City of Pensacola

City Council

Agenda

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

April 25, 2024, 5:30 PM **Hagler-Mason Conference Room, 2nd Floor**

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

ROLL CALL

INVOCATION

PLEDGE OF ALLEGIANCE

Council Member Teniade Broughton

AWARDS

FIRST LEROY BOYD FORUM

APPROVAL OF MINUTES

1. 24-216 APPROVAL OF MINUTES: REGULAR MEETING DATED APRIL 11, 2024

Recommendation: That City Council approve regular meeting minutes dated April 11, 2024.

Sponsors: Council President Casey Jones

Attachments: *Draft: Regular Meeting Minutes 4/11/2024*

APPROVAL OF AGENDA

CONSENT AGENDA

2. 24-336 APPROVAL OF THE FIRST AMENDMENT TO THE LEASE AGREEMENT WITH PORT WAREHOUSE 4 , LLC, FOR PORT OF PENSACOLA WAREHOUSE #4

Recommendation: That City Council approve the First Amendment to the Lease Agreement between the City of Pensacola and Port Warehouse 4 , LLC for Port of Pensacola Warehouse #4. Further, that City Council authorize the Mayor to take those actions necessary to finalize, execute and administer this Lease, consistent with the terms of the attached draft lease agreement and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *Draft First Amendment to Warehouse 4 Lease*
Exhibit 2 Warehouse 4 Revised Site Layout

3. 24-86 AWARD OF CONTRACT - BID NO. 24-019 PORT OF PENSACOLA - MAINTENANCE DREDGING - BERTHS 1 & 2

Recommendation: That City Council award a contract for Bid No. 24-019 Port of Pensacola Maintenance Dredging to H.G. Harders & Son, Inc., the lowest and most responsible bidder, with a base bid of $417,537.00 plus a 10% contingency of $41,753.70 for a total of $459,290.70. Further, that City Council authorize the Mayor to take those actions necessary to finalize, execute and administer this contract, consistent with the terms and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *Tabulation of Bids*
Proposal

4. 24-360 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER JENNIFER BRAHIER - DISTRICT 1

Recommendation: That City Council approve funding of $2,000 to Family Promise of Escambia County from the City Council Discretionary Funds for District 1.

Sponsors: Council Member Jennifer Brahier

Attachments: *None*

5. 24-370 DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER DELARIAN WIGGINS - DISTRICT 7

Recommendation: That City Council approve funding of $500 to the Rosa Verde Foundation and $500 to My Brothers and Sisters from the City Council Discretionary Funds for District 7.

Sponsors: Council Member Delarian Wiggins

Attachments: *None*

6. 24-383 ADD-ON -- CORRECTIVE QUIT CLAIM DEED FOR 118 N. COYLE STREET

Recommendation: That City Council approve a Corrective Quit Claim Deed for property located at 118 N. Coyle Street.

Sponsors: Council Member Delarian Wiggins

Attachments: *Corrective Quit Claim Deed - 118 N Coyle Street*
County Property Appraiser Parcel Information
Prior Deed
Vesting Deed

REGULAR AGENDA

7. 24-361 SWIMMING FACILITY MANAGEMENT AGREEMENT

Recommendation: That City Council approve the Swimming Facility Management Agreement with Young Men's Christian Association (YMCA) of Northwest Florida, Inc., for the operation and management of the Cecil Hunter Swimming Facility and the Roger Scott Swimming Facility. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *City of Pensacola Swimming Facility Management Agreement*

8. 24-345 RESOLUTION NO. 2024-33 - AMENDMENT TO THE PARKS AND RECREATION SWIMMING POOLS FEE SCHEDULE FOR FISCAL YEAR 2024.

Recommendation: That City Council adopt resolution NO. 2024-33.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA AUTHORIZING AND MAKING REVISION TO THE FY24 BUDGET FEE SCHEDULE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023; APPROVING AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Resolution No. 2024-33*
2024 Approved Budget P&R Fee Schedule Swimming Pools
2024 Pool ScholarshipSummer Camp Rack Card

9. 24-39 REVISED: REALLOCATION OF AMERICAN RESCUE PLAN ACT FUNDS - MOORING FIELD, AMTRAK CENTER, EMERGENCY MANAGEMENT PLAN REWRITE, AND DEFERRED MAINTENANCE IN PARKS & CENTERS ANALYSIS

Recommendation: That City Council approve reallocation of funding in the American Rescue Plan Act (ARPA) from the following projects: FEMA Covid ($252,140) and Bayview Erosion Project ($127,842) to the following projects: Mooring Field Study ($50,000), Amtrak Center Remodel

($84,533), Emergency Management Plan Rewrite ($145,449) and Deferred Maintenance in Parks and Community Centers Analysis ($100,000).

Sponsors: Mayor D.C. Reeves

Attachments: *ARPA Project Allocations thru 02/29/2024*

10. 24-198 REVISED: AGREEMENT RENEWAL - ESCAMBIA CHILDREN'S TRUST - AFTERSCHOOL PROGRAMMING AT CITY RESOURCE CENTERS

Recommendation: That City Council approve the renewal of the agreement between Escambia Children's Trust and the City of Pensacola for funding of free after-school programming at City Resource Centers. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this Agreement consistent with the terms of the Agreement and the Mayor's Executive Powers as granted in the City Charter.

Sponsors: Mayor D.C. Reeves

Attachments: *Agreement Between The Escamiba Children's Trust and City of Pensacola*

11. 24-251 REVISED: SUPPLEMENTAL BUDGET RESOLUTION 2024-26 - AGREEMENT RENEWAL BETWEEN THE ESCAMBIA CHILDREN'S TRUST AND CITY OF PENSACOLA

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-26.

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. 2024-26*
Supplemental Budget Explanation No. 2024-26
REVISED - Supplemental Budget Resolution No. 2024-26
REVISED - Supplemental Budget Explanation No. 2024-26

12. 24-225 PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 422354-3-94-05-SEAPORT SECURITY GRANT

Recommendation: That City Council approve the acceptance of the State of Florida, Florida Seaport Transportation Economic Development (FSTED) Grant No. 422354-3-94-05 for seaport security system upgrades and maintenance in the amount of $37,276 with a $12,426 in Port of Pensacola matching funds for a total grant value of $49,702. 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: *FSTED Grant No. 422354-3-94-05*

13. 24-232 REVISED: SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-36 - PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 422354-3-94-05 - SEAPORT SECURITY GRANT

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-36.

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. 2024-36*
Supplemental Budget Explanation No. 2024-36
REVISED - Supplemental Budget Resolution No. 2024-36
REVISED - Supplemental Budget Explanation No. 2024-36

14. 24-237 AUTHORIZATION TO ACCEPT ADDITIONAL FUNDING PROVIDED THROUGH AMENDMENT 1 TO THE JOINT PARTICIPATION AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND CITY OF PENSACOLA, FLORIDA FOR CONSTRUCTION OF A WELCOME SIGN AND FEATURE BETWEEN BAYFRONT PARKWAY AND GREGORY STREET.

Recommendation: That City Council accept Amendment 1 to Florida Department of Transportation JPA 409334-1-58-02 for Pensacola Welcome Sign in the amount of $100,000.00. Further, that City Council authorize the Mayor to take the actions necessary to continue to administer this agreement, consistent with the terms of the Mayor's Executive Powers as granted in the City Charter and Resolution No. 18-55. Also, that City Council adopt a supplemental budget resolution appropriating the funds.

Sponsors: Mayor D.C. Reeves

Attachments: *ASU29-4509334-1-58-02_Welcome Sign_City of Pensacola-SA01-DRAFT Amendment*
Supplemental Budget Resolution No. 2024-37
Supplemental Budget Explanation No. 2024-37

JPA 409334-1-58-02

15. 24-238 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-37 - USE OF FUNDING PROVIDED THROUGH AMENDMENT 1 TO THE JPA BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND CITY OF PENSACOLA, FLORIDA FOR THE CONSTRUCTION OF A WELCOME SIGN AND FEATURE BETWEEN BAYFRONT PARKWAY AND GREGORY STREET.

Recommendation: That City Council adopt Supplemental Budget Resolution No. 2024-37.

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. 2024-37
Supplemental Budget Explanation No. 2024-37
ASU29-4509334-1-58-02 - Welcome Sign - City of Pensacola-SA01- DRAFT Amendment
JPA 409334-1-58-02

16. 24-209 AWARD OF BID NO. 24-018 - CITY OF PENSACOLA WELCOME STRUCTURE PROJECT

Recommendation: That City Council award Bid No. 24-018, City of Pensacola Welcome Structure Project to Hewes & Company, LLC of Pensacola, the lowest and most responsible bidder with a base bid of $483,700.00, with a Bid Alternate of $28,000, plus a 10% contingency of $51,170.00 for a total of $562,870.00. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and complete the 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:
Proposal
Tabulation of Bids
Project Specifications
Draft Amendment No. ASU29-4509334-1-58-02 Welcome Sign
JPA No. 409334-1-58-02 dated 10/22/2022

17. 24-362 RESOLUTION NO. 2024-16 - AMENDMENT TO THE PARKS AND RECREATION ROGER SCOTT TENNIS CENTER FEE SCHEDULE FOR FISCAL YEAR 2024

Recommendation: That City Council adopt Resolution No. 2024-16.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA AUTHORIZING AND MAKING REVISION TO THE FY 24 BUDGET FEE SCHEDULE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023; APPROVING AND PROVIDING AN EFFECTIVE DATE.

Sponsors: Mayor D.C. Reeves

Attachments: *Resolution No. 2024-16*
Roger Scott Tennis Center Fee Schedule-23 Approved Budget
Roger Scott Tennis Center Fee Schedule-24 Approved Budget

COUNCIL EXECUTIVE'S REPORT

MAYOR'S COMMUNICATION

COUNCIL COMMUNICATIONS & CIVIC ANNOUNCEMENTS

SECOND LEROY BOYD FORUM

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.

File #: 24-216 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SUBJECT:

APPROVAL OF MINUTES: REGULAR MEETING DATED APRIL 11, 2024

ATTACHMENTS:

1. Draft: Regular Meeting Minutes 4/11/2024

City of Pensacola

CITY COUNCIL

MINUTES

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

April 11, 2024 | 5:30 PM | Hagler-Mason Conference Room, 2nd Floor

ROLL CALL

Council President Jones called the regular meeting to order at 5:30 P.M.

Council Members Present:	Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins,
Council Members Absent:	None
Also Present:	Mayor D.C. Reeves

INVOCATION

Moment of Silence

PLEDGE OF ALLEGIANCE

Council Member Jennifer Brahier

AWARDS

Mayor Reeves presented and read (in its entirety) a proclamation recognizing United Way of West Florida for 100 years of service, and proclaiming February 22nd as *West Florida United Way Day.* Laura Gilliam, President/CEO made follow-up remarks.

FIRST LEROY BOYD FORUM

Gloria Horning: Addressed Council regarding flooding in her neighborhood on South DeVilliers Street. She referenced the residential development by Adams Homes which she alleged installed French drains without proper approval. She also referred to degrading conditions of the nearby stormwater retention pond and indicated she believes there is toxic gas being emitted.

Council Member Broughton asked questions of Dr. Horning which she was provided the opportunity to respond. Council Member Wiggins made follow-up remarks.

APPROVAL OF MINUTES

1. 24-210 APPROVAL OF MINUTES: REGULAR MEETING DATED MARCH 21, 2024

Recommendation: That City Council approve minutes of the regular City Council Meeting dated March 21, 2024

A motion to approve was made by Council Member Bare and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

No: 0 None

APPROVAL OF AGENDA

Council Executive Kraher indicated that the following items are being pulled and will be brought back at the next meeting (on 4/25/2024): Item 4 (24-276) *City of Pensacola Swimming Facility Management Agreement* and Item 8 (24-122) *Resolution No. 2024-16 - Amendment to the Parks and Recreation Roger Scott Tennis Center Fee Schedule for Fiscal Year 2024*.

Council President Jones then referenced hard copies of an add-on item provided at Council's places: 24-224 - *Approval of Required Public Notice Period for Disposition of 2305 W. Cervantes Street.*

A motion to add-on was made by Council Member Brahier and seconded by Council Member Patton.

Council Executive Kraher suggested the add-on item could be placed on the Consent Agenda. *No objections.*

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

No: 0 None

A motion to approve the agenda as amended was made by Council Member Bare and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

No: 0 None

CONSENT AGENDA

2. 24-113 PROFESSIONAL SERVICES AGREEMENT GULF COAST TENNIS GROUP, LLC FOR THE OPERATION AND MANAGEMENT OF ROGER SCOTT TENNIS CENTER

Recommendation: That City Council approve the Professional Services Agreement with Gulf Coast Tennis Group, LLC for the Operation and Management of Roger Scott Tennis Center. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

3. 24-303 AWARD OF BID NO. 24-015 - ASPHALT CONSTRUCTION SERVICES

Recommendation: That City Council award the contract for Bid No. 24-015 for the Asphalt Construction Services as an annual renewable contract to Roads, Inc. of NWF, the lowest and best responsible bidder, in the amount not to exceed $1,000,000.00 per Fiscal Year. 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.

A motion to approve Items 2, 3, and 13 (Add-on 24-224) was made by Council Member Patton and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

No: 0 None

REGULAR AGENDA

******THE FOLLOWING ITEM WAS PULLED FROM THE AGENDA AND WILL BE PLACED ON THE 4/25/2024 COUNCIL AGENDA******

4. 24-276 CITY OF PENSACOLA SWIMMING FACILITY MANAGEMENT AGREEMENT

   Recommendation: That City Council approve the Swimming Facility Management Agreement with Young Men's Christian Association of Northwest Florida, Inc., for the Operation and Management of the Cecil T. Hunter Swimming Faciltiy and the Roger Scott Swimming Facility. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

   Mayor Reeves asked for clarification related to the item being pulled with Deputy City Administrator Miller responding accordingly.

5. 24-297 ACCEPTANCE OF GRANT SUBAWARD AGREEMENT NO. 24-CA-11132544-015 - NATIONAL ARBOR DAY FOUNDATION

   Recommendation: That City Council approve the acceptance of the National Arbor Day Foundation for community tree benefits in the amount of $1,000,000. 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.

   A motion to approve was made by Council Member Brahier and seconded by Council Member Bare.

   The motion passed by the following vote:

   Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

   No: 0 None

6. 24-298 SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-28 - NATIONAL ARBOR DAY FOUNDATION GRANT

   Recommendation: That City Council adopt Supplemental Budget Resolution No: 2024-28

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

A motion to adopt was made by Council Member Bare and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

No: 0 None

7. 24-301 RESOLUTION NO. 2024-34 - PAID PARKING FY24 BUDGET FEE SCHEDULE

Recommendation: That City Council approve Resolution No. 2024-34.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA AUTHORIZING AND MAKING REVISIONS TO THE FY24 BUDGET FEE SCHEDULE FOR THE FISCAL YEAR BEGINNING OCTOBER 1,2023; APPROVING AND PROVIDING AN EFFECTIVE DATE.

A motion to adopt was made by Council Member Patton and seconded by Council Member Wiggins.

Mayor Reeves (sponsor) explained the intent of the proposed increase. Some Council Members made comments.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

No: 0 None

******THE FOLLOWING ITEM WAS PULLED FROM THE AGENDA AND WILL BE PLACED ON THE 4/25/2024 COUNCIL AGENDA******

8. 24-122 RESOLUTION NO. 2024-16 - AMENDMENT TO THE PARKS AND RECREATION ROGER SCOTT TENNIS CENTER FEE SCHEDULE FOR FISCAL YEAR 2024

Recommendation: That City Council adopt Resolution No. 2024-16.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA AUTHORIZING AND MAKING REVISION TO THE FY24 BUDGET FEE SCHEDULES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023; APPROVING AND PROVIDING AN EFFECTIVE DATE.

9. 24-335 RESOLUTION NO. 2024 -32 SUPPORTING FLORIDA DEPARTMENT OF TRANSPORTATION TEMPORARY ROAD CLOSURE FOR SR 30 (US 98) GARDEN STREET PROJECT FROM "N" STREET TO SR 8A (I-110) RAMP

Recommendation: That City Council adopt Resolution No 2024-32.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, TO APPROVE A TEMPORARY ROAD CLOSURE PURSUANT TO COMPLETION OF THE MILLING AND RESURFACING OF SR 30 (US 98) GARDEN ST FROM N ST TO SR 8A (I-110) RAMP, FPID 435178-3-52-01.

A motion to adopt was made by Council Member Bare and seconded by Council Member Brahier.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

No: 0 None

10. 24-338 PROPOSED ORDINANCE NO. 5-24 - VACATION OF RIGHT OF WAY - 100 WATER STREET AND 3600 BLOCK ELKTON STREET

Recommendation: That City Council adopt Proposed Ordinance No. 5-24 on second reading.

AN ORDINANCE CLOSING, ABANDONING AND VACATING AN UNIMPROVED PORTION OF WATER STREET AND AN UNIMPROVED ALLEYWAY IN PENSACOLA, ESCAMBIA COUNTY, STATE OF FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE. **(Ordinance No. 8-24)**

A motion to adopt was made by Council Member Brahier and seconded by Council Member Wiggins.

Charles Liberis, the applicant, was in attendance and indicated that he was available for questions. There being no discussion, the vote was called.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins

No: 0 None

11. 24-341 PROPOSED ORDINANCE NO. 6-24 - FUTURE LAND USE MAP AND AMENDMENT – RECENTLY ANNEXED PROPERTY - 422, 424, AND 400 BLOCK OF AIRPORT BOULEVARD

Recommendation: That City Council adopt Proposed Ordinance No. 6-24 on second reading.

AN ORDINANCE AMENDING THE COMPREHENSIVE PLAN AND FUTURE LAND USE MAP OF THE CITY OF PENSACOLA, FLORIDA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; PROVIDING AN EFFECTIVE DATE. **(Ordinance No. 9-24)**

A motion to adopt was made by Council Member Bare and seconded by Council Member Patton.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins
No: 0 None

12. 24-344 PROPOSED ORDINANCE NO. 7-24 ZONING MAP AMENDMENT – RECENTLY ANNEXED PROPERTY - 422, 424, AND 400 BLOCK OF AIRPORT BOULEVARD

Recommendation: That City Council adopt Proposed Ordinance No. 7-24 on second reading.

AN ORDINANCE AMENDING THE ZONING CLASSIFICATION OF CERTAIN PROPERTY PURSUANT TO AND CONSISTENT WITH THE COMPREHENSIVE PLAN OF THE CITY OF PENSACOLA, FLORIDA; AMENDING THE ZONING MAP OF THE CITY OF PENSACOLA; PROVIDING FOR SEVERABILITY; REPEALING CLAUSE; AND PROVIDING AN EFFECTIVE DATE. **(Ordinance No. 10-24)**

A motion to adopt was made by Council Member Bare and seconded by Council Member Wiggins.

The motion passed by the following vote:

Yes: 7 Casey Jones, Jared Moore, Charles Bare, Jennifer Brahier, Teniade Broughton, Allison Patton, Delarian Wiggins
No: 0 None

******THE FOLLOWING ITEM WAS APPROVED UNDER THE CONSENT AGENDA AS INDICATED ABOVE******

13. 24-224 ADD-ON ITEM -- APPROVAL OF REQUIRED PUBLIC NOTICE PERIOD FOR DISPOSITION OF 2305 W. CERVANTES STREET

Recommendation: That City Council approve the Community Redevelopment

Agency (CRA) Board's recommendation and authorize staff to begin the required public notice period for the disposition of property located at 2305 W. Cervantes Street, pursuant to Section 163.380 Florida Statutes.

COUNCIL EXECUTIVE'S REPORT

None

MAYOR'S COMMUNICATION

Mayor Reeves addressed Council providing updates on various initiatives and projects.

COUNCIL COMMUNICATIONS & CIVIC ANNOUNCEMENTS

Council Member Moore shared his concerns regarding the prolonged vacancy of County Commission District 4 Seat awaiting appointment by the Governor. Council Members Brahier and Bare made follow-up remarks expressing their concerns.

Council Member Bare shared his son's upcoming performance at UWF.

Council Member Broughton congratulated Mayor Reeves for coming in number 2 on *InWeekly's Power List*.

SECOND LEROY BOYD FORUM

None

ADJOURNMENT

6:13PM

Adopted: _____

Approved: Casey Jones, President of City Council

_____

Attest: _____

Ericka L. Burnett, City Clerk

File #: 24-336 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

APPROVAL OF THE FIRST AMENDMENT TO THE LEASE AGREEMENT WITH PORT WAREHOUSE 4 , LLC, FOR PORT OF PENSACOLA WAREHOUSE #4

RECOMMENDATION:

That City Council approve the First Amendment to the Lease Agreement between the City of Pensacola and Port Warehouse 4 , LLC for Port of Pensacola Warehouse #4. Further, that City Council authorize the Mayor to take those actions necessary to finalize, execute and administer this Lease, consistent with the terms of the attached draft lease agreement and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola and Port Warehouse 4, LLC, entered into a lease agreement for the port's existing Warehouse #4, a 45,000 sq. ft. general cargo storage facility on August 1, 2023. The redeveloped building will be multi-purpose to include indoor court sports, conference/exhibition space, concerts, and other specific uses per the lease agreement.

An amendment to this lease will grant Port Warehouse 4 access to an additional 13,158 square feet of outdoor property southwest of Warehouse #4. This area was previously occupied by Pensacola Bay Oysters. This expansion will allow for the development of several new amenities: Outdoor restaurant/dining/seating area: This area will offer patrons unobstructed views of Commendencia Slip.

- Public sidewalk extension: The existing sidewalk will be extended to the southern edge of the property, creating a pedestrian-friendly connection.
- Landscaping enhancements and improvements: The west side of the leased premises will receive landscaping upgrades to enhance the overall esthetics.

Port Warehouse 4 will be responsible for all costs associated with developing these new amenities.

PRIOR ACTION:

April 27, 2023 - Lease agreement approved by City Council

FUNDING:

N/A

FINANCIAL IMPACT:

Port Warehouse 4, LLC, with the additional property added, will pay an increased lease rate of $36,000 (the previous lease rate was $26,000 annually). Annual CPI increases are capped at 5%, and reimbursement to the City for the cost of maintaining property insurance on the building remains per the original lease.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/15/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator
Clark Merritt, Port Director

ATTACHMENTS:

1. Draft First Amendment to Warehouse 4 Lease
2. Exhibit 2 Warehouse 4 Revised Site Layout

PRESENTATION: No

FIRST AMENDMENT TO REAL PROPERTY LEASE AT THE PORT OF PENSACOLA BETWEEN PORT WAREHOUSE 4, LLC AND CITY OF PENSACOLA, FLORIDA

THIS FIRST AMENDMENT TO REAL PROPERTY LEASE AT THE PORT OF PENSACOLA (this "First Amendment") is made and entered into effective as of April ____, 2024, by and between **the City of Pensacola, Florida** ("**City**"), and **Port Warehouse 4, LLC**, a Florida limited liability company ("**Tenant**").

RECITALS

WHEREAS, City and Tenant are parties to that certain Real Property Lease At the Port of Pensacola effective August 1, 2023 (the "Lease"), in connection with that certain real property commonly known as Warehouse 4, at Commendencia Slip, Port of Pensacola (all capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Lease); and

WHEREAS, City and Tenant desire to amend the Lease as set forth in this Amendment.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein, and for other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, City and Tenant hereby agree as follows:

1. The term "Capital Improvements" is hereby amended to include the Promenade Extension and Parking Improvements (both defined below), notwithstanding if all or any portion of the Promenade Extension or Parking Improvements are not located upon the Leased Premises.

2. The term "Land" is amended to add and include certain additional land (the "Additional Land") more particularly described in **Exhibit 1** to this First Amendment. The Additional Land is likewise hereinafter a part of the Leased Premises.

3. The first paragraph of Section 4.01 is hereby deleted in its entirety and replaced with the following:

> Continuously during the Lease Term, the Tenant shall use the Leased Premises, less the Additional Land, solely for athletic, fitness, entertainment, convention and other supportive activities and other commercial uses not prohibited by law to include, without limitation, special events, expos, tournaments, promotions, food & beverage service, concessions, retail sales, health & wellness facilities, administrative offices, concerts and other functions and uses accompanying the Tenant's business purposes and with the City's expectation that such amenities shall be available to the public via facility rental, tournament play, paid memberships, open plan (i.e. pay-to-play), food, beverage, and retail purchase or any combination thereof and that the Leased Premises shall include the back-office uses associated therewith.

Continuously during the Lease Term, the Tenant shall use the Additional Land primarily as an outdoor restaurant, bar, dining, entertainment, and/or sitting area as an amenity to Tenant's business, and the Additional Land shall be and remain open to the public. Other uses not consistent with the foregoing must be authorized in advance by the Port Director—such authorization shall not be unreasonably withheld. For the avoidance of doubt, and without limiting Article 17 below, Tenant shall not authorize any person, entity, vendor or operator to do business of any kind or nature on the Additional Land without the prior written consent of the City, which consent shall not be unreasonably withheld.

Subject in all respects to Article 10 of this Lease, Tenant agrees to construct an extension of the existing public sidewalk/promenade that runs along the western boundary of the Leased Premises to the southern terminus of the Leased Premises ("Promenade Extension"). The Promenade Extension shall be designed and made from materials to compliment the existing adjacent public sidewalk and promenade and shall include, without limitation, lighting and landscaping. Such Promenade Extension shall be and remain open to the public during the hours of 6am to 10pm. For avoidance of doubt, ownership of the Promenade Extension and all related improvements shall be vested in the City.

Tenant shall keep and maintain the Promenade Extension in accordance with the terms of this Lease, including, without limitation, Article 12, and shall likewise ensure the waterfront rip-rap adjacent to the Promenade Extension is free of ordinary trash & garbage for as long as the submerged lands adjacent to said rip-rap remains unimproved.

4. Section 4.03 is amended to add the following:

Subject in all respects to Article 10 of this Lease, Tenant agrees construct and install certain gravel parking spaces along the southern boundary of the Leased Premises as generally depicted in **Exhibit 2** attached hereto, to accommodate parking needs relative to the City's agreement with American Magic ("Parking Improvements"). For avoidance of doubt, ownership of the Parking Improvements and all related improvements shall be vested in the City.

5. Paragraph 5.01(a) is hereby deleted in its entirety and replaced with the following:

(a) Lease Rate during the initial Lease Term (Lease Year 1-15). For the first Lease Year, Based Rent shall be $36,000.00. Commencing on the first day of the second Lease Year of the Lease Term, and on the first day of each succeeding Lease Year thereafter until the Expiration Date (as the same may be extended in accordance with Section 3.02), Base Rent shall be increased cumulatively by the annual increase in the Consumer Price Index All Urban Consumers (CPI-U), not seasonally adjusted, U.S. City Average (current series) for the most recent complete twelve-month (12-month) period prior to the anniversary date of this Lease not to

exceed five percent (5%) (a "CPI Adjustment"). In no case shall the Base Rent ever decrease, not even in the event of a negative twelve-month (12-month) CPI, in which event there will be no CPI Adjustment to the Base Rent.

6. The first sentence of the first paragraph of Section 10.01 is hereby deleted in its entirety and replaced with the following:

The Tenant shall not construct, alter, remodel, renovate, remove, or demolish the Promenade Extension, Parking Improvements, or improvements on the Leased Premises without the prior written approval of the City, which approval shall not be unreasonably withheld, conditioned or delayed; minor non-structural modifications by the Tenant that are in due course of its operations within the Leased Premises, excepted.

7. The first sentence of the second paragraph of Section 10.01 is hereby deleted in its entirety and replaced with the following:

In the event that the Tenant desires to construct, alter, remodel, renovate, remove, or demolish the Promenade Extension, Parking Improvements, or improvements on the Leased Premises, it shall submit to the Port Director plans and specifications and a construction time schedule for such work prepared by Florida-registered architects and engineers, and such other information and documents as may be required by the Port Director, all of which shall be in sufficient detail for the Port Director to determine whether or not the proposed work is consistent with the Tenant's use of the premises as defined in Section 4.01.

8. Except as expressly set forth above, the Lease shall remain unmodified and in full force and effect. In the event of any conflict between the terms and conditions of this Amendment and the Lease, the terms and conditions of this Amendment shall govern.

[signature page follows]

IN WITNESS WHEREOF, the undersigned have duly executed this First Amendment as of the dates set forth below.

CITY:

CITY OF PENSACOLA,
a Florida municipal corporation

By:_____
DC Reeves, Mayor

Date:_____

Attest:

_____
Ericka Burnett, City Clerk

Signed by Mayor in the presence of:

_____
Print Name: _____

_____
Print Name: _____

Approved as to form

_____
Adam Cobb, City Attorney

Approved as to content:

_____
Clark Merritt, Port Director

TENANT:

PORT WAREHOUSE 4, LLC
a Florida limited liability company

By:_____
Rob Fabbro, Manager

Date: _____

Signed by Tenant in the presence of:

_____
Print Name: _____

_____
Print Name: _____

EXHIBIT 1

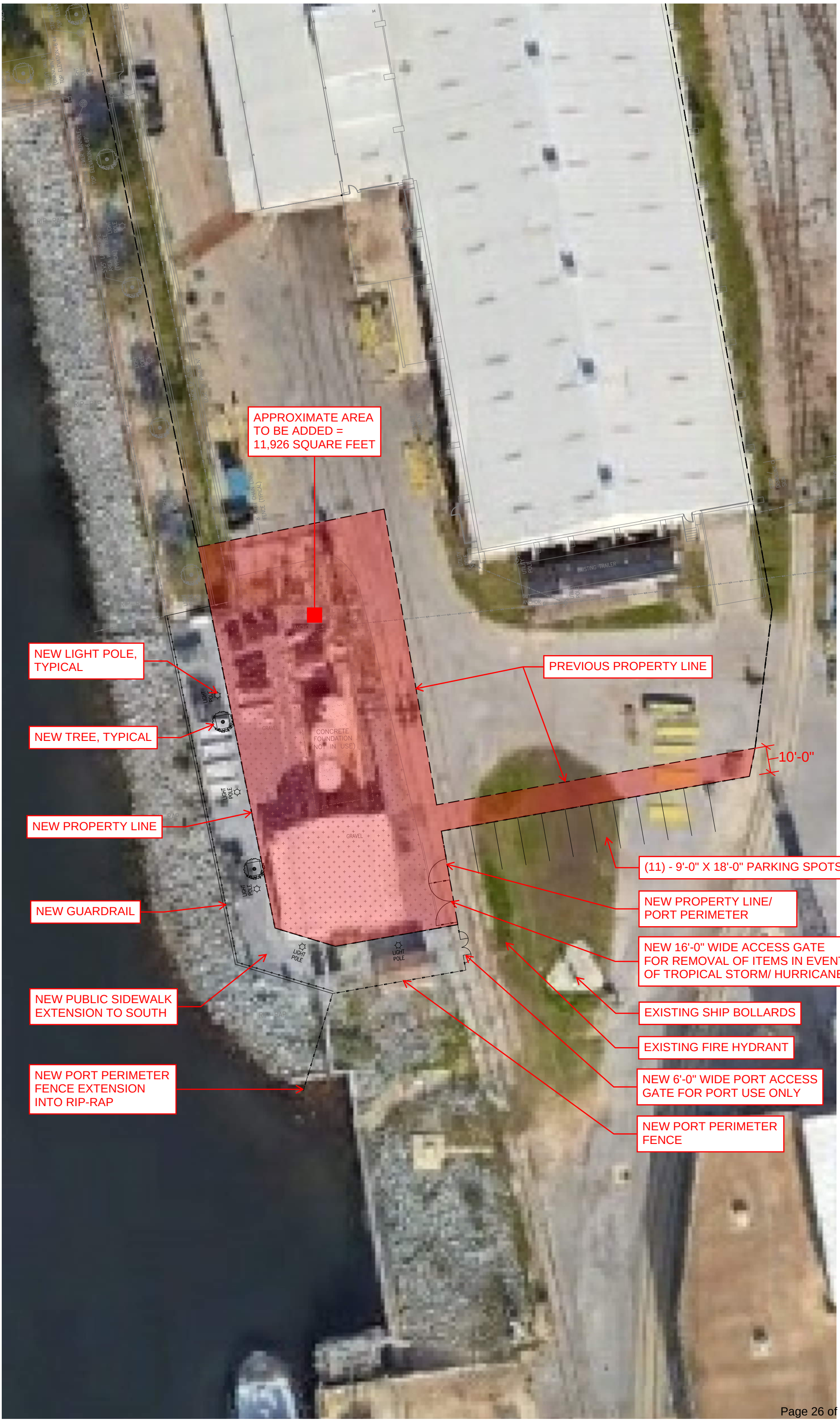
Additional Land

(to be attached)

EXHIBIT 2

Parking Improvements

(to be attached)


APPROXIMATE AREA TO BE ADDED = 11,926 SQUARE FEET
NEW LIGHT POLE, TYPICAL
NEW TREE, TYPICAL
NEW PROPERTY LINE
NEW GUARDRAIL
NEW PUBLIC SIDEWALK EXTENSION TO SOUTH
NEW PORT PERIMETER FENCE EXTENSION INTO RIP-RAP
PREVIOUS PROPERTY LINE
10'-0"
(11) - 9'-0" X 18'-0" PARKING SPOTS
NEW PROPERTY LINE/ PORT PERIMETER
NEW 16'-0" WIDE ACCESS GATE FOR REMOVAL OF ITEMS IN EVENT OF TROPICAL STORM/ HURRICANE
EXISTING SHIP BOLLARDS
EXISTING FIRE HYDRANT
NEW 6'-0" WIDE PORT ACCESS GATE FOR PORT USE ONLY
NEW PORT PERIMETER FENCE
EXISTING TRAILER
CONCRETE FOUNDATION (NOT IN USE)
GRAVEL
RIP-RAP
LIGHT POLE

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-86 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AWARD OF CONTRACT - BID NO. 24-019 PORT OF PENSACOLA - MAINTENANCE DREDGING - BERTHS 1 & 2

RECOMMENDATION:

That City Council award a contract for Bid No. 24-019 Port of Pensacola Maintenance Dredging to H.G. Harders & Son, Inc., the lowest and most responsible bidder, with a base bid of $417,537.00 plus a 10% contingency of $41,753.70 for a total of $459,290.70. Further, that City Council authorize the Mayor to take those actions necessary to finalize, execute and administer this contract, consistent with the terms and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The Port periodically must perform maintenance dredging of its berths due to sediment fill-in, shoaling, and other underwater topography changes that occur along the berths after a period of time. A recent survey determined that in many locations the depth is as shallow as 27 feet along berths #1, and #2. Depth this shallow affects port operations due to vessels not being able to maximize their cargo loads when calling on the port. The Army Corps of Engineers approved depth for the port is 33 feet - the same as the Pensacola channel. All permits are approved for this maintenance dredging project and following completion full usage of berths #1 and #2 will again be available.

PRIOR ACTION:

Council approved FSTED Dredging grants #44102729401 project 403161 and #44102729402 project 403172

FUNDING:

Budget: $417,537.00 Base Bid
$ 41,753.70 10% Contingency

$459,290.70 Total

Actual: $417,537.00 Base Bid
$ 41,753.70 10% Contingency
$459,290.70 Total

FINANCIAL IMPACT:

Funding for the Port dredging initiative in the amount of $725,306.47 has already been secured through the Florida Department of Transportation Seaport Grant Program. The grant covers 75% of the project leaving a 25% local Match. The 25% local Match will be paid through a donation from Offshore Inland, a tenant at the Port of Pensacola and primary user of berths #1 & #2.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

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

ATTACHMENTS:

1. Tabulation of Bids
2. Proposal

PRESENTATION: No

TABULATION OF BIDS

BID NO: 24-019

TITLE: BERTHS 1 & 2 MAINTENANCE DREDGING

Submittals Due:	H. G. HARDERS
03/14/2024, 2:30 P.M.	& SON, INC.
Department:	
Port	Panama City, FL

Base Bid	$417,537.00

****

****

PROPOSAL

BID NO. 24-019

BERTHS 1 & 2 MAINTENANCE DREDGING

Base Bid FOUR HUNDRED SEVENTEEN THOUSAND FIVE HUNDRED THIRTY SEVEN DOLLARS + ZERO CENTS.

($ 417,537.00)

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

Bid Security in the proper form and in the amount of $ 5% OF BID is submitted.

Dunns#/UEID: 007865827 (Federal Transparency Act Reporting Requirement)

Florida Department of Professional Regulation
Contractor's Certification or Registration

No. CGC1509826 Expiration Date 8/31/24

Signature _____ Date: 3/14/24

Printed Name: JACOB HARDERS Title: SECRETARY - TREASURER

Company: H.G. HARDERS & SON, INC. Address: 5521 EAST HWY 98

Telephone: 850-874-1500 City: PANAMA CITY,

Fax: 850-871-4669 State: FL Zip: 32404

E-mail: jharders@hgharders.com

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

BID NO. 24-019
BERTHS 1 & 2 MAINTENANCE DREDGING
QUANTITY SHEET

(Rev. 03/05/24 per Addendum 1)

No	Category	Qty	Units	Unit Price	Total Cost
1	Mobilization (Inclusive of any Necessary Improvements to the DMPA)		LS	106,568	106,568.00
2	Maintenance Dredging Station 0+00 to Station 7+00 (Approximately 2,462 CY)	2,462	CY	103	253,586.00
3	Demobilization		LS	57,383	57,383.00
			BASE BID TOTAL:		417,537.00

Unit Pricing for Additional Dredging if Requested by the Owner $ 103 /CY

Unit Pricing for Stand By Time $ 950 /HOUR

Bidder: H.G. HARDERS & SON, INC. Date: 3/14/24
Name of Company ((Please Print)

By: JACOB HARDERS Signature:
Authorized Representative (Please Print)

Title: SECRETARY - TREASURER

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: H.G. HARDERS & SON, INC. Date: 3/14/24

Authorized Signature: _____ Printed Name: JACOB HARDERS

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.

H.G. HARDERS & SON, INC.
Company Name

Authorized Signature

JACOB HARDERS
Printed Name

3/14/24
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	N/A	N/A

THIS FORM MUST BE INCLUDED WITH SUBMITTAL.

City of Pensacola
Florida

CERTIFICATION
for
EROSION AND SEDIMENTATION COMPLIANCE

All site excavation and site disturbance shall comply with the following federal, state and local regulations related to erosion and sedimentation:

A. Federal Clean Water Act as amended in 1987
B. State Florida Statutes, Chapter 373 and 403, and the rules promulgated thereunder
C. Local Code of the City of Pensacola, Chapter 12-9

By signature of its undersigned authorized representative, the Bidder hereby assures the City of Pensacola that any soil-disturbing activities performed by the Bidder will comply with all applicable federal, state, and local regulations.

The cost of compliance with applicable erosion and sedimentation regulations is estimated by the Bidder to be $ 23,500.00, which cost is included in the amount of the bid.

The specific methods of compliance with applicable federal, state, and local regulations and the associated costs are as follows:

EROSION AND SEDIMENTATION CONTROLS WILL BE HANDLED AND UTILIZED PER THE PERMIT CONDITIONS AND SPECIFICATION REQUIREMENTS. THIS INCLUDES THE DIGGING SITE, DISPOSAL SITE, AND TRANSIT TO DISPOSAL SITE.

Authorized Official

JACOB HARDERS, SECRETARY-TREASURER

THIS FORM MUST BE INCLUDED WITH 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.

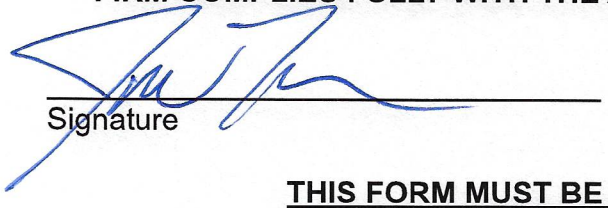
3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).

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

JACOB HARDERS

Printed Name SECRETARY - TREASURER

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

H.G. HARDERS & SON, INC.

GENERAL CONTRACTOR
5521 EAST HIGHWAY 98
PANAMA CITY, FLORIDA 32404-7296

TELEPHONE
(850) 874-1500
FAX
(850) 871-4669

March 14, 2024

City of Pensacola, FL
222 West Main Street
Pensacola, FL 32502

RE: ITB No. 24-019 "Berths 1 & 2 Maintenance Dredging"

Gentlemen:

Per your request, we are clarifying our intended means and methods regarding our approach to ITB No. 24-019 "Berths 1 & 2 Maintenance Dredging." If selected for this work, we intend to accomplish the work by mechanically dredging the material via a clamshell bucket operated by a floating crane barge.

Thank you for the opportunity to work with you on this project. Please call if you have any questions or need further clarification.

Sincerely,

Jacob Harders
H. G. Harders & Son, Inc.

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that **HG Harders & Son, Inc.** as Principal, hereinafter called the Principal, and **Merchants National Bonding, Inc.** a corporation duly organized under the laws of the State of **IA** as Surety, hereinafter called the Surety, are held and bound unto **City of Pensacola** as Obligee, hereinafter called the Obligee, in the sum of

Five Percent of Bid Amount Dollars(**5%**)

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for

24-019; Berth 1 & 2 Maintenance Dredge

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee 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.

Signed and Sealed this 13th day of March, 2024.

(Witness)

HG Harders & Son, Inc.

(Principal) (Seal)

JACOB HARDERS, SECRETARY-TREASURER

(Title)

(Witness)

Merchants National Bonding, Inc.

(Surety) (Seal)

(Title)

Robert T. Theus, Attorney in Fact

MERCHANTS
BONDING COMPANY

POWER OF ATTORNEY

Know All Persons By These Presents, that MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., both being corporations of the State of Iowa, d/b/a Merchants National Indemnity Company (in California only) (herein collectively called the "Companies") do hereby make, constitute and appoint, individually,

Benjamin Powell; Fitzhugh K Powell Jr; Robert T Theus; Susan W Jordan

their true and lawful Attorney(s)-in-Fact, to sign its name as surety(ies) and to execute, seal and acknowledge any and all bonds, undertakings, contracts and other written instruments in the nature thereof, on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

This Power-of-Attorney is granted and is signed and sealed by facsimile under and by authority of the following By-Laws adopted by the Board of Directors of Merchants Bonding Company (Mutual) on April 23, 2011 and amended August 14, 2015 and adopted by the Board of Directors of Merchants National Bonding, Inc., on October 16, 2015.

"The President, Secretary, Treasurer, or any Assistant Treasurer or any Assistant Secretary or any Vice President shall have power and authority to appoint Attorneys-in-Fact, and to authorize them to execute on behalf of the Company, and attach the seal of the Company thereto, bonds and undertakings, recognizances, contracts of indemnity and other writings obligatory in the nature thereof."

"The signature of any authorized officer and the seal of the Company may be affixed by facsimile or electronic transmission to any Power of Attorney or Certification thereof authorizing the execution and delivery of any bond, undertaking, recognizance, or other suretyship obligations of the Company, and such signature and seal when so used shall have the same force and effect as though manually fixed."

In connection with obligations in favor of the Florida Department of Transportation only, it is agreed that the power and aut hority hereby given to the Attorney-in-Fact includes any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts required by the State of Florida Department of Transportation. It is fully understood that consenting to the State of Florida Department of Transportation making payment of the final estimate to the Contractor and/or its assignee, shall not relieve this surety company of any of its obligations under its bond.

In connection with obligations in favor of the Kentucky Department of Highways only, it is agreed that the power and authority hereby given to the Attorney-in-Fact cannot be modified or revoked unless prior written personal notice of such intent has been given to the Commissioner-Department of Highways of the Commonwealth of Kentucky at least thirty (30) days prior to the modification or revocation.

In Witness Whereof, the Companies have caused this instrument to be signed and sealed this 8th day of December , 2022 .

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

MERCHANTS BONDING COMPANY (MUTUAL)
MERCHANTS NATIONAL BONDING, INC.
***d/b/a* MERCHANTS NATIONAL INDEMNITY COMPANY**

By Larry Taylor
President

STATE OF IOWA
COUNTY OF DALLAS ss.

On this 8th day of December 2022 , before me appeared Larry Taylor, to me personally known, who being by me duly sworn did say that he is President of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC.; and that the seals affixed to the foregoing instrument are the Corporate Seals of the Companies; and that the said instrument was signed and sealed in behalf of the Companies by authority of their respective Boards of Directors.

NOTARIAL SEAL IOWA
Kim Lee
Commission Number 702737
My Commission Expires
April 14, 2024

Kim Lee
Notary Public

(Expiration of notary's commission does not invalidate this instrument)

I, William Warner, Jr., Secretary of MERCHANTS BONDING COMPANY (MUTUAL) and MERCHANTS NATIONAL BONDING, INC., do hereby certify that the above and foregoing is a true and correct copy of the POWER-OF-ATTORNEY executed by said Companies, which is still in full force and effect and has not been amended or revoked.

In Witness Whereof, I have hereunto set my hand and affixed the seal of the Companies on this 13th day of March , 2024 .

MERCHANTS NATIONAL BONDING, INC. INCORPORATED -o- 2003

MERCHANTS BONDING COMPANY (MUTUAL) INCORPORATED -o- 1933

William Warner Jr.
Secretary

POA 0018 (10/22)

Addendum Date: March 5, 2024

CITY OF PENSACOLA, FLORIDA
ADDENDUM #1

BERTH 1 and 2 MAINTENANCE DREDGING PROJECT

BID NO: 24-019

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

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

Company: H.G. HARDERS & SON, INC. Date: 3/14/24

Authorized Representative: JACOB HARDERS Title: SECRETARY - TREASURER
Printed Name

Signature:

1. The list of attendees from the optional Pre-Bid Conference held on Monday, February 26, 2024, is provided as Attachment 1.
2. Refer to attached revised drawing number C1 for dredge limits.
3. Refer to revised Schedule of Pricing sheet for addition of stand by time unit rate.
4. Listed below are questions received from potential bidders with responses indicated in red:
    a. What is the engineer's estimate for the project? $268,333.00
    b. Will the contractor be allowed to carry out offloading operations at the disposal site 24 hrs. a day? Yes, TWIC badge required for access to the facility. Transportation Worker Identification Credential (For Services Performed at the Port of Pensacola) Pursuant to the Maritime Transportation Security Act of 2006 (MTSA), Congress established the in Transportation Worker Identification Credential (TWIC) Program which is administered by the Transportation Security Administration (TSA) and U.S. Coast Guard. TWICs are tamper resistant biometric credentials that will be issued to workers who require unescorted access to secure areas of ports, vessels, outer continental shelf facilities and all credentialed

merchant mariners. Prior to the start of Work, the TWIC credentials will be required in order to gain unescorted access to restricted areas at the Port of Pensacola. Therefore, the Contractor will be responsible to ensure that the Contractor and its employees, at any of the Port of Pensacola, obtain, possess and display a valid TWIC photo identification card at all times. To obtain a TWIC, an employee must provide biographic and biometric information, such as fingerprints, sit for a digital photograph, successfully pass a security threat assessment conducted by TSA and be required to undergo a background screening, which includes a criminal history record check, an immigration status confirmation and a terrorist watch list review. Additional information is available on the TSA website at http://www.tsa.gov/twic. Any employee lacking a valid TWIC photo identification card must be accompanied by a TWIC badge holder to access the Port of Pensacola. A TWIC card holder is permitted to escort up to 5 employees under constant, side-by-side supervision at the berth apron. All costs associated with the TWIC credential shall be borne by the Contractor.

c. It was mentioned at the pre-bid, that the port has a recent survey of the shoreline along the disposal area. Will the port be able to provide the latest survey of the shoreline of the disposal area? See attached Berth 7 drawings C1 and C2.

d. Will the Pre and Post Surveys under Section 3 – Dredging, require a third-party survey company? Yes.

e. General Conditions Section 7 Prevention Control and Abatement of Erosion and Water Pollution, section 7-6.4.11 states turbidity barriers will be identified by the engineer. Have these areas been identified ? Will turbidity curtains be required for dredging operations? Refer to the Corp of Engineer Permit for turbidity barrier requirements.

f. Should the contractor expect delays due to dock scheduling? Once dredging operations have started, will the contractor be allowed to work continuously? If the contractor is directed to suspend work by the port, will there be a "standby rate"? Delays are not expected. Refer to the revised schedule of prices that includes a line item for stand by rate.

BID NO. 24-019
BERTHS 1 & 2 MAINTENANCE DREDGING
QUANTITY SHEET

(Rev. 03/05/24 per Addendum 1)

No	Category	Qty	Units	Unit Price	Total Cost
1	Mobilization (Inclusive of any Necessary Improvements to the DMPA)		LS		
2	Maintenance Dredging Station 0+00 to Station 7+00 (Approximately 2,462 CY)	2,462	CY		
3	Demobilization		LS		
			BASE BID TOTAL:		

Unit Pricing for Additional Dredging if Requested by the Owner $_____/CY

Unit Pricing for Stand By Time $_____/HOUR

Bidder:_____ Date:_____
Name of Company ((Please Print)

By:_____ Signature:_____
Authorized Representative (Please Print)

Title:_____

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

THE PORT OF PENSACOLA

PRE-BID MEETING ATTENDANCE

BERTH 1 and 2 MAINTENANCE DREDGING PROJECT
BID # 24-019
February 26, 2024 (10:00 am)
Port Conference Room

NAME	COMPANY	PHONE	EMAIL
Mike Dye	Aptim Port Services	251.344.1913	mike.dye@aptim.com
Curran Williams	Currenco LLC	504-939-9198	Curran@currance.net
Brad Dale	Lofties Marine, LLC	850-572-0037	bids@loftismarine.com
Tim Vestal	Weeks Marine Inc	985-991-9053	TVestal@weeksmarine.com
Kenny Emberton	Port	—	~
Jacob Harders	H.G. Harders & Son, Inc.	850-960-4839	jharders@hgharders.com

SITE PLAN
1"=60'-0"

POINT	NORTHING	EASTING
1	520680.973	1113783.022
2	520666.792	1113684.237
3	519729.901	1113841.282

0 30' 60' 120' 180'
SCALE: 1" = 60'-0"

NOTES

1. ALL HORIZONTAL COORDINATES ARE BASED ON THE FLORIDA STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NAD83 (2011).
2. ALL ELEVATIONS ARE REFERENCED TO MEAN LOWER LOW WATER (MLLW).
3. ECHOSOUNDER CALIBRATED ACCORDING TO STANDARD USCOE PROCEDURES ON SITE RESULTING IN A SPEED OF SOUND SETTING OF 4915 MILLISECONDS AND A DRAFT CORRECTION SETTING OF 1.6'.
4. 250 FOOT GRID BASED ON FLORIDA STATE PLANE COORDINATE SYSTEM, NORTH ZONE, NAD 83 (2011) ESTABLISHED ON SITE USING RTK GPS REFERENCING USGS MONUMENT "PENSACOLA HARBOR". ONE FOOT CONTOUR INTERVAL BASED ON MLLW, 1929 REFERENCING USGS MONUMENT "PENSACOLA HARBOR", ELEVATION 12.222 MLLW. TO CONVERT MLLW 1929 TO NAVD 1988, SUBTRACT 0.32' FROM MLLW. (SOURCE: TIDE STATION 8729840-PENSACOLA. TOPOGRAPHIC DATA COLLECTED WITH LEICA TOTAL STATIONS HYDROGRAPHIC DATA COLLECTED WITH DIFFERENTIAL GPS BASED AUTOMATED SYSTEM MODELING AND CONTOURING ACCOMPLISHED WITH INROADS INSIDE MICROSTATION FIELD SURVEY COMPLETID 23 FEBRUARY, 2022.

REFERENCE DRAWINGS

NO.	REVISION	DRAWN	CK'D	APPD	DATE
C	REVISED LIMITS OF DREDGING	MED	MED	MED	03-01-24
B	ISSUED FOR BID – 30' DREDGE DEPTH	ECW	MED	RSG	12-15-23
A	ISSUED FOR REVIEW	JLH	MED	RSG	05-01-23

APTIM
PORT SERVICES, LLC

THIS DOCUMENT IS THE PROPERTY OF APTIM. IT MAY CONTAIN INFORMATION DESCRIBING TECHNOLOGY OWNED BY APTIM AND DEEMED TO BE COMMERCIALLY SENSITIVE. IT IS TO BE USED ONLY IN CONNECTION WITH WORK BEING PERFORMED BY APTIM. REPRODUCTION IN WHOLE OR IN PART FOR ANY PURPOSE OTHER THAN WORK PERFORMED BY APTIM IS FORBIDDEN EXCEPT BY EXPRESS WRITTEN PERMISSION OF APTIM. IT IS TO BE SAFEGUARDED AGAINST BOTH DELIBERATE AND INADVERTENT DISCLOSURE TO ANY THIRD PARTY.

DRAWN: JLH | CK'D: MED | APPD: RSG | DATE: 03-27-23 | SCALE: AS NOTED

THE PORT OF PENSACOLA

CLIENT DWG NO.

BERTHS 1 & 2 MAINTENANCE DREDGING

DREDGE SITE PLAN

FOR: THE PORT OF PENSACOLA

PROJECT NO: 4621 | DWG NO: C1 | REV: C

H:\Project Folders\04621\4621 - Pensacola Berth 1 and 2 Dredging - 303 PA\Civil Files\CURRENT\4621 - Dredging Site Plan.dwg By: MikeZyp Plotted: Fri, 01-Mar-2024 - 01:23PM

NOTES

1. SEE SHEET G1 FOR PROJECT NOTES.

REFERENCE DRAWINGS

NO.	REVISION	DRAWN	CK'D	APPD	DATE
A	ISSUED FOR REVIEW	JLH	MED	RSG	05-01-23

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DRAWN: JLH | CK'D: MED | APPD: RSG | DATE: 04-26-23 | SCALE: AS NOTED

THE PORT OF PENSACLA

CLIENT DWG NO.

BERTH 7 – HYDROGRAPHIC SURVEY

SITE PLAN – SHEET 1 OF 2

FOR: THE PORT OF PENSACOLA

PROJECT NO: 4582 | DWG NO: C1 | REV: A

MATCHLINE "A-A" DWG C1

N
W E
S

SITE PLAN
1"=60'-0"

0 30' 60' 120' 180'
SCALE: 1" = 60'-0"

THE PORT OF PENSACOLA

CLIENT DWG NO:

NOTES

1. SEE SHEET G1 FOR PROJECT NOTES.

REFERENCE DRAWINGS

NO.	REVISION	DRAWN	CK'D	APPD	DATE
A	ISSUED FOR REVIEW	JLH	MED	RSG	05-01-23

APTIM
PORT SERVICES, LLC

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DRAWN: JLH | CK'D: MED | APPD: RSG | DATE: 04-26-23 | SCALE: AS NOTED

BERTH 7 - HYDROGRAPHIC SURVEY

SITE PLAN - SHEET 2 OF 2

FOR: THE PORT OF PENSACOLA

PROJECT NO: 4582 | DWG NO: C2 | REV: A

Addendum Date: March 8, 2024

CITY OF PENSACOLA, FLORIDA
ADDENDUM #2

BERTH 1 and 2 MAINTENANCE DREDGING PROJECT

Bid No. 24-019

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: H.G. HARDERS & SON, INC. Date: 3/14/24

Authorized Representative: JACOB HARDERS Title: SECRETARY - TREASURER
Printed Name

Signature: _____

Questions and Answers

1. The online link to the technical specs is not working. Please provide the technical specs and/or advise on how to view the technical specs.
   A copy can be emailed to you. The online link is also available.

2. At the pre-bid, there was discussion of stockpiling dredge spoils on the port dock adjacent to the dredging operation, prior to moving the dredge spoil to the disposal area on site.
   a. Is it acceptable to stockpile dredge spoil on the ports dock for a limited time, prior to moving the material to the disposal site?
      Yes.
   b. If so, does the material need to be contained on the dock?
      Yes.

3. What are the turbidity curtain requirements for the job?
   The turbidity requirements are included in the Corp of Engineer Permit which is provided in the technical manual of the bid documents.

4. Are there turbidity monitoring requirements?
   Yes. Refer to the Corp of Engineer Permit.

5. Will you provide a survey of the shoreline and waterfront that is adjacent to the spoil disposal site?
   It has been provided in addendum 1.

Ron DeSantis, Governor

Melanie S. Griffin, Secretary

Florida dbpr

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

CRITTENDEN, WILLIAM HAROLD

H G HARDERS AND SON INC
2004 W 29TH ST
PANAMA CITY FL 32405-2812

LICENSE NUMBER: CGC1509826

EXPIRATION DATE: AUGUST 31, 2024

Always verify licenses online at MyFloridaLicense.com

Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.

Detail by Entity Name

Florida Profit Corporation
H.G. HARDERS & SON, INC.

Filing Information

Document Number	168434
FEI/EIN Number	59-0670218
Date Filed	03/25/1952
State	FL
Status	ACTIVE

Principal Address

5521 E HWY 98
PANAMA CITY, FL 32404

Changed: 04/01/1985

Mailing Address

5521 E HWY 98
PANAMA CITY, FL 32404

Changed: 04/01/1985

Registered Agent Name & Address

HARDERS, HOLTON H
5521 EAST HWY 98
PANAMA CITY, FL 32404

Name Changed: 05/09/1997

Address Changed: 05/09/1997

Officer/Director Detail

Name & Address

Title PD

HARDERS, HOLTON H.
5521 E HWY 98
PANAMA CITY, FL 32404

Title VPGM

CRITTENDEN, WILLIAM H
5521 E HWY 98
PANAMA CITY, FL 32404

Title SEC/TREASURER

HARDERS, JACOB
5521 E HWY 98
PANAMA CITY, FL 32404

Annual Reports

Report Year	Filed Date
2021	04/07/2021
2022	03/30/2022
2023	03/23/2023

Document Images

03/23/2023 -- ANNUAL REPORT	View image in PDF format
03/30/2022 -- ANNUAL REPORT	View image in PDF format
04/07/2021 -- ANNUAL REPORT	View image in PDF format
03/25/2020 -- ANNUAL REPORT	View image in PDF format
04/02/2019 -- ANNUAL REPORT	View image in PDF format
02/19/2018 -- ANNUAL REPORT	View image in PDF format
01/19/2017 -- ANNUAL REPORT	View image in PDF format
01/26/2016 -- ANNUAL REPORT	View image in PDF format
04/22/2015 -- ANNUAL REPORT	View image in PDF format
02/03/2014 -- ANNUAL REPORT	View image in PDF format
02/06/2013 -- ANNUAL REPORT	View image in PDF format
03/01/2012 -- ANNUAL REPORT	View image in PDF format
04/18/2011 -- ANNUAL REPORT	View image in PDF format
04/26/2010 -- ANNUAL REPORT	View image in PDF format
04/23/2009 -- ANNUAL REPORT	View image in PDF format
05/13/2008 -- ANNUAL REPORT	View image in PDF format
05/04/2007 -- ANNUAL REPORT	View image in PDF format
05/04/2006 -- ANNUAL REPORT	View image in PDF format
04/14/2005 -- ANNUAL REPORT	View image in PDF format
04/23/2004 -- ANNUAL REPORT	View image in PDF format
05/01/2003 -- ANNUAL REPORT	View image in PDF format
04/18/2002 -- ANNUAL REPORT	View image in PDF format
04/12/2001 -- ANNUAL REPORT	View image in PDF format
04/27/2000 -- ANNUAL REPORT	View image in PDF format
04/15/1999 -- ANNUAL REPORT	View image in PDF format
04/17/1998 -- ANNUAL REPORT	View image in PDF format
05/09/1997 -- ANNUAL REPORT	View image in PDF format
02/09/1996 -- ANNUAL REPORT	View image in PDF format

File #: 24-360 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Jennifer Brahier

SUBJECT:

DISCRETIONARY FUNDING ALLOCATION - CITY COUNCIL MEMBER JENNIFER BRAHIER - DISTRICT 1

RECOMMENDATION:

That City Council approve funding of $2,000 to Family Promise of Escambia County from the City Council Discretionary Funds for District 1.

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.

The mission at Family Promise of Escambia County is to help families in Northwest Florida achieve housing stability through community-based response, one family at a time. 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. They connect struggling families with local and government programs that can provide assistance i their specific situations and well as provide guidance and support with the goal of combating homelessness. For families actively experiencing homelessness in our community, they provide overnight shelter, hot meals, showers, laundry facilities, computers and internet access, as well as continued support and guidance. In some cases, Family Promise can prevent a family from needing emergency shelter by providing services that help them find another housing solution. Some alternatives to shelter include temporary hotel/motel stays, payment for rent in arrears, security deposits, and landlord mediation. Funds will be used to further their mission in assisting these families.

PRIOR ACTION:

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

Discretionary Fund Policy

FUNDING:

Budget:	$ 12,900	FY 2024 District 1 Discretionary Funds
Actual:	$ 2,000	Family Promise of Escambia County

FINANCIAL IMPACT:

A balance of $12,900 is currently within the District 1 Discretionary Fund Account FY 2024. Upon approval by City Council, a balance of $10,900 will remain in the District 1 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

File #: 24-370 City Council 4/25/2024

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 $500 to the Rosa Verde Foundation and $500 to My Brothers and Sisters 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.

The mission of the Rosa Verde Foundation is to aid the youth of Pensacola, Florida, in educational advancement through a robust scholarship program. They strive to change the trajectory of these students' lives by giving them access to financial assistance for higher education. They are also committed to supporting and donating to nonprofit organizations to make positive changes within our community. One of their fundraisers is a Pretty Kicks Sneaker Ball which will be held on Saturday, May 4, 2024, at the Brownsville Community Resource Center. The proceeds from this event will support their community scholarship program and their childhood hunger program. For many years, they have provided scholarships to graduating high school seniors in our community. In 2023, the Rosa Verde Foundation awarded six $3,000 scholarships to high school seniors. Funds will be used towards this fundraising event.

My Brothers and Sisters is committed to empowering the youth of today to be the leaders of tomorrow. Their focus is to make sure families of all walks of life, know how important time-sharing is and making memories that last a lifetime are. They host various programs and activities as vehicles to promote a positive self-image, commitment to family, ethics and education that will enable them to be productive in all they do, especially as citizens of society within our community. My Brothers and Sisters strives to effectively strengthen family

relationships and empower each individual family member, especially the youth, by utilizing mentoring and educational programs, various social events and the arts to promote strong family bonds. One of their events is the Mother Son Date Night. This event celebrates the special relationship between mothers (or mother-figures) and their sons. The event highlights the role that mothers play in their son's development and focuses on the skills that young men need to know. The proceeds from this event will help further the mission of the organization which is to "Bridge The Gap One Family At A Time". Funding will be used towards this event.

PRIOR ACTION:

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

FUNDING:

Budget:	$ 1,868	FY 2024 District 7 Discretionary Funds
Actual:	$ 500	Rosa Verde Foundation
	500	My Brothers and Sisters
	$ 1,000	

FINANCIAL IMPACT:

A balance of $1,868 is currently within the District 7 Discretionary Fund Account. Upon approval by City Council, a balance of $868 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

File #: 24-383 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Council Member Delarian Wiggins

SUBJECT:

ADD-ON -- CORRECTIVE QUIT CLAIM DEED FOR 118 N. COYLE STREET

RECOMMENDATION:

That City Council approve a Corrective Quit Claim Deed for property located at 118 N. Coyle Street.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In 2006, property located at 118 N. Coyle Street belonged to the City of Pensacola. On August 11, 2006, the City conveyed, via a Special Warranty Deed, the property to Starla Wheeler. Within the conveyance document (Special Warranty Deed) the legal description identified the property as being in "Block 7"; this was incorrect as it should have been identified as being in "Block 6".

This item seeks to correct that mistake by properly adjusting the legal description and accurately identifying the property as being in "Block 6." This will be accomplished through a Corrective Quit Claim Deed.

PRIOR ACTION:

August 11, 2006 -- The City conveyed the property to Starla Wheeler

FUNDING:

N/A

FINANCIAL IMPACT:

Deminimus cost of recording the corrective quit claim deed.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

4/22/2024

STAFF CONTACT:

Don Kraher, Council Executive

ATTACHMENTS:

1. Corrective Quit Claim Deed - 118 N Coyle Street
2. County Property Appraiser Parcel Information
3. Prior Deed
4. Vesting Deed

PRESENTATION: No

Prepared By and Return To:
Adam C. Cobb, City Attorney
City of Pensacola Attorney's Office
222 W Main Street
Pensacola, FL 32502
(850) 435-1615

CORRECTIVE QUIT CLAIM DEED

THIS CORRECTIVE QUIT CLAIM DEED, dated this _____ day of April, 2024 ("**Corrective Deed**"), given by **The City of Pensacola**, a municipal corporation, whose mailing address is 222 W Main Street, Pensacola, Florida 32502 (hereinafter called the "**Grantor**") to **Starla Wheeler**, a unmarried woman, whose mailing address is 118 N Coyle Street, 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 Grantor, for and in consideration of the sum of $10.00 and other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys confirms and quit claims unto Grantee, all of Grantor's right, title and interest in and to that certain land situate in Escambia County, Florida, more particularly described in the attached Exbibit A (the "**Property**").

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

TO HAVE AND TO HOLD, the same together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said Grantor, either in law or equity, to the only proper use and benefit of the said Grantee forever.

This Corrective Deed is being executed to correct errors in the legal description in that certain Special Warranty Deed from Grantor to Grantee, recorded in Book 6084, Page 816 of the official records of Escambia County, Florida. Specifically, the second line of the original legal description erroneously refers to "Block 7". That legal description is hereby corrected to refer to "Block 6".

[Signature page follows]

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

Signed sealed and delivered in the presence of the following witnesses:

_____

Print_____

_____

Print:_____

CITY OF PENSACOLA,
a municipal corporation

By: _____
Casey Jones, City Council President

Date: _____

Attest:

_____
City Clerk (Seal)

STATE OF FLORIDA)
COUNTY OF ESCAMBIA)

The foregoing instrument was sworn to, subscribed and acknowledged before me this _____ day of April, 2024, by means of (x) physical presence or ( ) online notarization, by Casey Jones, as City Council President, and by Ericka Burnett, as City Clerk of the City of Pensacola, a municipal corporation who are personally known to me or has produced _____ as identification.

_____
Notary Public
Print Name:_____

My Commission Expires:

Signature page – Corrective Quit Claim Deed

EXHIBIT A
LEGAL DESCRIPTION

The South 39 feet of the North 141 feet of the West 100 feet Block 6, Maxent Tract, City of Pensacola, Florida, according to the map of said City copyrighted by Thomas C. Watson in 1906.

Chris Jones
Escambia County Property Appraiser

Real Estate Search | Tangible Property Search | Sale List

Back

Nav. Mode (•) Account ( ) Parcel ID

Printer Friendly Version

General Information

Parcel ID:	000S009080012006
Account:	152304000
Owners:	WHEELER STARLA
Mail:	118 N COYLE ST PENSACOLA, FL 32502
Situs:	118 N COYLE ST 32502
Use Code:	SINGLE FAMILY RESID
Taxing Authority:	PENSACOLA CITY LIMITS
Tax Inquiry:	Open Tax Inquiry Window

Tax Inquiry link courtesy of Scott Lunsford
Escambia County Tax Collector

Assessments

Year	Land	Imprv	Total	Cap Val
2023	$27,300	$178,484	$205,784	$100,338
2022	$27,300	$161,094	$188,394	$97,416
2021	$27,300	$128,279	$155,579	$94,579

Disclaimer

Tax Estimator

File for Exemption(s) Online

Report Storm Damage

Sales Data

Sale Date	Book	Page	Value	Type	Official Records (New Window)
08/2006	6084	816	$100	WD	
03/2004	5372	1449	$100	WD	
09/2003	5236	1896	$100	TD	
04/1988	2538	63	$9,000	SC	

Official Records Inquiry courtesy of Pam Childers
Escambia County Clerk of the Circuit Court and Comptroller

2023 Certified Roll Exemptions

HOMESTEAD EXEMPTION

Legal Description

S 39 FT OF N 141 FT OF W 100 FT BLK 6 MAXENT TRACT OR 6084 P 816 CA 96

Extra Features

None

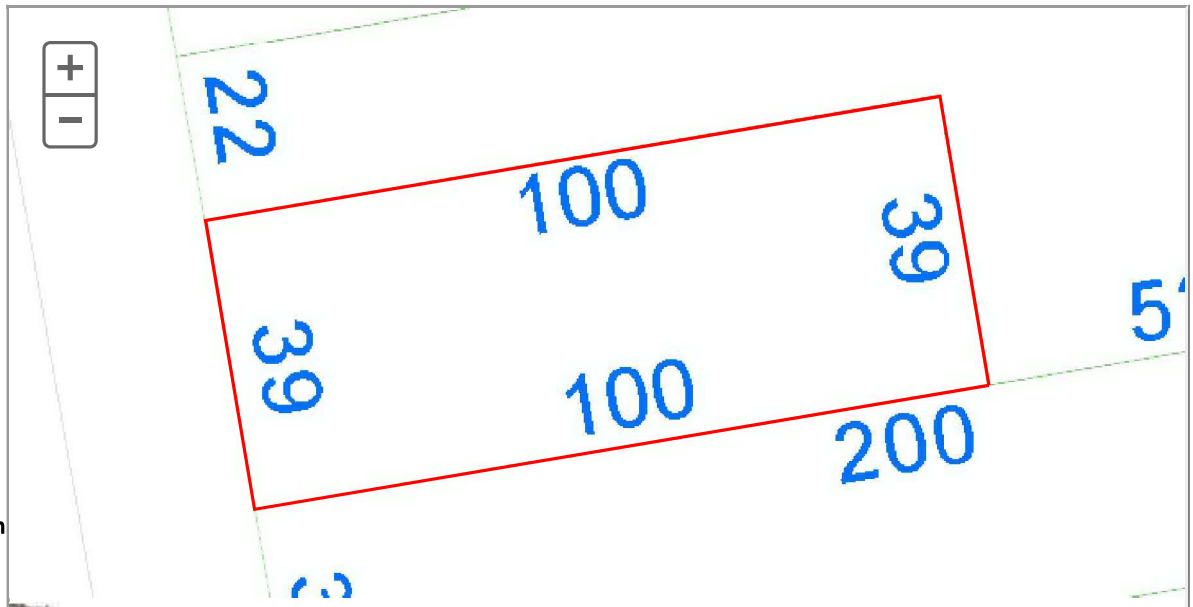
Parcel Information | Launch Interactive Map

Section Map Id:
CA096

Approx. Acreage:
0.0886

Zoned:
R-1B
R-1B
R-1B

Evacuation & Flood Information
Open Report



View Florida Department of Environmental Protection(DEP) Data

Buildings

Address:118 N COYLE ST, Year Built: 2007, Effective Year: 2007, PA Building ID#: 25931

Recorded in Public Records 05/24/2005 at 02:52 PM OR Book 5645 Page 1819, Instrument #2005376074, Ernie Lee Magaha Clerk of the Circuit Court Escambia County, FL

IN THE CIRCUIT COURT IN AND FOR ESCAMBIA COUNTY, FLORIDA

ERNIE LEE MAGAHA
CLERK OF CIRCUIT COURT
ESCAMBIA COUNTY, FL
2006 MAY 23 A 10:39
CIRCUIT CIVIL DIV.
FILED & RECORDED

The City of Pensacola,
180 Governmental Center
P.O. Box 12910
Pensacola, Florida 32521-0031

CASE NO.: 2004-CA-001368
DIVISION : B

Plaintiff,

vs.

Estate of Ethel Wright;
Willie Mae Long; and
James Wilford Moorer; et. al.

Defendants.

FINAL JUDGMENT TO QUIET TITLE

THIS CAUSE having come before the Court for hearing upon Plaintiff's Motion for Summary Judgment as to all counts, and it appearing to the Court that Defendants Willie Mae Long, Michael Pitts, Esquire, Ad Litem for James Wilford Moorer, and Amy Sliva, Esquire, Ad Litem for The Estate of Ethel Wright having been properly served and notice of hearing provided, and the Court having considered this cause, finds Plaintiff has sustained the allegations with regard to their quiet title, and being otherwise fully advised in the premises, it is therefore

ORDERED AND ADJUDGED:

1. This Court has jurisdiction of the parties in this cause and the subject matter hereof and has jurisdiction to render this judgment; further, that the allegations contained in the Complaint have been proved by competent evidence, and there are no material issues of fact or law.

2. That the equities of this cause are with the Plaintiff and against the Defendants.

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3. The title of Plaintiff, CITY OF PENSACOLA, a municipal corporation, and its successors and assigns, effective as of March 29, 2004, to the following described real property located in Escambia County, Florida:

The South 39 feet of the North 141 feet of the West 100 feet, Block 6, Maxent Tract, Escambia County, Florida, and located at 118 North Coyle Street, Pensacola, Florida hereinafter referred to as "the subject property."

was and is a good title against the claims or purported claims of all Defendants, if alive, and if dead their unknown spouses, heirs, devisees, grantees and creditors and all other parties claiming by, through, under or against them; all parties having or claiming to have any right, title or interest in that property; and of all persons claiming by, through or under Defendants; and those claims or purported claims are canceled; and the title to the property is forever quieted in City of Pensacola, a municipal corporation, and its successors and assigns in interests.

4. The Court appointed attorney, Michael Pitts, as Guardian and Administrator Ad Litem, for Defendant, James Wilford Moorer. The Ad Litem is entitled to fees for representation of James Wilford Moorer and Michael Pitts is hereby awarded the amount of ~~$350.00 as~~ JLB $500.00 an ad litem fee which is to be paid by Plaintiff.

5. The Court appointed attorney, Amy Sliva, as Guardian and Administrator Ad Litem, for Defendant, Estate of Ethel Wright. The Ad Litem is entitled to fees for representation of Estate of Ethel Wright and Amy Sliva is hereby awarded the amount of $350.00 as an Ad Litem fee which is to be paid by Plaintiff.

6. This Final Judgment shall act as a conveyance of fee simple title of the above-described property and all improvements thereon into City of Pensacola, a municipal corporation, as of the date of the Deed it received on March 29, 2004, and that

the title as issued by the Tax Deed dated September 9, 2003 was a fee simple title free and clear of all claims.

7. All clouds from the title to the subject property are removed and fee simple, legal and equitable title is vested in City of Pensacola, a municipal corporation, and its successors and assigns effective as of March 29, 2004, without need for further court order.

8. Upon entry of this Final Judgment, the ad litems in this cause are discharged from their duties in this cause without the necessity of further order of this court, and the Court awards the ad litem the fees set forth previously herein, such fee being a reasonable fee.

9. Further, all predecessors to City of Pensacola, a municipal corporation, title are restrained and enjoined from ever asserting, or attempting to assert, any right, title, interest, claim, equity, or demand in, to, or upon the property, or disturbing the possession of City of Pensacola, and its successors or assigns in interest in and to said property.

DONE AND ORDERED in Pensacola, Escambia County, Florida, on this 23 day of April, 2005.

CIRCUIT JUDGE

Conformed copies to:

Sally Carney Bussell, Esquire

Amy Sliva, Esquire

Michael Pitts, Esquire

R. Lynn Lovejoy, Esquire
Assistant Attorney General
The Capitol
Revenue Litigation Section
Tallahassee, Florida 32399-1050

Robert D. Stinson, Esquire
Assistant U. S. Attorney
111 N. Adams Street
Tallahassee, Florida 32301

Willie Mae Long/Defendant
208 South Love Street
Quincy, Florida 32351

Prepared by:
Sally Bussell Fox, Esquire
Emmanuel, Sheppard & Condon
30 South Spring Street
Pensacola, Florida 32502

Recorded in Public Records 02/08/2007 at 03:31 PM OR Book 6084 Page 816, Instrument #2007012735, Ernie Lee Magaha Clerk of the Circuit Court Escambia County, FL Recording $18.50 Deed Stamps $0.70

STATE OF FLORIDA)
)
COUNTY OF ESCAMBIA)

SPECIAL WARRANTY DEED

KNOW ALL MEN BY THESE PRESENTS, that the CITY OF PENSACOLA, a municipal corporation of Florida, as "Grantor," whose address is 180 Governmental Center, Pensacola, Florida 32502, for and in consideration of Ten Dollars ($10.00), and other good and valuable consideration, the receipt whereof is hereby acknowledged, does bargain, sell, convey and grant unto STARLA WHEELER, a single woman, as "Grantee," whose address is 2208 Sparrow Lane, Pensacola, Florida, 32534, her heirs, successors and assigns forever, the following real property, situate, lying and being in Escambia County, Florida, to-wit:

The South 39 feet of the North 141 feet of the West 100 feet Block 7, Maxent Tract CA 96, City of Pensacola, Florida, according to the map of said City copyrighted by Thomas C. Watson in 1906.

Property Reference No. 000S009080012006

Subject to:

(i) Reservation by Grantor of Vendor's Lien to secure a deferred portion of purchase price in the amount of Four Thousand One Hundred Eighty and 10/100 Dollars ($4,180.10); (ii) the subject property shall be developed by Grantee who shall construct a single-family residential unit on said property for the sole use and occupancy of Grantee as her primary residence; (iii) construction of the single-family residential unit shall be completed within six (6) months of the date of the execution of this Special Warranty Deed; (iv) the Grantee shall occupy and reside in the single-family residential unit that is to be constructed hereunder for a period of five (5) years from the date of the issuance of a certificate of occupancy from the applicable local government; (v) if the Grantee fails to construct a single-family residential unit on the subject property, fails to obtain necessary and adequate financing for construction of the residential unit, fails to reside in and maintain the subject property as her primary residence for a period of five (5) years from the date of issuance of a certificate of occupancy from the applicable local government, or for any

other failure to comply as required herein, the Grantee shall pay to the City the sum of Four Thousand One Hundred Eighty and 10/100 Dollars ($4,180.10) and (vi) reservation by Grantor of an undivided three-fourths interest in, and title in and to an undivided three-fourths interest in, all phosphate, minerals and metals that are or may be in, on, or under said land and an undivided one-half interest in all the petroleum that is or may be in, on, or under said land, but without surface rights to explore or mine.

TO HAVE AND TO HOLD unto the said Grantee, her heirs, successors and assigns forever, and said Grantor warrants and shall defend the title against the lawful claim of all persons claiming by, through, or under it, but against none other.

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

IN WITNESS WHEREOF, the said City of Pensacola, Grantor, has executed these presents, causing its name to be signed by its City Manager, and its corporate seal to be affixed hereto this 11th day of August, 2006.

CITY OF PENSACOLA

By: ~~Thomas J. Bonfield~~
~~City Manager~~
Alvin G. Cobb
Acting City Manager

ATTEST:
Ericka L. Burnett
Ericka L. Burnett
City Clerk (SEAL)

STATE OF FLORIDA
COUNTY OF ESCAMBIA

The foregoing instrument was acknowledged before me this 11th day of AUGUST, 2006, by ~~Thomas J. Bonfield~~ Alvin G. Cobb and Ericka L. Burnett, as the Acting City Manager and City Clerk, respectively, of the City of Pensacola, a municipal corporation, and being authorized by it, signed its name and affixed its seal to, and executed the said instrument for it and as its act and deed. They are personally known to me and did not take an oath.

NOTARY PUBLIC

Signature: Robyn M. Tice
Print: ROBYN M. TICE
State of Florida at Large

This instrument prepared by:
John W. Fleming
P.O. Box 12910
Pensacola, Florida 32521
(850) 435-1615

NOTARY PUBLIC STATE OF FLORIDA
Robyn M. Tice
Commission # DD418777
Expires June 8, 2009
Bonded Troy Fain - Insurance, Inc. 800-385-7019

File #: 24-361 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SWIMMING FACILITY MANAGEMENT AGREEMENT

RECOMMENDATION:

That City Council approve the Swimming Facility Management Agreement with Young Men's Christian Association (YMCA) of Northwest Florida, Inc., for the operation and management of the Cecil Hunter Swimming Facility and the Roger Scott Swimming Facility. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this agreement, consistent with the terms of the agreement and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

In 2009, Parks and Recreation solicited proposals from three aquatic management companies for the management and operation of the Cecil Hunter Swimming Pool for a term of one (1) year. After a thorough review, staff recommended contracting with the YMCA of Northwest Florida and this item was approved unanimously by the City Council.

During 2010, there were renovations and improvements to Cecil Hunter Swimming Pool. Staff chose to operate the renovated facility in 2011. Therefore, there were no agreements during this period.

In 2013, the City negotiated with YMCA of Northwest Florida for the management and operation of the Cecil Hunter Swimming Pool and the Roger Scott Swimming Facility and entered into a Swimming Facility Management Agreement for a term of three (3) years.

In subsequent years, agreements have been negotiated and executed with the last agreement expiring on the closing day of the 2023 Swim Season.

Approval of the proposed Swimming Facility Management Agreement will continue the services with Young Men's Christian Association of Northwest Florida, Inc., for a term of one (1) year for the 2024 Swim Season expiring on the closing day of the 2024 Swim Season.

PRIOR ACTION:

March 23, 2009 - City Council approved the YMCA of Northwest Florida Management and Operation of Cecil Hunter Swimming Pool - FY 2009 Swimming Season.

FUNDING:

Budget:	$275,000	Reimburseable Expense
	30,000	Management Fee
	$305,000	TOTAL
Actual:	$305,000	

FINANCIAL IMPACT:

In accordance with terms and subject to the conditions of this Agreement the City shall be solely responsible for the payment of all costs, one-time expenditures, and capital expenditures up to a maximum cap as detailed in the Agreement and shall reimburse the YMCA monthly for all costs, one-time expenditures, and capital expenditures paid, advance or incurred by the YMCA credited by the total amount of monthly revenues collected by YMCA up to the maximum amount allowed under the Agreement. The increase in fees will help to reduce the General Fund contribution required to maintain and operate the City's two (2) pools.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator
Ben Heistein, Parks and Recreation Director
Tonya Byrd, Assistant Parks and Recreation Director

ATTACHMENTS:

1. City of Pensacola Swimming Facility Management Agreement

PRESENTATION: No

CITY OF PENSACOLA SWIMMING
FACILITY MANAGEMENT AGREEMENT

THIS AGREEMENT is made and entered into this ____ day of_____, 2024, by and between the CITY OF PENSACOLA, a Florida municipal corporation (the "City") and YOUNG MEN'S CHRISTIAN ASSOCIATION OF NORTHWEST FLORIDA, INC., a Florida not-for-profit corporation (the "YMCA").

WITNESSETH:

WHEREAS, the City is the owner of the Cecil T. Hunter Swimming Facility located at 200 East Blount Street, Pensacola, Florida, and the Roger Scott Swimming Facility located at 2130 A Summit Boulevard, Pensacola, Florida;

WHEREAS, the City and the YMCA have agreed that the YMCA shall operate, maintain and manage the Hunter Pool (hereinafter defined) and Scott Pool (hereinafter defined) during the 2024 Swim Season (hereinafter defined) upon the terms and subject to the conditions set forth in this Agreement;

NOW, THEREFORE, for and in consideration of the premises and the mutual covenants and conditions hereinafter set forth, and for other goods and valuable consideration, the City and the YMCA hereby agree as follows:

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

(2) Definitions.

(a) "Capital Expenditures" shall mean expenditures to acquire assets for use at Hunter Pool or Scott Pool with an initial, individual cost of more than $5,000.00 and an estimated useful life greater than one year.

(b) "City" shall mean the City of Pensacola, a Florida municipal corporation.

(c) "Closing Day" shall mean the last day of each Swim Season.

(d) "Costs" shall mean all direct costs and expenses of operating and maintaining the Hunter Pool and the Scott Pool, as budgeted or otherwise authorized by the City, including the direct costs of YMCA and leased employees performing services under this Agreement, but expressly excluding Capital Expenditures.

(e) "Effective Date" shall mean the date first set forth above which shall be the date this Agreement is fully executed by both parties.

(f) "Hunter Pool" shall mean only that portion of the Cecil T. Hunter Swimming Facility which is enclosed by the fence and includes the main building, swimming pool, pool deck, and cashier's area. The term "Hunter Pool" does not include the fence itself, the parking lot or any other areas or improvements outside of the fence. Except to the extent of the YMCA's negligence, the YMCA shall have no responsibilities with respect to the fence, the parking lot or any areas outside of the fence at the Cecil T. Hunter Swimming Facility.

(g) "Including" (which shall be used in the lower case) shall mean "including but not limited to."

(h) "Monthly Invoice" is defined in Section 5 below.

(i) "One Time-Expenditure" shall mean an item of Cost paid, advanced or incurred by the YMCA which is unpredictable and randomly occurring and with respect to which the YMCA was required to devote minimal time or effort. An example of a One-Time Expenditure would be replacement of a pool pump where the YMCA was required to do little more than make a telephone call.

(j) "Opening Day" shall mean the first day of each Swim Season.

(k) "Revenues" shall mean all gross receipts and revenues of any kind generated at the Hunter Pool or the Scott Pool during each Swim Season, including daily admission fees, locker fees, vending machine receipts, swim lesson fees, private party fees and other user fees.

(l) "Scott Pool" shall mean only that portion of the Roger Scott Swimming Facility which is enclosed by the fence and includes the building, swimming pool, pool deck, and cashier's area. The term "Scott Pool" does not include the fence itself, the parking lot or any other areas or improvements outside of the fence. Except to the extent of the YMCA's negligence, the YMCA shall have no responsibilities with respect to the fence, the parking lot or any areas outside of the fence at the Scott Swimming Facility.

(m) "Swim Season" shall mean Memorial Day weekend through Labor Day weekend of each year for Normal Operating Hours as defined in Section (9)(a); provided that both parties may mutually agree to open earlier or remain open later.

(n) "Term of this Agreement" is defined in Section 4 below.

(o) "YMCA" shall mean the Young Men's Christian Association of Northwest Florida, Inc., a Florida not-for-profit corporation.

(3) <u>Management and Operation of the Hunter Pool and Scott Pool</u>. During each Swim Season, the YMCA shall operate and manage the Hunter Pool and the Scott Pool in accordance with the terms and subject to the conditions of this Agreement.

(4) Term of Agreement. This Agreement shall commence on the Effective Date and shall terminate at the close of Normal Operating Hours on Closing Day of the 2024 Swim Season (such time period being hereinafter referred to as the "Term of this Agreement), unless sooner terminated by a party in accordance with the terms of this Agreement or unless renewed or extended pursuant to a written agreement duly executed by both parties. Unless otherwise provided in a written instrument executed by both parties, the terms of this Agreement shall apply to all renewals and extensions of this Agreement. This Agreement may be terminated by the City or by the YMCA for convenience upon ninety (90) days' prior written notice by the terminating party to the non-terminating party.

(5) Monthly Invoices for Costs, Capital Expenditures and YMCA Compensation.

(a) The City shall be solely responsible for the payment of all Costs, One-Time Expenditures, and Capital Expenditures and shall reimburse the YMCA monthly for all Costs, One-Time Expenditures, and Capital Expenditures paid, advanced or incurred by the YMCA credited by the total amount of monthly Revenues collected by the YMCA in accordance with this section and with the budget in Schedule 2, 2024 Swim Season Budget ("Schedule 2"), attached hereto and incorporated herein by this reference. The parties acknowledge and agree that the reimbursable expenses for YMCA pool operations is incorporated in the City of Pensacola Annual Budget for FY24 in the amount of $275,000. The YMCA agrees not to exceed this amount without prior written authorization from the city. Both parties acknowledge and agree that some budgeted amount must be ascertainable to the City in advance, however, the parties also acknowledge and agree that Schedule 2 of this Agreement is based on current circumstances and planning predicable at the time of execution of this Agreement. In the event of unforeseen future changes resulting in variances from Schedule 2, YMCA shall immediately notify in writing the City of Pensacola's Parks and Recreation Director or authorized designee; by email or post to 222 West Main Street, Pensacola, FL 32502. Nothing herein shall be construed to allow YMCA to exceed their total allocated budget without prior written permission from the City. Both parties acknowledge and agree that if written permission to exceed the budget is not given, the City may need to reduce operating hours, increase fees, or take other measures to reduce reimbursable pool operation expenses so the YMCA does not exceed their swim season budget and the YMCA agrees to work amicably with the City to facilitate such measures. Additionally, any purchase greater than Twenty-Five Thousand Dollars ($25,000) must be approved by the City in writing.

(b) On or before the fifteenth (15th) day of each month during the Term of this Agreement, the YMCA shall submit to the City an itemized invoice (the "Monthly Reimbursement Invoice") listing all Costs, One-Time Expenditures, and Capital Expenditures paid, advanced or incurred by the YMCA during the preceding calendar month, together with other supporting documentation as the City may reasonably request. Without limiting the generality of the foregoing, each Monthly Invoice shall have as support the total amount of personnel expense by employee type. For purposes of this Agreement, the Agreed All-Inclusive Hourly Rates for YMCA Management Personnel are listed in Schedule 1 attached hereto and incorporated herein by reference ("Schedule 1"). Schedule 1 shall be amended prior to each Swim Season to reflect the then-current hourly wage or salary rates of such employees. The Monthly Invoice shall also detail the Revenues collected in accordance with Section (6) below and reduce the total Monthly Reimbursement Invoice.

(c) As compensation for the services rendered by the YMCA for the Swim Season, under this Agreement, The City shall pay the YMCA a management fee in the amount of $15,000 per pool for a total of $30,000 ("Management Fee"). The parties acknowledge and agree that, in the event one or both of the pools are not operated by the YMCA for any period of time in excess of fifteen (15) consecutive calendar days during the Swim Season the Management Fee shall be prorated based on the number of actual days of operation per pool per month. On or before the fifteen (15th) day of each month during the Swim Season, the YMCA shall submit to the City an invoice (the "Monthly Compensation Invoice").

(d) Monthly Reimbursement Invoices and Monthly Compensation Invoices are hereinafter referred to individually, together and interchangeably as a "Monthly Invoice". The City shall pay each Monthly Invoice within forty-five (45) days after receipt thereof including all necessary supporting documentation. The City shall pay a late charge equal to five percent (5%) of the amount of any Monthly Invoice that is not paid within such forty-five (45) day period in accordance with Florida Statue 218.74.

(6) Revenues. The YMCA shall collect all Revenues and shall keep written records of daily receipts of Revenues. The YMCA shall itemize all Revenues collected and received by the YMCA during the preceding calendar month on the Monthly Reimbursement Invoice, together with an itemized information sheet showing daily attendance at the pools and the sources of such Revenues and the daily records of such Revenues and other supporting documentation as the City may reasonably request.

(7) YMCA's Responsibilities.

(a) General Operation; Pre-Opening and Closing Inspection. During each Swim Season, the YMCA shall operate the Hunter and Scott Pools in accordance with all applicable laws, rules and regulations (including local health department regulations) and with the minimum safety standards required by the City, including the City's age-group standards. So long as the YMCA complies with the requirements of the preceding sentence, the YMCA, in its discretion, may operate the Hunter and Scott Pools in accordance with such other or higher standards as the YMCA deems desirable or as may be required by the YMCA's insurance carriers. The YMCA shall have the sole right and responsibility to determine the number and qualifications of all personnel performing services at the Hunter and Scott Pools, including lifeguards, and to determine all equipment required for the safe and efficient operation of the Hunter and Scott Pools. Prior to Opening Day of each Swim Season, the YMCA shall inspect the Hunter and Scott Pools and shall provide to the City a written opening inspection report listing (i) required repairs or replacements and (ii) additional items of equipment deemed necessary by the YMCA in order to operate the Hunter and Scott Pools in a safe and efficient manner. The City, at its expense, shall either promptly perform such repairs and replacements and provide such additional items of equipment or, with the YMCA's consent, authorize the YMCA to perform such repairs and replacements and/or to procure such additional items of equipment. Within 10 days after the close of the Swim Season the YMCA shall provide to the City a listing of all inventory and hard goods on hand at the Hunter and Scott Pools. Within 5 days of receipt of the inventory listing, the City shall inspect

the Hunter and Scott Pools to verify the inventory count and ensure that no repairs or replacements are necessary or warranted.

(b) Programs, Events, Activities and Fees. The City authorizes the YMCA to conduct or allow, during each Swim Season, such open swimming, programs, events and activities at the Hunter and Scott Pools as the YMCA deems desirable; provided that the fees and charges for the use of the Hunter and Scott Pools shall be determined by the City in its sole discretion. The 2024 Fee Schedule is attached hereto and incorporated herein by this reference as Schedule 3 ("Schedule 3").

(c) Staffing. During each Swim Season, the Hunter and Scott Pools shall be staffed solely by YMCA personnel, all of whom shall be employees of the YMCA and not employees of the City; provided that the YMCA, at its option, may "lease" any or all of such employees. The YMCA shall pay or cause to be paid wages, state unemployment insurance, federal unemployment insurance, workers' compensation insurance and normal and customary benefits (if any) with respect to each such YMCA employee, and all such amounts paid to or on behalf of each such YMCA employee shall be considered to be Costs for which the City shall reimburse the YMCA in accordance with Section (5) above. The YMCA shall also withhold, or cause to be withheld, income taxes, social security and any other amounts required by law to be withheld from the wages payable to each such YMCA employee.

(d) Additional YMCA Personnel Requirements. The YMCA shall perform or comply with the following provisions:

1. The YMCA shall train all personnel working at the Hunter and Scott Pools during each Swim Season. YMCA shall provide to the City copies of all training logs for YMCA staff performing services under this Agreement within ten (10) business days of written request by the City.

2. All YMCA personnel working at the Hunter and Scott Pools shall have proper credentials and training and shall comply with Florida Statutes regulating public swimming and bathing facilities pertaining to pool service technicians, swimming instructors and lifeguards. Without limiting the generality of the foregoing, all YMCA lifeguards at the Hunter and Scott Pools shall have current certifications issued by the YMCA, Red Cross, Ellis, Starguard or other nationally recognized lifeguard certifier. YMCA shall provide to the City copies of current certifications for all YMCA staff performing services under this Agreement within ten (10) business days of written request by the City.

3. All YMCA personnel working at the Hunter and Scott Pools shall be required to complete a State approved background check and a drug test from a site approved by the YMCA prior to employment. The YMCA shall confirm with the City that all YMCA personnel working at the Hunter and Scott Pools have had an approved background check and a drug test and

YMCA shall provide to the City copies of such documentation within ten (10) business days of written request by the City.

4. All on-duty YMCA personnel working at the Hunter and Scott Pools shall wear a YMCA-approved uniform for men and women.

5. All YMCA personnel working at the Hunter and Scott Pools shall be required to participate in the YMCA's orientation training and YMCA shall provide to the City documentation of such within ten (10) business days of written request by the City

6. All on-duty YMCA personnel working at the Hunter and Scott Pools shall have the authority to enforce all City and YMCA rules applicable at the Hunter and Scott Pools and to discipline anyone inside the Hunter and Scott Pools in accordance with the published and posted rules of the City and the YMCA.

7. The YMCA's full time management staff, primarily the YMCA's Aquatics Director, shall supervise all YMCA personnel working at the Hunter and Scott Pools.

(e) Personnel Responsibilities. YMCA personnel shall perform the following duties at the Hunter and Scott Pools:

1. Lifeguard main pool and zero depth entry pool.

2. Check water chemistry and record readings as required by Health Department. The YMCA shall provide the chemical logs upon request of the City within ten (10) business days of written request by the City.

3. Maintain chlorine and pH balance of pool water as required.

4. Clean tiles around pool edge as needed.

5. Run filtration system continually and back wash filtration system as needed.

6. Clean pump system hair and lint strainer basket(s) as needed.

7. Pick up trash in swimming pool area as needed.

8. Vacuum pool as needed.

9. Empty trash receptacles as needed.

10. Straighten deck furniture as needed.

11. Clean bathhouse facilities daily and inspect between swim sessions.

12. Replenish janitorial supplies in bathhouse as needed.

13. Enforce City and YMCA rules for the safety and convenience of all pool users.

14. Appropriately address any inappropriate actions by any swimming pool participants.

15. Call 911 if a situation warrants.

16. Report to City (verbally and in writing) all incidents that require any first aid treatment or medical attention (if known).

17. Lock and secure facility upon closing (if applicable).

18. Man the Hunter and Scott Pools entrance and handle all admissions to facility.

19. Conduct a walkthrough of the facilities to ensure vacancy between swim sessions and prior to closing.

20. Develop and manage aquatic programs.

21. Develop cash management system.

(f) Pool Opening Duties. After the closing of the pool each day and before opening the pool the following day to swimmers, the YMCA shall complete the following on a daily basis or as required:

1. Clean pool (pool must be algae free).

2. Clean off pool deck.

3. Inspect pool test kits.

4. Visually inspect all filtration equipment, chemical feed pumps, gauges, flow meters and pressure gauge.

5. Visually inspect all skimmers, vacuum, returns, and deck hardware.

6. Visually inspect slides, guard chairs and ladders.

7. Clean bathhouse.

8. Apply all necessary chemicals to establish proper levels in accordance with paragraph (g) below.

9. Set out and clean deck furniture.

10. Clean and organize office, guard room, pump room, and storage facilities on site.

(g) Water Quality. YMCA shall be responsible for maintaining the condition of the swimming pool water within the requirements of the local health department while pool is open to swimmers. YMCA shall monitor, record and maintain the appropriate levels of free chlorine, pH, total alkalinity, calcium hardness and cyan uric acid. YMCA shall take reasonable measures to ensure proper water quality at all times, including at closing, but the City acknowledges that water quality will change hourly based on the elements and other matters beyond the YMCA's control. Accordingly, the YMCA shall not be liable for any loss of revenues, damage to equipment or other damage resulting from improper water quality unless such improper water quality is solely caused by the negligence, recklessness or intentional wrongful misconduct of YMCA personnel. If, in the discretion of the YMCA, it is determined that the water quality is insufficient to properly operate the pool at opening or any other time, the YMCA shall have the right to close the pool for such period of time as shall be necessary to correct the water quality, without any change or adjustment of the provisions of this Agreement. Further, the YMCA shall close the pool and appropriately treat the pool water as required by applicable laws, rules and regulations in the event that the YMCA becomes aware that fecal matter, vomit or blood has contaminated the pool, without any change or adjustment of the provisions of this Agreement.

(h) Marketing. The YMCA shall assist in funding mutually agreeable joint marketing and promotional efforts to promote the Hunter and Scott Pools and the City-YMCA collaboration.

(i) Chemicals. Subject to the provisions of Section 7(a) above, prior to Opening Day of each Swim Season and from time to time as needed during each Swim Season, the YMCA, shall purchase and supply all pool chemicals necessary to maintain proper water chemistry and quality pursuant to Section 7(g) above, to include as necessary: chlorine, diatomaceous earth, algaecide, calcium chloride, soda ash, sodium bicarbonate, pool acid stabilizer and salt. Should additional chemicals or labor be required in order to maintain or correct pool water chemistry due to failure or breakdown of pool equipment or loss of water due to a defect in or breakdown of the pool or recirculation system, YMCA shall notify City of such breakdown or defect. City will make all necessary repairs as quickly as possible. Should the City be unable to make the repairs in a timely manner, City agrees to pay for any expenses incurred by the YMCA for additional chemicals and/or labor costs required to correct the problem.

(j) Cleaning Supplies and Equipment**.** Subject to the provisions of Section 7(a) above, prior to Opening Day of each Swim Season and from time to time as needed during each Swim Season, the YMCA, shall purchase and supply all necessary cleaning supplies and equipment,

including water hoses and nozzles, mops, brooms, buckets, dust pans, toilet bowl brushes and cleaners, all-purpose cleaners, disinfectants, soap, paper towels, light bulbs, trash receptacles, trash bags, gas blower and gasoline necessary to maintain exemplary management of the Hunter and Scott Pools.

(k) Pool, Lifesaving and Safety Supplies and Equipment. Subject to the provisions of Section 7(a) above, prior to Opening Day of each Swim Season and from time to time as needed during each Swim Season, the YMCA shall purchase and supply all necessary pool, lifesaving and safety supplies and equipment, including a complete first aid kit and first aid supplies satisfactory to the YMCA and in compliance with local health department regulations, an Automatic External Defibrillator ("AED"), life jackets, ring buoys, throw ropes, rescue tubes, swim aids, lifeguard stand with umbrella, pool chemical test kit and chemical feed pump.

(l) Internal Controls, Records, Audit and Budgets. The YMCA shall establish and maintain internal controls adequate to ensure that all Costs paid, advanced or incurred by the YMCA are properly supported, approved and included in a budget approved by the City and that all Revenues are collected, deposited timely and reflected on the Monthly Invoice to the City. All such Costs paid, advanced or incurred by the YMCA pursuant to such approved budget are hereby deemed approved by the City, and the YMCA is hereby authorized to make expenditures in accordance with such approved budget without further requests to or authorization from the City. YMCA shall keep a separate accounting of City funds and keep records and accounts of its financial affairs relating to the operation and management of the Hunter and Scott Pools which shall be available for examination and audit by the City for a period of three (3) years following the termination of this Agreement and all other pending matters are closed. Upon request, the YMCA shall produce all documents required by the City's auditors detailing the expenditure of City monies. Further, the YMCA shall furnish, if otherwise available and if requested by the City, a copy of any audit report or other financial examination report of YMCA operations during the Term of this Agreement prepared by an independent certified public accountant licensed and in good standing in the State of Florida.

(m) Budgets. The budget for the 2024 Swim Season, which has been approved by the City and the YMCA, is attached hereto as Schedule 2 and is incorporated herein by reference. Prior to Opening Day of each Swim Season, the City and the YMCA shall agree upon a budget for such Swim Season, and Schedule 2 to this Agreement shall be amended to include such budget.

(8) City's Responsibilities.

(a) Non-Swim Season. Except as otherwise expressly provided in this Agreement during a Swim Season, the City shall be solely responsible for the regulation, operation, care, maintenance, repair and security of the Hunter and Scott Pools.

(b) Outside the Fence Areas. At all times during the Term of this Agreement, the City shall be solely responsible for the regulation, operation, care, maintenance, repair and security of the fence surrounding the Hunter and Scott Pools and all portions of the Hunter and Scott Pools outside of such fence, including the parking lot.

(c) Access to the Hunter and Scott Pools. Beginning May 1st of each Swim Season and continuing during each Swim Season, the City shall permit the YMCA and its employees to have free and unrestricted access to the Hunter and Scott Pools. City shall provide to the YMCA three (3) sets of keys to all locks required to access and operate the Hunter and Scott Pools at least two weeks prior to Opening Day of each Swim Season. Further, the City shall provide to the YMCA three (3) sets of new keys within three (3) days prior to any change of the existing locks for the Hunter and Scott Pools. The YMCA shall provide keys to authorized personnel only. Notwithstanding the foregoing, the YMCA may at any time and from time to time, in its discretion, change any or all locks at the Hunter and Scott Pools, provided that the YMCA shall promptly provide to the City three (3) sets of new keys to each lock. In such event, the City shall provide such keys only to authorized personnel requiring access to the Hunter and Scott Pools during the Swim Season.

(d) Telephone and Other Utilities. During each Swim Season, the City, at its sole expense, shall install, activate and maintain in working order an operational touch tone, land-line telephone, capable of both receiving and sending calls, which shall be accessible to the YMCA's lifeguards at pool side. Consistent with health department regulations and for safety reasons, the pool shall be open only when the telephone is operational. The City shall also provide, at its sole expense, such other utilities services (e.g., electricity, natural gas, air-conditioned building, water and sewer, and trash/garbage pickup) as are required for the safe and efficient operation of the Hunter and Scott Pools. Should YMCA determine that internet access is required for pool operations during the Swim Season, the YMCA may facilitate the activation of the service prior to the Swim Season, provided YMCA deactivates the service at the close of the Swim Season. The City will reimburse the YMCA for the installation and cost of the internet service as mutually agreed to by the parties prior to commitment and activation of the internet service.

(e) Health Department Inspection/Notice. Prior to Opening Day of each Swim Season, the City shall provide to the YMCA the local health department's inspection and notice for the Hunter and Scott Pools indicating that the pools are in compliance with applicable rules and regulations.

(f) City's Pool Rules. Not less than two weeks prior to Opening Day of each Swim Season, the City shall provide to the YMCA a copy of the City's rules and regulations pertaining to the Hunter and Scott Pools.

(g) Maintenance, Repairs and Replacements. The City shall be solely responsible for the cost of all maintenance, repairs and replacements at the Hunter and Scott Pools, including repairs and replacements necessitated by fire, wind, water, theft, or vandalism; provided that YMCA employees shall perform the routine cleaning and maintenance services set forth elsewhere in this Agreement. Prior to Opening Day of each Swim Season, the City shall ensure that all buildings, improvements and equipment at the Hunter and Roger Scott Pools are in good working order and condition. In the event the YMCA identifies a needed item of maintenance, repair or replacement, the YMCA shall notify the City in writing, and the City shall promptly either cause such maintenance, repair or replacement work to be accomplished or shall, with the YMCA's consent, authorize the YMCA to accomplish or cause to be accomplished such maintenance, repair or replacement work. Any of the foregoing to the contrary notwithstanding, the YMCA shall be

solely responsible for the costs of repairing any damage which is solely the result of the negligence, recklessness or intentional wrongful misconduct of the YMCA or any YMCA employee. Any of the foregoing to the contrary notwithstanding, if in the YMCA's good faith judgment it would be impractical under the circumstances to give prior notice to the City, the YMCA shall be entitled to make such maintenance, repairs and replacements without prior notice to the City, but the YMCA shall give the City written notice of such repairs as soon as reasonably practical thereafter.

(h) Questions, Complaints, Comments and Suggestions. The City shall promptly communicate directly with the YMCA CEO or designee, with regard to any questions, complaints, comments and suggestions from the City or any citizen or user of the Hunter and Scott Pools concerning the Hunter and Scott Pools, the YMCA's pool staff, the YMCA's management, the YMCA's operation of the Hunter and Scott Pools, or the YMCA's performance of its obligations and services under this Agreement.

(i) YMCA Signage. The City shall allow the YMCA to display YMCA signage at the Hunter and Scott Pools, subject to the City's reasonable prior approval.

(j) Marketing. The City shall assist in funding mutually agreeable joint marketing and promotional efforts to promote the Hunter and Scott Pools and the City-YMCA collaboration.

(9) Hours of Operation; Rain Days; Pool Closing.

(a) Normal Operating Hours. The normal operating hours of the Hunter Pool during each Swim Season shall be from 9:00 a.m. to 6:00 p.m. Monday – Friday, from 10 a.m. – 6 p.m. Saturday, and from Noon to 6 p.m. Sunday. The normal operating hours of the Scott Pool during the Swim Season shall be from 8 a.m. to 7:00 p.m., Monday – Friday, from 10 a.m. – 7 p.m. Saturday, and from Noon to 6 p.m. Sunday, with the following exceptions: Upon the first day of school, pursuant to the Escambia County School District Calendar released annually by the Escambia County School District, weekdays, Monday through Friday will be closed. Additionally, on Memorial Day, July 4th, and Labor Day holidays, operating hours at Roger Scott pool will be 9:00 a.m. – 3:30 p.m. and Hunter Pool hours will be 10:30 a.m.-3:30 p.m. Weekend hours will remain unchanged. The utilization of the swimming pool (which may include, but not be limited to, open swimming, lap swimming, swim lessons, swim team practice, private parties, staff shortages and down time for cleaning) during those operating hours shall be in the discretion of the YMCA. At any time during the season, the City of Pensacola Parks & Recreation Director or designee may adjust normal operating hours at their discretion by giving the YMCA written notice.

(b) Weather-Related Pool Closings. The YMCA shall, in its good faith discretion, close the pool temporarily, for all or any part of any day or days, as and when the YMCA deems necessary or prudent because of threatened or actual inclement weather, without any change or adjustment of the provisions of this Agreement. The YMCA shall notify all user groups that have a scheduled pool activity of such closings as soon as a decision is made to close the pool for all or any part of any day or days.

(c) Emergency Pool Closings. Either the City or the YMCA may, in its good faith discretion, close the pool temporarily, for all or any part of any day or days, in the event of any

emergency caused by equipment breakdown, repairs, acts of God or other causes beyond the control of the YMCA or the City, without any change or adjustment of the provisions of this Agreement. The YMCA shall notify all user groups that have a scheduled pool activity of such closings as soon as a decision is made to close the pool for all or any part of any day or days.

(d) Closing for Remainder of Season. In the event that the pool becomes non-operational or unsafe due to unforeseen circumstances which are not the fault of either party, and as a result thereof the pool must be closed for the remainder of the then-current Swim Season, the Hunter and Scott Pools shall be closed for the remainder of the then-current Swim Season, whereupon the parties shall comply with their respective obligations under this Agreement and, in addition, shall negotiate in good faith a fair and equitable adjustment with respect to any other amounts due or owing by either party to the other as a result of such early closing.

(10) Insurance and Indemnification.

(a) During the Term of this Agreement, the YMCA, at its sole expense, shall procure and maintain insurance of the types and to the limits specified in this Section 10. The policies of insurance evidenced by the insurance certificates heretofore or hereafter submitted to the City by or on behalf of the YMCA shall be deemed acceptable to the City unless and to the extent that the City delivers to the YMCA written objections thereto specifying any perceived deficiencies within thirty (30) days after the later of the date of this Agreement or the City's receipt of the insurance certificate, whichever is later. The polices of insurance evidenced by subsequent renewal certificates submitted to the City shall be deemed acceptable to the City unless and to the extent that the City delivers to the YMCA written objection thereto specifying any perceived deficiencies within thirty (30) days after the City's receipt of the renewal insurance certificate.

(b) As used in this Section 10, the term City shall mean the City of Pensacola itself, any subsidiaries or affiliates, elected and appointed officials, employees, volunteers, representatives and agents.

(c) Insurance shall be issued by an insurer whose business reputation, financial stability and claims payment reputation is satisfactory to the City, for the protection of both the YMCA and the City.

(d) Unless otherwise agreed, the amounts, form and type of insurance shall conform to the following minimum requirements:

1. Workers' Compensation. The YMCA shall purchase and maintain Worker's Compensation Insurance Coverage for all Workers' Compensation obligations required by law. Additionally, such workers' compensation insurance policy, or a separately obtained policy, must include Employers Liability Coverage of at least **$100,000** each person -accident, **$100,000** each person - disease, **$500,000** aggregate - disease.

2. Commercial General, Automobile and Umbrella Liability Coverage. The YMCA shall purchase coverage on forms no more restrictive than the latest

editions of the Commercial General Liability policy filed by the Insurance Services Office. The City shall be an Additional Insured and such coverage shall be at least as broad as that provided to the Named Insured under the policy for the terms and conditions of this Agreement. The City shall not be considered liable for premium payment, entitled to any premium return or dividend and shall not be considered a member of any mutual or reciprocal company. Minimum limits of **$1,000,000** per occurrence, and per accident, combined single limit for liability must be provided, with umbrella insurance coverage making up any difference between the policy limits of underlying policies coverage and the total amount of coverage required. If the required limits of liability afforded should become impaired by reason of any claim, then the YMCA agrees to have such limits of $1,000,000 per occurrence, reinstated under the policy.

3. Commercial General Liability. Commercial General Liability coverage must be provided, including bodily injury and property damage liability for premises, operations, products and completed operations, contractual liability, and independent contractors. This policy must be endorsed to include coverage for Abuse/Molestation. Fire Legal Liability must be provided with minimum limits of $100,000 per occurrence. The coverage shall be written on occurrence-type basis.

4. Business Auto Policy. Business Auto Policy coverage must be provided if applicable, including bodily injury and property damage arising out of operation, maintenance or use of owned, non-owned and hired automobiles and employee non-ownership use. Evidence of personal automobile coverage may be provided for each staff member in lieu of a business automobile policy.

5. Umbrella Liability Insurance. Umbrella Liability Insurance coverage shall not be more restrictive than the underlying insurance policy coverage's. The coverage shall be written on an occurrence-type basis.

(e) Certificates of Insurance. Required insurance shall be documented in the Certificates of Insurance that provide that the City of Pensacola shall be notified at least thirty (30) days in advance of cancellation, non-renewal or adverse change or restriction in coverage. The City of Pensacola shall be named on each Certificate as an Additional Insured and this Agreement shall be listed. If required by the City, the YMCA shall furnish copies of the YMCA's insurance policies, forms, endorsements, jackets and other items forming a part of, or relating to such policies. Certificates shall be on the "Certificate of Insurance" form equal to, as determined by the City an ACORD 25. Any wording in a Certificate which would make notification of cancellation, adverse change or restriction in coverage to the City an option shall be deleted or crossed out by the insurance carrier or the insurance carrier's agent or employee. The YMCA shall replace any canceled, adversely changed, restricted or non-renewed policies with new policies acceptable to the City and shall file with the City Certificates of Insurance under the new policies prior to the effective date of such cancellation, adverse change or restriction. If any policy is not replaced

within a time period that is reasonable under the circumstances, in a manner reasonably acceptable to the City, the YMCA shall, upon instructions of the City, cease all operations under the Agreement until directed by the City, in writing, to resume operations. The "Certificate Holder" address should read: City of Pensacola, Department of Risk Management, Post Office Box 12910, Pensacola, FL 32521**.**

(f) Insurance of the YMCA Primary**.** The YMCA required coverage shall be considered primary and all other insurance shall be considered as excess, over and above the YMCA's coverage. The YMCA's policies of coverage will be considered primary as relates to all provisions of the Agreement.

(g) Loss Control and Safety. The YMCA shall retain control over its employees, agents, servants and subcontractors, as well as control over its invitees, and its activities on and about the subject premises and the manner in which such activities shall be undertaken and to that end, the YMCA shall not be deemed to be an agent of the City. In fulfilling its responsibilities under this agreement, the YMCA shall not employ or utilize the volunteer services of any person who has been convicted of or pled guilty or nolo contendere to or has had an adjudication withheld of any of the following charges: A sexual offense, child abuse, contributing to delinquency of a minor, or abuse of an elderly or vulnerable person. Reasonable precaution shall be exercised at all times by the YMCA for the protection of all persons, including employees, and property. The YMCA shall make reasonable effort to detect hazards and shall take prompt action where loss control/safety measures should reasonably be expected.

(h) Indemnification and Hold Harmless by YMCA**.** The YMCA shall indemnify and hold harmless the City, its officers and employees, from any and all liabilities, damages, losses, and costs, including reasonable attorney's fees, to the extent caused solely by the negligence, recklessness or intentional wrongful misconduct of the YMCA and persons employed or utilized by the YMCA in the performance of this Agreement. The YMCA's obligation shall not be limited by, or in any way to, any insurance coverage or by any provision in or exclusion or omission from any policy of insurance.

(i) Indemnity by City. To the full extent permitted by applicable law, up to the limits mandated by Florida Statutes Section 768.28, City shall indemnify and hold harmless the YMCA, its officers, agents, representative, employees and volunteers, from any and all liabilities, damages, losses, and costs, including reasonable attorney's fees, to the extent caused solely by the negligence, recklessness or intentional wrongful misconduct of the City and persons employed or utilized by the City in the performance of this Agreement.

(j) Sovereign Immunity by City. The City asserts sovereign immunity to the extent permitted by Florida law and within the limits of liability set forth in Florida Statues Section 768.28. the City reserves the right in this agreement to assert any claim for relief to which it may be intitles in the event of a branch or injury of any kind, and further reserves the right to assert any defense available to any claim which may be asserted against it, including the defense of sovereign immunity.

(k) City Self Insurance. The City is, and shall remain at all times during the Term of this Agreement, a qualified Self-Insurer under the applicable Florida Statutes and the regulations promulgated thereunder.

(11) Default; Termination of Agreement.

(a) Default by the YMCA. In the event that the YMCA defaults under any of its obligations under this Agreement, the City may exercise any and all remedies available to it at law, in equity or under this Agreement and, in addition, may terminate this Agreement by giving the YMCA not less than ten (10) days' written notice of termination; provided that in the event that such default is a default other than for the payment of Revenues to the City pursuant to Section 6 above, the City may not give notice to terminate this Agreement nor exercise any other rights or remedies by reason of such default until the City has given the YMCA written notice of such default and the YMCA has failed to cure such default within thirty (30) days after receipt of such notice. Notwithstanding the foregoing or any other provision of this Agreement, in no event shall the YMCA be liable to the City for consequential, special, exemplary or punitive damages.

(b) Default by the City. In the event that the City defaults under any of its obligations under this Agreement, the YMCA may exercise any and all remedies available to it at law, in equity or under this Agreement and, in addition, may terminate this Agreement by giving the City not less than ten (10) days' written notice of termination; provided that in the event that such default is a default other than for the payment of a Monthly Invoice pursuant to Section 5 above, the YMCA may not give notice to terminate this Agreement nor exercise any other rights or remedies by reason of such default until the YMCA has given the City written notice of such default and the City has failed to cure such default within thirty (30) days after receipt of such notice. Notwithstanding the foregoing or any other provision of this Agreement, in no event shall the City be liable to the YMCA for consequential, special, exemplary or punitive damages.

(12) Notices. All notices required or permitted by this Agreement to be given or delivered by one party to the other shall be deemed to have been duly given and received (i) when hand delivered to the office of the receiving party at its address set forth below; (ii) when successfully faxed to the receiving party at its fax number set forth below; or (iii) three days after mailing by U.S. certified mail, return receipt requested, to the receiving party at its address set forth below; provided that any notice that is received (whether by hand-delivery, fax or U.S. mail) by the receiving party on a Saturday, Sunday or legal holiday recognized by the State of Florida, or that is received by the receiving party after 5:00 p.m. on any business day, shall be deemed to have been delivered and received on the next day thereafter that is not a Saturday, Sunday or legal holiday.

(a) If to the City:

Director of Parks and Recreation Department
City of Pensacola
222 West Main Street
Pensacola, FL 32502
Work Telephone: 850.436.5679
Fax Number: 850.436.5199

With copy to:

City Administrator
222 West Main Street
Pensacola, FL 32502
Work Telephone: 850.435.1696
Fax Number: 850.435.1611

(b) If to the YMCA:

Michael Bodenhausen
CEO
YMCA of NW Florida
PO Box 13170
Pensacola, FL 32502
Work Telephone: 850.432.8327

Fax Number: 850.465.9924

With copy to:

John P. Daniel
Beggs & Lane, RLLP
P. O. Box 12950 (32591-2950)
501 Commendencia Street
Pensacola, FL 32502
Work Telephone: 850.469.3312
Fax Number: 850.469.3331

(13) Miscellaneous.

(a) Governing Law; Venue. This Agreement shall be governed and construed in accordance with the laws of the State of Florida. Venue for any litigation for the interpretation or enforcement of this Agreement shall be in Escambia County, Florida.

(b) Records. The parties acknowledge and agree that the YMCA is operating the pools on behalf of the City and as such may be subject to the public records law pursuant to Chapter 119, Florida Statutes, as amended.

(c) Headings. Headings and subtitles used throughout this Agreement are for the purpose of convenience only, and no heading or subtitle shall modify or be used to interpret the text of any section.

(d) Survival. All provisions, which by their inherent character, sense and context are intended to survive termination of this Agreement, shall survive the termination of this Agreement.

(e) Interpretation. This Agreement shall not be more strictly construed against either party hereto by reason of the fact that one party may have drafted or prepared any or all of the terms and provisions hereof.

(f) Severability. The invalidity or non-enforceability of any portion or provision of this Agreement shall not affect the validity or enforceability of any other portion or provision. Any invalid or unenforceable portion or provision shall be deemed severed from this Agreement and the balance hereof shall be construed and enforced as if this Agreement did not contain such invalid or unenforceable portion or provision.

(g) Further Actions. The parties shall execute and deliver all documents and perform further actions that may be reasonably necessary to effectuate the provisions of this Agreement.

(h) No Waiver. The failure of a party to insist upon the strict performance of the terms and conditions hereof shall not constitute or be construed as a waiver or relinquishment of any other provision or of either party's right to thereafter enforce the same in accordance with this Agreement.

[SIGNATURES ON FOLLOWING PAGE.]

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

CITY OF PENSACOLA,
a Florida municipal corporation

By: _____
D.C. Reeves
Mayor

Attest:

_____
City Clerk

YOUNG MEN'S CHRISTIAN ASSOCIATION OF NORTHWEST FLORIDA, INC., a Florida not-for-profit corporation

By: _____
Michael Bodenhausen

Attest:

By:_____
Printed name: _____
Corporate Secretary

Approved as to content:

_____
Ben Heistein, Director of
Parks and Recreation Department

Legal in form and valid as drawn:

_____
City Attorney

SCHEDULE 1

Agreed All-Inclusive Hourly Rates for YMCA Management Personnel

YMCA Executive Director	$52.28/hour
YMCA CFO	$57.75/hour
YMCA Staff Account	$29.74/hour
YMCA Aquatics Director	$29.70/hour

SCHEDULE 2

YMCA of Northwest Florida
2024 City Pool Swim Season Budget
May - September 2024

Account Number	Account Name	24-May Budget	24-Jun Budget	24-Jul Budget	24-Aug Budget	24-Sep Budget	2024 Budget
01-05-01-1010-020800	Government Fees & Grants - HP						-
01-05-01-1450-020800	Facility Rental Income - HP	-	-	-	-	3,500.00	3,500.00
01-05-01-1450-020900	Facility Rental Income RS	300.00	150.00	650.00	150.00	-	1,250.00
01-05-03-1300-020800	Program Income - HP Membership		200.00				200.00
01-05-03-1300-020900	Program - Pool Membership RS	263.00	1,000.00	679.00			1,942.00
01-05-03-1321-020800	Program-Daily Swim HP	1,050.00	4,600.00	5,533.00	1,800.00	211.00	13,194.00
01-05-03-1321-020900	Program-Daily Swim RS	4,000.00	16,000.00	14,200.00	6,900.00	655.00	41,755.00
01-05-03-1323-020900	Program-Swim Team RS						-
Total Revenue		**5,613.00**	**21,950.00**	**21,062.00**	**8,850.00**	**4,366.00**	**61,841.00**
01-05-01-2117-020800	NonEx- Training HP	800.00					800.00
01-05-01-2117-020900	NonEx -Training RS	800.00					800.00
01-05-01-2150-020800	NonEx - Clerical HP	2,050.00	6,200.00	6,400.00	3,300.00	400.00	18,350.00
01-05-01-2150-020900	NonEx - Clerical RS	2,500.00	8,500.00	9,000.00	4,300.00	700.00	25,000.00
01-05-01-2160-020800	NonEx - Maintenance HP	1,400.00	2,000.00	2,000.00	1,700.00	1,400.00	8,500.00
01-05-01-2315-020800	Payroll Taxes HP	1,155.00	3,040.00	3,130.00	1,680.00	400.00	9,405.00
01-05-01-2315-020900	Payroll Taxes RS	1,180.00	3,730.00	3,960.00	1,870.00	350.00	11,090.00
01-05-01-2460-020800	Contract Services iSolved HP	250.00	250.00	250.00	250.00	150.00	1,150.00
01-05-01-2460-020900	Contract Services iSolved RS	250.00	250.00	250.00	250.00	150.00	1,150.00
01-05-01-2591-020800	Supplies-Office HP	100.00	-	-	-	-	100.00
01-05-01-2591-020900	Supplies-Office RS	100.00	-	-	-	-	100.00
01-05-01-2620-020900	Telephone	290.00	190.00	190.00	190.00	50.00	910.00
01-05-01-2843-020800	R&M Bldg & Grounds - HP	2,500.00	2,500.00	-	-	-	5,000.00
01-05-01-2843-020900	R&M Bldg & Grounds RS	2,500.00	2,500.00	-	-	-	5,000.00
01-05-01-2930-020800	Expendable Equipment Purchases - HP	500.00	-	-	-	-	500.00
01-05-01-2930-020900	Expendable Equipment Purchases - RS	500.00	-	-	-	-	500.00
01-05-01-3210-020800	Travel Reimbursement - HP	65.00	70.00	25.00	30.00	10.00	200.00
01-05-01-3210-020900	Travel Reimbursement - RS	65.00	100.00	100.00	30.00	10.00	305.00
01-05-01-3280-020800	Pre-employment Screening - HP	600.00	400.00	115.00	40.00	-	1,155.00
01-05-01-3280-020900	Pre-employment Screening - RS	600.00	400.00	115.00	40.00	-	1,155.00
01-05-01-3720-020800	Bank Service Fees - HP	-	5.00	52.00	55.00	21.00	133.00
01-05-01-3720-020900	Bank Service Fees - RS	-	64.00	319.00	340.00	139.00	862.00
01-05-01-3810-020800	Insurance General Liability	553.00	553.00	553.00	553.00	553.00	2,765.00
01-05-01-3810-020900	Insurance General Liability	818.00	818.00	818.00	818.00	818.00	4,090.00
01-05-02-3331-020800	Employee Uniforms - HP	675.00	-	-	-	-	675.00
01-05-02-3331-020900	Employee Uniforms - RS	675.00	-	-	-	-	675.00
01-05-03-2100-020800	Full-time Staff	1,600.00	4,900.00	5,000.00	2,600.00	1,000.00	15,100.00
01-05-03-2100-020900	Full-time Staff	1,700.00	5,800.00	6,200.00	2,900.00	1,000.00	17,600.00
01-05-03-2120-020800	NonEx - Lifeguard HP	5,700.00	17,300.00	17,900.00	9,200.00	1,200.00	51,300.00
01-05-03-2120-020900	NonEx Lifeguard RS	6,800.00	23,000.00	24,400.00	11,500.00	1,800.00	67,500.00
01-05-03-2520-020800	Supplies-Pool Chemical HP	5,500.00	5,500.00	7,000.00	5,000.00	2,200.00	25,200.00
01-05-03-2520-020900	Supplies-Pool Chemical RS	7,000.00	6,500.00	10,000.00	6,000.00	2,200.00	31,700.00
01-05-03-2540-020800	Supplies-Program HP	1,000.00	1,338.00	-	-	-	2,338.00
01-05-03-2540-020900	Supplies-Program RS	1,000.00	1,448.00	-	-	-	2,448.00
01-05-03-2560-020800	Supplies - Janitorial - HP	400.00	50.00	100.00	50.00	-	600.00
01-05-03-2560-020900	Supplies - Janitorial - RS	250.00	50.00	200.00	50.00	-	550.00
	All Inclusive Hourly Rate	6,000.00					6,000.00
Total Expense		**57,876.00**	**97,456.00**	**98,077.00**	**52,746.00**	**14,551.00**	**320,706.00**
Change in Net Assets		**(52,263.00)**	**(75,506.00)**	**(77,015.00)**	**(43,896.00)**	**(10,185.00)**	**(258,865.00)**
	Reimbursement	$ (52,263.00)	$ (75,506.00)	$ (77,015.00)	$ (43,896.00)	$ (10,185.00)	$ (258,865.00)
	Management Fee	$ (6,000.00)	$ (6,000.00)	$ (6,000.00)	$ (6,000.00)	$ (6,000.00)	$ (30,000.00)
		$ (58,263.00)	$ (81,506.00)	$ (83,015.00)	$ (49,896.00)	$ (16,185.00)	$ (288,865.00)

YMCA of Northwest Florida
2023 City Pool Swim Season
May - September 2023

Account Number	Account Name	May Actual	Jun Actual	Jul Actual	Aug Actual	Sep Actual	Grand Total
01-05-01-1010-020800	Government Fees & Grants - HP	32,563.95	65,072.21	63,927.86	44,652.01	19,785.66	226,001.69
01-05-01-1450-020800	Facility Rental Income - HP	0.00	0.00	534.00	0.00	3,330.00	3,864.00
01-05-01-1450-020900	Facility Rental Income RS	500.00	150.00	615.60	157.80	0.00	1,423.40
01-05-03-1300-020800	Program Income - HP Membership	0.00	189.36	0.00	0.00	0.00	189.36
01-05-03-1300-020900	Program - Pool Membership RS	263.00	980.46	679.00	0.00	0.00	1,922.46
01-05-03-1321-020800	Program-Daily Swim HP	1,040.20	4,519.52	5,532.98	1,785.22	210.51	13,088.43
01-05-03-1321-020900	Program-Daily Swim RS	3,920.46	15,725.46	14,122.01	6,895.25	654.85	41,318.03
01-05-03-1323-020900	Program-Swim Team RS	0.00	0.00	0.00	0.00	0.00	0.00
Total Revenue		**38,287.61**	**86,637.01**	**85,411.45**	**53,490.28**	**23,981.02**	**287,807.37**
01-05-01-2117-020800	NonEx- Training HP	612.49	0.00	0.00	0.00	0.00	612.49
01-05-01-2117-020900	NonEx -Training RS	773.25	0.00	0.00	0.00	0.00	773.25
01-05-01-2150-020800	NonEx - Clerical HP	715.72	4,356.80	5,879.97	2,397.08	1,135.82	14,485.39
01-05-01-2150-020900	NonEx - Clerical RS	979.02	7,082.33	7,003.05	2,541.00	1,608.10	19,213.50
01-05-01-2160-020800	NonEx - Maintenance HP	1,286.55	1,980.50	1,732.30	1,511.30	1,270.90	7,781.55
01-05-01-2315-020800	Payroll Taxes HP	506.54	2,187.17	2,276.64	1,116.43	489.10	6,575.88
01-05-01-2315-020900	Payroll Taxes RS	506.55	2,179.44	2,276.64	1,123.70	489.09	6,575.42
01-05-01-2460-020800	Contract Services iSolved HP	192.55	251.57	249.00	246.62	146.23	1,085.97
01-05-01-2460-020900	Contract Services iSolved RS	192.55	238.33	249.00	259.60	146.23	1,085.71
01-05-01-2591-020800	Supplies-Office HP	4.38	27.08	7.50	52.67	0.00	91.63
01-05-01-2591-020900	Supplies-Office RS	4.37	64.08	7.49	0.00	0.00	75.94
01-05-01-2620	Telephone	0.00	0.00	187.99	187.99	25.06	401.04
01-05-01-2620-020900	Telephone	287.49	187.99	0.00	0.00	0.00	475.48
01-05-01-2843-020800	R&M Bldg & Grounds - HP	0.00	1,514.39	511.95	4,585.00	25.61	6,636.95
01-05-01-2843-020900	R&M Bldg & Grounds RS	0.00	4,367.07	626.72	2,021.98	0.00	7,015.77
01-05-01-2930-020800	Expendable Equipment Purchases - HP	0.00	219.59	0.00	229.00	0.00	448.59
01-05-01-2930-020900	Expendable Equipment Purchases - RS	0.00	43.14	0.00	0.00	0.00	43.14
01-05-01-3210-020800	Travel Reimbursement - HP	64.96	67.84	23.74	29.95	7.29	193.78
01-05-01-3210-020900	Travel Reimbursement - RS	64.96	94.76	96.35	29.95	7.29	293.31
01-05-01-3280-020800	Pre-employment Screening - HP	594.36	386.04	110.60	38.60	0.00	1,129.60
01-05-01-3280-020900	Pre-employment Screening - RS	594.36	386.04	110.60	38.60	0.00	1,129.60
01-05-01-3720-020800	Bank Service Fees - HP	0.00	4.90	41.13	54.68	20.22	120.93
01-05-01-3720-020900	Bank Service Fees - RS	0.00	63.46	318.67	340.21	138.65	860.99
01-05-01-3810-020800	Insurance General Liability	500.00	500.00	500.00	500.00	500.00	2,500.00
01-05-01-3810-020900	Insurance General Liability	500.00	500.00	500.00	500.00	500.00	2,500.00
01-05-01-3910-020900	Bank Service Charges - RS	0.00	0.00	0.00	0.00	0.00	0.00
01-05-02-3331-020800	Employee Uniforms - HP	232.62	52.00	0.00	0.00	0.00	284.62
01-05-02-3331-020900	Employee Uniforms - RS	232.63	52.01	0.00	0.00	0.00	284.64
01-05-03-2100-020800	Full-time Staff	467.60	2,111.01	3,225.29	2,018.25	384.57	8,206.72
01-05-03-2100-020900	Full-time Staff	259.31	2,596.42	2,349.21	1,583.46	394.74	7,183.14
01-05-03-2120-020800	NonEx - Lifeguard HP	2,364.96	14,990.52	15,979.38	7,568.77	3,155.73	44,059.36
01-05-03-2120-020900	NonEx Lifeguard RS	3,267.53	19,639.13	19,191.43	7,681.43	2,856.39	52,635.91
01-05-03-2520-020800	Supplies-Pool Chemical HP	6,116.50	4,910.00	4,620.00	3,266.00	2,340.00	21,252.50
01-05-03-2520-020900	Supplies-Pool Chemical RS	6,244.00	5,465.00	10,200.00	7,424.00	2,340.00	31,673.00
01-05-03-2540-020800	Supplies-Program HP	767.47	3,494.56	293.85	0.00	0.00	4,555.88
01-05-03-2540-020900	Supplies-Program RS	767.47	594.35	274.84	0.00	0.00	1,636.66
01-05-03-2560-020800	Supplies - Janitorial - HP	357.36	0.00	29.49	96.67	0.00	483.52
01-05-03-2560-020900	Supplies - Janitorial - RS	157.06	29.49	182.22	47.34	0.00	416.11
Total Expense		**29,614.61**	**80,637.01**	**79,055.05**	**47,490.28**	**17,981.02**	**254,777.97**
Change in Net Assets		**8,673.00**	**6,000.00**	**6,356.40**	**6,000.00**	**6,000.00**	**33,029.40**

CITY OF PENSACOLA
PARKS AND RECREATION

2024 POOL SCHOLARSHIP PROGRAM

- Limited quantity available
- Available to city resident households with individuals that receive free/reduced lunch, W.I.C. and/or SNAP benefits (proof of residency and eligibility required)
- 50% off daily admission rate and 20% seasonal membership discount to individuals that qualify
- Applications available online and in person at Cobb and Vickrey Centers, Mon. - Fri. 8 am - 1 pm, 6 - 8 pm
- City Pool Pass issued to participants for the 2024 Aquatic Season: (May 25 - Sept. 2, 2024)
- City Pool Passes must be presented upon entry for discount to be applied
- Enrollment period
  May 20 - June 7, 2024

Schedule 3

Hunter Pool 2024

May 25 - August 11

Monday-Friday
Swim Lessons 9-10am (B/G Club)
Session 1 – Open Swim 9:00am – 1:30pm
Session 2 – Open Swim 2:00pm – 5:00pm
Swim Lessons 5:00 pm – 6:00 pm

Saturday
Session 1 – Open Swim 10am-2pm
Session 2 – Open Swim 2:30-6pm

Sunday
Session 1 – Open Swim 12-3pm
Session 2 – Open Swim 3:30-6pm

Memorial Day/July 4th/Labor Day
Session 1 – Open Swim 10:30am-3:30pm

August 12 – September 1

Saturday
Session 1 – Open Swim 10am-2pm
Session 2 – Open Swim 2:30-6pm

Sunday
Session 1 – Open Swim 12-3pm
Session 2 – Open Swim 3:30-6pm

Fee

Daily Admission

Adults (18+)	$4.00	CC	$4.20
Children (3-17)	$3.00	CC	$3.15
2 & Under	Free		
Seniors (50+)	$3.50	CC	$3.68

Memberships

Individual City	$116	CC	$121.80
Individual Non	$168	CC	$176.40
SR City	$73	CC	$76.65
SR Non	$110	CC	$108.95
Family City	$187	CC	$196.35
Family Non	$282	CC	$296.10
Family Add	$55	CC	$57.75

*Family is 2 adult 3 children – Any extra children are family add-on

**Membership is valid at either Roger Scott or Cecil Hunter Pool

Miscellaneous
Community Camps/Day Cares $3.00 CC $3.15
*This includes kids/adults-Even if they are not swimming.

Rentals $150/per hour CC $157.50
Minimum 2 hours/After-hours only

Swim Lessons City $50 CC $52.50
Swim Lessons Non $100 CC $105

Replacement Card Fee: $20.00

Scholarship Fee

Daily Admission

Adults (18+)	$2.00	CC	$2.10
Children (3-17)	$1.50	CC	$1.58
2 & Under	Free		
Seniors (50+)	$1.75	CC	$1.84

Memberships

Individual City	$93	CC	$97.65
Individual Non	$134	CC	$140.70
SR City	$73	CC	$60.90
SR Non	$110	CC	$92.40
Family City	$187	CC	$157.50
Family Non	$282	CC	$237.30
Family Add	$55	CC	$46.20

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Miscellaneous
Community Camps/Day Cares $3.00 CC $3.15
*This includes kids/adults-Even if they are not swimming.

Rentals $150/per hour CC $157.50
Minimum 2 hours/After-hours only

Swim Lessons City $50 CC $52.50
Swim Lessons Non $100 CC $105

Scholarships: Mayor to determine number of scholarships for qualifying individuals or families.

Replacement Card Fee: $20.00

Schedule 3

Roger Scott Pool 2024

May 25 - August 11

Monday-Friday
Swim Lessons 8-9am
Session 1 – Open Swim 8:00am – 10:30am
Session 2 – Camp Swim 11:00am – 2:00pm
Session 3 Open Swim 2:30 pm – 7:00 pm

Saturday
Session 1 – Open Swim 10am-2pm
Session 2 – Open Swim 2:30-7pm

Sunday
Session 1 – Open Swim 12am-3pm
Session 2 – Open Swim 3:30-6pm

Memorial Day/July 4th/Labor Day
Session 1 – Open Swim 9am-12pm
Session 2 – Open Swim 12:30pm-3:30pm

August 12 – September 1

Saturday
Session 1 – Open Swim 10am-2pm
Session 2 – Open Swim 2:30-7pm

Sunday
Session 1 – Open Swim 12-3pm
Session 2 – Open Swim 3:30-6pm

Fee

Daily Admission

Adults (18+)	$5.00	CC	$5.25
Children (3-17)	$4.00	CC	$4.20
2 & Under	Free		
Seniors (50+)	$4.50	CC	$4.73

Memberships

Individual City	$116	CC	$121.80
Individual Non	$168	CC	$176.40
SR City	$73	CC	$76.65
SR Non	$110	CC	$108.95
Family City	$187	CC	$196.35
Family Non	$282	CC	$296.10
Family Add	$55	CC	$57.75

*Family is 2 adult 3 children – Any extra children are family add-on

**Membership is valid at either Roger Scott or Cecil Hunter Pool

Miscellaneous
Community Camps/Day Cares $3.00 CC $3.15
*This includes kids/adults-Even if they are not swimming.

Rentals $150/per hour CC $157.50
Minimum 2 hours/After-hours only

Swim Lessons City $50 CC $52.50
Swim Lessons Non $100 CC $105

Replacement Card Fee: $20.00

Scholarship Fee

Daily Admission

Adults (18+)	$2.50	CC	$2.63
Children (3-17)	$2.00	CC	$2.10
2 & Under	Free		
Seniors (50+)	$2.25	CC	$2.36

Memberships

Individual City	$93	CC	$97.65
Individual Non	$134	CC	$140.70
SR City	$58	CC	$60.90
SR Non	$88	CC	$92.40
Family City	$150	CC	$157.50
Family Non	$226	CC	$237.30
Family Add	$44	CC	$46.20

*Family is 2 adult 3 children – Any extra children are family add-on

**Scholarship Pool Pass are valid at either Roger Scott or Cecil Hunter Pool

Miscellaneous
Community Camps/Day Cares $3.00 CC $3.15
*This includes kids/adults-Even if they are not swimming.

Rentals $150/per hour CC $157.50
Minimum 2 hours/After-hours only

Swim Lessons City $50 CC $52.50
Swim Lessons Non $100 CC $105

Scholarships: Mayor to determine number of scholarships for qualifying individuals or families.

Replacement Card Fee $20.00

File #: 24-345 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

RESOLUTION NO. 2024-33 - AMENDMENT TO THE PARKS AND RECREATION SWIMMING POOLS FEE SCHEDULE FOR FISCAL YEAR 2024.

RECOMMENDATION:

That City Council adopt resolution NO. 2024-33.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA AUTHORIZING AND MAKING REVISION TO THE FY24 BUDGET FEE SCHEDULE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023; APPROVING AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

This item will amend the Fiscal Year 2024 fee schedule for the Parks and Recreation Swimming Pools.

The amendment increases the daily admission and membership rates at both the Roger Scott Pool and the Cecil Hunter Pool. Additionally, a scholarship program is being implemented to provide discounted rates for qualifying households. The criteria for the scholarship program is income-based and is similar to the criteria used to qualify participants for the free after-school programs currently being funded by Escambia Children's Trust. Additionally, all season passes will now be valid at both pools. Finally, swim lessons for non-city residents will increase from $60.00 to $100.00. Other changes were made to consolidate and simplify the fee schedule.

PRIOR ACTION:

None

FUNDING:

N/A

FINANCIAL IMPACT:

Under the terms and subject to the conditions of the City of Pensacola Swimming Facility Management Agreement, the City shall be solely responsible for the payment of all costs, one-time expenditures, and capital expenditures and shall reimburse the YMCA monthly for all costs, one-time expenditures, and capital expenditures paid, advanced or incurred by the YMCA credited by the total amount of monthly revenues collected by YMCA. This rate increase will help to reduce the General Fund contribution required to fund operation of the two (2) pools.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator
Ben Heistein, Parks and Recreation Director
Tonya Byrd, Parks and Recreation Assistant Director

ATTACHMENTS:

1. Resolution No. 2024-33
2. 2024 Approved Budget P&R Fee Schedule Swimming Pools
3. 2024 Pool ScholarshipSummer Camp Rack Card

PRESENTATION: No

RESOLUTION
NO. 2024-33

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA AUTHORIZING AND MAKING REVISIONS TO THE FISCAL YEAR 2024 BUDGET FEE SCHEDULE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023; APPROVING AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola adopted the Fiscal Year 2024 City of Pensacola budget that included the fee schedule for the Parks and Recreation Swimming Pools;

WHEREAS, to support operational needs, the Mayor recommends modifications to the fee schedule to achieve consistency with projected revenues;

WHEREAS, the changes in the fees are in the public interest to support services provided and intended to be consistent with approved FY24 budget;

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

Section 1. The Parks and Recreation Fee Schedule for Roger Scott and Cecil Hunter Pool is approved as shown in Attachment A and Attachment B.

Section 2. This resolution shall become effective on the fifth (5^{th}) 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

Attachment A

Parks and Recreation Fee Schedule

Cecil Hunter Pool

May 25 - August 11

Monday-Friday
Swim Lessons 9-10am (B/G Club)
Session 1 – Open Swim 9:00am – 1:30pm
Session 2 – Open Swim 2:00pm – 5:00pm
Swim Lessons 5:00 pm – 6:00 pm

Saturday
Session 1 – Open Swim 10am-2pm
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Fee

Daily Admission			
Adults (18+)	$4.00	CC	$4.20
Children (3-17)	$3.00	CC	$3.15
2 & Under	Free		
Seniors (50+)	$3.50	CC	$3.68

Memberships			
Individual City	$116	CC	$121.80
Individual Non	$168	CC	$176.40
SR City	$73	CC	$76.65
SR Non	$110	CC	$108.95
Family City	$187	CC	$196.35
Family Non	$282	CC	$296.10
Family Add	$55	CC	$57.75

*Family is 2 adult 3 children – Any extra children are family add-on

**Membership is valid at either Roger Scott or Cecil Hunter Pool

Miscellaneous
Community Camps/Day Cares $3.00 CC $3.15
*This includes kids/adults-Even if they are not swimming.

Rentals $150/per hour CC $157.50
Minimum 2 hours/After-hours only

Swim Lessons City $50 CC $52.50
Swim Lessons Non $100 CC $105

Replacement Card Fee: $20.00

Scholarship Fee

Daily Admission			
Adults (18+)	$2.00	CC	$2.10
Children (3-17)	$1.50	CC	$1.58
2 & Under	Free		
Seniors (50+)	$1.75	CC	$1.84

Memberships			
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Individual Non	$134	CC	$140.70
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Swim Lessons Non $100 CC $105

Scholarships: Mayor to determine number of scholarships for qualifying individuals or families.

Replacement Card Fee: $20.00

Attachment B

Parks and Recreation Fee Schedule

Roger Scott Pool

May 25 - August 11

Monday-Friday
Swim Lessons 8-9am
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Session 3 Open Swim 2:30 pm – 7:00 pm

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Fee

Daily Admission

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Scholarship Fee

Daily Admission

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Family Non	$226	CC	$237.30
Family Add	$44	CC	$46.20

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**Scholarship Pool Pass are valid at either Roger Scott or Cecil Hunter Pool

Miscellaneous
Community Camps/Day Cares $3.00 CC $3.15
*This includes kids/adults-Even if they are not swimming.

Rentals $150/per hour CC $157.50
Minimum 2 hours/After-hours only

Swim Lessons City $50 CC $52.50
Swim Lessons Non $100 CC $105

Scholarships: Mayor to determine number of scholarships for qualifying individuals or families.

Replacement Card Fee $20.00

PARKS & RECREATION FEE SCHEDULES

SWIMMING POOLS

ROGER SCOTT POOL

Daily Admission	FY24 Fee
Adults (18 and older)	$ 4.00
Children (3-17 years)	3.00
2 years and Under	Free
Sr. Citizens (50 & Over)	3.50
Season Pass Membership	
Individual, City Resident	104.50
Individual, Non-City Resident	152.50
Sr. Citizen, Individual, City Resident	66.00
Sr. Citizen, Individual, Non-City Resident	99.50
Family, City Resident	170.50
Family, Non-City Resident	256.00
Sr. Citizen, 2 People, City Resident	121.00
Sr. Citizen, 2 People, Non-City Resident	182.00
Community Camps	3.25
Rentals, per hour	150.00 *
Swim Lessons, City Resident	50.00
Swim Lessons, Non-City Resident	60.00

*** Plus Staff Cost**

HUNTER POOL

Daily Admission	FY24 Fee
Adults (18 and older)	$ 2.25
Children (3-17 years)	1.00
2 years and Under	Free
Miscellaneous	
20 Punch Card	40.00
40 Punch Card	70.00
60 Punch Card	90.00
Community Camps	2.00
Fall Lap Swimming	3.00
Rentals, per hour	150.00
Spring Lap Swimming	2.25
Swim Lessons, City Resident	50.00
Swim Lessons, Non-City Resident	60.00

*** Plus Staff Cost**

CITY OF PENSACOLA
PARKS AND RECREATION

2024 POOL SCHOLARSHIP PROGRAM

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- Available to city resident households with individuals that receive free/reduced lunch, W.I.C. and/or SNAP benefits (proof of residency and eligibility required)
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- City Pool Passes must be presented upon entry for discount to be applied
- Enrollment period
  May 20 - June 7, 2024

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Memorandum

File #: 24-39 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

REVISED: REALLOCATION OF AMERICAN RESCUE PLAN ACT FUNDS - MOORING FIELD, AMTRAK CENTER, EMERGENCY MANAGEMENT PLAN REWRITE, AND DEFERRED MAINTENANCE IN PARKS & CENTERS ANALYSIS

RECOMMENDATION:

That City Council approve reallocation of funding in the American Rescue Plan Act (ARPA) from the following projects: FEMA Covid ($252,140) and Bayview Erosion Project ($127,842) to the following projects: Mooring Field Study ($50,000), Amtrak Center Remodel ($84,533), Emergency Management Plan Rewrite ($145,449) and Deferred Maintenance in Parks and Community Centers Analysis ($100,000).

HEARING REQUIRED: No Hearing Required

SUMMARY:

Attached is a listing of the current project listing and remaining balances for projects funded from the American Rescue Plan Act (ARPA). This action will reallocate funding to provide monies for the following projects.

- Mooring Field Study ($50,000) - A study of the feasibility of establishing a mooring field in Pensacola Bay or nearby waterways.
- Amtrak Center Remodel ($84,533) - A partial rehabilitation of the Amtrak Center to prevent further deterioration.
- Emergency Management Plan Rewrite ($145,449) - A complete update to the City's existing Continuity of Operations Plan (COOP). The COOP plan is the overarching initiative that ensures that City government and all departments and agencies are able to continue their essential daily functions in the event of a disaster.
- Deferred Maintenance in Parks and Community Centers Analysis ($100,000) - A study to determine, categorize and prioritize repairs for any deferred maintenance in the City's parks and community centers.

PRIOR ACTION:

June 17, 2021 - City Council appropriated funding in relation to ARPA for the recovery of revenue loss, grant compliance and administration and facility improvements.

July 15, 2021 - City Council appropriated funding in relation to ARPA for premium pay and employee vaccination incentive pay.

August 12, 2021 - City Council appropriated funding in relation to ARPA for the design and construction of the skateboard park at the Hollice T. Williams Park.

August 12, 2021 - City Council appropriated funding in relation to ARPA for Stormwater, Drainage, and Sewer Abatement and Citizen Assistance.

November 18, 2021 - City Council appropriated funding in relation to premium pay for City employees.

February 10, 2022 - City Council transferred $150,000 from the Marina project for the closure of the I-110 camp.

May 12, 2022 - City Council transferred $127,000 from a Marina project to the Baylen Slip project and adopted a Supplemental Budget Amendment resolution affecting the same.

July 21, 2022 - City Council transferred $211,475 from the Scenic Highway land purchase project to fund 50% of a restroom facility on Palafox.

October 13, 2022 - City County transferred $75,000 from various projects to fund the Studer Community Institute's initiative The Spring.

FUNDING:

From:	
FEMA Covid	$252,140
Bayview Erosion Project	$127,842
Total	$379,982

To:	
Mooring Field Study	$50,000
Amtrak Center Remodel	$84,533
Emergency Management (COOP) Plan	$145,449
Deferred Maintenance Analysis Parks/Community Centers	$100,000
Total	$379,982

FINANCIAL IMPACT:

Funding for ARPA projects will be reallocated. All funding must be spent or encumbered by December 31, 2024.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Lovoy, Finance Director

ATTACHMENTS:

1. ARPA Project Allocations thru 02/29/2024

PRESENTATION: No

CITY OF PENSACOLA
DIRECT FEDERAL COVID-19 FUNDING RELIEF FOR MUNICIPALITIES
BUDGET TO ACTUAL THRU 2/29/2024 - UNAUDITED

Category	Project	Estimated Cost	FY2021	FY2022	FY2023	FY24	Remaining Balance
Recovery of Revenue Loss & Expense	Maritime Park	$534,000	534,000	0	0	0	0
	Parking	300,000	300,000	0	0	0	0
	Recreation	786,500	786,500	0	0	0	0
Sub-Total Recovery of Revenue Loss		**$1,620,500**	**$1,620,500**	**$0**	**$0**	**$0**	**$0**
Citizen Assistance	Homelessness Reduction Investment	3,000,000	0	644,745	642,923	67,388	1,644,943
	Vaccination Awareness Program	125,000	35,525	89,474	0	0	1
	Gibson/Head Start Acquisition	500,000	0	0	0	0	500,000
	Homelessness Mitigation	50,000					50,000
	Housing Assistance	599,800	0	113,053	170,304	0	316,444
	Housing Incentive Program	390,000				30,000	360,000
	Mortgage/Rent Utility Assistance	127				126	1
	Affordable Housing Development	134,293				0	134,293
	Housing Rehab Program	325,780				9,334	316,446
Sub-Total Citizen Assistance		**5,125,000**	**35,525**	**847,272**	**813,227**	**106,848**	**$3,322,127**
Personnel	Premium Pay	3,672,288	68,936	3,603,351	0	0	1
	All Employees/Vaccination Incentive	57,961	48,720	9,240	0	0	1
Sub-Total Personnel		**$3,730,249**	**$117,656**	**$3,612,591**	**$0**	**$0**	**$2**
Grant Compliance and Additional Staffing	Administrative Expenses	320,000	31,866	106,393	149,503	46,956	(14,719)
Sub-Total Grant Compliance		**$320,000**	**$31,866**	**$106,393**	**$149,503**	**$46,956**	**($14,719)**
Facilities Infrastructure	Building Infrastructure	1,000,000	22,012	241,575	31,873	0	704,540
	Audio/Video System Enhancements/Upgrade	250,000	16,840	31,453	162,810	1,160	37,737
	Council Chambers	350,000	0	0	150,419	249,629	(50,048)
	Upgrade/Improve Phone Services	35,991	0	0	0	0	35,991
		1,635,991	**38,853**	**273,028**	**345,101**	**250,789**	**728,220**
Stormwater	Main & Barrancas, Tanyard and Palafox Street						
	Main Street	1,679,003	0	0	0	0	1,679,003
	Barrancas Ave.	600,000	0	0	0	0	600,000
	Cordova Square Pond Expansion	350,000	0	0	0	294,945	55,055

CITY OF PENSACOLA
DIRECT FEDERAL COVID-19 FUNDING RELIEF FOR MUNICIPALITIES
BUDGET TO ACTUAL THRU 2/29/2024 - UNAUDITED

Category	Project	Estimated Cost	FY2021	FY2022	FY2023	FY24	Remaining Balance
	9th Ave to Pensacola Bay	325,000	0	0	129,204	16,047	179,749
Sub-total Stormwater		**2,954,003**	**$0**	**$0**	**$129,204**	**$310,992**	**$2,513,807**
Other	Bayview Erosion Rehabilitation	500,000	0	28,133	45,750	132,721	293,396
	Scenic Hwy Property	4,435	4,435	0			0
	Palafox Bathrooms	225,000		2,570	2,016	118,550	101,863
	Summit BLVD Road Diet	75,000	0	21,499	39,517	3,984	10,000
	Street Sweeper	250,000	0	0	250,000	0	0
	Arborist	242,662	0	56,808	100,311	32,888	52,654
	Tree Canopy Study	145,743	0	133,453	11,988	0	302
	Solar Feasibility Study	46,000	0	45,405		0	595
	Solar Canopy	18,000	0	18,000		0	0
	Tree Replacement Plan (Parks)	34,595	1,323	15,844		0	17,428
	PFAS Cleanup	200,000	0	79,762	25,169	14,268	80,801
	Hunter Pool	0	0	0		0	0
	Covid Expenses	252,140	0	0		0	252,140
	I110 Camp	122,325	0	121,704		0	621
	Cultural/Historical Affairs	128,755	0	0		16,810	111,945
	Cultural Affairs Specialists	330,000	0	17,929	139,014	0	173,057
	Maritime Museum/804 S Palafox	1,245	0	1,245		0	0
	Journey to Juneteenth/Cultural Events	40,000	0	22,925	20,561	0	(3,485)
	Skate Park	950,000	0	189,836	760,164	0	(0)
	Community Studer Institute - The Spring	75,000	0	0	0	0	75,000
	Marina	127,000	0	0	42,000	85,000	0
Sub-total Other		**3,767,900**	**$5,758**	**$755,114**	**$1,436,490**	**$404,222**	**$1,166,316**
Grand Total		**$19,153,643**	**$1,850,158**	**$5,594,399**	**$2,873,525**	**$1,119,808**	**$7,715,753**

File #: 24-198 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

REVISED: AGREEMENT RENEWAL - ESCAMBIA CHILDREN'S TRUST - AFTERSCHOOL PROGRAMMING AT CITY RESOURCE CENTERS

RECOMMENDATION:

That City Council approve the renewal of the agreement between Escambia Children's Trust and the City of Pensacola for funding of free after-school programming at City Resource Centers. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this Agreement consistent with the terms of the Agreement and the Mayor's Executive Powers as granted in the City Charter.

HEARING REQUIRED: No Hearing Required

SUMMARY:

On May 25, 2023, City Council approved the acceptance of the Escambia Children's Trust Grant Agreement to offer free after-school programming for K-5 students meeting federal income criteria at 4 existing program venues including; E.S. Cobb Resource Center, Fricker Resource Center, Gull Point Resource Center and Woodland Heights Resource Center.

The initial term of the Agreement was for a period of one (1) year and eligible for an annual renewal for a maximum of three (3) years. This renewal is for the second year of a maximum three-year period.

PRIOR ACTION:

May 25, 2023 - City Council approved the Agreement Between the Escambia Children's Trust and City of Pensacola.

FUNDING:

Budget:	$540,041.00	Escambia Children's Trust Grant
Actual:	$540,041.00	

FINANCIAL IMPACT:

Approval of the supplemental budget resolution will appropriate the Escambia Children's Trust Grant Funds.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

Kerrith Fiddler,City Administrator
Amy Miller, Deputy City Administrator
Ben Heistein, Parks and Recreation Director
Tonya Byrd, Assistant Parks and Recreation Director

ATTACHMENTS:

1. Agreement Between The Escamiba Children's Trust and City of Pensacola

PRESENTATION: No

AGREEMENT BETWEEN
THE ESCAMBIA CHILDREN'S TRUST
AND
CITY OF PENSACOLA, FLORIDA

I. PURPOSE

The ESCAMBIA CHILDREN'S TRUST, hereinafter referred to as "ECT," and CITY OF PENSACOLA, FLORIDA, hereinafter referred to as "Provider," enter into this mutual Agreement, hereinafter referred to as this "Agreement", including all attachments referred to herein for the provision of services on behalf of children in Escambia County. This Agreement is a cost-reimbursement agreement.

II. TERM

The term shall be for a period of one (1) year commencing on March 1, 2024, and extending through February 28, 2025. This Agreement is effective as of March 1, 2024. There shall be no reimbursement for any expenses occurring outside of the effective dates of this Agreement.

III. RENEWAL

This Agreement is eligible for an annual renewal for a maximum of three (3) years. The current term is for the second year of a maximum three-year period. Final (third) year renewals are subject to ECT board approval and shall include an evaluation of Provider's performance to include an evaluation of monitoring reports, a history of expenditures, a review of fiscal and programmatic monitoring results, and submission of a new annual budget.

No less than sixty (60) days prior to the contract term date, ECT staff will perform the necessary review and make a recommendation to the ECT board regarding renewal. The proposed renewal or termination shall be on an ECT board agenda at least forty-five (45) days prior to the termination date.

IV. ENTIRE AGREEMENT

This Agreement contains all the terms and conditions agreed upon by the parties with respect to the subject matter of this Agreement. No other agreements regarding the subject matter of this Agreement shall be deemed to exist or to bind any of the parties hereto.

V. PROVIDER AS INDEPENDENT CONTRACTOR

The Provider agrees that it shall be an independent contractor and that its officers, employees,

or representatives shall not be considered employees of ECT. The Provider will be fully responsible for all social security payments, withholding taxes, workers' compensation insurance and liability insurance for the Provider, its officers, employees and representatives, and ECT shall have no responsibilities for such items.

VI. STAFF

Provider agrees to employ staff, at its own expense, to execute services provided in accordance with this Agreement. Such individuals shall not be considered employees of ECT, and are subject to the supervision, personnel practices, and policies of the Provider. Provider shall adopt and adhere to an anti-nepotism policy as further described herein. Unless otherwise approved by ECT, all Provider staff shall meet qualifications as stated in the approved position profile on file at ECT and any approved revisions. The position profiles shall be provided to ECT prior to the execution of this Agreement and are attached hereto as **Exhibit E.** ECT shall not reimburse overtime pay for any staff. For purposes of this Agreement, overtime pay shall be defined as any pay greater than forty (40) hours per week or pay at a higher rate than established in the approved position profiles.

VII. CONTINUING OBLIGATION TO KEEP ECT INFORMED

The parties agree that their relationship will be enhanced and the possibility of misunderstandings or disputes will be reduced if they communicate periodically. In particular, the Provider acknowledges the importance in keeping ECT informed relative to the services it is providing. The Provider will promptly notify ECT prior to any significant change(s) in the delivery of the services as set forth in its proposal. Significant changes that would require notification to ECT would include, but not be limited to, the commencement or conclusion of employment of key staff, such as the executive director or program coordinator. In addition, the Provider must notify and obtain ECT's approval prior to effectuating any material change(s) in the delivery of services set forth in its proposal. Material change(s) would include, but not be limited to, location of facilities where services are being provided, the number of staff assigned to a service delivery site, or any unanticipated budgetary impacts such as changes to staffing, supply costs, or changes that otherwise impact the cost of services. The Provider agrees to permit ECT and its staff to conduct site visits.

VIII. SHARING INFORMATION

The Provider agrees to share with ECT, and other agencies as specified by ECT, such information and data, which ECT determines is appropriate. The information and data to be collected is outlined in the attached Data Collection Requirements, attached hereto as **Exhibit C** and incorporated herein by reference. To facilitate this sharing of information, the Provider agrees to have an appropriate release form signed by the parent or guardian of each client being served through the ECT's funding. Minimum demographic information will include client unique identifier, street address, zip code, sex, race, age, if a teen parent, if family is served, primary service component, and outcomes. Data will be shared via ECT's website, electronic

database, or spreadsheet (as applicable). All shared information is subject to the Confidential Information and Public Records provisions contained in this Agreement. For the avoidance of doubt, in no event shall Provider or ECT share or make public, whether or not in response to a public records request, personally identifying information of a minor client or the client's parent(s) or guardian(s) , which personally identifying information is exempt from Section 119.07(1), Florida Statutes, and from Section 24(a), Article I, of the Constitution of the State of Florida, as provided by Section 125.901(11), Florida Statutes.

IX. SERVICES/SCOPE OF WORK

Provider agrees to deliver services as stated in the attached ECT approved Solicitation Response or Unsolicited Grant Application Form, attached hereto as **Exhibit A**, and incorporated herein by reference. Provider agrees to accomplish Performance Measures outlined in the Performance Measurements attached hereto as **Exhibit B,** and incorporated herein by reference. Exhibits A and B together form the Scope of Work for this Agreement. A Scope of Work update, or certification that no updates are needed, is due for submission prior to execution of this Agreement. Any proposed changes in service delivery after execution of this Agreement, must be approved in writing by ECT in advance of making those changes, and Scope(s) of Work shall subsequently be updated within ten (10) calendar days of that approval. See Section XV. General Conditions, subparagraph 31, Amendments. Costs associated with any unapproved changes in service delivery may not be reimbursed.

X. METHOD OF PAYMENT

1. ECT agrees to reimburse up to $540,041.00 (five hundred forty thousand and forty-one dollars and no cents) for services rendered pursuant to this Agreement, for actual costs incurred for services rendered pursuant to this Agreement.
2. All requests for reimbursement must be certified true and correct by the Provider and must be accompanied by the appropriate documentation as prescribed by ECT which may include but not be limited to receipts, purchase orders, cancelled checks, price quotes, or other supporting information to document that the expenditure was reasonable, allocable, and allowable.
3. Requests for reimbursement shall be made using the SAMIS Client Relationship Management portal.
4. Requests for reimbursement are due to ECT by the 20th day of the month following the date the related expenses are incurred.
5. The following late penalties shall apply: submitting late requests for reimbursements, after the 20th day of the month following the date the expenses are incurred, shall result in a five hundred dollar ($500.00) penalty which will be deducted from the reimbursement amount. No reimbursement shall be issued for requests over thirty (30) days late. No reimbursement shall be issued if the Provider's required quarterly reports are past due. Exemptions to the late penalties may be granted at the sole discretion of the ECT Executive Director and must be issued in writing.
6. The Provider shall submit a request for payment at a minimum of once a month. No more than two (2) requests for reimbursement may be submitted per month.

7. Reimbursement requests shall be submitted timely and only for amounts actually incurred that should properly be reimbursed per this Agreement within reasonably needed amounts based on the budget and other funding sources.
8. ECT issues reimbursements within 21 days of receipt of a request for reimbursement. Reimbursements shall be made on pace throughout the fiscal year in order to allow for a consistent and orderly delivery of services.
9. ECT has the right to withhold or suspend payment if the Provider has not met the performance measures contained within this Agreement.
10. If reimbursement is made for any services outside the Scope of Work of this Agreement or for costs determined by ECT to be disallowed, the Provider is responsible to return reimbursement funds to ECT upon demand by ECT as further outlined herein.

XI. TERMINATION

a. It is the intent of ECT to ensure a consistent and orderly delivery of services. It is the further intent of ECT to terminate Agreements in those situations where such action is essential to the protection of its interests and the interests of children and families served by ECT, as determined solely by ECT.
b. In the event funds to finance this Agreement become unavailable, ECT may terminate this Agreement upon no less than twenty-four (24) hours' notice in writing to the Provider. Said notice shall be delivered by certified mail, return receipt requested.
c. ECT shall endeavor, whenever possible and consistent with its legal obligations and principles of prudent management, to provide thirty (30) days' notice for termination due to lack of funds. ECT shall be the final authority as to the availability of funds and extension of notice beyond the minimum time herein stated.
d. This Agreement may be terminated by ECT for any breach of terms by the Provider upon twenty-four (24) hours written notice from ECT. Said notice shall be delivered by certified mail, return receipt requested.
e. Provider shall only be compensated for services performed prior to the termination date. Provider may only terminate this Agreement upon thirty (30) calendar days' written notice to ECT delivered by certified mail, return receipt requested.
f. The above provisions shall not limit ECT's right to remedies at law or to damages.
g. ECT has the right to terminate this Agreement if the Provider fails to meet the performance measures specified in this Agreement.
h. Termination of this Agreement shall not affect any rights, obligations, and liabilities of the parties arising out of transactions which occurred prior to termination.
i. Upon termination of this Agreement, either through the expiration of the term or upon other grounds, the Provider shall return to ECT all supplies or equipment purchased with ECT funds that are in the Provider's possession at the time of termination.

j. Provider understands and acknowledges that the funding will only be for the term stated herein.

XII. APPROPRIATION OF FUNDS

a. ECT's performance and obligation to pay under this Agreement are contingent upon an annual appropriation for its purpose by ECT. In the event funds to finance this Agreement become unavailable or are not appropriated, ECT, at ECT's sole discretion, may terminate this Agreement upon no less than twenty-four (24) hours' notice, in writing by certified mail, return receipt requested, to the Provider.
b. Notwithstanding anything herein to the contrary, the parties agree that the dollar amount set forth in Section X, Method of Payment, Paragraph 1 above may be reduced in the event that ECT determines that the Provider will not spend the entire amount allocated during the term of this Agreement or in the event the Provider is not meeting performance expectations as determined by ECT staff. This determination may be made (a) based upon ECT's review of Provider's program and its expenditure history, (b) during the course of reviewing a budget revision submitted by the Provider pursuant to ECT's procedures, or (c) at any time that ECT becomes aware that the Provider is not meeting performance expectations. Before any such reduction becomes final, the Provider will be notified in writing of the proposed action and shall have the opportunity to address ECT regarding the proposed reduction. Such written notification shall occur not less than ten (10) days prior to the Board meeting where such action is to be considered.

Any proposed reduction will be determined by the ECT Board. The decision of ECT on this issue shall be within its sole discretion and shall be final.

XIII. COMMENCEMENT OF PAYMENT

Payment shall not be made for services rendered prior to the commencement date of this Agreement.

XIV. AUTHORITY

Each party represents and warrants to the other party that it has full power and authority to enter into and is fully licensed and able to perform its obligations under this Agreement, and this Agreement constitutes a legal, valid and binding obligation, enforceable in accordance with its terms.

XV. GENERAL CONDITIONS

1. Agreement Revisions

This Agreement and its attachments constitute the contractual relationship between the

Provider and ECT. If there is any discrepancy between program-related documents, this Agreement preempts all other documents. No amendment to this Agreement or its attachments may be made without the prior written approval of ECT and Provider. See subparagraph 31, Amendments, contained herein.

2. Fiscal Responsibility

a. Provider agrees to maintain books, records, and documents (including electronic storage) in accordance with generally accepted accounting principles and practices which accurately and appropriately reflect all expenditures of funds listed in the approved budget attached hereto as **Exhibit D** and incorporated herein by reference.
b. Provider agrees that all financial records and supporting documentation as outlined in subparagraph 2(a) above shall be subject at all times to inspection, review, or audit by ECT personnel or its duly authorized agent.
c. Provider agrees to maintain and file with ECT in a timely fashion, reports related to services provided under this Agreement.
d. Provider agrees to retain all financial records, supporting documentation, statistical records, and any other documents pertinent to this Agreement for a period of five (5) years after termination of this Agreement. If an audit has been initiated and audit findings have not been resolved at the end of five (5) years, all records shall be retained until resolution of audit findings.
e. Provider shall provide supporting documentation (board meeting minutes, etc.) for all salary adjustments.
f. ECT shall not reimburse expenses not previously approved by ECT. All expenses must be specified within the approved budget, based on the scope of work, reasonable, allocable to the project, and accompanied by appropriate backup documentation.
g. Provider shall include all audit and recordkeeping requirements of this Agreement in all approved subcontracts and assignments hereunder.
h. Provider shall maintain a written inventory of all supplies and equipment purchased with ECT funds and shall provide such inventory to ECT at the time of submission of each quarterly report or upon request by ECT.

3. Audit and Management Letter

ECT is committed to assurances that all funds provided are being used consistent with its policies and in the best interest of the children and taxpayers of Escambia County.

a. An independent audit is required for organizations receiving annual contributions of $1,000,000 or more. If Provider receives annual contributions of $1,000,000 or more: Upload three most recent years of audited financial statement summaries and disclosures to include internal control reports and any accompanying management letters, OR individual tax returns and personal financial statement of net worth for the most recent year if Proposer is an individual proprietor. Privately held companies wishing to maintain confidential financial information must have Dunn & Bradstreet Reports (D&B). If any of these statements include a material weakness or significant

deficiency, include a letter of explanation.

b. For those with annual contributions of at least $500,000 but less than $1,000,000, the organization's financial statements may be reviewed or audited by an independent CPA. If Provider receives annual contributions of at least $500,000 but less than $1,000,000: Upload three most recent financial statements reviewed or audited by an independent CPA.
c. For those with less than $500,000 in annual contributions, a compilation, audit, or review of the financial statement is optional under Florida statute, but ECT requires that programs with revenue of less than $500,000 undergo either an audit or a fiscal review each fiscal year. The review shall be performed consistent with the American Institute of Certified Public Accountants (AICPA) Standards for Government/Non-Profit Organizations, or other mutually agreed upon standards. If Provider receives less than $500,000 in annual contributions: Upload three most recent 990s, compilations, audits, or reviews of financial statements.

The Provider agrees to submit to ECT a fiscal review or an independent audit of the financial statements of the entity in its entirety and any accompanying management letter(s) immediately upon receipt by the Provider's board, but within a period not to exceed one hundred and eighty (180) calendar days of the close of the Provider's fiscal year. The audit must be performed by a firm licensed to perform audits in the State of Florida and conducted in accordance with generally accepted auditing standards and standards established by the American Institute of Certified Public Accountants (AICPA). The Provider is required to engage an audit firm or CPA that follows Government/Non-Profit Audit Standards when conducting the financial audit and that shows evidence of a peer review report completed every three (3) years.

The Provider's auditor must comply with the Independence Rule and comply with the General Requirements for Performing Nonattest Services and Documentation Requirements When Providing Nonattest Services. Such nonattest services include: (1) financial statement preparation; (2) cash to accrual conversions; (3) reconciliations; (4) advisory services; (5) appraisal, valuation and actuarial services; (6) benefit plan administration; (7) bookkeeping, payroll and other disbursements including proposed standard, adjusting or correcting journal entries; (8) preparation of depreciation schedules; (9) business risk consulting; (10) corporate finance consulting (11) executive or employee recruiting; (12) forensic accounting; (13) hosting services; (14) information systems design, implementation or integration; (15) internal audit; (16) investment advisory or management; (17) tax services.

4. <u>Other Financial Support</u>

a. Provider shall report within thirty (30) calendar days any major changes in non-ECT revenue which would impact targeted service levels in ECT funded programs during the fiscal year.
b. ECT funds shall not be used to supplant other sources of revenue.
c. Revenues earned by an ECT funded program must remain in that program as a condition of funding. ECT funding may not result in a prohibited private benefit (i.e., a profit) for the Provider.

d. Provider may not charge any fee or tuition for services or programs funded by ECT.

5. <u>Program Monitoring and Data Quality</u>

Provider agrees to assign appropriate staff as necessary to attend meetings with ECT and/or staff to discuss issues and recommendations including, but not limited to, quality of service, service delivery systems, coordination of services, client satisfaction, records, maintenance, and funding maximization.

Provider agrees to submit monitoring, site visit, accreditation, and licensing reports supplied by funding, accreditation, and licensing entities, as applicable, to ECT no more than thirty (30) calendar days following Provider receipt.

Provider agrees to submit quarterly progress reports no later than the month following the end of each quarter and other information in such format and at such times as may be prescribed by ECT (including via SAMIS, Secure Portals, and Provider specific data collection systems), and to cooperate in monitoring activities including, but not limited to, access to sites, staff, fiscal and participant records, logs, participant rights and responsibilities policies, participant handbooks, grievance and complaint procedures, and the provision of related participant and participant rights information. No reimbursement shall be issued if the quarterly report is past due. Quarterly reports shall document all in-kind donations received by the Provider during the reporting period. Provider agrees to respond to any monitoring findings within the time frame specified therein. Provider shall maintain and have available for audit inspection participant records for five (5) years post termination of services. Provider agrees to abide by the ECT policies regarding program monitoring.

Provider agrees to create and implement a sustainability plan to demonstrate how the Provider will sustain itself over the long term so that it is able to continue to support its mission beyond the term of this Agreement. The sustainability plan may involve the following: financial sustainability, leadership succession planning, and strategic planning. The plan shall include all other sources of funding. The Provider shall provide progress reports on the sustainability plan to ECT upon request.

Provider agrees to provide complete information as requested by SAMIS. Provider agrees to provide ECT with information related to its total agency budget, the percent of its overall agency budget funded by ECT, and the percent of ECT funding used for personnel.

Provider agrees that multiple doses cannot occur on the same calendar date and be counted toward dosage requirements.

Provider agrees to utilize the ECT Program Enrollment Form, attached hereto as **Exhibit F**, for all program participants.

Provider agrees to provide ECT representatives access without presence of the Provider supervisor, to staff or program participants during any monitoring, with or without advance

notice. Youth participants will be interviewed only in group settings or with Provider staff present unless parental consent is obtained.

Provider staff shall adhere to ECT's performance reporting and data collection requirements and ECT's financial policies and procedures for funded programs. All staff who have any responsibility (supervisory or direct) for data entry shall be trained within thirty (30) calendar days of hire. The Provider is responsible for maintaining written policies and procedures for providing data to ECT in a timely manner. The Provider is responsible for reviewing SAMIS permissions to ensure that all users are active employees with access to appropriate data systems and modules as required. The Provider is responsible for implementing appropriate procedures into their data policies to protect data and prevent accidental or malicious disclosure of participant information. The Provider is responsible for maintaining fiscal access to the ECT SAMIS portal and workflow approval, including but not limited to, processing the requests for reimbursements and responding to any request for supporting documentation, throughout the fiscal year.

Provider shall notify ECT no less than ninety (90) days prior to implementation of data system(s) used for participant and/or financial information that are used to share data with ECT.

ECT and Provider shall maintain the confidentiality of client services and records in full accordance with any federal or state laws or federal regulations mandating such confidentiality.

6. City Council Members

Within thirty (30) calendar days of approval or a change of City Council composition, Provider shall submit to ECT an updated list of City Council members to include the start date of all members and, for City Council chair only, the email and physical address, phone number, and place of employment.

7. Nondiscrimination

Provider shall not discriminate against an employee, volunteer, or participant of the Provider on the basis of race, color, gender, religion, national origin, citizenship, disability, marital status, age, veteran status, sexual orientation, pregnancy, and genetic information, or any other legally protected category except that programs may target services for specific participant groups as defined in the application. Additionally, Provider shall demonstrate the standards, policies, and practices necessary to render services in a manner that respects the worth of the individual and protects and preserves the dignity of people of diverse cultures, classes, races, religions, and ethnic backgrounds.

8. Anti-Nepotism

Provider shall have a written anti-nepotism policy in place and shall provide the policy to ECT upon request. The anti-nepotism policy shall be a set of rules and guidelines put in place by the Provider to prevent the hiring or promotion of family members or close relatives of current

employees or management. The policy shall be designed to avoid conflicts of interest, favoritism, and other forms of unfair treatment that may arise when family members work together in the same organization. The anti-nepotism policy shall specify the types of relationships that are covered, such as spouses, children, parents, siblings, and in-laws, and sets forth the penalties for violating the policy. The policy may also include exceptions in certain circumstances, such as when there are no other qualified candidates for a position. Provider shall disclose if any family members or close relatives are employed or contracted by Provider.

9. Publicizing of ECT Support - Endorsements

Provider shall distribute a press release announcing that it has been awarded funding by Escambia Children's Trust.

Provider website shall include the ECT logo that links to the ECT website landing page at www.escambiachildrenstrust.org.

ECT's logo must be visible at Provider's administrative and program sites, be featured on the Provider's website, and be present on the following Provider materials as an acknowledgement of support:

- Annual report
- Program brochures and marketing materials

10. Assignments and Subcontracts

The Provider shall be prohibited from subcontracting, selling, assigning, or otherwise transferring its interest in this Agreement to any other person, governmental entity, firm or corporation except upon prior written agreement of ECT, which ECT may withhold in its sole discretion, ECT and the Provider each binds itself and its partners, successors, executors, administrators and assigns to the other party and to the partners, successors, executors, administrators and assigns of such other party, in respect to all covenants of this Agreement.

No such approval by ECT of any assignment or subcontract shall be deemed in any event or in any manner to provide for the incurrence of any obligation by ECT in addition to the total dollar amount stated in this Agreement. ECT shall have the right to require the Provider to replace any Subcontractor found, in the reasonable judgment of ECT, to be unacceptable.

All such assignments or subcontracts shall be subject as applicable to the terms and General Conditions of this Agreement and to any conditions of approval that ECT shall deem necessary. Subcontracts for program service delivery described in the approved program methodology must be reviewed according to the Subcontract Assessment. The assessment outlines elements that must be included in subcontracts. Subcontracts and the corresponding Subcontract Assessment shall be submitted to ECT within thirty (30) calendar days of the effective date of this Agreement and upon revision, amendment, and execution of the subcontract thereafter.

Provider shall have full responsibility for the successful performance and completion of all subcontracted duties under this Agreement to the same extent as if the Provider performed such duties. The Provider shall be the sole point of contact for subcontracts with regard to all matters under this Agreement. Provider is responsible for monitoring subcontracts of ECT funded programs unless otherwise specified in a Special Condition of this Agreement. Documentation of monitoring of subcontracts shall be submitted to ECT no more than thirty (30) calendar days following completion of the monitoring activities.

11. Confidential Information

Provider and ECT must follow all laws regarding confidentiality of information including, but not limited to, HIPAA. Neither ECT nor Provider shall use or disclose any information which specifically identifies a recipient of services under this Agreement, and Provider and ECT shall adopt appropriate procedures for employees' handling of confidential data with the following exceptions: a) such information may be revealed as may be necessary to conform to Fiscal Responsibility and Program Monitoring requirements as stated in the General Conditions of this Agreement; b) such information may be revealed if and to the extent required by applicable federal, state, or local law and related regulations; and c) such information may be revealed with the written consent (authorization) of the recipient, or the recipient's responsible parent or guardian, where authorized by law. Provider is responsible to adopt appropriate policies, notifications, authorizations, and other relevant information that allows for the sharing of confidential information with ECT.

The Provider shall also maintain in participant files a completed copy of an ECT-approved form for authorizing client consent to release information for each participant receiving services. As allowed by law and Provider policy, the Provider shall add ECT to consent forms including HIPAA consent forms to facilitate data sharing and implement the Fiscal Responsibility and Program Monitoring requirements as stated in the General Conditions of this Agreement and advise ECT within two (2) business days if a participant has withdrawn consent to share data and note this withdrawal of consent in the case file. ECT has full discretion as to the use of data and ECT owns all data once transferred to ECT.

In the event Provider intends to use the name, image, or other identifiable information in connection with a press release, news story, testimonial, or story that may be viewed by the general public, Provider shall obtain permission and license for the use of same, and that the participant will not receive compensation for participation in the use of this information. For youth under the age of eighteen (18), Provider will obtain the signature of a parent or legal guardian.

In no event should participant identifying information ever be emailed or faxed to ECT.

In the event of an improper disclosure of participant information by Provider, Provider shall inform ECT of the improper disclosure and extent thereof within two (2) business days of becoming aware of the improper disclosure. Provider shall cooperate fully with ECT and take

all necessary steps to correct and remedy any damage caused by the Provider's improper disclosure and to prevent future improper disclosure. Provider shall defend, indemnify and hold harmless ECT from any and all damages caused by Provider's improper disclosure of any confidential information as defined by law including, but not limited to, Protected Health Information under HIPAA and any and all costs associated with remedying the disclosure. Provider shall defend, indemnify and hold harmless ECT from any and all damages caused by Provider's improper disclosure as defined by law of any information including but not limited to personally identifiable information (PII) and protected health information (PHI) as required under HIPAA, HITECH and FIPA regulations or other information that is confidential and/or exempt from disclosure per F.S. 119. This provision shall survive the termination of this Agreement.

Likewise, in the event of an improper disclosure of Provider's participant information by ECT, ECT shall inform Provider of the improper disclosure and extent thereof within two (2) business days of becoming aware of the improper disclosure. ECT shall cooperate fully with Provider and take all necessary steps to correct and remedy any damage caused by ECT's improper disclosure and to prevent future improper disclosure.

12. Public Records

ECT is a public entity subject to Florida's Public Records Law, which includes provisions relating to records retention, production, and confidentiality. If there are any Provider subcontracts that arise out of this Agreement, the entirety of this public records condition shall apply to the Subcontractor.

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

Escambia Children's Trust
1000 College Boulevard, Ste. 1100-H
Pensacola, FL 32504
(850) 475-4980
info@escambiachildrenstrust.org

Provider must comply with 119.0701 and must:

a. Keep and maintain public records required by ECT to perform the service.
b. Upon request from ECT's custodian of public records, provide ECT 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 F.S. 119 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 completion of the contract if the Provider

does not transfer the records to the public agency.

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

In addition, Provider should be aware that Social Security numbers are confidential and exempt from disclosure (119.071(5)) and personal identifying information of a child or the parent or guardian of the child held by ECT or service provider under contract with ECT is exempt from disclosure (125.901(11)). There are many other exemptions in the law that Provider should be cognizant exist. However, for Provider, any and all contracts between ECT and Provider, program methodology, budgets, requests for reimbursements, emails, other written correspondence and any other documents exchanged between the Provider and ECT are generally public records and will be disclosed in the sole discretion of ECT and must be retained in accordance with Florida's record retention policy. Providers should not provide any documents to ECT containing Trade Secrets, as defined by F.S. 812.08, or exempt or confidential and exempt information to ECT without specifically marking such document. By submitting any documents or information whatsoever to ECT, Provider agrees that ECT may use and disclose all information and documents submitted for any purpose ECT sees fit and that it is within ECT's sole discretion to determine if any information submitted is exempt from disclosure.

Any Provider who receives a public records request for records pertaining to ECT or services funded by ECT, must advise ECT within two (2) business days of the records request and ECT and Provider will work together to respond to any such request. This provision shall survive termination of this Agreement.

13. <u>Return of Funds</u>

Provider agrees to return to ECT any overpayment due to costs not incurred or any payment issued for costs determined by ECT to be disallowed pursuant to the terms of this Agreement and such funds shall be considered ECT funds and shall be refunded to ECT in accordance with ECT's instructions. Should Provider fail to return said funds, Provider shall be responsible for all costs and fees of collection incurred by ECT - including, but not limited to, attorney fees and court costs including any pre-suit collections fees and costs. This provision survives termination of this Agreement and return of funds for overpayment or disallowance will be required even if the overpayment or disallowance is discovered after this Agreement is terminated.

14. <u>Special Situations and Incidents</u>

Provider agrees to inform ECT in writing within one (1) business day of any circumstances or events which may reasonably be considered to jeopardize its capability to continue to meet its obligations under the terms of this Agreement. Participant incidents are required to be reported for situations that occur only while under the Provider's care and include anything that may reflect negatively or critically upon ECT.

Certain personnel are mandated by law to report their suspicions of child abuse, neglect, or abandonment to the Florida Abuse Hotline (1-800-96-ABUSE). All concerns regarding suspected abuse, neglect, or abandonment of a child or vulnerable adult by the Provider shall be reported to the Florida Abuse Hotline in accordance with Section 39.01,Florida Statutes. Provider shall immediately report to appropriate law enforcement personnel any incident in which an individual who does not have care and custody or a child has taken the child without the written authorization of the child's parent or guardian. Incident reporting does not preclude mandated reporting requirements.

Provider shall report to ECT the following critical incidents to the extent known to Provider:

a. Abduction - An incident in which an individual who does not have care and custody of a child has taken the child. Concerns of child abductions shall immediately be reported to the appropriate law enforcement personnel.
b. Abuse or Neglect - Reasonable cause to suspect that a child has been harmed or is believed to be threatened with harm while in the Provider's care.
c. Breach of Information - Sensitive, protected or confidential data related to services funded by ECT has potentially been viewed, stolen or used by an individual unauthorized to do so.
d. Elopement- When a minor participant leaves a setting while participating in services funded by ECT without permission or authorization.
e. Employee Arrest - Employee conduct or activity that results in potential liability to the Provider or ECT, death or harm to a participant, or results in a law violation, including falsification of official records. If an arrest is made for a potentially disqualifying offense under Level 2 background screening requirements, or if the arrest occurred while in the performance of an employee's official duties related to services funded by EC T, the incident should be reported immediately.
f. Investigation or Lawsuit - Any formal investigation or legal action brought against Provider which relates to the services funded by ECT or which may reasonably be considered to jeopardize its capability to continue to meet its obligations under the terms of this Agreement.
g. Media Coverage or Public Inquiry - Media coverage or public reaction that may reasonably have an impact on the Provider or ECT's ability to protect and serve its participants related to services funded by ECT or that may reasonably be considered to jeopardize Provider's capability to continue to meet its obligations under the terms of this Agreement.
h. Participant Death - The death of any participant receiving ECT services, regardless if the

death occurred while under Provider's care.

i. Participant Illness - An illness of a participant requiring a response by Emergency Medical Services AND transport to a medical facility due to the severity of the illness while participant is attending the program.
j. Participant Injury - A medical condition of a participant requiring a response by Emergency Medical Services AND transport to the hospital due to the severity of the medical condition or injury while the participant is attending the program. *Note in both instances of Participant Illness and Participant Injury the parents may use Emergency Medical Services as transportation to the hospital - if it is used solely for this purpose an incident report is not required. In the event that the participant leaves the program and requires emergency care due to an injury or illness incurred at the program, an incident report should be completed when the program becomes aware.*
k. Sexual Battery - An allegation of sexual battery involving a participant or employee as evidenced by medical evidence or law enforcement involvement. Sexual battery includes participant on participant incidents, employee, agent or volunteer on participant, and participant on employee, agent or volunteer.
l. Suicide Attempt - An act which clearly reflects the physical attempt by an active participant to cause his or her own death, which results in bodily injury requiring medical treatment by a licensed health care professional.

In addition, the Provider shall notify ECT immediately upon knowledge of any action or incident involving Provider staff or volunteers that may reasonably be considered to jeopardize Provider's capability to continue to meet its obligations under the terms of this Agreement, which includes misconduct or malfeasance with respect to services funded by ECT during working hours, or any conduct related to services funded by ECT that results in the arrest of a staff member or volunteer after hours.

Within one (1) business day, the Provider must submit electronically by email to info@escambiachildrenstrust.org a completed Incident Report to ECT with full details and disposition of the incident, excluding identifying information such as name, date of birth, and address. In the event of a participant death, please contact by phone the ECT Executive Director within three (3) hours of knowledge of the incident.

All email communications made or received by ECT members or staff are considered public records and are retained and, upon request, made available to the public and media in accordance with Chapter 119, Florida Statutes.

Provider must adhere to the reporting requirements hereunder after the termination of this Agreement if Provider becomes aware of a Critical Incident after the termination of the Agreement if the Critical Incident occurred during the term of the Agreement and relates to the services funded by ECT.

15. <u>Provider Staff Membership on Board</u>

Provider agrees that Provider staff shall not serve as voting members of the Provider's

governing board.

16. Provider & Program Data Maintained In 2-1-1 Database

Provider agrees to maintain accurate and up-to-date Provider and program data in the 2-1-1 Northwest Florida database. The Provider will review and update (as necessary) this data at least once annually. The Provider will list data for newly funded program(s) within thirty (30) calendar days of the date that ECT funds the program. This requirement applies to all programs accepting 2-1-1 referrals.

17. Provider Staff Background Checks

All program staff and Provider staff (including employees, independent contractors, and staff of subcontractors), volunteers and those who may have access to youth participants are required to undergo and pass a national Level 2 background check that complies with the standards set forth in F.S. 435. Those individuals must have no disqualifying offenses listed in F.S. 435.04. for which they have not received an exemption in accordance with Florida law. All staff and volunteers must continue to qualify to pass a Level 2 screening at all times and must notify their employer if at any time they no longer qualify to pass a Level 2 screening. Proof of Level 2 background clearance, including current executed affidavits/attestations of good moral character, must be maintained at all times in the appropriate files and the screening repeated every five (5) years or more often in accordance with law or as requested by ECT. This requirement applies to employees regardless of the funder supporting the position and all volunteers and subcontractors who may have access to youth. Volunteers and subcontractors who assist on an intermittent basis for less than ten (10) hours per month do not have to be screened if a person who meets the screening requirement of this section is always present and has the volunteer and subcontractor within his or her line of sight. The Provider is required to clearly document which volunteers meet the criteria for a Level 2 background screening and affidavits of good moral character, and which are exempt according to the terms of this Agreement. The Provider's policy and practice for background screening must provide for adequate protection and must comply with all applicable laws and implementing regulations including, but not limited to F.S. 435.

The Florida Department of Children and Families provides an exemption process under this statute. ECT does not provide an exemption or waiver process.

Should a Provider not be statutorily authorized to receive a national Level 2 background check in accordance with F.S. 435, the Provider must still comply with the standards set forth in F.S. 435 through VECHS background screening. Only in the event the Provider does not qualify to receive a national Level 2 background check in accordance with F.S. 435 and is not eligible to participate in VECHS, then the Provider must engage a third-party vendor to conduct a national background check and must comply with the standards as set forth in F.S. 435.

Providers using VECHS, or any other third-party vendor which does not allow the release of

background screening results to ECT, must sign and provide to ECT an affidavit which ensures compliance with the entirety of this section. This affidavit must be renewed annually by the Provider's Executive Director or equivalent and submitted within thirty (30) calendar days of the effective date of this Agreement and upon change of staff in this position. Provider must also provide a written procedure within thirty (30) calendar days of the effective date of this Agreement which outlines the process by which compliance is ensured with the entirety of this section, including the person responsible for conducting verification between results of VECHS information and the disqualifying offenses according to F.S 435. Personnel and volunteer files shall reflect who verified whether the employee or volunteer candidate passed the background screening according to F.S. 435.04.

Provider agrees to submit to monitoring of personnel and volunteer files and other required documents to ensure compliance with this section. Monitoring will include, but not be limited to, review of training logs, position descriptions, applications, resumes and Provider verification of staff credentials. Providers shall not release PHI to ECT and shall keep this information separated from personnel and volunteer files. Parental consent for ECT monitoring activities must be evident in the participant files of minor children.

18. Attendance

Provider is required to keep attendance records. Attendance may be tracked in the ECT SAMIS Database or other approved data system. ECT may request attendance records which pre-date the term of this Agreement in order to confirm that the youth participating in the Provider's program are new. Provider shall provide ECT with its prior attendance rosters upon request.

19. Drug-Free Workplace

The Provider shall have and enforce a Drug and Alcohol Free Workplace Policy. Provider agrees to submit to monitoring of its policy to ensure compliance with this section.

20. Public Entity Crimes

Per Section 287.133, F.S., a person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with a public entity, and may not transact business with a public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

21. ECT Policies and Procedures

Provider agrees to follow all ECT policies and procedures which can be located on the ECT website at www.escambiachildrenstrust.org and which are incorporated into this Agreement

in their entirety unless contrary to any express provision in this Agreement. Said policies include, but are not limited to, all Board policies, funding policies, ECT financial policies and procedures for funded programs, research policies, security policies, ECT data quality guidance, and policies that may be promulgated by ECT within its sole discretion from time to time. ECT reserves the right to change these policies from time to time within its sole discretion. ECT will provide a minimum of thirty (30) calendar days' notice to the Provider and it is the responsibility of the Provider to be in compliance with all policies and procedures at all times.

22. Accreditation

Provider is encouraged to provide certification of current accreditation by a recognized national accrediting body appropriate to the programming funded by ECT.

Regardless of accreditation, the Provider must meet the highest professional standards established through its specific field.

23. Conflict of Interest

The Provider must have no interest and shall acquire no interest, either direct or indirect, which would conflict in any manner with the performance or services required hereunder. The Provider further represents that no person having any such interest shall be employed or subcontracted by the Provider during the Agreement term and any extensions.

The Provider shall promptly notify ECT, by email to info@escambiachildrenstrust.org, of all potential conflicts of interest for any prospective business association, interest, or other circumstance, which may influence or appear to influence the Providers judgment or quality of services being provided hereunder. Such written notification shall identify the prospective business association, interest or circumstance, the nature of work that the Provider may undertake and request an opinion of the ECT Executive Director as to whether the association, interest or circumstance would, in the opinion of ECT, constitute a conflict of interest if entered into by the Provider. ECT agrees to notify the Provider of its opinion, in person, or by email, regular mail or delivery service, within thirty (30) days of receipt of notification by the Provider.

24. Insurance Requirements

Prior to commencing any services under this Agreement, the Provider shall provide one copy of certificates evidencing insurance coverage as required hereunder. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida. The certificates shall clearly indicate that the Provider has obtained insurance of the type, amount, and classification as required for compliance with this provision and that no material change or cancellation of the insurance shall be effective without thirty (30) days prior written notice to ECT. Compliance with this provision shall not relieve the Provider of its liability and obligations under this Agreement.

a. The Provider shall maintain, during the life of this Agreement, commercial general

liability, including contractual liability insurance in the minimum amount of $1,000,000 per occurrence to protect the Provider from claims for damages for bodily and personal injury, including wrongful death, as well as from claims of property damages which may arise from any operations under this Agreement, whether such operations be by the Provider or by anyone directly employed by or contracting with the Provider.

b. The Provider shall maintain, during the life of this Agreement, comprehensive automobile liability insurance in the minimum amount of $1,000,000 combined single limit for bodily injury and property damages liability to protect the Provider from claims for damages for bodily and personal injury, including death, as well as from claims for property damage, which may arise from the Provider's ownership, use, and/or maintenance of automobiles, including rented automobiles, for the provision of services under this Agreement or arising out of this Agreement. Proof of appropriate automobile liability insurance is required for any Provider employee or contractor who utilizes a privately owned automobile in order to provide the services detailed in its proposal to ECT or arising there-from.

c. The Provider shall carry Workers' Compensation Insurance as required by Florida Statutes. In the event Provider does not carry Workers' Compensation Insurance and chooses not to obtain same, then Provider shall in accordance with Section 440.05, Fla. Stat., apply for and obtain an exemption authorized by the Department of Insurance and shall provide a copy of such exemption to ECT.

d. Depending on the services to be provided, the Provider may be required to maintain, during the life of this Agreement, professional liability insurance or errors and omissions liability insurance in the minimum amount of $1,000,000 per occurrence to protect the Provider from claims which may arise from or relate to any services provided under this Agreement, whether such services are by the Provider or by anyone directly employed by or contracting with the Provider.

e. The Provider is also required to maintain any other insurance coverage deemed reasonably necessary during the life of this Agreement.

f. Agencies of the State of Florida are exempt from specific insurance coverage levels. Such agencies must submit proof of statutory insurance coverage but are exempt from the specific levels of coverage proscribed herein.

g. All insurance, other than Worker's Compensation and Professional Liability/Errors and Omissions (if required), to be maintained by the Provider shall specifically include ECT as an "Additional Insured". Each renewal of the respective certificate of insurance provided for above shall be submitted to ECT upon receipt by Provider. Failure to have and/or maintain the required insurance under this Agreement shall not relieve Provider of any obligation under this Agreement including without limitation indemnification of ECT.

25. <u>Transportation</u>

If children are being transported by, or on behalf of, the Provider, whether in Provider owned, rental or non-owned vehicles, the Provider must comply with the following requirements:

a. All drivers must have a valid driver's license with the appropriate class certification (if applicable). A copy of each driver's license must be on file with the Provider.
b. All vehicles must be insured as specified in Section 23, and
c. A Transportation Permission Form must be signed by the parent or guardian of each child being transported. A copy of each Transportation Permission Form must be on file with the Provider.
d. Provider agrees to utilize the ECT Transportation Form, attached hereto as **Exhibit G**, for all program participants being transported as part of the ECT funded program.

26. Use of Trust Funds for Inherently Religious Purposes Prohibited

In accordance with the Establishment Clause of the First Amendment to the United States Constitution and the No Aid provision of Article 1, Section 3 of the Constitution of the State of Florida, the use of ECT funds for inherently religious purposes or to otherwise advance a religion is prohibited. The Provider shall not engage in inherently religious activities, such as worship, religious instruction, or proselytization, as part of the services provided and funded by ECT under this Agreement. The Provider agrees, as set forth in this Agreement, to provide ECT full access to its books and records related to the ECT funded program, and to permit ECT to monitor its activities and literature to ensure that ECT funds are not being used for inherently religious purposes or to otherwise advance a religion. Failure to comply with this provision will result in a reduction or denial of a reimbursement request or termination of this Agreement for cause as determined in the sole discretion of ECT.

27. Indemnification

Provider shall defend, indemnify, and hold harmless ECT, its agents, and employees from and against any and all liabilities, claims, judgments, or actions including, but not limited to, attorney's fees and all costs that may hereafter at any time be made or brought by any person or entity on account of any claim including but not limited to, personal injury, property damage, loss of monies, civil rights violation, or discrimination allegedly caused in whole or part by any act or omission, including but not limited to, breach of contract, negligent act, wrongful act, intentional act, omission, and any acts of fraud or defalcation, of the Provider, its agents, employees, or subcontractors, arising out of or relating to its performance of this Agreement or for Provider's improper disclosure of confidential and/or exempt information, or failure to comply with F.S. 119 or any other applicable law, rule or regulation. In no event will the Provider be liable for or have any obligation to defend ECT against such liability, claims, judgments, or actions, including costs and attorney's fees, arising out of the negligent acts of ECT. This provision survives termination of the Agreement.

28. Time

Time is of the essence in all respects under this Agreement.

29. Compliance with Laws

In performing its obligations hereunder, each party agrees to comply in all material respects with all applicable laws. During the term of this Agreement, the Provider shall ensure that it is duly organized, validly existing and in good standing under the laws of Florida. If ECT becomes aware that a Provider's corporate status is administratively dissolved, ECT may terminate the Agreement if the Provider does not have its corporate status reinstated within 30 days' written notice by ECT.

30. Contract Documents and Controlling Provisions

This Agreement consists of the terms and conditions herein and Provider's incorporated proposal. To the extent that there exists a conflict between this Agreement's terms and conditions and the Provider's incorporated proposal, the terms and conditions of this Agreement shall prevail. Wherever possible, the provisions of such documents shall be construed in such a manner as to avoid conflicts between provisions of the various documents.

31. Applicable Law, Venue

This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida and venue for any litigation commenced relating to this Agreement shall be in Escambia County, Florida.

32. Amendments

This Agreement may only be amended by mutual agreement of the parties, provided that the amendment is in writing and is executed by both parties.

Amendments shall not compromise the original intent or intended outcome(s) of the funded project.

Any changes to the Performance Measurements, Scope of Work, or Budget require prior written approval from ECT and shall follow the adopted policies and procedures of ECT.

33. Waiver

No express or implied consent to or waiver of, any breach or default by the other party, in the performance of the obligations hereunder, shall be deemed or construed to be a consent to, or waiver of, any other breach or default in the performance by such hereunder. Failure on the part of either party to complain of any act of the other in default, irrespective of how long such failure continues, shall not constitute a waiver of a party's rights hereunder.

34. Severability; Survivability; Preparation

If any provision of this Agreement or the application thereof to any person or circumstances

shall be invalid or unenforceable to any extent, the remainder of this Agreement and the application of such provisions to other persons or circumstances shall not be affected thereby and shall be enforced to the greatest extent permitted by law. Any provision of this Agreement which is of a continuing nature or imposes an obligation which extends beyond the term of the Agreement shall survive its expiration or earlier termination. This Agreement shall not be construed more strongly against either party regardless of who was more responsible for its preparation.

35. No Third-Party Benefits

The parties to this Agreement do not intend any provision of this Agreement to create any third-party beneficiaries or to confer any benefit or enforceable right upon anyone other than the parties hereto.

36. Sovereign Immunity

This Agreement shall not be construed as constituting a waiver of any rights to sovereign immunity granted to ECT under the laws or Constitution of the State of Florida. This Agreement shall not be construed as granting or extending the sovereign immunity to which ECT is entitled to the Provider or any other third-party.

37. Notices

All notices, including changes in the following addresses, required to be given pursuant to this Agreement shall be given by mail, certified or registered, and return receipt requested, or by personal delivery, evidenced by a receipt signed by the recipient of such personal delivery, and shall be effective when deposited in the mail.

If to ECT, address to the Executive Director of the ESCAMBIA CHILDREN'S TRUST, 1000 College Blvd., Suite 1100-H, Pensacola, Florida, 32504.

If to the Provider, address to the Parks and Recreation Director, City of Pensacola, 222 W. Main Street, Pensacola, FL 32501.

38. Waiver of Jury Trial and Remedies

To encourage prompt and equitable resolution of any litigation, each party hereby waives its rights to a trial by jury in any litigation related to this agreement. No remedy herein conferred upon any party is intended to be exclusive of any other remedy, and each and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise. No single or partial exercise by any party of any right, power, or remedy hereunder shall preclude any other or further exercise thereof.

39. Scrutinized Companies

In compliance with F.S. 287.135(a), a Provider is ineligible to and may not enter into a contract with ECT if the Provider is on the Scrutinized Companies that Boycott Israel List, created pursuant to s. 215.4725 or is engaged in a boycott of Israel. In compliance with F.S. 287.135(b), for contracts of $1 million or more, a Provider is ineligible to and may not enter into a contract with ECT if the Provider (1) is on the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Section List, created pursuant to s. 215.473 or, (2) is engaged in business operations in Cuba or Syria. By entering into this Agreement, you are certifying that you are eligible to contract with ECT and are not participating in a boycott of Israel, are not on the Scrutinized Companies with Activities in Sudan List, are not on the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List and that you do not have business operations in Cuba or Syria. In addition, this Agreement may be terminated if Provider (1) has found to have submitted a false certification,
(2) has been placed on the Scrutinized Companies that Boycott Israel List, or is engaged in a boycott of Israel, (3) has been placed on the Scrutinized Companies with Activities In Sudan List or the Scrutinized Companies with Activities in The Iran Petroleum Energy Sector List; or (4) has been engaged in business operations in Cuba or Syria.

The Provider agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

The Provider agrees that the certifications in this section shall be effective and relied upon by ECT for the term of this Agreement, including any and all renewals.

The Provider agrees that if it or any of its subcontractors' status changes in regard to any certification herein, the Provider shall immediately notify ECT of the same.

As provided in Subsection 287.135(8), Florida Statutes, if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

40. E-Verify

In accordance with F. S. 448.095, no later than the first date of the term Agreement, Provider must register with and use the U.S. Department of Homeland Security's E-Verify system, https://e-verify.uscis.gov/emp, to verify the work authorization status of all employees hired on or after the first date of the term Agreement and during the remainder of the term of this Agreement. Evidence may consist of, but is not limited to, providing notice of your E-Verify number. The link for instructions on how to provide proof of participation/E-Verify enrollment is https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify.

The statute also applies to subcontractors performing work under this Agreement. The subcontractor must use the E-Verify system for any employees it may hire during the term of this Agreement. The Subcontractors must provide affidavits stating the subcontractor does not

employ, contract with, or subcontract with an unauthorized alien, as defined by F.S. § 448.095(k). Subcontractors are defined in Florida Statute as both individuals and legal entities. Provider must maintain copies of all subcontractor affidavits for the duration of the ECT Agreement and these affidavits shall be subject at all times to inspection, review, or audit by ECT personnel or its duly authorized agent.

Notwithstanding any other terms of this Agreement, if Provider has knowingly hired, recruited or referred an alien who is not duly authorized to work by the immigration laws or the Attorney General of the United States, ECT shall terminate this Agreement. Provider may be liable for all costs associated with ECT securing the same services, inclusive, but not limited to, higher costs for the same services and rebidding costs (if necessary). Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of the statute, Provider may not be awarded a public contract for a period of one (1) year after the date of termination.

XVI. SIGNATURES

_____

Lindsey Cannon, Executive Director,
Escambia Children's Trust
Date _____

_____

Tori Woods, ECT Chair
Date _____

Approved for legal sufficiency-

_____

ECT Attorney

_____

D. C. Reeves, Mayor
City of Pensacola, Florida
Date_____

Attest:

_____

_____

City Clerk

_____

Ben Heistein, Parks and Recreation Director

_____

Approved for legal sufficiency:

_____

City Attorney

APPENDIX 1: COVER PAGE
RFP#2022-03 / Out-of-School Time Program

The undersigned, as Proposer, does declare that no other persons other than the Proposer herein named has any interest in this proposal or in the contract to be taken, and that it is made without any connection with any other person or persons making a proposal for the same articles, and it is in all respects fair and without collusion or fraud. The undersigned further declares that he has carefully examined the specifications and is thoroughly familiar with their provisions and penalties.

Organization Name:	City of Pensacola Parks and Recreation Department		
Telephone:	850-436-5670	**Federal EIN:**	59-6000406
Street Address:	222 W. Main Street		
City, State, Zip Code	Pensacola, FL 32502		
Escambia County District #:	Districts 3 & 4		
Contact person:	Tonya Byrd		
Title of contact person:	Recreation Superintendent		
Contact person e-mail:	tbyrd@cityofpensacola.com		
Proposed programming period: *MM/DD/YYYY – MM/DD/YYYY*	January 2023 - December 2025		
Proposed number of Escambia County children and youth served by the organization during the grant period:		235 per academic year	
Participant age range:		5-12 years	
Amount requested:		$1,690,128	
Total organizational budget:		$10,880,535	
Total program budget for this RFP:		$1,822,147	
# of full-time employees employed for OST program(s):		6	
# of part-time employees employed for OST program(s):		18	
# of AmeriCorps, Senior Corps or other service members engaged in OST program(s):		0	
# of volunteers engaged in OST program(s):		0	

Authorized Signature: Tonya Y. Byrd

Name: Tonya Byrd Title: Recreation Superintendent

To receive consideration for award, this page must be returned as part of your application.

City of Pensacola Parks and Recreation Department – After School Program

Response to Escambia Children's Trust RFP #2022-03

A. Abstract

The City of Pensacola Parks and Recreation Department (PPRD) proposes to use the grant funding to offer free after school programming for K-5 students meeting federal income criteria at 4 existing program venues including: E.S. Cobb Resource Center, Fricker Resource Center, Gull Point Resource Center, and Woodland Heights Resource Center. We will seek reimbursement under the grant only for expenses involved in delivering services to youth who qualify for free tuition. PPRD will partner with multiple agencies to enhance current program offerings for students including STEM activities, performing arts, behavior and social support services, as well as outdoor recreation and conservation education.

We believe offering free access to these programs will increase the number of children enrolled in quality after school programming and ensure equal access to enrichment programs that are not currently available to many low-income families during out-of-school time. Additionally we seek to improve students' overall well-being, confidence, school attendance, and academic performance through a variety of evidence based youth development practices used by the program.

After school programs and camps can deliver the kind of social equity of services that often cannot be provided for in academic and home settings for various reasons. Post pandemic behaviors and emotions have highlighted the issue of children's mental health that needed to be approached holistically and in step with every child's school and home life. Children need to be heard and feel understood for the sake of their mental health and often need guidance developing coping strategies to deal with the world around them. This has been magnified over the past three years and there doesn't seem to be an end in sight. We hope to be able to make an impact on their ability to gain these critical life skills to help them mature into responsible and community-oriented adults who will in turn pass on these skills they've learned and inspire other children after them to do the same.

B. Program Design and Proposed Services

PPRD operates four (4) after school programs in community resource centers. These programs are offered to all students and families living in Escambia County. Programming includes recreational sports and free play, homework assistance, and educational enrichment. In addition to staff-led activities and free play, there are scheduled visits from the police and fire departments for safety instruction, social service organizations, and non-profits providing after school enrichment services.

The programs operate from 2pm to 6pm Monday-Friday when school is in session, 41 weeks per year. Access is open to all students attending a K-5 school in Escambia County. Participants are transported by school bus, parents/guardians, and walking from nearby neighborhoods. Each participant is offered a nutritious snack as part of the after school program, which is a critical component of the program that helps eradicate food insecurity and improves health outcomes for participating youth.

PPRD offers full day programs to students on teacher work days and in-service days as well as seasonal breaks. PPRD community centers are closed on most federal holidays. PPRD seeks to offer these full day programs to income eligible students free of charge in order to ensure students are able to maintain a daily routine and provide parents with safe, accessible places for their child to participate in activities during scheduled days out of school.

Fees are charged for after school and other Out-of-School Time (OST) programs based on residency. Sometimes the cost, regardless of how small, can be a deterrent for students from low-income households to be able to participate, especially households with multiple children. PPRD intends to utilize ECT funds to remove this barrier to quality after-school programming by waiving fees for students whose households meet the federal income requirements to qualify for free and reduced lunch. Students would not have to attend an Escambia County School District school to attend After-School, but must still meet the residency and income requirements to qualify for free tuition under the ECT grant.

FY23 After-School Fees:

Locations	*Resident*	*Non-Resident*
Cobb, Fricker and Woodland*	$11 per week	$14 per week
Gull Point	$50 per week	$70 per week

FY23 Daily Drop In or Holiday Camp Fees:

Locations	*Resident*	*Non-Resident*
Cobb, Fricker and Woodland*	$10 per day, $49 per week	$15 per day, $58 per week
Gull Point	$20 per day, $90 per week	$25 per day, $114 per week

*Difference in price from Gull Point price subsidized by Recreation/Athletic Special Revenue Fund. We anticipate a $5 per week increase in fees across the board in years 1 and 2 due to inflation and rising costs.

Currently PPRD partners with the CDAC Behavioral Healthcare, Inc., Boost Project to provide social and behavioral education programming via their Peaceful Alternatives to Tough Situations (PATTS) curriculum at E.S. Cobb Resource Center. The PATTS program is an aggression management program designed to help students increase positive conflict resolution skills and maintain the ability to forgive transgressions and reduce aggressive behavior. We are seeking to expand those services with funding from this ECT grant application to reimburse CDAC for 2 staff and program materials to offer the PATTS curriculum at Fricker Resource Center beginning in the spring of 2023. This specific location was recommended to CDAC staff for expansion by members of the Pensacola Police Department and carries this department's endorsement. A separate budget for this request is included as Appendix 5b.

PPRD After-School intends to partner with a variety of other agencies to deliver quality enrichment services including but not limited to the Pensacola MESS Hall, Tennis-4-Everyone, performing arts venues, and the Bayview Outdoor Pursuits Center to provide enrichment programs to benefit students including STEM activities, homework enrichment, performing arts, sports instruction, outdoor recreation and conservation education. Additionally PPRD offers wellness and other social support services. Some of these service providers are applying for OST grant funding through ECT to administer their specific programming to multiple providers in addition to PPRD properties, therefore we do not propose to be the lead agency for funding those programs with this proposal.

We propose to create an Out-of-School Time Program Coordinator position as a year-round funded position. This employee will be responsible for planning, organizing and implementing all OST programs and related activities. PPRD requests funding for the salary of this position as well as benefits detailed in the program budget.

The ideal candidate will have a minimum of 5 years of experience in providing OST programs in a recreational setting and knowledge of principles in evidence-based youth development programming. Additionally there will be guidelines regarding the types of enrichment services offered in After-School with quotas set for implementation of performing arts programming, STEM programming, and behavioral intervention programming. This position will also be responsible for coordinating at least once per quarter staff training opportunities to increase staff confidence and knowledge in providing positive youth development programming.

Target Audience and Participant Demographics

PPRD aims to equitably serve households in each service area so that no child is priced out of receiving quality OST programming. Many families have expressed difficulty paying for more than one child to attend and we know that providing OST services at no cost would provide financial relief for many families in this difficult economy.

Currently PPRD serves 165 students in four after school programs as follows:

Service Locations	Enrollment	Maximum Capacity	Schools Served
E.S. Cobb 601 E. Mallory Street	74	90	A.K. Suter; N.B. Cook; Global; Brentwood; Scenic Heights; Escambia Christian; J. Harris; Pensacola Christian; Sherwood
Fricker 900 N. F Street	20	40	A.K. Suter; KAPS Academy; Global; Dixon School of the Arts; Ensley; Jacqueline Harris; Oak Crest
Gull Point 7000 Spanish Trail	17	40	Scenic Heights; N.B. Cook; Cordova Park; Ferry Pass
Woodland Heights 111 Berkley Drive	54	65	O.J. Semmes; A.K. Suter; KAPS Academy; Ferry Pass; Jacqueline Harris; Hope Horizon

All after school participants are ages 5-12 years and enrolled in elementary school or K-5 program. We do not currently collect data on race, gender, income, or housing status. At a minimum, PPRD would collect income data for eligibility to attend the program for free and can begin collecting data on any and all demographics required by ECT to fulfill the grant requirements.

One challenge to meeting the goal of increasing enrollment is transportation. Currently we rely on the school system to provide transportation from district schools. We anticipate that driver shortages and limited bus routes may create some challenges with filling these needs. We will seek alternative transportation options, as needed and up to what is allowable by Department of Children and

Families regulations, for students who attend the program for free under the ECT grant.

Historically we know that E.S. Cobb, Fricker and Woodland Heights primarily serve minority populations and are in low to modest income neighborhoods. While Gull Point Resource Center serves a middle-class demographic with pockets of poverty within the service area of that neighborhood community center. We know that without access to quality after school programs, children in these neighborhoods are most at risk for falling into behaviors that do not support their social, mental, or academic development and overall well-being.

C. Capacity to Provide Required Services

The City of Pensacola Parks and Recreation Department's primary vision and focus with regard to youth programming is to provide equitable access to recreation and other resources in our community that lead to healthy youth development and encourages successful growth into adulthood with life-long skills and habits. Our department has provided quality youth programming in various forms and methods since 1928.

Leadership staff for the After School programs include the following individuals. Each individual has extensive experience in the management of youth development programming and administering budgets, staff recruitment and retention, and training. Currently each after school site provides training and support for their

program staff. Once the Out of School Time Coordinator is hired, developing a consistent staff training program and retention strategies will fall into their area of responsibility.

Tonya Byrd – Recreation Superintendent – Ms. Byrd manages the Recreation Division of Pensacola Parks and Recreation and has over 22 years of experience in the delivery and administration of recreation programming in a municipal setting. Prior to her employment with PPRD in 2014, Ms. Byrd was the Deputy Director of Recreation and Community Services for the City of Clarksville Parks and Recreation Department in Clarksville, TN from 2008-2014. She has also served both cities in many other capacities including recreation programming, marketing and public relations, budgeting, and strategic planning. She is a graduate of Austin Peay State University in Clarksville with a B.S. in Corporate Communications

Heather Matteson – Recreation Supervisor at Gull Point Resource Center – Ms. Matteson has over 25 years of experience in youth development programming. She is a graduate of Southern Illinois University-Carbondale with a B.S. Degree in Recreation Administration and Management. Her experience includes 1 year with the City of Pensacola, 11 years at Huntley Park District, and 4.5 years at Cary Park District in Illinois. Ms. Matteson was the Youth Recreation Manager for 6 years for Huntley Park District, overseeing all out-of-school time programs including summer camp, before and after school, as well as teen and art camps. She also held positions as Recreation Supervisor over Extended Time & Day Camps for Huntley, and 4.5 years as Extended Time Program Supervisor at Cary Park District. Ms.

Matteson also served in the following roles: After School Program Leader & Summer Camp Director at Chesterbrook Academy in Bartlett, IL; Recreation Intern for City of San Antonio Parks and Recreation in Texas; Assistant Recreation Supervisor for Union City Housing Authority in Anna/Jonesboro, IL; and Aquatic Supervisor, Lifeguard, WSI Swim Instructor and Day Camp Counselor at the YMCA of McHenry County in Crystal Lake, IL.

Michael Mims – Program Coordinator (Area Manager) over Fricker Resource Center and Theophalis May Resource Center – Mr. Mims has worked with youth from various backgrounds and abilities throughout his 22 year career. Mr. Mims has worked for the City of Pensacola Parks and Recreation as a Program Coordinator (Area Manager) for five years facilitating youth sports and youth development programming. He holds a B.A. in History from the University of South Alabama. Some of his previous posts in youth programming include Athletic Director for Boys and Girls Clubs of South Alabama, Program staff at YMCA of South Alabama, Executive Director of Tuskegee-Macon County YMCA, and Program Director at Dearborn YMCA. Mr. Mims background in education includes serving as a classroom teacher for children with exceptionalities at the private school Melmark New England in Woburn, MA and as a teacher for 3 and 4 year olds at Tuskegee-Macon County Head Start. In addition to his regular duties with Parks and Recreation Mr. Mims is the head coach for the G.O.A.T. Farm High School Track & Field/Cross Country Team for Fricker Resource Center.

Reba Smith – Program Coordinator (Area Manager) over Cobb and Woodland Heights Resource Centers – Ms. Smith has been employed by the City of Pensacola for 26 years (16 years full-time and 10 years part-time) in the implementation and administration of youth development programs. She has an A.A. degree in Business Administration and Health, Leisure Sports Ms. Smith has coached recreational basketball and tee ball through Cobb and Woodland Heights Resource Center for over 15 years and has been a Youth Bowling Coach through Pensacola Progressive TNBA for 18 years.

Theyuka Thomas – Recreation Supervisor at Woodland Heights Resource Center – Mr. Thomas has 32 years of volunteer coaching experience and 6 years of experience in youth development programming. During his time with the City of Pensacola, he has held the positions of Program Specialist, Assistant Recreation Supervisor and Recreation Supervisor, all at Woodland Heights Resource Center. Mr. Thomas has been an integral team member in building that location's out-of-school time programming planning and organizing after school, summer camps, theater, musicals, poetry, painting, piano lessons and talent shows. In addition to these roles, he has provided community service and mentoring hours for children and youth working with their JPO's and family members to create second chance opportunities. Mr. Thomas also serves on the School Advisory Committee for O.J. Semmes Elementary School and is an ordained pastor with A.M.E. Zion Church serving that ministry for 29 years.

We plan to recruit children through our promotional and marketing efforts which include advertisement in local parent resources and media, Parks and Recreation Playbook activity guides, social media, city website, press releases, email distribution to school district partners and other family service organizations, and on-site at each location. We will also seek approval from the Escambia County School District to promote the program via flyers sent home with students at target schools. Retention will be gained through continuous delivery of the proposed services and excellent service standards.

We will evaluate at least quarterly to determine if program goals are being met or exceeded through site supervisor program evaluations, staff observation, individual surveys of participants and parents, as well as direct communication with schools served regarding effectiveness.

As described in Section B. Program Design and Proposed Services, we intend to partner with other organizations for OST enhancement and curriculum from experts for STEM programming, performing arts education and opportunities, outdoor education and behavioral health services. These partnerships will be managed and evaluated by an Out-of-School Time Coordinator with at least 5 years of experience in after school program administration. These enrichment areas are intended to provide each child with exposure to a variety of skills and interests that will encourage their healthy development into adolescence and encourage life-long habits for successful growth and maturity.

Partner References

Pensacola MESS Hall – Megan Pratt – megan.pratt@pensacolamesshall.org

(877) 937-6377

PPRD intends to partner with the MESS Hall in two locations to provide STEM programming to youth attending after school.

CDAC Behavioral Health Inc. – Denise Manassa – DManassa@cdac.info, (850) 434-2724

PPRD currently partners with CDAC to provide the PATTS curriculum through Project Boost at Cobb Resource Center after school program. We intend to expand services to the Fricker Resource Center after school program with approval of the ECT grant.

Tennis-4-Everyone – Rita Dotson – t4erita@aol.com, (850) 380-5458

PPRD currently partners with Tennis-4-Everyone for tennis instruction and homework assistance at Fricker Resource Center on Monday.

D. Program Measures

We will measure and track progress via in person surveys or questionnaires administered to participants and staff, online surveys to parents, and requests for academic performance from participants' schools to determine whether we are

meeting the goals set forth in the application. Quarterly progress reports will be submitted to ECT as well as a final report once the academic year has concluded.

PPRD OST staff will collect data at least once per nine-week grade period in the following areas:

- Program attendance compared to enrollment
- School attendance
- Behavior in program
- Behavior in school
- School grades
- Social and emotional learning (SEL) skills and well being
- Program staff and/or volunteer experiences and satisfaction

Project Goals and Outcomes

RFP#2022-03 / Out-of-School Time Program

Organization Name: City of Pensacola Parks and Recreation Department

Program Name: Play Pensacola Parks and Recreation After-School Program

Goals	Activities and Timeframe	Expected Outcomes
Goal 1: Provide equitable access to quality after school programming for students in Escambia County.	Timeframe: School year months, January 2023-Dec 2025 Activities: Waive fees for participants with household incomes meeting federal guidelines for free and reduced lunch.	30% increase in overall enrollment of the PPRD After School program. 90% retention rate in students enrolled year to year, except those students who have aged out of the program.
Goal 2: Exposure to performing arts, outdoor education, STEM, and behavioral interventions increases children's knowledge and appreciation for program focus areas.	Timeframe: School year months, March 2023-Dec 2025 Activities: Community partners provide instruction in focus areas on site for participants.	90% of students report increased knowledge and appreciation for subject areas provided, measured by pre-program surveys to post-program surveys on their interest in subjects offered.
Goal 3: Improve student behavior and socialization by reinforcing healthy problem solving and adversity coping skills.	Timeframe: School year months, January 2023-Dec 2025 Activities: CDAC to provide behavior intervention activities that promote healthy conflict resolution and coping strategies. Locations: Cobb and Fricker Center	80% of students participating in Boost program report increased confidence in problem solving and resolving interpersonal issues.
Goal 4: Increase staff knowledge and confidence in providing evidence-based after school programming activity models.	Timeframe: School year months, March 2023-Dec 2025 Activities: At least quarterly training opportunities and in-services offered for all after school staff.	80% of after school staff indicate increased confidence in leading after school activities that enrich children's lives through play and learning.

E. Budget and Cost Effectiveness

PPRD has the physical, intellectual, and financial capabilities to manage and administer this project. We have the financial capacity in place to appropriate and expend funds in advance to be reimbursed by ECT and will follow City finance and purchasing guidelines in all matters related to administering the grant funds received. Once the contract ends, we would seek to continue free access to after school programming to the greatest extent that funding is available and would seek to fund personnel costs through the City's general fund or recreation fund.

PPRD seeks funding from Escambia Children's Trust Out-of-School Time Program RFP#2022-03 to reimburse for direct costs related to delivering the existing after school program to participants meeting federal income guidelines set for free and reduced lunch eligibility. In order to maintain the program for existing participants who may not qualify for fee waiver under the program, we will continue to charge the fees approved by city council with each fiscal year budget.

We receive no other grants to support the proposed project, however we are a beneficiary of a donation from Wells Fargo paid to Feeding the Gulf Coast to provide after school program snacks at no cost to the city. That donation is administered through Feeding the Gulf Coast and we do not track any costs related to it internally.

The proposed OST Coordinator position would be fully funded for the first 3 years by the ECT grant if approved. Once the grant has expired the City of Pensacola would take on the annual cost to support this position's salary and benefits. Anticipated cost would be $54,121.60 salary and $27,894 in benefits the first year. Additionally

we would budget appropriately to absorb the cost of part time staffing, currently estimated at $456,699 for the first year and $503,510 in year 3 if the grant is not reopened for a second term.

Staff travel includes local travel for training and administrative duties as well as funding 2 staff attending the annual STEM Conference in Orlando or other trainings that will benefit program participants. There will be minimal costs for printing, postage, and shipping. We do anticipate approximately $900 per year for level II background screenings through the DCF clearinghouse.

Our total request for year 1, beginning January 2023 is $579,810; Year 2 is $606,713; and Year 3 is $635,624.

Only one sub-grant is being requested for CDAC behavioral Health, Inc who will deliver the additional PATTS location for Fricker Resource Center at a cost of $20,121 in Year 1, $30,347 in Year 2, and $31, 374 in year 3.

This grant will have a tremendous impact on our capacity to expand services as described, by being able to afford more training, provide more enrichment and learning opportunities, better pay for staff, and less workload on the same individuals who are already stretched thin. Most importantly it will help us usher in a new era of youth who are inspired to lead their communities with the same knowledge, passion and skills possessed by the caring and devoted staff delivering these programs at the City of Pensacola Parks and Recreation Department today.

APPENDIX 2: ACKNOWLEDGEMENT OF ADDENDA
RFP#2022-03 / Out-of-School Time Program

The Proposer shall acknowledge receipt of any addenda issued to the RFP by completing the table below and including it in the proposal. Failure to acknowledge an addendum that has a material impact on the RFP may negatively impact the responsiveness of your proposal. Material impacts include but are not limited to changes with specifications, scope of work, delivery time, performance period, insurance, qualifications, etc.

Addendum Number	Date	Signature
Addendum 1	10/25/22	

☐ No Addendum was released

Organization: City of Pensacola Parks and Recreation Department

Signature: Tonya H. Byrd

Name: Tonya Byrd

Title: Recreation Superintendent

APPENDIX 3: CAPACITY CHECKLIST
RFP#2022-03 / Out-of-School Time Program

An organization must have the infrastructure to manage the requirements associated with a contract prior to receiving Escambia Children's Trust (ECT) funding. This includes having the ability to collect and report data and having the cash on hand to pay for expenses prior to invoicing the ECT using a cost reimbursement model.

Please review the full Request for Proposals prior to applying for ECT funding. Agency infrastructure costs of up to 15% of the total direct expenditures can be budgeted in the administrative/indirect cost budget line.

The following are some of the infrastructure items associated with having the resources to be successful when making application for funding from the ECT. If your agency is not prepared structurally, please contact the ECT for referrals for assistance.

GENERAL ORGANIZATIONAL INFORMATION	YES	NO
Is the organization a 501(c)3 non-profit, governmental entity, or incorporated not-for-profit qualified to do business in the State of Florida?	X	
Do you have an active Board of Directors that meet regularly?	X	
Do you keep minutes of each board meeting?	X	
Can you describe the composition of the Board, and do they have the skills that complement the needs of the organization?	X	
Is the staff of your organization representative of the demographic make-up of Escambia County and/or the client population served?	X	
Are background checks required of all direct service employees?	X	
Do you have an organizational chart that depicts lines of authority?	X	
Does the organization have a website?	X	

INSURANCE REQUIREMENTS	YES	NO
Does your organization have the insurance coverage as referenced in the RFP in place as required to contract with the ECT?	X	

DATA COLLECTION AND REPORTING	YES	NO
Is the organization capable of collecting and reporting on multiple elements of demographic and measurable outcome data if awarded funding from the ECT?	X	
Does the organization have the information technology resources to collect and report on data including the use of internet?	X	
Does the organization use standardized tools or surveys to collect data from consumers?	X	
Does the organization use an evidence based or evidence informed curriculum or practice?	X	
Does the organization currently have dedicated staff to collect and report on outcomes?	X	

FINANCIAL CAPACITY	YES	NO
Does your organization have a budget for the current year?	X	
Does your organization have a budget narrative and summary?	X	
Does your organization have the cash on hand to pay for and invoice the ECT using the cost reimbursement model?	X	
Does your organization have a current audit including a management letter and most recent financial statements?	X	
Does the organization have written financial policies and procedures?	X	
Does the organization have internal controls in place?	X	
Does the organization have a process to approve expenses prior to submitting a reimbursement request?	X	
Does the organization have a financial planning and analysis process?	X	

Tonya Byrd, Recreation Superintendent
Name and Title

11/1/22
Date Completed

Tonya Y. Byrd
Signature

EXHIBIT B
CITY OF PENSACOLA
Out-of-School-Time
Year 2 Performance Measurements
Effective Date: March 1, 2024-February 29, 2025

The Program's performance will be tracked through the performance reporting module in SAMIS for the contract period. The following Participant Level Performance Measurements will be used to assess progress.

- **Measurement:** Identify how success will be measured such as the number/percentage of change, increase, or completion, etc.
- **Value:** Specify the minimum number of the measured impact

Goal 1: Provide equitable access to quality after school programming for students in Escambia County.

Objective	Measurement	Value	Related Indicator(s)
1.1) Enrollment increases for families meeting free and reduced lunch income guidelines.	10% increase in total enrollment annually; 30% by end of grant.	176	School readiness
1.2) Retention of students enrolled in year 1 of free after school program through year 2.	85% retention rate for students from beginning to end of school year.	136	School readiness

Goal 2: Exposure to performing arts, outdoor education, STEM, and behavioral interventions increasing children's knowledge and appreciation in focus areas.

Objective	Measurement	Value	Related Indicator(s)
2.1) Participating youth increase their knowledge of subject areas.	80% of students report increased knowledge and appreciation for subject.	128	School readiness

Goal 3: Improve student behavior and socialization by reinforcing healthy problem solving and adversity coping skills.

Objective	Measurement	Value	Related Indicator(s)
3.1) Participants improve behavioral and interpersonal skills.	80% of students participating in Boost program report increased confidence	128	Youth Mental Health

	in problem solving and resolving interpersonal issues.		

EXHIBIT C

Data Collection Requirements

Providers receiving funds from Escambia Children's Trust (ECT) will enter participant data using the SAMIS case management portal. The source of all participant data required by ECT should be supported and documented in either individual case files or other verifiable source documents or systems, which are subject to inspection and monitoring by ECT.

The provider is responsible for developing, maintaining, and adhering to confidentiality policies and procedures that govern participant files and records, protection of participants' rights, research involving participants served, privacy afforded to participants (when applicable) and release of participant information as per the ECT agreement language and any other legal requirements. These policies and procedures must be incorporated into the provider's policies to protect participant data and prevent accidental or malicious disclosure of participant information.

Provider reports and data required to be uploaded to SAMIS are due on the 15th of the month following the month services were provided unless otherwise specified in the Provider's agreement. For example, reports and data for services provided in January must be submitted via SAMIS by February 15th.

- Demographic data for all participants of programs funded by ECT must be entered into SAMIS (or an alternate, pre-approved data system), regardless of funding unless the collection of aggregate data has been approved by ECT.

- Participants' data should not be entered into SAMIS until they have signed a release of information for ECT or a data sharing agreement between the Provider and ECT exists, unless otherwise specified in the ECT agreement.

- The Provider will maintain in participant files a completed copy of an ECT-approved form for authorizing client consent to release information for each participant receiving services. As allowed by law and Provider policy, the Provider will add ECT to consent forms.

- Participants receiving services will be identified as a child or an adult on the participant profile. Each participant will be assigned a unique record ID. Participants receiving child services shall be identified as a child. A child record should always remain as a child record, even if the child turns 18 during the program enrollment. Participants receiving adult (parent) services shall be identified as an adult.

The following Data Points will be collected for all participants. These data will serve as source documents for reports used to track progress toward deliverables specified in Exhibit B of the provider's agreement, Performance Measurements.

1. Household Size – total number of adults and children in the household
2. Household Income – total annual gross income of all members in the household
3. Head of Household – member of the household who contributes more than half of the household's income or makes most of the household decisions. For a child who resides in a foster home, enter the child's name
4. Number of Adults in Household
5. Number of Minor Children in Household – *Household Arrangement – Single Parent-Female Head of Household; Single Parent- Male Head of Household; Dual Parent-Married; Dual Parent- Non-Married Female Head of Household; Dual Parent- Non-Married Male Head of Household; Other-Relative / Kinship Care – Female Head of Household; Other-Relative / Kinship Care – Male Head of Household; Other-Relative / Kinship Care – Married; Other- Non-Relative; No Dependents – Married; No Dependents – Couple, Non-Married; No Dependents – Single Female; No Dependents – Single Male*
6. Relationship of Child Participant to Head of Household – *Spouse; Biological son or daughter; Adopted son or daughter; Stepson or stepdaughter; Brother or sister; Father or Mother; Grandchild; Parent-in-law; Son-in-law or daughter-in-law; Other relative; Roomer or Boarder; Housemate or roommate; Unmarried partner; Other non-relative; Self*
7. Participant Address – Address 1, Address 2, City, State, and ZIP Code
8. Current Living Situation – *Have Physical Address; Legally Restricted from Release; Unsheltered; Sheltered; Safe Haven; Institutional Setting; Temporary Housing Situation; Potentially Permanent Housing Situation*
9. Home Phone Number
10. Cell Phone Number – for children, this should be the parent's cell phone number
11. Email Address – for children, this should be the parent's email address
12. Referred From / How Did You Hear About This Program
13. First Name, Middle Name, Last Name, Last Name Suffix
14. Date of Birth
15. Gender – *Male; Female; Gender Non-Conforming; Trans Male; Trans Female*
16. Sex – *Male; Female*
17. Race – *American Indian or Alaska Native; Asian; Black or African American; Native Hawaiian/Pacific Islander; Two or More Races; White*
18. Ethnicity – *Hispanic, Latino, or Spanish Origin; Not Hispanic*
19. Primary Language Spoken at Home
20. Education – the participant's highest level of education should be selected; for adults = *Did not graduate high school; High school diploma/GED; Some college; Associate's Degree; Bachelor's Degree; Master's Degree; Doctorate/Terminal Degree*; for children = *Age 0-5, attending Child Care Center; Age 0-5, attending Family Day Care Home; Age 0-5, not attending Center or Family Care Home; School Age, not currently enrolled; School Age –*

select the current grade in which the child is enrolled (if in summer program, denote the grade the child will be entering for the upcoming school year)

21. Student ID Number
22. School Name
23. Start Date – This should be the first day a participant is active within the program
24. Referred To – This field identifies referrals made for the participant throughout the program.
25. Services Type – This field includes the types of services funded, e.g., OST/afterschool, OST/summer camp, early learning care, legal services, healthcare, dental services, academic supports, capacity building, and additional categories as needed
26. Close Date – The last date the participant received services, defined as s face-to-face service, direct phone, voice contact, or telehealth; does not include voice mail, email, or written contact
27. Closing Reason – *Completed Program; Transferred to another provider prior to completion of program; Participant withdrew-with notice; Participant withdrew- health problems; Participant withdrew- lack of transportation; Participant withdrew without notice; Participant lost eligibility- aged out; Participant lost eligibility - was arrested/ incarcerated; Participant lost eligibility moved out of service area; Participant lost eligibility - violation of program rules; Participant lost eligibility - lack of progress; Participant died; Reunification; Funding Ended / Site Closed*

NOTE: Exceptions to this list must be documented in the Special Conditions section of the provider agreement.

Performance Measurement

- Performance Measures must be collected as specified in the ECT agreement.
- If the agreement between the Provider and ECT requires the collection of data for performance measures, (e.g., surveys, assessments), the Provider must have written procedures to ensure the proper execution of the measure.
- Service and form (e.g., surveys, assessments) dates must be the date that the service or measurement occurred or the date the information was collected. If the measurement cannot be collected, the reason must be documented in the case file.
- All required answers must be completed for all forms.

Program Services/Attendance

- A service or attendance must be entered for all participants to identify the individual and group or program-wide service for which the participant is engaged. Services are entered in SAMIS based off each service interaction.
- All attendance should be entered as soon as possible but no later than two weeks from the date of attendance.

Referrals

Referrals made for participants to other programs should be recorded.

1. No Referral(s) Made: an assessment of needs was completed, and no referral(s) was required. If this selection is utilized no other referral items should be selected.
2. 2-1-1 Northwest Florida: local information and referral service.
3. Adoptions: any private adoption Provider.
4. Adult & Aging: any Provider providing specialized services to adults and seniors.
5. Alcohol and/or Substance Abuse Services: any public or private Provider specializing in the treatment of or prevention of alcohol or substance abuse.
6. Basic Needs Services: any program, public or private, that assists families in meeting their basic needs in times of crisis, needs, or change or any program, public or private, that provides assistance with household items such as food, clothing, dishes, or other household goods.
7. Child Care: any public or private childcare provider.
8. Child Support Enforcement: The Department of Revenue Child Support Enforcement Program.
9. CHNF: any referral to Community Health Northwest Florida
10. Community Based Care Lead Agency: community-based care services (foster care, adoption) that are contracted for by DCF.
11. Counseling Program: any Provider, public or private, that provides counseling to individuals, families, groups including programs that provide services to the terminally ill and/or grief services to surviving family members.
12. Dental Services: any dentist for dental services.
13. Developmental Evaluation and Intervention Services: evaluation and treatment for children with suspected or identified developmental delay or neuromuscular impairment or any community Provider that deals with developmental disabilities in children (for example, mental or physical handicaps).
14. Disabilities: agencies specializing in services to people with disabilities defined as temporary or permanent reduction in function, usually a result of a physical or mental condition or infirmity. NOTE: Agencies that specialize in treating developmental disabilities should be entered under "Developmental Evaluation and Intervention Services".
15. Domestic Violence Services: any Provider specializing in providing services to perpetrators or victims of domestic violence (including crisis sheltering).
16. Education: any academic program offered by any public or private school (including credit or non-credit courses, adult education, Special Education, and English for Speakers of Other Languages – ESOL).
17. Employment Assistance/Job Training: any Provider, public or private, specializing in vocational training or employment related services for non-handicapped persons including Florida's Provider for Workforce Innovation program.
18. Faith-based Organization: organizations that provide social services, or religious or spiritual activities as part of their affiliation with a religious group, not including faith based parochial schools. NOTE: Referrals to a parochial school should be identified as "Education."

19. Family Support Services: any program, public or private, that assists families in meeting their basic needs in times of crisis, needs, or change or a program that provides funds for emergency needs such as rent or utilities.
20. Financial Management/Debt Counseling/VITA: any program, public or private, that specializes in services that help people manage money, develop budgeting skills, or assist with debt management or tax preparation.
21. FL Dept of Children & Families (DCF): referred to any division of DCF including the Adult Services, Developmental Disabilities, Economic Services, Family Safety or Substance Abuse or Mental Health divisions.
22. FL Dept of Health: any referral to the Florida Department of Health / Escambia County Health Department.
23. Florida Abuse Hotline: The Florida Abuse Hotline accepts reports 24 hours a day and 7 days a week of known or suspected child abuse, neglect, or abandonment and reports of known or suspected abuse, neglect, or exploitation of a vulnerable adult. To make a report you can a) Report online at https://reportabuse.dcf.state.fl.us/, b) Call 1-800-962-2873, c) Use 711 for Florida Relay Services, or d) Fax your report to 1-800-914-0004. If you suspect or know of a child or vulnerable adult in immediate danger, call 911.
24. Housing: any program that provides non-crisis related short or long-term housing services.
25. Juvenile Justice: referred to any court with jurisdiction over juveniles, any Provider that serves youth involved with the justice system or any referral to any office or employee of the Florida Department of Juvenile Justice.
26. Legal Services: a Provider or program that provides legal advice or services or any licensed attorney, private law firm, or public defender.
27. Medical Services: any clinic, family physician, radiologist, ophthalmologist, optometrist, hospital, emergency room, or any health service provider excluding mental health service providers. Mental health service providers should be entered under "Mental Health Services" below.
28. Mental Health Services: any public or private organizations concerned with meeting the needs of the mentally ill or those vulnerable to mental illness or a privately practicing professional who provides guidance or problem-solving advice.
29. Neighborhood Family Center: A place in a neighborhood where families come together to meet each other, have fun together, learn together, and support each other.
30. Parenting Education: a program that provides information, resources, and or tools to promote change that improves the lives of children by supporting parents and caregivers.
31. Parent University: a specific parenting education program offered in Escambia County.
32. Recreation Program: any public or private recreation program or center.
33. Refugee/Immigrant Services: any public or private Provider specializing in services to refugees or immigrants.
34. Respite Care: a service that provides periodic relief for the family or primary care giver.
35. Shelter Services: crisis related temporary safe housing services (for example runaway or homeless) excluding domestic violence shelters which should be entered as Domestic Violence Services.
36. Support Group: a program that organizes and provides resources, peer support, and guidance to a group of people with common goals or issues.

37. Vocational Rehabilitation Services: any Provider public or private that offers training to participants who are mentally or physically disabled so they can do useful work and become more self-sufficient.
38. Youth Development Program: programs designed to support, guide and challenge young people. They are characterized by providing youth with opportunities for meaningful participation and service to others. These programs provide youth with opportunities to explore and develop values, interact with caring adults, and form considerate relationships with their peers.

PENSACOLA

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FINANCIAL SERVICES

November 16, 2023

To: Escambia Children's Trust Board of Directors

From: William K. Boyer, Financial Services, City of Pensacola

CC: Tonya Byrd, Parks and Recreation Department, City of Pensacola
Amy Lovoy, Financial Services, City of Pensacola

Ms. Abrams and Ms. Krupa,

Please find the attached Year 2 budget documents as requested. Below please find the City of Pensacola's Budget Narrative to support these requests as requested.

Budget Narrative

City of Pensacola Pensacola Parks and Recreational Department requests funding for Year 2 to continue our efforts in building the PPRD Afterschool Program. The purpose of these funds would be to reimburse direct costs related to delivering the existing after school program to participants who meet federal income guidelines set for free and reduced lunch programs.

City of Pensacola recieves no additonal grant funding for this project, though the city is a reciepient of a donation from Wells Fargo administered through Feeding the Gulf Coast to provide after school snacks free of charge.

In the proposed budget attacthed, we are seeking one full time employee to oversee the day to day operational duties of the program including child data entry and attendance in SAMIS. Additionally, the city would like to incure parttime staffing to enhance our effiency at our locations.

City of Pensacola also requests $30,121 in years 2 and 3 for CDAC Behavorial Health, Inc. This partner organization of the City offers additional resources that are highly valuable to the afterschool program.

Financial management would be managed through City of Pensacola Employees through the Finance Department within its newly created grants office. As such, the City of Pensacola believes it has financial capacity in place to successfully administer this grant via:

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- *A deditated grants and special projects coordinator to oversee all financial matters of this program including, quarterly reporting, financial management and reimbursement, fund tracking and auditing, and contract compliance.*

- *Purchasing guidelines have been created that includes guidelines related to all matters related to administering grant funding which are reviewed and approved by our Finance Director, Purchasing Manager, Senior Grants Writer and Grants and Special Projects Coordinator.*

- *Policies and procedures have been put in place that will ensure all funding to be used for grant related activites require the review and approval of our grant coordinator in order to ensure compliance with the specific grant award.*

- *Coordination of the Grants coordinator and Asst. Parks and Recreation Director, who will serve as the Main Point of Contact and Alternative Point of Contact respectively with ECT on all matters relating to the grant, providing ECT with greater opportunity for contact withtin the city for matters realting to the grant.*

City of Pensacola believes the continued granting of this program will continue to see a monumental impact on our community as we have already seen an increase in the number of interets and applicants in our afterschool program. The City of Pensacola further believes that by continuing with this granting opportuninty, which will alow the city ample time to build this program, we wil be able to prepare a new era of young minds who will be ready to lead their community.

The City of Pensacola has endeavered into this project with the intent to provide this generation of youth an opportunity to build their passions, knowledge and skills with the dedication, care and devotion that the City of Pensacola and its staff has vowed to provide.

We thank for this opportunity and we look forward to continuing working with you in this endeavor. Please feel free to reach out to me with any questions or concerns you may have.

Sincerely yours

William K. Boyer
Grants and Special Projects Coordinator
City of Pensacola

Organization Name:	City of Pensacola		
Project Name:	**PPRD After School Program**		
Project Period: MM/DD/YY to MM/DD/YY	**3/1/2024 - 2/28/2025**		
Complete this form using MS Excel.			
• Submit the proposed project budget using this form **ONLY** along with your proposal narrative.			
• Include all revenue and expenses for the proposed project. Net income should equal zero ($0).			
• If necessary, add line items to reflect all anticipated revenue and expenses.			
	Year 2 Original request	**Year 2 New request**	**Change**
Revenue			
ECT Request	$ 540,041.00	$ 540,041.00	$ -
			$ -
Total Revenue	$ 540,041.00	$ 540,041.00	$ -
Expenses			
Personnel (Salary and Wages)	$ 471,051.00	$ 471,051.00	$ -
Benefits (Insurance, Retirement, Taxes, etc.)	$ 27,894.00	$ 27,894.00	$ -
Legal Services			$ -
Accounting & Auditing			$ -
IT Services			$ -
Other Professional Services/Contract labor	$ 900.00	$ 900.00	$ -
Lease/Space Rental			$ -
Utilities (elctricity, water, etc.)			$ -
Telephone			$ -
Internet			$ -
Directors & Officers Insurance			$ -
Liability Insurance			$ -
Property Insurance			$ -
Auto Insurance			$ -
Staff Travel (Local, Out-of-County, etc.)	$ 4,000.00	$ 4,000.00	$ -
Freight and Postage	$ 25.00	$ 25.00	$ -
Printing & Binding	$ 250.00	$ 250.00	$ -
Advertising and Marketing			$ -
Office Supplies (Items < $5,000)			$ -
Subscriptions or Membership fees			$ -
Software or Apps			$ -
Professional Development	$ 5,800.00	$ 5,800.00	$ -
Equipment (Items > $5,000 each)			$ -
Fingerprinting and Background checks			$ -
Food and Snacks			$ -
Client/Participent Transportation			$ -
Sub-grants to Partner Organizations	$ 30,121.00	$ 30,121.00	$ -
Participant incentives			$ -
Building Maintenance			$ -
Volunteer Training			$ -
Program Supplies			$ -
Vehicle Purchase			$ -
Field Trips			$ -
Direct Client Assistance			$ -
Total Direct Expenses	$ 540,041	$ 540,041	$ -
Indirect expenses (state % used)			$ -
Total Expenses	$ 540,041	$ 540,041	$ -
Net Income	$ -	$ -	$ -

Job Classification: EXHIBIT E

Afterschool Program Coordinator

Minimum Preparation for Work:

- ✓ Graduation from an accredited college or university with a Bachelor's Degree in recreation, leisure services, education, parks administration, hospitality, or related field.

- ✓ Minimum of three (3) years' experience with implementation of children and/or youth programs and activities in after school and/or summer camp settings.

- ✓ Combination of education, training, and/or work experience equal to or greater than the requirements listed above as determined by Human Resources.

- ✓ Completion of minimum of eight (8) hours of Special Needs Training

Necessary Special Requirements:

- ✓ Possession of an appropriate driver license for equipment operated and any license, training or certification required by law or regulation to complete assigned tasks.
- ✓ Must be able to successfully pass Level 2 criminal background check and local law.
- ✓ Must possess or obtain American Red Cross CPR/First Aid certification, within three months of employment.

Nature of Work:

This is professional after school children resource management work in the Parks and Recreation Department for the City of Pensacola.

An employee in this class is responsible for planning, organizing, implementing, coordinating, and controlling services of the Parks and Recreation Community Center After School/Summer Education Resource Programs.

This employee will be required to make highly independent decisions and use great discretionary judgment. Tasks include, but are not limited to creating program budgets, creating and implementing program policies and procedures, creating educational curriculum suitable for classroom ages K-12, dealing with situation that are highly sensitive and complex in nature while maintaining great professional ethics and composure, procurement, ensure the program offers a safe and nurturing environment, managing and evaluating staff on a highly professional level, collecting and reporting data required for grant maintenance, managing multiple center operations in a professional manner.

The coordinator will have oversight of multiple Pensacola Community Center afterschool programs which include programs dealing with children with specialized needs. This employee will be required to operate all programs within these centers in conformance with institutional regulations and state provisions.

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This also includes facilitating, planning, collaborating, and coordinating children's educational programs and activities. This position reports to the Recreation Division Manager and works collaboratively with Recreation Center Coordinators and Supervisors. Work is evaluated through accomplished results.

Examples of Work:

- Ensures that centers and staff conform to federal, state, and local rules, and regulations.
- Work closely with the grants management office on reporting and compliance of all grant awards related to the afterschool program.
- Develop and implement program operating policies and activities to include creating cost estimates for future program needs and operations.
- Recruits children for the afterschool programs while maintaining accurate records on children enrolled in the program to include their development, attendance, immunizations, and general health in addition to conducting program registration and maintenance of appropriate files and waiting lists.
- Prepares reports as needed to ensure the safety and well-being of all children within the facilities.
- Confers with parents on a regular basis to discuss the developmental progress of children enrolled in the program as well as any associated concerns of the after-school program staff related to the child.
- Manages purchases and inventory of all equipment, supplies, and materials to ensure adequate resources for the effective execution of after school program facilities.
- Prepares administrative reports which include attendance records, pre and post activity surveys and results, grant reporting documents, and feeding program documentation.
- Directs the organization and implementation of special activities such as special events, educational enrichment with outside agencies, and other activities outside of daily routine.
- Ensures that proper handling of grievances and problems encountered by staff are resolved or referred to the appropriate City entity for resolutions.
- Performs other duties as assigned.

Knowledge, Skills, and Abilities:

- Knowledge of federal, state, and local rules, regulations, and licensing requirements including After School Care and playground program accreditation requirements and teacher credentials required for the effective and efficient management of a childcare facility.
- Knowledge of Americans with Disabilities Act (ADA), as well as developmentally appropriate practices to include behavior modification theories and practices relating to the proper care of school age children.

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- Knowledge of budget management, cash handling procedures, and best business practices regarding daily operations of a childcare facility.
- Knowledge of grant reporting to ensure all requirements are being met, including but not limited to, executive summary, background, project description, results and impact, financial summary, challenges and lessons learned, future plans, and acknowledgements.
- Ability to plan, organize and conduct school age programs through the development, training, and evaluation of program staff in preparation and implementation of childcare programs and activities.
- Ability to administer CPR and First Aid in compliance with program facility requirements.
- Ability to plan, coordinate and facilitate various programs and activities suitablefor all program participant ages, genders, backgrounds and education levels.
- Ability to implement safety procedures as needed to remain compliant with established rules, regulations, and mandates associated with facility and program management.
- Ability to prepare and maintain accurate reports and records associated with the program's daily operations.
- Ability to communicate tactfully and effectively with children, staff, parents and the general public both orally and in writing to convey department information and resolve conflict.
- Ability to establish and maintain effective working relationships with program staff, participants, parents, partner agency staff, and the general public.

The mental and physical demands and the work environment characteristics described below are representative of those that must be met by an employee to successfully perform the essential functions of this job. Reasonable accommodations may be made to enable individuals with disabilities to perform the essential functions.

Mental and Physical Requirements:

While performing the duties of this job, the employee is regularly required to use hands and fingers to hold or feel, reach with hands and arms, walk, talk and hear. The employee is occasionally required to stand, sit, climb, balance, stoop, and crouch. Specific vision abilities include near distance, far distance, color, peripheral vision, and depth perception.

The employee regularly lifts and/or moves up to 25 pounds and occasionally lifts and/or moves up to 50 pounds.

Work Environment:

The noise level in the work environment is usually moderate. Some jobs may require an employee to be exposed to outside weather conditions, wet and/or humid conditions, and risk of electrical shock.

This description is not intended to be, nor should it be construed as an all-inclusive list of responsibilities, skillsor working conditions associated with the position. It is intended to accurately reflect the activities and requirements of the position, but duties may be added, deleted, or modified as necessary. This descriptiondoes not constitute a written or implied contract of employment.

After School Program Counselor

Rate: Starting at $13/hr

Job Description:

Responsible for planning, implementing and supervising all activities within assigned group of the afterschool program. Maintains safety standards and practices at all times. Follows and enforces city and department policies. Ensures quality customer service to all program participants.

General Duties:

• Supervise and ensure well-being of all after school program participants

• Plan, implement and lead a variety of recreation activities including sports, arts and crafts, enrichment and more

• Ensure quality customer service through positive interactions with participants, staff, guardians and the public

• Maintains highest level of safety and risk management at all times

• Responds appropriately to all emergencies and reports all incidents to the appropriate supervisor.

•Other duties as assigned

Qualifications:

• American Red Cross CPR/ First Aid Certification (class available upon hire)

• Experience working with children preferred

Reports to:

Recreation Center Coordinator or Recreation Center Supervisor and the Recreation Division Manager

After School Program Lead Counselor

Rate: Starting at $15/hour

Job Description:

The After School Program Lead Counselor oversees daily operations of the After the Bell program at a community center location. Maintains safety standards and practices at all times. Follows and enforces town and department policies. Ensures quality customer service to all program participants.

General Duties:

• Daily supervision and evaluation of after school counselors, enrichment program providers, and volunteers

• Directs daily activity schedule of the after-school program

• Communicates program needs and supply requests through the Recreation Center Coordinator or Recreation Center Supervisor.

• Assist with planning and implementing staff trainings and meetings as appropriate

• Maintain superior communication with staff and parents

• Ensure the safety and wellbeing of after school participants by providing high quality risk management at all times.

• Assist with preparation of weekly seasonal payroll and reports as requested

• Other duties as assigned

Qualifications:

• American Red Cross CPR/First Aid Certification

• Experience working with children and supervising staff preferred

Reports to:

Recreation Center Coordinator or Recreation Center Supervisor and the Recreation Division Manager

Program Enrollment Form

ESCAMBIA CHILDREN'S TRUST
Our Children. Our Community. Our Future.

Primary Parent or Guardian Contact Information

First Name: _____

Last Name: _____

Phone Number: _____

Email Address: _____

Household Information

Address: _____

City: _____

State: _____

Zip Code: _____

Household Arrangement - Select the arrangement that best suits the participant

1. Dual Parent
2. Single Parent - Male
3. Single Parent - Female
4. Grandparent
5. Other - Relative
6. Other - Non -relative
7. Foster Parent
8. Other

Number of Children in Household: _____

Number of Adults in Household: _____

Continue to next page to enter Participant Information

Program Participant Information

First Name: _____

Last Name: _____

Date of Birth: _____

Gender:

1. Male
2. Female
3. Non-binary

Race:

1. White
2. Black or African American
3. American Indian or Alaskan Native
4. Asian
5. Native Hawaiian or Other Pacific Islander
6. 2 or more Races
7. Other

Ethnicity:

1. Hispanic or Latino
2. Not Hispanic or Latino

School Information

Name of Current School: _____

Participant's School Grade: _____

Participants Student ID: _____

Other Required Information from Exhibit C

- How is the participant qualified to participate in your program

    1. Income—qualifies for governmental assistance (type of assistance will be entered in SAMIS)
    2. Participant is in need or at-risk (list is in SAMIS)

Other Information That Can Be Entered in SAMIS

- Does the household have another phone number or do they have an email address?
- Does the participant have their own email or phone?
- Does the participant have another parent or guardian in another household? If so what is their contact information?
- Is the household English proficient?
- Did your program refer the participant to any other services or programs?
- How did the participant hear about your program?

CONSENT AND WAIVER TO TRANSPORT CHILD

I authorize _____ to transport my minor child, _____, driven by an individual authorized by _____. I understand my child is expected to follow the directions provided by the driver and/or staff or volunteer.

I understand and have discussed with my child:

- My child will travel in a motor vehicle driven by an adult and my child is to wear their safety belt, or to be seated in a child safety seat appropriate for my child's age, during travel.
- My child is expected to listen to supervising staff/driver, respect staff and other children, in the vehicles they ride in, and the people they travel with during the trip.
- Riding in a motor vehicle may result in personal injuries or death from accidents, collisions or acts by the riders, other drivers, or objects; and,
- My child is to remain in their seat and not be disruptive to the driver of the vehicle.

I recognize by participation in this activity, as with any activity involving motor vehicle transportation, my child may risk personal injury or permanent loss. I hereby attest and verify that I understand the potential risks, and I have full knowledge of the risks involved in this activity, and I assume any expenses incurred in the event of an accident, illness, or other incapacity, regardless of whether I have authorized such expense.

I release any claim on _____ or the Escambia Children's Trust and their employees and volunteers from any claim that I could bring on my child's behalf with regard to any damages, demands or actions whatsoever, in any manner arising out of this transportation. I have read this entire waiver and authorization form, I fully understand its terms and conditions, and I agree to be legally bound by its terms.

I certify that I am the parent or legal guardian of the above-named participant. On behalf of myself, I have read the above agreement, I understand the contents of this Acknowledgement of Risk and Waiver of Liability, assent to its terms and conditions, and sign this Acknowledgement of Risk and Waiver of Liability of my own free act. I acknowledge that my child and I have agreed to the terms and conditions of my child's participation in the ACTIVITY, and I hereby give my consent to participation by my child in the ACTIVITY, and to receive medical treatment determined to be necessary. I further agree to hold harmless, indemnify and defend the program and the Escambia Children's Trust from and against all claims, demands or suits that I or my child has or may have.

I HAVE READ THIS CAREFULLY AND KNOW IT CONTAINS A RELEASE

Name of Parent/Guardian _____	Name of Student _____
Signature of Parent/Guardian _____	Signature of Student: _____
Date:_____	Date: _____

This waiver will be valid for 365 calendar days from the date of the most recent signature.

File #: 24-251 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

REVISED: SUPPLEMENTAL BUDGET RESOLUTION 2024-26 - AGREEMENT RENEWAL BETWEEN THE ESCAMBIA CHILDREN'S TRUST AND CITY OF PENSACOLA

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-26.

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

HEARING REQUIRED:

SUMMARY:

On May 25, 2023, City Council approved the acceptance to the Escambia Children's Trust to offer free after-school programming for K-5 students meeting federal income criteria at four (4) existing program venues including: E.S. Cobb Resource Center, Fricker Resource Center, Gull Point Resource Center, and Woodland Height Resource Center.

The initial term of the Agreement was for a period of one (1) year and eligible for an annual renewal for a maximum of three (3) years. This renewal is for the second of the Maximum three-year period.

PRIOR ACTION:

May 25, 2023 - City Council approved the Agreement Between the Escambia Children's Trust and City of Pensacola.

FUNDING:

Budget:	$540,041.00	Escambia Children's Trust Grant
Actual:	$540,041.00	

FINANCIAL IMPACT:

Approval of the supplemental budget resolution will appropriate the Escambia Children's Trust Grant Funds.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deputy City Administrator
Ben Heistein, Parks and Recreation Director
Tonya Byrd, Assistant Parks and Recreation Director

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-26
2. Supplemental Budget Explanation No. 2024-26
3. REVISED - Supplemental Budget Resolution No. 2024-26
4. REVISED - Supplemental Budget Explanation No. 2024-26

PRESENTATION: No

RESOLUTION
NO. 2024-26

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	Contributions & Donations	2,700,442
Amended To Read:	Contributions & Donations	3,261,030
As Reads	Personnel Services	181,688
Amended To Read:	Personnel Services	742,276

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

APRIL 2024 - SUPPLEMENTAL BUDGET RESOLUTION - AGRMT RENEWAL BETWEEN ESCAMBIA CHILDREN'S TRUST & CITY OF PENSACOLA - Explanation - RES NO. 2024-26

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
Contributions & Donations	560,588	Increase appropriation for Contributions & Donations - Agrmt Renwal Between Escambia Children's Trust & City of Pensacola
Total Revenues	560,588	
Appropriations		
Personnel Services	560,588	Increase appropriation for Personnel Services
Total Appropriations	560,588	

RESOLUTION
NO. 2024-26

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	Contributions & Donations	2,669,597
Amended To Read:	Contributions & Donations	3,209,638
As Reads	Personnel Services	361,341
Amended To Read:	Personnel Services	901,382

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

APRIL 2024 - SUPPLEMENTAL BUDGET RESOLUTION - AGRMT RENEWAL BETWEEN ESCAMBIA CHILDREN'S TRUST & CITY OF PENSACOLA - Explanation - RES NO. 2024-26

FUND	AMOUNT	DESCRIPTION
SPECIAL GRANTS FUND		
Estimated Revenues		
Contributions & Donations	540,041	Increase appropriation for Contributions & Donations - Agrmt Renwal Between Escambia Children's Trust & City of Pensacola
Total Revenues	540,041	
Appropriations		
Personnel Services	540,041	Increase appropriation for Personnel Services
Total Appropriations	540,041	

File #: 24-225 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 422354-3-94-05- SEAPORT SECURITY GRANT

RECOMMENDATION:

That City Council approve the acceptance of the State of Florida, Florida Seaport Transportation Economic Development (FSTED) Grant No. 422354-3-94-05 for seaport security system upgrades and maintenance in the amount of $37,276 with a $12,426 in Port of Pensacola matching funds for a total grant value of $49,702. 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: No Hearing Required

SUMMARY:

The Port of Pensacola was awarded the subject grant as part of the 2023-2024 Florida Seaport Transportation Economic Development (FSTED) annual grant program. This funding was awarded through the Seaport Security Grant Program.

This grant is specifically for procurement and maintenance of the access control equipment for Port of Pensacola security operations to include cameras, data storage, monitors, network equipment, etc. to provide the necessary level of security per Department of Homeland Security policies.

PRIOR ACTION:

None

FUNDING:

Budget: $ 37,276 FSTED

$ 12,426 Port Grant Matching Funds
$ 49,702 Total

Actual: $ 49,702

FINANCIAL IMPACT:

FSTED grant funds in the amount of $49,702 will provide partial funding for this project. The City's required matching funds of $12,426 will come from various expense line items in the Port Fund. Approval of the supplemental budget resolution will appropriate the grant funds for this project.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

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

ATTACHMENTS:

1. FSTED Grant No. 422354-3-94-05

PRESENTATION: No

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

PUBLIC TRANSPORTATION GRANT AGREEMENT

Form 725-000-01
STRATEGIC DEVELOPMENT
OGC 7/22

Financial Project Number(s): (item-segment-phase-sequence)		Fund(s):	DPTO	FLAIR Category:	088794
422354-3-94-05		Work Activity Code/Function:	215	Object Code:	751000
		Federal Number/Federal Award		Org. Code:	55032020329
		Identification Number (FAIN) – Transit only:		Vendor Number:	F596000406008
Contract Number:		Federal Award Date:			
CFDA Number:	N/A	Agency SAM/UEI Number:	80-939-7102		
CFDA Title:	N/A				
CSFA Number:	55.005				
CSFA Title:	Seaport Grant Program				

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

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

1. **Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 311, Florida Statutes, to enter into this Agreement.

2. **Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Port of Pensacola's seaport security initiative , as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.

3. **Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

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

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

   X Exhibit A: Project Description and Responsibilities
   X Exhibit B: Schedule of Financial Assistance
   _ *Exhibit B1: Deferred Reimbursement Financial Provisions
   _ *Exhibit B2: Advance Payment Financial Provisions
   _ *Exhibit B3: Alternative Advanced Pay (Transit Bus Program)
   X *Exhibit C: Terms and Conditions of Construction
   X Exhibit D: Agency Resolution
   X Exhibit E: Program Specific Terms and Conditions
   X Exhibit F: Contract Payment Requirements
   X *Exhibit G: Audit Requirements for Awards of State Financial Assistance

__ *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
__ *Exhibit I: Certification of Disbursement of Payment to Vehicle and/or Equipment Vendor
__ *Additional Exhibit(s):

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

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

6. Term of Agreement. This Agreement shall commence upon full execution by both Parties ("Effective Date") and continue through April 30, 2029. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

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

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

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

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

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

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

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

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

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

9. Project Cost:

a. The estimated total cost of the Project is $49,702. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.

b. The Department agrees to participate in the Project cost up to the maximum amount of $37,276 and, the Department's participation in the Project shall not exceed 75.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B'', Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

a. Eligible Cost. The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A"**, **Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.

b. Deliverables. The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.

c. Invoicing. Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.

d. Supporting Documentation. Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.

e. Travel Expenses. The selected provision below is controlling regarding travel expenses:

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

__ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061,

Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

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

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

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

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

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

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

j. Submission of Other Documents. The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department

may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

k. Offsets for Claims. If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.

l. Final Invoice. The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.

m. Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature. The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.

n. Limits on Contracts Exceeding $25,000 and Term more than 1 Year. In the event this Agreement is in excess of $25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of $25,000 and which have a term for a period of more than 1 year."

o. Agency Obligation to Refund Department. Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.

p. Non-Eligible Costs. In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A"**, **Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for

not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A"**, **Project Description and Responsibilities.**

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

    a. **Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.

    b. **Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.

    c. **Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than $250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:

        i. Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or

        ii. Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.

    d. __ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).

    e. __ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):

        i. __ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).

        ii. __ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.

        iii. __ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.

    f. **Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

g. **Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

12. Contracts of the Agency:

a. **Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.

b. **Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.

c. **Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

d. **Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

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

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

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

    a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.

    b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:

        i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.

        ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.

        iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.

        iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.

    c. The terms of provisions “a” and “b” above shall survive the termination of this Agreement.

        i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.

        ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

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

    Federal Funded:

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

through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:

i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit "H", Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.

ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.

iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, the cost of the audit must be paid from non-Federal resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than Federal entities).

iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at https://harvester.census.gov/facweb/ the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor's report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.

v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency's audit reporting package, including corrective action plans and

management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
3. Wholly or partly suspend or terminate the Federal award;
4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
5. Withhold further Federal awards for the Project or program;
6. Take other remedies that may be legally available.

vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.

b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:

i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and

Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance,** to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, other state agencies, and other nonstate entities. State financial assistance does not include Federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.

ii. In connection with the audit requirements, the Agency shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.

iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a fiscal year and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).

iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0405
FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or

10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

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

17. Restrictions, Prohibitions, Controls and Labor Provisions:

a. Convicted Vendor List. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

b. Discriminatory Vendor List. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity; and may not transact business with any public entity.

c. Non-Responsible Contractors. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

d. Prohibition on Using Funds for Lobbying. No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

e. Unauthorized Aliens. The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.

f. Procurement of Construction Services. If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.

g. E-Verify. The Agency shall:

i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and

ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.

h. Executive Order 20-44. Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at fdotsingleaudit@dot.state.fl.us within 180 days following the end of each tax year of the Agency receiving Department funding.

i. Design Services and Construction Engineering and Inspection Services. If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

18. Indemnification and Insurance:

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

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

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

This indemnification shall survive the termination of this Agreement."

b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.

c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies,

coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

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

e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

19. Miscellaneous:

a. Environmental Regulations. The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.

b. Non-Admission of Liability. In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.

c. Severability. If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

d. Agency not an agent of Department. The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.

e. Bonus or Commission. By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

f. Non-Contravention of State Law. Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in

contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

g. Execution of Agreement. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.

h. Federal Award Identification Number (FAIN). If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).

i. Inspector General Cooperation. The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

j. Law, Forum, and Venue. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

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

AGENCY City of Pensacola	STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
By: _____	By: _____
Name: _____	Name: Tim Smith, P.E.
Title: _____	Title: Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

_____

EXHIBIT A

Project Description and Responsibilities

A. Project Description (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): This agreement provides for the Department's financial participation in Port of Pensacola's seaport security initiative. This project includes comprehensive repairs and replacement to existing access control and camera systems at the seaport. Additionally, this project replaces outdated cameras and camera infrastructure.

B. Project Location (limits, city, county, map): City of Pensacola (Port of Pensacola)/Pensacola, FL/

C. Project Scope (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): This project includes procurement of capital equipment and preventative maintenance to complete the activities described in the project description, including cables; cameras; conduits; installation and testing; mounting equipment; networks cabinets; network switches; networking equipment; power supply equipment; pedestals; and, TWIC reader.

D. Deliverable(s):

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

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

F. Transit Operating Grant Requirements (Transit Only):

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

EXHIBIT B

Schedule of Financial Assistance

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

A. Fund Type and Fiscal Year:

Financial Management Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/ CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
422354-3-94-05	DPTO	088794	2024	751000	55.005	Seaport Grant Program	$37,276.00
422354-3-94-05	LF	-	2024	-	-	Local Matching Funds	$12,426.00
	Total Financial Assistance						$49,702.00

B. Estimate of Project Costs by Grant Phase:

Phases*	State	Local	Federal	Totals	State %	Local %	Federal %
Land Acquisition	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Planning	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Environmental/Design/Construction	$37,276.00	$12,426.00	$0.00	$49,702.00	75.00	25.00	0.00
Capital Equipment/ Preventative Maintenance	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Match to Direct Federal Funding	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Mobility Management (Transit Only)	$0.00	$0.00	$0.00	$0.00	0.00	0.00	0.00
Totals	$37,276.00	$12,426.00	$0.00	$49,702.00			

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

Scope Code and/or Activity Line Item (ALI) (Transit Only)	

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

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

Department Grant Manager Name

Signature Date

EXHIBIT C

TERMS AND CONDITIONS OF CONSTRUCTION

1. Design and Construction Standards and Required Approvals.

a. The Agency understands that it is responsible for the preparation and certification of all design plans for the Project. The Agency shall hire a qualified consultant for the design phase of the Project or, if applicable, the Agency shall require their design-build contractor or construction management contractor to hire a qualified consultant for the design phase of the Project.

b. Execution of this Agreement by both Parties shall be deemed a Notice to Proceed to the Agency for the design phase or other non-construction phases of the Project. If the Project involves a construction phase, the Agency shall not begin the construction phase of the Project until the Department issues a Notice to Proceed for the construction phase. Prior to commencing the construction work described in this Agreement, the Agency shall request a Notice to Proceed from the Department's Project Manager, Ray Corbitt (email: ray.corbitt@dot.state.fl.us) or from an appointed designee. Any construction phase work performed prior to the execution of this required Notice to Proceed is not subject to reimbursement.

c. The Agency will provide one (1) copy of the final design plans and specifications and final bid documents to the Department's Project Manager prior to bidding or commencing construction of the Project.

d. The Agency shall require the Agency's contractor to post a payment and performance bond in accordance with applicable law(s).

e. The Agency shall be responsible to ensure that the construction work under this Agreement is performed in accordance with the approved construction documents, and that the construction work will meet all applicable Agency and Department standards.

f. Upon completion of the work authorized by this Agreement, the Agency shall notify the Department in writing of the completion of construction of the Project; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineer's Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached to this Exhibit. The certification shall state that work has been completed in compliance with the Project construction plans and specifications. If any deviations are found from the approved plans or specifications, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

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

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

b. Construction Engineering Inspection (CEI) services will be provided by the Agency by hiring a Department prequalified consultant firm including one individual that has completed the Advanced Maintenance of Traffic Level Training, unless otherwise approved by the Department in writing. The CEI staff shall be present on the Project at all times that the contractor is working. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the Project meets the minimum construction standards established by Department. The Department shall approve all CEI personnel. The CEI firm shall not be the same firm as that of the Engineer of Record for the Project. The Department shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the Project. Notwithstanding the foregoing, the Department may issue a written waiver of the CEI requirement for portions of Projects involving the construction of bus shelters, stops, or pads.

c. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction, the Department Design Standards, and the Manual of Uniform Traffic Control Devices (MUTCD). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, Florida Design Manual, Manual for Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways (the "Florida Green Book"), and the Department Traffic Engineering Manual. The Agency will be required to submit any construction plans required by the Department for review and approval prior to any work being commenced. Should any changes to the plans be required during construction of the Project, the Agency shall be required to notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Agency shall maintain the area of the Project at all times and coordinate any work needs of the Department during construction of the Project.

d. The Agency shall notify the Department a minimum of 48 hours before beginning construction within Department right-of-way. The Agency shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is __.

e. The Agency shall be responsible for monitoring construction operations and the maintenance of traffic (MOT) throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Agency is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Agency that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.

f. The Agency shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.

g. The Agency will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.

h. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right of way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Agency, except as may otherwise be provided in separate agreements. The Agency shall not acquire any right, title, interest or

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

i. The Agency shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.

j. The Agency shall perform all required testing associated with the design and construction of the Project. Testing results shall be made available to the Department upon request. The Department shall have the right to perform its own independent testing during the course of the Project.

k. The Agency shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, the United States Environmental Protection Agency, the United States Army Corps of Engineers, the United States Coast Guard and local governmental entities.

l. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from its right-of-way at the sole cost, expense, and effort of the Agency. The Agency shall bear all construction delay costs incurred by the Department.

m. The Agency shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.

n. The Agency will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.

o. The acceptance procedure will include a final "walk-through" by Agency and Department personnel. Upon completion of construction, the Agency will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Agency shall remove its presence, including, but not limited to, all of the Agency's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.

p. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Agency. The Agency shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Agency and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Agency fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Agency with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Agency's sole cost and expense,

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

q. The Agency shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Agency shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

r. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Agency to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.

s. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.

t. Restricted hours of operation will be as follows, unless otherwise approved by the Department's District Construction Engineer or designee (insert hours and days of the week for restricted operation): Not Applicable

u. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contact info:
Phone: (850) 330-1205; FAX: (850) 330-1761

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

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

ENGINEER'S CERTIFICATION OF COMPLIANCE

PUBLIC TRANSPORTATION GRANT AGREEMENT
BETWEEN
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and _____

PROJECT DESCRIPTION: _____

DEPARTMENT CONTRACT NO.: _____

FINANCIAL MANAGEMENT NO.: _____

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

By: _____, P.E.

SEAL:

Name: _____

Date: _____

EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

EXHIBIT F

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

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

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

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

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

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

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

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

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

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

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

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

EXHIBIT G

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

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

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~

Awarding Agency: Florida Department of Transportation
State Project Title: Seaport Grant Program
CSFA Number: 55.005
***Award Amount:** $37,276

*The award amount may change with amendments

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

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

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

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

File #: 24-232 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

REVISED: SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-36 - PORT OF PENSACOLA - FLORIDA SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 422354-3-94-05 - SEAPORT SECURITY GRANT

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-36.

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 Port of Pensacola was awarded the subject grant as part of the 2023-2024 Florida Seaport Transportation Economic Development (FSTED) annual grant program. This funding was awarded through this new Seaport Security Grant Program.

This grant is specifically for procurement and maintenance of the access control equipment for Port of Pensacola security operations to include cameras, data storage, monitors, network equipment, etc. in order to provide the necessary level of security per Department of Homeland Security policies.

PRIOR ACTION:

None

FUNDING:

Budget: $ 37,276 FSTED
$ 12,426 Port Grant Matching Funds
$ 49,702 Total

Actual: $ 49,702

FINANCIAL IMPACT:

FSTED grant funds in the amount of $49,702 will provide partial funding for this project. The City's required matching funds of $12,426 will come from various expense line items in the Port Fund. Approval of the supplemental budget resolution will appropriate the grant funds for this project.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

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

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-36
2. Supplemental Budget Explanation No. 2024-36
3. REVISED - Supplemental Budget Resolution No. 2024-36
4. REVISED - Supplemental Budget Explanation No. 2024-36

PRESENTATION: No

RESOLUTION
NO. 2024-36

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

As Reads	State Grants	1,816,625
To:		
Reads	State Grants	1,866,327
As Reads	Capital Outlay	15,731,494
To:		
Reads	Capital Outlay	15,781,196

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

APRIL 2024 - SUPPLEMENTAL BUDGET RESOLUTION - FL SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 422354-3-94-05, SEAPORT SECURITY GRANT - RES NO. 2024-36

FUND	AMOUNT	DESCRIPTION
PORT FUND		
Estimated Revenues		
State Grants	49,702	Increase appropriation for Federal Grants
Total Revenues	49,702	
Appropriations		
Capital Outlay	49,702	Approperating Funds for Capital Outlay
Total Appropriations	49,702	

RESOLUTION
NO. 2024-36

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

	FUND BALANCE	12,426
As Reads	State Grants	1,816,625
To:		
Reads	State Grants	1,853,901
As Reads	Capital Outlay	15,731,494
To:		
Reads	Capital Outlay	15,781,196

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

APRIL 2024 - SUPPLEMENTAL BUDGET RESOLUTION - FL SEAPORT TRANSPORTATION ECONOMIC DEVELOPMENT (FSTED) GRANT NO. 422354-3-94-05, SEAPORT SECURITY GRANT - RES NO. 2024-36

FUND	AMOUNT	DESCRIPTION
PORT FUND		
Estimated Revenues		
State Grants	37,276	Increase appropriation for State Grants
Total Revenues	37,276	
Fund Balance	12,426	Increase appropriated fund balance
Total Estimated Revenues and Fund Balance	49,702	
Appropriations		
Capital Outlay	49,702	Approperating Funds for Capital Outlay
Total Appropriations	49,702	

File #: 24-237 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AUTHORIZATION TO ACCEPT ADDITIONAL FUNDING PROVIDED THROUGH AMENDMENT 1 TO THE JOINT PARTICIPATION AGREEMENT BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND CITY OF PENSACOLA, FLORIDA FOR CONSTRUCTION OF A WELCOME SIGN AND FEATURE BETWEEN BAYFRONT PARKWAY AND GREGORY STREET.

RECOMMENDATION:

That City Council accept Amendment 1 to Florida Department of Transportation JPA 409334-1-58-02 for Pensacola Welcome Sign in the amount of $100,000.00. Further, that City Council authorize the Mayor to take the actions necessary to continue to administer this agreement, consistent with the terms of the Mayor's Executive Powers as granted in the City Charter and Resolution No. 18-55. Also, that City Council adopt a supplemental budget resolution appropriating the funds.

HEARING REQUIRED: No Hearing Required

SUMMARY:

Additional funding has been secured through Amendment 1 to the Joint Participation Agreement. The original funds ($370,000.00) were awarded for the City's use in the design and construction of a welcome sign that will take the place of the Five Flags Plaza that was removed by FDOT during the construction of the Pensacola Bay Bridge. The additional $100,000.00 funds being provided by FDOT are to assist with the continual rise in construction costs, both labor and materials.

PRIOR ACTION:

FDOT Staff previously approved a time extension for completion of the project through December 31, 2024.

On November 10, 2022, City Council authorized acceptance of funding provided through the Joint Participation Agreement between the State of Florida Department of Transportation and City of Pensacola, Florida for construction of a welcome sign and feature between Bayfront

Parkway and Gregory Street in the amount of $370,000.00.

FDOT and City staff determined that it was more desirable for the City to complete the work, and therefore, on September 30, 2022, an amended agreement and JPA was executed to allow FDOT to provide the City with $370,000.00 for use in the design and construction of the welcome sign to replace the Five Flags Plaza.

On November 8, 2018, City Council Adopted Resolution No. 18-55 to transfer property to FDOT for construction of the Pensacola Bay Bridge Project and authorizing and directing the Mayor to execute a quitclaim deed to the property and an agreement providing for appropriate signage and to take all other actions necessary in relation to the resolution. The resulting agreement provided that FDOT would complete $370,000.00 worth of design and improvements for a welcome sign.

FUNDING:

Budget:	$370,000.00	Joint Participation Agreement with Florida Department of Transportation
	$100,000.00	Amendment to Joint Participation Agreement with Florida Department of Transportation
	$185,142.00	American Rescue Plan Act (ARPA)
	$655,142.00	TOTAL
Actual:	$483,700.00	Base Bid
	$28,000.00	Bid Alt #2
	$511,700.00	Sum of Base Bid Plus Bid Alt #2
	$51,170.00	10% Contigency
	$33,772.20	Engineering Allocation
	$3,500	Testing, Geotech, Miscellaneous
	$600,142.00	TOTAL

FINANCIAL IMPACT:

Funding has been allocated primarily through a Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT). First, the FDOT provided funding in the amount of $370,000.00 for the design and installation of the Pensacola Welcome Structure. An amendment to this JPA increased this amount by $100,000.00 to $470,000.00. To pay for the remainder of the project, funds have been identified in the ARPA fund in the amount of $185,142.00.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator
Amy Toole, Director of Public Works & Engineering

ATTACHMENTS:

1. ASU29-4509334-1-58-02_Welcome Sign_City of Pensacola-SA01- DRAFT Amendment
2. Supplemental Budget Resolution No. 2024-37
3. Supplemental Budget Explanation No. 2024-37
4. JPA 409334-1-58-02

PRESENTATION: No

Item/Segment No: 409334-1-58-02
City of Pensacola Welcome Sign @ the Pensacola Bay Bridge

FIRST AMENDMENT TO AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PENSACOLA

This AMENDMENT is between the State of Florida, Department of Transportation, with offices at 1074 Highway 90, Chipley, Florida 32428 ("DEPARTMENT") and the City of Pensacola, Florida, a Florida municipal corporation with offices at 222 West Main Street, Pensacola, Florida 32502 ("LOCAL AGENCY"). The DEPARTMENT and the LOCAL AGENCY are sometimes referred to in this amendment as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties on **October 20, 2022,** entered into an Agreement (attached hereto and collectively called the AGREEMENT) for the LOCAL AGENCY to design and construct certain improvements as depicted in Exhibit "A" of the AGREEMENT to signify entrance to the City and replace the Five Flags Memorial Plaza in connection with Financial Project Number **409334-1-58-02**.

WHEREAS, pursuant to the AGREEMENT, the DEPARTMENT agreed to provide funding for the design and construction of the sign of no more than **THREE HUNDRED AND SEVENTY THOUSAND DOLLARS AND 00/100 ($370,000.00)** and the LOCAL AGENCY agreed to provide any additional funds necessary to cover the cost difference between **$370,000.00** and the total cost of the sign; and

WHEREAS, the LOCAL AGENCY has received bids that are higher than the awarded amount for the LOCAL AGENCY's desired improvements; and

WHEREAS, the DEPARTMENT is prepared to assist LOCAL AGENCY through the provision of additional funding in the amount of **$100,000.00** for the PROJECT, which would allow for the reimbursement of the LOCAL AGENCY for the costs of the PROJECT in an amount up to but not exceeding **FOUR HUNDRED SEVENTY THOUSAND AND 00/100 DOLLARS ($470,000.00).**

WHEREAS, the LOCAL AGENCY agrees to provide any additional funds necessary to cover any cost difference between **$470,000.00** and the total cost of the sign; and

WHEREAS, the LOCAL AGENCY, by resolution number_____, a copy of which is attached hereto as Exhibit "D" and made a part hereof, has authorized the LOCAL AGENCY to enter into this AMENDMENT.

WHEREAS, the Parties mutually desire to amend the AGREEMENT to modify the financial obligations of both the CITY and the DEPARTMENT.

DRAFT

AGREEMENT:

NOW, THEREFORE, in consideration of the promises and covenants contained in this AMENDMENT and in the AGREEMENT, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree to amend the AGREEMENT as follows:

1. The facts stated above are true and correct and are incorporated into and made part of this AMENDMENT.

2. The effective date of the AMENDMENT shall be the latest date on which a party executes this Agreement.

3. Exhibit B of the AGREEMENT is hereby amended to provide the LOCAL AGENCY with additional funding in the amount of **$100,000.00** due to bids coming in over the awarded amount. Including the additional funding, the Department will provide the funding to reimburse PROJECT costs for the sign in the total amount not to exceed **FOUR HUNDRED SEVENTY THOUSAND DOLLARS AND 00/100 ($470,000.00)**.

4. No additional funding for this AMENDMENT or AGREEMENT beyond the amount of **$470,000.00** will be provided by the DEPARTMENT.

5. Except for the changes made in this AMENDMENT, the terms and conditions of the AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this AMENDMENT on the dates set forth below:

CITY OF PENSACOLA, FLORIDA

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

_____

By: _____

Name: _____

Title: _____ (Seal)

LOCAL AGENCY LEGAL REVIEW:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____

Name: _____

Title: _____

Date: _____

DEPARTMENT LEGAL REVIEW:

DRAFT

By: _____	By: _____
_____	Office of the General Counsel~~CITY OF PENSACOLA~~
_____	~~STATE OF FLORIDA~~
_____	~~DEPARTMENT OF TRANSPORTATION~~
~~By:~~ _____	~~By:~~ _____
~~Name:~~ _____	~~Name: Phillip Gainer, P.E.,~~
~~Title:~~ _____	~~Title: District Secretary~~
~~Date:~~ _____	~~Date:~~ _____
_____	~~ATTEST:~~
_____	~~By:~~ _____
~~Krissy Cook, Executive Secretary (Seal)~~	
~~LEGAL REVIEW:~~	~~LEGAL REVIEW:~~
~~By:~~ _____	~~By:~~ _____
~~City Attorney~~	~~Office of the General Counsel~~

DRAFT

RESOLUTION
NO. 2024-37

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. GENERAL FUND

As Reads	Transportation	2,080,302
To:		
Reads	Transportation	2,180,302
As Reads	Operating Expenses	21,864,529
To:		
Reads	Operating Expenses	21,964,529

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

APRIL 2024 - JPA ADDITIONAL FUNDING - JOINT AGREEMENT - CONSTRUCTION OF WELCOME SIGN - EXPLANATION No. 2024-37

FUND	AMOUNT	DESCRIPTION
GENERAL FUND		
Estimated Revenues		
Transportation	100,000	Increase appropriation for Federal Grants
Total Revenues	100,000	
Appropriations		
Operating Expenses	100,000	Increase Appropriation for Operating Expenses
Total Appropriations	100,000	

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Financial Project Number(s): 409334-1-58-02
Contract No.: ASU29
Vendor Number: F596000406005

JOINT PARTICIPATION AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
CITY OF PENSACOLA, FLORIDA

This AGREEMENT is between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, with offices at *1074 Highway 90 East, Chipley, FL 32428* (the "DEPARTMENT"), and **CITY OF PENSACOLA**, a political subdivision of the State of Florida, with offices at *222 West Main Street, Pensacola, Florida 32502* (the "LOCAL AGENCY"). The DEPARTMENT and the LOCAL AGENCY are sometimes referred to in this AGREEMENT as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this AGREEMENT pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the Parties are desirous of having the LOCAL AGENCY *CITY OF PENSACOLA*, make certain improvements in connection with Financial Project Number **409334-1-58-02**, which are further described on Exhibit "A" – Project Description and Responsibilities, attached hereto and made a part hereof (the "PROJECT"); and

WHEREAS, the LOCAL AGENCY and the DEPARTMENT previously entered into an AGREEMENT on November 14, 2018, (attached hereto as Composite Exhibit G and collectively called the AGREEMENT) wherein the LOCAL AGENCY agreed to convey to the DEPARTMENT a fee simple interest in property described in Exhibit A of the AGREEMENT originally reflecting the DEPARTMENT's responsibility for the design and construction of a sign to signify entrance to the LOCAL AGENCY to replace the former Five Flags Memorial Plaza, which is described in Exhibit C of the AGREEMENT; and

WHEREAS, pursuant to the AMENDMENT (attached hereto as part of Composite Exhibit G), it is agreed that the LOCAL AGENCY shall be responsibility for the design and construction of the replacement sign in accordance with terms of this JOINT PARTICIPATION AGREEEMNT;

WHEREAS, the PROJECT is on the State Highway System, is not revenue producing and is contained in the adopted work program; and

WHEREAS, the DEPARTMENT is prepared to reimburse the LOCAL AGENCY for the actual costs of the PROJECT in an amount up to but not to exceed **THREE HUNDRED**

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SEVENTY THOUSAND AND 00/100 DOLLARS ($370,000) that has been allocated in the fiscal year 2022-2023; and

WHEREAS, the implementation of this PROJECT is in the best interest of both Parties and it would be most practical, expeditious, and economical for the LOCAL AGENCY to perform services to complete the PROJECT; and

WHEREAS, the DEPARTMENT will provide design and construction approval of the City of Pensacola sign within a reasonable time frame prior to construction of the sign in coordination with the CITY. The City of Pensacola sign shall be located within the parcel in accordance with the lateral offset criteria in the Department's Design Manual (FDM). DEPARTMENT approval of the sign location will be documented through the DEPARTMENT permitting process. The DEPARTMENT will not provide final approval of the sign installation on the DEPARTMENT right-of-way until after final acceptance of the Pensacola Bay Bridge Replacement project.

WHEREAS, the intent of this AGREEMENT is to establish the terms and conditions of the funding and production of this PROJECT; and

WHEREAS, the LOCAL AGENCY, by resolution number *18-55, dated November 8, 2018*, a copy of which is attached hereto as Exhibit "D" and made a part hereof, has authorized the *Mayor of the City of Pensacola* to enter into this AGREEMENT.

NOW THEREFORE, in consideration of the mutual benefits to be derived by the terms of this AGREEMENT, the Parties agree as follows:

1 – TERM:

A. This AGREEMENT shall begin upon full execution by both Parties and the LOCAL AGENCY shall complete the PROJECT on or before **August 31, 2023**. If the LOCAL AGENCY does not complete the PROJECT within this time period, this AGREEMENT will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the LOCAL AGENCY and granted in writing by the DEPARTMENT prior to the expiration of this AGREEMENT. Expiration of this AGREEMENT will be considered termination of the PROJECT. The LOCAL AGENCY acknowledges that no reimbursements for the actual costs of the PROJECT will be provided by the DEPARTMENT under this AGREEMENT for work performed on the PROJECT that is not timely completed and invoiced in accordance with the terms of this AGREEMENT, for work performed prior to full execution of this AGREEMENT, or for work performed after expiration of this AGREEMENT. Notwithstanding the foregoing, the LOCAL AGENCY shall remain obligated to complete all aspects of the PROJECT identified in this AGREEMENT in accordance with its terms, unless otherwise agreed by the Parties in writing.

2 – SERVICES AND PERFORMANCE:

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A. The LOCAL AGENCY shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The PROJECT and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A".

3 – AMENDMENTS, EXTENSIONS AND ASSIGNMENT:

A. This AGREEMENT may be amended or extended upon mutual written agreement of the Parties.

B. This AGREEMENT shall not be assigned, transferred or otherwise encumbered by the LOCAL AGENCY under any circumstances without the prior written consent of the DEPARTMENT.

4 – TERMINATION OR SUSPENSION OF PROJECT:

A. The DEPARTMENT may, by written notice to the LOCAL AGENCY, suspend any or all of the DEPARTMENT'S obligations under this AGREEMENT for the LOCAL AGENCY'S failure to comply with applicable laws or the terms of this AGREEMENT until such time as the event or condition resulting in such suspension has ceased or been corrected. The DEPARTMENT may also terminate this AGREEMENT, in whole or in part, at any time the interest of the DEPARTMENT requires such termination.

1. If the DEPARTMENT terminates this AGREEMENT, the DEPARTMENT shall notify the LOCAL AGENCY of such termination in writing within thirty (30) days of the DEPARTMENT'S determination to terminate this AGREEMENT, with instructions as to the effective date of termination or to specify the stage of work at which the AGREEMENT is to be terminated.

2. The Parties may also terminate this AGREEMENT when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions through mutual written agreement.

3. If this AGREEMENT is terminated before performance is completed, the LOCAL AGENCY shall be reimbursed only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this AGREEMENT. All work in progress on the DEPARTMENT right-of-way will become the property of the DEPARTMENT and will be turned over promptly by the LOCAL AGENCY.

4. Upon termination of this AGREEMENT, the LOCAL AGENCY shall, within thirty (30) days, refund to the DEPARTMENT any funds determined by the DEPARTMENT to have been expended in violation of this AGREEMENT.

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5 – PROJECT COST:

A. The estimated cost of the PROJECT is **$ 370,0000.**

B. The DEPARTMENT agrees to reimburse the LOCAL AGENCY for the actual costs of the PROJECT in an amount up to but not to exceed **THREE HUNDRED SEVENTY THOUSAND AND 00/100 DOLLARS ($370,000)**. The schedule of funding is more fully described in Exhibit "B", attached hereto and made a part hereof. The LOCAL AGENCY agrees to bear all expenses in excess of the DEPARTMENT'S participation, including any cost overruns or deficits incurred in connection with completion of the PROJECT.

6 – COMPENSATION AND PAYMENT:

A. The DEPARTMENT shall reimburse the LOCAL AGENCY for actual costs of the PROJECT, as further described in Exhibit "A".

B. The LOCAL AGENCY shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The PROJECT and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A".

C. Invoices shall be submitted by the LOCAL AGENCY in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable, and verifiable units of deliverables as established in Exhibit "A". Deliverables must be received and accepted in writing by the DEPARTMENT'S Project Manager prior to payments. Requests for reimbursements by the LOCAL AGENCY shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the DEPARTMENT. The LOCAL AGENCY shall use the format for the invoice and progress report that is approved by the DEPARTMENT.

D. Supporting documentation must establish that the deliverables were received and accepted in writing by the LOCAL AGENCY and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Exhibit "A" was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in Attachment "F" – Contract Payment Requirements.

E. There shall be no reimbursement for travel expenses under this AGREEMENT.

F. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the DEPARTMENT'S Comptroller under Section 334.044(29), Florida Statutes. If the DEPARTMENT determines that the performance of the LOCAL AGENCY is unsatisfactory, the DEPARTMENT shall notify

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the LOCAL AGENCY of the deficiency to be corrected, which correction shall be made within a timeframe to be specified by the DEPARTMENT. The LOCAL AGENCY shall, within five (5) days after notice from the DEPARTMENT, provide the DEPARTMENT with a corrective action plan describing how the LOCAL AGENCY will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the DEPARTMENT, the LOCAL AGENCY will not be reimbursed to the extent of the non-performance. The LOCAL AGENCY will not be reimbursed until the LOCAL AGENCY resolves the deficiency. If the deficiency is subsequently resolved, the LOCAL AGENCY may bill the DEPARTMENT for the unpaid reimbursement request(s) during the next billing period. If the LOCAL AGENCY is unable to resolve the deficiency, the funds shall be forfeited at the end of the AGREEMENT'S term.

G. The LOCAL AGENCY should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than twenty (20) working days from the DEPARTMENT'S receipt of the invoice. The DEPARTMENT has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables and costs incurred are received, inspected, and approved. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the LOCAL AGENCY. Interest penalties of less than one (1) dollar will not be enforced unless the LOCAL AGENCY requests payment. Invoices that have to be returned to the LOCAL AGENCY because of LOCAL AGENCY preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

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

I. The LOCAL AGENCY shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this AGREEMENT shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this AGREEMENT and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include the LOCAL AGENCY'S general accounting records and the PROJECT records, together with supporting documents and records, of the contractor and all subcontractors performing work on the PROJECT, and all other records of the contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.

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J. Upon request, the LOCAL AGENCY agrees to provide progress reports to the DEPARTMENT in the standard format used by the DEPARTMENT and at intervals established by the DEPARTMENT. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of the PROJECT and of details thereof.

K. If, after completion of the PROJECT, any claim is made by the DEPARTMENT resulting from an audit or for work or services performed pursuant to this AGREEMENT, the DEPARTMENT may offset such amount from payments due for work or services done under any agreement which it has with the LOCAL AGENCY owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the DEPARTMENT. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the DEPARTMENT.

L. The LOCAL AGENCY must submit the final invoice on the PROJECT to the DEPARTMENT within one hundred twenty (120) days after completion of the PROJECT. Invoices submitted after the 120-day time period may not be paid.

M. In the event this AGREEMENT is for services in excess of $25,000.00 and a term for a period of more than 1 year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of $25,000.00 and which have a term for a period of more than 1 year."

N. The DEPARTMENT'S obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

O. This AGREEMENT does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

P. Any PROJECT funds made available by the DEPARTMENT pursuant to this AGREEMENT which are determined by the DEPARTMENT to have been expended by the LOCAL AGENCY in violation of this AGREEMENT or any other applicable law or regulation, shall be promptly refunded in full to the DEPARTMENT. Acceptance by the

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DEPARTMENT of any documentation or certifications, mandatory or otherwise permitted, that the LOCAL AGENCY files shall not constitute a waiver of the DEPARTMENT'S rights as the funding agency to verify all information at a later date by audit or investigation.

Q. In determining the amount of the payment, the DEPARTMENT will exclude all costs incurred by the LOCAL AGENCY prior to the execution of this AGREEMENT, costs incurred after the expiration of this AGREEMENT, costs which are not provided for as described in this AGREEMENT, costs agreed to be borne by the LOCAL AGENCY or its contractors and subcontractors for not meeting the terms of this AGREEMENT, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the DEPARTMENT.

7 – GENERAL REQUIREMENTS:

A. The LOCAL AGENCY shall complete the PROJECT with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this AGREEMENT and all applicable laws.

B. The LOCAL AGENCY shall comply and require its contractors and subcontractors to comply with all terms and conditions of this AGREEMENT and all federal, state, and local laws and regulations applicable to the PROJECT.

C. The LOCAL AGENCY shall have the sole responsibility for resolving claims and requests for additional work for the PROJECT by the LOCAL AGENCY'S contractors and consultants. No funds will be provided for payment of claims or additional work on the PROJECT under this AGREEMENT without the prior written approval of the claim or request for additional work by the DEPARTMENT.

D. The LOCAL AGENCY:

1. Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the LOCAL AGENCY during the term of the AGREEMENT; and

2. Shall expressly require any subcontractors performing work or providing services pursuant to the AGREEMENT to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the AGREEMENT.

E. The LOCAL AGENCY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the LOCAL AGENCY in conjunction with this AGREEMENT. Specifically, if the LOCAL AGENCY is acting on behalf of a public agency, the LOCAL AGENCY shall:

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1. Keep and maintain public records required by the DEPARTMENT to perform the service.

2. Upon request from the DEPARTMENT'S custodian of public records, provide the DEPARTMENT 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.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the AGREEMENT'S term and following completion of the AGREEMENT if the LOCAL AGENCY does not transfer the records to the DEPARTMENT.

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

F. IF THE LOCAL AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LOCAL AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

District 3
850-330-1391
D3prcustodian@dot.state.fl.us
Florida Department of Transportation
District 3 – Office of General Counsel
1074 Highway 90 East
Chipley, FL 32428

G. Failure by the LOCAL AGENCY to grant such public access shall be grounds for immediate unilateral cancellation of this AGREEMENT by the DEPARTMENT. The LOCAL AGENCY shall promptly provide the DEPARTMENT with a copy of any request to inspect or copy public records in possession of the LOCAL AGENCY and shall

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promptly provide the DEPARTMENT a copy of the LOCAL AGENCY'S response to each such request.

8 – CONTRACTS OF THE LOCAL AGENCY:

A. The DEPARTMENT has the right to review and approve any and all third party contracts with respect to the PROJECT before the LOCAL AGENCY executes any contract or obligates itself in any manner requiring the disbursement of DEPARTMENT funds under this AGREEMENT, including consultant or construction contracts or amendments thereto. If the DEPARTMENT exercises this right and the LOCAL AGENCY fails to obtain such approval, the DEPARTMENT may deny payment to the LOCAL AGENCY. The DEPARTMENT may review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.

B. It is understood and agreed by the Parties that participation by the DEPARTMENT in a project that involves the purchase of commodities or contractual services or the purchasing of capital equipment or the equipping of facilities, where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Chapter 287.017 Florida Statutes, is contingent on the LOCAL AGENCY complying in full with the provisions of Chapter 287.057, Florida Statutes. The LOCAL AGENCY shall certify to the DEPARTMENT that the purchase of commodities or contractual services has been accomplished in compliance with Chapter 287.057, Florida Statutes. It shall be the sole responsibility of the LOCAL AGENCY to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the maximum participation amount in this AGREEMENT must be approved by the DEPARTMENT prior to LOCAL AGENCY execution. Failure to obtain such approval, and subsequent execution of an amendment to the AGREEMENT, if required, shall be sufficient cause for nonpayment by the DEPARTMENT.

C. Participation by the DEPARTMENT in a project that involves a consultant contract for engineering, architecture or surveying services, is contingent on the LOCAL AGENCY'S complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the LOCAL AGENCY shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

D. If the PROJECT is procured pursuant to Chapter 255 for construction services and at the time of competitive solicitation for the PROJECT, 50 percent or more of the cost of the PROJECT is to be paid from state-appropriated funds, then the LOCAL AGENCY must comply with the requirements of Section 255.0991, Florida Statutes.

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E. The LOCAL AGENCY agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

9 – CONSTRUCTION STANDARDS AND REQUIRED APPROVALS:

A. In the event the PROJECT includes construction, the following provisions are incorporated into this AGREEMENT:

1. In the event the PROJECT involves construction on the DEPARTMENT'S right-of-way, the LOCAL AGENCY shall provide the DEPARTMENT with written notification of either its intent to:

   i. Award the construction of the PROJECT to a qualified contractor which is the lowest and best bidder in accordance with the applicable state and federal statutes, rules, and regulations. The LOCAL AGENCY shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or

   ii. Construct the PROJECT utilizing existing LOCAL AGENCY employees, if the LOCAL AGENCY can complete said PROJECT within the time frame set forth in this AGREEMENT. The LOCAL AGENCY'S use of this option is subject to approval by the DEPARTMENT.

2. The LOCAL AGENCY shall hire a qualified contractor using the LOCAL AGENCY'S normal bid procedures to perform the construction work for the PROJECT.

3. The LOCAL AGENCY is responsible for provision of Construction Engineering Inspection (CEI) services. The DEPARTMENT reserves the right to require the LOCAL AGENCY to hire a DEPARTMENT pre-qualified consultant firm that includes one individual that has completed the Advanced Maintenance of Traffic Level Training. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the PROJECT meets the minimum construction standards established by DEPARTMENT. The DEPARTMENT shall have the right to approve the CEI firm. The DEPARTMENT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the PROJECT. Subject to the approval of the DEPARTMENT, the LOCAL AGENCY may choose to satisfy the requirements set forth in this paragraph by either hiring a DEPARTMENT prequalified consultant firm or utilizing LOCAL AGENCY staff that meet the requirements of this paragraph, or a combination thereof.

4. The LOCAL AGENCY shall ensure work for any portion of the PROJECT to be located on DEPARTMENT right-of-way shall conform to all applicable standards

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of the DEPARTMENT, as provided in Exhibit "O" – Terms and Conditions of Construction in Department Right of Way, which is attached to and incorporated into this AGREEMENT if a portion of the PROJECT will be located on the DEPARTMENT'S right-of-way.

5. The LOCAL AGENCY shall adhere to the DEPARTMENT'S Conflict of Interest Procedure (FDOT Topic No. 375-030-006).

6. The LOCAL AGENCY shall require the LOCAL AGENCY'S contractor to post a payment and performance bond in accordance with applicable law.

7. The LOCAL AGENCY shall be responsible to ensure that the construction work under this AGREEMENT is performed in accordance with the approved construction documents, and that it will meet all applicable LOCAL AGENCY and DEPARTMENT standards.

8. Upon completion of the work authorized by this AGREEMENT, the LOCAL AGENCY shall notify the Department in writing of the completion of construction of the PROJECT; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as Exhibit "C", Engineers Certification of Completion. The certification shall state that work has been completed in compliance with the PROJECT construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

9. The LOCAL AGENCY shall provide the DEPARTMENT with as-built plans of any portions of the PROJECT funded through the AGREEMENT prior to final inspection.

10 – MAINTENANCE OBLIGATIONS:

A. In the event the PROJECT includes construction then the following provisions are incorporated into this AGREEMENT:

1. The LOCAL AGENCY agrees to maintain any portion of the Project not located on the State Highway System constructed under this AGREEMENT for its useful life. If the LOCAL AGENCY constructs any improvement on DEPARTMENT right-of-way, the LOCAL AGENCY

☒ shall

☐ shall not

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maintain the improvements located on the DEPARTMENT right-of-way made for their useful life, as well as all adjacent landscaping on that area. If the LOCAL AGENCY is required to maintain PROJECT improvements located on the DEPARTMENT right-of-way beyond final acceptance, then LOCAL AGENCY shall, prior to any disbursement of the State funding provided under this AGREEMENT, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the DEPARTMENT along with a Use and Occupancy Agreement to lease the property to be maintained for a period of fifty (50) years. The LOCAL AGENCY has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this AGREEMENT as Exhibit "E". This provision will survive termination of this AGREEMENT.

11 – RESTRICTIONS, PROHIBITIONS, CONTROLS AND LABOR PROVISIONS:

A. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

B. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

C. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the DEPARTMENT to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the LOCAL AGENCY.

D. No funds received pursuant to this AGREEMENT may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

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E. The DEPARTMENT shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this AGREEMENT.

12 – INDEMNIFICATION AND INSURANCE:

A. It is not intended by any of the provisions of any part of this AGREEMENT to create in the public or any member thereof, a third-party beneficiary under this AGREEMENT, or to authorize anyone not a party to this AGREEMENT to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this AGREEMENT. The LOCAL AGENCY guaranties the payment of all just claims for materials, supplies, tools, or labor and other just claims against the LOCAL AGENCY or any subcontractor, in connection with this AGREEMENT. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the LOCAL AGENCY agrees to indemnify and hold harmless the DEPARTMENT, including the DEPARTMENT'S officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the LOCAL AGENCY and persons employed or utilized by the LOCAL AGENCY in the performance of this AGREEMENT. This indemnification shall survive the termination of this AGREEMENT. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the LOCAL AGENCY'S sovereign immunity. Additionally, the LOCAL AGENCY agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this AGREEMENT:

> "To the fullest extent permitted by law, the LOCAL AGENCY'S contractor/consultant shall indemnify and hold harmless the LOCAL AGENCY and the State of Florida, Department of Transportation, including the DEPARTMENT'S officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor or consultant and persons employed or utilized by the contractor or consultant in the performance of this Agreement.
>
> This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida or the LOCAL AGENCY'S sovereign immunity."

B. The LOCAL AGENCY shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law.

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If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

C. If the LOCAL AGENCY elects to self-perform the PROJECT, and such self-performance is approved by the DEPARTMENT in accordance with the terms of this AGREEMENT, the LOCAL AGENCY may self-insure, and proof of self-insurance shall be provided to the DEPARTMENT. If the LOCAL AGENCY elects to hire a contractor or consultant to perform the PROJECT, then the LOCAL AGENCY shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the AGREEMENT. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The LOCAL AGENCY shall or cause its contractor to cause the DEPARTMENT to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the DEPARTMENT as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the AGREEMENT and may not be shared with or diminished by claims unrelated to the AGREEMENT. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the LOCAL AGENCY is a state agency or subdivision of the State of Florida that elects to self-perform the PROJECT. Prior to the execution of the AGREEMENT, and at all renewal periods which occur prior to final acceptance of the work, the DEPARTMENT shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The DEPARTMENT shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The DEPARTMENT'S approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the DEPARTMENT may have.

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

E. When the AGREEMENT involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the DEPARTMENT as an Additional Insured on the Commercial General Liability policy/ies procured above.

13 – MISCELLANEOUS:

A. In no event shall any payment to the LOCAL AGENCY constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist on the part of the LOCAL AGENCY and the making of such payment by the DEPARTMENT, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

B. If any provision of this AGREEMENT is held invalid, the remainder of this AGREEMENT shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

C. The Parties agree that the LOCAL AGENCY, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the DEPARTMENT as a result of this AGREEMENT.

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D. By execution of this AGREEMENT, the LOCAL AGENCY represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

E. Nothing in this AGREEMENT shall require the LOCAL AGENCY to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the AGREEMENT violate any applicable state law, the LOCAL AGENCY will at once notify the DEPARTMENT in writing in order that appropriate changes and modifications may be made by the Parties to the end that the LOCAL AGENCY may proceed as soon as possible with the PROJECT.

F. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same AGREEMENT. A facsimile or electronic transmission of this AGREEMENT with a signature on behalf of a Party will be legal and binding on such Party.

G. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this AGREEMENT that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements, whether written or oral. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

H. The DEPARTMENT reserves the right to unilaterally terminate this Agreement for failure by the LOCAL AGENCY to comply with the provisions of Chapter 119, Florida Statutes.

I. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of this AGREEMENT and Florida law, the laws of Florida shall prevail. The LOCAL AGENCY agrees to waive forum and venue and that the DEPARTMENT shall determine the forum and venue in which any dispute under this AGREEMENT is decided.

J. Notices pursuant to this AGREEMENT shall be sent by U.S. Mail to the following addresses:

FOR THE DEPARTMENT:

Florida Department of Transportation – Local Programs Office
1074 Highway 90
Chipley, Florida 32428

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FOR THE LOCAL AGENCY:

CITY OF PENSACOLA – City Administrator
222 W Main Street
Pensacola, Florida 32502

IN WITNESS WHEREOF, the Parties have executed this AGREEMENT on the dates set forth below.

LOCAL AGENCY:

CITY OF PENSACOLA, FLORIDA

By: David Forte
Name:
Title: Deputy City Administrator
Date: 9/30/22

ATTEST:

By: Ericka L. Burnett
Name: Ericka L. Burnett
Title: City Clerk (Seal)

LOCAL AGENCY LEGAL REVIEW:

By:

DEPARTMENT:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: DocuSigned by: Tim Smith 00EA910BEA3D404...
Name: Tim Smith, P.E.
Title: Director of Transportation Development
Date: 10/20/2022 | 8:28 AM EDT

ATTEST:

By:
Krissy Cook
Executive Secretary (Seal)

DEPARTMENT LEGAL REVIEW:

By: DocuSigned by: Cary Hawkins 4F4EEFF2332E498...
Office of the General Counsel

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 409334-1-58-02

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and

The City of Pensacola (the Recipient)

PROJECT LOCATION:

☐ The project is on the National Highway System.

☒ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: 300ft, RDWY 48100000 at approximately MP 3.451

PROJECT DESCRIPTION: The City of Pensacola intends to replace the Five Flags Memorial removed by the Department during construction of the Three Mile Bridge project. The project will consist of the design and construction of a sign that displays a welcome message, such as "now entering" or "welcome to" Pensacola. The project will include minimal grading, landscaping, hardscaping, and potential adjustment to an existing storm water inlet located in close proximity to the project area.

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
The Department hereby notifies the Recipient that for projects that are not located on the Department's right-of-way, the Recipient is required to hire a contractor prequalified by the Department.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
For the provision of Construction Engineering Inspection (CEI) services, the Recipient is required to hire a Department pre-qualified consultant in the appropriate work type.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
The Recipient is required to hire a Department pre-qualified consultant in the appropriate work type for the design phase of the Project.

The Recipent shall be responsible for all permitting activities related to the project and notify the Department prior to commencement of any right-of-way activities.

The Recipient shall provide a copy of the design plans for the Department's review and approval prior to advertisement. Plans shall be submitted at 60%, 90% and final plans with the engineer's cost estimate, Utility Certification, Permit Certification, Right of Way Certification, Railroad Certification, and a complete set of draft bid documents in PDF (Portable Document Format). The Recipient shall be responsible for addressing all plan review comments in the Department's

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Electronic Review Comments (ERC) System.

The Recipient shall submit to the Department the bid tabulations and award intent for review and concurrence prior to award and will submit the signed construction contract for records upon execution of the final document.

Off the State Highway System (Off-System) construction projects must be administered in accordance with latest version of the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways Florida (also known as the Florida Greenbook).

On the State Highway System (On-System) construction projects must be administered in accordance with the FDOT Construction Project Administration Manual (Topic no. 700-000-000). Materials will be inspected in accordance with the FDOT Sampling Testing and Reporting Guide by Material Description and the FDOT Materials Manual (Topic No. 675-000-000). Divisions II and III of the FDOT Standard Specifications for Road and Bridge Construction and implemented modifications must be used. The Recipient will be responsible for all project level inspection, verification testing, and assuring all data are entered into Materials Acceptance and Certification System (MAC) as appropriate. In addition, the following Off the State Highway System (Off-System) and Off the National Highway System projects will be administered as above: all bridge projects; box culverts; and all projects with a construction value of $10 million or more.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) Study to be completed by NA .
b) Design to be completed by 2/15/23 .
c) Right-of-Way requirements identified and provided to the Department by NA
d) Right-of-Way to be certified by NA
e) Construction contract to be let by 4/15/23.
f) Construction to be completed by 8/31/23.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:
The Department will issue a Notice to Proceed to advertise for construction to the Recipient after final plans, bid documents, construction estimate, and all nesscary certifications have been reviewed and approved.

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EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS:	FINANCIAL PROJECT NUMBER:
City of Pensacola 222 West Main Street Pensacola, Florida 32502	409334-1-58-02

PHASE OF WORK by Fiscal Year:		MAXIMUM PARTICIPATION (1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	Indicate source of Local funds
Design- Phase 34 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Design Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Right-of-Way- Phase 44 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Right-of-Way Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction- Phase 54 FY:	Maximum Department Participation (Insert Program Name	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction Engineering and Inspection - Phase 64 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Engineering and Inspection Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
(Phase : 58) FY: **2023**	Maximum Department Participation (BRP - State funds)	$370,000.00	$0.00	$370,000.00	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Cost	$370,000.00 %	$ 0.00 %	$370,000.00 %	
	TOTAL COST OF THE PROJECT	$370,000.00	$ 0.00	$370,000.00	

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:
I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Maria Showalter - Local Programs Administrator
District Grant Manager Name

DocuSigned by:
Maria Showalter
6250BD1C42F7475...
Signature

10/10/2022 | 3:43 PM EDT
Date

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EXHIBIT C

(select above)

Engineer's Certification of Compliance. The Recipient shall complete and submit the following Notice of Completion and, if applicable, Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

NOTICE OF COMPLETION

STATE-FUNDED GRANT AGREEMENT
Between
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and City of Pensacola

PROJECT DESCRIPTION: Replacement of sign to signify entrance to City of Pensacola to replace the former Five Flags Memorial Plaza.

FPID#: 409334-1-58-02

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20__.

By: _____

Name: _____

Title: _____

ENGINEER'S CERTIFICATION OF COMPLIANCE

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

By: _____, P.E.

SEAL:

Name: _____

Date: _____

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EXHIBIT F

CONTRACT PAYMENT REQUIREMENTS
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

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

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

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

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

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

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EXHIBIT G

Composite Exhibit - Original Agreement, Deed and Amendment to Original agreement

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

AGREEMENT

BETWEEN

THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

AND

THE CITY OF PENSACOLA

This Agreement is entered into by the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the "Department") and the CITY OF PENSACOLA, a municipal corporation authorized and existing under the laws of the State of Florida (the "City").

RECITALS

1. The Department has undertaken a project (FDOT Item/Segment No. 4093341) for the replacement of SR30 Pensacola Bay Bridge No. 480035 (the "Project").

2. After the beginning of construction, the Department determined to incorporate in the Project the design and construction of the 17th Avenue Interchange on the northern landing of the Pensacola Bay Bridge.

3. The Department requires additional right of way for the construction of the proposed Interchange.

4. Pursuant to section 337.25(1)(b), Florida Statutes, the Department may accept donations of any land, buildings, or other improvements, including personal property within such buildings or on such lands with or without such conditions, reservations, or reverter provisions as are acceptable to the Department. Such donations may be used as transportation rights-of-way or to secure or use transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System.

5. The City is the current owner of property ("Property") upon which the "Pensacola Florida – City of Five Flags" memorial ("Five Flags Memorial") is located, and which Property can be used as transportation right-of-way for anticipated transportation facilities associated with the 17th Avenue Interchange portion of the Project.

6. The City desires to donate the Property to the Department upon the condition, but not as any form of consideration but only as mitigation of impacts to the City and as a replacement, that the Five Flags Memorial be replaced with a sign by and at the sole expense of the Department.

7. The Department is authorized pursuant to Section 334.044, Florida Statutes, to enter into contracts and agreements, and pursuant to Section 337.25 to accept donations of land and other property for transportation rights of way.

8. The City is authorized to enter into this Agreement pursuant to the Resolution of its City Council attached hereto.

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NOW THEREFORE, in consideration of the mutual benefits to be derived from the Project and the Interchange, the parties agree to the following:

9. The recitals set forth in numbered paragraphs 1 through 8 above are true and correct and are deemed incorporated into this Agreement.

10. At, or within 15 days after, the execution of this Agreement by the City and the Department, the City shall convey to the Department a fee simple interest in the Property by deed in the form attached to this Agreement as Exhibit "A," and simultaneously therewith supply the Department with an executed Donation of Property to FDOT form in the form attached to this Agreement as Exhibit "B."

11. The replacement of the Five Flags Memorial with a sign will be performed pursuant to the provisions of Exhibit "C" attached to this Agreement. Simultaneously with the execution and delivery of Exhibits "A" and "B", the City will deliver a Use and Occupancy Agreement signed on the City's behalf and in the form attached to this Agreement as Exhibit "D".

12. The City makes the conveyance of the property interests referred to above as a negotiated donation of said property interests to the State of Florida for the use of the Department, and acknowledges and waives its rights to have such property interests appraised including therein the Five Flags Memorial, to accompany the appraiser during the appraisal inspection of the property, to receive full compensation of the above referenced property, and to receive reimbursement for reasonable fees and costs.

13. The City hereby confirms that it complied with all applicable federal regulations when it acquired the Property.

14. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the City without the prior written consent of the Department. However, this Agreement shall run to the Department and its successors.

15. This Agreement is governed by and construed in accordance with the Laws of the State of Florida

16. The effective date of this Agreement shall be the latest date on which a party executes this Agreement.

17. This Agreement may be executed in two or more counterparts, each of which shall be an original but all of which shall be deemed to be but one Agreement.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its behalf this 14 day of Nov., 2018, by its Mayor, being authorized to enter into and execute same by action of the City Council meeting in regular session on the 8 day of November 2018, and the Department has executed this Agreement through its District Secretary for District III, Florida Department of Transportation on the date set forth below.

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

CITY COUNCIL

CITY OF PENSACOLA, FLORIDA

BY: _____
Ashton Hayward, MAYOR

ATTEST: ERICKA BURNETT

CITY CLERK

_____
City Clerk

Approved as To Form:

_____
CITY ATTORNEY

STATE OF FLORIDA
DEPARTMENT OF TRANSPORATION

BY: _____
PHILLIP GAINER, P.E.
DISTRICT SECRETARY
1074 Highway 90
Chipley, FL 32428

ATTEST:

_____
EXECUTIVE SECRETARY (SEAL)

Date.

Legal Review:

_____
OFFICE OF GENERAL COUNSEL

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "A"

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Recorded in Public Records 1/9/2019 8:53 AM OR Book 8027 Page 1193, Instrument #2019001978, Pam Childers Clerk of the Circuit Court Escambia County, FL Recording $27.00

Prepared under the direction of:
Office of the General Counsel
Cary Hawkins, Assistant General Counsel
Florida Department of Transportation
Post Office Box 607
Chipley, Florida 32428

COUNTY:	Escambia
ITEM/SEGMENT NO.:	48100-2501
STATE ROAD:	30 (US 98)
PARCEL NO.:	SRD12,19&21

QUITCLAIM DEED

THIS INDENTURE, made this 14TH day of NOVEMBER 2018, by and between the **CITY OF PENSACOLA**, Florida, whose address is 222 West Main Street, Pensacola, Florida 32502, as the Party of the First Part and the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION,** whose address is 1074 Hwy 90 East, Chipley, Florida 32428, Party of the Second Part.

WITNESSETH

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Party of the First Part, does hereby remise, release and quitclaim unto the Party of the Second Part, and assigns, forever, all the right, title and interest of the City of Pensacola to the property described below, to wit:

A parcel of land situate, lying and being in Block 211, 15th Avenue and DeLeon Street, Waterfront or Pintado Grant, City of Pensacola, according to map of said City, copyrighted by Thomas C. Watson in 1906, being described as follows: Commence at the Southeast corner of Block 32, New City Tract according to said map copyrighted by Thomas C. Watson; thence South 10°24'24.26" East 102.55 feet; thence North 69°08'25.74" East 197.58 feet to the beginning of a curve, concave to the Southerly having a radius of 1869.87 feet; thence run Northeasterly 332.60 feet along said curve through a central angle of 10°11'29" to the end of curve; thence North 10°24'24" West 50.00 feet to the POINT OF BEGINNING; thence continue North 10°24'24" West 111.70 feet to a point on a curve, concave Southwesterly having a radius of 1422.69 feet; thence from a tangent bearing of South 83°59'05" East run Southeasterly 350.99 feet along said curve through a central angle of 14°08'18" to the end of curve, said point being the beginning of a curve, concave Southerly having a radius of 693.21 feet; thence from a tangent

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bearing of North 87°19'54" West run Northwesterly, Westerly and Southwesterly 69.91 feet along said curve through a central angle of 5°46'43" to the end of curve, said point being the beginning of a curve, concave Southerly, having a radius of 1919.87 feet; thence from a tangent bearing of South 86°53'24" West run Southwesterly 253.03 feet along said curve through a central angle of 7°33'05" to the end of said curve and the POINT OF BEGINNING;

Containing 18,693 square feet, more or less."

TO HAVE AND TO HOLD the said premises and the appurtenances thereof unto the Party of the Second Part.

TO HAVE AND TO HOLD the same together with the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said grantor, either in law or equity, to the said grantee forever.

IN WITNESS WHEREOF, the City of Pensacola has caused these presents to be signed in the name of the City of Pensacola by its Mayor and its seal to be hereunto affixed, attested by its City Clerk, on the date first above written.

Signed and sealed CITY OF PENSACOLA
in our presence:

Witness:

Witness:

BY: _____
Ashton Hayward, Mayor
City of Pensacola

ATTEST: _____
Clerk, City of Pensacola

STATE OF FLORIDA
COUNTY OF ESCAMBIA

BEFORE ME, the undersigned authority, this day personally appeared, ASHTON J. HAYWARD, Mayor of Pensacola and, ERICKA L. BURNETT, Clerk, City of Pensacola, respectively, to me known to be the persons described in and who executed the foregoing instrument, and they severally acknowledged the execution thereof to be their free act and deed as such officers for the

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uses and purposes therein mentioned, and that they affixed thereto the official seal of said City of Pensacola, and the said instrument is the act and deed of said City of Pensacola.

WITNESS my hand and official seal this 14th day of Nov., 2018.

(NOTARIAL SEAL) Robyn M. Tice

ROBYN M. TICE
Commission # GG 104690
Expires June 8, 2021
Bonded Thru Troy Fain Insurance 800-385-7019

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "B"

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FDOT

Florida Department of Transportation
Office of Right of Way
1074 Highway 90
Chipley, Florida, 324262-41607

RICK SCOTT
GOVERNOR

MIIKE DEW
SECRETARY

Donation of Property to the Florida Department of Transportation

City of Pensacola
222 W. Mainstreet
Pensacola, FL 32502

ITEM/SEGMENT NO.:	48006-2501
MANAGING DISTRICT:	3
FAP NO.:	4221-084-C
STATE ROAD NO.:	SR 30
COUNTY:	Escambia
PARCEL NO.:	SRD12, 19, and 21
INTEREST CONVEYED:	City Deed

This is to advise that the undersigned, as owner of the property or property interest referenced above and as shown on Right of Way maps for referenced project, desires to make a voluntary donation of said property or property interest to the State of Florida for the use and benefit of the Florida Department of Transportation.

The undersigned hereby acknowledges that he/she has been fully advised by a Department representative of his/her right to have the referenced property or property interest appraised, to accompany the appraiser during the appraisal inspection of the property, to receive full compensation for the above referenced property, and to receive reimbursement for reasonable fees and costs incurred, if any. Having been fully informed of the above rights, I hereby waive those rights unless otherwise noted below.

Owner's Signature

Mayor Ashton Hayward, for The City of Pensacola

Type or Print Property Owner's Name

222 West Main Street,

Street Address

Pensacola, FL 32502

City, State, Zip Code

Date: 05/07/2018

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "C"

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

The Department will design and construct a sign to signify entrance to the City of Pensacola to replace the Five Flags Memorial being removed by the Department. The City of Pensacola will provide input into the development of the sign and review the design details of the sign. The Department will coordinate the final sign design dimensions, type, and location with the City of Pensacola. The City of Pensacola will provide design approval of the sign within a reasonable time frame prior to construction of the sign. The Department will provide funding for the design and construction of the sign of no more than $370,000. If the design and construction of the sign approved by the City of Pensacola is estimated to exceed $370,000, then the City of Pensacola will provide to the Department any additional funds necessary to cover the cost difference between $370,000 and the total cost of the sign prior to the start of construction. The sign location is anticipated to be in close proximity to, and west of, the existing location of the Five Flags Memorial between Bayfront Parkway and Gregory Street. The sign may include a small earthen berm to elevate it to an appropriate viewing elevation. The anticipated area that the earthen berm may be located in is approximately 10 feet by 60 feet. Sign location will be determined based on sign size. The horizontal width of the sign will be approximately 10 feet in width or less. The vertical height of the sign will be determined by text size and sign type. The Department will add landscaping around the sign. The sign and its adjacent landscaping will be maintained in perpetuity by the City of Pensacola after the Department completes the construction.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

USE AND OCCUPANCY AGREEMENT

ITEM/SEGMENT NO.: 4093341
MANAGING DISTRICT: Three
F.A.P. NO.: 4221-084-C
STATE ROAD NO.: 30
COUNTY: Escambia
PARCEL NO.: _____

THIS **AGREEMENT**, made this _____ day of _____, _____, between City of Pensacola, a municipal corporation authorized and existing under the laws of the State of Florida at 222 West Main Street, Pensacola, Florida (Lessee) and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (Department), an agency of the State of Florida (State).

WITNESSETH:

WHEREAS, the Department may convey a leasehold in the name of the State, in any land, buildings, or other property, real or personal, acquired under Section 337.25, Florida Statutes; and

WHEREAS, the United States Department of Transportation, Federal Highway Administration (FHWA), requires any use of airspace above, and/or below the highway's established gradeline, lying within the approved right of way limits on a Federal Aid System, to be accomplished pursuant to a right of way use and occupancy agreement in accordance with 23 CFR, Part 710, and

WHEREAS, the Department has acquired sufficient legal right, title, and interest in the right of way of US HWY 98 (SR30) Bayfront Pkwy & US HWY 98 (SR30) Gregory Street which includes the property described in Exhibit "A" attached hereto and made a part hereof, which right of way is part of a highway on a Federal Aid System; and

WHEREAS, the Department desires to lease to Lessee the airspace which is that space located above and/or below the gradeline of the property described in Exhibit "A", attached and such airspace is hereinafter referred to as the "real property interest" or the "leased property" and made a part hereof for the following purpose: location of the sign that replaces the Five Flags Memorial and landscaping associated with the sign.

WHEREAS, the proposed use will not impair the full use and safety of the highway, require or permit vehicular access to such space directly from the established gradeline of said highway, or interfere with the free flow of traffic on said highway.

NOW, THEREFORE, in consideration of the premises made a part hereof, and the covenants, promises, understandings, and agreements made by each party to the other as set forth herein, the Department and the Lessee do hereby mutually agree as follows:

1. Premises

The premises hereto are true and correct and form an integral part of this Agreement.

2. Term

The Department does hereby lease unto Lessee the real property interest for a period of Fifty (50) years beginning with the date of this Agreement. One renewal of this Agreement may be made for Fifty (50) years. However, except for a public purpose conveyance, such renewal may not exceed five years. Nothing herein shall be construed to in any way grant an interest in the property lying below said airspace.

3. Rent

a. Lessee shall pay to the Department as rent each ☐ month ☐ quarter ☐ year on or before the first day of each rent

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payment period, N/A plus applicable sales tax. When this Agreement is terminated, any unearned rent and sales tax payment shall be refunded to Lessee. However, no such refund shall be made where termination is due to Lessee's violation of a term or condition of this Agreement.

b. The Department reserves the right to review and adjust the rental fee biannually and at renewal to reflect market conditions.

c. All rental payments are to be made by check or money order, payable to the State of Florida Department of Transportation and delivered on or before the due date to: N/A

d. Lessee shall be responsible for all state, county, city, and local taxes that may be assessed, including real property taxes and special assessments. In the event that no rent is specified herein, then it has been determined that either the use by Lessee is a nonproprietary use by a governmental agency or an exception from the current fair market rental value requirement (23 U.S.C. Section 156) has been obtained for social, environmental, or economic mitigation (SEE) purposes. In the event that it should be determined at any time that the use is not a nonproprietary use by a governmental agency or that the SEE exception does not apply or has been revoked, Lessee agrees to pay, at that time, rent as determined to be the fair market rental value by an independent appraiser certified by the Department, and Lessee further agrees to pay such rent, under the remaining terms and conditions of this Paragraph 3, for the remaining term (including renewals) of this Agreement.

e. Any installment of rent not received within ten (10) days after the due date shall bear interest at the highest rate allowed by law from the due date thereof, per Section 55.03(1), Florida Statutes. This provision shall not obligate the Department to accept late rent payments or provide Lessee a grace period.

4. Use, Occupancy, and Maintenance

a. The Lessee shall be responsible for developing and operating the real property interest as set forth herein.

b. The Lessee's proposed use of the real property interest is as follows: location of the sign that replaces the Five Flags Memorial, and landscaping associated with the sign, and maintenance to the sign and the landscaping

c. The general design for the use of the real property interest, including any facilities to be constructed, and the maps, plans, and sketches setting out the pertinent features of the use of the real property interest in relation to the highway facility are set forth in composite Exhibit "B" attached hereto and by this reference made a part hereof. In addition, said composite Exhibit "B" also contains a three-dimensional description of the space to be used, unless the use is of a surface area beneath an elevated highway structure or adjacent to a highway roadway for recreation, public park, beautification, parking of motor vehicles, public mass transit facilities, or other similar uses, in which case, a metes and bounds description of the surface area, together with appropriate plans or cross sections clearly defining the vertical use limits, may be substituted for said three-dimensional description in said composite Exhibit "B".

d. Any change in the authorized use of the real property interest or revision in the design or construction of the facility described in Exhibit "B" shall require prior written approval from the appropriate District Secretary of the Department, subject to concurrence by the FHWA.

e. The Department, through its duly authorized representatives, employees, and contractors, and any authorized FHWA representative, may enter the facility at any time for the purpose of inspection, maintenance, or reconstruction of the highway and adjacent facilities, when necessary; or for the purpose of surveying, drilling, monitoring well installations, sampling, remediation, and any other action which is reasonable and necessary to conduct an environmental assessment or to abate an environmental hazard.

f. Lessee, at Lessee's sole cost and expense, shall maintain the facility to occupy the real property interest so as to assure that the structures and the area within the highway right of way boundaries will be kept in good condition, both as to safety and appearance. Such maintenance will be accomplished in a manner so as to cause no unreasonable interference with the highway use. Lessee shall ensure vertical and horizontal access to the Department for maintenance purposes. In the event that Lessee fails to so maintain the facility, the Department, through its duly authorized representatives, employees, and contractors, may enter the facility to perform such work, and the cost thereof shall be chargeable to the Lessee and shall be immediately due and payable to the Department upon the performance of such work.

g. Portable or temporary advertising signs are prohibited.

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h. The design, occupancy, and use of the real property interest shall not adversely affect the use, safety, appearance, or enjoyment of the highway by lights, sounds, wireless frequencies, smoke, fumes, vapors, odors, droppings, or any other objectionable discharges, or emissions, or nuisances of any kind therefrom.

i. When, for the proposed use of the real property interest, the highway requires additional highway facilities for the proper operation and maintenance of the highway, such facilities shall be provided by the Lessee without cost to either the Department or the FHWA and subject to both Department and FHWA approval.

j. The proposed use shall not cause or allow any changes in the existing drainage on the property under the real property interest.

k. Lessee shall not occupy, use, permit, or suffer the real property interest, the property, the facility, or any part thereof to be occupied or used for any illegal business use or purpose, for the manufacture or storage of flammable, explosive, or hazardous material, or any other hazardous activity, or in such manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any present or future federal, state, or local laws, orders, directions, ordinances, or regulations.

l. Any activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any state or federal laws or regulations, or as those terms are understood in common usage, are specifically prohibited. The use of petroleum products, pollutants, and other hazardous materials affecting the property is prohibited. Lessee shall be held responsible for the performance of and payment for any environmental remediation that may be necessary, as determined by the Department. Similarly, if any contamination either spread to or was released onto adjoining property as a result of Lessee's use of the real property interest under lease, the Lessee shall be held similarly responsible. The Lessee shall indemnify, defend, and hold harmless the Department from any claim, loss, damage, cost, charge, or expense arising out of any such contamination.

m. Existing utilities and all corresponding easements shall remain in place and Lessee shall not disturb or interfere with the same.

5. Indemnification. *(select applicable paragraph)*

☒ **Lessee is a Governmental Agency**

To the extent provided by law, Lessee shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by Lessee, its officers, agents, or employees, during the performance of the Agreement, except that neither Lessee, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by Lessee in the performance of services required under this Agreement, the Department will immediately forward the claim to Lessee. Lessee and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of Lessee in the defense of the claim or to require that Lessee defend the Department in such claim as described in this section. The Department's failure to promptly notify Lessee of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Lessee. The Department and Lessee will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any.
Note: No longer required for local governments.

☐ **Lessee is not a Governmental Agency**

Lessee shall indemnify, defend, save, and hold harmless the Department, its agents, officers, and employees, from any losses, fines, penalties, costs, damages, claims, demands, suits, and liabilities of any nature, including attorney's fees (including regulatory and appellate fees), arising out of or because of any acts, action, neglect, or omission by Lessee, or due to any accident, happening, or occurrence on the leased property or arising in any manner from the exercise or attempted exercise of Lessee's rights hereunder whether the same regards person or property of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of the Department.

Lessee's obligation to indemnify, defend, and pay for the defense or at the Department's option, to participate, and to associate with the Department in the defense and trial of any claim and any related settlement negotiations, shall be triggered by the Lessor's notice of claim for indemnification to Lessee. Lessee's inability to evaluate liability or its evaluation of liability shall not excuse Lessee's duty to defend and indemnify within seven days after such notice by the Department is given by registered mail. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the Department solely negligent shall excuse performance of this provision by Lessee. Lessee shall pay all costs and fees related to this obligation and its enforcement by the Department. The Department's failure to notify Lessee of a claim shall not release Lessee of the above duty to defend.
Note: No longer required for local governments.

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6. Insurance. Lessee at its expense, shall maintain at all times during the term of this Agreement, public liability insurance protecting the Department, FHWA, and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the land arising out of the act, negligence, omission, nonfeasance, or malfeasance of Lessee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum amount of not less than N/A ($ _____) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than N/A ($ _____) for property damage, or a combined coverage of not less than N/A ($ _____). All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless the Department is given at least sixty (60) days prior written notice of such cancellation or modification. Lessee shall provide the Department certificates showing such insurance to be in place and showing the Department and FHWA as additional insured under the policies. If self-insured or under a risk management program, Lessee represents that such minimum coverage for liability will be provided for the property.

7. Termination

a. This Agreement may be terminated by either party without cause upon 180 (180) days prior written notice to the other party.

b. It is understood and agreed to by the Lessee that the Department reserves the right to terminate this Agreement immediately without prior notice, in the event the Lessee violates any of the conditions of this Agreement and such violation is not corrected within a reasonable time after written notice of noncompliance has been given. In the event the Agreement is terminated and the Department deems it necessary to request the removal of the facility on the property, the removal shall be accomplished by the Lessee in a manner prescribed by the Department at no cost to the Department or the FHWA.

c. The Lessee must notify the Department of its intention to renew this Agreement not later than thirty (30) days prior to the expiration of the original term. Lessee's failure to comply with the foregoing notice provision may result in the Department's refusal to renew the Agreement.

d. Upon termination of this Agreement, Lessee shall deliver the property to the Department, or its agents, in the condition existing at the commencement of this Agreement, normal wear and tear excepted, unless a facility, any improvement, or any part thereof has been constructed on the property.

e. If removal of the facility, improvements, or any part thereof is requested by the Department, any such structures shall be removed by the Lessee at Lessee's expense by midnight of the day of termination of this Agreement and the property restored as nearly as practicable.

f. This Agreement is terminable by the Department in the event that the facility ceases to be used for its intended purpose, is abandoned, or if use of the facility is required by the Department for transportation, maintenance or emergency purposes.

8. Eminent Domain

Lessee acknowledges and agrees that its relationship with the Department under this Agreement is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Agreement. Termination of this Agreement for any cause shall not be deemed a taking under any eminent domain or other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Agreement, including any residual interest in the Agreement or any other facts or circumstances arising out of or in connection with this Agreement.

Lessee hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort, including special damages, severance damages, removal costs, or loss of business profits, resulting from Lessee's loss of occupancy of the property specified in this Agreement, or any such rights, claims, or damages flowing from adjacent properties owned or leased by Lessee as a result of Lessee's loss of occupancy of the property specified in this Agreement. Lessee also hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort as set out above, as a result of Lessee's loss of occupancy of the property, when any or all adjacent properties owned or leased by Lessee are taken by eminent domain proceedings or sold under the threat thereof. This waiver and relinquishment applies whether this Agreement is still in existence on the date of taking or sale or has been terminated prior thereto.

9. Miscellaneous

a. The real property interest and Lessee's rights under this Agreement shall not be transferred, assigned, pledged or conveyed to another party without the prior written consent of the Department, subject to concurrence by the FHWA. Lessee shall not allow any liens or other encumbrances to attach to the leased property.

b. In conformance with the Civil Rights Act of 1964 (Title VI, Appendix "C") and 49 CFR Part 21, Lessee agrees as follows:

1. That as a part of the consideration hereof, Lessee does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin shall be excluded from participation in,

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be denied the benefits of, or be otherwise subjected to discrimination in the use of said property and facility; (2) that in connection with the construction of any improvements on said property and facility and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors; and (3) that the Lessee shall use the property and facility in compliance with all other requirements imposed pursuant to 49 CFR part 21..

2. That in the event of breach of any of the above covenants, the Department shall have the right to terminate this Agreement and to re-enter and repossess said property and the facility thereon, and hold the same as if this Agreement had never been made or issued.

c. During the term of this Agreement Lessee shall, at Lessee's own cost and expense, promptly observe and comply with all present or future laws, requirements, orders, directions, ordinances, and regulations of the United States of America, the State of Florida, county or local governments, or other lawful authority whatsoever, affecting the land, property, and facility or appurtenances or any part thereof, and of all insurance policies covering the property, land, and facility, or any part thereof.

d. In addition to or in lieu of the terms and conditions contained herein, the provisions of any Addendum of even date herewith which is identified to be a part hereof is hereby incorporated herein and made a part hereof by this reference. In the event of any conflict between the terms and conditions hereof and the provisions of the Addendum(s), the provisions of the Addendum(s) shall control, unless the provisions thereof are prohibited by law.

e. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

f. Lessee acknowledges that it has reviewed this Agreement, is familiar with its terms, and has had adequate opportunity to review this Agreement with legal counsel of Lessee's choosing. Lessee has entered into this Agreement freely and voluntarily. This Agreement contains the complete understanding of the parties with respect to the subject matter hereof. All prior understandings and agreements, oral or written, heretofore made between the parties and/or between Lessee and any previous owner of the property and landlord of Lessee are merged in this Agreement, which alone, fully and completely express the agreement between Lessee and the Department with respect to the subject matter hereof. No modification, waiver, or amendment of this Agreement or any of its conditions or provisions shall be binding upon the Department or Lessee unless in writing and signed by both parties.

g. Lessee shall be solely responsible for all bills for electricity, lighting, power, gas, water, telephone, and telegraph services, or any other utility or service used on the property.

h. This Agreement shall be governed by the laws of the State of Florida, and any applicable laws of the United States of America.

i. All notices to the Department shall be sent to the address for rent payments and all notices to Lessee shall be sent to the property address provided herein or otherwise provided in writing to the Department.

j. The parties to this Agreement hereby understand and agree that the venue for any action that may arise as a result of this Agreement shall be in Leon County, Florida.

k. If Lessee is a "contractor" for the purposes of Section 119.0701, Florida Statutes, Lessee shall comply with public records laws and specifically shall:

1. Keep and maintain the public records that ordinarily and necessarily would be required to be kept and maintained by the Department in order to perform the services identified herein.

2. Provide the public with access to those public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

4. Meet all requirements for retaining the public records and transfer, at no cost, to the Department all the public records in possession of Lessee upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All such public records (if any) stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

If Lessee fails during such times to comply with a public records request, the Department shall enforce this section in accordance with this Agreement.

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Lessee shall otherwise allow public access to all documents, papers, letters or other materials, made or received by Lessee in connection with this Agreement and the lease of the Demised Premises, to the extent such access is required because such documents, papers, letters or other materials are subject to the provisions of s. 24(a) of the State Constitution or Chapter 119, Florida Statutes.

l. Section 287.133(3)(a), Florida Statutes, requires that Lessee be informed of the following provisions of section 287.133 (2)(a), Florida Statues: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for Category two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

m. The Department shall consider the employment knowingly by Lessee of unauthorized aliens a violation of Section 274(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this Agreement.

n. This Agreement shall not create any third-party beneficiary hereunder, nor shall this Agreement authorize anyone not a party hereto to maintain a suit against the Department pursuant to the terms of this Agreement.

o. This Agreement shall be binding upon the successors, assigns and legal representatives of Lessee and the Department.

p. All Exhibits attached to this Agreement are made a part hereof as if fully copied herein. All submittals required to be submitted by Lessee that are approved by the Department are by reference made a part of this Agreement as if fully copied herein.

q. Nothing in this Agreement or in any documents executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the Department of its sovereign immunity in tort under the Constitution and laws of the State of Florida.

r. "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

g. Lessee does not qualify for relocation benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. Section 4601 et seq.)

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

City of Pensacola
LESSEE (Company Name, if applicable)

By: _____

Name: Ashton J. Hayward, III

Title: Mayor

Attest: _____ (Seal)

Name: Ericka L. Burnett

Title: City Clerk

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

Name: Phillip Gainer, P.E.

Attest: _____

Name/Title: _____

Legal Review:

_____
District Counsel

Name: _____

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ADDENDUM

This is an Addendum to that certain Right of Way Use and Occupancy Agreement between City of Pensacola, a municipal corporation authorized and existing under the laws of the State of Florida and the State of Florida Department of Transportation dated the _____ day of _____, _____. In addition to the provisions contained in said Agreement, the following terms and conditions shall be deemed to be a part thereof pursuant to Paragraph 9 (d) of said Agreement:

The Department will design and construct a sign to replace the current Five Flags Memorial as a result of construction associated with the Department's project identified by Item/Segment No. 4093341. The sign will be located on property donated by Lessee and upon which the current Five Flags Memorial is located. After completion of the construction of the sign and installation of landscaping associated therewith, the Department will provide the Lessee with a written description of the property encompassing said sign and landscaping, signed by the Department's District Secretary. The signed description shall become a part of this Agreement and Exhibit "A" thereof, without more, and shall be deemed to be the "real property interest" or "leased property" to which Exhibit "A" and this Agreement pertain.

City of Pensacola
LESSEE (Company Name, if applicable)

By: Ashton J. Hayward, III

Name: Ashton J. Hayward, III

Title: Mayor

Attest: Ericka L. Burnett (Seal)

Name: Ericka L. Burnett

Title: City Clerk

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

Name: Phillip Gainer, P.E.

Attest: _____

Name/Title: Exec Asst.

Legal Review:

_____
District Counsel

Name: _____

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Exhibit A

That portion of the following described property which shall be set out and described in a writing provided by the Department upon completion of construction of a sign pursuant to this Agreement:

A parcel of land situate, lying and being in Block 211, 15th Avenue and DeLeon Street, Waterfront or Pintado Grant, City of Pensacola, according to map of said City, copyrighted by Thomas C. Watson in 1906, being described as follows: Commence at the Southeast corner of Block 32, New City Tract according to said map copyrighted by Thomas C. Watson; thence South 10°24'24.26" East 102.55 feet; thence North 69°08'25.74" East 197.58 feet to the beginning of a curve, concave to the Southerly having a radius of 1869.87 feet; thence run Northeasterly 332.60 feet along said curve through a central angle of 10°11'29" to the end of curve; thence North 10°24'24" West 50.00 feet to the POINT OF BEGINNING; thence continue North 10°24'24" West 111.70 feet to a point on a curve, concave Southwesterly having a radius of 1422.69 feet; thence from a tangent bearing of South 83°59'05" East run Southeasterly 350.99 feet along said curve through a central angle of 14°08'18" to the end of curve, said point being the beginning of a curve, concave Southerly having a radius of 693.21 feet; thence from a tangent bearing of North 87°19'54" West run Northwesterly, Westerly and Southwesterly 69.91 feet along said curve through a central angle of 5°46'43" to the end of curve, said point being the beginning of a curve, concave Southerly, having a radius of 1919.87 feet; thence from a tangent bearing of South 86°53'24" West run Southwesterly 253.03 feet along said curve through a central angle of 7°33'05" to the end of said curve and the POINT OF BEGINNING;

Containing 18,693 square feet, more or less.

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RESOLUTION
NO: 18-55

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, FINDING AND DECLARING THE DESIRABILITY AND NECESSITY OF TRANSFERRING OWNERSHIP OF THE FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF CONSTRUCTING IMPROVEMENTS RELATED TO THE REPLACEMENT OF THE THREE-MILE BRIDGE OVER PENSACOLA BAY, AND AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF PENSACOLA, FLORIDA, TO EXECUTE A QUITCLAIM DEED TO SUCH PROPERTY TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND AN AGREEMENT PROVIDING FOR APPROPRIATE SIGNAGE IN CONNECTION THEREWITH, AND TO TAKE ALL OTHER ACTIONS NECESSARY RELATING TO THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation is in the process of constructing a replacement for the Pensacola Bay Bridge, including improvements to State Road No. 30, Financial Project No. 4093341 in Escambia County, Florida, and

WHEREAS, in order to accommodate and facilitate the construction project now underway, it is necessary, desirable and in the public interest for the City of Pensacola to transfer ownership of land known as the Five Flags Memorial Park to the State of Florida Department of Transportation, and

WHEREAS, the State of Florida Department of Transportation has proposed an agreement to replace the Five Flags Memorial with appropriate signage to be approved by the City of Pensacola, informing and welcoming the public into the City of Pensacola.

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

SECTION 1. That the City of Pensacola shall provide a quitclaim deed to the Five Flags Memorial Park to the State of Florida Department of Transportation and shall enter into an agreement with the State of Florida Department of Transportation for the replacement of the Five Flags Memorial with appropriate signage identifying entrance into the City of Pensacola.

SECTION 2. The Mayor is hereby empowered to take all actions necessary relating to this Resolution, the duties hereunder, and any agreements or documents related hereto.

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

Attest: Ericka L Burnett
City Clerk

I, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL THEREOF ON FILE IN MY OFFICE. WITNESS MY HAND AND THE CORPORATE SEAL OF THE CITY OF PENSACOLA, FLORIDA THIS THE 13th DAY OF November, 2018

Ericka L Burnett
CITY CLERK
CITY OF PENSACOLA, FLORIDA

Adopted: November 8, 2018

Approved: Gerald C. Wingate
President of City Council

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Item/Segment No: 4093341
Replacement Pensacola Bay Bridge No: 480035
Right of Way -City Pensacola

FIRST AMENDMENT TO AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PENSACOLA

This AMENDMENT is between the State of Florida, Department of Transportation, with offices at 1074 Highway 90, Chipley, Florida 32428 ("DEPARTMENT") and the City of Pensacola, Florida, a Florida municipal corporation with offices at 222 West Main Street, Pensacola, Florida 32502 ("CITY"). The DEPARTMENT and the CITY are sometimes referred to in this amendment as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties on **November 14, 2018**, entered into an Agreement (attached hereto and collectively called the AGREEMENT) for the CITY to convey to the DEPARTMENT a fee simple interest in property described in Exhibit A of the AGREEMENT and simultaneously with said conveyance, supply the DEPARTMENT with an executed Donation of Property to the DEPARTMENT in a form similar to Exhibit B of the AGREEMENT and for the DEPARTMENT to design and construct a new gateway plaza to signify entrance to the CITY to replace the former Five Flags Memorial which is described in Exhibit C of the AGREEMENT; and

WHEREAS, pursuant to Exhibit C of the AGREEMENT, the DEPARTMENT agreed to provide funding for the design and construction of the sign of no more than Three Hundred and Seventy Thousand Dollars and 00/100 ($370,000.00) and the CITY agreed to provide to the DEPARTMENT any additional funds necessary to cover the cost difference between $370,000.00 and the total cost of the sign prior to the start of the construction; and

WHEREAS, on **November 14, 2018**, the CITY executed a Quitclaim Deed to the DEPARTMENT for the property described in Exhibit A of the AGREMENT which is attached hereto to this AMENDMENT as Exhibit A; and

WHEREAS, on **November 14, 2018**, the CITY executed a Donation of Property to the DEPARTMENT described in Exhibit B of the AGREEMENT which is attached hereto to this AMENDMENT as Exhibit B; and

WHEREAS, on **November 14, 2018**, the Parties executed a Use and Occupancy Agreement for the DEPARTMENT to lease to the CITY for a period of fifty (50) years the space above and/or below the grade line of the property described in Exhibit A of the AGREEMENT for the purpose of location of the new gateway plaza that replaces the former Five Flags Memorial and landscaping and maintenance associated with the sign; and

WHEREAS, the Parties mutually desire to amend Exhibit C of the AGREEMENT to modify the financial obligations of both the CITY and the DEPARTMENT.

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

City of Pensacola

222 West Main Street
Pensacola, FL 32502

Master

File Number: 18-00415

File ID: 18-00415 ***Type:** Legislative Action Item **Status:** Passed

Version: 1 **Attorney Review::** ***Meeting Body:** City Council

File Created: 10/25/2018

Subject: **Final Action:** 11/08/2018

Title: TRANSFER OF FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

***Agenda Date:** 11/08/2018

Agenda Number: 19.

Sponsors: Ashton J. Hayward, III **Enactment Date:**

Attachments: Resolution No. 18-55, Agreement Between the State of Florida Department of Transportation and the City of Pensacola, Quitclaim Deed, Donation of Property to the Florida Department of Transportation, Signage Commitment by Florida Department of Transportation, Use and Occupancy Agreement **Enactment Number:**

Recommendation: **Hearing Date:**

Entered by: hthorsen@cityofpensacola.com **Effective Date:**

History of Legislative File

Version:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Agenda Conference	11/05/2018	Placed on Regular Agenda				Pass
	Action Text:	This Legislative Action Item was Placed on Regular Agenda.					
1	City Council	11/08/2018	Approved				Pass
	Action Text:	A motion was made by Council Member Johnson, seconded by Council Member Terhaar, that this Legislative Action Item be Approved. The motion carried by the following vote: Yes: 5 Council Member Myers, Council Member Terhaar, Council Member Spencer, Council Member Johnson, and Council Member Wu No: 1 Wingate Absent: 1 Council President Cannada-Wynn					

Text of Legislative File 18-00415

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

SUBJECT:

TRANSFER OF FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

RECOMMENDATION:

That the City Council adopt a resolution authorizing the Mayor to execute a quitclaim deed transferring the Five Flags Memorial Park to the State of Florida Department of Transportation and to enter into an agreement with the State for appropriate replacement signage. Further that City Council declare the city-owned property surplus and deem such exchange a valid municipal purpose. Finally that City Council authorize the Mayor to take all action necessary for the exchange of the property.

HEARING REQUIRED: No Hearing Required

SUMMARY:

As the construction of the replacement Pensacola Bay Bridge proceeds, it is necessary to transfer ownership of the Five Flags Memorial Park land to the State of Florida Department of Transportation in order for the State to begin construction of the landfall traffic flow. The State has agreed to erect appropriate signage to be approved by the City, identifying entry into the City of Pensacola from the new Bay Bridge.

PRIOR ACTION:

None

FUNDING:

None

FINANCIAL IMPACT:

The State of Florida Department of Transportation will incur all costs associated with this transfer and replacement signage.

CITY ATTORNEY REVIEW: Yes
10/30/2018

STAFF CONTACT:

Keith Wilkins, City Administrator

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Brian Cooper, Parks and Recreation Director

ATTACHMENTS:

1) Resolution No. 18-55
2) Agreement between the State of Florida Department of Transportation and the City of Pensacola
3) Quitclaim Deed
4) Donation of Property to the Florida Department of Transportation
5) Signage Commitment by Florida Department of Transportation
6) Use and Occupancy Agreement

PRESENTATION: No

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

AGREEMENT:

NOW, THEREFORE, in consideration of the promises and covenants contained in this AMENDMENT and in the AGREEMENT, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree to amend the AGREEMENT as follows:

1. The facts stated above are true and correct and are incorporated into and made part of this AMENDMENT.

2. Any defined terms used herein that are not specifically defined herein shall have the same meaning as set forth in the AGREEMENT.

3. Exhibit C of the AGREEMENT is hereby amended to remove the DEPARTMENT'S obligation to design and construct the sign, and to add that the CITY will design and construct the sign. The Department will continue to provide the funding for the sign in the amount of Three Hundred and Seventy Thousand Dollars and 00/100 ($370,000.00).

4. No additional funding for this AMENDMENT or AGREEMENT will be provided by the DEPARTMENT.

5. The DEPARTMENT will provide design and construction approval of the City of Pensacola sign within a reasonable time frame prior to construction of the sign in coordination with the CITY. FDOT approval of the sign location will be documented through the FDOT permitting process. The FDOT will not provide final approval of the sign installation on the FDOT right-of-way until after final acceptance of the Pensacola Bay Bridge Replacement project.

6. Except for the changes and amendments made in this Amended Agreement, the terms and conditions of the AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this AMENDMENT on the dates set forth below:

CITY OF PENSACOLA, FLORIDA

By: David Forte
Name:
Title: Deputy City Administrator
Date: 9/30/22

ATTEST:
By: Ericka L. Burnett
Name: Ericka L. Burnett
Title: City Clerk (Seal)

LOCAL AGENCY LEGAL REVIEW:
By:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

DocuSigned by:
By: Tim Smith
00EA910BEA3D404...
Name: Tim Smith, P.E.
Title: Director of Transportation Development
Date: 10/20/2022 | 8:28 AM EDT

ATTEST:
By:
Krissy Cook
Executive Secretary (Seal)

DocuSigned by:
DEPARTMENT LEGAL REVIEW:
By: Cary Hawkins
4F4EEFF2332E498...
Office of the General Counsel

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

EXHIBIT O

TERMS AND CONDITIONS OF CONSTRUCTION IN DEPARTMENT RIGHT OF WAY

Section of the Agreement is amended as follows for Construction on the Department's Right of Way.

1. If the Project involves construction on, under, or over the Department's right-of-way, the design work for all portions of the Project to be constructed on, under, or over the Department's right-of-way shall be submitted to the Department for review prior to any work being commenced, and the following provisions shall apply:

a. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Florida Department of Transportation Design Manual ("FDM") and the Department Traffic Engineering Manual.

Designs that do not meet Department standards may be rejected by the Department at its sole discretion. The Department may allocate Department-managed resources to facilitate compliance with applicable design standards. If changes to the Department approved plans are required, the Recipient shall notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project, at all times, and coordinate any work needs of the Department during construction of the Project.

b. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within, under, or over Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is .

c. The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.

d. The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.

e. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.

f. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on, under, or over the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right-of-way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right-of-way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, Florida Statutes.

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g. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.

h. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be entered into the department's Materials Testing and Certification database application and the department must provide the final Materials Certification for the Project. The Department shall have the right to perform its own independent testing during the course of the Project.

i. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Recipient, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.

j. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from on, under, or over its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.

k. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.

l. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.

m. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.

n. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.

o. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

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p. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.

q. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.

r. Restricted hours of operation will be from Insert restrict hours of operation, (insert days of the week for restricted operation), unless otherwise approved by the Operations Engineer, or designee.

s. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contract info

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

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MEMORANDUM

TO: Grover C. Robinson, IV, Mayor

FROM: James W. Cook, Deputy Director of Operations PW&F

DATE: September 29, 2022

SUBJ: Request to execute the revised Joint Participation Agreement and associated Amended FDOT agreement for improvements to area previously known as the Five Flags Plaza.

Submitted for your signature is an amended agreement with FDOT, and a revised Joint Participation Agreement (JPA), for completion of improvements to area previously known as the Five Flags Plaza. FDOT has requested we sign a revised JPA due to there being two agreement exhibits that were incomplete in the original submittal. The signing of the revised JPA will cancel and take the place of the original JPA signed on June 14, 2022.

AS previously conveyed in June, under the original agreement, FDOT was to undertake a reconstruction project for a not to exceed cost of $370,000.00 once construction of the streets associated with the SR30 Pensacola Bay Bridge No. 480035 project was completed. Subsequently, FDOT and the City have decided to shift construction responsibility to the City. FDOT will provide $370,000.00 for design and construction of a sign and associated improvements. As a result of this agreed upon change, a more detailed Joint Participation Agreement process is required.

Additional agreements may be required during the design and approval process of the JPA. The City will be responsible for any costs above $370,000.00 associated with the project.

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To: Maria.Showalter@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

ASU29

10/10/2022

CONTRACT INFORMATION

Contract:	ASU29
Contract Type:	AK - PROJ PARTICIPATION (PROJ PART)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CITY OF PENSACOLA
Vendor ID:	F596000406005
Beginning Date of This Agreement:	10/04/2022
Ending Date of This Agreement:	10/31/2023
Contract Total/Budgetary Ceiling:	ct = $370,000.00
Description:	Design and construction for City of Pensacola Welcome Sign @Pensacola Bay bridge

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 10/10/2022

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55034010307
Expansion Option:	AA
Object Code:	134000
Amount:	$370,000.00
Financial Project:	40933415802
Work Activity (FCT):	016
CFDA:	
Fiscal Year:	2023
Budget Entity:	55150200
Category/Category Year:	088799/23
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: $370,000.00

File #: 24-238 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

SUPPLEMENTAL BUDGET RESOLUTION NO. 2024-37 - USE OF FUNDING PROVIDED THROUGH AMENDMENT 1 TO THE JPA BETWEEN THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND CITY OF PENSACOLA, FLORIDA FOR THE CONSTRUCTION OF A WELCOME SIGN AND FEATURE BETWEEN BAYFRONT PARKWAY AND GREGORY STREET.

RECOMMENDATION:

That City Council adopt Supplemental Budget Resolution No. 2024-37.

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:

Additional funding has been secured through Amendment 1 to the Joint Participation Agreement. The original funds ($370,000.00) were awarded for the City's use in the design and construction of a welcome sign that will take the place of the Five Flags Plaza that was removed by FDOT during the construction of the Pensacola Bay Bridge. The additional $100,000.00 funds being provided by FDOT are to assist with the continual rise in construction costs, both labor and materials.

PRIOR ACTION:

FDOT Staff previously approved a time extension for completion of the project through December 31, 2024.

On November 10, 2022, City Council authorized acceptance of funding provided through the Joint Participation Agreement between the State of Florida Department of Transportation and City of Pensacola, Florida for construction of a welcome sign and feature between Bayfront Parkway and Gregory Street in the amount of $370,000.00.

FDOT and City staff determined that it was more desirable for the City to complete the work, and therefore, on September 30, 2022, an amended agreement and JPA was executed to allow FDOT to provide the City with $370,000.00 for use in the design and construction of the welcome sign to replace the Five Flags Plaza.

On November 8, 2018, City Council Adopted Resolution No. 18-55 to transfer property to FDOT for construction of the Pensacola Bay Bridge Project and authorizing and directing the Mayor to execute a quitclaim deed to the property and an agreement providing for appropriate signage and to take all other actions necessary in relation to the resolution. The resulting agreement provided that FDOT would complete $370,000.00 worth of design and improvements for a welcome sign.

FUNDING:

Budget:	$370,000.00	Joint Participation Agreement with Florida Department of Transportation
	$100,000.00	Amendment to Joint Participation Agreement with Florida Department of Transportation
	$185,142.00	American Rescue Plan Act (ARPA)
	$655,142.00	TOTAL
Actual:	$483,700.00	Base Bid
	$28,000.00	Bid Alt #2
	$511,700.00	Sum of Base Bid Plus Bid Alt #2
	$51,170.00	10% Contigency
	$33,772.20	Engineering Allocation
	$3,500	Testing, Geotech, Miscellaneous
	$600,142.00	TOTAL

FINANCIAL IMPACT:

Funding has been allocated primarily through a Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT). First, the FDOT provided funding in the amount of $370,000.00 for the design and installation of the Pensacola Welcome Structure. An amendment to this JPA increased this amount by $100,000.00 to $470,000.00. To pay for the remainder of the project, funds have been identified in the ARPA fund in the amount of $185,142.00.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator

David Forte, Deputy City Administrator
Amy Tootle, Director of Public Works & Engineering

ATTACHMENTS:

1. Supplemental Budget Resolution No. 2024-37
2. Supplemental Budget Explanation No. 2024-37
3. ASU29-4509334-1-58-02 - Welcome Sign - City of Pensacola-SA01- DRAFT Amendment
4. JPA 409334-1-58-02

PRESENTATION: No

RESOLUTION
NO. 2024-37

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. GENERAL FUND

As Reads	Transportation	2,080,302
To:		
Reads	Transportation	2,180,302
As Reads	Operating Expenses	21,864,529
To:		
Reads	Operating Expenses	21,964,529

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

APRIL 2024 - JPA ADDITIONAL FUNDING - JOINT AGREEMENT - CONSTRUCTION OF WELCOME SIGN - EXPLANATION No. 2024-37

FUND	AMOUNT	DESCRIPTION
GENERAL FUND		
Estimated Revenues		
Transportation	100,000	Increase appropriation for Federal Grants
Total Revenues	100,000	
Appropriations		
Operating Expenses	100,000	Increase Appropriation for Operating Expenses
Total Appropriations	100,000	

Item/Segment No: 409334-1-58-02
City of Pensacola Welcome Sign @ the Pensacola Bay Bridge

FIRST AMENDMENT TO AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PENSACOLA

This AMENDMENT is between the State of Florida, Department of Transportation, with offices at 1074 Highway 90, Chipley, Florida 32428 ("DEPARTMENT") and the City of Pensacola, Florida, a Florida municipal corporation with offices at 222 West Main Street, Pensacola, Florida 32502 ("LOCAL AGENCY"). The DEPARTMENT and the LOCAL AGENCY are sometimes referred to in this amendment as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties on **October 20, 2022,** entered into an Agreement (attached hereto and collectively called the AGREEMENT) for the LOCAL AGENCY to design and construct certain improvements as depicted in Exhibit "A" of the AGREEMENT to signify entrance to the City and replace the Five Flags Memorial Plaza in connection with Financial Project Number **409334-1-58-02**.

WHEREAS, pursuant to the AGREEMENT, the DEPARTMENT agreed to provide funding for the design and construction of the sign of no more than **THREE HUNDRED AND SEVENTY THOUSAND DOLLARS AND 00/100 ($370,000.00)** and the LOCAL AGENCY agreed to provide any additional funds necessary to cover the cost difference between **$370,000.00** and the total cost of the sign; and

WHEREAS, the LOCAL AGENCY has received bids that are higher than the awarded amount for the LOCAL AGENCY's desired improvements; and

WHEREAS, the DEPARTMENT is prepared to assist LOCAL AGENCY through the provision of additional funding in the amount of **$100,000.00** for the PROJECT, which would allow for the reimbursement of the LOCAL AGENCY for the costs of the PROJECT in an amount up to but not exceeding **FOUR HUNDRED SEVENTY THOUSAND AND 00/100 DOLLARS ($470,000.00).**

WHEREAS, the LOCAL AGENCY agrees to provide any additional funds necessary to cover any cost difference between **$470,000.00** and the total cost of the sign; and

WHEREAS, the LOCAL AGENCY, by resolution number_____, a copy of which is attached hereto as Exhibit "D" and made a part hereof, has authorized the LOCAL AGENCY to enter into this AMENDMENT.

WHEREAS, the Parties mutually desire to amend the AGREEMENT to modify the financial obligations of both the CITY and the DEPARTMENT.

AGREEMENT:

NOW, THEREFORE, in consideration of the promises and covenants contained in this AMENDMENT and in the AGREEMENT, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree to amend the AGREEMENT as follows:

1. The facts stated above are true and correct and are incorporated into and made part of this AMENDMENT.

2. The effective date of the AMENDMENT shall be the latest date on which a party executes this Agreement.

3. Exhibit B of the AGREEMENT is hereby amended to provide the LOCAL AGENCY with additional funding in the amount of **$100,000.00** due to bids coming in over the awarded amount. Including the additional funding, the Department will provide the funding to reimburse PROJECT costs for the sign in the total amount not to exceed **FOUR HUNDRED SEVENTY THOUSAND DOLLARS AND 00/100 ($470,000.00)**.

4. No additional funding for this AMENDMENT or AGREEMENT beyond the amount of **$470,000.00** will be provided by the DEPARTMENT.

5. Except for the changes made in this AMENDMENT, the terms and conditions of the AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this AMENDMENT on the dates set forth below:

CITY OF PENSACOLA, FLORIDA

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

_____

By: _____

Name: _____

Title: _____ (Seal)

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____

Name: _____

Title: _____

Date: _____

LOCAL AGENCY LEGAL REVIEW:

DEPARTMENT LEGAL REVIEW:

DRAFT

By: _____	By: _____
	Office of the General Counsel
CITY OF PENSACOLA	**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**
By: _____	By: _____
Name: _____	Name: Phillip Gainer, P.E.,
Title: _____	Title: District Secretary
Date: _____	Date: _____
_____	ATTEST:
_____	By: _____
Krissy Cook, Executive Secretary (Seal)	
LEGAL REVIEW:	LEGAL REVIEW:
By: _____	By: _____
City Attorney	Office of the General Counsel

DRAFT

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Financial Project Number(s): 409334-1-58-02
Contract No.: ASU29
Vendor Number: F596000406005

JOINT PARTICIPATION AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
CITY OF PENSACOLA, FLORIDA

This AGREEMENT is between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, with offices at *1074 Highway 90 East, Chipley, FL 32428* (the "DEPARTMENT"), and **CITY OF PENSACOLA**, a political subdivision of the State of Florida, with offices at *222 West Main Street, Pensacola, Florida 32502* (the "LOCAL AGENCY"). The DEPARTMENT and the LOCAL AGENCY are sometimes referred to in this AGREEMENT as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this AGREEMENT pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the Parties are desirous of having the LOCAL AGENCY *CITY OF PENSACOLA*, make certain improvements in connection with Financial Project Number **409334-1-58-02**, which are further described on Exhibit "A" – Project Description and Responsibilities, attached hereto and made a part hereof (the "PROJECT"); and

WHEREAS, the LOCAL AGENCY and the DEPARTMENT previously entered into an AGREEMENT on November 14, 2018, (attached hereto as Composite Exhibit G and collectively called the AGREEMENT) wherein the LOCAL AGENCY agreed to convey to the DEPARTMENT a fee simple interest in property described in Exhibit A of the AGREEMENT originally reflecting the DEPARTMENT's responsibility for the design and construction of a sign to signify entrance to the LOCAL AGENCY to replace the former Five Flags Memorial Plaza, which is described in Exhibit C of the AGREEMENT; and

WHEREAS, pursuant to the AMENDMENT (attached hereto as part of Composite Exhibit G), it is agreed that the LOCAL AGENCY shall be responsibility for the design and construction of the replacement sign in accordance with terms of this JOINT PARTICIPATION AGREEEMNT;

WHEREAS, the PROJECT is on the State Highway System, is not revenue producing and is contained in the adopted work program; and

WHEREAS, the DEPARTMENT is prepared to reimburse the LOCAL AGENCY for the actual costs of the PROJECT in an amount up to but not to exceed **THREE HUNDRED**

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SEVENTY THOUSAND AND 00/100 DOLLARS ($370,000) that has been allocated in the fiscal year 2022-2023; and

WHEREAS, the implementation of this PROJECT is in the best interest of both Parties and it would be most practical, expeditious, and economical for the LOCAL AGENCY to perform services to complete the PROJECT; and

WHEREAS, the DEPARTMENT will provide design and construction approval of the City of Pensacola sign within a reasonable time frame prior to construction of the sign in coordination with the CITY. The City of Pensacola sign shall be located within the parcel in accordance with the lateral offset criteria in the Department's Design Manual (FDM). DEPARTMENT approval of the sign location will be documented through the DEPARTMENT permitting process. The DEPARTMENT will not provide final approval of the sign installation on the DEPARTMENT right-of-way until after final acceptance of the Pensacola Bay Bridge Replacement project.

WHEREAS, the intent of this AGREEMENT is to establish the terms and conditions of the funding and production of this PROJECT; and

WHEREAS, the LOCAL AGENCY, by resolution number *18-55, dated November 8, 2018*, a copy of which is attached hereto as Exhibit "D" and made a part hereof, has authorized the *Mayor of the City of Pensacola* to enter into this AGREEMENT.

NOW THEREFORE, in consideration of the mutual benefits to be derived by the terms of this AGREEMENT, the Parties agree as follows:

1 – TERM:

A. This AGREEMENT shall begin upon full execution by both Parties and the LOCAL AGENCY shall complete the PROJECT on or before **August 31, 2023**. If the LOCAL AGENCY does not complete the PROJECT within this time period, this AGREEMENT will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the LOCAL AGENCY and granted in writing by the DEPARTMENT prior to the expiration of this AGREEMENT. Expiration of this AGREEMENT will be considered termination of the PROJECT. The LOCAL AGENCY acknowledges that no reimbursements for the actual costs of the PROJECT will be provided by the DEPARTMENT under this AGREEMENT for work performed on the PROJECT that is not timely completed and invoiced in accordance with the terms of this AGREEMENT, for work performed prior to full execution of this AGREEMENT, or for work performed after expiration of this AGREEMENT. Notwithstanding the foregoing, the LOCAL AGENCY shall remain obligated to complete all aspects of the PROJECT identified in this AGREEMENT in accordance with its terms, unless otherwise agreed by the Parties in writing.

2 – SERVICES AND PERFORMANCE:

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A. The LOCAL AGENCY shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The PROJECT and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A".

3 – AMENDMENTS, EXTENSIONS AND ASSIGNMENT:

A. This AGREEMENT may be amended or extended upon mutual written agreement of the Parties.

B. This AGREEMENT shall not be assigned, transferred or otherwise encumbered by the LOCAL AGENCY under any circumstances without the prior written consent of the DEPARTMENT.

4 – TERMINATION OR SUSPENSION OF PROJECT:

A. The DEPARTMENT may, by written notice to the LOCAL AGENCY, suspend any or all of the DEPARTMENT'S obligations under this AGREEMENT for the LOCAL AGENCY'S failure to comply with applicable laws or the terms of this AGREEMENT until such time as the event or condition resulting in such suspension has ceased or been corrected. The DEPARTMENT may also terminate this AGREEMENT, in whole or in part, at any time the interest of the DEPARTMENT requires such termination.

1. If the DEPARTMENT terminates this AGREEMENT, the DEPARTMENT shall notify the LOCAL AGENCY of such termination in writing within thirty (30) days of the DEPARTMENT'S determination to terminate this AGREEMENT, with instructions as to the effective date of termination or to specify the stage of work at which the AGREEMENT is to be terminated.

2. The Parties may also terminate this AGREEMENT when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions through mutual written agreement.

3. If this AGREEMENT is terminated before performance is completed, the LOCAL AGENCY shall be reimbursed only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this AGREEMENT. All work in progress on the DEPARTMENT right-of-way will become the property of the DEPARTMENT and will be turned over promptly by the LOCAL AGENCY.

4. Upon termination of this AGREEMENT, the LOCAL AGENCY shall, within thirty (30) days, refund to the DEPARTMENT any funds determined by the DEPARTMENT to have been expended in violation of this AGREEMENT.

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5 – PROJECT COST:

A. The estimated cost of the PROJECT is **$ 370,0000.**

B. The DEPARTMENT agrees to reimburse the LOCAL AGENCY for the actual costs of the PROJECT in an amount up to but not to exceed **THREE HUNDRED SEVENTY THOUSAND AND 00/100 DOLLARS ($370,000)**. The schedule of funding is more fully described in Exhibit "B", attached hereto and made a part hereof. The LOCAL AGENCY agrees to bear all expenses in excess of the DEPARTMENT'S participation, including any cost overruns or deficits incurred in connection with completion of the PROJECT.

6 – COMPENSATION AND PAYMENT:

A. The DEPARTMENT shall reimburse the LOCAL AGENCY for actual costs of the PROJECT, as further described in Exhibit "A".

B. The LOCAL AGENCY shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The PROJECT and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A".

C. Invoices shall be submitted by the LOCAL AGENCY in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable, and verifiable units of deliverables as established in Exhibit "A". Deliverables must be received and accepted in writing by the DEPARTMENT'S Project Manager prior to payments. Requests for reimbursements by the LOCAL AGENCY shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the DEPARTMENT. The LOCAL AGENCY shall use the format for the invoice and progress report that is approved by the DEPARTMENT.

D. Supporting documentation must establish that the deliverables were received and accepted in writing by the LOCAL AGENCY and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Exhibit "A" was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in Attachment "F" – Contract Payment Requirements.

E. There shall be no reimbursement for travel expenses under this AGREEMENT.

F. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the DEPARTMENT'S Comptroller under Section 334.044(29), Florida Statutes. If the DEPARTMENT determines that the performance of the LOCAL AGENCY is unsatisfactory, the DEPARTMENT shall notify

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the LOCAL AGENCY of the deficiency to be corrected, which correction shall be made within a timeframe to be specified by the DEPARTMENT. The LOCAL AGENCY shall, within five (5) days after notice from the DEPARTMENT, provide the DEPARTMENT with a corrective action plan describing how the LOCAL AGENCY will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the DEPARTMENT, the LOCAL AGENCY will not be reimbursed to the extent of the non-performance. The LOCAL AGENCY will not be reimbursed until the LOCAL AGENCY resolves the deficiency. If the deficiency is subsequently resolved, the LOCAL AGENCY may bill the DEPARTMENT for the unpaid reimbursement request(s) during the next billing period. If the LOCAL AGENCY is unable to resolve the deficiency, the funds shall be forfeited at the end of the AGREEMENT'S term.

G. The LOCAL AGENCY should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than twenty (20) working days from the DEPARTMENT'S receipt of the invoice. The DEPARTMENT has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables and costs incurred are received, inspected, and approved. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the LOCAL AGENCY. Interest penalties of less than one (1) dollar will not be enforced unless the LOCAL AGENCY requests payment. Invoices that have to be returned to the LOCAL AGENCY because of LOCAL AGENCY preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

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

I. The LOCAL AGENCY shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this AGREEMENT shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this AGREEMENT and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include the LOCAL AGENCY'S general accounting records and the PROJECT records, together with supporting documents and records, of the contractor and all subcontractors performing work on the PROJECT, and all other records of the contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.

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J. Upon request, the LOCAL AGENCY agrees to provide progress reports to the DEPARTMENT in the standard format used by the DEPARTMENT and at intervals established by the DEPARTMENT. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of the PROJECT and of details thereof.

K. If, after completion of the PROJECT, any claim is made by the DEPARTMENT resulting from an audit or for work or services performed pursuant to this AGREEMENT, the DEPARTMENT may offset such amount from payments due for work or services done under any agreement which it has with the LOCAL AGENCY owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the DEPARTMENT. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the DEPARTMENT.

L. The LOCAL AGENCY must submit the final invoice on the PROJECT to the DEPARTMENT within one hundred twenty (120) days after completion of the PROJECT. Invoices submitted after the 120-day time period may not be paid.

M. In the event this AGREEMENT is for services in excess of $25,000.00 and a term for a period of more than 1 year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of $25,000.00 and which have a term for a period of more than 1 year."

N. The DEPARTMENT'S obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

O. This AGREEMENT does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

P. Any PROJECT funds made available by the DEPARTMENT pursuant to this AGREEMENT which are determined by the DEPARTMENT to have been expended by the LOCAL AGENCY in violation of this AGREEMENT or any other applicable law or regulation, shall be promptly refunded in full to the DEPARTMENT. Acceptance by the

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DEPARTMENT of any documentation or certifications, mandatory or otherwise permitted, that the LOCAL AGENCY files shall not constitute a waiver of the DEPARTMENT'S rights as the funding agency to verify all information at a later date by audit or investigation.

Q. In determining the amount of the payment, the DEPARTMENT will exclude all costs incurred by the LOCAL AGENCY prior to the execution of this AGREEMENT, costs incurred after the expiration of this AGREEMENT, costs which are not provided for as described in this AGREEMENT, costs agreed to be borne by the LOCAL AGENCY or its contractors and subcontractors for not meeting the terms of this AGREEMENT, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the DEPARTMENT.

7 – GENERAL REQUIREMENTS:

A. The LOCAL AGENCY shall complete the PROJECT with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this AGREEMENT and all applicable laws.

B. The LOCAL AGENCY shall comply and require its contractors and subcontractors to comply with all terms and conditions of this AGREEMENT and all federal, state, and local laws and regulations applicable to the PROJECT.

C. The LOCAL AGENCY shall have the sole responsibility for resolving claims and requests for additional work for the PROJECT by the LOCAL AGENCY'S contractors and consultants. No funds will be provided for payment of claims or additional work on the PROJECT under this AGREEMENT without the prior written approval of the claim or request for additional work by the DEPARTMENT.

D. The LOCAL AGENCY:

1. Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the LOCAL AGENCY during the term of the AGREEMENT; and

2. Shall expressly require any subcontractors performing work or providing services pursuant to the AGREEMENT to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the AGREEMENT.

E. The LOCAL AGENCY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the LOCAL AGENCY in conjunction with this AGREEMENT. Specifically, if the LOCAL AGENCY is acting on behalf of a public agency, the LOCAL AGENCY shall:

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1. Keep and maintain public records required by the DEPARTMENT to perform the service.

2. Upon request from the DEPARTMENT'S custodian of public records, provide the DEPARTMENT 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.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the AGREEMENT'S term and following completion of the AGREEMENT if the LOCAL AGENCY does not transfer the records to the DEPARTMENT.

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

F. IF THE LOCAL AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LOCAL AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

District 3
850-330-1391
D3prcustodian@dot.state.fl.us
Florida Department of Transportation
District 3 – Office of General Counsel
1074 Highway 90 East
Chipley, FL 32428

G. Failure by the LOCAL AGENCY to grant such public access shall be grounds for immediate unilateral cancellation of this AGREEMENT by the DEPARTMENT. The LOCAL AGENCY shall promptly provide the DEPARTMENT with a copy of any request to inspect or copy public records in possession of the LOCAL AGENCY and shall

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promptly provide the DEPARTMENT a copy of the LOCAL AGENCY'S response to each such request.

8 – CONTRACTS OF THE LOCAL AGENCY:

A. The DEPARTMENT has the right to review and approve any and all third party contracts with respect to the PROJECT before the LOCAL AGENCY executes any contract or obligates itself in any manner requiring the disbursement of DEPARTMENT funds under this AGREEMENT, including consultant or construction contracts or amendments thereto. If the DEPARTMENT exercises this right and the LOCAL AGENCY fails to obtain such approval, the DEPARTMENT may deny payment to the LOCAL AGENCY. The DEPARTMENT may review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.

B. It is understood and agreed by the Parties that participation by the DEPARTMENT in a project that involves the purchase of commodities or contractual services or the purchasing of capital equipment or the equipping of facilities, where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Chapter 287.017 Florida Statutes, is contingent on the LOCAL AGENCY complying in full with the provisions of Chapter 287.057, Florida Statutes. The LOCAL AGENCY shall certify to the DEPARTMENT that the purchase of commodities or contractual services has been accomplished in compliance with Chapter 287.057, Florida Statutes. It shall be the sole responsibility of the LOCAL AGENCY to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the maximum participation amount in this AGREEMENT must be approved by the DEPARTMENT prior to LOCAL AGENCY execution. Failure to obtain such approval, and subsequent execution of an amendment to the AGREEMENT, if required, shall be sufficient cause for nonpayment by the DEPARTMENT.

C. Participation by the DEPARTMENT in a project that involves a consultant contract for engineering, architecture or surveying services, is contingent on the LOCAL AGENCY'S complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the LOCAL AGENCY shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

D. If the PROJECT is procured pursuant to Chapter 255 for construction services and at the time of competitive solicitation for the PROJECT, 50 percent or more of the cost of the PROJECT is to be paid from state-appropriated funds, then the LOCAL AGENCY must comply with the requirements of Section 255.0991, Florida Statutes.

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E. The LOCAL AGENCY agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

9 – CONSTRUCTION STANDARDS AND REQUIRED APPROVALS:

A. In the event the PROJECT includes construction, the following provisions are incorporated into this AGREEMENT:

1. In the event the PROJECT involves construction on the DEPARTMENT'S right-of-way, the LOCAL AGENCY shall provide the DEPARTMENT with written notification of either its intent to:

   i. Award the construction of the PROJECT to a qualified contractor which is the lowest and best bidder in accordance with the applicable state and federal statutes, rules, and regulations. The LOCAL AGENCY shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or

   ii. Construct the PROJECT utilizing existing LOCAL AGENCY employees, if the LOCAL AGENCY can complete said PROJECT within the time frame set forth in this AGREEMENT. The LOCAL AGENCY'S use of this option is subject to approval by the DEPARTMENT.

2. The LOCAL AGENCY shall hire a qualified contractor using the LOCAL AGENCY'S normal bid procedures to perform the construction work for the PROJECT.

3. The LOCAL AGENCY is responsible for provision of Construction Engineering Inspection (CEI) services. The DEPARTMENT reserves the right to require the LOCAL AGENCY to hire a DEPARTMENT pre-qualified consultant firm that includes one individual that has completed the Advanced Maintenance of Traffic Level Training. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the PROJECT meets the minimum construction standards established by DEPARTMENT. The DEPARTMENT shall have the right to approve the CEI firm. The DEPARTMENT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the PROJECT. Subject to the approval of the DEPARTMENT, the LOCAL AGENCY may choose to satisfy the requirements set forth in this paragraph by either hiring a DEPARTMENT prequalified consultant firm or utilizing LOCAL AGENCY staff that meet the requirements of this paragraph, or a combination thereof.

4. The LOCAL AGENCY shall ensure work for any portion of the PROJECT to be located on DEPARTMENT right-of-way shall conform to all applicable standards

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of the DEPARTMENT, as provided in Exhibit "O" – Terms and Conditions of Construction in Department Right of Way, which is attached to and incorporated into this AGREEMENT if a portion of the PROJECT will be located on the DEPARTMENT'S right-of-way.

5. The LOCAL AGENCY shall adhere to the DEPARTMENT'S Conflict of Interest Procedure (FDOT Topic No. 375-030-006).

6. The LOCAL AGENCY shall require the LOCAL AGENCY'S contractor to post a payment and performance bond in accordance with applicable law.

7. The LOCAL AGENCY shall be responsible to ensure that the construction work under this AGREEMENT is performed in accordance with the approved construction documents, and that it will meet all applicable LOCAL AGENCY and DEPARTMENT standards.

8. Upon completion of the work authorized by this AGREEMENT, the LOCAL AGENCY shall notify the Department in writing of the completion of construction of the PROJECT; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as Exhibit "C", Engineers Certification of Completion. The certification shall state that work has been completed in compliance with the PROJECT construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

9. The LOCAL AGENCY shall provide the DEPARTMENT with as-built plans of any portions of the PROJECT funded through the AGREEMENT prior to final inspection.

10 – MAINTENANCE OBLIGATIONS:

A. In the event the PROJECT includes construction then the following provisions are incorporated into this AGREEMENT:

1. The LOCAL AGENCY agrees to maintain any portion of the Project not located on the State Highway System constructed under this AGREEMENT for its useful life. If the LOCAL AGENCY constructs any improvement on DEPARTMENT right-of-way, the LOCAL AGENCY

☒ shall

☐ shall not

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maintain the improvements located on the DEPARTMENT right-of-way made for their useful life, as well as all adjacent landscaping on that area. If the LOCAL AGENCY is required to maintain PROJECT improvements located on the DEPARTMENT right-of-way beyond final acceptance, then LOCAL AGENCY shall, prior to any disbursement of the State funding provided under this AGREEMENT, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the DEPARTMENT along with a Use and Occupancy Agreement to lease the property to be maintained for a period of fifty (50) years. The LOCAL AGENCY has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this AGREEMENT as Exhibit "E". This provision will survive termination of this AGREEMENT.

11 – RESTRICTIONS, PROHIBITIONS, CONTROLS AND LABOR PROVISIONS:

A. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

B. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

C. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the DEPARTMENT to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the LOCAL AGENCY.

D. No funds received pursuant to this AGREEMENT may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

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E. The DEPARTMENT shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this AGREEMENT.

12 – INDEMNIFICATION AND INSURANCE:

A. It is not intended by any of the provisions of any part of this AGREEMENT to create in the public or any member thereof, a third-party beneficiary under this AGREEMENT, or to authorize anyone not a party to this AGREEMENT to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this AGREEMENT. The LOCAL AGENCY guaranties the payment of all just claims for materials, supplies, tools, or labor and other just claims against the LOCAL AGENCY or any subcontractor, in connection with this AGREEMENT. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the LOCAL AGENCY agrees to indemnify and hold harmless the DEPARTMENT, including the DEPARTMENT'S officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the LOCAL AGENCY and persons employed or utilized by the LOCAL AGENCY in the performance of this AGREEMENT. This indemnification shall survive the termination of this AGREEMENT. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the LOCAL AGENCY'S sovereign immunity. Additionally, the LOCAL AGENCY agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this AGREEMENT:

> "To the fullest extent permitted by law, the LOCAL AGENCY'S contractor/consultant shall indemnify and hold harmless the LOCAL AGENCY and the State of Florida, Department of Transportation, including the DEPARTMENT'S officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor or consultant and persons employed or utilized by the contractor or consultant in the performance of this Agreement.
>
> This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida or the LOCAL AGENCY'S sovereign immunity."

B. The LOCAL AGENCY shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law.

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If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

C. If the LOCAL AGENCY elects to self-perform the PROJECT, and such self-performance is approved by the DEPARTMENT in accordance with the terms of this AGREEMENT, the LOCAL AGENCY may self-insure, and proof of self-insurance shall be provided to the DEPARTMENT. If the LOCAL AGENCY elects to hire a contractor or consultant to perform the PROJECT, then the LOCAL AGENCY shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the AGREEMENT. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The LOCAL AGENCY shall or cause its contractor to cause the DEPARTMENT to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the DEPARTMENT as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the AGREEMENT and may not be shared with or diminished by claims unrelated to the AGREEMENT. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the LOCAL AGENCY is a state agency or subdivision of the State of Florida that elects to self-perform the PROJECT. Prior to the execution of the AGREEMENT, and at all renewal periods which occur prior to final acceptance of the work, the DEPARTMENT shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The DEPARTMENT shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The DEPARTMENT'S approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the DEPARTMENT may have.

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

E. When the AGREEMENT involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the DEPARTMENT as an Additional Insured on the Commercial General Liability policy/ies procured above.

13 – MISCELLANEOUS:

A. In no event shall any payment to the LOCAL AGENCY constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist on the part of the LOCAL AGENCY and the making of such payment by the DEPARTMENT, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

B. If any provision of this AGREEMENT is held invalid, the remainder of this AGREEMENT shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

C. The Parties agree that the LOCAL AGENCY, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the DEPARTMENT as a result of this AGREEMENT.

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D. By execution of this AGREEMENT, the LOCAL AGENCY represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

E. Nothing in this AGREEMENT shall require the LOCAL AGENCY to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the AGREEMENT violate any applicable state law, the LOCAL AGENCY will at once notify the DEPARTMENT in writing in order that appropriate changes and modifications may be made by the Parties to the end that the LOCAL AGENCY may proceed as soon as possible with the PROJECT.

F. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same AGREEMENT. A facsimile or electronic transmission of this AGREEMENT with a signature on behalf of a Party will be legal and binding on such Party.

G. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this AGREEMENT that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements, whether written or oral. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

H. The DEPARTMENT reserves the right to unilaterally terminate this Agreement for failure by the LOCAL AGENCY to comply with the provisions of Chapter 119, Florida Statutes.

I. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of this AGREEMENT and Florida law, the laws of Florida shall prevail. The LOCAL AGENCY agrees to waive forum and venue and that the DEPARTMENT shall determine the forum and venue in which any dispute under this AGREEMENT is decided.

J. Notices pursuant to this AGREEMENT shall be sent by U.S. Mail to the following addresses:

FOR THE DEPARTMENT:

Florida Department of Transportation – Local Programs Office
1074 Highway 90
Chipley, Florida 32428

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FOR THE LOCAL AGENCY:

CITY OF PENSACOLA – City Administrator
222 W Main Street
Pensacola, Florida 32502

IN WITNESS WHEREOF, the Parties have executed this AGREEMENT on the dates set forth below.

LOCAL AGENCY:

CITY OF PENSACOLA, FLORIDA

By: David Forte
Name:
Title: Deputy City Administrator
Date: 9/30/22

ATTEST:

By: Ericka L. Burnett
Name: Ericka L. Burnett
Title: City Clerk (Seal)

LOCAL AGENCY LEGAL REVIEW:

By:

DEPARTMENT:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: DocuSigned by: Tim Smith 00EA910BEA3D404...
Name: Tim Smith, P.E.
Title: Director of Transportation Development
Date: 10/20/2022 | 8:28 AM EDT

ATTEST:

By:
Krissy Cook
Executive Secretary (Seal)

DEPARTMENT LEGAL REVIEW:

By: DocuSigned by: Cary Hawkins 4F4EEFF2332E498...
Office of the General Counsel

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 409334-1-58-02

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and

The City of Pensacola (the Recipient)

PROJECT LOCATION:

☐ The project is on the National Highway System.

☒ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: 300ft, RDWY 48100000 at approximately MP 3.451

PROJECT DESCRIPTION: The City of Pensacola intends to replace the Five Flags Memorial removed by the Department during construction of the Three Mile Bridge project. The project will consist of the design and construction of a sign that displays a welcome message, such as "now entering" or "welcome to" Pensacola. The project will include minimal grading, landscaping, hardscaping, and potential adjustment to an existing storm water inlet located in close proximity to the project area.

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
The Department hereby notifies the Recipient that for projects that are not located on the Department's right-of-way, the Recipient is required to hire a contractor prequalified by the Department.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
For the provision of Construction Engineering Inspection (CEI) services, the Recipient is required to hire a Department pre-qualified consultant in the appropriate work type.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
The Recipient is required to hire a Department pre-qualified consultant in the appropriate work type for the design phase of the Project.

The Recipent shall be responsible for all permitting activities related to the project and notify the Department prior to commencement of any right-of-way activities.

The Recipient shall provide a copy of the design plans for the Department's review and approval prior to advertisement. Plans shall be submitted at 60%, 90% and final plans with the engineer's cost estimate, Utility Certification, Permit Certification, Right of Way Certification, Railroad Certification, and a complete set of draft bid documents in PDF (Portable Document Format). The Recipient shall be responsible for addressing all plan review comments in the Department's

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Electronic Review Comments (ERC) System.

The Recipient shall submit to the Department the bid tabulations and award intent for review and concurrence prior to award and will submit the signed construction contract for records upon execution of the final document.

Off the State Highway System (Off-System) construction projects must be administered in accordance with latest version of the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways Florida (also known as the Florida Greenbook).

On the State Highway System (On-System) construction projects must be administered in accordance with the FDOT Construction Project Administration Manual (Topic no. 700-000-000). Materials will be inspected in accordance with the FDOT Sampling Testing and Reporting Guide by Material Description and the FDOT Materials Manual (Topic No. 675-000-000). Divisions II and III of the FDOT Standard Specifications for Road and Bridge Construction and implemented modifications must be used. The Recipient will be responsible for all project level inspection, verification testing, and assuring all data are entered into Materials Acceptance and Certification System (MAC) as appropriate. In addition, the following Off the State Highway System (Off-System) and Off the National Highway System projects will be administered as above: all bridge projects; box culverts; and all projects with a construction value of $10 million or more.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) Study to be completed by NA .
b) Design to be completed by 2/15/23 .
c) Right-of-Way requirements identified and provided to the Department by NA
d) Right-of-Way to be certified by NA
e) Construction contract to be let by 4/15/23.
f) Construction to be completed by 8/31/23.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:
The Department will issue a Notice to Proceed to advertise for construction to the Recipient after final plans, bid documents, construction estimate, and all nesscary certifications have been reviewed and approved.

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EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS:	FINANCIAL PROJECT NUMBER:
City of Pensacola 222 West Main Street Pensacola, Florida 32502	409334-1-58-02

PHASE OF WORK by Fiscal Year:		MAXIMUM PARTICIPATION (1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	Indicate source of Local funds
Design- Phase 34 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Design Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Right-of-Way- Phase 44 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Right-of-Way Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction- Phase 54 FY:	Maximum Department Participation (Insert Program Name	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction Engineering and Inspection - Phase 64 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Engineering and Inspection Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
(Phase : 58) FY: **2023**	Maximum Department Participation (BRP - State funds)	$370,000.00	$0.00	$370,000.00	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Cost	$370,000.00 %	$ 0.00 %	$370,000.00 %	
	TOTAL COST OF THE PROJECT	$370,000.00	$ 0.00	$370,000.00	

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:
I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Maria Showalter - Local Programs Administrator
District Grant Manager Name

DocuSigned by:
Maria Showalter
6250BD1C42F7475...
Signature

10/10/2022 | 3:43 PM EDT
Date

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EXHIBIT C

(select above)

Engineer's Certification of Compliance. The Recipient shall complete and submit the following Notice of Completion and, if applicable, Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

NOTICE OF COMPLETION

STATE-FUNDED GRANT AGREEMENT
Between
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and City of Pensacola

PROJECT DESCRIPTION: Replacement of sign to signify entrance to City of Pensacola to replace the former Five Flags Memorial Plaza.

FPID#: 409334-1-58-02

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20__.

By: _____

Name: _____

Title: _____

ENGINEER'S CERTIFICATION OF COMPLIANCE

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

By: _____, P.E.

SEAL:

Name: _____

Date: _____

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EXHIBIT F

CONTRACT PAYMENT REQUIREMENTS
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

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

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

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

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

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

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EXHIBIT G

Composite Exhibit - Original Agreement, Deed and Amendment to Original agreement

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

AGREEMENT

BETWEEN

THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

AND

THE CITY OF PENSACOLA

This Agreement is entered into by the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the "Department") and the CITY OF PENSACOLA, a municipal corporation authorized and existing under the laws of the State of Florida (the "City").

RECITALS

1. The Department has undertaken a project (FDOT Item/Segment No. 4093341) for the replacement of SR30 Pensacola Bay Bridge No. 480035 (the "Project").

2. After the beginning of construction, the Department determined to incorporate in the Project the design and construction of the 17th Avenue Interchange on the northern landing of the Pensacola Bay Bridge.

3. The Department requires additional right of way for the construction of the proposed Interchange.

4. Pursuant to section 337.25(1)(b), Florida Statutes, the Department may accept donations of any land, buildings, or other improvements, including personal property within such buildings or on such lands with or without such conditions, reservations, or reverter provisions as are acceptable to the Department. Such donations may be used as transportation rights-of-way or to secure or use transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System.

5. The City is the current owner of property ("Property") upon which the "Pensacola Florida – City of Five Flags" memorial ("Five Flags Memorial") is located, and which Property can be used as transportation right-of-way for anticipated transportation facilities associated with the 17th Avenue Interchange portion of the Project.

6. The City desires to donate the Property to the Department upon the condition, but not as any form of consideration but only as mitigation of impacts to the City and as a replacement, that the Five Flags Memorial be replaced with a sign by and at the sole expense of the Department.

7. The Department is authorized pursuant to Section 334.044, Florida Statutes, to enter into contracts and agreements, and pursuant to Section 337.25 to accept donations of land and other property for transportation rights of way.

8. The City is authorized to enter into this Agreement pursuant to the Resolution of its City Council attached hereto.

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NOW THEREFORE, in consideration of the mutual benefits to be derived from the Project and the Interchange, the parties agree to the following:

9. The recitals set forth in numbered paragraphs 1 through 8 above are true and correct and are deemed incorporated into this Agreement.

10. At, or within 15 days after, the execution of this Agreement by the City and the Department, the City shall convey to the Department a fee simple interest in the Property by deed in the form attached to this Agreement as Exhibit "A," and simultaneously therewith supply the Department with an executed Donation of Property to FDOT form in the form attached to this Agreement as Exhibit "B."

11. The replacement of the Five Flags Memorial with a sign will be performed pursuant to the provisions of Exhibit "C" attached to this Agreement. Simultaneously with the execution and delivery of Exhibits "A" and "B", the City will deliver a Use and Occupancy Agreement signed on the City's behalf and in the form attached to this Agreement as Exhibit "D".

12. The City makes the conveyance of the property interests referred to above as a negotiated donation of said property interests to the State of Florida for the use of the Department, and acknowledges and waives its rights to have such property interests appraised including therein the Five Flags Memorial, to accompany the appraiser during the appraisal inspection of the property, to receive full compensation of the above referenced property, and to receive reimbursement for reasonable fees and costs.

13. The City hereby confirms that it complied with all applicable federal regulations when it acquired the Property.

14. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the City without the prior written consent of the Department. However, this Agreement shall run to the Department and its successors.

15. This Agreement is governed by and construed in accordance with the Laws of the State of Florida

16. The effective date of this Agreement shall be the latest date on which a party executes this Agreement.

17. This Agreement may be executed in two or more counterparts, each of which shall be an original but all of which shall be deemed to be but one Agreement.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its behalf this 14 day of Nov., 2018, by its Mayor, being authorized to enter into and execute same by action of the City Council meeting in regular session on the 8 day of November 2018, and the Department has executed this Agreement through its District Secretary for District III, Florida Department of Transportation on the date set forth below.

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

CITY COUNCIL

CITY OF PENSACOLA, FLORIDA

BY: _____
Ashton Hayward, MAYOR

ATTEST: ERICKA BURNETT

CITY CLERK

_____
City Clerk

Approved as To Form:

_____
CITY ATTORNEY

STATE OF FLORIDA
DEPARTMENT OF TRANSPORATION

BY: _____
PHILLIP GAINER, P.E.
DISTRICT SECRETARY
1074 Highway 90
Chipley, FL 32428

ATTEST:

_____
EXECUTIVE SECRETARY (SEAL)

Date.

Legal Review:

_____
OFFICE OF GENERAL COUNSEL

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "A"

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Recorded in Public Records 1/9/2019 8:53 AM OR Book 8027 Page 1193, Instrument #2019001978, Pam Childers Clerk of the Circuit Court Escambia County, FL Recording $27.00

Prepared under the direction of:
Office of the General Counsel
Cary Hawkins, Assistant General Counsel
Florida Department of Transportation
Post Office Box 607
Chipley, Florida 32428

COUNTY:	Escambia
ITEM/SEGMENT NO.:	48100-2501
STATE ROAD:	30 (US 98)
PARCEL NO.:	SRD12,19&21

QUITCLAIM DEED

THIS INDENTURE, made this 14TH day of NOVEMBER 2018, by and between the **CITY OF PENSACOLA**, Florida, whose address is 222 West Main Street, Pensacola, Florida 32502, as the Party of the First Part and the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION,** whose address is 1074 Hwy 90 East, Chipley, Florida 32428, Party of the Second Part.

WITNESSETH

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Party of the First Part, does hereby remise, release and quitclaim unto the Party of the Second Part, and assigns, forever, all the right, title and interest of the City of Pensacola to the property described below, to wit:

A parcel of land situate, lying and being in Block 211, 15th Avenue and DeLeon Street, Waterfront or Pintado Grant, City of Pensacola, according to map of said City, copyrighted by Thomas C. Watson in 1906, being described as follows: Commence at the Southeast corner of Block 32, New City Tract according to said map copyrighted by Thomas C. Watson; thence South 10°24'24.26" East 102.55 feet; thence North 69°08'25.74" East 197.58 feet to the beginning of a curve, concave to the Southerly having a radius of 1869.87 feet; thence run Northeasterly 332.60 feet along said curve through a central angle of 10°11'29" to the end of curve; thence North 10°24'24" West 50.00 feet to the POINT OF BEGINNING; thence continue North 10°24'24" West 111.70 feet to a point on a curve, concave Southwesterly having a radius of 1422.69 feet; thence from a tangent bearing of South 83°59'05" East run Southeasterly 350.99 feet along said curve through a central angle of 14°08'18" to the end of curve, said point being the beginning of a curve, concave Southerly having a radius of 693.21 feet; thence from a tangent

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bearing of North 87°19'54" West run Northwesterly, Westerly and Southwesterly 69.91 feet along said curve through a central angle of 5°46'43" to the end of curve, said point being the beginning of a curve, concave Southerly, having a radius of 1919.87 feet; thence from a tangent bearing of South 86°53'24" West run Southwesterly 253.03 feet along said curve through a central angle of 7°33'05" to the end of said curve and the POINT OF BEGINNING;

Containing 18,693 square feet, more or less."

TO HAVE AND TO HOLD the said premises and the appurtenances thereof unto the Party of the Second Part.

TO HAVE AND TO HOLD the same together with the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said grantor, either in law or equity, to the said grantee forever.

IN WITNESS WHEREOF, the City of Pensacola has caused these presents to be signed in the name of the City of Pensacola by its Mayor and its seal to be hereunto affixed, attested by its City Clerk, on the date first above written.

Signed and sealed CITY OF PENSACOLA
in our presence:

Witness:

Witness:

BY: _____
Ashton Hayward, Mayor
City of Pensacola

ATTEST: _____
Clerk, City of Pensacola

STATE OF FLORIDA
COUNTY OF ESCAMBIA

BEFORE ME, the undersigned authority, this day personally appeared, ASHTON J. HAYWARD, Mayor of Pensacola and, ERICKA L. BURNETT, Clerk, City of Pensacola, respectively, to me known to be the persons described in and who executed the foregoing instrument, and they severally acknowledged the execution thereof to be their free act and deed as such officers for the

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uses and purposes therein mentioned, and that they affixed thereto the official seal of said City of Pensacola, and the said instrument is the act and deed of said City of Pensacola.

WITNESS my hand and official seal this 14th day of Nov., 2018.

(NOTARIAL SEAL) Robyn M. Tice

ROBYN M. TICE
Commission # GG 104690
Expires June 8, 2021
Bonded Thru Troy Fain Insurance 800-385-7019

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "B"

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FDOT

Florida Department of Transportation
Office of Right of Way
1074 Highway 90
Chipley, Florida, 324262-41607

RICK SCOTT
GOVERNOR

MIIKE DEW
SECRETARY

Donation of Property to the Florida Department of Transportation

City of Pensacola
222 W. Mainstreet
Pensacola, FL 32502

ITEM/SEGMENT NO.:	48006-2501
MANAGING DISTRICT:	3
FAP NO.:	4221-084-C
STATE ROAD NO.:	SR 30
COUNTY:	Escambia
PARCEL NO.:	SRD12, 19, and 21
INTEREST CONVEYED:	City Deed

This is to advise that the undersigned, as owner of the property or property interest referenced above and as shown on Right of Way maps for referenced project, desires to make a voluntary donation of said property or property interest to the State of Florida for the use and benefit of the Florida Department of Transportation.

The undersigned hereby acknowledges that he/she has been fully advised by a Department representative of his/her right to have the referenced property or property interest appraised, to accompany the appraiser during the appraisal inspection of the property, to receive full compensation for the above referenced property, and to receive reimbursement for reasonable fees and costs incurred, if any. Having been fully informed of the above rights, I hereby waive those rights unless otherwise noted below.

Owner's Signature

Mayor Ashton Hayward, for The City of Pensacola

Type or Print Property Owner's Name

222 West Main Street,

Street Address

Pensacola, FL 32502

City, State, Zip Code

Date: 05/07/2018

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "C"

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

The Department will design and construct a sign to signify entrance to the City of Pensacola to replace the Five Flags Memorial being removed by the Department. The City of Pensacola will provide input into the development of the sign and review the design details of the sign. The Department will coordinate the final sign design dimensions, type, and location with the City of Pensacola. The City of Pensacola will provide design approval of the sign within a reasonable time frame prior to construction of the sign. The Department will provide funding for the design and construction of the sign of no more than $370,000. If the design and construction of the sign approved by the City of Pensacola is estimated to exceed $370,000, then the City of Pensacola will provide to the Department any additional funds necessary to cover the cost difference between $370,000 and the total cost of the sign prior to the start of construction. The sign location is anticipated to be in close proximity to, and west of, the existing location of the Five Flags Memorial between Bayfront Parkway and Gregory Street. The sign may include a small earthen berm to elevate it to an appropriate viewing elevation. The anticipated area that the earthen berm may be located in is approximately 10 feet by 60 feet. Sign location will be determined based on sign size. The horizontal width of the sign will be approximately 10 feet in width or less. The vertical height of the sign will be determined by text size and sign type. The Department will add landscaping around the sign. The sign and its adjacent landscaping will be maintained in perpetuity by the City of Pensacola after the Department completes the construction.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

USE AND OCCUPANCY AGREEMENT

ITEM/SEGMENT NO.: 4093341
MANAGING DISTRICT: Three
F.A.P. NO.: 4221-084-C
STATE ROAD NO.: 30
COUNTY: Escambia
PARCEL NO.: _____

THIS **AGREEMENT**, made this _____ day of _____, _____, between City of Pensacola, a municipal corporation authorized and existing under the laws of the State of Florida at 222 West Main Street, Pensacola, Florida (Lessee) and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (Department), an agency of the State of Florida (State).

WITNESSETH:

WHEREAS, the Department may convey a leasehold in the name of the State, in any land, buildings, or other property, real or personal, acquired under Section 337.25, Florida Statutes; and

WHEREAS, the United States Department of Transportation, Federal Highway Administration (FHWA), requires any use of airspace above, and/or below the highway's established gradeline, lying within the approved right of way limits on a Federal Aid System, to be accomplished pursuant to a right of way use and occupancy agreement in accordance with 23 CFR, Part 710, and

WHEREAS, the Department has acquired sufficient legal right, title, and interest in the right of way of US HWY 98 (SR30) Bayfront Pkwy & US HWY 98 (SR30) Gregory Street which includes the property described in Exhibit "A" attached hereto and made a part hereof, which right of way is part of a highway on a Federal Aid System; and

WHEREAS, the Department desires to lease to Lessee the airspace which is that space located above and/or below the gradeline of the property described in Exhibit "A", attached and such airspace is hereinafter referred to as the "real property interest" or the "leased property" and made a part hereof for the following purpose: location of the sign that replaces the Five Flags Memorial and landscaping associated with the sign.

WHEREAS, the proposed use will not impair the full use and safety of the highway, require or permit vehicular access to such space directly from the established gradeline of said highway, or interfere with the free flow of traffic on said highway.

NOW, THEREFORE, in consideration of the premises made a part hereof, and the covenants, promises, understandings, and agreements made by each party to the other as set forth herein, the Department and the Lessee do hereby mutually agree as follows:

1. Premises

The premises hereto are true and correct and form an integral part of this Agreement.

2. Term

The Department does hereby lease unto Lessee the real property interest for a period of Fifty (50) years beginning with the date of this Agreement. One renewal of this Agreement may be made for Fifty (50) years. However, except for a public purpose conveyance, such renewal may not exceed five years. Nothing herein shall be construed to in any way grant an interest in the property lying below said airspace.

3. Rent

a. Lessee shall pay to the Department as rent each ☐ month ☐ quarter ☐ year on or before the first day of each rent

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payment period, N/A plus applicable sales tax. When this Agreement is terminated, any unearned rent and sales tax payment shall be refunded to Lessee. However, no such refund shall be made where termination is due to Lessee's violation of a term or condition of this Agreement.

b. The Department reserves the right to review and adjust the rental fee biannually and at renewal to reflect market conditions.

c. All rental payments are to be made by check or money order, payable to the State of Florida Department of Transportation and delivered on or before the due date to: N/A

d. Lessee shall be responsible for all state, county, city, and local taxes that may be assessed, including real property taxes and special assessments. In the event that no rent is specified herein, then it has been determined that either the use by Lessee is a nonproprietary use by a governmental agency or an exception from the current fair market rental value requirement (23 U.S.C. Section 156) has been obtained for social, environmental, or economic mitigation (SEE) purposes. In the event that it should be determined at any time that the use is not a nonproprietary use by a governmental agency or that the SEE exception does not apply or has been revoked, Lessee agrees to pay, at that time, rent as determined to be the fair market rental value by an independent appraiser certified by the Department, and Lessee further agrees to pay such rent, under the remaining terms and conditions of this Paragraph 3, for the remaining term (including renewals) of this Agreement.

e. Any installment of rent not received within ten (10) days after the due date shall bear interest at the highest rate allowed by law from the due date thereof, per Section 55.03(1), Florida Statutes. This provision shall not obligate the Department to accept late rent payments or provide Lessee a grace period.

4. Use, Occupancy, and Maintenance

a. The Lessee shall be responsible for developing and operating the real property interest as set forth herein.

b. The Lessee's proposed use of the real property interest is as follows: location of the sign that replaces the Five Flags Memorial, and landscaping associated with the sign, and maintenance to the sign and the landscaping

c. The general design for the use of the real property interest, including any facilities to be constructed, and the maps, plans, and sketches setting out the pertinent features of the use of the real property interest in relation to the highway facility are set forth in composite Exhibit "B" attached hereto and by this reference made a part hereof. In addition, said composite Exhibit "B" also contains a three-dimensional description of the space to be used, unless the use is of a surface area beneath an elevated highway structure or adjacent to a highway roadway for recreation, public park, beautification, parking of motor vehicles, public mass transit facilities, or other similar uses, in which case, a metes and bounds description of the surface area, together with appropriate plans or cross sections clearly defining the vertical use limits, may be substituted for said three-dimensional description in said composite Exhibit "B".

d. Any change in the authorized use of the real property interest or revision in the design or construction of the facility described in Exhibit "B" shall require prior written approval from the appropriate District Secretary of the Department, subject to concurrence by the FHWA.

e. The Department, through its duly authorized representatives, employees, and contractors, and any authorized FHWA representative, may enter the facility at any time for the purpose of inspection, maintenance, or reconstruction of the highway and adjacent facilities, when necessary; or for the purpose of surveying, drilling, monitoring well installations, sampling, remediation, and any other action which is reasonable and necessary to conduct an environmental assessment or to abate an environmental hazard.

f. Lessee, at Lessee's sole cost and expense, shall maintain the facility to occupy the real property interest so as to assure that the structures and the area within the highway right of way boundaries will be kept in good condition, both as to safety and appearance. Such maintenance will be accomplished in a manner so as to cause no unreasonable interference with the highway use. Lessee shall ensure vertical and horizontal access to the Department for maintenance purposes. In the event that Lessee fails to so maintain the facility, the Department, through its duly authorized representatives, employees, and contractors, may enter the facility to perform such work, and the cost thereof shall be chargeable to the Lessee and shall be immediately due and payable to the Department upon the performance of such work.

g. Portable or temporary advertising signs are prohibited.

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h. The design, occupancy, and use of the real property interest shall not adversely affect the use, safety, appearance, or enjoyment of the highway by lights, sounds, wireless frequencies, smoke, fumes, vapors, odors, droppings, or any other objectionable discharges, or emissions, or nuisances of any kind therefrom.

i. When, for the proposed use of the real property interest, the highway requires additional highway facilities for the proper operation and maintenance of the highway, such facilities shall be provided by the Lessee without cost to either the Department or the FHWA and subject to both Department and FHWA approval.

j. The proposed use shall not cause or allow any changes in the existing drainage on the property under the real property interest.

k. Lessee shall not occupy, use, permit, or suffer the real property interest, the property, the facility, or any part thereof to be occupied or used for any illegal business use or purpose, for the manufacture or storage of flammable, explosive, or hazardous material, or any other hazardous activity, or in such manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any present or future federal, state, or local laws, orders, directions, ordinances, or regulations.

l. Any activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any state or federal laws or regulations, or as those terms are understood in common usage, are specifically prohibited. The use of petroleum products, pollutants, and other hazardous materials affecting the property is prohibited. Lessee shall be held responsible for the performance of and payment for any environmental remediation that may be necessary, as determined by the Department. Similarly, if any contamination either spread to or was released onto adjoining property as a result of Lessee's use of the real property interest under lease, the Lessee shall be held similarly responsible. The Lessee shall indemnify, defend, and hold harmless the Department from any claim, loss, damage, cost, charge, or expense arising out of any such contamination.

m. Existing utilities and all corresponding easements shall remain in place and Lessee shall not disturb or interfere with the same.

5. Indemnification. *(select applicable paragraph)*

☒ **Lessee is a Governmental Agency**

To the extent provided by law, Lessee shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by Lessee, its officers, agents, or employees, during the performance of the Agreement, except that neither Lessee, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by Lessee in the performance of services required under this Agreement, the Department will immediately forward the claim to Lessee. Lessee and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of Lessee in the defense of the claim or to require that Lessee defend the Department in such claim as described in this section. The Department's failure to promptly notify Lessee of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Lessee. The Department and Lessee will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any.
Note: No longer required for local governments.

☐ **Lessee is not a Governmental Agency**

Lessee shall indemnify, defend, save, and hold harmless the Department, its agents, officers, and employees, from any losses, fines, penalties, costs, damages, claims, demands, suits, and liabilities of any nature, including attorney's fees (including regulatory and appellate fees), arising out of or because of any acts, action, neglect, or omission by Lessee, or due to any accident, happening, or occurrence on the leased property or arising in any manner from the exercise or attempted exercise of Lessee's rights hereunder whether the same regards person or property of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of the Department.

Lessee's obligation to indemnify, defend, and pay for the defense or at the Department's option, to participate, and to associate with the Department in the defense and trial of any claim and any related settlement negotiations, shall be triggered by the Lessor's notice of claim for indemnification to Lessee. Lessee's inability to evaluate liability or its evaluation of liability shall not excuse Lessee's duty to defend and indemnify within seven days after such notice by the Department is given by registered mail. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the Department solely negligent shall excuse performance of this provision by Lessee. Lessee shall pay all costs and fees related to this obligation and its enforcement by the Department. The Department's failure to notify Lessee of a claim shall not release Lessee of the above duty to defend.
Note: No longer required for local governments.

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6. Insurance. Lessee at its expense, shall maintain at all times during the term of this Agreement, public liability insurance protecting the Department, FHWA, and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the land arising out of the act, negligence, omission, nonfeasance, or malfeasance of Lessee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum amount of not less than N/A ($ _____) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than N/A ($ _____) for property damage, or a combined coverage of not less than N/A ($ _____). All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless the Department is given at least sixty (60) days prior written notice of such cancellation or modification. Lessee shall provide the Department certificates showing such insurance to be in place and showing the Department and FHWA as additional insured under the policies. If self-insured or under a risk management program, Lessee represents that such minimum coverage for liability will be provided for the property.

7. Termination

a. This Agreement may be terminated by either party without cause upon 180 (180) days prior written notice to the other party.

b. It is understood and agreed to by the Lessee that the Department reserves the right to terminate this Agreement immediately without prior notice, in the event the Lessee violates any of the conditions of this Agreement and such violation is not corrected within a reasonable time after written notice of noncompliance has been given. In the event the Agreement is terminated and the Department deems it necessary to request the removal of the facility on the property, the removal shall be accomplished by the Lessee in a manner prescribed by the Department at no cost to the Department or the FHWA.

c. The Lessee must notify the Department of its intention to renew this Agreement not later than thirty (30) days prior to the expiration of the original term. Lessee's failure to comply with the foregoing notice provision may result in the Department's refusal to renew the Agreement.

d. Upon termination of this Agreement, Lessee shall deliver the property to the Department, or its agents, in the condition existing at the commencement of this Agreement, normal wear and tear excepted, unless a facility, any improvement, or any part thereof has been constructed on the property.

e. If removal of the facility, improvements, or any part thereof is requested by the Department, any such structures shall be removed by the Lessee at Lessee's expense by midnight of the day of termination of this Agreement and the property restored as nearly as practicable.

f. This Agreement is terminable by the Department in the event that the facility ceases to be used for its intended purpose, is abandoned, or if use of the facility is required by the Department for transportation, maintenance or emergency purposes.

8. Eminent Domain

Lessee acknowledges and agrees that its relationship with the Department under this Agreement is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Agreement. Termination of this Agreement for any cause shall not be deemed a taking under any eminent domain or other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Agreement, including any residual interest in the Agreement or any other facts or circumstances arising out of or in connection with this Agreement.

Lessee hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort, including special damages, severance damages, removal costs, or loss of business profits, resulting from Lessee's loss of occupancy of the property specified in this Agreement, or any such rights, claims, or damages flowing from adjacent properties owned or leased by Lessee as a result of Lessee's loss of occupancy of the property specified in this Agreement. Lessee also hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort as set out above, as a result of Lessee's loss of occupancy of the property, when any or all adjacent properties owned or leased by Lessee are taken by eminent domain proceedings or sold under the threat thereof. This waiver and relinquishment applies whether this Agreement is still in existence on the date of taking or sale or has been terminated prior thereto.

9. Miscellaneous

a. The real property interest and Lessee's rights under this Agreement shall not be transferred, assigned, pledged or conveyed to another party without the prior written consent of the Department, subject to concurrence by the FHWA. Lessee shall not allow any liens or other encumbrances to attach to the leased property.

b. In conformance with the Civil Rights Act of 1964 (Title VI, Appendix "C") and 49 CFR Part 21, Lessee agrees as follows:

1. That as a part of the consideration hereof, Lessee does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin shall be excluded from participation in,

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be denied the benefits of, or be otherwise subjected to discrimination in the use of said property and facility; (2) that in connection with the construction of any improvements on said property and facility and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors; and (3) that the Lessee shall use the property and facility in compliance with all other requirements imposed pursuant to 49 CFR part 21..

2. That in the event of breach of any of the above covenants, the Department shall have the right to terminate this Agreement and to re-enter and repossess said property and the facility thereon, and hold the same as if this Agreement had never been made or issued.

c. During the term of this Agreement Lessee shall, at Lessee's own cost and expense, promptly observe and comply with all present or future laws, requirements, orders, directions, ordinances, and regulations of the United States of America, the State of Florida, county or local governments, or other lawful authority whatsoever, affecting the land, property, and facility or appurtenances or any part thereof, and of all insurance policies covering the property, land, and facility, or any part thereof.

d. In addition to or in lieu of the terms and conditions contained herein, the provisions of any Addendum of even date herewith which is identified to be a part hereof is hereby incorporated herein and made a part hereof by this reference. In the event of any conflict between the terms and conditions hereof and the provisions of the Addendum(s), the provisions of the Addendum(s) shall control, unless the provisions thereof are prohibited by law.

e. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

f. Lessee acknowledges that it has reviewed this Agreement, is familiar with its terms, and has had adequate opportunity to review this Agreement with legal counsel of Lessee's choosing. Lessee has entered into this Agreement freely and voluntarily. This Agreement contains the complete understanding of the parties with respect to the subject matter hereof. All prior understandings and agreements, oral or written, heretofore made between the parties and/or between Lessee and any previous owner of the property and landlord of Lessee are merged in this Agreement, which alone, fully and completely express the agreement between Lessee and the Department with respect to the subject matter hereof. No modification, waiver, or amendment of this Agreement or any of its conditions or provisions shall be binding upon the Department or Lessee unless in writing and signed by both parties.

g. Lessee shall be solely responsible for all bills for electricity, lighting, power, gas, water, telephone, and telegraph services, or any other utility or service used on the property.

h. This Agreement shall be governed by the laws of the State of Florida, and any applicable laws of the United States of America.

i. All notices to the Department shall be sent to the address for rent payments and all notices to Lessee shall be sent to the property address provided herein or otherwise provided in writing to the Department.

j. The parties to this Agreement hereby understand and agree that the venue for any action that may arise as a result of this Agreement shall be in Leon County, Florida.

k. If Lessee is a "contractor" for the purposes of Section 119.0701, Florida Statutes, Lessee shall comply with public records laws and specifically shall:

1. Keep and maintain the public records that ordinarily and necessarily would be required to be kept and maintained by the Department in order to perform the services identified herein.

2. Provide the public with access to those public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

4. Meet all requirements for retaining the public records and transfer, at no cost, to the Department all the public records in possession of Lessee upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All such public records (if any) stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

If Lessee fails during such times to comply with a public records request, the Department shall enforce this section in accordance with this Agreement.

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Lessee shall otherwise allow public access to all documents, papers, letters or other materials, made or received by Lessee in connection with this Agreement and the lease of the Demised Premises, to the extent such access is required because such documents, papers, letters or other materials are subject to the provisions of s. 24(a) of the State Constitution or Chapter 119, Florida Statutes.

l. Section 287.133(3)(a), Florida Statutes, requires that Lessee be informed of the following provisions of section 287.133 (2)(a), Florida Statues: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for Category two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

m. The Department shall consider the employment knowingly by Lessee of unauthorized aliens a violation of Section 274(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this Agreement.

n. This Agreement shall not create any third-party beneficiary hereunder, nor shall this Agreement authorize anyone not a party hereto to maintain a suit against the Department pursuant to the terms of this Agreement.

o. This Agreement shall be binding upon the successors, assigns and legal representatives of Lessee and the Department.

p. All Exhibits attached to this Agreement are made a part hereof as if fully copied herein. All submittals required to be submitted by Lessee that are approved by the Department are by reference made a part of this Agreement as if fully copied herein.

q. Nothing in this Agreement or in any documents executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the Department of its sovereign immunity in tort under the Constitution and laws of the State of Florida.

r. "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

g. Lessee does not qualify for relocation benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. Section 4601 et seq.)

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

City of Pensacola
LESSEE (Company Name, if applicable)

By: _____

Name: Ashton J. Hayward, III

Title: Mayor

Attest: _____ (Seal)

Name: Ericka L. Burnett

Title: City Clerk

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

Name: Phillip Gainer, P.E.

Attest: _____

Name/Title: _____

Legal Review:

_____
District Counsel

Name: _____

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ADDENDUM

This is an Addendum to that certain Right of Way Use and Occupancy Agreement between City of Pensacola, a municipal corporation authorized and existing under the laws of the State of Florida and the State of Florida Department of Transportation dated the _____ day of _____, _____. In addition to the provisions contained in said Agreement, the following terms and conditions shall be deemed to be a part thereof pursuant to Paragraph 9 (d) of said Agreement:

The Department will design and construct a sign to replace the current Five Flags Memorial as a result of construction associated with the Department's project identified by Item/Segment No. 4093341. The sign will be located on property donated by Lessee and upon which the current Five Flags Memorial is located. After completion of the construction of the sign and installation of landscaping associated therewith, the Department will provide the Lessee with a written description of the property encompassing said sign and landscaping, signed by the Department's District Secretary. The signed description shall become a part of this Agreement and Exhibit "A" thereof, without more, and shall be deemed to be the "real property interest" or "leased property" to which Exhibit "A" and this Agreement pertain.

City of Pensacola
LESSEE (Company Name, if applicable)

By: Ashton J. Hayward, III

Name: Ashton J. Hayward, III

Title: Mayor

Attest: Ericka L. Burnett (Seal)

Name: Ericka L. Burnett

Title: City Clerk

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

Name: Phillip Gainer, P.E.

Attest: _____

Name/Title: Exec Asst.

Legal Review:

_____
District Counsel

Name: _____

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Exhibit A

That portion of the following described property which shall be set out and described in a writing provided by the Department upon completion of construction of a sign pursuant to this Agreement:

A parcel of land situate, lying and being in Block 211, 15th Avenue and DeLeon Street, Waterfront or Pintado Grant, City of Pensacola, according to map of said City, copyrighted by Thomas C. Watson in 1906, being described as follows: Commence at the Southeast corner of Block 32, New City Tract according to said map copyrighted by Thomas C. Watson; thence South 10°24'24.26" East 102.55 feet; thence North 69°08'25.74" East 197.58 feet to the beginning of a curve, concave to the Southerly having a radius of 1869.87 feet; thence run Northeasterly 332.60 feet along said curve through a central angle of 10°11'29" to the end of curve; thence North 10°24'24" West 50.00 feet to the POINT OF BEGINNING; thence continue North 10°24'24" West 111.70 feet to a point on a curve, concave Southwesterly having a radius of 1422.69 feet; thence from a tangent bearing of South 83°59'05" East run Southeasterly 350.99 feet along said curve through a central angle of 14°08'18" to the end of curve, said point being the beginning of a curve, concave Southerly having a radius of 693.21 feet; thence from a tangent bearing of North 87°19'54" West run Northwesterly, Westerly and Southwesterly 69.91 feet along said curve through a central angle of 5°46'43" to the end of curve, said point being the beginning of a curve, concave Southerly, having a radius of 1919.87 feet; thence from a tangent bearing of South 86°53'24" West run Southwesterly 253.03 feet along said curve through a central angle of 7°33'05" to the end of said curve and the POINT OF BEGINNING;

Containing 18,693 square feet, more or less.

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RESOLUTION
NO: 18-55

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, FINDING AND DECLARING THE DESIRABILITY AND NECESSITY OF TRANSFERRING OWNERSHIP OF THE FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF CONSTRUCTING IMPROVEMENTS RELATED TO THE REPLACEMENT OF THE THREE-MILE BRIDGE OVER PENSACOLA BAY, AND AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF PENSACOLA, FLORIDA, TO EXECUTE A QUITCLAIM DEED TO SUCH PROPERTY TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND AN AGREEMENT PROVIDING FOR APPROPRIATE SIGNAGE IN CONNECTION THEREWITH, AND TO TAKE ALL OTHER ACTIONS NECESSARY RELATING TO THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation is in the process of constructing a replacement for the Pensacola Bay Bridge, including improvements to State Road No. 30, Financial Project No. 4093341 in Escambia County, Florida, and

WHEREAS, in order to accommodate and facilitate the construction project now underway, it is necessary, desirable and in the public interest for the City of Pensacola to transfer ownership of land known as the Five Flags Memorial Park to the State of Florida Department of Transportation, and

WHEREAS, the State of Florida Department of Transportation has proposed an agreement to replace the Five Flags Memorial with appropriate signage to be approved by the City of Pensacola, informing and welcoming the public into the City of Pensacola.

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

SECTION 1. That the City of Pensacola shall provide a quitclaim deed to the Five Flags Memorial Park to the State of Florida Department of Transportation and shall enter into an agreement with the State of Florida Department of Transportation for the replacement of the Five Flags Memorial with appropriate signage identifying entrance into the City of Pensacola.

SECTION 2. The Mayor is hereby empowered to take all actions necessary relating to this Resolution, the duties hereunder, and any agreements or documents related hereto.

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

Attest: Ericka L Burnett
City Clerk

Adopted: November 8, 2018

Approved: Gerald C. Wingate
President of City Council

I, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL THEREOF ON FILE IN MY OFFICE. WITNESS MY HAND AND THE CORPORATE SEAL OF THE CITY OF PENSACOLA, FLORIDA THIS THE 13th DAY OF November, 2018

Ericka L Burnett
CITY CLERK
CITY OF PENSACOLA, FLORIDA

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Item/Segment No: 4093341
Replacement Pensacola Bay Bridge No: 480035
Right of Way -City Pensacola

FIRST AMENDMENT TO AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PENSACOLA

This AMENDMENT is between the State of Florida, Department of Transportation, with offices at 1074 Highway 90, Chipley, Florida 32428 ("DEPARTMENT") and the City of Pensacola, Florida, a Florida municipal corporation with offices at 222 West Main Street, Pensacola, Florida 32502 ("CITY"). The DEPARTMENT and the CITY are sometimes referred to in this amendment as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties on **November 14, 2018**, entered into an Agreement (attached hereto and collectively called the AGREEMENT) for the CITY to convey to the DEPARTMENT a fee simple interest in property described in Exhibit A of the AGREEMENT and simultaneously with said conveyance, supply the DEPARTMENT with an executed Donation of Property to the DEPARTMENT in a form similar to Exhibit B of the AGREEMENT and for the DEPARTMENT to design and construct a new gateway plaza to signify entrance to the CITY to replace the former Five Flags Memorial which is described in Exhibit C of the AGREEMENT; and

WHEREAS, pursuant to Exhibit C of the AGREEMENT, the DEPARTMENT agreed to provide funding for the design and construction of the sign of no more than Three Hundred and Seventy Thousand Dollars and 00/100 ($370,000.00) and the CITY agreed to provide to the DEPARTMENT any additional funds necessary to cover the cost difference between $370,000.00 and the total cost of the sign prior to the start of the construction; and

WHEREAS, on **November 14, 2018**, the CITY executed a Quitclaim Deed to the DEPARTMENT for the property described in Exhibit A of the AGREMENT which is attached hereto to this AMENDMENT as Exhibit A; and

WHEREAS, on **November 14, 2018**, the CITY executed a Donation of Property to the DEPARTMENT described in Exhibit B of the AGREEMENT which is attached hereto to this AMENDMENT as Exhibit B; and

WHEREAS, on **November 14, 2018**, the Parties executed a Use and Occupancy Agreement for the DEPARTMENT to lease to the CITY for a period of fifty (50) years the space above and/or below the grade line of the property described in Exhibit A of the AGREEMENT for the purpose of location of the new gateway plaza that replaces the former Five Flags Memorial and landscaping and maintenance associated with the sign; and

WHEREAS, the Parties mutually desire to amend Exhibit C of the AGREEMENT to modify the financial obligations of both the CITY and the DEPARTMENT.

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City of Pensacola

222 West Main Street
Pensacola, FL 32502

Master

File Number: 18-00415

File ID:	18-00415	***Type:** Legislative Action Item	**Status:** Passed
Version:	1	**Attorney Review::**	***Meeting Body:** City Council
			File Created: 10/25/2018
Subject:			**Final Action:** 11/08/2018
Title:	TRANSFER OF FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION		
			***Agenda Date:** 11/08/2018
			Agenda Number: 19.
Sponsors:	Ashton J. Hayward, III		**Enactment Date:**
Attachments:	Resolution No. 18-55, Agreement Between the State of Florida Department of Transportation and the City of Pensacola, Quitclaim Deed, Donation of Property to the Florida Department of Transportation, Signage Commitment by Florida Department of Transportation, Use and Occupancy Agreement		**Enactment Number:**
Recommendation:			**Hearing Date:**
Entered by:	hthorsen@cityofpensacola.com		**Effective Date:**

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Agenda Conference	11/05/2018	Placed on Regular Agenda				Pass
	Action Text:	This Legislative Action Item was Placed on Regular Agenda.					
1	City Council	11/08/2018	Approved				Pass
	Action Text:	A motion was made by Council Member Johnson, seconded by Council Member Terhaar, that this Legislative Action Item be Approved. The motion carried by the following vote: Yes: 5 Council Member Myers, Council Member Terhaar, Council Member Spencer, Council Member Johnson, and Council Member Wu No: 1 Wingate Absent: 1 Council President Cannada-Wynn					

Text of Legislative File 18-00415

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

SUBJECT:

TRANSFER OF FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

RECOMMENDATION:

That the City Council adopt a resolution authorizing the Mayor to execute a quitclaim deed transferring the Five Flags Memorial Park to the State of Florida Department of Transportation and to enter into an agreement with the State for appropriate replacement signage. Further that City Council declare the city-owned property surplus and deem such exchange a valid municipal purpose. Finally that City Council authorize the Mayor to take all action necessary for the exchange of the property.

HEARING REQUIRED: No Hearing Required

SUMMARY:

As the construction of the replacement Pensacola Bay Bridge proceeds, it is necessary to transfer ownership of the Five Flags Memorial Park land to the State of Florida Department of Transportation in order for the State to begin construction of the landfall traffic flow. The State has agreed to erect appropriate signage to be approved by the City, identifying entry into the City of Pensacola from the new Bay Bridge.

PRIOR ACTION:

None

FUNDING:

None

FINANCIAL IMPACT:

The State of Florida Department of Transportation will incur all costs associated with this transfer and replacement signage.

CITY ATTORNEY REVIEW: Yes
10/30/2018

STAFF CONTACT:

Keith Wilkins, City Administrator

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Brian Cooper, Parks and Recreation Director

ATTACHMENTS:

1) Resolution No. 18-55
2) Agreement between the State of Florida Department of Transportation and the City of Pensacola
3) Quitclaim Deed
4) Donation of Property to the Florida Department of Transportation
5) Signage Commitment by Florida Department of Transportation
6) Use and Occupancy Agreement

PRESENTATION: No

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

AGREEMENT:

NOW, THEREFORE, in consideration of the promises and covenants contained in this AMENDMENT and in the AGREEMENT, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree to amend the AGREEMENT as follows:

1. The facts stated above are true and correct and are incorporated into and made part of this AMENDMENT.

2. Any defined terms used herein that are not specifically defined herein shall have the same meaning as set forth in the AGREEMENT.

3. Exhibit C of the AGREEMENT is hereby amended to remove the DEPARTMENT'S obligation to design and construct the sign, and to add that the CITY will design and construct the sign. The Department will continue to provide the funding for the sign in the amount of Three Hundred and Seventy Thousand Dollars and 00/100 ($370,000.00).

4. No additional funding for this AMENDMENT or AGREEMENT will be provided by the DEPARTMENT.

5. The DEPARTMENT will provide design and construction approval of the City of Pensacola sign within a reasonable time frame prior to construction of the sign in coordination with the CITY. FDOT approval of the sign location will be documented through the FDOT permitting process. The FDOT will not provide final approval of the sign installation on the FDOT right-of-way until after final acceptance of the Pensacola Bay Bridge Replacement project.

6. Except for the changes and amendments made in this Amended Agreement, the terms and conditions of the AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this AMENDMENT on the dates set forth below:

CITY OF PENSACOLA, FLORIDA

By: David Forte
Name:
Title: Deputy City Administrator
Date: 9/30/22

ATTEST:
By: Ericka L. Burnett
Name: Ericka L. Burnett
Title: City Clerk (Seal)

LOCAL AGENCY LEGAL REVIEW:
By:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

DocuSigned by:
By: Tim Smith
00EA910BEA3D404...
Name: Tim Smith, P.E.
Title: Director of Transportation Development
Date: 10/20/2022 | 8:28 AM EDT

ATTEST:
By:
Krissy Cook
Executive Secretary (Seal)

DocuSigned by:
DEPARTMENT LEGAL REVIEW:
By: Cary Hawkins
4F4EEFF2332E498...
Office of the General Counsel

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

EXHIBIT O

TERMS AND CONDITIONS OF CONSTRUCTION IN DEPARTMENT RIGHT OF WAY

Section of the Agreement is amended as follows for Construction on the Department's Right of Way.

1. If the Project involves construction on, under, or over the Department's right-of-way, the design work for all portions of the Project to be constructed on, under, or over the Department's right-of-way shall be submitted to the Department for review prior to any work being commenced, and the following provisions shall apply:

a. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Florida Department of Transportation Design Manual ("FDM") and the Department Traffic Engineering Manual.

Designs that do not meet Department standards may be rejected by the Department at its sole discretion. The Department may allocate Department-managed resources to facilitate compliance with applicable design standards. If changes to the Department approved plans are required, the Recipient shall notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project, at all times, and coordinate any work needs of the Department during construction of the Project.

b. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within, under, or over Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is .

c. The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.

d. The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.

e. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.

f. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on, under, or over the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right-of-way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right-of-way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, Florida Statutes.

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g. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.

h. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be entered into the department's Materials Testing and Certification database application and the department must provide the final Materials Certification for the Project. The Department shall have the right to perform its own independent testing during the course of the Project.

i. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Recipient, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.

j. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from on, under, or over its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.

k. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.

l. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.

m. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.

n. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.

o. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

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p. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.

q. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.

r. Restricted hours of operation will be from Insert restrict hours of operation, (insert days of the week for restricted operation), unless otherwise approved by the Operations Engineer, or designee.

s. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contract info

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

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MEMORANDUM

TO: Grover C. Robinson, IV, Mayor

FROM: James W. Cook, Deputy Director of Operations PW&F

DATE: September 29, 2022

SUBJ: Request to execute the revised Joint Participation Agreement and associated Amended FDOT agreement for improvements to area previously known as the Five Flags Plaza.

Submitted for your signature is an amended agreement with FDOT, and a revised Joint Participation Agreement (JPA), for completion of improvements to area previously known as the Five Flags Plaza. FDOT has requested we sign a revised JPA due to there being two agreement exhibits that were incomplete in the original submittal. The signing of the revised JPA will cancel and take the place of the original JPA signed on June 14, 2022.

AS previously conveyed in June, under the original agreement, FDOT was to undertake a reconstruction project for a not to exceed cost of $370,000.00 once construction of the streets associated with the SR30 Pensacola Bay Bridge No. 480035 project was completed. Subsequently, FDOT and the City have decided to shift construction responsibility to the City. FDOT will provide $370,000.00 for design and construction of a sign and associated improvements. As a result of this agreed upon change, a more detailed Joint Participation Agreement process is required.

Additional agreements may be required during the design and approval process of the JPA. The City will be responsible for any costs above $370,000.00 associated with the project.

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To: Maria.Showalter@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

ASU29

10/10/2022

CONTRACT INFORMATION

Contract:	ASU29
Contract Type:	AK - PROJ PARTICIPATION (PROJ PART)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CITY OF PENSACOLA
Vendor ID:	F596000406005
Beginning Date of This Agreement:	10/04/2022
Ending Date of This Agreement:	10/31/2023
Contract Total/Budgetary Ceiling:	ct = $370,000.00
Description:	Design and construction for City of Pensacola Welcome Sign @Pensacola Bay bridge

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 10/10/2022

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55034010307
Expansion Option:	AA
Object Code:	134000
Amount:	$370,000.00
Financial Project:	40933415802
Work Activity (FCT):	016
CFDA:	
Fiscal Year:	2023
Budget Entity:	55150200
Category/Category Year:	088799/23
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: $370,000.00

File #: 24-209 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

AWARD OF BID NO. 24-018 - CITY OF PENSACOLA WELCOME STRUCTURE PROJECT

RECOMMENDATION:

That City Council award Bid No. 24-018, City of Pensacola Welcome Structure Project to Hewes & Company, LLC of Pensacola, the lowest and most responsible bidder with a base bid of $483,700.00, with a Bid Alternate of $28,000, plus a 10% contingency of $51,170.00 for a total of $562,870.00. Further, that City Council authorize the Mayor to take the actions necessary to execute and administer this contract and complete the 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:

This project is the culmination of an artistic contest for creation of a new "Welcome to Pensacola" feature to replace the one that was demolished by FDOT's 3-mile bridge project. The winning artistic concept was utilized by a local architecture firm to transform the artist's vision into a set of construction plans. These construction plans were advertised through the City's competitive bidding process and an apparent low bidder has been identified. This award of bid is the final step prior to commencement of construction of this project. Further, the base bid portion of this project is focused on installation of the sign itself. Bid Alternate #2 will be the inclusion of landscaping around and adjacent to the sign. The project location as well as the artistic depiction of what the sign will look like is included as Attachment #3.

PRIOR ACTION:

FDOT Staff previously approved a time extension for completion of the project through December 31, 2024.

On November 10, 2022, City Council authorized acceptance of funding provided through the Joint Participation Agreement between the State of Florida Department of Transportation and City of Pensacola, Florida for construction of a welcome sign and feature between Bayfront Parkway and Gregory Street in the amount of $370,000.00.

FDOT and City staff determined that it was more desirable for the City to complete the work, and therefore, on September 30, 2022, an amended agreement and JPA was executed to allow FDOT to provide the City with $370,000.00 for use in the design and construction of the welcome sign to replace the Five Flags Plaza.

On November 8, 2018, City Council Adopted Resolution No. 18-55 to transfer property to FDOT for construction of the Pensacola Bay Bridge Project and authorizing and directing the Mayor to execute a quitclaim deed to the property and an agreement providing for appropriate signage and to take all other actions necessary in relation to the resolution. The resulting agreement provided that FDOT would complete $370,000.00 worth of design and improvements for a welcome sign.

FUNDING:

Budget:	$370,000.00	Joint Participation Agreement with Florida Department of Transportation
	$100,000.00	Amendment to Joint Participation Agreement with Florida Department of Transportation
	$185,142.00	American Rescue Plan Act (ARPA)
	$655,142.00	TOTAL
Actual:	$483,700.00	Base Bid
	$28,000.00	Bid Alt #2
	$511,700.00	Sum of Base Bid Plus Bid Alt #2
	$51,170.00	10% Contigency
	$33,772.20	Engineering Allocation
	$3,500	Testing, Geotech, Miscellaneous
	$600,142.00	TOTAL

FINANCIAL IMPACT:

Funding has been allocated primarily through a Joint Participation Agreement (JPA) with the Florida Department of Transportation (FDOT). First, the FDOT provided funding in the amount of $370,000.00 for the design and installation of the Pensacola Welcome Structure. An amendment to this JPA increased this amount by $100,000.00 to $470,000.00. To pay for the remainder of the project, funds have been identified in the ARPA fund in the amount of $185,142.00.

LEGAL REVIEW ONLY BY CITY ATTORNEY: Yes

4/12/2024

STAFF CONTACT:

Kerrith Fiddler, City Administrator
David Forte, Deputy City Administrator
Amy Tootle, Director - Public Works & Engineering

ATTACHMENTS:

1. Proposal
2. Tabulation of Bids
3. Project Specifications
4. Draft Amendment No. ASU29-4509334-1-58-02 Welcome Sign
5. JPA No. 409334-1-58-02 dated 10/22/2022

PRESENTATION: No

PROPOSAL

BID NO. 24-018

2023 CITY OF PENSACOLA
WELCOME STRUCTURE PROJECT

Base Bid Four Hundred Eighty Three Thousand Seven Hundred

($ 483,700.00)

Bid Alt. 1 Ninety Six thousand five Hundred

($ 96,500.00)

Bid Alt. 2 Twenty Eight Thousand

($ 28,000.00)

Bid Security in the proper form and in the amount of $ 5% is submitted.

Dunns#/UEID: 00-484-4617 (Federal Transparency Act Reporting Requirement)

Florida Department of Professional Regulation
Contractor's Certification or Registration

No. CGC020911 Expiration Date 8/31/24

Signature _____ Date: March 26, 2024

Printed Name: Henry G. Saam Title: Vice President

Company: Hewes and Company, LLC Address: 251 Amber Street

Telephone: 850-435-4305 City: Pensacola

Fax: 850-983-6698 State: FL Zip: 32503

E-mail: max@hewesandcompany.com

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an 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, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language 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.

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 section 1352, title 31, U.S. Code. 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.

The Contractor, Hewes and Company, LLC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

March 12, 2024
Date

Henry G. Saam, Vice President
Name and Title of Contractor's Authorized Official

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: Hewes and Company, LLC Date: March 12, 2024

Authorized Signature: Printed Name: Henry G. Saam

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.

Hewes and Company, LLC

Company Name

Authorized Signature

Henry G. Saam, Vice President

Printed Name

March 12, 2024

Date

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

City of Pensacola
Florida

CERTIFICATION
for
EROSION AND SEDIMENTATION COMPLIANCE

All site excavation and site disturbance shall comply with the following federal, state and local regulations related to erosion and sedimentation:

A. Federal Clean Water Act as amended in 1987
B. State Florida Statutes, Chapter 373 and 403, and the rules promulgated thereunder
C. Local Code of the City of Pensacola, Chapter 12-9

By signature of its undersigned authorized representative, the Bidder hereby assures the City of Pensacola that any soil-disturbing activities performed by the Bidder will comply with all applicable federal, state, and local regulations.

The cost of compliance with applicable erosion and sedimentation regulations is estimated by the Bidder to be $ 750, which cost is included in the amount of the bid.

The specific methods of compliance with applicable federal, state, and local regulations and the associated costs are as follows:

SILT FENCE/HAY BALES

Henry G. Saam
Vice President

Authorized Official

THIS FORM MUST BE INCLUDED WITH 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.

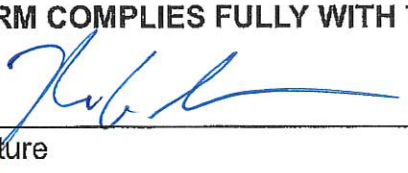
3) Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection (1).

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

Henry G. Saam, Vice President

Printed Name

THIS FORM MUST BE INCLUDED IN SUBMITTAL.

Addendum Date: March 7, 2024

CITY OF PENSACOLA, FLORIDA
ADDENDUM #1

2023 CITY OF PENSACOLA WELCOME STRUCTURE PROJECT

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

A SIGNED COPY OF THIS ADDENDUM MUST BE INCLUDED WITHIN YOUR SUBMITTAL

Company: Hewes and Company, LLC Date: 3/26/24

Authorized Representative: Henry A. Saam Title: Vice President
Printed Name

Signature: _____

Questions and Answers

- Question: Advise if contract documents have been submitted to AHJ for permit review. Provide permit allowance.
- Response: The City of Pensacola will not provide any permit allowance. The bidder shall bid accordingly.

- Question: Provide construction budget for bonding purposes.
- Response:
  - Construction Cost Estimate for Base Bid = $484,466
  - Construction Cost Estimate for Bid Alt. #1 = $72,981
  - Construction Cost Estimate for Bid Alt. #2 = $39,213

- Question: Advise if payment and performance bonds are required.
- Response: Yes. The City of Pensacola combines the payment and performance bond into one document titled the Public Construction Bond.

- Question: Advise if project requires certified payrolls. Provide wage scale if applicable.
- Response: No certified payrolls and/or wage scale is applicable to this project.

- Question: Provide geotechnical report.
- Response: No geotechnical data was collected for this project.

Addendum Date: March 12, 2024

CITY OF PENSACOLA, FLORIDA
ADDENDUM #2

2023 CITY OF PENSACOLA WELCOME STRUCTURE PROJECT

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

A SIGNED COPY OF THIS ADDENDUM MUST BE INCLUDED WITHIN YOUR SUBMITTAL

Company: Hewes and Company, LLC Date: 3/26/24

Authorized Representative: Henry G. Saam Title: Vice President
Printed Name

Signature:

1. The submittal due date has been extended to **March 26**, 2024, at **2:00** P.M., local time.

2. No further questions will be received.

THE AMERICAN INSTITUTE OF ARCHITECTS

AIA Document A310

Bid Bond

KNOW ALL MEN BY THESE PRESENTS, that we

Hewes & Company, LLC, 251 Amber Street, Pensacola, FL 32503
as Principal, hereinafter called the Principal, and

Western Surety Company, 151 North Franklin Street, Chicago, IL 60606
a corporation duly organized under the laws of the State of **SD** as Surety, hereinafter called the Surety, are held and firmly bound unto

City of Pensacola; 222 West Main Street, Pensacola, FL 32502
as Obligee, hereinafter called the Obligee, in the sum of **FIVE Percent of the amount bid**,

for the payment of which sum well and truly to be made, the said Principal and the said Surety, bind ourselves, our heirs, executors, administrators, successors and assigns, jointly and severally, firmly by these presents.

WHEREAS, the Principal has submitted a bid for
24-018; City of Pensacola Welcome Structure Project; Pensacola, FL

NOW, THEREFORE, if the Obligee shall accept the bid of the Principal and the Principal shall enter into a Contract with the Obligee in accordance with the terms of such bid, and give such bond or bonds as may be specified in the bidding or Contract Documents with good and sufficient surety for the faithful performance of such Contract and for the prompt payment of labor and material furnished in the prosecution thereof, or in the event of the failure of the Principal to enter such Contract and give such bond or bonds, if the Principal shall pay to the Obligee the difference not to exceed the penalty hereof between the amount specified in said bid and such larger amount for which the Obligee 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.

Signed and sealed this **12** day of **March 2024**.

(Witness)

(Witness)

Hewes & Company, LLC
(Principal) (Seal)

Henry Saam, Vice President

Western Surety Company
(Surety) (Seal)

L. Dale Waldorff, Attorney-in-Fact
& Florida Licensed Resident Agent

AIA DOCUMENT A310 - BID BOND - AIA - FEBRUARY 1970 ED - THE AMERICAN INSTITUTE OF ARCHITECTS 1735 N. Y. AVE. N. W. WASHINGTON, D. C. 20006

G-23248-A

Western Surety Company

POWER OF ATTORNEY APPOINTING INDIVIDUAL ATTORNEY-IN-FACT

Know All Men By These Presents, That WESTERN SURETY COMPANY, a South Dakota corporation, is a duly organized and existing corporation having its principal office in the City of Sioux Falls, and State of South Dakota, and that it does by virtue of the signature and seal herein affixed hereby make, constitute and appoint

L Dale Waldorff, Benjamin H French, Paul A Locascio, K Wayne Walker, Ronald J Hays, Rebekah F Sharp, Trava Ridlon, Joshua T Morgan, Individually

of Fort Walton Beach, FL, its true and lawful Attorney(s)-in-Fact with full power and authority hereby conferred to sign, seal and execute for and on its behalf bonds, undertakings and other obligatory instruments of similar nature

- In Unlimited Amounts -

and to bind it thereby as fully and to the same extent as if such instruments were signed by a duly authorized officer of the corporation and all the acts of said Attorney, pursuant to the authority hereby given, are hereby ratified and confirmed.

This Power of Attorney is made and executed pursuant to and by authority of the By-Law and Resolutions printed on the reverse hereof, duly adopted, as indicated, by the shareholders of the corporation.

In Witness Whereof, WESTERN SURETY COMPANY has caused these presents to be signed by its Vice President and its corporate seal to be hereto affixed on this 22nd day of August, 2023.

WESTERN SURETY COMPANY

Larry Kasten, Vice President

State of South Dakota
County of Minnehaha } ss

On this 22nd day of August, 2023, before me personally came Larry Kasten, to me known, who, being by me duly sworn, did depose and say: that he resides in the City of Sioux Falls, State of South Dakota; that he is a Vice President of WESTERN SURETY COMPANY described in and which executed the above instrument; that he knows the seal of said corporation; that the seal affixed to the said instrument is such corporate seal; that it was so affixed pursuant to authority given by the Board of Directors of said corporation and that he signed his name thereto pursuant to like authority, and acknowledges same to be the act and deed of said corporation.

My commission expires

March 2, 2026

M. BENT NOTARY PUBLIC SOUTH DAKOTA

M. Bent, Notary Public

CERTIFICATE

I, L. Nelson, Assistant Secretary of WESTERN SURETY COMPANY do hereby certify that the Power of Attorney hereinabove set forth is still in force, and further certify that the By-Law and Resolutions of the corporation printed on the reverse hereof is still in force. In testimony whereof I have hereunto subscribed my name and affixed the seal of the said corporation this 12 day of March 2024.

WESTERN SURETY COMPANY

L. Nelson, Assistant Secretary

Form F4280-4-2023

Go to www.cnasurety.com > Owner / Obligee Services > Validate Bond Coverage, if you want to verify bond authenticity.

Authorizing By-Laws and Resolutions

ADOPTED BY THE SHAREHOLDERS OF WESTERN SURETY COMPANY

This Power of Attorney is made and executed pursuant to and by authority of the following By-Law duly adopted by the shareholders of the Company.

Section 7. All bonds, policies, undertakings, Powers of Attorney, or other obligations of the corporation shall be executed in the corporate name of the Company by the President, Secretary, and Assistant Secretary, Treasurer, or any Vice President, or by such other officers as the Board of Directors may authorize. The President, any Vice President, Secretary, any Assistant Secretary, or the Treasurer may appoint Attorneys in Fact or agents who shall have authority to issue bonds, policies, or undertakings in the name of the Company. The corporate seal is not necessary for the validity of any bonds, policies, undertakings, Powers of Attorney or other obligations of the corporation. The signature of any such officer and the corporate seal may be printed by facsimile.

This Power of Attorney is signed by Larry Kasten, Vice President, who has been authorized pursuant to the above Bylaw to execute power of attorneys on behalf of Western Surety Company.

This Power of Attorney may be signed by digital signature and sealed by a digital or otherwise electronic-formatted corporate seal under and by the authority of the following Resolution adopted by the Board of Directors of the Company by unanimous written consent dated the 27th day of April, 2022:

"RESOLVED: That it is in the best interest of the Company to periodically ratify and confirm any corporate documents signed by digital signatures and to ratify and confirm the use of a digital or otherwise electronic-formatted corporate seal, each to be considered the act and deed of the Company."

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/6/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER	CONTACT NAME: L. Dale Waldorff
M.E. Wilson Company LLC Waldorff Insurance & Bonding 45 Eglin Parkway NE Ste 202 Fort Walton Beach FL 32548	PHONE (A/C, No, Ext): 850-581-4925 FAX (A/C, No): 850-581-4930 E-MAIL ADDRESS: receptionist@waldorffinsurance.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Amerisure Insurance	19488
INSURER B : Amerisure Mutual	23396
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED HEWE-02
Hewes & Company, LLC
251 Amber St
Pensacola FL 32503

COVERAGES **CERTIFICATE NUMBER:** 1740017060 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [ ] PRO-JECT [ ] LOC OTHER:	Y	Y	CPP21000810801	4/1/2023	4/1/2024	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 1,000,000 $ 1,000,000 $ 10,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
A	AUTOMOBILE LIABILITY X ANY AUTO OWNED AUTOS ONLY [X] SCHEDULED AUTOS X HIRED AUTOS ONLY [X] NON-OWNED AUTOS ONLY	Y	Y	CA21000800701	4/1/2023	4/1/2024	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ $
B	X UMBRELLA LIAB [X] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [X] RETENTION $ 0			CU21000820802	4/1/2023	4/1/2024	EACH OCCURRENCE AGGREGATE $	$ 9,000,000 $ 9,000,000 $
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y/N [N] If yes, describe under DESCRIPTION OF OPERATIONS below	N/A	Y	WC21085290501	4/1/2023	4/1/2024	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000
A	Leased/Rented Equip			CPP21000810801	4/1/2023	4/1/2024	Limit Deductible	360,000 1,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
RE: City of Pensacola Welcome Sign Structure project
Certificate Holder is listed as Additional Insured, when required by written contract, as pertains to General Liability and Auto Liability.
This insurance is Primary and Non-Contributory when required by written contract as respects to General Liability and Auto Liability.
Waiver of Subrogation applies when required by written contract in favor of the Certificate Holder as respects to General Liability, Auto Liability, Workers Compensation and Umbrella Liability.
Cancellation Provision: 30 Days Notice of Cancellation except 10 days for non-payment of premium as respects to General Liability, Auto Liability and Workers Compensation.

CERTIFICATE HOLDER

City of Pensacola
222 West Main Street
Pensacola FL 32502

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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Ron DeSantis, Governor

Melanie S. Griffin, Secretary

STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

CONSTRUCTION INDUSTRY LICENSING BOARD

THE GENERAL CONTRACTOR HEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

HEWES, EDWARD M

HEWES AND COMPANY LLC
7700 LAKESIDE DR.
MILTON FL 32583

LICENSE NUMBER: CGC020911

EXPIRATION DATE: AUGUST 31, 2024

Always verify licenses online at MyFloridaLicense.com

Do not alter this document in any form.

This is your license. It is unlawful for anyone other than the licensee to use this document.

State of Florida
Department of State

I certify from the records of this office that HEWES AND COMPANY, LLC is a limited liability company organized under the laws of the State of Florida, filed on December 4, 2008.

The document number of this limited liability company is L08000111514.

I further certify that said limited liability company has paid all fees due this office through December 31, 2024, that its most recent annual report was filed on January 8, 2024, and that its status is active.

Given under my hand and the Great Seal of the State of Florida at Tallahassee, the Capital, this the Eighth day of January, 2024

Secretary of State

Tracking Number: 2247492509CC

To authenticate this certificate,visit the following site,enter this number, and then follow the instructions displayed.

https://services.sunbiz.org/Filings/CertificateOfStatus/CertificateAuthentication

TABULATION OF BIDS

BID NO: 24-018

TITLE: 2023 CITY OF PENSACOLA WELCOME STRUCTURE

Submittals Due: 03/26/24, 2:00 P.M. Department: Engineering	HEWES & COMPANY, LLC Pensacola, FL	BIGGS CONSTRUCTION COMPANY, INC. Pensacola, FL	LOFTIS MARINE, LLC Pensacola, FL	THE GREEN-SIMMONS COMPANY, INC. Pensacola, FL
Base Bid	$483,700.00	$497,075.00	$574,250.00	$775,000.00
Bid Alternate 1	$96,500.00	$110,419.00	$90,000.00	$138,000.00
Bid Alternate 2	$28,000.00	$29,504.00	$25,000.00	$25,000.00

****

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NOTE: ALL VIEWS ARE CONCEPTUAL AND NOT CONSIDERED CONTRACT DOCUMENTS

Fonts in Use

FULBO - ARGENTA

Braisetto - Bold

Route through push through lit face white acrylic (3/16”)

Route through push through lit face white acrylic (3/16”)

Route through push through lit face yellow acrylic (3/16”)

Route through push through lit face white acrylic (3/16”)

LED Yellow Light Strip formatted as script font

Route through push through lit face white acrylic (3/16”)

Concrete Structure

**see architectural drawings for specifications*

Interiorly Illuminated, Light Blue Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail

Interiorly Illuminated, Dark Blue Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline

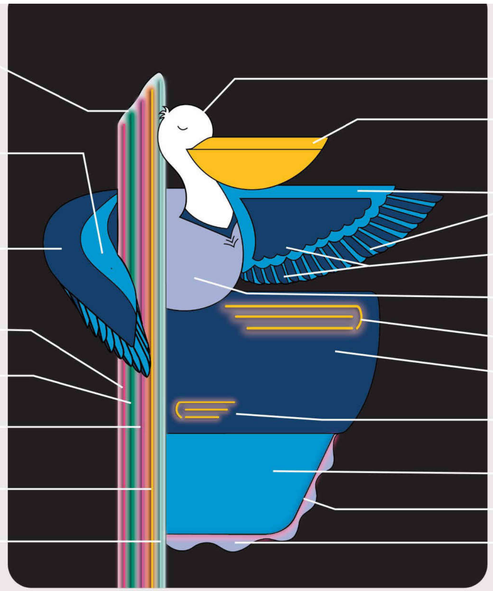
Kelvix Pink 7 Light Strip

Kelvix Green Light Strip

Kelvix Purple 3 Light Strip

Kelvix Yellow 1 Light Strip

Kelvix Blue Light Strip



Interiorly Illuminated, White Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail

Interiorly Illuminated, Yellow Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail

Interiorly Illuminated, Light Blue Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail

Interiorly Illuminated, Dark Blue Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail

Interiorly Illuminated, Purple Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail

Kelvix Yellow 1 Light Strip

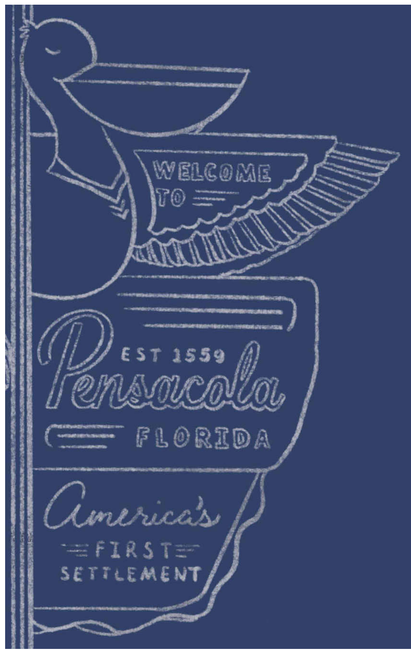
Dark Blue Opaque Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail

Kelvix Yellow 1 Light Strip

Light Blue Opaque Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail

Kelvix Purple 3 Light Strip

Interiorly Illuminated, Purple Acrylic (3/16”) with 10 year Vinyl, UV Laminate, Black Outline and Detail



FEATURED COLORS

Light Blue
CMYK : 80,22,4,1
Pantone: P112-14U
3998cc

Dark Blue
CMYK : 95,78,33,20
Pantone: P108-16U
2a4168

Yellow
CMYK : 5,25,100,0
Pantone: P7-8U
ecc035

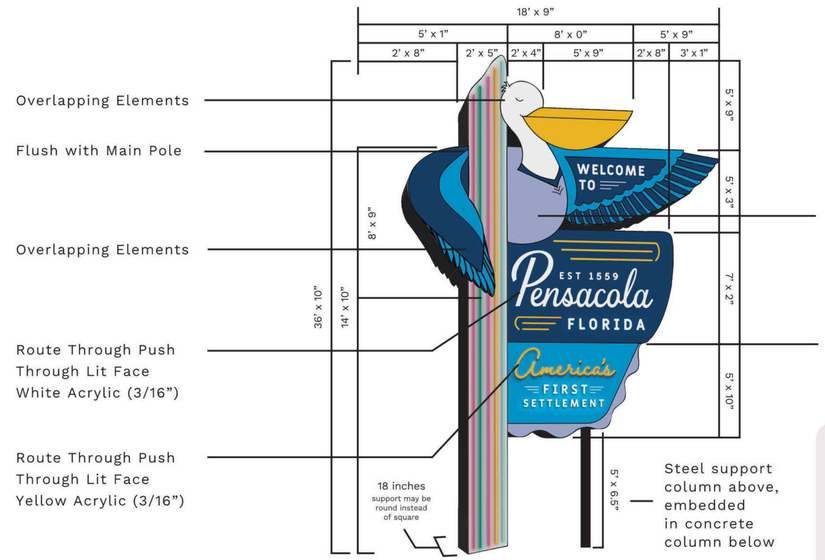
Purple
CMYK : 34,27,1,0
Pantone: P102-2U
a8aed2

White
CMYK : 0,0,0,0
Pantone: P179-1U
ffffff

Gray/White
CMYK : 11,6,6,0
Pantone: P179-2U
e1e5e7

Suggested Fluted Pole Light Colors

Kelvix Pink 7 | Kelvix Green | Kelvix Purple 3 | Kelvix Yellow 1 | Kelvix Blue



Overlapping Elements

Flush with Main Pole

Overlapping Elements

Route Through Push Through Lit Face White Acrylic (3/16”)

Route Through Push Through Lit Face Yellow Acrylic (3/16”)

Bottom of Pelican Overlapping Middle Section

Bottom Layer Inset under Middle Layer

Steel support column above, embedded in concrete column below

* These specifications recommendations can be modified to meet what is usual, customary, and reasonable for industry standards.

dalrymple | sallis architecture
503 E. Government St.
Pensacola, FL 32502
v: 850-470-6399
f: 850-470-6397
www.dalsal.com
AR 0016385

THIS DOCUMENT SHOWS ORIGINAL AND UN-PUBLISHED WORK OF THE ARCHITECT AND MAY NOT BE DUPLICATED IN ANY PART WITHOUT WRITTEN CONSENT OF THE FIRM'S PRINCIPALS

STATE OF FLORIDA · SCOTT SALLIS · AIA · REGISTERED ARCHITECT

CERTIFICATION

BID SET; NOT FOR CONSTRUCTION

Pensacola Welcome Structure

Bayfront Parkway
Pensacola, FL 32502

DRAWN BY:	CHECKED BY:
SKG	JSS

ISSUE DATE: 12/15/23

REVISIONS

No.	Des.	Date

SHEET TITLE: **SIGN TECHNICAL DRAWINGS**

SHEET NO: **A103**

PROJECT NO: 22042

Item/Segment No: 409334-1-58-02
City of Pensacola Welcome Sign @ the Pensacola Bay Bridge

FIRST AMENDMENT TO AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PENSACOLA

This AMENDMENT is between the State of Florida, Department of Transportation, with offices at 1074 Highway 90, Chipley, Florida 32428 ("DEPARTMENT") and the City of Pensacola, Florida, a Florida municipal corporation with offices at 222 West Main Street, Pensacola, Florida 32502 ("LOCAL AGENCY"). The DEPARTMENT and the LOCAL AGENCY are sometimes referred to in this amendment as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties on **October 20, 2022,** entered into an Agreement (attached hereto and collectively called the AGREEMENT) for the LOCAL AGENCY to design and construct certain improvements as depicted in Exhibit "A" of the AGREEMENT to signify entrance to the City and replace the Five Flags Memorial Plaza in connection with Financial Project Number **409334-1-58-02**.

WHEREAS, pursuant to the AGREEMENT, the DEPARTMENT agreed to provide funding for the design and construction of the sign of no more than **THREE HUNDRED AND SEVENTY THOUSAND DOLLARS AND 00/100 ($370,000.00)** and the LOCAL AGENCY agreed to provide any additional funds necessary to cover the cost difference between **$370,000.00** and the total cost of the sign; and

WHEREAS, the LOCAL AGENCY has received bids that are higher than the awarded amount for the LOCAL AGENCY's desired improvements; and

WHEREAS, the DEPARTMENT is prepared to assist LOCAL AGENCY through the provision of additional funding in the amount of **$100,000.00** for the PROJECT, which would allow for the reimbursement of the LOCAL AGENCY for the costs of the PROJECT in an amount up to but not exceeding **FOUR HUNDRED SEVENTY THOUSAND AND 00/100 DOLLARS ($470,000.00).**

WHEREAS, the LOCAL AGENCY agrees to provide any additional funds necessary to cover any cost difference between **$470,000.00** and the total cost of the sign; and

WHEREAS, the LOCAL AGENCY, by resolution number_____, a copy of which is attached hereto as Exhibit "D" and made a part hereof, has authorized the LOCAL AGENCY to enter into this AMENDMENT.

WHEREAS, the Parties mutually desire to amend the AGREEMENT to modify the financial obligations of both the CITY and the DEPARTMENT.

AGREEMENT:

NOW, THEREFORE, in consideration of the promises and covenants contained in this AMENDMENT and in the AGREEMENT, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree to amend the AGREEMENT as follows:

1. The facts stated above are true and correct and are incorporated into and made part of this AMENDMENT.

2. The effective date of the AMENDMENT shall be the latest date on which a party executes this Agreement.

3. Exhibit B of the AGREEMENT is hereby amended to provide the LOCAL AGENCY with additional funding in the amount of **$100,000.00** due to bids coming in over the awarded amount. Including the additional funding, the Department will provide the funding to reimburse PROJECT costs for the sign in the total amount not to exceed **FOUR HUNDRED SEVENTY THOUSAND DOLLARS AND 00/100 ($470,000.00)**.

4. No additional funding for this AMENDMENT or AGREEMENT beyond the amount of **$470,000.00** will be provided by the DEPARTMENT.

5. Except for the changes made in this AMENDMENT, the terms and conditions of the AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this AMENDMENT on the dates set forth below:

CITY OF PENSACOLA, FLORIDA

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

_____

By: _____

Name: _____

Title: _____ (Seal)

LOCAL AGENCY LEGAL REVIEW:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____

Name: _____

Title: _____

Date: _____

DEPARTMENT LEGAL REVIEW:

DRAFT

By: _____	By: _____
	Office of the General Counsel
CITY OF PENSACOLA	**STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**
By: _____	By: _____
Name: _____	Name: Phillip Gainer, P.E.,
Title: _____	Title: District Secretary
Date: _____	Date: _____
_____	ATTEST:
_____	By: _____
Krissy Cook, Executive Secretary (Seal)	
LEGAL REVIEW:	LEGAL REVIEW:
By: _____	By: _____
City Attorney	Office of the General Counsel

DRAFT

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Financial Project Number(s): 409334-1-58-02
Contract No.: ASU29
Vendor Number: F596000406005

JOINT PARTICIPATION AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
CITY OF PENSACOLA, FLORIDA

This AGREEMENT is between the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION**, with offices at *1074 Highway 90 East, Chipley, FL 32428* (the "DEPARTMENT"), and **CITY OF PENSACOLA**, a political subdivision of the State of Florida, with offices at *222 West Main Street, Pensacola, Florida 32502* (the "LOCAL AGENCY"). The DEPARTMENT and the LOCAL AGENCY are sometimes referred to in this AGREEMENT as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties have been granted specific legislative authority to enter into this AGREEMENT pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the Parties are desirous of having the LOCAL AGENCY *CITY OF PENSACOLA*, make certain improvements in connection with Financial Project Number **409334-1-58-02**, which are further described on Exhibit "A" – Project Description and Responsibilities, attached hereto and made a part hereof (the "PROJECT"); and

WHEREAS, the LOCAL AGENCY and the DEPARTMENT previously entered into an AGREEMENT on November 14, 2018, (attached hereto as Composite Exhibit G and collectively called the AGREEMENT) wherein the LOCAL AGENCY agreed to convey to the DEPARTMENT a fee simple interest in property described in Exhibit A of the AGREEMENT originally reflecting the DEPARTMENT's responsibility for the design and construction of a sign to signify entrance to the LOCAL AGENCY to replace the former Five Flags Memorial Plaza, which is described in Exhibit C of the AGREEMENT; and

WHEREAS, pursuant to the AMENDMENT (attached hereto as part of Composite Exhibit G), it is agreed that the LOCAL AGENCY shall be responsibility for the design and construction of the replacement sign in accordance with terms of this JOINT PARTICIPATION AGREEEMNT;

WHEREAS, the PROJECT is on the State Highway System, is not revenue producing and is contained in the adopted work program; and

WHEREAS, the DEPARTMENT is prepared to reimburse the LOCAL AGENCY for the actual costs of the PROJECT in an amount up to but not to exceed **THREE HUNDRED**

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SEVENTY THOUSAND AND 00/100 DOLLARS ($370,000) that has been allocated in the fiscal year 2022-2023; and

WHEREAS, the implementation of this PROJECT is in the best interest of both Parties and it would be most practical, expeditious, and economical for the LOCAL AGENCY to perform services to complete the PROJECT; and

WHEREAS, the DEPARTMENT will provide design and construction approval of the City of Pensacola sign within a reasonable time frame prior to construction of the sign in coordination with the CITY. The City of Pensacola sign shall be located within the parcel in accordance with the lateral offset criteria in the Department's Design Manual (FDM). DEPARTMENT approval of the sign location will be documented through the DEPARTMENT permitting process. The DEPARTMENT will not provide final approval of the sign installation on the DEPARTMENT right-of-way until after final acceptance of the Pensacola Bay Bridge Replacement project.

WHEREAS, the intent of this AGREEMENT is to establish the terms and conditions of the funding and production of this PROJECT; and

WHEREAS, the LOCAL AGENCY, by resolution number *18-55, dated November 8, 2018*, a copy of which is attached hereto as Exhibit "D" and made a part hereof, has authorized the *Mayor of the City of Pensacola* to enter into this AGREEMENT.

NOW THEREFORE, in consideration of the mutual benefits to be derived by the terms of this AGREEMENT, the Parties agree as follows:

1 – TERM:

A. This AGREEMENT shall begin upon full execution by both Parties and the LOCAL AGENCY shall complete the PROJECT on or before **August 31, 2023**. If the LOCAL AGENCY does not complete the PROJECT within this time period, this AGREEMENT will expire on the last day of the scheduled completion as provided in this paragraph unless an extension of the time period is requested by the LOCAL AGENCY and granted in writing by the DEPARTMENT prior to the expiration of this AGREEMENT. Expiration of this AGREEMENT will be considered termination of the PROJECT. The LOCAL AGENCY acknowledges that no reimbursements for the actual costs of the PROJECT will be provided by the DEPARTMENT under this AGREEMENT for work performed on the PROJECT that is not timely completed and invoiced in accordance with the terms of this AGREEMENT, for work performed prior to full execution of this AGREEMENT, or for work performed after expiration of this AGREEMENT. Notwithstanding the foregoing, the LOCAL AGENCY shall remain obligated to complete all aspects of the PROJECT identified in this AGREEMENT in accordance with its terms, unless otherwise agreed by the Parties in writing.

2 – SERVICES AND PERFORMANCE:

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A. The LOCAL AGENCY shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The PROJECT and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A".

3 – AMENDMENTS, EXTENSIONS AND ASSIGNMENT:

A. This AGREEMENT may be amended or extended upon mutual written agreement of the Parties.

B. This AGREEMENT shall not be assigned, transferred or otherwise encumbered by the LOCAL AGENCY under any circumstances without the prior written consent of the DEPARTMENT.

4 – TERMINATION OR SUSPENSION OF PROJECT:

A. The DEPARTMENT may, by written notice to the LOCAL AGENCY, suspend any or all of the DEPARTMENT'S obligations under this AGREEMENT for the LOCAL AGENCY'S failure to comply with applicable laws or the terms of this AGREEMENT until such time as the event or condition resulting in such suspension has ceased or been corrected. The DEPARTMENT may also terminate this AGREEMENT, in whole or in part, at any time the interest of the DEPARTMENT requires such termination.

1. If the DEPARTMENT terminates this AGREEMENT, the DEPARTMENT shall notify the LOCAL AGENCY of such termination in writing within thirty (30) days of the DEPARTMENT'S determination to terminate this AGREEMENT, with instructions as to the effective date of termination or to specify the stage of work at which the AGREEMENT is to be terminated.

2. The Parties may also terminate this AGREEMENT when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions through mutual written agreement.

3. If this AGREEMENT is terminated before performance is completed, the LOCAL AGENCY shall be reimbursed only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed an amount which is the same percentage of the contract price as the amount of work satisfactorily completed is a percentage of the total work called for by this AGREEMENT. All work in progress on the DEPARTMENT right-of-way will become the property of the DEPARTMENT and will be turned over promptly by the LOCAL AGENCY.

4. Upon termination of this AGREEMENT, the LOCAL AGENCY shall, within thirty (30) days, refund to the DEPARTMENT any funds determined by the DEPARTMENT to have been expended in violation of this AGREEMENT.

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5 – PROJECT COST:

A. The estimated cost of the PROJECT is **$ 370,0000.**

B. The DEPARTMENT agrees to reimburse the LOCAL AGENCY for the actual costs of the PROJECT in an amount up to but not to exceed **THREE HUNDRED SEVENTY THOUSAND AND 00/100 DOLLARS ($370,000)**. The schedule of funding is more fully described in Exhibit "B", attached hereto and made a part hereof. The LOCAL AGENCY agrees to bear all expenses in excess of the DEPARTMENT'S participation, including any cost overruns or deficits incurred in connection with completion of the PROJECT.

6 – COMPENSATION AND PAYMENT:

A. The DEPARTMENT shall reimburse the LOCAL AGENCY for actual costs of the PROJECT, as further described in Exhibit "A".

B. The LOCAL AGENCY shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The PROJECT and the quantifiable, measurable, and verifiable units of deliverables are described more fully in Exhibit "A".

C. Invoices shall be submitted by the LOCAL AGENCY in detail sufficient for a proper pre-audit and post-audit based on the quantifiable, measurable, and verifiable units of deliverables as established in Exhibit "A". Deliverables must be received and accepted in writing by the DEPARTMENT'S Project Manager prior to payments. Requests for reimbursements by the LOCAL AGENCY shall include an invoice, progress report and supporting documentation for the period of services being billed that are acceptable to the DEPARTMENT. The LOCAL AGENCY shall use the format for the invoice and progress report that is approved by the DEPARTMENT.

D. Supporting documentation must establish that the deliverables were received and accepted in writing by the LOCAL AGENCY and must also establish that the required minimum level of service to be performed based on the criteria for evaluating successful completion as specified in Exhibit "A" was met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts or vouchers evidencing in proper detail the nature and propriety of charges as described in Attachment "F" – Contract Payment Requirements.

E. There shall be no reimbursement for travel expenses under this AGREEMENT.

F. Payment shall be made only after receipt and approval of goods and services unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the DEPARTMENT'S Comptroller under Section 334.044(29), Florida Statutes. If the DEPARTMENT determines that the performance of the LOCAL AGENCY is unsatisfactory, the DEPARTMENT shall notify

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the LOCAL AGENCY of the deficiency to be corrected, which correction shall be made within a timeframe to be specified by the DEPARTMENT. The LOCAL AGENCY shall, within five (5) days after notice from the DEPARTMENT, provide the DEPARTMENT with a corrective action plan describing how the LOCAL AGENCY will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the DEPARTMENT, the LOCAL AGENCY will not be reimbursed to the extent of the non-performance. The LOCAL AGENCY will not be reimbursed until the LOCAL AGENCY resolves the deficiency. If the deficiency is subsequently resolved, the LOCAL AGENCY may bill the DEPARTMENT for the unpaid reimbursement request(s) during the next billing period. If the LOCAL AGENCY is unable to resolve the deficiency, the funds shall be forfeited at the end of the AGREEMENT'S term.

G. The LOCAL AGENCY should be aware of the following time frames. Inspection and approval of goods or services shall take no longer than twenty (20) working days from the DEPARTMENT'S receipt of the invoice. The DEPARTMENT has twenty (20) days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables and costs incurred are received, inspected, and approved. If a payment is not available within forty (40) days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the LOCAL AGENCY. Interest penalties of less than one (1) dollar will not be enforced unless the LOCAL AGENCY requests payment. Invoices that have to be returned to the LOCAL AGENCY because of LOCAL AGENCY preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the DEPARTMENT.

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

I. The LOCAL AGENCY shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this AGREEMENT shall be maintained and made available upon request to the DEPARTMENT at all times during the period of this AGREEMENT and for five (5) years after final payment is made. Copies of these documents and records shall be furnished to the DEPARTMENT upon request. Records of costs incurred include the LOCAL AGENCY'S general accounting records and the PROJECT records, together with supporting documents and records, of the contractor and all subcontractors performing work on the PROJECT, and all other records of the contractor and subcontractors considered necessary by the DEPARTMENT for a proper audit of costs.

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J. Upon request, the LOCAL AGENCY agrees to provide progress reports to the DEPARTMENT in the standard format used by the DEPARTMENT and at intervals established by the DEPARTMENT. The DEPARTMENT will be entitled at all times to be advised, at its request, as to the status of the PROJECT and of details thereof.

K. If, after completion of the PROJECT, any claim is made by the DEPARTMENT resulting from an audit or for work or services performed pursuant to this AGREEMENT, the DEPARTMENT may offset such amount from payments due for work or services done under any agreement which it has with the LOCAL AGENCY owing such amount if, upon demand, payment of the amount is not made within sixty (60) days to the DEPARTMENT. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the DEPARTMENT.

L. The LOCAL AGENCY must submit the final invoice on the PROJECT to the DEPARTMENT within one hundred twenty (120) days after completion of the PROJECT. Invoices submitted after the 120-day time period may not be paid.

M. In the event this AGREEMENT is for services in excess of $25,000.00 and a term for a period of more than 1 year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

> "The DEPARTMENT, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The DEPARTMENT shall require a statement from the Comptroller of the DEPARTMENT that such funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the DEPARTMENT which are for an amount in excess of $25,000.00 and which have a term for a period of more than 1 year."

N. The DEPARTMENT'S obligation to pay is contingent upon an annual appropriation by the Florida Legislature.

O. This AGREEMENT does not involve the purchase of Tangible Personal Property, as defined in Chapter 273, Florida Statutes.

P. Any PROJECT funds made available by the DEPARTMENT pursuant to this AGREEMENT which are determined by the DEPARTMENT to have been expended by the LOCAL AGENCY in violation of this AGREEMENT or any other applicable law or regulation, shall be promptly refunded in full to the DEPARTMENT. Acceptance by the

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DEPARTMENT of any documentation or certifications, mandatory or otherwise permitted, that the LOCAL AGENCY files shall not constitute a waiver of the DEPARTMENT'S rights as the funding agency to verify all information at a later date by audit or investigation.

Q. In determining the amount of the payment, the DEPARTMENT will exclude all costs incurred by the LOCAL AGENCY prior to the execution of this AGREEMENT, costs incurred after the expiration of this AGREEMENT, costs which are not provided for as described in this AGREEMENT, costs agreed to be borne by the LOCAL AGENCY or its contractors and subcontractors for not meeting the terms of this AGREEMENT, and costs attributable to goods or services received under a contract or other arrangements which have not been approved in writing by the DEPARTMENT.

7 – GENERAL REQUIREMENTS:

A. The LOCAL AGENCY shall complete the PROJECT with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this AGREEMENT and all applicable laws.

B. The LOCAL AGENCY shall comply and require its contractors and subcontractors to comply with all terms and conditions of this AGREEMENT and all federal, state, and local laws and regulations applicable to the PROJECT.

C. The LOCAL AGENCY shall have the sole responsibility for resolving claims and requests for additional work for the PROJECT by the LOCAL AGENCY'S contractors and consultants. No funds will be provided for payment of claims or additional work on the PROJECT under this AGREEMENT without the prior written approval of the claim or request for additional work by the DEPARTMENT.

D. The LOCAL AGENCY:

1. Shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the LOCAL AGENCY during the term of the AGREEMENT; and

2. Shall expressly require any subcontractors performing work or providing services pursuant to the AGREEMENT to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the term of the AGREEMENT.

E. The LOCAL AGENCY shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the LOCAL AGENCY in conjunction with this AGREEMENT. Specifically, if the LOCAL AGENCY is acting on behalf of a public agency, the LOCAL AGENCY shall:

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1. Keep and maintain public records required by the DEPARTMENT to perform the service.

2. Upon request from the DEPARTMENT'S custodian of public records, provide the DEPARTMENT 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.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the AGREEMENT'S term and following completion of the AGREEMENT if the LOCAL AGENCY does not transfer the records to the DEPARTMENT.

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

F. IF THE LOCAL AGENCY HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE LOCAL AGENCY'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT:

District 3
850-330-1391
D3prcustodian@dot.state.fl.us
Florida Department of Transportation
District 3 – Office of General Counsel
1074 Highway 90 East
Chipley, FL 32428

G. Failure by the LOCAL AGENCY to grant such public access shall be grounds for immediate unilateral cancellation of this AGREEMENT by the DEPARTMENT. The LOCAL AGENCY shall promptly provide the DEPARTMENT with a copy of any request to inspect or copy public records in possession of the LOCAL AGENCY and shall

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promptly provide the DEPARTMENT a copy of the LOCAL AGENCY'S response to each such request.

8 – CONTRACTS OF THE LOCAL AGENCY:

A. The DEPARTMENT has the right to review and approve any and all third party contracts with respect to the PROJECT before the LOCAL AGENCY executes any contract or obligates itself in any manner requiring the disbursement of DEPARTMENT funds under this AGREEMENT, including consultant or construction contracts or amendments thereto. If the DEPARTMENT exercises this right and the LOCAL AGENCY fails to obtain such approval, the DEPARTMENT may deny payment to the LOCAL AGENCY. The DEPARTMENT may review the qualifications of any consultant or contractor and to approve or disapprove the employment of such consultant or contractor.

B. It is understood and agreed by the Parties that participation by the DEPARTMENT in a project that involves the purchase of commodities or contractual services or the purchasing of capital equipment or the equipping of facilities, where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Chapter 287.017 Florida Statutes, is contingent on the LOCAL AGENCY complying in full with the provisions of Chapter 287.057, Florida Statutes. The LOCAL AGENCY shall certify to the DEPARTMENT that the purchase of commodities or contractual services has been accomplished in compliance with Chapter 287.057, Florida Statutes. It shall be the sole responsibility of the LOCAL AGENCY to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the maximum participation amount in this AGREEMENT must be approved by the DEPARTMENT prior to LOCAL AGENCY execution. Failure to obtain such approval, and subsequent execution of an amendment to the AGREEMENT, if required, shall be sufficient cause for nonpayment by the DEPARTMENT.

C. Participation by the DEPARTMENT in a project that involves a consultant contract for engineering, architecture or surveying services, is contingent on the LOCAL AGENCY'S complying in full with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the LOCAL AGENCY shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.

D. If the PROJECT is procured pursuant to Chapter 255 for construction services and at the time of competitive solicitation for the PROJECT, 50 percent or more of the cost of the PROJECT is to be paid from state-appropriated funds, then the LOCAL AGENCY must comply with the requirements of Section 255.0991, Florida Statutes.

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E. The LOCAL AGENCY agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.

9 – CONSTRUCTION STANDARDS AND REQUIRED APPROVALS:

A. In the event the PROJECT includes construction, the following provisions are incorporated into this AGREEMENT:

1. In the event the PROJECT involves construction on the DEPARTMENT'S right-of-way, the LOCAL AGENCY shall provide the DEPARTMENT with written notification of either its intent to:

   i. Award the construction of the PROJECT to a qualified contractor which is the lowest and best bidder in accordance with the applicable state and federal statutes, rules, and regulations. The LOCAL AGENCY shall then submit a copy of the bid tally sheet(s) and awarded bid contract, or

   ii. Construct the PROJECT utilizing existing LOCAL AGENCY employees, if the LOCAL AGENCY can complete said PROJECT within the time frame set forth in this AGREEMENT. The LOCAL AGENCY'S use of this option is subject to approval by the DEPARTMENT.

2. The LOCAL AGENCY shall hire a qualified contractor using the LOCAL AGENCY'S normal bid procedures to perform the construction work for the PROJECT.

3. The LOCAL AGENCY is responsible for provision of Construction Engineering Inspection (CEI) services. The DEPARTMENT reserves the right to require the LOCAL AGENCY to hire a DEPARTMENT pre-qualified consultant firm that includes one individual that has completed the Advanced Maintenance of Traffic Level Training. Administration of the CEI staff shall be under the responsible charge of a State of Florida Licensed Professional Engineer who shall provide the certification that all design and construction for the PROJECT meets the minimum construction standards established by DEPARTMENT. The DEPARTMENT shall have the right to approve the CEI firm. The DEPARTMENT shall have the right, but not the obligation, to perform independent assurance testing during the course of construction of the PROJECT. Subject to the approval of the DEPARTMENT, the LOCAL AGENCY may choose to satisfy the requirements set forth in this paragraph by either hiring a DEPARTMENT prequalified consultant firm or utilizing LOCAL AGENCY staff that meet the requirements of this paragraph, or a combination thereof.

4. The LOCAL AGENCY shall ensure work for any portion of the PROJECT to be located on DEPARTMENT right-of-way shall conform to all applicable standards

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of the DEPARTMENT, as provided in Exhibit "O" – Terms and Conditions of Construction in Department Right of Way, which is attached to and incorporated into this AGREEMENT if a portion of the PROJECT will be located on the DEPARTMENT'S right-of-way.

5. The LOCAL AGENCY shall adhere to the DEPARTMENT'S Conflict of Interest Procedure (FDOT Topic No. 375-030-006).

6. The LOCAL AGENCY shall require the LOCAL AGENCY'S contractor to post a payment and performance bond in accordance with applicable law.

7. The LOCAL AGENCY shall be responsible to ensure that the construction work under this AGREEMENT is performed in accordance with the approved construction documents, and that it will meet all applicable LOCAL AGENCY and DEPARTMENT standards.

8. Upon completion of the work authorized by this AGREEMENT, the LOCAL AGENCY shall notify the Department in writing of the completion of construction of the PROJECT; and for all design work that originally required certification by a Professional Engineer, this notification shall contain an Engineers Certification of Compliance, signed and sealed by a Professional Engineer, the form of which is attached hereto and incorporated herein as Exhibit "C", Engineers Certification of Completion. The certification shall state that work has been completed in compliance with the PROJECT construction plans and specifications. If any deviations are found from the approved plans, the certification shall include a list of all deviations along with an explanation that justifies the reason to accept each deviation.

9. The LOCAL AGENCY shall provide the DEPARTMENT with as-built plans of any portions of the PROJECT funded through the AGREEMENT prior to final inspection.

10 – MAINTENANCE OBLIGATIONS:

A. In the event the PROJECT includes construction then the following provisions are incorporated into this AGREEMENT:

1. The LOCAL AGENCY agrees to maintain any portion of the Project not located on the State Highway System constructed under this AGREEMENT for its useful life. If the LOCAL AGENCY constructs any improvement on DEPARTMENT right-of-way, the LOCAL AGENCY

☒ shall

☐ shall not

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maintain the improvements located on the DEPARTMENT right-of-way made for their useful life, as well as all adjacent landscaping on that area. If the LOCAL AGENCY is required to maintain PROJECT improvements located on the DEPARTMENT right-of-way beyond final acceptance, then LOCAL AGENCY shall, prior to any disbursement of the State funding provided under this AGREEMENT, also execute a Maintenance Memorandum of Agreement in a form that is acceptable to the DEPARTMENT along with a Use and Occupancy Agreement to lease the property to be maintained for a period of fifty (50) years. The LOCAL AGENCY has agreed to the foregoing by resolution, and such resolution is attached and incorporated into this AGREEMENT as Exhibit "E". This provision will survive termination of this AGREEMENT.

11 – RESTRICTIONS, PROHIBITIONS, CONTROLS AND LABOR PROVISIONS:

A. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

B. In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to a public entity; may not be awarded or perform work as a contractor, supplier, subcontractor or consultant under a contract with any public entity; and may not transact business with any public entity.

C. An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied or have further been determined by the DEPARTMENT to be a non-responsible contractor may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the LOCAL AGENCY.

D. No funds received pursuant to this AGREEMENT may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.

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E. The DEPARTMENT shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this AGREEMENT.

12 – INDEMNIFICATION AND INSURANCE:

A. It is not intended by any of the provisions of any part of this AGREEMENT to create in the public or any member thereof, a third-party beneficiary under this AGREEMENT, or to authorize anyone not a party to this AGREEMENT to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this AGREEMENT. The LOCAL AGENCY guaranties the payment of all just claims for materials, supplies, tools, or labor and other just claims against the LOCAL AGENCY or any subcontractor, in connection with this AGREEMENT. Additionally, to the extent permitted by law and as limited by and pursuant to the provisions of Section 768.28, Florida Statutes, the LOCAL AGENCY agrees to indemnify and hold harmless the DEPARTMENT, including the DEPARTMENT'S officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the LOCAL AGENCY and persons employed or utilized by the LOCAL AGENCY in the performance of this AGREEMENT. This indemnification shall survive the termination of this AGREEMENT. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida and the LOCAL AGENCY'S sovereign immunity. Additionally, the LOCAL AGENCY agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this AGREEMENT:

> "To the fullest extent permitted by law, the LOCAL AGENCY'S contractor/consultant shall indemnify and hold harmless the LOCAL AGENCY and the State of Florida, Department of Transportation, including the DEPARTMENT'S officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor or consultant and persons employed or utilized by the contractor or consultant in the performance of this Agreement.
>
> This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida or the LOCAL AGENCY'S sovereign immunity."

B. The LOCAL AGENCY shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultants have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law.

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If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships or partners are covered by insurance required under Florida's Workers' Compensation law.

C. If the LOCAL AGENCY elects to self-perform the PROJECT, and such self-performance is approved by the DEPARTMENT in accordance with the terms of this AGREEMENT, the LOCAL AGENCY may self-insure, and proof of self-insurance shall be provided to the DEPARTMENT. If the LOCAL AGENCY elects to hire a contractor or consultant to perform the PROJECT, then the LOCAL AGENCY shall, or cause its contractor or consultant to carry Commercial General Liability insurance providing continuous coverage for all work or operations performed under the AGREEMENT. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The LOCAL AGENCY shall or cause its contractor to cause the DEPARTMENT to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the DEPARTMENT as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than $1,000,000 for each occurrence and not less than a $5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the AGREEMENT and may not be shared with or diminished by claims unrelated to the AGREEMENT. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the LOCAL AGENCY is a state agency or subdivision of the State of Florida that elects to self-perform the PROJECT. Prior to the execution of the AGREEMENT, and at all renewal periods which occur prior to final acceptance of the work, the DEPARTMENT shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The DEPARTMENT shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The DEPARTMENT'S approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the DEPARTMENT may have.

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

E. When the AGREEMENT involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the DEPARTMENT as an Additional Insured on the Commercial General Liability policy/ies procured above.

13 – MISCELLANEOUS:

A. In no event shall any payment to the LOCAL AGENCY constitute or be construed as a waiver by the DEPARTMENT of any breach of covenant or any default which may then exist on the part of the LOCAL AGENCY and the making of such payment by the DEPARTMENT, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the DEPARTMENT with respect to such breach or default.

B. If any provision of this AGREEMENT is held invalid, the remainder of this AGREEMENT shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.

C. The Parties agree that the LOCAL AGENCY, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the DEPARTMENT as a result of this AGREEMENT.

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D. By execution of this AGREEMENT, the LOCAL AGENCY represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.

E. Nothing in this AGREEMENT shall require the LOCAL AGENCY to observe or enforce compliance with any provision or perform any act or do any other thing in contravention of any applicable state law. If any of the provisions of the AGREEMENT violate any applicable state law, the LOCAL AGENCY will at once notify the DEPARTMENT in writing in order that appropriate changes and modifications may be made by the Parties to the end that the LOCAL AGENCY may proceed as soon as possible with the PROJECT.

F. This AGREEMENT may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same AGREEMENT. A facsimile or electronic transmission of this AGREEMENT with a signature on behalf of a Party will be legal and binding on such Party.

G. This document incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein, and the Parties agree that there are no commitments, agreements or understandings concerning the subject matter of this AGREEMENT that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements, whether written or oral. It is further agreed that no modification, amendment, or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

H. The DEPARTMENT reserves the right to unilaterally terminate this Agreement for failure by the LOCAL AGENCY to comply with the provisions of Chapter 119, Florida Statutes.

I. This AGREEMENT shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of this AGREEMENT and Florida law, the laws of Florida shall prevail. The LOCAL AGENCY agrees to waive forum and venue and that the DEPARTMENT shall determine the forum and venue in which any dispute under this AGREEMENT is decided.

J. Notices pursuant to this AGREEMENT shall be sent by U.S. Mail to the following addresses:

FOR THE DEPARTMENT:

Florida Department of Transportation – Local Programs Office
1074 Highway 90
Chipley, Florida 32428

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FOR THE LOCAL AGENCY:

CITY OF PENSACOLA – City Administrator
222 W Main Street
Pensacola, Florida 32502

IN WITNESS WHEREOF, the Parties have executed this AGREEMENT on the dates set forth below.

LOCAL AGENCY:

CITY OF PENSACOLA, FLORIDA

By: David Forte
Name:
Title: Deputy City Administrator
Date: 9/30/22

ATTEST:

By: Ericka L. Burnett
Name: Ericka L. Burnett
Title: City Clerk (Seal)

LOCAL AGENCY LEGAL REVIEW:

By:

DEPARTMENT:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

DocuSigned by:
By: Tim Smith
00EA910BEA3D404...
Name: Tim Smith, P.E.
Title: Director of Transportation Development
Date: 10/20/2022 | 8:28 AM EDT

ATTEST:

By:
Krissy Cook
Executive Secretary (Seal)

DEPARTMENT LEGAL REVIEW:

DocuSigned by:
By: Cary Hawkins
4F4EEFF2332E498...
Office of the General Counsel

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EXHIBIT A

PROJECT DESCRIPTION AND RESPONSIBILITIES

FPN: 409334-1-58-02

This exhibit forms an integral part of the Agreement between the State of Florida, Department of Transportation and

The City of Pensacola (the Recipient)

PROJECT LOCATION:

☐ The project is on the National Highway System.

☒ The project is on the State Highway System.

PROJECT LENGTH AND MILE POST LIMITS: 300ft, RDWY 48100000 at approximately MP 3.451

PROJECT DESCRIPTION: The City of Pensacola intends to replace the Five Flags Memorial removed by the Department during construction of the Three Mile Bridge project. The project will consist of the design and construction of a sign that displays a welcome message, such as "now entering" or "welcome to" Pensacola. The project will include minimal grading, landscaping, hardscaping, and potential adjustment to an existing storm water inlet located in close proximity to the project area.

SPECIAL CONSIDERATIONS BY RECIPIENT:

The Recipient is required to provide a copy of the design plans for the Department's review and approval to coordinate permitting with the Department, and notify the Department prior to commencement of any right-of-way activities.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
The Department hereby notifies the Recipient that for projects that are not located on the Department's right-of-way, the Recipient is required to hire a contractor prequalified by the Department.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
For the provision of Construction Engineering Inspection (CEI) services, the Recipient is required to hire a Department pre-qualified consultant in the appropriate work type.

In accordance with Section 9a. of this Agreement, the Parties agree as follows:
The Recipient is required to hire a Department pre-qualified consultant in the appropriate work type for the design phase of the Project.

The Recipent shall be responsible for all permitting activities related to the project and notify the Department prior to commencement of any right-of-way activities.

The Recipient shall provide a copy of the design plans for the Department's review and approval prior to advertisement. Plans shall be submitted at 60%, 90% and final plans with the engineer's cost estimate, Utility Certification, Permit Certification, Right of Way Certification, Railroad Certification, and a complete set of draft bid documents in PDF (Portable Document Format). The Recipient shall be responsible for addressing all plan review comments in the Department's

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Electronic Review Comments (ERC) System.

The Recipient shall submit to the Department the bid tabulations and award intent for review and concurrence prior to award and will submit the signed construction contract for records upon execution of the final document.

Off the State Highway System (Off-System) construction projects must be administered in accordance with latest version of the Manual of Uniform Minimum Standards for Design, Construction and Maintenance for Streets and Highways Florida (also known as the Florida Greenbook).

On the State Highway System (On-System) construction projects must be administered in accordance with the FDOT Construction Project Administration Manual (Topic no. 700-000-000). Materials will be inspected in accordance with the FDOT Sampling Testing and Reporting Guide by Material Description and the FDOT Materials Manual (Topic No. 675-000-000). Divisions II and III of the FDOT Standard Specifications for Road and Bridge Construction and implemented modifications must be used. The Recipient will be responsible for all project level inspection, verification testing, and assuring all data are entered into Materials Acceptance and Certification System (MAC) as appropriate. In addition, the following Off the State Highway System (Off-System) and Off the National Highway System projects will be administered as above: all bridge projects; box culverts; and all projects with a construction value of $10 million or more.

The Recipient shall commence the project's activities subsequent to the execution of this Agreement and shall perform in accordance with the following schedule:

a) Study to be completed by NA .
b) Design to be completed by 2/15/23 .
c) Right-of-Way requirements identified and provided to the Department by NA
d) Right-of-Way to be certified by NA
e) Construction contract to be let by 4/15/23.
f) Construction to be completed by 8/31/23.

If this schedule cannot be met, the Recipient will notify the Department in writing with a revised schedule or the project is subject to the withdrawal of funding.

SPECIAL CONSIDERATIONS BY DEPARTMENT:
The Department will issue a Notice to Proceed to advertise for construction to the Recipient after final plans, bid documents, construction estimate, and all nesscary certifications have been reviewed and approved.

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EXHIBIT B
SCHEDULE OF FINANCIAL ASSISTANCE

RECIPIENT NAME & BILLING ADDRESS:	FINANCIAL PROJECT NUMBER:
City of Pensacola 222 West Main Street Pensacola, Florida 32502	409334-1-58-02

PHASE OF WORK by Fiscal Year:		MAXIMUM PARTICIPATION (1) TOTAL PROJECT FUNDS	(2) LOCAL FUNDS	(3) STATE FUNDS	Indicate source of Local funds
Design- Phase 34 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Design Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Right-of-Way- Phase 44 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Right-of-Way Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction- Phase 54 FY:	Maximum Department Participation (Insert Program Name	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
Construction Engineering and Inspection - Phase 64 FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Construction Engineering and Inspection Cost	$ 0.00 %	$ 0.00 %	$ 0.00 %	
(Phase : 58) FY: **2023**	Maximum Department Participation (BRP - State funds)	$370,000.00	$0.00	$370,000.00	☐ In-Kind ☐ Cash
FY:	Maximum Department Participation (Insert Program Name)	$	$	$	☐ In-Kind ☐ Cash
	Total Cost	$370,000.00 %	$ 0.00 %	$370,000.00 %	
	TOTAL COST OF THE PROJECT	$370,000.00	$ 0.00	$370,000.00	

COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:
I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, F.S. Documentation is on file evidencing the methodology used and the conclusions reached.

Maria Showalter - Local Programs Administrator
District Grant Manager Name

DocuSigned by:
Maria Showalter
6250BD1C42F7475...
Signature

10/10/2022 | 3:43 PM EDT
Date

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EXHIBIT C

(select above)

Engineer's Certification of Compliance. The Recipient shall complete and submit the following Notice of Completion and, if applicable, Engineer's Certification of Compliance to the Department upon completion of the construction phase of the Project.

NOTICE OF COMPLETION

STATE-FUNDED GRANT AGREEMENT
Between
THE STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
and City of Pensacola

PROJECT DESCRIPTION: Replacement of sign to signify entrance to City of Pensacola to replace the former Five Flags Memorial Plaza.

FPID#: 409334-1-58-02

In accordance with the Terms and Conditions of the State-Funded Grant Agreement, the undersigned provides notification that the work authorized by this Agreement is complete as of _____, 20__.

By: _____

Name: _____

Title: _____

ENGINEER'S CERTIFICATION OF COMPLIANCE

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

By: _____, P.E.

SEAL:

Name: _____

Date: _____

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EXHIBIT F

CONTRACT PAYMENT REQUIREMENTS
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts

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

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

Salaries: Timesheets that support the hours worked on the project or activity must be kept. A payroll register, or similar documentation should be maintained. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

Fringe benefits: Fringe benefits should be supported by invoices showing the amount paid on behalf of the employee, e.g., insurance premiums paid. If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown. Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

Travel: Reimbursement for travel must be in accordance with s. 112.061, F.S., which includes submission of the claim on the approved state travel voucher along with supporting receipts and invoices.

Other direct costs: Reimbursement will be made based on paid invoices/receipts and proof of payment processing (cancelled/processed checks and bank statements). If nonexpendable property is purchased using state funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with DMS Rule 60A-1.017, F.A.C., regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in s. 273.02, F.S., for subsequent transfer to the State.

Indirect costs: If the contract stipulates that indirect costs will be paid based on a specified rate, then the calculation should be shown. Indirect costs must be in the approved agreement budget and the entity must be able to demonstrate that the costs are not duplicated elsewhere as direct costs. All indirect cost rates must be evaluated for reasonableness and for allowability and must be allocated consistently.

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

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

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EXHIBIT G

Composite Exhibit - Original Agreement, Deed and Amendment to Original agreement

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

AGREEMENT

BETWEEN

THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

AND

THE CITY OF PENSACOLA

This Agreement is entered into by the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (the "Department") and the CITY OF PENSACOLA, a municipal corporation authorized and existing under the laws of the State of Florida (the "City").

RECITALS

1. The Department has undertaken a project (FDOT Item/Segment No. 4093341) for the replacement of SR30 Pensacola Bay Bridge No. 480035 (the "Project").

2. After the beginning of construction, the Department determined to incorporate in the Project the design and construction of the 17th Avenue Interchange on the northern landing of the Pensacola Bay Bridge.

3. The Department requires additional right of way for the construction of the proposed Interchange.

4. Pursuant to section 337.25(1)(b), Florida Statutes, the Department may accept donations of any land, buildings, or other improvements, including personal property within such buildings or on such lands with or without such conditions, reservations, or reverter provisions as are acceptable to the Department. Such donations may be used as transportation rights-of-way or to secure or use transportation rights-of-way for existing, proposed, or anticipated transportation facilities on the State Highway System.

5. The City is the current owner of property ("Property") upon which the "Pensacola Florida – City of Five Flags" memorial ("Five Flags Memorial") is located, and which Property can be used as transportation right-of-way for anticipated transportation facilities associated with the 17th Avenue Interchange portion of the Project.

6. The City desires to donate the Property to the Department upon the condition, but not as any form of consideration but only as mitigation of impacts to the City and as a replacement, that the Five Flags Memorial be replaced with a sign by and at the sole expense of the Department.

7. The Department is authorized pursuant to Section 334.044, Florida Statutes, to enter into contracts and agreements, and pursuant to Section 337.25 to accept donations of land and other property for transportation rights of way.

8. The City is authorized to enter into this Agreement pursuant to the Resolution of its City Council attached hereto.

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NOW THEREFORE, in consideration of the mutual benefits to be derived from the Project and the Interchange, the parties agree to the following:

9. The recitals set forth in numbered paragraphs 1 through 8 above are true and correct and are deemed incorporated into this Agreement.

10. At, or within 15 days after, the execution of this Agreement by the City and the Department, the City shall convey to the Department a fee simple interest in the Property by deed in the form attached to this Agreement as Exhibit "A," and simultaneously therewith supply the Department with an executed Donation of Property to FDOT form in the form attached to this Agreement as Exhibit "B."

11. The replacement of the Five Flags Memorial with a sign will be performed pursuant to the provisions of Exhibit "C" attached to this Agreement. Simultaneously with the execution and delivery of Exhibits "A" and "B", the City will deliver a Use and Occupancy Agreement signed on the City's behalf and in the form attached to this Agreement as Exhibit "D".

12. The City makes the conveyance of the property interests referred to above as a negotiated donation of said property interests to the State of Florida for the use of the Department, and acknowledges and waives its rights to have such property interests appraised including therein the Five Flags Memorial, to accompany the appraiser during the appraisal inspection of the property, to receive full compensation of the above referenced property, and to receive reimbursement for reasonable fees and costs.

13. The City hereby confirms that it complied with all applicable federal regulations when it acquired the Property.

14. This Agreement and any interest herein shall not be assigned, transferred or otherwise encumbered by the City without the prior written consent of the Department. However, this Agreement shall run to the Department and its successors.

15. This Agreement is governed by and construed in accordance with the Laws of the State of Florida

16. The effective date of this Agreement shall be the latest date on which a party executes this Agreement.

17. This Agreement may be executed in two or more counterparts, each of which shall be an original but all of which shall be deemed to be but one Agreement.

IN WITNESS WHEREOF, the City has caused this Agreement to be executed in its behalf this 14 day of Nov., 2018, by its Mayor, being authorized to enter into and execute same by action of the City Council meeting in regular session on the 8 day of November 2018, and the Department has executed this Agreement through its District Secretary for District III, Florida Department of Transportation on the date set forth below.

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

CITY COUNCIL

CITY OF PENSACOLA, FLORIDA

BY: _____
Ashton Hayward, MAYOR

ATTEST: ERICKA BURNETT

CITY CLERK

_____
City Clerk

Approved as To Form:

_____
CITY ATTORNEY

STATE OF FLORIDA
DEPARTMENT OF TRANSPORATION

BY: _____
PHILLIP GAINER, P.E.
DISTRICT SECRETARY
1074 Highway 90
Chipley, FL 32428

ATTEST:

_____
EXECUTIVE SECRETARY (SEAL)

Date.

Legal Review:

_____
OFFICE OF GENERAL COUNSEL

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "A"

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Recorded in Public Records 1/9/2019 8:53 AM OR Book 8027 Page 1193, Instrument #2019001978, Pam Childers Clerk of the Circuit Court Escambia County, FL Recording $27.00

Prepared under the direction of:
Office of the General Counsel
Cary Hawkins, Assistant General Counsel
Florida Department of Transportation
Post Office Box 607
Chipley, Florida 32428

COUNTY:	Escambia
ITEM/SEGMENT NO.:	48100-2501
STATE ROAD:	30 (US 98)
PARCEL NO.:	SRD12,19&21

QUITCLAIM DEED

THIS INDENTURE, made this 14TH day of NOVEMBER 2018, by and between the **CITY OF PENSACOLA**, Florida, whose address is 222 West Main Street, Pensacola, Florida 32502, as the Party of the First Part and the **STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION,** whose address is 1074 Hwy 90 East, Chipley, Florida 32428, Party of the Second Part.

WITNESSETH

NOW, THEREFORE, THIS INDENTURE WITNESSETH: That the Party of the First Part, does hereby remise, release and quitclaim unto the Party of the Second Part, and assigns, forever, all the right, title and interest of the City of Pensacola to the property described below, to wit:

A parcel of land situate, lying and being in Block 211, 15th Avenue and DeLeon Street, Waterfront or Pintado Grant, City of Pensacola, according to map of said City, copyrighted by Thomas C. Watson in 1906, being described as follows: Commence at the Southeast corner of Block 32, New City Tract according to said map copyrighted by Thomas C. Watson; thence South 10°24'24.26" East 102.55 feet; thence North 69°08'25.74" East 197.58 feet to the beginning of a curve, concave to the Southerly having a radius of 1869.87 feet; thence run Northeasterly 332.60 feet along said curve through a central angle of 10°11'29" to the end of curve; thence North 10°24'24" West 50.00 feet to the POINT OF BEGINNING; thence continue North 10°24'24" West 111.70 feet to a point on a curve, concave Southwesterly having a radius of 1422.69 feet; thence from a tangent bearing of South 83°59'05" East run Southeasterly 350.99 feet along said curve through a central angle of 14°08'18" to the end of curve, said point being the beginning of a curve, concave Southerly having a radius of 693.21 feet; thence from a tangent

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bearing of North 87°19'54" West run Northwesterly, Westerly and Southwesterly 69.91 feet along said curve through a central angle of 5°46'43" to the end of curve, said point being the beginning of a curve, concave Southerly, having a radius of 1919.87 feet; thence from a tangent bearing of South 86°53'24" West run Southwesterly 253.03 feet along said curve through a central angle of 7°33'05" to the end of said curve and the POINT OF BEGINNING;

Containing 18,693 square feet, more or less."

TO HAVE AND TO HOLD the said premises and the appurtenances thereof unto the Party of the Second Part.

TO HAVE AND TO HOLD the same together with the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest, lien, equity and claim whatsoever of the said grantor, either in law or equity, to the said grantee forever.

IN WITNESS WHEREOF, the City of Pensacola has caused these presents to be signed in the name of the City of Pensacola by its Mayor and its seal to be hereunto affixed, attested by its City Clerk, on the date first above written.

Signed and sealed CITY OF PENSACOLA
in our presence:

Witness:

Witness:

BY: _____
Ashton Hayward, Mayor
City of Pensacola

ATTEST: _____
Clerk, City of Pensacola

STATE OF FLORIDA
COUNTY OF ESCAMBIA

BEFORE ME, the undersigned authority, this day personally appeared, ASHTON J. HAYWARD, Mayor of Pensacola and, ERICKA L. BURNETT, Clerk, City of Pensacola, respectively, to me known to be the persons described in and who executed the foregoing instrument, and they severally acknowledged the execution thereof to be their free act and deed as such officers for the

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uses and purposes therein mentioned, and that they affixed thereto the official seal of said City of Pensacola, and the said instrument is the act and deed of said City of Pensacola.

WITNESS my hand and official seal this 14th day of Nov., 2018.

(NOTARIAL SEAL) Robyn M. Tice

ROBYN M. TICE
Commission # GG 104690
Expires June 8, 2021
Bonded Thru Troy Fain Insurance 800-385-7019

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "B"

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FDOT

Florida Department of Transportation
Office of Right of Way
1074 Highway 90
Chipley, Florida, 324262-41607

RICK SCOTT
GOVERNOR

MIIKE DEW
SECRETARY

Donation of Property to the Florida Department of Transportation

City of Pensacola
222 W. Mainstreet
Pensacola, FL 32502

ITEM/SEGMENT NO.:	48006-2501
MANAGING DISTRICT:	3
FAP NO.:	4221-084-C
STATE ROAD NO.:	SR 30
COUNTY:	Escambia
PARCEL NO.:	SRD12, 19, and 21
INTEREST CONVEYED:	City Deed

This is to advise that the undersigned, as owner of the property or property interest referenced above and as shown on Right of Way maps for referenced project, desires to make a voluntary donation of said property or property interest to the State of Florida for the use and benefit of the Florida Department of Transportation.

The undersigned hereby acknowledges that he/she has been fully advised by a Department representative of his/her right to have the referenced property or property interest appraised, to accompany the appraiser during the appraisal inspection of the property, to receive full compensation for the above referenced property, and to receive reimbursement for reasonable fees and costs incurred, if any. Having been fully informed of the above rights, I hereby waive those rights unless otherwise noted below.

Owner's Signature

Mayor Ashton Hayward, for The City of Pensacola

Type or Print Property Owner's Name

222 West Main Street,

Street Address

Pensacola, FL 32502

City, State, Zip Code

Date: 05/07/2018

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

EXHIBIT "C"

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Item/Segment No. 4093341
Replacement Pensacola Bay Bridge No. 480035
Right of Way
City of Pensacola

The Department will design and construct a sign to signify entrance to the City of Pensacola to replace the Five Flags Memorial being removed by the Department. The City of Pensacola will provide input into the development of the sign and review the design details of the sign. The Department will coordinate the final sign design dimensions, type, and location with the City of Pensacola. The City of Pensacola will provide design approval of the sign within a reasonable time frame prior to construction of the sign. The Department will provide funding for the design and construction of the sign of no more than $370,000. If the design and construction of the sign approved by the City of Pensacola is estimated to exceed $370,000, then the City of Pensacola will provide to the Department any additional funds necessary to cover the cost difference between $370,000 and the total cost of the sign prior to the start of construction. The sign location is anticipated to be in close proximity to, and west of, the existing location of the Five Flags Memorial between Bayfront Parkway and Gregory Street. The sign may include a small earthen berm to elevate it to an appropriate viewing elevation. The anticipated area that the earthen berm may be located in is approximately 10 feet by 60 feet. Sign location will be determined based on sign size. The horizontal width of the sign will be approximately 10 feet in width or less. The vertical height of the sign will be determined by text size and sign type. The Department will add landscaping around the sign. The sign and its adjacent landscaping will be maintained in perpetuity by the City of Pensacola after the Department completes the construction.

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STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

USE AND OCCUPANCY AGREEMENT

ITEM/SEGMENT NO.: 4093341
MANAGING DISTRICT: Three
F.A.P. NO.: 4221-084-C
STATE ROAD NO.: 30
COUNTY: Escambia
PARCEL NO.: _____

THIS **AGREEMENT**, made this _____ day of _____, _____, between City of Pensacola, a municipal corporation authorized and existing under the laws of the State of Florida at 222 West Main Street, Pensacola, Florida (Lessee) and the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (Department), an agency of the State of Florida (State).

WITNESSETH:

WHEREAS, the Department may convey a leasehold in the name of the State, in any land, buildings, or other property, real or personal, acquired under Section 337.25, Florida Statutes; and

WHEREAS, the United States Department of Transportation, Federal Highway Administration (FHWA), requires any use of airspace above, and/or below the highway's established gradeline, lying within the approved right of way limits on a Federal Aid System, to be accomplished pursuant to a right of way use and occupancy agreement in accordance with 23 CFR, Part 710, and

WHEREAS, the Department has acquired sufficient legal right, title, and interest in the right of way of US HWY 98 (SR30) Bayfront Pkwy & US HWY 98 (SR30) Gregory Street which includes the property described in Exhibit "A" attached hereto and made a part hereof, which right of way is part of a highway on a Federal Aid System; and

WHEREAS, the Department desires to lease to Lessee the airspace which is that space located above and/or below the gradeline of the property described in Exhibit "A", attached and such airspace is hereinafter referred to as the "real property interest" or the "leased property" and made a part hereof for the following purpose: location of the sign that replaces the Five Flags Memorial and landscaping associated with the sign.

WHEREAS, the proposed use will not impair the full use and safety of the highway, require or permit vehicular access to such space directly from the established gradeline of said highway, or interfere with the free flow of traffic on said highway.

NOW, THEREFORE, in consideration of the premises made a part hereof, and the covenants, promises, understandings, and agreements made by each party to the other as set forth herein, the Department and the Lessee do hereby mutually agree as follows:

1. Premises

The premises hereto are true and correct and form an integral part of this Agreement.

2. Term

The Department does hereby lease unto Lessee the real property interest for a period of Fifty (50) years beginning with the date of this Agreement. One renewal of this Agreement may be made for Fifty (50) years. However, except for a public purpose conveyance, such renewal may not exceed five years. Nothing herein shall be construed to in any way grant an interest in the property lying below said airspace.

3. Rent

a. Lessee shall pay to the Department as rent each ☐ month ☐ quarter ☐ year on or before the first day of each rent

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payment period, N/A plus applicable sales tax. When this Agreement is terminated, any unearned rent and sales tax payment shall be refunded to Lessee. However, no such refund shall be made where termination is due to Lessee's violation of a term or condition of this Agreement.

b. The Department reserves the right to review and adjust the rental fee biannually and at renewal to reflect market conditions.

c. All rental payments are to be made by check or money order, payable to the State of Florida Department of Transportation and delivered on or before the due date to: N/A

d. Lessee shall be responsible for all state, county, city, and local taxes that may be assessed, including real property taxes and special assessments. In the event that no rent is specified herein, then it has been determined that either the use by Lessee is a nonproprietary use by a governmental agency or an exception from the current fair market rental value requirement (23 U.S.C. Section 156) has been obtained for social, environmental, or economic mitigation (SEE) purposes. In the event that it should be determined at any time that the use is not a nonproprietary use by a governmental agency or that the SEE exception does not apply or has been revoked, Lessee agrees to pay, at that time, rent as determined to be the fair market rental value by an independent appraiser certified by the Department, and Lessee further agrees to pay such rent, under the remaining terms and conditions of this Paragraph 3, for the remaining term (including renewals) of this Agreement.

e. Any installment of rent not received within ten (10) days after the due date shall bear interest at the highest rate allowed by law from the due date thereof, per Section 55.03(1), Florida Statutes. This provision shall not obligate the Department to accept late rent payments or provide Lessee a grace period.

4. Use, Occupancy, and Maintenance

a. The Lessee shall be responsible for developing and operating the real property interest as set forth herein.

b. The Lessee's proposed use of the real property interest is as follows: location of the sign that replaces the Five Flags Memorial, and landscaping associated with the sign, and maintenance to the sign and the landscaping

c. The general design for the use of the real property interest, including any facilities to be constructed, and the maps, plans, and sketches setting out the pertinent features of the use of the real property interest in relation to the highway facility are set forth in composite Exhibit "B" attached hereto and by this reference made a part hereof. In addition, said composite Exhibit "B" also contains a three-dimensional description of the space to be used, unless the use is of a surface area beneath an elevated highway structure or adjacent to a highway roadway for recreation, public park, beautification, parking of motor vehicles, public mass transit facilities, or other similar uses, in which case, a metes and bounds description of the surface area, together with appropriate plans or cross sections clearly defining the vertical use limits, may be substituted for said three-dimensional description in said composite Exhibit "B".

d. Any change in the authorized use of the real property interest or revision in the design or construction of the facility described in Exhibit "B" shall require prior written approval from the appropriate District Secretary of the Department, subject to concurrence by the FHWA.

e. The Department, through its duly authorized representatives, employees, and contractors, and any authorized FHWA representative, may enter the facility at any time for the purpose of inspection, maintenance, or reconstruction of the highway and adjacent facilities, when necessary; or for the purpose of surveying, drilling, monitoring well installations, sampling, remediation, and any other action which is reasonable and necessary to conduct an environmental assessment or to abate an environmental hazard.

f. Lessee, at Lessee's sole cost and expense, shall maintain the facility to occupy the real property interest so as to assure that the structures and the area within the highway right of way boundaries will be kept in good condition, both as to safety and appearance. Such maintenance will be accomplished in a manner so as to cause no unreasonable interference with the highway use. Lessee shall ensure vertical and horizontal access to the Department for maintenance purposes. In the event that Lessee fails to so maintain the facility, the Department, through its duly authorized representatives, employees, and contractors, may enter the facility to perform such work, and the cost thereof shall be chargeable to the Lessee and shall be immediately due and payable to the Department upon the performance of such work.

g. Portable or temporary advertising signs are prohibited.

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h. The design, occupancy, and use of the real property interest shall not adversely affect the use, safety, appearance, or enjoyment of the highway by lights, sounds, wireless frequencies, smoke, fumes, vapors, odors, droppings, or any other objectionable discharges, or emissions, or nuisances of any kind therefrom.

i. When, for the proposed use of the real property interest, the highway requires additional highway facilities for the proper operation and maintenance of the highway, such facilities shall be provided by the Lessee without cost to either the Department or the FHWA and subject to both Department and FHWA approval.

j. The proposed use shall not cause or allow any changes in the existing drainage on the property under the real property interest.

k. Lessee shall not occupy, use, permit, or suffer the real property interest, the property, the facility, or any part thereof to be occupied or used for any illegal business use or purpose, for the manufacture or storage of flammable, explosive, or hazardous material, or any other hazardous activity, or in such manner as to constitute a nuisance of any kind, nor for any purpose or in any way in violation of any present or future federal, state, or local laws, orders, directions, ordinances, or regulations.

l. Any activities in any way involving hazardous materials or substances of any kind whatsoever, either as those terms may be defined under any state or federal laws or regulations, or as those terms are understood in common usage, are specifically prohibited. The use of petroleum products, pollutants, and other hazardous materials affecting the property is prohibited. Lessee shall be held responsible for the performance of and payment for any environmental remediation that may be necessary, as determined by the Department. Similarly, if any contamination either spread to or was released onto adjoining property as a result of Lessee's use of the real property interest under lease, the Lessee shall be held similarly responsible. The Lessee shall indemnify, defend, and hold harmless the Department from any claim, loss, damage, cost, charge, or expense arising out of any such contamination.

m. Existing utilities and all corresponding easements shall remain in place and Lessee shall not disturb or interfere with the same.

5. Indemnification. *(select applicable paragraph)*

☒ **Lessee is a Governmental Agency**

To the extent provided by law, Lessee shall indemnify, defend, and hold harmless the Department and all of its officers, agents, and employees from any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by Lessee, its officers, agents, or employees, during the performance of the Agreement, except that neither Lessee, its agents, or its employees will be liable under this paragraph for any claim, loss, damage, cost, charge, or expense arising out of any act, error, omission, or negligent act by the Department or any of its officers, agents, or employees during the performance of the Agreement.

When the Department receives a notice of claim for damages that may have been caused by Lessee in the performance of services required under this Agreement, the Department will immediately forward the claim to Lessee. Lessee and the Department will evaluate the claim and report their findings to each other within fourteen (14) working days and will jointly discuss options in defending the claim. After reviewing the claim, the Department will determine whether to require the participation of Lessee in the defense of the claim or to require that Lessee defend the Department in such claim as described in this section. The Department's failure to promptly notify Lessee of a claim shall not act as a waiver of any right herein to require the participation in or defense of the claim by Lessee. The Department and Lessee will each pay its own expenses for the evaluation, settlement negotiations, and trial, if any.
Note: No longer required for local governments.

☐ **Lessee is not a Governmental Agency**

Lessee shall indemnify, defend, save, and hold harmless the Department, its agents, officers, and employees, from any losses, fines, penalties, costs, damages, claims, demands, suits, and liabilities of any nature, including attorney's fees (including regulatory and appellate fees), arising out of or because of any acts, action, neglect, or omission by Lessee, or due to any accident, happening, or occurrence on the leased property or arising in any manner from the exercise or attempted exercise of Lessee's rights hereunder whether the same regards person or property of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of the Department.

Lessee's obligation to indemnify, defend, and pay for the defense or at the Department's option, to participate, and to associate with the Department in the defense and trial of any claim and any related settlement negotiations, shall be triggered by the Lessor's notice of claim for indemnification to Lessee. Lessee's inability to evaluate liability or its evaluation of liability shall not excuse Lessee's duty to defend and indemnify within seven days after such notice by the Department is given by registered mail. Only an adjudication or judgment after the highest appeal is exhausted specifically finding the Department solely negligent shall excuse performance of this provision by Lessee. Lessee shall pay all costs and fees related to this obligation and its enforcement by the Department. The Department's failure to notify Lessee of a claim shall not release Lessee of the above duty to defend.
Note: No longer required for local governments.

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6. Insurance. Lessee at its expense, shall maintain at all times during the term of this Agreement, public liability insurance protecting the Department, FHWA, and Lessee against any and all claims for injury and damage to persons and property, and for the loss of life or property occurring in, on, or about the land arising out of the act, negligence, omission, nonfeasance, or malfeasance of Lessee, its employees, agents, contractors, customers, licensees, and invitees. Such insurance shall be carried in a minimum amount of not less than N/A ($ _____) for bodily injury or death to any one person or any number of persons in any one occurrence and not less than N/A ($ _____) for property damage, or a combined coverage of not less than N/A ($ _____). All such policies shall be issued by companies licensed to do business in the State of Florida and all such policies shall contain a provision whereby the same cannot be canceled or modified unless the Department is given at least sixty (60) days prior written notice of such cancellation or modification. Lessee shall provide the Department certificates showing such insurance to be in place and showing the Department and FHWA as additional insured under the policies. If self-insured or under a risk management program, Lessee represents that such minimum coverage for liability will be provided for the property.

7. Termination

a. This Agreement may be terminated by either party without cause upon 180 (180) days prior written notice to the other party.

b. It is understood and agreed to by the Lessee that the Department reserves the right to terminate this Agreement immediately without prior notice, in the event the Lessee violates any of the conditions of this Agreement and such violation is not corrected within a reasonable time after written notice of noncompliance has been given. In the event the Agreement is terminated and the Department deems it necessary to request the removal of the facility on the property, the removal shall be accomplished by the Lessee in a manner prescribed by the Department at no cost to the Department or the FHWA.

c. The Lessee must notify the Department of its intention to renew this Agreement not later than thirty (30) days prior to the expiration of the original term. Lessee's failure to comply with the foregoing notice provision may result in the Department's refusal to renew the Agreement.

d. Upon termination of this Agreement, Lessee shall deliver the property to the Department, or its agents, in the condition existing at the commencement of this Agreement, normal wear and tear excepted, unless a facility, any improvement, or any part thereof has been constructed on the property.

e. If removal of the facility, improvements, or any part thereof is requested by the Department, any such structures shall be removed by the Lessee at Lessee's expense by midnight of the day of termination of this Agreement and the property restored as nearly as practicable.

f. This Agreement is terminable by the Department in the event that the facility ceases to be used for its intended purpose, is abandoned, or if use of the facility is required by the Department for transportation, maintenance or emergency purposes.

8. Eminent Domain

Lessee acknowledges and agrees that its relationship with the Department under this Agreement is one of landlord and tenant and no other relationship either expressed or implied shall be deemed to apply to the parties under this Agreement. Termination of this Agreement for any cause shall not be deemed a taking under any eminent domain or other law so as to entitle Lessee to compensation for any interest suffered or lost as a result of termination of this Agreement, including any residual interest in the Agreement or any other facts or circumstances arising out of or in connection with this Agreement.

Lessee hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort, including special damages, severance damages, removal costs, or loss of business profits, resulting from Lessee's loss of occupancy of the property specified in this Agreement, or any such rights, claims, or damages flowing from adjacent properties owned or leased by Lessee as a result of Lessee's loss of occupancy of the property specified in this Agreement. Lessee also hereby waives and relinquishes any legal rights and monetary claims which it might have for full compensation, or damages of any sort as set out above, as a result of Lessee's loss of occupancy of the property, when any or all adjacent properties owned or leased by Lessee are taken by eminent domain proceedings or sold under the threat thereof. This waiver and relinquishment applies whether this Agreement is still in existence on the date of taking or sale or has been terminated prior thereto.

9. Miscellaneous

a. The real property interest and Lessee's rights under this Agreement shall not be transferred, assigned, pledged or conveyed to another party without the prior written consent of the Department, subject to concurrence by the FHWA. Lessee shall not allow any liens or other encumbrances to attach to the leased property.

b. In conformance with the Civil Rights Act of 1964 (Title VI, Appendix "C") and 49 CFR Part 21, Lessee agrees as follows:

1. That as a part of the consideration hereof, Lessee does hereby covenant and agree as a covenant running with the land that (1) no person, on the grounds of race, color, sex, or national origin shall be excluded from participation in,

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be denied the benefits of, or be otherwise subjected to discrimination in the use of said property and facility; (2) that in connection with the construction of any improvements on said property and facility and the furnishing of services thereon, no discrimination shall be practiced in the selection of employees and contractors, by contractors; and (3) that the Lessee shall use the property and facility in compliance with all other requirements imposed pursuant to 49 CFR part 21..

2. That in the event of breach of any of the above covenants, the Department shall have the right to terminate this Agreement and to re-enter and repossess said property and the facility thereon, and hold the same as if this Agreement had never been made or issued.

c. During the term of this Agreement Lessee shall, at Lessee's own cost and expense, promptly observe and comply with all present or future laws, requirements, orders, directions, ordinances, and regulations of the United States of America, the State of Florida, county or local governments, or other lawful authority whatsoever, affecting the land, property, and facility or appurtenances or any part thereof, and of all insurance policies covering the property, land, and facility, or any part thereof.

d. In addition to or in lieu of the terms and conditions contained herein, the provisions of any Addendum of even date herewith which is identified to be a part hereof is hereby incorporated herein and made a part hereof by this reference. In the event of any conflict between the terms and conditions hereof and the provisions of the Addendum(s), the provisions of the Addendum(s) shall control, unless the provisions thereof are prohibited by law.

e. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof and supersedes all prior agreements, understandings, or negotiations with respect thereto. Any provision hereof found to be unlawful or unenforceable shall be severable and shall not affect the validity of the remaining portions hereof.

f. Lessee acknowledges that it has reviewed this Agreement, is familiar with its terms, and has had adequate opportunity to review this Agreement with legal counsel of Lessee's choosing. Lessee has entered into this Agreement freely and voluntarily. This Agreement contains the complete understanding of the parties with respect to the subject matter hereof. All prior understandings and agreements, oral or written, heretofore made between the parties and/or between Lessee and any previous owner of the property and landlord of Lessee are merged in this Agreement, which alone, fully and completely express the agreement between Lessee and the Department with respect to the subject matter hereof. No modification, waiver, or amendment of this Agreement or any of its conditions or provisions shall be binding upon the Department or Lessee unless in writing and signed by both parties.

g. Lessee shall be solely responsible for all bills for electricity, lighting, power, gas, water, telephone, and telegraph services, or any other utility or service used on the property.

h. This Agreement shall be governed by the laws of the State of Florida, and any applicable laws of the United States of America.

i. All notices to the Department shall be sent to the address for rent payments and all notices to Lessee shall be sent to the property address provided herein or otherwise provided in writing to the Department.

j. The parties to this Agreement hereby understand and agree that the venue for any action that may arise as a result of this Agreement shall be in Leon County, Florida.

k. If Lessee is a "contractor" for the purposes of Section 119.0701, Florida Statutes, Lessee shall comply with public records laws and specifically shall:

1. Keep and maintain the public records that ordinarily and necessarily would be required to be kept and maintained by the Department in order to perform the services identified herein.

2. Provide the public with access to those public records on the same terms and conditions that the Department would provide the records and at a cost that does not exceed the cost provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.

4. Meet all requirements for retaining the public records and transfer, at no cost, to the Department all the public records in possession of Lessee upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All such public records (if any) stored electronically must be provided to the Department in a format that is compatible with the information technology systems of the Department.

If Lessee fails during such times to comply with a public records request, the Department shall enforce this section in accordance with this Agreement.

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Lessee shall otherwise allow public access to all documents, papers, letters or other materials, made or received by Lessee in connection with this Agreement and the lease of the Demised Premises, to the extent such access is required because such documents, papers, letters or other materials are subject to the provisions of s. 24(a) of the State Constitution or Chapter 119, Florida Statutes.

l. Section 287.133(3)(a), Florida Statutes, requires that Lessee be informed of the following provisions of section 287.133 (2)(a), Florida Statues: "A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in section 287.017, F.S., for Category two for a period of thirty-six (36) months from the date of being placed on the convicted vendor list.

m. The Department shall consider the employment knowingly by Lessee of unauthorized aliens a violation of Section 274(e) of the Immigration and Nationalization Act. Such violation shall be cause for unilateral cancellation of this Agreement.

n. This Agreement shall not create any third-party beneficiary hereunder, nor shall this Agreement authorize anyone not a party hereto to maintain a suit against the Department pursuant to the terms of this Agreement.

o. This Agreement shall be binding upon the successors, assigns and legal representatives of Lessee and the Department.

p. All Exhibits attached to this Agreement are made a part hereof as if fully copied herein. All submittals required to be submitted by Lessee that are approved by the Department are by reference made a part of this Agreement as if fully copied herein.

q. Nothing in this Agreement or in any documents executed pursuant to the terms of this Agreement shall be construed as a waiver or attempted waiver by the Department of its sovereign immunity in tort under the Constitution and laws of the State of Florida.

r. "RADON GAS: Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county health department.

g. Lessee does not qualify for relocation benefits under the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (42 U.S.C. Section 4601 et seq.)

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IN WITNESS WHEREOF, the parties hereto have caused these presents to be executed, the day and year first above written.

City of Pensacola
LESSEE (Company Name, if applicable)

By: _____

Name: Ashton J. Hayward, III

Title: Mayor

Attest: _____ (Seal)

Name: Ericka L. Burnett

Title: City Clerk

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

Name: Phillip Gainer, P.E.

Attest: _____

Name/Title: _____

Legal Review:

_____
District Counsel

Name: _____

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

ADDENDUM

This is an Addendum to that certain Right of Way Use and Occupancy Agreement between City of Pensacola, a municipal corporation authorized and existing under the laws of the State of Florida and the State of Florida Department of Transportation dated the _____ day of _____, _____. In addition to the provisions contained in said Agreement, the following terms and conditions shall be deemed to be a part thereof pursuant to Paragraph 9 (d) of said Agreement:

The Department will design and construct a sign to replace the current Five Flags Memorial as a result of construction associated with the Department's project identified by Item/Segment No. 4093341. The sign will be located on property donated by Lessee and upon which the current Five Flags Memorial is located. After completion of the construction of the sign and installation of landscaping associated therewith, the Department will provide the Lessee with a written description of the property encompassing said sign and landscaping, signed by the Department's District Secretary. The signed description shall become a part of this Agreement and Exhibit "A" thereof, without more, and shall be deemed to be the "real property interest" or "leased property" to which Exhibit "A" and this Agreement pertain.

City of Pensacola
LESSEE (Company Name, if applicable)

By: Ashton J. Hayward, III

Name: Ashton J. Hayward, III

Title: Mayor

Attest: Ericka L. Burnett (Seal)

Name: Ericka L. Burnett

Title: City Clerk

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

By: _____
District Secretary

Name: Phillip Gainer, P.E.

Attest: _____

Name/Title: Exec Asst.

Legal Review:

_____
District Counsel

Name: _____

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Exhibit A

That portion of the following described property which shall be set out and described in a writing provided by the Department upon completion of construction of a sign pursuant to this Agreement:

A parcel of land situate, lying and being in Block 211, 15th Avenue and DeLeon Street, Waterfront or Pintado Grant, City of Pensacola, according to map of said City, copyrighted by Thomas C. Watson in 1906, being described as follows: Commence at the Southeast corner of Block 32, New City Tract according to said map copyrighted by Thomas C. Watson; thence South 10°24'24.26" East 102.55 feet; thence North 69°08'25.74" East 197.58 feet to the beginning of a curve, concave to the Southerly having a radius of 1869.87 feet; thence run Northeasterly 332.60 feet along said curve through a central angle of 10°11'29" to the end of curve; thence North 10°24'24" West 50.00 feet to the POINT OF BEGINNING; thence continue North 10°24'24" West 111.70 feet to a point on a curve, concave Southwesterly having a radius of 1422.69 feet; thence from a tangent bearing of South 83°59'05" East run Southeasterly 350.99 feet along said curve through a central angle of 14°08'18" to the end of curve, said point being the beginning of a curve, concave Southerly having a radius of 693.21 feet; thence from a tangent bearing of North 87°19'54" West run Northwesterly, Westerly and Southwesterly 69.91 feet along said curve through a central angle of 5°46'43" to the end of curve, said point being the beginning of a curve, concave Southerly, having a radius of 1919.87 feet; thence from a tangent bearing of South 86°53'24" West run Southwesterly 253.03 feet along said curve through a central angle of 7°33'05" to the end of said curve and the POINT OF BEGINNING;

Containing 18,693 square feet, more or less.

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RESOLUTION
NO: 18-55

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA, FLORIDA, FINDING AND DECLARING THE DESIRABILITY AND NECESSITY OF TRANSFERRING OWNERSHIP OF THE FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION FOR THE PURPOSE OF CONSTRUCTING IMPROVEMENTS RELATED TO THE REPLACEMENT OF THE THREE-MILE BRIDGE OVER PENSACOLA BAY, AND AUTHORIZING AND DIRECTING THE MAYOR OF THE CITY OF PENSACOLA, FLORIDA, TO EXECUTE A QUITCLAIM DEED TO SUCH PROPERTY TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION AND AN AGREEMENT PROVIDING FOR APPROPRIATE SIGNAGE IN CONNECTION THEREWITH, AND TO TAKE ALL OTHER ACTIONS NECESSARY RELATING TO THIS RESOLUTION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the State of Florida Department of Transportation is in the process of constructing a replacement for the Pensacola Bay Bridge, including improvements to State Road No. 30, Financial Project No. 4093341 in Escambia County, Florida, and

WHEREAS, in order to accommodate and facilitate the construction project now underway, it is necessary, desirable and in the public interest for the City of Pensacola to transfer ownership of land known as the Five Flags Memorial Park to the State of Florida Department of Transportation, and

WHEREAS, the State of Florida Department of Transportation has proposed an agreement to replace the Five Flags Memorial with appropriate signage to be approved by the City of Pensacola, informing and welcoming the public into the City of Pensacola.

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

SECTION 1. That the City of Pensacola shall provide a quitclaim deed to the Five Flags Memorial Park to the State of Florida Department of Transportation and shall enter into an agreement with the State of Florida Department of Transportation for the replacement of the Five Flags Memorial with appropriate signage identifying entrance into the City of Pensacola.

SECTION 2. The Mayor is hereby empowered to take all actions necessary relating to this Resolution, the duties hereunder, and any agreements or documents related hereto.

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

Attest: Ericka L Burnett
City Clerk

Adopted: November 8, 2018

Approved: Gerald C. Wingate
President of City Council

I, DO HEREBY CERTIFY THAT THE ABOVE AND FOREGOING IS A TRUE AND CORRECT COPY OF THE ORIGINAL THEREOF ON FILE IN MY OFFICE. WITNESS MY HAND AND THE CORPORATE SEAL OF THE CITY OF PENSACOLA, FLORIDA THIS THE 13th DAY OF November, 2018

Ericka L Burnett
CITY CLERK
CITY OF PENSACOLA, FLORIDA

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Item/Segment No: 4093341
Replacement Pensacola Bay Bridge No: 480035
Right of Way -City Pensacola

FIRST AMENDMENT TO AGREEMENT
BETWEEN
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION
AND
THE CITY OF PENSACOLA

This AMENDMENT is between the State of Florida, Department of Transportation, with offices at 1074 Highway 90, Chipley, Florida 32428 ("DEPARTMENT") and the City of Pensacola, Florida, a Florida municipal corporation with offices at 222 West Main Street, Pensacola, Florida 32502 ("CITY"). The DEPARTMENT and the CITY are sometimes referred to in this amendment as a "Party" and collectively as the "Parties."

WITNESSETH:

WHEREAS, the Parties on **November 14, 2018**, entered into an Agreement (attached hereto and collectively called the AGREEMENT) for the CITY to convey to the DEPARTMENT a fee simple interest in property described in Exhibit A of the AGREEMENT and simultaneously with said conveyance, supply the DEPARTMENT with an executed Donation of Property to the DEPARTMENT in a form similar to Exhibit B of the AGREEMENT and for the DEPARTMENT to design and construct a new gateway plaza to signify entrance to the CITY to replace the former Five Flags Memorial which is described in Exhibit C of the AGREEMENT; and

WHEREAS, pursuant to Exhibit C of the AGREEMENT, the DEPARTMENT agreed to provide funding for the design and construction of the sign of no more than Three Hundred and Seventy Thousand Dollars and 00/100 ($370,000.00) and the CITY agreed to provide to the DEPARTMENT any additional funds necessary to cover the cost difference between $370,000.00 and the total cost of the sign prior to the start of the construction; and

WHEREAS, on **November 14, 2018**, the CITY executed a Quitclaim Deed to the DEPARTMENT for the property described in Exhibit A of the AGREMENT which is attached hereto to this AMENDMENT as Exhibit A; and

WHEREAS, on **November 14, 2018**, the CITY executed a Donation of Property to the DEPARTMENT described in Exhibit B of the AGREEMENT which is attached hereto to this AMENDMENT as Exhibit B; and

WHEREAS, on **November 14, 2018**, the Parties executed a Use and Occupancy Agreement for the DEPARTMENT to lease to the CITY for a period of fifty (50) years the space above and/or below the grade line of the property described in Exhibit A of the AGREEMENT for the purpose of location of the new gateway plaza that replaces the former Five Flags Memorial and landscaping and maintenance associated with the sign; and

WHEREAS, the Parties mutually desire to amend Exhibit C of the AGREEMENT to modify the financial obligations of both the CITY and the DEPARTMENT.

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City of Pensacola

222 West Main Street
Pensacola, FL 32502

Master

File Number: 18-00415

File ID: 18-00415 ***Type:** Legislative Action Item **Status:** Passed

Version: 1 **Attorney Review::** ***Meeting Body:** City Council

File Created: 10/25/2018

Subject: **Final Action:** 11/08/2018

Title: TRANSFER OF FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

***Agenda Date:** 11/08/2018

Agenda Number: 19.

Sponsors: Ashton J. Hayward, III **Enactment Date:**

Attachments: Resolution No. 18-55, Agreement Between the State of Florida Department of Transportation and the City of Pensacola, Quitclaim Deed, Donation of Property to the Florida Department of Transportation, Signage Commitment by Florida Department of Transportation, Use and Occupancy Agreement **Enactment Number:**

Recommendation: **Hearing Date:**

Entered by: hthorsen@cityofpensacola.com **Effective Date:**

History of Legislative File

Ver-sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	Agenda Conference	11/05/2018	Placed on Regular Agenda				Pass
	Action Text:	This Legislative Action Item was Placed on Regular Agenda.					
1	City Council	11/08/2018	Approved				Pass
	Action Text:	A motion was made by Council Member Johnson, seconded by Council Member Terhaar, that this Legislative Action Item be Approved. The motion carried by the following vote: Yes: 5 Council Member Myers, Council Member Terhaar, Council Member Spencer, Council Member Johnson, and Council Member Wu No: 1 Wingate Absent: 1 Council President Cannada-Wynn					

Text of Legislative File 18-00415

LEGISLATIVE ACTION ITEM

SPONSOR: Ashton J. Hayward, III, Mayor

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

SUBJECT:

TRANSFER OF FIVE FLAGS MEMORIAL PARK TO THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

RECOMMENDATION:

That the City Council adopt a resolution authorizing the Mayor to execute a quitclaim deed transferring the Five Flags Memorial Park to the State of Florida Department of Transportation and to enter into an agreement with the State for appropriate replacement signage. Further that City Council declare the city-owned property surplus and deem such exchange a valid municipal purpose. Finally that City Council authorize the Mayor to take all action necessary for the exchange of the property.

HEARING REQUIRED: No Hearing Required

SUMMARY:

As the construction of the replacement Pensacola Bay Bridge proceeds, it is necessary to transfer ownership of the Five Flags Memorial Park land to the State of Florida Department of Transportation in order for the State to begin construction of the landfall traffic flow. The State has agreed to erect appropriate signage to be approved by the City, identifying entry into the City of Pensacola from the new Bay Bridge.

PRIOR ACTION:

None

FUNDING:

None

FINANCIAL IMPACT:

The State of Florida Department of Transportation will incur all costs associated with this transfer and replacement signage.

CITY ATTORNEY REVIEW: Yes
10/30/2018

STAFF CONTACT:

Keith Wilkins, City Administrator

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

Brian Cooper, Parks and Recreation Director

ATTACHMENTS:

1) Resolution No. 18-55
2) Agreement between the State of Florida Department of Transportation and the City of Pensacola
3) Quitclaim Deed
4) Donation of Property to the Florida Department of Transportation
5) Signage Commitment by Florida Department of Transportation
6) Use and Occupancy Agreement

PRESENTATION: No

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AGREEMENT:

NOW, THEREFORE, in consideration of the promises and covenants contained in this AMENDMENT and in the AGREEMENT, the receipt and sufficiency of which are hereby acknowledged, and intending to be legally bound hereby, the Parties agree to amend the AGREEMENT as follows:

1. The facts stated above are true and correct and are incorporated into and made part of this AMENDMENT.

2. Any defined terms used herein that are not specifically defined herein shall have the same meaning as set forth in the AGREEMENT.

3. Exhibit C of the AGREEMENT is hereby amended to remove the DEPARTMENT'S obligation to design and construct the sign, and to add that the CITY will design and construct the sign. The Department will continue to provide the funding for the sign in the amount of Three Hundred and Seventy Thousand Dollars and 00/100 ($370,000.00).

4. No additional funding for this AMENDMENT or AGREEMENT will be provided by the DEPARTMENT.

5. The DEPARTMENT will provide design and construction approval of the City of Pensacola sign within a reasonable time frame prior to construction of the sign in coordination with the CITY. FDOT approval of the sign location will be documented through the FDOT permitting process. The FDOT will not provide final approval of the sign installation on the FDOT right-of-way until after final acceptance of the Pensacola Bay Bridge Replacement project.

6. Except for the changes and amendments made in this Amended Agreement, the terms and conditions of the AGREEMENT shall remain in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this AMENDMENT on the dates set forth below:

CITY OF PENSACOLA, FLORIDA

By: David Forte
Name:
Title: Deputy City Administrator
Date: 9/30/22

ATTEST:
By: Ericka L. Burnett
Name: Ericka L. Burnett
Title: City Clerk (Seal)

LOCAL AGENCY LEGAL REVIEW:
By:

STATE OF FLORIDA
DEPARTMENT OF TRANSPORTATION

DocuSigned by:
By: Tim Smith
00EA910BEA3D404...
Name: Tim Smith, P.E.
Title: Director of Transportation Development
Date: 10/20/2022 | 8:28 AM EDT

ATTEST:
By: _____
Krissy Cook
Executive Secretary (Seal)

DocuSigned by:
DEPARTMENT LEGAL REVIEW:
By: Cary Hawkins
4F4EEFF2332E498...
Office of the General Counsel

DocuSign Envelope ID: CB69041E-137B-49E2-8668-11F42C9CE9A3

EXHIBIT O

TERMS AND CONDITIONS OF CONSTRUCTION IN DEPARTMENT RIGHT OF WAY

Section of the Agreement is amended as follows for Construction on the Department's Right of Way.

1. If the Project involves construction on, under, or over the Department's right-of-way, the design work for all portions of the Project to be constructed on, under, or over the Department's right-of-way shall be submitted to the Department for review prior to any work being commenced, and the following provisions shall apply:

a. The Project shall be designed and constructed in accordance with the latest edition of the Department's Standard Specifications for Road and Bridge Construction and Department Design Standards and Manual of Uniform Traffic Control Devices ("MUTCD"). The following guidelines shall apply as deemed appropriate by the Department: the Department Structures Design Manual, AASHTO Guide Specifications for the Design of Pedestrian Bridges, AASHTO LRFD Bridge Design Specifications, the Florida Department of Transportation Design Manual ("FDM") and the Department Traffic Engineering Manual.

Designs that do not meet Department standards may be rejected by the Department at its sole discretion. The Department may allocate Department-managed resources to facilitate compliance with applicable design standards. If changes to the Department approved plans are required, the Recipient shall notify the Department of the changes and receive approval from the Department prior to the changes being constructed. The Recipient shall maintain the area of the Project, at all times, and coordinate any work needs of the Department during construction of the Project.

b. The Recipient shall notify the Department a minimum of 48 hours before beginning construction within, under, or over Department right-of-way. The Recipient shall notify the Department should construction be suspended for more than 5 working days. The Department contact person for construction is .

c. The Recipient shall be responsible for monitoring construction operations and the maintenance of traffic ("MOT") throughout the course of the Project in accordance with the latest edition of the Department Standard Specifications, section 102. The Recipient is responsible for the development of a MOT plan and making any changes to that plan as necessary. The MOT plan shall be in accordance with the latest version of the Department Design Standards, Index 600 series. Any MOT plan developed by the Recipient that deviates from the Department Design Standards must be signed and sealed by a professional engineer. MOT plans will require approval by the Department prior to implementation.

d. The Recipient shall be responsible for locating all existing utilities, both aerial and underground, and for ensuring that all utility locations be accurately documented on the construction plans. All utility conflicts shall be fully resolved directly with the applicable utility.

e. The Recipient will be responsible for obtaining all permits that may be required by other agencies or local governmental entities.

f. It is hereby agreed by the Parties that this Agreement creates a permissive use only and all improvements located on, under, or over the Department's right-of-way resulting from this Agreement shall become the property of the Department. Neither the granting of the permission to use the Department right-of-way nor the placing of facilities upon the Department property shall operate to create or vest any property right to or in the Recipient, except as may otherwise be provided in separate agreements. The Recipient shall not acquire any right, title, interest or estate in Department right-of-way, of any nature or kind whatsoever, by virtue of the execution, operation, effect, or performance of this Agreement including, but not limited to, the Recipient's use, occupancy or possession of Department right-of-way. The Parties agree that this Agreement does not, and shall not be construed to, grant credit for any future transportation concurrency requirements pursuant to Chapter 163, Florida Statutes.

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g. The Recipient shall not cause any liens or encumbrances to attach to any portion of the Department's property, including but not limited to, the Department's right-of-way.

h. The Recipient shall perform all required testing associated with the design and construction of the Project. Testing results shall be entered into the department's Materials Testing and Certification database application and the department must provide the final Materials Certification for the Project. The Department shall have the right to perform its own independent testing during the course of the Project.

i. The Recipient shall exercise the rights granted herein and shall otherwise perform this Agreement in a good and workmanlike manner, with reasonable care, in accordance with the terms and provisions of this Agreement and all applicable federal, state, local, administrative, regulatory, safety and environmental laws, codes, rules, regulations, policies, procedures, guidelines, standards and permits, as the same may be constituted and amended from time to time, including, but not limited to, those of the Department, applicable Water Management District, Florida Department of Environmental Protection, Environmental Protection Recipient, the Army Corps of Engineers, the United States Coast Guard and local governmental entities.

j. If the Department determines a condition exists which threatens the public's safety, the Department may, at its discretion, cause construction operations to cease and immediately have any potential hazards removed from on, under, or over its right-of-way at the sole cost, expense, and effort of the Recipient. The Recipient shall bear all construction delay costs incurred by the Department.

k. The Recipient shall be responsible to maintain and restore all features that might require relocation within the Department right-of-way.

l. The Recipient will be solely responsible for clean up or restoration required to correct any environmental or health hazards that may result from construction operations.

m. The acceptance procedure will include a final "walk-through" by Recipient and Department personnel. Upon completion of construction, the Recipient will be required to submit to the Department final as-built plans and an engineering certification that construction was completed in accordance to the plans. Submittal of the final as-built plans shall include one complete set of the signed and sealed plans on 11" X 17" plan sheets and an electronic copy prepared in Portable Document Format (PDF). Prior to the termination of this Agreement, the Recipient shall remove its presence, including, but not limited to, all of the Recipient's property, machinery, and equipment from Department right-of-way and shall restore those portions of Department right of way disturbed or otherwise altered by the Project to substantially the same condition that existed immediately prior to the commencement of the Project.

n. If the Department determines that the Project is not completed in accordance with the provisions of this Agreement, the Department shall deliver written notification of such to the Recipient. The Recipient shall have thirty (30) days from the date of receipt of the Department's written notice, or such other time as the Recipient and the Department mutually agree to in writing, to complete the Project and provide the Department with written notice of the same (the "Notice of Completion"). If the Recipient fails to timely deliver the Notice of Completion, or if it is determined that the Project is not properly completed after receipt of the Notice of Completion, the Department, within its discretion may: 1) provide the Recipient with written authorization granting such additional time as the Department deems appropriate to correct the deficiency(ies); or 2) correct the deficiency(ies) at the Recipient's sole cost and expense, without Department liability to the Recipient for any resulting loss or damage to property, including, but not limited to, machinery and equipment. If the Department elects to correct the deficiency(ies), the Department shall provide the Recipient with an invoice for the costs incurred by the Department and the Recipient shall pay the invoice within thirty (30) days of the date of the invoice.

o. The Recipient shall implement best management practices for erosion and pollution control to prevent violation of state water quality standards. The Recipient shall be responsible for the correction of any erosion, shoaling, or water quality problems that result from the construction of the Project.

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p. Portable Traffic Monitoring Site (PTMS) or a Telemetry Traffic Monitoring Site (TTMS) may exist within the vicinity of your proposed work. It is the responsibility of the Recipient to locate and avoid damage to these sites. If a PTMS or TTMS is encountered during construction, the Department must be contacted immediately.

q. During construction, highest priority must be given to pedestrian safety. If permission is granted to temporarily close a sidewalk, it should be done with the express condition that an alternate route will be provided, and shall continuously maintain pedestrian features to meet Americans Disability Act (ADA) standards.

r. Restricted hours of operation will be from Insert restrict hours of operation, (insert days of the week for restricted operation), unless otherwise approved by the Operations Engineer, or designee.

s. Lane closures on the state road system must be coordinated with the Public Information Office at least two weeks prior to the closure. The contact information for the Department's Public Information Office is:

Insert District PIO contract info

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

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MEMORANDUM

TO: Grover C. Robinson, IV, Mayor

FROM: James W. Cook, Deputy Director of Operations PW&F

DATE: September 29, 2022

SUBJ: Request to execute the revised Joint Participation Agreement and associated Amended FDOT agreement for improvements to area previously known as the Five Flags Plaza.

Submitted for your signature is an amended agreement with FDOT, and a revised Joint Participation Agreement (JPA), for completion of improvements to area previously known as the Five Flags Plaza. FDOT has requested we sign a revised JPA due to there being two agreement exhibits that were incomplete in the original submittal. The signing of the revised JPA will cancel and take the place of the original JPA signed on June 14, 2022.

AS previously conveyed in June, under the original agreement, FDOT was to undertake a reconstruction project for a not to exceed cost of $370,000.00 once construction of the streets associated with the SR30 Pensacola Bay Bridge No. 480035 project was completed. Subsequently, FDOT and the City have decided to shift construction responsibility to the City. FDOT will provide $370,000.00 for design and construction of a sign and associated improvements. As a result of this agreed upon change, a more detailed Joint Participation Agreement process is required.

Additional agreements may be required during the design and approval process of the JPA. The City will be responsible for any costs above $370,000.00 associated with the project.

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To: Maria.Showalter@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION
FUNDS APPROVAL

ASU29

10/10/2022

CONTRACT INFORMATION

Contract:	ASU29
Contract Type:	AK - PROJ PARTICIPATION (PROJ PART)
Method of Procurement:	G - GOVERMENTAL AGENCY (287.057,F.S.)
Vendor Name:	CITY OF PENSACOLA
Vendor ID:	F596000406005
Beginning Date of This Agreement:	10/04/2022
Ending Date of This Agreement:	10/31/2023
Contract Total/Budgetary Ceiling:	ct = $370,000.00
Description:	Design and construction for City of Pensacola Welcome Sign @Pensacola Bay bridge

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 10/10/2022

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55034010307
Expansion Option:	AA
Object Code:	134000
Amount:	$370,000.00
Financial Project:	40933415802
Work Activity (FCT):	016
CFDA:	
Fiscal Year:	2023
Budget Entity:	55150200
Category/Category Year:	088799/23
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: $370,000.00

File #: 24-362 City Council 4/25/2024

LEGISLATIVE ACTION ITEM

SPONSOR: Mayor D.C. Reeves

SUBJECT:

RESOLUTION NO. 2024-16 - AMENDMENT TO THE PARKS AND RECREATION ROGER SCOTT TENNIS CENTER FEE SCHEDULE FOR FISCAL YEAR 2024

RECOMMENDATION:

That City Council adopt Resolution No. 2024-16.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA AUTHORIZING AND MAKING REVISION TO THE FY 24 BUDGET FEE SCHEDULE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023; APPROVING AND PROVIDING AN EFFECTIVE DATE.

HEARING REQUIRED: No Hearing Required

SUMMARY:

The City of Pensacola Parks and Recreation Department administers municipal leisure facilities and programs that provide the best possible year-round comprehensive recreation activities for all segments of our community. Facility and program fees are reviewed on an annual basis and adjusted accordingly through the adoption of the annual budget. However, the fees may be changed at any time as recommended by the Mayor and upon approval of the City Council.

On November 4, 2021, the City of Pensacola entered into an Interlocal Agreement with Escambia County, Florida prior to the renovations of the tennis courts at Roger Scott Tennis Center requiring that, in exchange for the contribution of funding toward the cost of the project, fees for county residents would not exceed fees established for city residents. On March 20, 2023, the renovation project commenced. The Fiscal Year 2024 budget was adopted by City Council with the verbiage only listing one fee to be collected for all residents.

This proposed action would amend the Fiscal Year 2024 fee schedule for the Roger Scott Tennis Center by increasing the fees for the Annual, Quarterly, and Daily Memberships. The amended verbiage for the Annual Memberships will also list a City/County Resident Fee and a Non-Resident Fee and add a fee schedule detailing Quarterly Memberships.

Attached are the Roger Scott Tennis Center fee schedule for the Fiscal Year 2023 and the Fiscal Year 2024, as well as, the recommended changes. Sales tax will be charged if applicable. Upon approval by City Council, the new fees will be effective at the beginning of each seasonal program unless noted otherwise.

PRIOR ACTION:

November 10, 2022 - City Council adopted Resolution No. 2022-100 adopting amendment to the Parks and Recreation Fee Schedules for Fiscal Year 2023.

FUNDING:

N/A

FINANCIAL IMPACT:

An increase in the Roger Scott Tennis Center fee will no impact the Tennis Center Fund. Compensation to be received by the City of Pensacola will be determined by the terms within the Professional Service Agreement during the term of the agreement.

LEGAL REVIEW ONLY BY CITY ATTORNEY: No

STAFF CONTACT:

Kerrith Fiddler, City Administrator
Amy Miller, Deuty City Administrator
Ben Heistein, Parks and Recreation Director
Tonya Byrd, Parks and Recreation Assistant Director

ATTACHMENTS:

1. Resolution No. 2024-16
2. Roger Scott Tennis Center Fee Schedule-23 Approved Budget
3. Roger Scott Tennis Center Fee Schedule-24 Approved Budget

PRESENTATION: No

RESOLUTION

NO. 2024-16

A RESOLUTION
TO BE ENTITLED:

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PENSACOLA AUTHORIZING AND MAKING REVISIONS TO THE FISCAL YEAR 2024 BUDGET FEE SCHEDULE FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023; APPROVING AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council of the City of Pensacola adopted the Fiscal Year 2024 City of Pensacola budget that included the fee schedule for the Parks and Recreation Roger Scott Tennis Center;

WHEREAS, to support operational needs, the Mayor recommends modifications to the fee schedule to achieve consistency with projected revenues;

WHEREAS, the changes in the fees are in the public interest to support services provided and intended to be consistent with approved FY23 budget and FY24 budget.

WHEREAS, the changes in the fees for County residents will not exceed user fees established for City residents.

WHEREAS, the changes in the fees include a rate for Hard Court, Non-Resident.

WHEREAS, the changes in the fees include a rate for All Court, Non-Resident

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

Section 1. The Parks and Recreation Fee Schedule for Roger Scott Tennis Center is approved as shown in Attachment A.

Section 2. This resolution shall become effective on the fifth (5^{th}) 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

PARKS & RECREATION FEE SCHEDULES
Roger Scott Tennis Center Fee Revisions 2024

Annual Memberships *(Plus Sales Tax)*	**FY23 Fee**	**FY24 Fee**	***Revised FY24 Fee***
Individual			
Hard Court - City/County Resident		337.00	**360.00**
Hard Court - Non-Resident	490.78		**540.00**
All Courts - City/County Resident		803.22	**858.00**
All Courts- Non-Resident			**940.00**
Sr. Citizen (65 & Over)			
Hard Court - City/County Resident		232.27	**248.00**
Hard Court - Non-Resident	337.13		**371.00**
All Courts - City/County Resident		551.64	**589.00**
All Courts - Non-Resident			**648.00**
Student (Under 18)			
Hard Court - City/County Resident		191.63	**205.00**
Hard Court - Non-Resident	279.06		**307.00**
All Courts- City/County Resident		456.09	**487.00**
All Courts -Non-Resident			**535.00**
Family, Two People			
Hard Court - City/County Resident		421.87	**451.00**
Hard Court - Non-Resident	613.76		**675.00**
All Courts- City/County Resident		1,003.39	**1,072.00**
All Courts - Non-Resident			**1,180.00**
Sr. Citizen (65 & Over)			
Hard Court - City/County Resident		291.49	**311.00**
Hard Court - Non-Resident	421.69		**464.00**
All Courts - City/County Resident		689.84	**737.00**
All Courts - Non- Resident			**810.00**
Family, Unlimited			
(Spouse & Children Under 18)			
Hard Court - City/County Resident		505.49	**540.00**
Hard Court - Non-Resident	750.30		**825.00**
All Courts - City/County Resident		1,103.46	**1,178.00**
All Courts - Non-Resident			**1,295.00**

Quarterly Memberships *(Plus Sales Tax)*	**FY24 Fee**	***Revised FY24 Fee***
Individual		
Hard Court - City/County Resident	93.31	**121.00**
Hard Court -Non Resident	137.28	**178.00**
All Courts - City/County Resident	214.96	**279.00**
All Courts - Non-Resident		**307.00**
Sr. Citizen (65 & Over)		
Hard Court - Resident	65.98	**86.00**
Hard Court - Non-Resident	95.98	**125.00**
All Courts - City/County Resident	149.31	**194.00**
All Courts - Non-Resident		**213.00**
Student (Under 18)		
Hard Court - City/County Resident	55.37	**72.00**
Hard Court - Non-Resident	80.37	**104.00**
All Courts - City/County Resident	124.38	**162.00**
All Courts - Non-Resident		**179.00**
Family, Two People		
Hard Court - City/County Resident	115.45	**150.00**
Hard Court - Non-Resident	170.32	**221.00**
All Courts - City/County Resident	267.18	**347.00**
All Courts - Non-Resident		**382.00**
Sr. Citizen (65 & Over)		
Hard Court - City/County Resident	81.43	**106.00**
Hard Court - Non-Resident	118.70	**154.00**
All Courts - City/County Resident	185.37	**241.00**
All Courts - Non-Resident		**265.00**
Family, Unlimited		
(Spouse & Children Under 18)		
Hard Court - City/County Resident	137.27	**178.00**
Hard Court - Non-Resident	207.02	**269.00**
All Courts - City/County Resident	293.29	**381.00**
All Courts - Non-Resident		**419.00**

Daily Rates *(Includes Sales Tax)*	***FY23 Fee***	***FY24 Fee***	***Revised FY24 Fee***
Hard Courts			
(Weekdays Only)			
Adults	8.00	8.24	**9.00**
Children	6.00	6.18	**6.50**
Clay Courts			
(Weekdays Only)			
Adults	12.00	12.36	**13.00**
Children	8.00	8.24	**9.00**
Hard Court Members		5.15	**8.00**
Court Rental Fees (Includes sales tax)			
Per Court	10.00	10.30	**11.50**

PARKS & RECREATION FEE SCHEDULES

ROGER SCOTT TENNIS CENTER

Effective 10/01/2022

Annual Memberships *(Plus Sales Tax)*

Individual	FY23 Fee
City Resident Hard Court	$327.18
Non-City Resident Hard Court	490.78
All Court	779.82
Sr. Citizen (65 & Over)	
City Resident Hard Court	225.50
Non-City Resident Hard Court	337.13
All Court	535.57
Student (Under 18)	
City Resident Hard Court	186.04
Non-City Resident Hard Court	279.06
All Court	442.80

Family, Two People	FY23 Fee
City Resident Hard Court	$ 409.58
Non-City Resident Hard Court	613.76
All Court	974.16
Sr. Citizen (65 & Over)	
City Resident Hard Court	283.00
City Non-Resident Hard Court	421.69
All Court	669.74
Family, Unlimited	
(Spouse & Children Under 18)	
City Resident Hard Court	490.76
Non-City Resident Hard Court	750.30
All Court	1,071.32

Daily Rates *(Includes Sales Tax)*

HARD COURTS	
Weekdays Only	
Adults	8.00
Children	6.00

CLAY COURTS	
Weekdays Only	
Adults	12.00
Children	8.00

Court Rental Fees (Includes sales tax)

Per Court	10.00

NOTE: Hard Court Members may pay a daily premium of $5.00 to play on a clay court.

PARKS & RECREATION FEE SCHEDULES

ROGER SCOTT TENNIS CENTER

(Fees Effective Upon Reconstruction of Courts)

Annual Memberships *(Plus Sales Tax)*

Individual	FY23 Fee	Family, Two People	FY23 Fee
Resident Hard Court	$337.00	Resident Hard Court	$ 421.87
All Court	803.22	All Court	1,003.39
Sr. Citizen (65 & Over)		Sr. Citizen (65 & Over)	
Resident Hard Court	232.27	Resident Hard Court	291.49
All Court	551.64	All Court	689.84
Student (Under 18)		Family, Unlimited	
Resident Hard Court	191.63	(Spouse & Children Under 18)	
All Court	456.09	Resident Hard Court	505.49
		All Court	1,103.46

Daily Rates *(Includes Sales Tax)*

HARD COURTS		***CLAY COURTS***	
Weekdays Only		Weekdays Only	
Adults	8.24	Adults	12.36
Children	6.18	Children	8.24

Court Rental Fees (Includes sales tax)

Per Court	10.30

NOTE: Hard Court Members may pay a daily premium of $5.15 to play on a clay court.

PARKS & RECREATION FEE SCHEDULES

ROGER SCOTT TENNIS CENTER

Effective 10/01/2023

Annual Memberships *(Plus Sales Tax)*	**FY24 Fee**
Individual	
Hard Court	$ 337.00
All Court	803.22
Sr. Citizen (65 & Over)	
Hard Court	232.27
All Court	551.64
Student (Under 18)	
Hard Court	191.63
All Court	456.09
Family, Two People	
Hard Court	421.87
All Court	1,003.39
Sr. Citizen (65 & Over)	
Hard Court	291.49
All Court	689.84
Family, Unlimited	
(Spouse & Children Under 18)	
Hard Court	505.49
All Court	1,103.46

Daily Rates *(Includes Sales Tax)*	**FY24 Fee**
Hard Courts	
(Weekdays Only)	
Adults	$ 8.24
Children	6.18
Clay Courts	
(Weekdays Only)	
Adults	12.36
Children	8.24
Court Rental Fees (Includes sales tax)	
Per Court	10.30

NOTE: Hard Court Members may pay a daily premium of $5.15 to play on a clay court.