979 of a competitive-bidding requirement for disposition of city property, see *Mahoney v. Givens*, 64 So. 2d 926. Said case held that competitive bidding is not required to lease city real estate.

Material variance between plans bid upon and plans submitted and adopted renders contract void, *Glatstein v. City of Miami*, 399 So. 2d 1005.

## **Sec. 29-B. City-owned property sale or lease—Generally.**

Notwithstanding any provision to the contrary contained in this Charter or the City Code, and except as provided below, the city commission is prohibited from favorably considering any sale or lease of property owned by the city unless there is a return to the city of fair market value under such proposed sale or lease. The city commission is also prohibited from favorably considering any sale or lease of city-owned property unless (a) there shall have been, prior to the date of the city commission's consideration of such sale or lease, an advertisement soliciting proposals for said sale or lease published in a daily newspaper of general paid circulation in the city, allowing not less than ninety (90) days for the city's receipt of proposals from prospective purchasers or lessees, said advertisement to be no less than one-fourth ( $\frac{1}{4}$ ) page and the headline in the advertisement to be in a type no smaller than 18-point and, (b) except as provided below, there shall have been at least three (3) written proposals received from prospective purchasers or lessees; however, if there are less than three (3) such proposals received and if the guaranteed return under the proposal whose acceptance is being considered is equal to fair market value the city commission determines that the contemplated sale or lease will be in the city's best interest then, subject to the approval of a majority of the votes cast by the electorate at a referendum, the sale or lease may be consummated. Any lease for the development of improvements of city-owned property which has been approved by voter referendum shall require additional voter referendum approval for a development on City-owned property where the developer has not obtained the necessary building permits within four (4) years of the effective date of the lease. Such section shall not be applicable when the delay in the performance of any obligation is as a result of force majeure, or litigation that questions the validity of the vote, or the City Commission action to place the question for referendum, then the performance of such obligation shall be extended by the length of the delay. In the case of city-owned property which is not waterfront, when the value of such property to be sold or leased (individual leaseholds within a single city-owned property shall not be considered as a single parcel of property for such valuation purposes) is five hundred thousand dollars (\$500,000) or less, based on an appraisal performed by a state-certified appraiser, the city commission, by a  $\frac{2}{3}$ ths affirmative vote, may sell or lease said city-owned property after compliance with the advertisement requirements set forth above but without the necessity of a referendum.

The above provisions and any other city requirements for competitive bidding shall not apply when:

- (a) conveying property to implement housing programs or projects which are intended to benefit persons or households with low and/or moderate income, the criteria of which to be provided for by federal and/or state law or by the city commission;
- (b) conveying property to implement projects authorized under the Florida Community Redevelopment Act of 1969, as amended;
- (c) conveying property to implement projects of any governmental agency or instrumentality;
- (d) disposing of property acquired as a result of foreclosure;
- (e) disposing of property acquired in connection with delinquent taxes which properties were conveyed to the city by the Miami-Dade board of county commissioners under the provisions of Section 197.592 Florida Statutes, as amended; and

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- (f) disposing of non-waterfront property to the owner of an adjacent property when the subject property is 7,500 square feet or less or the subject non-waterfront property is non-buildable.

Notwithstanding anything herein to the contrary, the city commission, by a 4/5ths affirmative vote, may:

- (a) grant a lessee of city-owned property a one-time extension during the last five years of its lease, without the necessity of a referendum, for the purpose of funding additional capital improvements. The extended term shall not exceed twenty-five percent of the original term or ten years, whichever is less. The granting of such an extension is subject to the lessee paying fair market rent as determined by the city at the time of such extension and not being in default of its lease with the city nor in arrearage of any monies due the city; and
- (b) amend the Lease Agreement between the City of Miami and Biscayne Bay Restaurant Corp., d/b/a Rusty Pelican, dated February 13, 1970, as amended, to (i) extend the lease for an additional term of fifteen (15) years, with the option to renew for two (2) additional five (5) year periods, (ii) increase the amount of the minimum guarantee to the City to at least \$360,000 per lease year effective upon execution of the lease amendment, and (iii) require Rusty Pelican to complete capital improvements to the property, including a public baywalk, in the amount of not less than \$3 Million, within twenty-four (24) months of the effective date of the lease amendment; and
- (c) waive competitive bidding and execute a lease with Dade Heritage Trust, Inc. for the City-owned building located at 190 Southeast 12th Terrace, for a term of thirty (30) years, with two (2) thirty (30) year renewals, for minimum annual rent of \$600.00 with Consumer Price Index adjustments, with restrictions, reversions, and retention by the City of all other rights; and
- (d) waive competitive bidding and execute a Fifth Amendment to the Lease Agreement with Aligned Bayshore Marina, LLC, also known as Monty's, to extend the current lease term by an additional term of approximately thirty-two (32) years (to expire May 31, 2067), with two (2) ten (10) year options to renew for a total term of fifty-two (52) years (to expire May 31, 2087); which will increase minimum rent payment by an additional two hundred thousand dollars (\$200,000.00) per lease year, for a minimum of ten million dollars (\$10,000,000.00) over the base term of the amended Lease Agreement, or one and three quarters percent (1.75%) of gross rent receipts from the Property, whichever is greater, as additional rent due to the City and, commencing January 1, 2019, minimum annual total rent (inclusive of the additional minimum rent) shall be one million five hundred thousand dollars (\$1,500,000.00), plus an additional twenty five thousand dollars (\$25,000.00) to be paid on an annual basis for the full amended term to a special fund to be established by the City for the benefit of low income housing renovation; further providing capital improvements to the Property of a minimum of seven million five hundred thousand dollars (\$7,500,000.00) to be spent within three (3) years of the electorate's approval of the Fifth Amendment to the Lease Agreement; further creating a capital account requiring a minimum additional investment in the Property of four million dollars (\$4,000,000.00) over the amended Lease term, inclusive of the renewal options; requiring a Transfer Fee payment to the City if the Property is transferred or assigned; and further requiring a Refinancing Fee payment to the City should the Property be refinanced after the initial refinancing.
- (e) waive competitive bidding and approve the Fifth Modification to the Lease with ESJ JI Leasehold, LLC, which modifies the remaining term of approximately forty three (43) years and extends the Term from the year 2060 to the year 2099 and includes a Fifteen (15) year option to extend the Lease to the year 2114; providing an additional annual rent payment of Two Hundred Fifty Thousand Dollars (\$250,000.00) increasing, once the proposed hotel has stabilized, to the greater of One Million Two Hundred Twenty Thousand Dollars (\$1,220,000.00) or Five Percent (5%) of annual hotel gross revenues from a new privately funded hotel development with a minimum cost of Fifty Million Dollars (\$50,000,000.00) with a maximum of Three Hundred (300) rooms and a maximum height of One Hundred Thirty (130) feet, at ESJ's expense and option, and a design subject to City approval and successful land use and zoning changes, as necessary, with said rent being in addition to the currently

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received greater of annual rent of Five Hundred Two Thousand One Hundred Sixty Eight Dollars (\$502,168.00) and percentage rent from Jungle Island revenue; with parking spaces sufficient to meet zoning ordinance requirements; ancillary improvements consisting of retail and/or restaurant space of up to ten thousand (10,000) square feet and meeting room space of up to thirty thousand (30,000) square feet; with an aggregate payment of Seven Hundred Thousand Dollars (\$700,000.00) towards the Ichimura-Miami Japanese Gardens for construction of a walkway to Jungle Island and necessary repairs and maintenance of the Ichimura-Miami Japanese Gardens; payments totaling Seven Hundred Fifty Thousand Dollars (\$750,000.00) over a ten (10) year period to be used for affordable housing; establishing a reserve account for capital repairs of Two Hundred Thousand Dollars (\$200,000.00) per year; implementing a transfer fee of Three Percent (3%) of gross sales proceeds if the Property is transferred or assigned; implementing a refinancing fee of One Percent (1%) of refinancing loan proceeds if the Property is refinanced after the initial refinancing.

- (f) waive competitive bidding to negotiate and execute a Ground Lease and Master Development Agreement with Miami Freedom Park, LLC, for a total lease term of ninety-nine (99) years, for approximately seventy-three (73) acres of City-owned property located generally at 1400 Northwest 37th Avenue, Miami, Florida 33125, also known as Melreese County Club, with a minimum annual base rent payable to the City equal to the greater of (a) fair market value as determined by state certified appraisers or (b) five percent (5.0%) of rent from the retail, office, and hotel development within the Demised Property, but annual base rent of no less than three million five hundred seventy-seven thousand three hundred sixty-five dollars (\$3,577,365.00), in addition to a contribution to the City of twenty million dollars (\$20,000,000.00) payable over thirty (30) years in annual installments, and any rent increases and/or additional rents negotiated by the parties; authorizing the use of the Demised Property for a soccer stadium; with at least one (1) million square feet of art and entertainment center including food and beverage venues, offices, retail, and a hotel with at least 750 units and conference center with ancillary commercial uses, guaranteeing a living wage for all on-site employees, further requiring MFP to undertake the remediation and Site development for a public park of approximately fifty-eight (58) acres to be developed on property adjacent to the Demised Property as MFP's sole cost, with any restrictions, reversions, and retention by the City of all other rights including at least a one (1%) transfer fee payable to the City, with such Lease and Master Development Agreement requiring City Commission approval by a four-fifths (⅘ths) vote.

Note(s)—See editor's note at the end of this section.

Notwithstanding anything in this Charter to the contrary, the City may enter into leases or management agreements, for any City-owned submerged lands, with entities having a possessory or ownership interest in the abutting riparian uplands for building marinas, docks or like facilities, using methods adopted by ordinance on the condition that such leases or management agreements result in a return to the City of at least fair market value.

(Res. No. 87-678, § 2(a), 7-9-87/11-3-87; Res. No. 01-841, § 2, 8-9-01; Res. No. 01-843, § 2, 8-9-01; Res. No. 03-855, § 2, 7-24-03; Res. No. 14-0184, § 1, 5-8-14; Res. No. 14-0225, § 1, 6-12-14; Res. No. 16-0348, § 3, 7-29-16; Res. No. 17-0351, § 3, 7-27-17; Res. No. 18-0232, § 3, 6-8-18; Res. No. 18-0309, § 3, 7-18-18)

Editor's note(s)—Res. No. 18-0309, § 3, adopted July 18, 2018, enacted provisions intended for use as subsection (e). Inasmuch as there are already provisions so designated, and at the discretion of the editor, said provisions have been redesignated as subsection (f).

## **Sec. 29-C. Same—Watson Island.**

Notwithstanding any provision to the contrary contained in the Charter or Code of the City of Miami, no sale, conveyance, lease or management agreement may be entered into for the management, occupancy or use of the area known as Watson Island for periods greater than one year unless (1) there shall have been, prior to the date

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of the city commission's consideration of such sale, lease, management agreement, an advertisement soliciting proposals for said sale, lease or management agreement, published in a daily newspaper of general paid circulation in the city, allowing not less than ninety (90) days for the city's receipt of proposals from prospective purchasers or lessees, said advertisement to be no less than one-fourth page and the headline in the advertisement to be in a type no smaller than 18-point; and, (2) the proposed transaction be approved by a majority of the votes cast by the electorate at a referendum. The procedures for selection of proposals shall be those provided by Charter section 29-A(c) or (d) as appropriate and/or by applicable City Code provisions. Nothing herein shall affect the existing rights or privileges, if any, of any lessee, permittee, licensee or concessionaire currently situated in said area; however, any enlargement, amendment, transfer, or increase in those rights or privileges as may be in existence at the time this amendment is adopted shall require compliance with the provisions of this amendment. This Charter Amendment shall not affect the city's use or occupancy of the area, nor shall it apply to contracts for the construction of any city facilities or improvements in the area; further, nothing contained herein shall apply to projects of any governmental agency or instrumentality.

The city commission, by a  $\frac{2}{3}$ <sup>ths</sup> affirmative vote, may authorize issuance of a license or concession agreement for a period not exceeding one (1) year, without the necessity of a referendum, for the use of Watson Island.

(Res. No. 87-677, § 2(a), 7-9-87/11-3-87; Res. No. 01-841, § 2, 8-9-01; Res. No. 01-843, § 2, 8-9-01)

#### **Sec. 29-D. City-owned waterfront property; leases with nonprofit organizations; authorization to waive competitive bidding and referendum requirements; terms of lease.**

Notwithstanding any provision to the contrary contained in the Charter or Code of the City of Miami, the city commission is authorized to waive all competitive bidding and referendum requirements, if applicable, when entering into a lease or extending an existing lease with a nonprofit, noncommercial, water-dependent organization which provides or seeks to provide marine-recreational services and/or activities to the community at any city-owned waterfront property, provided all of the following conditions are met:

- (A) The terms of the lease allow reasonable public access to the water and reasonable public use of the property, and complies with all waterfront setback and view-corridor requirements set forth in the Charter and Code;
- (B) The use is authorized under the then existing comprehensive plan of the city;
- (C) The terms of the lease require that the property be used for public purposes only;
- (D) The terms of the lease result in a return to the city based on fair market value pursuant to two (2) independent appraisals; and
- (E) The terms of the lease comply with all requirements pertaining to membership prescribed by ordinance for organizations using city facilities.

(Res. No. 93-485, § 2, 7-22-93; Res. No. 01-841, § 2, 8-9-01; Res. No. 01-843, § 2, 8-9-01)

#### **Secs. 30—35. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed §§ 30—35 in their entirety. Formerly, §§ 30—35 pertained to local improvements, temporary bonds, general bonds, bond anticipation notes, execution of bonds, and municipal court, respectively.

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## Sec. 36. Civil service.

- (a) *Creation of board; appointment; terms of office; vacancies; rules and regulations.* A civil service board of the city is hereby created and established. There shall be five members constituting the said civil service board. Three shall be appointed by the city commission, and two shall be elected by the employees of the city with civil service status, from said employees with such civil service status. The two so elected shall become members of the board when confirmed by the city commission. All members of the said civil service board shall serve for two years, and they shall take office as soon as appointed and qualified. The city commission may remove any member of the board for cause, upon stating in writing the reasons for the removal, after allowing him or her to be heard by the city commission in his or her own defense. Any vacancy shall be filled by the city commission for the unexpired term. The city manager shall be authorized to prescribe the rules, regulations, and procedure for the holding of election for the purpose of electing the two members of the civil service board by the city employees with civil service status.
- (b) *Chairperson; examiner; subordinates.* Immediately after appointment, the board shall organize by electing one of its members chairperson. The board shall appoint a chief examiner who shall be a member of the board and who shall also act as secretary. The board may appoint such other subordinates as may by appropriation be provided for.
- (c) *Unclassified and classified service.* The civil service of the city is hereby divided into the unclassified and the classified service.
- (1) The unclassified service shall include:
- (A) The city manager, his or her assistants, and secretarial staff;
  - (B) The heads of departments, members of appointive boards, judges of the city court, the city clerk, chief of police, chief of fire division, and the superintendent of communications division;
  - (C) Assistants to department heads:
    - Assistant chiefs of the police division;
    - All ranks in the police division above the classified position of police captain;
    - Assistant chiefs of the fire division;
    - Chief of fire prevention;
    - Director of training in the fire division;
    - Battalion chiefs;
    - Chief of fire rescue;
    - Assistant to the superintendent of the division of communications;
    - Director of corrections.
  - (D) All attorneys employed by the city. The city attorney shall be the supervisor of all attorneys employed by the city. The city attorney shall have exclusive authority regarding, but not limited to appointment, removal and salary as to assistant city attorneys. The foregoing provisions of subsection (D) shall not apply to those attorneys in the classified service of the city on November 1, 1972.
    - Attorneys with permanent civil service rights appointed by the city attorney to any applicable unclassified position above, shall retain civil service rights in the position from which selected as may have accrued.

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- (E) All employees employed by the City and working within the Office of the Independent Auditor General.

Personnel with permanent civil service rights appointed by the city manager to unclassified positions shall retain said civil [service] rights in the position from which selected as may have accrued.

- (2) The classified services shall include all positions not specifically included by this Charter in the unclassified service. There shall be in the classified service three classes, to be known as the competitive class, noncompetitive class, and labor class.
- (A) The competitive class shall include all positions and employment for which it is practicable to determine the merit and fitness of applicants by competitive examinations.
- (B) The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, city managerial, professional, or educational character, as may be determined by the rules of the board.
- (C) The labor class shall include ordinary unskilled labor.
- (d) *Rules; examinations; eligible lists; certification of vacancies.* Subject to the approval of the city commission, the board shall adopt, amend, and enforce a code of rules and regulations which shall have the force and effect of law providing for appointment and employment in all positions in the classified service, based on merit, efficiency, character, and industry; shall make investigations concerning the enforcement and effect of this article and of the rules adopted; and shall make an annual report to the city commission. The chief examiner shall provide examinations in accordance with regulations of the board and maintain lists of eligibles of each class of the services of those meeting the requirements of said regulations. Positions in the classified service shall be filled from such eligible lists upon requisition from and after consultation with the city manager. When positions are filled, the employment officer shall so certify, by proper and prescribed form, to the director of finance and to the director of the department in which the vacancy exists.
- (e) *Promotion.* The board shall provide uniform rules for promotion to all positions in the classified service.
- (f) *Power of suspension, removal, fine, or demotion.*
- (1) Any officer or employee in the classified service may be removed, suspended, fined, laid off, or demoted by the city manager or by the head of the department in which such person is employed, for any cause which will promote the efficiency of the service; but such person must be furnished with a written statement of the reasons therefor within five days from the date of the removal, suspension, fine, layoff, or demotion, and be allowed a reasonable time for answering such reasons in writing, which answer shall be made a part of the records of the board, with the suspension to take effect as of the date that such written statement is furnished. No trial or examination of witnesses shall be required except in the discretion of the city manager or the head of the department. Any employee in the classified service who deems that he or she has been suspended, removed, fined, laid off, or demoted without just cause may, within 15 days of such action, request in writing a hearing before the civil service board to determine the reasonableness of the action. The board shall, within 30 days after appeal of the employee disciplined, proceed to hear such appeal. After hearing and considering the evidence for and against the employee, the board shall report in writing to the city manager its findings and recommendations. The city manager shall then sustain, reverse, or modify the action of the department director. Any member of the civil service board and the director of personnel may administer an oath to witnesses appearing before said board or before said director in an investigation, disciplinary or appeal proceedings, and they shall have the power to issue witness subpoenas and to compel the attendance of witnesses.
- (2) The civil service board shall also have the right to remove or demote any official or employee in the classified service upon written charges of misconduct made by any citizen, but only after reasonable notice to the officer or employee and after a full hearing. It shall also be the duty of the board to fix a

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minimum standard of conduct and efficiency for each grade in the service. Whenever it appears from the reports of efficiency made to said board for a period of six months that the conduct or efficiency of any employee has fallen below such minimum standard, that employee shall be called before the board to show cause why he or she should not be disciplined. If upon hearing no reason is shown satisfactory to the board, the employee shall be removed, suspended, or demoted, as the board may determine.

- (g) *Present employees.* All persons in the employ of the city holding positions in the classified service, as established by this Charter, at the time it takes effect, shall, unless their position is abolished, retain same until discharged, demoted, promoted, or transferred, in accordance herewith.
- (h) *Certificate of board on payroll account necessary before payment of classified service member.* The treasurer or other public disbursing officer shall not pay any salary or compensation for service to any person holding a position in the classified service unless the payroll or account for such salary or compensation bears the certificate of the board, by its secretary, that the persons named therein have been appointed or employed and are performing service in accordance with the provisions of this Charter and of the rules established thereunder.
- (i) *Investigations and hearings.* In any investigation conducted by the board, it shall have the power to subpoena and require the attendance of witnesses and the production thereby of books and papers pertinent to the investigation and to administer oaths to such witnesses.
- (j) *No discrimination in classified service.* No person in the classified service or seeking admission thereto shall be appointed, demoted, removed, or in any way favored or discriminated against because of political opinions or affiliations. No person holding a position in the classified service shall take part in political management or affairs or in political campaigns during city working hours or with personal property belonging to the city.
- (k) *Penalties.* The civil service board, subject to the approval of the city commission, shall determine the penalties for the violation of the civil service provisions of this Charter.
- (l) *Salaries of board and employees.* The salaries of the civil service board and its employees shall be determined by the city commission, and a sufficient sum shall be appropriated each year to carry out the civil service provisions of this Charter.

(Res. No. 01-843, § 2, 8-9-01; Res No. 17-0319, § 2, 7-13-17)

### **Sec. 37. Pension funds.**

- (a) The city commission shall establish a fund or funds for the relief or pension of persons in the classified service of the city. The city commission, on behalf of the city, may receive gifts, devises, and bequests of money or property for the benefit of such fund or funds; may make contributions of public money thereto on such terms and conditions as it may see fit; and shall make rules and regulations for the management, investment, and administration of such fund or funds.
- (b) The city commission shall have power to make contracts of insurance with any insurance company authorized to transact business in this state, insuring its employees or any class or classes thereof under a policy or policies of group insurance covering life or health or accident insurance or any two or more of such classes of insurance and may contract with any company granting annuities or pensions and authorized to transact business within the state for the pensioning of such employees or any class or classes thereof; for any and all such purposes the city commission may appropriate the funds necessary to pay premiums or charges incident to the carrying on of such policies or contracts.

(Res. No. 01-843, § 2, 8-9-01)



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## Sec. 38. City planning and zoning board.

- (a) *Comprehensive planning.* The city commission is empowered to plan for the future development of the city and, as an integral part of the planning process, to take all lawful actions necessary to implement plans made.

In furtherance of this authority, the city commission may undertake continuing comprehensive planning programs and may adopt comprehensive plans to guide the future development of the city in order to preserve and enhance the present advantages of the city, to overcome present handicaps, and to prevent or minimize future problems. Continuing comprehensive planning programs and comprehensive plans that may be adopted may include, but are not to be deemed as limited to:

- (1) principles and policies to be followed in future development of the city;
  - (2) location, relocation, and character of the various uses of land and water;
  - (3) location, relocation, and character of public and private open spaces for recreation, amenity, and cultural life;
  - (4) modes and means of travel and transportation;
  - (5) location and character of public buildings, services, and facilities;
  - (6) provision of necessary utilities;
  - (7) conservation, rehabilitation, or replacement of housing;
  - (8) density of population;
  - (9) methods and policies for encouragement of cooperation of private persons and groups in the accomplishment of adopted comprehensive plans;
  - (10) taxing and financial arrangements and long-range capital improvement programs deemed necessary to implement the planning program; and
  - (11) land-use control and regulatory measures and other instruments deemed necessary to accomplish the aims and objectives of adopted comprehensive plans.
- (b) *Authority to implement comprehensive plans.* The city commission is authorized to use all lawful powers conferred upon the city to implement comprehensive plans that may be adopted and to provide for the status of such adopted plans. Particularly, but not in limitation thereof, the city commission is authorized to adopt and enforce:
- (1) controls on the use of lands and waters;
  - (2) zoning of lands and waters;
  - (3) regulations for the development or subdivision of land;
  - (4) building, plumbing, electrical, gas, fire, safety, sanitary, and other codes; and
  - (5) minimum housing codes.
- (c) *Creation of implementing boards.* The city commission shall by ordinance create such appropriate board or boards as it may deem necessary to carry out the functions as set out in subsections (a) and (b) above.

The city commission may by ordinance provide for the establishment and method of composition of the board or boards; the number of members; the qualifications of members; the staggering of terms to insure board continuity; the method of filling vacancies; the method of removal; the compensation, if any; the participation of alternate members, if any, in board business; the general rules of organization, procedures, and conduct of

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business; the giving of notice and necessary public hearings on matters relating to the functions of the board or boards; and other matters deemed necessary by the city commission to the proper functioning of such board or boards.

The city commission may by ordinance make provision for the functions, responsibility, advisory or quasijudicial duties, and authority of the board or boards created by the city commission. The city commission may by ordinance set out the standards and limitations under which such board or boards shall operate; the relationship of the board or boards to each other, to the city commission, or to the courts as provided by law; and the method of review of any decisions of such board or boards.

- (d) *Administrative support and appropriations.* The city commission shall provide such administrative arrangements, support, and appropriations as it may deem necessary to enable the board or boards established under this section properly to perform their functions and meet their responsibilities and to insure that proper and necessary liaison is maintained between them and with the city commission.
- (e) *Task forces or committees.* The city commission may by resolution appoint task forces or committees to serve as advisory or recommendatory agents to the board or boards established under this section on particular problems relating to the areas of responsibility and authority of the particular board.

(Res. No. 01-843, § 2, 8-9-01)

### **Sec. 39. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed § 39 in its entirety. Formerly, § 39 pertained to franchises and public utilities—Ordinance requires four-fifths vote of commission; approval of ordinance by voters; limitation on duration of grant.

### **Sec. 40. Subdivisions.**

- (a) *Plat requirements.* Any owner of lots or grounds within the city who subdivides same for sale shall cause to be made an accurate plat of said subdivision describing with certainty all grounds laid out or granted for streets or other public uses. Lots intended for sale shall be numbered by progressive numbers or described by the squares in which situated, and the precise length and width shall be given of each lot sold or intended for sale; such plat shall be subscribed by the owner, acknowledged before an officer authorized to take the acknowledgement of deeds, approved by the director of public works, and recorded in the office of the clerk of circuit court in and for Dade County, Florida. No such plat shall be approved unless it clearly gives an accurate description of the property showing section corners or quarter-section corners or at least tying the property to one or more sections or quarter-section corners or government monuments.
- (b) *Supervisor of plats.* The director of public works shall be supervisor of plats of the city and shall provide regulations governing the platting of all lands so as to require all streets and alleys to be of proper width, to be coterminous with adjoining streets and alleys, and otherwise to conform to the regulations prescribed. Whenever said director shall deem it expedient to plat any portion of territory within the city limits, within which the necessary streets or alleys have not already been accepted by the city, so as to become public streets or alleys, or when any person plats land within the corporate limits or within two miles thereof, the director of public works shall, if such plats are in accordance with the prescribed regulation, endorse his or her written approval thereon. No plat subdividing lands within the corporate limits of the city or within two miles thereof shall be entitled to record in the office of the clerk of the circuit court in and for Dade County, Florida, without such written approval.
- (c) *Streets or alleys not accepted unless laid down on plat.* No streets or alleys except those laid down on the plats referred to in this section and bearing the approval of the director of public works, as hereinbefore provided for, shall subsequently in any way be accepted as public streets or alleys by the city, nor shall any

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public funds be expended in the repair or improvement of streets and alleys subsequently laid out and not on such plat. This restriction shall not apply to a street or alley laid out by the city nor to streets, alleys, or public grounds laid out on a plat by or with the approval of the director of public works.

- (d) *Acceptance and confirmation of street or alley dedication.* No streets or alleys hereafter dedicated to public use by the owner of ground in the city shall be deemed a public street or alley, or under the care and control of the city commission, unless the dedication be provided in the plat or by warranty deed or other instrument of grant; unless the grant be accepted and confirmed by resolution passed for that purpose; and unless the provisions of this Charter relating to subdivisions shall have been complied with.

(Res. No. 01-843, § 2, 8-9-01)

### **Secs. 41, 42. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed §§ 41 and 42 in their entirety. Formerly, §§ 41 and 42 pertained to conduct of a city business, compensation, duties, and oaths of officers and employees and power to appoint boards or commissions of citizens, respectively, and derived from Res. No. 97-447, § 2, adopted July 2, 1997.

### **Sec. 43. Continuity.**

- (a) All city ordinances, resolutions, and regulations in force at the time this Charter takes effect, and not inconsistent with the provisions hereof, are hereby continued in force until the same shall be duly amended or repealed.
- (b) *Present officers and powers.* All persons holding office in or employed by the city at the time this charter goes into effect shall continue in such office or employment and in the performance of their duties until provisions shall have been otherwise made in accordance with the provisions of this charter for the performance or discontinuance of the duties of any such office or employment. When such provisions are made the term of any such officer shall expire, and the office shall be abolished. The powers which are conferred and the duties which are imposed upon any officer, board, commission, or department of the city under the laws of the state, shall, if such officer, board, commission, or department is abolished by this charter, be thereafter exercised and discharged by the officer, board, or department upon whom are imposed corresponding functions, duties, and powers under the provisions of this charter.
- (c) *Present contracts and proceedings.* All rights, actions, proceedings, prosecutions, and contracts of the city or of any of its departments or officers, pending or unexecuted when this charter goes into effect, and not inconsistent therewith, shall be enforced, continued, or completed, in all respects, as though begun or executed hereunder.
- (d) *Present titles and rights.* The title, rights, and ownership of property, uncollected taxes, dues, claims, judgments, decrees, and choses in action held or owned by the city at the time of the adoption of this Charter shall continue.
- (e) *Acts under former charters.* All acts and proceedings of the commission or of any officer of the city done or taken pursuant to the provisions of the previous city charter are hereby ratified.

(Res. No. 01-843, § 2, 8-9-01)

### **Sec. 44. [Reserved.]**

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed § 44. Formerly, § 44 pertained to suits against the city.

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## Sec. 45. General provisions.

- (a) *Codification of ordinances.* The city commission may at any time appoint a person or persons and authorize them to arrange and codify the ordinances of the city and to publish such codification in appropriate volume or volumes, which shall become the laws of the city upon adoption by ordinance; provided, that in the exercise of the power by the city commission to adopt said codification, it shall not be necessary to publish said codification, the publication of the ordinance adopting the same being sufficient to make said publication binding as the law of the city.
- (b) *Record of ordinances; evidence.* It shall be the duty of the city clerk to record all ordinances adopted by the city commission within 10 days after their passage in a book kept for that purpose, properly indexed. A copy of any ordinance therefrom, certified by the city clerk under the seal of the city, shall be received in evidence in all courts of this state.
- (c) *Ordaining clause.* The ordaining clause of every ordinance shall be as follows: "Be It Ordained by the City Commission of the City of Miami".
- (d) *Enumeration of powers not exclusive.* The enumeration of particular powers in this Charter shall not be deemed or held to be exclusive, but additional to the powers enumerated herein, implied thereby, or appropriate to the exercise thereof; the city shall have and may exercise all other powers which are now, or may hereafter be, possessed or enjoyed by cities under the constitution and general laws of this state; and all the powers of the city, whether express or implied, shall be exercised and embraced in the manner prescribed in this Charter, or when not so prescribed, then in such manner as may be provided by ordinance or resolution of the city commission.
- (e) *General laws to apply.* All general laws of the state, applicable to municipal corporations, heretofore or hereafter enacted and which are not in conflict with the provisions of this Charter or with ordinances or resolutions hereafter enacted by this city commission pursuant to authority conferred by this Charter shall be applicable to the city; provided, however, that nothing contained in this Charter shall be construed as limiting the power of the city commission to enact any ordinance or resolution not in conflict with the constitution of the state or with the express provisions of this Charter.
- (f) *Effect of state law and present ordinances.* Nothing in this act shall be so construed as to alter, abolish, affect or amend any of the laws of this state now in force or which may hereafter be enacted relative to towns and cities of the state incorporated under the general law, nor any of the ordinances of the city now in force, except such as are in conflict with the provisions of this Charter; all such laws and ordinances are hereby declared to be in full force and effect.
- (g) *Unconstitutionality of part of Charter.* If any section or part of this Charter is declared invalid or unconstitutional, such declaration shall not be held to invalidate or impair the validity, force, or effect of any other section or part of this Charter, unless it clearly appears that such other section or part is wholly and necessarily dependent for its operation upon the section or part declared invalid or unconstitutional.
- (h) *Effective Date.* This Charter shall take effect immediately upon being approved by a majority of the electors of the city voting at an election called for the purpose of approving this Charter.

(Res. No. 01-843, § 2, 8-9-01)

State law reference(s)—Minimum procedural requirements for adoption of ordinances, F.S. § 166.041.

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## Secs. 46, 47. [Reserved.]

Editor's note(s)—Res. No. 01-843, § 2, adopted August 9, 2001, repealed §§ 46 and 47 in their entirety. Formerly, §§ 46 and 47 pertained to bureau of legal aid and credit to prisoners for work, costs in criminal prosecutions, respectively.

## Sec. 48. Office of independent auditor general.

- (a) *Created; responsibility.* There is hereby created the Office and position of Independent Auditor General to provide the City Commission with independent oversight of audit and analytical functions of the City. The Office of the Independent Auditor General shall report directly to the City Commission.
- (b) *Appointment, qualifications and term of Independent Auditor General.* The city commission shall appoint an auditor, who shall be a Certified Public Accountant, to serve as the director of the Office of the Independent Auditor General and to be known as the Independent Auditor General ("IAG"). At the time of appointment, the IAG shall have and maintain an active license, shall be certified under the public accountancy law in Florida, shall have a degree in public administration or in lieu of such degree shall have at least five years experience in public administration and shall have sufficient experience in governmental accounting and auditing practices. The initial appointment shall begin January 1, 2000, and shall end with the election in November 2001. Thereafter, the appointment shall be for a term of four (4) years. During the initial and any subsequent term, the IAG shall be subject to suspension and/or removal by the city commission for incompetence, neglect of duty, immorality, drunkenness, failure to obey orders given by proper authority, or for any other just and reasonable cause.
- (c) *Duties and powers.* The IAG shall be responsible to provide independent oversight of audit functions, and for the performance of such other duties as may be assigned by the city commission or any member of the city commission. To the degree necessary to fulfill the responsibilities of the office, the IAG shall have the power and authority to:
  - (1) Examine city audit functions and accounting systems, provide budget and legislative analysis, conduct financial, operational, compliance, single act and performance audits of city government, officials, and independent agencies, with reports submitted to the city commission as deemed necessary by the IAG or as may be required by the city commission, from time to time, and copied to the administration.
  - (2) Have free and unrestricted access to city government employees, officials, records and reports and where appropriate, require all branches, departments, agencies and officials of city government to provide oral and written reports and to produce documents, files and other records.
  - (3) Render assistance to external auditors retained by the city commission. Such assistance shall be limited to special audits or limited examinations ordered by the city commission.
- (d) *Staffing.* The Office of Independent Auditor General shall be staffed by such professional assistants and support personnel as shall be designated by the IAG and as are approved in the city's annual budget, as may be amended from time to time by the City Commission. The IAG shall be the supervisor for all auditors and support personnel employed by the Office of the Independent Auditor General. The IAG shall have exclusive authority regarding, but not limited to, appointment/hiring, removal, and salary as to all employees of the Office of Independent Auditor General.
- (e) *Establishment of operating procedures and responsibilities.* The IAG may, from time to time, issue directives setting forth the operating procedures to be followed and responsibilities to be discharged by the Office.

(Res. No. 99-608, § 2, 8-2-99; Res. No. 01-843, § 2, 8-9-01; Res. No. 17-0320, § 2, 7-13-17)

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## **Sec. 49. Office of the City Clerk.**

- (a) There is established the office of the city clerk. The director of the office of the city clerk shall be the city clerk. The city clerk shall be appointed as provided in Charter section 4(e). The city clerk shall be the custodian of the seal of the city.
- (b) The office of the city clerk shall have the following duties:
  - (1) Prepare and distribute notice of all public meetings as required by law and the minutes of such meetings;
  - (2) Be custodian of inactive, archived and vital records of the city and maintain a records management system;
  - (3) Conduct, supervise and certify all city elections;
  - (4) Be custodian of all legislation, lobbyist registration, contracts and bids;
  - (5) Perform such other duties as required in this Charter or as directed by the city commission.

(Res. No. 01-843, § 2, 8-9-01)

## **Sec. 50. Certain former Charter provisions to become ordinances.**

All provisions of the present charter, Laws of Florida, ch. 10847 (1925), as amended and as compiled and printed in the Code of Ordinances, 1996, which are not included in this Charter or amended by or inconsistent with this Charter shall become ordinances of the city and continued in effect as ordinances and not new enactments and shall be subject to amendment or repeal in the same manner as other ordinances of the city. The provisions of this Charter where they are the same as the provisions in the former charter are to be considered continuations of the former charter provisions and not new enactments.

(Res. No. 01-843, § 2, 8-9-01)

## **Sec. 51. Civilian investigative panel.**

The city commission shall, by ordinance, create and establish a civilian investigative panel to act as independent citizens' oversight of the sworn police department, to be:

- (A) Composed of: (i) twelve (12) civilian members who shall be nominated by the civilian investigative panel and approved by the city commission and (ii) a thirteenth (13th) member who shall be an appointee of the Chief of Police who is not a City of Miami Police Officer;
- (B) Staffed with professional personnel, including but not limited to: (i) an executive director who shall serve as chief executive officer and (ii) an independent legal counsel who is an experienced and competent member of the Florida Bar with at least seven years membership in the Florida Bar and is generally knowledgeable in municipal law, both of whom shall be appointed by and subject to removal by the panel with the approval of the City Commission;
- (C) Operated on an annual budget established by the City Commission, by ordinance, that will allow the panel to maintain its independence and perform its Charter mandated functions, with sufficient professional staff, while taking into account the City Manager's declaration of a fiscal emergency, a financial urgency, or financial emergency in the City;
- (D) Authorized by vote of the CIP and in "consultation" with the state attorney of Miami-Dade County, to issue subpoenas for allegations which are criminal in nature, provided that the CIP may not confer

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immunity and must advise all city employees appearing before it that no adverse employment consequences will result from the valid exercise of their right to be free from self-incrimination, and, further, that no actions of the CIP may interfere with any pending or potential criminal investigation or prosecution; and

(E) Authorized to:

- (1) Conduct independent investigations of allegations of police misconduct and police uses of force resulting in death or great bodily harm to a person;
- (2) Conduct independent investigations of other matters pertaining to repeated issues of conduct by City of Miami Police Officers;
- (3) Review police department policies and practices; and
- (4) Make written requests and recommendations regarding the CIP's reviews and investigations to the city manager and the police chief, to which the Police shall issue a written response within forty-five (45) days.

(Res. No. 01-844, § 2, 8-9-01; Res. No. 16-0351, § 2, 7-29-16)



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 2022-025

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

RESOLUTION NO. 2022-025 - SUPPORTING A MAINTENANCE AGREEMENT FOR US 90 OVER BAYOU TEXAR BRIDGE (FPID ID: 218608-4-52-01) WITH THE FLORIDA DEPARTMENT OF TRANSPORTATION

**RECOMMENDATION:**

That City Council adopt Resolution No. 2022-025:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA SUPPORTING A MAINTENANCE AGREEMENT FOR US 90 OVER BAYOU TEXAR BRIDGE (FPID ID: 218608-4-52-01); PROVIDING FOR AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The Florida Department of Transportation (FDOT) is preparing to paint, rehabilitate and repair the US 90 over Bayou Texar Bridge with Financial Project Identification (FPID) Number 218608-4-52-01. During project development, FDOT informed City staff that if the decorative pedestrian railings and light poles were to remain, which is the City's desire, that the City would need to enter into a maintenance agreement with FDOT detailing that the City would need to serve as the maintaining agency for those features. The required maintenance activities include, but not limited to, cleaning, repainting and replacing parts, etc.

**PRIOR ACTION:**

None

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Funding for the ongoing maintenance will be included in future budgets.



**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/24/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator

David Forte, Deputy City Administrator - Community Development

Amy Tootle, Public Works and Facilities Director

**ATTACHMENTS:**

- 1) Resolution No. 2022-025
- 2) Maintenance Agreement US 90 Bayou Texar Bridge

**PRESENTATION:** No

RESOLUTION  
NO. 2022-025

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA SUPPORTING A MAINTENANCE AGREEMENT FOR US 90 OVER BAYOU TEXAR BRIDGE (FPID ID: 218608-4-52-01); PROVIDING FOR AN EFFECTIVE DATE.

**WHEREAS**, The DEPARTMENT is preparing to paint, rehabilitate and repair the US 90 over Bayou Texar Bridge, Bridge No. 480193, within ESCAMBIA COUNTY, which will include painting the approach roadway pedestrian railing, decorative bridge pedestrian railing and bridge mounted light poles, in addition to replacing all missing parts and repairing concrete parapet damage pursuant to Financial Project Identification Number 218608-4-52-01;

**WHEREAS**, the above mentioned project is endorsed by the City Council of the City of Pensacola;

**WHEREAS**, the DEPARTMENT has jurisdiction over the operation and maintenance of the State Highway System;

**WHEREAS**, The CITY agrees, once the construction is completed, to maintain the roadway pedestrian railing, bridge pedestrian railing and bridge mounted light poles on the US 90 over Bayou Texar Bridge, hereinafter referred to as the "Facilities";

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

Section 1. That the above stated recitals are true and correct and incorporated herein by this reference.

Section 2. That the Project is endorsed by the City Council of the City of Pensacola as serving an unmet vital transportation need for the public health, safety and welfare of the citizens of the City of Pensacola.

Section 3. That the City Council of the City of Pensacola, in furtherance of such purpose, supports the proposed maintenance agreement.

Section 4. The City Council of the City of Pensacola hereby authorizes the Mayor to take all actions necessary to effectuate the provisions of this Resolution.

Section 5. 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

**FPID ID: 218608-4-52-01**

**AGENCY (CITY): CITY OF PENSACOLA**

**DESCRIPTION: US 90 over Bayou Texar Bridge**

**MAINTENANCE AGREEMENT**

THIS AGREEMENT, made and entered into by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter called "DEPARTMENT") and the CITY OF PENSACOLA (hereinafter called "CITY"). The DEPARTMENT and the CITY are sometimes referred to in this AGREEMENT as a "Party" and collectively as the "Parties."

**RECITALS**

1. The DEPARTMENT is preparing to paint, rehabilitate and repair the US 90 over Bayou Texar Bridge, Bridge No. 480193, within ESCAMBIA COUNTY, which will include painting the approach roadway pedestrian railing, decorative bridge pedestrian railing and bridge mounted light poles, in addition to replacing all missing parts and repairing concrete parapet damage pursuant to Financial Project Identification Number 218608-4-52-01.
2. Once the construction is completed, the CITY agrees to maintain the roadway pedestrian railing, bridge pedestrian railing and bridge mounted light poles on the US 90 over Bayou Texar Bridge, hereinafter referred to as the "Facilities". For purposes of this agreement, the initial painting and rehabilitation of the Facilities will be referred to as the "PROJECT." This PROJECT will be of benefit to the CITY.
3. The DEPARTMENT has jurisdiction over the operation and maintenance of the State Highway System;
4. The CITY has agreed to maintain the Facilities repaired and rehabilitated in the PROJECT in accordance with the terms below;
5. The CITY by CITY Council action on dated \_\_\_\_\_, 20\_\_, a resolution is attached hereto as Exhibit "B" and incorporated by reference, evidences the CITY's desire to enter into this Agreement and its officers' authorization to do so; and

6. The DEPARTMENT is authorized pursuant to Section 334.044 and 335.055, Florida Statutes to enter into contracts and agreements with counties/municipalities for the maintenance of roadside facility improvements on the State Highway System.

**NOW THEREFORE**, in consideration of the mutual benefits to be derived by the terms of this AGREEMENT, the parties agree to the following:

The recitals set forth above are true and correct and are deemed incorporated herein by reference.

7. Upon completion of construction by the DEPARTMENT, the CITY will assume responsibility for maintenance of the PROJECT and shall perform all activities necessary to keep the Facilities fully operating, properly functioning, and in good condition. Required maintenance includes, but is not limited to cleaning, repainting and replacing any missing parts. All repairs or replacement will be in kind unless a variance is approved in writing by the DEPARTMENT.
8. All maintenance of the Facilities shall be in accordance with the provisions of the Manual of Uniform Traffic Control Devices and all other applicable local, state, or federal laws, rules, resolutions, or ordinances, and DEPARTMENT procedures, and shall be subject to periodic inspections by the DEPARTMENT.
9. The CITY covenants and agrees that it will indemnify and hold harmless to the extent provided by Section 768.28, Florida Statutes, the DEPARTMENT and all of the DEPARTMENT'S officers, agents and employees from any claim, loss, damage, cost, charge or expense arising out of any act, action, neglect or omission by the CITY during the performance of the contract, whether direct or indirect, and whether to any person or property to which the DEPARTMENT or said parties may be subject, except that neither the CITY nor any of its sub-contractors will be liable under this section for damages arising out of injury or damage to persons or property directly caused or resulting from the sole negligence of the DEPARTMENT or any of its officers, agents or employees.

When either party receives notice of a claim for damages that may have been caused by the other party in the performance of services required under this Agreement, that party will immediately forward the claim to the other party. Each party will evaluate the claim and report its finding to each other within fourteen (14) working days and jointly discuss options in defending the claim. A party's failure to promptly notify the other of a claim will not act as a waiver of any right herein.

10. The DEPARTMENT'S District Secretary shall decide all questions, difficulties, and disputes of any nature whatsoever that may arise under or by reason of this

Agreement, the prosecution or fulfillment of the service hereunder and the character, quality, amount and value thereof; and his decision upon all claims, questions and disputes shall be final and conclusive upon the parties hereto.

11. This AGREEMENT may be terminated under any one of the following conditions:

(A) By the DEPARTMENT if the CITY fails to correct a cited deficiency and perform its maintenance responsibility under this AGREEMENT, following fifteen (15) working days written notice;

(B) By the DEPARTMENT following sixty (60) calendar days' notice.

12. Pursuant to Section 287.058, Florida Statutes, the DEPARTMENT may unilaterally cancel this Agreement for refusal by the MAINTAINING AGENCY to allow public access to all documents, papers, letters or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the MAINTAINING AGENCY in conjunction with this Agreement.

13. This AGREEMENT embodies the entire agreement and understanding between the parties hereto and there are no other agreements, understandings, oral or written, with reference to the subject matter hereof that are not merged herein and superseded hereby.

14. This AGREEMENT shall be governed by and constructed in accordance with the law of the State of Florida. The parties stipulate that venue for any matter relating to this contract shall be in Leon County, Florida.

15. The CITY shall:

(A) utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the CITY during the term of the AGREEMENT; and

(B) expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract time.

16. Any and all notices given or required under this agreement shall be in writing and delivered via e-mail with a receipt acknowledgment or sent certified with return receipt to the following:

If to the DEPARTMENT: \_\_\_\_\_

Contact Person: \_\_\_\_\_

Address: \_\_\_\_\_

If to the CITY:

Contact Person: Amy Tootle, P.E.

Title: Public Works Director

Address: 2757 N. Palafox Street  
Pensacola, FL 32501

17. All time limits provided hereunder shall run from the date of receipt of all such notices, demands, requests and other instruments.

18. The effective date of this Agreement shall be the latest date on which a party executes this Agreement.

19. LIST OF EXHIBITS:

Exhibit A: Project Plans FPID: 218608-4-52-01

Exhibit B: Resolution

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**IN WITNESS WHEREOF**, the CITY has caused this Agreement to be executed in its behalf this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by its \_\_\_\_\_, being authorized to enter into and execute same by action of the CITY of Pensacola meeting in regular session on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_, and the DEPARTMENT has executed this Agreement through its District Secretary, District 3, Florida Department of Transportation, on the date indicated below.

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

**ATTEST:**

**BY: \_\_\_\_\_  
PHILLIP GAINER  
DISTRICT 3 SECRETARY**

**\_\_\_\_\_  
KRISSY COOK  
EXECUTIVE SECRETARY  
(SEAL)**

**DATE: \_\_\_\_\_**

**Legal Review:**

**\_\_\_\_\_  
Office of General Counsel**

**BY: \_\_\_\_\_**

**ATTEST:**

**Printed  
Name: \_\_\_\_\_**

**Printed  
Name: \_\_\_\_\_**

**Title: \_\_\_\_\_**

**Title: (Seal) \_\_\_\_\_**

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

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

**Legal Review:**

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





# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

**File #:** 2022-018

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

SUPPLEMENTAL BUDGET RESOLUTION NO. 2022-018 - APPROPRIATION OF FUNDING FOR ADDITIONAL PERSONNEL AND EQUIPMENT IN INSPECTIONS

**RECOMMENDATION:**

That City Council adopt Supplemental Budget Resolution No. 2022-018:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS TO BUDGET FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; PROVIDING FOR AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

With the increased activity in the construction industry, it has become necessary to add a new full-time position as well as a temporary position in order to provide better customer service and meet the workload in this strong economy. Therefore, additional funding will be required in the Fiscal Year 2022 Budget. This resolution will provide for a Building Inspections Specialist and a temporary receptionist. The Building Inspections Specialist will be a highly specialized licensed person who will assist with both plan review and inspections within the department. This position will be a full time City position. The receptionist position will answer phones and assist our Permit Clerks. Bringing in these new positions will require purchasing new equipment. This resolution will cover the costs of two new computers, two large screen monitors for plan review staff, and a new iPad and cellular phone for Inspections. Two new Ford Ranger pick-up trucks are being proposed to purchase which will give each licensed Inspections employee a vehicle to use. These changes to the Budget will provide for better customer service, reduce the workload for our current staff, and better manage the workload if an employee is out of the office.

City Council is being requested to authorize and transfer \$212,400.00 from the Inspections Fund Balance. Current permitting fees received will be sufficient to fund the ongoing costs for future budget years.

**PRIOR ACTION:**

None

**FUNDING:**

Budget: \$212,400.00

Actual: \$106,600.00	Building Inspections Specialist
34,300.00	Temporary Receptionist
8,300.00	Computer Equipment
<u>63,200.00</u>	Road Equipment
<u>\$212,400.00</u>	

**FINANCIAL IMPACT:**

At the end of Fiscal Year 2021, restricted fund balance excluding encumbrances was \$1,135,000. Drawing down the \$212,400 from fund balance will leave a balance of \$922,600 and will not impact the General Fund. Based on projected revenues within Inspections, there will be sufficient funds to cover the additional ongoing cost associated with these additions.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/18/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
David Forte, Deputy City Administrator - Community Development  
Sherry Morris, Development Services Director  
Jonathan Bilby, Building Official

**ATTACHMENTS:**

- 1) Supplemental Budget Resolution No. 2022-018
- 2) Supplemental Budget Explanation No. 2022-018

**PRESENTATION:** No

**RESOLUTION  
NO. 2022-018**

A RESOLUTION  
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR  
THE FISCAL YEAR ENDING SEPTEMBER 30, 2022; 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. Inspections Fund**

	Fund Balance	212,400
As Reads:	Personnel Services	1,246,900
Amended		
To Read:	Personnel Services	1,387,800
As Reads:	Operating Expenses	290,757
Amended		
To Read:	Operating Expenses	299,057
As Reads:	Capital Outlay	8,500
Amended		
To Read:	Capital Outlay	71,700

SECTION 2. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 3. This resolution shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

Approved: \_\_\_\_\_  
President of City Council

Attest:

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

**THE CITY OF PENSACOLA****FEBRUARY 2022 - SUPPLEMENTAL BUDGET RESOLUTION -APPROPRIATION OF FUNDING FOR ADDITIONAL PERSONNEL & EQUIPMENT - RES NO. 2022-018**

FUND	AMOUNT	DESCRIPTION
<b>A. INSPECTIONS FUND</b>		
Fund Balance	<u>212,400</u>	Increase appropriated fund balance
Appropriations		
Personnel Services	140,900	Increase appropriation for Personnel Services
Operating Expenses	8,300	Increase appropriation for Operating Expenses
Capital Outlay	<u>63,200</u>	Increase appropriation for Capital Outlay
Total Appropriations	<u>212,400</u>	



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 02-22

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

PROPOSED ORDINANCE NO. 02-22 - AMENDING SECTION 3-1-11 COUNCIL RESERVE (GENERAL FUND)

**RECOMMENDATION:**

That City Council approve Proposed Ordinance No. 02-22 on first reading.

AN ORDINANCE AMENDING SECTION 3-1-11 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, COUNCIL RESERVE (GENERAL FUND) TO PROVIDE THE FINANCE DIRECTOR THE AUTHORITY TO DETERMINE IF ANNUAL INTEREST EARNINGS SHOULD BE APPLIED TO THE RESERVE BALANCE; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On September 9, 2010, City Council adopted Resolution No. 31-10 which created the Fund Balance Policy of Governmental Funds in accordance with Governmental Accounting and Financial Standards Board Statement No. 54, *Fund Balance Reporting and Governmental Fund Type Definitions*. The policy aimed to more clearly define the nature and extent of the constraints placed on a government's fund balance. The policy included a section on General Fund Council Reserves which set a minimum reserve of fifteen percent of the General Fund beginning adopted appropriations and outlined the use, replenishment and funding of such reserves.

On October 9, 2014, City Council adopted Ordinance No. 39-14 which created Section 3-1-13 of the Code of the City of Pensacola, Florida in order to commit the Council Reserve fund balance in the General Fund. The ordinance mirrored the General Fund Council Reserves section of the Fund Balance Policy of Governmental Funds.

On January 12, 2017, City Council approved amending the Council Reserves (General Fund) section of the Fund Balance Policy to increase Council Reserves from fifteen percent to twenty percent.

On March 9, 2017, City Council adopted Ordinance No. 04-17 amending the minimum reserve to twenty percent in order to comply with Fund Balance Policy. The City has exceeded the twenty

percent minimum reserve requirement every year since the ordinance was amended and as of September 30, 2021, City Council reserve was at 22.77% of the fiscal year 2022 beginning adopted appropriations.

With the twenty percent requirement constantly being met, staff would like to amend the ordinance to allow the Finance Director the discretion to determine if annual interest earnings should be applied to the reserve balance each year or allow the interest earnings to remain in the general fund to be used towards general fund operations.

Should City Council approve Proposed Ordinance No. 02-22, amending Section 3-1-11, the City Council's Fund Balance Policy will also need to be amended by resolution.

**PRIOR ACTION:**

September 9, 2010 - City Council adopted Resolution No. 31-10 which committed the Council reserves fund balance in the general fund.

October 9, 2014 - City Council adopted Ordinance No. 39-14 which committed the Council reserves fund balance in the general fund.

January 12, 2017 - City Council approved amending the Council reserves fund balance in the general fund to increase Council Reserves from 15 percent to 20 percent.

March 9, 2017 - City Council approved Ordinance No. 04-17 on second reading amending the Council reserves fund balance in the general fund to increase Council Reserves from 15 percent to 20 percent.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

Annual interest earnings not applied to the reserve balance will allow the interest earnings to remain in the general fund to be used towards general fund operations.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/20/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
Amy Miller, Deputy City Administrator - Administration & Enterprise  
Amy Lovoy, Finance Director

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 02-22

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 02-22

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 3-1-11 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, COUNCIL RESERVE (GENERAL FUND) TO PROVIDE THE FINANCE DIRECTOR THE AUTHORITY TO DETERMINE IF ANNUAL INTEREST EARNINGS SHOULD BE APPLIED TO THE RESERVE BALANCE; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

NOW THEREFORE, BE IT ORDAINED BY CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 3-1-11 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Section 3-1-11. Council Reserve (General Fund).

Effective January 12, 2017, a minimum reserve of 20 percent of the general fund beginning adopted appropriations (expenditure budget) should be incrementally established and maintained for use in meeting unanticipated needs and/or emergencies.

- (1) *Use of council reserve.* Council reserves shall be used only after all efforts have been exhausted to fund unanticipated needs and/or emergencies, such as implementing a modified hiring freeze and expenditure reductions. Once the mayor has determined that it is necessary to draw down council reserves, written communication should be provided by the mayor to city council, explaining the nature of the unanticipated need and/or emergency and requires approval by a two-thirds vote of city council. Use of funds may only be initiated when current fiscal year revenues decrease by five percent or more of the total adopted beginning estimated revenues, including transfers. A maximum of 50 percent of the shortfall or 50 percent of the prior fiscal year ending council reserve balance may be drawn, whichever is less. At no time may the reserve be less than 7.5 percent of adopted annual appropriations or half of the prior fiscal year ending council reserve balance, whichever is greater. The council reserve may not be used for more than two consecutive years.
- (2) *Replenishment of council reserve.* If the reserves are drawn down below the minimum required level of 20 percent, then a budgetary plan shall be implemented to return the reserve to a minimum 20 percent level in no more than a five-year period. The progress of replenishment should be reported in the annual budget.



- (3) *Funding of council reserves.* Proceeds from the sale of city (general government) owned surplus real property, specifically approved by city council for such purpose, and any other funds identified in the annual budget (and any amendments thereto) will be used to increase the reserve. Interest earnings ~~will~~ may, upon discretion of the City's Finance Director, be applied on the reserve balance each fiscal year.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This Ordinance shall become effective on the fifth business day after adoption, unless otherwise provided pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

Approved: \_\_\_\_\_  
President of City Council

Attest:

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



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

File #: 01-22

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

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

**SUBJECT:**

REVISED: PROPOSED ORDINANCE NO. 01-22 - PROPOSED AMENDMENT TO CHAPTER 7-9 OF THE CODE OF THE CITY OF PENSACOLA - DOCKLESS SHARED MICROMOBILITY DEVICES PILOT PROGRAM

**RECOMMENDATION:**

The City Council adopt Proposed Ordinance No. 01-22 as revised on second reading:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA AMENDING CHAPTER 7-9 OF THE CODE OF THE CITY OF PENSACOLA TO REGULATE A DOCKLESS SHARED MICROMOBILITY DEVICE PILOT PROGRAM; PROVIDING FOR INDEMNIFICATION AND INSURANCE; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

On September 12, 2019, City Council adopted Ordinance 17-19 to allow and regulate a franchise agreement for the commercial rentals of Micromobility Devices. HB 453 was previously passed and resulted in the following changes that affected local governments:

- The new law references FS 316.008 “powers of authorities” and states that this new law does not prevent local governments from adopting an ordinance that “governs the operation of micromobility devices and motorized scooters on streets, highways, sidewalks, and sidewalk areas.”
- “Motorized scooter” definition was changed to include any vehicle or micromobility device that is powered by a motor and now also includes those having a seat or saddle.
- “Micromobility device” was added under FS 316.003 which creates a specific definition for any motorized transportation device (including motorized scooters) that is rented via an online app and is not capable of traveling at a speed greater than 20 miles per hour.
- Motorized scooters and micromobility devices are not required to be registered as vehicles or maintain insurance.

- Riders on motorized scooters and micromobility devices are not required to have a driver's license.
- Motorized scooter and micromobility devices are excluded from the definition of "motor vehicle" FS 320.01.
- The new law grants the operators of these micromobility devices all of the same rights and duties of bicycle riders.

Ordinance 17-19 created Chapter 7-9 within the City Code of Ordinances and establishes a 12-month shared micromobility device pilot program for the operation of shared micromobility devices on sidewalks and sidewalk areas within the city limits.

Section 7-9-5 (f) states that use of public sidewalks for parking micromobility devices and motorized scooter shall not:

- Adversely affect the streets or sidewalks.
- Inhibit pedestrian movement.
- Inhibit the ingress and egress of vehicles parked on- or off-street.
- Create conditions which are a threat to public safety and security.
- Prevent a minimum four-foot pedestrian clear path.
- Impede access to existing docking stations, if applicable.
- Impede loading zones, handicap accessible parking zones or other facilities specifically designated for handicap accessibility, on-street parking spots, curb ramps, business or residential entryways, driveways, travel lanes, bicycle lanes or be within 15 feet of a fire hydrant.
- Violate Americans with Disabilities Act (ADA) accessibility requirements.

Other major components include a 15-mph limit for devices, ability to permanently geofence areas where devices should not be ridden, and a cap of no more than 500 micromobility devices, distributed equally among the vendors selected to participate in the pilot program.

Two vendors (Bird and Veo) were ultimately selected through an RFQ process with the ability to each deploy up to 250 scooters. Once selected as a pilot program participant, the vendor is required to submit a one-time, nonrefundable permit fee of \$500.00 and a one-time, nonrefundable fee in the amount of \$100.00 per device deployed by the vendor.

Since deployment of the electric scooters on July 19, 2021, there have been 55,011 total rides, 120,011 miles ridden, and 38,176 Co2 lbs saved. There have been twenty-three (23) 311 submittals regarding concerns over scooters and seven (7) reported crashes. Most rides have started and ended in the downtown core.

During the past six months staff has implemented several strategies to stay responsive to the needs

of the community. Actions taken include implementation of a slow zone, fines for abandonment, and ID verification. The pilot program operating agreement and permit will automatically expire at the end of the 12-month period, unless extended, or otherwise modified, by the city council. Moving forward staff is recommending several changes to the ordinance for the remaining six months of the pilot program to address current concerns.

Proposed changes to the ordinance (as presented in the initial draft and agenda packet) include the following:

- Amend Section 7-9-3 and 7-9-5 to restrict riding of micromobility devices to roadways within city limits. Parking a micromobility device on a sidewalk shall still be allowed so long as it meets the requirements of the Section 7-9-5 and the operating agreements.
- Amend Section 7-9-4 to allow micromobility device operation and availability between 5:00 am and 10:00 pm.
- Amend Section 7- 9- 5 to prohibit riding on certain roadways as designated on the Shared Micromobility Devices Franchise Area Map.
- Amend Section 7-9-5 to prohibit parking on certain sidewalks as designated on the Shared Micromobility Devices Franchise Area Map.
- Amend section 7-9-4 to require a unique identification number to be clearly visible on devices so law enforcement, parking ambassadors, or public may easily identify a scooter.

Based upon additional analysis and input received from Baptist Healthcare, the micromobility vendor, and discussion at the January 18, 2022 Council agenda conference, staff submitted an amended version 1 for consideration on first reading on January 20, 2022 to change the regulation of micromobility devices to be non-operational between the times of 12:00 am - 5:00 am, Friday through Sunday. This restriction would apply only to the downtown area described in the boundary description. The Shared Micromobility Devices Franchise Area Map was also modified to depict the boundary of the downtown area.

On January 20, 2022, City Council made an amended motion to still regulate micromobility devices, so they are not operational between 12:00 am - 5:00 am, Friday through Sunday, but expanded the regulation to the entire service area. Also included in the amended motion, to strikethrough the term motorized scooter to remove confusion regarding applicability of the ordinance to personally owned electric scooters.

These changes are reflected in the amended ordinance version 2 for consideration of final adoption on second reading on February 10, 2022. The Micromobility Devices Franchise Area Map has also been modified to remove the boundary area for the downtown core since the time of operation is service-area wide. The permanent exclusion areas/geofenced areas have also been added to the map for reference.

#### **PRIOR ACTION:**

September 12, 2019 - City Council voted to adopt Dockless Shared Micromobility Devices Pilot Program Ord. No. 17-19.

January 20, 2022 - City Council voted to approve on first reading revised Proposed Ordinance No. 01-22 as amended.

**FUNDING:**

None

**FINANCIAL IMPACT:**

The two micromobility vendors already paid a one-time permit fee and fee per device at the beginning of the pilot program.

**LEGAL REVIEW ONLY BY CITY ATTORNEY:** Yes

1/6/2022

**STAFF CONTACT:**

Kerrith Fiddler, City Administrator  
David Forte, Deputy City Administrator - Community Development  
Amy Tootle, P.E., Director of Public Works & Facilities  
Brad Hinote, P.E., City Engineer  
Caitlin Cerame, Transportation Planner

**ATTACHMENTS:**

- 1) Revised for 2nd Reading - Proposed Ordinance No. 01-22
- 2) 2nd Revision Map - Proposed Shared Micromobility Devices Franchise Area
- 3) Revisions Approved as Amended on 1st Reading - Proposed Ordinance No. 01-22
- 4) 1st Revision to Map - Proposed Shared Micromobility Devices Franchise Area
- 5) Original Draft - Proposed Ordinance No. 01-22
- 6) Original Map - Proposed Shared Micromobility Devices Franchise Area

**PRESENTATION:** No

# Shared Micromobility Devices Franchise Area Map Proposed Changes

- Micromobility Franchise Area
- No Sidewalk Parking Zones
- No Riding Zones
- Exclusion Areas

- City of Pensacola
- Escambia County

0 0.25 0.5 Miles

Date: 1/24/2022

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

**Jefferson St  
parking garage  
excluded**

**Escambia County offices  
and parking garage excluded**

**parking garage  
excluded**

**parking garage  
corner of Main St  
and Baylen St  
excluded**

**Veterans  
Memorial Park  
excluded**

**Southtowne  
parking garage  
excluded**

**Ferry building  
excluded**

PROPOSED  
ORDINANCE NO. 01-22

**REVISED**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA  
AMENDING CHAPTER 7-9 OF THE CODE OF THE CITY OF  
PENSACOLA TO REGULATE A DOCKLESS SHARED  
MICROMOBILITY DEVICE PILOT PROGRAM; PROVIDING FOR  
INDEMNIFICATION AND INSURANCE; PROVIDING FOR  
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 166.041, Florida Statutes, provides for procedures  
for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City of Pensacola ("City") is subject to the Florida Uniform  
Traffic Control Laws; and

WHEREAS, the Florida Uniform Traffic Control Law allows municipalities  
to enact ordinances to permit, control or regulate the operation of vehicles, golf  
carts, mopeds, micromobility devices, and electric personal assistive mobility  
devices on sidewalks or sidewalk areas when such use is permissible under  
federal law as long as such vehicles are restricted to a maximum speed of 15  
miles per hour. *Section 316.008(7)(a), Florida Statutes*; and

WHEREAS, the City strives to keep the City rights-of-ways compliant with  
the Americans with Disabilities Act (ADA), and other federal and state  
regulations, and is committed to keeping the City accessible for the mobility  
challenged; and

WHEREAS, the regulated and permitted operation of dockless shared  
micromobility devices is recognized as an alternative means of personal  
transportation; and

WHEREAS, dockless shared micromobility devices left unattended and  
parked or leaned on walls or left on sidewalks creates a hazard to pedestrians  
and individuals needing access and maneuverability for ADA mobility devices;  
and

WHEREAS, the City has a significant interest in ensuring the public safety and order in promoting the free flow of pedestrian traffic on streets and sidewalks; and

WHEREAS, the City desires to study the impacts of dockless sharedmicromobility devices; and

WHEREAS, the City Council on September 12, 2019 authorized the City to engage in a 12 month pilot program to permit, control and regulate the use of dockless shared micromobility devices on sidewalks and sidewalk areas within the City; and

WHEREAS, due to the Coronavirus Pandemic, the shared micromobility vendor request for qualifications was delayed and micromobility devices did not deploy until July 19, 2021; and

WHEREAS, after six (6) months into the pilot program, the City Council desires to amend the regulations based on relevant data and community input; and

WHEREAS, Chapter 11-4 of the City Code of the City of Pensacola provides standards relating to the regulation of City rights-of-way; and

WHEREAS, the City's intent for instituting the Pilot Program is to ensure public safety, minimize negative impacts on the public rights-of-way, and analyze data in a controlled setting to inform the City on whether to engage a future procurement process for a dockless shared micromobility device program, or other modes of dockless shared transportation, as a permanent transportation program;

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

SECTION 1. Chapter 7-9, providing for a Dockless Shared Micromobility Device Pilot Program is hereby amended to read as follows

Sec. 7-9-1. - Establishment of dockless shared micromobility device pilot program.

The purpose of this chapter is to establish, permit and regulate a dockless shared micromobility device pilot program in the city. The provisions of this chapter shall apply to the dockless shared micromobility device pilot program and dockless shared micromobility devices. For the purpose of this chapter, the applicant, managing agent or vendor, and owner shall be jointly and severally liable for complying with the provisions of this chapter, the operating agreement and permit.



## Sec. 7-9-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions in F.S. ch. 316 apply to this chapter and are hereby incorporated by reference.

*Dockless shared micromobility device (micromobility device)* means a micromobility device made available for shared use or rent to individuals on a short-term basis for a price or fee.

*Dockless shared micromobility device system* means a system generally, in which dockless shared micromobility devices are made available for shared use or rent to individuals on a short-term basis for a price or fee.

*Geofencing* means the use of GPS or RFID technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

*Micromobility device* shall have the meaning ascribed to it in F.S. § 316.003, as amended. Micromobility devices are further defined as a vehicle that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.

*Motorized scooter* means any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.

*Pedestrian* means people utilizing sidewalks, sidewalk area or rights-of-way on foot and shall include people using wheelchairs or other ADA-compliant devices.

*Rebalancing* means the process by which shared micromobility devices, or other devices, are redistributed to ensure their availability throughout a service area and to prevent excessive buildup of micromobility devices or other similar devices.

*Relocate or relocating or removal* means the process by which the city moves the micromobility device and either secures it at a designated location or places it at a proper distribution point.

*Rights-of-way* means land in which the city owns the fee or has an easement devoted to or required for use as a transportation facility and may lawfully grant access pursuant to applicable law, and includes the surface, the air space over

the surface and the area below the surface of such rights-of-way.

*Service area* means the geographical area within the city where the vendor is authorized to offer shared micromobility device service for its users/customers as defined by the pilot program operating agreement and permit.

*Sidewalk* means that portion of a street between the curb line, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.

*Sidewalk area* includes trail in the area of a sidewalk, as well as the sidewalk and may be a median strip or a strip of vegetation, grass or bushes or trees or street furniture or a combination of these between the curb line of the roadway and the adjacent property.

*User* means a person who uses a digital network in order to obtain a micromobility device from a vendor.

*Vendor* means any entity that owns, operates, redistributes, or rebalances micromobility devices, and deploys a shared micromobility device system within the city.

Sec. 7-9-3. - Pilot program for shared micromobility devices on public rights-of-way; establishment; criteria.

- (a) The city hereby establishes a 12-month shared micromobility device pilot program for the operation of shared micromobility devices on roadways ~~sidewalks and sidewalk areas~~ within the city limits.
- (b) It is anticipated the pilot program will commence on January 1, 2020, or on such other date as directed by the city council ("commencement date") and will terminate 12 months after the commencement date.
- (c) Shared micromobility devices shall not be operated in the city unless a vendor has entered into a fully executed operating license agreement and permit ("pilot program operating agreement and permit") with the city. The mayor is authorized to develop, and execute, the pilot program operating agreement and permit and any other documents related to the pilot program.
- (d) If two or more shared micromobility devices from a vendor, without a valid pilot program operating agreement and permit with the city, are found at a particular location within the city, it will be presumed that they have been deployed by that vendor, and it will be presumed the vendor is in violation of this chapter and the shared micromobility devices are subject to impoundment.

- (e) A vendor shall apply to participate in the pilot program. The mayor shall select up to two vendors to participate in the pilot program, unless otherwise directed by the city council.
- (f) No more than a total of 500 micromobility devices, distributed equally among the vendors selected to participate in the pilot program, or as directed by the mayor, will be permitted to operate within the city during the pilot program. Micromobility devices that are impounded or removed by the city shall count towards the maximum permitted micromobility devices authorized within the city.
- (g) Once selected as a pilot program participant, a vendor shall submit a one-time, nonrefundable permit fee of \$500.00, prior to entering into the pilot program operating agreement and permit, which shall be used to assist with offsetting costs to the city related to administration and enforcement of this chapter and the pilot program.
- (h) In addition to the nonrefundable permit fee set forth herein, prior to entering into the pilot program operating agreement and permit, a vendor shall remit to the city a one-time, nonrefundable fee in the amount of \$100.00 per device deployed by the vendor.
- (i) Prior to entering into a pilot program operating agreement and permit, a vendor shall, at its own expense, obtain and file with the city a performance bond in the amount of no less than \$10,000.00. The performance bond shall serve to guarantee proper performance under the requirements of this chapter and the pilot program operating agreement and permit; restore damage to the city's rights-of-way; and secure and enable city to recover all costs or fines permitted under this chapter if the vendor fails to comply with such costs or fines. The performance bond must name the city as obligee and be conditioned upon the full and faithful compliance by the vendor with all requirements, duties and obligations imposed by this chapter and the pilot program operating agreement and permit. The performance bond shall be in a form acceptable to the city and must be issued by a surety having an A.M. Best A-VII rating or better and duly authorized to do business in the state. The city's right to recover under the performance bond shall be in addition to all other rights of the city, whether reserved in this chapter, or authorized by other law, and no action, proceeding or exercise of a right with respect to the performance bond will affect or preclude any other right the city may have. Any proceeds recovered under the performance bond may be used to reimburse the city for such

additional expenses as may be incurred by the city as a result of the failure of the vendor to comply with the responsibilities imposed by this chapter, including, but not limited to, attorney's fees and costs of any action or proceeding and the cost to relocate any micromobility device and any unpaid violation fines.

- (j) The pilot program operating agreement and permit will be effective for a 12-month period and will automatically expire at the end of the 12-month period, unless extended, or otherwise modified, by the city council. Upon expiration of the pilot program, vendors shall immediately cease operations and, within two business days of the expiration of the pilot program, vendors shall remove all micromobility devices from the city, unless otherwise directed by the mayor. Failure to remove all micromobility devices within the two business day timeframe, may result in the impoundment of the micromobility devices and the vendor will have to pay applicable fees to recover the micromobility devices from impound in accordance with this chapter.
- (k) In the event the pilot program is extended, or otherwise modified by the city council, the pilot program operating agreement and permit may be extended consistent with such direction.
- (l) Upon expiration of the pilot program, micromobility devices shall not be permitted to operate within the city until and unless the city council adopts an ordinance authorizing the same.

Sec. 7-9-4. - Operation of a dockless shared micromobility device system—Vendors' responsibilities and obligations; micromobility device specifications.

- (a) The vendor of a shared micromobility device system is responsible for maintenance of each shared micromobility device.
- (b) The micromobility device shall be restricted to a maximum speed of 15 miles per hour within the city.
- (c) Each micromobility device shall prominently display the vendor's company name, a unique identification number, and contact information, which may be satisfied by printing the company's uniform resource locator (URL) or providing a code to download company's mobile application.
- (d) Vendors must comply with all applicable local, state and federal regulations and laws.
- (e) Vendors must provide to the city an emergency preparedness plan

that details where the micromobility devices will be located and the amount of time it will take to secure all micromobility devices once a tropical storm or hurricane warning has been issued by the National Weather Service. The vendor must promptly secure all micromobility devices within 12 hours of an active tropical storm warning or hurricane warning issued by the National Weather Service. Following the tropical storm or hurricane, the city will notify the vendor when, and where, it is safe to redistribute the micromobility devices within the city.

- (f) Micromobility devices that are inoperable/damaged, improperly parked, blocking ADA accessibility or do not comply with this chapter must be removed by the vendor within one hour upon receipt of a complaint. An inoperable or damaged micromobility device is one that has non-functioning features or is missing components. A micromobility device that is not removed within this timeframe is subject to impoundment and any applicable impoundment fees, code enforcement fines, or penalties.
- (g) Vendors shall provide the city with data as required in the pilot program operating agreement and permit.
- (h) Vendors must provide details on how users can utilize the micromobility device without a smartphone.
- (i) Vendors must rebalance the micromobility devices daily based on the use within each service area as defined by the pilot program operating agreement and permit to prevent excessive buildup of units in certain locations.
- (j) The vendor's mobile application and website must inform users of how to safely and legally ride a micromobility device.
- (k) The vendor's mobile application must clearly direct users to customer support mechanisms, including, but not limited to, phone numbers or websites. The vendor must provide a staffed, toll-free customer service line which must provide support 24 hours per day, 365 days per year.
- (l) The vendor must provide a direct customer service or operations staff contact to city department staff.
- (m) All micromobility devices shall comply with the lighting standards set forth in F.S. § 316.2065(7), as maybe amended or revised, which requires a reflective front white light visible from a distance of at least 500 feet and a reflective rear red light visible from a distance of at least 600 feet.

- (n) All micromobility devices shall be equipped with GPS, cell phone or a comparable technology for the purpose of tracking.
- (o) All micromobility devices must include a kickstand capable of keeping the unit upright when not in use.
- (p) The only signage allowed on a micromobility device is to identify the vendor. Third-party advertising is not allowed on any micromobility device.
- (q) The mayor, at his or her discretion, may create geofenced areas where the micromobility devices shall not be utilized or parked. The vendor must have the technology available to operate these requirements upon request and make public within the vendor application. Information on geofenced areas will be available through the Engineering Department and available on the City website.
- (r) The mayor, at his or her discretion, may create designated parking zones (i.e., bike corrals) in certain areas the micromobility devices shall be parked.

(s) No micromobility device shall be operational and available for use within the downtown core between the hours of 12:00 am and 5:00 am, Friday morning through Sunday morning. The downtown core is identified on the Shared Micromobility Devices Franchise Area Map available through the Engineering Department, viewable on the City Website, and described in general below:

- (1) Begin at the north right-of-way of Wright Street and the west right-of-way of Palafox street.
- (2) Thence south along the west right-of-way of Palafox Street to the north right-of-way of Garden street;
- (3) Thence west along the north right-of-way of Garden Street to the west right-of-way of Baylen street.
- (4) Thence south along the west right-of-way of Baylen Street to the south right-of-way of Cedar Street;
- (5) Thence east along the south right-of-way of Cedar Street to the east right-of-way of Commendencia street.
- (6) Thence north along the east right-of-way of Commendencia Street to the south right-of-way of Main Street;
- (7) Thence east along the south right-of-way of Main Street to the east right-of-way of Alcaniz Street;
- (8) Thence north along the east right-of-way of Alcaniz Street to the

north right-of-way of Garden Street;

(9) Thence west along the north right-of-way of Garden Street to the east right-of-way of Tarragona Street;

(10) Thence north along the east right-of-way of Tarragona Street to the north right-of-way of Wright Street;

(11) Thence west along the north right-of-way of Wright Street to the west right-of-way of Palafox Street and the point of beginning.

Sec. 7-9-5. - Operation and parking of a micromobility device.

- (a) The riding and operating of micromobility devices and motorized scooters is ~~permissible upon all~~ a public sidewalks is prohibited except for the purposes of parking the device in an acceptable location and position. Micromobility devices shall be allowed to operate on public roadways. ~~sidewalk areas and other areas a bicycle may legally travel, located within city limits, The except these areas listed below shall be restricted:~~

~~(1) Micromobility devices and motorized scooters are prohibited from operating or parking at all times on streets, sidewalks, bike paths or sidewalk street areas on Palafox Street between Wright and Pine Streets;~~

~~(2) Micro micromobility devices and motorized scooters are prohibited from operating at all times on sidewalks along DeVilliers Street between Gregory and Jackson Streets;~~

~~(1) (3) Veterans Memorial Park as designated by signage;~~

~~(2) (4) Where prohibited by official posting;~~

~~(3) Prohibited roadways identified on the Shared Micromobility Devices Franchise Area Map, which includes:~~

- ~~• Cervantes Street~~
- ~~• North 9<sup>th</sup> Avenue~~
- ~~• Garden Street~~
- ~~• Barrancas Avenue; or~~

~~(4) (5) As designated in the pilot program operating agreement and permit.~~

- (b) A user of a micromobility device and motorized scooter has all the rights and duties applicable to the rider of a bicycle under F.S. § 316.2065, except the duties imposed by F.S. § 316.2065(2), (3)(b) and (3)(c), which by their nature do not apply to micromobility devices and motorized scooters.

- (c) Micromobility devices and motorized scooters shall be restricted to a maximum speed of 15 miles perhour.

- (d) A user operating a micromobility device and motorized scooter

~~upon and along a sidewalk, sidewalk area, or across a roadway upon and along a crosswalk, has all the rights and duties applicable to a bicyclist under the same circumstances. A user may operate a micromobility device to cross prohibited roadways at intersections and designated crossings. and shall yield the right of way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.~~

- (e) A user operating a micromobility device and motorized scooter must comply with all applicable local, state and federal laws.
- (f) Use of public sidewalks for parking micromobility devices and motorized scooters:
  - (1) Adversely affect the streets or sidewalks.
  - (2) Inhibit pedestrian movement.
  - (3) Inhibit the ingress and egress of vehicles parked on- or off-street.
  - (4) Create conditions which are a threat to public safety and security.
  - (5) Prevent a minimum four-foot pedestrian clear path.
  - (6) Impede access to existing docking stations, if applicable.
  - (7) Impede loading zones, handicap accessible parking zones or other facilities specifically designated for handicap accessibility, on-street parking spots, curb ramps, business or residential entryways, driveways, travel lanes, bicycle lanes or be within 15 feet of a fire hydrant.
  - (8) Violate Americans with Disabilities Act (ADA) accessibility requirements.
- (g) Micromobility Devices shall not park on sidewalks designated as No Parking Zones as identified on the Shared Micromobility Devices Franchise Area Map.

Sec. 7-9-6. - Impoundment; removal or relocating by the city.

- (a) Any shared micromobility device that is inoperable/damaged, improperly parked, blocking ADA accessibility, does not comply with this chapter or are left unattended on public property, including sidewalks, sidewalk areas, rights-of-way and parks, may be impounded, removed, or relocated by the city. A shared rental micromobility device is not considered unattended if it is secured in a designated parking area, rack (if applicable), parked correctly or in another location or device intended for the purpose of securing such device.
- (b) Any micromobility device that is displayed, offered, made available for rent in the city by a vendor without a valid pilot program operating



agreement and permit with the city is subject to impoundment or removal by the city and will be subject to applicable impoundment fees or removal fines as specified in this chapter.

- (c) The city may, but is not obligated to, remove or relocate a micromobility device that is in violation of this chapter. A vendor shall pay a \$75.00 fee per device that is removed or relocated by the city.
- (d) Impoundment shall occur in accordance with F.S. § 713.78. The vendor shall be solely responsible for all expenses, towing fees and costs required by the towing company to retrieve any impounded micromobility device. The vendor of a micromobility device impounded under this chapter will be subject to all liens and terms described under F.S. § 713.78, in addition to payment of all applicable penalties, costs, fines or fees that are due in accordance with this chapter and applicable local, state and federal law.

**Sec. 7-9-7. - Operation of a shared micromobility device program—Enforcement, fees, fines and penalties.**

- (a) The city reserves the right to revoke any pilot program operating agreement and permit, if there is a violation of this chapter, the pilot program operating agreement and permit, public health, safety or general welfare, or for other good and sufficient cause as determined by the city in its sole discretion.
- (b) Violations of sections 7-9-1 through 7-9-9 shall be enforced as non-criminal violations of city ordinances.
- (c) Violations of operating a shared micromobility device system without a valid fully executed pilot program operating agreement and permit, shall be fined \$250.00 per day for an initial offense, and \$500.00 per day for any repeat offenses within 30 days of the last offense by the same vendor. Each day of noncompliance shall be a separate offense.
- (d) Violations of this chapter or of the pilot program operating agreement and permit shall be fined at \$100.00 per device per day for an initial offense, and \$200.00 per device per day for any repeat offenses within 30 days of the last same offense by the same vendor. Each day of non-compliance shall be a separate offense.
- (e) The following fees, costs and fines shall apply to vendors:

Pilot program permit fee	\$500.00 --- nonrefundable
Performance bond	\$10,000.00 minimum
One time per unit fee	\$100.00 per unit—nonrefundable
Removal or relocation by the city	\$75.00 per device
Operating without a valid operating agreement and permit fine	\$250.00 per day; \$500.00 per day for second offense
Permit violation fine	\$100.00 per device per day; \$200.00 per device per day for second offense

- (f) At the discretion of the mayor, a vendor is subject to a fleet size reduction or total pilot program operating agreement and permit revocation should the following occur:
- (1) If the violations of the regulations set forth in this chapter are not addressed in a timely manner;
  - (2) 15 unaddressed violations of the regulations set forth by this chapter within a 30-day period; or
  - (3) Submission of inaccurate or fraudulent data.
- (g) In the event of fines being assessed as specified herein or a pilot program operating agreement and permit revocation, the mayor shall provide written notice of the fines or revocation via certified mail or other method specified upon in the operating user agreement, informing the vendor of the violation fines or revocation.

Sec. 7-9-8. - Appeal rights.

- (a) Vendors who have been subject to the imposition of violation fines pursuant to section 13-3-2 or a pilot program operating agreement and permit revocation may appeal the imposition of violation fines or the revocation. Should a vendor seek an appeal from the imposition of violation fines or the pilot program operating agreement and permit revocation, the vendor shall furnish notice of such request for appeal to the city code enforcement authority no later than ten business days from the date of receipt of the certified letter informing the vendor of the imposition of violation fines or revocation of the pilot program operating agreement and permit.
- (b) Upon receipt of a notice of appeal, a hearing shall be scheduled

and conducted by the special magistrate in accordance with the authority and hearing procedures set forth in section 13-2-6. The hearing shall be conducted at the next regular meeting date of the code enforcement authority or other meeting date of the code enforcement authority as agreed between the city and the vendor.

- (c) Findings of fact shall be based upon a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.
- (d) The special magistrate shall render a final order within 30 calendar days after the hearing concludes, unless parties waive the time requirement. The final order shall contain written findings of fact, conclusions of law, recommendation to approve, approve with conditions or deny the decision subject to appeal. A copy of the order shall be provided to the parties by certified mail or, upon mutual agreement of the parties, by electrocommunication.
- (e) A vendor may challenge the final order by a certiorari appeal filed in accordance with state law with the circuit court no later than 30 days following rendition of the final decision or in any court having jurisdiction.

Sec. 7-9-9. - Indemnification and insurance.

- (a) As a condition of the pilot program operating agreement and permit, the vendor agrees to indemnify, hold harmless and defend the city, its representatives, employees, and elected and appointed officials, from and against all ADA accessibility and any and all liability, claims, damages, suits, losses, and expenses of any kind, including reasonable attorney's fees and costs for appeal, associated with or arising out of, or from the pilot program operating agreement and permit, the use of right-of-way or city-owned property for pilot program operations or arising from any negligent act, omission or error of the vendor, owner, or managing agent, its agents or employees or from failure of the vendor, its agents or employees, to comply with each and every requirement of this chapter, the pilot program operating agreement and permit or with any other federal, state, or local traffic law or any combination of same.
- (b) Prior to commencing operation in the pilot program, the vendor shall provide and maintain such liability insurance, property damage insurance and other specified coverages in amounts and types as determined by the city and contained in the pilot program operating agreement and permit, necessary to protect the city its representatives, employees, and elected and appointed officials,

from all claims and damage to property or bodily injury, including death, which may arise from any aspect of the pilot program or its operation.

- (c) A vendor shall include language in their user agreement that requires, to the fullest extent permitted by law, the user to fully release, indemnify and hold harmless the city.
- (d) In addition to the requirements set forth herein, the vendor shall provide any additional insurance coverages in the specified amounts and comply with any revised indemnification provision specified in the pilot program operating agreement and permit.
- (e) The vendor shall provide proof of all required insurance prior to receiving a fully executed pilot program operating agreement and permit.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

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

President of City Council



Attest:

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City Clerk

# Shared Micromobility Devices Franchise Area Map Proposed Changes

-  Micromobility Franchise Area
-  Weekend No Operations Zone
-  No Sidewalk Parking Zones
-  No Riding Zones
-  Exclusion Areas

-  City of Pensacola
-  Escambia County

0 0.25 0.5 Miles

Date: 1/19/2022

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

**Jefferson St  
parking garage  
excluded**

**Escambia County offices  
and parking garage excluded**

**parking garage  
excluded**

**parking garage  
corner of Main St  
and Baylen St  
excluded**

**Veterans  
Memorial Park  
excluded**

**Southtowne  
parking garage  
excluded**

**Ferry building  
excluded**

PROPOSED  
ORDINANCE NO. 01-22

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE OF THE CITY OF PENSACOLA, FLORIDA  
AMENDING CHAPTER 7-9 OF THE CODE OF THE CITY OF  
PENSACOLA TO REGULATE A DOCKLESS SHARED  
MICROMOBILITY DEVICE PILOT PROGRAM; PROVIDING FOR  
INDEMNIFICATION AND INSURANCE; PROVIDING FOR  
SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, Section 166.041, Florida Statutes, provides for procedures  
for the adoption of ordinances and resolutions by municipalities; and

WHEREAS, the City of Pensacola ("City") is subject to the Florida  
Uniform Traffic Control Laws; and

WHEREAS, the Florida Uniform Traffic Control Law allows municipalities  
to enact ordinances to permit, control or regulate the operation of vehicles, golf  
carts, mopeds, micromobility devices, and electric personal assistive mobility  
devices on sidewalks or sidewalk areas when such use is permissible under  
federal law as long as such vehicles are restricted to a maximum speed of 15  
miles per hour. *Section 316.008(7)(a), Florida Statutes*; and

WHEREAS, the City strives to keep the City rights-of-ways compliant  
with the Americans with Disabilities Act (ADA), and other federal and state  
regulations, and is committed to keeping the City accessible for the mobility  
challenged; and

WHEREAS, the regulated and permitted operation of dockless shared  
micromobility devices is recognized as an alternative means of personal  
transportation; and

WHEREAS, dockless shared micromobility devices left unattended and  
parked or leaned on walls or left on sidewalks creates a hazard to pedestrians  
and individuals needing access and maneuverability for ADA mobility devices;  
and

WHEREAS, the City has a significant interest in ensuring the public safety and order in promoting the free flow of pedestrian traffic on streets and sidewalks; and

WHEREAS, the City desires to study the impacts of dockless sharedmicromobility devices; and

WHEREAS, the City Council on September 12, 2019 authorized the City to engage in a 12 month pilot program to permit, control and regulate the use of dockless shared micromobility devices on sidewalks and sidewalk areas within the City; and

WHEREAS, due to the Coronavirus Pandemic, the shared micromobility vendor request for qualifications was delayed and micromobility devices did not deploy until July 19, 2021; and

WHEREAS, after six (6) months into the pilot program, the City Council desires to amend the regulations based on relevant data and community input; and

WHEREAS, Chapter 11-4 of the City Code of the City of Pensacola provides standards relating to the regulation of City rights-of-way; and

WHEREAS, the City's intent for instituting the Pilot Program is to ensure public safety, minimize negative impacts on the public rights-of-way, and analyze data in a controlled setting to inform the City on whether to engage a future procurement process for a dockless shared micromobility device program, or other modes of dockless shared transportation, as a permanent transportation program;

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

SECTION 1. Chapter 7-9, providing for a Dockless Shared Micromobility Device Pilot Program is hereby amended to read as follows

Sec. 7-9-1. - Establishment of dockless shared micromobility device pilot program.

The purpose of this chapter is to establish, permit and regulate a dockless shared micromobility device pilot program in the city. The provisions of this chapter shall apply to the dockless shared micromobility device pilot program and dockless shared micromobility devices. For the purpose of this chapter, the applicant, managing agent or vendor, and owner shall be jointly and severally liable for complying with the provisions of this chapter, the operating agreement and permit.



Sec. 7-9-2. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. The definitions in F.S. ch. 316 apply to this chapter and are hereby incorporated by reference.

*Dockless shared micromobility device (micromobility device)* means a micromobility device made available for shared use or rent to individuals on a short-term basis for a price or fee.

*Dockless shared micromobility device system* means a system generally, in which dockless shared micromobility devices are made available for shared use or rent to individuals on a short-term basis for a price or fee.

*Geofencing* means the use of GPS or RFID technology to create a virtual geographic boundary, enabling software to trigger a response when a mobile device enters or leaves a particular area.

*Micromobility device* shall have the meaning ascribed to it in F.S. § 316.003, as amended. Micromobility devices are further defined as a vehicle that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.

*Motorized scooter* means any vehicle or micromobility device that is powered by a motor with or without a seat or saddle for the use of the rider, which is designed to travel on not more than three wheels, and which is not capable of propelling the vehicle at a speed greater than 20 miles per hour on level ground.

*Pedestrian* means people utilizing sidewalks, sidewalk area or rights-of-way on foot and shall include people using wheelchairs or other ADA-compliant devices.

*Rebalancing* means the process by which shared micromobility devices, or other devices, are redistributed to ensure their availability throughout a service area and to prevent excessive buildup of micromobility devices or other similar devices.

*Relocate or relocating or removal* means the process by which the city moves the micromobility device and either secures it at a designated location or places it at a proper distribution point.

*Rights-of-way* means land in which the city owns the fee or has an easement devoted to or required for use as a transportation facility and may

lawfully grant access pursuant to applicable law, and includes the surface, the air space over the surface and the area below the surface of such rights-of-way.

*Service area* means the geographical area within the city where the vendor is authorized to offer shared micromobility device service for its users/customers as defined by the pilot program operating agreement and permit.

*Sidewalk* means that portion of a street between the curb line, or the lateral line, of a roadway and the adjacent property lines, intended for use by pedestrians.

*Sidewalk area* includes trail in the area of a sidewalk, as well as the sidewalk and may be a median strip or a strip of vegetation, grass or bushes or trees or street furniture or a combination of these between the curb line of the roadway and the adjacent property.

*User* means a person who uses a digital network in order to obtain a micromobility device from a vendor.

*Vendor* means any entity that owns, operates, redistributes, or rebalances micromobility devices, and deploys a shared micromobility device system within the city.

Sec. 7-9-3. - Pilot program for shared micromobility devices on public rights-of-way; establishment; criteria.

- (a) The city hereby establishes a 12-month shared micromobility device pilot program for the operation of shared micromobility devices on roadways ~~sidewalks and sidewalk areas~~ within the city limits.
- (b) It is anticipated the pilot program will commence on January 1, 2020, or on such other date as directed by the city council ("commencement date") and will terminate 12 months after the commencement date.
- (c) Shared micromobility devices shall not be operated in the city unless a vendor has entered into a fully executed operating license agreement and permit ("pilot program operating agreement and permit") with the city. The mayor is authorized to develop, and execute, the pilot program operating agreement and permit and any other documents related to the pilot program.
- (d) If two or more shared micromobility devices from a vendor, without a valid pilot program operating agreement and permit with the city, are found at a particular location within the city, it will be presumed that they have been deployed by that vendor,

and it will be presumed the vendor is in violation of this chapter and the shared micromobility devices are subject to impoundment.

- (e) A vendor shall apply to participate in the pilot program. The mayor shall select up to two vendors to participate in the pilot program, unless otherwise directed by the city council.
- (f) No more than a total of 500 micromobility devices, distributed equally among the vendors selected to participate in the pilot program, or as directed by the mayor, will be permitted to operate within the city during the pilot program. Micromobility devices that are impounded or removed by the city shall count towards the maximum permitted micromobility devices authorized within the city.
- (g) Once selected as a pilot program participant, a vendor shall submit a one-time, nonrefundable permit fee of \$500.00, prior to entering into the pilot program operating agreement and permit, which shall be used to assist with offsetting costs to the city related to administration and enforcement of this chapter and the pilot program.
- (h) In addition to the nonrefundable permit fee set forth herein, prior to entering into the pilot program operating agreement and permit, a vendor shall remit to the city a one-time, nonrefundable fee in the amount of \$100.00 per device deployed by the vendor.
- (i) Prior to entering into a pilot program operating agreement and permit, a vendor shall, at its own expense, obtain and file with the city a performance bond in the amount of no less than \$10,000.00. The performance bond shall serve to guarantee proper performance under the requirements of this chapter and the pilot program operating agreement and permit; restore damage to the city's rights-of-way; and secure and enable city to recover all costs or fines permitted under this chapter if the vendor fails to comply with such costs or fines. The performance bond must name the city as obligee and be conditioned upon the full and faithful compliance by the vendor with all requirements, duties and obligations imposed by this chapter and the pilot program operating agreement and permit. The performance bond shall be in a form acceptable to the city and must be issued by a surety having an A.M. Best A-VII rating or better and duly authorized to do business in the state. The city's right to recover under the performance bond shall be in addition to all other rights of the city, whether reserved in this chapter, or authorized by

other law, and no action, proceeding or exercise of a right with respect to the performance bond will affect or preclude any other right the city may have. Any proceeds recovered under the performance bond may be used to reimburse the city for such additional expenses as may be incurred by the city as a result of the failure of the vendor to comply with the responsibilities imposed by this chapter, including, but not limited to, attorney's fees and costs of any action or proceeding and the cost to relocate any micromobility device and any unpaid violation fines.

- (j) The pilot program operating agreement and permit will be effective for a 12-month period and will automatically expire at the end of the 12-month period, unless extended, or otherwise modified, by the city council. Upon expiration of the pilot program, vendors shall immediately cease operations and, within two business days of the expiration of the pilot program, vendors shall remove all micromobility devices from the city, unless otherwise directed by the mayor. Failure to remove all micromobility devices within the two business day timeframe, may result in the impoundment of the micromobility devices and the vendor will have to pay applicable fees to recover the micromobility devices from impound in accordance with this chapter.
- (k) In the event the pilot program is extended, or otherwise modified by the city council, the pilot program operating agreement and permit may be extended consistent with such direction.
- (l) Upon expiration of the pilot program, micromobility devices shall not be permitted to operate within the city until and unless the city council adopts an ordinance authorizing the same.

Sec. 7-9-4. - Operation of a dockless shared micromobility device system—Vendors' responsibilities and obligations; micromobility device specifications.

- (a) The vendor of a shared micromobility device system is responsible for maintenance of each shared micromobility device.
- (b) The micromobility device shall be restricted to a maximum speed of 15 miles per hour within the city.
- (c) Each micromobility device shall prominently display the vendor's company name, a unique identification number, and contact information, which may be satisfied by printing the company's uniform resource locator (URL) or providing a code to download company's mobile application.

- (d) Vendors must comply with all applicable local, state and federal regulations and laws.
- (e) Vendors must provide to the city an emergency preparedness plan that details where the micromobility devices will be located and the amount of time it will take to secure all micromobility devices once a tropical storm or hurricane warning has been issued by the National Weather Service. The vendor must promptly secure all micromobility devices within 12 hours of an active tropical storm warning or hurricane warning issued by the National Weather Service. Following the tropical storm or hurricane, the city will notify the vendor when, and where, it is safe to redistribute the micromobility devices within the city.
- (f) Micromobility devices that are inoperable/damaged, improperly parked, blocking ADA accessibility or do not comply with this chapter must be removed by the vendor within one hour upon receipt of a complaint. An inoperable or damaged micromobility device is one that has non-functioning features or is missing components. A micromobility device that is not removed within this timeframe is subject to impoundment and any applicable impoundment fees, code enforcement fines, or penalties.
- (g) Vendors shall provide the city with data as required in the pilot program operating agreement and permit.
- (h) Vendors must provide details on how users can utilize the micromobility device without a smartphone.
- (i) Vendors must rebalance the micromobility devices daily based on the use within each service area as defined by the pilot program operating agreement and permit to prevent excessive buildup of units in certain locations.
- (j) The vendor's mobile application and website must inform users of how to safely and legally ride a micromobility device.
- (k) The vendor's mobile application must clearly direct users to customer support mechanisms, including, but not limited to, phone numbers or websites. The vendor must provide a staffed, toll-free customer service line which must provide support 24 hours per day, 365 days per year.
- (l) The vendor must provide a direct customer service or operations staff contact to city department staff.

- (m) All micromobility devices shall comply with the lighting standards set forth in F.S. § 316.2065(7), as may be amended or revised, which requires a reflective front white light visible from a distance of at least 500 feet and a reflective rear red light visible from a distance of at least 600 feet.
- (n) All micromobility devices shall be equipped with GPS, cell phone or a comparable technology for the purpose of tracking.
- (o) All micromobility devices must include a kickstand capable of keeping the unit upright when not in use.
- (p) The only signage allowed on a micromobility device is to identify the vendor. Third-party advertising is not allowed on any micromobility device.
- (q) The mayor, at his or her discretion, may create geofenced areas where the micromobility devices shall not be utilized or parked. The vendor must have the technology available to operate these requirements upon request and make public within the vendor application. Information on geofenced areas will be available through the Engineering Department and available on the City website.
- (r) The mayor, at his or her discretion, may create designated parking zones (i.e., bike corrals) in certain areas the micromobility devices shall be parked.
- (s) No micromobility devices shall be operational and available for use between the hours of 10:00 p.m. and 5:00 a.m.

Sec. 7-9-5. - Operation and parking of a micromobility device.

- (a) The riding and operating of micromobility devices and motorized scooters ~~is permissible upon all a public sidewalks~~ is prohibited except for the purposes of parking the device in an acceptable location and position. Micromobility devices shall be allowed to operate on public roadways. ~~sidewalk areas and other areas a bicycle may legally travel, located within city limits. The~~ except these areas listed below shall be restricted:
  - (1) ~~Micromobility devices and motorized scooters are prohibited from operating or parking at all times on streets, sidewalks, bike paths or sidewalk street areas on Palafox Street between Wright and Pine Streets;~~
  - (2) ~~Micro micromobility devices and motorized scooters are prohibited from operating at all times on sidewalks along DeVilliers~~

~~Street between Gregory and Jackson Streets;~~

~~(1) (3) Veterans Memorial Park as designated by signage;~~

~~(2) (4) Where prohibited by official posting;~~

~~(3) Prohibited roadways identified on the Shared Micromobility Devices Franchise Area Map, which includes:~~

- ~~• Cervantes Street~~
- ~~• North 9<sup>th</sup> Avenue~~
- ~~• Garden Street~~
- ~~• Barrancas Avenue; or~~

~~(4) (5) As designated in the pilot program operating agreement and permit.~~

- (b) A user of a micromobility device and motorized scooter has all the rights and duties applicable to the rider of a bicycle under F.S. § 316.2065, except the duties imposed by F.S. § 316.2065(2), (3)(b) and (3)(c), which by their nature do not apply to micromobility devices and motorized scooters.
- (c) Micromobility devices and motorized scooters shall be restricted to a maximum speed of 15 miles perhour.
- (d) A user operating a micromobility device and motorized scooter upon ~~and along a sidewalk, sidewalk area, or across~~ a roadway upon and along a crosswalk, has all the rights and duties applicable to a bicyclist under the same circumstances. A user may operate a micromobility device to cross prohibited roadways at intersections and designated crossings. ~~and shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.~~
- (e) A user operating a micromobility device and motorized scooter must comply with all applicable local, state and federal laws.
- (f) Use of public sidewalks for parking micromobility devices and motorized scooters:
- (1) Adversely affect the streets or sidewalks.
  - (2) Inhibit pedestrian movement.
  - (3) Inhibit the ingress and egress of vehicles parked on- or off-street.
  - (4) Create conditions which are a threat to public safety and security.
  - (5) Prevent a minimum four-foot pedestrian clear path.
  - (6) Impede access to existing docking stations, if applicable.
  - (7) Impede loading zones, handicap accessible parking zones or other facilities specifically designated for handicap accessibility, on-street parking spots, curb ramps, business or residential entryways, driveways, travel lanes, bicycle lanes or be within 15

feet of a fire hydrant.

- (8) Violate Americans with Disabilities Act (ADA) accessibility requirements.

(g) Micromobility Devices shall not park on sidewalks designated as No Parking Zones as identified on the Shared Micromobility Devices Franchise Area Map.

Sec. 7-9-6. - Impoundment; removal or relocating by the city.

- (a) Any shared micromobility device that is inoperable/damaged, improperly parked, blocking ADA accessibility, does not comply with this chapter or are left unattended on public property, including sidewalks, sidewalk areas, rights-of-way and parks, may be impounded, removed, or relocated by the city. A shared rental micromobility device is not considered unattended if it is secured in a designated parking area, rack (if applicable), parked correctly or in another location or device intended for the purpose of securing such device.
- (b) Any micromobility device that is displayed, offered, made available for rent in the city by a vendor without a valid pilot program operating agreement and permit with the city is subject to impoundment or removal by the city and will be subject to applicable impoundment fees or removal fines as specified in this chapter.
- (c) The city may, but is not obligated to, remove or relocate a micromobility device that is in violation of this chapter. A vendor shall pay a \$75.00 fee per device that is removed or relocated by the city.
- (d) Impoundment shall occur in accordance with F.S. § 713.78. The vendor shall be solely responsible for all expenses, towing fees and costs required by the towing company to retrieve any impounded micromobility device. The vendor of a micromobility device impounded under this chapter will be subject to all liens and terms described under F.S. § 713.78, in addition to payment of all applicable penalties, costs, fines or fees that are due in accordance with this chapter and applicable local, state and federal law.



Sec. 7-9-7. - Operation of a shared micromobility device program—  
Enforcement, fees, fines and penalties.

- (a) The city reserves the right to revoke any pilot program operating agreement and permit, if there is a violation of this chapter, the pilot program operating agreement and permit, public health, safety or general welfare, or for other good and sufficient cause as determined by the city in its sole discretion.
- (b) Violations of sections 7-9-1 through 7-9-9~~10~~ shall be enforced as non-criminal violations of city ordinances.
- (c) Violations of operating a shared micromobility device system without a valid fully executed pilot program operating agreement and permit, shall be fined \$250.00 per day for an initial offense, and \$500.00 per day for any repeat offenses within 30 days of the last offense by the same vendor. Each day of noncompliance shall be a separate offense.
- (d) Violations of this chapter or of the pilot program operating agreement and permit shall be fined at \$100.00 per device per day for an initial offense, and \$200.00 per device per day for any repeat offenses within 30 days of the last same offense by the same vendor. Each day of non-compliance shall be a separate offense.
- (e) The following fees, costs and fines shall apply to vendors:

Pilot program permit fee	\$500.00 --- nonrefundable
Performance bond	\$10,000.00 minimum
One time per unit fee	\$100.00 per unit—nonrefundable
Removal or relocation by the city	\$75.00 per device
Operating without a valid operating agreement and permit fine	\$250.00 per day; \$500.00 per day for second offense
Permit violation fine	\$100.00 per device per day; \$200.00 per device per day for second offense

- (f) At the discretion of the mayor, a vendor is subject to a fleet

size reduction or total pilot program operating agreement and permit revocation should the following occur:

- (1) If the violations of the regulations set forth in this chapter are not addressed in a timely manner;
  - (2) 15 unaddressed violations of the regulations set forth by this chapter within a 30-day period; or
  - (3) Submission of inaccurate or fraudulent data.
- (g) In the event of fines being assessed as specified herein or a pilot program operating agreement and permit revocation, the mayor shall provide written notice of the fines or revocation via certified mail or other method specified upon in the operating user agreement, informing the vendor of the violation fines or revocation.

#### Sec. 7-9-8. - Appeal rights.

- (a) Vendors who have been subject to the imposition of violation fines pursuant to section 13-3-2 or a pilot program operating agreement and permit revocation may appeal the imposition of violation fines or the revocation. Should a vendor seek an appeal from the imposition of violation fines or the pilot program operating agreement and permit revocation, the vendor shall furnish notice of such request for appeal to the city code enforcement authority no later than ten business days from the date of receipt of the certified letter informing the vendor of the imposition of violation fines or revocation of the pilot program operating agreement and permit.
- (b) Upon receipt of a notice of appeal, a hearing shall be scheduled and conducted by the special magistrate in accordance with the authority and hearing procedures set forth in section 13-2-6. The hearing shall be conducted at the next regular meeting date of the code enforcement authority or other meeting date of the code enforcement authority as agreed between the city and the vendor.
- (c) Findings of fact shall be based upon a preponderance of the evidence and shall be based exclusively on the evidence of record and on matters officially recognized.
- (d) The special magistrate shall render a final order within 30 calendar days after the hearing concludes, unless parties waive the time requirement. The final order shall contain written findings of fact, conclusions of law, recommendation to approve, approve with conditions or deny the decision subject to appeal. A copy of the order shall be provided to the parties by certified mail or, upon

mutual agreement of the parties, by electrocommunication.

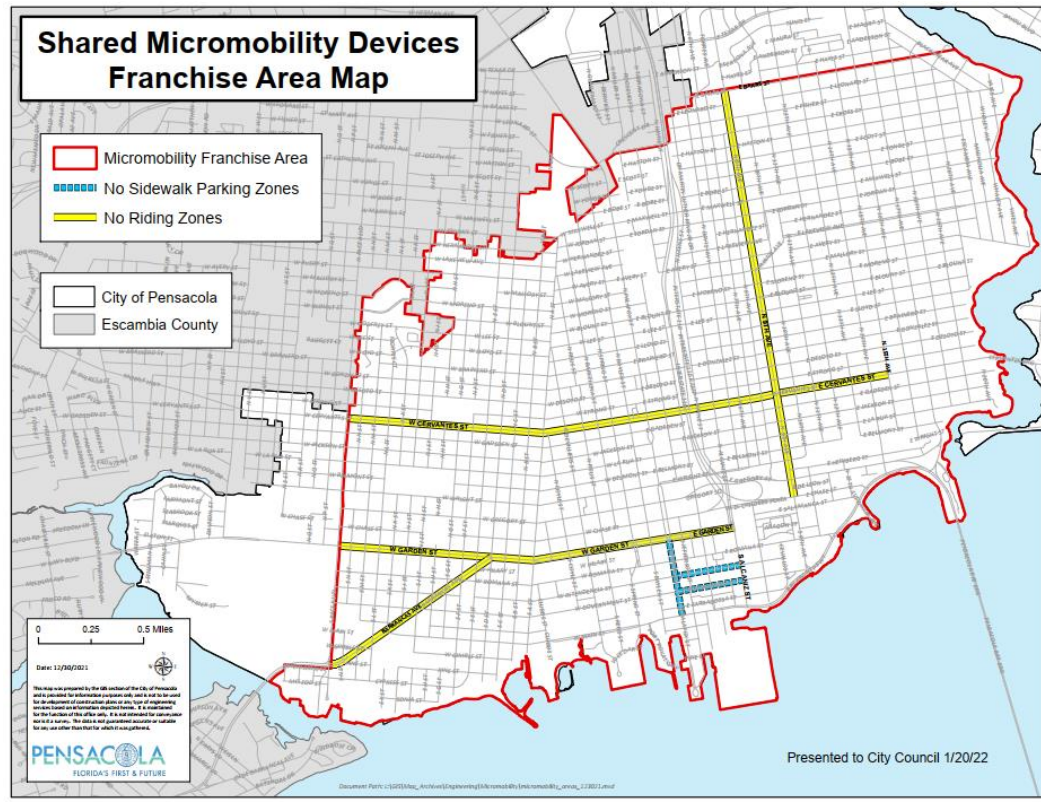
- (e) A vendor may challenge the final order by a certiorari appeal filed in accordance with state law with the circuit court no later than 30 days following rendition of the final decision or in any court having jurisdiction.

Sec. 7-9-9. - Indemnification and insurance.

- (a) As a condition of the pilot program operating agreement and permit, the vendor agrees to indemnify, hold harmless and defend the city, its representatives, employees, and elected and appointed officials, from and against all ADA accessibility and any and all liability, claims, damages, suits, losses, and expenses of any kind, including reasonable attorney's fees and costs for appeal, associated with or arising out of, or from the pilot program operating agreement and permit, the use of right-of-way or city-owned property for pilot program operations or arising from any negligent act, omission or error of the vendor, owner, or managing agent, its agents or employees or from failure of the vendor, its agents or employees, to comply with each and every requirement of this chapter, the pilot program operating agreement and permit or with any other federal, state, or local traffic law or any combination of same.
- (b) Prior to commencing operation in the pilot program, the vendor shall provide and maintain such liability insurance, property damage insurance and other specified coverages in amounts and types as determined by the city and contained in the pilot program operating agreement and permit, necessary to protect the city its representatives, employees, and elected and appointed officials, from all claims and damage to property or bodily injury, including death, which may arise from any aspect of the pilot program or its operation.
- (c) A vendor shall include language in their user agreement that requires, to the fullest extent permitted by law, the user to fully release, indemnify and hold harmless the city.
- (d) In addition to the requirements set forth herein, the vendor shall provide any additional insurance coverages in the specified amounts and comply with any revised indemnification provision specified in the pilot program operating agreement and permit.
- (e) The vendor shall provide proof of all required insurance prior to receiving a fully executed pilot program operating agreement and

permit.

## Sec. 7-9-10. – Shared Micromobility Franchise Area Map



SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

Approved: \_\_\_\_\_  
President of City Council

Attest:

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

# Shared Micromobility Devices Franchise Area Map

- Micromobility Franchise Area
- No Sidewalk Parking Zones
- No Riding Zones

- City of Pensacola
- Escambia County

0 0.25 0.5 Miles

Date: 12/30/2021

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



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

File #: 03-22

City Council

2/10/2022

### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Teniadé Broughton

**SUBJECT:**

PROPOSED ORDINANCE NO. 03-22 - AMENDMENT TO LAND DEVELOPMENT CODE SECTION 12-3-31 (6) AND TABLE 12-3-31.12 - COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY

**RECOMMENDATION:**

That City Council adopt Proposed Ordinance No. 03-22 on second reading:

AN ORDINANCE AMENDING SECTION 12-3-31 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY DISTRICT STANDARDS; REVISING SECTION 12-3-31 (6) MODIFICATIONS AND APPEALS AND TABLE 12-3-31.12 GLAZING REQUIREMENTS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

The Community Redevelopment Agency's Urban Design Overlay District Standards were adopted by City Council in May 2019. The intent of adopting these design standards was to preserve and maintain the traditional walkable, urban form and character of Pensacola's community redevelopment area neighborhoods. At the December 2021 Planning Board meeting, the Board recommended the following amendments to the ordinance:

1. The creation of a modification process through abbreviated review. Applications will be reviewed for appropriateness by the CRA Urban Design Specialist, an architectural advisor appointed by City Council, and the chairperson for the redevelopment board of the specific district the application is within.
2. The existing glazing table has been replaced with a new table which reduces the requirement on residential secondary frontages to 15%, addresses multiple frontages on non-residential uses, and expands the "uses" to included "commercial" as well as "light industrial" and "storage" classifications.

Further, the Planning Board recommended that an amendment to the overlay to create a provision to

encourage the preservation of heritage trees by permitting, by right, additional setbacks for the purpose of preservation be instead considered city-wide. This topic will be an agenda item for the January 2022 Planning Board meeting.

These three text amendments have been identified as the initial elements for revision. The need for additional modifications is being considered and will continue to be evaluated by Development Services staff, with guidance from the new Urban Design Specialist.

The Planning Board unanimously recommended approval of this amendment, and it carried 6 to 0.

**PRIOR ACTION:**

September 18, 2018 - The Planning Board held a public hearing and recommended adoption of the CRA Urban Design Standards.

January 15, 2019 - The CRA recommended that City Council adopt the CRA Urban Design Standards.

May 16, 2019 - City Council held a public hearing and approved Ordinance No. 10-19, creating the CRA Urban Design Overlay District on first reading.

May 30, 2019 - City Council adopted Ordinance No. 10-19, creating the CRA Urban Design Overlay District on second reading.

January 16, 2020 - City Council held a public hearing and approved on first reading an amendment redefining the boundary of the CRA Urban Design Overlay District.

February 13, 2020 - City Council adopted on second reading an amendment redefining the boundary of the CRA Urban Design Overlay District.

November 15, 2021 - The CRA referred revisions to the CRA Urban Design Overlay District Standards to the City of Pensacola Planning Board.

December 14, 2021 - The Planning Board recommended approval of revisions to the CRA Urban Design Overlay District Standards.

January 20, 2022 - City Council held a public hearing and approved the Revised Proposed Ordinance No. 03-22 on first reading.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None



**STAFF CONTACT:**

Don Kraher, Council Executive  
David Forte, Deputy City Administrator - Community Development  
Sherry Morris, AICP, Development Services Director  
M. Helen Gibson, AICP, CRA Administrator

**ATTACHMENTS:**

- 1) REVISED - Approved on 1<sup>st</sup> Reading Proposed Ordinance No. 03-22
- 2) Proposed Ordinance No. 03-22
- 3) Planning Board Minutes 12-14-2021

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 03-22

**REVISED**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-3-31 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY DISTRICT STANDARDS; REVISING SECTION 12-3-31 (6) MODIFICATIONS AND APPEALS AND TABLE 12-3-31.12 GLAZING REQUIREMENTS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-3-31 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-3-31. Community redevelopment area (CRA) urban design overlay district.

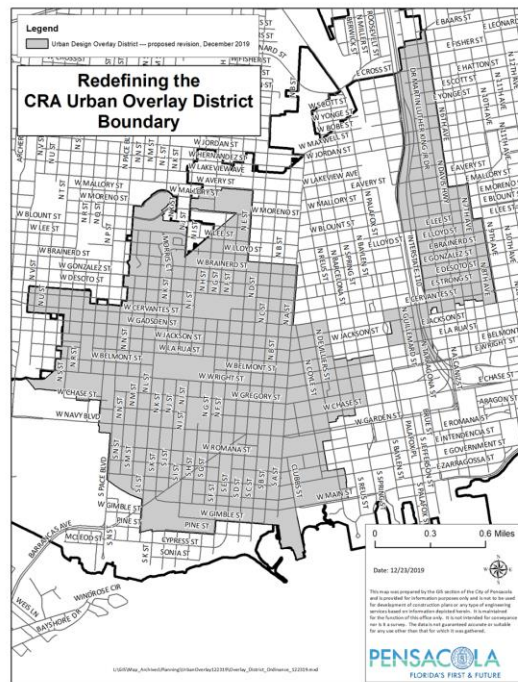
The regulations in this section shall be applicable to the community redevelopment area (CRA) urban design overlay district (CRAUDOD).

(1) *Intent.* The requirements set forth in this section are intended to:

- a. Preserve and maintain the urban pattern and architectural character of Pensacola's community redevelopment areas, while encouraging new construction that is compatible with that heritage, but also reflective of its time.
- b. Improve the physical appearance of the community redevelopment areas with urban design standards that provide more predictable results in terms of the form and character of buildings.
- c. Support the removal of blight within the community redevelopment areas by encouraging quality redevelopment.
- d. Support the future growth of the city, to ensure compatible and cohesive development, to remain resilient long-term, and to support the goals, objectives and policies of the city's comprehensive plan and community redevelopment area master plans.
- e. Coordinate the placement, orientation, and design of buildings to ensure a coherent and walkable streetscape and traditional urban character by creating well-defined street edges with continuous building walls, articulated facades, and architectural features that create visual interest and an attractive pedestrian environment.

- f. Capitalize on opportunities to attract and grow a variety of residential building types, retail, service, and cultural establishments to serve local needs, create regional attractions and a robust economic base.
  - g. Enable and encourage mixed-use development within the community redevelopment areas in support of viable and diverse locally-oriented business and cultural institutions.
  - h. Achieve context-based development and complete streets.
- (2) *Boundaries of the district.* The boundaries of the CRA urban design overlay district shall be as outlined on Figure 12-3-31.1. A more detailed map of the boundaries of the overlay is on file in the office of the city clerk.

FIGURE 12-3-31.1. CRA URBAN DESIGN  
OVERLAY DISTRICT BOUNDARIES



- (3) *Applicability.*
- a. These standards shall apply to all new construction within the CRA urban design overlay district. For purposes of this section, "new construction" includes construction on a parcel that is vacant or becomes vacant following demolition of an existing structure on the parcel; it also includes construction of a freestanding accessory building and ancillary improvements on a parcel, but does not include an addition to a current structure.
  - b. This section shall apply as an overlay to the underlying land development regulations. The land development regulations contained within this title shall apply unless pre-empted by this section. Where a conflict exists

between this section and the underlying land development regulations, contained within this title, this section shall prevail.

- c. Standards, activated by "shall," are regulatory in nature, as defined within section 12-1-8 (general interpretative terms). Deviations from these standards shall only be permitted by variance in accordance with section 12-11-2 (appeals and variances).
  - d. Guidelines, activated by "should," are encouraged and recommended but not mandatory, as defined within section 12-1-8 (general interpretative terms). Developments subject to this overlay district are encouraged to incorporate them as appropriate in order to enhance and complement the built and natural environment. The intent is to create the highest level of design quality while providing the needed flexibility for creative site design.
  - e. Figures, tables and illustrations shall be interpreted as defined in section 12-1-8 (general interpretative terms) unless the context clearly indicates otherwise.
  - f. The provisions of this section are not intended to supersede, conflict with or replace any requirement in federal or state law pertaining to design, construction or accommodation requirements pertaining to persons with disabilities, and it is hereby declared to be the intent of the city that such requirements in federal or state law shall prevail over any provisions of this section to the extent of any conflict.
- (4) *Existing conditions.* Existing buildings and structures that do not conform to the requirements of this overlay district may be occupied, operated, repaired, renovated or otherwise continue in use in their existing nonconforming state unless demolished and rebuilt.
- (5) *Procedure for review.* All development regulated by this subsection shall be subject to the submission requirements contained within sections 12-11-5 (building permits), 12-3-120 (development plan requirements), and 12-3-121 (design standards and guidelines), as applicable. In addition to the plan submission requirements listed in sections 12-11-5 and 12-3-120, drawings illustrating compliance with this section shall be provided. Plans shall include drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building, including proposed materials, textures, and colors, and the plat plan or site layout, including all site improvements or features such as walls, fences, walkways, terraces, landscaping, accessory buildings, paved areas, signs, lights, awnings, canopies, screening, and other appurtenances. Facade and frontage yard types shall be specified along frontages in accordance with Table 12-3-31.10 (Facade Types) and Table 12-3-31.9 (Frontage Yard Types).
- (6) Modifications and ~~a~~Appeals and variances. ~~Appeals and variances shall be subject to section 12-11-2 (appeals and variances).~~ The standards established in this section are intended to achieve the principles outlined in subsection (1). However, specific site features, physical barriers or easement, and challenging

characteristics affiliated with a particular site or type of use may create conditions that make compliance with a specific standard impractical or undesirable. In such instances alternative design solutions that achieve the principles defined in subsection 1 of this section may be considered. This section establishes the procedures for considering requests for a modification to the standards.

Modifications shall be approved through an abbreviated review process. This process shall require review by an architect advisor appointed by the City Council, the Chair of the applicable redevelopment board representing the redevelopment district for which the project is located and the Urban Design Specialist or the Mayor's designee. City Council shall appoint two architects to serve as the architect advisor(s), a primary and an alternate. In the absence of the architect advisor or in the event of a conflict of interest, the alternate architect shall serve in the capacity of the architect advisor. The appointed architects shall not be employed by the same firm or have any other relationship that would constitute a conflict of interest between them.

1. Review shall consider the principles defined in subsection (1) of this section.
2. The decision to approve, deny or approve with modifications shall be based on the following considerations:
  - i. The physical conditions of the property such as flood plain, drainage, tree preservation, or small or irregular lot shape making compliance to the specific standard physically impossible and this hardship is not created by the applicant; and/or
  - ii. If by its nature, including its function and intensity, the development constitutes a special use or presents a particular circumstance that causes challenges integrating into an urban, walkable, neighborhood environment; and
  - iii. The modification will not significantly impact adjacent property owners, the character of the area, traffic conditions, parking, public infrastructure, water quality, or other matters affecting the public health, safety and general welfare; and
  - iv. The modification will not result in a substantial departure from the key principles that buildings should:
    - (a) Front the street and be located close to the street edge
    - (b) Provide interest to those walking and biking past by avoiding blank walls
    - (c) Create a human-scaled street edge and add value to the walkability of streets
    - (d) Include key architectural features which reflect traditional neighborhood character

3. Appeals shall be referred to the Zoning Board of Adjustments.

(7) *Urban design standards and guidelines.*

a. *Building height.*

1. Intent. Within the overlay district, height for single-family residential types will be measured in feet and multifamily, mixed-use and nonresidential buildings will be measured in stories. Measuring height in stories rather than feet has numerous benefits which include:
  - i. To provide greater creativity for a natural variety of roof forms;
  - ii. To recognize the need of different users, as commercial floor plates are different than residential floor plates;
  - iii. To remove the incentive to create short floorplates, and instead encourage more gracious floor-to-ceiling heights for environmental health, without penalizing property owners; and
  - iv. To protect the historical proportions of Pensacola's community redevelopment areas.
2. Maximum building heights for principal and accessory buildings shall be as defined by the form standards in Tables 12-3-31.3 to 12-3-31.8.
3. Building height is measured as follows:
  - i. Where maximum height is specified, the measurement shall be taken from the finished grade at the front of the building.
  - ii. Building height shall be measured in feet for single-family residential types as defined in the form standards in Tables 12-3-31.3 to 12-3-31.8 and as follows:
    - (a) For pitched roof buildings, to the bottom of the lowest eave of the principal structure.
    - (b) For flat roof buildings, to the bottom of the parapet.
    - (c) Minimum floor to ceiling height in single-family residential types shall be nine feet per floor.
  - iii. Building height shall be measured in stories for multifamily, mixed-use and nonresidential buildings as follows:
    - (a) Multifamily buildings shall be limited by ground floor story and above ground story height in accordance with Table 12-3-31.1.

TABLE 12-3-31.1. MULTIFAMILY STORY HEIGHT REQUIREMENTS

Zoning Category	Ground Floor Story Height		Above Ground Story Height
	Max.	Min.	Max.
R-2A through C-3	16 ft.	12 ft.	14 ft.

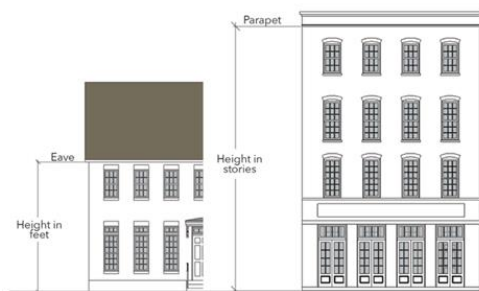
- (b) Mixed-use and nonresidential buildings shall be limited by ground floor story and above ground story height in accordance with Table 12-3-31.2.

TABLE 12-3-31.2. MIXED-USE/NONRESIDENTIAL STORY HEIGHT REQUIREMENTS

Zoning Category	Ground Floor Story Height		Above Ground Story Height
	Max.	Min.	Max.
R-1AAA through R-2A	16 ft.	12 ft.	14 ft.
R-NC, R-NCB and R-2	20 ft.	14 ft.	14 ft.
C-1, C-2, C-2A and C-3	24 ft.	14 ft.	14 ft.

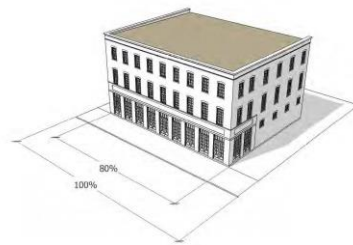
- (c) Stories are measured from finished floor to finished floor with the exception of one-story buildings that shall be measured floor to ceiling.
- (d) Story heights that exceed the maximum permitted height specified in Tables 12-3-31.1 and 12-3-31.2 shall count as two stories. Height defined within this subsection shall not supersede height as defined by the Florida Building Code.
- iv. See Illustration 12-3-3.1 for a depiction of height measurements in feet and stories.

ILLUSTRATION 12-3-3.1. MEASURING BUILDING HEIGHT



4. Parking garages shall not exceed the height of the principal building on the site. Parking garages shall not be subject to floor to floor height requirements according to subsection (7)a.3.iii of this section. Stand-alone parking garages shall only conform to the number of stories permitted within the form standards in Tables 12-3-31.3 to 12-3-31.8.
5. Roof pitch.
  - i. Gable or hipped roofs shall have a minimum pitch of 6:12 and a maximum pitch of 12:12.
  - ii. Shed roofs shall have a minimum pitch of 4:12.
- b. *Building orientation.*
  1. Intent. Buildings should have their principal pedestrian entrance along a street, pedestrian way or open space, with the exception of entrances off a courtyard, visible from public rights-of-way.
  2. Building frontage occupation shall conform to the form standards in Tables 12-3-31.3 to 12-3-31.8.
  3. Buildings shall be oriented so that the principal facade is parallel to the street it faces for the minimum building frontage occupation required in the form standards in Tables 12-3-31.3 to 12-3-31.8. See Illustration 12-3-31.2 for a depiction of minimum frontage occupation requirements.

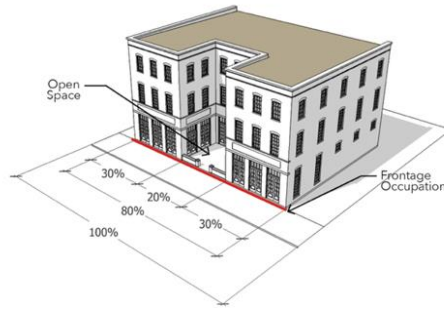
ILLUSTRATION 12-3-31.2. MINIMUM BUILDING FRONTAGE  
OCCUPATION



4. Lot width shall be measured along the right-of-way at the front property line. Lot width measurements at the building setback line and minimum lot area shall not apply.
5. Forecourts, courtyards and other such defined open spaces shall count towards minimum frontage requirements. See Illustration 12-3-31.3 for an illustration depicting minimum frontage occupation requirements with open space.

ILLUSTRATION 12-3-31.3. MINIMUM  
BUILDING FRONTAGE OCCUPATION  
WITH OPEN SPACE



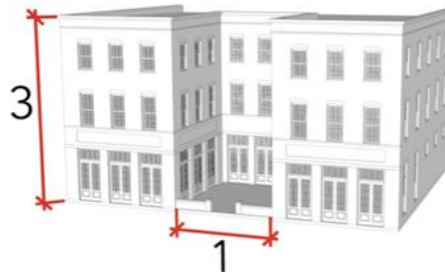


6. Ground floor units in multifamily residential buildings shall provide landscaping, walls, and/or fences that provide some privacy for the building.

c. *Building massing.*

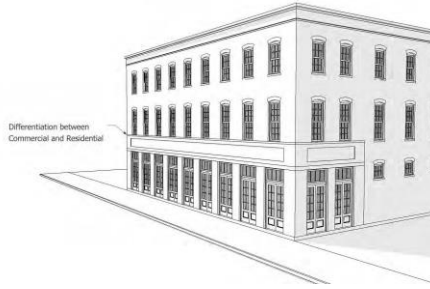
1. Intent. Buildings should be designed in proportions that reflect human-scaled pedestrian movement, and to encourage interest at the street level.
2. Where provided, multifamily building courtyards shall maintain a minimum width to height ratio of 1 to 3 in at least one dimension in order to avoid light well conditions. Courtyards should be wider than the minimum where possible. See Illustration 12-3-31.4 for depiction of courtyard ratio measurements.

ILLUSTRATION 12-3-31.4. COURTYARD HEIGHT TO WIDTH RATIO MEASUREMENTS



3. The design and facade treatment of mixed-use buildings shall differentiate commercial from residential uses with distinguishing expression lines (such as cornices, projections, banding, awnings, terraces, etc.), changes in fenestration, facade articulation and/or material changes. See Illustration 12-3-31.5 for depiction of mixed-use building differentiation of uses.

ILLUSTRATION 12-3-31.5. MIXED USE BUILDING DIFFERENTIATION OF USES

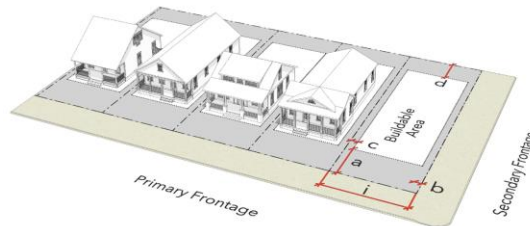


4. Single-family units shall be distinguished from abutting units with changes in unit entry, plane, color, materials, front porches, front stoops, fenestration, and/or building elements such as railings.
  5. All service and loading areas shall be entirely screened from public right-of-way as follows:
    - i. Equipment shall be screened.
    - ii. If outdoor storage areas are separate from the building they serve, the fence materials shall be limited to masonry, concrete, stucco, wood, PVC and metal, excluding chain-link.
  6. HVAC and mechanical equipment are restricted as follows:
    - i. They shall be prohibited in frontage yards.
    - ii. They shall be integrated into the overall building design and not be visible from adjoining streets and or open spaces.
    - iii. Through-wall units shall be prohibited along street frontages and open spaces, unless recessed within a balcony.
  7. Mechanical equipment on roofs shall be visually screened from the street with parapets or other types of visual screens of the minimum height necessary to conceal the same.
  8. Roof top parking shall be visually screened with articulated parapet walls or other architectural treatment.
  9. Exterior wall materials prohibited for all single-family residential types shall include:
    - i. Corrugated metal panels; and
    - ii. Exposed concrete block.
  10. Material requirements contained within section 12-3-121(c)(8) (design standards and guidelines) shall apply within the CRA urban design overlay district.
- d. *Form standards.*
1. Form standards within the CRA urban design overlay district shall be as defined in Tables 12-3-31.3 to 12-3-31.8.

2. Exceptions to form standards.

- i. Front setbacks in R-1AAA, R-1AA, and R-1A shall not be less than the average setback of all frontage yards (front and exterior side yards) located on either side of the block face, up to the minimum front setback defined in form standards in Tables 12-3-31.3 and 12-3-31.5. In cases where no other dwellings exist within the block, the front setback shall be no less than the front setback defined in form standards in Tables 12-3-31.3 and 12-3-31.5.
- ii. Each single-family attached dwelling unit shall be located on its own lot. If a development requires subdivision procedures, it shall be subject to and must comply with subdivision regulations as set forth in chapter 12-7.
- iii. Where lot occupation and setback standards differ from the dense business area (DBA), as defined in chapter 12-13 (definitions), the standards in the DBA shall prevail.

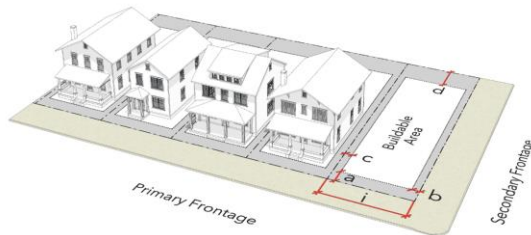
TABLE 12-3-31.3. SINGLE-FAMILY DETACHED AND TWO-FAMILY ATTACHED (DUPLEX) RESIDENTIAL BUILDING TYPES - R-1AAA THROUGH R-1A



Setbacks - Principal Building (feet)	
Front	20 min.
Front, Secondary(4)	5 min.
Side (Interior)(4)	5 min.
Rear	30 min./20 min. (30' lots)
Frontage (min.)	
Primary	45%/40% (lots < 42')
Lot Occupation(5)	
Lot Width(3)	30 ft. min.
Lot Coverage	50% max.
Building Height (max.)	
Principal Building(1)	35 ft.
Accessory Building(1)	24 ft.
Parking (min.)	
Off-street(2)	1/unit
Setbacks - Accessory Building (feet)	
Front	50 min.

Front, Secondary(4)	5 min.
Side (Interior)	1 min.
Rear	3 min.
Frontage Yard Types	
Standard	Permitted
Shallow	Not Permitted
Urban	Not Permitted
Pedestrian Forecourt	Not Permitted
Vehicular Forecourt	Not Permitted
Facade Types	
Porch	Permitted
Stoop	Not Permitted
Common Entry	Not Permitted
Gallery	Not Permitted
Storefront	Not Permitted
Notes:	
(1) Measured according to subsection (7)a.3 of this section.	
(2) See subsection (7)h.2 of this section for exceptions.	
(3) Lot width shall only be measured from the right-of-way line. Lot width at the building setback line shall not apply.	
(4) Minimum setback for 30-foot lots shall be three feet measured from the finished wall or the minimum setback required per applicable Florida Building Code.	
(5) Minimum lot area shall not apply.	

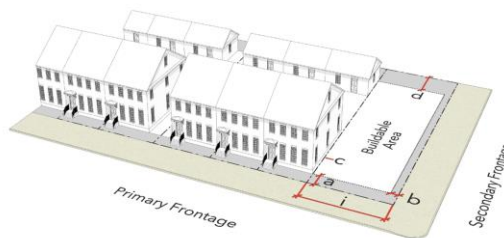
TABLE 12-3-31.4. SINGLE-FAMILY DETACHED AND TWO-FAMILY ATTACHED (DUPLEX) RESIDENTIAL BUILDING TYPES-R-1B THROUGH C-3



Setbacks - Principal Building (feet)	
Front	8 min./20 max.
Front, Secondary(4)	5 min.
Side (Interior)(4)	5 min.
Rear	25 min./20 min. (30' lots)
Frontage (min.)	
Primary	45%/40% (lots < 42')
Lot Occupation(5)	
Lot Width(3)	30 ft. min.

Lot Coverage	50% max.
Building Height (max.)	
Principal Building(1)	35 ft.
Accessory Building(1)	24 ft.
Parking (min.)	
Off-street(2)	1/unit
Setbacks - Accessory Building (feet)	
Front	50 min.
Front, Secondary(4)	5 min.
Side (Interior)	1 min.
Rear	3 min.
Frontage Yard Types	
Standard	Permitted
Shallow	Permitted
Urban	Not Permitted
Pedestrian Forecourt	Not Permitted
Vehicular Forecourt	Not Permitted
Facade Types	
Porch	Permitted
Stoop	Not Permitted
Common Entry	Not Permitted
Gallery	Not Permitted
Storefront	Not Permitted
Notes:	
(1) Measured according to subsection (7)a.3 of this section.	
(2) See subsection (7)h.2 of this section for exceptions.	
(3) Lot width shall only be measured from the right-of-way line. Lot width at the building setback line shall not apply.	
(4) Minimum setback for 30-foot lots shall be three feet measured from the finished wall or the minimum setback required per applicable Florida Building Code.	
(5) Minimum lot area shall not apply.	

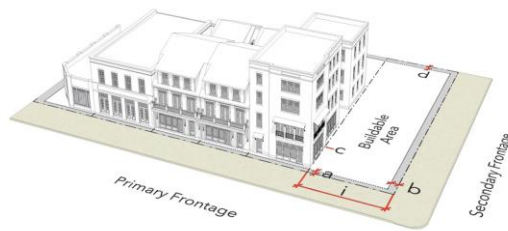
TABLE 12-3-31.5. SINGLE-FAMILY ATTACHED (TOWNHOUSE)  
RESIDENTIAL BUILDING TYPES - R-1AA THROUGH C-3



Setbacks - Principal Building (feet)	
Front	8 min.

Front, Secondary	5 min.
Side (Interior)(1)	0 or 5 min.
Rear	25 min.
Frontage (min.)	
Primary	80%
Lot Occupation(3)	
Lot Width	16 ft. min.
Lot Coverage	75% max.
Building Height (max.)	
Principal Building(2)	45 ft.
Accessory Building(2)	24 ft.
Parking (min.)	
Off-street	1/unit
Setbacks - Accessory Building (feet)	
Front	50 min.
Front, Secondary	5 min.
Side (Interior)	1 min.
Rear	3 min.
Frontage Yard Types	
Standard	Not Permitted
Shallow	Permitted
Urban	Not Permitted
Pedestrian Forecourt	Not Permitted
Vehicular Forecourt	Not Permitted
Facade Types	
Porch	Permitted
Stoop	Permitted
Common Entry	Not Permitted
Gallery	Not Permitted
Storefront	Not Permitted
Notes:	
(1) Zero-foot minimum (attached/zero-lot-line buildings)/five-foot minimum (detached buildings).	
(2) Measured according to subsection (7)a.3 of this section.	
(3) Minimum lot area shall not apply.	

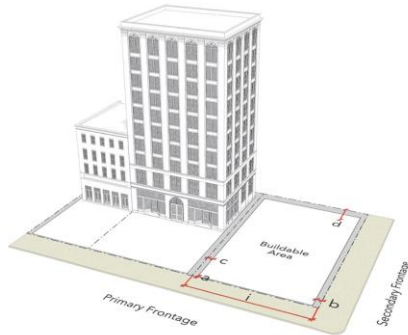
TABLE 12-3-31.6. MULTIFAMILY, MIXED-USE,  
NEIGHBORHOOD COMMERCIAL AND COMMERCIAL BUILDING  
TYPES



Setbacks - Principal Building (feet)	
Front (Com./Res.)(1)	5 max./15 max.
Front, Secondary (Com./Res.)	5 max./15 max.
Side (Interior)(3)	0 or 5 min.
Rear	none
Frontage (min.)	
Primary	80%
Lot Occupation(4)	
Lot Width	16 ft. min.
Lot Coverage	75% max.
Building Height (max.)	
Principal Building(2)	4 stories
Accessory Building(2)	N/A
Off-Street Parking (min.)	
Residential	1/unit
Commercial	Per subsection (7)h of this section
Setbacks - Accessory Building (feet)	
Front	N/A
Front, Secondary	N/A
Side (Interior)	N/A
Rear	N/A
Frontage Yard Types	
Standard	Not Permitted
Shallow	Permitted
Urban	Permitted
Pedestrian Forecourt	Permitted
Vehicular Forecourt	Permitted
Facade Types	
Porch	Not Permitted
Stoop	Permitted
Common Entry	Permitted
Gallery	Permitted
Storefront	Permitted
Notes:	
(1) Lots within the dense business area shall be permitted the lesser front setback.	
(2) Measured according to subsection (7)a.3 of this section.	

(3) Zero-foot minimum (attached/zero-lot-line buildings)/five-foot minimum (detached buildings).
(4) Minimum lot area shall not apply.

TABLE 12-3-31.7. MULTIFAMILY, MIXED-USE AND COMMERCIAL BUILDING TYPES - C-2A, C-2, C-3

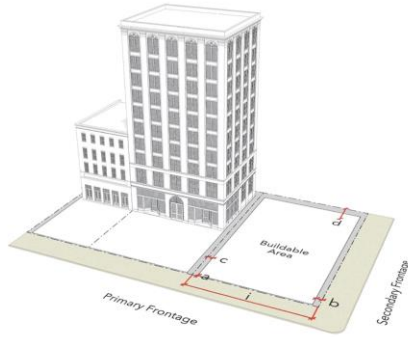


Setbacks - Principal Building (feet)		
Front (Com./Res.)(1)	5 max./15 max.	
Front, Secondary (Com./Res.)	5 max./15 max.	
Side (Interior)(3)	0 or 5 min.	
Rear	none	
Frontage (min.)		
Primary	80%	
Lot Occupation(4)		
Lot Width	16 ft. min.	
Lot Coverage	100% max.	
Building Height (max.)		
Principal Building(2)	10 stories	
Accessory Building	N/A	
Off-Street Parking (min.)		
Residential	1/unit	
Commercial	Per subsection (7)h of this section	
Setbacks - Accessory Building (feet)		



Front	N/A	
Front, Secondary	N/A	
Side (Interior)	N/A	
Rear	N/A	
Frontage Yard Types		
Standard	Not Permitted	
Shallow	Permitted	
Urban	Permitted	
Pedestrian Forecourt	Permitted	
Vehicular Forecourt	Permitted	
Facade Types		
Porch	Not Permitted	
Stoop	Not Permitted	
Common Entry	Permitted	
Gallery	Permitted	
Storefront	Permitted	
Notes:		
(1) Lots within the dense business area shall be permitted the lesser front setback.		
(2) Measured according to subsection (7)a.3 of this section.		
(3) Zero-foot minimum (attached/zero-lot-line buildings)/five-foot minimum (detached buildings).		
(4) Minimum lot area shall not apply.		

TABLE 12-3-31.8. HYBRID COMMERCIAL: MULTIFAMILY, MIXED-USE AND COMMERCIAL BUILDING TYPES - C-3 ALONG C3C FDOT CONTEXT ZONE



Setbacks - Principal Building (feet)		
Front	60 max.	
Front, Secondary	40 max.	
Side (Interior)(2)	0 or 5 min.	
Rear	none	
Frontage (min.)		
Primary	60%	
Lot Occupation(3)		
Lot Width	16 ft. min.	
Lot Coverage	100% max.	
Building Height (max.)		
Principal Building(1)	10 stories	
Accessory Building	N/A	
Off-Street Parking (min.)		
Residential	1/unit	
Commercial	Per subsection (7)h of this section	
Setbacks - Accessory Building (feet)		
Front	N/A	
Front, Secondary	N/A	
Side (Interior)	N/A	
Rear	N/A	
Frontage Yard Types		
Standard	Not Permitted	
Shallow	Permitted	
Urban	Permitted	

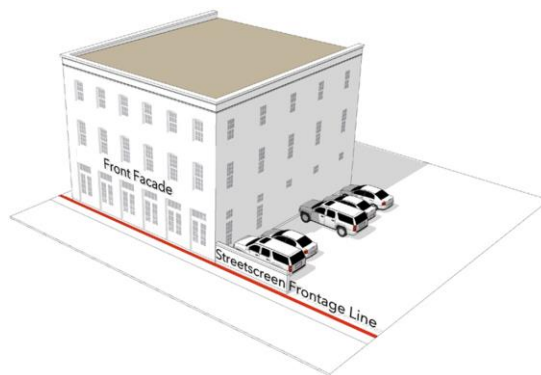
Pedestrian Forecourt	Permitted	
Vehicular Forecourt	Permitted	
Facade Types		
Porch	Not Permitted	
Stoop	Not Permitted	
Common Entry	Permitted	
Gallery	Permitted	
Storefront	Permitted	
Notes:		
(1) Measured according to subsection (7)a.3 of this section.		
(2) Zero-foot minimum (attached/zero-lot-line buildings)/five-foot minimum (detached buildings).		
(3) Minimum lot area shall not apply.		

e. *Frontage types.*

1. Intent. New buildings proposed for existing neighborhoods should be compatible with or complement the architectural character and siting pattern of neighboring buildings. Maintaining a consistent street-wall is a fundamental component for a vibrant pedestrian life and a well-defined public realm. Buildings closely aligned to the street edge with consistent setbacks, provide a clear sense of enclosure of streets, enabling them to function as pedestrian-scaled outdoor rooms. The placement of buildings along the edge of the sidewalk should be given particular attention, as it is that portion of the buildings that is the primary contributor to pedestrian activity.
2. Frontage yard type shall be selected and specified along frontages in accordance with the frontage yard types in Table 12-3-31.9 and subject to the standards and guidelines in this section, including the form standards in Tables 12-3-31.3 to 12-3-31.8.
3. In addition to the frontage yard type standards contained within Table 12-3-31.9, the following shall be required:
  - i. Frontage yards shall be wholly open to the sky and unobstructed, except for trees, roof projections, and permitted encroachments attached to principal buildings.

- ii. Impervious surfaces and walkways in frontage yards shall be subject to the following requirements:
  - (a) Where single-family attached units occupy a common site, each attached single-family unit with an entrance towards a frontage shall have a walkway connecting the sidewalk to the attached single-family entrance. See Table 12-3-31.9.A (Frontage Yard Types - Shallow Yard) for an illustration depicting single-family attached walkway connections.
  - (b) At cluster courts, the shared court shall have a walkway connecting the sidewalk at the primary frontage with building entries. See Table 12-3-31.9.B (Frontage Yard Types - Cluster Court) for an illustration depicting cluster court walkway connections.
- iii. For multifamily, mixed-use and nonresidential types, any portion of a frontage not occupied by buildings, driveways, or walkways shall be lined with a streetscreen as follows:
  - (a) Streetscreens shall meet the fencing and wall standards according to the frontage yard types specified in Table 12-3-31.9.
  - (b) Streetscreens, up to 24 feet long, shall count towards minimum frontage requirements.
  - (c) Streetscreens shall be coplanar with the primary building facade, as depicted in Illustration 12-3-31.6 below.




ILLUSTRATION 12-3-31.6. STREETSCREEN  
ILLUSTRATED






- iv. Street trees and landscaping in frontage yards shall comply with the requirements of subsection (8) of this section.
- v. Stormwater ponds shall be prohibited along frontages.
- vi. Frontage yard setbacks shall be as follows:

- (a) Buildings shall be set back in accordance with the form standards specified in Tables 12-3-31.3 to 12-3-31.8.
- (b) Where maximum setbacks are specified, they pertain only to the amount of building facade required to meet the minimum building frontage occupation requirements defined in the form standards specified in Tables 12-3-31.3 to 12-3-31.8.

TABLE 12-3-31.9. FRONTAGE YARD TYPES

A. Standard Yard (Fenced or not)	
Illustration	
Surface	Fifty percent minimum shall be pervious material. A minimum of one tree is required per subsection (6)a of this section. Paving is limited to walkways, and driveways.
Walkways	One per frontage connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted along frontage lines, and according to subsection (5)h of this section.
B. Cluster Court	
Illustration	
Surface	A minimum 50 percent of the court shall be landscaped with ground cover, trees, or understory trees. Paving is limited to walkways, and driveways.
Walkways	Court shall be a minimum 20 feet wide and a min. 1,000 square feet in size, and shall have a walkway connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted except along street frontages, fronted by a shared court, according to subsection (5)h of this section.
C. Shallow Yard	
Illustration	
Surface	Maximum setback of eight feet. Fifty percent minimum shall be landscaped in R-1A, and R-1B and up to 100 percent may be paved in R-NC and R-NCB.

Walkways	One per frontage connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted interior to the building setback line at primary street frontages. Permitted at or interior to secondary street frontage lines according to subsection (5)h of this section.
<b>D. Urban Yard</b>	
Illustration	
Surface	Shall be paved at sidewalk grade.
Walkways	Shall be paved at sidewalk grade. Vegetation is permitted in raised containers.
Fencing	Not permitted
<b>E. Pedestrian Forecourt</b>	
Illustration	
Surface	Minimum 80 percent paving.
Fencing	Permitted at or interior to building setback lines and according to subsection (5)h of this section.
Area	Forecourt: A minimum 20 feet wide up to 30 percent of the allowable frontage, and a maximum 50 feet deep.
Activation	Shall be lined with habitable space on three sides, or on two sides at corner sites.
<b>F. Vehicular Forecourt</b>	
Illustration	
Surface	Driveway shall be paved at sidewalk grade. The remainder of front setback may be paved or landscaped.
Fencing	Low wall, maximum 24 inches high, of either brick or stone is permitted.
Area	Forecourt: 4,200 square feet maximum.
Activation	Shall be lined with habitable space on three sides, or on two sides at corner sites.

f. *Building elements.*


1. *Intent.* Buildings should be architecturally articulated with such elements as distinguishing expression lines, changes in fenestration,




material and/or color and designed in proportions that reflect human-scaled pedestrian movement to encourage interest at the street level.

2. *Facade types.* Facade types shall be as follows:


- i. Porches, stoops, common entries, galleries and storefronts shall constitute allowable facade types as defined in Table 12-3-31.10 in accordance with the form standards in Tables 12-3-31.3 to 12-3-31.8.
- ii. Facade types shall be selected and specified along frontages in accordance with Table 12- 2-25.10.
  - (a) Porches shall not be required for single-family detached and two-family (duplex).
- iii. Projections into setbacks shall be permitted as follows:
  - (a) Roof overhangs, cornices, window and door surrounds and other facade decoration may project up to two feet.
  - (b) Where permitted, shading devices may project into the front setback up to the property line with a minimum eight-foot clearance.
  - (c) Balconies may project up to three feet.
  - (d) Bay windows may project up to three feet.
  - (e) Porches and stoops may project in accordance with the facade types defined in Table 12-3-31.10.
  - (f) Projections shall not, in any instance, exceed beyond the property line.

TABLE 12-3-31.10. FACADE TYPES

<i>A: Porch</i>		
Entry Grade	Minimum 18 inches above finished grade	
Requirements	Required at the primary building entrance.	
	Porches shall be a minimum six feet in depth.	
	Porches and related structures may project into front setbacks a maximum ten feet.	
	Porch openings shall be vertical in proportion.	
	Porches shall be a maximum ten feet in	

	height. Columns shall have a minimum diameter of six inches, and should have a capital and a base.	
<i>B: Stoop</i>		
Entry Grade	Minimum 34 inches above finished grade.	
Requirements	A stoop is required at building entrances, projecting from the facade.	
	Wood is prohibited for stoop railings.	
	Stoops and related structures may project into front setbacks up to 100 percent.	
<i>C: Common Entry</i>		
Entry Grade	Minimum 18 inches and a maximum 24 inches above finished grade	
Requirements	A single collective entry to a multifamily lobby is required at the primary building entrance.	
	Canopies and awnings are permitted to project into front setbacks up to 100 percent of their depth.	
<i>D: Gallery</i>		
Entry Grade	At sidewalk grade	
Requirements	Where a gallery occurs, it is required along a minimum of 80 percent of the frontage.	
	Encroachments are permitted according to subsection (5)g of this section.	
	Awnings are not permitted in galleries.	
<i>E: Storefront</i>		
Entry Grade	At sidewalk grade	



Requirements	A storefront is required at the primary entrance of the tenant space. Storefronts are permitted according to subsection (7)f.4 of this section.	
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3. *Building entries.* Building entries shall be as follows:

- i. Building entrances shall be clearly visible from the street.
- ii. One building entry shall be provided every 80 feet of facade leading to a habitable space.
- iii. Building entries for mixed-use buildings shall differentiate entrances for residential and commercial uses.
- iv. Entries for multifamily buildings shall provide protection from the elements with canopies, marquees, recesses or roof overhangs.
- v. Residential building entries shall be restricted as follows:
  - (a) Single-family and multifamily residential buildings shall be raised above finished grade, at the front of the building, according to facade types defined in Table 12-3-31.10.
  - (b) In no instance shall single-family and multifamily residential building entries be raised less than 18 inches above finished grade.
  - (c) Entry grade shall be measured from the finished grade to the first finished floor.
- vi. Mixed-use and commercial building entries shall be at sidewalk grade.

4. *Storefronts.*

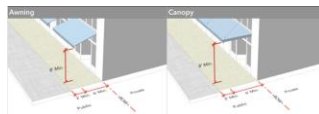
- i. Intent. Storefronts should be architecturally articulated through the varied use of high-quality durable materials, display windows, entrances, awnings and buildings signs. Their signage, glazing and doors should be conceived as a unified design. High quality, durable materials are especially important at street level within reach of pedestrians.
- ii. Storefronts shall provide a minimum of 70 percent glazing (void to solid ratio of surface area along principal facades at the ground level).
- iii. Extruded aluminum storefront frames are discouraged, and where used, shall present a simple, relatively flat profile to avoid heavily extruded profiles.

- iv. Opaque, smoked, and reflective glass on storefront windows shall be prohibited. Low-E shall be permitted as per Florida Building Code.
- v. Materials for storefronts shall consist of stone, brick, concrete, stucco, metal, glass, cementitious siding and/or wood. Construction detail and finish shall adhere to craftsman standards.
- vi. Outdoor dining areas on sidewalks and/or within the public right-of-way shall be permitted subject to the following standards:
  - (a) Outdoor dining areas shall be separated from public walkways and streets using railings, fences, bollards, planters, and/or landscaping.
  - (b) A minimum unobstructed pedestrian path of at least six feet wide shall be provided along public rights-of-way.
  - (c) Outdoor dining areas within the public right-of-way shall comply with section 12-11-7 (license to use).

g. *Building encroachments.*

- 1. Encroachments located within the public right-of-way shall comply with section 12-11-7 (license to use), section 12-3-58 (visibility triangle) and any clearance standards established by the engineering division of the city public works and facilities department and the Florida Greenbook.
- 2. Awnings for storefronts and canopies are not subject to section 12-11-7 (license to use) but shall be restricted as follows:
  - i. Awning and canopies may project into the public right-of-way, up to a maximum of two feet from the curb.
  - ii. Awnings and canopies shall be a minimum of six feet in depth and have a minimum of eight feet of vertical clearance. See Illustration 12-3-31.7 for a depiction of awning and canopy encroachment measurements.

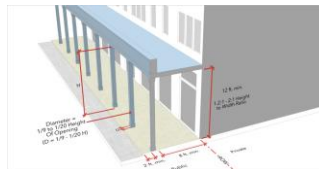
ILLUSTRATION 12-3-31.7. AWNING AND CANOPY ENCROACHMENT MEASUREMENTS



- 3. Galleries shall be restricted as follows:
  - i. Galleries shall be subject to and shall comply with section 12-11-7 (license to use).

- ii. Galleries shall not alter height or width along a building facade.
- iii. Galleries shall be a minimum of eight feet in depth and a minimum of 12 feet in height, maintaining a 1.2:1 to a 2:1 height to width ratio, as depicted in Illustration 12-3-31.8.
- iv. Gallery columns should have a diameter between one-ninth and 1/20 their height, measured from the base to the bottom of the entablature, as depicted in Illustration 12-3-31.8, and should have a capital and a base.
- v. Galleries should encroach into building setbacks.
- vi. Galleries should encroach over sidewalks.
- vii. Where galleries encroach over sidewalks, they shall not extend beyond a maximum of two feet from the curb, as depicted in Illustration 12-3-31.8.

ILLUSTRATION 12-3-31.8. GALLERY ENCROACHMENTS



h. *Parking access, design and reductions.*

1. Intent. The intent of these standards is to guide the placement and design of parking, when it is provided. Vehicular parking spaces should be carefully integrated to avoid the negative impacts of large surface parking areas on the pedestrian environment. In general, parking supply should be shared by multiple users and property owners to facilitate the ability to "park once and walk." On-street parallel parking is encouraged on both sides of the street to provide a supply of convenient shared parking, and as a means to provide a protective buffer for pedestrians on the sidewalk. Where surface parking is permitted, it should be hidden or screened from the pedestrian realm by use of garden walls and narrow landscape edges. Parking garages, where provided, should be masked from frontages by liner buildings no less than 24 feet in depth. They are encouraged to be designed for possible future conversion to other non-parking functions, including office, residential and/or commercial use.
2. All parking access and design shall comply with the form standards in Tables 12-3-31.3 to 12-3-31.8 and the following:
  - i. Parking standards in the dense business area (DBA) defined in chapter 12-13 (definitions) shall take precedence over the

form standards in Tables 12-3-31.3 to 12-3-31.8 and those included in this subsection.

- ii. Minimum parking requirements are as follows:
  - (a) Parking requirements shall be in accordance with section 12-4-1(2) (parking requirements for specific land uses) with the following exception:
    - (1) Off-street parking requirements for residential use types shall be one space per unit unless otherwise exempted.
  - (b) Shared parking shall be according to section 12-4-1(4) (off-site parking).
  - (c) Parking reductions shall be calculated according to Table 12.3-1 (Downtown Pensacola CRA Parking Reductions).
  - (d) Lots 30 feet or less in width shall not be subject to minimum parking requirements, except for:
    - (1) Lots fronting streets where on-street parking is not permitted.
  - (e) Lots less than 42 feet wide shall be accessed from a rear lane, where possible. Where not possible, the following exceptions shall be permitted, in coordination with the engineering division of the city public works and facilities department:
    - (1) Parking in the rear of the lot, subject to accessory structure setbacks as defined within the form standards in Tables 12-3-31.3 to 12-3-31.8. Shared driveways are encouraged.
    - (2) A single-car garage, subject to the minimum frontage occupation requirements defined within the form standards in Tables 12-3-31.3 to 12-3-31.8.
    - (3) Driveways shall be exempt from minimum width and spacing requirements defined in subsection (9)b.4 of this section.
  - (f) Lots shall be accessed through a rear lane when the development is over 75 percent of the block.
- iii. Vehicular parking location is restricted as follows:
  - (a) Single-family residential types.
    - (1) Residential off-street parking, where required, shall be provided within garages, carports or on driveways for all single-family residential types.

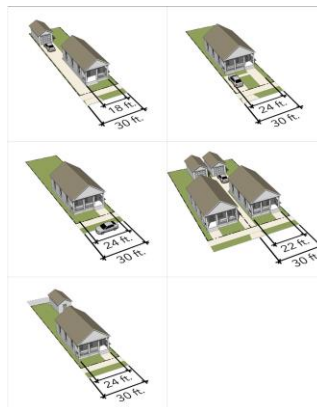
- (2) Uncovered parking shall be permitted the entire length of the driveway, including within the front setback, but not beyond the property line.
- (3) Single-family detached and two-family (duplex) off-street parking.
  - a. Covered or garage parking for single-family detached and two-family (duplex) buildings shall be set back a minimum 20 feet behind the principal building facade. See Illustration 12-3-31.9 for a depiction of covered parking placement for single-family detached and two-family attached (duplex) buildings.

ILLUSTRATION 12-3-31.9. GARAGE LOCATIONS ILLUSTRATED



- b. The outer edge of driveways shall be placed a maximum of two feet from either side property line. See Illustration 12-3-31.10 for a depiction of driveway placement for single-family detached and two-family attached (duplex) buildings on 30 feet wide lots.

ILLUSTRATION 12-3-31.10. DRIVEWAY LOCATIONS ILLUSTRATED



- (4) Single-family attached. Off-street parking for single-family attached residential types shall only be permitted in the rear 50 percent of the lot.

- (5) Tandem parking is encouraged.
- (6) Shared driveways are encouraged.
- (b) Multifamily, mixed-use and nonresidential types.
  - (1) Off-street parking shall not be permitted within the front setback area. Exceptions include:
    - a. Properties adjacent to a thoroughfare identified as an FDOT C3C Suburban Commercial Context Classification Zone as defined within subsection (9)a.2 of this section (context classification). Such properties shall conform to the form standards according to Table 12-3-31.8 (Hybrid Commercial).
  - (2) Off-street parking shall be masked from frontages by liner buildings no less than 24 feet in depth to achieve the minimum frontage occupation. See Illustration 12-3-31.11 depicting off-street parking lot masking with liner buildings and subsection (7)e.3.iii of this section for permitted streetscreen requirements.

ILLUSTRATION 12-3-31.11. PARKING LOT MASKING WITH LINER BUILDINGS



- (3) The ground floor of commercial buildings with a gross floor area less than 1,500 square feet shall be exempt from parking requirements.
- iv. Bicycle parking.
  - (a) Minimum bicycle parking requirements shall be as follows:
    - (1) Bicycle parking shall not be required for single-family residential or multifamily residential with less than eight units.
    - (2) Bicycle parking requirements shall be according to Table 12-3-31.11.

TABLE 12-3-31.11. MINIMUM REQUIRED  
BICYCLE PARKING

Building Type	Location	R-2A through C-2A	C-2, C-3*
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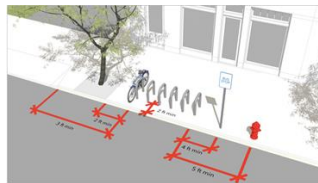
Multifamily	Primary & Secondary Frontages	Minimum 0.25 spaces per unit	Minimum 0.50 spaces per unit
Nonresidential	Primary & Secondary Frontages	Minimum 0.50 spaces per 1,000 square feet	Minimum 0.75 spaces per 1,000 square feet

\*Excluding C3C Context Zones.

- (3) Bicycle parking locations within the public right-of-way shall be coordinated with the engineering division of the city public works and facilities department and subject to section 12-11-7 (license to use), and minimum clearance distances.
- (b) Bicycle parking configuration shall be as follows:
  - (1) Bicycle racks shall not be located within:
    - a. Five feet of fire hydrants.
    - b. Four feet of loading zones and bus stop markers.
    - c. Three feet of driveways and manholes.
    - d. Two feet of utility meters and tree planters.

See Illustration 12-3-31.12 for a depiction of bicycle parking clearances.

ILLUSTRATION 12-3-31.12. BICYCLE RACK CLEARANCES



- (c) Bicycle parking located along private or public streets shall be subject to the following:
  - (1) Bicycle racks installed parallel to curbs shall be set back from the curb a minimum of two feet, as illustrated in Illustration 12-3-31.11.
  - (2) Bicycle racks installed perpendicular to curbs shall allow for a minimum clearance of two feet at the curb and six feet of pedestrian way with a 56 cm or 22 in bicycle properly locked to the rack.
  - (3) Bicycle racks should be spaced a minimum of 36 inches apart.

- (4) Bicycle racks shall allow bicycle frames to be locked at two points of contact with the rack.

i. *Fences and walls.*

1. Where provided, fences and walls shall provide full enclosure.
2. Fences and walls shall be restricted according to frontage yard types in Table 12-3-31.9 and section 12-3-58 (visibility triangles).
3. Height of fences and walls shall comply with the following:
  - i. Height shall be limited to a minimum 30 inches and a maximum 42 inches within the front setback.
  - ii. Height shall be limited to eight feet behind the building face at non-frontages.
4. Materials for fences and walls shall be limited as follows:
  - i. Approved materials shall include, but are not limited to, wood, brick, stone, and wrought iron.
  - ii. Vinyl is discouraged on all frontages.
  - iii. Chain-link, exposed concrete block, barbed wire and razor wire shall be prohibited.
  - iv. Wood fences shall have the finished side to the public frontage.
  - v. Where hedges are utilized along frontages, they shall be maintained in accordance with subsection (8)b.1.v of this section.




j. *Windows and glazing.*

1. Windows shall meet the following requirements:
  - i. Windows on frontages shall be square or vertical in proportion, with the exception of transoms and special windows.
  - ii. Windows should have muntins for residential building types, which should be vertical in proportion.
  - iii. Single panes of glass shall not exceed 20 square feet for residential building types.
2. Glazing shall meet the following requirements:
  - i. Storefront glazing requirements shall be according to Table 12-3-31.12.
  - ii. For residential and mixed-use buildings, excluding commercial uses at grade, the percentage of glazed wall area shall be a minimum 20 percent.



- iii. Reflective and tinted windows shall be prohibited for residential buildings.
- iv. Stained, reflective and tinted windows shall be prohibited at ground floor commercial uses. Low-E is permitted as per Florida Building Code.

TABLE 12-3-31.12. GLAZING REQUIREMENTS

<b>Residential</b>	
At & above grade	Minimum 20% along frontages
	
<b>Multifamily &amp; office</b>	
Above grade	Minimum 20% along frontages
At grade	Minimum 35% along frontages
	
<b>Mixed-use</b>	
Above grade	Minimum 20% along frontages
At grade	Minimum 70% along frontages
	

<b><u>RESIDENTIAL</u></b>		
<b><u>Glazing</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>20% min.</u>	<u>15% min.</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>15% min.</u>
<b><u>Blank Wall Length</u></b>	<b><u>N/A</u></b>	<b><u>N/A</u></b>
<b><u>MULTI-FAMILY</u></b>		
<b><u>Glazing</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>35% min.</u>	<u>35% min.</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>20% min.</u>
<b><u>Blank Wall Length</u></b>	<b><u>20 ft.</u></b>	<b><u>20 ft.</u></b>
<b><u>COMMERCIAL &amp; MIXED USE</u></b>		
<b><u>Glazing, Multi-Unit</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>

<u>Ground Floor</u>	<u>70% min.</u>	<u>70% min. (2<sup>nd</sup> side)</u> <u>35% min. (remaining sides)</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>20% min.</u> <u>10% min (remaining sides)</u>
<b><u>Blank Wall Length, Multi-Unit</u></b>	<b><u>20 ft.</u></b>	<b><u>20 ft.</u></b>
<b><u>Glazing, Single-Unit</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>50% min.</u>	<u>50% min. (2<sup>nd</sup> side)</u> <u>25% min. (remaining sides)</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>20% min. (2<sup>nd</sup> side)</u> <u>10% min. (remaining sides)</u>
<b><u>Blank Wall Length, Single Unit</u></b>	<b><u>20 ft.</u></b>	<b><u>20 ft.</u></b>
<b><u>LIGHT INDUSTRIAL, STORAGE AND SIMILAR</u></b>		
<b><u>Glazing</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>35% min.</u>	<u>35% min. (2<sup>nd</sup> side)</u> <u>15% min. (remaining sides)</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>20% min. (2<sup>nd</sup> side)</u> <u>10% min. (remaining sides)</u>
<b><u>Blank Wall Length</u></b>	<b><u>20 ft.</u></b>	<b><u>20 ft.</u></b>

- k. Lighting on private property.
  - 1. Lighting shall be arranged to be contained on-site and to reflect away from adjacent property.
- (8) *Landscape standards and guidelines.*
  - a. *Intent.* Supplement the urban canopy, accommodate stormwater, increase access to open space and facilitate pedestrian movement throughout the existing block patterns to meet the urban design goals of the community redevelopment agency. A healthy tree canopy contributes to the health of citizens and the environment, and is fundamental to a vibrant pedestrian life and a well-defined public realm. Trees closely aligned to the street edge with consistent setbacks, provide a clear sense of enclosure of streets, enabling them to function as pedestrian-scaled outdoor rooms. The placement of trees along the edge of the sidewalk should be given

particular attention as a major contributor to pedestrian activity. Trees and other native plants placed in drainage rights-of-way and parking islands contribute to the control of stormwater quantity and quality.

b. *Landscape on private property.*

1. Landscaping in frontage yards are subject to the requirements of the frontage yard types in Table 12-3-31.9, and section 12-3-58 (visibility triangles), and the following:
  - i. For single-family detached and two-family lots, one tree for every lot or for every 50 feet of linear frontage along the right-of-way shall be preserved or planted. Trees planted to meet this requirement shall be as follows:
    - (a) Measured at diameter breast height (DBH), as described in section 12-6-2(e) (DBH).
    - (b) For lots with a front setback of less than eight feet where planting in front yards is not possible, required trees shall be planted elsewhere on the block itself.
  - ii. Ground vegetation or shrub plantings with spines, thorns, or needles that may present hazards to pedestrians, bicyclists, or vehicles shall be maintained a minimum distance of two feet from the edge of walkways and sidewalks.
  - iii. In single-family detached and two-family lots, trees shall be protected in accordance with section 12-3-10(1)e.2 (protection of trees).
  - iv. When off-street parking is located in front or side setbacks, a year-round streetscreen along the street edges of the parking lot shall be installed as a means of buffering, according to section 12-6-3(2) (off-street parking and vehicle use areas).
  - v. Hedges planted along street rights-of-way shall be between three and five feet in height at maturity.
2. Minimum landscape area requirements of the development site for all building types except single-family detached and two-family attached (duplex) shall be according to Table 12-3-31.13. Landscape requirements for single-family detached and two-family attached shall be in accordance with subsection (8)b.1 of this section and Table 12-3-31.9, frontage types.

TABLE 12-3-31.13. MINIMUM LANDSCAPE AREA REQUIREMENTS

Zoning District	Percent
R-1AAA through R-2	25

R-NC, R-NCB, C-1, C-2, C-2A, C-3, M-1, M-2	15
--------------------------------------------	----

c. *Buffer yards.*

1. In addition to the buffer yard requirements of section 12-3-56 the following shall apply:
  - i. Berms shall not be installed as part of a required buffer without review and approval by the engineering division of the city public works and facilities department to ensure a proposed berm will not have a detrimental effect on adjacent properties by impeding or diverting stormwater flow.
  - ii. Berms shall be planted and stabilized to prevent erosion.
  - iii. Buffer yards may be used to create rain gardens or other stormwater facilities with the selection of appropriate plant material, according to the city's approved plant list and approval by the engineering division of the city's public works and facilities department.
  - iv. Plants in these stormwater facilities shall be selected to meet any applicable buffer yard screening requirements, and they should be tolerant of periodic inundation and drought. It is recommended that native plants be selected from the Florida Friendly Landscaping Guide to Plant Selection and Landscape Design, Northern Region, and Waterwise Landscapes by the South Florida Water Management District, according to Table 12-3-31.14.

TABLE 12-3-31.14. BIORETENTION & RAINWATER GARDEN PLANT LIST

Flowers	
Common Name	Scientific Name
Blue Flag Iris	Iris Hexagona
Cardinal Flower	Lobelia Cardinalis
Chipola Coreopsis	Coreopsis Integrifolia
Goldenrod	Solidago spp.
Swamp Sunflower	Helianthus Angustifolius
Spider Lily	Hymenocallis Latifolia
Swamp Lily	Crinum Americanum
Swamp Milkweed	Asclepias Perennis
Grasses	
Common Name	Scientific Name
Blue-Eyed Grass	Sisyrinchium Atlanticum Bicknell
Florida Gamma Grass	Tripsacum Floridanum
Muhly Grass	Muhlenbergia Capillaris

Path or Soft Rush	Juncus spp.
Rainlily	Zephyranthes spp.
River Oats	Chasmanthium Latifolium
Wiregrass	Aristida Stricta
<i>Shrubs</i>	
<i>Common Name</i>	<i>Scientific Name</i>
Beautyberry	Callicarpa Americana
Buttonbush	Cephalanthus Occidentalis
Virginia Willow	Itea Virginica
Wax Myrtle	Myrica Cerifera

d. *Street trees in the public right-of-way.*

1. Street trees shall be provided in the public right-of-way for all developments except single-family detached and two-family (duplex), in accordance with section 11-4-88 (placement of trees and poles), section 12-6-3 (landscaping requirements) and this subsection.
2. Where street trees cannot reasonably be planted, payment in lieu of planting shall be made to a new and dedicated CRA tree planting fund, at the value established in section 12-6-6(2)e.
3. Street tree planting, and maintenance requirements shall be as follows:
  - i. For each lot, one tree shall be provided on an average of 35 linear feet of public right-of-way frontage, where no underground utility conflicts exist.
  - ii. Where greenways exist, trees shall be required to be planted within the greenway. The following exceptions shall apply:
    - (a) Where no greenway exists or where the greenway is less than three feet wide, between sidewalk and curb, required street trees shall be planted on the block.
    - (b) Where planting within the greenway is infeasible due to utility conflicts, required street trees shall be planted on the block.
  - iii. Trees planted three feet or less from a public sidewalk shall have a minimum clearance of six feet and six inches between the public walking surface and the lowest branches at planting.
  - iv. Mature trees shall be maintained at a minimum clearance of eight feet above the public walking surface.
  - v. Trees planted within the public right-of-way shall include a root barrier to prevent the shifting of sidewalks at maturity.

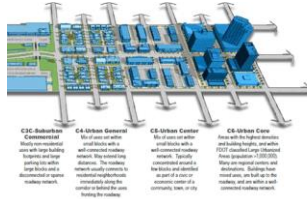
- vi. Installation of tree pits and grates within the public right-of-way shall be coordinated with the city public works and facilities department for style consistency. Installed tree pits and grates shall be maintained by the property owner in perpetuity.
  - vii. Where possible, trees may be clustered together to share soil space.
- 4. Tree selection shall be limited to those allowable plantings contained within the tree replant list specified in chapter 12-6, Appendix B (Tree Replant List). The following conditions shall apply:
  - i. Where overhead utilities occur, a tree with smaller size at maturity shall be selected.
- 5. Tree selection and placement shall be coordinated with the engineering division of the city public works and facilities department and subject to section 12-3-58 (visibility triangle) and section 12-11-7 (license to use).
- 6. Mixed-use and nonresidential building types shall comply with the following:
  - i. Where galleries are not provided, street trees shall be planted, unless in conflict with underground utilities. Where there are overhead utilities, appropriate species from the tree replant list specified in chapter 12-6, Appendix B shall be selected.
  - ii. Where a gallery is provided, and the greenway that occurs between the sidewalk and the back of curb is less than three feet wide, no street trees shall be required.
  - iii. Where a greenway at least three feet wide occurs between the gallery and the back of curb, and no overhead or underground utilities prevent street tree installation, planting of a street tree shall be required.
  - iv. Where paved surface occurs between the gallery and curb, installation of street trees in individual tree pits with tree grates, or linear planters with pervious pavers between several trees, shall be required.
  - v. Where trees are planted in sidewalk planters, the minimum sidewalk planting pit dimensions shall be four feet by four feet.

(9) *Thoroughfare standards and guidelines.*

- a. Context classification.
  - 1. The context classification system, as developed by FDOT and described within the FDOT Complete Streets Manual, shall be

adopted to identify place and guide streets and other transportation features, and to allow transportation to support adjacent land uses. See Illustration 12-3-31.13 depicting context classification zones.

### ILLUSTRATION 12-3-31.13. CONTEXT CLASSIFICATION ZONES ILLUSTRATED



2. Streets shall be classified in accordance with the zoning to context classification translations specified in Table 12-3-31.15.

TABLE 12-3-31.15. ZONING TO CONTEXT CLASSIFICATION TRANSLATION

Context Classification (FDOT) Zone	Zoning District
C4 - Urban General	R-1AAA through R-2
C5 - Urban Center	R-NC through C-3
C3C - Suburban Commercial	C-3 adjacent to M-1 or M-2. Limited to segments that abut such zoning districts. M-1 M-2

#### b. Street design.

1. Design of local streets shall be guided by the Florida Greenbook, Chapter 19 Traditional Neighborhood Design.
2. Where a greenway of at least five feet exists, driveway approaches and curb cuts shall not be permitted to interrupt the sidewalks.
3. *Sidewalks.* Sidewalks shall be required on all street frontages in residential, nonresidential, commercial and industrial developments in accordance with standards established by the Engineering Division of the City's Public Works and Facilities and the Florida Greenbook.
4. *Driveways and curb cuts.* Driveway, driveway approaches and curb cut requirements shall be as follows:
  - i. Single-family residential types. Driveway and curb cut widths for single-family residential types shall be according to Table 12-3-31.16.

TABLE 12-3-31.16. SINGLE-FAMILY RESIDENTIAL DRIVEWAY AND CURB CUT WIDTHS

Driveway Type	Minimum Width	Maximum Width
Single-Use	10 feet	20 feet

Joint-Use	10 feet	22 feet
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- ii. Multifamily, mixed-use and nonresidential types. Driveway and curb cut widths for multifamily and nonresidential types shall be according to Table 12-3-31.17.

TABLE 12-3-31.17. MULTIFAMILY/  
NONRESIDENTIAL DRIVEWAY AND  
CURB CUT WIDTHS

Driveway Type	Minimum Width	Maximum Width
All	12 feet	24 feet

- iii. Driveway and curb cut spacing on a single property shall be a minimum of 42 feet with the following exception:
  - (a) Lots equal to or less than 42 feet wide shall be limited to one driveway and curb cut.

(10) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Building height, multifamily and nonresidential means* the vertical distance of a building measured by stories. The restrictions to story height are according to subsection (7)c.3 of this section.

*Building height, single-family residential means* the vertical distance of a building measured from the finished grade to the bottom of the eave for pitched roof buildings or the bottom of the parapet for flat roof buildings.

*Cluster court* means a collection of buildings on a semi-public, privately owned open space.

*Colonnade* means a row of columns joined by an entablature. Colonnades may cover sidewalks and may front storefronts.

*Complete street* means a thoroughfare that is designed giving each user an equal level of priority including pedestrians, cyclists, transit users, and drivers.

*Craftsman standards* means a baseline of construction quality denoting a finished project.

*(FDOT) Distinct Context Classifications Zone* means classifications, along with functional classification and design speed, determine the corresponding thoroughfare design standards within the Florida Design Manual. (<http://www.fdot.gov/roadway/CSI/files/FDOT-context-classification.pdf>)

*Eave* means the edge of the roof that meets or overhangs the walls of a building.

*Encroachment* means certain permitted building elements that may cross established setbacks or rights-of-way.



*Entablature* means a horizontal, continuous building element supported by columns or a wall.

*Facade, building* means the exterior wall of a building that faces a frontage line.

*Facade type* means the different configurations of building elements that make up a building facade, such as a storefront, porch, etc. See Table 12-3-31.10.

*Figures and tables.* Any chart or graphic presentation in this title that is specifically designated as a "Figure" or "Table" shall be deemed to be a part of the text of the title and controlling on all development.

*Frontage line* means a property line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other property lines.

*(Building) Frontage occupation* means the length of the frontage that is occupied by a building or a building and open space.

*Frontage, primary* means the frontage facing a public space such as a street of higher pedestrian importance (i.e. traffic volume, number of lanes, etc.). Typically, the shorter side of a lot.

*Frontage, secondary* means the frontage facing the public space such as a street that is of lesser pedestrian importance (i.e. traffic volume, number of lanes, etc.). Typically, the longer side of the lot.

*Frontage yard type* means the configuration of the area between the facade of the building and the frontage line such as a standard, shallow, cluster court, etc. See Table 12-3-31.9.

*Frontage yard type (cluster court)* means a frontage yard type where a group of houses has their primary facades facing a common green or open space that is horizontal to the primary frontage.

*Frontage yard type (pedestrian forecourt)* means a frontage yard type where the primary facade is located near the lot line with an area setback to accommodate open space and the primary entrance of the building.

*Frontage yard type (shallow)* means a frontage yard type where the facade is slightly set back from the lot line.

*Frontage yard type (standard)* means a frontage yard type where the facade is set back from the lot line. Fences are permitted and the setbacks are visually continuous with adjacent yards.

*Frontage yard type (urban yard)* means a frontage yard type where the facade is at or near the lot line and the surface is paved.

*Frontage yard type (vehicular forecourt)* means a frontage yard type where the primary facade is located near the lot line with an area setback to accommodate a driveway meant for passenger loading and unloading.

*Gallery* means a covered sidewalk in front of a storefront that supports either a roof or outdoor balcony above.

*Habitable space* means building space which use involves human presence with direct view of the enfronting streets or public or private open space, excluding parking garages, self-service storage facilities, warehouses, and display windows separated from retail activity.

*Human-scaled* means buildings and their elements designed to be comfortably viewed and experienced by people on foot.

*Hybrid commercial* means a commercial type in the C3C FDOT Context Zone that transitions between urban and suburban types, typically permitting one row of parking at the frontage.

*Liner building* means a building specifically designed to mask a parking lot or a parking structure from a frontage.

*Parallel* means two lines or planes that are equidistant apart and do not touch on an infinite plane.

*Parapet* means the extension of a false front or wall above a roof line.

*Parkway, greenway, verge* means the planting strip between the edge of the road and sidewalk or right-of-way, which may be used for tree planting. See sections 11-4-86 through 11-4-88.

*Paving* means to cover or lay with concrete, stones, bricks, tiles, wood or the like to make a firm, level surface. The term paving in this section includes all pavement materials, both pervious and impervious.

*Pervious* means materials or natural earth that allows for the natural percolation of water.

*Porch* means a private facade type that is an open-air room appended to the mass of a building with a floor and roof but no walls on at least two sides.

*Principal building* means the main building on a lot, usually located toward the frontage.

*Principal building facade* means the front of the building that faces the front of the lot.

*Single-family residential* means a single-family ownership on a single lot. Multiple ownership on a single lot is not construed as a single-family type. Single-family is restricted to the following types on their own lots: detached single-family, attached single-family and two-family attached (duplex).

*Stoop* means a private facade type wherein the facade is aligned close to the front property line with the first story elevated for privacy with an exterior stair and landing at the entrance. This type is suitable for ground-floor residential uses at short setbacks with townhouses and apartment buildings. Stoops may encroach into the setback.

*Streetscreen* means a freestanding wall built along the frontage line, or aligned with the facade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

*Travel mode* means the different means of transport around an area including by foot, bicycle, public transit, and car.

*Walkability* means a measurement of comfort, convenience, safety, and ease of pedestrian movement throughout an area.

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

SECTION IV. 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. 03-22

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-3-31 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, COMMUNITY REDEVELOPMENT AREA (CRA) URBAN DESIGN OVERLAY DISTRICT STANDARDS; REVISING SECTION 12-3-31 (6) MODIFICATIONS AND APPEALS AND TABLE 12-3-31.12 GLAZING REQUIREMENTS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-3-31 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 12-3-31. Community redevelopment area (CRA) urban design overlay district.

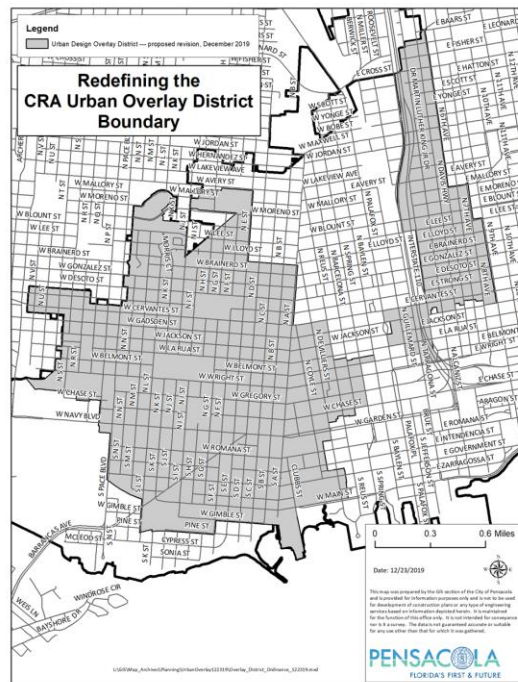
The regulations in this section shall be applicable to the community redevelopment area (CRA) urban design overlay district (CRAUDOD).

(1) *Intent.* The requirements set forth in this section are intended to:

- a. Preserve and maintain the urban pattern and architectural character of Pensacola's community redevelopment areas, while encouraging new construction that is compatible with that heritage, but also reflective of its time.
- b. Improve the physical appearance of the community redevelopment areas with urban design standards that provide more predictable results in terms of the form and character of buildings.
- c. Support the removal of blight within the community redevelopment areas by encouraging quality redevelopment.
- d. Support the future growth of the city, to ensure compatible and cohesive development, to remain resilient long-term, and to support the goals, objectives and policies of the city's comprehensive plan and community redevelopment area master plans.
- e. Coordinate the placement, orientation, and design of buildings to ensure a coherent and walkable streetscape and traditional urban character by creating well-defined street edges with continuous building walls, articulated facades, and architectural features that create visual interest and an attractive pedestrian environment.

- f. Capitalize on opportunities to attract and grow a variety of residential building types, retail, service, and cultural establishments to serve local needs, create regional attractions and a robust economic base.
  - g. Enable and encourage mixed-use development within the community redevelopment areas in support of viable and diverse locally-oriented business and cultural institutions.
  - h. Achieve context-based development and complete streets.
- (2) *Boundaries of the district.* The boundaries of the CRA urban design overlay district shall be as outlined on Figure 12-3-31.1. A more detailed map of the boundaries of the overlay is on file in the office of the city clerk.

FIGURE 12-3-31.1. CRA URBAN DESIGN  
OVERLAY DISTRICT BOUNDARIES



- (3) *Applicability.*
- a. These standards shall apply to all new construction within the CRA urban design overlay district. For purposes of this section, "new construction" includes construction on a parcel that is vacant or becomes vacant following demolition of an existing structure on the parcel; it also includes construction of a freestanding accessory building and ancillary improvements on a parcel, but does not include an addition to a current structure.
  - b. This section shall apply as an overlay to the underlying land development regulations. The land development regulations contained within this title shall apply unless pre-empted by this section. Where a conflict exists between this section and the underlying land development regulations, contained within this title, this section shall prevail.

- c. Standards, activated by "shall," are regulatory in nature, as defined within section 12-1-8 (general interpretative terms). Deviations from these standards shall only be permitted by variance in accordance with section 12-11-2 (appeals and variances).
  - d. Guidelines, activated by "should," are encouraged and recommended but not mandatory, as defined within section 12-1-8 (general interpretative terms). Developments subject to this overlay district are encouraged to incorporate them as appropriate in order to enhance and complement the built and natural environment. The intent is to create the highest level of design quality while providing the needed flexibility for creative site design.
  - e. Figures, tables and illustrations shall be interpreted as defined in section 12-1-8 (general interpretative terms) unless the context clearly indicates otherwise.
  - f. The provisions of this section are not intended to supersede, conflict with or replace any requirement in federal or state law pertaining to design, construction or accommodation requirements pertaining to persons with disabilities, and it is hereby declared to be the intent of the city that such requirements in federal or state law shall prevail over any provisions of this section to the extent of any conflict.
- (4) *Existing conditions.* Existing buildings and structures that do not conform to the requirements of this overlay district may be occupied, operated, repaired, renovated or otherwise continue in use in their existing nonconforming state unless demolished and rebuilt.
- (5) *Procedure for review.* All development regulated by this subsection shall be subject to the submission requirements contained within sections 12-11-5 (building permits), 12-3-120 (development plan requirements), and 12-3-121 (design standards and guidelines), as applicable. In addition to the plan submission requirements listed in sections 12-11-5 and 12-3-120, drawings illustrating compliance with this section shall be provided. Plans shall include drawings or sketches with sufficient detail to show, as far as they relate to exterior appearance, the architectural design of the building, including proposed materials, textures, and colors, and the plat plan or site layout, including all site improvements or features such as walls, fences, walkways, terraces, landscaping, accessory buildings, paved areas, signs, lights, awnings, canopies, screening, and other appurtenances. Facade and frontage yard types shall be specified along frontages in accordance with Table 12-3-31.10 (Facade Types) and Table 12-3-31.9 (Frontage Yard Types).
- (6) *Modifications and aAppeals and variances.* Appeals and variances shall be subject to section 12-11-2 (appeals and variances). The standards established in this section are intended to achieve the principles outlined in subsection (1). However, specific site features, physical barriers or easement, and challenging characteristics affiliated with a particular site or type of use may create conditions that make compliance with a specific standard impractical or undesirable. In such instances alternative design solutions that achieve the principles defined in

subsection 1 of this section may be considered. This section establishes the procedures for considering requests for a modification to the standards.

Modifications shall be approved through an abbreviated review process. This process shall require review by an architect advisor appointed by the City Council, the Chair of the applicable redevelopment board representing the redevelopment district for which the project is located and the Urban Design Specialist. City Council shall appoint two architects to serve as the architect advisor(s), a primary and an alternate. In the absence of the architect advisor or in the event of a conflict of interest, the alternate architect shall serve in the capacity of the architect advisor. The appointed architects shall not be employed by the same firm or have any other relationship that would constitute a conflict of interest between them.

1. Review shall consider the principles defined in subsection (1) of this section.
  2. The decision to approve, deny or approve with modifications shall be based on the following considerations:
    - i. The physical conditions of the property such as flood plain, drainage or small or irregular lot shape making compliance to the specific standard physically impossible and this hardship is not created by the applicant; and/or
    - ii. If by its nature, including its function and intensity, the development constitutes a special use or presents a particular circumstance that causes challenges integrating into an urban, walkable, neighborhood environment; and
    - iii. The modification will not significantly impact adjacent property owners, the character of the area, traffic conditions, parking, public infrastructure, water quality, or other matters affecting the public health, safety and general welfare; and
    - iv. The modification will not result in a substantial departure from the key principles that buildings should:
      - (a) Front the street and be located close to the street edge
      - (b) Provide interest to those walking and biking past by avoiding blank walls
      - (c) Create a human-scaled street edge and add value to the walkability of streets
      - (d) Include key architectural features which reflect traditional neighborhood character
  3. Appeals shall be referred to the Zoning Board of Adjustments.
- (7) *Urban design standards and guidelines.*
- a. *Building height.*

1. Intent. Within the overlay district, height for single-family residential types will be measured in feet and multifamily, mixed-use and nonresidential buildings will be measured in stories. Measuring height in stories rather than feet has numerous benefits which include:
  - i. To provide greater creativity for a natural variety of roof forms;
  - ii. To recognize the need of different users, as commercial floor plates are different than residential floor plates;
  - iii. To remove the incentive to create short floorplates, and instead encourage more gracious floor-to-ceiling heights for environmental health, without penalizing property owners; and
  - iv. To protect the historical proportions of Pensacola's community redevelopment areas.
2. Maximum building heights for principal and accessory buildings shall be as defined by the form standards in Tables 12-3-31.3 to 12-3-31.8.
3. Building height is measured as follows:
  - i. Where maximum height is specified, the measurement shall be taken from the finished grade at the front of the building.
  - ii. Building height shall be measured in feet for single-family residential types as defined in the form standards in Tables 12-3-31.3 to 12-3-31.8 and as follows:
    - (a) For pitched roof buildings, to the bottom of the lowest eave of the principal structure.
    - (b) For flat roof buildings, to the bottom of the parapet.
    - (c) Minimum floor to ceiling height in single-family residential types shall be nine feet per floor.
  - iii. Building height shall be measured in stories for multifamily, mixed-use and nonresidential buildings as follows:
    - (a) Multifamily buildings shall be limited by ground floor story and above ground story height in accordance with Table 12-3-31.1.



TABLE 12-3-31.1. MULTIFAMILY STORY HEIGHT REQUIREMENTS

Zoning Category	Ground Floor Story Height		Above Ground Story Height
	Max.	Min.	Max.
R-2A through C-3	16 ft.	12 ft.	14 ft.

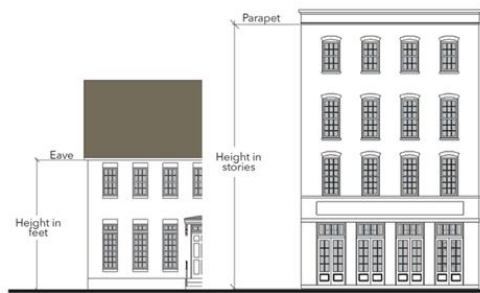
- (b) Mixed-use and nonresidential buildings shall be limited by ground floor story and above ground story height in accordance with Table 12-3-31.2.

TABLE 12-3-31.2. MIXED-USE/NONRESIDENTIAL STORY HEIGHT REQUIREMENTS

Zoning Category	Ground Floor Story Height		Above Ground Story Height
	Max.	Min.	Max.
R-1AAA through R-2A	16 ft.	12 ft.	14 ft.
R-NC, R-NCB and R-2	20 ft.	14 ft.	14 ft.
C-1, C-2, C-2A and C-3	24 ft.	14 ft.	14 ft.

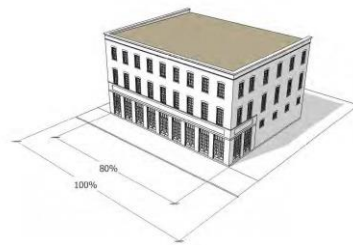
- (c) Stories are measured from finished floor to finished floor with the exception of one-story buildings that shall be measured floor to ceiling.
- (d) Story heights that exceed the maximum permitted height specified in Tables 12-3-31.1 and 12-3-31.2 shall count as two stories. Height defined within this subsection shall not supersede height as defined by the Florida Building Code.
- iv. See Illustration 12-3-3.1 for a depiction of height measurements in feet and stories.

ILLUSTRATION 12-3-3.1. MEASURING BUILDING HEIGHT



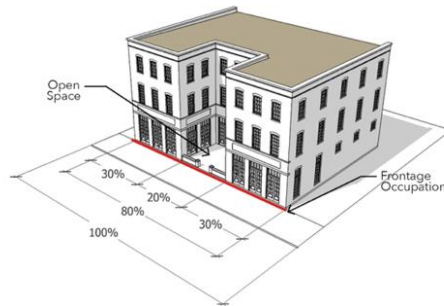
4. Parking garages shall not exceed the height of the principal building on the site. Parking garages shall not be subject to floor to floor height requirements according to subsection (7)a.3.iii of this section. Stand-alone parking garages shall only conform to the number of stories permitted within the form standards in Tables 12-3-31.3 to 12-3-31.8.
  5. Roof pitch.
    - i. Gable or hipped roofs shall have a minimum pitch of 6:12 and a maximum pitch of 12:12.
    - ii. Shed roofs shall have a minimum pitch of 4:12.
- b. *Building orientation.*
1. Intent. Buildings should have their principal pedestrian entrance along a street, pedestrian way or open space, with the exception of entrances off a courtyard, visible from public rights-of-way.
  2. Building frontage occupation shall conform to the form standards in Tables 12-3-31.3 to 12-3-31.8.
  3. Buildings shall be oriented so that the principal facade is parallel to the street it faces for the minimum building frontage occupation required in the form standards in Tables 12-3-31.3 to 12-3-31.8. See Illustration 12-3-31.2 for a depiction of minimum frontage occupation requirements.

ILLUSTRATION 12-3-31.2. MINIMUM BUILDING FRONTAGE OCCUPATION



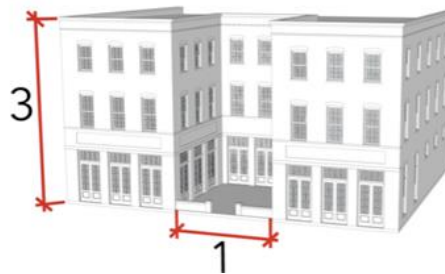
4. Lot width shall be measured along the right-of-way at the front property line. Lot width measurements at the building setback line and minimum lot area shall not apply.
5. Forecourts, courtyards and other such defined open spaces shall count towards minimum frontage requirements. See Illustration 12-3-31.3 for an illustration depicting minimum frontage occupation requirements with open space.

### ILLUSTRATION 12-3-31.3. MINIMUM BUILDING FRONTAGE OCCUPATION WITH OPEN SPACE



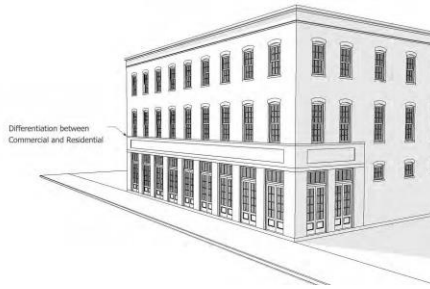
6. Ground floor units in multifamily residential buildings shall provide landscaping, walls, and/or fences that provide some privacy for the building.
- c. *Building massing.*
1. Intent. Buildings should be designed in proportions that reflect human-scaled pedestrian movement, and to encourage interest at the street level.
  2. Where provided, multifamily building courtyards shall maintain a minimum width to height ratio of 1 to 3 in at least one dimension in order to avoid light well conditions. Courtyards should be wider than the minimum where possible. See Illustration 12-3-31.4 for depiction of courtyard ratio measurements.

### ILLUSTRATION 12-3-31.4. COURTYARD HEIGHT TO WIDTH RATIO MEASUREMENTS



3. The design and facade treatment of mixed-use buildings shall differentiate commercial from residential uses with distinguishing expression lines (such as cornices, projections, banding, awnings, terraces, etc.), changes in fenestration, facade articulation and/or material changes. See Illustration 12-3-31.5 for depiction of mixed-use building differentiation of uses.

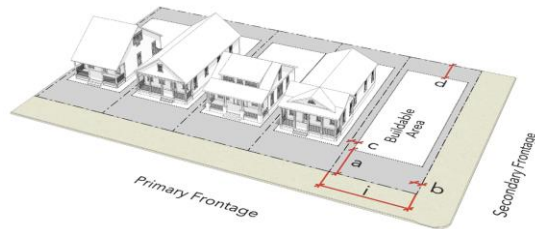
## ILLUSTRATION 12-3-31.5. MIXED USE BUILDING DIFFERENTIATION OF USES



4. Single-family units shall be distinguished from abutting units with changes in unit entry, plane, color, materials, front porches, front stoops, fenestration, and/or building elements such as railings.
  5. All service and loading areas shall be entirely screened from public right-of-way as follows:
    - i. Equipment shall be screened.
    - ii. If outdoor storage areas are separate from the building they serve, the fence materials shall be limited to masonry, concrete, stucco, wood, PVC and metal, excluding chain-link.
  6. HVAC and mechanical equipment are restricted as follows:
    - i. They shall be prohibited in frontage yards.
    - ii. They shall be integrated into the overall building design and not be visible from adjoining streets and or open spaces.
    - iii. Through-wall units shall be prohibited along street frontages and open spaces, unless recessed within a balcony.
  7. Mechanical equipment on roofs shall be visually screened from the street with parapets or other types of visual screens of the minimum height necessary to conceal the same.
  8. Roof top parking shall be visually screened with articulated parapet walls or other architectural treatment.
  9. Exterior wall materials prohibited for all single-family residential types shall include:
    - i. Corrugated metal panels; and
    - ii. Exposed concrete block.
  10. Material requirements contained within section 12-3-121(c)(8) (design standards and guidelines) shall apply within the CRA urban design overlay district.
- d. *Form standards.*

1. Form standards within the CRA urban design overlay district shall be as defined in Tables 12-3-31.3 to 12-3-31.8.
2. Exceptions to form standards.
  - i. Front setbacks in R-1AAA, R-1AA, and R-1A shall not be less than the average setback of all frontage yards (front and exterior side yards) located on either side of the block face, up to the minimum front setback defined in form standards in Tables 12-3-31.3 and 12-3-31.5. In cases where no other dwellings exist within the block, the front setback shall be no less than the front setback defined in form standards in Tables 12-3-31.3 and 12-3-31.5.
  - ii. Each single-family attached dwelling unit shall be located on its own lot. If a development requires subdivision procedures, it shall be subject to and must comply with subdivision regulations as set forth in chapter 12-7.
  - iii. Where lot occupation and setback standards differ from the dense business area (DBA), as defined in chapter 12-13 (definitions), the standards in the DBA shall prevail.

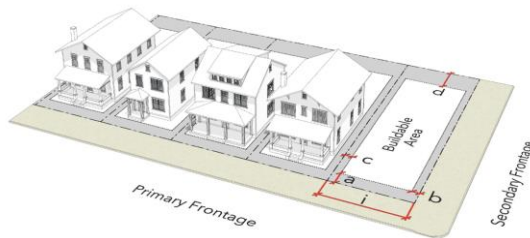
TABLE 12-3-31.3. SINGLE-FAMILY DETACHED AND TWO-FAMILY ATTACHED (DUPLEX) RESIDENTIAL BUILDING TYPES - R-1AAA THROUGH R-1A



Setbacks - Principal Building (feet)	
Front	20 min.
Front, Secondary(4)	5 min.
Side (Interior)(4)	5 min.
Rear	30 min./20 min. (30' lots)
Frontage (min.)	
Primary	45%/40% (lots < 42')
Lot Occupation(5)	
Lot Width(3)	30 ft. min.
Lot Coverage	50% max.
Building Height (max.)	
Principal Building(1)	35 ft.
Accessory Building(1)	24 ft.
Parking (min.)	

Off-street(2)	1/unit
Setbacks - Accessory Building (feet)	
Front	50 min.
Front, Secondary(4)	5 min.
Side (Interior)	1 min.
Rear	3 min.
Frontage Yard Types	
Standard	Permitted
Shallow	Not Permitted
Urban	Not Permitted
Pedestrian Forecourt	Not Permitted
Vehicular Forecourt	Not Permitted
Facade Types	
Porch	Permitted
Stoop	Not Permitted
Common Entry	Not Permitted
Gallery	Not Permitted
Storefront	Not Permitted
Notes:	
(1) Measured according to subsection (7)a.3 of this section.	
(2) See subsection (7)h.2 of this section for exceptions.	
(3) Lot width shall only be measured from the right-of-way line. Lot width at the building setback line shall not apply.	
(4) Minimum setback for 30-foot lots shall be three feet measured from the finished wall or the minimum setback required per applicable Florida Building Code.	
(5) Minimum lot area shall not apply.	

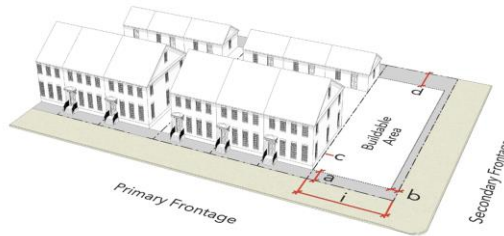
TABLE 12-3-31.4. SINGLE-FAMILY DETACHED AND TWO-FAMILY ATTACHED (DUPLEX) RESIDENTIAL BUILDING TYPES-R-1B THROUGH C-3



Setbacks - Principal Building (feet)	
Front	8 min./20 max.
Front, Secondary(4)	5 min.
Side (Interior)(4)	5 min.
Rear	25 min./20 min. (30' lots)
Frontage (min.)	

Primary	45%/40% (lots < 42')
Lot Occupation(5)	
Lot Width(3)	30 ft. min.
Lot Coverage	50% max.
Building Height (max.)	
Principal Building(1)	35 ft.
Accessory Building(1)	24 ft.
Parking (min.)	
Off-street(2)	1/unit
Setbacks - Accessory Building (feet)	
Front	50 min.
Front, Secondary(4)	5 min.
Side (Interior)	1 min.
Rear	3 min.
Frontage Yard Types	
Standard	Permitted
Shallow	Permitted
Urban	Not Permitted
Pedestrian Forecourt	Not Permitted
Vehicular Forecourt	Not Permitted
Facade Types	
Porch	Permitted
Stoop	Not Permitted
Common Entry	Not Permitted
Gallery	Not Permitted
Storefront	Not Permitted
Notes:	
(1) Measured according to subsection (7)a.3 of this section.	
(2) See subsection (7)h.2 of this section for exceptions.	
(3) Lot width shall only be measured from the right-of-way line. Lot width at the building setback line shall not apply.	
(4) Minimum setback for 30-foot lots shall be three feet measured from the finished wall or the minimum setback required per applicable Florida Building Code.	
(5) Minimum lot area shall not apply.	

TABLE 12-3-31.5. SINGLE-FAMILY ATTACHED (TOWNHOUSE)  
RESIDENTIAL BUILDING TYPES - R-1AA THROUGH C-3

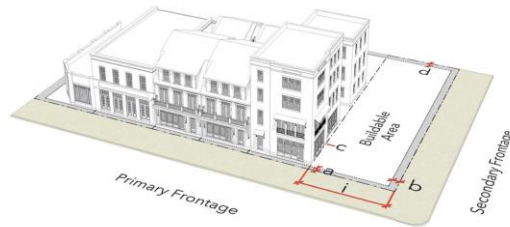


Setbacks - Principal Building (feet)	
Front	8 min.
Front, Secondary	5 min.
Side (Interior)(1)	0 or 5 min.
Rear	25 min.
Frontage (min.)	
Primary	80%
Lot Occupation(3)	
Lot Width	16 ft. min.
Lot Coverage	75% max.
Building Height (max.)	
Principal Building(2)	45 ft.
Accessory Building(2)	24 ft.
Parking (min.)	
Off-street	1/unit
Setbacks - Accessory Building (feet)	
Front	50 min.
Front, Secondary	5 min.
Side (Interior)	1 min.
Rear	3 min.
Frontage Yard Types	
Standard	Not Permitted
Shallow	Permitted
Urban	Not Permitted
Pedestrian Forecourt	Not Permitted
Vehicular Forecourt	Not Permitted
Facade Types	
Porch	Permitted
Stoop	Permitted
Common Entry	Not Permitted
Gallery	Not Permitted
Storefront	Not Permitted
Notes:	



(1) Zero-foot minimum (attached/zero-lot-line buildings)/five-foot minimum (detached buildings).
(2) Measured according to subsection (7)a.3 of this section.
(3) Minimum lot area shall not apply.

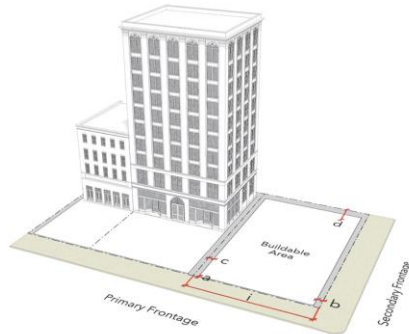
TABLE 12-3-31.6. MULTIFAMILY, MIXED-USE,  
NEIGHBORHOOD COMMERCIAL AND COMMERCIAL BUILDING  
TYPES



Setbacks - Principal Building (feet)	
Front (Com./Res.)(1)	5 max./15 max.
Front, Secondary (Com./Res.)	5 max./15 max.
Side (Interior)(3)	0 or 5 min.
Rear	none
Frontage (min.)	
Primary	80%
Lot Occupation(4)	
Lot Width	16 ft. min.
Lot Coverage	75% max.
Building Height (max.)	
Principal Building(2)	4 stories
Accessory Building(2)	N/A
Off-Street Parking (min.)	
Residential	1/unit
Commercial	Per subsection (7)h of this section
Setbacks - Accessory Building (feet)	
Front	N/A
Front, Secondary	N/A
Side (Interior)	N/A
Rear	N/A
Frontage Yard Types	
Standard	Not Permitted
Shallow	Permitted
Urban	Permitted
Pedestrian Forecourt	Permitted
Vehicular Forecourt	Permitted

Facade Types	
Porch	Not Permitted
Stoop	Permitted
Common Entry	Permitted
Gallery	Permitted
Storefront	Permitted
Notes:	
(1) Lots within the dense business area shall be permitted the lesser front setback.	
(2) Measured according to subsection (7)a.3 of this section.	
(3) Zero-foot minimum (attached/zero-lot-line buildings)/five-foot minimum (detached buildings).	
(4) Minimum lot area shall not apply.	

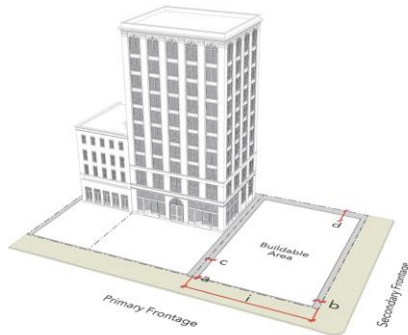
TABLE 12-3-31.7. MULTIFAMILY, MIXED-USE AND COMMERCIAL BUILDING TYPES - C-2A, C-2, C-3



Setbacks - Principal Building (feet)		
Front (Com./Res.)(1)	5 max./15 max.	
Front, Secondary (Com./Res.)	5 max./15 max.	
Side (Interior)(3)	0 or 5 min.	
Rear	none	
Frontage (min.)		
Primary	80%	
Lot Occupation(4)		
Lot Width	16 ft. min.	
Lot Coverage	100% max.	
Building Height (max.)		
Principal Building(2)	10 stories	

Accessory Building	N/A	
Off-Street Parking (min.)		
Residential	1/unit	
Commercial	Per subsection (7)h of this section	
Setbacks - Accessory Building (feet)		
Front	N/A	
Front, Secondary	N/A	
Side (Interior)	N/A	
Rear	N/A	
Frontage Yard Types		
Standard	Not Permitted	
Shallow	Permitted	
Urban	Permitted	
Pedestrian Forecourt	Permitted	
Vehicular Forecourt	Permitted	
Facade Types		
Porch	Not Permitted	
Stoop	Not Permitted	
Common Entry	Permitted	
Gallery	Permitted	
Storefront	Permitted	
Notes:		
(1) Lots within the dense business area shall be permitted the lesser front setback.		
(2) Measured according to subsection (7)a.3 of this section.		
(3) Zero-foot minimum (attached/zero-lot-line buildings)/five-foot minimum (detached buildings).		
(4) Minimum lot area shall not apply.		

TABLE 12-3-31.8. HYBRID COMMERCIAL: MULTIFAMILY,  
MIXED-USE AND COMMERCIAL BUILDING TYPES - C-3 ALONG  
C3C FDOT CONTEXT ZONE



Setbacks - Principal Building (feet)		
Front	60 max.	
Front, Secondary	40 max.	
Side (Interior)(2)	0 or 5 min.	
Rear	none	
Frontage (min.)		
Primary	60%	
Lot Occupation(3)		
Lot Width	16 ft. min.	
Lot Coverage	100% max.	
Building Height (max.)		
Principal Building(1)	10 stories	
Accessory Building	N/A	
Off-Street Parking (min.)		
Residential	1/unit	
Commercial	Per subsection (7)h of this section	
Setbacks - Accessory Building (feet)		
Front	N/A	
Front, Secondary	N/A	
Side (Interior)	N/A	
Rear	N/A	

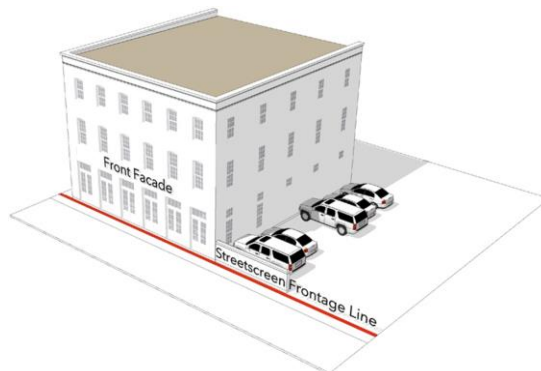
Frontage Yard Types		
Standard	Not Permitted	
Shallow	Permitted	
Urban	Permitted	
Pedestrian Forecourt	Permitted	
Vehicular Forecourt	Permitted	
Facade Types		
Porch	Not Permitted	
Stoop	Not Permitted	
Common Entry	Permitted	
Gallery	Permitted	
Storefront	Permitted	
Notes:		
(1) Measured according to subsection (7)a.3 of this section.		
(2) Zero-foot minimum (attached/zero-lot-line buildings)/five-foot minimum (detached buildings).		
(3) Minimum lot area shall not apply.		

e. *Frontage types.*

1. Intent. New buildings proposed for existing neighborhoods should be compatible with or complement the architectural character and siting pattern of neighboring buildings. Maintaining a consistent street-wall is a fundamental component for a vibrant pedestrian life and a well-defined public realm. Buildings closely aligned to the street edge with consistent setbacks, provide a clear sense of enclosure of streets, enabling them to function as pedestrian-scaled outdoor rooms. The placement of buildings along the edge of the sidewalk should be given particular attention, as it is that portion of the buildings that is the primary contributor to pedestrian activity.
2. Frontage yard type shall be selected and specified along frontages in accordance with the frontage yard types in Table 12-3-31.9 and subject to the standards and guidelines in this section, including the form standards in Tables 12-3-31.3 to 12-3-31.8.
3. In addition to the frontage yard type standards contained within Table 12-3-31.9, the following shall be required:

- i. Frontage yards shall be wholly open to the sky and unobstructed, except for trees, roof projections, and permitted encroachments attached to principal buildings.
- ii. Impervious surfaces and walkways in frontage yards shall be subject to the following requirements:
  - (a) Where single-family attached units occupy a common site, each attached single-family unit with an entrance towards a frontage shall have a walkway connecting the sidewalk to the attached single-family entrance. See Table 12-3-31.9.A (Frontage Yard Types - Shallow Yard) for an illustration depicting single-family attached walkway connections.
  - (b) At cluster courts, the shared court shall have a walkway connecting the sidewalk at the primary frontage with building entries. See Table 12-3-31.9.B (Frontage Yard Types - Cluster Court) for an illustration depicting cluster court walkway connections.
- iii. For multifamily, mixed-use and nonresidential types, any portion of a frontage not occupied by buildings, driveways, or walkways shall be lined with a streetscreen as follows:
  - (a) Streetscreens shall meet the fencing and wall standards according to the frontage yard types specified in Table 12-3-31.9.
  - (b) Streetscreens, up to 24 feet long, shall count towards minimum frontage requirements.
  - (c) Streetscreens shall be coplanar with the primary building facade, as depicted in Illustration 12-3-31.6 below.

ILLUSTRATION 12-3-31.6. STREETSCREEN  
ILLUSTRATED



- iv. Street trees and landscaping in frontage yards shall comply with the requirements of subsection (8) of this section.
- v. Stormwater ponds shall be prohibited along frontages.
- vi. Frontage yard setbacks shall be as follows:
  - (a) Buildings shall be set back in accordance with the form standards specified in Tables 12-3-31.3 to 12-3-31.8.
  - (b) Where maximum setbacks are specified, they pertain only to the amount of building facade required to meet the minimum building frontage occupation requirements defined in the form standards specified in Tables 12-3-31.3 to 12-3-31.8.

TABLE 12-3-31.9. FRONTAGE YARD TYPES







A. Standard Yard (Fenced or not)	
Illustration	
Surface	Fifty percent minimum shall be pervious material. A minimum of one tree is required per subsection (6)a of this section. Paving is limited to walkways, and driveways.
Walkways	One per frontage connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted along frontage lines, and according to subsection (5)h of this section.
B. Cluster Court	
Illustration	
Surface	A minimum 50 percent of the court shall be landscaped with ground cover, trees, or understory trees. Paving is limited to walkways, and driveways.
Walkways	Court shall be a minimum 20 feet wide and a min. 1,000 square feet in size, and shall have a walkway connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted except along street frontages, fronted by a shared court, according to subsection (5)h of this section.
C. Shallow Yard	

Illustration	
Surface	Maximum setback of eight feet. Fifty percent minimum shall be landscaped in R-1A, and R-1B and up to 100 percent may be paved in R-NC and R-NCB.
Walkways	One per frontage connecting the sidewalk at the primary frontage with building entries.
Fencing	Permitted interior to the building setback line at primary street frontages. Permitted at or interior to secondary street frontage lines according to subsection (5)h of this section.
D. Urban Yard	
Illustration	
Surface	Shall be paved at sidewalk grade.
Walkways	Shall be paved at sidewalk grade. Vegetation is permitted in raised containers.
Fencing	Not permitted
E. Pedestrian Forecourt	
Illustration	
Surface	Minimum 80 percent paving.
Fencing	Permitted at or interior to building setback lines and according to subsection (5)h of this section.
Area	Forecourt: A minimum 20 feet wide up to 30 percent of the allowable frontage, and a maximum 50 feet deep.
Activation	Shall be lined with habitable space on three sides, or on two sides at corner sites.
F. Vehicular Forecourt	
Illustration	
Surface	Driveway shall be paved at sidewalk grade. The remainder of front setback may be paved or landscaped.
Fencing	Low wall, maximum 24 inches high, of either brick or stone is permitted.
Area	Forecourt: 4,200 square feet maximum.







Activation	Shall be lined with habitable space on three sides, or on two sides at corner sites.
------------	--------------------------------------------------------------------------------------


f. *Building elements.*

1. *Intent.* Buildings should be architecturally articulated with such elements as distinguishing expression lines, changes in fenestration, material and/or color and designed in proportions that reflect human-scaled pedestrian movement to encourage interest at the street level.
2. *Facade types.* Facade types shall be as follows:
  - i. Porches, stoops, common entries, galleries and storefronts shall constitute allowable facade types as defined in Table 12-3-31.10 in accordance with the form standards in Tables 12-3-31.3 to 12-3-31.8.
  - ii. Facade types shall be selected and specified along frontages in accordance with Table 12- 2-25.10.
    - (a) Porches shall not be required for single-family detached and two-family (duplex).
  - iii. Projections into setbacks shall be permitted as follows:
    - (a) Roof overhangs, cornices, window and door surrounds and other facade decoration may project up to two feet.
    - (b) Where permitted, shading devices may project into the front setback up to the property line with a minimum eight-foot clearance.
    - (c) Balconies may project up to three feet.
    - (d) Bay windows may project up to three feet.
    - (e) Porches and stoops may project in accordance with the facade types defined in Table 12-3-31.10.
    - (f) Projections shall not, in any instance, exceed beyond the property line.

TABLE 12-3-31.10. FACADE TYPES

<i>A: Porch</i>		
Entry Grade	Minimum 18 inches above finished grade	
Requirements	Required at the primary building entrance.	
	Porches shall be a minimum six feet in depth.	

	Porches and related structures may project into front setbacks a maximum ten feet.	
	Porch openings shall be vertical in proportion.	
	Porches shall be a maximum ten feet in height. Columns shall have a minimum diameter of six inches, and should have a capital and a base.	
<i>B: Stoop</i>		
Entry Grade	Minimum 34 inches above finished grade.	
Requirements	A stoop is required at building entrances, projecting from the facade.	
	Wood is prohibited for stoop railings.	
	Stoops and related structures may project into front setbacks up to 100 percent.	
<i>C: Common Entry</i>		
Entry Grade	Minimum 18 inches and a maximum 24 inches above finished grade	
Requirements	A single collective entry to a multifamily lobby is required at the primary building entrance.	
	Canopies and awnings are permitted to project into front setbacks up to 100 percent of their depth.	
<i>D: Gallery</i>		
Entry Grade	At sidewalk grade	
Requirements	Where a gallery occurs, it is required along a minimum of 80 percent of the frontage.	
	Encroachments are permitted according to	

	subsection (5)g of this section.	
	Awnings are not permitted in galleries.	
<i>E: Storefront</i>		
Entry Grade	At sidewalk grade	
Requirements	A storefront is required at the primary entrance of the tenant space. Storefronts are permitted according to subsection (7)f.4 of this section.	

3. *Building entries.* Building entries shall be as follows:

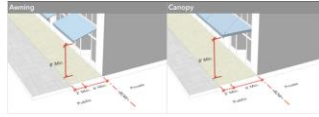
- i. Building entrances shall be clearly visible from the street.
- ii. One building entry shall be provided every 80 feet of facade leading to a habitable space.
- iii. Building entries for mixed-use buildings shall differentiate entrances for residential and commercial uses.
- iv. Entries for multifamily buildings shall provide protection from the elements with canopies, marquees, recesses or roof overhangs.
- v. Residential building entries shall be restricted as follows:
  - (a) Single-family and multifamily residential buildings shall be raised above finished grade, at the front of the building, according to facade types defined in Table 12-3-31.10.
  - (b) In no instance shall single-family and multifamily residential building entries be raised less than 18 inches above finished grade.
  - (c) Entry grade shall be measured from the finished grade to the first finished floor.
- vi. Mixed-use and commercial building entries shall be at sidewalk grade.

4. *Storefronts.*

- i. Intent. Storefronts should be architecturally articulated through the varied use of high-quality durable materials, display windows, entrances, awnings and buildings signs. Their signage, glazing and doors should be conceived as a unified design. High quality, durable materials are especially important at street level within reach of pedestrians.

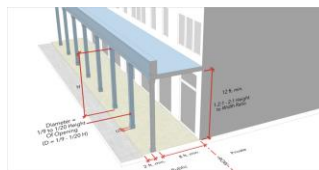
- ii. Storefronts shall provide a minimum of 70 percent glazing (void to solid ratio of surface area along principal facades at the ground level).
  - iii. Extruded aluminum storefront frames are discouraged, and where used, shall present a simple, relatively flat profile to avoid heavily extruded profiles.
  - iv. Opaque, smoked, and reflective glass on storefront windows shall be prohibited. Low-E shall be permitted as per Florida Building Code.
  - v. Materials for storefronts shall consist of stone, brick, concrete, stucco, metal, glass, cementitious siding and/or wood. Construction detail and finish shall adhere to craftsman standards.
  - vi. Outdoor dining areas on sidewalks and/or within the public right-of-way shall be permitted subject to the following standards:
    - (a) Outdoor dining areas shall be separated from public walkways and streets using railings, fences, bollards, planters, and/or landscaping.
    - (b) A minimum unobstructed pedestrian path of at least six feet wide shall be provided along public rights-of-way.
    - (c) Outdoor dining areas within the public right-of-way shall comply with section 12-11-7 (license to use).
- g. *Building encroachments.*
- 1. Encroachments located within the public right-of-way shall comply with section 12-11-7 (license to use), section 12-3-58 (visibility triangle) and any clearance standards established by the engineering division of the city public works and facilities department and the Florida Greenbook.
  - 2. Awnings for storefronts and canopies are not subject to section 12-11-7 (license to use) but shall be restricted as follows:
    - i. Awning and canopies may project into the public right-of-way, up to a maximum of two feet from the curb.
    - ii. Awnings and canopies shall be a minimum of six feet in depth and have a minimum of eight feet of vertical clearance. See Illustration 12-3-31.7 for a depiction of awning and canopy encroachment measurements.

### ILLUSTRATION 12-3-31.7. AWNING AND CANAOPY ENCROACHMENT MEASUREMENTS



3. Galleries shall be restricted as follows:
  - i. Galleries shall be subject to and shall comply with section 12-11-7 (license to use).
  - ii. Galleries shall not alter height or width along a building facade.
  - iii. Galleries shall be a minimum of eight feet in depth and a minimum of 12 feet in height, maintaining a 1.2:1 to a 2:1 height to width ratio, as depicted in Illustration 12-3-31.8.
  - iv. Gallery columns should have a diameter between one-ninth and 1/20 their height, measured from the base to the bottom of the entablature, as depicted in Illustration 12-3-31.8, and should have a capital and a base.
  - v. Galleries should encroach into building setbacks.
  - vi. Galleries should encroach over sidewalks.
  - vii. Where galleries encroach over sidewalks, they shall not extend beyond a maximum of two feet from the curb, as depicted in Illustration 12-3-31.8.

### ILLUSTRATION 12-3-31.8. GALLERY ENCROACHMENTS



- h. *Parking access, design and reductions.*
  1. Intent. The intent of these standards is to guide the placement and design of parking, when it is provided. Vehicular parking spaces should be carefully integrated to avoid the negative impacts of large surface parking areas on the pedestrian environment. In general, parking supply should be shared by multiple users and property owners to facilitate the ability to "park once and walk." On-street parallel parking is encouraged on both sides of the street to provide a supply of convenient shared parking, and as a means to provide a protective buffer for pedestrians on the sidewalk. Where surface parking is permitted, it should be hidden or screened from the pedestrian realm

by use of garden walls and narrow landscape edges. Parking garages, where provided, should be masked from frontages by liner buildings no less than 24 feet in depth. They are encouraged to be designed for possible future conversion to other non-parking functions, including office, residential and/or commercial use.

2. All parking access and design shall comply with the form standards in Tables 12-3-31.3 to 12-3-31.8 and the following:
  - i. Parking standards in the dense business area (DBA) defined in chapter 12-13 (definitions) shall take precedence over the form standards in Tables 12-3-31.3 to 12-3-31.8 and those included in this subsection.
  - ii. Minimum parking requirements are as follows:
    - (a) Parking requirements shall be in accordance with section 12-4-1(2) (parking requirements for specific land uses) with the following exception:
      - (1) Off-street parking requirements for residential use types shall be one space per unit unless otherwise exempted.
    - (b) Shared parking shall be according to section 12-4-1(4) (off-site parking).
    - (c) Parking reductions shall be calculated according to Table 12.3-1 (Downtown Pensacola CRA Parking Reductions).
    - (d) Lots 30 feet or less in width shall not be subject to minimum parking requirements, except for:
      - (1) Lots fronting streets where on-street parking is not permitted.
    - (e) Lots less than 42 feet wide shall be accessed from a rear lane, where possible. Where not possible, the following exceptions shall be permitted, in coordination with the engineering division of the city public works and facilities department:
      - (1) Parking in the rear of the lot, subject to accessory structure setbacks as defined within the form standards in Tables 12-3-31.3 to 12-3-31.8. Shared driveways are encouraged.
      - (2) A single-car garage, subject to the minimum frontage occupation requirements defined within the form standards in Tables 12-3-31.3 to 12-3-31.8.
      - (3) Driveways shall be exempt from minimum width and spacing requirements defined in subsection (9)b.4 of this section.

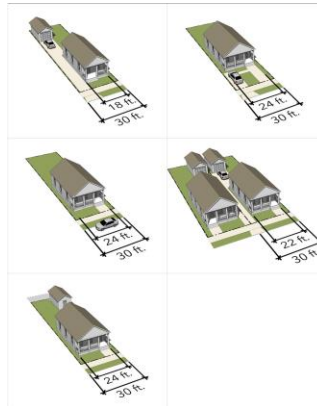
- (f) Lots shall be accessed through a rear lane when the development is over 75 percent of the block.
- iii. Vehicular parking location is restricted as follows:
  - (a) Single-family residential types.
    - (1) Residential off-street parking, where required, shall be provided within garages, carports or on driveways for all single-family residential types.
    - (2) Uncovered parking shall be permitted the entire length of the driveway, including within the front setback, but not beyond the property line.
    - (3) Single-family detached and two-family (duplex) off-street parking.
      - a. Covered or garage parking for single-family detached and two-family (duplex) buildings shall be set back a minimum 20 feet behind the principal building facade. See Illustration 12-3-31.9 for a depiction of covered parking placement for single-family detached and two-family attached (duplex) buildings.

ILLUSTRATION 12-3-31.9. GARAGE LOCATIONS ILLUSTRATED



- b. The outer edge of driveways shall be placed a maximum of two feet from either side property line. See Illustration 12-3-31.10 for a depiction of driveway placement for single-family detached and two-family attached (duplex) buildings on 30 feet wide lots.

# ILLUSTRATION 12-3-31.10. DRIVEWAY LOCATIONS ILLUSTRATED



- (4) Single-family attached. Off-street parking for single-family attached residential types shall only be permitted in the rear 50 percent of the lot.
- (5) Tandem parking is encouraged.
- (6) Shared driveways are encouraged.
- (b) Multifamily, mixed-use and nonresidential types.
  - (1) Off-street parking shall not be permitted within the front setback area. Exceptions include:
    - a. Properties adjacent to a thoroughfare identified as an FDOT C3C Suburban Commercial Context Classification Zone as defined within subsection (9)a.2 of this section (context classification). Such properties shall conform to the form standards according to Table 12-3-31.8 (Hybrid Commercial).
  - (2) Off-street parking shall be masked from frontages by liner buildings no less than 24 feet in depth to achieve the minimum frontage occupation. See Illustration 12-3-31.11 depicting off-street parking lot masking with liner buildings and subsection (7)e.3.iii of this section for permitted streetscreen requirements.



# ILLUSTRATION 12-3-31.11. PARKING LOT MASKING WITH LINER BUILDINGS



- (3) The ground floor of commercial buildings with a gross floor area less than 1,500 square feet shall be exempt from parking requirements.

## iv. Bicycle parking.

- (a) Minimum bicycle parking requirements shall be as follows:
  - (1) Bicycle parking shall not be required for single-family residential or multifamily residential with less than eight units.
  - (2) Bicycle parking requirements shall be according to Table 12-3-31.11.

TABLE 12-3-31.11. MINIMUM REQUIRED BICYCLE PARKING

Building Type	Location	R-2A through C-2A	C-2, C-3*
Multifamily	Primary & Secondary Frontages	Minimum 0.25 spaces per unit	Minimum 0.50 spaces per unit
Nonresidential	Primary & Secondary Frontages	Minimum 0.50 spaces per 1,000 square feet	Minimum 0.75 spaces per 1,000 square feet

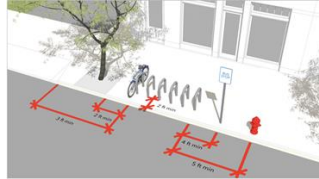
\*Excluding C3C Context Zones.

- (3) Bicycle parking locations within the public right-of-way shall be coordinated with the engineering division of the city public works and facilities department and subject to section 12-11-7 (license to use), and minimum clearance distances.
- (b) Bicycle parking configuration shall be as follows:
  - (1) Bicycle racks shall not be located within:
    - a. Five feet of fire hydrants.
    - b. Four feet of loading zones and bus stop markers.
    - c. Three feet of driveways and manholes.

- d. Two feet of utility meters and tree planters.

See Illustration 12-3-31.12 for a depiction of bicycle parking clearances.

#### ILLUSTRATION 12-3-31.12. BICYCLE RACK CLEARANCES



- (c) Bicycle parking located along private or public streets shall be subject to the following:




- (1) Bicycle racks installed parallel to curbs shall be set back from the curb a minimum of two feet, as illustrated in Illustration 12-3-31.11.
- (2) Bicycle racks installed perpendicular to curbs shall allow for a minimum clearance of two feet at the curb and six feet of pedestrian way with a 56 cm or 22 in bicycle properly locked to the rack.
- (3) Bicycle racks should be spaced a minimum of 36 inches apart.
- (4) Bicycle racks shall allow bicycle frames to be locked at two points of contact with the rack.

- i. *Fences and walls.*

- 1. Where provided, fences and walls shall provide full enclosure.
- 2. Fences and walls shall be restricted according to frontage yard types in Table 12-3-31.9 and section 12-3-58 (visibility triangles).
- 3. Height of fences and walls shall comply with the following:
  - i. Height shall be limited to a minimum 30 inches and a maximum 42 inches within the front setback.
  - ii. Height shall be limited to eight feet behind the building face at non-frontages.
- 4. Materials for fences and walls shall be limited as follows:
  - i. Approved materials shall include, but are not limited to, wood, brick, stone, and wrought iron.
  - ii. Vinyl is discouraged on all frontages.

- iii. Chain-link, exposed concrete block, barbed wire and razor wire shall be prohibited.
  - iv. Wood fences shall have the finished side to the public frontage.
  - v. Where hedges are utilized along frontages, they shall be maintained in accordance with subsection (8)b.1.v of this section.
- j. *Windows and glazing.*
  - 1. Windows shall meet the following requirements:
    - i. Windows on frontages shall be square or vertical in proportion, with the exception of transoms and special windows.
    - ii. Windows should have muntins for residential building types, which should be vertical in proportion.
    - iii. Single panes of glass shall not exceed 20 square feet for residential building types.
  - 2. Glazing shall meet the following requirements:
    - i. Storefront glazing requirements shall be according to Table 12-3-31.12.
    - ii. For residential and mixed-use buildings, excluding commercial uses at grade, the percentage of glazed wall area shall be a minimum 20 percent.
    - iii. Reflective and tinted windows shall be prohibited for residential buildings.
    - iv. Stained, reflective and tinted windows shall be prohibited at ground floor commercial uses. Low-E is permitted as per Florida Building Code.

TABLE 12-3-31.12. GLAZING REQUIREMENTS

<b>Residential</b>	
At & above grade	Minimum 20% along frontages
	
<b>Multifamily &amp; office</b>	
Above grade	Minimum 20% along frontages
At grade	Minimum 35% along frontages
	
<b>Mixed-use</b>	
Above grade	Minimum 20% along frontages
At grade	Minimum 70% along frontages
	

<b><u>RESIDENTIAL</u></b>		
<b><u>Glazing</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>20% min.</u>	<u>15% min.</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>15% min.</u>
<b><u>Blank Wall Length</u></b>	<u>N/A</u>	<u>N/A</u>
<b><u>MULTI-FAMILY</u></b>		
<b><u>Glazing</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>35% min.</u>	<u>35% min.</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>20% min.</u>
<b><u>Blank Wall Length</u></b>	<u>20 ft.</u>	<u>20 ft.</u>
<b><u>COMMERCIAL &amp; MIXED USE</u></b>		
<b><u>Glazing, Multi-Unit</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>70% min.</u>	<u>70% min. (2<sup>nd</sup> side)</u> <u>35% min. (remaining sides)</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>20% min.</u> <u>10% min (remaining sides)</u>

<b><u>Blank Wall Length, Multi-Unit</u></b>	<u>20 ft.</u>	<u>20 ft.</u>
<b><u>Glazing, Single-Unit</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>50% min.</u>	<u>50% min. (2<sup>nd</sup> side)</u> <u>25% min. (remaining sides)</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>20% min. (2<sup>nd</sup> side)</u> <u>10% min. (remaining sides)</u>
<b><u>Blank Wall Length, Single Unit</u></b>	<u>20 ft.</u>	<u>20 ft.</u>
<b><u>LIGHT INDUSTRIAL, STORAGE AND SIMILAR</u></b>		
<b><u>Glazing</u></b>	<b><u>Primary</u></b>	<b><u>Secondary</u></b>
<u>Ground Floor</u>	<u>35% min.</u>	<u>35% min. (2<sup>nd</sup> side)</u> <u>15% min. (remaining sides)</u>
<u>Upper Floor</u>	<u>20% min.</u>	<u>20% min. (2<sup>nd</sup> side)</u> <u>10% min. (remaining sides)</u>
<b><u>Blank Wall Length</u></b>	<u>20 ft.</u>	<u>20 ft.</u>

- k. Lighting on private property.
  - 1. Lighting shall be arranged to be contained on-site and to reflect away from adjacent property.
- (8) *Landscape standards and guidelines.*
  - a. *Intent.* Supplement the urban canopy, accommodate stormwater, increase access to open space and facilitate pedestrian movement throughout the existing block patterns to meet the urban design goals of the community redevelopment agency. A healthy tree canopy contributes to the health of citizens and the environment, and is fundamental to a vibrant pedestrian life and a well-defined public realm. Trees closely aligned to the street edge with consistent setbacks, provide a clear sense of enclosure of streets, enabling them to function as pedestrian-scaled outdoor rooms. The placement of trees along the edge of the sidewalk should be given particular attention as a major contributor to pedestrian activity. Trees and other native plants placed in drainage rights-of-way and parking islands contribute to the control of stormwater quantity and quality.
  - b. *Landscape on private property.*

1. Landscaping in frontage yards are subject to the requirements of the frontage yard types in Table 12-3-31.9, and section 12-3-58 (visibility triangles), and the following:
  - i. For single-family detached and two-family lots, one tree for every lot or for every 50 feet of linear frontage along the right-of-way shall be preserved or planted. Trees planted to meet this requirement shall be as follows:
    - (a) Measured at diameter breast height (DBH), as described in section 12-6-2(e) (DBH).
    - (b) For lots with a front setback of less than eight feet where planting in front yards is not possible, required trees shall be planted elsewhere on the block itself.
  - ii. Ground vegetation or shrub plantings with spines, thorns, or needles that may present hazards to pedestrians, bicyclists, or vehicles shall be maintained a minimum distance of two feet from the edge of walkways and sidewalks.
  - iii. In single-family detached and two-family lots, trees shall be protected in accordance with section 12-3-10(1)e.2 (protection of trees).
  - iv. When off-street parking is located in front or side setbacks, a year-round streetscreen along the street edges of the parking lot shall be installed as a means of buffering, according to section 12-6-3(2) (off-street parking and vehicle use areas).
  - v. Hedges planted along street rights-of-way shall be between three and five feet in height at maturity.
2. Minimum landscape area requirements of the development site for all building types except single-family detached and two-family attached (duplex) shall be according to Table 12-3-31.13. Landscape requirements for single-family detached and two-family attached shall be in accordance with subsection (8)b.1 of this section and Table 12-3-31.9, frontage types.

TABLE 12-3-31.13. MINIMUM LANDSCAPE AREA REQUIREMENTS

Zoning District	Percent
R-1AAA through R-2	25
R-NC, R-NCB, C-1, C-2, C-2A, C-3, M-1, M-2	15

c. *Buffer yards.*

1. In addition to the buffer yard requirements of section 12-3-56 the following shall apply:
  - i. Berms shall not be installed as part of a required buffer without review and approval by the engineering division of the city public works and facilities department to ensure a proposed berm will not have a detrimental effect on adjacent properties by impeding or diverting stormwater flow.
  - ii. Berms shall be planted and stabilized to prevent erosion.
  - iii. Buffer yards may be used to create rain gardens or other stormwater facilities with the selection of appropriate plant material, according to the city's approved plant list and approval by the engineering division of the city's public works and facilities department.
  - iv. Plants in these stormwater facilities shall be selected to meet any applicable buffer yard screening requirements, and they should be tolerant of periodic inundation and drought. It is recommended that native plants be selected from the Florida Friendly Landscaping Guide to Plant Selection and Landscape Design, Northern Region, and Waterwise Landscapes by the South Florida Water Management District, according to Table 12-3-31.14.

TABLE 12-3-31.14. BIORETENTION & RAINWATER GARDEN PLANT LIST

Flowers	
Common Name	Scientific Name
Blue Flag Iris	Iris Hexagona
Cardinal Flower	Lobelia Cardinalis
Chipola Coreopsis	Coreopsis Integrifolia
Goldenrod	Solidago spp.
Swamp Sunflower	Helianthus Angustifolius
Spider Lily	Hymenocallis Latifolia
Swamp Lily	Crinum Americanum
Swamp Milkweed	Asclepias Perennis
Grasses	
Common Name	Scientific Name
Blue-Eyed Grass	Sisyrinchium Atlanticum Bicknell
Florida Gamma Grass	Tripsacum Floridanum
Muhly Grass	Muhlenbergia Capillaris
Path or Soft Rush	Juncus spp.
Rainlily	Zephyranthes spp.

River Oats	Chasmanthium Latifolium
Wiregrass	Aristida Stricta
<i>Shrubs</i>	
<i>Common Name</i>	<i>Scientific Name</i>
Beautyberry	Callicarpa Americana
Buttonbush	Cephalanthus Occidentalis
Virginia Willow	Itea Virginica
Wax Myrtle	Myrica Cerifera

d. *Street trees in the public right-of-way.*

1. Street trees shall be provided in the public right-of-way for all developments except single-family detached and two-family (duplex), in accordance with section 11-4-88 (placement of trees and poles), section 12-6-3 (landscaping requirements) and this subsection.
2. Where street trees cannot reasonably be planted, payment in lieu of planting shall be made to a new and dedicated CRA tree planting fund, at the value established in section 12-6-6(2)e.
3. Street tree planting, and maintenance requirements shall be as follows:
  - i. For each lot, one tree shall be provided on an average of 35 linear feet of public right-of-way frontage, where no underground utility conflicts exist.
  - ii. Where greenways exist, trees shall be required to be planted within the greenway. The following exceptions shall apply:
    - (a) Where no greenway exists or where the greenway is less than three feet wide, between sidewalk and curb, required street trees shall be planted on the block.
    - (b) Where planting within the greenway is infeasible due to utility conflicts, required street trees shall be planted on the block.
  - iii. Trees planted three feet or less from a public sidewalk shall have a minimum clearance of six feet and six inches between the public walking surface and the lowest branches at planting.
  - iv. Mature trees shall be maintained at a minimum clearance of eight feet above the public walking surface.
  - v. Trees planted within the public right-of-way shall include a root barrier to prevent the shifting of sidewalks at maturity.
  - vi. Installation of tree pits and grates within the public right-of-way shall be coordinated with the city public works and facilities department for style consistency. Installed tree pits and grates shall be maintained by the property owner in perpetuity.

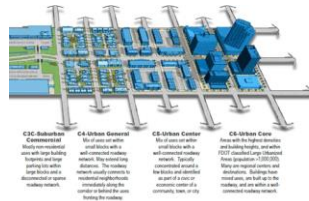


- vii. Where possible, trees may be clustered together to share soil space.
- 4. Tree selection shall be limited to those allowable plantings contained within the tree replant list specified in chapter 12-6, Appendix B (Tree Replant List). The following conditions shall apply:
  - i. Where overhead utilities occur, a tree with smaller size at maturity shall be selected.
- 5. Tree selection and placement shall be coordinated with the engineering division of the city public works and facilities department and subject to section 12-3-58 (visibility triangle) and section 12-11-7 (license to use).
- 6. Mixed-use and nonresidential building types shall comply with the following:
  - i. Where galleries are not provided, street trees shall be planted, unless in conflict with underground utilities. Where there are overhead utilities, appropriate species from the tree replant list specified in chapter 12-6, Appendix B shall be selected.
  - ii. Where a gallery is provided, and the greenway that occurs between the sidewalk and the back of curb is less than three feet wide, no street trees shall be required.
  - iii. Where a greenway at least three feet wide occurs between the gallery and the back of curb, and no overhead or underground utilities prevent street tree installation, planting of a street tree shall be required.
  - iv. Where paved surface occurs between the gallery and curb, installation of street trees in individual tree pits with tree grates, or linear planters with pervious pavers between several trees, shall be required.
  - v. Where trees are planted in sidewalk planters, the minimum sidewalk planting pit dimensions shall be four feet by four feet.

(9) *Thoroughfare standards and guidelines.*

- a. Context classification.
  - 1. The context classification system, as developed by FDOT and described within the FDOT Complete Streets Manual, shall be adopted to identify place and guide streets and other transportation features, and to allow transportation to support adjacent land uses. See Illustration 12-3-31.13 depicting context classification zones.

# ILLUSTRATION 12-3-31.13. CONTEXT CLASSIFICATION ZONES ILLUSTRATED



2. Streets shall be classified in accordance with the zoning to context classification translations specified in Table 12-3-31.15.

TABLE 12-3-31.15. ZONING TO CONTEXT CLASSIFICATION TRANSLATION

Context Classification (FDOT) Zone	Zoning District
C4 - Urban General	R-1AAA through R-2
C5 - Urban Center	R-NC through C-3
C3C - Suburban Commercial	C-3 adjacent to M-1 or M-2. Limited to segments that abut such zoning districts. M-1 M-2

## b. Street design.

1. Design of local streets shall be guided by the Florida Greenbook, Chapter 19 Traditional Neighborhood Design.
2. Where a greenway of at least five feet exists, driveway approaches and curb cuts shall not be permitted to interrupt the sidewalks.
3. *Sidewalks.* Sidewalks shall be required on all street frontages in residential, nonresidential, commercial and industrial developments in accordance with standards established by the Engineering Division of the City's Public Works and Facilities and the Florida Greenbook.
4. *Driveways and curb cuts.* Driveway, driveway approaches and curb cut requirements shall be as follows:
  - i. Single-family residential types. Driveway and curb cut widths for single-family residential types shall be according to Table 12-3-31.16.

TABLE 12-3-31.16. SINGLE-FAMILY  
RESIDENTIAL DRIVEWAY AND CURB  
CUT WIDTHS

Driveway Type	Minimum Width	Maximum Width
Single-Use	10 feet	20 feet
Joint-Use	10 feet	22 feet

- ii. Multifamily, mixed-use and nonresidential types. Driveway and curb cut widths for multifamily and nonresidential types shall be according to Table 12-3-31.17.

TABLE 12-3-31.17. MULTIFAMILY/  
NONRESIDENTIAL DRIVEWAY AND  
CURB CUT WIDTHS

Driveway Type	Minimum Width	Maximum Width
All	12 feet	24 feet

- iii. Driveway and curb cut spacing on a single property shall be a minimum of 42 feet with the following exception:
- (a) Lots equal to or less than 42 feet wide shall be limited to one driveway and curb cut.

(10) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

*Building height, multifamily and nonresidential means* the vertical distance of a building measured by stories. The restrictions to story height are according to subsection (7)c.3 of this section.

*Building height, single-family residential means* the vertical distance of a building measured from the finished grade to the bottom of the eave for pitched roof buildings or the bottom of the parapet for flat roof buildings.

*Cluster court* means a collection of buildings on a semi-public, privately owned open space.

*Colonnade* means a row of columns joined by an entablature. Colonnades may cover sidewalks and may front storefronts.

*Complete street* means a thoroughfare that is designed giving each user an equal level of priority including pedestrians, cyclists, transit users, and drivers.

*Craftsman standards* means a baseline of construction quality denoting a finished project.

*(FDOT) Distinct Context Classifications Zone* means classifications, along with functional classification and design speed, determine the corresponding

thoroughfare design standards within the Florida Design Manual. (<http://www.fdot.gov/roadway/CSI/files/FDOT-context-classification.pdf>)

*Eave* means the edge of the roof that meets or overhangs the walls of a building.

*Encroachment* means certain permitted building elements that may cross established setbacks or rights-of-way.

*Entablature* means a horizontal, continuous building element supported by columns or a wall.

*Facade, building* means the exterior wall of a building that faces a frontage line.

*Facade type* means the different configurations of building elements that make up a building facade, such as a storefront, porch, etc. See Table 12-3-31.10.

*Figures and tables.* Any chart or graphic presentation in this title that is specifically designated as a "Figure" or "Table" shall be deemed to be a part of the text of the title and controlling on all development.

*Frontage line* means a property line bordering a public frontage. Facades facing frontage lines define the public realm and are therefore more regulated than the elevations facing other property lines.

*(Building) Frontage occupation* means the length of the frontage that is occupied by a building or a building and open space.

*Frontage, primary* means the frontage facing a public space such as a street of higher pedestrian importance (i.e. traffic volume, number of lanes, etc.). Typically, the shorter side of a lot.

*Frontage, secondary* means the frontage facing the public space such as a street that is of lesser pedestrian importance (i.e. traffic volume, number of lanes, etc.). Typically, the longer side of the lot.

*Frontage yard type* means the configuration of the area between the facade of the building and the frontage line such as a standard, shallow, cluster court, etc. See Table 12-3-31.9.

*Frontage yard type (cluster court)* means a frontage yard type where a group of houses has their primary facades facing a common green or open space that is horizontal to the primary frontage.

*Frontage yard type (pedestrian forecourt)* means a frontage yard type where the primary facade is located near the lot line with an area setback to accommodate open space and the primary entrance of the building.

*Frontage yard type (shallow)* means a frontage yard type where the facade is slightly set back from the lot line.

*Frontage yard type (standard)* means a frontage yard type where the facade is set back from the lot line. Fences are permitted and the setbacks are visually continuous with adjacent yards.

*Frontage yard type (urban yard)* means a frontage yard type where the facade is at or near the lot line and the surface is paved.

*Frontage yard type (vehicular forecourt)* means a frontage yard type where the primary facade is located near the lot line with an area setback to accommodate a driveway meant for passenger loading and unloading.

*Gallery* means a covered sidewalk in front of a storefront that supports either a roof or outdoor balcony above.

*Habitable space* means building space which use involves human presence with direct view of the enfronting streets or public or private open space, excluding parking garages, self-service storage facilities, warehouses, and display windows separated from retail activity.

*Human-scaled* means buildings and their elements designed to be comfortably viewed and experienced by people on foot.

*Hybrid commercial* means a commercial type in the C3C FDOT Context Zone that transitions between urban and suburban types, typically permitting one row of parking at the frontage.

*Liner building* means a building specifically designed to mask a parking lot or a parking structure from a frontage.

*Parallel* means two lines or planes that are equidistant apart and do not touch on an infinite plane.

*Parapet* means the extension of a false front or wall above a roof line.

*Parkway, greenway, verge* means the planting strip between the edge of the road and sidewalk or right-of-way, which may be used for tree planting. See sections 11-4-86 through 11-4-88.

*Paving* means to cover or lay with concrete, stones, bricks, tiles, wood or the like to make a firm, level surface. The term paving in this section includes all pavement materials, both pervious and impervious.

*Pervious* means materials or natural earth that allows for the natural percolation of water.

*Porch* means a private facade type that is an open-air room appended to the mass of a building with a floor and roof but no walls on at least two sides.

*Principal building* means the main building on a lot, usually located toward the frontage.

*Principal building facade* means the front of the building that faces the front of the lot.

*Single-family residential* means a single-family ownership on a single lot. Multiple ownership on a single lot is not construed as a single-family type. Single-

family is restricted to the following types on their own lots: detached single-family, attached single-family and two-family attached (duplex).

*Stoop* means a private facade type wherein the facade is aligned close to the front property line with the first story elevated for privacy with an exterior stair and landing at the entrance. This type is suitable for ground-floor residential uses at short setbacks with townhouses and apartment buildings. Stoops may encroach into the setback.

*Streetscreen* means a freestanding wall built along the frontage line, or aligned with the facade. It may mask a parking lot from the thoroughfare, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

*Travel mode* means the different means of transport around an area including by foot, bicycle, public transit, and car.

*Walkability* means a measurement of comfort, convenience, safety, and ease of pedestrian movement throughout an area.

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

SECTION IV. 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



**MINUTES OF THE PLANNING BOARD**  
**December 14, 2021**

**MEMBERS PRESENT:** Chairperson Paul Ritz, Board Member Grundhoefer, Board Member Powell, Board Member Sampson, Board Member Van Hoose, Board Member Villegas

**MEMBERS ABSENT:** Vice Chairperson Larson

**STAFF PRESENT:** Assistant Planning Director Cannon, Historic Preservation Planner Harding, Assistant City Attorney Lindsay, Senior Planner Statler, City Surveyor Odom, Director of Development Services Morris, Deputy City Administrator Forte, CRA Administrator Gibson, Assistant CRA Administrator D'Angelo, Urban Design Specialist Parker, Help Desk Technician Russo

**STAFF VIRTUAL:** Inspections Supervisor Weekley

**OTHERS PRESENT:** William Van Horn II, Paul A. Battle, Todd H. Snyder

**AGENDA:**

- Quorum/Call to Order
- Approval of Meeting Minutes from November 9, 2021
- **New Business:**
  - Grove Park Townhomes Preliminary Plat Application
  - CRA Urban Design Overlay Amendments
  - Open Forum
  - Discussion
  - 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 Board meeting including requirements for audience participation.

**Approval of Meeting Minutes** - Board Member Powell made a motion to approve the November 9, 2021 minutes, seconded by Board Member Villegas, and it carried 6 to 0.

## **New Business –**

### **2. Grove Park Townhomes Preliminary Plat**

Rebol-Battle & Associates, LLC is requesting preliminary plat approval for Grove Park Townhomes located at the 2300 Block of Toni Street, near the intersection of Tippin Avenue and Toni Street. This property is located in the C-1 Commercial zoning district. One (1) parcel will be subdivided into twenty-two (22) lots to accommodate townhomes.

Chairperson Ritz indicated the property was surrounded by the county. He pointed out C-1 allowed townhomes by right, and they were also allowed in the adjacent R-1AA. Also, the preliminary plat would return to the Board for final approval. He advised the purpose of the meeting was to allow public input. City Surveyor Odom stated his comments were technical and involved meeting Chapter 177 of the State Statute and a couple of small items which were easily addressed to accommodate and approve. The implementation of those corrections would return in the final plat. Mr. Battle presented to the Board and explained there was an existing parking lot on the property which could be used for excess parking, and the condos would be front loaded units. The stormwater pond would be adjacent to the commercial properties and discharged at Toni Street.

**Board Member Grundhoefer made a motion for preliminary approval, seconded by Board Member Villegas, and it carried 6 to 0.**

### **3. CRA Urban Design Overlay Amendments**

The Urban Design Overlay was adopted by the City Council in 2019 to provide development standards for the CRA neighborhoods not covered by a special design review board. The intent of these design standards was to preserve and maintain the traditional walkable, urban pattern and character of Pensacola's community redevelopment area neighborhoods.

Chairperson Ritz stated the culmination of the overlay district was a task where the City had worked with an outside consultant, DPZ, to establish the criteria before the final implementation. Some of the issues had been the additional costs to housing in the overlay district, and how citizens, developers, and others might address the requirements – whether they helped or hindered projects on their properties. One of the efforts was to address and allow these issues to be vetted for modifications. The first item to be addressed was:

- Creation of a modification process through abbreviated review. (This would not be performed by the Planning Board.)

Assistant CRA Administrator D'Angelo presented to the Board and advised they had been tracking some of the issues which returned time and time again, and they decided to bring an amendment for consideration in two phases. The first phase was an immediate response to commercial development. A new Urban Design Specialist had been added to the CRA staff, and with that in mind, they recommended holding off on the major changes and implementing the modification process first to address these issues. They did think glazing should be addressed, but they wanted to take more time with the fenestration. At the last CRA meeting, there were comments addressing heritage trees and ways to preserve them. They had allowed further setbacks to address that preservation; because it was an urban design district, they wanted to see buildings closer to the street, but they also wanted to consider the heritage trees and desired to allow modification to this area. In staff's review, they felt this should not only apply to the CRA district but should be citywide and should be placed in the citywide section for heritage trees.

Board Member Grundhoefer asked if the changes had been considered by DPZ or just staff, and Ms. D'Angelo advised it was a feeling from the staff level that these observations should be addressed. Some of the common concerns on commercial development were



on glazing – the frontage occupation for certain uses; gas stations might need more consideration. Some of the commercial projects back up to residential, and those sides needed to be addressed. She explained the majority of the other areas already have some type of preservation or aesthetic district in place, so this would address those areas which did not have that protection. Staff explained DPZ had been involved with some of the aesthetics, and Ms. D'Angelo indicated DPZ had been retained to assist in the process and implementation of amendments to the overlay in response to stakeholder feedback. Chairperson Ritz explained whatever the vote of the Board, this item would proceed to Council for consideration.

Ms. D'Angelo stated essentially the Board was considering 1) the glazing table as recommended with the exception of the fenestration requirement, 2) the modification process in its entirety would remain, and 3) an adjustment to the City's overall code for heritage trees to allow additional setbacks in order to preserve heritage trees. The other items were to be reviewed by the Urban Design Specialist.

Under the modification process, 1) the Urban Design Specialist would be involved with the project to make sure it qualified, how it might be modified to be consistent with the intent of the Code, 2) it would be presented to an advisor/architect appointed by the Council (there would be two appointed in the event of a conflict of interest), and 3) the chairperson for the redevelopment board of the specific district would also have the opportunity for review. She advised this differed with variances in that it would be tied to uses rather than site specific and would not be required to go before a board; the intent was to have it be streamlined with a quick process and at a lower cost.

For the glazing for the most common commercial, single-unit, single-use, it would be a reduction from 70% down to 50% with a substantial reduction on the third or fourth sides. For heritage trees, the CRA had suggested this modification be citywide. Chairperson Ritz indicated the agenda item was for the CRA overlay district, but the desire was to make this citywide. Assistant City Attorney Lindsay explained the only thing that would return to the Board would be a change in the LDC, and the Board was only voting on the item being presented pertaining to the CRA.

Chairperson Ritz was supportive of something which allowed the process to be reviewed by three persons to ensure that the project followed the intent but allowed some flexibility for the applicant. He pointed out glazing costs were high, and with the reduction in glazing, we would still maintain the appearance that's intended but allow developers to save money.

Ms. D'Angelo clarified the amendments being voted on were the first two bullet points:

- Creation of a modification process through abbreviated review.
- Single unit commercial building glazing set at 50%, limited to the primary and second street-facing building side.

The last two bullet points considered would be:

- Reduction in glazing on a second street-facing side for single-family and two-family residential buildings from 20% to 15%.
- Provision to encourage preservation of heritage trees by permitting, by right, additional setbacks for the purpose of preservation.

Ms. D'Angelo explained they did not want to remove the stormwater element but limit what could be developed, allowing for other designs which could accomplish that purpose and be aesthetically pleasing and limited in size. She indicated the city engineer was involved in the language of the amendment.

There were no other speakers.

**Board Member Villegas made a motion to approve, seconded by Board Member Powell, and it carried 6 to 0.**

Staff advised this item would proceed to Council's January 2022 agenda. Chairperson Ritz asked staff to investigate the Code changes for citywide tree preservation, and other Board members agreed. Staff suggested this as a discussion item on the January 2022 agenda.

**Open Forum – None.**

**Adjournment** – With no further business, the Board adjourned at 2:43 p.m.

Respectfully Submitted,

Cynthia Cannon, AICP  
Assistant Planning Director  
Secretary to the Board



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 05-22

City Council

2/10/2022

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### **LEGISLATIVE ACTION ITEM**

**SPONSOR:** City Council Member Casey Jones

**SUBJECT:**

PROPOSED ORDINANCE NO. 05-22 - AMENDING SECTION 11-4-182 OF THE CITY CODE - USE OF RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES

**RECOMMENDATION:**

That City Council adopt Proposed Ordinance No. 05-22 as revised on second reading:

AN ORDINANCE AMENDING SECTION 11-4-182 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; USE OF RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

**HEARING REQUIRED:** No Hearing Required

**SUMMARY:**

This proposed ordinance amends Section 11-4-182 - Use of Rights-Of-Way by Wireless Communications Facilities of the City Code. The proposed amendments include the current procedure and requirements for obtaining a permit for such use, to include any requisite disqualifiers.

This amendment addresses aesthetic concerns and is in no way contrary to existing State Statutes and/or preemptions.

**PRIOR ACTION:**

September 26, 2019 - City Council approved the City's 2020 Legislative Initiatives which included support for recension of 2019 SB 1000 - 5G Small Cell Towers, restoring balance of power to the City of Pensacola to determine installations in taxpayer owned right of way

September 10, 2020 - City Council received a presentation regarding 5G technology. Presenters were Cecelia Doucette and Andrew Campanelli

January 20, 2022 - City Council voted to approve Proposed Ordinance No. 05-22 on first reading.

**FUNDING:**

N/A

**FINANCIAL IMPACT:**

None

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

- 1) Proposed Ordinance No. 05-22

**PRESENTATION:** No

PROPOSED  
ORDINANCE NO. 05-22

**REVISED**

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 11-4-182 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; USE OF RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 11-4-182 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 11-4-182. Use of Rights-of-Way by Wireless Communications Facilities.

(a) *Definitions.* The definitions of all applicable terms shall be as provided in chapter 12-13, with the exception that the following terms shall be defined as provided in F.S. § 337.401(7)(b):

- (1) Antenna;
- (2) Applicable codes;
- (3) Applicant;
- (4) Application;
- (5) Authority;
- (6) Authority utility pole;
- (7) Collocate or collocation;
- (8) FCC;
- (9) Micro wireless facility;
- (10) Small wireless facility;
- (11) Utility pole;
- (12) Wireless facility;
- (13) Wireless infrastructure provider;
- (14) Wireless provider;
- (15) Wireless services;
- (16) Wireless service provider;

(17) Wireless support structure.

- (b) *Generally.* The placement of telecommunication towers and antennae anywhere in the corporate limits of the city shall in all cases be subject to the city's zoning and land use regulations, including those set forth in Title XII, the land development code. Where placement of a wireless antenna in the public right-of-way has been approved by the city and to the extent not inconsistent with any city zoning and land use regulations, a wireless antenna attached to a permitted and legally maintained vertical structure in the public right-of-way, such as a utility pole, shall, unless otherwise agreed to by the city in writing:
- (1) Not extend more than ten feet above the highest point of the vertical structure;
  - (2) Not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;
  - (3) Comply with any applicable Federal Communications Commission Emissions Standards;
  - (4) Comply with any applicable local building codes in terms of design, construction and installation; and
  - (5) Not contain any commercial advertising thereon.
- (c) *Rules and regulations.* The mayor is authorized to administratively promulgate such rules and regulations as may be necessary and appropriate to regulate the placement of wireless facilities and infrastructure in the public right-of-way in conformity with applicable provisions of state law, and to designate such staff as necessary to receive, process and make determinations with respect to applications for the placement of wireless facilities and infrastructure. Such rules and regulations shall be subject to the following criteria:
- (1) The registration fee required of applicants for the placement of wireless facilities and infrastructure shall be reasonably calculated to equal the city's cost of receiving, assessing, determining, awarding and maintaining records with respect to each application, whether for an individual facility or for multiple facilities covered by a single application, but such fee shall not exceed \$100.00 per placement of each wireless facility registration process for providers of communications services shall register by providing the name, address, and telephone number of a contact person for the registrant; the number of the registrant's current certificate of authorization issued by the Florida Public Service Commission, the Federal Communications Commission, or the Department of State; a statement of whether the registrant is a pass-through provider as defined by Florida law; the registrant's federal employer identification number; and any required proof of insurance or self-insuring status adequate to defend and cover claims. Renewal shall occur at five-year intervals; provided, however, that a registrant must update its information within 90 days after a change in such information. Registration does not require payment of any fee.

- (2) The permit fee for the placement of wireless facilities on poles or other structures owned by the city shall be \$150.00 per facility per year.
- (3) All fees imposed shall be reasonable and nondiscriminatory and not based upon any services provided by the applicant.
- (4) All provisions of federal and state statutes, rules and regulations, and the provisions of this Code and policies of the City Council, pertaining to historic preservation and the historic districts regulated by the city, which have not been preempted or superseded by F.S. § 337.401(7), shall continue to be enforced and shall not be repealed, abated or waived by this section.
- (5) All applications by small and micro wireless facilities providers and installers to place utility poles and other supporting structures in the public rights-of-way shall be processed in accordance with F.S. § 337.401(6), and shall be subject to the codes, policies, practices, and rules and regulations of the city with respect to the placement of such poles and other supporting structures in the public rights-of-way, including but not limited to the following:
  - a. applications by communication services providers shall be submitted through My Government Online for consideration by the city, which includes review by staff with expertise in engineering, planning, inspection services (including electrical permitting), information technology, transportation, and historic preservation, and which also includes a notification, at the city's expense, to adjacent property owners, and further includes review by any potentially impacted city enterprises, such as Pensacola Energy, Pensacola International Airport, and the Port of Pensacola, with all such reviews occurring within 60 days;
  - b. after review of an application by the city engineer or designee, within fourteen days a notification in writing through My Government Online will be made to the applicant concerning whether the application is considered complete; provided, the application shall be considered incomplete if a lack of compliance with this section is evident from the submission;
  - c. an application by a communications services provider to install a small wireless facility in the public right-of-way is deemed incomplete if the engineering drawings depict an installation without specifying the location by latitude and longitude for the placement;
  - d. applications will be processed on a nondiscriminatory basis within sixty days after receipt of the application, unless the city has communicated in writing through My Government Online that a thirty-day negotiation period is required to resolve objections to the application;
  - e. permits issued pursuant to this process are effective for one year unless the city provides in writing an extension of time for the installation;
  - f. the city will communicate denials by electronic mail to the applicant with reference to the provisions of law with which the application fails to demonstrate compliance; therefore, all applications must include electronic

mail contact information for the agent of the communications services provider;

- g. the applicant may cure the deficiencies identified in the denial and resubmit its application within thirty days of the denial;
- h. thirty days after submission of the revised application to cure deficiencies, the city will approve or deny the revised application based on whether those deficiencies are considered cured; reasons for denial may include that the installation of the proposed small wireless facility or utility pole used to support that small wireless facility is more than ten feet above any existing utility pole in the same right-of-way within five hundred feet of the proposed location; jeopardizes the safe operation of traffic control equipment; conflicts with sight lines or clear zones for transportation, pedestrians, or public safety purposes; violates or contributes to a potential violation of the Americans with Disability Act or any similar state or federal standards regarding pedestrian access or movement; conflicts with the 2017 edition of the Florida Department of Transportation Utility Accommodation Manual; violates Chapter 333, Florida Statutes or federal regulations pertaining to airport airspace protections; jeopardizes preservation of historic or archaeological resources as reviewed by the Historic Preservation Planner; or fails to comply with the city standards as set forth in the Code of Ordinances of the City of Pensacola;
- i. applications should take into account the following policies of the city: collocation of small wireless facilities is preferred; the pole location should be situated adjacent to the property line of neighboring private property parcels to avoid compromising views from within residential and event venue commercial properties; an acceptable plan for prompt removal of any pole made obsolete by the application should be included; the color and style of new structures should correspond to existing structures, including but not limited to using a clamshell base on a metal pole; preservation of archaeological resources; preservation of historic character of neighborhoods and streetscapes where improvements to structures are subject to aesthetic review by any of the city's boards, including the Architectural Review Board and Planning Board, such that location context (including tree canopy), color, camouflage, and concealment requirements are met;
- j. applications for installation of small wireless facilities must demonstrate compliance with FAA guidelines, including but not limited to the filing of Form 7460-1 or Form 7460-2 at least 45 days in advance of construction, if such notice is required by 49 United States Code Section 44718 or 14 Code of Federal Regulations, Part 77;
- k. applications filed more than ninety days after the city determines that all public utility lines shall be placed underground are due to be denied within the limitations set forth by the state legislature, including that the applicant



has an alternative collocation option on a structure above ground that the city permits in the right-of-way;

- I. where the city requires underground utility lines, the city will allow previously installed small wireless facilities to be relocated on a permitted above-ground structure.

(d) *Prohibited collocations, attachments, installations and services.* The provisions of this section do not authorize, and the city hereby prohibits, the following:

- (1) This section does not authorize a person or entity to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small wireless facility, on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.
- (2) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this section does not authorize the provision of any voice, data, or video services or the installation, placement, maintenance, or operation of any communication facilities other than small wireless facilities in the public right-of-way.
- (3) This section does not affect any provisions relating to pass-through providers contained in this Code and contained in F.S. § 337.401(6).
- (4) This section does not authorize a person or entity to collocate small wireless facilities or micro wireless facilities on a city utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association. This subsection does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities.

(e) *Insurance, Indemnification, and Liability.* An application to install a small wireless facility or a utility pole to support a small wireless facility may be denied if the applicant has not demonstrated compliance with nondiscriminatory requirements of a construction bond to restore the right-of-way to its preconstruction condition as provided by F.S. § 337.401(7)(d)12.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

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

President of City Council

Attest:

\_\_\_\_\_

City Clerk

## SUMMARY OF 5G ORDINANCE QUESTIONS AND MODIFICATIONS

The proposed 5G ordinance has been modified from its first publication as part of the December meeting agenda. AT&T comments as well as those submitted by Mr. Herron have been reviewed. The ordinance codifies a process that has been in place and that AT&T has accepted; however, AT&T's counsel may argue that our ordinance does not codify exactly what is in the state statute. The differences are variations that are believed to be consistent with our discretion as a City without violating legislative intent on preemption. If AT&T has further objections, I would suggest a meeting so that AT&T's concerns can be discussed.

Mr. Herron pointed out over the weekend the news that the 5G roll-out this week is raising questions among the airline industry. At least ten airlines have stated that a disruption to service will occur because of the roll out by AT&T and Verizon of 5G on Wednesday

### Background:

- Item 50-21 was pulled and not heard in December
- Proposed 5-22 has been published for the January meeting and is the same ordinance initially published for December
- Comments from John Herron and AT&T were considered by staff and changes are proposed in the handout that is a revised proposed 5-22
- Ordinance codifies a process that providers have accepted without objection

### Comments and changes:

- 11-4-182(c)(1) (AT&T comment accepted)

There is now a strikethrough of language requiring an outdated fee (which the city has not charged because we have been in compliance with state law) and insertion of a more detailed registration process that is not prohibited by the legislature

- 11-4-182(c)(4) (no change)

A question from Verizon about the inserted language about "city policies" is answered within the archaeological review procedure, which was adopted by prior city council members in the 1980s and reaffirmed at intervals, most recently in 2011. The archaeological review procedure informs the comments Gregg Harding makes in his review of applications.

- 11-4-182(c)(5) (AT&T comment accepted)

A typographical error has been corrected

- 11-4-182(c) (5)a. (AT&T comment accepted)

An edit was made to emphasize our internal review must be completed in 60 days. This restriction is already covered later in the ordinance (see subparagraph d), but I added the timeline to subparagraph a to reassure the providers this is understood.

- 11-4-182(c)(5)d. (no change)

AT&T questioned what sort of objections are allowed to be resolved; staff seeks guidance from the City Attorney's Office when objections are raised. If a provider has a concern, please encourage them to contact the City Attorney's Office.

- 11-4-182(c)(5)h. (no change)

AT&T's counsel has indicated changes should be made. The City Attorney's Office has reviewed the request and respectfully disagrees.

- 11-4-182(c)(5)i. (no change)

AT&T's counsel proposed a strikethrough of the codification of the process that is already in place to respect objective and competitively neutral standards that align with Pensacola's preservation district standards. Reasonable aesthetic concerns, applied in a nondiscriminatory manner, and with respect to what is available on the market, have been shared and respected by providers thus far.

- 11-4-182(c)(5)j. (no change)

AT&T's counsel objects, but the change respects Mr. Herron's concerns. This provision is not designed to do more than codify that if required by federal regulation, "if such notice is required by 49 United States Code Section 44718 or 14 Code of Federal Regulations, Part 77", then, during the 60-day review period, the city will inquire if a notice required by federal law to be made prior to the installation has been made or the party intends to complete that upon receiving the permit to install. Thus far, no locations proposed in applications have raised this question.

- 11-4-182(c)(5)k and l (no change)

AT&T has objected that this part should more closely track the language of the preemption statute; however, the city does not require underground utilities at this time. Should undergrounding become required in the future, Section 337.401(7)(i) or its successor statutory language will be carefully reviewed to determine whether an ordinance change is required or if developing a compliant process is all that is needed.

- 11-4-182(e) (comment accepted)

The attached revised proposed ordinance corrects the typographical error found by AT&T's counsel.

PROPOSED  
ORDINANCE NO. 05-22

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE  
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 11-4-182, OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, USE OF RIGHTS-OF-WAY BY WIRELESS COMMUNICATIONS FACILITIES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 11-4-182, of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

Sec. 11-4-182. Use of Rights-of-Way by Wireless Communications Facilities.

(a) *Definitions.* The definitions of all applicable terms shall be as provided in chapter 12-13, with the exception that the following terms shall be defined as provided in F.S. § 337.401(7)(b):

- (1) Antenna;
- (2) Applicable codes;
- (3) Applicant;
- (4) Application;
- (5) Authority;
- (6) Authority utility pole;
- (7) Collocate or collocation;
- (8) FCC;
- (9) Micro wireless facility;
- (10) Small wireless facility;
- (11) Utility pole;
- (12) Wireless facility;
- (13) Wireless infrastructure provider;
- (14) Wireless provider;
- (15) Wireless services;

- (16) Wireless service provider;
- (17) Wireless support structure.
- (b) *Generally.* The placement of telecommunication towers and antennae anywhere in the corporate limits of the city shall in all cases be subject to the city's zoning and land use regulations, including those set forth in Title XII, the land development code. Where placement of a wireless antenna in the public right-of-way has been approved by the city and to the extent not inconsistent with any city zoning and land use regulations, a wireless antenna attached to a permitted and legally maintained vertical structure in the public right-of-way, such as a utility pole, shall, unless otherwise agreed to by the city in writing:
  - (1) Not extend more than ten feet above the highest point of the vertical structure;
  - (2) Not have any type of lighted signal, lights, or illuminations unless required by an applicable federal, state, or local rule, regulation or law;
  - (3) Comply with any applicable Federal Communications Commission Emissions Standards;
  - (4) Comply with any applicable local building codes in terms of design, construction and installation; and
  - (5) Not contain any commercial advertising thereon.
- (c) *Rules and regulations.* The mayor is authorized to administratively promulgate such rules and regulations as may be necessary and appropriate to regulate the placement of wireless facilities and infrastructure in the public right-of-way in conformity with applicable provisions of state law, and to designate such staff as necessary to receive, process and make determinations with respect to applications for the placement of wireless facilities and infrastructure. Such rules and regulations shall be subject to the following criteria:
  - (1) The registration fee required of applicants for the placement of wireless facilities and infrastructure shall be reasonably calculated to equal the city's cost of receiving, assessing, determining, awarding and maintaining records with respect to each application, whether for an individual facility or for multiple facilities covered by a single application, but such fee shall not exceed \$100.00 per placement of each wireless facility.
  - (2) The permit fee for the placement of wireless facilities on poles or other structures owned by the city shall be \$150.00 per facility per year.
  - (3) All fees imposed shall be reasonable and nondiscriminatory and not based upon any services provided by the applicant.
  - (4) All provisions of federal and state statutes, rules and regulations, and the provisions of this Code and policies of the City Council, pertaining to historic preservation and the historic districts regulated by the city, which have not been preempted or superseded by F.S. § 337.401(7), shall continue to be enforced and shall not be repealed, abated or waived by this section.

- (5) All applications by small and micro wireless facilities providers and installers to place utility poles and other supporting structures in the public rights-of-way shall be processed in accordance with F.S. § 337.401(6), and shall be subject to the codes, policies, practices, and rules and regulations of the city with respect to the placement of such poles and other supporting structures in the public rights-of-way, including but not limited to the following:
- a. applications by communication services providers shall be submitted through My Government Online for consideration by the city, which includes review by staff with expertise in engineering, planning, inspection services (including electrical permitting), information technology, transportation, and historic preservation, and which also includes a notification, at the city's expense, to adjacent property owners, and further includes review by any potentially impacted city enterprises, such as Pensacola Energy, Pensacola International Airport, and the Port of Pensacola;
  - b. after review of an application by the city engineer or designee, within fourteen days a notification in writing through My Government Online will be made to the applicant concerning whether the application is considered complete; provided, the application shall be considered incomplete if a lack of compliance with this section is evident from the submission;
  - c. an application by a communications services provider to install a small wireless facility in the public right-of-way is deemed incomplete if the engineering drawings depict an installation without specifying the location by latitude and longitude for the placement;
  - d. applications will be processed on a nondiscriminatory basis within sixty days after receipt of the application, unless the city has communicated in writing through My Government Online that a thirty-day negotiation period is required to resolve objections to the application;
  - e. permits issued pursuant to this process are effective for one year unless the city provides in writing an extension of time for the installation;
  - f. the city will communicate denials by electronic mail to the applicant with reference to the provisions of law with which the application fails to demonstrate compliance; therefore, all applications must include electronic mail contact information for the agent of the communications services provider;
  - g. the applicant may cure the deficiencies identified in the denial and resubmit its application within thirty days of the denial;
  - h. thirty days after submission of the revised application to cure deficiencies, the city will approve or deny the revised application based on whether those deficiencies are considered cured; reasons for denial may include that the installation of the proposed small wireless facility or utility pole used to support that small wireless facility is more than ten feet above any existing utility pole in the same right-of-way within five hundred feet of the

proposed location; jeopardizes the safe operation of traffic control equipment; conflicts with sight lines or clear zones for transportation, pedestrians, or public safety purposes; violates or contributes to a potential violation of the Americans with Disability Act or any similar state or federal standards regarding pedestrian access or movement; conflicts with the 2017 edition of the Florida Department of Transportation Utility Accommodation Manual; violates Chapter 333, Florida Statutes or federal regulations pertaining to airport airspace protections; jeopardizes preservation of historic or archaeological resources as reviewed by the Historic Preservation Planner; or fails to comply with the city standards as set forth in the Code of Ordinances of the City of Pensacola;

- i. applications should take into account the following policies of the city: collocation of small wireless facilities is preferred; the pole location should be situated adjacent to the property line of neighboring private property parcels to avoid compromising views from within residential and event venue commercial properties; an acceptable plan for prompt removal of any pole made obsolete by the application should be included; the color and style of new structures should correspond to existing structures, including but not limited to using a clamshell base on a metal pole; preservation of archaeological resources; preservation of historic character of neighborhoods and streetscapes where improvements to structures are subject to aesthetic review by any of the city's boards, including the Architectural Review Board and Planning Board, such that location context (including tree canopy), color, camouflage, and concealment requirements are met;
  - i. applications for installation of small wireless facilities must demonstrate compliance with FAA guidelines, including but not limited to the filing of Form 7460-1 or Form 7460-2 at least 45 days in advance of construction, if such notice is required by 49 United States Code Section 44718 or 14 Code of Federal Regulations, Part 77;
  - k. applications filed more than ninety days after the city determines that all public utility lines shall be placed underground are due to be denied within the limitations set forth by the state legislature, including that the applicant has an alternative collocation option on a structure above ground that the city permits in the right-of-way;
  - l. where the city requires underground utility lines, the city will allow previously installed small wireless facilities to be relocated on a permitted above-ground structure.
- (d) *Prohibited collocations, attachments, installations and services.* The provisions of this section do not authorize, and the city hereby prohibits, the following:
- (1) This section does not authorize a person or entity to collocate or attach wireless facilities, including any antenna, micro wireless facility, or small



wireless facility, on a privately owned utility pole, a privately owned wireless support structure, or other private property without the consent of the property owner.

- (2) The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this section does not authorize the provision of any voice, data, or video services or the installation, placement, maintenance, or operation of any communication facilities other than small wireless facilities in the public right-of-way.
- (3) This section does not affect any provisions relating to pass-through providers contained in this Code and contained in F.S. § 337.401(6).
- (4) This section does not authorize a person or entity to collocate small wireless facilities or micro wireless facilities on a city utility pole or erect a wireless support structure in a location subject to covenants, conditions, restrictions, articles of incorporation, and bylaws of a homeowners' association. This subsection does not apply to the installation, placement, maintenance, or replacement of micro wireless facilities on any existing and duly authorized aerial communications facilities.

(e) *Insurance, Indemnification, and Liability.* An application to install a small wireless facility or a utility pole to support a small wireless facility may be denied if the applicant has not demonstrated compliance with nondiscriminatory requirements of a construction bond to restore the right-of-way to its preconstruction condition as provided by F.S. § 337.401(6)(d)12.

SECTION 2. If any word, phrase, clause, paragraph, section or provision of this ordinance or the application thereof to any person or circumstance is held invalid or unconstitutional, such finding shall not affect the other provision or applications of the ordinance which can be given effect without the invalid or unconstitutional provisions or application, and to this end the provisions of this ordinance are declared severable.

SECTION 3. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4. This ordinance shall take effect on the fifth business day after adoption, unless otherwise provided, pursuant to Section 4.03(d) of the City Charter of the City of Pensacola.

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

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

President of City Council

Attest:

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City Clerk



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00131

City Council

2/10/2022

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### **DISCUSSION ITEM**

**SPONSOR:** City Council Member Sherri Myers

**SUBJECT:**

DISCUSSION - DEDICATED PARKING SPACES FOR MICROMOBILITY DEVICES

**SUMMARY:**

The City is currently within a year-long pilot program for Dockless Shared Micromobility Devices. One of the issues that has arisen is the parking of such devices.

This item seeks to discuss the possibility of created dedicated parking spaces for these devices and to look at the issuance of an RFP for a consultant to survey the current boundaries of the devices and make a recommendation with regards to location, design and cost.

**PRIOR ACTION:**

September 12, 2019 - City Council voted to adopt Dockless Shared Micromobility Devices Pilot Program Ord. No. 17-19.

January 20, 2022 - City Council voted to approve on first reading revised Proposed Ordinance No. 01-22 as amended.

**STAFF CONTACT:**

Don Kraher, Council Executive

**ATTACHMENTS:**

1) None

**PRESENTATION:** No



# City of Pensacola

222 West Main Street  
Pensacola, FL 32502

## Memorandum

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**File #:** 22-00133

City Council

2/10/2022

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### **DISCUSSION ITEM**

**SPONSOR:** City Council Member Sherri Myers

**SUBJECT:**

DISCUSSION - CITY COUNCIL'S BUDGET PROCESS

### **SUMMARY:**

The Budget Process for FY23 is underway, this item seeks to discuss holding a Council Workshop in order to review all of the Department Head budget submittals before they are finalized in the budget. Further, this would be an opportunity for the Council to receive an overview of the Budget Preparation Manual.

### **PRIOR ACTION:**

None

### **STAFF CONTACT:**

Don Kraher, Council Executive

### **ATTACHMENTS:**

1) None

**PRESENTATION:** No