City of Pensacola

Agenda Conference

Agenda

City of Pensacola
222 W. Main Street
Pensacola, FL 32502

January 16, 2024, 3:30 PM — **Hagler-Mason Conference Room, 2nd Floor**

The meeting can be watched via live stream at cityofpensacola.com/video.

ROLL CALL

PRESENTATION ITEMS

1. 24-7 CITY OF PENSACOLA RESILIENT COASTLINES PROGRAM - VULNERABILITY ASSESSMENT UPDATE PART I

Recommendation: That City Council accept a presentation from Erin Deady regarding the FDEP Resilient Coastlines Program and Resilience Planning Grant received by the City.

Sponsors: Mayor D.C. Reeves

Attachments: *None*

2. 24-6 ANNUAL REPORT FROM PARKS & RECREATION BOARD

Recommendation: That City Council receive a presentation from Rand Hicks, Chair of the Parks & Recreation Board providing an update of Board activity for 2023.

Sponsors: Council President Casey Jones

Attachments: *None*

REVIEW OF CONSENT AGENDA ITEMS

3. 24-15 APPROVAL OF AMENDMENT NO. 1 TO CONTRACT WITH MULLER AND MULLER, LTD. FOR ARCHITECTURAL AND ENGINEERING SERVICES - HIGH PERFORMANCE MARITIME CENTER OF EXCELLENCE AND AMERICAN MAGIC - PORT OF PENSACOLA

Recommendation: That City Council approve Amendment No. 1 to the contract for Architectural and Engineering Services with Muller and Muller, LTD., for the High Performance Maritime Center of Excellence and American Magic at the Port of Pensacola, in the amount of $740,004 for Phase 2 (wetslip). Further, that City Council authorize the Mayor to take actions necessary to execute and administer the amendment, consistent with the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments:
Phase 2 Scope of Work and Fee Proposal
Amendment No. 1

4. 24-12 AMENDMENT TO CDBG-CV LEGAL SERVICES PROGRAM AGREEMENT

Recommendation: That City Council approve the Amendment to the CDBG-CV Legal Services Program Agreement with Legal Services of North Florida, Inc. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer the Amendment to the Agreement, consistent with the terms of the Amendment and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments:
Amendment to CDBG-CV Legal Services Program Agreement

5. 24-27 AWARD OF BID NO. 24-006 PENSACOLA INTERNATIONAL AIRPORT ROAD SIGNS

Recommendation: That City Council award Bid No. 24-006 for Airport Road Signs to Emerald Coast Striping, the lowest most responsible bidder, for the base price of $249,900.00 plus 10% contingency in the amount of $24,990.00 for a total contract price of $274,890.00. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and complete this work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments:
Tabulation of Bids
Bid No 24-006 Bid Proposal
Contract

6. 24-44 ENVIRONMENTAL ADVISORY BOARD MEETING SCHEDULE RECOMMENDATION

Recommendation: That City Council approve the Environmental Advisory Board (EAB) recommendation for the Board to transition to an every other month meeting schedule, with the ability to schedule special meetings as needed.

Sponsors: Council President Casey Jones

Attachments: *None*

7. 24-9 APPOINTMENT - BOARD OF TRUSTEES-FIREFIGHTERS' RELIEF AND PENSION FUND

Recommendation: That City Council reappoint Samuel A. Horton, a city resident, to the Board of Trustees-Firefighters' Relief and Pension Fund for a term of two (2) years, expiring December 31, 2025.

Sponsors: Council President Casey Jones

Attachments: *Member List*
Application of Interest - Samuel A. Horton
Resume - Samuel A. Horton

8. 24-8 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL VICE PRESIDENT JARED MOORE - DISTRICT 4

Recommendation: That City Council approve funding of $1,000 to James B. Washington Education and Sports and $1,000 to the YMCA from the City Council Discretionary Funds for District 4.

Sponsors: Council Vice President Jared Moore

Attachments: *None*

9. 24-10 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER DELARIAN WIGGINS - DISTRICT 7

Recommendation: That City Council approve funding of $1,000 to the Ella L. Jordan African American History Museum and $400 to the Southern Youth Sports Association from the City Council Discretionary Funds for District 7.

Sponsors: Council Member Delarian Wiggins

Attachments: *None*

10. 24-11 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER ALLISON PATTON - DISTRICT 6

Recommendation: That City Council approve funding of $500 to James B. Washington Education and Sports, $500 to Pensacola's Finest Foundation, $500 to Family Promise of Escambia County and $500 to the Ella L. Jordan African American Museum from the City Council Discretionary Funds for District 6.

Sponsors: Council Member Allison Patton

Attachments: *None*

11. 24-64 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER TENIADE BROUGHTON - DISTRICT 5

Recommendation: That City Council approve funding of $500 to Gallery Night Pensacola, $500 to the Gulf Coast Minority Chamber of Commerce and $300 to the Northwest Florida Community Outreach from the City Council Discretionary Funds for District 5.

Sponsors: Council Member Teniadè Broughton

Attachments: *None*

REVIEW OF REGULAR AGENDA ITEMS

12. 24-69 CITY COUNCIL CONSENT TO THE MAYOR'S APPOINTMENT OF ADAM C. COBB AS CITY ATTORNEY

Recommendation: That the City Council consent to the Mayor's appointment of Adam C. Cobb as City Attorney.

Sponsors: Mayor D.C. Reeves

Attachments: *Adam C. Cobb Resume*

13. 24-26 CITY COUNCIL CONSENT TO THE MAYOR'S APPOINTMENT OF RUSSELL SWEATT AS FACILITIES AND FLEET MANAGEMENT DIRECTOR

Recommendation: That City Council consent to the Mayor's appointment of Russell Sweatt as Facilities and Fleet Management Director effective January 22, 2024.

Sponsors: Mayor D.C. Reeves

Attachments: *Russell Sweatt_application*

14. 24-18 QUASI-JUDICIAL HEARING - FINAL SUBDIVISION PLAT - TERRACES AT TARRAGONA

Recommendation: That City Council conduct a quasi-judicial hearing on January 18, 2024, to consider approval of the Final Subdivision Plat - Terraces at Tarragona.

Sponsors: Council President Casey Jones

Attachments: *Terraces at Tarragona Final Plat Application*
Planning Board Minutes December 12, 2023

15. 24-28 ACCEPTANCE OF AWARD OF FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT AWARD AGREEMENT NO. HS002 - DISASTER RELIEF FUNDING FOR PORT OF PENSACOLA

Recommendation: That City Council approve acceptance of Florida Commerce Community Development Block Grant Disaster Recovery Award Agreement No. HS002 for the stormwater retrofitting and redevelopment of the Port of Pensacola, in the amount of $9,103,935.38. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

Sponsors: Mayor D.C. Reeves

Attachments: *Grant Agreement*

16. 24-30 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-4 FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RELIEF FUNDING FOR PORT OF PENSACOLA

Recommendation: City Council adopt Supplemental Resolution No. 2024-4

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Supplemental Budget Explanation No. 2024-4*
Supplemental Budget Resolution No. 2024-4

17. 24-17 FY23 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM: STATE - FY23-24 STATE ASSISTANCE FOR FENTANYL ERADICATION (S.A.F.E.) IN FLORIDA PROGRAM

Recommendation: That City Council approve the acceptance of the FY23 Edward Byrne Memorial Justice Assistance Grant (JAG) Program: State, agreement between the City of Pensacola and the State of Florida Department of Law Enforcement (FDLE), Office of Criminal Justice Grants in the amount of $105,173.00, upon award of the grant. Further, that City Council authorize the Mayor to take all actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

Sponsors: Mayor D.C. Reeves

Attachments: *FDLE SAFE GRANT NARRATIVE*
Supplemental Budget Resolution No. 2024-1
Supplemental Budget Explanation No. 2024-1

18. 24-13 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-1 - FY23-24 STATE ASSISTANCE FOR FENTANYL ERADICATION (S.A.F.E.) IN FLORIDA PROGRAM - FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE) - AGREEMENT NO. 2023 -SAFE-SF-014: FLAIR VENDOR ID: F59-

000406

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-1.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE

Sponsors: Mayor D.C. Reeves

Attachments: *Supplemental Budget Resolution No. 2024-1*
Supplemental Budget Explanation No. 2024-1

19. 24-25 ACCEPTANCE OF FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT AWARD AGREEMENT NO. HS003 - FRICKER CENTER

Recommendation: That City Council approve acceptance of Florida Commerce Development Block Grant Disaster Recovery Award Agreement No. HS003 for the redevelopment of the Fricker Resource Center, in the amount of $5,500,000.00 with a $477,425.00 local match for a total grant value of $5,977,424.00. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

Sponsors: Mayor D.C. Reeves

Attachments: *Grant Agreement*

20. 24-29 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-3 - FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RELIEF FUNDING FOR FRICKER CENTER

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-3

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Supplemental Budget Explanation No. 2024-3*
Supplemental Budget Resolution No. 2024-3

21. 24-20 GENERAL DANIEL "CHAPPIE" JAMES, JR. MEMORIAL PLAZA STEWARDSHIP AGREEMENT

Recommendation: That City Council approve the proposed Stewardship Agreement between the City of Pensacola and General Daniel "Chappie" James, Jr.

Memoral Foundation, Inc., establishing terms and conditions for the construction, maintenance, and ongoing stewardship of Generl Daniel "Chappie" James, Jr. Memoral Plaza.

Sponsors: Mayor D.C. Reeves

Attachments: *Stewardship Agreement*

22. 24-14 RESOLUTION NO. 2024-8 - SUPPORTING AN APPLICATION FOR TRANSPORTATION ALTERNATIVES PROGRAM FUNDING FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION

Recommendation: That City Council adopt Resolution No. 2024-8:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA; SUPPORTING AN APPLICATION TO THE FLORIDA DEPARTMENT OF TRANSPORTATION ALTERNATIVES PROGRAM TO DESIGN AND CONSTRUCT SIDEWALKS ON NORTH J STREET AND EAST MAXWELL STREET; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Resolution No. 2024-8*
East Maxwell Street Location Map
North J Street Location Map

23. 24-16 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-2 - LAW ENFORCEMENT TRUST FUND (LETF) PURCHASE FOR THE LIFEVIEW GROUP HUMAN TRAFFICKING TASK FORCE / HUMAN TRAFFICKING SUMMIT

Recommendation: That the City Council adopt Supplemental Budget Resolution No. 2024-2.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Supplemental Budget Resolution No. 2024-2*
Supplemental Budget Explanation No. 2024-2
Letter of Certification re LifeView Group
PPD LEFT Sponsorship Application re LifeView Group

24. 22-23 PROPOSED ORDINANCE NO 22-23 - AMENDMENT TO SECTION 12-3-121 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, DEVELOPMENT STANDARDS AND GUIDELINES, CREATING SECTION

12-3-121(D)(9), BUILDING HEIGHT BONUSES

Recommendation: That City Council adopt Proposed Ordinance No. 22-23 on second reading:

AN ORDINANCE AMENDING SECTION 12-3-121 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, DEVELOPMENT STANDARDS AND GUIDELINES, CREATING SECTION 12-3-121(D)(9), BUILDING HEIGHT BONUSES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Proposed Ordinance No. 22-23*
Planning Board Minutes - October 10, 2023
Business Impact Estimate

25. 24-22 PROPOSED ORDINANCE NO. 23-23 - CREATING SECTION 11-2-12, OF THE CODE OF CITY OF PENSACOLA, FLORIDA; PROVIDING FOR A TRAFFIC INFRACTION DETECTION PROGRAM IN ACCORDANCE WITH FLORIDA STATUTES

Recommendation: That City Council adopt Proposed Ordinance No. 23-23 on second reading.

AN ORDINANCE CREATING SECTION 11-2-11, 11-2-12, 11-2-13, 11-2-14, 11-2-15, 11-2-16, 11-2-17, 11-2-18, 11-2-19, OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR A TRAFFIC INFRACTION DETECTION PROGRAM IN ACCORDANCE WITH FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Proposed Ordinance No. 23-23*
Business Impact Estimate for Ordinance 23-23

26. 24-32 SERVICE AGREEMENT FOR TRAFFIC INFRACTION DETECTION & ENFORCEMENT PROGRAM - NOVOAGLOBAL, INC.

Recommendation: That the City Council approve a service agreement with Novoaglobal, Inc., for the purpose of providing a traffic infraction detection and enforcement program in the City of Pensacola, Escambia County, Florida for the Fiscal Years 2024-2029.

Sponsors: Mayor D.C. Reeves

Attachments: *Service Agreement*

27. 24-23 PROPOSED ORDINANCE NO. 24-23 - CREATING SECTION 11-4-4,

SECTION 11-4-5, AND SECTION 11-4-6 OF THE CODE OF THE CITY OF PENSACOLA - DANGEROUS USE OF PUBLIC RIGHTS OF WAY

Recommendation: That City Council adopt Proposed Ordinance No. 24-23 on second reading.

AN ORDINANCE CREATING SECTION 11-4-4, SECTION 11-4-5, AND SECTION 11-4-6 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA DANGEROUS USE OF PUBLIC RIGHTS OF WAY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments:
Proposed Ordinance No. 24-23
Florida Crash Board
Business Impact Estimate for Proposed Ordinance No. 24-23

28. 24-24 PROPOSED ORDINANCE 26-23 CREATING CHAPTER 7-13 OF THE CODE OF THE CITY OF PENSACOLA - REGULATION OF BUSINESSES ENGAGED IN PRUNING AND REMOVING TREES

Recommendation: That City Council adopt Proposed Ordinance No. 26-23 on second reading:

AN ORDINANCE CREATING CHAPTER 7-13 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, RELATED TO THE REGULATION OF BUSINESSES ENGAGED IN PRUNING AND REMOVING TREES; ADOPTING APPROPRIATE INDUSTRY STANDARDS; PROVIDING FOR PENALTIES FOR DEVIATION FROM INDUSTRY STANDARDS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments:
Proposed Ordinance 26-23
Business Impact Estimate
Comments from EAB - Dec. 7th Meeting

CONSIDERATION OF ANY ADD-ON ITEMS

DISCUSSION ITEMS

READING OF ITEMS FOR COUNCIL AGENDA

CITY ADMINISTRATOR'S COMMUNICATION

CITY ATTORNEY'S COMMUNICATION

CITY COUNCIL COMMUNICATION

ADJOURNMENT

Any opening invocation that is offered before the official start of the Council meeting shall be the voluntary offering of a private person, to and for the benefit of the Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious or non-religious beliefs or views of such speaker. Persons in attendance at the City Council meeting are invited to stand during the invocation and to stand and recite the Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered or to participate in the Pledge of Allegiance. You may remain seated within the City Council Chambers or exit the City Council Chambers and return upon completion of the opening invocation and/or Pledge of Allegiance if you do not wish to participate in or witness the opening invocation and/or the recitation of the Pledge of Allegiance.

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

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-7 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

CITY OF PENSACOLA RESILIENT COASTLINES PROGRAM - VULNERABILITY ASSESSMENT UPDATE PART I

RECOMMENDATION:

That City Council accept a presentation from Erin Deady regarding the FDEP Resilient Coastlines Program and Resilience Planning Grant received by the City.

HEARING REQUIRED: No Hearing Required

SUMMARY:

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

One of the foundational concepts of Fla Stat 380.093 and FEMA's CRS program is to assess the flood risk of a community using best available tools, data, and methodologies. The larger goal of both programs is to capture multiple types of weather-related scenarios to project and model how various flood risks would affect the community. This update will further evaluate the potential for flood exposure to critical assets as defined by s. 380.093 (transportation and evacuation routes, critical infrastructure, critical community, and emergency facilities, and natural, culture and historical resources).

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator - Community Development
Cynthia Cannon, AICP, Planning and Zoning Division Manager

ATTACHMENTS:

None

PRESENTATION: Yes

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-6 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council President Casey Jones

SUBJECT:

ANNUAL REPORT FROM PARKS & RECREATION BOARD

RECOMMENDATION:

That City Council receive a presentation from Rand Hicks, Chair of the Parks & Recreation Board providing an update of Board activity for 2023.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In accordance with Section 3.04 - Council Established Board, Council Rules and Procedures affords the opportunity for a yearly report from a board, outlining the year's achievements, accomplishments, and upcoming year's goals.

A request has been made for an update from the Parks & Recreation Board.

PRIOR ACTION:

Parks & Rec Board Meetings for 2023

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

None

PRESENTATION: Yes

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-15 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

APPROVAL OF AMENDMENT NO. 1 TO CONTRACT WITH MULLER AND MULLER, LTD. FOR ARCHITECTURAL AND ENGINEERING SERVICES - HIGH PERFORMANCE MARITIME CENTER OF EXCELLENCE AND AMERICAN MAGIC - PORT OF PENSACOLA

RECOMMENDATION:

That City Council approve Amendment No. 1 to the contract for Architectural and Engineering Services with Muller and Muller, LTD., for the High Performance Maritime Center of Excellence and American Magic at the Port of Pensacola, in the amount of $740,004 for Phase 2 (wetslip). Further, that City Council authorize the Mayor to take actions necessary to execute and administer the amendment, consistent with the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Port of Pensacola seeks to transform Warehouse #10 and the associated area into a High-Performance Maritime Center of Excellence in partnership with American Magic, a professional sailing team competing for the America's Cup. United by a mandate to win the America's Cup, American Magic is developing a pathway for a generation of engineers, boatbuilders and technicians to enhance the marine industry in the United States and set Pensacola on a trajectory of being a leader on the world sail racing stage. The facility is required in order to secure headquarters relocation of Bella Mente Quantum Racing Association (American Magic) to the Port of Pensacola. Buildout of the facility will allow American Magic, which has utilized the Port of Pensacola on a temporary, seasonal basis, to permanently relocate their training and boat building facility to the Port of Pensacola.

In June 2023, the City issued a Request for Qualifications (RFQ) for Architectural and Engineering services for the American Magic facility to be located at the Port of Pensacola. The City Council approved a contract for Phase I of the design (facility) with Muller and Muller, LTD at the November 9, 2023 Regular Council Meeting, with the understanding that the scope of work and fee proposal for Phase II of the design (wetslip) was forthcoming.

PRIOR ACTION:

June 15, 2023 Council acceptance of the Governor's Job Growth Infrastructure Grant and supplemental budget resolution
September 14, 2023 Council acceptance of the Triumph Gulf Coast Grant and supplemental budget resolution
November 9, 2023 Council approval of A&E contract with Muller and Muller, LTD for Phase I of the design and engineering (facility)

FUNDING:

Budget:
$3,963,120 Governor's Job Growth Grant Fund
$8,500,000 Triumph Gulf Coast Grant
$2,625,000 FSTED Grant (Agreement Pending)

$15,088,120 TOTAL

Actual:
$1,107,024 Muller and Muller A&E Contract Phase I
$ 740,004 Muller and Muller A&E Contract Phase II

$1,847,028 TOTAL

FINANCIAL IMPACT:

The total budget for this project is $15,088,120 and is funded by the Florida Commerce Governor's Job Growth Grant, Triumph Gullf Coast, and FDOT's Florida Seaport Transportation Economic Development (FSTED) fund. The FSTED Grant was approved at the 2023 FSTED committee Fall meeting but the grant agreement will not be generated by FDOT until July 2024 (the start of the State's Fiscal Year).

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

1/8/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator
Clark Merritt, Port Director
Erica Grancagnolo, Economic Development Director

ATTACHMENTS:

1. Phase 2 Scope of Work and Fee Proposal

2. Amendment No. 1

PRESENTATION: No

November 29, 2023

Attention: Erica Grancagnolo
Economic Development Director

Subject: **Professional Architectural / Engineering Services Proposal**
Revision 001 – Including Phase II Dock and Boat Slip Fees

HIGH PERFORMANCE MARITIME CENTER OF EXCELLENCE AND AMERICAN MAGIC AT THE PORT OF PENSACOLA

Dear Mrs. Grancagnolo:

Muller & Muller, Ltd. (M2) in association with Sam Marshall Architects, PA (SMA) is pleased to submit the following proposal for Professional Architectural Services for the High-Performance Maritime Center of Excellence and American Magic at the Port of Pensacola.

For this assignment we are proposing the following team:

M2 – Prime, Project Management, Architecture
Sam Marshall Architects, Architect of Record
Schmidt Consulting Group (SCG) Structural Engineering, Mechanical, Electrical and Plumbing Engineering, and Communications
Baskerville Donovan (BDI) Civil Engineering
Tierra Inc - Geotechnical
Hatcher Engineering - Fire Protection
Biome Consulting Group - Environmental
TG Earnest & Associates – Cultural Resource Assessment Survey
MRD Associates, Inc – Marina Tidal Flushing Analysis
MOCA - Cost Estimating

SCOPE OF WORK

Phase 1, Warehouse and 50-foot addition. Complete the partially constructed Warehouse 10 at the Port of Pensacola, to include a 50-foot addition. Transform Warehouse #10 and the associated area into a High-Performance Maritime Center of Excellence in partnership with American Magic, a professional sailing team competing for the America's Cup.

Phase 2, Dock and Boat Slip
Design of a dock and boat ramp to support various watercraft (powered and non-powered).

The finish-out of Warehouse #10 to include work centers, offices, large manufacturing areas, restrooms/locker rooms, cranes (to be determined what type i.e., gantry/overhead), a kitchen and dining facility, simulator/IT rooms, and other spaces specific to advanced sailing and maritime activities. A mezzanine for non-manufacturing functions will also be incorporated into the design.

The scope of work includes:

1. Design and Permitting of the High-Performance Maritime Center of Excellence (Interior and exterior), exterior site design, and the Dock, Launch, and Boat Ramp Facility.
2. Finalizing design of partially completed 56,000 +/- sq ft building Warehouse #10, to enclosed, conditioned, functional space.
3. Addition of 8,000 +/- sq ft to existing building.
4. Site and Structural assessments and surveys to be the basis for the development of all engineering and architectural designs, reports, and estimates.
5. Determination and coordination of all permitting requirements.
6. Development of an initial Rough Order of Magnitude (ROM) construction cost estimate at the 15% schematic design stage.
7. Development of construction contract documents to 30% design, 60% design, 90% design, and 100% designs stages, with appropriate City review and input at all stages.
8. Development of an initial Rough Order of Magnitude (ROM) construction cost estimate at 15% Schematic Design, 60% design, 90% design and final construction cost estimate upon completion (100%) plans.
9. Production of Bid Documents and support the bidding, pre-construction, and construction phases of the Project including but not limited to: support services during the bidding phase; special inspections, submittal review and approvals during the construction phase; construction administration, and support services during the commissioning phase.
10. Services include architecture, structural engineering, electrical engineering, plumbing, HVAC design, information technology design, and interior design.
11. The finished interior will include.
    a. Work Centers,
    b. Offices,
    c. Large Manufacturing Areas,
    d. Restrooms/Locker Rooms,
    e. Cranes (to be determined what type i.e., gantry/overhead),
    f. Kitchen and Dining facility,
    g. Simulator/IT rooms,
    h. Other spaces specific to advanced sailing and maritime activities.
    i. Mezzanine for non-manufacturing functions
12. Exterior Site Layout and Functionality:
    Design surroundings of Warehouse #10 in line with the operational concept. Including ingress/egress for personnel, equipment, and maritime craft (powered/non-powered), as well as facilitating transit to and from the dock/launching facility on the eastern side of the port. The exterior site design should also consider the needs of port operations and tenants.
13. Dock, Launch, and Boat Ramp Facility:
    a. The dock, launch, and boat ramp facility to be situated on the eastern side of the Port.
    b. Support the operational requirements of the America's Cup sailing team.

c. Enable personnel to board the boats from a landside dock and accommodate multiple moorings during sailing events, such as regattas.
d. Access from Warehouse #10 to the dock and associated utilities should be considered and incorporated based on available funding.
e. Full Bulkheading of the eastern side of the port is <u>not considered at this stage of the project design</u>.
f. The facility should include a powered/non-powered ramp to facilitate the launching of boats trailered, on a cradle, or in other launching apparatus including travel-lifts. A boat ramp is not a practical solution due to the elevation change from the top of the riprap revetment to mean low water. An alternate upland wet slip is proposed to accommodate both powered and non-powered boats.

BASIC SCOPE OF SERVICES

M2 shall render the following professional services relating to the scope of work:

Schematic Design

1. Provide up to three planning options based on the general concept previously developed by others and provided to M2. Concepts will focus on needs and budget of American Magic.

2. Development of an initial Rough Order of Magnitude (ROM) construction cost estimate at the 15% schematic design stage.

3. Prepare for and conduct up to two meetings with the City of Pensacola. Document meetings and distribute meeting minutes.

4. Prepare for and conduct a review meeting with the City of Pensacola. Document meetings and distribute meeting minutes.

5. Review and respond to review comments received.

Schematic Design Deliverables

- Floor Plan Options
- Meeting Minutes
- Comment Resolution Log

Design Development

1. Develop and refine the selected schematic design option.

2. Prepare finish options, for:
    a. Manufacturing Areas
    b. Restrooms/Locker Rooms
    c. Kitchen and Dining Facility
    d. Simulator/IT rooms

3. Develop preliminary mechanical, electrical and communication/security drawings.

4. Develop preliminary three-dimensional views. Provide up to three draft renderings.

5. Conduct a preliminary review meeting with the following Authorities Having Jurisdiction (AHJ):
    a. City of Pensacola
    b. Florida Department of Environmental Protection
    c. Army Corps of Engineers
    d. Emerald Coast Utilities Authority (ECUA)
    e. Florida Power & Light

6. Prepare for and conduct up to two meetings with the City of Pensacola.
7. Document meetings and distribute meeting minutes.

8. Prepare for and conduct up to two review meetings with the City of Pensacola. Document meetings and distribute meeting minutes.

9. Review and respond to review comments received.

Design Development Deliverables

- Floor Plans
- Elevations and Sections
- Preliminary Details
- Preliminary Phasing
- Preliminary Mechanical, Electrical and Low Voltage/Security Drawings
- Preliminary Specifications
- Meeting Minutes
- Comment Resolution Log

Construction Documents

1. Based on selected options, develop construction documents suitable for bidding and permit, including:
    a. Suggested Phasing Plans
    b. Architectural Drawings, including life-safety plans, floor plans, reflected ceiling plans, finish plans, elevations, sections, details, and schedules.
    c. Structural Drawings
    d. Mechanical Drawings
    e. Plumbing Drawings
    f. Fire Protection Drawings
    g. Electrical Drawings
    h. Communication/Security Drawings

2. Develop final three-dimensional views. Provide up to three final renderings.

3. Develop a specifications project manual.

4. Conduct a follow-up review meeting with the following Authorities Having Jurisdiction

(AHJ):
   a. City of Pensacola
   b. Florida Department of Environmental Protection
   c. Army Corps of Engineers
   d. Emerald Coast Utilities Authority (ECUA)
   e. Florida Power & Light

5. Prepare for and conduct up to six meetings with the City of Pensacola. Document meetings and distribute meeting minutes.

6. Prepare for and conduct up to three review meetings with the City of Pensacola. Document meetings and distribute meeting minutes.

7. Review and respond to review comments received.

Construction Documents Deliverables

- Drawings Suitable for Bidding and Permit
- Specifications Manual
- Five Rendered Views
- Meeting Minutes
- Comment Resolution Log

Bidding and Permit

The design team recommends completion of permitting before bidding to avoid permit related changes after bid. This includes permitting at the 100% stage to incorporate those changes into the contract before bidding)

1. Attend pre-bid meeting with potential reviews.

2. Review and respond to bidder's questions and, if necessary, provide clarifications.

3. Assist in the review of bids received.

4. Submit drawings for permit review and assist in completion of permit applications.

5. Provide attendance at up to two meetings with authorities having jurisdiction (if required).

6. Review and respond to permit questions and, if necessary, provide corrections.

Construction Administration

1. Attending up to 36 construction meetings with the contractor. Meeting minutes to be recorded by others.

2. Provide up to 36 site observations to review that work is progressing in general conformance with the construction documents.

3. Review and provide responses to contractor's request for information. If necessary, issue clarifications.

4. Review and action contractor submittals. A maximum of two reviews per submittal is budgeted.

5. Provide one punch-list review at substantial completion and provide one confirming punch-list review.

6. Review and action contractor close-out documentation.

7. Assist in the review of monthly pay application requests.

SCHEDULE

For the scope of services identified, M2 understands the schedule to be as follows:

- Schematic Design – 3 Weeks
- Design Development – 5 Weeks
- Contract Documents – 13 Weeks

Please note that durations identified above exclude client and stakeholder review periods. City of Pensacola standard review period is three weeks.

BASE COMPENSATION

The proposed total project budget provided by the City of Pensacola is **$15,088,120.00**
For the Basic Scope of Services identified, M2 Basic AE Design Fee of **$1,107,024.66** specific to basic services related **Phase 1, Warehouse and 50-foot addition**

(Note, this is based on Florida Department of Management Services, DMS sliding Scale, complexity C **7.82%** of overall construction budget noted below).

Phase 2, Dock and Boat Slip.
M2 Basic AE Design Fee of **$740,004.00** for basic services referenced below.

Project Costs		$ 15,088,120.00
Building Construction Costs		$10,471,095.34
Site/Slip/Docks/Civil Costs		$3,500,000.00
Percentage of Fee		7.82%
Base Building DMS Fee		$ 818,839.66
Building Services in Addition to DMS		$288,185
Reimbursable Allowance		$10,000
Total Building Fee		$ 1,107,024.66
Adjusted Fee, less scope items requiring city approval*		$ 1,059,524.66

Schematic Design Phase	15%	$ 122,825.95
Design Development Phase	18%	$ 147,391.14
Construction Documents	40%	$ 327,535.86
Procurement Phase	2%	$ 16,376.79
Construction Phase	25%	$ 204,709.91
Services in addition to DMS Fee Structure noted above		
Phase 1 - Warehouse 10 & Addition		
Cost Estimating		$31,730
System Commissioning Service		$28,600
Air Barrier Testing		$4,000
Structural Evaluation of Exst Bldg		$25,500
Civil Design (Phase 1)		$130,070
Geotechnical (Phase 1)		$20,785
Communications*		$11,500
Landscape Architectural & Irrigation Design*		$30,000
Site Lighting Design*		$6,000
Building Fees in Addition to DMS Services		$288,185
*Fees requiring city approval before proceeding		$47,500

Phase 2 - Dock/Boat Ramp / Slip		
Phase II Project Costs		$3,500,000.00
Phase II Construction Costs		$2,759,995.90
Project Management Administration		$67,273
Civil Design		$373,870
Structural Design, Dock, Slip, Sheetpile Wall		$131,680
Environmental		$54,700
Geotechnical		$50,065
Cultural Resource Assessment		$25,166
Marina Tidal Flushing Analysis		$37,250
Total Fee		$740,004

REIMBURSABLE EXPENSES

In addition to our compensation as outlined above, we shall be reimbursed for expenditures made by us, and our consultants, specifically for this project such as: reproduction/printing of documents, postage, messenger/courier services, long distance communication, mileage, parking, transportation, and other similar expenses. Due to the American Magic Team being remote through summer of 2024, the design team recommends in person meetings to be kept to a minimum, with most meetings intended to be scheduled on video conference, teams.

ADDITIONAL SERVICES

The following services are not included as part of our Base Compensation, but can be provide at the City of Pensacola request as an additional service:

Early Civil / Permit Package
Site master planning
Security planning
Life Cycle Cost (ROI) and/or Federal DOE Energy Analysis
LEED Consultation
Special Code Reviews including ACHA

Documents Prepared For:
Excessive Change Orders
Multiple Construction Contracts
Record Documents/As Builts
Prolonged Construction Contract Administration Services
Project Representation During Construction Beyond Bi-Monthly Administration
Additional Construction Contract
Administration Services for Multiple Contracts
Building Commissioning and Training Services
Post Occupancy Inspections/ Evaluations
Substantive Changes to Scope, Size or Complexity
Owner Requested Changes to Approved Documents

ASSUMPTIONS AND CLARIFICATIONS

In addition to the scope of services outlined, this proposal is also based on the following Assumptions and Clarifications:

1. M2 recommends AIA contract between Owner and Architect – B101-2017
2. M2 shall be able to rely on the accuracy of information provided to M2 by others.
3. Permit-related fees are not included. Permit expeditor will be provided by others.
4. Commissioning for Green Building certification not included.
5. M2’s review of existing conditions is limited to a visual review only. The use of special equipment or destructive means is not included.

TERMS AND CONDITIONS

Access to Site:
The Port of Pensacola is a secure and regulated USCG facility, As such, the Consultant, at its expense, shall be able to self-escort their staff on port by obtaining (or being escorted by) a Transportation Worker Identification Credential (TWIC) issued by the Dept. of Homeland Security. At all times, the Consultant shall perform its tasks in compliance with all applicable Port of Pensacola Security requirements under the Port’s current Tariff 5A.

Dispute Resolution:
Any claims or disputes made during design, construction or post-construction between the Client and Consultant to be reviewed in the Court of Law in the State of Florida with no arbitration.

Billings/Payments:

Invoices for the Consultant's services shall be submitted, at the Consultant's option, either upon completion of such services or on a monthly basis. Invoices shall be payable within 30 days after the invoice date. If the invoice is not paid within 30 days, the Consultant may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, terminate the performance of the service. Retainers shall be credited on the final invoice.

Late Payments:
Accounts unpaid 60 days after the invoice date may be subject to a monthly service charge of 1.5% (or the legal rate) on the then unpaid balance. In the event any portion or all of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees.

Certifications:
Guarantees and Warranties: The Consultant shall not be required to execute any document that would result in its certifying, guaranteeing, or warranting the existence of conditions whose existence the Consultant cannot ascertain.

Additional Services/Change in Services:
If any additional services and or change/modifications to Consultant's scope of services are proposed by Client, Consultant shall, upon receipt of such written change or modification, determine the impact on both time and compensation and notify Client in writing. Upon agreement between Client and Consultant as to the extent of said impacts to time and compensation, an amendment to this agreement shall be prepared describing such changes. Execution of the amendment by Client and Consultant shall constitute the Consultant's notice to proceed with the changed scope.

Jobsite Safety:
Neither the professional activities of the Consultant, nor the presence of the Consultant or its employees and subconsultants at a construction/project site, shall impose any duty on the Consultant, nor relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the Contract Documents and any health or safety precautions required by any regulatory agencies. The Consultant and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The Client agrees that the General Contractor shall be solely responsible for jobsite and worker safety and warrants that this intent shall be carried out in the Client's contract with the Contractor. The Client also agrees that the General Contractor shall defend and indemnify the Client, the Consultant and the Consultant's subconsultants. The Client also agrees that the Client, the Consultant and the Consultant's subconsultants shall be made additional insured under the General Contractor's policies of general liability insurance.

Waiver of Consequential Damages:
Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the Client nor the Consultant, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for incidental, indirect or consequential damages arising out of or connected in any way to the Project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation and any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied warranty. Both the Client and the Consultant shall require waivers of consequential damages protecting all

the entities or persons named herein in all contracts and subcontracts with others involved in this project.

Standard of Care
In providing services under this Agreement, the Consultant shall perform in a manner consistent with that degree of care and skill ordinarily exercised by members of the same profession currently practicing under similar circumstances at the same time and in the same or similar locality.

Municipal Advisor Exclusion
In providing services under this agreement, the Consultant is not acting as a municipal advisor as defined by the Dodd-Frank Act. The Consultant will not offer advice regarding any municipal financial products or securities. Any advice or recommendations provided by the Consultant is intended as Architectural Design Services and not to be interpreted as advice regarding municipal financial products or services. The Client must, via contract, retain the services of a registered municipal advisor for any advice it seeks regarding municipal financial product and securities. The Consultant does not owe Client a fiduciary duty in the delivery of Design Services.

We greatly appreciate your consideration and look forward to the opportunity to work with you. If you need any additional information or require further discussion, please do not hesitate to contact Project Manager, Ed Frankowski at efrankowski@muller2.com or 630.677.3358

Sincerely,

CONSULTANT
Muller & Muller, Ltd.

Catherine Muller
PRESIDENT

CLIENT

City of Pensacola
APPROVED AND ACCEPTED

By:____________________
Title: __________________
Date:__________________

Sam Marshall Architects
Architect of Record

David Alsop, AIA

FIRST AMENDMENT TO OWNER-ARCHITECT AGREEMENT
(American Magic Project)

THIS FIRST AMENDMENT TO OWNER-ARCHITECT AGREEMENT (this "Amendment") is made and entered into this ___ day of January, 2024, by and between CITY OF PENSACOLA, a Florida municipal corporation ("Owner") and MULLER & MULLER, LTD., an Illinois corporation, and SAM MARCHALL ARCHITECTS, P.A., a Florida professional association (hereinafter referred to individually, collectively, and interchangeably as "Architect").

WITNESSETH:

WHEREAS, Owner and Architect have entered into that certain Standard Form of Agreement Between Owner and Architect dated November 9, 2023, including Exhibits A, B, C, and D thereto (the "Agreement");

WHEREAS, Owner and Architect desire to amend the Agreement as hereinafter set forth;

NOW, THEREFORE, and in consideration of the mutual covenants and conditions hereinafter set forth, and for other good and valuable consideration, Owner and Architect hereby agree as follows:

(1) The foregoing recitals are true and correct and are hereby incorporated herein by reference.

(2) The clause on the first page of the Agreement referencing Exhibit A is hereby deleted in its entirety and the following inserted in lieu thereof:

"The scope of work is defined in Exhibit A labeled 'Professional Architectural/Engineering Services Proposal Revision 001, dated November 29, 2023'"

(3) Section 1.1.5 of the Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

"1.1.5 The Owner intends the following procurement and delivery method for the Project: Construction Manager at Risk."

(4) The clause in Section 1.1.12 of the Agreement referencing Exhibit A is hereby deleted in its entirety and the following inserted in lieu thereof:

"**Exhibit A** labeled 'Professional Architectural/Engineering Services Proposal Revision 001, dated November 29, 2023'"

(5) Section 11.1.1 of the Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

“.1 Stipulated Sum

Phase 1, Warehouse and 50-foot addition

$1,107,024.66

Phase 2, Dock, Boat Ramp, and Boat Slip

$ 740,004.00”

(6) Exhibit A attached to the Agreement is hereby deleted in its entirety, and Exhibit A to this Amendment is hereby inserted in lieu thereof.

(7) The first sentence of Section (8) of Exhibit B to the Agreement is hereby deleted in its entirety and the following inserted in lieu thereof:

“The Owner shall pay to the Architect, for satisfactory performance of the work and services required by the Agreement, the stipulated sum of $1,107,024.66 for Phase 1 and the stipulated sum of $740,004 for Phase 2 (collectively, the “Architect Fee”), which Architect Fee shall be deemed earned and payable monthly in proportion to the work performed based on the Architect Fee breakdown set forth in Section 11.5 of the Agreement.”

(8) The Agreement, as hereby amended, is hereby ratified and affirmed.

IN WITNESS WHEREOF, Owner and Architect have caused this Amendment to be executed and delivered by their respective undersigned officers as of the day and year first above written.

MULLER & MULLER, LTD.
an Illinois corporation

By: ________________________
Catherine Muller, Its President

SAM MARSHALL ARCHITECTS, P.A.
a Florida professional association

By: __________________________
David Alsop, Its President

CITY OF PENSACOLA
a Florida municipal corporation

By: ___________________________
D.C. Reeves, Mayor

(AFFIX CITY SEAL)

Attest:

____
Ericka L. Burnett, City Clerk

Approved as to form:
Beggs & Lane, RLLP,
a registered limited liability partnership,
Interim Legal Counsel

By: ____________________________
John P. Daniel, Partner

Approved as to Content:

____
Erica Grancagnolo
Economic Development Director

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-12 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AMENDMENT TO CDBG-CV LEGAL SERVICES PROGRAM AGREEMENT

RECOMMENDATION:

That City Council approve the Amendment to the CDBG-CV Legal Services Program Agreement with Legal Services of North Florida, Inc. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer the Amendment to the Agreement, consistent with the terms of the Amendment and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

As part of the Coronavirus Aid, Relief, and Economic Security (CARES) Act passed by Congress, the City received an initial allocation of $452,160 in CDBG-CV1 program funding in order to prevent, prepare, or respond to COVID-19. On September 24, 2020, City Council accepted the funding and approved the proposed activities that would be implemented. $100,000 was allocated to public service activities, including nutritional meal programs and legal services. The City entered into an Agreement with Legal Services of North Florida, Inc. (LSNF) for $50,000 effective January 2021 to provide legal services to income eligible City residents. This Amendment extends the contract term through December 31, 2024 to provide additional time to expend funding to complete the project and updates agreement contact information and income guidelines. The Amendment does not modify the funding amount allocated or any other program terms.

To date LSNF has served 33 households under this Agreement with various legal services for income eligible citizens impacted by COVID-19, to include landlord-tenant issues, foreclosure mitigation and counseling, bankruptcy filings, and other legal issues.

PRIOR ACTION:

September 24, 2020-City Council amended the 2019 CDBG Annual Action place to accept CDBG-CV funding and approve activities.

FUNDING:

Budget: $50,000

FINANCIAL IMPACT:

N/A. No modifications to original funding amounts.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

12/21/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator
Meredith Reeves, Interim Housing Director

ATTACHMENTS:

1. Amendment to CDBG-CV Legal Services Program Agreement

PRESENTATION: No

AMENDMENT TO CDBG-CV LEGAL SERVICES PROGRAM AGREEMENT

THIS AMENDMENT TO THE AGREEMENT is made and entered into by and between **THE CITY OF PENSACOLA**, a municipality chartered in the State of Florida, ("City"), and the **LEGAL SERVICES OF NORTH FLORIDA, INC.**, a not for profit corporation organized under the laws of the State of Florida (hereinafter referred to as the "Recipient").

WITNESSETH:

WHEREAS, on January 22, 2021, the parties entered into that certain CDBG-CV Legal Services Program Agreement (hereinafter referred to as the “Agreement”) for the purpose of administering legal services to income eligible households in the City of Pensacola in response to Coronavirus;

WHEREAS, the City and Recipient now wish to further amend the Agreement as provided herein.

NOW, THEREFORE, in consideration of the mutual covenants contained herein and of the mutual benefits and for other good and valuable consideration, the City and Recipient hereby agree to amend the Agreement as follows:

1. The foregoing recitals are true and correct and incorporated herein by reference.

2. **ARTICLE I, Supervision** is amended as follows:

1. The Recipient agrees to perform the Project under the general coordination of the City of Pensacola Housing Department. For contract coordination purposes the designated contract manager is Meredith Reeves, P.O. Box 12910, Pensacola, FL 32502, (850) 858-0311, or mreeves@cityofpensacola.com

3. **ARTICLE VI, Contract Term and Termination** is amended as follows:

6. This Agreement shall be effective for the term beginning January 22, 2021, and shall expire on December 31, 2024, unless earlier terminated with or without cause by either party giving thirty (30) days prior written notice of such termination.

4. **ATTACHMENT I, Section IV. BUDGET INFORMATION** is amended as follows:

The Recipient shall have a budget of **$50,000.00** to cover the term of January 22, 2021 – December 31, 2024. Per hour attorney billing of $125.80/hr. and paralegal rate of $35.42/hr. includes title searches for clients, costs of publication, court reporters, process servers, credit reports, printing, postage, and other operating costs associated with implementation of this activity.

5. ATTACHMENT I, Section VII. PROJECT DELIVERABLES. The Income Limits are amended as follows:

2023 INCOME GUIDELINES
(CDBG Effective Date: June 15, 2023)

# PERSONS IN FAMILY	30% OF AREA MEDIAN INCOME (AMI)	50% OF MEDIAN	80% OF MEDIAN
1	$17,200	$28,650	$45,850
2	19,650	32,750	52,400
3	22,100	36,850	58,950
4	24,550	40,900	65,450
5	26,550	44,200	70,700
6	28,500	47,450	75,950
7	30,450	50,750	81,200
8	32,450	54,000	86,400

6. Except as herein expressly amended, all other provisions of the Agreement, shall remain unchanged and shall remain in full force and effect without modification, and the parties ratify the same. In the event of a conflict between the provisions of this Amendment and the other provisions of the Agreement, the provisions of this Amendment shall control.

7. The effective date of this Amendment shall be on the date last executed by the parties.

8. The Agreement and any amendments thereto shall be governed by and construed in accordance with the laws of the State of Florida, and the parties stipulate that venue for any state or federal court action or other proceeding relating to any matter which is the subject of this Agreement shall be in Escambia County, Florida.

SIGNATURE PAGE TO FOLLOW

(Remainder of Page Intentionally Left Blank)

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

FOR THE CITY OF PENSACOLA:

CITY OF PENSACOLA, a municipal corporation chartered in the State of Florida

ATTEST:

By: ______________________________
D.C. Reeves, Mayor

Date: ________________________

____
Ericka L. Burnett, City Clerk

(SEAL)

APPROVED AS TO CONTENT:

____
Housing Director

LEGAL IN FORM AND VALID AS DRAWN:

____
City Attorney

FOR LEGAL SERVICES OF NORTH FLORIDA, INC.:

LEGAL SERVICES OF NORTH FLORIDA, INC.

ATTEST:

By: ______________________________
Leslie N. Powell-Boudreaux
Executive Director

____
Corporate Secretary

(SEAL)

Date:_______________________

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-27 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AWARD OF BID NO. 24-006 PENSACOLA INTERNATIONAL AIRPORT ROAD SIGNS

RECOMMENDATION:

That City Council award Bid No. 24-006 for Airport Road Signs to Emerald Coast Striping, the lowest most responsible bidder, for the base price of $249,900.00 plus 10% contingency in the amount of $24,990.00 for a total contract price of $274,890.00. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and complete this work, consistent with the bid, contracting documents, and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Airport identified a need to replace the overhead signs along the public access route around the terminal and parking areas. The primary work effort consists of replacing existing overhead sign panels utilizing existing sign locations and structures as depicted in the construction plans. Thirty (30) existing sign panels shown on the Existing Signing Layout sheet are identified for removal; existing signs will be returned to PNS. Twenty-eight (28) new overhead sign panels are proposed for installation. Additionally, two (2) over height vehicle ground mounted signs are proposed near the Airport entrance. Modifications are also proposed to an existing ground-mounted sign at the entrance.

On November 21, 2023, City Purchasing issued Invitation to Bid No. 24-006 for Airport road signs. Bids were due December 21, 2023, and two (2) responses were received. Emerald Coast Striping of Panama City, FL was the lowest and most responsible bidder with a base bid of $249,900.00.

PRIOR ACTION:

None

FUNDING:

Budget:	$ 274,890.00	
Actual:	$ 249,900.00	Base Bid
	24,990.00	10% Contingency
	$ 274,890.00	

FINANCIAL IMPACT:

In fiscal year 2024, funding in the amount of $275,000.00 has been appropriated in the Airport's operating account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

12/29/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator - Administration & Enterprise
Matthew Coughlin, Airport Director

ATTACHMENTS:

1. Tabulation of Bids
2. Bid No 24-006 Bid Proposal
3. Contract

PRESENTATION: No

TABULATION OF BIDS

BID NO: 24-006

TITLE: AIRPORT ROAD SIGNS AT PENSACOLA INTERNATIONAL AIRPORT

Opening Date & Time: 12/21/2023, 2:30 PM	EMERALD COAST STRIPING	GUTKNECHT CONSTRUCTION COMPANY	GULF COAST TRAFFIC ENGINEERS, INC.
Department: Airport	Panama City FL	Columbus, OH	Pensacola, FL
Base Bid	$249,900.00	$370,000.00	non-responsive

****

DRAFT

****

PROPOSAL
(page 1)

BID NO. 24-006

AIRPORT ROAD SIGNS
AT PENSACOLA INTERNATIONAL AIRPORT

Base Bid $ 249,900.00

($249,900.00)

A quantity sheet must be included for the submittal to be considered.

Bid Security in the proper form and in the amount of $ 12,495.00 is submitted.

Dunns#/UEID: LMLSTNMWRDA7 (Federal Transparency Act Reporting Requirement)

Florida Department of Professional Regulation
Contractor's Certification or Registration

No. ______________ Expiration Date ______________

Signature ______________ Date: 12/21/2023

Printed Name: Aric Bailey Title: Vice President

Company: Emerald Coast Striping Address: 1901 N. East Ave.

Telephone: 850-215-4875 City: Panama City

Fax: ______________ State: FL Zip: 32405

E-mail: aric@ecstriping.com

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

REVISED PER ADDENDUM ONE (2023-11-21)

PROPOSAL
(page 2)

BID NO. 24-006

AIRPORT ROAD SIGNS
AT PENSACOLA INTERNATIONAL AIRPORT

updated

Company Name: EMERALD COAST STRIPING

No.	Description	Units	Qty	Unit Cost	Total
1.	Mobilization	LS	1	$ 2500	$ 2500
2.	Temporary traffic control	LS	1	$ 7500	$ 7500
3.	Single post sign, furnish and install ground mount, 12-20 sf (FDOT 700-1-12)	AS	2	$ 400	$ 800
4.	Sign panel, furnish and overhead mount, 101-200 sf (FDOT 700-3-206)	EA	28	$ 7200	$ 201600
5.	Sign panel, remove and dispose, 101-200 sf (FDOT700-3-606)	EA	30	$ 1200	$ 36000
6.	Revision to existing ground-mounted sign	LS	1	$ 1500	$ 1500
				BASE BID TOTAL	**$** 249,900
	Deductive Alternate 1 - Airport furnishes Single post sign, 12-20 sf	AS	-2	$ Ø	$ Ø
	Deductive Alternate 2 – Airport furnishes Overhead Sign panel, 101-200 sf	EA	-28	$ Ø	$ Ø

Signature: [signature] Date: 12/21/23

Printed Name: Aaron Bailey Title: Vice President

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

52.209-5 FAR Certification Regarding Debarment, Suspension, Proposed Debarment, and Other Responsibility Matters

The Offeror certifies, to the best of its knowledge and belief, that the Offeror and/or any of its Principals:

A. Are not presently debarred, suspended, proposed for debarment, or declared ineligible for the award of contracts by any Federal agency.

B. Have not, within a three-year period preceding this offer, been convicted of or had a civil judgment rendered against them for: commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, state, or local) contract or subcontract; violation of Federal or state antitrust statutes relating to the submission of offers; or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, tax evasion, or receiving stolen property; and

C. Are not presently indicted for, or otherwise criminally or civilly charged by a governmental entity with, commission of any of the offenses enumerated in paragraph 1-B of this provision.

2. The Offeror has not, within a three-year period preceding this offer, had one or more contracts terminated for default by any Federal agency.

A. "Principals," for the purposes of this certification, means officers; directors; owners; partners; and, persons having primary management or supervisory responsibilities within a business entity (e.g., general manager; plant manager; head of a subsidiary, division, or business segment, and similar positions).

This Certification Concerns a Matter Within the Jurisdiction of an Agency of the United States and the Making of a False, Fictitious, or Fraudulent Certification May Render the Maker Subject to Prosecution Under Section 1001, Title 18, United States Code.

B. The Offeror shall provide immediate written notice to the Contracting Officer if, at any time prior to contract award, the Offeror learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

C. A certification that any of the items in paragraph (a) of this provision exists will not necessarily result in withholding of an award under this solicitation. However, the certification will be considered in connection with a determination of the Offeror's responsibility. Failure of the Offeror to furnish a certification or provide such additional information as requested by the Contracting Officer may render the Offeror nonresponsible.

D. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render, in good faith, the certification required by paragraph (a) of this provision. The knowledge and information of an Offeror is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

E. The certification in paragraph (a) of this provision is a material representation of fact upon which reliance was placed when making award. If it is later determined that the Offeror knowingly rendered an erroneous certification, in addition to other remedies available to the Government, the Contracting Officer may terminate the contract resulting from this solicitation for default.

Company Name: EMERALD COAST STRIPING Date: 12/18/23

Authorized Signature: Printed Name: Aric Bailey

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

52.209-6 FAR Protecting the Government's Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment

1. The Government suspends or debars Contractors to protect the Government's interests. The Contractor shall not enter into any subcontract in excess of $25,000 with a Contractor that is debarred, suspended, or proposed for debarment unless there is a compelling reason to do so.

2. The Contractor shall require each proposed first-tier subcontractor, whose subcontract will exceed $25,000, to disclose to the Contractor, in writing, whether as of the time of award of the subcontract, the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government.

3. A corporate officer or a designee of the Contractor shall notify the Contracting Officer, in writing, before entering into a subcontract with a party that is debarred, suspended, or proposed for debarment (see FAR 9.404 for information on the Excluded Parties List System). The notice must include the following:

   A. The name of the subcontractor.

   B. The Contractor's knowledge of the reasons for the subcontractor being in the Excluded Parties List System.

   C. The compelling reason(s) for doing business with the subcontractor notwithstanding its inclusion in the Excluded Parties List System.

   D. The systems and procedures the Contractor has established to ensure that it is fully protecting the Government's interests when dealing with such subcontractor in view of the specific basis for the party's debarment, suspension, or proposed debarment.

EMERALD COAST STRIPING
Company Name

Authorized Signature

ARIC BAILEY
Printed Name

12/18/23
Date

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

VETERAN BUSINESS ENTERPRISE PARTICIPATION FORM

In order to foster economic development and business opportunities for service-disabled veterans and wartime veterans who have made extraordinary sacrifices on behalf of the nation, the City of Pensacola has adopted a Veteran Business Enterprise ("VBE") Preference. For further information regarding this program, please refer to Section 3-3-12 AND 3-3-13 of the Code of the City of Pensacola.

In order for a respondent to receive credit for being VBE vendor, it must perform useful business functions on the contract, have its principal place of business in Escambia or Santa Rosa County and be certified as a veteran business enterprise by the State of Florida Department of Management Services ("DMS") as set forth in Section 295.187 of the Florida Statutes as of the date set for submittal of bids. For purposes of the City's VBE Program, the respondent's principal place of business must be within Escambia County, FL, or Santa Rosa County, FL.

There shall be no third party beneficiaries of the Veteran Business Enterprise Preference provisions of this solicitation or resulting contract. The City of Pensacola shall have the exclusive means of enforcement of the Veteran Business Enterprise Preference Ordinance and any contract terms. The City of Pensacola is the sole judge of compliance. All solicitations and submittals awarded will be evaluated in accordance with the Code of the City of Pensacola.

If the Respondent is a qualifying VBE, please complete the boxes below.

If not, mark "N/A."

Respondent's Name:	Respondent's Principle Place of Business	Florida Certification Number as issued by State of Florida DMS:
n/A		

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

DRUG-FREE WORKPLACE CERTIFICATE

IDENTICAL TIE BIDS - Pursuant to Florida Statue §287.087, preference shall be given to business with Drug-Free Workplace Programs. Whenever two or more bids which are equal with respect to price, quality, and service are received for the procurement of commodities or contractual services, a bid received from a business that certifies that it has implemented a Drug-Free Workplace Program shall be given preference in the award process. Established procedures for processing tie bids will be followed if none of the tied vendors have a Drug-Free Workplace Program. In order to have a Drug-Free Workplace Program, a business shall:

1) Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.

2) Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a Drug-Free Workplace, any available drug counseling, rehabilitation, and employee assistance programs, and the penalties that may be imposed upon employees for drug abuse violations.

3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).

4) In the statement specified in subsection (1), notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation of Chapter 893 or of any controlled substance law of the United States or any state, for a violation occurring in the workplace no later than five (5) days after such conviction.

5) Impose a sanction on, or require the satisfactory participation in a drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is so convicted.

6) Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

AS THE PERSON AUTHORIZED TO SIGN THE STATEMENT, I CERTIFY THAT THIS FIRM COMPLIES FULLY WITH THE ABOVE REQUIREMENTS.

Signature

Alec Bailey
Printed Name

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

Addendum Date: November 27, 2023

CITY OF PENSACOLA, FLORIDA
ADDENDUM #1

AIRPORT ROAD SIGNS AT PENSACOLA INTERNATIONAL AIRPORT

Bid No. 24-006

The following items take precedence over the documents for the item named above. All other terms and conditions shall remain the same.

A SIGNED COPY OF THIS ADDENDUM MUST BE RETURNED WITH YOUR SUBMITTAL AS ACKNOWLEDGEMENT.

Company: Emerald Coast Striping Date: 12-21-23

Authorized
Representative: Aric Bailey Title: Vice President
Printed Name

Signature:

1. Replace page 17 (Proposal Page 2) containing the quantity sheet with the attached page 17 (Proposal Page 2) containing a revised quantity sheet.

Addendum Date: December 18, 2023

CITY OF PENSACOLA, FLORIDA
ADDENDUM #2

AIRPORT ROAD SIGNS AT PENSACOLA INTERNATIONAL AIRPORT

Bid No. 24-006

The following items take precedence over the documents for the item named above. All other terms and conditions shall remain the same.

A SIGNED COPY OF THIS ADDENDUM MUST BE RETURNED WITH YOUR SUBMITTAL AS ACKNOWLEDGEMENT.

Company: EMERALD COAST STRIPING Date: 12/21/22

Authorized Representative: ARIC BAILEY Title: Vice President
Printed Name

Signature: AB

1. Does the City of Pensacola have its own Bid Bond Form or is the Standard AIA Form acceptable?
A. The standard AIA Form is acceptable.

2. On Page 12-13, Item 9 of the Project Specification, it states that it is a requirement for the Contractor to have a General Contractors License in the State of Florida. Will a Florida Certified Building Contractors License and Excavation and Utility License suffice?
A. A Building Contractors License or Excavation and Utility License will suffice for licensing requirements.

3. It also states under Item 9, that at the time of bid, Contractor must have licenses, registration, and certificates needed to conduct the business of contracting in the City of Pensacola. Can you please elaborate on what needs to be in place with the City of Pensacola prior to bid? Do I need to register to become a vendor with the city prior to bid or can these items be handled post award?
A. A vendor does not need to be registered as a vendor with the City to bid. To do business in the City of Pensacola, you'll need an Occupational License/Use of Streets permit. An Occupational License and a Use of Streets Permits is the same thing. "Use of streets" designates a vendor based outside of the city limits and doing business inside the city limits.

AIA Document 310 - 2010 Bid Bond

CONTRACTOR (Name, legal status and address):

Emerald Coast Striping LLC
1901 N East Avenue
Panama City, FL 32405

SURETY (Name, legal status and principal place of business):

Atlantic Specialty Insurance Company
605 Highway 169 North, Suite 800
Plymouth, MN 55441

OWNER (Name, legal status and address):

City of Pensacola
222 W. Main St.
Pensacola, FL 32502

Bond Amount: 5% of Total Bid

PROJECT : (Name, location or address, and Project number, if any):

BID NO. 24-006 - AIRPORT ROAD SIGNS AT PENSACOLA INTERNATIONAL AIRPORT

The Contractor and Surety are bound to the Owner in the amount set forth above, for the payment of which the Contractor and Surety bind themselves, their heirs, executors, administrators, successors and assigns, jointly and severally, as provided herein. The conditions of this Bond are such that if the Owner accepts the bid of the Contractor within the time specified in the bid documents, or within such time period as may be agreed to by the Owner and Contractor, and the Contractor either (1) enters in to a contract with the Owner in accordance with the terms of such bid, and gives such bond or bonds as may be specified in the bidding or Contract Documents, with a surety admitted in the jurisdiction of the Project and otherwise acceptable to the Owner, for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof; or (2) pays to the Owner the difference, not to exceed the amount of this Bond, between the amount specified in said bid and such larger amount for which the Owner may in good faith contract with another party to perform the work covered by said bid, then this obligation shall be null and void, otherwise to remain in full force and effect. The Surety hereby waives any notice of an agreement between the Owner and Contractor to extend the time in which the Owner may accept the bid. Waiver of notice by the Surety shall not apply to any extension exceeding sixty (60) days in the aggregate beyond the time for acceptance of bids specified in the bid documents, and the Owner and Contractor shall obtain the Surety's consent for an extension beyond sixty (60) days.

If this Bond is issued in connection with a subcontractor's bid to a Contractor, the term Contractor in this Bond shall be deemed to be Subcontractor and the term Owner shall be deemed by the Contractor.

When this Bond has been furnished to comply with a statutory or other legal requirement in the location of the Project, any provision in this Bond conflicting with said statutory or legal requirement shall be deemed deleted herefrom and provisions conforming to such statutory or other legal requirement shall be deemed incorporated herein. When so furnished, the intent is that this Bond shall be construed as a statutory bond and not as a common law bond.

Signed and sealed this 21st day of December, 2023

Faith Cooke
(Witness) (Seal)

(Witness) (Seal)

Emerald Coast Striping LLC
(Principal) (Seal)

(Title) Jason Hense, MGRM

Atlantic Specialty Insurance Company
(Surety)

(Title) Michael W. Brown, Attorney-in-Fact

Language conforms to AIA Document A310 Bid Bond
BID70001ZZ0311f

[intact] INSURANCE

Power of Attorney

KNOW ALL MEN BY THESE PRESENTS, that ATLANTIC SPECIALTY INSURANCE COMPANY, a New York corporation with its principal office in Plymouth, Minnesota, does hereby constitute and appoint: **Kevin Mason, Jo M. Chonko, Michael W Brown**, each individually if there be more than one named, its true and lawful Attorney-in-Fact, to make, execute, seal and deliver, for and on its behalf as surety, any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof; provided that no bond or undertaking executed under this authority shall exceed in amount the sum of: **unlimited** and the execution of such bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof in pursuance of these presents, shall be as binding upon said Company as if they had been fully signed by an authorized officer of the Company and sealed with the Company seal. This Power of Attorney is made and executed by authority of the following resolutions adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

> Resolved: That the President, any Senior Vice President or Vice-President (each an "Authorized Officer") may execute for and in behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and affix the seal of the Company thereto; and that the Authorized Officer may appoint and authorize an Attorney-in-Fact to execute on behalf of the Company any and all such instruments and to affix the Company seal thereto; and that the Authorized Officer may at any time remove any such Attorney-in-Fact and revoke all power and authority given to any such Attorney-in-Fact.

> Resolved: That the Attorney-in-Fact may be given full power and authority to execute for and in the name and on behalf of the Company any and all bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof, and any such instrument executed by any such Attorney-in-Fact shall be as binding upon the Company as if signed and sealed by an Authorized Officer and, further, the Attorney-in-Fact is hereby authorized to verify any affidavit required to be attached to bonds, recognizances, contracts of indemnity, and all other writings obligatory in the nature thereof.

This power of attorney is signed and sealed by facsimile under the authority of the following Resolution adopted by the Board of Directors of ATLANTIC SPECIALTY INSURANCE COMPANY on the twenty-fifth day of September, 2012:

> Resolved: That the signature of an Authorized Officer, the signature of the Secretary or the Assistant Secretary, and the Company seal may be affixed by facsimile to any power of attorney or to any certificate relating thereto appointing an Attorney-in-Fact for purposes only of executing and sealing any bond, undertaking, recognizance or other written obligation in the nature thereof, and any such signature and seal where so used, being hereby adopted by the Company as the original signature of such officer and the original seal of the Company, to be valid and binding upon the Company with the same force and effect as though manually affixed.

IN WITNESS WHEREOF, ATLANTIC SPECIALTY INSURANCE COMPANY has caused these presents to be signed by an Authorized Officer and the seal of the Company to be affixed this first day of January, 2023.

ATLANTIC SPECIALTY INSURANCE COMPANY CORPORATE SEAL 1986 NEW YORK

STATE OF MINNESOTA
HENNEPIN COUNTY

By [signature]
Sarah A. Kolar, Vice President and General Counsel

On this first day of January, 2023, before me personally came Sarah A. Kolar, Vice President and General Counsel of ATLANTIC SPECIALTY INSURANCE COMPANY, to me personally known to be the individual and officer described in and who executed the preceding instrument, and she acknowledged the execution of the same, and being by me duly sworn, that she is the said officer of the Company aforesaid, and that the seal affixed to the preceding instrument is the seal of said Company and that the said seal and the signature as such officer was duly affixed and subscribed to the said instrument by the authority and at the direction of the Company.

ALISON DWAN NASH-TROUT
NOTARY PUBLIC - MINNESOTA
My Commission Expires
January 31, 2025

Alison Nash-Trout
Notary Public

I, the undersigned, Secretary of ATLANTIC SPECIALTY INSURANCE COMPANY, a New York Corporation, do hereby certify that the foregoing power of attorney is in full force and has not been revoked, and the resolutions set forth above are now in force.

Signed and sealed. Dated 21st day of December, 2023

ATLANTIC SPECIALTY INSURANCE COMPANY CORPORATE SEAL 1986 NEW YORK

This Power of Attorney expires January 31, 2025

[signature]
Kara L.B. Barrow, Secretary

Please direct bond verifications to surety@intactinsurance.com

THE CITY OF PENSACOLA, FLORIDA
INVITATION TO BID

BID NO. 24-006

AIRPORT ROAD SIGNS
AT PENSACOLA INTERNATIONAL AIRPORT

A sealed, complete hardcopy bid **with original (or electronic) signature**, and **one (1) complete electronic copy (PDF) on flash drive or CD** will be received on **December 21, 2023, 2:30 P.M.**, local time, at the following location.

City Hall (lobby)
222 West Main Street
Pensacola, Florida, 32502
Attention: Purchasing

The OUTER FACE of the sealed submittal package shall **identify the respondent, the bid title, and the bid number** (whether hand-delivered, mailed, or via UPS/Fedex or other courier service). Submittals received after the closing time will not be accepted. Multiple submittals from the same entity will not be accepted. After the submittal deadline those submittals received will be opened and publicly acknowledged. Interested parties may attend.

Specifications will be posted to the City's website at www.cityofpensacola.com/bids.aspx. **Addenda will be posted to the City's website. Bidders are responsible for obtaining addenda, and are advised to check the website frequently.**

A bid tabulation with a Notice of Intent to Award will be posted to the City's website at www.cityofpensacola.com/bids.aspx. Bidders are advised to check the website frequently.

Base bid 249,900 = 12495.00

Bidders shall submit a certified check or bid bond, payable to the City of Pensacola in the amount of **five percent (5%) of the base bid** for a period of sixty (60) days.

Any questions concerning the proposal should be addressed and submitted in writing **no later** than 10:00 A.M., local time, December 11, 2023 to:

Dedria Lunderman, Assistant, Purchasing Manager
City of Pensacola
222 W. Main St.
Pensacola, FL 32502
purchasing@cityofpensacola.com

The City of Pensacola adheres to the Americans with Disabilities Act and will make reasonable accommodations for access to City services, programs, and activities.

CONTRACT BETWEEN CITY OF PENSACOLA AND [xxxCONTRACTORxxx]
BASED UPON INVITATION TO BID #________

THIS CONTRACT (“Contract”) is made this ___ day of _______________, 20__, by and between the City of Pensacola (“City”), a Florida municipal corporation created and existing under the laws of the State of Florida, located at 222 W. Main Street, Pensacola, Florida 32502, and ___________________________________, (“Contractor”), a limited liability company authorized to do business in Florida, located at ___________________________________, (the City and Contractor collectively referred to hereinafter as the “Parties”).

WITNESSETH:

WHEREAS, the City solicited for Invitation to Bid #___________, on ________________, 20__ (“Invitation to Bid”), as described in Project Manual/Specifications for ______________________________, Bid #__________, as modified by any addendum to the Project Manual, all as attached hereto as Exhibit A and incorporated herein by this reference (collectively referred to hereinafter as the “Bid Documents”); and

WHEREAS, in response to the Bid Documents, the Contractor submitted to the City a proposal dated _______________, 20__, (“Proposal”) attached hereto as Exhibit B and incorporated herein by this reference; and

WHEREAS, the City has awarded the Contract to the Contractor; and

WHEREAS, the Parties desire the Contractor to perform the agreement as described in the Bid Documents and the Proposal and pursuant to the terms and conditions of this Contract; and

WHEREAS, the Parties desire to enter into this Contract;

NOW, THEREFORE, in consideration of the work to be performed and the payment for the performance of the work, of the mutual covenants and benefits contained herein, and for other good and valuable consideration, the Parties agree as follows:

Section 1. Recitals.
The recitals contained above are true and correct and are incorporated into this Contract.

Section 2. Contractor’s Obligations.
The Contractor shall perform all work and services described in, and in accordance with, the Contract. The Contractor warrants that all equipment, materials, and workmanship furnished, whether furnished by Contractor or its subcontractors or sub-suppliers, will

comply with the Contract and any City specifications, drawings, and other descriptions supplied or adopted. The Contractor further warrants that the supplies and workmanship will be new, fit, and sufficient for the purpose for which they are intended, of good materials, design, and workmanship, and free from defects or failure. The City or its duly authorized representative shall at all times have full opportunity to inspect the materials to be furnished and the work to be done under this Contract. The Contractor shall comply with all applicable federal, state, and local laws, ordinances, rules, and regulations pertaining to the performance of this Contract. The Contractor is responsible for and shall indemnify the City against all damage or loss caused by fire, theft, or otherwise to materials, tools, equipment, and consumables left on City property by the Contractor.

Section 3. <u>Term of Contract.</u>
Subject to the right of termination for cause or convenience, the term of this Contract shall be as specified in the attached Quote Documents and Proposal.

Section 4. <u>Payment</u>.
The Contractor agrees to perform all work and services in Section 2 and to furnish all necessary labor, materials, equipment, machinery, tools, apparatus, and means of transportation related to such work and services at Contractor's sole cost and expense, in consideration of the total amount of ______________________________ ($________________) to be paid by the City in accordance with the Contract upon the complete performance by Contractor based on unit prices if applicable, or based on partial payments approved by the City, only after written acceptance by the City pursuant to the Contract, and such payment in accordance with the Florida Prompt Payment Act. In the event that the Contractor does not fully perform its obligations under the Contract, the City reserves the right to withhold payments for work not performed, to engage an alternative contractor to complete work not performed, and to withhold such amounts as may be required to hold the City harmless from any claims or damages, direct, indirect or consequential, that may be sustained on account of the Contractor's acts or omissions in the performance of this Contract.

Section 5. <u>Bond</u>.

Is a bond required? (___) Yes (___) No

If yes: Contractor shall provide all bond(s) as required in the Contract. Should the City in the City's sole discretion at any time deem any of the sureties upon such bond to be unsatisfactory or if for any reason such bond shall cease to be adequate security for the City, the Contractor shall within five (5) days of written notice from the City furnish a new or additional bond in full sum and satisfactory to the City. No payment shall be deemed to be due or to be made to the Contractor unless and until such new or additional bond shall be furnished and approved in writing by the City. The premium and all expenses associated with such new or additional bond shall be paid by, and the sole responsibility of, the Contractor.

Section 6. Performance Schedule.
The Contractor shall commence and complete all work and services pursuant to the Contract.

Section 7. Necessary Approvals.
Contractor shall procure all permits, licenses, and certificates and any approvals in performance and completion of this Contract as may be required by federal, state, and local laws, ordinances, rules, and regulations, and in accordance with the Contract.

Section 8. No Waiver.
No waiver, alterations, consent, or modification of any of the provisions of the Contract shall be binding unless in writing and signed by the Mayor or his/her designee.

Section 9. Governing Law.
This Contract is governed and construed in accordance with the laws of the State of Florida. The law of the State of Florida shall be the law applied in the resolution of any claim, actions, or proceedings arising out of this Contract.

Section 10. Venue.
Venue for any claim, actions, or proceedings arising out of this Contract shall be Escambia County, Florida.

Section 11. No Discrimination.
Contractor shall not discriminate on the basis of any class protected by federal, state, or local law in the performance of this Contract.

Section 12. Assignment.
The rights and privileges conferred by this Contract shall not be assigned or transferred without the written consent of the City, which consent shall not be unreasonably withheld.

Section 13. No Other Agreements.
The Parties agree the Contract contains all the terms and conditions agreed upon by the Parties. No other agreements, oral or otherwise, regarding the subject matter of this Contract shall be deemed to exist or to bind either Party.

Section 14. Remedies for Failure to Perform or Breach of Contract.
The City reserves the right to seek all remedies available under law in the event of a failure to perform or other breach of this Contract by the Contractor, and the failure of the City to employ a particular remedy shall not be regarded by the Parties as a waiver of that or any other available remedy.

Section 15. Termination for Convenience.
The City may terminate this Contract without cause upon thirty (30) days prior written notice.

Section 16. Public Records Act.
The parties acknowledge and agree to fulfill all obligations respecting required contract provisions in any contract entered into or amended after July 1, 2016, in full compliance pursuant to Section 119.0701, *Florida Statutes*, and obligations respecting termination of a contract for failure to provide public access to public records. The parties expressly agree specifically that the contracting parties hereto shall comply with the requirements within Attachment "A" attached hereto and incorporated by reference.

Section 17. Mandatory Use of E-Verify System.
In compliance with the provisions of F.S. 448.095, the parties to this contract and any subcontractors engaged in the performance of this contract hereby certify that they have registered with and shall use the E-Verify system of the United States Department of Homeland Security to verify the work authorization status of all newly hired employees, within the meaning of the statute.

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

CONTRACTOR	**CITY OF PENSACOLA, FLORIDA**
______________________________ (Contractor's Name)	______________________________ Mayor, D.C. Reeves
By______________________________ Member	Attest: ______________________________ City Clerk, Ericka L. Burnett
______________________________ (Printed Member's Name)	Approved as to Substance:
By:______________________________ Member	______________________________ Department Director
______________________________ (Printed Member's Name)	Legal in form and execution:
	______________________________ City Attorney

Attachment "A"

PUBLIC RECORDS: Contractor shall comply with Chapter 119, Florida Statutes. Specifically, Contractor shall:

A. Keep and maintain public records required by the City to perform the service.

B. Upon request from the City's custodian of public records, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.

C. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Contract term and following the completion of the Contract if Contractor does not transfer the records to the City.

D. Upon completion of the Contract, transfer, at no cost, to the City, all public records in possession of Contractor or keep and maintain public records required by the City to perform the service. If Contractor transfers all public records to the City upon completion of the Contract, Contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Contractor keeps and maintains public records upon completion of the Contract, Contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request of the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

Failure by Contractor to comply with Chapter 119, Florida Statutes, shall be grounds for immediate unilateral cancellation of this Contract by the City.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE PUBLIC RECORDS COORDINATOR AT:

THE OFFICE OF THE CITY CLERK, (850) 435-1715

PUBLICRECORDS@CITYOFPENSACOLA.COM

222 WEST MAIN STREET, PENSACOLA, FL 32502

Revised 1/12/2021

EXHIBIT A

BID DOCUMENTS ON FILE IN ______________________

EXHIBIT B

PROPOSAL

The pages following Exhibit B are the documents comprising the Proposal dated, ____________________, which Contractor submitted in response to the Bid Documents, are hereby incorporated by reference into this Contract. The Proposal includes all attachments and addenda submitted by Contractor in response to the Bid Documents, which are also hereby incorporated into this Contract by reference.

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-44 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council President Casey Jones

SUBJECT:

ENVIRONMENTAL ADVISORY BOARD MEETING SCHEDULE RECOMMENDATION

RECOMMENDATION:

That City Council approve the Environmental Advisory Board (EAB) recommendation for the Board to transition to an every other month meeting schedule, with the ability to schedule special meetings as needed.

HEARING REQUIRED: No Hearing Required

SUMMARY:

At their January 4, 2024, EAB Meeting, the Board undertook the discussion of temporarily adjusting their meeting schedule until such a time that the assessment of the Land Development Code is complete, potential adjustments are made, including, but not limited to, a revamp of the EAB enabling ordinance.

After discussion, the following recommendation was made:

That City Council authorize the Environmental Advisory Board to temporarily transition to an every other month meeting schedule, with the ability to schedule special meetings as needed.

This recommendation received a proper motion and second and passed on a 5-0 vote with three members absent and one position unfilled.

The next meeting will be held in March and every other month following.

PRIOR ACTION:

January 4, 2024 -- Environmental Advisory Board Meeting

FUNDING:

N/A

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

None

PRESENTATION: No

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-9 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council President Casey Jones

SUBJECT:

APPOINTMENT - BOARD OF TRUSTEES-FIREFIGHTERS' RELIEF AND PENSION FUND

RECOMMENDATION:

That City Council reappoint Samuel A. Horton, a city resident, to the Board of Trustees-Firefighters' Relief and Pension Fund for a term of two (2) years, expiring December 31, 2025.

HEARING REQUIRED: No Hearing Required

SUMMARY:

This board oversees administration of the Firefighters' Relief and Pension Plan and investment of pension funds. The Board is composed of five members. Two members are appointed by City Council, two are elected by firefighters, and one appointed by other four members.

The following is an incumbent that wishes to be considered for reappointment:

Nominated:	Nominated by:
Samuel A. Horton	Incumbent

PRIOR ACTION:

City Council makes appointments to this board annually.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Ericka L. Burnett, City Clerk

ATTACHMENTS:

1. Member List
2. Application of Interest - Samuel A. Horton
3. Resume - Samuel A. Horton

PRESENTATION: No

Board of Trustees - Firefighters' Relief and Pension Fund

Name	Profession	Appointed By	No. of Terms	Year	Exp Date	First Appointed	Term Length	Comments
Clark, III, Charles	Firefighter	elected by firefighters	0	2023	12/31/2025	4/13/2022	2	
Dias, Veronica	Investment Banker	Council	7	2023	12/31/2024	10/8/2009	2	
Good (Jr.), Charles E.	retired City Employee	other four members	0	2023	12/31/2024	8/12/2021	2	
Horton, Samuel A.	Retired	Council	16	2023	12/31/2023	12/18/1986	2	
Wilmoth, Jeff	Fire Lieutenant	elected by firefighters	4	2023	12/31/2024	5/22/2017	2	

Term Length: TWO YEAR TERMS

COMPOSED OF FIVE MEMBERS OF WHICH TWO ARE APPOINTED BY THE CITY COUNCIL. COUNCIL APPOINTEES MUST BE CITY RESIDENT; NO QUALIFICATIONS.

From:	noreply@civicplus.com
Sent:	Monday, November 13, 2023 11:14 AM
To:	Ericka Burnett; Robyn Tice
Subject:	[EXTERNAL] Online Form Submittal: Application for Boards, Authorities, and Commissions - City Council Appointment

THIS EMAIL IS FROM AN EXTERNAL EMAIL ACCOUNT

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

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

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

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

(Section Break)

Personal Information

Name	Samuel A. Horton
Home Address	1020 Palisades Rd. Pensacola, Fl 32504
Business Address	*Field not completed.*
To which address do you prefer we send correspondence regarding this application?	Home
Preferred Contact Phone Number(s)	8502913765
Email Address	shorton@bellsouth.net
Upload Resume (optional)	SAH Fire-Pension.docx

(Section Break)

Details

Are you a City resident?	Yes
If yes, which district?	2
If yes, how long have you been a City resident?	over 65 years
Do you own property within the City limits?	Yes
Are you a registered voter in the city?	Yes
Board(s) of interest:	Firefighters Relief and Pension Fund
Please list the reasons for your interest in this position:	I have served on this board for many years and wish to continue to serve.
Do you currently serve on a board?	Yes
If yes, which board(s)?	Firefighters Relief and Pension Fund
Do you currently hold a public office?	No
If so, what office?	*Field not completed.*
Would you be willing to resign your current office for the appointment you now seek?	N/A

(Section Break)

Diversity

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

Gender	Male
Race	African-American
Physically Disabled	No

(Section Break)

Acknowledgement of Terms	I accept these terms.

Email not displaying correctly? View it in your browser.

Samuel A. Horton

1020 Palisade Road
Pensacola, FL 32504
Cell 850 291-3765   shorton@bellsouth.net

Over the past 25 plus years I have focused on ensuring the stability and growth of City of Pensacola's Firefighters Relief and Pension Fund. Due to my longevity on the Board I believe I bring an increased stability to the Board. Currently the funding ratio is 95% witch is better than the Police or General Pension Funds. I also bring over forty years of increasing responsibility and varied decision-making experience with proficiency in managing complex demands and pressured situations, retired from Federal Civil Service. I have a long track record meeting objectives and accountability supported by extensive managerial training.

KEY SKILLS

□ Coordinating □ Planning □ Analyzing □ Decision-Making

EXPERIENCE:

Chairman, City of Pensacola Fireman's & Pension Fund (1986 to Present)
Chairman & Director, Community Enterprise Investment Inc. (2007 to Present)
President, 100 Black Men of Pensacola, Inc. (2010 to 2018)
Owner, Samuel Horton & Associates (2007 to 2015)
Member, City of Pensacola Charter Review Commission
Member, 100 Black Men of America Chapter Evaluation Committee
Member, Escambia County Charter Commission for Home Rule (1993 to 1995)
Chairman, Airport and Aviation Advisory Committee (1989 to 1991)
President, St. Joseph Catholic Church Parish Council (1983 to 1989)
Member, City of Pensacola Zoning Board of Adjustment (1982 to 1988)
Graduate, L^{EA}P Leadership Pensacola 1988 (Alumni Member 1988 to present)

PROFESSIONAL TRAINING:
NSPS HR Elements for HR Practitioners T-3; NSPS HP Elements for Managers, Supervisors and Employees T-3; NSPS Performance Management for Employees/Managers T-3; Administering the Priority Placement Program (PPP) under the National Security Personnel System (NSPS) Basic Classification; Basic Staffing and Placement; Human Resources Development in the Public Sector; The Management Course by American Management Association; Executive Communication Skills; The Role of Supervisors and Managers in EEO; Basic Project Management; Assertiveness Training for Managers; Academic Instructors Training; and Acquisition & Logistics Management

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-8	Agenda Conference	1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Vice President Jared Moore

SUBJECT:

DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL VICE PRESIDENT JARED MOORE - DISTRICT 4

RECOMMENDATION:

That City Council approve funding of $1,000 to James B. Washington Education and Sports and $1,000 to the YMCA from the City Council Discretionary Funds for District 4.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In accordance with the Section 3.28-3.33 of the Policies of the City Council, prior to any distribution of grant or sponsorship funds from the City Council Discretionary Funds, approval by City Council is required.

The mission of James B. Washington Education and Sports is to serve underprivileged youth through education, sports and activities to improve and enhance our community. They incentivize youth with a unique model that rewards responsibility and success in the classroom. Children are given opportunities to play on basketball teams, participate in art programs, take field trips and learn life skills through achievement and accomplishment. Funding will be used towards their mission.

The YMCA currently offers a reading program at 4 area schools: Ferry Pass Elementary, Global Learning Academy, Sherwood Elementary and West Pensacola Elementary. YMCA Reads Program is an early intervention program that targets students in Kindergarten through third grade with a curriculum designed to bring young readers up to grade level. The program improves students' literacy by focusing on skills such as phonics, vocabulary and reading comprehension. Funding will be used towards this program.

PRIOR ACTION:

July 21, 2022 - City Council adopted Resolution No. 2022-065 establishing the City Council Discretionary Fund Policy.

FUNDING:

Budget:	$ 7,504	FY 2023 District 4 Discretionary Funds Balance
	10,700	FY 2024 District 4 Discretionary Funds
	$18,204	
Actual:	$ 1,000	James B. Washington Education and Sports
	1,000	YMCA Reads
	$ 2,000	

FINANCIAL IMPACT:

A balance of $7,504 is currently within the District 4 Discretionary Fund Account for FY 2023 and $10,700 within the District 4 Discretionary Account for FY 2024 for a total balance of $18,204. Upon approval by City Council, a balance of $16,204 will remain in the District 4 Discretionary Fund Account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive
Yvette McLellan, Special Assistant to the Council Executive

ATTACHMENTS:

None

PRESENTATION: No

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-10 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Delarian Wiggins

SUBJECT:

DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER DELARIAN WIGGINS - DISTRICT 7

RECOMMENDATION:

That City Council approve funding of $1,000 to the Ella L. Jordan African American History Museum and $400 to the Southern Youth Sports Association from the City Council Discretionary Funds for District 7.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In accordance with Section 3.28-3.33 of the Policies of the City Council, prior to any distribution of grant or sponsorship funds from the City Council Discretionary Funds, approval by City Council is required.

In 1929, Mrs. Ella L. Jordan founded the City of Pensacola's Federation of Colored Women's Clubs, Inc. She was a devoted club worker, community leader, educator, political activist and a dedicated woman who worked for the betterment of the Pensacola community. Mrs. Jordan dedicated her life to the Club's work and community activities. Initially, the group met in member's homes or local schools and churches until the property at 423 North "C" Street was purchased in 1951. Mrs. Jordan and her contemporaries were following the trend of starting women's clubs that, by the 1920's, had been growing for decades. The women of Pensacola also embraced this trend, organizing numerous clubs and associations. For African-American women in segregated Pensacola, clubs provided a way to identify and meet the needs of their community. Funding for enrichment programs, extra tutoring, and vocational training, never abundant for white citizens, was non-existent for African Americans. As the Great Depression deepened and World War II exerted greater stress on the African American community, the ladies of the Pensacola Federation of Colored Women's Clubs expanded their services. Food banks, medical help, and hosting African American servicemen were added in the 1930's and maintained through the 1960's. In the years after Mrs. Jordan passed away, the house remained a cultural, social and political haven and was named in her honor in 1959. Funding will be used to assist with the purchase of a sprinkler system and grass for the area surrounding the museum.

The Southern Youth Sports Association (SYSA) is a local grass-roots nonprofit organization. Their mission is to respond to the academic, social and physical needs of each child through the appropriate involvement of the community, students and staff. They are committed to the development of the full potential of each child. Their programs and activities focus on the development of responsibility, cooperation and acceptance by emphasizing the 4 B's - Bible, Books, Ball and Balance. One of their fundraisers is their annual Living The Dream event which will honor local heroes who carry the torch of Dr. Martin Luther King, Jr.'s legacy with recognition and a Motown Musical Tribute. The event will be held January 13, 2024, at the Brownsville Community Center. Funding will be used in conjunction with Mayor Reeves' discretionary funding to sponsor a table for this event.

PRIOR ACTION:

July 21, 2022 - City Council adopted Resolution No. 2022-065 establishing the City Council Discretionary Fund Policy

FUNDING:

Budget:	$ 5,368	FY 2024 District 7 Discretionary Funds
Actual:	$ 1,000	Ella L. Jordan African American Museum
	400	Southern Youth Sports Association
	$ 1,400	

FINANCIAL IMPACT:

A balance of $5,368 is currently within the District 7 Discretionary Fund Account. Upon approval by City Council, a balance of $3,968 will remain in the District 7 Discretionary Fund Account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive
Yvette McLellan, Special Assistant to the Council Executive

ATTACHMENTS:

None

PRESENTATION: No

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-11 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Allison Patton

SUBJECT:

DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER ALLISON PATTON - DISTRICT 6

RECOMMENDATION:

That City Council approve funding of $500 to James B. Washington Education and Sports, $500 to Pensacola's Finest Foundation, $500 to Family Promise of Escambia County and $500 to the Ella L. Jordan African American Museum from the City Council Discretionary Funds for District 6.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In accordance with the Section 3.28-3.33 of the Policies of the City Council, prior to any distribution of grant or sponsorship funds from the City Council Discretionary Funds, approval by City Council is required.

The mission of James B. Washington Education and Sports is to serve underprivileged youth through education, sports and activities to improve and enhance our community. They incentivize youth with a unique model that rewards responsibility and success in the classroom. Children are given opportunities to play on basketball teams, participate in art programs, take field trips and learn life skills through achievement and accomplishment. Funding will be used towards their mission.

Pensacola’s Finest Foundation exists to raise and provide funding to ensure the officers of the Pensacola Police Department are well equipped physically and mentally to best serve our community. They accomplish this through fundraising events and through direct relationships in our community. Some of the areas they focus on includes supporting the mental health of their officers through additional counseling that might not be budgeted within the Pensacola Police Department’s Budget. Additionally, the foundation provides support for the physical safety of their officers through the purchase of equipment. The foundation also supplements funding for the training of their officers as well as provides funding for various community engagement activities. Funding will be used to support their supplementary community work.

In 2019 alone, nearly 2,000 children were identified as homeless in Escambia County. When including immediate family members, that number jumps to a whopping 6,500 individuals. The goal of the Family Promise of Escambia County is to keep these families together, and not separate them during the most difficult time of their lives. Through the National program, more than 88% of families secure housing because of the intensive case management and community support provided by Family Promise. By working together with individuals, organizations and businesses in our community, they provide shelter and necessities to help homeless families get back on their feet as well as supply resources to assist them in achieving sustainable independence. Funding will go towards their mission.

In 1929, Mrs. Ella L. Jordan founded the City of Pensacola's Federation of Colored Women's Clubs, Inc. She was a devoted club worker, community leader, educator, political activist and a dedicated woman who worked for the betterment of the Pensacola community. Mrs. Jordan dedicated her life to the Club's work and community activities. Initially, the group met in member's homes or local schools and churches until the property at 423 North "C" Street was purchased in 1951. Mrs. Jordan and her contemporaries were following the trend of starting women's clubs that, by the 1920's, had been growing for decades. The women of Pensacola also embraced this trend, organizing numerous clubs and associations. For African-American women in segregated Pensacola, clubs provided a way to identify and meet the needs of their community. Funding for enrichment programs, extra tutoring, and vocational training, never abundant for white citizens, was non-existent for African Americans. As the Great Depression deepened and World War II exerted greater stress on the African American community, the ladies of the Pensacola Federation of Colored Women's Clubs expanded their services. Food banks, medical help, and hosting African American servicemen were added in the 1930's and maintained through the 1960's. In the years after Mrs. Jordan passed away, the house remained a cultural, social and political haven and was named in her honor in 1959. Funding will be used to assist with the purchase of a sprinkler system and grass for the area surrounding the museum.

PRIOR ACTION:

July 21, 2022 - City Council adopted Resolution No. 2022-065 establishing the City Council Discretionary Fund Policy.

FUNDING:

Budget:	$ 9,700	FY 2023 District 6 Discretionary Funds Balance
	10,700	FY 2024 District 6 Discretionary Funds
	$20,400	
Actual:	$ 500	James B. Washington Education and Sports
	500	Pensacola's Finest Foundation
	500	Family Promise of Escambia County
	500	Ella L. Jordan African American Museum

$ 2,000

FINANCIAL IMPACT:

A balance of $9,700 is currently within the District 6 Discretionary Fund Account for FY 2023 and $10,700 within the District 6 Discretionary Account for FY 2024 for a total balance of $20,400. Upon approval by City Council, a balance of $18,400 will remain in the District 6 Discretionary Fund Account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive
Yvette McLellan, Special Assistant to the Council Executive

ATTACHMENTS:

None

PRESENTATION: No

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-64 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Teniadè Broughton

SUBJECT:

DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER TENIADE BROUGHTON - DISTRICT 5

RECOMMENDATION:

That City Council approve funding of $500 to Gallery Night Pensacola, $500 to the Gulf Coast Minority Chamber of Commerce and $300 to the Northwest Florida Community Outreach from the City Council Discretionary Funds for District 5.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In accordance with Section 3.28-3.33 of the Policies of the City Council, prior to any distribution of grant or sponsorship funds from the City Council Discretionary funds, approval by City Council is required.

Gallery Night Pensacola is a nonprofit organization with a dedicated goal of inspiring culture, engagement and the practice of arts of all types in an entertaining event for all ages and walks of life. The mission of Gallery Night Pensacola is to create an engaging event that takes the "Arts to the Streets" where the local community and out-of-town visitors can connect with the unique culture of Pensacola. Their monthly events focus on specific themes, highlight featured artists and recruit the best creators our area has to offer. On February 16, 2024, Gallery Night will host "Art and Soul", celebrating Black History Month with a night of community, art, and soul. Funding will cover the entry fee for youth participants, youth event supply costs (tables and chairs) as needed, and other potential associated event costs.

The Gulf Coast Minority Chamber of Commerce serves as an advocate and the conscience of the Minority and Small Business Community, while striving to ensure economic fairness for all. The Gulf Coast Minority Chamber of Commerce will partner with other agencies to honor the legacy of the great Dr. Martin Luther King, Jr. The event, entitled "Moving Forward with HOPE and UNITY!" will be held on January 16, 2024, from 6:00 pm to 8:30 pm at 321 N. DeVilliers Street and will feature a powerful presentation by Jeremy Ruffin, the founder of RuffPath LLC and the non-profit organization Ruffin It Up. Funds will be used to offset costs associated with this event.

Northwest Florida Community Outreach serves the community through three outreach programs; Harvest of Hope Food Pantry, Youth Matters Mentoring Program and Supporting our Seniors Program. As part of their Youth Matters Mentoring Program, they conduct a "Replenish For the Finish" mid-year school supply distribution to help students finish the school year strong and successfully. Funding will be used towards this program.

PRIOR ACTION:

July 21, 2022 - City Council adopted Resolution No. 2022-065 establishing the City Council Discretionary Fund Policy.

FUNDING:

Budget:	$ 9,157	FY 2024 District 5 Discretionary Funds Balance
Actual:	$ 500	Gallery Night Pensacola
	500	Gulf Coast Minority Chamber of Commerce
	300	Northwest Florida Community Outreach
	$ 1,300	

FINANCIAL IMPACT:

A balance of $9,157 is currently available within the District 5 Discretionary Fund Account for FY 2024. Upon approval by City Council, a balance of $7,857 will remain in the District 5 Discretionary Fund Account.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Don Kraher, Council Executive
Yvette McLellan, Special Assistant to the Council Executive

ATTACHMENTS:

None

PRESENTATION: No

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-69 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

CITY COUNCIL CONSENT TO THE MAYOR'S APPOINTMENT OF ADAM C. COBB AS CITY ATTORNEY

RECOMMENDATION:

That the City Council consent to the Mayor's appointment of Adam C. Cobb as City Attorney.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola began their search for a City Attorney on April 28, 2023 after the resignation of the previous City Attorney which became effective on April 30, 2023. The position was publicly advertised on the City's website, through other recruiting platforms, as well as governmental, professional legal publications and bar associations.

In an effort to find the person most suited for the position that met the needs of the City of Pensacola, the closing date for the position has been extended until that person was identified. It is believed that Mr. Cobb is that person.

Mr. Cobb is currently a Shareholder at Emmanuel, Sheppard & Condon, P.A., Pensacola, Florida. He is licensed to practice law in Florida, Alabama and Indiana (inactive) while being a Florida Bar Certified Real Estate Attorney.

Per Section 4.01 (a) (5) of the City Charter, the Mayor's appointment of Mr. Cobb requires City Council consent. Mr. Cobb will be in attendance at the City Council meeting to answer any relevant questions members of Council may have.

PRIOR ACTION:

April 30, 2023 -- Effective date of previous City Attorney resignation

September 13, 2023 -- City Council approved the FY 24 Budget

FUNDING:

N/A

FINANCIAL IMPACT:

Funding for this position is found within the personnel portion of the FY 2024 Budget which was approved by City Council in September of 2023.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Kerrith Fiddler, City Administrator

ATTACHMENTS:

1. Adam C. Cobb Resume

PRESENTATION: No

Adam C. Cobb

2310 N. 7th Avenue • Pensacola, Florida 32503
Phone: 857-233-7676 • E-Mail: adamcobb15@gmail.com

Experience

Shareholder, *Emmanuel, Sheppard & Condon, P.A.*, Pensacola, FL **May, 2016 – Present**

- Negotiate and draft purchase and sale agreements, leases, financing documents, development agreements, public-private partnerships, easements, and other contracts, and otherwise guide and advise businesses and individuals through all manner of real estate transactions.
- Advocate for and advise individuals, businesses and municipalities in real estate, contract, land-use, and zoning litigation throughout North Florida.
- Advise clients on land-use and zoning issues and present related petitions to municipal and regulatory bodies.
- Represent county property appraiser in property valuation and related litigation and regularly provide opinions on operational issues and statutory duties.
- Successfully defended county government against litigation challenging its ownership and use of beachfront properties for public access.
- Represented property owners in land-use and municipal litigation to effectively prevent the construction of an industrial fish hatchery in downtown Pensacola.

Attorney, *Ice Miller LLP*, Indianapolis, IN **April, 2014 – May, 2016**

- Guided developers and property owners through all manner of commercial real estate transactions and related contracts.
- Represented developer in negotiating and structuring a public-private partnership with municipality, which partnership included the development of an approximately $10 million office building and various tax incentives and entitlements.
- Represented one of the largest municipalities in Indiana in its attempt to annex approximately 23 square miles of unincorporated property into its city limits.
- Represented developer in its partnership with local municipality and other partners to redevelop a blighted 80-acre property in urban Indianapolis.
- Represented Sharia law compliant real estate investment fund in its disposition of a $100 million office complex.
- Represented regional railroad authority in acquisition and development of new rail exchange hub.
- Represented a nationwide residential developer and homebuilder in its development of single-family subdivisions throughout central Indiana, including its purchase of land, acquisition of government entitlements and approvals, installation of infrastructure, and sale of developed lots and homes.

Attorney, *Mercer Belanger, P.C.*, Indianapolis, IN **September, 2010 – April, 2014**

- Represented lending institutions in real estate and commercial litigation, including mortgage foreclosure, land title, contract, tort, collection, and eviction before state and federal courts and regulatory bodies.

Education

Florida State University, Tallahassee, FL – *Juris Doctor*, Cum Laude **September, 2007 – December, 2009**

GPA, 85.507/100; Rank 59/245; University Student Supreme Court; Public Interest Law Center.

Troy University, Troy, AL – *B.S. in Business Admin.*, Magna Cum Laude **September, 2002 – May, 2006**

Student Government Association; Farmhouse Fraternity; Millennium Academic Scholarship Recipient.

Memberships, Certifications, Community Involvement, and Awards

Licensed to practice law in Florida, Alabama and Indiana (inactive); Florida Bar Board-Certified Real Estate Attorney; Pensacola Downtown Improvement Board, 2018 – 2021; NAIOP of Northwest Florida – board of directors, 2017 – present; Pensacola Habitat for Humanity – land committee; The Florida Bar – real estate board certification standing committee; Leadership Pensacola – Class of 2018; Super Lawyers – Rising Star, 2014-2018; Midtown Indy – committee member within this community development organization during its successful advocacy for use of TIF financing to fund new city-wide public transportation systems and infrastructure.

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-26 Agenda Conference 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

CITY COUNCIL CONSENT TO THE MAYOR'S APPOINTMENT OF RUSSELL SWEATT AS FACILITIES AND FLEET MANAGEMENT DIRECTOR

RECOMMENDATION:

That City Council consent to the Mayor's appointment of Russell Sweatt as Facilities and Fleet Management Director effective January 22, 2024.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola began the director search for the newly established Facilities and Fleet Management Department in October 2023. The position was publicly advertised on the City's website, through other recruiting platforms, and the American Public Works Association with applications due by 11/13/23. The department takes the two current Facilities Maintenance and Fleet Management Divisions under the Public Works and Facilities Department and Parks and Recreation Department respectively, and places both under the supervision of a new director.

Of the 49 total applicants, 46 were deemed by the City's Human Resources Department to have met the minimum qualifications for the position. All 46 application packages and resumes were reviewed and 3 were identified for in-person interviews. Following the shortlisting of the 3 interviewees, one candidate withdrew from consideration. Upon completion of the interviews, Mr. Russell Sweatt was elevated to the top as the candidate to be offered. Mayor Reeves and Deputy City Administrator, David Forte conducted the interviews. Mr. Sweatt was offered in December, and has accepted with a start date set for Monday, January 22, 2024. Attached is Mr. Sweatt's application...

Per Section 4.01 (a) (7) of the City Charter, the Mayor's appointment of Mr. Sweatt requires City Council consent. Mr. Sweatt will be in attendance at the City Council meeting to answer any relevant questions members of Council may have.

PRIOR ACTION:

None.

FUNDING:

N/A

FINANCIAL IMPACT:

Funding for this position is budgeted within the personnel budget of the existing divisions.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator

ATTACHMENTS:

1. Russell Sweatt_application

PRESENTATION: No

EMPLOYMENT APPLICATION	
PENSACOLA FLORIDA'S FIRST & FUTURE **City of Pensacola** **222 W. Main Street** **Pensacola, Florida - 32502** http://www.pensacolacityjobs.com (http://www.pensacolacityjobs.com) **Sweatt, Russell, M** **Fleet & Facilities Management Director**	**Received:** 10/30/23, 7:00 PM **For Official Use Only:** QUAL:__________ DNQ:___________ ☐ Experience ☐ Training ☐ Other:________

PERSONAL INFORMATION

POSITION TITLE: Fleet & Facilities Management Director	**Job Number:** 00787
NAME: (Last, First, Middle) Sweatt, Russell, M	**PERSON ID:** 12723484
ADDRESS: (Street, City, State, Zip Code) 9021 Allegheny Ave Pensacola, FL 32526	
HOME PHONE: (707) 761-7256	
EMAIL ADDRESS: russellsweatt@msn.com	
	HIGHEST LEVEL OF EDUCATION: Bachelor's Degree

PREFERENCES

OBJECTIVE:
With over 19 years in the maintenance field, to include supervisory and managerial roles, I'm looking to continue expanding my knowledge and skills in that area. Ultimately I'm looking for a position that I can bring value to, while also learning a new operation. I enjoy learning and taking on new challenges.

EDUCATION

SCHOOL NAME: United States Air Force Technical School		
LOCATION:(City , State) Sheppard AFB, TX	**DID YOU GRADUATE?** ■ Yes ☐ No	**DEGREE RECEIVED:** Professional
MAJOR/MINOR: Aeropsace Ground Equipment Maintenance		
SCHOOL NAME: University of Maryland University College		
LOCATION:(City , State) Europe Division, AE	**DID YOU GRADUATE?** ■ Yes ☐ No	**DEGREE RECEIVED:** Bachelor's
MAJOR/MINOR: Business Administration		**UNITS COMPLETED:** 121

WORK EXPERIENCE

DATES: from October/2021 to Present	**EMPLOYER:** Overhead Door Company	**POSITION TITLE:** Focus Factory Manager
ADDRESS: (Street, City, State, Zip Code): 3375 Addison Drive Pensacola, FL		

PHONE NUMBER: 850-473-9330	**SUPERVISOR:** James Anderson - Regional Director of Operations	**MAY WE CONTACT THIS EMPLOYER?** ☐ Yes ■ No
HOURS PER WEEK: 40	**SALARY:** $10,600.00	**# OF EMPLOYEES SUPERVISED:** 125

DUTIES:
Plans and directs production activities and establishes production priorities for products in keeping with effective operation and cost factors. Directly supervises 6 supervisors and a team of 400 production personnel. Coordinates production activities with procurement, maintenance, and quality control to obtain optimum production and utilization of human resources, machines and equipment. Directs operation of departments and guides supervisors in the performance of their duties. Controls flow of materials and utilization of labor to ensure adequate production at required quality levels to fulfill production requirements of the manufacturing plant. Facilitates problem solving to continuously improve operational performance.

REASON FOR LEAVING:
Looking for a different opportunity.

DATES: from April/2021 to October/2021	**EMPLOYER:** United Airlines	**POSITION TITLE:** Senior Manager Facilities Maintenance

ADDRESS: (Street, City, State, Zip Code):
DIA
Denver, CO 80249

PHONE NUMBER: (303) 348-3511	**SUPERVISOR:** Jesse Jandura - Regional Director of Facilities Maintenance	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No
HOURS PER WEEK: 60	**SALARY:** $11,500.00	**# OF EMPLOYEES SUPERVISED:** 131

DUTIES:
Directs facilities maintenance operations for a 24/7 operation at Denver International Airport that comprises over 1.2 million square feet of United Airlines maintained lease space. Directly supervises 6 maintenance supervisors, and a team of 125 mechanics. Leads team performance and execution against all division and corporate maintenance objectives to include service level agreement compliance, maintenance quality and reliability performance metric execution, all in service level goals and tolerances, planned and preventative maintenance program compliance, customer report and communication programs. Manages maintenance productivity, technical training, employee dependability, team recognition and employee accountability programs. Maintain proactive communication and positive relations with maintenance team and customer group stakeholders. Manages total cost of ownership and cost efficiency of local and regional maintenance operations in excess of $5 Million annual financial spending plan. Oversees the performance of contract services relative to facilities and employee support areas. Lead safe and environmentally compliant maintenance operations. Manages all safety and OSHA environmental training programs. Investigates, manages, and resolves employee grievances, concerns and labor disputes.

REASON FOR LEAVING:
Relocated to Florida and be closer to family.

DATES: from April/2020 to April/2021	**EMPLOYER:** United Airlines	**POSITION TITLE:** Manager Facilities Maintenance

ADDRESS: (Street, City, State, Zip Code):
US
Denver, CO 80249

PHONE NUMBER: (303) 348-3511	**SUPERVISOR:** Jesse Jandura	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No
HOURS PER WEEK: 60	**SALARY:** $10,000.00	**# OF EMPLOYEES SUPERVISED:** 101

DUTIES:
Successfully lead a facility maintenance department at Denver International Airport that comprises over 1.2 million square feet of United maintained lease space, and included a working member team total of 101 full time employees. Monitored and maintained a preventative maintenance and repair work order computer based tracking system with over 5,162 assets. Managed a baggage handling system with 4.5 miles of conveyor. Ensured operations ran continuously and within the specified budget in 12 buildings and 3 different concourses. Planned out capital projects from funding to completion, and managed costs to keep the facilities in reliable condition well into the future.

REASON FOR LEAVING:
Promotion

DATES: from February/2019 to April/2020	**EMPLOYER:** United Airlines	**POSITION TITLE:** Facility Maintenance Supervisor

ADDRESS: (Street, City, State, Zip Code):
Denver Airport
Denver, CO 80249

PHONE NUMBER: (303) 348-3511	**SUPERVISOR:** Mark McMillan	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No
HOURS PER WEEK: 40	**SALARY:** $9,000.00	**# OF EMPLOYEES SUPERVISED:** 90

DUTIES:
Effectively supervises a team of over 90 facility maintenance technicians. Monitors timeliness of corrective maintenance actions as well as preventative maintenance. Ensures environmental policies are followed and that safety remains a top priority. Interacts with internal customers on a regular basis to monitor facility related issues and projects. Attentively works within the requirements of a union environment all while operating under a strict schedule. Successfully required 90% of all preventative maintenance checks be completed in the first half of each month, resulting in an actual reduced completion time of monthly checks by 50%.

REASON FOR LEAVING:
Promotion.

DATES: from September/2017 to February/2019	**EMPLOYER:** United Airlines	**POSITION TITLE:** GSE & Facility Maintenance Operation Supervisor

ADDRESS: (Street, City, State, Zip Code):
DIA
Denver, CO 80249

PHONE NUMBER: (303) 348-3503	**SUPERVISOR:** Bevan Bautista	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No
HOURS PER WEEK: 40	**SALARY:** $7,200.00	**# OF EMPLOYEES SUPERVISED:** 12

DUTIES:
Developed warehouse personnel and operations for both GSE and Facility Maintenance Operations. Ensured operation was both effective and efficient, while keeping goals and metrics a top priority. Worked closely with different departments and managers to ensure stocked parts were sufficient to maintain a reliable operation, yet remained lean with regards to dollar value on hand. Maintained a good working relationship between two different unions and shops, which resulted in a more productive work environment built on trust and teamwork.

REASON FOR LEAVING:
I accepted another position/promotion within United where I could better utilize my mechanical background.

DATES: from June/2013 to March/2017	**EMPLOYER:** Dunlop Manufacturing Inc.	**POSITION TITLE:** Facilities/Production Maintenance Manageer
ADDRESS: (Street, City, State, Zip Code): 150 Industrial Way Benicia, CA 94510		**COMPANY URL:** jimdunlop.com
PHONE NUMBER: 707-745-2722	**SUPERVISOR:** Nick Patrino - Engineering Manager	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No
HOURS PER WEEK: 40	**SALARY:** $6,100.00	**# OF EMPLOYEES SUPERVISED:** 2

DUTIES:
Ensures plant equipment and infrastructure remain operational and are able to support daily operations, keeping safety a top priority. Continuously manages personnel, preventative maintenance schedule, maintenance requests, and all facility required inspections. Utilizes lean manufacturing practices to keep adequate parts on hand while reducing waste and clutter. Sources parts from outside vendors and reviews bids for service and contract work. Identified and corrected maintenance inefficiencies in two departments, resulting in a 50% increased daily output.

REASON FOR LEAVING:
Spouse received military PCS orders to Colorado Springs, CO.

DATES: from June/2012 to June/2013	**EMPLOYER:** Owens Illinois	**POSITION TITLE:** Electro-Mechanical Journeyman Mechanic

ADDRESS: (Street, City, State, Zip Code):
Fermi Dr
Cordelia, CA 94534

PHONE NUMBER: UNK	**SUPERVISOR:** Joe Bullan - Plant Manager	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No

HOURS PER WEEK: 45	**SALARY:** $5,000.00

DUTIES:
Maintained electro-mechanical systems, pneumatic and hydraulic machine operations, electric motors, conveyors, and a wide range of bottle line production equipment that utilized Allen Bradley programmed logic controllers. Fabricated repair parts by using machine shop instrumentation and equipment.

REASON FOR LEAVING:
Spouse received military orders.

DATES: from March/2010 to April/2012	**EMPLOYER:** Headquarters United States Air Force Europe	**POSITION TITLE:** Materials Handler

ADDRESS: (Street, City, State, Zip Code):

Ramstein AB, AE

PHONE NUMBER: unk	**SUPERVISOR:** Hiram Wood	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No
HOURS PER WEEK: 30	**SALARY:** $4,000.00	

DUTIES:
Independently performed all warehousing processes which included: shipping, receiving, selecting, storing, and documenting of all materials and equipment. Continuously monitored all inbound and outbound materials, while ensuring all applicable policies and procedures where being followed. Maintained all records, files, documents, and statistical information for use in annual reports. Streamlined and overhauled warehouse storage and shipping practices, reducing the time spent and increasing warehouse efficiency and effectiveness.

REASON FOR LEAVING:
Spouse received military orders to Travis AFB, CA.

DATES: from March/2006 to March/2008	**EMPLOYER:** Horizon Airlines	**POSITION TITLE:** Ground Equipment Technician

ADDRESS: (Street, City, State, Zip Code):

Spokane, WA

PHONE NUMBER: unk	**SUPERVISOR:** Jeff Keith	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No
HOURS PER WEEK: 40	**SALARY:** $4,000.00	

DUTIES:
Serviced and maintained over 300 pieces of powered and non-powered ground equipment at the Spokane Airport, as well as all of Horizon Air's ground equipment at seven other airports throughout Montana. Performed periodic checks and preventative maintenance inspections on equipment; which involved inspections of batteries, pumps, alternators, electric motors, brakes, gears, conveyor belts, safety equipment, generators, DC rectifiers and all electrical and mechanical components. Effectively diagnosed faulty electrical components and wiring. Proficiently identified malfunctions, both electrical and mechanical, and independently performed all repairs on equipment after identifying the problem. Provided daily operational on the job training to new employees while employed for Horizon Air. Ensured critical pieces of equipment remained operational, with minimal down time, allowing the aircraft to remain on schedule. Some additional duties included: scheduling equipment for maintenance, documenting parts and materials used, updating serviceable records through a computerized tracking system, communicated with out-stations both verbally and in writing to diagnose/schedule repairs needed, and ordering of parts to ensure the correct amount is kept in stock.

REASON FOR LEAVING:
Spouse received military orders to Ramstein Air Base, Germany.

DATES: from January/2002 to January/2006	**EMPLOYER:** United States Air Force	**POSITION TITLE:** Aerospace Ground Equipment Journeyman

ADDRESS: (Street, City, State, Zip Code):

Spokane, WA

PHONE NUMBER: unk	**SUPERVISOR:** Dan Bryant	**MAY WE CONTACT THIS EMPLOYER?** ■ Yes ☐ No
HOURS PER WEEK: 40	**SALARY:** $3,000.00	

DUTIES:
Performed scheduled periodic inspections, major maintenance, time compliance technical orders and modifications on over 575 pieces of powered and non-powered ground equipment. Effectively used hand and power tools, digital multimeters micrometers, and pressure gauges. Developed excellent trouble shooting skills by working on solid state circuitry and both pneumatic and hydraulic plumbing.

REASON FOR LEAVING:
Completed my contract.

CERTIFICATES AND LICENSES

TYPE:
CFC/HCFC Refrigerant Processing Certificate Universal Technician

DATE ISSUED:	EXPIRATION DATE:	NUMBER:	ISSUING AGENCY:
August 2002	No expiration	J6ASP3E151-029	EPA/DoD Program Coordinator 336th Training Squadron, Sheppard AFB, TX 76311

SKILLS

OFFICE SKILLS:
Typing: 55 WPM

OTHER SKILLS:
Experienced mechanic - Expert - 16 years, 0 months

LANGUAGE(S):
Nothing Entered For This Section

SUPPLEMENTAL INFORMATION
Nothing Entered For This Section

REFERENCES

REFERENCE TYPE:	NAME:	POSITION:
Professional	Bevan Bautista	Manager

ADDRESS: (Street, City, State, Zip Code)

EMAIL ADDRESS:	PHONE NUMBER:
bevan.bautista@united.com	847-530-2309

REFERENCE TYPE:	NAME:	POSITION:
Professional	Andy Alsdorf	

ADDRESS: (Street, City, State, Zip Code)

EMAIL ADDRESS:	PHONE NUMBER:
andy.alsdorf@united.com	303-378-9685

REFERENCE TYPE:	NAME:	POSITION:
Professional	Adam Torres	

ADDRESS: (Street, City, State, Zip Code)

EMAIL ADDRESS:	PHONE NUMBER:
AdamTorres@united.com	(720) 233-8222

Agency - Wide Questions

1. **PERSONAL INFORMATION**

   Are you a citizen of the United States?
   Yes

2. **If no, do you have a legal right to work in the U.S.?**

3. **Desired Salary**

4. **If a specific work schedule has been included in the recruitment posting, are you available to work during the days, times, and/or shifts as indicated?**
   Yes

5. **Do you have a valid driver's license?**
   Yes

6. **Driver License State**
   Florida

7. **Do you have a current valid Commercial Driver's License?**
   No

8. **If Yes, what class?**

9. **List of endorsements**
   N/A

10. **List of restrictions**
    None

11. **ACKNOWLEDGMENT STATEMENTS**
    If you understand and agree with the statement, please confirm by answering each statement below.

    If you retired from a State of Florida administered retirement plan (FRS) within the past year, your retirement benefits may be severely impacted if re-employed by an FRS covered employer such as the City of Pensacola. Have you retired from such a plan in the past year?
    No

12. **Have you worked for the City of Pensacola before?**
    No

13. **If you have worked for the City of Pensacola before, where and when?**

14. **Do you have relatives working for the City of Pensacola?**
    No

15. **If so, provide the names of all relatives and their relationship to you (i.e., spouse, parent, child, grandparent, grandchild, sibling, in-law, niece, nephew, aunt, uncle, step parent, step child, step sibling, cousin, or any other member of your household, etc.)**

16. **VETERAN PREFERENCE: A DD214 or approved documentation from your commanding officer that provides discharge type and service dates is required for all preference claims. If claiming disability preference, a DD214 and a letter from the Department of Veterans' Affairs that states the percentage of disability are required. By making a selection below, I understand it is my responsibility to provide documentation with this application. If I need assistance, I can call 850-435-1660. I am claiming veteran's preference.**
    Yes

17. **If you are claiming veteran preference, was your discharge from active duty in the United States military under honorable conditions?**
    Yes

18. **How did you learn about this job?**
    Other

19. **I understand the minimum qualifications and the starting salary, and if I have any questions about either, I will contact Human Resources at 8504351660.**
    I agree I have thoroughly read the information contained in the job bulletin for this posting.

20. **It is my responsibility to document my work experience, education, etc. in the sections of the online application (not refer to a resume) to show that I meet the minimum qualifications. And, I must provide proof of required education, certifications, licenses, etc.**
    I understand that I must qualify for the position for which I am applying.

21. **The City of Pensacola conducts background and driver license checks as required for each position.**
    I hereby authorize the collection of this information as part of the employment or promotional screening process.

Job Specific Supplemental Questions

1. **Did you graduate from an accredited college or university with an Bachelor's Degree in Construction Management, Facilities Management, Building Construction Technology, Engineering Technology, or related degree?**
   Yes

2. **Do you have seven (7) years of professional experience in building construction, facilities maintenance, engineering, or fleet management. Five (5) of which must have been in a senior management capacity or a combination of education, training, and/or work experience equal to or higher than the requirements listed?**
   Yes

3. **This executive position is exempt from Veteran's Preference according to FL Statute 110.205 (2) (j). I acknowledge I have read this statement.**
   Yes

By clicking Accept & Submit, I certify that all statements made here and attached to, are correct, true, and complete to the best of my knowledge. I understand that I am responsible for the accuracy and completeness of information and that any omissions, falsifications, misstatements, or misrepresentation could disqualify me for employment and if hired, could be grounds for dismissal later. I consent to the release of information to authorized City employees for employment purposes, information about my ability, employment history, and fitness for employment by employers, schools, law enforcement agencies, and other individuals and organizations; this consent continues into my employment if hired. I understand that a background check may be required for this position and that I may be required to disclose information regarding my background and ability to perform the job for which I am applying. Based on the requirements of the position, certain criminal activity could exclude me from employment consideration. I consent to the release of background and/or criminal history for employment purposes. I understand the City of Pensacola is a Drug-Free Workplace (FL Statute 112.0455) and that I agree to be tested for controlled substances; refusing to submit or a positive test result will eliminate me from consideration under this announcement. After an offer of employment, I consent to be medically examined. I release the City, its officers, agents, and employees from liability arising from or in connection with a medical exam, the use of test results as part of the application process, the background investigation, and polygraph (if applicable). I understand the application submitted for City employment and information obtained about me may be public record unless exempted by law; if I am eligible for exemption under Chapter 119, Florida Statutes, I am responsible for notifying Human Resources. Effective 8/1/2014, the City of Pensacola is an E-Verify employer. E-Verify is a program that electronically confirms an employee's eligibility to work in the United States after completion of the Employment Eligibility Verification Form (Form I-9). I understand, that if hired, my employment eligibility will be verified through E-Verify.

This application was submitted by Sweatt, Russell, M

Signature____

Date____

222 West Main Street
Pensacola, FL 32502

File #: 24-18 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council President Casey Jones

SUBJECT:

QUASI-JUDICIAL HEARING - FINAL SUBDIVISION PLAT - TERRACES AT TARRAGONA

RECOMMENDATION:

That City Council conduct a quasi-judicial hearing on January 18, 2024, to consider approval of the Final Subdivision Plat - Terraces at Tarragona.

HEARING REQUIRED: Quasi-Judicial Hearing Required

SUMMARY:

McKim & Creed is requesting final plat approval for the Terraces at Tarragona subdivision located at 120 S. Tarragona Street. This property is located in a Site Specific Development (SSD) zoning district, along with the Pensacola Historic District, the Palafox Historic Business District, and the Dense Business Area. One (1) parcel will be subdivided into six (6) lots to accommodate single-family attached residences.

- Property area: 0.33 acres.
- Maximum density: 35 dwellings.
- Setback requirements: front setback of 2’, rear setback of 20’, north side yard setback of 5’ and south side yard setback of 2’.

The final plat was approved unanimously at the December 12, 2023 Planning Board meeting.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

None

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

12/12/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator,
Sherry Morris, AICP, Director, Development Services
Cynthia Cannon, AICP, Planning & Zoning Division Manager

ATTACHMENTS:

1. Terraces at Tarragona Final Plat Application
2. Planning Board Minutes December 12, 2023

PRESENTATION: No

SUBDIVISION PLAT

Please Check Application Type:

Minor Subdivision (< 4 lots)
☐ Preliminary & Final Plat Submission
Fee: $2,000.00

Subdivision (> 4 lots)
☐ Preliminary Plat Submission
Fee: $1,000.00 + $25/lot

☑ Final Plat Submission
Fee: $1,500.00 + $25/lot

[Resubmittal: ½ the initial fee; Rescheduling to Planning Board / City Council: $250.00]

Applicant Information

Name: Mckim & Creed

Address: 1206 N Palafox Street
Pensacola, FL 32501

Phone: 850-994-9503

Fax: ____

Email: APhillips@mckimcreed.com

Owner Information (if different from applicant)

Name: David A Richbourg, Dabo Holdings, LLC

Address: 209 Cevallos Street
Pensacola, FL 32502

Phone: 850-324-3200

Fax: ____

Email: JJ@zielarch.com

Property Information

Location/Address: 120 S Tarragona Street Pensacola, FL 32502

Subdivision Name: Terraces at Tarragona

# of Parcels to be Subdivided: 6 Parcel ID #(s): 00-0S-00-9001-003-359

# of Existing Lots: 1 #of Proposed Lots: 6 Total Acreage: 0.33

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.

ANDREW PHILLIPS 8-4-23

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

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: ____

***Sec. 12-8-6. SITES FOR PUBLIC USE.**

(B) Sites for park and recreation or open space. Each subdivision plat shall be reviewed by the planning and leisure services departments in order to assess the following: park and recreational or open space needs for the recreation service area within which the subdivision is located and for the city as a whole; and characteristics of the land to be subdivided for its capability to fulfill park, recreation or open space needs. Based on this review the city staff shall recommend one of the following options:

(1) Dedication of land for park, recreation or open space needs. The subdivider(s) or owner(s) shall dedicate to the city for park and recreation or open space purposes at least five (5) percent of the gross area of the residential subdivision. In no case shall the aggregate acreage donated be less than one-quarter (1/4) acre.

(2) Payment of money to an escrow account for park, recreation or open space needs in lieu of dedication of land. The subdivider(s) or owner(s) shall pay unto the city such sum of money equal in value to five (5) percent of the gross area of the subdivision thereof, which sum shall be held in escrow and used by the city for the purpose of acquiring parks and developing playgrounds and shall be used for these purposes and no others. The aforementioned value shall be the value of the land subdivided without improvements and shall be determined jointly by the city manager and the subdivider. If the city manager and subdivider cannot agree on a land value, then the land value shall be established by arbitration. The city manager shall appoint a professional land appraiser, the subdivider shall appoint a professional land appraiser, and these two (2) shall appoint a third.

<u>*Open Space Requirement</u> *<u>(only applicable to residential subdivision)</u>*
Sec. 12-8-6 requires (a) the dedication of 5% of the gross area for open space purposes, or (b) a fee in lieu of land dedication. Please calculate and check preferred method of meeting requirement:

(a) Total Land Area:__________________ acres

5% for land dedication*: __________________ acres
[*may not equal less than 1/4 acre]

(b) Value of land (Esc. Co. Tax Assessor) $ 485,520

Fee in lieu of land dedication (5% of value) $ 24,276
[Payable to the City of Pensacola; Due after plat approval, prior to receiving signatures]

Sec. 12-8-3. Procedure for subdivision approval.

(A) *Procedure for subdivision requiring a plat.*

(1) *Approval of preliminary plat by the planning board.*

(a) Any person desiring to divide land into three (3) or more lots shall first file with the planning board a preliminary plat of the subdivision prepared in accordance with the requirements of section 12-8-8

(b) Accompanying the preliminary plat shall be a general location sketch map showing the relationship of the proposed subdivision to existing community facilities which serve or influence it. On such sketch map, the main traffic arteries, shopping centers, schools, parks, and playgrounds, principal places of employment and other principal features should be noted

(c) Where the preliminary plat submitted covers only a part of the total contiguous property under the subdivider's ownership, a sketch of the prospective future street system of the unsubdivided part shall be required if not shown on a previously approved conceptual plan or plans for the entire property. The street system of the unplatted portion shall be planned to coordinate and connect with the street system of the platted portion.

(d) A master drainage plan at a scale not smaller than one inch equals two hundred (200) feet, shall be prepared. The master drainage plan shall be for the entire property and shall be reviewed by the city engineer in relation to the entire drainage basin. It is the specific intent of this requirement that rights-of-way and easements of all drainage improvements including but not limited to, retention ponds, ditches, culverts, channels, and the like required for the drainage of the site for both on-site and off-site improvements, shall be provided for the master drainage plan. Instruments shall be submitted fully executed in sufficient form for recording for all off-site drainage rights-of-way and easements not included on the final plat. These instruments shall be submitted with the final plat for recordation

(e) Eleven (11) copies of the preliminary plat shall be submitted to The Community Development Department at least thirty (30) calendar days prior to the meeting at which it is to be considered.

(f) Prior to the examination of the preliminary plat, the planning board shall be furnished with reports from the city engineer, traffic engineer, energy services, Escambia County Utilities Authority, fire department, and the secretary to the planning board to the effect that said plat does or does not conform to the comprehensive plan, the provisions of this chapter, and with sound principles and practices of planning and engineering and with such other items that may affect the health, safety and welfare of the people

(g) When, after examination, the planning board finds as fact that the aforementioned requirements have been met, the preliminary plat may be approved; however, such approval shall not constitute an approval of the final plat. If the preliminary plat is rejected, the planning board shall provide the applicant in writing a detailed list of reasons for rejection.

(2) *Approval of final plat by the planning board and city council.*

(a) The final plat shall conform substantially to the preliminary plat. The applicant shall submit only that portion of the approved preliminary plat which he proposes to record and develop. Such portion shall conform to all requirements of this chapter. Such final plat shall be submitted within one year (three hundred sixty-five (365) days) of the date of the approval of the preliminary plat. If more than one year has elapsed since the approval of the preliminary plat, the preliminary plat must be resubmitted to the planning board for their review and approval prior to submission of the final plat.

(b) Eleven (11) copies of the final plat shall be submitted to The Community Development Department at least thirty (30) calendar days prior to the meeting of the planning board at which it is to be considered. Before granting final approval of the plat, the planning board shall receive reports from the secretary to the planning board, the city engineer, the traffic engineer, energy services of Pensacola, the Escambia County Utilities Authority and the fire department.

(c) After approval by the planning board, the final plat shall be transmitted to the city council for approval. Approval of the plat shall be granted by the city council upon its finding that all the requirements of this chapter have been met.

(3) *Approval of a combined preliminary/final plat of a subdivision by the planning board and city council.* Subdivisions containing no more than four (4) lots fronting on an existing public street, right-of-way or an access easement, not involving any new street or road, or the extension of governmental facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision of this code or the comprehensive plan, may be reviewed and approved through an abbreviated procedure which provides for the submittal of both the preliminary and final plat concurrently. All design standards, plat information and recording requirements as set forth in this chapter shall be complied with when exercising the abbreviated minor subdivision procedure.

(B) *Procedure for division of land requiring a boundary survey.* A division of land into no more than two (2) lots fronting on an existing public street, or an access easement not involving any new street or road, or the extension of governmental facilities, or the creation of any public improvements, and not adversely affecting the remainder of the parcel or adjoining property, and not in conflict with any provision of this code or the comprehensive plan, may be reviewed and approved by the city engineer, city surveyor and city planner through an abbreviated procedure which provides for the submittal of a metes and bounds description and a legal boundary survey of the property.

(1) *Submission requirements.*

(a) Any person desiring to divide land into no more than two (2) lots shall first submit three (3) copies of a metes and bounds description and a legal boundary survey of the property (equal to that required by F.S. § 472.27, pertaining to minimum technical standards for surveys, and having a minimum of four (4) concrete permanent reference monuments set) to The Community Development Department. The boundary survey shall be drawn at a scale of one hundred (100) feet to the inch, or less, and shall depict all information required by section 12-8-8(a) through (j).

(b) If an access easement is required for the subdivision, this document shall be attached to each of the three (3) copies of the boundary survey.

(c) All stormwater drainage requirements set forth in this chapter shall be complied with when exercising this procedure.

(2) *Final approval.*

(a) The Community Development Department shall notify the applicant of the approval or disapproval of the subdivision boundary survey within nine (9) working days from submission.

(b) If the subdivision boundary survey is rejected The Community Development Department shall provide the applicant, in writing, a detailed list of reasons for rejection.

(c) Upon submission of the corrected subdivision boundary survey the Community Development Department shall notify the applicant of the approval or disapproval of the corrected boundary survey within nine (9) days. If the subdivision boundary survey is not approved, the minor subdivision must be resubmitted.

(d) After the survey has been approved by city staff fourteen (14) blueprints and one (1) mylar of the survey shall be filed with The Community Development Department. In addition, one (1) copy each of any applicable recorded access easements shall be filed with The Community Development Department.

(e) Furthermore, no building permit shall be issued until the survey has been approved by city staff and any accompanying documentation has been recorded.

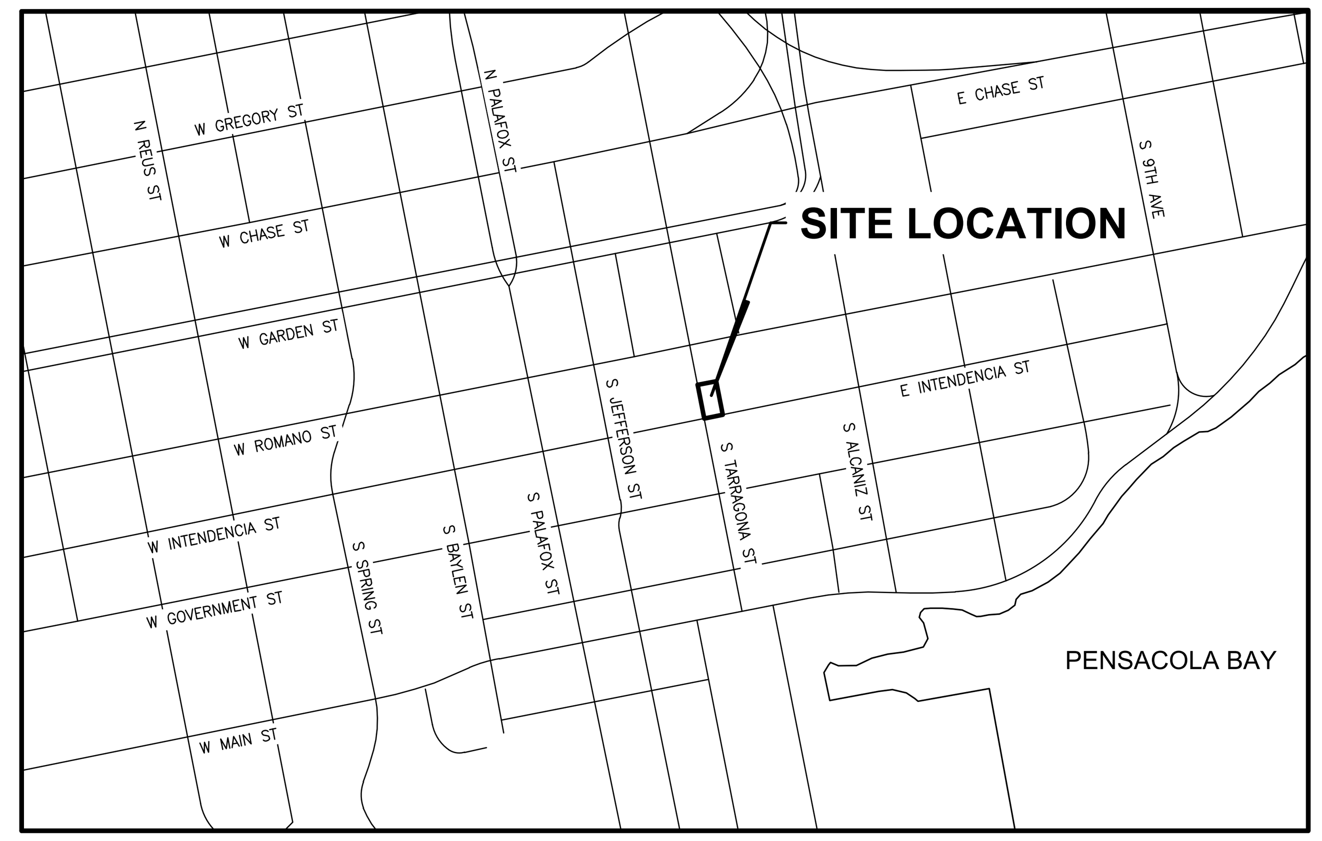
TERRACES AT TARRAGONA

A 6 LOT RESIDENTIAL SUBDIVISION, BEING A RE-PLAT OF LOT 359, BLOCK 23, OLD CITY TRACT, CITY OF PENSACOLA, ESCAMBIA COUNTY FLORIDA, ACCORDING TO THE MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906.
BEING A PORTION OF SECTION 46, TOWNSHIP 2 SOUTH, RANGE 30 WEST, CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA.
AUGUST 2023

CIVIL ENGINEER:
MCKIM & CREED, INC.
D. PATRICK JEHLE, JR.
1206 N. PALAFOX ST.
PENSACOLA, FLORIDA 32501
(850) 994-9503

SURVEYOR:
MCKIM & CREED
JAMES DANIEL LEVINER
1206 N. PALAFOX ST.
PENSACOLA, FLORIDA 32501
(850) 994-9503

OWNER AND DEVELOPER:
DAVID A. RICHBOURG, MANAGER
DABO HOLDINGS, LLC.,
209 CEVALLOS ST.
PENSACOLA, FL 32502
(850) 324-3200



VICINITY MAP
NOT TO SCALE

DESCRIPTION LEGAL DESCRIPTION OF PROPOSED SUBDIVISION AS PREPARED BY McKIM AND CREED, INC.

ALL OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 8390, AT PAGE 292, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA.

ALONG AND TOGETHER WITH A PORTION OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 8964, AT PAGE 1924, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF LOT 359, BLOCK 23, OLD CITY TRACT, CITY OF PENSACOLA, ACCORDING TO THE MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906, SAID POINT BEING LOCATED AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF EAST INTENDENCIA STREET (40.75 FOOT RIGHT-OF-WAY) AND THE EAST RIGHT-OF-WAY LINE OF TARRAGONA STREET (60 FOOT RIGHT-OF-WAY); THENCE PROCEED NORTH 09 DEGREES 26 MINUTES 48 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 168.55 FEET TO THE NORTHWEST CORNER OF SAID LOT 359 BEING ALSO THE SOUTHWEST CORNER OF THAT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 8964, PAGE 1924 OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; THENCE CONTINUE NORTH 09 DEGREES 26 MINUTES 48 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY A DISTANCE OF 2.50 FEET TO THE SOUTHWEST CORNER OF LOT 5, TARRAGON SQUARE AS RECORDED IN PLAT BOOK 17, PAGE 24, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; THENCE DEPARTING SAID RIGHT-OF-WAY LINE PROCEED NORTH 80 DEGREES 23 MINUTES 20 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 84.05 FEET; THENCE DEPARTING SAID SOUTH LINE OF LOT 5, PROCEED SOUTH 09 DEGREES 22 MINUTES 20 SECONDS EAST A DISTANCE OF 2.50 FEET TO THE NORTHEAST CORNER OF THE AFORESAID LOT 359; THENCE CONTINUE SOUTH 09 DEGREES 22 MINUTES 20 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 359, A DISTANCE OF 168.27 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF THE AFORESAID EAST INTENDENCIA STREET (40.75 FOOT RIGHT-OF-WAY); THENCE PROCEED SOUTH 80 DEGREES 12 MINUTES 04 SECONDS WEST ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 83.83 FEET TO THE POINT OF BEGINNING.

LYING IN AND BEING A PORTION OF SECTION 46, TOWNSHIP 2 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA.

DESCRIPTION LEGAL DESCRIPTION OF THE REMAINING PORTION OF PARCEL 2 NOT INCLUDED IN THIS PLAT AS PREPARED BY McKIM AND CREED, INC.

A PORTION OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 8964, AT PAGE 1924, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHWEST CORNER OF LOT 359, BLOCK 23, OLD CITY TRACT, CITY OF PENSACOLA, ACCORDING TO THE MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906, SAID POINT BEING LOCATED AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF EAST INTENDENCIA STREET (40.75 FOOT RIGHT-OF-WAY) AND THE EAST RIGHT-OF-WAY LINE OF TARRAGONA STREET (60 FOOT RIGHT-OF-WAY); THENCE PROCEED NORTH 09 DEGREES 26 MINUTES 48 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 168.55 FEET TO THE NORTHWEST CORNER OF SAID LOT 359 BEING ALSO THE SOUTHWEST CORNER OF THAT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 8964, PAGE 1924 OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; THENCE CONTINUE NORTH 09 DEGREES 26 MINUTES 48 SECONDS WEST ALONG SAID RIGHT-OF-WAY LINE A DISTANCE OF 2.50 FEET TO THE SOUTHWEST CORNER OF LOT 5, TARRAGON SQUARE AS RECORDED IN PLAT BOOK 17, AT PAGE 24, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; THENCE DEPARTING SAID RIGHT-OF-WAY LINE PROCEED NORTH 80 DEGREES 23 MINUTES 20 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 84.05 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 80 DEGREES 23 MINUTES 20 SECONDS EAST, ALONG SAID SOUTH LINE A DISTANCE OF 22.68 FEET TO THE SOUTHEAST CORNER OF SAID LOT 5; THENCE PROCEED SOUTH 09 DEGREES 36 MINUTES 40 SECONDS EAST A DISTANCE OF 2.50 FEET TO THE SOUTHEAST CORNER OF THAT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 8964, PAGE 1924, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY FLORIDA, SAID POINT BEING ON THE NORTH LINE OF LOT 360, BLOCK 23 OF THE AFORESAID OLD CITY TRACT, CITY OF PENSACOLA; THENCE PROCEED SOUTH 80 DEGREES 23 MINUTES 20 SECONDS WEST ALONG THE SOUTH LINE OF SAID PROPERTY A DISTANCE OF 22.69 FEET TO THE NORTHEAST CORNER OF THE AFORESAID LOT 359; THENCE PROCEED NORTH 09 DEGREES 22 MINUTES 20 SECONDS WEST A DISTANCES OF 2.50 FEET TO THE POINT OF BEGINNING.

LYING IN AND BEING A PORTION OF SECTION 46, TOWNSHIP 2 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA.

GENERAL NOTES:

1. NORTH AND THE SURVEY DATUM SHOWN HEREON ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM (FLORIDA NORTH ZONE), NORTH AMERICAN DATUM OF 1983 (NAD83)-(2011)-(EPOCH 2010.0000), THE EAST RIGHT-OF-WAY OF TARRAGONA STREET HAVING A BEARING OF NORTH 09 DEGREES 26 MINUTES 48 SECONDS WEST, PLATS OF RECORD AND EXISTING FIELD MONUMENTATION.
2. ELEVATIONS AS SHOWN HEREON ARE REFERENCED TO THE NORTH AMERICAN VERTICAL DATUM OF 1988 (NAVD88) AND ARE BASED ON THE NATIONAL GEODETIC SURVEY (NGS) MONUMENT 872 9840 TIDAL 11, HAVING A PUBLISHED ELEVATION OF 10.84'.
3. MEASUREMENTS AS SHOWN HEREON WERE MADE TO UNITED STATES SURVEY FEET AND DECIMALS THEREOF.
4. IT IS THE OPINION OF THE UNDERSIGNED SURVEYOR & MAPPER THAT THE PARCEL OF LAND SHOWN HEREON IS IN ZONE "X", AREAS DETERMINED TO BE OUTSIDE THE 0.2% ANNUAL CHANCE FLOODPLAIN, BASED ON THE FEDERAL EMERGENCY MANAGEMENT AGENCY FLOOD INSURANCE RATE MAP FOR ESCAMBIA COUNTY, FLORIDA, COMMUNITY PANEL NUMBER 12033C0390G, EFFECTIVE DATE OF SEPTEMBER 29, 2006.
5. ALL PLATTED UTILITY EASEMENTS SHALL PROVIDE THAT SUCH EASEMENTS SHALL ALSO BE EASEMENTS FOR THE CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES; PROVIDED, HOWEVER, NO SUCH CONSTRUCTION, INSTALLATION, MAINTENANCE, AND OPERATION OF CABLE TELEVISION SERVICES SHALL INTERFERE WITH THE FACILITIES AND SERVICES OF AN ELECTRIC, TELEPHONE, GAS, OR OTHER PUBLIC UTILITY.

PROPERTY INFORMATION REPORT:

- AN EXECUTED OPINION LETTER WAS PROVIDED TO THIS FIRM AS PREPARED BY EMMANUEL SHEPPARD & CONDON FOR TERRACES AT TARRAGONA, DATED NOVEMBER 27, 2023. SAID OPINION LETTER CONFIRMS THE FOLLOWING:

1. DABO'S HOLDINGS, LLC, A FLORIDA LIMITED LIABILITY COMPANY, IS THE OWNER OF THE PROPERTY.
2. THERE ARE NO MORTGAGES OR LIENS THAT ENCUMBER THE PROPERTY.
3. TAXES FOR THE YEAR 2022 HAVE BEEN PAID IN FULL.
4. THE PROPERTY INFORMATION REPORT INDICATES THERE IS A MINERAL RESERVATION TO ESCAMBIA COUNTY ON THE PROPERTY. (SEE INFORMATIONAL NOTE BELOW).

- A PROPERTY INFORMATION REPORT WAS PROVIDED TO THIS FIRM BY ALLIANT NATIONAL TITLE INSURANCE COMPANY HAVING AN AGENT FILE NUMBER: 16493-158854 AND AN ALLIENT FILE NUMBER: 20111430, DATED JULY 23, 2023.

  -INFORMATIONAL:
  MINERAL RESERVATIONS CONTAINED IN OFFICIAL RECORDS BOOK 8964, PAGE 1924, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA.
  A BLANKET EASEMENT THAT PERTAINS TO PARCEL 2 OF DEPICTED PLAT.

ZONING:

- SSD - SITE SPECIFIC DEVELOPMENT ZONING DISTRICT

THE REGULATIONS IN THIS SECTION SHALL BE APPLICABLE TO THE SITE SPECIFIC DEVELOPMENT ZONING DISTRICT: SSD.

(1) PURPOSE OF DISTRICT. THIS SECTION IS ENACTED TO PROVIDE FOR THE OPTION OF AMENDING AN APPROVED FINAL DEVELOPMENT PLAN FOR ANY PARCEL OF PROPERTY THAT WAS ZONED SSD (SITE SPECIFIC DEVELOPMENT) PRIOR TO MAY 1, 1990. SUBSEQUENT TO MAY 1, 1990 NO REZONINGS TO SSD HAVE BEEN ALLOWED.
(2) MINOR CHANGES TO AN APPROVED SSD FINAL DEVELOPMENT PLAN. MINOR CHANGES TO A FINAL DEVELOPMENT PLAN MAY BE APPROVED BY THE MAYOR, CITY ENGINEER, THE PLANNING SERVICES DEPARTMENT AND BUILDING OFFICIAL WHEN IN THEIR OPINION THE CHANGES DO NOT MAKE MAJOR CHANGES IN THE ARRANGEMENT OF BUILDINGS OR OTHER MAJOR FEATURES OF THE FINAL DEVELOPMENT PLAN.
(3) MAJOR CHANGES TO AN APPROVED SSD FINAL DEVELOPMENT PLAN. MAJOR CHANGES SUCH AS, BUT NOT LIMITED TO, CHANGES IN LAND USE OR AN INCREASE OR DECREASE IN THE AREA COVERED BY THE FINAL DEVELOPMENT PLAN MAY BE MADE ONLY BY FOLLOWING THE PROCEDURES OUTLINED IN FILING A NEW PRELIMINARY DEVELOPMENT PLAN AS DESCRIBED IN SECTION 12-3-120.

- OVERLAY DISTRICTS: PHD (PENSACOLA HISTORIC DISTRICT), PHBD (PALAFOX HISTORIC BUSINESS DISTRICT), DBA (DENSE BUSINESS AREA).
- ALL DEVELOPMENT SHALL BE SUBJECT TO AN AESTHETIC REVIEW BY THE CITY'S ARCHITECTURAL REVIEW BOARD (ARB).
- AN LTU (LICENSE TO USE) WILL BE REQUIRED FOR BALCONIES AND/OR PROJECTIONS WITHIN THE ROW.
- BASED ON THE MEMORANDUM (CONTAINED WITHIN THE "REPORT OF CITY COUNCIL ACTION OFFICE OF THE CITY CLERK, DATED 7/13/2006), AND A SUBSEQUENT MEMORANDUM RE: MINOR REVISION TO SITE SPECIFIC DEVELOPMENT (120 SOUTH TARRAGONA STREET), DATED DECEMBER 1, 2020.

TO: THOMAS J. BONFIELD, CITY MANAGER
FROM: KEVIN A. COOPER, COMMUNITY DEVELOPMENT DIRECTOR
DATE: JULY 10, 2006
SUBJECT: MAJOR REVISION TO SITE SPECIFIC DEVELOPMENT-120 SOUTH TARRAGONA STREET.

THE BUILDING HEIGHT WILL NOT EXCEED THE MAXIMUM ALLOWED HEIGHT FOR THE PENSACOLA HISTORIC DISTRICT, WHICH IS 35 FEET. THE SETBACKS FOR THE SITE WILL BE AS FOLLOWS: FRONT SETBACK OF 2 FEET, REAR SETBACK OF 20 FEET, NORTH SIDE YARD SETBACK 5 FEET, AND A SOUTH SIDE YARD SETBACK OF 2 FEET.

NOTICE:

PURSUANT TO CHAPTER 177.091(27) FLORIDA STATUES, THIS PLAT, AS RECORDED IN ITS GRAPHIC FORM, IS THE OFFICIAL DEPICTION OF 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 THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

SITE DATA SUMMARY:

PROPERTY PARCEL NUMBER:	PORTION OF 00-0S-00-9001-003-359
STREET ADDRESS:	120 S TARRAGONA ST PENSACOLA, FLORIDA 32502
SMALLEST LOT:	2,244 SF
LARGEST LOT:	2,860 SF
NUMBER OF LOTS:	6
TOTAL ACREAGE:	0.33

SHEET INDEX:

TIES TO THE NATIONAL GEODETIC SURVEY CONTROL NETWORK WERE MADE. THE STATION COORDINATES SHOWN BELOW ARE REFERENCED TO THE FLORIDA STATE PLANE COORDINATE SYSTEM (FLORIDA NORTH ZONE), NORTH AMERICAN DATUM OF 1983 (NAD83)-(2011)-(EPOCH 2010.0000).

STATE PLANE COORDINATE TABLE - HORIZONTAL DATUM: NORTH AMERICAN HORIZONTAL DATUM 83 (2011) FLORIDA NORTH ZONE

STATION	NORTHING(FEET)	EASTING(FEET)	LATITUDE	LONGITUDE	SCALE FACTOR	CONVERGENCE	ELEVATION
19	523421.2118	1113613.9829	N030° 24' 40.67"	W087° 12' 43.97"	0.99995747	-001° 21' 46.65"	9.81
20	523434.4070	1113691.9045	N030° 24' 40.82"	W087° 12' 43.08"	0.99995747	-001° 21' 46.20"	10.75

TO COMPUTE GROUND DISTANCE TO GRID, AVERAGE THE SCALE FACTOR AND THEN MULTIPLY THIS BY THE GROUND DISTANCE TO COMPUTE GRID DISTANCE TO GROUND DISTANCE, AVERAGE SCALE FACTOR AND DIVIDE THIS INTO THE GRID DISTANCE.

$$\text{AVERAGE SCALE FACTOR (ASF)} = \frac{\text{SCALE FACTOR (1)} + \text{SCALE FACTOR (2)}}{2}$$

$$\text{GROUND DISTANCE} = \frac{\text{GRID DISTANCE}}{\text{ASF}}$$

DEDICATION AND RESERVATION:

KNOW ALL MEN BY THESE PRESENTS THAT DABO HOLDINGS, LLC, A FLORIDA LIMITED LIABILITY COMPANY, OWNER AND DEVELOPER OF THE LAND HEREIN DESCRIBED AND PLATTED HEREIN KNOWN AS TERRACES AT TARRAGONA, WHICH IS PART OF THIS PLAT, DO HEREBY MAKE THE FOLLOWING DEDICATION:

1. THE 6' WIDE DRAINAGE AND UTILITY EASEMENT RUNNING ALONG AND PARALLEL TO THE NORTH LINE OF THIS PLAT, LOT 1, AS DEPICTED ON THIS PLAT AND THE 23.5' WIDE PRIVATE-ACCESS AND UTILITY EASEMENT RUNNING ALONG AND PARALLEL TO THE EAST LINE OF THIS PLAT, SAID EASEMENT BEING IN LOTS 1-6, AS DEPICTED ON THIS PLAT ARE HEREBY DEDICATED TO THE TERRACES AT TARRAGONA HOMEOWNERS ASSOCIATION, INC., ITS SUCCESSORS AND/OR ASSIGNS, WITHOUT RECOURSE TO THE CITY OF PENSACOLA.

NOTARY PUBLIC (OWNER & DEVELOPER)

THE FOREGOING INSTRUMENT WAS ACKNOWLEDGED BEFORE ME BY MEANS OF _ PHYSICAL PRESENCE OR _ ONLINE NOTARIZATION, THIS ___ DAY OF 2024, BY ________________ AS MANAGER OF DABO HOLDINGS, LLC.
HE/SHE IS _ PERSONALLY KNOWN TO ME OR _ HAS PRODUCED ______________ AS IDENTIFICATION

____
SIGNATURE

COMMISSION NO______________________

____
PRINT NAME

MY COMMISION EXIPRES ________________
NOTARY PUBLIC, STATE OF:

CERTIFICATE OF APPROVAL OF CLERK OF THE CIRCUIT COURT:
I, PAM CHILDERS, CLERK OF THE CIRCUIT COURT OF ESCAMBIA COUNTY, FLORIDA, DO HEREBY CERTIFY THAT THE PLAT COMPLIES WITH ALL THE REQUIREMENTS OF THE PLAT ACT (CHAPTER 177, SECTIONS 177.011 THROUGH 177.151 OF THE FLORIDA LEGISLATURE, AS AMENDED FROM TIME TO TIME) AND THE SAME WAS FILED FOR RECORDS ON THE ___ DAY OF ___________, 2024.
AND FILED IN PLAT BOOK ___, AT PAGES ___, OF SAID COUNTY

____
PAM CHILDERS
CLERK OF THE CIRCUIT COURT

CITY COUNCIL CERTIFICATE
I, ERICKA L BURNETT, CITY CLERK OF THE CITY OF PENSACOLA, FLORIDA, DO HEREBY CERTIFY THAT THIS PLAT WAS PRESENTED TO THE CITY COUNCIL, OF SAID CITY AT ITS MEETING HELD ON THE ___ DAY OF ___________, 2024 AND WAS APPROVED BY SAID COUNCIL,

____
ERICKA L. BURNETT
CITY CLERK OF THE CITY OF PENSACOLA

CITY OF PENSACOLA PROFESSIONAL SURVEYOR AND MAPPER STATEMENT
THIS PLAT HAS BEEN REVIEWED FOR CONFORMITY TO CHAPTER 177, FLORIDA STATUTES, BY THE OFFICE OF THE PROFESSIONAL SURVEYOR AND MAPPER FOR THE CITY OF PENSACOLA.

____
LESLIE D. ODOM, PROFESSIONAL SURVEYOR AND MAPPER DATE
STATE OF FLORIDA REGISTRATION No. 6520

TITLE CERTIFICATION

THIS REPORT PURPOSELY OMITS RESTRICTIONS, EASEMENTS, SUBDIVISIONS AGREEMENTS AND ANY REFERENCES TO MORTGAGES, JUDGEMENTS AND/OR LIENS WHICH APPEAR TO BE SATISFIED OF RECORD OR HAVE EXPIRED PURSUANT TO FLORIDA STATUES.

THIS REPORT DOES NOT REFLECT THOSE DOCUMENTS, IF ANY, WHICH MAY HAVE BEEN RECORDED PRIOR (OTHER THAN AN ASSUMED MORTGAGE) OR SUBSEQUENT TO THE TIME PERIOD COVERED HEREIN AND WHICH MAY DISCLOSE THE POSSIBLE EXISTENCE OF ENCUMBRANCES, LIENS, RIGHTS, INTEREST OR OTHER MATTERS WHICH MAY AFFECT THE SUBJECT PROPERTY.

THIS REPORT IS NOT TITLE INSURANCE. PURSUANT TO S. 627.7843, FLORIDA STATUTES, THE MAXIMUM LIABILITY OF THE ISSUER OF THIS PROPERTY INFORMATION REPORT FOR ERRORS OR OMISSIONS IN THIS PROPERTY INFORMATION REPORT IS LIMITED TO THE AMOUNT PAID FOR THIS PROPERTY INFORMATION REPORT, AND IS FURTHER LIMITED TO THE PERSON(S) EXPRESSLY IDENTIFIED BY NAME IN THE PROPERTY INFORMATION REPORT AS RECIPIENT(S) OF THE PROPERTY INFORMATION REPORT.

THIS COMPANY EXPRESSLY DISCLAIMS ANY LIABILITY FOR LOSS OR DAMAGE RESULTING FROM RELIANCE ON THIS CERTIFICATE IN EXCESS OF THE FEE PAID TO ALLIANT NATIONAL TITLE INSURANCE COMPANY.

CERTIFICATION MADE ON THE _______ DAY OF ________________ 2024.

BY: ______________________________.

PRINT NAME:

COMPANY: ALLIANT NATIONAL INSURANCE COMPANY

SURVEYOR'S CERTIFICATE:

THIS IS TO CERTIFY THAT THE PLAT SHOWN HEREON IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY MADE UNDER THE RESPONSIBLE DIRECTION OF A MCKIM AND CREED INC.'S LICENSED SURVEYOR AND MADE UNDER HIS RESPONSIBLE DIRECTION AND SUPERVISION; THAT SAID SURVEY IS ACCURATE TO THE BEST OF MY KNOWLEDGE AND BELIEF; THAT PERMANENT REFERENCE MONUMENTS (P.R.M.'S) HAVE BEEN PLACED AS REQUIRED BY LAW AND THAT PERMANENT CONTROL POINTS (P.C.P.'S) AND MONUMENTS ACCORDING TO SEC. 177.091 (9) FLORIDA STATUTES, WILL BE SET AS REQUIRED BY THE LAND DEVELOPMENT CODE OF THE CITY OF PENSACOLA, FLORIDA, AS AMENDED TIME TO TIME; AND FURTHER, THAT THE SURVEY DATA COMPLIES WITH ALL THE REQUIREMENTS IN CHAPTER 177, FLORIDA STATUTES, AS AMENDED, AND THE ORDINANCES OF ESCAMBIA COUNTY, FLORIDA." ALSO, THAT THE BOUNDARY SURVEY INFORMATION ON THE PLAT COMPLIES WITH THE STANDARDS OF PRACTICE SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS, PURSUANT TO RULE 5J-17.050, 5J-17.051, AND 5.1-17 052 FLORIDA ADMINISTRATION CODE CHAPTER 472.027, FLORIDA STATUES, AS AMENDED FROM TIME TO TIME.

SIGNED THIS 28TH DAY OF NOVEMBER, 2023

______________________________.
JAMES DANIEL LEVINER
PROFESSIONAL SURVEYOR AND MAPPER, LICENSE NO. 6915
MCKIM & CREED, INC, 1206 N PALAFOX ST., PENSACOLA, FLORIDA 32501

JAMES DANIEL LEVINER License Number 6915 STATE OF FLORIDA Professional Surveyor and Mapper

MCKIM & CREED
1206 N. Palafox St.
Pensacola, Florida 32501
Phone: (850) 994-9503
FL Surveying Business #LB7917
FL Certificate of Authorization# 29588
www.mckimcreed.com

DECLARATION OF RESTRICTIVE COVENANTS FILED IN OFFICIAL RECORDS BOOK ________, PAGE ________.

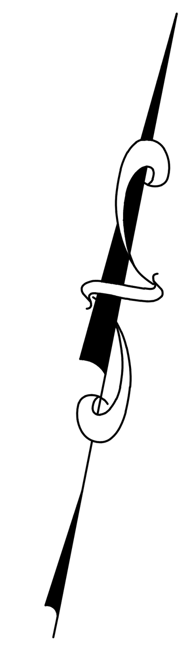
SHEET 1 OF 2

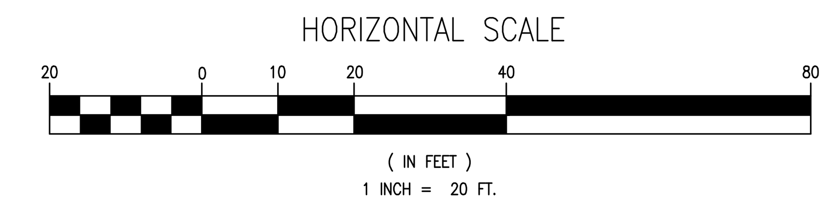
PLAT BOOK ______, PAGE _____.

TERRACES AT TARRAGONA

A 6 LOT RESIDENTIAL SUBDIVISION, BEING A RE-PLAT OF LOT 359 AND A PORTION OF LOT 364 BLOCK 23, OLD CITY TRACT, CITY OF PENSACOLA, ESCAMBIA COUNTY FLORIDA, ACCORDING TO THE MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906. BEING A PORTION OF SECTION 46, TOWNSHIP 2 SOUTH, RANGE 30 WEST, CITY OF PENSACOLA, ESCAMBIA COUNTY, FLORIDA.

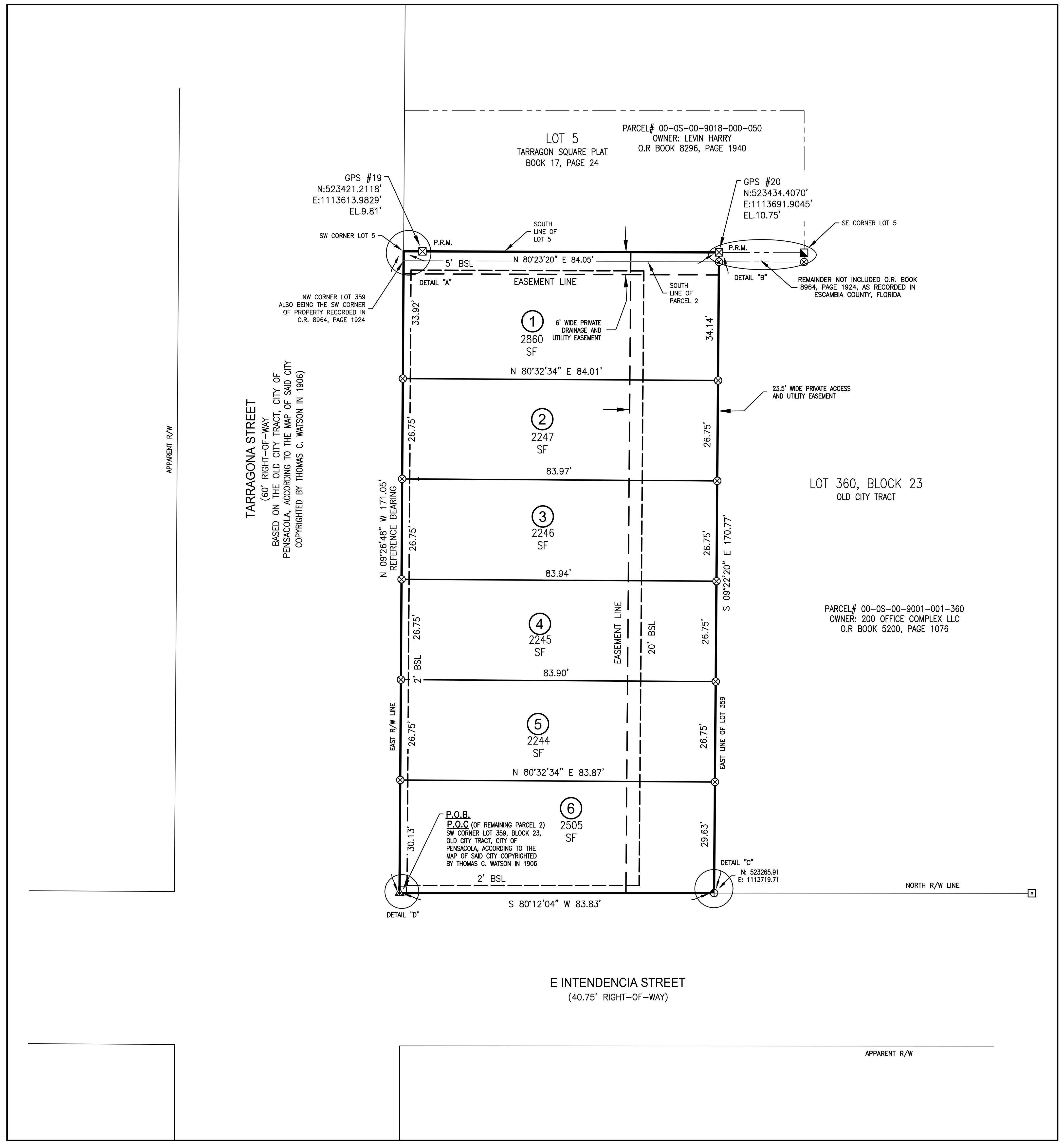
AUGUST 2023

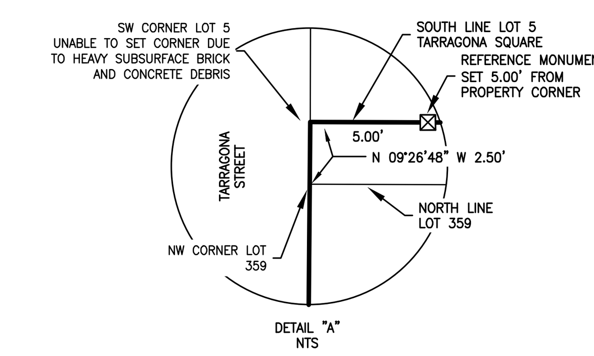


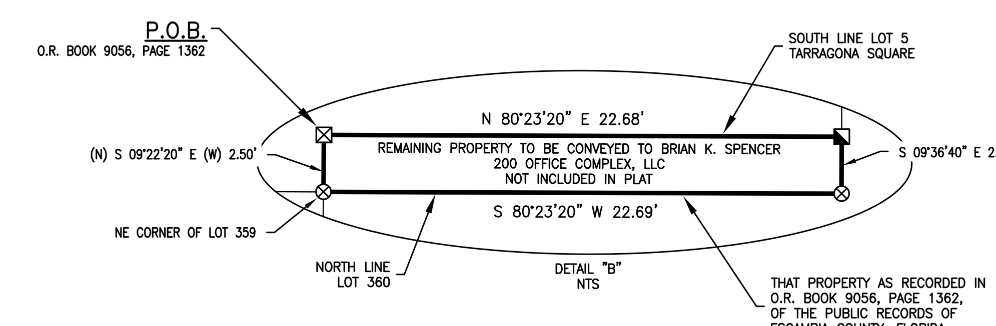


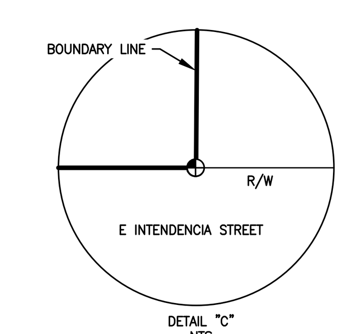
LEGEND:

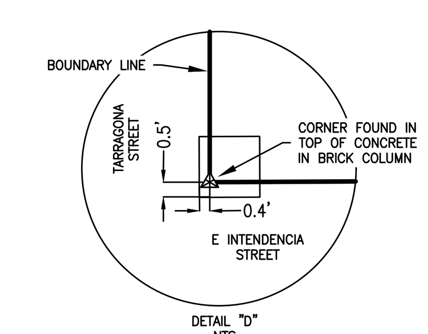
- SET BENCHMARK
- SET NAIL & DISK (No.7917)
- FOUND 1/2" DIA CAPPED IRON ROD #7073
- FOUND 1/2" DIA CAPPED IRON ROD ILLEGIBLE
- FOUND 3"x3" CONCRETE MONUMENT NO IDENTIFICATION
- FOUND 3"x3" CONCRETE MONUMENT #4882
- SET 5/8" DIA CAPPED IRON ROD #7917
- SET 4"x4" CONCRETE MONUMENT #7917
- PK NAIL FOUND
- P.O.B. POINT OF BEGINNING
- P.O.C. POINT OF COMMENCEMENT
- P.R.M PERMANENT REFERENCE MONUMENT
- O.R. OFFICIAL RECORDS
- EL. ELEVATION
- NTS NOT TO SCALE
- BSL BUILDING SETBACK LINE
- SF SQUARE FEET











CIVIL ENGINEER:
MCKIM & CREED, INC.
D. PATRICK JEHLE, JR.
1206 N. PALAFOX ST.
PENSACOLA, FLORIDA 32501
(850) 994-9503

SURVEYOR:
MCKIM & CREED
JAMES DANIEL LEVINER
1206 N. PALAFOX ST.
PENSACOLA, FLORIDA 32501
(850) 994-9503

OWNER AND DEVELOPER:
DAVID A. RICHBOURG, MANAGER
DABO HOLDINGS, LLC.,
209 CEVALLOS ST.
PENSACOLA, FL 32502
(850) 324-3200

MCKIM&CREED
1206 N. Palafox St.
Pensacola, Florida 32501
Phone: (850) 994-9503
FL Surveying Business #LB7917
FL Certificate of Authorization# 29588
www.mckimcreed.com

DECLARATION OF RESTRICTIVE COVENANTS FILED IN OFFICIAL RECORDS BOOK _______, PAGE _______.

SHEET 2 OF 2

PLAT BOOK _____, PAGE _____ .

Pam Childers
CLERK OF THE CIRCUIT COURT
ESCAMBIA COUNTY FLORIDA
INST# 2023084310 10/18/2023 2:03 PM
OFF REC BK: 9056 PG: 1362 Doc Type: WD
Recording $27.00 Deed Stamps $2.10

Prepared By and Return To:
Sally B. Fox, of
Emmanuel, Sheppard & Condon, P.A.
30 S. Spring Street
Pensacola, FL 32502
File #16493161231
Parcel I.D. a portion of 000S009001003364

WARRANTY DEED

This WARRANTY DEED dated this 29th of September 2023, **DABO'S HOLDINGS, LLC, a Florida limited liability company,** whose mailing address is 203 Cevallos Street, Pensacola, Florida 32502 hereinafter called the GRANTOR, to **200 OFFICE COMPLEX, LLC, a Florida limited liability company,** whose mailing address is 260 S. Tarragona Street, Suite 240-D, Pensacola, Florida 32502, hereinafter called the GRANTEE. (Wherever used herein the terms "Grantor" and "Grantee" include all parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations.)

WITNESSETH: That the GRANTOR, for and in consideration of the sum of $10.00 and other valuable considerations, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the GRANTEE, all that certain land situate in **ESCAMBIA** County, Florida, to-wit:

SEE EXHIBIT "A' for legal description

GRANTOR warrants and represents that the above-described property does not constitute the homestead of GRANTOR for any purposes under Florida law or the Florida Constitution and the property is not adjacent to or contiguous to the GRANTOR'S homestead. No member of the grantor's family dependent upon them for support resides on the subject property. The address of the actual domicile of the grantors is stated above.

SUBJECT TO covenants, conditions, restrictions, reservations, limitations, easements and agreements of record, if any; taxes and assessments for the year **2023** and subsequent years; and to all applicable zoning ordinances and/or restrictions and prohibitions imposed by governmental authorities, if any.

TOGETHER with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

TO HAVE AND TO HOLD, the same in fee simple forever.

AND THE GRANTOR hereby covenants with said GRANTEE that except as above noted, the GRANTOR is lawfully seized of said land in fee simple; that the GRANTOR has good right and lawful authority to sell and convey said land; that the GRANTOR hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever.

IN WITNESS WHEREOF, GRANTOR has signed and sealed these presents the date set forth above.

Signed in the presence of
the following witnesses:

DABO'S HOLDINGS, LLC
a Florida limited liability company

BY: [signature]
David A. Richbourg
Its: Member & Manager

[signature]
Print Name: Sally Fox
Address: 30 So. Spring St
Pensacola FL 32502

[signature]
Print Name: Alisa J. Kiker
Address: 30 S. Spring St.
Pensacola, Fl. 32502

STATE OF FLORIDA)
COUNTY OF ESCAMBIA)

The foregoing instrument was acknowledged before me by means of (✓) physical presence or ( ) online notarization, this 18th day of ~~September~~ October 2023, by David A. Richbourg, as Member and Manager of Dabo's Holdings, LLC, a Florida limited liability company, on behalf of the company, (✓) who is personally known to me or ( ) who has produced ______________________ as identification.

[signature]
Notary Public
[Notary Seal]

ALISA J. KIKER
Notary Public, State of Florida
My Comm. Expires Mar. 25, 2026
Commission No. HH 219994

EXHIBIT "A"
Legal Description

A portion of that property described in Official Records Book 8964, at page 1924, of the Public Records of Escambia County, Florida, being more particularly described as follows:

Commence at the Southwest corner of Lot 359, Block 23, Old City Tract, City of Pensacola, according to the map of said city copyrighted by Thomas C. Watson in 1906, said point being located at the intersection of the North right-of-way of East Intendencia Street (40.75 foot right-of-way) and the East right-of-way line of Tarragona Street (60 foot right-of-way); thence proceed North 09 degrees 26 minutes 48 seconds West along said East right-of-way line a distance of 168.55 feet to the Northwest corner of said lot 359 being also the Southwest corner of that property as described in Official Records Book 8964, Page 1924, of the Public Records of Escambia County, Florida; thence continue North 09 degrees 26 minutes 48 seconds West along said right-of-way a distance of 2.50 feet to the Southwest corner of Lot 5, Tarragon Square as recorded in Plat Book 17, Page 24, of the Public Records of Escambia County, Florida; thence departing said right-of-way line proceed North 80 degrees 23 minutes 20 seconds East along the South line of said Lot 5, a distance of 84.05 feet to the Point of Beginning; thence continue North 80 degrees 23 minutes 20 seconds East along the South line a distance of 22.68 feet to the Southeast corner of said Lot 5, thence proceed South 09 degrees 48 minutes 07 seconds East a distance of 2.50 feet to the Southeast corner of that property described in Official Records Book 8964, Page 1924, of the Public Records of Escambia County Florida, said point being on the North line of Lot 360, Block 23 of the aforesaid Old City Tract, City of Pensacola; thence proceed South 80 degrees 23 minutes 20 seconds West along the South line of said property a distance of 22.69 feet to the Northeast corner of the aforesaid Lot 359; thence proceed North 09 degrees 22 minutes 20 seconds West a distance of 2.50 feet to the Point of Beginning.

Lying a being a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida

ESC EMMANUEL SHEPPARD & CONDON

ATTORNEYS AT LAW SINCE 1913

Sally Bussell Fox
Board Certified Real Estate Attorney

30 S Spring Street, Pensacola, FL 32502
(O) 850.433.6581 | (F) 850.434.5856
sfox@esclaw.com

November 27, 2023

Dabos' Holdings, LLC
209 Cevallos Street
Pensacola, Florida 32502

Re: Terraces at Tarragona

Dear David:

We have acted as counsel for Dabo's Holdings, LLC ("Owner") in connection with the platting and proposed development of Terraces at Tarragona located at 100 Block South, Tarragona Street, Pensacola, Florida 32502 (the "Development") in the City of Pensacola, Escambia County, Florida, as more particularly described in Exhibit "A" to this letter (the "Property").

We are admitted to practice law in the State of Florida, and we express no opinion with respect to the effect of any law other than the law of the State of Florida.

In connection with the approval of that certain plat (the "Plat") of the Development, we have performed a title search of the Property and have obtained a "Property Information Report," a copy of which is attached hereto as Exhibit "B." Based solely upon our examination of the Property Information Report, Report #20111430, dated July 26, 2023 and prepared by Alliant National Title Company ("Title Report"), and assuming the accuracy of the information contained therein, it is our opinion that as of the date of the Title Report, fee simple title to the Property was vested in Owner, Dabo's Holdings, LLC. A true and complete copy of the Title Report is attached to this Opinion as Exhibit "B." We hereby confirm as follows:

1. Dabo's Holdings, LLC, a Florida limited liability company, is the owner of the Property.
2. There are no mortgages or liens that encumber the Property.
3. Taxes for the year 2022 have been paid in full.
4. The Property Information Report indicates there is a mineral reservation to Escambia County on the property. A copy of the mineral reservation is attached as Exhibit "C."
5. A copy of the two deeds that vested owner in title are attached as Composite Exhibit "D".

We assume no obligations to update or supplement this Opinion in response to subsequent changes in the law or future events affecting the Property or title thereto.

We confirm that: (a) we have no financial interest in the Property or Owner, other than with respect to the fees for legal services performed by us in connection with our representation of Owner in this matter; and (b) other than acting as counsel for Owner, we have no interest in Owner and do not serve as a director, officer, or an employee of Owner.

This opinion is given solely for the benefit of the addressee of this letter and the City of Pensacola Planning and Zoning Department and shall not be relied upon by third parties without the express written consent of the undersigned.

Sincerely,

Sally Fox

Sally Bussell Fox
For the Firm

SBF/rmm
Attachments (3)

cc: Dabo's Holdings, LLC

Exhibit A

ALL OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 8390, AT PAGE 292, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA.

ALONG AND TOGETHER WITH A PORTION OF THAT PROPERTY DESCRIBED IN OFFICIAL RECORDS BOOK 8964, AT PAGE 1924, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF LOT 359, BLOCK 23, OLD CITY TRACT, CITY OF PENSACOLA, ACCORDING TO THE MAP OF SAID CITY COPYRIGHTED BY THOMAS C. WATSON IN 1906, SAID POINT BEING LOCATED AT THE INTERSECTION OF THE NORTH RIGHT-OF-WAY LINE OF EAST INTENDENCIA STREET (40.75 FOOT RIGHT-OF-WAY) AND THE EAST RIGHT-OF-WAY LINE OF TARRAGONA STREET (60 FOOT RIGHT-OF-WAY); THENCE PROCEED NORTH 09 DEGREES 26 MINUTES 48 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY LINE A DISTANCE OF 168.55 FEET TO THE NORTHWEST CORNER OF SAID LOT 359 BEING ALSO THE SOUTHWEST CORNER OF THAT PROPERTY AS DESCRIBED IN OFFICIAL RECORDS BOOK 8964, PAGE 1924 OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; THENCE CONTINUE NORTH 09 DEGREES 26 MINUTES 48 SECONDS WEST ALONG SAID EAST RIGHT-OF-WAY A DISTANCE OF 2.50 FEET TO THE SOUTHWEST CORNER OF LOT 5, TARRAGON SQUARE AS RECORDED IN PLAT BOOK 17, PAGE 24, OF THE PUBLIC RECORDS OF ESCAMBIA COUNTY, FLORIDA; THENCE DEPARTING SAID RIGHT-OF-WAY LINE PROCEED NORTH 80 DEGREES 23 MINUTES 20 SECONDS EAST ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 84.05 FEET; THENCE DEPARTING SAID SOUTH LINE OF LOT 5, PROCEED SOUTH 09 DEGREES 22 MINUTES 20 SECONDS EAST A DISTANCE OF 2.50 FEET TO THE NORTHEAST CORNER OF THE AFORESAID LOT 359; THENCE CONTINUE SOUTH 09 DEGREES 22 MINUTES 20 SECONDS EAST ALONG THE EAST LINE OF SAID LOT 359, A DISTANCE OF 168.27 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF THE AFORESAID EAST INTENDENCIA STREET (40.75 FOOT RIGHT-OF-WAY); THENCE PROCEED SOUTH 80 DEGREES 12 MINUTES 04 SECONDS WEST ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 83.83 FEET TO THE POINT OF BEGINNING.

LYING IN AND BEING A PORTION OF SECTION 46, TOWNSHIP 2 SOUTH, RANGE 30 WEST, ESCAMBIA COUNTY, FLORIDA AND CONTAINING 0.33 ACRES OR 14346.0 SQUARE FEET MORE OR LESS.

EXHIBIT B

ALLIANT NATIONAL
TITLE INSURANCE COMPANY

Agent File Number: 16493-158854 Alliant File Number: 20111430

Revised Property Information Report

July 26 2023

Agent Name: Emmanuel Sheppard & Condon, P.A.
30 South Spring Street, Pensacola, Florida 32502

Re: 16493-158854

Search From: September 19, 1986 (Parcel 1) and May 22, 1952 (Parcel 2) To: July 18, 2023 at 6:00 AM

In the Public Records of: Escambia

Owner of Record: Dabo's Holdings, LLC, a Florida limited liability company
By Virtue of: Warranty Deed recorded in Official Records Book 8390, Page 292 (Parcel 1) and County Deed recorded in Official Records Book 8964, Page 1924, of said Records.

Legal Description:

All of that property described in Official Records Book 8390, at page 292, of the Public Records of Escambia County, Florida. Along and together with a portion of that property described in Official Records Book 8964, at page 1924, of the Public Records of Escambia County, Florida, being more particularly described as follows:

Begin at the Southwest corner of Lot 359, Block 23, Old City Tract, City of Pensacola, according to the map of said city copyrighted by Thomas C. Watson in 1906, said point being located at the intersection of the North right-of-way of East Intendencia Street (40.75 foot right-of-way) and the East right-of-way line of Tarragona Street (60 foot right-of-way); thence proceed North 09 degrees 26 minutes 48 seconds West along said East right-of-way line a distance of 168.55 feet to the Northwest corner of said lot 359 being also the Southwest corner of that property as described in Official Records Book 8964, Page 1924 , of the Public Records of Escambia County, Florida; thence continue North 09 degrees 26 minutes 48 seconds West along said East right-of-way a distance of 2.50 feet to the Southwest corner of Lot 5, Tarragon Square as recorded in Plat Book 17, Page 24, of the Public Records of Escambia County, Florida; thence departing said right-of-way line proceed North 80 degrees 23 minutes 20 seconds East along the South line of said Lot 5, a distance of 84.05 feet; thence departing said South line of Lot 5, proceed South 09 degrees 22 minutes 20 seconds East a distance of 2.50 feet to the Northeast corner of the aforesaid Lot 359; thence continue South 09 degrees 22 minutes 20 seconds East along the East line of said Lot 359, a distance of 168.27 feet to a point on the North right-of-way line of the aforesaid East Intendencia Street (40.75 foot right-of-way); thence proceed South 80 degrees 12 minutes 04 seconds West along said North right-of-way line a distance of 83.83 feet to the Point of Beginning.

Lying a being a portion of Section 46, Township 2 South, Range 30 West, Escambia County, Florida.

ALLIANT NATIONAL
TITLE INSURANCE COMPANY

Agent File Number: 16493-158854 Alliant File Number: 20111430

Revised Property Information Report

Mortgage Information:

NOTE: A search of the public records reveals no open mortgage. Closer should confirm with owner that property is free and clear. (Parcels 1 and 2)

Judgment and Lien Information:
N/A

Tax Information:
2022 Tax Year Parcel/Folio No.: 000S009001003359 Gross Tax Amount:$9,225.65
Status of 2022 Taxes: Paid. (Parcel 1)

2022 Tax Year Parcel/Folio No.: 000S009001003364 Gross Tax Amount:$0.00
Status of 2022 Taxes: Non Due (Parcel 2)

Informational:
Mineral Reservations contained in Official Records Book 8964, Page 1924, of the Public Records of Escambia County, Florida. (Parcel 2)

The above-captioned property has been searched only by the above description and by no other description or name. This report purposely omits restrictions, easements, subdivision agreements and any reference to mortgages, judgments and/or liens which appear to be satisfied of record or have expired pursuant to Florida Statues.

This report does not reflect those documents, if any, which may have been recorded prior (other than an assumed mortgage) or subsequent to the time period covered herein and which may disclose the possible existence of encumbrances, liens, rights, interests or other matters which may affect the subject property.

This report is not title insurance. Pursuant to s. 627.7843, Florida Statutes, the maximum liability of the issuer of this property information report for errors or omissions in this property information report is limited to the amount paid for this property information report, and is further limited to the person(s) expressly identified by name in the property information report as the recipient(s) of the property information report.

This Company expressly disclaims any liability for loss or damage resulting from reliance on this certificate in excess of the fee paid to ALLIANT NATIONAL TITLE INSURANCE COMPANY.

ALLIANT NATIONAL TITLE INSURANCE COMPANY

Recorded in Public Records 4/20/2023 2:42 PM OR Book 8964 Page 1924, Instrument #2023031477, Pam Childers Clerk of the Circuit Court Escambia County, FL Recording $18.50 Deed Stamps $17.50

This document was prepared by:
Stephen G. West
Senior Assistant County Attorney
Escambia County Attorney's Office
221 Palafox Place, Suite 430
Pensacola, Florida 32502
(850) 595-4970

STATE OF FLORIDA
COUNTY OF ESCAMBIA

DEED

THIS DEED is made this 20th day of April, 2023, by Escambia County, a political subdivision of the State of Florida, acting by and through its duly authorized Board of County Commissioners, whose address is 221 Palafox Place, Pensacola, Florida 32502 (Grantor), and Dabo's Holdings, LLC, a Florida limited liability company, whose address is 209 Cevallos Street, Pensacola, Florida 32502 (Grantee).

WITNESSETH, that Grantor, for and in consideration of the sum of Two Thousand, Five Hundred Dollars ($2,500.00), and other good and valuable consideration in hand paid by Grantee, the receipt of which is acknowledged, conveys to Grantee and Grantee's heirs, executors, administrators, successors and assigns forever, the following land in Escambia County, Florida, more particularly described as follows:

S 2 1/2 FT OF W 106 1/2 FT OF LT 364 BLK 23 OR 4187 P 300 OLD CITY TRACT CA 74.
SECTION 00, TOWNSHIP 0 SOUTH, RANGE 00 WEST
REFERENCE NUMBER 00-0S-00-9001-003-364
TAX ACCOUNT NUMBER 13-0613-000.

THIS CONVEYANCE IS SUBJECT TO taxes and assessments for the year 2023 and subsequent years; outstanding and unpaid taxes and assessments, if any, from previous years; conditions, easements, and restrictions of record, if any, but this reference does not operate to reimpose them; zoning ordinances and other restrictions and prohibitions imposed by applicable governmental authorities.

GRANTOR RESERVES an undivided 3/4 interest in, and title in and to an undivided 3/4 interest in, all the phosphate, minerals and metals that are or may be in, on, or under the Property and an undivided 1/2 interest in all the petroleum that is or may be in, on, or under the Property with the privilege to mine and develop the same.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed in its name by its Board of County Commissioners acting by the Chairman of the Board, the day and year first above written.

ESCAMBIA COUNTY, FLORIDA by and through its duly authorized BOARD OF COUNTY COMMISSIONERS

Lumon J. May, Chairman

ATTEST: Pam Childers
Clerk of the Circuit Court

(SEAL)

Deputy Clerk

THE BOARD OF COUNTY COMMISSIONERS ESCAMBIA CO., FL

BCC Approved: 1-19-2023

Date Executed
4/20/2023

Recorded in Public Records 10/23/2020 3:33 PM OR Book 8390 Page 292, Instrument #2020089147, Pam Childers Clerk of the Circuit Court Escambia County, FL Recording $18.50 Deed Stamps $5,229.00

Prepared by and return to:
Kerry Anne Schultz

Schultz Law Group, P.L.L.C.
2779 Gulf Breeze Parkway
Gulf Breeze, FL 32563
850-754-1600
File Number: **20-01051.RC**

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 23rd day of October, 2020 between **Group T, LLC, a Florida limited liability company** whose post office address is **5 E. Garden Street, Pensacola, FL 32502**, grantor, and **Dabo's Holdings, LLC a Florida limited liability company** whose post office address is **209 Cevallos Street, Pensacola, FL 32502**, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of TEN AND NO/100 DOLLARS ($10.00) and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **Escambia County, Florida** to-wit:

Lot 359, Block 23, Old City Tract, City of Pensacola, Escambia County Florida, according to the map of said city copyrighted by Thomas C. Watson in 1906.

Parcel Identification Number: 000S009001003359

Subject to reservations, restrictions and easements of record which are not hereby reimposed, and any zoning ordinances.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2019.**

In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Group T, LLC

By: Harry Levin

Harry Levin, Manager

Witness Name: Kerry Anne Schultz

Witness Name: Barbara Risley

State of Florida

County of Escambia

The foregoing instrument was acknowledged before me by means of [X] physical presence or [ ] online notarization, this 22 day of October, 2020 by Harry Levin, Manager of Group T, LLC, on behalf of the company, who [ ] is personally known to me or [X] has produced a driver's license as identification.

[Notary Seal]

Notary Public

Printed Name:

My Commission Expires:

KERRY ANNE SCHULTZ
Notary Public - State of Florida
Commission # GG 251595
My Comm. Expires Dec 16, 2022
Bonded through National Notary Assn.

Recorded in Public Records 4/20/2023 2:42 PM OR Book 8964 Page 1924, Instrument #2023031477, Pam Childers Clerk of the Circuit Court Escambia County, FL Recording $18.50 Deed Stamps $17.50

This document was prepared by:
Stephen G. West
Senior Assistant County Attorney
Escambia County Attorney's Office
221 Palafox Place, Suite 430
Pensacola, Florida 32502
(850) 595-4970

STATE OF FLORIDA
COUNTY OF ESCAMBIA

DEED

THIS DEED is made this 20th day of April, 2023, by Escambia County, a political subdivision of the State of Florida, acting by and through its duly authorized Board of County Commissioners, whose address is 221 Palafox Place, Pensacola, Florida 32502 (Grantor), and Dabo's Holdings, LLC, a Florida limited liability company, whose address is 209 Cevallos Street, Pensacola, Florida 32502 (Grantee).

WITNESSETH, that Grantor, for and in consideration of the sum of Two Thousand, Five Hundred Dollars ($2,500.00), and other good and valuable consideration in hand paid by Grantee, the receipt of which is acknowledged, conveys to Grantee and Grantee's heirs, executors, administrators, successors and assigns forever, the following land in Escambia County, Florida, more particularly described as follows:

S 2 1/2 FT OF W 106 1/2 FT OF LT 364 BLK 23 OR 4187 P 300 OLD CITY TRACT CA 74.
SECTION 00, TOWNSHIP 0 SOUTH, RANGE 00 WEST
REFERENCE NUMBER 00-0S-00-9001-003-364
TAX ACCOUNT NUMBER 13-0613-000.

THIS CONVEYANCE IS SUBJECT TO taxes and assessments for the year 2023 and subsequent years; outstanding and unpaid taxes and assessments, if any, from previous years; conditions, easements, and restrictions of record, if any, but this reference does not operate to reimpose them; zoning ordinances and other restrictions and prohibitions imposed by applicable governmental authorities.

GRANTOR RESERVES an undivided 3/4 interest in, and title in and to an undivided 3/4 interest in, all the phosphate, minerals and metals that are or may be in, on, or under the Property and an undivided 1/2 interest in all the petroleum that is or may be in, on, or under the Property with the privilege to mine and develop the same.

IN WITNESS WHEREOF, Grantor has caused this deed to be executed in its name by its Board of County Commissioners acting by the Chairman of the Board, the day and year first above written.

ESCAMBIA COUNTY, FLORIDA by and through its duly authorized BOARD OF COUNTY COMMISSIONERS

Lumon J. May, Chairman

ATTEST: Pam Childers
Clerk of the Circuit Court

THE BOARD OF COUNTY COMMISSIONERS
SEAL
ESCAMBIA CO., FL

Deputy Clerk

BCC Approved: 1-19-2023

Date Executed
4/20/2023

MINUTES OF THE PLANNING BOARD
December 12, 2023

MEMBERS PRESENT: Vice Chairperson Larson, Board Member Grundhoefer, Board Member Villegas, Board Member Powell Board Member Van Hoose

MEMBERS ABSENT: Chairperson Ritz, Board Member Sampson

STAFF PRESENT: Planning & Zoning Manager Cannon, Assistant Planning & Zoning Manager Harding, Assistant City Attorney Lindsay, Help Desk Technician Russo, Parking Manager Dees, Executive Assistant Chwastyk

STAFF VIRTUAL: Development Services Director Morris

OTHERS PRESENT: Jonathan Green, Mark Whitney

AGENDA:
- Quorum/Call to Order
- Approval of Meeting Minutes from November 14, 2023

  New Business:
- Site Plan and Aesthetic Review Application – 70 Gathering Green West – Gateway Redevelopment District-1
- Request for Final Plat Approval – Terraces at Tarragona
- Open Forum
- Discussion
- Adjournment

Call to Order / Quorum Present
Vice Chairperson Larson 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 November 14, 2023, minutes, seconded by Board Member Powell, and it carried 4:0.**

New Business –

Aesthetic Review Application – 70 Gathering Green West – Gateway Redevelopment District – 1, Aragon Subdivision

Assistant Planning & Zoning Manager, Harding introduced the item, Mark Whitney, Whitney Architecture, is requesting site plan and aesthetic approval for a new single-family residence in the Aragon subdivision. The building is a corner lot in the Small Cottages V design group and will have smooth Hardi siding and a shingle roof, PGT vinyl windows, and wood doors. Approval has been received from the Aragon Architectural Review Board. Mark Whitney, architect, and applicant, presented to the board. It was clarified that the Aragon ARB approved the project and Board Member Grundhoefer asked questions on their specific comments. All comments had been addressed prior to the Planning Board meeting. All colors had also been approved. All staff comments had also been addressed. Board Member Grundhoefer thought it was a handsome design.

Board Member Powell made the motion to approve as presented. The motion was seconded by Board Member Villegas, and it carried 4-0.

Request for Final Plat Review Application – Terraces at Tarragona – Site Specific Development

Assistant Planning & Zoning Manager, Harding introduced the item. McKim & Creed is requesting final plat approval for the Terraces at Tarragona subdivision located at 120 S. Tarragona Street. This property is located in a Site-Specific Development (SSD) zoning district, along with the Pensacola Historic District, the Palafox Historic Business District, and the Dense Business Area. One (1) parcel will be subdivided into six (6) lots to accommodate single-family attached residences. The property area is 0.33 acres. The maximum density is 35 dwellings. The setback requirements include: front setback of 2', rear setback of 20', north side yard setback of 5' and south side yard setback of 2'. The preliminary plat was approved in August 2022. This request has been routed through the various City departments and utility providers. Assistant Planning and Zoning Division Manager Harding provided an overview of site-specific developments and provided some background information on this specific development. In 2006, there was a major revision to the site-specific development which required, and was granted, ARB and City Council approval, showing six attached townhomes on individual parcels. The 2006 approved plans show that the development would accommodate front-entry parking along Tarragona Street. While front-entry parking might not normally be approved by ARB in the historic districts, this has site-specific development zoning, so not all historic district standards are applied, and there is precedence with the development to the north and due to the 2006 approval. In 2022, ARB approved current plans, upholding the form, massing, and general development layout of the 2006 approval. Presently, there are several on-street parking spaces along Tarragona and directly in front of the proposed subdivision, and the applicant has been in contact with Parking Services. Since subdivision plats only concern the division of land, Planning Board's review is limited to within the property boundaries and as a technical review.

Jonathan Green presented to the board and reported that the only change from the preliminary plat was an added +/- 2' strip of land once owned by the County on the north end, slightly increasing the northern parcel, but not impacting the size of the other proposed lots nor the proposed buildings. It was clarified that the proposed construction has been approved by ARB, and that any changes would require further review. Board Member Grundhoefer expressed concerns that people may park in the right of way, and

staff commented that parking was not permitted on sidewalks, Code Enforcement would respond to any complaints of violation.
Board Member Van Hoose arrived.
Since the site is nearly 100% paved, there were no further stormwater retention requirements. Right of way work would include curb cuts and any proposed improvements would be constructed to city standards and maintained by the property owner, but that it would remain public right of way.
Vice Chairperson Larson stated that for Planning Board's purposes, they are reviewing the division of one parcel into to 6 parcels.
Board Member Villegas made the motion to approve. The motion was seconded by Board Member Powell, and it carried 5-0.

Open Forum – Planning and Zoning Manager Cannon provided an update on the LDC assessment by Inspire Placemaking Collective. Planning Board requested an on-going discussion item for continual updates and staff agreed. Staff also provided an update on items going to Council for review, such as the LDC amendment providing building height bonuses and review of a subdivision plat.

Discussion Items – None.

Adjournment – With no further business, the Board adjourned at 2:35 p.m.

Respectfully Submitted,

Gregg Harding, RPA
Assistant Planning & Zoning Manager
Secretary of the Board

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-28 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

ACCEPTANCE OF AWARD OF FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT AWARD AGREEMENT NO. HS002 - DISASTER RELIEF FUNDING FOR PORT OF PENSACOLA

RECOMMENDATION:

That City Council approve acceptance of Florida Commerce Community Development Block Grant Disaster Recovery Award Agreement No. HS002 for the stormwater retrofitting and redevelopment of the Port of Pensacola, in the amount of $9,103,935.38. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

HEARING REQUIRED:

SUMMARY:

City of Pensacola has been awarded $9,103,935.38 to make necessary stormwater related repairs at the Port of Pensacola related to recent natural disaster known as "Hurricane Sally" including repair the water distribution system, rail tracks, asphalt, substrate, and underlying soils at the Port.

PRIOR ACTION:

City of Pensacola has previously worked with FEMA to obtain natural disaster relief monies to make repairs related to Hurricane Sally.

FUNDING:

BUDGET: $9,103,935.38 - CDBG-DR Grant Funding
$2,374,918 - FDOT PTGA Pavement Grant Funding

$11,478,853.38 - Project Total

ACTUAL: $9,103,935.38 - CDBG-DR Grant Funding
$2,374,918 - FDOT PTGA Pavement Grant Funding

$11,478,853.38 - Project Total

FINANCIAL IMPACT:

Port of Pensacola plans to fund this project through the CDBG-DR funds and FDOT PTGA grant funds. Therefore, no financial impact is expected for the City of Pensacola.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

1/5/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Lovoy, Finance Director
Clark Merrit, Port Director
William Boyer, Grants and Special Projects Coordinator

ATTACHMENTS:

1. Grant Agreement

PRESENTATION: No

State of Florida
Department of Commerce
Federally Funded
Community Development Block Grant
Disaster Recovery (CDBG-DR) Rebuild Florida
Infrastructure Repair Program
Subrecipient Agreement

THIS AGREEMENT is entered into by the State of Florida, Department of Commerce, ("Commerce" or "Grantee") and the **City of Pensacola, Florida** ("Subrecipient"), each individually a "Party" and collectively "the Parties."

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, pursuant to the authority of the Disaster Relief Supplemental Appropriations Act, 2022 (Pub. L. 117–43) approved September 30, 2021 (hereinafter the "Appropriations Act")The requirements of the Appropriations Act and implementing regulations at 24 CFR part 570, and the requirements of the Federal Register (FN) notice, 87 FR 6364 (Docket No. FR–6303–N–01) (February 3, 2022), and 87 FR 31636 (Docket No. FR-6326-N-01) (May 24,2022) (hereinafter the "Federal Register Guidance"), as now in effect and as may be amended from time to time, and as modified by waivers, alternative requirements, and other requirements described in in Federal Register notices published as of this date or in the future, the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD") has awarded Community Development Block Grant - Disaster Recovery (CDBG-DR) funds to Commerce for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C.) 5301 *et seq.*) and described in the 2022 State of Florida Action Plan for Disaster Recovery, as now in effect and as may be amended from time to time (hereinafter the "Action Plan").

WHEREAS, CDBG-DR funds made available for use by Subrecipient under this Agreement constitute a subaward of the Grantee's Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations and the terms and conditions of Commerce's Federal award.

WHEREAS, Subrecipient has legal authority to enter into this Agreement and by signing this Agreement, Subrecipient represents and warrants to Commerce that it will comply with all the requirements of the subaward described herein.

WHEREAS, the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income persons in a manner that ensures at least 70 percent of the grant amount awarded under this Agreement is expended for activities that benefit such persons.

NOW THEREFORE, Commerce and Subrecipient agree to the following:

(1) Scope of Work. The Scope of Work for this Agreement includes Attachment A, Scope of Work. With respect to Attachment B, Project Budget, and Attachment C, Activity Work Plan, Subrecipient shall submit to Commerce such Attachments in conformity with the current examples attached hereto as necessary and appropriate. Provided further, if there is a disagreement between the Parties, with respect to the formatting and contents of such attachments, then Commerce's decisions with respect to same shall prevail, at Commerce's sole and absolute discretion.

(2) Incorporation of Laws, Rules, Regulations and Policies. Subrecipient agrees to abide by all applicable State and Federal laws, rules and regulations, as now in effect and as may be amended from time to time, including but not limited to, the Federal laws and regulations set forth in 24 CFR Part 570 applicable Federal Register Notices, and the State's Action Plan, and all applicable CDBG-DR regulations and guidelines.

Subrecipient shall ensure that all its activities under this Contract shall be conducted in conformance with these provisions, as applicable: 45 CFR Part 75, 29 CFR Part 95, 2 CFR Part 200, 20 CFR Part 601, 24 CFR Part 570 subpart I, *et seq*., and all other applicable federal laws, regulations, and policies governing the funds provided under this Agreement as now in effect and as may be amended from time to time.

(3) Period of Agreement. This Agreement begins upon execution by both Parties (the "Effective Date") and ends **June 30, 2027**, unless otherwise terminated as provided in this Agreement. Commerce shall not grant any extension of this Agreement unless Subrecipient provides justification satisfactory to Commerce in its sole discretion and Commerce's Director of the Division of Community Development approves such extension.

(4) Modification of Agreement. Modifications to this Agreement shall be valid only when executed in writing by the Parties. Any modification request by Subrecipient constitutes a request to negotiate the terms of this Agreement. Commerce may accept or reject any proposed modification based on Commerce's sole determination and absolute discretion, that any such acceptance or rejection is in the State's best interest.

(5) Records.

(a) Subrecipient's performance under this Agreement shall be subject to 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards as now in effect and as may be amended from time to time.

(b) Representatives of Commerce, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, and representatives of the Federal government and their duly authorized representatives shall have access to any of Subrecipient's books, documents, papers and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

(c) Subrecipient shall maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by Commerce under this Agreement.

(d) Subrecipient will provide to Commerce all necessary and appropriate financial and compliance audits in accordance with Paragraph (7), Audit Requirements and Attachments I and J herein and ensure that all related party transactions are disclosed to the auditor.

(e) Subrecipient shall retain sufficient records to show its compliance with the terms of this Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this Agreement for a period of six (6) years from the date Commerce issues the final closeout for this award. Subrecipient shall also comply with the provisions of 24 CFR 570.493 and 24 CFR 570.502(a)(7)(ii). Subrecipient shall further ensure that audit working papers are available upon request for a period of six (6) years from the date Commerce issues the final closeout of this Agreement, unless extended in writing by Commerce. The six-year period may be extended for the following reasons:

1. Litigation, claim or audit initiated before the six-year period expires or extends beyond the six-year period, in which case the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at $1,000 or more at the time of acquisition shall be retained for six (6) years after final disposition.
3. Records relating to real property acquired shall be retained for six (6) years after the closing on the transfer of title.

(f) Subrecipient shall maintain all records and supporting documentation for Subrecipient and for all contractors, subcontractors and consultants paid from funds provided under this Agreement, including documentation of all program costs in a form sufficient to determine compliance with the requirements and objectives of the scope of work and all other applicable laws and regulations.

(g) Subrecipient shall either (i) maintain all funds provided under this Agreement in a separate bank account or (ii) ensure that Subrecipient's accounting system shall have sufficient internal controls to separately track the expenditure of all funds from this Agreement. Provided further, that the only option available for advanced funds is to maintain such advanced funds in a separate bank account. There shall be no commingling of funds provided under this Agreement with any other funds, projects or programs. Commerce may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as described herein, Subparagraph (21)(e), Repayments.

(h) Subrecipient, including all of its employees or agents, contractors, subcontractors and consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to representatives of Commerce, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the Federal government or their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(6) Audit Requirements.

(a) Subrecipient shall conduct a single or program-specific audit in accordance with the provisions of 2 CFR part 200 if it expends seven hundred fifty thousand dollars ($750,000) or more in Federal awards from all sources during its fiscal year.

(b) Within sixty (60) calendar days of the close of Subrecipient's fiscal year, on an annual basis, Subrecipient shall electronically submit a completed Audit Compliance Certification to audit@Commerce.fl.gov, and Commerce's grant manager; a blank version of which is attached hereto as Attachment J. Subrecipient's timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between Commerce and Subrecipient.

(c) In addition to the submission requirements listed in Attachment I, Audit Requirements, Subrecipient shall send an electronic copy of its audit report to Commerce's grant manager for this Agreement by June 30 following the end of each fiscal year in which it had an open CDBG-DR subgrant.

(d) Subrecipient shall also comply with the Federal Audit Clearinghouse rules and directives, including but not limited to the pertinent Report Submissions provisions of 2 CFR 200.512, when such provisions are applicable to this Agreement.

(7) Reports.

Subrecipient shall provide Commerce with all reports and information set forth in Attachment G, Reports. The monthly reports and administrative closeout reports must include the current status and progress of Subrecipient and all subcontractors in completing the work described in the Scope of Work, Attachment A, and the expenditure of funds under this Agreement. Within 10 calendar days of a request by Commerce, Subrecipient shall provide additional program updates or information. Without limiting any other remedy available to Commerce, if all required reports and copies are not sent to Commerce or are not completed in a manner acceptable to Commerce, payments may be withheld until the reports are completed to Commerce's satisfaction. Commerce may also take other action as stated in Paragraph (12) Remedies or otherwise allowable by law.

(8) Inspections and Monitoring.

(a) Subrecipient shall cooperate and comply with Commerce, HUD, and auditors with any inspections and will immediately provide access to records and financial statements as deemed necessary by Commerce, HUD, and their respective auditors at least in accordance with requirements of 2 CFR part 200 and 24 CFR_570.489.

(b) Subrecipient shall cooperate and comply with monitoring of its activities as deemed necessary by Commerce to ensure that the subaward is used for authorized purposes in compliance with federal statutes, regulations, and this Agreement.

(c) Without limiting the actions Commerce, HUD, or their respective investigators may take, monitoring procedures will include at a minimum: (1) reviewing financial and performance reports required by the Grantee, (2) following-up and ensuring that Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the Grantee as detected through audits, on-site reviews and other means, and (3) issuing a management decision for audit findings pertaining to this Federal award provided to Subrecipient from the Grantee as required by 2 CFR §200.521.

(d) Corrective Actions: Commerce may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits Commerce may require Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the pass-through entity as detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, Commerce may in its sole discretion and without advance notice, impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance. Commerce may also take other action as stated in Paragraph (12) Remedies or otherwise allowable by law.

(9) Duplication of Benefits.

Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 *et seq.*) and described in Appropriations Acts. Subrecipient must comply with HUD's requirements for duplication of benefits, as described in the Federal Register and HUD guidance (including HUD training materials). Subrecipient shall carry out the activities under this Agreement in compliance with Commerce's procedures to prevent duplication of benefits. Subrecipient shall sign a Subrogation Agreement (See Attachment M).

(10) Liability.

(a) If Subrecipient is a state agency or subdivision, as defined in Section 768.28(2), F.S., pursuant to Section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability for the other Party for the other Party's negligence.

(b) Subrecipient assumes sole responsibility for the training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, Florida Statutes. Subrecipient shall defend, indemnify, and hold Commerce harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. For purposes of this Agreement, Subrecipient agrees that it is not an employee or agent of Commerce, but is an independent contractor.

(c) Subrecipient agrees to be fully responsible for its negligent or tortious acts or omissions, which result in claims or suits against Commerce. Subrecipient shall defend, indemnify, and hold Commerce harmless against any damages proximately caused by the acts or omissions to the tort monetary limits as set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by Commerce or the State of Florida to be sued by third parties in any matter arising out of any agreement, contract, or subcontract.

(d) Nothing herein is intended to serve as a waiver of sovereign immunity by Commerce or Subrecipient.

(11) Events of Default.

If any of the following events occur ("Events of Default"), Commerce may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in Paragraph (12) Remedies or pursue any remedy at law or in equity, without limitation:

(a) Any warranty or representation made by Subrecipient, in this Agreement or any previous agreement with Commerce, is or becomes false or misleading in any respect, or if Subrecipient fails to keep or perform any of the obligations, terms, or covenants in this Agreement or any previous agreement with Commerce or HUD, and/or has not cured them in timely fashion and/or is unable or unwilling to meet its obligations under this Agreement and/or as required by statute, rule, or regulation;

(b) Any material adverse change occurs in the financial condition of Subrecipient at any time during the term of this Agreement and Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by Commerce;

(c) If Subrecipient fails to submit any required report or submits any required report with incorrect, incomplete or insufficient information or fails to submit additional information as requested by Commerce;

(d) If Subrecipient fails to perform or timely complete any of its obligations under this Agreement, including participating in Commerce's Implementation Workshop. The Parties agree that in the event Commerce elects to make payments or partial payments after any Events of Default, it does so without waiving the right to exercise any remedies allowable herein or at law and without becoming liable to make any further payment.

(e) Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party. In the case of any delay Subrecipient believes is excusable under this paragraph, Subrecipient shall notify Commerce in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Subrecipient could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date Subrecipient first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE SUBRECIPIENT'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY**. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. Commerce, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Subrecipient of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against Commerce. Subrecipient shall not be entitled to an increase in the Agreement price or payment of any kind from Commerce for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Subrecipient shall perform at no increased cost, unless Commerce determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to Commerce or the State, in which case, Commerce may do any or all of the following: (1) accept allocated performance or deliveries from Subrecipient, provided that Subrecipient grants preferential treatment to Commerce with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Subrecipient for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

(12) Remedies.

If an Event of Default occurs, Commerce may in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to Subrecipient and if Subrecipient fails to cure within those thirty (30) calendar days Commerce may choose to exercise one or more of the following remedies, either concurrently or consecutively:

(a) Terminate this Agreement upon written notice by Commerce sent in conformity with Paragraph (16) Notice and Contact;

(b) Begin any appropriate legal or equitable action to enforce performance of this Agreement;

(c) Withhold or suspend payment of all or any part of a request for payment;

(d) Demand Subrecipient return to Commerce any funds used for ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and

(e) Exercise any corrective or remedial actions, including but not limited to:

1. Requesting additional information from Subrecipient to determine the reasons for or the extent of non-compliance or lack of performance;
2. Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
3. Advising Subrecipient to suspend, discontinue or refrain from incurring costs for any activities in question.

(f) Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude Commerce from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by Commerce to require strict performance does not affect, extend or waive any other right or remedy available or affect the later exercise of the same right or remedy by Commerce for any other default by Subrecipient.

(13) Dispute Resolution.

Commerce shall decide disputes concerning the performance of the Agreement, and document dispute decisions in writing and serve a copy of same on Subrecipient. All decisions are final and conclusive unless Subrecipient files a petition for administrative hearing with Commerce within twenty-one (21) days from the date of receipt of the decision. Exhaustion of administrative remedies prescribed in Chapter 120, F.S., is an absolute condition precedent to Subrecipient's ability to pursue any other form of dispute resolution; provided however, that the Parties may mutually agree to employ the alternative dispute resolution procedures outlined in Chapter 120, F.S.

(14) Citizen Complaints. The goal of Commerce is to provide an opportunity to resolve citizen complaints in a timely manner, usually within fifteen (15) business days of the receipt of the complaint as expected by HUD, if practicable, and to provide the right to participate in the process and appeal a decision when there is reason for an applicant to believe its application was not handled according to program policies. All applications, guidelines and websites will include details on the right to file a complaint or appeal and the process for filing a complaint or beginning an appeal.

The Subrecipient will handle citizen complaints by:

(a) Conducting investigations, as necessary;
(b) Finding a resolution; or
(c) Conducting follow-up actions.

Program Appeals

Applicants may appeal program decisions related to one of the following activities:
(a) A program eligibility determination;
(b) A program assistance award calculation; or
(c) A program decision concerning housing unit damage and the resulting program outcome.

Citizens may file a written complaint or appeal with the Office of Long-Term Resiliency by email at CDBG-DR@Commerce.fl.gov or by mail to the following address:

Attention: Office of Long-Term Resiliency
Florida Department of Commerce
107 East Madison Street
The Caldwell Building, MSC 420
Tallahassee, Florida 32399

HUD Complaints

If the complainant is not satisfied by the Subrecipient's determination or Commerce's response, then the complainant may file a written appeal by following the instructions issued in the letter of response. If the complainant has not been satisfied with the response at the conclusion of the complaint or appeals process, a formal complaint may then be addressed directly to the regional Department of Housing and Urban Development (HUD) at:

Department of Housing & Urban Development
Charles E. Bennet Federal Building
400 West Bay Street, Suite 1015
Jacksonville, FL 32202

Fair Housing Complaints

The Florida Office of Long-Term Resiliency operates in Accordance with the Federal Fair Housing Law (The Fair Housing Amendments Act of 1988). Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination: 1-800-669-9777 (Toll Free), 1-800-927-9275 (TTY) or www.hud.gov/fairhousing.

(15) Termination.

(a) Commerce may immediately suspend or terminate this Agreement for cause by providing written notice, from the date notice is sent by Commerce. Cause includes, but is not limited to; an Event of Default as set forth in this Agreement: Subrecipient's improper or ineffective use of funds provided under this Agreement; fraud; lack of compliance with any applicable rules, regulations, statutes, executive orders, HUD guidelines, policies, directives or laws; failure, for any reason, to timely and/or properly perform any of Subrecipient's obligations under this Agreement; submission of reports that are incorrect or incomplete in any material respect and refusal to permit public access to any document, paper, letter or other material subject to disclosure under law, including Chapter 119, F.S., as amended. The aforementioned reasons for termination are listed in the immediately preceding sentence for illustration purposes but are not limiting Commerce's sole and absolute discretion with respect to Commerce's right to terminate this Agreement. In the event of suspension or termination, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs.

(b) Commerce may unilaterally terminate this Agreement, in whole or in part, for convenience by providing Subrecipient fourteen (14) days written notice from the date notice is sent by Commerce, setting forth the reasons for such termination, the effective date and, in the case of partial termination, the portion to be terminated. However, if in the case of partial termination, Commerce determines that the remaining portion of the award will not accomplish the purpose for which the award was made, Commerce may terminate the portion of the award which will not accomplish the purpose for which the award was made. Subrecipient shall continue to perform any work not terminated. In the event of termination for convenience, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs for the terminated portion of work.

(c) The Parties may terminate this Agreement for their mutual convenience in writing, in the manner agreed upon by the Parties, which must include the effective date of the termination.

(d) In the event that this Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the Agreement after the date Subrecipient has received the notification of termination. Subrecipient shall cancel as many outstanding obligations as possible. Commerce shall disallow all costs incurred after Subrecipient's receipt of the termination notice. Commerce may, to the extent authorized by law, withhold payments to Subrecipient for the purpose of set-off until the exact amount of damages due to Commerce from Subrecipient is determined.

(e) Upon expiration or termination of this Agreement Subrecipient shall transfer to Commerce any CDBG-DR funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.

(f) Any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to subrecipient in the form of a loan) in excess of $25,000 must either:

1. Be used to meet a national objective until five years after expiration or termination of this Agreement, unless otherwise agreed upon by the Parties, or except as otherwise set forth herein; or
2. If not used to meet a national objective, Subrecipient shall pay to Commerce an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

(g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(16) Notice and Contact.

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, first class or certified mail with return receipt requested, email with confirmation of receipt of email from Subrecipient, to the representative identified below at the address set forth below or said notification attached to the original of this Agreement.

(b) The name and address of Commerce's Primary Grant Manager for this Agreement is:

Angela Lewis
107 E. Madison Street, MSC 400
Tallahassee, Florida 32399

Ph: (850) 921-3271
Angela.Lewis@Commerce.fl.gov

(c) The name and address of the Local Government Project Contact for this Agreement is:

Kevin Boyer
Grants and Special Projects, Coordinator
222 W. Main Street
Pensacola, Florida 32502
Ph: (850) 435-1822
kboyer@cityofpensacola.com

(d) If different representatives or addresses are designated by either Party after execution of this Agreement, notice of the name, title and address of the new representative will be provided to the other Party to this Agreement. Such change shall not require a formal amendment of the Agreement.

(17) Contracts.

If Subrecipient contracts any of the work required under this Agreement, a copy of the proposed contract and any proposed amendments, extensions, revisions or other changes thereto, must be forwarded to the Commerce grant manager for prior written approval. For each contract, Subrecipient shall report to Commerce as to whether that contractor or any subcontractors hired by the contractor, is a minority vendor, as defined in Section 288.703, F.S. Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.327 and §200.330 when procuring property and services under this Agreement (refer to Attachments D & E).

Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

(a) the period of performance or date of completion;
(b) the performance requirements;
(c) that the contractor is bound by the terms of this Agreement;
(d) that the contractor is bound by all applicable State and Federal laws, rules, and regulations;
(e) that the contractor shall hold Commerce and Subrecipient harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement;
(f) the obligation of Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement;
(g) the requirements of 2 CFR Appendix II to Part 200 – Contract Provision for Non-Federal Entity Contract Under Federal Awards – (refer to Attachment L)

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.489(l)), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

Subrecipient shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

(18) Terms and Conditions.

This Agreement contains all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement; and this Agreement supersedes all previous understandings. No waiver by Commerce may be effective unless made in writing by an authorized Commerce official.

(19) Attachments.

(a) If any inconsistencies or conflict between the language of this Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

(b) This Agreement contains the following attachments:

Attachment A – Scope of Work
Attachment B – Project Budget (Example)
Attachment C – Activity Work Plan (Example)
Attachment D – Program and Special Conditions
Attachment E – State and Federal Statutes, Regulations and Policies
Attachment F – Civil Rights Compliance
Attachment G – Reports
Attachment H – Warranties and Representations
Attachment I – Audit Requirements
Exhibit 1 to Attachment I – Funding Sources
Attachment J – Audit Compliance Certification
Attachment K – SERA Access Authorization Form
Attachment L – 2 CFR Appendix II to Part 200
Attachment M – Subrogation Agreement

(20) Funding/Consideration.

(a) The funding for this Agreement shall not exceed **Nine Million, One Hundred Three Thousand, Nine Hundred Thirty-Five Dollars and Thirty-Eight Cents ($9,103,935.38)**, subject to the availability of funds. The State of Florida and Commerce's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. or the Florida Constitution.

(b) Commerce will provide funds to Subrecipient by issuing a Notice of Subgrant Award/Fund Availability ("NFA") through Commerce's financial management information system. Each NFA may contain specific terms, conditions, assurances, restrictions or other instructions applicable to the funds provided by the NFA. By accepting funds made available through an NFA, Subrecipient agrees to comply with all terms, conditions, assurances, restrictions or other instructions listed in the NFA.

(c) By execution of this Agreement, Subrecipient certifies that necessary written administrative procedures, processes and fiscal controls are in place for the operation of its CDBG-DR program for which Subrecipient receives funding from Commerce. These written administrative procedures, processes and fiscal controls must, at minimum, comply with applicable state and federal law, rules, regulations, guidance and the terms of this Agreement. Subrecipient agrees to comply with all the terms and conditions of Attachment D, Program and Special Conditions.

(d) Subrecipient shall expend funds only for allowable costs and eligible activities, in accordance with the Scope of Work.

(e) Subrecipient shall request all funds in the manner prescribed by Commerce. The authorized signatory for Subrecipient set forth on the SERA Access Authorization Form, Attachment K, to this Agreement, must approve the submission of each Request for Funds ("RFF") on behalf of Subrecipient.

(f) Except as set forth herein, or unless otherwise authorized in writing by Commerce, costs incurred for eligible activities or allowable costs prior to the effective date of this Agreement are ineligible for funding with CDBG-DR funds.

(g) If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the Federal Office of Management and Budget, the Florida Legislature, the State Chief Financial Officer or under Subparagraph (22), Mandated Conditions of this Agreement, all obligations on the part of Commerce to make any further payment of funds will terminate and Subrecipient shall submit its administrative closeout report and subgrant agreement closeout package as directed by Commerce within thirty (30) calendar days from receipt of notice from Commerce.

(h) Subrecipient is ultimately responsible for the administration of this Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.

(i) All expenditures under this Agreement shall be made in accordance with this Agreement and any applicable state or federal statutes, rules, or regulations.

(j) Funding for this Agreement is appropriated under Public Law 117-43, Division I, the "The Disaster Relief Supplemental Appropriations Act, 2022" for the purpose of assisting in long-term recovery from major disasters that occurred in 2022 in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., (the "Stafford Act").

(k) CDBG-DR funds, appropriated and identified by Public Law, are governed by one or more Federal Register notices that contain requirements, applicable waivers, and alternative requirements that apply to the use of these funds.

(21) Repayments.

(a) Subrecipient shall only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period. Subrecipient shall ensure that its contractors, subcontractors and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.

(b) In accordance with Section 215.971, F.S., Subrecipient shall refund to Commerce any unobligated funds which have been advanced or paid.

(c) Subrecipient shall refund to Commerce any funds paid in excess of the amount to which Subrecipient or its contractors, subcontractors or consultants are entitled under the terms and conditions of this Agreement.

(d) Subrecipient shall refund to Commerce any funds received for an activity if the activity does not meet one of the three National Objectives listed in 24 CFR § 570.483(b), (c), and (d); provided, however, Subrecipient is not required to repay funds for subgrant administration unless Commerce, in its sole discretion, determines Subrecipient is at fault for the ineligibility of the activity in question.

(e) Subrecipient shall refund to Commerce any funds not spent in accordance with the conditions of this Agreement or applicable law. Such reimbursement shall be sent to Commerce, by Subrecipient, within thirty (30) calendar days from Subrecipient's receipt of notification of such non-compliance.

(f) In accordance with Section 215.34(2), F.S., if a check or other draft is returned to Commerce for collection, Subrecipient shall pay to Commerce a service fee of $15.00 or five percent of the face amount of the returned check or draft, whichever is greater. All refunds or repayments to be made to Commerce under this Agreement are to be made payable to the order of "Department of Commerce" and mailed directly to Commerce at the following address:

Department of Commerce
Community Development Block Grant Programs Cashier
107 East Madison Street – MSC 420
Tallahassee, Florida 32399-6508

(22) Mandated Conditions.

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by Subrecipient in this Agreement, in any later submission or response to a Commerce request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.

(b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. The Parties explicitly waive any right to jury trial.

(c) If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

(d) Any power of approval or disapproval granted to Commerce under the terms of this Agreement shall survive the term of this Agreement.

(e) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(f) Subrecipient shall comply with all applicable local, state and federal laws, including the Americans With Disabilities Act of 1990, as amended (P.L. 101-336, 42 U.S.C. § 12101 *et seq.*); the Florida Civil Rights Act, as amended, Chapter 760, Florida Statutes; Title VII of the Civil Rights Act of 1964, as amended; (P.L. 101-336, 42 U.S.C. § 12101 *et seq.*) and laws which prohibit discrimination by public and private entities on in employment, public accommodations, transportation, state and local government services and telecommunications.

(g) Pursuant to Section 287.133(2)(a), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies 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 thirty-five thousand dollars ($35,000) for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. By executing this Agreement, Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list. Subrecipient shall disclose if it or any of its affiliates is placed on the convicted vendor list.

(h) Pursuant to Section 287.134(2)(a), F.S., an entity or affiliate, as defined in Section 287.134(1), who has been placed on the discriminatory vendor list may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies 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. By executing this Agreement, Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list. Subrecipient shall disclose if it or any of its affiliates is placed on the discriminatory vendor list.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(j) In the event travel is pre-approved by Commerce, any bills for travel expenses shall be submitted and reimbursed in accordance with Section 112.061, F.S., the rules promulgated thereunder and 2 CFR § 200.474.

(k) If Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to Commerce or be applied against Commerce's obligation to pay the Agreement award amount.

(l) Subrecipient hereby acknowledges that Subrecipient is subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) with respect to the meetings of Subrecipient's governing board or the meetings of any subcommittee making recommendations to the governing board. Subrecipient hereby agrees that all such aforementioned meetings shall be publicly noticed, open to the public and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

(m) Subrecipient shall comply with section 519 of P. L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2 A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(n) Upon expiration or termination of this Agreement, Subrecipient shall transfer to Commerce any CDBG-DR funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-DR funds.

(23) Lobbying Prohibition.

(a) No funds or other resources received from Commerce under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) Subrecipient certifies, by its signature to this Agreement, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement;

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and

3. Subrecipient shall require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose as described in this Agreement. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure.

(24) Copyright, Patent and Trademark.

Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this Agreement are hereby transferred by Subrecipient to the State of Florida.

(a) If Subrecipient has a pre-existing patent or copyright, Subrecipient shall retain all rights and entitlements to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.

(b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, Subrecipient shall refer the discovery or invention to Commerce for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films or other copyrightable material are produced, Subrecipient shall notify Commerce. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by Subrecipient to the State of Florida.

(c) Within thirty (30) calendar days of execution of this Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. Subrecipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and Commerce shall have the right to all patents and copyrights which accrue during performance of the Agreement.

(25) Legal Authorization.

(a) Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind Subrecipient to the terms of this Agreement. Commerce may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.

(b) Prior to the execution of this Agreement Subrecipient warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation or any other legal or financial condition that would in any way prohibit, restrain or diminish Subrecipient's ability to satisfy its obligations. Subrecipient shall immediately notify Commerce in writing if its ability to perform is compromised in any manner during the term of the Agreement.

(26) Public Record Responsibilities.

(a) In addition to Subrecipient's responsibility to directly respond to each request it receives for records, in conjunction with this Agreement and to provide the applicable public records in response to such request, Subrecipient shall notify Commerce of the receipt and content of all such requests by sending an email to PRRequest@Commerce.fl.gov within one (1) business day from receipt of the request.

(b) Subrecipient shall keep and maintain public records required by Commerce to perform Subrecipient's responsibilities hereunder. Subrecipient shall, upon request from Commerce's custodian of public records, provide Commerce with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, F.S., or as otherwise provided by law. Subrecipient shall allow public access to all documents, papers, letters or other materials made or received by Subrecipient in conjunction with this Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by Subrecipient in conjunction with this Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.

(c) This Agreement may be terminated by Commerce for refusal by Subrecipient to comply with Florida's public records laws or to allow public access to any public record made or received by Subrecipient in conjunction with this Agreement.

(d) If, for purposes of this Agreement, Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), Subrecipient-contractor shall transfer to Commerce, at no cost to Commerce, all public records upon completion including termination, of this Agreement or keep and maintain public records required by Commerce to perform the service. If Subrecipient-contractor transfers all public records to the public agency upon completion of the Agreement, Subrecipient-contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Subrecipient-contractor keeps and maintains public records upon completion of the Agreement, Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. All records stored electronically must be provided to Commerce, upon request from Commerce's custodian of public records, in a format that is compatible with the information technology systems of Commerce.

(e) If Commerce does not possess a record requested through a public records request, Commerce shall notify Subrecipient-contractor of the request as soon as practicable, and Subrecipient-contractor must provide the records to Commerce or allow the records to be inspected or copied within a reasonable time, but in all cases within fourteen (14) business days. If Subrecipient-contractor does not comply with Commerce's request for records, Commerce shall enforce the provisions set forth in this Agreement. Subrecipient-contractor who fails to provide public records to Commerce within a reasonable time may be subject to penalties under Section 119.10, F.S.

(f) Subrecipient shall notify Commerce verbally within twenty-four (24) hours and in writing within seventy-two (72) hours if any data in Subrecipient's possession related to this Agreement is subpoenaed or improperly used, copied or removed (except in the ordinary course of business) by anyone except an authorized representative of Commerce. Subrecipient shall cooperate with Commerce, in taking all steps as Commerce deems advisable, to prevent misuse, regain possession or otherwise protect the State's rights and the data subject's privacy.

(g) Subrecipient acknowledges that Commerce is subject to the provisions of Chapter 119, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to Commerce under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with Commerce regarding Commerce's efforts to comply with the requirements of Chapter 119, F.S.

(h) If Subrecipient submits records to Commerce that are confidential and exempt from public disclosure as trade secrets or proprietary confidential business information, such records should be identified as such by Subrecipient prior to submittal to Commerce. Failure to identify the legal basis for each exemption from the requirements of Chapter 119, F.S., prior to submittal of the record to Commerce serves as Subrecipient's waiver of a claim of exemption. Subrecipient shall ensure public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Subrecipient-contractor does not transfer the records to Commerce upon completion, including termination, of this Agreement.

(i) **IF SUBRECIPIENT-CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT-CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at PRRequest@Commerce.fl.gov, or by mail at Department of Commerce, Public Records Coordinator, 107 East Madison Street, Caldwell Building, Tallahassee, Florida 32399-4128.**

(j) To the extent allowable by law, Subrecipient shall be fully liable for the actions of its agents, employees, partners, contractors and subcontractors and shall fully indemnify, defend, and hold harmless the State and Commerce, and their officers, agents and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to public record requests or public record law violation(s), alleged to be caused in whole or in part by Subrecipient, its agents, employees, partners, contractors or subcontractors, provided, however, that Subrecipient does not indemnify for that portion of any costs or damages proximately caused by the negligent act or omission of the State or

Commerce. Commerce, in its sole discretion, has the right, but not the obligation, to enforce this indemnification provision.

(k) Commerce does not endorse any Subrecipient, commodity, or service. Subject to Chapter 119, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from Commerce, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying Commerce or the State as a reference, or otherwise linking Subrecipient's name and either a description of the Agreement or the name of Commerce or the State in any material published, either in print or electronically, to any other entity that is not a Party to this Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.

(l) Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. Subrecipient shall amend each of Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. Commerce may terminate this Agreement if Subrecipient does not comply with this provision.

(27) Employment Eligibility Verification.

(a) E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: https://www.e-verify.gov/.

(b) Section 448.095, F.S., requires the following:

1. Every public agency and its contractors and subcontractors shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public agency or a contractor or subcontractor thereof may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
2. An employer shall verify each new employee's employment eligibility within three (3) business days after the first day that the new employee begins working for pay as required under 8 C.F.R. 274a. Beginning July 1, 2023, a private employer with 25 or more employees shall use the E-Verify system to verify a new employee's employment eligibility.

(c) If an entity does not use E-Verify, the entity shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the effective date of this Agreement.

(28) Program Income.

(a) Subrecipient shall report to Commerce all program income (as defined at 24 CFR § 570.500(a) or in the Federal Register Guidance governing the CDBG-DR funds) generated by activities carried out with CDBG-DR funds made available under this Agreement as part of Subrecipient's Quarterly Progress Report. Subrecipient shall use program income in accordance with the applicable requirements of 2 CFR part 200, 24 CFR part 570.504, and the terms of this Agreement.

(b) Program income generated after closeout shall be returned to Commerce. Program income generated prior to closeout shall be returned to Commerce unless the program income is used to fund additional units of CDBG-DR activities, specified in a modification to this Agreement and duly executed prior to administrative closeout.

(29) National Objectives.

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives. Subrecipient certifies that the activities carried out under this Agreement shall meet the following national objectives and satisfy the following criteria:

(a) Benefit to low- and moderate- income persons;
(b) Aid in prevention or elimination of slums or blight; and
(c) Meet a need having particular urgency (referred to as urgent need).

(30) Independent Contractor.

(a) In Subrecipient's performance of its duties and responsibilities under this Agreement, it is mutually understood and agreed that Subrecipient is at all times acting and performing as an independent contractor. Nothing in this Agreement is intended to or shall be deemed to constitute an employer/employee relationship, partnership or joint venture between the Parties. Subrecipient shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. Nothing in this Agreement shall be construed to create any agency or employment relationship between Commerce, Subrecipient, its employees, subcontractors or agents. Neither Party shall have any right, power or authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other.

(b) Subrecipient, its officers, agents, employees, subcontractors or assignees, in performance of this Agreement shall act in the capacity of an independent contractor and not as an officer, employee, agent, joint venturer, or partner of the State of Florida.

(c) Subrecipient shall have sole right to control the manner, method and means by which the services required by this Agreement are performed. Commerce shall not be responsible to hire, supervise or pay Subrecipient's employees. Neither Subrecipient, nor its officers, agents, employees, subcontractors or assignees are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.

(d) Subrecipient agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, employee, servant, joint venturer or partner of the State of Florida.

(e) Unless justified by Subrecipient, and agreed to by Commerce in the Scope of Work, Commerce will not furnish services of support (*e.g.*, office space, office supplies, telephone service, secretarial or clerical support) to Subrecipient or its subcontractor or assignee.

(f) Commerce shall not be responsible for withholding taxes with respect to Subrecipient's use of funds under this Agreement. Subrecipient shall have no claim against Commerce for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits or employee benefits of any kind. Subrecipient shall ensure that its employees, subcontractors and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State of Florida.

(g) Subrecipient, at all times during the Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.

(h) Commerce shall not be responsible for providing any training to Subrecipient, its employees, assigns, agents, representatives or subcontractors in the professional skills necessary to perform the work services required by this Agreement; Commerce may provide training in the form of an Implementation Workshop in keeping with implementation

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State of Florida
Department of Commerce
Federally Funded Subrecipient Agreement
Signature Page

IN WITNESS THEREOF, and in consideration of the mutual covenants set forth above and in the attachments and exhibits hereto, the Parties executed this Agreement by their duly authorized undersigned officials.

CITY OF PENSACOLA, FLORIDA		**DEPARTMENT OF COMMERCE**	
By	______________________ Signature	**By**	______________________ Signature
	Darcy Curran Reeves		**J. Alex Kelly**
Title	**Mayor**	**Title**	**Secretary**
Date	______________________	**Date**	______________________
Federal Tax ID #	**59-6000406**		
UEI #	**UBMRAF87HQF5**		

Approved as to form and legal sufficiency, subject only to full and proper execution by the Parties.

OFFICE OF GENERAL COUNSEL
DEPARTMENT OF COMMERCE

By: ______________________________

Approved Date: ____________________

Attachment A – Scope of Work

1. PROGRAM DESRIPTION:

On September 16, 2020, Hurricane Sally (DR-4564) swept over the Florida panhandle as a Category 2 hurricane, bringing heavy rainfall and flooding. The impacts of Hurricane Sally further demonstrated the need for an effective, comprehensive long-term recovery plan that would address and meet the remaining needs of Floridians following this catastrophic event. In the wake of this natural disaster, Florida came together to recover and rebuild, but significant unmet needs remain.

Recognizing this, Congress appropriated, and the U.S. Department of Housing and Urban Development (HUD) allocated a total of $187 million in funding to support long-term recovery efforts following Hurricane Sally through the Florida Department of Commerce's (Commerce's) Community Development Block Grant Disaster Recovery (CDBG-DR) Program. Commerce has allocated $110,990,384.82 of this funding for the Rebuild Florida Infrastructure Repair Program through the CDBG-DR Program.

Infrastructure activities that are eligible under the Rebuild Florida Infrastructure Repair Program include:

- Restoration of infrastructure damaged by Hurricane Sally (such as water and sewer facilities, streets, removal of debris, drainage, bridges, etc.);
- Demolition and/or rehabilitation of publicly or privately owned commercial or industrial buildings;
- Renourishment of protective coastal dunes systems and state beaches;
- Repairs to damaged buildings that are essential to the health, safety, and welfare of a community when repairs to these buildings constitutes an urgent need (this can include police stations, fire stations, parks and recreational centers, community and senior centers, hospitals, clinics, homeless shelters, schools and educational facilities, and other public properties, including properties serving as emergency shelters); and
- Repairs to water lines and systems, sewer lines and systems, drainage, and flood mitigation systems.

Mitigation activities that are eligible under the Rebuild Florida Infrastructure Repair Program include:

- Development of mitigation standards, regulations, policies, and programs;
- Land use/zoning policies;
- Strong statewide building code and floodplain management regulations;
- Dam safety programs, seawalls, and levee systems;
- Acquisition of flood prone and environmentally-sensitive lands;
- Retrofitting/hardening/elevating structures and critical facilities;
- Relocation of structures, infrastructure, and facilities out of vulnerable areas;
- Permanent relocation of residential housing and businesses located in high-risk areas through voluntary buyback programs, appropriate relocation assistance, and rebuilding in low-risk areas within the neighborhood or areas of opportunity;
- Public awareness/education campaigns; and
- Improvement of warning and evacuation systems.

2. PROJECT DESCRIPTION:

The City of Pensacola has been awarded $9,103,935.38 amount of CDBG-DR funding to repair critical infrastructure at the Port of Pensacola. During Hurricane Sally the City experienced record rainfall that was equivalent to one third of the city's average annual rainfall. Hurricane-force winds and storm-associated tornadoes battered structures. Saltwater storm surge of more than 5 feet, along with moving flood waters, resulted in the asphalt paving, railroad tracks, and cathodic system at the Port of Pensacola being submerged for approximately 12 hours. The asphalt paving and railroad tracks being submerged for this extended period of time resulted in damage to the supporting soils. Submersion of the cathodic system's landside anode and cabling compromised the system's integrity and subsequently led to its premature degradation.

The project will meet the restoration of infrastructure damaged by Hurricane Sally activities. The damage impaired the Port's ability to effectively transport received raw and manufactured materials to vendors and manufacturers that supply asphalt, concrete, aggregate, concrete blocks, etc. throughout the region.

This project will occur at the Port of Pensacola located at 700 S Barrack St. Pensacola, Florida. The Port project is intended to repair critical infrastructure, build capacity to minimize supply chain disruption to regional asphalt, aggregate, concrete, and block manufacturers and vendors in the face and in the wake of catastrophic weather events.

a) The City will directly oversee this project. Grant administration (project implementation), architecture, construction, and construction engineering inspection vendors may be procured to complete this agreement.
b) The project will meet Low- and Moderate-Income (LMI) National Objective
c) The City of Pensacola does participate in the National Flood Insurance Program (NFIP)

The City will leverage $2,374,917.98 towards this project. Any leverage funds associated with this agreement shall be fully expended prior to utilization of these CDBG-DR funds.

3. SUBRECIPIENT RESPONSIBILITIES:

A. Complete and submit the following items to Commerce within thirty (30) calendar days of execution of the agreement:

1) Organizational Chart with contact information;
2) Job descriptions for Subrecipient's employees, contracted staff, vendors, and contractors. If staffing changes, there must be a submittal stating the names and job descriptions included with the monthly report.
3) Attachment B, Project Budget (Example) – Develop and submit to Commerce a detailed budget for implementation of the project.
4) Attachment C, Activity Work Plan - Develop and submit to Commerce a detailed timeline for implementation consistent with the milestones outlined in the Infrastructure Program Guidelines.

Should any changes to the organizational chart, Attachment B or Attachment C be deemed necessary, an updated plan must be submitted to Commerce with your monthly report for review and approval by the Commerce Grant Manager.

B. Develop and submit a copy of the following policies and procedures to the Commerce Grant Manager for review and approval within thirty (30) calendar days of Agreement execution. The Commerce Grant Manager will provide approval in writing prior to the policies and procedures being implemented.

1) Procurement policies and procedures that incorporate 2 CFR Part 200.317-326.
2) Administrative financial management policies, which must comply with all applicable HUD CDBG-DR and State of Florida rules.
3) Quality assurance and quality control system policies and procedures that comply with all applicable HUD CDBG-DR and Commerce policies.
4) Policies and procedures to detect and prevent fraud, waste and abuse that describe how the subrecipient will verify the accuracy of monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring policy, and which items will be monitored, and procedures for referring instances of fraud, waste and abuse to HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email hotline@hudoig.gov).
5) Policies and procedures for the requirements under 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award.

C. Attend fraud related training offered by HUD OIG to assist in the proper management of the CDBG-DR grant funds when available.
D. Upload required documents into a system of record provided by Commerce.
E. Maintain organized subrecipient agreement files and make them accessible to Commerce or its representatives upon request.
F. Comply with all terms and conditions of the subrecipient agreement, Infrastructure Program Guidelines, Action Plans, Action Plan amendments, and Federal, State, and local laws.
G. Provide copies of all proposed procurement documents to Commerce ten (10) business days prior to posting as detailed in Attachment D of Subrecipient Agreement. The proposed procurement documents will be reviewed and approved by the Commerce Grant Manager. Should the procurement documents require revisions based on state or federal requirements, Subrecipient will be required to postpone procurement and submit revised documents for review and approval.
H. Provide the following information on a monthly and quarterly basis within five (5) calendar days after the end of each month/quarter: Monthly and Quarterly Reports as detailed in Attachment G.
I. Subrecipient shall provide photographs to document progress and completion of tasks and final project.

4. ELIGIBLE TASKS:

A. Deliverable No. 1 – Project Implementation

Tasks that are eligible for reimbursement are as follows:

1) Environmental review administrative activities (Environmental Exemption, Public Notice Publication(s), etc.).
2) Develop policies for the Recipient to adopt related to special conditions listed in this subgrant agreement.
3) Prepared procurement documents.
4) Prepared list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area.
5) Prepared and submitted public notices for publications.
6) Maintained financial records related to project activities on-site.
7) Conducted a Fair Housing activity.
8) Attended a pre-bid conference, bid opening, or preconstruction meeting.
9) Reviewed contractor payrolls and interviewed employees to determine compliance with Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland "Anti-Kickback" Act.
10) Maintain project files.
11) Attended meetings of the Recipient's local governing body to provide progress reports on subgrant activities.

12) Prepared documentation for and attend on-site monitoring visits by Commerce.
13) Prepared financial activity for submission to Commerce.
14) Prepared and submitted detailed monthly and quarterly reports to Commerce.
15) Prepared and submitted Section 3 reports to Commerce.
16) Responded to citizens' complaints.
17) Prepared subgrant modification document for submission to Commerce for review and approval.
18) Prepared responses to monitoring findings and concerns for Recipient to submit to Commerce or HUD.
19) Project Closeout, Engineer's Certification of Completion, Grant Closeout Package completed and submitted to Commerce.

B. **Deliverable No. 2 – Engineering Services**

Tasks that are eligible for reimbursement are as follows:

1) Create a full design package(s), signed and sealed by a Professional Engineer (PE) licensed in the State of Florida, including engineering drawings, specifications, construction cost estimate, surveys, and any other reports, documents, or information relevant to this project that meet all local current hurricane code ratings, local codes and building codes.
2) Obtain copies of all permit applications, correspondence with permitting agencies, final permits, and any other permit-related documentation for the project.
3) Conduct an Environmental Review/Assessment in accordance with HUD and Commerce Policies and the National Environmental Policy Act referenced in Attachment D.4.b of this Agreement and carry out any mitigation measures required as a result to the Environmental Review findings.

C. **Deliverable No. 3 – Construction**

Tasks that are eligible for reimbursement are as follows:

1) Demolish and replace existing asphalt paving along both sides of the length of train tracks;
2) Remove and properly dispose of asphalt paving;
3) Remove and properly dispose of existing railroad track system including all rails, spikes, plates;
4) Remove and properly dispose of existing ballast and damaged base material;
5) Furnish and install railroad track system complete with all plates, rails, switches, ballast;
6) Furnish, place and compact asphalt paving;
7) Furnish and install compacted structural fill outside the rails;
8) Demolition, removal, and disposal of damaged asphalt and structural fill;
9) Compact existing subgrade, furnish, place, and compact graded crushed stone base;
10) Furnish and place friction and structural course;
11) Furnish and place Water Distribution System Components;
12) Removal and installation of asphalt as required for installation of new cables and linear anode;
13) Furnish and install two (2) new negative and two (2) new positive header cables from the landside rectifier to the seawall and new linear anode; and
14) Furnish and install new landside linear anode (cathodic protection system berth 2)

5. DEL**IVERABLES:** Subrecipient agrees to provide the following services as specified:

Deliverable No. 1 – Project Implementation		
TASKS	**MINIMUM LEVEL OF SERVICE**	**FINANCIAL CONSEQUENCES**
Subrecipient shall complete Project Implementation activities as identified in Section 4.A of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one (1) Project Implementation task on a per completed task basis as detailed in Section 4.A of this Scope of Work; evidenced by invoice(s) noting completed tasks as well as payroll and other supporting documentation, as applicable.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
		Deliverable 1 Cost- $455,196.76
Deliverable No. 2 – Engineering Services		
TASKS	**MINIMUM LEVEL OF SERVICE**	**FINANCIAL CONSEQUENCES**
Subrecipient shall complete Engineering Services tasks as detailed in Section 4.B of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one (1) task in accordance with Section 4.B of this Scope of Work, evidenced by submittal of the following documentation: 1) Engineering design, working drawings and associated cost estimates, if applicable; 2)Copies of all required permits, if applicable; 3) Copy of Environmental Review/Assessment; and 4)Invoice package in accordance with Section 7 of this Scope of Work.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
		Deliverable 2 Cost- $474,633.86
Deliverable No. 3 – Construction		
TASKS	**MINIMUM LEVEL OF SERVICE**	**FINANCIAL CONSEQUENCES**
Subrecipient shall complete Construction tasks as detailed in Section 4.C of this Scope of Work.	Subrecipient may request reimbursement upon completion of activities in accordance with Section 4.C of this Scope of Work in the following increments: 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% and 100%, evidenced by submittal of the following documentation: 1) AIA forms G702 and G703, or similar accepted Commerce	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.

	form, completed by a licensed professional certifying to the percentage of project completion; 2) Photographs of project in progress and completed; and 3) Invoice package in accordance with Section 7 of this Scope of Work.	
		Deliverable 3 Cost- $8,174,104.76
		Total Project Costs Not to Exceed $9,103,935.38

COST SHIFTING: The deliverable amounts specified within the Deliverables Section 5 table above are established based on the Parties' estimation of sufficient delivery of services fulfilling grant purposes under the Agreement in order to designate payment points during the Agreement Period; however, this is not intended to restrict Commerce's ability to approve and reimburse allowable costs Subrecipient incurred providing the deliverables herein. Prior written approval from Commerce's Grant Manager is required for changes to the above Deliverable amounts that do not exceed **25%** of each deliverable total funding amount. Changes that exceed **25%** of each deliverable total funding amount will require a formal written amendment request from Subrecipient, as described in **MODIFICATION** section of the Agreement. Regardless, in no event shall Commerce reimburse costs of more than the total amount of this Agreement.

6. COMMERCE RESPONSIBILITIES:

A. Monitor the ongoing activities of Subrecipient to ensure all activities are being performed in accordance with the Agreement to the extent required by law or deemed necessary by Commerce in its discretion.
B. Assign a Grant Manager as a point of contact for Subrecipient.
C. Review Subrecipient's invoices described herein and process them on a timely basis.
D. Commerce shall monitor progress, review reports, conduct site visits as Commerce determines necessary at Commerce's sole and absolute discretion, and process payments to Subrecipient.

7. INVOICE SUBMITTAL:

Commerce shall reimburse the Subrecipient in accordance with Section 5 of this Scope of Work. In accordance with the Funding Requirements of s. 215.971(1), F.S. and Section (20) of this Agreement, the Subrecipient and its subcontractors may only expend funding under this Agreement for allowable costs resulting from obligations incurred during this Agreement. To be eligible for reimbursement, costs must be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures: (https://myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf).

A. Subrecipient shall provide one invoice per month for services rendered during the applicable period of time as defined in the deliverable table. In any month no deliverable has been completed, the subrecipient will provide notice that no invoicing will be submitted.
B. The following documents shall be submitted with the itemized invoice:
   1) A cover letter signed by Subrecipient's Agreement Manager certifying that the costs being claimed in the invoice package: (1) are specifically for the project represented to the State in the budget appropriation; (2) are for one or more of the components as stated in Section 5, DELIVERABLES, of this SCOPE OF WORK; (3) have been paid; and (4) were incurred during this Agreement.
   2) Subrecipient's invoices shall include the date, period in which work was performed, amount of reimbursement, and work completed to date.
   3) A certification by a licensed professional using AIA forms G702 and G703, or their substantive equivalents, certifying that the project, or a quantifiable portion of the project, is complete, as appropriate to the deliverable.

4) Photographs of the project in progress and completed work, as appropriate to the deliverable.
5) A copy of all supporting documentation for vendor payments.
6) A copy of the bank statement that includes the cancelled check or evidence of electronic funds transfer. The State may require any other information from Subrecipient that the State deems necessary to verify that the services have been rendered under this Agreement.

C. If the Grantee is a county or municipality that is a rural community or rural area of opportunity as those terms are defined in section 288.0656(2), F.S., the payment of submitted invoices may be issued for verified and eligible performance that has been completed in accordance with the terms and conditions set forth in this Agreement to the extent that federal or state law, rule, or other regulation allows such payments. Upon meeting either of the criteria set forth below, the Grantee may elect in writing to exercise this provision.
1) A county or municipality that is a rural community or rural area of opportunity as those terms are defined in section 288.0656(2), F.S., that demonstrates financial hardship; or
2) A county or municipality that is a rural community or rural area of opportunity as those terms are defined in section 288.0656(2), F.S., and which is located in a fiscally constrained county, as defined in section 218.67(1), F.S. If the Grantee meets the criteria set forth in this paragraph, then the Grantee is deemed to have demonstrated financial hardship.

D. The Subrecipient's invoice and all documentation necessary to support payment requests must be submitted through Commerce's Subrecipient Management Reporting Application (SERA) System. Further instruction on SERA invoicing and reporting, along with a copy of the invoice template, will be provided upon execution of the agreement.

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Attachment B – Project Budget (Example)

Subrecipient: _____ Contract Number: _____ Project Title: _____

Activity		Budget			
Activity	Description	CDBG-DR Amount	Other Funds	Source*	Total Funds
1. Project Implementation					
2. Engineering Services					
3. Construction					
4. Acquisition					
TOTALS					

***Show the sources and amounts of Other Funds needed to complete the project below, including local funds, grants from other agencies and program income.**

Source of Other Funds	Amount
1.	
2.	
3.	
4.	

Commerce Agreement No: HS002

Attachment C – Activity Work Plan (Example)

Subrecipient ______________________ Project Title: ______________________ Project Budget: __________

Contract Number: ______________________ Date Prepared: ______________________ Modification Number: __________

Activity Start Date (month/year)	**Activity End Date** (month/year)	**Describe Proposed Action to be Completed by the "End Date."** Please have the Action reflect an activity or task within the Subrecipient Grant Agreement under Section 4, Eligible Tasks within Attachment 1 – Scope of Work.	**Estimated Leveraged Funds to be Expended per "Activity End Date"**	**Estimated Funds to be Requested per "Activity End Date"**
		EXAMPLE: Deliverable 1 – Project Implementation		
		EXAMPLE: Deliverable 2 – Engineering - Create a full design package		
		EXAMPLE: Deliverable 2 – Conduct Environmental Review		
		EXAMPLE: Deliverable 3 – Construction		

Attachment D – Program and Special Conditions

1. Subrecipient shall demonstrate that progress is being made in completing project activities in a timely fashion pursuant to the activity work plan (Attachment C). If Subrecipient does not comply with the activity work plan schedule, a justification for the delay and a plan for timely accomplishment shall be submitted to Commerce within 21 calendar days of receiving Commerce's request for justification for the delay. Any project for which Subrecipient has not completed the activities listed in the Activity Work Plan may be rescinded unless Commerce agrees that Subrecipient has provided adequate justification for the delay.

2. Subrecipient shall maintain records of expenditure of funds from all sources that will allow accurate and ready comparison between the expenditures and the budget/activity line items as defined in the Project Budget (Attachment B) and Activity Work Plan (Attachment C).

3. Subrecipient shall request Commerce's approval for all professional services contracts and/or agreements that will be reimbursed with CDBG-DR funds. Copies of the following procurement documents must be provided to Commerce for review:

    a. When publication of a Request for Proposal (RFP) is used as a means of solicitation, a copy of the advertisement, including an affidavit of publication.
    b. Commerce will either approve the procurement or notify Subrecipient that the procurement cannot be approved because it violates State, Federal or local procurement guidelines. Subrecipient shall notify Commerce in writing no later than 90 calendar days from the effective date of this agreement if it will not be procuring any professional services or if it will be using non-CDBG-DR funds to pay for professional services.

4. Prior to the obligation or disbursement of any funds, except for administrative expenses and not to exceed $5,000, Subrecipient shall complete the following:

    a. Submit for Commerce's approval the documentation required in paragraph 3 above for any professional services contract. Subrecipient proceeds at its own risk if more than the specified amount is incurred before Commerce approves the procurement. If Commerce does not approve the procurement of a professional services contract, the local government will not be able to use CDBG-DR funds for that contract beyond $5,000.
    b. Comply with 24 CFR part 58, as well as Parts 35, 51, 55 and other federal environmental compliance requirements as appropriate. When Subrecipient has completed the environmental review process for any project that includes activities categorized as neither Exempt pursuant to § 58.34 nor categorically excluded pursuant to § 58.35(b), it shall submit a Request for Release of Funds and Certification. Commerce will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of Commerce. <u>If Commerce has not issued an Authority to use Grant Funds within 15 days of Subrecipient's submission of the required documentation, Commerce shall provide Subrecipient a written update regarding the status of the review process upon subrecipient request.</u> **SUBRECIPIENT SHALL NOT CARRY OUT ANY CHOICE-LIMITING ACTIONS OR COMMIT HUD FUNDS OR NON-HUD FUNDS TO ACTIVITES OTHER THAN THOSE PREVIOUSLY CERTIFIED AS EXEMPT IN ACCORDANCE WITH 24 CFR 58.34 OR CATEGORICALLY EXCLUED IN ACCORDANCE WITH 24 CFR 58.35(b) BEFORE Commerce HAS ISSUED THE "AUTHORITY TO USE GRANT FUNDS."**

5. Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §4601-4655; hereinafter, the "URA"), implementing regulations at 24 CFR part 42, 49 CFR part 24 and 24 CFR §570.606(b), the requirements of 24 CFR §42.325 – 42.350 governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the Housing and Community Development

Act of 1974 (42 U.S.C. §5304(d)), and the requirements in 24 CFR §570.606(d), governing optional relocation assistance policies.

6. If Subrecipient undertakes any activity subject to the URA, Subrecipient shall document completion of the acquisition by submitting all documentation required for a desk monitoring of the acquisition, including a notice to property owners of his or her rights under the URA, an invitation to accompany the appraiser, all appraisals, offer to the owner, acceptance, contract for sale, statement of settlement costs, copy of deed, and waiver of rights (for donations), as applicable. The documentation shall be submitted prior to completing the acquisition (closing) so that Commerce can determine whether remedial action may be needed. Subrecipient shall provide relocation assistance to displaced persons, as defined by 24 CFR §570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

7. Subrecipient shall timely submit completed forms for all prime and subcontractors as required by this Agreement, Commerce, HUD, and applicable, regulations and guidance laws, specifically including but not limited to:

   a. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions); Subrecipient must provide proof to Commerce Grant Manager that they have completed a department check of SAM.gov for all prime and subcontractors.
   b. Section 3 Participation Report (Construction Prime Contractor);
   c. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Subcontractor), (if applicable); and
   d. Section 3 Participation Report (Construction Subcontractor), (if applicable).

8. In addition, each construction contract or agreement for new or replacement housing must contain language that requires the contractor to meet the Green Building Standard for Replacement and New Construction of Residential Housing, as defined in the Allocation notice published in the Federal Register Volume 81, Number 224 on Monday, November 21, 2016.

9. For each Request for Funds (RFF) that includes reimbursement of construction costs, Subrecipient shall provide a copy of the American Institute of Architects (AIA) form G702, Application and Certification for Payment, or a comparable form approved by Commerce, signed by the contractor and inspection engineer, and a copy of form G703, Continuation Sheet, or a comparable form approved by Commerce. For each RFF that includes construction costs, Subrecipient shall provide a copy of AIA form G702, or a comparable form approved by Commerce, if applicable, signed by the contractor and the local building inspector or housing specialist and a copy of form G703, or a comparable form approved by Commerce, if applicable.

10. For each project, when Subrecipient issues the Notice to Proceed to the contractor(s), copies of the following documents shall be sent to Commerce:
    a. Notice to Proceed;
    b. The contractor's performance bond (100 percent of the contract price); and
    c. The contractor's payment bond (100 percent of the contract price).

11. Subrecipient shall undertake an activity each quarter to affirmatively further fair housing pursuant to 24 CFR § 570.487(b)(4).

12. Subrecipient shall ensure that a deed restriction is recorded on any real property or facility, excluding easements, acquired with CDBG-DR funds. This restriction shall limit the use of that real property or facility to the use stated in the subgrant application and that title shall remain in the name of Subrecipient. Such deed restriction shall be

made a part of the public records in the Clerk of Court of the county in which the real property is located. Any future disposition of that real property shall be in accordance with 24 CFR § 570.505. Any future change of use of real property shall be in accordance with 24 CFR § 570.489(j).

13. Subrecipient shall comply with the historic preservation requirements of the National Historic Preservation Act of 1966, as amended, the procedures set forth in 36 CFR part 800, and the Secretary of the Interior's Standards for Rehabilitation, codified at 36 CFR 67, and Guidelines for Rehabilitating Historic Buildings.

14. Pursuant to section 102(b), Public Law 101-235, 42 U.S.C. §3545, Subrecipient shall update and submit Form HUD 2880 to Commerce within thirty (30) calendar days of Subrecipient's knowledge of changes in situations which would require that updates be prepared. Subrecipient must disclose:
    a. All developers, contractors, consultants and engineers involved in the application or in the planning, development or implementation of the project or CDBG-DR-funded activity; and
    b. Any person or entity that has a financial interest in the project or activity that exceeds $50,000 or 10 percent of the grant, whichever is less.

15. If required, Subrecipient shall submit a final Form HUD 2880, to Commerce with Subrecipient's request for administrative closeout, and its absence or incompleteness shall be cause for rejection of the administrative closeout.

16. Conflicts of interest relating to procurement shall be addressed pursuant to 24 CFR §570.489(g). Title 24 CFR §570.489(h) shall apply in all conflicts of interest not governed by 24 CFR § 570.489(g), such as those relating to the acquisition or disposition of real property; CDBG-DR financial assistance to beneficiaries, businesses or other third parties; or any other financial interest, whether real or perceived. Additionally, Subrecipient agrees to comply with, and this Agreement is subject to, Chapter 112 F.S.

17. Any payment by Subrecipient using CDBG-DR funds for acquisition of any property, right-of-way, or easement that exceeds fair market value as determined through the appraisal process established in HUD Handbook 1378 shall be approved in writing by Commerce prior to distribution of the funds. Should the Recipient fail to obtain Commerce pre-approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid or reimbursed with CDBG-DR funds.

18. Subrecipient shall take photographs or video of all activity locations prior to initiating any construction. As the construction progresses, additional photography or videography shall document the ongoing improvements. Upon completion of construction, final documentation of the activity locations will be provided to Commerce with the administrative closeout package for this Agreement.

19. If an activity is designed by an engineer, architect or other licensed professional, it shall be certified upon completion by a licensed professional as meeting the specifications of the design, as may have been amended by change orders. The date of completion of construction shall be noted as part of the certification. This certification shall be accomplished prior to submission of an administrative closeout package and a copy of the certification shall be submitted with the administrative closeout package.

Attachment E – State and Federal Statutes, Regulations, and Policies

The CDBG-DR funds available to Subrecipient through this agreement constitute a subaward of the Grantee's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. This agreement includes terms and conditions of the Grantee's Federal award that are imposed on Subrecipient and Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this agreement.

Subrecipient agrees to, and, by signing this Agreement, certifies that, it will comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this agreement. These Federal Register notices include, but are not limited to, Federal Register (FN) notice, 87 FR 6364 (Docket No. FR–6303–N–01) (February 3, 2022), and 87 FR 31636 (Docket No. FR–6326–N–01) (May 24, 2022). Notwithstanding the foregoing, the Subrecipient assumes responsibilities for environmental review, decision-making and action, described in 24 CFR part 58 including the decision making and determination of environmental compliance.

Subrecipient shall also comply with all other applicable Federal, state and local laws, regulations and policies as now in effect and as may be amended from time to time that govern the use of the CDBG-DR funds in complying with its obligations under this agreement, regardless of whether CDBG-DR funds are made available to Subrecipient on an advance or reimbursement basis.

Subrecipient also agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available. Subrecipient further agrees to comply with all other applicable Federal, State and local laws, regulations and policies governing the funds provided under this Agreement, including, but not limited to the following:

I. <u>State of Florida Requirements</u>

State of Florida Requirements are stated throughout this Agreement and Attachments thereto.

II. <u>Audits, Inspections, and Monitoring</u>

1. **<u>Single Audit</u>**

   Subrecipient must be audited as required by 2 CFR part 200, subpart F when it is expected that Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

2. **<u>Inspections and Monitoring</u>**

   Subrecipient shall permit the Grantee and auditors to have access to Subrecipient's records and financial statements as necessary for the Grantee to meet the requirements of 2 CFR part 200.

   Subrecipient must submit to monitoring of its activities by the Grantee as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this agreement.

   This review must include:

   (1) Reviewing financial and performance reports required by the Grantee;

   (2) Following-up and ensuring that Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the Grantee detected through audits, on-site reviews, and other means; and

(3) Issuing a management decision for audit findings pertaining to this Federal award provided to Subrecipient from the Grantee as required by 2 CFR §200.521.

3. **Corrective Actions**

Subrecipient shall be subject to reviews and audits by the Grantee, including onsite reviews of Subrecipient as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2). The Grantee may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. The Grantee may require Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, Grantee may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

III. Drug-Free Workplace

Drug-free workplace. Subrecipients must comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

IV. Procurement and Contractor Oversight

Subrecipient shall comply with the procurement standards in 2 CFR §200.318-327 when procuring property and services under this agreement. Subrecipient shall impose the Subrecipient's obligations under this agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities, specifically including, 24 CFR 570.609 and 24 CFR 570.489, as applicable. CDBG funds may not be provided to excluded or disqualified persons.

Subrecipient shall maintain oversight of all activities under this agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this agreement. To check for debarred or suspended entities, please visit https://www.sam.gov/SAM/

V. Property Standards

Real property acquired by Subrecipient under this agreement shall be subject to 24 CFR 570.489(j) and 24 CFR 570.200(j). Subrecipient shall also comply with the Property Standards at 2 CFR 200.310, 2 CFR 200.312, 2 CFR 200.314-316. Subrecipient shall also comply with 2 CFR 200.313 Equipment, except that when the equipment is sold, the proceeds shall be program income and equipment not needed by Subrecipient for activities under this agreement shall be transferred to the Grantee for its CDBG-DR program or shall be retained after compensating the Grantee.

Subrecipient shall also comply with the Property Standards in 2 CFR 200.310-316, except to the extent they are inconsistent with 24 CFR 570.200(j) and 24 CFR 570.489(j), in which case Subrecipient shall comply with 24 CFR 570.200(j) and 24 CFR 570.489(j), except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this agreement, pursuant to 24 CFR 570.489(e)(1)(ii).

VI. Federal Funding Accountability and Transparency Act (FFATA)

Subrecipient shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). Subrecipient must have an active registration in SAM, https://www.sam.gov/SAM/, in accordance with 2 CFR part 25, appendix A, and must have a Unique Entity Identifier (UEI) number. Subrecipient must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

VII. Relocation and Real Property Acquisition

Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 42, and 24 CFR 570.606.

In addition to other URA requirements, these regulations (49 CFR § 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the URA shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act."

VIII. Nondiscrimination

1. **24 CFR part 6**
   Subrecipient will comply with 24 CFR part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. Subrecipient will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, Subrecipient shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

2. **Architectural Barriers Act and the Americans with Disabilities Act**

   Subrecipient shall ensure that its activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed or altered with funds allocated or reallocated under this part after December 11, 1995 and meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

   The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

3. <u>State and Local Nondiscrimination Provisions</u>

Subrecipient must comply with the Florida Small and Minority Business Assistance Act (§288.703-288.706, F.S.); Title VI of the Civil Rights Act of 1964 (24 CFR part 1).

A. General Compliance:

Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended. No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. Subrecipient shall not intimidate, threaten, coerce or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because an individual has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under 24 CFR part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR part 1, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

B. Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1.

If the Federal financial assistance under this agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, Subrecipient's assurance herein shall obligate Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application. This assurance gives the Grantee and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to Subrecipient under this agreement, the instrument effecting any disposition by Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

4. <u>Affirmative Action</u>

A. **Approved Plan**

Subrecipient agrees that it shall carry out pursuant to the Grantee's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1965, as amended, and implementing regulations at 41 CFR 60. The Grantee shall provide Affirmative Action guidelines to Subrecipient to assist in the formulation of such program. Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

B. **Women- and Minority-Owned Businesses (W/MBE)**

Subrecipient shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when Subrecipient procures property or services under this agreement.

C. **Notifications**

Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. **Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement**

Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

IX. <u>Labor and Employment</u>

1. <u>Labor Standards</u>

Subrecipient shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141, *et seq.*) and 29 CFR part 1, 3, 5, 6 and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to the Grantee for review upon request.

X. <u>Section 3 of the Housing and Urban Development Act of 1968</u>

1. <u>Low-Income Person Definition</u>

A low-income person, as this term is defined in Section 3 (b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary of HUD, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437 a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

2. **Compliance**

Subrecipient shall comply with the provisions of Section 3 of the Housing Urban Development Act of 1968, as amended, 12 USC 1701u, and implementing its implementing regulations at 24 CFR part 75 (formerly 24 CFR part 135). Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with existing Federal, state and local laws and regulations. Accordingly, a subrecipient of Section 3-covered assistance is required to develop strategies for meeting both the regulatory requirements at 24 CFR part 75 and any other applicable statutes or regulations. Subrecipient and any of its contractors and subcontractors shall include the following "Section 3 clause" in every "Section 3-covered contract".

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.
B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate actions, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
F. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.
G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to

comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

3. **Section 3 Benchmarks and Reporting**

A. Benchmarks. Contracts over $200,000 trigger Section 3 Benchmark requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 workers and business concerns to meet these *minimum* numeric goals:

1. Twenty-five percent (25%) of the total hours on a Section 3 project must be worked by Section 3 workers; and
2. Five percent (5%) of the total hours on a Section 3 project must be worked by Targeted Section 3 workers.

B. Reporting. If the subrecipient's reporting indicates that the subrecipient has not met the Section 3 benchmarks described in 24 CFR § 75.23, pursuant to 24 CFR § 75.25(b), the subrecipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued.

C. Recipient will comply with any Section 3 Project Implementation Plan documents, if any, provided by HUD or Commerce which may be amended from time to time for HUD reporting purposes.

XI. Conduct

1. **Hatch Act**

Subrecipient shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.

2. **Conflict of Interest**

In the procurement of supplies, equipment, construction and services pursuant to this agreement, Subrecipient shall comply with the conflict of interest provisions in the Grantee's procurement policies and procedures. In all cases not governed by the conflict of interest provisions in the Grantee's procurement policies and procedures, Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).

3. **Lobbying Certification**

Subrecipient hereby certifies that:

A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;
B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal

contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

C. The language of paragraph (i) through (iv) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly; and

D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

XII. Religious Activities

Subrecipient agrees that funds provided under this agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

Equal Treatment for Faith-Based Organizations. Prohibits any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Prohibits religious organizations from engaging in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance. Prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, from discriminating against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Any restrictions on the use of grant funds shall apply equally to religious and non-religious organizations.

XIII. Environmental Conditions

1. Prohibition on Choice Limiting Activities Prior to Environmental Review

Subrecipient must comply with the limitations in 24 CFR 58.22. 24 CFR 58.22 imposes limitations on activities pending clearance and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity. If Commerce has not issued an Authority to Use Grant Funds within 15 days of Subrecipient's submission of the required documentation, Commerce shall provide Subrecipient a written update regarding the status of the review process.

2. Air and Water

Subrecipient shall comply with the following requirements insofar as they apply to the performance of this agreement:

A. Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93); and

B. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq.*, as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.

C. The Clean Air and Water Act: If this Contract is in excess of $100,000, Contractor shall comply with all applicable standards, orders or regulations issued under the Clean Air Act, as amended, 42 U.S.C. 7401, Section 508 of the Clean Water Act, as amended, 33 U.S.C. 1368, et seq., Executive Order 11738 and

Environmental Protection Agency regulations. Contractor shall report any violation of the above to Commerce.

D. Energy Efficiency: Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's energy conservation plan issued in compliance with the Energy Policy and Conservation Act, Pub. L. 94-163.

3. **Flood Disaster Protection**

Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, Subrecipient shall comply with 24 CFR 58.6(a) and Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award and listed at the beginning of this Attachment.

4. **Lead-Based Paint**

The Subrecipient shall follow the Grantee's procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title and 24 CFR 35.

5. **Historic Preservation**

Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 CFR part 800 insofar as they apply to the performance of this agreement.

The process typically involves obtaining approval not just from the State Historic Preservation Officer, but also, when relevant, from tribal authorities. This approval is required for a range of projects that could impact historic resources. These include, but are not limited to, rehabilitation and demolition of properties that are fifty years old or older or listed on a Federal, state, or local historic property list. Furthermore, this extends to new construction projects, particularly those located in areas known to have archaeological resources or in any area that could potentially affect the historic character of an eligible district.

XIV. Additional Regulations

A The Temporary Assistance for Needy Families Program ("TANF"), 45 CFR Parts 260-265, the Social Services Block Grant ("SSBG"), 42 U.S.C. 1397d, and other applicable federal regulations and policies promulgated thereunder.

B. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, *et seq.*, which prohibits discrimination on the basis of sex in educational programs.

C. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.

D. The Pro-Children Act: Contractor agrees to comply with the Pro-Children Act of 1994, 20 U.S.C. 6083. Failure to comply with the provisions of the law may result in the imposition of civil monetary penalty up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. This clause is applicable to all approved sub-contracts. In compliance with Public Law (Pub. L.) 103-277, the Contract shall not permit smoking in any portion of any indoor facility used for the provision of federally funded services including health, day care, early childhood development, education or library services on a routine or regular basis, to children up to age 18.

E. Public Announcements and Advertising: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, Contractor shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

F. Purchase of American-Made Equipment and Products: Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Agreement will be American-made.

G. The Consolidated Appropriations Act, 2010, Division E, Section 511 (Pub. L. 111-117), which prohibits distribution of federal funds made available under the Act to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries. The Continuing Appropriations Act, 2011, Sections 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117.

H. Contract Work Hours and Safety Standards Act (40 U.S.C. §327–333) — If this Contract involves federal funding in excess of $2,000 for construction contracts or in excess of $2,500 for other contracts that involve the employment of mechanics or laborers, compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR Part 5) is required. Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

I. Resource Conservation and Recovery Act (RCRA). Under RCRA (Pub. L. 94–580 codified at 42 U.S.C. 6962), state and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

J. Immigration Reform and Control Act. Contractor shall comply with the requirements of the Immigration Reform and Control Act of 1986, which requires employment verification and retention of verification forms for any individuals hired who will perform any services under the contract.

XV. Non-Compliance

When it is determined that the Subrecipient is in non-compliance with federal or state program requirements, the State may impose any of the additional conditions and/or requirements outlined in 2 CFR § 200.208 and/or 2 CFR § 200.339.

Attachment F – Civil Rights Compliance

Fair Housing

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it will "affirmatively further fair housing" in its community. A Subrecipient shall demonstrate its commitment to affirmatively further fair housing by implementing the actions listed below.

Each Subrecipient shall do the following:

1) Have in place a fair housing resolution or ordinance that covers all Federally protected classes (race, color, familial status, handicap, national origin, religion and sex);
2) Designate an employee as the Fair Housing Coordinator who is available during regular business hours to receive fair housing calls;
3) Publish the Fair Housing Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask fair housing questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website;
4) Establish a system to record the following for each fair housing call or email:
   a) The nature of the call or email,
   b) The actions taken in response to the call or email,
   c) The results of the actions taken and
   d) If the caller or email was referred to another agency, the results obtained by the referral agency;
5) Conduct at least one fair housing activity each quarter. Identical activities (see examples below) shall not be conducted in consecutive quarters; and
6) Display a fair housing poster in the CDBG-DR Office. (This does not count as a fair housing activity.)

Subrecipient shall ensure that the fair housing contact person has received training so that he/she can handle fair housing phone inquiries or refer the inquiries to the appropriate people/agencies. Records maintained by the contact will help the community do the following:

- Define where discriminatory practices are occurring,
- Help the community measure the effectiveness of its outreach efforts, and
- Provide the community with a means to gain information that can be used to design and implement strategies that will eliminate fair housing impediments.

Examples of fair housing activities include the following:

- Making fair housing presentations at schools, civic clubs and neighborhood association meetings;
- Conducting a fair housing poster contest or an essay contest;
- Manning a booth and distributing fair housing materials at libraries, health fairs, community events, yard sales and church festivals; and
- Conducting fair housing workshops for city/county employees, realtors, bank and mortgage company employees, insurance agents and apartment complex owners.

Printing a fair housing notice on a utility bill is no longer accepted as a fair housing activity; however, mailing a Commerce-approved fair housing brochure as an insert with utility bills will be accepted as an activity. Placing posters in public buildings does not meet the requirement for a fair housing activity.

Subrecipient shall document its fair housing activities by keeping photographs, newspaper articles, sign-in sheets and copies of handouts in their CDBG-DR project file and include information about the activities in the comment section of each quarterly report.

Equal Employment Opportunity

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it and the contractors, subcontractors, subrecipients and consultants that it hires with CDBG-DR funds will abide by the Equal Employment Opportunity (EEO) Laws of the United States. A Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Each Subrecipient shall do the following:

1) Have in place an equal employment opportunity resolution or ordinance that protects its applicants and employees and the applicants and employees of its contractors, subcontractors, subrecipients and consultants from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment, on the basis of race, color, religion, sex, national origin, disability, age or genetics;
2) Designate an employee as the EEO Coordinator who is available during regular business hours to receive EEO calls;
3) Publish the EEO Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask EEO questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and
4) Establish a system to record the following for each EEO call:
   a) The nature of the call,
   b) The actions taken in response to the call and
   c) The results of the actions taken;
5) Each Subrecipient shall maintain a list of certified minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) that operate in its region. Subrecipient shall use this list to solicit companies to bid on CDBG-DR-funded construction activities and shall provide a copy of the list to the prime contractor(s) to use when it hires subcontractors and consultants. The Florida Department of Management Services maintains a list of certified minority- and women-owned businesses that can be used to develop a local MBE/WBE list at the following website: https://osd.dms.myflorida.com/directories.
6) Incorporate the Equal Employment Opportunity clause set forth in 41 CFR Part 60-1.4(b) into any contracts or subcontracts that meets the definition of "federally assisted construction contract" in 41 CFR 60-1.3.

Section 504 and the Americans with Disabilities Act (ADA)

As a condition for the receipt of CDBG-DR funds, Subrecipient must certify that it provides access to all federally funded activities to all individuals, regardless of handicap. Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Subrecipient shall do the following:

1) Have in place a resolution or ordinance that is designed to eliminate discrimination against any person who:
   a) Has a physical or mental impairment which substantially limits one or more major life activities,
   b) Has a record of such an impairment, or
   c) Is regarded as having such an impairment;

2) Designate an employee as the Section 504/ADA Coordinator who is available during regular business hours to receive Section 504/ADA calls;

3) Publish the Section 504/ADA Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask Section 504/ADA questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and

4) Establish a system to record the following for each Section 504/ADA call:
   a) The nature of the call,
   b) The actions taken in response to the call and
   c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 CFR part 84) apply to service availability, accessibility, delivery, employment and the administrative activities and responsibilities of organizations receiving Federal financial assistance. A Subrecipient of Federal financial assistance may not, on the basis of disability:

- Deny qualified individuals the opportunity to participate in or benefit from Federally funded programs, services or other benefits,
- Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers, or
- Deny employment opportunities, including hiring, promotion, training and fringe benefits, for which they are otherwise entitled or qualified.

The ADA regulations (Title II, 28 CFR part 35, and Title III, 28 CFR part 36) prohibit discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.

Title II covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting and town meetings). State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision or speech disabilities.

Title III covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation and commercial facilities. Public accommodations are private entities who own, lease, lease to or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by Title III.

Section 3 - Economic Opportunities for Low- and Very Low-Income Persons

Each Subrecipient shall encourage its contractors to hire qualified low- and moderate-income residents for any job openings that exist on CDBG-DR-funded projects in the community. . Per the 29 CFR part 75, Subrecipients and their contractors must track and document the number of Section 3 and Targeted Section 3 labor hours worked by low- and moderate-income individuals on CDBG-DR-funded projects. This detailed account of labor hours should then be included in the comments section of each quarterly report

The following Section 3 clause is required to be included in any contracts and subcontracts funded by this Agreement:

Section 3 Clause

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are Subrecipients of HUD assistance for housing.
B. The Parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.
C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.
D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.
E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.
F. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.
G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Civil Rights Regulations

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it will abide by the following Federal laws and regulations:

1. Title VI of the Civil Rights Act of 1964 – Prohibits discrimination by government agencies that receive Federal funding;
2. Title VII of the Civil Rights Act of 1964 – prohibits employment discrimination on the basis of race, color, religion, sex or national origin;
3. Title VIII of the Civil Rights Act of 1968 – as amended (the Fair Housing Act of 1988);
4. 24 CFR § 570.487(b) – Affirmatively Furthering Fair Housing;
5. 24 CFR § 570.490(b) – Unit of general local government's record;
6. 24 CFR § 570.606(b) – Relocation assistance for displaced persons at URA levels;
7. Age Discrimination Act of 1975;

8. Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing;
9. Section 109 of the Housing and Community Development Act of 1974 – No person shall be excluded from participation in, denied benefits of or subjected to discrimination under any program or activity receiving CDBG-DR funds because of race, color, religion, sex or national origin;
10. Section 504 of the Rehabilitation Act of 1973 and 24 CFR part 8, which prohibits discrimination against people with disabilities;
11. Executive Order 11063 – Equal Opportunity in Housing;
12. Executive Order 11246 – Equal Employment Opportunity; and
13. Section 3 of the Housing and Urban Development Act of 1968, as amended – Employment/Training of Lower Income Residents and Local Business Contracting.

I hereby certify that City of Pensacola shall comply with all of the provisions and Federal regulations listed in this Attachment F.

By: ______________________ **Date:** ______________________

Name: Darcy Curran Reeves

Title: Mayor

Attachment G – Reports

The following reports must be completed and submitted to Commerce in the time frame indicated below. Failure to timely file these reports constitutes an Event of Default, as defined in Paragraph (10) Default, of this Agreement.

1. **Monthly Progress Report** must be submitted to Commerce five (5) calendar days after the end of each month.

2. A **Quarterly Progress** Report must be submitted to Commerce on forms to be provided by Commerce no later than the 5th of every April, July, October and January**.**

3. Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the Grantee) and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, Subrecipient shall transfer to the recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Further, any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

4. In accordance with 2 CFR part 200, should Subrecipient meet the threshold for submission of a single or program specific audit, the audit must be conducted in accordance with 2 CFR part 200 and submitted to Commerce no later than nine months from the end of Subrecipient's fiscal year. If Subrecipient did not meet the audit threshold, an **Audit Certification Memo** must be provided to Commerce Grant Manager no later than nine months from the end of Subrecipient's fiscal year.

5. A copy of the **Audit Compliance Certification** form, Attachment J, must be emailed to audit@Commerce.fl.gov and Commerce Grant Manager within sixty (60) calendar days of the end of each fiscal year in which this subgrant was open.

6. **Section 3 Quarterly Reporting Requirements**. Reporting of labor hours for Section 3 projects must comply with 24 CFR §75.25(a). Subrecipients must report the following: (i) the total number of labor hours worked; (ii) the total number of labor hours worked by Section 3 workers; and (iii) the total number of labor hours worked by Targeted Section 3 workers. If Section 3 benchmarks are not met, the subrecipient's qualitative efforts must be reported in a manner required by 24 CFR §75.25(b).

Subrecipients shall provide Section 3 Reporting quarterly to Commerce Grant Manager by the 5th of each quarter (January 5, April 5, July 5, and October 5).

7. Request for Funds must be submitted as required by Commerce and in accordance with the ***Project Description and Deliverables***, ***Project Budget and Activity Work Plan.***

8. All forms referenced herein are available online or upon request from Commerce's grant manager for this Agreement.

Attachment H – Warranties and Representations

Financial Management

Subrecipient's financial management system must comply with the provisions of 2 CFR part 200 (and particularly 2 C.F.R 200.302 titled "Financial Management"), Section 218.33, F.S., and include the following:

(1) Accurate, current and complete disclosure of the financial results of this project or program.

(2) Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.

(3) Effective control over and accountability for all funds, property and other assets. Subrecipient shall safeguard all assets and assure that they are used solely for authorized purposes.

(4) Comparison of expenditures with budget amounts for each Request for Funds (RFF). Whenever appropriate, financial information should be related to performance and unit cost data.

(5) Written procedures to determine whether costs are allowed and reasonable under the provisions of the 2 CFR part 200 (and particularly 2 CFR 200 Subpart E titled "Costs Principles") and the terms and conditions of this Agreement.

(6) Cost accounting records that are supported by backup documentation.

Competition

All procurement transactions must follow the provisions of 2 CFR § 200.318-200.327 and be conducted in a manner providing full and open competition. Subrecipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids or requests for proposals shall be excluded from competing for such procurements. Awards must be made to the responsible and responsive bidder or offeror whose proposal is most advantageous to the program, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by Subrecipient. Any and all bids or offers may be rejected if there is a sound, documented reason.

Codes of Conduct

Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent shall participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in a tangible personal benefit from a firm considered for a contract. The officers, employees and agents of Subrecipient shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts. The standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees or agents of the Subrecipient. (*See* 2 CFR § 200.318(c)(1))

Business Hours

Subrecipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site at all reasonable times for business. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

Licensing and Permitting

All contractors or employees hired by Subrecipient shall have all current licenses and permits required for all of the particular work for which they are hired by Subrecipient.

Attachment I – Audit Requirements

The administration of resources awarded by Commerce to Subrecipient may be subject to audits and/or monitoring by Commerce as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200 Subpart F - Audit Requirements, and section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Commerce staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this Agreement, Subrecipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by Commerce. In the event Commerce determines that a limited scope audit of Subrecipient is appropriate, Subrecipient agrees to comply with any additional instructions provided by Commerce staff to Subrecipient regarding such audit. Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED. This part is applicable if Subrecipient is a state or local government or nonprofit organization as defined in 2 CFR §200.1.

1. A Subrecipient that expends $750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this form lists the federal resources awarded through Commerce by this agreement. In determining the federal awards expended in its fiscal year, Subrecipient shall consider all sources of federal awards, including federal resources received from Commerce. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §200.502-503. An audit of the Subrecipient conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.
2. For the audit requirements addressed in Part I, paragraph 1, Subrecipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §200.508-512.
3. A Subrecipient that expends less than $750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If Subrecipient expends less than $750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 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 Subrecipient resources obtained from other than federal entities).

PART II: STATE FUNDED. This part is applicable if Subrecipient is a non-state entity as defined by Section 215.97(2), F.S.

1. In the event that Subrecipient expends a total amount of state financial assistance equal to or in excess of $750,000 in any fiscal year of such Subrecipient (for fiscal years ending June 30, 2017, and thereafter), Subrecipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through Commerce by this agreement. In determining the state financial assistance expended in its fiscal year, Subrecipient shall consider all sources of state financial assistance, including state financial assistance received from Commerce, 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.
2. For the audit requirements addressed in Part II, paragraph 1, Subrecipient shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as

defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If Subrecipient expends less than $750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If Subrecipient expends less than $750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from Subrecipient's resources obtained from other than state entities).

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), F.S., State agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with Section 215.97, F.S. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

N/A

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR §200.512, by or on behalf of Subrecipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.1 and §200.512.

   The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of Subrecipient directly to each of the following:

   a. Commerce at each of the following addresses:

   Electronic copies (preferred): Audit@Commerce.fl.gov

   or

   Paper (hard copy):
   Department of Commerce
   MSC # 75, Caldwell Building
   107 East Madison Street
   Tallahassee, FL 32399-4126

   b. The Auditor General's Office at the following address:

   Auditor General
   Local Government Audits
   342 Claude Pepper Building, Room 401
   111 West Madison Street
   Tallahassee, Florida 32399-1450

   The Auditor General's website (https://flauditor.gov/) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or the management letter required by Part III of this form shall be submitted by or on behalf of Subrecipient directly to:

Electronic copies (preferred): Audit@Commerce.fl.gov

or

Paper (hard copy):
Department of Commerce
MSC # 75, Caldwell Building
107 East Madison Street
Tallahassee, FL. 32399-4126

4. Any reports, management letters, or other information required to be submitted to Commerce pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
5. Subrecipients, when submitting financial reporting packages to Commerce for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to Subrecipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION. Subrecipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five (5) years from the date the audit report is issued, or six (6) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow Commerce, or its designee, CFO, or Auditor General access to such records upon request. Subrecipient shall ensure that audit working papers are made available to Commerce, or its designee, CFO, or Auditor General upon request for a period of six (6) years from the date the audit report is issued, unless extended in writing by Commerce. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer.

Exhibit 1 to Attachment I – Funding Sources

Federal Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following:

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Subrecipient:	*$9,103,935.38*
Catalog of Federal Domestic Assistance Title:	Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii
Catalog of Federal Domestic Assistance Number:	14.228
Project Description: *This is not a research and development award.*	The City of Pensacola has been awarded $9,103,935.38 amount of CDBG-DR funding to repair critical infrastructure at the Port of Pensacola. The Port project is intended to repair critical infrastructure, build capacity to minimize supply chain disruption to regional asphalt, aggregate, concrete, and block manufacturers and vendors in the face and in the wake of catastrophic weather events.

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Agreement are as Follows:

Federal Program

1. Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
2. Subrecipient shall perform its obligations in accordance with 24 CFR §570.480–570.497.
3. Subrecipient shall perform the obligations as set forth in this Agreement, including any attachments or exhibits thereto.
4. Subrecipient shall perform the obligations in accordance with chapter 73C-23.0051(1) and (3), F.A.C.
5. Subrecipient shall be governed by all applicable laws, rules and regulations, including, but not necessarily limited to, those identified in Award Terms & Conditions and Other Instructions of Subrecipient's Notice of Subgrant Award/Fund Availability (NFA).

State Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following: *N/A*

Matching Resources for Federal Programs: *N/A*

Subject to Section 215.97, Florida Statutes: *N/A*

Compliance Requirements Applicable to State Resources Awarded Pursuant to this Agreement are as Follows: *N/A*

NOTE: Title 2 CFR § 200.331 and Section 215.97(5), F.S., require that the information about Federal Programs and State Projects included in Exhibit 1 and the Notice of Subgrant Award/Fund Availability be provided to the Subrecipient.

Attachment J – Audit Compliance Certification

Email a copy of this form within 60 days of the end of each fiscal year in which this subgrant was open to audit@Commerce.fl.gov.

Subrecipient:

FEIN:

Subrecipient's Fiscal Year:

Contact Name:

Contact's Phone:

Contact's Email:

1. Did Subrecipient expend state financial assistance, during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between Subrecipient and the Department of Commerce (Commerce)?
   ☐ Yes ☐ No
   If the above answer is yes, answer the following before proceeding to item 2.
   Did Subrecipient expend $750,000 or more of state financial assistance (from Commerce and all other sources of state financial assistance combined) during its fiscal year?
   ☐ Yes ☐ No
   If yes, Subrecipient certifies that it will timely comply with all applicable State single or project-specific audit requirements of Section 215.97, Florida Statutes and the applicable rules of the Department of Financial Services and the Auditor General.

2. Did Subrecipient expend federal awards during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between Subrecipient and Commerce? ☐ Yes ☐ No
   If the above answer is yes, also answer the following before proceeding to execution of this certification:
   Did Subrecipient expend $750,000 or more in federal awards (from Commerce and all other sources of federal awards combined) during its fiscal year? ☐ Yes ☐ No
   If yes, Subrecipient certifies that it will timely comply with all applicable single or program-specific audit requirements of 2 CFR part 200, subpart F, as revised.

By signing below, I certify, on behalf of Subrecipient, that the above representations for items 1 and 2 are true and correct.

Signature of Authorized Representative	Date
Printed Name of Authorized Representative	Title of Authorized Representative

Attachment K – Subrecipient Enterprise Resource Application (SERA) Form

Attachment K will be provided after execution of this Agreement

Attachment L
2 CFR Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 42424240 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See 2 CFR § 200.323 - Procurement of recovered materials.

(K) See 2 CFR § 200.216 - Prohibition on certain telecommunications and video surveillance services or equipment.

(L) See 2 CFR § 200.322 - Domestic Preferences for procurements.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

Attachment M

State of Florida
Department of Commerce

Federally Funded
Community Development Block Grant
Disaster Recovery (CDBG-DR) Subrogation Agreement

This Subrogation and Assignment Agreement ("Agreement") is made and entered by and between City of Pensacola, Florida (hereinafter referred to as "Subrecipient") and the State of Florida, Department of Commerce (hereinafter referred to as "Commerce").

In consideration of Subrecipient's receipt of funds or the commitment by Commerce to evaluate Subrecipient's application for the receipt of funds (collectively, the "Grant Proceeds") under the Commerce Community Development Block Grant-Disaster Recovery Program (the "CDBG-DR Program") administered by Commerce, Subrecipient hereby assigns to Commerce all of Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA") or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs") that was the basis of the calculation of Grant Proceeds paid or to be paid to Subrecipient under the CDBG-DR Program and that are determined in the sole discretion of Commerce to be a duplication of benefits ("DOB") as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds." Upon receiving any Proceeds, Subrecipient agrees to immediately notify Commerce who will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to Commerce, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to Commerce shall not exceed the amount received from the CDBG-DR Program.

Subrecipient agrees to assist and cooperate with Commerce to pursue any of the claims Subrecipient has against the insurers for reimbursement of DOB Proceeds under any such policies. Subrecipient's assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by Commerce. Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that Subrecipient would be entitled to under any applicable Disaster Program.

If requested by Commerce, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to Commerce, to the extent of the Grant Proceeds paid to Subrecipient under the CDBG-DR Program, the Policies, any amounts received under the Disaster Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by Commerce to consummate and make effective the purposes of this Agreement.

Subrecipient explicitly allows Commerce to request of any company with which Subrecipient held insurance policies, or FEMA or the SBA or any other entity from which Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by Commerce to monitor/enforce its interest in the rights assigned to it under this Agreement and give Subrecipient's consent to such company to release said information to Commerce.

If Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to Commerce, if Subrecipient received Grant Proceeds under the CDBG-DR Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.

In the event that Subrecipient receives or is scheduled to receive any subsequent Proceeds, Subrecipient shall pay such subsequent Proceeds directly to Commerce, and Commerce will determine the amount, if any, of such subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to Subrecipient. Subsequent DOB Proceeds shall be disbursed as follows:

1. If Subrecipient has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by Commerce.
2. If Subrecipient has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by Commerce to reduce payments of the Grant Proceeds to Subrecipient, and all Subsequent DOB Proceeds shall be returned to Subrecipient.
3. If Subrecipient has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to Subrecipient; and (B) any remaining Subsequent DOB Proceeds shall be retained by Commerce.
4. If Commerce makes the determination that Subrecipient does not qualify to participate in the CDBG-DR Program or Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to Subrecipient, and this Agreement shall terminate.

Once Commerce has recovered an amount equal to the Grant Proceeds paid to Subrecipient, Commerce will reassign to Subrecipient any rights assigned to Commerce pursuant to this Agreement.

Subrecipient represents that all statements and representations made by Subrecipient regarding Proceeds received by Subrecipient shall be true and correct as of the date of the signing of this Agreement.

Warning: Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

~ Remainder of this page is intentionally left blank ~

The person executing this Agreement on behalf of Subrecipient hereby represents that he\she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by Subrecipient.

In any proceeding to enforce this Agreement, Commerce shall be entitled to recover all costs of enforcement, including actual attorney's fees.

CITY OF PENSACOLA, FLORIDA		**DEPARTMENT OF COMMERCE**	
By	______________________ Signature **Darcy Curran Reeves**	**By**	______________________ Signature **J. Alex Kelly**
Title	**Mayor**	**Title**	**Secretary**
Date	______________________	**Date**	______________________

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-30 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-4 FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT-DISASTER RELIEF FUNDING FOR PORT OF PENSACOLA

RECOMMENDATION:

City Council adopt Supplemental Resolution No. 2024-4

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

City of Pensacola was successful in obtaining $9,103,935.38 in funding to be used exclusively to make necessary stormwater repairs and mitigation elements at the Port of Pensacola

PRIOR ACTION:

none

FUNDING:

Budget: $9,103,935.38

Funding: $9,103,935.38

FINANCIAL IMPACT:

This project will be funded by the CDBG-DR grant funding, along with an FDOT grant obtained by the Port of Pensacola. No financial impact is expected to be had by the City of Pensacola.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

1/5/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Lovoy, Finance Director
William Boyer, Grants and Special Projects Coordinator

ATTACHMENTS:

1. Supplemental Budget Explanation No. 2024-4
2. Supplemental Budget Resolution No. 2024-4

PRESENTATION: No

THE CITY OF PENSACOLA

JANUARY 2024 - SUPPLEMENTAL BUDGET RESOLUTION - FL COMMERCE CDBG- DISASTER RELIEF FUNDING FOR PORT OF PENSACOLA- Explanation - RES NO. 2024-4

FUND	AMOUNT	DESCRIPTION
PORT FUND		
Estimated Revenues		
Federal Grants	9,103,936	Increase appropriation for Federal Grants - Florida Commerce CDBG- Disaster Relief Funding for Port of Pensacola
Total Revenues	9,103,936	
Appropriations		
Capital Outlay	9,103,936	Increase appropriation for Capital Outlay
Total Appropriations	9,103,936	

RESOLUTION
NO. 2024-4

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. PORT FUND

To:	Federal Grants	3,963,120
Amended To Read:	Federal Grants	13,067,056
As Reads	Capital Outlay	6,592,961
Amended To Read:	Capital Outlay	15,696,897

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

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-17 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

FY23 EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT (JAG) PROGRAM: STATE - FY23-24 STATE ASSISTANCE FOR FENTANYL ERADICATION (S.A.F.E.) IN FLORIDA PROGRAM

RECOMMENDATION:

That City Council approve the acceptance of the FY23 Edward Byrne Memorial Justice Assistance Grant (JAG) Program: State, agreement between the City of Pensacola and the State of Florida Department of Law Enforcement (FDLE), Office of Criminal Justice Grants in the amount of $105,173.00, upon award of the grant. Further, that City Council authorize the Mayor to take all actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Pensacola Police Department (PPD) submitted a grant application to the Florida Department of Law Enforcement's (FDLE) Office of Criminal Justice Grants (OCJG) to support the eradication of illegal usage of fentanyl in northwest Florida.

FDLE's Office of Criminal Justice Grants (OCJG) is seeking subrecipient applications for the State Assistance for Fentanyl Eradication (S.A.F.E) in Florida Program. This program provides funding to support local law enforcement agencies in the covert investigations targeting fentanyl/ opioid suppliers.

The Pensacola Police Department has applied for and received a grant of $105,173 from the Florida Department of Law Enforcement SAFE grant. Funds will be used for covert investigations targeting fentanyl/opioid suppliers in the local community.

Among the surveillance/investigative items included in the grant are cameras, a field narcotics analyzer kit, training, and overtime.

Investigations will focus on drug trafficking organizations operating in or directly affecting the Pensacola area, ranging from low-to-high level dealers. This grant will allow undercover officers to continue their efforts in finding and eradicating fentanyl/opioids, plus increase their efficiency in identifying and arresting people involved in drug trafficking organizations. The grant period runs from Oct. 1, 2023, through June 30, 2024. Additional funding can be requested from FDLE SAFE during this time if needed.

PRIOR ACTION:

None.

FUNDING:

Budget:	$105,173.00	
Actual:	$105,173.00	
	$105,173.00	TOTAL

FINANCIAL IMPACT:

The estimated grant award for the FY23-24 STATE ASSISTANCE FOR FENTANYL ERADICATION (S.A.F.E.) IN FLORIDA PROGRAM - FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE): State is $105,173.00 based on the FDLE Office of Criminal Justice Grants (OCJG). Projects to be funded from this grant award do not require a local match. Approval of the supplemental budget resolution will appropriate funding for this grant.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

12/13/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. FDLE SAFE GRANT NARRATIVE
2. Supplemental Budget Resolution No. 2024-1
3. Supplemental Budget Explanation No. 2024-1

PRESENTATION: No

FDLE SAFE GRANT
FOR
FENTANYL INVESTIGATIONS

The Pensacola Police Department has applied for and received a grant for $105,173 from the Florida Department of Law Enforcement SAFE grant. Funds will be used for covert investigations targeting fentanyl/opioid suppliers in the local community.

Among surveillance/investigative items included in the grant are cameras, overtime, a field narcotics analyzer kit, and training.

Investigations will focus on drug trafficking organizations operating in or directly affecting the Pensacola area. These range from low- to high-level dealers.

This grant will allow undercover officers to continue their efforts in finding and eradicating fentanyl/opioids plus hopefully increase their efficiency in identifying and arresting people involved in the drug trafficking organizations.

The grant period runs from Oct. 1, 2023, through June 30, 2024. Additional funding can be requested from FDLE SAFE during this time if needs arise.

RESOLUTION
NO. 2024-1

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads	State Grants	821,315
Amended To Read:	State Grants	926,488
As Reads	Operating Expenses	196,026
Amended To Read:	Operating Expenses	301,199

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

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

Adopted: ________________________

Approved: ________________________
President of City Council

Attest:

____
City Clerk

THE CITY OF PENSACOLA

JANUARY 2024 - SUPPLEMENTAL BUDGET RESOLUTION - FY23-24 STATE ASSISTANCE FENTANYL ERADICATION (S.A.F.E.) In FL PROGRAM - FDLE - Explanation RES

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
State Grants	105,173	Increase appropriation for State Grants - FDLE - SAFE Program
Total Revenues	105,173	
Appropriations		
Operating Expenses	105,173	Increase appropriation for Operating Expenses
Total Appropriations	105,173	

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-13 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-1 - FY23-24 STATE ASSISTANCE FOR FENTANYL ERADICATION (S.A.F.E.) IN FLORIDA PROGRAM - FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE) - AGREEMENT NO. 2023 -SAFE-SF-014: FLAIR VENDOR ID: F59-000406

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-1.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Pensacola Police Department (PPD) submitted a grant application to the Florida Department of Law Enforcement's (FDLE) Office of Criminal Justice Grants (OCJG) to support the eradication of illegal usage of fentanyl in northwest Florida.

FDLE's Office of Criminal Justice Grants (OCJG) is seeking subrecipient applications for the State Assistance for Fentanyl Eradication (S.A.F.E) in Florida Program. This program provides funding to support local law enforcement agencies in the covert investigations targeting fentanyl/ opioid suppliers.

The Pensacola Police Department has applied for and received a grant of $105,173 from the Florida Department of Law Enforcement SAFE grant. Funds will be used for covert investigations targeting fentanyl/opioid suppliers in the local community.

Among the surveillance/investigative items included in the grant are cameras, a field narcotics analyzer kit, training, and overtime.

Investigations will focus on drug trafficking organizations operating in or directly affecting the

Pensacola area, ranging from low-to-high level dealers. This grant will allow undercover officers to continue their efforts in finding and eradicating fentanyl/opioids, plus increase their efficiency in identifying and arresting people involved in drug trafficking organizations. The grant period runs from Oct. 1, 2023, through June 30, 2024. Additional funding can be requested from FDLE SAFE during this time if needed.

PRIOR ACTION:

None

FUNDING:

Budget:	$105,173.00	
Actual:	$105,173.00	
	$105,173.00	TOTAL

FINANCIAL IMPACT:

The estimated grant award for the FY23-24 STATE ASSISTANCE FOR FENTANYL ERADICATION (S.A.F.E.) IN FLORIDA PROGRAM - FLORIDA DEPARTMENT OF LAW ENFORCEMENT (FDLE): State is $105,173.00 based on the FDLE Office of Criminal Justice Grants (OCJG). Projects to be funded from this grant award do not require a local match. Approval of the supplemental budget resolution will appropriate funding for this grant.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

12/13/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-1
2. Supplemental Budget Explanation No. 2024-1

PRESENTATION: No

RESOLUTION
NO. 2024-1

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads	State Grants	821,315
Amended To Read:	State Grants	926,488
As Reads	Operating Expenses	196,026
Amended To Read:	Operating Expenses	301,199

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

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

Adopted: ________________________

Approved:________________________
President of City Council

Attest:

____
City Clerk

THE CITY OF PENSACOLA

JANUARY 2024 - SUPPLEMENTAL BUDGET RESOLUTION - FY23-24 STATE ASSISTANCE FENTANYL ERADICATION (S.A.F.E.) In FL PROGRAM - FDLE - Explanation RES

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
State Grants	105,173	Increase appropriation for State Grants - FDLE - SAFE Program
Total Revenues	105,173	
Appropriations		
Operating Expenses	105,173	Increase appropriation for Operating Expenses
Total Appropriations	105,173	

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-25 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

ACCEPTANCE OF FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT AWARD AGREEMENT NO. HS003 - FRICKER CENTER

RECOMMENDATION:

That City Council approve acceptance of Florida Commerce Development Block Grant Disaster Recovery Award Agreement No. HS003 for the redevelopment of the Fricker Resource Center, in the amount of $5,500,000.00 with a $477,425.00 local match for a total grant value of $5,977,424.00. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this grant, consistent with the terms of the grant and the Mayor's Executive Powers as granted in the City Charter. Finally, that City Council adopt a supplemental budget resolution appropriating the grant funds.

HEARING REQUIRED:

SUMMARY:

The City of Pensacola has been awarded $5.5 million to make necessary repairs and other redesign improvements including, but not limited to, hazard mitigation to the Fricker Resource Center redesign that will ensure the long-standing community center will continue to meet the growing needs of the community. Funds for this project will go toward increasing usable space for programming and hardening the facility to ensure the center can continue to be used as a base of operations for post-disaster emergency aid and services from outside agencies, including the Red Cross and FEMA. The project will also include demolition of the aged social hall and construction of a modern, two-story social hall that will also provide additional space for programming and activities. The proposal includes repairs and improvements to the roofing, flooring, fascia, classrooms, electrical, HVAC, and fire safety systems, restrooms, and kitchen.

PRIOR ACTION:

The City of Pensacola has previously looked at redesigning and making repairs to the Fricker Center.

FUNDING:

Budget: $5,500,000.00 - CDBG-DR grant funding
$ 477,425.00 - Local Sales Option Tax (grant match funding)

$5,9,77,425.00 = Project Cost

Actual: $5,500,000.00 - CDBG-DR grant funding
$ 477,425.00 - Local Sales Option Tax (grant match funding)

$5,977,425.00 = Project Cost

FINANCIAL IMPACT:

The City of Pensacola proposes to use $477,425.00 of local sales option tax funds for grant matching for this grant.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

12/21/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Lovoy, Finance Director
William Boyer, Grants and Special Projects Coordinator

ATTACHMENTS:

1. Grant Agreement

PRESENTATION: No

State of Florida
Department of Commerce
Federally Funded
Community Development Block Grant
Disaster Recovery (CDBG-DR) Rebuild Florida
Infrastructure Repair Program
Subrecipient Agreement

THIS AGREEMENT is entered into by the State of Florida, Department of Commerce, (hereinafter referred to as "Commerce" or "Grantee") and the **City of Pensacola**, Florida (hereinafter referred to as "Subrecipient"), each individually a "Party" and collectively "the Parties."

THIS AGREEMENT IS ENTERED INTO BASED ON THE FOLLOWING REPRESENTATIONS:

WHEREAS, pursuant to the authority of the Disaster Relief Supplemental Appropriations Act, 2022 (**Pub. L. 117–43**) approved September 30, 2021 (hereinafter the "Appropriations Act")The requirements of the Appropriations Act and implementing regulations at 24 CFR part 570, and the requirements of the Federal Register (FN) notice, 87 FR 6364 (Docket No. FR–6303–N–01) (February 3, 2022), and 87 FR 31636 (Docket No. FR-6326-N-01) (May 24,2022) (hereinafter the "Federal Register Guidance"), as now in effect and as may be amended from time to time, and as modified by waivers, alternative requirements, and other requirements described in in Federal Register notices published as of this date or in the future, the U.S. Department of Housing and Urban Development (hereinafter referred to as "HUD") has awarded Community Development Block Grant - Disaster Recovery (CDBG-DR) funds to Commerce for activities authorized under Title I of the Housing and Community Development Act of 1974 (42 United States Code (U.S.C.) 5301 *et seq.*) and described in the 2022 State of Florida Action Plan for Disaster Recovery, as now in effect and as may be amended from time to time (hereinafter the "Action Plan").

WHEREAS, CDBG-DR funds made available for use by Subrecipient under this Agreement constitute a subaward of the Grantee's Federal award, the use of which must be in accordance with requirements imposed by Federal statutes, regulations and the terms and conditions of Commerce's Federal award.

WHEREAS, Subrecipient has legal authority to enter into this Agreement and by signing this Agreement, Subrecipient represents and warrants to Commerce that it will comply with all the requirements of the subaward described herein.

WHEREAS, the aggregate use of CDBG-DR funds shall principally benefit low- and moderate-income persons in a manner that ensures at least 70 percent of the grant amount awarded under this Agreement is expended for activities that benefit such persons.

NOW THEREFORE, Commerce and Subrecipient agree to the following:

(1) Scope of Work. The Scope of Work for this Agreement includes Attachment A, Scope of Work. With respect to Attachment B, Project Budget, and Attachment C, Activity Work Plan, Subrecipient shall submit to Commerce such Attachments in conformity with the current examples attached hereto as necessary and appropriate. Provided further, if there is a disagreement between the Parties, with respect to the formatting and contents of such attachments, then Commerce's decisions with respect to same shall prevail, at Commerce's sole and absolute discretion.

(2) Incorporation of Laws, Rules, Regulations and Policies. Subrecipient agrees to abide by all applicable State and Federal laws, rules and regulations, as now in effect and as may be amended from time to time, including but not limited to, the Federal laws and regulations set forth in 24 CFR Part 570 applicable Federal Register Notices, and the State's Action Plan, and all applicable CDBG-DR regulations and guidelines.

Subrecipient shall ensure that all its activities under this Contract shall be conducted in conformance with these provisions, as applicable: 45 CFR Part 75, 29 CFR Part 95, 2 CFR Part 200, 20 CFR Part 601, 24 CFR Part 570 subpart I, *et seq*., and all other applicable federal laws, regulations, and policies governing the funds provided under this Agreement as now in effect and as may be amended from time to time.

(3) Period of Agreement. This Agreement begins upon execution by both Parties (the "Effective Date") and ends **June 30, 2027**, unless otherwise terminated as provided in this Agreement. Commerce shall not grant any extension of this Agreement unless Subrecipient provides justification satisfactory to Commerce in its sole discretion and Commerce's Director of the Division of Community Development approves such extension.

(4) Modification of Agreement. Modifications to this Agreement shall be valid only when executed in writing by the Parties. Any modification request by Subrecipient constitutes a request to negotiate the terms of this Agreement. Commerce may accept or reject any proposed modification based on Commerce's sole determination and absolute discretion, that any such acceptance or rejection is in the State's best interest.

(5) Records.

(a) Subrecipient's performance under this Agreement shall be subject to 2 CFR Part 200 – Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards as now in effect and as may be amended from time to time.

(b) Representatives of Commerce, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability, and representatives of the Federal government and their duly authorized representatives shall have access to any of Subrecipient's books, documents, papers and records, including electronic storage media, as they may relate to this Agreement, for the purposes of conducting audits or examinations or making excerpts or transcriptions.

(c) Subrecipient shall maintain books, records and documents in accordance with generally accepted accounting procedures and practices which sufficiently and properly reflect all expenditures of funds provided by Commerce under this Agreement.

(d) Subrecipient will provide to Commerce all necessary and appropriate financial and compliance audits in accordance with Paragraph (7), Audit Requirements and Attachments I and J herein and ensure that all related party transactions are disclosed to the auditor.

(e) Subrecipient shall retain sufficient records to show its compliance with the terms of this Agreement and the compliance of all subrecipients, contractors, subcontractors and consultants paid from funds under this Agreement for a period of six (6) years from the date Commerce issues the final closeout for this award. Subrecipient shall also comply with the provisions of 24 CFR 570.493 and 24 CFR 570.502(a)(7)(ii). Subrecipient shall further ensure that audit working papers are available upon request for a period of six (6) years from the date Commerce issues the final closeout of this Agreement, unless extended in writing by Commerce. The six-year period may be extended for the following reasons:

1. Litigation, claim or audit initiated before the six-year period expires or extends beyond the six-year period, in which case the records shall be retained until all litigation, claims or audit findings involving the records have been resolved.
2. Records for the disposition of non-expendable personal property valued at $1,000 or more at the time of acquisition shall be retained for six (6) years after final disposition.
3. Records relating to real property acquired shall be retained for six (6) years after the closing on the transfer of title.

(f) Subrecipient shall maintain all records and supporting documentation for Subrecipient and for all contractors, subcontractors and consultants paid from funds provided under this Agreement, including documentation of all program costs in a form sufficient to determine compliance with the requirements and objectives of the scope of work and all other applicable laws and regulations.

(g) Subrecipient shall either (i) maintain all funds provided under this Agreement in a separate bank account or (ii) ensure that Subrecipient's accounting system shall have sufficient internal controls to separately track the expenditure of all funds from this Agreement. Provided further, that the only option available for advanced funds is to maintain such advanced funds in a separate bank account. There shall be no commingling of funds provided under this Agreement with any other funds, projects or programs. Commerce may, in its sole discretion, disallow costs made with commingled funds and require reimbursement for such costs as described herein, Subparagraph (21)(e), Repayments.

(h) Subrecipient, including all of its employees or agents, contractors, subcontractors and consultants to be paid from funds provided under this Agreement, shall allow access to its records at reasonable times to representatives of Commerce, the Chief Financial Officer of the State of Florida, the Auditor General of the State of Florida, the Florida Office of Program Policy Analysis and Government Accountability or representatives of the Federal government or their duly authorized representatives. "Reasonable" shall ordinarily mean during normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

(6) Audit Requirements.

(a) Subrecipient shall conduct a single or program-specific audit in accordance with the provisions of 2 CFR part 200 if it expends seven hundred fifty thousand dollars ($750,000) or more in Federal awards from all sources during its fiscal year.

(b) Within sixty (60) calendar days of the close of Subrecipient's fiscal year, on an annual basis, Subrecipient shall electronically submit a completed Audit Compliance Certification to audit@Commerce.fl.gov, and Commerce's grant manager; a blank version of which is attached hereto as Attachment J. Subrecipient's timely submittal of one completed Audit Compliance Certification for each applicable fiscal year will fulfill this requirement within all agreements (e.g., contracts, grants, memorandums of understanding, memorandums of agreement, economic incentive award agreements, etc.) between Commerce and Subrecipient.

(c) In addition to the submission requirements listed in Attachment I, Audit Requirements, Subrecipient shall send an electronic copy of its audit report to Commerce's grant manager for this Agreement by June 30 following the end of each fiscal year in which it had an open CDBG-DR subgrant.

(d) Subrecipient shall also comply with the Federal Audit Clearinghouse rules and directives, including but not limited to the pertinent Report Submissions provisions of 2 CFR 200.512, when such provisions are applicable to this Agreement.

(7) Reports.

Subrecipient shall provide Commerce with all reports and information set forth in Attachment G, Reports. The monthly reports and administrative closeout reports must include the current status and progress of Subrecipient and all subcontractors in completing the work described in the Scope of Work, Attachment A, and the expenditure of funds under this Agreement. Within 10 calendar days of a request by Commerce, Subrecipient shall provide additional program updates or information. Without limiting any other remedy available to Commerce, if all required reports and copies are not sent to Commerce or are not completed in a manner acceptable to Commerce, payments may be withheld until the reports are completed to Commerce's satisfaction. Commerce may also take other action as stated in Paragraph (12) Remedies or otherwise allowable by law.

(8) Inspections and Monitoring.

(a) Subrecipient shall cooperate and comply with Commerce, HUD, and auditors with any inspections and will immediately provide access to records and financial statements as deemed necessary by Commerce, HUD, and their respective auditors at least in accordance with requirements of 2 CFR part 200 and 24 CFR 570.489.

(b) Subrecipient shall cooperate and comply with monitoring of its activities as deemed necessary by Commerce to ensure that the subaward is used for authorized purposes in compliance with federal statutes, regulations, and this Agreement.

(c) Without limiting the actions Commerce, HUD, or their respective investigators may take, monitoring procedures will include at a minimum: (1) reviewing financial and performance reports required by the Grantee, (2) following-up and ensuring that Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the Grantee as detected through audits, on-site reviews and other means, and (3) issuing a management decision for audit findings pertaining to this Federal award provided to Subrecipient from the Grantee as required by 2 CFR §200.521.

(d) Corrective Actions: Commerce may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits Commerce may require Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the pass-through entity as detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, Commerce may in its sole discretion and without advance notice, impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance. Commerce may also take other action as stated in Paragraph (12) Remedies or otherwise allowable by law.

(9) Duplication of Benefits.

Subrecipient shall not carry out any of the activities under this Agreement in a manner that results in a prohibited duplication of benefits as defined by Section 312 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act of 1974 (42 U.S.C. 5155 *et seq.*) and described in Appropriations Acts. Subrecipient must comply with HUD's requirements for duplication of benefits, as described in the Federal Register and HUD guidance (including HUD training materials). Subrecipient shall carry out the activities under this Agreement in compliance with Commerce's procedures to prevent duplication of benefits. Subrecipient shall sign a Subrogation Agreement (See Attachment M).

(10) Liability.

(a) If Subrecipient is a state agency or subdivision, as defined in Section 768.28(2), F.S., pursuant to Section 768.28(19), F.S., neither Party indemnifies nor insures or assumes any liability for the other Party for the other Party's negligence.

(b) Subrecipient assumes sole responsibility for the training and oversight of the parties it deals with or employs to carry out the terms of this Agreement to the extent set forth in Section 768.28, Florida Statutes. Subrecipient shall defend, indemnify, and hold Commerce harmless against all claims of whatever nature arises from the work and services performed by third parties under this Agreement. For purposes of this Agreement, Subrecipient agrees that it is not an employee or agent of Commerce, but is an independent contractor.

(c) Subrecipient agrees to be fully responsible for its negligent or tortious acts or omissions, which result in claims or suits against Commerce. Subrecipient shall defend, indemnify, and hold Commerce harmless against any damages proximately caused by the acts or omissions to the tort monetary limits as set forth in Section 768.28, F.S. Nothing herein shall be construed as consent by Commerce or the State of Florida to be sued by third parties in any matter arising out of any agreement, contract, or subcontract.

(d) Nothing herein is intended to serve as a waiver of sovereign immunity by Commerce or Subrecipient.

(11) Events of Default.

If any of the following events occur ("Events of Default"), Commerce may, in its sole and absolute discretion, elect to terminate any obligation to make any further payment of funds, exercise any of the remedies set forth in Paragraph (12) Remedies or pursue any remedy at law or in equity, without limitation:

(a) Any warranty or representation made by Subrecipient, in this Agreement or any previous agreement with Commerce, is or becomes false or misleading in any respect, or if Subrecipient fails to keep or perform any of the obligations, terms, or covenants in this Agreement or any previous agreement with Commerce or HUD, and/or has not cured them in timely fashion and/or is unable or unwilling to meet its obligations under this Agreement and/or as required by statute, rule, or regulation;

(b) Any material adverse change occurs in the financial condition of Subrecipient at any time during the term of this Agreement and Subrecipient fails to cure this adverse change within thirty (30) calendar days from the date written notice is sent by Commerce;

(c) If Subrecipient fails to submit any required report or submits any required report with incorrect, incomplete or insufficient information or fails to submit additional information as requested by Commerce;

(d) If Subrecipient fails to perform or timely complete any of its obligations under this Agreement, including participating in Commerce's Implementation Workshop. The Parties agree that in the event Commerce elects to make payments or partial payments after any Events of Default, it does so without waiving the right to exercise any remedies allowable herein or at law and without becoming liable to make any further payment.

(e) Neither Party shall be liable to the other for any delay or failure to perform under this Agreement if such delay or failure is neither the fault nor the negligence of the Party or its employees or agents and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond the Party's control or for any of the foregoing that affects subcontractors or suppliers if no alternate source of supply is available. However, in the event of delay from the foregoing causes, the Party shall take all reasonable measures to mitigate any and all resulting delay or disruption in the Party's performance obligation under this Agreement. If the delay is excusable under this paragraph, the delay will not result in any additional charge or cost under the Agreement to either Party. In the case of any delay Subrecipient believes is excusable under this paragraph, Subrecipient shall notify Commerce in writing of the delay or potential delay and describe the cause of the delay either: (1) within ten (10) calendar days after the cause that creates or will create the delay first arose, if Subrecipient could reasonably foresee that a delay could occur as a result or (2) within five (5) calendar days after the date Subrecipient first had reason to believe that a delay could result, if the delay is not reasonably foreseeable. **THE FOREGOING SHALL CONSTITUTE SUBRECIPIENT'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY**. Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. Commerce, in its sole discretion, will determine if the delay is excusable under this paragraph and will notify Subrecipient of its decision in writing. No claim for damages, other than an extension of time, shall be asserted against Commerce. Subrecipient shall not be entitled to an increase in the Agreement price or payment of any kind from Commerce for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency arising because of delay, disruption, interference or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist, Subrecipient shall perform at no increased cost, unless Commerce determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to Commerce or the State, in which case, Commerce may do any or all of the following: (1) accept allocated performance or deliveries from Subrecipient, provided that Subrecipient grants preferential treatment to Commerce with respect to products or services subjected to allocation; (2) purchase from other sources (without recourse to and by Subrecipient for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity or (3) terminate the Agreement in whole or in part.

(12) Remedies.

If an Event of Default occurs, Commerce may in its sole discretion and without limiting any other right or remedy available, provide thirty (30) calendar days written notice to Subrecipient and if Subrecipient fails to cure within those thirty (30) calendars days Commerce may choose to exercise one or more of the following remedies, either concurrently or consecutively:

(a) Terminate this Agreement upon written notice by Commerce sent in conformity with Paragraph (16) Notice and Contact.

(b) Begin any appropriate legal or equitable action to enforce performance of this Agreement.

(c) Withhold or suspend payment of all or any part of a request for payment.

(d) Demand Subrecipient return to Commerce any funds used for ineligible activities or unallowable costs under this Agreement or any applicable law, rule or regulation governing the use of the funds; and

(e) Exercise any corrective or remedial actions, including but not limited to:

1. Requesting additional information from Subrecipient to determine the reasons for or the extent of non-compliance or lack of performance.

2. Issuing a written warning to advise that more serious measures may be taken if the situation is not corrected; and/or
3. Advising Subrecipient to suspend, discontinue or refrain from incurring costs for any activities in question.

(f) Exercise any other rights or remedies which may be otherwise available under law.

Pursuit of any of the above remedies does not preclude Commerce from pursuing any other remedies in this Agreement or provided at law or in equity. Failure to exercise any right or remedy in this Agreement or failure by Commerce to require strict performance does not affect, extend or waive any other right or remedy available or affect the later exercise of the same right or remedy by Commerce for any other default by Subrecipient.

(13) Dispute Resolution.

Commerce shall decide disputes concerning the performance of the Agreement, and document dispute decisions in writing and serve a copy of same on Subrecipient. All decisions are final and conclusive unless Subrecipient files a petition for administrative hearing with Commerce within twenty-one (21) days from the date of receipt of the decision. Exhaustion of administrative remedies prescribed in Chapter 120, F.S., is an absolute condition precedent to Subrecipient's ability to pursue any other form of dispute resolution; provided however, that the Parties may mutually agree to employ the alternative dispute resolution procedures outlined in Chapter 120, F.S.

(14) Citizen Complaints.

The goal of Commerce is to provide an opportunity to resolve citizen complaints in a timely manner, usually within fifteen (15) business days of the receipt of the complaint as expected by HUD, if practicable, and to provide the right to participate in the process and appeal a decision when there is reason for an applicant to believe its application was not handled according to program policies. All applications, guidelines and websites will include details on the right to file a complaint or appeal and the process for filing a complaint or beginning an appeal.

The Subrecipient will handle citizen complaints by:

(a) Conducting investigations, as necessary.
(b) Finding a resolution; or
(c) Conducting follow-up actions.

Program Appeals

Applicants may appeal program decisions related to one of the following activities:

(a) A program eligibility determination.
(b) A program assistance award calculation; or
(c) A program decision concerning housing unit damage and the resulting program outcome.

Citizens may file a written complaint or appeal with the Office of Long-Term Resiliency by email at CDBG-DR@Commerce.fl.gov or by mail to the following address:

Attention: Office of Long-Term Resiliency
Florida Department of Commerce
107 East Madison Street
The Caldwell Building, MSC 420

Tallahassee, Florida 32399

HUD Complaints
If the complainant is not satisfied by the Subrecipient's determination or Commerce's response, then the complainant may file a written appeal by following the instructions issued in the letter of response. If the complainant has not been satisfied with the response at the conclusion of the complaint or appeals process, a formal complaint may then be addressed directly to the regional Department of Housing and Urban Development (HUD) at:

Department of Housing & Urban Development
Charles E. Bennet Federal Building
400 West Bay Street, Suite 1015
Jacksonville, FL 32202

Fair Housing Complaints
The Florida Office of Long-Term Resiliency operates in Accordance with the Federal Fair Housing Law (The Fair Housing Amendments Act of 1988). Anyone who feels he or she has been discriminated against may file a complaint of housing discrimination: 1-800-669-9777 (Toll Free), 1-800-927-9275 (TTY) or www.hud.gov/fairhousing.

(15) Termination.

(a) Commerce may immediately suspend or terminate this Agreement for cause by providing written notice, from the date notice is sent by Commerce. Cause includes, but is not limited to; an Event of Default as set forth in this Agreement: Subrecipient's improper or ineffective use of funds provided under this Agreement; fraud; lack of compliance with any applicable rules, regulations, statutes, executive orders, HUD guidelines, policies, directives or laws; failure, for any reason, to timely and/or properly perform any of Subrecipient's obligations under this Agreement; submission of reports that are incorrect or incomplete in any material respect and refusal to permit public access to any document, paper, letter or other material subject to disclosure under law, including Chapter 119, F.S., as amended. The aforementioned reasons for termination are listed in the immediately preceding sentence for illustration purposes but are not limiting Commerce's sole and absolute discretion with respect to Commerce's right to terminate this Agreement. In the event of suspension or termination, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs.

(b) Commerce may unilaterally terminate this Agreement, in whole or in part, for convenience by providing Subrecipient fourteen (14) days written notice from the date notice is sent by Commerce, setting forth the reasons for such termination, the effective date and, in the case of partial termination, the portion to be terminated. However, if in the case of partial termination, Commerce determines that the remaining portion of the award will not accomplish the purpose for which the award was made, Commerce may terminate the portion of the award which will not accomplish the purpose for which the award was made. Subrecipient shall continue to perform any work not terminated. In the event of termination for convenience, Subrecipient shall not be entitled to recover any cancellation charges or unreimbursed costs for the terminated portion of work.

(c) The Parties may terminate this Agreement for their mutual convenience in writing, in the manner agreed upon by the Parties, which must include the effective date of the termination.

(d) In the event that this Agreement is terminated, Subrecipient shall not incur new obligations under the terminated portion of the Agreement after the date Subrecipient has received the notification of termination. Subrecipient shall cancel as many outstanding obligations as possible. Commerce shall disallow all costs incurred after Subrecipient's receipt of the termination notice. Commerce may, to the extent authorized by law, withhold payments to Subrecipient for the purpose of set-off until the exact amount of damages due to Commerce from Subrecipient is determined.

(e) Upon expiration or termination of this Agreement Subrecipient shall transfer to Commerce any CDBG-DR funds on hand at the time of expiration or termination and any accounts receivable attributable to the use of CDBG-DR funds.

(f) Any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG-DR funds (including CDBG-DR funds provided to subrecipient in the form of a loan) in excess of $25,000 must either:

1. Be used to meet a national objective until five years after expiration or termination of this Agreement, unless otherwise agreed upon by the Parties, or except as otherwise set forth herein; or
2. If not used to meet a national objective, Subrecipient shall pay to Commerce an amount equal to the current market value of the property less any portion of the value attributable to expenditures of non-CDBG-DR funds for the acquisition or improvement of the property for five years after expiration or termination of this Agreement.

(g) The rights and remedies under this clause are in addition to any other rights or remedies provided by law or under this Agreement.

(16) Notice and Contact.

(a) All notices provided under or pursuant to this Agreement shall be in writing, either by hand delivery, first class or certified mail with return receipt requested, email with confirmation of receipt of email from Subrecipient, to the representative identified below at the address set forth below or said notification attached to the original of this Agreement.

(b) The name and address of Commerce's Primary Grant Manager for this Agreement is:

Angela Lewis
107 E. Madison Street, MSC 400
Tallahassee, Florida 32399
Ph: (850) 921-3270
Angela.Lewis@Commerce.fl.gov

(c) The name and address of the Local Government Project Contact for this Agreement is:

William K. Boyer
Grants and Special Projects Coordinator
222 W. Main Street
Pensacola, Florida
Ph: (850) 435-1822
kboyer@cityofpensacola.com

(d) If different representatives or addresses are designated by either Party after execution of this Agreement, notice of the name, title and address of the new representative will be provided to the other Party to this Agreement. Such change shall not require a formal amendment of the Agreement.

(17) Contracts.

If Subrecipient contracts any of the work required under this Agreement, a copy of the proposed contract and any proposed amendments, extensions, revisions or other changes thereto, must be forwarded to the Commerce grant manager for prior written approval. For each contract, Subrecipient shall report to Commerce as to whether that contractor or any subcontractors hired by the contractor, is a minority vendor, as defined in Section 288.703, F.S. Subrecipient shall comply with the procurement standards in 2 CFR §200.318 - §200.327 and §200.330 when procuring property and services under this Agreement (refer to Attachments D & E).

Subrecipient shall include the following terms and conditions in any contract pertaining to the work required under this Agreement:

(a) the period of performance or date of completion;
(b) the performance requirements.
(c) that the contractor is bound by the terms of this Agreement.
(d) that the contractor is bound by all applicable State and Federal laws, rules, and regulations.
(e) that the contractor shall hold Commerce and Subrecipient harmless against all claims of whatever nature arising out of the contractor's performance of work under this Agreement.
(f) the obligation of Subrecipient to document in Subrecipient's reports the contractor's progress in performing its work under this Agreement.
(g) the requirements of 2 CFR Appendix II to Part 200 – Contract Provision for Non-Federal Entity Contract Under Federal Awards – (refer to Attachment L)

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities (24 CFR 570.489(l)), pursuant to which CDBG funds must not be provided to excluded or disqualified persons and provisions addressing bid, payment, performance bonds, if applicable, and liquidated damages.

Subrecipient shall maintain oversight of all activities performed under this Agreement and shall ensure that its contractors perform according to the terms and conditions of the procured contracts or agreements and the terms and conditions of this Agreement.

(18) Terms and Conditions.

This Agreement contains all the terms and conditions agreed upon by the Parties. There are no provisions, terms, conditions, or obligations other than those contained in this Agreement; and this Agreement supersedes all previous understandings. No waiver by Commerce may be effective unless made in writing by an authorized Commerce official.

(19) Attachments.

(a) If any inconsistencies or conflict between the language of this Agreement and the attachments arise, the language of the attachments shall control, but only to the extent of the conflict or inconsistency.

(b) This Agreement contains the following attachments:

Attachment A – Scope of Work
Attachment B – Project Budget (Example)
Attachment C – Activity Work Plan (Example)

Attachment D – Program and Special Conditions
Attachment E – State and Federal Statutes, Regulations and Policies
Attachment F – Civil Rights Compliance
Attachment G – Reports
Attachment H – Warranties and Representations
Attachment I – Audit Requirements
Exhibit 1 to Attachment I – Funding Sources
Attachment J – Audit Compliance Certification
Attachment K – SERA Access Authorization Form
Attachment L – 2 CFR Appendix II to Part 200
Attachment M – Subrogation Agreement

(20) Funding/Consideration.

(a) The funding for this Agreement shall not exceed **Five Million, Five Hundred Thousand Dollars and Zero Cents ($5,500,000.00)**, subject to the availability of funds. The State of Florida and Commerce's performance and obligation to pay under this Agreement is contingent upon annual appropriations by the Legislature and subject to any modification in accordance with Chapter 216, F.S. or the Florida Constitution.

(b) Commerce will provide funds to Subrecipient by issuing a Notice of Subgrant Award/Fund Availability ("NFA") through Commerce's financial management information system. Each NFA may contain specific terms, conditions, assurances, restrictions, or other instructions applicable to the funds provided by the NFA. By accepting funds made available through an NFA, Subrecipient agrees to comply with all terms, conditions, assurances, restrictions, or other instructions listed in the NFA.

(c) By execution of this Agreement, Subrecipient certifies that necessary written administrative procedures, processes and fiscal controls are in place for the operation of its CDBG-DR program for which Subrecipient receives funding from Commerce. These written administrative procedures, processes and fiscal controls must, at minimum, comply with applicable state and federal law, rules, regulations, guidance and the terms of this Agreement. Subrecipient agrees to comply with all the terms and conditions of Attachment D, Program and Special Conditions.

(d) Subrecipient shall expend funds only for allowable costs and eligible activities, in accordance with the Scope of Work.

(e) Subrecipient shall request all funds in the manner prescribed by Commerce. The authorized signatory for Subrecipient set forth on the SERA Access Authorization Form, Attachment K, to this Agreement, must approve the submission of each Request for Funds ("RFF") on behalf of Subrecipient.

(f) Except as set forth herein, or unless otherwise authorized in writing by Commerce, costs incurred for eligible activities or allowable costs prior to the effective date of this Agreement are ineligible for funding with CDBG-DR funds.

(g) If the necessary funds are not available to fund this Agreement as a result of action by the United States Congress, the Federal Office of Management and Budget, the Florida Legislature, the State Chief Financial Officer or under Subparagraph (22), Mandated Conditions of this Agreement, all obligations on the part of Commerce to make any further payment of funds will terminate and Subrecipient shall submit its administrative closeout report and subgrant agreement closeout package as directed by Commerce within thirty (30) calendar days from receipt of notice from Commerce.

(h) Subrecipient is ultimately responsible for the administration of this Agreement, including monitoring and oversight of any person or entity retained or hired by Subrecipient.

(i) All expenditures under this Agreement shall be made in accordance with this Agreement and any applicable state or federal statutes, rules, or regulations.

(j) Funding for this Agreement is appropriated under Public Law 117-43, Division I, the "The Disaster Relief Supplemental Appropriations Act, 2022" for the purpose of assisting in long-term recovery from major disasters that occurred in 2022 in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121 et seq., (the "Stafford Act").

(k) CDBG-DR funds, appropriated and identified by Public Law, are governed by one or more Federal Register notices that contain requirements, applicable waivers, and alternative requirements that apply to the use of these funds.

(21) Repayments.

(a) Subrecipient shall only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period. Subrecipient shall ensure that its contractors, subcontractors and consultants only expend funding under this Agreement for allowable costs resulting from obligations incurred during the Agreement period.

(b) In accordance with Section 215.971, F.S., Subrecipient shall refund to Commerce any unobligated funds which have been advanced or paid.

(c) Subrecipient shall refund to Commerce any funds paid in excess of the amount to which Subrecipient or its contractors, subcontractors or consultants are entitled under the terms and conditions of this Agreement.

(d) Subrecipient shall refund to Commerce any funds received for an activity if the activity does not meet one of the three National Objectives listed in 24 CFR § 570.483(b), (c), and (d); provided, however, Subrecipient is not required to repay funds for subgrant administration unless Commerce, in its sole discretion, determines Subrecipient is at fault for the ineligibility of the activity in question.

(e) Subrecipient shall refund to Commerce any funds not spent in accordance with the conditions of this Agreement or applicable law. Such reimbursement shall be sent to Commerce, by Subrecipient, within thirty (30) calendar days from Subrecipient's receipt of notification of such non-compliance.

(f) In accordance with Section 215.34(2), F.S., if a check or other draft is returned to Commerce for collection, Subrecipient shall pay to Commerce a service fee of $15.00 or five percent of the face amount of the returned check or draft, whichever is greater. All refunds or repayments to be made to Commerce under this Agreement are to be made payable to the order of "Department of Commerce" and mailed directly to Commerce at the following address:

Department of Commerce
Community Development Block Grant Programs Cashier
107 East Madison Street – MSC 420
Tallahassee, Florida 32399-6508

(22) Mandated Conditions.

(a) The validity of this Agreement is subject to the truth and accuracy of all the information, representations and materials submitted or provided by Subrecipient in this Agreement, in any later submission or response to a Commerce request or in any submission or response to fulfill the requirements of this Agreement. All of said information, representations and materials are incorporated herein by reference.

(b) This Agreement shall be construed under the laws of the State of Florida and venue for any actions arising out of this Agreement shall be in the Circuit Court of Leon County. The Parties explicitly waive any right to jury trial.

(c) If any provision of this Agreement is in conflict with any applicable statute or rule, or is unenforceable, then that provision shall be null and void only to the extent of the conflict or unenforceability, and that provision shall be severable from and shall not invalidate any other provision of this Agreement.

(d) Any power of approval or disapproval granted to Commerce under the terms of this Agreement shall survive the term of this Agreement.

(e) This Agreement may be executed in any number of counterparts, any one of which may be taken as an original.

(f) Subrecipient shall comply with all applicable local, state and federal laws, including the Americans With Disabilities Act of 1990, as amended (P.L. 101-336, 42 U.S.C. § 12101 *et seq.*); the Florida Civil Rights Act, as amended, Chapter 760, Florida Statutes; Title VII of the Civil Rights Act of 1964, as amended; (P.L. 101-336, 42 U.S.C. § 12101 *et seq.*) and laws which prohibit discrimination by public and private entities on in employment, public accommodations, transportation, state and local government services and telecommunications.

(g) Pursuant to Section 287.133(2)(a), F.S., a person or affiliate, as defined in Section 287.133(1), F.S., who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies 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 thirty-five thousand dollars ($35,000) for a period of thirty-six (36) months following the date of being placed on the convicted vendor list. By executing this Agreement, Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the convicted vendor list. Subrecipient shall disclose if it or any of its affiliates is placed on the convicted vendor list.

(h) Pursuant to Section 287.134(2)(a), F.S., an entity or affiliate, as defined in Section 287.134(1), who has been placed on the discriminatory vendor list may not submit a bid, proposal or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals or replies 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. By executing this Agreement, Subrecipient represents and warrants that neither it nor any of its affiliates is currently on the discriminatory vendor list. Subrecipient shall disclose if it or any of its affiliates is placed on the discriminatory vendor list.

(i) All bills for fees or other compensation for services or expenses shall be submitted in detail sufficient for a proper pre-audit and post-audit thereof.

(j) In the event travel is pre-approved by Commerce, any bills for travel expenses shall be submitted and reimbursed in accordance with Section 112.061, F.S., the rules promulgated thereunder and 2 CFR § 200.474.

(k) If Subrecipient is allowed to temporarily invest any advances of funds under this Agreement, any interest income shall either be returned to Commerce or be applied against Commerce's obligation to pay the Agreement award amount.

(l) Subrecipient hereby acknowledges that Subrecipient is subject to Florida's Government in the Sunshine Law (Section 286.011, F.S.) with respect to the meetings of Subrecipient's governing board or the meetings of any subcommittee making recommendations to the governing board. Subrecipient hereby agrees that all such aforementioned meetings shall be publicly noticed, open to the public and the minutes of all the meetings shall be public records made available to the public in accordance with Chapter 119, F.S.

(m) Subrecipient shall comply with section 519 of P. L. 101-144, the Department of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 1990; and section 906 of P.L. 101-625, the Cranston-Gonzalez National Affordable Housing Act, 1990, by having, or adopting within ninety (90) days of execution of this Agreement, and enforcing, the following:

1. A policy prohibiting the use of excessive force by law enforcement agencies within its jurisdiction against any individuals engaged in non-violent civil rights demonstrations; and
2 A policy of enforcing applicable State and local laws against physically barring entrance to or exit from a facility or location which is the subject of such non-violent civil rights demonstrations within its jurisdiction.

(n) Upon expiration or termination of this Agreement, Subrecipient shall transfer to Commerce any CDBG-DR funds remaining at the time of expiration or termination, and any accounts receivable attributable to the use of CDBG-DR funds.

(23) Lobbying Prohibition.

(a) No funds or other resources received from Commerce under this Agreement may be used directly or indirectly to influence legislation or any other official action by the Florida Legislature or any state agency.

(b) Subrecipient certifies, by its signature to this Agreement, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of Subrecipient, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with this Federal contract, grant, loan or cooperative agreement, Subrecipient shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. Subrecipient shall require that this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose as described in this Agreement. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. § 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than ten thousand dollars ($10,000) and not more than one hundred thousand dollars ($100,000) for each such failure.

(24) Copyright, Patent and Trademark.

Any and all patent rights accruing under or in connection with the performance of this Agreement are hereby reserved to the State of Florida. Any and all copyrights accruing under or in connection with the performance of this Agreement are hereby transferred by Subrecipient to the State of Florida.

(a) If Subrecipient has a pre-existing patent or copyright, Subrecipient shall retain all rights and entitlements to that pre-existing patent or copyright unless this Agreement expressly provides otherwise.

(b) If any discovery or invention is developed in the course of or as a result of work or services performed under this Agreement or in any way connected with it, Subrecipient shall refer the discovery or invention to Commerce for a determination whether the State of Florida will seek patent protection in its name. Any patent rights accruing under or in connection with the performance of this Agreement are reserved to the State of Florida. If any books, manuals, films or other copyrightable material are produced, Subrecipient shall notify Commerce. Any copyrights accruing under or in connection with the performance under this Agreement are transferred by Subrecipient to the State of Florida.

(c) Within thirty (30) calendar days of execution of this Agreement, Subrecipient shall disclose all intellectual properties relating to the performance of this Agreement which give rise to a patent or copyright. Subrecipient shall retain all rights and entitlements to any pre-existing intellectual property which is so disclosed. Failure to disclose will indicate that no such property exists, and Commerce shall have the right to all patents and copyrights which accrue during performance of the Agreement.

(25) Legal Authorization.

(a) Subrecipient certifies that it has the legal authority to receive the funds under this Agreement and that its governing body has authorized the execution and acceptance of this Agreement. Subrecipient certifies that the undersigned person has the authority to legally execute and bind Subrecipient to the terms of this Agreement. Commerce may, at its discretion, request documentation evidencing the undersigned has authority to bind Subrecipient to this Agreement as of the date of execution; any such documentation is incorporated herein by reference.

(b) Prior to the execution of this Agreement Subrecipient warrants that, to the best of its knowledge, there is no pending or threatened action, proceeding, investigation or any other legal or financial condition that would in any way prohibit, restrain or diminish Subrecipient's ability to satisfy its obligations. Subrecipient shall immediately notify Commerce in writing if its ability to perform is compromised in any manner during the term of the Agreement.

(26) Public Record Responsibilities.

(a) In addition to Subrecipient's responsibility to directly respond to each request it receives for records, in conjunction with this Agreement and to provide the applicable public records in response to such request, Subrecipient shall notify Commerce of the receipt and content of all such requests by sending an email to PRRequest@Commerce.fl.gov within one (1) business day from receipt of the request.

(b) Subrecipient shall keep and maintain public records required by Commerce to perform Subrecipient's responsibilities hereunder. Subrecipient shall, upon request from Commerce's custodian of public records, provide Commerce with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided by Chapter 119, F.S., or as otherwise provided by law. Subrecipient shall allow public access to all documents, papers, letters or other materials made or received by Subrecipient in conjunction with this Agreement, unless the records are exempt from Article I, Section 24(a) of the Florida Constitution and Section 119.07(1), F.S. For records made or received by Subrecipient in conjunction with this Agreement, Subrecipient shall respond to requests to inspect or copy such records in accordance with Chapter 119, F.S. For all such requests for records that are public records, as public records are defined in Section 119.011, F.S., Subrecipient shall be responsible for providing such public records per the cost structure provided in Chapter 119, F.S., and in accordance with all other requirements of Chapter 119, F.S., or as otherwise provided by law.

(c) This Agreement may be terminated by Commerce for refusal by Subrecipient to comply with Florida's public records laws or to allow public access to any public record made or received by Subrecipient in conjunction with this Agreement.

(d) If, for purposes of this Agreement, Subrecipient is a "contractor" as defined in Section 119.0701(1)(a), F.S. ("Subrecipient-contractor"), Subrecipient-contractor shall transfer to Commerce, at no cost to Commerce, all public records upon completion including termination, of this Agreement or keep and maintain public records required by Commerce to perform the service. If Subrecipient-contractor transfers all public records to the public agency upon completion of the Agreement, Subrecipient-contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If Subrecipient-contractor keeps and maintains public records upon completion of the Agreement, Subrecipient-contractor shall meet all applicable requirements for retaining public records in accordance with Chapters 119 and 257, F.S. All records stored electronically must be provided to Commerce, upon request from Commerce's custodian of public records, in a format that is compatible with the information technology systems of Commerce.

(e) If Commerce does not possess a record requested through a public records request, Commerce shall notify Subrecipient-contractor of the request as soon as practicable, and Subrecipient-contractor must provide the records to Commerce or allow the records to be inspected or copied within a reasonable time, but in all cases within fourteen (14) business days. If Subrecipient-contractor does not comply with Commerce's request for records, Commerce shall enforce the provisions set forth in this Agreement. Subrecipient-contractor who fails to provide public records to Commerce within a reasonable time may be subject to penalties under Section 119.10, F.S.

(f) Subrecipient shall notify Commerce verbally within twenty-four (24) hours and in writing within seventy-two (72) hours if any data in Subrecipient's possession related to this Agreement is subpoenaed or improperly used, copied or removed (except in the ordinary course of business) by anyone except an authorized representative of Commerce. Subrecipient shall cooperate with Commerce, in taking all steps as Commerce deems advisable, to prevent misuse, regain possession or otherwise protect the State's rights and the data subject's privacy.

(g) Subrecipient acknowledges that Commerce is subject to the provisions of Chapter 119, F.S., relating to public records and that reports, invoices and other documents Subrecipient submits to Commerce under this Agreement constitute public records under Florida Statutes. Subrecipient shall cooperate with Commerce regarding Commerce's efforts to comply with the requirements of Chapter 119, F.S.

(h) If Subrecipient submits records to Commerce that are confidential and exempt from public disclosure as trade secrets or proprietary confidential business information, such records should be identified as such by Subrecipient prior to submittal to Commerce. Failure to identify the legal basis for each exemption from the requirements of Chapter 119, F.S., prior to submittal of the record to Commerce serves as Subrecipient's waiver of a claim of exemption. Subrecipient shall ensure public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if Subrecipient-contractor does not transfer the records to Commerce upon completion, including termination, of this Agreement.

(i) **IF SUBRECIPIENT-CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SUBRECIPIENT-CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS by telephone at 850-245-7140, via email at PRRequest@Commerce.fl.gov, or by mail at Department of**

Commerce, Public Records Coordinator, 107 East Madison Street, Caldwell Building, Tallahassee, Florida 32399-4128.

(j) To the extent allowable by law, Subrecipient shall be fully liable for the actions of its agents, employees, partners, contractors and subcontractors and shall fully indemnify, defend, and hold harmless the State and Commerce, and their officers, agents and employees, from suits, actions, damages, and costs of every name and description, including attorneys' fees, arising from or relating to public record requests or public record law violation(s), alleged to be caused in whole or in part by Subrecipient, its agents, employees, partners, contractors or subcontractors, provided, however, that Subrecipient does not indemnify for that portion of any costs or damages proximately caused by the negligent act or omission of the State or Commerce. Commerce, in its sole discretion, has the right, but not the obligation, to enforce this indemnification provision.

(k) Commerce does not endorse any Subrecipient, commodity, or service. Subject to Chapter 119, F.S., Subrecipient shall not publicly disseminate any information concerning this Agreement without prior written approval from Commerce, including, but not limited to, mentioning this Agreement in a press release or other promotional material, identifying Commerce or the State as a reference, or otherwise linking Subrecipient's name and either a description of the Agreement or the name of Commerce or the State in any material published, either in print or electronically, to any other entity that is not a Party to this Agreement, except potential or actual employees, agents, representatives or subcontractors with the professional skills necessary to perform the work services required by the Agreement.

(l) Subrecipient shall comply with the requirements set forth in Section 119.0701, F.S., when entering into any public agency contract for services after the Effective Date of this Agreement. Subrecipient shall amend each of Subrecipient's public agency contracts for services already in effect as of the Effective Date of this Agreement and which contract will or may be funded in whole or in part with any public funds. Commerce may terminate this Agreement if Subrecipient does not comply with this provision.

(27) Employment Eligibility Verification.

(a) E-Verify is an Internet-based system that allows an employer, using information reported on an employee's Form I-9, Employment Eligibility Verification, to determine the eligibility of all new employees hired to work in the United States. There is no charge to employers to use E-Verify. The Department of Homeland Security's E-Verify system can be found at: https://www.e-verify.gov/.

(b) Section 448.095, F.S., requires the following:
1. Every public agency and its contractors and subcontractors shall register with and use the E-Verify system to verify the work authorization status of all newly hired employees. A public agency or a contractor or subcontractor thereof may not enter into a contract unless each party to the contract registers with and uses the E-Verify system.
2. An employer shall verify each new employee's employment eligibility within three (3) business days after the first day that the new employee begins working for pay as required under 8 C.F.R. 274a. Beginning July 1, 2023, a private employer with 25 or more employees shall use the E-Verify system to verify a new employee's employment eligibility.

(c) If an entity does not use E-Verify, the entity shall enroll in the E-Verify system prior to hiring any new employee or retaining any contract employee after the effective date of this Agreement.

(28) Program Income.

(a) Subrecipient shall report to Commerce all program income (as defined at 24 CFR § 570.500(a) or in the Federal Register Guidance governing the CDBG-DR funds) generated by activities carried out with

CDBG-DR funds made available under this Agreement as part of Subrecipient's Quarterly Progress Report. Subrecipient shall use program income in accordance with the applicable requirements of 2 CFR part 200, 24 CFR part 570.504, and the terms of this Agreement.

(b) Program income generated after closeout shall be returned to Commerce. Program income generated prior to closeout shall be returned to Commerce unless the program income is used to fund additional units of CDBG-DR activities, specified in a modification to this Agreement and duly executed prior to administrative closeout.

(29) National Objectives.

All activities funded with CDBG-DR funds must meet the criteria for one of the CDBG program's National Objectives. Subrecipient certifies that the activities carried out under this Agreement shall meet the following national objectives and satisfy the following criteria:

(a) Benefit to low- and moderate- income persons;
(b) Aid in prevention or elimination of slums or blight; and
(c) Meet a need having particular urgency (referred to as urgent need).

(30) Independent Contractor.

(a) In Subrecipient's performance of its duties and responsibilities under this Agreement, it is mutually understood and agreed that Subrecipient is at all times acting and performing as an independent contractor. Nothing in this Agreement is intended to or shall be deemed to constitute an employer/employee relationship, partnership, or joint venture between the Parties. Subrecipient shall at all times remain an independent contractor with respect to the services to be performed under this Agreement. Nothing in this Agreement shall be construed to create any agency or employment relationship between Commerce, Subrecipient, its employees, subcontractors, or agents. Neither Party shall have any right, power or authority to assume, create or incur any expense, liability or obligation, express or implied, on behalf of the other.

(b) Subrecipient, its officers, agents, employees, subcontractors, or assignees, in performance of this Agreement shall act in the capacity of an independent contractor and not as an officer, employee, agent, joint ventures, or partner of the State of Florida.

(c) Subrecipient shall have sole right to control the manner, method and means by which the services required by this Agreement are performed. Commerce shall not be responsible to hire, supervise or pay Subrecipient's employees. Neither Subrecipient, nor its officers, agents, employees, subcontractors or assignees are entitled to State retirement or State leave benefits, or to any other compensation of State employment as a result of performing the duties and obligations of this Agreement.

(d) Subrecipient agrees to take such actions as may be necessary to ensure that each subcontractor will be deemed to be an independent contractor and will not be considered or permitted to be an agent, employee, servant, joint ventures or partner of the State of Florida.

(e) Unless justified by Subrecipient and agreed to by Commerce in the Scope of Work, Commerce will not furnish services of support (*e.g.*, office space, office supplies, telephone service, secretarial or clerical support) to Subrecipient or its subcontractor or assignee.

(f) Commerce shall not be responsible for withholding taxes with respect to Subrecipient's use of funds under this Agreement. Subrecipient shall have no claim against Commerce for vacation pay, sick leave, retirement benefits, social security, workers' compensation, health or disability benefits, reemployment assistance benefits or employee benefits of any kind. Subrecipient shall ensure that its employees, subcontractors and other agents, receive benefits and necessary insurance (health, workers' compensation, reemployment assistance benefits) from an employer other than the State of Florida.

(g) Subrecipient, at all times during the Agreement, must comply with the reporting and Reemployment Assistance contribution payment requirements of Chapter 443, F.S.

(h) Commerce shall not be responsible for providing any training to Subrecipient, its employees, assigns, agents, representatives or subcontractors in the professional skills necessary to perform the work services required by this Agreement; Commerce may provide training in the form of an Implementation Workshop in keeping with implementation

Remainder of this page is intentionally left blank.

State of Florida
Department of Commerce
Federally Funded Subrecipient Agreement
Signature Page

IN WITNESS THEREOF, and in consideration of the mutual covenants set forth above and in the attachments and exhibits hereto, the Parties executed this Agreement by their duly authorized undersigned officials.

CITY OF PENSACOLA, FLORIDA		**DEPARTMENT OF COMMERCE**	
By	______________________ Signature	**By**	______________________ Signature
	Darcy Curran Reeves		**J. Alex Kelly**
Title	**Mayor**	**Title**	**Secretary**
Date	______________________	**Date**	______________________
Federal Tax ID #	**59-6000406**		
UEI #	**UBMRAF87HQF5**		

Approved as to form and legal sufficiency, subject only to full and proper execution by the Parties.

OFFICE OF GENERAL COUNSEL
DEPARTMENT OF COMMERCE

By: ______________________________

Approved Date: ______________________

Attachment A – Scope of Work

1. PROGRAM DESRIPTION:

On September 16, 2020, Hurricane Sally (DR-4564) swept over the Florida panhandle as a Category 2 hurricane, bringing heavy rainfall and flooding. The impacts of Hurricane Sally further demonstrated the need for an effective, comprehensive long-term recovery plan that would address and meet the remaining needs of Floridians following this catastrophic event. In the wake of this natural disaster, Florida came together to recover and rebuild, but significant unmet needs remain.

Recognizing this, Congress appropriated, and the U.S. Department of Housing and Urban Development (HUD) allocated a total of $187 million in funding to support long-term recovery efforts following Hurricane Sally through the Florida Department of Commerce's (Commerce's) Community Development Block Grant Disaster Recovery (CDBG-DR) Program. Commerce has allocated $110,990,384.82 of this funding for the Rebuild Florida Infrastructure Repair Program through the CDBG-DR Program.
Infrastructure activities that are eligible under the Rebuild Florida Infrastructure Repair Program include:

- Restoration of infrastructure damaged by Hurricane Sally (such as water and sewer facilities, streets, removal of debris, drainage, bridges, etc.).
- Demolition and/or rehabilitation of publicly or privately owned commercial or industrial buildings;
- Renourishment of protective coastal dunes systems and state beaches.
- Repairs to damaged buildings that are essential to the health, safety, and welfare of a community when repairs to these buildings constitutes an urgent need (this can include police stations, fire stations, parks and recreational centers, community and senior centers, hospitals, clinics, homeless shelters, schools and educational facilities, and other public properties, including properties serving as emergency shelters); and
- Repairs to water lines and systems, sewer lines and systems, drainage, and flood mitigation systems.

Mitigation activities that are eligible under the Rebuild Florida Infrastructure Repair Program include:

- Development of mitigation standards, regulations, policies, and programs.
- Land use/zoning policies.
- Strong statewide building code and floodplain management regulations.
- Dam safety programs, seawalls, and levee systems.
- Acquisition of flood prone and environmentally sensitive lands.
- Retrofitting/hardening/elevating structures and critical facilities.
- Relocation of structures, infrastructure, and facilities out of vulnerable areas.
- Permanent relocation of residential housing and businesses located in high-risk areas through voluntary buyback programs, appropriate relocation assistance, and rebuilding in low-risk areas within the neighborhood or areas of opportunity.
- Public awareness/education campaigns; and
- Improvement of warning and evacuation systems.

2. PROJECT DESCRIPTION:

The City of Pensacola has been awarded $5,500,000.00 of CDBG-DR funding to repair a Community Disaster Response Facility (CDRF). This project will repair wind and water damage left in the wake of Hurricane Sally and the subsequent water, moisture, and animal intrusion that led to further damage. The additional stormwater detention and treatment capacity will help meet the service area's need for additional relief from weather-related flooding events. The repairs and improvements to the facility will ensure the nearly 70-year-old Frank A. Fricker Center will continue to meet the growing needs of the community for years to come.

This project meets the "repairs to damaged buildings that are essential to the health, safety, and welfare of a community when repairs to these buildings constitute an urgent need" Infrastructure activity. The project renovations and repairs will breathe new life into the Fricker center by increasing usable space for programming and harden the facility to ensure the center can continue to be used as a base of operations for post-disaster emergency aid and services from outside agencies such as the Red Cross, FEMA, etc.

The project will take place at 900 N F St. Pensacola, Florida, 32501 The Project will include a stormwater retention pond designed to detain and treat water from heavy rains. This added capacity on the site will have a direct positive impact on the low-income residents, homes, and businesses that lie in the "stormwater prone areas" situated in the east-west corridor that borders the south side of the Fricker Center.

a) The city will directly oversee this project. Grant administration (project implementation), engineering, construction, and construction engineering inspection vendors may be procured to complete this agreement.
b) The project will meet the Low- and Moderate-Income (LMI) National Objective.
c) The City of Pensacola participates in the National Flood Insurance Program (NFIP).

The city will leverage $447,425.00 towards this project. Any leverage funds associated with this agreement shall be fully expended prior to utilization of these CDBG-DR funds.

3. SUBRECIPIENT RESPONSIBILITIES:

A. Complete and submit the following items to Commerce within thirty (30) calendar days of execution of the agreement:

1) Organizational Chart with contact information.
2) Job descriptions for Subrecipient's employees, contracted staff, vendors, and contractors. If staffing changes, there must be a submittal stating the names and job descriptions included with the monthly report.
3) Attachment B, Project Budget – Develop and submit to Commerce a detailed budget for implementation of the project.
4) Attachment C, Activity Work Plan - Develop and submit to Commerce a detailed timeline for implementation consistent with the milestones outlined in the Infrastructure Program Guidelines.

Should any changes to the organizational chart, Attachment B or Attachment C be deemed necessary, an updated plan must be submitted to Commerce with your monthly report for review and approval by the Commerce Grant Manager.

B. Develop and submit a copy of the following policies and procedures to the Commerce Grant Manager for review and approval within thirty (30) calendar days of Agreement execution. The Commerce

Grant Manager will provide approval in writing prior to the policies and procedures being implemented.

1) Procurement policies and procedures that incorporate 2 CFR Part 200.317-326.
2) Administrative financial management policies, which must comply with all applicable HUD CDBG-DR and State of Florida rules.
3) Quality assurance and quality control system policies and procedures that comply with all applicable HUD CDBG-DR and Commerce policies.
4) Policies and procedures to detect and prevent fraud, waste and abuse that describe how the subrecipient will verify the accuracy of monitoring policy indicating how and why monitoring is conducted, the frequency of monitoring policy, and which items will be monitored, and procedures for referring instances of fraud, waste and abuse to HUD OIG Fraud Hotline (phone: 1-800-347-3735 or email hotline@hudoig.gov).
5) Policies and procedures for the requirements under 2 CFR 200 Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Award.

C. Attend fraud related training offered by HUD OIG to assist in the proper management of the CDBG-DR grant funds when available.
D. Upload required documents into a system of record provided by Commerce.
E. Maintain organized subrecipient agreement files and make them accessible to Commerce or its representatives upon request.
F. Comply with all terms and conditions of the subrecipient agreement, Infrastructure Program Guidelines, Action Plans, Action Plan amendments, and Federal, State, and local laws.
G. Provide copies of all proposed procurement documents to Commerce ten (10) business days prior to posting as detailed in Attachment D of Subrecipient Agreement. The proposed procurement documents will be reviewed and approved by the Commerce Grant Manager. Should the procurement documents require revisions based on state or federal requirements, Subrecipient will be required to postpone procurement and submit revised documents for review and approval.
H. Provide the following information on a monthly and quarterly basis within five (5) calendar days after the end of each month/quarter: Monthly and Quarterly Reports as detailed in Attachment G.
I. Close out report will be due no later than sixty (60) calendar days after this Agreement ends or is otherwise terminated.
J. Subrecipient shall provide photographs to document progress and completion of tasks and final project.

4. ELIGIBLE TASKS:

A. Deliverable No. 1 – Project Implementation

Tasks that are eligible for reimbursement are as follows:

1) Environmental review administrative activities (Environmental Exemption, Public Notice Publication(s), etc.).
2) Develop policies for the Recipient to adopt related to special conditions listed in this subgrant agreement.
3) Prepared procurement documents.
4) Prepared list of minority and women business enterprise (MBE/WBE) firms that operate in the Recipient's area.
5) Prepared and submitted public notices for publications.
6) Maintained financial records related to project activities on-site.
7) Conducted a Fair Housing activity.
8) Attended a pre-bid conference, bid opening, or preconstruction meeting.

9) Reviewed contractor payrolls and interviewed employees to determine compliance with Davis-Bacon Act, the Contract Work Hours and Safety Standards Act, and the Copeland "Anti-Kickback" Act.
10) Maintain project files.
11) Attended meetings of the Recipient's local governing body to provide progress reports on subgrant activities.
12) Prepared documentation for and attend on-site monitoring visits by Commerce.
13) Prepared financial activity for submission to Commerce.
14) Prepared and submitted detailed monthly and quarterly reports to Commerce.
15) Prepared and submitted Section 3 reports to Commerce.
16) Responded to citizens' complaints.
17) Prepared subgrant modification document for submission to Commerce for review and approval.
18) Prepared responses to monitoring findings and concerns for Recipient to submit to Commerce or HUD.
19) Project Closeout, Engineer's Certification of Completion, Grant Closeout Package completed and submitted to Commerce.

B. **Deliverable No. 2 – Engineering Services**

Tasks that are eligible for reimbursement are as follows:

1) Create a full design package(s), signed and sealed by a Professional Engineer (PE) licensed in the State of Florida, including engineering drawings, structural assessment and design, specifications, construction cost estimate, surveys, and any other reports, documents, or information relevant to this project that meet all local current hurricane code ratings, local codes, building codes, and any other State or Federal rule, code, law, or standard as may be applicable.
2) Obtain copies of all permit applications, correspondence with permitting agencies, final permits, and any other permit-related documentation for the project.
3) Conduct an Environmental Review/Assessment in accordance with HUD and Commerce Policies and the National Environmental Policy Act referenced in Attachment D.4.b of this Agreement and carry out any mitigation measures required as a result to the Environmental Review findings.

C. **Deliverable No. 3 – Construction**

Tasks that are eligible for reimbursement are as follows:

1) Site(s) preparation and/or mobilization;
2) Demolition/site preparation;
3) Purchase of materials and installation of kitchen space repair/replacement;
4) Purchase of materials and installation for the single-story social hall to upgrade to a two-story multipurpose space;
5) Purchase of materials and installation of flooring;
6) Purchase of materials and installation of fascia;
7) Purchase of materials and installation of building envelope waterproofing;
8) Purchase and installation of materials to repair cracks and walls.
9) Purchase of materials and installation for classroom repair/replacement;
10) Purchase of materials and installation of electrical;
11) Purchase of materials and installation of HVAC;
12) Purchase of materials and installation for the fire safety center repair/replacement;
13) Purchase of materials and construction of parking expansion repair/replacement;

14) Purchase of materials and installation or permanent signage;
15) Purchase of materials and installation of essential landscaping;
16) Purchase of materials and installation of conveyance lines, if applicable;
17) Purchase of materials and installation of box drains, grates, and or culverts, if applicable;
18) Purchase of materials and construction of a new underground stormwater catchment, if applicable;
19) Purchase of materials and installation of stormwater treatment system(s), if applicable;
20) Purchase of materials and installation of natural stormwater filtration landscaping, if applicable;
21) Purchase of materials and installation for stormwater treatment and retention/detention, if applicable;
22) Demobilization; and
23) Construction engineering inspection.

5. DEL**IVERABLES:** Subrecipient agrees to provide the following services as specified:

Deliverable No. 1 – Project Implementation		
TASKS	**MINIMUM LEVEL OF SERVICE**	**FINANCIAL CONSEQUENCES**
Subrecipient shall complete Project Implementation activities as identified in Section 4.A of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one (1) Project Implementation task on a per completed task basis as detailed in Section 4.A of this Scope of Work; evidenced by invoice(s) noting completed tasks as well as payroll and other supporting documentation, as applicable.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
		Deliverable 1 Cost- $275,000.00
Deliverable No. 2 – Engineering Services		
TASKS	**MINIMUM LEVEL OF SERVICE**	**FINANCIAL CONSEQUENCES**
Subrecipient shall complete Engineering Services tasks as detailed in Section 4.B of this Scope of Work.	Subrecipient may request reimbursement upon completion of a minimum of one (1) task in accordance with Section 4.B of this Scope of Work, evidenced by submittal of the following documentation: 1) Engineering design, working drawings and associated cost estimates, if applicable; 2)Copies of all required permits, if applicable; 3) Copy of Environmental Review/Assessment; and 4)Invoice package in accordance with Section 7 of this Scope of Work.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.

		Deliverable 2 Cost- $500,000.00
Deliverable No. 3 – Construction		
TASKS	**MINIMUM LEVEL OF SERVICE**	**FINANCIAL CONSEQUENCES**
Subrecipient shall complete Construction tasks as detailed in Section 4.C of this Scope of Work.	Subrecipient may request reimbursement upon completion of activities in accordance with Section 4.C of this Scope of Work in the following increments: 10%, 20%, 30%, 40%, 50%, 60%, 70%, 80%, 90% and 100%, evidenced by submittal of the following documentation: 1) AIA forms G702 and G703, or similar accepted Commerce form, completed by a licensed professional certifying to the percentage of project completion; 2) Photographs of project in progress and completed; and 3) Invoice package in accordance with Section 7 of this Scope of Work.	Failure to complete the Minimum Level of Service as specified shall result in non-payment for this deliverable for each payment request.
		Deliverable 3 Cost- $4,725,000.00
		Total Project Costs Not to Exceed $5,500,000.00

COST SHIFTING: The deliverable amounts specified within the Deliverables Section 5 table above are established based on the Parties' estimation of sufficient delivery of services fulfilling grant purposes under the Agreement in order to designate payment points during the Agreement Period; however, this is not intended to restrict Commerce's ability to approve and reimburse allowable costs Subrecipient incurred providing the deliverables herein. Prior written approval from Commerce's Grant Manager is required for changes to the above Deliverable amounts that do not exceed **25%** of each deliverable total funding amount. Changes that exceed **25%** of each deliverable total funding amount will require a formal written amendment request from Subrecipient, as described in **MODIFICATION** section of the Agreement. Regardless, in no event shall Commerce reimburse costs of more than the total amount of this Agreement.

6. **COMMERCE RESPONSIBILITIES:**
   A. Monitor the ongoing activities of Subrecipient to ensure all activities are being performed in accordance with the Agreement to the extent required by law or deemed necessary by Commerce in its discretion.
   B. Assign a Grant Manager as a point of contact for Subrecipient.
   C. Review Subrecipient's invoices described herein and process them on a timely basis.
   D. Commerce shall monitor progress, review reports, conduct site visits as Commerce determines necessary at Commerce's sole and absolute discretion, and process payments to Subrecipient.

7. **INVOICE SUBMITTAL:**
   Commerce shall reimburse the Subrecipient in accordance with Section 5 of this Scope of Work. In accordance with the Funding Requirements of s. 215.971(1), F.S. and Section (20) of this Agreement, the Subrecipient and its subcontractors may only expend funding under this Agreement for allowable costs resulting from obligations incurred during this Agreement. To be eligible for reimbursement, costs must

be in compliance with laws, rules and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures: (https://myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf).

A. Subrecipient shall provide one invoice per month for services rendered during the applicable period of time as defined in the deliverable table. In any month no deliverable has been completed, the subrecipient will provide notice that no invoicing will be submitted.

B. The following documents shall be submitted with the itemized invoice:
   1) A cover letter signed by Subrecipient's Agreement Manager certifying that the costs being claimed in the invoice package: (1) are specifically for the project represented to the State in the budget appropriation; (2) are for one or more of the components as stated in Section 5, DELIVERABLES, of this SCOPE OF WORK; (3) have been paid; and (4) were incurred during this Agreement.
   2) Subrecipient's invoices shall include the date, period in which work was performed, amount of reimbursement, and work completed to date.
   3) A certification by a licensed professional using AIA forms G702 and G703, or their substantive equivalents, certifying that the project, or a quantifiable portion of the project, is complete, as appropriate to the deliverable.
   4) Photographs of the project in progress and completed work, as appropriate to the deliverable.
   5) A copy of all supporting documentation for vendor payments.
   6) A copy of the bank statement that includes the cancelled check or evidence of electronic funds transfer. The State may require any other information from Subrecipient that the State deems necessary to verify that the services have been rendered under this Agreement.

C. If the Grantee is a county or municipality that is a rural community or rural area of opportunity as those terms are defined in section 288.0656(2), F.S., the payment of submitted invoices may be issued for verified and eligible performance that has been completed in accordance with the terms and conditions set forth in this Agreement to the extent that federal or state law, rule, or other regulation allows such payments. Upon meeting either of the criteria set forth below, the Grantee may elect in writing to exercise this provision.
   1) A county or municipality that is a rural community or rural area of opportunity as those terms are defined in section 288.0656(2), F.S., that demonstrates financial hardship; or
   2) A county or municipality that is a rural community or rural area of opportunity as those terms are defined in section 288.0656(2), F.S., and which is located in a fiscally constrained county, as defined in section 218.67(1), F.S. If the Grantee meets the criteria set forth in this paragraph, then the Grantee is deemed to have demonstrated financial hardship.

D. The Subrecipient's invoice and all documentation necessary to support payment requests must be submitted through Commerce's Subrecipient Management Reporting Application (SERA) System. Further instruction on SERA invoicing and reporting, along with a copy of the invoice template, will be provided upon execution of the agreement.

Remainder of this page is intentionally left blank

Attachment B – Project Budget (Example)

Subrecipient: _____ Contract Number: _____ Project Title: _____

Activity		Budget			
Activity	Description	CDBG-DR Amount	Other Funds	Source*	Total Funds
1. Project Implementation					
2. Engineering Services					
3. Construction					
4. Acquisition					
TOTALS					

***Show the sources and amounts of Other Funds needed to complete the project below, including local funds, grants from other agencies and program income.**

Source of Other Funds	Amount
1.	
2.	
3.	
4.	

Attachment C – Activity Work Plan (Example)

Subrecipient ______________________ Project Title: ______________________ Project Budget: __________

Contract Number: ______________________ Date Prepared: ______________________ Modification Number: __________

Activity Start Date (month/year)	**Activity End Date** (month/year)	**Describe Proposed Action to be Completed by the "End Date."** Please have the Action reflect an activity or task within the Subrecipient Grant Agreement under Section 4, Eligible Tasks within Attachment 1 – Scope of Work.	**Estimated Leveraged Funds to be Expended per "Activity End Date"**	**Estimated Funds to be Requested per "Activity End Date"**
		EXAMPLE: Deliverable 1 – Project Implementation		
		EXAMPLE: Deliverable 2 – Engineering - Create a full design package		
		EXAMPLE: Deliverable 2 – Conduct Environmental Review		
		EXAMPLE: Deliverable 3 – Construction		

Attachment D – Program and Special Conditions

1. Subrecipient shall demonstrate that progress is being made in completing project activities in a timely fashion pursuant to the activity work plan (Attachment C). If Subrecipient does not comply with the activity work plan schedule, a justification for the delay and a plan for timely accomplishment shall be submitted to Commerce within 21 calendar days of receiving Commerce's request for justification for the delay. Any project for which Subrecipient has not completed the activities listed in the Activity Work Plan may be rescinded unless Commerce agrees that Subrecipient has provided adequate justification for the delay.

2. Subrecipient shall maintain records of expenditure of funds from all sources that will allow accurate and ready comparison between the expenditures and the budget/activity line items as defined in the Project Budget (Attachment B) and Activity Work Plan (Attachment C).

3. Subrecipient shall request Commerce's approval for all professional services contracts and/or agreements that will be reimbursed with CDBG-DR funds. Copies of the following procurement documents must be provided to Commerce for review:

   a. When publication of a Request for Proposal (RFP) is used as a means of solicitation, a copy of the advertisement, including an affidavit of publication.
   b. Commerce will either approve the procurement or notify Subrecipient that the procurement cannot be approved because it violates State, Federal or local procurement guidelines. Subrecipient shall notify Commerce in writing no later than 90 calendar days from the effective date of this agreement if it will not be procuring any professional services or if it will be using non-CDBG-DR funds to pay for professional services.

4. Prior to the obligation or disbursement of any funds, except for administrative expenses and not to exceed $5,000, Subrecipient shall complete the following:
   a. Submit for Commerce's approval the documentation required in paragraph 3 above for any professional services contract. Subrecipient proceeds at its own risk if more than the specified amount is incurred before Commerce approves the procurement. If Commerce does not approve the procurement of a professional services contract, the local government will not be able to use CDBG-DR funds for that contract beyond $5,000.
   b. Comply with 24 CFR part 58, as well as Parts 35, 51, 55 and other federal environmental compliance requirements as appropriate. When Subrecipient has completed the environmental review process for any project that includes activities categorized as neither exempt pursuant to § 58.34 nor categorically excluded pursuant to § 58.35(b), it shall submit a Request for Release of Funds and Certification. Commerce will issue an Authority to Use Grant Funds (form HUD-7015.16) when this condition has been fulfilled to the satisfaction of Commerce. <u>If Commerce has not issued an Authority to use Grant Funds within 15 days of Subrecipient's submission of the required documentation, Commerce shall provide Subrecipient a written update regarding the status of the review process upon subrecipient request.</u> **SUBRECIPIENT SHALL NOT CARRY OUT ANY CHOICE-LIMITING ACTIONS OR COMMIT HUD FUNDS OR NON-HUD FUNDS TO ACTIVITES OTHER THAN THOSE PREVIOUSLY CERTIFIED AS EXEMPT IN ACCORDANCE WITH 24 CFR 58.34 OR CATEGORICALLY EXCLUED IN ACCORDANCE WITH 24 CFR 58.35(b) BEFORE Commerce HAS ISSUED THE "AUTHORITY TO USE GRANT FUNDS."**

5. Subrecipient agrees to comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. §4601-4655; hereinafter, the "URA"), implementing regulations at 24 CFR part 42, 49 CFR part 24 and 24 CFR §570.606(b), the requirements of 24 CFR §42.325 – 42.350 governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the Housing and Community Development

Act of 1974 (42 U.S.C. §5304(d)), and the requirements in 24 CFR §570.606(d), governing optional relocation assistance policies.

6. If Subrecipient undertakes any activity subject to the URA, Subrecipient shall document completion of the acquisition by submitting all documentation required for a desk monitoring of the acquisition, including a notice to property owners of his or her rights under the URA, an invitation to accompany the appraiser, all appraisals, offer to the owner, acceptance, contract for sale, statement of settlement costs, copy of deed, and waiver of rights (for donations), as applicable. The documentation shall be submitted prior to completing the acquisition (closing) so that Commerce can determine whether remedial action may be needed. Subrecipient shall provide relocation assistance to displaced persons, as defined by 24 CFR §570.606(b)(2), that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project.

7. Subrecipient shall timely submit completed forms for all prime and subcontractors as required by this Agreement, Commerce, HUD, and applicable, regulations and guidance laws, specifically including but not limited to:

   a. Certification Regarding Debarment, Suspension, and Other Responsibility Matters (Primary Covered Transactions); Subrecipient must provide proof to Commerce Grant Manager that they have completed a department check of SAM.gov for all prime and subcontractors.
   b. Section 3 Participation Report (Construction Prime Contractor);
   c. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion (Subcontractor), (if applicable); and
   d. Section 3 Participation Report (Construction Subcontractor), (if applicable).

8. In addition, each construction contract or agreement for new or replacement housing must contain language that requires the contractor to meet the Green Building Standard for Replacement and New Construction of Residential Housing, as defined in the Allocation notice published in the Federal Register Volume 81, Number 224 on Monday, November 21, 2016.

9. For each Request for Funds (RFF) that includes reimbursement of construction costs, Subrecipient shall provide a copy of the American Institute of Architects (AIA) form G702, Application and Certification for Payment, or a comparable form approved by Commerce, signed by the contractor and inspection engineer, and a copy of form G703, Continuation Sheet, or a comparable form approved by Commerce. For each RFF that includes construction costs, Subrecipient shall provide a copy of AIA form G702, or a comparable form approved by Commerce, if applicable, signed by the contractor and the local building inspector or housing specialist and a copy of form G703, or a comparable form approved by Commerce, if applicable.

10. For each project, when Subrecipient issues the Notice to Proceed to the contractor(s), copies of the following documents shall be sent to Commerce:
    a. Notice to Proceed;
    b. The contractor's performance bond (100 percent of the contract price); and
    c. The contractor's payment bond (100 percent of the contract price).

11. Subrecipient shall undertake an activity each quarter to affirmatively further fair housing pursuant to 24 CFR § 570.487(b)(4).

12. Subrecipient shall ensure that a deed restriction is recorded on any real property or facility, excluding easements, acquired with CDBG-DR funds. This restriction shall limit the use of that real property or facility to the use stated

in the subgrant application and that title shall remain in the name of Subrecipient. Such deed restriction shall be made a part of the public records in the Clerk of Court of the county in which the real property is located. Any future disposition of that real property shall be in accordance with 24 CFR § 570.505. Any future change of use of real property shall be in accordance with 24 CFR § 570.489(j).

13. Subrecipient shall comply with the historic preservation requirements of the National Historic Preservation Act of 1966, as amended, the procedures set forth in 36 CFR part 800, and the Secretary of the Interior's Standards for Rehabilitation, codified at 36 CFR 67, and Guidelines for Rehabilitating Historic Buildings.

14. Pursuant to section 102(b), Public Law 101-235, 42 U.S.C. §3545, Subrecipient shall update and submit Form HUD 2880 to Commerce within thirty (30) calendar days of Subrecipient's knowledge of changes in situations which would require that updates be prepared. Subrecipient must disclose:
    a. All developers, contractors, consultants and engineers involved in the application or in the planning, development or implementation of the project or CDBG-DR-funded activity; and
    b. Any person or entity that has a financial interest in the project or activity that exceeds $50,000 or 10 percent of the grant, whichever is less.

15. If required, Subrecipient shall submit a final Form HUD 2880, to Commerce with Subrecipient's request for administrative closeout, and its absence or incompleteness shall be cause for rejection of the administrative closeout.

16. Conflicts of interest relating to procurement shall be addressed pursuant to 24 CFR §570.489(g). Title 24 CFR §570.489(h) shall apply in all conflicts of interest not governed by 24 CFR § 570.489(g), such as those relating to the acquisition or disposition of real property; CDBG-DR financial assistance to beneficiaries, businesses or other third parties; or any other financial interest, whether real or perceived. Additionally, Subrecipient agrees to comply with, and this Agreement is subject to, Chapter 112 F.S.

17. Any payment by Subrecipient using CDBG-DR funds for acquisition of any property, right-of-way, or easement that exceeds fair market value as determined through the appraisal process established in HUD Handbook 1378 shall be approved in writing by Commerce prior to distribution of the funds. Should the Recipient fail to obtain Commerce pre-approval, any portion of the cost of the acquisition exceeding Fair Market Value shall not be paid or reimbursed with CDBG-DR funds.

18. Subrecipient shall take photographs or video of all activity locations prior to initiating any construction. As the construction progresses, additional photography or videography shall document the ongoing improvements. Upon completion of construction, final documentation of the activity locations will be provided to Commerce with the administrative closeout package for this Agreement.

19. If an activity is designed by an engineer, architect or other licensed professional, it shall be certified upon completion by a licensed professional as meeting the specifications of the design, as may have been amended by change orders. The date of completion of construction shall be noted as part of the certification. This certification shall be accomplished prior to submission of an administrative closeout package and a copy of the certification shall be submitted with the administrative closeout package.

Attachment E – State and Federal Statutes, Regulations, and Policies

The CDBG-DR funds available to Subrecipient through this agreement constitute a subaward of the Grantee's Federal award under the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, 2 CFR part 200. This agreement includes terms and conditions of the Grantee's Federal award that are imposed on Subrecipient and Subrecipient agrees to carry out its obligations in compliance with all of the obligations described in this agreement.

Subrecipient agrees to, and, by signing this Agreement, certifies that, it will comply with all applicable provisions of the Housing and Community Development Act of 1974, as amended, and the regulations at 24 CFR part 570, as modified by the Federal Register notices that govern the use of CDBG-DR funds available under this agreement. These Federal Register notices include, but are not limited to, Federal Register (FN) notice, 87 FR 6364 (Docket No. FR–6303–N–01) (February 3, 2022), and 87 FR 31636 (Docket No. FR–6326–N–01) (May 24, 2022). Notwithstanding the foregoing, the Subrecipient assumes responsibilities for environmental review, decision-making and action, described in 24 CFR part 58 including the decision making and determination of environmental compliance.

Subrecipient shall also comply with all other applicable Federal, state and local laws, regulations and policies as now in effect and as may be amended from time to time that govern the use of the CDBG-DR funds in complying with its obligations under this agreement, regardless of whether CDBG-DR funds are made available to Subrecipient on an advance or reimbursement basis.

Subrecipient also agrees to use funds available under this Agreement to supplement rather than supplant funds otherwise available. Subrecipient further agrees to comply with all other applicable Federal, State and local laws, regulations and policies governing the funds provided under this Agreement, including, but not limited to the following:

I. State of Florida Requirements

State of Florida Requirements are stated throughout this Agreement and Attachments thereto.

II. Audits, Inspections, and Monitoring

1. **Single Audit**

   Subrecipient must be audited as required by 2 CFR part 200, subpart F when it is expected that Subrecipient's Federal awards expended during the respective fiscal year equaled or exceeded the threshold set forth in §200.501 Audit requirements.

2. **Inspections and Monitoring**

   Subrecipient shall permit the Grantee and auditors to have access to Subrecipient's records and financial statements as necessary for the Grantee to meet the requirements of 2 CFR part 200.

   Subrecipient must submit to monitoring of its activities by the Grantee as necessary to ensure that the subaward is used for authorized purposes, in compliance with Federal statutes, regulations, and the terms and conditions of this agreement.

   This review must include:

   (1) Reviewing financial and performance reports required by the Grantee;

   (2) Following-up and ensuring that Subrecipient takes timely and appropriate action on all deficiencies pertaining to the Federal award provided to Subrecipient from the Grantee detected through audits, on-site reviews, and other means; and

(3) Issuing a management decision for audit findings pertaining to this Federal award provided to Subrecipient from the Grantee as required by 2 CFR §200.521.

3. **Corrective Actions**

Subrecipient shall be subject to reviews and audits by the Grantee, including onsite reviews of Subrecipient as may be necessary or appropriate to meet the requirements of 42 U.S.C. 5304(e)(2). The Grantee may issue management decisions and may consider taking enforcement actions if noncompliance is detected during audits. The Grantee may require Subrecipient to take timely and appropriate action on all deficiencies pertaining to the Federal award provided to the subrecipient from the pass-through entity detected through audits, on-site reviews and other means. In response to audit deficiencies or other findings of noncompliance with this agreement, Grantee may impose additional conditions on the use of the CDBG-DR funds to ensure future compliance or provide training and technical assistance as needed to correct noncompliance.

III. Drug-Free Workplace

Drug-free workplace. Subrecipients must comply with drug-free workplace requirements in Subpart B of part 2429, which adopts the government-wide implementation (2 CFR part 182) of sections 5152-5158 of the Drug-Free Workplace Act of 1988 (Pub. L. 100-690, Title V, Subtitle D; 41 U.S.C. 701-707).

IV. Procurement and Contractor Oversight

Subrecipient shall comply with the procurement standards in 2 CFR §200.318-327 when procuring property and services under this agreement. Subrecipient shall impose the Subrecipient's obligations under this agreement on its contractors, specifically or by reference, so that such obligations will be binding upon each of its contractors.

Subrecipient must comply with CDBG regulations regarding debarred or suspended entities, specifically including, 24 CFR 570.609 and 24 CFR 570.489, as applicable. CDBG funds may not be provided to excluded or disqualified persons.

Subrecipient shall maintain oversight of all activities under this agreement and shall ensure that for any procured contract or agreement, its contractors perform according to the terms and conditions of the procured contracts or agreements, and the terms and conditions of this agreement. To check for debarred or suspended entities, please visit https://www.sam.gov/SAM/

V. Property Standards

Real property acquired by Subrecipient under this agreement shall be subject to 24 CFR 570.489(j) and 24 CFR 570.200(j). Subrecipient shall also comply with the Property Standards at 2 CFR 200.310, 2 CFR 200.312, 2 CFR 200.314-316. Subrecipient shall also comply with 2 CFR 200.313 Equipment, except that when the equipment is sold, the proceeds shall be program income and equipment not needed by Subrecipient for activities under this agreement shall be transferred to the Grantee for its CDBG-DR program or shall be retained after compensating the Grantee.

Subrecipient shall also comply with the Property Standards in 2 CFR 200.310-316, except to the extent they are inconsistent with 24 CFR 570.200(j) and 24 CFR 570.489(j), in which case Subrecipient shall comply with 24 CFR 570.200(j) and 24 CFR 570.489(j), except to the extent that proceeds from the sale of equipment are program income and subject to the program income requirements under this agreement, pursuant to 24 CFR 570.489(e)(1)(ii).

VI. Federal Funding Accountability and Transparency Act (FFATA)

Subrecipient shall comply with the requirements of 2 CFR part 25 Universal Identifier and System for Award Management (SAM). Subrecipient must have an active registration in SAM, https://www.sam.gov/SAM/, in accordance with 2 CFR part 25, appendix A, and must have a Unique Entity Identifier (UEI) number. Subrecipient must also comply with provisions of the Federal Funding Accountability and Transparency Act, which includes requirements on executive compensation, 2 CFR part 170 Reporting Subaward and Executive Compensation Information.

VII. Relocation and Real Property Acquisition

Subrecipient shall comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), 42 USC 4601 – 4655, 49 CFR part 24, 24 CFR part 42, and 24 CFR 570.606.

In addition to other URA requirements, these regulations (49 CFR § 24.403(d)) implement Section 414 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 USC § 5181, which provides that "Notwithstanding any other provision of law, no person otherwise eligible for any kind of replacement housing payment under the URA shall be denied such eligibility as a result of his being unable, because of a major disaster as determined by the President, to meet the occupancy requirements set by such Act."

VIII. Nondiscrimination

1. **24 CFR part 6**

   Subrecipient will comply with 24 CFR part 6, which implements the provisions of section 109 of title I of the Housing and Community Development Act of 1974 (Title I) (42 U.S.C. 5309). Section 109 provides that no person in the United States shall, on the ground of race, color, national origin, religion or sex, be excluded from participation in, be denied the benefits of or be subjected to discrimination under any program or activity funded in whole or in part with Federal financial assistance. Subrecipient will adhere to the prohibitions against discrimination on the basis of age under the Age Discrimination Act of 1975 (42 U.S.C. 6101-6107) (Age Discrimination Act) and the prohibitions against discrimination on the basis of disability under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) (Section 504). Section 109 of the HCDA makes these requirements applicable to programs or activities funded in whole or in part with CDBG-DR funds. Thus, Subrecipient shall comply with regulations of 24 CFR part 8, which implement Section 504 for HUD programs, and the regulations of 24 CFR part 146, which implement the Age Discrimination Act for HUD programs.

2. **Architectural Barriers Act and the Americans with Disabilities Act**

   Subrecipient shall ensure that its activities are consistent with requirements of Architectural Barriers Act and the Americans with Disabilities Act. The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) requires certain Federal and Federally funded buildings and other facilities to be designed, constructed or altered in accordance with standards that ensure accessibility to, and use by, physically handicapped people. A building or facility designed, constructed or altered with funds allocated or reallocated under this part after December 11, 1995 and meets the definition of "residential structure" as defined in 24 CFR 40.2 or the definition of "building" as defined in 41 CFR 101-19.602(a) is subject to the requirements of the Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157) and shall comply with the Uniform Federal Accessibility Standards (appendix A to 24 CFR part 40 for residential structures, and appendix A to 41 CFR part 101-19, subpart 101-19.6, for general type buildings).

   The Americans with Disabilities Act (42 U.S.C. 12131; 47 U.S.C. 155, 201, 218 and 225) (ADA) provides comprehensive civil rights to individuals with disabilities in the areas of employment, public accommodations, State and local government services and telecommunications. It further provides that discrimination includes a failure to design and construct facilities for first occupancy no later than January 26, 1993, that are readily accessible to and usable by individuals with disabilities. Further, the ADA requires the removal of architectural barriers and communication barriers that are structural in nature in existing facilities, where such removal is readily achievable—that is, easily accomplishable and able to be carried out without much difficulty or expense.

3. **State and Local Nondiscrimination Provisions**

   Subrecipient must comply with the Florida Small and Minority Business Assistance Act (§288.703-288.706, F.S.); Title VI of the Civil Rights Act of 1964 (24 CFR part 1).

A. General Compliance:

Subrecipient shall comply with the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352), as amended. No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination under any program or activity funded by this agreement. The specific nondiscrimination provisions at 24 CFR 1.4 apply to the use of these funds. Subrecipient shall not intimidate, threaten, coerce or discriminate against any person for the purpose of interfering with any right or privilege secured by title VI of the Civil Rights Act of 1964 or 24 CFR part 1, or because an individual has made a complaint, testified, assisted or participated in any manner in an investigation, proceeding or hearing under 24 CFR part 1. The identity of complainants shall be kept confidential except to the extent necessary to carry out the purposes of 2 CFR part 1, including the conduct of any investigation, hearing or judicial proceeding arising thereunder.

B. Assurances and Real Property Covenants:

As a condition to the approval of this Agreement and the extension of any Federal financial assistance, Subrecipient assures that the program or activities described in this Agreement will be conducted and the housing, accommodations, facilities, services, financial aid or other benefits to be provided will be operated and administered in compliance with all requirements imposed by or pursuant to this part 1.

If the Federal financial assistance under this agreement is to provide or is in the form of personal property or real property or interest therein or structures thereon, Subrecipient's assurance herein shall obligate Subrecipient or, in the case of a subsequent transfer, the transferee, for the period during which the property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits, or for as long as the recipient retains ownership or possession of the property, whichever is longer. In all other cases, the assurance shall obligate Subrecipient for the period during which Federal financial assistance is extended pursuant to the contract or application. This assurance gives the Grantee and the United States a right to seek judicial enforcement of the assurance and the requirements on real property.

In the case of real property, structures or improvements thereon, or interests therein, acquired with Federal financial assistance under this Agreement or acquired with CDBG-DR funds and provided to Subrecipient under this agreement, the instrument effecting any disposition by Subrecipient of such real property, structures or improvements thereon, or interests therein, shall contain a covenant running with the land assuring nondiscrimination for the period during which the real property is used for a purpose for which the Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If Subrecipient receives real property interests or funds or for the acquisition of real property interests under this Agreement, to the extent that rights to space on, over, or under any such property are included as part of the program receiving such assistance, the nondiscrimination requirements of this part 1 shall extend to any facility located wholly or in part in such space.

4. <u>Affirmative Action</u>

A. **Approved Plan**

Subrecipient agrees that it shall carry out pursuant to the Grantee's specifications an Affirmative Action Program in compliance with the President's Executive Order 11246 of September 24, 1965, as amended, and implementing regulations at 41 CFR 60. The Grantee shall provide Affirmative Action guidelines to Subrecipient to assist in the formulation of such program. Subrecipient shall submit a plan for an Affirmative Action Program for approval prior to the release of funds under this agreement.

B. **Women- and Minority-Owned Businesses (W/MBE)**

Subrecipient shall take the affirmative steps listed in 2 CFR 200.321(b)(1) through (5) to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible when Subrecipient procures property or services under this agreement.

C. **Notifications**

Subrecipient will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer, advising the labor union or worker's representative of Subrecipient's commitments hereunder, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

D. **Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement**

Subrecipient shall, in all solicitations or advertisements for employees placed by or on behalf of Subrecipient, state that it is an Equal Opportunity or Affirmative Action employer.

IX. Labor and Employment

1. Labor Standards

Subrecipient shall comply with the in labor standards in Section 110 of the Housing and Community Development Act of 1974, as amended and ensure that all laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under this agreement shall be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 3141, *et seq.*) and 29 CFR part 1, 3, 5, 6 and 7, provided, that this requirement shall apply to the rehabilitation of residential property only if such property contains not less than 8 units.

Subrecipient agrees to comply with the Copeland Anti-Kick Back Act (18 U.S.C. 874) and its implementing regulations of the U.S. Department of Labor at 29 CFR part 3 and part 5. Subrecipient shall maintain documentation that demonstrates compliance with applicable hour and wage requirements. Such documentation shall be made available to the Grantee for review upon request.

X. Section 3 of the Housing and Urban Development Act of 1968

1. Low-Income Person Definition

A low-income person, as this term is defined in Section 3 (b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)). Section 3(b)(2) of the 1937 Act defines this term to mean families (including single persons) whose incomes do not exceed 80 per centum of the median income for the area, as determined by the Secretary of HUD, with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 80 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of prevailing levels of construction costs or unusually high or low-income families; or A very low-income person, as this term is defined in Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437 a(b)(2)). Section 3(b)(2) of the 1937 Act (42 U.S.C. 1437a(b)(2)) defines this term to mean families (including single persons) whose incomes do not exceed 50 per centum of the median family income for the area, as determined by the Secretary with adjustments for smaller and larger families, except that the Secretary may establish income ceilings higher or lower than 50 per centum of the median for the area on the basis of the Secretary's findings that such variations are necessary because of unusually high or low family incomes.

2. Compliance

Subrecipient shall comply with the provisions of Section 3 of the Housing Urban Development Act of 1968, as amended, 12 USC 1701u, and implementing its implementing regulations at 24 CFR part 75 (formerly 24 CFR part 135). Compliance with Section 3 shall be achieved, to the greatest extent feasible, consistent with existing Federal, state and local laws and regulations. Accordingly, a subrecipient of Section 3-covered assistance is required to develop strategies for meeting both the regulatory requirements at 24 CFR part 75 and any other applicable statutes or regulations. Subrecipient and any of its contractors and subcontractors shall include the following "Section 3 clause" in every "Section 3-covered contract".

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

B. The parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate actions, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

F. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

3. **Section 3 Benchmarks and Reporting**

A. Benchmarks. Contracts over $200,000 trigger Section 3 Benchmark requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 workers and business concerns to meet these *minimum* numeric goals:

1. Twenty-five percent (25%) of the total hours on a Section 3 project must be worked by Section 3 workers; and
2. Five percent (5%) of the total hours on a Section 3 project must be worked by Targeted Section 3 workers.

B. Reporting. If the subrecipient's reporting indicates that the subrecipient has not met the Section 3 benchmarks described in 24 CFR § 75.23, pursuant to 24 CFR § 75.25(b), the subrecipient must report in a form prescribed by HUD on the qualitative nature of its activities and those its contractors and subcontractors pursued.

C. Recipient will comply with any Section 3 Project Implementation Plan documents, if any, provided by HUD or Commerce which may be amended from time to time for HUD reporting purposes.

XI. Conduct

1. **Hatch Act**

   Subrecipient shall comply with the Hatch Act, 5 USC 1501 – 1508, and shall ensure that no funds provided, nor personnel employed under this agreement, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V of the U.S.C.
2. **Conflict of Interest**

   In the procurement of supplies, equipment, construction and services pursuant to this agreement, Subrecipient shall comply with the conflict of interest provisions in the Grantee's procurement policies and procedures. In all cases not governed by the conflict of interest provisions in the Grantee's procurement policies and procedures, Subrecipient shall comply with the conflict of interest provisions in 24 CFR 570.489(h).
3. **Lobbying Certification**

   Subrecipient hereby certifies that:

   A. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement and the extension, continuation, renewal, amendment or modification of any Federal contract, grant, loan, or cooperative agreement;

   B. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

   C. The language of paragraph (i) through (iv) of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants and contracts under grants, loans and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly; and

   D. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is required by Section 1352, Title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.

XII. Religious Activities

Subrecipient agrees that funds provided under this agreement shall not be utilized for inherently religious activities prohibited by 24 CFR 570.200(j), such as worship, religious instruction or proselytization.

Equal Treatment for Faith-Based Organizations. Prohibits any State or local government receiving funds under any Department program, or any intermediate organization with the same duties as a governmental entity, from discriminating for or against an organization on the basis of the organization's religious character or affiliation. Prohibits religious organizations from engaging in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the programs or services funded with direct financial assistance. Prohibits an organization that participates in programs funded by direct financial assistance from the Department, in providing services, from discriminating against a program beneficiary or prospective program beneficiary on the basis of religion or religious belief. Any restrictions on the use of grant funds shall apply equally to religious and non-religious organizations.

XIII. Environmental Conditions

1. **Prohibition on Choice Limiting Activities Prior to Environmental Review**

Subrecipient must comply with the limitations in 24 CFR 58.22. 24 CFR 58.22 imposes limitations on activities pending clearance and specifically limits commitments of HUD funds or non-HUD funds by any participant in the development process before completion of the environmental review. A violation of this requirement may result in a prohibition on the use of Federal funds for the activity. If Commerce has not issued an Authority to Use Grant Funds within 15 days of Subrecipient's submission of the required documentation, Commerce shall provide Subrecipient a written update regarding the status of the review process.

2. **Air and Water**

Subrecipient shall comply with the following requirements insofar as they apply to the performance of this agreement:

A. Air quality. (1) The Clean Air Act (42 U.S.C. 7401 et. seq.) as amended; particularly section 176(c) and (d) (42 U.S.C. 7506(c) and (d)); and (2) Determining Conformity of Federal Actions to State or Federal Implementation Plans (Environmental Protection Agency—40 CFR parts 6, 51, and 93); and

B. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, *et seq*., as amended, including the requirements specified in Section 114 and Section 308 of the Federal Water Pollution Control Act, as amended, and all regulations and guidelines issued thereunder.

C. The Clean Air and Water Act: If this Contract is in excess of $100,000, Contractor shall comply with all applicable standards, orders or regulations issued under the Clean Air Act, as amended, 42 U.S.C. 7401, Section 508 of the Clean Water Act, as amended, 33 U.S.C. 1368, et seq., Executive Order 11738 and Environmental Protection Agency regulations. Contractor shall report any violation of the above to Commerce.

D. Energy Efficiency: Contractor shall comply with mandatory standards and policies relating to energy efficiency which are contained in the State of Florida's energy conservation plan issued in compliance with the Energy Policy and Conservation Act, Pub. L. 94-163.

3. **Flood Disaster Protection**

Subrecipient shall comply with the mandatory flood insurance purchase requirements of Section 102 of the Flood Disaster Protection Act of 1973, as amended by the National Flood Insurance Reform Act of 1994, 42 USC 4012a. Additionally, Subrecipient shall comply with 24 CFR 58.6(a) and Section 582 of the National Flood Insurance Reform Act of 1994, as amended, (42 U.S.C. 5154a), which includes a prohibition on the provision of flood disaster assistance, including loan assistance, to a person for repair, replacement or restoration for damage to any personal, residential, or commercial property if that person at any time has received Federal flood disaster assistance that was conditioned on the person first having obtained flood insurance under applicable Federal law and the person has subsequently failed to obtain and maintain flood insurance as required under applicable Federal law on such property. Section 582 also includes a responsibility to notify property owners of their responsibility to notify transferees about mandatory flood purchase requirements. More information about these requirements is available in the Federal Register notices governing the CDBG-DR award and listed at the beginning of this Attachment.

4. **Lead-Based Paint**

The Subrecipient shall follow the Grantee's procedures with respect to CDBG assistance that fulfill the objectives and requirements of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4821-4846), the Residential Lead-Based Paint Hazard Reduction Act of 1992 (42 U.S.C. 4851-4856), and implementing regulations at part 35, subparts A, B, J, K, and R of this title and 24 CFR 35.

5. **Historic Preservation**

Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended, codified in title 54 of the United States Code, and the procedures set forth in 36 CFR part 800 insofar as they apply to the performance of this agreement.

The process typically involves obtaining approval not just from the State Historic Preservation Officer, but also, when relevant, from tribal authorities. This approval is required for a range of projects that could impact historic resources. These include, but are not limited to, rehabilitation and demolition of properties that are fifty years old or older or listed on a Federal, state, or local historic property list. Furthermore, this extends to new construction projects, particularly those located in areas known to have archaeological resources or in any area that could potentially affect the historic character of an eligible district.

XIV. Additional Regulations

A The Temporary Assistance for Needy Families Program ("TANF"), 45 CFR Parts 260-265, the Social Services Block Grant ("SSBG"), 42 U.S.C. 1397d, and other applicable federal regulations and policies promulgated thereunder.

B. Title IX of the Education Amendments of 1972, as amended, 20 U.S.C. 1681, *et seq*., which prohibits discrimination on the basis of sex in educational programs.

C. Section 654 of the Omnibus Budget Reconciliation Act of 1981, as amended, 42 U.S.C. 9849, which prohibits discrimination on the basis of race, creed, color, national origin, sex, handicap, political affiliation or beliefs.

D. The Pro-Children Act: Contractor agrees to comply with the Pro-Children Act of 1994, 20 U.S.C. 6083. Failure to comply with the provisions of the law may result in the imposition of civil monetary penalty up to $1,000 for each violation and/or the imposition of an administrative compliance order on the responsible entity. This clause is applicable to all approved sub-contracts. In compliance with Public Law (Pub. L.) 103-277, the Contract shall not permit smoking in any portion of any indoor facility used for the provision of federally funded services including health, day care, early childhood development, education or library services on a routine or regular basis, to children up to age 18.

E. Public Announcements and Advertising: When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with federal money, Contractor shall clearly state (1) the percentage of the total costs of the program or project which will be financed with federal money, (2) the dollar amount of federal funds for the project or program, and (3) percentage and dollar amount of the total costs of the project or program that will be financed by nongovernmental sources.

F. Purchase of American-Made Equipment and Products: Contractor assures that, to the greatest extent practicable, all equipment and products purchased with funds made available under this Agreement will be American-made.

G. The Consolidated Appropriations Act, 2010, Division E, Section 511 (Pub. L. 111-117), which prohibits distribution of federal funds made available under the Act to the Association of Community Organizations for Reform Now (ACORN) or its subsidiaries. The Continuing Appropriations Act, 2011, Sections 101 and 103 (Pub. L. 111-242), provides that appropriations made under Pub. L. 111-117 are available under the conditions provided by Pub. L. 111-117.

H. Contract Work Hours and Safety Standards Act (40 U.S.C. §327–333) — If this Contract involves federal funding in excess of $2,000 for construction contracts or in excess of $2,500 for other contracts that involve the employment of mechanics or laborers, compliance with sections 102 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 327–333), as supplemented by Department of Labor regulations (29 CFR Part 5) is required. Under section 102 of the Act, each contractor shall be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than 1 ½ times the basic rate of pay for all hours worked in excess of 40 hours in the work week. Section 107 of the Act is applicable to construction work and provides that no laborer or mechanic shall be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

I. Resource Conservation and Recovery Act (RCRA). Under RCRA (Pub. L. 94–580 codified at 42 U.S.C. 6962), state and local institutions of higher education, hospitals, and non-profit organizations that receive direct Federal awards or other Federal funds shall give preference in their procurement programs funded with Federal funds to the purchase of recycled products pursuant to the EPA guidelines.

J. Immigration Reform and Control Act. Contractor shall comply with the requirements of the Immigration Reform and Control Act of 1986, which requires employment verification and retention of verification forms for any individuals hired who will perform any services under the contract.

XV. Non-Compliance

When it is determined that the Subrecipient is in non-compliance with federal or state program requirements, the State may impose any of the additional conditions and/or requirements outlined in 2 CFR § 200.208 and/or 2 CFR § 200.339.

Attachment F – Civil Rights Compliance

Fair Housing

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it will "affirmatively further fair housing" in its community. A Subrecipient shall demonstrate its commitment to affirmatively further fair housing by implementing the actions listed below.

Each Subrecipient shall do the following:

1) Have in place a fair housing resolution or ordinance that covers all Federally protected classes (race, color, familial status, handicap, national origin, religion and sex);

2) Designate an employee as the Fair Housing Coordinator who is available during regular business hours to receive fair housing calls;

3) Publish the Fair Housing Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask fair housing questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website;

4) Establish a system to record the following for each fair housing call or email:
   a) The nature of the call or email,
   b) The actions taken in response to the call or email,
   c) The results of the actions taken and
   d) If the caller or email was referred to another agency, the results obtained by the referral agency;

5) Conduct at least one fair housing activity each quarter. Identical activities (see examples below) shall not be conducted in consecutive quarters; and

6) Display a fair housing poster in the CDBG-DR Office. (This does not count as a fair housing activity.)

Subrecipient shall ensure that the fair housing contact person has received training so that he/she can handle fair housing phone inquiries or refer the inquiries to the appropriate people/agencies. Records maintained by the contact will help the community do the following:

- Define where discriminatory practices are occurring,
- Help the community measure the effectiveness of its outreach efforts, and
- Provide the community with a means to gain information that can be used to design and implement strategies that will eliminate fair housing impediments.

Examples of fair housing activities include the following:

- Making fair housing presentations at schools, civic clubs and neighborhood association meetings;
- Conducting a fair housing poster contest or an essay contest;
- Manning a booth and distributing fair housing materials at libraries, health fairs, community events, yard sales and church festivals; and

- Conducting fair housing workshops for city/county employees, realtors, bank and mortgage company employees, insurance agents and apartment complex owners.

Printing a fair housing notice on a utility bill is no longer accepted as a fair housing activity; however, mailing a Commerce-approved fair housing brochure as an insert with utility bills will be accepted as an activity. Placing posters in public buildings does not meet the requirement for a fair housing activity.

Subrecipient shall document its fair housing activities by keeping photographs, newspaper articles, sign-in sheets and copies of handouts in their CDBG-DR project file and include information about the activities in the comment section of each quarterly report.

Equal Employment Opportunity

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it and the contractors, subcontractors, subrecipients and consultants that it hires with CDBG-DR funds will abide by the Equal Employment Opportunity (EEO) Laws of the United States. A Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Each Subrecipient shall do the following:

1) Have in place an equal employment opportunity resolution or ordinance that protects its applicants and employees and the applicants and employees of its contractors, subcontractors, subrecipients and consultants from discrimination in hiring, promotion, discharge, pay, fringe benefits, job training, classification, referral and other aspects of employment, on the basis of race, color, religion, sex, national origin, disability, age or genetics;

2) Designate an employee as the EEO Coordinator who is available during regular business hours to receive EEO calls;

3) Publish the EEO Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask EEO questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and

4) Establish a system to record the following for each EEO call:
   a) The nature of the call,
   b) The actions taken in response to the call and
   c) The results of the actions taken;

5) Each Subrecipient shall maintain a list of certified minority-owned business enterprises (MBE) and women-owned business enterprises (WBE) that operate in its region. Subrecipient shall use this list to solicit companies to bid on CDBG-DR-funded construction activities and shall provide a copy of the list to the prime contractor(s) to use when it hires subcontractors and consultants. The Florida Department of Management Services maintains a list of certified minority- and women-owned businesses that can be used to develop a local MBE/WBE list at the following website: https://osd.dms.myflorida.com/directories.

6) Incorporate the Equal Employment Opportunity clause set forth in 41 CFR Part 60-1.4(b) into any contracts or subcontracts that meets the definition of "federally assisted construction contract" in 41 CFR 60-1.3.

Section 504 and the Americans with Disabilities Act (ADA)

As a condition for the receipt of CDBG-DR funds, Subrecipient must certify that it provides access to all federally funded activities to all individuals, regardless of handicap. Subrecipient shall demonstrate its commitment to abide by the laws through the actions listed below.

Subrecipient shall do the following:

1) Have in place a resolution or ordinance that is designed to eliminate discrimination against any person who:

    a) Has a physical or mental impairment which substantially limits one or more major life activities,
    b) Has a record of such an impairment, or
    c) Is regarded as having such an impairment;

2) Designate an employee as the Section 504/ADA Coordinator who is available during regular business hours to receive Section 504/ADA calls;

3) Publish the Section 504/ADA Coordinator's contact information quarterly in a newspaper of general circulation in Subrecipient's jurisdiction so that people know who to call to ask Section 504/ADA questions or register a complaint. Alternatively, Subrecipient can post the coordinator's contact information throughout the quarter on the home page of its website; and

4) Establish a system to record the following for each Section 504/ADA call:

    a) The nature of the call,
    b) The actions taken in response to the call and
    c) The results of the actions taken.

Section 504 prohibitions against discrimination (see 45 CFR part 84) apply to service availability, accessibility, delivery, employment and the administrative activities and responsibilities of organizations receiving Federal financial assistance.

A Subrecipient of Federal financial assistance may not, on the basis of disability:

- Deny qualified individuals the opportunity to participate in or benefit from Federally funded programs, services or other benefits,
- Deny access to programs, services, benefits or opportunities to participate as a result of physical barriers, or
- Deny employment opportunities, including hiring, promotion, training and fringe benefits, for which they are otherwise entitled or qualified.

The ADA regulations (Title II, 28 CFR part 35, and Title III, 28 CFR part 36) prohibit discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.

Title II covers all activities of state and local governments regardless of the government entity's size or receipt of Federal funding. Title II requires that State and local governments give people with disabilities an equal opportunity to benefit from all of their programs, services and activities (e.g. public education, employment, transportation, recreation, health care, social services, courts, voting and town meetings). State and local governments are required to follow specific architectural standards in the new construction and alteration of their buildings. They also must relocate programs or otherwise provide access in inaccessible older buildings, and communicate effectively with people who have hearing, vision or speech disabilities.

Title III covers businesses and nonprofit service providers that are public accommodations, privately operated entities offering certain types of courses and examinations, privately operated transportation and commercial facilities. Public accommodations are private entities who own, lease, lease to or operate facilities such as restaurants, retail stores, hotels, movie theaters, private schools, convention centers, doctors' offices, homeless shelters, transportation depots, zoos, funeral homes, day care centers and recreation facilities including sports stadiums and fitness clubs. Transportation services provided by private entities are also covered by Title III.

Section 3 - Economic Opportunities for Low- and Very Low-Income Persons

Each Subrecipient shall encourage its contractors to hire qualified low- and moderate-income residents for any job openings that exist on CDBG-DR-funded projects in the community. . Per the 29 CFR part 75, Subrecipients and their contractors must track and document the number of Section 3 and Targeted Section 3 labor hours worked by low- and moderate-income individuals on CDBG-DR-funded projects. This detailed account of labor hours should then be included in the comments section of each quarterly report

The following Section 3 clause is required to be included in any contracts and subcontracts funded by this Agreement:

Section 3 Clause

A. The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. § 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are Subrecipients of HUD assistance for housing.

B. The Parties to this contract agree to comply with HUD's regulations in 24 CFR part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the part 75 regulations.

C. The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause, and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; and the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

D. The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR part 75, and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR part 75.

E. The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR part 75.

F. Noncompliance with HUD's regulations in 24 CFR part 75 may result in sanctions, termination of this contract for default and debarment or suspension from future HUD assisted contracts.

G. With respect to work performed in connection with Section 3 covered Indian housing assistance, Section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. § 450e) also applies to the work to be performed under this contract. Section 7(b) requires that to the greatest extent feasible (i) preference and opportunities for training and employment shall be given to Indians, and (ii) preference in the award of contracts and subcontracts shall be given to Indian organizations and Indian-owned Economic Enterprises. Parties to this contract that are subject to the provisions of Section 3 and Section 7(b) agree to comply with Section 3 to the maximum extent feasible, but not in derogation of compliance with Section 7(b).

Civil Rights Regulations

As a condition for the receipt of CDBG-DR funds, each Subrecipient must certify that it will abide by the following Federal laws and regulations:

1. Title VI of the Civil Rights Act of 1964 – Prohibits discrimination by government agencies that receive Federal funding;
2. Title VII of the Civil Rights Act of 1964 – prohibits employment discrimination on the basis of race, color, religion, sex or national origin;
3. Title VIII of the Civil Rights Act of 1968 – as amended (the Fair Housing Act of 1988);
4. 24 CFR § 570.487(b) – Affirmatively Furthering Fair Housing;
5. 24 CFR § 570.490(b) – Unit of general local government's record;
6. 24 CFR § 570.606(b) – Relocation assistance for displaced persons at URA levels;
7. Age Discrimination Act of 1975;
8. Executive Order 12892 – Leadership and Coordination of Fair Housing in Federal Programs: Affirmatively Furthering Fair Housing;
9. Section 109 of the Housing and Community Development Act of 1974 – No person shall be excluded from participation in, denied benefits of or subjected to discrimination under any program or activity receiving CDBG-DR funds because of race, color, religion, sex or national origin;
10. Section 504 of the Rehabilitation Act of 1973 and 24 CFR part 8, which prohibits discrimination against people with disabilities;
11. Executive Order 11063 – Equal Opportunity in Housing;
12. Executive Order 11246 – Equal Employment Opportunity; and
13. Section 3 of the Housing and Urban Development Act of 1968, as amended – Employment/Training of Lower Income Residents and Local Business Contracting.

I hereby certify that the City of Pensacola, Florida shall comply with all of the provisions and Federal regulations listed in this Attachment F.

By: ______________________ **Date:** ______________________

Name: Darcy Curran Reeves

Title: Mayor

Attachment G – Reports

The following reports must be completed and submitted to Commerce in the time frame indicated below. Failure to timely file these reports constitutes an Event of Default, as defined in Paragraph (10) Default, of this Agreement.

1. **Monthly Progress Report** must be submitted to Commerce five (5) calendar days after the end of each month.

2. A **Quarterly Progress** Report must be submitted to Commerce on forms to be provided by Commerce no later than the 5th of every April, July, October and January**.**

3. Subrecipient shall closeout its use of the CDBG-DR funds and its obligations under this Agreement by complying with the closeout procedures in 2 CFR § 200.343. Activities during this close-out period may include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the Grantee) and determining the custodianship of records.

Notwithstanding the terms of 2 CFR 200.343, upon the expiration of this Agreement, Subrecipient shall transfer to the recipient any CDBG funds on hand at the time of expiration and any accounts receivable attributable to the use of CDBG funds. Further, any real property under Subrecipient's control that was acquired or improved in whole or in part with CDBG funds (including CDBG funds provided to Subrecipient in the form of a loan) shall be treated in accordance with 24 CFR 570.503(b)(7).

4. In accordance with 2 CFR part 200, should Subrecipient meet the threshold for submission of a single or program specific audit, the audit must be conducted in accordance with 2 CFR part 200 and submitted to Commerce no later than nine months from the end of Subrecipient's fiscal year. If Subrecipient did not meet the audit threshold, an **Audit Certification Memo** must be provided to Commerce Grant Manager no later than nine months from the end of Subrecipient's fiscal year.

5. A copy of the **Audit Compliance Certification** form, Attachment J, must be emailed to audit@Commerce.fl.gov and Commerce Grant Manager within sixty (60) calendar days of the end of each fiscal year in which this subgrant was open.

6. **Section 3 Quarterly Reporting Requirements**. Reporting of labor hours for Section 3 projects must comply with 24 CFR §75.25(a). Subrecipients must report the following: (i) the total number of labor hours worked; (ii) the total number of labor hours worked by Section 3 workers; and (iii) the total number of labor hours worked by Targeted Section 3 workers. If Section 3 benchmarks are not met, the subrecipient's qualitative efforts must be reported in a manner required by 24 CFR §75.25(b).

Subrecipients shall provide Section 3 Reporting quarterly to Commerce Grant Manager by the 5th of each quarter (January 5, April 5, July 5, and October 5).

7. Request for Funds must be submitted as required by Commerce and in accordance with the ***Project Description and Deliverables***, ***Project Budget and Activity Work Plan.***

8. All forms referenced herein are available online or upon request from Commerce's grant manager for this Agreement.

Attachment H – Warranties and Representations

Financial Management

Subrecipient's financial management system must comply with the provisions of 2 CFR part 200 (and particularly 2 C.F.R 200.302 titled "Financial Management"), Section 218.33, F.S., and include the following:

(1) Accurate, current and complete disclosure of the financial results of this project or program.
(2) Records that identify the source and use of funds for all activities. These records shall contain information pertaining to grant awards, authorizations, obligations, unobligated balances, assets, outlays, income and interest.
(3) Effective control over and accountability for all funds, property and other assets. Subrecipient shall safeguard all assets and assure that they are used solely for authorized purposes.
(4) Comparison of expenditures with budget amounts for each Request for Funds (RFF). Whenever appropriate, financial information should be related to performance and unit cost data.
(5) Written procedures to determine whether costs are allowed and reasonable under the provisions of the 2 CFR part 200 (and particularly 2 CFR 200 Subpart E titled "Costs Principles") and the terms and conditions of this Agreement.
(6) Cost accounting records that are supported by backup documentation.

Competition

All procurement transactions must follow the provisions of 2 CFR § 200.318-200.327 and be conducted in a manner providing full and open competition. Subrecipient shall be alert to conflicts of interest as well as noncompetitive practices among contractors that may restrict or eliminate competition or otherwise restrain trade. In order to ensure objective contractor performance and eliminate unfair competitive advantage, contractors that develop or draft specifications, requirements, statements of work, invitations for bids or requests for proposals shall be excluded from competing for such procurements. Awards must be made to the responsible and responsive bidder or offeror whose proposal is most advantageous to the program, considering the price, quality and other factors. Solicitations shall clearly set forth all requirements that the bidder or offeror must fulfill in order for the bid or offer to be evaluated by Subrecipient. Any and all bids or offers may be rejected if there is a sound, documented reason.

Codes of Conduct

Subrecipient shall maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts. No employee, officer or agent shall participate in the selection, award or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. Such a conflict would arise when the employee, officer or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated, has a financial or other interest in a tangible personal benefit from a firm considered for a contract. The officers, employees and agents of Subrecipient shall neither solicit nor accept gratuities, favors or anything of monetary value from contractors or parties to subcontracts. The standards of conduct must provide for disciplinary actions to be applied for violations of the standards by officers, employees or agents of the Subrecipient. (*See* 2 CFR § 200.318(c)(1))

Business Hours

Subrecipient shall have its offices open for business, with the entrance door open to the public, and at least one employee on site at all reasonable times for business. "Reasonable" shall be construed according to circumstances, but ordinarily shall mean normal business hours of 8:00 a.m. to 5:00 p.m., local time, Monday through Friday.

Licensing and Permitting

All contractors or employees hired by Subrecipient shall have all current licenses and permits required for all of the particular work for which they are hired by Subrecipient.

Attachment I – Audit Requirements

The administration of resources awarded by Commerce to Subrecipient may be subject to audits and/or monitoring by Commerce as described in this section.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR 200 Subpart F - Audit Requirements, and section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by Commerce staff, limited scope audits as defined by 2 CFR §200.425, or other procedures. By entering into this Agreement, Subrecipient agrees to comply and cooperate with any monitoring procedures or processes deemed appropriate by Commerce. In the event Commerce determines that a limited scope audit of Subrecipient is appropriate, Subrecipient agrees to comply with any additional instructions provided by Commerce staff to Subrecipient regarding such audit. Subrecipient further agrees to comply and cooperate with any inspections, reviews, investigations or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED. This part is applicable if Subrecipient is a state or local government or nonprofit organization as defined in 2 CFR §200.1.

1. A Subrecipient that expends $750,000 or more in federal awards in its fiscal year must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. EXHIBIT 1 to this form lists the federal resources awarded through Commerce by this agreement. In determining the federal awards expended in its fiscal year, Subrecipient shall consider all sources of federal awards, including federal resources received from Commerce. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR §200.502-503. An audit of the Subrecipient conducted by the Auditor General in accordance with the provisions of 2 CFR §200.514 will meet the requirements of this Part.

2. For the audit requirements addressed in Part I, paragraph 1, Subrecipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR §200.508-512.

3. A Subrecipient that expends less than $750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F - Audit Requirements. If Subrecipient expends less than $750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 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 Subrecipient resources obtained from other than federal entities).

PART II: STATE FUNDED. This part is applicable if Subrecipient is a non-state entity as defined by Section 215.97(2), F.S.

1. In the event that Subrecipient expends a total amount of state financial assistance equal to or in excess of $750,000 in any fiscal year of such Subrecipient (for fiscal years ending June 30, 2017, and thereafter), Subrecipient must have a state single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through Commerce by this agreement. In determining the state financial assistance expended in its fiscal year, Subrecipient shall consider all sources of state financial assistance, including state financial assistance received from Commerce, 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.

2. For the audit requirements addressed in Part II, paragraph 1, Subrecipient shall ensure that the audit complies with the requirements of section 215.97(8), F.S. This includes submission of a financial reporting package as defined by section 215.97(2), F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

3. If Subrecipient expends less than $750,000 in state financial assistance in its fiscal year (for fiscal years ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of section 215.97, F.S., is not required. If Subrecipient expends less than $750,000 in state financial assistance in its fiscal year and elects to have an audit conducted in accordance with the provisions of section 215.97, F.S., the cost of the audit must be paid from the nonstate entity's resources (i.e., the cost of such an audit must be paid from Subrecipient's resources obtained from other than state entities).

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), F.S., State agencies may conduct or arrange for audits of state financial assistance that are in addition to audits conducted in accordance with Section 215.97, F.S. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

N/A

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR 200, Subpart F - Audit Requirements, and required by Part I of this form shall be submitted, when required by 2 CFR §200.512, by or on behalf of Subrecipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR §200.1 and §200.512.

   The FAC's website provides a data entry system and required forms for submitting the single audit reporting package. Updates to the location of the FAC and data entry system may be found at the OMB website.

2. Copies of financial reporting packages required by Part II of this form shall be submitted by or on behalf of Subrecipient directly to each of the following:

   a. Commerce at each of the following addresses:

Electronic copies (preferred):	or	Paper (hard copy):
Audit@Commerce.fl.gov		Department of Commerce MSC # 75, Caldwell Building 107 East Madison Street Tallahassee, FL 32399-4126

   b. The Auditor General's Office at the following address:

Auditor General
Local Government Audits
342 Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (https://flauditor.gov/) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or the management letter required by Part III of this form shall be submitted by or on behalf of Subrecipient directly to:

Electronic copies (preferred):	or	Paper (hard copy):
Audit@Commerce.fl.gov		Department of Commerce MSC # 75, Caldwell Building 107 East Madison Street Tallahassee, FL. 32399-4126

4. Any reports, management letters, or other information required to be submitted to Commerce pursuant to this agreement shall be submitted timely in accordance with 2 CFR §200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

5. Subrecipients, when submitting financial reporting packages to Commerce for audits done in accordance with 2 CFR 200, Subpart F - Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date that the reporting package was delivered to Subrecipient in correspondence accompanying the reporting package.

PART V: RECORD RETENTION. Subrecipient shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five (5) years from the date the audit report is issued, or six (6) state fiscal years after all reporting requirements are satisfied and final payments have been received, whichever period is longer, and shall allow Commerce, or its designee, CFO, or Auditor General access to such records upon request. Subrecipient shall ensure that audit working papers are made available to Commerce, or its designee, CFO, or Auditor General upon request for a period of six (6) years from the date the audit report is issued, unless extended in writing by Commerce. In addition, if any litigation, claim, negotiation, audit, or other action involving the records has been started prior to the expiration of the controlling period as identified above, the records shall be retained until completion of the action and resolution of all issues which arise from it, or until the end of the controlling period as identified above, whichever is longer.

Exhibit 1 to Attachment I – Funding Sources

Federal Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following:

Federal Awarding Agency:	U.S. Department of Housing and Urban Development
Federal Funds Obligated to Subrecipient:	*$5,500,000.00*
Catalog of Federal Domestic Assistance Title:	Community Development Block Grants/State's Program and Non-Entitlement Grants in Hawaii
Catalog of Federal Domestic Assistance Number:	14.228
Project Description: *This is not a research and development award.*	The City of Pensacola has been awarded $5,500,000.00 of CDBG-DR funding to repair a Community Disaster Response Facility (CDRF). This project will repair wind and water damage left in the wake of Hurricane Sally and the subsequent water, moisture, and animal intrusion that led to further damage. The additional stormwater detention and treatment capacity will help meet the service area's need for additional relief from weather-related flooding events. The repairs and improvements to the facility will ensure the nearly 70-year-old Frank A. Fricker Center will continue to meet the growing needs of the community for years to come.

Compliance Requirements Applicable to the Federal Resources Awarded Pursuant to this Agreement are as Follows:

Federal Program

1. Subrecipient shall perform its obligations in accordance with Sections 290.0401- 290.048, F.S.
2. Subrecipient shall perform its obligations in accordance with 24 CFR §570.480–570.497.
3. Subrecipient shall perform the obligations as set forth in this Agreement, including any attachments or exhibits thereto.
4. Subrecipient shall perform the obligations in accordance with chapter 73C-23.0051(1) and (3), F.A.C.
5. Subrecipient shall be governed by all applicable laws, rules and regulations, including, but not necessarily limited to, those identified in Award Terms & Conditions and Other Instructions of Subrecipient's Notice of Subgrant Award/Fund Availability (NFA).

State Resources Awarded to the Subrecipient Pursuant to this Agreement Consist of the Following: *N/A*

Matching Resources for Federal Programs: *N/A*

Subject to Section 215.97, Florida Statutes: *N/A*

Compliance Requirements Applicable to State Resources Awarded Pursuant to this Agreement are as Follows:
N/A

NOTE: Title 2 CFR § 200.331 and Section 215.97(5), F.S., require that the information about Federal Programs and State Projects included in Exhibit 1 and the Notice of Subgrant Award/Fund Availability be provided to the Subrecipient.

Attachment J – Audit Compliance Certification

Email a copy of this form within 60 days of the end of each fiscal year in which this subgrant was open to audit@Commerce.fl.gov.

Subrecipient:	
FEIN:	Subrecipient's Fiscal Year:
Contact Name:	Contact's Phone:
Contact's Email:	

1. Did Subrecipient expend state financial assistance, during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between Subrecipient and the Department of Commerce (Commerce)?
   ☐ Yes ☐ No
   If the above answer is yes, answer the following before proceeding to item 2.
   Did Subrecipient expend $750,000 or more of state financial assistance (from Commerce and all other sources of state financial assistance combined) during its fiscal year?
   ☐ Yes ☐ No
   If yes, Subrecipient certifies that it will timely comply with all applicable State single or project-specific audit requirements of Section 215.97, Florida Statutes and the applicable rules of the Department of Financial Services and the Auditor General.

2. Did Subrecipient expend federal awards during its fiscal year that it received under any agreement (e.g., contract, grant, memorandum of agreement, memorandum of understanding, economic incentive award agreement, etc.) between Subrecipient and Commerce? ☐ Yes ☐ No
   If the above answer is yes, also answer the following before proceeding to execution of this certification:
   Did Subrecipient expend $750,000 or more in federal awards (from Commerce and all other sources of federal awards combined) during its fiscal year? ☐ Yes ☐ No
   If yes, Subrecipient certifies that it will timely comply with all applicable single or program-specific audit requirements of 2 CFR part 200, subpart F, as revised.

By signing below, I certify, on behalf of Subrecipient, that the above representations for items 1 and 2 are true and correct.

Signature of Authorized Representative	Date
Printed Name of Authorized Representative	Title of Authorized Representative

Attachment K – Subrecipient Enterprise Resource Application (SERA) Form

Attachment K will be provided after execution of this Agreement.

Attachment L
2 CFR Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

Appendix II to Part 200 - Contract Provisions for Non-Federal Entity Contracts Under Federal Awards

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of $10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR part 60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of $2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, "Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction"). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (18 U.S.C. 874 and 42424240 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, "Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States"). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of "funding agreement" under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that "funding agreement," the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of $150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), "Debarment and Suspension." SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding $100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See 2 CFR § 200.323 - Procurement of recovered materials.

(K) See 2 CFR § 200.216 - Prohibition on certain telecommunications and video surveillance services or equipment.

(L) See 2 CFR § 200.322 - Domestic Preferences for procurements.

[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014; 85 FR 49577, Aug. 13, 2020]

Attachment M

State of Florida
Department of Commerce
Federally Funded
Community Development Block Grant
Disaster Recovery (CDBG-DR) Subrogation Agreement

This Subrogation and Assignment Agreement ("Agreement") is made and entered by and between Town of Jay (hereinafter referred to as "Subrecipient") and the State of Florida, Department of Commerce (hereinafter referred to as "Commerce").

In consideration of Subrecipient's receipt of funds or the commitment by Commerce to evaluate Subrecipient's application for the receipt of funds (collectively, the "Grant Proceeds") under the Commerce Community Development Block Grant-Disaster Recovery Program (the "CDBG-DR Program") administered by Commerce, Subrecipient hereby assigns to Commerce all of Subrecipient's future rights to reimbursement and all payments received from any grant, subsidized loan, lawsuit or insurance policies of any type or coverage or under any reimbursement or relief program related to or administered by the Federal Emergency Management Agency ("FEMA") or the Small Business Administration ("SBA") (singularly, a "Disaster Program" and collectively, the "Disaster Programs") that was the basis of the calculation of Grant Proceeds paid or to be paid to Subrecipient under the CDBG-DR Program and that are determined in the sole discretion of Commerce to be a duplication of benefits ("DOB") as provided in this Agreement.

The proceeds or payments referred to in the preceding paragraph, whether they are from insurance, FEMA or the SBA or any other source, and whether or not such amounts are a DOB, shall be referred to herein as "Proceeds," and any Proceeds that are a DOB shall be referred to herein as "DOB Proceeds." Upon receiving any Proceeds, Subrecipient agrees to immediately notify Commerce who will determine in its sole discretion if such additional amounts constitute a DOB. If some or all of the Proceeds are determined to be a DOB, the portion that is a DOB shall be paid to Commerce, to be retained and/or disbursed as provided in this Agreement. The amount of DOB determined to be paid to Commerce shall not exceed the amount received from the CDBG-DR Program.

Subrecipient agrees to assist and cooperate with Commerce to pursue any of the claims Subrecipient has against the insurers for reimbursement of DOB Proceeds under any such policies. Subrecipient's assistance and cooperation shall include but shall not be limited to allowing suit to be brought in Subrecipient's name(s) and providing any additional documentation with respect to such consent, giving depositions, providing documents, producing record and other evidence, testifying at trial and any other form of assistance and cooperation reasonably requested by Commerce. Subrecipient further agrees to assist and cooperate in the attainment and collection of any DOB Proceeds that Subrecipient would be entitled to under any applicable Disaster Program.

If requested by Commerce, Subrecipient agrees to execute such further and additional documents and instruments as may be requested to further and better assign to Commerce, to the extent of the Grant Proceeds paid to Subrecipient under the CDBG-DR Program, the Policies, any amounts received under the Disaster Programs that are DOB Proceeds and/or any rights thereunder, and to take, or cause to be taken, all actions and to do, or cause to be done, all things requested by Commerce to consummate and make effective the purposes of this Agreement.

Subrecipient explicitly allows Commerce to request of any company with which Subrecipient held insurance policies, or FEMA or the SBA or any other entity from which Subrecipient has applied for or is receiving Proceeds, any non-public or confidential information determined to be reasonably necessary by Commerce to monitor/enforce its interest in the rights assigned to it under this Agreement and give Subrecipient's consent to such company to release said information to Commerce.

If Subrecipient (or any lender to which DOB Proceeds are payable to such lender, to the extent permitted by superior loan documents) hereafter receives any DOB Proceeds, Subrecipient agrees to promptly pay such amounts to Commerce, if Subrecipient received Grant Proceeds under the CDBG-DR Program in an amount greater than the amount Subrecipient would have received if such DOB Proceeds had been considered in the calculation of Subrecipient's award.

In the event that Subrecipient receives or is scheduled to receive any subsequent Proceeds, Subrecipient shall pay such subsequent Proceeds directly to Commerce, and Commerce will determine the amount, if any, of such subsequent Proceeds that are DOB Proceeds ("Subsequent DOB Proceeds"). Subsequent Proceeds in excess of Subsequent DOB Proceeds shall be returned to Subrecipient. Subsequent DOB Proceeds shall be disbursed as follows:

1. If Subrecipient has received full payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be retained by Commerce.
2. If Subrecipient has received no payment of the Grant Proceeds, any Subsequent DOB Proceeds shall be used by Commerce to reduce payments of the Grant Proceeds to Subrecipient, and all Subsequent DOB Proceeds shall be returned to Subrecipient.
3. If Subrecipient has received a portion of the Grant Proceeds, any Subsequent DOB Proceeds shall be used, retained and/or disbursed in the following order: (A) Subsequent DOB Proceeds shall first be used to reduce the remaining payments of the Grant Proceeds, and Subsequent DOB Proceeds in such amount shall be returned to Subrecipient; and (B) any remaining Subsequent DOB Proceeds shall be retained by Commerce.
4. If Commerce makes the determination that Subrecipient does not qualify to participate in the CDBG-DR Program or Subrecipient determines not to participate in the CDBG-DR Program, the Subsequent DOB Proceeds shall be returned to Subrecipient, and this Agreement shall terminate.

Once Commerce has recovered an amount equal to the Grant Proceeds paid to Subrecipient, Commerce will reassign to Subrecipient any rights assigned to Commerce pursuant to this Agreement.

Subrecipient represents that all statements and representations made by Subrecipient regarding Proceeds received by Subrecipient shall be true and correct as of the date of the signing of this Agreement.

Warning: Any person who intentionally or knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. 287, 1001 and 31 U.S.C. 3729.

Remainder of this page is intentionally left blank

The person executing this Agreement on behalf of Subrecipient hereby represents that he\she has received, read, and understands this notice of penalties for making a false claim or statement regarding Proceeds received by Subrecipient.

In any proceeding to enforce this Agreement, Commerce shall be entitled to recover all costs of enforcement, including actual attorney's fees.

CITY OF PENSACOLA, FLORIDA		**DEPARTMENT OF COMMERCE**	
By	______________________ Signature	**By**	______________________ Signature
	Darcy Curran Reeves		**J. Alex Kelly**
Title	**Mayor**	**Title**	**Secretary**
Date	______________________	**Date**	______________________

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-29 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-3 - FLORIDA COMMERCE COMMUNITY DEVELOPMENT BLOCK GRANT - DISASTER RELIEF FUNDING FOR FRICKER CENTER

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-3

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED:

SUMMARY:

The City of Pensacola was successful in obtaining $5.5 million in CDBG-DR funding to be used for stormwater retrofitting of the Fricker Center Resource Center.

PRIOR ACTION:

none

FUNDING:

Budget: $5,500,000

Funding: $5,500,000

FINANCIAL IMPACT:

This project will be funging largely through the CDBG-DR funding. City of Pensacola will pledge $477,425.00 from its Local Sales Option Tax as match funding.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

1/5/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Lovoy, Finance Director
William Boyer, Grants and Special Projects Coordinator

ATTACHMENTS:

1. Supplemental Budget Explanation No. 2024-3
2. Supplemental Budget Resolution No. 2024-3

PRESENTATION: No

THE CITY OF PENSACOLA

JANUARY 2024 - SUPPLEMENTAL BUDGET RESOLUTION - FL COMMERCE CDBG- DISASTER RELIEF FUNDING FOR FRICKER COMMUNITY CENTER- Explanation - RES NO. 2024-3

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
Federal Grants	1,800	Increase appropriation for Federal Grants - Florida Commerce CDBG- Disaster Relief Funding for Fricker Community Center
Total Revenues	1,800	
Appropriations		
Capital Outlay	1,800	Increase appropriation for Capital Outlay
Total Appropriations	1,800	

RESOLUTION
NO. 2024-3

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. SPECIAL GRANTS FUND

As Reads	Federal Grants	26,540,543
Amended To Read:	Federal Grants	26,542,343
As Reads	Capital Outlay	26,391,941
Amended To Read:	Capital Outlay	26,393,741

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

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-20 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

GENERAL DANIEL "CHAPPIE" JAMES, JR. MEMORIAL PLAZA STEWARDSHIP AGREEMENT

RECOMMENDATION:

That City Council approve the proposed Stewardship Agreement between the City of Pensacola and General Daniel "Chappie" James, Jr. Memoral Foundation, Inc., establishing terms and conditions for the construction, maintenance, and ongoing stewardship of Generl Daniel "Chappie" James, Jr. Memoral Plaza.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Gen. Daniel "Chappie" James, Jr. Memorial Foundation plans to construct a Gen. Daniel "Chappie" James, Jr. Memorial Plaza within a portion of City-owned Wayside Park near the foot of the newly-completed Gen. Daniel "Chappie" James, Jr. Bridge. To that end, the Foundation has raised funds from numerous sources including foundations and other private grantors, individual donors, the State of Florida, Escambia County, and the City of Pensacola.

In March 2022, City Council approved Item 22-00227, a license agreement for the Gen. Daniel "Chappie" James, Jr. Memorial Plaza near Wayside Park. However, that agreement was never fully executed by the Parties. As a result, City Staff and representatives of the Foundation have negotiated the proposed Stewardship Agreement which both parties believe better represents the spirit of the contemplated working relationship between the City and the Foundation.

PRIOR ACTION:

- December 16, 2021 - City Council approved the allocation of $150,000 from unexpended FY2021 appropriations to the Chappie James Memorial fund.
- March 10, 2022 - City Council approved the License Agreement for the Gen. Daniel "Chappie" James, Jr. Memorial Plaza.
- February 24, 2022 - City Council approved a Loan Agreement with National Museum of

the U.S. Air Force for a decommissioned F-4C Phantom II jet.

FUNDING:

N/A

FINANCIAL IMPACT:

Installation, repair and ongoing required maintenance of the capital improvements to the Memorial Plaza and the various Associated Installations, including the loaned aircraft will be the responsibility of the Foundation. Therefore, there should be only a minimal annual financial impact to the City associated with general maintenance types items such as landscape maintenance and grass cutting, trash collection and disposal, etc.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

12/8/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator
Vanessa Moore, Assistant City Attorney

ATTACHMENTS:

1. Stewardship Agreement

PRESENTATION: No

GENERAL DANIEL "CHAPPIE" JAMES, JR.
MEMORIAL PLAZA STEWARDSHIP AGREEMENT

THIS STEWARDSHIP AGREEMENT, hereinafter "Agreement" is made and entered into this _____ day of____________________, 2024, by and between the **CITY OF PENSACOLA**, a municipal corporation of the State of Florida, hereinafter referred to as the "City," whose address is 222 W. Main Street, Pensacola, FL 32501, and the **GENERAL DANIEL "CHAPPIE" JAMES, JR. MEMORIAL FOUNDATION, INC.**, a Florida Not-For-Profit Corporation, whose current address is 1725 Whaley Avenue, Pensacola FL 32503, hereinafter referred to as the "Foundation."

WHEREAS, the City is the owner of the Wayside Park located immediately adjacent to the southeast landing of Gen. Daniel "Chappie" James, Jr. Bridge, hereinafter the "Bridge" and

WHEREAS, the Foundation intends to build the Gen. Daniel "Chappie" James, Jr. Memorial Plaza, hereinafter the "Plaza" on a portion of the Wayside Park property, and

WHEREAS, the Plaza will include significant memorials in honor of Gen. James, including, but not limited to, a static display of a demilitarized F-4C Phantom II fighter jet, a statue of the General on a pedestal, a Memorial Plaque on stone, and a flagpole with the flag of the United States, and any other City-approved memorials, hereinafter the "Associated Installations", and

WHEREAS, the Foundation has been incorporated as a non-profit corporation for the purposes of funding, constructing and maintaining the Plaza, and

WHEREAS, the City and the Foundation recognize the significance of the Plaza to honor the service and sacrifice of Gen. James, a Pensacola native who served the Nation through three wars, and

WHEREAS, the City and the Foundation intend to have the Plaza serve as a tourist destination and as a special place for reflection and remembrance, and

WHEREAS, the City Council approved this Agreement on the ___ day of ___________, 2023.

WITNESSETH:

FOR AND IN CONSIDERATION of the mutual benefits and obligations hereinafter set forth, to be kept and performed by the parties hereto, and other good and valuable consideration, the sufficiency of which is hereby expressly acknowledged, the City and the Foundation agree as follows:

1. The City grants the Foundation the exclusive right to construct the Plaza and

Associated Installations on the portion of Wayside Park bounded by the 17th Avenue Bridge exit ramp to the south, 17th Avenue to the west, the entrance road to Wayside Park to the north, and the parking roundabout to the east (the "Subject Property). If, upon progression or completion of approved construction and improvements by the Foundation, the parties mutually agree to expand or decrease the above-expressed boundaries, such adjustment shall be documented in writing via an amendment to this Agreement.

2. This Agreement shall automatically terminate on June 30, 2025, unless the Foundation has provided documentation in a form acceptable to the City evidencing the full funding required for construction of the Plaza and Associated Installations described herein or as revised with prior City approval, plus sufficient additional funding to support a minimum of the first three years (3 years) of anticipated maintenance, repair and upkeep as required under Paragraph 6 herein below.

3. The Foundation shall not make any improvements to the subject property unless expressly authorized in writing by the Mayor or designee. In issuing such authorization, the City may inquire as to the Foundation's ability to fund the work being permitted and the City may, in its sole discretion, withhold authorization until such time as adequate funding is verified.

4. The Foundation shall not be required to pay an annual license fee to the City. The Foundation shall be permitted to host its own proprietary events at the Plaza ("Foundation Events") with no less than ninety (90) days' written notice to the City Special Events Office, and upon review and approval, receive a special event permit with permit fees normally charged by the City waived. The Foundation shall coordinate with the City's Special Events Office to avoid scheduling conflicts and to ensure compliance with all applicable rules, regulations and laws. The Foundation shall be solely responsible for all legal and regulatory compliance with regard to Foundation Events and will be solely responsible for payment of any fees or charges associated with legal and regulatory compliance. The Foundation is not authorized to approve or deny any non-Foundation Events or functions at the Plaza and all non-Foundation Events will require approval through the City's Special Event permitting process.

5. The Foundation shall be responsible for the construction, maintenance and repair of the Plaza and Associated Installations. Prior to construction, the Foundation must obtain all necessary permits and, once obtained, a formal Notice to Proceed must be issued by the City. All local, state and federal standards must be met throughout the construction phase. The City will designate a construction inspector to coordinate construction efforts between the contractor and the City. At the time of substantial completion, the city's designated construction inspector must

agree that substantial completion has been met and concur with all punch list items to be satisfied prior to project completion and acceptance. Once all substantial completion items are satisfied, a final walk-through must be scheduled prior to the City formally accepting the project from the contractor. The City will issue a construction acceptance letter once construction is deemed complete.

6. As to its maintenance and repair responsibilities, the Foundation shall maintain the Plaza and the Associated Installations, including but not necessarily limited to all marble, stone, concrete, brick, aluminum, steel, brass, graphite, granite, bronze, glass, etchings, carvings, engravings, wood, rubber, and the like, in a general state of good condition and repair befitting such a memorial. All regular maintenance shall be performed by the Foundation in accordance with manufacturer recommendations and specifications. All repairs to the Plaza and the Associated Installations shall also be the responsibility of the Foundation unless expressly agreed otherwise by the Parties in writing. General upkeep of the Plaza, adjacent landscaping, and the surrounding grounds shall be performed by the City by the same processes and in the same fashion as it undertakes for the general upkeep of all City parks. This shall include regular grounds clean up, trash, litter and refuse collection and disposal, grass cutting, edging and other landscape maintenance, etc. but does not include any repair or manufacturer-recommended maintenance of the Plaza or the Associated Installations unless expressly agreed otherwise by the Parties in writing.

7. During the construction of the Plaza and installation of the F-4C Phantom II, pedestal, statue and the flagpole, the Foundation agrees to purchase and maintain in full force and effect, liability insurance coverage with limits of at least $1,000,000 combined single limits of liability per occurrence for bodily injury, including death and property damage with the City of Pensacola named as an additional insured, with such coverage to be in addition to Contractor's Liability Insurance which shall be required for all contractors and subcontractors on the project at coverage levels and limits set by the City The Foundation will provide the City with a Certificate of Insurance, hereinafter "COI," evidencing the existence of such insurance. The COI will provide that the City shall be notified at least <u>thirty (30) days</u> in advance of cancellation, non-renewal, adverse change, or restriction in coverage. Any wording in a COI, which would make notification of cancellation, non-renewal, adverse change, or restriction in coverage to the City an option shall be <u>deleted</u> or <u>crossed</u> out by the insurance carrier or the insurance carrier's agent or employee. The Certificate holder shall be listed as follows: City of Pensacola, Department of Risk Management, P.O. Box 12910, Pensacola, FL. 32521-0063.

8. The Foundation shall indemnify and hold harmless the City from and against any and all third party (3rd) party claims arising out of this Agreement including but not limited to bodily injury and property damage to the extent caused solely by the Foundation's negligent acts or omissions. Indemnification includes providing a legal defense for the City. Insurance of the Foundation in section 6 shall be primary and non-contributory. The Foundation retains control over its employees, agents, servants, and subcontractors, as well as control over its invitees and its activities on and about the subject premises. Both Parties agree the Foundation is not an agent of the City. The Foundation shall make special effort to detect hazards and take prompt action where loss control/safety measures should reasonably be taken. Nothing contained in this Agreement shall be construed as a waiver of the City's sovereign immunity or limitations promulgated under Florida Statute 768.28.

9. Inasmuch as the Plaza and Associated Installations will be located in a City Park, the Subject Property shall remain the property of the City. When the City has acknowledged in writing its satisfaction therewith, the aforementioned liability insurance for construction and installation will be canceled. The insurance requirement for the Foundation itself will remain in effect. Due to the potential long-term nature of this Agreement, the City may periodically, but no more than once per calendar year increase the minimum insurance limits for the Foundation's required liability insurance.

10. The Foundation shall be required to prepare and submit to the City an Annual Report of its activities. This Annual Report shall be submitted in writing to the Mayor or designee annually within 30 calendar days of the anniversary date of this Agreement. The Annual Report should include, but not necessarily be limited to, a message from the Foundation Chair, a listing of the Foundation's then-current officers and directors, a recitation of the Foundation's activities and achievements during the prior year, and a copy of the Foundation's most recent year-ending financial statements, which must be audited only if required under the rules of the United States Internal Revenue Service or the laws of the State of Florida. The City reserves the right to inspect or audit the Foundation's financial records at any time upon reasonable written request and the Foundation agrees to fully cooperate with the City in such case.

11. This Agreement may not be assigned or transferred, in whole or in part, without the prior written consent of the City.

12. This Agreement may be terminated by the City for cause. Cause shall be defined as the Foundation's failure to perform in accordance with the provisions of this agreement, the Foundation's inability to complete full construction of the Plaza and Associated Installations as

approved by the City, or the Foundation's inability to sustain adequate funding to meet its ongoing maintenance and repair obligations as specified herein. In such case, the City shall provide the Foundation with written notice of intent to cancel no less than 120 days in advance. During the 120-day notice period, the Foundation may remedy the failure or seek to negotiate revised performance terms agreeable to the City to facilitate the Foundation's continued stewardship of the Plaza and Associated Installations as existing at the time.

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

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

[THIS SPACE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, this Agreement is executed by the authorized representatives of the CITY OF PENSACOLA and GENERAL DANIEL "CHAPPIE" JAMES, JR. MEMORIAL FOUNDATION, INC. on the day and year first written herein.

CITY:

CITY OF PENSACOLA,
a Florida municipal corporation

By: ________________________________
D.C. Reeves, Mayor

Attest:

____
Ericka Burnett, City Clerk

Approved as to form

____
Assistant City Attorney

FOUNDATION:

GENERAL DANIEL "CHAPPIE" JAMES JR. MEMORIAL FOUNDATION, INC.
a Florida not-for-profit corporation

By:__________________________________
________________, ________________
(print name) (print title)

Witnessed:

____
Corporate Secretary

Affix Corporate Seal Here

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-14 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

RESOLUTION NO. 2024-8 - SUPPORTING AN APPLICATION FOR TRANSPORTATION ALTERNATIVES PROGRAM FUNDING FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION

RECOMMENDATION:

That City Council adopt Resolution No. 2024-8:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA; SUPPORTING AN APPLICATION TO THE FLORIDA DEPARTMENT OF TRANSPORTATION ALTERNATIVES PROGRAM TO DESIGN AND CONSTRUCT SIDEWALKS ON NORTH J STREET AND EAST MAXWELL STREET; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Staff requests approval of a resolution of support for the annual Transportation Alternatives Program project submission to the Florida Department of Transportation (FDOT). This cycle, staff intends to submit a design and construction request for two sidewalk segments:

- North J Street from Garden Street to West Brainerd St. for 0.75 miles. This project will continue connectivity efforts to Legion Field, Terry Wayne Park, and Morris Court.
- East Maxwell Street from North Hayne Street to North 12th Avenue for 0.57 miles. This project will improve connectivity from the Eastside Neighborhood to Hollice T. Williams Park, which is being designed and constructed to include a multi-use trail.

The majority of the project blocks are identified as high on the City sidewalk priority model and identified in the Active Transportation Plan sidewalk gap map. The projects also meet the criteria established by the Florida-Alabama Transportation Planning Organization (TPO) which is used to rank projects based on safety, connectivity, location efficiency, and proximity to schools. Projects score higher if they are located near areas with historic crashes, corridors with high traffic volumes, and land uses that are diverse, serving commercial, residential, and recreational needs.

Program Background

FDOT annually solicits the Transportation Alternatives (TA) Set-Aside program funding opportunity. The TA Set-Aside provides funding for programs and projects consistent with Fixing America's Surface Transportation (FAST) Act under 23 U.S.C. 133(h). These set-aside funds include all projects and activities defined as TA: On- and off-road pedestrian and bicycle facilities, infrastructure projects for improving non-driver access to public transportation, community improvement activities, environmental mitigation, and projects for planning, designing or constructing boulevards and other roadways largely in the right-of-way of formerly divided highways.

As a member of the Florida-Alabama Transportation Planning Organization (TPO), the City must submit projects to the TPO to be collectively prioritized for submittal to the FDOT. The FDOT will only be reviewing the top three (3) priorities from each TPO area.

PRIOR ACTION:

N/A

FUNDING:

Budget:	$558,368.15	East Maxwell Street
	$657,396.08	North J Street
	$1,215,764.23	Total
Actual:	$375,630.14	Construction
	$104,500.00	Preliminary Engineering
	$37,563.01	Contingency
	$40,675.00	Construction, Engineering, and Inspection (CEI)
	$558,368.15	East Maxwell Street Total
	$434,746.43	Construction
	$124,500.00	Preliminary Engineering
	$43,474.64	Contingency
	$54,675.00	Construction, Engineering, and Inspection (CEI)
	$657,396.08	North J Street Total

FINANCIAL IMPACT:

Adoption of the resolution will allow for submittal of the application to FDOT for the

Transportation Alternatives Program opportunity. If the funding request is approved by the FDOT, a legislative item will be brought before City Council for approval to accept the grant as well as a supplemental budget resolution appropriating the grant funds.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

1/3/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator
Amy Tootle, P.E. - Director of Public Works & Facilities

ATTACHMENTS:

1. Resolution No. 2024-8
2. East Maxwell Street Location Map
3. North J Street Location Map

PRESENTATION: No

RESOLUTION
NO. 2024-8

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA FLORIDA; SUPPORTING AN APPLICATION TO THE FLORIDA DEPARTMENT OF TRANSPORTATION ALTERNATIVES PROGRAM TO DESIGN AND CONSTRUCT SIDEWALKS ON NORTH J STREET AND EAST MAXWELL STREET; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola has an interest in promoting and encouraging alternative modes of transportation to support revitalization and connectivity; and

WHEREAS, the following proposed sidewalk projects are endorsed by the City Council of the City of Pensacola:

Design and construction of a sidewalk on North J Street from Garden Street to West Brainerd St. for 0.75 miles.

Design and construction of a sidewalk on East Maxwell Street from North Hayne Street to North 12^{th} Avenue for 0.57 miles.

WHEREAS, a majority of the Project blocks are considered high in the City of Pensacola Sidewalk Prioritization Model.

WHEREAS, Federal Transportation Alternatives (TA) Program funds are now available for transportation alternatives projects through the State of Florida Department of Transportation; and

WHEREAS, the Project meets the eligibility requirements for funding; and

WHEREAS, in order that these improvements may be constructed to the fullest extent, the City Council of the City of Pensacola supports filing an application with the State of Florida Department of Transportation to design and construct the Project;

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

Section 1. That the above stated recitals in the Whereas clauses are true and correct and incorporated herein by 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 filing an application with the State of Florida Department of Transportation for Federal Transportation Alternatives (TA) program funding for the Project.

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.

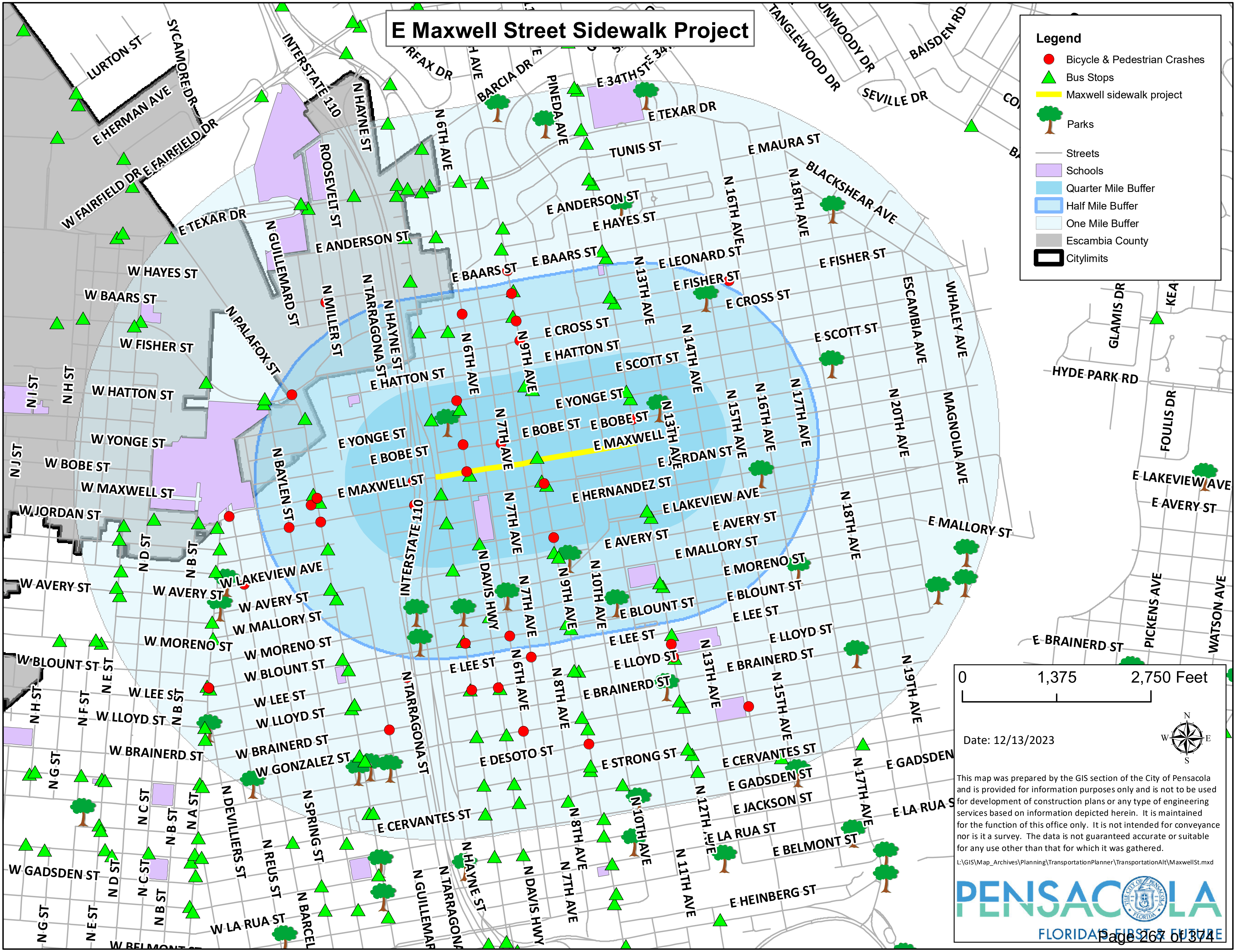
Adopted: ___________________________

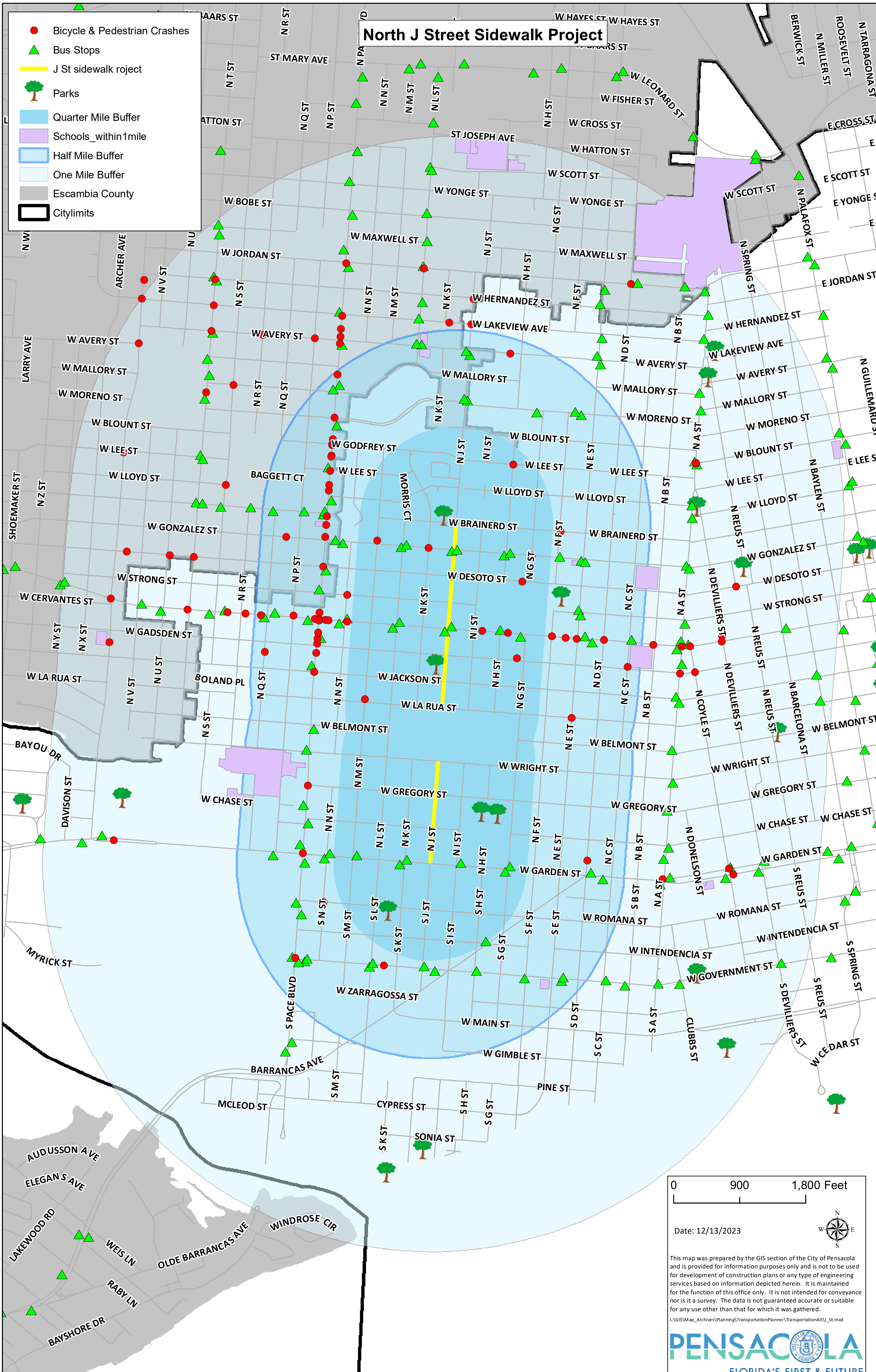
Approved: _________________________
President of City Council

ATTEST:

____
City Clerk

E Maxwell Street Sidewalk Project




North J Street Sidewalk Project
Bicycle & Pedestrian Crashes
Bus Stops
J St sidewalk roject
Parks
Quarter Mile Buffer
Schools_within1mile
Half Mile Buffer
One Mile Buffer
Escambia County
Citylimits
W HAYES ST
ST MARY AVE
W LEONARD ST
W FISHER ST
W CROSS ST
E CROSS ST
ST JOSEPH AVE
W HATTON ST
W SCOTT ST
E SCOTT ST
W YONGE ST
E YONGE ST
W BOBE ST
W MAXWELL ST
W JORDAN ST
E JORDAN ST
W HERNANDEZ ST
W LAKEVIEW AVE
W AVERY ST
W MALLORY ST
W MORENO ST
W BLOUNT ST
W LEE ST
E LEE ST
W GODFREY ST
BAGGETT CT
W LLOYD ST
W BRAINERD ST
W GONZALEZ ST
W DESOTO ST
W STRONG ST
W CERVANTES ST
W GADSDEN ST
BOLAND PL
W JACKSON ST
W LA RUA ST
W BELMONT ST
W WRIGHT ST
W CHASE ST
W GREGORY ST
W GARDEN ST
W ROMANA ST
W INTENDENCIA ST
W GOVERNMENT ST
W ZARRAGOSSA ST
W MAIN ST
W GIMBLE ST
BARRANCAS AVE
PINE ST
MCLEOD ST
CYPRESS ST
SONIA ST
MYRICK ST
BAYOU DR
DAVISON ST
AUDUSSON AVE
ELEGANS AVE
LAKEWOOD RD
WEIS LN
OLDE BARRANCAS AVE
WINDROSE CIR
RABY LN
BAYSHORE DR
LARRY AVE
ARCHER AVE
SHOEMAKER ST
MORRIS CT
S PACE BLVD
CLUBBS ST
N GUILLEMARD ST
N BAYLEN ST
N DEVILLIERS ST
N REUS ST
N BARCELONA ST
N COYLE ST
N DONELSON ST
N PALAFOX ST
N SPRING ST
BERWICK ST
N MILLER ST
ROOSEVELT ST
N TARRAGONA ST
S SPRING ST
S REUS ST
S DEVILLIERS ST
W CEDAR ST
N J ST
S J ST
0 900 1,800 Feet
Date: 12/13/2023
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.
PENSACOLA
FLORIDA'S FIRST & FUTURE

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-16 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-2 - LAW ENFORCEMENT TRUST FUND (LETF) PURCHASE FOR THE LIFEVIEW GROUP HUMAN TRAFFICKING TASK FORCE / HUMAN TRAFFICKING SUMMIT

RECOMMENDATION:

That the City Council adopt Supplemental Budget Resolution No. 2024-2.

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Law Enforcement Trust Fund was established by City of Pensacola to allow the Police Department the use of money and goods confiscated as a result of criminal activity. Florida State Statute 932.7055 as amended on July 1, 2016, details the circumstances confiscated goods may be used. The Federal Controlled Substance Act, Section 881 (e) (3) of Title 21, United States Department of Justice guide to Equitable Sharing designates the uses of Federal Law Enforcement Trust Funds.

The Pensacola Police Department is requesting $1,800.00 to be appropriated from the Law Enforcement Trust Fund (LETF) for the purpose of donating to LifeView Group's Human Trafficking Task Force/Human Trafficking Summit. The funding will provide for the presentation costs of mental health professional speakers and local human trafficking survivor panelists, to also include facility expense for the summit.

The LifeView's Group's agency-wide Human Trafficking Task Force is partnering with other local agencies to create a more robust response to the human trafficking crisis. The Task Force's goal is to create a more uniform response from the behavioral health community that includes; easy access to needed services, improved coordination of care between agencies, and increased education and training to assist human trafficking survivors in meeting their behavioral health goals.

The summit will provide opportunities for attendees to expand their knowledge of the challenges of working with survivors. Survivors often have exposure to the criminal justice system. The summit will provide education on how to best advocate for survivors within the criminal justice system. Behavioral Health providers will also learn improved strategies to help survivors to get needs met in ways that will reduce exposure to the criminal justice system.

As a comprehensive behavioral health care agency, LifeView Group has the ability to provide dual-diagnosis care to address both mental health/trauma and substance misuse within the same agency. As human traffic survivors generally present with complex trauma, the summit will provide improved connections within the survivors' peer network that will better address the dual diagnosis needs of these individuals.

The Chief of Police has certified that his request complies with the Statutory requirements of Florida Statute 932.7055 and that the funds will be used for the qualifying purpose(s) of crime prevention and drug abuse education and prevention programs.

PRIOR ACTION:

None.

FUNDING:

Budget:	$1,800.00
Actual:	$800.00 Professional Fees $1,000.00 Facility Expense
Total:	$1800.00

FINANCIAL IMPACT:

Adoption of the Supplemental Budget Resolution will appropriate the funds in the Law Enforcement Trust Funds for these purposes. There is no impact to the General Fund.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

12/5/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-2
2. Supplemental Budget Explanation No. 2024-2
3. Letter of Certification re LifeView Group
4. PPD LEFT Sponsorship Application re LifeView Group

PRESENTATION: No

RESOLUTION
NO. 2024-2

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION AUTHORIZING AND MAKING REVISIONS AND APPROPRIATIONS FOR THE FISCAL YEAR ENDING SEPTEMBER 30, 2024; PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA

SECTION 1. The following appropriations from funds on hand in the fund accounts stated below, not heretofore appropriated, and transfer from funds on hand in the various accounts and funds stated below, heretofore appropriated, be, and the same are hereby made, directed and approved to-wit:

A. LAW ENFORCEMENT TRUST FUND

	Fund Balance	18,509
As Reads:	Operating Expenses	31,290
Amended To Read:	Operating Expenses	33,090

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

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

Adopted: ________________________

Approved: ________________________
President of City Council

Attest:

____
City Clerk

THE CITY OF PENSACOLA
JANUARY 2024- SUPPLEMENTAL BUDGET RESOLUTION - LETF FUNDS - NO. 2024-2

FUND	AMOUNT	DESCRIPTION
LAW ENFORCEMENT TRUST FUND		
Fund Balance	1,800	Increase appropriated fund balance
Appropriations		
Operating Expenses	1,800	Increase appropriation for Operating Expenses
Total Appropriations	1,800	

CITY OF PENSACOLA POLICE DEPARTMENT
Local Law Enforcement Trust Funds
Letter of Certification

I hereby certify that the requests contained herein comply in full with the provisions of Florida State Statute 932.7055, as amended on July 1, 2016, in reference to the use of contraband forfeiture from a State Law Enforcement Trust Fund and/or under the Federal Controlled Substance Act, Section 881 (e)(3) of Title 21, United States Code, in accordance with the US Department of Justice Guide to Equitable Sharing from a designated Federal

Item	Description of Requested Items	Amount
1	Professional & Panelist Fees	$800
2	Partial facility expense	$1,000
	Total Requested	$1,800

Eric Randall, Chief of Police

12/14/23
Date

PENSACOLA POLICE
COURTESY • INTEGRITY • PROFESSIONALISM

PENSACOLA POLICE DEPARTMENT
LAW ENFORCEMENT TRUST FUND ("LETF")
APPLICATION

The Pensacola Police Department (PPD) is pleased that we are able to benefit our community with the use of asset forfeiture funds by providing financial assistance to local nonprofit organizations that make a difference in our community. These funds are the result of civil forfeitures of assets (including cash) that have been seized as contraband linked to certain felony crimes. There are strict standards and statutory requirements that must be met by the seizing law enforcement agency. The seized money is maintained in a Law Enforcement Trust Fund (LETF) and can only be used in accordance with the rules set forth in Florida Statutes, Section 932.701 - 932.707, called the "Florida Contraband Forfeiture Act (FCFA)." The provisions of the FCFA allows law enforcement agencies, such as PPD, to support projects and programs that strive to improve neighborhood safety, prevent crime, and provide drug abuse education and prevention within our Pensacola community.

Applications for funding may be a request to fund an entire project or may be a request to fund a particular piece of a larger project or program if that project or program meets the eligibility criteria set forth in the statutes described below.

Funding requests must be approved by the Chief of Police, as well as the City Council, and are limited to the LETF funds available.

ELIGIBILITY:

To be considered for funding, the following 3 steps must be met:

1. The project/program must meet the statutory criteria as to the use of LETF money and must fall into at least one of the following categories:
   - Crime Prevention
   - Drug Abuse and Prevention Program
   - Safe Neighborhoods
2. The following documents **MUST** be attached to the application at the time of submission in order to be considered for funding:
   - Part 1 of this application
   - Part 2 of this application (including line-item budget)
   - Sunbiz Certification of Status
   - IRS Form 501(c)(3)
   - IRS Form W-9
3. If the application is approved and money for the project is awarded, applicants will have 90 days to complete Part 3 and return it to PPD. Part 3 provides statutorily required audit information of how the funds received were utilized along with a description of the outcomes of the project/program for which the funds were granted. This must include receipts where applicable, as well as documentation of expenses that account for exactly how the money was spent for the program or project for which it was requested. Part 3 must be completed and returned within 90 days following the performance period of the project/program for which the LETF money was awarded. Failure to submit Part 3 in a timely manner may result in a demand for the funds granted to be returned and will result in a failure of the agency to be considered as a recipient for future LETF money.

PART 1

The person completing this application must have legal authority on behalf of the requesting agency to submit this application and to ensure funds are used for the purposes specified herein to provide the required accounting and reporting of these funds.

Initial

SW Applicant will keep clear and accurate records throughout the Program period so that the progress of the services rendered may be readily evaluated by PPD.

SW I understand that a final report of activities and expenditures documented by receipts or other financial proof of expenditure of the Program must be submitted by Applicant on the report form (Part 3) to the PPD no later than 90 days of the end of the performance period.

SW I understand that failure to comply with the reporting requirements in Part 3 may result in Applicant having to return LETF monies and will remove the applicant agency from future consideration to receive LETF monies.

SW If Applicant's agency fails to use the funds in the manner described in this application, or if the project or program does not occur or is not completed in the same manner and in the performance period as described in the application, or is determined later to not be qualified to receive LETF monies; or if there was an untruthful statement made by Applicant within application; or fails to provide the necessary reporting documents to the PPD, then all LETF monies disbursed to the Applicant must be returned to the PPD within ten (10) business days of the PPD's written demand for the same and Applicant will be ineligible for any further LETF disbursements.

SW I understand that false statements or claims made in connection with this LETF application may result in fines, imprisonment, and/or any other remedy available by law.

I certify that I have the appropriate authority on behalf of the requesting agency to submit this application and to ensure funds are used for the purposes specified herein to provide the required accounting and reporting of these funds. I also certify that the assurances provided are true and accurate to the best of my knowledge.

Applicant Agency Name: LifeView Group

Sandy Whitaker
Printed Name of Person Authorized to Complete this Application

Vice President
Title

Signature

STATE OF FLORIDA
COUNTY OF ESCAMBIA

SWORN TO AND SUBSCRIBED before me this 21 day of Nov, 2023 by Sandy Whitaker, who is personally known to me or has produced ______________ as identification.

(Notary Seal)

Notary Public State of Florida
Lori Olsen Clapsadl
My Commission HH 351658
Expires 1/22/2027

NOTARY PUBLIC

Signature of Notary
State of Florida at Large
My Commission Expires: 1/22/27

PART 2

SECTION 1

APPLICANT INFORMATION

Name of Agency:	LifeView Group		
Project/Program Title:	Human Trafficking Summit/LifeView Group Human Trafficking Task Force		
Contact, including title, for Program:	Lori Clapsadl, Risk Manager, Task Force Chair		
Street Address:	2001 North E Street	Phone:	850-860-9336
City, Zip:	Pensacola, Florida 32501	Fax:	
Dates of Project/Program:	January 11, 2024	E-mail:	Lori.Clapsadl@lifeviewgroup.org
Total Program Budget:		Amount of **LETF Funds** Requested:	1,800.00

The program or project is a particular program or project run by the requesting agency, not the agency as a whole.

(EX: ABC Agency has many different programs, but they are asking for LETF funds to cover a portion of an after-school program where they bring in positive communication, anger management, and drug education counselors. This would be an example of criteria that would meet all three of the possible categories required for funding (Crime Prevention, Drug Abuse Education and Prevention, and Safe Neighborhoods).

SECTION 2

LETF CATEGORY/STATUTORY REQUIREMENT

(Place an "X" to the left of the following program area(s) for which you intend to apply):

- ☒ **1. Crime Prevention**
- ☒ **2. Drug Abuse Education and Prevention Programs**
- ☐ **3. Safe Neighborhood**

CHIEF'S PRIORITY AREAS (optional)

(Place an additional "X" to the left of one of the following programs, if applicable):

- ☐ **1. Diverting Youth from Criminal Justice System**
- ☒ **2. Reducing Gun Violence/Violent Crime**

SECTION 3

PROPOSED PROGRAM INFORMATION

a. What is the mission statement of your agency as a whole?

Mission:
Helping people throughout life's journey.

Vision:
To be the trusted partner for improving the quality of life in the communities we serve.

Values:
Ownership – accountable, engaged, stewardship, responsive
Integrity – honest, principled, trustworthy, transparent
Compassion – empathetic, merciful, sensitive, kind, giving, forgiving, hopeful
Excellence – safety, quality, distinguished, learning, improving
Service – welcoming, attentive, humble, respectful, exceeds expectations, collaborative

b. What is the specific time frame of dates that this program or project will occur?
(EX: August 2023 through May 2024, from 3:30-5:00pm on Mondays and Fridays)

January 11, 2024 8:00am to 5:00pm

c. How does the particular project or program of your agency for which you are seeking funding address the required LETF Category(ies) selected in Part 2, section 2 of this application? Please list specifically what the program does in relation to the category selected.

(EX: The anger management and drug education counselor will be providing education and skills that will help kids learn better communication with others and learn how to avoid substance abuse which supports all 3 of the possible LETF categories by helping prevent violent crime, helping support and build safe neighborhoods, and preventing drug and substance abuse.)

The LifeView Group's agecny-wide Human Trafficking Task Force is partnering with other local agencies to create a more robust response to the Human Trafficking crisis. The Task Force's goal is to create a more uniform response from the behavioral health community that includes: easy access to needed services, improved coordination of care between agencies, and increased education and training to assist Human Trafficking Survivors in meeting their behavioral health goals.

The summit will provide opportunities for attendees to expand their knowledge of the challenges in working with survivors. Survivors often have exposure to the criminal justice system. The summit will provide education on how to best advocate for survivors within the criminal justice system. Behavioral Health providers will also learn improved strategies to help survivors to get needs met in ways that will reduce exposure to the criminal justice system.

As a comprehensive behavioral health care agency, LifeView Group has the ability to provide dual-diagnosis care to address both mental health/trauma and substance misuse within the same agency. As Human Trafficking survivors generally present with complex trauma, this summit and, the improved connections within the HT survivor peer network the summit will provide,will better address the dual diagnosis needs of these individuals.

d. Describe in detail how the **LETF funds** being requested will be used. A specific breakdown is required and must add up to the total being requested.

(EX: 2 anger management and drug abuse prevention counselors at $20/hour, 3 hours a week, for 4 weeks = $480)

Funds will cover the cost of speaker fees for the presentation. Speakers will include mental health professionals, as well as members of the local Human Trafficking survivor network.

$125 each for professional speakers times 5 speakers $625
$35 each for panelists times 5 panelists $175

Funds will also help to cover the cost of the facility for the summit.

$1200 per hour times 1 hour $1,200.00

Total Program Line-Item Budget

ITEMS	TOTAL PROGRAM EXPENSES	LETF RELATED EXPENSES
Personnel Costs/Salaries	$	
Consultants and Professional Fees	$ 800	800.00
Supplies	$	
Other (specify)	$	
facility	$ 10,800 ($1,200/hr x 9 hr)	1200.00
CEs	$	
food costs	$ 1,800 ($10/person x 180)	
	$	
	$	
TOTAL PROGRAM COST:	$	
	TOTAL LETF REQUEST:	$ 2,000.00

I certify that I have the appropriate authority on behalf of the requesting agency to submit this application and to ensure funds are used for the purposes specified herein to provide the required accounting and reporting of these funds. I also certify that the assurances provided are true and accurate to the best of my knowledge.

OFFICIAL AUTHORIZED TO SIGN AND BIND APPLICANT AGENCY TO APPLICATION:

Sandy Whitaker
Printed Name of Person Authorized to Complete this Application

VP
Title

Signature

STATE OF FLORIDA
COUNTY OF ESCAMBIA

SWORN TO AND SUBSCRIBED before me this 21 day of November, 20 23 by Sandy Whitaker, who is personally known to me or has produced ________ as identification.

(Notary Seal)

Notary Public State of Florida
Lori Olsen Clapsadl
My Commission HH 361658
Expires 1/22/2027

NOTARY PUBLIC

Signature of Notary
State of Florida at Large
My Commission Expires: 1/22/27

PART 3

POST PROJECT/PROGRAM EVALUATION

This evaluation is due no later than 90 days after the funding award.

1. Describe how the project/program met each of its goals.

2. Describe how the project/program impacted crime prevention, neighborhood safety, drug abuse education, and/or drug prevention.

3. How many participants did the project/program serve? Please describe.

4. Provide a detailed accounting of how the award was spent referencing the Line-Item Budget submitted in Part 2 of the application:

Description	Amount
Total	

CERTIFICATION

I possess the authority to certify that the funds awarded were used for purposes described in this evaluation. I understand that the Pensacola Police Department may require additional information including but not limited to receipts, program data, lesson plans, staff salary information, or any other supporting documentation to meet their obligations that the funds were spent appropriately.

__________________________________ ____________________________
Printed Name Title

__________________________________ __________________
Signature Date

__________________________________ ____________________________
Printed Name of Witness Signature of Witness

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-21 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

PROPOSED ORDINANCE NO 22-23 - AMENDMENT TO SECTION 12-3-121 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, DEVELOPMENT STANDARDS AND GUIDELINES, CREATING SECTION 12-3-121(D)(9), BUILDING HEIGHT BONUSES

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 22-23 on second reading:

AN ORDINANCE AMENDING SECTION 12-3-121 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, DEVELOPMENT STANDARDS AND GUIDELINES, CREATING SECTION 12-3-121(D)(9), BUILDING HEIGHT BONUSES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: Public Hearing Required

SUMMARY:

The Mayor's Office is requesting an amendment to Sec. 12-3-121 of the Land Development Code to provide a provision for building height bonuses. The request is to add subsection (9) which would provide the option for building height bonuses above the limit otherwise established by a zoning district, so long as the overall height of the building does not exceed 150 feet. This bonus would be in exchange for the construction of affordable housing or as an incentive to achieve superior building and site design, preserve environmentally sensitive lands and open space, or provide public benefit uses. Additionally, standards for approval have been provided and all applications would be subject to review and approval by the City's Planning Board.

At the October 10, 2023, Planning Board Meeting, the Board unanimously recommended approval of the proposed ordinance, amended to require that, "Standards for approval shall be as follows and in accordance with design guidelines of section 12-3-121(d):".

PRIOR ACTION:

December 14, 2023 - City Council voted to approve Proposed Ordinance No. 22-23 on first reading.

FUNDING:

N/A

FINANCIAL IMPACT:

None.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

10/13/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator
Sherry Morris, AICP, Development Services Department Director
Cynthia Cannon, AICP, Planning and Zoning Division Manager
Gregg Harding, Assistant Planning and Zoning Division Manager

ATTACHMENTS:

1. Proposed Ordinance No. 22-23
2. Planning Board Minutes - October 10, 2023
3. Business Impact Estimate

PRESENTATION: No

PROPOSED
ORDINANCE NO. 22-23

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE AMENDING SECTION 12-3-121 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, DEVELOPMENT STANDARDS AND GUIDELINES, CREATING SECTION 12-3-121(D)(9), BUILDING HEIGHT BONUSES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY OF PENSACOLA, FLORIDA:

SECTION 1. Section 12-3-121 of the Code of the City of Pensacola, Florida, is hereby amended to read as follows:

(a) *Purpose.* The requirements set forth in this section are intended to coordinate land development in accordance with orderly physical patterns; to implement goals, objectives and policies of the comprehensive plan; to provide for adequate access to building sites for ingress and egress; to improve the physical appearance of the city; and to preserve the environmental character of the city.

(b) *Applicability.* This section shall be applicable to all new construction, additions to existing structures or additional structures on a developed site. For the purposes of this section, the term "shall" indicates a regulatory requirement or standard, and the term "should" indicates a suggested guideline that is not considered a regulatory requirement.

(c) *Design standards.* Except where specific approval is granted by the city engineer and planning services department due to unique and peculiar circumstances or needs resulting from the size, configuration or location of a site requiring a modification of the standards as set forth below, the minimum standards shall be as follows:

(1) *Streets and rights-of-way.* Whenever public or private streets, rights-of-way, pedestrian ways, bikeways or driveway approaches are to be constructed as part of any development after the effective date of this chapter, they shall be designed in accordance with the requirements of this subsection. Whenever existing public or private streets, rights-of-way, pedestrian ways, bikeways or driveway approaches abutting a development do not meet the requirements of this subsection, the city engineer may require that they be improved to conform to these requirements.

a. *Driveway approaches and curb cuts.*

1. *Width (residential except multifamily).* In properties developed for residential use (except multifamily), curb cuts and driveway approach shall conform to the following requirements:

	Minimum Driveway	Maximum Driveway
Driveway	12 feet	24 feet
Joint-use driveway	20 feet	24 feet

2. *Width (residential multifamily).* Properties developed for residential multifamily use shall have curb cuts for driveways not less than 24 feet wide and not more than 40 feet wide.
3. *Width (nonresidential).* Properties developed for commercial use shall have curb cuts for driveways not less than 12 feet nor more than 40 feet wide.
4. *Distance from drainage inlet.* No curb cut shall be made within three feet of a drainage inlet.
5. *Spacing.* Where more than one curb cut is to be located on any single property, the minimum distance between such curb cuts on local streets shall be 42 feet, and on all arterial and collector streets shall be in accordance with the requirements set forth in subsection (c)(2) of this section.
6. *Number and location on midblock properties.* Except where specific approval is granted as provided above, there shall be no more than two curb cuts for the use of any single property fronting any single local street, and no more than one curb cut for the use of any single property fronting on any single arterial or collector.
7. *Number and location on corner properties.* Where property is located on a corner lot fronting more than one street, not more than one curb cut for the benefit of such property shall be made on each street except where specific approval is granted as provided above. Corner safety islands shall be provided at all corners and no curb cuts or driveway shall be constructed or maintained on the radius of any curved curbing nor closer to the point of curvature than 15 feet on a local street and not within 30 feet on the point of curvature of an intersecting arterial or collector street.
8. *Sidewalk section.* All driveway approaches constructed in areas of the city with existing or required sidewalks shall contain a sidewalk section of the width and grade and minimum construction standards established by the city engineer for sidewalks in such areas.
9. *Pavers.* Any new pavers to be set in the City right-of-way shall be underlain with six (6) inches of concrete.
10. *Removal.* All existing driveways or aprons not being reused shall be removed from the site.
11. *Joint use driveways.* No curb cut for a driveway approach shall be made within one foot of the extended side property line of the property to be serviced by the driveway unless a joint-use driveway for the two adjoining

properties shall be located on the common property line by written agreement running with the land, recorded in the public records of the county and signed by all the owners of the adjoining property using the common driveway. The execution of the said agreement must be notarized. The city engineer shall be authorized to require the establishment of joint-use driveways in connection with the reduction of the driveway spacing requirements of subsection (c)(1)a.5 of this section and of subsection (c)(2) of this section.

12. *Authority to alter curb cuts.* Where the use, convenience and necessity of the public require, the city engineer shall have the authority to order the owners or agents in charge of property adjacent to which curb cuts are maintained, to alter the curb cut in such manner as he or she shall find reasonably necessary under the circumstances. The notice required by this section shall require compliance by permittee within 30 days of such notice; be in writing; and be served upon permittee as required by law.
13. *Right-of-way construction.* Nothing shall be constructed in the city's right-of-way without first obtaining either a right-of-way permit or a License-to-Use permit (LTU). Any work done in the city's right-of-way must meet the specifications of the city engineer and the city's standard details. It is the responsibility of the individual to ensure that they have the most recent city standard detail.
14. *Duty to repair and replace.* Any existing curb or sidewalk, along the frontage of a parcel, which was damaged before or during construction shall be the responsibility of the property owner to repair or replace during construction.

b. *Vehicular access for multifamily, office, commercial or industrial developments.* Direct or indirect vehicular access to local residential streets shall not be permitted, other than from corner lots, for the uses described above when adequate access is available from either collector or arterial streets.
c. *Dedication of streets and rights-of-way.* No site plan shall be approved unless it is accompanied by a dedication of all streets and rights-of-way that are required to be dedicated under this section. The exception to this is private streets, which shall be provided for by the developer in accordance with the requirements of section 12-3-61. Any land lying within a proposed development that is necessary to widen or extend local streets, arterials or collectors as required to meet city standards shall be dedicated.
d. *Street improvements.* All streets and public ways shall be paved and curbed in accordance with standards established by the city engineer and the following requirements:

1. *Additional improvements for existing thoroughfares.* Where any existing arterial or collector lying within or abutting a proposed development requires construction of additional lanes or other improvements to meet the standards of the city engineer, the amount of construction required (or money escrowed) for such improvements shall be commensurate with the impact of the proposed development.
2. *Missing arterial or collector links.* Where there are missing segments in the arterial or collector system or new arterials or collectors are to be

constructed that are designated in the comprehensive plan, such segments lying within or abutting the proposed development shall be improved (or money escrowed in an appropriate manner) by the developer along with other required improvements. Where such construction creates an undue hardship in a particular case, appeals are available in accordance with chapter 12-12.

3. *Traffic control devices.* Intersection improvements and traffic control devices such as acceleration, deceleration, and turning lanes, signalization devices, and other traffic control devices required by the development shall be installed at the developer's expense in accordance with the State of Florida Manual for Uniform Traffic Control Devices.
4. *Improvements required to nearest acceptable paved public street.* Each development shall abut, or have as its primary access, a street improved to the minimum requirements of the city engineer. Wherever the abutting street does not meet these requirements, the developer shall construct the street where it abuts the development and to the nearest structurally acceptable paved public street as determined by the city engineer.
5. *Street cut and patch.* The cut and patch of city streets shall comply with the city standard cut and patch detail. Should there be multiple adjacent patches, the entire road (width and length) shall be milled and overlaid in accordance with the city standard cut and patch detail. The contractor shall provide density testing results from a certified geotechnical laboratory for each cut and patch inspection prior to final approval.

e. *Sidewalks.* For any new nonresidential, commercial, and industrial developments, all street frontages are required to have five feet (minimum) wide sidewalks with handicap ramps in the right-of-way adjacent to the proposed project. Proposed sidewalks shall be designed and constructed in accordance with the Florida Accessibility Code, City Standards, and any other state laws applicable to sidewalk design and construction. In addition, the physical location of the proposed sidewalks shall be depicted on the site plans submitted to the city.

(2) *Driveway and curb cut design along arterial and collector streets.* Recognizing that the traffic movement function of arterial and collector streets can be compromised by the provision of unlimited access to individual properties. Whenever any building site will require vehicular access from an arterial or collector street as designated on the city's adopted Future Traffic Circulation Map, the development shall be designed in accordance with the requirements of this subsection.

a. *Driveways and curb cuts.* In addition to any applicable driveway approach and curb cut requirements of subsection (c)(1) of this section, the following standards shall apply:

1. *Curb cut spacing.* The minimum distance between curb cuts on any one block face, whether or not such curb cuts are located on the same property, shall be based upon the posted speed of the thoroughfare, in accordance with the following schedule:

Posted Speed	Minimum Spacing
30 mph	125 ft.
35 mph	150 ft.
40 mph	175 ft.
45 mph	200 ft.
50+ mph	250 ft.

2. *Spacing reductions and joint-use driveways.* Where the existing configuration of properties and curb cuts in the vicinity of the building site precludes spacing of a curb cut access in accordance with the schedule above, the city engineer shall be authorized to reduce the spacing requirement if he or she finds that all of the following conditions have been met: wherever feasible, the city engineer shall require the establishment of a joint-use driveway serving two abutting building sites, with cross-access easements provided; the property owner shall agree to close and eliminate any pre-existing curb cuts on the building site after the construction of both sides of the joint-use driveway; and where feasible, the building site shall incorporate unified access and circulation in accordance with the requirements of subsection (c)(2)a.3 of this section.
3. *Unified access and circulation.* The planning services director, in coordination with the city engineer, shall be authorized to designate cross-access corridors on properties adjacent to arterial or collector streets. Such designation may be made in connection with the approval of any site plan within the affected area, or as part of an overall planning program. The planning services director, in coordination with the city engineer, shall be authorized to modify the requirements of this subsection where he or she finds that abutting properties have been so developed that it is clearly impractical to create a unified access and circulation system within part or all of the affected area.

(3) *Public facilities.* All developments shall be provided with sufficient utility easements including potable water, sanitary sewer, electric power and light, telephone, natural gas, cable television, and any other franchised utilities, including access for maintenance. Sufficient easements shall be provided for stormwater management facilities, including access for maintenance. All public and private street networks and parking lots shall be designed to allow easy access for solid waste disposal and emergency service vehicles. In addition to new development, any remodeling, enlargement, reconstruction or redesign of any existing building site for specific uses and within the gateway redevelopment district and the resource protection overlay districts shall require submittal of a drainage plan to ensure that stormwater management requirements are met pursuant to chapter 12-8.

(4) *Private recreation and open space facilities for multifamily residential developments.* Multifamily residential developments, with the exception of those located within the boundaries of the city's dense business area, are required to reserve five percent of the total lot area for recreation and open space facilities. This land area requirement shall be provided in addition to the 20 percent landscaping area requirement established in section 12-6-4. In the event a buffer yard is required between the multifamily development and an adjacent single-family land use or zoning district, the buffer yard land area requirements may be credited toward the recreation/open space land area requirement.

(5) *Solid waste disposal facilities for multifamily residential, nonresidential, office, commercial or industrial developments.*

a. Dumpsters, centralized garbage storage areas, compactors and similar solid waste disposal facilities associated with the land uses described above shall not be allowed any closer than ten feet to either the property line or zoning district boundary line of a single-family or duplex residential development or zoning district.
b. Solid waste disposal facilities shall not be located within public street rights-of-way of arterial or collector streets in any zoning district, and they shall not be located within local street rights-of-way in mixed residential/office, residential/commercial or redevelopment zoning districts without the mayor's approval.
c. Solid waste facilities must be screened from adjoining property and from public view.

(6) *Mechanical equipment.* Mechanical equipment for multifamily residential, nonresidential, office, commercial or industrial developments shall not be allowed any closer than ten feet to either the property line or zoning district boundary line of a single-family or duplex residential development or zoning district; and shall be screened from adjoining property and from public view. Roof-mounted electrical, mechanical, air conditioning and communications equipment shall be completely screened from adjacent properties and public view from the public right-of-way. The equipment screening shall be such that the equipment is not visible within a 200-foot radius. The radius shall be measured from the exterior side of the screen to a point ten feet above finished grade.

(7) *Parking.*

a. The city discourages construction of more than the minimum number of parking spaces required by this title, in order that more natural vegetation may be preserved and in order to control stormwater runoff in a more natural manner. Parking in excess of more than ten spaces or ten percent (whichever is greater) above the parking total dictated by chapter 12-4 will require an administrative waiver as described in this subsection (c).
b. The use of permeable paving materials is encouraged for use in parking lots, especially for "overflow" parking or parking spaces in excess of the requirements of this title.

Site design should minimize the impact of automobile parking and driveways on the pedestrian environment, adjacent properties and pedestrian safety.

c. The following are some examples of techniques used to minimize the impacts of driveways and parking lots:

1. Locate surface parking at the rear or side of the zoning lot.
2. Break large parking lots into multiple smaller ones.
3. Minimize the number and width of driveways and curb cuts.
4. Share driveways with abutting zoning lots.
5. Locate parking in less visible areas of the site.
6. Locate driveways so they are visually less dominant.
7. Provide special pavers or other surface treatments to enhance and separate pedestrian areas from vehicle maneuvering and parking areas.
8. Parking located along a commercial street front where pedestrian traffic is desirable lessens the attractiveness of the area to pedestrians and compromises the safety of pedestrians along the street. On-site surface parking on a commercial street front should be minimized and where possible should be located behind a building.

(8) *Building facade finish.* Metal curtain walls shall be limited to a maximum of 30 percent per elevation of a building in the R-2 and R-NC districts, 40 percent per elevation in the remaining commercial districts (with the exception of historic and special aesthetic districts which have their own guidelines for review), and 75 percent per elevation of a building in industrial districts. The remaining percentage of each facade elevation shall have a finish treatment. Planning board may grant requests to exceed this maximum standard on a case-by-case basis with consideration being given to developments that incorporate design guidelines suggested in this section and exhibit superior site design.

(9) *Nonresidential site lighting.* Nonresidential and multiple-family developments shall be designed to provide safe and efficient lighting for pedestrians and vehicles. Lighting shall be designed in a consistent and coordinated manner for the entire site (including outparcels). Lighting shall be designed so as to enhance the visual impact of the project and/or should be designed to blend into the surrounding landscape. Lighting design and installation shall ensure that lighting accomplishes on-site lighting needs without intrusion on adjacent properties and shall meet the following design requirements:

a. *Fixture (luminaire).* When feasible, the light source shall be completely concealed within an opaque housing and shall not be visible from any street right-of-way or adjacent properties.

b. *Light source (lamp).* Only florescent, LED, metal halide, or color corrected high-pressure sodium may be used. The same light source type must be used for the same or similar types of lighting on any one site throughout any development.

c. *Mounting.* Fixtures shall be mounted in such a manner that the maximum candela from each fixture is contained on-site and does not cross any property line of the site.

d. *Limit lighting to periods of activity.* The use of controls such as, but not limited to, photocells, occupancy sensors or timers to activate lighting during times when it will be needed may be required by the planning services department to conserve energy, provide safety, and promote compatibility between different land uses.

e. *Illumination levels.*

   1. All site lighting levels shall be designed per the most recent IESNA (Illumination Engineering Society of North America) recommended standards and guidelines.
   2. Minimum and maximum levels are measured on the pavement within the lighted area. Average level is the overall, generalized ambient light level, and is measured as a not-to-exceed value calculated using only the area of the site intended to receive illumination.
   3. Lighting for automated teller machines shall be required to meet the standards of F.S. § 655.962.

f. *Excessive illumination.*

   1. Lighting unnecessarily illuminates another lot if it clearly exceeds the requirements of this section.
   2. All outdoor lighting shall be designed and located such that the maximum illumination measured in footcandles at the property line does not exceed 0.2 on adjacent residential sites, and 0.5 on adjacent commercial sites and public rights-of-way. These values may be adjusted based on unique and/or unusual needs of specific projects.
   3. Lighting shall not be oriented so as to direct glare or excessive illumination onto streets in a manner that may distract or interfere with the vision of drivers on such streets.
   4. Fixtures used to accent architectural features, landscaping or art shall be located, aimed or shielded to minimize light spill into the night sky.
   5. Reflectors and/or refractors within fixtures or fixtures with a top shield shall be utilized to assist in eliminating "sky glow."

(d) *Design guidelines.* Most development in the city is located on infill or redevelopment sites; therefore, projects should take their surroundings into account. These recommended design guidelines are intended as suggested methods to improve the character and fit of new development and to encourage respect for how architecture, landscape features, and public improvements help establish context, and steadily improve the quality of the city's residential and commercial neighborhoods. These guidelines are intended for designers and developers to look closely at the area surrounding their specific project and create developments that enhance and complement the built and natural environment. The design guidelines are flexible in their application and may be applied to specific projects during review by city staff and any applicable review boards. The intent is to create the highest level of design quality while providing the needed flexibility for creative site design. Use of the following design guidelines is a means for addressing aesthetic and environmental concerns in the development process:

(1) Site planning.

a. The construction of roads across isolated wetlands shall be limited, and any roads that are built should be constructed on pilings or with adequate culverts to allow the passage of flood waters.
b. Runoff shall not be discharged directly into open waters. Vegetated buffers, swales, vegetated watercourses, wetlands, underground drains, catch basins, ponds, porous pavements and similar systems for the detention, retention, treatment and percolation of runoff should be used as appropriate to increase time of concentration, decrease velocity, increase infiltration, allow suspended solids to settle and remove pollutants.
c. Natural watercourses shall not be filled, dredged, cleared, deepened, widened, straightened, stabilized or otherwise altered.
d. The use of drainage facilities and vegetated buffer zones as open space, recreation and conservation areas is encouraged.

(2) Building design and architectural elements. The placement of buildings should respond to specific site conditions and opportunities such as irregular-shaped lots, location on prominent intersections, views, or other natural features. On-site surface parking should be visually minimized and where possible should be located behind a building. Site characteristics to consider in building design include, but are not limited to, the following:

a. Site buildings to avoid or lessen the impact of development on environmentally sensitive and critical areas such as wetlands, stream corridors, fragile vegetation and wildlife areas, etc.
b. The design and placement of a structure and its massing on the site should enhance solar exposure for the project and consider the shadow impacts on adjacent buildings and public areas.
c. The placement of buildings and other development features should enable the preservation of significant or important trees or other vegetation.
d. Where a new structure shares a site with an existing structure, or a major addition to an existing structure is proposed, the design of the new should be designed to be compatible with the original structure. This is particularly important if the original structure has historical or architectural merit to the community.
e. The placement and massing of a building should preserve desirable public views that would otherwise be blocked by the new development.
f. The placement and orientation of buildings should acknowledge and reinforce the existing desirable spatial characteristics of the public right-of-way. For example, a multi-story mixed-use building proposed for a downtown corner zoning lot should reinforce the existing streetscape by utilizing the ground level for pedestrian oriented retail and restaurants and maintaining a consistent building edge abutting the sidewalk.

g. Building entrances should be clearly visible from the street. Using entries that are visible from the street makes a project more approachable and creates a sense of association with neighboring structures.
h. New development should be sited and designed to encourage human activity on the street. To accomplish this end, entrances, porches, balconies, decks, seating and other elements can be designed to promote use of the street front and provide places for human interaction. For example, for commercial developments such elements can include shop front windows, outdoor seating/dining, rooftop decks, balconies, and canopies that protect pedestrians from the elements.
i. Development projects that are adjacent to a less-intensive zoning district with differing development standards, may create substantial adverse impacts that result from inappropriate height, bulk and scale relative to their neighbors. Careful siting and design treatments can help mitigate some height, bulk and scale impacts; in other cases, actual reduction in the height, bulk and scale of a project are advisable to adequately mitigate adverse effects. In some instances, careful siting and design treatment may be sufficient to achieve reasonable transition and mitigation of height, bulk and scale differences. Some techniques for achieving compatibility are:

    1. Use of architectural style, details (such as rooflines or fenestration), exterior colors or materials that derive from the less intensive zone district.
    2. Creative use of landscaping or other screening.
    3. Location of features on-site to facilitate transition, such as locating required open space on the zone district edge so the building is located farther from the lesser intensity zone district.
    4. In a mixed-use project, siting the more compatible uses near the zone district edge.

j. The exterior architectural elements of buildings and structures (i.e., components which define the appearance of a building, such as roofs, windows, porches, modulations, entries, materials, balconies and details). New buildings developed in an established neighborhood with an identifiable character may be viewed as undesirable intrusions unless they respond positively to the architectural characteristic of existing buildings. Therefore, guidelines for architectural elements encourage new development in established neighborhoods to complement neighboring buildings and consider how design gives a neighborhood its identity. This does not mean that new buildings must excessively mimic older existing buildings. Rather, the guidelines suggest that new buildings use some traditional building concepts or elements. New buildings can successfully relate to older buildings while still looking contemporary, not stifling the designer's creativity and responding to changing societal needs and design opportunities.
k. Architectural context. New buildings proposed for existing neighborhoods with a well-defined and desirable character should be compatible with or complement the architectural character and siting pattern of neighboring buildings.

1. Architectural features. Taking note of the architectural characteristics of surrounding buildings can help new buildings be compatible with their neighbors when a consistent pattern is already established by similar building articulation; building scale and proportions; architectural styles; roof forms, building details and fenestration patterns; or materials. Even when there is no consistent architectural pattern, building design and massing can be used to complement and enhance certain physical conditions of existing surrounding development.
2. In cases where an existing context is either not well defined, or may be undesirable, a well-designed new project has the opportunity to establish a pattern or identity that future redevelopment can build on.

(3) Human scale. The design of new buildings should incorporate architectural features, elements and details that achieve a desirable human scale through the use of human-proportioned architectural features and site design elements clearly oriented to human activity. Building elements that may be used to achieve human scale are as follows:

a. Pedestrian-oriented storefront windows and doors directly facing the street or publicly accessible open space such as courtyards, gardens, patios, or other unified landscaped areas.
b. Window patterns, building articulation and other exterior treatments that help identify individual units in a multifamily building or mixed-use building.
c. Stepping back upper stories (generally above the third or fourth floor).
d. Porches or covered entries that offer pedestrian weather protection such as canopies, awnings, arcades, or other similar elements wide enough to protect at least one person.

(4) Structured parking garages.

a. The presence and appearance of structured parking garages and their entrances should be minimized so they do not dominate the street frontage. Ramps should be visually screened from streets and adjacent residential zoning districts and oriented towards the interior of the lot within a project where possible. Ramps profiles should be hidden on the exterior elevations. Roof top parking should be visually screened with articulated parapet walls or other architectural treatment. Exterior lighting should utilize fixtures provided with cut off shielding in order to eliminate glare and spillage onto adjacent properties and roadways. The openings of the garage should be designed in a manner that obscures parked vehicles. Decorative architectural elements on the ground floor level should be designed to accommodate the pedestrian scale. Parking levels above the ground floor should maintain the same vertical and horizontal articulation or rhythm and incremental appearance established on the ground floor.
b. Due to the requirements of a particular land use or structural needs, parking garages or the garage portion of the building may request an increase from the building frontage requirements (to a maximum of 100 percent for all floors) or a waiver from the setback requirements for portions of the structure subject to the following: The garage or garage portion of the building elevation provides

unified design elements with the main building through the use of similar materials and color, vertical and horizontal elements, and architectural style.

c. Architectural features should be incorporated into the facade to mitigate the building's mass and bulk and along portions of the building adjacent to street rights-of-way.

(5) Rooftop mechanical equipment. All rooftop mechanical equipment should be screened from public view from both above and below by integrating it into building and roof design.

(6) Blank walls. Buildings should avoid large blank walls facing the street, especially near sidewalks. Where blank walls are unavoidable, due to the requirements of a particular land use or structural needs, they shall not exceed a length of 50 feet, or 20 percent of the length of the building facing the street, whichever is less, and should receive design treatment to increase pedestrian comfort and interest.

(7) Utilities and service areas. Building sites should locate service elements like trash dumpsters, loading docks and mechanical equipment away from the street front wherever possible. When elements such as dumpsters, utility meters, mechanical units and service areas cannot be located away from the street front, they should be situated and screened from view and should not be located near pedestrian routes.

(8) All telephones, vending machines, or any facilities dispensing merchandise, or a service on private property, should be confined to a space built into the building or buildings or enclosed in a separate structure compatible with the main building. All exterior forms, attached or not to buildings should be in conformity to and secondary to the building. They should be an asset to the aesthetics of the site and to the neighborhood.

(9) Building height bonuses. Building height bonuses above the limit otherwise established by a zoning district may be approved, so long as the overall height of the building does not exceed 150 feet, in exchange for the construction of affordable housing or as an incentive to achieve superior building and site design, preserve environmentally sensitive lands and open space, or provide public benefit uses. Standards for approval shall be as follows and in accordance with design guidelines of section 12-3-121(d):

a. Building height bonuses for superior building and site design, preservation of environmentally sensitive lands and open space, or provision of public benefit uses shall be based upon clear and convincing evidence that the proposed design will result in a superior product that is compatible with the surrounding land uses and produce a more desirable product than the same development without the bonus.

b. Building height bonuses for the provision of affordable housing shall be based upon ratios of the amount of affordable housing to market rate housing within a proposed residential development and shall include mechanisms to assure that the units remain affordable for a reasonable timeframe such as resale and rental restrictions and rights of first refusal.

c. All height bonus applications shall be submitted for review and approval by the City Planning Board.

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

PENSACOLA
FLORIDA'S FIRST & FUTURE

MINUTES OF THE PLANNING BOARD
October 10, 2023

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

MEMBERS ABSENT: None

STAFF PRESENT: Assistant Planning & Zoning Manager Harding, Development Services Coordinator Statler, Assistant City Attorney Lindsay, Deputy City Administrator Forte, Development Services Director Morris, Digital Media Specialist Johnston, Executive Assistant Chwastyk, Assistant City Clerk Tice

STAFF VIRTUAL: None

OTHERS PRESENT: Brian Spencer, Paul Battle

AGENDA:
- Quorum/Call to Order
- Approval of Meeting Minutes from September 12, 2023

  New Business:
- Swearing in Reappointments
- Request for Final Plat Approval -Javelin Landing Subdivision – Lansing Drive – Zone C-1
- Proposed Amendment of the Land Development Code – Building Height Bonuses
- Open Forum
- Discussion
- Adjournment

Call to Order / Quorum Present
Chairperson Paul Ritz called the meeting to order at 2:05 pm with a quorum present and explained the procedures of the Board meeting including requirements for audience participation. Board Member Powell was sworn in by Assistant City Clerk Tice.

Approval of Meeting Minutes – **Board Member Van Hoose made a motion to amend the September 12, 2023 minutes.** For the request for a license to use the city right of way at 801 E. Gregory Street item, Board Member Van Hoose stated that the board did provide the applicant with several alternatives and would like for the following line to be added – The board did offer several suggestions although Chairman Ritz made it clear that the board was not required to do so. **Board Member Grundhoefer seconded the motion, and it carried 5:0 with Board Member Villegas recusing since she was not present at the September meeting.**

New Business –
Request for Final Plat Approval – Javelin Landing Subdivision – Lansing Drive - Zone C-1 – District 2
Applicant was given time by Chairperson Ritz to arrive, moved on to the next item and will come back to request for Final Plat Approval.

Proposed Amendment of the Land Development Code – Building Height Bonuses
Assistant Planning & Zoning Manager, Harding introduced the item, The Mayor's Office is requesting an amendment to Sec. 12-3-121 of the Land Development Code to provide a provision for building height bonuses. The request is to add subsection (9) which would provide the option for building height bonuses above the limit otherwise established by a zoning district, so long as the overall height of the building does not exceed 150 feet. This bonus would be in exchange for the construction of affordable housing or as an incentive to achieve superior building and site design, preserve environmentally sensitive lands and open space, or provide public benefit uses. Additionally, standards for approval have been provided and all applications would be subject to review and approval by the City's Planning Board. Chairperson Ritz inquired of the tallest building height available per City Code, Assistant Planning & Zoning Manager, Harding explained that in commercial zoning districts you can build up to 100 feet at the property line, past the property line for every one foot you step back, you can go up three feet until you've reached the 150 feet. Chairperson Ritz clarified that they could build up to 150 feet at the property line if this amendment were in place versus the code currently. Chairperson Ritz stated historically most building heights we see in the city are 100 feet or lower and that the inclusion of density bonuses for affordable housing has been included for a while, but he personally hasn't seen it be used possibly because of cost. Assistant Planning & Zoning Manager Harding explained that commercial building height starts at the lowest habitable floor, parking decks would not contribute to the building height measurement so long as they did not contain habitable space. Board Member Grundhoefer asked if there were any building height bonuses for superior buildings, Assistant Planning & Zoning Manager Harding explained that currently there is not but if we wanted to exceed existing building height, the variance process is available. A discussion then started about the definition of superior buildings and that the planning board would review the applicant's presentation and would decide on if it is superior or not. Board Member Grundhoefer wanted clarification on what would come before the planning board, Assistant Planning & Zoning Manager Harding replied that it would be height bonuses and density bonuses that would come before them. Board Member Van Hoose inquired as to why it's necessary to go from 100 feet to 150 feet and if the city is losing any business due to the building height restrictions, Assistant Planning & Zoning Manager Harding explained that it would be better if Administration, who is considered the application, could answer her question, but that developers have inquired about how they could increase the building height allowances. Deputy City Administrator Forte addressed the board. He stated that this is not new language per say, but it mirrors off effective language already in the code. The City's goal is to modify codes

to properly incentivize wise growth management and help our bottom line which helps fund our various city departments and projects. This is also a way to allow for additional density without new land. Height variances are very hard to get because you are creating the hardship, that's why this height bonus is being brought before the board. A discussion then began regarding the infrastructure of the city and how these large structures with increased density will affect the infrastructure. That is something that Public Works is actively working on so that when these developments come before the planning board a Public Works representative will be able to speak on the matter. Also, the height can be higher than 150 feet if the if the bottom layers are strictly uninhabitable parking. These requests would be required to come before the board for approval. A discussion was then had regarding the various notifications used for items coming before the planning board. Brian Spencer addressed the board and gave his full support for the building height bonuses but suggested some sort of outline that provides the definition of superior designs for the benefit of the board. The board began a discussion about superior design standards and how specific they need to be. Assistant Planning & Zoning Manager Harding explained that in Section 12-3-121(d) it speaks to design guidelines. A new discussion began about what edits to make and where to make the edits. Assistant Planning & Zoning Manager Harding listed some of the design standards in the amendment such as, building design, architectural elements, architectural context, human scale, parking garages, rooftop mechanical equipment, blank walls, utilities and service areas, telephones and vending machines. The board then had a discussion pertaining affordable housing and the timeframe for affordable house. The board members felt secure in making a motion with the following language added, "Standards for approval shall be as follows and in accordance with design guidelines of section 12-3-121(d). **Board Member Villegas made a motion to approve with the language added, seconded by Board Member Powell and it carried 7:0.**

Request for Final Plat Approval – Javelin Landing Subdivision – Lansing Drive - Zone C-1 – District 2

Assistant Planning & Zoning Manager, Harding introduced the item, Rebol-Battle & Associates is requesting final plat approval for the Javelin Landing Subdivision located along Lansing Drive which is near the intersection of Lanier Drive and Creighton Road. These properties are located within the C-1 zoning district of which three (3) parcels will be subdivided into thirty (30) lots to accommodate single-family attached residences.

- Per Sec. 12-3-105: Subdivision of 5 lots or more constitutes a major subdivision
- Property area: 1.87 acres
- Maximum Density:
- Setback requirements: There shall be no yard requirements, except that where any nonresidential use is contiguous to a residential zoning district there shall be a 20-foot yard unless the two districts are separated by a public street, body of water, or similar manmade or natural buffer of equal width.

There is a retention pond in the eastern boundary, everything south is commercial.
The preliminary plat was approved in September 2022. This application has been routed through the various City departments and utility providers. The comments received to date have been provided within your packet. There were late comments provided by FPL, the developers must stay outside the FPL transmission and/or distribution easement. Also, the developers must ensure they are outside of safety clearances from the existing

distribution and transmission facilities. The applicant did make their submissions before the required time limit. Paul Battle addressed the board and stated they had addressed the concerns that ECUA had and have all the required permits through ECUA, they have run new sewer lines, stormwater is to the east. **Board Member Powell made a motion to approve, seconded by Vice Chairperson Larson and it carried 7:0.**

Open Forum – none

Discussion – Gateway Redevelopment District
At the September 2023 Planning Board meeting, the board requested a discussion item to be placed on the next agenda related to the purpose and future of the Gateway Redevelopment District. Sec. 12-3-12 has been provided for reference which includes subsection 1, pertaining to the Gateway commercial corridor, and subsection 2, pertaining to the Aragon redevelopment area. The board had a discussion regarding the appearance issues with the Gateway Redevelopment District. They would like this corridor to be a beautiful entry into our city. Assistant Planning & Zoning Manager Harding suggested that solution could be to introduce a form-based code to this district, designed to create a unified theme. For example, such a form-based code could require all new development to be within a certain distance of the street, must have more a certain percentage of glazing or windows, must have certain architectural features, thematic hardscape types, etc. All these suggestions can and will be forwarded to the firm tasked with assessing our LDC. The report created by the firm will come before the planning board, so they will review it before it goes before city council. Assistant Planning & Zoning Manager Harding informed the board that staff sits in on these meetings and will be able to inform the firm the concerns of the planning board regarding the different gateways and entrance arteries that need improvement. The board had additional discussion regarding the parking decks in relation to building height.

Adjournment – With no further business, the Board adjourned at 4:09 p.m.

Respectfully Submitted,

Gregg Harding, RPA
Assistant Planning & Zoning Manager
Secretary of the Board

Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: Building Height Bonuses

The City is of the view that the exception(s) to the Business Impact Estimate requirement that are checked off in a box below apply to the above-referenced proposed ordinance, although the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance.

☐ The proposed ordinance is required for compliance with Federal or State law or regulation;

☐ The proposed ordinance relates to the issuance or refinancing of debt;

☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the

☐ The proposed ordinance is an emergency ordinance;

☐ The ordinance relates to procurement; or

☒ The proposed ordinance is enacted to implement the following:

a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

Building height bonuses. Building height bonuses above the limit otherwise established by a zoning district may be approved, so long as the overall height of the building does not exceed 150 feet, in exchange for the construction of affordable housing and/or as an incentive to achieve superior building and site design, preserve environmentally sensitive lands and open space, and/or provide public benefit uses. Standards for approval shall be as follows and in accordance with design guidelines of section 12-3-121(d):

a. Building height bonuses for superior building and site design, preservation of environmentally sensitive lands and open space, and/or provision of public benefit uses shall be based upon clear and convincing evidence that the proposed design will result in a superior product that is compatible with the surrounding land uses and produce a more desirable product than the same development without the bonus.

b. Building height bonuses for the provision of affordable housing shall be based upon ratios of the amount of affordable housing to market rate housing within a proposed residential development and shall include mechanisms to assure that the units remain affordable for a reasonable timeframe such as resale and rental restrictions and rights of first refusal.

c. All height bonus applications shall be submitted for review and approval by the City Planning Board.

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the City: N/A

3. Estimate of direct compliance costs that businesses may reasonably incur: N/A

4. Any new charge or fee imposed by the proposed ordinance: N/A

5. Estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs: N/A

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: N/A

7. Additional information (if any, but may wish to include the methodology used to derive information for #1 and #2, above. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses based on feedback from businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not impose costs only upon businesses.):

The building height bonuses are **optional** and if adopted would incentivize superior site design and affordable housing. Therefore, the proposed ordinance would not have an adverse economic impact on a private, for-private business in the city.

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-22 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

PROPOSED ORDINANCE NO. 23-23 - CREATING SECTION 11-2-12, OF THE CODE OF CITY OF PENSACOLA, FLORIDA; PROVIDING FOR A TRAFFIC INFRACTION DETECTION PROGRAM IN ACCORDANCE WITH FLORIDA STATUTES

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 23-23 on second reading.

AN ORDINANCE CREATING SECTION 11-2-11, 11-2-12, 11-2-13, 11-2-14, 11-2-15, 11-2-16, 11-2-17, 11-2-18, 11-2-19, OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR A TRAFFIC INFRACTION DETECTION PROGRAM IN ACCORDANCE WITH FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

F.S. §316.008 and F.S. §166.021 provide authority for the City of Pensacola to exercise the statutory option to use traffic infraction detectors within its jurisdiction to enforce F.S. §316.074(1) or F. S. §316.075(1)(c)(1). Use of traffic infraction detectors shall be a supplemental means of assisting law enforcement personnel in the enforcement and monitoring of compliance with laws related to traffic control signals as permitted and provided for by state laws that are designed to protect and improve the public health, safety, and welfare of the community and thereby reduce accidents, injuries and disruption of traffic when a driver fails to stop at a traffic signal on streets and highways under the city's jurisdiction.

The attached proposed ordinance codifies a specified prohibition on the use of traffic infraction detectors as permitted by general law within the City's jurisdictional limits.

PRIOR ACTION:

December 14, 2023 - City Council voted to approve Proposed Ordinance No. 23-23 on first reading.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

11/16/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. Proposed Ordinance No. 23-23
2. Business Impact Estimate for Ordinance 23-23

PRESENTATION: No

PROPOSED
ORDINANCE NO. 23-23

ORDINANCE NO. ____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING SECTION 11-2-11, 11-2-12, 11-2-13, 11-2-14, 11-2-15, 11-2-16, 11-2-17, 11-2-18, 11-2-19, OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR A TRAFFIC INFRACTION DETECTION PROGRAM IN ACCORDANCE WITH FLORIDA STATUTES; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. Section 11-2-11 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-11 - Purpose and Intent

The purpose of this article is to specifically authorize the use of traffic infraction detectors as permitted by general law within the City's jurisdictional limits.

SECTION 2. Section 11-2-12 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-12 – Use of traffic infraction detectors.

Pursuant to the authority granted by F.S. §316.008(8) and F.S. §166.021, the City of Pensacola exercises its option to use traffic infraction detectors within its jurisdiction to enforce F.S. §316.074(1) or F. S. §316.075(1)(c)(1). Use of traffic infraction detectors shall be a supplemental means of assisting law enforcement personnel in the enforcement and monitoring of compliance with laws related to traffic control signals as permitted and provided for by state laws that are designed to protect and improve the public health, safety, and welfare of the community and thereby reduce accidents, injuries and disruption of traffic when a driver fails to stop at a traffic signal on streets and highways under the city's jurisdiction. The mayor is authorized to take all steps necessary to implement the provisions and requirements of traffic infraction detectors within this jurisdiction in conjunction with the Pensacola Police Department as described in F.S. §166.021 and F.S. §316.0083, The Mark Wandall Traffic Safety Act.

SECTION 3. Section 11-2-13 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-13 – Adherence to red light traffic control signals

Pursuant to general law, motor vehicle traffic facing a traffic control signal's steady red light indication shall stop before entering the crosswalk on the near side of an intersection or, if none, then before entering the intersection and shall remain standing until a green indication is shown on the traffic control signal; as more fully described in F.S. §316.074(1) and F.S. §316.075(1)(c)(1), as may be amended from time to time; however, the driver of a vehicle which is stopped at a clearly marked stop line, or if none, at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering the intersection in obedience of a steady red traffic control signal, may make a right turn (unless such turn is otherwise prohibited by posted sign or other traffic control device) but shall yield right-of-way to pedestrians and other traffic proceeding as directed by the traffic control signal at the intersection, as described more fully in F.S. §316.075, as may be amended from time to time.

SECTION 4. Section 11-2-14 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-14 – Violation

A violation of this article shall occur when a motor vehicle does not comply with the requirements of section 11-2-13 of this Code. This article supplements enforcement of F.S. §316.074(1) or F.S. §316.075(1)(c)(1) by law enforcement officers and shall not prohibit law enforcement personnel from issuing a citation for a red-light signal violation in accordance with normal statutory enforcement techniques.

SECTION 5. Section 11-2-15 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-15 – Review of recorded images

(a) Recorded images shall be reviewed by sworn officers of the Pensacola Police Department prior to the issuance of a notice of violation to ensure accuracy and the integrity of the recorded images. Once the officer has verified the accuracy of the recorded images a notice of violation shall be sent to the vehicle owner at the address on record with the Florida Department of Highway Safety and Motor Vehicles or with the appropriate agency having such information in another state.

(b) The owner of the vehicle observed by recorded images committing a violation of F.S. §316.074(1) or F.S. §316.075(1)(c)(1), shall be issued a notice of violation no later than thirty (30) days after the violation occurs. The recorded image shall be sufficient grounds to issue a notice of violation.

SECTION 6. Section 11-2-16 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-16. – Notice of violation

(a) Within thirty (30) days after a violation, notification must be sent to the registered owner of the motor vehicle involved in the violation specifying the remedies available under F.S. §318.14, and that the violator must do one of the following within 60 days in order to avoid the issuance of a uniform traffic citation:

(1) Pay one hundred fifty-eight dollars ($158.00) pursuant to instructions on the notice of violation;

(2) Provide an affidavit that complies with F.S. §316.0083(d) that establishes one of the following:

(a) The motor vehicle passed through the intersection in order to yield right-of-way to an emergency vehicle or as part of a funeral procession;

(b) The motor vehicle passed through the intersection at the direction of a law enforcement officer;

(c) The motor vehicle was, at the time of the violation, in the care, custody, or control of another person;

(d) A uniform traffic citation was issued by a law enforcement officer to the driver of the motor vehicle for the alleged violation of F.S. §316.074(1) or F.S. §316.075(1)(c)(1) or

(e) The motor vehicle's owner was deceased on or before the date that the uniform traffic citation was issued, as established by an affidavit submitted by the representative of the motor vehicle owner's estate or other designated person or family member.

(3) Submit a request for a hearing.

(b) Any owner who does not comply with this section within sixty (60) days following the notification of violation shall be issued a uniform traffic citation in accordance with F.S. §316.0083.

(c) The mailing of the notice of violation constitutes notification. The notification must be sent by first-class mail and shall include:

(1) The name and address of the vehicle owner;

(2) The license plate number of the vehicle;

(3) The make, model, and year of the vehicle;

(4) Notice that the violation charged is pursuant to this article and F.S. §316.074(1) and F.S. §316.075(1)(c)(1);

(5) The intersection where the violation occurred;

(6) The date and time of the violation;

(7) A statement that the owner has the right to review the recorded images that constitute a rebuttable presumption against the owner, together with a statement

of the time and place or internet location where the evidence may be observed;

(8) A statement that the owner must pay a penalty of one hundred fifty-eight dollars ($158.00) to the city, or furnish an affidavit in accordance with F.S. §316.0083(d), or request a hearing within sixty (60) days following the date of the notification in order to avoid fees, court costs, and the issuance of a uniform traffic citation;

(9) A statement providing information on the person's right to request a hearing and directing interested persons to a website that provides a form to request a hearing along with information regarding all court costs related thereto;

(10) Images depicting violation;

(11) Instructions on all methods of payment of the penalty.

SECTION 7. Section 11-2-17 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-17. - Creation of Traffic Infraction Detector Special Magistrate

(a) The City of Pensacola shall utilize a Special Magistrate as its local hearing officer, as defined by Florida Statute in accordance with the provisions of F.S. §316.0083. The City Council is authorized to create the position of Special Magistrate to enforce City codes and ordinances pursuant to Sec. 13-2-3, and Sec. 13-2-4(d) and hereby creates the position of the Traffic Infraction Detector Special Magistrate.

(b) The Traffic Infraction Detector Special Magistrate shall have the authority to hold hearings, command compliance and impose administrative fines and other non-criminal penalties and otherwise provide an equitable, expeditious and cost-effective method of enforcing codes and ordinances as provided and described in F.S. §316.0083.

(c) The clerk(s) to the Traffic Infraction Detector Special Magistrate shall consist of designated existing city staff members who shall ensure all obligations regarding matters delegated to the clerk under F.S. §316.0083 occur. This includes but is not limited to scheduling and required notifications to The Department of Highway Motor Vehicles.

SECTION 8. Section 11-2-18 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-18. –Procedures for a hearing

(a) Notwithstanding any other provision of law, a person who receives a notice of violation under this section may request a hearing within sixty (60) days following the notification of violation. Payment or fee shall not be required before the hearing requested by the person.

(b) If the registered owner or co-owner of the motor vehicle, or an authorized representative of the owner, co-owner, or person identified on an affidavit as having care, custody, or control of the motor vehicle at the time of the violation initiates a proceeding to challenge the violation pursuant to this paragraph, such person waives any challenge or dispute as to the delivery of the notice of violation. Any person who elects to request a hearing pursuant to this section shall be referred to as the petitioner.

(c) Pursuant to F.S. § 316.0083, a local hearing procedure is established for individuals wishing to contest any notice of violation. The city hereby adopts the procedure for local hearings as provided by F.S. § 316.0083(5), as amended from time to time.

(d) Hearings shall be held at City Hall or any other properly noticed facility.

(e) Any petitioner who elects to request a hearing under this section shall be scheduled for a hearing by the clerk to the Traffic Infraction Detector Special Magistrate to appear before a Traffic Infraction Detector Special Magistrate with notice to be sent by first-class mail. Upon receipt of the notice, the petitioner may reschedule the hearing once by submitting a written request to reschedule to the clerk to the Traffic Infraction Detector Special Magistrate at least five (5) calendar days before the day of the originally scheduled hearing. The petitioner may cancel his or her appearance before the Traffic Infraction Detector Special Magistrate by paying the penalty assessed under section 11-2-16 of this Code, plus fifty dollars ($50.00) in administrative costs, before the start of the hearing.

(f) If a person who is mailed a notice of violation for a violation of F.S. §316.074(1) or F.S. §316.075(1)(c)(1), as enforced by a law enforcement officer under F.S. §316.0083, presents documentation from the appropriate governmental entity that the notice of violation was in error, the clerk to the Traffic Infraction Special Magistrate may dismiss the case. There shall not be a charge for this service.

(g) The Traffic Infraction Detector Special Magistrate may take testimony from a sworn Pensacola Police Department officer and the petitioner and may take testimony from others. Pursuant to F.S. §316.0083, photographic images, electronic images, and streaming video are admissible as evidence in any proceeding to enforce this section and raises a rebuttable presumption that the motor vehicle named in the report or shown in the photographic or electronic images or streaming video evidence was used in violation of F.S §316.074(1) or F.S. §316.075(1)(c)(1) when the driver failed to stop at a traffic signal. All testimony shall be under oath and digitally recorded. Although the formal rules of evidence do not apply, due process shall be observed and govern the proceedings.

(h) At the conclusion of the hearing the Traffic Infraction Detector Special Magistrate shall determine whether a violation has occurred and shall uphold or dismiss the violation. If the Traffic Infraction Detector Special Magistrate finds a violation occurred and upholds the notice of violation, in addition to the one hundred fifty-eight dollars ($158.00) penalty provided by statute, the Traffic Infraction Detector Special Magistrate may also require the petitioner to pay municipal court costs, not to exceed two hundred fifty dollars ($250.00). The final administrative order shall be mailed to the petitioner by first-class mail.

(i) Payment of all penalties and court costs must be paid within sixty (60) days of the entry of an order finding that a violation has occurred by the Traffic Infraction Detector Special Magistrate.

(j) An aggrieved party may appeal a final administrative order consistent with the process provided under F.S. §162.11.

SECTION 9. Section 11-2-19 of chapter 11-2 of the Code of the City of Pensacola, Florida is hereby created to read as follows:

Section 11-2-19. – Consistency with state law.

This article shall be interpreted and applied so that it is consistent with state law, specifically, the Mark Wandall Traffic Safety Act, (Florida Statute 316.0083). Any amendment to an applicable state law shall automatically apply to the enforcement and application of this article, whether or not this article or any provision hereof has been amended to specifically address such amendment to state law. Without limitation, any future amendment regarding the amount of the penalty or the apportionment of the proceeds thereof shall be deemed applied in the enforcement of this article, even prior to a specific amendment to this article in order to make this article expressly consistent with such change in state law with respect to the amount of the penalty or the apportionment of proceeds thereof.

SECTION 10. 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 11. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 12. 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

Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: Traffic Infraction Detection Program / Red Light Cameras

The City is of the view that the exception(s) to the Business Impact Estimate requirement that are checked off in a box below apply to the above-referenced proposed ordinance, although the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
  a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
  c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
  d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

As per Florida Statutes F.S. §316.008 and F.S. §166.021 provide authority for the City of Pensacola to exercise the statutory option to use traffic infraction detectors within its jurisdiction to enforce F.S. §316.074(1) or F. S. §316.075(1)(c)(1). Use of traffic infraction detectors shall be a supplemental means of assisting law enforcement personnel in the enforcement and monitoring of compliance with laws related to traffic control signals as permitted and provided for by state laws that are designed to protect and improve the public health, safety, and welfare of the community and thereby reduce accidents, injuries and disruption of traffic when a driver fails to stop at a traffic signal on streets and highways under the city's jurisdiction.

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the City:

None

3. Estimate of direct compliance costs that businesses may reasonably incur:

None

4. Any new charge or fee imposed by the proposed ordinance:

None

5. Estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

A violation of this Ordinance shall occur when a motor vehicle does not comply with the requirements of section 11-2-13 of the Code. This Ordinance supplements enforcement of F.S. §316.074(1) or F.S. §316.075(1)(c)(1) by law enforcement officers and shall not prohibit law enforcement personnel from issuing a citation for a red-light signal violation in accordance with normal statutory enforcement techniques. The fine for this Ordinance is one hundred fifty-eight dollars $158.00.

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

None

7. The proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated.

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-32 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SERVICE AGREEMENT FOR TRAFFIC INFRACTION DETECTION & ENFORCEMENT PROGRAM - NOVOAGLOBAL, INC.

RECOMMENDATION:

That the City Council approve a service agreement with Novoaglobal, Inc., for the purpose of providing a traffic infraction detection and enforcement program in the City of Pensacola, Escambia County, Florida for the Fiscal Years 2024-2029.

HEARING REQUIRED: No Hearing Required

SUMMARY:

F.S. §316.008 and F.S. §166.021 provide authority for the City of Pensacola to exercise the statutory option to use traffic infraction detectors within its jurisdiction to enforce F.S. §316.074(1) or F. S. §316.075(1)(c)(1). Use of traffic infraction detectors shall be a supplemental means of assisting law enforcement personnel in the enforcement and monitoring of compliance with laws related to traffic control signals as permitted and provided for by state laws that are designed to protect and improve the public health, safety, and welfare of the community and thereby reduce accidents, injuries and disruption of traffic when a driver fails to stop at a traffic signal on streets and highways under the city's jurisdiction.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

12/22/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. Service Agreement

PRESENTATION: No

SERVICES AGREEMENT
BETWEEN THE CITY OF PENSACOLA, FLORIDA
AND NOVOAGLOBAL, INC. FOR
TRAFFIC INFRACTION DETECTION & ENFORCEMENT PROGRAM

This **AGREEMENT** (the "**Agreement**") made this __ day of______________2024, by and between NovoaGlobal, Inc., a Delaware corporation having a place of business at 8018 Sunport Drive, Suite 203, Orlando, Florida 32809, hereinafter referred to as "**NG**", and the City of Pensacola, a municipal corporation of the State of Florida, having and address at 222 W Main Street, Pensacola, FL 32502, hereinafter referred to as "**Customer**". Customer and NG together shall hereinafter be referred to as "**Parties**" and each singularly a "**Party**".

WITNESSETH:

WHEREAS, once a municipality has properly authorized the use of a traffic infraction detection and enforcement system in accordance with Florida Statute 316.0083 as may be amended from time to time, such program may be implemented in the municipality in accordance with . Florida Statute 316.0776, as may be amended from time to time;

WHEREAS, NG has the knowledge, possession, and ownership of certain equipment, licenses and processes, identified in this Agreement, including all exhibits to this Agreement, referred to collectively as the NG Safety System (the "**System(s)**");

WHEREAS, the Customer desires to use the Systems to monitor and enforce speed violations, red light violations and other violations in accordance with applicable laws and ordinances;

WHEREAS, the Parties desire to enter into this Agreement, whereby NG will (i) install, maintain, and assist the Customer in the administration and operation of the Systems, as described in more detail in ***Exhibit A*** to this Agreement at the specified intersections located within the Customer's jurisdiction as set forth in the Implementation Plan referenced in Exhibit A, and provide to the Customer the services ("**Services**"), all as more fully described in ***Exhibit A***, and (ii) in connection with the Services, license certain software and lease certain equipment to the Customer.

NOW, **THEREFORE**, in consideration of the mutual terms, covenants, and conditions contained herein, and other good and valuable considerations, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound, agree as follows:

1. **RECITALS AND EXHIBITS**. The foregoing recitals are true and correct and all exhibits, schedules and addenda to this Agreement are incorporated by reference as if fully set forth herein.

2. SERVICES

2.1. NG agrees to use commercially reasonable efforts to install, maintain, and provide to the Customer for the Term: the Systems, the Equipment, and the Software all to be supplied and installed by NG in accordance with ***Exhibit A*** (including the provision of all construction drawings, permit applications and other documents required by applicable law for the installation, maintenance, and operation of the System(s)). In addition, if and to the extent set forth in ***Exhibits A, B, C,*** and ***D***, NG shall also supply to the Customer:

2.1.1. citation preparation processes that assist the Customer in complying with current applicable law;

2.1.2. training of personnel designated by the Customer involved with the operation of the Systems and/or the enforcement and disposition of citations;

2.1.3. expert witness testimony regarding the operation and functionality of the System; and

2.1.4. other support services for the System as set forth in ***Exhibit A***.

2.2. If and to the extent the Customer has or obtains during the Term, custody, possession or control over any of the Equipment or Software provided by NG as part of this Agreement, the Customer agrees:

2.2.1. such Software, if manufactured or licensed by NG, is supplied under the license set forth in ***Exhibit B*** (the "**License**") to which the Customer agrees, provided NG outlines to the Customer in advance the obligations to which the Customer is bound;

2.2.2. such Software, if manufactured by third parties, is supplied under third-party licenses accompanying the Software, which licenses the Customer acknowledges receiving and to which it hereby agrees provided NG outlines in writing to the Customer in advance the obligations to which the Customer is bound; and

2.2.3. such Equipment is supplied under the lease terms set forth in ***Exhibit C*** (the "**Lease**") to which the Customer hereby agrees.

2.3. The Customer understands and agrees that (i) NG may, subject to the prior written approval of the Customer, which approval shall not be unreasonably delayed, conditioned or withheld, subcontract with third parties for the provision or installation of part or parts of the Systems or Services and (ii) installation of the

Systems requires the Customer's cooperation and compliance with NG's reasonable instructions (including but not limited to Customer's provision of the personnel, customer owned equipment, existing engineering plans, and other resources as described in ***Exhibit A*** or as otherwise reasonably requested by NG) and reasonable access by NG (or such third parties) to Customer premises and systems and the Customer agrees to provide all of the foregoing to NG.

2.4. The Customer understands and agrees that the Systems will be owned by NG (or its designees). The Customer shall use its best efforts to assist NG to identify any third-party who is responsible for damage to the Systems or any part thereof.

2.5. NG shall coordinate its work with the Customer's police, public works, and engineering departments and, as necessary or required, with the Florida Department of Transportation.

3. TERM

3.1. The effective date of this Agreement shall be the date first written above (the "**Effective Date**"). The initial term (the "**Initial Term**") of this Agreement, the License and the Lease shall begin upon the Effective Date, following full execution of the Agreement by the Parties, and shall continue until the fifth (5th) anniversary of the Installation Date (the "**Installation Date**"). NG shall provide written notice with the specific "Installation date" once installation has been completed.

3.2. The terms of this Agreement shall be automatically extended for two (2) additional terms of five (5) years (each, a "**Renewal Term**") following a notice sent certified mail from NG to each of the contacts listed for the City 60-90 days prior to any such automatic renewal. An automatic renewal shall not occur if either Party, at least thirty (30) days before expiration of the five (5) year term of this Agreement then in effect, provides written notice to the other that said Party will not renew or extend this Agreement. All terms and conditions specified herein shall be the same except that the amounts due pursuant to Section 5 hereof shall be adjusted in accordance with the change in the Consumer Price Index – All Urban Consumers – U.S. City Average ("**CPI**") by multiplying said amounts by the percentage change in the CPI from the beginning of the immediately preceding term to the end of the immediately preceding Term. (Each Renewal Term, if any, together with the Initial Term, the "**Term**").

4. TERMINATION AND EXPIRATION

4.1. This Agreement may be terminated by mutual written consent of the Parties.

4.2. This Agreement may be terminated for cause, by either Party if the other Party fails in any material way to perform its obligations under the Agreement or otherwise defaults in the performance of any obligation under this Agreement and such failure or default continues for more than forty-five (45) days after written notice thereof to the defaulting Party.

4.3. NG may terminate this Agreement, without liability, on thirty (30) days advance written notice if NG concludes in its reasonable discretion that (i) potential or actual liability of NG to third parties (other than persons claiming to own Intellectual Property required for the operation of the System) arising out of or in connection with the System makes the program impractical, uneconomical or impossible to continue.

4.4. The Customer may terminate this Agreement, without liability, on thirty (30) days advance written notice if the Customer concludes in its reasonable discretion that (i) potential or actual liability of the Customer to third parties arising out of or in connection with the System(s) makes the program impractical, uneconomical or impossible to continue; (ii) the System(s) cannot be installed or does not function as provided for in this Agreement; and/or (iii) Florida law or other law prohibit the use of the equipment for any reason or otherwise expose the City to an unacceptable level of liability.

4.5. The Customer may terminate this Agreement on ninety (90) days advance notice for convenience provided that such termination will entitle NG to the recovery of investment as provided in this subsection. The Customer acknowledges that NG will make a substantial investment in the installation of the Systems, furnishing of the Back-Office Software, and otherwise preparing to perform its obligations hereunder. In the event that the Customer terminates this Agreement for convenience under this subsection within sixty (60) months of the Installation Date, the Customer shall pay to NG a Recovery Fee (the "**Recovery Fee**") in an amount equal to $70,000 for each System where equipment and software is installed to monitor violations for a single approach to an intersection for up to five lanes of traffic multiplied by a fraction, (a) the numerator of which will be 60 minus the number of full calendar months between (i) the date that this Agreement terminates and (ii) the Installation Date, and (b) the denominator of which will be sixty (60). No Recovery Fee shall be due if this Agreement terminates, expires, or is not renewed pursuant to any other subsection of this Agreement.

4.6. Upon termination or expiration of this Agreement, either for default or because it has reached the end of its term, the Parties recognize that the Customer will have to process violations in the "pipeline," and that NG accordingly must assist the Customer to process such. Accordingly, the Parties shall take the following actions during the wind-down period, and shall have the following obligations, which obligations shall survive termination or expiration of the Agreement:

4.6.1. The Customer shall cease using the Software and Equipment provided by NG in its possession, custody or control and shall (a) allow NG a reasonable opportunity to remove such Equipment not to exceed sixty (60) days and (b) (i) deliver to NG or irretrievably destroy, or cause to be so delivered or destroyed, any and all copies of such Software in whatever form and any written or other materials relating to such Software in the Customer's possession, custody or control and within thirty (30) days deliver to NG a certification thereof or (ii) allow NG reasonable access to the System(s) on which such Software is loaded and permission to NG to remove such Software and documentation.

4.6.2. Unless directed by the Customer not to do so, NG shall continue to process all images taken by the Customer before termination and provide all services associated with processing in accordance with this Agreement, and shall be entitled to Fees specified in the Agreement as if the Agreement were still in effect.

4.6.3. Notwithstanding anything to the contrary contained herein, or in the License or the Lease, but except as provided in Section 21, the License and the Lease shall terminate upon the termination or expiration of this Agreement.

5. FEES AND PAYMENT

The Customer agrees to pay NG a monthly fee as follows (the "**Monthly Photo Enforcement Fees**"):

5.1. **Monthly Photo Enforcement Fees** (pro rated for any partial month) as described in ***Exhibit D*** (Compensation & Pricing) in arrears with respect to each approach to an intersection which approach has up to five (5) lanes at which a System has been installed. Such payment shall commence on the first business day of the month following Commencement of Operations of each System and shall continue on the first business day of each month for the Term until this Agreement is sooner terminated or such payment is modified in accordance with Section 3.2. For purposes of this Agreement, "**Commencement of Operations**" shall mean the first full day that the System captures events for processing and issuance of notices of violation.

5.2. The Customer is a tax-exempt entity and is exempt from the payment of sales tax. The Customer shall provide a tax-exempt certification to NG. In the event that any tax, levy, excise, tariff, duty, stamp, fee, or other taxes of any kind or nature whatsoever is due relating to this Agreement, the sale, use, possession or lease of the Equipment, the provision of the Services, or on the transactions contemplated by this Agreement, the Customer will be responsible for the payment of such taxes except as otherwise set forth in Section 11. provided, however, that any taxes imposed by the Customer to NG shall be waived by the Customer or reimbursed to NG by the Customer; and provided further, that under no circumstances will the Customer be liable for taxes imposed on NG's income.

5.3. Payment of all fees and other charges owed pursuant to this Agreement is due as set forth above, and, to the extent invoice is required, within thirty (30) days after receipt of the invoice. Invoices will be sent to the Customer at:

Attention: Police Budget Manager

Jennifer Cole

JSCole@cityofpensacola.com

(850) 435-1856

711 N Hayne Street

Pensacola, Fl. 32501

5.4. Notwithstanding anything in this Agreement to the contrary, if amounts due to NG pursuant to Section 5.1 in any month during the Term plus any Payment Shortfall defined amounts due to NG pursuant to this Section 5.4 (collectively "**Monthly Photo Enforcement Fees**") exceed the revenue generated by operation of the Systems and actually received by the Customer during that same month ("**Monthly Photo Enforcement Revenue**") then the Customer shall pay to NG for such month only the amount of Monthly Photo Enforcement Revenue. In such case, the difference between Monthly Photo Enforcement Fees and Monthly Photo Enforcement Revenue (a "**Payment Shortfall**") shall be accumulated and added to the Monthly Photo Enforcement Fees for the following month. Payment Shortfalls, if any, shall accumulate from month-to-month until paid in full, provided that under no circumstances shall the Customer ever be required to make a payment of Monthly Photo Enforcement Fees to NG except and only to the extent such are from Monthly Photo Enforcement Revenue that is properly received by the Customer.

6. RESPONSIBILITIES OF THE CUSTOMER

6.1. The Customer shall provide NG with any "as built" drawings in electronic format (AutoCad) that are available at no cost to the Customer and shall consider for approval NG' engineering drawings without unusual or unreasonable cost or delay.

6.2. The Customer shall not levy any permit fees or, if municipal ordinance requires the assessment of fees, the Customer shall waive or be responsible for such fees associated with the installation of the System.

6.3. The Customer shall prosecute citations in court at its own expense, subject to Customer's prosecutorial discretion. NG shall, at its own expense, participate in any proceeding challenging the use of the System or validity of its results and/or use of the U.S. Mails to deliver the citation.

6.4. The Customer will cooperate with NG in obtaining electrical connections at the roadside and NG shall pay all costs associated with such connection and shall pay for all power required by the System.

6.5. To allow for proper operation of the System, when known to the Customer, the Customer shall provide NG with advance written notice of any modifications proposed to intersections or roadways, including traffic signal operations, after installation of a System. In the event any such intersection or roadway modification requires a material change to the System, the Customer shall pay the costs reasonably incurred by NG to adapt the affected video monitoring system(s) or fixed speed enforcement unit(s) to make such video monitoring system(s) or fixed speed enforcement unit(s) compatible therewith. Notwithstanding the above, NG makes no guarantee that it will be able to make any such adaptation. In the event that NG is unable to adapt the affected System, then both parties shall be relieved of any further obligations under this Agreement with respect only to the affected System. In addition, NG does not, and will not, make recommendations or otherwise manage the configuration or operation of the intersection traffic light system.

6.6. During the Term, except as expressly permitted by this Agreement the Customer shall not use the System, or allow the System's use by a third party, without the prior written permission of NG.

7. LIMITED WARRANTY AND LIMITATION ON DAMAGES

7.1. NG warrants that the System's functionality will conform in all material respects to the description of the System set forth on ***Exhibit A***.

7.2. EXCEPT AS SPECIFICALLY PROVIDED HEREIN, NG HEREBY DISCLAIMS ALL OTHER WARRANTIES, WHETHER EXPRESS OR IMPLIED, ORAL OR WRITTEN, WITH RESPECT TO THE SERVICES AND SYSTEM, INCLUDING, WITHOUT LIMITATION, ALL IMPLIED WARRANTIES OF TITLE, NON-INFRINGEMENT, NON-INTERFERENCE WITH ENJOYMENT, MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE AND ALL WARRANTIES IMPLIED FROM ANY COURSE OF DEALING OR USAGE OF TRADE. THE CUSTOMER ACKNOWLEDGES THAT EXCEPT AS EXPRESSLY PROVIDED HEREIN NO OTHER WARRANTIES HAVE BEEN MADE TO MUNICIPALITY BY OR ON BEHALF OF NG OR OTHERWISE FORM THE BASIS FOR THE BARGAIN BETWEEN THE PARTIES.

7.3. The Customer acknowledges and agrees that:

7.3.1. The Systems may not detect every violation;

7.3.2. Since the System may flag as a violation conduct that is in fact not a violation, the output of the System will require review, analysis and approval by personnel appropriately qualified and authorized by the Customer under applicable law prior to the issuance of any citation;

7.3.3. The System has no control over, and relies on the proper functioning of equipment for signal light changes, which equipment is provided by entities other than NG;

7.3.4. The proper functioning of the System requires the Customer's full and complete compliance with the Systems' operating instructions, which it hereby agrees to do; and

7.3.5. NG shall not be responsible for the configuration and/or operation of any intersection traffic light systems and NG shall have no liability or obligations with respect thereto.

8. INDEMNIFICATION AND INSURANCE

8.1. NG shall at all times comply with all federal, state and local laws, ordinances and regulations and shall comply with the maintenance procedures and manufacturer's recommendations for operation of the Systems which affect this Agreement, and shall indemnify and hold harmless the Customer against any claims, arising from NG' violation of any such laws, ordinances and regulations and any claims arising from NG' performance of this Agreement, including as a result of the negligence or willful misconduct in whole or part of NG, its officers and directors, agents, attorneys, and employees, but excluding any employees or agents of Customer.

8.2. NG agrees to indemnify, defend, and hold harmless the Customer from any claim of damages (including the payment of reasonable attorneys' fees) by a third party arising solely from either (a) a finding that the System infringes any validly issued United States patent or (b) NG' negligence, provided that such claim of damages is not attributable to (i) any act or omission set forth in Section 8.3 or (ii) any third-party software or other third-party products used with, required for use of, or supplied under their own names with or as part of the System. If, as a final result of any litigation of which NG is obligated to indemnify, the use of the System by the Customer is prevented, in whole or in part, by an injunction, NG' sole obligation to the Customer as a result of such injunction shall be, at NG' option, either to (i) replace such part as has been enjoined, or (ii) procure a license for NG or the Customer to use same, or (iii) remove same and terminate this Agreement at no additional cost to the Customer.

8.3. Notwithstanding anything in this Agreement to the contrary, NG assumes no obligation or liability for any claim of damages (including the payment of reasonable attorneys' fees) by a third party arising from or related to (i) any modification of the System made by the Customer, (ii) the negligence or intentional act of the Customer, (iii) the failure to function properly of any hardware, software or equipment of any kind used by, in or on behalf of the Customer (other than that supplied and/or installed by NG), (iv) the review and analysis of the System data output by the Customer personnel for citation preparation, or (v) the Customer's use and/or administration of any traffic signal.

8.4. The rights of the Customer to seek indemnification under this Section 8 shall be conditioned upon (i) the Customer notifying NG , within ninety (90) days upon receipt of an official notice of claim as defined in Florida Statute 768.28 for which indemnification is sought and (ii) the Customer's full cooperation with NG in the settlement or defense of such claim or action at no cost to the Customer. The Customer agrees not to charge NG for the time of the Customer's personnel engaged in such cooperation. Such cooperation shall include, but not be limited to, the Customer providing access for, and permission to, NG for the purpose of the replacement of such part or parts of Systems as NG may deem necessary or desirable. The Customer may participate in the defense of any indemnified matter through counsel of its own choice and at its own expense provided that NG shall remain in, and responsible for, control of the matter. This Section 8 states the entire liability and obligation and the exclusive remedy of the Customer with respect to any actions or claims (i) of alleged infringement relating to or arising out of the subject matter of this Agreement or (ii) otherwise the subject of this paragraph.

8.5. NG shall maintain the following minimum scope and limits of insurance:

8.5.1. Comprehensive general liability insurance including but not limited to coverage for bodily injury, property damage, premises and operations, products/completed operations, personal and advertising injury, and contractual liability, with a combined single limit of $1,000,000 per occurrence, with an aggregate liability per occurrence of $2 million. Such insurance shall include the Customer, its officers, directors, employees, and elected officials as additional insured for liability arising from Contractor's operation.

8.5.2. Workers Compensation as required by applicable state law; and

8.5.3. Comprehensive Automobile Liability Insurance for all owned, non-owned and hired automobiles and other vehicles used by NG with a minimum $1,000,000 per occurrence combined single limit bodily injury and property damage.

8.6. The Customer shall be named as additional insured on the comprehensive general liability policies provided by NG under this Agreement. NG shall require any subcontractors doing work under this Agreement to provide and maintain the same insurance, which insurance shall also name the Customer and its officers, employees, and authorized volunteers as additional insured.

8.7. Certificates showing NG is carrying the above described insurance, and evidencing the additional insured status specified above, shall be furnished to the Customer within thirty (30) calendar days after the date on which this Agreement is made. Such certificates shall show that the Customer shall be notified of all cancellations of such insurance policies. NG shall forthwith obtain substitute insurance in the event of a cancellation.

8.8. All insurance required by express provision of this Agreement shall be carried only in responsible insurance companies licensed to do business in the State of Florida and shall name as additional insured the Customer. NG will furnish the Customer with Certificates of Insurance and applicable endorsements for all such policies promptly upon receipt of them. NG may effect for its own account insurance not required under this Agreement.

9. **CHANGE ORDERS OR ADDITIONAL SERVICES.** Changes to Services and additional Systems may be added to this Agreement by mutual consent of the Parties in writing as an addendum to this Agreement or by executing an additional or amended Implementation Plan. The Customer and NG agree that should legislation or local ordinance be enacted to enable new photo enforcement solutions within the Customer's

jurisdiction, the Customer shall have the option to negotiate services and fees and issue a change order to cover such services.

10. CONFIDENTIAL AND PROPRIETARY INFORMATION; PUBLIC RECORDS LAW COMPLIANCE.

10.1. The Parties agree that they shall comply with the public records disclosure provisions of Art. 1, Sec. 24 of the Constitution of the State of Florida and Chapter 119, Florida Statutes.

10.2.NG agrees that:

10.2.1. All information obtained by NG through operation of the Systems shall be made available to the Customer at any time during NG's normal business hours, excluding Proprietary Information as stated in section 10.2.4 not reasonably necessary for the prosecution of citations or fulfillment of the Customer's obligations under this Agreement, provided that NG shall be required to comply with the disclosure requirements of Florida's public records laws where applicable.

10.2.2. It shall not use any information acquired from the performance of the Services contemplated in this Agreement, including without limitation, information with respect to any violations, violators, information obtained from recorded images or information concerning the Customer's law enforcement activities for any purpose other than for the benefit of the Customer.

10.2.3. No information given by NG to the City will be of a confidential nature, unless specifically designated in writing as "**Proprietary Information**" and expressly exempt from public records disclosures required by Art. 1, Sec. 24 of the Constitution of the State of Florida and Chapter 119, Florida Statutes.

10.2.4. As used in this Agreement, the term "Proprietary Information" shall mean all trade secrets or confidential or proprietary information designated as such by NG, whether letter or by the use of an appropriate proprietary stamp or legend, prior to or at the time any such trade secret or confidential or proprietary information is disclosed by NG to the Customer. In addition, the term "**Proprietary Information**" shall be deemed to include: (a) any notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by the Recipient which contain, reflect or are based upon, in whole or in part, any Proprietary Information furnished to the Recipient.

10.2.5. The Customer shall use the Proprietary Information only for the purpose of fulfilling its duties hereunder (the "**Purpose**") and such Proprietary Information shall not be used for any other purpose without the prior written consent of NG. "Purpose" shall be deemed to not include any disclosure of the Proprietary Information to any person or entity. The Customer shall hold in confidence, and shall not disclose to any person or entity, any Proprietary Information nor exploit such Proprietary Information for its own benefit or the benefit of another without the prior written consent of NG.

10.2.6. Notwithstanding anything contained in this Agreement to the contrary, this Agreement shall not prohibit the Customer from disclosing Proprietary Information to the extent required in order for the Customer to comply with applicable laws and regulations, including but not limited to Florida's public records laws.

10.3. In accordance with Section 119.0701(2), Florida Statutes, NG shall:

(a) Keep and maintain all records related to performance of services under this Agreement.

(b) Upon request from the Customer's custodian of public records or designee , provide the Customer with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

(c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the Agreement term and following completion of the Agreement if the NG does not transfer the records to the Customer.

(d) Upon completion of the Agreement, transfer, at no cost, to the Customer all public records in possession of NG or keep and maintain public records related to the performance of services under this Agreement. If NG transfers all public records to the Customer upon completion of the Agreement, NG shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If NG keeps and maintains public records upon completion of the Agreement, NG shall meet all applicable requirements for retaining public records pursuant to Florida law. All records stored electronically must be provided to the Customer, upon request from the Customer's custodian of public records or their designee, in a format that is compatible with the information technology systems of the Customer.

(e) IF NG HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO NG'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE AT: City Hall City of Pensacola at address at 222 W Main Street, Pensacola, FL 32502.

11. INDEPENDENT CONTRACTOR; NO AGENCY.

11.1. It is understood that NG is an independent contractor and not an agent or employee of the Customer for any purpose including, but not limited to, federal tax and other state and federal law purposes. NG assumes responsibility for payment of all federal, state and local taxes imposed or required of NG under unemployment insurance, Social Security and income tax laws. NG shall be solely responsible for any worker's compensation insurance required by law and shall provide the Customer with proof of insurance upon demand. The parties agree that the Customer shall not:

11.1.1. Pay dues, licenses or membership fees for NG;

11.1.2. Require attendance by NG, except as otherwise specified herein;

11.1.3. Control the method, manner or means of performing Services under this Agreement, except as otherwise specified herein; or

11.1.4. Restrict or prevent NG from working for any other party.

11.2. Neither party has the right or the power to enter into any contract or commitment on behalf of the other party, including entering into agreements with third parties, exercising incidents of ownership with respect to property owned by the Party or executing contracts binding upon the other Party.

11.3. NG is an independent contractor providing services to the Customer and the employees, agents and servants of NG shall in no event be considered to be the employees, agents, or servants of the Customer. Except as expressly provided herein, this Agreement is not intended to create an agency relationship between NG and the Customer.

12. NOTICES. All notices required or permitted under this Agreement shall be in writing and shall be deemed sufficiently served if delivered by Registered or Certified Mail, with return receipt requested; or delivered personally; or delivered via fax or e-mail (if provided below) and followed with delivery of hard copy; and in any case addressed as follows:

(1) **To the City**

a) To the Project Manager:
Deputy Chief Kevin Christman
Pensacola Police Department
711 N Hayne Street
Pensacola, FL 32501
Attention: Deputy Chief, Kevin Christman
Phone: (850) 435-1908
E-mail: KChristman@cityofpensacola.com

b) To the Contract Manager:
City Administrator, Kerrith Fiddler
City Hall
222 W Main Street
Pensacola, FL 32502
Attention: City Administrator
Phone: (850) 435-1631
E-mail: KFiddler@cityofpensacola.com

AND

c) To City Attorney's Office:
Assistant City Attorney, Vanessa Moore
City Hall
222 W. Main Street
Pensacola, FL 32502
Attention: Assistant City Attorney, Vanessa Moore
Phone: (850) 435-1616
E-mail: vmoore@cityofpensacola.com

(2) **To the Contractor**

NovoaGlobal, Inc.
8018 Sunport Dr, Suite 203
Orlando, FL 32809
Attention: Carlos Lofstedt
Phone: 305-812-2257
Fax: 888-666-4024
E-mail: clofstedt@novoaglobal.com

Either party may at any time designate a different address and/or contact person by giving notice as provided above to the other party. Such notices shall be deemed given upon receipt by the addressee.

13. **ASSIGNMENT**. Except as specifically provided in this Agreement, neither Party may assign, or delegate performance of its obligations under, this Agreement, without prior express written consent of the other Party, except that NG may assign or otherwise encumber this Agreement, the License and the Lease for the purpose of obtaining financing; provided, however, that this Agreement may be assigned to any Person that acquires all or substantially all of NG' assets in one transaction subject to Customer's review and reasonable approval of such proposed assignee and provided, however any assignment or encumbrance of this Agreement or any portions thereof by NG requires 30 days advance written notice to Customer as a condition to such assignment and encumbrance.

14. **AMENDMENT AND MODIFICATION.** This Agreement may be modified or amended from time to time by the Parties, provided, however, that no modification or amendment hereto shall be effective unless it is stated in writing, specifically refers to this Agreement and is executed on behalf of the Party against whom enforcement of such modification or amendment is sought. Any amendments or modifications to this Agreement must be signed by the persons having legal authority to bind the Customer and holding the same positions within the City as those on this Agreement at the time of any such amendment or modification.

15. **NON WAIVER.** The failure of either Party to require performance of any provision of this Agreement shall not affect the right to subsequently require the performance of such provision or any other provision of this Agreement. The waiver of either Party of a breach of any provision shall not be taken or held to be a waiver of any subsequent breach of that provision or any subsequent breach of any other provision of this Agreement.

16. **FORCE MAJEURE.** Neither Party shall be liable to the other for failure or delay in meeting any obligations hereunder which arises in whole or in part from causes which are unforeseen by, or beyond the control of, such Party, including without limitation, acts of God or of a public enemy, acts of terrorism, acts of the Government (other than the Customer in the case of the Customer) in either its sovereign or contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, acts or omissions of (i) non-subcontractor third-parties and (ii) third party equipment, telecommunications and software suppliers, and unusually severe weather. When any such circumstance(s) exist, NG shall have the right, in its sole discretion, to allocate its available production, deliveries, services, supplies and other resources among any and all buyers (whether or not including the Customer), as well as among departments and affiliates of NG, without any liability to the Customer.

17. DISPUTE RESOLUTION AND REMEDIES.

17.1. All disputes arising out of or in connection with the Agreement shall be attempted to be settled through good-faith negotiation between the Customer's appointed Manager and the President of NG, followed if necessary within thirty (30) calendar days by professionally-assisted mediation. Any mediator so designated must be acceptable to each party and must be a certified mediator in the State of Florida. The mediation will be conducted as specified by the mediator and agreed upon by the Parties. The Parties agree to discuss their differences in good faith and to attempt, with the assistance of the mediator, to reach an amicable resolution of the dispute. The mediation will be treated as a settlement discussion and therefore will be confidential. The mediator may not testify for either party in any later proceeding relating to the dispute. No recording or transcript shall be made of the mediation proceedings. Each party will bear its own costs in the mediation. The fees and expenses of the mediator will be shared equally by the Parties.

17.2. Failing resolution through negotiation or mediation, all actions, disputes, claims and controversies under common law, statutory law or in equity of any type or nature whatsoever, shall be in the appropriate court of jurisdiction within the State of Florida, with venue in Escambia County, Florida.

18. GOVERNING LAW; JURISDICTION; VENUE. The parties agree that this Agreement is consummated, entered into, and delivered in Escambia County, Florida. Notwithstanding conflicts of laws provisions, this Agreement has been and is to be governed by, construed, interpreted and enforced in accordance with the laws of the State of Florida. In the event that any litigation is commenced by either party to enforce this Agreement, the action will be filed and litigated, if necessary, solely and exclusively in a State court of competent jurisdiction located in Escambia County, Florida. The parties waive any and all rights to have this action brought in any place other than Escambia County Florida, under applicable venue laws. The Parties hereby irrevocably waive any and all rights to have this action brought in any place other those stated herein. The Parties hereby irrevocably waive any claim that any such action has been brought in an inconvenient forum.

19. GENERAL AND MISCELLANEOUS.

19.1. Time shall be of the essence of this Agreement.

19.2. In this Agreement, wherefore the singular and masculine are used, they shall be construed as if the plural or the feminine or the neuter had been used, where the context or the party or parties so requires, and the rest of the sentence shall be construed as if the grammatical and the terminological changes thereby rendered necessary had been made.

19.3. Paragraph headings are provided as an organizational convenience and are not meant to be construed as material provisions of this Agreement.

19.4. Preparation of this Agreement has been a joint effort of the Parties and the resulting document shall not, solely as a member of judicial construction, be construed more severely against one of the parties than the other.

19.5. This Agreement may be executed in counterparts, each constituting a duplicate original, but such counterparts shall constitute one and the same Agreement.

19.6. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement from and after the Effective Date.

19.7. Each Party to this Agreement agrees to do, execute, acknowledge, and deliver or cause to be done, executed, acknowledged and delivered, all such further acts, and assurances in a manner and to the degree allowed by law, as shall be reasonably requested by the other party in order to carry out the intent of and give effect to this Agreement. Without in any manner limiting the specific rights and obligations set forth in this Agreement or illegally limiting or infringing upon the governmental authority of the Customer, the Parties declare their intention to cooperate with each other in effecting the purposes of this Agreement, and to coordinate the performance of their respective obligations under the terms of this Agreement.

19.8. Except as set forth in this Agreement and the Exhibits hereto, no representation, statement, understanding or agreement, whether written or oral, has been made and there has been no reliance on anything done, said or any assumption in law or fact with respect to this Agreement for the duration, termination or renewal of this Agreement other than as expressly set forth in this Agreement and there has been no reliance upon anything so done or said that in any way tends to change or modify the terms or subject matter of this Agreement or to prevent this Agreement from becoming effective.

19.9. This Agreement supersedes any agreements and understandings, whether written or oral, entered into by the Parties hereto prior to the Effective Date of this Agreement.

19.10. Nothing in this Agreement and no actions or inactions by the Customer or its officers, elected or appointed officials, agents, or representatives shall be considered a waiver of Customer's sovereign immunity or any other privilege, immunity, or defense available to the Customer or its officers, elected or appointed officials, agents, or representatives, and Customer expressly retains Customer's sovereign immunity protections.

20. **SURVIVABILITY.** Termination or expiration of this Agreement shall not relieve either Party of their respective obligations, which are expressly noted to survive termination or expiration or under the following sections which shall survive termination and expiration: Sections 4.6, 5, 7.2, 7.3, 8, 10, 17, 18, 19, 20, and this Section 21. Sections 4, 7 and 8 (but only to the extent Section 8 corresponds to Sections of the Agreement which survive) of the License and Sections 3, 4, 5, 6, 7 and 8 (but only to the extent Section 8 corresponds to Sections of the Agreement which survive) of the Lease shall survive any expiration or termination of this Agreement, the License or the Lease.

21. **SEVERABILITY.** If any covenant or provision of this Agreement is, or is determined to be, invalid, illegal or unenforceable by a court of competent jurisdiction, then such covenant or provision will be ineffective only to the extent of such prohibition or invalidity. All remaining covenants and provisions of this Agreement shall nevertheless remain in full force and effect, and no covenant or provision of this Agreement shall be deemed to be dependent upon any covenant or provision so determined to be invalid, illegal or unenforceable unless otherwise expressly provided for herein. The invalidity of any provision of this Agreement or any covenant herein contained on the part of any party shall not affect the validity of any other provision or covenant hereof or herein contained which shall remain in full force and effect.

22. Each party acknowledges that it has read this Agreement and understands the terms and conditions herein. Further, the parties have caused this Agreement to be executed on its behalf by the authorized officer whose signature appears below under its name, to be effective as of the date written above.

23. **MANDATORY USE OF E-VERIFY SYSTEM.** In compliance with the provisions of F.S. 448.095, the parties to this contract and any subcontractors engaged in the performance of this contract hereby certify that they have registered with and shall use the E-Verify system of the United States Department of Homeland Security to verify the work authorization status of all newly hired employees, within the meaning of the statute.

IN WITNESS WHEREOF, the Parties hereto have set their hands by their duly authorized representatives as of the day and year first above written.

NovoaGlobal, Inc.

[signature]
Carlos Lofstedt
President and CEO

City of Pensacola,
a Florida Municipal Corporation

By: ______________________________
D.C. REEVES, MAYOR

Date: ____________________________

City of Pensacola Police Department

By: ______________________________
Chief of Police

Date: ____________________________

Legal in form and valid as drawn:

Vanessa Moore
Asst City Attorney

Attest:

____
City Clerk (Seal)

EXHIBIT A SERVICES

NG shall provide the Customer with the Systems. In connection with furnishing the Systems, NG shall provide the following, each of which is more fully described below:

1. SITE INSTALLATION PLANNING; DESIGN AND EQUIPMENT INSTALLATION
2. TRAINING AND SUPPORT
3. CITATION PREPARATION AND PROCESSING SERVICES
4. MAINTENANCE
5. PUBLIC EDUCATION CAMPAIGN
6. EXPERT WITNESS TESTIMONY AND COURT TRAINING
7. REPORTING

1. SITE INSTALLATION PLANNING, DESIGN AND EQUIPMENT INSTALLATION

1.1. *The Systems.*

1.1.1.NG will install up to thirteen (13) Systems (which shall remain property of NG), monitoring such locations as the Customer and NG shall mutually agree. Thirteen (13) systems shall be installed unless Customer requests a number less than thirteen (13). Up to forty (40) additional Systems may be added at the option of the Customer with NG' consent. Each System shall comprise equipment and Software capable of monitoring violations at a single approach to an intersection for up to five lanes of traffic. NG will install new Systems upon mutual agreement of the Parties.

1.1.2.The Systems shall include all equipment located at each intersection, telecommunications equipment, and Software and shall have the capability of transferring images from the roadside to be accessed at the Customer's Police Department processing facility.

1.1.3.*Substitution or Addition of a Site.* If NG or the Customer reasonably determines that one or more Sites selected for installation of a System is not for any reason appropriate for the System and such determination is made at least fifteen (15) days prior to the commencement of installation of the System at any such Site or intersection, an alternative Site(s) may be substituted by written consent of the Parties; provided that; where NG proposes an alternative Site(s) then NG shall identify the proposed Site in writing to the Customer at least thirty (30) days prior to the Commencement of Installation for Customer approval, failing which approval, the Customer shall have no obligation related to the work and System that is determined by either Party not to be appropriate.

1.1.4. *Timeframe for Installation of the System.* NG shall install and activate the Systems in accordance with an Implementation Plan to be mutually agreed to by NG and the Customer, which installation shall, at minimum, conclude within sixty (60) days after all necessary permits and approvals are obtained by NG. NG shall use reasonable commercial efforts to permit and install each System in accordance with the schedule set forth in the Implementation Plan. The Customer agrees that the estimated dates of installation and activation of the System set forth in the Implementation Plan are subject to delay based on conditions beyond the control of NG and are not guaranteed.

1.1.5. *Installation/Ownership of the System.* NG shall procure, install, maintain, and provide support of Equipment at each of the agreed upon sites. As between NG and the Customer, all components for the System will remain the property of NG.

1.2. Installation

1.2.1. NG shall submit plans and specifications to the Customer for review and approval, which review and approval will not be unreasonably withheld, delayed or conditioned although in all events no less than 15 business days shall be provided for Customer's review and approval. NG shall provide at least three sets of drawings of the wiring for the System circuitry.

1.2.2. All cameras and other equipment shall be enclosed in lockable, weather and vandal-resistant housing. All wiring shall be internal to equipment (not exposed) and if commercially reasonable and if capacity exists, underground in existing traffic signal conduits, except where required to directly interface with the traffic signals and electrical service. Separate conduits or overhead wiring may be used by NG if existing conduit(s) are at capacity. If existing conduits are used, the Customer will not unreasonably withhold, delay or condition consent to such use.

1.2.3. The System may be mounted on or utilize support of existing traffic signal poles, arms or other intersection structures where feasible, subject to Customer review and approval, such review and approval not to be unreasonably withheld, delayed or conditioned.

1.2.4. The System poles, foundations and new infrastructure, as required, shall conform to applicable law.

1.3. *Restoration of Intersections.* Upon termination or expiration of the Agreement, NG shall remove the System and restore the affected public facilities including returning the intersections to their original condition; provided, however, that NG shall not be required to remove any conduit, in-ground fixture, underground wiring or other infrastructure that will require excavation or demolition. All costs incurred by NG thereby will be the responsibility of NG.

1.4. *Compliance with Law.* NG shall design and install the System in compliance with all currently existing federal, state and local laws and regulations. NG covenants and agrees that its Systems shall, at all times, comply with all applicable laws, regulations, rules and orders ("Legal Requirements"). NG shall continuously monitor the status of such Legal Requirements to ensure continuous compliance. In the event of any change in the Legal Requirements, NG shall notify and coordinate with Customer and modify or replace (at NG's sole cost) all or any portion of its non-compliant Systems. Any such modification shall be effected by NG in a reasonable period of time (not to exceed ninety (90) days for modification or one hundred eighty (180) days for complete System replacement) and NG's failure to effect such modifications or replacements in a timely manner shall be grounds for the Customer to terminate this Agreement for cause. Any such termination shall not relieve NG of its obligations to restore each Site to its original condition.

2. **TRAINING OF CUSTOMER PERSONNEL.** After System installation, NG shall provide up to eight (8) hours of training for up to ten (10) persons at two (2) sessions at the Customer's facilities to acquaint Customer personnel with System operation. Training shall consist of instructional and operational training as well as hands-on equipment exercises with an instructor. All necessary training materials and documentation will be provided by NG at NG's expense. NG shall provide such training services to the Customer prior to the end of the thirty (30) day period following the Installation Date. If the Customer requests additional courses or training, NG shall provide these on a cost reimbursement basis.

3. **CITATION PREPARATION AND PROCESSING SERVICES**

3.1. *Citation Preparation and Processing.* NG shall perform the initial review of all data generated at the roadside, process and format violations utilizing a computerized traffic citation program that shall store all information required for citation processing by state and local law, and transfer the citations to the Police Department's computer for review and decision on whether or not to issue a citation. If NG is permitted by applicable law or regulation to do so, NG shall also review all DMV information and print and mail citation forms. NG shall pay all mailing and postage costs, and such other miscellaneous costs and expenses as may be reasonably necessary to issue a citation and deliver it by U.S. mail. To the extent required by applicable law, NG shall obtain a certification of mailing issued by the Post Office. Notwithstanding anything to the contrary in the foregoing provisions of this Section 3.1, NG will not process nor support any citations not captured by the System and/or approved by the Customer.

3.2. *Mailing of Citations.* Citations shall be mailed to the violator as soon as is reasonably practicable, and in no event longer than ten (10) business days after being approved by the Customer and NG has been notified of such approval. The form of citation shall be subject to the approval of the Customer, which approval may not be unreasonably delayed, conditioned or withheld.

3.3. *Cooperation With Police and the Courts.* NG shall be responsible for, and pay for the cost of issuing and the mailing in accordance with applicable law. NG shall coordinate with the Customer and the Courts, and shall comply with the applicable law regarding the mailing and other requirements necessary for the issuance of Traffic Citations. All citations shall be reviewed and approved by the Customer's Police Department prior to mailing. In addition, NG will cooperate with the Courts to set up the necessary communications and procedures that will enable NG to send delinquent notices to those registered owners/drivers for whom such notices are appropriate.

3.4. *Preparation of Evidence Packages.* NG shall provide electronic copies of evidence packages in such form as may be reasonably agreed upon to enable the Customer to enforce its citations in court.

3.5. *Access to Drivers License Information*. NG shall maintain the ability to access the driver's license information and the registered owner residence address for all US registered vehicles, and the per-request fee for information, if any, shall be paid by NG. If NG is unable to access such information, NG shall provide the make and license plate number of each violator to the Customer, which will obtain and input the information into the System, or provide such information to NG, within a reasonable period of time.

3.6. *Numbering System.* NG, in coordination with the Customer, shall develop and implement an independent numbering system for automated red light citations.

3.7. *Transmission of Information.* NG shall make all citation information available via an electronic file using comma separated value files on a secure FTP site. NG shall maintain a documented chain of custody for all electronically transmitted information while the information is under NG' control.

3.8. *Customer Service.* NG shall provide an automated customer service telephone number to the public. Customer Service Representatives will be available Monday through Friday, from 10:00 a.m. to 5:00 p.m. local time (of the Customer), excluding holidays, in order to schedule violation video viewing appointments for the Police Department and to answer basic questions regarding the Customer's program.

4. MAINTENANCE

4.1. *Maintenance of System.* Except as provided herein, NG shall Maintain the System (as such term is defined below); provided however, that NG shall not be responsible for any maintenance, repair or replacement required as a result of (i) the negligence or intentional act of the Customer, its employees, agents or independent contractors (other than NG) and/or (ii) any equipment or software not provided by NG. NG shall maintain a maintenance log that documents all service issues. To "Maintain the System" shall mean to maintain, repair, replace, service, and keep the System in a state of operation such that the System's functionality and operation conforms in all material respects to the description of the System set forth in this Exhibit. All problems shall be documented and repairs commenced within seventy-two (72) business hours after the time NG receives notice thereof. NG shall also install all software revisions for Systems as and when developed and made commercially available by NG.

4.2. *Equipment Checks.* NG shall use commercially reasonable efforts to perform remote camera and equipment checks to confirm proper operation of computers, cameras and communications network. Routine in-field camera equipment inspection will be done as needed. The System shall have the capability of on-line monitoring of all cameras at each intersection.

5. PUBLIC EDUCATION CAMPAIGN

5.1. *Public Awareness Program.* NG shall assist the Customer with a Public Awareness Program. Such assistance shall consist of:

5.1.1. Paying for all signage required by law or as otherwise required by resolution of the Customer's Council

5.1.2. Reasonable assistance for a media event to launch the community education program

5.1.3. Preparing, publishing and printing a brochure for distribution

5.1.4. A reasonable amount of training for a Customer staffed speaker's bureau

5.1.5.Providing a toll-free customer service hotline which shall be staffed sufficiently during all regular business hours.

6. EXPERT WITNESS TESTIMONY AND COURT TRAINING

6.1. *Expert Witness Testimony*. NG shall provide expert witness testimony at its sole expense, as reasonably necessary, to testify regarding the accuracy and technical operation of the System as necessary for court challenges to the operation of the System.

6.2. Court Training. NG shall conduct a one-day workshop-orientation session for Municipal Court judges (and/or their designees), hearing officers, other appropriate court officials and the Customer prosecutor.

7. REPORTING

7.1. *Monthly Report.* NG shall submit to the Customer a Monthly Report on project results within thirty (30) days after the end of each calendar month or NG shall provide web access to such reports.

7.2. *Additional Reports or Information.* Any other reports and information are not part of the Agreement and the preparation and delivery of any other such reports or information may result in additional fees.

7.3. *Database.* NG shall maintain a database with the following information per traffic violation:

7.3.1.Location, date and time

7.3.2.Number of seconds of yellow traffic signal and speed of vehicle

7.3.3.Vehicle description including license plate state and number

7.3.4.Applicable vehicle code section violated (if available to NG)

7.3.5.Citation prepared or reason for not preparing citation (if available to NG)

7.3.6.Registered vehicle owner's name and address, and related information required to prepare citations where violation is made by a driver other than registered owner (if available to NG) (Affidavit of Non-Liability)

7.3.7.Status of citation (outstanding, cancelled, reissued, paid, bail forfeited, traffic school, warrants issued, etc.) (if available to NG)

7.4. Additional Services at no charge to Customer if and when (if requested by the Customer in writing):

7.4.1. *Payment Processing Services.* NG shall use reasonable commercial efforts to receive citation fees from violators, deposit amounts collected into an appropriate bank account approved by Customer, provide accounting records to the Customer, and remit the amounts received as instructed by the Customer. In addition, NG will provide an online payment portal for violators.

7.4.2. *Intersection Assessment Program.* NG will generate a video-based analysis of each intersection designed to evaluate the frequency of red-light violations for each approach at the targeted intersection. The video media will contain up to 16 hours of video monitoring assuming the equipment remains installed at the intersection during the course of monitoring, but not to exceed three consecutive calendar days. A report summarizing the results, along with the media generated will be provided to the Customer. There is no charge for the initial 8 intersections to be evaluated by NG pursuant to this Agreement.

EXHIBIT B

LICENSE AGREEMENT FOR NG SAFETY SYSTEM SOFTWARE

This LICENSE AGREEMENT (the "License") is part of an agreement (the "Agreement") (to which a copy of this License is attached as Exhibit B) between the Customer named in the Agreement and NovoaGlobal, Inc. ("NG") for the NG software product identified above, which includes computer software and may include associated media, printed materials, and "online" or electronic documentation (the "SOFTWARE PRODUCT"). The SOFTWARE PRODUCT also includes any updates and supplements to the original SOFTWARE PRODUCT provided to the Customer by NG. Any software provided along with the SOFTWARE PRODUCT that is associated with a separate license agreement is licensed to the Customer under the terms of that license agreement. By execution of the Agreement, the Customer has agreed to be bound by the terms of this License. Such agreement by the Customer is an express condition to its ability to use the SOFTWARE PRODUCT.

1. GRANT OF LICENSE. The SOFTWARE PRODUCT is licensed, not sold. This License grants the Customer only the following rights: The Customer may use those copies of the SOFTWARE PRODUCT as installed by NG on its network ("Network"). A license for the SOFTWARE PRODUCT may not be shared or used concurrently on different Networks.

2. DESCRIPTION OF OTHER RIGHTS AND LIMITATIONS. The Customer may not reverse engineer, decompile, or disassemble the SOFTWARE PRODUCT, except and only to the extent that such activity is expressly permitted by applicable law notwithstanding this limitation. The SOFTWARE PRODUCT is licensed as a single product. Its component parts may not be separated for use on more than one computer unless so installed by NG. The Customer may not rent, lease, transfer or lend the SOFTWARE PRODUCT to a third party without the consent of NG. This License does not grant the Customer any rights in connection with any trademarks or service marks of NG. Without prejudice to any other rights, NG may terminate this License if the Customer fails to comply with the terms and conditions of this License. In such event, the Customer must permit NG reasonable access to its computer system for the purpose of removing all copies of the SOFTWARE PRODUCT or deliver to NG or destroy all copies of the SOFTWARE PRODUCT and all of its component parts.

3. SUPPORT SERVICES AND UPGRADES. NG may provide the Customer with support services related to the SOFTWARE PRODUCT ("Support Services"). Use of Support Services is governed by the Agreement. Any supplemental software code provided to the Customer as part of the Support Services shall be considered part of the SOFTWARE PRODUCT and subject to the terms and conditions of this License. With respect to technical information the Customer provides to NG as part of the Support Services, NG may use such information for its business purposes, including for product support and development. In particular, NG will not utilize such technical information in a form that personally identifies the Customer or any motor

vehicle, tag or person. If the SOFTWARE PRODUCT is labeled as an upgrade, the Customer must be properly licensed to use a product identified by NG as being eligible for the upgrade in order to use the SOFTWARE PRODUCT. A SOFTWARE PRODUCT labeled as an upgrade replaces and/or supplements the product that formed the basis for the Customer's eligibility for the upgrade. The Customer may use the resulting upgraded product only in accordance with the terms of this License. If the SOFTWARE PRODUCT is an upgrade of a component of a package of software programs that the Customer licensed as a single product, the SOFTWARE PRODUCT may be used and transferred only as part of that single product package and may not be separated for use on more than one computer.

4. COPYRIGHT. All title and intellectual property rights in and to the SOFTWARE PRODUCT (including but not limited to any images, photographs, animations, video, audio, music, text, and "applets" incorporated into the SOFTWARE PRODUCT), the accompanying printed materials, and any copies of the SOFTWARE PRODUCT are owned by NG or its suppliers. As between the Customer and NG, all title and intellectual property rights in and to the images and information which may be generated through use of the SOFTWARE PRODUCT is the Customer's property. All rights not expressly granted are reserved by NG.

5. DUAL-MEDIA SOFTWARE. The Customer may receive the SOFTWARE PRODUCT in more than one medium. Regardless of the type or size of medium the Customer receives, the Customer may use only one medium that is appropriate for its Network. The Customer may not use or install the other medium on another Network. The Customer may not loan, rent, lease, lend or otherwise transfer the other medium to another user.

6. BACKUP COPY. After installation of one copy of the SOFTWARE PRODUCT pursuant to this License, the Customer may keep the original media on which the SOFTWARE PRODUCT was provided by NG solely for backup or archival purposes. If the original media is required to use the SOFTWARE PRODUCT on the COMPUTER, the Customer may make one copy of the SOFTWARE PRODUCT solely for backup or archival purposes. Except as expressly provided in this License, the Customer may not otherwise make copies of the SOFTWARE PRODUCT or the printed materials accompanying the SOFTWARE PRODUCT.

7. COMPLIANCE WITH LAW AND EXPORT RESTRICTIONS. The Customer represents and agrees that its does not intend to and will not use, disseminate or transfer in any way the SOFTWARE PRODUCT in violation of any applicable law, rule or regulation of the United States, or any State of the United States or any foreign country of applicable jurisdiction. Without limiting the foregoing, the Customer agrees that it will not export or re-export the SOFTWARE PRODUCT to any country, person, entity or end user subject to U.S. export restrictions. The Customer specifically agrees not to export or re-export the SOFTWARE PRODUCT: (i) to any country to which the U.S. has embargoed or restricted the export of goods or services, which currently include, but are not necessarily limited to Cuba, Iran, Iraq,

Libya, North Korea, Sudan and Syria, or to any national of any such country, wherever located, who intends to transmit or transport the products back to such country; (ii) to any end-user who the Customer knows or has reason to know will utilize the SOFTWARE PRODUCT or portion thereof in the design, development or production of nuclear, chemical or biological weapons; or (iii) to any end-user who has been prohibited from participating in U.S. export transactions by any federal agency of the U.S. government.

8. OTHER PROVISIONS. Sections 3, 4, 7, 10, 17, 18, 19, 20, and 22 of the Agreement are hereby incorporated by reference as if herein set forth in full.

EXHIBIT C
LEASE AGREEMENT FOR NG SAFETY SYSTEMS

This LEASE AGREEMENT (the "Lease") is part of an agreement (the "Agreement") (to which a copy of this Lease is attached as Exhibit C) between the Customer named in the Agreement and NovoaGlobal, Inc. The Parties hereto agree as follows:

1. LEASE. NG hereby leases to the Customer and the Customer hereby leases from NG, subject to the terms and conditions of this Lease, such items of System equipment (together with all attachments, replacements, parts, additions, substitutions, repairs, accessions and accessories incorporated therein and/or affixed thereto, the "Equipment") that the Customer obtains possession, custody or control of pursuant to the Agreement.

2. USE AND LOCATION. The Equipment shall be used and operated by the Customer only in connection with the operation of the System by qualified employees of and in accordance with all applicable operating instructions, and applicable governmental laws, rules and regulations. The Customer shall not part with control or possession of the Equipment without NG' prior written consent.

3. CONDITION. NG shall maintain the Equipment in good condition and working order in accordance with Section 5.A of Exhibit A. The Customer shall not damage the Equipment or make any alterations, additions or improvements to the Equipment without NG' prior written consent unless such alterations, additions or improvements do not impair the commercial value or the originally intended function or use of the Equipment and are readily removable without causing material damage to such Equipment so as to return the Equipment to its original state, less ordinary wear and tear. Any alteration, addition or improvement not removed prior to the return of the Equipment shall without further action become the property of NG, provided, however, that any alterations, additions and improvements which would reduce the value of the Equipment must be removed prior to the return of such Equipment.

4. RETURN. Upon the expiration or earlier termination of the Agreement, the Customer shall allow NG reasonable access to remove the Equipment at NG' expense.

5. OWNERSHIP, LIENS. The Equipment is and shall at all times be the property of NG. The Customer agrees to take all action necessary or reasonably requested by NG to ensure that the Equipment shall be and remain personal property. Nothing in this Lease, the Agreement or any Exhibit shall be construed as conveying to the Customer any interest in the Equipment other than its interest as a lessee hereunder. If at any time during the term hereof, NG wishes to place on the Equipment labels, plates or other markings evidencing ownership, security or other interest therein, the Customer shall allow NG reasonable access therefore and keep the same displayed on the Equipment.

6. NO CUSTOMER SUBLEASE; ASSIGNMENT. The Customer shall not assign or in any way dispose or otherwise relinquish possession or control of all or part of its rights or obligations under this lease or enter into any sub-lease of all or any part of the equipment without the prior written consent of NG.

7. OTHER PROVISIONS. Sections 3, 4, 7, 10, 17, 18, 19, 20, and 22 of the Agreement are hereby incorporated by reference as if herein set forth in full.

EXHIBIT D
COMPENSATION AND PRICING

MONTHLY FEE

Pricing for NG Safety Systems relating to fixed Red-light Photo Enforcement systems shall be as follows:

- $3,500.00 per System per month where equipment and software is installed to monitor violations for a single approach to an intersection for up to five lanes of traffic.

OPTIONAL PRICING FOR ADDITIONAL SYSTEMS

Pricing for NG Safety Systems relating to LPR-Sec (License Plate Recognition) shall be as follows:

- $399.00 per lane per month. LPR-Sec assumes having current infrastructure and power.

Pricing for NG Safety Systems relating to Dual Video System (2 camera Video-Sec) shall be as follows:

- $99.00 per system per month. Video-Sec assumes having current infrastructure and power.

Pricing for NG Safety Systems relating to Device-Sec (Wi-Fi and Bluetooth) shall be as follows:

- $199.00 per system per month. Device-Sec assumes having current infrastructure and power.

Pricing for NG Safety Systems relating to School Zone Speed Enforcement systems shall be as follows:

- $27 per paid violation.

Pricing for NG Safety Systems relating to fixed systems for other applications as Stop Sign, Speed, Gridlock, Railroad, or Crosswalk enforcement as required by the Customer:

- $3,500.00 per system per month.

Pricing for NG Safety Systems relating to portable systems for any applications as Stop Sign, Speed, Gridlock, Railroad, Crosswalk, or red light enforcement as required by the Customer:

- $4,500.00 per system per month.

Pricing for any additional service required not mentioned in this offer shall be as follows:

- Cost + 20%.

BUSINESS ASSUMPTIONS FOR ALL PRICING OPTIONS

1. Except where a balance remains unpaid due to a deficit in the gross cash received as described herein, Customer agrees to pay NG within thirty (30) days after the invoice or Monthly report is received. A monthly late fee of 1.5% is payable for amounts remaining unpaid sixty (60) days from date of invoice or monthly report if such delay is the responsibility of the Customer.
2. Required Payment Convenience Fees will not be considered to be revenue received and are the responsibility of the violator.
3. Required Refund Fees will not be considered to be revenue received and are the responsibility of the violator.
4. Violations sent to a Collection agency will have an additional charge as negotiated with the chosen collection agency.

222 West Main Street
Pensacola, FL 32502

File #: 24-23 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

PROPOSED ORDINANCE NO. 24-23 - CREATING SECTION 11-4-4, SECTION 11-4-5, AND SECTION 11-4-6 OF THE CODE OF THE CITY OF PENSACOLA - DANGEROUS USE OF PUBLIC RIGHTS OF WAY

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 24-23 on second reading.

AN ORDINANCE CREATING SECTION 11-4-4, SECTION 11-4-5, AND SECTION 11-4-6 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA DANGEROUS USE OF PUBLIC RIGHTS OF WAY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The purpose of this Ordinance is to prohibit activities that interfere with the purpose of public roads and rights-of-way by causing distractions to motorists, unsafe pedestrian movement within travel lanes, impediments to the orderly flow of traffic, dangerous traffic movement, increased vehicular accidents and pedestrian and motorist injuries and fatalities.

The proposed ordinance codifies a specified prohibition on dangerous use of public right-of-ways permitted by general law within the City's jurisdictional limits.

PRIOR ACTION:

December 14, 2023 -- City Council voted to approve Proposed Ordinance No. 24-23 on first reading.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

11/20/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Eric Randall, Chief of Police

ATTACHMENTS:

1. Proposed Ordinance No. 24-23
2. Florida Crash Board
3. Business Impact Estimate for Proposed Ordinance No. 24-23

PRESENTATION: No

PROPOSED
ORDINANCE NO. 24-23

ORDINANCE NO. _____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING SECTION 11-4-4, SECTION 11-4-5, AND SECTION 11-4-6 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA DANGEROUS USE OF PUBLIC RIGHTS OF WAY; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS the Florida Department of Highway Safety and Motor Vehicles gathers and analyzes crash data by county in the State of Florida, and the City of Pensacola is located within the County of Escambia;

WHEREAS, preliminary data published by the Florida Department of Highway Safety and Motor Vehicles for Escambia County thus far for the year of 2023 has recorded 5,229 crashes with 57 fatalities. Of those statistics 119 were pedestrian crashes with 18 pedestrian deaths.

WHEREAS, preliminary data published by the Florida Department of Highway Safety and Motor Vehicles for Escambia County between January 1, 2022, and December 31, 2022 has recorded 6,382 crashes with 57 fatalities. Of those statistics 118 were pedestrian crashes with 14 pedestrian deaths.

WHEREAS, finalized data that has been published by the Florida Department of Highway Safety and Motor Vehicles for Escambia County for the year 2021 recorded 6,608 crashes with 77 fatalities. Of those statistics 152 were pedestrian crashes with 24 pedestrian deaths.

WHEREAS, the Florida Department of Highway Safety and Motor Vehicles has published data related to distracted driving in the “Put It Down: Focus on Driving” campaign and defines distracted driving as “anything that takes your hands off the wheel, your eyes off the road or mind off driving”. The Florida Department of Highway Safety and Motor Vehicles identifies the three types of distracted driving as visual, manual, and cognitive in the published campaign data. The campaign data specifically includes “watching an event outside of the vehicle” as a “common distraction”.

WHEREAS, the Florida Department of Highway Safety and Motor Vehicles has published data, the most recent of which is for the year 2022, for Escambia County crashes caused by distracted driving and has been recorded on their website as 1,968 crashes with 9 fatalities.

WHEREAS, the Florida Department of Transportation Median Handbook identifies a median as being an adequate pedestrian refuge only when it measures at least six feet, and preferably 8.5 feet, in width; and

WHEREAS, the primary purpose of public roads and rights-of-way is to enable pedestrians and lawfully permitted vehicles to safely and efficiently move from place to place; and

WHEREAS, the purpose of this Ordinance is to prohibit activities that interfere with the purpose of public roads and rights-of-way by causing distractions to motorists, unsafe pedestrian movement within travel lanes, impediments to the orderly flow of traffic, dangerous traffic movement, increased vehicular accidents and pedestrian and motorist injuries and fatalities; and

WHEREAS, the City has a significant government interest in promoting pedestrian and roadway safety and the free flow of traffic; and

WHEREAS, the regulations set forth in this Ordinance are the least restrictive means necessary to promote and protect the public health, safety, and general welfare of persons in the City while leaving ample alternative avenues for the expression and exchange of thoughts and ideas; and

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

SECTION 1. Section 11-4-4 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

<u>Section 11-4-4. Definitions.</u>

<u>For the specific purposes of Article I of this Chapter, the following definitions shall apply:</u>

(a) <u>*Sufficient pedestrian refuse* means a paved or unpaved median separating lanes of traffic that is at least six feet wide, measured from back of curb to back of curb.</u>

(b) <u>*Right-of-way* means land in which the state, the department, a county, or a municipality owns the fee or has an easement devoted to or required for use as a transportation facility.as set forth in F.S. § 334.03 and as may be amended.</u>

SECTION 2. Section 11-4-5 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

Section 11-4-5. Dangerous use of public rights-of-way.

(a) Except as provided herein, or as otherwise permitted by law, it is unlawful to make any use of the public rights-of-way in a manner that interferes with the safe and efficient movement of people and property from place to place on a public road or right-of-way. Such prohibited activity includes, by way of example and not limitation:

(1) Stopping, standing or otherwise occupying a median that is not a sufficient pedestrian refuge on an arterial or collector road within the City by a pedestrian when that pedestrian is not in the process of lawfully crossing the road in accordance with applicable traffic and safety laws.

(a) Stopping, standing or otherwise occupying a median that is not a sufficient pedestrian refuge through two consecutive opportunities to cross in accordance with applicable traffic and safety laws is prima facie evidence of a violation of this subsection.

(2) Engaging in any physical interaction where contact is made directly between a pedestrian and an occupant of a motor vehicle, including the transfer of any product or material, while the motor vehicle is located on the travelled portion of an arterial or collector road within the City and is not legally parked.

(b) Nothing in this section shall prohibit the following:

(1) Law enforcement, fire and rescue, or other government employees or contractors acting within the scope of their lawful authority;

(2) A person conducting inspection, construction, maintenance, repair, survey, or other legally authorized services;

(3) A person responding to lend aid during an emergency situation;

(4) Entering or exiting a bus or other public transit system;

(5) Use of public roads and rights-of-way that have been closed to vehicular traffic for a special event permitted by the appropriate governmental entity.

SECTION 3. Section 11-4-6 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

Section 11-4-6. Penalty

Any person who violates this article shall be punished by a fine not exceeding $500.00 or imprisonment for a term not exceeding 60 days, or by both the fine and imprisonment. Any violation of any provision of this article shall constitute a separate offense.

SECTION 4. 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 5. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6. 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

FLORIDA

CRASH DASHBOARD

FLHSMV

SELECT YEAR

2023

SELECT CRASH COUNTY

ESCAMBIA

SELECT CRASH TYPE

ALL CRASHES

DATA IN THIS VIEW COVERS CRASHES OCCURING BETWEEN 1/1/2023 AND 11/9/2023.
DATA IS CONSIDERED PRELIMINARY AS OF 11/11/2023

ALL CRASHES	FATALITIES FROM ALL CRASHES	INJURIES FROM ALL CRASHES
5,229	57	4,068

TOTAL FATAL CRASHES

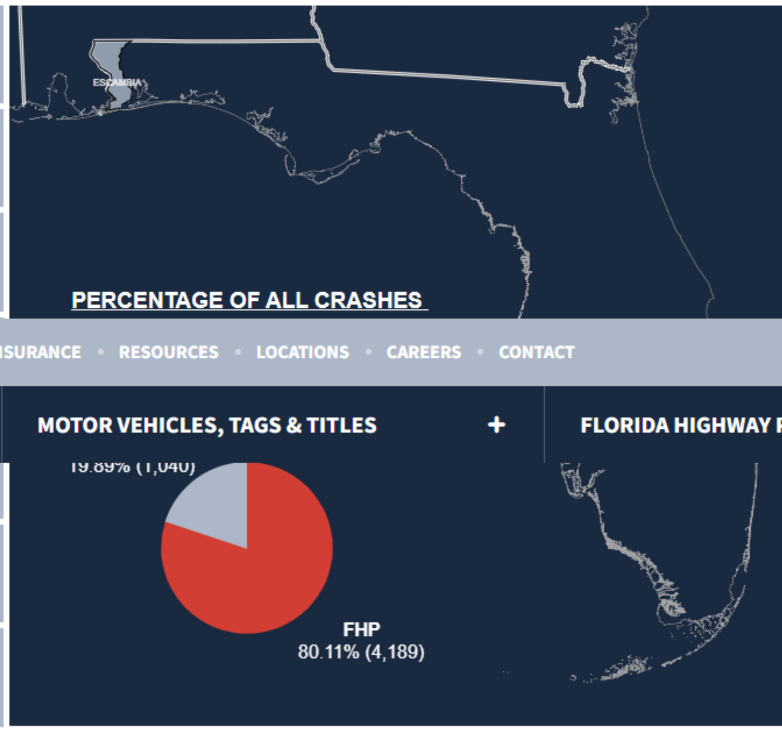
56

TOTAL INJURY CRASHES

2,393

TOTAL BICYCLE CRASHES

91



129

TOTAL MOTORCYCLE FATALITIES

8

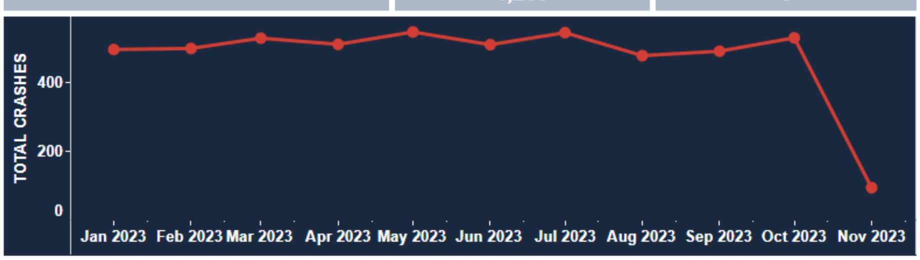
TOTAL PEDESTRIAN CRASHES

119

TOTAL PEDESTRIAN FATALITIES

18

TOTAL HIT AND RUN CRASHES	TOTAL HIT AND RUN FATALITIES	TOTAL HIT AND RUN INJURIES
1,269	6	343



DATA IN THIS VIEW COVERS CRASHES OCCURING BETWEEN 1/1/2023 AND 11/9/2023.

DATA IS CONSIDERED PRELIMINARY AS OF 11/11/2023.

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FLORIDA
CRASH DASHBOARD

FLHSMV

SELECT YEAR
2022
SELECT CRASH COUNTY
ESCAMBIA
SELECT CRASH TYPE
ALL CRASHES

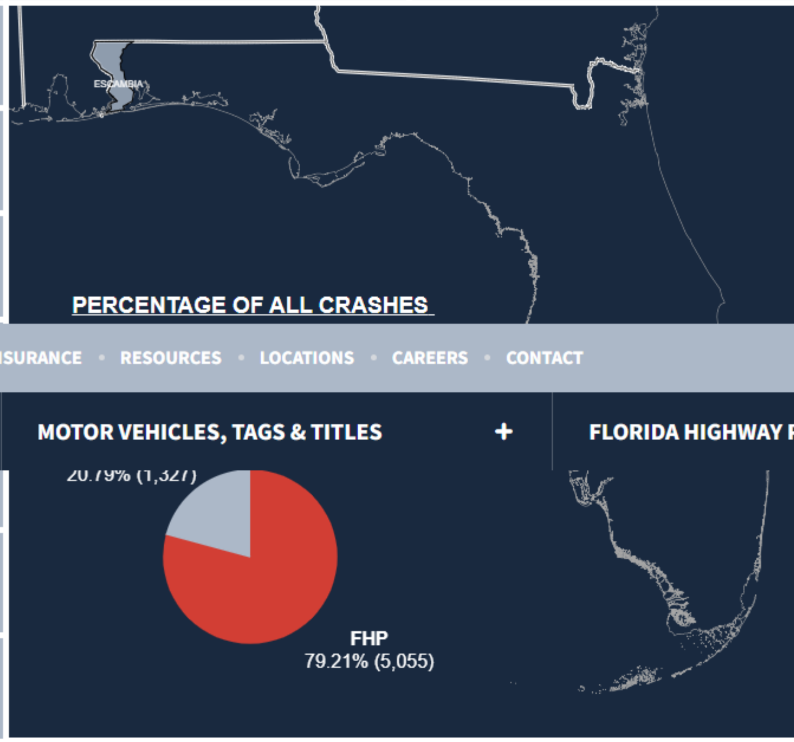
DATA IN THIS VIEW COVERS CRASHES OCCURING BETWEEN 1/1/2022 AND 12/31/2022.
DATA IS CONSIDERED PRELIMINARY AS OF 11/11/2023

ALL CRASHES	FATALITIES FROM ALL CRASHES	INJURIES FROM ALL CRASHES
6,382	57	4,546

TOTAL FATAL CRASHES
52

TOTAL INJURY CRASHES
2,803

TOTAL BICYCLE CRASHES
104



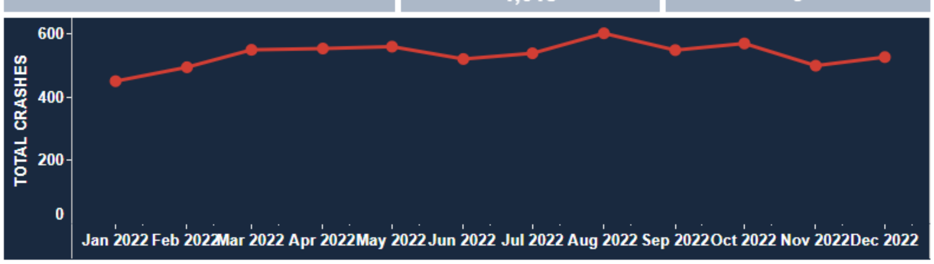
150

TOTAL MOTORCYCLE FATALITIES
8

TOTAL PEDESTRIAN CRASHES
118

TOTAL PEDESTRIAN FATALITIES
14

TOTAL HIT AND RUN CRASHES	TOTAL HIT AND RUN FATALITIES	TOTAL HIT AND RUN INJURIES
1,618	9	408



DATA IN THIS VIEW COVERS CRASHES OCCURING BETWEEN 1/1/2022 AND 12/31/2022.

DATA IS CONSIDERED PRELIMINARY AS OF 11/11/2023.

FLORIDA
CRASH DASHBOARD

FLHSMV

SELECT YEAR: 2021

SELECT CRASH COUNTY: ESCAMBIA

SELECT CRASH TYPE: ALL CRASHES

DATA IN THIS VIEW COVERS CRASHES OCCURING BETWEEN 1/1/2021 AND 12/31/2021.
DATA IS CONSIDERED FINALIZED AS OF 10/27/2022

ALL CRASHES	FATALITIES FROM ALL CRASHES	INJURIES FROM ALL CRASHES
6,608	77	4,183

TOTAL FATAL CRASHES
73

TOTAL INJURY CRASHES
2,577

TOTAL BICYCLE CRASHES
87

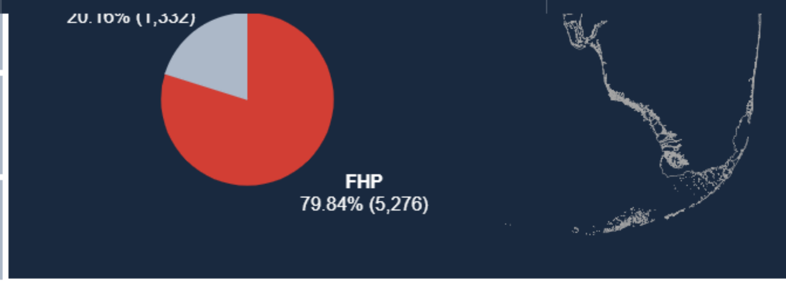
PERCENTAGE OF ALL CRASHES

136

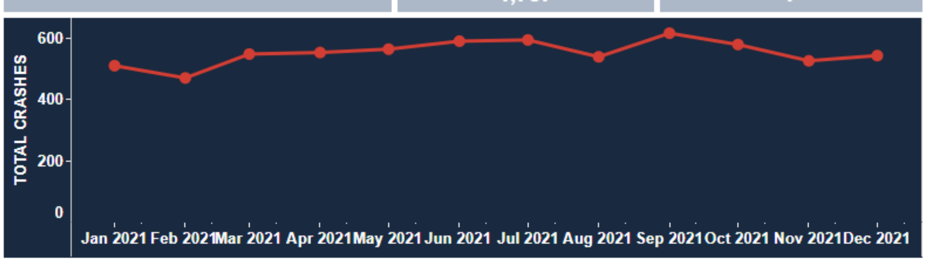
TOTAL MOTORCYCLE FATALITIES
8

TOTAL PEDESTRIAN CRASHES
152

TOTAL PEDESTRIAN FATALITIES
24



TOTAL HIT AND RUN CRASHES	TOTAL HIT AND RUN FATALITIES	TOTAL HIT AND RUN INJURIES
1,737	7	344



DATA IN THIS VIEW COVERS CRASHES OCCURING BETWEEN 1/1/2021 AND 12/31/2021.

DATA IS CONSIDERED FINALIZED AS OF 10/27/2022.

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What is Distracted Driving?

Distracted driving is anything that takes your hands off the wheel, your eyes off the road or mind off driving. It is extremely risky behavior that puts everyone on the road in danger. There are different kinds of driver distractions:

TYPES OF DRIVER DISTRACTION	
Visual	Taking your eyes off the road
Manual	Taking your hands off the wheel
Cognitive	Thinking about anything other than driving

Texting requires all three types of distraction, making it one of the most dangerous of distracted driving behaviors. However, this is not the only cause of distracted driving. Other common distractions include: tending to kids or passengers in the back seat, eating, watching an event outside of the vehicle, interacting with passengers, unsecured pets, putting on makeup or grooming, adjusting radio or climate controls, checking your GPS app or daydreaming.

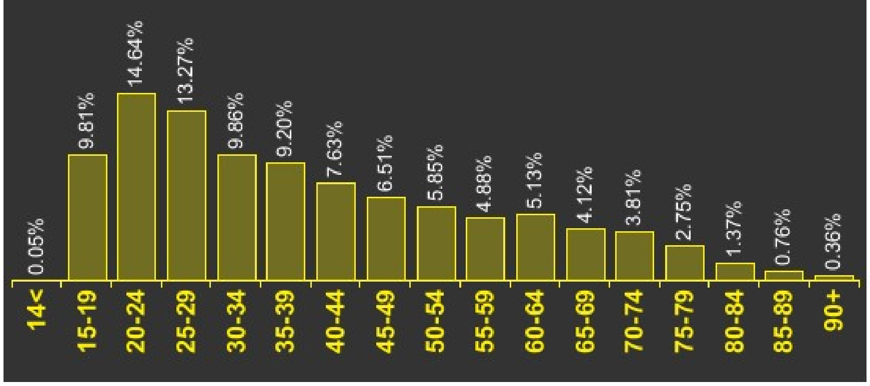
To successfully avoid a crash, a driver must perceive a hazard, react and give the vehicle time to stop. Driver perception distance, or the distance a vehicle travels from the time a driver sees a hazard until the brain recognizes it, and reaction distance, the distance a car will continue to travel after seeing a hazard until the driver physically hits the brakes, dramatically affects a vehicle's stopping distance. Even a focused driver going 50 mph will travel nearly the length of a football field before coming to a complete stop.

Put it Down
Focus on Driving

FLHSMV.GOV/**DISTRACTED**

DISTRACTED DRIVERS BY AGE

Data in the chart represents age groups of drivers that were distracted at the time of a crash.



FATALITIES

9

SERIOUS INJURIES

91

CRASHES

1,968

Crash year
2022

Injury Severity
All

County
ESCAMBIA

PEOPLE IMPACTED BY DISTRACTED DRIVING CRASHES BY INJURY SEVERITY

Data in this chart represents total people impacted by distracted driving crashes by age group, including non-injured.

Age group	
14<	
15-19	468
20-24	645
25-29	552
30-34	464
35-39	403
40-44	373
45-49	305
50-54	310
55-59	293
60-64	261
65-69	202
70-74	175
75-79	112
80-84	61
85-89	26
90+	9
Unknown	69

Data in this dashboard as of 10/26/2023. Data excludes people with age marked as 'unknown'.

FLHSMV

Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference:
Dangerous Use of Public Rights of Way

The City is of the view that the exception(s) to the Business Impact Estimate requirement that are checked off in a box below apply to the above-referenced proposed ordinance, although the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance.

- ☐ The proposed ordinance is required for compliance with Federal or State law or regulation;
- ☐ The proposed ordinance relates to the issuance or refinancing of debt;
- ☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;
- ☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the
- ☐ The proposed ordinance is an emergency ordinance;
- ☐ The ordinance relates to procurement; or
- ☐ The proposed ordinance is enacted to implement the following:
  - a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
  - b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
  - c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
  - d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare): The purpose of this Ordinance is to prohibit activities that interfere with the purpose of public roads and rights-of-way by causing distractions to motorists, unsafe pedestrian movement within travel lanes, impediments to the orderly flow of traffic, dangerous traffic movement, increased vehicular accidents and pedestrian and motorist injuries and fatalities.

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the City: None

3. Estimate of direct compliance costs that businesses may reasonably incur: None

4. Any new charge or fee imposed by the proposed ordinance: None

5. Estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs: Any person who violated this ordinance shall pay a fine not exceeding $500.00 or imprisonment for a term not exceeding 60 days, or by both the fine and imprisonment. Any violation of any provision of this ordinance shall constitute a separate offense.

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance: None

7. The proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated.

City of Pensacola

Memorandum

222 West Main Street
Pensacola, FL 32502

File #: 24-24 | Agenda Conference | 1/16/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

PROPOSED ORDINANCE 26-23 CREATING CHAPTER 7-13 OF THE CODE OF THE CITY OF PENSACOLA - REGULATION OF BUSINESSES ENGAGED IN PRUNING AND REMOVING TREES

RECOMMENDATION:

That City Council adopt Proposed Ordinance No. 26-23 on second reading:

> AN ORDINANCE CREATING CHAPTER 7-13 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, RELATED TO THE REGULATION OF BUSINESSES ENGAGED IN PRUNING AND REMOVING TREES; ADOPTING APPROPRIATE INDUSTRY STANDARDS; PROVIDING FOR PENALTIES FOR DEVIATION FROM INDUSTRY STANDARDS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

This proposed ordinance establishes formal regulations and penalties for businesses that fail to follow industry standards and obtain city permits for tree removal and pruning operations. This ordinance applies existing safety standards required by existing city permit requirements to businesses that perform the tree care operations work. The ordinance contains actionable steps for non-compliance. Currently, all non-compliance actions are the sole responsibility of the homeowner. This ordinance utilizes existing ordinance language in Chapter 12 that applies to homeowners and mirrors it and applies the same requirements to the tree care businesses performing the work.

PRIOR ACTION:

December 14, 2023 - City Council voted to approve Proposed Ordinance No 26-23 on first reading.

FUNDING:

N/A

FINANCIAL IMPACT:

N/A

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

10/11/2023

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator
Amy Tootle, Director of Public Works and Facilities

ATTACHMENTS:

1. Proposed Ordinance 26-23
2. Business Impact Estimate
3. Comments from EAB - Dec. 7th Meeting

PRESENTATION: No

PROPOSED
ORDINANCE NO. 26-23

ORDINANCE NO. ____

AN ORDINANCE
TO BE ENTITLED:

AN ORDINANCE CREATING CHAPTER 7-13 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, RELATED TO THE REGULATION OF BUSINESSES ENGAGED IN PRUNING AND REMOVING TREES; ADOPTING APPROPRIATE INDUSTRY STANDARDS; PROVIDING FOR PENALTIES FOR DEVIATION FROM INDUSTRY STANDARDS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Pensacola seeks to preserve healthy trees within the city limits by establishing penalties for failure to follow industry standards for pruning and for removal of trees; and

WHEREAS the City of Pensacola's permit process promotes public safety by incorporating industry standards on pruning and removal of trees; and

WHEREAS, the City of Pensacola has identified public safety hazards resulting from the failure of businesses to follow industry standards concerning tree pruning and removal; and

WHEREAS, the City of Pensacola recognizes that the public interest is harmed by the higher risk of injury and economic impact of removing tree hazards caused by business operators, inadvertently or knowingly, proceeding to prune or remove trees without permits or in disregard of industry standards; and

WHEREAS, the City Council of the City of Pensacola finds that the following ordinance provides standards and requirements that will promote public safety;

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

SECTION 1. Section 7-13-1 of the Code of the City of Pensacola, Florida, is hereby created to read as follows:

Sec. 7-13-1 – Definitions.

Arborist means an International Society of Arboriculture-Certified Arborist who is qualified to perform prescription pruning;

Business tax receipt has the meaning found in Chapter 7-2, Code of Ordinances for the City of Pensacola;

Commercial tree trimming or removal company means a business entity or individual engaged in the pruning or removal of trees for compensation.

SECTION 2.

Sec. 7-13-2 – Pruning or removing trees – authority

(a) A commercial tree trimming or removal company is authorized to engage in pruning, trimming, or removal of trees within the city limits only if it possesses a valid business tax receipt pursuant to Chapter 7-2, Code of Ordinances of the City of Pensacola.
(b) A commercial tree trimming or removal company, before engaging in pruning, trimming, or removal of trees within the city limits, shall verify whether a permit is required and, if required, obtain the permit on behalf of the property owner, and further satisfy all permitting requirements established by the city's designated arborist prior to performing the work.

SECTION 3.

Sec. 7-13-3 – Industry Standards Applicable to Tree Pruning and Removal

All contractors performing tree care within the City of Pensacola be required to follow arboricultural industry standards, both the ANSI A300 & ANSI Z133 Work and Safety Standards, and all subsequently updates to applicable standards as identified by the International Society of Arboriculture, including but not limited to the following:
(a) the requirement that an arborist perform the pruning and removal in according with a pruning prescription and
(b) the requirement that an onsite assessment be performed in accordance with the tree risk assessment procedures outlined in Best Management Practices - Tree Risk Assessment, Second Edition (2017) by an arborist certified by the International Society of Arboriculture (ISA).

SECTION 4.

Sec. 7-13-4 – Enforcement

Stop work order. Whenever the city's designated arborist determines that a violation of this chapter has occurred, the following actions shall be initiated:

(a) *Written notice.* Immediately issue written notice by personal delivery or certified mail to the commercial tree trimming and removal company as defined herein, with a copy to the property owner, of the nature and location of the violation, specifying what remedial steps are necessary to bring the project into compliance. The recipient of the notice shall immediately, conditions permitting, commence the recommended remedial action and shall have ten working days after receipt of said notice, or such longer time as may be allowed by the city's designated arborist, to complete the remedial action set forth in said notice.

(b) *Remedial work and stop work orders.* If a subsequent violation occurs during the ten working days referred to in subsection (a)(1) above, or if remedial work specified in the notice of violation is not completed within the time allowed, or if clearing and development of land is occurring without a permit, then the city's designated arborist shall issue a stop work order immediately. Said stop work order shall contain the grounds for its issuance and shall set forth the nature of the violation. The stop work order shall be directed not only to the person owning the land upon which the clearing and development is occurring, but also a separate stop work order shall be directed to the person or firm actually performing the physical labors of the development activity or the person responsible for the development activity, directing him or her forthwith to cease and desist all or any portion of the work upon all or any geographical portion of the project, except such remedial work as is deemed necessary to bring the project into compliance. If such person fails to complete the recommended remedial action within the time allowed, or fails to take the recommended action after the issuance of such stop work order, then the city's designated arborist may issue a stop work order on all or any portion of the entire project.

(c) *Notice of compliance.* Upon completion of remedial steps required by notice the city's designated arborist shall issue a notice of compliance and cancellation of said notice or stop work order.

SECTION 5.

Sec. 7-13-5 – Penalties.

(a) The fine for violating this chapter shall be based on the size of limb(s) or the tree(s) removed without a permit. The measurement to establish said fine shall be based on the remaining tree material left intact on the site. If a tree is removed, the trunk caliper shall be measured at DBH and at the point of removal for a limb or each limb. If, in the opinion of the city's designated arborist, the tree has been substantially damaged so that its normal growth character will never return, i.e., a tree is topped and will never recover the original character, then the fine may be based upon the caliper of the tree trunk or each limb removed, whichever is the greater. Each day a violation of a stop work order continues shall constitute a separate offense (see subsection 7-10-6(b), penalty fees, of this Code). Each protected tree removed without a permit or in violation of a permit shall constitute a separate offense. Any person may seek an injunction against any violation of this chapter and recover such damages as he or she may suffer.

(b) Fines for violating this chapter, when paid, shall be deposited into the tree planting trust fund established pursuant to section 12-6-6.

(c) The city's designated arborist, upon a finding of a willful violation of this chapter by a commercial tree trimming or removal company, shall send a notice to the offending party that its business tax receipt is void. The notice shall provide information on how to appeal the determination. A second violation of this chapter by a commercial tree trimming or removal company shall establish a rebuttable presumption that the violation was willful. A third violation of this chapter by a commercial tree trimming or removal company is clear and convincing evidence of a willful violation.

(d) A commercial tree trimming or removal company may appeal the voiding of its business tax receipt or satisfy the remedial requirements set forth by the city's designated arborist to have its business tax receipt restored.

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

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

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

Adopted: ______________________________

Approved: ____________________________
President of City Council

Attest:

____
City Clerk

Business Impact Estimate

This form should be included in agenda packet for the item under which the proposed ordinance is to be considered, and must be posted on the City's website by the time notice of the proposed ordinance is published.

Proposed ordinance's title/reference: ORDINANCE 26-23 CREATING CHAPTER 7-13 OF THE CODE OF THE CITY OF PENSACOLA, FLORIDA, RELATED TO THE REGULATION OF BUSINESSES ENGAGED IN PRUNING AND REMOVING TREES; ADOPTING APPROPRIATE INDUSTRY STANDARDS; PROVIDING FOR PENALTIES FOR DEVIATION FROM INDUSTRY STANDARDS; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE.

The City is of the view that the exception(s) to the Business Impact Estimate requirement that are checked off in a box below apply to the above-referenced proposed ordinance, although the City is implementing the procedure required by statutory law to ensure that no inadvertent procedural issue could impact the enactment of the proposed ordinance.

☐ The proposed ordinance is required for compliance with Federal or State law or regulation;

☐ The proposed ordinance relates to the issuance or refinancing of debt;

☐ The proposed ordinance relates to the adoption of budgets or budget amendments, including revenue sources necessary to fund the budget;

☐ The proposed ordinance is required to implement a contract or an agreement, including, but not limited to, any Federal, State, local, or private grant, or other financial assistance accepted by the

☐ The proposed ordinance is an emergency ordinance;

☐ The ordinance relates to procurement; or

☐ The proposed ordinance is enacted to implement the following:

a. Part II of Chapter 163, *Florida Statutes*, relating to growth policy, county and municipal planning, and land development regulation, including zoning, development orders, development agreements and development permits;
b. Sections 190.005 and 190.046, *Florida Statutes*, regarding community development districts;
c. Section 553.73, *Florida Statutes*, relating to the *Florida Building Code*; or
d. Section 633.202, *Florida Statutes*, relating to the *Florida Fire Prevention Code*.

In accordance with the provisions of controlling law, even notwithstanding the fact that, an exemption noted above may apply, the City hereby publishes the following information:

1. Summary of the proposed ordinance (must include statement of the public purpose, such as serving the public health, safety, morals, and welfare):

This ordinance establishes formal regulations and penalties for businesses that fail to follow industry standards and obtain city permits for tree removal and pruning operations. This ordinance applies existing safety standards required by existing city permit requirements to businesses that perform the tree care operations work. The ordinance contains actionable steps for non-compliance. Currently, all non-compliance actions are the sole responsibility of the homeowner.

2. Estimate of direct economic impact of the proposed ordinance on private, for-profit businesses in the City:

For those businesses that follow the existing permit requirements, there is no economic impact.

For those businesses that do not follow the existing permit requirements, specific actionable items previously only valid to the homeowners will now be valid to the businesses performing the work. These items include loss of Business Tax Receipts, fines set forth in Section 7-13-5, and may include the loss of ability to do permitted business within the city limits.

3. Estimate of direct compliance costs that businesses may reasonably incur:

None.

4. Any new charge or fee imposed by the proposed ordinance:

None.

5. Estimate of the City's regulatory costs, including estimated revenues from any new charges or fees to cover such costs:

None.

6. Good faith estimate of the number of businesses likely to be impacted by the proposed ordinance:

There are approximately 47 businesses within 100 miles of Pensacola that perform this type of work. Approximately 20 of those businesses perform applicable work within the city limits.

7. Additional information (if any, but may wish to include the methodology used to derive information for #1 and #2, above. For example: City staff solicited comments from businesses in the City as to the potential impact of the proposed ordinance by contacting the chamber of commerce, social media posting, direct mail or direct email, posting on City website, public workshop, etc. You may also wish to include efforts made to reduce the potential fiscal impact on businesses based on feedback from businesses. You may also wish to state here that the proposed ordinance is a generally applicable ordinance that applies to all persons similarly situated (individuals as well as businesses) and, therefore, the proposed ordinance does not impose costs only upon businesses.):

This ordinance was recently discussed by city staff with various homeowners that have or were seeking permits within the city for tree pruning or removal. The homeowners were overwhelmingly supportive of this ordinance and requiring the tree care companies to adhere to the minimum of the same requirements that they are held to in an existing ordinance.

FROM THE DESK OF
DON KRAHER
COUNCIL EXECUTIVE

December 7, 2023

Re: Environmental Advisory Board Comments on two (2) items coming before Council at their December 14, 2023, meeting. (These comments will be in overview form and not verbatim. A link to the meeting video will also be provided.)

Proposed Ordinance 26-23 – Related to the Regulation of Businesses engaged in Pruning and Removing Trees, Adopting appropriate Industry Standards

In general, positive and supportive comments. Board members had some questions that were general in nature but not impactful on the overall support of the concept. of the proposed ordinance.

One board member questioned the broadness of the ordinance and the authority granted to the City (specifically the Arborist). Specifically, if the Arborist determines that there is a violation, he can pull the tax receipt for that business which could then negatively impact this business throughout the city if conducting multiple jobs. Ex. Business is doing multiple jobs throughout the city, Arborist finds an issue (or potential issue) with one job – pulls their tax receipt – which would/could cause work to stop on all of the other jobs being conducted – even if there were no violations at these sites.

Same member had a couple other questions, in general opining that some of the language was very broad. Also speaking to the pre-emptions that are in place.

Request to use Funds from the Tree Planting Trust Fund for Phase II of the Tree Canopy Revitalization Project

In accordance with City Code Section 12-6-10, the EAB reviewed the request for use of funds from the Tree Planting Trust Fund. The EAB was supportive of the use of funds. There were questions about trees & locations and the City Arborist was present and addressed those questions. In light of the $1 Million dollar grant regarding tree planting, the flexibility in planting locations was appreciated by the Board.

No formal vote was taken on either item, but rather overview of the comments are being provided and a link to the meeting video is below. There was no requirement to bring the first item before the EAB, however administration did so as a curtesy to gain comments.

For the second item, the EAB “reviewed” the request as directed by the City Code.

Should any questions arise, do not hesitate to let me know.

https://pensacolafl.portal.civicclerk.com/event/204/media

222 West Main Street P.O. Box 12910 Pensacola, Florida 32501 Telephone (850) 435-1609
www.cityofpensacola.com

Robyn Tice

From: Don Kraher
Sent: Friday, December 8, 2023 2:25 PM
To: Casey Jones; Jared Moore; Jennifer Brahier; Charles Bare; Teniade Broughton; Allison Patton; Delarian Wiggins
Cc: Elaine Mager; Sonja Gaines; Yvette McLellan; Robyn Tice
Subject: EAB Comments re Agenda Items for 12.14 meeting
Attachments: Comment from EAB @ Dec. 7th Meeting.docx

Council President and Members of City Council

Please find attached a report of comments made during the EAB meeting of December 7, 2023 regarding relevant items coming before Council at their December 14th meeting.

Respectfully,

Don Kraher
Council Executive
Office of the City Council
222 W. Main Street
Pensacola, FL 32502
(850) 435-1686 – Office
(850) 384-6363 – Cell

City of Pensacola