

**REGULAR MEETING
DESTIN CITY COUNCIL
JULY 6, 2020
ANNEX COUNCIL CHAMBERS
6:00 PM**

*****Core Value of the Month - Integrity*****

CALL TO ORDER

INVOCATION

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 June 15, 2020 Regular City Council Meeting
- B. Approval of minutes of April 6, 2020 Regular City Council Meeting

2. 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)

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

- A. Proclamation - Parks and Recreation Month
- B. Okaloosa County Emergency Management COVID-19 Update - Patrick Maddox

4. CITY MANAGER REPORTS

- A. Fire Safety Equipment, authorization for the City Manager to execute a contract
- B. Security and Fire Monitoring, authorization for the City Manager to execute a contract
- C. Followup to the Norriego Point Embayments workshop
- D. Announcements
 - OBCC scheduled to consider funding for beach acquisitions in Destin during their July 7th meeting.
 - We are tentatively scheduled to complete the closing process for Captain Leonard Destin Park on July 20th.

5. PUBLIC HEARINGS

- A. Second reading of Ordinance 20-19-CC - Amends Article II (Noise) of Chapter 14, offenses and miscellaneous provisions of the Code of Ordinances

- B. Second reading of Ordinance 20-09-PC - Amending the Future Land Use Map as referenced in Chapter 1 of the Comprehensive Plan to include a change in the future land use designations of the parcel described and generally depicted in Exhibit A from Residential, Office, Institutional (ROI), Recreation (REC), and Institutional (INST) to Institutional (INST)
- C. Second reading of Ordinance 20-10-PC - Amending the Future Land Use Map as referenced in Chapter 1 of the Comprehensive Plan to include a change in the Future Land Use designations of the parcels described and generally depicted in Exhibit A from North Harbor Mixed Use (NHMU) and Residential, Office, Institutional (ROI) to Institutional (INST).
- D. Second reading of Ordinance 20-11-PC - Amending the Future Land Use Map as referenced in Chapter 1 of the Comprehensive Plan to include a change in the future land use designations of the parcel described and generally depicted in Exhibit A from Medium Density Residential (MDR) and Residential, Office, Institutional (ROI) to Residential, Office, Institutional (ROI).
- E. Second reading of Ordinance 20-12-PC - Amending the Future Land Use Map as referenced in Chapter 1 of the Comprehensive Plan to include a change in the future land use designations of the parcel described and generally depicted in Exhibit A from Bay Estates (BE) to Recreation (REC)
- F. Second reading of Ordinance 20-13-PC - Amending the Future Land Use Map as referenced in Chapter 1 of the Comprehensive Plan to include a change in the future land use designations of the parcel described and generally depicted in Exhibit A from Institutional (INST) and Town Center Mixed Use (TCMU) to Institutional (INST).
- G. First reading of Ordinance 20-21-CN - Amending Article VII "General Provisions" of the City Charter to create a new section prohibiting the vacation of waterfront rights-of-way; providing for a referendum on the charter amendment; providing for a ballot question; providing for a vote at the November 3, 2020 General Election on whether to prohibit the vacation of waterfront rights-of-way in the City of Destin
- H. First reading of Ordinance 20-22-CN - Amending Article VII "General Provisions" of the City Charter to create a new section entitled "Building Height Limit"; providing for a referendum on the charter amendment, providing for a ballot question, providing for a vote at the November 3, 2020 General Election on whether to include in the City Charter the City's maximum building height limit of six stories and require any application seeking to exceed that limit to obtain approval at a referendum election of at least sixty percent of the voters
- I. First reading of Ordinance 20-23-LC - Amending Article 8 of the Land Development Code; prohibiting the vacation of waterfront rights-of-way.

6. *CONSENT AGENDA (No public comments)

- A. Draft minutes of board/committee meetings
- B. Position Re-classification for FY20
- C. Proposed Bert Harris Settlement Agreement for 3461 Scenic Highway 98.
- D. Proposed Bert Harris Settlement Agreement for 3890 Sandprint Drive.
- E. Proposed Bert Harris Settlement Agreement for 82 Hutchinson St.
- F. Request approval for a new single-family marine construction project at 4156 Belcourt Drive
- G. Request approval for the modification of two docks located at 510 Calhoun Avenue
- H. Extensions 11 and 12 to the Amended COVID-19 Declaration of State of Emergency

7. COMMENTS/PRESENTATIONS FROM MAYOR, COUNCIL, LAND USE ATTORNEY AND CITY ATTORNEY (No public comments)

A. Councilmember Braden

- 1) Discussion of Bid Evaluation process
- 2) Discussion of Mayor's authority

B. Councilmember Ramswell

- 1) Art out of utility boxes
- 2) Submerged Land Lease
 - a) Status of application and boundaries
 - b) Inclusion of public beach property east of Point Mezzanine along Old Pass Lagoon
- 3) Norriego Point Legal Description/Deed Update
- 4) County Property Appraiser Parcel Line Changes
- 5) 2.88 Acre Parcel for sale at 796 Harbor Blvd/Parcel ID - 00-2S-22-0702-0000-0070

C. Councilmember Menchel

- 1) Norriego Point Submerged Land Lease Application
- 2) Agendas and Notification to Public
- 3) Live broadcasts of any and all meetings that the City Council takes part in
- 4) James Lee Park
- 5) Update on towing contract
- 6) Update on Airport Road

D. Councilmember Overdier

E. Councilmember Marler

F. Councilmember Destin

G. Councilmember Morgan

H. Mayor Gary Jarvis

- 1) Census
- 2) Strategic Plan

I. Land Use Attorney

J. City Attorney

8. PUBLIC COMMENTS

ADJOURNMENT

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.

Please visit our agenda center on the city website at www.cityofdestin.com/agendas

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
JUNE 15, 2020
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 Rodney Braden
Councilmember Cyron Marler
Councilmember Prebble Ramswell

Councilmember Parker Destin
Councilmember Skip Overdier (Virtual)
Councilmember Steven Menchel (Virtual)
Councilmember Chatham Morgan

Destin City Staff

City Manager Lance Johnson
Public Info Manager Catherine Card
Community Dev, Director Louis Zunguze
Code Compliance Manager Joey Forgione
Parks/Recreation Director Lisa Firth
Public Services Director Michael Burgess
Deputy Public Services Director John Hart
City Land Use Attorney Kimberly Kopp

City Clerk Rey Bailey
Deputy City Manager Webb Warren
Finance Director Krystal Strickland
Building Official Noell Bell
Grants/Project Manager Jeffery Cozzard
IT Manager Matthew Pace
City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor Steve Farris gave the invocation, which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

Councilmember Marler asked to move the two items under Public Hearing ahead of the City Manager Reports.

The City Manager requested that reading of a proclamation be added to item 2 of the agenda.

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

1. APPROVAL OF MINUTES

A. Approval of minutes of April 20, 2020 Regular City Council Meeting

Motion by Councilmember Marler to approve minutes of April 20, 2020 Regular City Council Meeting was seconded by Councilmember Ramswell and passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

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

A. Proclamation

The Mayor read the proclamation acknowledging Riley Braden and Jason Palazio for their lifesaving efforts; and then presented it to Mrs. Jaime Braden.

B. Jim Gilman: 90% Plans for the Harbor Blvd Median Beautification Project

Mr. Willson McBurney, FDOT District 3 Landscape Architect, provided a brief presentation of the 90% Plans for the Harbor Blvd Median Beautification Project. He stated that they are aware of what the City wants with regards to plant species and would really attempt to accommodate them. They plan to add color along the corridor and add more trees, specifically Oak Trees and Canopy Trees where possible. They have removed Crepe Myrtles and Palm Trees from the plant list as the City had requested. At this point they are proposing Live Oak Trees and Yaupon Holly Trees. They are also trying to add color and texture in the ground plain using different colors of Jasmine, Azaleas, Variegated Adam’s Needle and Liriope; adding these are work in progress and they may still add a few more types between now and the final plans.

According to Mr. McBurney, they are planting trees where they can and not necessarily at their desired location. He then identified the constraints that they have on the corridor which define what type of plants they could use and where trees could be planted.

- Trees not allowed to be planted within 100 feet of the median
- Stay 4 feet off the face of the curve for clear zone requirement
- Billboards located along the corridor with statutory view zones
- Utilities along the corridor – water and sanitary sewer – many of which are located in areas where they like to plant trees
- Overhead utilities/underground utilities and existing storm sewer – 5 foot or 15-foot offset from the center
- “Limits of clear sight” constraints. Everywhere a median crossing exists, either signalized intersection or unsignalized intersection, there are constraints in planting large trees

Mr. McBurney proceeded to go through the landscape plan with color coded depiction of the constraints they have along the corridor.

Councilmember Marler stated that he would like to see Variegated Adam’s Needle, Schilling Dwarf Holly and Dwarf Burford Holly placed in areas near crosswalks to prevent jaywalking. He continued they have had some tragic accidents occurred in those areas over the last few years because people refuse to utilize the crosswalks.

Councilmember Braden asked how many Oak Trees they could realistically plant in the corridor. He also wants to know the approximate start date for the project.

According to Mr. McBurney, the plan portrays approximately 40 Oak Trees; however, the exact number of Oak Trees they can plant is dependent upon the discussion with Destin Water Users (DWU); and whether DWU IS willing to bend their rules and allow the planting of the trees directly adjacent to or above their utilities. Otherwise, this number will be cut in half. He added they estimate the start of the project in early 2021 for advertisement and selection of a contractor; and with mobilization around late spring 2021.

Councilmember Morgan asked the City Manager and the Mayor to send a letter to DWU conveying Council's support for the Live Oak Canopy. He also stated it is the consensus of this Council to ask FDOT to remove Crepe Myrtles and replace them with Live Oaks where possible.

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

Mr. Jim Gallup, a military member, asked the City to consider memorializing and renaming a City facility, possibly the Joe's Bayou Boat Ramp area, after a fellow soldier and Destin resident – Thomas Russell Robinette – who passed away after a tragic accident near that location last year.

The Council asked the City Manager to coordinate with Mr. Gallup to come up with a specific plan to honor Mr. Robinette's memory.

Mr. Trip Tolbert, a Destin resident, stated that some of the water quality requirements and restrictions are being neglected in certain developments at Sandestin. He opined that the water quality at the surrounding beaches and shoreline had disintegrated over the years. He urged the Council, along with its citizens and the State, to take the necessary action to save their bay and the qualify of life for the next generation.

Mr. Jim Bagby, a Destin resident, stated that the bay has gotten worse in the 21 years he had lived in the City. The bay used to have an abundant fish life and they used to enjoy it; but not so much anymore. The over development in the Sandestin Development of Regional Impact (DRI) has impacted the bay. He urged the Council to take the necessary steps to help clean up the bay.

Ms. Carrie Harbarger, a Destin resident, urged the Council to do what it could to help preserve the water quality in the bay. She also asked the Council to negotiate with FDOT to get the Christmas decorations back up on US Hwy 98 in time for the Christmas Parade. She further stated that she had read the Old Cemex Plant Environmental Report which will be heard later on in the meeting. There are grave issues with the report, and she hopes Council come to an agreement and allocate funds to remove the fly ash and the three tanks that are buried at the old CEMEX plant and were never tested.

According to the City Manager, staff has gone through the State registry of tanks that known to have been on that property. There were 5 tanks listed but were all above ground.

Ms. Harbarger argues there is an environmental report that addresses the 3 buried tanks.

Ms. Sandy Trammell, a Destin resident, recommends the City contact Elizabeth Brannon at Freeport, Florida. There is an unprotected landfill there and had chemicals emitting into Choctawhatchee Bay; and that Ms. Brannon had done a lot of work in getting it cleaned up.

Ms. Marcie Bell, a Destin resident, stated that she reviews public records and videos and uses her Facebook blog to put the word out regarding Clement Taylor Park. She has been villainized in Facebook by members of the public and a threat was made against her by a sitting Destin City Council member on Facebook; and that she is formally asking the Okaloosa County Sheriff's Office to investigate that threat against her.

Mr. Alan Osborne, a Destin resident, informed the Council that he disagrees with the report the Council received from City staff regarding the agenda item on Choctawhatchee Bay Water Quality Presentation; adding that the staff report is incorrect, and that he has all the documentation to prove it. The report states that Driftwood Estates development order meets the stormwater quality standard set forth in the County's LDC. However, an adopted report by the Okaloosa Board of County Commissioner states that it is completely out of compliance. The staff report states the DRI regulation has gone away; but it has not. There was a statement in the report that this matter could be legally investigated. Mr. Osborne noted that during his presentation, he never asked the City Council to investigate the legal ramifications of suing Walton County. He was only asking the City to look at the regional impacts as a city and to take some action to stop the water from going into the bay.

Mr. Doug Wiles, a Walton County resident, expressed concern over the water quality in the Choctawhatchee Bay. He opined that as far as nitrogen level, the majority of the pollution is coming from stormwater runoff from fertilizer. Typically, the major source of this is the golf course. He added that if they do not protect their resources now, they will be gone forever.

Ms. Joanne Bouchillon, a Destin resident, stated that it is of utmost importance to protect and preserve their resources. She asked when the ordinance prohibiting the vacation of waterfront rights-of-way in the City of Destin will be created and when it will go for a referendum vote.

The City Attorney noted that the ordinance will be presented to Council in July to meet the deadline of August 15th to the Okaloosa County Supervisor of Elections for the referendum language to be in the ballot for the General Election in November 3, 2020.

Mr. Hollis Wilsley, a Sandestin resident, stated that the condition of the water in Choctawhatchee Bay has changed dramatically in the last 20 years; and no one has been able to define the reason. It is incumbent upon this City Council as legislators to take some action to help fix this problem.

Mr. Aaron Thomas (through webinar), a local attorney, stated that he represents several property owners who have filed Bert Harris pre-suit notices against the City; and he was specifically referring to items 6G thru 6Q of the Consent Agenda. He has been working with the City's Land Use Attorney in preparing these documents for Council's approval consideration. He noted there is a sentence at the end of Section 2A of the settlement agreement for his clients

that is not in the remaining settlement agreement on the list. This particular language reads, “*The Property remains subject to all applicable City ordinances/codes.*” He asked that this language be removed from the settlement agreement for his clients to conform with the other settlement agreements.

The Land Use Attorney explained that this language was in all proposed settlement agreement. Other parties requested it be removed as they were concern that a third-party purchaser would see that language and be confused. Mr. Thomas did not request the language be taken out for his clients. She continued there is no substantive difference whether the language is in the settlement agreement or not. The remainder of the code still applies to all the properties as stipulated in the staff report for each item; however, she would remove the statement from the proposed settlement agreement for Mr. Thomas ‘s clients if directed by Council.

Mr. Peter Johansson (through Webinar), a short-term rental property owner, spoke of Resolution 20-10 which the Council adopted in May reclaiming home rule on short-term rentals. He stated there are concerns among short-term rental owners that the Council is storing home rules without additional clarity. He pointed out that in 2011, the State of Florida took away all powers from a City to regulate short-term rentals. In 2014 these powers were restored except for 3 very important powers: The City cannot ban short-term rentals; they cannot regulate duration of stay; and they cannot regulate stay frequency. Resolution 20-10 is asking back these 3 powers that have been taken from the City, which is quite disconcerting to short-term property owners because they do not know the City’s intent by asking for these powers to be restored. There are concerns short-term rental owners would again be subject to ordinances that would negatively impact their property value and make their businesses more difficult to operate.

Following public comments, the next two items discussed were agenda items 5A and 5B under the Public Hearing section.

4. CITY MANAGER REPORTS

A. Median Maintenance, authorization for the City Manager to execute a contract

Councilmember Overdier moved to authorize the City Manager to negotiate and execute a contract for Miscellaneous Right-of-Way Maintenance Services with ZIIC Outdoors, LLC in an amount not to exceed \$185,000; seconded by Councilmember Marler.

Councilmember Braden asked staff to try to get some of the well pumps up and running and continue to irrigate the medians until the start of the project.

Councilmember Menchel asked if any damage to the pump was caused by the 3R construction.

According to Public Services Director Michael Burgess, he cannot say definitively if any portion of the system was damaged by the 3R construction. There were problems with the system prior to the start of 3R project. However, staff is still investigating the irrigation system on Airport Road; after which they would move over to US 98 and do the same thing.

Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

B. Reopening of Recreation Programs, Rentals, and Tournaments

The City Manager reported that the Governor’s latest Executive Order concerning COVID-19 removed the quarantine requirement for visitors from the State of Louisiana traveling to Florida, and instituted Phase II of the reopening plan. The Executive Order also specifically extended the quarantine requirements for visitors from New York, New Jersey, and Connecticut. Staff is seeking Council’s direction regarding the City reopening to a large-scale sports tournaments and rentals.

Councilmember Overdier moved to direct staff to implement level 5 “High Risk” allowing for full competition between teams from different geographic areas except for areas specifically restricted by the Governor’s Executive Orders with adherence to the CDC’s guiding principles for youth sports. Councilmember Marler provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

C. Right of Way Referendum Process Update

The City Attorney informed the Council that Okaloosa County Supervisor of Elections has indicated to the City that the referendum language must be submitted to his office by August 15, 2020, at the latest, in order to appear on the November 2020 ballot. He also stated that the way he understood Council’s direction was any rights-of-way dead ending into a body of water would be included in the ordinance. He asked if this was accurate.

It was the consensus of Council to include in the ordinance the vacation or partial vacation of rights-of-way dead ending into a body of water.

D. Follow up to Choctawhatchee Bay Water Quality Presentation

The City Attorney noted that he stands by everything that was written in the staff report and that he awaits the Council’s direction. He also he does not foresee any robust legal involvement by the City. He expects the City’s involvement to be very limited to merely providing certain witnesses to a hearing.

At this time, Councilmember Braden requested that Mr. Osborne be allowed to answer any questions.

Councilmember Braden asked Mr. Osborne if he agrees with the City Attorney’s assessment of the situation.

Ms. Osborne noted that he disagrees with the City Attorney as he has produced no document that says section 380 (water quality) of Florida Statutes is not enforceable in this case. Also, the FDEP has no jurisdiction over this issue whatsoever. Walton County is the monitoring sources for the region. He also stated that he never recommended the City takes any legal action. He suggests the Mayor be allowed to seek a resolution from Okaloosa County Attorney Greg

Stewart to support Destin. Mr. Stewart has already written a finding for Walton County that they were non-compliance for which he was fired. He was the Walton County attorney for 10 years. The letter would then go to the Governor who has the authority to enforce section 380 of Florida Statutes.

The City Attorney maintains that by Florida Statute, the State no longer has enforcement authority. It belongs to the local government.

Councilmember Destin moved to direct the Mayor and City Attorney to discuss this matter with the Okaloosa County Attorney and bring back a recommendation for Council's consideration; after which this Council could decide whether they want to pursue contacting the Governor on this matter; seconded by Councilmember Morgan.

Councilmember Menchel asked whether Mr. Osborne had any communications with Okaloosa County about this issue.

Ms. Osborne replied he has not spoken to the County about this issue; adding he wanted to have the City's support before he meets with the County Commissioners.

Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

E. Request for Direction relating to June 2, 2020, Destin Fishing Fleet, Inc. Invoice

The City Manager noted that on June 2, 2020, the City received a demand letter and an invoice from the Destin Fishing Fleet relating to the City's three transient slips located at 206 Harbor Blvd. The Fleet alleges that the City owes them \$63,260.02 in previous unbilled utility expenses and dock maintenance fees for the past 10 years. The Fleet also alleges these fees stem from the May 4, 2010 Amendment to Lease Agreement for Riparian Rights executed by and between the City and the Fleet.

The City Attorney informed the Council he has provided a proposed responsive letter and that the Council may direct him to send the proposed letter as written, or to modify the letter and deliver it to counsel for the Destin Fishing Fleet, or direct other action.

Councilmember Morgan moved to take no action; seconded by Councilmember Menchel.

Councilmember Ramswell noted there have been some major concerns especially in bills when they look at the itemized list and are being asked to split funds for such things as air conditioning and roofing when this is supposed to be for maintenance of a slip. She also stated that when they first got the lease agreement in the park, the City was originally supposed to continue receiving rental income and putting it into an account that was going to pay for expenses related to the park. It seemed none of it was ever done. Looking at the rental income that has been charged on slips over the years and considering 3 slips over a 10-year period, approximately \$328,000 would be due to the City for various rents. In her opinion, there are things being falsely presented as bills for maintenance of slips.

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

F. Captain Royal Melvin Heritage Park Bid Recommendation

The City Manager noted they rebid the project and received three bid proposals. The City’s Bid Committee met and evaluated and scored the bids submitted for the project based on the criteria outlined in the City’s bid document. He requested Council’s acceptance of the bid.

Councilmember Overdier moved to accept the GLC Contracting, Inc’s bid of \$1,335,689 for the Capt Royal Melvin Heritage Park project and allocate an additional \$48,006 in City funds from the Park Impact Fees account, contingent on the final approvals from Okaloosa County and the U.S. Department of Treasury. Councilmember Marler provided a second to the motion.

Councilmember Braden pointed out that they received another bid from Lord and Son Construction, Inc., which is a little higher than the lowest bid. However, he has worked alongside Lord and Son for over 30 years and know that the firm is well qualified; and that he would like to make a substitute motion to accept the bid from Lord and Son.

According to the City Manager, if they do not follow the criteria that they published, they would be in violation of 2CFR-200 and jeopardize the grant for the project since the grant falls under federal guidelines. He continued that the criterion is based on the lowest responsive responsible bidder, and that the firm that received the best score was also the lowest bidder for the project.

Councilmember Ramswell asked how they define “responsible” and how it is made into a quantitative measure.

The City’s Grants/Program Manager Jeffery Cozadd explained that the bids were evaluated on price, qualification, project approach and past performance; adding these are information contained within the contractors’ bids. The Bid Committee evaluated the bids based on these criteria using a scoring system.

Councilmember Ramswell asked if they check references.

Mr. Cozadd noted they used the past performance and jobs listed in the bid package to gauge the firms’ past performance.

Councilmember Braden asked if they are accepting the lowest bid in this case because they are using grant money.

Mr. Cozadd explained that the bid was not the sole consideration. The scoring is weighted. The lowest bidder’s score is weighted a little higher than the others. There are more points awarded for the price proposal than the other 3 criteria – qualifications, project approach and past performance.

The City Manager added that all things being equal, the responsiveness and responsibility of each bidder, they would go with the lowest bid according to federal guidelines.

Councilmember Ramswell recommends securing the services of a contractor or someone familiar with the different expenditure and line item to assist in evaluating the bids going forward.

According to the City Manager, included in the bid package were documents containing estimates of prices from internal and external experts.

The Mayor called for a vote on the motion, which passes 6-1 (Council members Morgan, Destin, Marler, Overdier, Menchel, and Ramswell voted “yes”; Councilmember Braden voted “no”).

G. 820 Beach Drive/ Old Cemex Plant Environmental Update

The City Manager informed the Council that staff has been working with FDEP representative Pearce who was running the improvements project for the City on Norriego Point and who was also slated to run the improvements project at Joe’s Bayou Recreation Area. He continued that they brought up the concerns voiced by several Council members and some members of the public regarding a Phase 2 Environmental Study and potential tanks that were not registered. Mr. Pearce believes he could work the Phase 2 Environmental Study along with at least a search for potential underground tanks into their engineering design plans, which would save the City some money.

Motion by Councilmember Overdier, seconded by Councilmember Marler, to direct the City Manager to request inclusion of Phase II ESA in the design engineering consultant’s contract for the planning design and permitting of Joe’s Bayou for which FDEP is in the process of selecting, passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

H. Inventory of City-Wide Rights-of-Ways (ROW) with Waterfront

According to Community Development Director Louis Zunguze, there are 13 rights-of-way with waterfront access in the City of Destin. He recommends the City Council authorizes the City Land Use Attorney to prepare an ordinance prohibiting the vacation of these rights-of-ways and bring it back the first Council meeting in July.

Councilmember Ramswell asked staff to check on the status of several rights-of-way that are missing from tonight’s list but were included on the prior list, or those that were previously discussed by Council, such as:

- Shore at Crystal Beach
- Sterling Shores
- Barracuda
- Norriego Point
- Osteen
- Crystal Beach Drive
- Tarpon

Mr. Zunguze explained that the list provided to Council tonight contained those rights-of-way they could find in their files; adding they may have been some to which they do not have any documentation. They will review the above list provided by Councilmember Ramswell to determine whether the areas listed are public rights-of-way; and if so, they will be included on the list.

Councilmember Ramswell also mentioned she has forwarded information to Mr. Zunguze and the Deputy City Manager on May 12th about a property for sale at 770 Harbor Blvd, which is a beautiful property with lots of harbor access and potential for a dock or a marina. She added it may be something this Council is potentially interested in pursuing.

Councilmember Ramswell moved to direct the City Land Use Attorney to prepare an ordinance prohibiting the vacation of rights-off-way with waterfront access within the City for first reading on July 6, 2020 and to direct the City Clerk to advertise the ordinance accordingly. Councilmember Morgan provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

I. Follow up discussion regarding Fisher Report dated May 11, 2020

The City Manager explained that staff presented the Fisher Report to Council at their last meeting and they are bringing it back to Council to ensure there are no additional questions, concerns, or directions regarding the report.

The Mayor noted that according to the report, they could either continue the same path in getting the City’s Land Development Code in line with their Comprehensive Plan. And if the Council would like to be more concise and concrete, they could do a voter referendum to change the City Charter.

Councilmember Destin stated that the average citizens have lost their voice in government with regards to the City’s growth and development perhaps almost 20 years ago, and they should have it back. The electors should be the final decision makers on big growth and to have a say in charting their own destiny going forward. There are two options they could pursue with regulating building heights and densities in the City of Destin. .

Councilmember Destin moved to direct the City Attorney and City Land Use Attorney to draft an ordinance of ballot language for the next general election which would seek to amend the City of Destin Charter provision by setting the maximum building height in the City at the current height limit of 6 stories in accordance with the comprehensive plan, and that any applications that seek to exceed that limit shall only be permitted by 60% approval of the Destin electorate through a referendum, and to bring the ordinance for first reading on July 6, 2020. Councilmember Morgan provided a second to the motion. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

J. Crosstown Connector Update

The City Manager noted that the City Council instructed City staff to work with their current engineer to redesign the land acquisition at the Azalea Drive and Benning Drive intersections to ensure only a two-lane road is built. Staff plans to bring the necessary information from Atkins Engineering and present necessary amendment and resolution to extend the contract with Atkins Engineering at the next Council meeting.

K. Gulf Power Streetlight Inventory Update, Outage Update

According to the City Manager, of the 101 streetlights that were originally reported as being out, 39 remained out of service during a follow-up inspection a few weeks later. These 39 lights were then re-reported to Gulf Power. As of Thursday, June 11th, only 10 lights remain out of service.

Councilmember Ramswell mentioned that a few years ago, at the request of Councilmember Menchel who was the Chairman of the Public Works/Safety Committee at the time, the City received a list from Gulf Power which included a lot of lights that were private and for which the City should not be paying. She asked if the City has performed audit to determine if there were any items on that list that are included on this list.

Mr. Burgess replied they are taking the GIS information and plotting that against the map. They should be able to determine where these poles are located and see if they are in the City's rights-of-way that are within private property.

L. Henderson Beach/Commons Drive Streetlight Update

The City Manager noted that Gulf Power forwarded the City a new customer service agreement to endorse as well as a rate plan for the new streetlight. Before the streetlight can be installed, the signed contract and installation payment must be provided to Gulf Power. The check for the initial installation costs was cut on Friday June 12.

M. Joe's Bayou ROW Encroachments Update

The City Manager reported that the Joe's Bayou right-of-way encroachment is currently under investigation by the City's Code Compliance Department. He is not aware if any of these items will end up at the Special Magistrate level. The Department will finish their investigation and then take action as needed.

N. Towing Rotation Update

According to the City Manager, staff is working with the Sheriff's Office to use some of their forms so they could get their towing rotation in place. This would simplify the process for staff so that they could actually tow when necessary.

Councilmember Menchel pointed out the staff report refers to "*tow rotation application and last updated inspection.*" He asked to which the latter was referring.

The City Manager explained it stood for the vehicle being inspected and the drivers of those vehicles being vetted.

Code Compliance Manager Joey Forgione explained they plan to use the wreckage service that is in good standing within the community. The Sheriff's Office inspects the drivers and their vehicles once a year. The City will utilize that and create its own wrecker service rotation.

Councilmember Menchel inquired as to the completion date for this initiative.

Mr. Forgione stated he expects it to be totally completed and ready to go by July 1st.

O. Announcements

The City Manager made the following announcements:

- 1) Independence Day Fireworks on July 4th, 9:00 PM at east Pass.
- 2) City facilities will be closed on Friday, July 3rd in observance of July 4th holiday.
- 3) Workshop: Norriego Point Park Embayments on Tuesday, June 23rd at 6:00 PM.
- 4) Workshop: Budget workshop #1 on Monday, June 29th at 5:30 PM.
- 5) Paid parking program south of Hwy. 98 is scheduled to go live on July 1, 2020.

5. PUBLIC HEARINGS

A. Second reading of Ordinance 20-20-CN - Provides for City Council approval of a contract for lease of real property owned by the City to the Destin Fire Control District.

The City Attorney read Ordinance 20-20-CN by title, and then presented it to the City Council on second reading.

AN ORDINANCE OF THE CITY OF DESTIN OF OKALOOSA COUNTY, FLORIDA, RELATING TO THE LEASE OF CERTAIN REAL PROPERTY OWNED BY THE CITY; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDING OF FACT; PROVIDING FOR CITY COUNCIL APPROVAL OF A CONTRACT FOR LEASE OF THE PROPERTY TO THE DESTIN FIRE CONTROL DISTRICT; AND PROVIDING FOR AN EFFECTIVE DATE.

The Mayor opened a public hearing to receive comments for or against the proposed ordinance.

Ms. Teresa Hebert, Parks and Recreation Committee Chair, stated that the committee was unable to meet for 3 months. When they finally met last week, it marked the first time they have heard of the Destin Fire Control Station being charged a dollar a year lease for a fire station facility at Clement Taylor Park. The committee had a prior discussion of this issue when the park was a part of an official grant and that the fire station would not be allowed in the park. The committee as well as the many citizens who attended the meeting feel this issue should be tabled until the Parks and Recreation Committee had a chance to meet again and receive more feedback from citizens.

Councilmember Braden recommends tabling this issue and scheduling a workshop to provide everyone more time to discuss this issue.

Councilmember Braden moved to table this item; seconded by Councilmember Ramswell. Motion passed 5-2 (Council members Morgan, Destin, Menchel, Ramswell and Braden voted “yes”; Council members Marler and Overdier voted “no”).

Motion by Councilmember Braden, seconded by Councilmember Menchel, to direct staff to schedule a workshop session to discuss this matter passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

Councilmember Menchel wants to make sure the Destin Fire Control District is invited to attend the workshop.

After a brief discussion, it was the consensus of the Council to allow the public to comment on this issue even though it was tabled.

Mr. Alan Osborne suggested leasing the piece of land in front of the Eglin Beach Club and relocating the fire department in that area, which is also closer to Crab Island, therefore response time will be quicker.

Councilmember Destin pointed out the jurisdiction of the Destin Fire Control District does not extend out to that area.

Mr. Christian Meyers, a Destin resident, stated they certainly want to give the firefighters what they need because they have a hard job and they are considered heroes. However, a fire station does not belong in the park. He further stated that over 130 people posted on Facebook agreeing with his opinion, and he asked the Council to consider them as well.

Ms. Beth Pike, a Destin resident, stated that the proposed change to the park is quite personal to her and to a lot of people. Clement Taylor Park has been a place of happy events and a piece of Destin history and it should be preserved. She does not feel every idea with regards to the fire station has been exhausted. If they need a place to park a fire boat, she suggests renting a slip closer to Crab Island. The Coast Guard can also respond to emergencies. She urged the Council not to allow a fire station facility to locate at Clement Taylor Park for the benefit of the citizens.

Mr. Matthew Sweetser, a Destin resident and member of the Parks and Recreation Committee, stated that they support the fire department they know they need to locate a fire station on the west side of town, but just not in the park. They need to exhaust all efforts to find another place to put it.

Ms. Tina Captain, a Destin resident, urged the Council not to place a fire station at Clement Taylor Park and consider a more industrial-friendly location for the station. Aside from the noise that would emanate from the fire station while children play, there is a risk of gas, oil and other chemicals from the fire station running off into the bay.

Ms. Marcie Bell, a Destin resident, noted there are other viable options to place a fire station, such as at the Destin Community Center location.

Ms. Gayle Shirah Roy, a Destin resident, stated that the park has a sentimental value to her. Her children and grandchildren who are all grown have enjoyed it. He stated that leasing a portion of the park to the fire department would be a liability to the City. The sirens going off and the noise from the fire trucks leaving the fire station would surely upset the children playing in the park. It would also be dangerous to all the people in the park. She also wants to know whether the City or the fire department pays for the submerged land lease.

Ms. Glenda Marler Kemp, a Destin resident, stated she is disappointed to hear the City is considering allowing a fire station in Clement Taylor Park. They have a lot of memories in that park and that she is afraid the fire department would ultimately take over the whole park. She asked the Council not to allow it to happen.

Ms. Carrie Harbarger, a Destin resident, asserts that the Destin Fire Control District has as much money as the City and that she does not understand the reason the City has to provide for them. She asked the Council to stop surrendering land belonging to the people who were born and raised in Destin. She would also like to encourage the fire department to show up at the workshop with information about their budget and a plan, and the City provide the reason the City must bear any expenses.

Mr. John King, a Walton County resident and former Destin resident, pointed out that the City recently bought another property right around the corner from the park. He suggests relocating the fire station to that property. He added that the City should not be giving away anything as they need more park space.

Capt. Jim Green, a Destin resident and member of the Harbor CRA Advisory Committee, expressed his support for putting a fire station in the park. He stated that this issue was brought before his committee last year and the committee spent quite a bit of time making recommendations to the design of the park that would include the fire station. He stated that having a fire station who can respond to emergencies on land or water at a moment's notice far outweighs the small piece of land the City is giving them. He added that the fire station facility and the dock will be paid for by the fire department impact fees and not the City's ad valorem taxes.

Mr. Mike Buckingham reported that personal attacks have been made on him because of this matter which he does not deserve; adding there are plenty of ways to settle this issue without having to get into personal attacks such as the discussions they are having this evening. He stated that he does not have all the answers tonight but scheduling a workshop to further discuss this issue is a great idea. He then called upon DFCD Commissioner Jack Wilson to explain the financial aspects of this initiative.

Commissioner Jack Wilson noted that all the money belongs to the taxpayers, and that the taxpayers for the City of Destin are the same people as the taxpayers for the fire department. He also stated that the rumor the fire department has \$10 million in cash is false, and that their balance sheet which is online and available to the public will prove it. They have \$8.8 million by

the end of May, and \$3.5 million of which they would spend for the rest of this year and \$5.3 million will stay in the reserve for emergency expenses. Some of this money could only be used for assets and not for operating expenses. It would make a lot of sense to have two government entities work together and come to some plan to benefit the taxpayers.

Councilmember Braden noted that the fire department bought a piece of property when they moved from Stahlman Avenue to Airport Road; and then again when they put up a fire station at Crystal Beach. He does not understand why they need the City this time to provide them the land to put up a fire station on Calhoun Avenue.

Councilmember Marler noted that someone offered the fire department a property on Calhoun Avenue for \$900,000, which if they bought it they would be using taxpayers' dollars. He continued that all the money involved here belongs to the taxpayers. It would make more sense to have the fire department work out a lease agreement with the City who owns a property on Calhoun Avenue and is willing to donate a small piece of that property. He also looks at it from the standpoint of safety. Right now, the response time to get to the areas around Calhoun Avenue and Kelly Street is approximately 10 minutes depending on traffic and having a fire station nearby would effectively reduce this response time. He further stated that this issue has gotten out of hand with friends and relatives arguing with each other.

Mr. Buckingham noted there was a property on Zerbe Road the fire department was interested in purchasing several years ago, but City staff informed them they needed that piece of property and that the City has been trying to obtain it for quite some time and recommended the Marler Street parking lot. There was a corner property that was available at that location which the fire department could purchase and build a fire station, but things did not work out. The fire department looked at another property on Stahlman Avenue, but they could not move there because there was not enough parking available. The parking lot behind it belongs to the Community Center's overflow parking. He added it was at this time City staff recommended a spot at Clement Taylor Park.

Mr. Jim Bagby noted there was a simple plan to place a fire boat at Clement Taylor Park, but that plan has since been blown up to include an entire fire station. He pointed out there is a fishing museum, a Sheriff's substation and a Community Center located on Stahlman Avenue. He feels there is enough acreage there to include a fire station. He added it would be a mistake to put a fire station on a bayfront park.

B. First reading of Ordinance 20-19-CC - Amends Article II (Noise) of Chapter 14, offenses and miscellaneous provisions of the Code of Ordinances

The City Attorney read Ordinance 20-19-CC by title, and then presented it to the City Council on first reading.

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO CONSTRUCTION NOISE; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT TO ARTICLE II (NOISE) OF CHAPTER 14, OFFENSES AND MISCELLANEOUS PROVISIONS OF THE CODE OF ORDINANCES,

PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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

Motion by Councilmember Braden, seconded by Councilmember Marler, to approve proposed Ordinance 20-19-CC on first reading and direct the City Clerk to advertise it for second reading passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

Following this item, the next item discussed was agenda item 4A under City Manager Reports section of the agenda.

6. CONSENT AGENDA

- A. Amendment No. 1 to Contract By and Between City of Destin, Florida and Live Flyer, Inc.
- B. Batting Cages/Pole Barn: Dalton Threadgill Park
- C. Acceptance of Insurance Claim for Emergency Replacement of Damaged Server and Network Equipment
- D. COMPASS System (Energov) Monthly Update
- E. Fee Schedule Update and Resolution
- F. Extensions 9 and 10 to the Amended Declaration of State of Emergency
- G. Proposed Bert Harris Settlement Agreement for 92 Pompano
- H. Proposed Bert Harris Settlement Agreement for 82 Shirah
- I. Proposed Bert Harris Settlement Agreement for 93 Tarpon
- J. Proposed Bert Harris Settlement Agreement for 3425 Scenic Highway 98
- K. Proposed Bert Harris Settlement Agreement for 4782 Ocean Blvd.
- L. Proposed Bert Harris Settlement Agreement for 4659 Destiny Way.
- M. Proposed Bert Harris Settlement Agreement for 3485 Scenic Highway 98.
- N. Proposed Bert Harris Settlement Agreement for 4722 Ocean Blvd.
- O. Proposed Bert Harris Settlement Agreement for 4729 Ocean Blvd.
- P. Proposed Bert Harris Settlement Agreement for 3467 Scenic Highway 98.
- Q. Proposed Bert Harris Settlement Agreement for 112 Sandprint Circle.
- R. Proposed Bert Harris Settlement Agreement for 3 Magnolia.
- S. Proposed Bert Harris Settlement Agreement for 8 Magnolia
- T. Proposed Bert Harris Settlement Agreement for 75 Shirah
- U. Proposed Bert Harris Settlement Agreement for 83 Woodward
- V. Proposed Bert Harris Settlement Agreement for 85 Woodward
- W. Proposed Bert Harris Settlement Agreement for 4443 Clipper Cove
- X. Proposed Bert Harris Settlement Agreement for 627 Gulf Shore
- Y. Proposed Bert Harris Settlement Agreement for 2968 Scenic Highway 98
- Z. Proposed Bert Harris Settlement Agreement for 78 Hutchinson
- AA. Proposed Bert Harris Settlement Agreement for 80 Hutchinson

Councilmember Ramswell requested that Consent Agenda item 6X (627 Gulf Shore) be pulled for discussion.

Councilmember Destin moved for approval of Consent Agenda items 6A thru 6AA, with the exception of item 6X, subject to removal of the statement in Section 2A of the Settlement Agreement for items 6G thru 6Q to be in conformance with items 6R and 6AA, recognizing that all of these properties remain subject to all other applicable City ordinances and codes. Councilmember Marler provided a second to the motion.

Councilmember Overdier asked what happens if proposed settlement agreements are not approved.

According to the Land Use Attorney, if a proposed settlement agreement is rejected, they could go back and continue trying to negotiate. The other parties could always file a lawsuit if they want.

Councilmember Overdier noted that most of the numbers are quite reasonable. There is only one that wanted to put about 6 people per bedroom.

The Land Use Attorney explained that the ordinance Council adopted had a formula of 2 people per bedroom plus 4 more people. The direction was in negotiating the settlement agreement, they could use that formula, or they could go with one person per 200 square feet to give greater occupancy. He added that the Building Official inspected those that were asking for higher occupancy they were initially getting. There are some that did not make it to this agenda because they did not pass the life safety inspection of their property.

Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

Discussions related to consent agenda item 6X – 627 Gulf Shore – follows. Councilmember Ramswell expressed concern in allowing a home to have an occupancy of 40 when their own code defines a hotel as having 25-person occupancy or more. She continued this is one of those properties with bunkbeds in the hallways. It was originally listed on Property Appraisal’s Office as a 7- or 8-bedroom home. It now has 11 bedrooms; and supposedly there was no permit issued changing those numbers. It is supposed to be a single-family home located in a single-family neighborhood.

The Land Use Attorney noted this house is 11, 913 square feet. Using the calculation of one person per 200 square feet, it equates to 59.5 people. The property owner is only requesting 40 people. She added that this house was not inspected because they were not asking for an occupancy greater than what the formula would provide. They could go back and ask if they would allow a life safety inspection of the property if that is the will of the Council.

Councilmember Destin moved to table Consent Agenda item 6X (627 Gulf Shore) and instruct the City Land Use Attorney to engage the owner and, if possible, conduct a life safety inspection of the property and bring results back to Council. Councilmember Marler provided a second to the motion.

Councilmember Ramswell inquired if these properties require to have a commercial sprinkler system.

According to the Land Use Attorney, it would depend on when the property was built. The most recently built home such as those on Hutchinson Street are all sprinkled because it is required on all properties 3-stories or more.

Building Official Noell Bell noted that under the Public Lodging section of Florida Statute states that all public lodging facilities shall be sprinkled if they are of 3-stories or more. According to the Building Code, public lodging facilities such as hotels and condominiums are required to have a sprinkler system.

Councilmember Ramswell maintains that since the property in question has been modified, it would need to fall under the current code.

The Land Use Attorney stated they would look at all the files, request a life safety inspection and provide Council all the details.

Councilmember Marler stated they need to know the exact criteria for a single-family residence.

According to Mr. Zunguze, they are finishing up a study in this regard and would have something for Council to look at by the second meeting in July.

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

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

A. Councilmember Braden

Councilmember Braden reported a large pothole on Calhoun Avenue in front of the Destin Little League Park and a road sign missing at the intersection of Calhoun Avenue and Harbor Blvd. He also requested a copy of the engineering report on the harbor pump.

B. Councilmember Ramswell

Councilmember Ramswell asked whether the annual Sunshine and Public Records Law refresher training which was to commence in June had commenced.

According to the City Clerk, the City Attorney has started provided training a week ago and will continue to attend board and committee meetings throughout the month of June and July to complete the training for this year.

Councilmember Ramswell asked staff to extend an invitation to helicopter operators to have a representative attend a meeting and discuss their operations with the public since they are starting to receive complaints from citizens about helicopters hovering over the City.

According to the City Manager, they have previously extended the invitation, however COVID-19 has put most of these federal agencies from home and they just do not have access to them at this time.

Councilmember Ramswell requests status of previous plan to install a French drain or add sand to solve flooding problem at the front section of Indian Bayou.

Mr. Zunguze stated that staff will give a presentation on the Stormwater Master Plan at the July meeting that will cover this area.

Councilmember Ramswell requests status update on the Zerbe/Calhoun Pedestrian Pathway.

Mr. Burgess stated that Zerbe/Calhoun Improvements phase one is a pathway from the Destin Community Center down to Clement Taylor Park and Zerbe/Calhoun Pedestrian Improvements phase two is the boardwalk under the bridge. The bid package for Zerbe/Calhoun phase one is currently being advertised.

Councilmember Ramswell asked if they were able to address the issue regarding the harbor pump vibration which causes the pump to shut down.

According to Mr. Burgess, they had engineers from Baskerville-Donovan that came over and observed the pump in action. They have discovered a situation where air is being sucked into the pump causing a problem similar to cavitation. They have been asked to prepare a report with their recommendation. They have received a proposal and forwarded it to the City Manager for discussion.

Councilmember Ramswell noted that the Norriego Point submerged land lease has been merged with the embayment issue at least on the tracking chart. She would like for those two issues to be separated.

Councilmember Ramswell requested an update on the traffic signal synchronization plan on US Hwy 98.

Mr. Burgess noted they have contacted one of their continuing services engineers and asked them to prepare an estimate for updating their traffic counts from the Marler Bridge through Airport Road. The County has already provided them the timing programming for the various intersections. They have provided a quote which he would be discussing with the City Manager

C. Councilmember Menchel

1) City Council Workshop Norriego Point Embayment

Councilmember Menchel inquired as to FDEP's response to the City's invitation to attend the workshop session on Norriego Point embayment.

According to the City Manager, they have extended an invitation but has not heard from FDEP about sending a representative to the workshop.

Councilmember Menchel moved to cancel the Norriego Point embayment workshop and authorize the Mayor to send a letter to the FDEP Secretary asking for his assistance to have a representative attend the workshop, and not schedule the workshop until FDEP agrees to send a representative. Councilmember Braden provided a second to the motion.

Councilmember Ramswell stated she seriously doubt if FDEP will send a representative to the workshop because they were almost issuing the City a directive with their letter. She recommends going forward with the workshop to at least get the public's input..

The Mayor called for a vote on the motion, which fails 3-4 (Council members Morgan, Menchel and Braden voted "yes"; Council member Destin, Marler, Overdier and Ramswell voted "no").

Councilmember Menchel asks for a more aggressive enforcement of the illegal parking at James Lee Park from the Sheriff's Office.

Councilmember Menchel asked staff to use some tapes to mark off the footprint of proposed firehouse location at Clement Taylor Park for the public to see to help avoid misinformation; and to have photos available during the workshop on this subject.

- D. Councilmember Overdier
- E. Councilmember Marler
- F. Councilmember Destin

Councilmember Destin suggests they start thinking of ways to protect their parking at Leonard Destin Park once they open the park to discourage people from parking there.

- G. Councilmember Morgan
- H. Mayor Gary Jarvis
- I. Land Use Attorney
- J. City Attorney

1) Legal review of the City of Destin Code of Ordinances Part 1 (Charter) Section 3.09 to identify the language needed and process required to remove a City Council member or Mayor from office for violations identified in Section 3.09 - Update

The City Attorney stated they plan to bring this item back in July.

8. PUBLIC COMMENTS

Ms. Marcie Bell noted that some of the rooms they are seeing online regarding short-term rentals contain Queen-size bunk beds. It is not two set of bunk beds that sleep 4 people but two sets of bunkbeds that sleep 8 people. Also, having garbage outside the garbage cans which they previously discussed is happening again causing a really bad situation on Holiday Isle and Crystal Beach. Finally, there is a short-term rental property on the street she lives in which is a two-bedroom house. There were 12 people in that house this past weekend.

ADJOURNMENT:

Having no further business at this time, the meeting was adjourned at 10:10 PM.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk

**MINUTES
REGULAR MEETING
DESTIN CITY COUNCIL
APRIL 6, 2020
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 Parker Destin
Councilmember Rodney Braden	Councilmember Skip Overdier (Virtual)
Councilmember Cyron Marler	Councilmember Steven Menchel (Virtual)
Councilmember Prebble Ramswell	Councilmember Chatham Morgan

Destin City Staff

City Manager Lance Johnson	City Clerk Rey Bailey
Public Info Manager Catherine Card	Deputy City Manager Webb Warren
Code Compliance Manager Joey Forgione	Julio Lezcayo, GSG Inc.
Parks/Recreation Director Lisa Firth	Grants/Project Manager Jeffery Cozzard
Public Services Director Michael Burgess	IT Manager Matthew Pace
City Land Use Attorney Kimberly Kopp	City Attorney Kyle Bauman

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Gary Jarvis called the meeting to order at 6:00 PM. Pastor Steve Farris gave the invocation, which was then followed by the recitation of the Pledge of Allegiance.

AGENDA APPROVAL

Councilmember Marler requested that the topic “Time-off for City staff” be added under his name on the agenda

Councilmember Destin requests the following changes be made to the agenda:

- Add the topic “National coalition of fishermen” under his name
- Add the topic “Use of public facility for charity distribution of food for the needy” under his name
- Pull 4C1 (a) and (b) and continue to the next meeting

Councilmember Menchel requested that Consent Agenda item 6B be pulled for discussion

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

1. APPROVAL OF MINUTES

A. Approval of minutes of March 20, 2020 Special City Council Meeting

Motion by Councilmember Ramswell, seconded by Councilmember Marler, to approve minutes of March 20, 2020 Special City Council Meeting passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

B. Approval of minutes of December 16, 2019 Regular City Council Meeting

Councilmember Ramswell moved for approval of minutes of December 16, 2019 Regular City Council Meeting; seconded by Councilmember Marler. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

C. Approval of minutes of December 2, 2019 Regular City Council Meeting

Motion by Councilmember Ramswell to approve minutes of December 2, 2019 Regular City Council Meeting was seconded by Councilmember Morgan and passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

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

A. Fiscal Year 2019 Comprehensive Annual Financial Report, presented by Joe Klimek, Partner – EFPR Group, LLP Certified Public Accountants

Mr. Joseph Klimek of EFPR Group, LLP, presented the following report for the City of Destin, for the fiscal year ending September 30, 2019.

- The City of Destin remains in strong financial position as of the end of Fiscal Year 2019. The financial statements of the City fairly represent all material aspects of the financial position of the City
- Unqualified or “clean” opinions were issued on the City’s financial statements, including government-wide financial statements, the City’s fiduciary pension funds, general fund and its 9 major funds
- The City is in compliant with Florida investment policies and statutes
- No material weaknesses or significant deficiencies were noted in the City’s internal controls over financial reporting or in the City’s compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts
- For the fiscal year ending 2018, the City once again received the Government Finance Officers Association Excellence in Financial Reporting for the 24th consecutive year

- Management provided everything that was asked for in a timely manner and management agreed with the audit adjustment proposed to defer sidewalk revenue until the expenditures are incurred in future years
- At the City-wide (full accrual) level, revenues exceeded expenses by \$3.3 million. Revenues increased \$1.1million due to increased intergovernmental revenues. Expenses decreased \$0.4 million due to a decrease in capital outlay expenditures. Net position at September 30, 2019 is \$112.9 million, including \$88.8 million invested in capital assets. The City is in fine fiscal condition
- At the general fund level, there was an increase in general fund balance of \$3.6 million. Revenues increased \$1.0 million due to increased intergovernmental revenues and taxes due to an increase in assessed value. Expenditures increased by \$0.2 million., primarily due to an increase in transportation and public safety expenditures
- Unassigned general fund balance has increased \$3,131,028 to \$10,040,295 at September 30, 2019

Referencing the portion of the report that states, *“No material weaknesses or significant deficiencies were noted in the City’s internal controls over financial reporting or in the City’s compliance with certain provisions of laws, regulations, contracts and grant agreements, noncompliance with which could have a direct and material effect on the determination of financial statement amounts”* Councilmember Menchel pointed out there have been some discrepancies identified in some of the City’s continuing services contract, and that they have established some procedures which are a work in progress. He also noted that to receive the award for Government Finance Officers Association (GFOA) Excellence in Financial Reporting, all a City has to do is submit an application along with the fee, and complete a comprehensive annual financial report to obtain the certificate from the GFOA. He also stated that he has previously discussed this matter with the City Manager and expressed his opinion that this award is disingenuous, it is a waste of taxpayers’ money and should not have been included in this report.

Mr. Klimek responded that the GFOA has a 145-page checklist which they go through every year to make sure that a city is in compliance with the generally accepted accounting principle which determines if the city is deserving of the award.

Councilmember Ramswell noted that the report did not include any recommendations as there have been in the past.

According to Mr. Klimek, they have made recommendations in the past such as the City establishing a fund balance policy. All their past recommendations have been addressed by the management of the City. They do not have any new recommendations to report for the fiscal year ending September 2019.

Councilmember Menchel moved to accept the Fiscal Year 2019 Audit; and in addition, the City will not submit further applications to the Government Finance Office Association for the Certificate of Achievements for Excellence in Financial Reporting Award without City Council’s approval. Councilmember Braden provided a second to the motion.

Councilmember Destin stated he would need to do a bit more research on this issue before he could support this motion.

Councilmember Menchel stated that the Council would be in a better position to provide direction when the next application for the award becomes due.

Motion failed 3 to 4 (Council members Menchel, Ramswell and Braden voted “yes”; Council members Overdier, Marler, Destin and Morgan voted “no”).

Councilmember Ramswell moved to accept the Fiscal Year 2019 Audit; seconded by Councilmember Marler.

Councilmember Braden expressed that he supported the previous motion because he feels they have a lot of issues they need to resolve before applying for the award again.

Councilmember Overdier stated that he agrees with Councilmember Destin in continuing to evaluate this award to determine if it is a valuable tool and that there is some merit to it.

Motion passed 5-2 (Council members Morgan, Destin, Marler, Overdier and Ramswell voted “yes”; Council members Braden and Menchel voted “no”).

B. Destin Fire Control District Request

Mr. Mike Buckingham, Destin Fire Control District Board member, presented the phase two drawings of the west end substation fire department’s proposal regarding the Clement Taylor Park. He stated that since the Trust for Public Land has approved funding for the park to include this proposal, he asks for Council’s approval for all the legal counsel to get together and work on the lease agreement to bring back for Council’s approval.

The Mayor asked if the Fire Control District will be responsible for the construction of their facility if the lease is approved by Council; to which Mr. Buckingham replied affirmatively.

Councilmember Ramswell inquired as to the size of the facility.

According to Mr. Buckingham, it will be two stories and less than half the size of the station on Airport Road.

Councilmember Overdier asked if they plan to have a fire boat on the dock.

Councilmember Buckingham stated it would be part of phase 3. They plan to confer with City staff and the Parks and Recreation Committee to determine the proper location for the boat.

Councilmember Menchel asked what they would do with the remaining footprint if placement of the fire station is not approved in the park.

The City Manager noted that the original concept drawing showed that portion of the park to be additional parking for the facility.

Councilmember Destin moved to direct the City Attorney and City Land Use Attorney to work with the attorneys for the Destin Fire Control District on a lease agreement for Clement Taylor Park and bring it back for Council's approval consideration; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

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

Mr. Ron Adams, a Destin resident, urged the Council to start planning for safe reopening of businesses now rather than waiting for the Governor's decision before doing so to be better prepared once a decision is made.

4. CITY MANAGER REPORTS

A. Resolution 20-07 Ratifying Extension Number 2 of the Declaration of State of Emergency

The City Attorney explained that the City Council previously directed the City Manager to issue extension number 2 to the Declaration of State of Emergency. The City Manager subsequently issued extension number 2. Resolution 20-06 further subject extension number 2 to ratification by the City Council. Proposed Resolution 20-07 ratifies the issuance of extension number 2. He recommends the City Council provides pre-approval to the City Manager to avoid having to bring back a resolution at every meeting; in which case, Section 3 of proposed Resolution 20-07 which currently reads, "*Future Extension of the Declaration of State of Emergency shall be subject to ratification and affirmation of the City Council*" would have to be amended to read, "*Future Extension of the Declaration of State of Emergency shall be subject to pre-approval of the City Council.*"

Councilmember Ramswell moved for approval of Resolution 20-07, as amended in section 3 of the resolution, and direct the Mayor to execute the resolution was seconded by Councilmember Destin and passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

B. Request Approval to submit Tourist Development Department Operational & Capital Funding Requests to the Okaloosa County Tourist Development Council

The City's Grants and Program Manager Jeffery Cozadd noted that City staff has prepared two TDC funding requests. It includes a request for the TDC to provide funding for additional public safety services due to the increased amount of tourism that the City has been experiencing. The first request is for Destin Park Operation and Maintenance expenses, and the second is for additional public safety services through the Sheriff's Office and Destin Fire District. Applications are due April 10, 2020. The Park Operation and Maintenance request is a recurring funding request that has been made annually since 2015. The public safety services request is a new request that originated from Council concerns regarding insufficient public safety services in the City's more frequented tourist areas. Florida Statutes allow for 10 percent of tax revenue received to be used to reimburse expenses incurred in providing public safety services which are needed to address impacts related to increased tourism and visitors to an area.

Councilmember Destin noted there have been some anticipated shortfall in bed taxes in 2020 due to the loss of March, expected loss of April, and quite possibly a portion of May. They are projecting a decrease in bed tax revenue of about 35 percent. It would quite possibly result in some cuts in everybody's request.

Motion by Councilmember Destin, seconded by Councilmember Ramswell, to authorize City staff to move forward with the Tourist Development Department Operational & Capital Funding Requests through the Okaloosa County Tourism Development Council and submit requests by the April 10, 2020 deadline passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

C. Announcements:

The City Manager made the following announcements:

1. Capt. Royal Melvin Heritage Park Status Update:
 - a) Rebidding required under 2CFR200 (2 bids required/only 1 received)
 - b) Bid packet is being finalized and will be advertised when all documents are prepared.

Discussion of this item is continued to the next meeting.

2. COVID-19 Updates

- a) Staff Travel/Conferences temporarily suspended.
- b) Current staffing vacancies will be considered on a case-by-case basis.
- c) Staff voluntary compliance with age and preexisting conditions precautionary measures.
- d) Policies addressing COVID19 being developed, implemented and evaluated.
- e) Municipal staff is classified as "essential personnel."
- f) We are adjusting staff schedules to minimize person to person contacts.
- g) To further minimize contact, additional staff are being allowed to telecommute.
- h) Staff is preparing estimated revenue losses associated with COVID19.
- i) Revenue loss impacts on projects is being evaluated.
- j) PIM continues to push out the most current COVID19 information to residents.

5. PUBLIC HEARINGS

6. CONSENT AGENDA

A. Reimbursement for Councilmember Skip Overdier for expenses incurred while attending Florida League of Cities 2020 Institute of Elected Municipal Official (IEMO) Level 3 course, from March 57, 2020, in Orlando, Florida.

- B. Draft Minutes of Standing Board/Committees
- C. Extensions 3 and 4 to the COVID19 Declaration of State of Emergency

Councilmember Marler moved to approve Consent Agenda items 6A and 6C, and pull item 6B for discussion, passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

Referencing the statement made by the Public Services Director in the Public Works/Safety Committee meeting minutes in consent agenda item 6B when discussing road striping, *“He informed the members that the City does not have a contract with a provider for road paint like they have for thermoplastic”*; Councilmember Menchel suggests that moving forward, the City look into getting some type of contract with a road paint vendor as well as with a thermoplastic vendor as this would save the City a lot of money.

Motion by Councilmember Menchel, seconded by Councilmember Marler, to approve Consent Agenda item 6B passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted “yes”).

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

A. Councilmember Braden

1) Development Review System Software Update

Councilmember Braden suggests City staff only provides a monthly update on this matter rather than doing it at every meeting.

2) Median Maintenance

Councilmember Braden requests City staff produce the documentation stating that the City is no longer responsible for maintaining the medians on US Hwy 98, between Airport Road and Marler Bridge, and that the FDOT contractor will take over that responsibility.

Councilmember Braden requested an update on status of the Request for Proposal (RFP) for construction of the Capt. Royal Melvin Heritage Park after the City received only one bid from the previous RFP.

Councilmember Destin noted he asked that agenda items 4C1 relating to this issue to be pulled at this time because he believes there are some legal questions on whether the project had to be re-bid, and the City’s attorneys need some more time to obtain some clarifications from the US Treasury.

According to the Land Use Attorney, there have been some staff changes at the US Treasury and some conversation that occurred with Okaloosa County and the US Treasury in

which the City and the City's attorneys were not involved. They would need to gather all this information and provide it to the Council on the next meeting agenda.

B. Councilmember Ramswell

1) Norriego and the removal of the swim rope to allow for boats

Councilmember Ramswell expressed her opposition to the removal of the swim rope to allow for boats in the Norriego Point embayments. She stated that all the public information meetings that were held, all the presentations they received from FDEP and other pertinent organizations, and everything that was said from day one indicated that these embayments were for swimming, and that boating would be limited to the other side of Norriego Point. She continued there was also a press release where former City Manager Carisse LeJeune discussed purchasing \$3,000 worth of buoys to be installed on the outer edge of each new embayment. There are minutes of meetings where this Council discussed the use of the new embayments and how they would be monitored and how boat parking will be restricted. They also include a statement from former City Engineer David Campbell that the deed states the conveyance is made and accepted with the covenant and understanding that the harbor side shoreline of the property shall remain accessible for the use and enjoyment of boaters. She asked staff to determine where they stand on this issue.

According to the City Attorney, he along with the Land Use Attorney, City Manager and Councilmember Destin, travelled to Tallahassee in October/November 2019 and discussed this issue with FDEP. From that discussion it became apparent that FDEP's position is that they would like to see all the embayments opened to boats as they believe it would maximize public access to Norriego Point; which in their view was the main criteria listed on the grant application when the City applied for funding for the Norriego Point restoration project. However, they do not seem to be 100 percent committed to that position, and there might be some changes the Council could make to the overall scope of the project. But until the Council takes action, there is not going to be openings of these embayments at all. He added that City staff has not formulated a final recommendation to Council at this time.

It was the consensus of the Council to have the City Attorneys and City Manager to send a letter to FDEP asking for their official position on this issue in writing, and then schedule a workshop, inviting representatives from FDEP, to discuss this matter.

2) Beach Joint Advisory Committee report (with Lisa Firth)

Councilmember Ramswell announced that this committee held their initial meeting in February, and that this meeting was very productive. There were five different entities represented at that meeting – Destin Fire Control District, Okaloosa County Sheriff's Office, Okaloosa County, City of Destin, and vendors. There were multiple conversations relating to issues on the beach and ways they could address these issues to improve things moving forward.

3) QJ procedure and general information document

Councilmember Ramswell recommends City staff establishes procedures that apply to both remote and regular meetings and share that information with the public.

The Land Use Attorney announced that the City Manager and staff are currently working on remote access procedures. Once that procedure is established, the City Attorneys will bring back Quasi-Judicial proceedings that would apply to both remote and regular meetings and educate the public.

4) Wayfinding signage for businesses blocked by US Hwy 98 construction

Councilmember Ramswell asked staff to determine if the City could provide the wayfinding signage for such businesses so they could be noticed and seen, or if it is something FDOT could provide.

5) Coordination with the County on unannexed development in Destin

Councilmember Ramswell asked staff to coordinate with the County to come up with a more uniformed policy on feathered signs to make things fair with everyone.

Next, Councilmember Ramswell noted an article in the paper about Governor DeSantis prioritizing and accelerating a list of 9 projects for infrastructure improvements in Florida worth billions of dollars; adding that the closest project in this area that made the list was in Panama City. She recommends asking the Mayor to send a letter to Governor Desantis encouraging him to consider the US Hwy 98 project among the critical infrastructure projects that are being fast-tracked per the Governor's direction. There were no objections from other members of the Council.

C. Councilmember Menchel

1) Code Compliance Issues

Councilmember Menchel spoke of the photographs he provided and added to the agenda packet that show different properties in Crystal Beach in violation of parking regulations. He stated that these photographs were taken after midnight, and that they provide justification for the City's Code Compliance Department expanding its hours and providing coverage after the midnight hours to enforce the regulation.

The City's Code Compliance Manager Joey Forgione stated they have modified their schedule to provide coverage 7 days a week, from 6:00 AM to 3:00 AM.

2) Paperwork/handouts from citizens being allowed at Quasi-Judicial hearings - discussion

Councilmember Menchel stated that the City needs to come up with a consistent policy going forward on accepting handouts from the public on Quasi-Judicial hearings to make sure guidelines apply to all meetings.

The Land Use Attorney noted this will be included in the Quasi-Judicial meeting procedures staff is creating.

3) City Contracts Internal Audit

Councilmember Menchel announced that the deadline for completion of internal audit of the City's continuing services contracts has been extended to May 18, 2020 per his discussion with the City Manager.

Councilmember Menchel also stated that he expects staff to be able to tell the Council later in the year why the CAFR application is needed and prove that it is not a "pay to play" proposition.

D. Councilmember Overdier

E. Councilmember Marler

Councilmember Marler moved to allow all City facilities to close and give staff a day off on Good Friday, seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

Councilmember Marler asked staff to place on the next meeting agenda under his name the re-scheduling of some of the upcoming City events, particularly Founder's Day

F. Councilmember Destin

Councilmember Destin moved for the City of Destin to join in with the national coalition of fishermen – both commercial and charter – and lend support to the fishermen's effort to come up with a unified voice when asking the federal government for assistance. Councilmember Ramswell provided a second to the motion, which passes 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

Councilmember Destin moved to have the City of Destin partner with the Destin Harvest and allow the use of the Morgan Sports Center parking lot for charity distribution of food and emergency resources for the needy; seconded by Councilmember Ramswell. Motion passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

G. Councilmember Morgan

1) Appointment of Mr. Eddie Morgan to the Harbor Capacity Study Steering Committee

Motion by Councilmember Morgan, seconded by Councilmember Destin, to appoint Mr. Eddie Morgan to the Harbor Capacity Study Steering Committee passed 7-0 (Council members Morgan, Destin, Marler, Overdier, Menchel, Ramswell and Braden voted "yes").

The Mayor asked that membership to this committee be expanded and for the Council to allow him to nominate Capt. Jim Green, President of the Charter Boat Association and member of the Harbor CRA Advisory Committee, to the committee.

Motion by Councilmember Destin to expand the Harbor Capacity Study Steering Group membership to 8 and allow the Mayor to nominate Capt. Jim Green, President of the Charter Boat Association, as a member was seconded by Councilmember Ramswell and passed 6-1 (Council members Morgan, Destin, Marler, Overdier, Menchel, and Ramswell voted “yes”; Councilmember Braden voted “no”).

H. Mayor Gary Jarvis

The Mayor announced that the 2020 Census is underway but only 21 percent of Destin residents have responded. He stated that the census number is critical to every community because the information is used for federal funding, establishment of hospitals, and school funding among other things. He urged everyone to take some time to fill out their census document and submit it.

I. Land Use Attorney

1) Request to call executive session pursuant to section 286.011(8), Florida Statutes, in the cases of Pointe Mezzanine, LLC v. City of Destin, Okaloosa County Court Case No. 2019CA004010 F, and Pointe Mezzanine, LLC v. City of Destin, Okaloosa County Court Case No. 2019CA003733

It was the consensus of the Council to schedule an Executive Session on April 20, 2020 at 5:30 PM.

F. J. City Attorney

8. PUBLIC COMMENTS

ADJOURNMENT:

Having no further business at this time, the meeting was adjourned at 8:30 PM.

Gary Jarvis, Mayor

ATTEST:

Rey Bailey, City Clerk



City of Destin

Proclamation

Parks and Recreation Month

WHEREAS, parks and recreation programs are an integral part of communities throughout this country, including the City of Destin; and

WHEREAS, our parks and recreation are vitally important to establishing and maintaining the quality of life in our communities, ensuring the health of all citizens, and contributing to the economic and environmental well-being of a community and region; and

WHEREAS, parks and recreation programs build healthy, active communities that aid in the prevention of chronic disease, provide therapeutic recreation services for those who are mentally or physically disabled, and improve the mental and emotional health of all citizens; and

WHEREAS, parks and recreation programs increase a community's economic prosperity through increased property values, expansion of the local tax base, increased tourism, the attraction and retention of businesses, and crime reduction; and

WHEREAS, parks and recreation areas are fundamental to the environmental well-being of our community; and

WHEREAS, parks and natural recreation areas improve water quality, protect groundwater, prevent flooding, improve the quality of the air we breathe, provide vegetative buffers to development, and produce habitat for wildlife; and

WHEREAS, our parks and natural recreation areas ensure the ecological beauty of our community and provide a place for children and adults to connect with nature and recreate outdoors; and

WHEREAS, the U.S. House of Representatives has designated July 2020 as *Parks and Recreation Month*; and

WHEREAS, the City of Destin recognizes the benefits derived from parks and recreation resources;

NOW, THEREFORE, BE IT PROCLAIMED THAT I, Mayor Gary Jarvis, on behalf of the Destin City Council, do hereby designate the month of July 2020 as *Parks and Recreation Month* in the City of Destin. We call upon park and recreation supporters to join us in recognizing the importance of our nation's parks and recreation.

SO DONE THIS 6TH DAY OF JULY 2020

By:

Gary Jarvis, Mayor

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020**TYPE OF AGENDA ITEM:** City Manager Report**TO:** City Council**THRU:** Kyle Bauman, City Attorney
Jeffrey Cozadd, Grants Manager
Krystal Strickland, Finance Director
Webb Warren, Deputy City Manager
Lance Johnson, City Manager**FROM:** Michael Burgess, Public Services Director**DATE:** 06/25/2020**SUBJECT:** Fire Safety Equipment, authorization for the City Manager to execute a contract

I. BACKGROUND: The City maintains a Continuing Services Contract for the routine inspection, maintenance and replacement of Fire Safety Equipment.

II. DISCUSSION: The Continuing Services provider will conduct annual fire safety inspections to include items like fire extinguishers, fire exit lighting, alarms, etc. In addition, semi-annual inspections of fire suppression systems (sprinklers & range hoods) are required.

The City currently has a Continuing Services Provider under contract for these services. An RFB was advertised in May to determine if an alternate firm was interested in providing these services. The Bid Committee, after weighing price and performance (among other factors), voted unanimously to recommend terminating the contract with the existing provider and to recommend to City Council that B&C be selected as the new vendor for these services.

The RFB, Contract and Price List from the Contractor are provided as ATTs 1, 2 & 3 respectively.

A. Link to Strategic Goals / Objectives: Organizational Excellence, Public Safety

B. Effect on Budget (EOB): Reduced cost in Fire Safety Equipment Inspection and Maintenance Costs

C. **Level of Service (LOS)**: This service provides surety that the City's buildings have adequate and functional fire safety equipment in the event of an emergency.

III. **CONCLUSION**: By passing this motion, the City Manager will be authorized to terminate the contract of the existing provider and to execute a contract for these services with B&C.

IV. **RECOMMENDED MOTION**: I move that the City Manager be authorized to terminate the Miscellaneous Alarm/Fire Safety contract with Advanced Protective Technologies and execute the attached contract for Miscellaneous Fire Safety Equipment with B&C Fire Safety, Inc. and issue a Notice to Proceed.

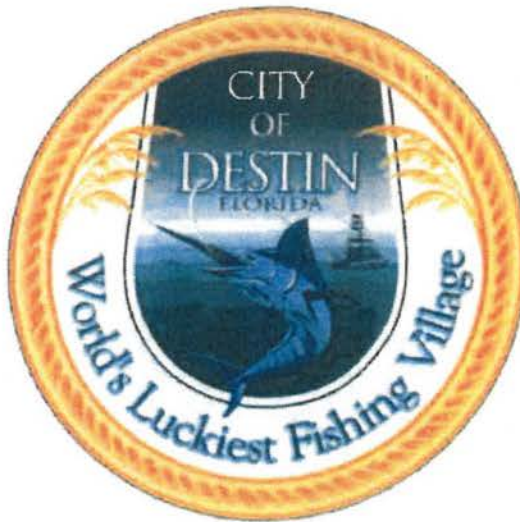
Attachments:

1. ATT1: 20-06-PS B&C RFB packet
June 2020
2. ATT2: Fire Safety Equipment
Contract Sep01 thru Sep30
3. ATT3: Exhibit A 20-06-PS B&C RFB
packet June 2020

CITY OF DESTIN, FLORIDA

REQUEST FOR BIDS (RFB) NO. 20-06-PS

MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT



City of Destin, Florida
April 29, 2020



Lance A. Johnson
City Manager
Phone (850) 837-4242
Facsimile (850) 837-3267
4200 Indian Bayou Trail
Destin, Florida 32541

BID CHECKLIST

The following items must be provided for your bid to be considered responsive

1. Completed bid form ✓
2. Years in business ✓
3. Location of business ✓
4. Previous Work experience ✓
5. Availability ✓
6. Copy of required Insurance documents ✓
7. Completed W-9 ✓
8. Copy of State license (if required for job) ✓
9. Copy of City license (if business office is in Destin) ✓
10. Completed Public Entity Form ✓
11. Completed Drug Free Form ✓
12. Addenda (if applicable) ✓
13. Bid Bond or Cashier's Check (if requested) ✓
14. Other documents as requested in bid package ✓

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8. Drug Free Workplace Certification (Attachment 2)	page 14

NOTICE TO BIDDERS

The City of Destin, Florida, is currently receiving sealed competitive Bids for a Miscellaneous Fire Safety Continuing Services Contract for City maintained properties for one year with the option for four additional one-year renewals not to exceed five years. The Scope of Work will include, but not be limited to miscellaneous fire safety services for City maintained properties to include providing all tools, machines, equipment, labor and incidentals necessary to complete the work. The successful Bidder shall be required to supply the City with copies of current Liability Insurance and Workmen's Compensation coverage. Bids must be received by the City Clerk's Office at the City of Destin, 4200 Indian Bayou Trail, Destin, Florida 32541, in a sealed envelope clearly marked **"RFB No. 20-06-PS, MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT"**, along with the name, return address and telephone number of the bidder, no later than 2:00 p.m. CDT, on Thursday, June 4, 2020 at which time they will be opened and read aloud. The City reserves the right to reject any and all Bids or portions thereof, to waive minor defects and informalities in the process, to accept the Bid(s) or take any other actions deemed by the City to be in the City's best interest.

Lance A. Johnson
City Manager

CITY OF DESTIN, FLORIDA

REQUEST FOR BIDS (RFB) NO. 20-06-PS

MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

- I. **PURPOSE:** The purpose of RFB No. 20-06-PS is to secure sealed Bids for providing fire safety services for city-maintained properties.
- II. **SCOPE OF WORK:** The Scope of Work will include general fire safety maintenance for city-maintained properties.
- III. **BID REQUIREMENTS:** Each Bid shall indicate, in the following order, the **mandatory** information outlined below:
 - A. Completed Bid Form (Exhibit A)
 - B. Number of years the firm has been in business
 - C. Location of Firm
 - D. Previous work experience
 - E. Current work commitments
 - F. Availability
 - G. Copies of required Insurance documents
 - H. Each Bid shall contain evidence of proper licensing to perform required services in the State, County, and City
 - I. Each Bid shall contain a completed Public Entity Crime Form (Attachment #1)
 - J. Each Bid shall contain a completed Drug Free Workplace Certification (Attachment #2)

Failure to provide any of the above listed mandatory information may result in the rejection of the Bid from consideration.

City of Destin, Florida

RFB No. 20-06-PS, MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

IV. SUBMITTAL REQUIREMENTS: Bids shall be submitted as follows:

- A. **Bid Form.** The Bid Form contained within this RFB shall precede the **mandatory** information required in **Section III. Bid Requirements**. Any additional information submitted in support of the Bid shall follow the required information.
- B. **Public Entity Crime Form.** Each Bid shall contain a completed Public Entity Crime Form (Attachment #1) pursuant to Florida Statutes, Section 287.132-133, providing that no public entity shall accept any Bid from or award any contract to, or transact any business in excess of the threshold amount for Category Two (\$35,000, per Florida Statutes, Section 287.017) for a period of thirty-six months from the date placed on the excluded vendor list.
- C. **Disclosure.** Each Bid is subject to the provisions of Florida Statutes, Chapter 112, providing that all Bidders must disclose with the RFB submittal the name of any officer, director, or agent who is also a public officer or an employee of the City of Destin. Further, all Bidders must disclose the name of any City officer or employee who owns, directly or indirectly, an interest of five percent or more in the Bidding firm.
- D. **Joint Ventures.** Firms submitting Bids as a joint venture shall submit to the City, as part of Bids, a copy of any joint venture agreement.
- E. **Drug - Free Workplace Program.** Preference may be given by the City of Destin to companies demonstrating a Drug-Free Workplace Program whenever two or more Bids, which are equal in respect to quality and service, are received and rated by the City. Bidders intending to demonstrate a Drug-Free Workplace Program shall provide a certification form (Attachment #2) with the RFB submittal.
- F. **Sealed Submittal Packages.** All Bids to be considered must be in the possession of the Destin City Clerk no later than 2:00 p.m. CDT, on Thursday, June 4, 2020. Bids may be mailed or delivered to the Office of the City Clerk at the address below. An original and seven (7) copies of the Bid shall be submitted in a sealed envelope clearly marked "**RFB No. 20-06-PS, MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT**" and note the time and date of the opening. Regardless of method of delivery, each responder shall be responsible for their Bid being delivered on time, as the City of Destin assumes no responsibility for same. Bids offered or received after the time set for the Bid Opening will be rejected and returned unopened to the Bidder.

MAILING AND HAND-DELIVERY ADDRESS:

City of Destin
ATTN: City Clerk
4200 Indian Bayou Trail
Destin, Florida 32541

City of Destin, Florida

RFB No. 20-06-PS, MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

- G. Bid Opening. Bids are presently scheduled to be opened publicly and read aloud at 2:00 p.m. CDT, on Thursday, June 4, 2020 in the City of Destin, City Hall Board Room, 4200 Indian Bayou Trail, Destin, Florida. The City of Destin Bid Committee will then review all Bids and forward their recommendation to the City Council for award.
- H. Notification. Questions or requests for Bid documents, plans and specifications regarding RFB No. 20-06-PS may be directed to the individuals below:

For All Questions
Rey Bailey, City Clerk
City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541
(850) 837-4242

- I. Responsive Bids. Only those bids fulfilling all requirements outlined in this bid will be considered.
1. The Bid Committee shall evaluate each responsive bid based on the requirements established herein and recommend the best offer(s) to the City Council for award of contract(s). The Bid Committee will evaluate the bid and quotations from bid submitted and will ask questions of a clarifying nature, if necessary. The Bid Committee reserves the right to negotiate terms of services with the lowest responsive bidder(s) when it serves the best interest of the City.
 2. Final Offer. The bid, as submitted, will be the last and final offer. The bid shall remain binding ninety (90) calendar days after the closing date of the request.
 3. Reservation of Rights. The City reserves the right to reject any and all bids or portions thereof, to waive minor defects and informalities in the process, to re-advertise bids, to accept the bid or award multiple bids or take any other actions deemed by the City to be in the City's best interest.
- J. Insurance. The successful Bidder shall be required to provide proof of General Liability Insurance with a minimum liability insurance requirement of \$300,000 for combined single limit and Worker's Compensation Insurance in accordance with the laws of the State of Florida and in amounts sufficient to secure the benefits of the Florida Workmen's Compensation Law for all types of employees, including those of subcontractors. The successful Bidder shall produce proof of insurance in the types and amounts required by the City, including the foregoing and any additional coverage's, including Automobile Liability and or Builder's Risk Insurance, as may be defined at the time of contract. The City shall be named as an additional insured party and all binders, policies or certificates of insurance shall provide for at least thirty day's notice to the City of any cancellation or amendment to any of the binders, policies or certificates.
- K. Public Records Requirements. The Vendor shall allow public access to all documents,

papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Vendor in conjunction with this Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850) 837-4242, CITY CLERK, 4200 INDIAN BAYOU TRAIL, DESTIN, FL.

- L. Indemnification. To the fullest extent permitted by law, the contractor/consultant shall indemnify and hold harmless the City, its officers and employees and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Consultant and persons employed or utilized by the Consultant in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida or the City's sovereign immunity.
- M. Contracting with City Employees or Board/Committee Members. Any City employee, Board member, Committee member or member of his or her immediate family seeking to Contract with the City shall seek a conflict of interest opinion from the City Manager or their designated representative prior to submittal of a response or application of any type to Contract with the City or as specified in 23 CFR 1.33 and the requirements of 23 CFR 172.7(b)(4). The affected employee or Board member shall disclose his or her assigned function within the City and interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract.
- N. Contact Prohibition. All prospective Proposers are hereby instructed NOT to contact any member of the City of Destin City Council, City Manager, or any City of Destin staff member other than the City Clerk, or their designated Procurement staff member, regarding this solicitation package, or their submittal package, City's Intent to Award, or City's Intent to Reject (if applicable) at any time prior to the FORMAL AWARD for this project. Any such contact shall be cause for rejection of your submittal.

EXHIBIT A

CITY OF DESTIN, FLORIDA
REQUEST FOR BIDS (RFB) NO. 20-06-PS
MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

PART I Bid submitted by:

Company: B&C Fire Safety, Inc.
Address: 823 Navy Street
City & State: Ft. Walton Beach, FL Zip Code: 32547
Telephone: (850) 226-9991 Email: zach@bcfiresafety.com
Number of Years in Business: 46 Contact Name Zach Housley

PART II Bidding RFB No. 20-06-PS, Miscellaneous Fire Safety Continuing Services Contract, as follows:

Selected bidder must be able to perform repairs and maintenance to existing fire equipment and fire suppression systems and capable of installing upgraded systems if requested.

<u>ITEM</u>	<u>PRICE</u>
1. Labor cost per hour for repairs	\$ <u>90.00</u>
2. Materials and supplies billed at contractor's price or contractor's price plus <u>15</u> %. Preference may be given to contractors providing materials at cost. Contractor must supply material invoices with pay requests.	
3. Cost for physically inspecting each building annually to identify Fire equipment and/or other fire safety related deficiencies such as exit lights, panic bars, fire alarm pull handles, emergency lights, fire extinguishers, etc. A detailed report for each facility will be required when submitting an invoice or pay item. Inspections will occur between <u>January 1 - February 28</u> each calendar year.	
Buck Destin Park	\$ <u>155.00</u>
City Hall Annex	\$ <u>780.00</u>
City Hall	\$ <u>155.00</u>
Clement Taylor Park	\$ <u>155.00</u>
Community Center	\$ <u>780.00</u>
Destin Elementary Bathrooms (next to track)	\$ <u>155.00</u>
Destin Museum	\$ <u>155.00</u>
Emergency Operations Center	\$ <u>155.00</u>

Harbor Pump Station	\$ <u>155.00</u>
Joe's Bayou Boat Ramp	\$ <u>155.00</u>
June White Decker Park	\$ <u>155.00</u>
Destin Library	\$ <u>780.00</u>
Morgan Sports Center (Main Bldg.)	\$ <u>155.00</u>
Morgan Sports Center (Bathrooms near Little League)	\$ <u>155.00</u>
Public Works Maintenance Facility	\$ <u>155.00</u>
Sheriff's Office	\$ <u>155.00</u>
Shores at Crystal Beach	\$ <u>155.00</u>

7. Cost for recharging an extinguisher

2.5# Fire extinguisher	\$ <u>21.00</u> ea.
5# Fire extinguisher	\$ <u>29.00</u> ea.
10# Fire extinguisher	\$ <u>35.00</u> ea.

8. Cost for replacing an extinguisher

2.5# Fire extinguisher	\$ <u>38.00</u> ea.
5# Fire extinguisher	\$ <u>59.00</u> ea.
10# Fire extinguisher	\$ <u>94.00</u> ea.

9. Semi-Annual Fire Sprinkler System Inspections (**January & July each calendar year**)

Community Center	\$ <u>159.00</u> ea. visit
Library	\$ <u>159.00</u> ea. visit

10. Semi-Annual Fire System in Range Hood Inspections (**January & July each calendar year**)

City Hall Annex	\$ <u>100.00</u> ea. visit
Community Center	\$ <u>100.00</u> ea. visit

11. Please list any other available services and costs associated to Miscellaneous Fire Safety:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

To ensure responsiveness, submit this form and the mandatory information listed in Sections III (Bid Requirements) and IV (Submittal Requirements).

PART III Certifications:

In accordance with your request for Bids, instructions and specifications, attached hereto, and subject to all conditions thereof, I (we), the undersigned, hereby propose and agree if this Bid is accepted, to contract with the City of Destin, Florida to construct any items or furnish any service requested herein and deliver same without additional cost to the City of Destin at the specified location for the quotations listed above.

City of Destin, Florida

RFB No. 20-06-PS, MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

The undersigned further declares that he/she has carefully examined the specifications referenced on this Bid Form and is thoroughly familiar with them and their provision(s). He further declares that no other person than the Bidder herein named has any interest in this Bid or in the contract to be executed, and that it is made without any connection with any other person(s) making Bid for the same articles, and it is in all respects fair and without collusion and fraud.

Signature and Certification:

Name and Title of Authorized Representative: Zach Housley
(Print or Type)
Signature: 
Date of Bid: June 02, 2020

Note: See RFB Section III, Bid Requirements, and attach all required information to Bid form.

The City of Destin reserves the right to reject any and all Bids or portions thereof, to waive minor defects in the process and to accept the Bid or any combination of Bid Items or take any other actions deemed by the City to be in the City's best interest. The City also reserves the right to assign additional work to the successful Bidder based upon their Bid proposal or negotiation as may be necessary to meet grant funding or completion requirements.

END OF BID FORM

ATTACHMENT #1

CITY OF DESTIN, FLORIDA

REQUEST FOR BIDS (RFB) NO. 20-06-PS

MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

SWORN STATEMENT UNDER SECTION 287.133 (3) (A)
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER
OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal or Contract (RFB) No. 20-06PS

2. This sworn statement is submitted by B & C Fire Safety, Inc. whose
business address is 823 Navy Street, Ft. Walton Beach, FL 32547

and (if applicable) Federal Employer Identification Number (FEIN) is 59-1641904 (If the entity
has no FEIN, include the Social Security Number of the individual signing this sworn statement:

3. My name is Zachary Housley and my relationship to the entity named
above is Business Development Manager

4. I understand that a "public entity crime" as defined in Paragraph 287.133(a)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or any agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

5. I understand that "convicted" or "conviction" as defined in paragraph 287.133(a)(b), Florida Statutes, means finding of guilt or a conviction of a public entity crime with or without an adjudication of guilt, in any federal or state trial court of records relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

1. A predecessor or successor of a person convicted of a public entity crime; or
2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers,

directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one of shares constituting a controlling income among persons when not for fair interest in another person, or a pooling of equipment or income among persons when not for fair market value under a length agreement, shall be a prima facie case that one person controls another person. A person who was knowingly convicted of a public entity crime, in Florida during the preceding 36 months shall be considered an affiliate.

7. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of the state or of the United States with the legal power to enter into a binding contract for provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies)

☒ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

☐ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. (please attach a copy of the final order)

☐ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in public interest to remove the person or affiliate from the convicted vendor list. (please attach a copy of the final order)

☐ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by, or pending with, the Department of General Services.)

[Signature] (Signature) Date: June 02, 2020

STATE OF FLORIDA
COUNTY OF Okaloosa

PERSONALLY APPEARED BEFORE ME, the undersigned authority, who, after first being sworn by me, affixed his/her signature at the space provided above on this 02 day of June, 2020, and is personally known to me, or has provided FL Drivers Lic. as identification.

[Signature]
Notary Public

My Commission expires:



ATTACHMENT #2

CITY OF DESTIN, FLORIDA

REQUEST FOR BIDS (RFB) NO. 20-06-PS

MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

DRUG-FREE WORKPLACE CERTIFICATION

The below signed Bidder certifies that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection 1.
4. In the statement specified in subsection 1., notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation occurring in the workplace no later than five (5) working days after such conviction.
5. Impose a sanction on or require the satisfactory participation in drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that this firm complies fully with the above drug-free workplace requirements.

COMPANY: B & C Fire Safety, Inc.
ADDRESS: 823 Navy Street
CITY: FL. Walton Beach STATE: FL ZIP CODE: 32547
TELEPHONE NUMBER: 850-226-9991
SIGNATURE: [Signature] DATE: June 02, 2020
NAME (TYPED OR PRINTED): Zachary Husky
TITLE: Business Development Manager



Addendum #2

RFB 20-06-PS, Section III, "Bid Requirements"

- A. See enclosed
- B. 46 years
- C. 823 Navy St., Fort Walton Beach, FL, 32547
- D. B&C Fire Safety of Fort Walton Beach is a locally owned family operated company which specializes in all facets of fire protection products and services. Our clients are comprised of commercial, industrial, residential, food service, hospitality and defense contractor entities. We also provide service to local, state and federal governments such as Okaloosa County and Eglin AFB just to name a few. Our life safety protection services include the design, installation, inspection and maintenance of fire extinguishers, fire sprinkler systems, fire alarm/monitoring systems as well as all types fire suppression systems. Our territory spans the entire Florida Panhandle from Tallahassee to Perdido Key. B&C Fire Safety has recently celebrated its 46th year of operation and is sustaining rapid growth.

Recently, B&C Fire Safety was the sole provider of all Fire Safety inspection services for the City of Destin. Due to this our team already has an exceptional working knowledge of all life safety systems at each location which will prevent minimal down-time due to lack of familiarity. We are very excited about the opportunity to once again partner with The City of Destin.

- E. As mentioned above B&C Fire Safety is currently providing numerous services to a multitude of clients. This allows us to maintain an extensive team of seasoned technicians and support staff to ensure that all clients both new and old receive the attention and quality they deserve.
- F. B&C Fire Safety always maintains a teamwork of on-call technicians that can be available within a 2-hour window for any emergency call 24/7. Routine maintenance/inspections are usually scheduled in advance for your convenience.
- G. See enclosed

H. See enclosed

I. See enclosed

J. See enclosed



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/4/2020

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 M.E. Wilson Company LLC Waldorff Insurance & Bonding 45 Eglin Parkway NE Ste 202 Fort Walton Beach FL 32548		CONTACT NAME: PHONE (A/C, No, Ext): 850-581-4925 E-MAIL ADDRESS: receptionist@waldorffinsurance.com FAX (A/C, No): 850-581-4930		
INSURED B & C Fire Safety, Inc. 823 Navy Street Fort Walton Beach FL 32547		INSURER(S) AFFORDING COVERAGE		NAIC #
		INSURER A : Old Republic Insurance Company		24147
		INSURER B : Auto Owners		18988
		INSURER C : Bridgefield Casualty Ins. Co.		10335
		INSURER D : Lloyds of London		
		INSURER E :		
INSURER F :				

COVERAGES

CERTIFICATE NUMBER: 1456835906

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
D	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PROJECT ☐ LOC OTHER:	Y		SP220014	5/2/2020	5/2/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			5174951000	5/2/2020	5/2/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED RETENTION \$			SP2X20014	5/2/2020	5/2/2021	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
C	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		196-48918	6/27/2020	6/27/2021	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D A	Errors & Omissions Liability Business Services Bond			SP220014 W150253100	5/2/2020 4/18/2019	5/2/2021 4/18/2022	Included \$100,000

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

It is hereby understood and agreed that the below named certificate holder is included as an additional insured as respects general liability only when required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Destin Building Department
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

© 1988-2015 ACORD CORPORATION. All rights reserved.

**Request for Taxpayer
Identification Number and Certification**

Give Form to the
requester. Do not
send to the IRS.

Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. B & C Fire Safety, Inc	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/sole proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ▶	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)	
	5 Address (number, street, and apt. or suite no.) See instructions. 823 Navy Street	Requester's name and address (optional)
	6 City, state, and ZIP code Fort Walton Beach, FL 32547-2129	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number								
				-				
or								
Employer identification number								
5	9	-	1	6	4	1	9	0

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶ Norothy A. Allegood	Date ▶ 5.1.2020
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)
Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What Is backup withholding, later.

Jimmy Patronis
CHIEF FINANCIAL OFFICER

Julius Halas
DIVISION DIRECTOR



Casia Sinco
BUREAU CHIEF

Keith McCarthy
SAFETY PROGRAM MANAGER

FLORIDA DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF STATE FIRE MARSHAL
200 East Gaines Street - Tallahassee, Florida 32399-0342
Tel. 850-413-3644 Fax. 850-410-2467

CERTIFICATE OF COMPETENCY
OFFICIAL COPY

THIS CERTIFIES THAT: Walter L. Alligood, Jr.
823 Navy Street
Ft Walton Beach FL 32547
BUSINESS ORGANIZATION: B & C FIRE SAFETY Inc.

Contractor I includes the execution of contracts requiring the ability, experience, knowledge, science, and skill to intelligently layout, fabricate, install, inspect, alter, repair, or service all types of Fire Protection Systems, excluding Pre-Engineered Systems.

Issue Date: 07/01/2018
Type: 07
Class: 10
County: Okaloosa
License/Permit #: 926145-0001-2007
Expiration Date: 06/30/2020




Chief Financial Officer

Jimmy Patronis
CHIEF FINANCIAL OFFICER

Julius Halas
DIVISION DIRECTOR



Casia Sisco
BUREAU CHIEF

Keith McCarthy
SAFETY PROGRAM MANAGER

FLORIDA DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF STATE FIRE MARSHAL
200 East Gaines Street - Tallahassee, Florida 32399-0342
Tel. 850-413-3644 Fax. 850-410-2467

FIRE EQUIPMENT DEALER LICENSE
OFFICIAL COPY

THIS CERTIFIES THAT: B & C FIRE SAFETY Inc.
823 Navy Street
Ft Walton Beach FL 32547

QUALIFIER: Walter L Alligood, Jr.

Has Complied with Florida statutes and has qualified for the type and class shown here on to service, recharge, repair, install, or inspect all types of Fire Extinguishers including recharging carbon dioxide units, and to conduct hydrostatic tests on all types of fire extinguishers including carbon Dioxide Units. Excludes any service, recharge, repair, installation or inspection of any type of Halon Extinguisher.

Issue Date: 01/01/2020
Type: 07
Class: 01
County: Okaloosa
License/Permit #: 051122-0001-1978
Expiration Date: 12/31/2021




Chief Financial Officer



RICK SCOTT, GOVERNOR

JONATHAN ZACHEM, SECRETARY



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

ELECTRICAL CONTRACTORS LICENSING BOARD

THE ALARM SYSTEM CONTRACTOR THEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

BEYER, ANTHONY ALLEN

B & C FIRE SAFETY, INC.
823 NAVY STREET
FORT WALTON BEACH, FL 32547

LICENSE NUMBER: EF20001373

EXPIRATION DATE: AUGUST 31, 2020

Always verify licenses online at MyFloridaLicense.com



Do not alter this document in any form.

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

OKALOOSA COUNTY TAX COLLECTOR
BEN ANDERSON

2019 - 2020
OKALOOSA COUNTY LOCAL BUSINESS TAX RECEIPT
STATE OF FLORIDA

RECEIPT NO. 110410709620
EXPIRES SEPTEMBER 30, 2020

BUSINESS NAME B & C FIRE SAFETY INC

TYPE OF BUSINESS Regulated

BUSINESS ADDRESS 823 NAVY STREET
FORT WALTON BEACH, FL 32547

MAKE CHECKS PAYABLE TO: Okaloosa County Tax Collector
P.O. Box 1387, Niceville, FL 32588

B & C FIRE SAFETY INC
823 NAVY STREET
FT WALTON BCH, FL 32547

OKALOOSA COUNTY
Tax Collector
View Your Account Online



SUPPLEMENTAL	
RENEWAL	
NEW BUSINESS	
TRANSFER	0.00
ORIGINAL TAX	35.00
	0.00
AMOUNT	
PENALTY	0.00
COLLECTION COST	0.00
TOTAL	35.00

Paid 0-19008332 35.00 07/25/2019

X *Dorothy Allegood*
SIGN AND DISPLAY AS REQUIRED
I SWEAR THAT THIS LOCAL BUSINESS TAX RECEIPT IS MADE FOR
THE BUSINESS OR PROFESSION INDICATED HEREON AND IS TRUE
AND CORRECT. THE APPLICATION MUST COMPLY WITH STATE AND
LOCAL ORDINANCE, INCLUDING ZONING.

CITY OF DESTIN, FLORIDA

CONTRACT

**MISCELLANEOUS FIRE SAFETY EQUIPMENT
CONTINUING SERVICES CONTRACT**

On JULY 6, 2020, THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, herein referred to as the **City**, accepted the bid of B&C Fire Safety, herein referred to as the **Contractor**, to supply miscellaneous fire safety equipment services for certain City-owned and maintained properties. The Contractor's Cost Schedule for the terms of their engagement is included in their entirety by reference at Exhibit "A" and as completely as if incorporated herein.

TERMS AND CONDITIONS OF CONTRACT FOR THE MISCELLANEOUS FIRE SAFETY EQUIPMENT

1. Entire Contract:

This Contract represents the entire and integrated Contract between the City and Contractor and supersedes all prior negotiations, representations or contracts, either written or oral. Provisions of this Contract may be amended only by written instrument approved by the Destin City Council and signed by the City Manager and Contractor.

2. Intent of Contract:

This Contract is for supplying the City with all applicable miscellaneous fire safety equipment services for specific City properties. The Scope of Work, herein referred to as the **Work**, encompasses the foregoing and all descriptive work components described within Exhibit "A".

3. Term of Contract and Time Extensions:

This contract will be in effect from **September 1, 2020** through **September 30, 2021** and is for supplying the City with miscellaneous fire safety equipment services. Upon the agreeance of both parties, in each parties' sole discretion, this contract is eligible for up to four one-year renewals.

4. Time for Performance:

The Contractor agrees to provide miscellaneous fire safety equipment services to the satisfactory approval and acceptance by the City.

5. Compensation:

All payments upon contract are contingent upon the Contractor's Work being acceptable to the City. For satisfactory completion and acceptance of the Work, the City agrees to pay the Contractor in accordance with the terms of this Contract and the Contractor's Cost Schedule as identified in the Bid Form submitted by the Contractor, as may have been adjusted at the time of contract approval and incorporated herein.

a. Requests for Compensation (Invoices) shall be accompanied by the following:

1. A description of the Work performed and a copy of the document (such as an email) that initiated said Work;
2. An itemized list of goods or services to include materials, flat fees, billable man-hours with rates, and any other payable items identified in Exhibit "A"; and
3. Dates when these services were performed and the names of Contractor's staff who performed billable Work.

6. Changes in the Work:

The City shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after having been notified of a change, the Contractor shall submit an itemized estimate of any costs and/or time increases or savings it foresees as a result of the change. No additions or changes to the Work shall be made except upon written order of the City and the City shall not be liable to Contractor for any increased compensation without such written order.

7. Insurance:

Contractor shall, during the performance of the contract, maintain Worker's Compensation Insurance sufficient to secure benefits of the Florida Workmen's Compensation Law for all employees and any of the work sublet to any vendor or subcontractor, Comprehensive General Liability Insurance, Auto Liability Insurance, Builder's Risk Insurance, all with companies and in the form and amounts acceptable to the City. Said certificates of insurance of contractor are attached hereto and made a part hereof by reference. If any part of the work is sublet, similar insurance shall be provided by and in behalf of any subcontractors.

Evidence of Insurance: Contractor shall provide the City Certificates of Insurance naming the City as an additional insured. All binders, policies, or certificates of insurance shall provide for at least ten days notice from insurers to the City of any cancellation or amendment to any of the insurance policies.

8. Indemnification:

Contractor shall indemnify, defend, save, and hold the City, its agents, officers and employees, harmless of and from any losses, fines, penalties, costs, damages, claims, demands, suits, and liabilities of any nature, including reasonable attorney's fees (including regulatory and appellate fees), arising out of, because of, or due to any accidents arising in any manner on account of the exercise or attempted exercise of Contractor's rights hereunder whether the same regards person or property of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of the City.

Contractor shall indemnify, defend, save and hold the City, its agents, officers and employees, harmless of and from and against any and all liens, claims, damages, demands, suits and liabilities, attorney's fees and costs, including appellate attorney's fees and costs, of and for mechanics and materialmen furnishing labor and materials in the performance of this contract.

9. Licensing:

The Contractor shall obtain all permits and maintain at his expense all professional and business certificates and licenses required by law and as necessary to perform services under this Contract. If Contractor performs any Work without obtaining, or contrary to, permits and licenses, Contractor shall bear all costs arising therefrom. The City may waive fees for City controlled permits, but in no instance can the City waive permit requirements nor fees beyond their control.

10. Cancellation:

This contract may be canceled by either party with a thirty day written notice and is contingent upon the annual appropriation by the City of legally available funds. City's obligation to pay the amount due hereunder in any fiscal year is contingent upon the appropriation by the City Council of legally available funds for the purposes set forth in this contract.

11. Performance of Work/Responsibilities:

For each task, the Contractor will be issued a work order by the City's Public Works Director or designee. The Public Works Director or designee will issue verbal work orders only in emergency situations. The Contractor shall commence work in a reasonable length of time and shall complete the

work in an expeditious manner. In emergency situations, the Contractor shall endeavor to commence work immediately. All work shall be done under the supervision of the City's Public Works Director or designated representative. The performance of Work and responsibilities hereto are outlined and made a part hereof as identified in Exhibit "A".

12. Termination for Default:

The Contract will remain in force for the full period specified and until the City Manager or his designee determines that all requirements and conditions have been satisfactorily met and the City Manager or his designee has accepted the work under the Contract Documents following the initial contract terms and all subsequent contract terms, including warranty and guarantee periods. However, the City Manager will have the right to terminate this Contract sooner if the Contractor has failed to perform satisfactorily the work required or comply with the other requirements of the Contract.

In the event the City Manager decides to terminate this Contract for the Contractor's failure to perform satisfactorily or meet its other responsibilities under the Contract, the City Manager will give the Contractor five (5) days' notice, whereupon the Contract will terminate, unless during the notice period the Contractor cures the failure to perform or meets its other responsibilities under the Contract to the satisfaction of the City Manager.

Upon Contract termination for the Contractor's failure to provide satisfactory contract performance, the Contractor will be entitled to receive compensation for Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the City Manager or his designee prior to such termination. However, an amount equal to all additional costs required to be expended by the City to complete the Work covered by the Contract, including costs of delay in completing the project, shall be either subtracted from any amount due or amount charged to the Contractor in the event the City Manager terminates the Contract.

Except as otherwise directed by the City Manager, or in the case of termination for default (in which event the Contractor may be entitled to cure, at the option of the City Manager), the Contractor shall stop work on the date of receipt of the notice or other date specified in the notice, place no further orders or subcontract for materials, services, or facilities except as are necessary for the completion of such portion of the work not terminated, and terminate all contractor and subcontracts and settle all outstanding liabilities and claims.

In the event that any termination for default shall be found to be improper or invalid by any court of competent jurisdiction, then such termination shall be deemed to have been a termination for convenience.

13. Termination for Convenience:

The performance of work under this Contract may be terminated by the City Manager in whole or in part whenever the City Manager, in their discretion, determines that such termination is in the City's best interest. Any such termination shall be effected by the City Manager giving at least five (5) days' notice to the Contractor, specifying the extent to which performance of the work under this Contract is terminated and the date upon which such termination becomes effective.

As to termination for convenience, after receipt of the date of termination, the Contractor shall stop all work as specified in the notice; place no further orders or subcontract for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated; immediately transfer all documentation and paperwork for terminated work to the City; and terminate all contractors and subcontracts and settle all outstanding liabilities and claims.

14. Disclosure:

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

15. Miscellaneous:

15.1 Governing Law

The parties intend that this Contract and the relationship of the parties shall be governed by the laws of the State of Florida. Venue for any action arising out of this contract shall be in Okaloosa County Florida and no where else.

15.2 Severability

If any section, subsection, term or provision of this Contract or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Contract or the application of same to parties or circumstances other than those to which it was held invalid or unenforceable, shall not be affected thereby and each remaining section, subsection, term or provision of this Contract shall be valid or enforceable to the fullest extent permitted by law.

15.3 Sovereign Immunity

The parties further agree, nothing contained herein is intended nor shall be construed to waive the City of Destin's rights and immunities under the Florida constitution, common law or Florida Statutes 768.28, as amended from time to time.

15.4 Construction

The Parties have participated jointly in the negotiation and drafting of this Contract. In the event an ambiguity or question of intent or interpretation arises, this Contract shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provision of this contract.

15.5 Jury Trial Waiver

CONTRACTOR AND CITY AGREE TO WAIVE THEIR RIGHTS TO A TRIAL BY JURY REGARDING ANY LAWSUIT INVOLVING THE INTERPRATION, CONSTRUCTION, ENFORCEMENT, OR GOVERNANCE OF THIS CONTRACT, AND FOR ANY LAWSUIT RELATED IN ANY WAY TO THIS CONTRACT OR FOR THE WORK PERFORMED PURSUANT TO THIS CONTRACT.

15.6 Attorney's Fees

In any dispute relating to this contract each party shall be responsible for their respective attorney's fees and costs.

15.7 Notices

All notices under the Contract shall be in writing and shall be effective when mailed by certified mail, return receipt requested, or when delivered personally, as provided hereafter, or to such other addresses as may be designated by notice:

15.8 Public Records

Contractor shall comply with Florida Public Records Laws, specifically to:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the City of Destin in order to perform the service.
- b) Provide the public with access to public records on the same terms and conditions that the City of Destin would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d) Meet all requirements for retaining public records and transfer, at no cost, to the City of Destin all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City of Destin in a format that is compatible with the information technology systems of the City of Destin.

As to the City:

Lance Johnson
4200 Indian Bayou Trail
Destin, Florida 32541

As to the Contractor:

B&C Fire Safety, Inc.
823 Navy Street
Ft. Walton Beach, FL 32547

IN WITNESS WHEREOF, the City hereunto caused these presents to be subscribed and the Contractor has affixed their name and seal, this the _____ day of _____, 2020.

ATTEST:

CITY OF DESTIN

Rey Bailey
City Clerk

By: _____
Lance Johnson
City Manager

SEAL

As to Legal Form:

Kyle Bauman, Esq.
City Attorney

B&C Fire Safety, Inc.
CONTRACTOR:

By: _____
(Signature)

Witness

(Printed Name)

Witness

Its: _____
(Title)

EXHIBIT A

CITY OF DESTIN, FLORIDA
REQUEST FOR BIDS (RFB) NO. 20-06-PS
MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

PART I Bid submitted by:

Company: B&C Fire Safety, Inc.
Address: 823 Navy Street
City & State: Ft. Walton Beach, FL Zip Code: 32547
Telephone: (850) 226-9991 Email: zach@bcfiresafety.com
Number of Years in Business: 46 Contact Name Zach Housley

PART II Bidding RFB No. 20-06-PS, Miscellaneous Fire Safety Continuing Services Contract, as follows:

Selected bidder must be able to perform repairs and maintenance to existing fire equipment and fire suppression systems and capable of installing upgraded systems if requested.

<u>ITEM</u>	<u>PRICE</u>
1. Labor cost per hour for repairs	\$ <u>90.00</u>
2. Materials and supplies billed at contractor's price or contractor's price plus <u>15</u> %. Preference may be given to contractors providing materials at cost. Contractor must supply material invoices with pay requests.	
3. Cost for physically inspecting each building annually to identify Fire equipment and/or other fire safety related deficiencies such as exit lights, panic bars, fire alarm pull handles, emergency lights, fire extinguishers, etc. A detailed report for each facility will be required when submitting an invoice or pay item. Inspections will occur between <u>January 1 - February 28</u> each calendar year.	
Buck Destin Park	\$ <u>155.00</u>
City Hall Annex	\$ <u>780.00</u>
City Hall	\$ <u>155.00</u>
Clement Taylor Park	\$ <u>155.00</u>
Community Center	\$ <u>780.00</u>
Destin Elementary Bathrooms (next to track)	\$ <u>155.00</u>
Destin Museum	\$ <u>155.00</u>
Emergency Operations Center	\$ <u>155.00</u>

Harbor Pump Station	\$ <u>155.00</u>
Joe's Bayou Boat Ramp	\$ <u>155.00</u>
June White Decker Park	\$ <u>155.00</u>
Destin Library	\$ <u>780.00</u>
Morgan Sports Center (Main Bldg.)	\$ <u>155.00</u>
Morgan Sports Center (Bathrooms near Little League)	\$ <u>155.00</u>
Public Works Maintenance Facility	\$ <u>155.00</u>
Sheriff's Office	\$ <u>155.00</u>
Shores at Crystal Beach	\$ <u>155.00</u>

7. Cost for recharging an extinguisher

2.5# Fire extinguisher	\$ <u>21.00</u> ea.
5# Fire extinguisher	\$ <u>29.00</u> ea.
10# Fire extinguisher	\$ <u>35.00</u> ea.

8. Cost for replacing an extinguisher

2.5# Fire extinguisher	\$ <u>38.00</u> ea.
5# Fire extinguisher	\$ <u>59.00</u> ea.
10# Fire extinguisher	\$ <u>94.00</u> ea.

9. Semi-Annual Fire Sprinkler System Inspections (**January & July each calendar year**)

Community Center	\$ <u>159.00</u> ea. visit
Library	\$ <u>159.00</u> ea. visit

10. Semi-Annual Fire System in Range Hood Inspections (**January & July each calendar year**)

City Hall Annex	\$ <u>100.00</u> ea. visit
Community Center	\$ <u>100.00</u> ea. visit

11. Please list any other available services and costs associated to Miscellaneous Fire Safety:

_____	\$ _____
_____	\$ _____
_____	\$ _____
_____	\$ _____

To ensure responsiveness, submit this form and the mandatory information listed in Sections III (Bid Requirements) and IV (Submittal Requirements).

PART III Certifications:

In accordance with your request for Bids, instructions and specifications, attached hereto, and subject to all conditions thereof, I (we), the undersigned, hereby propose and agree if this Bid is accepted, to contract with the City of Destin, Florida to construct any items or furnish any service requested herein and deliver same without additional cost to the City of Destin at the specified location for the quotations listed above.

City of Destin, Florida

RFB No. 20-06-PS, MISCELLANEOUS FIRE SAFETY CONTINUING SERVICES CONTRACT

The undersigned further declares that he/she has carefully examined the specifications referenced on this Bid Form and is thoroughly familiar with them and their provision(s). He further declares that no other person than the Bidder herein named has any interest in this Bid or in the contract to be executed, and that it is made without any connection with any other person(s) making Bid for the same articles, and it is in all respects fair and without collusion and fraud.

Signature and Certification:

Name and Title of Authorized Representative: Zach Housley
(Print or Type)
Signature: 
Date of Bid: June 02, 2020

Note: See RFB Section III, Bid Requirements, and attach all required information to Bid form.

The City of Destin reserves the right to reject any and all Bids or portions thereof, to waive minor defects in the process and to accept the Bid or any combination of Bid Items or take any other actions deemed by the City to be in the City's best interest. The City also reserves the right to assign additional work to the successful Bidder based upon their Bid proposal or negotiation as may be necessary to meet grant funding or completion requirements.

END OF BID FORM

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020**TYPE OF AGENDA ITEM:** City Manager Report

TO: City Council**THRU:** Kyle Bauman, City Attorney
Jeffrey Cozadd, Grants Manager
Krystal Strickland, Finance Director
Webb Warren, Deputy City Manager
Lance Johnson, City Manager**FROM:** Michael Burgess, Public Services Director**DATE:** 06/26/2020**SUBJECT:** Security and Fire Monitoring, authorization for the City Manager to execute a contract

I. BACKGROUND: The City maintains a Continuing Services Contract for the Security and Fire Monitoring.

II. DISCUSSION: The Continuing Services provider will provide 24-7 fire and security monitoring for six City Facilities and will provide installation services and support for other systems such as security cameras.

The City currently has a Continuing Services Provider under contract for these services. An RFB was advertised in May to determine if an alternate firm was interested in providing these services. The Bid Committee, after weighing price and performance (among other factors), voted unanimously to recommend the termination the contract of the existing provider and to recommend to City Council that B&C be selected as the new vendor for these services. The RFB document and bid response from B&C have been attached as ATT1. The proposed contract has been attached as ATT2. The contractor's price list is attached as ATT3.

NOTE: The attached proposal includes a section concerning the conversation from our existing "land-line" security communication system to a cellular-based system and potential cost-savings. This idea was vetted by the City's IT Manager and was determined to yield a savings of less than \$100 per year.

- A. **Link to Strategic Goals / Objectives:** Organizational Excellence, Public Safety
- B. **Effect on Budget (EOB):** Reduced expenses in Security and Fire Monitoring Services
- C. **Level of Service (LOS):** This service provides surety that several of the City's buildings have functional fire and security monitoring equipment along with 24-7 monitoring service.

III. CONCLUSION: By passing this motion, the City Manager will be authorized to terminate the contract with the existing provider and to execute a contract for these services with B&C Fire Safety, LLC.

IV. RECOMMENDED MOTION: I move that the City Manager be authorized to terminate the Miscellaneous Alarm/Fire Safety contract with Advanced Protective Technologies, execute the attached contract for Fire and Security Monitoring with B&C Fire Safety, Inc., and issue a Notice to Proceed.

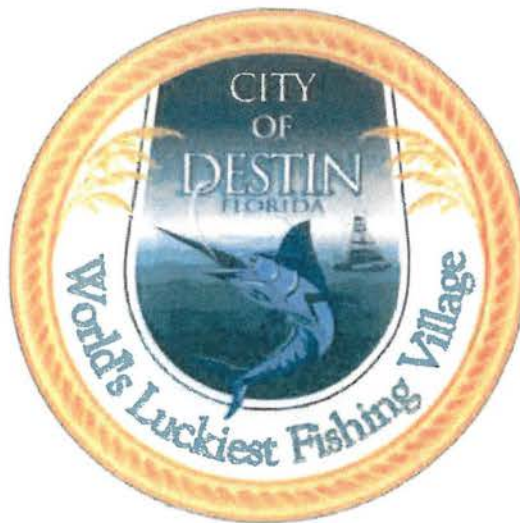
Attachments:

1. ATT1: 20-07-PS B&C RFB packet
June 2020
2. ATT2: Security and Fire Monitoring
Contract Sep01 thru Sep30
3. ATT3: Exhibit A 20-07-PS B&C RFB
packet June 2020

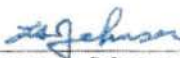
CITY OF DESTIN, FLORIDA

REQUEST FOR BIDS (RFB) NO. 20-07-PS

**MISCELLANEOUS SECURITY & FIRE ALARM MONITORING
CONTINUING SERVICES CONTRACT**



City of Destin, Florida
April 29, 2020


Lance A. Johnson
City Manager
Phone (850) 837-4242
Facsimile (850) 837-3267
4200 Indian Bayou Trail
Destin, Florida 32541

BID CHECKLIST

The following items must be provided for your bid to be considered responsive

1. Completed bid form ✓
2. Years in business ✓
3. Location of business ✓
4. Previous Work experience ✓
5. Availability ✓
6. Copy of required Insurance documents ✓
7. Completed W-9 ✓
8. Copy of State license (if required for job) ✓
9. Copy of City license (if business office is in Destin) ✓
10. Completed Public Entity Form ✓
11. Completed Drug Free Form ✓
12. Addenda (if applicable) ✓
13. Bid Bond or Cashier's Check (if requested) ✓
14. Other documents as requested in bid package ✓

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NOTICE TO BIDDERS

The City of Destin, Florida, is currently receiving sealed competitive Bids for a Miscellaneous Security & Fire Monitoring Continuing Services Contract for City maintained properties for one year with the option for four additional one-year renewals not to exceed five years. The Scope of Work will include, but not be limited to miscellaneous Security & Fire Monitoring services for City maintained properties to include providing all tools, machines, equipment, labor and incidentals necessary to complete the work. The successful Bidder shall be required to supply the City with copies of current Liability Insurance and Workmen's Compensation coverage. Bids must be received by the City Clerk's Office at the City of Destin, 4200 Indian Bayou Trail, Destin, Florida 32541, in a sealed envelope clearly marked **"RFB No. 20-07-PS, MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES CONTRACT"**, along with the name, return address and telephone number of the bidder, no later than 2:00 p.m. CDT, on Thursday, June 4, 2020 at which time they will be opened and read aloud. The City reserves the right to reject any and all Bids or portions thereof, to waive minor defects and informalities in the process, to accept the Bid(s) or take any other actions deemed by the City to be in the City's best interest.

Lance A. Johnson
City Manager

CITY OF DESTIN, FLORIDA

REQUEST FOR BIDS (RFB) NO. 20-07-PS

**MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES
CONTRACT**

- I. **PURPOSE:** The purpose of RFB No. 20-07-PS is to secure sealed Bids for providing Security & Fire Monitoring services for city-maintained properties.
- II. **SCOPE OF WORK:** The Scope of Work will include general Security & Fire Monitoring maintenance for city-maintained properties.
- III. **BID REQUIREMENTS:** Each Bid shall indicate, in the following order, the **mandatory** information outlined below:
 - A. Completed Bid Form (Exhibit A)
 - B. Number of years the firm has been in business
 - C. Location of Firm
 - D. Previous work experience
 - E. Current work commitments
 - F. Availability
 - G. Copies of required Insurance documents
 - H. Each Bid shall contain evidence of proper licensing to perform required services in the State, County, and City
 - I. Each Bid shall contain a completed Public Entity Crime Form (Attachment #1)
 - J. Each Bid shall contain a completed Drug Free Workplace Certification (Attachment #2)

Failure to provide any of the above listed mandatory information may result in the rejection of the Bid from consideration.

City of Destin, Florida

RFB No. 20-07-PS, MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES CONTRACT

IV. SUBMITTAL REQUIREMENTS: Bids shall be submitted as follows:

- A. **Bid Form.** The Bid Form contained within this RFB shall precede the **mandatory** information required in **Section III. Bid Requirements**. Any additional information submitted in support of the Bid shall follow the required information.
- B. **Public Entity Crime Form.** Each Bid shall contain a completed Public Entity Crime Form (Attachment #1) pursuant to Florida Statutes, Section 287.132-133, providing that no public entity shall accept any Bid from or award any contract to, or transact any business in excess of the threshold amount for Category Two (\$35,000, per Florida Statutes, Section 287.017) for a period of thirty-six months from the date placed on the excluded vendor list.
- C. **Disclosure.** Each Bid is subject to the provisions of Florida Statutes, Chapter 112, providing that all Bidders must disclose with the RFB submittal the name of any officer, director, or agent who is also a public officer or an employee of the City of Destin. Further, all Bidders must disclose the name of any City officer or employee who owns, directly or indirectly, an interest of five percent or more in the Bidding firm.
- D. **Joint Ventures.** Firms submitting Bids as a joint venture shall submit to the City, as part of Bids, a copy of any joint venture agreement.
- E. **Drug - Free Workplace Program.** Preference may be given by the City of Destin to companies demonstrating a Drug-Free Workplace Program whenever two or more Bids, which are equal in respect to quality and service, are received and rated by the City. Bidders intending to demonstrate a Drug-Free Workplace Program shall provide a certification form (Attachment #2) with the RFB submittal.
- F. **Sealed Submittal Packages.** All Bids to be considered must be in the possession of the Destin City Clerk no later than 2:00 p.m. CDT, on Thursday, June 4, 2020. Bids may be mailed or delivered to the Office of the City Clerk at the address below. An original and seven (7) copies of the Bid shall be submitted in a sealed envelope clearly marked "**RFB No. 20-07-PS, MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES CONTRACT**" and note the time and date of the opening. Regardless of method of delivery, each responder shall be responsible for their Bid being delivered on time, as the City of Destin assumes no responsibility for same. Bids offered or received after the time set for the Bid Opening will be rejected and returned unopened to the Bidder.

MAILING AND HAND-DELIVERY ADDRESS:

City of Destin
ATTN: City Clerk
4200 Indian Bayou Trail
Destin, Florida 32541

City of Destin, Florida

RFB No. 20-07-PS, MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES CONTRACT

- G. Bid Opening. Bids are presently scheduled to be opened publicly and read aloud at 2:00 p.m. CDT, on Thursday, June 4, 2020 in the City of Destin, City Hall Board Room, 4200 Indian Bayou Trail, Destin, Florida. The City of Destin Bid Committee will then review all Bids and forward their recommendation to the City Council for award.

- H. Notification. Questions or requests for Bid documents, plans and specifications regarding RFB No. 20-07-PS may be directed to the individuals below:

For All Questions
Rey Bailey, City Clerk
City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541
(850) 837-4242

- I. Responsive Bids. Only those bids fulfilling all requirements outlined in this bid will be considered.

1. The Bid Committee shall evaluate each responsive bid based on the requirements established herein and recommend the best offer(s) to the City Council for award of contract(s). The Bid Committee will evaluate the bid and quotations from bid submitted and will ask questions of a clarifying nature, if necessary. The Bid Committee reserves the right to negotiate terms of services with the lowest responsive bidder(s) when it serves the best interest of the City.

2. Final Offer. The bid, as submitted, will be the last and final offer. The bid shall remain binding ninety (90) calendar days after the closing date of the request.

3. Reservation of Rights. The City reserves the right to reject any and all bids or portions thereof, to waive minor defects and informalities in the process, to re-advertise bids, to accept the bid or award multiple bids or take any other actions deemed by the City to be in the City's best interest.

- J. Insurance. The successful Bidder shall be required to provide proof of General Liability Insurance with a minimum liability insurance requirement of \$300,000 for combined single limit and Worker's Compensation Insurance in accordance with the laws of the State of Florida and in amounts sufficient to secure the benefits of the Florida Workmen's Compensation Law for all types of employees, including those of subcontractors. The successful Bidder shall produce proof of insurance in the types and amounts required by the City, including the foregoing and any additional coverage's, including Automobile Liability and or Builder's Risk Insurance, as may be defined at the time of contract. The City shall be named as an additional insured party and all binders, policies or certificates of insurance shall provide for at least thirty day's notice to the City of any cancellation or amendment to any of the binders, policies or certificates.

- K. Public Records Requirements. The Vendor shall allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes, and made or received by the Vendor in conjunction with this Agreement.

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850) 837-4242, CITY CLERK, 4200 INDIAN BAYOU TRAIL, DESTIN, FL.

- L. Indemnification. To the fullest extent permitted by law, the contractor/consultant shall indemnify and hold harmless the City, its officers and employees and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the Consultant and persons employed or utilized by the Consultant in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Nothing contained in this paragraph is intended to nor shall it constitute a waiver of the State of Florida or the City's sovereign immunity.
- M. Contracting with City Employees or Board/Committee Members. Any City employee, Board member, Committee member or member of his or her immediate family seeking to Contract with the City shall seek a conflict of interest opinion from the City Manager or their designated representative prior to submittal of a response or application of any type to Contract with the City or as specified in 23 CFR 1.33 and the requirements of 23 CFR 172.7(b)(4). The affected employee or Board member shall disclose his or her assigned function within the City and interest or the interest of his or her immediate family in the proposed contract and the nature of the intended contract.
- N. Contact Prohibition. All prospective Proposers are hereby instructed NOT to contact any member of the City of Destin City Council, City Manager, or any City of Destin staff member other than the City Clerk, or their designated Procurement staff member, regarding this solicitation package, or their submittal package, City's Intent to Award, or City's Intent to Reject (if applicable) at any time prior to the FORMAL AWARD for this project. Any such contact shall be cause for rejection of your submittal.

EXHIBIT A

**CITY OF DESTIN, FLORIDA
REQUEST FOR BIDS (RFB) NO. 20-07-PS
MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES
CONTRACT**

PART I Bid submitted by:

Company: B&C Fire Safety, Inc.
Address: 823 Navy Street
City & State: Fort Walton Beach, FL Zip Code: 32547
Telephone: ~~(850)~~ 862-7812 Email: zack@bcfiresafety.com
Number of Years in Business: 45 Contact Name Zack Housley

PART II Bidding **RFB No. 20-07-PS, Miscellaneous Security & Fire Monitoring Continuing Services** Contract, as follows:

Selected bidder must be able to monitor and perform repairs/maintenance to existing alarm equipment and be capable of installing upgrades or expand existing systems if requested.

<u>ITEM</u>	<u>PRICE</u>
1. Labor cost per hour for repairs/maintenance/installation/etc.	\$ <u>95.00</u>
2. Materials and supplies billed at contractor's price or contractor's price plus <u>15</u> %. Preference may be given to contractors providing materials at cost. Contractor must supply material invoices with pay requests.	
3. Annual Cost for Monitoring Security & Fire Alarm Systems for the following buildings:	
City Hall Annex	\$ <u>640.00/yr</u>
City Hall	\$ <u>320.00/yr (security)</u>
Community Center	\$ <u>640.00/yr</u>
Destin Library	\$ <u>640.00/yr.</u>
Morgan Sports Center (Main Bldg.)	\$ <u>320.00/yr (security)</u>
Public Works Maintenance Facility	\$ <u>320.00/yr (security)</u>

11. Please list any other available services and costs associated to Miscellaneous Security & Fire Monitoring:

Cellular monitoring for all locations	See addendum titled \$ "cellular monitoring conversion."
_____	\$ _____
_____	\$ _____
_____	\$ _____

To ensure responsiveness, submit this form and the mandatory information listed in Sections III (Bid Requirements) and IV (Submittal Requirements).

PART III Certifications:

In accordance with your request for Bids, instructions and specifications, attached hereto, and subject to all conditions thereof, I (we), the undersigned, hereby propose and agree if this Bid is accepted, to contract with the City of Destin, Florida to construct any items or furnish any service requested herein and deliver same without additional cost to the City of Destin at the specified location for the quotations listed above.

City of Destin, Florida

RFB No. 20-07-PS, MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES CONTRACT

The undersigned further declares that he/she has carefully examined the specifications referenced on this Bid Form and is thoroughly familiar with them and their provision(s). He further declares that no other person than the Bidder herein named has any interest in this Bid or in the contract to be executed, and that it is made without any connection with any other person(s) making Bid for the same articles, and it is in all respects fair and without collusion and fraud.

Signature and Certification:

Name and Title of Authorized Representative: _____

Zack Housley
(Print or Type)

Signature: _____

Date of Bid: June 02, 2020

Note: See RFB Section III, Bid Requirements, and attach all required information to Bid form.

The City of Destin reserves the right to reject any and all Bids or portions thereof, to waive minor defects in the process and to accept the Bid or any combination of Bid Items or take any other actions deemed by the City to be in the City's best interest. The City also reserves the right to assign additional work to the successful Bidder based upon their Bid proposal or negotiation as may be necessary to meet grant funding or completion requirements.

END OF BID FORM

ATTACHMENT #1

CITY OF DESTIN, FLORIDA

REQUEST FOR BIDS (RFB) NO. 20-07-PS

MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES CONTRACT

SWORN STATEMENT UNDER SECTION 287.133 (3) (A)
FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER
OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal or Contract (RFB) No. 20-07-PS

2. This sworn statement is submitted by B&C Fire Safety, Inc whose
business address is 823 Navy Street, Fort Walton Beach, 32547

and (if applicable) Federal Employer Identification Number (FEIN) is 59-1641904 (If the entity
has no FEIN, include the Social Security Number of the individual signing this sworn statement:

3. My name is Zachary Housley and my relationship to the entity named
above is Business Development Manager

4. I understand that a "public entity crime" as defined in Paragraph 287.133(a)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or any agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

5. I understand that "convicted" or "conviction" as defined in paragraph 287.133(a)(b), Florida Statutes, means finding of guilt or a conviction of a public entity crime with or without an adjudication of guilt, in any federal or state trial court of records relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

1. A predecessor or successor of a person convicted of a public entity crime; or
2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers,

directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one of shares constituting a controlling income among persons when not for fair interest in another person, or a pooling of equipment or income among persons when not for fair market value under a length agreement, shall be a prima facie case that one person controls another person. A person who was knowingly convicted of a public entity crime, in Florida during the preceding 36 months shall be considered an affiliate.

7. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of the state or of the United States with the legal power to enter into a binding contract for provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies)

☒ Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

☐ The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. (please attach a copy of the final order)

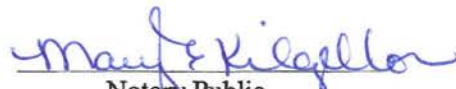
☐ The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in public interest to remove the person or affiliate from the convicted vendor list. (please attach a copy of the final order)

☐ The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by, or pending with, the Department of General Services.)

 (Signature) Date: June 02, 2020

STATE OF FLORIDA
COUNTY OF Okaloosa

PERSONALLY APPEARED BEFORE ME, the undersigned authority, who, after first being sworn by me, affixed his/her signature at the space provided above on this 02 day of June, 2020, and is personally known to me, or has provided FL Drivers Lic as identification.


Notary Public

My Commission expires:



ATTACHMENT #2

CITY OF DESTIN, FLORIDA

REQUEST FOR BIDS (RFB) NO. 20-07-PS

MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES
CONTRACT

DRUG-FREE WORKPLACE CERTIFICATION

The below signed Bidder certifies that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection 1.
4. In the statement specified in subsection 1., notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation occurring in the workplace no later than five (5) working days after such conviction.
5. Impose a sanction on or require the satisfactory participation in drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that this firm complies fully with the above drug-free workplace requirements.

COMPANY: B&C Fire Safety, Inc.
ADDRESS: 823 Navy Street
CITY: Ft. Walton Beach STATE: FL ZIP CODE: 32547
TELEPHONE NUMBER: 850-842-7812
SIGNATURE: [Signature] DATE: June 02, 2020
NAME (TYPED OR PRINTED): Zachary Housley
TITLE: Business Development Manager

ADDENDUM NO. 1

**CITY OF DESTIN, FLORIDA
REQUEST FOR BID FOR 20-07-PS,
MISCELLANEOUS SECURITY & FIRE ALARM MONITORING
CONTINUING SERVICES CONTRACT**

MAY 8, 2020

To All Potential Bidders:

This addendum modifies the previously issued RFB and is hereby made a part of the bid documents. Per the RFB, bidder shall acknowledge receipt of any and all addenda; and shall include this acknowledgement receipt in their submittal. Failure to do so may subject the bidder to disqualification.

The following items shall become a part of the bid for the above referenced project.

Question/Inquiry received on 05/05/20

1. What is the Make & Model of the Security and Fire Alarm panels in each of the below listed buildings?
2. The blank line for the monitoring costs per building on the price page, is it preferred to be in annual amount or monthly?
3. Since there's only one line for each building monitoring, am I correct that the city wants a lump sum for both fire and security?
4. If awarded the bid, when would you want to begin the cutover process to our central station?

Clarification:

1. Fire and Security Monitoring Equipment as of May 6, 2020

Community Center

Fire	Fire-Lite by Honeywell, MS-5UD
Security	DSX, DSX-1040 PDP

Maintenance Facility

Fire	Cerebus Pyrotronics MXL-1Q
Security	Honeywell ADEMCO Vista – 20P Vista 20 PSIA Series Vista 15P/Vista PSIA Series

City Hall Annex

Fire	Fire-Lite by Honeywell, MS-9200UDLS
Security	DSX, DSX-1040 PDP

City Hall

Security	DSX, DSX-1040 PDP
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Morgan's Sports Center

Security	DSX, DSX-1022
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Library

Fire	Harrington FireSpy Tracker T1000
Security	DSX, DSX-1040 PDP

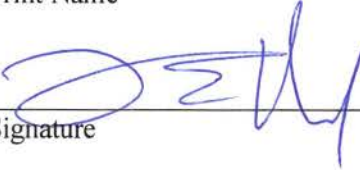
2. The pricing for monitoring should be clearly identified as either monthly or annually.
3. Correct. One lump sum for both fire and security for each building.
4. This contract will take effect October 1, 2020.

END OF ADDENDUM NO. 1

A copy of Addendum No. 1 signed and acknowledged shall precede the mandatory information required in the subject RFB.

Receipt of Addendum No. 1 is hereby acknowledged:

Zach Housley
Print Name


Signature

June 02, 2020
Date



Addendum #2

RFB 20-06-PS, Section III, "Bid Requirements"

- A. See enclosed
- B. 46 years
- C. 823 Navy St., Fort Walton Beach, FL, 32547
- D. B&C Fire Safety of Fort Walton Beach is a locally owned family operated company which specializes in all facets of fire protection products and services. Our clients are comprised of commercial, industrial, residential, food service, hospitality and defense contractor entities. We also provide service to local, state and federal governments such as Okaloosa County and Eglin AFB just to name a few. Our life safety protection services include the design, installation, inspection and maintenance of fire extinguishers, fire sprinkler systems, fire alarm/monitoring systems as well as all types fire suppression systems. Our territory spans the entire Florida Panhandle from Tallahassee to Perdido Key. B&C Fire Safety has recently celebrated its 46th year of operation and is sustaining rapid growth.

Recently, B&C Fire Safety was the sole provider of all Fire Safety inspection services for the City of Destin. Due to this our team already has an exceptional working knowledge of all life safety systems at each location which will prevent minimal down-time due to lack of familiarity. We are very excited about the opportunity to once again partner with The City of Destin.

- E. As mentioned above B&C Fire Safety is currently providing numerous services to a multitude of clients. This allows us to maintain an extensive team of seasoned technicians and support staff to ensure that all clients both new and old receive the attention and quality they deserve.
- F. B&C Fire Safety always maintains a teamwork of on-call technicians that can be available within a 2-hour window for any emergency call 24/7. Routine maintenance/inspections are usually scheduled in advance for your convenience.
- G. See enclosed

H. See enclosed

I. See enclosed

J. See enclosed



Addendum #3

Cellular Monitoring Conversion

In the future I would consider converting the all fire and security monitoring accounts to a cellular based system rather than the P.O.T.S. (land lines) that are currently in place. The cellular systems have proven to be vastly more reliable and will allow you to disconnect ALL dedicated phone lines that are currently being used. Considering that the typical annual cost of a land line is anywhere from \$360-\$720 per line its easy to see how the savings can add up rather quickly. Many of our clients have already switched over to cellular and are seeing substantial savings on their monthly bills.

B&C Fire will provide all necessary cellular monitoring equipment and labor to install said cellular monitoring equipment for six security panels and three fire panels for no charge. The annual fee for monitoring the nine panels will increase slightly from \$2,880.00 to \$3,600.00 but again, the savings from the termination of the land line service will far offset this increase.

Please let me know if you have any further questions. I will be happy to come by and go over it with you in person if you'd like.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/4/2020

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 M.E. Wilson Company LLC Waldorff Insurance & Bonding 45 Eglin Parkway NE Ste 202 Fort Walton Beach FL 32548		CONTACT NAME: PHONE (A/C, No, Ext): 850-581-4925 E-MAIL: receptionist@waldorffinsurance.com ADDRESS: receptionist@waldorffinsurance.com		FAX (A/C, No): 850-581-4930	
		INSURER(S) AFFORDING COVERAGE		NAIC #	
		INSURER A : Old Republic Insurance Company		24147	
		INSURER B : Auto Owners		18988	
		INSURER C : Bridgefield Casualty Ins. Co.		10335	
		INSURER D : Lloyds of London			
		INSURER E :			
		INSURER F :			

INSURED
B & C Fire Safety, Inc.
823 Navy Street
Fort Walton Beach FL 32547

BCFI-01

COVERAGES**CERTIFICATE NUMBER:** 1456835906**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
D	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☒ PRO-JECT ☐ LOC ☐ OTHER:	Y		SP220014	5/2/2020	5/2/2021	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000 \$
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			5174951000	5/2/2020	5/2/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
D	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION \$			SP2X20014	5/2/2020	5/2/2021	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
C	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	196-48918	6/27/2020	6/27/2021	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
D A	Errors & Omissions Liability Business Services Bond			SP220014 W150253100	5/2/2020 4/18/2019	5/2/2021 4/18/2022	Included \$100,000

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

It is hereby understood and agreed that the below named certificate holder is included as an additional insured as respects general liability only when required by written contract.

CERTIFICATE HOLDER**CANCELLATION**

City of Destin Building Department
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

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**Request for Taxpayer
Identification Number and Certification**

Give Form to the
requester. Do not
send to the IRS.

Go to www.irs.gov/FormW9 for instructions and the latest information.

Print or type. See Specific Instructions on page 3.	1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank. B & C Fire Safety, Inc	
	2 Business name/disregarded entity name, if different from above	
	3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only one of the following seven boxes. ☐ Individual/solo proprietor or single-member LLC ☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is not disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner. ☐ Other (see instructions) ▶	
	4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3): Exempt payee code (if any) _____ Exemption from FATCA reporting code (if any) _____ (Applies to accounts maintained outside the U.S.)	
	5 Address (number, street, and apt. or suite no.) See instructions. 823 Navy Street	Requester's name and address (optional)
	6 City, state, and ZIP code Fort Walton Beach, FL 32547-2129	
	7 List account number(s) here (optional)	

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN*, later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number	
or	
Employer identification number	
59	1641904

Part II Certification

Under penalties of perjury, I certify that:

- The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
- I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
- I am a U.S. citizen or other U.S. person (defined below); and
- The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here	Signature of U.S. person ▶ Dorothy A. Allegood	Date ▶ 5.1.2020
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General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/FormW9.

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)

- Form 1099-DIV (dividends, including those from stocks or mutual funds)
 - Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
 - Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
 - Form 1099-S (proceeds from real estate transactions)
 - Form 1099-K (merchant card and third party network transactions)
 - Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
 - Form 1099-C (canceled debt)
 - Form 1099-A (acquisition or abandonment of secured property)
- Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See *What Is backup withholding*, later.

Jimmy Patronis
CHIEF FINANCIAL OFFICER

Julius Halas
DIVISION DIRECTOR



Casia Sinco
BUREAU CHIEF

Keith McCarthy
SAFETY PROGRAM MANAGER

FLORIDA DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF STATE FIRE MARSHAL
200 East Gaines Street - Tallahassee, Florida 32399-0342
Tel. 850-413-3644 Fax. 850-410-2467

CERTIFICATE OF COMPETENCY
OFFICIAL COPY

THIS CERTIFIES THAT: Walter L. Alligood, Jr.
823 Navy Street
Ft Walton Beach FL 32547
BUSINESS ORGANIZATION: B & C FIRE SAFETY Inc.

Contractor I includes the execution of contracts requiring the ability, experience, knowledge, science, and skill to intelligently layout, fabricate, install, inspect, alter, repair, or service all types of Fire Protection Systems, excluding Pre-Engineered Systems.

Issue Date: 07/01/2018
Type: 07
Class: 10
County: Okaloosa
License/Permit #: 926145-0001-2007
Expiration Date: 06/30/2020




Chief Financial Officer

Jimmy Patronis
CHIEF FINANCIAL OFFICER

Julius Halas
DIVISION DIRECTOR



Casia Sinco
BUREAU CHIEF

Keith McCarthy
SAFETY PROGRAM MANAGER

FLORIDA DEPARTMENT OF FINANCIAL SERVICES
DIVISION OF STATE FIRE MARSHAL
200 East Gaines Street - Tallahassee, Florida 32399-0342
Tel. 850-413-3644 Fax. 850-410-2467

FIRE EQUIPMENT DEALER LICENSE
OFFICIAL COPY

THIS CERTIFIES THAT: B & C FIRE SAFETY Inc.
823 Navy Street
Ft Walton Beach FL 32547

QUALIFIER: Walter L Alligood, Jr.

Has Complied with Florida statutes and has qualified for the type and class shown here on to service, recharge, repair, install, or inspect all types of Fire Extinguishers including recharging carbon dioxide units, and to conduct hydrostatic tests on all types of fire extinguishers including carbon Dioxide Units. Excludes any service, recharge, repair, installation or inspection of any type of Halon Extinguisher.

Issue Date: 01/01/2020
Type: 07
Class: 01
County: Okaloosa
License/Permit #: 051122-0001-1978
Expiration Date: 12/31/2021




Chief Financial Officer



RICK SCOTT, GOVERNOR

JONATHAN ZACHEM, SECRETARY



STATE OF FLORIDA
DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION

ELECTRICAL CONTRACTORS LICENSING BOARD

THE ALARM SYSTEM CONTRACTOR THEREIN IS CERTIFIED UNDER THE
PROVISIONS OF CHAPTER 489, FLORIDA STATUTES

BEYER, ANTHONY ALLEN

B & C FIRE SAFETY, INC.
823 NAVY STREET
FORT WALTON BEACH, FL 32547

LICENSE NUMBER: EF20001373

EXPIRATION DATE: AUGUST 31, 2020

Always verify licenses online at MyFloridaLicense.com



Do not alter this document in any form.

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

OKALOOSA COUNTY TAX COLLECTOR
BEN ANDERSON

BUSINESS NAME B & C FIRE SAFETY INC

TYPE OF BUSINESS Regulated

BUSINESS ADDRESS 823 NAVY STREET
FORT WALTON BEACH, FL 32547

MAKE CHECKS PAYABLE TO: Okaloosa County Tax Collector
P.O. Box 1387, Niceville, FL 32588

B & C FIRE SAFETY INC
823 NAVY STREET
FT WALTON BCH, FL 32547

Paid 0-19008332

35.00

07/25/2019

2019 - 2020

OKALOOSA COUNTY LOCAL BUSINESS TAX RECEIPT
STATE OF FLORIDA

OKALOOSA COUNTY
Tax Collector
View Your Account Online



Scan Here

Scan Here

RECEIPT NO. 110410709620
EXPIRES SEPTEMBER 30, 2020

SUPPLEMENTAL	
RENEWAL	
NEW BUSINESS	
TRANSFER	0.00
ORIGINAL TAX	35.00
	0.00
AMOUNT	
PENALTY	0.00
COLLECTION COST	0.00
TOTAL	35.00

X *Dorothy Allegood*
SIGN AND DISPLAY AS REQUIRED

I SWEAR THAT THIS LOCAL BUSINESS TAX RECEIPT IS MADE FOR
THE BUSINESS OR PROFESSION INDICATED HEREON AND IS TRUE
AND CORRECT. THE APPLICATION MUST COMPLY WITH STATE AND
LOCAL ORDENANCE, INCLUDING ZONING.

CITY OF DESTIN, FLORIDA

CONTRACT

**MISCELLANEOUS SECURITY & FIRE MONITORING
CONTINUING SERVICES CONTRACT**

On JULY 6, 2020, THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, herein referred to as the **City**, accepted the bid of B&C Fire Safety, herein referred to as the **Contractor**, to supply miscellaneous security and fire monitoring services for certain City-owned and maintained properties. The Contractor's Cost Schedule for the terms of their engagement is included in their entirety by reference at Exhibit "A" and as completely as if incorporated herein.

TERMS AND CONDITIONS OF CONTRACT FOR THE MISCELLANEOUS SECURITY AND FIRE MONITORING CONTRACT:

1. Entire Contract:

This Contract represents the entire and integrated Contract between the City and Contractor and supersedes all prior negotiations, representations or contracts, either written or oral. Provisions of this Contract may be amended only by written instrument approved by the Destin City Council and signed by the City Manager and Contractor.

2. Intent of Contract:

This Contract is for supplying the City with all applicable miscellaneous security and fire monitoring services for specific City properties. The Scope of Work, herein referred to as the **Work**, encompasses the foregoing and all descriptive work components described within Exhibit "A".

3. Term of Contract and Time Extensions:

This contract will be in effect from **September 1, 2020** through **September 30, 2021** and is for supplying the City with miscellaneous security and fire monitoring services. Upon the agreeance of both parties, this contract is eligible for up to four one-year renewals.

4. Time for Performance:

The Contractor agrees to provide miscellaneous security and fire monitoring services to the satisfactory approval and acceptance by the City.

5. Compensation:

All payments upon contract are contingent upon the Contractor's Work being acceptable to the City. For satisfactory completion and acceptance of the Work, the City agrees to pay the Contractor in accordance with the terms of this Contract and the Contractor's Cost Schedule as identified in the Bid Form submitted by the Contractor, as may have been adjusted at the time of contract approval and incorporated herein.

a. Requests for Compensation (Invoices) shall be accompanied by the following:

1. A description of the Work performed and a copy of the document (such as an email) that initiated said Work;
2. An itemized list of goods or services to include materials, flat fees, billable man-hours with rates, and any other payable items identified in Exhibit "A"; and
3. Dates when these services were performed and the names of Contractor's staff who performed billable Work.

6. Changes in the Work:

The City shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after having been notified of a change, the Contractor shall submit an itemized estimate of any costs and/or time increases or savings it foresees as a result of the change. No additions or changes to the Work shall be made except upon written order of the City and the City shall not be liable to Contractor for any increased compensation without such written order.

7. Insurance:

Contractor shall, during the performance of the contract, maintain Worker's Compensation Insurance sufficient to secure benefits of the Florida Workmen's Compensation Law for all employees and any of the work sublet to any vendor or subcontractor, Comprehensive General Liability Insurance, Auto Liability Insurance, Builder's Risk Insurance, all with companies and in the form and amounts acceptable to the City. Said certificates of insurance of contractor are attached hereto and made a part hereof by reference. If any part of the work is sublet, similar insurance shall be provided by and in behalf of any subcontractors.

Evidence of Insurance: Contractor shall provide the City Certificates of Insurance naming the City as an additional insured. All binders, policies, or certificates of insurance shall provide for at least ten days notice from insurers to the City of any cancellation or amendment to any of the insurance policies.

8. Indemnification:

Contractor shall indemnify, defend, save, and hold the City, its agents, officers and employees, harmless of and from any losses, fines, penalties, costs, damages, claims, demands, suits, and liabilities of any nature, including reasonable attorney's fees (including regulatory and appellate fees), arising out of, because of, or due to any accidents arising in any manner on account of the exercise or attempted exercise of Contractor's rights hereunder whether the same regards person or property of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of the City.

Contractor shall indemnify, defend, save and hold the City, its agents, officers and employees, harmless of and from and against any and all liens, claims, damages, demands, suits and liabilities, attorney's fees and costs, including appellate attorney's fees and costs, of and for mechanics and materialmen furnishing labor and materials in the performance of this contract.

9. Licensing:

The Contractor shall obtain all permits and maintain at his expense all professional and business certificates and licenses required by law and as necessary to perform services under this Contract. If Contractor performs any Work without obtaining, or contrary to, permits and licenses, Contractor shall bear all costs arising therefrom. The City may waive fees for City controlled permits, but in no instance can the City waive permit requirements nor fees beyond their control.

10. Cancellation:

This contract may be canceled by either party with a thirty day written notice and is contingent upon the annual appropriation by the City of legally available funds. City's obligation to pay the amount due hereunder in any fiscal year is contingent upon the appropriation by the City Council of legally available funds for the purposes set forth in this contract.

11. Performance of Work/Responsibilities:

For each task, the Contractor will be issued a work order by the City's Public Works Director or designee. The Public Works Director or designee will issue verbal work orders only in emergency

situations. The Contractor shall commence work in a reasonable length of time and shall complete the work in an expeditious manner. In emergency situations, the Contractor shall endeavor to commence work immediately. All work shall be done under the supervision of the City's Public Works Director or designated representative. The performance of Work and responsibilities hereto are outlined and made a part hereof as identified in Exhibit "A".

12. Termination for Default:

The Contract will remain in force for the full period specified and until the City Manager or his designee determines that all requirements and conditions have been satisfactorily met and the City Manager or his designee has accepted the work under the Contract Documents following the initial contract terms and all subsequent contract terms, including warranty and guarantee periods. However, the City Manager will have the right to terminate this Contract sooner if the Contractor has failed to perform satisfactorily the work required or comply with the other requirements of the Contract.

In the event the City Manager decides to terminate this Contract for the Contractor's failure to perform satisfactorily or meet its other responsibilities under the Contract, the City Manager will give the Contractor five (5) days' notice, whereupon the Contract will terminate, unless during the notice period the Contractor cures the failure to perform or meets its other responsibilities under the Contract to the satisfaction of the City Manager.

Upon Contract termination for the Contractor's failure to provide satisfactory contract performance, the Contractor will be entitled to receive compensation for Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the City Manager or his designee prior to such termination. However, an amount equal to all additional costs required to be expended by the City to complete the Work covered by the Contract, including costs of delay in completing the project, shall be either subtracted from any amount due or amount charged to the Contractor in the event the City Manager terminates the Contract.

Except as otherwise directed by the City Manager, or in the case of termination for default (in which event the Contractor may be entitled to cure, at the option of the City Manager), the Contractor shall stop work on the date of receipt of the notice or other date specified in the notice, place no further orders or subcontract for materials, services, or facilities except as are necessary for the completion of such portion of the work not terminated, and terminate all contractor and subcontracts and settle all outstanding liabilities and claims.

In the event that any termination for default shall be found to be improper or invalid by any court of competent jurisdiction, then such termination shall be deemed to have been a termination for convenience.

13. Termination for Convenience:

The performance of work under this Contract may be terminated by the City Manager in whole or in part whenever the City Manager, in their discretion, determines that such termination is in the City's best interest. Any such termination shall be effected by the City Manager giving at least five (5) days' notice to the Contractor, specifying the extent to which performance of the work under this Contract is terminated and the date upon which such termination becomes effective.

As to termination for convenience, after receipt of the date of termination, the Contractor shall stop all work as specified in the notice; place no further orders or subcontract for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated; immediately transfer all documentation and paperwork for terminated work to the City; and terminate all contractors and subcontracts and settle all outstanding liabilities and claims.

14. Disclosure:

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

15. Miscellaneous:

15.1 Governing Law

The parties intend that this Contract and the relationship of the parties shall be governed by the laws of the State of Florida. Venue for any action arising out of this contract shall be in Okaloosa County Florida and no where else.

15.2 Severability

If any section, subsection, term or provision of this Contract or the application thereof to any party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Contract or the application of same to parties or circumstances other than those to which it was held invalid or unenforceable, shall not be affected thereby and each remaining section, subsection, term or provision of this Contract shall be valid or enforceable to the fullest extent permitted by law.

15.3 Sovereign Immunity

The parties further agree, nothing contained herein is intended nor shall be construed to waive the City of Destin's rights and immunities under the Florida constitution, common law or Florida Statutes 768.28, as amended from time to time.

15.4 Construction

The Parties have participated jointly in the negotiation and drafting of this Contract. In the event an ambiguity or question of intent or interpretation arises, this Contract shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provision of this contract.

15.5 Jury Trial Waiver

CONTRACTOR AND CITY AGREE TO WAIVE THEIR RIGHTS TO A TRIAL BY JURY REGARDING ANY LAWSUIT INVOLVING THE INTERPRATION, CONSTRUCTION, ENFORCEMENT, OR GOVERNANCE OF THIS CONTRACT, AND FOR ANY LAWSUIT RELATED IN ANY WAY TO THIS CONTRACT OR FOR THE WORK PERFORMED PURSUANT TO THIS CONTRACT.

15.6 Attorney's Fees

In any dispute relating to this contract each party shall be responsible for their respective attorney's fees and costs.

15.7 Notices

All notices under the Contract shall be in writing and shall be effective when mailed by certified mail, return receipt requested, or when delivered personally, as provided hereafter, or to such other addresses as may be designated by notice:

15.8 Public Records

Contractor shall comply with Florida Public Records Laws, specifically to:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the City of Destin in order to perform the service.
- b) Provide the public with access to public records on the same terms and conditions that the City of Destin would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d) Meet all requirements for retaining public records and transfer, at no cost, to the City of Destin all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City of Destin in a format that is compatible with the information technology systems of the City of Destin.

As to the City:

Lance Johnson
4200 Indian Bayou Trail
Destin, Florida 32541

As to the Contractor:

B&C Fire Safety, Inc.
823 Navy Street
Ft. Walton Beach, FL 32547

IN WITNESS WHEREOF, the City hereunto caused these presents to be subscribed and the Contractor has affixed their name and seal, this the _____ day of _____, 2020.

ATTEST:

CITY OF DESTIN

Rey Bailey
City Clerk

By: _____
Lance Johnson
City Manager

SEAL

As to Legal Form:

Kyle Bauman, Esq.
City Attorney

B&C Fire Safety, Inc.
CONTRACTOR:

By: _____
(Signature)

Witness

(Printed Name)

Witness

Its: _____
(Title)

EXHIBIT A

**CITY OF DESTIN, FLORIDA
REQUEST FOR BIDS (RFB) NO. 20-07-PS
MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES
CONTRACT**

PART I Bid submitted by:

Company: B&C Fire Safety, Inc.
Address: 823 Navy Street
City & State: Fort Walton Beach, FL Zip Code: 32547
Telephone: ~~(850)~~ 862-7812 Email: zack@bcfiresafety.com
Number of Years in Business: 45 Contact Name Zack Housley

PART II Bidding **RFB No. 20-07-PS, Miscellaneous Security & Fire Monitoring Continuing Services** Contract, as follows:

Selected bidder must be able to monitor and perform repairs/maintenance to existing alarm equipment and be capable of installing upgrades or expand existing systems if requested.

<u>ITEM</u>	<u>PRICE</u>
1. Labor cost per hour for repairs/maintenance/installation/etc.	\$ <u>95.00</u>
2. Materials and supplies billed at contractor's price or contractor's price plus <u>15</u> %. Preference may be given to contractors providing materials at cost. Contractor must supply material invoices with pay requests.	
3. Annual Cost for Monitoring Security & Fire Alarm Systems for the following buildings:	
City Hall Annex	\$ <u>640.00/yr</u>
City Hall	\$ <u>320.00/yr</u> (security)
Community Center	\$ <u>640.00/yr</u>
Destin Library	\$ <u>640.00/yr</u>
Morgan Sports Center (Main Bldg.)	\$ <u>320.00/yr</u> (security)
Public Works Maintenance Facility	\$ <u>320.00/yr</u> (security)

11. Please list any other available services and costs associated to Miscellaneous Security & Fire Monitoring:

Cellular monitoring for all locations	See addendum titled \$ "cellular monitoring conversion."
_____	\$ _____
_____	\$ _____
_____	\$ _____

To ensure responsiveness, submit this form and the mandatory information listed in Sections III (Bid Requirements) and IV (Submittal Requirements).

PART III Certifications:

In accordance with your request for Bids, instructions and specifications, attached hereto, and subject to all conditions thereof, I (we), the undersigned, hereby propose and agree if this Bid is accepted, to contract with the City of Destin, Florida to construct any items or furnish any service requested herein and deliver same without additional cost to the City of Destin at the specified location for the quotations listed above.

City of Destin, Florida

RFB No. 20-07-PS, MISCELLANEOUS SECURITY & FIRE MONITORING CONTINUING SERVICES CONTRACT

The undersigned further declares that he/she has carefully examined the specifications referenced on this Bid Form and is thoroughly familiar with them and their provision(s). He further declares that no other person than the Bidder herein named has any interest in this Bid or in the contract to be executed, and that it is made without any connection with any other person(s) making Bid for the same articles, and it is in all respects fair and without collusion and fraud.

Signature and Certification:

Name and Title of Authorized Representative: _____

Zack Housley
(Print or Type)

Signature: _____

Date of Bid: June 02, 2020

Note: See RFB Section III, Bid Requirements, and attach all required information to Bid form.

The City of Destin reserves the right to reject any and all Bids or portions thereof, to waive minor defects in the process and to accept the Bid or any combination of Bid Items or take any other actions deemed by the City to be in the City's best interest. The City also reserves the right to assign additional work to the successful Bidder based upon their Bid proposal or negotiation as may be necessary to meet grant funding or completion requirements.

END OF BID FORM

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: City Manager Report

TO: City Council

THRU: Kyle Bauman, City Attorney

FROM: Lance Johnson, City Manager

DATE: 07/02/2020

SUBJECT: Followup to the Norriego Point Embayments workshop

I. BACKGROUND: Norriego Point embayments were discussed at a Council workshop on June 29, 2020. Staff is requesting Council's direction on bringing back a related resolution for consideration at the next, or a future, Council meeting.

Norriego Point timeline overview attached.

II. DISCUSSION:

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION: I move that the City Attorneys draft a resolution allowing for recreational watercraft in the northern most embayment closest to the tip of Norriego Point and present it for consideration at the next Council meeting.

Attachments:

1. Norriego Point Park Embayments Workshop Presentation PDF



NORRIEGO POINT PARK EMBAYMENT'S WORKSHOP



Norriego Point Project History

MAY
2009

City of Destin
commissioned a
Feasibility Study

JUL
2010

City of Destin
obtained ownership
of Norriego Point

FEB
2012

Res. 12-05
Declaration of
Coastal Emergency.

JUN
2012

MOU between City of
Destin & FDEP, to clarify
management authority.

DEC
2012

Norriego Point
Management Plan
Workshop

DEC
2012

City Council
approves
Norriego Point
Management Plan

DEC
2012

Project submitted
for consideration,
DWH NRDA ERP
Phase III

2014

Project selected
and funded through
DWH NRDA ERP
Phase III

2015

FDEP contracted for
value engineering
services & preparation
of construction
documents.

JUL
2015

City Land Use
Attorney Report
to Council

SEPT
2016

Ord. 16-15-CC
Restricting
Commercial
Activities

2017

FDEP Presentation
to Council; FDEP
awards
construction
contract

SEPT
2017

FDEP Norriego
Point Access
and Use
Agreement

FEB
2018

FDEP
Presentation
to Council

JUL
2018

Norriego Point Boat
Parking Restrictions;
staff update on
Norriego Point
Recreational Activities

JAN
2019

Statement of Final
Completion of
Shoreline Stabilization
Beach Restoration
component.

AUG
2019

FDEP Presentations
Recreation
Improvements
Phase (Aug. & Nov.)

OCT
2019

City & FDEP
Meeting
Tallahassee

OCT
2019

Council motion
to direct staff
to draft a
resolution.

APR
2020

Correspondence
between City &
FDEP, Norriego
Embayments
(Apr & May)

MAY
2020

Council motion
to direct staff to
schedule a
workshop

MAY
2009

Norriego Point Stabilization Project Feasibility Study

CITY OF DESTIN, FLORIDA NORRIEGO POINT STABILIZATION PROJECT FEASIBILITY STUDY

I. INTRODUCTION

Norriego Point is a low lying sand spit bordering the East Pass Inlet to Choctawhatchee Bay in the City of Destin, Okaloosa County, Florida (Figure 1). The publicly owned portion of the spit is undeveloped, and comprised of sandy beach and dunes covering about 17 to 20 acres. Norriego Point provides wave protection to Destin Harbor. It is designated public parkland and is used year round by recreational boaters, who beach their vessels primarily on the harbor side of the spit.

Hurricane generated waves from the Gulf of Mexico caused breaching of Norriego Point in the publicly and privately owned, undeveloped section of the spit in 1995, and again in 1998. During normal weather, the inlet side and northern tip of the spit experience erosion due to wave action, tidal currents and boat wakes. Aeolian transport also accounts for a small portion of the sub-aerial sand loss. As a result of tidal current driven sediment transport around the northern end of the spit, the Old Pass Lagoon channel shoals, creating a hazard for boaters entering and leaving Destin Harbor. The erosion of the spit also limits the area available for recreational use.

The Point was partially stabilized by the City in 1998, and by private interests in 2004, but the remaining unprotected northern section of the spit continues to be subject to erosion and possible breaching.

The City has requested that a feasibility study be performed to determine the most appropriate method to stabilize the north end of Norriego Point.

II. PROJECT AREA/EXISTING CONDITIONS

The project area is defined as that portion of Norriego Point (the Point) northwest of the Pointe One property boundary, and the surrounding submerged lands (Figure 1). An engineering field observation was conducted on January 21, 2009 to document existing structures and land usage in the project area, to characterize sediment grain size and transport patterns, to identify potential project constraints, and to note evidence of previous overwash events. The site observations report is included as Appendix 1, and the highlights are summarized below.

III. SITE OBSERVATIONS

A. Aeolian Transport

The study area was observed to be experiencing limited aeolian (wind) transport. Both dune areas show evidence of wind transport at the crest and the base in a southwest to northeast direction, and sand drifts were observed at the sand fence and along the harbor

1
COASTAL PLANNING & ENGINEERING, INC.

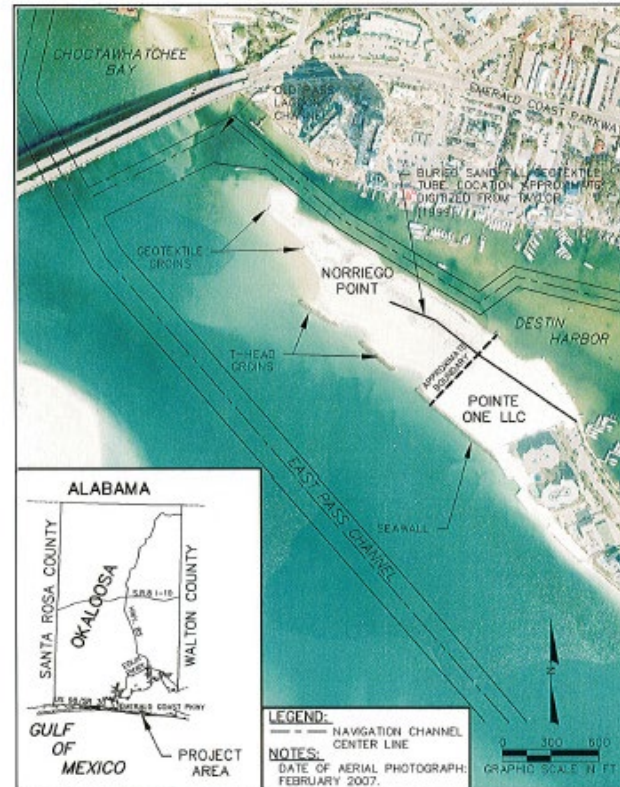


Figure 1. Location Map.

2
COASTAL PLANNING & ENGINEERING, INC.

- In May 2009, the City of Destin commissioned a stabilization project Feasibility Study for Norriego Point.



JUL
2010

City of Destin obtained ownership of Norriego Point

- City of Destin accepted conveyance of deed to Norriego Point from Okaloosa County on July 13, 2010.
- State of Florida holds a recreational use dedication.
- Conveyance is made and accepted with the covenant and understanding that the use of the property is solely and exclusively for public park and recreational purposes.

Instr # 2648295 BK: 2945 PG 2136 Page 1 of 2
Recorded 07/27/2010 at 03:20 PM
RECORDING: \$10.50 RECORDING ARTICLE V: \$8.00
DEED DOCSTAMPS: \$0.70

DEED

DEPUTY CLERK, SCHEIDT & SPOFFORD
DONALD HOWARD CLERK, RE COURTS, OKALOOSA COUNTY, FL

THIS DEED, made this 13 day of July, 2010, by Okaloosa County, Florida, party of the first part, and The City of Destin, a Florida Municipality, 4200 Indian Bayou Drive, Destin, Florida 32541, the party of the second part,

WITNESSETH that the said party of the first part, for an in consideration of the sum of \$100.00 and other valuable consideration, to it in hand paid by the party of the second part, receipt whereof is hereby acknowledged, has conditionally granted, bargained and sold to the party of the second part, its successors and assigns forever, the following described land lying and being in Okaloosa County, Florida, hereinafter "the property":

The Northwestern 1600 feet of that portion of land which formerly comprised a part of Santa Rosa Island that lies east of the New East Pass Channel, more particularly described as: Being at a concrete monument on the South right-of-way line of Highway 98, on the East line of Calhoun's subdivision as per plat recorded in the Office of the Clerk of Circuit Court of Okaloosa County, Florida, thence run South 2147.80 feet to a concrete monument; thence run N 85° 08' W 1232.68 feet to a point; thence run N 78° 02' W 1437.22 feet to a point; thence run N 76° 56' W 1180.53 to a point; thence run N 56° 16' W 981.30 feet to a point; thence run N 45° 41' W 748.90 feet to a concrete monument for the point of beginning of the parcel to be described. Thence run S 44° 19' W to the shore of New East Pass; thence meander Northwesterly along the shore of New East Pass a Northwest distance of 1620 feet more or less; thence follow the meander around the point and meander Southeasterly to a point on the shore of Old East Pass bearing N 44° 19' E of the point of beginning, thence S 44° 19' W 175 feet, more or less to the point of beginning; subject to an easement in the Northwestern 800 feet thereof in favor of the Corps of Engineers to dump dredge spoilage from operations in East Pass, in Okaloosa County, Florida.

This conveyance is subject to the terms and conditions set forth in the Dedication of this property as recorded in Book 194 at Page 573 of the official records of Okaloosa County, Florida.

This conveyance is made and accepted with the covenant and understanding that the use of the property is solely and exclusively for Public Park and recreational purposes.

This conveyance is made and accepted with the covenant and understanding that any sale or lease of any interest in the property to a non-governmental person or organization is prohibited.

This conveyance is made and accepted with the covenant and understanding that the operation of any concession on the property by a non-governmental person or organization is prohibited.

This conveyance is made and accepted with the covenant and understanding that any sales contract or option to buy or sell things attached to the property to be severed from the property with a non-governmental person or organization is prohibited.

This conveyance is made and accepted with the covenant and understanding that any use of the property by a non-governmental person other than in such person's capacity as a member of the general public is prohibited.

This conveyance is made and accepted with the covenant and understanding that a management contract, except contracts for maintenance of the property, is prohibited.

This conveyance is made and accepted with the covenant and understanding that the harbor side shoreline of this property shall remain accessible for the use and enjoyment of boaters unless the City's coastal engineers determine armoring is necessary to protect this side of the property.

The foregoing covenants and understandings are covenants running with the land.

In the event of violation of any of the foregoing covenants and understandings, Grantee, its successors and assigns, shall forfeit all right and title to the property, and all interests therein shall revert to Grantor.

IN WITNESS WHEREOF the said party of the first part has caused these presents to be executed in its name by its Board of County Commissioners acting by the Chair or Vice Chair of said board, the day and year aforesaid.

By its Board of County Commissioners

(OFFICIAL SEAL)

Wayne Harris
CHAIRMAN
Board of County Commissioners
Okaloosa County Florida



ATTEST:

Sandy J. Stefel
Clerk of Circuit Court

Attachment 2- Norriego Point Deed

Declaration of Coastal Emergency

RESOLUTION 12- 05

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF DESTIN RELATING TO TEMPORARY PROTECTION OF PUBLIC INFRASTRUCTURE AND PRIVATE STRUCTURES IN CERTAIN BEACHFRONT AREAS; PROVIDING FOR DECLARATION OF EMERGENCY; PROVIDING FOR CITY AUTHORIZATION OF EMERGENCY TEMPORARY COASTAL ARMORING STRUCTURES TO BE INSTALLED BY THE CITY IN CERTAIN IDENTIFIED AREAS; PROVIDING ADDITIONAL AUTHORIZATIONS; PROVIDING FOR NOTICE REQUIRED; PROVIDING FOR REMOVAL OF ARMORING; PROVIDING FOR AN EFFECTIVE DATE.

FINDINGS:

WHEREAS, the City of Destin is a Florida Municipality duly incorporated, with all the rights and powers as provided in s. 2(b), Art. VIII of the State Constitution; and

WHEREAS, on September 3, 2011, Tropical Storm Lee made landfall on the Northern Gulf Coast with reported maximum sustained winds of 60 miles per hour, causing significant storm surge on Destin Beaches and in East Pass; and

WHEREAS, among the effects of Tropical Storm Lee on areas within the City of Destin was additional erosion of an already severely eroded sand spit beachfront area known as Norriego Point located on East Pass immediately adjacent to and southwest of the entrance channel of Destin Harbor; and

WHEREAS, as a result of Tropical Storm Lee, sand from the aforementioned erosion of Norriego Point, as well as from other sources, moved into adjacent water areas to the northeast resulting in significant additional shoaling of the Destin Harbor entrance channel thereby impairing and/or threatening navigability of that channel by vessels; and

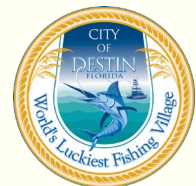
WHEREAS, to remove the additional shoaling, on October 12 - 16, 2011, the City of Destin conducted emergency dredging of the Destin Harbor entrance channel; and

WHEREAS, shortly following such emergency dredging between October 17 and 20, 2011, an unnamed early winter storm with unusually strong winds caused significant additional shoaling by moving sand made unstable by the emergency dredging into the entrance channel and, as may be more germane to this resolution, causing additional unanticipated erosion to Norriego Point; and

WHEREAS, subsequent to the above event, in December of 2011, and in January of

- On February 13, 2012, Destin City Council adopted Resolution No. 12-05, allowing for emergency temporary stabilization of the upland beachfront area of Norriego Point.

Attachment 3- Resolution No. 12-05



Memorandum of Understanding with FDEP

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN
BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND
OF THE STATE OF FLORIDA
AND
CITY OF DESTIN, FLORIDA**

This Memorandum of Understanding ("MOU") is entered into this 31st day of DECEMBER, 2012, by and between the BOARD OF TRUSTEES OF THE INTERNAL IMPROVEMENT TRUST FUND OF THE STATE OF FLORIDA (the "Board of Trustees") and the CITY OF DESTIN, FLORIDA, a political subdivision of the State of Florida (the "City") establishes the responsibilities and relationship that exist between the Board of Trustees and the City with respect to the management of those lands hereinafter described for a public park and public recreational purposes.

WITNESSETH:

WHEREAS, on November 7, 1958, the Board of Trustees by Quitclaim Deed recorded (approximately 17 months following the date of execution of such instrument) in Official Records Book 194, Page 571, quitclaimed to Okaloosa County, Florida, all right, title and interest in certain dredge spoil areas deposited on sovereign lands of the State of Florida, which included the lands which are the subject of this MOU; and

WHEREAS, on April 24, 1961, Okaloosa County, Florida, by Dedication recorded immediately after the above referenced Quitclaim Deed in Official Records Book 194, Page 573, Public Records of Okaloosa County, Florida (the "Dedication"), dedicated to the Board of Trustees in perpetuity those lands more particularly described in the Dedication and Exhibit "A" attached hereto and made a part hereof to be used solely and exclusively for public park and public recreational purposes ("Dedicated Lands"); and

WHEREAS, on July 13, 2010, Okaloosa County, Florida, by Deed recorded in Official Records Book 2945, Page 2136, Public Records of Okaloosa County, Florida, conveyed the fee title to the Dedicated Lands to the City of Destin, subject to the Dedication; and

WHEREAS, the Board of Trustees does not currently manage the Dedicated Lands, and the City wishes to manage the Dedicated Lands for public park and public recreational purposes in accordance with the terms and conditions of the Dedication.

NOW THEREFORE, in consideration of the faithful and timely performance of and compliance with all the terms and conditions stated herein, the Board of Trustees and the City hereby agree as follows:

ARTICLE 1 – RESPONSIBILITIES OF THE CITY

- 1.1 The City shall manage the Dedicated Lands solely and exclusively for public park and public recreational purposes at its sole cost and expense.
- 1.2 The City shall be solely responsible for the maintenance of the Dedicated Lands and control of access to the Dedicated Lands by the public and third parties.
- 1.3 The City and its officers, employees and agents shall take all reasonable measures to provide security against damage, degradation and unauthorized uses of the Dedicated Lands. The City's intent is to manage the Dedicated Lands as a public park as part of the City park system, and the City shall take such measures to satisfy this requirement as the City takes regarding the other City parks. Such measures include, but are not limited to, regulation of City park access and use according to standards established in the City Code of Ordinances, as may be amended from time to time.
- 1.4 The City shall investigate any and all claims of injury or damage pertaining to the Dedicated Lands and shall notify the Board of Trustees regarding the legal action deemed appropriate to remedy such claims for injury or damage.
- 1.5 The City does not expect to generate revenues as part of implementing this MOU. At such time as the City decides to generate revenues, the City shall notify the Board of Trustees and implement the following procedure. Revenues generated on the Dedicated Lands shall be used for the benefit of the Dedicated Lands to implement management activities. The City shall maintain detailed records of all revenues and expenses associated with the Dedicated Lands and shall provide the Board of Trustees with an annual report of such revenues and expenses on each anniversary of the execution date of this MOU.

ARTICLE 2 – TERM

- 2.1 This MOU shall be effective upon execution by both parties and shall remain in full force and effect until terminated as provided herein.
- 2.2 Either party may terminate this MOU for cause or convenience by giving ninety (90) days notice in writing to the other party of its intent to do so.
- 2.3 In the event of termination, both parties shall be relieved of any and all future obligations hereunder.

- On June 13, 2012, the City of Destin and FDEP entered into Memorandum of Understanding to clarify management authority.
- “The City shall manage the Dedicated Lands solely and exclusively for public park and public recreational purposes.”
- “The City shall be solely responsible for the maintenance of Dedicated Lands and control of access to the Dedicated Lands by the public and third parties.”

Memorandum of Understanding with FDEP

- “The City shall manage the Dedicated Lands as part of the City park system pursuant to the public park access, use, and conduct standards established in the City Code of Ordinances, as may be amended from time to time.”
- “The City is authorized to take all lawful steps to achieve the permanent stabilization of the Dedicated Lands.”
- “The City shall , within 180 days, submit a land use plan for management of the Dedicated Lands.”

ARTICLE 3 – RIGHTS IN AND USE OF DEDICATED LANDS

- 3.1 This MOU constitutes permissive use only. The City agrees that it does not and shall not claim at any time any additional interest or estate of any kind or extent whatsoever in the Dedicated Lands by virtue of this MOU or its occupancy or use hereunder.
- 3.2 This MOU and the rights and privileges contained herein are for the sole use of the City and shall not be assigned or transferred to another party.
- 3.3 The City shall manage the Dedicated Lands as part of the City park system pursuant to the public park access, use and conduct standards established in the City Code of Ordinances, as may be amended from time to time.
- 3.4 The City is authorized to take all lawful steps to achieve the permanent stabilization of the Dedicated Lands to protect same from the forces of erosion and may apply for such permits as are necessary to achieve same. It is recognized that improvements to that area necessary to achieve permanent stabilization of the Dedicated Lands are consistent with public park and public recreational purposes.
- 3.5 This MOU is non-exclusive. The Board of Trustees or its duly authorized employees and agents shall retain the right to enter the Dedicated Lands or to engage in management activities not inconsistent with the purpose for which the City is permitted to use them.

ARTICLE 4 – LAND USE PLAN

- 4.1 The City shall, within one hundred eighty (180) days of the execution date of this MOU, submit a land use plan for management of the Dedicated Lands as part of the City park system that satisfies such portions of the requirements of Section 253.034(5), Florida Statutes, and Chapter 18-2, Florida Administrative Code, as may apply to an area managed as a City park, for the Dedicated Lands to the State of Florida Department of Environmental Protection, Division of State Lands for approval. This land use plan shall include anticipated improvements and management activities over a 10-year planning period. The City shall review and update this land use plan every 10 years. The City shall manage the Dedicated Lands in a manner consistent with the approved land use plan.

ARTICLE 5 – RIGHT OF INSPECTION AND ENTRY

- 5.1 The Board of Trustees or its duly authorized employees and agents shall have the right to inspect the Dedicated Lands and the works and operations of the City in any manner pertaining to this MOU.



DEC
2012

Norriego Point Land Management Plan Workshop

**MINUTES
WORKSHOP
DESTIN CITY COUNCIL
DECEMBER 3, 2012
CITY HALL ANNEX
COUNCIL CHAMBERS
5:30 PM**

The Council for the City of Destin met in special workshop with the following members present:

Destin City Council

Mayor Sarah "Sam" Seevers
Councilmember Larry Williges
Councilmember Jim Bagby
Councilmember Sandy Trammell

Councilmember Jim Wood
Councilmember Jim Foreman
Councilmember Cyron Marler
Councilmember Tuffy Dixon

Destin City Staff

City Manager Maryann Ustick
IT Manager Webb Warren
Finance Director Bragg Farmer
Public Services Director Steve Schmidt
Public Services Dep Dir Tim Pietenpol
City Attorney Jerry Miller

City Clerk Rey Bailey
City Engineer David Campbell
Grants/Project Mgr Lindey Chabot
Comm Dev Director Ken Gallander
Parks & Rec Manager Lance Johnson
Land Use Attorney Scott Shirley

CALL TO ORDER, INVOCATION AND PLEDGE OF ALLEGIANCE

Mayor Seevers called the meeting to order at 5:30 PM. The invocation and pledge of allegiance will be conducted during the regular City Council meeting to be held following this meeting.

WORKSHOP

1) Norriego Point Land Management Plan

The City Manager provided the following Power Point presentation:

Norriego Point Recreation Area Management Plan

➤ Background Review

- ❖ City accepted conveyance of deed to Norriego Point from Okaloosa County on July 13, 2010
- ❖ State of Florida holds a recreational use dedication for that same area
- ❖ City entered into Memorandum of Understanding with FDEP on June 13, 2012, to clarify management authority

Page 1 of 4

➤ MOU Requirements

- ❖ City will manage Norriego Point as a public park under its public park system and standards
- ❖ City allowed to achieve permanent stabilization and improvements
- ❖ City required to submit a Management Plan to the FDEP within 180 days

➤ Management Plan Format

- ❖ Plan is constructed under a standard State Management Plan format addressing required categories
- ❖ Per State requirement, management plans are updated annually
 - Any changes to the Plan may be addressed in the update
 - Currently, the City has two other management plans:
 - ✓ Heritage Park
 - ✓ The Shore at Crystal Beach Park

➤ Management Plan Rationale

- ❖ Conceptual park improvements are the same as submitted with NRDA application for funding of permanent restoration of Norriego Point to maximize public use
- ❖ If NRDA project is funded, a firm will design a park plan for Council input and approval and management plan will be updated accordingly

Following the presentation, the Mayor opened the floor for Council comments.

According to Councilmember Bagby, he had earlier expressed to the City Manager that he was quite surprised to see a road in this plan; and that they have already submitted it as part of their NRDA application. He also stated they had previously discussed the pavilion for the bathroom, but nothing about a paved road.

According to the City Manager, they retained the services of a landscape architect to do the conceptual plan based on general direction from Council. She also stated that a paved road was just one of the options; and that there were other options for access to the pavilion including a multi-use trail. However, they decided to put the most intense option on this plan just to be on the safe side. She added this is only a conceptual plan, and that it does not bind them to do this.

Councilmember Bagby expressed concern this would be the approved plan; and then the next thing is having a bid comeback with a plan to pour in 8 inches of concrete. He stated they could discuss this issue some other time and not necessarily for this workshop.

Councilmember Bagby stated that another point he made during his earlier meeting with the City Manager was that additional boat parking needs to come out of the embayments; and that it ought to be on the harbor side not on the pass side. He added they should not mix swimming and snorkeling with boat parking.

Councilmember Williges stated it was his understanding that the purpose of the pavilion was to provide shade for people; and that it was he who suggested adding restrooms. He also stated that the plan does not show the parking location for automobiles.

Page 2 of 4

- On December 3, 2012, City Council held a workshop to discuss the Norriego Point Land Management Plan.

- "additional boat parking needs to come out of the embayments, and that it ought to be on the harbor side not on the pass side"

- "should not mix swimming and snorkeling with boat parking"

City Council Approves Norriego Point Land Management Plan

- On December 17, 2012, City Council approved the Norriego Point Land Management Plan.

Attachment 6- 12.17.12 Agenda Item, management plan, meeting minutes.



CITY OF DESTIN

AGENDA ITEM

COUNCIL MEETING DATE: December 17, 2012

TYPE OF AGENDA ITEM: Report and Recommendation

TO: Mayor and City Council

THRU: City Manager/Maryann Ustick

FROM: Grants and Projects Manager/Lindey Chabot

DATE: December 12, 2012

SUBJECT: Long-Range Management Plan for Norriego Point

- I. **BACKGROUND:** On July 13, 2010, Okaloosa County conveyed the fee title to the land area comprising Norriego Point to the City of Destin on the condition that the area be utilized solely and exclusively for public park and public recreational purposes. While the City of Destin now holds fee title to Norriego Point, the State of Florida holds a recreational use dedication for that same area (conveyed to the State by Okaloosa County in 1961). Given that both the State of Florida and the City of Destin hold interests in Norriego Point it is important to clarify which entity will exercise management authority over this important area.

A Memorandum of Understanding executed between the City of Destin and the Board of Trustees of the Internal Improvement Trust Fund (State of Florida) in June 2012 establishes the responsibilities and relationship between the Board of Trustees and the City with respect to the management of Norriego Point.

Key elements of the MOU include: 1) The City will manage the Dedicated Lands as a public park as part of the City park system according to standards established in the City Code of Ordinances; 2) the City is authorized to take lawful measures to achieve the permanent stabilization of Norriego Point and improvements to accomplish this are consistent with public park and public recreational purposes; 3) the City is required to submit a Management Plan to the FDEP, Division of State Lands within 180 days, outlining anticipated improvements and management activities for a 10 year planning period (that may be amended annually); 4) all improvements must be for public park/recreational purposes and shall be approved by the State for design, specifications, and location prior to construction.

II. DISCUSSION:

A team of city staff members drafted the Norriego Point Recreation Area Management Plan under a standard State Management Plan format addressing required categories. The City has two Management Plans already filed with the State – one for the Shore at Crystal Beach Park and one for the Captain Royal Melvin Heritage Park and Plaza. Both of these plans have been updated yearly since inception (2004 and 2009) and reflect the changes budgets and Council directions dictate.

Management Plans are fluid documents. Our first submittal supports enhancing access and recreational use of Norriego Point in order to align with NRDA criteria and our request for Early Restoration grant funds to stabilize the Point.

ITEM # 21

ITEM # _____

Based on Council input from the December 3rd workshop, three changes have been made to the document:

- 1) The Conceptual Plan has been updated to better highlight the park land and city right-of-way, to identify the parking area, and to indicate that the potential uses for the embayments are for either water activities or boat parking.
- 2) The language on page 8, first paragraph under *Proposed Physical Improvements* changed slightly to emphasize the conceptual nature of the site plan
- 3) Language on page 9 under *Parking* added to last sentence to acknowledge limitations of parking lot size and capacity if constructed

A. Link to Strategic Goals/Objectives: II. Preservation of Heritage and Environment

B. Effect on Budget (EOB): The addition of a new park to the City's system will increase operational, maintenance, and staffing costs for Recreation O&M.

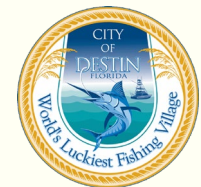
C. Level of Service (LOS): Additional public beach is consistently one of residents' top priorities in biennial citizen surveys.

- III. **CONCLUSION:** The Norriego Point Recreation Area Management Plan represents the potential of Norriego Point as a recreational facility in the heart of Destin after the Point is permanently restored and stabilized. The City has no plans to make any improvements on Norriego Point until such time as they can be funded and sustained. The Management Plan so clearly states. Council's approval of this plan does not bind the Council to implementing any improvements. Submittal of this plan is simply advising the State of current and potential recreational uses considered for this dedicated park land and fulfills the City's obligation to submit a Management Plan to the State within 180 days of the MOU. The Plan can be updated and amended at any time following community input and Council approval.

- IV. **RECOMMENDED MOTION:** I move that the Destin City Council approve submittal of the attached Norriego Point Recreation Area Management Plan to the State of Florida in time to meet the 180-day deadline.

Atch.:

1. Norriego Point Management Plan



Norriego Point Land Management Plan

Norriego Point Recreation Area Management Plan



City of Destin
December 2012

I. PROJECT DESCRIPTION AND MANAGEMENT OBJECTIVES

Project Description

The Norriego Point Recreation Area is located on Norriego Point within the city limits of Destin, Florida, Okaloosa County (Exhibits A and B). Norriego Point is a natural sand feature, approximately 0.8 miles of shoreline in the inlet of Destin East Pass, which links the Choctawhatchee Bay to the Gulf of Mexico. The Point is a regional landmark and has served historically as a favorite boaters' beach. The purpose of establishing a city park/recreational area at Norriego Point is to comply with the land's dedication to the State of Florida and the City of Destin to be used in perpetuity "solely and exclusively for public park and recreational purposes."

Additional covenants running with the land include:

- the prohibition of selling or leasing any interest in the property to a non-governmental person or organization
- the prohibition of the operation of any concession on the property by a non-governmental person or organization
- the prohibition of any sales contract or option to buy or sell things attached to the property to be severed from the property with a non-governmental person or organization
- the prohibition of any use of the property by a non-governmental person other than in such person's capacity as a member of the general public
- the prohibition of a management contract, except for contracts for maintenance of the property

The City of Destin obtained ownership of the Point from Okaloosa County in 2010 for the purpose of permanent restoration and expansion of recreational opportunities. In order to restore the beach acreage to its original pre-Opal size and configuration, the City has worked through a coastal engineering firm to design a project to permanently restore and stabilize the Point. At the same time, the City is submitting this Management Plan with the State of Florida to maximize Norriego Point's recreational use.

The restoration of the Point involves the repair and construction of several erosion control structures. The existing two T-groins will be repaired or reconstructed. In accordance with permit submittals, two additional T-groins and a terminal revetment are proposed along the seaward edge of the Point, north of the existing T-groins, protecting the fill placed to restore the land area lost. Two new embayments will provide additional swimming area and space for watercraft access. In addition, the dunes will be restored and revegetated with sea oats.

- Plan outlines additional covenants running with the land, including:
 - "prohibition of any use of the property by a non-governmental person other than in such person's capacity as a member of the general public"
 - "City of Destin obtained ownership of Norriego point from Okaloosa County in 2010 for the purpose of permanent restoration and expansion of recreational opportunities"

Norriego Point Land Management Plan

Prioritized Management Objectives

- “purpose of the project is to provide additional beach and boat access, open space, and recreational/educational opportunities along the Destin Harbor and East Pass”
- “project will be managed only for the conservation, protection & enhancement of natural resources, and for outdoor recreation that is compatible with the conservation, protection, and enhancement of the site”
 - *“provide urban open space”*
 - *“provide public beach and recreational vessel access”*
 - *“provide environmental education & awareness”*
 - *“provide passive recreational opportunities”*
 - *“protect restored dune areas as wildlife habitat”*

Once Norriego Point is restored and permanently stabilized, the City can then construct the permanent park amenities for the thousands of boater and beachgoers who recreate on the Point each year. The new park will serve as a rest area for kayakers, as the State of Florida's Greenway Paddling Trail, Segment 2, passes along Norriego Point. Potential facilities include a picnic pavilion (with restrooms, showers, and drinking fountain), educational signage to encourage appreciation and protection of this natural environment, a trail system, bike racks, and vehicle parking (tripling the current capacity), and stormwater retention.

Upon completion, this park will permanently optimize the public recreational use of Norriego Point and provide a significant increased level of service to Destin's visitors.

Prioritized Management Objectives

The purpose of the project is to provide additional beach and boat access, open space, and recreational/educational opportunities along the Destin Harbor and Destin East Pass. The project site will be managed only for the conservation, protection and enhancement of natural resources, and for outdoor recreation that is compatible with the conservation, protection, and enhancement of the site.

Management objectives for the site include:

1. provide urban open space
2. provide public beach and recreational vessel access
3. provide environmental education and awareness
4. provide passive recreational opportunities
5. protect restored dune areas as wildlife habitat

Comprehensive Plan Consistency

Major comprehensive plan directives that will be furthered by managing the *Norriego Point Recreation Area* include:

1. Providing acreage and outdoor recreational facilities necessary to improve adopted levels of service standards established in the comprehensive plan for recreation
 - a. **Recreation and Open Space Policy 7-1.1.2** establishes an LOS for recreation, parks and open space of 2 acres per 1,000 population
 - b. **Recreation and Open Space Policy 7-1.2.3** establishes a commitment to acquire open space and natural areas to maintain and improve the recreational opportunities for all residents

The Norriego Point Recreation Area provides an additional 8+- acres of outdoor recreation and open space/sandy beach. It improves the level of service for public shoreline access and public park acreage in the Harbor area for public recreation.

Norriego Point Land Management Plan

Proposed physical improvements

“The Norriego Point Recreation Area is and will continue to be a low-impact park. The details, exact placements, and relative sizes of the components of the park are yet undetermined”

Recreation Improvements

- *Picnic pavilion*
- *Non-paved interpretative trail and educational signage designed to promote protection of restored dune areas on the Point*
- *Two new embayments for additional water-related activities and boat/kayak parking*

III. SITE DEVELOPMENT AND IMPROVEMENT

Existing Physical Improvements

The only permanent improvements existing on Norriego Point at the present time are two T-head groins positioned at the southwestern base of the Point.

Proposed Physical Improvements

The Norriego Point Recreation Area is and will continue to be a low-impact park. The details, exact placements, and relative sizes of the components of the park are yet undetermined, and a very preliminary and conceptual Master Site Plan is included at this time as Exhibit E. The following components will be considered in the final design:

Recreation Improvements:

- Picnic pavilion
- Non-paved interpretative trail and educational signage designed to promote protection of restored dune areas on the Point
- Two new embayments for additional water-related activities and boat/kayak parking

General:

- Access roadway, multi-use trail and parking for land-based visitors
- Bike racks near park entrance
- Safe road crossing facilities
- Undergrounding of utilities
- Trash cans at various locations throughout park (continued participation in the FWCC Monofilament Recycling Program)
- Drinking fountain and restrooms at pavilion facility

Landscaping

Per the City of Destin's Land Development Code (LDC), and in keeping with the ambience and purpose of the park, any landscaping installed upon construction of the improvements will be salt-resistant species native to the coastal area. Revegetation of the dune areas with sea oats has been and will continue to be maintained.

City of Destin submits project for NRDA consideration

- In December 2012, City of Destin submitted Norriego Point Project for consideration under Deepwater Horizon Natural Resource Assessment Early Restoration Phase III.
- “the purpose of the project is to protect, stabilize, and re-establish the vast recreational opportunities of Norriego Point, an impressive, well-known landmark and boaters’ beach”
- “this restoration and recreation project will permanently optimize the public recreational use of Norriego Point”

Brief Project Narrative: (Describe what the project will do.)

The purpose of this project is to protect, stabilize, and re-establish the vast recreational opportunities of Norriego Point, an impressive, well-known landmark and boaters’ beach, impacted by the 2010 Deepwater Horizon Oil Spill response activities. Norriego Point is a natural sand feature in the inlet of East Pass, Destin, Florida. It serves as the protective barrier for the boat channel entering Destin Harbor. Most significantly, it is the hub and focal point for Destin, Florida’s, water-based recreational opportunities and is what creates Destin’s unique character. Traditionally, year-round, thousands of recreational boaters, beach-goers, sport fishermen, and nature lovers utilize the Point and the adjacent channel and harbor if safeguards.

The City of Destin obtained ownership of the Point from the State of Florida through Okaloosa County in 2010 for the purpose of permanently restoring its integrity and expanding its recreational opportunities. The conveyance of the property was “made and accepted with the covenant and understanding that the use of the property is solely and exclusively for Public Park and recreational purposes.” In order to expand the beach acreage to its traditional dimensions for maximum recreational usage and protective benefits, the City engaged a coastal engineering firm to design a project to permanently stabilize the Point. The City has also been working with the State of Florida on a Management Plan to construct amenities, once the property is stabilized, to increase Norriego Point’s recreational value and opportunities.

It was in this same time period that the Deepwater Horizon Oil Spill occurred, adversely impacting Norriego Point and its thousands of summer and fall recreational users. Norriego Point served as a staging area and deployment area for setting booms across the Destin East Pass throughout the summer of 2010. These response activities damaged the dunes. The perceived fear of pollution kept recreational sportsmen away from the water. Destin is renowned for its recreational fishing opportunities and, in fact, is known as “the World’s Luckiest Fishing Village.” Every year in October recreational fishermen from literally all over the world come to the Destin Harbor and its adjoining waters to take part in the month-long Destin Fishing Rodeo. Thousands of sport fishermen (and women) lost that opportunity in 2010 due to the real and perceived damages of the Deepwater Horizon Oil Spill. And that is just one segment of recreational users affected adversely throughout 2010.

In short, the results of the spill drove recreational fishermen, boaters, and beachgoers away from Destin for an entire season and deprived thousands of people their fishing, boating, beaching, and swimming enjoyment on and around Norriego Point.

The restoration and protection of the Point involves the construction of several erosion control structures to dissipate wave energy and protect the fill placed landward of the revetment to restore and expand the land area lost over time, approximately 8 acres. Two new embayments will provide additional swimming areas as well as more space for boats and kayakers to pull in. In addition, the dune will be restored and revegetated to increase protection for the channel and Destin Harbor, as well as enhance wildlife habitat. The stabilization of Norriego Point is critical for the expansion and maintenance of its recreational use and the continued integrity of Destin Harbor.

The stabilization will enable the City to then construct park amenities that will enhance the use of Norriego Point for the thousands of boaters and beachgoers that play on the Point each year. The new park will serve as a rest area for kayakers, as the State of Florida’s Greenway Paddling Trail, Segment 2, passes along Norriego Point. Facilities will include a picnic pavilion (with restrooms, showers, and drinking fountain), educational signage to encourage appreciation of this natural environment, a multi-use trail, bike racks and vehicle parking along the access road adjacent to the park land. (This road to be built by private property owner as part of his development order. See management plan & conceptual plan attached.)

Upon completion, this restoration and recreation project will permanently optimize the public recreational use of Norriego Point in compliance with its deed’s covenants. Full funding for this project will fairly compensate the thousands of recreational users who lost their favorite playground in 2010 due to the Deepwater Horizon Oil Spill and enhance the water-based recreational opportunities in and around Norriego Point, Destin, Florida, for the long-term.

Stabilization Project Completion and City Council Action

2014

2015

- Project selected and funded through DWH NRDA ERP Phase III. FDEP is Grant Administer and Project Manager.
- FDEP contracted for value engineering services & preparation of construction documents.
- July 20, 2015, City Land Use Attorney report
- Sept. 8, 2016, Ord. 16-15-CC prohibiting commercial concession activities on Norriego Point.

2016

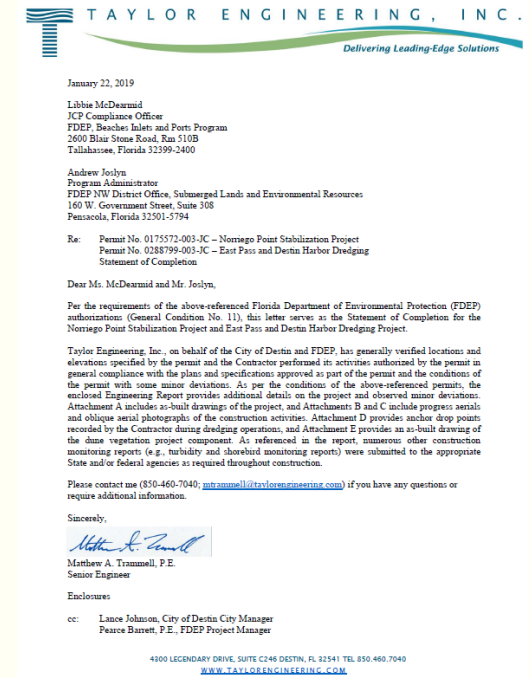
2017

- Sept. 6, 2017, Norriego Point Access and Use Agreement with FDEP
- FDEP awards construction contract for Shoreline Stabilization & Beach Restoration component
- Sept. 17, 2017, FDEP Presentation to City Council, Shoreline Stabilization Project

2018

Jan
2019

- Feb 20, 2018, FDEP Presentation to City Council, Shoreline Stabilization Project
- July 2, 2018 Norriego Point Boat Parking Restrictions; staff update on Norriego Point Recreational Activities
- Final Completion of Shoreline Stabilization Beach Restoration component.



*Attachment 8 -07.20.15 Meeting Minutes
Attachment 9 - Ord. 16-15 CC
Attachment 10- Access & Use Agreement
Attachment 11- 07.17.17 Presentation
Attachment 12-02.20.18 Presentation
Attachment 13-07.02.18 Mtg Minutes
Attachment 14- Statement of Completion*

Pre-Construction Condition



Figure 1. April 2015



Figure 2. June 2015

Figure 1. & Figure 2., retrieved from Statement of Completion dated January 22, 2019, Taylor Engineering, Inc.

Post-Construction Condition

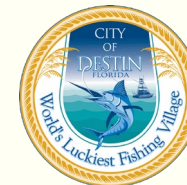


Figure 3.

Completed
stabilization,
restoration, and
vegetation project
components.

October 2018

Figure 2., retrieved from Statement of Completion dated January 22, 2019, Taylor Engineering, Inc.



Recreation Improvements Phase and City Council Action

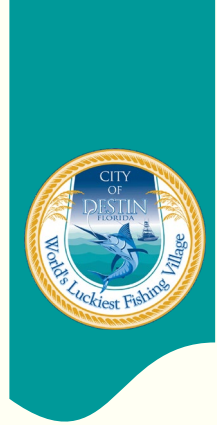
2019

- FDEP Presentations to City Council on August 19, 2019 & November 4, 2019.
- September 4, 2019, Appointment of Councilman Destin to represent the City and accompany the City Manager and the City's Legal Counsel to Tallahassee to meet with FDEP.
- October 8, 2019 FDEP & City meeting in Tallahassee
- October 21, 2019 Council motion to direct staff to draft a resolution.
"inline with a compromise of keeping three of the embankments closed for public swimming only and leaving the bottom embankment open for vessels; but also reserving the City's right to close that embankment in the event of commercial activity and public safety hazard"

2020

- Correspondence between FDEP and the City
- May 18, 2020 Council motion to direct staff to schedule a workshop. *"Coordinate some dates and times for a future workshop with FDEP to discuss this matter and bring back proposed dates and times to Council passed 7-0"*

*Attachment 15-08.19.19 Presentation
Attachment 16-09.04.19 Mtg Minutes
Attachment 17-10.08.19 Atty Mtg Memo
Attachment 18-10.21.19 Mtg Minutes
Attachment 19-11.04.19 Presentation
Attachment 20-Correspondence*



QUESTIONS/COMMENTS



CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: City Manager Report

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: Announcements
- OBCC scheduled to consider funding for beach acquisitions in Destin during their July 7th meeting.
- We are tentatively scheduled to complete the closing process for Captain Leonard Destin Park on July 20th.

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: July 6, 2020

TYPE OF AGENDA ITEM: Public Hearing

TO: City Council

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney

FROM: Noell Bell, Chief Building Official

DATE: June 25, 2020

SUBJECT: Second reading of Ordinance 20-19-CC - Amends Article II (Noise) of Chapter 14, offenses and miscellaneous provisions of the Code of Ordinances

I. BACKGROUND: The current Code of Ordinances outlines the following limitations on construction noise.

Sec. 14-56. - Exemptions. All zoning districts except SHMU

(10) Construction or demolition activities, other than the placement of concrete as described in subsection (13) below, for which the city has issued a development permit, provided such activity occurs between 7:00 a.m. and 10:00 p.m.

(11) Placement of concrete associated with nonresidential development activities, for which the City of Destin has issued a development permit, when conducted between 3:00 a.m. and 10:00 p.m. If placement of concrete is planned to occur prior to 7:00 a.m., notice shall be provided to surrounding residential areas or noise sensitive zones with a minimum of forty-eight (48) hours' notice prior to commencement of this activity. A copy of the notice and distribution list shall be provided to the city manager or city manager's designee at least forty-eight (48) hours prior to commencement of this activity

Sec. 14-63. - Exemptions in SHMU only

(3) Provided construction operations are limited to the hours between 6:00 a.m. and 6:00 p.m. Monday through Sunday for projects located adjacent to non-residential properties; and

(4) Provided construction operations are limited to the hours between 6:00 a.m. and 6:00 p.m. Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday and Sunday for projects located adjacent to residential properties.

II. DISCUSSION:

City Administration has received multiple construction noise complaints over the years. The number of complaints has increased recently as a result of increased development activities in the City. These complaints range from both large projects and single-family dwellings under construction. Staff has reviewed the current ordinance hours allowed for the construction noise and recognizes that Destin is a small 7.2 square miles community and understand that development is part of any community. As such, with development comes inevitable construction noise. However, the City has a responsibility to be both fair to the development community and also ensure the well-being of our citizens.

In search of an equitable solutions, staff has researched other area jurisdictions and observed the following construction hours:

Pensacola: 6:00 am – 7:00 pm Monday – Saturday
(Permission may be granted in cases of urgent necessity in the interest of public health and safety, as determined by the Building Official, 7:00 pm - 6:00 am including Sundays)

Niceville: 7:00 am – 6:00 pm
7:00 am – 7:00 pm during daylight savings time

Fort Walton Beach: 7:00 am – 10:00 pm (No days of week specified)

Walton County: 6:30 am – 7:00 pm Monday – Friday
7:00 am – 7:00 pm Saturday

Okaloosa County: 7:00 am – 10:00 pm (No days of week specified)

- A. Link to Strategic Goals / Objectives: Enhance the quality of life of the residents and promote economic growth in the City of Destin.
- B. Effect on Budget (EOB): None
- C. Level of Service (LOS): None

III. CONCLUSION:

In an effort to be fair and accommodating to all interested parties, staff proposes

that the City Council consider amending the City's construction noise limitations as follows:

All zoning districts except SHMU:

Sec. 14-56. - Exemptions

1. Construction activity shall not be allowed on any Federal Holiday
2. Monday – Friday 6:00 am to 10:00 pm
3. Weekends (Saturday and Sunday) 8:00 am-6:00 pm

Sec. 14-63. - Exemptions in SHMU only

1. Construction activity shall not be allowed on any Federal Holiday
2. Monday – Sunday 6:00 am to 10:00 pm, for projects located adjacent to non-residential properties.
3. Monday - Friday 6:00 am to 6:00 pm and on Saturday and Sunday 8:00 am to 6:00 pm, for projects located adjacent to residential properties.

IV. RECOMMENDED MOTION: I move that the City Council adopt proposed Ordinance 20-19-CC on Second Reading.

Attachments:

1. Construction Noise Ordinance

ORDINANCE NO. 20-19-CC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA RELATING TO CONSTRUCTION NOISE; PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR THE AMENDMENT TO ARTICLE II (NOISE) OF CHAPTER 14, OFFENSES AND MISCELLANEOUS PROVISIONS OF THE CODE OF ORDINANCES, PROVIDING FOR INCORPORATION INTO THE CODE OF ORDINANCES; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 in providing for the health, safety and welfare of its citizens finds that the City should amend Chapter 14, Article II of the Code of Ordinances to amend and create exemptions; and

WHEREAS, the City Council recognizes that noise regulation uniformity and consistency throughout the City benefits the City, it's residents and the public; and

WHEREAS, the creation of excessive noise is a condition which has existed for some time and is a hazard to the public health, welfare, safety and the quality of life of the residents and visitors of the City; and

WHEREAS, the citizens and visitors of the City of Destin have a right to the quiet enjoyment of their environment and should be protected from excessive noise that may jeopardize their health, safety or welfare; and

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; and

WHEREAS, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; 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 all sections 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 Land Development Code that have been skipped and remain unchanged.

SECTION 3. AMENDMENT OF CHAPTER 14, ARTICLE II OF THE CODE OF ORDINANCES.

Chapter 14, Article II of the Code of Ordinances is hereby amended as follows:

Sec. 14-56. - Exemptions.

- (10) Construction or demolition activities ~~other than the placement of concrete as described in subsection (13) below,~~ for which the city has issued a development permit, provided such activity occurs between 7 6:00 a.m. and 10:00 p.m. and 8:00 a.m. and 6:00 p.m. on Saturday and Sunday, with no construction activity noise allowed on observed Federal Holidays.
- (11) ~~Placement of concrete associated with nonresidential development activities, for which the City of Destin has issued a development permit, when conducted between 3:00 a.m. and 10:00 p.m. If placement of concrete is planned to occur prior to 7:00 a.m., notice shall be provided to surrounding residential areas or noise sensitive zones with a minimum of forty eight (48) hours' notice prior to commencement of this activity. A copy of the notice and distribution list shall be provided to the city manager or city manager's designee at least forty eight (48) hours prior to commencement of this activity~~

Sec. 14-63. - Exemptions in SHMU only.

The following uses and activities shall be exempt from noise level regulations:

(c) Construction operations:

- (1) Construction operations for which building permits have been issued, or construction operations not requiring permits due to ownership of the project by a government agency;
- (2) Provided all equipment is operated in accordance with the manufacturers' specifications and with all standard equipment, manufacturers' mufflers and noise-reducing equipment in use and in proper operating condition;
- (3) Provided construction operations are limited to the hours between 6:00 a.m. and ~~6:00~~ 10:00 p.m. Monday through Sunday for projects located adjacent to non-residential properties; and
- (4) Provided construction operations are limited to the hours between 6:00 a.m. and 6:00 p.m. Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday and Sunday for projects located adjacent to residential properties for which for which the city has issued a development permit.
- (5) No construction noise activity is allowed on observed Federal Holidays.

SECTION 4. INCORPORATION INTO THE 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. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

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

ADOPTED THIS _____ DAY OF _____, 2020.

By: _____
Gary Jarvis, Mayor

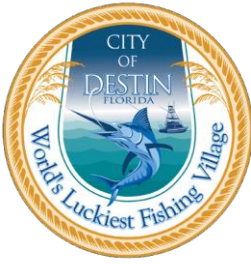
ATTEST:

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.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____



COMMUNITY DEVELOPMENT DEPARTMENT

AGENDA ITEM

CITY COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Staff Report and Recommendation

TO: City Council

THRU: Lance Johnson, City Manager

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

DATE: June 23, 2020

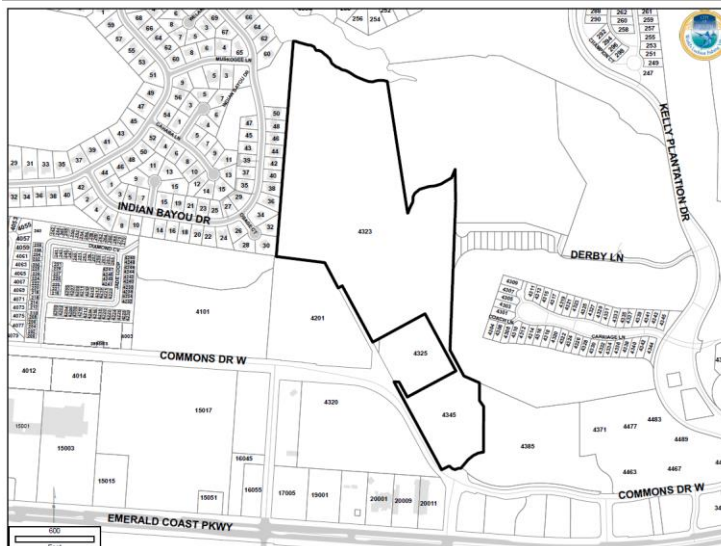
SUBJECT: Proposed Ordinance Amending the Future Land Use Map (FLUM): 20-09-PC -
Mattie Kelly Arts Foundation – Second Reading

BACKGROUND: Over the past year at City Council's Direction, Staff has worked to eliminate inconsistencies between the Zoning Map and Future Land Use Map. During this endeavor, the Mattie Kelly Arts Foundation Parcel (00-2S-22-0000-0001-B17F) was rezoned from Residential, Office, Institutional – Village Residential (ROI-VR), Recreation (REC) and Institutional (INST) to Institutional (INST).

ISSUE: As a result of the rezoning, the Mattie Kelly Arts Foundation Parcel is now inconsistent with the Future Land Use Map. As such, an amendment to the Future Land Use Map (FLUM) is now necessary.

DISCUSSION: Below is the parcel identified as the Mattie Kelly Arts Foundation that requires a Future Land Use Map Amendment.

- **Mattie Kelly Arts Foundation Parcel – PID: 00-2S-22-0000-0001-B17F**



Current Zoning	Current Future Land Use	Proposed Future Land Use
Institutional (INST)	Institutional (INST), Residential, Office, Institutional (ROI), and Recreation (REC)	Institutional (INST)

If approved, the Future Land Use of this parcel will be updated to be consistent with the current zoning.

The final step of the alignment of the Future Land Use Map and the Zoning Map will be to adopt and codify both maps into the City's Comprehensive Plan and Land Development Code, respectively.

CONCLUSION: During a Public Hearing held February 27, 2020, the Local Planning Agency (LPA) recommended that the City Council approve Ordinance 20-09-PC: Mattie Kelly Arts Foundation. During 1st reading at a City Council meeting held April 20, 2020, the City Council voted unanimously to approve proposed Ordinance 20-09-PC: Mattie Kelly Arts Foundation and directed staff to send the proposed ordinance to the Florida Department of Economic Opportunity for review.

Staff sent the proposed Ordinance to the Florida Department of Economic Opportunity on April 29, 2020 and received a letter on June 15, 2020 from the Florida Department of Economic Opportunity stating they have no comments or objections on the proposed Ordinance 20-09-PC: Mattie Kelly Arts Foundation.

This ordinance is now under consideration for 2nd reading by the City Council.

RECOMMENDED MOTIONS:

1. I move that the City Council adopt proposed Ordinance 20-09-PC: Mattie Kelly Arts Foundation.
2. I further move to direct staff to send Ordinance 20-09-PC: Mattie Kelly Arts Foundation to the Florida Department of Economic Opportunity for adoption of the Future Land Use Amendment.

Attachments:

Ordinance 20-09-PC: Mattie Kelly
Letter of No Comments from Florida Department of Economic Opportunity

ORDINANCE NO. 20-09-PC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE FUTURE LAND USE MAP AS REFERENCED IN CHAPTER 1 OF THE COMPREHENSIVE PLAN TO INCLUDE A CHANGE IN THE FUTURE LAND USE DESIGNATIONS OF THE PARCEL DESCRIBED AND GENERALLY DEPICTED IN THE ATTACHED EXHIBIT A FROM RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI), RECREATION (REC), AND INSTITUTIONAL (INST) TO INSTITUTIONAL (INST); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR FUTURE LAND USE MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 applicant desires to change the future land use designation from Residential, Office, Institutional (ROI); Recreation (REC); and Institutional (INST) to Institutional (INST) for future land use category in the City's Comprehensive Plan on a parcel of land set forth in Exhibit A, lying within the corporate limits of the City; and

WHEREAS, after due public notice, a public hearing was conducted by the Local Planning Agency on March 21, 2019, and its recommendations reported to the City Council; and

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

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;

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

SECTION 3. ADOPTION OF THE AMENDMENT TO THE FUTURE LAND USE MAP:

The City of Destin's Future Land Use Map is hereby amended by changing the future land use category from Residential, Office, Institutional (ROI); Recreation (REC); and Institutional (INST) to Institutional (INST) for the specific area of land of approximately 51.7 acres, which area of land is legally described and depicted on Exhibit A, attached hereto and fully incorporated herein by this reference.

SECTION 4. TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY:

The City Manager or his designee is hereby designated to sign a letter transmitting the adopted comprehensive plan amendment to the State Planning agency, in accordance with the Community Planning Act.

SECTION 5. INCORPORATION INTO COMPREHENSIVE PLAN. Upon the effective date of the comprehensive plan amendment adopted by this Ordinance, said amendment shall be incorporated into the City of Destin's Comprehensive Plan and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 6. CONFLICTING PROVISIONS. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed 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. The comprehensive plan amendment shall not become effective until 31 days after the State Planning Agency notifies the City that the plan amendment package transmitted by the City is complete, except however, if the plan amendment is timely challenged, this Ordinance shall not become effective until the date a final order is issued by the State Land Planning Agency, or the date the Administration Commission enters a final order determining that the adopted plan amendment is in compliance. No development orders, development permits, or land use dependent on this amendment may be issued or commenced before it becomes effective. After and from the effective date of this amendment, the comprehensive plan amendment set forth herein shall amend the City of Destin's Comprehensive Plan and shall become a part of that plan and the amendment shall have the legal status of the City of Destin's Comprehensive Plan, as amended.

ADOPTED THIS 6TH DAY OF _____ 2020.

BY: _____
Gary Jarvis, Mayor

ATTEST:

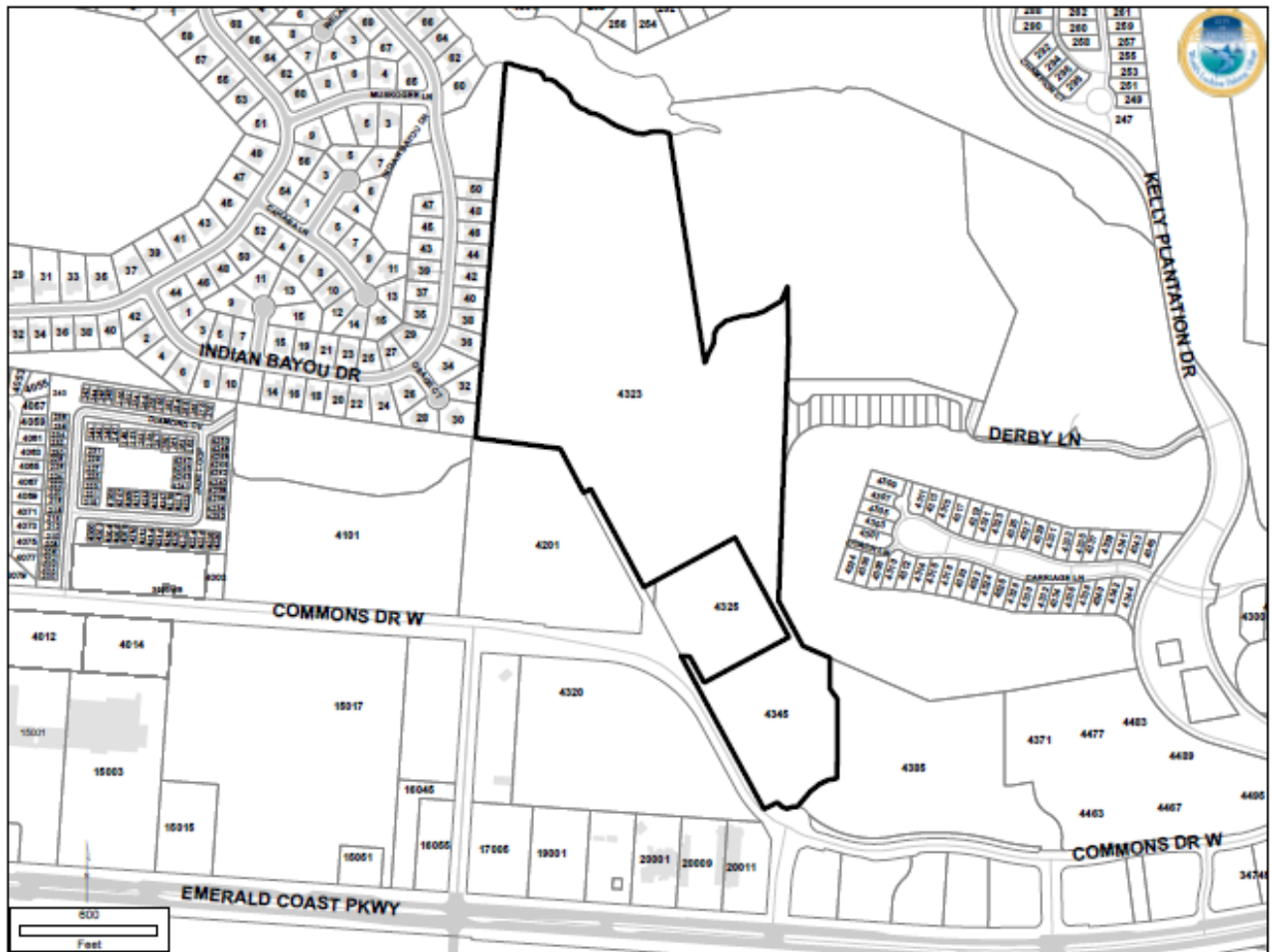
The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney, for the City of Destin, only.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____

EXHIBIT A



Parcel ID: 00-2S-22-0000-0001-B17F

PARCEL 1

A PARCEL OF LAND SITUATED IN UN-SECTIONALIZED TOWNSHIP 2 SOUTH, RANGE 22 WEST, OKALOOSA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN EXISTING PERMANENT CONCRETE REFERENCE MONUMENT (LAND SURVEYING BUSINESS NO. 3501) MARKING THE SOUTHWEST CORNER OF CARRIAGE PLACE AT KELLY PLANTATION ACCORDING TO THE RECORD PLAT THEREOF RECORDED IN PLAT BOOK 17 AT PAGES 83 AND 84 OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA; THENCE RUN S25°41'42"W FOR 326.95 FEET TO THE POINT OF BEGINNING; THENCE PROCEED THE FOLLOWING COURSES: S28°21'57"E FOR 94.76 FEET; S35°28'49"E FOR 126.22 FEET; N00°00'39"W FOR 134.57 FEET; N66°25'40"W FOR 129.03 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 8,697.669 SQUARE FEET OR 0.200 ACRES MORE OR LESS.

PARCEL 2

A PARCEL OF LAND SITUATED IN UN-SECTIONALIZED TOWNSHIP 3 SOUTH, RANGE 22 WEST, OKALOOSA COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT AN EXISTING PERMANENT CONCRETE REFERENCE MONUMENT (LAND SURVEYING BUSINESS NO. 3501) MARKING THE SOUTHWEST CORNER OF CARRIAGE PLACE AT KELLY PLANTATION ACCORDING TO THE RECORD PLAT THEREOF RECORDED IN PLAT BOOK 17 AT PAGES 83 AND 84 OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA; THENCE PROCEED THE FOLLOWING COURSES: S25°41'42"W FOR 326.95 FEET; S28°21'57"E FOR 94.76 FEET; S35°28'49"E FOR 182.75 FEET; S00°00'39"E FOR 301.88 FEET TO THE POINT OF BEGINNING; THENCE RUN S61°36'44"W FOR 306.56 FEET TO A POINT ON A CURVE CONCAVE NORTHEASTERLY HAVING A RADIUS OF 500.00 FEET AND THE NORTHEASTERLY RIGHT-OF-WAY LINE OF COMMONS DRIVE WEST (EXISTING RIGHT-OF-WAY, WIDTH VARIES); THENCE RUN SOUTHEASTERLY ALONG SAID CURVE AND NORTHEASTERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 05°46'15" AN ARC DISTANCE OF 50.36 FEET (CHORD = 50.34 FEET, CHORD BEARING = S51°00'29"E) TO THE POINT OF REVERSED CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 84.00 FEET; THENCE RUN NORTHEASTERLY ALONG SAID CURVE AND NORTHEASTERLY RIGHT-OF-WAY LINE THROUGH A CENTRAL ANGLE OF 25°35'12" AN ARC DISTANCE OF 37.51 FEET (CHORD = 37.20 FEET, CHORD BEARING = N86°34'20"E) TO THE POINT OF REVERSE CURVATURE OF A CURVE CONCAVE NORTHWESTERLY AND HAVING A RADIUS OF 25.00 FEET; THENCE DEPARTING SAID NORTHEASTERLY RIGHT-OF-WAY LINE RUN NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 62°23'58" AN ARC DISTANCE OF 27.23 FEET (CHORD = 25.90 FEET, CHORD BEARING = N68°09'57"E) TO THE POINT OF TANGENCY; THENCE RUN N36°57'57"E FOR 55.46 FEET TO THE POINT OF CURVATURE OF A CURVE CONCAVE SOUTHEASTERLY AND HAVING A RADIUS OF 209.50 FEET; THENCE RUN NORTHEASTERLY ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 44°25'57" AN ARC DISTANCE OF 162.47 FEET (CHORD = 158.43 FEET, CHORD BEARING = N59°10'56"E) TO A POINT; THENCE DEPARTING SAID CURVE RUN N00°00'39"W FOR 40.09 FEET TO THE POINT OF BEGINNING. THE ABOVE DESCRIBED PARCEL OF LAND CONTAINS 11,449.681 SQUARE FEET OR 0.263 ACRES MORE OR LESS.

Ron DeSantis
GOVERNOR



Ken Lawson
EXECUTIVE DIRECTOR

May 28, 2020

The Honorable Gary Jarvis
Mayor, City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541

Dear Mayor Jarvis:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for the City of Destin (Amendment No. 20-02ESR) received on May 4, 2020. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the City is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the City. **If the City receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the City that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

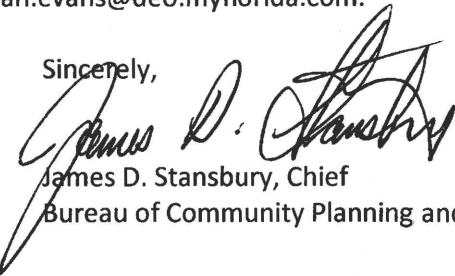
The Honorable Gary Jarvis, Mayor

May 28, 2020

Page 2 of 2

If you have any questions concerning this review, please contact Dan Evans, Planning Analyst, by telephone at (850) 717-8484 or by email at dan.evans@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with a large initial "J" and "S".

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/de

Enclosure(s): Procedures for Adoption

cc: Louis Zunguze, Community Development Director, City of Destin
Austin Mount, Executive Director, Emerald Coast Regional Council

**SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS
FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

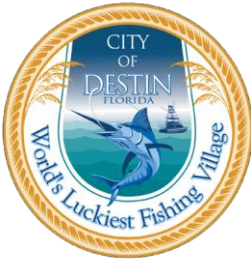
Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.



COMMUNITY DEVELOPMENT DEPARTMENT

AGENDA ITEM

CITY COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Staff Report and Recommendation

TO: City Council

THRU: Lance Johnson, City Manager

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

DATE: June 23, 2020

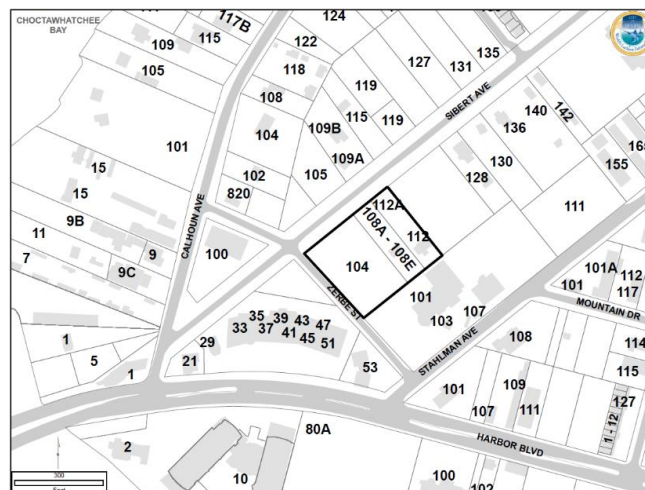
SUBJECT: Proposed Ordinance Amending the Future Land Use Map (FLUM): 20-10-PC - City Parking Lots – Second Reading

BACKGROUND: Over the past year at City Council's direction, Staff has worked to eliminate inconsistencies between the Zoning Map and Future Land Use Map. During this endeavor, the City Parking Lots (3 parcels) (00-2S-22-0310-000D-3760; 00-2S-22-0310-000D-3780; 00-2S-22-0310-000D-3790) were rezoned from North Harbor Mixed Use (NHMU) and Residential, Office, Institutional – Village Residential (ROI-VR) to Institutional (INST) to create consistency of land uses within the affected parcels.

ISSUE: The three (3) parcels which were corrected through City-initiated Zoning Amendments are now inconsistent with the Future Land Use Map. As such, an amendment to the Future Land Use Map (FLUM) is now necessary.

DISCUSSION: Below are the three (3) parcels identified as the City Parking Lots that require a Future Land Use Amendment:

- **City Parking Lots – PIDs: 00-2S-22-0310-000D-3760, 00-2S-22-0310-000D-3780, 00-2S-22-0310-000D-3790**



ITEM #		
Current Zoning	Current Future Land Use	Proposed Future Land Use
Institutional (INST)	North Harbor Mixed Use (NHMU), Residential, Office, Institutional (ROI)	Institutional (INST)

If approved, the Future Land Use of these parcels will be updated to be consistent with the current zoning.

The final step of the alignment of the Future Land Use Map and the Zoning Map will be to adopt and codify both maps into the City's Comprehensive Plan and Land Development Code, respectively.

CONCLUSION: During a Public Hearing held February 27, 2020, the Local Planning Agency (LPA) recommended that the City Council approve Ordinance 20-10-PC: City Parking Lots. During 1st reading at a City Council meeting held April 20, 2020, the City Council voted unanimously to approve proposed Ordinance 20-10-PC: City Parking Lots and directed staff to send the proposed ordinance to the Florida Department of Economic Opportunity for review.

Staff sent the proposed Ordinance to the Florida Department of Economic Opportunity on April 29, 2020 and received a letter on June 2, 2020 from the Florida Department of Economic Opportunity stating they have no comments or objections on the proposed Ordinance 20-10-PC: City Parking Lots.

This ordinance is now under consideration for 2nd reading by the City Council.

RECOMMENDED MOTIONS:

1. I move that the City Council approve proposed Ordinance 20-10-PC: City Parking Lots
2. I further move to direct staff to send Ordinance 20-10-PC: City Parking Lots to the Florida Department of Economic Opportunity for adoption of the Future Land Use Amendment.

Attachments:

Ordinance 20-10-PC: City Parking Lots

Letter of No Comment from Florida Department of Economic Opportunity

ORDINANCE NO. 20-10-PC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE FUTURE LAND USE MAP AS REFERENCED IN CHAPTER 1 OF THE COMPREHENSIVE PLAN TO INCLUDE A CHANGE IN THE FUTURE LAND USE DESIGNATIONS OF THE PARCELS DESCRIBED AND GENERALLY DEPICTED IN THE ATTACHED EXHIBIT A FROM NORTH HARBOR MIXED USE (NHMU) AND RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI) TO INSTITUTIONAL (INST); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR FUTURE LAND USE MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 applicant desires to change the future land use designation from NORTH HARBOR MIXED USE (NHMU) AND RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI) TO INSTITUTIONAL (INST); for future land use category in the City's Comprehensive Plan on a parcel of land set forth in Exhibit A, lying within the corporate limits of the City; and

WHEREAS, after due public notice, a public hearing was conducted by the Local Planning Agency on March 21, 2019, and its recommendations reported to the City Council; and

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

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;

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

SECTION 3. ADOPTION OF THE AMENDMENT TO THE FUTURE LAND USE MAP:

The City of Destin's Future Land Use Map is hereby amended by changing the future land use category from NORTH HARBOR MIXED USE (NHMU) AND RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI) TO INSTITUTIONAL (INST); for the specific area of land of approximately 2.5 acres, which area of land is legally described and depicted on Exhibit A, attached hereto and fully incorporated herein by this reference.

SECTION 4. TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY:

The City Manager or his designee is hereby designated to sign a letter transmitting the adopted comprehensive plan amendment to the State Planning agency, in accordance with the Community Planning Act.

SECTION 5. INCORPORATION INTO COMPREHENSIVE PLAN. Upon the effective date of the comprehensive plan amendment adopted by this Ordinance, said amendment shall be incorporated into the City of Destin's Comprehensive Plan and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 6. CONFLICTING PROVISIONS. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed 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. The comprehensive plan amendment shall not become effective until 31 days after the State Planning Agency notifies the City that the plan amendment package transmitted by the City is complete, except however, if the plan amendment is timely challenged, this Ordinance shall not become effective until the date a final order is issued by the State Land Planning Agency, or the date the Administration Commission enters a final order determining that the adopted plan amendment is in compliance. No development orders, development permits, or land use dependent on this amendment may be issued or commenced before it becomes effective. After and from the effective date of this amendment, the comprehensive plan amendment set forth herein shall amend the City of Destin's Comprehensive Plan and shall become a part of that plan and the amendment shall have the legal status of the City of Destin's Comprehensive Plan, as amended.

ADOPTED THIS 6TH DAY OF _____ 2020.

BY: _____
Gary Jarvis, Mayor

ATTEST:

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.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____

00-2S-22-0310-000D-3780
 Lot 378, Block D, SECOND REVISION OF CALHOUNS SUBDIVISION OF
 ADDITION TO TOWN OF DESTIN, according to the plat thereof as recorded in Plat
 Book 2, Page 43-A, Public Records of Okaloosa County, Florida.

00-2S-22-0310-000D-3790
 Lot 379, Block D, Calhoun's Subdivision of Addition to Town of Destin, Florida,
 according to the map or plat thereof as recorded in Plat Book 2, Page(s) 43-A, Public
 Records of Okaloosa County, Florida.

Ron DeSantis
GOVERNOR



Ken Lawson
EXECUTIVE DIRECTOR

June 2, 2020

The Honorable Gary Jarvis
Mayor, City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541

Dear Mayor Jarvis:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for the City of Destin (Amendment No. 20-03ESR) received on May 4, 2020. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the City is reminded that:

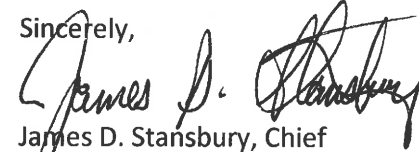
- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the City. **If the City receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the City that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

If you have any questions concerning this review, please contact Dan Evans, Planning Analyst, by telephone at (850) 717-8484 or by email at dan.evans@deo.myflorida.com.

Sincerely,



James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/de

Enclosure(s): Procedures for Adoption

cc: Louis Zunguze, Community Development Director, City of Destin
Austin Mount, Executive Director, Emerald Coast Regional Council

**SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS
FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.



COMMUNITY DEVELOPMENT DEPARTMENT

AGENDA ITEM

CITY COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Staff Report and Recommendation

TO: City Council

THRU: Lance Johnson, City Manager

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

DATE: June 23, 2020

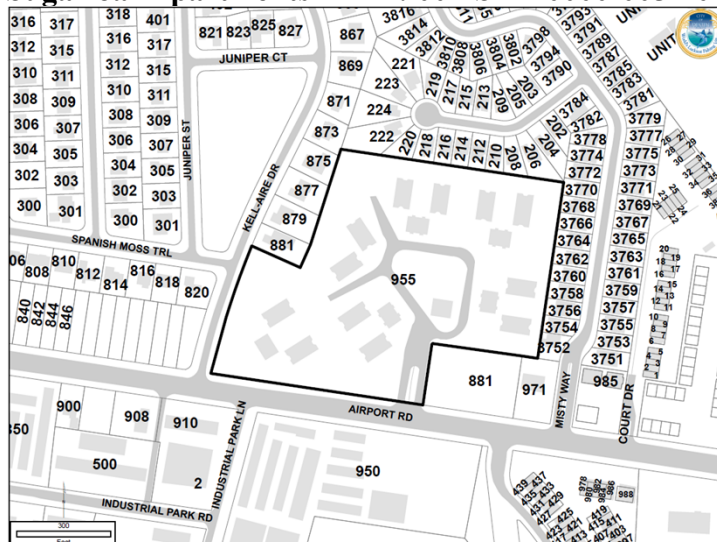
SUBJECT: Proposed Ordinance Amending the Future Land Use Map (FLUM): 20-11-PC – Sugarloaf Apartments – Second Reading

BACKGROUND: Over the past year at City Council's direction, Staff has worked to eliminate inconsistencies between the Zoning Map and Future Land Use Map. During this endeavor, the Sugarloaf Apartments (00-2S-22-0000-0057-0010) was rezoned from Residential, Office, Institutional – Village Residential (ROI-VR) and Medium Density Residential – Village (MDR-V) to Residential, Office, Institutional – Village Residential (ROI-VR) to create consistency of land uses within the affected parcels.

ISSUE: As a result of this rezoning, Sugarloaf Apartments is now inconsistent with the Future Land Use Map. As such, an amendment to the Future Land Use Map (FLUM) is now necessary.

DISCUSSION: Below is the parcel identified as Sugarloaf Apartments that requires a Future Land Use Amendment:

- Sugarloaf Apartments – PID: 00-2S-22-0000-0057-0010**



ITEM # _____		
		Use
Residential, Office, Institutional – Village Residential (ROI-VR)	Residential, Office, Institutional (ROI), Medium Density Residential (MDR)	Residential, Office, Institutional (ROI)

If approved, the Future Land Use of this parcel will be updated to be consistent with the current zoning.

The final step of the alignment of the Future Land Use Map and the Zoning Map will be to adopt and codify both maps into the City's Comprehensive Plan and Land Development Code, respectively.

CONCLUSION: During a Public Hearing held February 27, 2020, the Local Planning Agency (LPA) recommended that the City Council approve Ordinance 20-11-PC: Sugarloaf Apartments. During 1st reading at a City Council meeting held April 20, 2020, the City Council voted unanimously to approve proposed Ordinance 20-11-PC: Sugarloaf Apartments and directed staff to send the proposed ordinance to the Florida Department of Economic Opportunity for review.

Staff sent the proposed Ordinance to the Florida Department of Economic Opportunity on April 29, 2020 and received a letter on June 2, 2020 from the Florida Department of Economic Opportunity stating they have no comments or objections on the proposed Ordinance 20-11-PC: Sugarloaf Apartments.

This ordinance is now under consideration for 2nd reading by the City Council.

RECOMMENDED MOTIONS:

1. I move that the City Council approve proposed Ordinance 20-11-PC: Sugarloaf Apartments,
2. I further move to direct staff to send Ordinance 20-11-PC: Sugarloaf Apartments to the Florida Department of Economic Opportunity for adoption of the Future Land Use Amendment.

Attachments:

Ordinance 20-11-PC: Sugarloaf Apartments

Letter of No Comment from Florida Department of Economic Opportunity

ORDINANCE NO. 20-11-PC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE FUTURE LAND USE MAP AS REFERENCED IN CHAPTER 1 OF THE COMPREHENSIVE PLAN TO INCLUDE A CHANGE IN THE FUTURE LAND USE DESIGNATIONS OF THE PARCEL DESCRIBED AND GENERALLY DEPICTED IN THE ATTACHED EXHIBIT A FROM MEDIUM DENSITY RESIDENTIAL (MDR) AND RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI) TO RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR FUTURE LAND USE MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 applicant desires to change the future land use designation from MEDIUM DENSITY RESIDENTIAL (MDR) AND RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI) TO RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI) for future land use category in the City's Comprehensive Plan on a parcel of land set forth in Exhibit A, lying within the corporate limits of the City; and

WHEREAS, after due public notice, a public hearing was conducted by the Local Planning Agency on March 21, 2019, and its recommendations reported to the City Council; and

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

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;

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

SECTION 3. ADOPTION OF THE AMENDMENT TO THE FUTURE LAND USE MAP:

The City of Destin's Future Land Use Map is hereby amended by changing the future land use category from MEDIUM DENSITY RESIDENTIAL (MDR) AND RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI) TO RESIDENTIAL, OFFICE, INSTITUTIONAL (ROI) for the specific area of land of approximately 13.8 acres, which area of land is legally described and depicted on Exhibit A, attached hereto and fully incorporated herein by this reference.

SECTION 4. TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY:

The City Manager or his designee is hereby designated to sign a letter transmitting the adopted comprehensive plan amendment to the State Planning agency, in accordance with the Community Planning Act.

SECTION 5. INCORPORATION INTO COMPREHENSIVE PLAN. Upon the effective date of the comprehensive plan amendment adopted by this Ordinance, said amendment shall be incorporated into the City of Destin's Comprehensive Plan and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 6. CONFLICTING PROVISIONS. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed 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. The comprehensive plan amendment shall not become effective until 31 days after the State Planning Agency notifies the City that the plan amendment package transmitted by the City is complete, except however, if the plan amendment is timely challenged, this Ordinance shall not become effective until the date a final order is issued by the State Land Planning Agency, or the date the Administration Commission enters a final order determining that the adopted plan amendment is in compliance. No development orders, development permits, or land use dependent on this amendment may be issued or commenced before it becomes effective. After and from the effective date of this amendment, the comprehensive plan amendment set forth herein shall amend the City of Destin's Comprehensive Plan and shall become a part of that plan and the amendment shall have the legal status of the City of Destin's Comprehensive Plan, as amended.

ADOPTED THIS 6TH DAY OF _____ 2020.

BY: _____
Gary Jarvis, Mayor

ATTEST:

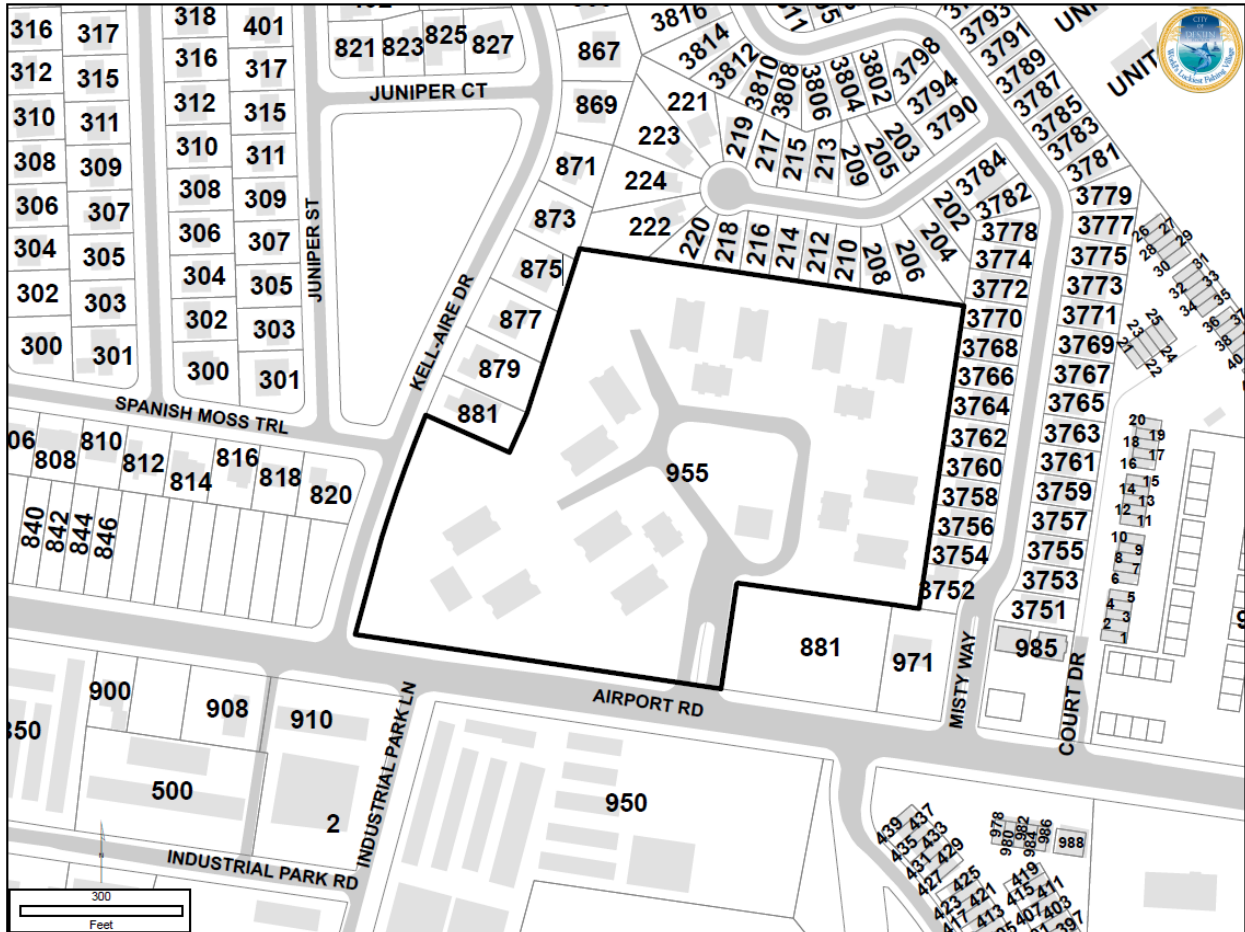
The form and legal sufficiency of the foregoing has been reviewed and approved by the City Land Use Attorney, for the City of Destin, only.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____

EXHIBIT A



Parcel ID: 00-2S-22-0000-0057-0010

LEGAL DESCRIPTION: PHASE "D" OF SUGARLOAF APARTMENTS

COMMENCE AT THE SOUTHWEST CORNER OF LOT 1, BLOCK B, HARBOR BREEZE, AS RECORDED IN PLAT BOOK 13, PAGE 32, OKALOOSA COUNTY, FLORIDA; THENCE NORTH 07° 17' 54" EAST ALONG THE WEST BOUNDARY OF SAID HARBOR BREEZE A DISTANCE OF 274.00 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 07° 17' 54" EAST ALONG SAID BOUNDARY A DISTANCE OF 291.00 FEET; THENCE NORTH 82° 42' 06" WEST A DISTANCE OF 294.00 FEET; THENCE SOUTH 07° 17' 54" WEST A DISTANCE OF 291.00 FEET; THENCE SOUTH 82° 42' 06" EAST A DISTANCE OF 294.00 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION: PHASE "E" OF SUGARLOAF APARTMENTS

BEGIN AT THE SOUTHWEST CORNER OF LOT 1, BLOCK B, HARBOR BREEZE, AS RECORDED IN PLAT BOOK 13, PAGE 32, OKALOOSA COUNTY, FLORIDA; THENCE NORTH 07° 17' 54" EAST ALONG THE WEST BOUNDARY OF SAID HARBOR BREEZE A DISTANCE OF 274.00 FEET; THENCE NORTH 82° 42' 06" WEST A DISTANCE OF 294.00 FEET; THENCE SOUTH 07° 17' 54" WEST A DISTANCE OF 13.51 FEET; THENCE ALONG A CURVE CONCAVE TO THE SOUTHWEST, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 066° 25' 18", FOR AN ARC LENGTH OF 34.78 FEET, (CHORD BEARING SOUTH 25° 54' 45" EAST, CHORD DISTANCE 32.86 FEET) TO ITS POINT OF TANGENCY; THENCE SOUTH 07° 17' 54" WEST A DISTANCE OF 164.00 FEET; THENCE ALONG A CURVE CONCAVE TO THE NORTHWEST, HAVING A RADIUS OF 30.00 FEET, A CENTRAL ANGLE OF 090° 00' 00", FOR AN ARC LENGTH OF 47.12 FEET, (CHORD BEARING SOUTH 52° 17' 54" WEST, CHORD DISTANCE 42.43 FEET) TO ITS POINT OF TANGENCY; THENCE NORTH 82° 42' 06" WEST A DISTANCE OF 17.94 FEET TO A POINT OF CURVE; THENCE NORTHWESTERLY ALONG A CURVE CONCAVE TO THE NORTHEAST, HAVING A RADIUS OF 20.00 FEET, A CENTRAL ANGLE OF 47° 16' 00", FOR AN ARC DISTANCE OF 16.50 FEET (CHORD BEARING NORTH 59° 04' 06" WEST, CHORD DISTANCE 16.04 FEET) TO ITS POINT OF TANGENCY; THENCE NORTH 35° 26' 06" WEST A DISTANCE OF 2.01 FEET; THENCE SOUTH 07° 17' 54" WEST A DISTANCE OF 46.91 FEET; THENCE SOUTH 82° 42' 06" EAST A DISTANCE OF 340.00 FEET TO THE POINT OF BEGINNING.

LEGAL DESCRIPTION: PHASE "F" OF SUGARLOAF APARTMENTS

COMMENCE AT THE SOUTHWEST CORNER OF LOT 1, BLOCK B, HARBOR BREEZE, AS RECORDED IN PLAT BOOK 13, PAGE 32, OKALOOSA COUNTY, FLORIDA; THENCE NORTH 82° 42' 06" WEST ALONG THE WESTERLY EXTENSION OF THE SOUTH LINE OF SAID LOT 1, A DISTANCE OF 340.00 FEET; THENCE SOUTH 07° 17' 54" WEST A DISTANCE OF 200.00 FEET TO THE NORTHERLY RIGHT-OF-WAY OF AIRPORT ROAD (100 FOOT RIGHT-OF-WAY); THENCE NORTH 82° 42' 06" WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 207.76 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE NORTH 82° 42' 06" WEST ALONG SAID RIGHT-OF-WAY A DISTANCE OF 475.00 FEET; THENCE NORTH 12° 58' 54" EAST ALONG THE EASTERLY RIGHT-OF-WAY OF KELL-AIRE DRIVE (66 FOOT RIGHT-OF-WAY) AS SHOWN ON THE PLAT OF KELL-AIRE GARDENS, AS RECORDED IN PLAT BOOK 5, PAGE 48, OKALOOSA COUNTY, FLORIDA, A DISTANCE OF 37.05 FEET; THENCE NORTHEASTERLY ALONG SAID RIGHT-OF-WAY AND ALONG A CURVE CONCAVE TO THE EAST, HAVING A RADIUS OF 2735.76 FEET, A CENTRAL ANGLE OF 08° 08' 33" FOR AN ARC DISTANCE OF 388.79 FEET (CHORD BEARING NORTH 17° 03' 10" EAST, CHORD DISTANCE 388.47 FEET); THENCE SOUTH 67° 05' 58" EAST A DISTANCE OF 169.21 FEET; THENCE SOUTH 22° 54' 02" WEST A DISTANCE OF 70.00 FEET; THENCE SOUTH 33° 07' 53" EAST A DISTANCE OF 403.02 FEET TO THE POINT OF BEGINNING.

Ron DeSantis
GOVERNOR



Ken Lawson
EXECUTIVE DIRECTOR

June 2, 2020

The Honorable Gary Jarvis
Mayor, City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541

Dear Mayor Jarvis:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for the City of Destin (Amendment No. 20-04ESR) received on May 4, 2020. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the City is reminded that:

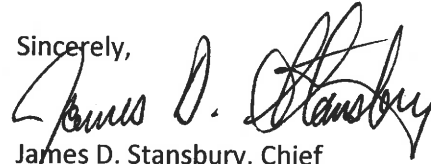
- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the City. **If the City receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the City that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

An equal opportunity employer/program. Auxiliary aids and service are available upon request to individuals with disabilities. All voice telephone numbers on this document may be reached by persons using TTY/TTD equipment via the Florida Relay Service at 711.

If you have any questions concerning this review, please contact Dan Evans, Planning Analyst, by telephone at (850) 717-8484 or by email at dan.evans@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with the first name "James" and last name "Stansbury" clearly legible.

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/de

Enclosure(s): Procedures for Adoption

cc: Louis Zunguze, Community Development Director, City of Destin
Austin Mount, Executive Director, Emerald Coast Regional Council

**SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS
FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

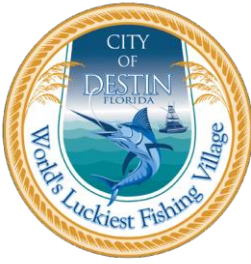
Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.



COMMUNITY DEVELOPMENT DEPARTMENT

AGENDA ITEM

CITY COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Staff Report and Recommendation

TO: City Council

THRU: Lance Johnson, City Manager

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

DATE: June 23, 2020

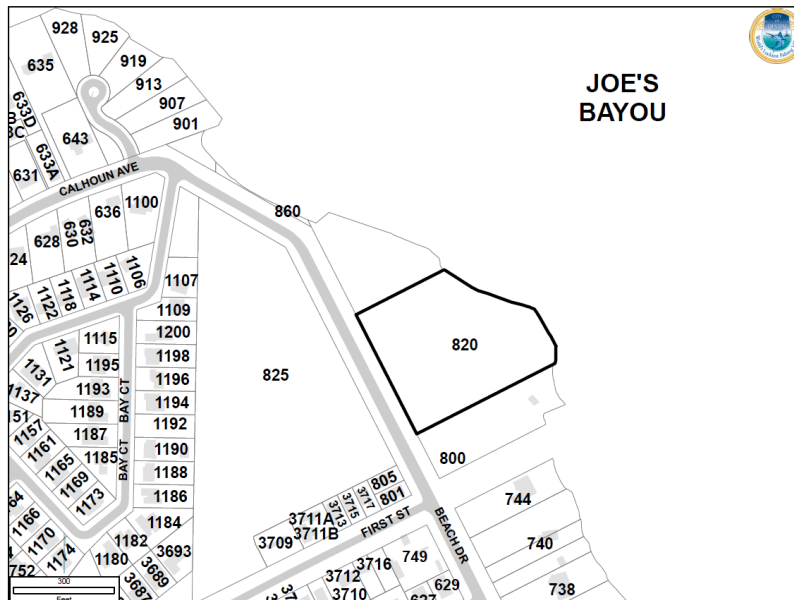
SUBJECT: Proposed Ordinance Amending the Future Land Use Map (FLUM): 20-12-PC - Cemex Plant – Second Reading

BACKGROUND: Over the past year with City Council's direction, Staff has worked to eliminate inconsistencies between the Zoning Map and Future Land Use Map. During this endeavor, the Cemex Plant (00-2S-22-1360-0020-0070) was rezoned from Bay Estates (BE) to Recreation (REC).

ISSUE: As a result of the rezoning, the Cemex Plant is now inconsistent with the Future Land Use Map. As such, an amendment to the Future Land Use Map (FLUM) is now necessary.

DISCUSSION: Below is the parcel identified as the Cemex Plant that requires a Future Land Use Map Amendment:

- **Cemex Plant – PID: 00-2S-22-1360-0020-0070**



ITEM #		
Current Zoning	Current Future Land Use	Proposed Future Land Use
Recreation (REC)	Bay Estates (BE)	Recreation (REC)

If approved, the Future Land Use of this parcel will be updated to be consistent with the current zoning.

The final step of the alignment of the Future Land Use Map and the Zoning Map will be to adopt and codify both maps into the City's Comprehensive Plan and Land Development Code, respectively.

CONCLUSION: During a Public Hearing held February 27, 2020, the Local Planning Agency (LPA) recommended that the City Council approve Ordinance 20-12-PC: Cemex Plant. During 1st reading at a City Council meeting held April 20, 2020, the City Council voted unanimously to approve proposed Ordinance 20-12-PC: Cemex Plant and directed staff to send the proposed ordinance to the Florida Department of Economic Opportunity for review.

Staff sent the proposed Ordinance to the Florida Department of Economic Opportunity on April 29, 2020 and received a letter on May 29, 2020 from the Florida Department of Economic Opportunity stating they have no comments or objections on the proposed Ordinance 20-12-PC: Cemex Plant.

This ordinance is now under consideration for 2nd reading by City Council.

RECOMMENDED MOTIONS:

1. I move that the City Council approve proposed Ordinance 20-12-PC: Cemex Plant
2. I further move to direct staff to send Ordinance 20-12-PC: Cemex Plant to the Florida Department of Economic Opportunity for adoption of the Future Land Use Amendment.

Attachments:

Ordinance 20-12-PC: Cemex Plant

Letter of No Comments from Florida Department of Economic Opportunity

ORDINANCE NO. 20-12-PC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE FUTURE LAND USE MAP AS REFERENCED IN CHAPTER 1 OF THE COMPREHENSIVE PLAN TO INCLUDE A CHANGE IN THE FUTURE LAND USE DESIGNATIONS OF THE PARCEL DESCRIBED AND GENERALLY DEPICTED IN THE ATTACHED EXHIBIT A FROM BAY ESTATES (BE) TO RECREATION (REC); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR FUTURE LAND USE MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 applicant desires to change the future land use designation from BAY ESTATES (BE) TO RECREATION (REC) for future land use category in the City's Comprehensive Plan on a parcel of land set forth in Exhibit A, lying within the corporate limits of the City; and

WHEREAS, after due public notice, a public hearing was conducted by the Local Planning Agency on March 21, 2019, and its recommendations reported to the City Council; and

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

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;

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

SECTION 3. ADOPTION OF THE AMENDMENT TO THE FUTURE LAND USE MAP:

The City of Destin's Future Land Use Map is hereby amended by changing the future land use category from BAY ESTATES (BE) TO RECREATION (REC) for the specific area of land of approximately 3.90 acres, which area of land is legally described and depicted on Exhibit A, attached hereto and fully incorporated herein by this reference.

SECTION 4. TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY:

The City Manager or his designee is hereby designated to sign a letter transmitting the adopted comprehensive plan amendment to the State Planning agency, in accordance with the Community Planning Act.

SECTION 5. INCORPORATION INTO COMPREHENSIVE PLAN. Upon the effective date of the comprehensive plan amendment adopted by this Ordinance, said amendment shall be incorporated into the City of Destin's Comprehensive Plan and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 6. CONFLICTING PROVISIONS. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed 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. The comprehensive plan amendment shall not become effective until 31 days after the State Planning Agency notifies the City that the plan amendment package transmitted by the City is complete, except however, if the plan amendment is timely challenged, this Ordinance shall not become effective until the date a final order is issued by the State Land Planning Agency, or the date the Administration Commission enters a final order determining that the adopted plan amendment is in compliance. No development orders, development permits, or land use dependent on this amendment may be issued or commenced before it becomes effective. After and from the effective date of this amendment, the comprehensive plan amendment set forth herein shall amend the City of Destin's Comprehensive Plan and shall become a part of that plan and the amendment shall have the legal status of the City of Destin's Comprehensive Plan, as amended.

ADOPTED THIS 6TH DAY OF _____ 2020.

BY: _____
Gary Jarvis, Mayor

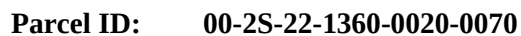
ATTEST:

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.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____



Being the property conveyed to Ready Mix USA, LLC by special warranty deed from Cemex, Inc., successor by merger to Florida Mining and Materials Concrete Corp., recorded August 16, 2005 in Book 2644 Page 1552 in the Public Records for Okaloosa County, Florida

Ron DeSantis
GOVERNOR



Ken Lawson
EXECUTIVE DIRECTOR

May 29, 2020

The Honorable Gary Jarvis
Mayor, City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541

Dear Mayor Jarvis:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for the City of Destin (Amendment No. 20-05ESR) received on May 4, 2020. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the City is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the City. **If the City receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the City that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

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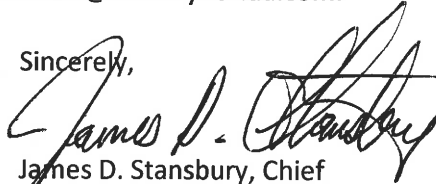
The Honorable Gary Jarvis, Mayor

May 29, 2020

Page 2 of 2

If you have any questions concerning this review, please contact Dan Evans, Planning Analyst, by telephone at (850) 717-8484 or by email at dan.evans@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with a long horizontal stroke extending to the left.

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/de

Enclosure(s): Procedures for Adoption

cc: Louis Zunguze, Community Development Director, City of Destin
Austin Mount, Executive Director, Emerald Coast Regional Council

**SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS
FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

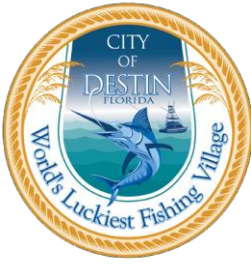
Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.



COMMUNITY DEVELOPMENT DEPARTMENT

AGENDA ITEM

CITY COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Staff Report and Recommendation

TO: City Council

THRU: Lance Johnson, City Manager

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

DATE: June 23, 2020

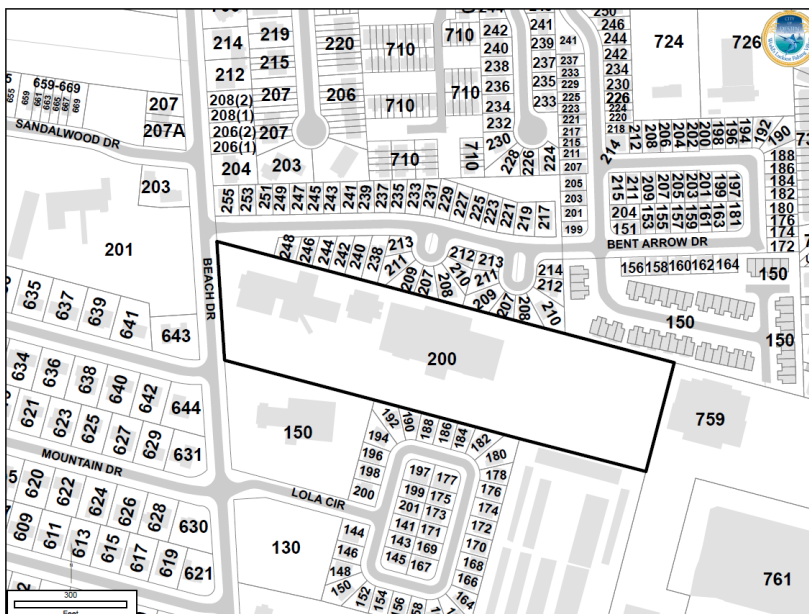
SUBJECT: Proposed Ordinance Amending the Future Land Use Map (FLUM): 20-13-PC -
Destin United Methodist Church – Second Reading

BACKGROUND: Over the past year at City Council's direction, Staff has worked to eliminate inconsistencies between the Zoning Map and Future Land Use Map. During this endeavor, the Destin United Methodist Church (Destin UMC) parcel (00-2S-22-0000-0011-003A) was rezoned from Institutional (INST) and Town Center Mixed Use (TCMU) to Institutional (INST).

ISSUE: As a result of the rezoning, the Destin UMC is now inconsistent with the Future Land Use Map. As such, an amendment to the Future Land Use Map (FLUM) is now necessary.

DISCUSSION: Below is the parcel identified as the Destin UMC that requires a Future Land Use Map Amendment:

- **Destin United Methodist Church – PID: 00-2S-22-0000-0011-003A**



Current Zoning

Current Future Land Use

Proposed Future Land
Use

ITEM #		
Institutional (INST)	Institutional (INST), Town Center Mixed Use (TCMU)	Institutional (INST)

If approved, the Future Land Use of this parcel will be updated to be consistent with the current zoning.

The final step of the alignment of the Future Land Use Map and the Zoning Map will be to adopt and codify both maps into the City's Comprehensive Plan and Land Development Code, respectively. Two ordinances will be forwarded to the City Council, subject to LPA recommendation, to complete these actions.

CONCLUSION: During a Public Hearing held February 27, 2020, the Local Planning Agency (LPA) recommended that the City Council approve Ordinance 20-13-PC: Destin United Methodist Church. During 1st reading at a City Council meeting held April 20, 2020, the City Council voted unanimously to approve proposed Ordinance 20-13-PC: Destin United Methodist Church and directed staff to send the proposed ordinance to the Florida Department of Economic Opportunity for review.

Staff sent the proposed Ordinance to the Florida Department of Economic Opportunity on April 29, 2020 and received a letter on May 29, 2020 from the Florida Department of Economic Opportunity stating they have no comments or objections on the proposed Ordinance 20-13-PC: Destin United Methodist Church.

This ordinance is now under consideration for 2nd reading by the City Council.

RECOMMENDED MOTIONS:

1. I move that the City Council approve proposed Ordinance 20-13-PC: DUMC.
2. I further move to direct staff to send Ordinance 20-13-PC: Destin UMC to the Florida Department of Economic Opportunity for adoption of the Future Land Use Amendment.

Attachments:

Ordinance 20-13-PC: Destin UMC

Letter of No Comment from Department of Economic Opportunity

ORDINANCE NO. 20-13-PC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA, AMENDING THE FUTURE LAND USE MAP AS REFERENCED IN CHAPTER 1 OF THE COMPREHENSIVE PLAN TO INCLUDE A CHANGE IN THE FUTURE LAND USE DESIGNATIONS OF THE PARCEL DESCRIBED AND GENERALLY DEPICTED IN THE ATTACHED EXHIBIT A FROM INSTITUTIONAL (INST) AND TOWN CENTER MIXED USE (TCMU) TO INSTITUTIONAL (INST); PROVIDING FOR AUTHORITY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR JURISDICTION; PROVIDING FOR FUTURE LAND USE MAP AMENDMENT; PROVIDING FOR INCORPORATION INTO THE COMPREHENSIVE PLAN; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 applicant desires to change the future land use designation from INSTITUTIONAL (INST) AND TOWN CENTER MIXED USE (TCMU) TO INSTITUTIONAL (INST) for future land use category in the City's Comprehensive Plan on a parcel of land set forth in Exhibit A, lying within the corporate limits of the City; and

WHEREAS, after due public notice, a public hearing was conducted by the Local Planning Agency on March 21, 2019, and its recommendations reported to the City Council; and

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

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;

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

SECTION 3. ADOPTION OF THE AMENDMENT TO THE FUTURE LAND USE MAP:

The City of Destin's Future Land Use Map is hereby amended by changing the future land use category from INSTITUTIONAL (INST) AND TOWN CENTER MIXED USE (TCMU) TO INSTITUTIONAL (INST) for the specific area of land of approximately 8.34 acres, which area of land is legally described and depicted on Exhibit A, attached hereto and fully incorporated herein by this reference.

SECTION 4. TRANSMITTAL TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY:

The City Manager or his designee is hereby designated to sign a letter transmitting the adopted

comprehensive plan amendment to the State Planning agency, in accordance with the Community Planning Act.

SECTION 5. INCORPORATION INTO COMPREHENSIVE PLAN. Upon the effective date of the comprehensive plan amendment adopted by this Ordinance, said amendment shall be incorporated into the City of Destin's Comprehensive Plan and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 6. CONFLICTING PROVISIONS. All prior inconsistent ordinances and resolutions adopted by the City Council, or parts of ordinances or resolutions in conflict with the provisions of this ordinance are hereby repealed 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. The comprehensive plan amendment shall not become effective until 31 days after the State Planning Agency notifies the City that the plan amendment package transmitted by the City is complete, except however, if the plan amendment is timely challenged, this Ordinance shall not become effective until the date a final order is issued by the State Land Planning Agency, or the date the Administration Commission enters a final order determining that the adopted plan amendment is in compliance. No development orders, development permits, or land use dependent on this amendment may be issued or commenced before it becomes effective. After and from the effective date of this amendment, the comprehensive plan amendment set forth herein shall amend the City of Destin's Comprehensive Plan and shall become a part of that plan and the amendment shall have the legal status of the City of Destin's Comprehensive Plan, as amended.

ADOPTED THIS 6TH DAY OF _____ 2020.

BY: _____
Gary Jarvis, Mayor

ATTEST:

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.

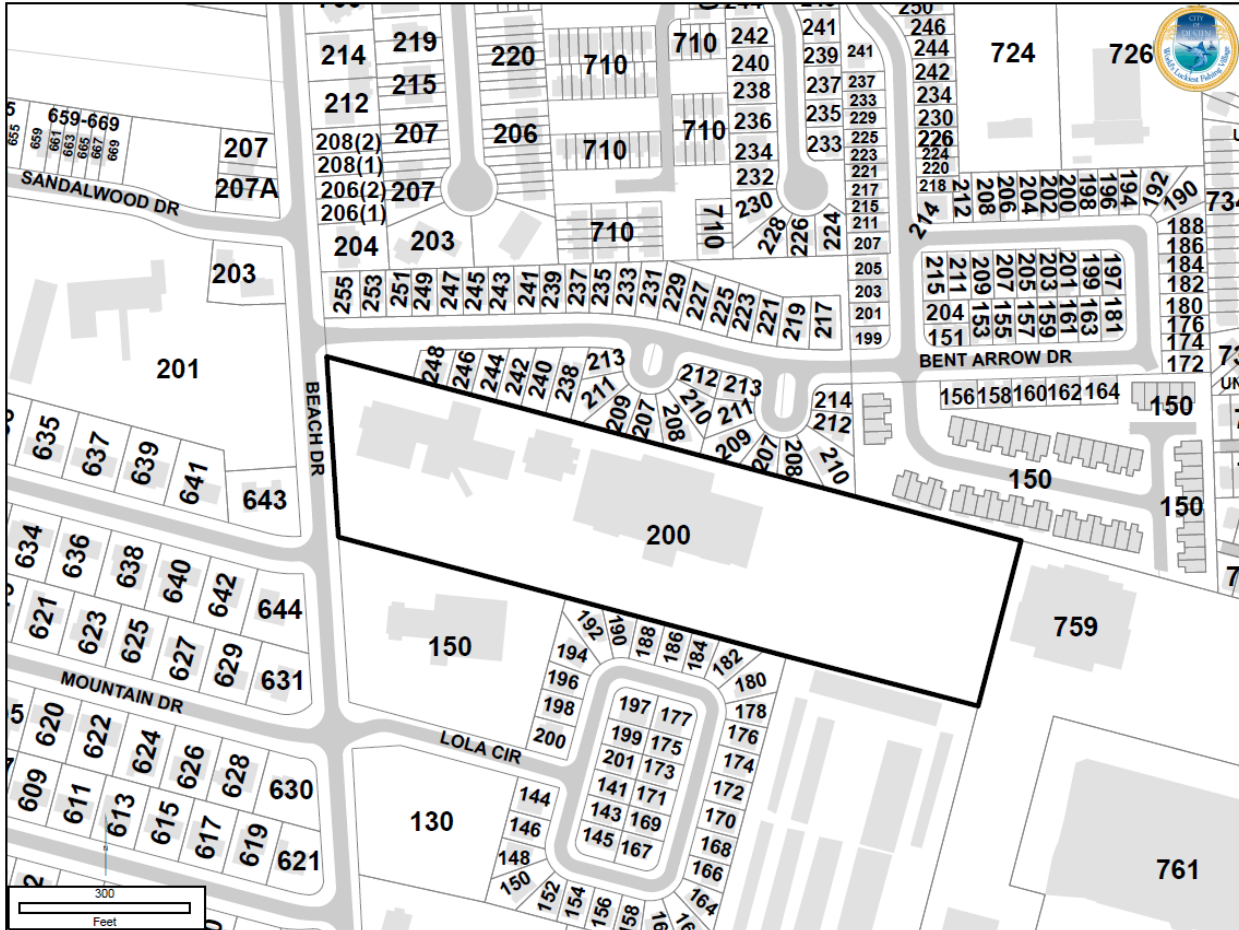
Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____

Second Reading: _____

EXHIBIT A



Parcel ID: 00-2S-22-0000-0011-003A

Commence at the Southwest corner of Lot 7, Block "G", 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 North $13^{\circ}49'00''$ East along the West line of Lot 7 and a northerly projection thereof a distance of 1002.06 feet to the Point of Beginning; thence continue North $13^{\circ}49'00''$ East a distance of 300.00 feet to the Henderson-Kelly line; thence go North $76^{\circ}11'53''$ West along the Henderson-Kelly line a distance of 913.29 feet to the easterly right-of-way line of Beach Drive (66' R/W); thence go South $04^{\circ}50'13''$ East along the East right-of-way line a distance of 316.62 feet; thence go South $76^{\circ}11'53''$ East parallel to the Henderson-Kelly line a distance of 812.13 feet to the Point of Beginning. The above described parcel contains 5.94 acres.

Ron DeSantis
GOVERNOR



Ken Lawson
EXECUTIVE DIRECTOR

May 29, 2020

The Honorable Gary Jarvis
Mayor, City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541

Dear Mayor Jarvis:

The Department of Economic Opportunity ("Department") has reviewed the proposed comprehensive plan amendment for the City of Destin (Amendment No. 20-06ESR) received on May 4, 2020. The review was completed under the expedited state review process. We have no comment on the proposed amendment.

The City should act by choosing to adopt, adopt with changes, or not adopt the proposed amendment. For your assistance, we have enclosed the procedures for adoption and transmittal of the comprehensive plan amendment. In addition, the City is reminded that:

- Section 163.3184(3)(b), F.S., authorizes other reviewing agencies to provide comments directly to the City. **If the City receives reviewing agency comments and they are not resolved, these comments could form the basis for a challenge to the amendment after adoption.**
- **The second public hearing**, which shall be a hearing on whether to adopt one or more comprehensive plan amendments, **must be held within 180 days** of your receipt of agency comments or the amendment shall be **deemed withdrawn** unless extended by agreement with notice to the Department and any affected party that provided comment on the amendment pursuant to Section 163.3184(3)(c)1., F.S.
- **The adopted amendment must be rendered to the Department.** Under Section 163.3184(3)(c)2. and 4., F.S., the **amendment effective date** is 31 days after the Department notifies the City that the amendment package is complete or, if challenged, until it is found to be in compliance by the Department or the Administration Commission.

Florida Department of Economic Opportunity | Caldwell Building | 107 E. Madison Street | Tallahassee, FL 32399
850.245.7105 | www.FloridaJobs.org
www.twitter.com/FLDEO | www.facebook.com/FLDEO

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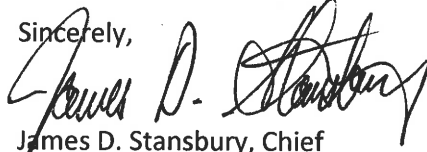
The Honorable Gary Jarvis, Mayor

May 29, 2020

Page 2 of 2

If you have any questions concerning this review, please contact Dan Evans, Planning Analyst, by telephone at (850) 717-8484 or by email at dan.evans@deo.myflorida.com.

Sincerely,

A handwritten signature in black ink, appearing to read "James D. Stansbury". The signature is fluid and cursive, with the first name "James" and last name "Stansbury" clearly distinguishable.

James D. Stansbury, Chief
Bureau of Community Planning and Growth

JDS/de

Enclosure(s): Procedures for Adoption

cc: Louis Zunguze, Community Development Director, City of Destin
Austin Mount, Executive Director, Emerald Coast Regional Council

**SUBMITTAL OF ADOPTED COMPREHENSIVE PLAN AMENDMENTS
FOR EXPEDITED STATE REVIEW**

Section 163.3184(3), Florida Statutes

NUMBER OF COPIES TO BE SUBMITTED: Please submit three complete copies of all comprehensive plan materials, of which one complete paper copy and two complete electronic copies on CD ROM in Portable Document Format (PDF) to the State Land Planning Agency and one copy to each entity below that provided timely comments to the local government: the appropriate Regional Planning Council; Water Management District; Department of Transportation; Department of Environmental Protection; Department of State; the appropriate county (municipal amendments only); the Florida Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services (county plan amendments only); and the Department of Education (amendments relating to public schools); and for certain local governments, the appropriate military installation and any other local government or governmental agency that has filed a written request.

SUBMITTAL LETTER: Please include the following information in the cover letter transmitting the adopted amendment:

_____ State Land Planning Agency identification number for adopted amendment package;

_____ Summary description of the adoption package, including any amendments proposed but not adopted;

_____ Identify if concurrency has been rescinded and indicate for which public facilities. (Transportation, schools, recreation and open space).

_____ Ordinance number and adoption date;

_____ Certification that the adopted amendment(s) has been submitted to all parties that provided timely comments to the local government;

_____ Name, title, address, telephone, FAX number and e-mail address of local government contact;

_____ Letter signed by the chief elected official or the person designated by the local government.

ADOPTION AMENDMENT PACKAGE: Please include the following information in the amendment package:

_____ In the case of text amendments, changes should be shown in strike-through/underline format.

_____ In the case of future land use map amendments, an adopted future land use map, **in color format**, clearly depicting the parcel, its future land use designation, and its adopted designation.

_____ A copy of any data and analyses the local government deems appropriate.

Note: If the local government is relying on previously submitted data and analysis, no additional data and analysis is required;

_____ Copy of the executed ordinance adopting the comprehensive plan amendment(s);

Suggested effective date language for the adoption ordinance for expedited review:

"The effective date of this plan amendment, if the amendment is not timely challenged, shall be 31 days after the state land planning agency notifies the local government that the plan amendment package is complete. If the amendment is timely challenged, this amendment shall become effective on the date the state land planning agency or the Administration Commission enters a final order determining this adopted amendment to be in compliance."

_____ List of additional changes made in the adopted amendment that the State Land Planning Agency did not previously review;

_____ List of findings of the local governing body, if any, that were not included in the ordinance and which provided the basis of the adoption or determination not to adopt the proposed amendment;

_____ Statement indicating the relationship of the additional changes not previously reviewed by the State Land Planning Agency in response to the comment letter from the State Land Planning Agency.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Public Hearing

TO: City Council

THRU: Lance Johnson, City Manager

FROM: Kimberly Kopp, Land Use Attorney
Kyle Bauman, City Attorney
Louis Zunguze, Community Development Director

DATE:

SUBJECT: First reading of Ordinance 20-21-CN - Amending Article VII "General Provisions" of the City Charter to create a new section prohibiting the vacation of waterfront rights-of-way; providing for a referendum on the charter amendment; providing for a ballot question; providing for a vote at the November 3, 2020 General Election on whether to prohibit the vacation of waterfront rights-of-way in the City of Destin

I. BACKGROUND: Per the prior direction of the City Council at the June 15, 2020 City Council meeting, the attached ordinance proposes to ask the voters whether to amend the City Charter to prohibit the vacation of waterfront rights-of-way.

II. DISCUSSION:

Ordinance 20-21-CN, if approved by a majority of voters on November 3, 2020 would amend the charter such that the following language would be added:

The City of Destin is prohibited from abandoning, giving up, or vacating any public right-of-way if the right-of-way shares any boundary with a water body. For purposes of this Section 7.05, public right-of-way includes property upon which the public has only the limited legal right to access, pass-through and traverse, and does not include any other property in which the City has an ownership interest.

The language sent to the voters would be as follows:

OFFICIAL BALLOT

**AMENDING THE CHARTER TO PROHIBIT VACATION
OF WATERFRONT PUBLIC CITY RIGHTS- OF-WAY**

SHALL THE CITY OF DESTIN'S CHARTER BE AMENDED TO PROHIBIT THE CITY FROM ABANDONING, GIVING UP, OR VACATING, ANY PUBLIC RIGHTS-OF-WAYS THAT SHARE ANY BOUNDARY WITH A WATER BODY?

THE PUBLIC RIGHT-OF-WAYS DESCRIBED IN THIS AMENDMENT INCLUDE ONLY PROPERTY WHICH WAS INTENDED OR DEDICATED FOR USE AS A ROADWAY OR PEDESTRIAN WALKWAY, WHETHER OR NOT SUCH ROADWAY OR WALKWAY WAS CONSTRUCTED.

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

III. CONCLUSION: Ordinance 20-21-CN proposes to ask the voters whether to amend the City Charter to prohibit the vacation of waterfront rights-of-way. The right-of-way covered by the prohibition would be only those City rights-of-way that were intended or dedicated for use as roadways or sidewalks, whether or not the road or sidewalk was ever actually built.

IV. RECOMMENDED MOTION: I move to approve Ordinance 20-21-CN.

Attachments:

1. 20-21-CN Charter Ordinance
Waterfront ROW

ORDINANCE NO. 20-21-CN

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA AMENDING ARTICLE VII “GENERAL PROVISIONS” OF THE CITY CHARTER TO CREATE A NEW SECTION PROHIBITING THE VACATION OF WATERFRONT RIGHT-OF-WAY; PROVIDING FOR A REFERENDUM ON THE CHARTER AMENDMENT; PROVIDING FOR A BALLOT QUESTION; PROVIDING FOR A VOTE AT THE NOVEMBER 3, 2020 GENERAL ELECTION ON WHETHER TO PROHIBIT THE VACATION OF WATERFRONT RIGHT-OF-WAY IN THE CITY OF DESTIN; PROVIDING FOR COORDINATION WITH THE SUPERVISOR OF ELECTIONS; PROVIDING FOR CONFLICTS; SERVERABILITY; AND AN EFFECTIVE DATE.

SECTION 1. AUTHORITY.

The authority for enactment of this Ordinance is Article I, Section 1.01 (b) of the City Charter, Article VII, Section 7.01 of the City Charter, Section 166.031, Florida Statutes.

SECTION 2. FINDINGS OF FACT.

WHEREAS, Florida Statutes Section 166.031(1) provides, in part, that “[t]he governing body of a municipality may, by ordinance,..., submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality”; and,

WHEREAS, Article VII of the Charter of the City of Destin provides that the City Council may, by ordinance, propose amendments to any part or all of the City’s Charter; and,

WHEREAS, Article VII of the Charter requires the City Council to place the proposed amendments to a vote of the electors at the next general election held within the city or at a special election called for such purpose; and,

WHEREAS, the City Council has proposed an amendment to Article VII “General Provisions” of the City’s Charter to create a new section prohibiting the vacation of waterfront right-of-way in the City of Destin; and,

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

SECTION 3. RECITALS ADOPTED. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

SECTION 4. CHARTER AMENDMENT. For purposes of interpreting the revisions,

- text that is underlined is an addition to the existing text of the City Charter and
- text that is struck through is a deletion from the existing text of the City Charter.

PROHIBITION ON VACATION OF WATERFRONT RIGHTS OF WAY. If the ballot language is approved, it would amend the City Charter by prohibiting the vacation of public City rights-of-way if the right-of-way shares any boundary with a water body.

ARTICLE VII. - GENERAL PROVISIONS

Section 7.05. The City of Destin is prohibited from abandoning, giving up, or vacating any public right-of-way if the right-of-way shares any boundary with a water body. For purposes of this Section 7.05, public right-of-way includes only property that was intended or dedicated for use as a roadway or pedestrian walkway, whether or not such roadway or walkway was constructed. Public right-of-way shall not include any other property owned by the City, for purposes of this section.

SECTION 5. OFFICIAL BALLOT QUESTION. The ballot to be used in the referendum election shall be in full compliance with the laws of the State of Florida, and shall be in substantially the following form:

OFFICIAL BALLOT

AMENDING THE CHARTER TO PROHIBIT VACATION OF WATERFRONT PUBLIC CITY RIGHTS- OF-WAY

SHALL THE CITY OF DESTIN'S CHARTER BE AMENDED TO PROHIBIT THE CITY FROM ABANDONING, GIVING UP, OR VACATING, ANY PUBLIC RIGHTS-OF-WAYS THAT SHARE ANY BOUNDARY WITH A WATER BODY?

THE PUBLIC RIGHT-OF-WAYS DESCRIBED IN THIS AMENDMENT INCLUDE ONLY PROPERTY WHICH WAS INTENDED OR DEDICATED FOR USE AS A ROADWAY OR PEDESTRIAN WALKWAY, WHETHER OR NOT SUCH ROADWAY OR WALKWAY WAS CONSTRUCTED.

_____ YES (for approval)

_____ NO (for rejection)

SECTION 6. NOTICE OF ELECTION. The above Charter amendment contained in this ordinance shall be sent to a referendum election and shall become effective if a majority of voters vote to approve the amendment in the general election on November 3, 2020. An amendment approved by City voters as provided by law shall be effective immediately and become a part of the City Charter. If approved, the City Clerk is requested to promptly file the amended Charter with the Department of State, as required by Section 166.031(2), Florida Statutes.

SECTION 7. PLACES OF VOTING, INSPECTORS AND CLERKS. All qualified electors residing within the City shall be entitled and permitted to vote at such referendum election on the proposition provided herein. The time and places of voting and the inspectors and clerks of the referendum election to be held on November 3, 2020 shall be those designated by the Okaloosa County Supervisor of Elections in accordance with law.

SECTION 8. VOTE-BY-MAIL. Any electors participating in said referendum shall be entitled to cast their ballots in accordance with the provisions of the laws of the State of Florida with respect to voting by mail. The form of ballots to be used in such referendum election for these voters shall be the same as used at the polling places for such election.

SECTION 9. EARLY VOTING. Adequate provisions shall be made for early voting as required by §101.657, *Florida Statutes*. The form of ballots to be used in the referendum for early voting shall be the same as used in the polling places for the election. The Supervisor of Elections shall designate the early voting dates, times and locations.

SECTION 10. PRINTING OF BALLOTS. The Supervisor of Elections is authorized and directed to have printed a sufficient number of the aforesaid ballots for use of vote-by-mail electors entitled to cast such ballots in such referendum election and shall also have printed sample ballots and deliver them to the inspectors and clerks on or before the date and time for the opening of the polls for such referendum election for the voting places; and, further, is authorized and directed to make appropriate arrangements for the conduct of the election at the polling places specified.

SECTION 11. ELECTION PROCEDURE. The Supervisor of Elections shall hold, administer and conduct the referendum election in the manner prescribed by law for holding such elections in the City. Returns shall show the number of qualified electors who voted in such referendum election on the proposition and the number of votes cast respectively for and against approval of the proposition. The returns shall be canvassed in accordance with law.

SECTION 12. REFERENDUM RESULTS. If a majority of the ballots cast at such election shall be for the amendment of Article VII "General Provisions" of the City's Charter to create a new section prohibiting the vacation of waterfront rights-of-way in the City of Destin, the amendment of the Charter shall be approved and the vacation of waterfront rights-of-way shall be prohibited as provided by law.

SECTION 13. SEVERABILITY. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence or paragraph hereof.

SECTION 14. CONFLICTING PROVISIONS. All ordinances in conflict or inconsistent herewith are repealed insofar as there is conflict or inconsistency.

SECTION 15. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption. However, the prohibition of the vacation of waterfront rights-of-way authorized hereunder shall only be effective upon approval by a majority vote of the qualified electors of the City of Destin voting in a referendum.

SECTION 16. INCORPORATION INTO THE CITY CHARTER. This ordinance shall be incorporated into the City of Destin's Charter and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 17. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

ADOPTED THIS _____ DAY OF _____, 2020.

By: _____
Gary Jarvis, Mayor

ATTEST:

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.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Public Hearing

TO: City Council

THRU: Lance Johnson, City Manager

FROM: Kimberly Kopp, Land Use Attorney
Kyle Bauman, City Attorney
Louis Zunguze, Community Development Director

DATE:

SUBJECT: First reading of Ordinance 20-22-CN - Amending Article VII "General Provisions" of the City Charter to create a new section entitled "Building Height Limit"; providing for a referendum on the charter amendment, providing for a ballot question, providing for a vote at the November 3, 2020 General Election on whether to include in the City Charter the City's maximum building height limit of six stories and require any application seeking to exceed that limit to obtain approval at a referendum election of at least sixty percent of the voters

I. BACKGROUND: Per the prior direction of the City Council at the June 15, 2020 City Council meeting, the attached ordinance proposes to ask the voters whether to amend the City Charter to set the maximum building height in the City at the City's existing maximum building height of six stories (as currently set forth in the City's comprehensive plan). Additionally, any applications that seek to exceed that limit would be permitted only with 60% approval of the Destin electorate through a referendum election.

II. DISCUSSION: Ordinance 20-22-CN provides that the following language be placed on the November 3, 2020 election ballot for City of Destin voters:

OFFICIAL BALLOT

AMENDING THE CHARTER TO PROVIDE MAXIMUM BUILDING HEIGHTS.

SHALL THE CITY OF DESTIN'S CHARTER BE AMENDED TO PROVIDE THAT NO BUILDING HEIGHT IN THE CITY SHALL EXCEED SIX STORIES (75 FEET) UNLESS APPROVED BY AT LEAST

SIXTY PERCENT OF THE CITY VOTERS AT A GENERAL ELECTION?

_____ YES (for approval)

_____ NO (for rejection)

The language proposed to be added to the charter, if the ballot question is answered in the affirmative, is set forth in the ordinance and is as follows:

Six Story (75') Building Height Limit. No structure, no part of any structure, and no attachment to any structure shall be erected to a height greater than six stories (75 feet) above the crown of the abutting road. Structures, if demolished, shall be replaced only by structures which conform to the height limits of this section. No owners of structures destroyed or substantially damaged by explosion, fire, flood, wind, erosion, or other disaster shall be denied the right either to rebuild or to demolish and rebuild to the same height as the building that was destroyed or substantially damaged in the same location. For purposes of this section, "structure" does not include water towers, flagpoles, air traffic control towers, and radio and other communication towers.

The City or any member of the public may petition for a variance to erect a structure, part of a structure, or attachment to a structure above the six story (75 feet) building height maximum only after an initial approval of the variance petition by at least sixty percent (60%) of the City electorate voting in a general referendum election. If sixty percent (60%) or more of the City electorate voting in the general referendum election approves such variance at a general referendum election, the City Council shall consider the requested variance. In considering a variance request initiated by the City or any member of the public, the City Council must make findings of fact that the petitioner has met the legal standards for a variance as set forth in the City of Destin's Land Development Code, and the variance must be approved by a majority vote of the City Council after due notice and public hearing. Notice and hearing requirements for such variance shall be in accordance with the provisions for variance set forth in the City of Destin's Land Development Code and the general requirements of law.

A. Link to Strategic Goals / Objectives: The maximum building height currently set forth in the City's Comprehensive Plan is six stories (75 feet). This charter language is therefore consistent with the Comprehensive Plan. However, the Comprehensive Plan does not currently allow for any variance process to the maximum allowable building height in the City, and an amendment to the Comprehensive Plan will be brought to the City Council within the upcoming months that will clarify that building heights set forth

in the Comprehensive Plan are subject to applicable terms of the City Charter.

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: Subject to approval by the City of Destin voters, Ordinance 20-22-CN proposes to amend the City Charter to provide for a variance process to exceed the 6 story (75 feet) building height maximum that is currently allowed in the City's Comprehensive Plan. Such variance process would require approval of the voters of the City of Destin as well as subsequent City Council approval.

Within the upcoming months, staff will bring a proposed Comprehensive Plan amendment to City Council that will clarify that all building heights set forth in the Comprehensive Plan are subject to the terms of the City Charter.

IV. RECOMMENDED MOTION: I move to approve Ordinance 20-22-CN on first reading.

Attachments:

1. 20-22-CN Charter Ordinance Building Heights (004)

ORDINANCE NO. 20-22-CN

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA AMENDING ARTICLE VII “GENERAL PROVISIONS” OF THE CITY CHARTER TO CREATE A NEW SECTION ENTITLED “BUILDING HEIGHT LIMIT”; PROVIDING FOR A REFERENDUM ON THE CHARTER AMENDMENT; PROVIDING FOR A BALLOT QUESTION; PROVIDING FOR A VOTE AT THE NOVEMBER 3, 2020 GENERAL ELECTION ON WHETHER TO INCLUDE IN THE CITY CHARTER THE CITY’S MAXIMUM BUILDING HEIGHT LIMIT OF SIX STORIES AND REQUIRE ANY APPLICATION SEEKING TO EXCEED THAT LIMIT TO OBTAIN APPROVAL AT A REFERENDUM ELECTION OF AT LEAST SIXTY PERCENT OF THE VOTERS; PROVIDING FOR COORDINATION WITH THE SUPERVISOR OF ELECTIONS; PROVIDING FOR CONFLICTS; SERVERABILITY; AND AN EFFECTIVE DATE.

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, Florida Statutes Section 166.031(1) provides, in part, that “[t]he governing body of a municipality may, by ordinance,..., submit to the electors of said municipality a proposed amendment to its charter, which amendment may be to any part or to all of said charter except that part describing the boundaries of such municipality”; and,

WHEREAS, Article VII of the Charter of the City of Destin holds that the City Council may, by ordinance, propose amendments to any part or all of the City’s Charter; and,

WHEREAS, Article VII of the Charter requires the City Council to place the proposed amendments to a vote of the electors at the next general election held within the city or at a special election called for such purpose; and,

WHEREAS, the City Council has proposed an amendment to Article VII “General Provisions” of the City’s Charter to create a new section entitled “Building Height Limit”; and,

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

SECTION 3. RECITALS ADOPTED. The foregoing “Whereas” clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this ordinance upon adoption hereof.

SECTION 4. CHARTER AMENDMENT. For purposes of interpreting the revisions,

- text that is underlined is an addition to the existing text of the City Charter and
- text that is struck through is a deletion from the existing text of the City Charter.

ESTABLISHMENT OF SIX STORY BUILDING HEIGHT LIMIT. If the ballot language is approved, it would amend the City Charter by setting the maximum building height in the City at six stories in accordance with the existing height limit in the City's Comprehensive Plan. Further, any member of the public or the City could petition to exceed such height limit but such petition would require at least 60% approval of the Destin electorate at a future referendum election.

ARTICLE VII. - GENERAL PROVISIONS

Section 7.06 Building Height Limit. No structure, no part of any structure, and no attachment to any structure shall be erected to a height greater than six stories (75 feet) above the crown of the abutting road. Structures, if demolished, shall be replaced only by structures which conform to the height limits of this section. No owners of structures destroyed or substantially damaged by explosion, fire, flood, wind, erosion, or other disaster shall be denied the right either to rebuild or to demolish and rebuild to the same height as the building that was destroyed or substantially damaged in the same location. For purposes of this section, "structure" does not include water towers, flagpoles, air traffic control towers, and radio and other communication towers.

The City or any member of the public may petition for a variance to erect a structure, part of a structure, or attachment to a structure above the six story (75 feet) building height maximum only after an initial approval of the variance petition by at least sixty percent (60%) of the City electorate voting in a general referendum election. If sixty percent (60%) or more of the City electorate voting in the general referendum election approves such variance at a general referendum election, the City Council shall consider the requested variance. In considering a variance request initiated by the City or any member of the public, the City Council must make findings of fact that the petitioner has met the legal standards for a variance as set forth in the City of Destin's Land Development Code, and the variance must be approved by a majority vote of the City Council after due notice and public hearing. Notice and hearing requirements for such variance shall be in accordance with the provisions for variance set forth in the City of Destin's Land Development Code and the general requirements of law.

SECTION 5. OFFICIAL BALLOT QUESTION. The ballot to be used in the referendum election shall be in full compliance with the laws of the State of Florida, and shall be in substantially the following form:

OFFICIAL BALLOT

AMENDING THE CHARTER TO PROVIDE A MAXIMUM BUILDING HEIGHT.

SHALL THE CITY OF DESTIN'S CHARTER BE AMENDED TO PROVIDE THAT NO BUILDING HEIGHT IN THE CITY SHALL EXCEED SIX STORIES (75 FEET) UNLESS APPROVED BY AT LEAST SIXTY PERCENT OF THE CITY VOTERS AT A GENERAL ELECTION?

_____ YES (for approval)

_____ NO (for rejection)

SECTION 6. NOTICE OF ELECTION. The above Charter amendment contained in this ordinance shall be sent to a referendum election and shall become effective if a majority of voters vote to approve the amendment in the general election on November 3, 2020. An amendment approved by City voters as provided by law shall be effective immediately and become a part of the City Charter. If approved, the City Clerk is requested to promptly file the amended Charter with the Department of State, as required by Section 166.031(2), Florida Statutes.

SECTION 7. PLACES OF VOTING, INSPECTORS AND CLERKS. All qualified electors residing within the City shall be entitled and permitted to vote at such referendum election on the proposition provided herein. The time and places of voting and the inspectors and clerks of the referendum election to be held on November 3, 2020 shall be those designated by the Okaloosa County Supervisor of Elections in accordance with law.

SECTION 8. VOTE-BY-MAIL. Any electors participating in said referendum shall be entitled to cast their ballots in accordance with the provisions of the laws of the State of Florida with respect to voting by mail. The form of ballots to be used in such referendum election for these voters shall be the same as used at the polling places for such election.

SECTION 9. EARLY VOTING. Adequate provisions shall be made for early voting as required by §101.657, *Florida Statutes*. The form of ballots to be used in the referendum for early voting shall be the same as used in the polling places for the election. The Supervisor of Elections shall designate the early voting dates, times and locations.

SECTION 10. PRINTING OF BALLOTS. The Supervisor of Elections is authorized and directed to have printed a sufficient number of the aforesaid ballots for use of vote-by-mail electors entitled to cast such ballots in such referendum election and shall also have printed sample ballots and deliver them to the inspectors and clerks on or before the date and time for the opening of the polls for such referendum election for the voting places; and, further, is authorized and directed to make appropriate arrangements for the conduct of the election at the polling places specified.

SECTION 11. ELECTION PROCEDURE. The Supervisor of Elections shall hold, administer and conduct the referendum election in the manner prescribed by law for holding such elections in the City. Returns shall show the number of qualified electors who voted in such referendum election on the proposition and the number of votes cast respectively for and against approval of the proposition. The returns shall be canvassed in accordance with law.

SECTION 12. REFERENDUM RESULTS. If a majority of the ballots cast at such election shall be for the amendment of Article VII "General Provisions" of the City's Charter to create a new section providing for a maximum building height of six stories (75 feet) in the City of Destin unless a variance is approved

by at least sixty percent of voters at a general referendum election, the amendment of the Charter shall be approved and the maximum building height in the City shall be six stories (75 feet) as provided by law.

SECTION 13. SEVERABILITY. In the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding shall not affect any other word, clause, phrase, sentence or paragraph hereof.

SECTION 14. CONFLICTING PROVISIONS. All ordinances in conflict or inconsistent herewith are repealed insofar as there is conflict or inconsistency.

SECTION 15. EFFECTIVE DATE. This ordinance shall take effect immediately upon its adoption. However, the charter language authorized hereunder shall only be effective upon approval by a majority vote of the qualified electors of the City of Destin voting in a referendum.

SECTION 16. INCORPORATION INTO THE CITY CHARTER. This ordinance shall be incorporated into the City of Destin's Charter and any section or paragraph number or letter and any heading may be changed or modified as necessary to effectuate the foregoing.

SECTION 17. SEVERABILITY. If any section, phase, sentence, or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

ADOPTED THIS _____ DAY OF _____, 2020.

By: _____
Gary Jarvis, Mayor

ATTEST:

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.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____
Second Reading: _____

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Public Hearing

TO: City Council

THRU: Lance Johnson, City Manager

FROM: Kimberly Kopp, Land Use Attorney
Joe Bodi, Engineering Asst. II
Louis Zunguze, Community Development Director

DATE: July 1, 2020

SUBJECT: First reading of Ordinance 20-23-LC - Amending Article 8 of the Land Development Code; prohibiting the vacation of waterfront rights-of-way.

I. BACKGROUND: Per the prior direction of the City Council, staff proposes to amend the Land Development Code to prohibit the vacation of rights of way that share a boundary with a water body.

II. DISCUSSION:

Per the prior direction of the City Council, staff is proposing that Article 8 Transportation, Section 8.01.00, of the Land Development Code be amended to prohibit the vacation of rights of way that share a boundary with a water body. Specifically, the proposed changes to the LDC are as follows:

8.01.00. Right-of-way (ROW) protection.

D. Right-of-way/easement vacation. No City right-of-way, or any portion thereof, may be vacated if any portion of the City's right-of-way shares a boundary with a water body. The following requirements and procedures shall apply to all requests to vacate a ROW or an easement:

1. A completed application by the abutting property owner(s) or their authorized agent(s) shall be submitted to the city engineer's office. The application shall contain the following:

a. A letter to the city requesting the ROW/easement vacation and stating the reasons for said request.

b. An application fee and all related fees, including, but not limited to, legal advertisements, and certified mailings, shall be paid by the applicant.

c. A legal description and survey of the ROW/easement to be vacated and identify all abutting properties. If the survey shows that any portion of the City's right-of-way shares a boundary with a water body, the application and any application fee shall be returned to the applicant.

d. A certificate of projected property value from the property appraiser.

e. A list of the names and addresses of the owners of property located within a 300-foot radius of requested ROW/easement vacation on the property appraiser's letterhead. A letter of announcement of requested ROW/easement vacation shall be mailed, at the expense of the applicant, to each address on the list of property owners. The notice shall be sent by certified mail return receipt requested and all return receipts shall be filed with the city, by the applicant, prior to the city council's consideration.

f. Letters from all franchised utility companies stating no objection, or recommending disapproval for reason including, but not limited to, Gulf Power Company, Destin Water Users, South Walton Utility Company, AT&T Telephone Company, Sprint Telephone Company, New South Telecommunications, Okaloosa Gas Company, and Cox Cable Communications.

g. Letter from the Destin Fire Control District official with authority to approve, stating no objection, or recommending disapproval for reason.

2. The city attorney shall review the application for legal sufficiency. The city engineer shall provide a recommendation to the local planning agency. The local planning agency shall provide a recommendation on the application to the city council. The city council may approve the application to vacate a ROW/easement based upon a finding that all of the following requirements are met:

a. The requested vacation is consistent with the comprehensive plan.

b. The ROW does not provide the sole access to any property.

c. The vacation would not jeopardize the current or future location of any utility.

d. The proposed vacation is not detrimental to the public interest. City ownership of the ROW is no longer necessary to accomplish any valid city purpose. The city has not granted any easements which will be adversely affected by the vacation.

e. No City owned right-of-way, or any portion thereof, may be vacated if the City's right-of-way shares any boundary with a water body.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: Staff recommends approval of the requested Ordinance, based on prior direction of the City Council.

IV. RECOMMENDED MOTION: I move to approve Ordinance 20-23-LC on first reading and direct staff to advertise for second reading.

Attachments:

1. Waterfront ROW Vacation
Prohibition LDC

ORDINANCE NO. 20-23-LC

AN ORDINANCE OF THE CITY OF DESTIN, FLORIDA AMENDING ARTICLE 8 OF THE LAND DEVELOPMENT CODE; PROHIBITING THE VACATION OF WATERFRONT RIGHTS-OF-WAY; PROVIDING FOR FINDINGS OF FACT; PROVIDING FOR INCORPORATION INTO THE LAND DEVELOPMENT CODE; PROVIDING FOR CONFLICTING PROVISIONS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

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 in providing for the health, safety and welfare of its citizens finds that the City should provide regulations prohibiting the vacation of waterfront rights-of-way protection; and

WHEREAS, the City Council has determined that the prohibition of the vacation of waterfront rights-of-way will protect the ability of the citizens and visitors of the City of Destin to enjoy the views and waterway access that the waterfront rights-of-way allow; and

WHEREAS, the City Council has determined that the Land Development Code needs to be modified to prohibit the vacation of waterfront rights-of-way; and

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

WHEREAS, a public hearing has been conducted after due public notice by the Local Planning Agency and its recommendations reported to the City Council; 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 all sections 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 Land Development Code that have been skipped and remain unchanged.

SECTION 3: AMENDMENT TO ARTICLE 8, SECTION 8.01.00, OF THE LAND DEVELOPMENT CODE.

Article 8 Transportation, Section 8.01.00, of the Land Development Code is hereby amended as follows:

8.01.00. Right-of-way (ROW) protection.

D. Right-of-way/easement vacation. The City of Destin is prohibited from abandoning, giving up, or vacating any right-of-way if the right-of-way shares any boundary with a water body. For purposes of this Section 8.01.00, right-of-way includes only property that was intended or dedicated for use as a roadway or pedestrian walkway, whether or not such roadway or walkway was constructed. Right-of-way shall not include any other property owned by the City, for purposes of this section.

The following requirements and procedures shall apply to all requests to vacate a ROW or an easement:

1. A completed application by the abutting property owner(s) or their authorized agent(s) shall be submitted to the city engineer's office. The application shall contain the following:
 - a. A letter to the city requesting the ROW/easement vacation and stating the reasons for said request.
 - b. An application fee and all related fees, including, but not limited to, legal advertisements, and certified mailings, shall be paid by the applicant.
 - c. A legal description and survey of the ROW/easement to be vacated and identify all abutting properties. If the survey shows that any portion of the City's right-of-way shares a boundary with a water body, the application and any application fee shall be returned to the applicant.
 - d. A certificate of projected property value from the property appraiser.
 - e. A list of the names and addresses of the owners of property located within a 300-foot radius of requested ROW/easement vacation on the property appraiser's letterhead. A letter of announcement of requested ROW/easement vacation shall be mailed, at the expense of the applicant, to each address on the list of property owners. The notice shall be sent by certified mail return receipt requested and all return receipts shall be filed with the city, by the applicant, prior to the city council's consideration.
 - f. Letters from all franchised utility companies stating no objection, or recommending disapproval for reason including, but not limited to, Gulf Power Company, Destin Water Users, South Walton Utility Company, AT&T Telephone Company, Sprint Telephone Company, New South Telecommunications, Okaloosa Gas Company, and Cox Cable Communications.
 - g. Letter from the Destin Fire Control District official with authority to approve, stating no objection, or recommending disapproval for reason.
2. The city attorney shall review the application for legal sufficiency. The city engineer shall provide a recommendation to the local planning agency. The local planning agency shall provide a recommendation on the application to the city council. The city council may approve the application to vacate a ROW/easement based upon a finding that all of the following requirements are met:
 - a. The requested vacation is consistent with the comprehensive plan.
 - b. The ROW does not provide the sole access to any property.
 - c. The vacation would not jeopardize the current or future location of any utility.

- d. The proposed vacation is not detrimental to the public interest. City ownership of the ROW is no longer necessary to accomplish any valid city purpose. The city has not granted any easements which will be adversely affected by the vacation.

SECTION 4: INCORPORATION INTO THE 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.

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. If any section, phrase, sentence, provision or portion of this Ordinance is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

SECTION 7: EFFECTIVE DATE. This Ordinance shall take effect immediately upon its adoption by the City Council and the signature of the Mayor.

ADOPTED THIS ____ DAY OF _____ 2020.

BY: _____
Gary Jarvis, Mayor

ATTEST:

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.

Rey Bailey, City Clerk

Kimberly Kopp, City Land Use Attorney

First Reading: _____

Second Reading: _____

DRAFT

**MINUTES OF THE
PARKS & RECREATION COMMITTEE
MEETING DESTIN CITY HALL BOARDROOM
MAY 26, 2020 - 4:00 PM**

1. CALL TO ORDER:

Chairwoman Hebert called the meeting to order at 4:00 p.m. on Tuesday, May 26, 2020 in the Destin City Hall Annex Chambers with the Pledge of Allegiance immediately following.

2. ROLL CALL:

Members Present

Teresa Hebert
Myra Williams
Matthew Sweetser
Nikki Johnson
Barbara Telford
Brian Liesveld

Staff Present

Rey Bailey, City Clerk
Lisa Firth, Recreation Director
Scott Berish, Deputy Recreation Director

3. PUBLIC COMMENT:

None

4. OLD BUSINESS:

➤ **Welcome to Destin Sign Update**

The Chairman informed everyone that Delta Pavers is ready whenever the project can commence. And asked Mrs. Firth for an update.

According to Mrs. Firth, the EAFB Commander has denied the request for the improvements to the sign at this time. Adding that she feels it has a lot to do with their property around the general vicinity of the sign that they have closed off to the public. She advised to let all the contributors know the current status and she will find out what to do with the funding that was set aside for the project by the TDC.

➤ **Beach Advisory Partners Meeting**

Mrs. Firth explained at the meeting this morning. explaining that the main discussion was regarding how super busy everyone was everywhere this past holiday weekend. Adding that it seemed to be busier than the 4th of July.

She also mentioned how disheartening it is to read Facebook comments from people saying how much trash accumulation there was, and nothing being done about it. She explained how many times the trash is picked up and the bathrooms cleaned. As well as how by the times staff goes from one end of the city to the other than and by the time they get to the end its all trashed again at the beginning.

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➤ Memorial Day Weekend

Staff and members discussed at length how busy they all were for the holiday weekend. There was a discussion regarding the traffic back up on Beach Drive from all the people wanting to put in at Joe's Bayou Boat Ramp. According to Mrs. Firth, both parking lots were completely full by 9:30 a.m. Saturday and 10 a.m. on Sunday. Adding that staff put 68 trucks and trailers in the overflow parking lot and finally, she spoke of how well her staff members worked to keep the flow going as smoothly as possible.

She then spoke of the flag systems and how there is a new flagpole is now installed at June White Decker Park. Additionally, there are now 5-flag poles that are 30-35 feet high. She spoke of how they want every vendor and lifeguard shack and any private entity that flies a flag to fly the same colors as what the lifeguards have declared the water to be. She spoke of how State Parks do not have lifeguards and that mile stretch of beach is a concern and is being looked at to see if there are some funding to get a lifeguard put there.

➤ Arbor Day Tree Planting

Mrs. Firth thanked Committee member Williams for attending the tree planting at Kellaire South Park in the midst of the pandemic. Adding that although Council was not encouraged to attend because of that fact, Councilmember Marler did attend. And they planted a Magnolia Tree and flowers by the park sign.

➤ Annual Park Inspections

Mrs. Firth informed the members that there is no rush to get their inspections turned in and that they can put them off as far out as September if they don't feel comfortable enough to do them just yet. She also asked the members if they would make note of any tree dedications they may have at their parks they are assigned to inspect and let her staff know the locations.

The Chairman mentioned that she turned hers in just before the virus outbreak. And thanked Scott for the safety measures he put in place for the water fountains and hand sanitizers.

Committee member Telford asked for input on exactly what all she should be reviewing and turning in for her locations that she was assigned to inspect. Mrs. Firth encouraged everyone to report everything they feel needs attention.

➤ June White Decker Park MobiMat/ADA Ramp Update

Mrs. Firth stated that the ramp is installed and looks wonderful. Adding that there is a beach wheelchair at the location for people to use. However, the mat is not and will not get installed for this summer season. She explained that sea turtle nesting season starts May through November.

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Mr. Scott Berish reported that FDEP has not issued the City the permit for the MobiMat at the June White Decker Park and won't until after nesting season ends on November 1st. And staff is unsure long-term how that is going to work out at this time.

➤ **Beach on the Westside of Marler Bridge Status**

Mrs. Firth explained that this is out of staff's hands and there are not any new updates at this time. The Chairman agreed to just table this since there is no need to discuss anything at this meeting until they know more information from the County and the EAFB.

➤ **Harbor Lane ROW Improvements**

The Chairman spoke of how Council appropriated \$25k for the improvements of the ROW to make it more accessible for the public.

Mrs. Firth explained that Council member Destin set aside the funds so that lighting and other improvements that could be made to the area.

The Chairman recognized Mrs. Sandy Trammell to provide input. According to Mrs. Trammell, they were not expecting the funds, but all involved agrees that it should be a community effort and feels that a community meeting should take place with staff and members of the public to discuss potential improvements. Adding that if that is not an option, she would be glad to have a meeting in her backyard and bring the items agreed upon to staff and this committee for their consideration.

Mrs. Trammell spoke of several different improvements that could be considered as well as the possibility of using a portion of the funds set aside to make improvements to the other nearby ROW's that have water access. She also spoke of how the neighborhood has agreed to do matching funds for improvements if possible.

The Chairwoman suggested installing the pier at an angle with composite wood. If Mr. Odom is not willing to remove the bushes, she suggests clearing out as much of the area as they can and have fill dirt brought in to level out the incline.

Committee member Johnson spoke of clearing out the other ROW that is flat to be used by kayakers as well as doing the other one. And then asked what happens after they are cleaned up. Do they stay ROW's, or do they become parks?

Joanne Bouchon spoke of the ordinance that Council member Morgan suggested staff write to protect the rest of them from any potential vacation of ROW requests in the future.

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Committee member Sweetser suggested that if the stairs are to be rebuilt, he suggests that they make them wider for people to transverse in both directions and build them out of the Trex material, so they will last longer.

Mr. Matt Trammell suggested if possible to use the funds to improve each location and spoke how each one is different from the other in terms of water depth and fishing/kayaking possibilities that and if there are matching funds, they'll be able to make the necessary improvements that better fits each ROW.

Mrs. Trammell spoke of how whatever is done to this water access will dictate how the others in the city will be handled. She also suggested installing a bike rack to encourage people to bike to the access and not drive to it. Adding that she does feel that a streetlight is needed on Harbor Lane since there is not one but not in the ROW.

Committee member Liesveld does not agree with having a light installed simply for the fact that if there the area is lit is no longer a dawn to dusk access and becomes a dawn to whenever area. And agrees with what Mrs. Trammell mentioned.

The members briefly discussed the possibility of their next meeting being a workshop to discuss ideas for improvements to the water accessible rights of ways.

The Chairman suggested a workshop be set up for the community members interested to come together to discuss their ideas for their next meeting.

5. COMMITTEE MEMBER/STAFF COMMENTS:

Committee member Johnson asked about the status of the Fire Dept. taking over the portion of Clement Taylor Park and if there is still a chance for the public to provide input.

According to the Clerk, the lease is in the form of an ordinance which requires two readings and the first reading is June 1st.

Covid-19/Public Access

Mr. Berish explained some of the facilities are still closed. But with the Governor recently allowing programs to start back up with little to no restrictions.

Mrs. Firth explained that staff will be meeting with the City Manager to decide on starting up the smaller camp programs.

Committee member Johnson feels that since the Daycares have stayed open with no issue and the parents are comfortable with allowing their children then it's ok with her.

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Committee member Sweetser agreed that ultimately it is up to the parents and if they feel comfortable with allowing their children to attend then they should start them up again. Adding they should add language about Covid to the paperwork they are required to fill out and submit.

Committee member Liesveld stated that he feels its incumbent for the city to maintain a safe environment. And they should follow the same models that are currently set forth for the beaches to have no more than 10-people in a group and stay 6-feet apart. And to slowly phase into an open environment.

Committee member Telford recommends for staff to make the decisions that will be easier and safer for them. But ultimately, she agrees, it is up to the parents if they feel they are comfortable to allow their children to attend.

Chairwoman Hebert agrees and to do what is easiest for the staff to maintain and if the parents to feel comfortable.

Mrs. Firth explained that her staff has been diligent at keeping the areas clean, but the tournaments are going to be the ones that will be challenging. She also spoke of how opening the Dalton Threadgill Park to the Little League for the local kids. But opening up to tournaments could cause a whole another issue being that the State of Louisiana has 30-teams and they are still not allowed into this State. And is a hard decision to come to a decision. She also mentioned how they are getting negative comments form the local citizens that do not want all people from different states coming into the city just yet.

Committee member Williams suggested that they err on the side of caution and make the tournaments smaller. Mrs. Firth explained that is not feasible because first it is the Tournament Director call to do that and he would not agree to only have half the teams.

Committee member Telford agreed and spoke of how there is not enough room at any of the parks where tournaments are played for people to be separated, as they should be. Adding that she thinks they should not even have them at all for this year and as a resident, it scares her to think of all the people it would bring in other than the normal vacationers.

Committee member Johnson agrees to not allow the tournaments this year. Adding that there are already plenty of tourists in Destin as it is and then if they had to be cancelled that could cause negative remarks on social media. She does however agree with having the little summer camps for the local kids.

She then asked if the Fire Station going in at Clement Taylor Park a done deal. According to the Clerk, the ordinance has two readings for the public to comment at the June 1st meeting and the June 15th Council meeting. She also mentioned how the lease agreement was never brought before them for discussion and then the next thing it's going before City Council.

Committee member Williams spoke of how hard its been for people to zoom into Council meeting with the Covid-19 and also how convenient it is for the Fire District too to bring this up subject up at this time. Adding that the community has been focusing on safety for themselves. She also spoke of

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how for safety reasons, the two uses should be separate from each other. Adding that having a Fire Station at a park where children are is in no way a safe environment.

Committee member Johnson also spoke of how the one area of the park that someone can see the water from the road is where they want to put the station will destroy the look of the park. She also mentioned how she thought that anything that had to do with any of the Parks in the city should first had to come through them for discussion and recommendation to Council, so they don't have to go and speak individually as citizens in front of Council.

Chairwoman Hebert asked the Clerk if it was now too late for the committee to provide input. The Clerk informed the members that they can still provide recommendation as long as they all have a consensus agreement. The members discussed at length their concerns and disagreement and the result was that they all agreed that they do not favor the Fire District installing a station at Clement Taylor Park with the main concern being safety concerns for everyone and they were not consulted either. As well as the fact that the lease is only for \$1, is insulting considering the value of the land where the park is located.

➤ **STAFF REPORTS:**

- **Clement Taylor Park Seawall Replacement** – Permits are now in place from the State and just waiting on the contractor to get it on their schedule. And Scott will be on site during construction.
- **Capt. Royal Melvin Park** – The bid opening is Thursday, May 28th with the bid committee meeting the following week to make a recommendation to City Council.
- **Capt. Leonard Destin Park** – Punch List items are still being worked out and should be opened in July. With the June Meeting being a workshop think about a date for the ribbon cutting ceremony.
- **Concrete Plant Property/Joe's Bayou Boat Ramp** – Waiting on the plan review.
- **Norriego Point Park** – Waiting on the final permits before they can begin.

➤ **Public Comment** – None

ADJOURNMENT:

Having no further discussions, the meeting adjourned at 5:30 PM.

Adopted and approved _____ day of _____ 2020.

Teresa Hebert, Chairwoman

Kim Montgomery, Deputy City Clerk

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MINUTES HARBOR COMMUNITY REDEVELOPMENT AGENCY ADVISORY COMMITTEE MEETING JUNE 10, 2020 - 5:30 PM DESTIN CITY HALL BOARDROOM

1. CALL TO ORDER:

Vice Chairman Green called the meeting to order at 5:30 p.m. on Wednesday, June 10, 2020 in the Destin City Hall Board Room.

2. ROLL CALL:

HCRA-AC Members:

Present

James Green
Casey Jones
Sandy Trammell
Mike Raim
Barbara Mizell
Jan Best

Absent

Mike Buckingham

Staff Present

Kim Montgomery, Deputy City Clerk
Traci Goodhart, Planner
Lauren Witt, Principle Planner
Louis Zunguze CD Director
James Lauria, IT Specialist

3. MINUTES FOR APPROVAL: March 11, 2020

Motion by Committee member Raim, seconded by Committee member Trammell, the members approved the March 11, 2020 minutes as written with a 6-0 vote.

4. OLD BUSINESS:

➤ Sunshine and Public Records Refresher

The City Attorney informed the members he will make this an annual presentation of the Sunshine and Public Records Laws starting in November after the new members are appointed. However, since its been a while and with the Covid issues, staff felt that a refresher would be a good idea. The three categories are:

- Emails
- Text Messages
- Social Media

He explained that in an effort to protect them and keep their private email accounts, private. The city has issued all board and committee members @cityofdestin.com email addresses. This way all city related business conducted through their city issued email will be captured. Additionally, any emails that may pertain to city business sent out or received through their personal accounts should be forwarded to their city email address to be captured and searchable through the city email server. Explaining further that

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they are subjected to the public records law and so any communication that deals with city business is a public record, and includes text messages and social media comments.

➤ **FY-20 Work Plan Items:**

Mrs. Goodhart welcomed the members back and explained the items that have been completed are:

- Royal Melvin Heritage Park

Items that are continued are:

- Harbor Parking
- Improved Harbor Regulations
- CRA Master Plan Update – Staff is currently working on this item.

The following workplan items submitted to staff for 2019 to carry over to the 2020 Work Plan are:

- Harbor Stormwater Mitigation - Trammell
- Harbor Median Landscaping Plan - Buckingham
- Feral Cat Population – Mizell
- Improved Harbor Parking – Green
- Improved Harbor Regulations - Best

Staff asked the members to focus on items of interest they would like to work on for 2020 noting that the other work plan are still active and they can have as many as they want.

Mr. Zunguze explained to the members that their workplans are fluid in nature, and there will be other active projects that will cut across theirs. Such as the City is beginning to work on the Stormwater Master Plan and there are projects that will be work going on whether this Committee has identified them identified and specialized them. And staff will provide them with updates as necessary. Such as the intersection improvement for 98 and Stahlman Ave.

A consensus from the members was the following to prioritize for the 2020 year:

- Harbor Parking
- Harbor Stormwater Mitigation
- Improved Harbor Regulations
- Pedestrian Safety

➤ **FDOT Median Landscaping**

Mrs. Goodhart explained to the members that on May 4th Council expressed their intent to write a letter of support to the FDOT for the improved median landscaping and this committee's preference of plant species based on the types presented to Council by FDOT.

The members briefly discussed the species that were selected and made comments. The consensus was for the Crepe Myrtles that are present should stay as long as they're not hacked every year. No to crown grass and jasmine species selected as they require more water and Committee member Trammell suggested choosing the dune sunflowers as a good alternative to the medians since they require very little water and maintenance and would help mitigate the expense for the landscape contracts. Also, no to Oak Trees in the center medians because of the damage they can do

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to the roadway; maybe just at the side streets.

Committee member Green suggested the large Ligustrums as a good alternative as they stay green all year round.

Committee member Raim spoke of how beautiful the Crepe Myrtles are that are currently in the medians that do not require any trimming. They also tend to break apart if hit by automobiles. Whereas Oaks when hit, automobiles tend to wrap around them cause more damage to the occupants.

5. NEW BUSINESS:

- **Harbor CRA Master Plan Update**

Mrs. Goodhart reminded the members at their last meeting in March they suggested for staff to start reviewing the Harbor CRA Master Plan and find areas that need updating. Therefore, staff working together to find out what projects have been completed in the Harbor CRA District from inception and compare them with what is in the current Master Plan. Once they are able to make those comparisons, they will know where it stands and be able to determine what needs to be carried over to the Future Master Plan.

- **Member Comments**

Vice Chairman Green thanked the members for attending the meeting. He also spoke of how glad he is to see the interest in harbor parking situation since the city is still in such a deficit.

6. DIRECTORS REPORT:

Mrs. Witt informed the members that now that they have their city email addresses, staff will be contacting them and they will be receiving their agenda packages thru that process prior to their next meeting.

- **Next meeting: July 8, 2020**

7. ADJOURNMENT:

Having no further business at this time, the meeting was adjourned at 6:00 PM.

Adopted and approved this ____ day of _____ 2020.

Mike Buckingham, Chairman

Kim Montgomery, Deputy City Clerk

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MINUTES TOWN CENTER COMMUNITY REDEVELOPMENT AGENCY ADVISORY COMMITTEE MEETING JUNE 17, 2020 - 5:30 PM DESTIN CITY HALL BOARDROOM

1. CALL TO ORDER:

Chairman Wernet called the meeting to order at 5:30 PM on Wednesday, June 17, 2020 at the Destin City Hall Boardroom with the Pledge of Allegiance immediately following.

2. ROLL CALL:

Members Present

Lockwood Wernet
Michele Sandstead
Justin Woodard
Matthew Sweetser
Delores Morrell

Members Absent

Frank McDonough

Staff Present

Kim Montgomery Deputy City Clerk
Samantha Brisolara, Planner
Lauren Witt, Planner
Joe Bodi, Engineering Asst. II.
Louis Zunguze, CD Director
Kyle Bauman, City Attorney

3. APPROVAL OF MINUTES: February 19, 2020

Motion by Committee member Morrell, seconded by Committee member Sweetser to approve the February 19, 2020 meeting minutes as written passed 5-0.

4. OLD BUSINESS:

➤ **Sunshine and Public Records Refresher**

The City Attorney informed the members he will make this an annual presentation of the Sunshine and Public Records Laws starting in November after the new members are appointed. However, since it has been a while and with the Covid issues, staff felt that a refresher would be a good idea. The three categories are:

- Emails
- Text Messages
- Social Media

He explained that in an effort to protect them and keep their private email accounts, private. The city has issued all board and committee members @cityofdestin.com email addresses. This way all city related business conducted through their city issued email will be captured. Additionally, any emails that may pertain to city business sent out or received through their personal accounts should be forwarded to their city email address to be captured and searchable through the city email server. Explaining further that they are subjected to the public records law and so any communication that deals with city business is a public record and includes text messages and social media comments.

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Mrs. Witt informed the members that going forward after this meeting, they will start getting all their packet information and any city correspondence through their city email addresses.

➤ **Gulf Power Easement Linear Park**

Mrs. Brisolara explained that staff has created a preliminary scope of work for their recommendation.

The Chairman recapped the general vicinity of where this potential park will be located and asked staff what exactly they are dealing with at this time. According to Mrs. Brisolara, currently they are dealing with the roadway and the walkway from Main Street to Mattie M. Kelly.

Motion to approve the proposed Scope of Work was made by Committee member Morrell with Committee member Woodard providing the second. With no further discussion, the Chairman called for the vote and the motion passed 5-0.

➤ **FDOT Median Landscape Update**

Staff explained that the plans are at the 90% level and three of the tree species they previously recommended were removed from the plan by FDOT.

5. NEW BUSINESS:

➤ **Town Center CRA Master Plan Update**

Staff explained this is one of their work plan items and currently this is just an update of the current status. Currently, staff is in the process of working with other departments to analyze how many projects from the old plan have been implemented over the years. And once that is finalized, staff will bring the analysis back to them to review and provide comment.

The Chairman suggested to the members to review the old plan to familiarize themselves with it in order to be prepared to respond when staff brings the updated plan before them.

6. COMMITTEE COMMENTS:

- Committee member Sandstead asked if the project initiation date of 2007 for the Linear Park is correct. According to Mrs. Witt, that is the correct date and is the portion of the park that was implemented into the Capital Improvements Plan however, the funding was not able to be obtained until 2019-2021.
- Committee member Sweetser spoke of the need to keep the Parks & Recreation Committee involved when the proposal for the Linear Park goes forward to City Council for funding.

7. VISITOR COMMENTS:

None

8. DIRECTOR'S REPORT:

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Mr. Zunguze informed the members that recently Council has made a decisive decision regarding building heights in the city. For any future developments, the decision was made to cap all building heights to 6-stories going forward. Additionally, any requests for additional stories would have to go to a referendum vote by the citizens of Destin. Staff will be bringing the language for that ordinance before City Council at their July 6, 2020 meeting in order to make the August deadline for the referendum.

He also spoke of how currently, there are three ways that staff has to review heights in the city and spoke of how uncomfortable it is for staff in their review process. Those three steps are through the Comprehensive Plan, the Land Development Code, and by the Florida Building Codes. Staff is requesting that Council take measure to change it so there is only one way for staff to review heights in the city. He also informed the members that staff is working on revising the Land Development Code and once the internal comments are taken into consideration, staff will take those suggestions forward to City Council and share any of them that deal with the Town Center CRA with them.

Chairman Wernet asked what the height restrictions will be that will be associated with the cap. According to Mrs. Witt, the maximum is 6-stories and 75-feet.

➤ **Next meeting is July 15, 2020.**

ADJOURNMENT:

Having no further discussions, the meeting was adjourned at 6:00 PM.

Adopted and approved _____ day of _____ 2020.

Lockwood Wernet, Chairman

Kim Montgomery, Deputy City Clerk

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CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Consent Agenda

TO: City Council

THRU: Wen Livingston, Library Director
Krystal Strickland, Finance Director
Webb Warren, Deputy City Manager
Lance Johnson, City Manager

FROM: Karen Jankowski, HR Manager

DATE: June 25, 2020

SUBJECT: Position Re-classification for FY20

I. BACKGROUND: The City of Destin Library currently has vacancies for two part-time Library Assistant positions. (due to attrition)

II. DISCUSSION: The Library Director has reviewed her current staffing and department needs. Respectfully requests that the two vacant part-time Library Assistant positions be converted into one full-time Library Assistant. The average turnover rate in a six year period has been 2.5 part-time staff members at the Library.

A. Link to Strategic Goals / Objectives: FINANCIALLY SOUND CITY PROVIDING SERVICE EXCELLENCE

B. Effect on Budget (EOB): Projected cost is \$7,300.00 for FY20.
(\$29,281.00 annually with family benefits for FY21)

C. Level of Service (LOS): Continuity of services during high staff turnover has shown that there is a need for the re-classification to be able to provide cost effective standard level of services.

III. CONCLUSION: Providing the City and Library staff the re-classification would greatly assist the department to provide the level of service our customers deserve.

IV. RECOMMENDED MOTION: I move Council authorize the City Manager to re-classify the two vacant part-time Library Assistant positions to one full-time Library assistant position and make the necessary budget changes to the Library budget code 01517180.

Attachments:

None

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU: Lance Johnson, City Manager

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

DATE: July 2, 2020

SUBJECT: Proposed Bert Harris Settlement Agreement for 3461 Scenic Highway 98.

I. BACKGROUND: A proposed settlement agreement is attached for consideration by the City Council.

II. DISCUSSION: Staff has reviewed the requested occupancy, has inspected the property, and recommends approval of the proposed settlement agreement.

Square footage of living space at the property is approx. 6,531 square feet, which results in staff-recommended occupancy of 32 based on prior directives of Council.

The property remains subject to all other applicable City ordinances and codes.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: Staff recommends approval of the proposed settlement agreement based on prior directives of the City Council.

IV. RECOMMENDED MOTION:

Attachments:

1. 3461 Scenic Highway 98 Settlement
July 6 Council

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

Kimberly Romano Kopp, Esq.
Romano Kopp Law, P.A.
P.O. Box 445
Destin, Florida 32541

For Recording Purposes Only

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this ____ day of _____, 2020, ("Effective Date") by and between, Gossett Oil and Gas Properties, LLP ("Owner") and the City of Destin ("City"), collectively referred to as the "Parties."

RECITALS

WHEREAS, on January 22, 2019, the City enacted Ordinance 18-29-CC, the Short-Term Rental Occupancy Ordinance ("Ordinance"), which limits the occupancy of short-term rental homes to two (2) people per bedroom plus an additional four (4) persons; and

WHEREAS, Owner owns the real property and improvements located at 3461 Scenic Highway 98, Destin, FL 32541, as more particularly described in the attached Exhibit "A" (the "Property"); and

WHEREAS, on October 11, 2019, Owner's predecessor in interest 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 thirty-two (32) overnight guests at the nine (9) bedroom vacation rental property noted above and the City shall grant such occupancy. The 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 change the number of bedrooms that existed at the date of the Claim. Additionally, no future addition to the number bedrooms will increase the allowable occupancy at the Property.

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 Destin 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 Okaloosa County, Florida. The parties expressly consent to such agreed jurisdiction and venue, and waive any objections thereto.

8. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and shall be (i) delivered by hand, (ii) delivered by reputable national or local courier (such as United Parcel Service or Federal Express), (iii) mailed by United States registered or certified mail, return receipt

requested and postage prepaid, or (iv) sent by facsimile transmission provided a confirmation of such facsimile transmission is sent the same day by one of the methods of delivery in (i), (ii), or (iii) above. Any notice shall be addressed to each party at its address as set forth below. Any such notice shall be considered given on the date of such hand delivery, deposit with such courier for same day or next business day delivery, upon receipt of return receipt of certified mail, or receipt of facsimile transmissions, as the case may be, and the time period (if any is provided herein) in which to respond to such notice shall commence on the date of receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice. By giving to the other party at least ten (10) days' notice thereof, any party shall have the right from time to time to change the addresses thereof and to specify up to two (2) additional addresses within the United States of America to which copies of notices to it shall be sent. Notice may be given on behalf of any party by such party's counsel. In the event the subject property owner changes, notices shall be addressed to the current owner as indicated in the records of the Okaloosa County Property Appraiser. Otherwise, notices shall be sent as follows:

Each notice shall be addressed as follows:

To City: City of Destin, Florida
Attn: 4200 Indian Bayou Trail
Destin, Florida 32541

With a copy to: City Land Use Attorney
Romano Kopp Law, PA
PO Box 445
Destin, Florida 32541

To Gossett Oil and Gas Properties LLP: Bryan Gossett
PO Box 10343
Midland, TX 79702

With a copy to: Matthews & Jones, LLP
Attn: C. Stephen Tatum
4475 Legendary Drive
Destin, Florida 32541

9. **Attorney's Fees**. In the event of any action, whether pre-suit, mediation, litigation or appellate proceeding to enforce the terms and conditions of this Agreement, each party to the action shall pay its own attorney's fees and costs incurred therein.

10. **Venue**. Venue over any action to enforce the terms and conditions of this Agreement, including mediation, shall lie solely in Okaloosa County, Florida.

OWNER: Gossett Oil and Gas Properties, LLP

Signature of Witness #1

Bryan Gossett

Print or type name

Signature of Witness # 2

Print or type name

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, by means of ____ physical presence or ____ online notarization, appeared _____, personally known to me or who has produced _____ as identification, to be the person described in and who executed the foregoing _____ and he/she acknowledged before me that he/she executed same.

Signature of Notary _____

(NOTARY SEAL)

Print or type name

CITY OF DESTIN

By: _____
Gary Jarvis, Mayor
Date: _____

ATTEST:

Rey Bailey, City Clerk

Date: _____

STATE OF _____

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, by means of ____ physical presence or ____ online notarization, appeared _____, personally known to me or who has produced _____ as identification, to be the person described in and who executed the foregoing _____ and he/she acknowledged before me that he/she executed same.

Signature of Notary

(NOTARY SEAL)

Print or Type Name

Approved as to form and legality for use and reliance
by the City of Destin, Florida, only.

Kimberly Romano Kopp, Esq.
City Land Use Attorney

Exhibit "A"

Legal Description of Property

Lot 1, GRAND PALMS, a part of Destiny, according to the Plat thereof as recorded in Plat Book 15, Page(s) 38 and 39, of the Public Records of Okaloosa County, Florida.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU: Lance Johnson, City Manager

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

DATE: July 2, 2020

SUBJECT: Proposed Bert Harris Settlement Agreement for 3890 Sandprint Drive.

I. BACKGROUND: A proposed settlement agreement is attached for consideration by the City Council..

II. DISCUSSION: Staff has reviewed the requested occupancy, has inspected the property, and recommends approval of the proposed settlement agreement.

Square footage of living space at the property is approx. 5,276 square feet, which results in staff-recommended approval of the requested occupancy of 24 based on prior directives of Council.

The property remains subject to all other applicable City ordinances and codes.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: Staff recommends approval of the proposed settlement agreement based on prior directives of the City Council.

IV. RECOMMENDED MOTION:

Attachments:

1. 3890 Sandprint Drive July 2, 2020

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

Kimberly Romano Kopp, Esq.
Romano Kopp Law, P.A.
P.O. Box 445
Destin, Florida 32541

For Recording Purposes Only

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this _____ day of _____, 2020, ("Effective Date") by and between, Sapp Florida Investments, LLC. ("Owner") and the City of Destin ("City"), collectively referred to as the "Parties."

RECITALS

WHEREAS, on January 22, 2019, the City enacted Ordinance 18-29-CC, the Short-Term Rental Occupancy Ordinance ("Ordinance"), which limits the occupancy of short-term rental homes to two (2) people per bedroom plus an additional four (4) persons; and

WHEREAS, Owner owns the real property and improvements located at 3890 Sandprint Drive, Destin, FL 32541, as more particularly described in the attached Exhibit "A" (the "Property"); and

WHEREAS, on October 11, 2019, 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 twenty-four (24) overnight guests at the six (6) bedroom vacation rental property noted above and the City shall grant such occupancy. The 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 change the number of bedrooms that existed at the date of the Claim. Additionally, no future addition to the number bedrooms will increase the allowable occupancy at the Property.

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 Destin 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 Okaloosa County, Florida. The parties expressly consent to such agreed jurisdiction and venue, and waive any objections thereto.

8. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and

shall be (i) delivered by hand, (ii) delivered by reputable national or local courier (such as United Parcel Service or Federal Express), (iii) mailed by United States registered or certified mail, return receipt requested and postage prepaid, or (iv) sent by facsimile transmission provided a confirmation of such facsimile transmission is sent the same day by one of the methods of delivery in (i), (ii), or (iii) above. Any notice shall be addressed to each party at its address as set forth below. Any such notice shall be considered given on the date of such hand delivery, deposit with such courier for same day or next business day delivery, upon receipt of return receipt of certified mail, or receipt of facsimile transmissions, as the case may be, and the time period (if any is provided herein) in which to respond to such notice shall commence on the date of receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice. By giving to the other party at least ten (10) days' notice thereof, any party shall have the right from time to time to change the addresses thereof and to specify up to two (2) additional addresses within the United States of America to which copies of notices to it shall be sent. Notice may be given on behalf of any party by such party's counsel. In the event the subject property owner changes, notices shall be addressed to the current owner as indicated in the records of the Okaloosa County Property Appraiser. Otherwise, notices shall be sent as follows:

Each notice shall be addressed as follows:

To City: City of Destin, Florida
Attn:
4200 Indian Bayou Trail
Destin, Florida 32541

With a copy to:

City Land Use Attorney
Romano Kopp Law, PA
PO Box 445
Destin, Florida 32541

To Sapp Florida Investments LLC: Jason Sapp
4559 Sailmaker Lane
Destin, Florida 32541

With a copy to:

Matthews & Jones, LLP
Attn: C. Stephen Tatum
4475 Legendary Drive
Destin, Florida 32541

9. **Attorney's Fees**. In the event of any action, whether pre-suit, mediation, litigation or appellate proceeding to enforce the terms and conditions of this Agreement, each party to the action shall pay its own attorney's fees and costs incurred therein.

10. **Venue**. Venue over any action to enforce the terms and conditions of this Agreement, including mediation, shall lie solely in Okaloosa County, Florida.

OWNER: Sapp Florida Investments, LLC

Signature of Witness #1

Jason Sapp

Print or type name

Signature of Witness # 2

Print or type name

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, by means of ____ physical presence or ____ online notarization, appeared _____, personally known to me or who has produced _____ as identification, to be the person described in and who executed the foregoing _____ and he/she acknowledged before me that he/she executed same.

Signature of Notary

(NOTARY SEAL)

Print or type name

CITY OF DESTIN

By: _____
Gary Jarvis, Mayor

Date: _____

ATTEST:

Rey Bailey, City Clerk

Date: _____

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, by means of ____ physical presence or ____ online notarization, appeared _____, personally known to me or who has produced _____ as identification, to be the person described in and who executed the foregoing _____ and he/she acknowledged before me that he/she executed same.

Signature of Notary

(NOTARY SEAL)

Print or Type Name

Approved as to form and legality for use and reliance
by the City of Destin, Florida, only.

Kimberly Romano Kopp, Esq.
City Land Use Attorney

Exhibit "A"

Legal Description of Property

Lot 4, Block D, THE DUNES OF DESTIN, a Planned Unit of Development, as recorded in Plat Book 13, Page 39, Public Records of Okaloosa County, Florida.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU: Lance Johnson, City Manager

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

DATE: July 2, 2020

SUBJECT: Proposed Bert Harris Settlement Agreement for 82 Hutchinson St.

I. BACKGROUND: A proposed settlement agreement is attached for consideration by the City Council.

II. DISCUSSION: Staff has reviewed the requested occupancy, and recommends approval of the proposed settlement agreement.

Square footage of living space at the property is approx. 6,684 square feet, with 8 bedrooms, which was built with fire sprinklers per commercial (not residential) building codes, and which results in staff-recommended occupancy of 33. A maximum occupancy of 33 was previously approved by Council for the property owner's similar adjacent structures on Hutchinson St.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION: Staff recommends approval of the proposed settlement agreement based on the prior directive of the City Council.

IV. RECOMMENDED MOTION:

Attachments:

1. 82 Hutch July 6 2020

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

Kimberly Romano Kopp, Esq.
Romano Kopp Law, P.A.
P.O. Box 445
Destin, Florida 32541

For Recording Purposes Only

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is entered into this ____ day of _____, 2020, ("Effective Date") by and between, 11 Hutchinson, LLC. ("Owner") and the City of Destin ("City"), collectively referred to as the "Parties."

RECITALS

WHEREAS, on January 22, 2019, the City enacted Ordinance 18-29-CC, the Short-Term Rental Occupancy Ordinance ("Ordinance"), which limits the occupancy of short-term rental homes to two (2) people per bedroom plus an additional four (4) persons; and

WHEREAS, Owner owns the real property and improvements located at 82 Hutchinson Street, Destin, FL 32541, as more particularly described in the attached Exhibit "A" (the "Property"); and

WHEREAS, on July 29, 2019, 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 thirty-three (33) overnight guests at the eight (8) bedroom vacation rental property noted above and the City shall grant such occupancy. The 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 change the number of bedrooms that existed at the date of the Claim. Additionally, no future addition to the number bedrooms will increase the allowable occupancy at the Property.

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 Destin 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 Okaloosa County, Florida. The parties expressly consent to such agreed jurisdiction and venue, and waive any objections thereto.

8. **Notices.** Any notice required or permitted to be given hereunder shall be in writing and shall be (i) delivered by hand, (ii) delivered by reputable national or local courier (such as United Parcel Service or Federal Express), (iii) mailed by United States registered or certified mail, return receipt

requested and postage prepaid, or (iv) sent by facsimile transmission provided a confirmation of such facsimile transmission is sent the same day by one of the methods of delivery in (i), (ii), or (iii) above. Any notice shall be addressed to each party at its address as set forth below. Any such notice shall be considered given on the date of such hand delivery, deposit with such courier for same day or next business day delivery, upon receipt of return receipt of certified mail, or receipt of facsimile transmissions, as the case may be, and the time period (if any is provided herein) in which to respond to such notice shall commence on the date of receipt. Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of the notice. By giving to the other party at least ten (10) days' notice thereof, any party shall have the right from time to time to change the addresses thereof and to specify up to two (2) additional addresses within the United States of America to which copies of notices to it shall be sent. Notice may be given on behalf of any party by such party's counsel. In the event the subject property owner changes, notices shall be addressed to the current owner as indicated in the records of the Okaloosa County Property Appraiser. Otherwise, notices shall be sent as follows:

Each notice shall be addressed as follows:

To City: City of Destin, Florida
Attn: 4200 Indian Bayou Trail
Destin, Florida 32541

With a copy to: City Land Use Attorney
Romano Kopp Law, PA
PO Box 445
Destin, Florida 32541

To 11 Hutchinson: 11 Hutchinson, LLC
1159 Troon Drive
Miramar Beach, Florida 32550

With a copy to: Matthews & Jones, LLP
Attn: C. Stephen Tatum
4475 Legendary Drive
Destin, Florida 32541

9. **Attorney's Fees**. In the event of any action, whether pre-suit, mediation, litigation or appellate proceeding to enforce the terms and conditions of this Agreement, each party to the action shall pay its own attorney's fees and costs incurred therein.

10. **Venue**. Venue over any action to enforce the terms and conditions of this Agreement, including mediation, shall lie solely in Okaloosa County, Florida.

OWNER: 11 Hutchinson, LLC

Signature of Witness #1

Joseph Bellinghier

Print or type name

Signature of Witness # 2

Print or type name

STATE OF _____

COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, by means of ____ physical presence or ____ online notarization, appeared _____, personally known to me or who has produced _____ as identification, to be the person described in and who executed the foregoing _____ and he/she acknowledged before me that he/she executed same.

Signature of Notary

(NOTARY SEAL)

Print or type name

CITY OF DESTIN

By: _____
Gary Jarvis, Mayor

Date: _____

ATTEST:

Rey Bailey, City Clerk

Date: _____

STATE OF _____
COUNTY OF _____

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the state aforesaid and in the county aforesaid to take acknowledgments, by means of ____ physical presence or ____ online notarization, appeared _____, personally known to me or who has produced _____ as identification, to be the person described in and who executed the foregoing _____ and he/she acknowledged before me that he/she executed same.

Signature of Notary

(NOTARY SEAL)

Print or Type Name

Approved as to form and legality for use and reliance
by the City of Destin, Florida, only.

Kimberly Romano Kopp, Esq.
City Land Use Attorney

Exhibit "A"

Legal Description of Property

Lot 3 of Hutchison Courts, according to the Plat thereof as recorded in Plat Book 28, Page(s) 11, of the Public Records of Okaloosa County, Florida.

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020**TYPE OF AGENDA ITEM:** Consent Agenda

TO: City Council**THRU:** Lance Johnson, City Manager**FROM:** Kyle Bauman, City Attorney
Louis Zunguze, Community Development Director**DATE:** June 26, 2020**SUBJECT:** Request approval for a new single-family marine construction project at 4156 Belcourt Drive

I. BACKGROUND: The contractor submitted a marine construction permit application for a new single-family dock at 4156 Belcourt Drive (LOT 7). The proposed dock is 65' linear feet (LF) and includes two catwalks: (1) 3' x 36' and (1) 3' x 12', and a 15' x 39' boathouse over a new boat lift. The total project footprint is 997 square feet.

A dispute had previously arisen between the applicant's predecessor-in-interest, Provident Investments, LLC ("Provident"), and the immediate southerly abutter, LOT 8 The Estates, LLC (the "Abutter"). The dispute between the parties involved the proper description of the riparian line shared by the properties. On February 6, 2019, a "Memorandum of Agreement" (Exhibit D) was entered into between Provident and the Abutter establishing a riparian "settlement" line between Lot 7 (00-2S-22-4600-0000-0070) and Lot 8 (00-2S-22-4600-0000-0080) perpendicular to the shoreline (Exhibit E). The current application complies with the Memorandum of Agreement between the parties and the Abutter no longer objects to the approval of this marine construction project (Exhibit G).

II. DISCUSSION: The proposed marine construction project meets the requirements of Article 11.05.00, City of Destin Land Development Code, in addition, to including the required 25-foot riparian setback from the established "settlement" riparian line.

The contractor provided a Florida Department of Environmental Protection (FDEP) Permit, File No. 0385012001EE. City staff reviewed the application and determined that the plans comply with City Codes and regulations. Specifically, the proposed dock complies with Article 11.05.01.M., City of Destin Land Development Code, and the Coastal Management Element of the City's

Comprehensive Plan (Coastal Management Element Policy 6-1.1.3).

- A. **Link to Strategic Goals / Objectives:** 1) Enhance Quality of Life. 2) Improve Public Use of Beach, Waterways and Harbor. 3) Enhance and Preserve Heritage and Environment.
- B. **Effect on Budget (EOB):** There is not any anticipated effect on the budget.
- C. **Level of Service (LOS):** There is not any anticipated effect on LOS.

III. CONCLUSION: During a Public Hearing held on June 22, 2020, the Harbor and Waterways Board recommended approval of a single-family marine construction project proposed at 4156 Belcourt Drive for one (1) 15' x 39' Boathouse over a new boatlift, with two (2) catwalks; one (1) 3' x 36' and one (1) 3' x 12', subject to the applicant meeting all applicable City permit requirements.

IV. RECOMMENDED MOTION: I move that City Council approve a single-family marine construction project located at 4156 Belcourt Drive subject to the applicant meeting all applicable City permit requirements.

Attachments:

- 1. Harbor Board Application
- 2. BILL SMITH 997 SF
- 3. Smith airt REP LIN 3
- 4. FDEP Self Cert
- 5. Memorandum of Agreement (FINAL & EXECUTED)
- 6. Maddox Report (FINAL) dated 9-11-18
- 7. Belcourt dock matter -- Letter to Mayor Gary Jarvis and City Council Members from Coach Miles dated 7-2-20



City of Destin
Community Development Department
Planning & Zoning Division
City of Destin Annex
4100 Indian Bayou Trail
Destin, Florida 32541
Phone (850) 837-4242 • Fax (850) 460-2171
planning@cityofdestin.com

APPLICATION for HARBOR BOARD

Harbor Board meets the 4th Monday of each month, all applications must be submitted at least one month prior.

Description of work: construct dock/boat house and boatlift

1. APPLICANT INFORMATION:

Name: BILL SMITH
Mailing Address: 295 PALMAS INN WAY STE 104 PMB 234 HUMACAO
Phone: 256 708 4473 Fax: N/A Puerto Rico 00791
Email: bill@billsmithbuickgmc.com

2. PROPERTY TO BE REVIEWED:

Street Address: ~~295~~ 4156 BELLCOURT DR., DESTIN
Parcel ID #: _____

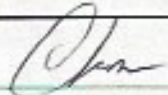
3. **FEE:** \$50.00 Residential Cash, Check, MasterCard or Visa
\$100.00 Commercial

Fees must be paid when submitting an application.

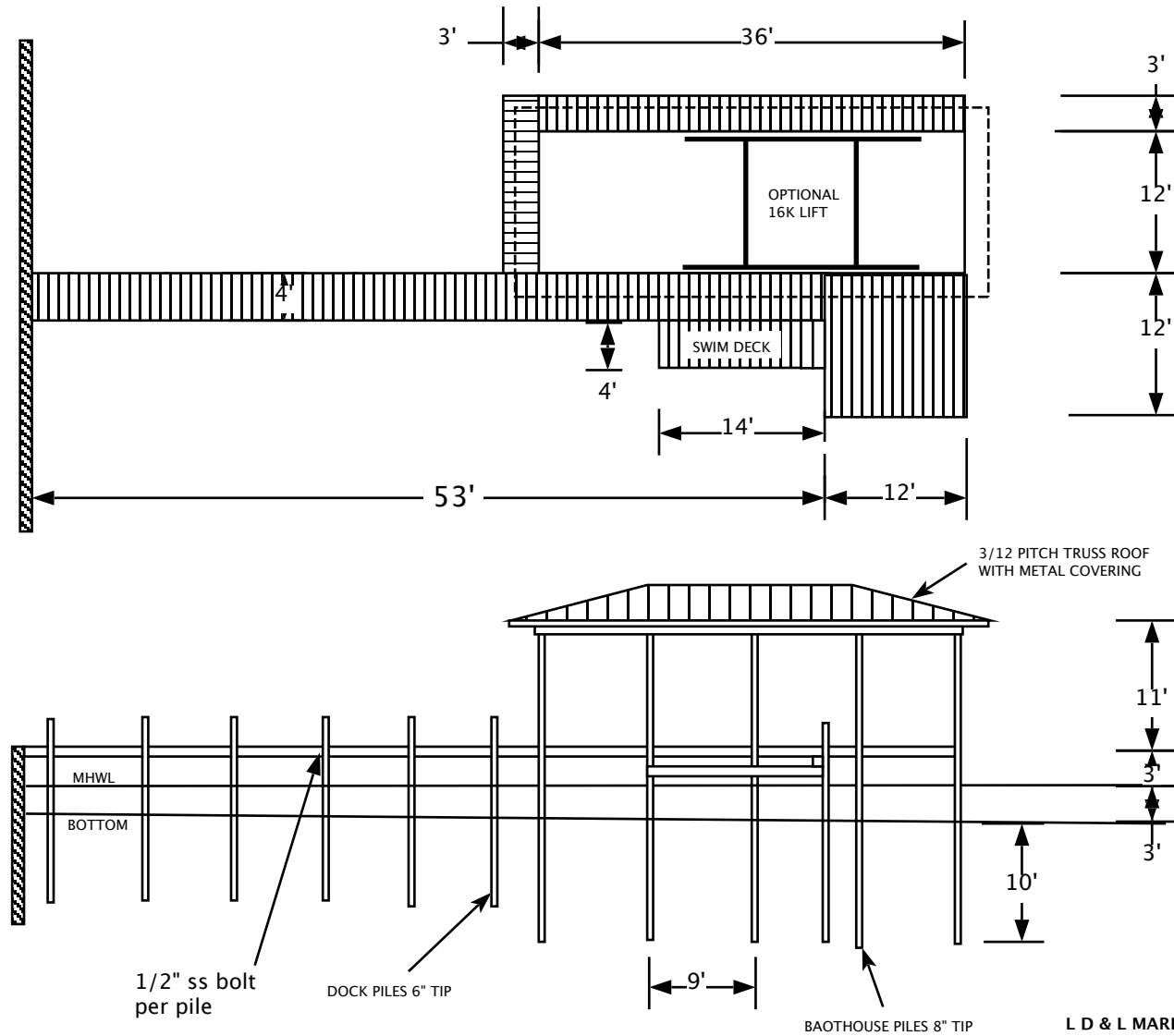
4. ADDITIONAL DOCUMENTATION REQUIRED:

- Complete detailed drawings and site plan.
- Adjacent property owner mailing information.

State and Federal permits required prior to submission for Harbor Board approval. Association approval (if applicable) shall accompany a completed application for a building permit, provided no additional slips are created. (Article 11.05.01B., Land Development Code).

APPLICANT'S SIGNATURE:  DATE: 2/14/20

BILL SMITH 1.0K.
4156 BELLCOURT DR.
997 SF.



L D & L MARINE CONTRACTORS
297 W. MIRACLE STRP. PKWY
MARY ESTHER, FL. 32569
(Chuck LoBello) 585 3003 / chuckldl@cox.net
(Clay Duhon) 585 5557 / c3d1@cox.net
MARINE CONTRACTOR LIC. NO. 11071-0600564



raparian line

65'

25'

raparian line

154 ft

**FLORIDA DEPARTMENT OF
Environmental Protection**

Ron DeSantis
Governor

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Receipt for Submission

**SELF-CERTIFICATION FOR A PROJECT AT A
PRIVATE, RESIDENTIAL SINGLE-FAMILY**

02/20/2020

Self-Certification File No.: **0385012001EE**

File Name: **4156 Belcourt Dr Destin, FL 32541 - Self Cert Exempt Dock with Boat Lift(s) (General)**

Dear **Charles LoBello**: On **02/20/2020** you used the Florida Department of Environmental Protection's electronic Self Certification Process to certify compliance with the terms and conditions of the Federal State Programmatic General Permit (SPGP) Self Certification Process for a project at private, single-family residence located at:

LAT - Degrees: **30** Minutes: **24** Seconds: **21.3057**
LONG - Degrees: **-86** Minutes: **27** Seconds: **8.7058**
SITE ADDRESS: **4156 Belcourt Dr Destin, FL 32541**
COUNTY: **Okaloosa**

For:
Bill Smith
297 W Miracle Strip Pkwy Mary Esther, FL 32569

You have certified that the project you propose to construct at the above location meets all the conditions of the Self-Certification Process. A project that is built in conformance to those conditions (attached for reference) will:

1. Qualify for a regulatory exemption under Section 403.813(1)(b) of the Florida Statutes (F.S.) and Chapter 62-330, Florida Administrative Code (F.A.C.). As such, it is exempt from the need to obtain a DEP Environmental Resource Permit.;
2. Qualify for Consent by Rule or Letter of Consent (as applicable) under Chapter 253, F.S. and Chapter 18-21, F.A.C. (and Chapter 258, F.S. and Chapter 18-20, F.A.C., if applicable), when the project is located on submerged lands owned by the State of Florida.

Your Self-Certification is based solely on the information you provided under this process, and applies only to the statutes and rules in effect when your certification was completed. The certification is effective only for the specific project proposed, and only if the project is constructed, operated, and maintained in

conformance with all the terms, conditions, and limitations stated in the Self-Certification Process. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required.

You have acknowledged that this Self Certification will automatically expire if:

1. Construction of the project is not completed within one year from the self-certification date;
2. site conditions materially change;
3. the terms, conditions, and limitations of the Self Certification are not followed; or
4. the governing statutes or rules are amended before construction of the project.

Completion of the Self Certification constitutes your authorization for Department or Corps personnel to enter the property for purposes of inspecting for compliance.

Receipt of this Self-Certification constitutes authorization to use sovereignty/state-owned submerged lands, as required by rule 18-21.005, F.A.C.

The authorization must be visibly posted during all construction activities.

In waters that are accessible to manatees, obtain information on your mandatory Manatee Protection sign by clicking [here](#).

FEDERAL STATE PROGRAMMATIC GENERAL PERMIT (SPGP)

You have certified that the project you propose to construct at the above location meets all the conditions of the SPGP Self-Certification Process and will be built in conformance to those conditions (attached for reference). Your proposed activity as certified is in compliance with the SPGP program. U.S. Army Corps of Engineers (Corps) Specific conditions apply to your project, attached. **No further permitting for this activity is required by the Corps. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.**

Notifications to the Corps. For all authorizations under this SPGP V-R1, including Self-Certifications, the Permittee shall provide the following notifications to the Corps:

1. Commencement Notification. Within 10 days before the date of initiating the work authorized by this permit or for each phase of the authorized project, the Permittee shall provide a written notification of the date of commencement of authorized work to the Corps
2. Corps Self-Certification Statement of Compliance form. Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the "Self-Certification Statement of Compliance" form (attached) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self-Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.
3. Permit Transfer. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date the enclosed form.
4. Reporting Address. The Permittee shall submit all reports, notifications, documentation, and

correspondence required by the general and special conditions of this permit to the following address.

1. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, P.O. Box 4970, Jacksonville, FL, 32232-0019.
2. For electronic mail: SAJ-RD-Enforcement@usace.army.mil (not to exceed 10 MB). The Permittee shall reference this permit number, SAJ-2015-2575 on all submittals.

This SPGP Self-Certification is based solely on the information you provided under this process, and applies only to the statutes and rules in effect when your certification was completed. You have recognized that your certification is effective only for the specific project proposed, and provided the project is constructed, operated, and maintained in conformance with all the terms, conditions, and limitations stated in the SPGP Self-Certification Process. This Self-Certification will not apply if any substantial modifications are made to the project. You agree to contact the Department for review of any plans to construct additional structures or to modify the project, as changes may result in a permit being required.

You have acknowledged that this Self-Certification will automatically expire if:

1. construction of the project is not completed by midnight, July 25, 2021, unless construction commenced or a contract to construct was executed before July 25, 2021, in which case the time limit for completing the work authorized by the SPGP ends at midnight, July 25, 2022. However, in no case can construction continue for more than one year beyond the Self-Certification date;
2. site conditions materially change;
3. the terms, conditions, and limitations of the Self-Certification are not followed; or
4. the governing statutes or rules are amended before construction of the project.

Completion of the Self-Certification constitutes your authorization for Department or Corps personnel to enter the property for purposes of inspecting for compliance.

If you have any questions, please contact your local Department District Office. Contact information can be found at:

https://floridadep.gov/sites/default/files/SLERC_contacts_web_map_01-2017_0.pdf.

For further information, contact the Corps directly at:

<http://www.saj.usace.army.mil/Missions/Regulatory.aspx>. When referring to your project, please use the SPGP Self-Certification file number listed above.

Authority for review - an agreement with the U.S. Army Corps of Engineers entitled Coordination Agreement between the U. S. Army Corps of Engineers (Jacksonville District) and the Florida Department of Environmental Protection State Programmatic General Permit, Section 10 of the Rivers and Harbor Act of 1899 and Section 404 of the Clean Water Act.

ADDITIONAL INFORMATION

This Self-Certification Process does not relieve you from the responsibility of obtaining other permits or authorizations from other agencies (federal, state, Water Management District, or local) that may be required for the project. Failure to obtain all applicable authorizations prior to construction of the project may result in enforcement.

If you have any problems with the attached documents, please call the ERP Coordinator at (850) 245-8495 or by e-mail at ERP_eApps@dep.state.fl.us.

Sincerely,
Florida Department of Environmental Protection.

Attachments:

FDEP Terms and Conditions

SPGP Terms and Conditions

Project Design Criteria



FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

TERMS AND CONDITIONS

Self Certification File No.: **0385012001EE**

Construction Conditions:

Private residential single family docks are subject to the following criteria in accordance with [Section 403.813\(1\)\(b\), F.S.](#) The dock to be constructed:

1. Has 1,000 square feet or less over water surface (includes adjacent wetlands) in accordance with Chapter 62-340, F.A.C.;
2. Is constructed on or held in place by pilings and is constructed so as not to involve filling or dredging other than that necessary to install the pilings;
3. Will not substantially impede the flow of water, cause water pollution, or create a navigational hazard;
4. Is used **ONLY** for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia;
5. Is the sole dock on the parcel; and
6. Must not be subject to any conservation easement or restrictive covenant of record prohibiting the activity.

Boat lifts are subject to the following additional conditions:

1. Is to be installed in a proposed slip or, at or adjacent to the waterward end of the dock;
2. With other mooring will not result in the mooring of more than two vessels (including jet skis);
3. Will not substantially impede the flow of water, cause water pollution, or create a navigational hazard;
4. Will not be located in areas prohibited for mooring by a previously issued permit or other form of authorization issued by a local government;

General Conditions for Sovereignty/State-Owned Submerged Lands Authorizations:

Any use of sovereignty/state-owned submerged lands is subject to the following general conditions that are binding upon the applicant and are enforceable under [Chapters 253, F.S.](#) or [258, F.S.](#)

1. Sovereignty/state-owned submerged lands may be used only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use will constitute a violation. Violation of the authorization will result in suspension or revocation of the applicant's use of the sovereignty/state-owned submerged lands unless cured to the satisfaction of the Board of Trustees of the Internal Improvement Trust Fund (Board).
2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty/state-owned submerged

lands or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.

3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S. or Chapter 18-14, F.A.C.
4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.;
6. Structures or activities will not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
7. Structures or activities will not create a navigational hazard.
8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.
10. The applicant agrees to indemnify, defend and hold harmless the Board and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty/state-owned submerged lands or the applicant's use and construction of structures on sovereignty/state-owned submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
11. Failure by the Board to enforce any violation of the authorization or waiver by the Board of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure or waiver prevent the Board from enforcing the waived or unenforced provision in the event of a future violation of that provision.
12. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
13. All costs incurred by the Board in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board in writing of any change of address at least ten days before the change becomes effective.
14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant of record that prohibits the activity.

Manatee Conditions:

The following conditions are intended to protect manatees from direct project effects; THESE CONDITIONS APPLY ONLY IN WATERS THAT ARE ACCESSIBLE TO MANATEES:

1. All personnel associated with the project will be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee will advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project will operate at 'Idle Speed/No Wake' at all times

- while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers will be made of material in which manatees cannot become entangled, will be properly secured, and will be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
 4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
 5. Any collision with or injury to a manatee will be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida.
 6. Temporary signs concerning manatees will be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used (see MyFWC.com). One sign which reads Caution: Boaters must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for 'Idle Speed/No Wake' and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

Self-Certification Requirements:

The user agrees to the following:

1. The information provided herein is true and accurate.
2. **Construction of the project must be completed within one year from the self-certification date.** If the project cannot be completed within that time frame, or the project is to be modified, the Department must be contacted for authorization requirements.
3. Any substantial modifications in the plans for this project must be submitted to the Department for review, as changes may result in a permit being required.
4. This self-certification will automatically expire if site conditions materially change; if the terms, conditions, and limitations of the self-certification are not followed; or if the governing statutes or rules are amended before the project is completed.
5. Department personnel will be allowed to enter the property for purposes of inspecting the project for compliance with the terms and conditions of this self-certification.



FLORIDA DEPARTMENT OF
Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

**CONDITIONS FOR DEPARTMENT OF THE ARMY SELF-CERTIFIED STATE
PROGRAMMATIC GENERAL PERMIT FOR A PROJECT AT A PRIVATE, SINGLE-FAMILY
RESIDENCE**

Self Certification File No.: **0385012001EE**

Verification that the project meets the Project Design Criteria:

You have verified that the project meets the Project Design Criteria (attached in a separate document), and have authorized FDEP to send a copy of this verification to the Corps on your behalf.

General Conditions:

1. The time limit for completing the work authorized on July 26, 2021.
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and State coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit, you must obtain the signature of the new owner on the enclosed form and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit.
6. You must allow representatives from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

Further Information:

1. Limits of this authorization:
 - a. This permit does not obviate the need to obtain other Federal, State, or local authorizations required by law.
 - b. This permit does not grant any property rights or exclusive privileges.
 - c. This permit does not authorize any injury to the property or rights of others.
 - d. This permit does not authorize interference with any existing or proposed Federal projects.
2. Limits of Federal Liability. In issuing this permit, the Federal Government does not assume any

liability for the following:

- a. Damages to the permitted project or uses thereof as a result of other permitted or unpermitted activities or from natural causes.
 - b. Damages to the permitted project or uses thereof as a result of current or future activities undertaken by or on behalf of the United States in the public interest.
 - c. Damages to persons, property, or to other permitted or unpermitted activities or structures caused by the activity authorized by this permit.
 - d. Design or Construction deficiencies associated with the permitted work.
 - e. Damage claims associated with any future modification, suspension, or revocation of this permit.
3. Reliance on Applicant's Data: The determination of this office that issuance of this permit is not contrary to the public interest was made in reliance on the information you provided.
 4. Reevaluation of Permit Decision: This office may reevaluate its decision on this permit at any time the circumstances warrant. Circumstances that could require a reevaluation include, but are not limited to, the following:
 - a. You fail to comply with the terms and conditions of this permit.
 - b. The information provided by you in support of your permit application proves to have been false, incomplete, or inaccurate (see 3 above).
 - c. Significant new information surfaces which this office did not consider in reaching the original public interest decision.
 5. Such a reevaluation may result in a determination that it is appropriate to use the suspension, modification, and revocation procedures contained in 33 CFR 325.7 or enforcement procedures such as those contained in 33 CFR 326.4 and 326.5. The referenced enforcement procedures provide for the issuance of an administrative order requiring you comply with the terms and conditions of your permit and for the initiation of legal action where appropriate. You will be required to pay for any corrective measures ordered by this office, and if you fail to comply with such directive, this office may in certain situations (such as those specified in 33 CER 209.170) accomplish the corrective measures by contract or otherwise and bill you for the cost.
 6. When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. To validate the transfer of this permit and the associated liabilities associated with compliance with its terms and conditions, have the transferee sign and date the enclosed form.
 7. The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if, in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the U.S. Army Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal, relocation or alteration.

Manatee Conditions:

1. All personnel associated with the project will be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee will advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project will operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers will be made of material in which manatees cannot become entangled, will be properly secured, and will be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.

4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
5. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at **ImperiledSpecies@myFWC.com**.
6. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads Caution: Boaters must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.

MEMORANDUM OF AGREEMENT

THIS MEMORADUM OF AGREEMENT ("Agreement") is made and entered into on this 6 day of ~~January~~ ^{February} 2019, by and between PROVIDENT INVESTMENTS, LLC, and LOT 8 THE ESTATES, LLC, a Florida limited liability company.

RECITALS:

WHEREAS, Provident Investments, LLC, is the owner of certain real property located at 4156 Belcourt Drive, Destin, Florida, and identified as Parcel Number 00-2S-22-4600-0000-0070, and also known as Lot 7 in the Estates at Indian Pointe ("Lot 7"); and

WHEREAS, Lot 8 The Estates, LLC, is the owner of certain real property located at 4153 Belcourt Drive, Destin, Florida, and identified as Parcel Number 00-2S-22-4600-0000-0080, and also known as Lot 8 in the Estates at Indian Point ("Lot 8"); and

WHEREAS, Provident Investments, LLC, and Lot 8 The Estates, LLC, desire to resolve their dispute regarding the location of the riparian line between Lot 7 and Lot 8 and the design and location of a private, residential, single-family dock and boat lift proposed to serve Lot 7; and

WHEREAS, Provident Investments, LLC, and Lot 8 The Estates, LLC, desire to enter into this Agreement for the purposes of resolving their dispute.

NOW, THEREFORE, in consideration of the terms and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Provident Investments, LLC, and Lot 8 The Estates, LLC (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. The riparian line between Lot 7 and Lot 8 shall be located perpendicular to the shoreline extending to the deep water at the southern boundaries of Lots 7 and 8, as depicted on Exhibit "A," which is attached hereto ("Riparian Line").

B. Within five (5) days of the Effective Date of this Agreement, Provident Investments, LLC, shall provide a revised survey, that reflects the location of the Riparian Line as required in Paragraph 2.A. above, to the Florida Department of Environmental Protection, the City of Destin, Florida, and Lot 8 The Estates, LLC.

C. Provident Investments, LLC, shall comply with the twenty-five (25) foot setback from the Riparian Line mandated by Rule 18-21.004(3)(d), *Florida Administrative Code*. Nothing in this Agreement shall be construed as a waiver by Lot 8 The Estates, LLC, of such twenty-five (25) foot setback.

D. Lot 8 The Estates, LLC, shall not object to the pending applications before the Florida Department of Environmental Protection and the City of Destin, Florida, for the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7, provided the design and location of such dock and boat lift are identical to the design and location of such dock and boat lift depicted on the Permit Drawings that are attached hereto as Exhibit "B."

E. All references to a "settlement line" in the Permit Drawings that are attached hereto as Exhibit "B," shall be construed as the Riparian Line. All references to a "riparian line" in the Permit Drawings that are attached hereto as Exhibit "B," shall be null and void.

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.

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, agents, trustees, and representatives of the Parties.

6. **Non-Waiver.** Failure by the Parties 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 any Party, 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. Provident Investments, LLC, hereby waives and releases, acquits, satisfies, and forever discharges Lot 8 The Estates, LLC, including its legal representatives, insurance carriers, successors, heirs, and assigns thereof (collectively, "Lot 8 The Estates, LLC's Related Parties"), from any and all claims, counterclaims, defenses, actions, causes of action,

suits, controversies, agreements, promises, and demands whatsoever which Provident Investments, LLC, ever had or now has, in law or in equity, for, upon, or by any reason of any matter, cause, or thing whatsoever in direct connection with the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, Provident Investments, LLC, covenants with and warrants to Lot 8 The Estates, LLC, including the Lot 8 The Estates, LLC's Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets by Provident Investments, LLC, against Lot 8 The Estates, LLC, including the Lot 8 The Estates, LLC's Related Parties, with regard to the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 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. Lot 8 The Estates, LLC, hereby waives and releases, acquits, satisfies, and forever discharges Provident Investments, LLC, including its legal representatives, insurance carriers, successors, heirs, and assigns thereof (collectively, "Provident Investments, LLC's Related Parties"), from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever which Lot 8 The Estates, LLC, ever had or now has, in law or in equity, for, upon, or by any reason of any matter, cause, or thing whatsoever in direct connection with the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, Lot 8 The Estates, LLC, covenants with and warrants to Provident Investments, LLC, including the Provident Investments, LLC's Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets by, against Provident Investments, LLC, including the Provident Investments, LLC's Related Parties, with regard to the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 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.

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 arrive at a fair and reasonable agreement with regard to the Parties' dispute. 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 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. 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. **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 Provident Investments, LLC

Provident Investments, LLC
c/o James Bethea
1598 Ochsner Boulevard, Suite 100
Covington, Louisiana 70433

With a copy to:

Michelle Anchors, Esquire
Keefe, Anchors and Gordon, P.A.
2113 Lewis Turner Boulevard, Suite 100
Fort Walton Beach, Florida 32547

(b) To Lot 8 The Estates, LLC:

Lot 8 The Estates, LLC
16000 Dallas Parkway, Suite 300
Dallas, Texas 75248

With a copy to:

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

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.

15. **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 hereto and all of which shall constitute one and the same agreement. The Parties hereto 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.

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

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in a manner sufficient to bind them on the day and year identified above.

WITNESSES

PROVIDENT INVESTMENTS, LLC

Gretchen Watson
Print Name: Gretchen Watson

By: WILL C BETHA

Its: Mgr Wm C. BETHA

Terry M. Anderson
Print Name: TERRY M. ANDERSON

Date: 2-6-19

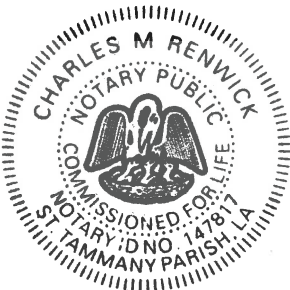
STATE OF Louisiana

COUNTY OF St. Tammany

The foregoing instrument was acknowledged before me this 6 day of February 2019, by William Betha, as Manager of Provident Investments, LLC. Said person (check one) ☒ is personally known to me or ☐ produced Louisiana License as identification.

Charles Renwick
(Notary Seal)

Printed Name: Charles Renwick
Notary Public, State of Louisiana
Commission No. 147817
My commission expires: Does not expire



WITNESSES

LOT 8 THE ESTATES, LLC, a Florida limited liability company

Erin Dunston
Print Name: Erin Dunston

Hannah Tourhillott
Print Name: Hannah Tourhillott

By: Les Miles

Its: _____

Date: 2/20/2019

STATE OF Kansas

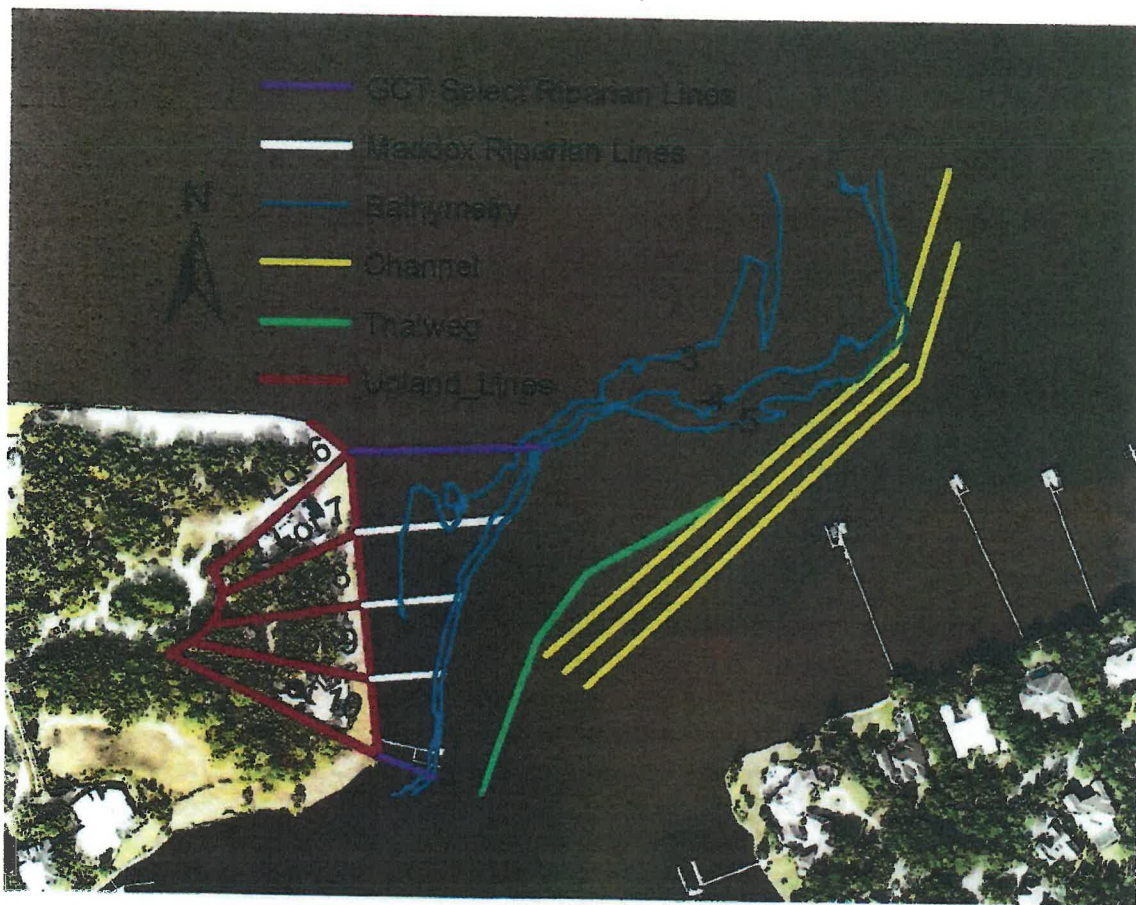
COUNTY OF Douglas

The foregoing instrument was acknowledged before me this 20 day of January 2019, by Les Miles, as owner of Lot 8 The Estates, LLC, a Florida limited liability company. Said person (check one) G is personally known to me or G produced _____ as identification.

Tracey Dillon
(Notary Seal)

Printed Name: Tracey Dillon
Notary Public, State of Kansas
Commission No. 1123072
My commission expires: May 16, 2020





**Figure 3 – Detailed View – 2016 Aerial Photograph
Maddox's Riparian Lines Shown**

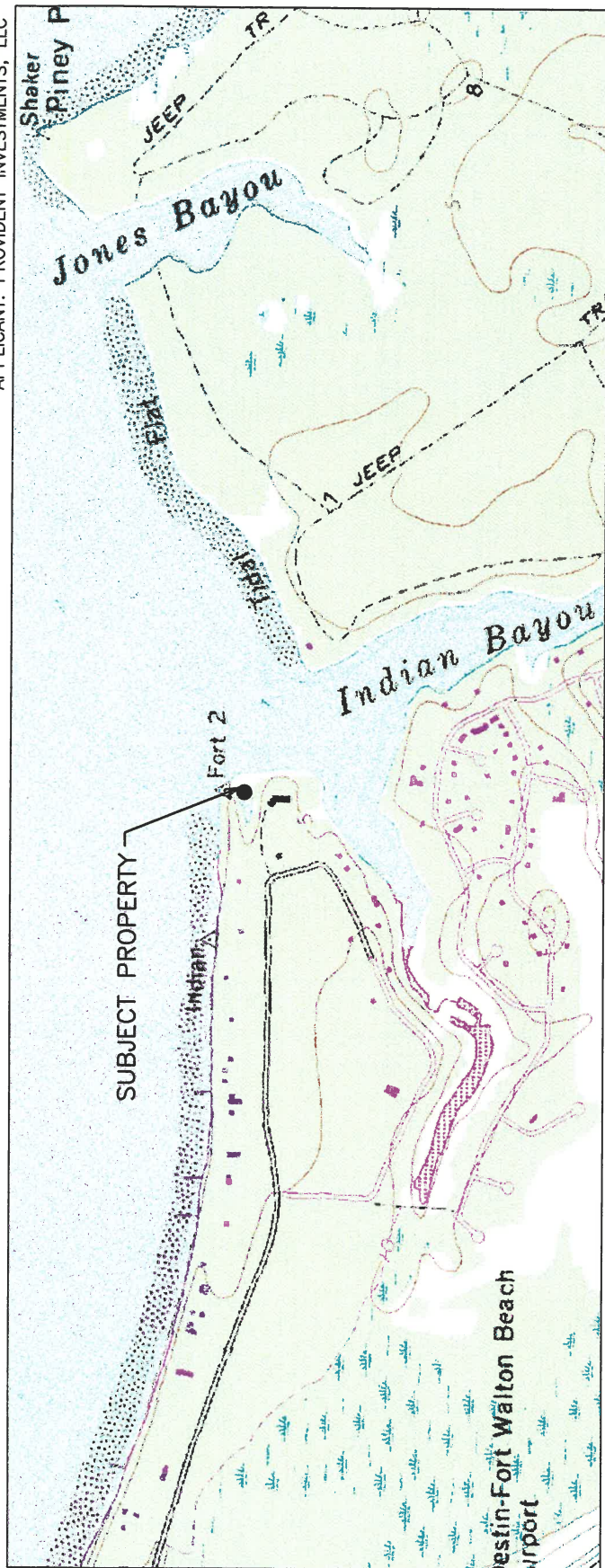
Within limitations of the source data, it is my opinion that the riparian lines located perpendicular to the shoreline extending to the line of deep water at the southern boundaries of Lots 7, 8 and 9 as shown on Figure 3 above is the most equitable location of the riparian lines.

Rod A. Maddox

Rod A. Maddox, PSM 3994, Date 9/13/2018
Maddox Land Research and Consulting, LLC
5126 Maddox Road
Tallahassee Florida 32303



RA-1



DIRECTIONS TO THE SITE FROM DOWNTOWN PENSACOLA: HEAD EAST ON BAYFRONT PARKWAY AND CONTINUE ONTO US-98E (PENSACOLA BAY BRIDGE). IN 44.4 MILES, TURN LEFT ONTO CALHOUN AVE, THEN TURN RIGHT NTO SIBERT AVE. IN 0.8 MILES, TURN RIGHT ONTO KELLY STREET. IN 1.1 MILES, TURN LEFT ONTO MAIN STREET. IN 0.7 MILES, TURN RIGHT ONTO INDIAN TRAIL. IN 1.6 MILES, TURN LEFT ONTO BELCOURT DRIVE. THE SUBJECT PROPERTY WILL BE AT THE END OF THE ROAD. PLEASE CALL 850-453-4700 WITH ANY QUESTIONS.

SUBJECT PROPERTY

LOT 7 ESTATES AT INDIAN POINTE

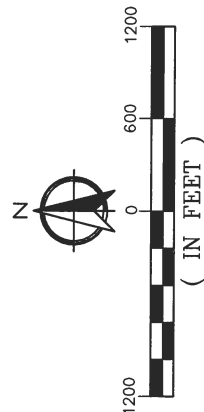
PARCEL ID#
00-2S-22-4600-0000-0070
PROPERTY OWNER
PROVIDENT INVESTMENTS LLC
1598 OCHSNER BLVD, SUITE 100
COVINGTON, LA 70433

PROJECT LOCATION

4156 BELCOURT DRIVE
DESTIN, FL 32541
LAT: 30.406133°
LONG: -86.452293°

INDEX OF SHEETS

SHEET NO.	DESCRIPTION
1	SITE LOCATION MAP
2	EXISTING SITE CONDITIONS
3	PLAN VIEW DEPICTED ONTO AN AERIAL
4	PLAN VIEW OF PROPOSED DEVELOPMENT
5	DOCK PROFILE (TYPICAL)
6	DOCK DETAILS (TYPICAL)



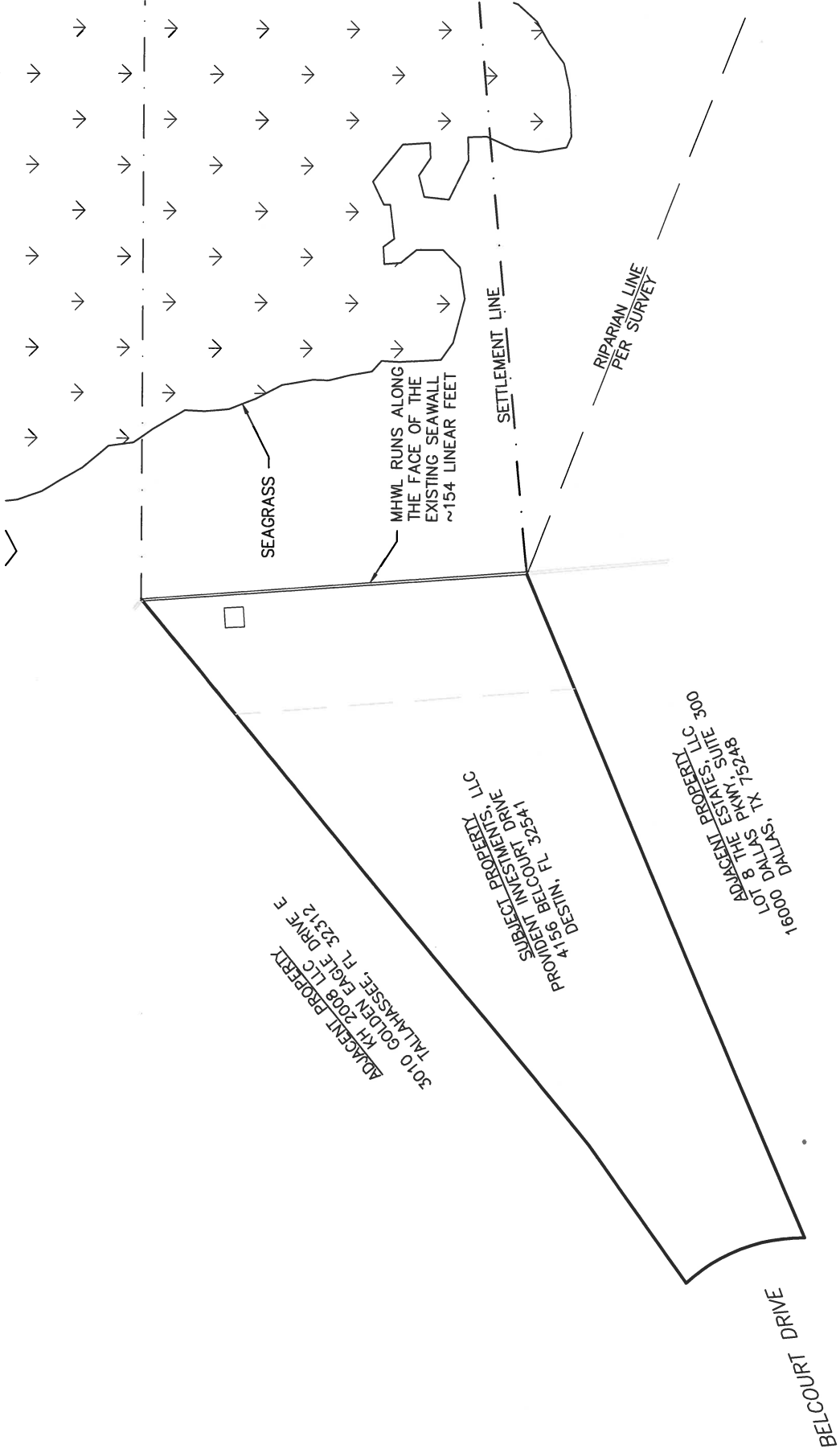
WETLAND SCIENCES A CORPORATION	PROJECT NAME: 4156 BELCOURT DRIVE DOCK
	SITE LOCATION MAP
	PROJECT NO.: 2017-817
	DRAWN BY: CEP DATE: 11/13/2018
SHEET: 1 OF 6	

ENVIRONMENTAL CONSULTANTS

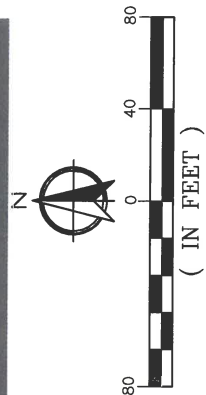
3308 GULF BEACH HIGHWAY
PENSACOLA, FLORIDA 32507
TEL: 850.453.4700
WETLANDSCIENCES@GMAIL.COM

DATE

APPLICANT: PROVIDENT INVESTMENTS, LLC



WETLAND SCIENCES INCORPORATED	PROJECT NAME: 4156 BELCOURT DRIVE DOCK	
	EXISTING SITE CONDITIONS	
	PROJECT NO.:	2017-817
	DRAWN BY: CEP	DATE: 11/10/2018
SHEET: 2 OF 6		

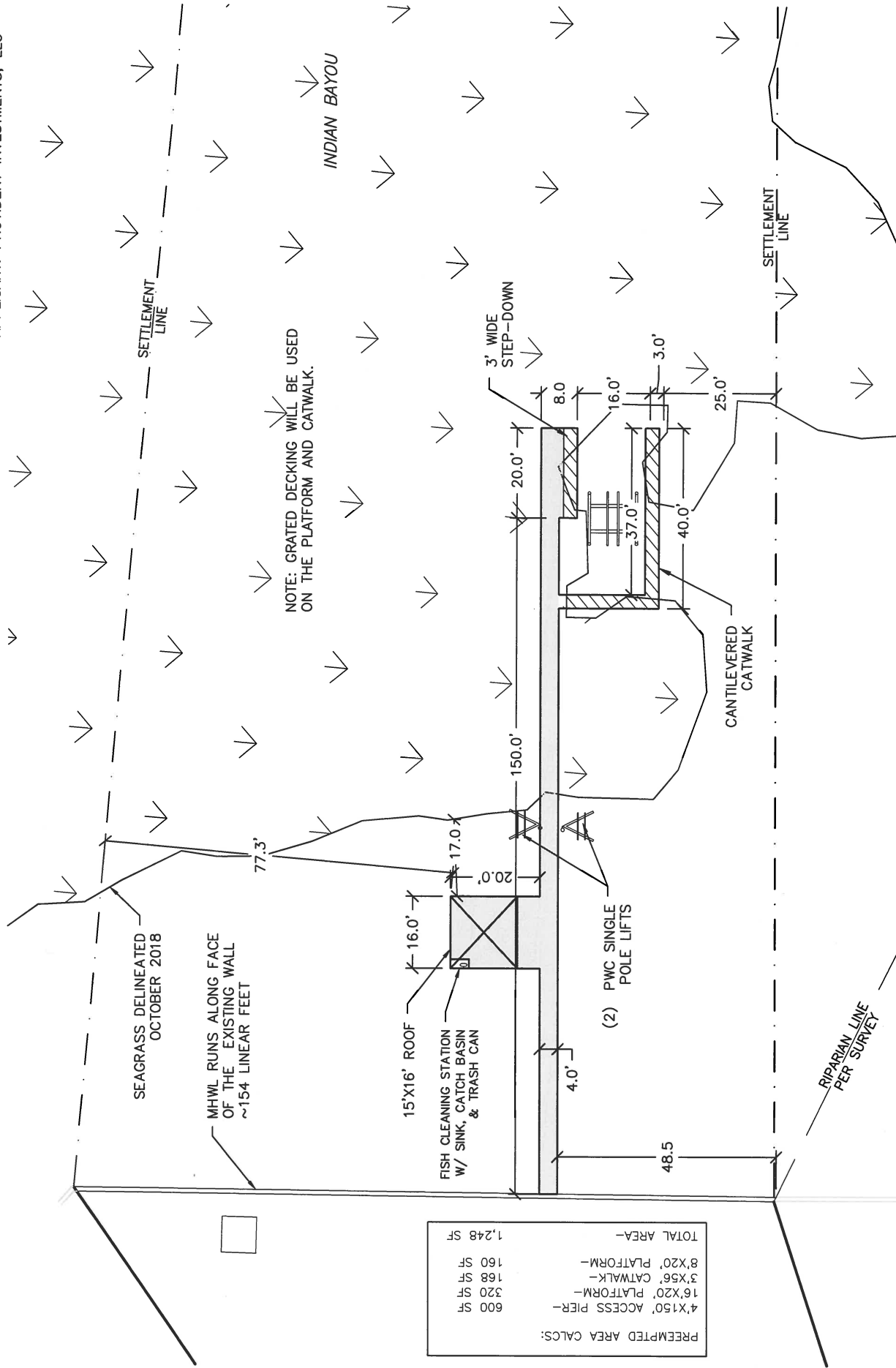


PROJECT NAME: 4156 BELCOURT DRIVE DOCK
DRAFT DRAWING TWO
PROJECT NO.: 2017-817
DRAWN BY: CEP DATE: 12/03/2018
SHEET: 3 OF 6

ENVIRONMENTAL CONSULTANTS
3308 GULF BEACH HIGHWAY
PENSACOLA, FLORIDA 32507
TEL: 850.453.4700
WETLANDSCIENCES@GMAIL.COM

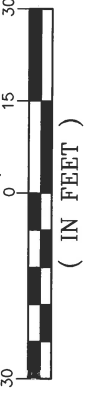
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INCORPORATED**

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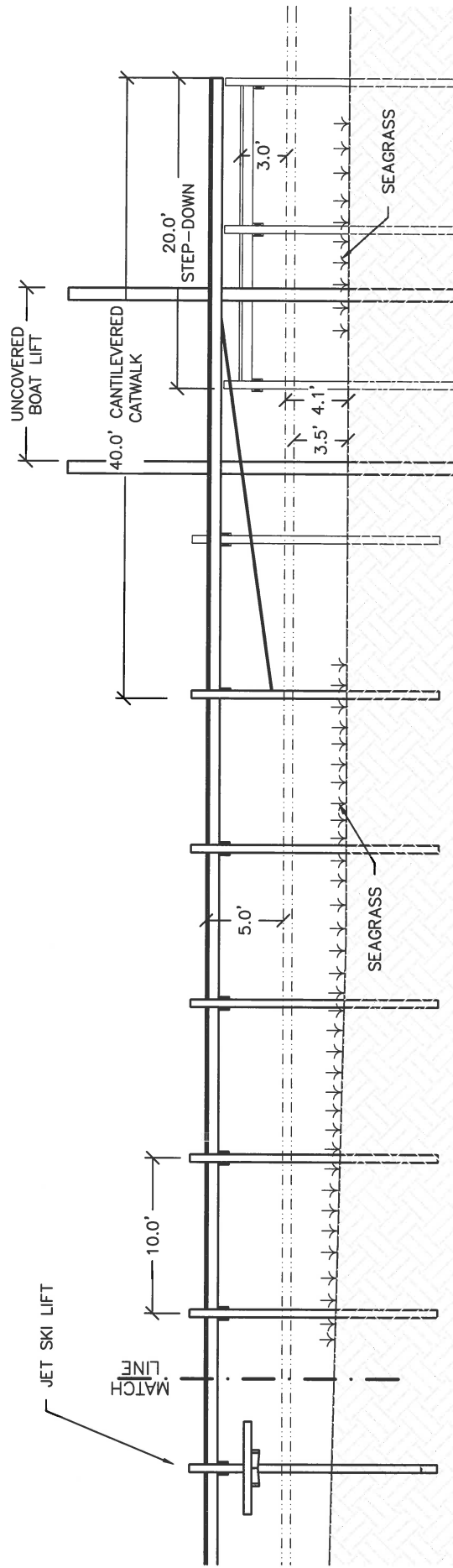
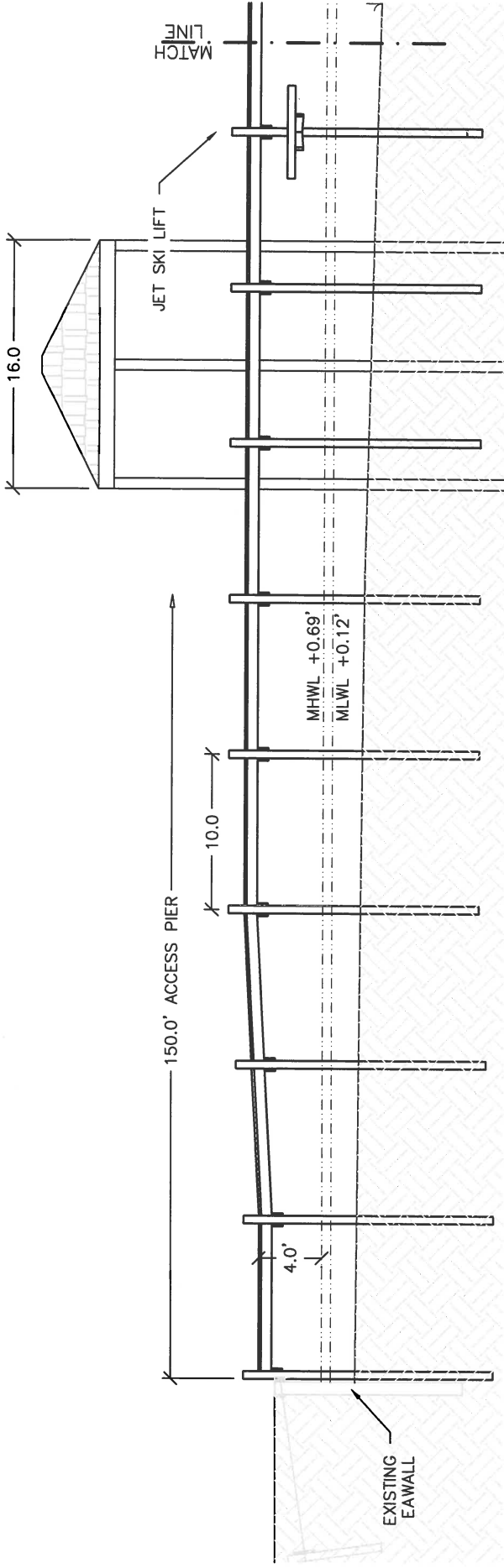
PREEMPTED AREA CALCUS:

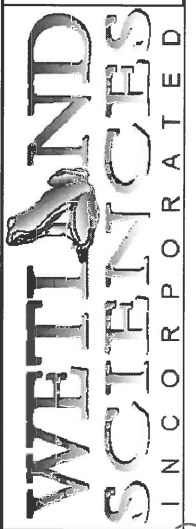
4'X150' ACCESS PIER-	600 SF
16'X20' PLATFORM-	320 SF
3'X56' CATWALK-	168 SF
8'X20' PLATFORM-	160 SF
TOTAL AREA-	1,248 SF

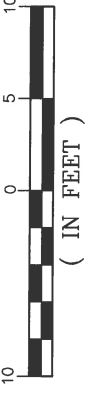


WETLAND SCIENCES INCORPORATED	ENVIRONMENTAL CONSULTANTS 3308 GULF BEACH HIGHWAY PENSACOLA, FLORIDA 32507 TEL: 850.453.4700 WETLANDSCIENCES@GMAIL.COM	PROJECT NAME: 4156 BELCOURT DRIVE DOCK PLAN VIEW OF PROPOSED DOCK PROJECT NO.: 2017-817 DRAWN BY: CEP DATE: 12/03/2018 SHEET: 4 OF 6
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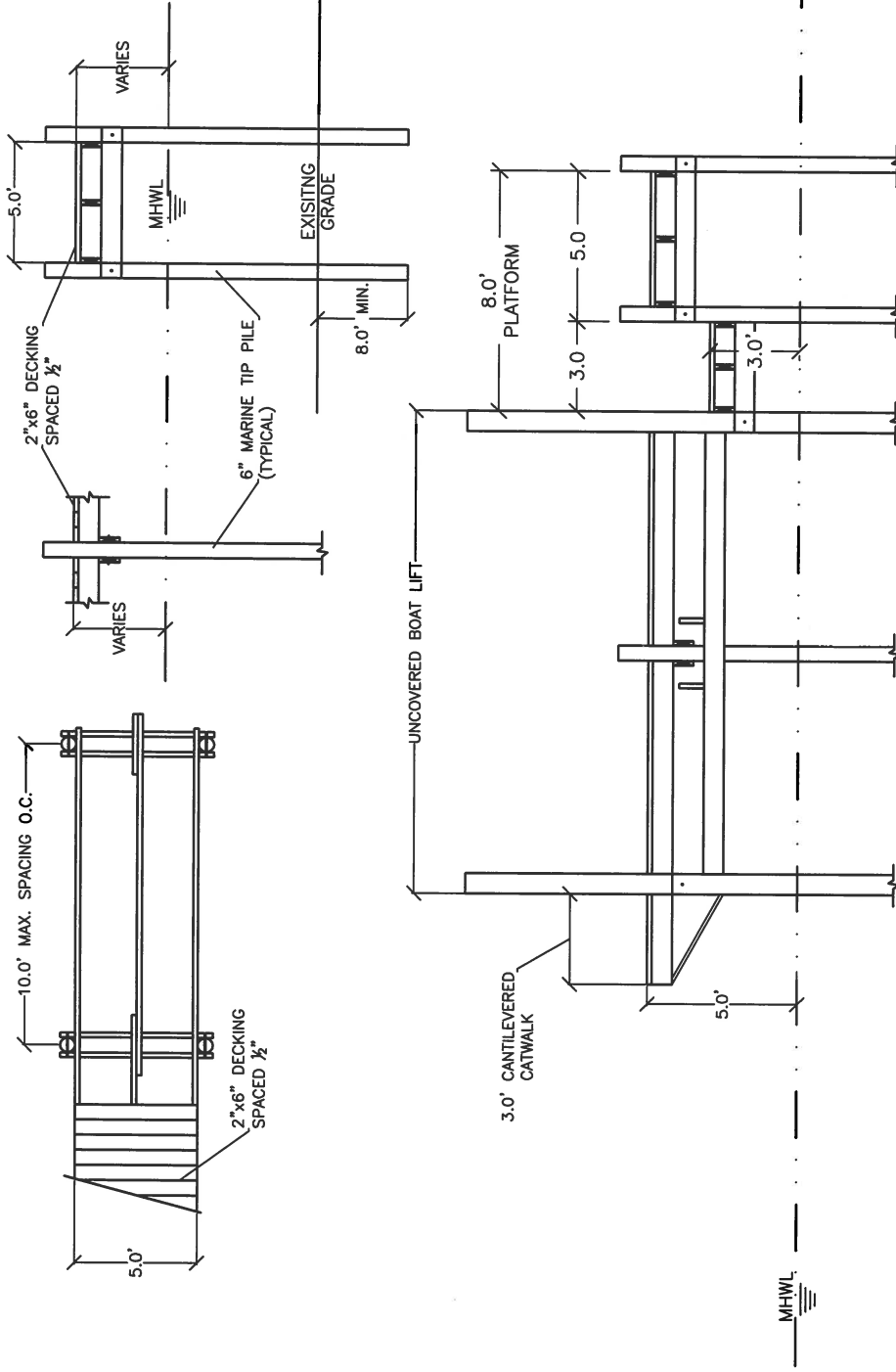
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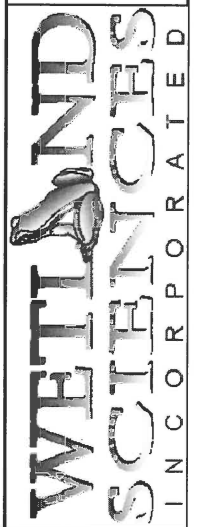


	PROJECT NAME: 4156 BELCOURT DRIVE DOCK	
	DOCK PROFILE (TYPICAL)	
	PROJECT NO.:	2017-817
	DRAWN BY: CEP	DATE: 12/04/2018
SHEET: 5 OF 6		



NOTE: GRATED DECKING WILL BE USED ON THE 8'X20' PLATFORM AND CATWALK



PROJECT NAME: 4156 BELCOURT DRIVE DOCK	ENVIRONMENTAL CONSULTANTS	
DOCK DETAILS (TYPICAL)	3308 GULF BEACH HIGHWAY PENSACOLA, FLORIDA 32507	
PROJECT NO.: 2017-817	TEL: 850.453.4700	
DRAWN BY: CEP DATE: 12/04/2018 SHEET: 6 OF 6	WETLANDSCIENCES@GMAIL.COM	

DMT

**Riparian Rights Allocation Report
Regarding Consolidated Environmental Resource Permit
and Sovereignty Submerged Lands Authorization
Permit No: 0360547-001-EI, Dated 2/15/2018**

This report was conducted pursuant to a request for opinion regarding the location of riparian rights lines extending into sovereignty lands from upland properties, one of which is a parcel of land which is subject of the above-referenced permit. In addition to the permit, the subject lands are shown on a survey by Gustin, Cothorn and Tucker, Inc., and Identified as Map #180405 dated 8/10/2018 (GCT survey). The survey depicts purported riparian lines of Lots 7 through 10 of Estates at Indian Pointe Subdivision. I was asked to review the location of riparian rights allocation as presented on the survey and permit and offer an opinion regarding the location of riparian lines, particularly the common riparian line between Lot 7 and Lot 8. I have reviewed the following information:

- 1) Subject Survey referenced above
- 2) Subject Permit referenced above
- 3) Plat of Estates at Indian Pointe, Plat Book 24, Page 73-74, Public Records of Okaloosa County
- 4) Current and historic hydrographic charts and topographic maps
- 5) Aerial Photographs dated 1955, 1974, 2007, 2016 from the University of Florida Map and Imagery Library, Florida Department of Transportation (DOT) Aerial Photographic Archives
- 6) Florida Department of Environmental Protection (DEP), Board of Trustees Land Document System (BTLDS) Map Direct
- 7) Map data from the Florida Department of Revenue (DOR)
- 8) Guidelines for Allocation of Riparian Rights: 2013 report sponsored by the DEP Bureau of Survey and Mapping (BSM) conducted by University of Florida Geomatics Professor Dr. David Gibson

Dr. Gibson prepared Guidelines for Allocation of Riparian Rights in 2013, sponsored by BSM. This document updated a previous publication done for BSM in 1986, and together has been relied upon by surveyors for decades to apply commonly acceptable procedures for establishing equitable riparian lines for leasing and other purposes for activities on sovereignty lands. Dr. Gibson has studied and applied past cases and has testified many times regarding riparian lines, has held seminars to professional surveyors and other consultants and permit review staff. I have spoken with Dr. Gibson many times regarding the development of the 2013 report while I was at BSM. My report applies the recommendations provided in Dr. Gibson's report, with the primary goal to provide equitable allocation to all properties. Attached herewith is Dr. Gibson's 2013 Report.

Additionally I have relied upon the location information of upland boundaries and bathymetry data (water depths) depicted on the GCT survey for the purpose of assessing the appropriate location of riparian lines.

Figure 1 is an overview of the area showing parcel mapping from DOR to obtain a general understanding of the configuration of docks in the area. Parcel GIS data from DOR is overlaid onto 2016 DOT aerial photograph.



Figure 1 – General Overview – 2016 Aerial Photograph

The subject lands are located on an indentation along the southerly shoreline of Choctawhatchee Bay at the entrance of Indian Bayou. The upland parcels are platted lots radiating in a northeasterly to southeasterly direction from the Belcourt Drive cul-de-sac to the mean high water line. Figure 2 is a more detailed image of the shoreline configuration showing the boundaries of the subject parcels, bathymetry (water depths), thalweg (lowest part of channel) and marked channel location digitized from the GCT survey and geo-referenced to a 2016 aerial photograph. Also digitized and shown are riparian lines as depicted on the GCT Survey.

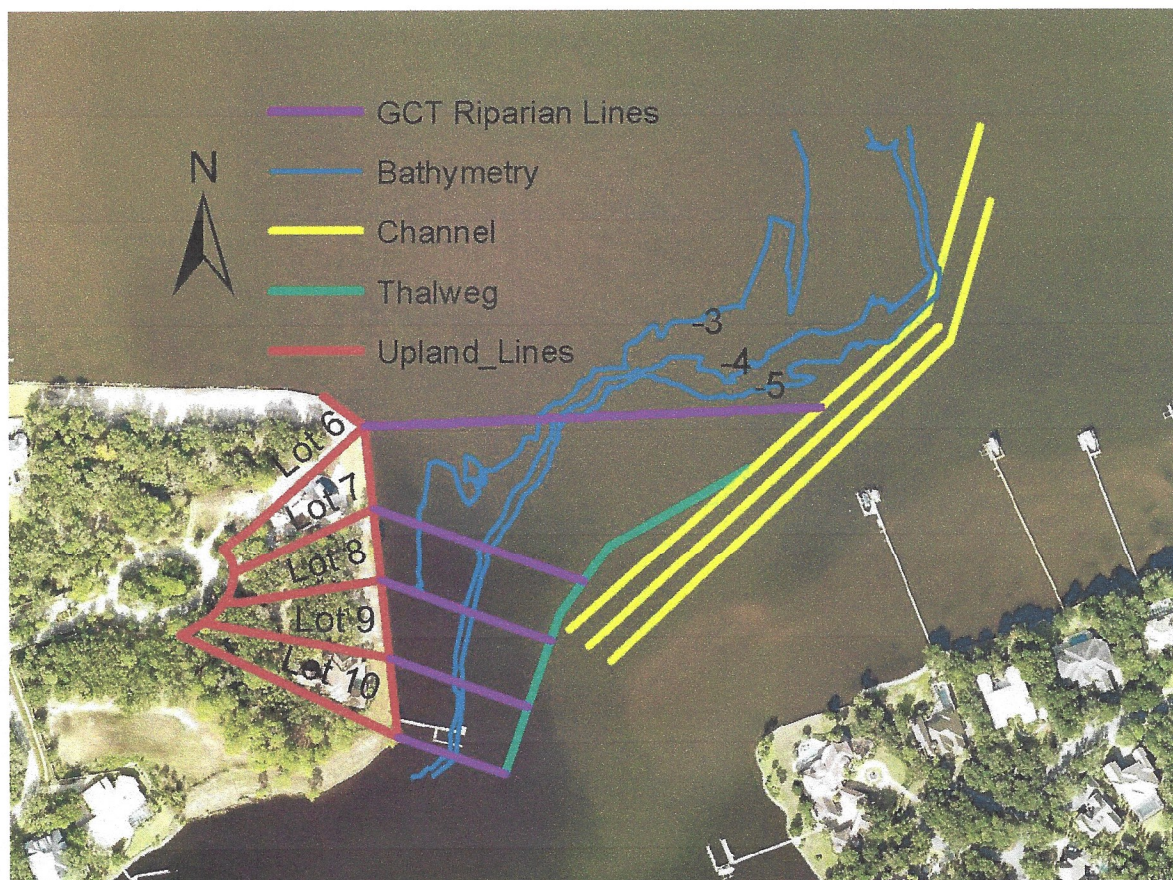


Figure 2 – Detailed View – 2016 Aerial Photograph
GCT's Riparian Lines Shown

The most northerly riparian line shown on the GCT survey, located between Lot 6 and 7 is shown to be almost due east. A note on the GCT survey states: "For feasibility and accommodation for Lot 6, the owner of Lot 7 agrees to the placement of the northern riparian line." Since I don't know the consideration(s) for the location of the northern riparian line, and it appears to be an arrangement between the adjacent parties, the direction of a common riparian line of equitable distribution was not addressed in this report. Although the shoreline at the subject lots run generally northerly and southerly, the riparian lines on the GCT survey between Lots 7 and 8 and those to the south are projected southeasterly, appearing to generally conform to a direction perpendicular to the thalweg and/or the line of deep water. All of the lines shown continue well into the deep water channel, beyond where riparian lines should be constructed.

Of the configurations provided for in Dr. Gibson's report, other than the most northern and most southern riparian line, the perpendicular to shore methodology fits best. An example that most closely reflects the conditions in this case is described and shown at the bottom of page 5 and top of page 6. While in some cases a channel or line of deep water can be used to construct the riparian lines, in this case the channel diverges from the subject shoreline, running northeasterly and away from the subject parcels. In this scenario the dominant method is to construct perpendiculars to the shoreline, beginning at the common upland property lines at the mean high water and ending at the line of deep water. The exception is the direction shown on the most southerly riparian line. In this case at the southeast corner of Lot 10, the shore turns abruptly southwest. In that case I am in agreement with the direction depicted on the survey, but as with all the lines shown on the GCT survey, the line should end at the line of deep water. Figure 3 shows the addition of the riparian lines perpendicular to shore for the middle three lines, all lines ending at the line of deep water.

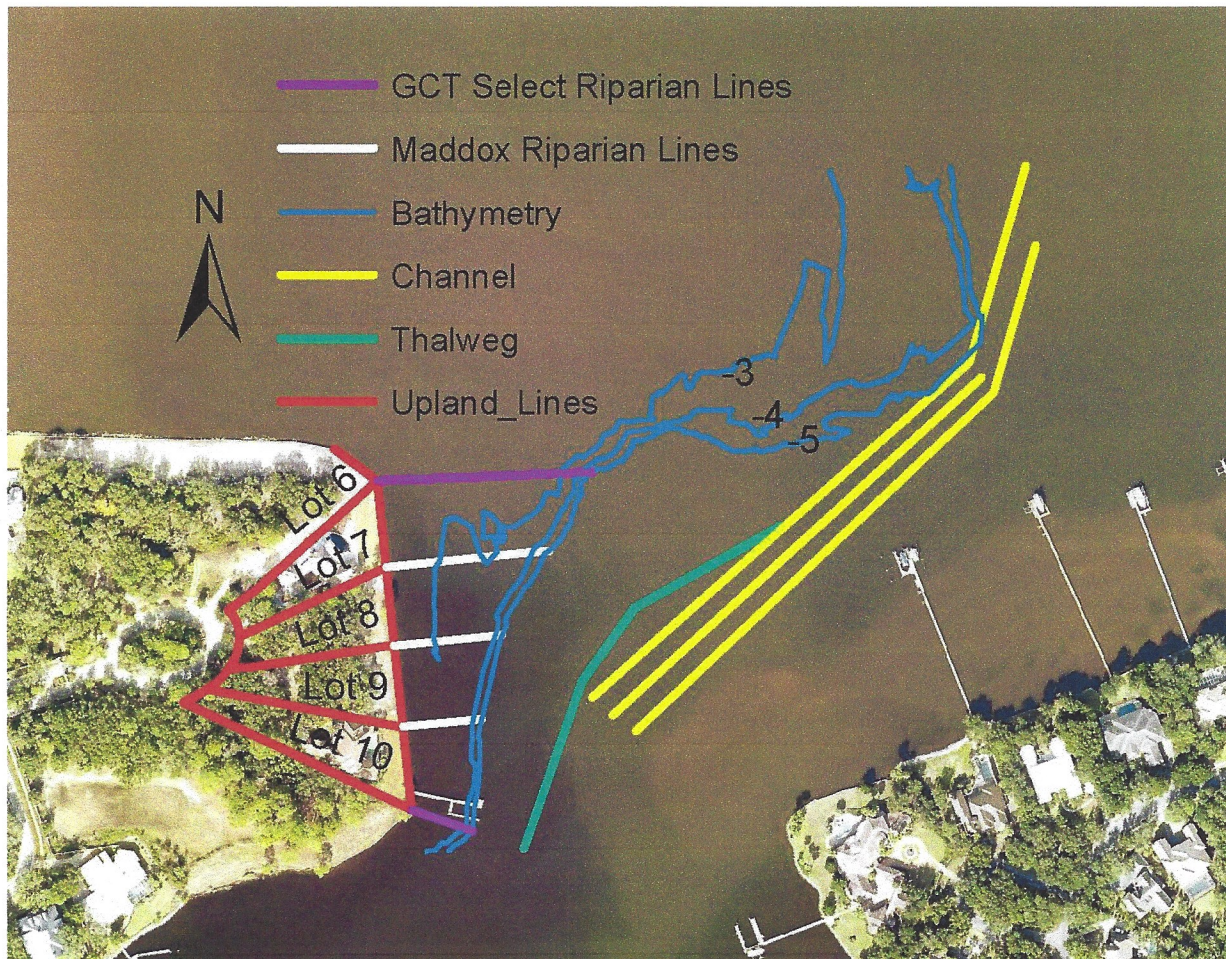


Figure 3 – Detailed View – 2016 Aerial Photograph
Maddox's Riparian Lines Shown

Within limitations of the source data, it is my opinion that the riparian lines located perpendicular to the shoreline extending to the line of deep water at the southern boundaries of Lots 7, 8 and 9 as shown on Figure 3 above is the most equitable location of the riparian lines.

Rod A. Maddox

Rod A. Maddox, PSM 3994, Date 9/19/2018
Maddox Land Research and Consulting, LLC
5126 Maddox Road
Tallahassee Florida 32303



Guidelines for Allocation of Riparian Rights

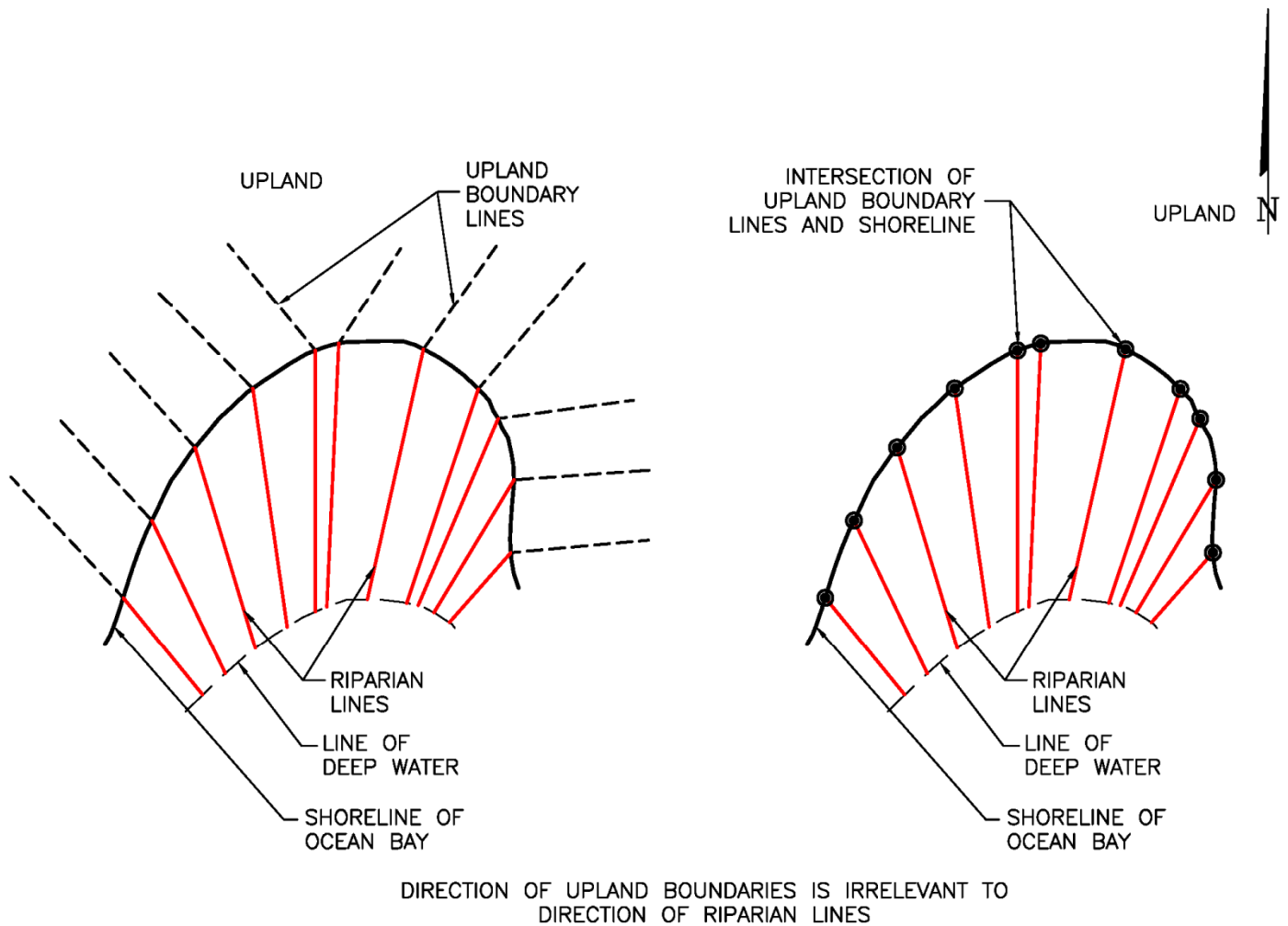
The 1985 and 2009 Studies

In 1985 and again in 2009, the Bureau of Survey and Mapping sponsored a study of the effect of shoreline and channel geometry on the division of riparian rights. This study was prepared by Dr. David Gibson, Associate Professor at the University of Florida. The research was intended to analyze existing methods for making allocations of riparian rights together with a study of different shoreline configurations. The result was a set of recommended guidelines.

This document concentrates on the two riparian right “equities” of dominant interest among waterfront owners: (1) right of ingress/egress to navigable waters – the right to build a dock out to deep water, (2) right of view out to the edge of the main navigational channel (view). The following are conclusions from the studies and examples of riparian rights allocations.

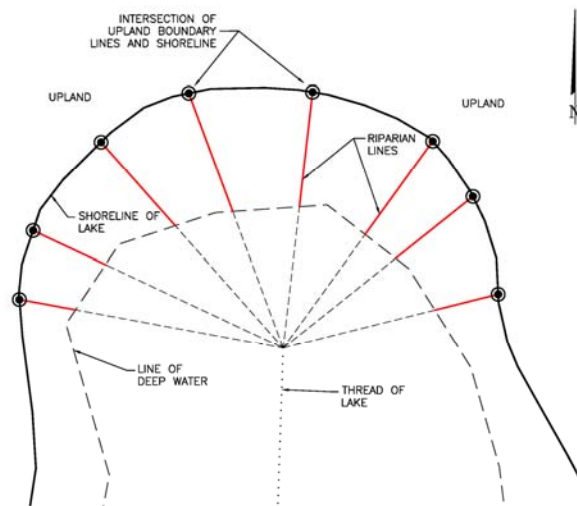
Conclusions from Literature Study

1. Docking is a near-shore consideration and is limited by the line of deep water (line of navigability or line of navigation). The great weight of research indicates that when docking is the primary issue, courts will usually apportion the space between the shore and the line of navigability.
2. In considering docking when the shore is relatively straight on a large body of water (one without a nearby channel or thread), such as the ocean, a large lake, ocean bay or wide river, the dominant construction makes division lines perpendicular with the general direction of the shore extended to the line of navigable water. The shore’s general direction requires smoothing of smaller indentations and projections, and perpendiculars are constructed with the “smoothed” shore from the place where the side lot line hits the Mean High Water Line or Ordinary High Water Line.
3. Along a river without a marked channel and the opposite bank is in proximity to the area of concern, the dominant technique is to construct riparian lines perpendicular with the stream’s thread (median). The stream’s thread should be found as the median line of the water surface half way between the banks during ordinary stages of water height.
4. Along a river or other water body with a nearby marked navigation channel and a regular shore, most courts construct perpendiculars with the nearest channel edge as opposed to the thread. It appears that the proximity of a channel edge, or any other similarly established outer line, will most likely be used by courts for the apportionment using perpendiculars if the shore is relatively straight.
5. The direction of upland boundaries is largely ignored when apportioning riparian rights. The public’s mistaken belief that riparian lines are on the extension of their side upland lines is the most frequent cause of riparian disputes. Instead, the water body must be **equitably apportioned** as if all waterfront owners were standing on the shore looking out over the water body – see example below.



6. When the shore is irregular in the form of a cove or projection into an ocean, ocean bay, lake or river, most courts apportion the line of deep water to divide riparian rights as opposed to any perpendicular method – see example above.

7. Methods of apportionment designed for the whole water body, such as the center point method in lakes, thread of lakes, perpendiculars to channels or threads, should be used mainly for those riparian rights that require apportion of the entire water surface. They may also be used to determine direction but not the terminus of near-shore division lines when they give substantially the same apportionment as a near-shore method. This would be true in round lakes with concentric water depth contour lines, along rivers with parallel banks and parallel channel, and along long lakes with consistent water depth contours – see example below.



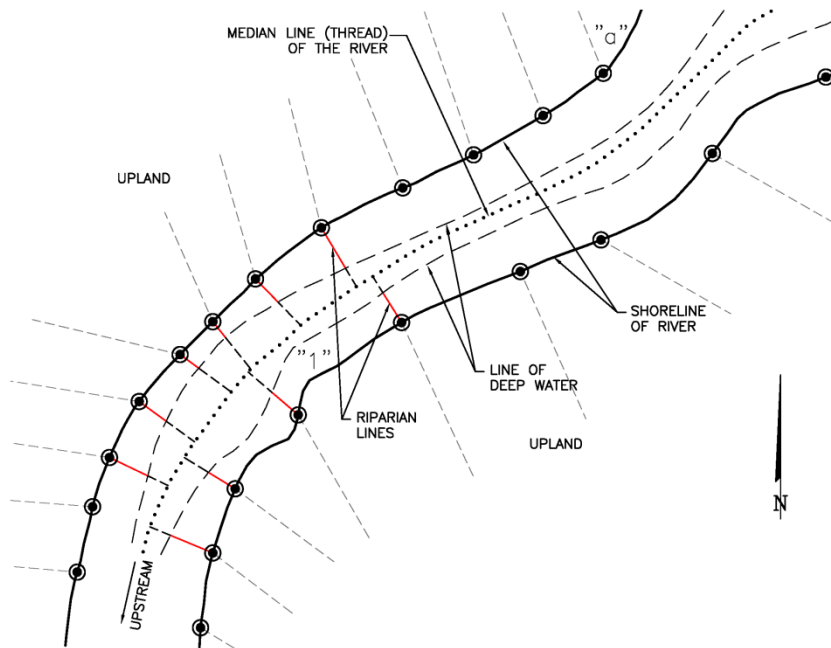
8. The apportionment of the line of deep water is the most universal technique for division of riparian rights that will give the same solution as more traditional techniques in many cases and will follow dominant national case law where the shore is irregular.

Recommended Procedures and Water Body Classifications

In explaining allocation procedures, reference will be made to several sketches which were constructed to show numerous cases of water boundaries. It is presumed that the main considerations are docking, view and access to navigation channels. It should be noted that the upland boundaries of the lots surrounding the water are shown only as very light dashed lines for the reasons stated in no. 5 above.

River, No Marked Channel, Parallel Banks – Perpendicular with Median Line In the river example below, the water body would be classified as (1) being a narrow river where the opposite bank is of a consideration and (2) as having generally parallel banks without deep coves and projections.

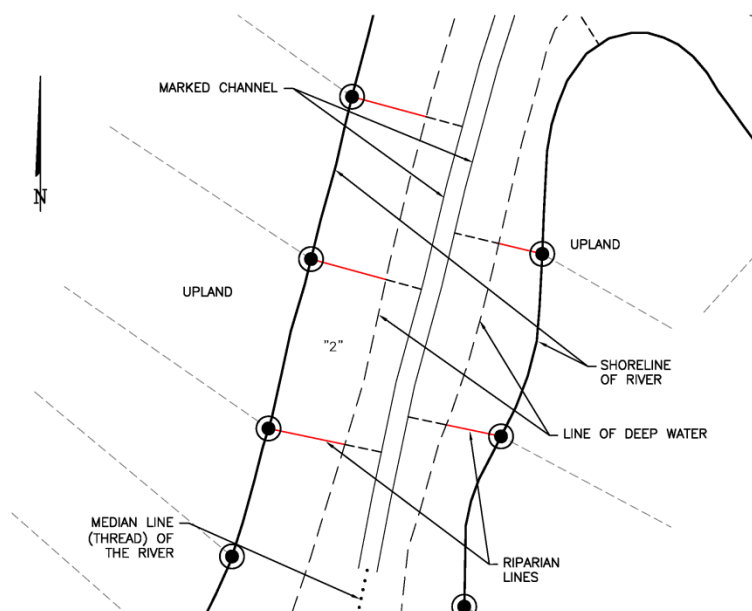
The main technique to be applied here is the “perpendicular with the stream’s thread” method. The banks being the limit of water at its ordinary stage would be determined. A median line would be constructed exactly midway between the banks at their ordinary stage of water. Perpendiculars would be constructed at the thread and produced back to the shore points. Docking and access rights would stop at the line of deep water – see example below.



For example, at area “1”, the red riparian line is the “docking” line shown perpendicular with the dotted median line stopping at the line of deep water. The dashed extension of the riparian line is the “view” line out to the median line. These lines are: not on the extension of the upland side line, not perpendicular with the water boundary, or not perpendicular with the line of deep water.

Other docking and view riparian lines are shown in the neighborhood. This same technique would be used on the entire river upstream of point “a”. None of the coves are deep and no inequity would result.

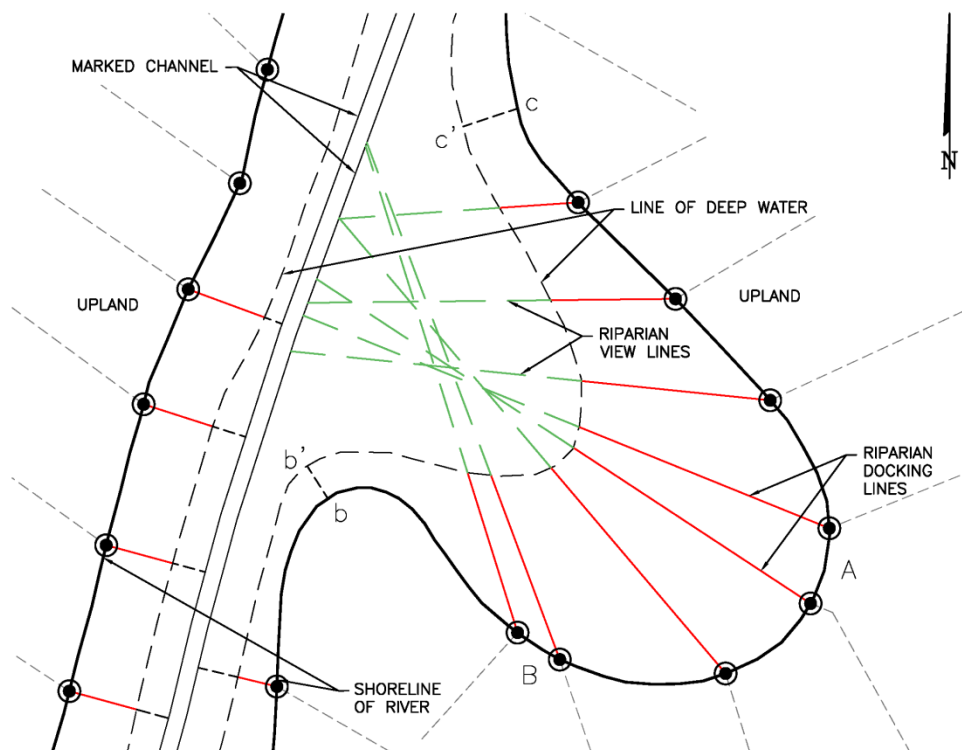
River, Marked Channel, Parallel Banks – Perpendicular with the Channel Line Downstream of the above example a maintained and marked channel exists that would take over from the thread for the apportionment base line. The channel probably has an east and west edge, and perpendiculars would be constructed at the nearest edge and run back to shore – see example below.



For example, at area “2” above, perpendiculars are constructed at the nearest channel edge and run back to shore.

Deep Cove on One Bank – Apportion Line of Navigability The deep cove on the east bank in the following example requires special treatment. Inequities are obvious; if the typical solution of extending the lot lines is applied, persons “A” and “B” would be entirely cut off from navigable water and the channel. If the previous technique of perpendiculars from the channel were applied, then person “B” would receive nothing. Therefore, the line of navigability should be apportioned.

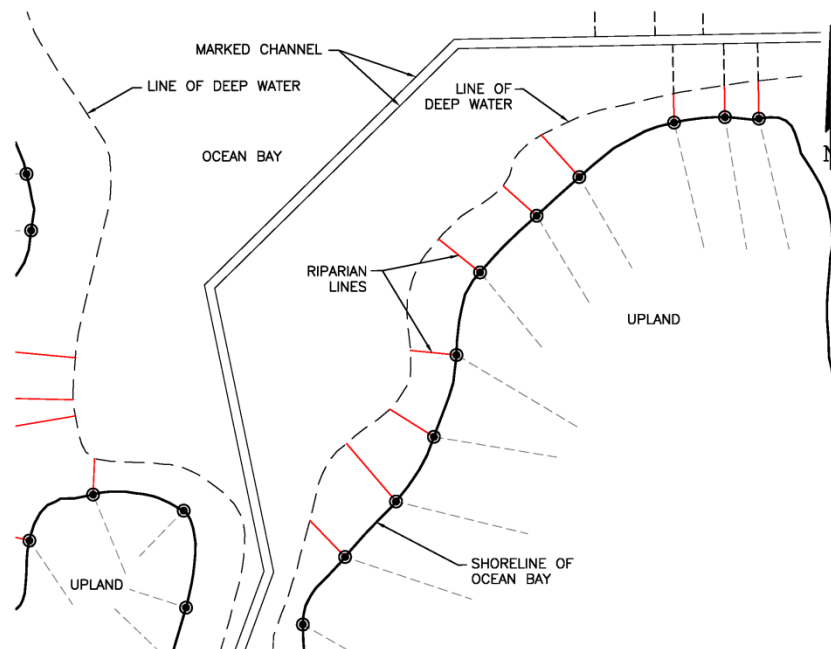
Finding the cove limits (headland points) would be a critical decision. The headlands of the cove would be identified as points “b” and “c” the places where the east river bank departs its generally parallel course and enters the cove. As a general rule the “45 degree method” can be used to find the headlands –where the shore first departs at a 45 degree angle from the general direction of the water body.



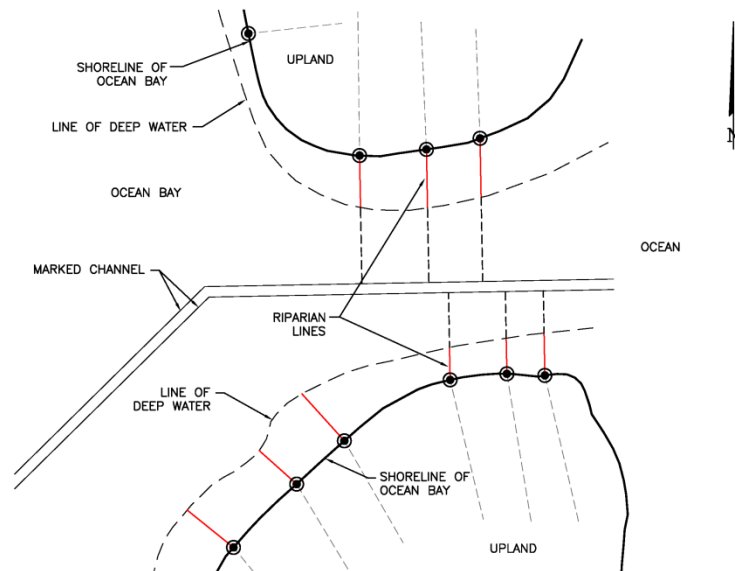
Points b' and c' would be established directly opposite the headland shore points using perpendiculars with the line of navigability. Between b' and c', the line of navigability would be divided in proportion to frontage. For example if the total distance b' to c' on the “outer line” is only 700 ft and the shore frontage from b to c is 1000 ft then each foot of shore frontage only receives 0.70 ft on the outer line – equitable apportionment. Straight lines would run back to shore points. The view zones would be the extension of the docking lines out to the channel line, (however view zones are not exclusive and they may overlap).

Large Water Body -- Perpendicular with Shore Northerly of the above example, on the east side of the ocean bay, the shore and the marked channel are diverging from each other. Since docking is a near-shore

consideration, then a near-shore solution is called for. The dominant method is to construct perpendiculars with the generalized shore, projecting these riparian lines out to the line of deep water.



Inlet Channel – Perpendicular with Channel Line At the inlet of the ocean bay, the proximity of the channel is now the important consideration, and perpendiculars would be dropped from it as shown.



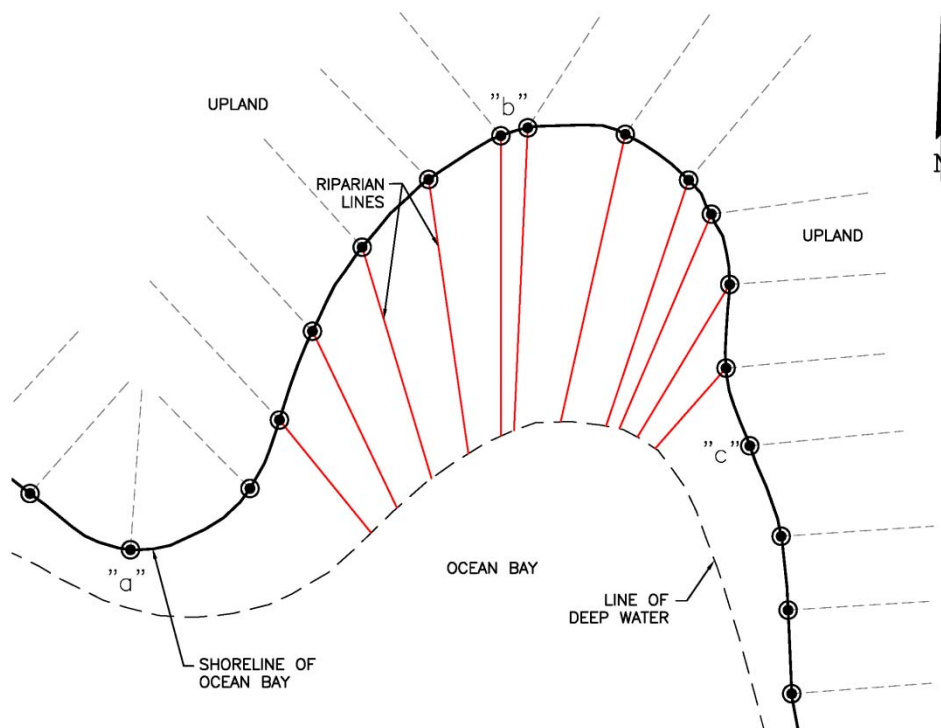
Coves

Large Bay Cove – Apportion Line of Navigability Around the ocean bay, the dominant construction is perpendicular with the generalized shore direction, projecting these out to the line of deep water.

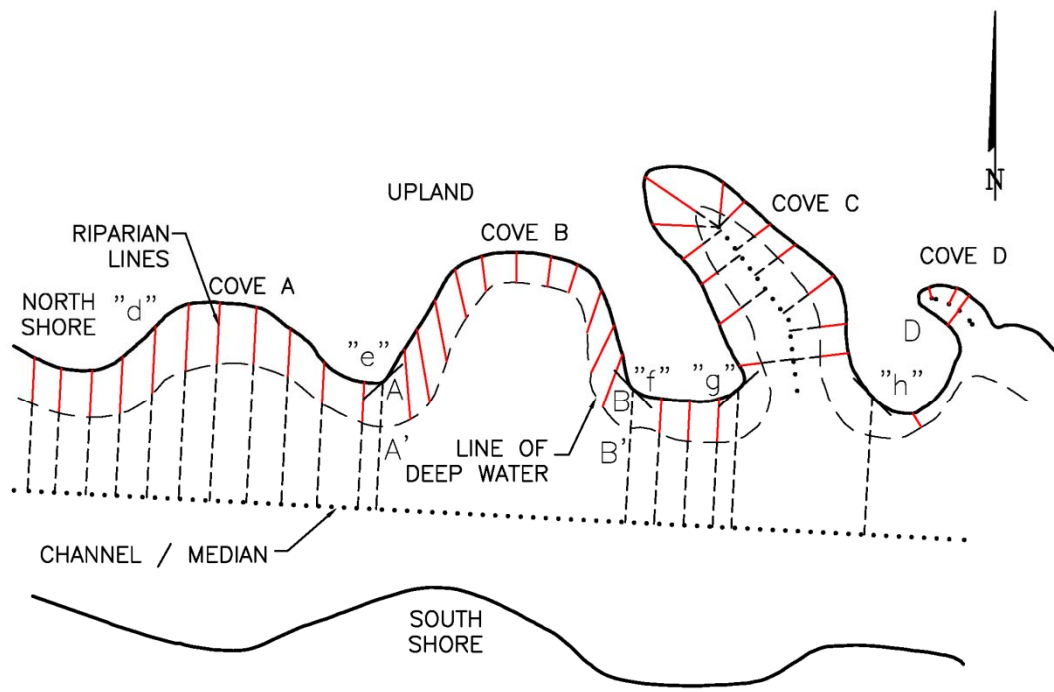
However, the large cove on the north side of the bay calls for apportioning the line of navigability. The main question would be determining the apportionment limits. There is a well-defined headland on the cove's west end at "a," but on the east side the cove's beginning is not so well defined.

As a guideline for thought, there is no use apportioning lots in which a more basic method works; therefore, start at the point of greatest inequity, point "b" in this case, and go in each direction until straight-line projections will intersect the line of navigability at nearly right angles well clear of the problem area, such as at "c" in this case. Apportionment between "a" and "c" will give each owner a portion of the line of deep water for constructing a dock.

A problem is noticed for owner "b". Due to small frontage, that lot will receive a very small portion of deep water frontage, perhaps not enough on which to build a dock without conflict with adjoiners. This is a situation for the neighbors or courts to address. The surveyor should not attempt to solve this situation. Instead, the surveyor should rely on geometric construction principles. After the "theoretical" riparian lines are determined, let the owners negotiate a solution (riparian boundary agreement or license) or let the courts decide an equitable solution.



Commercial marina leasing has now made the allocation of the entire water body a consideration. Consider the water body shown in the following figure. It could be a river, a long lake, or intra-coastal waterway and a marked channel is present, therefore, the dominant riparian construction is perpendicular with the channel. The north shore is undulating with three "coves" to investigate: a (A) "shallow cove," not indented enough to require a cove method apportionment, a (B) "deep cove," requiring a cove apportionment, and (C & D) "hidden coves" which departs to form its own geometry. The deep water line, shown as a dashed line, illustrates that cove C contains deep water while cove D does not.



Shallow Cove A is called "shallow" because the intersection between the shore and riparian lines are at 45 degrees or less throughout the cove. This "45 degree rule" is presented here for consideration. At a location such as "d" where the shore and riparian line are at 45 degrees, the width of the riparian zone is 0.71 times the frontage distance, but these zone widths still give sufficient width for dock building out to the deep water line (dashed) and leasing/view out to the channel line. In the Florida case *Hayes v Bowman*, this angle was about 55 - 60 degrees which caused a reduced riparian zone width 0.85 times the lot frontage. Therefore, it was recognized that the riparian zone width may be significantly less than the riparian frontage width.

Deep Cove B begins at location "e" where the angle exceeds 45 degrees. This is the beginning of a deep cove B calling for a cove apportionment. The beginning points on the cove are A and A'. The end of the cove at point "f" is identified as points B and B', where the channel perpendicular and the shore make an angle of 45 degrees. The deep water line from A' to B' is apportioned according to relative shore frontages between A and B.

Hidden Cove C begins at "g" and ends at "h", again using the 45 degree rule. However, since this cove has its own geometry separate from the main water body, each riparian parcel fronts on this cove (not on the main water body). Therefore, perpendiculars are constructed with the cove's median lines. At the north end of the cove, a center point is chosen at the deep water end, and riparian lines are connected with the central point for parcels northwest of that point. This allocates the line of deep water between those riparian owners.

In **Hidden Cove D** apportionment of the line of navigability would give the lot at "D" no deep water frontage. Courts could treat this cove as a separate shallow water body. Since it is shallow, the owners could have the riparian right of ingress/egress only to the shallow waters for small boats, but not to the line of deeper water.

They could also have the right of view to the cove's median line as shown. However, to solve this question, courts would have to address the issues involved and therefore it is outside of the scope of this report.

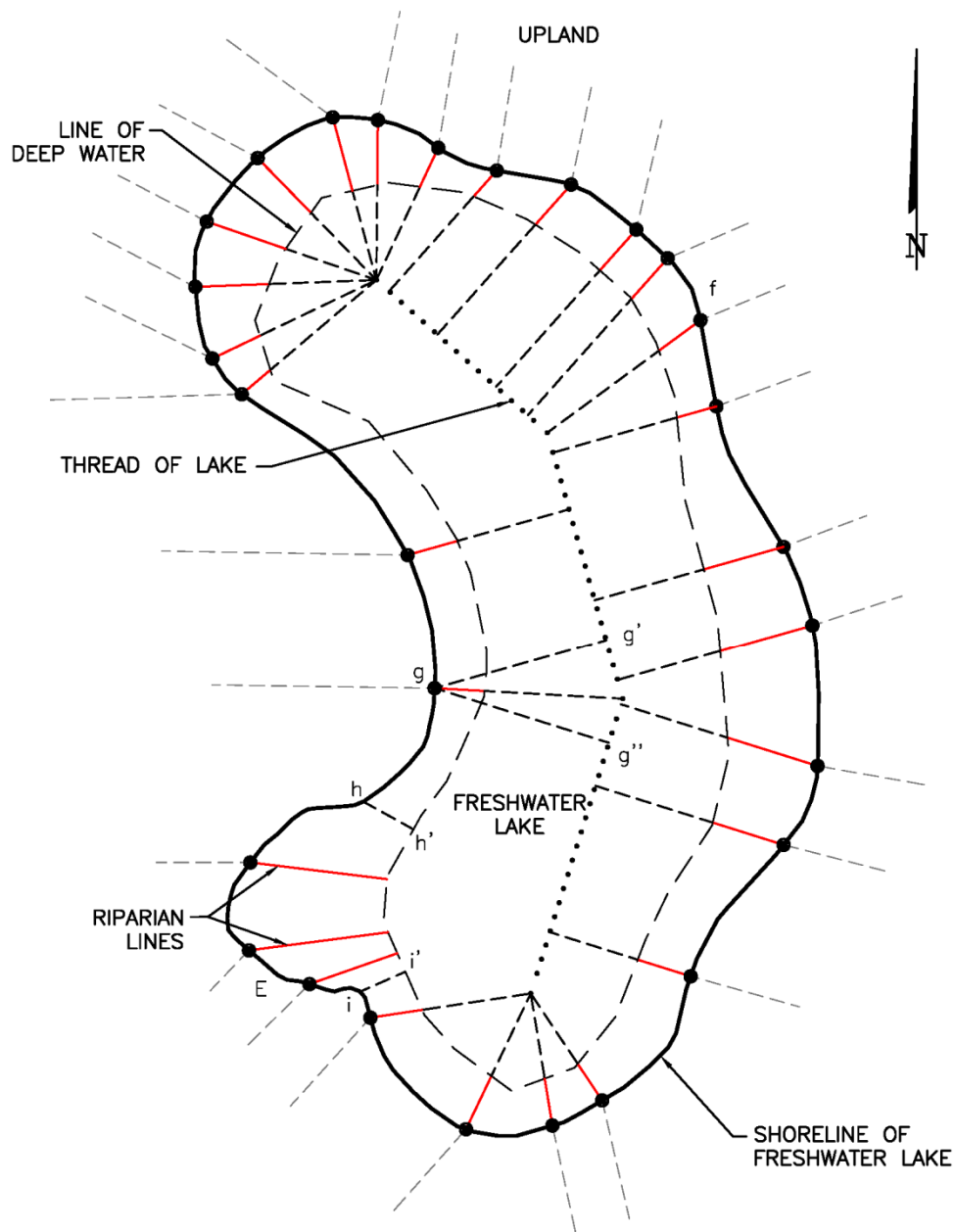
Of course, outside hidden cove D, riparian owners have clear access to deep water as shown.

Long Fresh Water Lake – Radials to End Center Points – Perpendicular with the Median Line (Thread) To apportion riparian rights in a "long lake", the traditional approach would establish center points in the semi-circular lake ends together with a thread midway between the banks. Around the lake ends, lines would radiate from center points to shore points, and along the thread, perpendiculars would be constructed and run back to shore points.

However, several geometric problems are encountered. At point "f", it's impossible to drop a perpendicular to either line of the thread. Therefore an equitable approach would be to extend the riparian line to the angle point in the thread as shown.

Similarly, at point "g" on the west shore, two perpendiculars are possible, each dropped to a different line of the thread. Which one? Again an equitable approach would be to draw the riparian line to the angle point in the thread.

At parcel "E" there is a deep cove, and a perpendicular with the thread construction would be inequitable. This should then be apportionment of the line of deep water by the cove method with headlands identified at points "h" and "i."



SUMMARY STATEMENTS – Please note that this document presents guidelines for a wide range of riparian situations. However, there are always unique situations that need to be addressed. The courts require that the allocation be “equitable” for the whole neighborhood. The geometric method, if extended up and down the shore, should be equitable for the whole neighborhood of riparian owners. In addition to a survey map of the parcel, it is recommended that a surveyor submit a riparian “report” that depicts the equity when the allocation is applied to the whole neighborhood.

DISCLAIMER

All information contained is for general informational purposes only and subject to change without notice. Neither the Department nor the Board of Trustees of the Internal Improvement Trust Fund makes any representations or warranties of any kind express or implied, with respect to the content, quality, completeness, accuracy, or reliability of any information contained within regarding allocation of riparian rights. Neither the Department nor the Board of Trustees of the Internal Improvement Trust Fund assumes any legal liability for the content, quality, accuracy or completeness of the information. Any reliance you place on this information is therefore strictly at your own risk. In no event will the Department or Board of Trustees of the Internal Improvement Trust Fund be liable for any loss or damages, whether direct, indirect, general, consequential, incidental, exemplary or special, arising from your use of the information provided within regarding allocation of riparian rights.



REPLY TO: TALLAHASSEE

July 2, 2020

VIA ELECTRONIC MAIL ONLY

Mayor Gary Jarvis and City Council Members
Destin City Council
4200 Indian Bayou Trail
Destin, Florida 32541

Re: *Single-Family Residential Marine Construction Proposed at 4156 Belcourt Drive*

Dear Mayor Jarvis and City Council Members:

Our law firm represents the owner of the real property located at 4153 Belcourt Drive, Destin, Florida, which is owned by Lot 8 The Estates, LLC (Coach Les Miles), and is located adjacent to the above-referenced property. Coach Miles has no objections to the proposed marine construction depicted on Exhibits "A" and "B" which were submitted by Mr. Bill Smith for his real property located at 4156 Belcourt Drive, Destin, Florida.

Additionally, Coach Miles would like to thank Mr. Smith for complying with the requirements of the Memorandum of Agreement that was executed by the prior owner of the real property located at 4156 Belcourt Drive, Destin, Florida -- Provident Investments, LLC -- and Lot 8 The Estates, LLC. A copy of the Memorandum of Agreement is attached hereto as Exhibit "C."

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

Sincerely,

David A. Theriaque

Enclosures

cc: Coach Les Miles

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

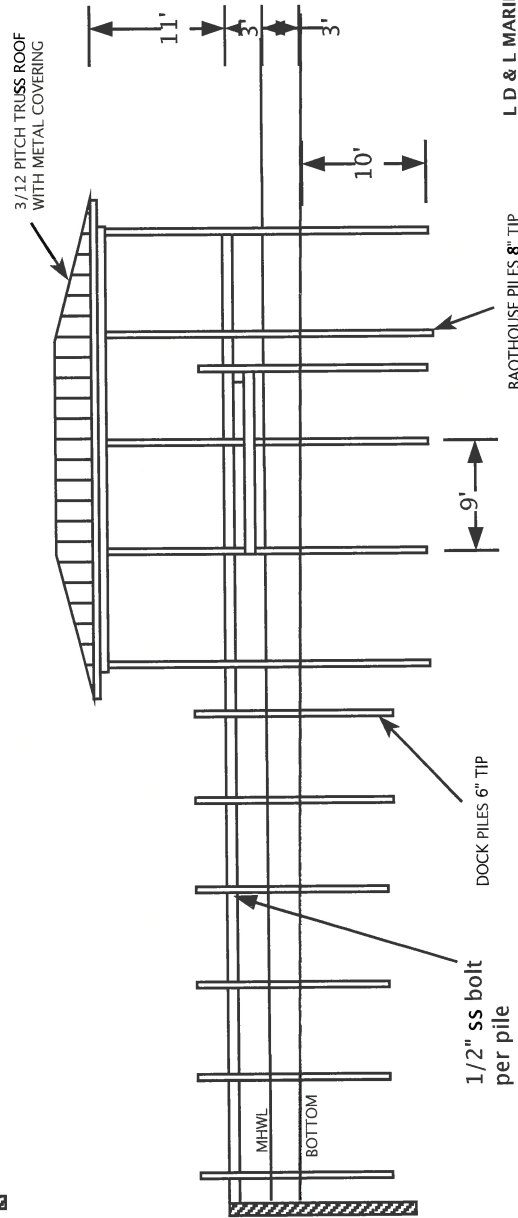
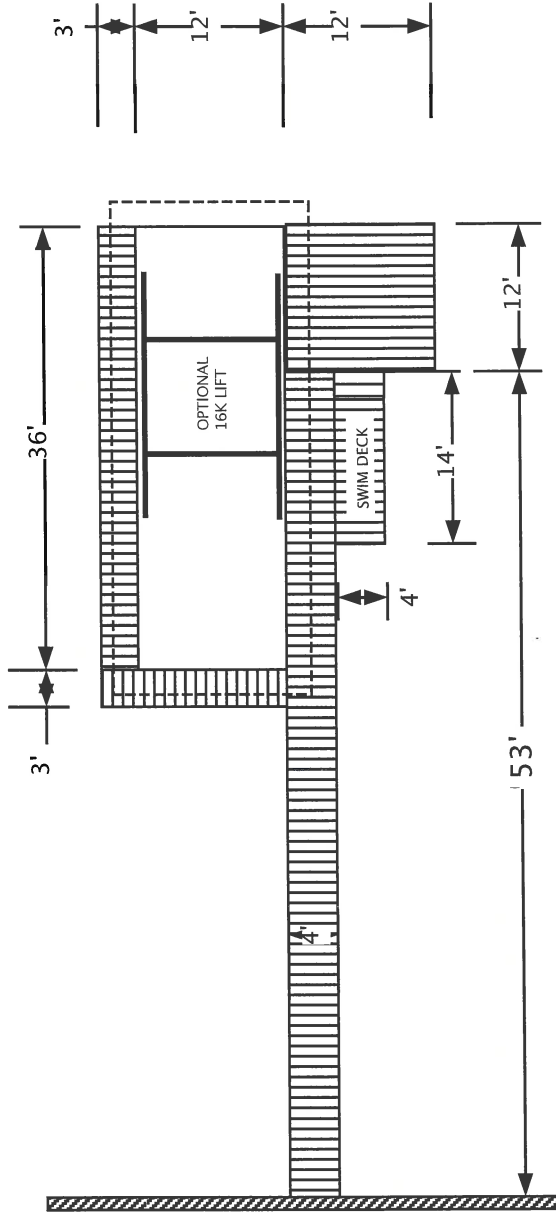


EXHIBIT

A

tabbles

BILL SMITH 1.0K.
4156 BELLCOURT DR.
997 SF.



L D & L MARINE CONTRACTORS
297 W. MIRACLE STRP. PKWY
MARY ESTHER, FL. 32569
(Chuck LoBello) 585 3003 / chuckldl@cox.net
(Clay Duhon) 585 5557 / c3dl@cox.net
MARINE CONTRACTOR LIC. NO. 11071-0600564

MEMORANDUM OF AGREEMENT

THIS MEMORANDUM OF AGREEMENT ("Agreement") is made and entered into on this 6 day of ~~January~~^{February} 2019, by and between PROVIDENT INVESTMENTS, LLC, and LOT 8 THE ESTATES, LLC, a Florida limited liability company.

RECITALS:

WHEREAS, Provident Investments, LLC, is the owner of certain real property located at 4156 Belcourt Drive, Destin, Florida, and identified as Parcel Number 00-2S-22-4600-0000-0070, and also known as Lot 7 in the Estates at Indian Pointe ("Lot 7"); and

WHEREAS, Lot 8 The Estates, LLC, is the owner of certain real property located at 4153 Belcourt Drive, Destin, Florida, and identified as Parcel Number 00-2S-22-4600-0000-0080, and also known as Lot 8 in the Estates at Indian Point ("Lot 8"); and

WHEREAS, Provident Investments, LLC, and Lot 8 The Estates, LLC, desire to resolve their dispute regarding the location of the riparian line between Lot 7 and Lot 8 and the design and location of a private, residential, single-family dock and boat lift proposed to serve Lot 7; and

WHEREAS, Provident Investments, LLC, and Lot 8 The Estates, LLC, desire to enter into this Agreement for the purposes of resolving their dispute.

NOW, THEREFORE, in consideration of the terms and mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Provident Investments, LLC, and Lot 8 The Estates, LLC (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. The riparian line between Lot 7 and Lot 8 shall be located perpendicular to the shoreline extending to the deep water at the southern boundaries of Lots 7 and 8, as depicted on Exhibit "A," which is attached hereto ("Riparian Line").

B. Within five (5) days of the Effective Date of this Agreement, Provident Investments, LLC, shall provide a revised survey, that reflects the location of the Riparian Line as required in Paragraph 2.A. above, to the Florida Department of Environmental Protection, the City of Destin, Florida, and Lot 8 The Estates, LLC.



DAT

C. Provident Investments, LLC, shall comply with the twenty-five (25) foot setback from the Riparian Line mandated by Rule 18-21.004(3)(d), *Florida Administrative Code*. Nothing in this Agreement shall be construed as a waiver by Lot 8 The Estates, LLC, of such twenty-five (25) foot setback.

D. Lot 8 The Estates, LLC, shall not object to the pending applications before the Florida Department of Environmental Protection and the City of Destin, Florida, for the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7, provided the design and location of such dock and boat lift are identical to the design and location of such dock and boat lift depicted on the Permit Drawings that are attached hereto as Exhibit "B."

E. All references to a "settlement line" in the Permit Drawings that are attached hereto as Exhibit "B," shall be construed as the Riparian Line. All references to a "riparian line" in the Permit Drawings that are attached hereto as Exhibit "B," shall be null and void.

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.

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, agents, trustees, and representatives of the Parties.

6. **Non-Waiver.** Failure by the Parties 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 any Party, 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. Provident Investments, LLC, hereby waives and releases, acquits, satisfies, and forever discharges Lot 8 The Estates, LLC, including its legal representatives, insurance carriers, successors, heirs, and assigns thereof (collectively, "Lot 8 The Estates, LLC's Related Parties"), from any and all claims, counterclaims, defenses, actions, causes of action,

suits, controversies, agreements, promises, and demands whatsoever which Provident Investments, LLC, ever had or now has, in law or in equity, for, upon, or by any reason of any matter, cause, or thing whatsoever in direct connection with the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, Provident Investments, LLC, covenants with and warrants to Lot 8 The Estates, LLC, including the Lot 8 The Estates, LLC's Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets by Provident Investments, LLC, against Lot 8 The Estates, LLC, including the Lot 8 The Estates, LLC's Related Parties, with regard to the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 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. Lot 8 The Estates, LLC, hereby waives and releases, acquits, satisfies, and forever discharges Provident Investments, LLC, including its legal representatives, insurance carriers, successors, heirs, and assigns thereof (collectively, "Provident Investments, LLC's Related Parties"), from any and all claims, counterclaims, defenses, actions, causes of action, suits, controversies, agreements, promises, and demands whatsoever which Lot 8 The Estates, LLC, ever had or now has, in law or in equity, for, upon, or by any reason of any matter, cause, or thing whatsoever in direct connection with the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 as of the Effective Date of this Agreement. In addition, and without waiving the generality of the foregoing, Lot 8 The Estates, LLC, covenants with and warrants to Provident Investments, LLC, including the Provident Investments, LLC's Related Parties, that there exist no claims, counterclaims, defenses, objections, offsets, or claims of offsets by, against Provident Investments, LLC, including the Provident Investments, LLC's Related Parties, with regard to the proposed private, residential, single-family dock and boat lift proposed to serve Lot 7 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.

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 arrive at a fair and reasonable agreement with regard to the Parties' dispute. 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 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. 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. **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 Provident Investments, LLC

Provident Investments, LLC
c/o James Bethea
1598 Ochsner Boulevard, Suite 100
Covington, Louisiana 70433

With a copy to:

Michelle Anchors, Esquire
Keefe, Anchors and Gordon, P.A.
2113 Lewis Turner Boulevard, Suite 100
Fort Walton Beach, Florida 32547

(b) To Lot 8 The Estates, LLC:

Lot 8 The Estates, LLC
16000 Dallas Parkway, Suite 300
Dallas, Texas 75248

With a copy to:

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

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.

15. **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 hereto and all of which shall constitute one and the same agreement. The Parties hereto 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.

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

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in a manner sufficient to bind them on the day and year identified above.

WITNESSES

PROVIDENT INVESTMENTS, LLC

Gretchen Watson
Print Name: Gretchen Watson

By: WILL C BETHA

Its: Mgr Wm C. BETHA

Terry M. Anderson
Print Name: TERRY M. ANDERSON

Date: 2-6-19

STATE OF Louisiana

COUNTY OF St. Tammany

The foregoing instrument was acknowledged before me this 6 day of February 2019, by William Betha, as Manager of Provident Investments, LLC. Said person (check one) ☒ is personally known to me or ☐ produced Louisiana License as identification.

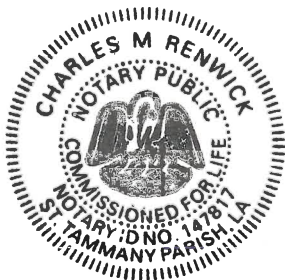
Charles Renwick
(Notary Seal)

Printed Name: Charles Renwick

Notary Public, State of Louisiana

Commission No. 147817

My commission expires: Does not expire



WITNESSES

LOT 8 THE ESTATES, LLC, a Florida limited liability company

[Signature]
Print Name: Erin Dunston

By: Lee Miles

[Signature]
Print Name: Hannah Tourillott

Its: _____

Date: 2/20/2019

STATE OF Kansas

COUNTY OF Douglas

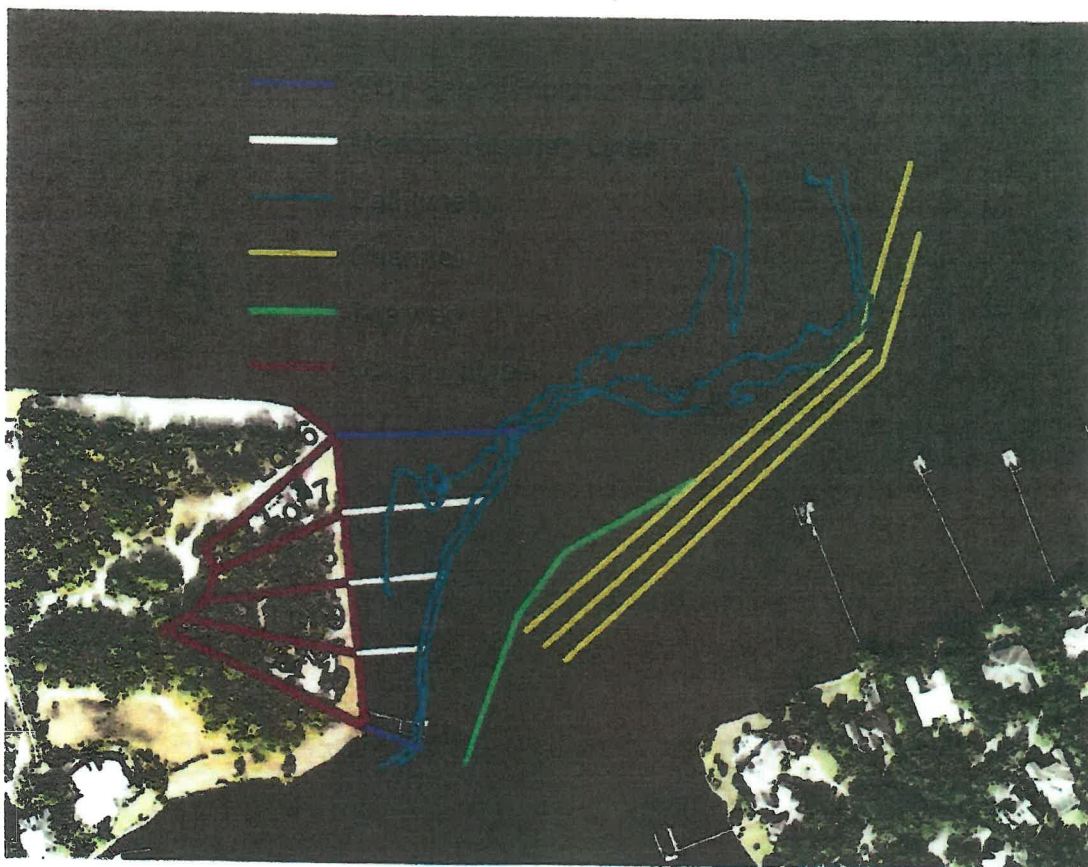
The foregoing instrument was acknowledged before me this 20 day of January 2019, by Lee Miles, as owner of Lot 8 The Estates, LLC, a Florida limited liability company. Said person (check one) G is personally known to me or G produced _____ as identification.

[Signature]
(Notary Seal)

Printed Name: Tracey Dillon
Notary Public, State of Kansas
Commission No. 1123072
My commission expires: May 16, 2020



(PAT)



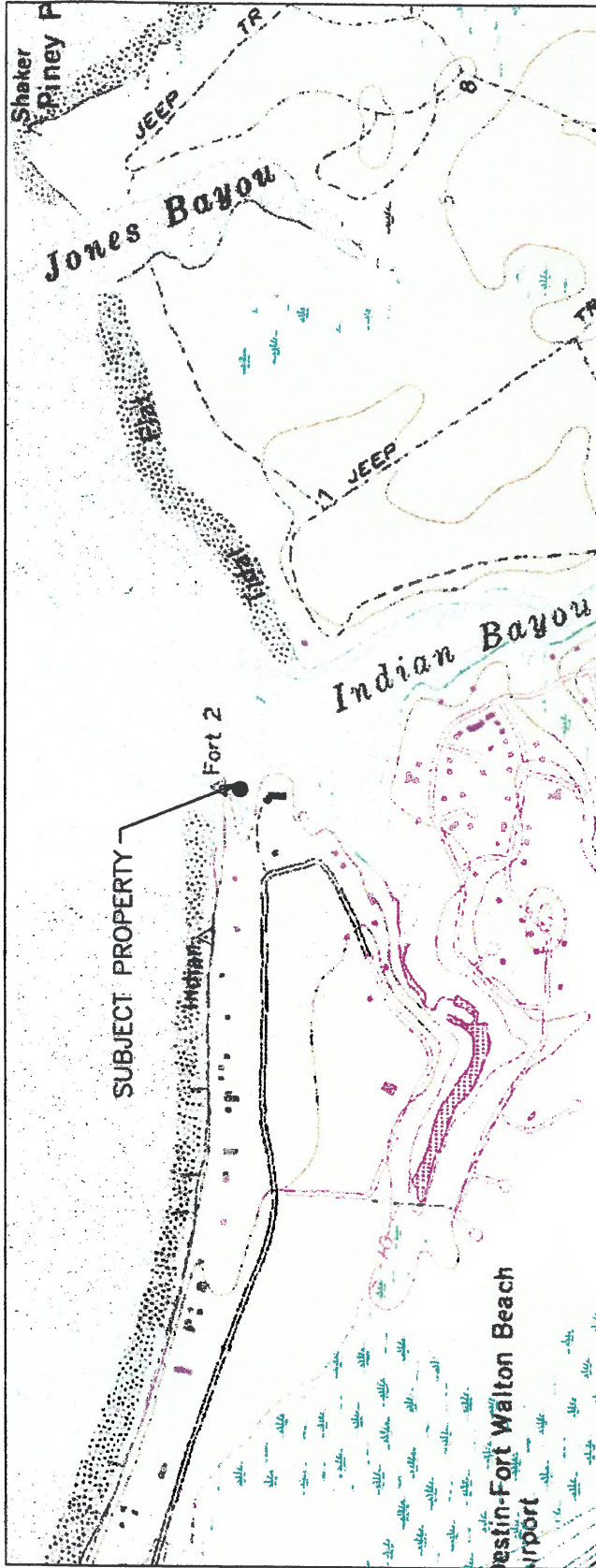
**Figure 3 – Detailed View – 2016 Aerial Photograph
Maddox's Riparian Lines Shown**

Within limitations of the source data, it is my opinion that the riparian lines located perpendicular to the shoreline extending to the line of deep water at the southern boundaries of Lots 7, 8 and 9 as shown on Figure 3 above is the most equitable location of the riparian lines.

 9/12/2018
Rod A. Maddox, PSM 3994, Date
Maddox Land Research and Consulting, LLC
5126 Maddox Road
Tallahassee Florida 32303



Handwritten initials: RMT



DIRECTIONS TO THE SITE FROM DOWNTOWN PENSACOLA: HEAD EAST ON BAYFRONT PARKWAY AND CONTINUE ONTO US-98E (PENSACOLA BAY BRIDGE). IN 44.4 MILES, TURN LEFT ONTO CALHOUN AVE, THEN TURN RIGHT ONTO SIBERT AVE. IN 0.8 MILES, TURN RIGHT ONTO KELLY STREET. IN 1.1 MILES, TURN LEFT ONTO MAIN STREET. IN 0.7 MILES, TURN RIGHT ONTO INDIAN TRAIL. IN 1.6 MILES, TURN LEFT ONTO BELCOURT DRIVE. THE SUBJECT PROPERTY WILL BE AT THE END OF THE ROAD. PLEASE CALL 850-453-4700 WITH ANY QUESTIONS.

SUBJECT PROPERTY

LOT 7 ESTATES AT INDIAN POINTE

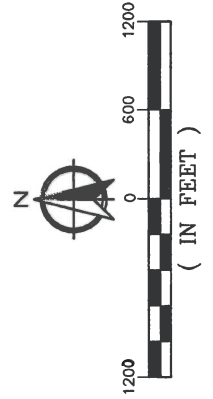
PARCEL ID#
00-2S-22-4600-0000-0070
PROPERTY OWNER
PROVIDENT INVESTMENTS LLC
1598 OCHSNER BLVD, SUITE 100
COVINGTON, LA 70433

PROJECT LOCATION

4156 BELCOURT DRIVE
DESTIN, FL 32541
LAT: 30.406133°
LONG: -86.452293°

INDEX OF SHEETS

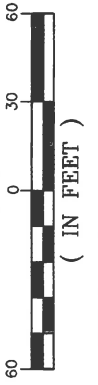
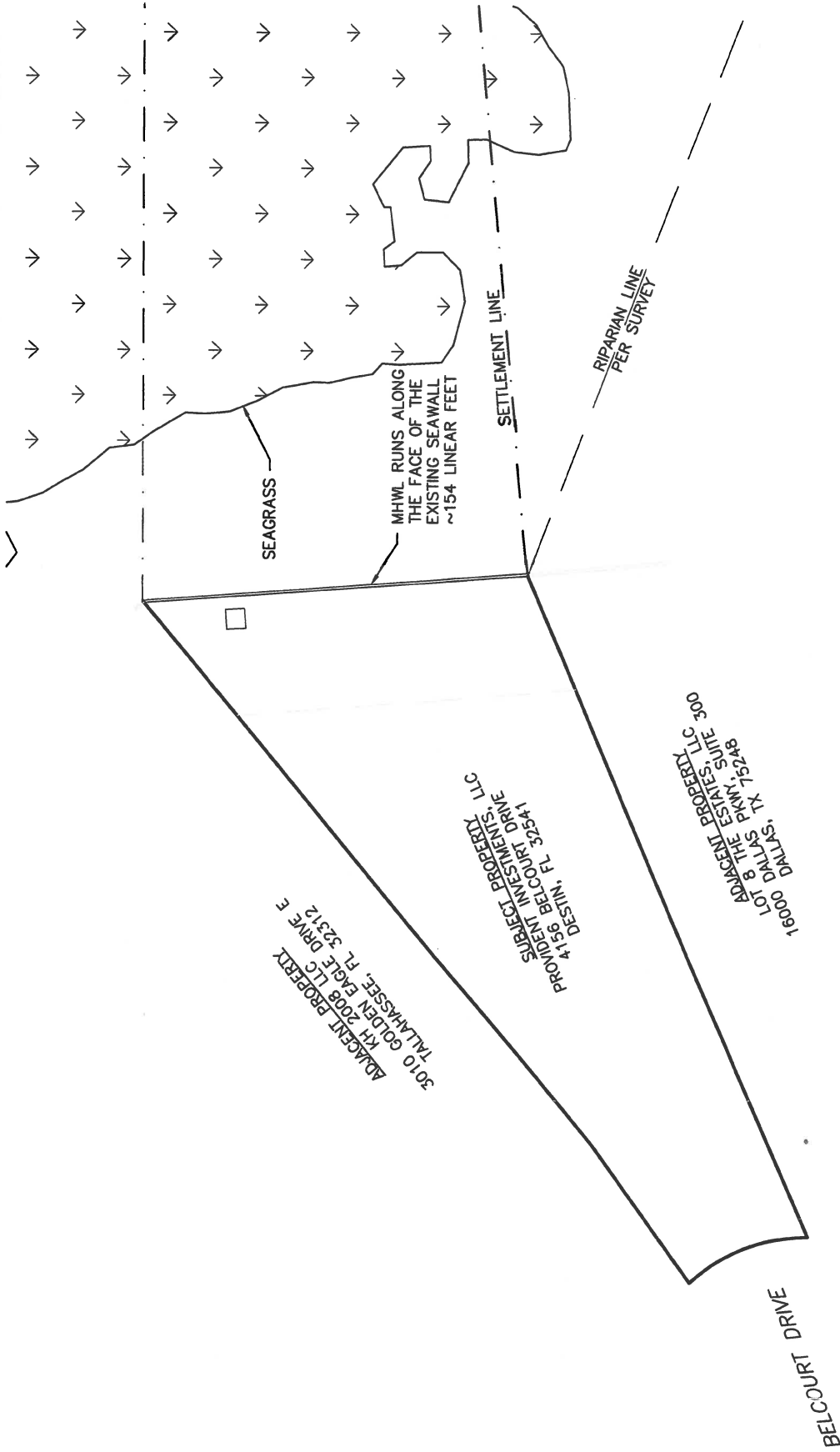
SHEET NO.	DESCRIPTION
1	SITE LOCATION MAP
2	EXISTING SITE CONDITIONS
3	PLAN VIEW DEPICTED ONTO AN AERIAL
4	PLAN VIEW OF PROPOSED DEVELOPMENT
5	DOCK PROFILE (TYPICAL)
6	DOCK DETAILS (TYPICAL)



WETLAND SCIENCES INCORPORATED	ENVIRONMENTAL CONSULTANTS 3308 GULF BEACH HIGHWAY PENSACOLA, FLORIDA 32507 TEL: 850.453.4700 WETLANDSCIENCES@GMAIL.COM	
	PROJECT NAME: 4156 BELCOURT DRIVE DOCK	
	SITE LOCATION MAP	
	PROJECT NO.: 2017-817	
DRAWN BY: CEP		DATE: 11/13/2018
SHEET: 1 OF 6		

DAT

APPLICANT: PROVIDENT INVESTMENTS, LLC



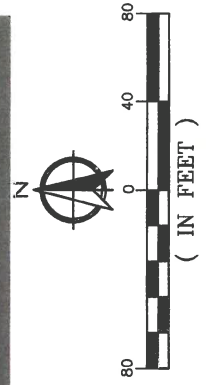
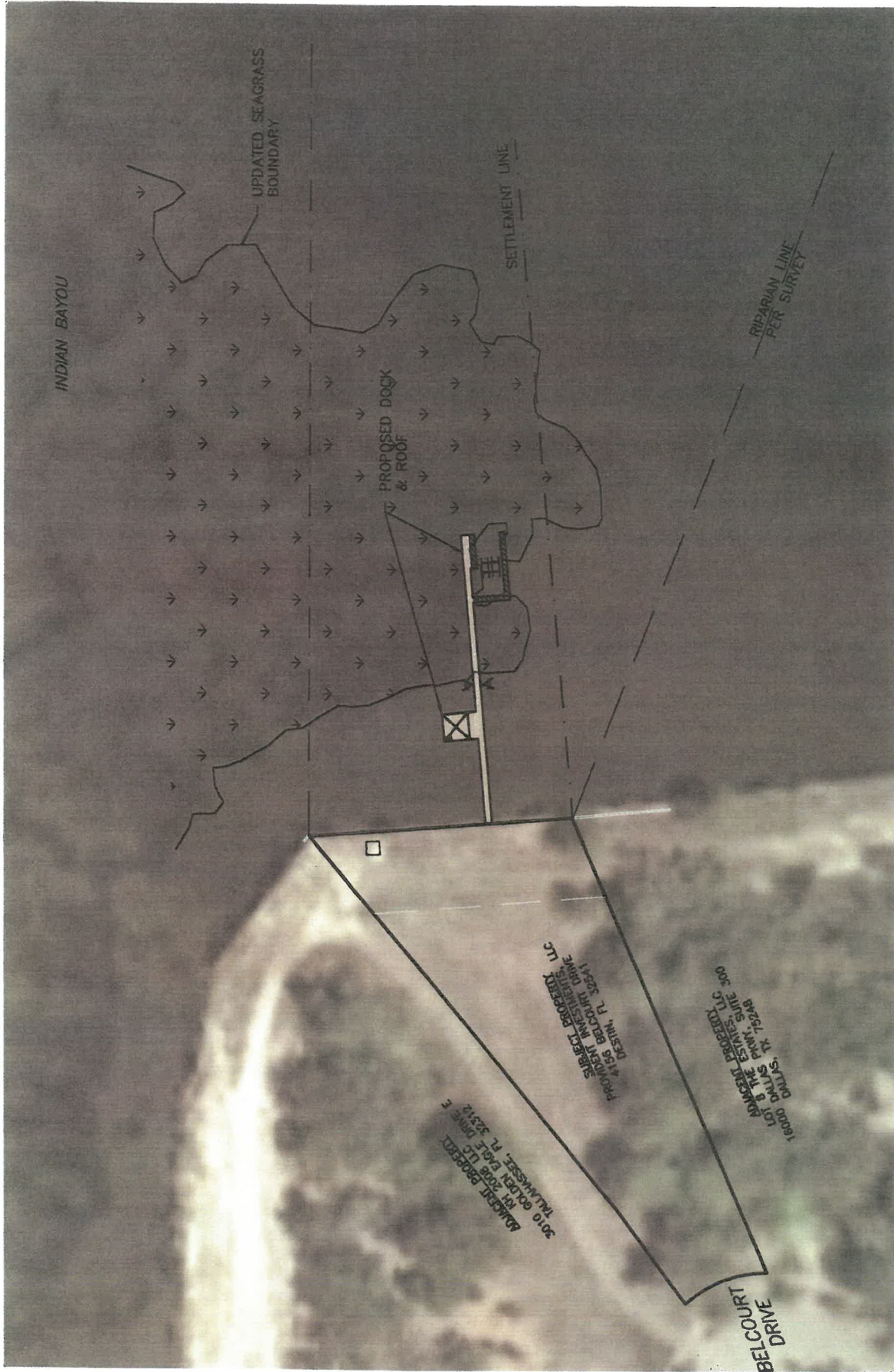
PROJECT NAME: 4156 BELCOURT DRIVE DOCK
EXISTING SITE CONDITIONS
PROJECT NO.: 2017-817
DRAWN BY: CEP
DATE: 11/10/2018
SHEET: 2 OF 6

ENVIRONMENTAL CONSULTANTS
3308 GULF BEACH HIGHWAY
PENSACOLA, FLORIDA 32507
TEL: 850.453.4700
WETLANDSCIENCES@GMAIL.COM

WETLAND SCIENCES
INCORPORATED

2017

APPLICANT: PROVIDENT INVESTMENTS, LLC



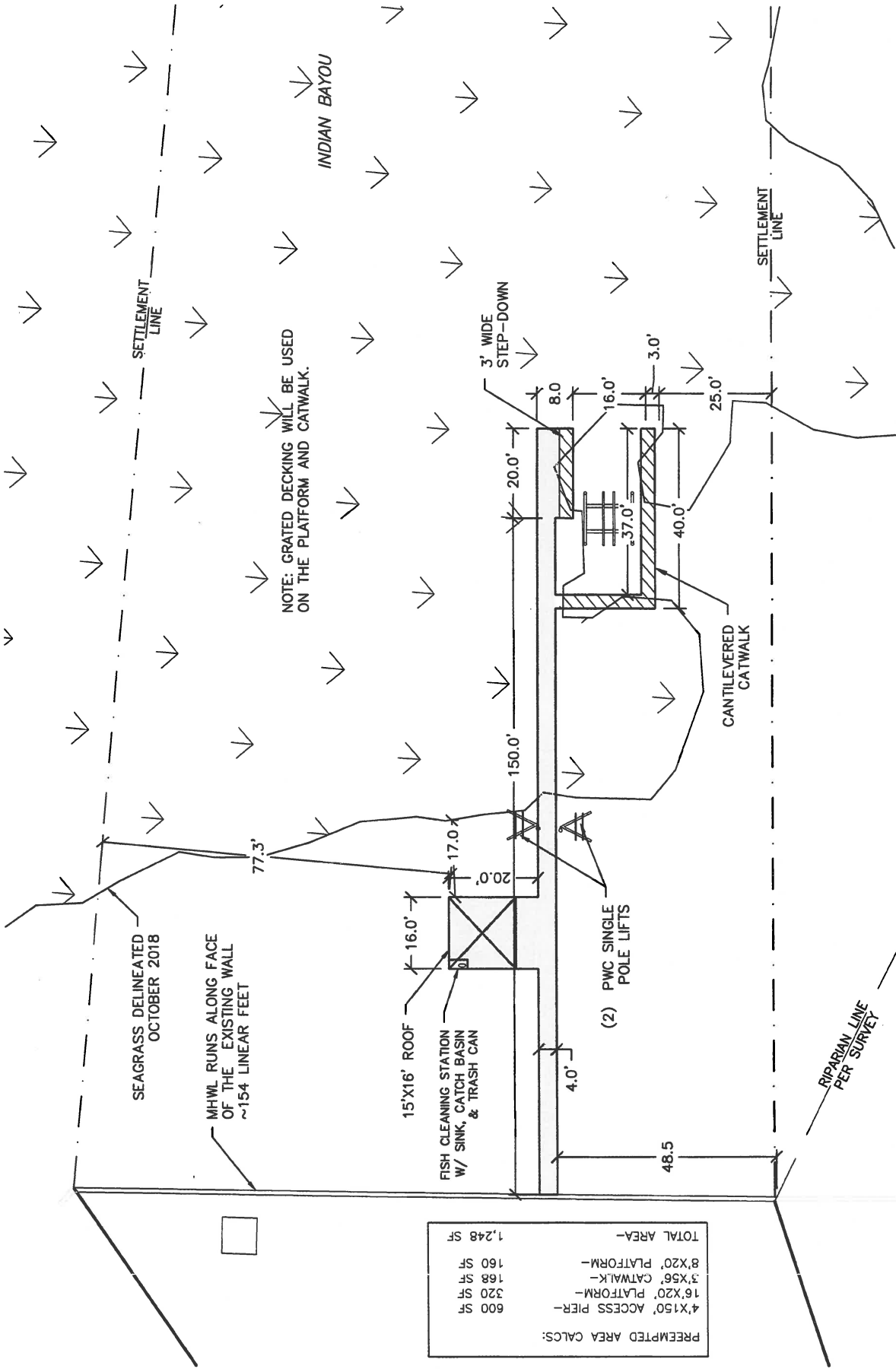
PROJECT NAME: 4156 BELCOURT DRIVE DOCK
DRAFT DRAWING TWO
PROJECT NO.: 2017-817
DRAWN BY: CEP
DATE: 12/03/2018
SHEET: 3 OF 6

ENVIRONMENTAL CONSULTANTS
3308 GULF BEACH HIGHWAY
PENSACOLA, FLORIDA 32507
TEL: 850.453.4700
WETLANDSCIENCES@GMAIL.COM

WETLAND
SCIENCES
INCORPORATED

DATE

APPLICANT: PROVIDENT INVESTMENTS, LLC



NOTE: GRATED DECKING WILL BE USED ON THE PLATFORM AND CATWALK.

INDIAN BAYOU

SEAGRASS DELINEATED OCTOBER 2018

MHWL RUNS ALONG FACE OF THE EXISTING WALL ~154 LINEAR FEET

FISH CLEANING STATION W/ SINK, CATCH BASIN & TRASH CAN

15'X16' ROOF

20.0'

150.0'

40.0'

25.0'

16.0'

8.0'

3.0'

3' WIDE STEP-DOWN

CANTILEVERED CATWALK

PWC SINGLE POLE LIFTS

4.0'

48.5'

SETTLEMENT LINE

RIPARIAN LINE PER SURVEY

PREEMPTED AREA CALCULATIONS:	
4'X150' ACCESS PIER-	600 SF
16'X20' PLATFORM-	320 SF
3'X56' CATWALK-	168 SF
8'X20' PLATFORM-	160 SF
TOTAL AREA-	1,248 SF



(IN FEET)

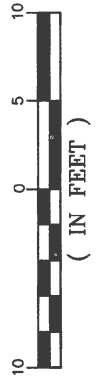
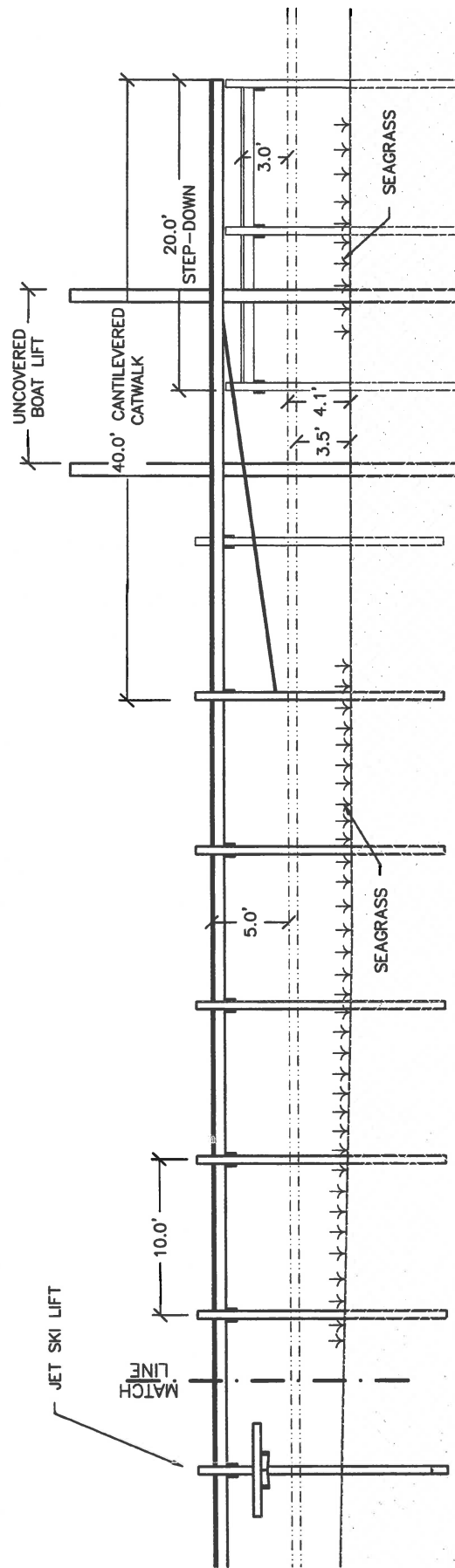
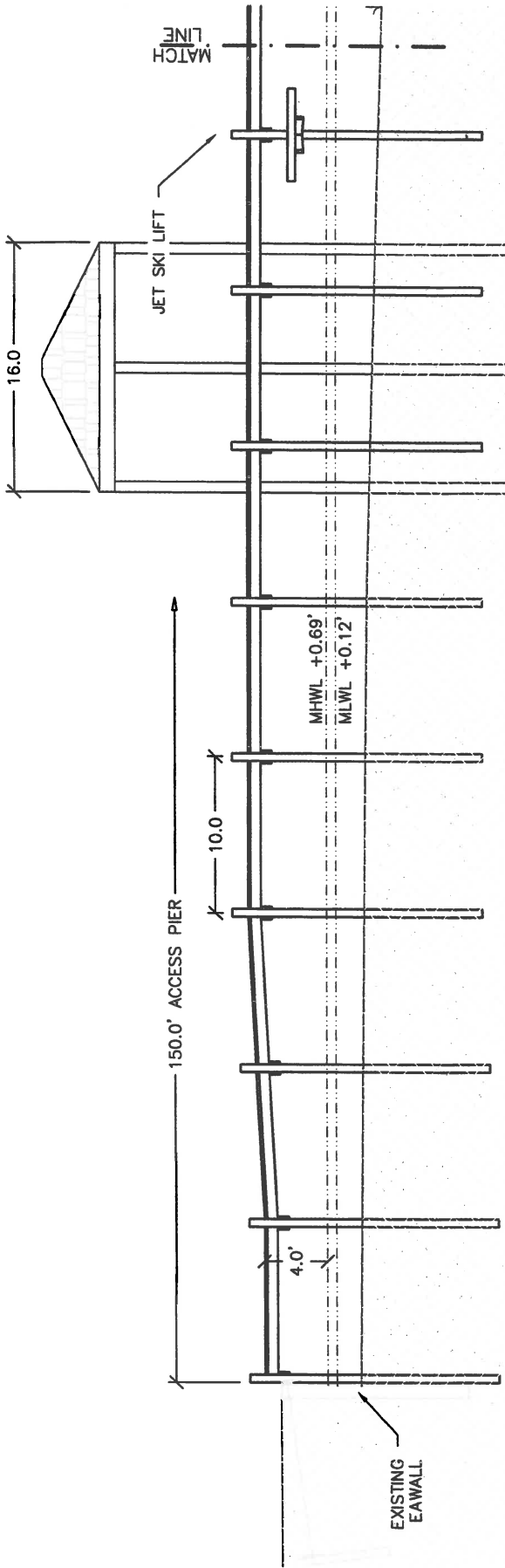
PROJECT NAME: 4156 BELCOURT DRIVE DOCK
PLAN VIEW OF PROPOSED DOCK
PROJECT NO.: 2017-817
DRAWN BY: CEP DATE: 12/03/2018
SHEET: 4 OF 6

ENVIRONMENTAL CONSULTANTS
3308 GULF BEACH HIGHWAY
PENSACOLA, FLORIDA 32507
TEL: 850.453.4700
WETLANDSCIENCES@GMAIL.COM

WETLAND SCIENCES
INCORPORATED



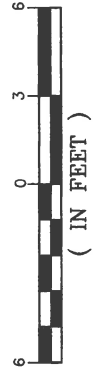
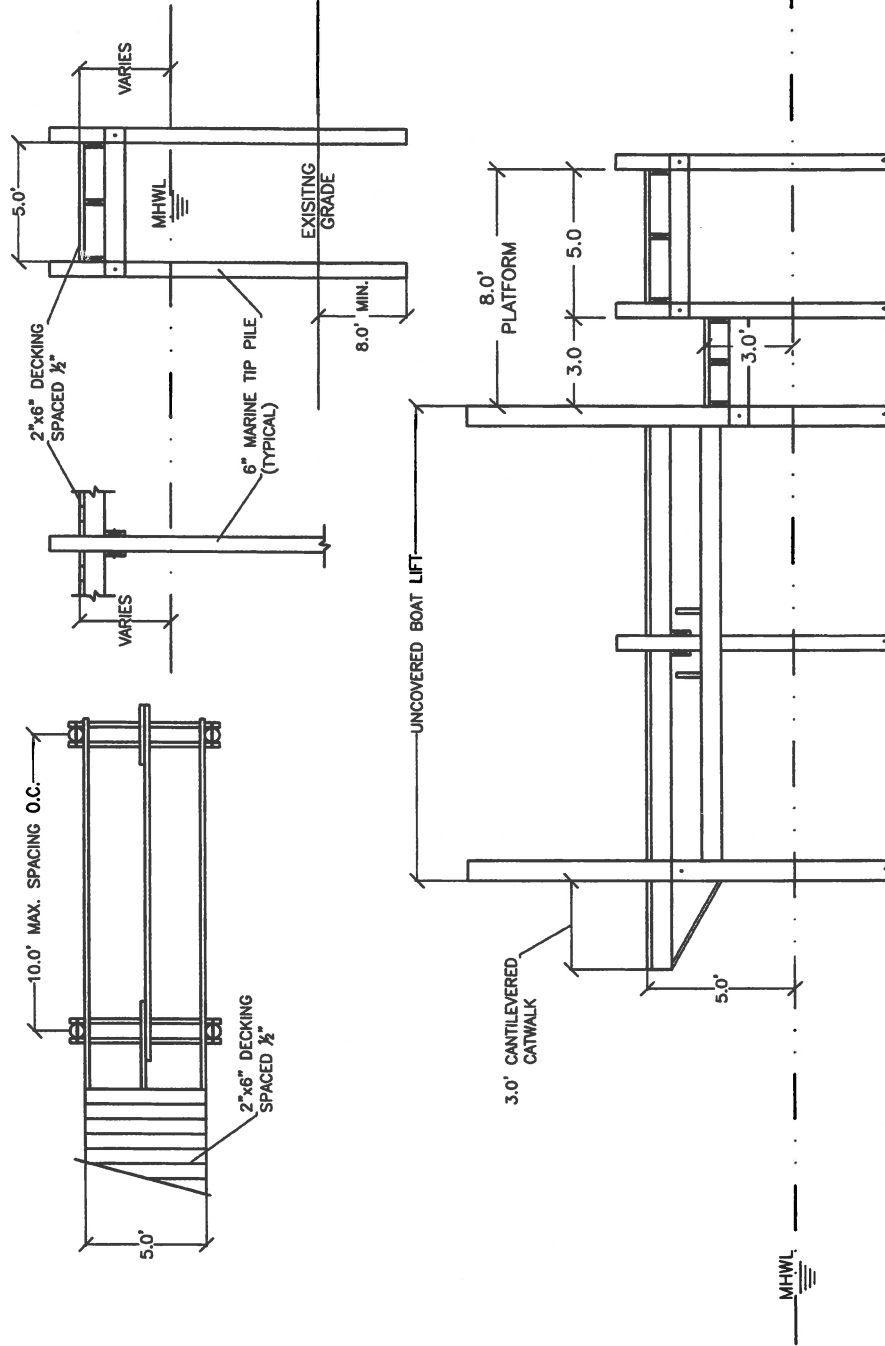
APPLICANT: PROVIDENT INVESTMENTS, LLC



WETLAND SCIENCES INCORPORATED	PROJECT NAME: 4156 BELCOURT DRIVE DOCK
	DOCK PROFILE (TYPICAL)
	PROJECT NO.: 2017-817
	DRAWN BY: CEP DATE: 12/04/2018
SHEET: 5 OF 6	

ENVIRONMENTAL CONSULTANTS
 3308 GULF BEACH HIGHWAY
 PENSACOLA, FLORIDA 32507
 TEL: 850.453.4700
 WETLANDSCIENCES@GMAIL.COM

NOTE: GRATED DECKING WILL BE USED ON THE 8'X20' PLATFORM AND CATWALK



WETLAND SCIENCES INCORPORATED	ENVIRONMENTAL CONSULTANTS 3308 GULF BEACH HIGHWAY PENSACOLA, FLORIDA 32507 TEL: 850.453.4700 WETLANDSCIENCES@GMAIL.COM	PROJECT NAME: 4156 BELCOURT DRIVE DOCK DOCK DETAILS (TYPICAL) PROJECT NO.: 2017-817 DRAWN BY: CEP DATE: 12/04/2018 SHEET: 6 OF 6

017

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Consent Agenda

TO: City Council

THRU: Lance Johnson, City Manager

FROM: Kyle Bauman, City Attorney
Louis Zunguze, Community Development Director

DATE: June 26, 2020

SUBJECT: Request approval for the modification of two docks located at 510 Calhoun Avenue

I. BACKGROUND: The contractor submitted a marine construction permit application to modify two existing docks on one parcel located at 510 Calhoun Avenue. The dock referred to as “Phillips Dock”, a shared dock, will be reduced by 593 square-feet from its current size of 885 square feet, for a total 289 sq. ft over water. The dock referred to as “Buckingham Dock” proposed, is 60 linear feet (LF) to include a 26’ x 42’ uncovered boat slip. The total project footprint is ±1000 square feet.

II. DISCUSSION: The proposed marine construction project meets the requirements of Article 11.05.00, City of Destin Land Development Code, however, does not include a 25-foot riparian setback from adjacent riparian lines.

The contractor provided a Florida Department of Environmental Protection (FDEP) Permit, File No. 0384769001EE. The proposed project may not exceed a total of 1,000 square feet over water per the requirement of FDEP. In addition, the applicant obtained the required Army Corp of Engineers State Programmatic General Permit (SPGP) No. SAJ-2020-01705. City staff reviewed the application and determined that the plans comply with City Codes and regulations. Specifically, the proposed dock complies with Article 11.05.01.M., City of Destin Land Development Code, and the Coastal Management Element of the City’s Comprehensive Plan (Coastal Management Element Policy 6-1.1.3).

A. Link to Strategic Goals / Objectives: 1) Enhance Quality of Life. 2) Improve Public Use of Beach, Waterways and Harbor. 3) Enhance and Preserve Heritage and Environment.

- B. **Effect on Budget (EOB):** There is not any anticipated effect on the budget.
- C. **Level of Service (LOS):** There is not any anticipated effect on LOS.

III. **CONCLUSION:** During a Public Hearing held on June 22, 2020, the Harbor and Waterways Board recommended approval of a single-family marine construction project proposed at 510 Calhoun Avenue subject to the applicant meeting all applicable City permit requirements.

IV. **RECOMMENDED MOTION:** I move that City Council approval of a single-family marine construction project located at 510 Calhoun Ave subject to the applicant meeting all applicable City permit requirements.

Attachments:

1. Harbor Board Application
2. 510 Calhoun Ave_Site
Plan_REVISED 4.14.20
3. FDEP Self Certification
4. SAJ-2020-01705 ACOE

RECEIVED
City of Destin

FEB 18 2020

Building Department



City of Destin
Community Development Department

Planning & Zoning Division

City of Destin Annex
4100 Indian Bayou Trail
Destin, Florida 32541
Phone (850) 837-4242 • Fax (850) 460-2171
planning@cityofdestin.com

APPLICATION for HARBOR BOARD

Harbor Board meets the 4th Monday of each month, all applications must be submitted at least one month prior.

Description of work: Remove and Replace Dock

1. APPLICANT INFORMATION:

Name: Mike Buckingham
Mailing Address: 510 Calhoun Ave
Phone: 259-6533 Fax: _____
Email: Mikebuck211@Adl.Com

2. PROPERTY TO BE REVIEWED:

Street Address: 510 Calhoun Ave
Parcel ID #: 00-25-22-0104-0000-0020

3. FEE: ☒ \$50.00 Residential ☐ Cash, Check, MasterCard or Visa
☒ \$100.00 Commercial

Fees must be paid when submitting an application.

4. ADDITIONAL DOCUMENTATION REQUIRED:

- a. Complete detailed drawings and site plan.
- b. Adjacent property owner mailing information.

State and Federal permits required prior to submission for Harbor Board approval. Association approval (if applicable) shall accompany a completed application for a building permit, provided no additional slips are created. (Article 11.05.01B., Land Development Code).

APPLICANT'S SIGNATURE: _____

DATE: 2-18-20

FIGURE 1
LOCATION MAP
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK

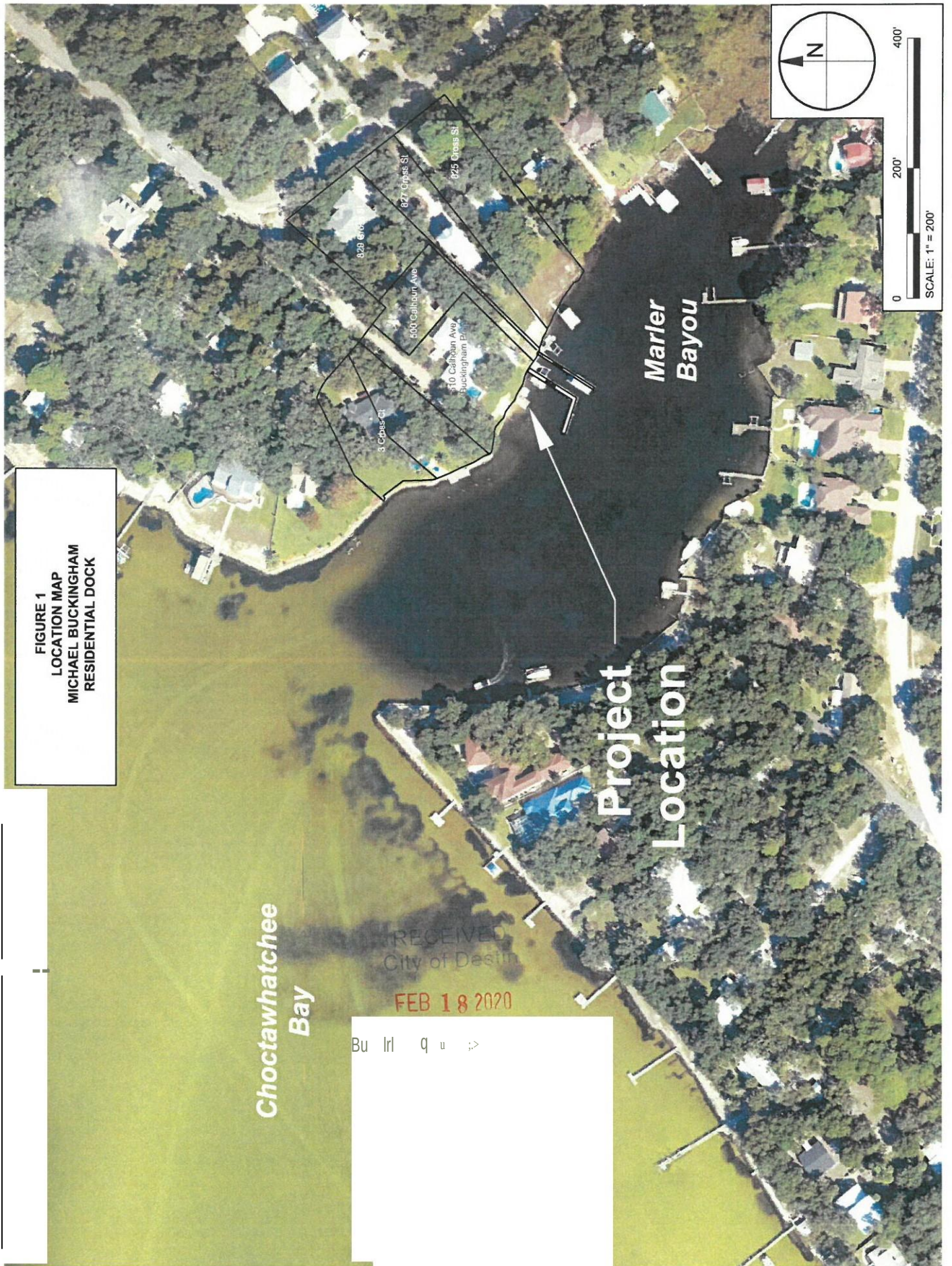


FIGURE2
EXISTING CONDITIONS
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK

Marler
Bayou

Buckingham Dock:

Phillips Dock:

3 Cross Ct

500 Calhoun Ave

510 Calhoun Ave
(Buckingham Property)

829 Cross St

827 Cross St

825 Cross St

Building
FEB 19 2020

REC

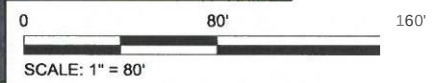
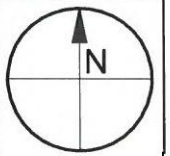


FIGURE 2A
EXISTING CONDITIONS
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK

RECEIVED
City of Destin
FEB 18 2020
Building Department

Buckingham Dock:
~14'W x 19'L
~266 SF Total
1 Slip (20' x 10')

Phillips Dock:
885 SF Total
2 Slips Total

*Marler
Bayou*

EB

0 40' 80'

SCALE: 1" = 40'

FIGURE 3
PROPOSED CONDITIONS
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK

RECEIVED
City of Destin
FEB 18 2020
Building Department

Buckingham Dock:
600 SF Total
1 Slip (26' x 42')

Phillips Dock:
593 SF Removed

Phillips Dock:
292 SF Total Remaining
2 Slips Total
(No Slip Changes)



0 40' 80'
SCALE: 1" = 40'

**FLORIDA DEPARTMENT OF
Environmental Protection**

Ron DeSantis
Governor

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

Receipt for Submission

**SELF-CERTIFICATION FOR A PROJECT AT A
PRIVATE, RESIDENTIAL SINGLE-FAMILY**

02/13/2020

Self-Certification File No.: **0384769001EE**

File Name: **510 Calhoun Ave Destin, FL 32541 - Self-Certification Modify (General)**

Dear **Mike Buckingham**: On **02/13/2020** you used the Florida Department of Environmental Protection's electronic Self Certification Process to certify compliance with the terms and conditions of the Federal State Programmatic General Permit (SPGP) Self Certification Process for a project at private, single-family residence located at:

LAT - Degrees: **30** Minutes: **24** Seconds: **25.6364**
LONG - Degrees: **-86** Minutes: **30** Seconds: **5.1137**
SITE ADDRESS: **510 Calhoun Ave Destin, FL 32541**
COUNTY: **Okaloosa**

For:
Mike Buckingham
510 Calhoun Avenue Destin, FL 32541

You have certified that the project you propose to construct at the above location meets all the conditions of the Self-Certification Process. A project that is built in conformance to those conditions (attached for reference) will:

1. Qualify for a regulatory exemption under Section 403.813(1)(b) of the Florida Statutes (F.S.) and Chapter 62-330, Florida Administrative Code (F.A.C.). As such, it is exempt from the need to obtain a DEP Environmental Resource Permit.;
2. Qualify for Consent by Rule or Letter of Consent (as applicable) under Chapter 253, F.S. and Chapter 18-21, F.A.C. (and Chapter 258, F.S. and Chapter 18-20, F.A.C., if applicable), when the project is located on submerged lands owned by the State of Florida.

Your Self-Certification is based solely on the information you provided under this process, and applies only to the statutes and rules in effect when your certification was completed. The certification is effective only for the specific project proposed, and only if the project is constructed, operated, and maintained in

conformance with all the terms, conditions, and limitations stated in the Self-Certification Process. In addition, any substantial modifications in your plans should be submitted to the Department for review, as changes may result in a permit being required.

You have acknowledged that this Self Certification will automatically expire if:

1. Construction of the project is not completed within one year from the self-certification date;
2. site conditions materially change;
3. the terms, conditions, and limitations of the Self Certification are not followed; or
4. the governing statutes or rules are amended before construction of the project.

Completion of the Self Certification constitutes your authorization for Department or Corps personnel to enter the property for purposes of inspecting for compliance.

Receipt of this Self-Certification constitutes authorization to use sovereignty/state-owned submerged lands, as required by rule 18-21.005, F.A.C.

The authorization must be visibly posted during all construction activities.

In waters that are accessible to manatees, obtain information on your mandatory Manatee Protection sign by clicking [here](#).

FEDERAL STATE PROGRAMMATIC GENERAL PERMIT (SPGP)

Your project does not qualify for Federal Authorization under the State Programmatic General Permit. In addition to the Self-Certification process, you need to apply for federal authorization. Please contact the U.S. Army Corps of Engineers at <http://www.saj.usace.army.mil/Missions/Regulatory.aspx> for further information about how to receive authorization in order to proceed with your project.

ADDITIONAL INFORMATION

This Self-Certification Process does not relieve you from the responsibility of obtaining other permits or authorizations from other agencies (federal, state, Water Management District, or local) that may be required for the project. Failure to obtain all applicable authorizations prior to construction of the project may result in enforcement.

If you have any problems with the attached documents, please call the ERP Coordinator at (850) 245-8495 or by e-mailing us at ERP_eApps@dep.state.fl.us.

Sincerely,
Florida Department of Environmental Protection

Attachments:
FDEP Terms and Conditions



FLORIDA DEPARTMENT OF Environmental Protection

Bob Martinez Center
2600 Blair Stone Road
Tallahassee, Florida 32399-2400

Ron DeSantis
Governor

Jeanette Nuñez
Lt. Governor

Noah Valenstein
Secretary

TERMS AND CONDITIONS

Self Certification File No.: **0384769001EE**

Construction Conditions:

Private residential single family docks are subject to the following criteria in accordance with [Section 403.813\(1\)\(b\), F.S.](#) The dock to be constructed:

1. Has 1,000 square feet or less over water surface (includes adjacent wetlands) in accordance with Chapter 62-340, F.A.C.;
2. Is constructed on or held in place by pilings and is constructed so as not to involve filling or dredging other than that necessary to install the pilings;
3. Will not substantially impede the flow of water, cause water pollution, or create a navigational hazard;
4. Is used **ONLY** for recreational, noncommercial activities associated with the mooring or storage of boats and boat paraphernalia;
5. Is the sole dock on the parcel; and
6. Must not be subject to any conservation easement or restrictive covenant of record prohibiting the activity.

General Conditions for Sovereignty/State-Owned Submerged Lands Authorizations:

Any use of sovereignty/state-owned submerged lands is subject to the following general conditions that are binding upon the applicant and are enforceable under [Chapters 253, F.S.](#) or [258, F.S.](#)

1. Sovereignty/state-owned submerged lands may be used only for the specified activity or use. Any unauthorized deviation from the specified activity or use and the conditions for undertaking that activity or use will constitute a violation. Violation of the authorization will result in suspension or revocation of the applicant's use of the sovereignty/state-owned submerged lands unless cured to the satisfaction of the Board of Trustees of the Internal Improvement Trust Fund (Board).
2. Authorization under Rule 18-21.005, F.A.C., conveys no title to sovereignty/state-owned submerged lands or water column, nor does it constitute recognition or acknowledgment of any other person's title to such land or water.
3. Authorizations under Rule 18-21.005, F.A.C., may be modified, suspended or revoked in accordance with its terms or the remedies provided in Sections 253.04, F.S. or Chapter 18-14, F.A.C.
4. Structures or activities will be constructed and used to avoid or minimize adverse impacts to resources.
5. Construction, use, or operation of the structure or activity will not adversely affect any species which is endangered, threatened or of special concern, as listed in Rules 68A-27.003, 68A-27.004, and 68A-27.005, F.A.C.;

6. Structures or activities will not unreasonably interfere with riparian rights. When a court of competent jurisdiction determines that riparian rights have been unlawfully affected, the structure or activity will be modified in accordance with the court's decision.
7. Structures or activities will not create a navigational hazard.
8. Structures will be maintained in a functional condition and will be repaired or removed if they become dilapidated to such an extent that they are no longer functional.
9. Structures or activities will be constructed, operated, and maintained solely for water dependent purposes.
10. The applicant agrees to indemnify, defend and hold harmless the Board and the State of Florida from all claims, actions, lawsuits and demands in any form arising out of the authorization to use sovereignty/state-owned submerged lands or the applicant's use and construction of structures on sovereignty/state-owned submerged lands. This duty to indemnify and hold harmless will include any and all liabilities that are associated with the structure or activity including special assessments or taxes that are now or in the future assessed against the structure or activity during the period of the authorization.
11. Failure by the Board to enforce any violation of the authorization or waiver by the Board of any provision of the authorization will not invalidate the provision not enforced or waived, nor will the failure or waiver prevent the Board from enforcing the waived or unenforced provision in the event of a future violation of that provision.
12. Applicant binds itself and its successors and assigns to abide by the provisions and conditions set forth in the authorization. If the applicant or its successors or assigns fails or refuses to comply with the provisions and conditions of the authorization, the authorization may be terminated by the Board after written notice to the applicant or its successors or assigns. Upon receipt of such notice, the applicant or its successors or assigns will have thirty (30) days in which to correct the violations. Failure to correct the violations within this period will result in the automatic revocation of this authorization.
13. All costs incurred by the Board in enforcing the terms and conditions of the authorization will be paid by the applicant. Any notice required by law will be made by certified mail at the address shown on page one of the authorization. The applicant will notify the Board in writing of any change of address at least ten days before the change becomes effective.
14. This authorization does not allow any activity prohibited in a conservation easement or restrictive covenant of record that prohibits the activity.

Manatee Conditions:

The following conditions are intended to protect manatees from direct project effects; THESE CONDITIONS APPLY ONLY IN WATERS THAT ARE ACCESSIBLE TO MANATEES:

1. All personnel associated with the project will be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee will advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
2. All vessels associated with the construction project will operate at 'Idle Speed/No Wake' at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
3. Siltation or turbidity barriers will be made of material in which manatees cannot become entangled, will be properly secured, and will be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
4. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not

reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.

5. Any collision with or injury to a manatee will be reported immediately to the FWC Hotline at 1-888-404-FWCC. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida.
6. Temporary signs concerning manatees will be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Awareness signs that have already been approved for this use by the Florida Fish and Wildlife Conservation Commission (FWC) must be used (see MyFWC.com). One sign which reads Caution: Boaters must be posted. A second sign measuring at least 8 1/2" by 11" explaining the requirements for 'Idle Speed/No Wake' and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities.

Self-Certification Requirements:

The user agrees to the following:

1. The information provided herein is true and accurate.
2. **Construction of the project must be completed within one year from the self-certification date.** If the project cannot be completed within that time frame, or the project is to be modified, the Department must be contacted for authorization requirements.
3. Any substantial modifications in the plans for this project must be submitted to the Department for review, as changes may result in a permit being required.
4. This self-certification will automatically expire if site conditions materially change; if the terms, conditions, and limitations of the self-certification are not followed; or if the governing statutes or rules are amended before the project is completed.
5. Department personnel will be allowed to enter the property for purposes of inspecting the project for compliance with the terms and conditions of this self-certification.



DEPARTMENT OF THE ARMY
JACKSONVILLE DISTRICT CORPS OF ENGINEERS
PENSACOLA REGULATORY OFFICE
41 NORTH JEFFERSON STREET, SUITE 301
PENSACOLA, FLORIDA 32502

REPLY TO
ATTENTION OF

June 4, 2020

Regulatory Division
North Permits Branch
Pensacola Permits Section
SAJ-2020-01705 (RGP-MDZ)

Michael Buckingham
510 Calhoun Ave
Destin, FL 32541

Dear Mr. Buckingham:

Your application for a Department of the Army permit has been assigned number SAJ-2020-01705. A review of the information and drawings provided shows the proposed work is to modify two existing piers onsite, labelled the Phillips Dock and the Buckingham Dock. The Phillips Dock comprised of a 6.3-foot by 139-foot L shaped pier with two uncovered boatlifts will be modified by removing 593 square feet of decking. The Phillips Dock will have a 6.3-foot by 46-foot access walkway with the two existing lifts. The Buckingham Dock comprised of a 14-foot by 19-foot platform will be modified by constructing a new 12-foot by 60-foot pier with a 26-foot by 42-foot covered boat lift. The project is located in Marler Bayou, at 520 Calhoun Ave, in Section 00, Township 02 South, Range 22 West, Destin, Okaloosa County, Florida.

Your project, as depicted on the enclosed drawings, is authorized by Regional General Permit (GP) SAJ-20. This authorization is valid until **March 27, 2023**. Please access the Corps' Jacksonville District Regulatory Division Internet page to view the special and general conditions for SAJ-20, which apply specifically to this authorization. The Internet URL address is: <http://www.saj.usace.army.mil/Missions/Regulatory.aspx>

Please be aware this Internet address is case sensitive, and you will need to enter it exactly as it appears above. Once there you will need to click on "Source Book"; and, then click on "General Permits". Then you will need to click on the specific SAJ permit noted above. You must comply with all of the special and general conditions of the permit; and, any project-specific conditions noted below, or you may be subject to enforcement action.

Enclosed is a list of the six General Conditions (Attachment 1), which apply to all Department of the Army authorizations. You must comply with all of the special and general conditions and any project specific condition of this authorization or you may be subject to enforcement action. In the event you have not completed construction of

your project within the specified time limit, a separate application or re-verification may be required.

The following special conditions are included with this verification:

- 1. Reporting Address:** The Permittee shall submit all reports, notifications, documentation and correspondence required by the general and special conditions of this permit to either (not both) of the following address:
 - a. For electronic mail (preferred): SAJ-RD-Enforcement@usace.army.mil (not to exceed 15 MB).
 - b. For standard mail: U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, 41 North Jefferson Street, Suite 301, Pensacola, Florida 32502.
 - c. The Permittee shall reference this permit number, SAJ-2020-01705 (RGP-MDZ), on all submittals.
- 2. Commencement Notification:** Within 10 days from the date of initiating the authorized work, the Permittee shall submit a completed "Commencement Notification" Form (Attachment 2).
- 3. Self-Certification:** Within 60 days of completion of the work authorized by this permit, the Permittee shall complete the attached "Self-Certification Statement of Compliance" form (Attachment 3) and submit it to the Corps. In the event that the completed work deviates in any manner from the authorized work, the Permittee shall describe the deviations between the work authorized by this permit and the work as constructed on the "Self-Certification Statement of Compliance" form. The description of any deviations on the "Self-Certification Statement of Compliance" form does not constitute approval of any deviations by the Corps.
- 4. Agency Changes/Approvals:** Should any other agency require and/or approve changes to the work authorized or obligated by this permit, the Permittee is advised a modification to this permit instrument is required prior to initiation of those changes. It is the Permittee's responsibility to request a modification of this permit from the Pensacola Permits Section. The Corps reserves the right to fully evaluate, amend, and approve or deny the request for modification of this permit.
- 5. Material and Equipment Storage:** No building or fill materials, tools or other equipment shall be stockpiled within waters of the United States.

6. **Copy Retention:** All contractors involved in this permitted activity shall be provided copies of this permit in its entirety. A copy shall remain on site at all times during construction.
7. **Posting of Permit:** The Permittee shall have available and maintain for review a copy of this permit and approved plans at the construction site.
8. **Assurance of Navigation and Maintenance:** The Permittee understands and agrees that, if future operations by the United States require the removal, relocation, or other alteration, of the structures or work herein authorized, or if in the opinion of the Secretary of the Army or his authorized representative, said structure or work shall cause unreasonable obstruction to the free navigation of the navigable waters, the Permittee will be required, upon due notice from the Corps of Engineers, to remove, relocate, or alter the structural work or obstructions caused thereby, without expense to the United States. No claim shall be made against the United States on account of any such removal or alteration.
9. **Turbidity Controls:**
 - a. Shall be used throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
 - b. Shall be made of material in which listed species cannot become entangled (i.e., reinforced impermeable polycarbonate vinyl fabric [PVC]), and shall be monitored to ensure listed species are not entangled or trapped in the project area.
 - c. Shall be removed promptly when the work is complete and the water quality in the project area has returned to background conditions.
 - d. Shall not block entry to or exit from designated critical habitat.
10. **Jacksonville District Programmatic Biological Opinion (JAXBO), November 2017, Project Design Criteria (PDCs):** Structures authorized under this permit must comply with all applicable PDCs, based on the permitted activity, as required by JAXBO. Please note that failure to comply with the applicable PDCs, where a take of listed species occurs, would constitute an unauthorized take, and noncompliance with this permit. The NMFS is the appropriate authority to enforce the terms and conditions of JAXBO. The most current version of JAXBO can be accessed at the Jacksonville District Regulatory Division internet webpage in the

Endangered Species section of the Sourcebook located at:

<http://www.saj.usace.army.mil/Missions/Regulatory/SourceBook.aspx>

Note - JAXBO may be subject to revision at any time. The most recent version of these conditions must be utilized during the design and construction of the permitted work. In accordance with the Endangered Species Act, and for those projects which do not comply with JAXBO, the Corps will seek individual consultation with the NMFS.

Note - some authorized activities may deviate from the PDCs. In cases, where the activity (i.e., structure dimensions, length, etc.) deviates from the PDCs, the permit drawings shall supersede the PDCs.

For each of the following authorized activities subject of this permit, the permittee shall adhere to the following PDCs, which are attached to, and made part of, this authorization/verification letter:

- a. All Project PDCs (Attachment 4)
- b. Activity 2 - Pile-supported Structures and Anchored Buoys: (AP.1-14; A2.1-16; S.1; S.2; S.4) (Attachment 5)

11. Daylight Hours: All activities must be completed during daylight hours.

12. Marine Life Entrapment: Neither reef structure nor material or the method of design or deployment should pose more than minimal risk of entrapping fish, marine turtles, or marine mammals. The Permittee shall take all necessary action to minimize this risk. Any observation of entrapped marine turtles or marine mammals on this artificial reef site should be reported immediately to the Enforcement Section by telephone at 850-433-8860 and the National Marine Fisheries Service by telephone at 727-824-5301.

13. Protected Species Guidance: The Permittee shall comply with the "Vessel Strike Avoidance Measures and Injured or Dead Protected Species Reporting" (Attachment 6), for marine turtles and marine mammals.

14. Manatee Conditions: The Permittee shall comply with the "Standard Manatee Conditions for In-Water Work – 2011" (Attachment 7).

15. Cultural Resources/Historic Properties:

- a. No structure or work shall adversely affect impact or disturb properties listed in the *National Register of Historic Places* (NRHP) or those eligible for inclusion in the NRHP.
- b. If during the ground disturbing activities and construction work within the permit area, there are archaeological/cultural materials encountered which were not the subject of a previous cultural resources assessment survey (and which shall include, but not be limited to: pottery, modified shell, flora, fauna, human remains, ceramics, stone tools or metal implements, dugout canoes, evidence of structures or any other physical remains that could be associated with Native American cultures or early colonial or American settlement), the Permittee shall immediately stop all work and ground-disturbing activities within a 100-meter diameter of the discovery and notify the Corps within the same business day (8 hours). The Corps shall then notify the Florida State Historic Preservation Officer (SHPO) and the appropriate Tribal Historic Preservation Officer(s) (THPO(s)) to assess the significance of the discovery and devise appropriate actions.
- c. Additional cultural resources assessments may be required of the permit area in the case of unanticipated discoveries as referenced in accordance with the above Special Condition ; and if deemed necessary by the SHPO, THPO(s), or Corps, in accordance with 36 CFR 800 or 33 CFR 325, Appendix C (5). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume on non-federal lands without written authorization from the SHPO for finds under his or her jurisdiction, and from the Corps.
- d. In the unlikely event that unmarked human remains are identified on non-federal lands, they will be treated in accordance with Section 872.05 Florida Statutes. All work and ground disturbing activities within a 100-meter diameter of the unmarked human remains shall immediately cease and the Permittee shall immediately notify the medical examiner, Corps, and State Archeologist within the same business day (8-hours). The Corps shall then notify the appropriate SHPO and THPO(s). Based, on the circumstances of the discovery, equity to all parties, and considerations of the public interest, the Corps may modify, suspend or revoke the permit in accordance with 33 CFR Part 325.7. Such activity shall not resume without written authorization from the State Archeologist and from the Corps.

This authorization does not obviate the necessity to obtain any other Federal, State, or local permits, which may be required. Prior to the initiation of any construction,

projects qualifying for this RGP permit must qualify for an exemption under section 403.813(1), F.S. or 373.406, F.S., or otherwise be authorized by the applicable permit required under Part IV of Chapter 373, F.S., by the Department of Environmental Protection, a water management district under section 373.069, F.S., or a local government with delegated authority under section 373.441, F.S., and receive Water Quality Certification (WQC) and applicable Coastal Zone Consistency Concurrence (CZCC) or waiver thereto, as well as any authorizations required for the use of state-owned submerged lands under Chapter 253, F.S., and, as applicable, Chapter 258, F.S. You should check State-permitting requirements with the Florida Department of Environmental Protection or the appropriate water management district.

This authorization does not include conditions that would prevent the 'take' of a state-listed fish or wildlife species. These species are protected under sec. 379.411, Florida Statutes, and listed under Rule 68A-27, Florida Administrative Code. With regard to fish and wildlife species designated as species of special concern or threatened by the State of Florida, you are responsible for coordinating directly with the Florida Fish and Wildlife Conservation Commission (FWC). You can visit the FWC license and permitting webpage (<http://www.myfwc.com/license/wildlife/>) for more information, including a list of those fish and wildlife species designated as species of special concern or threatened. The Florida Natural Areas Inventory (<http://www.fnai.org/>) also maintains updated lists, by county, of documented occurrences of those species.

This authorization does not give absolute Federal authority to perform the work as specified on your application. The proposed work may be subject to local building restrictions mandated by the National Flood Insurance Program. You should contact your local office that issues building permits to determine if your site is located in a flood-prone area, and if you must comply with the local building requirements mandated by the National Flood Insurance Program.

Please note U.S. Coast Guard regulations may require you as permittee to provide information for a Notice to the maritime community regarding your project. You should contact the Coast Guard Sector Mobile Waterways Management Branch (spw), 1500 15th Street, Mobile, AL 36615 or by phone at 251-441-5684 to determine if a Notice is necessary. Also any safety lights, signs and signals prescribed by the U.S. Coast Guard through their regulations or otherwise, must be installed and maintained at your expense as permittee on authorized facilities in navigable waters of the United States. To receive a U.S. Coast Guard Private Aids to Navigation marking determination, you are advised to contact the Eighth Coast Guard District (dpw), 500 Poydras St. Suite 1230, New Orleans, LA 70130, 504-671-2328 or via email to: D8oanPATON@uscg.mil prior to installation/construction of any fixed structures. For general information related

to Private Aids to Navigation please visit the Eighth CG District web site at:
<http://www.atlanticarea.uscg.mil/district-8/district-divisions/waterways/PATON>.

If you are unable to access the internet or require a hardcopy of any of the conditions, limitations, or expiration date for the above referenced RGP, please contact Mia Zarbo by telephone at 850-439-3474.

Thank you for your cooperation with our permit program. The Corps' Jacksonville District Regulatory Division is committed to improving service to our customers. We strive to perform our duty in a friendly and timely manner while working to preserve our environment. We invite you to complete our automated Customer Service Survey at http://corpsmapu.usace.army.mil/cm_apex/f?p=regulatory_survey. Please be aware this Internet address is case sensitive; and, you will need to enter it exactly as it appears above. Your input is appreciated – favorable or otherwise.

Sincerely,

A handwritten signature in black ink, appearing to read 'Mia Zarbo', written in a cursive style.

Mia Zarbo
Project Manager

Enclosures:

- General Conditions
- Commencement Notification Form
- Self-Certification Statement of Compliance Form
- JAXBO PDCs for All Projects
- JAXBO Activity 2 PDCs
- Vessel Strike Avoidance Measures and Species Reporting
- Standard Manatee Conditions for In-Water Work
- Drawings
- Transfer Request Form

Copies Furnished:

CESAJ-SE

GENERAL CONDITIONS
33 CFR PART 320-330

1. The time limit for completing the work authorized ends on the **dates identified in the letter.**
2. You must maintain the activity authorized by this permit in good condition and in conformance with the terms and conditions of this permit. You are not relieved of this requirement if you abandon the permitted activity, although you may make a good faith transfer to a third party in compliance with General Condition 4 below. Should you wish to cease to maintain the authorized activity or should you desire to abandon it without a good faith transfer, you must obtain a modification of this permit from this office, which may require restoration of the area.
3. If you discover any previously unknown historic or archeological remains while accomplishing the activity authorized by this permit, you must immediately notify this office of what you have found. We will initiate the Federal and state coordination required to determine if the remains warrant a recovery effort or if the site is eligible for listing in the National Register of Historic Places.
4. If you sell the property associated with this permit you must obtain the signature of the new owner in the space provided and forward a copy of the permit to this office to validate the transfer of this authorization.
5. If a conditioned water quality certification has been issued for your project, you must comply with the conditions specified in the certification as special conditions to this permit. For your convenience, a copy of the certification is attached if it contains such conditions.
6. You must allow a representative from this office to inspect the authorized activity at any time deemed necessary to ensure that it is being or has been accomplished in accordance with the terms and conditions of your permit.

COMMENCEMENT NOTIFICATION

*Within ten (10) days of initiating the authorized work, submit this form via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, not to exceed 15 MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. Department of the Army Permit Number: SAJ-2020-01705 (RGP-MDZ)

2. Permittee Information:

Name: _____

Email: _____

Address: _____

Phone: _____

3. Construction Start Date: _____

4. Contact to Schedule Inspection:

Name: _____

Email: _____

Phone: _____

Signature of Permittee

Printed Name of Permittee

Date

SELF-CERTIFICATION STATEMENT OF COMPLIANCE

*Within sixty (60) days of completion of the authorized work, submit this form via electronic mail to saj-rd-enforcement@usace.army.mil (preferred, not to exceed 15MB) **or** by standard mail to U.S. Army Corps of Engineers, Enforcement Section, P.O. Box 4970, Jacksonville, FL 32232-0019.*

1. **Department of the Army Permit Number:** SAJ-2020-01705 (RGP-MDZ)

2. **Permittee Information:** Name: _____

Email: _____

Address: _____

Phone: _____

3. **Date Authorized Work Started:** _____ **Completed:** _____

4. **Contact to Schedule Inspection:** Name: _____

Email: _____

Phone: _____

5. **Description of Authorized Work (e.g. bank stabilization, fill placed within wetlands, docks, dredging, etc.):** _____

6. **Acreage or Square Feet of Impacts to Waters of the United States:** _____

7. **Describe Mitigation completed (if applicable):** _____

8. **Describe any Deviations from Permit (attach drawing(s) depicting the deviations):**

I certify that all work and mitigation (if applicable) was done in accordance with the limitations and conditions as described in the permit. Any deviations as described above are depicted on the attached drawing(s).

Signature of Permittee

Printed Name of Permittee

Date

Dated 9/18/2019

AP.1. The applicant must agree to adhere to PDCs for *In-Water Activities* (provided below).

AP.2. All projects involving the installation of piles or sheet piles shall follow the PDCs for *In-Water Noise from Pile and Sheet Pile Installation* (Section 2.2). This Opinion does not cover projects that use seismic surveys, low frequency sonar, explosions, and seismic air guns.

AP.3. All projects proposed in or near areas with mangroves, seagrasses, corals, or hard bottom habitat must refer to PDCs for *Mangroves, Seagrasses, Corals, and Hard Bottom for All Projects* (provided below) to determine whether the project is covered under the Opinion and, if it is covered, to ensure it is sited, designated, and implemented following all of the PDCs in that section.

AP.4. For every project, the USACE must determine if the project is located within:

- Smalltooth sawfish critical habitat limited exclusion zones (Section 2.1.1.1)
- Gulf sturgeon critical habitat migratory restriction zones (Section 2.1.1.2)
- Atlantic sturgeon critical habitat exclusion zone (St. Marys River) (Section 2.1.1.3)
- North Atlantic right whale educational sign zones (Section 2.1.1.4)
- U.S. Caribbean sea turtle critical habitat restriction zones (Section 2.1.1.5)
- Bryde's whale exclusion zone (Section 2.1.1.6)

Where the activity is excluded from the Opinion within a particular zone, the application must be processed under a separate consultation. Where additional restrictions apply to activities within that zone, the USACE or other authorizing entity must ensure that the project meets the requirements for that zone.

AP.5. This Opinion only covers new construction (i.e., installation, repair, replacement) and does not apply to after-the-fact consultations or enforcement actions handled by the USACE.

AP.6. All activities must be completed during daylight hours.

For an activity to be covered under this Opinion, the USACE authorization must include the following conditions. Failure to comply with these conditions could result in enforcement action by the USACE and/or NMFS.

AP.7. Education and Observation: The permittee must ensure that all personnel associated with the project are instructed about the potential presence of species protected under the ESA and the Marine Mammal Protection Act (MMPA). All on-site project personnel are responsible for observing water-related activities for the presence of protected species. All personnel shall be advised that there are civil and criminal penalties for harming, harassing, or killing ESA-listed species or marine mammals. To determine which species may be found in the project area, please review the relevant Protected Species List at: http://sero.nmfs.noaa.gov/protected_resources/section_7/threatened_endangered/index.html

AP.8. Reporting of interactions with protected species:

- a) Any collision(s) with and/or injury to any sea turtle, sawfish, whale, or sturgeon occurring during the construction of a project, shall be reported immediately to NMFS's Protected Resources Division (PRD) at (1-727-824-5312) or by email to takereport.nmfs@noaa.gov and SAJ-RD-Enforcement@usace.army.mil.
- b) Smalltooth sawfish: Report sightings to 1-844-SAWFISH or email Sawfish@MyFWC.com
- c) Sturgeon: Report dead sturgeon to 1-844-STURG 911 (1-844-788-7491) or email nmfs.ser.sturgeonnetwork@noaa.gov
- d) Sea turtles and marine mammals: Report stranded, injured, or dead animals to 1-877-WHALE HELP (1-877-942-5343).
- e) North Atlantic right whale: Report injured, dead, or entangled right whales to the USCG via VHF Channel 16.

AP.9. Vessel Traffic and Construction Equipment: All vessel operators must watch for and avoid collision with species protected under the ESA and MMPA. Vessel operators must avoid potential interactions with protected species and operate in accordance with the following protective measures:

- a) *Construction Equipment:*
 - i) All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while operating in water depths where the draft of the vessel provides less than a 4-foot (ft) clearance from the bottom, and in all depths after a protected species has been observed in and has departed the area.
 - ii) All vessels will follow marked channels and/or routes using the maximum water depth whenever possible.
 - iii) Operation of any mechanical construction equipment, including vessels, shall cease immediately if a listed species is observed within a 50-ft radius of construction equipment and shall not resume until the species has departed the area of its own volition.

- iv) If the detection of species is not possible during certain weather conditions (e.g., fog, rain, wind), then in-water operations will cease until weather conditions improve and detection is again feasible.
- b) *All Vessels:*
 - i) Sea turtles: Maintain a minimum distance of 150 ft.
 - ii) North Atlantic right whale: Maintain a minimum 1,500-ft distance (500 yards).
 - iii) Vessels 65 ft in length or longer must comply with the Right Whale Ship Strike Reduction Rule (50 CFR 224.105) which includes reducing speeds to 10 knots or less in Seasonal Management Areas (<http://www.fisheries.noaa.gov/pr/shipstrike/>).
 - iv) Mariners shall check various communication media for general information regarding avoiding ship strikes and specific information regarding right whale sightings in the area. These include NOAA weather radio, USCG NAVTEX broadcasts, and Notices to Mariners.
 - v) Marine mammals (i.e., dolphins, whales [other than North Atlantic right whales], and porpoises): Maintain a minimum distance of 300 ft.
 - vi) When these animals are sighted while the vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until they have left the area.
 - vii) Reduce speed to 10 knots or less when mother/calf pairs or groups of marine mammals are observed, when safety permits.

AP.10. Turbidity Control Measures during Construction: Turbidity must be monitored and controlled. Prior to initiating any of the work covered under this Opinion, the Permittee shall install turbidity curtains as described below. In some instances, the use of turbidity curtains may be waived by the USACE project manager if the project is deemed too minimal to generate turbidity (e.g., certain ATON installation, scientific survey device placement, marine debris removal) or if the current is too strong for the curtains to stay in place. Turbidity curtains specifications:

- a) Install floating turbidity barriers with weighted skirts that extend to within 1 ft of the bottom around all work areas that are in, or adjacent to, surface waters.
- b) Use these turbidity barriers throughout construction to control erosion and siltation and ensure that turbidity levels within the project area do not exceed background conditions.
- c) Position turbidity barriers in a way that does not block species' entry to or exit from designated critical habitat.
- d) Monitor and maintain turbidity barriers in place until the authorized work has been completed and the water quality in the project area has returned to background conditions.
- e) In the range of ESA-listed corals (St. Lucie Inlet, Martin County south to the Dry Tortugas and the U.S. Caribbean) and Johnson's seagrass (Turkey Creek/Palm Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida):
 - Projects that include upland earth moving (e.g., grading to install a building or parking lot associated with a dock and seawall project), must install sediment control barriers to prevent any upland sediments from reaching estuarine or marine waters.
 - The turbidity curtain requirement cannot be waived for any project that moves or removes sediment (e.g., dredging, auger to create a pile, trenching to install a cable line). If turbidity curtains are not feasible in an area based on site conditions such as water current, high wave action, or stormy conditions, the project must undergo individual Section 7 consultation and is not covered under this Programmatic Opinion.

AP.11. Entanglement: All turbidity curtains and other in-water equipment must be properly secured with materials that reduce the risk of entanglement of marine species (described below). Turbidity curtains likewise must be made of materials that reduce the risk of entanglement of marine species.

- a) In-water lines (rope, chain, and cable, including the lines to secure turbidity curtains) must be stiff, taut, and non-looping. Examples of such lines are heavy metal chains or heavy cables that do not readily loop and tangle. Flexible in-water lines, such as nylon rope or any lines that could loop or tangle, must be enclosed in a plastic or rubber sleeve/tube to add rigidity and prevent the line from looping and tangling. In all instances, no excess line is allowed in the water.
- b) Turbidity curtains and other in-water equipment must be placed in a manner that does not entrap species within the construction area or block access for them to navigate around the construction area.

Note: **For projects authorized in reliance on this Opinion only**, the PDCs below supercede any other guidance documents otherwise applicable to reduce or avoid impacts to mangroves, seagrasses, and corals. This includes the NMFS's *Construction Guidelines in Florida for Minor Piling-Supported Structures Constructed in or over Submerged Aquatic Vegetation, Marsh, or Mangrove Habitat* dated August 2001, and NMFS's *Key for Construction Conditions for Docks or Other Minor Structures Constructed in or over Johnson's Seagrass (Halophila johnsonii)*, dated October 2002. NMFS may still apply these guidance documents in other consultations, including consultations on Essential Fish Habitat under the Magnuson-Stevens Fishery Conservation and Management Act, as appropriate.

AP.12. Mangroves

- To qualify for coverage under this Opinion, all projects must be sited and designed to avoid or minimize impacts to mangroves.
- Mangrove removal must be conducted in a manner that avoids any unnecessary removal and is limited to the following instances:
 - o Removal to install up to a 4-ft-wide walkway for a dock.
 - o Removal to install up to an 8-ft-wide walkway for public docks, where the walkway is necessary to address compliance with the Americans with Disability Act (ADA).
 - o Removal to install culverts necessary to improve water quality or restore hydrology between 2 water bodies. Such mangrove removal is limited to a maximum of 20 linear feet (lin ft) of shoreline per culvert opening.
 - o Removal of mangroves above mean high water (MHW) provided that the tree does not have any prop roots that extend into the water below the MHWL.
- Mangrove Trimming. Mangrove trimming is regulated by FDEP, Puerto Rico Department of Natural and Environmental Resources, and U.S. Virgin Islands Department of Planning and Natural Resources. Consistent with those authorities, when used in this Opinion, mangrove trimming refers to the removal (using hand equipment such as chain saws and/or machetes) of lateral branches (i.e., no alteration of the trunk of the tree) in a manner that ensures survival of the tree. This Opinion does not limit or supersede any restrictions on mangrove removal required under any federal, state, or local law.
 - o This Opinion only covers projects with associated mangrove trimming occurring waterward of MHW if such trimming (1) occurs within the area where the authorized structures are placed or will be placed (e.g., removal of branches that overhang a dock), (2) is necessary to provide temporary construction access, and (3) is conducted in a manner that avoids any unnecessary trimming.
 - o The Opinion does not apply to projects proposing to remove red mangrove prop roots waterward of MHW, except for removal to install the dock walkways, as described above (up to a 4-ft walkway and up to a 8-ft ADA compliant walkway) and to install culverts necessary to improve water quality or restore hydrology between 2 water bodies.

AP.13. Seagrass:

- Pile-supported structures must follow the PDCs for *Docks or Other Minor Structures* (PDC A2.17, Section 2.2.2)

Johnson's seagrass:

- This Opinion does not apply to projects where Johnson's seagrass is found within the project footprint except for:
 - Installation of pile-supported structures that meet the PDCs for *Docks or Other Minor Structures* (PDC A2.17, Section 2.2.2).
 - Maintenance dredging of previously authorized areas. This is limited to the removal of no more than 0.1 acre (ac) (4,356 ft²) of Johnson's seagrass per year (Activity 3; see Section 2.2.3)
 - Transmission/utility line repairs within the same footprint of the lines being repaired (Activity 8; see Section 2.2.8).

Non-listed seagrasses:

- All impacts to non-ESA listed native, non-invasive seagrasses should be avoided and minimized to the extent practicable.
- This Opinion does not apply to projects located within the geographic boundary of U.S. Caribbean sea turtle critical habitat (hawksbill, leatherback, and the NA DPS of green sea turtle critical habitat identified in Section 2.1.1.5) if non-ESA listed, native, non-invasive seagrasses are found within the project footprint.

AP.14. Coral and Hard Bottom Habitat

- This Opinion does not apply to projects that may affect, directly or indirectly, ESA-listed corals.
- Projects occurring within in the Florida Keys National Marine Sanctuary (FKNMS) may require separate consultation or authorization from NOAA's FKNMS. Projects authorized to occur in the FKNMS shall comply with any measures NOAA FKNMS has developed to avoid, minimize, and/or mitigate any effects on non-listed corals. For projects occurring outside of the FKNMS, if non-listed corals are found within the project footprint, we recommend relocating all non-listed corals, when possible, in a manner that is protective of the corals.
- This Opinion does not apply to projects where hard bottom habitat is found within the project footprint, except for the temporary placement (up to 24 months) of scientific survey devices (Activity 5) that have a footprint of less than 1 square foot (ft²) per device and are installed in a manner that does not permanently alter the hardbottom (e.g., the devices are not installed by drilling). For this Opinion, we define hard bottom in 2 ways:
 - Natural consolidated hard substrate that is suitable to support corals, coral larval settlement, reattachment and recruitment of asexual coral fragments. These areas of hard bottom or dead coral skeleton must be free from fleshy or turf macroalgae cover and sediment cover.

- Nearshore and surf-zone, low-profile hard bottom outcroppings (e.g., worm-rock reef [sabellariid worm reefs] and eolianite, granodiorite). This habitat can be persistent or ephemeral, cycling through periods of exposure and cover by sand. The range of this hard bottom habitat extends along the southeastern coast of Florida from Cape Canaveral to Miami-Dade County and in the U.S. Caribbean. It is an important developmental habitat for juvenile hawksbill and green sea turtles, which use it for both foraging and refuge.

Open Water

The letters A-E in the tables below specify the PDC category. Activities labeled A-D must follow the corresponding PDCs for labeled Category A-D below. Activities labeled E are excluded from this Opinion, as stated in Category E below.

	Trench and fill	Pilot hole (auger or drop punch)	Jetting	Vibratory	Impact hammer
Wood piles 14-inch (in) diameter or less when installed via impact hammer and 36-in or less for all other installation methods	A	A	A	A	B
Concrete pile 24-in diameter/width or less in open water	A	A	A	A	B
Metal pipe pile 36-in diameter or less	A	A	A	A	E
2 metal boatlift I-beams	A	A	A	A	B
Concrete slab wall- any size	A	A	A	A	B
Vinyl sheet pile- any size	A	A	A	A	B
Metal sheet pile- any size	A	A	A	A	E

Confined Space

In Florida, we consider the confined space to be any area that has a solid object (e.g., shorelines or seawalls) within 150 ft of the pile installation site and in the U.S. Caribbean we consider confined space to be any area that has a solid object within 260 ft of the pile installation site.

	Trench and fill	Pilot hole (auger or drop punch)	Jetting	Vibratory	Impact hammer
Wood pile 14-in diameter or less when installed via impact hammer and 36-in or less for all other installation methods	A	A	A	A	B
Concrete pile 24-in diameter/width or less (5 piles or less installed/day)	A	A	A	A	C
Concrete pile 24-in diameter/width or less (6-10 piles installed/day)	A	A	A	A	D
Metal pipe pile 36-in diameter or less	A	A	A	A	E

2 metal boatlift I-beams	A	A	A	A	B
Vinyl sheet pile – any size	A	A	A	A	B
Concrete slab wall- any size (5 slabs or less installed/day)	A	A	A	A	C
Concrete slab wall- any size (6-10 slabs installed/day)	A	A	A	A	D
Metal sheet pile- any size	A	A	A	A	E

A. The Projects identified as A above must comply with PDCs identified for all projects in this Opinion. Specific PDCs related to noise include:

1. All work must occur during daylight hours only (PDC AP.6).
2. All construction personnel are responsible for observing water-related activities to detect the presence of these species and avoid them (PDC AP.7).

B. The projects identified as B above must follow all of the conditions under A, above, AND also must limit the maximum number of piles installed per day to no more than 10 piles per day.

C. The projects identified as C above must follow all of the conditions under A, above, AND also must limit the maximum number of piles installed per day to no more than 5 piles per day.

D. The projects identified as D above must follow all of the conditions under A and B, above, AND also must abide by one of the noise abatement measures below, as chosen by the applicant:

1. Bubble curtain: The bubble curtain design must adhere to the guidelines for unconfined and confined bubble curtains described in Appendix B.
2. Temporary noise attenuation pile (TNAP) also known as a pile isolation casing: The TNAP design must be constructed of a double-walled tubular casing (a casing within a larger casing), with at least a 5-in-wide area between the casings that is dewatered to create a hollow space or 5-in wide area between the casings completely filled with closed-cell foam or other noise dampening material between the walls. The TNAP must be long enough to be seated firmly on the sea bottom, fit over the pile being driven, and extend at least 3 ft above the surface of the water.
3. The use of any other alternative noise control method must receive prior approval by NMFS and the USACE, as described in Section 2.3.

E. The projects identified as E are not covered under this Opinion.

Activity 2 (A2): Pile-Supported Structures and Anchored Buoys

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Project Design Criteria

PDCs Specific to Activity 2 - Pile-Supported Structures and Anchored Buoys:

A2.1. Activities covered by this Opinion include the installation, repair, replacement, and removal of structures as described below:

- A2.1.1. The pile-supported and anchored structures included in this Opinion are: docks and piers, boatlifts, mooring piles and dolphin piles associated with docks/piers; ATONs and PATONs; floating docks; pile-supported chickees (i.e., small, back-country, over-water, pile-supported, primitive camping shelters); boardwalks (as long as they are designed and clearly marked to prohibit fishing and vessel mooring); mooring fields and buoys; and other minor pile-supported structures. This does not include structures that support large commercial vessels including ferries, tankers, and cargo ships such as ferry terminals and large ports.
- A2.1.2. Pile-supported docks/piers for a single-family residential lot are limited to 4 slips for motorized vessels. Slips for non-motorized vessels (e.g., kayak, canoe, and paddleboard) and associated launching areas do not count toward the total slip number.
- A2.1.3. Pile-supported structures for marinas, multi-family facilities (e.g., condo complexes, trailer parks, subdivisions when the homeowners association owns and controls the in-water structures). Docks and piers for multi-family residential properties (e.g., condos, trailer parks, apartment complexes), and marinas are limited to a maximum of 50 total slips (i.e., combination of wet and dry slips for existing plus proposed slips).
- A2.1.4. Anchored buoys and temporary pile-supported structures associated with marine events. Upon completion of the event, these structures must be removed and, to the maximum extent practical, the site must be restored to pre-construction elevations. Water depths in the area of marine events must be deep enough to support at least 5 ft of water depth under the keel of a vessel and between the keel of a vessel and ESA-listed coral colonies when transiting to the mooring areas. There is no limit on the number of vessel slips allowed for temporary structures associated marine events such as boat shows.
- A2.1.5. Mooring fields are limited to a maximum of 50 motorized vessels (there is no limit on the number of non-motorized vessels).
- A2.1.6. All pile-supported structures constructed must comply with PDC 2.17 for *Docks or Other Minor Structures Constructed in Florida Under this Opinion* (see below).

The following PDCs apply to all the activities described in PDC A2.1 above:

A2.2. For commercial, multi-family, or public facilities, and marine events, signs must be posted in a visible location(s), alerting users of listed species in the area susceptible to vessel strikes and hook-and-line captures. The most current version of the signs that must be downloaded and sign installation guidance are available at:

(http://sero.nmfs.noaa.gov/protected_resources/section_7/protected_species_educational_signs/index.html). The signs required to be posted by area are stated below:

- A2.2.1. All projects in Florida shall use the Save Sea Turtle, Sawfish, and Dolphin sign. These signs shall include contact information to the sea turtle and marine mammal stranding networks and smalltooth sawfish encounter database.
- A2.2.2. Projects within the North Atlantic right whale educational sign zone (as defined in Section 2.1.1.4) shall post the Help Protect North Atlantic Right Whales sign.
- A2.2.3. On the east coast of Florida, projects located within the St. John's River and those occurring north of the St. Johns River to the Florida-Georgia line shall post the Report Sturgeon sign. On the west coast of Florida, projects occurring from the Cedar Key, Florida north to the Florida-Alabama line.
- A2.2.4. We are still developing the signs to be used in the U.S. Caribbean. Once developed, those signs will be included at the website above.
- A2.3. For commercial, multi-family, or public facilities, monofilament recycling bins must be provided at the docking facility to reduce the risk of turtle or sawfish entanglement in, or ingestion of, marine debris. Monofilament recycling bins must:
 - A2.3.1. Be constructed and labeled according to the instructions provided at <http://mrrp.myfwc.com>.
 - A2.3.2. Be maintained in working order and emptied frequently (according to <http://mrrp.myfwc.com> standards) so that they do not overflow.
- A2.4. For any dock project (new construction, repair, or replacement) at a private residence located within 11 nautical miles of North Atlantic right whale critical habitat (as measured in a radius from the center of the nearest inlet to open ocean and described in Section 2.1.1.4), the property owner will be provided a handout with their USACE permit describing the presence of North Atlantic right whales in the area and the Federal regulations governing the approach to North Atlantic right whales (Appendix C).
- A2.5. ATONs and PATONs must be approved by and installed in accordance with the requirements of the USCG (see 33 CFR, chapter I, subchapter C, part 66 and RHA Section 10 and any other pertinent requirements).
- A2.6. Chickees must be less than 500 ft² and support no more than 2 slips.
- A2.7. No activities associated with municipal or commercial fishing piers are covered under this Opinion.
- A2.8. Docks installed within visible distance of ocean beaches are required to comply with turtle-friendly lighting, if lighting is necessary to the project. Turtle-friendly lighting is explained and examples are provided on the Florida Fish and Wildlife Conservation Commission website: <http://myfwc.com/wildlifehabitats/managed/sea-turtles/lighting/>
- A2.9. Project construction will take place from uplands or from floating equipment (e.g., barge); prop or wheel-washing is prohibited.

Additional PDCs for Activity 2 applicable in critical habitat:

In addition to the PDCs above, the project must be designed to meet the following PDCs if the project occurs in the critical habitat as described below.

- A2.10. *Acropora* critical habitat and the U.S. Caribbean: This Opinion does not cover new and expanded pile-supported structures in *Acropora* critical habitat where the essential features are present. The distance from ATONs to ESA-listed corals and *Acropora* critical habitat shall ensure there are no impacts to the corals or the essential feature of *Acropora* critical habitat from the movement of buoys and tackle. The appropriate distance shall be based on the size of the anchor chain or other tackle to be installed to secure the buoy to its anchor, particularly when the design of the ATON does not prohibit contact of tackle with the marine bottom. In all cases, buoy tackle will include flotation to ensure there is no contact between the anchor chain or line and the marine bottom.
- A2.11. Gulf sturgeon critical habitat: Additional noise restrictions are required for pile and sheet pile installation in the Gulf sturgeon critical habitat migratory restriction zones defined in Section 2.1.1.2. The noise restrictions are described in that section.
- A2.12. Smalltooth sawfish critical habitat: This Opinion does not cover activities occurring in areas identified as smalltooth sawfish limited exclusion zones defined in Section 2.1.1.1.
- A2.13. North Atlantic right whale critical habitat: This Opinion does not cover installation of anchored ATONs and permanent buoys in North Atlantic right whale critical habitat; temporary buoys for marine events are allowed in North Atlantic right whale critical habitat.
- A2.14. Johnson's seagrass critical habitat: This Opinion does not cover new marinas or multi-family facilities in Johnson's seagrass critical habitat. Repair, replacement, and reconfiguration of existing marinas or multi-family facilities may be covered if it (1) occurs within same overall footprint (out to the perimeter of the facility, including the outer limits of the structure and permitted mooring locations), (2) does not increase the total aerial extent (i.e., area of coverage from the dock structures) of the existing facility, and (3) does not affect Johnson's seagrass. Mooring fields are allowed in Johnson's seagrass critical habitat and within the range of Johnson's seagrass so long as they occur in waters deeper than -13 ft (-4 m).
- A2.15. NWA DPS of loggerhead sea turtle critical habitat: ATONs (pile-supported and anchored buoys) are allowed in nearshore reproductive habitat of the NWA DPS of loggerhead sea turtles under this Opinion. No other pile-supported structures are allowed in nearshore reproductive habitat under this Opinion.
- A2.16. U.S. Caribbean sea turtle critical habitat (hawksbill, leatherback, and the NA DPS of green sea turtle critical habitat): ATONs (pile-supported and anchored buoys) are

allowed near sea turtle nesting beaches under this Opinion. No other pile-supported structures are allowed near sea turtle nesting beaches under this Opinion.

A2.17. PDCs for Docks or Other Minor Structures

These PDCs address the anticipated dock construction scenarios expected within Florida and the U.S. Caribbean and provide NMFS PRD's construction guidelines for projects occurring (1) within Johnson's seagrass critical habitat; (2) within the range of Johnson's seagrass¹, but outside of Johnson's seagrass critical habitat; and (3) outside of both the range and critical habitat for Johnson's seagrass. These scenarios consider whether a seagrass survey was conducted for projects within the range of Johnson's seagrass or located in Johnson's seagrass critical habitat. Surveys must be completed no earlier than 1 year before submitting the application to the action agency for project authorization. There is no seasonal restriction for Johnson's seagrass surveys; however, Johnson's seagrass is found within the range of other seagrass species that exhibit a seasonal pattern of growth and distribution. For comparison, NMFS Habitat Conservation Division's recommended sampling window for non-listed species is June 1 to September 30.

Dock Construction Scenarios

	Within Johnson's seagrass critical habitat	Within the Range of Johnson's seagrass (outside of critical habitat)	In the U.S. Caribbean and Florida (outside of the range and critical habitat of Johnson's seagrass)
Dock replacement in the exact footprint (i.e., same location/configuration/ size) as the previous dock with...			
No native seagrass under dock	A	A	A
Johnson's seagrass under dock	B	B	N/A
Native seagrass, other than Johnson's seagrass, under the dock	B	A	A
No current seagrass survey	B	B	A
New docks or dock expansions with...			
No native seagrasses within property limits	B	A	A
Johnson's seagrass within property limits	B	B	N/A

¹ The range of Johnson's seagrass is defined as Turkey Creek/Palm Bay south to central Biscayne Bay in the lagoon systems on the east coast of Florida

Native seagrass, other than Johnson's seagrass, within property limits	B	A	A
No current seagrass survey	B	B	A

A= No additional PDCs

B= Dock must meet PDCs below

N/A = not applicable; Johnson's seagrass could not occur under the dock because the dock project is outside the range of Johnson's seagrass

Dock PDCs for Scenario B in the table above:

1. To avoid and minimize impacts to Johnson's seagrass and native, non-listed seagrasses to the maximum extent practicable:
 - The dock must be positioned to avoid and minimize effects to Johnson's seagrass
 - Over any area that contains Johnson's seagrass or native, non-listed seagrasses, the dock shall be oriented in a north-south orientation to the maximum extent that is practicable to allow maximum sunlight under the structure.
 - If practicable, terminal platforms shall be placed in deep water, waterward of Johnson's seagrass beds or native, non-listed seagrasses beds or in an area devoid of Johnson's seagrass or native, non-listed seagrasses.
 - Piles must be spaced a minimum of 10 ft apart in any area that contains Johnson's seagrass to minimize direct impacts.
 - Piles shall be installed in a manner that will not result in the formation of sedimentary deposits (e.g., donuts or halos) around the newly installed pilings.
 - No covered boat lifts are allowed over any Johnson's seagrass.
2. Decking options: Deck surfaces (parallel with the water) that are located waterward of the MHWL must be constructed of grated materials or plank construction or a combination of the both methods (e.g. plank decking on the walkway and grated decking on the terminal platform). These decking options are described below:

Grated decking:

- Height requirement: The surface of the structure, including the dock walkway (the over-water narrow portion connecting the terminal platform to the shore and any over-water ramp required for access) and the dock, must be a minimum of 3 ft above MHW when constructed with grated decking.
- Size limitations: The dock walkway is limited to a width of 4 ft. The terminal platform is limited to a total area of 160 ft². Marginal docks are limited to a width of 5 ft. The 5 ft width restriction is measured from wet side of the seawall. For example, if a seawall cap is 3 feet overwater then the dock would be limited to 2 feet.
- Material description: Decking materials shaped in the form of grids, grates, lattices, etc., to allow the passage of light through the open spaces. These materials must provide a minimum of 43% open space.

Plank decking:

- Height requirement: The surface of the structure, including the dock walkway (the over-water narrow portion connecting the terminal platform to the shore and any over-

water ramp required for access) and the dock, must be a minimum of 5 ft above MHW when constructed of plank decking.

- Size limitations: The dock walkway is limited to a width of 4 ft. The terminal platform is limited to a total area of 120 ft². Marginal docks are limited to a width of 5 ft.
- Material description: Deck boards may be constructed of any material. Deck boards must be installed to provide a minimum of a 0.5-in gap between individual deck boards



Vessel Strike Avoidance Measures and Reporting for Mariners NOAA Fisheries Service, Southeast Region

Background

The National Marine Fisheries Service (NMFS) has determined that collisions with vessels can injure or kill protected species (e.g., endangered and threatened species, and marine mammals). The following standard measures should be implemented to reduce the risk associated with vessel strikes or disturbance of these protected species to discountable levels. NMFS should be contacted to identify any additional conservation and recovery issues of concern, and to assist in the development of measures that may be necessary.

Protected Species Identification Training

Vessel crews should use an Atlantic and Gulf of Mexico reference guide that helps identify protected species that might be encountered in U.S. waters of the Atlantic Ocean, including the Caribbean Sea, and Gulf of Mexico. Additional training should be provided regarding information and resources available regarding federal laws and regulations for protected species, ship strike information, critical habitat, migratory routes and seasonal abundance, and recent sightings of protected species.

Vessel Strike Avoidance

In order to avoid causing injury or death to marine mammals and sea turtles the following measures should be taken when consistent with safe navigation:

1. Vessel operators and crews shall maintain a vigilant watch for marine mammals and sea turtles to avoid striking sighted protected species.
2. When whales are sighted, maintain a distance of 100 yards or greater between the whale and the vessel.
3. When sea turtles or small cetaceans are sighted, attempt to maintain a distance of 50 yards or greater between the animal and the vessel whenever possible.
4. When small cetaceans are sighted while a vessel is underway (e.g., bow-riding), attempt to remain parallel to the animal's course. Avoid excessive speed or abrupt changes in direction until the cetacean has left the area.
5. Reduce vessel speed to 10 knots or less when mother/calf pairs, groups, or large assemblages of cetaceans are observed near an underway vessel, when safety permits. A single cetacean at the surface may indicate the presence of submerged animals in the vicinity; therefore, prudent precautionary measures should always be exercised. The vessel shall attempt to route around the animals, maintaining a minimum distance of 100 yards whenever possible.

6. Whales may surface in unpredictable locations or approach slowly moving vessels. When an animal is sighted in the vessel's path or in close proximity to a moving vessel and when safety permits, reduce speed and shift the engine to neutral. Do not engage the engines until the animals are clear of the area.

Additional Requirements for the North Atlantic Right Whale

1. If a sighted whale is believed to be a North Atlantic right whale, federal regulation requires a minimum distance of 500 yards be maintained from the animal (50 CFR 224.103 (c)).
2. Vessels entering North Atlantic right whale critical habitat are required to report into the Mandatory Ship Reporting System.
3. Mariners shall check with various communication media for general information regarding avoiding ship strikes and specific information regarding North Atlantic right whale sighting locations. These include NOAA weather radio, U.S. Coast Guard NAVTEX broadcasts, and Notices to Mariners. Commercial mariners calling on United States ports should view the most recent version of the NOAA/USCG produced training CD entitled "A Prudent Mariner's Guide to Right Whale Protection" (contact the NMFS Southeast Region, Protected Resources Division for more information regarding the CD).
4. Injured, dead, or entangled right whales should be immediately reported to the U.S. Coast Guard via VHF Channel 16.

Injured or Dead Protected Species Reporting

Vessel crews shall report sightings of any injured or dead protected species immediately, regardless of whether the injury or death is caused by your vessel.

Report marine mammals to the Southeast U.S. Stranding Hotline: 877-433-8299

Report sea turtles to the NMFS Southeast Regional Office: 727-824-5312

If the injury or death of a marine mammal was caused by a collision with your vessel, responsible parties shall remain available to assist the respective salvage and stranding network as needed. NMFS' Southeast Regional Office shall be immediately notified of the strike by email (takereport.nmfs@noaa.gov) using the attached vessel strike reporting form.

For additional information, please contact the Protected Resources Division at:

NOAA Fisheries Service
Southeast Regional Office

263 13th Avenue South
St. Petersburg, FL 33701

Tel: (727) 824-5312

Visit us on the web at <http://sero.nmfs.noaa.gov>

STANDARD MANATEE CONDITIONS FOR IN-WATER WORK

2011

The permittee shall comply with the following conditions intended to protect manatees from direct project effects:

- a. All personnel associated with the project shall be instructed about the presence of manatees and manatee speed zones, and the need to avoid collisions with and injury to manatees. The permittee shall advise all construction personnel that there are civil and criminal penalties for harming, harassing, or killing manatees which are protected under the Marine Mammal Protection Act, the Endangered Species Act, and the Florida Manatee Sanctuary Act.
- b. All vessels associated with the construction project shall operate at "Idle Speed/No Wake" at all times while in the immediate area and while in water where the draft of the vessel provides less than a four-foot clearance from the bottom. All vessels will follow routes of deep water whenever possible.
- c. Siltation or turbidity barriers shall be made of material in which manatees cannot become entangled, shall be properly secured, and shall be regularly monitored to avoid manatee entanglement or entrapment. Barriers must not impede manatee movement.
- d. All on-site project personnel are responsible for observing water-related activities for the presence of manatee(s). All in-water operations, including vessels, must be shutdown if a manatee(s) comes within 50 feet of the operation. Activities will not resume until the manatee(s) has moved beyond the 50-foot radius of the project operation, or until 30 minutes elapses if the manatee(s) has not reappeared within 50 feet of the operation. Animals must not be herded away or harassed into leaving.
- e. Any collision with or injury to a manatee shall be reported immediately to the Florida Fish and Wildlife Conservation Commission (FWC) Hotline at 1-888-404-3922. Collision and/or injury should also be reported to the U.S. Fish and Wildlife Service in Jacksonville (1-904-731-3336) for north Florida or Vero Beach (1-772-562-3909) for south Florida, and to FWC at ImperiledSpecies@myFWC.com
- f. Temporary signs concerning manatees shall be posted prior to and during all in-water project activities. All signs are to be removed by the permittee upon completion of the project. Temporary signs that have already been approved for this use by the FWC must be used. One sign which reads *Caution: Boaters* must be posted. A second sign measuring at least 8 ½" by 11" explaining the requirements for "Idle Speed/No Wake" and the shut down of in-water operations must be posted in a location prominently visible to all personnel engaged in water-related activities. These signs can be viewed at MyFWC.com/manatee. Questions concerning these signs can be sent to the email address listed above.

CAUTION: MANATEE HABITAT

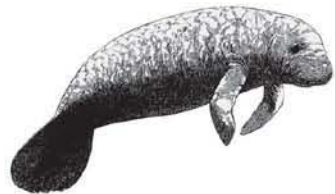
All project vessels

IDLE SPEED / NO WAKE

When a manatee is within 50 feet of work
all in-water activities must

SHUT DOWN

Report any collision with or injury to a manatee:



Wildlife Alert:

1-888-404-FWCC(3922)

cell *FWC or #FWC

FIGURE 1
LOCATION MAP
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK

*Choctawhatchee
Bay*

**Project
Location**

*Marler
Bayou*

3 Cross Ct

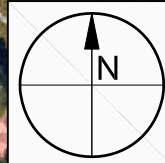
829 Cross St

827 Cross St

500 Calhoun Ave

10 Calhoun Ave
Buckingham Pk

825 Cross St



0 200' 400'
SCALE: 1" = 200'

FIGURE 2
EXISTING CONDITIONS
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK

3 Cross Ct

829 Cross St

500 Calhoun Ave

827 Cross St

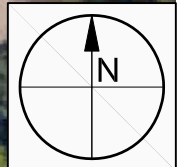
510 Calhoun Ave
Buckingham Property

825 Cross St

Buckingham Dock:

Phillips Dock:

**Marler
Bayou**



0 80' 160'
SCALE: 1" = 80'

FIGURE 2A
EXISTING CONDITIONS
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK

Buckingham Dock:
~14'W x 19'L
~266 SF Total
1 Slip (20' x 10')

Phillips Dock:
885 SF Total
2 Slips Total

*Marler
Bayou*

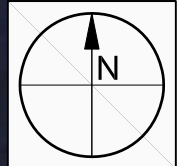
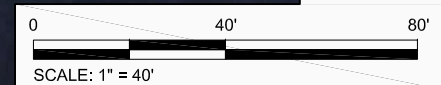
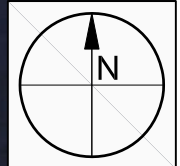


FIGURE 3
PROPOSED CONDITIONS
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK

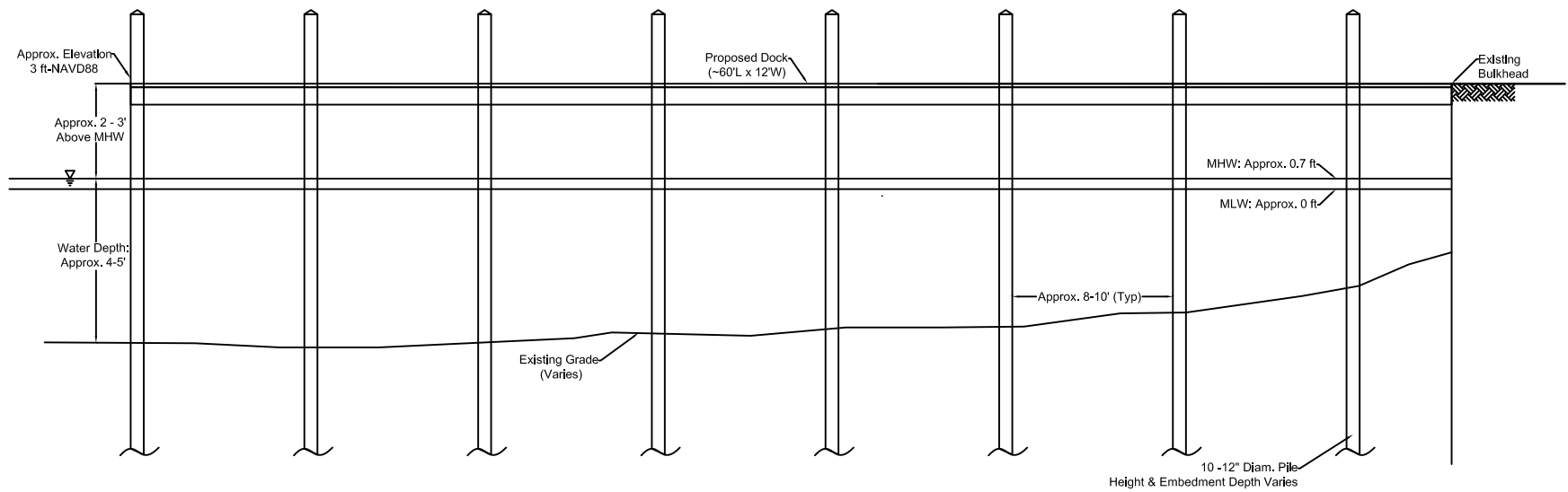
Buckingham Dock:
720 SF Total
1 Slip (26' x 42')

Phillips Dock:
593 SF Removed

Phillips Dock:
292 SF Total Remaining
2 Slips Total
(No Slip Changes)



FIGUR4
PROPOSED DOCK CROSS-SECTION
MICHAEL BUCKINGHAM
RESIDENTIAL DOCK



NOT TO SCALE

DEPARTMENT OF THE ARMY PERMIT TRANSFER REQUEST

PERMIT NUMBER: SAJ-2020-01705 (RGP-MDZ)

When the structures or work authorized by this permit are still in existence at the time the property is transferred, the terms and conditions of this permit will continue to be binding on the new owner(s) of the property. Although the construction period for works authorized by Department of the Army permits is finite, the permit itself, with its limitations, does not expire.

To validate the transfer of this permit and the associated responsibilities associated with compliance with its terms and conditions, have the transferee sign and date below and mail to the U.S. Army Corps of Engineers, Regulatory Division, Enforcement Section, Terry Wells, 41 North Jefferson Street, Suite 301, Pensacola, Florida 32502.

(TRANSFeree-SIGNATURE)

(SUBDIVISION)

(DATE)

(LOT)

(BLOCK)

(NAME-PRINTED)

(STREET ADDRESS)

(MAILING ADDRESS)

(CITY, STATE, ZIP CODE)

CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Action Item

TO: City Council

THRU: Lance Johnson, City Manager

FROM: Kyle Bauman, City Attorney

DATE: July 1, 2020

SUBJECT: Extensions 11 and 12 to the Amended COVID-19 Declaration of State of Emergency

I. BACKGROUND: On May 8, 2020, Governor DeSantis issued Executive Order 20-114, which extended the statewide State of Emergency through July 7, 2020. Given the statewide increase in COVID-19 cases, Governor DeSantis is expected to again extend the State of Emergency.

II. DISCUSSION: To ensure that the City maintains maximum flexibility to respond to the unpredictable COVID-19 virus and can continue conducting meeting through use of communications media technology, the City Council should authorize the City Manager to execute the attached Extensions to the Amended Declaration of State of Emergency.

A. Link to Strategic Goals / Objectives:

B. Effect on Budget (EOB):

C. Level of Service (LOS):

III. CONCLUSION:

IV. RECOMMENDED MOTION: I move to authorize and direct the City Manager to execute Extensions 11 and 12 to the Amended Declaration of State of Emergency if the City Manager determines that an emergency still exists on July 6 and June 13, respectively.

Attachments:

1. COVID 19 Declaration of SOE -
Extension No 11
2. COVID 19 Declaration - Extension
No. 12

**EXTENSION NO. 11 – FIRST AMENDED DECLARATION OF STATE OF
EMERGENCY – NOVEL CORONAVIRUS, COVID-19
CITY OF DESTIN, FLORIDA**

WHEREAS, on March 1, 2020, Governor Ron DeSantis issued Executive Order No. 20-51 directing the Florida Department of Health to issue a Public Health Emergency, which direction was followed by the appropriate agencies; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order No. 20-52 declaring a State of Emergency for every county in Florida for COVID-19; and

WHEREAS, on March 18, 2020, the Mayor and City Manager of the City of Destin, Florida (the “City”) jointly issued a Declaration of a State of Emergency (the “COVID-19 Declaration”) in response to COVID-19; and

WHEREAS, there is law potentially limiting the COVID-19 Declaration’s effect to a period of only seven (7) days; and

WHEREAS, the conditions continue to exist requiring the extension of the COVID-19 Declaration; and

WHEREAS, on March 25, 2020, the Mayor and City Manager jointly issued Extension Number 1 to the COVID-19 Declaration;

WHEREAS, on April 1, 2020, the COVID-19 Declaration and Extension Number 1 thereto were duly ratified and approved by the Destin City Council; and

WHEREAS, on April 1, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 2 to the COVID-19 Declaration; and

WHEREAS, on April 6, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 3 to the COVID-19 Declaration if the City Manager determines that the emergency continues to exist on April 8, 2020; and

WHEREAS, on April 6, 2020 the Destin City Council authorized and directed the City Manager to issue Extension Number 4 to the COVID-19 Declaration if the City Manager determines that the emergency continues to exist on April 15, 2020; and

WHEREAS, on April 20, 2020, the Destin City Council authorized and directed the City Manager to issue the First Amended Declaration of State of Emergency relating to the novel coronavirus, COVID-19; and

WHEREAS, on April 20, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 1 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on April 27, 2020; and

WHEREAS, on April 20, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 2 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on May 4, 2020; and

WHEREAS, on May 4, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 3 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist of May 11, 2020; and

WHEREAS, on May 4, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 4 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on May 18, 2020; and

WHEREAS, on May 18, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 5 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on May 25, 2020; and

WHEREAS, on May 18, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 6 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 1, 2020; and

WHEREAS, on June 1, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 7 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 8, 2020; and

WHEREAS, on June 1, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 8 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 15, 2020; and

WHEREAS, On June 15, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 9 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 22, 2020; and

WHEREAS, on June 15, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 10 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 29, 2020; and

WHEREAS, on July 6, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 11 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on July 6, 2020.

NOW THEREFORE, in consideration of the recitals above, all of which are incorporated herein below by reference, the City Manager hereby extends the Amended COVID-19 Declaration, and further states:

Section 1. COVID-19 Declaration Extended.

1. The COVID-19 Declaration is hereby extended for the maximum amount of time allowed by law or until the City Council determines that a state of emergency no longer exists. However, this the state of emergency shall not exceed any Executive Order from the Governor revoking or withdrawing Executive Order 20-52 and if Executive Order 20-52 is revoked or withdrawn, then this State of Emergency shall terminate automatically and without further action by the City Manager or City Council.

DULY EXECUTED this 6th day of July, 2020.

Lance Johnson, City Manager

Date: _____

Attest:

Approved as to form and legal
sufficiency:

Rey Bailey, City Clerk

Date: _____

Kyle Bauman, City Attorney

Date: _____

**EXTENSION NO. 12 – FIRST AMENDED DECLARATION OF STATE OF
EMERGENCY – NOVEL CORONAVIRUS, COVID-19
CITY OF DESTIN, FLORIDA**

WHEREAS, on March 1, 2020, Governor Ron DeSantis issued Executive Order No. 20-51 directing the Florida Department of Health to issue a Public Health Emergency, which direction was followed by the appropriate agencies; and

WHEREAS, on March 9, 2020, Governor Ron DeSantis issued Executive Order No. 20-52 declaring a State of Emergency for every county in Florida for COVID-19; and

WHEREAS, on March 18, 2020, the Mayor and City Manager of the City of Destin, Florida (the “City”) jointly issued a Declaration of a State of Emergency (the “COVID-19 Declaration”) in response to COVID-19; and

WHEREAS, there is law potentially limiting the COVID-19 Declaration’s effect to a period of only seven (7) days; and

WHEREAS, the conditions continue to exist requiring the extension of the COVID-19 Declaration; and

WHEREAS, on March 25, 2020, the Mayor and City Manager jointly issued Extension Number 1 to the COVID-19 Declaration;

WHEREAS, on April 1, 2020, the COVID-19 Declaration and Extension Number 1 thereto were duly ratified and approved by the Destin City Council; and

WHEREAS, on April 1, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 2 to the COVID-19 Declaration; and

WHEREAS, on April 6, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 3 to the COVID-19 Declaration if the City Manager determines that the emergency continues to exist on April 8, 2020; and

WHEREAS, on April 6, 2020 the Destin City Council authorized and directed the City Manager to issue Extension Number 4 to the COVID-19 Declaration if the City Manager determines that the emergency continues to exist on April 15, 2020; and

WHEREAS, on April 20, 2020, the Destin City Council authorized and directed the City Manager to issue the First Amended Declaration of State of Emergency relating to the novel coronavirus, COVID-19; and

WHEREAS, on April 20, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 1 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on April 27, 2020; and

WHEREAS, on April 20, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 2 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on May 4, 2020; and

WHEREAS, on May 4, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 3 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist of May 11, 2020; and

WHEREAS, on May 4, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 4 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on May 18, 2020; and

WHEREAS, on May 18, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 5 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on May 25, 2020; and

WHEREAS, on May 18, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 6 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 1, 2020; and

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WHEREAS, on June 1, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 8 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 15, 2020; and

WHEREAS, On June 15, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 9 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 22, 2020; and

WHEREAS, on June 15, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 10 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on June 29, 2020; and

WHEREAS, on July 6, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 11 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on July 6, 2020; and

WHEREAS, on July 6, 2020, the Destin City Council authorized and directed the City Manager to issue Extension Number 12 to the Amended COVID-19 Declaration if the City Manager determines that the emergency continues to exist on July 13, 2020.

NOW THEREFORE, in consideration of the recitals above, all of which are incorporated herein below by reference, the City Manager hereby extends the Amended COVID-19 Declaration, and further states:

Section 1. COVID-19 Declaration Extended.

1. The COVID-19 Declaration is hereby extended for the maximum amount of time allowed by law or until the City Council determines that a state of emergency no longer exists. However, this the state of emergency shall not exceed any Executive Order from the Governor revoking or withdrawing Executive Order 20-52 and if Executive Order 20-52 is revoked or withdrawn, then this State of Emergency shall terminate automatically and without further action by the City Manager or City Council.

DULY EXECUTED this 13th day of July, 2020.

Lance Johnson, City Manager

Date: _____

Attest:

Approved as to form and legal
sufficiency:

Rey Bailey, City Clerk

Date: _____

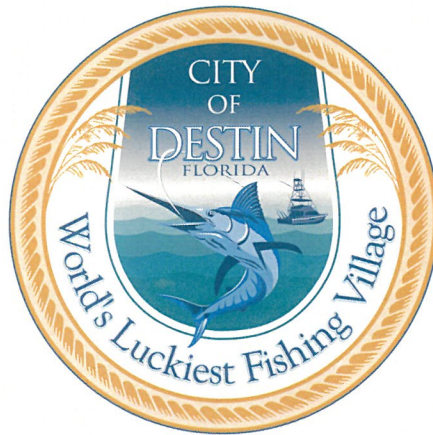
Kyle Bauman, City Attorney

Date: _____

CITY OF DESTIN, FLORIDA

REQUEST FOR PROPOSALS
RFP NO. 20-08-REC

CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA
CONSTRUCTION PROJECT



City of Destin, Florida
April 24, 2020



Lance A. Johnson, City Manager
Phone (850) 837-4242
Facsimile (850) 837-3267
4200 Indian Bayou Trail
Destin, Florida 32541

REQUEST FOR PROPOSALS
RFP NO. 20-08-REC
CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA
CONSTRUCTION PROJECT

CITY OF DESTIN, FLORIDA

The City of Destin will receive sealed competitive proposals for construction of Capt. Royal Melvin Heritage Park and Plaza. The park will be constructed on a 0.77-acre parcel, located in the City of Destin at 206 Harbor Blvd.

As outlined in the project design plans, improvements will include a harbor/wildlife observation platform, resource center, educational signage, kayak/canoe lift, terraced walkway, plaza, picnic/sitting area, drinking fountain, restrooms, trash bins, bike racks, and underground utilities.

Project plans and specifications, and submittal requirements can be obtained from the City Clerk's Office at the City of Destin, 4200 Indian Bayou Trail, Destin, Florida 32541. Proposal submissions must be received by the City Clerk's Office at the City of Destin, 4200 Indian Bayou Trail, Destin, Florida 32541, in a sealed envelope clearly marked **“RFP NO. 20-08-REC, CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT”**, **along with the name, return address and telephone number of the submitter**, no later than **2:00 p.m. (CST)**, on **May 28, 2020** at which time they will be opened. The City reserves the right to reject any and all submittals or portions thereof, to waive minor defects and informalities in the process, to accept the Bid(s) or take any other actions deemed by the City to be in the City's best interest.

Lance A. Johnson
City Manager

REQUEST FOR PROPOSALS
RFP NO. 20-08-REC
CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA
CONSTRUCTION PROJECT

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REQUEST FOR PROPOSALS
RFP NO. 20-08-REC
CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA
CONSTRUCTION PROJECT

1.0 INTRODUCTION

The City of Destin is issuing a Request for Proposals (RFP) to secure proposals from qualified contractors for the construction of the Capt. Royal Melvin Heritage Park and Plaza. The new park will be constructed on a 0.77-acre parcel, located in the City of Destin at 206 Harbor Blvd. This project is funded through a subrecipient grant award with Okaloosa County and is subject to all procurement provisions for RESTORE Act Direct Component and standards set forth in 2 CFR 200.318 – 200.326.

It is the responsive bidder's responsibility to read and understand the requirements of this request for proposal. Responsive bidders are required to state exactly what they intend to furnish the City of Destin via this solicitation and must indicate any variances to the terms, conditions and specifications of this proposal, no matter how slight. If variations are not stated in the proposal, it shall be construed that the proposal fully complies with all conditions identified in this proposal.

Before submitting a proposal, each responsive bidder will, at bidder's own expenses, make or obtain any additional examinations, investigations and studies, and obtain any additional information and data that may affect costs, permitting, progress, performance of furnishing of the project and that the responsive bidder's deems necessary to determine its proposal.

Responsive bidder will examine all documents included in this RFP carefully and shall make a written request to the City's authorized representative for interpretation or correction of any ambiguity, inconsistently, or error herein.

Any interpretation or correction will be issued by the City as an addendum to the RFP. Only a written interpretation or correction by addendum shall be binding. Responsive bidders are cautioned against relying up on any interpretation or correction given by any other method.

The submission of a proposal shall not be deemed an agreement between the responsive bidder and the City. The proposal is a contractual offer by the responsive bidder to perform services in accordance with the proposal. The City shall not be obligated to respond to any proposal submitted nor be bound in any manner by the submission of a proposal.

2.0 INSTRUCTION TO RESPONDENTS

- A. The City of Destin will accept RFP responses until **May 28, 2020 at 2:00 P.M. (CST)** at City Clerk's Office located at City Hall, 4200 Indian Trail Bayou Destin FL. 32541, to provide the City with Qualified Respondents for **RFP 20-08-REC, Capt. Royal Melvin Heritage Park and Plaza.**
- B. Any responses received after the above stated time and date will NOT be considered. It shall be the sole responsibility of the responsive bidder to have their RFP submittal delivered to City Clerk's Office for receipt on or before the above stated time and date. RFP responses which arrive after the above stated deadline as a result of delay by the

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mail service shall not be considered, and arrangements shall be made for their return at the responsive bidder's request and expense. The City reserves the right to consider submittals that have been determined by the City to be received late due solely to mishandling by the City after receipt of the RFP and prior to the award being made.

- C. All RFP's will be publicly opened and recorded for acknowledgement of receipt in the City Hall Boardroom on May 28, 2020 no later than 2:00 P.M. (CST). All responsive bidders or their representatives are invited to be present. The City Hall Boardroom is located at 4200 Indian Bayou Trail Destin, FL 32541.
- D. Respondents may request information regarding the RFP in writing from City Clerk Rey Bailey, clerk@cityofdestin.com. Such a request shall be received in writing at least five (5) business days prior to the submittal deadline.
- E. If any addendum(s) are issued to this RFP, the City will attempt to notify all prospective respondents. It shall be the responsibility of each respondent, prior to submitting the RFP response, to contact the City Clerk's Office, at (850) 837-4242 to determine if any addendum(s) were issued and to complete any addendum acknowledgements as part of their RFP response.
- F. One (1) original, so designated, and seven (7) copies (for a total of eight (8) submissions), and one (1) digital copy on a USB Thumb Drive of the RFP responses shall be submitted in a sealed package clearly marked on the outside "RFP 20-08-REC, Capt. Royal Melvin Heritage Park and Plaza Construction Project" and addressed: City of Destin, City Clerk's Office, 4200 Indian Bayou Trail, Destin, FL 32541.
- G. Complete and submit Responsive Bidder Qualification Statement, form herein as an attachment. Clearly indicate the legal name, address and telephone number of the responsive bidder. Responses shall be signed above the typed or printed name and title of the signer. The signer shall have the authority to bind the responsive bidder to the submitted RFP. Responsive bidders must note their Federal Employer Identification Number (FEIN) on their RFP submittal.
- H. Submissions shall be portrait orientation, "8 1/2 X 11" where practical and double-sided. One sheet of paper printed on both sides is considered 2 pages.
- I. All expenses for making RFP submittals to the city are to be borne by the responsive bidder.
- J. Responses shall be evaluated by the Bid Committee based on all information submitted and a ranked list of responsive bidders will be submitted to the City Council for approval. Responsive bidders may be required to provide a presentation at a City Council meeting.
- K. The Bid Committee shall consist of City of Destin staff members.
- L. Each responsive bidder, by submission of a proposal, acknowledges that in the event of any legal action challenging the award of the RFP; damages, if any, shall be limited to the actual cost of the preparation of the RFP.

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M.

PROCUREMENT SCHEDULE	
Tasks	Date
RFP issued	April 24, 2020
Last day for questions to be submitted	May 21, 2020
Due Date/Bid opening	May 28, 2020
Tentative Date - Bid Committee Evaluation	June 2, 2020
Tentative Date – City Council Meeting	June 15, 2020
Tentative Date- Notice of Award	June 17, 2020
Tentative Date -Execution of Contract	June 23, 2020
Tentative Date- Notice to Proceed	June 30, 2020

3.0 SCOPE OF WORK

The Capt. Royal Melvin Heritage Park and Plaza project consists of construction of a new park including a harbor/wildlife observation platform, resource center, terraced walkway, plaza, picnic/sitting area, restrooms, underground utilities, educational signage, kayak/canoe lift, drinking fountain, trash bins, and bike racks.

Details of the proposed work are provided in the engineering drawings and specifications, (see technical attachments including all addendums) All work shall be completed as shown in the construction documents and in accordance with applicable federal, state, and local codes and regulations.

The construction costs of the project include project inspection fees and monitoring reports, site work, demolition and removal, and construction is estimated to be approximately \$1,250,000.00. Contractor is responsible for obtaining all necessary governmental agency permits. All permitting costs are to be included in the base offer including permit related signage. The award shall be a firm fixed price not to exceed \$1,250,000.00 (including contingency).

3.1 Project Schedule

Final Completion Deadline is March 30, 2021. Contractor shall reach substantial completion for all work thirty (30) days prior to final completion. The time stated for completion shall include final cleanup of the premises. Extensions of contract time for delays caused by the effects of inclement weather are justified only when rain or other inclement weather conditions or related adverse soil conditions prevent the Contractor from productively performing controlling items of work resulting in:

- The Contractor being unable to work at least 50% of the normal workday on

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- predetermined controlling work items; or
- The Contractor must make major repairs to work damaged by weather, providing the damage was not attributable to a failure to perform or neglect by the Contractor.

ESTIMATED PROJECT SCHEDULE	
Tasks	Date
Permitting	July 1, 2020
Begin Construction	August 1, 2020
Substantial completion date	February 28, 2021
Complete Construction	March 30, 2021

4.0 PROJECT CONTRACTOR REQUIREMENTS

City of Destin is seeking an independent general contractor (including all necessary independent subcontractors) with all applicable licenses for work on this project.

4.1 License Requirements

Provide all applicable contractor licenses: including license name, license numbers and contact information. Contractor must be Florida State Certified or possess an Okaloosa County Competency License <http://www.co.okaloosa.fl.us/gm/licensing>.

Contractor must also be registered in the City of Destin
<https://www.cityofdestin.com/DocumentCenter/View/12259/Contractor-Packet>.

4.2 Insurance Requirements

Respondent, contractor and/or sub-contractors (used interchangeably) shall, at its expense, procure and maintain at a minimum for the duration of the project and through the period as stated in the Construction Contract, the types and amounts of insurance described below or as otherwise requirement by state and federal law:

- a. Workers' Compensation and Employers Liability Insurance: Shall carry Workers' Compensation Insurance in accordance with the laws of the State of Florida and in the amounts sufficient to secure the benefits of the Florida Workmen's Compensation Law for all types of employees, including those of subcontractors. Any Florida State or County Licensed contractor whom performs anytime of marine contraction work as defined in FAC 61G4015.033, must maintain applicable workers' and general liability insurance as required by state and federal law, including but not limited to the provisions of the Longshore and Harbor Workers' Compensation Act.

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- b. General Liability Insurance: General Liability Insurance with a minimum liability insurance requirement of \$1,000,000 for combined single limit.
- c. Respondent shall produce proof of insurance in the types and amounts required by the city, state, and federal regulations, including the foregoing and any additional coverages, including Automobile Liability and or Builder's Risk Insurance, as may be defined at the time of contract. The city shall be named as an additional insured party and all binders, policies or certificates of insurance shall include a provision that such insurance coverage shall not be cancelled or amended without at least thirty days' notice to the city. All coverage shall be with carriers doing business in the State of Florida. Carriers shall be A rated (or better) by AM Best Company. City reserves the right to modify its insurance requirements with 60 days' notice.

4.3 Bonding Requirements

- a. Bid Bond Security
All bidders shall furnish with their bids a bid bond (Attachment No. 5). Said bid bond shall be issued by a surety duly authorized to conduct business in the State of Florida and shall be in the amount of five percent (5%) of the total amount of the bid. Bid security is submitted as a guarantee that the Bidder, if awarded the Contract, will promptly execute such Contract in accordance with the Bid and in the manner and form required as defined by the Contract Documents (Attachment No. 9). The Bidder must be named as the principal of the bond. Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida. See Article 5 of the General Conditions as amended by Supplementary Conditions.
- b. Performance and Payment Bond
The bidder to whom the Contract is awarded shall furnish to the City, without extra compensation, and shall maintain in effect throughout the life of the Contract, and for the duration of the period described in the bond, acceptable Performance and Payment bonds in sums at least equal to 100% of the full amount of the Contract, conditioned to indemnify and save harmless the City from and against any loss, damage, or expense ensuing from failure on the part of the Contractor to faithfully and properly perform the Contract or to promptly pay all its subcontractors, suppliers, materialmen or laborers for work completed on the Project.
- c. The required forms for the performance and payment bonds are included in these Instructions. If within ten (10) calendar days after the acceptance of the bid, the successful bidder shall refuse or neglect to execute the contract and to furnish the required performance and payment bonds properly signed by the bidder and the surety or sureties satisfactorily to the owner, the bidder shall be deemed to be in default and the owner will retain the Bid Bond Security as liquidated damages, but

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not as a penalty. The owner reserves the option to accept the bid of any of the other bidder within ten (10) calendar days from default, in which case such acceptance shall have the same effect on such bidder as though he were the original, successful bidder.

4.4 Permitting Requirements

Contractor is required to obtain all required permits prior to the start of construction.

- a. City of Destin General Permit
- b. City of Destin Building Permit
- c. Submit White Sand Application Form
- d. Any and all other applicable and/or required federal, state, and local permits

4.5 Codes and Standards

All project work shall be done in accordance with all applicable Federal, State, and local codes and standards which include, but not limited to Davis-Bacon Act (40 U.S.C. 3142), Florida State Building Codes, City Codes and Ordinances, Approved Development Order and Manufacturers Recommendations.

5.0 PROJECT CONTRUCTION CONSIDERATIONS

Project implementation for this scope of work under this RFP includes all labor, materials, equipment and services required for construction including any permitting, compliance with all federal, state and local codes and construction of the project. All new construction shall be completed as indicated in the construction documents. All work shall meet City standards and be performed to the satisfaction of the City Engineer or his designee. All materials and equipment shall be subject to inspection by the City prior to incorporation into the final work.

5.1 Scope of Work will include

- a. Construction of a new park with terraced walkway, plaza, picnic/sitting area, harbor/wildlife observation platform with restrooms/resource center underneath, underground utilities, educational signage, kayak/canoe lift, drinking fountain, trash bins, and bike racks.
- b. Pervious concrete paving for plaza area, harbor/wildlife observation platform, sidewalks
- c. Underground utilities to harbor/wildlife observation platform, restrooms, and resource center.

5.2 Site Preparation

- a. Clearing and Grubbing: All clearing, and grubbing shall be completed to limits shown in the construction documents and in accordance with applicable local, State and Federal ordinances/regulations.
- b. Erosion Control: Erosion control devices shall be installed as shown in the

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construction documents. The contractor shall maintain all devices throughout the life of the contract.

- c. **Tree Protection:** Those trees identified to remain at the completion of the project will be protected with orange construction fencing (or equivalent) throughout the duration of the project. The tree protection area is defined as a ring of fencing with a radius of 1' for every 1" of trunk diameter measured at 4.5' above ground level. Those hardscaped items to be removed during the demolition phase will have the tree protection added immediately after removal. Exceptions to this rule must be approved by the Project Manager in writing.
- d. **Public Infrastructure and Accesses:** Contractor will be responsible for any damages to publicly owned infrastructure to include sidewalks, curb and gutter, storm sewer inlets/grates, manholes, pipes, etc. Repair or replacement of these items will adhere to Florida Department of Transportation (FDOT), City of Destin, and Destin Water Users standards as applicable.
- e. **Access Control:** Contractor will provide for 6' temporary chain-link fencing and gates with opaque screening to be placed around the perimeter of the site for the purpose of limiting access to only employees of the contractor, subcontractors, city employees/inspectors, utility personnel, etc. Any gates will be secured with padlocks to which the City will be given six (6) keys. Screening will be green mesh (or equivalent) and will extend from the bottom of the fencing to the top.
- f. Contractor will limit times of activity to 6am to 6pm Monday through Sunday. No construction activity shall take place on federally recognized Holidays. City of Destin reserves the right to direct the contractor as to specific days when work will be allowed.

5.3 Schedule for Delivery of Materials

The successful respondent shall be responsible for receiving all materials delivered.

5.4 Waste Disposal

Contractor shall be responsible for disposal of all waste and debris.

5.5 Site Utilities (Potable Water, Wastewater, and Storm Drainage/Stormwater)

All site utilities shall be installed as indicated in the construction documents and shall comply with all applicable local, State and Federal codes and regulations in terms of material quality and workmanship. The contractor shall obtain all required permits prior to starting work.

5.6 Material Data

- a. Bids should be based on materials and products, as outlined in the engineered drawings and specifications, or their equivalent. Bid submittals must include product/material specification sheets for each comparable or "equivalent" material or product.

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b. Backfill/Sand

Project is located in City of Destin White Sand Zone 1. (Ord. 02, LDC 11.07.02). *White sand must be used as fill material which is to remain uncovered in Zone 1. Other materials may be used under special conditions stipulated by Section 11.07.05.*

5.7 Construction Administration & Management

- A. Identify a Construction/ Quality Assurance Supervisor
 - 1. Providing their name(s), qualifications including a minimum of five (5) years of experience on similar scope and magnitude projects.
- B. Construction/Quality Assurance Supervisor to provide construction coordination and is responsible for communicating with City of Destin project manager, other contractors; provides directives to sub-contractors and attends scheduled construction meetings on site, and review of all project billing.
 - 1. If named individual is replaced during construction period, replacement will require approval of same or greater credentials and experience level initially proposed prior to replacements' start of work.
 - 2. Named individual is to provide input to reports and meeting minutes with City of Destin, and other contractors.
 - 3. Responsible for quality control of project and addressing areas that may affect the quality of the project's final product and identify inspection procedures to ensure poor quality issues do not occur.
 - 4. Construction and Quality Assurance Supervisor shall be responsible for overall project construction quality control, inspection/field condition reports, weekly progress reports, project photographs, project schedule coordination, inspection scheduling, and schedule and attend biweekly construction progress meetings with City and other designees

5.8 Warranty Submittal Requirements

- A. For all major pieces of equipment, submit a warranty from the equipment manufacturer. The manufacturer's warranty period shall be concurrent with the Contractor's for one (1) year, unless otherwise specified, commencing at the time of final acceptance by the Owner.
- B. The City reserves the right to request warranties for equipment not classified as major. The Contractor shall still warrant equipment not considered to be "major" in the Contractor's one-year warranty period even though certificates of warranty may not be required.
- C. In the event that the equipment manufacturer or supplier is unwilling to provide a one (1) year warranty commencing at the start of the Correction Period, the Contractor shall obtain from the manufacturer a two (2) year warranty commencing at the time of equipment delivery to the job site. This two (2) year warranty from the manufacturer shall not relieve the Contractor of the one (1) year warranty.
- D. The City shall incur no labor or equipment cost during the guarantee period.

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- E. Guarantee shall cover all necessary labor, equipment and replacement parts resulting from faulty or inadequate equipment design, improper assembly or erection, defective workmanship and materials, leakage, breakage or other failure of all equipment and components furnished by the manufacturer.

5.9 Project Close-Out

Any documents prepared by the construction team for this project are for the City of Destin's use. City of Destin shall have sole ownership of such documents to include to include making reproducible copies for its use and information in connection with follow-up contracts for design services, further planning, construction, or for permitting uses.

In order to accept project as final the following must occur:

1. Completion of the punch list.
2. Acceptance and occupancy of the project.
3. Submission and approval of final invoice.
4. Submission of all product warranties and operating manuals.
5. Successful Final Completion inspection by the City of Destin, including all Certificate of Occupancy and/or Certificate of Completion requirements.
6. Provide accurate construction As-Built drawings representing final installation. Provide surveyed As-Built drawings for underground utilities. Provide As-Built information to City of Destin Engineer for review and approval prior to final approval.
7. Receipt of two (2) copies detailed, as-built drawings, and an electronic copy on flash drive of as-built drawings stamped by contractor as "As-Built".
8. Provide at close of project, all Operations and Maintenance Manuals that
 - a. include all information and warranties. Provide two (2) copies and an electronic copy in PDF format, on same flash drive.
9. Provide written warranties covering quality of labor and installation of all
 - a. products/materials.
10. All final project submittals are required to be on flash drive format. Documents can be submitted as PDF files.

6.0 EVALUATION OF RESPONSES

6.1 Selection Process

- A. Bid Committee will review each written submission for compliance with the requirements of the RFP, including verifying that each response includes all documents required.
- B. Bid Committee members will review, analyze, compare, individually score and rank all responses based on the requirements of the RFP, information submitted and, but not limited to, qualifications and price.
- C. Bid Committee will conduct a public meeting chaired by the City Manager's designee to discuss the individual scores, summarize the scores in a ranking matrix

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to be forwarded to the City Council. Upon request, responsive bidder may be required to provide a presentation at a City Council meeting.

- D. After a ranking of firms has been approved by the City Council, it is the intent of the City of Destin, in accordance with the RFP documents, to award a contract based on the proposal that meets the project requirements, meets the required schedule, and will produce the highest quality product for the price. A copy of the respondent's proposal and the RFP including scope of work will be incorporated and become a part of the contract.

6.2 Criteria for Determining Lowest, Best Responsive and Responsible Bidder

Criteria is listed numerically by their relative order of importance.

EVALUATION CRITERIA	POINTS
Price Proposal	40
Qualifications/Experience/Past Performance	20
Project Approach	20
Past Performance	20
TOTAL	100

1. Price Proposal

- a) Costs will be evaluated based on the items outlined in the scope of work and price proposal submission requirements.
- b) Are costs reasonable compared to the work performed? Are assumptions used in developing costs reasonable?
- c) Did responsive bidder provide all the requested cost information?
- d) How competitive is the price proposal compared to the others received?

2. Qualifications and Experience

- a) Does the contractor have the experience necessary to carry out the specific work for this project? Does the contractor have experience with similar projects?
- b) Does the background and qualifications of individual key team members provide proven technical, operational, and managerial experience needed to handle the proposed project? Are the company structure and the relation of the project team clearly shown?
- c) Do financial qualifications clearly demonstrate financial stability of the company?

3. Project Approach and Performance Differentiators

- a) Does the submittal include detailed information that demonstrates the responsive bidder's understanding of the scope of work and how they intend to meet the objectives of the project?
- b) Does submittal demonstrate the firm's ability to manage existing budgets and implement cost controls throughout a project?

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- c) Has responsive bidder demonstrated knowledge of local site conditions and applicable requirements? Does submittal contain approach to receiving permitting and maintaining the original construction scheduled as provided for in the scope of work?
- d) Is project approach specific, describing the means and methods of accomplishing the work. Does it identify any key issues on the project and/or propose some potential solutions?
- e) Does contractors schedule and availability practical and meet project requirements?

4. Past Performance

- a) Do past performance evaluations and/or past performance information provided reflect a trend of satisfactory performance?
Basis of evaluation:
 - (i) A pattern of successful completion of work
 - (ii) A pattern of work identical to, similar to, or related to the work the project requires.
 - (iii) Ability shown, through workmanship provided on other projects.
- (b) Do references demonstrate the company's quality of work?

7.0 PRICE PROPOSAL REQUIREMENTS

The following list of items are requirements and information the contractor shall include in their proposal:

- A. Any and all fees shall be included in the price proposal form (Attachment No. 2). Cost breakdown should include primary construction costs, i.e., mobilization, demolition, materials, as shown on the price proposal form.
 - 1. On your letterhead, provide and identify separately all fees associated with any permitting, survey that will be the responsibility of the contractor to administer.
 - 2. Provide product information for all materials used including manufacturer warranties.
 - 3. On your letterhead, provide construction workmanship warranty information.
 - 4. On your letterhead, provide detailed, specific project approach, describing the means and methods of accomplishing the work including:
 - a. Address protection of the site's existing features, i.e., trees, etc.
 - b. Include description of equipment used, material storage, and any demolition proposed that is outside the requirements specified in the project plans.
 - 5. Meetings with City of Destin project manager as needed to provide and receive information including weekly progress meetings and any other meetings required to successfully complete this project, including pre-construction meetings, if awarded.
- B. On your letterhead, provide and identify any other work required to complete the project not outlined in engineered plans or this RFP.
- C. On your letterhead, provide a proposed schedule for construction, including receiving materials, permitting, mobilization, demolition, construction, and demobilization.

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- D. Provide assurance of contractor's ability to meeting the deadline of the project.
- E. All items above may be placed in the same document on your letterhead. Ensure all items are clearly identified.

Price Proposals omitting any of the above information may be deemed to be incomplete and removed from consideration.

8.0 SUBMITTAL REQUIREMENTS

A. No Contact Clause

All prospective responsive bidders are hereby instructed to not contact any member of the Destin City Council, City Manager, or City of Destin staff member other than the authorized city contact person identified below, regarding this solicitation or the responsive bidder's submittal package. In order to ensure a fair, competitive, and open process, once a project is advertised all communications between interested responsive bidder and the City must be directed to:

City Clerk Rey Bailey
City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541
850-837-4242
clerk@cityofdestin.com

Office Hours: Monday- Friday, 8:00 A.M. TO 5:00 P.M.

Any such contact to anyone but the Clerk may be cause for rejection of your submittal.

B. Inquiries

The City will not respond to oral inquiries. Proposers may submit written, e-mailed or faxed, inquiries regarding this RFB. The City will respond to written, e-mailed or faxed; inquiries received at least five (5) working days prior to the RFB due date. The last day for inquiries is **May 21, 2020 at 2:00 p.m. (CST)**. Questions or requests for Bid documents, plans and specifications regarding this RFB may be directed to the City Clerk, 4200 Indian Bayou Trail 32541 (850) 837-4242 rbailey@cityofdestin.com.

C. Addenda

Submitter acknowledges that it is the submitter's responsibility to determine whether an Addendum has been issued; and if so, to obtain copies of such Addendum from the City Clerk of Destin, and agrees to be bound by all addenda that have been issued for this Request for Proposal. If addendum is issued, responsive bidder shall sign and return each addendum with the submittal package. Failure to return signed any and all addenda may disqualify the submittal.

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D. Conflict of Interest Disclosure

Each proposal is subject to the provisions of Florida Statutes, Chapter 112, providing that all responsive bidders must disclose with the RFP submittal the name of any officer, director, or agent who is also a public officer or an employee of the City of Destin. Further, all responsive bidder must disclose the name of any City officer or employee who owns, directly or indirectly, an interest of five percent or more in the Bidding firm.

E. Drug-Free Workplace Program

Preference may be given by the City of Destin to companies demonstrating a Drug-Free Workplace Program whenever two or more proposals, which are equal in respect to quality and service, are received and rated by the City. Responsive bidders intending to demonstrate a Drug-Free Workplace Program shall provide certification form with the RFB submittal.

F. Public Entity Crime Form

Each submittal shall contain a completed Public Entity Crime Form (Attachment #1) pursuant to Florida Statutes, Section 287.132-133, providing that no public entity shall accept any proposal from or award any contract to, or transact any business in excess of the threshold amount for Category Two (\$25,000) for a period of thirty-six months from the date placed on the convicted vendor list.

G. Submittal Preparation

Submittals should be prepared in the following order:

1. **Submittal Coversheet:** provide a submittal cover sheet that includes project number, project name, bid opening date and responsive bidder contact information.
2. **Table of Contents:** provide Table of Contents to aid the evaluation of the qualifications
3. **Responsive Bidder Qualification Statement,** Attachment No. 1
4. **Transmittal Letter:** provide a signed letter of transmittal briefly stating the responsive bidder's understanding of the work to be done, the commitment to perform the work, and a statement why the contract believes it to be best qualified to perform the project.
5. **Contractor Qualifications Statement:** provide statement demonstrating responsive bidder's qualifications, competence, and capacity for the construction of project within the requirements of this solicitation.
6. **Price Proposal Form,** Attachment No. 2 and other required documentation as outlined in section 7.0 Price Proposal Requirements.
7. **Completed Public Entity Crime Form,** Attachment No. 3
8. **Completed Drug Free Workplace Certification Form,** Attachment No.4
9. **Completed Bid Bond Form,** Attachment No. 5
10. **Proof of Insurance:** provide proof of insurance meeting minimum insurance requirements as outlined in section 4.2 Insurance Requirements.
11. **Proof of licensing and certifications:** provide proof of licensing and certifications meeting minimum requirements as outlined in section 4.3 License Requirements.

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12. Addendums (if applicable)

Failure to provide any of the above listed mandatory information shall result in the elimination of the submittal package from consideration.

H. Sealed Submittal Packages

All proposals to be considered must be in the possession of the Destin City Clerk no later than **2:00 p.m. (CST), on Thursday, May 28, 2020**. Submittals may be mailed or delivered to the Office of the City Clerk at the address below and shall be submitted in a sealed envelope clearly marked **“RFB NO. 20-08-REC, CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT”** and note the time and date of the opening. Regardless of method of delivery, each responsive bidder shall be responsible for their Bid being delivered on time, as the City of Destin assumes no responsibility for same. Proposals offered or received after the time set for the Bid Opening will be rejected and returned unopened to the submitter.

Mailing and Hand Delivery Address:

City Clerk Rey Bailey
City of Destin
4200 Indian Bayou Trail
Destin, Florida 32541
850-837-4242
clerk@cityofdestin.com
Office Hours: Monday- Friday, 8:00 A.M. TO 5:00 P.M.

I. Bid Opening

Proposals are presently scheduled to be opened publicly and read aloud at 2:00 p.m. (CST), on May 28, 2020 in the City of Destin, City Hall Board Room, 4200 Indian Bayou Trail, Destin, Florida.

J. Reservation of Rights

The City reserves the right to reject any and all proposals or portions thereof, to waive minor defects and informalities in the process, to re-advertise, to accept the proposal or award multiple proposals or take any other actions deemed by the City to be in the City's best interest.

K. Public Records

IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850) 837-4242, CITY CLERK, 4200 INDIAN BAYOU TRAIL, DESTIN, FL.

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The successful responsive bidder shall:

1. Keep and maintain public records required by the CITY to perform the service.
2. 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 this FS Chapter 119 or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the public agency.
4. Upon completion of the contract, transfer, at no cost, to the CITY all public records in possession of the contractor or keep and maintain public records required by the CITY agency to perform the service. If the GROUP transfers all public records to the CITY upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the GROUP shall meet all applicable requirements for retaining public records. 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.

**RFP NO. 20-08-REC
ATTACHMENT NO. 1
RESPONSIVE BIDDER QUALIFICATION STATEMENT**

The undersigned certifies under oath the truth and correctness of all statements and of all answers to questions made hereinafter:

SUBMITTED TO: City of Destin
CITY CLERK'S OFFICE
4200 Indian Trail Bayou
Destin, Florida 32541
Telephone: (850) 837-4242

Check One

Submitted By:	Corporation	☐
Name: _____	Partnership	☐
Address: _____	Individual	☐
City, State, Zip: _____	Other	☐
Telephone No.: _____		
Fax No.: _____		

1. State the true, exact, correct and complete name of the partnership, corporation, trade or fictitious name under which you do business and the address of the place of business.

The correct name of the responsive bidder is:

The address of the principal place of business is:

2. If responsive bidder is a corporation, answer the following:

- a. Date of Incorporation: _____
- b. State of Incorporation: _____
- c. President's name: _____
- d. Vice President's name: _____
- e. Secretary's name: _____

- f. Treasurer's name: _____
- g. Name and address of Resident Agent: _____
3. If responsive bidder is an individual or a partnership, answer the following:
- a. Date of organization: _____
- b. Name, address and ownership units of all partners:
- _____
- _____
- _____
- c. State whether general or limited partnership: _____
4. If responsive bidder is other than an individual, corporation or partnership, describe the organization and give the name and address of principals:
- _____
- _____
- _____
5. If responsive bidder is operating under a fictitious name, submit evidence of compliance with the Florida Fictitious Name Statute.
- _____
6. How many years has your organization been in business under its present business name?
- _____

Under what other former names has your organization operated?

7. Indicate registration, license numbers or certificate numbers for the businesses or professions, which are the subject of this Bid. Please attach certificate of competency and/or state registration.

8. Have you ever failed to complete any work awarded to you? If so, state when, where and why:

9. List the pertinent experience of the key individuals of your organization (continue on insert sheet, if necessary)

10. State the name of the individual who will have personal supervision of the work:

11. State the name and address of attorney, if any, for the business of the responsive bidder:

12. State the names and addresses of all businesses and/or individuals who own an interest of more than five percent (5%) of the responsive bidder's business and indicate the percentage owned of each such business and/or individual:

13. State the names, addresses, and the type of business of all firms that are partially or wholly owned by responsive bidder:

14. Annual Average Revenue of the responsive bidder for the last three years as follows:

		<u>Revenue Index Number</u>
a.	Government Related Work	
b.	Non-Governmental Related Work	
	<i>Total Work (a +b):</i>	

Revenue Index Number

1.	Less than \$100,000
2.	\$100,000 to less than \$250,000
3.	\$250,000 to less than \$500,000
4.	\$500,000 to less than \$1 million
5.	\$1 million to less than \$2 million
6.	\$2 million to less than \$5 million
7.	\$5 million to less than \$10 million
8.	\$10 million to less than \$25 million
9.	\$25 million to less than \$50 million
10.	\$50 million or greater

15. Bank References:

Bank	Address	Telephone

16. What will be your turnaround time for written responses to City inquiries?

17. List and describe all bankruptcy petitions (voluntary or involuntary) which have been filed by or against the responsive bidder, its parent or subsidiaries or predecessor organizations during the past five (5) years. Include in the description, the disposition of each such petition.

18. List all claims, arbitrations, administrative hearings and lawsuits brought by or against the responsive bidder or its predecessor organization(s) during the last five (5) years. The list shall include all case names, case arbitration or hearing identification numbers, the name of the project which the dispute arose, and a description of the subject matter of the dispute.

19. List and describe all criminal proceedings or hearings concerning business related offenses to which the responsive bidder, its principals or officers or predecessors' organization(s) were defendants.

20. Has the responsive bidder, its principals, officers or predecessors' organization(s) been CONVICTED OF a Public Entity Crime, debarred or suspended from bidding by any government during the last five (5) years? If so, provide details.

The responsive bidder acknowledges and understands that the information contained in response to this qualification statement shall be relied upon by owner in awarding the contract and such information is warranted by responsive bidder to be true. The discovery of any omission or misstatement that materially affects the responsive bidder qualifications to perform under the contract shall cause the owner to reject the submittal, and if after the award, to cancel and terminate the award and/or contract.

(Signed) _____

(Title) _____

Subscribed and sworn to before me

This _____ day of _____, 20 _____

Notary Public (Signature)

My Commission Expires: _____

END OF SECTION

**RFP NO. 20-08-REC
ATTACHMENT NO. 2
PRICE PROPOSAL FORM**

Date: _____ Primary Contact _____

Company: _____

Address: _____

Telephone: (_____) _____ Email: _____

Item	Quantity	Units	Unit Cost	Total Cost
Site Work				
Mobilization	1	LS		
Surveying	1	LS		
Testing	1	LS		
Demolition (including removal of Retaining Wall)	1	LS		
Grading - Rough	17323	SF		
Debris/Dirt Hauling	238	CY		
Grading - Final	17323	SF		
Construction Screening	1090	LF		
Single Row Silt Fence, Double row at harbor	1190	LF		
Removal of Concrete Up to 6"	1067	SY		
Removal of Asphalt up to 4" thick	835	SY		
Site Power	1	LS		
Pavement & Surfaces				
Concrete Sidewalks (Non-Ramp & Stairs Area)	5354	SF		
Stairs with Handrails	1	LS		
Brick Pavers	5075	SF		
Compass Rose	1	EA		
ADA Accessible Ramps with handrails	161	LF		
Retaining Walls	1	LS		
Utilities				
12" Water Main	207	LF		
2" Force Main	330	LF		
"Hang & Bang" Lift Station System	1	LS		
Misc. Fittings, Valves, & Connections	1	LS		
Construction				
Demolition (including building site prep)	1	LS		

Structural	1196	SF		
Architectural	1196	SF		
Mechanical	1	LS		
Plumbing	1	LS		
Electrical	1	LS		
Miscellaneous Site Improvements				
Kayak Launch	1	LS		
Site Lighting	1	LS		
Pavilion, Picnic Tables, Nautical play area, Interactive Signage	1	LS		
Bike Rack, trash cans, benches	9	EA		
Water Meter Relocation & Valve work	1	LS		
Temporary grassing and erosion control	1	LS		
Project CEI & Testing	1	LS		
Includes PM/EOR, Site Inspector, QAQC,				
Surveyor (Sub), EEO Reporting				
Alternate Plumbing Items (Plan Addendum No. 1)	1	LS		
Price Sum Total _____				

Other required documentation as outlined in section 7.0 Price Proposal Requirements should accompany this Price Proposal Form.

END OF SECTION

RFP NO. 20-08-REC
ATTACHMENT NO. 3
PUBLIC ENTITY CRIMES STATEMENT

SWORN STATEMENT UNDER SECTION 287.133 (3) (A)

FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICER AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Proposal or Contract _____

2. This sworn statement is submitted by _____ whose business address is _____

and (if applicable) Federal Employer Identification Number (FEIN) is _____ (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____)

3. My name is _____ and my relationship to the entity named above is _____

4. I understand that a "public entity crime" as defined in Paragraph 287.133(a)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or any agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

5. I understand that "convicted" or "conviction" as defined in paragraph 287.133(a)(b), Florida Statutes, means finding of guilt or a conviction of a public entity crime with or without an adjudication of guilt, in any federal or state trial court of records relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

6. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

1. A predecessor or successor of a person convicted of a public entity crime; or
2. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one of shares constituting a controlling income among persons when not for fair interest in another person, or a pooling of equipment or income among persons when not for fair market value under a length agreement, shall be a prima facie case that one person controls another person.

A person who was knowingly convicted of a public entity crime, in Florida during the preceding 36 months shall be considered an affiliate.

7. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of the state or of the United States with the legal power to enter into a binding contract for provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies)

 Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

 The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. (please attach a copy of the final order)

 The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in public interest to remove the person or affiliate from the convicted vendor list. (please attach a copy of the final order)

 The person or affiliate has not been placed on the convicted vendor list. (Please describe any action taken by, or pending with, the Department of General Services.)

_____ Date: _____
(Signature)

STATE OF FLORIDA
COUNTY OF _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority, who, after first being sworn by me, affixed his/her signature at the space provided above on this _____ day of _____, 2020, and is personally known to me, or has provided as identification.

My Commission expires: _____
Notary Public

END OF SECTION

RFP NO. 20-08-REC
ATTACHMENT NO. 4
DRUG-FREE WORKPLACE CERTIFICATION

The below signed submitter certifies that it has implemented a drug-free workplace program. In order to have a drug-free workplace program, a business shall:

1. Publish a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the workplace and specifying the actions that will be taken against employees for violations of such prohibition.
2. Inform employees about the dangers of drug abuse in the workplace, the business's policy of maintaining a drug-free workplace, any available drug counseling rehabilitation and employee assistance programs and the penalties that may be imposed upon employees for drug abuse violations.
3. Give each employee engaged in providing the commodities or contractual services that are under bid a copy of the statement specified in subsection 1.
4. In the statement specified in subsection 1., notify the employees that, as a condition of working on the commodities or contractual services that are under bid, the employee will abide by the terms of the statement and will notify the employer of any conviction of, or plea of guilty or nolo contendere to, any violation occurring in the workplace no later than five (5) working days after such conviction.
5. Impose a sanction on or require the satisfactory participation in drug abuse assistance or rehabilitation program if such is available in the employee's community, by any employee who is convicted.
6. Make a good faith effort to continue to maintain a drug-free workplace through implementation of this section.

As the person authorized to sign this statement, I certify that this firm complies fully with the above drug-free workplace requirements.

COMPANY: _____

ADDRESS: _____

CITY: _____ STATE: _____ ZIP CODE: _____

TELEPHONE NUMBER: _____

SIGNATURE: _____ DATE: _____

NAME (TYPED OR PRINTED): _____

TITLE: _____

END OF SECTION

**RFP NO. 20-08-REC
ATTACHMENT NO. 5
BID BOND**

KNOW ALL MEN BY THESE PRESENTS, that we, the undersigned, as _____ Principal, and as Surety, are hereby held and firmly bound unto the **City of Destin, Florida** as Owner in the penal sum of, (five percent (5%) of the Contract Bid) _____ for the payment of which, well and truly to be made, we hereby jointly and severally bind ourselves, successors and assigns to pay Owner upon default of Bidder the penal sum set forth on the face of this Bond.

Signed, this ____ day of _____, 20__

The condition of the obligation is such that whereas the Principal has submitted to **City of Destin, Florida** a certain Bid, attached hereto and hereby made a part hereof, to enter into a contract in writing, for the **RFP 20-08-REC, CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT**

NOW THEREFORE,

1. Default of Bidder shall occur upon the failure of Bidder to deliver within the time required by the Bidding Documents the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents.
2. This obligation shall be null and void if:
 - 2.1 Owner accepts Bidder's bid and Bidder delivers within the time required by the Bidding Documents (or any extension thereof agreed to in writing by Owner) the executed Agreement required by the Bidding Documents and any performance and payment bonds required by the Bidding Documents and Contract Documents, or
 - 2.2 All bids are rejected by Owner, or
 - 2.3 Owner fails to issue a notice of award to Bidder within the time specified in the Bidding Documents (or any extension thereof agreed to in writing by Bidder and, if applicable, consented to by Surety when required by paragraph 5 hereof).
3. Payment under this Bond will be due and payable upon default of Bidder and within thirty (30) calendar days after receipt of Bidder and Surety of written notice of default from Owner which notice will be given with reasonable promptness, identifying this Bond and the Project and including a statement of the amount due.
4. Surety waives notice of any and all defenses based on or arising out of any time extension to issue notice of award agreed to in writing by Owner and Bidder, provided that the time for issuing notice of award including extensions shall not in the aggregate exceed one hundred twenty (120) days from Bid Due without Surety's written consent.
5. No suit or action shall be commenced under this Bond prior to thirty (30) calendar days after the notice of default required in paragraph 3 above is received by Bidder and Surety, and in no case later than one year after Bid Due Date.
6. Any suit or action under this Bond shall be commenced only in a court of competent jurisdiction located in the state in which the Project is located.

7. Notice required hereunder shall be in writing and sent to Bidder and Surety at their respective addresses shown on the face of this Bond. Such notices may be sent by personal delivery, commercial courier or by United States Registered or Certified Mail, return receipt requested, postage pre-paid, and shall be deemed to be effective upon receipt by the part concerned.
8. Surety shall cause to be attached to this Bond a current and effective Power of Attorney evidencing the authority of the officer, agent or representative who executed this Bond on behalf of Surety to execute, seal and deliver such Bond and bind the Surety thereby.
9. This Bond is intended to conform to all applicable statutory requirements. Any applicable requirement of any applicable statute that has been omitted from this Bond shall be deemed to be included herein as if set forth at length. If any provision of the Bond conflicts with any applicable provision of any applicable statute, then the provision of said statute shall govern and the remainder of the Bond that is not in conflict therewith shall continue in full force and effect.
10. The term "bid" as used herein includes a bid, offer or proposal as applicable.

IN WITNESS WHEREOF, the Principal and the Surety have hereunto set their hands and seals, and such of them as are corporations have caused their corporate seals to be hereto affixed and these presents to be signed by their proper officers, the day and year first set forth above.

Principal (Print Full Name):

Surety (Print Full Name):

(Seal) Surety's Name and Corporate Seal

By:_____ (L.S.) By: _____

Signature (attach power of attorney)

Title:_____

Title:_____

Attest: _____

Attest: _____

Signature and Title

Signature and Title

IMPORTANT - Surety companies executing bonds must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida. See Article 5 of the General Conditions as amended by Supplementary Conditions.

END OF SECTION

RFP NO. 20-08-REC
ATTACHMENT NO. 6
DAVIS-BACON WAGE RATE DETERMINATIONS

"General Decision Number: FL20200217 02/21/2020

Superseded General Decision Number: FL20190217

State: Florida

Construction Type: Building

County: Okaloosa County in Florida.

BUILDING CONSTRUCTION PROJECTS (does not include single family homes or apartments up to and including 4 stories).

Note: Under Executive Order (EO) 13658, an hourly minimum wage of \$10.80 for calendar year 2020 applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2015. If this contract is covered by the EO, the contractor must pay all workers in any classification listed on this wage determination at least \$10.80 per hour (or the applicable wage rate listed on this wage determination, if it is higher) for all hours spent performing on the contract in calendar year 2020. If this contract is covered by the EO and a classification considered necessary for performance of work on the contract does not appear on this wage determination, the contractor must pay workers in that classification at least the wage rate determined through the conformance process set forth in 29 CFR 5.5(a)(1)(ii) (or the EO minimum wage rate, if it is higher than the conformed wage rate). The EO minimum wage rate will be adjusted annually. Please note that this EO applies to the above-mentioned types of contracts entered into by the federal government that are subject to the Davis-Bacon Act itself, but it does not apply to contracts subject only to the Davis-Bacon Related Acts, including those set forth at 29 CFR 5.1(a)(2)-(60). Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Modification Number	Publication Date
0	01/03/2020
1	02/21/2020

* ELEV0124-002 01/01/2020

	Rates	Fringes
ELEVATOR MECHANIC.....	\$ 42.89	34.765

FOOTNOTE:

A. Employer contributions 8% of regular hourly rate to vacation pay credit for employee who has worked in business more than 5 years; Employer contributions 6% of regular hourly rate to vacation pay credit for employee who has worked in business less than 5 years.

Paid Holidays: New Year's Day; Memorial Day; Independence Day; Labor Day; Thanksgiving Day; The Friday after Thanksgiving Day; and Christmas Day.

ENGI0487-021 07/01/2016

Rates	Fringes
-------	---------

OPERATOR: Crane		
All Cranes 160 Ton		
Capacity and Over.....	\$ 33.05	9.20
All Cranes Over 15 Ton		
Capacity.....	\$ 32.05	9.20
OPERATOR: Forklift.....	\$ 23.25	9.20
OPERATOR: Mechanic.....	\$ 32.05	9.20
OPERATOR: Oiler.....	\$ 23.50	9.20

IRON0402-001 01/01/2019

	Rates	Fringes
IRONWORKER, ORNAMENTAL.....	\$ 23.69	12.70

PLUM0234-012 09/01/2019

	Rates	Fringes
PIPEFITTER (Includes HVAC Unit Installation).....	\$ 30.34	14.95

SUFL2014-026 08/16/2016

	Rates	Fringes
CARPENTER, Includes Form Work....	\$ 16.38	0.00
CEMENT MASON/CONCRETE FINISHER...	\$ 14.61	0.00
ELECTRICIAN.....	\$ 17.39	2.57
INSULATOR: Mechanical (Duct, Pipe and Mechanical System Insulation).....	\$ 20.78	10.89
IRONWORKER, REINFORCING.....	\$ 22.81	11.58
IRONWORKER, STRUCTURAL.....	\$ 23.79	8.74
LABORER: Common or General, Including Cement Mason Tending...	\$ 11.98	0.00
LABORER: Pipelayer.....	\$ 13.56	1.34
OPERATOR: Backhoe/Excavator/Trackhoe.....	\$ 22.07	8.80
OPERATOR: Bulldozer.....	\$ 15.40	1.90
OPERATOR: Grader/Blade.....	\$ 18.97	0.00
OPERATOR: Loader.....	\$ 14.83	1.84
OPERATOR: Roller.....	\$ 14.43	4.78
PAINTER: Brush, Roller and Spray.....	\$ 14.54	2.01
PLUMBER.....	\$ 19.40	0.36
ROOFER.....	\$ 16.99	0.00
SHEET METAL WORKER, Includes		

HVAC Duct Installation.....	\$ 20.05	0.00
TILE SETTER.....	\$ 18.01	0.00
TRUCK DRIVER: Dump Truck.....	\$ 13.22	2.12
TRUCK DRIVER: Lowboy Truck.....	\$ 14.24	0.00

WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Note: Executive Order (EO) 13706, Establishing Paid Sick Leave for Federal Contractors applies to all contracts subject to the Davis-Bacon Act for which the contract is awarded (and any solicitation was issued) on or after January 1, 2017. If this contract is covered by the EO, the contractor must provide employees with 1 hour of paid sick leave for every 30 hours they work, up to 56 hours of paid sick leave each year. Employees must be permitted to use paid sick leave for their own illness, injury or other health-related needs, including preventive care; to assist a family member (or person who is like family to the employee) who is ill, injured, or has other health-related needs, including preventive care; or for reasons resulting from, or to assist a family member (or person who is like family to the employee) who is a victim of, domestic violence, sexual assault, or stalking. Additional information on contractor requirements and worker protections under the EO is available at www.dol.gov/whd/govcontracts.

Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29CFR 5.5 (a) (1) (ii)).

The body of each wage determination lists the classification and wage rates that have been found to be prevailing for the cited type(s) of construction in the area covered by the wage determination. The classifications are listed in alphabetical order of ""identifiers"" that indicate whether the particular rate is a union rate (current union negotiated rate for local), a survey rate (weighted average rate) or a union average rate (weighted union average rate).

Union Rate Identifiers

A four letter classification abbreviation identifier enclosed in dotted lines beginning with characters other than ""SU"" or ""UAVG"" denotes that the union classification and rate were prevailing for that classification in the survey. Example: PLUM0198-005 07/01/2014. PLUM is an abbreviation identifier of the union which prevailed in the survey for this classification, which in this example would be Plumbers. 0198 indicates the local union number or district council number where applicable, i.e., Plumbers Local 0198. The next number, 005 in the example, is an internal number used in processing the wage determination. 07/01/2014 is the effective date of the most current negotiated rate, which in this example is July 1, 2014.

Union prevailing wage rates are updated to reflect all rate changes in the collective bargaining agreement (CBA) governing this classification and rate.

Survey Rate Identifiers

Classifications listed under the ""SU"" identifier indicate that no one rate prevailed for this classification in the survey and the published rate is derived by computing a weighted average rate based on all the rates reported in the survey for that classification. As this weighted average rate includes all rates reported in the survey, it may include both union and non-union rates. Example: SULA2012-007 5/13/2014. SU indicates the rates are survey rates based on a weighted average calculation of rates and are not majority rates. LA indicates the State of Louisiana. 2012 is the year of survey on which these classifications and rates are based. The next number, 007 in the example, is an internal number used in producing the wage determination. 5/13/2014 indicates the survey completion date for the classifications and rates under that identifier.

Survey wage rates are not updated and remain in effect until a new survey is conducted.

Union Average Rate Identifiers

Classification(s) listed under the UAVG identifier indicate that no single majority rate prevailed for those classifications; however, 100% of the data reported for the classifications was union data. EXAMPLE: UAVG-OH-0010 08/29/2014. UAVG indicates that the rate is a weighted union average rate. OH indicates the state. The next number, 0010 in the example, is an internal number used in producing the wage determination. 08/29/2014 indicates the survey completion date for the classifications and rates under that identifier.

A UAVG rate will be updated once a year, usually in January of each year, to reflect a weighted average of the current negotiated/CBA rate of the union locals from which the rate is based.

WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- * an existing published wage determination
- * a survey underlying a wage determination
- * a Wage and Hour Division letter setting forth a position on a wage determination matter
- * a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations
Wage and Hour Division
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7). Write to:

Wage and Hour Administrator
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board
U.S. Department of Labor
200 Constitution Avenue, N.W.
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

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END OF GENERAL DECISION"

RFP NO. 20-08-REC
ATTACHMENT NO. 7
2 CFR 200, Appendix II- Contract Provisions

ELECTRONIC CODE OF FEDERAL REGULATIONS
e-CFR data is current as of January 6, 2020

Title 2 → Subtitle A → Chapter II → Part 200 → Subpart F → Appendix

Title 2: Grants and Agreements

PART 200—UNIFORM ADMINISTRATIVE REQUIREMENTS, COST PRINCIPLES, AND AUDIT REQUIREMENTS FOR
FEDERAL AWARDS

Subpart F—Audit Requirements

APPENDIX II TO PART 200—CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER
FEDERAL AWARDS

In addition to other provisions required by the Federal agency or non-Federal entity, all contracts made by the non-Federal entity under the Federal award must contain provisions covering the following, as applicable.

(A) Contracts for more than the simplified acquisition threshold currently set at \$150,000, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by 41 U.S.C. 1908, must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.

(B) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.

(C) Equal Employment Opportunity. Except as otherwise provided under 41 CFR Part 60, all contracts that meet the definition of “federally assisted construction contract” in 41 CFR Part 60-1.3 must include the equal opportunity clause provided under 41 CFR 60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 CFR Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 CFR part 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”

(D) Davis-Bacon Act, as amended (40 U.S.C. 3141-3148). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as supplemented by Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.

(E) Contract Work Hours and Safety Standards Act (40 U.S.C. 3701-3708). Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.

(F) Rights to Inventions Made Under a Contract or Agreement. If the Federal award meets the definition of “funding agreement” under 37 CFR §401.2 (a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

(G) Clean Air Act (42 U.S.C. 7401-7671q.) and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).

(H) Debarment and Suspension (Executive Orders 12549 and 12689)—A contract award (see 2 CFR 180.220) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 CFR 180 that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549.

(I) Byrd Anti-Lobbying Amendment (31 U.S.C. 1352)—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.

(J) See §200.322 Procurement of recovered materials.
[78 FR 78608, Dec. 26, 2013, as amended at 79 FR 75888, Dec. 19, 2014]

RFP NO. 20-08-REC
ATTACHMENT NO. 8
FEDERALLY REQUIRED CONTRACT CLAUSES

1. Fly America Requirements
2. Buy America Requirements
3. Charter Bus and School Bus Requirements
4. Cargo Preference Requirements
5. Seismic Safety Requirements
6. Energy Conservation Requirements
7. Clean Water Requirements
8. Bus Testing
9. Pre-Award and Post Delivery Audit Requirements
10. Lobbying
11. Access to Records and Reports
12. Federal Changes
13. Bonding Requirements
14. Clean Air
15. Recycled Products
16. Davis-Bacon and Copeland Anti-Kickback Acts
17. Contract Work Hours and Safety Standards Act
18. [Reserved]
19. No Government Obligation to Third Parties
20. Program Fraud and False or Fraudulent Statements and Related Acts
21. Termination
22. Government-wide Debarment and Suspension (Non-procurement)
23. Privacy Act
24. Civil Rights Requirements
25. Breaches and Dispute Resolution
26. Patent and Rights in Data
27. Transit Employee Protective Agreements
28. Disadvantaged Business Enterprises (DBE)
29. [Reserved]
30. Incorporation of Federal Transit Administration (FTA) Terms
31. Drug and Alcohol Testing
32. Veteran's Preference/Employment
33. Occupational Safety and Health Act Compliance
34. Fair Labor Standards Act
35. Texting When Driving
36. E-Verify

RFP NO. 20-08-REC
CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT

CONTRACT BY AND BETWEEN
CITY OF DESTIN, FLORIDA AND

On _____, 2020, THE CITY COUNCIL OF THE CITY OF DESTIN, FLORIDA, (hereinafter referred to as the "City") accepted the Bid of _____, (hereinafter referred to as the "Contractor") for RFP NO. 20-08-REC CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT. The RFP is attached hereto as Exhibit "A," and is fully incorporated herein. The Contractor's completed bid submittal is attached hereto as Exhibit "B," and fully incorporated herein. In the event of conflict between Exhibit "A" or Exhibit "B" and this Contract, this Contract shall control.

Terms and conditions of the Contract for RFP NO. 20-08-REC CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT are as follows:

1. Entire Agreement:

This Contract represents the entire and integrated Contract between the City and Contractor and supersedes all prior negotiations, representations, or agreements, either written or oral. Provisions of this Contract may be amended only by written instrument approved by the Destin City Council and signed by the City Manager and Contractor.

2. Intent of Contract:

This Contract is for the construction of a new park located at 206 Harbor Blvd in Destin, Florida and as further described in Exhibits "A" and "B." The Scope of Work (hereinafter referred to as the "**Work**") encompasses the foregoing and all descriptive work components contained within Exhibits "A" and "B."

3. Commencement and Accomplishment of Contract and Time Extensions:

Permitting is mandatory. No Work shall be performed by the Contractor prior to the Commencement Date established within the Notice to Proceed. Contractor shall provide notice as may be required within the technical specifications and permits, attached hereto, and made a part hereof, to all regulatory agencies or parties having jurisdiction or interest in this Contract. Contractor shall diligently pursue the completion of the Work and shall be solely responsible for all construction means, methods, techniques, sequences, and procedures, as well as coordination of all portions of the Work under the Contract.

If Contractor is obstructed or delayed in the prosecution of or completion of the Work as a result of unforeseeable causes beyond the control of the Contractor, and not due to its own fault or neglect, including but not restricted to acts of nature or the public enemy, acts of government, fires, floods, epidemics, quarantine regulations, strikes or lockouts, Contractor shall notify the City in writing within forty-eight (48) hours after the commencement of such delay, stating the causes thereof. Failure to notify the City in writing within forty-eight (48) hours shall result in waiver of any rights which Contractor may have to request a time extension.

4. Time for Performance:

The Contractor shall schedule and complete all authorized Work for the satisfactory approval and acceptance by the City not later than _____. City and Contractor recognize that since time is of the essence for this Contract, the City will suffer financial loss if the Work is not completed and approved within the time specified.

Time is of the essence in the performance of the Work under the Contract. Contractor shall commence the Work no later than two (2) days from receipt of Notice to Proceed.

5. Compensation:

All payments upon this Contract are contingent upon the Contractor's Work being acceptable to the City. For satisfactory completion and acceptance of the Work, the City agrees to pay the Contractor in accordance with the terms of this Agreement and the Contractor's Cost Schedule as identified in the Bid Form submitted by the Contractor, as may have been adjusted at the time of contract approval and incorporated herein. For purposes of this Contract, total compensation sum shall be \$_____.

In no instance shall the City pay more than ninety-percent (90%) of the total Contract sum until its acceptance of the Work. In the event the City agrees to progress payments on this Contract, Contractor shall be entitled to not more than two payment applications per month utilizing the payment application form attached as Exhibit "C." An executed and notarized copy of the Release and Affidavit attached as Exhibit "D" shall be supplied prior to release of each progress and the final payment. Together with its applications for each progress payment and the final payment, Contractor shall furnish City with a Waiver of Right to Claim Against the Payment Bond (Progress Payment) and Waivers of Right to Claim Against the Payment Bond (Final Payment) in the forms attached hereto as Exhibits "E" and "F," respectively.

6. Changes in the Work:

City shall have the right at any time during the progress of the Work to increase or decrease the Work. Promptly after having been notified of a change, Contractor shall submit an itemized estimate of any cost and/or time increases or savings it foresees as a result of the change. No addition or changes to the Work shall be made except upon written change order of the City and the City shall not be liable to Contractor for any increased compensation without such written change order. No officer, employee or agent of the City is authorized to direct any extra or changed Work orally. A change order, in the form attached as Exhibit "G" shall be issued and executed promptly after an agreement is reached between the Contractor and City concerning any requested changes as detailed by the itemized estimate. Contractor shall promptly perform changes authorized by duly executed change orders.

7. Bonds:

Contractor shall furnish City a Payment and Performance Bond in an amount equal to the contract price pursuant to Section 255.05, Florida Statutes (the Florida Little Miller Act") prior to commencement of the work. The Bond shall be in substantially the same form as attached hereto as Exhibit "H."

8. Insurance:

Contractor shall, during the performance of the contract, maintain Worker's Compensation Insurance sufficient to secure benefits of the Florida Workmen's Compensation Law for all employees and any of the

work sublet to any vendor or subcontractor, Comprehensive General Liability Insurance, Auto Liability Insurance, Builder's Risk Insurance, all with companies and in the form and amounts acceptable to the City. Said certificates of insurance of contractor are attached hereto and made a part hereof by reference. If any part of the work is sublet, similar insurance shall be provided by and on behalf of any subcontractors.

Evidence of Insurance: Contractor shall provide the City Certificates of Insurance naming the City as an additional insured and certificate holder. All binders, policies, or certificates of insurance shall provide for at least ten days notice from insurers to the City of any cancellation or amendment to any of the insurance policies.

9. Indemnification:

Contractor shall indemnify, defend, save, and hold the City, its agents, officers and employees, harmless of and from any losses, fines, penalties, costs, damages, injuries, claims, demands, suits, and liabilities of any nature, including reasonable attorney's fees and court costs (including regulatory and appellate fees) (collectively "Injuries and Damages"), arising out of, because of, or due to Contractor's performance of the Work under this Contract, whether the Injuries and Damages are to persons or property, of any nature whatsoever, regardless of the apportionment of negligence, unless due to the sole negligence of the City.

Contractor shall indemnify, defend, save and hold the City, its agents, officers and employees, harmless of and from and against any and all liens, claims, damages, demands, suits and liabilities, attorney's fees and costs, including appellate attorney's fees and costs, of and for subcontractors, laborers, and materialmen furnishing any labor, services and materials in the performance of this Contract.

10. Licensing:

The Contractor shall obtain all permits and maintain at its expense all professional and business certificates and licenses required by law and as necessary to perform services under this Contract. If Contractor performs any Work without obtaining, or contrary to, permits and licenses, Contractor shall bear all costs arising therefrom and the City shall incur no liability. The City may, at its discretion, waive fees for City controlled permits, but in no instance can the City waive permit requirements nor fees beyond its control.

11. Cancellation:

City shall have the unconditioned right to cancel or terminate this Contract prior to issuance of Notice to Proceed without owing any liability to the Contractor.

12. Performance of Work/Responsibilities:

The performance of Work and responsibilities hereto are outlined and made a part hereof as identified in this Contract, including the incorporated Exhibits "A," and "B."

13. Final Payment:

The Contractor shall as an explicit condition precedent for final payment, furnish the City with a properly executed and notarized copy of the Release and Contractor's Final Affidavit, as well as a duly executed copy of the Surety's Consent to Final Payment and such other documentation that may be required by the Contract or the City.

14. Termination for Cause:

The Contract will remain in force for the full period specified and until the City Manager or his/her designee determines that all requirements and conditions have been satisfactorily met and the City Manager or his/her designee has accepted the Work following the initial contract terms and all subsequent contract terms, including warranty and guarantee periods. However, the City Manager will have the right to terminate this Contract sooner if the Contractor has failed to perform satisfactorily the Work required or comply with the other requirements of the Contract.

In the event the City Manager decides to terminate this Contract for the Contractor's failure to perform satisfactorily or meet its other responsibilities under the Contract, the City Manager will give the Contractor five (5) days' prior notice ("Termination for Cause"), whereupon the Contract shall terminate, unless during the notice period the Contractor cures the failure to perform and meets its other responsibilities under the Contract to the satisfaction of the City Manager.

In the event of Termination for Cause of the Contract, the Contractor will be entitled to receive compensation for Contract services satisfactorily performed by the Contractor and allocable to the Contract and accepted by the City Manager or his/her designee prior to such termination. However, an amount equal to all additional costs required to be expended by the City to complete the Work covered by the Contract, including costs of delay in completing the project, shall be offset against any amount due to the Contractor at the time of termination.

Except as otherwise directed by the City Manager, or in the case of Termination for Cause the Contractor shall stop work on the date of receipt of the notice or other date specified in the notice, place no further orders or subcontract for materials, services, or facilities except as are necessary for the completion of such portion of the work not terminated, and terminate all contractors and subcontracts and settle all outstanding liabilities and claims.

In the event that any Termination for Cause shall be found to be improper or invalid by a court, then such termination shall be deemed to have been a Termination for Convenience.

15. Termination for Convenience:

The performance of work under this Contract may be terminated by the City Manager in whole or in part whenever the City Manager, in his/her discretion, determines that such termination is in the City's best interest or for any reason whatsoever. Any such termination shall be effected by the City Manager giving at least five (5) days' prior notice to the Contractor, specifying the extent to which performance of the Work under this Contract is terminated and the date upon which such termination becomes effective.

As to Termination for Convenience, as of the date of termination set forth in the notice, the Contractor shall stop all Work as specified in the notice; place no further orders or subcontract for materials, services, or facilities except as are necessary for the completion of such portion of the Work not terminated; immediately transfer all documentation and paperwork for terminated work to the City; and terminate all contractors and subcontracts and settle all outstanding liabilities and claims.

16. Disclosure:

Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor to solicit or secure this Contract and that it has not paid or agreed

to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Contract.

17. Miscellaneous:

17.1 Governing Law/Jurisdiction/Venue

This Contract and the relationship of the parties shall be governed exclusively by the laws of the State of Florida. The state courts of Okaloosa County, Florida shall be the exclusive jurisdiction and venue for any litigation that results from either parties' breach or alleged breach of this Contract.

17.2 Severability

If any section, subsection, term or provision of this Contract or the application thereof to any party or circumstance shall, to any extent, be determined to be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Contract or the application of same to parties or circumstances other than those to which it was held invalid or unenforceable, shall not be affected thereby and each remaining section, subsection, term or provision of this Contract shall be valid or enforceable to the fullest extent permitted by law.

17.3 Sovereign Immunity

Nothing in this Agreement is intended to nor shall be construed to waive the **CITY's** sovereign rights and immunities under the Florida Constitution, Common law, or Florida Statutes §768.28, as amended from time to time.

17.4 Construction

The Parties have participated jointly in the negotiation and drafting of this Contract. In the event an ambiguity or question of intent or interpretation arises, this Contract shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any Party by virtue of the authorship of any of the provision of this contract.

17.5 Jury Trial Waiver

CONTRACTOR AND CITY HEREBY WAIVE THEIR RIGHTS TO A TRIAL BY JURY REGARDING ANY LAWSUIT INVOLVING THE INTERPRATION, CONSTRUCTION, ENFORCEMENT, OR GOVERNANCE OF THIS CONTRACT, AND FOR ANY LAWSUIT RELATED IN ANY WAY TO THIS CONTRACT, ARISING OUT OF THIS CONTRACT, OR FOR THE WORK PERFORMED PURSUANT TO THIS CONTRACT.

17.6 Attorney's Fees

In any dispute relating to this Contract each party shall be responsible for paying its own attorney's fees and costs.

17.7 Incorporation of Required Federal Contract Clauses

The City is the recipient of federal money for the Work. Therefore, certain federal obligations and requirements apply. These obligations and requirements are attached hereto as Exhibit "I." Exhibit "I" is fully incorporated herein, and Contractor agrees and warrants that it can or will fully meet all these obligations and requirements, if applicable. In the event of a conflict between Exhibit "I" and this Contract, Exhibit "I" shall control.

17.8 Notices

All notices under the Contract shall be in writing and shall be effective when mailed by certified mail, return receipt requested, or when delivered personally, as provided hereafter, or to such other addresses as may be designated by notice:

As to City:

City of Destin, Florida
Attn: Lance A. Johnson, City Manager
4200 Indian Bayou Trail
Destin, FL 32541

As to Contractor:

Contractor Name
Attn:
Address
City, State, Zip Code

17.9 Public Records

Contractor shall comply with Florida Public Records Laws, specifically to:

- a) Keep and maintain public records that ordinarily and necessarily would be required by the City of Destin in order to perform the service.
- b) Provide the public with access to public records on the same terms and conditions that the City of Destin would provide the records and at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
- c) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law.
- d) Meet all requirements for retaining public records and transfer, at no cost, to the City of Destin all public records in possession of the contractor upon termination of the contract and destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. All records stored electronically must be provided to the City of Destin in a format that is compatible with the information technology systems of the City of Destin.
- e) **IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTRACTOR SHALL CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT (850) 837-4242, CITY CLERK, 4200 INDIAN BAYOU TRAIL, DESTIN, FL 32541.**

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City hereunto caused these presents to be subscribed and the Contractor has affixed their name and seal, this the _____ day of _____, 2020.

CITY OF DESTIN

By: _____
Lance A. Johnson
City Manager

ATTEST:

Rey Bailey
City Clerk

SEAL

CONTRACTOR:

By: _____

President

Witness

Witness

SAMPLE

EXHIBIT "A"
RFP NO. 20-08-REC
CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT

SAMPLE

EXHIBIT "B"
RFP NO. 20-08-REC
CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT
BID OF _____

SAMPLE

EXHIBIT "C"

APPLICATION AND CERTIFICATE FOR PAYMENT FORM

Application No. _____ Progress _____ Final _____

Engineer's Project No.: _____

Project: **City of Destin, Florida**

RFP NO. 20-08-REC

CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT

Contractor: _____ Contract Date: _____

Contract for: _____

Application Date: _____ For Period Ending _____

Change Order Summary			ADDITIONS	DEDUCTIONS
Change Orders approved in previous months by OWNER		TOTAL		
Approved this month				
Number	Date Approved			
TOTALS				
Net Change by Change Orders				

1. ORIGINAL CONTRACT SUM \$ _____
2. Net Change by Change Order \$ _____
3. CONTRACT SUM TO DATE (Line 1 and 2) \$ _____
4. TOTAL COMPLETED AND STORED TO DATE \$ _____
5. RETAINAGE: (Column I & N, Forms 00845 and 00846)
 - a. _____ % of Completed Work \$ _____
 - b. _____ % of Stored Material \$ _____Total Retainage (Line 5a and 5b) \$ _____
6. TOTAL EARNED LESS RETAINAGE
(Line 4 less Line 5 Total) \$ _____
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT
(Line 6 from prior Certificate) \$ _____
8. AMOUNT DUE THIS APPLICATION \$ _____
9. BALANCE TO FINISH, PLUS RETAINAGE
(Line 3 less Line 6) \$ _____

Contractor's Certification

The undersigned Contractor hereby swears under penalty of perjury that (1) all previous progress payments received from the Owner on account of Work performed under the contract referred to above have been applied by the undersigned to discharge in full all obligations of the undersigned incurred in connection with Work covered by prior Applications for Payment numbered 1 through__ inclusive; and (2) all materials and equipment incorporated in said Project or otherwise listed in or covered by this Application for Payment are free and clear of all liens, claims, security interest and encumbrances; (3) all Work covered by this Application for Payment is in accordance with the Contract Documents and not defective as that term is defined in the Contract Documents.

Dated _____, 20__

(Contractor)

By: _____

(Name)

(Title)

COUNTY OF _____
STATE OF _____

Before me on this _____ day of _____, 20__, personally appeared by means of __ physical presence or __ online notarization, _____, known to me, who being duly sworn, deposes and says that (s)he is the _____ of the Contractor; that he executed the above Application for Payment and statement on behalf of said Contractor; and that all of the statements contained therein are true, correct and complete.

Notary Public

My Commission Expires _____

Payment of the above AMOUNT DUE THIS APPLICATION is recommended.

By: _____

Date: _____

Owner's Approval

By: _____

(Title)

Acct. No. _____

Date: _____

END OF SECTION

SECTION 00845
SCHEDULE OF VALUES

Pay Estimate No. _____ Project: RFP 20-08-REC CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA
For Period Ending _____ Prepared by _____ Page ____ of ____

[illegible]

MATERIALS STORED ON SITE FORM

Pay Estimate No. _____ Project: RFP 20-08-REC CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA Date Prepared _____
 For Period Ending _____ Prepared by _____ Page _____ of _____

[illegible]

EXHIBIT "D"

RELEASE AND AFFIDAVIT

COUNTY OF _____)
STATE OF FLORIDA)

Before me, the undersigned authority, personally appeared _____, who after being duly sworn, deposes and says:

(1) In accordance with the Contract Documents and in consideration of \$ _____ paid, _____. ("CONTRACTOR") releases and waives for itself and its subcontractors, materialmen, successors and assigns, all claims demands, costs and expenses, whether in contract, in tort, or otherwise, against the CITY OF DESTIN, ("CITY") relating in any way to the performance of the Contract between CONTRACTOR and CITY dated _____, 2020, for the period through _____ for the RFP NO. 20-08-REC CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT.

(2) CONTRACTOR certifies for itself and its subcontractors, materialmen, and all successors and assigns, that all charges for labor, materials, supplies, lands, licenses and other expenses for which CITY might be sued or for which a lien or a demand against any payment bond might be filed, have been satisfied and paid.

(3) CONTRACTOR agrees to indemnify, defend, and save harmless CITY from all demands or suits, actions, claims of liens or other charges filed or asserted against the CITY arising out of the performance by CONTRACTOR of the WORK covered by this Release and Affidavit.

(4) This Release and Affidavit is given in connection with CONTRACTOR'S (progress/final) Application for Payment No. _____.

[Corporate Seal]

CONTRACTOR:

By: _____

Date: _____

Witness

Witness

STATE OF FLORIDA
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this _____ day of _____, 2020, by _____, as _____ of _____, a Florida corporation, on behalf of the corporation.

He/she is personally known to me OR has produced _____ as identification and (did/did not) take an oath.

My Commission Expires:

(signature)

Name: _____
(Legibly Printed)

(AFFIX OFFICIAL SEAL)

Notary Public, State of _____

Serial No., If Any: _____

EXHIBIT “E”

**WAIVER OF RIGHT TO CLAIM
AGAINST THE PAYMENT BOND
(PROGRESS PAYMENT)**

The undersigned, in consideration of the sum of \$_____, hereby waives its right to claim against the payment bond for labor, services, or materials furnished through (insert date) to_____.
on the job of the City of Destin, Florida , for improvements to the following described project: CAPT.
ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT

This waiver does not cover any retention, or any labor, services, or materials furnished after the date specified.

CLAIMANT:

[Corporate Seal]

By: _____

Date: _____

EXHIBIT "F"

**WAIVER OF RIGHT TO CLAIM
AGAINST THE PAYMENT BOND
(FINAL PAYMENT)**

The undersigned, in consideration of the final payment in the amount of \$_____, hereby waives its right to claim against the payment bond for labor, services, or materials furnished to _____ on the job of the City of Destin, Florida, for improvements to the following described project: CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT.

CLAIMANT:

By: _____

Date: _____

[Corporate Seal]

SAMPLE

EXHIBIT "G"

CHANGE ORDER FORM

Project: **City of Destin, Florida**

RFP NO. 20-08-REC

CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT

CHANGE ORDER NO. _____

DATE OF ISSUANCE: _____

CONTRACTOR: _____

EFFECTIVE DATE: _____

ENGINEER: _____

OWNER'S CONTRACT NO.: _____

The following changes are hereby made to the Contract Documents:

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIMES:
Original Contract Price \$ _____	Original Contract Times Substantial Completion: _____ Ready for final payment: _____ days or dates
Net changes from previous Change Orders No. ____ to No. ____ \$ _____	Net change from previous Change Orders No. ____ to No. ____ _____ days
Contract Price prior to this Change Order \$ _____	Contract Times prior to this Change Order Substantial Completion: _____ Ready for final payment: _____ days or dates
Net Increase (decrease) of this Change Order \$ _____	Net Increase (decrease) of this Change Order _____ days
Contract Price with all approved Change Orders \$ _____	Contract Times with all approved Change Orders Substantial Completion: _____ Ready for final payment: _____ days or dates

CHANGES ORDERED:

- I. GENERAL This change order is necessary to cover changes in the work to be performed under this Contract. The General Conditions, Supplementary Conditions, Specifications, and all parts of the Project Manual listed in Article 1, Definitions, of the General Conditions apply to and govern all work under this change order.

Change Order No. _____

- II. REQUIRED CHANGES: _____

- III. JUSTIFICATION: _____

- IV. PAYMENT: _____

V. APPROVAL AND CHANGE AUTHORIZATION: _____

Acknowledgments:

The aforementioned change, and work affected thereby, is subject to all provisions of the original contract not specifically changed by this Change Order; and,

It is expressly understood and agreed that the approval of the Change Order shall have no effect on the original contract other than matters expressly provided herein.

Change Order Request by: _____

Change(s) Ordered by: _____

RECOMMENDED BY:

ACCEPTED BY:

(Engineer) (Contractor)

By: _____
(Authorized Signature) (Date) (Authorized Signature) (Date)

(Title) (Title)

APPROVED BY:

(Owner)

By: _____
(Authorized Signature) (Date)

Exhibit "H"

PUBLIC CONSTRUCTION BOND

BY THIS BOND, We _____, as Principal and _____, a corporation, as Surety, are bound to the City of Destin, Florida, herein called Owner, in the sum of \$ _____, for payment of which we bind ourselves, our heirs, personal representatives, successors, and assigns, jointly and severally.

THE CONDITION OF THIS BOND is that if Principal:

1. Performs the contract dated _____ between Principal and Owner for construction of CAPT. ROYAL MELVIN HERITAGE PARK AND PLAZA CONSTRUCTION PROJECT, the contract being made a part of this bond by reference, at the times and in the manner prescribed in the contract; and
2. Promptly makes payments to all claimants, as defined in Section [255.05\(1\)](#), Florida Statutes, supplying Principal with labor, materials, or supplies, used directly or indirectly by Principal in the prosecution of the work provided for in the contract; and
3. Pays Owner all losses, damages, expenses, costs, and attorney's fees, including appellate proceedings, that Owner sustains because of a default by Principal under the contract; and
4. Performs the guarantee of all work and materials furnished under the contract for the time specified in the contract, then this bond is void; otherwise it remains in full force.

Any action instituted by a claimant under this bond for payment must be in accordance with the notice and time limitation provisions in Section [255.05\(2\)](#), Florida Statutes.

Any changes in or under the contract documents and compliance or noncompliance with any formalities connected with the contract or the changes does not affect Surety's obligation under this bond.

DATED ON _____.

(Name of Principal)

By: _____
(As Attorney in Fact)

(Name of Surety)

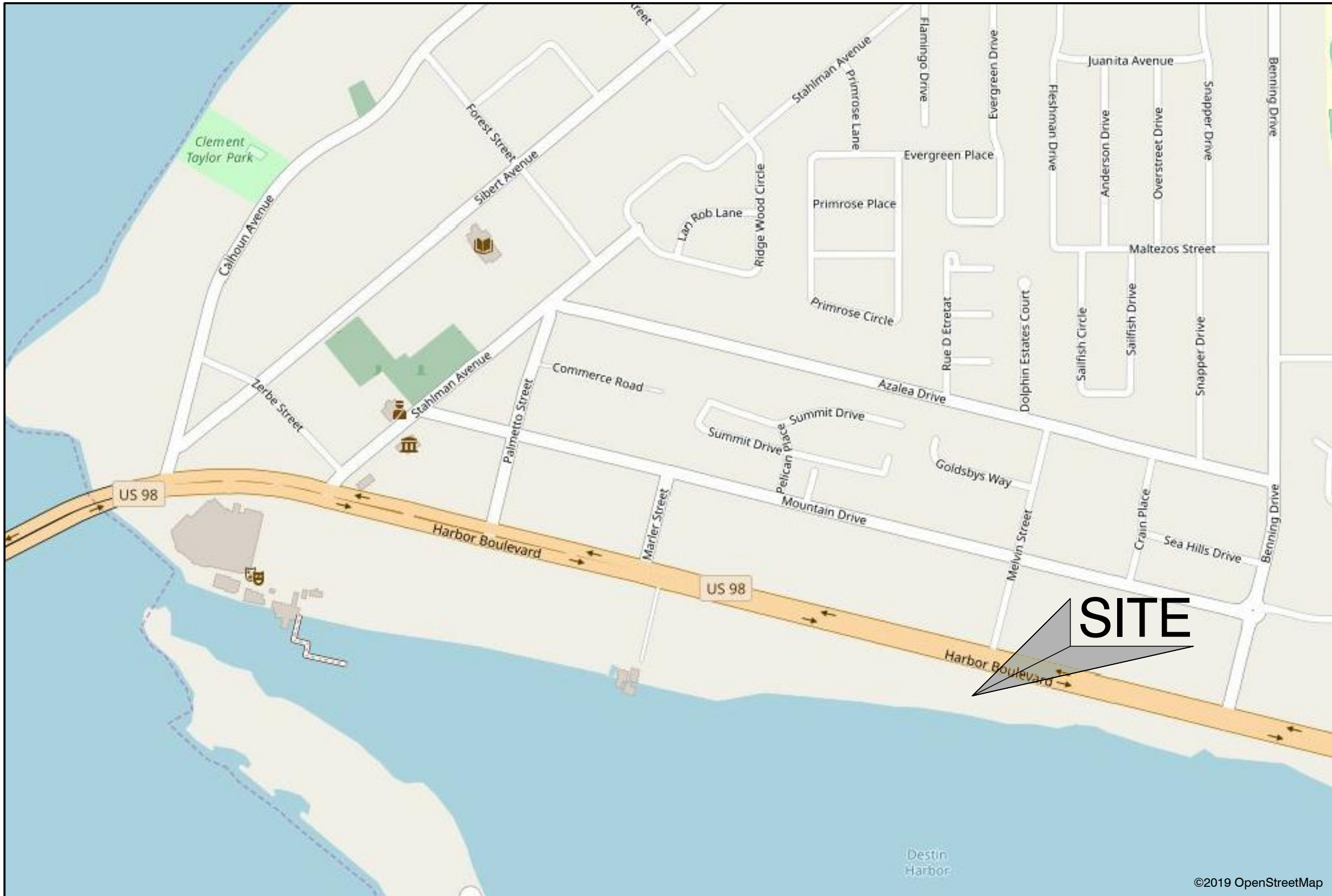
Exhibit “I”

Federally Required Contract Clauses

SAMPLE

ROYAL MELVIN PARK

CITY OF DESTIN, FLORIDA



VICINITY MAP
NOT TO SCALE

DUTY TO INDEMNIFY

THE CONTRACTOR SHALL DEFEND, INDEMNIFY, KEEP AND SAVE HARMLESS THE OWNER AND ENGINEER AND THEIR RESPECTIVE MEMBERS, REPRESENTATIVES, AGENTS AND EMPLOYEES, IN BOTH INDIVIDUAL AND OFFICIAL CAPACITIES, AGAINST ALL SUITS, CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING ATTORNEY'S FEES, CAUSED BY, GROWING OUT OF, OR INCIDENTAL TO THE PERFORMANCE OF THE WORK UNDER THE CONTRACT BY THE CONTRACTOR OR ITS SUBCONTRACTORS TO THE FULL EXTENT AS ALLOWED BY THE LAWS OF THE STATE OF FLORIDA AND NOT BEYOND ANY EXTENT WHICH WOULD RENDER THESE PROVISIONS VOID OR UNENFORCEABLE. IN THE EVENT OF ANY SUCH INJURY (INCLUDING DEATH) OR LOSS OR DAMAGE, OR CLAIMS THEREFORE, THE CONTRACTOR SHALL GIVE PROMPT NOTICE TO THE OWNER.

LEGAL DESCRIPTION - AS PER DEED

THE WESTERLY 68 FEET OF LOT 7-G, MORENO POINT MILITARY RESERVATION, SURVEY OF LOTS IN UNSECTIONALIZED TOWNSHIP 2 SOUTH, RANGE 23 WEST, CITY OF DESTIN, AS RECORDED IN DEED BOOK 25, PAGE 573, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, MORE PARTICULARLY DESCRIBED AS BEGINNING AT AN IRON PIN (#3724) ON THE SOUTHERLY RIGHT-OF-WAY OF U.S. HIGHWAY 98 (100' R/W), MARKING THE NORTHWESTERLY CORNER OF SAID LOT 7-G; THENCE SOUTH 80 DEGREES 33' 40" EAST (REFERENCE BEARING) ALONG SAID RIGHT-OF-WAY, A DISTANCE OF 67.93 FEET TO AN IRON PIN (#0340); THENCE DEPARTING SAID RIGHT-OF-WAY, SOUTH 09 DEGREES 20' 42" WEST, 448.16 FEET TO AN IRON PIN (NO#); THENCE CONTINUE SOUTH 09 DEGREES 20' 42" WEST, 45.12 FEET TO A POINT ON THE SOUTHERNMOST EDGE OF A WOOD BOARDWALK ALONG DESTIN HARBOR; THENCE NORTH 81 DEGREES 32' 49" WEST ALONG SAID BOARDWALK, 68.00 FEET; THENCE DEPARTING SAID DESTIN HARBOR, NORTH 09 DEGREES 21' 02" EAST, 15.58 FEET TO AN IRON PIN (#0340); THENCE CONTINUE NORTH 09 DEGREES 21' 02" EAST, A DISTANCE OF 478.86 FEET TO THE POINT OF BEGINNING.

UTILITY PROVIDERS

(WATER/SEWER) DESTIN WATER USERS, INC. 14 INDUSTRIAL PARK LANE DESTIN, FL 32541 (850) 837-6146	(TELEPHONE) CENTURYLINK 411 MARY ESTHER CUTOFF #411B FT. WALTON BEACH, FL 32548 (850) 244-1150	(ELECTRIC) GULF POWER ONE ENERGY PLACE PENSACOLA, FL 32520 (800) 225-5797	(GAS) OKALOOSA GAS DISTRICT 367 VALPARAISO BOULEVARD VALPARAISO, FL 32580 (850) 729-4700	(CABLE) COX COMMUNICATIONS 99 EGLIN PKWY NE, SUITES 21 & 22 FORT WALTON BEACH, FL 32548 (850) 226-6872
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CLIENT INFORMATION

CITY OF DESTIN
4200 INDIAN BAYOU TRAIL
DESTIN, FLORIDA 32541

NOTE

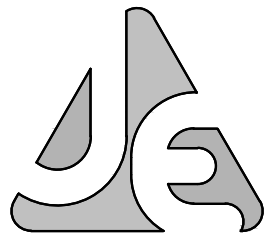
USE LATEST CITY OF DESTIN, AND/OR
F.D.O.T. TECHNICAL SPECIFICATIONS AND
DETAILS UNLESS OTHERWISE NOTED.

CONTRACTOR NOTE

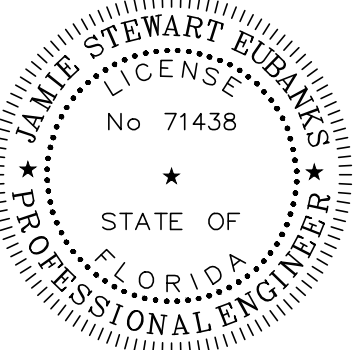
CONTRACTOR TO PROVIDE M.O.T. TO F.D.O.T.

SHEET INDEX

SHEET NO.		SHEET TITLE
C01	COVER SHEET	
C02	EXISTING CONDITIONS & DEMOLITION	
C03	SITE PLAN	
C04	POTABLE WATER & WASTEWATER IMPROVEMENT PLAN	
C05	GRADING PLAN	
C06	MISCELLANEOUS DETAILS I	
C07	MISCELLANEOUS DETAILS II	
C08	MISCELLANEOUS DETAILS III	
C09	SPECIFICATION SHEET I	
A1.1	PROJECT NOTES	
A3.1	LIFE SAFETY PLAN	
A4.1	FLOOR PLAN	
A5.1	ROOF PLAN	
A7.1	RESTROOM PLAN	
A10.1	ELEVATIONS	
A12.1	ROOFING PLAN	
A12.2	WALL SECTIONS	
S0.0	STRUCTURAL GENERAL NOTES	
S1.0	FOUNDATION PLAN	
S1.1	SECOND FLOOR PLAN	
S2.0	STRUCTURAL DETAILS	
S2.1	STRUCTURAL DETAILS	
S3.0	STRUCTURAL DETAILS	
E1.0	ELECTRICAL SITE PLAN	
E1.1	ELECTRICAL PLAN / CONTROLS	
M1.1	MECHANICAL PLAN	
P1.1	PIPING FLOOR PLAN	
P2.1	PLUMBING DETAILS & SPECIFICATIONS	



JENKINS ENGINEERING, INC.
1234 AIRPORT ROAD, SUITE 126
DESTIN, FLORIDA 32541
PHONE 850.837.2448
FAX 850.837.2450
JECIVIL.COM
C.O.A. NO. 9927



JAMIE S. EUBANKS, P.E.
FL REGISTRATION NO. 71438

REV	DATE	DESCRIPTION
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CITY OF DESTIN
ROYAL MELVIN PARK
CITY OF DESTIN, FLORIDA
COVER SHEET
NOT VALID UNLESS BEARING ENGINEER'S ORIGINAL SIGNATURE

JOB: 19-03
DATE: 03/27/19
DESIGNED: JSE/JAW
DRAWN: JAW/CEJ

BAR IS ONE INCH ON ORIGINAL
0
IF NOT ONE INCH ON THIS SHEET
ADJUST SCALES ACCORDINGLY

DRAWING NUMBER
1 OF 28

SHEET NUMBER
C01

CITY OF DESTIN DUST & VIBRATION NOTES

CITY OF DESTIN DUST CONTROL REQUIREMENTS

1. GRADING OPERATIONS WILL NOT BE CONDUCTED WHEN WINDS EXCEED 30 MILES PER HOUR.
2. WATER WILL BE APPLIED WITH HOSE OR WATER TRUCK, AS NECESSARY, DURING EXCAVATION ACTIVITIES.
3. CONTRACTOR SHALL ENSURE THAT ANY OPEN-BODIED TRUCKS, TRAILERS OR OTHER VEHICLES TRANSPORTING PARTICULATE MATTER SHALL BE COVERED OR WETTED TO MINIMIZE DUST GENERATION DURING TRANSPORT.
4. STOCKPILED MATERIAL SHALL BE COVERED OR WETTED, AS REQUIRED, TO MINIMIZE DUST GENERATION DURING HIGH WIND CONDITIONS.
5. CONTRACTOR SHALL MINIMIZE THE HEIGHTS INVOLVED IN TRANSFER PROCESSES INVOLVING FREE FALL OF SOIL OR OTHER PARTICULATE MATTER TO MINIMIZE DUST EMISSIONS.
6. WATER WILL E APPLIED BY HOSE OR WATER TRUCK, AS NECESSARY, TO UNPAVED SURFACES, INCLUDING ADJACENT RIGHT-OF-WAYS, OR ANY OTHER SURFACE THAT COULD CREATE AIRBORNE DUST.
7. GROUND COVER WILL BE PLACED FOR ALL OPEN AREAS IMMEDIATELY AFTER CONSTRUCTION ACTIVITIES HAVE BEEN COMPLETED.
8. DESIGNATED ROUTES WITHIN THE JOB SITE THAT WILL BE USED BY VEHICLES TRANSPORTING SOIL OR OTHER MATERIALS TO AND FROM THE SITE SHALL BE CLEARLY INDICATED.
9. CONTRACTOR SHALL PROVIDE BRUSHES, BROOMS, WATER, OR PRESSURE WASHERS, AS REQUIRED, TO REMOVE SOIL, SAND, DIRT AND ANY OTHER PARTICULATE MATTER FROM VEHICLE TIRES AND UNDERCARRIAGES PRIOR TO LEAVING THE SITE IN ORDER TO PREVENT THE TRACKING OUT OF SAID SOIL, SAND, DIRT AND ANY OTHER PARTICULATE MATTER ONTO THE ADJACENT RIGHT-OF-WAYS.
10. MAXIMUM SPEED OF CONSTRUCTION EQUIPMENT OR MATERIAL DELIVERIES SHALL BE 20 MILES PER HOUR.
11. ANY SOIL, SAND AND OTHER MATERIAL DEPOSITED OR EMITTED ONTO ANY RIGHT-OF-WAYS NEAR THE SITE SHALL BE REMOVED WITHIN 48 HOURS.
12. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE THAT ANY DUST CONTROL SYSTEMS AND/OR DEVICES, INCLUDING BUT NOT LIMITED TO WATER APPLICATION SYSTEMS, FILTER REPLACEMENT, OR DAILY REMOVAL OF EXCESS DUST FROM CONTAINMENT AREAS ARE IN PROPER WORKING CONDITIONS PER MANUFACTURERS REQUIREMENTS OR STANDARD INDUSTRY PRACTICE.
13. MONITORING OF DUST EMISSIONS SHALL BE DONE TO ENSURE COMPLIANCE WITH RELEVANT REGULATORY REQUIREMENTS.
14. CONTRACTOR SHALL MAINTAIN A DAILY DUST CONTROL CHECKLIST AND SHALL PROVIDE TO THE CITY UPON REQUEST TO DOCUMENT COMPLIANCE WITH THESE REQUIREMENTS, AND MAINTAIN AT THE JOB SITE AT ALL TIMES.

CITY OF DESTIN VIBRATION IMPACT REQUIREMENTS

1. ANY ACTIVITY INCLUDING, BUT NOT LIMITED TO: PILE DRIVING, EARTHWORK COMPACTION, CONCRETE AND ASPHALT BREAKING WILL NOT TRANSMIT VIBRATIONS TO SENSITIVE RECEPTORS AT OR ABOVE THE FEDERAL TRANSIT ADMINISTRATION (FTA) APPROXIMATE VIBRATION DAMAGE THRESHOLD OF 95 VIBRATION DECIBELS (VDB).
2. FOR ANY ACTIVITY EXCEEDING 80 VDB THE CONTRACTOR SHALL BE RESPONSIBLE FOR PROVIDING THE CITY OF DESTIN WITH A VIBRATION MINIMIZATION AND MITIGATION PLAN TO REDUCE IMPACTS TO THE SURROUNDING AREAS.

SURVEYOR INFO:

BOUNDARY AND TOPOGRAPHIC INFORMATION
SHOWN HEREIN PROVIDED BY:

CITY OF DESTIN, FLORIDA
4200 INDIAN BAYOU TRAIL
DESTIN, FL 32541
PHONE: 850-837-4242



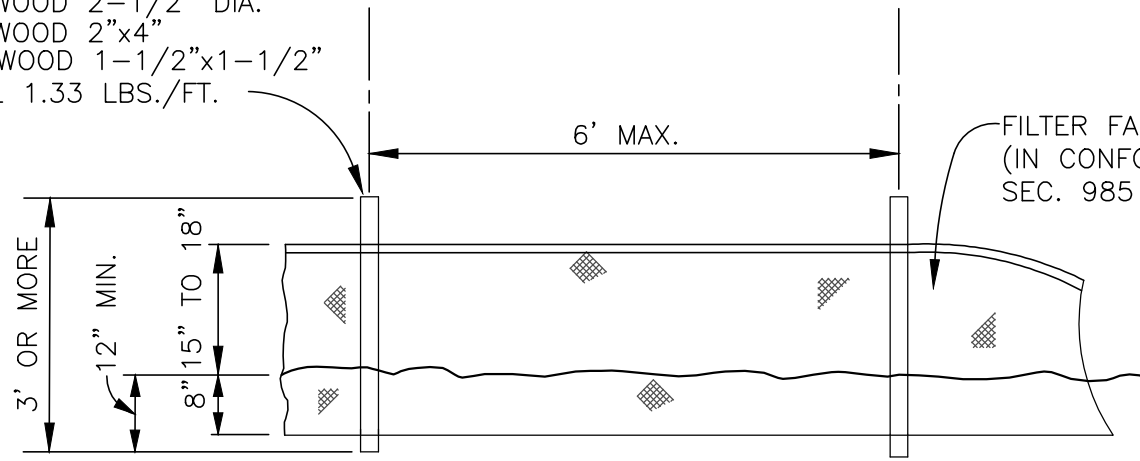
LEGEND

- AREAS TO BE REMOVED
- STAKED SILT FENCE
- EXISTING CONTOUR

CONSTRUCTION SCREENING NOTE

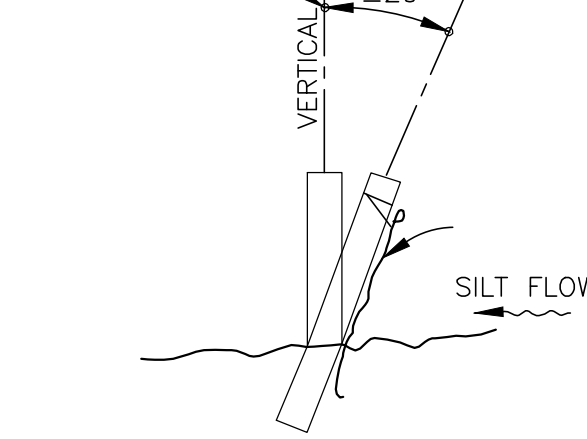
CONTRACTOR SHALL BE REQUIRED TO COMPLY WITH CONSTRUCTION SCREENING ORDINANCE SECTION 6-51 OF DESTIN CODE OF ORDINANCES. SCREENING MATERIAL SHALL BE AN OPAQUE MATERIAL, CAPABLE OF ALLOWING AIR TO PASS BUT SEMI-PERVIOUS TO DUST AND DIRT. NO MATERIAL OVER 1/8 INCH SHALL PASS THROUGH THE MESH. SCREENING SHALL BE SECURELY AFFIXED TO THE CONSTRUCTION FENCE. FENCE SCREENING SHALL HAVE A MINIMUM HEIGHT OF 5 FEET AND MAXIMUM HEIGHT OF 8 FEET. MATERIAL SHALL BE MAINTAINED IN GOOD CONDITIONS AND TAUT THROUGHOUT THE ALLOTTED PERMIT TIME. SCREENING MUST BE KEPT SECURE FROM ANY WIND ACTION. IN CASES WHERE FINISHED GRADE OF THE SITE IS HIGHER BY MORE THAN 1 FOOT OR MORE THAN THE GRADE OF THE ADJOINING PROPERTIES, FENCE SHALL BE PLACED AT THE FINISHED GRADE AND NOT EXISTING GRADE. REFER TO ORDINANCE FOR SPECIFIC LANGUAGE.

POST OPTIONS
SOFTWOOD 2-1/2" DIA.
SOFTWOOD 2"x4"
HARDWOOD 1-1/2"x1-1/2"
STEEL 1.33 LBS./FT.



ELEVATION
PRINCIPAL POST POSITION
(CANTED 20° TOWARD FLOW)

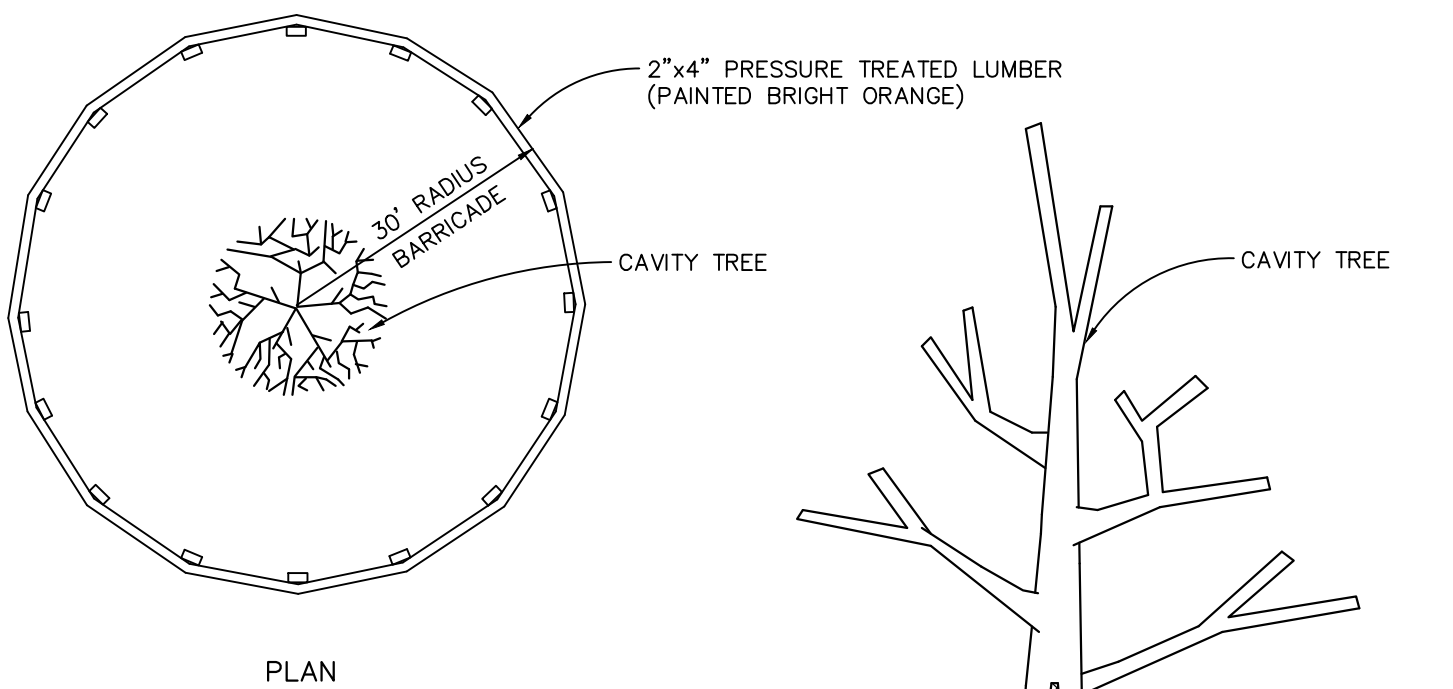
OPTIONAL POST POSITIONS



SECTION
TYPE III SILT FENCE
N.T.S.

EROSION NOTES

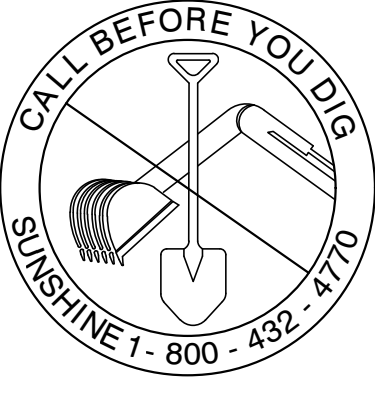
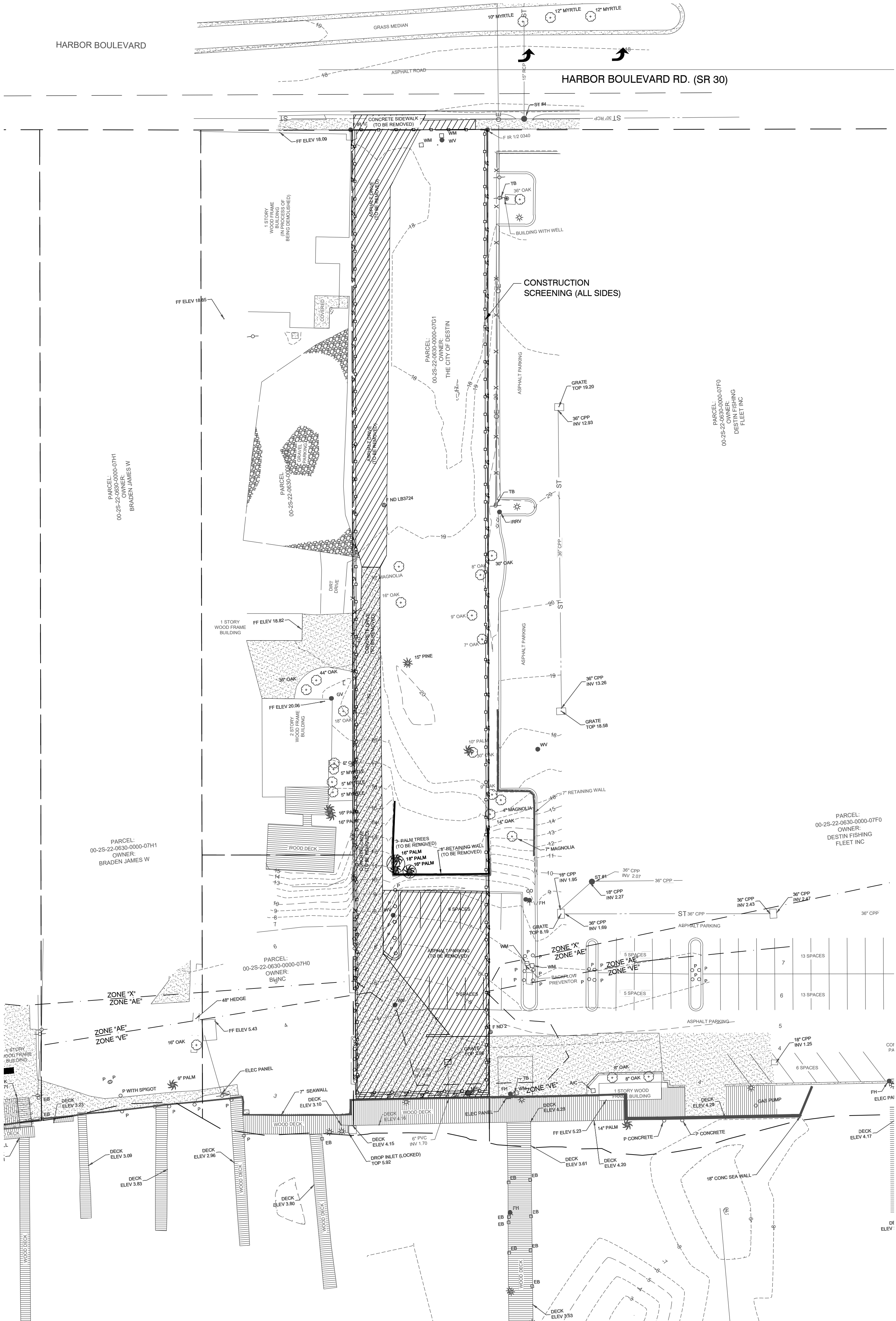
1. EROSION PROTECTION: SOIL EROSION SEDIMENTATION MUST BE CONTROLLED AND RETAINED ON SITE DURING CONSTRUCTION. THEREFORE, EROSION PROTECTION, SUCH AS STAKED BALED HAY AND SILT FENCE BARRIERS, MUST BE INSTALLED PRIOR TO START OF CONSTRUCTION.
2. SILT FENCE BARRIER SHALL BE INSTALLED AS SHOWN ON PLANS, AND IN ALL AREAS SUBJECT TO SOIL EROSION SEDIMENTATION.
3. STORMWATER DETENTION BANKS TO THE NORMAL POOL ELEVATION SHALL BE SODDED.
4. GRADES AT CURBS ARE AT FLOWLINE.
5. SILT FENCE TO BE CONSTRUCTED AND MAINTAINED AROUND ALL INLETS; ALSO ACROSS ALL COURSE AT EDGE OF SITE AND AT 150' INTERVALS.
6. DEVELOPER OR THEIR DESIGNATED CONTRACTOR SHALL PROVIDE COPIES OF NPDES NOTICE OF INTENT (NOI) AND STORMWATER POLLUTION PREVENTION PLAN (SWPPP) TO WALTON COUNTY DEVELOPMENT ORDER INSPECTOR PRIOR TO COMMENCEMENT OF CONSTRUCTION.

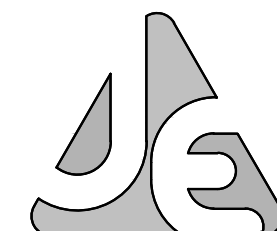


BARRICADE NOTES:

1. SHALL BE CONSTRUCTED OF 2"x4" PRESSURE TREATED LUMBER.
2. SHALL BE 42" HIGH MINIMUM.
3. SHALL HAVE A 30' RADIUS.
4. SHALL BE PAINTED BRIGHT ORANGE.
5. SHALL BE REMOVED UPON COMPLETION OF CONSTRUCTION.

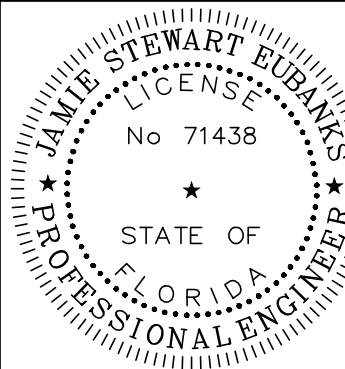
TREE PROTECTION DETAIL
N.T.S.





JENKINS ENGINEERING, INC.
101 HART STREET
NICEVILLE, FLORIDA 32578
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JECIVIL.COM
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JAMIE S. EUBANKS, P.E.
FL REGISTRATION NO. 71438

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BY	CEL	JAW	JW	JW

CITY OF DESTIN

ROYAL MELVIN PARK
CITY OF DESTIN, FLORIDA

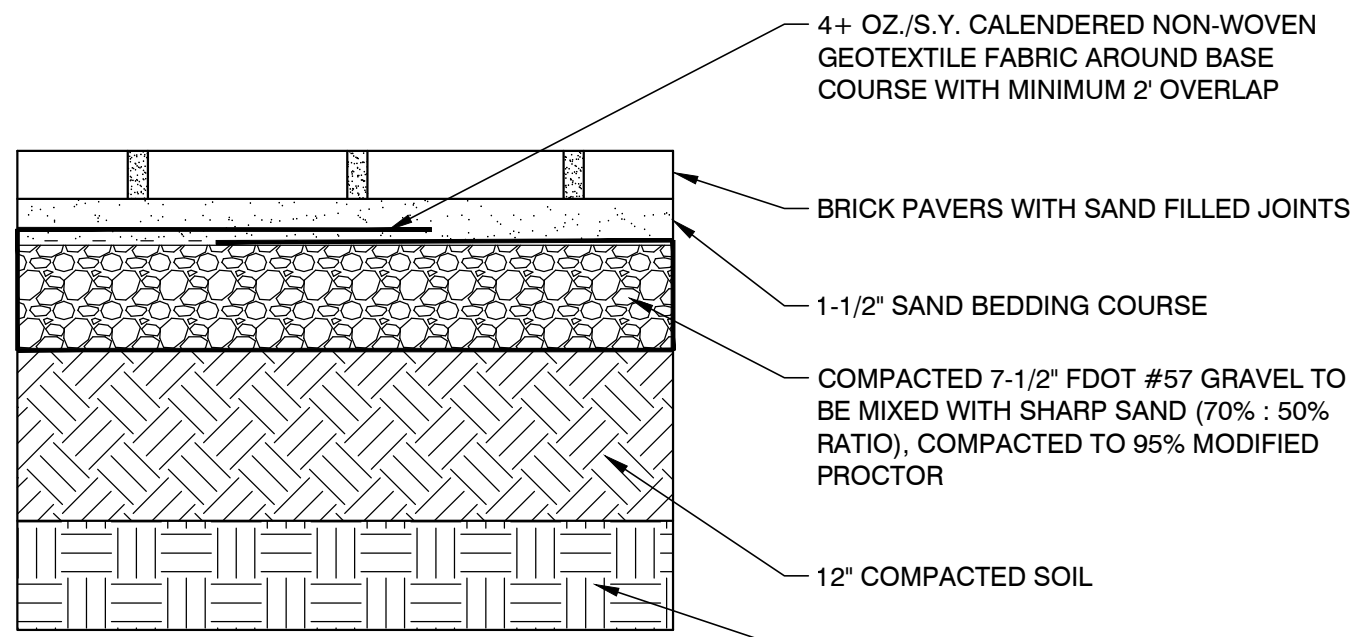
EXISTING CONDITIONS & DEMOLITION
NOT VALID UNLESS BEARING ENGINEER'S ORIGINAL SIGNATURE

JOB: 19-03
DATE: 03/27/19
DESIGNED: JSE/JAW
DRAWN: JAW/CEJ

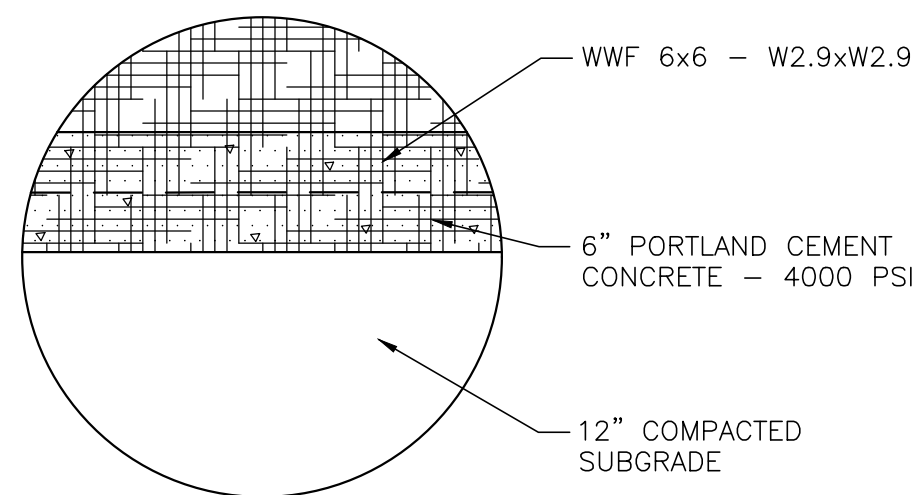
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IF NOT ONE INCH ON THIS SHEET
ADJUST SCALES ACCORDINGLY

DRAWING NUMBER
2 OF 28

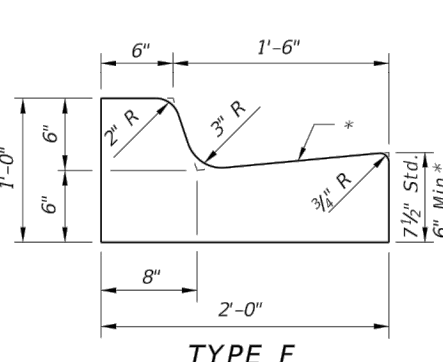
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C02



BRICK PAVER DETAIL
N.T.S.

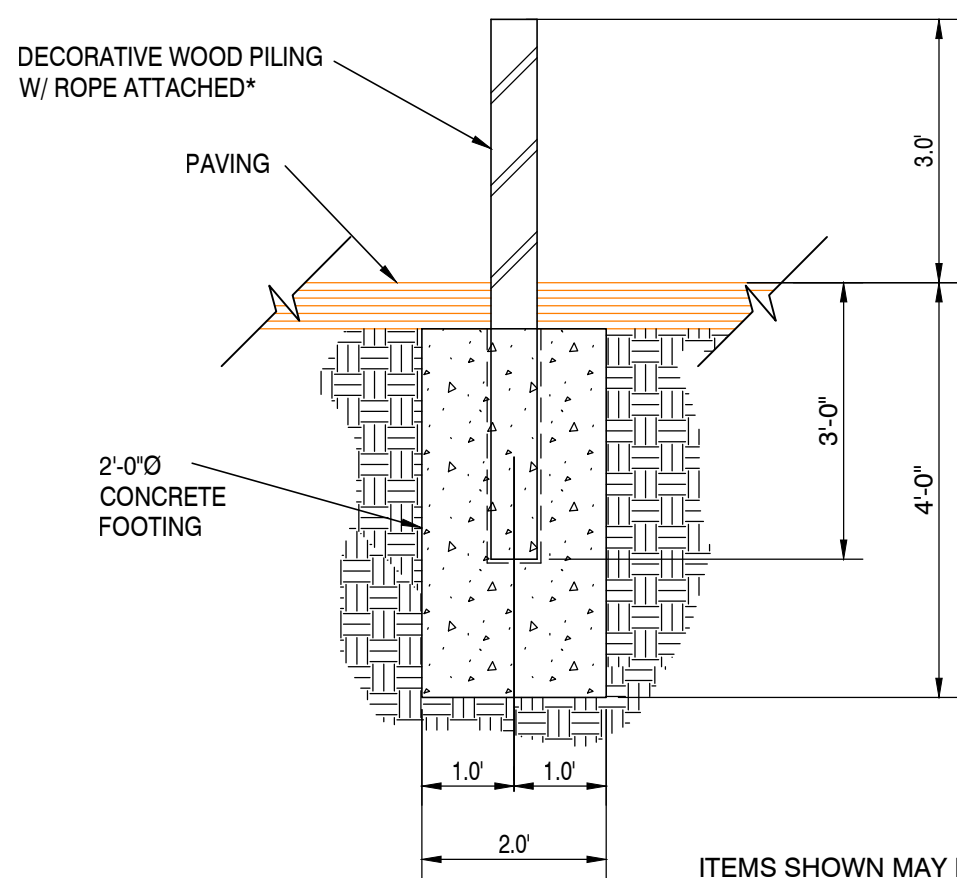


6" CONCRETE PAVEMENT DETAIL
N.T.S.

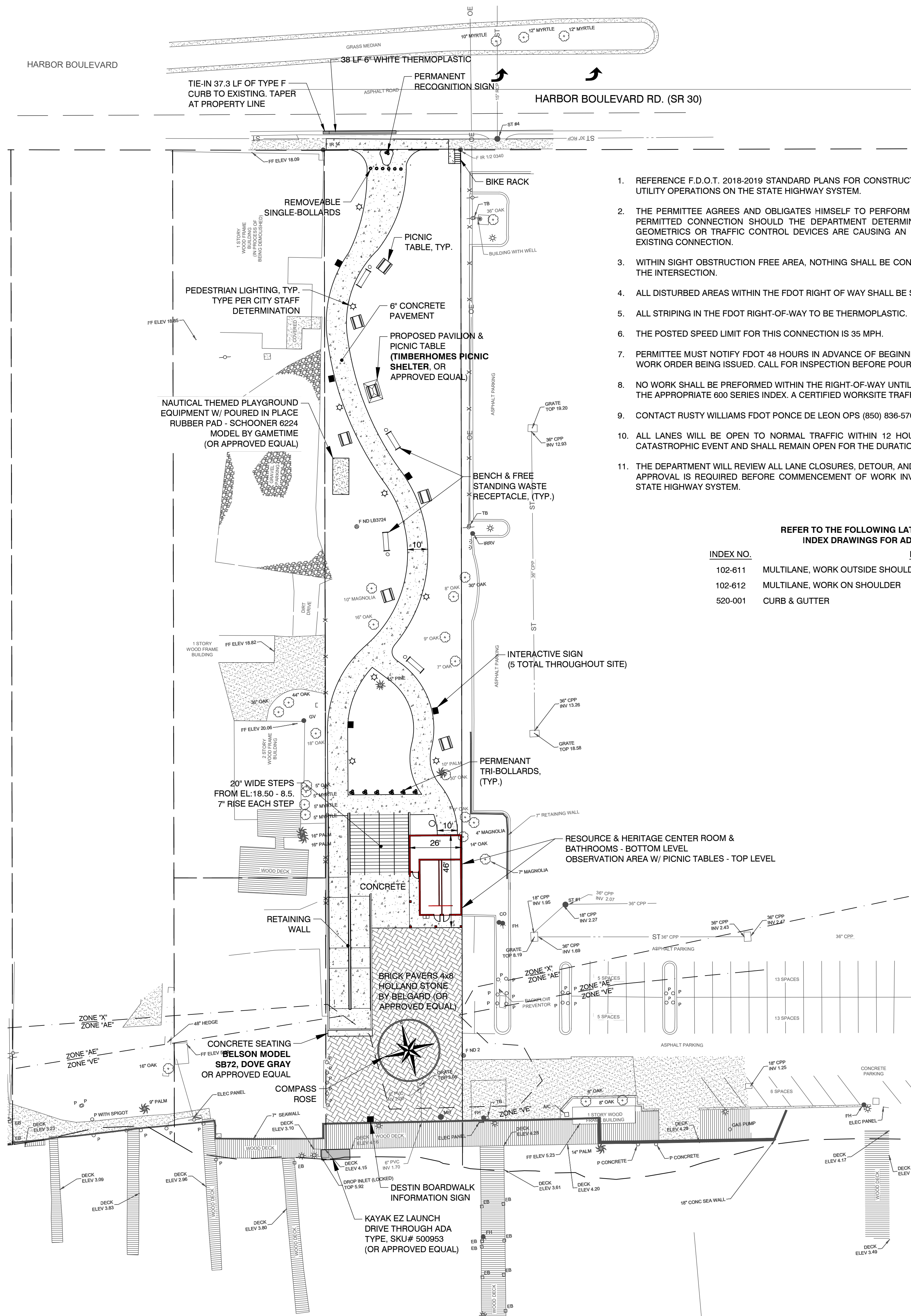
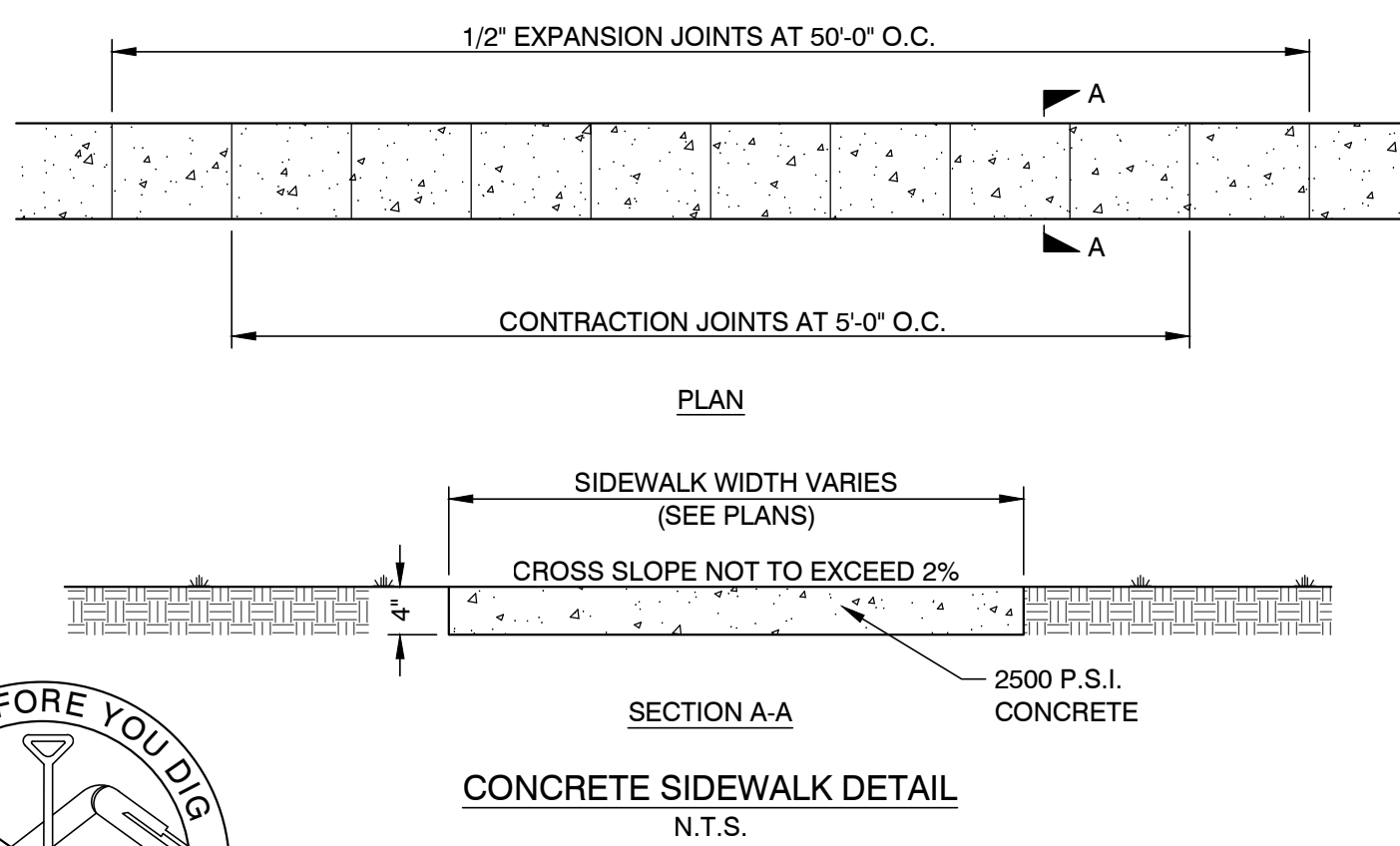


REFER TO FDOT DESIGN STANDARDS FY 2020-21
INDEX 520-001 FOR CONSTRUCTION DETAILS

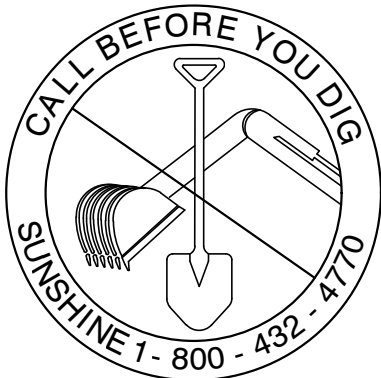
CONCRETE CURB & GUTTER
N.T.S.



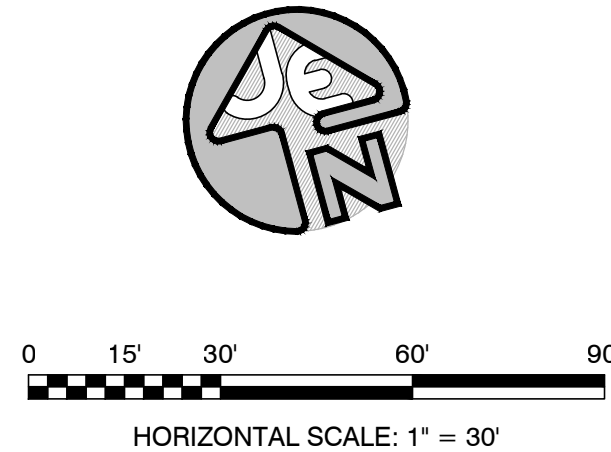
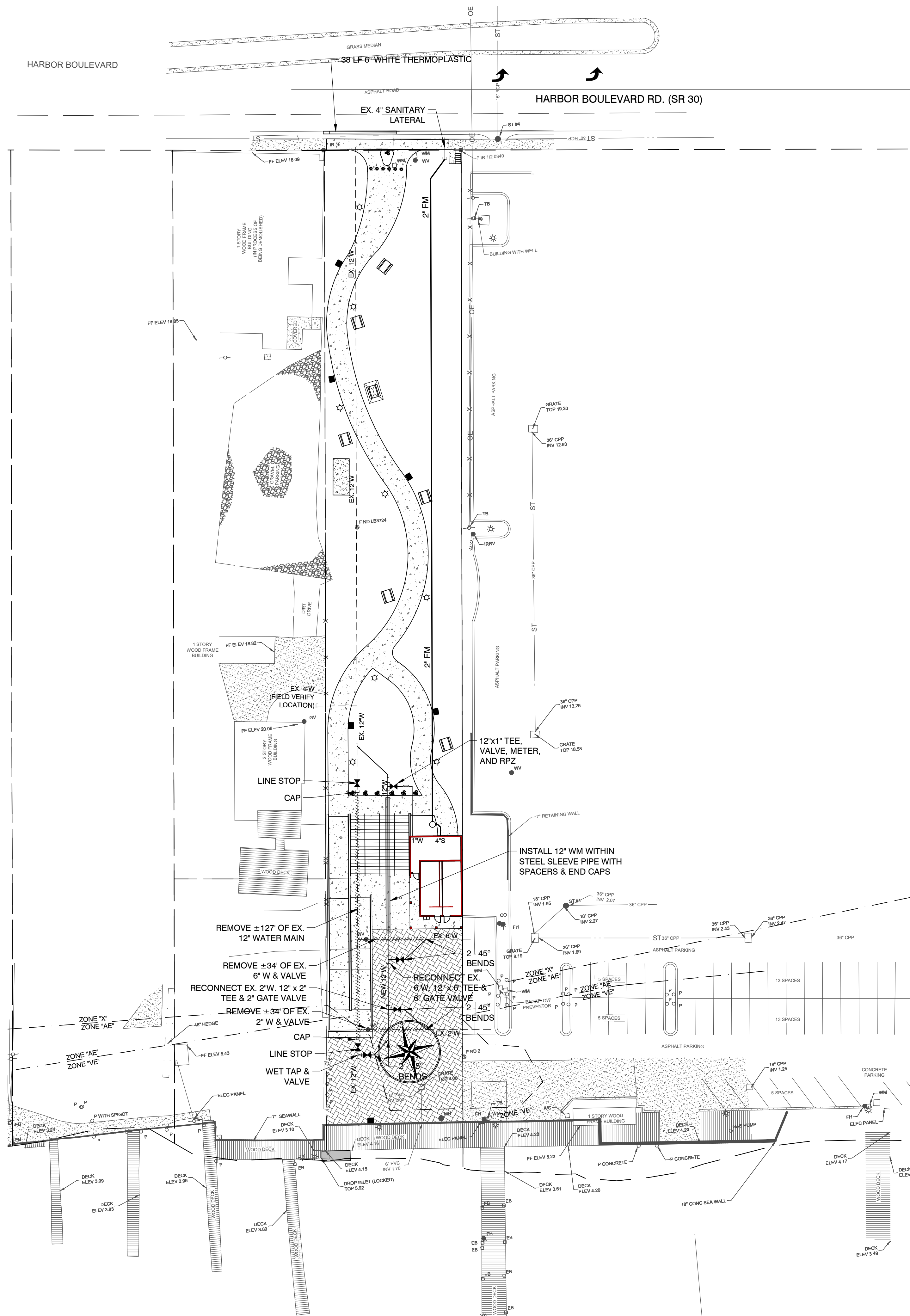
REMOVABLE BOLLARD
N.T.S.



File: P:\2019\19-03 Royal Melvin Park Drawings\19-03 Design.dwg - Last Saved: 1/18/2020 8:00 AM by JSL



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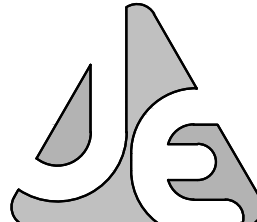


LEGEND

- CONCRETE PAVEMENT
- ASPHALT PAVEMENT
- PROPERTY LINE
- PROPOSED LIGHTING

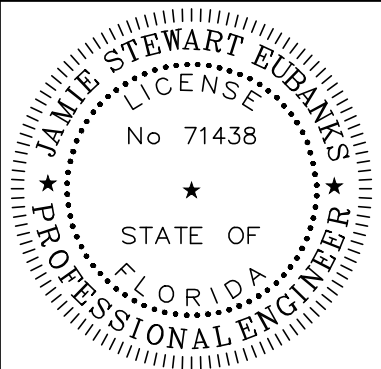
NOTES

- CONTRACTOR AND PUMP STATION PROVIDER SHALL ENSURE PROPER ANTI-FLOTATION IS PROVIDED FOR PUMP STATION.
- NEW 12" WATER MAIN MUST BE INSTALLED PRIOR TO OLD WATER MAIN BEING ABANDONED AND NEW/RELOCATED SERVICES CONNECTED.
- CONTRACTOR SHALL PLACE RESTRAINED JOINT CONNECTION ONE JOINT PAST TIE-IN FOR EXISTING 12" WATER MAIN LINE STOP INSTALL.



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1234 AIRPORT ROAD, SUITE 126
DESTIN, FLORIDA 32541
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CITY OF DESTIN

ROYAL MELVIN PARK
CITY OF DESTIN, FLORIDA

POTABLE WATER & WASTEWATER
IMPROVEMENT PLAN

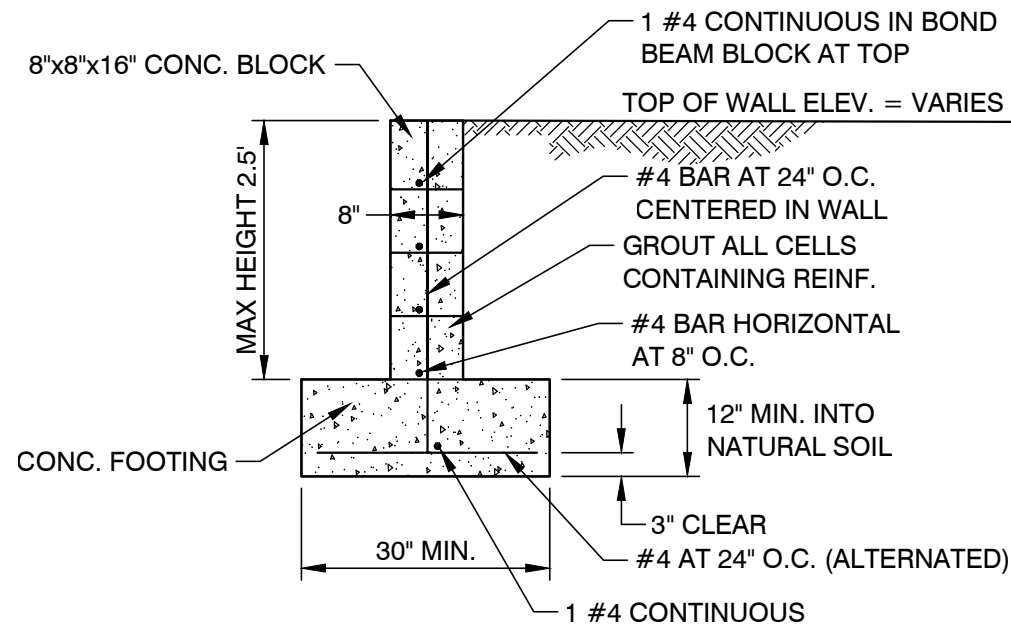
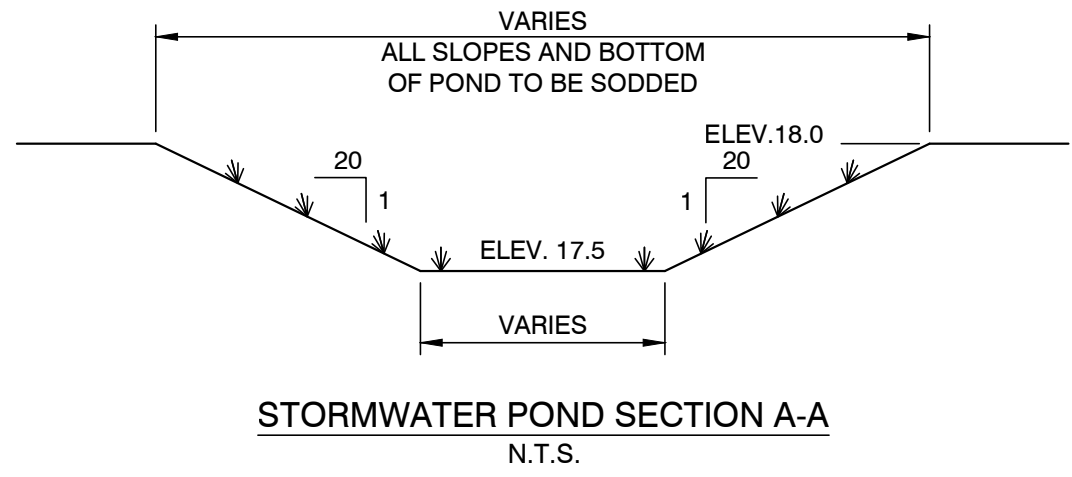
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DESIGNED: JSE/JAW
DRAWN: JAW/CEJ

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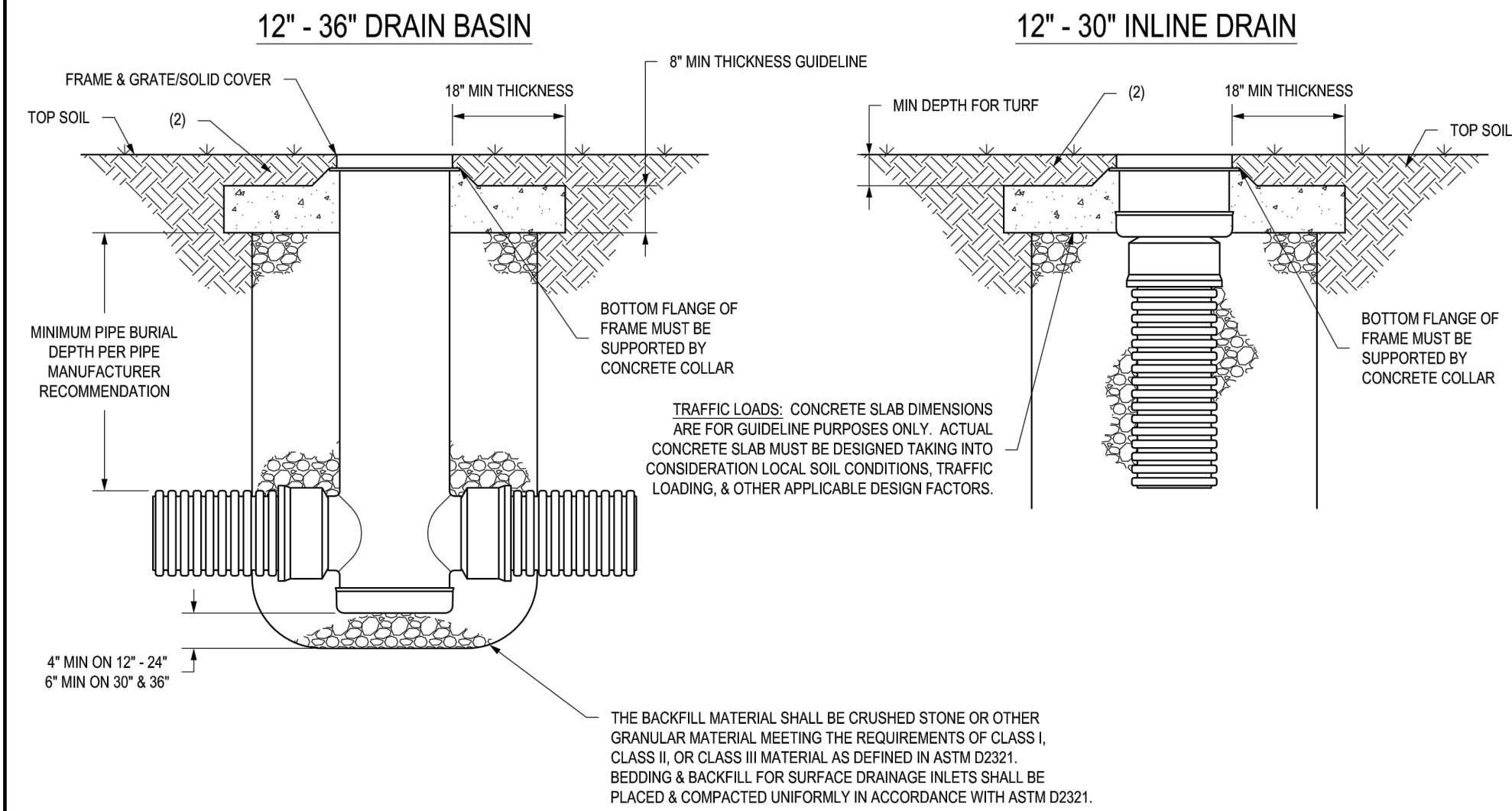
DRAWING NUMBER
4 OF 28

SHEET NUMBER
C04



NOTE:
SHOWN FOR REFERENCE ONLY. PRIOR TO WALL CONSTRUCTION DEVELOPER
SHALL BE REQUIRED TO OBTAIN FINAL WALL RECOMMENDATIONS AND DESIGN
FROM REGISTERED GEOTECHNICAL FIRM AFTER FURTHER SOIL EXPLORATION.

NYLOPLAST TURF TRAFFIC INSTALLATION



1. GRATES/SOLID COVERS SHALL MEET H-20 LOAD RATING FOR 30\"/>
2. DESIGN SHOULD ACCOUNT FOR ROOT DEPTH TO ALLOW TURF TO GROW AND PREVENT EROSION AROUND GRATE SO THAT HAZARDS DO NOT FORM.

THIS PRINT DISCLOSES SUBJECT MATTER IN WHICH NYLOPLAST HAS PROPRIETARY RIGHTS. THE RECEIPT OR POSSESSION OF THIS PRINT DOES NOT COVER, TRANSFER, OR LICENSE THE USE OF THE DESIGN OR TECHNICAL INFORMATION SHOWN HEREIN. REPRODUCTION OF THIS PRINT OR ANY INFORMATION CONTAINED HEREIN, OR MANUFACTURE OF ANY ARTICLE HEREFROM, FOR THE DISCLOSURE TO OTHERS IS FORBIDDEN, EXCEPT BY SPECIFIC WRITTEN PERMISSION FROM NYLOPLAST.

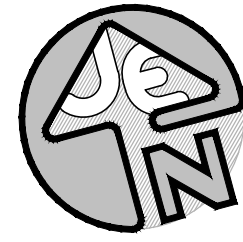
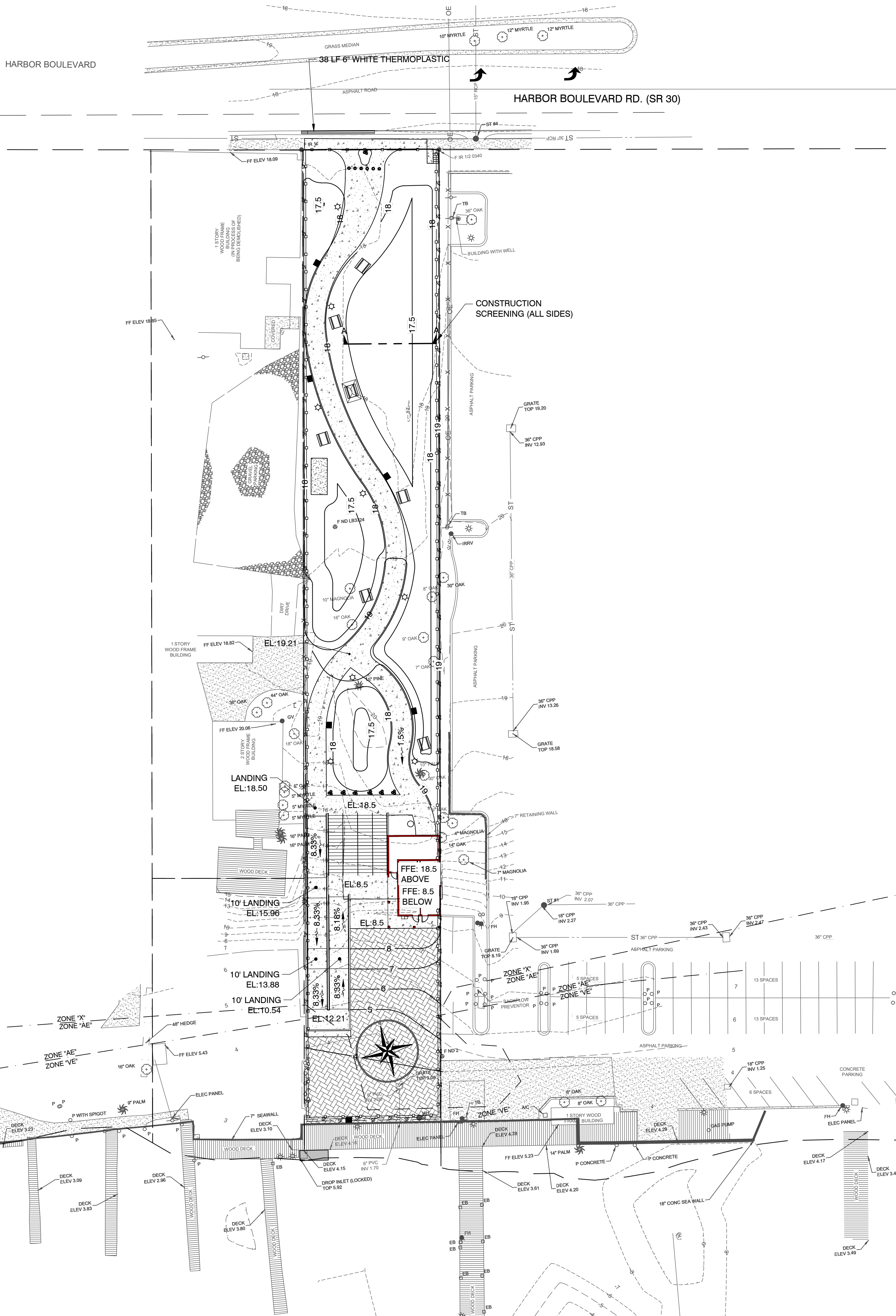
DRAWN BY	EBC	MATERIAL
DATE	01-05-09	
REVISED BY	NNH	PROJECT NO./NAME
DATE	06-12-18	
DWG SIZE	A	SCALE
1:25		SHEET 1 OF 1
DWG NO.	7001-110-340	REV
G		



3130 VERONA AVE
BUROFORD, GA 30618
PHN (770) 932-2443
FAX (770) 932-2490
www.nyloplast-us.com

TITLE
DRAIN BASIN & IN-LINE DRAIN
TURF TRAFFIC INSTALLATION

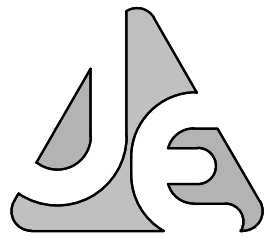
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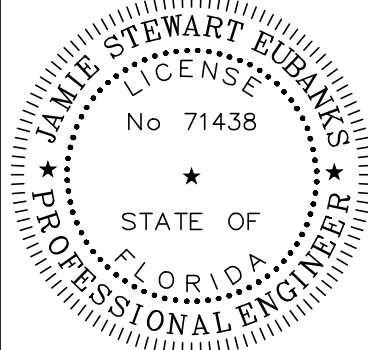
0 15' 30' 60' 90'
HORIZONTAL SCALE: 1" = 30'

LEGEND

- CONCRETE PAVEMENT
- ASPHALT PAVEMENT
- PROPERTY LINE
- PROPOSED LIGHTING
- EXISTING CONTOUR
- PROPOSED CONTOUR



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PHONE 850.676.5141
FAX 850.729.2460
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C.O.A. NO. 9927



JAMIE S. EUBANKS, P.E.
FL. REGISTRATION NO. 71438

REV	DATE	DESCRIPTION
1	2.11.2020	COMMENTS FROM FOOT ACCESS REVIEW
2	03/06/2020	REVISIONS PER CITY OF DESTIN REVIEW
3	04/15/2020	REVISIONS PER CITY OF DESTIN REVIEW
4	04/17/2020	REVISION TO ACCESS POINT AND REISSUED FOR CITY USE

CITY OF DESTIN
ROYAL MELVIN PARK
CITY OF DESTIN, FLORIDA
GRADING PLAN
NOT VALID UNLESS BEARING ENGINEERS ORIGINAL SIGNATURE

JOB: 19-03
DATE: 03/27/19
DESIGNED: JSE/JAW
DRAWN: JAW/CEJ

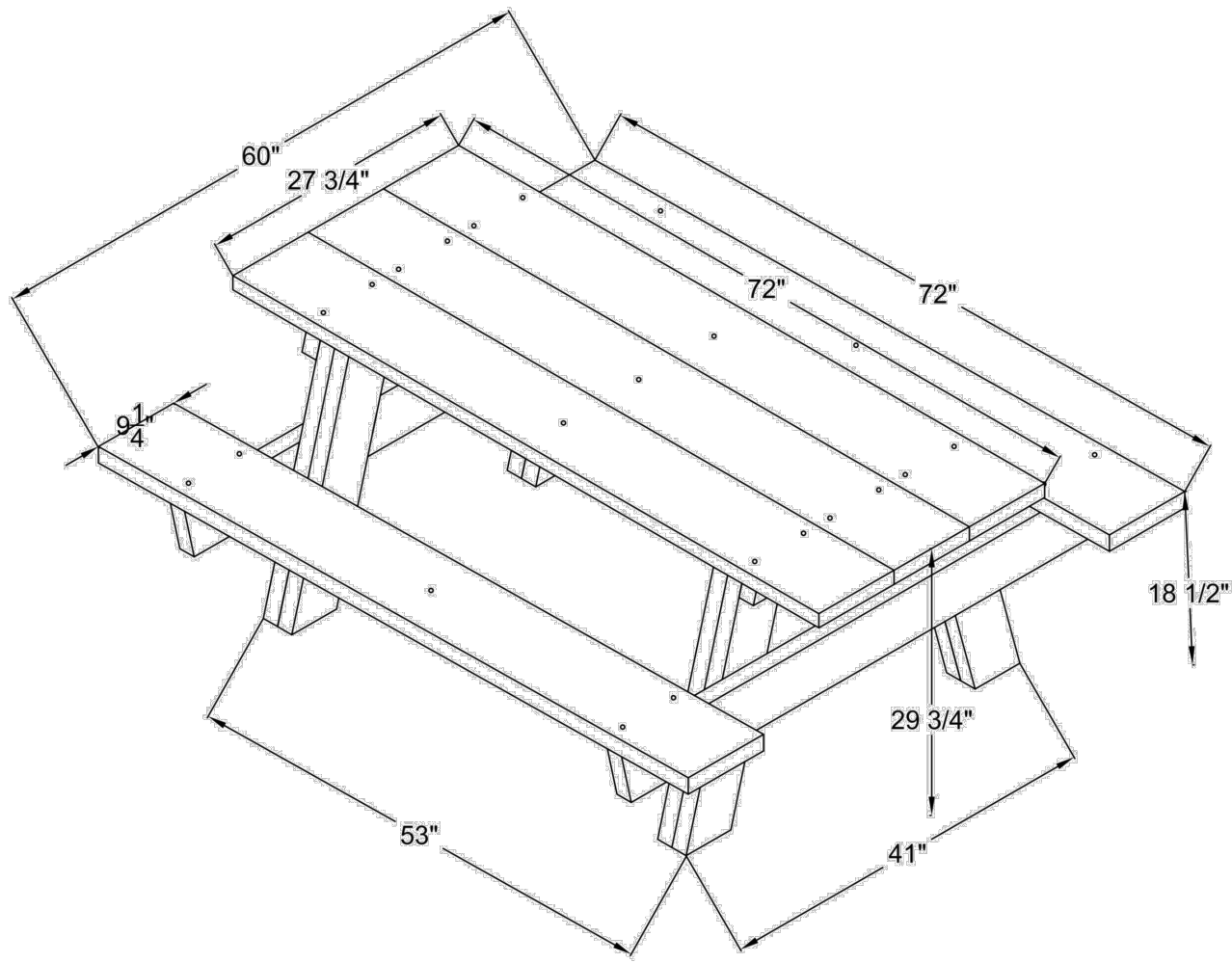
BAR IS ONE INCH ON ORIGINAL
IF NOT ONE INCH ON THIS SHEET
ADJUST SCALES ACCORDINGLY

DRAWING NUMBER
5 OF 28

SHEET NUMBER
C05

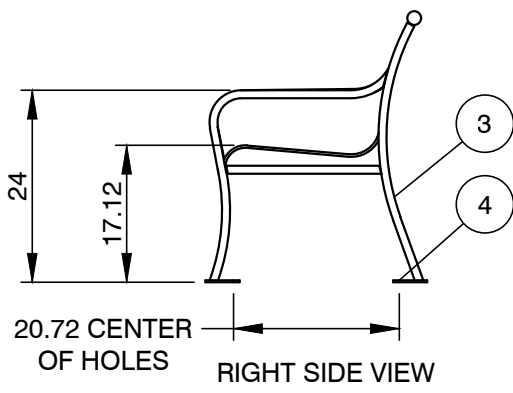
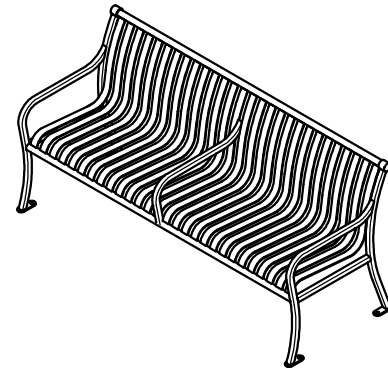
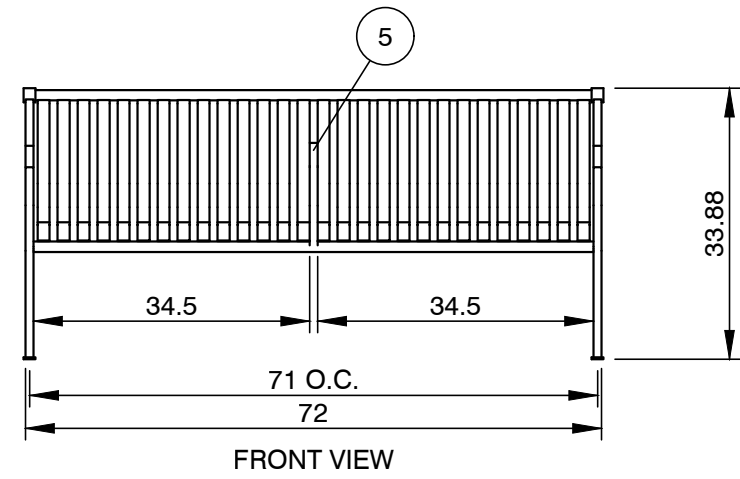
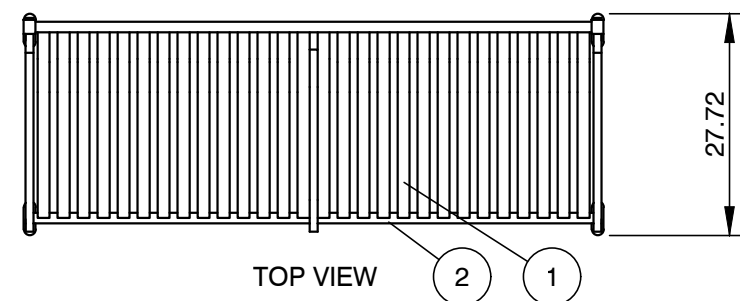


6ft A-Frame Recycled Plastic Picnic Table
SKU: PB APIC6



- "A traditional design made from modern materials"
- TOP AND SEATS ARE RECYCLED PLASTIC
 - BLACK RECYCLED PLASTIC BASE
 - COMES WITH ZINC COATED HARDWARE
 - STAINLESS STEEL HARDWARE AVAILABLE
 - UNIT WEIGHT APPROX. 260LBS.

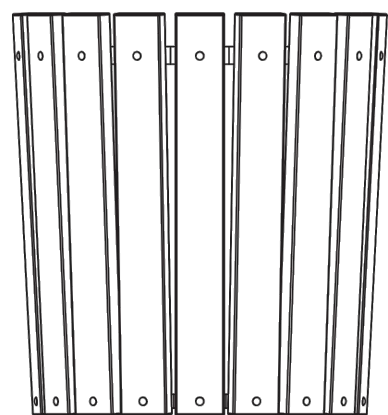
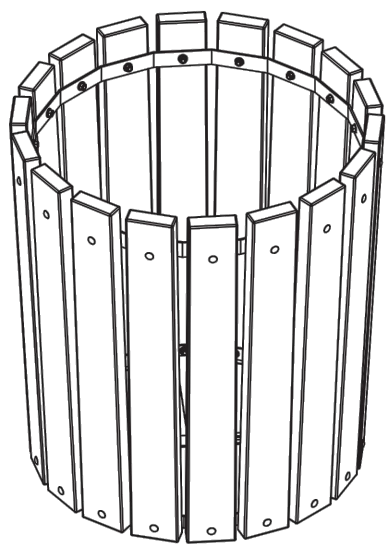
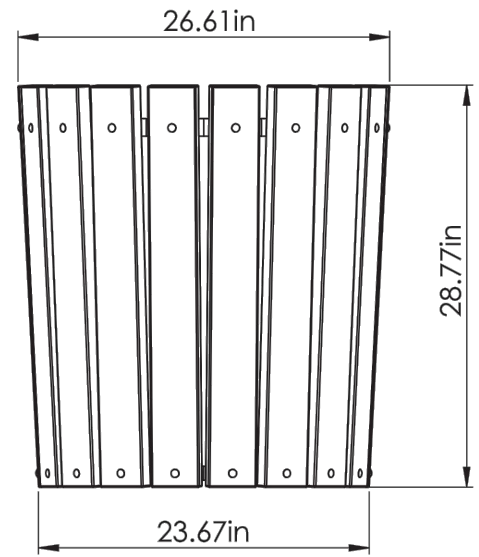
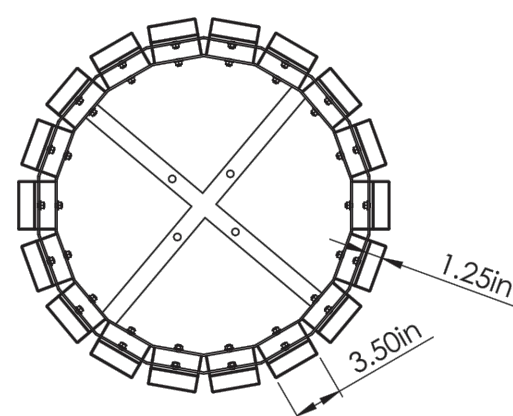
PICNIC TABLE DETAIL
N.T.S.



SITESCAPES CITYVIEW BACKED BENCH DETAIL
(MODEL NO. CV1-1001)
N.T.S.

- MATERIALS LIST:
- (1) SEAT STRAPS - 5/16" x 1 1/2" STEEL FLAT BAR
 - (2) SUPPORT PIPES - Ø 1.315" x .133" STEEL PIPE
 - (3) END UNITS - 1" SQUARE SOLID STEEL BAR
 - (4) SURFACE MOUNT PLATES - 1/4" x 1 1/2" STAINLESS STEEL PLATE WITH 9/16" MOUNTING HOLE
 - (5) CENTER ARMREST - 1" SQUARE SOLID STEEL BAR
 - (6) MOUNTED WITH FOUR Ø 1/2" x 4-5" STAINLESS STEEL ANCHOR BOLTS (CUSTOMER SUPPLIED)

ASSEMBLY SPECS.



SPECS 5/5

NOTES:

1. BARCO PRODUCTS HOUSTON WASTE RECEPTACLE.
2. INCLUDE OPTIONAL DOME LID (NOT SHOWN).

HOUSTON WASTE RECEPTACLE DETAIL
N.T.S.



FISH PLAQUE SIGN
N.T.S.



INFORMATION / HISTORY SIGN EXAMPLE DETAIL
N.T.S.

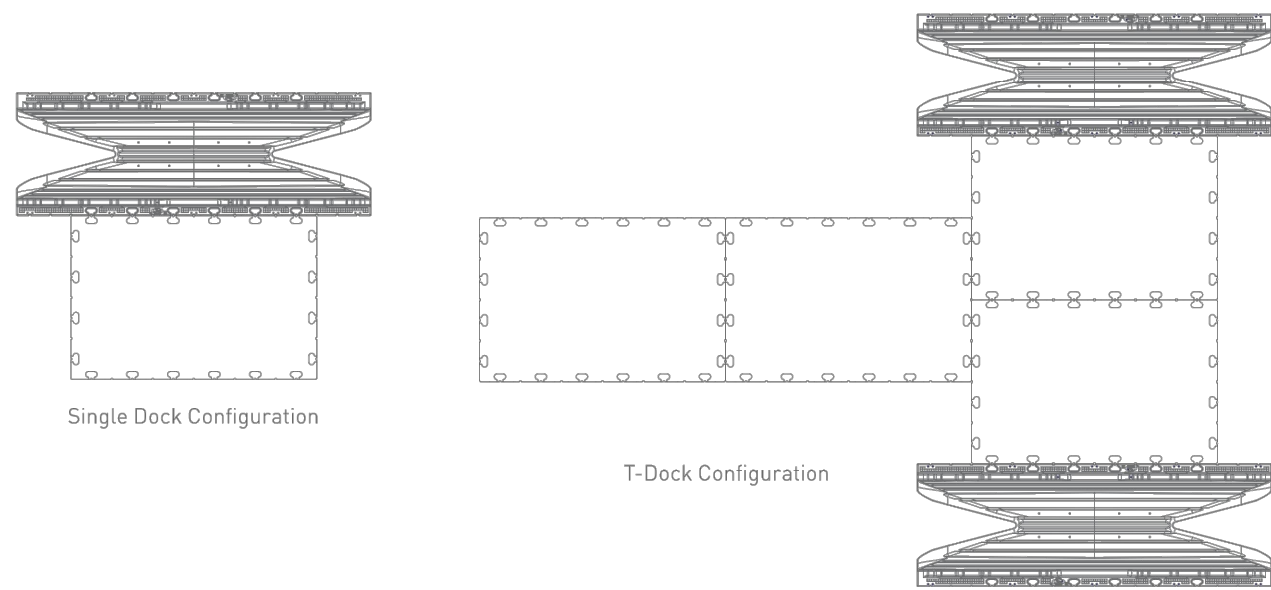
NOTE:
ITEMS SHOWN MAY BE SUBSTITUTED WITH
APPROVED EQUALS BY THE CITY OF DESTIN



INTERACTIVE SIGN EXAMPLE DETAIL
N.T.S.

SAMPLE CONFIGURATIONS

EZ Kayak Launch offers unmatched versatility and flexibility for any docking setup. The system incorporates into a variety of waterfront arrangements to match your launching and returning needs.

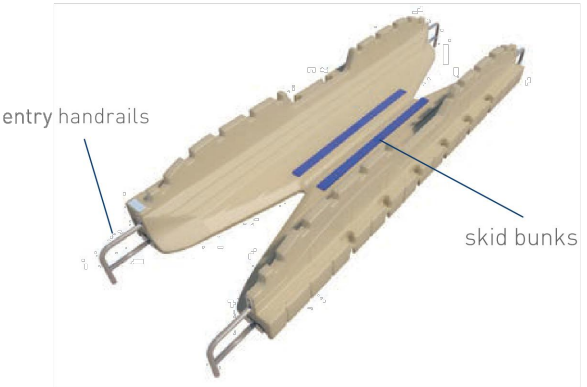


EASILY ACCOMMODATES ALL DOCK HEIGHTS



ACCESSORIES

Entry handrails can be added for convenience so odd or long paddle crafts can launch and port easily. Another option for launching and porting kayaks with ease is our custom wear/skid bunks.

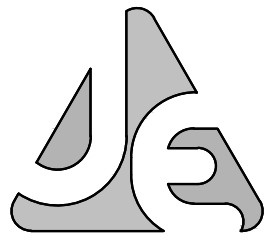


MODEL	PART#
KIT, LAUNCH EXTENSION RAIL, 1.5" ALUM	200483
KIT, SLIDE BUNK PAD, KAYAK LAUNCH BLUE	208112

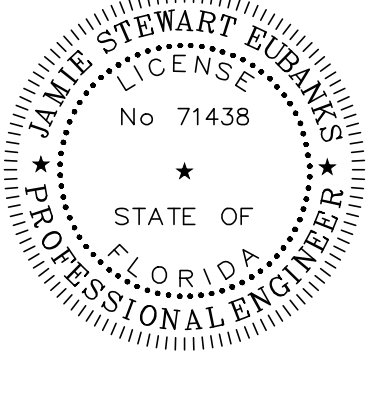
Please check with your local dealer for help with the dock configuration that's right for you.

ez-dock.com 7

KAYAK LAUNCH EXAMPLE DETAIL
N.T.S.



JENKINS ENGINEERING, INC.
101 HART STREET
NICEVILLE, FLORIDA 32578
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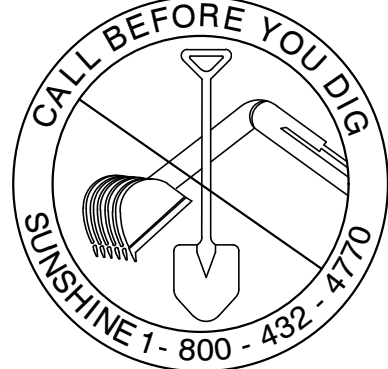
CITY OF DESTIN
ROYAL MELVIN PARK
CITY OF DESTIN, FLORIDA
MISCELLANEOUS DETAILS 1
NOT VALID UNLESS BEARING ENGINEER'S ORIGINAL SIGNATURE

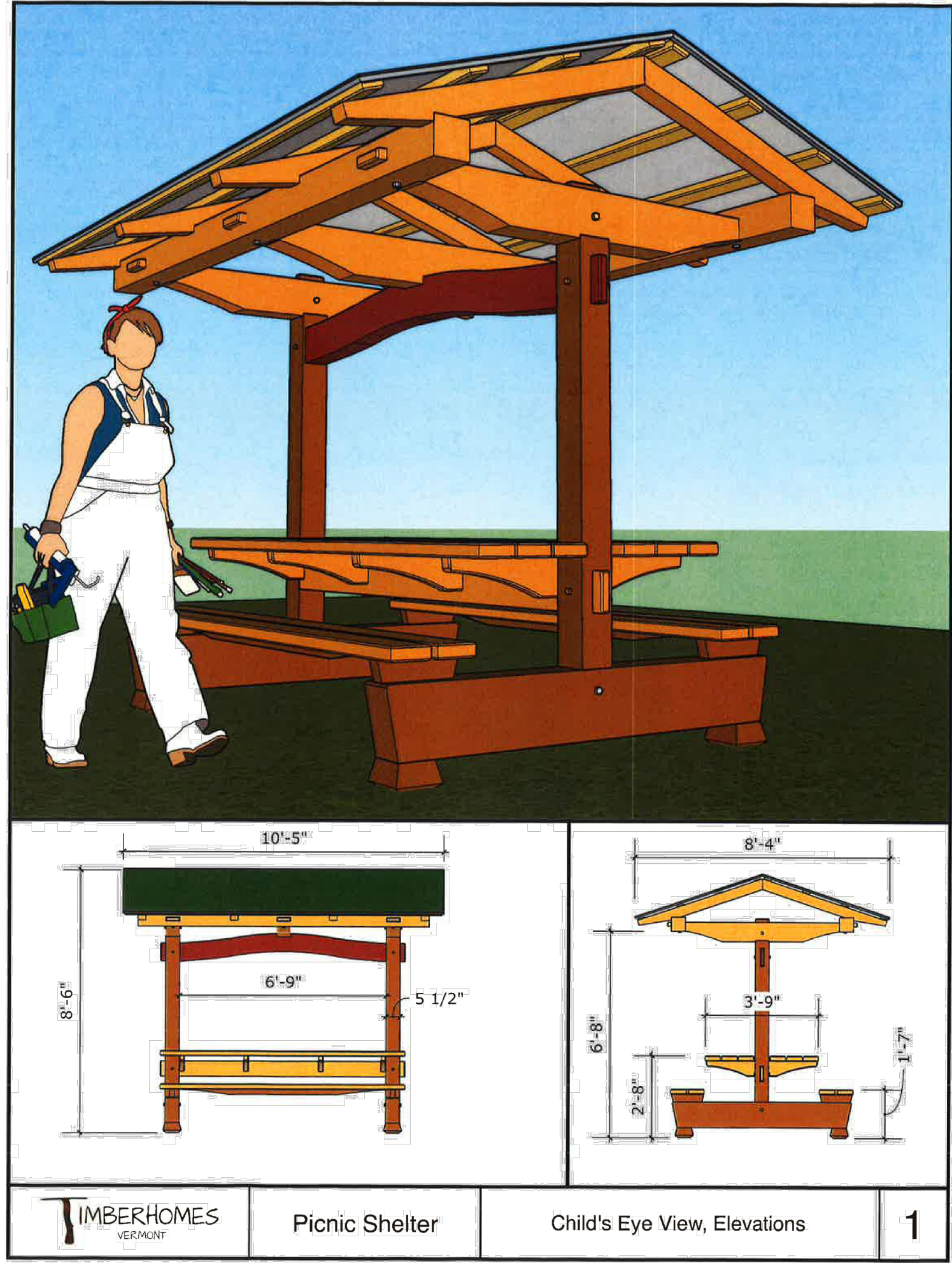
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SHEET NUMBER
C06





Terrasafe Safety Surfacing EPDM Poured-in-Place Specification

MANUFACTURER

Terrasafe Safety Surfacing
1301 Shiloh Road, Suite 420
Kennesaw, Georgia 30144

TERRASAFE Poured-In-Place Playground Surfacing is designed for playgrounds and some water play areas and landscaping applications.

COMPOSITION & MATERIALS

Terrasafe Poured-In-Place Playground Surfacing is a 2-layer system. The base mat material consists of 100% post-consumer recycled, 3/8" shredded, SBR (styrene butadiene rubber) and high-grade aromatic polyurethane. The top surface consists of EPDM (ethylene propylene diene monomer) rubber, with the black EPDM being recycled post-industrial material, ranging in size from 1-3mm, and high-grade aromatic or aliphatic polyurethane.

PRODUCT DIMENSIONS

The height of the playground equipment determines the required base mat thickness. Base mat thicknesses may vary throughout a playground site. Base mat thicknesses are determined by the "Critical Fall Height" requirements through ASTM F 1292 testing. Thicknesses available with Terrasafe range from 1.5" to 3.5", depending specification requirements.

TOP SURFACE (EPDM) THICKNESS

½ Inch Standard

COLORS

Standard Colors - Royal Blue, Dark Green, Terra Cotta (red), Beige (dark tan), Eggshell (light tan). Non-standard colors are always available but might not hold up to UV as well over time as the standard colors and standard color mix.

COLOR MIX RATIOS – Standard mix is 50% black and 50% standard color. Non-standard colors and mixes are always available but will require non-standard aliphatic binder if they contain less than 25% black.

Specifications:

- Sills, Posts & Feet are White Oak, upper Girt is naturally curved Cherry, all other timbers White Pine with 1/4" chamfer throughout.
- Principal timber joints secured with White Oak or Locust Pegs, all other main connections secured with stainless TimberLoK® or coated Log Hog® screws.
- Sills are 6x8, Posts are 6x6, Girts are 4x6, Plate Ties are 6x8, Plates are 6x6, Rafters are 3x4, Braces are 2x3.
 - Roof is channel drain metal over 2x3 strapping.
- Table and bench are 2x6 White Cedar with 1x4 White Oak rib in bench.

Options:

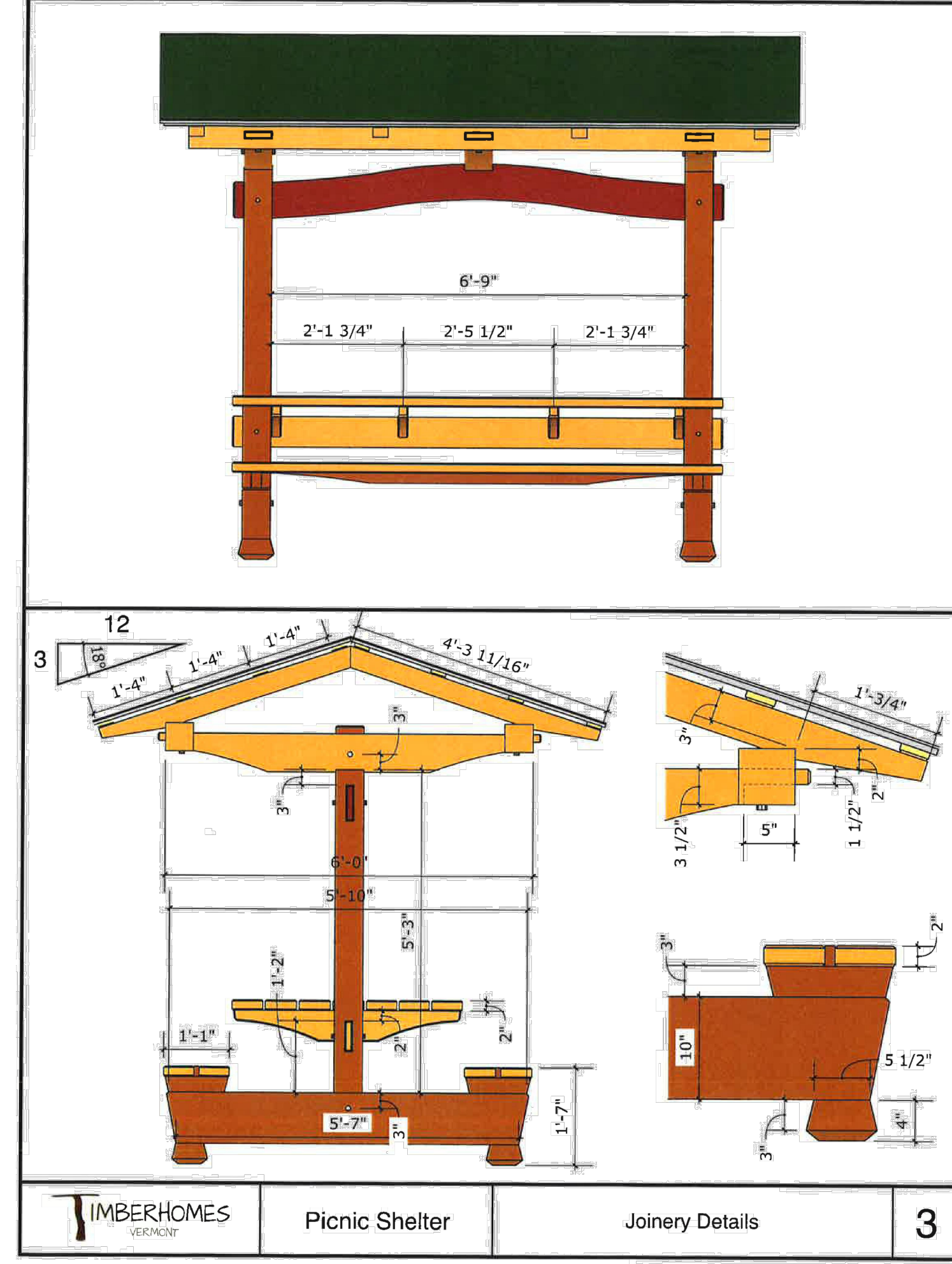
- Roof of chamfered rough sawn pine, Top Guard®, galvanized drip edge, Cedar Breather® & White Cedar Shingles with Cedar ridge cap - \$350
 - Location hand carved in Cherry girt - \$250
- Omit White Oak Feet, install on concrete piers - pricing upon request
 - Scribed to boulder feet - pricing upon request

Single Unit: \$3,700
2-4 Units: \$3,600
5 or more Units: \$3,550

Prices are F.O.B. Vershire, Vermont. Delivery quotes upon request.
Site preparation and installation are NOT included in unit cost.

TimberHomes Vermont, PO Box 106, Vershire, VT 05079
Contact: Mikey@timberhomesllc.com, (802) 685-7974 ext. 3

Timo Bradley, David Hooke, Josh Jackson, Shannon McIntyre, & Andrew Catlin, owners



LIMITATIONS

As a precautionary maintenance measure, a list of chemicals known to damage Terrasafe PIP and similar rubber safety surfaces is available upon request.

In water play areas, pool surrounds and similar applications, pool chemicals may affect coloration of the rubber safety surface over time. This condition, should it occur, is not considered to be a "product failure".

AMBERING - A yellowish shading of the rubber top surface will be noticeable in some colors when using standard aromatic polyurethane binder. This will eventually wear off. This slight yellowing is more pronounced in certain colors and is a common affect in the pour-in-place rubber safety surface industry. An aliphatic binder, which greatly minimizes the yellowish shading, is available at a higher cost and also has a longer cure time. Both binding materials can be used on a project to maximize aesthetics with lighter colors that are affected by the yellowing and minimize cost. Consult Terrasafe Safety Surfacing for more information.

RUBBER & BINDER RATIOS

Required mix proportions by weight:
Base mat - 18% polyurethane, 82% rubber
Top course - 26% polyurethane, 74% rubber

INSTALLATION

EPDM Rubber materials should be protected from exposure to harmful environmental conditions (moisture) and at a minimum temperature of 32 degrees F and a maximum temperature of 94 degrees F. Install surfacing system when minimum ambient temperature is 32 degrees F and maximum ambient temperature is 94 degrees F.

METHODS - Installation of Terrasafe rubber safety surface cannot proceed until all applicable site work, including substrate preparation, fencing, playground equipment installation and other relevant work, has been completed and approved by a Terrasafe.

BASE MAT PRIMER - Using a bristle brush, apply ample urethane primer to all curbing and or vertical substrates, which the rubber surfacing system will contact.

BASE MAT INSTALLATION - Using screed sticks and gauge polls, install the buffing rubber materials to 1/4" higher than required thickness. Using pool trowels, pull the base material together using consistent pressure throughout. Repeat the process until all areas, including fall zones, comply with the provided architectural plans and specification requirements.

BASE MAT DRYING - Allow base mat to cure for sufficient time (5 to 24 hours) so that indentations are not left in the buffing's / base mat materials. Installation contractor must verify that the base mat has cured sufficiently before applying the finished topcoat.

PRIMER APPLICATION - Using a bristle brush apply urethane binder to the existing 1/2" of curbing and any other vertical structures within the installation areas, and also to the base mat material at a minimum of 2" around the perimeter of the topcoat area.

TOPCOAT INSTALLATION - Screed the EPDM topcoat rubber granules to a nominal 5/8" thickness to allow for compaction. Using a pool trowel, pull together material using consistent pressure throughout to produce the result of 1/2" thickness. The use of solvent based and harsh "slicking agents" while installing the topcoat may result in a damaged finish surface.

TOP COAT DRYING - Allow topcoat to cure for 24 hours to 72 hours contingent on the humidity and temperature. Protect newly installed rubber safety surface from foot traffic or equipment usage until the Terrasafe safety surface has fully cured.

BUILDING CODES - Technical data on product compliance may be obtained from a Terrasafe representative.

AVAILABILITY - Terrasafe System is available through a local Terrasafe trained representative. Contact Terrasafe for more information.

COSTS - All Terrasafe quotes may be obtained from a local Terrasafe representative.

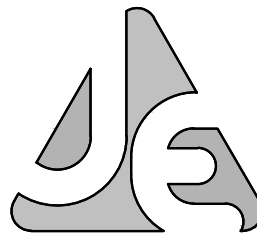
WARRANTY

Warranty period for Terrasafe Poured-in-Place is for 5 years from the time of completion of installation. Warranty period for water play areas carry a 0-year warranty due to the chemicals that can be in the water filtration systems.

LONG-TERM CARE

Cleaning - Using a watering hose with nozzle or a pressure washer, not exceeding 1000PSI, rinse off all excess debris from the surface. While surface is wet, apply a mild cleaning detergent and agitate lightly with a soft bristle brush. Repeat as necessary. Once clean, final rinse with low-pressure water from a hose to remove any excess cleaning agents.

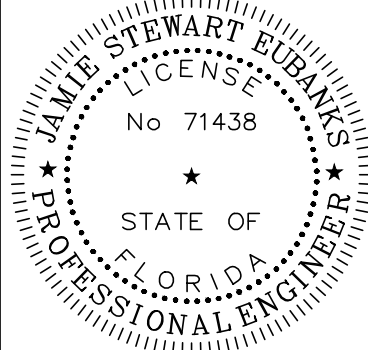
Roll Coating - Terrasafe also recommends roll coating the top surface (EPDM) with specialty binder solution annually to prolong the surface life and deter the effects of harmful UV rays. This "urethane replacement" should be performed by a Terrasafe certified installer or factory trained employee initially which in turn, can train the owner on how to do this efficiently. Using a watering hose or a pressure washer, not exceeding 1000PSI, rinse off all excess debris from the surface. While surface is totally dry (usually the next day), apply roll coat solution with nap roller evenly until entire surface appears "wet". Allow 24 hours cure time. Owner should budget approximately \$1.75 per sq. ft. every year or two to have a Terrasafe representative roll coat the surface.



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CITY OF DESTIN	ROYAL MELVIN PARK CITY OF DESTIN, FLORIDA	06 MISCELLANEOUS DETAILS II NOT VALID UNLESS BEARING ENGINEER'S ORIGINAL SIGNATURE
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JOB: 19-03
DATE: 03/27/19
DESIGNED: JSE/JAW
DRAWN: JAW/CEJ

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DRAWING NUMBER
7 OF 28

SHEET NUMBER
C07

[illegible]

• SCALE: NONE

SCOPE OF WORK:

1. This project consists of a new building to be used as an Restrooms / storage.
ENCLOSED AREA = 436 SQ. FT.
2. The plans as submitted include the architectural drawings part of the project.
3. The plans include the following:
 - a. HVAC System
 - b. Power Plan
 - c. Lighting Plan
 - d. Plumbing Plan
4. The building is to be constructed as a type VB construction, non-sprinkled.
5. Its per FBC 2017, 6th Edition, this building lies within the 150 mph wind zone and shall be structurally designed accordingly.

GENERAL:

1. AIA DOCUMENT A201, GENERAL CONDITIONS OF THE CONTRACT FOR CONSTRUCTION, FIRST EDITION, SHALL BE PART OF CONTRACT FOR ANY WORK INCLUDED IN THESE PLANS AND SPECIFICATIONS.
2. ALL WORK SHALL BE PERFORMED IN ACCORDANCE WITH ALL APPLICABLE NATIONAL, STATE, AND LOCAL CODES AND REGULATIONS.
3. CONTRACTOR SHALL OBTAIN ALL LOCAL AND STATE PERMITS AS REQUIRED BEFORE START OF CONSTRUCTION.
4. THE CONTRACTOR SHALL PROVIDE ANY SURVEYS, TESTING OR ENGINEERING REQUIRED TO INSURE SAFE AND COMPLETE CONSTRUCTION.
5. CONTRACTOR SHALL PASS ALL INSPECTIONS AND APPROVALS AS REQUIRED BY LOCAL AUTHORITIES DURING COURSE OF CONSTRUCTION.
6. CONTRACTOR SHALL VERIFY ALL EXISTING CONDITIONS BEFORE COMMENCING WORK.
7. CONTRACTOR SHALL VERIFY ALL DIMENSIONS BEFORE CONSTRUCTION BEGINS. ANY DISCREPANCIES SHALL BE BROUGHT TO THE ARCHITECTS ATTENTION.
8. CONTRACTOR SHALL ASK FOR DETAILS WHENEVER UNCERTAIN ABOUT METHODS OF INSTALLATION. LACK OF DETAILS NOT REQUESTED SHALL NOT EXCUSE IMPROPER INSTALLATION AND CORRECTION SHALL BE RESPONSIBILITY OF CONTRACTOR.
9. CONTRACTOR SHALL KEEP AN ACCURATE RECORD OF ALL CHANGES MARKED IN INK ON THE CONTRACT DOCUMENTS DURING CONSTRUCTION INCLUDING LOCATION OF ALL UNDERGROUND UTILITIES. CONTRACTOR SHALL FURNISH OWNER AND ARCHITECT A COPY OF THIS RECORD BEFORE ACCEPTANCE IS RECEIVED.
10. CONTRACTOR SHALL SECURE AND OBTAIN THE CERTIFICATE OF OCCUPANCY FROM LOCAL AUTHORITIES BEFORE FINAL PAYMENT WILL BE ISSUED.
11. THESE DRAWINGS HAVE BEEN DRAWN AND CHECKED TO INSURE A REASONABLE AND NORMALLY ACCEPTABLE DEGREE OF ACCURACY. HOWEVER, THE CONTRACTOR IS RESPONSIBLE FOR CHECKING ALL DIMENSIONS, DETAILS AND REQUIREMENTS OF THESE PLANS AND SPECIFICATIONS PRIOR TO START OF WORK.
12. THE SHEETS IN THESE CONSTRUCTION DOCUMENTS ARE COMPLEMENTARY TO EACH OTHER, WHAT IS CALLED FOR BY ONE SHALL BE BINDING AS IF CALLED FOR BY ALL.

EGRESS:

14. A DOORWAY IN A MEANS OF EGRESS SHALL PROVIDE AT LEAST 32" CLEAR (CONSIDER A 3'-0" DOOR), WHERE A PAIR OF DOORS IS PROVIDED, AT LEAST ONE LEAF SHALL COMPLY.
15. HOLLOW METAL FRAMES SHALL CONFORM WITH STEEL DOOR INSTITUTE RECOMMENDED SPECIFICATIONS, SD-100.
16. DOORS SHALL BE READILY OPENED FROM THE SIDE OF THE EXIT TRAVEL AT ALL TIMES THE BUILDING IS OCCUPIED.
17. LOCKS ON DOORS IN MEANS OF EGRESS SHALL NOT REQUIRE THE USE OF A KEY, SPECIAL DEVICE, OR SPECIAL KNOWLEDGE TO OPEN IN THE DIRECTION OF EGRESS.
18. ALL DOORS IN A REQUIRED MEANS OF EGRESS MAY BE PROVIDED WITH A LATCH OR LOCK ONLY IF IT IS EQUIPPED WITH PANIC HARDWARE.
19. EXIT DISCHARGE SHALL PROVIDE OCCUPANTS SAFE ACCESS TO A PUBLIC WAY.
20. EGRESS SHALL NOT BE THROUGH A ROOM SUBJECT TO LOCKING IN THE DIRECTION OF EGRESS.
21. PROVIDE LANDINGS OUTSIDE EXTERIOR DOORS LEVEL WITH THE FLOOR.
22. THE FLOOR SHALL BE LEVEL ON BOTH SIDES OF A DOOR.
23. FINAL COASTAL HARDWARE SELECTION TO BE MADE BY OWNER AND CONTRACTOR.
24. BATHROOM DOOR LOCKS SHALL PERMIT OPENING FROM THE OUTSIDE IN CASE OF EMERGENCY, BY STAFF PERSONNEL.

INSULATION:

25. INSULATION AND INSULATION ASSEMBLIES SHALL MEET THE REQUIREMENTS OF SECTION 719, FBC 2017, 6TH EDITION.
26. CONCEALED INSULATION SHALL HAVE A FLAME SPREAD OF 0-25 AND A SMOKE DEVELOPMENT FACTOR OF 0-450, IN ACCORDANCE WITH SECTION 719, FBC 2017.
27. EXPOSED INSULATION SHALL HAVE A FLAME SPREAD OF 0-25 AND A SMOKE DEVELOPMENT FACTOR OF 0-450.
28. INTERIOR WALLS AND CEILINGS SHALL HAVE A FLAME SPREAD OF 0-25 AND A SMOKE DEVELOPMENT FACTOR OF 0-450, IN ACCORDANCE WITH SECTION 719, FBC 2017.

LIFE SAFETY:

24. SEPARATE STORAGE ROOMS OVER 100 SQUARE FEET FROM OTHER PARTS OF THE BUILDING
ONE HOUR FIRE RESISTANT CONSTRUCTION USING SELF-CLOSING 45 MINUTE LABELED DOORS AND FRAMES, SECTION 302, TABLE 302.1.1 FBC 2017.
30. PROTECT VERTICAL OPENINGS IN ACCORDANCE WITH CHAPTER 7, FBC 2017.
31. A REQUIRED FIRE SEPARATION SHALL BE CONTINUOUS FROM FOUNDATION THROUGH ALL INTERVENING CONSTRUCTION TO THE ROOF DECK, FROM OUTSIDE WALL TO OUTSIDE WALL OR FROM FIRE BARRIER TO FIRE BARRIER, PROVIDE UL OR FM LISTED ASSEMBLY.
32. PENETRATIONS THROUGH RATED CONSTRUCTION SHALL BE SEALED WITH A MATERIAL CAPABLE OF PREVENTING THE PASSAGE OF FLAMES AND HOT GASES WHEN TESTED IN ACCORDANCE WITH ASTM-E814.

FIRE EXTINGUISHER:

33. FIRE EXTINGUISHER AND CABINET SHALL COMPLY WITH APPLICABLE UL STANDARDS AND ARE LABELED BY UL, MULTI-PURPOSE DRY CHEMICAL TYPE (A-A-B-C-B-E) CABINET TO BE SEMI-RECESS TYPE WITH BUBBLE TYPE DOOR.
34. PROVIDE HAND-OPERATED FIRE EXTINGUISHERS IN ACCORDANCE WITH NFPA-10.
35. ALL WORK AND INSPECTIONS OF FIRE ALARM, FIRE SUPPRESSION, AUTOMATIC SPRINKLER AND FIRE EXTINGUISHING SYSTEMS OR PORTABLE FIRE EXTINGUISHERS SHALL BE PERFORMED BY A STATE OF FLORIDA CERTIFIED AGENT.
36. TOP OF FIRE EXTINGUISHER, HAVING A GROSS WEIGHT LESS THAN 40 LBS., SHALL BE NOT MORE THAN 5 FEET ABOVE THE FLOOR; 3-1/2 FEET IF GROSS WEIGHT 40 LBS. OR GREATER.

PROVIDE HANDICAPPED ACCESSIBILITY IN ACCORDANCE WITH ANSI A117.1 1980, AND ADA-A6 (JULY, 2017). THIS PROJECT SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING REQUIREMENTS:

EGRESS:

2. THE ACCESSIBLE ROUTE SHALL, TO THE MAXIMUM EXTENT FEASIBLE, COINCIDE WITH THE ROUTE FOR THE GENERAL PUBLIC.
3. PROVIDE SIGNAGE AT ACCESSIBLE ENTRANCE(S) AND DIRECTIONAL SIGNAGE AT ALL INACCESSIBLE ENTRANCES.
4. GROUND AND FLOOR SURFACES SHALL BE FIRM, STABLE AND SLIP-RESISTANT.
5. A DOORWAY IN MEANS OF EGRESS SHALL PROVIDE AT LEAST 32" CLEAR (CONSIDER A 3'-0" DOOR). WHERE A PAIR OF DOORS IS PROVIDED, AT LEAST ONE LEAF SHALL COMPLY.
6. THRESHOLDS SHALL COMPLY WITH REQUIREMENTS OF THIS SECTION 4.5.2 REGARDING CHANGES IN LEVEL. MAXIMUM THRESHOLD HEIGHT TO BE 1/2" AND BEVELED IF OVER 1/4", 3/4" AT EXTERIOR SLIDING DOORS).
7. PROVIDE LANDING OUTSIDE EXTERIOR DOORS LEVEL WITH THE FLOOR.
8. THE FLOOR SHALL BE LEVEL ON BOTH SIDES OF A DOOR.
9. HANDLES, PULLS, LATCHES, AND OTHER OPERATING DEVICES SHALL HAVE A SHAPE THAT IS EASY TO GRASP WITH ONE HAND AND DOES NOT REQUIRE TIGHT GRASPING, TIGHT PINCHING OR TWISTING OF THE WRIST TO OPERATE. LEVER-OPERATED MECHANISMS ARE ACCEPTABLE DESIGNS.
10. PROVIDE MANEUVERING CLEARANCE AT DOORS IN ACCORDANCE WITH FIGURE 45X(A,B,C).

MISCELLANEOUS:

11. PROVIDE ACCESSIBLE SERVICE/TELLER/INFORMATION COUNTER(S) IN ACCORDANCE WITH SECTION 7.2(2).
12. ACCESSIBLE COUNTER HEIGHT SHALL BE FROM 28" TO 34" ABOVE THE FINISHED FLOOR AT RECEPTION COUNTER.
13. EMPLOYEE WORK AREAS SHALL BE DESIGNED AND CONSTRUCTED AS THAT INDIVIDUALS WITH DISABILITIES CAN APPROACH, ENTER AND EXIT.
14. MINIMUM CLEAR HEADROOM TO BE 80".
15. OBJECTS PROJECTING FROM WALL WITH THEIR LEADING EDGES BETWEEN 27" AND 80" ABOVE THE FINISHED FLOOR SHALL PROTRUDE NO MORE THAN 4" INTO THE WALLS OR CORRIDORS.
16. OPENINGS FOR AREAS LESS THAN 24" IN DEPTH SHALL HAVE CLEAR OPENING OF 20" MIN.

18. STANDARD ACCESSIBLE TOILET SHALL HAVE MINIMUM WIDTH OF 60" AND MINIMUM DEPTH OF 54" FOR FLOOR MOUNTED WATER CLOSET (56" WITH WALL MOUNTED UNIT), FOR OUTWARD SWINGING DOOR.
19. WATER CLOSETS SHALL BE LOCATED 16" FROM A SIDE WALL OR PARTITION.
20. THE HEIGHT TO THE TOP OF THE TOILET SEAT SHALL BE 17" TO 19".
21. FLUSH CONTROLS SHALL BE 44" MAXIMUM ABOVE FINISHED FLOOR.
22. GRAB BARS FOR TOILETS SHALL BE PROVIDED 33" TO 36" ABOVE FINISH FLOOR.
SIDE WALL: 42" LONG MINIMUM, 12" FROM BACK WALL
BACK WALL: 36" LONG MINIMUM, 12" MIN. EACH SIDE OF WATER CLOSET CENTER LINE.
23. TOILET PAPER DISPENSERS SHALL BE INSTALLED BELOW GRAB BAR, 18" MINIMUM ABOVE FLOOR AND 36" MAXIMUM FROM THE REAR WALL.
24. LAVATORIES SHALL BE MOUNTED WITH THE RIM OR COUNTER SURFACE NO HIGHER THAT 34" ABOVE FINISH FLOOR. SHALL EXTEND NO MINIMUM FROM WALL, CLEARANCE OF 23" MINIMUM FROM FINISH FLOOR TO BOTTOM OF APRON.
25. A CLEAR FLOOR SPACE 30" BY 48" SHALL BE IN FRONT OF LAVATORIES.
26. HOT WATER AND DRAIN PIPES UNDER ALL LAVATORIES SHALL BE INSULATED, THERE SHALL BE NO SHARP OR ABRASIVE SURFACES UNDER LAVATORIES.
27. LAVATORY CLOSETS SHALL BE OPERABLE WITH ONE HAND AND SHALL NOT REQUIRE TIGHT GRIPPING, CRAWLING OR TWISTING OF THE HANDS. THE FLOOR LEVELS SHOULD BE ELECTRONICALLY CONTROLLED MECHANISMS WITH ACCEPTABLE DESIGNS.
28. MIRRORS SHALL BE MOUNTED WITH THE BOTTOM EDGE OF THE REFLECTING SURFACE 40" MAX. ABOVE THE FINISH FLOOR.

29. WHERE PERMANENT IDENTIFICATION IS PROVIDED FOR ROOMS AND SPACES, SIGNS SHALL BE INSTALLED ON THE WALL ADJACENT TO THE LATCH SIDE OF THE DOOR MOUNTING HEIGHT SHALL BE 60" ABOVE FINISH FLOOR TO THE CENTERLINE OF THE SIGN.
30. ALL INTERIOR SIGNAGE TO BE IN LETTER AND BRAILLE FORM, STYLE, COLOR, DESIGN AND SIZE SHALL BE SUPPLIED BY THE ARCHITECT, ONE SIZE FOR EACH DOOR TO BE SUPPLIED, SIZE TO BE 4" X 4" MAXIMUM.
31. LETTERS AND NUMBERS ON SIGNS SHALL HAVE A WIDTH TO HEIGHT RATIO BETWEEN 3:5 AND 1:1, AND A STROKE - WIDTH - TO - HEIGHT RATIO BETWEEN 1:5 AND 1:1.0.
32. LETTERS AND NUMERALS SHALL BE RAISED 1/32" AND SHALL BE ACCOMPANIED BY GRADE 2 BRAILLE, RAISED CHARACTER HEIGHT: 5/8" MINIMUM, 2" HIGH MAXIMUM.
33. THE CHARACTERS AND BACKGROUND OF SIGNS SHALL BE EGGSHELL, MATTE OR OTHER NON-GLARE FINISH, CHARACTER AND SYMBOLS SHALL CONTRAST WITH THEIR BACKGROUND
34. PROVIDE LOW LEVEL MOUNTED EXIT SIGNAGE IN ACCORDANCE WITH 4.30.1, 4.30.4, 4.30.5 AND 4.30.6 (RAISED CHARACTER, LETTER SIZE, MOUNTING) AT ALL REQUIRED EXITS.

GENERAL:

1. ALL DIMENSIONS SHOULD BE READ AND CALCULATED AND NEVER SCALED.
2. ALL WALL DIMENSIONS ARE TAKEN TO THE FACE EDGE OF STUD, UNLESS NOTED OTHERWISE.

3. INSTALL COLD-FORMED METAL FRAMING ACCORDING TO AISI'S "STANDARD FOR COLD-FORMED STEEL FRAMING - GENERAL PROVISIONS" AND TO MANUFACTURER'S WRITTEN INSTRUCTIONS UNLESS MORE STRINGENT REQUIREMENTS ARE INDICATED.
4. INSTALL COLD-FORMED METAL FRAMING AND ACCESSORIES PLUMB, SQUARE, AND TRUE TO LINE, AND WITH CONNECTIONS SECURELY FASTENED.
5. INSTALL FRAMING MEMBERS IN ONE-PIECE LENGTHS.
6. INSTALL TEMPORARY BRACINGS AND SUPPORTS TO SECURE FRAMING AND SUPPORT LOADS COMPARABLE IN INTENSITY TO THOSE FOR WHICH STRUCTURE WAS DESIGNED. MAINTAIN BRACE AND SUPPORTS IN PLACE, UNDISTURBED UNTIL ENTIRE INTEGRATED SUPPORTING STRUCTURE HAS BEEN COMPLETED AND PERMANENT CONNECTIONS TO FRAMING ARE SECURED.
7. DO NOT BRIDGE BUILDING EXPANSION AND CONTROL JOINTS WITH COLD-FORMED METAL FRAMING. INDEPENDENTLY FRAME BOTH SIDES OF JOINTS.
8. INSTALL INSULATION, SPECIFIED IN DIVISION 7 SECTION "BUILDING INSULATION," IN BUILT-UP EXTERIOR FRAMING MEMBERS, SUCH AS HEADERS, SILL, BOXED JOISTS, AND MULTIPLE STUDS AT OPENINGS, THAT ARE INACCESSIBLE ON COMPLETION OF FRAMING WORK.
9. FASTEN FLOOR REINFORCING PLATE OVER KNEE PENETRATIONS THAT EXCEED SIZE OF MANUFACTURER'S STANDARD PUNCHED OPENINGS.
10. ERECTION TOLERANCES: INSTALL COLD-FORMED METAL FRAMING LEVEL, PLUMB, AND TRUE TO LINE TO A MAXIMUM ALLOWABLE TOLERANCE VARIATION OF 1/8" INCH IN 10 FEET AND AS FOLLOWS:
 - a. SPACE INDIVIDUAL FRAMING MEMBERS NO MORE THAN PLUS OR MINUS 1/8" INCH FROM PLAN LOCATION. CUMULATIVE ERROR SHALL NOT EXCEED MINIMUM FASTENING REQUIREMENTS OF SHEATHING OR OTHER FINISHING MATERIALS.
11. INSTALL TRACKS (RUNNERS) AT FLOORS AND OVERHEAD SUPPORTS. EXTEND FRAMING FULL HEIGHT TO STRUCTURAL SUPPORTS OR SUBSTRATES ABOVE SUSPENDED CEILINGS, EXCEPT WHERE PARTITIONS ARE INDICATED TO TERMINATE AT SUSPENDED CEILINGS. CONTINUE FRAMING AROUND DUCTS PENETRATING PARTITIONS ABOVE CEILING.
12. SLIP-TYPE HEAD JOISTS: WHERE FRAMING EXTENDS TO OVERHEAD STRUCTURAL SUPPORTS, INSTALL BRACES OR BRACKETS AT TOPS OF FRAMING SYSTEMS THAT PREVENT AXIAL LOADING OF FINISHED ASSEMBLIES.
13. DOOR OPENINGS: SCREW VERTICAL STUDS AT JAMBS TO JAMB ANCHOR CLIPS ON DOOR FRAMES; INSTALL RUNNER TRACK SECTION (FOR GRIPPLE STUDS) AT HEAD AND SECURE TO JAMB STUDS.

A. INSTALL TWO STUDS AT EACH JAMB, UNLESS OTHERWISE INDICATED.

- B. INSTALL CLEARANCE STUDS AT HEAD ADJACENT TO EACH JAMB STUD, WITH A MINIMUM 1/2-INCH GAP FROM JAMB STUD TO ALLOW FOR INSTALLATION OF CONTROL JOINT IN FINISHED ASSEMBLY.
- C. EXTEND JAMB STUDS THROUGH SUSPENDED CEILINGS AND ATTACH TO UNDERSIDE OF OVERHEAD STRUCTURE.
15. OTHER FRAMED OPENINGS: FRAME OPENINGS OTHER THAN DOOR OPENINGS THE SAME AS REQUIRED FOR DOOR OPENINGS, UNLESS OTHERWISE INDICATED. INSTALL FRAMING BELOW SILLS OF OPENINGS TO MATCH FRAMING REQUIRED ABOVE DOOR HEADS.
16. FIRE-RESISTANCE-RATED PARTITIONS: INSTALL FRAMING TO COMPLY WITH FIRE-RESISTANCE-RATED ASSEMBLY INDICATED AND SUPPORT CLOSURES. AND TO MAKE PARTITIONS CONTINUOUS FROM FLOOR TO UNDERSIDE OF SOLID STRUCTURE.
17. INSTALL SUPPLEMENTARY FRAMING, BLOCKING, AND BRACING IN STUD FRAMING INDICATED TO SUPPORT FIXTURES, EQUIPMENT, OR ACCESS AS REQUIRED. HEAVY TRIM, FURNISHINGS, AND SIMILAR WORK REQUIRING ATTACHMENT TO FRAMING. IF TYPE OF SUPPLEMENTARY SUPPORT IS NOT INDICATED, COMPLY WITH STUD MANUFACTURER'S WRITTEN RECOMMENDATIONS AND INDUSTRY STANDARDS IN EACH CASE, CONSIDERING WEIGHT OR LOAD RESULTING FROM ITEM SUPPORTED.
18. INSTALL HORIZONTAL BRIDGING IN EXTERIOR NON-LOAD BEARING STUD SYSTEM, SPACED AS RECOMMENDED BY MANUFACTURER BUT NOT MORE THAN 48" APART. FASTEN AT EACH STUD INTERSECTION.

1. HOLLOW CONCRETE BLOCK (MASONRY) UNITS SHALL CONFORM TO ASTM C90, WITH A MINIMUM COMPRESSIVE STRENGTH OF 2000 PSI ON THE NET AREA AND 1000 PSI ON THE GROSS AREA. (FM = 1500 PSI)
2. ALL MORTAR FOR MASONRY SHALL CONFORM TO ASTM C270, TYPE II OR S. ALL GROUT FOR USE IN MASONRY SHALL CONFORM TO ASTM C476, MINIMUM 3,000 PSI AT 28 DAYS.
3. ALL CONTINUOUS BARS SHALL HAVE BASIC CLASS "C" TENSION LAPS WITH CORNER BARS AT ALL CORNERS AND WALL INTERSECTIONS.
4. ALL VERTICAL REINFORCEMENT IN MASONRY WALLS SHALL HAVE CLASS "C" TENSION LAPS.
5. HORIZONTAL REINFORCING IN MASONRY WALL FOOTINGS SHALL BE CONTINUOUS W/ 30 DIAMETER MIN. LAP MEMBERS AT ALL INTERIOR AND EXTERIOR CORNERS.

1. Traffic coating and waterproofing Roof System "Con-Dek" - Inclement Weather by PliDek or equal.
2. Con-Dek System is a waterproofing barrier with a decorative coating that offers a variety of colors to be selected by Owner. Con-Dek system - Inclement Weather meets the mandatory criteria for inclement weather and NOAA requirements. Con-Dek consist of a primer; 3/4 oz. fiberglass w/ resin (2 coats); GUBO topcoat; and G550 pigmented sealer.
3. Installation of roof membrane as per manufacturer's recommendations.
4. Supply all materials, fasteners, and end caps necessary to complete to job as required by the manufacturer.

1. Roof Insulation: Nominal thickness - 5 inches, open cell insulation w/ R-Value : 30.
2. Wall Insulation: Nominal thickness 1 1/2 Inches, rigid foam insulation.
3. Install all insulation in accordance with manufacturer's recommendations and requirements.

GENERAL:

1. Contractor to make necessary arrangements with the local power company for temporary power and permanent meter.
2. Contractor shall provide a source of construction electrical power.
3. Contractor shall confirm with the telephone company that the service location, size, etc. meets their requirements and with their approval.
4. All electrical work shall have a one year warranty.
5. All electrical work shall be performed by a licensed electrician.
6. Electrical work shall conform with NFPA 70 (2017), National Electrical Code, for all proposed electrical work in this submittal. Electrical work/modifications may include, but not limited to the following: installation of electrical meter and 100 amp main panel, and wiring for the HVAC equipment. All other work to be under separate contract with Tenant Package.
7. Grounding shall conform to Article 250 or the NEC.
8. Electrical contractor to be responsible for the sizing and functioning of the panels and all wiring, switches, fixtures, etc. and to bring building into compliance to current codes and requirements of Walton County Building Department.

4. Equipment to be sized by supplier of equipment to
5. The main feeders shall be installed galvanized or sheardized heavy wall conduit branch circuits shall be run in EMT. All conduit to be 1/2" unless otherwise specified.
6. All safety switches shall be heavy duty Square D, or approved equal.
7. Owner to provide telephone equipment and to be installed by Others.
8. All telephone jacks and wiring to be provided by owner.
9. Owner will provide high speed internet wiring (Cat 5) as required.

MISCELLANEOUS:

14. All conduit above grade located outside of building shall be minimum 3/4" rigid galvanized steel, unless noted otherwise.
15. All conduit below grade shall be a minimum 1" schedule 40 PVC, buried a minimum of 24" areas not subject to vehicular traffic. Install separate green ground wire in all PVC conduits.
16. Power for HVAC equipment to be installed as per manufacturers specs.
17. Main ground rod shall be 3/4" x 10' copper clad steel.
18. Ground grid system shall tie to cold water piping.

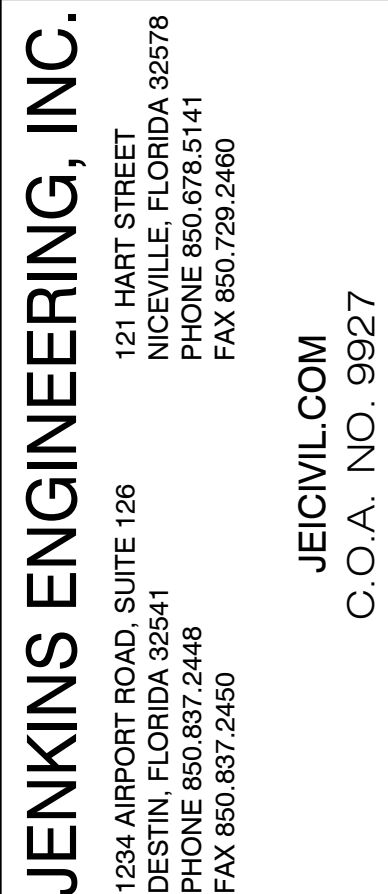
1. All Plumbing work and material shall conform to the latest adopted Code in effect in the location of the Project.
2. All materials to be new.
3. All hot and cold water supply piping to be copper.
4. All drain, waste, & vent piping to be schedule 40 PVC. All exposed supply pipes and drain pipes under lavatories will be chrome plated. (NIC).
5. Supply all piping for rough-in to the floor line. Tenant will complete work and supply all fixtures and fittings.
6. Slope all waste lines minimum 1/8" per foot.
7. Grease trap will be provided in contract, but design by others.
8. All holes created by the Plumbing Contractor to perform his work which passes through floors, walls, and ceilings will be smoke stopped & will be fire stopped in an approved manner equal to rating of wall or floor.
9. All installed waste & supply lines will be pressure tested & inspected in accordance w/ code requirements (prior to being covered).
10. Plumbing Contractor will perform his work in accordance w/ all acceptable OSHA standards.

MECHANICAL NOTES:

1. Refer to mechanicals for full design notes and details. The mechanical work is not part of this contract but is being handled by mechanical sub-contractor under construction contract directly to owner, thru General Contractor. I Systems will be used both with multi zoned systems.
2. All HVAC systems shall be constructed in accordance with IOL 4.2., Life Safety Code 2011
3. Utilities shall comply with the provisions of Section 4.1. Life Safety Code 2011
4. Execute all work according to all Codes and Ordinances. Pay for all permits and provide for inspections.
5. All mechanical installations must meet commercial standards including heating, cooling, water heating, ductwork, etc., and that these installations must be typically accessible, as required.
6. Guarantee all labor and material for one year from date of acceptance.
7. Visit the site to be familiar with all visible conditions. No compensation will be allowed for failure to observe existing conditions.
8. Make arrangements for sewer and water connections required. Include costs in the price.
9. Do all trenching, excavating and back filling required for completion of this work. Comply with requirements of General Provisions.
11. HVAC contractor to be responsible for the design, sizing, and functioning of the units and ducts. Equipment only in this contract.
12. Central air condition system to be designed and priced with a minimum rating of 14.0 SEER.
13. Test all piping, test and adjust air distribution and refrigeration systems.

14. Electrical contractor shall do all power and high voltage wiring. Mechanical contractor shall do low voltage control wiring. General contractor shall provide structural supports, foundations and painting.
15. Provide operating and maintenance instructions including wiring diagram and service manual. Furnish approved operating instructions. Mark all devices. Instruct owner in care and operation of all equipment.
16. Outdoor Condensing Units: Remote type, air cooled, with weather protected 18 gauge cabinet; upflow, aluminum blade fan; permanently lubricated fan motor with built-in thermal overload protection; gills open for air flow; heaters, with sound mufflers, internal thermostats; electric crankcase heaters; nonferrous condenser coil with accumulator, pre-wired controls consisting of magnetic start, high-low switch, lock rotor, over and under voltage and thermal overload protection lock out relay. Coils to be treated with salt resist coating.
17. Fan Coil Units: Corrosion protective metal casing insulated with 1" thick fiberglass duct liner, double inlet centrifugal blower mounted in permanently lubricated fan motor with built-in thermal overload protection; electric crankcase heater, direct expansion coil with expansion valve and 1" throwaway filters.
18. Control systems with cooling-heating year round thermostat and selector switches. Match stages to condensing units and duct heaters scheduled. Install smoke
19. Insulate refrigerant suction lines with 1/2 inch thick (Armaflex). Glue all joints. Do not tape joints. Paint outdoor insulation with protective paint.
20. Provide access doors for installation by others, if required.

1. All materials shall be new except where otherwise noted and shall conform with the standards of Underwriter's Laboratory in every case where such a standard has been established for the particular type of material in question.
2. The Installation shall comply with all laws applying to work in effect with the regulations of the NEC. The contractor shall obtain and pay all necessary permits, and after completion, furnish owner certifications of final inspections and approval as issued by the Inspection department of the County. The contractor shall be responsible for obtaining all necessary certificates of inspection, both at rough-in and completion.

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NOT VALID UNLESS BEARING ENGINEER'S ORIGINAL SIGNATURE

ROYAL MELVIN PARK
US HIGHWAY 98
DESTIN • FLORIDA

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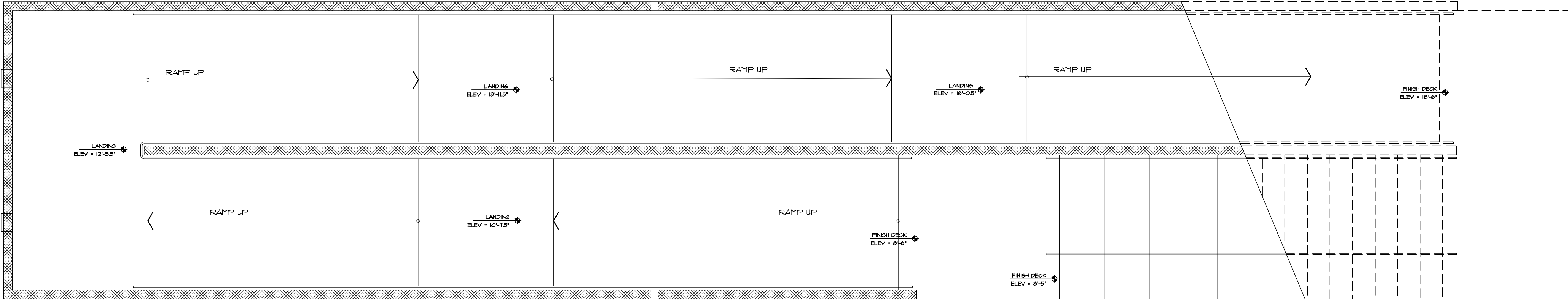
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AR 0011375
31 CARIBEA CIRCLE
SANTA ROSA BEACH, FLORIDA 32459
(850)-496-5735



N.F.P.A. 101 - 2017 EDITION

OCCUPANCY:
BUSINESS, GROUP "B"

CONSTRUCTION TYPE:
TYPE VB, NON-COMBUSTIBLE (FBC 2017)

OCCUPANT LOAD:
BUSINESS
RESTROOMS BY FIXTURES,
12 FIXTURES = 12 PEOPLE
STORAGE 1/1200 X 3425F = 2 PEOPLE
TOTAL = 14 PEOPLE

MINIMUM NUMBER OF EXITS:
PER SECTION 1021
3 REQUIRED
3 PROVIDED

DEAD END CORRIDOR:
PER SECTION 1018.4
20'-0" - NON SPRINKLERED

TRAVEL DISTANCE TO EXIT:
PER SECTION 1016 TABLE 1016.1
150'-0" - NON-SPRINKLERED

EXIT CAPACITY:
PER SECTION 1027
14 PEOPLE X .3 = 4.2" REQUIRED
108" PROVIDED

EXIT WIDTH:
MINIMUM WIDTH REQUIRED = 44"
MINIMUM WIDTH PROVIDED = 44"

SEPERATION and PROTECTION FROM HAZARDS:

STORAGE ROOM
REQUIRES IHR SEPARATION

ILLUMINATION OF MEANS OF EGRESS:
PER SECTION 1006 FBC 2017

EMERGENCY LIGHTING:
PER SECTION 1006.2

INTERIOR FINISHES WALL AND CEILING:
PER SECTION 10.2.2
EXIT AND EXIT CORRIDORS: CLASS A or B
OTHER AREAS: CLASS A, B or C

INTERIOR FINISHES AT FLOOR:
PER SECTION 10.2.2
EXITS - CLASS 1 OR 2
RESTROOMS - CLASS 1 OR 2

DETECTION, ALARM AND COMMUNICATIONS SYSTEMS:
ALARM SYSTEM IS NOT REQUIRED AS PER FBC 2017, SECTION 907

EXTINGUISHMENT REQUIREMENTS:
AUTOMATIC SPRINKLER SYSTEM IS
SECTION 903 NOT REQUIRED PER FBC 2017

FIRE EXTINGUISHER CABINETS ARE REQUIRED

DOOR THRESHOLDS
THRESHOLDS TO BE AS PER FBCA 404.2.5

1. LIFE SAFETY PLAN

SCALE : 1/4" = 1'-0"

RATED WALLS

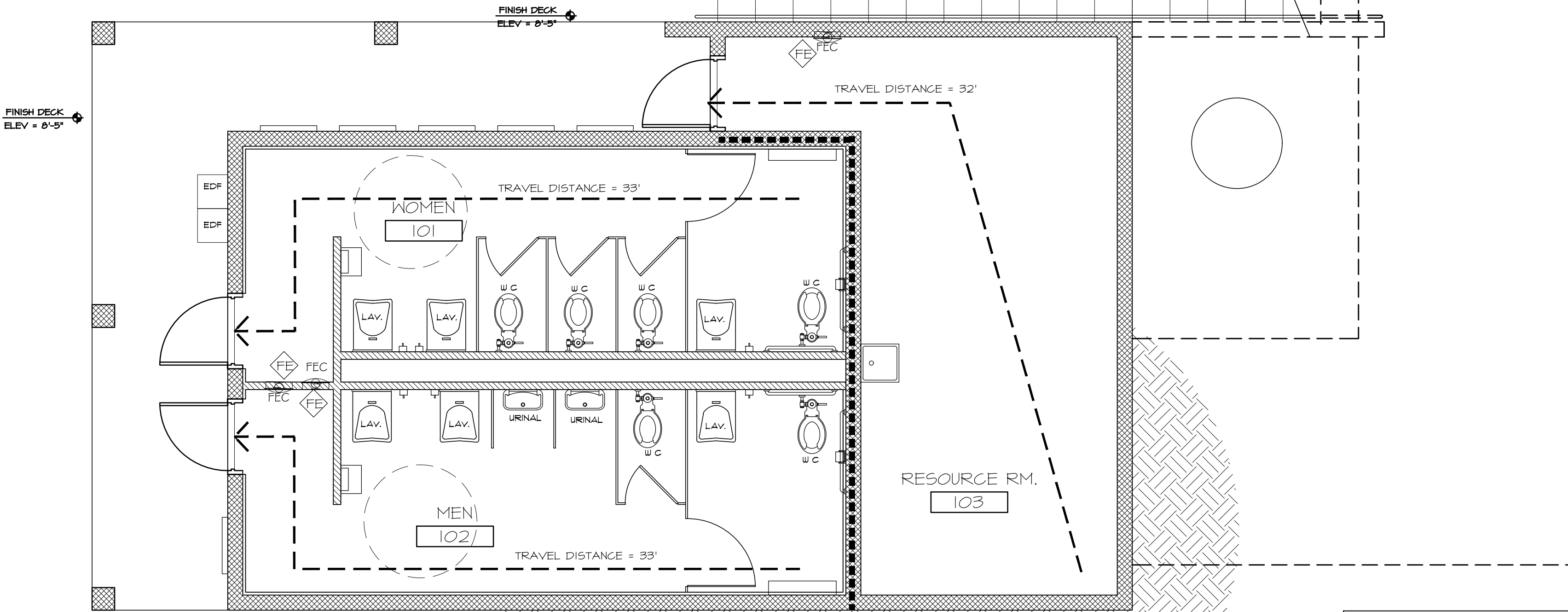
RE: PARTITION TYPES



1 HOUR RATED WALL



FIRE EXTINGUISHER



Piazza
Design
ARCHITECTS/PLANNERS

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31 CARIBEA CIRCLE
SANTA ROSA BEACH, FLORIDA 32459
(850)-496-5735



JENKINS ENGINEERING, INC.

121 HART STREET
NICEVILLE, FLORIDA 32578
DESTIN, FLORIDA 32341
PHONE 850.837.2446
FAX 850.837.2460

JECIVIL.COM

C.O.A. NO. 9927

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REV	DATE	DESCRIPTION	BY

ROYAL MELVIN PARK
US HIGHWAY 98
DESTIN • FLORIDA

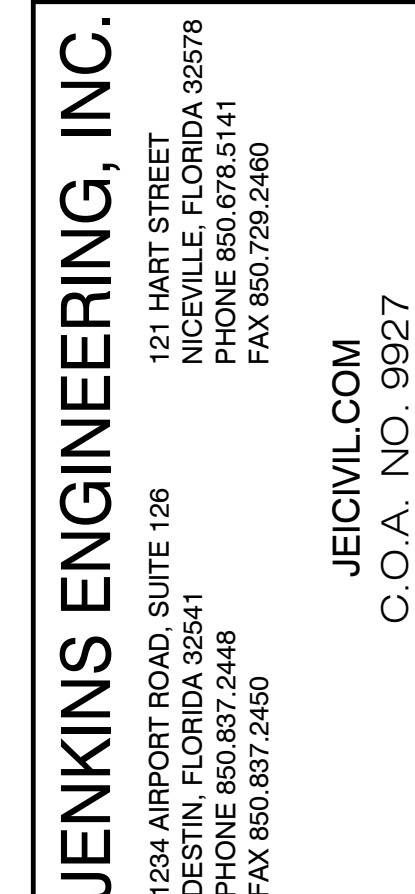
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3. DOOR & WINDOW SCHEDULE

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1. FLOOR PLAN

Piazza
Design
ARCHITECTS/PLANNER

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31 CARIBEA CIRCLE
SANTA ROSA BEACH, FLORIDA 32459
(850)-496-5735



JENKINS ENGINEERING, INC.

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PHONE 850.678.5141
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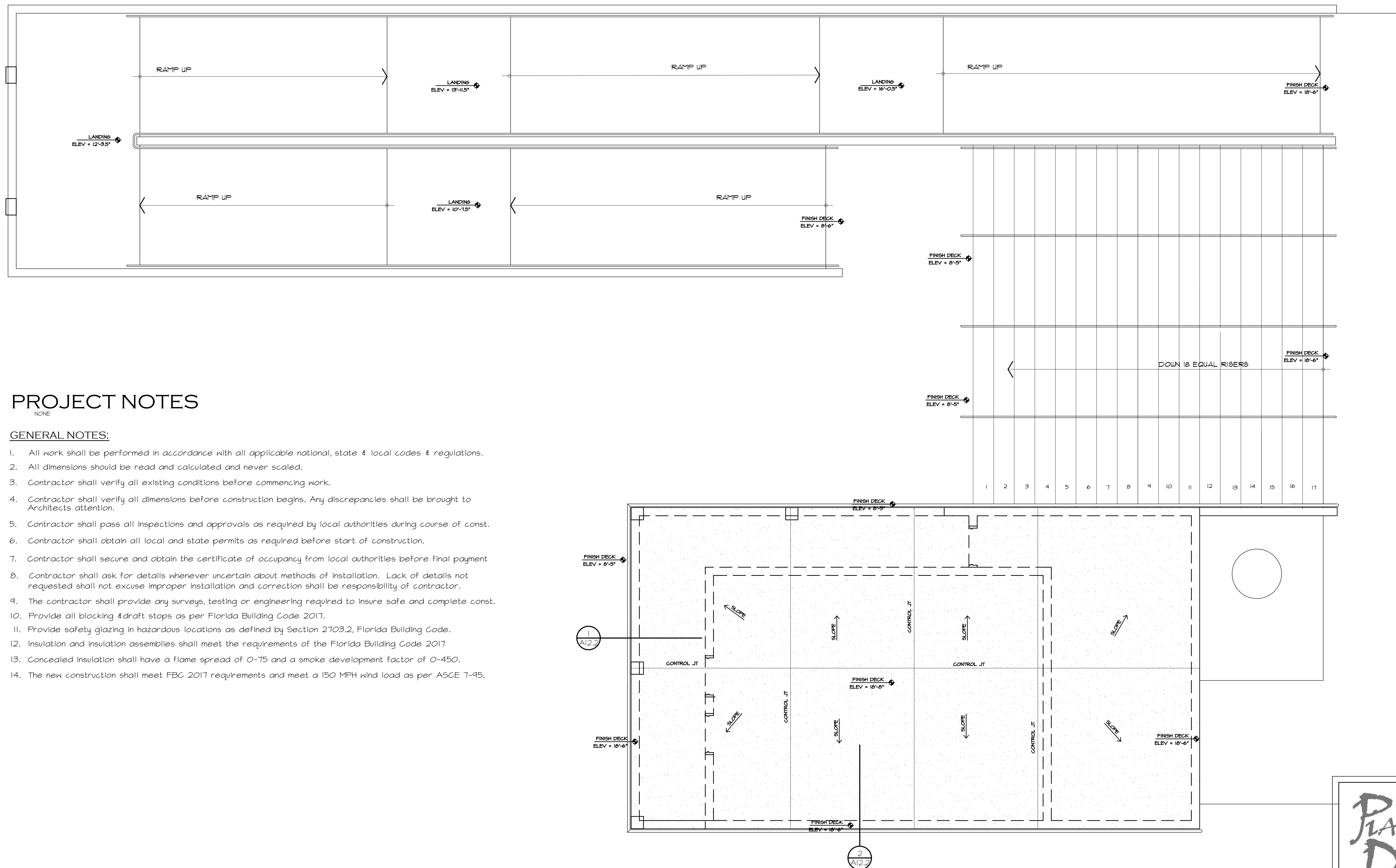
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PROJECT NOTES

NONE

GENERAL NOTES:

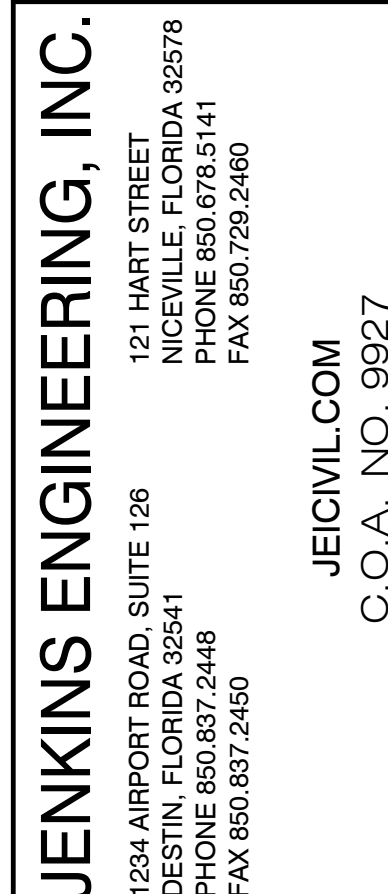
1. All work shall be performed in accordance with all applicable national, state & local codes & regulations.
2. All dimensions should be read and calculated and never scaled.
3. Contractor shall verify all existing conditions before commencing work.
4. Contractor shall verify all dimensions before construction begins. Any discrepancies shall be brought to Architects attention.
5. Contractor shall pass all inspections and approvals as required by local authorities during course of const.
6. Contractor shall obtain all local and state permits as required before start of construction.
7. Contractor shall secure and obtain the certificate of occupancy from local authorities before final payment
8. Contractor shall ask for details whenever uncertain about methods of installation. Lack of details not requested shall not excuse improper installation and correction shall be responsibility of Contractor.
9. The contractor shall provide any surveys, testing or engineering required to insure safe and complete const.
10. Provide all blocking & draft stops as per Florida Building Code 2017.
11. Provide safety glazing in hazardous locations as defined by Section 2103.2, Florida Building Code.
12. Insulation and insulation assemblies shall meet the requirements of the Florida Building Code 2017
13. Concealed insulation shall have a flame spread of 0-75 and a smoke development factor of 0-450.
14. The new construction shall meet FBC 2017 requirements and meet a 150 MPH wind load as per ASCE 7-95.

1. ROOF PLAN

SCALE: 1/4" = 1'-0"



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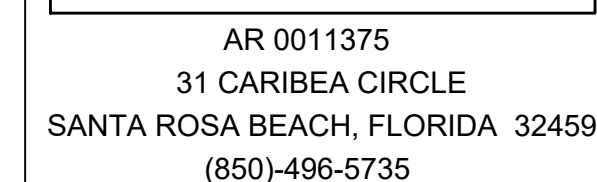


FD-1, FLOOR DRAIN TO BE SIZED BY ENGINEER, TRIM RING TO BE SELECTED BY ENGINEER
GB-36, STAINLESS STEEL 36" GRAB BAR, BOBRICK B-6806 OR APPROVED EQUAL
GB-42, STAINLESS STEEL 42" GRAB BAR, BOBRICK B-6806 OR APPROVED EQUAL
LAV-1, PORCELAIN WALL MOUNTED LAVATORY WITH FAUCET "ACCESSIBLE", TO BE SELECTED BY ENGINEER
M1, 24" x 36" FRAMED TEMPERED GLASS MIRROR, BOBRICK B-2408-2436 OR APPROVED EQUAL
PT-1, PAPER TOWEL DISPENSER, BOBRICK MODEL B-262 OR APPROVED EQUAL
SD-1, WALL MOUNTED SOAP DISPENSER, BOBRICK B211 OR APPROVED EQUAL
TD-1, TOILET PAPER DISPENSER DOUBLE ROLL, BOBRICK B-2888 OR APPROVED EQUAL
BC-1, BABY CHANGE STATION, KOALA KARE - VANDER RESISTANT
UR-1, WALL MOUNTED URINAL "ACCESSIBLE", TO BE SELECTED BY ENGINEER
WC-1, PORCELAIN FLOOR MOUNTED TOILET "ACCESSIBLE", TO BE SELECTED BY ENGINEER
WC-2, PORCELAIN FLOOR MOUNTED TOILET, TO BE SELECTED BY ENGINEER

PROVIDE SOLID 2X BLOCKING IN WALLS FOR ATTACHMENT OF TOILET PARTITIONS, URINAL SCREENS, AND GRAB BARS. NOTIFY ARCHITECT FOR BLOCKING INSPECTION PRIOR TO INSTALLATION OF WALL FINISHES.

ALL ITEMS TO BE ADA COMPLIANT

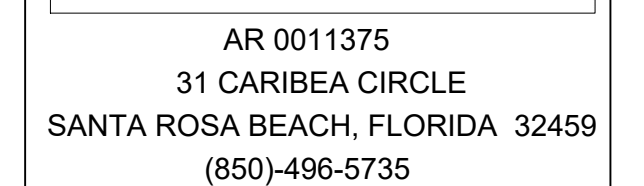
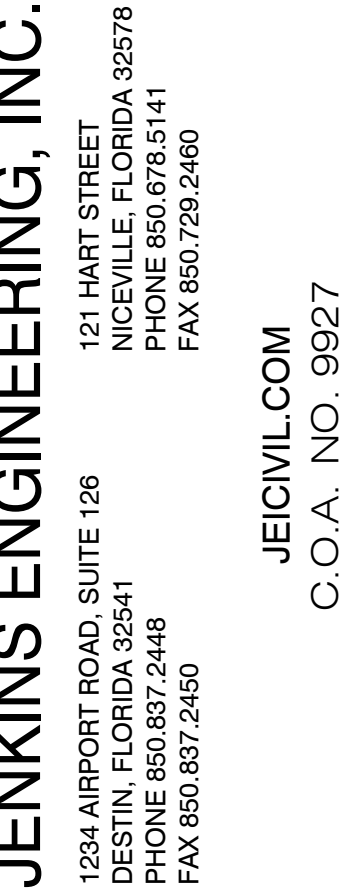
ALL ITEMS TO BE VANDAL RESISTANT



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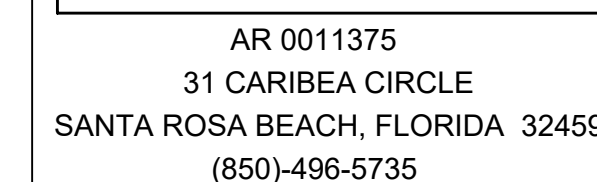
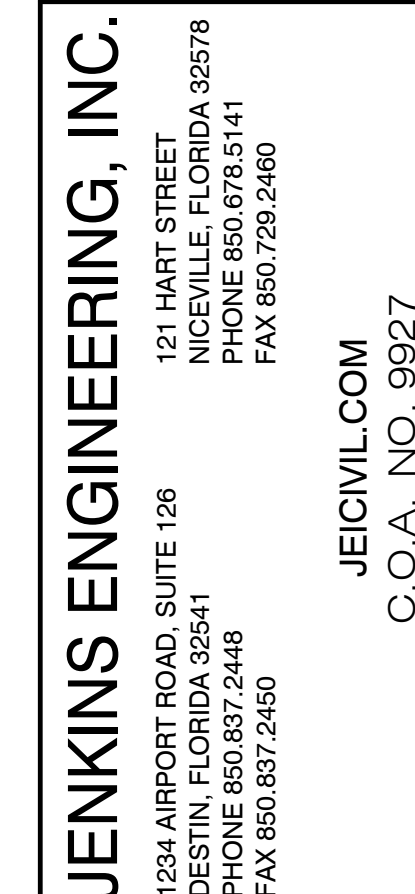
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STRUCTURAL PLANS

206 HARBOR BLVD
DESTIN, FLORIDA 32541

STRUCTURAL NOTES AND SPECIFICATIONS

GENERAL NOTES

- CODES
 - FLORIDA BUILDING CODE (LATEST EDITION)
 - AMERICAN WOOD COUNCIL, NDS FOR WOOD CONSTRUCTION (LATEST EDITION)
 - AMERICAN CONCRETE INSTITUTE, BUILDING CODE REQUIREMENTS FOR REINFORCED CONCRETE (ACI 318)
 - AMERICAN CONCRETE INSTITUTE, BUILDING CODE REQUIREMENTS FOR MASONRY CONSTRUCTION (ACI 531)
 - CONCRETE REINFORCING STEEL INSTITUTE, PLACING REINFORCING BARS (LATEST EDITION)
 - AMERICAN INSTITUTE OF STEEL CONSTRUCTION, MANUAL OF STEEL CONSTRUCTION (LATEST EDITION)
 - AWS STRUCTURAL WELDING CODE, (LATEST EDITION)
- LOADING
 - GRAVITY LOADS
 - DEAD
 - FLOOR - 40PSF
 - BALCONIES - 60PSF
 - STAIRS - 100PSF
 - LIVE LOADING
 - 1. FLOOR - 40PSF
 - 2. BALCONIES - 60PSF
 - 3. STAIRS - 100PSF
 - ROOF LIVE
 - 1. 20PSF
 - WIND LOADING
 - SEE CHART, THIS PAGE
- SHUTTERS OR IMPACT RESISTANT GLAZING SHALL HAVE FLORIDA PRODUCT APPROVAL NUMBER.
- SHOULD A CONFLICT OCCUR IN THE INTERPRETATION OF THE CODES ABOVE, THE CONTRACT DOCUMENTS SHALL GOVERN. SHOULD A CONFLICT OCCUR IN THE CONTRACT DOCUMENTS, THE STRICTEST INTERPRETATION SHALL GOVERN.
- VERIFY ALL EXISTING CONDITIONS, DIMENSIONS AND ELEVATIONS PRIOR TO COMMENCEMENT OF WORK. NOTIFY STRUCTURAL ENGINEER OF ANY DISCREPANCY.
- COORDINATE STRUCTURAL CONTRACT DRAWINGS WITH ARCHITECTURAL, MEP, AND CIVIL. NOTIFY STRUCTURAL ENGINEER OF ANY CONFLICT AND/OR OMISSION.
- DO NOT SCALE THESE DRAWINGS FOR DIMENSIONS NOT GIVEN.
- ALL SECTIONS OR DETAILS SHOULD BE CONSIDERED TYPICAL AND SHALL APPLY TO ALL SIMILAR AND LIKE CONDITIONS.
- SUBMIT SHOP DRAWINGS DETAILING STRUCTURAL ELEMENTS AND CONNECTIONS SHOWN IN THE CONTRACT DOCUMENTS AND CONTAINING THE CONTRACTOR'S INTERPRETATION OF THE DESIGN LOADS AND DETAILS. REVIEW OF SUBMITTALS DOES NOT RELIEVE THE CONTRACTOR OF FULL RESPONSIBILITY FOR COMPLIANCE WITH ALL APPLICABLE JURISDICTIONAL BUILDING CODES.
- INSPECTIONS
 - CONTRACTOR SHALL NOTIFY THE STRUCTURAL ENGINEER TO PERFORM STRUCTURAL INSPECTIONS PRIOR TO PLACING CONCRETE OR COVERING STRUCTURAL MEMBERS OR CONNECTIONS.
 - CONTRACTOR SHALL NOTIFY STRUCTURAL ENGINEER AT LEAST 48 HOURS IN ADVANCE OF A NECESSARY INSPECTION.
 - TYPICAL INSPECTION SCHEDULE:
 - FOOTING PRE-POUR
 - STEM WALLS PRE-POUR
 - SLAB PRE-POUR
 - FIRST FLOOR FRAMING
 - WALL FRAMING INSPECTION, INCLUDING HOLD-DOWNS, STRAPPING, AND SHEAR WALLS IN PLACE.
 - ENGINEER'S FINAL CERTIFICATION

FOUNDATION NOTES

- FOUNDATIONS AND SLAB ON GRADE
 - DESIGN ASSUMES MINIMUM SOIL BEARING CAPACITY OF 2000 PSF. GEOTECHNICAL DATA WAS PROVIDED TO STRUCTURAL ENGINEER BY ARDAMAN & ASSOCIATES, INC. REFERENCE ARDAMAN & ASSOCIATES, INC. REPORT DATED NOVEMBER 6, 2008. CONTRACTOR IS RESPONSIBLE FOR VERIFICATION OF SITE COMPLIANCE WITH THIS REQUIREMENT.
 - FOOTING DIMENSIONS ON PLAN SHALL BE CONSIDERED MINIMUMS.
 - STRUCTURAL ENGINEER SHALL BE NOTIFIED OF ANY CHANGES IN FOUNDATION ELEVATION.
 - TERMITE TREATMENT
 - TERMITE PROTECTION SHALL BE INSTALLED PER THE 2017 FLORIDA BUILDING CODE. THESE TREATMENTS SHALL BE LABELED AS A PREVENTATIVE TREATMENT TO NEW CONSTRUCTION.
 - FOOTING CONCRETE SHALL NOT BE PLACED IN STANDING WATER.
 - FOUNDATION WALLS SHALL BE BACKFILLED UNIFORMLY TO PREVENT OVERTURNING.

CONCRETE NOTES

- CONCRETE
 - ALL DETAILS SHOWN SHALL BE CONSIDERED TYPICAL.
 - CONCRETE OPERATIONS SHALL COMPLY WITH ALL APPLICABLE DESIGN CRITERIA LISTED ABOVE.
 - CONCRETE COMPRESSIVE STRENGTH - 3000 PSI MINIMUM AT 28 DAYS UNLESS OTHERWISE SPECIFIED.
 - REINFORCEMENT BARS - ASTM A615 GRADE 60 MINIMUM
 - CONTINUOUS REINFORCING BARS SHALL HAVE BASIC CLASS "C" TENSION LAPS AT ALL CORNERS AND WALL INTERSECTIONS.
 - WELDED WIRE FABRIC (W.W.F.) - ASTM A185
 - PLACING ACCESSORIES FOR REINFORCEMENT BARS SHALL BE IN ACCORDANCE WITH ACI STANDARDS.
 - PROPOSED MATERIALS AND MIX DESIGNS SHALL BE DOCUMENTED AND REVIEWED BY THE QC LABORATORY. RESPONSIBILITY FOR OBTAINING REQUIRED DESIGN STRENGTH IS THE CONTRACTOR'S RESPONSIBILITY.
 - MINIMUM CONCRETE REINFORCEMENT COVER FOR FOOTING CONCRETE SHALL BE:
 - 3" BOTTOM AND SIDES.
 - MINIMUM CONCRETE REINFORCEMENT COVER FOR SLAB CONCRETE SHALL BE:
 - 3" BOTTOM AND SIDES
 - ¾" TOP
 - SLAB ON GRADE CONCRETE SHALL BE:
 - 4" MINIMUM THICKNESS WITH WWF 6X6, W1.4XW1.4, UNLESS OTHERWISE NOTED
 - SLAB SHALL BE PLACED OVER 6 MIL VAPOR BARRIER.
 - ANCHOR BOLTS IN CMU BLOCK OR CONCRETE FOUNDATIONS SHALL CONFORM TO ASTM A36 AND A307 AND BE ½" DIAMETER WITH
 - DO NOT PLACE PIPES EXCEEDING 1/3 THE SLAB OR WALL THICKNESS UNLESS SPECIFICALLY SHOWN AND DETAILED ON THESE STRUCTURAL DRAWINGS.
 - DOWELS SHALL BE PLACED IN FOUNDATION CONCRETE AT SAME SPACING, SIZE, AND NUMBER AS THEIR MATCHING VERTICAL REINFORCEMENT, UNLESS OTHERWISE NOTED. WET STICKING OF DOWELS SHALL NOT BE PERMITTED.
 - EPOXY OR EXPANSION ANCHORS MAY NOT BE USED AS A SUBSTITUTION WITHOUT ADVANCE WRITTEN APPROVAL BY THE STRUCTURAL ENGINEER.
 - ARCHITECTURAL DRAWINGS SHALL BE CONSULTED FOR GROOVES, CLIPS, RELIEFS, OR OTHER DETAILS PRIOR TO PLACEMENT.
 - CONSTRUCTION JOINT LOCATIONS SHALL BE APPROVED BY THE STRUCTURAL ENGINEER.
 - CONCRETE PLACEMENT DEFECTS, INCLUDING SPALLS, FORM TIE KNOCKOUTS, HONEYCOMBING, OR CRACKS SHALL BE REPAIRED UTILIZING APPROPRATE METHODS AND FOLLOWING PRODUCT MANUFACTURER'S RECOMMENDATIONS.
- MASONRY
 - ALL DETAILS SHOWN SHALL BE CONSIDERED TYPICAL.
 - CONCRETE MASONRY UNITS SHALL CONFORM TO ASTM C90 AND HAVE A MINIMUM COMPRESSIVE STRENGTH OF 1500PSI.
 - MORTAR FOR MASONRY OPERATIONS SHALL COMPLY WITH ASTM C270, TYPE "M" OR TYPE "S".
 - GROUT FOR MASONRY OPERATIONS SHALL COMPLY WITH ASTM C476 AND HAVE A MINIMUM 2500 PSI AT 28 DAYS USING ASTM C1019 TEST METHODS.
 - INFILL CONCRETE COMPRESSIVE STRENGTH - 3000 PSI MINIMUM AT 28 DAYS.
 - ALL BLOCK SHALL BE FILLED. MAXIMUM INFILL LIFTS SHALL BE 4 FEET.
 - MINIMUM REINFORCEMENT FOR VERTICAL WALLS SHALL BE #5 REBAR @ 32" O/C SPACING UNLESS OTHERWISE NOTED.
 - HORIZONTAL JOINT REINFORCEMENT SHALL BE REQUIRED.
 - WET STICKING OF DOWELS SHALL NOT BE PERMITTED.

WIND LOADING NOTES:							
1. GOVERNING CODE				ASCE 7-10			
2. BASIC WIND SPEED - V				150 MPH			
3. ENCLOSURE CLASIFICATION				ENCLOSED			
4. WIND IMPORTANCE FACTOR				1.0			
5. BUILDING RISK CATEGORY				II			
6. WIND EXPOSURE CATEGORY				D			
8. INTERNAL PRESSURE COEFFICIENT				± 0.18			
8. CORNER DISTANCE				a = 3.0 ft			
9. COMPONENTS AND CLADDING SHALL BE DESIGNED AND INSTALLED BY OTHERS TO COMPLY WITH FBC, 2017 RESIDENTIAL.							
MAIN WIND FORCE RESISTING SYSTEM (MWFRS)							
	INTERIOR ZONE			END ZONE			
WALLS	± 29.3			± 39.8			
ROOF	± 25.7			± 44.9			
COMPONENTS AND CLADDING							
ROOF LOADING (PSF)							
TRIBUTARY AREA	ZONE 1 (INTERIOR)		ZONE 2 (EDGE)		ZONE 3 (CORNER)		
	(FT²)	(+)	(-)	(+)	(-)	(+)	(-)
	10	24.2	-59.5	24.2	-99.9	24.2	-150.3
	20	22.7	-58.0	22.7	-89.2	22.7	-124.5
	100	19.2	-54.5	19.2	-64.6	19.2	-64.6
WALL LOADING (PSF)							
TRIBUTARY AREA	ZONE 4 (INTERIOR)		ZONE 5 (EDGE/CORNER)				
	(FT²)	(+)	(-)	(+)	(-)		
	10	54.5	-51.0	54.5	-56.6		
	20	52.1	-56.6	52.1	-67.8		
	100	46.5	-59.0	46.5	-72.6		

MINIMUM LAP SPLICE LENGTH (IN.) 3000 PSI CONCRETE						
	No. 3	No. 4	No. 5	No. 6	No. 7	No. 8
	22	29	36	43	63	72
MINIMUM LAP SPLICE LENGTH (IN.) 1500 PSI NORMAL WEIGHT CMU						
6" CMU WALL	19	25	39	81	NA	NA
8" CMU WALL	19	25	31	57	79	113
12" CMU WALL	19	25	31	53	61	75

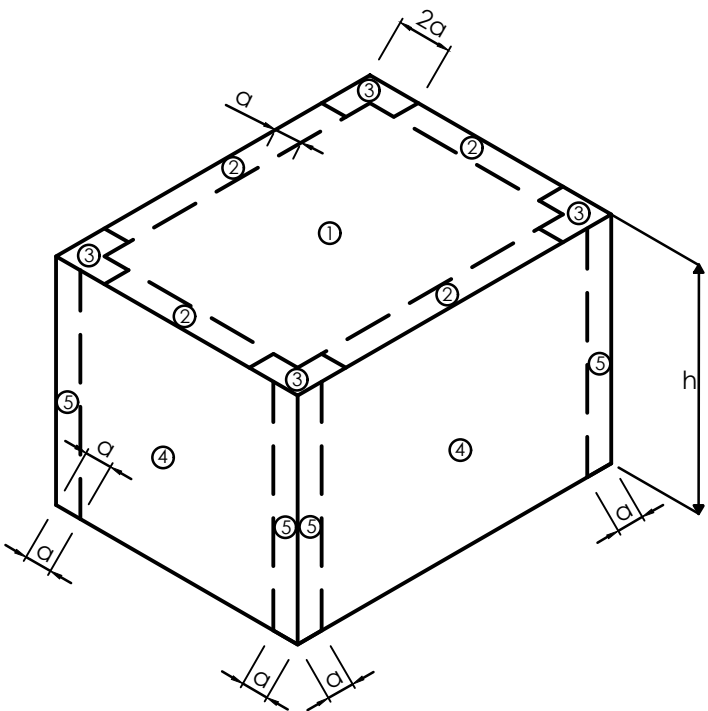
RECOMMENDED END HOOKS ANCHORAGE LENGTH (IN.) 3000 PSI CONCRETE						
	No. 3	No. 4	No. 5	No. 6	No. 7	No. 8
D	2.25	3.00	3.75	4.50	5.25	6.00
A or G	6	8	10	12	14	16

DETAILING

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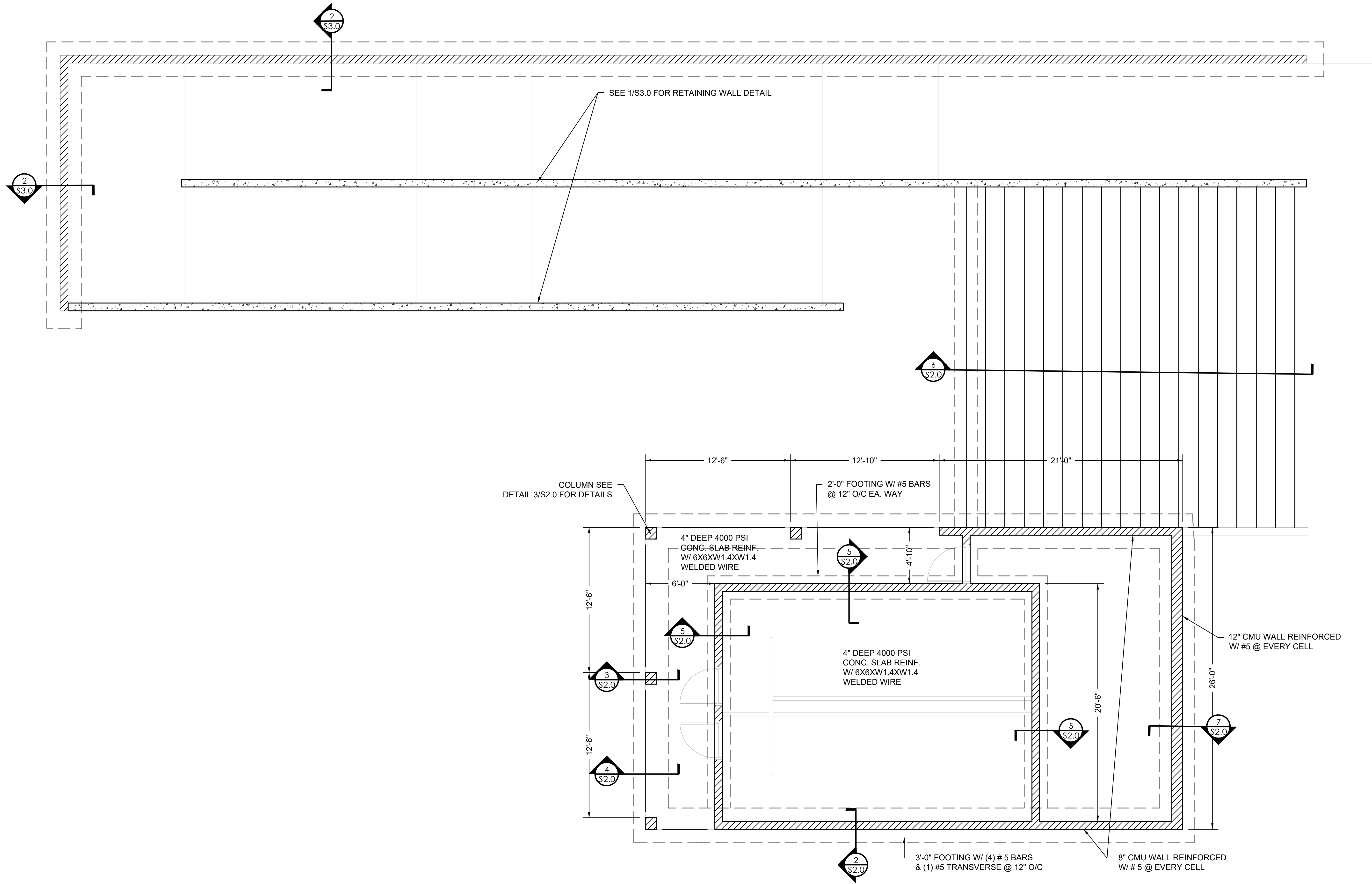
TITLE PAGE / GENERAL NOTES

ROYAL MELVIN PARK
206 HARBOR BLVD
DESTIN, FLORIDA 32541

DRAWING NO.
19FL70044

SHEET NUMBER
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The Professional Engineer and Architect have prepared these drawings and specifications to the best of their knowledge and belief, and they warrant that they are in accordance with the requirements of the Florida Building Code and the Florida Board of Professional Engineers and Architects.



1
S1.0 **FOUNDATION PLAN**
SCALE: 1/4"=1'-0"

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FOUNDATION PLAN

ROYAL MELVIN PARK
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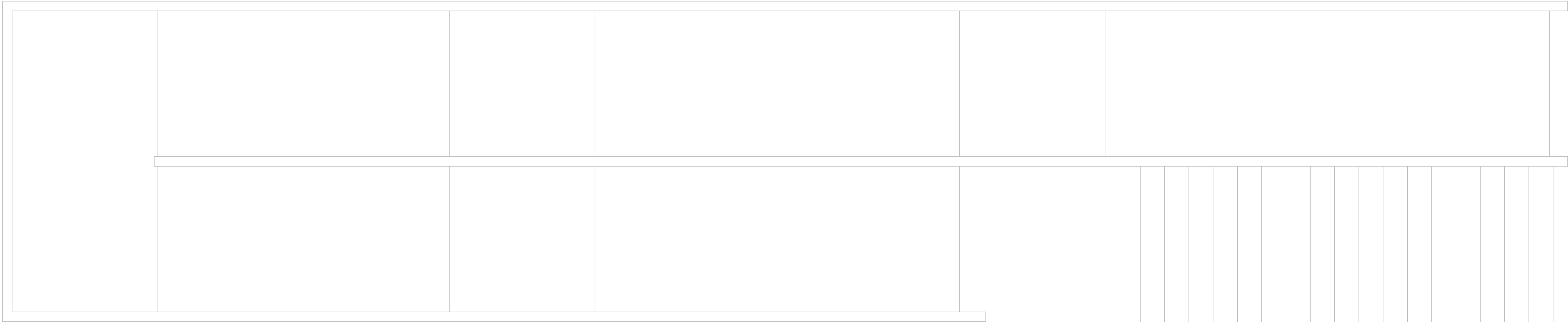
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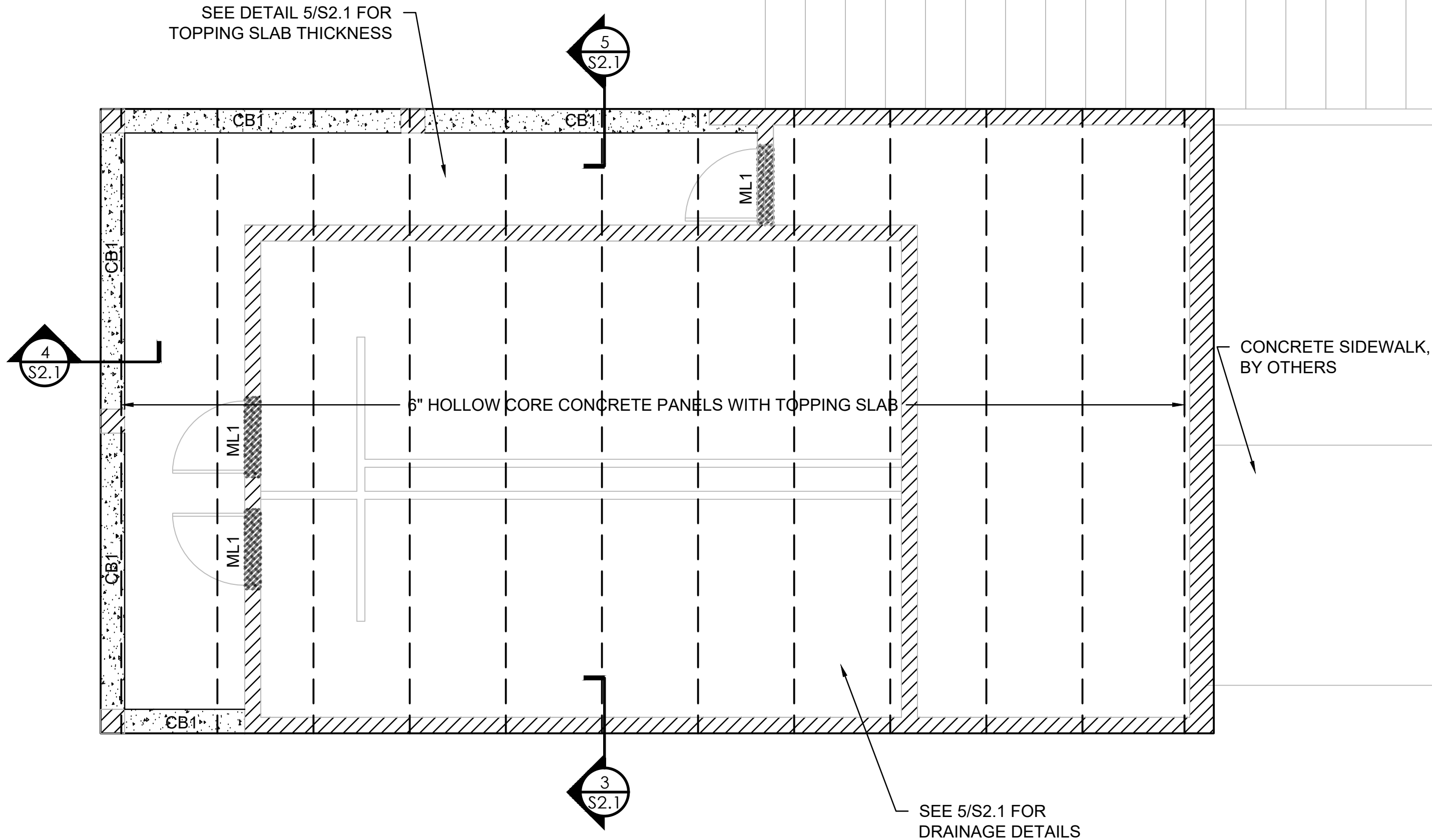
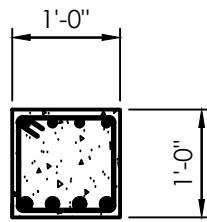
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MASONRY LINTEL SCHEDULE	
ML1	8F8-1B CAST-CRETE MASONRY LINTEL OR APPROVED EQUAL.

CONCRETE BEAM LEGEND	
CB1	12"X12" CONCRETE BEAM W/ (4) # 5 TOP BARS HOOKED OVER SUPPORTS, (4) #6 BOTTOM BARS & #4 CLOSED STIRRUPS @ 4" O/C.

NOTE: BOTTOM REINFORCEMENT SPLICING SHALL NOT OCCUR AT CENTER SPAN OF BEAM.



1 SECOND FLOOR PLAN
SCALE: 1/4"=1'-0"

AE

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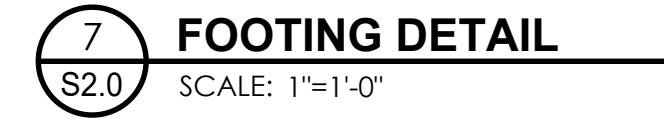
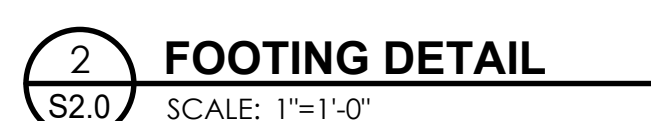
SECOND FLOOR PLAN

ROYAL MELVIN PARK
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STRUCTURAL DETAILS

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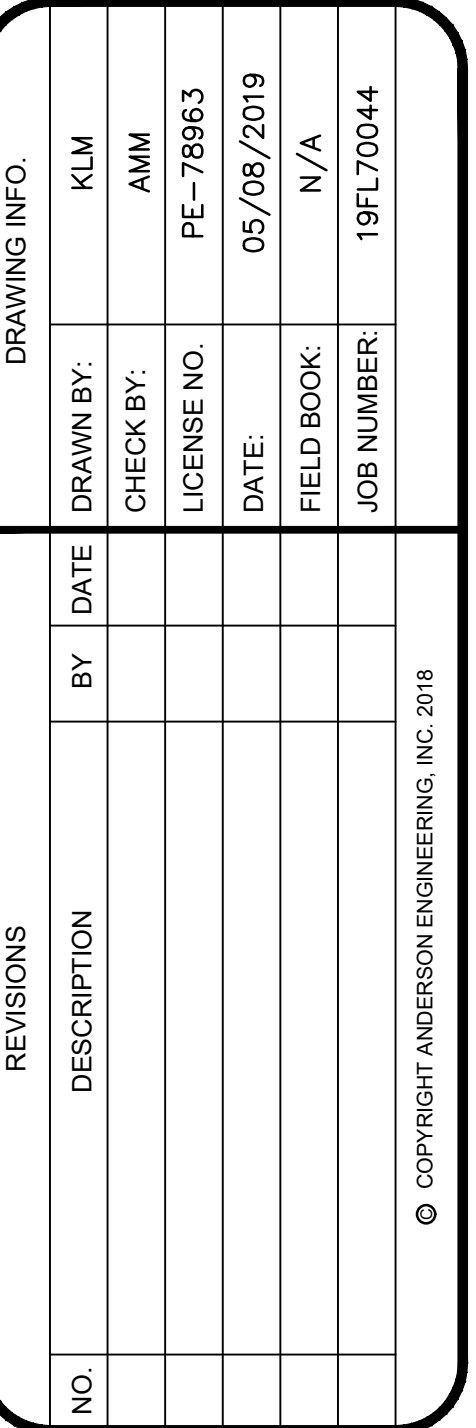
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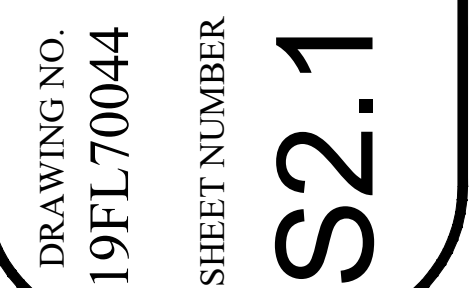
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STRUCTURAL DETAILS

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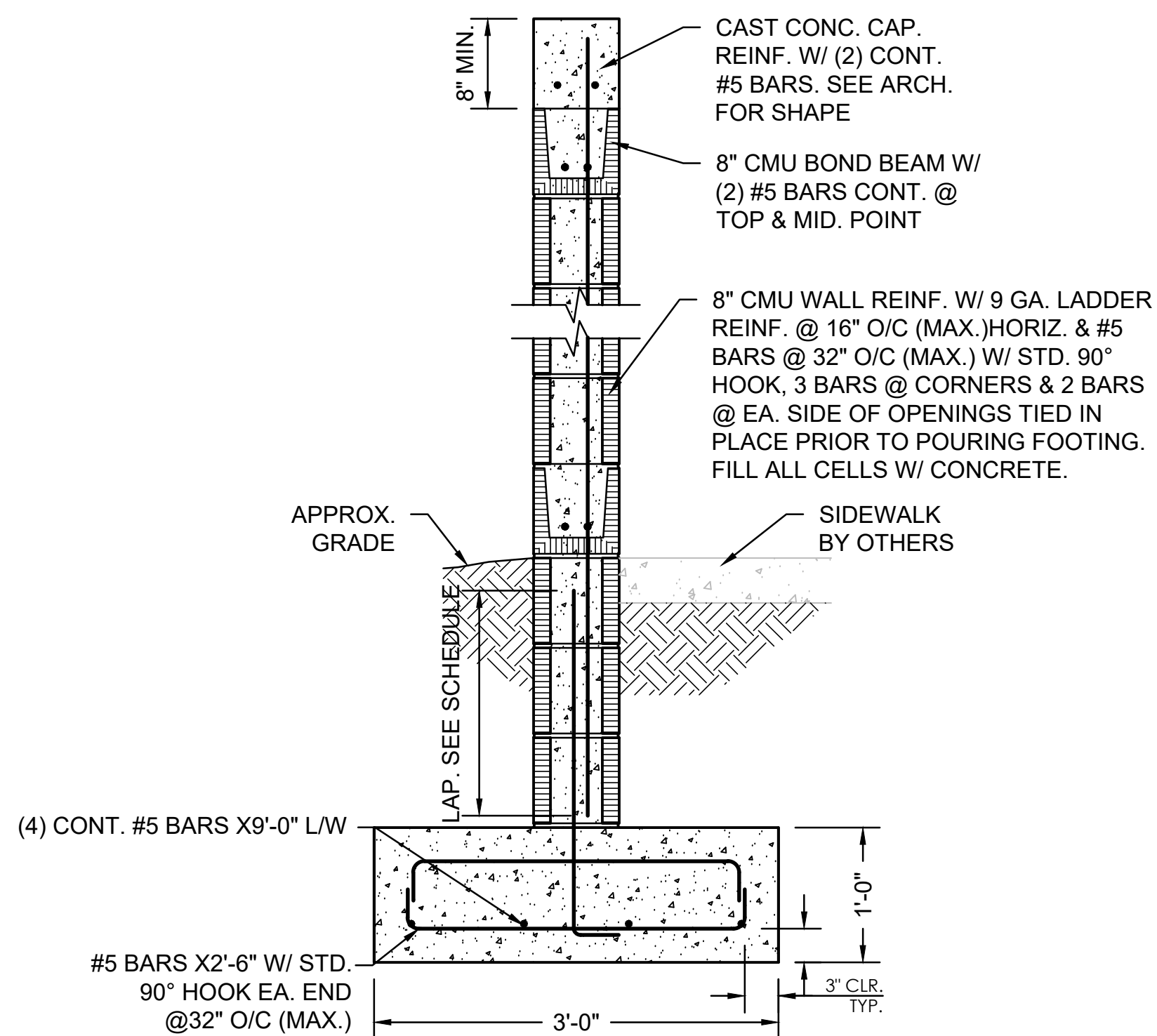
SCALE: 1"=1'-0"

1. BRACE WALLS DURING BACKFILLING OR USE HAND OPERATED EQUIPMENT IN ZONE 5'-0" IMMEDIATELY BEHIND WALLS. BACK FILLING TO OCCUR ONLY AFTER ALL CONCRETE HAS ATTAINED FULL STRENGTH. BACKFILL SHALL BE COMPACTED TO 95% OF STANDARD PROCTOR.
2. PROVIDE VERTICAL KEYED CONSTRUCTION JOINTS OR CONTROL JOINTS IN WALL ONLY (NOT FOOTING). CONCRETE ON OPPOSITE SIDES OF JOINT TO BE PLACED 7 DAYS (MINIMUM) APART. ALL HORIZONTAL REINFORCEMENT TO CONTINUE THROUGH JOINT.
3. TOP OF FOOTING, WALL, FOOTING SIZE, ETC. TO BE BASED ON ACTUAL GRADES AND SECTIONS SHOWN IN THIS DRAWING, TOP OF FOOTING AND "H" VALUES SHOWN ON PLAN ARE ONLY APPROXIMATE.
4. ALL HORIZONTAL WALL AND FOOTING REINFORCEMENT TO BE CONTINUOUS AROUND BENDS OR CORNERS WITH 2'-0" MINIMUM LAP. ADDITIONALLY, ADD 3'-0"x3'-0" #6 CORNER BARS @18" O/C AT OUTSIDE FACE OF ALL WALLS AT BENDS & CORNERS.
5. PROVIDE 4"Ø WEEP HOLES AT 10'-0" HORIZONTALLY WITH 2.0 (MIN.) CU. FT. OF #57 STONE @EACH WEEP HOLE. PROVIDE FILTER FABRIC BETWEEN GRAVEL AND WALL AT EACH WEEP HOLE

DIMENSIONS				
H	4 FT.	6 FT.	8 FT.	10 FT.
A	8"	8"	8"	8"
B	0'-6"	1'-0"	1'-8"	1'-10"
C	1'-1"	1'-7"	1'-8"	2'-6"
D	1'-0"	1'-0"	1'-0"	1'-0"
W	2'-3"	3'-3"	4'-0"	5'-0"

O	#5@12"Hk	#5@12"Hk	#5@12"Hk	#5@6"Hk
P	#5@12"Hk	#5@12"Hk	#5@12"Hk	#5@12"Hk
L _B	#5@12"	#5@12"	#5@12"	#5@12"
L _W	#5@12"	#5@12"	#5@12"	#5@6"
D	#5@12"	#5@12"	#5@12"	#5@6"

SCALE: 1"=1'-0"



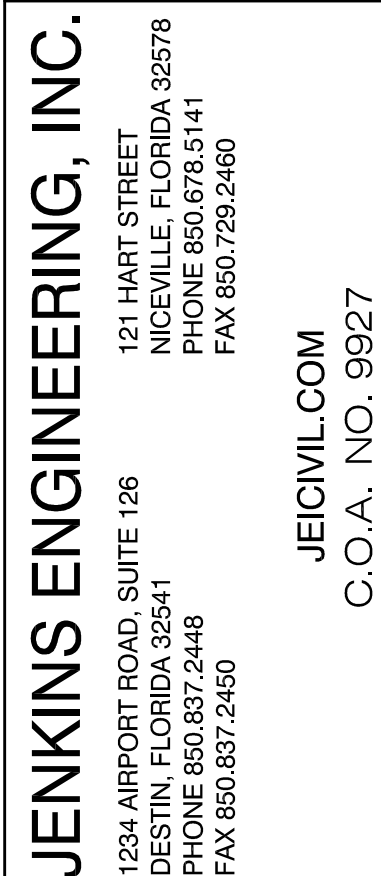
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STRUCTURAL DETAILS

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0.3.S

[illegible]

ROYAL MELVIN PARK
US HIGHWAY 98
DESTIN • FLORIDA

BAR IS ONE INCH ON ORIGINAL
0  1"
IF NOT ONE INCH ON THIS SHEET
ADJUST SCALES ACCORDINGLY

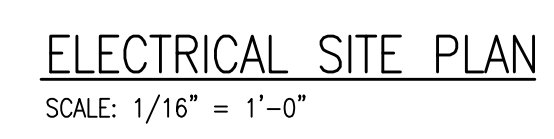
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SHEET NUMBER E1.0



SITE PLAN KEY NOTES:

- H.M. Yonge & Assoc., Inc. 19-047
 Consulting Engineers
 51 EAST 6666 GRY STREET
 PENSACOLA FLORIDA 32502
 PHONE (850) 434-2661

* CERTIFICATE OF AUTHORIZATION NO. 5254
 * MECHANICAL ENGINEER: HOWARD M. YONGE, P.E. - FLORIDA REG. NO. 32093
 * MECHANICAL ENGINEER: TIMOTHY J. MITCHELL, P.E. - FLORIDA REG. NO. 66792
 * ELECTRICAL ENGINEER: ARUN T. VARGHESE, P.E. - FLORIDA REG. NO. 78319



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ELECTRICAL SYMBOL LEGEND	
SYMBOL	DESCRIPTION
	LIGHTING FIXTURE. LETTER(S) DENOTE TYPE – SEE LIGHTING FIXTURE SCHEDULE.
	LIGHTING FIXTURE. LETTER(S) DENOTE TYPE – SEE LIGHTING FIXTURE SCHEDULE.
	EXIT LIGHT WITH BATTERY. DARKENED QUADRANTS INDICATE ILLUMINATED FACES, ARROWS AS INDICATED. LETTER(S) DENOTE TYPE – SEE LIGHTING FIXTURE SCHEDULE.
	LIGHTING FIXTURE WITH INTEGRAL BATTERY BACKUP. LETTER(S) DENOTE TYPE – SEE LIGHTING FIXTURE SCHEDULE.
\$	20 AMP, 120/277 VAC SINGLE POLE TOGGLE SWITCH – FLUSH WALL MOUNTED 48" A.F.F. UNLESS NOTED OTHERWISE. SUBSCRIPT INDICATES AS FOLLOWS: 3 – 20 AMP, 120/277 VAC THREE WAY TOGGLE SWITCH 4 – 20 AMP, 120/277 VAC FOUR WAY TOGGLE SWITCH M – 30 AMP SWITCH EQUAL TO HUBBELL HBL7832D OR HBL7810D, AS REQUIRED. PROVIDE PHENOLIC LABEL. MO – LOW VOLTAGE MOMENTARY TOGGLE SWITCH EQUAL TO WATTSOPPER LVS-1 FOR "MANUAL ON" CONTROL OF CEILING MOUNTED OCCUPANCY SENSOR.
	DUAL TECHNOLOGY CEILING-MOUNTED 360° OCCUPANCY SENSOR, WATTSTOPPER DT-305. SEE LIGHTING CONTROL WIRING DIAGRAM FOR ADDITIONAL INFORMATION. MOUNT AT LOCATION AS INDICATED ON PLANS. DEVICE SHALL BE PROGRAMMED FOR "AUTOMATIC ON" UNLESS INDICATED OTHERWISE. PROGRAM SUCH THAT BOTH TECHNOLOGIES ARE REQUIRED TO TRIGGER LIGHTS "ON" AND EITHER TECHNOLOGY SHALL "HOLD" LIGHTS "ON". TIME DELAY DURATION SHALL BE 30 MINUTES. SEE MANUFACTURERS INSTRUCTIONS FOR APPROPRIATE DIP SWITCH SETTINGS. REFERENCE WIRING DIAGRAM FOR ADDITIONAL INFORMATION.
	POWER PACK RELAY FOR CONTROL OF LIGHTING, EQUAL TO WATTSTOPPER CAT# BZ-150. MOUNT DEVICE IN AN ACCESSIBLE LOCATION.
	PANELBOARD – SEE RESPECTIVE PANELBOARD SCHEDULE.
	BRANCH CIRCUIT CONDUIT RUN CONCEALED IN WALL OR ABOVE CEILING. ARROWS INDICATE CIRCUIT HOMERUN. HASHMARKS INDICATE NUMBER OF CONDUCTORS. ABSENCE OF HASHMARKS INDICATES TWO CONDUCTORS PLUS GROUND. "A" DENOTES PANELBOARD SERVING CIRCUIT. "1" INDICATES CIRCUIT BREAKER SPACE IN PANELBOARD. SEE RESPECTIVE PANEL CIRCUIT SCHEDULE. MINIMUM CONDUCTOR SIZE = #12 AWG.
	NON-FUSED DISCONNECT, HEAVY DUTY (SAFETY) SWITCH – SIZE AND TYPE AS NOTED. TOP OF SWITCH 6'-6" A.F.F. PROVIDE MECHANICALLY FASTENED PHENOLIC LABEL.
	20A, 125 VAC 2P., 3W., GROUNDING TYPE, DUPLEX RECEPTACLE. FLUSH WALL MOUNTED 18" A.F.F. WITH GROUND PIN FACING UP UNLESS NOTED OTHERWISE.
	INDICATES GROUND FAULT CIRCUIT INTERRUPTING RECEPTACLE. FLUSH WALL MOUNTED 18" A.F.F. WITH GROUND PIN FACING UP UNLESS NOTED OTHERWISE.
C	INDICATES DEVICE FLUSH MOUNTED 6" ABOVE COUNTERTOP OR IN BACKSPASH.
WP	INDICATES WEATHER RESISTANT WIRING DEVICE WITH WEATHER PROOF IN-USE COVER PLATE.

SYMBOLS NOTES: UNLESS OTHERWISE NOTED THE FOLLOWING SHALL APPLY:

- ALL OUTLETS SHALL BE FLUSH MOUNTED.
- MOUNTING HEIGHTS ARE FROM THE CENTER LINE OF THE DEVICE.
- ALL SINGLE GANG AND TWO GANG DEVICES SHALL USE A 4" SQ. BOX WITH EXTENSION RING.
- ALL MULTI – GANG DEVICES SHALL USE A COMMON COVER PLATE
- COLORS FOR ALL DEVICES (i.e. SWITCHES, RECEPTACLES, TELEPHONE OUTLETS, ETC.) AND THEIR COVER PLATES SHALL BE DETERMINED BY THE ARCHITECT.
- A.F.F. INDICATES MOUNTING HEIGHT ABOVE FINISHED FLOOR.
- DO NOT INSTALL OUTLETS BACK TO BACK.
- PROVIDE INDICATES THE ELECTRICAL CONTRACTOR SHALL PROVIDE AND INSTALL.

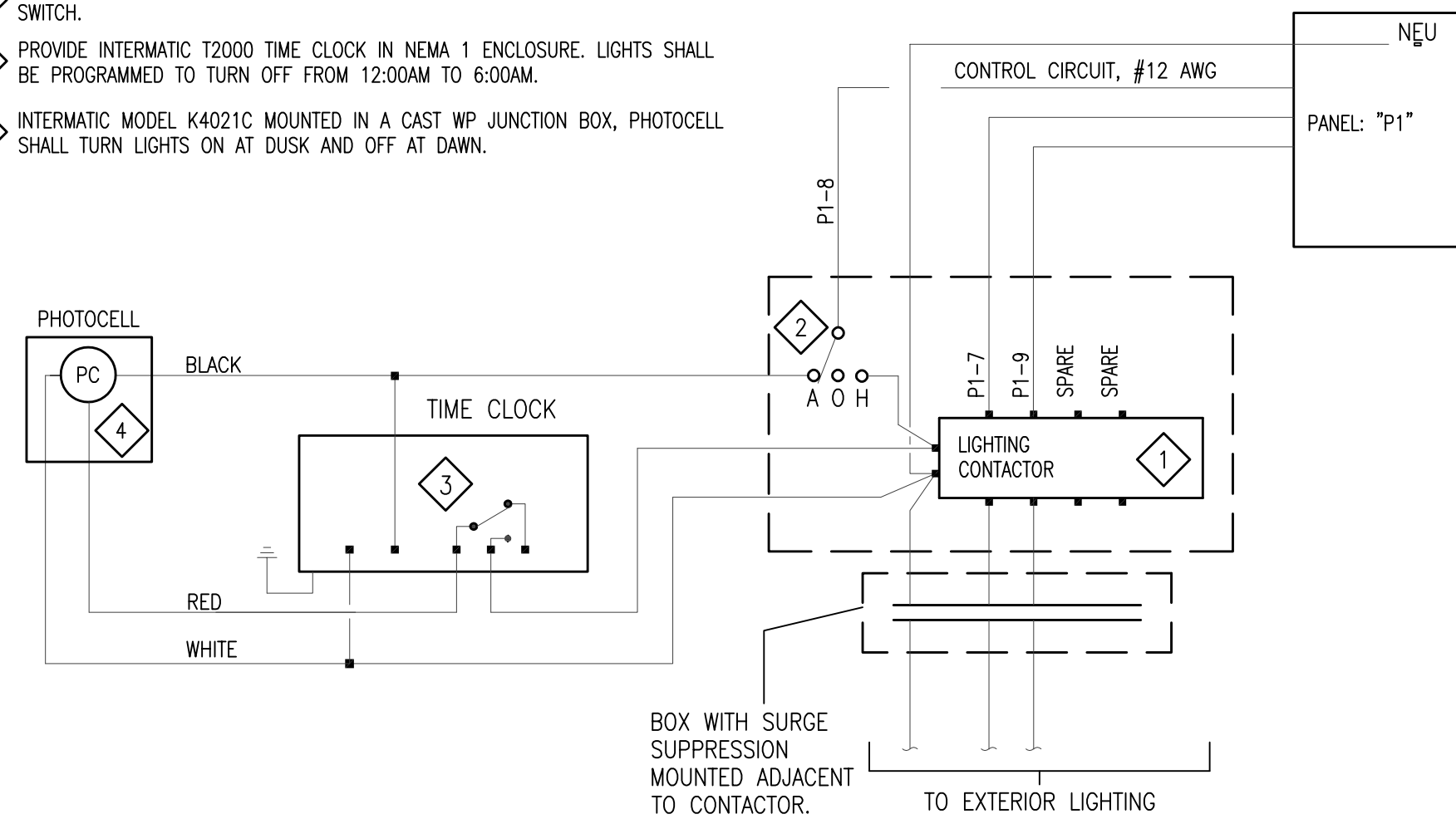
LIGHTING FIXTURE SCHEDULE

THE LIGHTING PACKAGE SUBMITTED FOR CONSTRUCTION SHALL MEET OR EXCEED THE LIGHTING SPECIFICATIONS AND FIXTURE SCHEDULE, AND COMPLY WITH THE DESIGN AND FUNCTIONALITY REQUIREMENTS SHOWN ON THE LIGHTING PLANS, NO EXCEPTIONS. IT IS THE RESPONSIBILITY OF THE CONTRACTOR TO ENSURE THEIR LIGHTING PACKAGE IS EQUAL TO THE SPECIFICATIONS AND PLANS PRIOR TO BIDDING, ANY FIXTURE PACKAGE SUBMITTED FOR REVIEW DURING THE CONSTRUCTION PHASE THAT IS NOT EQUAL TO THE SPECIFICATIONS AND PLANS WILL BE REJECTED. THE ACCEPTANCE OF AN EQUAL PACKAGE SHALL BE AT THE SOLE DISCRETION OF THE ARCHITECT AND ENGINEER. ANY ADDITIONAL COSTS INCURRED BY BRINGING AN INFERIOR LIGHTING PACKAGE UP TO THE STANDARDS OF THE SPECIFICATIONS AND PLANS DUE TO LACK OF QUALITY AND/OR FUNCTION OF DESIGN SHALL BE THE SOLE RESPONSIBILITY OF THE CONTRACTOR AND THEIR LIGHTING SUPPLIER. THESE REQUIREMENTS SHALL ALSO BE INCLUSIVE OF ALL LIGHTING CONTROL SYSTEMS.

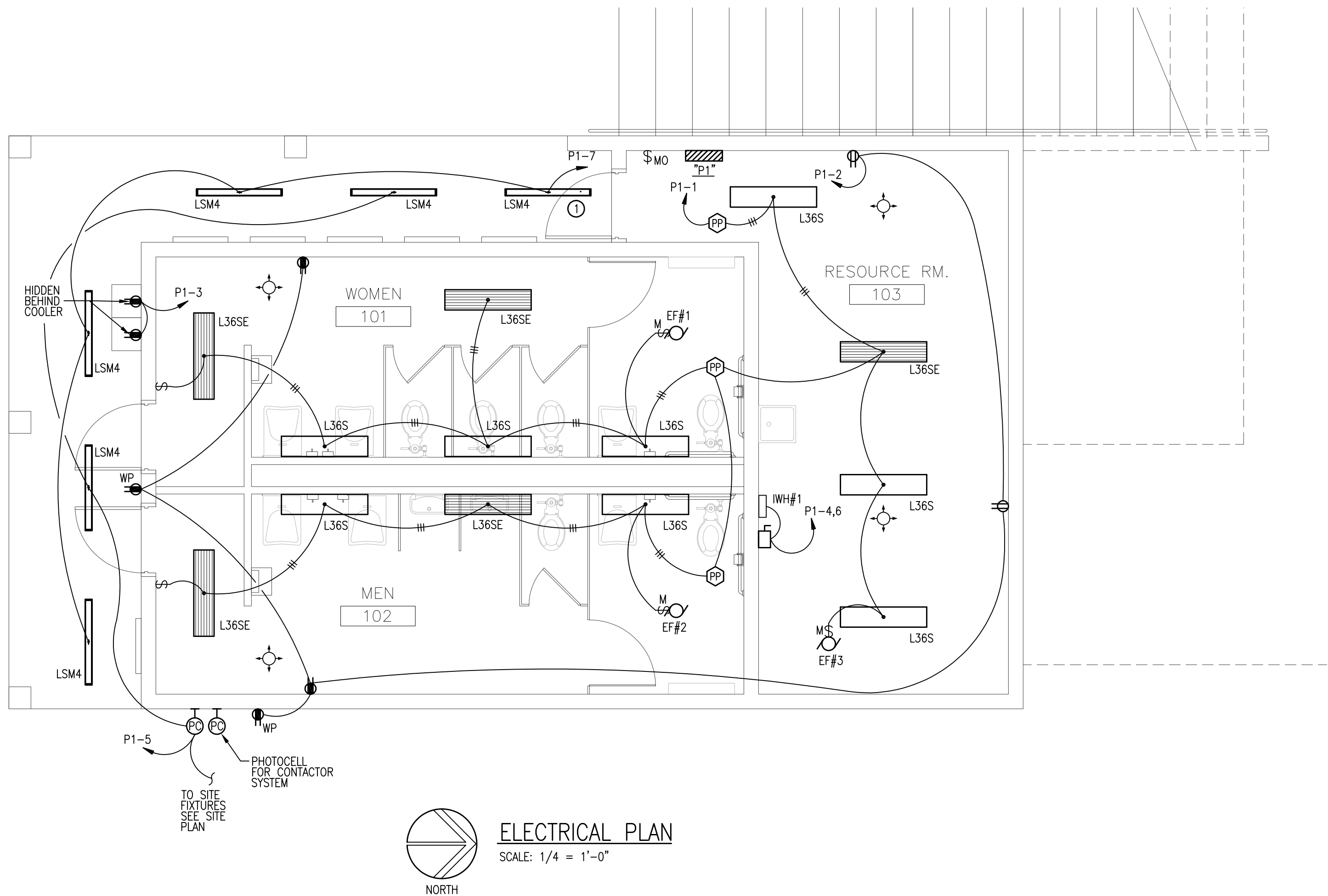
MARK	LAMPS		MOUNTING	MANUFACTURER AND CATALOG NUMBER
	#	WATTS TYPE		
HB	FURNISHED W/ FIXTURE	53 LED 40K	SURFACE WALL 8"Ø AFG	GARDCO PWS-140L-1150-NWC2-3-UNV-F1-FINISH
HD	FURNISHED W/ FIXTURE	9 LED 40K	RECESSED SOFFIT	PHILIPS 6R-N/C6-10-8-40-M-Z10-U/C6-R-DL-CC
L36S L36SE	FURNISHED W/ FIXTURE	31 LED 35K	SURFACE CEILING	HE WILLIAMS AWX-4-L36-8-35K-WPC HE WILLIAMS AWX-4-L36-8-35K-WPC-EM/10WLP
PL	FURNISHED W/ FIXTURE	54 PER HEAD LED 40K	POLE 120" AFG	LUME POS-55W32LED4K-T-1E4F-120-CL0-D6F-2-FINISH POLE: RA61-F-12-(CN1S-2)-TBC1-FINISH
WW	FURNISHED W/ FIXTURE	9 LED 40K	RECESSED SOFFIT	PHILIPS C6RW/C6L-10-8-40-M-UNV/C6-R-WW-CC
LSM4	FURNISHED W/ FIXTURE	28.3 LED 40K	SURFACE CANOPY	FINELINE HP-4-WL-SM-4'-835-F (VOLTAGE)-SC-C4
SL1	FURNISHED W/ FIXTURE	15 LED 40K	RECESSED STEP LIGHT	FC LTG FCSL240-UNV-LED-4K-30S-CR85-(FINISH)
SL2	FURNISHED W/ FIXTURE	10 LED 40K	RECESSED STEP LIGHT	FC LTG FCSL1502-UNV-LED4K-530-CR85-SX-SX

[illegible]

- 1 CUTLER HAMMER CLASS ECLO3 ELECTRICALLY HELD LIGHTING CONTACTOR IN NEMA 1 ENCLOSURE. ECLO3-C14AA-S3. PROVIDE NAMEPLATE.
- 2 3-POSITION SELECTOR SWITCH INTEGRAL TO CONTACTOR ENCLOSURE DOOR. LABEL SWITCH.
- 3 PROVIDE INTERMATIC T2000 TIME CLOCK IN NEMA 1 ENCLOSURE. LIGHTS SHALL BE PROGRAMMED TO TURN OFF FROM 12:00AM TO 6:00AM.
- 4 INTERMATIC MODEL K402IC MOUNTED IN A CAST WP JUNCTION BOX, PHOTOCELL SHALL TURN LIGHTS ON AT DUSK AND OFF AT DAWN.



NOT TO SCALE



SCALE: 1/4" = 1'-0"

JENKINS ENGINEERING, INC.

1234 AIRPORT ROAD, SUITE 126
DESTIN, FLORIDA 32541
PHONE 850.837.2448
FAX 850.837.2450

JEICIVIL.COM
C.O.A. NO. 9927

C.O.A. NO. 9927

100% DESIGN REVIEW SET
NOT FOR CONSTRUCTION

BY							
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DESCRIPTION

REV	DATE
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ROYAL MELVIN PARK
US HIGHWAY 98
DESTIN • FLORIDA

NOT VALID UNLESS READING ENGINEER'S ORIGINAL SIGNATURE

JOB: 19047
DATE: MAY 31, 2019
DESIGNED: ATV
DRAWN: ATV

BAR IS ONE INCH ON ORIGINAL

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IF NOT ONE INCH ON THIS SHEET
ADJUST SCALES ACCORDINGLY

DRAWING NUMBER

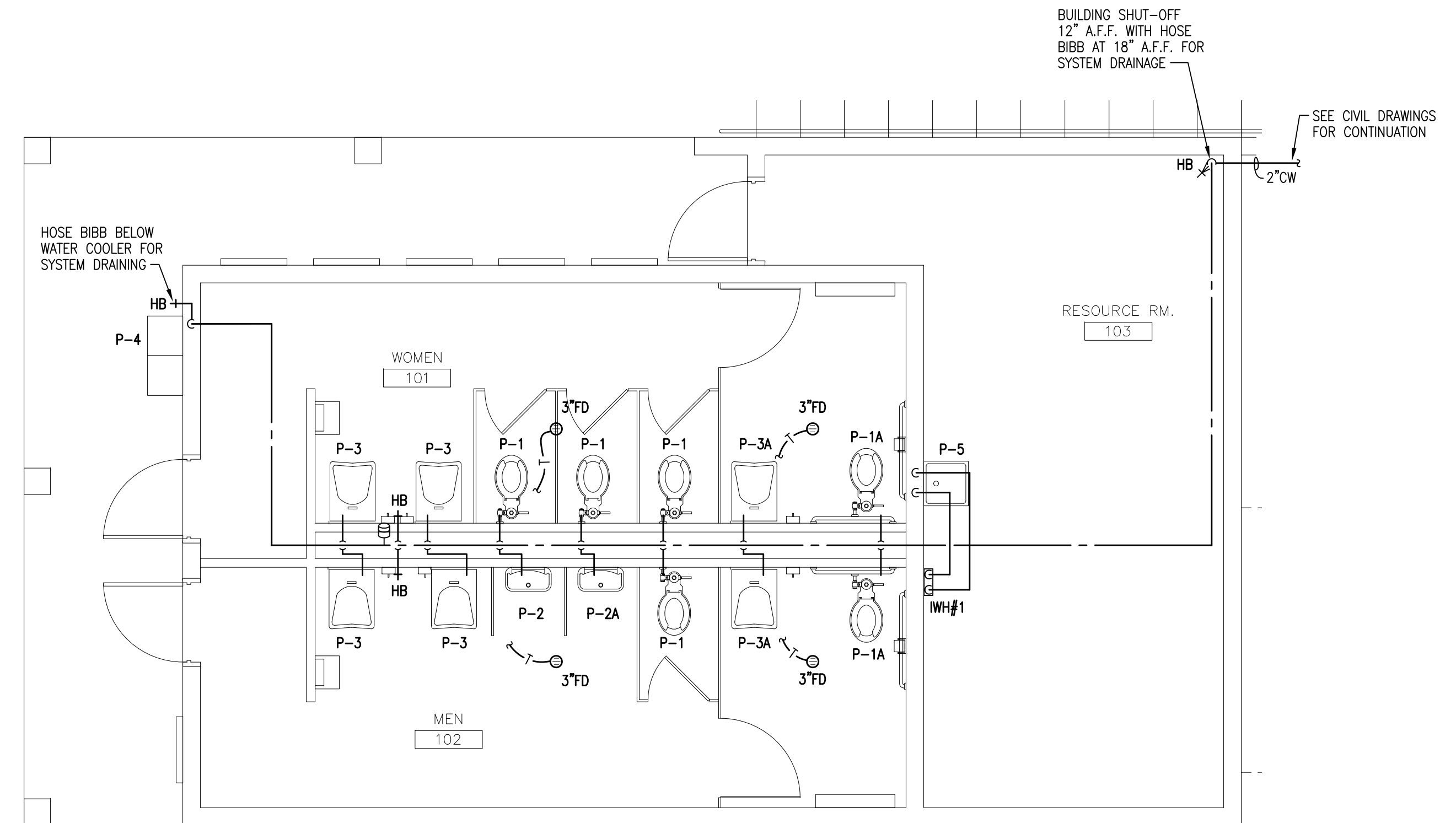
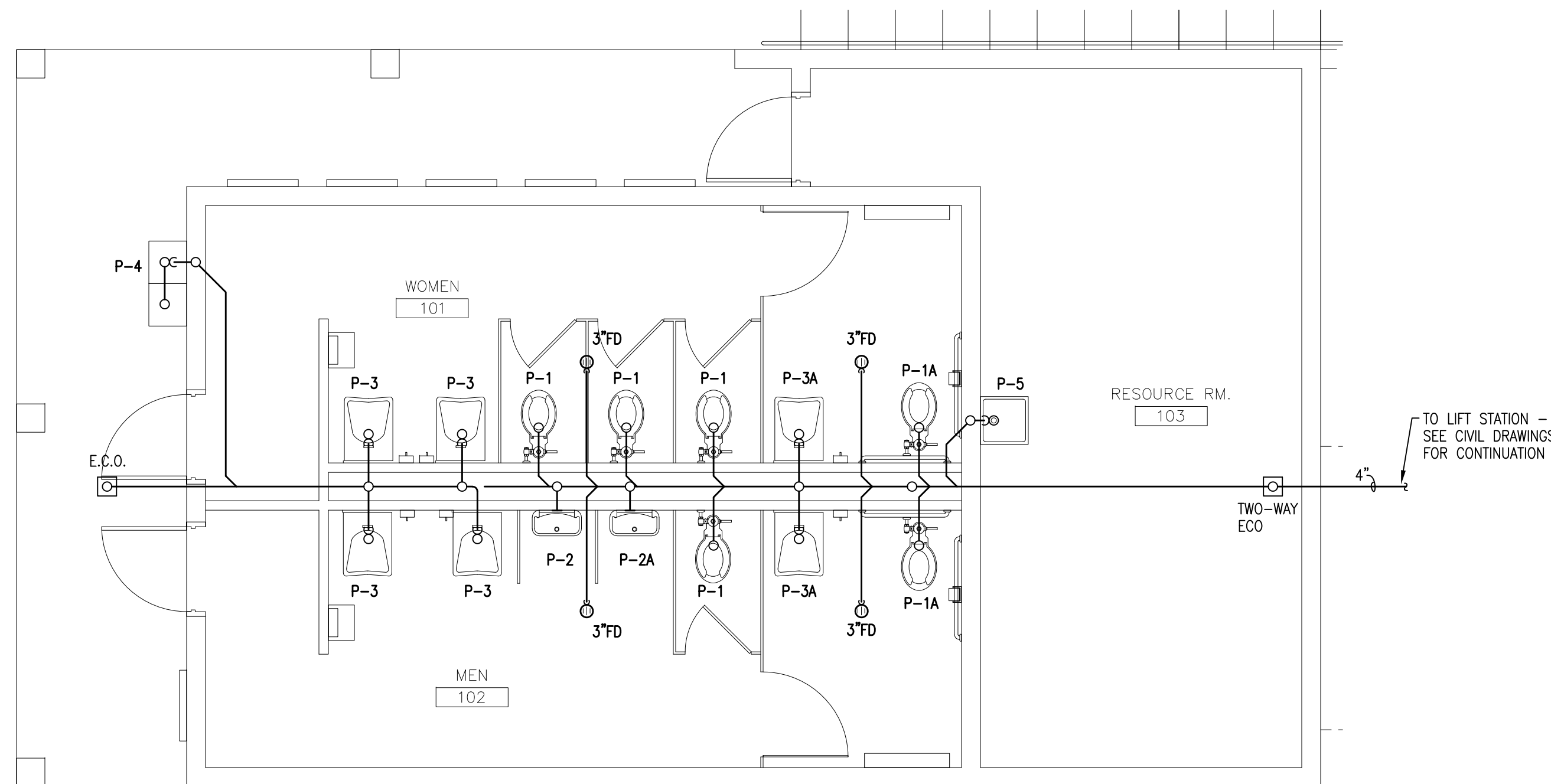
SHEET NUMBER
E1.1

H.M. Yonge & Assoc., Inc.
Consulting Engineers

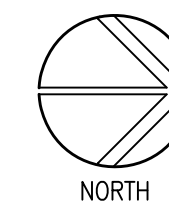
19-047

51 EAST GREGORY STREET
PENSACOLA, FLORIDA 32507
PHONE: (850) 434-2661

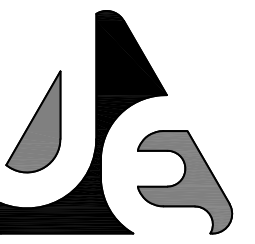
- * CERTIFICATE OF AUTHORIZATION NO.: 5254
- * MECHANICAL ENGINEER: HOWARD M. YONGE, P.E. - FLORIDA REG. NO. 32093
- * MECHANICAL ENGINEER: TIMOTHY J. MITCHELL, P.E. - FLORIDA REG. NO. 6675
- * ELECTRICAL ENGINEER: ARUN T. VARGHESE, P.E. - FLORIDA REG. NO. 76315



WASTE PIPING FLOOR PLAN
SCALE: 1/4" = 1'-0"



WATER PIPING FLOOR PLAN
SCALE: 1/4" = 1'-0"



JENKINS ENGINEERING, INC.
1234 AIRPORT ROAD, SUITE 126
121 HART STREET

DESTIN, FLORIDA 32541
PHONE 850.837.2448
FAX 850.837.2450

JEICIVIL.COM
C.O.A. NO. 9927

50% DESIGN REVIEW SET
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ROYAL MELVIN PARK
US HIGHWAY 98
DESTIN • FLORIDA

NOT VALID UNLESS BEARING ENGINEER'S ORIGINAL SIGNATURE

DOB:	19047
DATE:	MAY 3, 2019
DESIGNED:	TJM
DRAWN:	TJM

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ADJUST SCALES ACCORDINGLY

DRAWING NUMBER

SHEET NUMBER
P1.1

H.M. Yonge & Assoc., Inc. 19-047
Consulting Engineers

51 EAST GREGORY STREET
PENSACOLA, FLORIDA 32502
PHONE: (850) 434-2661

* CERTIFICATE OF AUTHORIZATION NO.: 5254
* MECHANICAL ENGINEER: HOWARD M. YONGE, P.E. - FLORIDA REG. NO. 32093
* MECHANICAL ENGINEER: TIMOTHY J. MITCHELL, P.E. - FLORIDA REG. NO. 66792
* ELECTRICAL ENGINEER: ARUN T. VARGHESE, P.E. - FLORIDA REG. NO. 76315

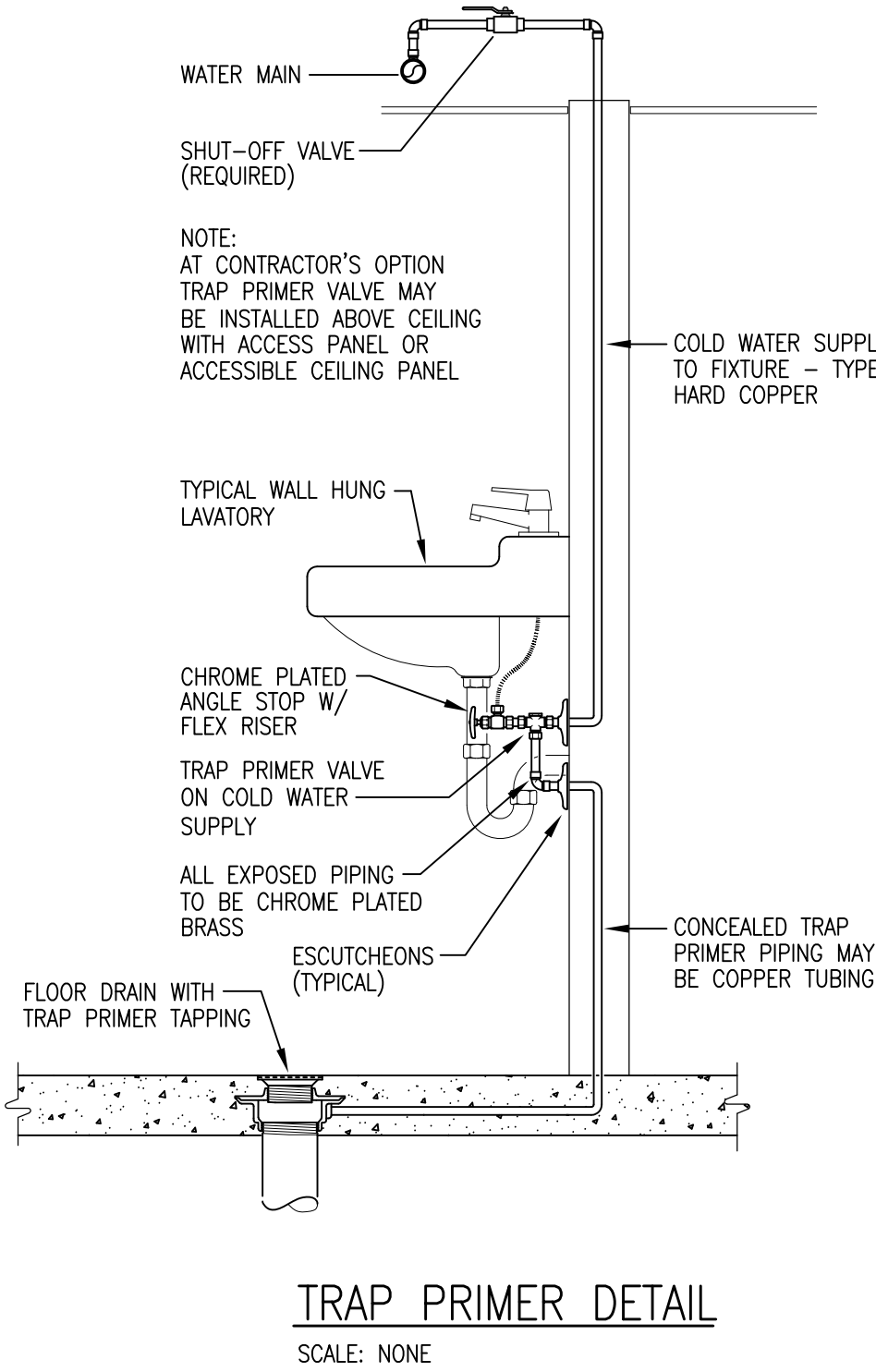
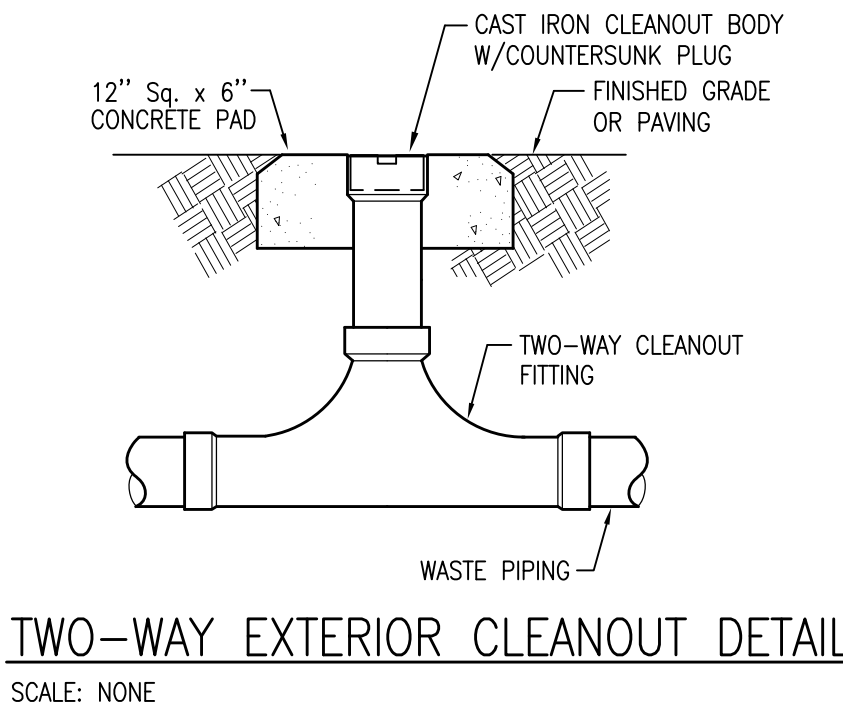
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PLUMBING FIXTURE CONNECTION SCHEDULE							
MARK	FIXTURE	CONNECTIONS				MAX. FIXTURE FLOW RATE	DESCRIPTION
		WASTE	CW	HW (110°F)	HW (140°F)		
P-1	WATER CLOSET	4"	1"	---	---	1.6 (gpf)	KOHLER K-96053-SS 15-INCH HIGH TOP INLET WATER CLOSET WITH WHITE OPEN SEAT EQUAL TO CHURCH 255. FLUSH VALVE SHALL BE ZURN ZEMS6000AV-IS-WS1 HARD WIRED FLUSH VALVE WITH 1.6 GPF, SPLIT RING SUPPORT AND BUMPER ON ANGLE STOP.
P-1A	WATER CLOSET (ADA)	4"	1"	---	---	1.6 (gpf)	KOHLER K-96057 17-INCH HIGH TOP INLET WATER CLOSET WITH WHITE OPEN SEAT EQUAL TO CHURCH 255. FLUSH VALVE SHALL BE ZURN ZEMS6000AV-IS-WS1 HARD WIRED FLUSH VALVE WITH 1.6 GPF, SPLIT RING SUPPORT AND BUMPER ON ANGLE STOP.
P-2	URINAL	2"	3/4"	---	---	1.0 (gpf)	KOHLER K-4904-ET TOP SPUD URINAL WITH ZURN ZEMS6003AV-IS-WS1 HARD WIRED FLUSH VALVE WITH 1.0 GPF FLOW. PROVIDE ZURN Z-1222 FLOOR SUPPORTED CARRIER.
P-2A	URINAL (ADA)	2"	3/4"	---	---	1.0 (gpf)	KOHLER K-4904-ET TOP SPUD URINAL WITH ZURN ZEMS6003AV-IS-WS1 HARD WIRED FLUSH VALVE WITH 1.0 GPF FLOW. PROVIDE ZURN Z-1222 FLOOR SUPPORTED CARRIER. SEE ARCHITECTURAL FOR MOUNTING HEIGHT.
P-3	LAVATORY (WALL HUNG)	1-1/2"	1/2"	---	---	0.5 (gpm)	KOHLER K-2005 21"x18" WALL MOUNTED OVAL SINK WITH ZURN Z6930-XL HARD WIRED AUTOMATIC FAUCET W/ 0.5 GPM VANDAL RESISTANT FLOW CONTROL AND DECK COVER PLATE. PROVIDE 1-1/2", 17-GAUGE TAIL PIECE WITH P-TRAP, FLEXIBLE SUPPLY AND QUARTER TURN WALL STOP. PROVIDE ZURN Z-1231 CARRIER.
P-3A	LAVATORY (WALL HUNG, ADA)	1-1/2"	1/2"	---	---	0.5 (gpm)	KOHLER K-2005 21"x18" WALL MOUNTED OVAL SINK WITH ZURN Z6930-XL HARD WIRED AUTOMATIC FAUCET W/ 0.5 GPM VANDAL RESISTANT FLOW CONTROL AND DECK COVER PLATE. PROVIDE 1-1/2", 17-GAUGE TAIL PIECE WITH P-TRAP, FLEXIBLE SUPPLY AND QUARTER TURN WALL STOP. PROVIDE ZURN Z-1231 CARRIER.
P-4	HI/LOW WATER BUBBLER (ADA & VANDAL RESIST.)	1-1/4"	1/2"	---	---	EXEMPT	ELKAY EHHM17C HEAVY DUTY 14-GAUGE WALL MOUNTED, VANDAL RESISTANT, BARRIER FREE HI/LOW DRINKING FOUNTAIN WITH 1-1/4" WASTE ARMS, VANDAL RESISTANT BOTTOM COVER PLATES AND SURFACE MOUNTING PLATE.
P-5	JANITOR SINK	3"	1/2"	---	1/2"	1.5 (gpm)	FIAT TERRAZZO TSBC6010 24"x24"x12" SINK WITH STAINLESS STEEL CURB CAPS. PROVIDE 1453BB STRAINER, 3" P-TRAP AND 830-AA SERVICE FAUCET WITH VACUUM BREAKER, INTEGRAL STOPS, PAIL HOOK AND 832AA HOSE/HOSE BRACKET. ALSO INCLUDE B89CC MOP HANGER BRACKET.

NOTE: ALL PLUMBING FIXTURES SHALL BE WHITE, UNLESS INDICATED OTHERWISE.
PLUMBING CONTRACTOR SHALL COORDINATE ALL PLUMBING FIXTURES AND ROUGHIN REQUIREMENTS WITH EQUIPMENT SUPPLIER.

INSTANTANEOUS WATER HEATER SCHEDULE											
MARK	TEMPERATURE RISE @ 1.5 GPM	ACTIVATION FLOW	MAXIMUM FLOW	OUTLET LWT	ELECTRICAL DATA					REMARKS	
					VOLTS	Hz	PHASE	KW	AMPS		
IWH#1	75°F	0.7 GPM	3.0 GPM	140°F	240	60	1	15.0	64	BASIS OF DESIGN - EEMAX EX144C	



PLUMBING LEGEND	
----	COLD WATER PIPING
----	HOT WATER PIPING
----	HOT WATER RETURN PIPING
----	WASTE PIPING
----	VENT PIPING
⌵	BALL VALVE
⌵	CHECK VALVE
⊙	BALANCING VALVE
└┐	P-TRAP
◀▶	CONNECT NEW TO EXISTING
CO	CLEANOUT
CW	COLD WATER
EX	EXISTING
FCO	FLOOR CLEANOUT
HW	HOT WATER
HWR	HOT WATER RETURN
WCO	WALL CLEANOUT

WATER HAMMER ARRESTOR		
PPP SIZE	FIXTURE UNITS	CROSS REF PDI
1/2"	1-11	A
3/4"	12-32	B
1"	33-60	C
1-1/4"	61-113	D
1-1/2"	114-154	E
2"	155-330	F

PLUMBING SPECIFICATIONS:
SEE PLUMBING FIXTURE CONNECTION SCHEDULE FOR PLUMBING FIXTURE SPECIFICATIONS.
HW AND CW PIPING SHALL BE TYPE L HARD COPPER. MAXIMUM HANGER SPACING IS 6 FT.
WATER PIPING SHALL BE INSULATED WITH 1" THICK HIGH DENSITY FIBERGLASS PIPE INSULATION WITH AN ALL SERVICE JACKET. MAXIMUM FLAME/SMOKE RATING IS 25/50.
WASTE AND VENT PIPING SHALL BE SCHEDULE 40 PVC-DWV. MAXIMUM HANGER SPACING IS 4 FT.
TRAP PRIMERS SHALL BE PRECISION PLUMBING PRODUCTS (PPP) OR EQUAL.
FLOOR DRAINS SHALL BE EQUAL TO ZURN Z415SN.
FLOOR CLEANOUTS SHALL BE EQUAL TO ZURN Z1400K.
APPLICABLE CODES: FLORIDA BUILDING CODE - PLUMBING (2017 ED. WITH ALL SUPPLEMENTS), FLORIDA BUILDING CODE - BUILDING (2017 ED. WITH ALL SUPPLEMENTS).

H.M. Yonge & Assoc., Inc.19-047
Consulting Engineers

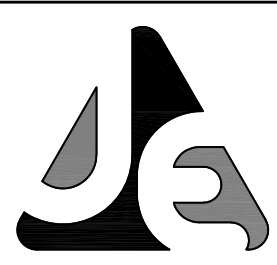
51 EAST GREGORY STREET
PENSACOLA, FLORIDA 32502
PHONE: (850) 434-2661

CERTIFICATE OF AUTHORIZATION NO.: 5254

MECHANICAL ENGINEER: HOWARD M. YONGE, P.E. - FLORIDA REG. NO. 32093

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ELECTRICAL ENGINEER: ARUN T. VARDHESI, P.E. - FLORIDA REG. NO. 76515



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121 HART STREET
CORAL GABLES, FLORIDA 33578
PHONE: (850) 225-1411
FAX: (850) 225-2460

JECIVIL.COM
C.O.A. NO. 9927

60% DESIGN REVIEW SET
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BY

DESCRIPTION

DATE

REV

ROYAL MELVIN PARK
US HIGHWAY 98
DESTIN • FLORIDA

NOT VALID UNLESS BEARING ENGINEER'S ORIGINAL SIGNATURE

JOB: 19047
DATE: MAY 3, 2019
DESIGNED: TJM
DRAWN: TJM

BAR IS ONE INCH ON ORIGINAL
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ADJUST SCALES ACCORDINGLY

DRAWING NUMBER

SHEET NUMBER
P2.1

Royal Melvin Park Building

Destin, Florida

Date: December 11, 2019

ADDENDUM No.1

Explanatory

The following items are hereby called to the attention of the Contractor and shall be included in the Contract Documents. The Contractors shall consider these items as if they were originally in the Plans and Specifications and the same shall hereby become part of the construction documents.

Contractor is hereby notified that they shall make any necessary adjustments in their estimates on account of this Addendum. It will be construed that each Bidder's proposal is submitted with full knowledge of all modifications and supplemental data specified herein.

ITEMS:

1. **Exterior Restroom Locks Change:** Provide Trilogy locks on door Type #1: Stainless Steel, weatherproof, battery operated, programmable digital cylindrical lock with multiple scheduled lock/unlock event and audit trail capability with standard key override.
2. **Drinking Fountain:** Provide a Hi/Lo electric drinking fountain with bottle filler. MDF Most Dependable Fountains, Inc. Model # 10485 WM, color selected by Owner. Spec. sheet attached.
3. **Hand Dryer:** Provide a hand dryer-hands free (infrared optical sensor) electric hand dryer as specified herein. Motor shall be a thermally protected, series commutated, through-flow discharge vacuum motor/blower (5/8 hp @24,000 rpm) with an air velocity of up to 20,000 linear feet per minute and a flow rate of up to 63 cubic feet per minute. Unit specifications are 110-120V, 11.3-12.2 amps (A) with heat (motor 4.3-4.5A), 400-450 watts with heat off and 1400-1500 watts with heat on. Adjustable heat control. 900 -1000W heating element mounted inside the blower housing capable of producing an air temperature of up to 146 degrees F at a 72 degrees F ambient air temperature at the hands 102mm below the air outlet. Automatic lockout feature which shuts the unit off after >30 seconds run time
4. **ALTERNATE NUMBER 1 :**
Delete plumbing fixtures called for on the plans and provide Stainless Steel fixtures; Water closets, Urinals, and lavatories, and including all related hardware. Manufactured by Acorn Engineering Co. to be selected by Owner and similar to:

Lavatory	Model # 1652LRB
Urinal	Model # 2162
Water Closet	Model # 3330

Addendum No. 1

December 11, 2019

Royal Melvin Park
Destin, Florida

List of Attachments:

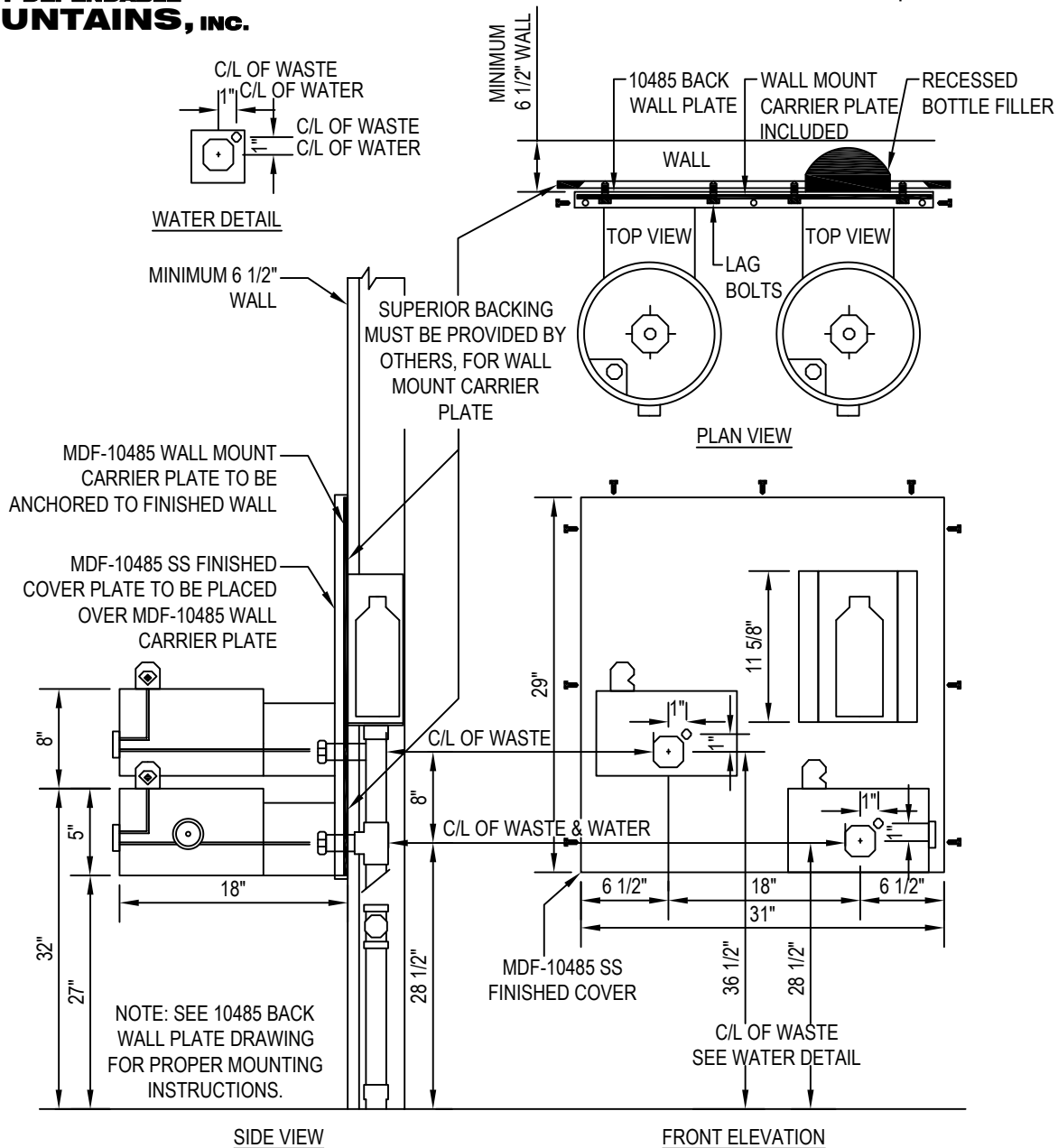
Attachment #1 Drinking Fountain Specification sheet.

End Addendum No. 1

Prepared by:

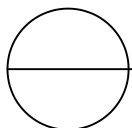
Stephen W. Piazza, NCARB

Piazza Design Architects, LLC



NOTES:

1. THIS MODEL COMES WITH A CARRIER PLATE.
2. INSTALLATION TO BE COMPLETED IN ACCORDANCE WITH MANUFACTURER'S SPECIFICATIONS.
3. DO NOT SCALE DRAWING.
4. THIS DRAWING IS INTENDED FOR USE BY ARCHITECTS, ENGINEERS, CONTRACTORS, CONSULTANTS AND DESIGN PROFESSIONALS FOR PLANNING PURPOSES ONLY. THIS DRAWING MAY NOT BE USED FOR CONSTRUCTION.
5. ALL INFORMATION CONTAINED HEREIN WAS CURRENT AT THE TIME OF DEVELOPMENT BUT MUST BE REVIEWED AND APPROVED BY THE PRODUCT MANUFACTURER TO BE CONSIDERED ACCURATE.
6. CONTRACTOR'S NOTE: FOR PRODUCT AND COMPANY INFORMATION VISIT www.CADdetails.com/info AND ENTER REFERENCE NUMBER 3354-17.13.



MODEL 10485 WM

10485 WM CARRIER PLATE INCLUDED



**ACTION AGENDA
REGULAR MEETING
DESTIN CITY COUNCIL
JANUARY 6, 2020
ANNEX COUNCIL CHAMBERS**

AGENDA APPROVAL

Councilmember Ramswell requested that Consent Agenda 6C be pulled for discussion.

Motion to approve the agenda passed 7-0.

1. APPROVAL OF MINUTES

A. Approval of Minutes of October 7, 2019 Regular City Council Meeting

Motion to approve minutes of October 7, 2019 Regular City Council meeting passed 7-0.

B. Approval of minutes of October 21, 2019 Regular City Council Meeting

Motion to approve minutes of October 21, 2019 Regular City Council meeting passed 7-0.

2. PROCLAMATIONS/RECOGNITIONS / SPECIAL PRESENTATIONS /ANNOUNCEMENTS

A. Recognition of 2019 Holiday Decorating Contest Winners

The Mayor announced and presented a plaque to the 2019 Holiday Decorating Contest winners.

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

4. CITY MANAGER REPORTS

A. Budget Amendment for Engineering

Motion to authorize the budget amendment transfer of funds for the salary and benefits in the amount of \$216,000 for the City Engineer, Engineering Assistant II, and Stormwater/Floodplain Manager from account 0151460 to account 0154161 passed 7-0.

B. FY20 Strategic Plan Summary

Motion to adopt the Fiscal Year 2020 Strategic Plan Summary as presented passed 7-0.

C. Funding options for Utilities Undergrounding

D. Resident Pass for Beach Parking South of US Hwy 98

Motion to adopt a resident beach parking pass program that allows for free parking on Scenic Hwy98 in Crystal Beach and Gulf Shore Drive in Holiday Isle and have the program in place by March 1, 2020 passed 5-2; with Council members Destin and Marler dissenting.

E. Office Productivity Suite and Email System (Office 365)

Motion to approve the continuation of services and addition of Office 365 government licenses with LiftOff and authorize the City Manger to purchase the necessary Office 365 licensing for City operations in the amount of \$27,708, which is a cost increase of \$8,028 due to licenses being provided to City committee members and new positions created in 2020 passed 7-0.

F. Verizon Wireless GSA Supply Authorization

Motion to approve the Verizon Wireless GSA Supply Authorization and authorize the City Manager to execute the document accordingly passed 7-0.

G. Subaward Agreement No. 2020R14 between Okaloosa County and City of Destin, Capt. Royal Melvin Heritage Park and Plaza Project; RFP Approval

Motion to authorize Mayor Gary Jarvis to execute the Subaward Agreement No. 2020-R14 between Okaloosa County, Florida and the City of Destin, Florida pertaining to the Direct Component portion of the Restore Act Trust Fund monies allocated to Okaloosa County passed 7-0.

Councilmember Ramswell asked staff to check on status of the following NPEB fees paid to the City to be used in the park project:

- **\$46,000 from Waterview Towers**
- **\$46,800 from Grand Harbor**
- **\$500,000 from Pointe One, LLC**

Motion to authorize the City Manager to publish RFP 20-01-REC CRMHP upon the completion of the City Land Use Attorney and Okaloosa County's review and approval of the document passed 7-0.

H. Development Review System Software Update

I. Request for direction from City Council on amendments to Short-Term Rental Ordinance.

Motion to direct staff to prepare an ordinance incorporating the following recommendations of the Short-Term Rental Tasks Force passed 6-1, with Councilmember Braden dissenting:

- **Recommendation 3 – Increase fines for parking violations up to the maximum amount allowed by Florida Statute**
- **Recommendation 9 – All registrations for short-term rentals are to expire on the last day of February, each year**

J. Airport Road Update

K. Request for clarification pertaining to the following direction from Council:

Staff to investigate the feasibility of leasing out the entire parking lot area on the south west side of the Marler Bridge where the *Welcome to Destin* sign is located.

Councilmember Menchel requested that the Land Use Attorney and Community Development Director come back with some ideas/recommendations on how to move forward with this initiative.

L. Announcements

The City Manager announced the following:

- **Friday weekly report will be replaced by a monthly report with each department having its own chapter**
- **Weekly task tracking update form will be provided to the Council**
- **Monday, Jan. 20th is a holiday. The next City Council meeting is scheduled for Tuesday, Jan. 21st.**
- **January 30th at City Hall - Social Media and Public Records Training for Council and staff. Members of the public who wish to participate need to RSVP to the PIO**

5. PUBLIC HEARINGS

6. CONSENT AGENDA

A. City Council consideration for approval, a project located on Choctawhatchee Bay, ±56 ft. extension, to include a boat house and two (2) 4'x 55' catwalks, located at 936 Bambi Drive. The total project footprint is ± 330 sq. feet.

B. Junior League of the Emerald Coast 8th Annual Rock the Roads 5/10k

C. Approval to award bid, RFB 1917 REC Clement Taylor Park Replacement of Existing Seawall

D. Authorization for Payment John Deere Equipment Lease Option

Consent Agenda 6C pulled for discussion.

Motion to approve Consent Agenda item 6A, 6B & 6D passed 7-0.

Consent Agenda 6C:

Motion to approve RFB 19-17-REC Bid Alternate 2 (Corrugated Aluminum Sheet Panels) to Live Flyer, Inc., and authorize the City Attorney to draft a contract with the understanding that a Notice to Proceed will not be issued until such time that FEMA funding has been obligated and until the ACOE Permit is issued for this project; and authorize the City Manager to execute the contract with Live Flyer, Inc. passed 7-0.

Councilmember Ramswell requested an update regarding the possibility of the Destin Fire Station going into the park property. What is the next step and when would it come back to Council for discussion and action?

7. COMMENTS/PRESENTATIONS FROM MAYOR, COUNCIL, LAND USE ATTORNEY AND CITY ATTORNEY (No public comments)

- A. Councilmember Braden
- B. Councilmember Ramswell

Councilmember Ramswell would like to discuss formation of a Beach Advisory Committee sooner rather than later and to have a consensus established amongst the Council members before the peak season.

Councilmember Ramswell asked staff to investigate and determine the legality of a *water taxi stop* sign placed in front of a private property on Norriego Point.

1. Nomination of Mr. Matthew Sweetser for appointment to the Town Center CRA Advisory Committee

Motion to appoint Mr. Matthew Sweetser to the Town Center CRA Advisory Committee passed 7-0.

C. Councilmember Menchel

Motion to cancel previous directive from the Council and instruct the City Manager to have each department head conduct a thorough self-audit of their continuing services contracts and come back with a report to Council within 90 days; and the City's legal counsel to act as consultants and to take immediate action to remedy the situation should irregularities be found through this self-investigation passed 7-0.

D. Councilmember Overdier

E. Councilmember Marler

Place the Livery Vessel Ordinance under his name for discussion and reevaluation within the next two Council meetings.

Place public parking under his name for discussion and reevaluation within the next two Council meetings.

F. Councilmember Destin

G. Councilmember Morgan

1. Vacation of Azalea Drive and Legion Drive Rights-of-Way

Motion to instruct the Public Works Director, City Engineer and Land Use Attorney to provide a report to Council on whether the City could build a four-lane road on Legion Drive from Airport to Beach Drive with the right-of-way they currently have; and if so, which right-of-way they need to vacate to prevent it from happening; and to have City staff prepare a report about Azalea Drive right-of-way vacation, passed 6-1; with Councilmember Braden dissenting.

- H. Mayor Gary Jarvis
- I. Land Use Attorney
- J. City Attorney

ADJOURNMENT: 9:15 PM

P U R C H A S I N G M A N U A L

This Operating Instruction (OI) establishes and defines the purchasing manual for the City of Destin, Florida.

I. REFERENCES: The governing references for this OI are City Resolution #18-30 and General Accepted Accounting Procedures as adopted by the National Accounting Standards Board and the Governmental Accounting Board and other Federal, State and local laws, statutes, ordinances, directives and policies as they apply to local government purchasing and/or the City of Destin.

II. GENERAL: This OI's purpose is to establish the administrative procedures by which the City of Destin will purchase materials, supplies, equipment, and secure various contractual services and, provide greater cost effectiveness and public accountability in the procurement process.

This OI is not intended to address every issue, exception, or contingency that may arise in the course of purchasing activities. The basic standard that should always prevail is to exercise good judgment in the use and stewardship of City resources.

III. DEFINITIONS:

- A. City Manager: is the City Manager of the City of Destin, Florida, and shall, where appropriate, include his/her duly authorized designee.
- B. Continuing Services Contract: A contract for services or material entered into in accordance with the City's bid procedures whereby the contractor, firm or individual provides goods or services for work of a specified nature as outlined in the bid and contract.
- C. Continuing Service Contract Renewal: Contracting with the same contractor for an additional contract period after the initial contract period, only if pursuant to contract terms specifically providing for such renewal.
- D. Consultant: Is one who provides professional advice or services, which include, but are not limited to attorneys, architects, engineers, surveyors and accountants.
- E. Cooperative purchases: are the advance combining of two or more political entities to obtain the advantages of volume purchases, improved specifications, reduced administrative costs, and increased intergovernmental cooperation.
- F. Emergency Purchase: A purchase made without following the normal purchasing procedures in order to obtain goods or services quickly to meet an urgent and unexpected requirement where health and public safety or the conservation of public resources is at risk. Or, critical City operations will be severely affected in an adverse situation.
- G. Life Cycle Cost: A procurement technique that takes into account demonstrable and documented operating maintenance, the cost of property, other cost of ownership and usage and resale or residual value in addition to acquisition price in making an award on low total cost.

- H. Price Quotes: Competitive quotations are to be obtained as detailed in Section G. Competitive Threshold/Approvals and shall include a statement of price, terms of sale, and description of goods or services.
- I. Property: Fixtures and other tangible personal property of a non-consumable nature, with a value of one thousand dollars (\$1,000.00) or more and normal expected life of one (1) year or more. The City Manager shall identify other items as "property" at her/his discretion and require formal accounting records be maintained for such items.
- J. Proprietary: refers to goods and services owned by a private individual or corporation under a trademark or patent.
- K. Purchase Order: The City's official legal record of contract between the City and vendor, issued separately or in conjunction with other documents, which delineates the responsibilities of both parties in the provision of and payment for goods and services required by the City. The purchase order also is the mechanism by which budgetary and cash balances are encumbered in the City's accounting system.
- L. Purchase Requisition: The internal process required for the request to purchase materials and services that is not of an emergency nature and not covered under Petty Cash or P-Card procedures.
- M. Request for Bids: Written documents inviting potential vendors to submit sealed, written pricing for specific goods and/or services in conformance with specifications, terms, conditions and other requirements described in the formal bid documents.
- N. Request for Proposal: The solicitation document used for competitive proposals, the customary method used for the purchase of professional services, and other goods or services when there is an uncertainty of the exact product or service that is required. The Request for Proposal allows for negotiations after they have been opened to allow clarification and changes in the proposal in the best interest of the City.
- O. Sole Source (Non-Competitive) Purchase: An award for goods or services to the only known capable supplier, such as unique, patented, proprietary, or franchised supplies, or by the unique nature of the requirement, the vendor, the impracticality of obtaining competition or market conditions.
- P. Supplies: Includes all supplies and equipment other than tangible property. Tangible property is property capable of being appraised at an actual or approximate value.
- Q. Using Agency: Any department, agency or other unit of the City using supplies, property or contractual services.

IV. POLICY AND PROCEDURES:

These policies are hereby established for purchasing supplies, material and any other matter or commodity necessary for the operation of the affairs of the City and are consistent with the requirements of City Resolution #13-10.

A. GOALS AND OBJECTIVES

The goal of the purchasing activity is to obtain needed goods and services at the lowest ultimate cost consistent with prevailing economic conditions, appropriate standards of quality and continuity of service while establishing and maintaining a competitive procurement system of openness, fairness and integrity.

1. There are three (3) major objectives of the public purchasing process:
 - a. Effectiveness: The quality of the goods and/or services procured, the units and quantities procured, and the method of procurement are appropriate to the needs of the city.
 - b. Efficiency: The time and effort expended, from definition of need through final delivery, and the cost associated with acquiring the needed goods and/or services are reasonable in order to achieve value.
 - c. Economy: The prices paid for goods and/or services shall reflect responsible use of taxpayer dollars and be in the best interest of the City, consistent with the requirements of the procurement.
2. All employees involved in the procurement process shall subscribe to and be guided by the following principles:
 - a. Consider the best interests of the City in all transactions and to carry out the City's policies and procedures.
 - b. Purchase without prejudice, seeking to obtain the maximum value for each dollar expended in accordance with established quality standards.
 - c. Foster honesty and truth in buying and to avoid conflicts of interest, unethical practices and the appearance of same.

B. SCOPE OF POLICY

This policy shall apply uniformly to all employees and departments for the expenditure of any and all funds provided or authorized through or by the City Council, City Manager or the City's Annual Budget.

This policy shall apply to the purchase of goods and/or services, unless the Purchasing Procedures, the City Council, or any applicable Federal, State or local law specifically makes that purchase exempt.

C. RESPONSIBILITIES:

A. Authority

1. The City Charter does not designate sole procurement authority in any specific official positions or offices. Per Section 4.01 of the City Charter, the City

Manager serves at the pleasure of the City Council. Recognizing this authority. The City Council reserves the right, upon majority vote of the City Council, to exempt specific procurements (RFPs, RFQs, ITBs, or other bidding mechanisms), or specific contracts from either (1) some or all of the provisions of this Resolution, or (2) any other procurement policies or manuals governing procurements by the City of Destin.

2. Procurements and contracts are, by default, subject to this Resolution, unless specifically exempted by a vote of the City Council. However, if the City Council identifies an item it wishes to exempt from the Resolution, then any motion shall identify that the procurement shall be exempted because it is necessary to protect the health, safety, and welfare of the Citizens of Destin. Additionally, if a bidding document is required for the procurement, such as an RFP or ITB, then the document shall contain detailed instructions of how it will be administered. If the bidding document lacks directions as to any parts of its administration, then the applicable portions of this document shall act as default rules and procedures.

3. Any bid challenges to an exempted procurement shall follow the City's default challenge procedures.

4. Any procurements that are issued as part of any state or local grant programs, will require furnishing of the City's procurements policies as part of the application process or qualification process, shall not be eligible to be exempted from the standard procedures set forth below.

5. If the City Council exempts a procurement from this Resolution, then pursuant to Sections 4.01 and 4.05(d) of the City Charter, the City Council expects the full cooperation of the City Manager to ensure sufficient City staff members, and City resources are dedicated to administering all aspects of the exempted procurement.

6. Additionally, since the City Manager will not be directing the issuance of bidding documents for any said procurement, then any bidding documents requiring a signature of a Destin official, shall be signed by the Mayor, or Mayor Pro Tem if the Mayor is unavailable.

7. The City Manager or City Manager's designee shall be the purchasing agent for the City. All procurements made under this Resolution must only adhere to binding Florida Law, City Law, or Federal Law, and are not to be limited by any rules of any voluntary trade associations or voluntary professional associations (if a certain profession legally mandates membership in a trade or professional association, then the trade or professional association is not voluntary).

8. The City Manager shall be responsible for:

A. The purchase of supplies, materials and equipment, and contractual services required by any office, department or agency of the City.

B. The storage and distribution of all supplies, materials and equipment required by any office, department or agency of the City.

C. Establishing written specifications, whenever practicable, for supplies, materials and equipment and contractual services required by any office, department or agency of the City. Such specifications to the extent practicable should be definite and certain. Such specifications should be designed to permit full and open competition.

D. Maintaining, whenever practicable, a perpetual inventory record of all materials, supplies or equipment stored in storerooms or warehouses of the City.

E. Soliciting and maintaining an up-to-date list of qualified vendors who have requested their names to be added to the bidder's invitation list. The purchasing agent shall have authority to remove temporarily the names of vendors who have defaulted on their quotations, attempted to defraud the City or who have failed to meet established specifications or delivery dates.

F. Obtaining purchases and contractual services in an environment of full and open competition as is practicable.

- a. The City Manager is responsible for ensuring that the purchasing policy is applied uniformly and consistently in all City offices and departments. The City Manager is responsible for establishing administrative guidelines for the purchase of all commodities, materials, equipment and services for City agencies, departments and offices.
- b. Department Directors are responsible for ensuring that employees in their department or office are fully familiar with federal, state, and local laws, including City policies, regulations and procedures regarding the purchase of commodities, materials, equipment and services. All employees comply fully with the provisions of said laws, policies, regulations and procedures.
- c. The Finance Director shall provide assistance and advice, as necessary, in the administration of, and compliance with, the purchasing policies and procedures. The Finance Director, designated by the City Manager, is responsible for the direction and management of the City's procurement processes and operations.
- d. The Finance Department is also responsible for providing training to familiarize City employees with purchasing law, concepts, City policies and procedures.

D. UNAUTHORIZED PURCHASES

Except for emergencies or other authorized exemptions stated in these guidelines, no purchase

of supplies, services, or equipment shall be made without authorization as described within this OI or Resolution #13-10.

E. Subdividing Procurements

Purchases, orders, or contracts that are subdivided to circumvent the requirements of this Manual or threshold authority as set forth in this Policy shall be considered unauthorized purchases and are prohibited.

F. PURCHASE REQUISITIONS

All requisitions shall give a clear item description, quantity, unit of measure, and estimated cost. Requisitions shall only be submitted when there are sufficient funds to cover the cost.

1. **ITEM DESCRIPTIONS**

Item purchase descriptions set forth the essential physical and functional characteristics of the supplies or services required. The minimum requirements of the City should be expressed in the description. However, do not confuse minimum requirements with minimum descriptive data. Include as much information as possible to describe exactly what you need.

2. **BRAND NAME**

Descriptions or specifications should be written to preclude limiting purchases to a specific brand name which can restrict competition and often results in higher prices. If a specific brand name and/or model are being recommended, the department head must attach a written memo justifying why 'an equal' is not acceptable.

In certain circumstances, the City Council may determine that it is in the best interest of the City to standardize the brand of certain equipment purchased, even though the bid submitted for the equipment is not the lowest. Standardizing can be advantageous to the City in that parts may be interchangeable with other units, the cost of training for the operation, repair and maintenance of the equipment can be reduced, and savings on the inventory of parts for the equipment can be achieved.

G. COMPETITIVE PROCUREMENTS

1. Invitations to Bid require public notice (legal publication), public bid opening at a time and place designated in the bid document, and a minimum of ten (10) working days between publication of the bid invitation and bid opening.
2. Invitation to bid shall be required for procurements of goods and contractual services with an estimated aggregate or project cost of more than \$15,000.00.
3. Request for Proposal (RFP) may be used for competitive purchases, the purchase of professional services and other goods or services when there is an uncertainty

about the exact product(s) or service(s) required with an estimated aggregate cost of more than \$15,000.00.

4. RFPs require public notice (legal publication), public proposal opening at a time and place designated in the proposal document, and a minimum of ten (10) working days between publication and proposal opening. Exceptions may be made in cases of emergency.
5. Registration or certification under Florida Statute Chapter 489 is required before any contract is awarded for construction work on buildings or other improvements to real property, except for roads or utilities as specified in Florida Statutes section 489.113, or otherwise exempt under Florida Statutes section 489.103.
6. The City Council may waive the competitive procurement requirements when deemed to be in the best interest of the City.

H. COMPETITIVE THRESHOLD/APPROVALS

1. Competitive requirements for commodities, services, construction and equipment:
 - a. Purchase of supplies, materials and equipment not exceeding \$1,000.00 may be made by any authorized employee and shall be evidenced by a receipt and approval by the Department Head or his/her designee and delivered to the Finance Department.
 - b. Purchase of supplies, materials and equipment between \$1,001 and \$5,000 shall be approved by the Department Head, Finance Director and City Manager. The Department shall solicit a minimum of three (3) electronic or written quotes. If only one price quote is received, the price may be deemed fair and reasonable. Quotes must be memorialized in a memo attached to the invoice.
 - c. Purchase of supplies, materials, equipment or services between \$5,001 and \$15,000 must be requested by requisition and shall be approved by the Department Head, Finance Director and City Manager. The Department shall solicit a minimum of three (3) written quotes. If only one price quote is received, the price may be deemed fair and reasonable. Final approval shall be made by the City Manager. Written quotes are required on vendor stationery and attached to the requisition.
 - d. Request for purchases in amounts greater than \$15,000.00, require public advertisement and/or sealed procedures in accordance with City resolution. Award/Rejection of bid or proposal shall be made by the City Council. The Agenda, Action Agenda, Contract and scope of work shall be attached to the requisition.
 - e. No contract or purchase shall be subdivided to avoid the purchasing requirements as stated here in.
2. The following shall be used to determine a fair and reasonable price:

- a. Previous Purchase
 - b. Purchase of similar or like item
 - c. Established price list
 - d. Catalogs
 - e. Similar items purchased by other public entity
3. All purchasing of IT hardware and software must be approved by the IT director prior to purchasing to ensure uniformity throughout the City.
4. The purchase of services for temporary employees shall have the approval of the Human Resources Manager, Finance Director and City Manager before a purchase order/contract is issued.
5. Personnel authorized to purchase commodities/services shall document procurement transactions to provide a basis for audit and compliance reviews and to establish a written record of the purchasing discussions to ensure continuity of the purchasing activity.
6. Required documentation includes the approved requisition, request for quotations, quotations, analysis of the quotations, memos on negotiations, amendments to purchase orders, revisions in specifications, quantities, or delivery and all other pertinent correspondence.

I. WOMEN, MINORITY AND SMALL BUSINESS REQUIREMENTS (W/MBE)

1. The purpose of the minority, women, and small business enterprise program and Disadvantaged Business Enterprise is to provide guidance in the outreach of W/MBEs to ensure awareness and opportunities of doing business with the City of Destin. The minority, women, and small business enterprise program shall only apply to those projects, services, or commodities funded by a federal or state grant/contract/agreement having W/MBE requirements and, not otherwise covered by a W/MBE or disadvantaged business enterprise program.
2. The Finance Department will ensure compliance with this purpose by ensuring its requirements are included in competitive procurements as it applies to both primary and subcontractors.
3. The City will accept certification of W/MBE status from the City of Tallahassee, Leon County and State of Florida, Office of Supplier and Diversity as well as the Florida Department of Transportation (FDOT), DBE program in lieu of creating its own certification program. The City may also consider and accept certification from other State of Florida, county or city programs on a case by case basis.

26.02 - W/MBE Requirements

1. The City will utilize the State of Florida and/or when deemed appropriate FDOT directories to notify certified W/MBE firms of procurement opportunities in the

City of Destin. The efforts of such outreach shall be maintained in the original procurement solicitation file.

2. When deemed appropriate by the City, primary contractor that intends to use subcontractors shall also use the State of Florida, and/or when deemed appropriate FDOT directories of W/MBE to solicit W/MBEs for subcontracting opportunities under a primary contract.
3. When deemed appropriate by the City, primary contractor that intends to use subcontractors shall be responsible for documenting outreach activities in accordance with the competitive procurement document.

J. BIDDING PROCEDURES

Competitive bids are required for all purchases, supplies and services, when the estimated cost thereof shall exceed \$15,000, except as specifically exempted in this policy.

1. Invitation for Bid/Proposal Procedure: All supplies and contractual services, except as otherwise provided herein, when the estimated cost thereof shall exceed \$15,000, shall be purchased by invitation for bid/proposal from the lowest responsive, responsible bidder unless otherwise stated in this policy, after due public notice inviting bid/proposals.
2. Nature, Type and Frequency of Advertisements: Notice shall be advertised for two consecutive weeks at least 10 days prior to the opening in a newspaper of general circulation in the City or any other newspaper that the bidding department determines will bring the most bid activity to the City. The advertisement will call for sealed bids or proposals for goods, supplies and services, when the estimated proposed cost is expected to be more than \$15,000. The City will also place a notice of such bid on its web page for Internet access.
3. If state or federal law or a state or federal agency provides other required methods of newspaper notice which differentiate from the City's requirements, in those circumstances, the requirements of state or federal law or state or federal agency shall be followed when advertising in a newspaper.
4. Florida Statutes section 255.0525, states that any construction project that is projected to cost more than \$200,000.00 shall be publicly advertised at least once in a newspaper of general circulation in the County at least 21 calendar days prior to the bid received date and at least five calendar days prior to any scheduled pre-bid conference. If the construction project is expected to cost more than \$500,000.00, it must be advertised at least 30 calendar days prior to the bid received date and at least five calendar days prior to any pre-bid conference.
4. Bidders List: Bids shall be solicited from all responsible prospective suppliers who are on the City's Bid List, which the City Clerk's Office shall maintain. Departments may utilize Internet email for notifying vendors when such vendors

have provided the Department with an email address. Invitations will be sent to those vendors on the bidder's list who supply commodities that are similar in character to the item(s) being purchased.

5. Bid Opening Procedure: Bids shall be submitted in sealed envelopes to the City Clerk and shall be identified as bids on the envelope. Unsealed bids will not be opened or accepted.
 - a. Opening: Sealed Bids shall be opened in public at the time and place stated in the public notice. The City Clerk, or any person designated by the City Clerk or the City Manager, shall witness openings.
 - b. Purpose: The purpose of the opening is to record the responses received and to ensure that the responses are in compliance with the basic requirements of the competitive procurement. Responses are not analyzed for quality or substance at the opening.
 - c. Late Receipt: Bids shall not be accepted or opened if received after the date and time called for in the bid notice.
 - d. Signature: Failure to properly sign the bid shall invalidate the bid and the bid will not be considered.
6. Rejection of Bids: The City Manager shall have the authority to recommend to the City Council the rejection of all bids, parts of all bids, or all bids for one or more supplies or contractual services included on the proposed bid when the public interest will be served thereby. The City Manager shall not recommend acceptance of a bid from a contractor who is known by him to be in default on the payment of taxes, licenses or other monies due the City.
7. Criteria for Determining Lowest, Best Responsive, and Responsible Bidder: Contracts shall generally be awarded to the lowest, best responsive, responsible bidder. In determining the 'lowest, most responsive, responsible bidder' in addition to price, the Bid Committee may consider:
 - a. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
 - b. Whether the bidder can perform the contract or provide the service promptly or within the time specified, without delay.
 - c. The character, integrity, reputation, judgment, experience and efficiency of the bidder.
 - d. The quality and timeliness of the performance of previous contracts or services with the City and with other entities.
 - e. The previous and existing compliance by the bidder with laws and ordinances relating to the contract or service.

- f. The sufficiency of the bidder's financial resources and ability of the bidder to perform the contract or provide the service.
 - g. The quality, availability and adaptability of the commodity or contractual service to the particular use required.
 - h. The ability of the bidder to provide future maintenance and service for the use of the subject of the contract and the associated maintenance cost.
 - i. The number and scope of conditions or exceptions attached to the bid.
 - j. The best interest of the City in relation to standardizing the brand of certain equipment purchased, where standardizing can achieve certain operational efficiencies and cost savings.
 - k. Life cycle costs.
8. Bid Award: The City Manager shall recommend award of bids to the City Council when the amount exceeds \$15,000.00.
- a. Departments shall select vendors based on total cost, which considers delivery, freight costs, prices, quality, life cycle costs, warranty, services, terms and conditions, and shall recommend award to the vendors who best meet these requirements.
 - b. Award to other than apparent low bidder shall be documented to show the rationale for rejection (i.e.: does not meet specifications, delivery requirements and past performance problems).
 - c. Purchase orders shall not be issued when an account has insufficient funds to cover the cost unless approved by the Finance Director.
 - d. The City reserves the right to waive informalities in any bid; to make award(s) by individual item, group of items, all or none or a combination thereof; to reject any and all bids or waive any minor irregularity or technicality on bids received that in its judgment will be in the best interest of the City.
9. Award to Other Than Low Bidder: When the award is not given to the lowest bidder, a full and complete statement of the reasons for placing the order elsewhere shall be prepared by the using department and filed with the other documents relating to the transaction.

K. EXEMPTIONS TO BID REQUIREMENT

The following situations are exempted from formal competitive bid requirements:

- 1. Professional Services: Contracts for professional services involving particular skill, ability, experience or expertise, which are in their nature unique and not subject to competitive bidding, are exempt from the competitive bidding requirements; however, a

formal written contract, approved by the Council, shall be required for all such contracts in excess of \$15,000.00, and any applicable state law, such as the Consultant's Competitive Negotiation Act F.S. 287.055 or local resolutions, such as Resolution 01-13, shall be followed.

2. Sole Source (Non-Competitive) Supplies: Non-competitive (sole source) supplies, available from only one source, such as unique, patented, or franchised supplies, are exempt, provided however, that such purchases in excess of \$15,000.00 require a formal, written approval by the Council.
 - a. Department Directors may request a sole source purchase by forwarding a memo, with justification for sole source, to the Finance Department. Justification shall contain the following information as a minimum:
 1. How was a determination made that the goods/services being purchased are only available from one source?
 2. What contacts (if any) were made in an attempt to identify alternate sources?
 3. What is the rationale that the goods/services being purchased cannot be substituted with similar goods/services from other sources?
 - b. The Finance Department shall review the sole source request and recommend approval or denial to the City Manager. Recommendation for approval shall contain justification as to the validity of the sole source.
 - c. The City Manager is authorized to approve the request if the cost is less than or equal to \$15,000.00. City Council shall approve request for more than \$15,000.00, unless an emergency exists as defined in this policy.
3. Bids and contracts from other entities: The Council may find that it is in the best interest of the City to use formal written contracts or competitive bids of other governmental entities. If such purchases are in excess of \$15,000.00 the bid will require Council approval.
4. Cooperative Purchasing: The City Manager may procure, without following formal contract procedure, all supplies, materials and equipment that are cooperative purchases. The City Manager shall have the authority to join with other units of government in cooperative purchasing plans or to purchase pursuant to formal written contracts or competitive bids of other governmental units, when the best interests of the City would be served thereby. This is subject to the requirement that any purchase in excess of \$15,000 requires Council approval, unless the purchase has been approved in the annual budget and the items purchased have a unit price of \$15,000.00 or less. Any cooperative purchase from another government entities must be procured in compliance with 2 CFR 200.
5. State Contract: The City Manager may procure, without following formal contract procedure, all supplies, materials and equipment which are the subject of contracts

with the State of Florida, as set forth in Section 287 of the Florida Statutes, as amended from time to time, or with the United States Government, provided that any purchase in excess of \$15,000.00 shall require Council approval. Any state contract that the City is making a cooperative purchase must be procured in compliance with 2 CFR 200.

6. Computer Equipment and Peripherals: Bidding is not required for personal computers, printers, associated parts, and software and communications services, (i.e. telephone and wireless services, which services are not considered a sole source supplier) when the collective value of multiple items is greater than \$15,000.00, provided written quotes on vendor stationery are obtained from a minimum of three (3) vendors and requires Council approval.
7. Unique Circumstances: There can be unique circumstances that will not allow a department to follow the competitive bidding process. If this situation occurs and it is determined by the City Manager to be in the best interest of the City, then the City Manager may negotiate and enter into a contract less than \$15,000. If the contract is greater than \$15,000 and the City Manager concurs with awarding the contract, it will be submitted to the City Council for their approval at the next available Council meeting.

L. EXEMPTIONS TO PURCHASING RESOLUTION

1. Emergency Purchases: As defined in Section K, Emergency Purchases
2. Seminar registrations and professional membership dues, fees, and publications.
3. Purchase of local utility service, excluding communications, (i.e. telephone and wireless services), which services are considered a sole source supplier.
4. Purchase of library books and circulated material.
5. Postage expense, when billed by a vendor at the currently prevailing postage rates established by the U.S. Postal Service.
6. No Bid received: Where no bid has been received after publication of a bid/proposal, the City Manager is authorized to seek other alternatives for purchasing, such as cooperative purchasing agreements.

M. EMERGENCY PURCHASES

1. An emergency situation is defined as a circumstance in which one of the following conditions exists:
 - a. Critical City operations will be severely affected in an adverse situation.
 - b. An emergency creates a threat to public health, welfare or safety.
 - c. A delay in the procurement of goods/services is against the public interest.

2. Emergency purchases: In cases of an emergency which require the immediate purchase of supplies or contractual services, the City Manager or his/her designee is empowered to secure by open market procedures as herein set forth, at the lowest obtainable price, any supplies or services not exceeding fifteen thousand dollars (\$15,000.00). If costs exceed \$15,000.00 a full report of the circumstances of the emergency purchase shall be placed on the next regular Council agenda for approval.
3. Emergency purchases that are required after normal working hours.
4. The Department that makes an emergency purchase must provide Finance with a memo outline the situation and the reason for the emergency purchase. A copy of this memo must be attached to the check request or invoice or purchase requisition.
The Department may secure the goods or services needed, after satisfying the conditions in Section K. The paperwork shall be processed the next business day. It is the Department Director's responsibility to justify any emergency purchases.

NOTE: EMERGENCY PURCHASES COSTING OVER \$15,000 REQUIRE APPROVAL BY THE CITY COUNCIL, PRIOR TO PAYMENT.

N. CONSOLIDATION OF REQUIREMENTS

1. Annual contracts are predominately secured through the competitive sealed bidding process and are for the provisions of goods and services commonly required by one or more City departments. These contracts, featuring pre-determined vendors, terms and conditions, and favorable, consolidated pricing, allow departments to utilize their personnel to accomplish other departmental duties by reducing the necessity for those personnel to perform separate, redundant and conflicting procurement activities. Annual contracts will be utilized whenever the contract goods and services are appropriate to the needs of the user departments.
2. Blanket purchase orders may be established for departments to facilitate order placement and reduce the administrative overhead inherent in repetitive price comparison and order placement. Blanket purchase orders (BPO's) should be used when departments purchase repetitive specified goods or services from the same vendor that requires numerous orders/shipments over specified periods of time.

O. BLANKET PURCHASE ORDERS

Blanket purchase orders (BPO's) shall be established for departments to facilitate order consolidation and reduce the administrative overhead inherent in repetitive price comparison and other placement.

1. Blanket Purchase Order is used:
 - a. For repetitive purchases (such as copier paper)
 - b. To consolidate similar orders by various departments (such as office supplies).
 - c. To allow periodic payments for an on-going service (such as

- extermination services or maintenance contracts).
- d. To allow for various small equipment repairs (such as typewriters, lawn mowers, etc.).
- 2. A request for departmental Purchase Orders will be prepared by applicable departments at the beginning of each fiscal year, requesting the amount and account for encumbering funds on the Blanket Purchase Order.
- 3. Ordering against Blanket Purchase Orders:
 - a. When a department wants to order against a Blanket Purchase Order, the designated employee will contact the vendor by telephone and place the order.
 - b. When the material or service is received, the department signs the packing slip and attaches it to the invoice, referencing the Blanket Purchase Order number and forwards it to Finance.

P. VENDOR RELATIONSHIPS

- A. It is essential to develop and maintain goodwill between the City and its suppliers. The reputation of the City can be enhanced and promoted by:
 - 1. Affording all salespersons, a full, fair, prompt and courteous hearing.
 - 2. Keeping competition open and fair.
 - 3. Keeping specifications fair, accurate and clear.
 - 4. Maintaining consistent buying policies and principles.
 - 5. Observing strict truthfulness in all transactions and correspondence.
 - 6. Keeping free from any obligation to any vendor.
- B. The City shall not purchase any goods or services from any Council Member or City employee, or any business in which a City employee or Council Member has or may have a financial or beneficial interest except during an emergency situation as defined in Section K, Emergency Purchases.

Q. CONTRACTS

- 1. A copy of all signed contracts or continuing service contracts that has a financial implication on the City must be attached to the purchase requisition, along with a copy of the Action Agenda, Agenda Item, Scope of work and any other related documentation.

R. CHANGE ORDER

- 1. Change order means a modification to an executed contract, due to unanticipated conditions or developments relating to that contract. A Change Order may not substantially alter the character of the work contracted for and may not vary so substantially from the original specifications as to constitute a new undertaking. Such changes must be reasonably and conscientiously viewed as being in fulfillment of the original scope of the contract. Further, such changes when viewed against the background of the work described in the contract and the

language used in the specifications, must clearly be directed either to the achievement of a more satisfactory result or the elimination of work not necessary to the satisfactory completion of the contract.

2. The City Manager is hereby authorized to approve and initiate work on the following types of change orders determined in her judgment to be in the public interest, as follows:
 - a. All change orders decreasing the cost of the contract to the City; providing, however such decrease does not materially alter the scope of the work defined by the Contract.
 - b. Change orders increasing the cost \$15,000.00 or less per occurrence, with an aggregate maximum of 10% of the total cost of the contract provided sufficient documentation is provided. The increase shall not materially alter the scope of work defined by the contract.
 - c. Time for Performance: All change orders decreasing or increasing the time for performance of the contract, providing, however, the change does not delay the overall time for completion by greater than 90 days, cumulative.
2. All other change orders, unless specifically authorized by the City Council, must be formally approved by the City Council before work may be authorized to begin, and no claim against the City for extra work in furtherance of such change order shall be allowed unless said prior approval has been obtained, notwithstanding any other position, contractual or otherwise.
4. Change orders shall not be artificially distributed or divided so as to bring the amount within the approval level of the City Manager and any such proposed change order shall include within it all logically connected work required to be done at the time of proposal.

S. SERVICES PERFORMED ON CITY PROPERTY

Vendors performing work on City Property are required to:

1. Be properly licensed under existing Federal, State and City laws.
2. Provide "Proof of Insurance" with the City named on the Insurance Certificate as additional insured.
3. Provide proof of Workmen's Compensation insurance. This includes insurance for any sub-contractor being utilized.
4. **Obtain all permits required**, for the nature of the work prior to the commencement of work. **(Fees may be waived if City funds are being used to procure the services.)**

T. RECEIVING

1. It is the responsibility of each user department to inspect all goods/services received to determine their conformance with the specifications set forth in the contract.

2. If goods/services are not acceptable, the user department shall contact the Finance Department that the goods or services are not acceptable, and the user department will then proceed to resolve the problem.

U. PROTEST BY VENDORS

1. Bidders or respondents who do not agree with the City's recommendation for award during the formal bidding process shall be afforded the opportunity to protest the recommendation by submitting written notice to the City Manager.
 - a. Such notice should be given within five (5) working days after notice of award or of the date the petitioner could reasonably be expected to have known of the City's recommendation.
 - b. Protest shall state the grounds for the protest and the action requested.
 - c. Bids or proposals not meeting the minimum published requirements (including sealed bids received within the specified time and specifications and/or scope of service) are not subject to protest.
2. The City Manager shall prepare and submit written determination either approving or disapproving the petition. The petitioner shall be furnished a copy of the written determination and recommendation.
3. The City Manager may employ any reasonable means to reach the decision on the petition.
4. Decisions of the City Manager may be appealed to City Council by submission to the City Clerk a written request for hearing within five (5) working days from the date of the City Manager's written decision. The written request shall state the grounds for the appeal and the action requested of the City Council.
5. A final decision under section R, by the City Council shall be conclusive and shall represent the position of the City.
6. In the event of a timely protest and/or appeal, the City shall not proceed further with the solicitation or with the award unless the City Manager justifies award in order to protect the public health, welfare or safety of the City.

V. BONDS

1. There are three (3) major types of bonds used by the City in the competitive procurement process. Those bonds, along with their utilization, are summarized below.
 - a. Bid Bonds are used when bid security is required to ensure that the firm or individual awarded a contract will subsequently enter into contract with the City.
 - b. Performance Bonds are used when a guarantee is required to ensure that a firm or individual that has entered into contract with the City will complete the project within the terms of the agreement.
 - c. Payment Bonds for Labor and Material are used to ensure the payment of all indebtedness incurred for labor furnished, materials, equipment or supplies used or consumed in connection with, or in or about, the

construction, improvements or repairs.

2. Cashier's Checks, Certified Checks or other security deposits, (i.e. irrevocable letter of credit) may be considered as acceptable to the Finance Director and the City Manager.
3. Bid bonds, when required, are generally written in an amount equal to five (5%) percent of the total amount bid while performance and labor and material payment bonds are normally written in an amount equal to one hundred percent (100%) of the award amount.
4. Bond Requirements:
 - a. Performance and Payment Bonds are required for construction/services when estimated costs are \$25,000.00 or higher.
 - b. Bid, Performance and Payment Bonds are required for construction/services when estimated costs are \$100,000.00 or higher.
 - c. The City Manager or his or her designee shall make a determination of bond requirements, in writing, on all projects for construction/services when the estimated costs are less than \$25,000.00.

W. INSURANCE

1. Certificates of insurance shall be provided by the successful bidder to assure that the City's insurance program will not be called upon to respond to losses from, and that the contractor is financially capable of responding to, claims resulting from the contractor's operations, activities or services for the City. Further, the Contractor agrees to hold harmless and indemnify the City for any claims which may arise as a result of the Contractor's actions.
2. Construction and service contractors shall provide evidence of commercial general liability, property damage, worker's compensation and automobile liability coverage. Limits of coverage may vary based on the scope of work.
3. Professional services and environmental contractors should provide evidence of professional liability, commercial general liability, worker's compensation and automobile liability coverage.
4. The certificate of insurance shall be issued to:

City of Destin
c/o City Clerk's Office
4200 Indian Bayou Trail
Destin, FL 32541
5. The certificate shall evidence thirty (30) day cancellation clause and the inclusion of the City of Destin, Florida, as additional insured.
6. Depending on the services requested, additional, specialty coverages, specific limits of coverage may be required at the discretion of the City Manager. The amounts and types of insurance required will be detailed in the bidding document.

FEDERALLY FUNDED PROCUREMENTS

General, Federal Funding Procurements

A. Purchases utilizing Federal Transit Administration (FTA), Federal Emergency Management Agency (FEMA) or other Federal funds must conform to applicable Federal law, including: 2 CFR Part 1201 incorporating 2 CFR 200 “Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards” and comply with all requirements of FTA Circular C 4220.1F, as amended from time to time. Contracts utilizing Federal funds shall include all required Federal contract clauses (see Appendix 3, Exhibit L).

Solicitation Prohibitions.

Solicitation requirements may not contain features that unduly restrict competition including, but not limited to:

1. Imposing unreasonable business requirements/qualifications for bidders or offerors.
2. Imposing unnecessary experience requirements for bidders and offerors.
3. Using prequalification procedures (except in the case of qualifications-based procurement for Architect/Engineer services).
4. Making a noncompetitive award to any person or firm on a retainer contract with the recipient if the award is not for the property or services specified for delivery under the retainer contract.
5. Excessive Bonding shall not be permitted. Bid bonds and payment performance bonds shall be required for construction projects in excess of the federal small purchase threshold only.
6. Specifying only a “brand name” product without allowing offers of “an equal” product, or allowing “an equal” product, or allowing “an equal” product without listing the salient characteristics that the “equal” product must meet to be acceptable for award.
7. Specifying in-State or local geographical preferences or evaluating bids or proposals in light of in-State or local geographical preferences, even if those preferences are imposed by State or local laws or regulations. In particular, 49 U.S.C. Section 5325 (i) prohibits an FTA recipient from limiting its bus purchases to in-State dealers.
8. Supporting or acquiescing in noncompetitive pricing practices between firms or between affiliated companies including acceptance of submission of identical bid prices for the same products by the same group of firms, or an unnatural pattern of awards that had the cumulative effect of apportioning work among a fixed group of bidders or offerors.

9. Taking any arbitrary action in the procurement process.

Pre-procurement

A. The Procurement Decision Matrix (Appendix 3, Exhibit A) shall be used to determine the most efficient and economical method of purchase.

B. An Independent Cost Estimate (Appendix 3, Exhibit B) is required prior to bidding for all purchases over the micro-purchase threshold and can be obtained by:

1. Design/engineering firm or in-house technical staff for construction work;
2. Published price lists or past pricing with inflation factors;
3. Independent third-party staff member not impacted by the final procurement.

C. Statement of Work Template (Appendix 3, Exhibit C) shall be completed for all piggyback purchases.

D. The Piggybacking Checklist (Appendix 3, Exhibit D) shall be completed for all piggyback purchases. Vendor shall be checked for Conflict of Interest to piggyback purchase.

E. A Sole Source Justification Form (Appendix 3, Exhibit E) and Cost Analysis (Appendix 3, Exhibit F) is required for all sole source purchases. Sole sourcing shall be allowed if:

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;
4. After solicitation of a number of sources, competition is determined inadequate.

F. A review of proposed procurements shall be conducted to avoid purchase of unnecessary or duplicative items and to ensure an economic purchase. This may include breaking out or combining purchases or using annual contracts and performing a lease versus buy analyses to ensure the most economical approach.

G. Qualification based procurements shall be acquired in accordance with The Brooks Act, 40 U.S.C. 11, et seq.

Procurement

A. The City shall ensure that adequate competition exists by confirming that two or more responsible bidders are willing and able to compete effectively for the business.

B. A Cost Analysis (Appendix 3, Exhibit F), Price Analysis (Appendix 3, Exhibit G) and/or Fair and Reasonable Price Determination (Appendix 3, Exhibit H) shall be completed prior to purchase as well as a Procurement Summary (Appendix 3, Exhibit I). The City shall rely on FAR Part 31, Contract Cost Principles and Procedures for allowable costs. In general, costs must be necessary and reasonable, allocable to the project, authorized or not prohibited by Federal law or regulation, and must comply with Federal cost principles applicable to the recipient.

C. Advertisement shall be once in a newspaper of general circulation in the County not later than the fourteenth day before the day set for receipt of bids.

Post-Bidding

A. Buy America pre and post-delivery audits are required for purchase of rolling stock greater than \$100,000.

B. A Responsibility Determination Form (Appendix 3, Exhibit J) and reference check form shall be completed prior to the recommendation for award in order to consider whether the bidder meets the standards of qualification. Factors to be considered shall include whether the bidder has the following:

1. The appropriate financial, material, equipment, facility, and personnel resources and expertise available or the ability to obtain them, necessary to indicate its capability to meet all contractual requirements;
2. A satisfactory record of performance;
3. A satisfactory record of integrity;
4. Ability to get bonding and insurance;
5. The legal ability to contract with the City;
6. Supplied all necessary information in connection with the inquiry concerning responsibility including, but not limited to licenses, permits, or organization papers required.
7. Satisfactory status with the City and County.
8. No conflict of interest. An organizational conflict of interest exists, when any of the following occur:
 - i. Because of other activities, relationships, or contracts, a contractor is unable, or potentially unable, to render impartial assistance or advice;
 - ii. A contractor's objectivity in performing the contract work is or might be otherwise impaired; or
 - iii. The contractor has an unfair competitive advantage.

Contracts

1. Contract Administration. All contracts shall include provisions adequate to form a sound and complete agreement which shall comply with Federal laws and regulations and include all required Federal contract provisions to ensure compliance with those laws and regulations. The Contract Administration procedures in (Appendix 3, Exhibit P) shall be followed for all federally funded contracts.
2. The Procurement History File Checklist (Appendix 3, Exhibit N) shall be used to ensure proper contract administration including, but not limited to:

- a. The executed contract and notice of award;
- b. Performance and payment bonds, bond-related documentation, and correspondence with any sureties;
- c. Contract-required insurance documentation;
- d. Post-award (pre-performance) correspondence from or to the contractor or other Government agencies;
- e. Notice to proceed;
- f. Approvals or disapprovals of contract submittals required by the contract and requests for waivers or deviations from contractual requirements;
- g. Modifications/changes to the contracts including the rationale for the change, change orders or amendments issued, and documentation reflecting any time and or increases to or decreases from the contract price as a result of those modifications;
- h. Documentation regarding settlement of claims and disputes including, as appropriate, results of audit and legal reviews of the claims and approval by the proper authority of the settlement amount;
- i. Documentation regarding stop work and suspension of work orders and termination actions (convenience as well as default); and
- j. Documentation relating to contract closeout.

A. The Contract Clause Matrix (Appendix 3, Exhibit K) shall be used to determine Federally Required Contract Clauses (Appendix 3, Exhibit L) to be included with each contract.

B. Time and Materials contracts shall only be allowed, in the following instances:

1. After determination that no other contract type is suitable,
2. The contract specifies a ceiling price that the contractor may not exceed except at its own risk.

C. Davis-Bacon prevailing wage and hour restrictions shall apply to all construction contracts exceeding \$2,000.

D. Cost plus a percentage of cost and percentage of construction cost methods of contracting shall not be allowed.

E. A change order/amendment review checklist (Appendix 3, Exhibit M) shall be completed for all Contract Change Orders/Amendments. All out-of-scope Contract Change Orders/Amendments shall include the following:

1. An independent estimate and cost analysis prepared by the Architect/Engineer or Project Manager,
2. The contractor's proposal,
3. Meeting minutes discussing the change order and written evidence of negotiations,
4. Evidence of Board approval prior to initiation of work (if applicable),
5. Change order form signed by all parties.

Cardinal Changes (tag-ons) defined as a change which cannot be redressed within the contract (base and option) as it was not bargained for when originally advertised, competed, and awarded, whether for the use of the buyer or for others, and then treating the add-on portion as though it met the requirements of competition shall not be allowed.

F. Revenue Contracts. A revenue contract is a contract in which the County or sub-recipient provides access to public transportation assets for the primary purpose of either producing revenues in connection with an activity related to public transportation or creating business opportunities with the use of FTA assisted property. The County or sub-recipient shall provide opportunities as follows:

1. Limited Contract. If there are several potential competitors for a limited opportunity (such as advertising space on the side of a bus), then the recipient should use a competitive process to permit interested parties an equal chance to obtain that limited opportunity.
2. Open Contract. If, however, one party seeks access to a public transportation asset (such as a utility that might seek cable access in a subway system), and the recipient is willing and able to provide contracts or licenses to other parties similarly situated (since there is room for a substantial number of such cables without interfering with transit operations), then competition would not be necessary because the opportunity to obtain contracts or licenses is open to all similar parties.

The requirements for competitive selection procedures apply to all business opportunities including all revenue generating contracts. The competitive process may consist of a formal bid or proposal process and the City shall document how competitive requirements were met.

G. Options. Contracts may include options to ensure the future availability of property or services, so long as the recipient is able to justify those options as needed for its purposes. An option to unilateral right in a contract by which, for a specified time, a recipient may acquire additional equipment, supplies, or services than originally procured. An option may also extend the term of the contract.

Protest Procedures

A. The procedure outlined in Section 31 shall be followed. The granting agency (for example: the FTA) shall be notified in writing within seventy-two (72) hours or receipt of a protest in instances when all or part of the funding for the contract is by the granting agency. The granting agency shall be copied on all subsequent responses to the protest and appeals filed in accordance with this Section.

APPENDIX 3 – FEDERAL PROCUREMENT FORMS AND MATERIALS

ATTACHMENT 3, EXHIBIT A: Procurement Decision Matrix

ATTACHMENT 3, EXHIBIT B: Independent Cost Estimate

ATTACHMENT 3, EXHIBIT C: Statement of Work (SOW) Template

ATTACHMENT 3, EXHIBIT D: Piggybacking Checklist

ATTACHMENT 3, EXHIBIT E: Sole Source Justification Form

ATTACHMENT 3, EXHIBIT F: Cost Analysis Form

ATTACHMENT 3, EXHIBIT G: Price Analysis

ATTACHMENT 3, EXHIBIT H: Fair and Reasonable Price Determination

ATTACHMENT 3, EXHIBIT I: Procurement Summary

ATTACHMENT 3, EXHIBIT J: Responsibility Determination Form

ATTACHMENT 3, EXHIBIT K: Contract Clause Matrix

ATTACHMENT 3, EXHIBIT L: Federally Required Contract Clauses

ATTACHMENT 3, EXHIBIT M: Change Order Review Checklist

ATTACHMENT 3, EXHIBIT N: Procurement History File Checklist

ATTACHMENT 3, EXHIBIT O: Procurement File Checklist

ATTACHMENT 3, EXHIBIT P: Contract Administration

ATTACHMENT 3, EXHIBIT Q: 2 CFR §200.236 & 2 CFR Part 200 Appendix II

ATTACHMENT 3, EXHIBIT R: FEMA Checklist for Reviewing Procurements

EXHIBIT A: PROCUREMENT DECISION MATRIX

Micro-purchase

Amt. < \$10,000

Multiple Sources

Competitive Procurement

Amount > \$3,500

Not an Emergency

Sole Source

Approved by FTA

OEM, Custom Item **OR**

Only One Source **OR**

Lease vs Buy Analysis (attach if applicable)

--

Competition Inadequate after Solicitation **OR**

Emergency/Public Exigency

Small Purchase

Amount < \$150,000

Complete and Adequate Specification or Description

Two or more quotes available

Sealed Bid (IFBs)

Complete and Adequate Specification or Description

Two or more responsible bidders willing to compete

Selection can be made on the basis of price alone

Firm Fixed Price Contract

No discussion with bidders required after receipt of bids

Construction – design-bid-build (design-build shall not be permitted)

Type of Contract

Fixed price

Firm fixed unit prices

Cost plus fixed fee

Time and materials

Blanket purchase order

Indefinite Delivery Indefinite

Quantity (IDIQ)

Competitive Proposals (RFPs)

Complete Specifications Not Feasible

Bidder Input Needed

Two or more responsible bidders willing to compete

Discussion needed with bidders after proposals

Fixed price can be set after discussions

EXHIBIT B: INDEPENDENT COST ESTIMATE

Contract Type:

Date of Estimate:

Description of Goods / Service:

Method of Obtaining the Estimate:

I have obtained the following estimate from....

- ☐ Published Price List / Past pricing (date) _____
- ☐ Engineering or technical estimate
- ☐ Independent Third-Party estimate
- ☐ Other (specify) _____

Cost Estimate Details:

Through the method stated above it has been determined that the total cost of the goods/services is expected to be:

\$ _____. Details are shown below.

Cost of Standard Items

Product	Cost (\$/ea)	Cost (\$/ea)	Notes / Data Source
	Delivered	No Freight	

A

Cost of Services, Repairs, or Non-Standard Items

Item / Task:							
Materials	Other Direct Costs	Labor (rate, hours)	Labor Class	Allocated overhead	SG&A	Profit	Total

B

Signature of Preparer:

The preceding cost estimate was obtained or prepared by: _____

[For complex items or tasks, attach detailed spreadsheet(s) explaining rationale.]

EXHIBIT C: STATEMENT OF WORK TEMPLATE

Statement of Work Title: [Type text]
1.0 Project Background
▪ Describe the need for the goods or services, the current environment, and the Transit Agency's key objective(s) as it relates to this requirement. Provide a brief description/summary of the goods or services sought. ▪ Short statement of the problem to be resolved ▪ Expected project duration ▪ Transit Agency organizational units and/or key individuals involved in managing the project ▪ Alternative solutions or implementation strategies evaluated
a) Transit Agency requires these products and/or services due to: b) Transit Agency is attempting to complete a project on _____ and requires supplier/contractor assistance in the: c) The completion of this work will help Transit Agency:
Statement of Work Title: [Type text]
1.0 Project Background
Describe the need for the goods or services, the current environment, and the Transit Agency's key objective(s) as it relates to this requirement. Provide a brief description/summary of the goods or services sought. Short statement of the problem to be resolved Expected project duration Transit Agency organizational units and/or key individuals involved in managing the project Alternative solutions or implementation strategies evaluated a) Transit Agency requires these products and/or services due to: b) Transit Agency is attempting to complete a project on _____ and requires supplier/contractor assistance in the: c) The completion of this work will help Transit Agency:
2.1 Results
Indicate the key end results that the project will achieve when successfully executed. Measurable performance indicators for anticipated benefits may also be listed here.
2.2 Anticipated Benefits

Describe what the organization will gain through completion of this project.
2.3 Business Processes Impacted
Review major changes in the way work will be conducted once the project is complete (if any).
2.4 Customers / End Users Impacted
Identify the specific individuals or groups whose work will be most affected during and after the project's execution.
3.0 Applicable Documents
List legal, regulatory, policy, security, and similar relevant documents. Include publication number, title, version, date and where the document can be obtained. If only certain portions of documents apply, state this. Indicate the definition of terms, if needed.
List any publications, manuals, and regulations that the supplier / contractor must abide by: a) [Type text] b) [Type text] c) [Type text] Definitions and Acronyms:
4.0 Summary of Requirements
These are the key tasks expected of the supplier / contractor according to the Schedule and the Statement of Work. List the key technical and functional requirements for the project. Highlight up to 20 requirements that you consider to be essential to the ultimate success of the project. Include the expected outputs / outcomes and performance standards.

Write tasks to be performed in a logical and sequential arrangement of work to the extent possible. Describe the tasks in terms of outcomes expected, such as response time, cleanliness level, equipment up-time and functionality. Use “work” words, such as:

- 1) Review...
- 2) Analyze...
- 3) Repair...
- 4) Install...
- 5) Construct...

All tasks should have quantifiable or observable results.

5.0 Schedule and Deliverables

List all outputs / outcomes and submittals with specific due dates or time frames. Include type, quantity and delivery point (s). Include the acceptance criteria for each.

Milestone or Major Project Deliverable	Planned Completion Date

6.0 Quality Assurance Plan

Explain what the Transit Agency’s quality expectations are, how (and how often) deliverables or services will be monitored and evaluated, and the process to follow when the outputs / outcomes are below performance standards.

The following levels of quality are to be judged acceptable under this contract:

- a) All milestones or services will be achieved, and all reports will be submitted on time in accordance with Section 5.0 of this SOW.
 - a) All milestones, services, products or reports will meet the outcomes noted in Section 4.0 of this document.
- c) Supplier / Contractor work will be monitored by Transit Agency project and Contract Management Staff.
- d) Specific quality requirements for this contract are as follows:
 - 1) On time delivery= [Type text]
 - 2) Acceptable quality = [Type text]
 - 3) Responsiveness = [Type text]
 - 4) Service Level = [Type text]

EXHIBIT D: PIGGYBACKING CHECKLIST

Definition: *Piggybacking is the post-award use of a contractual document/process that allows someone who was not contemplated in the original procurement to purchase the same supplies/equipment through that original document/process. ("FTA Dear Colleague" letter, October 1, 1998).*

In order to assist in the performance of your review, to determine if a situation exists where you may be able to participate in the piggybacking (assignment) of an existing agreement, the following considerations are provided. Ensure that your final file includes documentation substantiating your determination.

WORKSHEET	YES	NO
1. Have you obtained a copy of the contract and the solicitation document, including the specifications and any Buy America Pre-award or Post- Delivery audits?		
2. Does the solicitation and contract contain an express "assignability" clause that provides for the assignment of all or part of the specified deliverables?		
3. Did the Contractor submit the "certifications" required by Federal regulations? See BPPM Section 4.3.3.2.		
4. Does the contract contain the clauses required by Federal regulations? See BPPM Appendix A1.		
5. Were the piggybacking quantities included in the original solicitation; i.e., were they in the original bid and were they evaluated as part of the contract award decision?		
6. If this is an indefinite quantity contract, did the original solicitation and resultant contract contain both a minimum and maximum quantity, and did these represent the reasonably foreseeable needs of the parties to the contract?		
7. If this piggybacking action represents the exercise of an option in the contract, is the option provision still valid or has it expired?		
8. Does your State law allow for the procedures used by the original contracting agency: e.g., negotiations vs. sealed bids?		
9. Was a cost or price analysis performed by the original contracting agency documenting the reasonableness of the price? Obtain a copy for your files. Have you performed a market analysis of the prices to be paid and have you determined the price to be fair and reasonable and in the best interests of the Agency?		
10. If the contract is for rolling stock or replacement parts, does the contract term comply with the five-year term limit established by FTA? See FTA Circular 4220.1F, Chapter IV, 2 (14) (i).		
11. Was there a proper evaluation of the bids or proposals? Include a copy of the analysis in your files.		
12. If you will require changes to the vehicles (deliverables), are they "within the scope" of the contract or are they "cardinal changes"? See BPPM Section 9.2.1.		
13. Were geographical preferences included in the original solicitation/contract?		

Note: This worksheet is based upon the policies and guidance expressed in (a) the FTA Administrator's "Dear Colleague" letter of October 1, 1998, (b) the *Best Practices Procurement Manual*, Section 6.3.3—*Joint Procurements of Rolling Stock and "Piggybacking,"*

EXHIBIT E
SOLE SOURCE PURCHASE FORM

A sole source is when the commodity or service can be legally purchased from only one source. This is usually due to the source owning patents and/or copyrights. A requirement for a particular proprietary item does not justify a sole source purchase, if, there is more than one potential supplier for that item. Use of Brand Names and Model numbers does not constitute a sole source.

Date: _____ **PR No.:** _____ **Requestor:** _____ **Phone No.:** _____

Department/Division: _____

Item Description: _____

Vendor: _____

Vendor's Address: _____

Vendor's Telephone No.: _____ **Point of Contact:** _____

Sole Source Justification: (Please attach justification) _____

Check One:

_____ The item is available only from one vendor (sole source justification is attached).

_____ Federal Awarding Agency or Pass-Through Agency authorizes noncompetitive negotiations (letter of authorization is attached).

Requesting Department Director Signature
(Or Designee)

Date

REVIEW BY FINANCE DEPARTMENT

Finance Department Comments: _____

Finance Director Signature

Date

Approved: _____

Denied: _____

EXHIBIT E (1)
SINGLE SOURCE PURCHASE FORM

A single source means that a commodity or service can be purchased from multiple sources, but in order to meet certain functional or performance requirements (e.g. parts matching existing equipment or materials) there is only one economically feasible source for the purchase.

Date: _____ **PR No.:** _____ **Requestor:** _____ **Phone No.:** _____

Department/Division: _____

Item Description: _____

Vendor: _____

Vendor's Address: _____

Vendor's Telephone No.: _____ **Point of Contact:** _____

Single Source Justification: (Please attach justification) _____

Check One:

_____ The public exigency or emergency for the requirement will not permit a delay resulting from competitive solicitation (documented emergency condition is attached).

_____ Federal Awarding Agency or Pass-Through Agency authorizes noncompetitive negotiations (letter of authorization is attached).

_____ The item is an associated capital maintenance item as defined in 49 U.S.C. §5307(a) (1) that is procured directly from the original manufacturer or supplier of the time to be replaced (price certification attached).

_____ Other. Additional justification required.

Requesting Department Director Signature
(Or Designee)

Date

REVIEW BY FINANCE DEPARTMENT

Finance Department Comments: _____

Finance Director Signature

Date

Approved: _____

Denied: _____

EXHIBIT F: COST ANALYSIS FORM

PAGE OF

COST ANALYSIS SUMMARY (For New Contracts Including Letter Contracts)

(See Instructions below)

SOLICITATION #

SUPPLIES AND/OR SERVICES TO BE
FURNISHED

PREPARER'S NAME, DEPARTMENT, TITLE, PHONE

DIVISION(S) AND LOCATION(S) WHERE WORK IS
TO BE PERFORMED

APPROVAL SIGNATURE

DETAIL DESCRIPTION OF COST ELEMENTS

1. DIRECT MATERIAL

A. PURCHASED PARTS

B. SUBCONTRACTED

C. OTHER - (1) RAW

(2) STANDARD COMMERCIAL ITEMS

TOTAL DIRECT MATERIAL

2. MATERIAL

OVERHEAD (RATE

Vendor
A
Proposal

Vendor
B
Proposal

Independent
Estimate

Analysis

3. DIRECT LABOR

ESTIMATE
D HOURS

RATE/
HOUR

Vendor
A (\$)

Vendor
B (\$)

Independent
Estimate

Variance

TOTAL DIRECT
LABOR

4. LABOR OVERHEAD

OH Rate

X BASE (labor total above)

TOTAL LABOR OVERHEAD

Vendor
A (\$)

Vendor
B (\$)

Independent
Estimate

Variance

5. OTHER DIRECT COSTS

A. SPECIAL

TOTAL SPECIAL

Vendor
A (\$)

Vendor
B (\$)

Independent
Estimate

Variance

B. TRAVEL				
(1) TRANSPORTATION				
(2) PER DIEM OR SUBSISTENCE				
<i>TOTAL TRAVEL</i>				
DETAIL DESCRIPTION OF COST ELEMENTS (continued)	Vendor A (\$)	Vendor B (\$)	Independent Estimate	Variance
C. INDIVIDUAL CONSULTANT SERVICES				
<i>TOTAL INDIVIDUAL CONSULTANT SERVICES</i>				
D. OTHER				
<i>TOTAL OTHER</i>				
<i>E. SUBTOTAL DIRECT COST AND OVERHEAD</i>				
6. GENERAL AND ADMINISTRATIVE (G&A) RATE %				
X \$ BASE (Use 5.E above)				
7. ROYALTIES (if any)				
8. <i>SUBTOTAL ESTIMATED COST</i>				
9. CONTRACT FACILITIES CAPITAL AND COST OF				
10. <i>SUBTOTAL ESTIMATED COST</i>				
11. FEE OR PROFIT				
12. TOTAL ESTIMATED COST AND FEE OR PROFIT				
13. Discounts				
14. Option Costs (specify)				
15. ADJUSTED COST				

FEDERAL COST PRINCIPALS

Costs must be necessary and reasonable, allocable to the project, authorized or not prohibited by Federal law or regulation, and must comply with Federal cost principles applicable to the CITY. Chapter IV, Section 4 C4220.1F states FTA assistance may support contract costs or prices based on estimated costs only if the costs incurred or cost estimates included in negotiated prices comply with applicable Federal cost principles, and the property or services are eligible for Federal assistance under the terms of the underlying grant or cooperative agreement.

ANALYSIS GUIDELINES

1. DIRECT MATERIAL

A. Analyze Purchased Parts: Provide a consolidated price analysis of material quantities included in the various tasks, orders, or contract line items being proposed and the basis for pricing (vendor quotes, invoice prices, etc.).

B. Subcontracted Items: Analyze the total cost of subcontract effort and supporting written quotations from the prospective subcontractors

C. Other:

(1) Raw Material: Review any materials in a form or state that requires further processing. Analyze priced quantities of items required for the proposal. Consider alternatives and total cost impact.

(2) Standard Commercial Items: Analyze proposed items that the offeror will provide, in whole or in part, and review the basis for pricing. Consider whether these could be provided at lower cost from another source.

2. MATERIAL OVERHEAD

Verify that this cost is not computed as part of labor overhead (item 4) or General & Administrative (G&A) (Item 6).

3. DIRECT LABOR

Analyze the hourly rate and the total hours for each individual (if known) and discipline of direct labor proposed. Determine whether actual rates or escalated rates are used. If escalation is included, analyze the degree (percent) and rationale used. Compare percentage of total that labor represents for each bid.

4. LABOR OVERHEAD

Analyze comparative rates and ensure these costs are not computed as part of G&A. Determine if Government Audited rates are available,

5. OTHER DIRECT COSTS

A. Special Tooling/Equipment. Analyze price and necessity of specific equipment and unit prices.

B. Travel. Analyze each trip proposed and the persons (or disciplines) designated to make each trip.

Compare and check costs.

C. Individual Consultant Services. Analyze the proposed contemplated consulting. Compare to independent estimate of the amount of services estimated to be required and match the consultants' quoted daily or hourly rate to known benchmarks.

D. Other Costs. Review all other direct charge costs not otherwise included in the categories described above (e.g., services of specialized trades, computer services, preservation, packaging and packing, leasing of equipment and provide bases for pricing. Scan for duplication or omissions.

6. GENERAL AND ADMINISTRATIVE EXPENSE

See notes on labor overhead above and check whether the base has been approved by a Government audit agency for use in proposals.

7. ROYALTIES

If more than \$250, analyze the following information for each separate royalty or license fee; name and address of licensor; date of license agreement; patent numbers, patent application serial numbers, or other basis on which the royalty is payable; brief description (including any part of model numbers or each contract item or component on which the royalty is payable); percentage or dollar rate of royalty per unit; unit price of contract item; number of units; and total dollar amount of royalties,

8. SUBTOTAL ESTIMATED COST

Compare the total of all direct and indirect costs excluding Cost of Money and Fee or Profit. Note reasons for differences.

9. CONTRACT FACILITIES CAPITAL AND COST OF MONEY

Analyze the offerors' supporting calculations and compare to known standards.

10. SUBTOTAL ESTIMATED COST

This is the total of all proposed costs excluding Fee or Profit. Determine the competitive range. Question outliers.

11. FEE OR PROFIT

Review the total of all proposed Fees or Profit.

12. TOTAL ESTIMATED COST AND FEE OR PROFIT

Analyze the range of total estimated costs including Fee or Profit and explain variance to independent estimate. Identify areas for negotiation or areas to be challenged. Explain your conclusions regarding fair and reasonable pricing.

13. DISCOUNTS

Review basis for Discounts and range between offers.

ATTACH NARRATIVE COST ANALYSIS MEMO ADDRESSING ITEMS AS INSTRUCTED ABOVE.

EXHIBIT G: PRICE ANALYSIS

PO / Contract: _____

The evidence compiled by a price analysis includes:

- Developing and examining data from multiple sources whenever possible that prove or strongly suggest the proposed price is fair.
- Determining when multiple data consistently indicate that a given price represents a good value for the money.
- Documenting data sufficiently to convince a third party that the analyst's conclusions are valid.

The pricing quoted on the attached sheet(s) is deemed to be fair and reasonable based on the following type of analysis:

____ Comparison with competing suppliers' prices or catalog pricing for the same item. (Complete comparison matrix and attach supporting quotes or catalog pages.)

____ Comparison of proposed pricing with in-house estimate for the same item. (Attach signed in-house estimate and explain factors influencing any differences found. Complete summary matrix.)

____ Comparison of proposed pricing with historical pricing from previous purchases of the same item, coupled with market data such as Producer Price Index or Inflation Rate over the corresponding time period. (Attach data and historical price record).

____ Analysis of price components against current published standards, such as labor rates, dollars per pound etc. to justify the price reasonableness of the whole. (Attach analysis to support conclusions drawn.)

SUMMARY MATRIX

Item	Proposed Pricing	Average Market Price	Competitor A	Competitor B	In-House Estimate	Other

DATE: _____ PREPARED BY _____

Attachments:

EXHIBIT H: FAIR AND REASONABLE PRICE DETERMINATION

I hereby determine the price to be fair and reasonable based on at least one of the following:

Check one or more:

_____ Found reasonable on recent purchase.

_____ Obtained from current price list.

_____ Obtained from current catalog.

_____ Commercial market sales price from advertisements.

_____ Similar in related industry.

_____ Personal knowledge of item procured.

_____ Regulated rate (utility).

_____ Other.

Comments:

_____ Copy of purchase order, quotes, catalog page, price list, etc. is attached.

Purchasing Agent

Date

EXHIBIT I: PROCUREMENT SUMMARY
PROCUREMENT MEMORANDUM

Date: _____ Completed by: _____
PO / Contract No. _____
Source of _____ Funding: _____

Method of Procurement

Micro Purchase: _____ Competitive RFP: _____ Competitive Bid: _____
Small Purchase: _____ A&E Services: _____ Sole Source: _____

Adequate # of Sources Yes/No and #
Justification if Non-Competitive:

Reason for the Procurement

Contract Type: _____
Rationale for contract type: _____

Reason for Contractor selection or rejection: Lowest responsive, responsible bidder: _____
Evaluation results _____

Basis for Contract Price:

Accepted contractor's proposed pricing: _____
Negotiated Price (attached memorandum) _____
Other: _____

Cost / Price Analysis:

The price offered by the supplier was within _____% of the independent estimate, and variance between the offerors constituted a range of _____. The competitive range was determined to be from \$ _____
Pricing discrepancies between the offers was attributed to _____
Other sources/data used to affirm price reasonableness were _____

EXPLAIN:

Evaluation of Options, if any: _____
Exercise of Options, if any: _____

Summary of Responsibility and Responsiveness Checks

Award Date of contract award: _____
Board Approval (Attach Meeting Minutes): _____

Change Orders

Identify each and summarize reason for change, dates, cost analysis, time impact, and modification number.

EXHIBIT J: RESPONSIBILITY DETERMINATION FORM

Bid/RFP No: _____

Supplier: _____

Date: _____

For each of the areas described below, check that the appropriate research has been accomplished and provide a short description of the research and the results.

	Acceptable	Comment
1. Appropriate financial, equipment, facility, and personnel	☐ Yes ☐ No	_____ _____ _____ _____
2. Ability to meet the delivery schedule	☐ Yes ☐ No	_____ _____ _____ _____
3. Satisfactory period of performance	☐ Yes ☐ No	_____ _____ _____ _____
4. Satisfactory record of integrity, not on debarred or suspended listings	☐ Yes ☐ No	_____ _____ _____ _____
5. Receipt of all necessary data from supplier	☐ Yes ☐ No	_____ _____ _____ _____
6. System for Award Management (SAM) check	☐ Yes ☐ No	_____ _____ _____ _____
7. Conflict of Interest	☐ Yes ☐ No	_____ _____ _____ _____

EXHIBIT K: CONTRACT CLAUSE MATRIX

APPLICABILITY OF THIRD-PARTY CONTRACT PROVISIONS

(excluding micro-purchases, except Davis-Bacon requirements apply to contracts exceeding \$2,000)

PROVISION	Professional Services/A&E	Operations/ Management	Rolling Stock Purchases	Construction	Materials & Supplies
No Federal Government Obligations to Third Parties (by Use of a Disclaimer)	All	All	All	All	All
False Statements or Claims Civil and Criminal Fraud	All	All	All	All	All
Access to Third Party Contract Records	All	All	All	All	All
Changes to Federal Requirements	All	All	All	All	All
Termination *	>\$10,000 if 49 CFR Part 18 applies	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.	>\$10,000 if 49 CFR Part 18 applies.
Civil Rights (Title VI, EEO, ADA) *	>\$10,000	>\$10,000	>\$10,000	>\$10,000	>\$10,000
Disadvantaged Business Enterprises (DBEs)	All	All	All	All	All
Incorporation of FTA Terms	All	All	All	All	All
Debarment and Suspension	>\$25,000	>\$25,000	>\$25,000	>\$25,000	>\$25,000
Buy America			>\$100,000	>\$100,000	>\$100,000
Resolution of Disputes, Breaches, or Other Litigation	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Lobbying	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Air	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Clean Water	>\$100,000	>\$100,000	>\$100,000	>\$100,000	>\$100,000
Cargo Preference			For property transported by ocean vessel.	For property transported by ocean vessel.	For property transported by ocean vessel.
Fly America	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.	For foreign air transport or travel.
Davis-Bacon Act				>\$2,000 (including ferry vessels)	

Contract Work Hours and Safety Standards Act		>\$100,000 (except transportation services)	>\$100,000	>\$100,000 (including ferry vessels)	
Copeland Anti-Kickback Act Section 1 Section 2				All All exceeding \$2,000 (including ferry vessels)	
Bonding				\$100,000	
Seismic Safety	A&E for New Buildings & Additions			New Buildings	
Transit Employee Protective Arrangements		Transit Operations			
Charter Service Operations		All			
School Bus Operations		All			
Drug Use and Testing		Transit Operations			
Alcohol Misuse and Testing		Transit Operations			
Patent Rights**	Research & Development				
Rights in Data and Copyright Requirements	Research & Development				
Energy Conservation	All	All	All	All	All
Recycled Products		Contracts for items designated by EPA, when procuring \$10,000 or more per year		Contracts for items designated by EPA, when procuring \$10,000 or more per year	Contracts for items designated by EPA, when procuring \$10,000 or more per year
Conformance with ITS National Architecture	ITS Projects	ITS Projects	ITS Projects	ITS Projects	ITS Projects
ADA Access	A&E	All	All	All	All
Notification of Federal Participation for States	Limited to States	Limited to States	Limited to States	Limited to States	Limited to States
DHS Seal, Logo, Flags	All FEMA	All FEMA	All FEMA	All FEMA	All FEMA
Compliance with Federal Law, Regulation & Executive Orders	All FEMA	All FEMA	All FEMA	All FEMA	All FEMA

*APPLIES TO ALL FEMA CONTRACTS NO MATTER THE AMOUNT

** DOES NOT APPLY TO FEMA PUBLIC ASSISTANCE WORK CONTRACTS

EXHIBIT L: FEDERALLY REQUIRED CONTRACT CLAUSES

1. Fly America Requirements
2. Buy America Requirements
3. Charter Bus and School Bus Requirements
4. Cargo Preference Requirements
5. Seismic Safety Requirements
6. Energy Conservation Requirements
7. Clean Water Requirements
8. Bus Testing
9. Pre-Award and Post Delivery Audit Requirements
10. Lobbying
11. Access to Records and Reports
12. Federal Changes
13. Bonding Requirements
14. Clean Air
15. Recycled Products
16. Davis-Bacon and Copeland Anti-Kickback Acts
17. Contract Work Hours and Safety Standards Act
18. [Reserved]
19. No Government Obligation to Third Parties
20. Program Fraud and False or Fraudulent Statements and Related Acts
21. Termination
22. Government-wide Debarment and Suspension (Nonprocurement)
23. Privacy Act
24. Civil Rights Requirements
25. Breaches and Dispute Resolution
26. Patent and Rights in Data
27. Transit Employee Protective Agreements
28. Disadvantaged Business Enterprises (DBE)
29. [Reserved]
30. Incorporation of Federal Transit Administration (FTA) Terms
31. Drug and Alcohol Testing
32. Veteran's Preference/Employment
33. Occupational Safety and Health Act Compliance
34. Fair Labor Standards Act
35. Texting When Driving
36. E-Verify

1. FLY AMERICA REQUIREMENTS

49 U.S.C. § 40118

41 CFR Part 301-10

Applicability to Contracts

The Fly America requirements apply to the transportation of persons or property, by air, between a place in the U.S. and a place outside the U.S., or between places outside the U.S., when the FTA will participate in the costs of such air transportation. Transportation on a foreign air carrier is permissible when provided by a foreign air carrier under a code share agreement when the ticket identifies the U.S. air carrier's designator code and flight number. Transportation by a foreign air carrier is also permissible if there is a bilateral or multilateral air transportation agreement to which the U.S. Government and a foreign government are parties and which the Federal DOT has determined meets the requirements of the Fly America Act.

Flow Down Requirements

The Fly America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance.

Model Clause/Language

The relevant statutes and regulations do not mandate any specified clause or language. FTA proposes the following language.

Fly America Requirements

The Contractor agrees to comply with 49 U.S.C. 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The Contractor shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The Contractor agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

2. BUY AMERICA REQUIREMENTS

49 U.S.C. 5323(j)

49 CFR Part 661

Applicability to Contracts

The Buy America requirements apply to the following types of contracts: Construction Contracts and Acquisition of Goods or Rolling Stock (valued at more than \$100,000).

Flow Down

The Buy America requirements flow down from FTA recipients and subrecipients to first tier contractors, who are responsible for ensuring that lower tier contractors and subcontractors are in compliance. The \$100,000 threshold applies only to the grantee contract, subcontracts under that amount are subject to Buy America.

Mandatory Clause/Language

The Buy America regulation, at 49 CFR 661.13, requires notification of the Buy America requirements in FTA- funded contracts, but does not specify the language to be used. The following language has been developed by FTA.

Buy America - The contractor agrees to comply with 49 U.S.C. 5323(j) and 49 C.F.R. Part 661, which provide that Federal funds may not be obligated unless steel, iron, and manufactured products used in FTA-funded projects are produced in the United States, unless a waiver has been granted by FTA or the product is subject to a general waiver. General waivers are listed in 49 C.F.R. 661.7 and include final assembly in the United States for 15 passenger vans and 15 passenger wagons produced by Chrysler Corporation, and microcomputer equipment and software. Separate requirements for rolling stock are set out at 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11. Rolling stock must be assembled in the United States and have a 60 percent domestic content.

A bidder or offeror must submit to the FTA recipient the appropriate Buy America certification (below) with all bids or offers on FTA-funded contracts, except those subject to a general waiver. Bids or offers that are not accompanied by a completed Buy America certification must be rejected as nonresponsive. This requirement does not apply to lower tier subcontractors.

Certification requirement for procurement of steel, iron, or manufactured products.

Certificate of Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it will meet the requirements of 49 U.S.C. 5323(j)(1) and the applicable regulations in 49 C.F.R. Part 661.5.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(1)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(1) and 49 C.F.R. 661.5, but it may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 C.F.R. 661.7.

Date _____

Signature _____

Company Name _____

Title _____

Certification requirement for procurement of buses, other rolling stock and associated equipment.

Certificate of Compliance with 49 U.S.C. 5323(j)(2)(C).

The bidder or offeror hereby certifies that it will comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and the regulations at 49 C.F.R. Part 661.11.

Date _____

Signature _____

Company Name _____

Title _____

Certificate of Non-Compliance with 49 U.S.C. 5323(j)(2)(C)

The bidder or offeror hereby certifies that it cannot comply with the requirements of 49 U.S.C. 5323(j)(2)(C) and 49 C.F.R. 661.11, but may qualify for an exception pursuant to 49 U.S.C. 5323(j)(2)(A), 5323(j)(2)(B), or 5323(j)(2)(D), and 49 CFR 661.7.

Date _____

Signature _____

Company Name _____

Title _____

3. CHARTER BUS REQUIREMENTS

49 U.S.C. 5323(d)

49 CFR Part 604

Applicability to Contracts

The Charter Bus requirements apply to the following type of contract: Operational Service Contracts.

Flow Down Requirements

The Charter Bus requirements flow down from FTA recipients and subrecipients to first tier service contractors.

Model Clause/Language

The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

Charter Service Operations - The contractor agrees to comply with 49 U.S.C. 5323(d) and 49 CFR Part 604, which provides that recipients and subrecipients of FTA assistance are prohibited from providing charter service using federally funded equipment or facilities if there is at least one private charter operator willing and able to provide the service, except under one of the exceptions at 49 CFR 604.9. Any charter service provided under one of the exceptions must be "incidental," i.e., it must not interfere with or detract from the provision of mass transportation.

3. SCHOOL BUS REQUIREMENTS

49 U.S.C. 5323(F)

49 CFR Part 605

Applicability to Contracts

The School Bus requirements apply to the following type of contract: Operational Service Contracts.

Flow Down Requirements

The School Bus requirements flow down from FTA recipients and subrecipients to first tier service contractors.

Model Clause/Language

The relevant statutes and regulations do not mandate any specific clause or language. The following clause has been developed by FTA.

School Bus Operations - Pursuant to 49 U.S.C. 5323(f) and 49 CFR Part 605, recipients and subrecipients of FTA assistance may not engage in school bus operations exclusively for the transportation of students and school personnel in competition with private school bus operators unless qualified under specified exemptions. When operating exclusive school bus service under an allowable exemption, recipients and subrecipients may not use federally funded equipment, vehicles, or facilities.

4. CARGO PREFERENCE REQUIREMENTS

46 U.S.C. 1241

46 CFR Part

381

Applicability to Contracts

The Cargo Preference requirements apply to all contracts involving equipment, materials, or commodities which may be transported by ocean vessels.

Flow Down

The Cargo Preference requirements apply to all subcontracts when the subcontract may be involved with the transport of equipment, material, or commodities by ocean vessel.

Model Clause/Language

The MARAD regulations at 46 CFR 381.7 contain suggested contract clauses. The following language is proffered by FTA.

Cargo Preference - Use of United States-Flag Vessels - The contractor agrees: a. to use privately owned United States-Flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to the underlying contract to the extent such vessels are available at fair and reasonable rates for United States-Flag commercial vessels; b. to furnish within 20 working days following the date of loading for shipments originating within the United States or within 30 working days following the date of leading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590 and to the FTA recipient (through the contractor in the case of a subcontractor's bill-of-lading.); c. to include these requirements in all subcontracts issued pursuant to this contract when the subcontract may involve the transport of equipment, material, or commodities by ocean vessel.

5. SEISMIC SAFETY REQUIREMENTS

42 U.S.C. 7701 et seq. 49

CFR Part 41

Applicability to Contracts

The Seismic Safety requirements apply only to contracts for the construction of new buildings or additions to existing buildings.

Flow Down

The Seismic Safety requirements flow down from FTA recipients and subrecipients to first tier contractors to assure compliance, with the applicable building standards for Seismic Safety, including the work performed by all subcontractors.

Model Clauses/Language

The regulations do not provide suggested language for third-party contract clauses. The following language has been developed by FTA.

Seismic Safety - The contractor agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The contractor also agrees to ensure that all work performed under this contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

6. ENERGY CONSERVATION REQUIREMENTS

42 U.S.C. 6321 et seq.

49 CFR Part 18

Applicability to Contracts

The Energy Conservation requirements are applicable to all contracts.

Flow Down

The Energy Conservation requirements extend to all third-party contractors and their contracts at every tier and subrecipients and their subagreements at every tier.

Model Clause/Language

No specific clause is recommended in the regulations because the Energy Conservation requirements are so dependent on the state energy conservation plan. The following language has been developed by FTA:

Energy Conservation - The contractor agrees to comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

7. CLEAN WATER REQUIREMENTS **33 U.S.C. 1251**

Applicability to Contracts

The Clean Water requirements apply to each contract and subcontract which exceeds \$100,000.

Flow Down

The Clean Water requirements flow down to FTA recipients and subrecipients at every tier.

Model Clause/Language

While no mandatory clause is contained in the Federal Water Pollution Control Act, as amended, the following language developed by FTA contains all the mandatory requirements:

Clean Water - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

8. BUS TESTING **49 U.S.C. 5323(c)** **49 CFR Part 665**

Applicability to Contracts

The Bus Testing requirements pertain only to the acquisition of Rolling Stock/Turnkey.

Flow Down

The Bus Testing requirements should not flow down, except to the turnkey contractor as stated in Master Agreement.

Model Clause/Language

Clause and language therein are merely suggested. 49 CFR Part 665 does not contain specific language to be included in third party contracts but does contain requirements applicable to subrecipients and third-party contractors. Bus Testing Certification and language therein are merely suggested.

Bus Testing - The Contractor [Manufacturer] agrees to comply with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665 and shall perform the following:

- 1) A manufacturer of a new bus model or a bus produced with a major change in components or configuration shall provide a copy of the final test report to the recipient at a point in the procurement process specified by the recipient which will be prior to the recipient's final acceptance of the first vehicle.
- 2) A manufacturer who releases a report under paragraph 1 above shall provide notice to the operator of the testing facility that the report is available to the public.
- 3) If the manufacturer represents that the vehicle was previously tested, the vehicle being sold should have the identical configuration and major components as the vehicle in the test report, which must be provided to the recipient prior to recipient's final acceptance of the first vehicle. If the configuration or components are not identical, the manufacturer shall provide a description of the change and the manufacturer's basis for concluding that it is not a major change requiring additional testing.

4) If the manufacturer represents that the vehicle is "grandfathered" (has been used in mass transit service in the United States before October 1, 1988, and is currently being produced without a major change in configuration or components), the manufacturer shall provide the name and address of the recipient of such a vehicle and the details of that vehicle's configuration and major components.

CERTIFICATION OF COMPLIANCE WITH FTA'S BUS TESTING REQUIREMENTS

The undersigned [Contractor/Manufacturer] certifies that the vehicle offered in this procurement complies with 49 U.S.C. A 5323(c) and FTA's implementing regulation at 49 CFR Part 665.

The undersigned understands that misrepresenting the testing status of a vehicle acquired with Federal financial assistance may subject the undersigned to civil penalties as outlined in the Department of Transportation's regulation on Program Fraud Civil Remedies, 49 CFR Part 31. In addition, the undersigned understands that FTA may suspend or debar a manufacturer under the procedures in 49 CFR Part 29.

Date: _____

Signature: _____

Company Name: _____

Title: _____

9. PRE-AWARD AND POST DELIVERY AUDITS REQUIREMENTS

49 U.S.C. 5323

49 CFR Part 663

Applicability to Contracts

These requirements apply only to the acquisition of Rolling Stock/Turnkey.

Flow Down

These requirements should not flow down, except to the turnkey contractor as stated in Master Agreement.

Model Clause/Language

Clause and language therein are merely suggested. 49 C.F.R. Part 663 does not contain specific language to be included in third party contracts but does contain requirements applicable to subrecipients and third-party contractors.

- Buy America certification is mandated under FTA regulation, "Pre-Award and Post-Delivery Audits of Rolling Stock Purchases," 49 C.F.R. 663.13.

-- Specific language for the Buy America certification is mandated by FTA regulation, "Buy America

Requirements--Surface Transportation Assistance Act of 1982, as amended,"

49 C.F.R. 661.12, but has been modified to include FTA's Buy America requirements codified at 49 U.S.C. A 5323(j).

Pre-Award and Post-Delivery Audit Requirements - The Contractor agrees to comply with 49 U.S.C. § 5323(l) and FTA's implementing regulation at 49 C.F.R. Part 663 and to submit the following certifications:

(1) Buy America Requirements: The Contractor shall complete and submit a declaration certifying either compliance or noncompliance with Buy America. If the Bidder/Offeror certifies compliance with Buy America, it shall submit documentation which lists 1) component and subcomponent parts of the rolling stock to be purchased identified by manufacturer of the parts, their country of origin and costs; and 2) the location of the final assembly point for the rolling stock, including a description of the activities that will take place at the final assembly point and the cost of final assembly.

(2) Solicitation Specification Requirements: The Contractor shall submit evidence that it will be capable of meeting the bid specifications.

(3) Federal Motor Vehicle Safety Standards (FMVSS): The Contractor shall submit 1) manufacturer's FMVSS self-certification sticker information that the vehicle complies with relevant FMVSS or 2) manufacturer's certified statement that the contracted buses will not be subject to FMVSS regulations.

BUY AMERICA CERTIFICATE OF COMPLIANCE WITH FTA REQUIREMENTS FOR BUSES, OTHER
ROLLING STOCK, OR ASSOCIATED EQUIPMENT

(To be submitted with a bid or offer exceeding the small purchase threshold for Federal assistance programs, currently set at \$100,000.)

Certificate of Compliance

The bidder hereby certifies that it will comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C), Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, and the regulations of 49

C.F.R. 661.11:

Date: _____

Signature: _____

Company Name: _____

Title: _____

Certificate of Non-Compliance

The bidder hereby certifies that it cannot comply with the requirements of 49 U.S.C. Section 5323(j)(2)(C) and Section 165(b)(3) of the Surface Transportation Assistance Act of 1982, as amended, but may qualify for an exception to the requirements consistent with 49 U.S.C. Sections 5323(j)(2)(B) or (j)(2)(D), Sections 165(b)(2) or (b)(4) of the Surface Transportation Assistance Act, as amended, and regulations in 49 C.F.R. 661.7.

Date: _____

Signature: _____

Company Name: _____

Title: _____

10. LOBBYING
31 U.S.C. 1352
49 CFR Part 19
49 CFR Part 20

Applicability to Contracts

The Lobbying requirements apply to Construction/Architectural and Engineering/Acquisition of Rolling Stock/Professional Service Contract/Operational Service Contract/Turnkey contracts.

Flow Down

The Lobbying requirements mandate the maximum flow down, pursuant to Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352(b)(5) and 49 C.F.R. Part 19, Appendix A, Section 7.

Mandatory Clause/Language

Clause and specific language therein are mandated by 49 CFR Part 19, Appendix A.

Modifications have been made to the Clause pursuant to Section 10 of the Lobbying Disclosure Act of 1995,
P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*]

- Lobbying Certification and Disclosure of Lobbying Activities for third party contractors are mandated by 31 U.S.C. 1352(b)(5), as amended by Section 10 of the Lobbying Disclosure Act of 1995, and DOT implementing regulation, "New Restrictions on Lobbying," at 49 CFR § 20.110(d)

- Language in Lobbying Certification is mandated by 49 CFR Part 19, Appendix A, Section 7, which provides that contractors file the certification required by 49 CFR Part 20, Appendix A.

Modifications have been made to the Lobbying Certification pursuant to Section 10 of the Lobbying Disclosure Act of 1995.

- Use of "Disclosure of Lobbying Activities," Standard Form-LLL set forth in Appendix B of 49 CFR Part 20, as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96) is mandated by 49 CFR Part 20, Appendix A.

Byrd Anti-Lobbying Amendment, 31 U.S.C. 1352, as amended by the Lobbying Disclosure Act of 1995, P.L. 104-65 [to be codified at 2 U.S.C. § 1601, *et seq.*] - Contractors who apply or bid for an award of \$100,000 or more shall file the certification required by 49 CFR part 20, "New Restrictions on Lobbying." Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

EXHIBIT A, 49 CFR PART 20--CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge and belief, that:

(1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

(2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form--LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions [as amended by "Government wide Guidance for New Restrictions on Lobbying," 61 Fed. Reg. 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, *et seq.*)]

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. § 1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such expenditure or failure.]

The Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. A 3801, *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date

11. ACCESS TO RECORDS AND REPORTS

49 U.S.C. 5325

18 CFR 18.36 (i)

49 CFR 633.17

Applicability to Contracts

Reference Chart "Requirements for Access to Records and Reports by Type of Contracts"

Flow Down

FTA does not require the inclusion of these requirements in subcontracts.

Model Clause/Language

The specified language is not mandated by the statutes or regulations referenced, but the language provided paraphrases the statutory or regulatory language.

Access to Records - The following access to records requirements apply to this Contract:

1. Where the Purchaser is not a State but a local government and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 18.36(i), the Contractor agrees to provide the Purchaser, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions. Contractor also agrees, pursuant to 49 C.F.R. 633.17 to provide the FTA Administrator or his authorized representatives including any PMO Contractor access to Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311.
2. Where the Purchaser is a State and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 633.17, Contractor agrees to provide the Purchaser, the FTA Administrator or his authorized representatives, including any PMO Contractor, access to the Contractor's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. 5302(a)1, which is receiving federal financial assistance through the programs described at 49 U.S.C. 5307, 5309 or 5311. By definition, a major capital project excludes contracts of less than the simplified acquisition threshold currently set at \$150,000.
3. Where the Purchaser enters into a negotiated contract for other than a small purchase or under the simplified acquisition threshold and is an institution of higher education, a hospital or other non-profit organization and is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 C.F.R. 19.48, Contractor agrees to provide the Purchaser, FTA Administrator, the Comptroller General of the United States or any of their duly authorized representatives with access to any books, documents, papers and record of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts and transcriptions.
4. Where any Purchaser which is the FTA Recipient or a subgrantee of the FTA Recipient in accordance with 49 U.S.C. 5325(a) enters into a contract for a capital project or improvement (defined at 49 U.S.C. 5302(a)1) through other than competitive bidding, the Contractor shall make available records related to the contract to the Purchaser, the Secretary of Transportation and the Comptroller General or any authorized officer or employee of any of them for the purposes of conducting an audit and inspection.

5. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

6. The Contractor agrees to maintain all books, records, accounts and reports required under this contract for a period of not less than three years after the date of termination or expiration of this contract, except in the event of litigation or settlement of claims arising from the performance of this contract, in which case Contractor agrees to maintain same until the Purchaser, the FTA Administrator, the Comptroller General, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. Reference 49 CFR 18.39(i)(11).

7. FTA does not require the inclusion of these requirements in subcontracts.

Requirements for Access to Records and Reports by Types of Contract

Contract Characteristics	Operational Service Contract	Turnkey	Construction	Architectural Engineering	Acquisition of Rolling Stock	Professional Services
<u>I State Grantees</u>	None	Those	None	None	None	None
a. Contracts below SAT (\$100,000)	None unless ¹ non-competitive award	imposed on state pass thru to Contractor	Yes, if non-competitive award or if funded thru ² 5307/5309 /5311	None unless non-competitive award	None unless non-competitive award	None unless non-competitive award
b. Contracts above \$100,000/Capital Projects						
<u>II Non-State Grantees</u>	Yes ³	Those imposed on non-state Grantee pass thru to	Yes	Yes	Yes	Yes
a. Contracts below SAT (\$100,000)	Yes ³					
b. Contracts above \$100,000/Capital Projects						

Sources of Authority:

¹ 49 USC 5325 (a)

² 49 CFR 633.17

³ 18 CFR 18.36 (i)

12. FEDERAL CHANGES **49 CFR Part 18**

Applicability to Contracts

The Federal Changes requirement applies to all contracts.

Flow Down

The Federal Changes requirement flows down appropriately to each applicable changed requirement.

Model Clause/Language

No specific language is mandated. The following language has been developed by FTA.

Federal Changes - Contractor shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between Purchaser and FTA, as they may be amended or promulgated from time to time during the term of this contract. Contractor's failure to so comply shall constitute a material breach of this contract.

13. BONDING REQUIREMENTS

Applicability to Contracts

For those construction or facility improvement contracts or subcontracts exceeding \$100,000, FTA may accept the bonding policy and requirements of the recipient, provided that they meet the minimum requirements for construction contracts as follows:

- a. A bid guarantee from each bidder equivalent to five (5) percent of the bid price. The "bid guarantees" shall consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of his bid, execute such contractual documents as may be required within the time specified.
- b. A performance bond on the part to the Contractor for 100 percent of the contract price. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- c. A payment bond on the part of the contractor for 100 percent of the contract price. A "payment bond" is one executed in connection with a contract to assure payment, as required by law, of all persons supplying labor and material in the execution of the work provided for in the contract. Payment bond amounts required from Contractors are as follows:
 - (1) 50% of the contract price if the contract price is not more than \$1 million;
 - (2) 40% of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(3) \$2.5 million if the contract price is more than \$5 million.

d. A cash deposit, certified check or other negotiable instrument may be accepted by a grantee in lieu of performance and payment bonds, provided the grantee has established a procedure to assure that the interest of FTA is adequately protected. An irrevocable letter of credit would also satisfy the requirement for a bond.

Flow Down

Bonding requirements flow down to the first-tier contractors.

Model Clauses/Language

FTA does not prescribe specific wording to be included in third party contracts. FTA has prepared sample clauses as follows:

Bid Bond Requirements (Construction)

(a) Bid Security

A Bid Bond must be issued by a fully qualified surety company acceptable to (Recipient) and listed as a company currently authorized under 31 CFR, Part 223 as possessing a Certificate of Authority as described thereunder.

(b) Rights Reserved

In submitting this Bid, it is understood and agreed by bidder that the right is reserved by (Recipient) to reject any and all bids, or part of any bid, and it is agreed that the Bid may not be withdrawn for a period of [ninety (90)] days subsequent to the opening of bids, without the written consent of (Recipient).

It is also understood and agreed that if the undersigned bidder should withdraw any part or all of his bid within [ninety (90)] days after the bid opening without the written consent of (Recipient), shall refuse or be unable to enter into this Contract, as provided above, or refuse or be unable to furnish adequate and acceptable Performance Bonds and Labor and Material Payments Bonds, as provided above, or refuse or be unable to furnish adequate and acceptable insurance, as provided above, he shall forfeit his bid security to the extent of (Recipient's) damages occasioned by such withdrawal, or refusal, or inability to enter into an agreement, or provide adequate security therefor.

It is further understood and agreed that to the extent the defaulting bidder's Bid Bond, Certified Check, Cashier's Check, Treasurer's Check, and/or Official Bank Check (excluding any income generated thereby which has been retained by (Recipient) as provided in [Item x "Bid Security" of the Instructions to Bidders]) shall prove inadequate to fully recompense (Recipient) for the damages occasioned by default, then the undersigned bidder agrees to indemnify (Recipient) and pay over to (Recipient) the difference between the bid security and (Recipient's) total damages, so as to make (Recipient) whole.

The undersigned understands that any material alteration of any of the above or any of the material contained on this form, other than that requested, will render the bid unresponsive.

Performance and Payment Bonding Requirements (Construction)

The Contractor shall be required to obtain performance and payment bonds as follows:

(a) Performance bonds

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(b) Payment bonds

1. The penal amount of the payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$1 million.

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million;
or

(iii) Two and one half million if the contract price is more than \$5 million.

2. If the original contract price is \$5 million or less, the (Recipient) may require additional protection as required by subparagraph 1 if the contract price is increased.

Performance and Payment Bonding Requirements (Non-Construction)

The Contractor may be required to obtain performance and payment bonds when necessary to protect the (Recipient's) interest.

(a) The following situations may warrant a performance bond:

1. (Recipient) property or funds are to be provided to the contractor for use in performing the contract or as partial compensation (as in retention of salvaged material).

2. A contractor sells assets to or merges with another concern, and the (Recipient), after recognizing the latter concern as the successor in interest, desires assurance that it is financially capable.

3. Substantial progress payments are made before delivery of end items starts.

4. Contracts are for dismantling, demolition, or removal of improvements.

(b) When it is determined that a performance bond is required, the Contractor shall be required to obtain performance bonds as follows:

1. The penal amount of performance bonds shall be 100 percent of the original contract price, unless the (Recipient) determines that a lesser amount would be adequate for the protection of the (Recipient).

2. The (Recipient) may require additional performance bond protection when a contract price is increased. The increase in protection shall generally equal 100 percent of the increase in contract price. The (Recipient) may secure additional protection by directing the Contractor to increase the penal amount of the existing bond or to obtain an additional bond.

(c) A payment bond is required only when a performance bond is required, and if the use of payment bond is in the (Recipient's) interest.

(d) When it is determined that a payment bond is required, the Contractor shall be required to obtain payment bonds as follows:

1. The penal amount of payment bonds shall equal:

(i) Fifty percent of the contract price if the contract price is not more than \$1 million;

(ii) Forty percent of the contract price if the contract price is more than \$1 million but not more than \$5 million; or

(iii) Two and one half million if the contract price is increased.

Advance Payment Bonding Requirements

The Contractor may be required to obtain an advance payment bond if the contract contains an advance payment provision and a performance bond is not furnished. The (recipient) shall determine the amount of the advance payment bond necessary to protect the (Recipient).

Patent Infringement Bonding Requirements (Patent Indemnity)

The Contractor may be required to obtain a patent indemnity bond if a performance bond is not furnished and the financial responsibility of the Contractor is unknown or doubtful. The (recipient) shall determine the amount of the patent indemnity to protect the (Recipient).

Warranty of the Work and Maintenance Bonds

1. The Contractor warrants to (Recipient), the Architect and/or Engineer that all materials and equipment furnished under this Contract will be of highest quality and new unless otherwise specified by (Recipient), free from faults and defects and in conformance with the Contract Documents. All work not so conforming to these standards shall be considered defective. If required by the [Project Manager], the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

2. The Work furnished must be of first quality and the workmanship must be the best obtainable in the various trades. The Work must be of safe, substantial and durable construction in all respects. The Contractor hereby guarantees the Work against defective materials or faulty workmanship for a minimum period of one (1) year after Final Payment by (Recipient) and shall replace or repair any defective materials or equipment or faulty workmanship during the period of the guarantee at no cost to (Recipient). As additional security for these guarantees, the Contractor shall, prior to the release of Final Payment [as provided in Item X below], furnish separate Maintenance (or Guarantee) Bonds in form acceptable to (Recipient) written by the same corporate surety that provides the Performance Bond and Labor and Material Payment Bond for this Contract. These bonds shall secure the Contractor's obligation to replace or repair defective materials and faulty workmanship for a minimum period of one (1) year after Final Payment and shall be written in an amount equal to ONE HUNDRED PERCENT (100%) of the CONTRACT SUM, as adjusted (if at all).

14. CLEAN AIR
42 U.S.C. 7401 et
seq
40 CFR 15.61
49 CFR Part 18

Applicability to Contracts

The Clean Air requirements apply to all contracts exceeding \$100,000, including indefinite quantities where the amount is expected to exceed \$100,000 in any year.

Flow Down

The Clean Air requirements flow down to all subcontracts which exceed \$100,000.

Model Clauses/Language

No specific language is required. FTA has proposed the following language.

Clean Air - (1) The Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The Contractor agrees to report each violation to the Purchaser and understands and agrees that the

Purchaser will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

(2) The Contractor also agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FTA.

15. RECYCLED PRODUCTS
42 U.S.C. 6962
40 CFR Part 247
Executive Order 12873

Applicability to Contracts

The Recycled Products requirements apply to all contracts for items designated by the EPA, when the purchaser or contractor procures \$10,000 or more of one of these items during the fiscal year or has procured \$10,000 or more of such items in the previous fiscal year, using Federal funds. New requirements for "recovered materials" will become effective May 1, 1996. These new regulations apply to all procurement actions involving items designated by the EPA, where the procuring agency purchases \$10,000 or more of one of these items in a fiscal year, or when the cost of such items purchased during the previous fiscal year was \$10,000.

Flow Down

These requirements flow down to all to all contractor and subcontractor tiers.

Model Clause/Language

No specific clause is mandated, but FTA has developed the following language.

Recovered Materials - The contractor agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

16. DAVIS-BACON AND COPELAND ANTI-KICKBACK ACTS

Background and Application

The Davis-Bacon and Copeland Acts are codified at 40 USC 3141, *et seq.* and 18 USC 874. The Acts apply to grantee construction contracts and subcontracts that “at least partly are financed by a loan or grant from the Federal Government.” 40 USC 3145(a), 29 CFR 5.2(h), 49 CFR 18.36(i)(5). The Acts apply to any construction contract over \$2,000. 40 USC 3142(a), 29 CFR 5.5(a). ‘Construction,’ for purposes of the Acts, includes “actual construction, alteration and/or repair, including painting and decorating.” 29 CFR 5.5(a). The requirements of both Acts are incorporated into a single clause (*see* 29 CFR 3.11) enumerated at 29 CFR 5.5(a) and reproduced below.

The clause language is drawn directly from 29 CFR 5.5(a) and any deviation from the model clause below should be coordinated with counsel to ensure the Acts’ requirements are satisfied.

Clause Language

1. Davis-Bacon and Copeland Anti-Kickback Acts

(1) **Minimum wages** - (i) All laborers and mechanics employed or working upon the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph (1)(iv) of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period.

Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29

CFR Part 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classifications and wage rates conformed under paragraph (1)(ii) of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

(ii)(A) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(1) Except with respect to helpers as defined as 29 CFR 5.2(n)(4), the work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination; and

(4) With respect to helpers as defined in 29 CFR 5.2(n)(4), such a classification prevails in the area in which the work is performed.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(ii) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(iii) Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

(iv) If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, provided, that the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account asset for the meeting of obligations under the plan or program.

(v)(A) The contracting officer shall require that any class of laborers or mechanics which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefor only when the following criteria have been met:

(1) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(2) The classification is utilized in the area by the construction industry; and

(3) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(B) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(C) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination with 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(D) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs (a)(1)(v) (B) or (C) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

(2) **Withholding** - The [*insert name of grantee*] shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld from the contractor under this contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work (or under the United States Housing Act of 1937 or under the Housing Act of 1949 in the construction or development of the project), all or part of the wages required by the contract, the [*insert name of grantee*] may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

(3) **Payrolls and basic records** - (i) Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

(ii)(A) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the [*insert name of grantee*] for transmission to the Federal Transit Administration. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5. This information may be submitted in any form desired. Optional Form WH-347 is available for this purpose and may be purchased from the Superintendent of Documents (Federal Stock Number 029-005-00014-1), U.S. Government Printing Office, and Washington, DC 20402. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors.

(B) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(1) That the payroll for the payroll period contains the information required to be maintained under section 5.5(a)(3)(i) of Regulations, 29 CFR part 5 and that such information is correct and complete;

(2) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in Regulations, 29 CFR part 3;

(3) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(C) The weekly submission of a properly executed certification set forth on the reverse side

of Optional Form WH-347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph (a)(3)(ii)(B) of this section.

(D) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under section 1001 of title 18 and section 231 of title 31 of the United States Code.

(iii) The contractor or subcontractor shall make the records required under paragraph (a)(3)(i) of this section available for inspection, copying, or transcription by authorized representatives of the Federal Transit

Administration or the Department of Labor and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the Federal agency may, after written notice to the contractor, sponsor, applicant, or owner, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

(4) Apprentices and trainees - (i) Apprentices - Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Bureau of Apprenticeship and Training, or with a State Apprenticeship Agency recognized by the Bureau, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Bureau of Apprenticeship and Training or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice. The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator of the Wage and Hour Division of the U.S. Department of Labor determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination. In the event the Bureau of Apprenticeship and Training, or a State Apprenticeship Agency recognized by the Bureau, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(ii) Trainees - Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration. The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration. Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

(iii) Equal employment opportunity - The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

(5) **Compliance with Copeland Act requirements** - The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.

(6) **Subcontracts** - The contractor or subcontractor shall insert in any subcontracts the clauses contained in 29 CFR 5.5(a)(1) through (10) and such other clauses as the Federal Transit Administration may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

(7) **Contract termination: debarment** - A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

(8) **Compliance with Davis-Bacon and Related Act requirements** - All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract.

(9) **Disputes concerning labor standards** - Disputes arising out of the labor standards

provisions of this contract shall not be subject to the general dispute's clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (and any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

(10) **Certification of eligibility** - (i) By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(ii) No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

(iii) The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

17. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Background and Application

The Contract Work Hours and Safety Standards Act is codified at 40 USC 3701, *et seq.* The Act applies to grantee contracts and subcontracts "financed at least in part by loans or grants from ... the [Federal] Government." 40 USC 3701(b)(1)(B)(iii) and (b)(2), 29 CFR 5.2(h), 49 CFR 18.36(i)(6). Although the original Act required its application in any construction contract over \$2,000 or non-construction contract to which the Act applied over \$2,500 (and language to that effect is still found in 49 CFR 18.36(i)(6)), the Act no longer applies to any "contract in an amount that is not greater than \$100,000." 40 USC 3701(b)(3) (A)(iii).

The Act applies to construction contracts and, in very limited circumstances, non-construction projects that employ "laborers or mechanics on a public work." These non-construction applications do not generally apply to transit procurements because transit procurements (to include rail cars and buses) are deemed "commercial items." 40 USC 3707, 41 USC 403 (12). A grantee that contemplates entering into a contract to procure a developmental or unique item should consult counsel to determine if the Act applies to that procurement and that additional language required by 29 CFR 5.5(c) must be added to the basic clause below.

The clause language is drawn directly from 29 CFR 5.5(b) and any deviation from the model clause below should be coordinated with counsel to ensure the Act's requirements are satisfied.

Clause Language

2. Contract Work Hours and Safety Standards

(1) **Overtime requirements** - No contractor or subcontractor contracting for any part of the

contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages - The (*write in the name of the grantee*) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts - The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

18. [RESERVED]

19. NO GOVERNMENT OBLIGATION TO THIRD PARTIES

Applicability to Contracts

Applicable to all contracts.

Flow Down

Not required by statute or regulation for either primary contractors or subcontractors, this concept should flow down to all levels to clarify, to all parties to the contract, that the Federal Government does not have contractual liability to third parties, absent specific written consent.

Model Clause/Language

While no specific language is required, FTA has developed the following language.

No Obligation by the Federal Government.

(1) The Purchaser and Contractor acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying contract, absent the express written consent by the Federal Government, the Federal Government is not a party to this contract and shall not be subject to any obligations or liabilities to the Purchaser, Contractor, or any other party (whether or not a party to that contract) pertaining to any matter resulting from the underlying contract.

(2) The Contractor agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

20. PROGRAM FRAUD AND FALSE OR FRAUDULENT STATEMENTS AND RELATED ACTS

31 U.S.C. 3801

et seq.

49 CFR Part 31

18 U.S.C. 1001

49 U.S.C. 5307

Applicability to Contracts

These requirements are applicable to all contracts.

Flow Down

These requirements flow down to contractors and subcontractors who make, present, or submit covered claims and statements.

Model Clause/Language

These requirements have no specified language, so FTA proffers the following language.

Program Fraud and False or Fraudulent Statements or Related Acts.

(1) The Contractor acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. § 3801 et seq. and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying contract, the Contractor certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying contract or the FTA assisted project for which this contract work is being performed. In addition to other penalties that may be applicable, the Contractor further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the Contractor to the extent the Federal Government deems appropriate.

(2) The Contractor also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the Contractor, to the extent the Federal Government deems appropriate.

(3) The Contractor agrees to include the above two clauses in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

21. TERMINATION

49 U.S.C. Part 18

FTA Circular 4220.1E

Applicability to Contracts

All contracts (with the exception of contracts with nonprofit organizations and institutions of higher education,) in excess of \$10,000 shall contain suitable provisions for termination by the grantee including the manner by which it will be effected and the basis for settlement. (For contracts with nonprofit organizations and institutions of higher education the threshold is \$100,000.) In addition, such contracts shall describe conditions under which the contract may be terminated for default as well as conditions where the contract may be terminated because of circumstances beyond the control of the contractor.

Flow Down

The termination requirements flow down to all contracts in excess of \$10,000, with the exception of contracts with nonprofit organizations and institutions of higher learning.

Model Clause/Language

FTA does not prescribe the form or content of such clauses. The following are suggestions of clauses to be used in different types of contracts:

a. Termination for Convenience (General Provision) the (Recipient) may terminate this contract, in whole or in part, at any time by written notice to the Contractor when it is in the Government's best interest. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination. The Contractor shall promptly submit its termination claim to (Recipient) to be paid the Contractor. If the Contractor has any property in its possession belonging to the (Recipient), the Contractor will account for the same, and dispose of it in the manner the (Recipient) directs.

b. Termination for Default [Breach or Cause] (General Provision) If the Contractor does not deliver supplies in accordance with the contract delivery schedule, or, if the contract is for services, the Contractor fails to perform in the manner called for in the contract, or if the Contractor fails to comply with any other provisions of the contract, the (Recipient) may terminate this contract for default. Termination shall be effected by serving a notice of termination on the contractor setting forth the manner in which the Contractor is in default. The contractor will only be paid the contract price for supplies delivered and accepted, or services

performed in accordance with the manner of performance set forth in the contract.

If it is later determined by the (Recipient) that the Contractor had an excusable reason for not performing, such as a strike, fire, or flood, events which are not the fault of or are beyond the control of the Contractor, the (Recipient), after setting up a new delivery of performance schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

c. Opportunity to Cure (General Provision) the (Recipient) in its sole discretion may, in the case of a termination for breach or default, allow the Contractor [an appropriately short period of time] in which to cure the defect. In such case, the notice of termination will state the time period in which cure is permitted and other appropriate conditions

If Contractor fails to remedy to (Recipient)'s satisfaction the breach or default of any of the terms, covenants, or conditions of this Contract within [ten (10) days] after receipt by Contractor of written notice from (Recipient) setting forth the nature of said breach or default, (Recipient) shall have the right to terminate the Contract without any further obligation to Contractor. Any such termination for default shall not in any way operate to preclude (Recipient) from also pursuing all available remedies against Contractor and its sureties for said breach or default.

d. Waiver of Remedies for any Breach In the event that (Recipient) elects to waive its remedies for any breach by Contractor of any covenant, term or condition of this Contract, such waiver by (Recipient) shall not limit (Recipient)'s remedies for any succeeding breach of that or of any other term, covenant, or condition of this Contract.

e. Termination for Convenience (Professional or Transit Service Contracts) the (Recipient), by written notice, may terminate this contract, in whole or in part, when it is in the Government's interest. If this contract is terminated, the Recipient shall be liable only for payment under the payment provisions of this contract for services rendered before the effective date of termination.

f. Termination for Default (Supplies and Service) If the Contractor fails to deliver supplies or to perform the services within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. The Contractor will only be paid the contract price for supplies delivered and accepted, or services performed in accordance with the manner or performance set forth in this contract.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

g. Termination for Default (Transportation Services) if the Contractor fails to pick up the commodities or to perform the services, including delivery services, within the time specified in this contract or any extension or if the Contractor fails to comply with any other provisions

of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature of default. The Contractor will only be paid the contract price for services performed in accordance with the manner of performance set forth in this contract.

If this contract is terminated while the Contractor has possession of Recipient goods, the Contractor shall, upon direction of the (Recipient), protect and preserve the goods until surrendered to the Recipient or its agent. The Contractor and (Recipient) shall agree on payment for the preservation and protection of goods. Failure to agree on an amount will be resolved under the Dispute clause.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the (Recipient).

h. Termination for Default (Construction) If the Contractor refuses or fails to prosecute the work or any separable part, with the diligence that will insure its completion within the time specified in this contract or any extension or fails to complete the work within this time, or if the Contractor fails to comply with any other provisions of this contract, the (Recipient) may terminate this contract for default. The (Recipient) shall

terminate by delivering to the Contractor a Notice of Termination specifying the nature of the default. In this event, the Recipient may take over the work and complete it by contract or otherwise, and may take possession of and use any materials, appliances, and plant on the work site necessary for completing the work. The Contractor and its sureties shall be liable for any damage to the Recipient resulting from the Contractor's refusal or failure to complete the work within specified time, whether or not the Contractor's right to proceed with the work is terminated. This liability includes any increased costs incurred by the Recipient in completing the work.

The Contractor's right to proceed shall not be terminated nor the Contractor charged with damages under this clause if-

1. the delay in completing the work arises from unforeseeable causes beyond the control and without the fault or negligence of the Contractor. Examples of such causes include acts of God, acts of the Recipient, acts of another Contractor in the performance of a contract with the Recipient, epidemics, quarantine restrictions, strikes, freight embargoes; and
2. the contractor, within [10] days from the beginning of any delay, notifies the (Recipient) in writing of the causes of delay. If in the judgment of the (Recipient), the delay is excusable, the time for completing the work shall be extended. The judgment of the (Recipient) shall be final and conclusive on the parties, but subject to appeal under the Disputes clauses.

If, after termination of the Contractor's right to proceed, it is determined that the Contractor was not in default, or that the delay was excusable, the rights and obligations of the parties will be the same as if the termination had been issued for the convenience of the Recipient.

i. Termination for Convenience or Default (Architect and Engineering) the (Recipient) may terminate this contract in whole or in part, for the Recipient's convenience or because of the failure of the Contractor to fulfill the contract obligations. The (Recipient) shall terminate by delivering to the Contractor a Notice of Termination specifying the nature, extent, and

effective date of the termination. Upon receipt of the notice, the Contractor shall (1) immediately discontinue all services affected (unless the notice directs otherwise), and (2) deliver to the Contracting Officer all data, drawings, specifications, reports, estimates, summaries, and other information and materials accumulated in performing this contract, whether completed or in process.

If the termination is for the convenience of the Recipient, the Contracting Officer shall make an equitable adjustment in the contract price but shall allow no anticipated profit on unperformed services.

If the termination is for failure of the Contractor to fulfill the contract obligations, the Recipient may complete the work by contract or otherwise and the Contractor shall be liable for any additional cost incurred by the Recipient.

If, after termination for failure to fulfill contract obligations, it is determined that the Contractor was not in default, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of the Recipient.

j. Termination for Convenience of Default (Cost-Type Contracts) the (Recipient) may terminate this contract, or any portion of it, by serving a notice or termination on the Contractor. The notice shall state whether the termination is for convenience of the (Recipient) or for the default of the Contractor. If the termination is for default, the notice shall state the manner in which the contractor has failed to perform the requirements of the contract. The Contractor shall account for any property in its possession paid for from funds received from the (Recipient), or property supplied to the Contractor by the (Recipient). If the termination is for default, the (Recipient) may fix the fee, if the contract provides for a fee, to be paid the contractor in proportion to the value, if any, of work performed up to the time of termination. The Contractor shall promptly submit its termination claim to the (Recipient) and the parties shall negotiate the termination settlement to be paid the Contractor.

If the termination is for the convenience of the (Recipient), the Contractor shall be paid its contract close-out costs, and a fee, if the contract provided for payment of a fee, in proportion to the work performed up to the time of termination.

If, after serving a notice of termination for default, the (Recipient) determines that the Contractor has an excusable reason for not performing, such as strike, fire, flood, events which are not the fault of and are beyond the control of the contractor, the (Recipient), after setting up a new work schedule, may allow the Contractor to continue work, or treat the termination as a termination for convenience.

In conjunction with the Office of Management and Budget and other affected Federal agencies, DOT published an update to 49 CFR Part 29 on November 26, 2003. This government-wide regulation implements Executive Order 12549, *Debarment and Suspension*, Executive Order 12689, *Debarment and Suspension*, and 31 U.S.C. 6101 note (Section 2455, Public Law 103-355, 108 Stat. 3327).

The provisions of Part 29 apply to all grantee contracts and subcontracts at any level expected to equal or exceed \$25,000 as well as any contract or subcontract (at any level) for Federally required auditing services. 49 CFR 29.220(b). This represents a change from prior practice in that the dollar threshold for application of these rules has been lowered from \$100,000 to \$25,000. These are contracts and subcontracts referred to in the regulation as "covered transactions."

Grantees, contractors, and subcontractors (at any level) that enter into covered transactions are required to verify that the entity (as well as its principals and affiliates) they propose to contract or subcontract with is not excluded or disqualified. They do this by (a) Checking the Excluded Parties List System, (b) Collecting a certification from that person, or (c) Adding a clause or condition to the contract or subcontract. This represents a change from prior practice in that certification is still acceptable but is no longer required. 49 CFR 29.300.

Grantees, contractors, and subcontractors who enter into covered transactions also must require the entities they contract with to comply with 49 CFR 29, subpart C and include this requirement in their own subsequent covered transactions (i.e., the requirement flows down to subcontracts at all levels).

Clause Language

The following clause language is suggested, not mandatory. It incorporates the optional method of verifying that contractors are not excluded or disqualified by certification.

Suspension and Debarment

This contract is a covered transaction for purposes of 49 CFR Part 29. As such, the contractor is required to verify that none of the contractor, its principals, as defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The contractor is required to comply with 49 CFR 29, Subpart C and must include the requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the bidder or proposer certifies as follows:

The certification in this clause is a material representation of fact relied upon by {insert agency name}. If it is later determined that the bidder or proposer knowingly rendered an erroneous certification, in addition to remedies available to {insert agency name}, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The bidder or proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

Applicability to Contracts

When a grantee maintains files on drug and alcohol enforcement activities for FTA, and those files are organized so that information could be retrieved by personal identifier, the Privacy Act requirements apply to all contracts.

Flow Down

The Federal Privacy Act requirements flow down to each third-party contractor and their contracts at every tier.

Model Clause/Language

The text of the following clause has not been mandated by statute or specific regulation but has been developed by FTA.

Contracts Involving Federal Privacy Act Requirements - The following requirements apply to the Contractor and its employees that administer any system of records on behalf of the Federal Government under any contract:

(1) The Contractor agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974,

5 U.S.C. § 552a. Among other things, the Contractor agrees to obtain the express consent of the Federal Government before the Contractor or its employees operate a system of records on behalf of the Federal Government. The Contractor understands that the requirements of the Privacy Act, including the civil and criminal penalties for violation of that Act, apply to those individuals involved, and that failure to comply with the terms of the Privacy Act may result in termination of the underlying contract.

(2) The Contractor also agrees to include these requirements in each subcontract to administer any system of records on behalf of the Federal Government financed in whole or in part with Federal assistance provided by FTA.

24. CIVIL RIGHTS REQUIREMENTS
29 U.S.C. § 623, 42 U.S.C. §
2000
42 U.S.C. § 6102, 42 U.S.C.
§ 12112
42 U.S.C. § 12132, 49
U.S.C. § 5332
29 CFR Part 1630, 41 CFR
Parts 60 et seq.

Applicability to Contracts

The Civil Rights Requirements apply to all contracts.

Flow Down

The Civil Rights requirements flow down to all third-party contractors and their contracts at every tier.

Model Clause/Language

The following clause was predicated on language contained at 49 CFR Part 19, Appendix A, but FTA has shortened the lengthy text.

Civil Rights - The following requirements apply to the underlying contract:

(1) Nondiscrimination - In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the Contractor agrees to comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(2) Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying contract:

(a) Race, Color, Creed, National Origin, Sex - In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the Contractor agrees to comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 *et seq.*, (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e note), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The Contractor agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(b) Age - In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29

U.S.C. § § 623 and Federal transit law at 49 U.S.C. § 5332, the Contractor agrees to refrain from discrimination against present and prospective employees for reason of age. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(c) Disabilities - In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C.

§ 12112, the Contractor agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the Contractor agrees to comply with any implementing requirements FTA may issue.

(3) The Contractor also agrees to include these requirements in each subcontract financed in

whole or in part with Federal assistance provided by FTA, modified only if necessary, to identify the affected parties.

25. BREACHES AND DISPUTE RESOLUTION

49 CFR Part

18 FTA

Circular

4220.1E

Applicability to Contracts

All contracts in excess of \$100,000 shall contain provisions or conditions which will allow for administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as may be appropriate. This may include provisions for bonding, penalties for late or inadequate performance, retained earnings, liquidated damages or other appropriate measures.

Flow Down

The Breaches and Dispute Resolutions requirements flow down to all tiers.

Model Clauses/Language

FTA does not prescribe the form or content of such provisions. What provisions are developed will depend on the circumstances and the type of contract. Recipients should consult legal counsel in developing appropriate clauses. The following clauses are examples of provisions from various FTA third party contracts.

Disputes - Disputes arising in the performance of this Contract which are not resolved by agreement of the parties shall be decided in writing by the authorized representative of (Recipient)'s [title of employee]. This decision shall be final and conclusive unless within [ten (10)] days from the date of receipt of its copy, the Contractor mails or otherwise furnishes a written appeal to the [title of employee]. In connection with any such appeal, the Contractor shall be afforded an opportunity to be heard and to offer evidence in support of its position. The decision of the [title of employee] shall be binding upon the Contractor and the Contractor shall abide by the decision.

Performance During Dispute - Unless otherwise directed by (Recipient), Contractor shall continue performance under this Contract while matters in dispute are being resolved.

Claims for Damages - Should either party to the Contract suffer injury or damage to person or property because of any act or omission of the party or of any of his employees, agents or others for whose acts he is legally liable, a claim for damages therefor shall be made in writing to such other party within a reasonable time after the first observance of such injury or damage.

Remedies - Unless this contract provides otherwise, all claims, counterclaims, disputes and other matters in question between the (Recipient) and the Contractor arising out of or relating to this agreement or its breach will be decided by arbitration if the parties mutually agree, or in a court of competent jurisdiction within the State in which the (Recipient) is located.

Rights and Remedies - The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. No action or failure to act by the (Recipient), (Architect) or Contractor shall constitute a waiver of any right or duty afforded any of them under the Contract, nor shall any

such action or failure to act constitute an approval of or acquiescence in any breach thereunder, except as may be specifically agreed in writing.

26. PATENT AND RIGHTS IN DATA

37 CFR Part 401

49 CFR Parts 18 and 19

Applicability to Contracts

Patent and rights in data requirements for federally assisted projects ONLY apply to research projects in which FTA finances the purpose of the grant is to finance the development of a product or information. These patent and data rights requirements do not apply to capital projects or operating projects, even though a small portion of the sales price may cover the cost of product development or writing the user's manual.

Flow Down

The Patent and Rights in Data requirements apply to all contractors and their contracts at every tier.

Model Clause/Language

The FTA patent clause is substantially similar to the text of 49 C.F.R. Part 19, Appendix A, Section 5, but the rights in data clause reflects FTA objectives. For patent rights, FTA is governed by Federal law and regulation. For data rights, the text on copyrights is insufficient to meet FTA's purposes for awarding research grants. This model clause, with larger rights as a standard, is proposed with the understanding that this standard could be modified to FTA's needs.

CONTRACTS INVOLVING EXPERIMENTAL, DEVELOPMENTAL, OR RESEARCH WORK.

A. Rights in Data - These following requirements apply to each contract involving experimental, developmental or research work:

(1) The term "subject data" used in this clause means recorded information, whether or not copyrighted, that is delivered or specified to be delivered under the contract. The term includes graphic or pictorial delineation in media such as drawings or photographs; text in specifications or related performance or design-type documents; machine forms such as punched cards, magnetic tape, or computer memory printouts; and information retained in computer memory. Examples include, but are not limited to computer software, engineering drawings and associated lists, specifications, standards, process sheets, manuals, technical reports, catalog item identifications, and related information. The term "subject data" does not include financial reports, cost analyses, and similar information incidental to contract administration.

(2) The following restrictions apply to all subject data first produced in the performance of the contract to which this Attachment has been added:

(a) Except for its own internal use, the Purchaser or Contractor may not publish or reproduce subject data in whole or in part, or in any manner or form, nor may the Purchaser or Contractor authorize others to do so, without the written consent of the Federal Government, until such time as the Federal Government may have either released or approved the release

of such data to the public; this restriction on publication, however, does not apply to any contract with an academic institution.

(b) In accordance with 49 C.F.R. § 18.34 and 49 C.F.R. § 19.36, the Federal Government reserves a royalty- free, non-exclusive and irrevocable license to reproduce, publish, or otherwise use, and to authorize others to use, for "Federal Government purposes," any subject data or copyright described in subsections (2)(b)1 and (2)(b)2 of this clause below. As used in the previous sentence, "for Federal Government purposes," means use only for the direct purposes of the Federal Government. Without the copyright owner's consent, the Federal Government may not extend its Federal license to any other party.

1. Any subject data developed under that contract, whether or not a copyright has been obtained; and

2. Any rights of copyright purchased by the Purchaser or Contractor using Federal assistance in whole or in part provided by FTA.

(c) When FTA awards Federal assistance for experimental, developmental, or research work, it is FTA's general intention to increase transportation knowledge available to the public, rather than to restrict the benefits resulting from the work to participants in that work. Therefore, unless FTA determines otherwise, the Purchaser and the Contractor performing experimental, developmental, or research work required by the underlying contract to which this Attachment is added agrees to permit FTA to make available to the public, either FTA's license in the copyright to any subject data developed in the course of that contract, or a copy of the subject data first produced under the contract for which a copyright has not been obtained. If the experimental, developmental, or research work, which is the subject of the underlying contract, is not completed for any reason whatsoever, all data developed under that contract shall become subject data as defined in subsection (a) of this clause and shall be delivered as the Federal Government may direct. This subsection (c), however, does not apply to adaptations of automatic data processing equipment or programs for the Purchaser or Contractor's use whose costs are financed in whole or in part with Federal assistance provided by FTA for transportation capital projects.

(d) Unless prohibited by state law, upon request by the Federal Government, the Purchaser and the Contractor agree to indemnify, save, and hold harmless the Federal Government, its officers, agents, and employees acting within the scope of their official duties against any liability, including costs and expenses, resulting from any willful or intentional violation by the Purchaser or Contractor of proprietary rights, copyrights, or right of privacy, arising out of the publication, translation, reproduction, delivery, use, or disposition of any data furnished under that contract. Neither the Purchaser nor the Contractor shall be required to indemnify the Federal Government for any such liability arising out of the wrongful act of any employee, official, or agents of the Federal Government.

(e) Nothing contained in this clause on rights in data shall imply a license to the Federal Government under any patent or be construed as affecting the scope of any license or other right otherwise granted to the Federal Government under any patent.

(f) Data developed by the Purchaser or Contractor and financed entirely without using Federal assistance provided by the Federal Government that has been incorporated into work required by the underlying contract to which this Attachment has been added is exempt from the

requirements of subsections (b), (c), and (d) of this clause, provided that the Purchaser or Contractor identifies that data in writing at the time of delivery of the contract work.

(g) Unless FTA determines otherwise, the Contractor agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

(3) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (i.e., a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual, etc.), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in

U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(4) The Contractor also agrees to include these requirements in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

B. Patent Rights - The following requirements apply to each contract involving experimental, developmental, or research work:

(1) General - If any invention, improvement, or discovery is conceived or first actually reduced to practice in the course of or under the contract to which this Attachment has been added, and that invention, improvement, or discovery is patentable under the laws of the United States of America or any foreign country, the Purchaser and Contractor agree to take actions necessary to provide immediate notice and a detailed report to the party at a higher tier until FTA is ultimately notified.

(2) Unless the Federal Government later makes a contrary determination in writing, irrespective of the Contractor's status (a large business, small business, state government or state instrumentality, local government, nonprofit organization, institution of higher education, individual), the Purchaser and the Contractor agree to take the necessary actions to provide, through FTA, those rights in that invention due the Federal Government as described in U.S. Department of Commerce regulations, "Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements," 37 C.F.R. Part 401.

(3) The Contractor also agrees to include the requirements of this clause in each subcontract for experimental, developmental, or research work financed in whole or in part with Federal assistance provided by FTA.

27. TRANSIT EMPLOYEE PROTECTIVE AGREEMENTS

**49 U.S.C. § 5310, §
5311, and § 5333
29 CFR Part 215**

Applicability to Contracts

The Transit Employee Protective Provisions apply to each contract for transit operations performed by employees of a Contractor recognized by FTA to be a transit operator. (Because transit operations involve many activities apart from directly driving or operating transit vehicles, FTA determines which activities constitute transit "operations" for purposes of this clause.)

Flow Down

These provisions are applicable to all contracts and subcontracts at every tier.

Model Clause/Language

Since no mandatory language is specified, FTA had developed the following language:

Transit Employee Protective Provisions. (1) The Contractor agrees to comply with applicable transit employee protective requirements as follows:

(a) General Transit Employee Protective Requirements - To the extent that FTA determines that transit operations are involved, the Contractor agrees to carry out the transit operations work on the underlying contract in compliance with terms and conditions determined by the U.S. Secretary of Labor to be fair and equitable to protect the interests of employees employed under this contract and to meet the employee protective requirements of 49 U.S.C. A 5333(b), and U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the letter of certification from the U.S. DOL to FTA applicable to the FTA Recipient's project from which Federal assistance is provided to support work on the underlying contract. The Contractor agrees to carry out that work in compliance with the conditions stated in that U.S. DOL letter. The requirements of this subsection (1), however, do not apply to any contract financed with Federal assistance provided by FTA either for projects for elderly individuals and individuals with disabilities authorized by 49 U.S.C. § 5310(a)(2), or for projects for nonurbanized areas authorized by 49 U.S.C. § 5311. Alternate provisions for those projects are set forth in subsections (b) and (c) of this clause.

(b) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5310(a)(2) for Elderly Individuals and Individuals with Disabilities - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5310(a)(2), and if the U.S. Secretary of Transportation has determined or determines in the future that the employee protective requirements of 49 U.S.C. § 5333(b) are necessary or appropriate for the state and the public body subrecipient for which work is performed on the underlying contract, the Contractor agrees to carry out the Project in compliance with the terms and conditions determined by the U.S. Secretary of Labor to meet the requirements of 49 U.S.C. § 5333(b), U.S. DOL guidelines at 29 C.F.R. Part 215, and any amendments thereto. These terms and conditions are identified in the

U.S. DOL's letter of certification to FTA, the date of which is set forth Grant Agreement or Cooperative Agreement with the state. The Contractor agrees to perform transit operations in connection with the underlying contract in compliance with the conditions stated in that U.S. DOL letter.

(c) Transit Employee Protective Requirements for Projects Authorized by 49 U.S.C. § 5311 in Nonurbanized Areas - If the contract involves transit operations financed in whole or in part with Federal assistance authorized by 49 U.S.C. § 5311, the Contractor agrees to comply with the terms and conditions of the Special Warranty for the Nonurbanized Area Program agreed to by the U.S. Secretaries of Transportation and Labor, dated May 31, 1979, and the procedures implemented by U.S. DOL or any revision thereto.

(2) The Contractor also agrees to include the any applicable requirements in each subcontract involving transit operations financed in whole or in part with Federal assistance provided by FTA.

28. DISADVANTAGED BUSINESS ENTERPRISE (DBE)

49 CFR Part 26

Background and Applicability

The newest version on the Department of Transportation's Disadvantaged Business Enterprise (DBE) program became effective July 16, 2003. The rule provides guidance to grantees on the use of overall and contract goals, requirement to include DBE provisions in subcontracts, evaluating DBE participation where specific contract goals have been set, reporting requirements, and replacement of DBE subcontractors. Additionally, the DBE program dictates payment terms and conditions (including limitations on retainage) applicable to all subcontractors regardless of whether they are DBE firms or not.

The DBE program applies to all DOT-assisted contracting activities. A formal clause such as that below must be included in all contracts above the micro-purchase level. The requirements of clause subsection b flow down to subcontracts.

A substantial change to the payment provisions in this newest version of Part 26 concerns retainage (*see* section 26.29). Grantee choices concerning retainage should be reflected in the language choices in clause subsection d.

Clause Language

The following clause language is suggested, not mandatory. It incorporates the payment terms and conditions applicable to all subcontractors based in Part 26 as well as those related only to DBE subcontractors. The suggested language allows for the options available to grantees concerning retainage, specific contract goals, and evaluation of DBE subcontracting participation when specific contract goals have been established.

Disadvantaged Business Enterprises

a. This contract is subject to the requirements of Title 49, Code of Federal Regulations, Part 26, *Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs*. The national goal for participation of Disadvantaged Business Enterprises (DBE) is 10%. The agency's overall goal for DBE participation is %. A separate contract goal [of % DBE participation has] [has not] been established for this procurement.

b. The contractor shall not discriminate on the basis of race, color, national origin, or sex in

the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of this DOT-assisted contract. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as {insert agency name} deems appropriate. Each subcontract the contractor signs with a subcontractor must include the assurance in this paragraph (see 49 CFR 26.13(b)).

c. *{If a separate contract goal has been established, use the following}* Bidders/offerors are required to document sufficient DBE participation to meet these goals or, alternatively, document adequate good faith efforts to do so, as provided for in 49 CFR 26.53. Award of this contract is conditioned on submission of the following **[concurrent with and accompanying sealed bid] [concurrent with and accompanying an initial proposal] [prior to award]:**

1. The names and addresses of DBE firms that will participate in this contract;
2. A description of the work each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written documentation of the bidder/offeror's commitment to use a DBE subcontractor whose participation it submits to meet the contract goal;
5. Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts to do so.

[Bidders][Offerors] must present the information required above **[as a matter of responsiveness] [with initial proposals] [prior to contract award]** (see 49 CFR 26.53(3)).

{If no separate contract goal has been established, use the following} The successful bidder/offeror will be required to report its DBE participation obtained through race-neutral means throughout the period of performance.

d. The contractor is required to pay its subcontractors performing work related to this contract for satisfactory performance of that work no later than 30 days after the contractor's receipt of payment for that work from the {insert agency name}. In addition, **[the contractor may not hold retainage from its subcontractors.] [is required to return any retainage payments to those subcontractors within 30 days after the subcontractor's work related to this contract is satisfactorily completed.] [is required to return any retainage payments to those subcontractors within 30 days after incremental acceptance of the subcontractor's work by the {insert agency name} and contractor's receipt of the partial retainage payment related to the subcontractor's work.]**

e. The contractor must promptly notify {insert agency name}, whenever a DBE subcontractor performing work related to this contract is terminated or fails to complete its work and must make good faith efforts to engage another DBE subcontractor to perform at

least the same amount of work. The contractor may not terminate any DBE subcontractor and perform that work through its own forces or those of an affiliate without prior written consent of {insert agency name}.

29. [RESERVED]

30. INCORPORATION OF FEDERAL TRANSIT ADMINISTRATION (FTA) TERMS **FTA Circular 4220.1E**

Applicability to Contracts

The incorporation of FTA terms applies to all contracts.

Flow Down

The incorporation of FTA terms has unlimited flow down.

Model Clause/Language

FTA has developed the following incorporation of terms language:

Incorporation of Federal Transit Administration (FTA) Terms - The preceding provisions include, in part, certain Standard Terms and Conditions required by DOT, whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in FTA Circular 4220.1E, are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The Contractor shall not perform any act, fail to perform any act, or refuse to comply with any (name of grantee) requests which would cause (name of grantee) to be in violation of the FTA terms and conditions.

31. DRUG AND ALCOHOL TESTING

49 U.S.C. 85331
49 CFR Parts 653 and 654

Applicability to Contracts

The Drug and Alcohol testing provisions apply to Operational Service Contracts.

Flow Down Requirements

Anyone who performs a safety-sensitive function for the recipient or subrecipient is required to comply with 49 CFR 653 and 654, with certain exceptions for contracts involving maintenance services. Maintenance contractors for non-urbanized area formula program grantees are not subject to the rules. Also, the rules do not apply to maintenance subcontractors.

Model Clause/Language

Introduction

FTA's drug and alcohol rules, 49 CFR 653 and 654, respectively, are unique among the regulations issued by FTA. First, they require recipients to ensure that any entity performing a safety-sensitive function on the recipient's behalf (usually subrecipients and/or contractors) implement a complex drug and alcohol testing program that complies with Parts 653 and 654. Second, the rules condition the receipt of certain kinds of FTA funding on the recipient's compliance with the rules; thus, the recipient is not in compliance with the rules unless every entity that performs a safety-sensitive function on the recipient's behalf is in compliance with the rules. Third, the rules do not specify how a recipient ensures that its subrecipients and/or contractors comply with them.

How a recipient does so depends on several factors, including whether the contractor is covered independently by the drug and alcohol rules of another Department of Transportation operating administration, the nature of the relationship that the recipient has with the contractor, and the financial resources available to the recipient to oversee the contractor's drug and alcohol testing program. In short, there are a variety of ways a recipient can ensure that its subrecipients and contractors comply with the rules.

Therefore, FTA has developed three model contract provisions for recipients to use "as is" or to modify to fit their particular situations.

Explanation of Model Contract Clauses

Under Option 1, the recipient ensures the contractor's compliance with the rules by requiring the contractor to participate in a drug and alcohol program administered by the recipient. The advantages of doing this are obvious: the recipient maintains total control over its compliance with 49 CFR 653 and 654. The disadvantage is that the recipient, which may not directly employ any safety-sensitive employees, has to implement a complex testing program. Therefore, this may be a practical option only for those recipients which have a testing program for their employees and can add the contractor's safety-sensitive employees to that program.

Under Option 2, the recipient relies on the contractor to implement a drug and alcohol testing program that complies with 49 CFR 653 and 654, but retains the ability to monitor the contractor's testing program; thus, the recipient has less control over its compliance with the drug and alcohol testing rules than it does under option 1. The advantage of this approach is that it places the responsibility for complying with the rules on the entity that is actually performing the safety-sensitive function. Moreover, it reserves to the recipient the power to ensure that the contractor complies with the program. The disadvantage of Option 2 is that without adequate monitoring of the contractor's program, the recipient may find itself out of compliance with the rules.

Under option 3, the recipient specifies some or all of the specific features of a contractor's drug and alcohol compliance program. Thus, it requires the recipient to decide what it wants to do and how it wants to do it. The advantage of this option is that the recipient has more control over the contractor's drug and alcohol testing program, yet it is not actually administering the testing program. The disadvantage is that the recipient has to specify and understand clearly what it wants to do and why.

Drug and Alcohol Testing Option 1

The contractor agrees to:

(a) participate in (grantee's or recipient's) drug and alcohol program established in compliance with 49 CFR 653 and 654.

**Drug and
Alcohol
Testing
Option 2**

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State), or the (insert name of grantee), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register.

**Drug and
Alcohol
Testing
Option 3**

The contractor agrees to establish and implement a drug and alcohol testing program that complies with 49 CFR Parts 653 and 654, produce any documentation necessary to establish its compliance with Parts 653 and 654, and permit any authorized representative of the United States Department of Transportation or its operating administrations, the State Oversight Agency of (name of State), or the (insert name of grantee), to inspect the facilities and records associated with the implementation of the drug and alcohol testing program as required under 49 CFR Parts 653 and 654 and review the testing process. The contractor agrees further to certify annually its compliance with Parts 653 and 654 before (insert date) and to submit the Management Information System (MIS) reports before (insert date before March 15) to (insert title and address of person responsible for receiving information). To certify compliance the contractor shall use the "Substance Abuse Certifications" in the "Annual List of Certifications and Assurances for Federal Transit Administration Grants and Cooperative Agreements," which is published annually in the Federal Register. The Contractor agrees further to [Select a, b, or c] (a) submit before (insert date or upon request) a copy of the Policy Statement developed to implement its drug and alcohol testing program; OR (b) adopt (insert title of the Policy Statement the recipient wishes the contractor to use) as its policy statement as required under 49 CFR 653 and 654; OR (c) submit for review and approval before (insert date or upon request) a copy of its Policy Statement developed to implement its drug and alcohol testing program. In addition, the contractor agrees to: (to be determined by the recipient but may address areas such as: the selection of the certified laboratory, substance abuse professional, or Medical Review Officer, or the use of a consortium).

**32. VETERAN'S
PREFERENCE Chapter IV, 2.c.
(1)(c) C4220.1F of FTA C 4220.1F**

Contractors working on a capital project funded using such assistance give a hiring preference, to the extent practicable, to veterans (as defined in section 2108 of title 5) who have the requisite skills and abilities to perform the construction work required under the contract. This subsection shall not be understood, construed or enforced in any manner that would require an employer to give preference to any veteran over any equally qualified applicant who is a member of any racial or ethnic minority, female, an individual with a disability, or former employee.

33. OCCUPATIONAL SAFETY AND HEALTH ACT COMPLIANCE

All contracts and subcontracts that result from this solicitation incorporate by reference the requirements of 29 CFR Part 1910 with the same force and effect as if given in full text. Contractor must provide a work environment that is free from recognized hazards that may cause death or serious physical harm to the employee. The Contractor retains full responsibility to monitor its compliance and their subcontractor's compliance with the applicable requirements of the Occupational Safety and Health Act of 1970 (20 CFR Part 1910). Contractor must address any claims or disputes that pertain to a referenced requirement directly with the U.S. Department of Labor – Occupational Safety and Health Administration.

34. FAIR LABOR STANDARDS ACT

All contracts and subcontracts that result from this solicitation incorporate by reference the provisions of 29 CFR part 201, the Federal Fair Labor Standards Act (FLSA), with the same force and effect as if given in full text. The FLSA sets minimum wage, overtime pay, recordkeeping, and child labor standards for full and part time workers.

The [contractor | consultant] has full responsibility to monitor compliance to the referenced statute or regulation. The [contractor | consultant] must address any claims or disputes that arise from this requirement directly with the U.S. Department of Labor – Wage and Hour Division.

35. TEXTING WHEN DRIVING

In accordance with Executive Order 13513, "Federal Leadership on Reducing Text Messaging While Driving" (10/1/2009) and DOT Order 3902.10 "Text Messaging While Driving" (12/30/2009), the FAA encourages recipients of Federal grant funds to adopt and enforce safety policies that decrease crashes by distracted drivers, including policies to ban text messaging while driving when performing work related to a grant or sub-grant.

In support of this initiative, the Owner encourages the Contractor to promote policies and initiatives for its employees and other work personnel that decrease crashes by distracted drivers, including policies that ban text messaging while driving motor vehicles while performing work activities associated with the project. The Contractor must include the substance of this clause in all sub-tier contracts exceeding \$3,500 and involve driving a motor vehicle in performance of work activities associated with the project.

36. E-VERIFY

Enrollment and verification requirements.

- (1) If the Contractor is not enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall-
 - a. Enroll. Enroll as a Federal Contractor in the E-Verify Program within thirty (30) calendar days of contract award;
 - b. Verify all new employees. Within ninety (90) calendar days of enrollment in the E-Verify program, begin to use E-Verify to initiate verification of

employment eligibility of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see paragraph (b)(3) of this section); and,

- c. Verify employees assigned to the contract. For each employee assigned to the contract, initiate verification within ninety (90) calendar days after date of enrollment or within thirty (30) calendar days of the employee's assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section.)

(2) If the Contractor is enrolled as a Federal Contractor in E-Verify at time of contract award, the Contractor shall use E-Verify to initiate verification of employment eligibility of

- a. All new employees.
 - i. Enrolled ninety (90) calendar days or more. The Contractor shall initiate verification of all new hires of the Contractor, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see paragraph (b)(3) of this section); or
 - b. Enrolled less than ninety (90) calendar days. Within ninety (90) calendar days after enrollment as a Federal Contractor in E-Verify, the Contractor shall initiate verification of all new hires of the contractor, who are working in the United States, whether or not assigned to the contract, within three (3) business days after the date of hire (but see paragraph (b)(3) of this section; or
 - ii. Employees assigned to the contract. For each employee assigned to the contract, the Contractor shall initiate verification within ninety (90) calendar days after date of contract award or within thirty (30) days after assignment to the contract, whichever date is later (but see paragraph (b)(4) of this section.)

(3) If the Contractor is an institution of higher education (as defined at 20 U.S.C. 1001(a)); a State of local government or the government of a Federally recognized Indian tribe, or a surety performing under a takeover agreement entered into with a Federal agency pursuant to a performance bond, the Contractor may choose to verify only employees assigned to the contract, whether existing employees or new hires. The Contractor shall follow the applicable verification requirements of (b)(1) or (b)(2), respectively, except that any requirement for verification of new employees applies only to new employees assigned to the contract.

(4) Option to verify employment eligibility of all employees. The Contractor may elect to verify all existing employees hired after November 6, 2006 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), rather than just those employees assigned to the contract. The Contractor shall initiate verification for each

existing employee working in the United States who was hired after November 6, 1986 (after November 27, 2009, in the Commonwealth of the Northern Mariana Islands), within one hundred eighty (180) calendar days of-

- i. Enrollment in the E-Verify program; or
- ii. Notification to E-Verify Operations of the Contractor's decision to exercise this option, using the contract information provided in the E-Verify program Memorandum of Understanding (MOU)

(5) The Contractor shall comply, for the period of performance of this contract, with the requirements of the E-Verify program MOU.

- i. The Department of Homeland Security (DHS) or the Social Security Administration (SSA) may terminate the Contractor's MOU and deny access to the E-Verify system in accordance with the terms of the MOU. In such case, the Contractor, will be referred to a suspension or debarment official.
- ii. During the period between termination of the MOU and a decision by the suspension or debarment official whether to suspend or debar, the contractor is excused from its obligations under paragraph (b) of this clause. If the suspension or debarment official determines not to suspend or debar the Contractor, then the Contractor must reenroll in E-Verify.
- iii. Web site. Information on registration for and use of the E-Verify program can be obtained via the Internet at the Department of Homeland Security Web site: <http://www.dhs.gov/E-Verify>.

Individuals previously verified. The Contractor is not required by this clause to perform additional employment verification using E-Verify for any employee-

- (a) Whose employment eligibility was previously verified by the Contractor through the E-Verify program;
- (b) Who has been granted and holds an active U.S. Government security clearance for access to confidential, secret, or top-secret information in accordance with the National Industrial Security Program Operating Manual; or?
- (c) Who has undergone a completed background investigation and been issued credentials pursuant to Homeland Security Presidential Directive (HSPD)-12. Policy for a Common Identification Standard for Federal Employees and Contractors.

Subcontracts. The Contractor shall include the requirements of this clause, including this paragraph E (appropriately modified for identification of the parties in each subcontract that-

- (1) Is for-(i) Commercial and noncommercial services (except for commercial services that are part of the purchase of a COTS item (or an item that would be a COTS item, but for minor modifications), performed by the COTS provider, and are normally provided for that COTS item); or

- (ii) Construction;
- (2) Has a value of more than \$3,500; and
- (3) Includes work performed in the United States.

EXHIBIT M: CHANGE ORDER REVIEW CHECKLIST

Date				
Contract Number				
Contractor				
Contract Title				
Reviewer				
New Contract Total				
Change Order Number				
Dollar Value Increase				
Length of Time Extension Granted				
New Performance Period End Date				

Change Order Checklist	Category			Comment
	ND	D	N/A	
1. In-House Estimate Prepared				
2. Project Manager Approval				
3. AWO Scope Meeting Held	INCLUDED			
3a. Scope of Change Adequate for Bidding				
4. Contractor Proposal Includes Impact Costs, Price				
5. Cost Analysis Conducted				
5a. If Price > 10% of ICE, Evidence of MTA President Approval				
6. Negotiation Memorandum				
7. Written Record of Change				
7a. Signed Change Order in File				
8. Evidence of Board Approval Prior Initiation of Changed Work				
9. Notice to Proceed in file				
10. Work Authorized within Contract Scope				
11. No Evidence of Arbitrary Action				
Other Comment				

EXHIBIT N: PROCUREMENT HISTORY FILE CHECKLIST

CONTRACT NUMBER _____
CONTRACTOR NAME _____
CONTRACT AWARD DATE _____
CONTRACT AMOUNT _____
CONTRACT START DATE _____

		Responsible	In File	N/A
1	Procurement Request	Transit		
	Funding/Accounting Code	Transit		
2	Independent Cost Estimate	Transit		
3	Statement of Work (spec)	Transit		
4	Procurement Plan & Timeline	Transit		
5	Single Source Justification	Transit		
6	Market Research Documents	Transit		
7	Bidders List	Purchasing		
8	Source Selection Plan & Docs	Purchasing		
9	Solicitation & Amendments	Purchasing		
10	Pre-solicitation approvals	Transit		
11	Advertising	Purchasing		
12	Pre-bid or proposal conference notes/Q&A	Purchasing		
13	Bid/proposal & solicitation amendment ack	Purchasing		
14	"no bid" letters or offeror disqualification	Purchasing		
15	Cost or price analysis	Transit		
16	Negotiation memo	Transit		
17	Source selection report & related docs	Purchasing		
18	Contractor responsibility determination	Transit		
19	Required award approvals	Transit		
20	Notice of Intent to Award	Purchasing		
21	Protests	Purchasing		
22	Signed (conformed) contract	Purchasing		
23	Contract modifications	Purchasing		
24	Option exercises & related documents	Purchasing		
25	Contract data and reports	Transit		
26	Complaint & performance reports	Transit		
27	Documentation concerning pre or post award mistakes in bid	Purchasing		
28	Invoices/Vouchers	Transit		
29	Other Correspondence	All		
30	General Contract Correspondence	All		
31	Contract Close Out	Transit		

EXHIBIT O: PROCUREMENT FILE CHECKLIST
CITY OF DESTIN
PROCUREMENT FILE CHECKLIST

	Completed By	Date
Decision Matrix		
ICE		
Federal Clauses		
Terms and Conditions		
Advertised		
Bid Abstract		
Cost/Price Analysis		
Responsibility Determination		
Fair & Reasonable Determination		
SAM Excluded Parties		
Conflict of Interest*		
Buy America		
Pre-Award		
Post Delivery		
Construction		
Bid Bond		
Performance & Payment Bond		

*no employee, officer, agent, or board member, or his or her immediate family member, partner, or organization that employs or is about to employ any of the foregoing individuals may participate in the selection, award, or administration of a contract supported with FTA assistance if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of those individuals previously listed has a financial or other interest in the firm selected for award.

EXHIBIT P CONTRACT ADMINISTRATION

Procedures for FTA AND OTHER FEDERAL-

Specific Procurements Cost/Price Analysis:

Responsible Staff: Procurement staff (or project manager for construction contracts)
Applicable to: ALL FTA AND OTHER FEDERAL-funded Procurements

A cost or price analysis must be performed for every procurement. The City may use the following resources as guidance in performing cost or price analysis:

- FTA's "Best Practices Procurement Manual"
- The National Transit Institute Course, "Cost or Price Analysis and Risk Assessment"
- Pricing Guide for FTA Grantee, FTA Website:
http://www.fta.dot.gov/documents/Helpline_Price_Guide.doc
- FAR Part 31, Contract Cost Principles and Procedures 3.3.16
- 2 CFR PART 200

Cost Analysis: A cost analysis will be necessary when adequate price competition is lacking and for sole source procurements including contract modifications or change orders.

A cost analysis must be performed when the offeror is required to submit the elements (i.e., labor hours, overhead, materials, etc.) of the estimated cost such as professional consulting and architectural and engineering services contracts). A cost analysis includes verifying the proposed cost data, the projections of the data and the evaluation of specific elements of cost and profit.

Cost Analysis for Professional, Consulting, and Architectural and Engineering Services: This method is most often used to contract for professional, consulting, and architect/engineering (A/E) services. (See 24 CFR 85.36(d)(3) for a definition). An evaluation of the reasonableness of the price is also required under Florida's Consultants Competitive Negotiations Act (CCNA).

To determine the reasonableness of proposed costs, the City shall obtain cost breakdowns from the offerors showing all the elements of their proposed total costs. The overall objective should be to negotiate total prices that are fair and reasonable.

Cost Analysis for Construction and Construction Management Contracts: This includes all contracts and contract modifications negotiated based on cost for construction management or construction, alteration or repair of buildings, transit facilities, or other kinds of real property.

Construction contracts awarded using sealed bidding do not require cost analysis, but construction contracts awarded using any method other than sealed bidding, and all modifications to construction contracts require cost analysis.

Price Analysis: A price analysis may be used in all other instances to determine the reasonableness of the proposed contract price. The City shall annotate a finding of fair and reasonable pricing and state the most common reasons why this was so, such as catalog or market price offered to the general public, regulated price, or a comparison with recent prices for similar goods and services.

Price Analysis for Micro-Purchases: for purchases of \$10,000 or less, the City will simply annotate how the City made its price fairness and reasonableness determination (e.g. professional market experience, market trend, previous purchase, and catalog price). FTA does not require the rationale for the procurement method used, selection of contract type, required of the purchase exceeding the Micro-Purchase threshold.

Price Analysis for Sealed Bidding or Competitive Quotes: As the preferred method for contracting for supplies, equipment and construction, the competitive pricing forces of the marketplace determine the reasonableness of the low price obtained through sealed bidding. Nevertheless, the City should always compare the independent cost estimate to the low competitive bid received. In the event they are significantly different, the City will need to verify that either the estimate or the market price is valid. Otherwise, no further price or cost analysis is required under sealed bidding.

Audits and Indirect Costs: As required by 49 U.S.C. Section 5325(b)(3), all FTA AND OTHER FEDERAL assisted contracts and subcontracts including program management, architectural engineering, construction management, feasibility studies, preliminary engineering, design, architectural, engineering, surveying, mapping or related services must be performed (i.e. a contractor cannot incur and invoice the City any unallowable, unallocable, or unreasonable costs prohibited by the FAR and/or the contract terms and conditions) and audited in accordance with FAR Part 31 cost principles.

The recipient and the third party contractor, its subcontractors and sub-recipients must accept FAR indirect cost rates for one-year applicable accounting periods established by a cognizant Federal or State government agency, if those rates are not currently under dispute, and these established rates will apply for purposes of contract estimation, negotiation, administration, reporting, change order, options, and payments, not limited by administrative or de facto ceilings.

Buy America: Buy America regulations apply to FTA AND OTHER FEDERAL assisted procurements exceeding \$100,000 for iron, steel, manufactured goods, or rolling stock, Buy America regulations require the contractor to provide goods produced or manufactured in the US, unless FTA has granted a waiver authorized by those regulations.

Goods that the contractor acquires to perform its construction activities for the City, such as tools, machinery, and other equipment or facilities, is not covered by Buy America Act.

INDEPENDENT COST ESTIMATE (ICE)

<i>Responsible Staff: Procurement staff (or project manager for construction contracts)</i> <i>Applicable To: Construction Bids funded by the FTA AND OTHER FEDERAL</i>

Purpose

Before the City receives a bid, or a proposal that includes price, or a cost proposal either as a submittal or for negotiating a contract, contract amendment, or sole source contract, the City shall prepare an Independent Cost Estimate (ICE). The ICE is an estimate of the cost of performing the work. An Independent Cost Estimate (ICE) is required for every procurement that requires a price or cost analysis. A Micro Purchase is exempt from the ICE requirement.

Procedure

The independent cost estimate does not have to be complicated, but it should be reasonably accurate. The ICE should be broken down for each bidding schedule item. Sources of information for putting together the ICE are: prior bids or contracts for similar scopes of services; published price lists; hourly rates from similar service providers; prior bids or rates received from other agencies; and industry standards such as design as a percentage of construction. Whatever sources the City used to put its budget in place to begin with may also be used when appropriate.

The City shall develop an ICE for all purchases BEFORE the procurement process begins. The City should develop source information and cross-check that information with independent sources outside and inside the organization to evaluate its currency, accuracy, completeness, and relevancy. Disciplined cost estimating ensures that the ICE is credible, dependable, and complete, as it is used as input to the budget planning process, future procurement, and cost saving measurement.

MICRO PURCHASE PROCEDURES

Responsible Staff: Procurement staff (or project manager for construction contracts)

Applicable To: All FTA AND OTHER FEDERAL-funded Purchases of \$3,500 or less

Purpose

To define and establish purchasing requirements for Goods or Services costing less than \$3,500 where FTA AND OTHER FEDERAL funds are involved.

Procedure

Identify Potential Vendor(s): The City is generally responsible for identification of vendors. Typical resources are catalogues, yellow books and other publications. Even for this micro dollar amount, the City departments must seek Small Businesses or DBEs. Purchasers should avoid splitting larger dollar amount purchases into micro purchases to avoid competition. Purchasers should equitably distribute repeated micro purchases among as many qualified local suppliers as is reasonable.

Method of Procurement: All Micro Purchases can be made by Purchase Order.

Documentation: Minimum documentation required is statement that the price is fair and reasonable. Purchasers must obtain a receipt or other documentation of the purchase.

Exception: The Micro purchases under \$10,000 are exempt from FTA's Required Third Party Clauses including Buy America requirements. However, Davis-Bacon Act that requires contractors to pay wages at a rate not less than the minimum wages specified in a wage determination made by the U.S. Secretary of Labor will apply to all FTA-funded construction contracts exceeding \$2,000.

SMALL PURCHASE PROCEDURES

Responsible Staff: Procurement staff (or project manager for construction contracts)

Applicable To: All FTA AND OTHER FEDERAL-Funded Procurements between \$10,000 and \$150,000

Purpose

Small Purchase procedures are used to purchase equipment, materials, supplies, and services.

Procedure

All purchasing procedures, rules, and regulations must be followed and the City will review all quotes prior to issuance of a Purchase Order (PO) number. For purchases up to \$35,000, verbal quotes are acceptable. Small Purchases valued over \$35,000 require formal bid.

The City shall make good-faith efforts to locate DBE's and Small Businesses. The City may review a procurement request to determine if it can be fulfilled by using either an existing State contract or "piggybacking" onto another public agency contract before soliciting quotes. The City will attach the appropriate state and federal terms, conditions, forms, and certifications to the PO. Refer to Exhibit D, Piggybacking Checklist.

After quotes or proposals are received but prior to award, the City will identify the firm that provided the lowest priced responsive offer. The City will concurrently determine if the offeror is responsible and eligible for contract award.

A responsible offer for a small purchase is an offer that meets the following standards:

- Able to meet the proposed delivery or performance schedule
- Not deficient in current or recent contract performance with the City
- Has the requisite organization, experience, quality controls, technical skills or the ability to obtain them?
- Has the requisite human resources, equipment and facilities or is able to obtain them for construction or public works
- Able to meet the required bonding requirements for construction or public works.
- Is qualified to receive an award under applicable state and federal laws and regulations (i.e. current business and professional licenses and permits)
- Not listed on any State and Federal lists of debarred, suspended, or ineligible firms or individual

For A&E purchases under the Small Purchase threshold, the City shall comply with the Brooks Act and the Florida CCNA by ensuring that price is NOT an evaluation factor and that only qualifications are evaluated.

The City will contact the successful firm and request applicable insurance certificates and other mandatory documents. Upon receipt of such documents, the City may issue a PO. The PO must state all applicable commercial, technical, and legal terms and conditions, including delivery and contract end dates.

Upon receipt of the products or services, the requestor inspects and accepts the deliverables, approves the invoice for payment and submits it to Accounts Payable for payment. The requestor shall notify the City if items are not received in the time and manner indicated on the PO, if the wrong items are received or any other concerns.

COMPETITIVE BIDS

Responsible Staff: Procurement staff (or project manager for construction contracts)

Applicable To: FTA AND OTHER FEDERAL-Funded Purchases in excess of the County's small purchase threshold or Construction Contracts of Any Size

Purpose

This method will be used to procure goods, services, equipment, materials, non-professional services, and construction contracts when the value of the contract is over the City's small purchase threshold. Award will be made to lowest priced bidder that submits a responsive offer and the bidder has demonstrated capacity to perform the work to be generally considered a responsible bidder. This procurement method does not permit consideration of qualitative factors in a competitive environment or negotiations with bidders. An Invitation for Bids (IFB), also called "Sealed Bids" is the solicitation method. The typical resultant contract type is a firm fixed price, fixed price variation, lump sum, or unit price.

Procedure

Preparing the IFB. The IFB must describe the requirements of the City clearly, accurately, and completely. Unnecessarily restrictive specifications or requirements that might unduly limit the number of bidders are prohibited. The invitation includes all documents (whether attached or incorporated by reference) furnished to prospective bidders for bidding.

The City submits an approved requisition, Statement of Work or Scope, and ICE to Purchasing. Depending on the complexity of the requirement, the City should collaborate with all necessary Departments and Outside Agencies at the earliest stages of requisition and scope development.

The City must develop procurement requirements such as procurement schedule; risk; insurance; subcontracting opportunities; scope and delivery schedule; bid pricing schedule; FTA-specific funding source requirements; whether a pre-bid conference is needed and other items of critical nature. A DBE goal may be established at this time.

The City drafts an IFB, including the clauses required by law or by regulation and any additional clauses expected to apply to any resulting contract including FTA clauses, prevailing wage, etc.

Advertising the IFB: The City shall prepare advertisement synopsis for The Vero Beach Press Journal and full IFB packages to publish on the DemandStar e-bid system. The City should ensure the advertisement attracts competition. The City must ensure the advertisement meets any statutory or regulatory requirements, provides adequate time for bidders to submit an offer, and provides clear instruction on how to obtain the full solicitation packet and the due date for submission of offers.

Amending the IFB: All requests for information / questions must be routed directly to the City; written clarification and addendum will be issued by the City when necessary. The City shall review and approve all clarifications and addenda prior to issuance.

If it becomes necessary to make changes in quantity, specifications, delivery schedules, opening dates, etc., or to correct a defective or ambiguous item of the solicitation, such changes shall be accomplished by amendment of the invitation for bids via addenda. The fact that a change was mentioned at a pre-bid conference does not relieve the necessity for issuing an addendum. Addendums shall be sent, before the time for bid opening, to everyone to whom the IFBs have been furnished. Before amending an IFB, the time remaining until bid opening and the need to extend this period shall be considered. When only a short time remains before the time set for bid opening, consideration should be given to notifying bidders of an extension of time by telephone. Such extension must be confirmed in the addenda.

Any information given to a prospective bidder concerning an IFB shall be furnished promptly to all other prospective bidders as an addendum to the invitation (1) if such information is necessary for bidders to submit bids or (2) if the lack of such information would be prejudicial to uninformed bidders. The information shall be furnished even though a pre-bid conference is held.

Pre-bid Conference: A pre-bid conference may be conducted, generally in a complex procurement, as a means of briefing prospective bidders and explaining complicated specifications and requirements to them as early as possible after the invitation has been issued and before the bids are opened. It should not be used as a substitute for amending a defective or ambiguous IFB.

Submission of Bids: Bidders must submit sealed bids to be opened at the time and place stated in the solicitation for the public opening of bids. Bids shall be submitted so that they will be received at the location designated in the IFB and not later than the exact time set for opening of bids.

Bid Opening: Bidders must submit sealed bids to be opened at the time and place stated in the solicitation for the public opening of bids in accordance with the IFB instructions to be considered "responsive". Bids shall be submitted so that they will be received as designated in the IFB not later than the exact time set for opening of bids.

All bids (including modifications) received before the time set for the opening of bids shall be kept sealed and secure. Except as otherwise provided herein, bids shall not be opened or viewed, and shall remain in a safe and secured area. If an invitation for bids is cancelled, bids shall be returned unopened to the bidders. When bid samples are submitted, they shall be handled with sufficient care to prevent disclosure before bid opening.

The City shall announce when the time set for opening bids has arrived. The City shall then (1) personally and publicly open all bids received before that time, (2) read the bids and the ICE aloud to the persons present, and (3) have the bids recorded. The original of each bid shall be carefully safeguarded, particularly until the abstract of bids required has been made and its accuracy verified.

A bid opening may be postponed when:

The City has reason to believe that the bids of an important segment of bidders have been delayed in the mail, or in the communications system specified for transmission of bids, for causes beyond their control and without their fault or negligence (e.g., flood, fire, accident, weather conditions, strikes); or Emergency or unanticipated events interrupt normal the City processes so that the conduct of bid opening as scheduled is impractical.

At the time of a determination to postpone a bid opening, an announcement of the determination shall be publicly posted. If practical before issuance of a formal amendment of the IFB, the determination shall be otherwise communicated to prospective bidders who are likely to attend the scheduled bid opening.

Evaluation of Bids To be considered for award, a bid must comply with all requirements stipulated in IFB. Such compliance enables bidders to stand on an equal footing and maintain the integrity of the sealed bidding system.

Bids should be filled out, executed, and submitted in accordance with the instructions in the invitation.

If a single bid is received or if competition is inadequate, the City shall examine the situation to determine the reasons for the inadequate number of responses. Award may be made notwithstanding the limited number of bids. However, the City shall initiate, if appropriate, corrective action to increase competition in future solicitations for the same or similar items. If only one bid has been received, the City has an option follow the sole source procurement procedure discussed in this Manual.

The County shall determine that a prospective contractor is responsible and that the prices offered are reasonable before awarding the contract. A price analysis shall be performed in all cases. The price analysis should reveal whether there is a significant difference in the price of the bids. In evaluating the bids for responsiveness, the City shall create an abstract of bids, verifying pricing and summarizing the Bidder's compliance with responsiveness issues and the bid prices. The project manager will check the SAM database to ensure that no bidders are listed excluded parties and a copy shall be printed for the file. Should an excluded party be identified, the project manager shall notify the chief executive officer and/or legal office and will remove said bid by an excluded party from consideration. For construction bids, the City shall verify that the Contractor was licensed by the State prior to submitting its bid.

If applicable, the City shall issue the standard bid evaluation letter to the apparent low bidder requesting material to be submitted prior to Bid Evaluation Conference.

Contract Award the City shall make a contract award by written or electronic notice within the time for acceptance specified in the bid or an extension to that responsible bidder whose bid, conforming to the invitation, will be most advantageous to the City, considering only price and the price-related factors included in the IFB.

Single Bid or Proposal. Upon receiving a single bid or proposal in response to a solicitation, the City should determine if competition was adequate. This should include a review of the specifications for undue restrictiveness and might include a survey of potential sources that chose not to submit a bid or proposal. The City acknowledges competition to be adequate when the reasons for few responses were caused by conditions beyond the City's control. Many unrelated factors beyond the City's control might cause potential sources not to submit a bid or proposal. If the competition can be determined adequate, the City's competition requirements will be fulfilled, and the procurement will qualify as a valid sole source.

If an item is an associated capital maintenance item as defined in 49 U.S.C. § 5307(a)(1) that is procured directly from the original manufacturer or supplier of the item to be replaced, the City must first certify in writing to FTA: (i) that such manufacturer or supplier is the only source for such item; and (ii) that the price of such item is no higher than the price paid for such item by like customers. FTA does not permit proprietary procurements unless it meets the sole source justification criteria stipulated in FTA Circular 4220.1.F.

If spare parts, replacement parts and maintenance contracts for existing equipment and systems where only proprietary items/ services are compatible with existing equipment and systems and where such items and services can be acquired only from the manufacturer or from a single distributor or licensee and all other alternatives are exhausted, they may be acquired, ordered or paid in the best interests of the City.

The Common Grant Rules provide Federal agencies authority to permit a recipient to use noncompetitive proposals. Under this authority, FTA has made the following determinations: With some exceptions, when FTA awards a grant agreement or enters into a cooperative agreement with a consortium, joint venture, team, or partnership, or provides FTA assistance for a research project in which FTA has approved the participation of a particular firm or combination of firms in the project work, the grant agreement or cooperative agreement

constitutes approval of those arrangements. In such cases, FTA expects the City to use competition, as feasible, to select other participants in the project.

To ensure that the City has flexibility equal to that of Federal contracting officers, FTA authorizes procurement by noncompetitive proposals in all of the circumstances authorized by FAR Part 6.3. In addition to circumstances discussed in the Common Grant Rules, the FAR authorizes less than full and open competitive procurements in one or more of the following circumstances: To comply with Department of Transportation (DOT) appropriations laws that include specific statutory requirements, with the result that only a single contractor can perform certain project work.

Transit Service Bids the City shall use a competitive process to solicit and award a contract for the provision of transit service. Said process will include the issuance of a Request for Proposals (RFP) in coordination with the City's Purchasing Department. Contracts for transit service provision shall cover a five-year period with provisions to allow extensions for up to an additional five years. Whenever feasible, such contracts will be timed to coincide with the five-year Community Transportation Coordinator (CTC) contract. The current CTC contract is effective until June 30, 2018.

PIGGYBACKING

Responsible Staff: Procurement staff, Transportation Manager

Applicable To: All FTA AND OTHER FEDERAL-Funded Procurements of equipment, materials, supplies, and services

Purpose

Establish agreements and contracts by taking advantage of existing contracts awarded by other governmental entities for goods and services that the City currently needs.

Piggybacking is defined by the FTA Circular 4220.1F as: "Piggybacking" is an assignment of existing contract rights to purchase supplies, equipment, or services.

Procedure

For FTA AND OTHER FEDERAL assisted projects, the City shall obtain a copy of the entire contract of the outside governmental entity and review it carefully to determine if it contains the provisions required by FTA Circular 4220.1F. This is an important first step, because the requirements of the Circular apply to procurements made through inter-governmental contracts and assignments. If a required Federal clause is not included in the contract, the City may add them to the City's contract.

Confirm that the original contract contains an express assignability clause that provides for the assignment of all or part of the specified deliverables. FTA's policy is that the original solicitation must contain an express notification to all bidders that an assignment would be possible under the terms of the contract. Such a notification would put the bidders on notice that they would likely be called upon to deliver all of the deliverable items, both the base as well as the option quantities. The assignment clause would thus be an important factor in the original competitive bidding. If the contract does not contain an express assignability clause, piggybacking is not permitted.

Determine that the contract is still in effect.

Determine that the specifications in the existing contract will meet the City's needs.

Review the contract terms and conditions carefully to determine that they are acceptable to the City; e.g., warranty provisions, insurance requirements, etc.

Determine that the requirements of the City will not be beyond the scope of the existing contract, creating a sole-source (noncompetitive) add-on to the contract, which will have to be justified in accordance with sole source procedures.

Verify that piggybacking quantities were included in the original solicitation.

For federally funded procurements and if the contract is an indefinite quantity contract, verify that the original solicitation and resultant contract contain both a minimum and a maximum quantity, which represent the reasonably foreseeable needs of the parties to the solicitation. If the piggybacking action represents the exercise of an option provision in the contract, verify that the option is still valid. Options that have expired may not be exercised.

Determine that the contract was awarded competitively, either through sealed bids or through competitive proposals. If the contract was a sole-source award, the City will have to justify a sole-source award in accordance with sole-source procedures.

Verify that a cost or price analysis was performed by the original procuring agency documenting the reasonableness of the contract price and include a copy in our files. The City is not required to do a second price analysis if one was originally performed. However, the City must determine that the contract prices originally established are still fair and reasonable. Circumstances should dictate the steps to be taken. For example, if the original award was made some time ago, the City should conduct a market survey and/or perform price analysis to ensure that the prices are still fair and reasonable (even if the original award was competitive and a price analysis was performed initially). Similarly, if deliveries are to be made to a local or centralized delivery point and the original contract calls for statewide deliveries, the City should seek a price reduction.

If the contract is for federally funded rolling stock, verify that the contract term complies with the five-year term limit established by FTA Circular 4220.1F.

Determine the types of changes the City will require to be made to the deliverables. For an assignment, only "within scope" (non-cardinal) changes are allowed (e.g., seating fabrics, colors, paint schemes, signage, floor coloring, etc.).

SOLE SOURCE

Responsible Staff: Procurement staff, Transportation Manager
Applicable To: All procurements in excess of \$3,500

Less than full and open competition is not justified based on the City's lack of advance planning, or limited availability of Federal Assistance. When less than full and open competition is available to the City, the City shall solicit offers from as many potential sources as is practicable under the circumstances. If the City decides to solicit an offer from only one source, the City must justify its decision adequately.

Contracts for sole source procurements shall be approved by the Destin City Council. The resolution approving the contract shall also indicate the reasons for the sole source procurement.

The City shall prepare or obtain a cost analysis verifying the proposed cost data, the projections of the data, and the evaluation of the costs and profits.

CONTRACT ADMINISTRATION

The City of Destin is subject to review and audit by FTA and State Governments or its agents during and after contract performance and is required to comply with the standards mandated by the FTA when using Federal assistance to finance its procurements. The City is also subject to Florida Administrative code (FAC) provisions governing the City's authorizing legislation, procurement of public works and architectural and engineering services, Disadvantaged Business Enterprise and Small Business requirements, identification of subcontractors, and tax statutes regarding sales and use taxes, business and occupation taxes, and real property taxes.

This policy implements the requirements of FTA Circular 4220.1F and state laws in the interpretation of a contract. The contract administration principles, concepts and approaches discussed in the Manual shall be utilized for all contracts at The City if such procedures will achieve savings in cost, or accelerate schedule, or meet the City goals, or meet public needs, consistent with applicable FL State laws and regulations and the FTA Master Agreement.

Contract Administration System

The following documents and resources form the basis of the City's Procurement and Contract Administration System.

1. The Common Grant Rules
2. FTA Master Agreement
3. FTA Circular 4220.1F
4. Applicable Florida Statutes
5. City Purchasing Policy

Contract Administration Qualification

City employees or consultants performing any aspect of procurement or contract administration duties must demonstrate requisite skills, knowledge, and ability of having satisfactorily performed procurement and contract administration duties.

Contract Administration Tasks

Each contract will likely require different contract administration actions, collaboration and documentation activities. Simple to moderate goods and services contracts will have different specific administrative actions than construction contracts do just as lump sum contracts are managed differently than incentive or time and material or cost-reimbursement contracts.

Project Commencement

Services rendered by the Contractor shall be commenced upon written notice from the City. The Contractor shall not commence work until it has obtained all insurance and such insurance has been approved by the City's representative.

Project Duration

Project will be undertaken for a stated duration. Contract duration will be for an appropriate time length to complete the project. The duration of FTA-funded projects will not exceed five years.

Standards of Conduct

The Common Grant Rules require the City to maintain written standards of conduct governing the performance of its employees engaged in the award and administration of contracts.

As provided in the Common Grant Rules and the Federal Transit Administration Master Agreement, no County officers, employees, agents, or board members, or his or her immediate family member, partner, or organization that employs or is about to employ any of the foregoing may participate in the selection, award, or administration of a contract supported with FTA assistance if a conflict of interest, real or apparent, would be involved. Such a conflict would arise when any of those previously listed have a financial or other interest in the firm selected for award.

The Destin City Council established a code of ethics for city council members, officers, and employees; Destin's officers, employees, agents or board members shall neither solicit nor accept gifts, entertainments, gratuities, favors, or anything of monetary value from contractors, consultants, potential contractors or consultants, or parties to sub-agreements.

To the extent permitted by the State of Florida regulations, this standard of conduct will consider appropriate penalties, sanctions, or other disciplinary action for violation of such standards by City of Destin officers, employees, agents, board members, or by contractors, consultants, or sub-recipients or their agents.

Change Orders

The City may execute bilateral or unilateral change orders to its contracts. Change Order administration requires that the City make an in-scope determination for the desired change work. Later a cost or price analysis must be performed to ensure that the price for the changed work is equitable, fair and reasonable.

Change Order Requirements:

1. Change order work must not be outside the original work scope; this requirement is met through sole source justification that results in a new contract.
2. A cost analysis must be performed with detailed or sufficient cost elements.
3. Profit or fee should be analyzed commensurate with work complexity, performance/contractual risk, contractor's investment, amount of subcontracting, past performance data, or marketplace rates.
4. Negotiations with contractors must be documented.

In addition, the following procedures will be applicable to administering and managing change management and activities related to change orders, change notice, progress payment, and approval:

Change Order Independent Cost Estimate:

Required: FTA Circular 4220 requires a cost or price analysis for every procurement action, including change orders. The starting point for the analysis is an independent cost estimate. Prior to receiving a change proposal, the City shall independently estimate the cost of performing the work. The ICE can be used as a basis of comparison for evaluating the proposed price received. A "change order" means any contract action that calls for the negotiation of a cost or price proposal arising out of a change in the contract requirements.

Change Order Cost/Price Analysis:

The Common Grant Rules require a cost/price analysis in connection with all change orders. The method and degree of cost/price analysis depends on the facts and circumstances surrounding each contract action. If the original contract contains only a lump sum price, additional cost and pricing data must be requested to perform a cost/price analysis.

The City shall perform a cost analysis when a contractor is requested to submit detailed cost elements (that is, labor hours, overhead, materials, and so forth) of the change order cost. Changes in scope do not always result in increased costs. Elimination or reduction of contract work may result in a decrease in the contract price. Regardless of the direction of the price change, these modifications require cost analysis using the cost principles to determine that the price change is fair and reasonable.

The City is responsible for performing cost/price analysis for all change orders.

1. The following references provide guidance in preparing cost or price analysis:
2. FTA's "Best Practices Procurement Manual," Chapter 5
3. Pricing Guide for FTA Grantees www.fta.dot.gov/documents/Helpline_Price_Guide.doc
4. FAR Part 31, Contract Cost Principles and Procedures

Termination

A Contractor may be held in default of its contractual obligation under this Agreement if the CONTRACTOR:

1. refuses or fails to supply enough properly skilled workers or proper and sufficient materials and equipment;
2. fails to make payment to subcontractor for materials or labor in accordance with the respective agreements between the CONTRACTOR and the subcontractors;
3. disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction;
4. performs the Work that does not conform to Contract Documents requirements;
5. fails to meet the Contract Schedule or fails to make progress on the Work so as to endanger performance of the Agreement;
6. abandons or refuses to proceed with any or all the Work; or
7. otherwise breaches, fails to comply fully with, or is in default of any provision of the

Contract Documents.

If a contract of any type (fixed-price or cost-reimbursement) is contemplated for termination of convenience or for cause, a complete cost analysis must be performed to negotiate the final amount of the termination settlement.

Contracts can be terminated for the convenience of the City or for cause (also called default). Contracts are usually terminated for convenience when the City no longer has a need for the service or products as they are specified in the contract, or when it is not possible to substantiate that the contractor's performance is poor enough to terminate for cause. Contracts should be terminated for cause when the contractor fails to perform the contract as written.

Invoice and Payment

The Contract specifies the payment terms. The contractor must submit, and the City must process applications for progress payment in accordance with the requirements and General and Special Conditions of the contract.

A. Advance Payments. Advance payments are payments made to a contractor before the contractor incurs contract costs. The recipient may use its local share funds for advance payments. However, if there is no automatic pre-award authority for its project, then advance payments made with local share funds before FTA assistance has been awarded, or before a letter of no prejudice has been issued or other pre-award authority has been provided, or before FTA approval for the specific advance payment has been obtained, are ineligible for reimbursement. The following principles and restrictions apply:

1. Use of FTA Assistance Prohibited. The recipient may not use FTA assistance to make payments to a third-party contractor before the contractor has incurred the costs for which the payments would be attributable.
2. Exceptions for Sound Business Reasons. Apart from advance payments that are customary, as discussed further, FTA does occasionally make exceptions to its advance payment prohibitions, if the recipient can provide sound business reasons for doing so and has obtained FTA's advance written concurrence. A recipient that seeks to use FTA assistance to support advance payments should contact the regional office administering its project to obtain FTA concurrence.
 - a. Adequate Security for Advance Payments. FTA recognizes that advance payments may be needed for certain costs supported by sound business judgment. Adequate security for the advance payment is an essential pre-condition to FTA's concurrence in the use of FTA or local share funds.
 - b. Customary Advance Payments. FTA recognizes that advance payments are typically required for, but are not limited to, public utility connections and services, rent, tuition, insurance premiums, subscriptions to publications, software licenses, construction mobilization costs, transportation, hotel reservations, and conference and convention registrations. Accordingly, the recipient may use FTA assistance to support or reimburse the costs of such acquisitions. FTA concurrence is required only when such advance payment or payments customarily required in the marketplace exceed \$100,000.

- B. Progress Payments. Progress payments are payments for contract work that has not been completed. The recipient may use FTA assistance to support progress payments provided the recipient obtains adequate security for those payments and has sufficient written documentation to substantiate the work for which payment is requested.
1. Adequate Security for Progress Payments. Adequate security for progress payments may include taking title or obtaining a letter of credit or taking equivalent measures to protect the recipient's financial interest in the progress payment. Adequate security should reflect the practical realities of different procurement scenarios and factual circumstances. FTA acknowledges the practical reality that taking title to work in progress may not be desirable in some circumstances. The recipient should always consider the costs associated with providing security (for example, the recipient may need to acquire bonds or letters of credit in the commercial marketplace) and the impact of those costs on the contract price, as well as the consequences of incomplete performance.
 2. Adequate Documentation. Sufficient documentation is required to demonstrate completion of the amount of work for which progress payments are made.
 3. Percentage of Completion Method. The Common Grant Rules requires that any progress payments for construction contracts be made on a percentage of completion method described therein. The recipient, however, may not make progress payments for other than construction contracts based on this percentage method.

The Finance Department has several stages of involvement in third party contracts and at various stages of post contract award action. A major responsibility in third party contracts is to ensure timely payments. While the City and Project personnel are responsible for recommending and approving payments, the Finance Department is responsible for issuing checks and validating funds availability.

Invoices are first received by the project manager for approval. A request for payment of the invoice will then be forwarded to Finance. Once an approved invoice is received by the Finance Division, it will release payment if all documentation is in order. The project manager is responsible for identifying any retentions and withholdings. The Finance Division provides oversight to such retentions and withholding to ensure payment accuracy. At contract closeout, Finance Department is responsible for the final check processing.

Record Retention

The record retention requirement of three years shall commence only after the final audit and final payment is made and all other issues are resolved.

Contract Documentation

The City, in collaboration with all responsible parties, shall ensure that the history of all pre-award, post- award actions, and related project, operation, legal, and financial information are documented, collected, reviewed for compliance, maintained, distributed, archived and readily accessible to internal and external audits including the State of Florida and the FTA.

City personnel and consultants involved in and performing contract administration tasks shall prepare, maintain, and keep adequate and readily accessible project performance and financial records, covering procurement transactions as well as other aspects of project implementation and contract administration.

- Procurement documentation will include rationale for the method of procurement for each contract, including a sole source justification for any acquisition that does not qualify as competitive, as well as any change order deemed cardinal by the Procurement and Contracts Division.
- Contract type documentation will state the reasons for selecting the contract type used (i.e., fixed price, cost reimbursement, time and material);
- Contractor selection will include reasons for contractor selection or rejection, as well as a written responsibility determination for the successful contractor;
- Cost or Price Analysis: All procurement and change orders will evaluate and state its justification for the contract cost or price by including an ICE and cost or price analysis.
- Change Order: All change order information including essential documents, will be collected from the program/project organization, functional departments, and construction management contractors, and maintained in Live-link, and other project related information will be kept in the internal databases, readily available to internal audit and FTA. Change Orders documentation will include in-scope determination as well as a cost or price analysis to establish that the price is fair and reasonable.
- All Post-award Activities: partnering, inspection report, claims, disputes, invoice processing, and reports and forms.
- Access to Records. Apart from the more limited record access provisions of the Common Grant Rules, 49

U.S.C. Section 5325(g) provides FTA and DOT officials, the Comptroller General, or any of their representatives, access to and the right to examine and inspect all records, documents, and papers, including contracts, related to any FTA project financed with Federal assistance authorized by 49 U.S.C. Chapter 53.

Subcontracting

Unless otherwise specified, services assigned to subcontractors must be approved in advance by the City. The subcontractors must be qualified by the City to perform all work assigned to them. The Contractors must have written statements from the subcontractors indicating that the subcontractor is aware that all Federal Rules and Regulations apply. The City, Contractor, and subcontractors will establish procedures to verify compliance with all federal provisions by subcontractors.

Disputes, Claims, Litigation, and Settlement

The City will resolve all contractual and administrative issues including protests, disputes, and claims using good administrative practices and sound business judgment. FTA may be involved in the City's administrative decisions when the City uses federal funds to support the costs of settlements or other resolutions of protests, disputes, claims, or litigation. For detailed FTA guidance, see FTA C 4220.1F, Page VII-1 through V-10.

The City will notify the Contractor of issues related to performance, achievement of milestones, and/or compliance with federal, state, or local regulations affecting the performance or completion of the contract as soon as those issues are identified. It is the responsibility of the Contractor to acknowledge and respond to the issue in writing upon receiving notice from the Project Manager. The Contractor should make every effort to remedy those issues as soon as practical, within up to 30 days. Should the issues remain after 30 days, the City may terminate the contract.

Finally, all agreements between the City and Contractor, including all attachments to it, constitute an agreement, that shall be construed according to the laws of the State of Florida. Venue for any lawsuit brought by either party against the other party or otherwise arising out of this agreement shall be in Okaloosa County, Florida, or, in the event of federal jurisdiction, in the United States District Court for the Southern District of Florida.

Liquidated Damages. FTA has determined that a recipient may use liquidated damages if the recipient reasonably expects to suffer damages through delayed contract completion, or if weight requirements are exceeded, and the extent or amount of such damages are uncertain and would be difficult or impossible to determine. The rate and measurement standards must be calculated to reasonably reflect the recipient's costs should the standards not be met and must be specified in the solicitation and contract. The assessment for damages is often established at a specific rate per day for each day beyond the contract's delivery date or performance period. A measurement other than a day or another period of time, however, may be established if that measurement is appropriate, such as weight requirements in a rolling stock purchase. The procurement file should include a record of the calculation and rationale for the amount of damages established. Any liquidated damages recovered must be credited to the project account involved unless FTA permits otherwise. We also refer you to Chapter V, paragraph 5(a)(1) for a discussion of how liquidated damages can be used to encourage settlements.

Resolution of Claims for Breach of Contract. As a condition precedent to the filing of any legal proceedings, the parties shall endeavor to resolve claim disputes or other matters in question by mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The party shall, by mutual agreement, select a mediator within 15 (fifteen) days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the CITY shall select the mediator, who, if selected solely by the CITY, shall be a mediator certified by the Supreme Court of Florida. The mediator's fee shall be paid in equal shares by each party to the mediator. The parties expressly and specifically hereby waive the right to a jury trial as to any issue in any way connected with this Agreement. The parties expressly and specifically hereby waive all tort claims and limit their remedies to breach of Agreement as to any issue in any way connected with this Agreement.

Project Monitoring

For all contracts for Products and Materials, the City will establish deliverable dates, pre- and post- award inspection dates, and checklists of receipt of the product that will remain on file for the useful life of the product. For all Service contracts, the City will establish appropriate milestones, progress points, and measures of effectiveness (MOE) as needed to monitor the progress, adequacy, and/or completion of the project. These measures will be established prior to commencing work and will be agreed to in writing by both parties.

Leases

Whenever any FTA-funded property, facilities, or equipment is to be leased out to a third party (including to the Senior Resource Association, the city's transit service provider), said lease shall be submitted to the FTA Region IV office for approval. No such leases shall be entered into by the City without first obtaining FTA approval. All leases will be reviewed by the City Attorney, City Community Development Director and City Purchasing Director, and will include Federal terms and conditions.

Charter Bus Reporting

Any charter service provided with federally funded vehicles must meet the conditions of the FTA Charter Service rule, contained in U.S.C. 5323 (d). Quarterly reports on charter activity, including charter applicable exceptions, will be submitted quarterly through the Electronic Award and Management System (EAMS) process. Charter service activity has also been added as a standing agenda item to the quarterly transit meeting conducted by the City and Senior Resource Association staff.

OVERSIGHT OF SUBRECIPIENTS

The County shall ensure that all sub recipients are in compliance with federal regulations including third party procurements, if applicable. The County shall assure that each of its sub-recipients complies with the applicable requirements and standards circular 4220.1F, and that each of sub-recipient is aware of the Federal statutory and regulatory requirements that apply to its actions as a sub-recipient. Neither a third-party contractor nor a third-party subcontractor is a "recipient".

EXHIBIT R

Checklist for Reviewing Procurements by Federal Grant Recipients and Subrecipients

This checklist was created to assist FEMA recipients and subrecipients in complying with the federal requirements that procurements must meet in order for FEMA to reimburse eligible expenses. Importantly, this checklist is intended to provide general guidance only and does not provide a detailed explanation of the Federal procurement requirements – it is not intended to serve as legal advice and FEMA makes no guarantee that adherence to this checklist will result in full reimbursement of eligible expenses. To understand the requirements fully, the user should review the provisions of 2 C.F.R. § 200.317 – 326, which is the source of these requirements. In addition, the user may review FEMA's Field Manual, *Public Assistance Grantee and Subgrantee Procurement Requirements*, which is available on the internet by searching for "FEMA Procurement Field Manual." While the Field Manual was drafted to specifically address the Federal procurement standards that were in effect prior to 26 December 2014 (44

C.F.R. § 13.36(a)-(i) – States, Local and Tribal Governments; and 2 C.F.R. § 215.40-48

– Institutions of Higher Education, Hospitals, and other Non-Profit Organizations), many of the concepts are similar or identical in substance, and thus remains an excellent tool for navigating the current Federal procurement standards. If any questions arise, please contact your servicing attorney or legal counsel for assistance.

2 C.F.R. § 200.317 – 326 became effective on December 26, 2014. For disasters (and their associated projects) declared prior to that date, the relevant procurement standards can continue to be found in 44 C.F.R. § 13.36(a)-(i) (States, local and tribal governments) and 2 C.F.R. § 215.40-48 (Institutions of Higher Education, Hospitals, and Private Non-Profits).¹ As indicated above, while many of the concepts are similar or identical, there are some substantive differences between the old and the new standards. Accordingly, this checklist should not be used for procurements associated with declarations issued prior to 26 December 2014. Instead, see procurement standards Checklists 13.36 and 215.

Instructions: Each standard below is followed by a block for “Yes”, “No”, or in some cases, “Not applicable”. Red font is used to indicate the response which, if checked, indicates that the contract does not comply with federal requirements.

The term “non-Federal entity” (NFE) below refers to the entity that is conducting the procurement action (i.e., the state, local, or tribal government or private-non-profit entity).

¹This includes projects associated with declarations issued prior to 26 December 2014, regardless of project start date. For example, if a disaster was declared on 1 November 2014, but contracting for a project under that declaration did not begin until 1 April 2015, then a State (or state agency/instrumentality) would still utilize the old procurement standards found at 44 C.F.R. § 13.36(a); local and tribal governments would follow § 13.36(b)-(i); and Institutions of Higher Education, Hospitals, and Private Non-Profits would use 2 C.F.R. §§ 215.40-48.

1. Does the procurement comply with the State's own procurement laws, rules, and procedures? §200.317 **Δ Yes Δ No**
2. Does the procurement comply with the requirement to make maximum use of recovered/recycled materials? § 200.317, § 200.322. **Δ Yes Δ No Δ N/A – work does not involve the use of materials (e.g., debris removal or other services)**
3. **Does the contract include the following clauses?²**
 - a. *If the contract amount exceeds \$150,000³, does it address **administrative, contractual, or legal remedies** in instances where contractors violate or breach contract terms, and provide for sanctions and penalties?* **Δ Yes Δ No Δ N/A**
 - b. *If the contract amount exceeds \$10,000, does it address **termination for cause and for convenience, including the manner by which it will be effected and the basis for settlement**?* **Δ Yes Δ No Δ N/A**
 - c. *If the contract is for construction, does it include the required **Equal Employment Opportunity clause**⁴?* **Δ Yes Δ No Δ N/A**
 - d. *For construction contracts exceeding \$2,000 awarded under a Federal grant, does the contract include a **Davis-Bacon Act clause**⁵ and **Copeland "Anti-Kickback" Act clause**⁶ addressing prevailing wage rates? [Note that Public Assistance and Hazard Mitigation Grant Program contracts do NOT require these clauses.]* **Δ Yes Δ No Δ N/A**

² See Appendix II of 2 CFR part 200 for a more detailed description of these clauses. See also PDAT Manual, section IV.H for a detailed discussion of these clauses, including sample text.

³ \$150,000 is the current dollar threshold for the simplified acquisition threshold, as authorized by 41 U.S.C. § 1908.

⁴ The EEO clause can be found at 41 C.F.R. § 60-1.4(b).

⁵ [Insert sample text]

⁶ The clause may read as follows:

Compliance with the Copeland "Anti-Kickback" Act

(1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

- e. *If the contract amount exceeds \$100,000 and involves the employment of mechanics or laborers, does the contract include a **Contract Work Hours and Safety Standards clause**?⁷ ☐ Yes ☐ No ☐ N/A*
- a. Rights to Inventions Made Under a Contract or Agreement.⁸ ☐ N/A
- b. *If the contract or subgrant amount exceeds \$150,000, does the contract include clauses addressing the **Clean Air Act and the Federal Water Pollution Control Act**?⁹ ☐ Yes ☐ No ☐ N/A*
- c. *Does the contract include mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (42 U.S.C. § 6201)? ☐ Yes ☐ No*
- d. *Does the contract include a **Suspension and Debarment clause**?¹⁰ ☐ Yes ☐ No¹¹*
- e. *Does the contract include an **Anti-Lobbying clause**?¹² ☐ Yes ☐ No*

⁷ Must include a provision for compliance with 40 U.S.C. 3702 and 3704, as supplemented by Department of Labor regulations (29 CFR Part 5). Under 40 U.S.C. 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation.

⁸ As FEMA does not award grants or subgrants associated with research and development projects, this contract clause is inapplicable.

⁹ The clause may read as follows:

Contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. 1251-1387) and will report violations to FEMA and the Regional Office of the Environmental Protection Agency (EPA).

¹⁰ See PDAT Manual, pgs. 99-100 for sample text.

¹¹ A prospective contractor that is listed on the government-wide Excluded Parties List System in the System for Award Management (www.SAM.gov) as suspended or debarred, **CANNOT** be awarded a contract funded with Federal assistance.

¹² See PDAT Manual, pgs. 127-129. The clause may read substantially as follows:

Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended). Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.

i. For contracts exceeding \$100,000, have bidders submitted an Anti-

Lobbying Certification? ☐ Yes ☐ No ☐ N/A

f. *Does the contract include a clause requiring the contractor to maximize use of recovered/recycled materials?* ☐ Yes ☐ No ☐ N/A – **work does not involve the use of materials (e.g., debris removal or other services)**

If a State agency is awarding the contract, stop here. If the contract is being awarded by a local or tribal government or private nonprofit entity, continue with the checklist.



4. General requirements¹³

- a. *Does the procurement comply with the NFE's¹⁴ own procurement laws, rules, and procedures?* §200.318(a) ☐ Yes ☐ No
- b. *Does the NFE maintain contract oversight to ensure that contractors perform in accordance with the terms, conditions, and specifications of their contracts or purchase orders?* §200.318(b) ☐ Yes ☐ No
- c. *Does the NFE have - §200.318(c)(1):*
- i. Written standards of conduct covering conflicts of interest and governing the actions of its employees engaged in the selection, award and administration of contracts? ☐ Yes ☐ No
 - ii. Any employee, officer, or agent participating in the selection, award, or administration of a contract supported by a Federal award that has an actual or apparent conflict of interest?¹⁵ ☐ Yes ☐ No
 - iii. Any employee, officer, or agent that has solicited and/or accepted gratuities, favors, or anything of monetary value from contractors or parties to subcontracts?¹⁶ ☐ Yes ☐ No
 - iv. Written standards of conduct that provide for disciplinary actions to be applied for violations of such standards by officers, employees, or agents of the non-Federal entity. ☐ Yes ☐ No

¹³ See, 2 C.F.R. § 200.318

¹⁴ Non-Federal Entity (NFE)

¹⁵ Such a conflict of interest would arise when the employee, officer, or agent, any member of his or her immediate family, his or her partner, or an organization which employs or is about to employ any of the parties indicated herein, has a financial or other interest in or a tangible personal benefit from a firm considered for a contract.

¹⁶ However, NFEs may set standards for situations in which the financial interest is not substantial, or the gift is an unsolicited item of nominal value.

- d. *If the non-Federal entity has a parent, affiliate, or subsidiary organization that is not a state, local government, or Indian tribe, does the non-Federal entity have written standards of conduct covering organizational conflicts of interest?* § 200.318(c)(2)¹⁷ **Δ Yes Δ No Δ N/A**
- e. The NFE must avoid acquisition of unnecessary or duplicative items. Has the NFE *considered* consolidating or breaking out procurements to obtain a more economical purchase? Where appropriate, has the NFE considered lease versus purchase alternatives? § 200.318(d) **Δ Yes Δ No**
- f. *Encouraged*, but not required standards.¹⁸
- g. *Is the contract being awarded to a responsible contractor possessing the ability to perform successfully under the terms and conditions of the proposed procurement, giving consideration to such matters as contractor integrity, compliance with public policy, record of past performance, and financial and technical resources?* § 200.318(h) **Δ Yes Δ No**
- h. *Is the NFE keeping records sufficient to detail the history of the procurement, including, but not limited to, records documenting the rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price?* § 200.318(i) **Δ Yes Δ No**
- i. *Is the contract a time-and-materials contract?*¹⁹ § 200.318(j) **Δ Yes Δ No**
 - i. If so, has the NFE documented why no other contract is suitable?
Δ Yes Δ No

¹⁷ Organizational conflicts of interest means that because of relationships with a parent company, affiliate, or subsidiary organization, the NFE is unable or appears to be unable to be impartial in conducting a procurement action involving a related organization.

¹⁸ §200.318(e) – to foster greater economy and efficiency, the NFE is encouraged to enter into state and local intergovernmental agreements or inter-entity agreements where appropriate for procurement or use of common or shared goods and services (this section provides the authority for state schedule and mutual aid agreements, for example); §200.318(f) – NFEs are encouraged to use Federal excess and surplus property in lieu of purchasing new equipment and property whenever such use is feasible and reduces project costs; and §200.318(g) – NFEs are encouraged to use value engineering clauses in contracts for construction projects (value engineering is a systematic and creative analysis of each contract item or task to encourage the contractor to develop more cost effective means to produce or procure requirements.).

¹⁹ Time and materials type contract means a contract whose cost to a non-Federal entity is the sum of: (i) The actual cost of materials; and (ii) Direct labor hours charged at fixed hourly rates that reflect wages, general and administrative expenses, and profit. Because this formula generates an open-ended contract price, a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, a time-and-materials contract must set a ceiling price that the contractor exceeds at its own risk. Further, the non-Federal entity awarding such a contract must assert a high degree of oversight in order to obtain reasonable assurance that the contractor is using efficient methods and effective cost controls. **[Note that FEMA will only reimburse costs under a time-and-materials contract for the first 70 hours of work performed. See FEMA PA Guide (2007 ed.), pg. 53.]**

- ii. Does the contract include a ceiling price that the contractor exceeds at its own risk? ☒ **Yes** ☐ **No**

- j. *Is the NFE alone* responsible, in accordance with good administrative practice and sound business judgment, for the settlement of all contractual and administrative issues arising out of procurements? §200.318(k) ☐ *Yes* ☒ *No*

5. **Competition:**

- a. All procurement transactions must be conducted in a manner providing **full and open competition** consistent with the standards of this section. *Does the procurement involve any of the following*²⁰ § 200.319(a):

- i. Placing unreasonable requirements on firms in order for them to qualify to do business? ☒ **Yes** ☐ **No**
- ii. Requiring unnecessary experience and excessive bonding? ☒ **Yes** ☐ **No**
- iii. Noncompetitive pricing practices between firms or between affiliated companies?²¹ ☒ **Yes** ☐ **No**
- iv. Noncompetitive contracts to consultants that are on retainer contracts?²² ☒ **Yes** ☐ **No**
- v. Organizational conflicts of interest?²³ ☒ **Yes** ☐ **No**
- vi. Specifying only a “brand name” product instead of allowing “an equal” product to be offered and describing the performance or other relevant requirements of the procurement? ☒ **Yes** ☐ **No**
- vii. Any arbitrary action in the procurement process? ☒ **Yes** ☐ **No**

- b. Was the contractor that is bidding on the contract also involved with developing or drafting the specifications, requirements, statement of work, invitation for bids or request for proposals? (If so, that contractor must be excluded from competing for such procurements) § 200.319(a) ☐ *Yes* ☒ *No*
☐ *N/A*

²⁰ This list is non-exclusive and only serves as an example of some of the types of situations that are considered to be restrictive of competition.

²¹ For example, bid suppression or bid rigging.

²² For example, out-of-scope disaster work added to the consultant’s work on retainer.

²³ See, Fns 14 & 16.

- c. *Does the contract include a state or local geographic preference for local contractors?*²⁴ § 200.319(b) ☐ **Yes** ☐ **No**
- d. Do the NFE's written procurement procedures ensure that all solicitations comply with the following: § 200.319(c)
 - i. Incorporate a clear and accurate description of the technical requirements for the material, product, or service to be procured? § 200.319(c)(1) ☐ **Yes** ☐ **No**
 - ii. Identify all requirements which the offerors must fulfill and all other factors to be used in evaluating bids or proposals? § 200.319(c)(2)
☐ **Yes** ☐ **No**
- e. If the NFE is using a prequalified list of persons, firms, or products which are used in acquiring goods and services: § 200.319(d) ☐ *N/A*
 - i. Is the list current? ☐ *Yes* ☐ *No*
 - ii. Does the list include enough qualified sources to ensure maximum open and free competition? ☐ *Yes* ☐ *No*
 - iii. Were any potential bidders precluded from qualifying during the solicitation period?²⁵ ☐ **Yes** ☐ **No**

6. **Method of Procurement**

- a. Is the NFE using one of the following acceptable methods of procurement? § 200.320
 - i. **Micro-purchase** (i.e., purchases below \$10,000, see, §200.67 Micro-purchases). § 200.320(a) ☐ **Yes** ☐ **No**
 - 1. [Note: Micro-purchases may be awarded without soliciting competitive quotations if the non-Federal entity considers the price to be reasonable.]
 - 2. To the extent practicable, is the NFE distributing micro-purchases equitably among qualified suppliers? ☐ **Yes** ☐ **No**
☐ **N/A – not practicable**
 - ii. **Small purchase procedures** § 200.320(b) ☐ **Yes** ☐ **No**

²⁴ Geographic preferences are generally not allowed under FEMA grants. The only exception is that when contracting for architectural and engineering (A/E) services, geographic location may be a selection criterion provided its application leaves an appropriate number of qualified firms, given the nature and size of the project, to compete for the contract.

²⁵ Also, the non-Federal entity must not preclude potential bidders from qualifying during the solicitation period.

1. [Note: Small purchase procedures are those relatively simple and informal procurement methods for securing services, supplies, or other property that do not cost more than the **lesser** of either (1) the federal small purchase threshold (i.e., \$150,000), or (2) whatever amount State or local procurement rules set as the small purchase threshold – *if more restrictive than the federal threshold.*]
2. Did the NFE obtain price or rate quotations from an adequate number of qualified sources?²⁶ **Δ Yes Δ No**

iii. Sealed bids § 200.320(c)²⁷ Δ Yes Δ No

1. [Note: Bids are publicly solicited and a firm fixed price contract (lump sum or unit price) is awarded to the responsible bidder whose bid, conforming with all the material terms and conditions of the invitation for bids, is the lowest in price. Sealed bidding is the preferred method for procuring construction]
2. Are *all* of the following conditions to use sealed bidding present?
§ 200.320(c)(1) **Δ Yes Δ No**
 - a. A complete, adequate, and realistic specification or purchase description is available **Δ Yes Δ No**
 - b. Two or more responsible bidders are willing and able to compete effectively for the business **Δ Yes Δ No**
 - c. The procurement lends itself to a firm fixed price contract and the selection of the successful bidder can be made principally on the basis of price **Δ Yes Δ No**
3. *If sealed bids are used*, the following requirements apply: § 200.320(c)(2)

²⁶ FEMA has determined that for simplified purchase procedures, an adequate number of qualified sources is considered to be three (3). See, FEMA Recovery Fact Sheet 9580.212 – Public Assistance Grant Contracting Frequently Asked Questions (FAQ), FAC No. 3.

²⁷ Sealed bidding is generally used where price is the most important evaluation factor for the NFE. Accordingly, contract award under the sealed bidding method of procurement is made to the bidder submitting *the lowest priced, responsive and responsible bid*. “Responsive” refers to whether the bidder meets all the material requirements of the Invitation for Bid (IFB), while “Responsibility” is described at § 200.318(h).

- a. Did the NFE solicit bids from an adequate number²⁸ of known suppliers, providing them sufficient response time prior to the date set for opening the bids? ☒ Yes ☐ No
- b. If the NFE is a local or tribal government, was the invitation for bids publically advertised? ☒ Yes ☐ No ☐ N/A
- c. Did the invitation for bids include any specifications and pertinent attachments, and define the items or services in order for the bidder to properly respond? ☒ Yes ☐ No
- d. Did the NFE open all bids at the time and place prescribed in the invitation for bids? ☒ Yes ☐ No
- e. For local and tribal governments, were the bids opened publicly? ☒ Yes ☐ No ☐ N/A
- f. Did the NFE award a firm fixed price contract award in writing to the lowest responsive and responsible bidder? ☒ Yes ☐ No
- g. If any bids were rejected, was there a sound documented reason supporting the rejection? ☐ Yes ☐ No ☐ N/A

iv. Procurement by competitive proposals²⁹ § 200.320(d) ☒ Yes ☐ No

- 1. [Note: The technique of competitive proposals is normally conducted with more than one source submitting an offer, and either a fixed price or cost-reimbursement type contract is awarded. It is generally used when conditions are not appropriate for the use of sealed bids.]
- 2. Did the NFE publicize the Requests for Proposals (RFPs) and identify all evaluation factors and their relative importance? ☒ Yes ☐ No

²⁸ Unlike, for simplified purchase procedures, FEMA has not defined an “adequate number” of known sources under the sealed bidding method. While left undefined, a NFE is likely to meet this requirement through the application of “full and open competition.” (See fn. 26)

²⁹ Whereas contract awards under sealed bidding are focused on selecting the lowest responsive responsible bid, NFEs under the competitive procurement method may prioritize non-price factors, such as technical capability or past performance, over price and therefore award a contract to a contractor whose proposal is more expensive but reflects a better overall value to the NFE (e.g. “best value” contracting).

3. Did the NFE solicit proposals from an adequate number of qualified sources?³⁰ **Δ Yes Δ No**
4. Did the NFE have a written method for conducting technical evaluations of the proposals received and for selecting recipients? **Δ Yes Δ No**
5. Did the NFE award the contract to the responsible firm whose proposal is most advantageous to the program, with price and other factors considered? **Δ Yes Δ No**
6. [Note regarding architectural/engineering (A/E) professional services: The NFE may use competitive proposal procedures for qualifications-based procurement of A/E professional services whereby competitors' qualifications are evaluated, and the most qualified competitor is selected, subject to negotiation of fair and reasonable compensation. **The method, where price is not used as a selection factor, can only be used in procurement of A/E professional services. It cannot be used to purchase other types of services though A/E firms that are a potential source to perform the proposed effort.**]

v. Noncompetitive proposals § 200.320(f)³¹ Δ Yes Δ No

1. [Note: Procurement by noncompetitive proposals is procurement through solicitation of a proposal from only one (or an improperly limited number of) source(s)]
2. Do one or more of the following circumstances apply? **Δ Yes Δ No**
 - a. The item is available only from a single source **Δ Yes Δ No**
 - b. The public exigency or emergency³² for the requirement will not permit a delay resulting from competitive solicitation **Δ Yes Δ No**
 - c. The Federal awarding agency or pass-through entity expressly authorizes noncompetitive proposals in

³⁰ Unlike, for simplified purchase procedures, FEMA has not defined an "adequate number" of qualified sources under the competitive procurement method. While left undefined, a NFE is likely to meet this requirement through the application of "full and open competition."

³¹ § 200.320(e) is reserved.

³² For an explanation of what "emergency" and exigency" mean, see PDAT Manual, pg. 68.

Response to a written request from the non-Federal entity

☒ Yes ☐ No

- d. After solicitation of a number of sources, competition is determined inadequate.³³ ☐ Yes ☐ No

7. Contracting with Small and Minority Businesses, Women's Business Enterprises, and Labor Surplus Area Firms

- a. Has the NFE taken the following affirmative steps³⁴ to assure that minority businesses, women's business enterprises, and labor surplus area firms are used when possible?³⁵ § 200.321 ☐ Yes ☐ No ☐ N/A (document)
- i. Placing qualified small and minority businesses and women's business enterprises on solicitation lists? ☐ Yes ☐ No ☐ N/A (document)
 - ii. Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources? ☐ Yes ☒ No ☐ N/A – no potential sources (document)
 - iii. Dividing total requirements, *when economically feasible*, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women's business enterprises?³⁶ ☐ Yes ☒ No ☐ N/A – not economically feasible (document)
 - iv. Establishing delivery schedules, *where the requirement permits*, which encourage participation by small and minority businesses, and

³³ Before utilizing this exception, Applicants should review their solicitation and the publicizing of their solicitation to ensure that it was not inadvertently drafted in a manner to reduce or eliminate competition, which resulted in the receipt of one or no proposals. If this is found to be the case, the Applicant should revise the solicitation and re-publicize the solicitation in order to resolve the competitive concerns.

³⁴ The following affirmative steps are non-exclusive; while these steps must be taken, additional steps, as determined by the NFE, local, state, or tribal government regulations or procedures, may also be taken.

³⁵ Collectively referred to as "socioeconomic contractors" or "socioeconomic contracting," this requirement does not impose an obligation to set aside either the solicitation or award of a contract to these types of firms; this requirement only imposes an obligation to carry out and document the six identified affirmative steps. Failure to do so has been frequently identified as a justification to de-obligate funding by the Department of Homeland Security (DHS), Office of Inspector General (OIG).

³⁶ This is not the same as breaking a single project down into smaller components in order to circumvent the micro-purchase or small purchase thresholds to utilize their streamlined acquisition procedures (e.g. "project splitting.")

women's business enterprises? **Δ Yes Δ No Δ N/A – the requirement does not permit (document)**

- v. Using the services and assistance, *as appropriate*, of such organizations as the Small Business Administration and the Minority Business Development Agency of the Department of Commerce **Δ Yes Δ No Δ N/A – not appropriate (document)**
- vi. Requiring the prime contractor, if subcontracts are to be let, to take the affirmative steps listed above? **Δ Yes Δ No Δ N/A – no subcontracts will be let (document)**

8. Contract cost and price

- a. *If the contract amount (including contract modifications) exceeds \$150,000, did the NFE perform a cost or price analysis? § 200.323(a)* **Δ Yes Δ No Δ N/A**
- b. Did the NFE negotiate profit as a separate element of the price for each contract in *which there is no price competition and in all cases where cost analysis is performed?* § 200.323(b) **Δ Yes Δ No Δ N/A**
- c. Is the contract a “cost plus a percentage of cost” or “percentage of construction cost” contract?³⁷ [Note: This form of contract is prohibited under the Federal procurement standards and is ineligible for FEMA reimbursement]
Δ Yes Δ No

9. Bonding requirements for construction or facility improvement contracts exceeding \$150,000

- a. [Note: *For construction or facility improvement contracts or subcontracts exceeding the Simplified Acquisition Threshold (i.e., \$150,000), the Federal*

³⁷ This type of contract is separate and distinct from cost plus fixed fee, cost plus incentive fee, and cost-plus award fee type contracts, which are permissible and used to incentivize contractors to perform to a higher standard of quality, lower cost, or faster performance. Cost plus percentage of cost contracts on the other hand provide none of these incentives; instead, there is a reverse incentive for the contractor to increase its costs as the higher its costs go, the more profit it earns, as its potential earnings are uncapped. The following characteristics are suggestive of a prohibited cost plus percentage of cost contract: (1) payment is on a predetermined percentage rate; (2) the predetermined percentage rate is applied to actual performance costs; (3) the contractor's entitlement is uncertain at the time of contracting; and (4) the contractor's entitlement increases commensurately with increased performance costs.

Awarding agency or pass-through entity may accept the bonding policy and requirements of the non-Federal entity provided that the Federal awarding agency or pass-through entity has made a determination that the Federal interest is adequately protected.]

- b.** If such a determination (see above) has not been made, does the procurement include the following? **Δ Yes Δ No Δ N/A**
- i.** A bid guarantee from each bidder equivalent to five percent of the bid price? **Δ Yes Δ No Δ N/A**
1. The "bid guarantee" must consist of a firm commitment such as a bid bond, certified check, or other negotiable instrument accompanying a bid as assurance that the bidder will, upon acceptance of the bid, execute such contractual documents as may be required within the time specified.
- ii.** A performance bond on the part of the contractor for 100 percent of the contract price? **Δ Yes Δ No Δ N/A**
1. A "performance bond" is one executed in connection with a contract to secure fulfillment of all the contractor's obligations under such contract.
- iii.** A payment bond on the part of the contractor for 100 percent of the contract price. **Δ Yes Δ No Δ N/A**
1. A "payment bond" is one executed in connection with a contract to assure payment as required by law of all persons supplying labor and material in the execution of the work provided for in the contract.

END OF CHECKLIST

EXHIBIT Q

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

Requirements under the Uniform Rules. A non-Federal entity's contracts must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. § 200.326. For some of the required clauses we have included sample language or a reference a non-Federal entity can go to in order to find sample language. Please be aware that this is sample language only and that the non-Federal entity alone is responsible ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. We do not include sample language for certain required clauses (remedies, termination for cause and convenience, changes) as these must necessarily be written based on the non-Federal entity's own procedures in that area.

1. Remedies.

- a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, **II A.**
- b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

2. Termination for Cause and Convenience.

- a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, **II B.**
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. Equal Employment Opportunity.

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, **II C.**

b. Key Definitions.

(1) Federally Assisted Construction Contract. The regulation at 41 C.F.R.

§ 60-1.3 defines a "federally assisted construction contract" as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.

(2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines

"construction work" as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.

c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

d. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:

"During the performance of this contract, the contractor agrees as follows:

(1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.

(3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant

orders of the Secretary of Labor.

(5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

4. Davis Bacon Act and Copeland Anti-Kickback Act.

a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.

b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act

U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.

- c. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- d. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland "Anti-Kickback" Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the next subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. As such, FEMA requires the following contract clause:

"Compliance with the Copeland "Anti-Kickback" Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12."

5. Contract Work Hours and Safety Standards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance, with the Contract Work Hours and Safety Standards Act:

"Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor

contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation: liability for unpaid wages: liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section."

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance.** Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households - Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of "funding agreement."
- b. If the FEMA award meets the definition of "funding agreement" under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or

performance of experimental, developmental, or research work under that "funding agreement," the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by

FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

- c. The regulation at 37 C.F.R. § 401.2(a) currently defines "funding agreement" as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.

7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.

- a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

"Clean Air Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

(1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.

(2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$100,000 financed in whole or in part with Federal assistance provided by FEMA."

8. Debarment and Suspension.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security's regulations at 2 C.F.R. Part 3000 (Non-procurement Debarment and Suspension).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, § I; and Chapter IV, § 6.d and Appendix C, § 2. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; Chapter IV, § 6.d and Appendix C, § 2.
- d. In general, an "excluded" party claim to receive a Federal grant award or a contract within the meaning of a "covered transaction," to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a "covered transaction," which is any nonprocurement transaction (unless excepted) at either a "primary" or "secondary" tier. Although "covered transactions" do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS's implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:
 - (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.

- (2) The contract requires the approval of FEMA, regardless of amount.
 - (3) The contract is for federally required audit services.
 - (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.
- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

"Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions."

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ J; 44 C.F.R. Part 18; Chapter IV, 6.c; Appendix C, ¶ 4.
- c. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or

attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See Chapter IV, § 6.c and Appendix C, § 4.

d. The following provides a Byrd Anti-Lobbying contract clause:

"Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient."

APPENDIX A, 44 C.F.R. PART 18 CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor ~~certifies~~] to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form- LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date"

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, 1K; 2 C.F.R. § 200.322; Chapter V, 17.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of

competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding :fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

"(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA- designated items unless the product cannot be acquired-

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement is available at EPA's Comprehensive Procurement Guidelines web site, <http://www.epa.gov/cpo/>. The list of EPA-designate items is available at [/www.e12a.oov/cpol12roducts.htm](http://www.e12a.oov/cpol12roducts.htm)."

11. Additional FEMA Requirements.

- a. The Uniform Rules authorize FEMA to require additional provisions for non- Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:
- b. Changes.

To be eligible for FEMA assistance under the non-Federal entity's FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

- c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, **1** XXVI (2013).

- d. The following provides a contract clause regarding access to records:

"Access to Records. The following access to records requirements applies to this contract:

- (1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
- (2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
- (3) The contractor agrees to provide the FEMA Administrator or his authorized representative's access to construction or other work sites pertaining to the work being completed under the contract."

12. DHS Seal, Logo, and Flags.

- a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, **1** XXV (2013).
-

- b. The following provides a contract clause regarding DHS Seal, Logo, and Flags: "The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre- approval."

13. Compliance with Federal Law, Regulations, and Executive Orders.

- a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- b. The following provides a contract clause regarding Compliance with Federal Law, Regulations and Executive Orders: "This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives."

14. No Obligation by Federal Government.

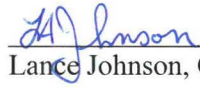
- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the Federal Government: "The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract."

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.
 - b. The following provides a contract clause regarding Fraud and False or Fraudulent or Related
 - c. Acts: "The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor's actions pertaining to this contract."
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ADDITIONAL INFORMATION, REQUIREMENTS AND RESPONSIBILITY

It shall be the responsibility of the Finance Department to keep this OI current.



Lance Johnson, City Manager

Adopted 06.17.2019

Resolution 19-07



CITY OF DESTIN



AGENDA ITEM

COUNCIL MEETING DATE: July 6, 2020

TYPE OF AGENDA ITEM: Presentation

TO: City Council

THRU:

FROM:

DATE:

SUBJECT: Councilmember Menchel

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