

**REGULAR MEETING
DESTIN CITY COUNCIL
JANUARY 22, 2019
ANNEX COUNCIL CHAMBERS
6:00 PM**

*****Core Value of the Month - Teamwork*****

CALL TO ORDER

INVOCATION (Pastor Kevin Wendt of Grace Lutheran Church)

PLEDGE OF ALLEGIANCE

AGENDA APPROVAL *(Matters not specifically listed on the agenda may be added and acted upon with a super-majority vote of the Council members present and eligible to vote on the matter)*

1. APPROVAL OF MINUTES

- A. Approval of minutes of January 7, 2019 Special City Council Meeting
- B. Approval of minutes of November 19, 2018 Regular City Council Meeting

2. PROCLAMATIONS / RECOGNITIONS / **SPECIAL PRESENTATIONS / ANNOUNCEMENTS (No public comments)

3. PUBLIC COMMENTS ON AGENDA ITEMS THAT ARE NOT PUBLIC HEARINGS AND ANY OTHER MATTERS NOT ON THE AGENDA (All agenda items other than those under Number 5)

(Note: Individual speakers will be limited to 3 minutes. At the discretion of the Mayor, this 3 minute allowance may be adjusted depending on the level of business coming before the City Council)

4. CITY MANAGER REPORTS

- A. Request from D. Theriaque to Dismiss Code Enforcement Appeals/Violations
- B. Receipt of Report from Fisher Planning and Development Services in Connection with Bert Harris Pre-Suit Notice Submitted by Destin Fishing Fleet.
- C. Clement Taylor Park Restoration - Request to submit the RESTORE Act Direct Component Grant Application
- D. Announcements
 - 1. Coyote Mitigation

5. PUBLIC HEARINGS

- A. Second reading of Ordinance 18-29-CC - Amendments to Short-Term Rental Ordinance and Establishing Maximum Occupancy Limits.
- B. Second reading of Ordinance 18-23-LC - Amend Section 7.12.01(A)2 of the Land Development Code changing the designation of an 11.543 acre parcel of land located on U.S. Highway 98 from Commercial General (CG) to Town Center Mixed Use (TCMU)

6. ***CONSENT AGENDA** (No public comments)
 - A. Request for use of City rights-of-way for Valentine's 8K run
 - B. Request for use of the City's rights-of-way for Chiropractic Run for Health
 - C. Second Addendum to 3TP planning consultant contract.
7. **COMMENTS/PRESENTATIONS FROM MAYOR, COUNCIL, LAND USE ATTORNEY AND CITY ATTORNEY** (No public comments)
 - A. Councilmember Braden
 - B. Councilmember Ramswell
 - C. Councilmember Menchel
 - D. Councilmember Overdier
 - E. Councilmember Marler
 - F. Councilmember Destin
 1. Discuss creating legislative provision for collecting fees at the exit vs. the entrance point to a private pay for parking facility
 - G. Councilmember Morgan
 - H. Mayor Gary Jarvis
 - I. Land Use Attorney
 1. Update on TRC Status, as of January 22, 2019.
(Section 2.26.04(E), Land Development Code; Pursuant to Ordinance No. 18-06-LC).
 - J. City Attorney
 1. Update to East Pass dredge administrative action
8. **ADJOURN**

All items listed under Consent Agenda are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items. If discussion is desired, that item will be removed from the Consent Agenda and may be considered separately.

****To be placed on the Agenda under scheduled presentations, citizens must contact the City Manager or City Clerk's office one (1) week prior to the scheduled City Council Meeting by completing a Speakers Request Form and providing any accompanying documentation as requested in the form's instructions.**

***** Any invocation that is offered before the official start of the City Council meeting shall be the voluntary offering of a private person, to and for the benefit of the City 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 beliefs or views of this, or any other speaker. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and 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. A person may exit the City Council Chambers and return upon completion of the opening invocation if a person does not wish to participate in or witness the opening invocation.**

If a person decides to appeal any decision made by the Council with respect to any matter considered at this meeting, he/she may need a record of the proceedings, and for such purpose, he/she may need to ensure that verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. FS 286.0105.

Persons with disabilities who require assistance to participate in City meetings are requested to notify the City Clerk's Office at (850) 837-4242 in advance. Hearing Impaired: TTY: 711. Assistance also available through Human Resources, Title VI Coordinator, at (850) 837-4242.

Personas con discapacidades que necesitan asistencia o personas que necesiten ayuda con un idioma para participar en las reuniones de la ciudad, deberán notificar la oficina de la Secretaria Municipal al (850) 837-4242 antes de la reunión. Discapacidad auditiva: TTY: 711 (Solicitar Espanol CA). La ayuda tambien está disponible por Recursos Humanos, Coordinador del Título VI, al (850) 837-4242.

Note: *Persons who wish to provide public comments on agenda items are requested to fill out a blue speaker card and submit it to the City Clerk at the start of the meeting.*

Persons who wish to provide public comments on any other matters not on the agenda are requested to fill out a yellow speaker card and submit it to the City Clerk at the start of the meeting.

All regularly scheduled city council meetings will be streamed live via the city's YouTube channel, www.youtube.com/CityofDestin. Past council meetings can also be viewed here.

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**MINUTES
SPECIAL MEETING
DESTIN CITY COUNCIL
JANUARY 7, 2019
DESTIN CITY HALL
ANNEX COUNCIL CHAMBERS
5:30 PM**

The Council of the City of Destin met in special session with the following members and staff present:

Destin City Council

Mayor Gary Jarvis

Councilmember Rodney Braden

Councilmember Cyron Marler

Councilmember Prebble Ramswell

Councilmember Parker Destin

Councilmember Skip Overdier

Destin City Staff

City Manager Lance Johnson

Acting Public Works Director Tim Pietenpol

Acting Community Dev. Director Steve Schmidt

City Clerk Rey Bailey

Land Use Attorney Kimberly Kopp

City Attorney Kyle Bauman

CALL TO ORDER

Mayor Gary Jarvis called the meeting to order at 5:30 PM.

NEW BUSINESS

1. Appointment of Interim Member of the Destin City Council

- A. Patrick Berry
- B. Teresa Hebert
- C. Steven Menchel
- D. Matthew Pace

The Mayor announced he would allow public comments at this time. Having none, the Mayor stated that any of the candidates for interim member of the Destin City Council can now address the Council if they so desire.

Mr. Patrick Berry provided the following information about himself:

- Recent resident of Destin
- His spouses' family had lived in Destin since the 1940s
- His entire family loves Destin and everything about Destin
- Lots of issues create a lot of tension in Destin, and he would like to join the present Council in facing these issues

- He has a Political Science background
- He has worked with millions of dollars of organizational assets and he would be a great steward of the City's financial affairs
- Destin is an incredible place to live, and he wants to be part of the Council that protects and preserves it
- He is well qualified to serve in the City Council

Mr. Steven Menchel provided the following information about himself:

- He has been a resident of Destin for 11 years
- He is the Chairman of the City's Public Works/Safety Committee
- He is the Vice-Chairman of the City's Local Planning Agency
- Active participant in the City's Adopt-A-Street Program
- He is well qualified to serve in the City Council

Councilmember Ramswell moved to appoint Mr. Steven Menchel as Interim City Council member; seconded by Councilmember Overdier. Motion passed 5-0 (Council members Destin, Marler, Overdier, Ramswell and Braden voted "yes"; Councilmember Morgan was absent from the meeting).

ADJOURNMENT

Having no further business at this time, the meeting was adjourned at 5:40 PM.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
NOVEMBER 19, 2018
CITY HALL ANNEX COUNCIL CHAMBERS
6:00 PM**

The Council of the City of Destin met in regular session with the following members and staff present:

Destin City Council

Mayor Gary Jarvis	Councilmember Tuffy Dixon
Councilmember Chatham Morgan	Councilmember Prebble Ramswell
Councilmember Cyron Marler	Councilmember Skip Overdier
Councilmember Parker Destin	Councilmember Rodney Braden

Destin City Staff

Acting City Manager Webb Warren	City Clerk Rey Bailey
Acting Parks & Recreation Director Lisa Firth	Finance Director Bragg Farmer
Public Information Manager Doug Rainer	Code Compliance Manager Joey Forgione
City Land Use Attorney Kimberly Kopp	City Attorney Jeff Burns

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Reverend Logan Landes of Grace Lutheran Church gave the invocation; which was then followed by the Pledge of Allegiance.

AGENDA APPROVAL

Motion by Councilmember Morgan, seconded by Councilmember Overdier, to pull agenda items 5C and 5D from the agenda passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

Motion by Councilmember Morgan, seconded by Councilmember Ramswell, to continue agenda item 5B to the December 3, 2018 City Council meeting passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

Motion by Councilmember Braden, seconded by Councilmember Ramswell, to continue agenda item 4D to the December 3, 2018 City Council meeting passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

Motion by Councilmember Marler, seconded by Councilmember Braden, to approve the agenda, as amended, passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

1. APPROVAL OF MINUTES

A. Approval of minutes of October 25, 2018 city council workshop

Councilmember Ramswell moved to approve minutes of October 25, 2018 city council workshop; seconded by Councilmember Braden. Motion passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

B. Approval of minutes of August 6, 2018 regular city council meeting

Councilmember Ramswell moved to approve minutes of August 6, 2018 regular city council meeting; seconded by Councilmember Braden. Motion passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

2. PROCLAMATIONS / RECOGNITIONS / **SPECIAL PRESENTATIONS / ANNOUNCEMENTS

A. Destin High School Major announcements from the Destin High School Executive Board and Advisory Committee

Councilmember Ramswell and members of the Destin High School Executive Board and Advisory Committee gave the following presentation:

Timeline

- June 20, 2016 – City Council votes for the creation of a committee to develop a letter/package seeking a Destin High School for presentation to the Okaloosa School District
- A committee was formed consisting of nine people who reached out and wanted to participate
- First meeting held July 21, 2016, and continue to present day
- Committee research has established statistics, locations, potential curriculum
- July 2018 – Committee met with School Financial Services who recommended the committee move forward with a charter school and a specialty firm
- August 2018 – Committee met with and selected Collaborative Educational Network (CEN) as the committee’s consultant charged with writing their charter and obtaining approvals
- CEN will submit charter application in February 2019
- Upon approval, school can open August 2020

Destin High School, Inc.

- On October 2, 2018, the committee was officially established as a Florida not-for-profit corporation
- Executive Board
 - Dr. Prebble Ramswell, President
 - ❖ Denise Fountain, Vice-President
 - ❖ Myra Williams, Secretary

- ❖ Sarah Stone, Treasurer
 - ❖ Jim Liufau
 - ❖ Heidi Locicero
 - ❖ Dr. Mitchell Silver
- Vision: Destin High School will be a model for innovation, providing unique educational opportunities for both college-bound and vocationally-minded students living along Florida's Emerald Coast
 - Mission: The mission of Destin High School is to prepare students academically, physically, and mentally to become responsible, productive, empowered citizens. Embracing the area's history as a tourist destination, military hub, and “world's luckiest fishing village” and supported by strong public/private partnerships, with diverse and specialized programs that will provide the foundation each student needs to secure a solid future
 - Curriculum Goals:
 - ❖ Destin High School will have State-mandated high school curriculum
 - ❖ Destin High School also strives to meet the diverse needs of the local community by providing specialized programs and career academies in areas such as:
 - Marine Science
 - Environmental Science
 - Cyber-security
 - Hospitality and Tourism
 - Construction (e.g., Carpentry, Electrical, HVAC, Masonry, Plumbing, Construction Technology)

School Financial Services

- Specializes in providing financial guidance and services to charter schools during the application process and beyond
- Providing free consulting services to the Destin High School, Inc. Executive Board
 - ❖ Would like to be consider once the school is up and running to handle it professionally for the school

Collaborative Educational Network (CEN)

- Assists charter school founder make their vision a reality. CEN brings to the table:
 - ❖ Highly experienced, knowledgeable team with a proven record of success
 - ❖ Management of all application writing, submission, review, and approval processes
 - ❖ Expert knowledge of charter school governance and operations; curriculum and instructional strategies; exceptional student education; and state and federal legislation and regulatory requirements related to education and charter schools

Volunteers Needed

- Fundraisers
- Committee members

- Spread the Word – Social Media, churches, public donations
- Until the school opens and receives money from the State, they must fund raise and seek grants to cover expenses
 - ❖ Phase 1 Goal: \$85,000 – Consultant fees for writing the charter and expertise/guidance through school opening. Attorney fees for legal documents and establishment of Destin High School, Inc. as a not for profit entity
 - ❖ Phase 2 Goal: \$500,000 – Facility development, plans, faculty search, operational and start-up expenses

3. PUBLIC COMMENTS ON AGENDA ITEMS THAT ARE NOT PUBLIC HEARINGS AND ANY OTHER MATTERS NOT ON THE AGENDA

Mr. Ron Sandstead, a Destin resident, discussed the Destin banner art project. He stated he will now be allowed to permanently have banner poles to use for Main Street beginning in January 2019. When the Christmas banners come down, he will be able to put up his artist created banners. He also stated he has 4 or 5 sponsors that have verbally committed to helping finance the project; but, he is looking for more.

Next, City Attorney Jeffrey Burns pledges \$1,000 to the Destin High School, Inc.

4. CITY MANAGER REPORTS

A. Final Budget Amendment FY2018 Resolution #18-44

The City's Finance Director explained this is the final budget amendment for Fiscal Year 2018. This budget amendment is used as a housekeeping tool to ensure that revenues and expenditures are balanced at year-end allowing the City to close out the Fiscal Year 2018 budget cycle.

Councilmember Dixon moved to approve Resolution 18-44; seconded by Councilmember Overdier. Motion passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

B. 4th Quarter Financial and Investment Report

The Finance Director stated that the data presented in the report was for information only.

C. Ordinance 18-15-LC Use of wheeled vehicles on public and private areas of the beach Policy direction

The City Attorney noted this item is being presented for Council discussion purposes before going to the Local Planning Agency (LPA) for approval. The item will come back to Council on first reading after receiving LPA recommendations. He also explained that the Interim City Manager had indicated there have been some issues in the past with vendors not having the right to traverse someone's property to get to the beach. He continued that the Interim City Manager would like to include a language in the ordinance that makes it clear that as a condition of receiving the decal permit to operate a vehicle on the beach, that the vendors will have the right to access the

beach. He added that the Council does not have to commit to this language at this point. They could reconsider it after they receive recommendations from the LPA and before they pass the final version of the proposed ordinance.

Councilmember Braden questioned the language in Section A of the proposed ordinance which allows half-ton pickup trucks on the beach. He suggested putting a weight limit on the vehicles.

The City Attorney stated that it would make it easier for the Sheriff's Department to identify the vehicles if they simply classify the type of allowable vehicles, such as an ATV or F-150, instead of putting a weight limit on them. He also suggests putting the time period or seasons when these vehicles would be allowed on the beach for vendors to deliver and pick up their boxes.

According to Councilmember Ramswell, they have had some occasions when Spring Break began at the end of February. She suggests establishing a time frame of just before Spring Break to just after Labor Day for the vehicles.

Councilmember Dixon stated that smaller vehicles may not have enough power to pull boxes from the beach.

Councilmember Braden stated that the vendors would be allowed to drive half-ton vehicles on the beach at the end of the season and during a storm event; and that the weight limitation is imposed on day-to-day activities.

Councilmember Ramswell noted that the proposed ordinance already establishes a time frame, from 5:01 PM to 9:00 AM, when these vehicles are allowed on the beach. Vendors can set up at the beginning of the season and remove their equipment at the end of the season. She suggests making some sort of stipulation that those hours are not strictly limited to that extent because it could take a lot more time setting all the equipment out at the initial start of the season.

The City Attorney suggests designating the whole month of February and September for vendors to use the trucks to drop boxes off and take them out, as well as establishing a time frame on when they will be permitted.

The Acting City Manager noted that the Code Enforcement Manager who works closely with the vendors recommends a February to October time frame.

The City Attorney stated that all of Council's inputs would be incorporated into the proposed ordinance to be taken to the LPA; and that vendors could then attend the LPA meeting and provide their inputs. The LPA's recommendations would then be brought before this Council for their consideration.

D. Discussion of prospective revision to Ordinance 17-01-CC/17-09-CC Harbor and Waterways Ordinance

Item continued to December 3, 2018 City Council meeting.

E. Public Beach Initiative

The Mayor provided the following presentation:

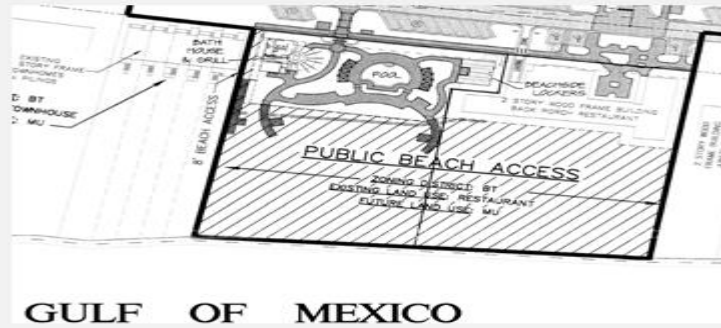
Project Overview

- July 26, 2018 Special City Council Meeting
 - Motion: Authorize Mayor Gary Jarvis to lead the initiative of trying to acquire more public beaches, with assistance from the City Attorney Jeff Burns and City Land Use Attorney Kimberly Kopp, and to have preliminary discussions with land owners at their discretion passed 7-0
- Seeking Direction
 - ❖ Prioritize available land options
 - ❖ Identify/decide upon funding sources
 - ❖ Guidance moving forward

Current Measurements of Beach Parks (Gulf Front)

- Public Gulf Front parks (in feet)
 - ❖ June White Decker – 80 feet
 - ❖ James Lee Park (County) – 1500 feet
 - ❖ Shores at Crystal Beach – 68 feet
 - ❖ TOTAL: 1648 feet
- Gulf Front – Capri by the Gulf
 - ❖ Parcel Acreage: 2.1 acres
 - ❖ Parcel Beach Acreage: 0.68
- Gulf Front – Shores at Crystal Beach West Expansion
 - ❖ Shores at Crystal Beach Park
 - Parcel Acreage: 0.43 acres
 - Beach Acreage: 0.25 acres
 - ❖ Crystal Port
 - Parcel Acreage: 0.33 acres
 - Beach Acreage: 0.13 acres
- Gulf Front – Shores at Crystal Beach East Expansion
 - ❖ Shores at Crystal Beach Park
 - Parcel Acreage: 0.43 acres
 - Beach Acreage: 0.25 acres
 - ❖ 2968 Scenic Hwy 98
 - Parcel Acreage: 0.44 acres
 - Beach Acreage: 0.19 acres
- East Pass Preserve – Parcel B
 - ❖ State Land: 20.35 acres
 - ❖ Parcel B: 11.69 acres
 - ❖ Parcel C: 1.84 acres

Restaurant Row Redevelopment Dedicated Beach Access



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Restaurant Row Redevelopment Dedicated Beach Access



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Restaurant Row Redevelopment Dedicated Beach Access – before closure



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Restaurant Row Redevelopment **Dedicated Beach Access – after closure**



- Gulf Front – Tarpon Beach Access Expansion
 - ❖ Parcel Acreage: 2.04 acres
 - ❖ Beach Acreage: 1.04 acres
 - ❖ \$17 million
- Gulf Front – Henderson Beach Villas
 - ❖ Parcel Acreage: 1.11 acres
 - ❖ Beach Acreage: 0.31 acres
 - ❖ \$12 million
- Purchase Options Summary
 - ❖ Tarpon Beach Access Expansion – 336 linear feet
 - ❖ Capri – 300 linear feet
 - ❖ Henderson Beach Villas – 205 linear feet
 - ❖ Shores at Crystal Beach East Expansion – 67 linear feet
 - ❖ Shores at Crystal Beach West Expansion (Crystal Port) – 50 linear feet
 - ❖ East Pass Preserve (Parcel B)
 - ❖ Restaurant Row Redevelopment Dedicated Beach Access – 352-plus linear feet (no purchase necessary)

DISCUSSIONS

The Mayor asked the Council to prioritize the properties to move forward to the grant writing process.

There was some discussion related to the deeded public beach access that was the condition of the Sterling Shores development order, which was discussed at the last Council meeting when the Council directed the Land Use Attorney to contact the landowner asking them to address this situation.

According to the Land Use Attorney, the Sterling Shores Owners' Association asked to be given until December 7th to address this issue.

Councilmember Dixon asked if these properties are being evaluated to determine how many parking spaces can be utilized on each one.

According to the Mayor, they placed major consideration on the location of these properties in relation to Henderson Beach Park; adding that a lot of people utilizing these properties are already vacationing in Crystal Beach proper and are either walking or riding a bicycle to the beach. Some of these properties are bigger, such as the Capri, where they could put a fair amount of parking on that location.

Councilmember Morgan noted there are two Crystal Beach property owners that are interested in selling their properties and are asking to be considered.

Councilmember Destin moved to look further into the following properties in the order listed:

- **Capri by the Gulf**
- **Tarpon Beach Access Expansion**
- **Henderson Beach Villas**

and to authorize the Interim City Manager and attorneys to work with the Mayor in obtaining appraisals on these 3 properties. Furthermore, instruct the Mayor to contact the owners of the two Crystal Beach properties Councilmember Morgan brought up tonight, and bring information back on these properties for discussion at the next council meeting.

According to Councilmember Ramswell, there is an existing bathroom and other facilities at the Hutchinson Beach locations (Shores at Crystal Beach East/West expansions), and that purchasing the properties on either side would require very little improvements. She also favors the Henderson Beach Villas property because it is located just east of the intersection with Matthew Blvd and a perfect location for gathering all of the west side of Crystal Beach.

Councilmember Ramswell also stated that if the City decides not to consider purchasing Ms. Patti Brown's property located immediately west of James Lee Park, they may be able to reach out to Okaloosa County and try to convince them to purchase that property since it is located adjacent to the County Park.

The Mayor explained they did not pursue that property because it was only 1500 feet away from the park. That decision was based purely on location as they have a greater need for beach access at the western end of Crystal Beach.

Councilmember Destin noted there were some legal issues that came along with either the Shores at Crystal Beach east or west expansion.

The City Attorney stated that the principal developer of one of the two Crystal Beach properties informed him and the Mayor that the property is currently not marketable as it is tied to litigation. However, the other property is on the market and could actually be sold anytime.

Councilmember Ramswell pointed out there are legal issues with the Capri property as well, with one of the owners not wanting to sell her unit.

The Mayor noted that Mr. Jay Roberts of the Capri Owners Association who addressed that particular issue at the previous Council meeting felt it was a non-issue. Even though the owner of a 700 square feet condominium unit may not want to sell her unit, everything else around it can be sold, including the parking lot. He added that if the City went forward with the purchase of the property and develop it as a public park to benefit the community, the holdout seller might just change her mind and decide to sell her property.

Councilmember Braden pointed out that Henderson Beach Villas is located at the far west end of Crystal Beach; and that a beach access is very much needed at that location.

The Mayor agreed they need beach access so much, and that he hopes they receive enough funding to obtain at least all three properties listed in the motion.

Councilmember Destin noted he had some communications with the County TDD, and that they seemed very receptive to this concept; however, the City needs to get some appraisals as well as set purchase amounts for these properties and bring them before the TDD for funding. He also stated that he gave a brief and informal presentation to the RESTORE Act Committee last month, and that they were also very receptive to this concept. The committee is very interested in generational long term perpetuity type projects and this concept meets their criteria. He added that the next group they would need to approach is the Trust for Public Land at the State level.

According to Councilmember Morgan, there would be some funding available from the sales tax that recently passed a referendum; adding it would be an excellent way to demonstrate to the other entities their commitment to this process by spending a portion of the sales tax money to pay for some of the cost of obtaining these properties.

The Mayor called for a vote on the motion, which passes 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

F. Announcements & Updates

The Acting Interim City Manager made the following announcements:

- The new Community Development Director will be starting on December 3rd
- Code Compliance Manager Joey Forgione and the Interim City Manager will be providing a code compliance operation update at the next council meeting
- City auditors will be in place starting the week of November 26th
- City Council Workshop on Tuesday, November 27th, starting at 9:30 a.m., in the City Hall Boardroom for City Manager Candidate Interviews
- City facilities will be closed on Nov. 22 and 23 in observance of Thanksgiving holiday
- Annual Christmas Parade on Saturday, December 8th, starting at 10:00 a.m. The Mayor and Council will assemble in front of Pepito’s Restaurant at 9:00 a.m.

- Christmas Tree Lighting on Thursday, November 29th, 6:00 p.m. at the Destin Community Center
- Destin History and Fishing Museum “Holiday on the Harbor” Lighted Boat Parade on Sunday, December 9th. Destin Library Director Wen Livingston will be one of the judges
- Today is the City's Public Information Manager Doug Rainer’s last day with the City

5. PUBLIC HEARINGS

A. First reading of Ordinance 18-23-LC – Amend Section 7.12.01(A)2 of the Land Development Code changing the designation of an 11.543 acre parcel of land located on U.S. Highway 98 from Commercial General (CG) to Town Center Mixed Use (TCMU)

The City Attorney read proposed Ordinance 18-23-LC by title, and then presented it to the City Council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE OFFICIAL ZONING MAP AS REFERENCED IN THE LAND DEVELOPMENT CODE, SECTION 7.12.01(A)2 ZONING MAPS TO INCLUDE A CHANGE IN THE ZONING DESIGNATION OF AN 11.543 ACRE AREA OF LAND LOCATED ON U.S. HIGHWAY 98, DESTIN, FLORIDA FROM COMMERCIAL GENERAL (CG) TO TOWN CENTER MIXED USE (TCMU); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR ZONING MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

The City Attorney noted this is a quasi-judicial proceeding, and that the applicant and any member of the public that want to present evidence and give testimony need to be sworn in.

The City Clerk sworn in the following individuals for testimony:

- Mr. Chip Dillard, Developer
- Mr. David Stenecki, Civil Engineer

According to Mr. Steneck, this was a request for a zoning map amendment to revise the zoning of an 11.5 acre parcel currently zoned Commercial General (CG) to the Future Land Use Map zoning of Town Center Mixed Use (TCMU). The rezoning is required in order to obtain the proposed use for a mix of residential apartments and commercial uses. Their goal is to create a use and a development that would put multi-family off the highway; and to reserve the portion of the property that is highway fronting for some other commercial uses. At this time, they do not have a specific concept in mind for these other uses. He continued that the rezoning would allow the City to have more control on the uses that can be permitted on this property. He also noted that the current CG zoning does not permit full-time year-round multi-family residences. It only permits seasonal multi-family residences.

Mr. Dillard added that the current plan contains approximately 206 units; which equates to 20-22 units per acre, with an average of 950 square feet per unit. It is below the maximum 26 units

per acre, which the TCMU zoning currently allows. There are predominantly three story buildings; with only one four story building. He stated this is a great opportunity for them to provide first class multi-family permanent residences which they feel this area is lacking.

Councilmember Morgan asked if the zoning change would allow the applicant to increase their units per acre.

Mr. Dillard explained that CG zoning allows a maximum of 40 units per acre; but, only for short term occupancy (under 6 months); whereas, TCMU zoning only allows 26 units per acre but for permanent (over 6 months) residency.

Councilmember Braden stated that all information on rezoning changes should be provided to the Council in advance so they would know exactly what the applicant is proposing to build on the property. He continued that according to some LPA members, they did not have much time to review the application prior to the meeting.

Mr. Stenecki stated they have a concept plan and not a final plan at this time. They are meeting with FDOT and some of Destin's representatives from the traffic engineering standpoint. They will present the plan to City staff to get them to the point where they would be ready to present it to the public.

Mr. Dillard stated that as part of this project they are dedicating almost 20 percent of the site along the northern boundary for a future right-of-way, and for a long term connection to Mattie Kelly extension; adding that based on their discussion with staff, it would be a two-way road, sidewalks, green space and storm water management in this 80-foot right-of-way. They are incorporating the City's plans for cross connection into their concept plan.

The Land Use Attorney noted that according to the current comprehensive plan, the maximum density in CG zoning for short-term family residential is 16.9 units per acre. The TCMU allows 24 units per acre.

Councilmember Marler stated they need affordable workforce housing more so than luxury apartments in this town.

Councilmember Ramswell questioned the applicant's request for restaurant use as one of the allowable uses for the property.

According to Mr. Dillard, they have considered putting in a restaurant on the remaining one acre of land, which is currently zoned CG; but, they do not have a specific concept in mind for that portion of the property at this time.

The Mayor noted that restaurant business would be consistent with the Town Center as it is not only allowed but encouraged in the Town Center.

Councilmember Ramswell asked what parts of the concept plan are actually definitive.

Mr. Stenecki explained they are doing market rates and site planning studies; exploring some ideas and determining the property's potential. However, their plans would always include multi-family apartments in the back half and retail restaurant at the front of the property.

Councilmember Ramswell asked if the Mattie Kelly Blvd extension is a definitive plan for this project.

According to Mr. Stenecki, they would have to build their portion of the road; from US Hwy 98 to within their property boundary.

Councilmember Destin asked how they intend to get from their property across the Gulf Power easement to Mattie Kelly.

According to Mr. Dillard, the current concept shows Mattie Kelly crossing the Gulf Power easement. It curves through the Tarpon north east corner of the Big Kahuna property, and then curves back on to the westernmost portion of their property.

Councilmember Destin asked if they have the dedicated right-of-way on hand from the Big Kahuna's property owners.

The Land Use Attorney replied that they currently do not have the dedicated right-of-way.

Councilmember Destin also noted there is a big issue with the Gulf Power easement; adding there is absolutely no vehicular use under their transmission line.

The Mayor noted that donating the 80-foot right-of-way is merely a recommendation at this time to facilitate the rezoning of the property.

According to the Land Use Attorney, staff feels the 80-foot right-of-way is strongly encouraged by the comprehensive plan.

Councilmember Dixon stated this request may be a little premature. The applicant has not come up with a concept on what they would actually do on the front of their property. There are still a lot of unknowns in terms of the whole project for this Council to agree to change the zoning on this parcel.

The Land Use Attorney explained this request is just for the rezoning of the property. If rezoning is approved, the applicant is not obligated to put any particular project on this parcel. Anything that is allowed in the zoning district would be permissible.

The City Attorney added there is no development application at this time.

Mr. Dillard explained they did not want to proceed forward and spend a lot of money for the plans until rezoning of the property is approved. He added that they build apartment buildings, and that 80 to 90 percent of the property is for that use. They do not have a definitive plan for the last front one acre other than it will be a use consistent with CG or TCMU.

Councilmember Braden stated that he cannot agree to rezone this parcel at this time without concrete guarantees that what the applicant is proposing is what they would actually see on the property.

Councilmember Destin moved to table this item indefinitely; seconded by Councilmember Dixon.

Councilmember Morgan asked if it would be easier to amend the CG classification to allow for long-term rental.

The Land Use Attorney noted it would require an LPA meeting and two Council meetings to amend the LDC; adding they would also need to amend the comprehensive plan.

Councilmember Morgan offered a substitute motion to approve Ordinance 18-23-LC, amending the Official Zoning Map to change the zoning designation of the property on U.S. Hwy 98, from “Commercial General” to “Town Center Mixed Use” on first reading and direct staff to bring it back for second reading; seconded by Councilmember Marler.

At this time, the Mayor opened a public hearing to receive comments for or against the proposed ordinance.

Mr. Jason Klosterman, a Destin resident and member of the Local Planning Agency, stated that he voted to recommend approval of this application. He continued that he has no problem with this project. He feels the applicants were very forthcoming, and open and honest in answering all their questions. However, he has some reservations regarding the process. He feels it would have been more beneficial had they received the information much sooner and able to conduct more research on this project.

The Land Use Attorney stated there would be a lot of efficiency and improvements to make when the new Community Development Director is in place in December. The department has been short-staffed for a while and there have been some discussions about making these types of improvements.

Ms. Teresa Hebert, a Destin resident, noted they have a lot of dead space in this community; and that it would be beneficial to get rid of some of the ugly, undeveloped properties. She continued they should not turn the applicants down just because they do not have a definitive plan for their property.

The Mayor called for a vote on the substitute motion, which failed 3-4 (Council members Morgan, Marler and Overdier voted “yes”; Council members Destin, Dixon, Ramswell and Braden voted “no”).

The Mayor called for a motion to table the item indefinitely failed 3-4 (Council members Destin, Dixon and Ramswell voted “yes”; Council members Morgan, Marler, Overdier and Braden voted “no”).

Councilmember Braden noted he meant to vote “yes” on the motion to table.

The City Attorney noted that with this vote, the application is technically been denied.

Councilmember Ramswell suggests they vote to re-consider the prior motion since a Council member has indicated he incorrectly voted.

Councilmember Morgan moved to reconsider previous motion; seconded by Councilmember Dixon. Motion passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

Councilmember Destin moved to table this item indefinitely; seconded by Councilmember Marler. Motion passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

B. SRG Properties, Inc. Major Deviation to Restaurant Row Redevelopment (SP #9864).

Motion to continue item to the December 3, 2018 Council meeting passed 7-0.

C. First Reading of Ordinance 18-24-CN Acquisition of 607 Sandalwood for the Cross-Town Connector

Motion to pull item from the agenda passed 7-0.

D. First Reading of Ordinance 18-25-CN Acquisition of 601 Sandalwood for the Cross-Town Connector

Motion to pull item from the agenda passed 7-0.

E. Marine Construction at Captain Leonard Destin Park (101 Calhoun Avenue)

The City Clerk sworn in the following individual for testimony:

Mr. Bobby Stormer, Project Manager, Reliant South Construction Group

According to the City Attorney, they could still move forward with the hearing in spite of the absence of both the City Manager and Deputy City Manager, since the applicant is available to provide the necessary evidence for the project. He continued that the actual full design was approved several years ago. The Harbor and Waterways Board has approved the design plan; and that under the City’s current rules and procedures, non-residential dock permit applications require a quasi-judicial hearing.

Mr. Bobby Stormer, provided an overview of the project application. This application is for an observation pier and a small kayak launch that will be separate from the pier.

Councilmember Braden moved to approve the application for marine construction at Captain Leonard Destin Park, located at 101 Calhoun Avenue, with the addition of a

security light at the terminal end of the pier, per Article 11.05.01U., City of Destin Land Development Code; seconded by Councilmember Dixon.

The Mayor opened a public hearing to receive comments for or against the proposed development. Having none, the Mayor closed the public hearing and turned the matter over to the City Council for further discussion and consideration.

The Mayor called for a vote on the motion, which passes 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

6. *CONSENT AGENDA

A. Request for use of the City's rights-of-way for the Round the Bay Relay on Saturday, December 29, 2018

Motion by Councilmember Dixon, seconded by Councilmember Overdier, to approve Agenda Item 6A, as printed above, passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted “yes”).

7. COMMENTS / PRESENTATIONS FROM MAYOR, COUNCIL, LAND USE ATTORNEY AND CITY ATTORNEY

- A. Councilmember Braden
- B. Councilmember Ramswell
- C. Councilmember Dixon
- D. Councilmember Overdier
- E. Councilmember Marler

1. Nomination of Mr. William McKissick to the City of Destin's Harbor and Waterways Board

Motion by Councilmember Marler, seconded by Councilmember Overdier, to appoint Mr. William McKissick to the City of Destin's Harbor and Waterways Board passed 6-1 (Council members, Morgan, Destin, Marler, Overdier, Dixon, and Ramswell voted “yes”; Councilmember Braden voted “no”).

- F. Councilmember Destin
- G. Councilmember Morgan
- H. Mayor Gary Jarvis
- I. Land Use Attorney

1. Status Update on Short Term Rentals Ordinance.

The Land Use Attorney announced she would be presenting a draft of the Short-Term Rental Ordinance to staff soon for their review and comments. The draft ordinance would then be brought before the City Council on December 3rd for policy direction; and then to the Local Planning Agency for their recommendations.

2. Correspondence to Attorney for Sterling Shores Owners' Association Regarding Public Beach Access, dated November 13, 2018.

This item was addressed earlier in the meeting.

3. Request for directive on code revisions related to commercial event houses in residential zoning districts.

The Land Use Attorney asked for Council's direction on code revisions related to private event houses and wedding venue type establishments in residential areas. She stated that one of the more enforceable ways to do it is to make it a *prima facie* evidence that a violation exists if someone is advertising.

There was a general consensus to support the Land Use Attorney's recommendation.

J. City Attorney

The City Attorney stated there is a need to update the Future Land Use Map to match the City's current zoning map. He asked the Council to direct the city attorneys and staff to prepare a draft and bring it back at a date certain.

Councilmember Destin moved to direct the city attorneys to work with staff to bring back a draft document that will make the zoning map match up with the Future Land Use Map by the first meeting in January 2019; seconded by Councilmember Overdier. Motion passed 7-0 (Council members, Morgan, Destin, Marler, Overdier, Dixon, Ramswell and Braden voted "yes").

Having no further business at this time, the meeting was adjourned at 8:40 PM.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019**TYPE OF AGENDA ITEM:** Announcement

TO: City Council**THRU:** Kimberly Kopp, Land Use Attorney**FROM:** Lance Johnson, City Manager**DATE:** January 16, 2019**SUBJECT:** Request from D. Theriaque to Dismiss Code Enforcement Appeals/Violations

I. BACKGROUND: The subject code enforcement appeals involve three properties located within Destin Pointe, involving first floor structures within the flood zone.

On August 20, 2018, the City of Destin executed a Settlement Agreement with private property owners Brooke Andry; 3609 Waverly Circle, LLC; and Graham & Kimberly N. Hill. The Settlement Agreement provided that the parties would request that FEMA accept Section 1316 Declarations for the subject properties within 95 days, and that the City would subsequently dismiss the pending code enforcement appeal.

Due to delays at FEMA (quite possibly at first due to Hurricane Michael, and currently, due to federal government shutdown), the 1316s are still being processed by FEMA. It is believed that ultimately, the 1316s will be issued by FEMA, and that dismissal of the code enforcement appeal will be rendered moot accordingly. Therefore, there is likely little risk to the City in dismissing the pending code enforcement appeals and violations as requested by Mr. Theriaque, attorney for the property owners. At some point, FEMA is expected to issue the 1316s and the properties will be removed from the insurance program.

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:**
- B. Effect on Budget (EOB):**
- C. Level of Service (LOS):**

III. CONCLUSION:**IV. RECOMMENDED MOTION:**

Attachments:

1. Jan 7 2019 Correspondence from
Theriaque and Settlement Agreement



REPLY TO: TALLAHASSEE

January 7, 2019

VIA ELECTRONIC MAIL & UNITED STATES MAIL

Kimberly Romano Kopp, Esquire
City of Destin Land Use Attorney
Romano Kopp Law, P.A.
P.O. Box 622562
Oviedo, Florida 32762

**Re: *Settlement Agreement Between Brooke Andry, 3609 Waverly Circle, LLC,
Graham Hill, Kimberly N. Hill, and City of Destin, Florida***

Dear Ms. Kopp:

On August 20, 2018, the City of Destin, Florida ("City"), executed a Settlement Agreement with Brooke Andry, 3609 Waverly Circle, LLC, Graham Hill, and Kimberly N. Hill. Paragraphs 2.B. and 2.C. of the Settlement Agreement state as follows:

- B. Within ninety-five (95) calendar days of the Effective Date of this Agreement or within five (5) business days after FEMA notifies the City that it accepts the Section 1316 Declarations for the Properties, whichever occurs first, the City shall file a Notice of Voluntary Dismissal with the Circuit Court thereby dismissing the Code Enforcement Appeal.
- C. Within 100 calendar days of the Effective Date of this Agreement or within five (5) business days after FEMA notifies the City that it accepts the Section 1316 Declarations for the Properties, whichever occurs first, the City shall file in the Official Records of Okaloosa County, Florida, releases of the 3606 Melrose Violation, the 3595 Waverly Violation, and the 3609 Waverly Violation.

A copy of the Settlement Agreement is enclosed with this letter.

TALLAHASSEE
433 NORTH MAGNOLIA DRIVE
TALLAHASSEE, FLORIDA 32308
(850) 224-7332
FAX: (850) 224-7662

WINDERMERE
9100 CONROY WINDERMERE ROAD, SUITE 200
WINDERMERE, FLORIDA 34786
(407) 258-3733
FAX: (407) 264-6132

Kimberly Romano Kopp, Esquire
January 7, 2019
Page 2

More than 140 days have passed since the Effective Date of the Settlement Agreement, which was August 20, 2018. Accordingly, our clients Brooke Andry, 3609 Waverly Circle, LLC, Graham Hill, and Kimberly N. Hill hereby demand that the City ***immediately***: (A) file a Notice of Voluntary Dismissal with the Circuit Court thereby dismissing the Code Enforcement Appeal; and (B) file in the Official Records of Okaloosa County, Florida, releases of the 3606 Melrose Violation, the 3595 Waverly Violation, and the 3609 Waverly Violation.

I appreciate your prompt attention to this matter. Please do not hesitate to contact me if you have any questions or need further information.

Sincerely,



David A. Theriaque

Enclosure

SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT ("Agreement") is made and entered into on this ____ day of August 2018, by and between BROOKE ANDRY, 3609 WAVERLY CIRCLE, LLC, GRAHAM HILL, and KIMBERLY N. HILL (collectively, the "Respondents"), and the CITY OF DESTIN, FLORIDA ("City").

RECITALS:

WHEREAS, on April 26, 2016, the City issued a "Notice of Code Violation" to Respondent Brooke Andry regarding the real property located at 3606 Melrose Avenue, Destin, Florida ("3606 Melrose Violation"); and

WHEREAS, on April 26, 2016, the City issued a "Notice of Code Violation" to Respondent 3609 Waverly Circle, LLC, regarding the real property located at 3609 Waverly Circle, Destin, Florida ("3609 Waverly Violation"); and

WHEREAS, on April 28, 2016, the City issued a "Notice of Code Violation" to Respondent Brooke Andry regarding the real property located at 3595 Waverly Circle, Destin, Florida ("3595 Waverly Violation"); and

WHEREAS, each of the foregoing Notices of Code Violation charged the Respondents with a violation of Section 11.04.06.F.6 of the City's Land Development Code, entitled "Provisions for flood hazard reduction"; and

WHEREAS, on April 19, 2017, the City's Code Enforcement Special Magistrate held a combined hearing on the 3606 Waverly Violation, the 3609 Waverly Violation, and the 3595 Waverly Violation, said cases being assigned Case Nos. 16-1093, 16-1095, and 16-1096 ("Special Magistrate Cases"); and

WHEREAS, by Order dated May 30, 2017, the City's Code Enforcement Special Magistrate granted the Respondents' Motion to Dismiss and dismissed the Special Magistrate Cases based upon the Respondents' assertion that the City had failed to meet its initial burden of proof; and

WHEREAS, on June 29, 2017, the City filed a "Notice of Appeal" of the Code Enforcement Special Magistrate's May 30 Order in Okaloosa County Circuit Court, said case being styled as *City of Destin, Department of Code Enforcement v. Andry, et al.*, Case No. 17- CA-2297 ("Code Enforcement Appeal"); and

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WHEREAS, on January 30, 2017, Respondents Graham Hill and Kimberly N. Hill purchased the property located at 3606 Melrose Avenue, which was the subject of the 3606 Melrose Violation; and

WHEREAS, subsequent to the initiation of the Special Magistrate Cases and the filing of the Code Enforcement Appeal, the City and the Respondents have explored various settlement options in an attempt to amicably resolve their dispute; and

WHEREAS, the City and the Respondents desire to enter into this Agreement for the purposes of resolving the Special Magistrate Cases and the Code Enforcement Appeal and are motivated by a desire to avoid the time, costs, and uncertainty associated with litigation and to arrive at a fair and reasonable agreement to resolve their dispute.

NOW, THEREFORE, in consideration of the terms and mutual covenants contained herein, the City and the Respondents (collectively, the "Parties") intending to be legally bound, agree as follows:

1. **Recitals.** The above-referenced recitals are true and correct and are hereby incorporated into this Agreement for all purposes.

2. **Terms of Agreement.** In connection with the Parties' mutual execution of this Agreement and the covenants and terms herein, the Parties agree as follows:

- A. All code enforcement issues regarding any existing first floor improvements in each dwelling unit located at 3606 Melrose Avenue, Destin, Florida, 3595 Waverly Circle, Destin, Florida, and 3609 Waverly Circle, Destin, Florida ("Properties"), shall be resolved pursuant to Section 1316 of the National Flood Insurance Act of 1968, as amended ("Section 1316 Declaration"). The City shall issue the Section 1316 Declarations within ten (10) calendar days of the Effective Date of this Agreement.
- B. Within ninety-five (95) calendar days of the Effective Date of this Agreement or within five (5) business days after FEMA notifies the City that it accepts the Section 1316 Declarations for the Properties, whichever occurs first, the City shall file a Notice of Voluntary Dismissal with the Circuit Court thereby dismissing the Code Enforcement Appeal.
- C. Within 100 calendar days of the Effective Date of this Agreement or within five (5) business days after FEMA notifies the City that it accepts the Section 1316 Declarations for the Properties, whichever occurs first, the City shall file in the Official Records of Okaloosa County, Florida, releases of the 3606 Melrose Violation, the 3595 Waverly Violation, and the 3609 Waverly Violation.

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- D. The Properties shall not be subject to further code enforcement proceedings regarding any existing first floor improvements, including matters involving existing unpermitted improvements.
- E. The Properties shall be eligible for building permits for any future first floor improvements if such future improvements are consistent with the then current applicable building code and City codes, notwithstanding that the existing first floor may have additional elements that do not meet the then current applicable codes. Such future first floor improvements that meet the then current applicable codes would result in a reduction of any existing nonconformities with such codes.
- F. Notwithstanding Paragraph 2.E., the new two-foot elevation requirement mandated by Section R322.2.1 of City Ordinance No. 18-07-CC shall not apply to the property located at 3606 Melrose Avenue. Rather, such property is grandfathered at a one-foot elevation requirement.
- G. The City waives all liens and fines on the Properties.
- H. Within ninety-five (95) calendar days of the Effective Date of this Agreement or within five (5) business days after FEMA notifies the City that it accepts the Section 1316 Declarations for the Properties, whichever occurs first, each Respondent shall record in the Official Records of Okaloosa County, Florida, a waiver and release of any liability on the part of the City for any damage or injury (including death) related to the existing first floor improvements.
- I. This Agreement shall be null and void if FEMA rejects or does not accept the Section 1316 Declarations within ninety (90) calendar days of the Effective Date of this Agreement.

3. **Authority.** Each Party represents and warrants, with respect to itself, that the execution and delivery of this Agreement has been authorized by all necessary action of each Party, and that this Agreement constitutes the legal, valid, and binding agreement of each Party, enforceable in accordance with its terms. It is expressly understood and agreed that this Agreement shall not become binding upon the City unless and until the City Council approves this Agreement at a public meeting, as is required by Florida law.

4. **Governing Law: Venue.** This Agreement shall be construed, interpreted, enforced, and governed in accordance with the laws of the State of Florida. Venue for any action arising out of or related to this Agreement shall be in Okaloosa County, Florida.

5. **Binding Effect.** This Agreement shall be binding upon and shall inure to the benefit of the respective successors, heirs, assigns, bankruptcy trustees, representatives, affiliates,

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officers, directors, partners, members, and joint venturers of the Parties.

6. **Non-Waiver.** Failure by the City or the Respondents to insist upon the strict performance of any of the terms, conditions, or provisions of this Agreement shall not be deemed to be a waiver of such terms, conditions, and provisions, and the City and the Respondents, notwithstanding such failure, shall have the right hereafter to insist upon the strict performance of any or all such terms and conditions of this Agreement as set forth herein.

7. **Mutual Releases.**

- A. The Respondents hereby waive and release, acquit, satisfy, and forever discharge the City, including its elected officials and employees, and any and all affiliates, legal representatives, insurance carriers, successors, and assigns thereof (collectively, the "City-Related Parties"), from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever which the Respondents ever had or now have, in law or in equity, for, upon, or by reason of any claim raised or which could have been raised by any Party in the Special Magistrate Cases or the Code Enforcement Appeal as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, the Respondents covenant with and warrant to the City, including the City-Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets against the City, including the City-Related Parties, with regard to any claim raised by any Party in the Special Magistrate Cases or the Code Enforcement Appeal that are not included in and covered by this Agreement. The release set forth in this provision does not apply to any rights granted by or arising from this Agreement.
- B. The City hereby waives and releases, acquits, satisfies, and forever discharges the Respondents, including their officers, members, directors, shareholders, and employees, and any and all subsidiaries, affiliates, legal representatives, insurance carriers, successors, heirs, and assigns thereof (collectively, the "Respondent-Related Parties"), from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever which the City ever had or now has, in law or in equity, for, upon, or by reason of any claim raised or which could have been raised by any Party in the Special Magistrate Cases or the Code Enforcement Appeal as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, the City covenants with and warrants to the Respondents, including the Respondent-Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets against the Respondents, including the Respondent-Related Parties, with regard to

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any claim raised by any party in the Special Magistrate Cases or the Code Enforcement Appeal that are not included in and covered by this Agreement. The release set forth in this provision does not apply to any rights granted by or arising from this Agreement.

- C. The releases set forth above shall become effective only upon the City Council's approval and execution of this Agreement.

8. **Construction: Headings.** The Parties acknowledge that they participated in the negotiation and drafting of the terms of this Agreement and acknowledge that no provision shall be strictly construed against one party or the other based solely on draftsmanship. The Parties have entered into this Agreement without duress, coercion, or under undue influence of any kind, and are motivated by a desire to avoid the costs and time associated with litigation and to arrive at a fair and reasonable agreement with regard to the Special Magistrate Cases and the Code Enforcement Appeal. The Parties acknowledge that they have been represented by counsel in connection with the negotiation of the terms of this Agreement and that they enter into this Agreement freely and voluntarily, and only after consultation with their respective counsel. All sections and descriptive headings in this Agreement are inserted for convenience only, and shall neither affect the construction or interpretation hereof, nor add or subtract from the meaning of the contents of each section.

9. **Interpretation.** This Agreement shall be read and interpreted in such a manner as to give all provisions their ordinary and customary meaning, and all words, terms, and phrases not otherwise specifically defined by a capitalized term or otherwise shall have the same meaning and interpretation as customarily used among lay persons. The terms "hereby," "hereof," "herein," "hereto," "hereunder," and any similar terms refer to this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. All words, terms, and phrases specifically defined by a capitalized term shall apply throughout this Agreement in its entirety and not solely to the particular section or paragraph in which the term is used. In construing this Agreement, the singular shall be held to include the plural, the plural shall include the singular, and the use of any gender shall include every other and all genders.

10. **Entire Agreement; Amendments.** This Agreement represents the entire understanding and agreement between the Parties with respect to the subject matter hereof. No representations have been made, either express or implied by the Parties, other than those expressly set forth in this Agreement. This Agreement or any part hereof may not be changed, amended, waived, discharged, or terminated except by an instrument in writing, executed by all Parties.

11. **Enforcement; Remedies.** The Parties shall have all equitable and legal remedies available under Florida law to enforce the terms and conditions of this Agreement, and the terms of this Agreement shall be specifically enforceable in court. In the event of any dispute hereunder or any action to interpret or enforce this Agreement, any provision hereof, or any matter arising herefrom, the prevailing party shall be paid by the non-prevailing party the

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reasonable attorneys' fees and costs incurred in enforcing its rights and remedies, whether incurred at the pre-trial, trial, or appellate levels, including any fees and costs incurred in determining the amount of awardable fees.

12. **Severability.** If any part of this Agreement is found invalid or unenforceable by any court of competent jurisdiction, such invalidity or unenforceability shall not affect the other parts of this Agreement if the rights and obligations of the Parties contained therein are not materially prejudiced and if the intentions of the Parties can continue to be effectuated. To that end, this Agreement is declared severable.

13. **Disclaimer of Third Party Beneficiaries.** This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue by reason hereof to, or for the benefit of, any third party not a formal party hereto. Nothing in this Agreement, expressed or implied, is intended or shall be construed to confer upon or give any other third person or entity any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions hereof, other than as expressly stated herein.

14. **Purpose of this Agreement: Not Establishing Precedent.** By entering into this Agreement, the Parties do not admit any liability whatsoever to the other, or to any other person, arising out of any claims asserted, or that could have been asserted, in the Special Magistrate Cases or the Code Enforcement Appeal, and expressly deny any and all such liability. The Parties acknowledge and agree that this Agreement is not intended by any Party to be construed, and shall not be construed, as an admission by any Party of any liability or violation of any law, statute, ordinance, regulation, or other legal duty of any nature whatsoever. Rather, this Agreement is for the compromise of potential and disputed claims, involving both fact and law, and the Parties enter into this Agreement in a spirit of cooperation for the purpose of avoiding further litigation and in recognition of the desire for the speedy and reasonable resolution of the Parties' dispute. The acceptance of proposals for purposes of this Agreement is part of a negotiated settlement affecting many factual and legal issues and is not an endorsement of, and does not establish precedent for, the use of these proposals in any other circumstances.

15. **Attorneys' Fees: Costs.** The Parties expressly agree to bear the fees and costs of their respective counsel, experts, and consultants in the Special Magistrate Cases, the Code Enforcement Appeal, and in the preparation of this Agreement.

16. **Notices.** All notices and other communications required hereunder shall be in writing and shall be delivered personally, or by registered or certified mail, return receipt requested, postage prepaid, or by Federal Express, or other nationally recognized overnight commercial delivery service, fees prepaid for next day delivery. Such notices shall be deemed to have been received: (i) upon delivery, if personally delivered; (ii) upon the earlier of actual receipt or the third day after mailing, if mailed by registered or certified United States mail, return receipt requested, postage prepaid; and (iii) upon the earlier of actual receipt or the next business day if sent by Federal Express or other nationally recognized overnight commercial

delivery service, if fees are prepaid for next day delivery. The addresses for delivery of such notices shall be as follows:

- (a) To Respondent Brooke Andry:

Brooke Andry
5564 Bellaire Drive
New Orleans, LA 70124

With a copy to:

David A. Theriaque, Esquire
S. Brent Spain, Esquire
Theriaque & Spain
433 N. Magnolia Drive
Tallahassee, Florida 32308

- (b) To Respondent 3609 Waverly Circle, LLC:

Gilbert Andry
5564 Bellaire Drive
New Orleans, LA 70124

With a copy to:

David A. Theriaque, Esquire
S. Brent Spain, Esquire
Theriaque & Spain
433 N. Magnolia Drive
Tallahassee, Florida 32308

- (c) To Respondents Graham Hill and Kimberly N. Hill:

Graham Hill and Kimberly N. Hill
3750 North 30th Place
Arlington, VA 22207

With a copy to:

David A. Theriaque, Esquire
S. Brent Spain, Esquire
Theriaque & Spain
433 N. Magnolia Drive
Tallahassee, Florida 32308

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(d) To the City:

City of Destin
c/o City Manager
4200 Indian Bayou Trail
Destin, Florida 32541

With a copy to:

Kimberly Romano Kopp, Esquire
Romano Kopp Law, P.A.
P.O. Box 622562
Oviedo, Florida 32762-2562

or to such other address as any party hereto shall from time to time designate to the other party by notice in writing as herein provided.

17. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be deemed to be an original and need not be signed by more than one of the Parties and all of which shall constitute one and the same agreement. The Parties further agree that each Party shall execute and deliver all other appropriate supplemental agreements and other instruments, and take any other action necessary, to make this Agreement fully and legally effective, binding, and enforceable as between them and as against third parties.

18. **Effective Date.** This Agreement shall become effective upon the date of execution by the last of the Parties.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

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19. Waiver of Jury Trial. The Parties hereby knowingly, voluntarily, and intentionally waive any right to a jury trial with respect to any claims arising in connection with this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in a manner sufficient to bind them as set forth herein.

Signed, sealed, and delivered before me:

WITNESSES

BROOKE ANDRY

Isidore P. Andry
Print Name: ISIDORE P. ANDRY

By: [Signature]

David DeValle
Print Name: DAVID DEVALLE

Date: 8/10/13

STATE OF FLORIDA LOUISIANA
PIRACY
COUNTY OF ORLEANS

The foregoing instrument was acknowledged before me this 10th day of AUGUST 2018, by Brooke Andry. Said person (check one) is personally known to me or produced DAVID'S LICENSE as identification.

Name: [Signature]
(Notary Seal)

Printed

GILBERT V. ANDRY JR.

Notary

Public,

State of
LOUISIANA

Commission

No. 02488

My commission expires: UPON MY DEATH

DAY

WITNESSES

Print Name: _____

Print Name: _____

GRAHAM HILL

By: GR Hill

Date: 8-14-18

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this 14 day of August 2018, by Graham Hill. Said person (check one) ☒ is personally known to me or _____ produced as identification.

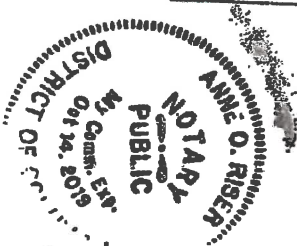
Name: A.O. Riser
(Notary Seal)

Printed ANNE O. RISER
Notary Public, State of District of Columbia

Commission

No. _____

My commission expires: 10/14/19



WITNESSES

KIMBERLY N. HILL

Print Name: _____

By: Kimberly N. Hill

Print Name: _____

Date: August 10th 2018

STATE OF ~~FLORIDA~~ Virginia

COUNTY OF Arlington

The foregoing instrument was acknowledged before me this day of 8th day of August 2018, by Kimberly N. Hill. Said person (check one) is personally known to me or produced via DL as identification.

Name: Daniel Harwood
(Notary Seal)

Printed

Notary

Public,

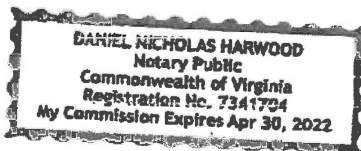
State

of Virginia

Commission

No. 7341704

My commission expires: April 30, 2022



WITNESSES

Shirley C. King
Print Name: Shirley C. King

David D. Walker
Print Name: David D. Walker

3609 WAVERLY CIRCLE, LLC

By: [Signature]

Its: Manager

Date: 8/10/18

STATE OF ~~FLORIDA~~ LOUISIANA

121256
COUNTY OF ORLEANS

The foregoing instrument was acknowledged before me this 10th day of AUGUST 2018, by GILBERT V. ANDREWS III, as Manager of 3609 Waverly Circle, LLC, on behalf of said entity. Said person (check one) is personally known to me or produced VALID IDENTIFICATION identification.

Name: [Signature]

Printed

(Notary Seal)

[Signature]

Notary

Public,

State

of

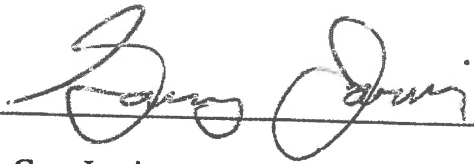
LOUISIANA

Commission

No. 25558

My commission expires: 8/20/2024

CITY OF DESTIN, FLORIDA

By: 

Name: Gary Jarvis

Its: Mayor

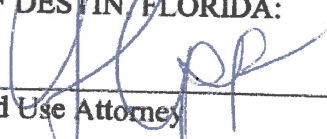
Date: 8/20/18

**ATTEST, BY THE CLERK OF THE
CITY COUNCIL OF THE CITY OF
DESTIN, FLORIDA:**


City Clerk

Rey Bailey
Print Name

**APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND RELIANCE OF THE
CITY OF DESTIN, FLORIDA:**


City Land Use Attorney

Kimberly R. Kapp, Esq.
Print Name

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU: Kimberly Kopp, Land Use Attorney

FROM: Lance Johnson, City Manager

DATE: January 16, 2018

SUBJECT: Receipt of Report from Fisher Planning and Development Services in Connection with Bert Harris Pre-Suit Notice Submitted by Destin Fishing Fleet.

I. BACKGROUND: On January 7, 2019, the City Council directed the City Manager to enlist the services of April Fisher of Fisher Planning & Development Services to prepare an independent evaluation of the development rights of the subject property based on the City's Comprehensive Plan amendments, in response to the pre-suit notice of Bert Harris claim submitted to the City by the Destin Fishing Fleet.

II. DISCUSSION: The report of Fisher Planning & Development Services is attached for review by the City Council.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: At this time, the City Council should provide direction to staff as to whether to take any further action as a result of the pre-suit notice filed by the Destin Fishing Fleet. Possible alternatives may include:

- a. Taking no further action (this may result in the DFF filing suit).
- b. Obtaining quotes from independent appraisals to obtain the City's own bona fide appraisal.
- c. Discussion of settlement options now, or on a future City Council agenda. d. Request staff prepare a Statement of Allowable Uses
- e. Such other options as the City Council may deem appropriate.

IV. RECOMMENDED MOTION:

Attachments:

1. Fisher Report for Council Agenda
January 22 2019

January 15, 2019

Determination of Existing Use/ Vested Rights for 210 Harbor Boulevard, Destin, Florida

In review of the documents on file with the City of Destin, and Destin Fishing Fleet, Inc.'s claim under the Bert J. Harris, Jr., Private Property Rights Protection Act, section 70.001, Fla. Stat., I understand these to be the **facts in this case**:

1. Destin Fishing Fleet, Inc. (DFF) purchased the subject property in 1992 and developed, expanded, and operates those same uses on it today: a restaurant, 40-slip working marina, and offices with parking. The Future Land Use and Zoning District designations for the property are South Harbor Mixed Use (SHMU).
2. DFF made application to the City in 2009 for a "Tier 3" Planned Unit Development (PUD) to incorporate into its existing uses, a project for a 15-story mixed use building. The "Tier 3" form of development consisted of additional entitlements for height, density, and intensity bonuses greater than the "Tier 1", "by-right" development entitlements if certain performance standards are met in the PUD development order, such as providing public benefits, that were defined in the Land Development Code. The offer of public benefits (City Council public hearing, February 23, 2009) was not accepted by City Council and subsequently did not reach renegotiation between the applicant and the City, so the "Tier 3" application was not approved by City Council. No subsequent development order has been approved for "Tier 2" or "Tier 3" development on the property.
3. The "by-right" entitlements that existed at the time of the 2009 "Tier 3" development application included a "Tier 1" base maximum of 35 feet/ 3 stories in height, permitted without any height, density, and intensity bonus requests. This Tier System is no longer in place.
4. Based on the current Comprehensive Plan, 210 Harbor Boulevard may be developed for mixed use through the Major Development review process defined in Sec. 2.06.01 and 2.07.01 of the Land Development Code. There is no maximum density established as the Floor Area Ratio (FAR) of 1.5 is used for both residential and nonresidential components of the uses, which is more than double the previous "by-right", "Tier 1" density/intensity entitlements of .6 FAR in the Land Development Code for SHMU. A maximum height of 75 feet/ 6 stories is possible.

Findings:

The question, of whether there is an existing use or vested right on the DFF property (210 Harbor Boulevard) that has been inordinately burdened, is resolved in the evaluation of the previous "Tier 1", "by-right" property entitlements versus the SHMU Future Land Use policy amendments to date. **In short, there are no existing uses or vested rights that have been inordinately burdened by the City of Destin.** The conclusion of this is explained below:

1. The reasonable expectation of a land use/ zoning entitlement is the "by-right" permitted uses, densities and intensities (inclusive of height regulations). "By-right" means that there

are no conditional criteria or tests that an applicant/property owner must meet to attain additional rights. In this, an applicant does not have to seek a contractual development agreement for increased rights, such as a PUD, agreed to by both parties (the applicant and the City).

- a. The current development on 210 Harbor Boulevard is a valid existing use. None of the existing use rights have been stripped or invalidated by the City Future Land Use policy amendments.
 - b. It is reasonable to construe that the “by- right” entitlements under the previous “Tier 1” identified in the Land Development Code are the vested rights. These rights for mixed use development in SHMU were 35 feet/ 3 stories in height, with a .6 FAR and no maximum density applied (Destin LDC Table 7-3). Now, with the most recent Future Land Use amendments, there is potential for more than double the previous “by-right” FAR (1.5 FAR established as the new maximum in Ordinance 17-22-PC, adopted April 2, 2018) with a possible building height of 75 feet/ 6 stories.
 - c. These vested rights identified in (b) above have not been denied by the City for this property, nor has the opportunity to achieve them been rescinded in any Future Land Use Policy or Code. DFF is still able to process a Major Development application with the City to seek these entitlements. Until the time that DFF processes such an application and it is subsequently denied, the Bert J. Harris, Jr., Private Property Rights Protection Act claim is premature, and the discussion moot.
2. There is no approved PUD or development order for the subject property under any version of “Tier-2” or “Tier 3” Future Land Use Policies or Land Development Code processes. In 2009, DFF submitted a “Tier 3” development order application to City Council but it was not approved. The City and DFF did not agree on the development order terms of public benefits, which was a required component of a “Tier 3” PUD proposal, therefore a contractual development order was not approved nor entitled by the City.
- a. The Bert J. Harris, Jr., Private Property Rights Protection Act, section 70.001 (3) (b), Fla. Stat. explicitly defines an existing use as either an actual, present use or activity, or, “(2) activity or such reasonably foreseeable, nonspeculative land uses which are suitable for the subject real property and compatible with adjacent land uses and which have created an existing fair market value in the property greater than the fair market value of the actual, present use or activity on the real property.”
 - b. To assert that a “Tier 2” or “Tier 3” proposed scenario is a vested right or an existing use flies in the face of Bert J. Harris, Jr., Private Property Rights Protection Act, section 70.001, Fla. Stat. A contract (PUD or development order) takes at least two parties (the applicant and the City in this case) agreeing to the entitlements and performance of said contract, through a substantive due process; which DFF was afforded during the February 23, 2009 City Council public hearing and subsequent processes.

With no approved development order for a “Tier 2” or “Tier 3” project, the assertion that these are vested rights is speculative and not reasonably

foreseeable. There is record from the May 3, 2010 City Council meeting minutes where the City Manager informed the City Council that DFF no longer desired to proceed with the “Tier 2” or “Tier 3” development proposal.

c. Future Land Use Policy 1-2.1.7 establishes:

“The maximum range of density and/or intensity stated in the Comprehensive Plan and in the LDC may be further constrained by quantitative and qualitative criteria included in the Comprehensive Plan and LDC, including but not limited to requirements for minimum open space; concurrency management and level of service standards for transportation, stormwater and other public facilities and services; off-street parking and internal circulation; landscaping; impacts on schools; and on-site and off-site improvements and design amenities required to achieve land use compatibility. In addition, natural constraints such as the shape and natural features of a site may present obstacles to achieving maximum density and/or intensity shown on the adopted Comprehensive Plan FLUM...”

This Policy clarifies that it is not a reasonable expectation that a property has a vested right nor an existing use in the maximum possible density and/ or intensity.

3. Finally, the Bert J. Harris, Jr., Private Property Rights Protection Act, section 70.001 (3) (e) (1), Fla. Stat. asks whether “the property owner is left with existing or vested uses that are unreasonable such that the property owner bears permanently a disproportionate share of a burden imposed for the good of the public, which in fairness should be borne by the public at large.”
 - a. The Future Land Use amendments that modified height, intensity and density policies are neither restrictive to only DFF’s property, nor are they restrictive only to parcels with the SHMU Future Land Use and Zoning District designations.
 - b. Local governments, particularly in this case the City of Destin, hold the legislative power to carry out such land use policies and zoning controls and amendments, independently exercising its governmental authority.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: City Manager Report

TO: City Council

THRU:

FROM: Lance Johnson, City Manager

DATE: January 16, 2019

SUBJECT: Clement Taylor Park Restoration - Request to submit the RESTORE Act Direct Component Grant Application

I. BACKGROUND: On July 2, 2018, the Destin City Council motioned to direct staff to make a request to Okaloosa County Commission and staff to hold submittal of the grant for the Clement Taylor Park Renovation Project.

II. DISCUSSION: During a presentation at the December 17, 2018 Destin City Council Meeting, it was the consensus of the Council to direct staff to ask the appropriate parties (Okaloosa County and US Department of Treasury) if excluding a portion of the park would interfere with grant funding. On December 21, a request was sent to the County, along with the revised drawing, inquiring if a portion of the Southeast corner of the park would be considered a material modification to the County's accepted RESTORE Direct Component Multi-year plan. Based on the fact that the project budget and scope will not change as a result of the exclusion, the U.S. Department of Treasury advised that it would not constitute a material modification.

A. Link to Strategic Goals / Objectives: Preservation of Heritage and Environment and Enhanced Quality of Life

Focus 4: High quality of life and safety for families.

Goal 4A: Improve and enhance the City's parks and recreational services.

B. Effect on Budget (EOB): No matching funds are required for the RESTORE Act dollars. The City has provided upfront costs for design that may be beneficial as an "in-kind" contribution.

C. Level of Service (LOS): Implementation of this project will provide both economic and environmental benefits to Destin.

III. CONCLUSION: Staff is requesting approval from Council to move forward with the Clement Taylor Park Restoration Project and submit the RESTORE Act Direct Component Grant Application to Okaloosa County for U.S. Department of Treasury review.

IV. RECOMMENDED MOTION: I move that Destin City Council authorize City staff to move forward with the Clement Taylor Park Restoration Project and submit the RESTORE Act Direct Component Grant Application to Okaloosa County for U.S. Department of Treasury review.

Attachments:

1. Correspondence - Okaloosa Co., US Dept. of Treasury
2. RESTORE Direct Component Program FAQ'S
3. Clement Taylor Park - revised drawing

Lorraine Berish

From: Jane Evans <jevens@myokaloosa.com>
Sent: Friday, January 11, 2019 2:56 PM
To: Lorraine Berish; Lance Johnson
Cc: Greg Kisela
Subject: FW: Clement Taylor Park- Revised Drawing

Good afternoon,

Please see John's reply below. Thank you for your patience.

Jane

From: John.Stutts@treasury.gov <John.Stutts@treasury.gov>
Sent: Friday, January 11, 2019 2:54 PM
To: Jane Evans <jevens@myokaloosa.com>
Subject: RE: Clement Taylor Park- Revised Drawing

Afternoon Jane,

If the project outcomes, budget and scope (i.e. what will be constructed) will not change as a result of the exclusion, then the exclusion would not constitute a material modification. [Direct Component FAQ #15](#) provides further details on what Treasury considers to be a material modification to an accepted multiyear plan.

Please let me know if you have any other questions on this or if you'd otherwise like to discuss.

Thanks,

John Stutts
Office of Gulf Coast Restoration
U.S. Department of the Treasury
202.622.0239 (office)
John.Stutts@Treasury.gov

DRAFT/PRE-DECISIONAL, SENSITIVE BUT UNCLASSIFIED

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From: Jane Evans <jevens@myokaloosa.com>
Sent: Friday, December 21, 2018 10:00 AM
To: Stutts, John <John.Stutts@treasury.gov>
Subject: FW: Clement Taylor Park- Revised Drawing

Good morning,

The City of Destin (see below) is wanting to exclude a portion of the Clement Taylor Park from the RESTORE project. It appears the accepted Initial MYIP (shown below) does not divide the Park per se. Do you have some guidance on whether this would qualify as a material modification of this project?

7. Clement Taylor Park Restoration (\$729,918.20)

PROJECT DESCRIPTION: This project includes the construction of a 10-ft wide pedestrian pathway, with landscaping, lighting, and underground utilities from Clement Taylor Park to the Harbor Boardwalk vicinity as well as the much needed restoration of Clement Taylor Park itself, a beautiful 3.39-acre park located on the Choctawhatchee Bay. The proposed project is located in Destin's Harbor District Community Redevelopment Agency (CRA), a district whose purpose is to redevelop historic Destin to promote tourism.

NEED: Access to public beaches and waterfront amenities continues to be more restrictive in Destin making Clement Taylor Park, once considered to be a neighborhood park, into a destination park for many tourists/visitors to our area. The City of Destin is partnering with the Florida Department of Transportation through a TAP grant to implement the pathway system linking public parking areas to the park on the Bay and the gulf front Harbor District (Budgeted for funding in FY17 and FY18, TAP will cover 76% of the cost, or \$928,706.330, and the City of Destin is responsible for 24%, or \$300,000.)

The Direct Component funding will refurbish aging and substandard park facilities and amenities at Clement Taylor Park. Pavilion rental records at Clement Taylor reveal that currently 40% of the events scheduled are booked by out of town individuals. A new pavilion, kayak launch, fishing pier, ADA compliant playground equipment and walkways, new restrooms (to replace those over 40 years old), and added parking are needed to attract people to the park for weddings, family reunions, or just stopping in by boat from a day on the Bay or by foot during a stroll from the Boardwalk.

PURPOSE: This project serves the sole purpose of the Harbor District CRA which is to redevelop Destin's waterfront and harbor district to promote and encourage tourism. First-quality public parks and water access are integral to enhancing the quality of life for residents and the quality of experience for visitors who will want to return and spread the word. This project will lead and encourage tourists to access not just Destin's beaches and harborfront but the Choctawhatchee Bay as well. The physical location of the project provides additional easy access to a wide range of water activities in the Bay, East Pass, and Gulf of Mexico and is along the State of Florida's Circumnavigational Saltwater Paddling Trail (segment 2).

OBJECTIVES: Improving recreational infrastructure to promote tourism is a key economic driver for our region. This project will provide a measurable increase in tourists to the area by appealing to a new demographic heretofore untapped in Destin -- the ecotourist and kayaker/canoer. Not only will the lighted pathway from the park to HarborWalk serve as a catalyst for visitors to spend more time leisurely exploring and enjoying the entire Harbor District's diverse offerings of dining, water sports rentals, and other outdoor activities, the linking pathway to the refurbished park amenities will provide a new and unexpected experience for ecotourists, as Clement Taylor's natural beauty and bay access is incomparable. The project links the diverse ecological worlds of harbor/gulf to bay/bayou that is unique to Destin and that will expand the tourist experience and entice a new type of visitor as well.

Direct Component Funds: 100% of the Direct Component funds received will be applied to the restoration of Clement Taylor Park with the installation of a new pavilion, ADA playground equipment, and restroom facility; and the renovation of the fishing pier, park walkways, existing pavilion, and gazebo. Other party contributions of \$1,228,706.30 are from the Florida Dept. of Transportation's TAP grant and City of Destin match to construct the lighted pedestrian pathway from Clement Taylor Park to the Harbor Boardwalk parking area and Festive Marketplace.

Please let me know if you need further information.

Jane

From: Lorraine Berish <lberish@cityofdestin.com>
Sent: Friday, December 21, 2018 8:49 AM
To: Jane Evans <jevans@myokaloosa.com>
Cc: Lance Johnson <ljohnson@cityofdestin.com>
Subject: Clement Taylor Park- Revised Drawing

Hi Jane,

Attached is the revised drawing for the Clement Taylor Park project. As mentioned, the City would like to exclude a portion of the Southeast corner of the park (the area is approximately 90x60 ft.). All of the planned renovations for this project, such as the new restroom facilities, new pavilion, ADA playground equipment, added parking, and the renovation of the fishing pier, park walkways, existing pavilion, and gazebo will not be affected.

Please let me know if you need any additional information.

Thank you,
Lorraine

LORRAINE BERISH
CITY OF DESTIN | *Office of the City Manager*
4200 Indian Bayou Trail
Destin, Florida 32541
Direct Line: 850-460-8536
Main: 850-837-4242
Fax: 850-650-9250



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September 18, 2018

RESTORE Act

Frequently Asked Questions (FAQs) Relating to the Direct Component Program

On February 12, 2016, the [RESTORE Act rule](#) published by Treasury on December 14, 2015 became effective. The rule combines the comprehensive interim final rule and the Louisiana Parish Allocation Formula interim final rule, both of which were effective on October 14, 2014.

1. Q. Who may apply to receive funds under the Direct Component, administered by Treasury?

A. The applicants eligible to receive funds under the Direct Component are specified in the RESTORE Act and Treasury's regulations. The eligible applicants are the following:

- In Alabama, the Alabama Gulf Coast Recovery Council or such administrative agent as it may designate
- In Florida, the Florida counties of Bay, Charlotte, Citrus, Collier, Dixie, Escambia, Franklin, Gulf, Hernando, Hillsborough, Jefferson, Lee, Levy, Manatee, Monroe, Okaloosa, Santa Rosa, Pasco, Pinellas, Sarasota, Taylor, Wakulla, and Walton
- In Louisiana, the Coastal Protection and Restoration Authority Board of Louisiana through the Coastal Protection and Restoration Authority of Louisiana
- In Louisiana, the Louisiana parishes of Ascension, Assumption, Calcasieu, Cameron, Iberia, Jefferson, Lafourche, Livingston, Orleans, Plaquemines, St. Bernard, St. Charles, St. James, St. John the Baptist, St. Martin, St. Mary, St. Tammany, Tangipahoa, Terrebonne, and Vermilion
- In Mississippi, the Mississippi Department of Environmental Quality
- In Texas, the Office of the Governor or an appointee of the Office of the Governor

2. Q. How can eligible applicants obtain grant awards?

A. Treasury periodically posts funding opportunity announcements for the Direct Component, which include deadlines for the submission of grant applications, on [grants.gov](https://www.grants.gov). Eligible applicants may submit grant applications through [GrantSolutions.gov](https://www.grantsolutions.gov). Treasury awards grants based on applications that meet the requirements of the RESTORE Act, Treasury's regulations and funding opportunity announcements, and the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200.

TRUST FUND

3. Q. How does Treasury determine the Gulf Cost Restoration Trust Fund (Trust Fund) allocations for the Direct Component?

A. The Act equally distributes the allocations for the Direct Component among the five Gulf Coast states. Paragraphs (b) and (c) of 31 CFR 34.302 specify the Direct Component allocation percentages available to each of the 23 Florida counties based on an allocation formula submitted by the disproportionately affected counties and a formula described in the Act for the nondisproportionately impacted counties, respectively. Paragraph (e) of 31 CFR 34.302 specifies the allocation percentages available to each of the 20 eligible coastal parishes in Louisiana based on a formula described in the Act.

4. Q. How much money is currently available under the Direct Component for the Gulf Coast states, Florida counties, and Louisiana parishes?

A. The Trust Fund Allocation Tables, located on Treasury's [RESTORE Act](#) website, specify the allocations that eligible applicants may use when preparing their grant applications. Periodically, Treasury posts new tables that include earned interest on the Trust Fund, any new deposits, and updated allocations available for distribution.

MULTIYEAR IMPLEMENTATION PLAN (MULTIYEAR PLAN)

5. Q. What is the purpose of the Direct Component multiyear plan?

A. The RESTORE Act and Treasury's regulations direct state, county, and parish applicants to prepare multiyear plans that prioritize eligible activities for Direct Component funds, and to obtain broad-based participation from individuals, businesses, Indian tribes, and non-profit organizations as part of their multiyear plan preparation. State, county, or parish applicants may amend their accepted multiyear plans by following these same steps, including obtaining public input, prior to submitting their amended plans to Treasury. Interested parties may contact the appropriate state, county, or parish applicant to request that the applicant consider including its proposed activity in the applicant's initial or amended multiyear plan. Treasury reviews the applicant's initial or amended plan for completeness and compliance with the RESTORE Act and Treasury's regulations. The forms for a multiyear plan are posted on [Treasury's website](#).

6. Q. Is there a deadline to submit multiyear plans?

A. No. Eligible applicants may submit an initial or amended multiyear plan at any time. However, other than planning assistance grants for the preparation of a multiyear plan,

applicants may not apply for Direct Component grants until they submit and Treasury accepts their initial or amended multiyear plan

7. Q. What time period should eligible applicants cover in multiyear plans?

A. Eligible applicants have flexibility in setting the length of time covered in their multiyear plans. Applicants may prepare a plan that includes activities that could be undertaken with both a current Trust Fund allocation and [estimated allocations arising from the April 2016 BP consent decree](#) not yet deposited into the Trust Fund. However, Treasury may not award a project grant until sufficient deposits are available for distribution based on the amount of funds shown in the Gulf Coast Restoration Trust Fund Allocation Tables on Treasury's RESTORE Act website.

8. Q. May eligible applicants prepare a multiyear plan incrementally or in phases?

A. Yes. Eligible applicants may prepare a multiyear plan incrementally (e.g., cover some of the eligible activities), and add new eligible activities later through amendments to their accepted multiyear plan. Applicants also may prepare a multiyear plan in phases (e.g., the plan may cover a limited period) with additional years and activities added later through amendments to their accepted multiyear plan. Applicants may choose to prepare an initial multiyear plan based on current available Trust Fund allocations, and later submit amendments based on estimated allocations arising from the April 2016 BP consent decree. Amendments to accepted multiyear plans that materially modify the multiyear plans will require a 45-day public and comment review process prior to submission to Treasury for review and acceptance.

9. Q. Are eligible applicants required to make their multiyear plans available for public review and comment prior to submitting them to Treasury?

A. Yes. Eligible applicants must make their multiyear plans available for public review and comment for at least 45 days, in a manner calculated to obtain broad-based participation from individuals, businesses, Indian tribes, and non-profit organizations, such as through public meetings, presentations in languages other than English, and postings on the Internet. Applicants will need to submit documentation (e.g., a copy of public notices) to demonstrate that their multiyear plan was available for review by the public for at least 45 days. As part of their multiyear plan submission to Treasury, applicants must describe in the Direct Component Multiyear Plan Narrative form the relevant issues raised by the public, and describe how they addressed the public comments. Interested members of the public should contact their eligible state, county, or parish to obtain information about how the public may participate in the public engagement and outreach activities associated with preparation of the multiyear plan.

- 10. Q. What multiyear plan documents must applicants make available for public review and comment?**
- A.** Eligible applicants must include the Treasury Direct Component Multiyear Plan Matrix and Direct Component Multiyear Plan Narrative forms, and a location map as part of the multiyear plan they release for public comment. Please note that if applicants prepare a more detailed multiyear plan in addition to these documents, it also must be released for public review and comment. The detailed multiyear plan, including the Treasury forms, must be made available for 45 days for public review and comment, in a manner calculated to obtain broad-based participation from individuals, businesses, Indian tribes, and non-profit organizations.
- 11. Q. What documents must eligible applicants provide to Treasury when submitting multiyear plans?**
- A.** Eligible applicants must include the Treasury Direct Component Multiyear Plan Matrix and Direct Component Multiyear Plan Narrative forms, and a location map as part of their multiyear plan submission to Treasury. Applicants also may prepare a more detailed multiyear plan encompassing a longer time frame and including a more comprehensive list of activities based on the current trust fund allocations and estimated allocations from the April 2016 BP consent decree. Please note that if applicants prepare more detailed multiyear plan documents in addition to the Treasury Multiyear Plan Matrix and Narrative forms, they must submit the detailed multiyear plan to Treasury.
- 12. Q. What is Treasury’s process for reviewing an eligible applicant’s initial or amended multiyear plan?**
- A.** Treasury reviews initial and amended multiyear plans for completeness and conformity with the RESTORE Act and Treasury’s regulations. Treasury may need to request additional information to complete the review. After completing its review, Treasury notifies an applicant in writing that the applicant may begin to submit grant applications to fund activities listed on the accepted multiyear plan. Treasury posts on its website applicants’ initial and amended multiyear plan documents, i.e., Direct Component Multiyear Plan Matrix, Direct Component Multiyear Plan Narrative, and location map. Applicants must make initial and amended multiyear plans accepted by Treasury available to the public on their websites or through other means designed to make the information accessible to the public.
- 13. Q. May eligible applicants submit applications for activities before they submit their multiyear plans to Treasury and before Treasury accepts their plans?**
- A.** No. Eligible applicants may submit applications for eligible Direct Component activities listed on their multiyear plans only after Treasury has accepted their multiyear plan. Likewise, applicants may submit applications for activities added to or materially modified in an amended multiyear plan only after Treasury has accepted the

amended multiyear plan. A grant application for planning assistance funding for the preparation of multiyear plans is the only exception to this requirement.

14. Q. May eligible applicants apply for planning assistance funding to prepare multiyear plans, and under what funding opportunity announcement should they apply?

A. Yes. Eligible applicants may submit applications to Treasury for planning assistance funds for the preparation of multiyear plans. Applicants may apply under the Funding Opportunity Announcement – Direct Component Non-Construction Activities in GrantSolutions.gov. Applicants should refrain from addressing questions 5 and 8 in the application form that relate to the multiyear plan. The prerequisite to submit a multiyear plan prior to applying for a Direct Component grant does not apply when planning assistance funding is for preparation of the multiyear plan itself.

15. Q. What constitutes a material modification to a multiyear plan?

A. A material modification to a multiyear plan is: 1) a change to the scope or size of the activity included in the multiyear plan that affects outcomes and/or outputs, and/or 2) a change in the overall Direct Component funds included in the multiyear plan resulting from the addition of a new activity or a change to the scope or size of an existing activity.

Modifications to a multiyear plan that would not be material modifications are: 1) changes that do not affect the overall scope or objective of the multiyear plan activity, and 2) changes that do not increase funding for an accepted multiyear plan in order to add new activities or increase the scope of an existing activity or activities. Examples of non-material modifications to an accepted multiyear plan may include, but are not limited to:

- (1) Minor changes to the scope of a project including the outcomes or outputs (e.g., minor increases or decreases in the number of wetland acres restored),
- (2) Minor changes to an activity budget (e.g., due to an increase in the cost of materials), and
- (3) Changes in the proposed start date or end date of an activity.

An applicant should submit non-material modifications to an accepted multiyear plan with the next amended multiyear plan submitted for Treasury’s review and acceptance. If non-material modifications to an activity in an accepted multiyear plan are included in a grant application, Treasury will evaluate the application to determine if the modified activity continues to be a Direct Component eligible activity and does not exceed the recipient’s Direct Component allocation.

16. Q. Does a material modification to a multiyear plan require a 45-day public review and comment period and acceptance by Treasury?

A. Yes. Material modifications to an accepted multiyear plan are subject to all the applicable requirements for an initial multiyear plan, including the 45-day public review and comment period and acceptance by Treasury.

STATUTORY DEFINITIONS

17. Q. How does the RESTORE Act define Gulf Coast region?

A. Under the RESTORE Act, Gulf Coast region is defined as:

- (1) In the Gulf Coast States, the coastal zones defined under section 304 of the Coastal Zone Management Act of 1972 that border the Gulf of Mexico;
- (2) Land within the coastal zones described in paragraph (1) of this definition that is held in trust by, or the use of which is by law subject solely to the discretion of, the Federal Government or officers or agents of the Federal Government;
- (3) Any adjacent land, water, and watersheds, that are within 25 miles of the coastal zone described in paragraphs (1) and (2) of this definition; and
- (4) All Federal waters in the Gulf of Mexico.

18. Q. How will Treasury determine if an activity will be carried out in the Gulf Coast region?

A. Treasury's regulations explain that Direct Component activities are carried out in the Gulf Coast region when, in the reasonable judgment of the eligible applicant applying to Treasury for a grant, each severable part of the activity is primarily designed to restore or protect that geographic area. A state, county, or parish must demonstrate that the activity will be carried out in the Gulf Coast region when it applies for the grant.

19. Q. What are the eligible activities under the Direct Component?

A. The criteria for eligibility are described in Treasury's regulations, including 31 C.F.R. 34.201. In general, the following projects, programs, and activities are eligible for funding under the Direct Component. Activities 1 through 7 must be carried out in the Gulf Coast region.

- (1) Restoration and protection of the natural resources, ecosystems, fisheries, marine and wildlife habitats, beaches and coastal wetlands of the Gulf Coast region
- (2) Mitigation of damage to fish, wildlife, and natural resources
- (3) Implementation of a federally approved marine, coastal, or comprehensive conservation management plan, including fisheries monitoring
- (4) Workforce development and job creation

- (5) Improvements to or on State parks located in coastal areas affected by the Deepwater Horizon oil spill
- (6) Infrastructure projects benefitting the economy or ecological resources, including port infrastructure
- (7) Coastal flood protection and related infrastructure
- (8) Planning assistance
- (9) Administrative costs
- (10) Promotion of tourism in the Gulf Coast region, including recreational fishing
- (11) Promotion of the consumption of seafood harvested from the Gulf Coast region

20. Q. How does the RESTORE Act define best available science?

A. Under the RESTORE Act, best available science means science that maximizes the quality, objectivity, and integrity of information, including statistical information; uses peer-reviewed and publicly available data; and clearly documents and communicates risks and uncertainties in the scientific basis for such projects.

21. Q. What projects require a best available science determination?

A. The requirement to use best available science applies to natural resource protection or restoration projects regardless of the project's Primary Direct Component Eligible Activity label. Applicants must consider the nature of the activity when determining whether this requirement applies. A best available science determination may be required for any of the eligible activities, depending on the objectives of the activity. Please contact OGCR if there are questions about whether a specific project requires a BAS determination.

22. Q. How will Treasury evaluate a best available science determination?

A. Treasury will review applications to determine whether the best available science question has been answered fully and work with subject matter experts who will evaluate if the applicant's determination is reasonable that the proposed project is based on best available science. The subject matter expert review will take approximately 2 - 3 weeks. Experts may request additional information or clarification that Treasury will convey to the applicant. If necessary, subject matter experts will re-evaluate the project after receiving requested clarifications.

23. Q. Is a best available science determination still necessary if the project follows environmental compliance permit requirements?

A. Yes. The requirement to base natural resource protection and restoration projects on best available science is separate from environmental compliance requirements. Permit requirements may influence project's methods and should be referenced in the best available science determination; however, the applicant is responsible for demonstrating that the project is based on best available science.

24. Q. What information is required in a best available science determination?

- A.** Applicants must explain how the project's natural resource protection and/or restoration objectives and the proposed methods are based on best available science. Applicants also must summarize any risks or uncertainties associated with the project and explain how these risks will be mitigated.

Applicants are required to cite and describe peer-reviewed literature and/or publicly available data. The sources should be objective, methodologically sound and support the conclusion that the proposed scope of work is an effective way to achieve the stated objectives of the project, consistent with the RESTORE Act. Cited sources are expected to represent the main body of relevant literature, including sources with negative and/or inconclusive findings. Applicants are encouraged to provide documentation of current project site conditions, evidence that the proposed project will achieve the stated natural resource protection and/or restoration objective, and evidence that the project's methodology is based on peer-reviewed or public sources and aligned with achievement of the objective. Applicants also are encouraged to include any relevant design or planning documents, such as feasibility studies, permit requirements, design documents, design specifications, or design drawings, and to state clearly if certain methodological details are unknown but will be developed as part of the project.

25. Q. What types of risks, uncertainties, or mitigation actions should be addressed in a best available science determination?

- A.** Specific risks, uncertainties and mitigation actions will depend on the nature of the project. However, general categories of risks or uncertainties to consider include: potential negative impacts on natural resources, likely or potential reasons the project may not achieve its objective, the anticipated longevity of project benefits, risks described in cited sources, and uncertainties in the underlying science used to justify the project and/or methods. Mitigation actions may include: siting or design considerations, phasing projects, and/or monitoring and adaptive management.

26. Q. What sources are acceptable evidence for a best available science determination?

- A.** Under the RESTORE Act, peer-reviewed literature and publicly available data sets, such as those from state agencies, the U.S. Census Bureau, U.S. Fish and Wildlife Service, Environmental Protection Agency, and National Oceanic and Atmospheric Administration, are acceptable evidence for a best available science determination. If peer-reviewed literature or publicly available data sets are unavailable, alternative scientific information may be used, including design guidelines, design criteria, best management practices documents, and photographs or other baseline documentation of the project site.

Sources based on work conducted in regions outside the Gulf Coast may be cited as evidence; however, applicants must justify the relevance of the work by describing how findings are applicable to and methods will be adapted for conditions in the Gulf.

Applicants are encouraged to consider differences in physical and biological factors, such as tides, salinity, wildlife, temperature or currents, between the source's study site and the Gulf.

27. Q. How should applicants cite sources in the best available science determination?

A. Sources should be cited parenthetically in the best available science determination, with a list of full citations provided at the end. Citations for peer-reviewed articles should include the author, publication date, article title, journal title, and volume and page numbers. Citations for non-peer-reviewed sources should also include the author, publication date, article title, journal title, and volume and page numbers, if applicable, as well as the date of access. Applicants are encouraged to provide PDFs of documents or links to websites, if necessary.

28. Q. Can a planning assistance grant include funds to develop best available science documentation?

A. Yes. Planning assistance grants can include funds to develop best available science documentation.

29. Q: Can Direct Component planning assistance funds be used to support activities related to the Comprehensive Plan or Spill Impact Components?

- A.** "Planning assistance" is defined in the Treasury final rule at 31 CFR 34.2 and includes three types of activities:
1. One-time preparations that will allow the recipient to establish systems and processes needed to review grant applications, award grants, monitor grants after award, and audit compliance with respect to eligible activities under § 34.201 in a Multiyear Implementation Plan or State Expenditure Plan;
 2. Data gathering, studies, modeling, analysis and other tasks required to prepare plans for eligible activities under § 34.201(a) through (i), including environmental review and compliance tasks and architectural and engineering studies;
 3. Funding for the preparation and amendment of a Direct Component Multiyear Implementation Plan.

Direct Component planning assistance funds can be used to support some activities related to the Comprehensive Plan or Spill Impact Components in the following instances.

- One-Time Preparations - If an eligible entity has a project for one-time preparations, such as setting up a data management system to track grants and projects or developing policies and procedures to conform to 2 CFR 200, the entire activity may be eligible for Direct Component funding if the project is general in nature and does not have requirements that are unique to the Comprehensive Plan or Spill Impact Components. For example, a general project management system that can be used by a recipient regardless of

which RESTORE Act component is funding the project would be eligible. However, if the system has unique requirements for elements unrelated to the Direct Component, Direct Component funding should not go towards unique program-specific requirements of the system.

- Data Gathering, Studies, Modeling, Analysis - If an eligible entity has a project that requires data gathering, studies, modeling, analysis, or other tasks such as engineering and design or environmental compliance prior to constructing or implementing the project, then the Direct Component could fund these types of planning activities, provided it is a Direct Component eligible activity under § 34.201(a) through (i). Direct Component planning assistance funds could be used regardless of whether the project itself is constructed or implemented with Direct Component or other funds.
- Planning Assistance for the Preparation of a Plan – Direct Component funds may be used for the preparation or amendment of a Multiyear Implementation Plan. They may not be used for the preparation or amendment of a State Expenditure Plan or Comprehensive Plan Project.

APPLICATION PROCESS

30. Q. Treasury released five funding opportunity announcements under the Direct Component. How does the eligible applicant determine which announcement applies to their proposed project if it requires several elements, such as land acquisition, planning and design and construction?

A. Treasury releases multiple types of funding opportunity announcements because different kinds of projects must meet different requirements. For example, land acquisition and construction projects have different requirements, so that the applicant must submit applications under different funding opportunity announcements. Furthermore, the scope of work of a planning and design project will determine whether the applicant should submit the application under a non-construction or construction funding opportunity announcement. Treasury staff is available to discuss applicants' specific application questions on a case-by-case basis.

31. Q. Do eligible applicants have live links to the grant applications and required forms and certifications?

A. Yes. Eligible applicants can obtain the grant applications and other forms and certifications through GrantSolutions.gov. Treasury posts the funding opportunity announcements in GrantSolutions.gov. Once the applicant obtains a GrantSolutions.gov user account and selects a funding opportunity announcement, the applicant gains access to the applicable directions and forms. The Operational Self-Assessment and the multiyear plan forms may be found on Treasury's website in fillable form format.

32. Q. Should eligible applicants apply any specific criteria or metrics to projects?

A. Currently, there are no specific criteria or metrics required by Treasury, including for workforce development or job creation projects. When preparing any application for an eligible activity, an applicant will set milestones to demonstrate progress in completing the planned activity. An applicant also will establish performance measures that demonstrate progress toward reaching the stated objectives for the proposed activity and are outcome-oriented to the extent possible. As with all grant applications, Treasury reviews the reasonableness of applicants' submissions for conformity with the RESTORE Act and Treasury's regulations.

PRE-AWARD COSTS

33. Q. What are pre-award costs?

A. Pre-award costs are defined in the OMB Uniform Guidance at 2 C.F.R. §200.458.

"Pre-award costs are those incurred prior to the effective date of the Federal award directly pursuant to the negotiation and in anticipation of the Federal award where such costs are necessary for efficient and timely performance of the scope of work. Such costs are allowable only to the extent that they would have been allowable if incurred after the date of the Federal award and only with written approval of the Federal awarding agency."

Pre-award costs must be connected to an award for a specific eligible activity, and be included in the award's approved scope of work and budget. All costs incurred before the Federal awarding agency makes the Federal award are at the recipient's own risk. Applicants considering incurring pre-award costs should contact Treasury as soon as possible.

34. Q. How will Treasury evaluate pre-award costs?

A. Treasury will consider reimbursement of pre-award costs only when an applicant demonstrates that 1) the costs were incurred directly pursuant to the negotiation and in anticipation of the award, and 2) the costs are necessary for the efficient and timely performance of the scope of work. Pre-award costs should be requested as part of an application for funding. The applicant must clearly describe the proposed pre-award costs in the scope of work and budget justification, and provide a compelling justification as to why Treasury should approve the pre-award costs. Applicants must be able to provide documentation to evidence the costs through invoice, dated signed timesheets, contracts, etc. Treasury will use the following criteria, which are based on the RESTORE Act, Treasury's regulations, and OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards to evaluate pre-award costs:

Eligible Costs

- Were the costs incurred for a specific activity that is eligible for Direct Component funding?

Costs Directly Pursuant to the Negotiation and in Anticipation of the Federal Award

- Were the costs incurred directly pursuant to the negotiation of the specific Federal award and in anticipation of the Federal award?

Costs Necessary for Efficient and Timely Performance of the Scope of Work

- Are the costs incurred necessary for the efficient and timely performance of the scope of work of the Federal award?

Allowable Costs

- Would the costs incurred have been allowable if they had occurred after the date of the specific Federal award?

Written Approval of the Federal Awarding Agency

- Did the applicant receive prior written approval of the Federal awarding agency for the pre-award costs? *[A Federal awarding agency is authorized, at its option, to waive prior written approval in authorizing recipients to incur project costs 90 calendar days before the Federal awarding agency makes the Federal award. Expenses more than 90 calendar days pre-award require prior approval of the Federal awarding agency. (See 2 C.F.R. 200.308(d)).]*

35. Q. Are costs incurred in the preparation of a multiyear plan eligible for reimbursement as pre-award costs?

A. All applications for pre-award costs must meet the strict requirements of 2 C.F.R. 200.458. In addition to other requirements, applicants will need to submit a scope of work for the preparation of the multiyear plan, and demonstrate that any costs incurred before the Federal award were necessary for the efficient and timely completion of that scope of work. As stated in funding opportunity announcements for the Direct Component, Treasury does not anticipate that any costs incurred prior to August 15, 2014, the publication date of the interim final rule, will meet these requirements. Treasury's regulations specify elements for the multiyear plan. It is unlikely that applicants could have begun work necessary for the efficient and timely completion of the multiyear plan, and otherwise meet requirements in Treasury's regulations and OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, before Treasury published criteria for the multiyear plan in the interim final rule that was effective October 14, 2014.

DIRECT COMPONENT FINANCING

36. Q. If an eligible entity plans to finance an eligible Direct Component project through a bond or other debt obligation and then seek reimbursement through a grant when anticipated BP funds are deposited in the Gulf Coast Restoration Trust Fund (Trust Fund), when should the entity notify Treasury of its plans?

- A.** An eligible entity is encouraged to notify Treasury in advance whenever it plans to seek reimbursement of pre-award costs as part of a future grant application, including plans to incur a debt obligation to finance a project. The Direct Component multiyear plan provides an excellent opportunity for an eligible entity to communicate plans for projects and its intended use of Trust Funds to both the public and Treasury, including debt financing and the project timeframe.

Nothing prevents an eligible entity from issuing a bond or incurring a debt obligation to finance a project, or from seeking reimbursement for pre-award project costs under the RESTORE Act; however, an eligible entity engages in advance financing and incurs pre-award costs at its own risk. Treasury can only approve pre-award project costs that would have been allowable if incurred within a RESTORE Act grant award. Treasury will provide written approval of pre-award costs only through a notice of award or other post-award notification.

Treasury staff is available to answer questions about the RESTORE Act, Treasury's final rule, and the Office of Management and Budget's Uniform Administrative Requirements, Cost Principles, and Audit Requirements (Uniform Guidance).

37. Q. Are debt financing costs eligible for reimbursement, and if so, under what conditions?

- A.** If the project is for the acquisition, construction, or replacement of capital assets that would be used by the non-Federal entity in support of Federal awards, the debt financing costs may be allowable subject to the conditions set forth in 2 C.F.R. § 200.449. The Uniform Guidance at 2 C.F.R. § 200.12 defines "capital assets" as:

... tangible or intangible assets used in operations having a useful life of more than one year which are capitalized in accordance with GAAP [Generally Accepted Accounting Practices]. Capital assets include:

- Land, building (facilities), equipment, and intellectual property (including software) whether acquired by purchase, construction, manufacture, lease-purchase, exchange, or through capital leases; and
- Additions, improvements, modifications, replacements, rearrangements, reinstallations, renovations or alterations to capital assets that materially increase their value or useful life (not ordinary repairs and maintenance).

Thus, under 2 C.F.R. § 200.449, debt financing costs to acquire, construct, or replace capital assets may be allowable, subject to 2 C.F.R. § 200.449(c)—(g).

38. Q. May an eligible entity continue to receive reimbursement from Treasury for eligible debt financing costs associated with the construction of a Direct Component capital asset project even after the project is completed, as is possible under the

Department of Transportation’s Grant Anticipation Revenue Vehicle (GARVEE) program?

A. No. The RESTORE Act does not provide authority for Treasury to pay for debt-financing costs after a project is completed, unlike some other federal assistance programs.

39. Q. Can Treasury award a Direct Component grant or provide written approval for pre-award costs to an eligible entity for an amount that exceeds its current Trust Fund allocation available for distribution, in anticipation of future BP deposits?

A. No. Federal law prohibits awarding or obligating amounts in excess of the amounts available for award. Treasury may not approve pre-award costs or make a grant to an eligible entity that exceeds the entity’s current Trust Fund allocation. An eligible recipient engages in pre-award project activities and incurs pre-award costs at its own risk.

40. Q. Are there considerations of which eligible entities should be aware when exploring whether to issue bonds for projects that would be reimbursed with Trust Funds?

A. An eligible entity will need to consider factors such as the cost of financing and the amount of time needed to complete a project when considering whether to issue a bond to fund a project for which it plans to later seek reimbursement from its Trust Fund allocation.

All grants awarded by Treasury under the RESTORE Act must comply with the RESTORE Act, Treasury’s final rule, and federal laws and regulations on grants, including the Uniform Guidance. We encourage eligible entities considering whether to issue bonds for projects for which they plan to seek reimbursement from the Trust Fund, to remain particularly aware of the following provisions in the Uniform Guidance:

- Costs incurred for interest on borrowed capital or the use of the eligible entity’s own funds, however represented, are unallowable (See 2 C.F.R. § 200.449(a)). Financing costs (including interest) to acquire, construct, or replace capital assets, that would be used by the non-Federal entity in support of Federal awards, may be allowable, subject to conditions (See 2 C.F.R. § 200.449(c)—(g)).
- If some or all of the work will be accomplished through a contract, the procurement standards of 2 C.F.R. §§ 200.317—200.326, as applicable, must be met.
- Written approval from the Federal awarding agency is required for any costs incurred prior to the issuance of a grant award. Pre-award costs should be requested as part of an application for funding (See 2 C.F.R. § 200.458).

- All of the costs for which an eligible entity plans to seek reimbursement must meet 2 C.F.R. Part 200, Subpart E – Cost Principles of the Uniform Guidance.

Before taking steps to finance a project, an eligible entity should notify OGCR about its plans to seek reimbursement of pre-award costs, including debt financing costs, through a future Direct Component grant.

- 41. Q. May an eligible recipient be reimbursed for project costs after a project is completed?**
- A.** If an eligible entity has completed a project with its own funds, it may seek reimbursement as pre-award costs through an application for a Direct Component grant under the RESTORE Act. However, an eligible entity incurs pre-award costs at its own risk. All work funded with a grant awarded by Treasury under the RESTORE Act must comply with the RESTORE Act, Treasury’s final rule, and federal laws and regulations on grants, including the Uniform Guidance (*see also FAQs #33 and 34 on Pre-Award Costs*).
- 42. Q. How can an eligible recipient be reimbursed for project costs within a grant when the project is completed before sufficient funds are available in the Trust Fund for distribution?**
- A.** In cases where an eligible recipient combines its own funds as a voluntary non-federal share with allocated Direct Component funds in a grant, the recipient may be reimbursed for its non-federal share of eligible project costs during the period of performance by requesting a re-budget of costs from non-federal share to federal share. A recipient also may request that Treasury delay final closeout of an award to allow for further re-budgeting of costs from the non-federal share to the federal share. Upon full reimbursement, the award will be closed out.

ELIGIBLE COSTS

- 43. Q: Are the costs of meals and refreshments allowable costs under a RESTORE Act Direct Component grant award?**
- A:** The costs of meals and refreshments may be allowable costs if provided as part of a conference as defined in the Uniform Guidance. The Uniform Guidance defines a conference as “a meeting, retreat, seminar, symposium, workshop or event whose primary purpose is the dissemination of technical information beyond the non-Federal entity and is necessary and reasonable for successful performance under the Federal Award.” 2 CFR 200.432. A conference host must exercise discretion and judgment in ensuring that conference costs are appropriate, necessary, and managed in a manner that minimizes cost to the Federal award. If an applicant anticipates providing meals and refreshments at a conference, their budget justification and scope of work in their grant application should include information on it. In the rare instance where meals and refreshments are not included in an approved budget justification and scope of

work, the recipient must request prior approval from Treasury. The request must include:

1. An estimated budget and a description of the meals and refreshments that are going to be provided at the conference.
2. A description of the purpose, agenda, location, length and timing for the conference.
3. An estimated number of participants in the conference and a description of their roles.

Treasury retains the discretion to make the final determination concerning the allowability of meals and refreshments at conferences.

44. Q: What are the requirements an applicant must meet in order to receive funding for an eligible lateral line project connecting individual private residences to the public sewer?

A: The connection of individual private residences to the public sewer system is not eligible for grant funding under the RESTORE Act Direct Component unless the wastewater laterals are “owned” by the recipient or subrecipient. The recipient or subrecipient could have ownership by fee simple title; by the issuance of an enforceable easement with right of access; or through suitable authority, such as an ordinance assuring right of access for such purposes as inspection, monitoring, building, operation, rehabilitation and replacement. The recipient or subrecipient must show it will be responsible for the operations and maintenance of the laterals for their estimated useful life. Additionally, the recipient or subrecipient may not transfer ownership of the laterals to any entity without written approval from Treasury. Treasury will require documentation showing the recipient’s ownership interest and may require that a Covenant of Purpose, Use and Ownership be recorded on the federal interest in the property.

45. Q: Are sewer connection fees eligible for funding under the RESTORE Act Direct Component?

A: The eligibility of connection fees for RESTORE funding is dependent upon their purpose. Because there is no uniform definition of “connection fees” and the term means different things in different jurisdictions, Treasury can only answer this question on a case by case basis.

CONSTRUCTION

46. Q: What is the recipient’s responsibility when real property is improved using Treasury RESTORE Act grant funds?

- A. The recipient is responsible for the administration, operation, and maintenance of the real property during its designated Estimated Useful Life. The recipient must use it for the authorized project purposes, during which time the recipient must not dispose of or encumber its title or other interests. Treasury retains an undivided equitable reversionary interest (the “federal interest”) in the real property improved, in whole or in part, with RESTORE Act Trust Funds for the Estimated Useful Life of the project

47. Q. How is real property defined?

- A. “Real Property” is defined in 2 CFR 200.85 of the Uniform Guidance as “land, including land improvements, structures and appurtenances thereto, but excludes moveable machinery and equipment.”

48. Q. How will the Estimated Useful Life be determined for Treasury-funded infrastructure?

- A. For all infrastructure funded by a Treasury grant under the RESTORE Act, the applicant will propose an Estimated Useful Life for the infrastructure in its grant application and document the method by which it determined the Estimated Useful Life. One accepted method would be to use the State’s standards for determining useful life of capital assets. Treasury’s issuance of the grant agreement will represent Treasury’s concurrence with the applicant’s proposed Estimated Useful Life.

49. Q. What is the Estimated Useful Life of land?

- A. Land has an unlimited useful life.

50. Q. What is “infrastructure” under Treasury’s regulation?

- A. Infrastructure is a subset of real property, and is a capital asset. Treasury’s regulation defines it at 31 CFR 34.2 as “the public facilities or systems needed to support commerce and economic development. . . . [It] encompasses new construction, upgrades and repairs to existing facilities or systems, and associated land acquisition and planning.” Such installations and facilities may include, but are not limited to:

- highways,
- airports,
- roads,
- buildings,
- transit systems,
- port facilities,
- railways,
- telecommunications,
- water and sewer systems,
- public electric and gas utilities,
- levees,
- seawalls,
- breakwaters,

- major pumping stations, and
- flood gates.

51. Q. How must the recipient document a federal interest in real property?

A. To document the federal interest in real property funded by a Treasury grant under the RESTORE Act, the recipient must perfect a Covenant of Purpose, Use, and Ownership (Covenant) prior to the final grant payment and record it in the real property records of the jurisdiction where the property is located, in accordance with local law. Treasury may require an opinion of the counsel for the recipient that the Covenant is valid and enforceable and has been properly recorded. Pursuant to the Covenant, the recipient must acknowledge that it holds title to the real property in trust for the public purposes of the financial assistance award, that real property has been acquired or improved with a Federal award, and that federal use and disposition conditions apply to the property. All recipients required to perfect and record a Covenant or other notice of record must provide Treasury with a copy of the recorded document displaying a recording stamp indicating where the document was recorded and the date on which it was recorded.

Under exceptional conditions, Treasury may approve of an alternative notice of record or waive the requirement that a Covenant or other notice of record be perfected and recorded.

52. Q. What are the reporting requirements for Treasury-funded real property projects?

A. Pursuant to 2 CFR 200.329 of the Uniform Guidance, the recipient must submit reports on the status of the real property annually to Treasury for the first three years of its federal award and thereafter every five years until the end of the Estimated Useful Life or time of disposition, whichever is less. When real property is no longer needed for the originally authorized purpose, the recipient must obtain disposition instructions from Treasury, subject to 2 CFR 200.311(c). For real property other than land, once the Estimated Useful Life of the real property has ended, the federal interest is extinguished and the federal government has no further interest in the real property.

PROCUREMENT

53. Q. May a contractor who enters into a contract with an eligible Louisiana parish or Florida county to prepare a multiyear plan and/or grant application compete for subsequent procurements related to that multiyear plan and/or grant application?

A. No. Consistent with 2 CFR 200.319, to help ensure objective contractor performance and eliminate unfair competitive advantage, a contractor who prepares the multiyear plan and/or grant application, or develops the draft specifications, requirements, statements of work, and/or invitation for bids or request for proposals for the project

grant may not compete for subsequent procurement contracts to implement that multiyear plan or project grant.

54. Q. What procurement procedures should states, counties, and parishes use?

A. States should follow state procurement procedures. Counties and parishes should follow their own procurement procedures; however, the procedures followed by counties and parishes must be consistent with and conform to Federal procurement standards. *See 2 CFR 200.318—200.326.*

55. Q. When is it allowable for an eligible Louisiana parish or Florida county to hire/contract without competition?

A. For a non-Federal entity that is not a state, e.g., an eligible Louisiana parish or Florida county, all procurement transactions must be conducted in a manner providing full and open competition pursuant to 2 CFR 200.319(a). The OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards states at 2 CFR 200.320(f):

Procurement by noncompetitive proposals may be used when one or more of the following circumstances apply:

- (1) The item is available only from a single source;
- (2) The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation;
- (3) The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in response to a written request from the non-Federal entity; or
- (4) After solicitation of a number of sources, competition is deemed inadequate.

56. Q. Are recipients required to comply with regulations regarding conflicts of interest related to procurement?

A. Yes. No employee, officer, or agent of a recipient may participate in the selection, award, or administration of a contract supported by a Federal award if he or she has a real or apparent conflict of interest. The recipient must maintain written standards of conduct, to include conflict of interest policies, governing the actions of its employees who are engaged in the award and administration of a contract. The written standards must provide for disciplinary actions to be applied for violations of such standards by its officers, employees, or agents. *See 2 CFR 200.318(c)* for additional information on procurement standards.

57. Q. When does the applicant need to comply with the Davis-Bacon Act for grants awarded by Treasury under the RESTORE Act?

A. Davis-Bacon Act-related provisions apply to grants awarded by Treasury under the RESTORE Act in two situations:

- Davis-Bacon Act-related provisions are applicable for a construction project if it is for the construction of a project that can be defined as a “treatment works” in 33 U.S.C 1292; and
- Davis-Bacon Act-related provisions are applicable for a construction project regardless of whether it is a “treatment works” project if it is receiving federal assistance from another federal agency operating under an authority that requires the enforcement of Davis-Bacon Act-related provisions.

58. Q. Where can the applicant go for more information on the Davis-Bacon Act as it may apply to the applicant?

A. Please contact your grants management specialist at Treasury. Also, the Department of Labor oversees the administration of Davis-Bacon Act-related provisions and has a website with extensive information on the Davis-Bacon Act and Davis-Bacon Act-related provisions.

59. Q. What are “treatment works”?

A. Pursuant to 33 U.S.C. 1292, the definition of treatment works means:

- (1) Any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature to implement 33 USC1281 of the Federal Water Pollution Control Act, or necessary to recycle or reuse water at the most economical cost over the estimated life of the works, including intercepting sewers, outfall sewers, sewage collection systems, pumping, power, and other equipment, and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any works, including the acquisition of the land that will be an integral part of the treatment process (including land used for the storage of treated wastewater in land treatment systems prior to land application) or is used for ultimate disposal of residues resulting from such treatment and
- (2) Any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of municipal waste, including storm water runoff, or industrial waste, including waste in combined storm water and sanitary sewer systems.

60. Q: Does the Buy American Act apply to Direct Component awards?

A. No. However, as referenced in the RESTORE Act Standard Terms & Conditions, grant condition V.5, recipients are encouraged to the greatest extent practicable to purchase American-made equipment and products with funding provided under the grant.

OTHER APPLICATION PROVISIONS

61. Q. Is there a limitation on administrative costs under Direct Component awards?

A. Yes. A recipient may not use more than three percent of the Federal award funds received for administrative costs. Administrative costs are defined at 31 CFR 34.2 as “indirect costs for administration incurred by the Gulf Coast states, coastal political subdivisions, and coastal zone parishes that are allocable to activities authorized under the Act. Administrative costs do not include indirect costs that are identified specifically with, or readily assignable to, facilities as defined in 2 CFR 200.414.” Costs borne by subrecipients and contractors do not count toward the three percent cap.

62. Q. What must an applicant do if it does not have a negotiated indirect cost (IDC) rate?

A. The answer to this question differs depending on the applicant. A cognizant agency for negotiating IDC rates is determined by the Federal agency that provides a recipient with the majority of its federal funding. If they do not have a current IDC rate, some applicants must negotiate one with their cognizant agency. Some applicants may not need to negotiate an IDC with their cognizant agency. If an applicant has never negotiated an IDC rate with the Federal government and receives \$35 million or less in direct federal funding per year, it may be eligible to use 10% of the project’s modified total direct costs as its eligible IDC rate in lieu of negotiating an IDC rate with its cognizant agency. However, if it does so, it must keep the documentation of this decision on file (see 2 CFR 200.414(f)), and must contact its cognizant federal agency to determine if that agency will require the applicant to submit its IDC documentation for review. Treasury staff is available to discuss applicants’ specific indirect cost rate questions on a case-by-case basis.

63. Q. Is there a cost sharing or matching requirement for Direct Component grant awards?

A. No. There is no cost sharing or matching requirement for Direct Component grant awards.

64. Q. The RESTORE Act Direct Component Financial Assistance Application requires applicants to identify key personnel. Who are key personnel?

A. Key personnel should include the applicant organization director who is authorized to sign the grant application and award, the technical person who is responsible for the project, and the financial person who is responsible for the award’s accounting and financial records. The RESTORE Act Standard Terms and Conditions require recipients to notify Treasury if there are any changes in identified key personnel.

COMPLIANCE

65. Q. If an eligible applicant identifies issues as part of its operational self-assessment (OSA), how should the applicant address them prior to receiving a grant award?

A. If an eligible applicant identifies issues, the applicant should document them in its OSA and take measures to meet the requirements outlined in § 200.303 (Internal controls) of the OMB's Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards. This section states that "[t]he non-Federal entity must: (a) Establish and maintain effective internal control over the Federal award that provides reasonable assurance that the non-Federal entity is managing the Federal award in compliance with Federal statutes, regulations, and the terms and conditions of the Federal award. These internal controls should be in compliance with guidance in 'Standards for Internal Control in the Federal Government' issued by the Comptroller General of the United States and the 'Internal Control Integrated Framework', issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO)."

66. Q. How should eligible applicants monitor their own performance and compliance and that of their subrecipients?

A. Eligible applicants must monitor their own performance and compliance to adequately report their performance to Treasury. Pass-through entities must manage and monitor their subrecipients in accordance with 31 CFR §§ 200.330 through 200.332, and:

- Ensure that subrecipient agreements have all the information required by §200.331 and all terms and conditions of the grant award
- Evaluate and document the risk of each subrecipient
- Confirm that the subrecipient is not suspended or debarred
- Create written monitoring procedures
- Document compliance (periodic reporting, reports of findings, corrective action plans and follow-up)
- Review subrecipient Single Audit reports and take necessary action

SPECIAL LOUISIANA PARISH PROVISIONS

67. Q. Are the Louisiana Parish Allocations specified in the Trust Fund Allocation Tables effective?

A. Yes, the Louisiana Parish Allocations specified in the Trust Fund Allocation Tables became effective October 14, 2014, when Treasury published an interim final rule specifying allocations for each Louisiana parish. The final rule reiterates the previously specified allocation percentages, which became final on the effective date of the final rule, February 12, 2016. They are based on a weighted formula in the

RESTORE Act and data from the United States Census Bureau and the United States Coast Guard. *See 79 Federal Register 44325.*

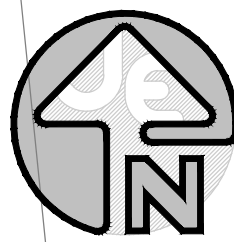
68. Q. Must a Louisiana parish certify to the Governor that the parish has a comprehensive land use plan before submitting a Direct Component application to Treasury?

A. Yes. In order to have a complete Direct Component application, a Louisiana parish must include with the application its certification to the Governor that the parish has a comprehensive land use plan. If the parish chooses to submit a planning assistance grant application for the preparation of a multiyear plan, the parish must include the certification as part of its planning assistance grant application.

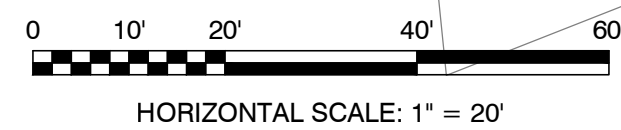
69. Q. May a Louisiana parish prepare a multiyear plan without a comprehensive land use plan certification?

A. Yes. A Louisiana parish may begin work on a multiyear plan prior to certifying to the Governor that the parish has a comprehensive land use plan. However, Direct Component planning assistance funds are not available for the preparation of a multiyear plan until after the parish includes with the application a certification to the Governor that the parish has a comprehensive land use plan.

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1. DRIVEWAY AND CALHOUN AVE RIGHT-OF-WAY IMPROVEMENTS PER PLANS PROVIDED BY CITY AS PART OF SEPARATE IMPROVEMENTS. VERIFY ALL FINAL CLAHOUN AVE AND RIGHT-OF-WAY IMPROVEMENTS PRIOR TO COMMENCEMENT OF CONSTRUCTION.



CITY OF DESTIN					
JOB: 17-70 DATE: 02/16/18 DESIGNED: JSE DRAWN: MPF/JAW					
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BY					
JAMIE S. EUBANKS, P.E. FL REGISTRATION NO. 71438					
					
JENKINS ENGINEERING, INC. 121 HART STREET NICESVILLE, FLORIDA 32578 TEL 850.837.2446 FAX 850.837.2460 1234 AIRPORT ROAD, SUITE 126 DESTIN, FLORIDA 32541 TEL 850.837.2446 FAX 850.837.2460 JEICIVIL.COM C.O.A. NO. 9922 L.B. NO. 8081					
					

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: Announcements

I. BACKGROUND:

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:**
- B. Effect on Budget (EOB):**
- C. Level of Service (LOS):**

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:
None

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Announcement

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: 1. Coyote Mitigation

I. BACKGROUND: Upon direction from the last Council meeting, staff has scheduled a site/area visit this week with representatives from USDA-Wildlife Services. This agency also contracts with Okaloosa County to provide the Wildlife Management Plan for the Destin Executive Airport and has experience dealing with this issue. After the meeting we will have a better idea on what our next steps should be.

We have also heard from FWC and they are willing to do some type of education/outreach over the coming months to provide information to the public on human-wildlife interactions and how to best manage and prevent coyote conflicts.

II. DISCUSSION: Upon direction from the last Council meeting, staff has scheduled a site/area visit this week with representatives from USDA-Wildlife Services. This agency also contracts with Okaloosa County to provide the Wildlife Management Plan for the Destin Executive Airport and has experience dealing with this issue. After the meeting we will have a better idea on what our next steps should be.

We have also heard from FWC and they are willing to do some type of education/outreach over the coming months to provide information to the public on human-wildlife interactions and how to best manage and prevent coyote conflicts.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:
None

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Ordinance

TO: City Council

THRU: Kimberly Kopp, Land Use Attorney
Lance Johnson, City Manager

FROM: Louis Zunguze, Community Development Director

DATE: January 15, 2019

SUBJECT: Second reading of Ordinance 18-29-CC - Amendments to Short-Term Rental Ordinance and Establishing Maximum Occupancy Limits.

I. BACKGROUND: The City Council approved the Short-Term Rental Task Force on October 2, 2017, in order to provide recommendations to the City Council on issues related to the presence of short-term rentals in established residential neighborhoods. The Task Force was made up of short-term rental stakeholders as well as City residents, and met regularly prior to making recommendations to the City Council on how to regulate short-term rentals in the City. Upon receiving the recommendations of the Task Force, the City Council held workshops to consider and discuss such recommendations.

Under-regulated short-term rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, diminished public safety, excessive use and impact on public services and public works, and extreme size and/or greater occupancy in residential structures. According to U.S. Census data available online, between 2013-2017, the City of Destin has had an average household size of 2.26 persons. On the other hand, occupancy of short-term rentals is much higher and creates a great disparity in occupancy in residential neighborhoods.

Ordinance 18-29-CC is intended to ensure compatibility in existing residential neighborhoods, and safety for residents, tourists, and tenants alike. Section 509.032, Florida Statutes authorizes local governments to regulate short-term rentals. Ordinance 18-29-CC does not prohibit short-term rentals, nor does it regulate the frequency or duration of short-term rentals.

On December 3, 2018, the City Council directed staff to advertise an ordinance regulating maximum occupancy of short-term rentals for first reading on December 17, 2018.

On December 17, 2018, the City Council directed that two versions of the ordinance be brought forward for consideration on first reading on January 7, 2019. The first version, set forth in Exhibit A, would establish maximum occupancy at 2 persons per bedroom, plus two more persons. The second version, set forth in Exhibit B, would establish maximum occupancy at 2 persons per bedroom, plus an additional four persons per short-term rental. In either case, occupancy levels are to be based on on-site capacity.

On January 7, 2019, the City Council approved the Ordinance on first reading with a maximum occupancy of 2 persons per bedroom, plus four more persons. The ordinance is now before the City Council on second reading.

II. DISCUSSION: Ordinance 18-29-CC is before the City Council on second reading, and provides for a maximum overnight occupancy of two persons per bedroom, plus FOUR. Additionally, the ordinance caps overnight occupancy at no more than 24 persons per short-term rental.

In order to balance the rights and interests of private property owners and residents, Ordinance 18-29-CC contains provisions related to a grandfathering process, which would grandfather occupancy for a five-year period for successful applicants, in order to allow the private property owner to obtain its reasonable investment expectations. Further, Ordinance 18-29-CC contains an exemption for prospective tenants with pre-existing agreements as of the effective date of Ordinance 18-29-CC.

Examples of a couple of Bert Harris settlement agreements that were entered into in the City of Anna Maria, which enacted a similar ordinance regulating occupancy of short-term rentals, have been included with this agenda item as exhibits B and C. Notably, the City of Anna Maria enacted a much lower occupancy limit (a maximum of 8 occupants) than the overall limit of 24 that is currently being proposed for the City of Destin.

Since the last time the City Council reviewed the Ordinance, the size of the required sign for short term rentals has been decreased to 18 by 18. Also, language regarding grandfathering criteria has been clarified.

A. Link to Strategic Goals / Objectives:

OBJECTIVE 1-1.2: RESIDENTIAL QUALITY. Sufficient land area shall be designated for residential development and required community facilities to adequately meet the housing needs of the present and expected future population. Also refer to the housing element of this plan. Residential development shall be planned and designed to create and perpetuate stable residential neighborhoods and implement Policies set forth below.

Policy 1-1.2.1: Protect Residential Areas. The LDC shall implement design standards to protect existing stable single-family residential areas and projected future single-family residential areas from adverse impacts by new development due to location, massing, intensity, scale, and height. These areas include all residential future land use designations and historically residential neighborhoods in mixed use designations delineated on the Future Land Use Map 1-1.

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: In conclusion, the City Council has several options before it with respect to Ordinance 18-29-CC.

1. The City Council may approve Ordinance No. 18-29-CC on second reading.
2. The City Council may direct staff and the City land use attorney to further amend Ordinance No. 18-29-CC.
3. The City Council may deny Ordinance No. 18-29-CC on second reading.

IV. RECOMMENDED MOTION: I move to approve Ordinance 18-29-CC on second reading.

or

I move that staff further amend Ordinance 18-29-CC by_____.

or

I move to deny Ordinance 18-29-2018 on second reading.

Attachments:

1. Exhibit A 2 Per BR Plus Four STRs
1_22_2019
2. Exhibit B Example Bert Harris
Settlement_Occupancy
3. Exhibit C Example Bert Harris
Settlement Occupancy

ORDINANCE NO. 18-29-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO OCCUPANCY LIMITS FOR SHORT-TERM RENTALS; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT OF CODE OF ORDINANCES ARTICLE VI - REGISTRATION OF SHORT- TERM RENTALS; AMENDING SECTION 13-108, LOCAL RESPONSIBLE PARTY REQUIRED; AMENDING SECTION 13-114, POSTING OF SIGNAGE; CREATING SECTION 13-117, OCCUPANY LIMITS; CREATING SECTION 13-118, EXEMPTION FOR PRE-EXISTING AGREEMENTS; PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. The authority for enactment of this Ordinance is Article I, Section 1.01 (b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Pan II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City Council approved the Short-term Rental Task Force on October 2, 2017 in order to provide recommendations to the City Council on issues related to the presence of short-term rentals in established residential neighborhoods; and

WHEREAS, residents residing within their residential dwellings are inherently familiar with the local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from their residential dwellings, thereby minimizing potential risks to themselves and their families; and

WHEREAS, in contrast to residents, transient occupants of short-term rentals, due to their transient nature, are typically not familiar with local surroundings, local weather disturbances, local hurricane evacuation plans, and means of egress from the Vacation Rentals in which they are staying, thereby increasing potential risks to themselves and their families, and putting an additional burden on, and potentially putting at risk, emergency personnel in the event of an emergency situation; and

WHEREAS, certain short-term rentals are presently located within the single-family residential zoning districts of the City of Destin; and

WHEREAS, the presence of under-regulated short-term rentals within residential dwelling units in established residential neighborhoods can create negative compatibility impacts, among which include, but are not limited to, excessive noise, on-street parking, accumulation of trash, diminished public safety, excessive use and impact on public services and public works, and extreme size and/or greater occupancy of structures; and

WHEREAS, short-term rentals situated within residential neighborhoods can disturb the quiet nature and atmosphere of the residential neighborhoods, and the quiet enjoyment of its residents; and

WHEREAS, a residential dwelling is typically the single largest investment a family will make with the residents of the residential dwelling desiring the tranquility and peaceful enjoyment of their neighborhood without excessive noise and increased parking issues and traffic congestion caused by transient occupants of short-term rentals; and

WHEREAS, according to U.S. Census data, the City of Destin has an average household size of 2.26 persons between 2013-2017; and

WHEREAS, short-term rentals situated in single-family residential neighborhoods can and do create a great disparity in occupancy; and

WHEREAS, there has been an increase in both the number of residential structures being used for short-term rental purposes in the City and the same such units are occupied as opposed to being vacant or unrented; and

WHEREAS, the City has seen an increase in disproportionate impacts related to the size of the structure including excessive occupancy and lack of proper facilities; and

WHEREAS, in Section 509.032, Florida Statutes, the State Legislature has granted authority to local government to regulate short-term rental units; and

WHEREAS, this Ordinance does not prohibit, nor intend to prohibit, short-term rentals, nor does it regulate the frequency or duration of such rentals; and

WHEREAS, the City Council has deemed it in the best interest of its citizens and residents to adopt additional regulations for short-term rental units; and

WHEREAS, the City Council has studied this issue, reviewed regulations adopted by other jurisdictions, sponsored focus groups to obtain input from the public and stakeholders, received public comment at numerous work sessions and meetings prior to adopting this ordinance; and

WHEREAS, the City Council has deemed it necessary to amend the existing Code of Ordinances to provide for the addition of maximum occupancy limits for Short-Term Rentals; and

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted Comprehensive Plan and is in the best interest of the City and its citizens; and

WHEREAS, a public hearing has been conducted by the City Council after due public notice.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, AS FOLLOWS:

NOTE: Language in section three (3) of this ordinance that is ~~strike-thru~~ is language proposed to be deleted, underline language is language to be added, language that is not in strike-thru or underlined is not to be changed. The symbol *** represents sections of the Code of Ordinances that have been skipped and remain unchanged.

SECTION 3. AMENDMENT OF CODE OF ORDINANCES CHAPTER 13: Chapter 13 of the Code of Ordinances is hereby amended as follows:

* * *

ARTICLE VI. - REGISTRATION OF SHORT-TERM RENTALS

* * *

Sec. 13-108 Local Responsible Party Required

Whenever any property is required to be registered under this article, the owner shall appoint a person to serve as the local responsible party for service of notices as are specified herein, and notices given to the responsible party shall be sufficient to satisfy any requirement of notice to the owner. The owner shall notify the city manager or his designee in writing of the appointment within five (5) days of being required to make such appointment, and shall thereafter notify the city manager or his designee of any change of the local responsible party within fifteen (15) days of such change.

The designation of a local responsible party does not relieve the owner of the responsibility to comply with all state and local statutes and ordinances. Further, a local responsible party who accepts the designation to act on behalf of a property owner is held to the same standard as the property owner with respect to compliance with all statutes and ordinances and may be cited for non-compliance with any code, rule or ordinance applicable to the property.

Further, it is hereby made the affirmative duty of the local responsible party to:

- (1) Inform all seasonal residents prior to occupancy of the single family dwelling unit of applicable City of Destin ordinances concerning noise, vehicle parking, garbage and common area usage:
- (2) Maintain all properties under their control in compliance with the occupancy limits, as specified in the City of Destin Code of Ordinances:
- (3) See Ensure that the provisions of this article are complied with and promptly address any violations of this article or any violations of law, which may come to the attention of the responsible party:

- (4) Post a sign outside the residence that clearly identifies the management company responsible for the property and the phone number of the local ~~R~~esponsible ~~P~~arty that is located within 30 miles of the residence, in accordance with sections 107 and 114 of this Code. The name and address of the ~~R~~esponsible ~~P~~arty shall be listed on the annual registration form. The ~~R~~esponsible ~~P~~arty shall immediately notify the City if the ~~R~~esponsible ~~P~~arty changes during the year. The ~~R~~esponsible ~~P~~arty shall be available with authority to address and correct violations with the rental of the single family dwelling unit twenty-four hours a day, seven days a week. No guest may stay in the residence until the sign is erected with the necessary information.
- (5) Be familiar with the City's short term rental regulations and provide acknowledgement that the applicant will comply with the City's regulations for short-term rentals at the time of registration.
- (6) Be situated close enough to the single family dwelling unit to be able to and have the capacity to service emergency calls within one (1) hour of notification, including but not limited to evicting tenants.
- (7) Maintain the entire property of the single-family dwelling unit free of garbage and litter. Provide however, that this section shall not prohibit the storage of garbage and litter in authorized private receptacles for collection.

* * *

Sec. 13-114. - Posting of signage.

Prior to the owner of the single-family dwelling unit allowing another person to occupy the single-family dwelling unit as a seasonal resident, owner shall post a sign on the property meeting the following requirements:

- (a) The sign must be prominently placed on the property of the single family dwelling unit so that the required content of the sign shall be legible as viewed from the public right-of-way; however, signage shall not be placed in the public right-of-way;
- (b) Such sign shall be eighteen by eighteen (18x 18) ~~not larger than eighteen (18) inches by twelve (12) inches and not smaller than sixteen (16) inches by ten (10) inches~~ in size;
- (c) The sign must clearly indicate the name, and twenty-four (24) hours a day, seven (7) days a week emergency contact phone number of the local responsible party for said single-family dwelling unit. If the responsible party phone number and the rental contact phone number are different, the sign shall clearly indicate both phone numbers;

(d) The sign must clearly indicate the occupancy limit and maximum available parking;

~~(d)~~ (e) The sign must be continuously on the property of the single-family dwelling unit during any period a local business tax or registration has not expired.

(f) A current City of Destin annual decal must be displayed in the top right hand corner of the sign. The City will provide the property owner with such annual decal at the time of annual registration of the short-term rental.

* * *

Sec. 13-117. – Maximum occupancy based on site capacity/Grandfathering.

(a) The maximum overnight occupancy of a short-term rental shall be stated in the short-term rental registration form, and shall be limited to the lesser occupancy of the following two options:

- i. Two (2) persons for each bedroom, plus four (4) additional persons. The number of bedrooms shall be based upon the Property Appraiser's residential profile of the property, and other documents of record, as needed. In no case shall the maximum total occupancy for any dwelling unit exceed the occupancy limits permitted by the Florida Fire Prevention Code or Florida Building Code.

or

- ii. A total of twenty-four (24) persons per short-term rental. In the event that there is more than one building or dwelling on one platted lot, the maximum occupancy shall be capped at twenty-four (24) occupants per lot or structure, whichever is less.

(b) Before the hours of 7 AM or after 10 PM, the occupancy load of the unit may not exceed the maximum allowed number of overnight tenants.

(c) Reasonable verification must be given to the designated local responsible party in accordance with Section 13-108 of this article within 36 hours of rental guest arrival to confirm compliance with the maximum overnight occupancy requirement. The maximum number of allowable occupants and parking shall be posted on signage in front of the rental property in accordance with Section 13-114 of this article.

(d) All marketing and/or advertising for short-term rental units must contain (i) information concerning the occupancy limit of the short-term rental unit, and (ii) the maximum parking available on the property. Advertising for more than the allowable occupancy or allowable parking is prima facie evidence of a violation of the City Code. Further, failure to include such occupancy limits and maximum parking availability is prima facie evidence of a violation of the City Code.

(e) Minimum Provisions for Short-Term Rental Agreements: Short Term Rentals shall be rented, leased or occupied pursuant to a written rental agreement which contains, at a minimum, the following information:

- i. Maximum occupancy of the short-term rental that is consistent with the short-term rental registration.
- ii. The maximum number of vehicles that will be allowed to park at the short-term rental. Such number of vehicles shall not exceed the number of legal parking spaces that the short-term rental owner can show are available to the short-term rental.

- iii. A statement that all occupants must promptly evacuate from the short-term rental upon posting of any evacuation order issued by state or local authorities.
 - iv. As a courtesy, a copy of a document to be supplied by the City which includes excerpts from the City of Destin's ordinance provisions of general application relevant to short-term rentals to include regulations related to solid waste and trash, prohibited parking, and the City's noise ordinance. Failure of the City to provide this courtesy document does not relieve any short-term rental owner or other person of their obligation to comply with any City ordinance.
- (f) Notwithstanding the above, the owner (or authorized agent) of a short-term rental that was used as a short-term rental as of the effective date of this ordinance (January 22, 2019), may apply for the status of grandfathered for a period of five (5) years, as to occupancy limitations, and may cap its occupancy based upon the criteria and procedures set forth herein. Short-term rentals that have an occupancy of twenty-four (24) or less, and that otherwise comply with the occupancy restrictions set forth in Section 13-117(a) above, will not require grandfathering to maintain that occupancy.
- i. The short-term rental owner, or agent, as applicable ("Grandfathering Applicant") shall complete a Grandfathering Application as prescribed by the City, which shall be submitted under oath and upon penalty of perjury, and provide verifiable written proof of the following criteria:
 - 1. The use as a short-term rental was existing and legally established as of January 22, 2019.
 - 2. The number of bedrooms in the short-term rental was existing and legally established as of January 22, 2019. The number of bedrooms shall be based upon the Property Appraiser's residential profile of the property, and other documents of record, as needed.
 - 3. The short-term rental must be registered with the City and must be in compliance with all applicable City of Destin codes and ordinances.
 - ii. The Grandfathering Application and supporting proof shall be submitted to the City for review by the City staff in consultation with the City Land Use Attorney. If City staff determines that all of the criteria set forth in the above subsection 13-117(f)(i) are met, staff shall confirm the requested occupancy of such short-term rental. If all of the criteria are not met, then the City of Destin shall notify the Grandfather Applicant of that fact, and the occupancy level that can be approved, in writing.
 - iii. Within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfathering Applicant before the City Council

to provide the Grandfathering Applicant an opportunity to provide evidence and/or testimony in support of the occupancy requested. A determination by the City Council after such evidentiary hearing shall be final. If no hearing is requested during that time period, the occupancy level shall be set at the level determined by the City staff upon initial review.

1. Written notice of the date, time, place and purpose of the hearing shall be mailed by the city clerk to all owners of property located within one hundred and fifty (150) feet of the boundaries of the property for which the grandfathered rights are sought, according to the latest certified tax roll. Such notice shall be mailed not later than fifteen (15) days prior to the date of the scheduled hearing. Additionally, notice will be published in a local newspaper of general circulation at least ten (10) days prior to the public hearing.
 2. The City Council shall render a decision to either issue or deny the Grandfathering Application.
 3. The decision shall be mailed to the Grandfathering Applicant and shall include findings of fact and conclusions of law, and shall state specifically the maximum occupancy that is grandfathered for a five (5) year period.
- iv. An application for grandfathering shall be submitted, if at all, by no later than the time of registration of the short-term rental, but not later than July 22, 2019. If the City extends the date that registration is required, the deadline for the application for grandfathering shall also be extended to the same extended date. If a short-term rental has been registered, but a final determination as to the occupancy level based upon grandfathering has not yet been made, such short-term rental may allow occupancy up to the occupancy requested in the grandfathering application until such time as a final determination as to occupancy has been made.
- v. If it is reasonably determined by the City staff that any information supplied to the City of Destin in support of an application for grandfathering was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine as set by the City Council by resolution. If there is such a determination by City staff, the City of Destin shall notify the Grandfathering Applicant of that fact, and within twenty (20) days after such notice, an evidentiary hearing may be requested by the Grandfathering Applicant before the City Council to provide the Grandfathering Applicant an opportunity to provide evidence and/or testimony to show that the information supplied in support of the application for grandfathering was not intentionally false or fraudulent. The determination by the City Council after such evidentiary hearing shall be final. If no hearing is requested during that time period, the initial determination by the City staff shall be final.

- vi. If a short-term rental is not registered for a period in excess of twelve (12) months, any grandfathering determination shall be deemed abandoned, and shall no longer be applicable to that short-term rental.
- vii. If a grandfathered use ceases for a period of six (6) months, then the grandfathering shall be considered to have lapsed and the short-term vacation rental will be subject to all occupancy requirements as set forth herein.
- viii. An applicant may only submit one Grandfathering Application per short-term rental.
- ix. An appeal of a city council decision on a Grandfathering Application shall be by petition for certiorari review to the circuit court of Okaloosa County, based solely on the record of the hearing before the city council. The applicant is responsible for providing a verbatim transcript of the record of that hearing. Such an appeal must be filed within thirty (30) days after the City renders its decision.

* * *

Sec. 13-118. – Exemption for Pre-Existing Agreements.

Notwithstanding any other provision of this ordinance, rental agreements with prospective occupants for short-term rental units that were pre-existing as of the enactment of this Ordinance 18-29-CC, (hereinafter “Pre-existing Agreements”) are exempt from the provisions of this ordinance for a period of one (1) year. All bookings made subsequent to the enactment of this ordinance are subject to the provisions of this ordinance. All advertising must be compliant within one hundred twenty (120) days of the effective date of this ordinance.

If a short-term rental unit is cited for a violation of this Chapter, (that would not be a violation if it were not for this Section), when the short-term rental unit is occupied under the terms of a Pre-existing Agreement, the short-term rental owner may defend such violation based on the fact that the short-term rental unit was exempt from this Section due to it being occupied pursuant to a Pre-existing Agreement. Such defense shall be determined based upon the following information, and upon any additional information supplied by the short-term rental owner or otherwise determined by the fact finder:

1. Copy of deposit or payment information evidencing that the agreement was a Pre-existing Agreement.
2. Copy of e-mail or other communication evidencing a binding Pre-existing Agreement.
3. Information from the occupant confirming that there was a binding agreement in a time frame to make the agreement as Pre-existing Agreement under this Section.

If it is reasonably determined by the City staff, and confirmed by the City Council, that any information supplied to the City of Destin in support of an application for exemption, or in support of a defense based upon Pre-existing Agreement, was intentionally false or fraudulent, the person supplying the false or fraudulent information shall be subject to a fine

as set by the City Council by resolution.

SECTION 4. INCORPORATION INTO CODE OF ORDINANCES. This ordinance shall be incorporated into the City of Destin's Code of Ordinances and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 5. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin. City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 6. SEVERABILITY. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 7. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS 22ND DAY OF JANUARY, 2019.

By: Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney, for the City of Destin, only:

Kimberly Romano Kopp, Land Use Attorney

**THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Gretchen R. H. Vose, Esq.
Vose Law Firm LLP
324 W. Morse Blvd.
Winter Park, FL 32789

Recorded with
Manatee County Florida Clerk
Access Official Records at
www.ManateeClerk.com

For Recording Purposes Only

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this 22 day of February, 2017, ("Effective Date") by and between Randolph E. Brown and Nancy F. Brown ("Owner") and the City of Anna Maria ("City"), collectively referred to as the "Parties."

RECITALS

WHEREAS, on November 19, 2015, the City enacted Ordinance 15-807, the Vacation Rental Ordinance ("Ordinance"), which limited occupancy in Vacation Rentals, as that term is defined in the Ordinance; and

WHEREAS, Owner owns the real property and improvements located at 104 Pine Avenue, Anna Maria, Florida, as more particularly described in the attached Exhibit "A" (the "Property"); and

WHEREAS, on May 23, 2016, Owner filed a claim with the City, pursuant to the provisions of §70.001, Florida Statutes, the Bert J. Harris, Jr., Private Property Rights Protection Act (the "Harris Act"), alleging that the Property had been inordinately burdened by the adoption of the Ordinance, (the "Claim"); and

WHEREAS, the Harris Act provides for the City to have the ability to enter into a settlement agreement which would have the effect of a modification or variance to the application of a regulation or ordinance as it would otherwise apply to the subject real property, provided the relief granted protects the public interest served by the regulations at issue and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property; and

WHEREAS, the City has determined that the modifications to the effect of the Ordinance effected by this Agreement protect the public interest served by the Ordinance and are the appropriate relief necessary to prevent the regulatory effect of the Ordinance from inordinately burdening the Property; and

WHEREAS, the Parties now desire to settle and finally resolve all disputes between and among them concerning the Claim.

NOW, THEREFORE, the Parties hereby agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Occupancy Allowable Under Ordinance.** Owner is hereby granted a variance from the provisions of the Ordinance so that the Owner shall have the right to apply under the Ordinance for a maximum occupancy of fourteen (14) guests and the City shall grant such occupancy. This right shall continue in perpetuity, regardless of any future changes in ownership, provided that this right shall expire permanently if the Property were to be voluntarily remodeled or voluntarily rebuilt in such a manner as to decrease the number of bedrooms that existed at the date of the Claim.
3. **Development in Accordance with Code.** Notwithstanding any provisions contained herein, the Owner shall at any time have the right and option to remodel, develop, or use the Property in accordance with the applicable ordinances of the City of Anna Maria in effect at the time of application therefor, and this variance shall not be construed as making the Property in any way non-conforming.
4. **Entire Agreement.** The Parties acknowledge that this Agreement constitutes the entire agreement between them regarding the settlement of their dispute and any prior statements, whether oral or written, are merged herein. This Agreement may not be modified or amended without a written instrument signed by the party against whom enforcement is sought.
5. **Duration of Agreement.** This Agreement shall be perpetual and deemed to run with the land, and shall be binding upon and the benefits shall inure to the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.
6. **Authority.** The signatories to this Agreement are expressly authorized to resolve their dispute as set forth herein and by their signatures here represent and affirm their authority to execute this Agreement.
7. **Governing Law.** The law of the State of Florida shall apply to this Agreement. Any dispute regarding this Agreement shall be litigated exclusively in the courts of Manatee County, Florida. The parties expressly consent to such agreed jurisdiction and venue, and waive any objections thereto.

OWNER:

Julie Wyman
Signature of Witness #1
Witness as to Randolph Brown.

Randolph E. Brown
Randolph E. Brown

Julie Wyman
Print or type name

Danielle Hill
Signature of Witness #2
Witness as to Randolph Brown
Danielle Hill
Print or type name

Nancy F. Brown
Nancy F. Brown

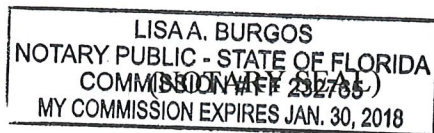
STATE OF Florida
COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 22 day of February, 2017, by Randolph E. Brown and Nancy F. Brown, who are personally known to me or who have produced PDL as identification and who did not (did) take an oath.

Notary for Randolph E. Brown

Lisa Burgos

Signature of Notary



Lisa Burgos
Print or type name

CITY OF ANNA MARIA

By:

Dan Murphy, Mayor

Date: _____

Sharon L. Grecula

Signature of Witness # 1

Sharon L. Grecula

Print or type name

[Signature]

Signature of Witness #2

GREGORY MEDEROS

Print or type name

STATE OF Florida

COUNTY OF Hillsborough

The foregoing instrument was acknowledged before me this 24th day of February, 2017, by Randolph E. Brown and Nancy F. Brown, who are personally known to me or who have produced _____ as identification and who did not (did) take an oath.



OWNER:

Randolph E. Brown

[Signature]
Nancy E. Brown

Sharon L. Grecula
Signature of Notary

Sharon L. Grecula
Print or type name

CITY OF ANNA MARIA

By:

[Signature]
Dan Murphy, Mayor

Date:

04.10.17

ATTEST:

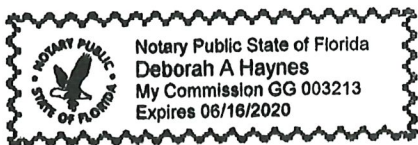
LeAnne Addy
LeAnne Addy, City Clerk

Date: 4/10/17

STATE OF FLORIDA

COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 10 day of April, 2016, by Dan Murphy, and LeAnne Addy, who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of Anna Maria.



(NOTARY SEAL)

Deborah A. Haynes
Signature of Notary

Deborah A. Haynes
Print or type name

Approved as to form and legality for use and reliance
by the City of Anna Maria, Florida

Gretchen R. H. "Becky" Vose
Gretchen R. H. "Becky" Vose

Exhibit "A"

Legal Description of Property

Lots 5, 6, 7, 15 and 16, Block 35, First Addition to Anna Maria Beach Subdivision, according to the map or plat thereof recorded in plat book 1, page 237, as recorded in the Public Records of Manatee County, Florida; together with that portion of the vacated alley between Lot 7 and Lots 15 and 16 of said Block 35

Angelina "Angel" Colonnese

Clerk of the Circuit Court

Manatee County

P.O. Box 25400
Bradenton, FL 34206

Official Records Receipt Recording

Recorded By: jtinkham
Cashiered By: PSCOTT

Receipt#: 900037416

Payee Name: COUNTER CUSTOMER

Receipt Date: 12/21/2016

Escrow Balance:
Escrow Customer:

Instrument(s): 201641069593-BK2653/PG336-AGREEMENT

Details

INDEXING NAMES	\$0.00
PRMTF \$1/\$.50	\$3.00
PRMTF BCC \$2	\$10.00
PRMTF CLERK \$1.90	\$9.50
PRMTF FACC \$.10	\$0.50
RECORDING FEE \$5/\$4	\$21.00

Receipt Total: \$44.00

Amount Tendered: \$44.00

Overage: \$0.00

MFC \$44.00 17321565

**THIS INSTRUMENT PREPARED BY
AND AFTER RECORDING RETURN TO:**

Gretchen R. H. Vose, Esq.
Vose Law Firm LLP
324 W. Morse Blvd.
Winter Park, FL 32789

Recorded with
Manatee County Florida Clerk
Access Official Records at
www.ManateeClerk.com

For Recording Purposes Only

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this 15 day of November, 2016, ("Effective Date") by and between John Hinton and Carol Hinton (collectively "Owner") and the City of Anna Maria ("City"), collectively referred to as the "Parties."

RECITALS

WHEREAS, on November 19, 2015, the City enacted Ordinance 15-807, the Vacation Rental Ordinance ("Ordinance"), which limited occupancy in Vacation Rentals, as that term is defined in the Ordinance; and

WHEREAS, Owner owns the real property and improvements located at 749 Jacaranda Road, Anna Maria, Florida, as more particularly described in the attached Exhibit "A" (the "Property"); and

WHEREAS, on May 23, 2016, Owner filed a claim with the City, pursuant to the provisions of §70.001, Florida Statutes, the Bert J. Harris, Jr., Private Property Rights Protection Act (the "Harris Act"), alleging that the Property had been inordinately burdened by the adoption of the Ordinance, (the "Claim"); and

WHEREAS, the Harris Act provides for the City to have the ability to enter into a settlement agreement which would have the effect of a modification or variance to the application of a regulation or ordinance as it would otherwise apply to the subject real property, provided the relief granted protects the public interest served by the regulations at issue and is the appropriate relief necessary to prevent the governmental regulatory effort from inordinately burdening the real property; and

WHEREAS, the City has determined that the modifications to the effect of the Ordinance effected by this Agreement protect the public interest served by the Ordinance and are the appropriate relief necessary to prevent the regulatory effect of the Ordinance from inordinately burdening the Property; and

WHEREAS, the Parties now desire to settle and finally resolve all disputes between and among them concerning the Claim.

NOW, THEREFORE, the Parties hereby agree as follows:

1. **Recitals.** The above recitals are true and correct and are incorporated herein by reference.
2. **Occupancy Allowable Under Ordinance.** Owner is hereby granted a variance from the provisions of the Ordinance so that the Owner shall have the right to apply under the Ordinance for a maximum occupancy of twelve (12) persons, and the City shall grant such occupancy. This right shall continue in perpetuity, regardless of any future changes in ownership, provided that this right shall expire permanently if the Property were to be voluntarily remodeled or voluntarily rebuilt in such a manner as to decrease the number of bedrooms that existed at the date of the Claim.
3. **Development in Accordance with Code.** Notwithstanding any provisions contained herein, the Owner shall at any time have the right and option to remodel, develop, or use the Property in accordance with the applicable ordinances of the City of Anna Maria in effect at the time of application therefor, and this variance shall not be construed as making the Property in any way non-conforming.
4. **Entire Agreement.** The Parties acknowledge that this Agreement constitutes the entire agreement between them regarding the settlement of their dispute and any prior statements, whether oral or written, are merged herein. This Agreement may not be modified or amended without a written instrument signed by the party against whom enforcement is sought.
5. **Duration of Agreement.** This Agreement shall be perpetual and deemed to run with the land, and shall be binding upon and the benefits shall inure to the parties hereto and their respective heirs, devisees, personal representatives, successors and assigns.
6. **Authority.** The signatories to this Agreement are expressly authorized to resolve their dispute as set forth herein and by their signatures here represent and affirm their authority to execute this Agreement.
7. **Governing Law.** The law of the State of Florida shall apply to this Agreement. Any dispute regarding this Agreement shall be litigated exclusively in the courts of Manatee County, Florida. The parties expressly consent to such agreed jurisdiction and venue, and waive any objections thereto.

Tamala Swafford

Signature of Witness # 1

Tamala Swafford

Print or type name

Christina Fagan

Signature of Witness #2

CHRISTINA FAGAN

Print or type name

STATE OF Florida
COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 15th day of November 2016, by John Hinton and Carol Hinton, who are personally known to me or who have produced passports as identification and who did not (did) take an oath.

OWNER:

[Signature]

John Hinton

[Signature]

Carol Hinton

Christina Fagan

Signature of Notary

CHRISTINA FAGAN

Print or type name

(NOTARY SEAL)



CITY OF ANNA MARIA

By:

[Signature]

Dan Murphy, Mayor

Date:

12.19.16

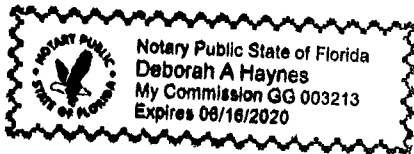
ATTEST:

LeAnne Addy
LeAnne Addy, City Clerk

Date: 12-20-16

STATE OF FLORIDA
COUNTY OF Manatee

The foregoing instrument was acknowledged before me this 20th day of December 2016, by Dan Murphy, and LeAnne Addy, who are personally known to me and acknowledge executing the same freely and voluntarily under authority vested in them by the City of Anna Maria.



(NOTARY SEAL)

Deborah A. Haynes
Signature of Notary

Deborah A. Haynes
Print or type name

Approved as to form and legality for use and reliance
by the City of Anna Maria, Florida

Gretchen R. H. "Becky" Vose
Gretchen R. H. "Becky" Vose

Exhibit "A"

Legal Description of Property

**Lot 2, Block 17, Shore Acres Second Addition as per plat thereof recorded in Plat Book 7 Page
29, Public Records of Manatee County, Florida**

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Public Hearing

TO: City Council

THRU: Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney

FROM: Lance Johnson, City Manager

DATE: January 15, 2018

SUBJECT: Second reading of Ordinance 18-23-LC - Amend Section 7.12.01(A)2 of the Land Development Code changing the designation of an 11.543 acre parcel of land located on U.S. Highway 98 from Commercial General (CG) to Town Center Mixed Use (TCMU)

I. BACKGROUND: This is an applicant-generated request for a zoning map amendment to revise the zoning of a parcel currently zoned Commercial General (CG) to the Future Land Use Map zoning of Town Center Mixed Use (TCMU). The subject area is an 11.543 acre parcel fronting on the north side of U.S. Highway 98 between Gulfview Plaza to the east and the Sunoco gas station on the west. It is bounded on the north side by the Gulf Power easement and property of Old Bay Village Owners Association. The parcel ID # is 00-2S-22-0000-0013-0190. The subject area of the requested amendment is shown on the revised Official Zoning Map and on the Location Map (refer to Exhibits "A.2" and "A.3"). The rezoning of the parcel to TCMU is consistent with the Future Land Use Map, and is in compliance with Comprehensive Plan: 2020 Policy 1-3.6.4: Identification of Land Use and Zoning Inconsistencies. The rezoning is required in order for the applicant to obtain the applicant's proposed use for a mix of residential apartments and commercial uses.

II. DISCUSSION: The rezone requested is consistent with Objective 1-3.6 of Comprehensive Plan: 2020 which purpose is to "prevent inconsistent land use" by ensuring that land uses, structures, and rezoning are consistent with the FLUM.

Any improvements to this property will be required to undergo the proper comprehensive development review process as administered by the City of Destin Community Development Department. The issues of concurrency and adequate public facilities will be assessed during the development review process in accordance with the goals, objectives, and policies of the City's Comprehensive

Plan and Land Development Code. Additionally, development of the property will require that the applicant adheres to Policy 2-1.1.1: Pursue Additional Road Corridor Improvements as described in the Comprehensive Plan, by donating right-of-way and constructing a portion of the Mattie Kelly Blvd. Extension.

The Local Planning Agency (LPA) recommended approval of this item by 4-1 vote (Board Member Shelton dissenting) on Thursday, November 15th.

On November 19, 2018, the City Council considered this Ordinance on first reading, but continued the item to allow the applicant to provide additional information at a future meeting. The applicant then provided additional information for the City Council's consideration on January 7, 2019 (see Exhibits B, C & D).

On January 7, 2019, the Ordinance was approved on first reading by a 4-3 vote. The Ordinance is now before the City Council on second reading.

A. Link to Strategic Goals / Objectives: 3. Improved Mobility and Connectivity

B. Effect on Budget (EOB): At some point, participation will be needed by the city for extending Mattie Kelly Blvd., additional right-of-way acquisition, and for traffic signal and intersection improvements.

C. Level of Service (LOS): Transportation levels of service will be enhanced with the prospects of better connectivity and improved access to roads and pathways.

III. CONCLUSION: Ordinance 18-23-LC amends the Official Zoning Map to change the zoning designation of the property on U.S. Highway 98, from “Commercial General” to “Town Center Mixed Use”.

IV. RECOMMENDED MOTION: “I move that the City Council approve/deny Ordinance 18-23-LC on second reading.”

Attachments:

1. 11.15.18-Ord.18-23-LC - U.S. 98-Zoning.Map.Change.from.CG.to.TCM U-Exhibit.A-Staff.Version
2. 11.15.18-Ord. 18-23-LC - U.S. 98-Zoning.Map.Change.from.CG.to.TCM U-Exhibit A.1
3. 11.15.18-Ord.18-23-LC - U.S. 98-Zoning.Map.Change.from.CG.to.TCM U-Exhibit A.2

4. 11.15.18-Ord. 18-23-LC - U.S. 98-
Zoning.Map.Change.from.CG.to.TCM
U-Exhibit A.3
5. 1_7_2019 Meeting Applicant Exhibit B
6. Exhibit C Applicant Location Map
7. Exhibit D Email to LUA 1_2_2019

EXHIBIT A

ORDINANCE NO. 18-23-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE OFFICIAL ZONING MAP AS REFERENCED IN THE LAND DEVELOPMENT CODE, SECTION 7.12.01(A)2 ZONING MAPS TO INCLUDE A CHANGE IN THE ZONING DESIGNATION OF AN 11.543 ACRE AREA OF LAND LOCATED ON U.S. HIGHWAY 98, DESTIN, FLORIDA FROM COMMERCIAL GENERAL (CG) TO TOWN CENTER MIXED USE (TCMU); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR ZONING MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF DESTIN, OKALOOSA COUNTY, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. The authority for enactment of this Ordinance is Article 1, Section 1.01(b) of the City Charter, Section 166.021, Florida Statutes and Chapter 163, Part II, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, the City Council has deemed it necessary to amend the existing Land Development Code's Zoning Map in order to bring it into compliance with the adopted Comprehensive Plan: 2020 Future Land Use Map;

WHEREAS, the City Council has determined that this ordinance is consistent with the adopted comprehensive plan and is in the best interests of the City and its citizens;

WHEREAS, after due public notice, a public hearing has been conducted by the Local Planning Agency and its recommendations reported to the City Council; and

WHEREAS, after due public notice, a public hearing has been conducted by the City Council.

SECTION 3. JURISDICTION. The land subject to this Ordinance shall include the area described in the legal description (refer to Exhibit "A.1") and depicted on the property location map (refer to Exhibit "A.2").

SECTION 4. ZONING MAP AMENDMENT. The Official Zoning Map of the City of Destin, Florida, as referenced in the Land Development Code, section 7.12.01(A)2 zoning maps, is hereby amended to include a change of zoning map designation from Commercial General (CG) to Town Center Mixed Use (TCMU) for the specific area of land located ON U.S. Highway 98 which is depicted on the revised zoning map (refer to Exhibit "A.3,") attached hereto and made a part hereof by reference.

SECTION 5. INCORPORATION INTO LAND DEVELOPMENT CODE. This ordinance shall be incorporated into the City of Destin's Land Development Code and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

EXHIBIT A

SECTION 6. CONFLICTING PROVISIONS. Special Acts of the Florida Legislature applicable to the incorporated area of the City of Destin, City Ordinances and City Resolutions, or parts, thereof, in conflict with the provisions of this ordinance are hereby superseded by this ordinance to the extent of such conflict.

SECTION 7. SEVERABILITY. Each separate provision of this ordinance is deemed independent of all other provisions herein so that if any portion or provision of this ordinance is declared invalid, all other provisions thereof shall remain valid and enforceable.

SECTION 8. EFFECTIVE DATE. This ordinance shall become effective upon its adoption by the City Council and signature by the Mayor.

ADOPTED THIS ____ DAY OF _____ 2018.

BY: _____
Gary Jarvis, Mayor

ATTEST:

The form and legal sufficiency of the foregoing has
been reviewed and approved by the City Land Use
Attorney.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

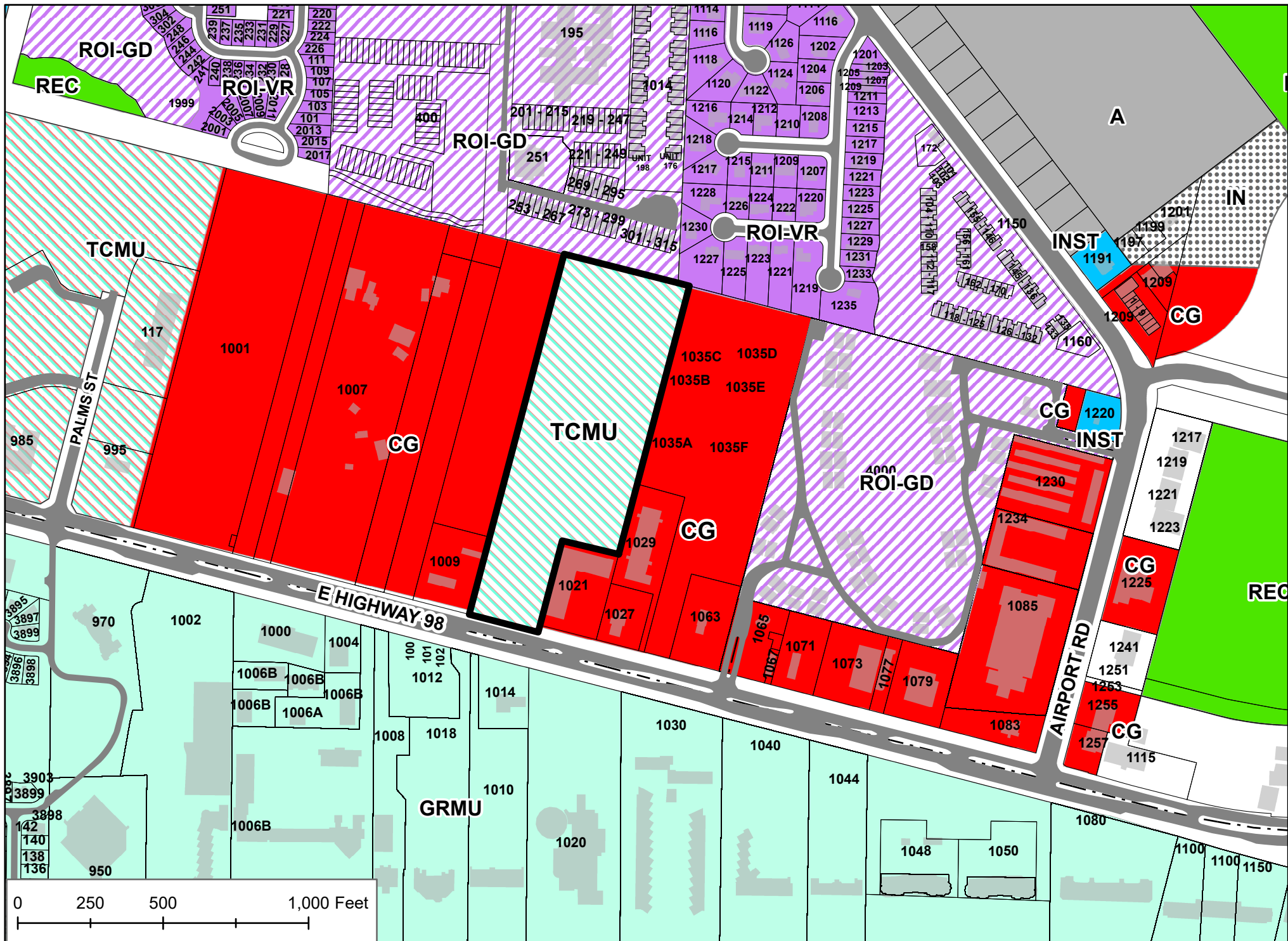
First Reading: _____
Second Reading: _____

EXHIBIT A.1

COMMENCE AT THE SOUTHEAST CORNER OF LOT 6, BLOCK J, OF THE REVISED SECOND EAST PASS ADDITION TO DESTIN, FLORIDA, AS RECORDED IN PLAT BOOK 1, AT PAGE 19A, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA; THENCE GO SOUTH 76°11'00" EAST ALONG THE NORTHERLY RIGHT-OF-WAY LINE OF U.S. HIGHWAY 98 (S.R.#30, 100' R/W), A DISTANCE OF 500.00 FEET; THENCE GO NORTH 13°49'00" EAST ALONG THE AFORESAID RIGHT-OF-WAY LINE, A DISTANCE OF 10.00 FEET; THENCE GO SOUTH 76°11'00" EAST ALONG THE AFORESAID NORTHERLY RIGHT-OF-WAY LINE (NOW A 110' R/W), A DISTANCE OF 132.77 FEET; THENCE GO NORTH 05°06'00" WEST ALONG THE AFORESAID RIGHT-OF-WAY LINE, A DISTANCE OF 15.85 FEET; THENCE GO SOUTH 76°11'00" EAST ALONG THE AFORESAID NORTHERLY RIGHT-OF-WAY LINE (NOW A 125.00' R/W), A DISTANCE OF 2508.27 FEET; THENCE DEPARTING SAID RIGHT-OF-WAY LINE GO NORTH 13°49'00" EAST, A DISTANCE OF 1278.98 FEET TO A POINT ON THE SOUTH RIGHT-OF-WAY LINE OF A 100 FOOT GULF POWER EASEMENT; THENCE GO SOUTH 76°11'53" EAST ALONG SAID SOUTH RIGHT-OF-WAY LINE A DISTANCE OF 405.90 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 76°11'53" EAST ALONG THE SOUTH RIGHT-OF-WAY LINE OF SAID GULF POWER EASEMENT, A DISTANCE OF 444.55 FEET; THENCE GO SOUTH 13°49'00" WEST, A DISTANCE OF 954.20 FEET; TO A POINT WHICH IS 300.00 FEET FROM THE AFORESAID NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD 30; THENCE GO NORTH 76°11'0" WEST, A DISTANCE OF 200.00 FEET; THENCE GO SOUTH 13°49'00" WEST, A DISTANCE OF 325.00 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF U.S. HIGHWAY 98 (S.R. #30, 125' R/W); THENCE GO NORTH 76°11'00" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 244.55 FEET TO A POINT ON THE EAST PROPERTY LINE ON AN EXISTING CHEVRON GAS STATION; THENCE GO NORTH 13°49'00" EAST ALONG SAID EAST PROPERTY LINE, A DISTANCE OF 1277.49 FEET TO A POINT ON THE AFORESAID SOUTH RIGHT-OF-WAY LINE OF AN EXISTING 100 FOOT GULF POWER EASEMENT; AND THE POINT OF BEGINNING OF DESCRIBED PARCEL.

2







DESTIN MIXED USE

SITE PLAN - 1021 HIGHWAY 98 - DESTIN, FL 32541



DEC · 04 · 2018
038.164



From: David Stoniecki <dstoniecki@fg-inc.net>
Sent: Wednesday, January 2, 2019 1:05 PM
To: Kimberly Kopp
Cc: Louis Zunguze; Chip Dillard - Core Property Capital
(hdillard@corepropertycapital.com)
Subject: Destin Rezoning Request - Ordinance 18-23-LC
Attachments: 038.164 Destin Mixed Use Concept_2018-11-30.pdf;
Location Map.pdf

Kim,

Good afternoon. The applicant is requesting the rezoning of Parcel 00-2S-22-0000-0013-0190 from its existing zoning of CG-Commercial General to the proposed zoning of TCMU - Town Center Mixed Use. This application was originally heard at Destin City Council meeting held on November 19th, 2018 where the City Council Tabled the application (7-0) to allow the applicant time to provide a Concept Site Plan and additional information. Ordinance 18-23-LC.

As stated in the original application, the rezoning from CG to TCMU is consistent with the City's Adopted Map 1-1 Future Land Use Map 2020. The property lies within the Town Center Community Redevelopment Area and it's Future Land Use is TCMU.

The rezoning of the property is necessary because the Adopted Future Land Use Map has defined this property as part of the Town Center CRA and intends for its FLU to be Town Center Mixed Use. Per the adopted Comp Plan, the Town Center CRA and the Town Center Mixed Use Area is intended to be a planned pedestrian-oriented mixed use center of commerce and City Center Living. This will include a grid street system that enhances access to and within the Town Center and sub-areas. Further, the Adopted Comp Plan states the CG zoning is not intended to be used for long-term residential uses and only allows for "Short-Term Multi-Family Residential". The current CG zoning does not comply with the Adopted Comp Plan/

The applicant intends to develop the property into a high-quality Multi-family apartment development with an opportunity to develop a portion of the property fronting Hwy 98 as restaurant/retail. This development will promote the City's Comp Plan of providing City Center Living. Further, the applicant is working with the City of Destin on the extension of Mattie M Kelly Blvd from Airport Rd to Hwy 98. This extension is also intended to connect to Palm St further west. The applicant

intendeds to coordinate with the City regarding the right of way necessary for the roadway extension and construct the portion of the roadway serving the development. These roadway improvements will support the City's Comp Plan by providing a grid street system to enhance access to the City center. The roadway improvements will also include sidewalks promoting the City's goals of Pedestrian-oriented facilities.

The rezoning of the property from CG to TCMU is consistent with the City of Destin's Comprehensive Plan and the City's Adopted Future Land Use.

At the City Council meeting on November 19th, several members of the City Council requested to see a site plan. The site plan was not originally included in the application, as the site layout had not been finalized. Attached is a copy of the Concept Site Plan the applicant intends to develop. This plan is subject to change based on final technical review by City of Destin, FDOT, and Destin Utilities.

If the Council has further concerns regarding the application, or the future planned development, the applicant is willing to consider placing additional conditions on the application. Possible conditions could include: Rezoning of the property contingent upon the applicant closing on the land, Restricting future uses of the property to eliminate the chance of "Negative" uses in the future.

If you have any further questions or comments, please reach out for further information or clarifications.

DAVID STONIECKI PE
Land Development Division Director

FORESITE GROUP, INC. www.fg-inc.net
3740 Davinci Ct, Suite 100 Peachtree Corners, GA 30092
o | 770.368.1399 ext. 341 f | 770.368.1944 c | 678.478.7062
Foresite Group Disclaimer: Private and confidential as detailed here.
If you cannot access hyperlink, please e-mail sender.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Consent Agenda

TO: City Council

THRU: Rey Bailey, City Clerk
Lance Johnson, City Manager

FROM: Kim Montgomery, Deputy City Clerk

DATE: January 14, 2018

SUBJECT: Request for use of City rights-of-way for Valentine's 8K run

I. BACKGROUND: Northwest Florida Track Club is requesting use of city streets to hold their annual Valentine's Day 8k race on February 9, 2019. The Okaloosa County Sheriff's Office Posse will control the traffic at the major intersections and the race sponsors will maintain control with Posse supervision at the other intersections.

II. DISCUSSION:

A. Link to Strategic Goals / Objectives: I. Enhance Quality of Life

I.E. Enhance the City's Recreation Services

B. Effect on Budget (EOB): There is no staff requirements for this request.

C. Level of Service (LOS): The City of Destin shall not incur any expenses or revenue as a result of this request.

III. CONCLUSION: The City Attorney and Risk Manager have reviewed and approved all related and required documentation. Staff recommends approval for this request.

IV. RECOMMENDED MOTION: I move to approve the Northwest Florida Track Club's request for use of city streets for their annual Valentine's 8k race on February 9, 2019.

Attachments:

1. 2019 Valentine's 8k



CHECKLIST FOR USE OF PUBLIC FACILITIES OR PROPERTY:

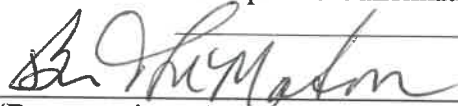
Name of Organization: Northwest Florida Track Club, Inc.

Type of Event: Valentine's 8K

Date(s) of Event: Feb 9, 2019

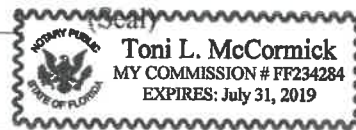
Location of Event: The Track, 1125 US 98, Destin, FL 32541

- 1.* Certificate of Insurance (Endorsement to the Policy & Acord is required.)
provided: Yes: X *This is required.*
Date on which provided: _____
- 2.* Hold Harmless (Signed Original) provided: Yes: X *This is required.*
Date on which provided: _____
- 3.** Permission granted from FDOT for use of State roadway (applicable only if
using and closing any portion of State Highway 98) Yes _____ No _____
Date written permission granted: N/A
- 4.** Local law enforcement services requested: Yes X *This is required.*
Law enforcement officer contacted: Capt Watkins
- 5.** Destin Fire Control District contacted: Yes X *This is required.*
Person contacted: Matt Taylor
- 6.** Okaloosa County Emergency Medical Services contacted:
Person contacted: Stefan Vaughn Yes X *This is required*
7. Describe steps being taken to ensure removal of all directional arrows and signage,
as well as trash left on City streets upon conclusion of the event: Marker material
will be used to mark the course and will wash away in rain and traffic. Volunteers
will pick up all trash from water stop.
8. City Park Permit needed Yes _____ No X If yes, please contact Lisa Firth at
Destin Community Center @ 850-654-5184 to make arrangements to reserve the
park.
- 9.* Please provide map of race route(s).
10. Other pertinent information: Florida Sunbiz.org Doc # N49948


(Requester's or Acting Agent's Signature)

* **Original Certificate of Insurance and signed Hold Harmless must be provided to the City of Destin to be presented to City Council prior to their approval of the event, as well as a map of the race route.**

** **Provide the City a written acknowledgement/concurrence from the agency.**





CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/9/2019

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 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 Insurance Management Group 959 E. 4th St. P.O. Box 1600 Marion IN 46952	CONTACT NAME: Margaret Mayers PHONE (A/C, No, Ext): (260) 338-2925 E-MAIL: mmayers@insmgt.com ADDRESS: FAX (A/C, No):																					
INSURED Road Runners Club of America/2019 and Its Member Clubs 1501 Lee Highway, Suite 140 Arlington VA 22209	<table border="1"><thead><tr><th colspan="2">INSURER(S) AFFORDING COVERAGE</th><th>NAIC #</th></tr></thead><tbody><tr><td>INSURER A</td><td>National Casualty Company</td><td>11991</td></tr><tr><td>INSURER B</td><td>Nationwide Life Insurance Co.</td><td>66869</td></tr><tr><td>INSURER C:</td><td></td><td></td></tr><tr><td>INSURER D:</td><td></td><td></td></tr><tr><td>INSURER E:</td><td></td><td></td></tr><tr><td>INSURER F:</td><td></td><td></td></tr></tbody></table>	INSURER(S) AFFORDING COVERAGE		NAIC #	INSURER A	National Casualty Company	11991	INSURER B	Nationwide Life Insurance Co.	66869	INSURER C:			INSURER D:			INSURER E:			INSURER F:		
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COVERAGES

CERTIFICATE NUMBER: 2019 \$2M A.I.

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 SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY		KRO0000007654600	12/31/2018	12/31/2019	EACH OCCURRENCE \$ 2,000,000
	☐ CLAIMS-MADE ☒ OCCUR	DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 500,000				
	☒ Legal liability to Participant \$2,000,000	MED EXP (Any one person) \$ 5,000				
	GEN'L AGGREGATE LIMIT APPLIES PER:	PERSONAL & ADV INJURY \$ 2,000,000				
	☒ POLICY ☐ PRO-JECT ☐ LOC					GENERAL AGGREGATE \$ Unlimited
	OTHER:					PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY		KRO0000007654600	12/31/2018	12/31/2019	Abuse and Molestation \$ 500,000
	☐ ANY AUTO	☐ SCHEDULED AUTOS				COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000
	☐ ALL OWNED AUTOS	☐ NON-OWNED AUTOS				BODILY INJURY (Per person) \$
	☒ HIRED AUTOS	☒ NON-OWNED AUTOS				BODILY INJURY (Per accident) \$
						PROPERTY DAMAGE (Per accident) \$
						\$
	UMBRELLA LIAB	☐ OCCUR				EACH OCCURRENCE \$
	EXCESS LIAB	☐ CLAIMS-MADE				AGGREGATE \$
	DED	RETENTION \$				\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	☐ Y/N				PER STATUTE OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)	☐ N/A				E.L. EACH ACCIDENT \$
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE \$
						E.L. DISEASE - POLICY LIMIT \$
B	Excess Medical & Accident (\$250 deduction)		SPX0000030282400	12/31/2018	12/31/2019	Excess Medical \$10,000 AD & Specific Loss \$2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Destin IS NAMED AS AN ADDITIONAL INSURED AS RESPECTS THEIR INTEREST IN THE OPERATIONS OF THE NAMED INSURED. DATE OF EVENT(S): 02/09/19 Valentine's 8k Run/Walk INSURED RRCA CLUB/EVENT MEMBER: Northwest Florida Track Club, Inc., Att'n: Brian McMahon, PO Box 911, Shalimar, FL 32579 Effective 01/09/19 this voids and replaces any previously issued certificate

CERTIFICATE HOLDER**CANCELLATION**

02/09/19 City of Destin
Attached: KRGL56
4200 Indian Bayou Trail
Destin, FL 32541

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

Terry Diller/MARG

National Casualty Company

ENDORSEMENT
NO. 0000

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
KR00000007654600	12/31/18	ROAD RUNNERS CLUB OF AMERICA	

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSUREDS OWNERS AND/OR LESSORS OF PREMISES, SPONSORS OR CO-PROMOTERS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The policy is amended to include as an additional Insured any person or organization of the types indicated by an "X" in any boxes shown below, but only with respect to liability arising out of your operations:

☒ Owners and/or lessors of the premises leased, rented, or loaned to you, subject to the following additional exclusions:

- This insurance applies only to an "occurrence" which takes place while you are a tenant in the premises;
- This insurance does not apply to "bodily injury" or "property damage" resulting from structural alterations, new construction or demolition operations performed by or on behalf of the owner and/or lessor of the premises;
- This insurance does not apply to liability of the owners and/or lessors for "bodily injury" or "property damage" arising out of any design defect or structural maintenance of the premises or loss caused by a premises defect.

With respect to any additional insured included under this policy, this insurance does not apply to any negligence of such additional insured.

☒ Sponsors

☒ Co-Promoters

☒ Any individual person(s) or organization(s) listed below.

Coaches, Officials and Volunteers are Additional Insureds but only while acting within the scope of their duties for the insured (other by request and endorsement, subject to underwriting approval). Medical Personnel is available at 2% of GL Premium of a minimum of \$300 whichever is greater.

AUTHORIZED REPRESENTATIVE

DATE

From: terry601@aol.com [mailto:terry601@aol.com]
Sent: Wednesday, January 02, 2019 10:08 AM
To: btexpress@cox.net
Subject: Re: Two upcoming races in Destin

The Okaloosa Sheriff's Posse will support these 2 events with traffic control
Terry Watkins, Capt.
Okaloosa Sheriff's Posse

In a message dated 1/1/2019 10:50:51 AM Central Standard Time, btexpress@cox.net writes:

Happy New Year and thanks for the great support during our Round the Bay Relay last Saturday.

Our first race in Destin is the Valentine's 8K on Feb 9 @ 0900 at The Track on Airport Rd. The race is along Airport, Commons, and into Indian Bayou sub-division, and back.

You usually have 3-4 deputies for just over an hour.

The second race is the Chiropractic Run for Health on Mar 9 @ 0800 at Clement Taylor Park.

The race goes out Calhoun to Cross to Calhoun and back to the park.

You usually have 2 deputies for an hour at that race.

If you can support these races, please reply to this email so I can continue with the permit process for the City of Destin.

If you have questions, email or call me.

Thanks in advance

Brian McMahon
850-582-5273

From: Matt Taylor [mailto:MTaylor@destinfire.com]
Sent: Wednesday, January 02, 2019 2:02 PM
To: Brian M
Cc: James Taylor; Kevin Sasser
Subject: Valentine's 8K Race

Brian,

Thank you for notifying the Destin Fire Control District of the Valentine's 8 K on Feb 9 at 9am. The appropriate shift has been copied on this e-mail.

Please advise all participants to maintain an awareness for any responding emergency vehicle during all stages of the event and to immediately cede the right-of-way.

Have a great run and if you need any other assistance, please contact me.

This e-mail will serve as the Destin Fire Control District's acknowledgement of this event. Please forward it to the appropriate agencies.

*Matt Taylor, Fire Marshal
Destin Fire Control District
850-837-8413*

Disclaimer: Florida has a very broad public records law. As a result, any written communication created or received by the Destin Fire Control District will be made available to the public and media, upon request, unless otherwise exempt. Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this office. Instead, contact our office by phone or in writing.

From: Brian M [mailto:btexpress@cox.net]
Sent: Tuesday, January 01, 2019 10:58 AM
To: mtaylor@destinfire.com
Subject: Two upcoming Running Events in Destin

Matt,
Happy New Year!

Here at the Northwest Florida Track Club, we are already planning our 2019 running events.

Our first race in Destin is the Valentine's 8K on Feb 9 @ 0900 at The Track on Airport Rd.

The race is along Airport, Commons, and into Indian Bayou sub-division, and back.

The second race is the Chiropractic Run for Health on Mar 9 @ 0800 at Clement Taylor Park.

The race goes out Calhoun to Cross to Calhoun and back to the park.

We will not be closing any roads for either event.

We understand that if we need EMS we will call 911.

As always, we will yield to emergency vehicles on the roads should they be present.

If you will approve these races, please reply to this email so I can continue with the permit process for the City of Destin.

If you have questions, email or call me.

Thanks in advance

Brian McMahon
850-582-5273

From: Stefan W.Vaughn [mailto:svaughn@myokaloosa.com]
Sent: Thursday, January 03, 2019 10:26 AM
To: Brian M
Cc: Michelle Huber; Darrel Welborn; Ken Wolfe; Rich Huffnagle; Arnold Brown; Donna Fedderke
Subject: Re: Two Upcoming Races in Destin

Greetings,

Okaloosa County Public Safety has no immediate objections to either request.

Dr. Stefan W. Vaughn, CPM
Director | Department of Public Safety
Okaloosa Board of County Commissioners
Jail Office: (850) 689-5763
EOC Office: (850) 651-7150

Please note: Due to Florida's very broad public records laws, most written communications to or from County employees regarding County business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

From: Brian M <btexpress@cox.net>
Sent: Tuesday, January 1, 2019 10:56 AM
To: Stefan W.Vaughn
Subject: Two Upcoming Races in Destin

Stefan,
Happy New Year!
Here at the Northwest Florida Track Club, we are already planning 2019 running events.

Our first race in Destin is the Valentine's 8K on Feb 9 @ 0900 at The Track on Airport Rd. The race is along Airport, Commons, and into Indian Bayou sub-division, and back.

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If you will approve these races, please reply to this email so I can continue with the permit process for the City of Destin.

If you have questions, email or call me.

Thanks in advance

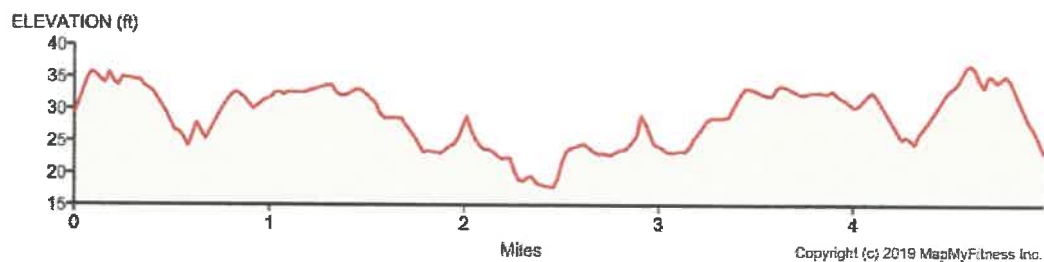
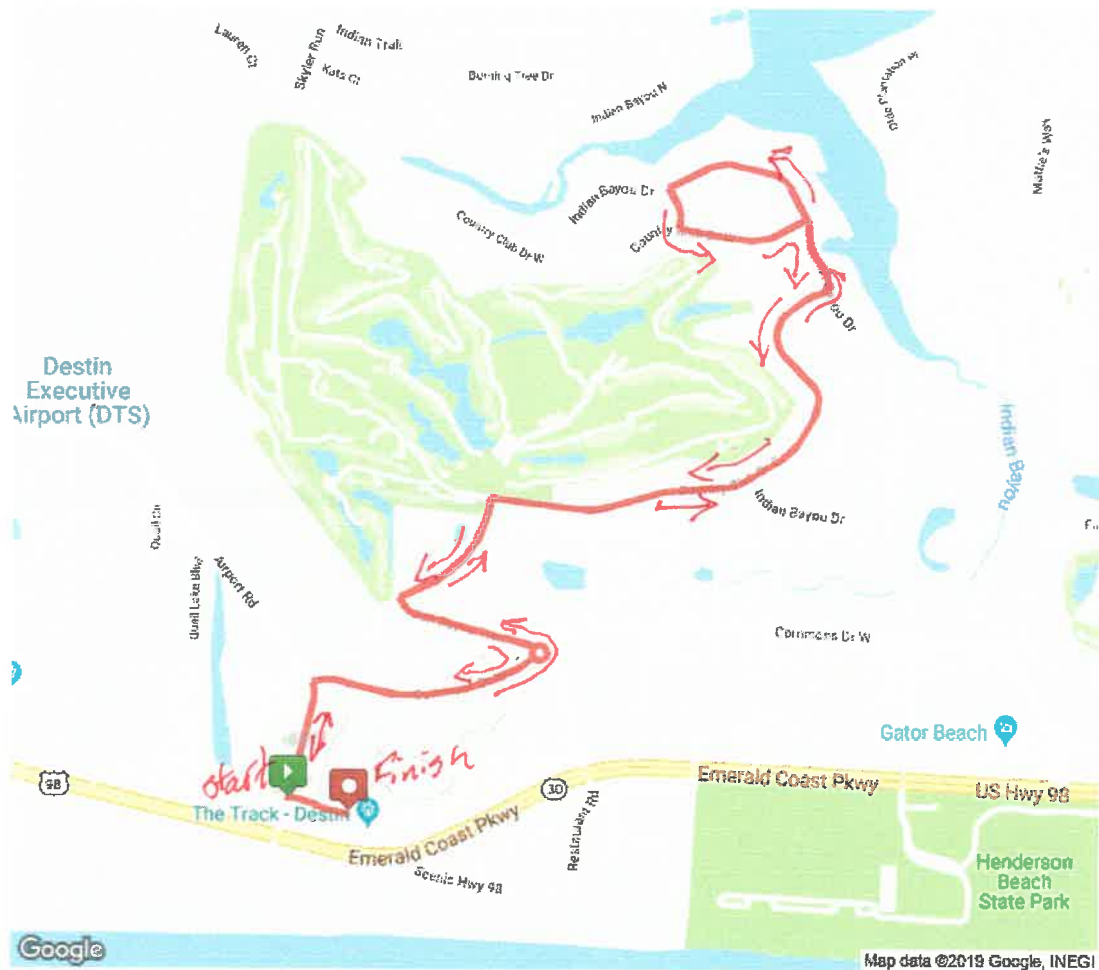
Brian McMahon
850-582-5273

**Valentine's 8K**

Distance: 4.99 mi

Elevation Gain: 41 ft

Elevation Max: 37 ft

Notes

Kim Montgomery

From: Kyle Bauman <kbauman@asglegal.com>
Sent: Friday, January 11, 2019 2:27 PM
To: Kim Montgomery; Karen Jankowski
Cc: Rey Bailey
Subject: RE: Request for use of ROW for annual NWFL Roadrunners Club annual Valentine's 8k

This one is also good to go.

Kyle

From: Kim Montgomery [mailto:kmontgomery@cityofdestin.com]
Sent: Wednesday, January 09, 2019 4:20 PM
To: Kyle Bauman <kbauman@asglegal.com>; Karen Jankowski <kjankowski@cityofdestin.com>
Cc: Rey Bailey <rbailey@cityofdestin.com>
Subject: Request for use of ROW for annual NWFL Roadrunners Club annual Valentine's 8k
Importance: High

Good afternoon Kyle & Karen,

Attached is the paperwork for the request for use of city ROW for the NWFL Roadrunners Club's annual Valentine's 8k. Please review for legal sufficiency and respond with your approval. This needs to be on the February 4th agenda for approval.

Thanks!

Kim

Kimberly I. Montgomery
City of Destin
4200 Indian Bayou Trail
Destin, FL 32541
(P)850.837.4242



Please visit our web site at www.cityofdestin/cssurvey to complete a customer service survey. We appreciate your honest opinion and will take it into consideration to help us improve our services. Thank you for your feedback.

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

****Please be aware, the associated cost for public records is \$.15 per page for one-sided copies, \$.20 for two-sided copies, and \$21.00 per hour after the first 15-minutes; for time spent on research.****

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Kim Montgomery

From: Karen Jankowski
Sent: Thursday, January 10, 2019 7:48 AM
To: Kim Montgomery; 'Kyle Bauman'
Cc: Rey Bailey
Subject: RE: Request for use of ROW for annual NWFL Roadrunners Club annual Valentine's 8k

It appears to be in order for insurance purposes. Thank you.

*Karen Jankowski
HR/Risk Mgr*

From: Kim Montgomery
Sent: Wednesday, January 9, 2019 4:20 PM
To: 'Kyle Bauman'; Karen Jankowski
Cc: Rey Bailey
Subject: Request for use of ROW for annual NWFL Roadrunners Club annual Valentine's 8k
Importance: High

Good afternoon Kyle & Karen,

Attached is the paperwork for the request for use of city ROW for the NWFL Roadrunners Club's annual Valentine's 8k. Please review for legal sufficiency and respond with your approval. This needs to be on the February 4th agenda for approval.

Thanks!

Kim

Kimberly I. Montgomery
City of Destin
4200 Indian Bayou Trail
Destin, FL 32541
(P)850.837.4242



Please visit our web site at www.cityofdestin/cssurvey to complete a customer service survey. We appreciate your honest opinion and will take it into consideration to help us improve our services. Thank you for your feedback.

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CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Consent Agenda

TO: City Council

THRU: Rey Bailey, City Clerk
Lance Johnson, City Manager

FROM: Kim Montgomery, Deputy City Clerk

DATE: January 14, 2019

SUBJECT: Request for use of the City's rights-of-way for Chiropractic Run for Health

I. BACKGROUND: Northwest FL Track Club's Chiropractic Run for Health is requesting use of city streets to hold their annual 5K run on March 9, 2019. The Okaloosa County Sheriff's Posse will control the traffic where needed and the race sponsors will maintain control elsewhere.

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:** I. Enhance Quality of Life
I.E. Enhance the City's Recreational Services
- B. Effect on Budget (EOB):** There is no staff requirements for this event.
- C. Level of Service (LOS):** The City of Destin shall not incur any expenses or revenue as a result of this event.

III. CONCLUSION: All required documentations have been submitted and approved by the City Attorney and the Risk Manager. Staff recommends approval for this request.

IV. RECOMMENDED MOTION: I move to approve the Northwest FL Track Club's Chiropractic Run for Health request for use of city streets for their annual 5k run on March 9, 2019.

Attachments:

1. 2019 Chiropractic Run



CHECKLIST FOR USE OF PUBLIC FACILITIES OR PROPERTY:

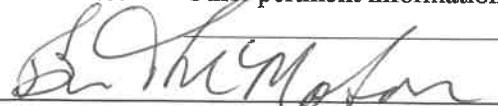
Name of Organization: Northwest Florida Track Club, Inc.

Type of Event: Chiropractic Run for Health

Date(s) of Event: Mar 9, 2019

Location of Event: The Track, 1125 US 98, Destin, FL 32541

- 1.* Certificate of Insurance (Endorsement to the Policy & Acord is required.)
provided: Yes: X *This is required.*
Date on which provided: _____
- 2.* Hold Harmless (Signed Original) provided: Yes: X *This is required.*
Date on which provided: _____
- 3.** Permission granted from FDOT for use of State roadway (applicable only if
using and closing any portion of State Highway 98) Yes _____ No _____
Date written permission granted: N/A
- 4.** Local law enforcement services requested: Yes X *This is required.*
Law enforcement officer contacted: Capt Watkins
- 5.** Destin Fire Control District contacted: Yes X *This is required.*
Person contacted: Matt Taylor
- 6.** Okaloosa County Emergency Medical Services contacted:
Person contacted: Stefan Vaughn Yes X *This is required*
7. Describe steps being taken to ensure removal of all directional arrows and signage,
as well as trash left on City streets upon conclusion of the event: Marker material
will be used to mark the course and will wash away in rain and traffic. Volunteers
will pick up all trash from water stop.
8. City Park Permit needed Yes _____ No X If yes, please contact Lisa Firth at
Destin Community Center @ 850-654-5184 to make arrangements to reserve the
park.
- 9.* Please provide map of race route(s).
10. Other pertinent information: Florida Sunbiz.org Doc # N49948


(Requester's or Acting Agent's Signature)

* **Original Certificate of Insurance and signed Hold Harmless must be provided to the City of Destin to be presented to City Council prior to their approval of the event, as well as a map of the race route.**

** **Provide the City a written acknowledgement/concurrence from the agency.**



HOLD HARMLESS AGREEMENT

The Northwest Florida Track Club, Inc. (NWFTC) agrees to indemnify and hold harmless the City of Destin from any and all liability, defense costs, including attorney fees and all other fees incidental to defense, loss or damage the City of Destin may suffer as a result of claims, demands, costs or judgments against it arising from the Chiropractic Run for Health to be held on Mar 9, 2019.

In addition, the Northwest Florida Track Club, Inc. (NWFTC) agrees to provide the City of Destin a Certificate of Insurance naming the City as an Additional Insured reflecting general liability coverage of not less than \$1,000,000.00.

Northwest Florida Track Club, Inc.

(Corporate Name)

[Signature]
Signature of President

Brian T. McMahon, President
Print name with President next to name

STATE OF FLORIDA
COUNTY OF OKALOOSA

The foregoing instrument was acknowledged before me this 2ND day of Jan 2019 by

Brian T. McMahon

[Signature]
Signature of Person Taking Acknowledgement

Toni L. McCormick
Printed name of Person Taking Acknowledgement



Personally known ✓ or has produced identification _____

Type of Identification produced _____



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/9/2019

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PRODUCER Insurance Management Group 959 E. 4th St. P.O. Box 1600 Marion IN 46952	CONTACT NAME: Margaret Mayers PHONE (A/C, No, Ext): (260) 338-2925 FAX (A/C, No): E-MAIL: mmayers@insmgt.com ADDRESS:																					
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COVERAGES

CERTIFICATE NUMBER: 2019 \$2M A.I.

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INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	☒ COMMERCIAL GENERAL LIABILITY		KRO0000007654600	12/31/2018	12/31/2019	EACH OCCURRENCE	\$ 2,000,000
	☐ CLAIMS-MADE ☒ OCCUR					DAMAGE TO RENTED PREMISES (Ea occurrence)	\$ 500,000
	☒ Legal liability to Participant \$2,000,000					MED EXP (Any one person)	\$ 5,000
	GEN'L AGGREGATE LIMIT APPLIES PER:					PERSONAL & ADV INJURY	\$ 2,000,000
☒ POLICY ☐ PROJECT ☐ LOC						GENERAL AGGREGATE	\$ Unlimited
	OTHER:					PRODUCTS - COMP/OP AGG	\$ 2,000,000
A	☐ AUTOMOBILE LIABILITY		KRO0000007654600	12/31/2018	12/31/2019	Abuse and Molestation	\$ 500,000
	☐ ANY AUTO ALL OWNED AUTOS	☐ SCHEDULED AUTOS				COMBINED SINGLE LIMIT (Ea accident)	\$ 2,000,000
	☒ HIRED AUTOS	☒ NON-OWNED AUTOS				BODILY INJURY (Per person)	\$
						BODILY INJURY (Per accident)	\$
						PROPERTY DAMAGE (Per accident)	\$
							\$
	☐ UMBRELLA LIAB	☐ OCCUR				EACH OCCURRENCE	\$
	☐ EXCESS LIAB	☐ CLAIMS-MADE				AGGREGATE	\$
	☐ DED ☐ RETENTION \$						\$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	☐ Y/N ☐ N/A				PER STATUTE	OTH-ER
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH)					E.L. EACH ACCIDENT	\$
	If yes, describe under DESCRIPTION OF OPERATIONS below					E.L. DISEASE - EA EMPLOYEE	\$
						E.L. DISEASE - POLICY LIMIT	\$
B	Excess Medical & Accident (\$250 deduction)		SPX0000030282400	12/31/2018	12/31/2019	Excess Medical	\$10,000
						AD & Specific Loss	\$2,500

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Destin IS NAMED AS AN ADDITIONAL INSURED AS RESPECTS THEIR INTEREST IN THE OPERATIONS OF THE NAMED INSURED. DATE OF EVENT(S): 03/09/19 Chiropractic Run for Health Run/Walk INSURED RRCA CLUB/EVENT MEMBER: Northwest Florida Track Club, Inc., Att'n: Brian McMahon, PO Box 911, Shalimar, FL 32579

CERTIFICATE HOLDER**CANCELLATION**

03/09/19 City of Destin
Attached: KRGL56
4200 Indian Bayou Trail
Destin, FL 32541

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

Terry Diller/MARG

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National Casualty Company

ENDORSEMENT
NO. 0000

ATTACHED TO AND FORMING A PART OF POLICY NUMBER	ENDORSEMENT EFFECTIVE DATE (12:01 A.M. STANDARD TIME)	NAMED INSURED	AGENT NO.
KRC0000007654600	12/31/18	ROAD RUNNERS CLUB OF AMERICA	

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED OWNERS AND/OR LESSORS OF PREMISES, SPONSORS OR CO-PROMOTERS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The policy is amended to include as an additional Insured any person or organization of the types indicated by an "X" in any boxes shown below, but only with respect to liability arising out of your operations:

☒ Owners and/or lessors of the premises leased, rented, or loaned to you, subject to the following additional exclusions:

- This insurance applies only to an "occurrence" which takes place while you are a tenant in the premises;
- This insurance does not apply to "bodily injury" or "property damage" resulting from structural alterations, new construction or demolition operations performed by or on behalf of the owner and/or lessor of the premises;
- This insurance does not apply to liability of the owners and/or lessors for "bodily injury" or "property damage" arising out of any design defect or structural maintenance of the premises or loss caused by a premises defect.

With respect to any additional insured included under this policy, this insurance does not apply to any negligence of such additional insured.

☒ Sponsors

☒ Co-Promoters

☒ Any individual person(s) or organization(s) listed below.

Coaches, Officials and Volunteers are Additional Insureds but only while acting within the scope of their duties for the Insured (other by request and endorsement, subject to underwriting approval). Medical Personnel is available at 2% of GL Premium of a minimum of \$300 whichever is greater.

AUTHORIZED REPRESENTATIVE

DATE

From: terry601@aol.com [mailto:terry601@aol.com]
Sent: Wednesday, January 02, 2019 10:08 AM
To: btexpress@cox.net
Subject: Re: Two upcoming races in Destin

The Okaloosa Sheriff's Posse will support these 2 events with traffic control
Terry Watkins, Capt.
Okaloosa Sheriff's Posse

In a message dated 1/1/2019 10:50:51 AM Central Standard Time, btexpress@cox.net writes:

Happy New Year and thanks for the great support during our Round the Bay Relay last Saturday.

Our first race in Destin is the Valentine's 8K on Feb 9 @ 0900 at The Track on Airport Rd. The race is along Airport, Commons, and into Indian Bayou sub-division, and back.

You usually have 3-4 deputies for just over an hour.

The second race is the Chiropractic Run for Health on Mar 9 @ 0800 at Clement Taylor Park.

The race goes out Calhoun to Cross to Calhoun and back to the park.

You usually have 2 deputies for an hour at that race.

If you can support these races, please reply to this email so I can continue with the permit process for the City of Destin.

If you have questions, email or call me.

Thanks in advance

Brian McMahon
850-582-5273

From: Matt Taylor [mailto:MTaylor@destinfire.com]
Sent: Wednesday, January 02, 2019 2:10 PM
To: BRIAN MCMAHON (btexpress@cox.net)
Cc: Jeff Anderson; Kevin Sasser
Subject: Chiropractic Run for Health

Brian,

Thank you for notifying the Destin Fire Control District of the Chiropractic Run for Health on March 9 at 8am. The appropriate shift has been copied on this e-mail.

Please advise all participants to maintain an awareness for any responding emergency vehicle during all stages of the event and to immediately cede the right-of-way.

Have a great run and if you need any other assistance, please contact me.

This e-mail will serve as the Destin Fire Control District's acknowledgement of this event. Please forward it to the appropriate agencies.

*Matt Taylor, Fire Marshal
Destin Fire Control District
850-837-8413*

From: Brian M [mailto:btexpress@cox.net]
Sent: Tuesday, January 01, 2019 10:58 AM
To: mtaylor@destinfire.com
Subject: Two upcoming Running Events in Destin

Matt,

Happy New Year!

Here at the Northwest Florida Track Club, we are already planning our 2019 running events.

Our first race in Destin is the Valentine's 8K on Feb 9 @ 0900 at The Track on Airport Rd.

The race is along Airport, Commons, and into Indian Bayou sub-division, and back.

The second race is the Chiropractic Run for Health on Mar 9 @ 0800 at Clement Taylor Park.

The race goes out Calhoun to Cross to Calhoun and back to the park.

We will not be closing any roads for either event.

We understand that if we need EMS we will call 911.

As always, we will yield to emergency vehicles on the roads should they be present.

If you will approve these races, please reply to this email so I can continue with the permit process for the City of Destin.

If you have questions, email or call me.

Thanks in advance

Brian McMahon
850-582-5273

From: Stefan W.Vaughn [mailto:svaughn@myokaloosa.com]
Sent: Thursday, January 03, 2019 10:26 AM
To: Brian M
Cc: Michelle Huber; Darrel Welborn; Ken Wolfe; Rich Huffnagle; Arnold Brown; Donna Fedderke
Subject: Re: Two Upcoming Races in Destin

Greetings,

Okaloosa County Public Safety has no immediate objections to either request.

Dr. Stefan W. Vaughn, CPM
Director | Department of Public Safety
Okaloosa Board of County Commissioners
Jail Office: (850) 689-5763
EOC Office: (850) 651-7150

Please note: Due to Florida's very broad public records laws, most written communications to or from County employees regarding County business are public records, available to the public and media upon request. Therefore, this written e-mail communication, including your e-mail address, may be subject to public disclosure.

From: Brian M <btexpress@cox.net>
Sent: Tuesday, January 1, 2019 10:56 AM
To: Stefan W.Vaughn
Subject: Two Upcoming Races in Destin

Stefan,
Happy New Year!
Here at the Northwest Florida Track Club, we are already planning 2019 running events.

Our first race in Destin is the Valentine's 8K on Feb 9 @ 0900 at The Track on Airport Rd. The race is along Airport, Commons, and into Indian Bayou sub-division, and back.

The second race is the Chiropractic Run for Health on Mar 9 @ 0800 at Clement Taylor Park.

The race goes out Calhoun to Cross to Calhoun and back to the park.

We will not be closing any roads for either event.
We understand that if we need EMS we will call 911.
As always, we will yield to emergency vehicles on the roads should they be present.

If you will approve these races, please reply to this email so I can continue with the permit process for the City of Destin.

If you have questions, email or call me.

Thanks in advance

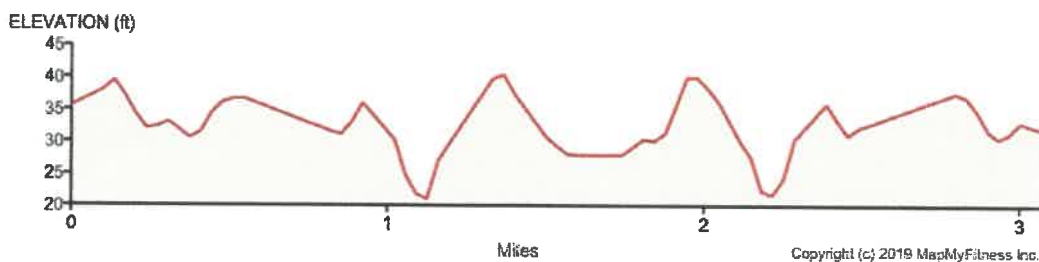
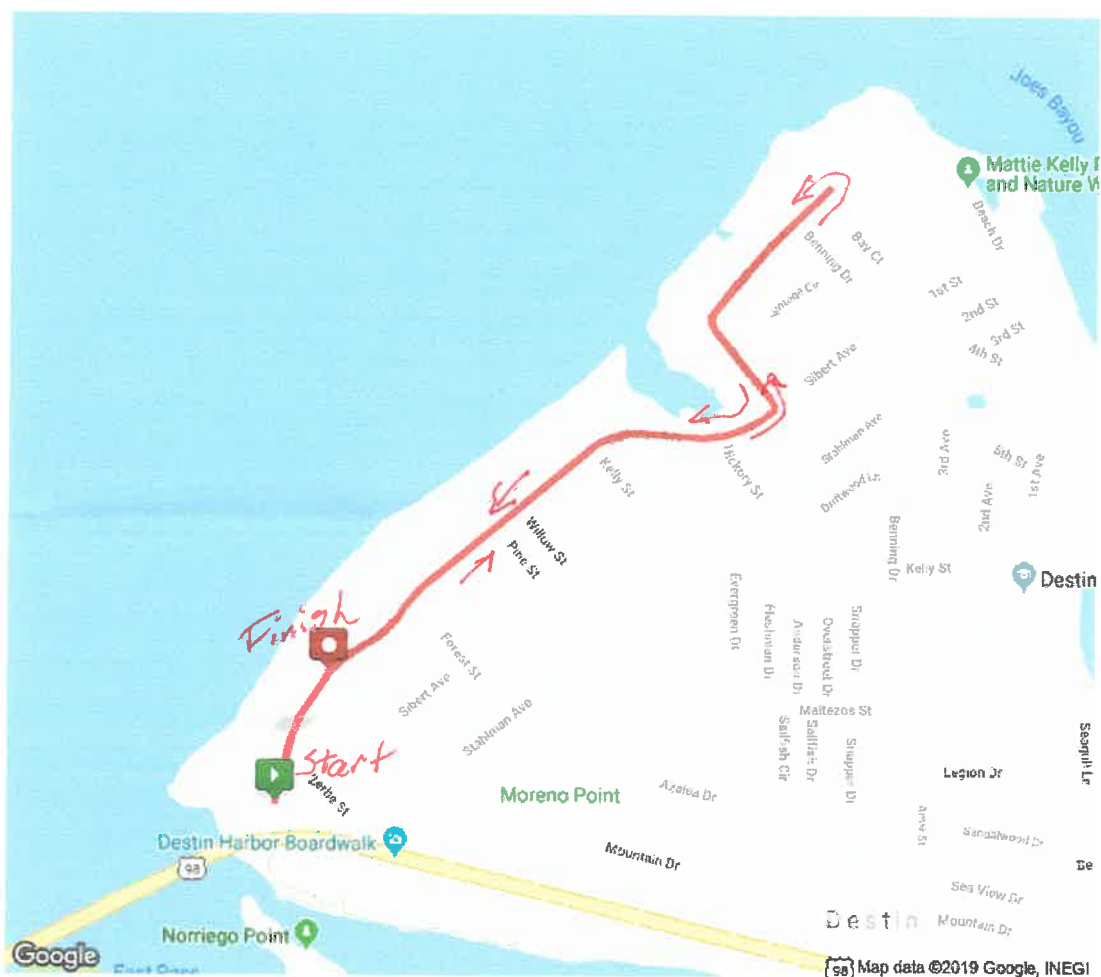
Brian McMahon
850-582-5273

**Calhoun Ave 5K**

Distance: 3.07 mi

Elevation Gain: 37 ft

Elevation Max: 41 ft

Notes

Kim Montgomery

From: Kyle Bauman <kbauman@asglegal.com>
Sent: Friday, January 11, 2019 2:26 PM
To: Kim Montgomery; Karen Jankowski
Cc: Rey Bailey
Subject: RE: Request for use of ROW for annual Chiropractic Run for Health

This is good to go.

From: Kim Montgomery [mailto:kmontgomery@cityofdestin.com]
Sent: Wednesday, January 09, 2019 4:17 PM
To: Kyle Bauman <kbauman@asglegal.com>; Karen Jankowski <kjankowski@cityofdestin.com>
Cc: Rey Bailey <rbailey@cityofdestin.com>
Subject: Request for use of ROW for annual Chiropractic Run for Health
Importance: High

Good afternoon Kyle & Karen,

Please find attached the paperwork for the request for use of city ROW for the NW FL Roadrunners Club annual Chiropractic Run for Health. Please review for legal sufficiency and respond with your approval. I need to get this one and the next one that I will be sending separately on the February 4th agenda for approval.

Thanks!

Kim

Kimberly I. Montgomery
City of Destin
4200 Indian Bayou Trail
Destin, FL 32541
(P)850.837.4242



Please visit our web site at www.cityofdestin/cssurvey to complete a customer service survey. We appreciate your honest opinion and will take it into consideration to help us improve our services. Thank you for your feedback.

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

****Please be aware, the associated cost for public records is \$.15 per page for one-sided copies, \$.20 for two-sided copies, and \$21.00 per hour after the first 15-minutes; for time spent on research.****

“Please Note: Florida has a very broad public records law. Most written communications to or from the City of Destin officials are public records available to the public and media upon request. Your e-mail address and communications may therefore be subject to public disclosure.”

Kim Montgomery

From: Karen Jankowski
Sent: Thursday, January 10, 2019 7:50 AM
To: Kim Montgomery; 'Kyle Bauman'
Cc: Rey Bailey
Subject: RE: Request for use of ROW for annual Chiropractic Run for Health

It appears to be in order for insurance purposes. Thank you.

Karen Jankowski
HR/Risk Mgr

From: Kim Montgomery
Sent: Wednesday, January 9, 2019 4:17 PM
To: 'Kyle Bauman'; Karen Jankowski
Cc: Rey Bailey
Subject: Request for use of ROW for annual Chiropractic Run for Health
Importance: High

Good afternoon Kyle & Karen,

Please find attached the paperwork for the request for use of city ROW for the NW FL Roadrunners Club annual Chiropractic Run for Health. Please review for legal sufficiency and respond with your approval. I need to get this one and the next one that I will be sending separately on the February 4th agenda for approval.

Thanks!

Kim

Kimberly I. Montgomery
City of Destin
4200 Indian Bayou Trail
Destin, FL 32541
(P)850.837.4242



Please visit our web site at www.cityofdestin/cssurvey to complete a customer service survey. We appreciate your honest opinion and will take it into consideration to help us improve our services. Thank you for your feedback.

Under Florida law, e-mail addresses are public records. If you do not want your e-mail address released in response to a public records request, do not send electronic mail to this entity. Instead, contact this office by phone or in writing.

****Please be aware, the associated cost for public records is \$.15 per page for one-sided copies, \$.20 for two-sided copies, and \$21.00 per hour after the first 15-minutes; for time spent on research.****

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU: Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney

FROM: Lance Johnson, City Manager

DATE: January 14, 2019

SUBJECT: Second Addendum to 3TP planning consultant contract.

I. BACKGROUND: The City has a current contract with 3TP Ventures, Inc., for planning consulting services, which was approved by the City Council in May 2018. A copy of the contract is attached as Exhibit 1. One addendum to the contract dealing with transportation planning, has already been approved, which is attached as Exhibit 2.

Exhibit 3 contains the current addendum for the City Council's consideration on January 22, 2019.

II. DISCUSSION: The purpose of the proposed addendum to the contract is to allow 3TP Ventures to work under the direction of the Community Development Director on addressing inconsistencies between the current LDC and Comprehensive Plan. The rates established under the existing contract have not changed for the 3TP professional staff, however, subcontractor rates have been added.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: The proposed second addendum to the existing contract would allow the City's consultant to work with Community Development staff to address inconsistencies between the Comprehensive Plan and Land Development Code.

IV. RECOMMENDED MOTION: I move to approve the 2nd Addendum to the City's existing contract with 3TP Ventures, Inc.

Attachments:

1. May 8 2018 Contract
2. Traffic Addendum 1 July 16 2018
3. Planning Consultant 2nd Addendum
Jan 2019

**AGREEMENT TO FURNISH PROFESSIONAL PLANNING SERVICES
TO THE CITY OF DESTIN**

This AGREEMENT made on the 8th day of May, 2018, (“**AGREEMENT**”) between the City of Destin, a Florida municipal corporation, (hereinafter referred to as “**CITY**”), located at 4200 Indian Bayou Trail, Destin, Florida 32541, and 3TP Ventures, Inc., a North Carolina corporation authorized to do business within the State of Florida (hereinafter referred to as “**CONSULTANT**”), located at 2460 Sedgefield Drive, Chapel Hill, North Carolina 27514.

RECITALS:

WHEREAS, the CITY desires to retain the CONSULTANT to furnish certain professional planning services presented herein in connection with the provision of municipal development order review and other planning processes; and

WHEREAS, the CONSULTANT, having examined the scope of the services required and, expressed its desire and willingness to provide such services, and presented its qualifications to the CITY in support of its expressed desires; and

WHEREAS, as a result of the aforementioned mutual understanding, the CITY desires to enter into this Agreement with the CONSULTANT; and

WHEREAS, the CONSULTANT has agreed to provide professional planning services to the CITY upon the terms and conditions hereinafter set forth; and

WHEREAS, it is intended that funds will be provided in the CITY’s budget as needed to pay the costs of the services involved.

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein contained, and subject to availability of funding, the CITY agrees to retain the CONSULTANT and the CONSULTANT agrees to perform all work as described herein, and upon the following terms and conditions:

ARTICLE 1 – SCOPE OF WORK

A. SERVICES

The parties agree that the CONSULTANTS's primary responsibility under this contract is to provide consulting and professional planning services in connection with the CITY's development order review process. The CONSULTANT will act as the CITY's representative for select reviews as assigned by the CITY on an as-needed basis. The CONSULTANT will organize, review, and document all assignments during the review process. The CONSULTANT will be the point of contact for each assigned application and will provide a schedule of milestones and meetings needed to complete the review steps within the required parameters of the CITY. The CONSULTANT will also prepare, document and deliver comments to applicants on the substantive nature of the reviews. The CONSULTANT will work with each applicant to identify measures to comply with the CITY's Land Development Code prior to recommending issuance by the CITY of the development order for each project. For each assigned review, the CONSULTANT will anticipate needing to schedule, attend, and document the CITY's Technical Review Team meetings. The CONSULTANT will meet as necessary with CITY staff to review progress on the services delivered under this Agreement. On a periodic basis defined by the CITY, the CONSULTANT will meet with the CITY to discuss improvements to the process used to schedule, track and document development order reviews. Services associated with the development order review process are authorized under this Agreement and do not require a negotiated Addendum to proceed.

On an as-needed basis, the CITY may assign specific planning projects and/or studies to the CONSULTANT through an Addendum to this Agreement. These include:

1. Land Development Code maintenance: including the review, study, and proposed modification of LDC sections.
2. Comprehensive Plan support: including data collection; analysis and preparation of map and text amendments to the Comprehensive Plan; preparation of Evaluation and Appraisal Reports (EAR); organizing and leading community engagement activities for Comprehensive Plan updates and amendments; conducting planning studies supporting the Comprehensive Plan.
3. Transportation planning services: conducting multimodal transportation studies; supporting the development or review of existing transportation related fees including, but not limited to, a transportation impact fee or mobility fee; review and preparation of comments on traffic studies submitted with site development applications.
4. Data collection and analysis: including providing collection, research, reporting and presentation of data and analytical findings

to support planning processes, economic and community development, grants, finance, and project/program delivery.

ARTICLE 2 – COMPENSATION

A. FEES

As consideration for providing the services enumerated in Article 1, the CITY shall pay the CONSULTANT based on one of the following as requested by the CITY:

1. Standard Hourly Rate Method - Wherein the CITY shall pay the CONSULTANT the agreed upon hourly rates, included and attached hereto as Exhibit “A”, for time actually engaged on the work covered by this Agreement. The CONSULTANT will not charge the CITY for travel time up to 2.0 hours per day when engaged in work covered by this Agreement.
2. Lump Sum Method – Wherein the CITY shall pay the CONSULTANT an agreed upon amount for the provision of services and deliverables, based on the rates in Exhibit “A”. Work will be authorized through Addenda to this contract.

The CONSULTANT shall not charge the CITY for scoping and negotiating services or renewal/maintenance of this contract.

The parties agree that the rates set forth in Exhibit A to this Agreement are locked in through April 30, 2019. Exhibit “A” may be updated annually to take effect on May 1 of each contract year, beginning in 2019. The updated rates will be based on reasonable adjustments relative to increases in cost of living. The CONSULTANT and CITY shall prepare an Addendum by March 31 of each contract year for the purpose of updating Exhibit “A”.

B. REIMBURSABLE EXPENSES

The CONSULTANT’s out-of-pocket and direct project expenses including, but not limited to, local travel and postage charges will be charged to CITY based on the schedule of reimbursable costs shown in Exhibit “A”. The cost of CONSULTANT’s assigned local staff traveling to and from the City will not be reimbursed by the CITY.

ARTICLE 3 – TERMS OF PAYMENT

A. MONTHLY INVOICES

The CONSULTANT shall submit invoices once each month to the CITY for the services performed and the expenses and other charges accounted for under this Agreement during the preceding month.

B. PAYMENT OF EXPENSES

Payments on account of expenses shall be made within thirty (30) days of receipt of invoice.

ARTICLE 4 – TERMS OF PERFORMANCE

It is further mutually agreed by the parties hereto that:

A. STARTING AND CONDUCTING WORK

The CONSULTANT will not begin work on any of the services listed in Article 1 until authorized to proceed by the CITY via electronic communication. The CONSULTANT will assign a Project Manager to serve as the primary point of contact for the professional services performed under this Agreement and any work assigned through Addenda.

B. PERIOD OF PERFORMANCE

The period of performance ends on April 30, 2020. The CITY has the option of up to three (3) one year renewal periods after the initial period of performance. These renewals can be initiated through a letter form contract extension or as an Addendum. This Agreement will remain in effect for the period of performance of tasks assigned through an Addendum.

C. TERMINATION

The CITY or the CONSULTANT may terminate this Agreement for any reason by giving at least thirty (30) days written notice to the other party of their intent to terminate. In the event the Agreement is terminated by the CITY for reasons unrelated to the quality of work provided by the CONSULTANT, the CITY shall forthwith pay the CONSULTANT in full for all work previously authorized and actually performed prior to the Notice of Termination. This payment shall be the sole financial obligation or responsibility of the CITY for compensation hereunder in the event of termination in accordance with the provisions of this paragraph. This

Agreement shall continue in effect until a Notice of Termination is given by either party as set forth above. Upon termination, at the CITY's request, the CONSULTANT shall turn over to the CITY all deliverables completed or partially completed up to the date of termination.

ARTICLE 5 – CITY'S RESPONSIBILITIES

A. AVAILABLE INFORMATION

Assist the CONSULTANT by placing at their disposal all pertinent available information including submittals and data relevant to the CONSULTANT's services.

B. EXAMINE WORK OF THE CONSULTANT

Examine all documents presented by the CONSULTANT, obtain advice of an attorney, insurance counselor and other consultants as CITY deems appropriate for such examination, and render, in writing, decisions pertaining thereto within a reasonable time so as not to delay the services of the CONSULTANT.

C. COSTS

Bear all costs incidental to compliance with the requirements of this Article.

ARTICLE 6 – INSURANCE

A. CONSULTANT'S INSURANCE

The CONSULTANT shall maintain, at its own expense, during the life of the Agreement, such insurance as shall protect it and any subcontractor(s) performing work under this Agreement, from claims for damages from bodily injury, including death, or property damage, which may arise from operations under this Agreement. The CONSULTANT shall also provide the CITY with a certificate of insurance. The CONSULTANT shall furnish a Certificate of Insurance verifying the existence of any insurance coverage required by this Agreement. The Certificate will name the CITY as an additional insured and will provide for thirty (30) days advance notice in the event of termination or cancellation of coverage. Minimum Scope and Limits of Insurance shall be as follows:

Commercial General Liability: \$1,000,000 combined single limit per occurrence and \$2,000,000 annual aggregate for bodily injury, personal injury and property damage.

Professional Liability: \$1,000,000 limit each claim and \$2,000,000 yearly aggregate of claims.

Auto Liability: \$1,000,000 combined single limit per occurrence and \$1,000,000 annual aggregate for bodily injury and property damage arising from the operations of all owned automobiles, non-owned automobiles and hired automobiles.

Workers Compensation: Workers' Compensation Insurance as required by the State of Florida. Employer's Liability to include \$1,000,000 limit per occurrence, \$1,000,000 annual aggregate for disease and \$1,000,000 limit for disease of an individual employee.

ARTICLE 7 – REMEDIES

A. CLAIMS, COUNTERCLAIMS, DISPUTES, ETC.

All claims, counterclaims, disputes, and other matters in question between the CONSULTANT and the CITY will be first reviewed by authorized representatives of both parties for a recommended solution. If no solution or resolution is forthcoming, such disputes will be decided by a court of competent jurisdiction convened in the State of Florida.

B. GOVERNING LAWS AND VENUE

The agreement shall be governed by and construed and interpreted in accordance with the laws of the State of Florida. Venue for any disputes under this contract shall be in Okaloosa County.

ARTICLE 8 – MISCELLANEOUS

A. VALIDITY, SEVERABILITY AND REFORMATION

The validity, interpretation, construction, and effect of this Agreement shall be in accordance with and be governed by the laws of the State of Florida. Any provision or part of this Agreement held to be void or unenforceable under any law shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the parties. The parties agree that this Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision which comes as close as possible to expressing the intention of the stricken provision.

B. HEADINGS

The headings of the sections of this Agreement and capitalizations are for the purpose of convenience only and shall not be deemed to expand or limit the provisions contained in such sections.

C. PUBLIC RECORDS

IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT THE OFFICE OF THE CITY CLERK AT (850) 837-4242, 4200 INDIAN BAYOU TRAIL, DESTIN, FLORIDA 32541, RBAILY@CITYOFDESTIN.COM. Specifically CONSULTANT must:

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

ii. 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 and following completion of the contract if CONSULTANT does not transfer the records to the City.

iii. Upon completion of the contract, transfer, at no cost to the City, all public records in possession of CONSULTANT or keep and maintain public records required by the City to perform the service. All records stored electronically must be provided to the City, upon request from the City's custodian of public records, in a format that is compatible with the information technology systems of the City.

D. ENTIRE AGREEMENT

This Agreement, including the exhibits hereto constitutes the entire Agreement between the parties hereto and supersedes any prior negotiations, representations, and understandings, either written or oral.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first written above.

CONSULTANT:

CITY:


(Signature)

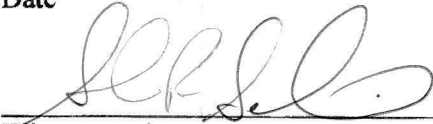

(Signature)

ALAN K. STEINBECK, PRESIDENT
(Printed Name and Title)

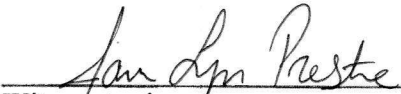
Carisse LeJeune
(Printed Name & Title)

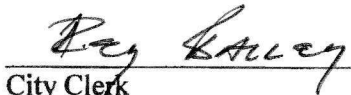
05/08/18
Date

May 8, 2018
Date


Witness to signature:


Attest to Signature:


Witness to signature:


City Clerk

SEAL

EXHIBIT "A"

PROFESSIONAL RATES

Alan Steinbeck	President	\$87.60
Tim Whaler	Project Manager	\$79.52
Support Staff	Senior Planner	\$72.42
Support Staff	Planner/Administrative	\$63.90

REIMBURSABLE EXPENSES

Expense Item	Amount	Unit
Mileage	\$0.545	per mile ¹
Color copies	\$0	not charged
B/W copies	\$0	not charged
Overnight delivery	\$30.00	per delivery
Air fare	\$325.00	estimated per trip
Rental car	\$50.00	estimated per day
Rental car fuel	at cost	for contract-related travel
Hotel	\$120.00	estimated per night
Meals	\$64.00	per diem

¹ Local mileage for day trips is not reimbursable under the contract.



3TPVE-1

OP ID: DC

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

04/06/2018

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 WESTER INSURANCE AGENCY 1020 S.GARNETT STREET P.O.BOX 769 HENDERSON, NC 27536-769 W David Carver		252-438-8165		CONTACT W David Carver NAME: PHONE (A/C, No, Ext): 252-438-8165 FAX (A/C, No): 252-438-6640 E-MAIL ADDRESS: david@westerinsurance.com	
INSURED 3TP Ventures, Inc. Alan Steinbeck 2460 Sedgefield Dr. Chapel Hill, NC 27514		INSURER(S) AFFORDING COVERAGE INSURER A: United States Liability Ins INSURER B: Hartford Insurance Co INSURER C: INSURER D: INSURER E: INSURER F:		NAIC # 22357	

COVERAGES

CERTIFICATE NUMBER:

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	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PROJECT ☐ LOC OTHER:	Y		PPP1553011	02/01/2018	02/01/2019	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 300,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COM/PO/AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY			PPP1553011	02/01/2018	02/01/2019	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	22WBCAB3AXT	03/02/2018	03/02/2019	☒ PER STATUTE ☐ OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	PROFESSIONAL			PPP1553011	02/01/2018	02/01/2019	Ea. Claim Aggregate \$ 1,000,000 Aggregate \$ 2,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

City of Destin is an additional insured with respect to General Liability as required in a written contract.

CERTIFICATE HOLDER

CANCELLATION

CITYDE1 City Of Destin Building Division 4200 Bayou Trail Destin, FL 32541	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 W. David Carver

**AGREEMENT TO FURNISH PROFESSIONAL PLANNING SERVICES
TO THE CITY OF DESTIN**

ADDENDUM #1

This ADDENDUM made to the Principal Agreement dated May 8, 2018 is made and entered into on this 16th day of July in the year Two-Thousand Eighteen (2018) between the City of Destin (hereinafter referred to as "CITY"), 4200 Indian Bayou Trail, Destin, Florida 32541, and 3TP Ventures, Inc. (hereinafter referred to as "CONSULTANT"), 2460 Sedgefield Drive, Chapel Hill, NC 27514.

RECITALS:

WHEREAS, CITY desires to retain the CONSULTANT to furnish certain professional planning services in the completion of the 2018 Annual Transportation Concurrency Analysis; and

WHEREAS, the CONSULTANT has agreed to provide professional planning services to the CITY upon the terms and conditions hereinafter set forth; and

WHEREAS, as a result of the aforementioned mutual understanding, the CITY desires to amend the Principal Agreement per this ADDENDUM; and

WHEREAS, it is intended that funds will be provided in the CITY's budget as needed to pay the costs of the services involved.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in the Principal Agreement, and subject to availability of funding, the CITY agrees to retain the CONSULTANT and the CONSULTANT agrees to perform work upon the following terms and conditions:

ARTICLE 1 – SCOPE OF SERVICES AND COMPENSATION

The CONSULTANT will perform the services as described in Attachment 'A' - Scope of Services. As consideration for providing the services in Attachment 'A', the CITY shall pay the CONSULTANT an amount of \$32,669.00 ~~using the Lump Sum Method.~~ \$8,244.00 paid in FY2018 for traffic counts and \$24,425.00 paid in FY2019 for additional services to include analysis and report.  

ARTICLE 2 – PERIOD OF PERFORMANCE

The period performance shall be from the date of this ADDENDUM until March 31, 2019.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first written above.

CONSULTANT:

CITY:

[Signature]
(Signature)

Carisse LeJeune
(Signature)

ALAN K. STEINBECK, PRESIDENT
(Printed Name and Title)

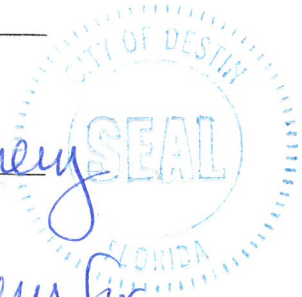
Carisse LeJeune, City Mgr.
(Printed Name & Title)

7/23/18
Date

7/23/2018
Date

[Signature]
Witness to signature:

[Signature]
Attest to signature:
[Signature]
City Clerk signature
Ray Bailey



SEAL

Attachment 'A'

Scope of Services

2018 ANNUAL TRANSPORTATION CONCURRENCY ANALYSIS – SCOPE OF SERVICES

The following scope of services is for the City of Destin's Annual Transportation Concurrency Analysis (ATCA). The objective is to document the existing conditions and monitor the operating conditions on Harbor Boulevard/Emerald Coast Parkway and the collector roads. The analysis serves as an informational component of the multimodal transportation district (MMTD) monitoring requirements.

The methodology for this year's analysis will differ from previous years. The collection of traffic counts on Harbor Boulevard/Emerald Coast Parkway is not possible due to the two Florida Department of Transportation (FDOT) construction projects currently underway. FDOT is undertaking a mill and resurfacing project on Harbor Boulevard from the Marler Bridge to Airport Road that is scheduled for completion this Winter. Emerald Coast Parkway is being widened to six lanes from Airport Road to the Walton County Line. The widening project is scheduled for completion in 2020. The roadway construction will preclude the collection of the 72-hour mid-block and turning movement counts at the signalized intersections on the entire length of Harbor Boulevard/Emerald Coast Parkway through the City of Destin. This will limit the overall scope of 2018 ATCA.

The work task for the 2018 ATCA include:

TASK 1 – TRAFFIC COUNTS

24-Hour Mid-Block

Conduct 24-hour bi-directional traffic counts at 27 mid-block locations during one mid-week day (Tues/Wed/Thurs). The data will be summarized in 15 minute increments with the AM and PM peak hour volumes identified. The Map ID numbers in the table below correspond to the ID numbers displayed in green hexagons on the map provided at the end of this section.

24-hour Mid-block	
ID	
1	Calhoun Avenue between US Hwy 98 and Kelly Street
2	Sibert Avenue between Calhoun Avenue and Kelly Street
3	Stahlman Avenue between US Hwy 98 and Kelly Street
4	Mountain Drive between Stahlman Avenue and Benning Drive
5	Mountain Drive between Benning Drive and Beach Drive
6	Azalea Drive between Stahlman Avenue and Benning Drive
7	Benning Drive between US Hwy 98 and Kelly Street
8	Legion Drive between Benning Drive and Beach Drive
9	Kelly Street between Calhoun Avenue and Main Street
10	Beach Drive between US Hwy 98 and Kelly Street
11	Gulf Shore Drive between US Hwy 98 and Durango Road
12	Indian Bayou Trail between Commons Drive and Country Club Drive
13	Indian Bayou Trail between US Hwy 98 and Commons Drive
14	Restaurant Row between US Hwy 98 and Emerald Coast Parkway
15	Henderson Beach Blvd. between US Hwy 98 and Commons Drive
16	Commons Drive between Airport Road and Indian Bayou Trail
17	Commons Drive between Indian Bayou Trail and Diamond Cove
18	Commons Drive between Diamond Cove and Henderson Beach Road
19	Commons Drive between Henderson Beach Road and Triumph Drive
20	Commons Drive between Triumph Drive and Kelly Plantation Drive
21	Commons Drive between Kelly Plantation Drive and Matthew Boulevard
22	Matthew Blvd between US Hwy 98 and Scenic Hwy 98
23	Hutchinson Street between US Hwy 98 and Scenic Hwy 98
24	Crystal Beach Drive between US Hwy 98 and Scenic Hwy 98
25	Dolphin Street between US Hwy 98 and Scenic Hwy 98
26	Scenic Hwy 98 between Matthew Boulevard and Dolphin St
27	Scenic Hwy 98 between Dolphin St and Walton County Line

Turning Movement Counts

Collect turning movements and pedestrian crossings for all 3 signalized intersections in the City. Intersection data will be collected during the PM peak (4pm-8pm) during one mid-week day (Tues/Wed/Thurs). The data will be summarized in 15 minute increments with the PM peak hour volumes identified. The Map ID numbers in the table below correspond to the ID numbers displayed in blue squares on the map provided at the end of this scope.

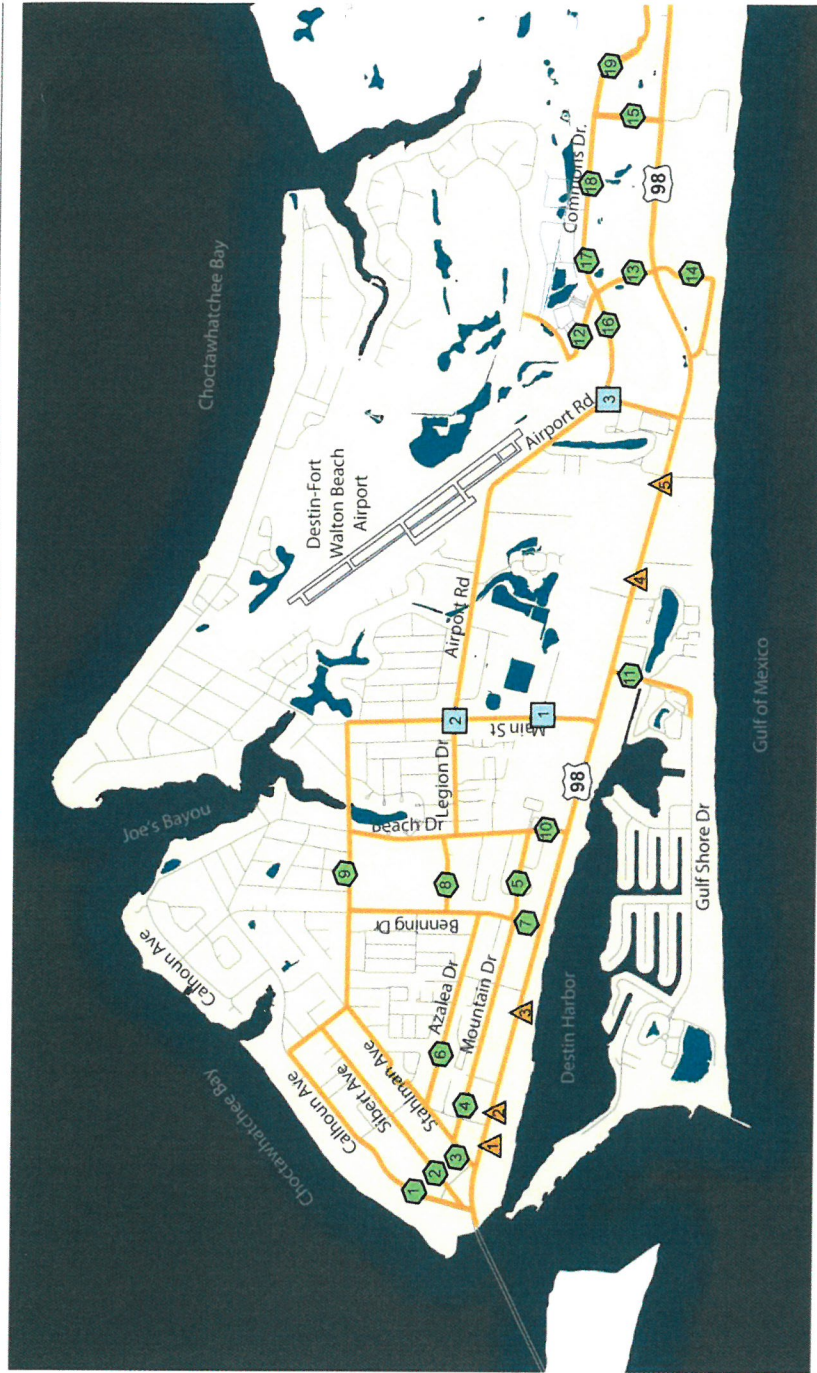
Turning Movement Counts - PM Peak	
ID	
1	Main Street at 98 Palms Boulevard
2	Airport Road at Main Street
3	Airport Road at Commons Drive

Mid-Block Pedestrian

Collect pedestrian counts at each of the five mid-block signalized crosswalks on US Highway 98 in the City. North-south pedestrian counts will be collected during the PM peak (4pm-8pm) on one mid-week day (Tues/Wed/Thurs). The data will be summarized in 15 minute increments with the PM peak hour volumes identified. The Map ID numbers in the table below correspond to the ID numbers displayed as orange triangles on the map provided at the end of this scope.

Map ID	Mid-block Pedestrian - PM Peak
1	US Hwy 98 west of Palmetto Street
2	US Hwy 98 west of Marler Street
3	US Hwy 98 at Melvin Street
4	US Hwy 98 east of Palm Street
5	US Hwy 98 west of Gulf Terrace Drive

COUNT LOCATIONS: WEST DESTIN



COUNT LOCATIONS: EAST DESTIN



TASK 2 – DATA PROCESSING

3TP Ventures will process and analyze the collected data to insure accuracy and summarizing the existing conditions. This includes:

- Applying the appropriate Florida Department of Transportation (FDOT) seasonal and axle factors will be applied to the raw traffic count data to adjust the traffic counts and calculate average annual daily traffic volumes.
- Reviewing the data for reasonableness as compared to 2017 traffic volumes. If the change in traffic volume for a segment is greater than 25%, a reasonableness analysis will be conducted to determine if the level of data collection error, random variation in traffic volume, or external influences. If any segments meet the conditions indicated above, the consultant will provide the client with recommendations for collecting new data on suspect segments.

TAKS 3 – NETWORK CONDITIONS

The network conditions will be summarized in tables and narrative highlighting the following data performance measures:

- Percent change between 2017 traffic counts with 5 year trend analysis
- Update and Calculate Maximum Service Volume (MSV)
- Determination of committed trips from the City of Destin Multimodal Transportation District Capacity Table and Okaloosa County Traffic Concurrency Committed Trips Table
- Determination of available capacity by segment
- Revised the Multimodal Transportation District Capacity Table

TASK 4 – MMTD PERFORMANCE ASSESSMENT

The assessment of traffic conditions on US Highway 98 will reflect the 2017 average annual daily traffic volumes plus committed trips as determined in the previous task. This data will be compared to the baseline conditions documented in the 2005 Annual Transportation Concurrency Analysis. Traffic conditions along collector roadways will be monitored to evaluate traffic conditions within the MMTD as well as provide the City with quantitative information related to changes in travel patterns.

TASK 5 – PREPARE REPORT AND COUNCIL PRESENTATION

3TP Ventures will prepare the 2018 Annual Concurrency Analysis to document traffic count trends and conditions. The report and maps will be submitted as electronic draft original for City review and comment.

3TP Ventures will prepare and present a summary of the draft report and findings to the Destin City Council. The date of meeting will be determined once the draft report is submitted to the City.

Upon receipt of comments from the City and presentation to Council, 3TP Ventures will revise the report and produce the final version. A digital copy of the report and the resulting revised Multimodal Transportation District Capacity Table will be transmitted to the City.

SCHEDULE AND BUDGET

3TP Ventures will coordinate the traffic counts (Task 1). The counts will take place during the peak summer traffic period for the City at the earliest opportunity for data collection after July 4th weekend. Upon receipt of the count data, 3TP Ventures will proceed with the data processing, network conditions, and MMTD Performance Assessment (Tasks 2, 3, and 4). A draft report for City staff review by November 2018. The City Council presentation will be scheduled after delivery of the draft report. Final delivery of the report and the revised Multimodal Transportation District Capacity Table will be provided within four weeks of receipt of City staff comments.

3TP Ventures will perform this scope of services for a lump sum budget of \$32,669.00. This includes traffic counts to be collected by a subconsultant partner. Invoices will be submitted monthly showing percent complete by task, supported by a progress report identifying work accomplished and planned for the next period.

2018 Annual Transportation Concurrency Analysis						
Date:		06/22/18				
Project Mgr.		Alan Steinbeck				
Project No:						
Task	Title:	Steinbeck	Whaler		Total Hours	Total Cost
	Rate	\$ 87.60	\$79.52			
					282	\$ 23,427
1. Traffic Counts		8	16	0	24	\$ 1,973
2. Data Processing		24	32	0	56	\$ 4,647
3. Network Conditions		40	66	0	106	\$ 8,752
4. MMTD Performance Assessment		4	8	0	12	\$ 987
5. Prepare Report and Council Presentation		48	36	0	84	\$ 7,068
		124	158	0	282	
Labor \$	\$	10,862	\$ 12,564	\$ -	23,427	\$ 23,427
Direct Expenses		Units	Rate	Total	Total Labor:	\$ 23,427
Mileage		380	\$ 0.54	\$ 205		
Airfare		1	\$ 325.00	\$ 325		
Rental car		2	\$ 50.00	\$ 100		
Hotel		2	\$ 120.00	\$ 240		
Meals		2	\$ 64.00	\$ 128		
Total				\$ 998	Direct Expenses	\$ 998
Subconsultants					Subconsultants	\$ 8,244
Traffic Counts				\$ 8,244		
Total:				\$ 8,244	Total Cost:	\$ 32,669

**AGREEMENT TO FURNISH PROFESSIONAL PLANNING
SERVICES TO THE CITY OF DESTIN**

ADDENDUM#2

This **SECOND ADDENDUM** made to the Principal Agreement dated May 8, 2018 is made and entered into on this ____ day of January, 2019 between the City of Destin (hereinafter referred to as " **CITY**"), 4200 Indian Bayou Trail , Destin, Florida 32541, and 3TP Ventures, Inc. (hereinafter referred to as "**CONSULTANT** "), 2460 Sedgefield Drive, Chapel Hill, NC 27514.

RECITALS:

WHEREAS , CITY desires to retain the CONSULTANT to furnish professional planning services to the City; and

WHEREAS, the CONSULTANT has agreed to provide professional planning services to the CITY upon the terms and conditions hereinafter set forth; and

WHEREAS, as a result of the aforementioned mutual understanding , the CITY desires to amend the Principal Agreement per this **SECOND ADDENDUM** ; and

WHEREAS, it is intended that funds will be provided in the CITY' s budget as needed to pay the costs of the services involved.

NOW, THEREFORE, in consideration of the premises and the mutual covenants contained in the Principal Agreement , and subject to availability of funding, the CITY agrees to retain the CONSULTANT and the CONSULTANT agrees to perform work upon the following terms and conditions:

ARTICLE 1 -SCOPE OF SERVICES AND COMPENSATION

The CONSULTANT will perform, at the request of the City Manager or City Manager's designee, Land Development Code and/or Comprehensive Plan maintenance, including the review, study, and proposed modifications of sections of the Land Development Code and/or Comprehensive Plan. As consideration for providing the services in Attachment ' A' , the CITY shall pay the CONSULTANT per the STADARD HOURLY RATE METHOD as set forth in the Principal Agreement.

(Signature Continue on Next Page)

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the day and year first written above.

CONSULTANT:

(Signature)

(Printed Name and Title)

Date

Witness to signature:

Witness to signature:

CITY:

Lance Johnson, City Manager

Date

Attest to Signature:

City Clerk

SEAL

ATTACHMENT 'A'

ADDENDUM #2

AGREEMENT TO FURNISH PROFESSIONAL PLANNING SERVICES TO THE CITY OF DESTIN

SCOPE OF SERVICES

The Scope of Services is for ongoing maintenance of the City of Destin's Comprehensive Plan and Land Development Code (LDC). As an extension of Planning Department Staff under the direct supervision of the Community Development Director, 3TP Ventures will draft, internally vet and propose changes that will align the LDC with the Comprehensive Plan. The first priority is to amend the LDC to reflect the amendments to the 2020 Comprehensive Plan adopted in Ordinance No. 17-22-PC. The work will also include reviewing previously adopted ordinances for potential implications on LDC language.

In order to accomplish these tasks, 3TP Ventures will:

- Create a schedule that sets target dates for achieving each milestone of the task;
- Develop matrix identifying amended Comprehensive Plan language and impacted LDC sections;
- Work with Community Development Director to identify and address approach for revising impacted LDC sections;
- Draft LDC language and submit to the City Land Use Attorney for review;
- Present draft LDC language to LPA and City Council for consideration; and
- Revise LDC language as directed by Council.

ROLE OF PROFESSIONAL FIRMS

Tim Whaler will serve as the Project Manager and be the primary point of contact for the City of Destin. The majority of the work authorized under this Addendum will be completed by 3TP Ventures. 3TP Ventures will subcontract with two companies based on the need to have specialized experience:

PSG – a transportation engineering, environmental science and urban planning firm
4830 West Kennedy Boulevard, Suite 600
Tampa, FL 33609
813-947-4669
www.psgplans.com

Roark Engineering – a transportation and traffic engineering firm
2017 Chimney Swift Hollow
Tallahassee, Florida 32312
850-567-2044
www.roarkeng.com

PROFESSIONAL RATES

3TP Ventures

Rates for 3TP Ventures will be based on the current Attachment 'A', and any updates thereto, to the May 18, 2018 agreement between the City and 3TP Ventures. The agreement stipulates that rates be evaluated annually by March 31 with any changes to be effective May 1st. The current rates are as follows.

Alan Steinbeck	President	\$87.60
Tim Whaler	Project Manager	\$79.52
Support Staff	Senior Planner	\$72.42
Support Staff	Planner/Administrative	\$63.90

PSG

Joce Pritchett, PE	Civil Engineer	\$151.45
Cynthia Grizzle	Environmental Planner	\$100.80
Support Staff	Planner	\$67.20

Roark Engineering

Drew Roark, PE	Traffic Engineer	\$148.75
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REIMBURSABLE EXPENSE

Expense Item	Amount	Unit
Mileage	\$0.58	per mile ¹
Color copies	\$0	not charged
B/W copies	\$0	not charged
Overnight delivery	\$30.00	per delivery
Air fare	\$325.00	estimated per trip
Rental car	\$50.00	estimated per day
Rental car fuel	at cost	for contract-related travel
Hotel	\$120.00	estimated per night
Meals	\$66.00	per diem

¹ Local mileage for day trips made by Project Manager is not reimbursable under the contract.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Presentation

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: Land Use Attorney

I. BACKGROUND:

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:**
- B. Effect on Budget (EOB):**
- C. Level of Service (LOS):**

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:
None

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Presentation

TO: City Council

THRU: Lance Johnson, City Manager

FROM: Kimberly Kopp, Land Use Attorney
Louis Zunguze, Community Development Director

DATE: January 15, 2018

SUBJECT: 1. Update on TRC Status, as of January 22, 2019.
(Section 2.26.04(E), Land Development Code; Pursuant to Ordinance No. 18-06-LC).

I. BACKGROUND: On November 5, 2018, the City Council passed Ordinance 18-06-LC, which provides in relevant part, that:

"At the second City Council meeting each month, the City Land Use Attorney shall provide a brief monthly update, under City Land Use Attorney's designated portion of the Agenda, summarizing the activities of the TRC."

II. DISCUSSION: The Community Development Director and his staff are currently working on finalizing the department's policies and procedures related to the TRC meetings to be held pursuant to the newly enacted ordinance.

Beginning in February 2019, TRC meetings will take place in the City Hall Boardroom at 11:00 am on the **THIRD TUESDAY OF THE MONTH**. Notices of such meetings will be posted in City Hall and on the City's website.

A brief summary of TRC meetings will be provided to the City Council by the Land Use Attorney each month at the 2nd Council meeting of the month.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:

1. TRC memo_12.12.18



**Community
Development
Planning Division**

Phone: 279-3213

Fax: 650-0693

MEMORANDUM

DECEMBER 12, 2018

TO: Technical Review Committee (TRC) Members
THRU: Louis Zunguze, Community Development Director
FROM: Lauren Witt, Planner
SUBJECT: Establishment of TRC Process

As required by Ordinance 18-06-LC, a Technical Review Committee (TRC) has been established including the following members: City Land Use Attorney, Planning Division, Public Services Department, Parks and Recreation Department, Building Official, Code Compliance, Destin Fire Control, Destin Water Users, Okaloosa Gas District, Gulf Power, and Waste Management with optional attendance from Okaloosa Sheriff's Department. The third Tuesday of each month, there will be a TRC Meeting where all TRC members or designees and applicants are present. All comments will be received and sent to the applicants prior to the monthly meeting.

The TRC is responsible for reviewing all development order applications through the following process:

1. Within 10 days of application submittal, a planner will perform a completeness review and send a letter indicating,
 - a. The application was deemed "complete" and provide a TRC Meeting date, or
 - b. The application was not complete, and provide a list of deficiencies
 - i. The applicant must provide an amended application package within 30 calendar days or it is considered withdrawn
2. Planning Division will distribute complete application packages received within the month to TRC members via e-mail (Dropbox link).
3. TRC Members will perform a review of all applications and send comments to Planning Division within 30 days of receipt of application packages
4. Internal TRC Meeting takes place with all TRC members in attendance to discuss all applications and requirements
5. Official TRC Meeting Agenda will be emailed to TRC Members and Applicants seven (7) working days prior to TRC Meeting
 - a. Agenda will include time slots for each project with a cap of 5 applicants per TRC meeting.
6. TRC Comments are sent to Applicants three (3) working days prior to TRC Meeting
7. TRC Meeting takes place on the 3rd Tuesday of each month at 11:00 in the City Hall Boardroom.
 - a. City Clerk's Office will be in attendance to record minutes.

The first TRC meeting will take place in the City Hall Boardroom at **11:00 on February 19th, 2019**. Application packages will be sent out no later than **January 11th** for review. The internal TRC meeting will take place in the Annex Conference Room at **11:00 on February 7th**. Comments are due back to the Planning Division no later than **February 12th**.

Please contact the Planning Division with any questions at 279-3213.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: January 22, 2019

TYPE OF AGENDA ITEM: Presentation

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: City Attorney

I. BACKGROUND:

II. DISCUSSION:

- A. Link to Strategic Goals / Objectives:**
- B. Effect on Budget (EOB):**
- C. Level of Service (LOS):**

III. CONCLUSION:

IV. RECOMMENDED MOTION:

Attachments:
None